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PROCEEDINGS AND DEBATES OF THE 93d CONGRESS, FIRST SESSION

HOUSE OF REPRESENTATIVES—*Thursday, December 13, 1973*

The House met at 11 o'clock a.m.

Father Arthur J. Metaxas, Sts. Constantine and Helen Greek Orthodox Church, Cambridge, Mass., offered the following prayer:

Our Heavenly Father, we come before Thee, mindful of the good land in which we dwell. We are deeply grateful for the noble heritage bequeathed us by our forefathers who had faith in Thee and trust in their fellow man.

O God hear our prayer and renew our spirits. For we are people occupied by the quest of things, overcome by the press of events and distracted by the excitement of every creaturely comfort and delight.

Grant us, O Lord, patience for the days when our followers move too slowly; grant us love for those times when men will mock; may we have faith in ourselves when failure stalks our paths; and give us strength when temptation would lure us into the easy way. Use us as instruments to further Thy ways—ways of pleasantness and of peace, of justice and of brotherhood, compassion and understanding. Where we find discord, may we bring unity; where we see despair, may we set up hope; where we encounter bitterness, may we sow love; where we meet darkness of night, may we shed the light of a morning star.

For Thou art the light and the hope of all mankind. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment, a bill of the House of the following title:

H.R. 3490. An act to amend section 40b of the Bankruptcy Act (11 U.S.C. 68(b)) to remove the restriction on change of salary of full-time referees.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 11576. An act making supplemental appropriations for the fiscal year ending June 30, 1974, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 11576) entitled "An act making supplemental appropriations for the fiscal year ending June 30, 1974, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. McClellan, Mr. Magnuson, Mr. Stennis, Mr. Pastore, Mr. Bible, Mr. Robert C. Byrd, Mr. McGee, Mr. Proxmire, Mr. Montoya, Mr. Hollings, Mr. Young, Mr. Hruska, Mr. Cotton, Mr. Case, Mr. Fong, Mr. Hatfield, Mr. Stevens, Mr. Mathias, and Mr. Bellmon to be the conferees on the part of the Senate.

APPOINTMENT OF CONFEREES ON H.R. 11576, SUPPLEMENTAL APPROPRIATIONS, 1974

Mr. MAHON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 11576) making supplemental appropriations for the fiscal year ending June 30, 1974, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Texas? The Chair hears none and appoints the following conferees: Messrs. Mahon, Whitten, Rooney of New York, Evins of Tennessee, Boland, Flood, Steed, Slack, Mrs. Hansen of Washington, Messrs. McFall, Cederberg, Michel, Conte, Davis of Wisconsin, Robison of New York, and McDade.

TOO FEW CAESARS

(Mr. HANNA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HANNA. Mr. Speaker, it has been said that in the land of the blind a one-eyed man is king. I have spoken yesterday about the blindness with which we have been approaching some very important legislation. In looking through this administration for the one-eyed man who might qualify as king, I find only George Shultz qualifying in this manner.

He has his one eye in the domestic economics field fixed on inflation. That would not be so bad except Mr. Shultz' economics eye looks to aggregate demand in a time when our problems are in the field of commodity shortages. He has his one eye in the international field fixed on balance of payments. This would be all right except that Mr. Shultz is ready to sell the things of which we are most short in order to get the balance of payments, so that we end up gaining 10 cents internationally and losing 25 cents domestically.

I feel that the pall that is on this body is due to the lack of leadership and the vacuum of vision. It seems to me rather unfortunate at this very troublesome time in history that this administration has the worst of all possible worlds—too few Caesars and too little judgment.

WHEAT WINDFALL

(Mr. YATES asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. YATES. Mr. Speaker, last Thursday the press reported that wheat farmers have been given a windfall of half a billion dollars in oversubsidization payments by the Department of Agriculture.

Subsidies were paid last summer on the basis of the then current rate of $2.49 per bushel. Subsequently, at least in part because of massive grain exports, prices soared to $3.99 per bushel, but by then massive preliminary payments had already been made. The Agriculture Department passes it all off as a simple "misjudgment" and has cited a part of the agricultural act which stipulates that farmers do not have to return overpayments to the Government.

All of this must make very interesting reading for those citizens who depend on social security or veterans' benefits. They know that if the Government overpays them, they must return every penny.

This is the second year in a row, Mr. Speaker, that the administration has completely mismanaged the wheat crop. Last year we had the famous sale of wheat to Russia. We are still paying for that one with outrageous high food prices and insufficient protein foods. Now we have unwarranted windfall profits at the expense of the consumer.

Mr. Speaker, I have written to the Comptroller General for his opinion in the matter. I cannot believe that a huge overpayment of this type should not and cannot be recaptured by the Federal Government.

WELCOME JAYCEES OF AMERICA

(Mr. KEMP asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KEMP. Mr. Speaker, it was James Madison who said:

> We have staked the whole future of Ameri-

can civilization not upon the capacity of the government, far from it; we have staked the future of America upon the capacity of the American people for self-government.

Mr. Speaker, I am proud to welcome to Washington participants in the U.S. Jaycees 13th annual governmental affairs leadership seminar. The U.S. Jaycees are an organization which has heeded Madison's admonition, and which consistently provides the type of leadership of which this country finds itself in need.

The Jaycees bring to public policy a unique blend of enthusiasm, idealism, and realism focused on the accomplishment of public objectives reflective of the Jaycee Creed:

THE JAYCEE CREED

We believe that faith in God gives meaning and purpose to human life;
That the brotherhood of man transcends the sovereignty of nations;
That economic justice can best be won by free men through free enterprise;
That government should be of laws rather than of men;
That Earth's great treasure lies in human personality;
And that service to humanity is the best work of life.

Mr. Speaker, I have been fortunate to see the Jaycees in action in Buffalo and Erie County, N.Y. I am sure their leadership seminar, being held today, tomorrow, and Saturday, will contribute to their ability to successfully carry out the community projects for which all America is grateful.

I know all the Members of the Congress will join with me in welcoming the U.S. Jaycees and Jaycettes to Washington.

PERSONAL ANNOUNCEMENT

(Mr. VEYSEY asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. VEYSEY. Mr. Speaker, on Monday and Tuesday of this week, I was in California on important energy and transportation matters. Had I been here I would have voted as follows:

Monday: House Resolution 657, rule providing for consideration of the trade reform bill, "yea." Rollcall No. 639.

Tuesday: Trade reform bill, H.R. 10710:

Vanik amendment prohibiting the extension of credits to those Communist countries which restrict emigration, "aye." Rollcall No. 643.

Conable amendment striking title IV from the bill, "noe." Rollcall No. 644.

Final passage of H.R. 10710, "aye." Rollcall No. 645.

Israel emergency assistance, H.R. 11088:

Findley amendment to permit use of funds to support U.N. Secretary Council Resolutions calling for Israeli withdrawal of Israeli sovereignty and territorial integrity, "noe." Rollcall No. 646.

Final passage of H.R. 11088, "aye." Rollcall No. 647.

Foreign assistance appropriations, H.R. 11771:

Tiernan amendment to strike $1 million for Chile, "noe." Rollcall No. 650.

Stark amendment to reduce funds for emergency military assistance for Cambodia by $100 million, "noe." Rollcall No. 651.

Ichord amendment to prohibit the use of any Export-Import Bank funds for any nonmarket economy country, "noe." Rollcall No. 652.

Final passage of H.R. 11771, "yea." Rollcall No. 653.

WELCOME TO THE JAYCEES

(Mr. STEIGER of Wisconsin asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. STEIGER of Wisconsin. Mr. Speaker, I join with the gentleman from New York (Mr. KEMP) in welcoming to the Nation's Capital the 13th Annual Governmental Affairs Leadership Seminar of the U.S. Jaycees.

It has been said that one of the strengths of our country is the spirit of volunteerism. No organization more nearly typifies that volunteer spirit than do the U.S. Jaycees. In communities throughout the United States the spirit of dedication and the commitment of these young men and their Jaycettes has set an example for all of us helping to solve our problems. They do not wait for somebody else to solve them for them.

I join with my colleagues in congratulating the Jaycees for their willingness to work for their community, State, and Nation, and in welcoming them to this city for their excellent seminar.

Mr. McFALL. Mr. Speaker, will the gentleman yield?

Mr. STEIGER of Wisconsin. I am happy to yield to the gentleman from California.

Mr. McFALL. Mr. Speaker, I would like to join my colleagues in paying tribute to the Jaycees. Speaking as an Exalted Rooster, I had my start in politics and I hope, an understanding of the needs of the people, which began many years ago in the Junior Chamber of Commerce. I want to join with the gentleman from Wisconsin and the gentleman from New York in welcoming the Jaycees to Washington.

Mr. STEIGER of Wisconsin. Mr. Speaker, I am delighted by the comments of the gentleman from California. I am at that age at which I am almost there, but I have not yet been exhausted.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
December 12, 1973.

Hon. CARL ALBERT,
The Speaker,
House of Representatives.

DEAR MR. SPEAKER: On December 11, 1973 I have been served a summons and copy of the complaint in a Civil Action through the United States Marshal by certified mail number 197884 that was issued by the U.S. District Court for the Northern District of California.

The Summons requires the Congress of the United States to answer the complaint within sixty days after service.

The Summons and complaint in question are attached, and the matter is presented for such action as the House in its wisdom may see fit to take.

With kind regards, I am,

W. PAT JENNINGS,
Clerk, House of Representatives.

The SPEAKER. Without objection, the accompanying papers will be printed in the RECORD following the letter.

There was no objection.

The material referred to follows:

WASHINGTON, D.C.
December 12, 1973.

Hon. ROBERT H. BORK,
Acting Attorney General of the United States, U.S. Department of Justice, Washington, D.C.

DEAR MR. BORK: I am sending you a certified copy of a summons and complaint in Civil Action No. C 73 2092GBH filed against the United States House of Representatives and others in the United States District Court for the Northern District of California, and served upon me through the U.S. Marshal by certified mail No. 197884 on December 11, 1973.

In accordance with 2 U.S.C. 118 I have sent a certified copy of the Summons and Complaint in this action to the U.S. Attorney for the Northern District of California requesting that he take appropriate action under the supervision and direction of the Attorney General. I am also sending you a copy of the letter I forwarded this date to the U.S. Attorney.

With kind regards, I am,
Sincerely,

W. PAT JENNINGS,
Clerk, House of Representatives.

SUMMONS IN A CIVIL ACTION

[In the U.S. District Court for the Northern District of California, civil action file No. C 73 2092GBH]

Earle Ray Esgate, Plaintiff, v. Donald E. Johnson, Board of Veterans Appeals, the United States House of Representatives, the United States Senate, the President of the United States, as Commander in Chief of the Armed Forces of the United States, and as Co-Defendant United States Army and United States Army Medical Corps.

To the above named Defendant: You are hereby summoned and required to serve upon The plaintiff; acting as his own attorney and whose address is below: plaintiff's attorney, whose address Earle Ray Esgate, 1099 Topaz Ave. Apt. 6, San Jose, California, 95117, Phone 296–8182 an answer to the complaint which is herewith served upon you within 60 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

Date: December 5, 1973.

F. R. PETTIGREW,
Clerk of Court.
C. COWNE,
Deputy Clerk.

[Seal of Court.]

CALL OF THE HOUSE

Mr. FROEHLICH. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 660]

Ashley
Bevill
Blatnik
Buchanan
Burke, Calif.
Carey, N.Y.
Chappell
Clark
Collier
Conable
Conyers
Dellums
Diggs
Erlenborn
Evans, Colo.
Gibbons
Gray
Green, Pa.
Hébert
Holtzman
Hunt
Jarman
Johnson, Calif.
Long, Md.
Macdonald
Mills, Ark.
Mollohan
Perkins
Reid
Reuss
Rhodes
Rooney, N.Y.
Ruppe
Sandman
Sikes
Staggers
Steele
Stokes
Taylor, Mo.
Thompson, N.J.
Walsh
Wyatt
Young, Ga.

The SPEAKER. On this rollcall 389 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PERSONAL EXPLANATION

Mr. FOLEY. Mr. Speaker, yesterday, on rollcall No. 656, I voted "aye" by electronic device.

My vote was not recorded.

TRADE BALANCE IS IN THE BLACK

(Mr. de la GARZA asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. de la GARZA. Mr. Speaker, news comes from the Department of Agriculture that, thanks to record-high agricultural exports in October, the total U.S. trade balance was in the black for that month and for the first 10 months of this year.

Agricultural exports totaling $1.7 billion in October produced a surplus in farm trade of $1 billion. According to the report from the Agriculture Department, this more than offset a deficit of $648 million in nonagricultural trade to account for a total trade surplus of $376 million for the month and $232 million for the first 10 months of the year.

It is significant that our agricultural export strength has led the way to another trade balance improvement. As matters appear now, the figures are in for the full year, it is expected that agricultural exports will give the Nation the first annual trade surplus we have enjoyed since 1970. As well as providing countless jobs for farmworkers and related industries.

Mr. Speaker, the role of agriculture in reversing the trade-balance deficit points up the imperative necessity of making adequate fuel supplies available to our farm producers. If they are not allocated, and if they are not permitted to obtain sufficient fuel to maintain production, the consequences could be disastrous and far reaching.

American agriculture is meeting a threefold responsibility of feeding America, helping to feed the world, and improving the trade balance between the United States and other nations. It will continue to do so if our producers obtain the fuel they need in order to carry on their operations. That is a must in the fullest sense of the word.

ENERGY EMERGENCY ACT

Mr. STAGGERS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 11450) to direct the President to take action to assure, through energy conservation, rationing, and other means, that the essential energy needs of the United States are met, and for other purposes.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 11450, with Mr. Bolling in the Chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on yesterday, there was pending the amendment in the nature of a substitute consisting of the text of the bill H.R. 11882, offered by the gentleman from West Virginia (Mr. Staggers).

AMENDMENT OFFERED BY MR. CARTER TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. CARTER. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. Carter to the amendment in the nature of a substitute offered by Mr. Staggers: On page 32, line 17, after the word "oil,", strike out the words "and coal,".

On page 32, line 23, after the word "oil,", strike out the words "or coal,".

On page 33, line 21, after the word "oil,", strike out the words "or coal,".

On page 35, line 17, after the word "oil,", strike out the words "or coal,".

Mr. CARTER. Mr. Chairman, my amendment has been read, and as the Members know, under section 117 of this bill, a "windfall profit" is defined as one in excess of the average profit received by all sellers of petroleum products and coal between the years 1967 and 1971.

I want to point out that during these years our coal companies made profits in only one of these years, and that was 1970. The Coal Mine Health and Safety Act of 1969 was a major piece of legislation, which substantially undated and strengthened previous inspection acts, and it required extensive and expensive equipment purchases.

It is clear that much of the profit of the coal industry has been used for such expenditures.

I submit, Mr. Chairman, that if the proposed base is the one to be used to determine excess profits, these companies would be forced to pay millions and millions of dollars back to the purchasers. Not only would this absolutely break every coal company in this country, but it would create an impossible complication of an already difficult situation.

I owe no fealty to the coal operators, but I do owe a tremendous debt to the coal miners of the area which I represent.

Mr. Chairman, I urge my colleagues to realize the responsibility of such an action, and I urge the adoption of my amendment.

Mr. DUNCAN. Mr. Chairman, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from Tennessee.

Mr. DUNCAN. Mr. Chairman, I would like to associate myself with the remarks of the gentleman from Kentucky, I strongly support his amendment.

I thank the gentleman for yielding.

Mr. CARTER. I thank the distinguished gentleman from Tennessee.

Mr. PICKLE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am trying to understand the amendment which is before us.

The gentleman from Kentucky (Mr. Carter) as I understand it, has offered an amendment to strike the words, "or coal," in most of those places where they appear in section 117, the windfall profits section.

My question to the chairman of the committee or to the Chairman is as follows:

Is the amendment pending offered as a substitute, or is it a direct amendment to that particular section?

The CHAIRMAN. The Chair will inform the gentleman that the amendment offered by the gentleman from Kentucky (Mr. Carter) is an amendment offered to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

Mr. PICKLE. Could this Member be advised as to what was the amendment in the nature of a substitute that the gentleman from West Virginia offered?

The CHAIRMAN. The Chair will advise the gentleman that the amendment pending is the text of the bill H.R. 11882.

Mr. PICKLE. Then, in effect, Mr. Chairman, the amendment is an amendment to the bill pending?

The CHAIRMAN. The amendment is, as the Chair stated, an amendment to the amendment in the nature of a substitute which is the text of the bill H.R. 11882.

Mr. PICKLE. I thank the Chairman.

Mr. ECKHARDT. Mr. Chairman, I rise to speak against the amendment.

Mr. Chairman, the windfall profits section of the bill simply provides that if, because of the energy shortage, any company derives windfall profits from the prices permitted, that there may be some way for the public to recoup those profits. The means is by paying back to those who have been overcharged by prices which have resulted in windfall profits or, if they may not be identified, as in the case of the general public purchasing gasoline or other petroleum products, in that event, by recouping excess payments by lower prices over a given period of time.

The windfall profits section provides that profits may be that of the individual company's 5-year profit average from 1967 through 1971 or the industry's average from 1967 through 1971.

What this means is that if the industry can show its average profits do not exceed either of these averages then such are not to be considered windfall profits. There is certainly no reason to treat coal any differently than other industries. If there is a windfall profit as a result of this energy shortage, then, if we include that windfall profit section, we should apply it to every company that is making a windfall profit.

So therefore I suggest to the Members that it is entirely inappropriate to exempt windfall profits in this section.

Mr. DENT. Will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman.

Mr. DENT. It is interesting to note that during the 5-year period that we are using as a base period here the coal industry only earned a profit in 1 year, and that was last year. They have not earned a profit before that. The condition of the coal industry is probably the worst of any of the energy-source industries in the United States.

Now we need more incentive for opening mines. You just do not turn a valve in order to open up a coal mine. It is a great big expensive operation. This is not a product which is in short supply.

Mr. ECKHARDT. If the gentleman will yield back to me, I understand that, but if that be the case, the chances are the coal industry will not be making a windfall profit and will not come under this section, anyway. If the gentleman is correct and if the period involved is unfavorable to the coal industry, the way to correct that is to use another period with respect to the coal industry but not to treat it as being completely exempt from windfall profits.

I yield back the balance of my time.

Mr. STAGGERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Pennsylvania.

Mr. DENT. Mr. Chairman, this is a very serious matter. We have been working since 1964 under an authorization from this Congress to the Department of the Interior for the gasification of coal, and the production of oil from coal. We have now had breakthroughs that give us promise. The Navy has just reported that they have a cruiser at the present time that is using oil that was derived from coal. It is now possible within 2 years, using an expenditure of between $2 billion and $3 billion, to provide all of the energy times 300 percent that is now imported into the United States from oil producing countries. We have a supply of coal of 900 million tons a year, which is 50 percent greater than we have ever used in our lifetime for 1 year, available for 1,000 years with the known seams of coal.

We know how coal is formed, and so below these seams of coal we now know that there are other seams of coal. We have records of them, but we do not have geological surveys of any kind to show how extensive these seams are, but we must now arrange to help that industry which has been at a standstill almost since 1926, and whose workers have the worst kind of local poverty in every area of our coal mines. For goodness' sake, we have got to get them back on their feet so that they can recoup some of the moneys and get back to producing. There is no allocation of coal, it is an American product. No one can stop us but ourselves. If we do not help the coal industry now to move ahead and open the mines and get back into the production of coal, then the tragedy we are going through today may beocme a fatal tragedy to all of us. Do not take coal and put it into the same category as oil, that is a different type and a different breed of animal. Once you get the oil out you just turn a valve. Once you close down a mine it deteriorates. Because of mine closures we have lost coal, and it is now not available to us because we closed those mines.

In 1961 I warned the Congress of the United States of what would happen if we did not keep our coal mines in a ready-to-go condition. We need all of the help for our energy needs we can get, and coal can meet those energy needs. Let us put them in a condition where they can produce, and not in a condition where they cannot produce. Let them stretch their muscles. All we need today is more muscle and money, and we will be able to give this country the energy it needs through the coal industry.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Chairman, I just want to say that this bill as presently written would do irreparable harm not only to the mining industry but will cut off our coal miners from work. In the four years from 1967 to 1971, to take an average of that, of the amount received in the industry on that, and call that a windfall profit when in only one of those years, in 1970, was there a profitable year. I am not arguing about big industry tycoons, or anything like that, I am arguing for the coal miners so they can work, and to help the miners in my area. I am not arguing against petroleum.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MOSS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I find this a rather strange argument. The section proposed to be stricken, or at least in which coal was a commodity to be stricken, deals with windfall profits. It does not deal with earnings that are reinvested either in developing a coal mine or devoted to research. It does not deal with the items that under almost any normal accounting procedure, are other than windfall or unusual profits, profits going beyond the normal range of profits for the industry.

I can understand a move to prevent us from blocking normal profits, but the extraordinary, the windfall that arises solely because of a market that at the moment lacks product to meet demand, that I cannot understand.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. MOSS. I yield to the gentleman from Kentucky.

Mr. CARTER. I thank the gentleman for yielding.

Let us read what this says:

> Except as provided in paragraph (4), for the purposes of this subsection, the term "windfall profits" means profit in excess of the average profit obtained—

During these 4 years. The fact of the matter is during those 4 years at only one time did the coal industry make a profit, and all of the things that the gentleman is stating are not in this bill, but only what I have said right here. I want to tell the Members if this continues, it is going to throw thousands out of work.

Mr. MOSS. Mr. Chairman, I will not yield further, because I am going to make an observation. We are not talking about windfall losses. There is a rule of reason that has been followed in the matter of negotiating over the past on behalf of the Government in determining what constitutes a windfall profit, and it does not deny a proper rate at all. That is not anticipated, and this record should make it very clear that an adequate rate of return is not foreclosed by the language dealing with windfall profits.

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. MOSS. I yield to the gentleman from Pennsylvania.

Mr. DENT. I thank the gentleman for yielding.

If I understood the gentleman to say what I think he said, he said that this would not interfere with any exploratory work that has to be done, or extension of facilities, or moneys spent on opening new mines. But what does it say? On page 36, line 16, subparagraph (7) it says:

> Except as provided in paragraph (4), for the purposes of this subsection, the term "windfall profits" means profit in excess of the average profit obtained by all sellers for the particular item during the calendar years 1967 through 1971.

That is what it says.

Mr. MOSS. The gentleman is addressing himself to the very same point that the gentleman from Kentucky addressed his remarks to, and I say to my good friend, the gentleman from Pennsylvania, that he is in just as much error as was the gentleman from Kentucky.

Exploratory or developmental items are tax-deductible; they are expenses of doing business and not part of profit; and anyone who tries to torture into the language any intent other than the one I have set forth, either does not read with care or is acting from emotion rather than fact.

Mr. PRICE of Texas. Mr. Chairman, will the gentleman yield?

Mr. MOSS. I yield to the gentleman from Texas.

Mr. PRICE of Texas. I thank the gentleman for yielding.

I would like to agree with the gentleman's statement. Is it not true that the coal companies having this experience have been able to show their losses under the tax laws of today and, therefore, could show a loss over these past 5 years the same as any other industry?

Mr. MOSS. As a matter of fact, they could do some carrying forward.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. Moss was allowed to proceed for 1 additional minute.)

Mr. HEINZ. Mr. Chairman, will the gentleman yield?

Mr. MOSS. I yield to the gentleman from Pennsylvania.

Mr. HEINZ. Mr. Chairman, I rise to ask the gentleman from California one question regarding page 36, line 18, where it says:

> . . . profit in excess of the average profit obtained by all sellers . . .

Does the gentleman construe that to mean that a calculation will be made excluding the losses of any coal operation, and that only profitable operations will be taken into consideration when this "average profit obtained by all sellers" is calculated?

Mr. MOSS. I would mean we would have to weigh any calculation to reflect a rational approach to determine a profit average, and that would also under the precedents of the practice of the Renegotiation Board have to reflect a reasonable rate of return. I believe that such a rate of return has often been determined in prior instances so that there are guidelines.

Mr. WAGGONNER. Mr. Chairman, I offer a substitute amendment for the amendment offered by the gentleman from Kentucky (Mr. CARTER).

The CHAIRMAN. That is not in order. The Chair will have to state to the gentleman that a substitute is not in order.

Mr. WAGGONNER. Mr. Chairman, I offer an amendment to the amendment.

The CHAIRMAN. The Chair will have to state that no amendment to the amendment is in order. It would be in the third degree. The Committee is considering the bill H.R. 11450, to which there has been offered an amendment in the nature of a substitute, that being the text of the bill H.R. 11882. An amendment to that offered by the gentleman from Kentucky (Mr. CARTER) is now pending. Further amendment to that amendment would be in the third degree and contrary to the rules of the House.

PARLIAMENTARY INQUIRY

Mr. WAGGONNER. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. WAGGONNER. After the House has worked its will on the amendment offered by the gentleman from Kentucky, will not a further amendment to that section be in order?

The CHAIRMAN. There is not a completely simple answer to that question. It depends on the disposition of the amendment offered by the gentleman from Kentucky (Mr. CARTER). If it were defeated, any other germane amendment to the section would be in order. If it were adopted then other amendments might be in order if they were drafted in a certain way to that section.

PARLIAMENTARY INQUIRY

Mr. KETCHUM. Mr. Chairman, a parliamentary inquiry. Yesterday I brought up the same subject with the Parliamentarian and he informed me that an amendment to an amendment was not in order but that a substitute amendment for the amendment was in order. I wonder if we might have a ruling on that.

The CHAIRMAN. The misunderstanding might have come from the fact that a substitute for the amendment in the nature of a substitute would be in order. A substitute for the whole amendment in the nature of a substitute, in other words the whole text of the bill H.R. 11882 would be in order. But there is no way to amend an amendment pending to that substitute.

Mr. KETCHUM. Mr. Chairman, if I may proceed a moment further, does that indicate that if the amendment offered by the gentleman from Kentucky is adopted, that no further amendment can be made to that section:

The CHAIRMAN. What the situation is—and the Chair has tried to state this situation clearly a time or two before—if an amendment to a section is adopted, then that constitutes final action on that particular piece of that section and that particular amendment cannot be further amended. But if then there is an amendment offered to another part of that section, that amendment might well be in order. But the basic point is that the committee cannot amend something that has just been adopted. In other words, if there is an amendment to a section which affects the language of a portion of that section, if that is adopted then that concludes the matter with regard to the language changed in that portion of that section; but if there are other portions of that section which are not affected by that amendment then they are still open to amendment. A further amendment broader in scope than that adopted would still be in order.

Mr. KETCHUM. I thank the Chair for that.

PARLIAMENTARY INQUIRY

Mr. WAGGONNER. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. WAGGONNER. Do I interpret the rule of the Chair to be that should this amendment to section 117 be adopted, a substitute for the entire section which remains would be in order?

The CHAIRMAN. A substitute for the entire section which remains would be in order.

Mr. HANNA. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, I yield to the gentleman from West Virginia for a question.

Mr. STAGGERS. Mr. Chairman, I wanted to make a statement, if the gentleman would allow me to.

I rise in support of the amendment of the gentleman from Kentucky, knowing the coal situation in the State of West Virginia. I know it has been in a bad state of affairs. This would be helpful to the future energy policy of America. I think it is only fair that an industry that has been damaged as much as it has should not be penalized more.

Mr. HANNA. Mr. Chairman, I take the well at this point in time to help those who feel, as I do, somewhat abused in this whole process. We had 55 amendments before us at the beginning of this session. There is a marvelous and rather mysterious institution in the Congress called the conference, which in my few years in the House has more often than not been the body which writes most of the important legislation.

Now, I have not always been happy about that; but considering the facts that I explained yesterday, how we are going so blindly into a matter that is so complex and about which there is so little real knowledge, I am prepared to see the conference committee write whatever bill we are going to have before us. I am not going to vote either for or against this bill when it is finished in this House, because I want to leave myself free to vote for the real bill which will be the one that comes out of the conference report.

Now, in approaching these amendments, which I hope will be diluted in number, I think the controlling criteria should be, does it or does it not strengthen the hand of the House conferees, for as I look at the conference I see there is a very powerful personage who will be representing the other body, who would like nothing better than to write the whole thing himself.

I question the wisdom of that, but since I, like all the Members, are going to have to go before the people to explain what I have done in this important field, I would prefer to lessen my own responsibility, because I am rather humble about my own knowledge in this whole field.

Now, I am as afflicted as anybody here with the disease of this profession. I constantly go into a rhapsody on the rolling resonance of my own rhetoric. I am constantly impressed with the laser-like sharpness of my own logic; but I think that in this condition and seeing the country as I do, humility is not a bad thing, because I assure the Members, there are plenty of my constituents back home ready to explain to me how much I have to be humble about. Perhaps some others might have this same feeling. If Members will just take a little pains and a little time and apply, as I have, the modicum of intelligence, which however taxed, I have tried to approach both the Senate bill and the House bill, these are the provisions we have to be concerned about.

The questions we must all be asking ourselves while we consider this bill and its future in conference are: What does the House bill have in regard to certain problems of concern? What does the Senate bill have? What are we likely to get out of conference?

The areas of concern are:

First, rationing and conservation plans. Under the House bill, the Emergency Petroleum Allocation Act is amended to require ordering of priorities with vital services getting top priority. Also, it authorizes gas rationing. Within 30 days after enactment, the President is to submit one or more energy conservation plans to Congress "for appropriate action." Under the Senate bill, energy contingency plans must be promulgated within 15 days, which shall include: first, priority system and plan, and rationing program; second, measures capable of reducing energy consumption by 10 percent within 10 days and 25 percent within 4 weeks; third geographic distribution plan, fourth, and requirements for programs to be developed by State and local governments to which they must respond within 8 weeks. This is subject to legislative veto within 15 days of submission to Congress. In addition, the President is required to develop and implement federally sponsored incentives for use of public transit, including military operating subsidies. What will the conference committee report?

Second, the relation of this legislation to the environment. Both bills allow stationary source exemptions before May 15, 1974, if fuels become unavailable. The Senate bill says these exemptions cannot run beyond November 1, 1974. The House bill authorizes additional exemptions up to June 30, 1979, if fuels are unavailable, the exemption will not contribute to higher-than-standard pollution, and the person getting the exemption has been put on a schedule for compliance with air quality standards before June 30, 1979. The Senate bill makes no reference to auto emissions; the House bill extends the deadline. The House bill exempts for 1 year all actions under the act from NEPA. The Senate bill has similar exemptions for all action to occur within less than 1 year—but it requires sort of a mini-impact—environmental evaluation—statement within 60 days of any action taken.

Third, the antitrust provisions. Both bills allow voluntary marketing agreements under government regulation. In the House bill, these agreements are between companies; in the Senate bill, they are between private enterprise and government. Both bills exempt meetings to implement purposes of the Act from antitrust laws, as long as such meetings are carried out under government supervision. Both bills allow the FTC or Attorney General to modify or disapprove any voluntary plans. Under the House bill, such plans must be submitted to the FTC and Attorney General 10 days before implementation. Under the Senate bill, the Attorney General and FTC are involved in the development of the plan. What will we get out of conference?

Fourth, the international aspects of this legislation. Under the Senate bill, exports can be limited under the Export Administration Act, which is amended for purposes of this bill, to exclude the requirement of abnormal foreign demand. In the House bill, the Administrator of the FEA may restrict exports "as he deems appropriate." He may use existing statutory authority, but he does not have to. He must take into account historical trading relations with Canada and Mexico. The Senate bill requires the President as part of his allocation and contingency planning to develop plans with other countries to meet worldwide shortages. There is no comparable provision in the House bill. Which provisions will the conference committee go with?

Fifth, the assistance that this bill gives to those harshly affected by this legislation. The Senate bill provides for direct FHA and SBA loans to improve insulation and heating equipment. In addition, tax deductions are provided for energy conserving alterations of taxpayers' residences. There are no such provisions in the House bill. The Senate bill authorizes unemployment assistance to those thrown out of work by energy conservation measures who would not otherwise qualify for compensation. The House bill simply requires a report on the problem. What are we likely to get out of conference?

Sixth, administration of the bill. The House bill establishes the Federal Energy Administration. The Senate bill does not contemplate it. What will the conference committee do?

Seventh, excess profits. The House bill requires that prices be set to eliminate excess profits. There is no such provision in the Senate bill. What are we likely to get out of this conflict, keeping in mind that we have a pretty strong Senator heading the conferees of the other body?

I am particularly disappointed that neither bill deals with the supply problem by encouraging increased production in any comprehensive way, other than by calling for reports by various agencies.

I am informed that 35 of the 55 amendments we will be considering were offered and rejected in committee. This suggests that their life in conference is seriously in jeopardy if passed, and completely dead if rejected. Therefore, I hope that the Members will realize that a lot of the time they are going to spend on these amendments will not be fruitfully invested, and will seriously weaken the bargaining power of our Representatives to the conference in dealing with other basic differences between the House and Senate bills. In view of complexity and seriousness of the problem which this legislation attempts to deal with, we should send our conferees into conference in the strongest possible position.

Mr. PRICE of Texas. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Kentucky. It is difficult for me to stand here and listen to this body put a restriction on what they call windfall profits of oil companies and coal companies. Are we ever going to let free enterprise in this country do anything, or are we going to continue to legislate?

Who is going to determine the windfall profits of these companies? What about the management of one company versus another company? What if one company, because of the free enterprise system, explores and invests millions of dollars of its own money and investors' money to discover a new oil field or a new gas field or a new coal field. Then we are going to, under this legislation, use the last 5-year-profit average of all of the companies? To me, that does not make sense.

That is not free enterprise, and we are not going to solve the energy crisis by putting restrictions upon the peoples' initiative in the companies of America, regardless of whether they are a coal company or an oil. This will set a precedent in my estimation, to have controls on excessive profits upon any company in this country. Therefore, Mr. Chairman, I feel that this entire section should be stricken from the bill.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. PRICE of Texas. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, I thank the gentleman for yielding. I rise in support of the amendment offered by the gentleman from Kentucky.

Mr. McCLORY. Mr. Chairman, Illinois has vast reserves of coal which can help supply the much needed energy of this Nation. These coal reserves are of particular importance to American industry. Coal is readily available. It is to be found in Illinois in generous supply, and can satisfy the needs of industry and commerce, as well as many of the residential requirements of our Nation.

However, Mr. Chairman, the American way is to increase production consistent with the profit motive. In other words, if we are going to encourage a greatly expanded mining of coal, we must make it attractive and, indeed, profitable to the mine operators, as well as to the many miners who will be employed in satisfying this great and almost unlimited source of additional energy.

Mr. Chairman, I rise in strong support of the amendment offered by the gentleman from Kentucky (Mr. CARTER) for the very reasons which he has stated and because I firmly believe that this amendment is essential if we are to induce mine operators and miners to produce the added coal which can benefit the energy requirements of all of the American people.

Mr. SMITH of Iowa. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I come from an energy starved area of these United States. I suppose that was one of the reasons that, starting in 1970, I was privileged to chair a subcommittee of the Small Business Committee that started looking into this energy situation. We soon came to the conclusion that we were going to have an energy crisis. We could not get many to believe it, but it is here now and we finally believe it.

But, since I am from an energy-starved section of this country, I am interested in more energy, No. 1. Now, some talk about coal companies as if they are all big companies—and some of them indeed are; in fact, big oil owns 25 percent of all the coal reserves in the United States. Continental Oil Co., which owns Consolidated Coal Co., owns 10 percent by itself. But, I am convinced, after spending a little time down in the big coal areas of this country, that Continental Oil or Consolidated Coal, whichever we wish to call it, is not the one that is going to furnish extra coal in a year or two. It takes a company like that 2 or 3 years to turn around. If we are going to have an increase in coal production in the next year or two, it is going to come from the little operator.

Some utility company which converted from coal to oil 2 years ago, when we needed more coal instead of converting to oil, is going to go to a coal broker and buy a certain number of tons of coal.

He is going to go to some subbroker, and eventually it gets down to a little operator down there in Appalachia. If he can get about a 3-year contract from that broker, he will go in and get a loan at the bank and buy a used truck and a used crane.

The coal is there. They know where it is. A small producer makes his arrangement on a royalty or other basis, and he produces coal.

What happened to coal prices during this period of time? TVA was paying about $4.50 for coal 3 years ago, and after small operators by the hundreds were driven out of business, it went up to $8.50. We had a tremendous change in the coal industry during that period of time.

What I am trying to tell the Members is this: If we get more coal in the next year or two, it has got to come from those little operators. We cannot get it from those little operators if they cannot secure a profit margin that is different from the one prescribed in this bill. The "windfall profits" definition does not describe windfall profits at all, but in the case of coal would be a price ceiling at a level too low to encourage production.

Mr. Chairman, I am interested in energy, getting more energy instead of depending on imported oil which may not be available, and we are not going to get more coal energy in the next year or two if we do not adopt the amendment.

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman yield for a question?

Mr. SMITH of Iowa. I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Mr. Chairman, I am very interested in what the gentleman is saying.

In view of the gentleman's chairmanship of the subcommittee that looked into this matter, could the gentleman tell us from those hearings whether the same thing would be true with respect to oil?

We are directing our attention through this amendment just to coal operators, but are there not some small operators of oil wells that would be in a similar situation? Would that be true?

Mr. SMITH of Iowa. To some extent.

Mr. ANDERSON of Illinois. I am referring to stripper wells.

Mr. SMITH of Iowa. That is true to some extent, but I do not think it is a parallel situation. I really do not believe the situation is exactly parallel because the investments required in oil drilling are so large that one cannot start out overnight as one can in a little coal mining operation. In other words, the flexibility in oil is not what it is in the coal industry.

Mr. FLOOD. Mr. Chairman, I move to strike the necessary number of words.

Now, Mr. Chairman, I do not think that I need your gavel, as powerful as it is, to get the attention of the Members of this Committee.

Now, Mr. Chairman, I came in here and answered the quorum call. Then I went out to a room over here on the left—where that was is none of your business—and when I came out of that room, I came back on the floor here and I found out what is going on.

Now, I have been here a long time, and I can believe almost anything. But I just cannot believe, after what I have been going through for the last several months, that any Member in this House, beginning with oil people, would make such a proposal. Do I understand correctly?

Mr. Chairman, I will just ask the gentleman from West Virginia (Mr. STAGGERS). Do I understand that in this can of worms there is a proposal to include the coal people in this weird business?

I am speaking of coal. Are they serious? Is this so?

Mr. STAGGERS. Mr. Chairman, will the gentleman yield?

Mr. FLOOD. Yes, indeed.

Mr. STAGGERS. Mr. Chairman, the word "coal" is in the windfall profits section.

Mr. FLOOD. C-o-a-l?

Mr. STAGGERS. Yes. The gentleman from Kentucky has offered an amendment to strike it out.

Mr. FLOOD. Perhaps we had better laugh out of the other side of our faces.

Let me tell the Members something. I have been here since the memory of man runneth not to the contrary, and I have voted for oil proposals of all kinds since 1945.

Now, we have heard the coal people were talking. I presume they talked to the gentleman. I understand the gentleman from Pennsylvania (Mr. DENT) was talking, as well as several other coal people; I suppose they were.

These people are all soft coal people; they are from bituminous, soft coal. Half of you people cannot spell it.

I am from the anthracite, possibly the only hard coal man in the House. McDADE has a couple of spoonsful left and YATRON has a few, and that is about all of the great anthracite clean coal.

In 1924—now here this, because you have my bowels upset—in 1924 I had 64,000 men, 64,000, working underground in my district. There were 64,000 digging anthracite coal for you. Do you know how many I have today? Well, I am not drinking. I have not had a drink in 4 years, because the doctor says I cannot. Do you know how many I have working today underground digging anthracite coal for you? 220. Not 220,000 but 220 men. Not 64,000 but 220 men.

Everybody is calling me day and night, including you, and writing me letters day and night saying "What about coal? We have to have coal; we should have coal." Well, I have the coal. I have millions and hundreds of millions of tons of coal that I can take out with a teaspoon. And we are going to start doing it. You have to have coal.

Four to five years profit on coal? You are out of your cotton-picking mind, my southern friend. Five years of profit in what? Do not give me any 5 years of profits. There ain't been no coal.

Mr. ICHORD. Will the gentleman yield?

Mr. FLOOD. I yield to the gentleman.

Mr. ICHORD. Will the gentleman tell us why he has only 220 men now working, in his opinion?

Mr. FLOOD. Because we have been helping the people, coal people, to supply the fuel and now there is no coal and coal is coming in from all over the world.

I am for oil and I was for it 1,000 percent. Before you got here I was for oil and for cotton and for peanuts, and I do not know one end of a cow from the other but I have been for it and for agriculture bills for 100 years.

This is coal. Do not touch coal. Support that amendment. We have to have coal last night and tomorrow.

Mr. DERWINSKI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to pose a few questions. Not only this bill but this amendment and this debate seem somewhat contradictory. I wonder if the proponents or the opponents could answer a question.

If we are to stimulate coal production through this amendment, how do you explain away an objection, that these permissible windfall profits come out of the pockets of the consumer? If I were a consumer advocate at this point, how would that question be answered?

Mr. CARTER. Will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman.

Mr. CARTER. There have been none during the past 4 years except for one year, 1970. If you take the averages, there would be no windfall profits whatever. This is a defined term within that, and according to this legislation there could not be any profits if you took that average.

Mr. DENNIS. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Indiana.

Mr. DENNIS. I would like to support this particular amendment, but I think the gentleman's question may deserve a little more fundamental and wide-ranging answer.

The real point here is, of course, that we are not, in this whole bill and in this section, doing anything to create or increase the supply of oil or coal or gas or anything else.

And the only way we are going to do it, really, is not by controls or allocation or price fixing, it is going to be by letting the price rise on a scarce commodity so that people can make some money to go out and look for it. That is the case with coal, and that is the case with oil, and that is basically what we should be doing about it.

Mr. DERWINSKI. That is a very valid point. It would seem to me that it would be logical that the same principle would apply to the other items, oil, natural gas, and so on.

Mr. DENNIS. That is right. It is argued that rising prices bear harder on the poor, and, of course, any price ranging upward bears harder on the poor, but if we do not recognize that the prices for scarce energy will rise there is not going to be any work as industry shuts down, and, in that case, there will not be any people who will have any money to buy anything, at any price. And we are just kidding ourselves in most of this stuff.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Chairman, I thank the gentleman for yielding. Let me say that if we do not increase the production of coal, and if we do anything to discourage increased production of coal, then we will become more heavily dependent upon imported oil, and it will permit imported oil to get a higher and higher price. So the consumer can be helped only by the increased production of coal, and this amendment helps provide a way to increase the production of coal.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I am happy to yield to the gentleman from New York.

Mr. KEMP. Mr. Chairman, I thank the gentleman from Illinois for yielding to me, and I want to associate myself with the remarks made by the gentleman in the well, and those of the gentleman from Indiana (Mr. Dennis).

In answer to the question proposed by the gentleman in the well, I would tell my consumers that temporary higher prices that deregulation is in their interest and are but a signal in the marketplace to increase production which ultimately is the only way to reduce shortages. What this Nation needs is not only fuel conservation, which we all desire, but further incentives to increase the production of our vital fuel resources.

Profits will assist in the accumulation of capital necessary to find new sources of energy and for research into the development of methods for liquefaction and gasification of coal. That is what we ought to be doing for the consumer. We must restore incentives required in this high-risk business to search for new gas and oil.

Mr. DERWINSKI. Mr. Chairman, I thank the gentleman for his comments.

In closing, Mr. Chairman, I direct an observation to the comments made by the gentleman from Pennsylvania (Mr. Flood). While I understand why his coal miners have disappeared, sons of those Pennsylvania coal miners are now spread across the 50 States with athletic scholarships playing college football.

Mr. WAGGONNER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I take this time simply because of the way the parliamentary situation has developed. I want to explain what I propose to do.

The gentleman from Kentucky has, because of the Rules of the House, in offering a very limited amendment, proposed striking from this section 117 only those alleged windfall profits which apply to coal. Now, because of the Rules of the House, if a member of the Committee on Interstate and Foreign Commerce seeks recognition at the same time I do, they will be recognized before I will. The gentleman from Michigan (Mr. Dingell), a member of the committee, insists that he be recognized next to offer an amendment having to do with the conservation of fuel by limiting unnecessary busing.

I want the House to know that as soon as I can get recognition I am going to offer a substitute for whatever remains of section 117 at that point in time. If the gentleman from Kentucky has his amendment adopted, all of that section will remain except that part of the section having to do with coal.

It defies description to me that this House would adopt, when we are trying to get energy, an exemption on the one hand with respect to coal, and on the other hand to completely reverse itself with regard to other suppliers of energy. I expect this coal amendment to be adopted, and I am going to support it, but to those Members who are interested in exempting windfall profits in the instance of coal, do not forget that those products which come from coal are not just energy; in the future, in an ever-increasing way, some of those products are going to take the form of petroleum products in one form or another and thereby be subject to the remaining limitations of the section.

So there is only one fair thing to do, and I will point out to you why this section is totally unworkable when that time comes. Under the rules of the House, now adopt this limited amendment and then adopt a substitute for the remainder of the section which I am going to offer whenever I can get recognition. The adoption of this coal amendment, however, will probably cause the defeat of my substitute amendment.

Mr. PEYSER. Mr. Chairman, will the gentleman yield?

Mr. WAGGONNER. I yield to the gentleman from New York.

Mr. PEYSER. I thank the gentleman for yielding. Since this is the time for observations, I should like to observe, just having checked at the desk, that at the present rate we are going on this amendment—I think we are ready to vote and pass this amendment—there will be over 32 hours of debate, and I should like to suggest that we now vote on this amendment.

Mr. WAGGONNER. I accept the gentleman's suggestion, but because of the confusion if it takes 64 hours rather than 32 hours, I will be sitting waiting to offer this substitute when the time comes.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. WAGGONNER. I yield to the gentleman from New York.

Mr. KEMP. I thank the gentleman for yielding. I join with the gentleman in support of this amendment of the gentleman from Kentucky—I will also join him in his amendment. I just want to point out there was a statement made earlier on the floor from the well that evidences some confusion as to who is drilling wells in this country. It is my understanding that 60 or 70 percent of the wells in this country today are drilled by independent drillers, many of whom have gone broke and out of business recently because of "windfall losses."

Profits are the incentive to go into this high-risk business and I support Mr. Waggonner in his amendment attempt.

Mr. WAGGONNER. I will tell the gentleman that the people who are cold who ask for heating oil, or who cannot get gasoline when they drive up to that gas pump do not ask who supplies it. All they want is the product.

Mr. ROY. Mr. Chairman, will the gentleman yield?

Mr. WAGGONNER. I yield to the gentleman from Kansas.

Mr. ROY. I thank the gentleman for yielding.

I will inform the committee that at the proper time I will offer an amendment to exclude the small independent operator. I do not know whether that will be prior to Mr. Waggonner's amendment or not.

Mr. WAGGONNER. If the gentleman will just stay in his seat until I get recognition, it will not be prior to it.

Mr. MYERS. Mr. Chairman, will the gentleman yield?

Mr. WAGGONNER. I yield to the gentleman from Indiana.

Mr. MYERS. I thank the gentleman for yielding.

Mr. Chairman, I certainly am going to support this amendment because we must recognize that we have two responsibilities here, one of which is to get a limited amount of energy to the right sources. The second is, we must also look down the road to provide energy for the future, and coal is the greatest resource we have.

I do have one question. The gentleman may not be able to answer it, but maybe the author can. How will this affect companies who do not have fuel holdings? They will have other sources of energy besides coal. They will have 75 percent of energy in other types, but they also have coal. How will this amendment affect them?

Mr. WAGGONNER. I do not know about the amendment, but logically, should it apply, nothing will affect anything other than those prices and those profits which stem therefrom, having to do with the products mentioned here.

Mr. MYERS. Only that section of the amendment, then, pertaining to coal still would encourage development of our coal resources of the country; is that the gentleman's judgment?

Mr. WAGGONNER. Yes, sir.

Mr. WINN. Mr. Chairman, will the gentleman yield?

Mr. WAGGONNER. I yield to the gentleman from Kansas.

Mr. WINN. I thank the gentleman for yielding.

I just wonder if the gentleman from Louisiana would tell us the thrust of this amendment of which he speaks.

Mr. WAGGONNER. The thrust of the amendment which I will propose when I can get recognition will be to strike all that remains of section 117 and provide that we utilize this law and the Economic Stabilization Act of 1970, as amended, to permit no more than reasonable profits and require the administration to submit legislation to us which will permit the Congress to limit profits to a reasonable level.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ADAMS. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, I yield to the gentleman from California.

Mr. MOSS. Mr. Chairman, because of the clear inference that has been made immediately here, that the coal industry lacks profitability, I had my staff counsel do some inquiring, and I supply for the benefit of my colleagues the following figures on the rate of return on investment by the coal industry. In 1967, 9.2 percent; in 1968, 9.2 percent; in 1969, 7.6 percent; in 1970, 14.4 percent; in 1971, 8.4 percent. This, I believe, is a rather respectable picture of profitability rather than the bleak picture of the lack of profitability.

I think that at least this record should reflect that fact before we vote upon this.

I thank the gentleman from Washington for yielding to me.

Mr. WALDIE. Mr. Chairman, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from California (Mr. Waldie).

Mr. WALDIE. Mr. Chairman, just an observation from a Member who does not represent any of the energy extracting industry but who may be exhibiting the type of reaction that an awful lot of people in this country might have who may be listening to this debate. It seems to me the way the energy industry is being described on the floor of the House today that while this country is in an enormous crisis and suffering from lack of energy and all Americans being asked to make great sacrifices in their schools and in their hospitals and in their homes because there is not enough energy, the energy industry apparently is sitting on inventories of energy sufficient to meet the needs of the people of this country. They will continue to sit on those energy inventories unless they are given substantial profits to get them out and onto the marketplace.

Where in the world is the equivalent sacrifice on the part of the energy industry that we are asking of our people? When we have been confronted in past times in history with similar crises in this country and there were not sufficient voluntary responses by the people, there was compulsion on the part of the Government to force a response from the people. The draft of young men to fight wars is such an example.

The energy industry, if the voices I am hearing on the floor today are representative of the energy industry, is eliciting that sort of compulsion. This country will not tolerate and neither should they tolerate inventory supplies of energy being sat upon until such time as exorbitant profits are guaranteed to stimulate the extraction and marketing of energy.

The people are entitled to better than that, and if the energy industry does not provide better than that under this system, then there will be a different means of obtaining an appropriate sort of response from the industry.

Mr. BELL. Mr. Chairman, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from California (Mr. Bell).

Mr. BELL. Mr. Chairman, I would like to ask the gentleman if the coal companies cannot carry forward a tax loss over previous years to the next 5 years? Perhaps they cannot under a ruling of the Renegotiation Board, but under the present Tax Court ruling they would be able to carry forward losses of the previous 5 years to the next 5-year period. I am wondering whether or not they could do it with the coal industry, which would tend to question the validity or need of this amendment.

Mr. ADAMS. To whom did the gentleman from California address his question?

Mr. BELL. Either to the gentleman from Washington or to the gentleman from California (Mr. Moss) if he is aware of that.

Mr. ADAMS. The tax loss carry forwards are for a 5-year period to the best of my knowledge.

Mr. BELL. Would not a coal company loss be a valid loss to be carried forward for 5 years? I know there may be a difference between tax rulings and Renegotiation Board rulings, but this is a matter, which I feel sure the Board ruling would consider the same way as the Tax Court would. That is that coal companies with previous years losses, would be able to carry those losses forward for the next 5 years. If this is true what is the need for this amendment?

Mr. ADAMS. I do not know.

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from Pennsylvania (Mr. Dent).

Mr. DENT. Mr. Chairman, I do not know anything about how the industry itself handles its tax profits but the gentleman must understand that there is something completely different in coal. For instance, in a coal mine we have to have great areas of land. We cannot start a coal mine with 1,000 acres.

Mr. BELL. Mr. Chairman, I would like to ask the gentleman from Oregon, the vice chairman of the Ways and Means Committee, that question.

The CHAIRMAN. The time of the gentleman from Washington has expired.

Mr. DENT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I do not want to take more than a moment but I do want to say this. In order to mine coal we have to deal sometimes with hundreds of landowners. We do not deal with just one individual, except in extraordinary cases where they may have had a whole estate going back to the early days, with thousands of acres. But right now, today, we can go out and buy the coal under the ground and we have to pay the man who owns the surface so much. Would a Member take a million dollars for his land to have coal mined out of it, and have the land be destroyed in a sense, in order to make 9 percent, or would the Member take a million dollars and sell the land to a housing development? And that is what is happening to us. We have lost 80,000 to 90,000 acres of good metallurgical coal because we cannot mine under the ground once structures have been put on top of it. We are not dealing with the same situation as with an oil well. When we get oil, we turn a valve and get it out of the ground. The coal makes dirt. It makes a dirty, messy situation.

And today to open a coal mine, one has to spend $100,000 to get a mine that will produce 1,000 tons a day. It would be better to take the $100,000 and put it into any investment today. I just noticed a new issue of a bond the other day which pays 11¾ percent. We do not have to worry about anything if we dig a coal mine and take the chance the Arabs will change their minds a year from now, turn the valves loose, and we will be sitting there with a coal mine because no one will buy coal.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. DENT. I yield to the gentleman from Kentucky.

Mr. CARTER. Is it not true that yesterday the gentleman and I received this information which I gave this House and we went over it together as to the profits of 1970? I want to make that clear.

Mr. DENT. But the increase in coal production, the new mines that have been opened in the last 14 and 15 months in this country, do not have a 5-year carryover.

Mr. FLOOD. Mr. Chairman, will the gentleman yield?

Mr. DENT. I yield to the gentleman from Pennsylvania.

Mr. FLOOD. There is one thing I would like to make perfectly clear, and for the oldtimers who have been here, did they ever think they would live long enough to hear Flood of Pennsylvania down here as a mouthpiece for the coal companies? Did they think I would be a mouthpiece for these coal barons?

There are 100,000 miners dead from black lung disease who will turn over in their graves right now, who know what I am talking about. If they think I am here arm grabbing for these old-line coal barons that raked and destroyed my area in the State of Pennsylvania, just remember that I am not afraid to say no, certainly not.

I would agree with the gentleman, I have for years and said so long before the gentleman did against such outrageous profits.

The fact of the mater is that "there just ain't no profits" and the one man in the House, the gentleman from California, is trying to outshine me with that red coat. If there is one man I would hope today after hearing what I said today in connection with coal. I would expect him to join with me in support of this amendment, and that would be the gentleman from California. He has been here a long time. He knows what I said.

The gentleman will not see me defending excess profits for the money—grabbing barons; and by the way, the foreign landlords, the barons from New York and Philadelphia, who destroyed my people and destroyed my country; me support them? They must be crazy.

Mr. DENT. Mr. Chairman, this is the only Nation on the face of the earth that does not allow a complete writeoff of capital expenditures for mineral resources before any taxes are made on profits. This is the only Nation that does not allow coal mining or any other mining to develop anything in the natural resources field. Unless we take out the money we put in first, then we can pay the taxes. That is why we have had no exploration. That is why we have had no development of coal. If we had gone on the basis of coal development, the Arabs could no longer thumb their noses at us.

Mr. CRANE. Mr. Chairman, I move to strike the requisite number of words. I just want to make a brief comment.

It is in response primarily to the suggestion of exorbitant profits in the energy fields.

I have the profit figures for Shell Oil, one of the larger oil companies, from 1968 through 1972. The only reason I would like to read these into the record is that there have been published recently reports of the great increase in profits of the oil industry. The media has observed that Gulf Oil had a 91-percent increase this year over last.

Exxon reportedly had an 80-percent increase in profits this year over last. I suspect that there are some uncritical headline readers who assume they are talking about profits when they say the figures are 91 percent and 80 percent. The fact is, that is a percent of increase over last year's profits. If your profits last year were 5 percent for example, and reached 9 percent this year, that would represent an 80 percent increase in profits between the 2 years. To get a handle on what last year's profits were, I can give the Members some figures for that period.

Last year, Shell's profits were 5.4 percent; in 1968, they were 7.9 percent; they dropped in 1969 to 6.8 percent; in 1970 they were 5.5 percent; and in 1971, they were 5.1 percent.

As I say, last year they were 5.4 percent, hardly an exorbitant profit, particularly when we realize that the Government was paying 10 percent on its notes to anyone who was inclined to make that kind of investment, and so were banks.

One other point in this connection is the cost of creating jobs. Since 1965, we have suffered from the baby boom population coming out of the World War II era. This means that we have been trying to create jobs twice as fast over the past 8 years as we did in the preceding 20-year period. That baby boom population is still going to be hitting the job market during the remainder of the years of this decade. In terms of what financing is necessary to create jobs, it costs better than $20,000 to create a job, and we are going to have to create them still at these or higher levels. When we get into such esoteric fields as petrochemicals, the cost to industry to create a job can easily run as high as $125,000.

Mr. Chairman, I would only suggest to the gentleman from California that he might peruse those figures before making the kind of reckless indictment of industry profits contained in his remarks.

Mr. HOSMER. Mr. Chairman, will the gentleman yield?

Mr. CRANE. I yield to the gentleman from California.

Mr. HOSMER. Mr. Chairman, I think it would be interesting at this point to ascertain what is the usual rate of return on capital generally considered in this country to be required to attract equity capital in order to expand the production of coal and oil? I understand that it is around 12 to 15 percent in order to be able to compete for money against other kinds of activities; is that correct?

Mr. CRANE. Yes, that is correct.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. CRANE. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, I thank the gentleman for yielding to me. I want to commend him for providing this information to the House.

It seems to me that the greater danger in this energy crisis is to listen to those who say that there is no energy crisis, and who suggest that the inventories of oil and gas should be disposed of as a solution to this energy crisis. This, of course, is a disservice to the whole subject of our deliberations here today because the fact is that the inventories of oil and gas are down, and that is one important reason why we are anticipating and endeavoring to meet the serious energy crisis which is confronting us.

Mr. BELL. Mr. Chairman, will the gentleman yield?

Mr. CRANE. I yield to the gentleman from California.

Mr. BELL. Mr. Chairman, I thank the gentleman for yielding to me. I take the microphone for the purpose of asking the gentleman from Oregon (Mr. Ullman) chairman of the Ways and Means Committee, a question.

I wanted to ask him, inasmuch as this has a definite pertinence to the matter at issue, as to whether coal companies could get the benefit of a tax carry forward. Obviously, if they could, there would not be a great need for this amendment. I am asking the gentleman from Oregon if he would try to clarify that matter.

Mr. ULLMAN. Mr. Chairman, will the gentleman yield?

Mr. CRANE. I yield to the gentleman from Oregon.

Mr. ULLMAN. Mr. Chairman, one of the problems with this legislation is the fact that it, of course, does not amend the tax code. It is not within the jurisdiction of the committee. Therefore, it does not take into consideration the normal tax laws.

The renegotiation board obviously would make its own rules and regulations with respect to profits, but it would not have to relate to the income taxes imposed at all.

Therefore, because it does not relate to the income tax code, there is nothing in the legislation that would require the renegotiation board to consider that, so that is one of the problems we tried to deal with in this way.

It seems to me the most meaningful way to handle excess profits or windfall profits would be within the tax code. It would be my hope that early next year we might be able to deal directly with this problem by putting into the tax code an excess profits section.

Mr. PRICE of Texas. Mr. Chairman, will the gentleman yield?

Mr. CRANE. I had promised the gentleman from Texas I would yield to him before my time expired, so I yield to the gentleman at this time.

Mr. PRICE of Texas. Mr. Chairman, I thank the gentleman for yielding.

I agree with the gentleman's remarks and I appreciate the fact they have been placed in the record.

When the time comes, I will offer an amendment to deregulate gas at the wellhead as a means of stimulating, first of all, the energy in this country.

I believe we must make use of what we have available at the present time, and this would be a proper approach.

Mr. PREYER. Mr. Chairman, I move to strike the requisite number of words.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. PREYER. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, I should like to point out that the purpose of this windfall profits section is to provide that both the coal and oil industries put money into exploration and into more efficient ways of producing. But I am extremely impressed by the statement of the gentleman from Pennsylvania (Mr. Dent).

The gentleman from Pennsylvania (Mr. Dent) stated that one of the years in the 5-year period was the only year in which coal made a profit. For that reason I will offer an amendment, when I have an opportunity so to do, in the event that this amendment fails—because I think his points are well taken—to provide that with respect to coal, the highest of the 5 years should be available for coal, with respect to the minimum profit level which would be protected.

Now, the result of that amendment would be that with respect to percent of profits on sales, coal would then be limited to 7½ percent, that is, its highest year, whereas oil would be determined on its average for 5 years, which is just about the same. It is 7.7 percent.

Incidentally, if it is calculated concerning net worth, the highest year for coal would be way up to 14 percent, so it would not be oppressive if that formula were used.

Mr. Chairman, in the event that the amendment now on the floor should fail, I will attempt to offer that amendment, because I think the position of the gentleman from Pennsylvania (Mr. Dent) is well taken, and I would not wish to restrict coal unduly, as opposed to other fuels.

Mr. BURLISON of Missouri. Mr. Chairman, will the gentleman yield?

Mr. PREYER. I yield to the gentleman from Missouri.

Mr. BURLISON of Missouri. Mr. Chairman, I appreciate the gentleman's yielding.

I am intrigued, Mr. Chairman, by all the discussion about restrictions on margin of profits concerning the oil companies and coal companies of anywhere from 5 to 15 percent.

I think it is appropriate here to recognize that the return on investment to the farmers of this country is only 3.4 percent.

Mr. STAGGERS. Mr. Chairman, I ask unanimous consent that all debate on the amendment offered by the gentleman from Kentucky (Mr. Carter) conclude in 5 minutes, and that the gentleman from Minnesota (Mr. Fraser) and myself may divide the time.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Minnesota (Mr. Fraser).

Mr. FRASER. Mr. Chairman, some of the statements made in the debates seem to me to miss the problem that we are faced with. There is no assurance that if we permit windfall profits in the coal industry, those profits are going to be reinvested rather than paid out as dividends to the shareholders.

There has been talk about trying to rewrite this or some other restriction on profits to require reinvestment, but that is not in here. If we take out the restrictions on coal, they can enjoy windfall profits, and they can pay this out in the form of dividends to the shareholders, and there is no requirement that the money be reinvested.

Mr. Chairman, I represent the consumers' interest in energy, and I know that in my State the purchasing power of wage earners is down by 3 to 4 percent in relation to what they were able to buy a year ago. That is because of inflation. Now, they are being asked to pay more for fuel oil and for gasoline, and they are going to be asked to accept shortages.

What we are seeing now is that despite the fact that the average working person in the United States is worse off today than he was a year ago, and now he is going to pay more for energy, the big oil companies who own the coalfields are going to be given a blank check to make windfall profits under a scarcity situation which has been exacerbated by the Middle East war.

I find that to be intolerable. I think it would be one of the biggest ripoffs on the working people of this country ever perpetrated in all the time that they have been called upon to make sacrifices.

This amendment ought to be defeated. The proposal by the gentleman from Texas (Mr. ECKHARDT) to give some relief to the coal industry by using the highest of the annual profits of the last 5 years is a more defensible proposal.

However, to ask the working people of this country to allow the coal industry, which is owned by the oil industry, to make windfall profits while the prices they have to pay for these products go up is incredible.

Mr. STAGGERS. Mr. Chairman, I yield to the gentleman from Pennsylvania (Mr. DENT).

Mr. DENT. I may say to the gentleman from Minnesota that we, too, are consumers. I have voted for some 40 years for every foreign aid bill that has ever come before this body. I voted for subsidy programs for the farmers even though we are the consumers. We buy the products that they grow, and we pay for it. I have voted against the ceiling price that they were trying to put on farmers last year. Why? Because I thought they had an opportunity at last to make some money with which they could pay for those mortgages that they had and to buy new farm machinery so that they could grow more and sell it for less. That is all. I am speaking as a consumer representing consumers, but I want those who produce, whether they are farmers or coal companies or oil companies or whatever it is, to make a profit because that is the kind of a government we live in. I know they have to make a profit, and I want them to make a profit. Without a profit they will not raise cattle or grow corn or mine coal. That is the kind of government we have. If you can get it done without that, it would be a happy day, but we just cannot do it.

My fine friend from Texas would put a 7½ percent profit lid on, but I say if you are going to do it in this field, let us extend it to the other products. Let us extend it to automobiles and to all of the other things. The depletion allowance is what killed the coal business.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kentucky (Mr. CARTER).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BURTON. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 256, noes 155, present 2, not voting 19, as follows:

[Roll No. 661]

AYES—256

Alexander
Anderson, Ill.
Andrews, N.C.
Annunzio
Archer
Arends
Armstrong
Ashbrook
Baker
Barrett
Bauman
Beard
Bevill
Blackburn
Blatnik
Boggs
Bowen
Bray
Breaux
Brinkley
Broomfield
Brotzman
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Butler
Byron
Camp
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clark
Clausen, Don H.
Cleveland
Cochran
Collins, Tex.
Conable
Conlan
Crane
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Denholm
Dennis
Dent
Derwinski
Devine
Dickinson
Diggs
Dingell
Dorn
Dulski
Duncan
Edwards, Ala.
Eilberg
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Findley
Fisher
Flood
Flowers
Flynt
Ford, William D.
Forsythe
Fountain
Frelinghuysen
Frey
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Ginn
Goldwater
Goodling
Gray
Green, Oreg.
Gross
Gude
Haley
Hamilton
Hammerschmidt
Hanrahan
Hansen, Idaho
Hansen, Wash.
Harsha
Hastings
Hays
Hébert
Henderson
Hicks
Hillis
Hogan
Holt
Hosmer
Huber
Hudnut
Hungate
Hutchinson
Ichord
Jarman
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Keating
Kemp
Ketchum
Kluczynski
Kuykendall
Landgrebe
Landrum
Lent
Litton
Lott
McClory
McCollister
McCormack
McDade
McEwen
McKay
McKinney
McSpadden
Madden
Madigan
Mahon
Mailliard
Mallary
Maraziti
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mayne
Melcher
Michel
Milford
Minshall, Ohio
Mizell
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Morgan
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nelsen
Nichols
Nix
O'Brien
O'Hara
O'Neill
Owens
Parris
Passman
Patman
Perkins
Pettis
Pickle
Pike
Poage
Powell, Ohio
Preyer
Price, Ill.
Price, Tex.
Pritchard
Quillen
Railsback
Randall
Rarick
Rhodes
Robinson, Va.
Robison, N.Y.
Rogers
Roncalio, Wyo.
Rose
Rostenkowski
Rousselot
Roy
Ruppe
Ruth
Ryan
Sandman
Sarasin
Satterfield
Scherle
Schneebeli
Schroeder
Sebelius
Shipley
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Snyder
Spence
Staggers
Stanton, J. William
Steed
Steelman
Steiger, Ariz.
Stephens
Stratton
Stubblefield
Stuckey
Sullivan
Symington
Symms
Talcott
Taylor, N.C.
Teague, Calif.
Teague, Tex.
Thomson, Wis.
Thornton
Towell, Nev.
Treen
Udall
Ullman
Vander Jagt
Veysey
Waggonner
Wampler
Ware
Whitehurst
Whitten
Widnall
Williams
Winn
Wylie
Wyman
Yatron
Young, Alaska
Young, Ill.
Young, S.C.
Young, Tex.
Zablocki
Zion
Zwach

NOES—155

Abdnor
Abzug
Adams
Addabbo
Anderson, Calif.
Andrews, N. Dak.
Ashley
Aspin
Badillo
Bafalis
Bell
Bennett
Bergland
Biaggi
Biester
Bingham
Boland
Brademas
Brasco
Breckinridge
Brooks
Brown, Calif.
Brown, Mich.
Burke, Mass.
Burlison, Mo.
Burton
Carey, N.Y.
Carney, Ohio
Chisholm
Clancy
Clawson, Del
Clay
Cohen
Collins, Ill.
Conte
Conyers
Corman
Cotter
Coughlin
Cronin
Daniels, Dominick V.
Danielson
Delaney
Dellenback
Dellums
Donohue
Drinan
du Pont
Eckhardt
Edwards, Calif.
Fascell
Fish
Foley
Fraser
Frenzel
Froehlich
Gibbons
Gilman
Gonzalez
Grasso
Green, Pa.
Griffiths
Grover
Gunter
Guyer
Hanley
Hanna
Harrington
Hawkins
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Hinshaw
Holifield
Horton
Howard
Jordan
Karth
Kastenmeier
Kazen
King
Koch
Kyros
Latta
Leggett
Lehman
Long, La.
Long, Md.
Lujan
McCloskey
McFall
Macdonald
Mann
Mathis, Ga.
Matsunaga
Mazzoli
Meeds
Metcalfe
Mezvinsky
Miller
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mosher
Moss
Nedzi
Obey
Patten
Peyser
Podell
Quie
Rangel
Rees
Regula
Reid
Reuss
Riegle
Rinaldo
Roberts
Rodino
Roe
Roncallo, N.Y.
Rosenthal
Roush
Roybal
St Germain
Sarbanes
Seiberling
Shoup
Stanton, James V.
Stark
Steele
Steiger, Wis.
Studds
Thone
Tiernan
Van Deerlin
Vanik
Vigorito
Waldie
Whalen
White
Wiggins
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Wolff
Wright
Wydler
Yates
Young, Fla.
Young, Ga.

ANSWERED "PRESENT"—2

Rooney, Pa.
Smith, N.Y.

NOT VOTING—19

Bolling
Burke, Calif.
Collier
Downing
Erlenborn
Gubser
Harvey
Holtzman
Hunt
Johnson, Calif.
Mills, Ark.
Pepper
Rooney, N.Y.
Runnels
Stokes
Taylor, Mo.
Thompson, N.J.
Walsh
Wyatt

So the amendment was agreed to.

The vote was announced as above recorded.

AMENDMENT OFFERED BY MR. DINGELL TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. DINGELL. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by Mr. STAGGERS.

The Clerk read as follows:

Amendment offered by Mr. DINGELL to the amendment in the nature of a substitute offered by Mr. STAGGERS: Page 7, line 21, strike out the first period and the quotation marks.

Page 7, insert after line 21 the following:

"(k)(1) Except as provided in paragraph (3) of this subsection, no provision of the regulation under subsection (a) (including a regulation under subsection (h)) may provide for allocation of any refined petroleum product to any person (including a State or political subdivision thereof, or State or local educational agency) if the product so allocated will be used for the transportation of any public school student to a school farther than the public school closest to his home offering educational courses for the grade level and course of study of the student within the boundaries of the school attendance district wherein the student resides.

"(2) Any energy conservation plan proposed under section 105 of the Energy Emergency Act and any regulation under this section for allocation of petroleum products for transportation of public school students shall have as its purpose conserving refined petroleum products by reducing to the minimum the distance traveled by such students to and from the schools within the school attendance district in which the student resides. Such plans shall be formulated in consultation with the affected State and local educational agencies.

"(3) Nothing in this section shall prohibit allocation of refined petroleum products for student transportation to relieve conditions of overcrowding; to meet the needs of special education; or where the transportation is within the regularly established neighborhood school attendance areas.

"(4) This subsection shall not take effect until August 1, 1974."

Page 32, line 14, strike out "(k)" and insert in lieu thereof "(j)'.

POINT OF ORDER

Mr. ADAMS. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. ADAMS. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN. The gentleman from Washington reserves a point of order against the amendment.

The CHAIRMAN. Some Members stated yesterday they were concerned about the procedure. It would be helpful to the Committee in providing for an orderly procedure if Members of the Committee would cooperate and have order.

The Chairman does not expect to proceed in the proceedings of this Committee except when the Committee is in order. It would be helpful to the Committee if Members will take their seats and if they will refrain from conversation.

PARLIAMENTARY INQUIRY

Mr. DINGELL. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. DINGELL. Mr. Chairman, I note that the gentleman from Washington (Mr. ADAMS) has reserved a point of order. I assume that I am to address myself to the amendment at this time, and will later be recognized for the purposes of addressing myself to the point of order.

The CHAIRMAN. The gentleman is correct.

Mr. DINGELL. Mr. Chairman, this is an amendment which is offered by me on behalf of a large group of colleagues, among whom is Mr. HUBER, my colleague and friend from the State of Michigan, who I think perhaps originated the concept of this particular amendment. Also sponsoring the amendment, among our other colleagues, are Mr. SATTERFIELD, Mr. LENT, Mrs. GREEN of Oregon, Mr. HOGAN, Mr. WAGGONNER, Mr. FLOWERS, Mr. COLLINS of Texas, and Mr. MILFORD.

Mr. Chairman, this amendment says that no petroleum, no refined petroleum product will be allocated for purposes of transportation of schoolchildren farther than the neighborhood school nearest their homes. It refers to public schools and to public school children and not to private schools or to private school children. It does allow for allocation of petroleum products for transportation for special education and to alleviate conditions of overcrowding.

I would point out that the "overcrowding" referred to is overcrowding limited solely to conditions where the school board acts to abate genuine overpopulation.

Under section 105, which is a related section, any plans which are submitted regarding conservation of energy which relate to transportation of public school students, must have as their purpose the conservation of refined petroleum products by reducing to the minimum distance, the distance traveled by students to and from schools within the school attendance district of the students' residence.

The amendment establishes the clear policy of this Congress that transportation of students to school shall be for the minimum distance, and it says that we will so construe our allocation programs of refined petroleum products.

I had the other day the Library of Congress make a study of the number of schoolbuses, the distances schoolbuses travel and the amount of gasoline and other refined petroleum products utilized. According to the National Association of School Bus Contract Operators, there are about 290,000 schoolbuses in the United States serving public and private institutions. The average mileage for these buses is estimated to be 5 miles per gallon. The average daily run is 60 miles per schoolbus, and it is estimated by the association that schoolbuses operate approximately 180 days per year. This last figure can be verified through the usual State statutes which relate to the number of days under which schoolchildren will be required to attend the schools under State law.

The estimated consumption for the schoolbuses is 626,400,000 gallons. The figure is arrived at by the appropriate multiplications of the figures just cited. The National Association of School Bus Contract Operators has estimated that busing to achieve racial balance will use approximaely 12½ percent of this figure. This comes out to be 78,300,000 gallons of gasoline which will be saved by the amendment.

In Prince Georges County, which is adjacent to Washington, D.C., it was estimated that enforced schoolbusing for racial balance uses up about 750,000 gallons per year.

Obviously, if we say that we are going to have gasoline in scarce supply subject, according to this morning's paper, to a 5 percent cut; subject to broad allocations to achieve public purposes, then it becomes plain that it is necessary for us to allocate this scarce resource in the best fashion.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. DINGELL) has expired.

Mr. DINGELL. Mr. Chairman, I ask unanimous consent that I may be allowed to proceed for 4 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

Mr. CONYERS. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

POINT OF ORDER

The CHAIRMAN. The gentleman from Washington (Mr. ADAMS) has reserved a point of order.

The Chair will hear the gentleman on his point of order.

Mr. ADAMS. Mr. Chairman, I make a point of order against this amendment.

Mr. Chairman, I think this is one of the most important points of order that we will argue in this session of Congress.

As the Chair is well aware, under rule XXIII, the Chairman of the Committee can cite the point of order regardless of rulings of the Speaker.

The Chairman has full discretion.

Mr. Chairman, I make the point of order that this amendment is not germane. It is not germane under several propositions:

First, it does not apply to the fundamental purposes of the bill.

As is set forth in Cannon's Precedents and in Hind's Precedents, it is required that any amendment be to the fundamental purpose of the bill. The fact that the bill contains many subjects does not necessarily mean that another subject can be added.

I refer in particular to the ruling of the Chair in 5 Hind's Precedents, 5825, which states as follows:

> While a Committee may report a bill embracing different subjects, it is not in order during consideration in the House to introduce a new subject by way of amendment.

Now, this subject, the busing of schoolchildren, is a new subject by way of amendment.

I also make the point of order, Mr. Chairman, that this must be germane to the particular section or paragraph to which it is offered. There is nothing in this paragraph on schoolbusing, and on the second page of the amendment, there is a reference to section 105 as well as to section 103.

Mr. Chairman, I make the point of order on the basis of germaneness that this is not germane, because it deals with a subject matter that is foreign to the subject matter of the particular paragraph. And I quote now from 8 Cannon's Precedents, 2918, which was a bill from the Committee on Interstate and Foreign Commerce, in which they were dealing with child labor in interstate commerce and an amendment was offered to apply this to foreign commerce, and the Chair ruled as follows:

> It seems to the Chair that most of the gentlemen who argued in favor of this proposition have discussed the power of Congress to regulate both interstate and foreign commerce rather than the question of whether the proposition regulating foreign commerce is germane to a bill regulating interstate commerce. Two subjects are not necessarily

> germane to each other because they are related.
>
> The Chair believes this is a bill to regulate child labor and interstate commerce and, therefore, that an amendment proposing to extend it to foreign commerce is a different matter and not in order.

Further, in Cannon's Precedents, under 2951, there is this proposition:

> An amendment proposing to add an individual proposition to a bill embodying another individual proposition is not admissible even though the two propositions belong to the same class. To a bill providing for insurance for crews of vessels an amendment providing for insurance for sailors transported on such vessels was held not to be germane.

Now, in this bill, Mr. Chairman, we are providing for allocation of fuel products, and it seems to me that this precedent which provides that we cannot add an amendment applying to those who were being transported on a vessel, is directly in point, and that the amendment offered by the gentleman is not germane.

Mr. Chairman, I would further state that in this particular matter we are dealing with the fundamental purpose of the bill. The fundamental purpose of this bill is not to regulate the busing of children. That is before the Committee on Labor and Education.

Under the principles set forth in VIII Cannon's Precedents, section 2911, it is clearly stated of child labor, which was particularly involved there, that you could not extend the proposition.

Therefore, Mr. Chairman, because this is not germane to the section to which it is offered and because it involves not being germane to the fundamental purpose of the bill because it is not germane even though there are several subjects embraced in this bill, I therefore make a point of order against it.

I now yield to the chairman of the full committee, the gentleman from West Virginia (Mr. STAGGERS).

Mr. STAGGERS. Mr. Chairman, I, too, would like to make a point of order against the amendment because the Committee on the Judiciary spent a great deal of time considering the various constitutional problems associated with schoolbusing, and it come properly within the jurisdiction of the Committee on Education and Labor and not this committee. I do not think that we should, in a bill dealing with trying to solve an economic crisis, deal with matters attempting to correct racial imbalances by means of busing of schoolchildren.

Mr. ADAMS. Mr. Chairman, I finish my argument by stating in V Hinds Precedents, section 5825, despite the fact that this bill has within it a number of different subjects, it is not in order to introduce a new subject by way of amendment.

Mr. Chairman, the regulation of schoolbusing through the allocation of fuel or the failure to allocate fuel is introducing a new subject into this bill. Even though there are many subjects involved in it, it is one that is not properly before the Committee at this time.

Therefore, Mr. Chairman, I urge that the point of order be sustained and that the amendment offered by the gentleman from Michigan be ruled out of order.

The CHAIRMAN. Does the gentleman from Michigan desire to be heard on the point of order?

Mr. DINGELL. I do, Mr. Chairman.

The CHAIRMAN. The gentleman from Michigan may proceed.

Mr. DINGELL. Mr. Chairman, my good friend from Washington has made a most eloquent and moving statement regarding germaneness. It is regrettable that he has apparently not read the amendment which he discusses, because I read in the amendment nothing which refers to matters under the jurisdiction of the Committee on the Judiciary, nothing relating to enforced schoolbusing, nothing relating to civil rights.

Quite to the contrary, Mr. Chairman, I read into the amendment the conservation of energy, the conservation of petroleum products, the conservation of refined petroleum products.

Mr. Chairman, my friend from Washington cited a great number of precedents, and again I say it is most regrettable that he has not bothered to read the amendment which is before us, because the amendment before us relates to the conservation of energy as does the bill before us.

For the assistance of the Chair and my good friend from Washington, for whom I have an abundance of affection and respect, I will read now from page 442 of the Rules of the House of Representatives, under rule XVI, clause 7, which is a rule relating to germaneness and which was not cited by my good friend from Washington, and to read under the annotations thereunder this language:

> Whether or not an amendment be germane should be judged from the provisions of its text rather than from the purposes which circumstances may suggest.

The text is before the Chair. The Chair has read the text, I am sure, in his preparation for ruling upon the matter before us.

This amendment relates to allocations of products. It is specifically a prohibition upon the allocation of products. Section 103 to which this amendment is drafted is an amendment to the Emergency Petroleum Allocation Act of 1973. Section 103, as the Chair will note, at page 4, line 4, relates to priorities among users of crude oil, residual fuel oil, or any refined petroleum product, and for the assignment to such users of rights entitling them to obtain any such oil or product in precedence.

The amendment directs the President as to the way such users may receive oil. It refers in line 11 of that page 4 to transportation services. We transport hundreds of thousands of children in school buses. This relates to the kind of allocation and priority of the users of that kind of transportation.

Further down in the same page, page 4, it refers again at line 17 to the President to cause such adjustments in the allocation. Again, at line 19, the word "allocation"—as may be necessary to provide for the allocation of crude oil, residual fuel oil, or any refined petroleum product.

Again at the bottom of page 4, line 24, "The President shall provide for procedures by which any user of such oil or product for which priorities and entitlements are established under paragraphs 1 and 2."

It provides for petition and review and reclassification and modification of any determination regarding priorities.

At page 5, lines 1 through 4, and on the following page 6, under line 4, the term "allocation" is again referred to.

Coming now to page 7, section (j)——

The CHAIRMAN. The Chair will tell the gentleman from Michigan that, unless the gentleman wishes to continue, that the Chair is ready to rule.

Mr. DINGELL. Mr. Chairman, I would just like to continue for a moment, if I may.

The amendment is an amendment to section 103, which relates to allocation. The provisions of section 105, which are referred to, properly are treated in this particular amendment.

Mr. Chairman, I am prepared to reserve any further comments.

The CHAIRMAN (Mr. BOLLING). Unless there are other Members who desire to be heard on the point of order, the Chair is prepared to rule.

The Chair has had the opportunity to examine the amendment for some hours—in fact, for approximately 1 day. The Chair has diligently searched the precedents. The Chair finds that the point of order made by the gentleman from Washington (Mr. ADAMS) that the amendment offered by the gentleman from Michigan (Mr. DINGELL) is not germane to the amendment in the nature of a substitute, is not good.

The Chair would like to describe why.

The amendment is offered to section 103 of the amendment in the nature of a substitute which deals with the authority of the President to establish rules for the ordering of priorities among users of petroleum products. Section 103 specifies that in ordering such priorities, the maintenance of vital services in the areas of education and transportation is to be emphasized. The amendment of the gentleman from Michigan (Mr. DINGELL) restricts the authority bestowed upon the President by the pending substitute and by the portion of the Emergency Petroleum Allocation Act which is proposed to be altered. The amendment refers to fuel allocation regulations to be issued under the act, and is germane.

The Chair must, therefore, overrule the point of order.

PARLIAMENTARY INQUIRIES

Mr. ADAMS. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. ADAMS. Mr. Chairman, as I understand the present situation, we have pending a substitute, and the amendment of the gentleman from Michigan (Mr. DINGELL) to the substitute.

Am I correct that no amendment is in order to the amendment offered by the gentleman from Michigan (Mr. DINGELL) at this point.

The CHAIRMAN. The Chair would request the gentleman from Washington to restate the precise language of the gentleman's last sentence.

Mr. ADAMS. Mr. Chairman, is it correct that no amendment is in order to the amendment of the gentleman from Michigan (Mr. DINGELL) which is presently pending?

The CHAIRMAN. The gentleman is correct.

Mr. ADAMS. Mr. Chairman, my second parliamentary inquiry is this: That, assuming this amendment is disposed of, either voted down or—and we will assume first that it were to be adopted—would a further amendment to this subject matter at a separate point in this section be in order?

The CHAIRMAN. A further germane amendment to the bill could be offered.

Mr. ADAMS. To the section, but not to the particular language if it is adopted, is that correct, the House having acted on this language?

The CHAIRMAN. The essence of the answer that the Chair will give is that one cannot amend an amendment that is adopted.

Mr. ADAMS. I thank the Chair for its ruling.

Mr. STAGGERS. Mr. Chairman, I rise to strike the requisite number of words.

Mr. Chairman, I am going to, if I can, realizing the emotional issue we have before us, ask for limited time before we get into this issue.

Mr. Chairman, I ask unanimous consent that all debate on this amendment close in 30 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mrs. GREEN of Oregon. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. STAGGERS. Mr. Chairman, I ask unanimous consent that all debate on this amendment close at 2 o'clock.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mrs. GREEN of Oregon. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. STAGGERS. Mr. Chairman, I ask unanimous consent that all debate on this amendment close at 2:30.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. MILFORD. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

MOTION OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Chairman, I move that all debate on this amendment close at 2:30 o'clock.

The CHAIRMAN. The question is on the motion offered by the gentleman from West Virginia.

The motion was agreed to.

The CHAIRMAN. Members standing at the time the motion was made will be recognized for a little less than 1¼ minutes each.

The Chair recognizes the gentleman from Virginia (Mr. DAN DANIEL).

Mr. DAN DANIEL. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Michigan (Mr. DINGELL).

All of us are keenly aware of the tremendous impact which the fuel shortage is having on all our lives. At the same time that strenuous efforts are being made to conserve gasoline, great quantities are being used in the experiment of forced busing of pupils in the public schools. These policies have long since been criticized on the basis of their own merits—or lack of merit. Now—in light of the fuel crisis, it becomes even more necessary that logic replace theory in the matter of busing.

It has long been my conviction that the schoolchildren have been used as political pawns in an arena of ridiculous experimentation. Unfortunately, when public policy has been considered, whether by HEW or the Congress, the feelings and wishes of the students are the last to be considered. Yet, they are the ones who are most directly affected.

In addition to this, no one yet has presented any proof that busing contributes to the quality of education, but there is a convincing amount of evidence that it has created untold confusion, disruption, and inconvenience for those who have been forced to accept its burden.

This amendment would simply place limitations on the allocation of petroleum products, consistent with our national supplies, and public policies of conservation. It seems to be a reasonabile approach in the context of the times.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. BINGHAM).

Mr. BINGHAM. Mr. Chairman, it seems strange to me that an amendment would be proposed for the purpose of cutting out an activity that a great many Members do not like but which the Supreme Court has held is necessary so that children can have an equal opportunity.

We allow oil to be allocated and it will be allocated for all kinds of recreational and nonessential purposes but here is an educational purpose and we say no oil for this purpose.

This is a discrimination against the poor children and it helps the rich children. Why? Because the rich children can be bused and they are bused into my district every day. They will continue to be bused and they will get the gas for that. But if a community has a program so that a poor child should be bused so he can get a better education—no gas for that. What kind of nonsense is this?

We have voluntary programs in our city were kids can go from a school they find is not sufficient to a better school a little farther away. That would be cut out by the amendment.

I find it unbelievable that with a bill which does not prohibit use of oil for recreational purposes and for going hunting in the gentleman's State and for all kinds of nonessential purposes, we are saying no oil can be used for kids to have a better education.

The CHAIRMAN. The Chair recognizes the gentleman from North Carolina (Mr. MIZELL).

Mr. MIZELL. Mr. Chairman, in the latest edition of U.S. News & World Report magazine there is a story on the effects of the energy emergency on the Nation's education systems, and the thrust of the article is well summarized in the opening paragraph, which reads:

> Nowhere is the foreboding over fuel shortages sharper than among the people who run America's schools and colleges.
>
> Already it is becoming clear that for most of the country's 60 million students and 3 million teachers, winter will be a season of disrupted education, discomforts and discontent.

Further on in the article, there is this passage:

> Busing is being curtailed and in a few cases eliminated. Nobody seems to know whether there will be enough gasoline available to continue massive busing programs ordered by the courts to achieve racial integration.

Mr. Chairman, as my colleagues know, I have raised this point already several times in recent weeks, and I raise it again today.

In four school districts in North Carolina, more than 1 million gallons of gasolines are being wasted every year in order to comply with court-ordered massive forced busing programs.

Translated into national terms, the waste of precious petroleum resources is staggering indeed.

The cost of the policy of forced busing in terms of children's safety and in terms of the shortage of money available for legitimate educational needs has always been a source of great concern to me.

But now, in the midst of an energy emergency, the cost of this policy in terms of wasted energy is truly astounding and totally without warrant.

I urge my colleagues to join me in voting for passage of this amendment to rid the Nation's educational systems of this costly and needless burden, and plug a gaping hole in our Nation's energy reserve at the same time.

The CHAIRMAN. The Chair recognizes the gentlewoman from New York (Ms. ABZUG).

Ms. ABZUG. Mr. Chairman, of course, I am very ashamed to be in this Chamber today. It is interesting that an amendment is made which is totally irrelevant to the major national energy crisis that we are discussing. In explanation of the amendment, the mover indicated what percentage of gas is used for achieving racial balance—pursuant to the law of this land—and then we get a ruling that this matter has nothing to do with racial balance, and is germane.

Given other circumstances, I probably would have appealed the ruling of the Chair, and I think the time has come for us to begin doing things like that.

The big problem we confront here is the problem of a crisis in energy. I think our problem has been that we have not called upon the oil companies who have, indeed, benefited from the profits, to make the sacrifices. We are now looking to the children of our land to make the sacrifices. We are permitting the children to be utilized in scandalous demagoguery. I think this amendment impugns the motives of all of us who are Members of this body. We should not be subjected to this kind of amendment when we are dealing with a serious problem.

POINT OF ORDER

Mr. BAUMAN. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. BAUMAN. Mr. Chairman, I make a point of order against the remarks of the gentlewoman in the well, that they violate the rules of the House and impugn the motives of the gentleman from Michigan.

The CHAIRMAN. Does the gentleman from Maryland ask that the words be taken down?

Mr. BAUMAN. Mr. Chairman, I demand that those words be taken down. If the gentlewoman is going to want to enforce the rules of the House, let us do just that.

Ms. ABZUG. Mr. Chairman, if I recall my remarks, if I may add, I said that the purposes of an amendment like this can only be demagogic or racist. I do not know that that in any way impugns the motives of the gentleman from Michigan.

Mr. BAUMAN. Mr. Chairman, I renew my demand.

Mr. DINGELL. Mr. Chairman, could I be heard?

The CHAIRMAN pro tempore (Mr. McFall). Will the gentleman from Maryland indicate the words objected to?

Mr. BAUMAN. I submit to the body that the use of the words "demagogic and racist" is impugning the motives of the gentleman from Michigan and it violates the rules of this House.

Mr. DINGELL. Mr. Chairman, could I be heard on the point of order?

The CHAIRMAN pro tempore. The Chair will state to the gentleman, there is no point of order. There is a demand that the words be taken down.

The Clerk will report the words objected to.

The Clerk read as follows:

> Ms. Abzug. An amendment like this can only be demagogic or racist because it is only demagoguery or racism which impels such an amendment like this.

Mr. DINGELL. Mr. Chairman, I rise with a unanimous-consent request.

The CHAIRMAN pro tempore. The Chair would say to the gentleman from Michigan that the business of the Committee is now suspended until the words are reported, so that the Chair cannot recognize the gentleman for a statement at this time.

Mr. DINGELL. Mr. Chairman, I rise then on a point of privilege.

The CHAIRMAN pro tempore. That is not entertained in the Committee on the Whole.

The Clerk will report the words objected to.

The Clerk read as follows:

> Ms. Abzug. An amendment like this can only be demagogic or racist because it is only demagoguery or racism which impels such an amendment like this.

The CHAIRMAN pro tempore. The Committee will rise.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. McFall, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 11450) to direct the President to take action to assure, through energy conservation, rationing, and other means, that the essential energy needs of the United States are met, and for other purposes, certain words used in debate were objected to and on request were taken down and read at the Clerk's desk, and he herewith reported the same to the House.

The SPEAKER. The Chairman of the Committee of the Whole House on the State of the Union reports that during the consideration of the bill H.R. 11450 certain words used in the debate were objected to and on request were taken down and read at the Clerk's desk and does now report the words objected to to the House.

The Clerk will report the words objected to in the Committee of the Whole House on the State of the Union.

The Clerk read as follows:

> Ms. Abzug. An amendment like this can only be demagogic or racist because it is only demagoguery or racism which impels such an amendment like this.

The SPEAKER. The Chair is prepared to rule.

On May 4, 1943, the first session of the 78th Congress, at pages 3915 and 3916 of the Congressional Record, Speaker Rayburn held:

Statement by Newsome of Minnesota that, "I do not yield to any more demagogues," held not in order.

It is the opinion of the Chair that the statements reported to the House are within the framework of this ruling, and without objection the words are therefore stricken from the Record.

The Committee will resume its sitting.

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 11450, with Mr. McFall (Chairman pro tempore) in the chair.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Florida (Mr. Young) for approximately one and one-quarter minutes.

Mr. YOUNG of Florida. Mr. Chairman, I yield back my time.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Indiana (Mr. Hillis) for one and one-quarter minutes.

Mr. HILLIS. Mr. Chairman, I rise today in support of the amendment to the Energy Emergency Act offered by my distinguished colleague from Michigan, John Dingell.

The Dingell amendment provides that there be no fuel allocation for the transportation of any school aged child beyond the public school nearest his place of residence given that school can adequately provide for the child's needs. In light of the critical energy situation now being faced by our Nation, I find this amendment both reasonable and necessary.

The amendment offered by Mr. Dingell would not be placed into effect until August 1974, therefore, the present school term would not be disrupted and each child affected forced to adjust to a new school and a new teacher in midterm. Children living far from any public school as well as those children requiring special classes would receive transportation as fuel would be allocated for these purposes under the provisions of the amendment. Furthermore, it is estimated that by halting the busing of schoolchildren away from the nearest public school, our Nation would be saving literally millions of gallons of fuel per year.

Since the Dingell amendment would result in a sizable and necessary fuel savings and since this amendment would not disrupt the present school term thus harming our public school children, I strongly urge my colleagues in the House to support this amendment.

Mr. Chairman, I yield my time to the gentleman from California, Mr. Wiggins.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from California (Mr. Wiggins) for approximately 2 minutes.

Mr. WIGGINS. Mr. Chairman, I thank the gentleman from Indiana for yielding to me.

Mr. Chairman, I am compelled to observe that there may be an unexplainable hum in the Record at the point where the words were stricken.

Mr. Chairman, I rise in reluctant opposition to the amendment proposed by the gentleman from Michigan (Mr. Dingell). I would like to suggest that the very serious question of whether or not young children should be bused in order to implement guarantees of the 14th amendment is one which the Congress should address itself to, but that this is not the time and the bill before us is not the vehicle for doing so.

To me this is much like the Congress denying to the Supreme Court energy and power, because we are unhappy with its decisions.

Mr. Chairman, I am not a supporter of busing. I opposed the busing of children as an appropriate tool for implementing the 14th amendment.

Nevertheless, Mr. Chairman, I will say to the Members that this bill is not the vehicle for achieving a worthy end, and I earnestly request that my colleagues oppose the pending amendment.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. Of course.

Mr. ROUSSELOT. Mr. Chairman, I thank my colleague for yielding. I appreciate the very scholarly approach and the careful consideration which my colleague, the gentleman from California, takes on this subject.

However, is it not true that Federal funds are many times involved in the implementation of busing programs, and especially for school busing? This is a bill that relates to fuel, and I really cannot understand why we cannot address ourselves to that subject through this amendment.

Mr. WIGGINS. Clearly, we can, but I suggest that we should not at this time.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Virginia (Mr. Downing).

(By unanimous consent, Mr. Downing yielded his time to Mrs. Green of Oregon.)

The CHAIRMAN pro tempore. The Chair recognizes the gentlewoman from Oregon (Mrs. Green).

Mrs. GREEN of Oregon. Mr. Chairman, several months ago the people of my State were asked to take specific steps to conserve energy. By and large I think the American citizens will make the necessary sacrifices on an individual basis when facing any real national crisis. The majority, the big majority, will respond to a national crisis in a very commendable way if—and I put the emphasis on the word "if"—if they believe their sacrifices are borne in an equitable and in a fair way.

They may not like it, but in the national interest and in their own long-range self-interest, they will go without, if they see others, also, going without, and if they do not see unnecessary waste, by some, of scarce resources. As more and more families are living in cold rooms; as more and more cars are stalled because they have run out of gas; or as more cars cannot be used on Sundays for "unnecessary" driving; as more and more elderly citizens are forced to walk instead of ride; as more and more tractors and other farm machinery remain idle, then, Mr. Chairman, I suggest that people will believe their sacrifices are not fair nor necessary if scarce supplies of oil and gasoline are allocated for other purposes which are unnecessary.

I suggest that asking elementary and secondary school students to even walk to neighborhood schools would be far more reasonable than sacrifices demanded of others.

Mr. Chairman, we are all advised that walking and jogging are two of the best exercises possible for children or for adults.

One of my grandsons gets up early every morning to go jogging with his father. Then, 2 hours later, a bus comes by his house to transport him to his school so he will not have to walk.

What utter and absolute nonsense—and especially so at a time of a national energy crisis. Let us, at least, stop some of this nonsense by supporting the amendment offered by the gentleman from Michigan.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Massachusetts (Mr. Conte).

Mr. CONTE. Mr. Chairman, I rise in opposition of this amendment, I am wary that this bill may be amended to death.

I hope that my colleagues do not get the impression, because of all the amendments being offered that this bill is so faulty that it should be recommitted. While this bill is not everything I had hoped for, our backs are against the wall, and it is important to get this bill to the White House before Christmas.

Like many of my colleagues, I share a distaste for expanding the powers of the Presidency. But it sickens me when it is necessary to expand the President's powers to cure a crisis when the crisis was brought about to a large extent by the very failure of the Chief Executive to act when he should have.

It is almost like rewarding another branch of Government for incompetence.

Last year at this time, General Lincoln was in charge of our oil policy. How many successors has he had? Four? And how many times has our national oil policy been changed in the past year? Five?

No wonder we are in today's mess.

The fuel shortage today in New England is especially critical.

On Tuesday, the Members of the New England congressional caucus were briefed by the electric utilities of our region concerning the serious problems ahead. They told us that they have a 25-day supply of heavy residual fuel left. After that is gone, New England utilities will have a daily shortage of residual oil of 34 percent. This means electricity generation will have to be cut by one-third.

This means some hard choices for New England. It means stricter energy conservation programs. It means Government-mandated closings of schools, offices, and industries.

And it could mean the complete shutoff of electricity for several hours on a rotating basis. This is not scare talk; this is an objective appraisal of New England's fuel situation. Let me tell how the utilities would impose the program of "rotating blackouts." They would shut—

> Off . . . power to all circuits that do not serve critical public facilities for periods of two hours (two hours off—two hours on), two days a week, for a total of sixteen hours of service interruption. If this does not equalize the supply and demand, rotation of the same circuits would be extended to four days, and then to six days. At that point, New England, in effect, would be almost completely shut down.

These utilities generate 70 percent of New England's electricity by burning residual oil. But half of their supply has been cut off by the Arab oil embargo.

Utilities are not the only essential consumers of fuel in New England. Ninety percent of our schools burn fuel oil and almost all of our industry. A large part of the Nation's paper, textile, plastics, and electronics industries are located in New England, and they are already suffering huge cutbacks in their fuel deliveries.

Even the company that makes the paper for the U.S. currency has had its fuel deliveries cut by 20 percent. That could mean a 20-percent cutback in production.

Meanwhile, the supply of gasoline in New England has become critical. There are several areas of New England where all the gas stations may be out of fuel between Christmas and New Year's.

For instance, in Berkshire County in western Massachusetts, there are 21 gas stations on the 20-mile stretch between North Adams and Pittsfield. Last year at this time there were 27 stations. All of the remaining stations are on allocation from their dealers, but the allocation schedules are a case study in bungling mismanagement by the major oil companies. Most of these stations will run out of gas for the month by December 21, and the last station expects to run out by Christmas Eve.

Christmas is a time for families to get together. But the major oil companies, by allocating gasoline so that dealers use up the entire supply by the middle of the month, and just before a peak holiday driving period, will be disrupting the plans of thousands of families in New England.

On top of all this, the administration announced yesterday that it was going to allow price increases of 8 or 9 cents a gallon for home heating oil.

This is unconscionable. How much more can be done to hurt the people of New England?

Last year at this time, home heating oil was 17 to 20 cents a gallon. Now it is 33 to 47 cents a gallon, and with this new price increase, consumers will be paying 41 to 56 cents a gallon.

Heating costs within a year will have tripled. It will cost the homeowner over a thousand dollars a year to keep his house heated—even at 68 degrees—in New England. A lot of people, especially the retired, those on public assistance, and those who make just enough to get by, are very worried about how they are going to survive.

If their electricity gets cut off periodically and they can not afford to heat their homes, I predict the hardy individuals of our New England country will march on Washington to demand action.

If they do not get the remedies they need, then I fear for the future of our form of government.

With that in mind, I urge my colleagues to do the best that they can with this bill and give the President these new powers he so unjustly deserves.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. Milford).

Mr. MILFORD. Mr. Chairman, we are here today to enact an emergency energy bill. We are asking every American citizen to cut back at least 25 percent on his energy usage. The real energy shortage is still to come. At this time we are really only beginning to see the tip of the energy-shortage iceberg. Yet, hundreds of airline employees have already lost their jobs. Thousands of people in the petrochemical field are being laid off each day, hundreds of gasoline stations are closing, and so on.

Mr. Chairman, what I am trying to say is: "Every possible gallon of fuel must be conserved, otherwise, some will be going cold and many will be losing their jobs."

Regardless of what kind of a bill this House passes, we will have to have public acceptance before it will work. The vast majority of people in this Nation must agree with whatever action we take in this Congress.

Now, some will say that the amount of gasoline required to keep all schoolbuses in operation really is not very much—when compared to total usage.

Well, they may be right. But, try that argument on the pilots and air crews of our airlines who have just lost their jobs. Try that argument on the people in the Northeastern States as they sit in cold homes this winter. Just how convincing will that argument sound to blacks in South Dallas or whites in North Detroit—when they watch their children get on a bus—while at the same time they remain at home, because they have lost their job.

The forced busing of schoolchildren is one of the most emotionally charged issues of our time. The vast majority of the people of this Nation are strongly opposed to this practice. In my district—by actual referendum—the forced busing of children was voted down by almost 7 to 1, and that referendum was held over 2 years ago. Since then new court orders have been issued resulting in an increase in forced busing.

Recent polls now show that more than 88 percent of the people are firmly opposed to the forced busing of schoolchildren. In absorbing these figures. Please keep in mind that about 30 percent of the population is black.

Members who have not been faced with court-ordered forced busing right in their own district are not aware of the hardships created on the families involved. They are also not aware of the hard polarized emotional feelings that are brought on by this practice. Many are not aware of the real costs in money to the school districts, and the cost in fuel. For example, the Fort Worth School District has had to increase schoolbus routes by 42 percent solely to accommodate court-ordered busing. That means that fuel consumption has been increased by 42 percent. The Dallas Independent School District has experienced a similar increase in fuel consumption, because of court-ordered busing.

In other words, excess and nonessential busing of schoolchildren is requiring more gasoline while at the same time we are asking every American to use less.

Mr. Chairman, the Congress has expressed its will concerning forced busing. This body is clearly opposed to it. The American people have expressed their will. They are clearly against it.

Certainly, perhaps, a few lawyers and some social-planning bureaucrats are pleased that they have been able to bring on crosstown busing through the courts. But beyond those few, it is very difficult to find many Americans who really believe busing is the answer to any problem.

Well, my friends, it is time we put a stop to this practice. We can do it today with this amendment. Buses do not run without gasoline. This amendment denies no schoolchild an education. The fuel saved will help to heat a few more homes. It will help to save a few more jobs and it will make literally millions of people happier. It is now time for everyone to stand up and be counted. This amendment is pure and simple, with no "ifs," "and," or "buts." It says that no fuel will be allocated for the purpose of busing schoolchildren to any place other than their own neighborhood schools. I ask for your support of the Dingell amendment.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. LENT).

Mr. LENT. Mr. Chairman, I rise in support of the amendment of the gentleman from Michigan. It should be clear to us that during the current fuel shortage when people and hospitals and factories and farm operators are being asked to eliminate unnecessary lighting, to turn down their thermostats, and to generally do everything they can to conserve fuel, that we should attempt to have the Federal, State, and local governments set an example by limiting fuel use in every practicable way they can.

Certainly, Mr. Chairman, one of the most unnecessary and wasteful expenditures of fuel resources are the intricate, court-ordered busing plans which have been foisted upon local school districts, largely against their own wishes.

Many school districts are now finding it extremely difficult to even obtain bidders to supply their increased gasoline needs. Further, even if they have found a supplier which can meet their bloated gallonage requirements, it is only at substantially higher prices. They are being pressed to the financial brink by increased fuel costs, yet many are cast into the perplexing position of having to defy a Federal court order should they not be able to obtain gasoline.

It seems ludicrous that when there is serious talk in many areas of the Nation of closing down schools because there will not be enough heating oil, that we should continue to waste enormous amounts of gasoline in order to send schoolchildren hither and yon, in the nebulous name of racial balance. Certainly, Mr. Chairman, a continuing education is for more important than an interupted one in a school away from a student's neighborhood, and I am hopeful that we will have the good sense to adopt this amendment.

Mr. McKINNEY. Will the gentleman yield?

Mr. LENT. I yield to the gentleman from Connecticut.

Mr. McKINNEY. Mr. Chairman, I thank the gentleman from New York.

Mr. Chairman, I am deeply troubled by the continuing desire of the House to handle vital national questions through back door amendments. This bill is a vital bill on energy. The question of schoolbusing disturbs our entire Nation. The vital question of energy policy should not be endangered by this issue.

Far more important, however, the House, if busing is such an important issue to America, should face the issue, as the issue and not shirk it in the name of energy conservation.

At this time in our history, the people of this country are looking more than ever at the Congress for leadership.

We owe them that. We need to stop our continual abdication of responsibility on the issues in front of the Nation.

I hope that the amendment will fail. If simply and purely has no place on this legislation.

I fervently pray that Congress will prove itself and assert itself on the issues of the Nation. We have no one to blame but ourselves for our failure and for our voting in the eyes of the people.

We abdicate power: Gulf of Tonkin, phase IV, the energy bill, more importantly we abdicate by inaction on the important issues of the day. We must to survive as a Nation face these problems and answer them, not avoid them.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Chairman, I oppose the amendment for very specific reasons. This amendment would prohibit any busing to a school within an attendance district farther than the closest school. In the Goose Creek school district in my district the only way the Harlem school is permitted to continue to exist as a neighborhood school is by a majority-minority transfer, voluntarily, of black students away from the Harlem school and of white students to the Harlem school. If you deny gasoline for that purpose, it means that the school district cannot continue this program and cannot maintain Harlem school as a neighborhood school.

The CHAIRMAN. The Chair recognizes the gentleman from Florida (Mr. FREY).

Mr. FREY. Mr. Chairman, first let me say that it is pretty obvious that this issue does to a certain extent go outside the direct question of energy. But, quite frankly, this bill takes in many subjects that are outside the limited approach that I would like to have seen come out of the committee.

If we are going to broaden the purpose of this bill it seems to me that this is one of the areas we should address.

We have a tremendous problem with busing, the cost of it, and the use of gasoline to accomplish the purpose. In this way we can express our feelings on this issue and our opposition to the cost and principle of needless busing. I hope the amendment carries.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. ARCHER).

Mr. ARCHER. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Michigan (Mr. DINGELL).

Mr. Chairman, I rise to support the amendment offered by the gentleman from Michigan (Mr. DINGELL), and to associate my remarks with those of the gentlelady from Oregon (Mrs. GREEN). She has ably pointed out that the American people will gladly make sacrifices in their personal lives if they have evidence that all segments of our country are equally exercising the restraint necessary to meet our current energy condition.

It is surely difficult to establish a cooperative spirit among our citizens when people see that our precious fuels are being used for controversial purposes such as the busing of our schoolchildren. Indeed, I have received several letters from constituents asking why they should take steps to conserve fuel when they see around them what they have called "overwhelming conspicuous consumption" by others, including the Federal Government. Mr. Chairman, I tell my constituents that Federal officials are doing their part to save fuel, that Cabinet members have relinquished their limousines, that the lights are darkened around our national monuments, that thermostats are lowered in Federal buildings.

Mr. Chairman, I regret to say that these steps are not sufficient. They are commendable, to be sure, but it will take more constructive action if we are to unite the Nation into a conservation outlook.

The busing of school children has seemed to raise more problems than it has solved. First, we have bused our children away from the virtues of physical fitness. There is much to be said for encouraging children to walk or ride their bicycles to school when it is safe for them to do so. Further, aside from the constitutional conflict busing imposes by judging people by condition of race, busing has not even proven to be effective in upgrading the standards of education. Indeed, in this morning's Washington Post we have an article entitled "Student Testing Stirs Debate." One of the theories discussed in this article states that "even if education could be reformed so that all schools were equal, inequality between children would remain. The most important element in determining children's capabilities when they leave school—is the capabilities they bring to school with them."

We have an opportunity today to give impetus to a national conservation program. When people begin to see the Federal Government taking strong steps in many areas to conserve fuel, then they will assume responsibility in their private lives.

I urge my colleagues to set a strong example for the rest of the country by stopping busing in a serious effort to conserve fuel. When parents take meaningful measures to conserve energy at home, their children will have before them the example of a country striving in unity to overcome a complicated problem. For what better home environment could we ask?

Mr. MONTGOMERY. Mr. Chairman, will the gentleman yield?

Mr. ARCHER. I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the amendment and commend the gentleman from Michigan (Mr. DINGELL) for offering it. I had fully intended to offer a similar amendment myself.

I feel that one of the most obvious places we can look to save fuel during the energy crisis is in the unnecessary forced busing of public school children for other than educational reasons. This practice has grown to such mammoth proportions that we are literally wasting millions of gallons of gasoline each year that we continue it.

I do not want to hold out false hopes for the people of my State or the people of Mr. DINGELL's home State of Michigan that if this amendment is adopted and contained in the final version of the bill it will mean an absolute end to the forced busing presently mandated by the courts. There would probably still be legal questions to be settled and there is always the possibility that the courts could rule that busing must continue regardless of the need to conserve fuel.

Mr. Chairman, if I understand this amendment correctly, it would place a limitation on busing insofar as possible. Of course, there will continue to be cases where the use of schoolbuses will be necessary in rural areas. The intent of this proposal would be to do away with busing in cases where students are transported back and forth across town and county past their neighborhood schools just to satisfy an arbitrary quota set by some Federal judge.

One important point the Supreme Court has always overlooked in handing down their busing decisions is that forcing a child to go to a school other than the one of his choice or his neighborhood school is denying this child his rights under the equal protection clause of the 14th amendment. This point was made quite forcefully by constitutional experts in Senate debate recently.

The need to place limitations on forced busing has become even more acute in light of the fuel shortages. This is just further evidence that this unreasonable practice must be brought to a halt. Not only would the adoption and implementation of this amendment save needed gasoline, it would also result in a financial savings for our local school districts. Money now being spent on unnecessary buses, maintenance, and fuel could be put to better use buying needed educational materials.

Mr. Chairman, I urge adoption of the Dingell amendment.

Mr. MIZELL Mr. Chairman, will the gentleman yield?

Mr. ARCHER. I yield to the gentleman from North Carolina.

Mr. MIZELL. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, a few moments ago someone said we were trying to deny gasoline to a poor child getting an education. I would like to refer my colleagues to an article that appeared in the New York Times of January 7, 1973, and it refers to the report of a special legislative commission established by the New York State Legislature and it is as follows:

BUSING IS DEEMED FAILURE

NEW YORK.—A special state legislative commission has concluded that "compulsory busing alone is failing as a means of integration" and that "that failure has resulted in a major cause of academic unrest."

The Temporary Commission to Study the Causes of Educational Unrest has recommended that to minimize strife, busing for racial balance in New York State must be accompanied by great efforts to change community attitudes.

"Where we found unresolved divergent attitudes," the eight-member commission wrote in its report, released last week, "we found discord, friction, polarization and eventual unrest."

Formed in 1969 by the governor and the legislature in the wake of college campus disturbance, the commission had its charge expanded in 1971 to include secondary schools, which the commission says have now replaced the campuses as the sites of unrest.

In addition to the busing issue, the commission says that much of the unrest in secondary schools is related to its finding that "statewide 50 per cent of the students will either drop out physically or remain in school as a mental dropout."

Such students are inadequately served by existing curriculums, the commission maintains, and they are prime candidates to become involved in gangs, drugs, robberies and other antisocial behavior.

Twenty-four of the report's 194 pages are devoted to the busing issue because of the commission's belief that it now generates more educational unrest than any other factor.

"It is not the numbers of children affected," the report asserts in connection with busing, "but the emotions and fears and concerns, justifiable or not, which have really led to the prominence of the issue in our present daily life.

"The result is that this school-oriented issue has assumed a social and political significance without direct relation to the numbers immediately involved."

Three steps are proposed by the commission as a means "to foster a positive concept of integration."

The first is the involvement in the planning process of all community groups, the second is the development of a strategy for building support and meeting opposition, and the third is the acceptance of the idea that integration should be started at the lowest grades and that it cannot "be accomplished all in one gulp."

"If the youngsters did not have to mix each day, all day, in a highly structured educational experience," the report says, "but rather if they had to mix only part of the week and at an unstructured level, such as play, shop, music . . . a more harmonious atmosphere and understanding of each other would result."

All I am saying, Mr. Chairman, is that this report clearly shows, that cross busing is not making any contribution to the education of poor children. Busing for racial balance is a failure.

The CHAIRMAN. The Chair recognizes the gentleman from Indiana (Mr. HUDNUT).

Mr. HUDNUT. Mr. Chairman, I rise in support of this amendment, the purpose of which is to provide basically that no petroleum products will be allocated for transportation of schoolchildren to any school other than the one nearest to their home where appropriate courses of instruction are being offered. The basic purpose of the amendment is to conserve fuel without at the same time denying any child his basic right to an education.

Mr. Chairman, I believe that the overwhelming majority of the American people support the concept of quality education in neighborhood schools. In this amendment, we are given an opportunity in the Congress not only to take an important step toward fuel economy, but also to reinforce our commitment to neighborhood school systems.

And the fact of the matter is, if children were transported to the schools nearest and most reasonably available to them, rather than across school district lines or across town, considerable savings of fuel would be affected. In my own city of Indianapolis, it is estimated by the city school system that during the course of a school year, if this amendment were in effect, 99,680 gallons of gasoline could be saved—because during the 178 school days in the school year, an average of 560 gallons of fuel are consumed each day to transport children to schools other than the closest available.

Furthermore, many of the public buses that run on diesel fuel are utilized in the transportation of schoolchildren, running an estimated additional 1,500 miles a day to transport children to schools beyond the closest available. Computed on the basic of a school year, it is estimated that 66,750 gallons of diesel fuel would be saved by the public buses involved in transporting schoolchildren each school year in Indianapolis if they were not required to transport children across school district lines and across town.

In one of the township school systems immediately adjacent to the city of Indianapolis, the superintendent of schools estimates that an additional 7,000 gallons of gasoline a year are used to transport students to public school facilities of a greater distance than the closest available. Sometimes, he notes, for a variety of reasons—special education being required for the trainable retarded, for example; overcrowded facilities necessitating some degree of flexibility of pupil assignment; interests of safety requiring that youngsters not be transported across high-traffic thoroughfares; and so on—children are not transported to the nearest school—and these seem like reasonable requirements. Nonetheless, it is still demonstrably evident that a fuel economy of 7,000 gallons per year could be effected in this township by a curtailment on the number of miles school buses travel each day in order to transport students.

To take an example from another State, there are 151 school administrative units in North Carolina and in four of them, the consumption of gasoline by the public schoolbuses increased by 218 percent when transportation to schools other than the nearest available was required; and this represented a virtual waste of 1,118,908 gallons of gasoline in 1 year for these four school districts.

Mr. Chairman, if you multiply these examples by school districts all around the United States where students are being transported across school district lines and across town and across the county, the amount of fuel that could be saved by allocating gasoline and diesel fuel on the supposition that students will be bused to the closest available school, is literally astronominal. And in light of the energy crisis, it would seem most reasonable to support such an effort.

Of course, Mr. Chairman, what we are talking about here is the forced busing of schoolchildren to achieve racial balance as ordered by the courts. Many citizens have spoken to me about this, many constituents of mine, and the burden of their argument is that they cannot understand why we fail to make a correlation between the energy crisis and the court-ordered busing of schoolchildren to achieve racial balance which they regard as nonessential and undesirable. The busing seems to entail an enormous waste of gasoline at a time when we can ill-afford it. There are many reasons why 85 to 95 percent of the American people are against busing, and this is only one of them—busing strikes them as being "a needless and irrational aggravation of the energy crisis," to quote one of them, "since millions of gallons of gasoline are being consumed around the Nation carting schoolchildren for dozens of miles to fulfill the social engineering conceptions of liberal bueraucrats and jurists." The reason strikes me as compelling; and I hope my colleagues in the House will give it serious consideration and support this amendment.

Mr. BAFALIS. Mr. Chairman, will the gentleman yield?

Mr. HUDNUT. I yield to the gentleman from Florida.

Mr. BAFALIS. Mr. Chairman, the energy crisis facing our Nation today has become the issue of utmost concern to Americans everywhere. Headlines and news stories are making dire predictions of the negative impact this crisis is going to have on our life styles and our economy. Certainly in view of the fuel shortages we will be encountering, every effort should be made to cut back on unnecessary usage of gasoline. This only makes good sense.

In this regard, I feel Mr. DINGELL's amendment regarding the forced busing of our schoolchildren is particularly relevant. A prohibition of any further busing for the purpose of achieving racial balance in our classrooms would save untold amounts of fuel that could be put to a far more beneficial use in heating homes across the country or preventing cutbacks in American industry which could result in high unemployment rates.

I have long been opposed to this forced busing. In fact, I have even introduced a constitutional amendment to prohibit such foolishness. Busing made no sense when the gas tanks were full—and it makes even less sense now when every gallon of gas wasted can mean a cold home or another worker laid off.

There are those who will condemn this amendment as antiminority, but it is not. Rather, it is pro-American. This amendment offers us a way to save our precious fuel supplies and unlike the proposals for arbitrarily high gasoline taxes or emergency rationing, it is a step supported by the overwhelming majority of the American people.

I urge my colleagues to support the adoption of this extremely logical and much-needed amendment offered by the gentleman from Michigan.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. HUDNUT. I yield to the gentleman from Illinois.

Mr. FINDLEY. Mr. Chairman, I oppose this amendment as an unwise interference in the administration of public schools. I do so for several reasons.

First, it ill serves the long-term commendable good of the racial integration of public schools.

Second, it could prevent many students from taking part in worthwhile activities which may not be available at schools nearest their home.

I have in mind a district in which two high schools very unequal in size and programs are located. A student interested in drama or music would be prohibited by this amendment from using school buses to attend a more distant school where such activities occur. As a Republican, I hope the party will help substantially in rejecting this amendment.

Mr. BRINKLEY. Mr. Chairman, will the gentleman yield?

Mr. HUDNUT. I yield to the gentleman from Georgia.

Mr. BRINKLEY. Mr. Chairman, in support of the amendment offered by the gentleman from Michigan, I wish to cite figures from the Muscogee County school system, Columbus, Ga., which compares the enrollment, average daily attendance, and total school bus mileage for the 1970–73 school terms:

School year	Enrollment	Average daily attendance	Total yearly mileage
1970–71	43,459	35,946	544,230.8
1971–72	42,079	34,340	755,766.0
1972–73	40,276	32,832	741,762.0

As you will note from the above statistics, there has been an actual reduction in the number of enrolled students as contrasted with a dramatic increase in the schoolbus mileage required for intracity transportation.

Mr. Chairman, this amendment is very valid for two reasons. It would dramatically reduce gasoline requirements. The savings could be applied to quality instruction—remedial reading, smaller classes, personal instruction. These things are important, too.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. DELLUMS).

Mr. DELLUMS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I came here 3 years ago with an extraordinary sense of idealism. I now find myself with a feeling of desperation, anguish, and cynicism. Today is another serious blow to my idealism. At a moment of great crisis in this Nation we find ourselves reacting, and not acting, following and not leading, often guided by expediency and not with principle. We in this body, it seems to me, must always do what is proper, what is right, and what is principled, and not what is demagogic, racist, and expedient. All of us who will vote for this amendment will probably receive reelection as a result of this absurdity and will come back in the 94th Congress to justify more expediency, and more game-playing.

I am not shocked, Mr. Chairman, and members of the committee, I am frankly ashamed of this body for what I know it is about to do.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. COLLINS).

Mr. COLLINS of Texas. Mr. Chairman, I want to congratulate my distinguished colleague, the gentleman from Michigan (Mr. DINGELL) on his excellent amendment, and rise in support of it.

I would call on the support of all of the liberal Members of this Congress in support of this amendment, and I base this on an excellent factual story from the Washington Post, which is regarded as a final authority by so many liberals. I quote from the Post's morning news, which deals with the subject of the education of children, and it says:

> The number of books in the home, was more closely related to educational achievement than what happens in school.
>
> That finding closely parallels a major report on race and education in the United States done by Coleman himself for the U.S. Office of Education in 1966.
>
> The central thrust in the Coleman Report is that home is more important than school in affecting children's ability to read.

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentleman from Michigan (Mr. HUBER).

Mr. HUBER. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Michigan. It is something I have long fought for, and I am pleased to find that it has bipartisan support. The day after the President's energy message, I addressed this body on this very topic. At that time. November 8, 1973, I suggested that the Congress and the President explore the avenues for suspending existing and pending court action that provides for the forced busing of schoolchildren. This would have no small amount of precious gasoline.

Let me cite just two or three examples as to how much fuel would be saved by this action. In the city of Richmond, Va., some 530,000 gallons of extra gasoline is burned per year to force bus students to schools. In Prince Georges County, Md., it has cost taxpayers some additional $1.2 million since January 29, 1973, for extra buses and drivers as well as 750,000 extra gallons of gasoline per year.

The issue here is fuel conservation. So, let me just give one more example of fuel wasted for forced busing. In my own State of Michigan, the Pontiac School District has been under court-ordered busing since the school year of 1971–72. In the school year before the implementation of court-ordered busing, the Pontiac schools used 125,199 gallons of gasoline for school buses. The first year busing occurred, the schools used 257,935 gallons—an increase of 132,736 gallons strictly for the purpose of forcing people to go to schools they would probably not otherwise choose.

In fact, a recent Gallup poll showed that 95 percent of the American people, black and white alike, are opposed to forced busing. Since the people are opposed to it, and since the President has urged us to devise methods by which to conserve fuel, I can think of no better solution than to pass this amendment. It would be a wise move on the part of the House, for not only would it be a popular proposal with the people, but it would also help us to conserve our fuel supplies. More important than that, however, it is the right thing for the House to do. I urge adoption of Mr. Dingell's amendment.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. Ketchum).

Mr. KETCHUM. Mr. Chairman, I think the fact that this amendment has been offered gives reason for everyone here to halt for just a moment or two and realize what a bad bill we are voting on, what a bad bill we are considering. The fact that all of these amendments have to be hung onto this terrible bill indicate to me that none of us know what is in it, and I certainly include myself in that group.

This bill could have been written in a three-page bill. Every single item could have returned to this Congress for a vote. If we are concerned about busing, that could have been included in the energy conservation plan, and we could have voted for it. I just use this time to urge this body to carefully consider this bill, because if we pass it, it is really going to be America's Christmas turkey.

The CHAIRMAN. The Chair recognizes the gentleman from Maryland (Mr. Bauman).

Mr. BAUMAN. Mr. Chairman, with relation to the previous brief unpleasant episode in the House between the gentlelady from New York and myself, I should like to say that I do believe that each of our colleagues can and should be granted the assumption of proper motives for offering amendments in this House. I also believe that debate can be conducted on a civilized level, at least by most Members.

The Chair has shown the way in his rulings and his conduct last night and today, setting an example of orderly procedure. I think when the day does come that we do not grant to our fellow Members the assumption of proper motive, then the democratic system as we know it is in some danger. I would hope that whatever happens between now and 2 a.m. or noon tomorrow, or whenever we conclude the conduct of this difficult debate, we will keep our discussion on the same high level that the gentlewoman from New York and all Members should always display in this body.

Now Mr. Chairman, I would like to address myself to the amendment of the gentleman from Michigan (Mr. Dingell), which I support completely.

Busing schoolchildren simply to achieve racial balance is absurd at any time, and it is especially ludicrous to require such busing at a time when the gasoline which is being wasted in pursuit of numerical racial balance is desperately needed elsewhere.

In Wicomico County, on Maryland's Eastern Shore, we have had much the same experience as hundreds of other counties and municipalities around the country. Under threat of removal of all Federal funds to the county school, the Department of Health, Education, and Welfare has come in and ordered that elementary schoolchildren in that area be bused to achieve racial balance, in a number of cases involving trips of many miles for 5- and 6-year-old children. Parents without regard to race have opposed this disruptive scheme. I want to do whatever I can to prevent incidents of this sort from taking place, and this amendment will have that effect.

This body has voted many times to approve measures which would curtail or halt forced busing. I trust that we will do so again today, and I hope that this time we will succeed in actually bringing an end to the practice. Taking such a step is fully justifiable in the all-out effort to conserve the Nation's energy supplies, as well as making good common sense where the welfare of our Nation's children is concerned.

The CHAIRMAN. The Chair recognizes the gentleman from Minnesota (Mr. Fraser).

Mr. FRASER. Mr. Chairman, I should like to ask the gentleman from Michigan a question. I represent a district which is under court order with respect to segregated schools. The school system has submitted a plan to the court that involves the movement of pupils within the district in excess of what is provided for in the gentleman's amendment. Is it the gentleman's intention that notwithstanding the existence of a court order, a school district will not be permitted to use petroleum under an allocation plan to move students in accordance with a court order?

Mr. DINGELL. If the gentleman will yield I will answer the gentleman's question.

Mr. FRASER. I yield to the gentleman from Michigan.

Mr. DINGELL. I thank the gentleman for yielding. Yes; the amendment says nothing about court orders. The amendment says in effect that no fuel may be allocated for purposes of transporting a child past the school nearest to his home.

Mr. FRASER. Supposing the school district is under court order, under the gentleman's amendment will they get the petroleum?

Mr. DINGELL. The answer to the gentleman's question is, they cannot allocate fuel for that purpose. This amendment does not consider whether or not the school district is under court order to transport students to achieve racial balance.

The CHAIRMAN. The Chair recognizes the gentleman from North Carolina (Mr. Martin).

Mr. MARTIN of North Carolina. Mr. Chairman, I support the amendment offered by the gentleman from Michigan. The busing decisions of the Supreme Court are well known to me, since I was serving as chairman of the Mecklenburg, N.C., Board of County Commissioners at the time of the innovative consideration by the Court of the pupil assignments of the Charlotte-Mecklenburg school system. We have lived with it longer than anyone else.

We are going to be short of fuel supplies for schools. If we permit gasoline allocation to transport students back and forth great distances across the county there may not be enough to meet the more necessary task of transporting our rural students to even the nearest school or to meet other necessary purposes.

The purpose of this bill is to conserve nonessential uses of scarce fuel supplies. The purpose of this amendment is to do the same. It will be difficult for my people to understand if we do not adopt it.

The CHAIRMAN. The Chair recognizes the gentleman from South Carolina (Mr. Young).

(By unanimous consent, Mr. Young of South Carolina yielded his time to Mr. Collins of Texas.)

Mr. COLLINS of Texas. Mr. Chairman, I continue the reading from today's Washington Post:

> Children from middle-class and upper-class backgrounds read better than children from lower-class backgrounds, and this fact was not changed by racial integration or increased spending.
>
> The Coleman findings have since been reaffirmed in a re-analysis by two Harvard Graduate School professors, Frederick Mosteler and Daniel P. Monihan. . . .

Mr. Chairman, this points out very clearly that this is not an educational amendment in any form. This is a transportation amendment that has to do with saving gasoline.

The CHAIRMAN. The Chair recognizes the gentleman from Michigan (Mr. Conyers).

Mr. CONYERS. Mr. Chairman, I ask the gentleman from Michigan (Mr. Dingell) if his amendment is not racistly motivated, then what is the motivation for it? And if it is not demagogically inspired, why does it not apply to private schools as well as public schools?

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I thank the gentleman for yielding.

The amendment is not demagogically inspired at all. In my district we hold integrated rallies to protest busing. My constituents, black and white, oppose forced busing to achieve racial balance. The amendment really is to make sure we have available adequate petroleum supplies necessary for transportation of our students and to make sure that scarce gasoline supplies are not wasted.

Mr. CONYERS. Why does it not apply to the schools the gentleman's children go to? Why are not private schools included in this ban on the use of gas?

Mr. DINGELL. Because private schools are schools which are selected by the parents and the children. And my children, I advise the gentleman, go to integrated schools and public schools.

Mr. CONYERS. And so they should use as much gas as they need to get to school?

Mr. BAKER. Mr. Chairman, the subject of court ordered busing of our children is one which concerns parents all over this Nation. It is of particular concern to those who live in the Chattanooga area and to me. We have perhaps the finest board of education in the country, composed of both minority and majority members. They have worked diligently over a period of years to satisfy the courts without doing damage to the cause of providing the best possible education for our children.

We have just been handed a decision by the courts which means busing of additional children and the use of 5,000 additional gallons of gasoline each month. Meanwhile, evidence is piling up that not only is court ordered busing looked upon with disfavor by parents of both races, who prefer to have their children within walking distance while attending school, but that this great inconvenience of long distance busing has not produced the desired results. I quote from a recent column by Kevin Phillips:

> In fact, most cities reported that the achievement gap—between black and white—had gotten even larger after busing.

Now we are faced with a crisis in the area of motor fuel as well as other energy sources. It seems reasonable to me that we abandon this nonproductive abuse of our children and allow them to return to the healthful practice of walking to school, if they wish. We could do so by taking action on the amendment being proposed by my colleague, Congressman Dingell. This action becomes more urgent daily in the light of the worsening fuel crisis. I hope we will meet our responsibility as a representative of the people we represent and stop the forced busing of our children.

The CHAIRMAN. The Chairman recognizes the gentleman from New York (Mr. Koch).

Mr. KOCH. Mr. Chairman, I am for integration and I am for using buses to accomplish it, but that is not what I want to discuss with the Members.

We are in an emergency and if we are going to deal with that emergency we are going to have to have the cooperation of all the people in this country—conservatives and liberals, Republicans and Democrats, blacks and whites.

If this amendment is carried, I know I am going to vote against this bill and I know there will be millions of people who will not carry out the provisions of this bill because they will feel we have used the bill, through this amendment, to discriminate.

This is a bad amendment. It will hurt this country immeasurably if we pass it.

The CHAIRMAN. The Chair recognizes the gentlewoman from Maryland (Mrs. Holt).

Mrs. HOLT. Mr. Chairman, I rise in support of Mr. Dingell's amendment which would permit fuel allocation for the transportation of public school students only to a school nearest their home. Every program adopted by this body today should be directed toward specific measures for fuel conservation, and I believe Mr. Dingell's amendment would reflect the goal of minimizing the distance students are transported.

Is it more important to bus children ridiculous distances to schools which have to close early because they have run out of sufficient heat or light? Or can we keep our schools open and let the children walk, or be transported the shortest possible distance? There appears to be a thread of insanity running through the logic which keeps these unnecessary and undesirable busing plans in operation, but closes the doors of the school itself.

Our school system is a vital public service. Our neighborhood school was effective and promoted effective, quality education. We have been given the opportunity today to stop unnecessary fuel consumption by ending this massive busing of children miles from their homes. The money saved by the reduction in the use of the buses could go toward reinforcing the quality of education for all our schools. We have failed in the past to make all schools good schools but replacing that mistake with another mistake is not right.

In Prince Georges County in my district, we are wasting 750,000 gallons of gasoline a year. We are forced to countenance an additional 3½ million miles which our schoolbuses must travel. This amendment proposes sane energy measures which would contribute to a 25-percent saving on gasoline consumption in the schoolbus program. In this emergency, adjustments must be made to accommodate those services which are most essential, and which require the least fuel consumption. We simply do not have the fuel to transport pupils unnecessarily.

The House has considered many worthwhile suggestions in order to implement conservation of energy. It is my belief that this amendment would demonstrate an effective method of conservation and would be soundly supported by parents who face the unpleasant prospect of curtailed or discontinued classes for their children because their school has neither sufficient heat nor electricity to permit regular school hours. How can we ask the American people to respond to the energy crisis in a responsible manner if we are unwilling to take every means at our disposal to reinforce these conservation measures?

Mr. Chairman, I urge my colleagues to join me in supporting this important step toward conservation of fuel that is provided for in the Dingell amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Kansas (Mr. Roy).

Mr. ROY. Mr. Chairman, I would like to address a question to my distinguished colleague from Michigan. In our State we have a number of county high schools. We also have separate school districts in smaller towns within these counties that have their own high schools. As a result of this, a number of buses will go right by the high school in the smaller town in order to reach the county high school.

My question is, Will these buses be allocated fuel under the priority for education or would they be denied under the amendment of the gentleman?

Mr. DINGELL. Mr. Chairman, if the gentleman will yield, the answer would be that under the last section where the schools are within the same school district, there can be no allocation of fuel past the school nearest the residence of the student. If the schools are in separate school districts, because of ancient practice or the State defining the boundaries, there would be allocation of fuel within the amendment to drive the student to the nearest school to his home.

The CHAIRMAN. The Chair recognizes the gentleman from Maryland (Mr. Hogan).

Mr. HOGAN. Mr. Chairman, I rise in support of the Dingell amendment. A year ago my county was forced to engage in massive busing to achieve racial balance in its schools. Since that time its fuel use for schoolbuses has increased 40 percent, and the school system now has a fleet of over 800 buses, larger than the fleet of any commercial bus system in the Metropolitan Washington area. If this amendment carries, we will save in Prince Georges County alone over 700,000 gallons of fuel per year. On that basis, the amendment should be supported.

Mr. Chairman, Prince Georges County schools on January 27, 1973, as the result of a court order became the object of the largest racially balanced busing in the history of our country. The area involved is eight times that of the District of Columbia, six times that of the city of Baltimore. From one end of Prince Georges County to the other is greater than the distance from Arlington, south of the District, to Towson, north of Baltimore. Racial balanced busing in an area so great requires a busing fleet of over 800 vehicles. This is probably one of the larger schoolbus fleets in the Nation.

As I said, when racial balanced busing was ordered the gasoline consumption of Prince Georges County school buses increased 40 percent. This included gasoline for the additional vehicles. It included far more miles for the various buses to travel. It included earlier and later hours of school. Schools now start as early as 7:30 a.m., finish as late as 4:30 p.m. Students must be at bus stops even earlier to take the longer trips.

Schoolbuses with the many stops and starts are greater gas guzzlers than the 8-mile-per-gallon limousines. I am told that 5 to 5½ miles on a gallon of gasoline is the normal performance of schoolbuses. I am told, also, that before racial-balanced busing, consumption was about 1.6 million gallons per year. The 40-percent increase brings that amount in excess of 2 million gallons a year of gasoline.

I am a great supporter of education. In view of the crisis we are now facing, it makes little sense to curtail the school year or the school hours when we consume tank loads of gasoline transporting the students longer distances than are necessary. Neighborhood schools are favored by all but a small number of parents. It is inconceivable for us to not, at this time, curtail all unnecessary schoolbusing.

The recent headlines in newspapers indicate 950,000 air flights have been canceled. Yet, we consider air transportation an essential industry. Why should not schoolbusing make its contribution to the saving of energy?

In Prince Georges County, the schoolbusing fleet is 7 or 8 times larger than the commercial busing fleet. Yet public commercial busing is essentially the moving of people from homes to jobs, usually across the District-Maryland line. Of the 154,000 schoolchildren in Prince Georges County schools, 90,000 are bused. I do not know how many drive their own cars, but residents in the vicinity of high schools complain of congested parking by students.

In a very comprehensive federally funded transportation study in my district, it was learned that the University of Maryland is the single largest generator of traffic. It is noted that nonrelated work travel is increasing faster than work travel. While carpooling for workers is a very worthwhile device for saving fuel, we certainly must not overlook the even greater possibilities of saving fuel in the nonwork areas. Saving fuel by eliminating all unnecessary schoolbusing and encouraging students at all levels to walk or ride bicycles where feasible, are indeed appropriate steps in a series of energy-saving proposals.

Not only is there great saving in fuel, but I am sure that most parents will be pleased. The neighborhood school concept promotes greater use of schools for extra-curricular affairs. It makes travel simpler and that way saves even more gasoline.

In short, restriction of schoolbusing is a necessary, convenient, and economical way of conserving gasoline.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. BADILLO).

Mr. BADILLO. Mr. Chairman, I rise in opposition to this amendment. I am appalled it should come up and I am appalled to see so many Members supporting it. If, in fact, the amendment carries, it seems to me that this bill should be voted down and a totally different bill written, because if the energy crisis is so serious that we are willing to suspend the Constitution of the United States to meet it, then we should be willing to institute a fuel rationing program, order the suspension of all recreational activities that eat up our dwindling fuel reserves, and otherwise move firmly and decisively to meet the energy crisis.

I think it is unfortunate that an energy crisis that could have brought all the people of the country together in common effort is being used to exacerbate the racial tensions that exist in this country.

I urge that this amendment be voted down, and should it be a part of the bill presented to us on final passage, I will vote against the bill, although I may fully support many of its legitimate provisions.

The CHAIRMAN. The Chair recognizes the gentleman from Missouri (Mr. RANDALL).

Mr. RANDALL. Mr. Chairman, I rise in support of the busing amendment of the gentleman from Michigan (Mr. DINGELL). Please note this comes from a Member of Congress from Michigan not someone from the South. The author stated this will result in a conservation of gasoline. The only ones who make it a racial issue are those who prefer to consider the amendment racial.

The fact that the point of order raised by the gentleman from Washington was overruled should be the best argument that this amendment is germane to the conservation of fuel.

A moment ago some colleague made reference to the U.S. News & World Report. I have in my hand a copy of the December 17 issue. One statement in that article asks "Why are we worrying about heating oil if we cannot get the children to school?"

I would like to ask the gentleman from Michigan, recalling that the gentleman from Kansas (Mr. ROY) mentioned the big consolidated districts, two or three in a county. If I remember right, the amendment only limits busing within the school district and would not affect the sparsely populated areas where because of consolidation the school of attendance might not be nearest to the home of the pupil.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. RANDALL. I yield to the gentleman.

Mr. DINGELL. To give the gentleman a short answer, the amendment would not deny allocation for travel to a consolidated school where the transportation of students is to the nearest school offering instruction of the grade level and curriculum of the student involved.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. HAWKINS).

Mr. HAWKINS. Mr. Chairman, the amendment violates constitutional rights. I think there is no doubt about that, but there is also a practical problem.

The amendment will increase fuel consumption and close schools, for if the nearest school violates the Constitution, it must be closed. Therefore, the children who had been at that school will be bused to a school which is farther away.

The amendment also diverts attention from the main causes of fuel shortages, including the automobile manufacturers in the State from which the mover of this motion comes. It defames a national energy policy based on justice, and should be rejected.

The CHAIRMAN. The Chair recognizes the gentleman from Washington (Mr. ADAMS).

Mr. ADAMS. Mr. Chairman, I had previously indicated why I do not think that this type of amendment should be in an energy bill. We should not do in the name of energy what we have not done through our other appropriate committees.

Mr. Chairman, I have a question for the gentleman from Michigan. We have one school district for the entire city of Seattle. There is busing of various kinds within that district. Is it the intent of the gentleman's amendment that they can continue to bus within the district as ordered by the school board if it is within the school board's jurisdiction, because the gentleman has on page 1 that it is, as long as it is within the school district, but on page 2 you say that they must be within neighborhood school attendance areas; yet, in paragraph 2 on page 2, you say that as long as it is within the school attendance district, it is all right.

Our school board has ordered varying types of busing within this total district of the city of Seattle as they have indicated or found necessary to carry out their educational policies. Will they or will they not get the fuel?

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from Michigan.

Mr. DINGELL. Under the amendment allocation of fuel for transportation of public school students is allowed when the transportation is within the school district and within the school attendance district of the public school student. Where it is necessary to relieve overcrowding or where it is necessary to take care of special educational problems such as the blind, the crippled, the retarded and that sort of thing, there is a special exception allowing allocation for further transportation.

Mr. ADAMS. Mr. Chairman, who will decide where the busing is going to come or go, the school district superintendent, the administrator under this act, or the school board, which is trying to set up a system of busing?

Mr. DINGELL. The President or his delegate will do so as required in the bill.

The CHAIRMAN. The Chair recognizes the gentleman from Virginia (Mr. SATTERFIELD).

Mr. SATTERFIELD. Mr. Chairman, I think it ought to be made perfectly clear there is nothing in this amendment that is going to prevent any child from getting a public education or prevent any child from getting transportation to receive that education. This amendment really does not deal with the question of racial mix which has been mentioned during this debate. It merely deals with allocation and rights to allocation of a short supply of fuel.

In the days ahead, the crises ahead, we are going to see some businesses close and we are going to see others partially shut down. What is attempted by this amendment is to reduce the impact of the short supply of fuel by removing nonessential transportation of public school pupils.

I would like to point out that the gentleman from Michigan (Mr. DINGELL), the author of this amendment, has very carefully drafted it so as to make it abundantly clear that any changes in school assignments which might be required by this amendment will come during the summer when schools are in recess so that those now enrolled will not have their classes interrupted during the present school term. The effective date of the amendment is August 1, 1974.

I wish to touch upon one other point. Much was made in the well a few minutes ago about the Supreme Court decisions requiring the busing of pupils. As I read the Supreme Court decisions, the Court did not say that busing of pupils was an end in and of itself, but merely a means to achieve the end it said was necessary. This amendment dealing only with the means does not therefore violate or go beyond the law.

The CHAIRMAN. The Chair recognizes

the gentleman from Florida (Mr. BENNETT).

Mr. BENNETT. Mr. Chairman, the energy crisis facing this country is apparently one of the greatest ills we will experience in this country in our time. It will have serious implications in the health, employment, and general welfare of our constituents.

In many areas of our country we are experiencing another ill, forced busing for racial ratios. In my district this is contrary to the generally approved idea of neighborhood schools. If my correspondence and the polls I have taken are any indication of the feelings of my constituents, both my white constituents and my black constituents approve the neighborhood school concept over the forced busing concept by an overwhelming majority.

Mr. Chairman, under the amendment before us we, therefore, have a chance to accomplish both the objectives of saving much-needed gasoline—and the tax money to buy it—together with preserving the neighborhood school concept. I, therefore, strongly support the amendment.

The CHAIRMAN. The Chair recognizes the gentlewoman from New York (Ms. HOLTZMAN).

Ms. HOLTZMAN. Mr. Chairman, I rise in opposition to the amendment which purports to deal with the allocation of fuel for the busing of public school students.

It seems clear that the purpose of this amendment is to prevent court-ordered busing from taking place. Whether or not we agree with busing, it is also clear that the decisions of the courts are the law of this land. These decisions are binding on Congress as well as everyone else. Either we have laws that apply to everybody including the Congress or we have no laws at all.

When the President of the United States contemplated disobedience of a court it brought down a storm of protest from all over the country because people will simply not tolerate official disobedience to the rule of law. Yet by supporting this amendment which seeks to subvert the orders of the court, Members would be doing the same thing. The amendment is probably also unconstitutional.

Furthermore, the amendment is so badly and irresponsibly drafted that it would create a chaotic mess of pupil assignments in New York City. It would require a Federal administrator making the decisions on the assignment of every public school student in the city, overruling the decisions of local school boards and the board of education. It would discriminate against students who attend public schools since it does not apply the same energy conservation standards for those who use schoolbuses for private schools.

I would urge my colleagues to vote down this amendment. If there is any time that we must show respect for the rule of law, it is now.

The CHAIRMAN. The Chair recognizes the gentleman from Kansas (Mr. SKUBITZ).

Mr. SKUBITZ. Mr. Chairman, I have always opposed the busing of children for busing's sake. It has been my feeling that the solving of our problems of educational equality does not lie in busing children from one side of town to another in order to provide racial balance. It lies in the creation of quality education in all schools. Having said this, I hasten to add that since our courts have ruled otherwise our duty as legislators is to respect the law and not do by indirection what this body has failed to do directly.

What happens in a school district where the courts have ordered busing? Although this amendment on its face sounds laudable as a means of saving fuel it can only result in doing irreparable mischief and furthering the divisiveness which we now experience. I urge the defeat of the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. HANRAHAN).

Mr. HANRAHAN. Mr. Chairman, I would like to point out here that I rise in support of this amendment because my Third Congressional District is the first school district north of the Mason-Dixon Line, School District No. 151 in South Holland, Ill., that had to undergo the effects of school integration and, as a result, lost over 2,000 schoolchildren in 3 years.

This study that the gentleman from Texas (Mr. COLLINS) referred to today—in the Washington Post—I think is significant of the fact that mixing students throughout this country does not produce learning. The important thing to keep in mind is that quality instruction does produce learning and anything else is extraneous.

I wish the RECORD to indicate that I am strongly in favor of the amendment to the National Emergency Energy Act, troduced by my distinguished colleague, Congressman JOHN D. DINGELL of Michigan. The Dingell amendment would prohibit the allocation of fuel for the purpose of transporting schoolchildren beyond the boundaries of their own school districts.

During my tenure as a public official, I have consistently favored quality education for all children. No American child should be denied the opportunity to develop his talents to the maximum extent possible within the educational structure of our society. In my view, the most effective system of providing a basic education to our youth lies in the neighborhood school system.

I feel that the use of forced busing as a means of insuring racial balance is often counterproductive in terms of travel delays and ensuing educational quality. Furthermore, a recent report by Prof. James Coleman of Chicago University indicates that the home is more important than school in affecting children's ability to read. Children from middle class and upper class backgrounds read better than children from lower class backgrounds, and this fact was not changed by racial integration or increased spending.

Furthermore, busing of children to achieve a racial balance results in a serious waste of valuable fuel at a time when our Nation can least afford it. During the serious energy crunch that America is currently experiencing, we must do all we can to conserve our precious fuels. If we do not conserve enough fuel, jobs will be lost and our Nation may be plunged into the nightmare of a recession. Such a horror can only be prevented if every American does his and her part to conserve energy usage. How can we, as public officials, urge our fellow citizens to conserve fuel, while we allow thousands and thousands of gallons of fuel to be unnecessarily used to bus children each day miles and miles from their neighborhoods for no substantial reason?

I cannot accept forced busing of schoolchildren out of their neighborhoods for racial balance for both valid educational and energy conservation reasons. It is thus with a sense of national purpose that I voted to support Congressman DINGELL's most appropriate amendment to the National Emergency Energy Act.

Mr. PREYER. Mr. Chairman, many people will support this amendment because of the impact that busing has had upon U.S. education. I agree that busing has had a very harmful effect on education. But this amendment is not addressed to that larger problem. The place to resolve that question, is through bills coming out of the Education and Labor Committee or the Judiciary Committee—not a bill from the Commerce Committee.

It is a proper matter for a bill from the Commerce Committee to address itself to the impact of busing on the energy situation. It is on that basis that this amendment must stand or fall, and I think it stands. The fact that it indirectly effects court-ordered busing for educational purposes—as long as that effect is temporary, reasonable, and results from an emergency situation—does not render it unconstitutional. I think there is a real distinction between education and transportation, and this amendment imposes a reasonable restriction on the transportation of students to conserve gasoline.

We are in a situation where there is not enough gas to go around.

If we do not have enough gas and oil, I doubt that the courts will overrule an order from the President allocating that gas and oil as long as that allocation has a reasonable basis. This is an allocation order from the President and Congress, not from a school board. It does not overrule any court order. Rather, it is saying that busing as a tool to bring about integrated schools is a tool that should only be used in a restricted fashion during a fuel crisis. Instead, we should consider other methods than nonessential busing to integrate schools under the present emergency circumstances.

The amendment does not flatly prohibit any form of busing. It says that priority in allocation of fuel is given to schoolbuses that transport children to the nearest school to their home. If local school authorities wish to bus beyond that, if they feel that social benefits so achieved are of sufficient importance, then such busing is not prohibited, but it is not given any priority allocation of gasoline. Such busing can be continued if gasoline is available. This is a reasonable way to allocate scarce fuel, by limiting it to essential busing.

This differs from the Senate amendment on this subject in that it does not deny the busing of students for educational purposes, but is based on the essentiality of the busing for education. It says that the President may assign top priority among scarce fuel supplies for that transportation necessary to get to the school that is essential for the students' education. If the school board wishes to bus further for other reasons it considers desirable, it can do so but it gets no priority. As in business, as in our personal lives, we must abandon those things that are desirable in favor of those that are essential for the next two winters. There will be an enormous and justified uproar if we allow in one area but not in another that which is desirable over that which is essential.

The reasonableness of this plan is related to the amount of gas that can be saved. It is estimated that the use of gasoline for busing schoolchildren has tripled in the last 4 years.

For example, in my hometown of Greensboro, the city had 107 buses which used 131,817 gallons of gasoline in 1970–71. In 1972–73, after court-ordered busing was imposed, the city had 212 buses which used 288,239 gallons of gasoline—more than doubling the use of gas in 1 year. There are comparable figures for other North Carolina cities. There is no question that considerable gas can be saved if nonessential busing is eliminated.

There will be practical difficulties in adjusting school schedules to meet the objectives of the amendment. The most disruptive effects are avoided, however, by making August 1 the effective date of the amendment, thus avoiding the interruption of the current school year. Furthermore, the amendment provides that such plans—to minimize the distance traveled by students to and from school—shall be formulated in consultation with the affected State and local educational agencies.

It is my hope that when State and local educational agencies address themselves to this question, they will find that the court-ordered goal of integrated schools can be accomplished with far less busing than is presently employed. The only systematic attempt to date to study the ratio between busing of students and desegregation of schools—the so-called Lambda study—indicates that massive busing just does not make sense because it is unnecessary to achieve integration. It points out that our school system has plenty of room for working out different kinds of arrangements, and that with a little flexibility the goal of an integrated school system can be achieved with a minimum amount of busing. In the long run, I think the development of such alternatives to busing will be the answer to our school problems. This has been the goal of the bills I have introduced. The energy crisis may help to prove their point.

Mr. BEVILL. Mr. Chairman, I rise in support of the amendment offered by my colleague from Michigan to H.R. 11450. Congressman Dingell's amendment would prevent the allocation of gasoline to be used to bus public school children to a school farther than the public school closest to their home.

It would be a cruel paradox for us to take all the steps we have been considering to reduce the consumption of fuel, and at the same time allow this unnecessary busing to continue throughout the Nation.

If we are to be realistic, Mr. Chairman, we must admit that busing children miles from their homes and local schools is not in the best interest of the children or the country. It also is going to greatly increase the need for gasoline. In fact, it will take quite a supply just to get these children to the school nearest them.

As I have said before, an opportunity for a quality education is a right which must be made available to all on equal terms and without regard to race. But the time has come for us to be practical. It is not in the best interest of the Nation to use this extra fuel to continue busing in an effort to obtain racial quotas in our public schools.

Most studies that have come across my desk indicate that, to date, the effort has been a dismal failure.

The high cost of busing could better be spent on improving the curriculum, physical facilities, and teachers salaries.

Eliminating this unnecessary busing should be one of the first acts we take toward reaching a reasonable solution to the fuel crisis.

I urge all my colleagues to support this important amendment.

The CHAIRMAN. The Chair recognizes the gentleman from West Virginia (Mr. Staggers) to close debate.

Mr. STAGGERS. Mr. Chairman, I will say to the Members of the House that I rise in opposition to the amendment.

I do not believe the House would act reasonably if it attempts to take advantage of the energy crisis situation in order to overturn the efforts of school districts to achieve racial balance. Let us be clear that that would be the very effect of this amendment.

Let me point out to my colleagues that if they accept this amendment, it would almost certainly result in the death of this legislation. I know there are many Members who would vote against the entire bill if this amendment is put into it, and I would hope that my colleagues will not agree to it.

The amendment was brought up in our committee.

The gentleman from Washington asked that it be deferred, and by a record vote of 21 to 12, it was deferred in the committee and, therefore, voted down. That is what prevented me from ruling on its germaneness, and if that issue had come up, I would have ruled that it was not germane.

Mr. HAYS. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Ohio.

Mr. HAYS. Mr. Chairman, I was in doubt about the amendment, but if the gentleman will assure me that it will kill the bill, then I am going to have to vote for the amendment.

Mr. MITCHELL of Maryland. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. Yes, I yield to the gentleman from Maryland.

Mr. MITCHELL of Maryland. Mr. Chairman, I read an article recently about a young white teacher who taught in an all-black school. He made an effort to establish a meaningful rapport with the children. He used techniques that made them want to learn, and they did. Then it was learned by some people who were white what the teacher was doing. They objected to the rapport that was established, objected to what that white teacher was doing, and as a result the teacher was summarily transferred out.

Before he left, the kids had a party for him. At the party one of the young children said to the teacher, "Why do they hate us so?"

Mr. Chairman, that question may well be raised on this floor today, and I do so raise it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. Dingell) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The question was taken.

RECORDED VOTE

Mr. CONYERS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 221, noes 192, not voting 19, as follows:

[Roll No. 662]

AYES—221

Abdnor
Alexander
Andrews, N.C.
Annunzio
Archer
Arends
Armstrong
Ashbrook
Bafalis
Baker
Bauman
Beard
Bennett
Bevill
Biaggi
Blackburn
Bowen
Bray
Breaux
Brinkley
Brooks
Broomfield
Brown, Mich.
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Camp
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Collins, Tex.
Conlan
Cotter
Crane
Daniel, Dan
Daniel, Robert W., Jr.
Davis, Ga.
Davis, S.C.
de la Garza
Denholm
Derwinski
Devine
Dickinson
Dingell
Dorn
Downing
Duncan
Edwards, Ala.
Eilberg
Esch
Eshleman
Evins, Tenn.
Fisher
Flowers
Flynt
Ford, William D.
Fountain
Frey
Froehlich
Fulton
Fuqua
Gaydos
Gettys
Gibbons
Ginn
Goldwater
Goodling
Green, Oreg.
Griffiths
Gross
Grover
Gunter
Haley
Hammerschmidt
Hanley
Hanrahan
Harsha
Hays
Hébert
Henderson
Hillis
Hinshaw
Hogan
Holt
Hosmer
Huber
Hudnut
Hungate
Hutchinson
Ichord
Jarman
Johnson, Pa.
Jones, Ala.
Jones, N.C.

Jones, Okla.
Jones, Tenn.
Kazen
Keating
Kemp
Ketchum
King
Kuykendall
Landgrebe
Landrum
Latta
Lent
Litton
Long, La.
Long, Md.
Lott
Lujan
McCollister
McKay
McSpadden
Mahon
Maraziti
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Michel
Milford
Miller
Minshall, Ohio
Mitchell, N.Y.
Mizell
Moakley
Mollohan
Montgomery
Moorhead,
Calif.
Myers
Natcher

Nedzi
Nichols
O'Hara
Parris
Passman
Patman
Pickle
Poage
Powell, Ohio
Preyer
Price, Tex.
Quillen
Randall
Rarick
Regula
Rinaldo
Roberts
Robinson, Va.
Rogers
Roncallo, N.Y.
Rooney, Pa.
Rose
Rousselot
Runnels
Ruth
Ryan
Sandman
Sarasin
Satterfield
Scherle
Schneebeli
Shipley
Shoup
Shriver
Shuster
Sikes
Sisk
Slack
Snyder

Spence
Steelman
Steiger, Ariz.
Stephens
Stubblefield
Stuckey
Sullivan
Symms
Talcott
Taylor, N.C.
Teague, Calif.
Teague, Tex.
Thornton
Towell, Nev.
Treen
Ullman
Vander Jagt
Veysey
Vigorito
Waggonner
Wampler
White
Whitehurst
Whitten
Wilson, Bob
Wilson,
Charles, Tex.
Winn
Wright
Wyman
Yatron
Young, Alaska
Young, Fla.
Young, Ill.
Young, S.C.
Young, Tex.
Zablocki
Zion

NOES—192

Abzug
Adams
Addabbo
Anderson,
Calif.
Anderson, Ill.
Andrews,
N. Dak.
Ashley
Aspin
Badillo
Barrett
Bell
Bergland
Biester
Bingham
Blatnik
Boggs
Boland
Brademas
Brasco
Breckinridge
Brotzman
Brown, Calif.
Brown, Ohio
Burke, Mass.
Burton
Carey, N.Y.
Carney, Ohio
Chisholm
Clay
Cohen
Collins, Ill.
Conable
Conte
Conyers
Corman
Coughlin
Cronin
Culver
Daniels,
Dominick V.
Danielson
Delaney
Dellenback
Dellums
Dennis
Diggs
Donohue
Drinan
Dulski
du Pont
Eckhardt
Edwards, Calif.
Evans, Colo.
Fascell
Findley
Fish
Flood
Foley
Forsythe
Fraser

Frelinghuysen
Frenzel
Giaimo
Gilman
Gonzalez
Grasso
Gray
Green, Pa.
Gude
Guyer
Hamilton
Hanna
Hansen, Idaho
Hansen, Wash.
Harrington
Hastings
Hawkins
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Hicks
Holifield
Holtzman
Horton
Howard
Johnson, Colo.
Jordan
Karth
Kastenmeier
Kluczynski
Koch
Kyros
Leggett
Lehman
McClory
McCloskey
McCormack
McDade
McEwen
McFall
McKinney
Macdonald
Madden
Madigan
Mailliard
Mallary
Mann
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Minish
Mink
Mitchell, Md.
Moorhead, Pa.
Morgan
Mosher
Moss

Murphy, Ill.
Murphy, N.Y.
Nelsen
Nix
Obey
O'Brien
O'Neill
Owens
Patten
Pepper
Perkins
Pettis
Peyser
Pike
Price, Ill.
Pritchard
Quie
Railsback
Rangel
Rees
Reid
Reuss
Rhodes
Riegle
Robison, N.Y.
Rodino
Roe
Roncalio, Wyo.
Rosenthal
Rostenkowski
Roush
Roy
Roybal
Ruppe
St Germain
Sarbanes
Schroeder
Sebelius
Seiberling
Skubitz
Smith, Iowa
Smith, N.Y.
Staggers
Stanton,
J. William
Stanton,
James V.
Stark
Steed
Steele
Steiger, Wis.
Stratton
Studds
Symington
Thomson, Wis.
Thone
Tiernan
Udall
Van Deerlin
Vanik
Waldie
Ware

Whalen
Widnall
Wiggins
Williams
Wilson,

Calif.
Charles H.,
Wolff
Wydler
Wylie

Yates
Young, Ga.
Zwach

NOT VOTING—19

Bolling
Burke, Calif.
Clark
Collier
Davis, Wis.
Dent
Erlenborn

Gubser
Harvey
Hunt
Johnson, Calif.
Mills, Ark.
Podell
Rooney, N.Y.

Stokes
Taylor, Mo.
Thompson, N.J.
Walsh
Wyatt

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. BROYHILL OF NORTH CAROLINA TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. BROYHILL of North Carolina. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The Clerk read as follows:

Amendment offered by Mr. BROYHILL of North Carolina to the amendment in the nature of a substitute offered by Mr. STAGGERS: On page 32, strike line 9 through line 4, page 37 and insert the following:

"SEC. 117. LIMITATIONS ON PETROLEUM PROFITS.—

"(a) Section 4 of the Emergency Petroleum Allocation Act of 1973 (as amended by section 103 of this Act) is further amended by adding at the end thereof the following new subsection:

"(k) The President, to the extent practicable, shall exercise his authority under this Act and under the Economic Stabilization Act of 1970 as amended so as to permit no more than reasonable profits to sellers of crude oil, refined petroleum products, and residual fuel oil, taking into account those profits necessary for reinvestment for research and development, exploration, development, and production intended to increase the Nation's domestic energy supplies.

"(b) Not later than 60 days after the date of enactment of this Act the President shall submit to the Congress legislation necessary to further achieve the purposes of subsection (k) and designed to provide additional incentives for the investment of any such profits in support of expanded research and development, exploration, development, and production for the purpose of increasing the Nation's domestic energy supplies."

Mr. BROYHILL of North Carolina. Mr. Chairman, this is the amendment that the gentleman from Louisiana (Mr. WAGGONNER) had announced to the House some time back before the Dingell amendment was considered that he intended to offer to section 117, the so-called windfall profits section. Of course, obviously because of the parliamentary situation here, it would be difficult for a Member who is not a member of the Committee on Interstate and Foreign Commerce to get recognition, so I am offering this amendment on behalf of the gentleman from Louisiana (Mr. WAGGONNER). I know he will get time later, of course, to speak on this amendment.

Mr. Chairman, this section does not belong here, because frankly, it is not germane to the bill. This is one of the sections of the bill that I am confident would have been ruled out of order if there had not been debatable points of order in the rule which governs the debate on this bill.

The subject matter of this amendment is clearly under the jurisdiction of another committee in the House of Representatives.

I want to call attention of the Members to the actual words that are in this section. I hope Members have access to a bill. Section 117 is found on page 32 through page 37 of H.R. 11882.

I think Members will have to agree with me that a fair reading of this language would indicate that this provision called for here would be impossible to administer. I have nothing but questions to ask as to how a program like this would be administered under the language which is contained in H.R. 11882.

What kind of staff does the Renegotiation Board have to administer a nationwide program such as this? The Renegotiation Board was set up to monitor contracts of the Federal Government. What expertise do they have to rule on questions of what reasonable profits should be on petroleum products?

Here we are saying that another agency will get into the act. They will write regulations. They will make determinations on what prices the particular products can be sold for, what the profits will be. We already have other agencies that are making determinations and investigations in this area. We have the Internal Revenue Service. We have the Cost of Living Council making determinations on what prices should be.

Consider what kind of complications would occur if we set up another agency to have some authority in this area. One might say one thing and one would say another. There would be an impossible burden on all sellers of petroleum products to know exactly what the rules of the game would be.

I tell the Members that in my interpretation and the interpretation of others who have read this language, that any seller of petroleum products, be it the gasoline dealer in the neighborhood, the oil jobber or the distributor, all the way up to Exxon, all of them would bear this burden.

Under the terms of the language in the bill the Board would hold hearings if anyone petitioned the Board saying they thought the price that was being charged was too high and would lead to windfall profits.

Where are these hearings going to take place? Are we going to require all these people to come to Washington? Will it be held in the district of the Member or the hometown of the person that has been complained against?

I say that this language here is unworkable. My substitute would say that the President shall exercise his authority under the Economic Stabilization Act so as to permit no more than reasonable profits for sellers of petroleum products.

Second, my amendment says that not later than 60 days after the enactment of this act, that the President shall submit to the Congress legislation necessary not only to further achieve the purposes of prohibiting unreasonable profits, but in addition legislation designed to provide additional incentives for investment of profits to support expanded research and development, exploration, development, and production.

The CHAIRMAN. The time of the gentleman from North Carolina has expired.

(By unanimous consent Mr. BROYHILL of North Carolina was allowed to proceed for an additional 2 minutes.)

Mr. BROYHILL of North Carolina. Mr. Chairman, this is the way to answer this problem. I agree with those who have expressed concern about the so-called windfall profits, as they have been termed. The way to get at them is to do it through substantive legislation, standing on its own and considered by a committee of this House which has jurisdiction of this question.

Mr. HAYS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I think the House is now facing the crux of this whole legislation, and that is, do we give the President power to ration gasoline and at the same time allow the oil companies to raise their prices to any extent they want to.

The Members have all seen what has happened recently. In the past few months, gasoline has gone from 35 cents a gallon for regular at the local filling station in my district to 50 cents—49.9, which is to all extent and purposes 50 cents.

What about the profits of the oil companies? They say that they cannot explore, that they cannot hunt for more oil, that they do not have the capital. Well, they get a 22-percent depletion allowance, and they get that whether they drill one well or whether they drill zero, and most of them are drilling zero.

I am sorry that I do not have the sheet in front of me which will show what every oil company in the country is making in the way of profits, but I can recall two or three of them. The third quarter profits over the third quarter of last year; 1973 over 1972, shows that the Exxon Co., the biggest one of them all, has increased its profits by 81 percent. And Amerada Hess, which had the best record, also increased its profit by 295 percent. There was only one of them that did not increase profits. The one that increased its profit the least was Standard Oil of Ohio, which owns no crude at all and which is at the mercy of the crude producers, and its net was up 20 percent.

Now, the amendment really takes the lid off the oil companies and puts the gouge on the consumer. If any Member can go home and explain to his people, who will be paying a dollar a gallon for gasoline if this amendment passes, why he voted to do that to them, he can go right ahead. If they think that is good representation, that is great, but I do not believe my people would.

What about the taxes of these oil companies? Well, I do not have that figure here either—I sent for it, but I did not expect to get the floor this quickly—but I can tell the Members this, that the average of all the oil companies in the country put together on income tax came to 6.7 percent on their incomes, which is less percentage than a wage earner with a family of four earning $8,000 per year would pay.

Now, do not let everybody tell us that these big oil companies are suffering.

Last May, when I came home from a committee meeting in London, the NATO Committee meeting, they started talking about the shortage, and there was a shortage for 2 or 3 weeks. Then the Office of Price Administration allowed the price to go up, and the shortage disappeared. This was in the season when we had the most driving; people were driving all over creation, and we could get gas any time except for a couple of weekends when a few stations closed down.

I said then, and I say it is more true today than it was then, that when these big oil companies—and they are big international conglomerates, all of them—get the price of gasoline up to what it is in Europe, the shortage will disappear.

These big oil companies have been totally supplying Europe with oil from the Arab nations; they still are, by the way.

The price of gasoline in Europe ranged then from 70 cents a gallon in England to $1.15 a gallon in Greece. When they get the price up to that figure in the United States, the oil shortage will disappear magically overnight.

They have been chafing for years over the fact that they were not able to stick it to the public in this country like they have been able to stick it to them in other countries.

Mr. BURTON. Mr. Chairman, will the gentleman yield?

Mr. HAYS. I will yield to the gentleman from California.

Mr. BURTON. Mr. Chairman, I would like to commend the gentleman in the well, our distinguished colleague (Mr. HAYS). I would like to associate myself with the gentleman's remarks, and I would like to direct this question to the gentleman in the well:

Would the gentleman not say that this amendment might also be called the "Congressional Retirement Act of 1973" for most of those Members who vote for it?

Mr. HAYS. I think it could really be called that.

Of course, I am not going to use that against any of my colleagues on this side, but as chairman of the Democratic Campaign Committee, I would not be above using it against anybody on the other side.

Mr. STAGGERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise so that I might get an understanding. I think what I am about to request is highly important.

We have been considering this bill since 10 o'clock yesterday. We were in session here 9 hours yesterday continuously on this bill, and we have been in session now today for 4 hours. It would be my feeling that from now until 8 o'clock would be sufficient time to dispose of this bill completely, as well as all amendments thereto.

Therefore, Mr. Chairman, I ask unanimous consent that all debate on the bill, and all amendments thereto, conclude at 8 o'clock tonight.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. HEINZ. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. STAGGERS. Mr. Chairman, I will amend my request as follows:

Mr. Chairman, I ask unanimous consent that all debate on the bill, and all amendments thereto, conclude at 9 o'clock tonight.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. HEINZ. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

MOTION OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Chairman, I move that all debate on the amendment offered in the nature of a substitute, the text of H.R. 11882, and all amendments thereto, conclude at 10 o'clock tonight.

The CHAIRMAN. The question is on the motion offered by the gentleman from West Virginia.

RECORDED VOTE

Mr. BROYHILL of North Carolina. Mr. Chairman, I demand a recorded vote.

A record vote was ordered.

The vote was taken by electronic device, and there were—ayes 58, noes 351, not voting 23, as follows:

[Roll No. 663]

AYES—58

Adams
Arends
Bell
Bevill
Brown, Calif.
Byron
Cotter
Diggs
Dingell
Eckhardt
Fascell
Fisher
Foley
Grasso
Gray
Hanna
Hansen, Wash.
Harrington
Hays
Hébert
Hinshaw
Hudnut
Jones, Ala.
Jones, N.C.
Koch
Kuykendall
Lehman
Long, Md.
McFall
McSpadden
Macdonald
Melcher
Metcalfe
Mollohan
Morgan
Murphy, N.Y.
Nedzi
O'Brien
O'Neill
Passman
Patman
Patten
Pepper
Quillen
Rhodes
Rooney, Pa.
Ryan
Sebelius
Shipley
Slack
Staggers
Steed
Stratton
Teague, Tex.
Van Deerlin
Vigorito
Ware
Whitehurst

NOES—351

Abdnor
Abzug
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
Badillo
Bafalis
Baker
Barrett
Bauman
Beard
Bennett
Bergland
Biaggi
Biester
Bingham
Blackburn
Blatnik
Boggs
Boland
Bowen
Brademas
Brasco
Bray
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton
Butler
Camp
Carney, Ohio
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Chisholm
Clancy
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conlan
Conte
Conyers
Corman
Coughlin
Crane
Cronin
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Danielson
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Delaney
Dellenback
Dellums
Denholm
Dennis
Derwinski
Devine
Dickinson
Donohue
Dorn
Downing
Drinan
Dulski
Duncan
du Pont
Edwards, Ala.
Edwards, Calif.
Eilberg
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Findley
Fish
Flood
Flowers
Flynt
Ford, William D.
Forsythe

Fountain
Fraser
Frelinghuysen
Frenzel
Frey
Froehlich
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Green, Oreg.
Green, Pa.
Griffiths
Gross
Grover
Gude
Gunter
Guyer
Haley
Hamilton
Hammerschmidt
Hanley
Hanrahan
Hansen, Idaho
Harsha
Harvey
Hastings
Hawkins
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks
Hillis
Hogan
Holifield
Holt
Holtzman
Horton
Hosmer
Howard
Huber
Hungate
Hutchinson
Ichord
Jarman
Johnson, Colo.
Johnson, Pa.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Keating
Kemp
Ketchum
King
Kluczynski
Kyros
Landgrebe
Landrum
Latta
Leggett
Lent
Litton
Long, La.
Lott
Lujan
McClory
McCloskey
McCollister
McCormack
McDade
McEwen
McKay
McKinney
Madden
Madigan
Mailliard
Mallary
Mann
Maraziti
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mayne
Mazzoli
Meeds
Mezvinsky
Milford
Miller
Minish
Mink
Minshall, Ohio
Mitchell, Md.
Mitchell, N.Y.
Mizell
Moakley
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Mosher
Moss
Murphy, Ill.
Myers
Natcher
Nelsen
Nichols
Nix
Obey
O'Hara
Owens
Parris
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Powell, Ohio
Preyer
Price, Ill.
Price, Tex.
Pritchard
Quie
Railsback
Randall
Rangel
Rarick
Rees
Regula
Reid
Reuss
Riegle
Rinaldo
Roberts
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Roncalio, Wyo.
Roncallo, N.Y.
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roy
Roybal
Runnels
Ruppe
Ruth
St Germain
Sandman
Sarasin
Sarbanes
Satterfield
Scherle
Schneebeli
Schroeder
Seiberling
Shoup
Shriver
Shuster
Sikes
Sisk
Skubitz
Smith, Iowa
Smith, N.Y.
Snyder
Spence
Stanton, J. William
Stanton, James V.
Stark
Steele
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stubblefield
Stuckey
Studds
Sullivan
Symington
Symms
Talcott
Taylor, N.C.
Teague, Calif.
Thone
Thornton
Tiernan
Towell, Nev.
Treen
Udall
Ullman
Vander Jagt
Vanik
Veysey
Waggonner
Waldie
Wampler
Whalen
White
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Winn
Wolff
Wright
Wylie
Wyman
Yates
Yatron
Young, Fla.
Young, Ga.
Young, Ill.
Young, S.C.
Young, Tex.
Zablocki
Zion
Zwach

NOT VOTING—23

Bolling
Burke, Calif.
Carey, N.Y.
Clark
Collier
Dent
Erlenborn
Gubser
Hunt
Johnson, Calif.
Mahon
Michel
Mills, Ark.
Podell
Rooney, N.Y.
Stokes
Taylor, Mo.
Thompson, N.J.
Thomson, Wis.
Walsh
Wyatt
Wydler
Young, Alaska

So the motion was rejected.

The result of the vote was announced as above recorded.

Mr. CEDERBERG. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I ask unanimous consent to speak out of order.

Mr. HAYS. Mr. Chairman, reserving the right to object, and I will not object, I do so to announce to the House that very shortly I intend to offer a preferential motion to strike the enacting clause out of this can of worms.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

CONFIRMATION OF HON. JAMES HARVEY FOR FEDERAL JUDGESHIP IN MICHIGAN

Mr. CEDERBERG. Mr. Chairman, I am pleased to announce that the Senate has confirmed for a Federal judgeship in the eastern part of Michigan one of our colleagues, the gentleman from Michigan, Congressman JAMES HARVEY.

Those of us who have served with Mr. HARVEY over the many years he has been a Member of this body know that he has been an outstanding legislator and that he will be thoroughly missed when he leaves us. Our loss will certainly be a gain for the judiciary.

We wish him well as he serves us on the Federal bench.

Mr. MOSS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, first I want to congratulate my colleague on the Committee on Interstate and Foreign Commerce, the gentleman from Michigan (Mr. HARVEY), on his confirmation. He goes to his new duties with my very best wishes that he have as successful and distinguished a career there as he has had here and that his colleagues will enjoy working with him as much as I have over the years of his service on the Committee on Interstate and Foreign Commerce.

Mr. Chairman, I oppose the amendment offered by the gentleman from North Carolina on behalf of the distinguished gentleman from Louisiana (Mr. WAGGONNER).

I think the gentleman from Ohio (Mr. HAYS), as he usually does, very succinctly stated the situation. The public is not going to be fooled by actions of this type. I suppose that there are somewhere along the line some finite limitations to the appetite of these multinational conglomerates for profit. I do not know what the limitations might be. They are earning very substantial profits and they stand to continue to earn ever-increasing profits. They have succeeded in recent months in bringing about the demise of more independent businesses than any comparable period in an industry since the dark days of the depression of the late twenties and early thirties.

They have rendered antitrust laws virtually ineffective, because they have succeeded in eliminating any competition that was at all troublesome. These giant monopolies control petroleum products from the well to the pump, 50-cents-a-gallon gas, 70-cents-a-gallon gas, a dollar-a-gallon gas. As long as they can continue to squeeze and find a market, rest assured the pressure will be there; but I do not think that the people of this Nation are going to be satisfied.

Out in my State, our Governor, Ronald Reagan—I think the gentlemen know him not to be an example of great liberality—recommended and urged the legislature to enact legislation for catching up of the salaries of public employees of the State through an 11 percent increase, a catch-up increase, and the Cost of Living Council cut it to 7 percent.

Those people are not going to understand a Congress that has such a compassionate regard for these giants of energy that we say they have got to have windfall excessive profits to give them incentive.

We do not even require them to take their depletion allowances and commit them to exploring to find new supplies. We give them highly privileged tax status, not only for investments at home, but for investments abroad. To me, there is something approaching the obscene for so much concern to be shown for them and so little regard for the pocketbook and the welfare of the public; but each of us has to live with ourselves at the end of each day.

I am going to vote against this amendment to strike this minimal safeguard that was written into this legislation against windfall profits.

I think in doing so I will be reacting to the needs and the desires of the people I represent. I hope that all of the rest of the Members when they cast their vote can say the same.

Mr. YOUNG of Illinois. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the Broyhill amendment. First of all, I hope we all take the time to read this windfall section and know what the terms and provisions of the windfall section are.

I am not here to speak on behalf of the oil companies. I am not here to protect anybody's excess profits, but I am here to try to get a good energy bill.

Now, this is an emergency energy bill. There is nothing of emergency about the windfall tax provisions of this bill.

There are several things wrong with the windfall profits section of this bill. There is a wrong definition of the windfall profits. It is in the wrong law, it has the wrong administrator, and the so-called windfall profits are going to be given back to the wrong persons. The wrong persons are the purchasers of the supplier or seller, who made the windfall profits, and the windfall profits tax should be going back to the taxpayers.

I will suggest to the Members what we ought to do and what we should do. We should let the Committee on Ways and Means develop the proper excess profits tax in due course. When they do, it can be made retroactive to January 1, 1974. There is no emergency about that. We will then get the right administrator. We will get the right type of excise profits tax. It will go to the right people, where it should go. The excess profits tax will go to the taxpayers of the whole United States and not some particular customer of some particular seller under the terms of this bill.

Mr. RHODES. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Illinois. Mr. Chairman, I yield to the gentleman from Arizona.

Mr. RHODES. Mr. Chairman, I thank the gentleman for yielding to me. The Broyhill amendment, I think, is absolutely a must as far as this bill is concerned. I certainly support it. One reason I do so is not because of the fact that there has not been profiteering or that there might not be profiteering, but because this is not the way to handle it.

I have assurances from the administration that when the state of the Union message occurs, or perhaps shortly thereafter, there will be legislative proposals to take care of the situation involving excess profits. It would certainly be my hope that the House would wait until this is done so that it can be done in an orderly way, by the proper congressional committee.

Mr. YOUNG of Illinois. Mr. Chairman, I would like to give one example, and that example is this: Under the windfall profit sections, if the Members will read them carefully, they will find that there could be two or three sellers, all selling at the same price, but somebody could challenge one particular seller who, because of his particular background of profit experience, might be determined by the renegotiation board to be making so-called windfall profits. If that determination is made, then the moneys that would be taken from that particular seller are supposed to be given back to his customers, even though his customers paid the same price as the customers who bought from another competing seller down the street.

That is wrong. If there are excess profits, they should go to the U.S. Government for the benefit of all the taxpayers.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Illinois. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, will the gentleman tell me why the persons who have been overcharged should not receive the money back rather than the ordinary taxpayer?

Mr. YOUNG of Illinois. Mr. Chairman, I have just explained it to the Members. If the gentleman from Texas will understand that the different purchasers buying from three different sellers, all at the same price, but because one particular seller had excess profits and the other two did not, under the terms of this section the purchasers from the one seller would be determined to get money back, whereas the others would not, even though all bought at the same price.

Why should they receive a profit? If there are going to be any excess profits determined, such excess profits ought to go to the Federal Government and all the taxpayers.

Mr. HOWARD. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Illinois. I yield to the gentleman from New Jersey.

Mr. HOWARD. Mr. Chairman, in his statement earlier, the gentleman stated something about this having the wrong administrator in it.

It has not yet been decided, but did the gentleman have anyone particular in mind who is expected to administer this, whom he objects to?

Mr. YOUNG of Illinois. Mr. Chairman, I think the Internal Revenue Service would administer it if it is drawn as excess profits tax. That drafting would be taken care of by the Committee on Ways and Means.

Mr. MACDONALD. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I think that this goes to one of the very central arteries, if not to the heart, of the bill. The reason it does is because it points up very clearly in my mind what has been wrong and what continues to be wrong with all the 8, 9, or 10 major oil companies who impose their will on the U.S. Government.

I think that those who—and I know there will be some—who say that we have not treated the oil companies fairly that, indeed, they need more depreciation allowance in order to go forward and to try to find oil and gas here in the continental limits where they know proven reserves are, overlook the fact that until this Congress takes a look at the entire energy crisis as a whole and does not try to do in patches what should be done in one overall legislative oversight, the Government itself will still be hamstrung by the oil majors.

Mr. Chairman, they do this in ways that would make one's blood run cold. It makes my blood run cold, in any event.

They do it in ways in which they can buy either into a sheikdom or buy a sheikdom itself. They have a tax depletion allowance which was designed to develop new ways to find oil and gas within the United States, but which has been turned into a farce, by which these oil companies take a foreign oil depletion allowance of the same amount of money, as if the oil and gas was contained here within the continental United States.

They also have deals made with either sheikdoms and/or leaders of so-called Arab oil companies whereby they make a deal to pay taxes to that country, and in so doing, when they pay taxes to that country, under the present tax setup they do not have to pay one penny of that money to the United States.

So instead of paying money to the United States for what they owe to the United States because of the fact that they have prospered under our rules in the United States, they pay money to a foreign company and not 1 cent comes back here.

It seems to me more than adequately clear that it is and will be, unless we do something about it, a farce to give these people the tax benefits for foreign tax credits which were intended to encourage jobs here in the United States to take refuge behind the loopholes that are replete throughout our oil depletion and tax laws and use them to their own purpose.

Mr. Chairman, I urge the Members, rather than to try to take away the very minimum standards by which we try to prevent windfall profits, that we should go farther than what we are presently doing and really crack down on these people, not help them earn more unearned money.

Mr. ADAMS. Mr. Chairman, will the gentleman yield?

Mr. MACDONALD. I yield to the gentleman from Washington.

Mr. ADAMS. Mr. Chairman, I wish to commend the gentleman for his statement.

The gentleman's subcommittee has spent literally months and years on this subject, and the gentleman is precisely correct.

I am against the Broyhill amendment, and I hope the amendment will be defeated.

PREFERENTIAL MOTION OFFERED BY MR. HAYS

Mr. HAYS. Mr. Chairman, I offer a preferental motion.

The Clerk read as follows:

> Mr. HAYS moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken.

Mr. HAYS. Mr. Chairman, I think the Members can see now, after many hours of debate, that this can of worms is getting wormier by the minute.

The President has at his disposal now over 400 pieces of legislation which give him emergency powers. If the President needs to do any single thing—and I will take as an example gasoline rationing—he can propose a plan and ask for the authority to do it, and if he can present a case, I am sure the Congress will act responsibly.

However, this is an omnibus thing, and none of us really knows what it will do in the end or in the ultimate.

There are a lot of important bills awaiting action, and I think the thing to do is to simply turn this one down, strike out the enacting clause, and let the President tell us specifically what he wants.

Mr. Chairman, I would like to correct a couple of statements I made from memory when I spoke previously.

I said that Amerada Hess made a 250-percent increase in profit. It was actually 295 percent.

I said that the total average in income tax was 2.8 percent. It was actually 6.7 percent.

Mr. Chairman, I would just like to read a couple of other figures to give the Members some impact on this.

Texaco in 1971 had a net income, after all deductions but before taxes—not a gross, but a net—of $1,319,468,000, and they paid 2.3 percent of that in taxes.

Gulf had an income of $1,324,914,000, and they paid 2.3 percent.

Standard of New Jersey, which we had better refer to as Exxon, paid more tax. They paid all the way up to 7.7 percent on an income of $2,736,717,000.

Mr. ROUSH. Will the gentleman yield?

Mr. HAYS. I yield to the gentleman from Indiana.

Mr. ROUSH. I thank the gentleman for yielding.

I think that the figures the gentleman has given us are shocking. Where do these profits come from? I have the latest statistics taken from the monthly publication entitled "Wholesale Prices and Price Indexes." These are from the Bureau of Labor Statistics. They relate to wholesale price increases in 1973 through November. I changed these to percentages. Crude oil, an increase of 21.4 percent; refined products, 88.3 percent; gasoline 77.9 percent; light distillates, 144.3 percent; middle distillates, 124.9 percent; and residual fuel, 81.3 percent.

Mr. HAYS. In other words, the crude went up 21 percent, and the cost of the refining of it did not increase or, if it did, it was 3 or 4 percent at the most, but the price of gasoline was how much?

Mr. ROUSH. 77.9 percent.

Mr. HAYS. There is your answer. That is profiteering. And it is worse since it is aimed at the people who can least afford to pay.

Mr. ROUSH. Will the gentleman yield further?

Mr. HAYS. I yield.

Mr. ROUSH. Most of these increases came in the last 2½ months.

Mr. HAYS. That is right.

Mr. GOLDWATER. Will the gentleman yield?

Mr. HAYS. I yield to the gentleman.

Mr. GOLDWATER. I rise in support of this preferential motion.

I am not sure just what those figures are and what they mean as far as supporting the preferential motion, but serving on the committee I voted against this bill only from the standpoint that I did not know what I was voting about, primarily because of the haste with which this legislation was rushed through and the haste that permeated the committee hearings on it.

Mr. HAYS. If I may interrupt the gentleman for a second—and I will yield to him further—my figures came from the U.S. Department of Commerce, so I have to assume they are authentic. Maybe I am foolish to make that assumption.

I yield further to the gentleman.

Mr. GOLDWATER. We are acting on a very important historic piece of legislation to which not enough or not adequate time has been given. Therefore, I do support the preferential motion offered by the gentleman from Ohio.

Mr. RUPPE. Will the gentleman yield?

Mr. HAYS. I yield to the gentleman from Michigan.

Mr. RUPPE. I thank the gentleman for yielding.

I certainly do not want to get between my two distinguished colleagues in supporting the same motion, but in a more serious vein, I wonder whether anyone on the committee would have an indication not just of the profits of the oil companies either this year or in the last 5 years, but the rate of return on investments of those same companies this year or in the prior 5 years, because, in a more serious vein again, I just do not want to belabor this point.

Mr. DINGELL. Mr. Chairman, I rise in opposition to the preferential motion.

Mr. Chairman, as I say, I rise in opposition to the preferential motion offered by the gentleman from Ohio (Mr. HAYS).

Having listened first to the motion and then to the remarks of the gentleman from Ohio, I came away a bit confused as to the gentleman's goals. It struck me that the gentleman was making not only a great speech in favor of H.R. 11882, but the gentleman was at the same time denouncing the legislation.

Windfall profits in the energy industry are only one evil that the legislation before us strikes today. The legislation before us really is very simple. We are dealing with allocations. We provide some additional priorities in energy allocation. The legislation attacks the problem of windfall profits, and we do so simply and well.

Mr. HAYS. Will the gentleman yield?

Mr. DINGELL. Let me proceed for just a moment, and then I will gladly yield to the gentleman from Ohio.

Mr. Chairman, in the bill before us we deal with the problem of allocation of coal, something which has not previously been done. We deal again with the allocation of gasoline and petroleum products in a fashion and in a manner which we have not previously done in the Emergency Petroleum Allocation Act of 1973.

We make certain changes with regard to regulating carriers, reducing the amount of energy demand which they will have. We deal with the air pollution laws, in a very gentle fashion, we extend forward for 2 years the 1976 automobile emissions standards, so as to make the best unit of pollution abatement and automobile gasoline mileage, we make our air pollution laws to permit more intelligent husbanding of our energy resources without undue violence to the environment.

We deal with the fair marketing of petroleum products, something which I think is very important, particularly at this time of domestic shortages and crises.

We deal with the point that the gentleman from Ohio (Mr. HAYS) covered very well—a prohibition on windfall products and, Mr. Chairman, at an appropriate time I would like to address myself to that issue.

Now I yield to the gentleman from Ohio.

Mr. HAYS. Of course, all of those things are in the bill, but we have been 2 days now on amendments to the bill, all totally having been offered by the members of the committee, and I understand that there are some 50-odd more amendments—somebody says 60-some. Nobody knows what will be in this bill when it finishes, and the committee really will not know, and I think some of them do not know what is in it now.

Mr. DINGELL. If the gentleman will permit me to interject, I think the gentleman makes a very good point. When we find out what is in the bill, then it will be time enough to vote on whether or not we want to accept or reject the bill. As it stands, the bill is a good bill. As it stands, we face a major crisis in heating oil fuel with the very good prospects of cold homes and electricity shortages, shortages of coal, and shortages of petroleum products.

Just this morning there was an announcement that we face a 5-percent cut in gasoline products, which may be a heavier burden still when they strike the average motorist. We face possible electrical curtailments. We face possible shortages in coal. We face shortages of all manner and kind due to the shortage crisis in the energy field.

No one in this body, I believe, at this time wants to go home and face their constituents and to admit that he did not do everything possible to meet the energy shortages which are confronting this country. I hope that no one will vote frivolously or lightly on this motion. Certainly we have a lot of amendments; but that must be expected in a highly controversial bill dealing with a highly critical, highly dangerous, and highly controversial situation such as that in which we find ourselves. But we must vote wisely and prudently. The peril to our constituents is too great. I hope that the motion to strike the enacting clause will not carry.

Mr. HAYS. Will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Ohio.

Mr. HAYS. The gentleman from Michigan states all of the shortages, but I am not convinced that this bill will do anything to cure them.

As somebody said earlier, this bill is a domestic Gulf of Tonkin resolution that will let the President and Mr. Simon do anything they want.

Mr. DINGELL. The gentleman from Ohio has raised a point as to whether we have a Gulf of Tonkin resolution in the legislation before us. We do not, that point was handled by the amendment offered by my friend, the gentleman from Texas (Mr. ECKHARDT). It was handled by that amendment in the Commerce Committee. And it was handled in this committee when we rejected the amendment which would have restored the original language of the bill, allowing the President the vast power to set up vast and sweeping energy conservation plans which would enable the President to close businesses, fix shop hours, prescribe who, when and where a person may operate a vehicle, and to do all manner of other things. I hope that that issue is behind us.

I hope my good friend, the gentleman from Ohio, will stand with the committee. I think that we should reject the motion to strike the enacting clause. The motion is a bad motion, it is untimely, and it should be voted down.

The CHAIRMAN. All time has expired.

The question is on the preferential motion offered by the gentleman from Ohio (Mr. HAYS).

The preferential motion was rejected.

Mr. JARMAN. Mr. Chairman, I rise in support of the Broyhill amendment.

Mr. Chairman, on the amendment before us, the Broyhill amendment, much has been said about the big oil companies and excessive profits, big oil companies and windfall profits. I think it is important for the House to remember as we vote on this amendment that section 117 of the bill applies to all levels of the oil industry, to the producer, to the retail marketer. It applies to the small businessman as well as the big businessman. I think that is important in the Members' consideration of the bill and the need for this amendment. The opportunity to make a reasonable profit has been and is fundamental to the free enterprise system of this country. Reasonable profits are the essence of the Broyhill amendment.

If the Members will bear with me, let me read just a few lines from the first part of the amendment. All it says is:

> The President, to the extent practicable, shall exercise his authority under this Act . . . so as to permit no more than reasonable profits to sellers of crude oil, refined petroleum products, residual fuel oil, taking into account those profits necessary for reinvestment for research and development, exploration, development, and production intended to increase the Nation's domestic energy supplies.

That is the objective of the legislation we are trying to write—reasonable profits, the essence of the Broyhill amendment, which ties in with the objective of this bill.

Mr. Chairman, I urge the adoption of the amendment.

Mr. HASTINGS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I yield to the gentleman from Louisiana (Mr. WAGGONNER).

Mr. WAGGONNER. Mr. Chairman, this language would not be in this bill except for the rule granted in sending it to the floor which waives points of order, because this bill requires the utilization of the Renegotiation Board to make a determination as to what constitutes a windfall profit. This is rightfully a Ways and Means matter. There is not anybody here who can define what constitutes a windfall profit.

One margin of profit might be a windfall for one individual, and another margin might be a windfall for some other individual.

If you will turn to the bill as printed on page 11 of the report, section 117, subparagraph (2), it says:

> (2) Any interested person, who has reason to believe that any price (specified under any of the authorities referred to in paragraph (1) of this subsection) of crude oil, refined petroleum products, residual fuel oil, or coal, permits a seller thereof any windfall profits, may petition the Renegotiation Board (created by section 107(a) of the Renegotiation Act of 1951 and hereinafter in this subsection referred to as the "Board") for a determination under subparagraph (A) or (B) of paragraph (3).

Let us talk about whether or not what this proposes can or will work. I submit to you that it cannot. It cannot work, first of all, because one does not even have to be a purchaser of a product that he thinks might be too high He can be sitting on the sidelines and say, "This man is charging too much for this product, or that product, and he makes an appeal to the Renegotiation Board for determination as to whether or not there has been a windfall profit." There would be hundreds of thousands of such complaints. Hearings are required and judicial appeal is available. We would come to a screeching halt.

Let us talk about what the Renegotiation Board is. It is something that most do not really understand, established 17 years ago, and I say that because they have had 17 annual reports. I want to describe the Renegotiation Board from the last annual report dated December 31, 1972. They then had a total employment of only 223 people. That is down to 195 people at this very moment. Of that 223 people on December 31, 109 of them were in the headquarters office and they had only two field offices in the United States, an eastern office here in Washington and a western office located in San Francisco. Ridiculous is it not?

Who on Earth would believe that the machinery is here? If we want to prohibit the establishment of another bureaucracy to administer such a proposal as this we must take this into account, and it was not taken into account when this section was written.

The Renegotiation Board has no authority whatsoever except to renegotiate what they term excess profits only in the instances of contracts between some individual contractor and the U.S. Government and only in the instances of negotiated contracts and not contracts which are put out for bid.

But what constitutes a reasonable profit? And that is all this amendment proposes we do, that we do not allow any more than a reasonable profit, and this amendment talks about limiting windfall profits.

Turn to page 12 of the bill as printed in the committee report and you will see that for purposes of this subparagraph the term "windfall profits" means a reasonable profit with respect to the particular seller as determined by the Board. That is all in the world we are asking for in the instance of this amendment. Why not use the word "reasonable"?

Look at paragraph 1, the first paragraph of the amendment. We are saying we place the burden upon the President to allow only reasonable profits, and I am using the language used in the bill to prove that point that by limiting windfalls you require something reasonable.

But let us think some more about this. This language in this proposed substitute still controls prices and still controls profits. It just simply does it in a way that can be made to work. It cannot be made to work under the provisions of the Renegotiation Act. We are not doing away with price control. The Cost of Living Council takes care of that.

The CHAIRMAN. The time of the gentleman from New York has expired.

(By unanimous consent, Mr. HASTINGS was allowed to proceed for 5 additional minutes.)

Mr. WAGGONNER. Mr. Chairman, will the gentleman yield?

Mr. HASTINGS. I yield to the gentleman from Louisiana.

Mr. WAGGONNER. It provides that prices and profits be controlled. The provisions of this amendment will simply let us succeed in controlling profits but let us think about this situation further.

If we are going to be very objective about this, we will remember that earlier this afternoon or today since we have convened the gentleman from Kentucky (Mr. CARTER) proposed an amendment to remove coal from the provisions of this section. The gentleman from West Virginia, the chairman of the committee as chairman of the committee readily indicated his willingness to accept that, because he said he understood the problems of coal. If we are going to be fair, if we are thinking about providing energy, are we not going to consider all energy in exactly the same light, because energy is what we hope to provide in enacting this legislation? We intend to provide more of it. But it is even more difficult than that. We now have a double standard.

I am advised by members of the Rules Committee on both sides of the aisle, on my side of the aisle which is the Democrat and on the other side of the aisle which is the Republican, that when the chairman went before the Rules Committee and asked for this rule he stated to this committee that this section on limiting profits, windfall profits should not be in the bill. I wonder what has happened since that time?

But now let us talk about making money. A gentleman put it in the proper perspective a moment ago. Dollars and percentages do not mean anything unless we relate that to the return on our investment. But who makes the money? The stockholders on these oil companies make it. These companies are no longer family-owned companies. They are corporations and the individual stockholders own them. What do you think has happened to them and their income from those stocks with the way the stock market has been plummeting, and energy or the shortage of energy has been taking its lumps as well and in fact is the motivating factor.

So do not get the idea that these companies as such are making money and do not get the idea that these companies as such are paying taxes. The stockholders make whatever money there is to be made and the consumers pay whatever taxes are paid; just remember that. These companies do not in the final analysis pay them. The consumers pay these taxes.

But what some cannot understand is that as far as energy is concerned price is related to supply. Supply and demand still work. We have got to understand that simple fact if we are going to do anything about providing for a decent supply of energy.

Now, think about it in any way you care to; but except for the vertical integration of these so-called giants that have been referred to here today, we would be paying a lot more for a gallon of gasoline than we are paying today. If we break them up, we are going to pay a lot more, make no mistake about that.

What some cannot seem to understand, is that there is not an oil company today that has the resources to build one single refinery, except they go and borrow that money—$400 million, $500 million, $600 million, $700 million, $800 million, to build a modern refinery today.

We either let them make the money and let them do the best they can with the profits they earn or we will have to create a national energy bank to finance that operation. It is that simple. They do not have the money.

This substitute ought to be adopted, if you believe in the free enterprise system.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. HASTINGS. I yield to the gentleman.

Mr. KEMP. Mr. Chairman, I would like to compliment the gentleman in the well for his remarks and his faith in the efficacy of free enterprise.

There was a statement made earlier about oil profits at about $1 billion or $2 billion in the year 1973.

I would like to point out, that every objective prediction about the amount of capital needed in the next few years to develop new sources of gas and oil, is talking in terms of billions of dollars in fact, tens of billions of dollars for research and development are needed.

So the gentleman is eminently correct and I am going to support his amendment.

Mr. WAGGONNER. Gentlemen, remember this in closing. This substitute that strikes the language of section 117 speaks to the question of reasonable profits and it mandates the President of the United States, the administration, to send within 60 days after the enactment of this act, legislation to provide for control of excess profits. This is better, it is at least workable and it is something that if we have any sense of equity we are going to support.

Mr. Chairman, I just have trouble believing that we could say we will take it in the instance of coal and reject it in the instance of the rest of the business community.

Mr. ROY. Mr. Chairman, I rise in opposition to the amendment.

I appreciate the impassioned plea of the gentleman who preceded me on behalf of the big oil companies. I cannot help but observe when I look at the proposed substitute for section 117 that those who offer it are not satisfied with deleting section 117 alone. Indeed they would like to legitimize the huge profits of the large oil companies. They do this, of course, by saying that they shall be permitted to make no more than reasonable profits and then they add the criteria for distinguishing reasonable profits, taking into account those profits necessary for reinvestment, for research and development, exploration and so forth.

I would submit that if we look at the history of the large companies, we are looking to a future never-never land when we can anticipate such reinvestment. If our experience in the past is any guide to the future, this type of reinvestment will not happen. Just as the great oil companies fought to retain the oil import quota when foreign oil was cheap and plentiful, they will fight the development of alternate fuels. Just as they stopped building refineries in this country in the mid-1960's, they will curtail and abandon any investment plans they have announced only in recent months.

In fact, at a recent meeting of the American Petroleum Institute just 3 weeks ago, several companies announced indefinite postponement of previously announced refinery construction plans. They allege that they are backsliding, because of the Arab oil embargo.

To hear the gentleman who preceded me in the well, one would think there is no definition of reasonable profits in section 117. There is such a definition. I would submit to my colleagues that they are going to have the opportunity to choose between the definition of the language in the substitute of Mr. BROYHILL of North Carolina, which indeed legitimizes huge profits for the oil companies, and the defintion in section 117.

In section 117 it states:

"(A) a reasonable profit with respect to the particular seller as determined by the Board upon consideration of—

"(i) the reasonableness of its costs and profits with particular regard to volume of production;

"(ii) the net worth, with particular regard to the amount and source of capital employed;

Listen to this, please—

"(iii) the extent of risk assumed;

"(iv) the efficiency and productivity, particularly with regard to cost reduction techniques and economies of operation; and

"(v) other factors the consideration of which the public interest and fair and equitable dealing may require which may be established and published by the Board; or

"(B) the greater of—

"(i) the average profit obtained by all sellers for the particular item during the calendar years 1967 through 1971; or

I have, and will submit for the RECORD here, the profits of the giant oil companies during the years 1967 through 1972. Exxon, for example, returned on net worth 13 percent in 1967; 13 percent in 1968; 10.4 percent in 1969, and so forth, with 12.5 percent in 1972.

Texaco returned profits on percentage of net worth of 15.3 percent in 1967; 13.1 percent in 1969; 12.4 percent in 1972, and so forth.

There is a choice for each of us to choose between what we would like to tell our constituents we consider to be reasonable profits. Is it what Mr. WAGGONNER spoke about? Is it some profit standard which is totally nebulous whereby presumably we anticipate that the giant oil companies will take their profits, as recently described in Newsweek in a section entitled "A Gusher of Profits," and put these profits into exploration and production of new resources, or is it indeed the very, very good criteria within section 117 which include not only return on investment, but also rich and past experience——.

Mr. WALDIE. Mr. Chairman, will the gentleman yield?

Mr. ROY. I yield to the gentleman from California.

Mr. WALDIE. Mr. Chairman, thinking back in history, there was a time when the private energy industry refused to provide energy to an area of this country, because there was not sufficient profit in providing that energy, and to meet that need the Congress created a public energy corporation, the Tennessee Valley Authority. It would occur to me then, that there are other options than those provided in this bill, if the private industry does not quickly bring on to the market energy supplies that they are holding back for an exorbitant profit. I think the people will demand such solutions and they will occur if the energy industry persists in its selfish, greedy, and unpatriotic pursuit of the almighty dollar at the expense of the people, their health, their comfort, and their jobs.

Mr. ROY. Mr. Chairman, I want to point out to the committee that section 117 directs the President, under the authority of this act and the Economic Stabilization Act, to specify prices for the sale of crude oil, refined products and residual fuel oil which will avoid windfall profits.

The CHAIRMAN. The time of the gentleman from Kansas has expired.

(By unanimous consent, Mr. ROY was allowed to proceed for an additional 3 minutes.)

Mr. ROY. Mr. Chairman, I would like to remind the committee, as the Members make this choice between reasonable profits as now defined by section 117 and as defined in the amendment by the gentleman from North Carolina, that only this week it was announced that the price of gasoline will go up 6 to 7 cents per gallon, and heating oil will go up 8 to 9 cents per gallon, and that the major oil companies in the third quarter of 1973 have profits 52 percent greater than during the similar quarter of 1972.

This has already been stressed before the committee, but when we look at Exxon, we are talking about 1971 third quarter profits of $357 million; 1972 profits of $353 million; and profits which in 1973 soared to $638 million, an increase of 91 percent over 1972's already generous profits.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. ROY. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, one thing that has bothered me about the remark of the gentleman from Louisiana about the oil companies not being able to build refineries on the basis of their profits is this:

I have before me a report of the First National City Bank of New York of April 1973, which indicates that the percent return on the net worth in the petroleum production and refining industry is 10.8 percent.

Comparatively, the figure with respect to textile products is 7.8 percent; paper and allied products, 8.7 percent; iron and steel, 6.2 percent; and aerospace 8.8 percent.

I note that the return on net worth is considerably higher with respect to the petroleum industry.

Would the gentleman not feel that would be a means by which that industry could get enough capital in order to build its refineries?

Mr. ROY. Mr. Chairman, I certainly agree with the gentleman from Texas that the capital for the building of refineries certainly should be forthcoming within the industry which has such copious profits.

Let me also point out that the second section of the amendment, under "(b)" states that "not later than 60 days after the date of enactment of this act the President shall submit to the Congress legislation necessary to further achieve the purposes of subsection (k)," and so forth, not only to accomplish the already real legitimatized huge profits desired in the first section, but that he shall bring forth a proposal for "additional incentives" in order that the oil companies may make additional moneys.

Mr. Chairman, I ask the Members to vote "no" on the Broyhill amendment. I remind the Members that today is the day to act as far as the huge windfall profits being made by the major oil companies, and that we cannot wait for 60 days, plus the time required for action of the Congress, and that we, above all things, should not endorse the huge profits and adopt the idea of increasing huge profits for these companies.

I understand the great sympathy the gentleman has for the huge oil companies. I hope that the majority of my colleagues do not share that sympathy.

The tables referred to follow:

PROFIT MARGIN AND RETURN ON STOCKHOLDERS EQUITY, 1967–72

[In percent]

	1967	1968	1969	1970	1971	1972
Exxon:						
Profit margin	9.3	9.1	7.0	7.9	7.8	7.5
Return on net worth	13.0	13.0	10.4	12.0	12.6	12.5
Texaco:						
Profit margin	14.7	15.3	13.1	12.9	12.0	10.2
Return on net worth	15.3	15.4	13.1	13.1	13.4	12.4
Shell:						
Profit margin	9.3	9.4	8.2	6.6	6.3	6.4
Return on net worth	13.8	12.3	10.9	8.6	8.7	8.9
Standard Oil of California:						
Profit margin	12.8	12.4	11.9	10.9	9.9	9.4
Return on net worth	10.8	10.7	10.2	9.8	10.4	10.5
Mobil:						
Profit margin	6.7	6.9	6.6	6.6	6.6	6.3
Return on net worth	10.0	10.5	10.1	10.6	11.2	11.2
Gulf:						
Profit margin	13.8	13.7	12.3	10.2	9.5	3.2
Return on net worth	13.1	13.2	12.1	10.4	10.2	3.6
Atlantic-Richfield:						
Profit margin	10.2	10.5	8.4	7.5	6.3	5.9
Return on net worth	10.2	11.0	8.4	7.4	6.9	6.6
Standard Oil of Indiana:						
Profit margin	9.7	9.6	9.3	8.4	8.4	8.3
Return on net worth	9.5	10.1	10.0	9.3	9.6	9.9
Sun Oil Co.:						
Profit margin	9.4	9.2	8.3	7.2	7.8	8.1
Return on net worth	10.6	10.8	9.4	8.4	8.8	8.8
Union Oil of California:						
Profit margin	10.3	9.8	9.2	6.3	5.8	5.8
Return on net worth	11.2	11.0	10.5	7.6	7.4	7.6

Source: Fortune 500 magazine, 1968–73 issues.

INDUSTRY AVERAGE

Profit margin	8.6	8.3	8.3	6.9	6.3	6.0
Return on net worth	11.2	11.8	10.5	10.3	9.0	9.4

Source: Fortune 500 magazine.

5-YEAR INDUSTRY AVERAGE, 1967–71

Profit margin	7.7
Rate on net worth	10.6

Mr. GOLDWATER. Mr. Chairman, I rise in support of the Broyhill-Waggonner amendment.

My concern with the bill that we are considering here today is that we seemingly are attacking only one side of this problem: The allocation of a scarce resource.

Now, if we do not provide the resources, or if we do not provide the wherewithal to increase the supply of this scarce resource, then we will continue to allocate, to ration something that is declining down to zero.

It seems to me that the wording of section 117 in this bill is mischievous, to say the least. I wonder if any of the Members have really stopped to read what the language of this section says.

It sets up an apparatus that is going to cause havoc, that is not going to provide that wherewithal to increase the supply.

Subsection (2) says that "any interested person, who has reason to believe that any price" is a windfall "may petition the Renegotiation Board."

Then later it says precisely the same thing:

> Upon petition of any interested person, the Board, if it has reason to believe that such a price has permitted such seller to receive such a windfall profit, may order such seller to take such action as it may deem appropriate to insure that sufficient funds may be available for refund of windfall profits.

Now, I submit to the Members that after we get through with all the suits and all the challenges, we will sit here distributing absolutely zero. We are setting up an apparatus that does not deal with the supply problem.

The gentleman from North Carolina pointed out—and I think most of us would agree—that this amendment, as accepted by the Committee, is not germane, and it will be impossible to administer.

Think of it in those terms. The amendment that is offered by the gentleman from North Carolina (Mr. BROYHILL) is a reasonable compromise to those who are concerned about excess profits or windfall profits.

It provides an apparatus which is workable. The apparatus in the bill will just be mischievous and wreak havoc with the supply side of this problem.

Mr. Chairman, this is a good compromise and should certainly be supported.

I have to ask have we really lost sight of how we get the supply to meet the demands of our people for goods and services? Have we turned our backs on the creative nature of Americans which produce the highest standard of living in the world? Have we forgotten the supply of energy or anything else is directly related to the expenditures made to produce it?

Certainly it ought to be obvious that the energy industry cannot invest enough if money is not available, and money will not be available if profits are not adequate. It has been estimated that in order to meet the increased demand we will see in the future we will have to increase these profits on capital investment an average of 18 percent per year. Oil companies, of course, are going to reap a large profit, but, gentlemen, we have ways of dealing with that. If we adopt the Broyhill amendment, we will have a sensible approach to keeping tabs on the excess profits.

Profit pure and simple would be incentive enough to get many of these energy companies going out—in fact, racing out—in order to create the supply to meet the demands of this country. There seems to be—and commonsense will certainly tell us there is—a direct relationship between profits and capital and supply. If those profits are too small, there will not be enough energy. It is that simple.

Mr. ROY. Will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman.

Mr. ROY. May I ask this question: Is it not true that section 117 as presently constituted provides for a decision on the record by the Renegotiation Board, No. 1, and, No. 2, it also provides for judicial review of such decision?

Mr. GOLDWATER. Certainly reading the language of the amendment offered by the gentleman is confusing enough in itself. There are provisions, I am sure, for relief, but I think the amendment adopted by the committee is mischievous. It will wreak havoc on the supply side.

Mr. STAGGERS. Mr. Chairman I move to strike the requisite number of words.

Mr. Chairman, I would like to find out if we can have an accommodation on the time. I wonder if we can vote on this amendment in 25 minutes.

The CHAIRMAN. The chairman of the committee asks unanimous consent that all debate on this amendment conclude in 25 minutes.

Is there objection?

Mr. PICKLE. Mr. Chairman, I object. If I am recognized, then I will agree with it.

The CHAIRMAN. Objection is heard.

Mr. PICKLE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, everyone in this House knows that the cost of our fuel is going up, and inexorably going to increase probably at all levels. It always happens in times of shortages. I think that would follow and we should understand that probably the profits will increase.

Profits as such ought to be considered and determined by the Committee on Ways and Means. They, the Ways and Means Committee, are constituted for that purpose. The acting chairman of that committee, the gentleman from Oregon (Mr. ULLMAN) said that they would hold immediate hearings on this subject and try to bring forth some kind of bill that would be fair and reasonable.

This is a matter which affects profits and affects prices; it refers to the Renegotiation Board and to machinery that cannot work with or without judicial review. Here we are talking about a matter of profits which is something that ought to go to a committee which is set up to hold hearings and get the facts on this subject.

I have noticed for the last hour we have done nothing but talk about accusations on what company has made how much profit, or how much they need, or how much coal companies did or did not make. This ought to be established through a series of hearings. The Members know that we should not vote on prejudice. We know that this is true. But we did not have any hearings on profits. This particular windfall profits amendment came out of chute No. 1 late in the evening, without any notice, and a point of order of germaneness against it was not allowed, and it was before us before you could say your name. That is not being fair to our system of Government, to the oil and gas companies nor, indeed, to the coal companies.

However, the coal companies were taken care of this morning, and I voted for that because I do not believe the coal companies ought to be held back. I think they are entitled to an increase.

We had a meeting before our committee not too long ago with a representative of the coal industry, and he admitted that the price per ton of coal would probably go up two or three times within the next 2 or 3 years. And the chairman of the committee, the gentleman from West Virginia (Mr. STAGGERS), bless his white-grey hair, made a statement to us, and he said that we could not expect our coal people to go out there and dig in the mines or engage in unprofitable strip mining operations unless they are guaranteed a profit, or at least we have to give the companies some assurance that they would expect a return on their investment. And of course the gentleman is right. I do not object, and did not, to the gentleman saying that, because I support what he said. But I do not believe it is fair to say that that should be helpful to the coal industry, but it is not helpful to other industries. I recognize it is a fact that we really need some changes made. And after the first of the year I think with the demand that those that I hear crying out against the companies' profits these people will be on the floor demanding that we do something. I do not know what will happen, but we ought to try to do something about it. We ought to do something about excess profits. I do not know what to expect on that. The gentleman from Arkansas (Mr. MILLS), has said that he will attempt to deregulate gas, and I think it will probably come in some kind excess profits legislation. That is probably where it will come.

The very people who have been arguing against the fact that we ought to keep this in the bill are the very people who on occasion in the last 2 years have been talking in public hearings all over the country that this shortage is contrived, and therefore gas companies do not need any relief in natural gas. They have made that statement over and over. And the people down the street have said before the committee that if we could get a better supply of natural gas now, it would probably ease our shortage more than any other thing, because our problem is brought about by the fact that we have only a certain amount of natural gas, and everybody uses it. Everyone uses all they want to because it is clean, and it is cheap, and it has been getting delivered so everybody can use it. As a consequence, we are about to run out of natural gas, and we are going to have to rely more and more on coal and more and more on other products.

Mr. ADAMS. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I do not yield to the gentleman from Washington at this time. I will be glad to yield to the gentleman later, if I can. But I appreciate this 5 minutes after 2 days. So I want to go ahead and use my time.

So, Mr. Chairman, I ask the Members—because I know their feelings, but I hope that they have enough good judgment not to be voting on their prejudices: Give us the means of increasing our energy supplies instead of just voting our prejudices. I do hope the Members do not vote just on the basis of prejudice. I am mindful of the kind of the image the oil and gas companies have and it might be easy for you to vote your prejudices.

The CHAIRMAN. The time of the gentleman has expired.

Mr. PICKLE. Mr. Chairman, I ask unanimous consent that I may proceed for an additional 2 minutes.

Mr. MOSS. Mr. Chairman, I would suggest that the gentleman have 3 minutes in order that he may fully savor his feelings.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. YATES. Mr. Chairman, reserving the right to object—and I shall not object.

I oppose the Broyhill amendment. The statistics on the profits of the oil companies that have just been presented to the House by those who have spoken against the amendment depict graphically the dramatic increase in profits of such companies since the shortage of energy fell upon this country and the world. It would be shocking if the House were not to place some limit upon the earnings of such companies. Surely, they should not be allowed to take selfish advantage of the plight of the consumers.

It has been asserted by those who support this amendment that even though prices may rise they will inevitably come down as supply catches up with demand. Perhaps that is true in respect to other industries, but it certainly is not true for the oil industry. The history of that industry is one of controlled scarcity, scarcity generated by capping wells, by hot-oil legislation, by international agreements, by import restrictions and other devices. The history of the oil business is of one-way pricing—upward, continually upward. There is no downward movement at all.

Renewal of the windfall profits of the oil industry is essential to protect the consumer of this Nation. It is essential to carry one the purposes of this bill that the sacrifices required by this critical time fall equitably upon all segments of our economy and our population. The Broyhill amendment will distort that purpose. It should be defeated.

Mr. Chairman, I withdraw my reservation of objection.

Mr. PICKLE. Mr. Chairman, I might say that my request was for 2 minutes, and I do not want to impose on the Members by requesting additional time.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. ADAMS. Mr. Chairman, reserving the right to object, I would inquire of the gentleman from Texas whether the gentleman might answer a couple of questions during this additional 2 minutes.

Mr. PICKLE. I hope that I can do so if I have the time.

Mr. ADAMS. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. PICKLE. Mr. Chairman, my appeal is not to vote for this amendment simply as a vote of one's prejudices. Do not let this vote be a vote against windfall profits when it actually would be a vote of prejudice, and in truth a vote against the oil and gas companies per se.

I ask that, in spite of the fact that I know about the general image the oil and gas companies have in this country today. Somebody said recently, "I guess the lowest group in America today would probably be the present administration." I guess that in all of the polls taken as a group today, they are on the bottom of these polls.

But I say to the Members that I think that would be wrong. I think the oil and gas industry probably has the worst image. For some reason or other, the people think that they are the group that just ought to be "gotten," and they must be on the bottom of any poll.

I am not trying to rate the groups. I suppose before the Members take much comfort in that, the third rating would probably be elected officials, and I think fourth might be the gentlemen up in the gallery. But I guess overall the oil and gas industry has about the worst image of anybody in America. I think it is undeserved. Although they have made big profits, so have A.T. & T. and I.T.T., and I.B.M. and other big conglomerates. That in itself ought not be an indictment against them.

Remember this: They have given us in America and the world the greatest system of delivery of energy of any nation in the history of this world. Although they have shortcomings, and although they have some weaknesses in the chain, at the same time they, as an industry, are the envy of the world.

Surely we ought not to take action here today just because of prejudice we would want to say we are against profits because to be against windfall profits. that sounds good back home.

I ask the Members to vote fairly, because this amendment that is pending simply says that the President can keep profits to a reasonable amount, and he is directed to give us a recommendation on excess profits legislation after the first of the year.

The CHAIRMAN. The time of the gentleman has expired.

Mr. STAGGERS. Mr. Chairman, I ask unanimous consent that all debate on this amendment close in 20 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. PRICE of Texas. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. DEVINE. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I yield to the gentlewoman from Michigan (Mrs. GRIFFITHS).

Mrs. GRIFFITHS. I thank the gentleman for yielding.

Mr. Chairman, I am not one of those who is suffering on the side of oil, but I rise also in support of this amendment. I think a few kind words should be said for the consumer. From the time of President Kennedy until today, and the time of the Chief Economic Adviser, Walter Heller, until today, there has not been a President nor a Council of Economic Advisers that has not sought the right for the President to levy taxes in some restrained manner. In my judgment, while section 117 does not give an explicit delegation of power for the levying of taxes, it gives an implicit delegation of power. In my opinion, the President would use it.

As long ago as last summer Secretary Shultz came to the Committee on Ways and Means and asked that we consider the idea of levying a 40-cents-a-gallon tax on gasoline to sock up the price. In my opinion, the President could meet both objectives of section 117, by permitting the price to rise to $1 per gallon and levy a tax of 50 cents. Personally I am opposed to this. I told Secretary Shultz then. I am opposed to section 117, I am going to vote to eliminate it because I feel that if we are going to have that kind of tax levy, it should come before this body and we should vote on it.

I heartily support the amendment because I support the American consumer, not necessarily the American oil company. I urge everybody who feels that the power to tax should be left with this body to vote to support the amendment.

Mr. DEVINE. I thank the gentlewoman from Michigan.

Mr. Chairman, I yield to the gentleman from Kansas (Mr. SEBELIUS).

Mr. SEBELIUS. Mr. Chairman, I appreciate this opportunity to discuss H.R. 11882, the Energy Emergency Act, legislation that has a direct bearing on the economic welfare of every citizen in my district and for that matter nationwide as well.

I would urge my colleagues to read and acquaint themselves with the separate views of my distinguished colleague from California (Mr. GOLDWATER) within the committee report.

Our colleague has pointed out the similarity between this legislation and the Economic Stabilization Act authorizing wage and price controls. As Congressman GOLDWATER points out, it did not take very long before the public became disillusioned with artificial restraints on our economy and that in this case folks will fast tire of any program that calls for indefinite rationing and other Government controls that do nothing to increase our energy supplies. Congressman GOLDWATER made another astute comparison when he compared this legislation to the proposed freeze on beef prices and the emotional merry-go-round we went through this past summer when some of our well intentioned colleagues proposed to put price controls on all farm products. Price controls on beef sound good to the consumer but when the consumer discovers because of that arbitrary action she cannot purchase beef at any price, the problem becomes much more serious. We can indeed ration and regulate our energy supplies but if we do, in the long run there will not be any energy to ration or control.

I am also very concerned and alarmed in regard to the so-called windfall profits provision of this bill. I do not know of any Member of this body who favors "windfall profits" or possible price gouging by anyone who would utilize or take advantage of the American consumer as a result of our current energy problems.

This amendment in committee has as its purpose to make sure that energy companies do not reap abnormal profits during the current shortage. I submit this is the wrong way to go about safeguarding the public interest. If passed without any exemptions, I can state section 117 could virtually wipe out the Kansas independent oil and gas industry.

I do not mean to imply that we should not examine and deal with the question of profits by our major oil companies but as my distinguished colleague from Texas (Mr. PICKLE) has pointed out in his separate views in the committee report on this bill, the windfall portion of this bill was proposed and adopted in less than half an hour without the benefit of full discussion and hearings.

Congressman PICKLE recommends that if price gouging and windfall or excess profits are a proven fact then the Ways and Means Committee could and should legislate taxes that would take care of the public's need. I strongly agree.

Let me be specific. In my home State of Kansas almost 40,000 stripper wells produce 69 percent of the State's oil, some 51 million barrels in 1972. Yet, 1,356 were plugged in 1972 because they failed to reach the break-even point. During the past 5 years, almost 9,000 were plugged for the same reason. The conclusion is obvious, producers must have sufficient capital to increase supply as well as the delivery means to meet our energy demands.

Yet section 117 defines "normal profits" as average profits over the period from 1967 to 1971; the same depression period in which we have seen some 9,000 stripper wells plugged. When you fix profits to a depression level, obviously any increase would appear to be excessive. This action also fixed discovery potential and in turn, supply to this same depression level and that is precisely what has caused the problem.

I am also most concerned over the language of this bill that allows any citizen to file a class action complaint that would result in alleged "windfall profits" to be placed in escrow subject to determination by the Renegotiation Board and possible judicial review and action. If I understand the language of this section this procedure would apply to the producer or seller of all petroleum products even to the extent it would include a small filling station operator.

Judging from the emotional nature of this issue I can imagine a situation where any angry motorist could file a class action suit against his local service station operator. Lawyer fees alone could wipe him out. I think it is obvious that if we tie up profits through class action complaints and put them into a bureaucratic and legal deep freeze, we are also tieing up capital that could be utilized for discovery, drilling, and increased supplies.

Mr. Chairman, while it is obvious we must expedite action in the Congress to find answers to our energy crisis and while I believe certain items in the bill we are considering should be passed in some form, I am most concerned over the approach we seem to be taking.

More and more, it seems to me, we are taking our system of free enterprise down the road to "big brother" government wherein we subject American business to arbitrary, punitive, and regulatory regulations and controls. It is just as important for bad legislation not to pass as it is for us to carefully consider and enact good legislation. I do not believe we can protect the American consumer and increase our energy supplies by subjecting the oil and gas industry and related businesses to this kind of legislation.

I do not question the intent of this section but I feel it was ill-conceived and hastily written by those lacking full understanding of this complex problem.

The practical effect of section 117 would be to virtually close down the oil and gas industry in Kansas. The long-range effect of this type of legislation could well lead us to a government controlled economy in which the consumer is confronted by a nightmare of controls, bureaucracy and redtape and precious little consumer goods and sources.

Mr. Chairman, when the high cost of food triggered an emotional response to control farm prices we fortunately prevented that legislation from passing. As a result, our farmers are economically free to do what they do best—produce and feed this Nation. It seems to me we should do the same for our oil and gas industry.

Mr. Chairman, I support the amendment offered by the gentleman from North Carolina (Mr. BROYHILL) and hope that it passed.

Mr. DEVINE. Mr. Chairman, I yield to the gentleman from Delaware such time as he may consume.

Mr. DU PONT. Mr. Chairman, earlier this afternoon on rollcall No. 662 I erroneously voted "no." It was my intention to vote "yes," and I wish to correct the RECORD to show that my vote on rollcall No. 662 was "yes."

I support Mr. DINGELL's amendment to prohibit petroleum allocations for the purpose of schoolbusing to achieve racial balance. My initial vote was cast erroneously because the text of the amendment in my hand at the time was not the same as the text of the amendment being voted upon.

Mr. CARNEY of Ohio. Mr. Chairman, I move to strike the last word.

Mr. Chairman, it seems very strange to me as a relatively new Member of this body who mostly sits aside, and observe the pattern of things—I have noticed that when there is something on minimum wage for some little guy, we see certain gentlemen rise and fight very strongly. They say we would destroy the American way of life to give some little guy a minimum wage.

Once we try to do something about excess profits and to control them, then of course we are said to be tampering with the American way of life.

Thank God the people in this country are becoming a little better educated. I for one agree with a great many political scientists that perhaps we may be needing reform of the two-party system of this country.

Maybe we had better get together some of those who want excess profits. Get them together from both sides of the aisle, and then get together those from both sides of the aisle who want to do something for the little people of this country. Maybe we had better get them together.

I am not opposed to people making a fair profit but when we get up and just decry the situation when there is evidence before us that certain groups have made all kinds of profits, and have someone say they have not made a thing, and that we should let them make it, I question that.

They say if we want energy power we are going to have to pay for it through the nose. I still think the people have something to say about the way this Government is run. I am telling the Members that we are sitting here and worrying about the producers, but I do not see many people getting up and talking about the man who wants to go to work or who wants to provide heat for his kids. We are not talking about that. We are talking about profits.

We are not getting to the meat of the problem. The American people want some answers. They want some heat in their homes. They want to be able to get back and forth to work. They want some of those answers.

But what do we worry about? We worry about how much profit the oil producers will gouge out of us. I hope it goes on the RECORD. I hope there is a rollcall vote. I hope the things I do get out to the common people and then we can think about the common Joe and give him some gas instead of worrying about all kinds of ways of making excess profits for the greedy.

If we do this the American people will be thanking us.

My friend, the gentleman from Texas, said we are second or third from the bottom of the list. If we do not wake up we will be at the bottom before long. Let us give the people what they want. Let us give them more energy and let us do it now. Defeat the Broyhill amendment.

Mr. Chairman, I want to clarify an amendment I offered to the "Energy Emergency Act" in the Interstate and Foreign Commerce Committee, which is now section 110 of H.R. 11882.

When I offered my amendment in committee to make it unlawful for any person engaged in the business of marketing or distributing diesel fuel to deny full fill-ups of fuel to trucks on bona fide cargo runs, it was not my intention, nor do I believe that it was the intention of the committee in adopting this amendment, to deny fuel to diesel passenger vehicles, or to make it impossible for diesel fuel automobile owners to obtain fuel for their vehicles.

According to Environmental Protection Agency studies, diesel fuel passenger vehicles now meet the most stringent emission control standards and show a 70 percent greater fuel economy than comparable gasoline vehicles. Therefore, diesel fuel passenger vehicles should not be penalized more than gasoline passenger vehicles in the allocation of fuel.

Mr. STAGGERS. Mr. Chairman, I rise again to make a unanimous-consent request to see if we can get a consensus of opinion on the time.

Mr. Chairman, I ask unanimous consent again that all debate on this amendment close in 20 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. JOHNSON of Colorado. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. STAGGERS. Mr. Chairman, I ask unanimous-consent request that all debate on this amendment close in 25 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. BROYHILL of North Carolina. Mr. Chairman, reserving the right to object, and I shall not object, I would urge Members to limit debate because we do have a number of amendments at the desk and I think within 25 minutes we are going to be able to dispose of this amendment and have the Members be heard.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The CHAIRMAN. The Chair will recognize Members on the list for approximately 1 minute.

The Chair recognizes the gentleman from Kansas (Mr. SKUBITZ).

Mr. SKUBITZ. Mr. Chairman, I support the Broyhill amendment as the only practical and reasonable method of preventing windfall profits from the production and sale of petroleum and its products. It provides a proved means of recapturing such profits through our taxing system and makes certain that a few may not benefit from the scarcity now upon us.

It is time to make clear, Mr. Chairman, that many of us, and most especially this Member, are as strongly opposed to windfall profits as those who support the amendment proposed by my colleague from Kansas (Mr. ROY) and that will be considered as a committee amendment, section 117. I do not want any corporation, whether it is a giant integrated oil company whose pumps sell gasoline to the public, or an independent operator, benefit unfairly and improperly from current and forthcoming high prices for gasoline, diesel, heating oil, and other products.

The incongruity of the committee amendment designed to eliminate windfall profits is amazing. The same committee which carefully considered, reported out, and secured House floor approval of the mandatory allocation bill a scant 2 weeks ago; a bill that lifted allocation controls and price controls from small producers in an effort to spur domestic oil production; that same committee now proposes an amendment that would negate the earlier provision and take away from the small producer any incentive to open capped wells, drill new wells, and bring about greater domestic production.

I simply fail to understand the logic of my colleague's (Mr. ROY) position. In one case he supported legislation that would help our Kansas oil producers. I must remind him that more than 90 percent of Kansas oil production is from stripper wells whose average production is slightly more than three barrels a day. The stripper well amendment encouraged additional production by permitting these producers to obtain the going market price. Indeed, in the last few weeks Kansas newspapers have reported a boomlet in oil production plans—the first in more than a decade.

Now, he seeks the enactment of an amendment that would limit those producers to the profit—I hesitate to use that word since there was virtually no profit—to the profit those producers obtained during the period 1967 through 1971. That base insures that in the case of Kansas producers, and indeed in the case of all stripper well production in the United States, there will be no reason to look for more oil.

Indeed, it may well assure that existing production should be shut down since the measurement for profit will be such as to make meaningless the current market price for crude oil. In short, the seller may now obtain $5, or $5.50 or even $6 a barrel for oil but his base for determination of what he may retain will approximate $3.90 or less per barrel.

The language of the committee amendment before us, is in some respects almost beyond belief. As written it would permit the operator of any filling station to be brought before the Renegotiation Board by the buyer of 1 gallon of gasoline at his pump on the complaint that the price charged for that gallon of gasoline resulted in a windfall profit. Of course that in itself is a bit ridiculous but since class action suits are permitted and encouraged, such a suit by a single buyer in behalf of all who bought gasoline from that filling station is certainly within the realm of possibility.

I repeat that no one—not the Government through a tax to discourage use of gasoline; not the oil companies through raising prices for their product; no one, I repeat, should be permitted to benefit from this energy shortage at the expense of the user who is not responsible for the shortage. As usual, the little guy, the average user, is the fall guy. He has a right to object if any are to profit at his expense.

Thus, we should deny windfall profits to all in the industry. But the way to do that is through an excess profits tax. It is easy enough to determine the profitability of oil producers—whether huge integrated corporations or individual stripper well lessors—through the Internal Revenue. It is easy to draw an excess profits tax provision. The Broyhill amendment makes clear that within 60 days the President shall recommend such a provision. I have little doubt that the IRS is more capable of preparing an effective taxing statute than we of the Interstate and Foreign Commerce Committee. Nor do I have any doubt that our own Ways and Means Committee can and will do that job capably and expeditiously.

Mr. Chairman, I urge adoption of the Broyhill amendment defeat of the committee amendment proposed by my colleague from Kansas (Mr. ROY).

The CHAIRMAN. The Chair recognizes the gentleman from Louisiana (Mr. WAGGONNER) for approximately a minute.

(By unanimous consent, Messrs. MILFORD, FLYNT, and LANDRUM, yielded their time to Mr. WAGGONNER).

Mr. WAGGONNER. Mr. Chairman, before we vote on this substitute for section 117, it behooves us to just stop and think about what the bill tries to do in section 117 and what the substitute amendment proposes to do.

Now, the supporters of section 117, as contained in the bill, say that we ought to do something to limit windfall profits. Again I am redundant, but I want to remind Members again that there is no way that the Renegotiation Board, which only has authority under the law to renegotiate supposedly excess profits when an individual has a contract with the Government and only then a negotiated contract. Any interested individual can file a complaint about supposedly windfall profits. Hearings are necessary. Judicial appeal is provided for. Mass confusion will result.

How many of us would believe that the courts of this land could even function if we tossed this hot potato from the Renegotiation Board after they had made a decision which they cannot legally do to the courts?

All this substitute language says is that the President, to the extent practicable, shall exercise his authority under this act which we are going to give him and under the Economic Stabilization Act of 1970, as amended, which we have already given him, to be sure that companies make no more than reasonable profits. But, if we really want something in the way of an excess profits tax, it is provided for in the second paragraph of this substitute language, and it is not provided for in the committee bill.

The President is mandated to bring, within 60 days of the enactment of this act, a legislative proposal to the Congress to further achieve the purposes of paragraph 1 of this substitute language, which says:

> Don't let anybody make more than a reasonable profit.

And, in attempting to define what windfall profits are, the committee itself sent a bill to the floor which uses the term "reasonable."

Now, we either want it to work or we do not; we either want to be fair or we do not. Let us treat everybody alike. We have already removed coal from this provision; let us treat oil, the suppliers of energy, in exactly the same way.

But, if we are not going to be shortsighted, remember this: Refined petroleum products are in time going to be produced in ever-increasing quantities, and the products, the byproducts, refined products of coal will still, even though coal is not in the bill at the present time, be subject to the provisions of this supposed effort to limit windfall profits.

Get rid of the idea which the gentleman from Ohio (Mr. CARNEY) threw out for us to think about. This bill does not provide one barrel of oil, one drop of energy of any sort. This bill is intended to provide a means whereby we, if we do certain things, can conserve as well as provide for energy allocation. We have already heard earlier today that the oil companies own a certain percentage—25 percent, the figure was—of all the coal in this country. We are not going to keep a good business in a free enterprise system from being able to succeed, and we had better believe that these people in the oil business today are deserving of the dollars they have made, few though they be, because 77 percent of all the energy we utilize came from oil and gas last year.

The CHAIRMAN. The Chair recognizes the gentleman from Colorado (Mr. JOHNSON).

Mr. ARMSTRONG. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to my colleague from Colorado.

Mr. ARMSTRONG. Mr. Chairman, I ask for this time to allocate my time to my colleague from Colorado (Mr. JOHNSON).

Mr. JOHNSON of Colorado. Mr. Chairman, I would like to direct a question to the gentleman from Washington (Mr. ADAMS) who has the remaining time. He will probably have to do this during his own time.

Yesterday, during the debate with respect to the Broyhill amendment, several Members talked about giving the President the authority to pass down rules and regulations with respect to conservation of energy that would become law unless the Congress vetoed it after 15 days. The gentleman from Washington, the gentleman from California, the gentleman from West Virginia, and the gentleman from Texas all made very persuasive speeches—I was persuaded by them—that this is not the way we legislate.

Now, we have an amendment, it seems to me, which is on the side those gentlemen were on yesterday. How can they advocate turning over to the executive branch of the Government the taxing policy of the country? How can they turn over to the President the determination of what constitutes windfall profits? This it seems to me, is totally inconsistent with the position which these gentlemen took yesterday. I have tried to get the floor to ask this question.

Mr. MOSS. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from California.

Mr. MOSS. Mr. Chairman, this does not turn over any taxing power to the President, directly or indirectly. It turns over to an established board that has had many years of operating experience and which is clearly within its competence, to make a determination, and the statements made by the gentlewoman from Michigan were totally inaccurate, as is the inference in the statements the gentleman from Colorado has just made.

Mrs. GRIFFITHS. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentlewoman from Michigan.

Mrs. GRIFFITHS. Mr. Chairman, that is the gentleman from California speaking, and I would like to submit that I have been set a long time on this, and my opinion is just as good as his.

The CHAIRMAN. The Chair recognizes the gentleman from Tennessee (Mr. BEARD).

(By unanimous consent, Messrs. BEARD, KEMP, FRENZEL, WINN, and YOUNG of South Carolina yielded their time to Mr. PRICE of Texas.)

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. PRICE).

Mr. PRICE of Texas. Mr. Chairman, I thank the gentlemen from the various States for yielding their time to me.

I would like to address myself to a number of the Members who, in my opinion, have been giving the body some erroneous information about the profit picture of the major companies of this country.

It seems to me that there is a great discrepancy between the figures that the gentleman from Kansas (Mr. ROY) gave and the figures that the gentleman from Ohio (Mr. HAYS) gave and the figures that the gentleman from Illinois (Mr. CRANE) gave this morning with regard to the profits that are made by the companies.

I might remind these gentlemen that 80 percent of this Nation's exploratory wells are drilled by the independent oil producers and drillers in this country and not the major companies of this Nation.

The major part of the taxes is paid by the stockholders of this country, but as they tried to quote the figures today, in my opinion, they misled the debate here today.

I reiterate, Mr. Chairman, that referring to the taxes that were pointed out here in the colloquy today, about how much the major oil companies have paid, we seem to forget that these major companies are primarily the investments of the American people. They are the consumers. They are the ones who are paying the taxes of these major oil companies.

I again reiterate that 80 percent of all oil and gas exploratory wells are drilled by the independent producers and drillers.

Of course, in reference to this bill, if there are excessive profits, there is some question as to who this board is that is going to determine the excessive profits. What education do they have in this area?

In my opinion, I think it will do more to destroy the production of oil and gas in this country than anything we could do.

Mr. Chairman, the time has already passed for the Congress of the United States to face up to its responsibilities to assure an adequate and reliable supply of natural gas for the consumers of the United States. Natural gas, the cleanest burning, cheapest fuel we have in this country has been discriminated against by repressive legislation. Our other primary fuels—coal and oil—are regulated by the laws of supply and demand, subject only to national security considerations. Gas is regulated by the Congress through delegation to the Federal Power Commission.

In the last 4 years, the FPC has recognized the repressive nature of the decisions of the 1960's, which resulted in lower and lower prices at the wellhead until exploration and development of new reserves was dangerously discouraged—discouraged not only by the prices set, but, more important, discouraged by the absolute uncertainty that faces a person who sells gas in interstate commerce. In only three areas of the country—Permian and Hugoton Anadarko, and Appalachian, Illinois, does that person know how much of his contract price he can keep, and, even then, the FPC can lower his price for the future. In the other areas of the country—vital areas of production like southern Louisiana, including the Federal domain, Texas gulf coast, other Southwest, and Rocky Mountain, the producer has no assurance as to what price he is selling his gas, because the FPC or the courts can order refunds of past moneys collected and reduce the price for the future. FPC rate cases sometimes take 12 years to process—and the clock is still running on court review. How Congress, with its plenary power over interstate commerce, can permit a system which requires a person to deliver a commodity without knowing what he will be paid for delivering it for years and years which have come and gone and which are yet to come, is a mystery, and is probably the result of the lack of a crisis. We have a crisis now, as many of us have predicted, which commands the attention of the Congress. More than a dozen major interstate natural gas pipelines are curtailing service to consumers this winter.

"Curtailing service" is a nice way of saying that consumers are being cut off from gas supplies because there is not enough gas to meet current requirements, much less to add new customers. As factories and schools are closed down, as crops are rotting for lack of process gas, as homeowners are being turned away from coast to coast, we, the Congress, cannot stand idly by and say that the policies of the Natural Gas Act, adopted in 1938 and first applied judicially to producers in 1954, are adequate. Congress must recognize its own failures and those of its chosen instrument, the FPC, and remove the cloud over the sale of natural gas in interstate commerce. Earlier this year, I introduced legislation, H.R. 3299, that would take the FPC out of the business of regulating the sale of natural gas in interstate commerce—directly, or as Federal agencies sometimes do, indirectly. Market forces would control the sale of gas by producers—both independent producers and affiliates of pipelines who, in desperation, are competing for leases so new supplies can be attached for use by consumers. For gas now being sold in interstate commerce the existing contracts could, for the first time, be honored as the parties negotiated them in the first place, but which have been overridden by the FPC. Gas sold in the future would be regulated by the contracts, not by the FPC's judgment as to what a contract should contain. Thus, the disincentives of regulation would be removed, and there would be no regulatory impediment to exploration and development of reserves. The consumer would benefit in expanded gas supplies from assured domestic sources and at a price far cheaper than the exotic alternatives of freezing gas in Algeria or Russia and transporting it by tanker to our shores at a cost of $1.30 a million cubic feet up, as compared to the current average price under regulation of about 0.20 per million cubic feet. The FPC has already approved a base load project of Algerian LNG for our east coast, and that is not all. Also at a cost of $1.30 a million cubic feet and up, pipelines are turning to manufacturing synthetic gas from naphtha and natural gas liquids, thereby threatening to increase the shortages of vital feedstocks for manufacturing. How the FPC can hold the wellhead price on an area rate basis to 26 cents in south Louisiana and, at the same time permit gas to be sold at $1.30 a million cubic feet from a plant is explained by the way the Natural Gas Act has been construed, but the result is intolerable to the American consumer. I urge the Congress to join me in enacting this amendment which will allow natural gas to compete on equal terms with oil and coal in the interstate market. By turning our free enterprise system loose, private industry will solve this problem quicker than all of the Government regulations we can pass into legislation.

Mr. KEMP. Mr. Chairman, I compliment the gentleman from Texas (Mr. PRICE) on his remarks to join him in urging the deregulation of natural gas at the wellhead.

It seems appropriate, Mr. Chairman, as we proceed with this amendment, to examine carefully some of the major points around which this debate is centering. I refer, specifically, to the concern over profits and the efficacy of deregulation of fuels such as natural gas.

Much of the debate today has centered on profits. Somehow, there seems to be some taint attached to the word "profits," as if they were some evil product to be disdained by good citizens.

I cannot help but say that I regard this as most unfortunate. There is nothing wrong with profits, per se.

Without profits, there can be no surplus funds from which to increase production by reinvestments of capital.

Without profits, there can be no surplus funds from which to meet employees' salary boosts.

Without profits, there can be no funds from which to pay investors whose hardearned dollars provide the financial backbone for our industrial system and the diversity of investors which, in itself, helps to distribute personal income more evenly among our people.

Without profits, there can be no incentives for businessmen, from the mom-and-pop grocers to major producers, to go into business, thereby creating jobs and incomes for others.

Profits are incentives to production. Profits are the means for capital formation requisite to the production of additional personal income for our people.

We should, therefore, not look upon profits as some evil but rather as a vehicle through which we can resolve a great measure of this energy crisis by stimulating production.

What are the facts about profits in petroleum industry?

PETROLEUM INDUSTRY PROFITS

Historically, the petroleum industry's profitability has been lower than the average for all manufacturing industries.

Based on comparative studies by the First National City Bank of New York,[1] over the last 10 years, 1963 through 1972, net income as a percent of net worth in the petroleum industry averaged 1.8 percent. For the same period, the ratio for all manufacturing industries in the bank's survey, averaged 12.2 percent. See table I. or more than half of this period, 7 out of 10 years, the profitability of the petroleum industry was lower than the all-manufacturing average. Of particular significance for current analysis is the fact that the petroleum industry's rate of return has been on an almost uniform downtrend since 1968, dropping to a 10-year low in 1972. In that year, the petroleum industry's rate of return was 10.8 percent, as compared to a manufacturing average of 12.1 percent.

Turning to the more recent record, according to the latest Federal Trade Commission report,[2] petroleum industry profits for the four quarters ending in June 1973, were 10.5 percent above the comparable year-earlier period. Over the same two annual periods, profits of all manufacturing corporations increased by 28.1 percent. See table II.

In terms of the critical yardstick of profitability, petroleum industry profits as a percent of stockholders' equity has grown from 9.2 percent to 9.6 percent, between these two periods, an increase of 4.3 percent. Over the same time span, average manufacturing profits have risen from 10.0 percent to 11.8 percent, an increase of 18 percent.

These data make clear not only that the rate of return in the petroleum industry is substantially below that of the average for all manufacturing corporations, on an absolute basis, but that manufacturing corporations generally have increased their profitability, in the past 2 years, by more than four times the rate for petroleum refining.[3]

Assertions as to the growth of petroleum industry profits have been based on comparisons of individual quarterly results in 1973 and 1972. The fallacy underlying these comparisons is that petroleum profits were falling to a 10-year low in the 1972 base periods, while average manufacturing profits were rising. Hence, the ostensible quarterly growth in petroleum profits actually represents recovery from depressed profit levels rather than real profit trends.

These misleading statements have frequently attributed the rise in petroleum profits to unwarranted increases in petroleum product prices. But such price increases as have been allowed by the Cost of Living Council have been based on fully documented increases in costs, particularly the sharply rising costs of imported crude oil and products. For example, in recent months the landed costs of imported crude oil have risen to more than $7 a barrel, while No. 2 home heating oil has ranged from 35 cents to 45 cents a gallon.

The damaging consequences of distorted allegations of high petroleum profits is that they divert attention from the large capital expenditures that are needed to assure the Nation of reasonable self-sufficiency in oil and gas resources. According to estimates by the Chase Manhattan Bank, the domestic capital requirements of the petroleum industry over the 15 years, 1970 to 1985, will total $220 billion.

TABLE 1.—NET INCOME AS A PERCENT OF NET WORTH: PETROLEUM, OTHER SELECTED INDUSTRY GROUPS, TOTAL MANUFACTURING AND TOTAL MINING 1963 THROUGH 1972

Industrial groups	1963	1964	1965	1966	1967	1968	1969	1970	1971	1972[1]	10-year average 1963–72
Drugs and medicines	18.7	19.8	21.2	22.5	20.3	19.8	17.7	18.8	19.0	19.7	19.5
Soap and cosmetics	16.9	17.6	17.0	17.9	19.4	18.9	18.6	18.7	19.3	20.4	18.7
Instruments, photo goods, etc	13.4	16.6	19.2	21.2	20.3	19.2	18.7	15.8	15.4	16.8	17.6
Office equipment and computers	18.0	17.9	18.7	18.1	17.8	19.0	17.4	13.9	12.5	13.8	15.8
Autos and trucks	19.6	19.9	23.4	17.8	12.0	16.6	13.8	5.8	15.0	17.2	15.6
Tobacco products	14.0	13.4	13.3	13.9	14.8	14.6	14.6	16.4	16.6	16.2	14.9
Printing and publishing	12.4	14.6	16.9	17.9	15.4	14.9	14.8	12.5	12.6	13.7	14.3
Household applicances	12.8	14.1	15.0	15.0	14.7	14.0	13.5	11.9	12.1	15.4	13.8
Clothing and apparel	12.0	13.6	16.3	16.2	13.6	15.7	13.3	10.7	10.8	11.1	12.8
Electrical and electronic equipment	10.7	11.1	14.8	16.7	15.4	14.1	13.0	10.1	10.7	13.0	12.7
Dairy products	11.2	12.2	12.5	12.6	11.8	11.7	11.8	12.0	12.6	12.6	12.1
Chemical products	13.2	14.2	15.4	14.6	11.5	11.7	11.4	9.5	9.7	11.3	12.0
Automotive parts	11.4	12.2	13.4	14.0	11.4	12.6	13.0	8.9	10.4	13.1	11.9
Lumber and wood products	8.1	11.5	11.5	11.0	9.4	14.1	15.2	10.2	11.2	13.9	11.9
Petroleum production and refining	11.5	11.5	11.9	12.6	12.8	13.1	11.9	11.0	11.2	10.8	11.8
Glass products	11.6	12.1	13.5	12.7	11.1	11.9	12.2	9.0	11.1	12.5	11.7
Farm, construction equipment	9.4	13.7	14.4	14.7	10.9	8.4	10.4	9.3	8.8	12.1	11.1
Aerospace	11.7	13.1	15.4	15.7	13.4	13.9	11.4	6.7	6.3	8.8	11.0
Rubber and allied products	9.9	11.4	11.8	12.8	10.8	12.7	11.1	7.6	9.8	11.7	10.9
Nonferrous metals	7.1	9.2	11.8	15.7	11.4	11.1	12.5	10.6	5.0	7.2	10.0
Distilling	7.9	8.5	9.6	10.4	10.5	10.2	10.4	10.1	10.3	10.7	9.9
Building, heating and plumbing equipment	6.4	8.9	10.6	12.0	11.3	11.3	8.5	7.0	8.4	11.6	9.6
Paper and allied products	9.2	10.5	10.5	11.8	9.5	10.7	10.3	7.4	5.6	8.7	9.2
Textile products	7.1	8.9	11.6	12.3	8.8	9.8	8.8	6.4	6.6	7.8	8.7
Iron and steel	7.3	9.0	9.6	9.4	7.4	8.5	7.4	4.6	4.6	6.2	7.3
Total mining	9.1	10.4	12.1	13.9	16.2	15.0	12.6	11.7	8.5	9.6	11.7
Total manufacturing	11.6	12.6	13.9	14.2	12.6	13.3	12.4	10.1	10.8	12.1	12.2

[1] Preliminary.

Source: First National City Bank, Monthly Letter, April of each year. May 1973.

PROFITS

	Petroleum			Total manufacture		
	Actual	Number of companies	Percent change	Number of companies	Actual	Percent change
1963	3,920	115	+14	2,280	16,261	+10.0
1964	4,239	122	+7	2,328	18,774	+15.0
1965	4,638	109	+10	2,298	21,753	+17.0
1966	5,175	106	+12	2,279	24,074	+9.0
1967	5,696	107	+10	2,292	23,307	−5.0
1968	6,128	99	+8	2,250	26,067	+11.0
1969	6,087	91	0	2,068	26,650	+2.0
1970	5,892	97	−2	2,127	23,413	−12.0
1971	6,419	96	+8	2,319	26,971	+13.0
1972	6,525	108	+2	2,414	31,959	+19.0
Total increase	+66.5					+96.5

TABLE II

	After-tax profits (million dollars)		Return on stockholders' equity (percent)	
	Petroleum refining	All manufacturing	Petroleum refining	All manufacturing
1971:				
III	1,508	7,538	10.6	9.3
IV	1,407	7,980	9.8	9.8
1972:				
I	1,287	7,934	8.8	9.5
II	1,095	9,633	7.4	11.3
Total	5,297	33,085	9.2	10.0
1972:				
III	1,296	8,776	8.7	10.1
IV	1,478	10,125	9.8	11.5
1973:				
I	1,406	10,506	9.2	11.6
II	1,671	12,972	10.7	14.0
Total	5,851	42,379	9.6	11.8
Percentage change:				
1971/III–1972/III			−14.1	+16.4
1971/IV–1972/IV			+5.0	+26.9
1972/I–1973/I			+9.2	+32.4
1972/II–1973/II			+52.6	+34.7
1971–72 to 1972–73			10.5	+28.1

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[1] First National City Bank, Monthly Letter, April of each year.

[2] Federal Trade Commission, "Quarterly Financial Report for Manufacturing Corporations", Washington, D.C.

[3] Profits in petroleum refining include the integrated profits of corporations engaged in refining and other phases of petroleum industry operations.

DEREGULATION OF NATURAL GAS

I addressed this Chamber in yesterday's session on the need to resolve the present energy shortages in the most immediate way—by an increase in production and supplies stemming therefrom.

Instead of strangling the market economy and the consumer—the little guy—with new Federal programs, regulations, agencies, czars, and bureaucracy, and instead of requiring a mandatory allocation or rationing system or excessive surtaxes, why not increase production?

The answer is increasing supplies, not trying to force our citizens to live with inadequate supplies.

Rationing may treat everyone and every industry on an equitable basis, but that is of little good when the diminished quantities of supplies available, no matter how equitably distributed, are so inadequate that they result in massive shutdowns of industries, layoffs of employees, and, in summary, a crippling of the economy of such proportions that a major recession or even depression is unavoidable. Is this what we want to be held accountable for—that the Congress so misjudged the nature of the energy problem that it felt it more appropriate to try to live with inadequate resources than to produce more adequate supplies?

Natural gas is not the only answer, but it is a very major one.

The Washington Post has editorialized on this, as follows:

> The solution is to deregulate the price of natural gas at the well. No one can forecast accurately how high the price might go if the regulation were lifted. Most specialists guess that it would go up to a level somewhere between twice and three times its present price—which is to say, between 40 and 60 cents a thousand cubic feet. Adding the cost of transporting that gas to Washington, the price would still be less than a dollar. It would still be one-third less than that imported from Canada or Algeria.

We need the increased production that only deregulation will bring about. I am interested in the consumers of my district who need more gas and oil. And who do not want to rely on the Arabs.

Mr. FRENZEL. Mr. Chairman, the windfall profit section (117) of this bill is dreadful. As one Member has just stated, it has the wrong definition of windfall profit, the wrong administrator, and the wrong process.

Under the bill's language, there can be no incentive to produce and sell more energy. We desperately need more energy. We should prevent excess profits, but if we deny reasonable profit, as I think this bill does, we will also deny ourselves greater supplies of energy. Who will search out and produce new energy if his investment and risk will deliver an unsatisfactory return? But, just as the bill is an overreaction, so the Broyhill amendment may be underreaction.

It does not stand in the place of an excess profits tax. It does not because it cannot. That legislation must come from the committee to which we have given jurisdiction over taxes. But the amendment has a saving grace. It obligates the President to bring legislation to us in 60 days on excess profits, and on reinvestment of profits to increase the energy supply. This mandate has already been answered by the statement of the distinguished minority leader that the President would send up excess profits legislation after the state of the Union message.

It is hard to explain to constituents a vote against a stronger "windfall profit" section, but I suspect it may be harder to explain if the shortages are worse than they need be. Catch phrases do not make good legislation. I shall vote for the Broyhill amendment because the language of this bill is impossible.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. YATES).

(By unanimous consent, Mr. YATES was allowed to yield his time to Mr. ECKHARDT.)

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Chairman, I feel the discussion here has more muddied than clarified the meaning of this section. Of course, this section has absolutely nothing to do with taxation; it has to do with profits, yes, but the only time that the Committee on Ways and Means has jurisdiction concerning profits is when it is dealing with such matters as an excess profits tax.

All of our committees deal with profits. For instance, the Committee on Merchant Marine and Fisheries deals with profits with respect to shipbuilding subsidies; the Committee on Banking and Currency deals with profits with respect to interest.

This is merely a provision that the Federal energy Administrator shall establish provisions preventing windfall profits. Then the Renegotiation Board, if it finds that windfall profits come about anyway, has the authority with respect to particular sellers of crude to make them divest themselves of those profits by simply paying back to those who are overcharged the excess by which they were charged.

There is nothing in this act that could impliedly give the President authority to tax. As a matter of fact, the President cannot even administer the establishment of prices, in the first place, as the bill is presently drawn; this is within the Federal Energy Administration. There is no implication of taxing power. The bill is very carefully drawn to provide administrative process and judicial review respecting exercise of agency powers.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. VANIK).

Mr. VANIK. Mr. Chairman, as a member of the Committee on Ways and Means I have looked at the language in the legislation, and I do not see any taxing power either direct or implied. I want to say that I oppose the language of the proposed amendment because all I can see is that the American consumer is going to have to pay about $15 billion more for energy, and I do not see anything substantial coming into the Treasury. I think if we receive $2 billion from this industry it will be a great achievement, and that $13 billion to $17 billion looks as though it is going to end up in someone's pocket. I think that something ought to be done to direct attention to the excess profit that is taking dollars out of the diet of every American family in this country.

The CHAIRMAN. The Chair recognizes the gentleman from Indiana (Mr. DENNIS).

Mr. DENNIS. Mr. Chairman, the chance to make a reasonable profit is what makes production, which in turn ends the shortage, and brings down the price. These are perfectly plain economic facts. I do not want to characterize any arguments to the contrary as demagogic because that would be unkind as well as unparliamentary. But I think the people whom I represent are plenty smart enough to understand these facts, whether we here are or not.

The CHAIRMAN. The Chair recognizes the gentleman from Washington (Mr. ADAMS).

Mr. ADAMS. Mr. Chairman, this is a simple process whereby reasonable profits will be determined as compared to a base period no oil company has to worry about excess profits, if they put their money into exploration, spend their money on expenses, and charge a fair price. Fair profits thus can be protected. Part of the principle of this section is to see that they make a real effort at exploration, because although we have had the so-called incentive of the depletion allowance for many years, and yet we have a shortage. In the past few months we have seen the oil industry still advertising that there should be more consumption. We have seen them oppose oil imports into the United States to protect their system. All we are trying to do in this proposal is to say to the oil companies put your money into exploration, and you will not have any excess profits that anybody can take back from you under the Renegotiation Board, and you will be in the position where you will be increasing the Nation's oil supply.

There was mention earlier of why some of us are complaining about the supply situation, well we have not been able to force the oil companies to tell us what the country's oil reserves are. We have demanded it, and we have not received it.

The CHAIRMAN. The Chair recognizes the gentleman from North Carolina (Mr. BROYHILL).

Mr. BROYHILL of North Carolina. Mr. Chairman, I sense that every member of this committee wants to do something about what they call windfall profits, or excess profits, or profits that are too high. I submit to the Members that the way to do it is to vote for my amendment. It is not going to be done with the language which is in this bill because the language which is in the bill is completely unworkable. It is an administrative monstrosity. It sets up conflicts that the courts will never be able to unravel. My amendment says that the President shall exercise the authority not only under this act, but under the Economic Stabilization Act, so as to promise no more than a reasonable profit.

It also calls upon the President to submit recommendations. We can in this House provide for excess profits taxes, if this is what this body wants to do, to provide for incentives, or to provide for a provision that the oil companies put their depletion alowances into further exploration, or whatever they want to do. This is the way to approach this problem.

The CHAIRMAN. The time of the gentleman has expired.

Mr. STAGGERS. Mr. Chairman, I think the subject has been well debated on each side, and I think most Members have made up their minds.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from North Carolina (Mr. BROYHILL) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. ADAMS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 188, noes 213, answered "present" 1, not voting 30, as follows:

[Roll No. 664]

AYES—188

Abdnor
Anderson, Ill.
Andrews, N. Dak.
Archer
Arends
Armstrong
Ashbrook
Baker
Bauman
Beard
Blackburn
Boggs
Bray
Breaux
Brinkley
Brooks
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Burgener
Burleson, Tex.
Butler
Carter
Casey, Tex.
Cederberg
Chamberlain
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Collins, Tex.
Conable
Conlan
Coughlin
Crane
Daniel, Dan
Daniel, Robert W., Jr.
Davis, Ga.
Davis, Wis.
de la Garza
Denholm
Dennis
Derwinski
Devine
Dickinson
Dorn
Downing
Duncan
Edwards, Ala.
Esch
Eshleman
Findley
Fisher
Flood
Flynt
Forsythe
Frelinghuysen
Frenzel
Frey
Fuqua
Gettys
Goldwater
Goodling
Green, Oreg.
Griffiths
Gross
Grover
Haley
Hammerschmidt
Hansen, Idaho
Harvey
Hastings
Hébert
Hinshaw
Hogan
Holt
Horton
Hosmer
Huber
Hudnut
Hutchinson
Ichord
Jarman
Johnson, Colo.
Johnson, Pa.
Jones, Okla.
Kazen
Keating
Kemp
Ketchum
King
Kuykendall
Landrum
Lent
Long, La.
Lott
McClory
McCollister
McEwen
McSpadden
Madigan
Mahon
Mailliard
Mallary
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Mayne
Michel
Milford
Minshall, Ohio
Mizell
Montgomery
Moorhead, Calif.
Myers
Nelsen
O'Brien
Parris
Perkins
Pettis
Pickle
Poage
Powell, Ohio
Price, Tex.
Quie
Quillen
Rarick
Regula
Rhodes
Roberts
Robinson, Va.
Robison, N.Y.
Rousselot
Ruppe
Ruth
Ryan
Satterfield
Scherle
Schneebeli
Sebelius
Shipley
Shoup
Shriver
Shuster
Sikes
Sisk
Skubitz
Smith, N.Y.
Snyder
Spence
Stanton, J. William
Steed
Steelman
Steiger, Ariz.
Stephens
Symms
Talcott
Teague, Calif.
Teague, Tex.
Thomson, Wis.
Towell, Nev.
Treen
Ullman
Vander Jagt
Veysey
Waggonner
Wampler
Ware
White
Whitehurst
Wiggins
Williams
Wilson, Bob
Wilson, Charles, Tex.
Winn
Wright
Wylie
Wyman
Young, Alaska
Young, Ill.
Young, S.C.
Young, Tex.
Zion
Zwach

NOES—213

Abzug
Adams
Alexander
Anderson, Calif.
Andrews, N.C.
Annunzio
Ashley
Aspin
Badillo
Bafalis
Barrett
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blatnik
Boland
Bowen
Brademas
Brasco
Breckinridge
Broomfield
Brown, Calif.
Buchanan
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton
Byron
Carney, Ohio
Chappell
Cohen
Collins, Ill.
Conte
Conyers
Corman
Cotter
Cronin
Culver
Daniels, Dominick V.
Danielson
Delaney
Dellenback
Dellums
Diggs
Dingell
Donohue
Drinan
Dulski
du Pont
Eckhardt
Edwards, Calif.
Eilberg
Evans, Colo.
Evins, Tenn.
Fascell
Fish
Flowers
Foley
Ford, William D.
Fountain
Fraser
Froehlich
Fulton
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Gonzalez
Grasso
Gray
Green, Pa.
Gude
Gunter
Guyer
Hamilton
Hanley
Hanna
Hanrahan
Hansen, Wash.
Harrington
Harsha
Hawkins
Hays
Hechler, W. Va.
Heckler, Mass.
Heinz
Henderson
Hicks
Hillis
Holtzman
Howard
Hungate
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kluczynski
Koch
Kyros
Latta
Leggett
Lehman
Litton
Long, Md.
Lujan
McCloskey
McCormack
McDade
McFall
McKay
McKinney
Macdonald
Madden
Mann
Maraziti
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Miller
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Natcher
Nedzi
Nichols
Nix
Obey
O'Hara
O'Neill
Owens
Passman
Patman
Patten
Pepper
Peyser
Pike
Preyer
Price, Ill.
Pritchard
Railsback
Randall
Rangel
Rees
Reid
Reuss
Riegle
Rinaldo
Rodino
Roe
Rogers
Roncalio, Wyo.
Roncallo, N.Y.
Rose
Rosenthal
Rostenkowski
Roush
Roy
Roybal
St Germain
Sarasin
Sarbanes
Schroeder
Seiberling
Slack
Smith, Iowa
Staggers
Stanton, James V.
Stark
Steele
Steiger, Wis.
Stratton
Stubblefield
Stuckey
Studds
Sullivan
Symington
Taylor, N.C.
Thone
Thornton
Tiernan
Udall
Van Deerlin
Vanik
Vigorito
Waldie
Whalen
Whitten
Widnall
Wilson, Charles H., Calif.
Wolff
Yates
Yatron
Young, Fla.
Young, Ga.
Zablocki

ANSWERED "PRESENT"—1

Rooney, Pa.

NOT VOTING—30

Addabbo
Bell
Bolling
Burke, Calif.
Camp
Carey, N.Y.
Chisholm
Clark
Clay
Collier
Davis, S.C.
Dent
Erlenborn
Gubser
Helstoski
Holifield
Hunt
Johnson, Calif.
Landgrebe
Mills, Ark.
Podell
Rooney, N.Y.
Runnels
Sandman
Stokes
Taylor, Mo.
Thompson, N.J.
Walsh
Wyatt
Wydler

So the amendment to the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. MOSS TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. MOSS. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The Clerk read as follows:

> Amendment offered by Mr. Moss to the amendment in the nature of a substitute offered by Mr. STAGGERS: Page 29, line 12, strike the period and add: *"Provided further,* That, with respect to allocations of petroleum products applicable to the foreign trade and commerce of the United States, no foreign corporation or entity shall receive more favorable treatment in the allocation of petroleum products than that which is accorded by its home country to United States citizens engaged in the same line of commerce, and allocations shall contain provisions designed to foster reciprocal and nondiscriminatory treatment by foreign countries of United States citizens engaged in foreign commerce."

Mr. MOSS. Mr. Chairman, this amendment, I believe, is noncontroversial. It has been discussed by both the chairman and the ranking minority member of the committee.

It is designed to insure truly reciprocal treatment in allocations between U.S. citizens engaged in commerce and foreign citizens engaged in like commerce in their respective ports.

For example, with an airline arriving, we will say, in Japan and being accorded fueling privileges there, we would extend the same privileges to the Japanese. Being denied those reciprocal privileges, we would not so extend them to the other country.

Mr. STAGGERS. Mr. Chairman, will the gentleman yield?

Mr. MOSS. I yield to the chairman of the committee for his comments.

Mr. STAGGERS. Mr. Chairman, I thank the gentleman for yielding.

I would like to say that I agree with the gentleman's amendment. It certainly complements and would be consistent with the Emergency Petroleum Allocation Act which we passed and which was signed by the President last week.

Mr. Chairman, I am in favor of the amendment.

Mr. BROYHILL of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. MOSS. I yield to the gentleman from North Carolina on this amendment.

Mr. BROYHILL of North Carolina. Mr. Chairman, we have discussed the amendment in some detail, and, of course, we have seen a number of reports where there have been those who are American citizens who have been unable to fuel up in foreign countries, and it seems to me there should be some reciprocal arrangements here, and that is all we are calling for.

Mr. MOSS. Mr. Chairman, I thank the gentleman.

Mr. GOLDWATER. Mr. Chairman, will the gentleman yield?

Mr. MOSS. I yield to my colleague, the gentleman from California, who is the author of the original amendment from which this amendment was written.

Mr. GOLDWATER. Mr. Chairman, I thank the gentleman for yielding.

I also support the amendment. I think it does take care of a very critical problem.

Mr. KUYKENDALL. Mr. Chairman, will the gentleman yield?

Mr. MOSS. I yield to the gentleman from Tennessee.

Mr. KUYKENDALL. Mr. Chairman, I wish to commend the gentleman.

This has become quite a serious thing, that our carriers have not been able to get properly fueled overseas. I think we are going to have to take this kind of a realistic approach.

Mr. Chairman, I support the amendment.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. MOSS. I yield briefly to the gentleman from Iowa (Mr. GROSS).

Mr. GROSS. Mr. Chairman, this would also have the purpose of assuring that any congressional junketeers in the recess ahead would be able to get out and get home, might it not?

Mr. MOSS. That might be one of the unimportant consequences.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. MOSS. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, I thank the gentleman for yielding.

I rise to ask the gentleman a question which might very well apply to the amendment on this Energy Emergency Act, H.R. 11450.

Is it the Committee's view that this section should be carried out in full consultation with the Department of State to insure that foreign policy considerations are taken into account not only in the cases of Canada and Mexico but also with respect to other countries?

Is it also the Committee's intention that controls on coal exports be fully coordinated with all other agencies having authority for our overall export control program?

Mr. MOSS. Mr. Chairman, since this inquiry goes beyond the scope of my immediate amendment, I yield to the Chairman of the full Committee, the gentleman from West Virginia (Mr. STAGGERS) for a response.

Mr. STAGGERS. Mr. Chairman, in response to the inquiry of the gentleman from Florida, I would like to say that the Committee does not wish to diminish the existing authority of other agencies charged with responsibility for the coordination of either our foreign policy generally or any aspect of our foreign economic policy. All actions of the Federal Energy Administration should be closely coordinated with existing agencies and this is especially true in the area of foreign policy.

Mr. FASCELL. Mr. Chairman, I thank the gentleman.

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. MOSS. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Chairman, I would like to ask a question of the distinguished chairman of the committee.

I have received a call from a gasoline station operator in my district, and he says that under his contract with his distributor he is ordered to stay open 72 hours a week.

Now, my question is: Would the distinguished chairman of the committee consider this as an unreasonable requirement, in view of the State or Federal laws which may reduce the hours of operation?

Mr. MOSS. I believe that this is not encompassed in any manner in the amendment now pending. I hope the gentleman from Ohio would seek time at an appropriate point in the bill to direct that question to the chairman.

Mr. Chairman, I ask that the amendment be agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Moss) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. NELSEN TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. NELSEN. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The Clerk read as follows:

Amendment offered by Mr. NELSEN to the amendment in the nature of a substitute offered by Mr. STAGGERS: Page 7, line 21, strike out the first period and the quotation marks.

Page 7, insert after line 21 the following:

"(k) If any provision of the regulation under subsection (a) provides that any allocation of residual fuel oil or refined petroleum products is to be based on use of such a product or amounts of such product supplied during a historical period, the regulation shall contain provisions designed to assure that the historical period can be adjusted (or other adjustments in allocations can be made) in order to reflect regional disparities in use, or unusual factors influencing use, of the product in the historical period. This subsection shall take effect 30 days after the date of enactment of the Energy Emergency Act."

Mr. NELSEN. Mr. Chairman, this body will recall that yesterday I offered an amendment that would try to strike the provisions presently used of using the year 1972 as a basis on which to allocate fuel.

Under this substitute, my amendment, which has been redrafted by the staff, uses a historical period and it has been drafted with the idea of giving more fair treatment which may not prevail under present regulations in allocation of fuel to consumers.

I believe this amendment is totally noncontroversial. I have cleared it with the chairman, as I should have done yesterday, and with the staff people. It has been cleared on this side and on the majority side as well, and I hope it will be adopted.

Mr. KAZEN. Will the gentleman yield?

Mr. NELSEN. I yield to the gentleman.

Mr. KAZEN. It is real fine and well for the chairman and the members of the committee to know what is in the amendment, but what about the rest of us? Will the gentleman please explain to us what this amendment does?

Mr. NELSEN. Under the present system of allocation of fuel—I used an example yesterday of a school being built in 1973 which had no history of fuel allocation under the present regulation in which 1972 is the year in which they presently make an allocation. Yesterday I tried to move it up to 1973 and found there were those who felt that 1973 might be unfair to somebody else. I went to the staff who have come up with the language: "in order to reflect regional disparities in use, or unusual factors influencing use, of the product in the historical period." They set it up so that there is a sort of historical period and they give some flexibility in allocation. I think it would be more fair to more people than the present law.

Mr. KAZEN. Is that historical period a period of a month or a year or a quarter or what?

Mr. NELSEN. The historical period is a period, it is not a specific day or a month, but a period, and this would, of course, give administrative authority for the allocation of fuel.

Mr. KAZEN. Mr. Chairman, if the gentleman will yield further, yesterday the gentleman gave his example as to why the gentleman had offered the amendment. I would tell the gentleman this: that on the basis of a month, the same amount given this month as was used last year in the same month is very unfair as far as my people are concerned, because my farmers had a very wet November, and they did not use the gasoline last year. This year they were able to use it, but since they did not use it last year during that month they were going to be denied it this year. So, as far as my people are concerned, the year period would work a lot better than a month period.

Mr. NELSEN. I would say to the gentleman from Texas that I would agree with his observation, but under the present system of allocation that is being used the problem the gentleman cites is not met. Under the amendment I have now drafted the historical period, and the flexibility it gives in the administration by the authorities in charge, could accommodate the problem the gentleman cites, and the one that I am trying to cure. I am sure we are in agreement.

Mr. KAZEN. I believe we are. The only question in my mind is the difficulty of defining the historical period because these fellows downtown can come up with the darndest answers, and their solutions may not be what this Congress intends for them to be.

Mr. NELSEN. I would say to the gentleman from Texas that this comes much closer to his objectives than the present regulations provide, and as they are administered, it gives the flexibility, and certainly the directive of the Congress, are indicated in this amendment. It does give congressional intent which would propel them to attend to the problems the gentleman from Texas cites, and I am aware of.

Mr. KAZEN. Let me ask the gentleman from Minnesota a question.

The CHAIRMAN. The time of the gentleman has expired.

Mr. KAZEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let me ask the gentleman from Minnesota a question.

Under the bill as it is now written, the substitute that is before us, my understanding is that the base period is 1 year; is that correct?

Mr. NELSEN. Not in the bill. The present law as presently administered, is now established to be the year 1972. It also provides that you go back to the same calendar month to the year 1972 that you are presently asking for this allocation, and in many cases 1 single month presents to the individual whom one is concerned about a very serious situation.

What this amendment will do is to provide that the historical period can be adjusted so other adjustments in allocation can be made so that there is some flexibility. So I hope the people that the gentleman from Texas is concerned about, as well as mine, will be covered.

Mr. KAZEN. I thank the gentleman from Minnesota.

Mr. Chairman, my impression was that under the provisions of the bill, that the gentleman from Minnesota is trying to amend, that there was a base of 1 year, but apparently it is silent on that point. Is that correct?

Mr. NELSEN. If the gentleman will yield, the gentleman is correct. And under the illustration cited before under the amendment this will make them give more attention to the problem the gentleman from Texas cited through the amendment we are now offering to the bill.

Mr. KAZEN. Mr. Chairman, I would ask the gentleman from Minnesota what the effect of the gentleman's amendment is going to be upon the regulations that were just announced yesterday as far as priorities are concerned, and the fact that the first three or four categories will have all the fuel they need, but the people at the bottom will have less fuel? What effect does the gentleman think his amendment will have on that?

Mr. NELSEN. I do not think it will have any effect on that at all. This deals with only what I cited to the gentleman. And I will say to the gentleman that I am as concerned as the gentleman is, and I hope and pray that these adjustments will have the result of doing what the gentleman from Texas wants, and what I want.

Mr. KAZEN. I thank the gentleman.

Mr. TEAGUE of California. Mr. Chairman, will the gentleman yield?

Mr. KAZEN. I yield to the gentleman from California.

Mr. TEAGUE of California. Mr. Chairman, I have generally the same problem in my district in California, as apparently the gentleman does, or a comparable problem in that we have some warm winters and some cold winters, and we sometimes have to use orchard heaters. And it is likely that they would have to base the amount of fuel they need for their orchard heaters in December 1973, compared to what they have gotten in 1972. I hope we are making legislative history here. It is the intention of Congress that the period be extended, if possible, to a full year or even more so that equity will be really attained.

Mr. KAZEN. I thank the gentleman for his contribution.

Mr. RANDALL. Mr. Chairman, will the gentleman yield?

Mr. KAZEN. I yield to the gentleman from Missouri.

Mr. RANDALL. I thank the gentleman for yielding. We understood that there was going to be some amendment for agriculture and particularly diesel fuel. In this debate the last few days we cannot get the word "agriculture" in edgeways. The gentleman speaks about the historical period. Can we not be specific and say it is going to be December of this year as against December of last year. Are we talking about anything like that?

Mr. KAZEN. I think that what the gentleman is saying is right, but I do not believe that he wants to stick to the same amount for this year in a particular month, as he used in that month last year.

Mr. RANDALL. I thought that was the purpose of the gentleman's amendment.

Mr. KAZEN. No. The purpose, as I understand it, and I think that in the colloquy we made it clear, that it was not to be a month but for a historic period which could be as much as a year, as I understand, or maybe a little more than a year, or a season.

Mr. NELSEN. Mr. Chairman, will the gentleman yield?

Mr. KAZEN. I yield to the gentleman from Minnesota.

Mr. NELSEN. I thank the gentleman for yielding.

Under the present allocation, they are using the year 1972 as the authority provided in the Allocation Act. What they have been doing is if one applies for fuel, we will say, in October, they then go back to the month of October in 1972 to determine what his allocation will be, and this has resulted in unfair treatment of many people who might not fit into that kind of a category. So yesterday I tried to move it to 1973, feeling it would be fairer, but that I find even would be unfair to some, so this will provide that they can use a historical period, not a day or two days or a month or a week, but a period to make the determination and then allocate the fuel.

Mr. KAZEN. It would be possible to go back to that same month, because that would be a period.

Mr. CONTE. Mr. Chairman, I am particularly distressed that the House has passed, by voice vote, the Nelsen amendment concerning base period allocations. This amendment, if enacted into law, will be another cruel blow for the New England heating oil consumer.

The effect of this amendment will be to destroy the independent sector of the oil industry in the Northeast. This amendment is a sell-out to the big oil barons.

This amendment was considered and rejected in the committee. It was offered and withdrawn yesterday.

Presently, the allocation regulations provide that deliveries should be made based on what was sold and delivered in 1972. That was the last year that independents received deliveries from the majors that were anywhere near adequate.

Beginning in the first quarter of 1973, the major oil companies started cutting back on their fuel deliveries to independent marketers. As the year progressed, the deliveries steadily dwindled.

By moving the allocation period into 1973, as the Nelsen amendment provides, independents will be steadily squeezed until many of them will disappear.

The ultimate losers will be the consumers of New England and the Northeast who depend on independent dealers. In my region, 40 percent of the total supply of heating oil is provided through independent wholesalers. If they can find a new supplier, they will find prices steeply higher and service lower.

With this amendment, I do not believe that I will be able to support this bill. I am asking my colleagues to defeat the Nelsen amendment when the House reconvenes as the Committee of the Whole House and has the opportunity to review amendments that were adopted earlier.

Mr. MAYNE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I take this time to respectfully differ with Congressman KAZEN's interpretation of the regulations announced yesterday. My good friend, the gentleman from Texas, stated that under the regulations announced yesterday, the top categories, including agriculture, would be getting all of the fuel that they need.

If I could have the attention of my good friend, the gentleman from Texas, I do not agree that under the regulations announced yesterday agriculture will have all the fuel that it needs. It will get 110 percent of the fuel consumed during the 2-months period from November 1972, to November 1973. I think that in view of the greatly increased demands on agriculture for more acres, for example, 19 million more feed grain base acres being put into production, much greater productivity being asked for, I seriously doubt whether this additional 10 percent over last year is going to be sufficient to meet the needs of agriculture, so I would suggest to the gentleman that it is inaccurate to say agriculture has no problem and that the top categories are going to get all they need. I think it is very doubtful whether agriculture will.

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. MAYNE. I yield to the gentleman from Texas.

Mr. KAZEN. I thank the gentleman.

Let us make sure that we understand. This was my understanding from reading the reports in the press and on the radio, and reading the report itself. It was my understanding that those categories would have the amount of fuel that they actually need. Am I wrong in that interpretation?

Mr. MAYNE. I believe that is an erroneous interpretation. I note that the very distinguished chairman of the House Committee on Agriculture, the gentleman from Texas (Mr. POAGE) is in the Chamber. He had Mr. William Simon, the new energy czar, meet with our committee the night before last just before the new regulations were announced. According to Mr. Simon, there will be a base period of from November 1972 to November 1973 and everyone directly in agriculture plus all those in agricultural processing and in transportation of agricultural products will be able to count on 110 percent of the fuel they consumed during that 1-year base period. But I fear that is just going to be barely enough for farmers in much of the country and not enough in many areas of the country.

Mr. KAZEN. Mr. Chairman, if the gentleman will yield further, it is my understanding what I was speaking about now was they could have all the gasoline they would need but not as far as diesel was concerned.

Mr. MAYNE. Chairman POAGE put that question directly to Mr. Simon and he replied that the 110-percent allocation will apply to all types of fuel; propane, gasoline, and diesel oil, and everything else in the entire range of fuel. He gave that unequivocal assurance to the Agriculture Committee the night before last.

Mr. RANDALL. Mr. Chairman, will the gentleman yield?

Mr. MAYNE. I yield to the gentleman from Missouri.

Mr. RANDALL. Mr. Chairman, I had a brief discussion of the question with the chairman of the Committee on Agriculture and he related to me that Mr. Simon, the energy czar said yesterday agriculture would be alloted 110 percent diesel fuel but over the base period from November of 1972 to November 1973. I think the gentleman's discussion is very important. Maybe we need a strong amendment to nail down adequate fuel for our farmers and related agricultural needs.

Mr. MAYNE. Mr. Chairman, I think the distinguished gentleman from Texas (Chairman POAGE) would agree with me that Mr. Simon did assure us that it was to apply to all types of fuel for agriculture and not just one. I see that the chairman of the Committee on Agriculture is concurring with me on that.

Mr. STAGGERS. Mr. Chairman, I rise in support of the amendment.

I would like to say I agree with the author of the amendment that there are certain disparities in the land and certain unusual factors which need to be taken into consideration. I think it is a good amendment and I agree with it.

Mr. PICKLE. Mr. Chairman, I move to strike the requisite number of of words.

Mr. Chairman, Members may recall that yesterday I told the House I intended to offer an amendment to the mandatory allocation section of this bill. This section, section 103, was an amendment to clarify the intent of the mandatory allocation bill that we passed last month. Recent events in trying to meet the needs of farmers for diesel fuel demonstrate clearly to me that my amendment must be spelled out in law.

My proposed amendment states that when the President issues an order to implement the allocation of petroleum products to priority users that any supplier of petroleum products who refuses to obey such an order or the intent of such an order will be subject to the civil fines set out in section 111(b) of the Emergency Energy Act.

My amendment has a major purpose in making it clear to the oil companies that when the administrators of the mandatory allocation program tell the suppliers to release needed diesel fuel to farmers that those suppliers are to follow those orders or to face penalties.

Many might ask why this is needed? Mr. Chairman, I could take quite some time in documenting the frustrations of farmers in my district and many others across the Nation in trying to get diesel fuel to harvest their crops and to work their fields. If it was demonstrated that the suppliers did not have the diesel fuel, neither I nor anyone else could complain. It has been indicated, however, Mr. Chairman, and stated to me by local suppliers, that they have the diesel fuel on hand to meet agriculture needs beyond the 1972 allocations, but that they have been instructed by officials of the major oil companies not to release the diesel.

The reason that the agricultural community in my district and throughout the Southwest and the South need more diesel for the winter months of 1973 and 1974 is quite simple.

In the winter of 1972 and 1973 this area of the Nation had very heavy rains. The heavy rains precluded the farmers from using their normal amount of diesel fuel for their tractors and other farm machinery. This year the heavy rains have not come, but despite the fact that the farmers need more diesel and despite the fact that the diesel is available in most instances, the suppliers will not release diesel to farmers beyond the 1972 use.

Normally, this is where the needed flexibility of the administrators of the mandatory program would come into play. This has happened: On November 9 I issued a press release from my office stating that:

> The "Federal allocation authorities are advising Texas petroleum suppliers to temporarily meet farm diesel needs without fear of violating 1972 allocation base periods.

I continued to say:

> The allocation program has not been suspended, but officials realize farmers must harvest their crops.

Mr. Chairman, this release was the result of a personal visit I had with top officials of the Office of Oil and Gas who visited with me in my office.

On November 10 I had to issue another release stating:

> Though Federal officials have sent telegrams to many suppliers advising them to increase supplies to farmers who are now harvesting cotton and other crops, the oil companies have been hesitant to comply.

After the two press releases my office and offices of other Members of Congress continued to receive complaints from agricultural people in our districts stating that they still were not receiving needed diesel supplies, and I feel that for every one farmer who called his Congressman, there were probably four or five more who suffered in silence.

It was obvious that the oil companies, despite instructions from the officials running the mandatory allocation program, were ignoring the plight of the agricultural community. Because of the information I received from farmers in my district, I issued another release before Thanksgiving and in this release I expressed the suspicion and criticism growing about the oil companies' activities with regard to diesel fuel deliveries to farmers. I stated:

> Some major oil companies appear to be deliberately ignoring Federal permission to increase diesel fuel deliveries to Texas farmers.

I stated that oil companies' officials had declined to circulate information from the Federal Government among their Texas distributors stating that farm fuel needs could be temporarily met. I stated:

> The oil companies have known for days that they could release diesel fuel to farmers and this cat-and-mouse stalling could destroy crops or prevent normal planting.

In this release I stated that many farmers believed that the oil companies were stockpiling diesel for future needs or anticipating higher prices.

Mr. Chairman, on December 3, I wrote the new energy Administrator, William Simon, again spelling out the plight of the farmers and the growing suspicion as to the oil companies' motives. In that letter I pointed out that though the Office of Petroleum Allocation had issued three administrative orders authorizing more diesel fuel for farmers, the major oil companies had persistently refused to release the fuel. I noted that some individuals had been able to obtain needed diesel, but that this was on a case-by-case basis.

Mr. Chairman, the purpose of a mandatory allocation program during the time of shortage is to avoid the situation where some are able to obtain needed petroleum supplies while others are left at the mercy of the suppliers. Thus, we can take no comfort in the fact that case-by-case relief has occurred in some instances. This is inequitable.

These developments have led to suspicion among the rural people that the oil companies may be motivated by three things: one, they are hoarding the diesel in anticipation of higher prices; two, they are making selective deliveries; three, that they are diverting the diesel to their retail outlets where they can receive higher prices for the diesel, or perhaps all three factors are motivating the oil companies.

Mr. Chairman, we have embarked on an agricultural policy in this country to increase production. Our agricultural products are the most positive factor in our balance-of-payment situation. The fact that the agricultural community cannot get the fuel to run their machinery to work their fields and harvest their crops can only mean one thing—agricultural output will be down, our balance-of-payment situation will worsen, and the cost of food to the consumer will go even higher.

That is why, Mr. Chairman, this directive must be restated today: to make it clear that to meet the needs and priorities set out in the mandatory allocation bill, the oil companies must follow the orders of the administrators who administer the program under the direction of the President. We have provided penalties of $5,000 per criminal violation and $2,500 for civil violations. These penalties ought to be enforced.

Mr. STAGGERS. As the gentleman

has said, the Emergency Petroleum Allocation Act already contains civil and criminal penalties for violations of orders and regulations. He has cited those; they are $5,000 for criminal violations and $2,500 for civil penalties.

If these are not carried out, the Congress should see that they are enforced. If the gentleman reports any violations, we will put an investigating committee on them and see if they cannot be carried out.

Mr. PICKLE. Mr. Chairman, I thank the gentleman.

I notice that Mr. Simon yesterday issued another directive that these supplies should be delivered. We have had three previous ones. If these are not carried out under the law and supplies are not delivered, then I hope Congress or somebody brings suit to see that that is carried out.

Mr. STAGGERS. That is our intention.

Mr. NELSEN. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. If I have the time, I yield.

Mr. NELSEN. The problem the gentleman cited deals with the supplier bringing his product to a user. Mine deals with the penalties in the allocation and granting of allocation to a user, so we are talking about two different things. I certainly would agree that the point of the gentleman is well taken.

(By unanimous consent, Mr. PICKLE was allowed to proceed for 1 additional minute.)

Mr. PICKLE. Mr. Chairman, I understand that was your approach, but I thought now was the time to bring this matter up in view of the assurance I got from the chairman of the committee that this law is going to be enforced with the penalties. Therefore, I will not offer the amendment, but I thought since it was before us I ought to mention it at this time. I wanted to be sure that if the suppliers and the major oil companies have the fuel and if they are supposed to deliver it, they better let the farmers or dealers have it.

Mr. KETCHUM. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman.

Mr. KETCHUM. I appreciate the remarks of the gentleman in the well. Three times, on three different occasions, those things have happened in the State of California; however, counsel for the oil companies advised the oil companies not to reply until it was published in the Federal Register and it screwed up the allocation and it took 3 whole weeks to get it straightened out.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. NELSEN) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. MOSS TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. MOSS. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The Clerk read as follows:

Amendment offered by Mr. Moss to the amendment in the nature of a substitute offered by Mr. STAGGERS: Page 55, Line 12: After "parking surcharge," insert "management of parking supply, and preferential bus/carpool lane regulations".

Page 55, line 23, after "parking surcharge," insert "management of parking supply, and preferential bus/carpool lane."

Page 56, line 10, after "parking surcharge," insert "management of parking supply, or preferential bus/carpool lane."

Page 56, line 13, after "parking surcharge, insert "management of parking supply, and preferential bus/carpool lane."

Page 56, line 16, after "parking surcharges," insert "management of parking supply regulations, and preferential bus/carpool lanes."

Page 56, line 20, after "parking surcharge," insert "management of parking supply, or preferential bus/carpool lane."

Page 56, line 25, at the end of subsection (C) insert the following:

"The term 'management of parking supply' and the term 'preferential bus/carpool lane' shall include those general activities covered by but not limited to regulations numbered 52.251 and 52.261 through 52.264 as set forth in VOL. 38 of the Federal Register number 217."

Mr. MOSS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD at this point, and that I be permitted to explain it.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MOSS. Mr. Chairman, this amendment is directed to the language on page 55 of the bill where we acted to postpone the effect of orders of the EPA which direct the imposition of parking surcharges. That occurs on line 23 of page 55 of the bill, and we insert, in addition, the language, "management of parking supply, and preferential bus/carpool lane regulations."

Mr. Chairman, we amend this, then, and conform throughout and correct it that the Administrator undertake a study, but before actual implementation the matter must come back to the Congress with the appropriate recommendations and the Congress will have to act affirmatively with affirmative legislative action before such regulations can become effective. In other words, it would be a matter of statutory law rather than regulation.

At the present time in California, and I know in Texas and in some of the New England States, they are under orders to start imposing parking surcharges, to start imposing a first space cost on supplemental and parking in major shopping centers. They are under an order to provide carpool lanes or bus lanes. In many parts of the country this is a totally impractical solution.

I think one of the best examples of the impractical nature of the proposal as a solution is in the Los Angeles metropolitan area, which is considerably removed from my congressional district, but where, for a variety of reasons, mainly because they have there one of the great megalopolis of this Nation built on and about the automobile. If every effort within the power of man were to be undertaken tomorrow to devise an effective mass transit system, there would be a lapse of several years. The full implementation of these order could create chaos.

The same is true in my own area in the valley areas of California, in the State of Texas and in the New England area. I think that bringing this matter back to the Congress with the appropriate recommendations and having it enacted as a matter of our responsibility and not to the Administrator is by far the preferential method of dealing with it.

We have not had a problem in our committee in responding to the legitimate requests of the Environmental Protection Agency, and I anticipate we would not in the future. I strongly urge the adoption of these amendments.

Mr. BROYHILL of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. MOSS. I yield to the gentleman from North Carolina.

Mr. BROYHILL of North Carolina. Mr. Chairman, all this does is add the term "management of parking supply and preferential bus/car pool lane regulations," to the amendment which is already in the bill, and under the provisions of language in the bill a study is required and then affirmative action has to be taken by the Congress before these plans would go into effect.

Mr. MOSS. The gentleman is correct.

Mr. BROYHILL of North Carolina. And it is my understanding that this is where regulations have been proposed by EPA which are unworkable or are causing chaos particularly in the construction of buildings and residences or apartments or other complexes that require parking; is this correct?

Mr. MOSS. The gentleman is correct.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. MOSS. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate the gentleman yielding.

Do I understand now that this amendment will correct many of the inequities that were caused by the issuance of regulations in August and October of this year by the EPA?

Mr. MOSS. That is the precise purpose of the amendment.

Mr. ROUSSELOT. Mr. Chairman, I thank the gentleman.

Before these regulations can now be imposed nationwide by EPA, it will require an action of Congress; is that correct?

The CHAIRMAN. The time of the gentleman from California (Mr. Moss) has expired.

(By unanimous consent, Mr. Moss was allowed to proceed for 2 additional minutes.)

Mr. MOSS. Mr. Chairman, we require two things: A careful study, and then, that the recommendations be made to the Congress, and that will require affirmative action by the Congress, in other words, a legislative decision.

Mr. ROUSSELOT. Mr. Chairman, I thank the gentleman.

I know that both he and the gentleman from California (Mr. LEGGETT) have worked hard on these amendments.

The gentleman from North Carolina

(Mr. Broyhill) has very graciously accepted the amendment. I think it is a good amendment because it returns important powers to Congress. I congratulate the gentleman.

Mr. MOSS. Mr. Chairman, I also wish to thank my colleagues on the Committee on Interstate and Foreign Commerce. The gentleman from California (Mr.. Goldwater), has also worked very diligently on these amendments.

Mr. STAGGERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have looked over the amendment. There is some disagreement on this side.

However, I would like to say that my people back home certainly do not want a super government imposed upon them by an agency that was created by this Congress. They do not want this agency coming and telling them what they must do and what they can do and what they cannot do.

I agree with this amendment and am willing to accept it.

Mr. ROGERS. Mr. Chairman, I rise to strike the requisite number of words.

Mr. Chairman, I, too, realize the situation that some of the communities with the most serious air pollution problems are facing.

Under the provisions of the Clean Air Act, certain requirements to clean up the air have had to be made. I think perhaps in some areas they have been excessive. I would agree with that.

We have tried in this bill to begin to balance the energy problem with the requirements for clean air.

Now, one of the things we have done in the bill to meet this immediate problem during consideration of this emergency legislation, to provide that EPA cannot place any surtax or any other charges on parking in any communities.

Now, I understand this is not completely satisfactory to some of those communities on the parking situation, for instance, communities which have been told that certain lanes should be used for people who ride four in a car or for use as a bus lane.

Now, this type of control has been done in Washington, not because of the air problem, but because of the energy problem.

To simply take away this authority where otherwise it would have an adverse effect on the quality of the air, I think, is a meatax approach, which in this emergency legislation I do not think is wise to do, if we think we still want to have effective clean air legislation.

There is just so much of clean air in the Nation. It is not like oil. You cannot drill it and begin to get it out quickly. It is a product you simply cannot completely replenish in every community.

Let me say that the gentleman from California (Mr. Rees) is going to present an amendment which I think is reasonable and which will approach the problem on a fair basis. It just does not strip them of this parking authority. We have talked to officials of the Environmental Protection Agency, and we know EPA is going to present some recommendations the first of the year on this overall problem.

We ought to do this in a reasoned way rather than in this emergency legislation. We will have to make some adjustments. I understand that.

Mr. MOSS. Will the gentleman yield?

Mr. ROGERS. I will if you will let me finish my statement.

I do think we have met the immediate problem by doing away with the surcharge. I think we all still want to try to maintain the goal of clean air even though we may have to, in limited instances, modify the effective date of the primary standards. We might as well recognize the thing the amendment seeks to prohibit will be done, anyhow, because of the energy crisis.

The gentleman from California (Mr. Rees) as I stated, will present an amendment that I believe is reasonable. It is not a complete taking away of authority from EPA, because there may be some areas where there should be some carpooling for the purpose of preventing air pollution. We have some pretty polluted areas in this country. So let us be realistic about it. Let us listen to the gentleman from California (Mr. Rees) when his amendment comes up. I would urge that the Congress think very carefully before you jump into this emotional amendment.

Mr. SATTERFIELD. Mr. Chairman, I move to strike the last word.

I yield to the gentleman from California (Mr. Moss).

Mr. MOSS. Mr. Chairman, I must quite candidly express real surprise at my friend from Florida, because we have been having conversations and until this moment I did not know of the depth of his feeling of opposition.

Mr. ROGERS. If the gentleman will permit me——

Mr. MOSS. I asked the gentleman to yield, but he did not.

Mr. ROGERS. Since he mentioned my name.

Mr. MOSS. Let me finish my statement.

We are under an order to reduce vehicle motor miles traveled in the San Francisco area by 97 percent by 1977. We are under orders to do the impossible. We are under orders to impose surcharges of anywhere from 50 cents to $2 for a parking space. We are under orders to impose taxes on parking spaces being constructed.

Remember, there are parts of this Nation where there is no existing mass transit and where there is no alternative means of transportation. In some of the very highly complex freeway systems we have difficult situations occurring. Those of us who have driven them in the metropolitan areas of this Nation and particularly in southern California know of the extreme difficulty, if not the almost engineering nightmare that would be created in an effort to create car pool lanes or bus lanes exclusively. It is fairly easy here in the Nation's Capital where we have constructed a bridge paralleling the 14th Street bridge, which was done almost totally for the use of buses and car poolers and which was paid for by the people of the entire Nation. However, the rest of us are not so fortunate in having the Nation pick up the cost of these special features.

So what might be practical here is not practical in another area. All we are attempting to do is to have the practical proposals made and submitted to the objective scrutiny of the Congress, which ultimately has the responsibility anyway.

Mr. Chairman, I do thank my colleague, the gentleman from Virginia, for yielding to me.

Mr. SATTERFIELD. Mr. Chairman, I rise in support of this amendment.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. SATTERFIELD. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I was quite surprised that the gentleman from Florida (Mr. Rogers) was so willing to go along with some of these regulations that have been promulgated by the Environmental Protection Agency. For instance, if these regulations went into effect on July first next year, the zoo in Los Angeles, Calif., would have to charge a tremendous fee for parking where they now have free parking. I am sure the gentleman from Florida does not want to deny people the right to park at the zoo.

Mr. ROGERS. Will the gentleman yield?

Mr. ROUSSELOT. The gentleman did not get time to yield to me. I would like to continue my point, and then I will yield to the gentleman, because I know the gentleman is sensitive on his subject.

The regulations that were promulgated by EPA, and we all acknowledge that part of it was the result of a court action, but still in many parts of the United States they are almost impossible. So I think it would be unwise not to have the EPA come back to the Congress so that we can review these regulations before they so arbitrarily implement them.

I believe that the amendment offered by the gentleman who is on the committee, the gentleman from California (Mr. Moss) and who serves on the commitee with the gentleman from Florida, and who is aware of these regulations, I think the amendment is a very reasonable one. All it does is say that the Environmental Protection Agency must come back on these issues of a parking surcharge, preferential bus lanes, and parking supply, to the Congress. What is wrong with that?

Now I will yield to the gentleman from Florida.

The CHAIRMAN .The Chair will state that the gentleman from Virginia has control of the time.

Mr. SATTERFIELD. Mr. Chairman, I will yield to the gentleman from Florida if I still have time.

Mr. ROGERS. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I might say that the tax that the gentleman is speaking about at the zoo is already prohibited, as the gentleman knows, in the bill.

Mr. ROUSSELOT. Only for 1 year.

Mr. ROGERS. No; it is handled permanently, because there could be no authority to impose a surcharge unless the Congress grants it. The gentleman is incorrect.

Also I would like to point out that I find that the EPA realizes that some changes are desirable, and it will submit a plan for California.

The CHAIRMAN. The time of the gentleman has expired.

Mr. DINGELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I yield to the gentleman from Florida (Mr. ROGERS).

Mr. ROGERS. Mr. Chairman, I thank the gentleman from Michigan for yielding to me.

Mr. Chairman, the Environmental Protection Agency has said that they think it would be an absurdity to have this done in this approach, and that the whole question ought to be looked at. And they realize that—

> Something must be done to alleviate massive social and economic disruption that would result if air quality standards were achieved by the statutory deadline in a few metropolitan areas. We anticipate forwarding our recommendations on this matter to the committee shortly after the first of the year.

I was quoting from a letter from Mr. Quarrels of the EPA.

I think Mr. REES' amendment, along with what is already done in the bill, would handle the immediate effect.

Mr. ROUSSELOT. Mr. Chairman, would the gentleman yield?

Mr. ROGERS. In just one moment, if the gentleman please.

Mr. Quarrels, who is the Assistant Administrator, has stated that EPA will come up with a proposal so that we can look at it in its entirety, and not just two or three shots here at a time.

Mr. DINGELL. Mr. Chairman, I will now yield briefly to the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for yielding.

Mr. Chairman, what the gentleman from Florida has said about a letter of assurances, and all the other kinds of assurances from the EPA, would be fine if that is what had happened in the past. But if the gentleman will remember, there have been all kinds of hearings on this in New York and everywhere else. They have just come right on with all their "wonderful rules and regulations." My belief is we should make it absolutely certain that they must come back to Congress in these important areas.

I thank the gentleman for yielding.

Mr. DINGELL. Mr. Chairman, I yield to the gentleman from Illinois (Mr. YATES).

Mr. YATES. Mr. Chairman, this amendment seeks to use the energy crisis as a possible variation of existing law. I want to talk about another variation of the law, if I may. I want to ask the chairman of this committee, the gentleman from West Virginia (Mr. STAGGERS), a question.

The city of Chicago faces the abandonment of airlines service to Midway Airport on January 4, allegedly attributable to the energy crisis. Several airlines have already indicated their intention to discontinue services as a result of which the airport will have to be closed.

Members of the Illinois congressional delegation conferred yesterday with the Chairman of the CAB to request his help in keeping Midway Airport open. The Chairman, Mr. Timm, took the position that the CAB had no authority to require the airlines to serve Midway Airport, that the airlines were satisfying their obligations under their certificates of convenience and necessity by rendering service only into O'Hare Airport. If that contention is valid, it will result in a drastic curtailment of transportation service to the city of Chicago, to Indiana, and to the State of Michigan.

Does not the chairman, the gentleman from West Virginia, agree with me that the proposed cuts in service are not contemplated by the present energy crisis, and should not the CAB be required to protect the public at this time?

Will the gentleman answer that question?

Mr. DINGELL. Mr. Chairman, I yield to the gentleman from West Virginia, the chairman of the committee.

Mr. STAGGERS. I agree with you. And I join you in serving notice on the air carriers and the Civil Aeronautics Board that the energy crisis is not to be used by the carriers, with sanction by the CAB, to make sweeping cuts in service such as the carriers have proposed for Midway. Sixteen flight deletions out of 16 does not sound right to me.

As you know, the CAB has specific authority, under section 404 of the Federal Aviation Act, to assure the provision of adequate service by the certificated carriers. Section 404 states very clearly that it is the duty of the carriers to "provide safe and adequate service, equipment, and facilities." Likewise, it is the duty of the CAB to see to it that the carriers live up to their responsibility for the provision of adequate service. Both of these duties—the carriers' and the CAB's—should be executed continuously and certainly should not be bogged down in long drawn out administrative and court proceedings.

In context with the emergency nature of the fuel shortage, it is high time for the CAB to move forward—to use some initiative—to exercise its statutory authority over a few weeks, rather than over several years. In a situation such as you have at Midway, they can and should use show cause orders or any other short procedures to meet the emergency nature of the carriers' actions.

I know that the CAB can act with full speed when they have enough motivation. They acted with impressive promptness over 10 years ago when, after the Imperial crash which took the lives of over 90 servicemen down near Richmond, we directed the CAB to clean up the exempt or irregular carriers—and they did. They screened out the unsafe and unfit carriers and gave certificates to the survivors. That was no long-drawn-out proceeding. Similarly, they can and should speed up their procedures on the adequacy question.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman from Michigan yield?

Mr. DINGELL. I yield to the gentleman from New York.

Mr. MURPHY of New York. I thank the gentleman for yielding. I might say to my friend, the gentleman from Illinois, that we have had Chairman Timm of the CAB up in an ad hoc meeting of the New York-New Jersey delegation protesting the cutback of flights between New York and Washington. We found that he was totally uncooperative. He did not understand that the law said adequate service must be maintained as well as safe service. This is now 4 months later. He has done nothing. We have had the FAA Administrator up. He has done nothing but make one speech at a lobbying meeting of the industry. The industry did not agree with him particularly in this area, and it is going to take the Congress to act to insure that adequate transportation is maintained on the Nation's routes, and that the energy crisis is not used as an excuse.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. Moss and by unanimous consent, Mr. DINGELL was allowed to speak for 2 additional minutes.)

Mr. MURPHY of New York. I would say that the energy crisis should not be used for rail discontinuances, for discontinuances of airline flights between essential points, after this Government has authorized common carriage in these areas on the cases presented. We need those services.

Mr. DINGELL. Mr. Chairman, I yield to my good friend, the gentleman from California (Mr. Moss).

Mr. MOSS. Mr. Chairman, I just want to make this observation. It is well and good for the distinguished gentleman from Florida to stand here and tell us that we have assurance of studies and a report back sometime in the next several months, but in the meantime there is a crippling paralysis in construction. There is an uncertainty that makes it impossible to proceed with orderly planning projects which provide employment.

The effect of the pending order in my State is one of paralysis, and people should not be further burdened during a time of crisis by this path of uncertainty while we wait for an administrative agency to correct what they admitted are the excesses of their order which should not have been issued without more care in the first place.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Chairman, with respect to the statement by the distinguished gentleman from New York, it is my contention, and I have had the agreement of the distinguished chairman of the committee, that the CAB currently, under present law, is required to make sure that adequate service is rendered between the cities of the country in accordance with the certificates of the carriers and they should do it without further action on the part of the Congress.

The fact that they are not doing it does not mean they do not have the authority to do it. It is our contention they have the authority and the responsibility to do it and the fact that they are not doing it means they are not living up to their responsibility.

Mr. DON H. CLAUSEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to associate myself with the remarks of the distinguished gentleman from California (Mr. Moss) who is the ranking member from our State on the Interstate and Foreign Commerce Committee.

I support his amendment to restrict the authority of the Environmental Protection Agency to regulate or place a tax or surcharge on parking spaces and areas without adequate input and coordination with the affected communities and parking management people.

I believe the gentleman's amendment is consistent with both the desires of my constituents who are directly affected by the EPA regulations as well as the concepts of traditional American governmental procedures.

The mixed up history of the promulgation of these regulations is a lesson in the need for responsibility of the Congress. In this instance, provisions were added to a House-passed bill by the Senate and were ultimately enacted into law without any debate or hearings by the House and without our being able to develop the kind of legislative history that could have prevented these unrealistic actions.

EPA promulgated clean air standards and then was required by a court order to promulgate rules to achieve the standards. The result was hard to describe in a nontechnical sense but it is either an unrealistic standard in the first place or an unrealistic timetable for achieving the initial standard.

In any event, while I have not the slightest quibble with the need for strict air pollution standards and have personally been intimately involved in the effort to make certain that California be allowed to have more stringent standards than the rest of the Nation, I am also reasonable enough to know that we need not pay the price of unacceptable economic and social dislocation to meet these vital goals

I believe every member of the California delegation is in basic agreement with these views because we are the ones who have lived most closely with the need to solve the air pollution problem. It has always been a team effort in the past just as it is today.

We have attempted to seek solutions to air quality problems on a broad front in a variety of legislative vehicles. The highway bill which was written by the Public Works Committee, of which I am a member, is a good example of that effort.

In that bill we included additional, earmarked funding for urban highways with preferential lanes for carpooling and buses and with segregated lanes for bicycling. Our goal was always to improve the quality of the air and the environment in coordinated, effective ways that would be economically and socially acceptable.

The Moss amendment will help direct EPA in that direction and will also give the Agency a period of time to meet with local governmental officials who, in my judgment, are the best qualified to advise EPA on the course of action it should follow in helping to clean up our air.

Once we have the input from the local people, officials, and political subdivisions affected, the Congress, working with EPA, will be in a much better position to advance reasonable, realistic, and attainable plans toward the realization of our clean air goals.

Mr. ADAMS. Mr. Chairman, I move to strike the requisite number of words.

Mr. REES. Mr. Chairman, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from California (Mr. Rees).

Mr. REES. Mr. Chairman, I appreciate the gentleman yielding. The reason I wanted to address the Committee was to clarify what the law is today, what the Clean Air Act Amendments of 1970 did. What we did with these amendments when we passed them was to give the responsibility to the Environmental Protection Agency to develop air standards throughout the United States, air standards that were compatible with health. They did that.

We also directed this Agency, that is we in this Congress, that they would make the recommendations to local and State governments as to what these local and State governments would have to do to qualify under these standards by 1977. This is what the EPA was told to do by us. So it is not something they thought up.

All right now, in the case of Los Angeles, my own city, they have come up with a plan which they say will give us clean air by 1977. In the letter to the gentleman from Florida (Mr. Rogers) and in a letter to me today they admit that it is impossible for us in Los Angeles to come up to these standards.

So what we have here are a series of measures. We have vapor recovery at gasoline stations which will reduce the pollutants by something like 17 percent. They provide for dry cleaning solvent controls which will result in another 0.9 percent. They talk about catalyst retrofit, a gimmick they put on the car, and already we are doing that, which results in 15 percent. They talk about motorcycle limitations. Then we get down to reductions promulgated for VMT—that is vehicle miles traveled—for control by 1977.

So what we are stuck with in southern California is that something like 60 percent of what we have been doing is directly tied in to the lowering of the vehicle miles traveled, which means that the way we are going with the strictest regulations in the country over both stationary and moving sources, that by 1977 the Los Angeles Basin would be closed down, that all the Agency could do under the law would be to say that they have to tell us that on any day where any of these standards of the three major chemical standards are violated, that not one moving vehicle can move in the Los Angeles Basin.

This is what we are faced with. The Agency realizes this and they said they will come up with recommendations. And at about 3 or 4 in the morning I will be up with an amendment which will get some of this underway.

What this does to the amendment offered by the gentleman from California (Mr. Moss) is to add to his amendment an amendment which prohibits parking surcharge. Mr. Moss further amends that by saying certain strategies for vehicle lanes for buses and carpools and such are prohibited until Congress can make a finding. But the problem is we are now telling the EPA they cannot use the strategies, and I agree with telling them this, but the only thing they can do now is to say that no automobiles can be driven during days when pollutants reach the top in the year 1977.

So as we can see, that while this amendment might be needed to stop the problem that we have temporarily, that it will not stop the problem that we will have in 1977, which will be the virtual closing down of those areas, such as in California where we have an inversion area, a meteorological type of lid that keeps the pollutants in our metropolitan area.

I want to clarify that, because people are saying that the EPA is wrong. They are doing exactly what we told them to do. They are realizing they are in a straitjacket.

I hope later when I am finally recognized for an amendment that I can offer an amendment which will take away a lot of this impact, so that we can have air quality; but we can run it out to say 1985 in a heavily impacted area, like San Francisco or Los Angeles or some of the eastern cities.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Chairman, I would urge that we vote down this amendment. Let us come back with an amendment to suspend for 1 year, which would allow them to come into the Congress with a recommendation and a whole package representing the total picture.

Mr. LEGGETT. Mr. Chairman, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from California.

Mr. LEGGETT. Is the gentleman suggesting that we suspend the items mentioned in this particular amendment for a period of 1 year?

Mr. ROGERS. Yes, I would. What does the gentleman think about that?

(By unanimous consent, Mr. Adams was allowed to proceed for 1 additional minute.)

Mr. ROGERS. Mr. Chairman, I thought the gentleman might respond as to his feelings about suspending parking limitations and lane limitations for 1 year.

Mr. MOSS. Mr. Chairman, in view of the fact I am proposing the amendment, it would be appropriate to address the question to me.

Mr. ADAMS. I yield to the gentleman from California (Mr. Moss).

Mr. MOSS. I would say the suspension for 1 year would only insure that the chaos created by the August order would continue with certainty for 1 year. It would not cure the problem. It would not remove the problem.

With all good respect for my friend from California (Mr. Rees) and I know his long association with these matters and his expertise; nevertheless I disagree with him equally. I think it is time here that we remove the problems created by the unwise action of the EPA in the orders they issued.

Mr. TALCOTT. Mr. Chairman, I support this amendment. I commend the committee for rescinding the parking surcharge previously promulgated by the EPA. This demonstrates that the House can respond quickly to the desires and needs of our constituents.

The proposed rulemaking promulgated by the administration of EPA on November 12 was a blatant attempt by the Federal Government to arbitrarily impose its will on State and local governments with no regard for the economic consequences to the community.

This administrative action would circumvent the legislative process. It is of doubtful constitionality since it usurps the taxing authority of the House of Representatives.

The consequence of this so-called parking surtax would be a tremendous financial burden on employees, employers, and public entities, including schools, hospitals, libraries, and churches.

It would unduly complicate transportation of working people, create unemployment, disrupt business operations and result in economic chaos..

An employee who drives to work and has to pay a mandatory charge would, in effect, be taking a cut in wages.

Furthermore, if any substantial number of auto commuters attempted to convert overnight to bus travel, or other mass transit, the existing supply would be unable to handle the volume of people, and chaotic transportation conditions would result.

Another readily foreseeable adverse side effect would be the loss of many skilled workers who would be unwilling to undergo the irritation of bus or rail commuting and unable to withstand the financial impact of continued auto travel.

Mr. Chairman, the committee, in section 202(b)(2) rescinds the parking surcharge. The bill will preserve the right of State and local governments to enact their own laws without having "big brother" superimposing its will on them. To this extent the committee has eliminated some of the defects of this bill. The amendment will restrict the authority of the EPA until a more practical solution is discovered and the consequences better understood.

Mr. LEGGETT. Mr. Chairman, I move to strike the last word.

I really do not think we are all so far apart today in these regulations. I think we have all had discussions with the Environmental Protection Agency. I think they have admitted that they have promulgated regulations in California prematurely. If we could have had an agreement from them that they would repromulgate the regulations for the transportation plan that has just gone into effect and is law in California today, certainly this amendment would not be required; but unfortunately, we are trying to handle the situation in a very piecemeal way.

As an example, originally in the regulations that were promulgated there was a parking tax that was going to go into effect on each and every parking place in excess of five of something like $450 per parking place. As I indicated, the House a few weeks ago on a supplemental, some of our major corporations were destined to pay more taxes in parking than the Federal income tax. These regulations have been very wisely withheld by the Environmental Protection Agency. They are going to repromulgate.

In addition to parking, we have parking supply management. What does that mean? That means that any construction as the regulations were promulgated of 50 or more parking places or facilities pertinent thereto in the five Western States, they need to apply to a supergovernment in San Francisco, to Mr. De Falco.

These we have authorized under previous legislation, and he would have the power to approve each and every one of those projects. We asked him, when did this become effective. It became effective last August 15. It just so happens that we have had some of our people who have had correspondence with the San Francisco office as late as September, and they did not even know that these regulations were in effect. We found out that they have on the order of 100 applications pending there, holding up construction in the five other States on those 100 projects; that the 100 projects comprise only 10 percent of the projects that are moving ahead, because 90 percent of the projects and the people that are building them are totally oblivious to the fact that EPA was really serious about promulgating these particular regulations.

The targets they have assumed in the regulations in compliance with the Federal law appear to be somewhat unrealistic. In the San Francisco area, they have to reduce traffic by 94 percent over the next 2 years in order to comply with what we have told them to do under the act. In the Sacramento area, they have got to reduce traffic 69 percent, including Placerville—that is Hangman's Town in Mr. JOHNSON's district—we thought that was a rural area. They have got to reduce traffic by 39 percent in rural Bakersfield at the southern end of the San Joaquin Valley.

In addition, the regulations that are promulgated would totally preclude the operation of any motorcycle in the State of California commencing in 1976 during the months of May, June, July, August and September. We are talking about probably about 200,000 vehicles. We think we have heard from the retailers and builders who are hurt—wait until this Congress hears from Hell's Angels. They are going to be down our necks like Gangbusters.

So, we do not cover that in this amendment. All we intend to do is to call to the attention of the Environmental Protection Agency that they have moved ahead like a shotgun, which they frankly admit they have. They need to go back to the drawing board and come up with something that is reasonable. If they cannot do it under the law, they have got to come back to Congress and ask for an amended order.

Mr. KAZAN. Mr. Chairman, I move to strike the last word.

Mr. LEGGETT. Mr. Chairman, will the gentleman yield?

Mr. KAZEN. Mr. Chairman, I yield to the gentleman from California, if he had not finished.

Mr. LEGGETT. Mr. Chairman, I thank the gentleman for yielding to me.

I think there is a way out of this morass, and I believe that the air quality control section of EPA has attempted to act reasonably, but they were mandated by the court to act unreasonably. In California, of course we are concerned, where we enacted the air quality legislation, that our high standards would be allowed to stand irrespective of Federal legislation. Now, we find out that the California standards are totally inadequate. Nothing helps, and as a result we do not have any cooperation at all with the air quality agency of the State of California, which everybody admits is one of the best leading air quality agencies in the United States.

Mr. KAZEN. Mr. Chairman, I just tell my friend from Califorinia that I welcome him into the picture. I think the State of Texas was the first State to feel the wrath of EPA under that bill. Incidentally, the gentleman from California (Mr. REES) kept talking about what we in the Congress had told EPA to do.

Well, I will admit that it was in the clean air bill, all of these things they say they have authority to do, but let us review the history of that bill. Not one single word was spoken on the floor of this House when that bill was before this House—we never talked about transportation and the authority given EPA over transportation.

That provision was in the Senate bill, and then the conferees agreed to it, our own conferees. And when they came back on this floor with that conference report, not one single word was told on this floor about these provisions being in that conference report.

So we in this House did not get an opportunity to legislate on this Clean Air Act, as far as NEPA was concerned.

Mr. REES. Mr. Chairman, will the gentleman yield?

Mr. KAZEN. I yield to the gentleman from California.

Mr. REES. Mr. Chairman, I appreciate the gentleman's yielding.

The amendment that I will be introducing along with the gentleman from California (Mr. GOLDWATER) says that there has to be more than a 20-percent reduction in vehicle miles traveled, and then automatically that area is granted a 2-year extension. It is an attempt to try to spread this bill out so it does not have too much of an adverse effect on the gentleman's community and upon my community.

Mr. KAZEN. Mr. Chairman, I understand what the gentleman is trying to say. But under the amendment proposed by the gentleman from California (Mr. MOSS), we are telling NEPA not to proceed until they come back to this conference and find out what we want them to do and what authority we give them to do.

Now, under your amendment, you do not do that.

Mr. REES. No. I am not in opposition to this amendment that is now pending.

Mr. MOSS. Mr. Chairman, will the gentleman yield?

Mr. KAZEN. I yield to the gentleman from California.

Mr. MOSS. Mr. Chairman, I think the Committee on Interstate and Foreign Commerce of this House has demonstrated time and time again that it is a highly responsible committee and it does act promptly when the agencies submit well-reasoned requests to the committee for its consideration.

I know that the gentleman from Florida, who chairs the Subcommittee on Public Health, has been most cooperative with the agency in responding to its requests. And there is no reason to believe that if they give thought and care, far more than they did in this case, to the promulgation of the proposals, they will be given the appropriate consideration by the committee and ultimately by the Congress.

Mr. KAZEN. Mr. Chairman, I agree with what the gentleman says.

My people from Texas have come before the gentleman's committee, and they listened to them.

However, when I hear that the reason the Environmental Protection Agency has done what it has done in formulating these plans was because they were under court order to do so, well, if we do not like it, if we do not like that court order, there is only one remedy we have: Change the law. And this is the place to do it.

So I see nothing mystic about an amendment like this, telling EPA what they can or what they cannot do, because, after all, this is the place where we do tell them what they can do and what they cannot do.

The other thing that hackles me a little bit actually is that they went all over this country, and there are very few places where they have not been, and they said, "We want public hearings. We are going to give you public hearings."

They have always announced their plans.

They came into San Antonio and they had public hearings on this plan. Nobody was for it. I understand the same thing happened in Boston and in some other cities. And then when they got through with those hearings, they did not cross one "t" or dot one "i" any differently than what they had done before those hearings were held. So the hearings were a mockery.

Mr. BROWN of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I recognize the desire of a large percentage of the membership here to get on with the job. We have probably been working on this bill for 10 or 15 hours.

Those of us who are not members of the committee get a very rare opportunity to speak. Of all those Members affected by air pollution, I think I, with the district I represent, probably bear the worst brunt of it.

What we are attempting to do in this piece of legislation bears very heavily on the prospect for achieving clean air in this country, and I feel constrained to make a few remarks about it.

The pending amendment is not, in my opinion, going to drastically affect the situation one way or another. The EPA has already taken the action mandated by the upsurge of public opinion to withdraw these restrictions on parking, as they quite properly should have done.

What I am concerned about is that in various other sections of the bill we may be making it impossible to achieve any progress whatsoever in solving the air pollution problem in southern California. I would not even regret that so much if I sensed on the part of the membership of this House an awareness of the fact that we have contributed to creating this problem.

We have created that problem by our love affair with the automobile and the oil business and the subsidies which promoted the vast expansion of gasoline sales and the tax advantages to the oil companies and our failure adequately to fund mass transportation or any other form of energy-saving device or economic transportation compared to the way that we funded freeways and things of that sort.

If, out of the discussion on this bill, will come a realization that we must mend our ways and begin to appropriate money to build mass transit facilities, as we have done freeways in the past, then we can resolve both the air pollution problem and the energy problem within a reasonable period of time.

However, this bill, which seeks to make major amendments in the Clean Air Act, is not going to help a great deal in solving the air pollution problem or the energy problem. I am particularly concerned about that section of the bill which rolls back the standards for automobile emissions.

I am a little puzzled—and perhaps the Chairman of the Committee can explain—how it is by changing standards for 1977 or 1978 or even up to 1983, we are going to solve or contribute to the solution of the energy problem in 1973 or 1974.

I do not think that is the answer. Yet we have in section 203 of the bill a fairly substantial change in the emission standards which has the effect of allowing automobile companies to continue to make polluting automobiles for this additional length of time.

Would the chairman of the committee care to comment on the importance of that particular section of the bill? If I may be specific, Mr. Chairman, why is it that the change in the standards set forth in section 203 will contribute to the solving of the energy problem in 1973.

Mr. STAGGERS. Will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman.

Mr. STAGGERS. I will say to the gentleman that the bill as we have it now I think is a good bill and will take care of a lot of the problems that the gentleman mentioned here. Especially, may I say, the amendment offered by the gentleman from California, your colleague, which I hope we can vote on in a moment.

Then there are other problems or other amendments that will be offered, and I hope we can take them up and dispose of them promptly.

Mr. BROWN of California. I thank the chairman. I would not have taken the time to speak at this time unless I was led to believe that under the procedures we have been following I would not get a chance to offer my amendment to strike out section 203, and even if I do have that opportunity I would not have the opportunity to debate it. I am beginning to feel that my rights as a Member of this House are being slightly infringed upon by this procedure.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Moss) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The amendment to the amendment in the nature of a substitute was agreed to.

Mr. DEVINE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, if I may have the attention of the chairman of the committee (Mr. STAGGERS), I have asked for this time in order to see if we can come to some agreement on working out the mechanics for the ultimate conclusion of this legislation. I ask the chairman what he has in mind as far as the committee rising tonight is concerned and returning tomorrow and perhaps reaching an agreement on when we can finally conclude this matter.

Mr. STAGGERS. Will the gentleman yield?

Mr. DEVINE. I am happy to yield to the gentleman.

Mr. STAGGERS. I would certainly like to come to some agreement here if it can be a consensus. I do not want to cut anybody off. I think we have to have some kind of an agreement to come to a conclusion on this matter, however. I would say that if we can come to an agreement that we will come in at 10 o'clock tomorrow, I then feel it would be a reasonable time to stop at 3 or 4 on tomorrow and vote on the bill.

That would be 6 or 7 hours more. If we do not do that, I would suggest we keep on with the debate here for a while, and get a few more amendments covered. I would say that we would probably rise now at 7 o'clock.

Mr. DEVINE. Mr. Chairman, it is my understanding, and having recently checked with the Clerk at the desk, that there are now pending some 63 amendments, some of which may be duplications, of course. Perhaps we could come to some agreement as to a limitation of time as to the consideration of each amendment so that we could see daylight at the end of the pipe. Does the gentleman from West Virginia have any ideas along that line?

Mr. STAGGERS. Mr. Chairman, I would certainly hope that we could find a way to solve this, because I also understand that many of these amendments are duplications, and some of them will be accepted, I am sure, on both sides of the aisle. So I do not think that when we actually get to the consideration of those amendments that they will take, really, the amount of time that we think perhaps they will.

I do wish to be fair, certainly, to every Member in the House, and that every Member should have a chance to offer their amendments. I would hope that we can reach an agreement maybe to vote on this bill by 3 o'clock tomorrow afternoon.

Mr. DEVINE. Does the Chairman wish to put that in the form of a motion, that all debate on the bill and all amendments thereto close at 3 o'clock tomorrow?

Mr. STAGGERS. I would rather present a uanimous-consent request first.

Mr. KETCHUM. Mr. Chairman, reserving the right to object——

The CHAIRMAN. The Chair will state that no unanimous-consent request has been made. Does the Chairman wish to make a unanimous-consent request?

Mr. STAGGERS. If the gentleman will yield further, I would like to address the Chair and say, Mr. Chairman, that I ask unanimous consent that all debate on the bill and all amendments thereto would close at 3 o'clock tomorrow afternoon.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. GROSS. Mr. Chairman, objection.

The CHAIRMAN. Objection is heard.

The Chair would have to state that the Committee of the Whole cannot set the time of convening on tomorrow.

Mr. STAGGERS. Mr. Chairman, I understand that, and I know that I would have to wait until later so as to consult with the Speaker and others as to the time that we might resume tomorrow.

Mr. ALBERT. Mr. Chairman, will the gentleman yield?

Mr. DEVINE. I yield to the distinguished Speaker of the House, the gentleman from Oklahoma (Mr. Albert).

Mr. ALBERT. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would say that perhaps if we could finish up within the next few minutes in the Committee of the Whole that then we could try to come in at 10 o'clock tomorrow morning, when we get back into the House, and then tomorrow morning take another look at this, and see if we can expedite the consideration of the bill tomorrow.

Mr. STAGGERS. Mr. Chairman, if the gentleman will yield further, in response to the question posed by the distinguished Speaker, I would say that if we can continue until 7 o'clock, that we could then rise with the understanding that we would then try to see what we can do with reference to what the Speaker said about tomorrow morning for a reevaluation of the situation, that I would be very happy to proceed to do that.

Mr. DEVINE. Does the Chairman desire a limitation on the pending amendment?

The CHAIRMAN. The Chair will advise the gentleman from Ohio that there is presently no amendment pending.

Mr. DEVINE. Mr. Chairman, I thank the Chairman, and I yield back the balance of my time.

The CHAIRMAN. The Chair now recognizes the gentleman from New York (Mr. Hastings).

AMENDMENT OFFERED BY MR. HASTINGS TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. HASTINGS. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. Hastings to the amendment in the nature of a substitute offered by Mr. Staggers: On page 57, beginning on line 1 delete section 203 of H.R. 11882 and insert in lieu thereof the following:

Sec. 203 Motor Vehicle Emissions.

(a) Revision of Standards.—(1) Section 202(b)(1) of the Clean Air Act is amended—

(A) by striking out in subparagraph (a) "1975" and inserting in lieu thereof "1978";

(B) by striking out "during or after model year 1976" and all that follows in subparagraph (b) and inserting in lieu thereof "during model year 1976 shall contain standards which limit emissions to a maximum of 3.1 grams per vehicle mile of oxides of nitrogen. The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light duty vehicles and engines manufactured during or after model year 1977 shall contain standards which limit emissions to a maximum of 2.0 grams per vehicle mile of oxides of nitrogen."; and

(C) by adding at the end of such paragraph the following new subparagraph:

"(C) Compliance with the regulations prescribed pursuant to this section for model years 1975, 1976, and 1977, shall be measured by certification test procedures prescribed by the Administrator for model year 1975. The regulation for model years 1975, 1976, and 1977 prescribed pursuant to subsection (a) (for carbon monoxide and hydrocarbons) shall impose the same emission standards as are in effect as of December 1, 1973, for model year 1975."

(2) Section 202(b)(5) of the Clean Air Act is repealed.

(b) Extension of Implementation Plan Deadlines.—Section 110 of the Clean Air Act is amended by adding at the end thereof the following new subsection:

"(g) Notwithstanding any other provision of this Act, the Administrator may, within the period by which (under subsection (a)(2)(A)(i)) an applicable implementation plan must provide for the attainment in a State of a national primary ambient air quality standard (as such period may be extended under subsection (e)), extend such period for not more than two additional years if he determines that such primary standard cannot be attained in such State within such period solely by reason of the amendments made by section 203(a) of the National Energy Emergency Act."

Redesignate the succeeding sections.

Mr. HASTINGS. Mr. Chairman, before I proceed on the amendment, I might say that we put these House computers to work a few moments ago and divided the number of amendments that are remaining by the time it took us today to pass various amendments. We figured out that if we spend 7 days a week, 8 hours a day, with the number of amendments remaining, we will finish on December 28. I am sure everybody will be happy to know that, as we consider the limitation of time tomorrow.

Mr. Chairman, this amendment, although it took a great deal of time to read, is a rather simple amendment. In the wisdom of the committee, and as a compromise between and among all of the people who are interested in either changing the auto emission standards in the Clean Air Act or opposing any change whatsoever, and those who would have us relinquish whatever controls we now have in the act, the committee came up with a compromise, and that is to keep in place the auto emission standards for the year 1975. They would stay in place in the bill for the years 1975 and 1976.

This amendment merely says that those 1975 standards would be in effect for the years 1975, 1976, and 1977. This adds 1 additional year to the 1975 auto emission standards. I know there are those in this House who would like to remove all auto emission standards whatsoever, and this was thoroughly discussed in both the subcommittee, as chaired by the gentleman from Florida (Mr. Rogers), and in the full committee, and the best compromise possible, I think, was to adopt the 1975 standards. This amendment, I will repeat, only extends those standards to the year 1977, in addition to what the bill does.

I might say, and I think the gentleman from California (Mr. Brown) stated this earlier in relation to another amendment, that sometimes this Congress forgets that we are the ones who passed the Clean Air Act in the year 1970.

We are the ones that put it in place. We allowed EPA to have the authority to do what they have done today under the Clean Air Act, and we in fact then said to the automobile manufacturers of this country that they must meet certain standards by the year 1975. Some of those companies have proceeded to try to meet those standards and in fact have put into place the technology available to them to do that.

Now we are intending to change the standards and by going to 1975 some auto companies say they can meet those standards and some say they cannot, but what I am attempting to do in this amendment is say let us, for heaven's sake, adopt the standards we think are the best compromise in the interest of protecting clean air and of protecting the economy which of course is affected by every movement in the auto industry, and do what is in the best interest of everybody concerned, which in my judgment is to adopt the 1975 standards as standards and then just to continue them for a 2-year period of time.

Mr. STAGGERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do this for the purpose of getting some understanding on the debate on this amendment. The Chairman has proposed that we adjourn at 7 o'clock and I would like to get some agreement that all debate on this amendment will close at 7:05 and we would then rise.

I ask unanimous consent that all debate on this amendment close at 7:05.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The CHAIRMAN. The Chair will recognize the Members for something over 2 minutes.

The Chair recognizes the gentleman from Florida (Mr. ROGERS).

Mr. ROGERS. Mr. Chairman, I would oppose this amendment and I would hope the House would oppose it. The committee itself in its deliberations in both the subcommittee and the full committee opposed it. The subcommittee held 3 days of hearings and rejected this approach and the full committee rejected it and I think the House should reject it.

What the bill does do is to extend the 1975 standards 1 year, and then it gives the discretion to the Administrator of EPA to extend another year if that is necessary. Furthermore, on the NOX standard, it would allow an extension up to 1983 if the Administrator so determines that is necessary. So we have adequately provided in the bill the proper approach and I would say as the committee said in its determination that we ought not in this hour simply to emasculate the Clean Air Act.

This gives us plenty of time to act later, that is the committee bill. This simply sets in the law where it cannot be changed that we are going to have 1975 and 1975 and 1975 and 1976 and 1975 and 1977. We think that is not a proper extension to have. The committee said that and we think we can accomplish what needs to be accomplished. We tried to get a proper balance here by saying we can have 1975, 1975, 1975, and 1976, and then let the Administrator determine if 1977 is needed.

Mr. Chairman, I urge defeat of this amendment.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. ROUSSELOT).

(By unanimous consent, Mr. ROUSSELOT yielded his time to Mr. HASTINGS).

The CHAIRMAN. The Chair recognizes the gentleman from New York for 4 minutes.

Mr. HASTINGS.. Mr. Chairman, it is very seldom that the chairman of our Subcommittee on Public Health and myself differ on many issues. We most often work very carefully together and generally in the best interests of the matter at hand.

I was rather sorry to hear him use and say the word "emasculate" the Clean Air Act, because as I mentioned before, there are those who would remove our standards completely. The gentleman knows I do not use that approach.

There are those who would prefer to go to the 1974 standards, which would have the possible effects of emasculating the Clean Air Act. I do not say that I have consistently supported the Clean Air Act and will continue to do so, both as relating to auto emission standards and to stationary standards.

I am simply saying here, and as the gentleman from Florida says, we will allow the Administrator of EPA to make a decision as to whether he will grant the additional year. I say that in the wisdom of this Congress we should make that judgment. We have left too many decisions now to the Administrator of EPA and we are paying for them, as these past amendments have spoken rather largely to.

We will do what the gentleman says, go to 1975 or 1976, as the bill allows; but then instead of allowing the Administrator of EPA to go to another year, let us make that decision here and tell both the American public and the automobile manufacturers what we will suspend in 1975 and proceed for 2 years and deal as we should with the problem of the manufacture of automobiles to eliminate emission standards.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. HASTINGS. I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Chairman, the gentleman has been a strong supporter of clean air and does not mean to emasculate the Clean Air Act; but let me say, what is the purpose of the gentleman's amendment? I presume it is to help save fuel in the energy crisis.

Mr. HASTINGS. I would assume from the title of the bill that everything we do here is to do precisely that, to save fuel.

Mr. ROGERS. If that is the case, I am sure the gentleman can read——

Mr. HASTINGS. I will say to the gentleman that I can read.

Mr. ROGERS. Let me point out to the gentleman, on line 22, page 81, if he can read——

Mr. HASTINGS. Pardon me. Will the gentleman yield on my time?

Mr. ROGERS. I yield to the gentleman.

Mr. HASTINGS. I cannot find in my bill page 81. Although I question whether I can read, I wonder if the gentleman can count?

Mr. ROGERS. It is in paragraph subsection (f) under (5)(A) to (f). It is page 59. I was looking at the wrong page of the substitute.

It is saying that he may waive such standards if they would result in significant increase in fuel consumption. This is for 1977.

Mr. HASTINGS. But the gentleman knows that the Administrator of EPA does not want to suspend that standard at all. He has so told us; so when we say we will give him the right to make the decision 2 years down the line, when he is already on record as saying he did not agree to any relaxation in standards, I cannot have the same confidence in the Administrator that he will take that action.

The CHAIRMAN. The Chair recognizes the gentleman from Maryland (Mr. GUDE) for 2 minutes.

Mr. GUDE. Mr. Chairman, there is a growing belief in the country that one of the ways to help solve the energy crisis is through the relaxation of a wide variety of environmental standards, and to make the environmentalists the scapegoats for all our problems.

Specifically, I do not believe we should sacrifice the health of this Nation as it pertains to air pollution by blaming antipollution devices for low gas mileage when heavier cars with automatic transmissions, air conditioners, and all manner of power gadgets are the real gas guzzlers.

The suggestion is pushed that the implementation of new car emissions standards be delayed in order to conserve gasoline. This belief is manifestly false and cannot be supported by the evidence. In fact, it is quite likely that delays in the implementation of emissions standards would waste energy, not save it.

There are four basic facts that show this clearly:

FACT ONE

The catalytic converter already announced by General Motors for its 1975 cars not only will improve performance but will give more gas mileage, not less. General Motors itself has made this claim.

FACT TWO

By redesigning engines, Detroit can both reduce emissions and increase mileage. The Honda automobile meets emissions standards and provides excellent mileage. Thus we have proof that emissions standards can be met while producing better gas mileage. In addition, we have proof of this dating back to 1930, and it sits in the Smithsonian Institution. A diesel engine built by Caterpillar tractors in 1930 is on display. It meets the most stringent emissions requirements ever proposed, and diesel cars get more than 30 miles to the gallon.

FACT THREE

The 1974 model automobiles do provide poorer gas mileage than previous models, some of which is related to interim-type emission controls on their engines. However, by 1976, under present clean air regulators, all new cars will include catalytic-type devices which GM says will improve mileage.

If the current press to adopt the improved pollution control devices is eased, the current fuel wasting interim devices will be with us for that much longer. The way to save energy then, is to allow the Clean Air Act to continue as it is. The way to waste energy is to freeze emissions standards at current levels.

FACT FOUR

There is a direct relationship between energy consumption and the size of automobiles and their engines. In its efforts to conserve energy through better gasoline mileage for its new cars, Detroit should produce smaller cars in 1976 with smaller engines. Congress should encourage savings by this means rather than by increasing air pollution.

It should be clear from this evidence that the maintenance of sound environmental standards is not necessarily in conflict with energy conservation, and that efforts to delay implementation of emission standards will actually waste gasoline, not conserve it.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. GUDE. I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Chairman, I want to commend the gentleman for his attitude. I do think we have to be reasonable, but the committee in adopting this position, as the gentleman says, has tried to reach some balance. However, just to go all out the other way and not be realistic, I think would not be right.

Mr. GUDE. Mr. Chairman, it should be pointed out that we have already delayed this 1 year.

The CHAIRMAN. The Chair recognizes the gentleman from North Carolina (Mr. Broyhill).

Mr. BROYHILL of North Carolina. Mr. Chairman, I see this amendment as a most reasonable amendment. I do not see it as doing, as someone has said, emasculating the language which is in this bill. All it says is that we in the Congress are extending the automobile emission standards 1 additional year.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL of North Carolina. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Chairman, I thank the distinguished gentleman from North Carolina for yielding to me.

Mr. Chairman, if we look over the history of the Clean Air Act administration, which I supported, I must say that we have had a great deal of difficulty. We have gone too far, too fast.

If we check the record, in 1972 we got a car which was not driveable. As a result of that, in 1973 the automobile companies built a car with a larger motor which consumed a lot more gasoline and was not much more driveable. We have that same car today, and it guzzles huge amounts of gasoline.

In 1975 a catalytic converter will be placed upon all of our automobiles. According to our information in the hearings which we received, there will be a savings of some 12 or 13 percent over 1974.

For this reason, I have supported the idea of going to the 1975 standards, but since we have had so much trouble with the automobiles in the past few years, I feel we have gone too far, too fast, and I think it is recognized throughout the industry.

For this reason, Mr. Chairman, I would extend, as the gentleman from New York would, the standards for 1 additional year. I believe we had testimony from a dealer from Stillwater, Okla. He happened to be the mayor of that city, and he told us of the revolt of the owners of these automobiles. I am going to tell the Members, if they listen to the people who bought the 1972, 1973 and 1974 cars, they will find that they are gas guzzlers. They are heavy. We have gone too far, too fast. We need to take a little bit more time, and I strongly support the amendment of the gentleman from New York (Mr. Hastings).

The CHAIRMAN. The Chair recognizes the gentleman from West Virginia (Mr. Staggers).

Mr. STAGGERS. Mr. Chairman, I oppose the amendment and suggest that we vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. Hastings) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. ROGERS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 199, noes 180, answered "present" 1, not voting 52, as follows:

[Roll No. 665]

AYES—199

Abdnor
Alexander
Andrews, N.C.
Archer
Arends
Armstrong
Ashbrook
Baker
Bauman
Beard
Bennett
Bevill
Biaggi
Blackburn
Bowen
Bray
Breaux
Brooks
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burleson, Tex.
Butler
Byron
Carter
Casey, Tex.
Cederberg
Chamberlain
Clancy
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Tex.
Conable
Conlan
Cotter
Crane
Daniel, Dan
Daniel, Robert W., Jr.
Davis, Wis.
de la Garza
Delaney
Dennis
Derwinski
Devine
Dickinson
Dorn
Downing
du Pont
Edwards, Ala.
Esch
Eshleman
Findley
Fisher
Flowers
Flynt
Forsythe
Fountain
Frelinghuysen
Frey
Froehlich
Gettys
Giaimo
Ginn
Gonzalez
Goodling
Grasso
Green, Oreg.
Gross
Grover
Guyer
Hammerschmidt
Hanrahan
Hansen, Idaho
Hastings
Hicks
Hillis
Hinshaw
Hogan
Holt
Horton
Huber
Hudnut
Hungate
Hutchinson
Ichord
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kemp
Ketchum
King
Kuykendall
Landgrebe
Latta
Lent
Litton
Long, La.
Lott
McClory
McCollister
McCormack
McEwen
McKay
McKinney
McSpadden
Madigan
Mahon
Maraziti
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Mayne
Michel
Milford
Miller
Minshall, Ohio
Mitchell, N.Y.
Mizell
Montgomery
Moorhead, Calif.
Myers
O'Brien
Owens
Passman
Pettis
Peyser
Poage
Powell, Ohio
Price, Tex.
Quie
Quillen
Randall
Rarick
Rhodes
Roberts
Robinson, Va.
Robison, N.Y.
Roncallo, N.Y.
Rose
Rousselot
Ruppe
Ruth
Ryan
Sarasin
Satterfield
Scherle
Schneebeli
Sebelius
Shipley
Shoup
Shriver
Shuster
Sikes
Snyder
Spence
Stanton, J. William
Steed
Steele
Steiger, Ariz.
Steiger, Wis.
Stephens
Stratton
Stubblefield
Stuckey
Symms
Talcott
Taylor, N.C.
Teague, Tex.
Thone
Thornton
Towell, Nev.
Treen
Ullman
Veysey
Waggonner
Wampler
Ware
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Wilson, Charles, Tex.
Wylie
Wyman
Young, Alaska
Young, S.C.
Young, Tex.
Zion

NOES—180

Abzug
Adams
Anderson, Calif.
Anderson, Ill.
Annunzio
Ashley
Aspin
Badillo
Bafalis
Barrett
Bergland
Biester
Bingham
Blatnik
Boggs
Boland
Brademas
Brasco
Breckinridge
Brinkley
Brotzman
Brown, Mich.
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton
Carey, N.Y.
Carney, Ohio
Chappell
Chisholm
Clausen, Don H.
Collins, Ill.
Conte
Conyers
Corman
Coughlin
Cronin
Culver
Danielson
Davis, Ga.
Dellenback
Dellums
Denholm
Diggs
Dingell
Donohue
Drinan
Dulski
Duncan
Eckhardt
Edwards, Calif.
Eilberg
Evans, Colo.
Evins, Tenn.
Fascell
Fish
Flood
Foley
Ford, William D.
Fraser
Frenzel
Fulton
Fuqua
Gaydos
Gibbons
Gilman
Green, Pa.
Griffiths
Gude
Gunter
Haley
Hamilton
Hanna
Harrington
Harsha
Hébert
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Holtzman
Howard
Jarman
Jordan
Karth
Kastenmeier
Kluczynski
Koch
Kyros
Leggett
Lehman
Long, Md.
Lujan
McCloskey
McDade
McFall
Macdonald
Madden
Mallary
Mann
Matsunaga
Mazzoli
Meeds
Melcher
Mezvinsky
Minish
Mink
Mitchell, Md.
Moakley
Mollohan
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Natcher
Nedzi
Nichols
Obey
O'Hara
O'Neill
Patten
Pepper
Perkins
Pickle
Pike
Preyer
Price, Ill.
Pritchard
Railsback
Rees
Regula
Reid
Reuss
Riegle
Rinaldo
Roe
Rogers
Roncalio, Wyo.
Rooney, Pa.
Rosenthal
Rostenkowski
Roush
Roy
Roybal
St Germain
Sarbanes
Schroeder
Seiberling
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Staggers
Stanton, James V.
Stark
Steelman
Studds
Symington
Thomson, Wis.
Tiernan
Udall
Van Deerlin
Vander Jagt
Vanik
Vigorito
Waldie
Whalen
Wilson, Charles H., Calif.
Winn
Wolff
Wright
Yates
Yatron
Young, Fla.
Young, Ga.
Young, Ill.
Zablocki
Zwach

ANSWERED "PRESENT"—1

Parris

NOT VOTING—52

Addabbo
Andrews, N. Dak.
Bell
Bolling
Broomfield
Brown, Calif.
Burke, Calif.
Camp
Clark
Clay
Collier
Daniels, Dominick V.
Davis, S.C.
Dent
Erlenborn
Goldwater
Gray
Gubser
Hanley
Hansen, Wash.
Harvey
Hawkins
Hays
Henderson
Holifield
Hosmer
Hunt
Johnson, Calif.
Johnson, Colo.
Keating
Landrum
Mailliard
Metcalfe
Mills, Ark.
Nelsen
Nix
Patman
Podell
Rangel
Rodino
Rooney, N.Y.
Runnels
Sandman
Sisk
Stokes
Sullivan
Taylor, Mo.
Teague, Calif.
Thompson, N.J.
Walsh
Wyatt
Wydler

So the amendment to the amendment in the nature of a substitute was agreed to.

The result of the vote was announced as above recorded.

Mr. FRENZEL. Mr. Chairman, the Interstate and Foreign Commerce Committee, the Judiciary Committee, and the House leadership have put the House in a terrible position on this emergency energy bill. The bill was hurried, overwhelmed by amendments, and substituted by the committee.

It was brought before us under a rule waiving points of order before most of us had a chance to see it. As soon as it reached the floor, there was another substitute. No one denies the emergency, but I believe this procedure almost guarantees that the legislation will be flawed.

It seems to me that we are overly concerned with recesses, holidays, and vacations. Are we in such a hurry to get out of here that we cannot do the people's work in a businesslike manner? I do not think it should be impertinent to suggest that we have at least 48 hours to review the bill and prepare amendments. We should also have time to discuss, debate, and amend it here. Any limitation of debate is unthinkable on a bill of this importance, and particularly one that comes to sight unseen.

It is hard to escape the conclusion that we, the Congress, like the Executive and the people, were caught unprepared for the energy problems we face today. Our job is to get prepared in a hurry, pass emergency legislation, and then follow up to improve that legislation. But, if we continue our get out of here as soon as possible pace in our blind attack on energy problems, we will only be guaranteeing that followup is a full-time job. We will also be guaranteeing that the Executive is inadequately armed to deal with the crisis.

We need to slow down and do it right. There seems to be wide agreement that enormous grants of power to the President are needed. Most of us would prefer to do a more complete policy-setting job here in Congress, but, because we are unprepared, we must give the President more power than we would prefer. At the very least, we had better be sure we know what we are giving him.

There is need, of course, for congressional oversight. But it should not be a congressional block. It is one thing to suspend a Presidential order. That seems to me to be a proper exercise of our authority. It is quite a different matter, and a silly one, it seems to me, to allow a Presidential program to fail because of our inaction. The Broyhill amendment, which failed yesterday, is a needed improvement to the bill. Without it, the broad, sweeping powers we claim to the President are a hoax. Absent the Broyhill amendment, all we have given him is the power to ration, and that because we are afraid to have to ratify that political hot potato ourselves.

The more I hear about this bill, the more it seems to be a copout—an inescapable, inevitable copout perhaps, but a copout nevertheless. It may also be a perfect monument to congressional incapacity.

I do not believe any of us has any choice about voting for this bill. It is a monster, but it is necessary. I do not like it. I do not like the way it has been handled. But I shall surely vote for it, because not having any bill would be unthinkable.

The creation of the Federal energy agency alone demands an "Aye" vote. The agency is off to a fast start with a good leader and high morale. We need a legislative basis for FEA just as we need other powers in this bill.

But, I hope we learn some lessons from our current distress. However distasteful it may be, we have to pass the bill. Then let us hope the committee goes back to the drawing board, exercises day-to-day oversight and brings to us, in pieces if necessary, perfecting legislation that can be worked on here in a thoughtful and careful way.

Mr. SHRIVER. Mr. Chairman, as we consider this important emergency legislation to deal with a national energy crisis, I wish to commend the committee for taking necessary action to include in this bill safeguards against unreasonable discriminations and unequitable treatment insofar as fuel allocation is concerned.

On November 25 the President's announcement of major cutbacks in fuel allocations for general aviation sent convulsions through my congressional district and other communities across the country. It was obvious that someone had failed to comprehend the major role which general aviation plays in our national air transportation system.

There were immediate lay-offs in the industry and the eventual loss of 100,000 or more jobs was threatened.

Fortunately, we were able to communicate directly with the President and other high officials in the administration and on December 1 necessary revisions were announced in the original allocation.

Despite the administration's revised allocations which place general aviation on a par with other forms of air transportation, I believe it is important that the Congress establish, through legislation, its determination that there be fairness and equity.

The committee has extended these safeguards to include certain uses such as recreational activities. There are, of course, many areas in this Nation where recreation and tourism provide the base of the local economy. There are industries, which comprise a major sector of our economy, that specialize in the manufacture of equipment for recreational and outdoor activities. For example, one of the Nation's largest manufacturers of recreation and camping equipment is in my congressional district. Unfair allocation and discrimination on gasoline usage in recreational vehicles would cause immediate unemployment.

Access to adequate supplies of fuels is basic to the survival of virtually every commercial enterprise and Government must act with care to assure that its actions are equitable and do not unreasonably discriminate among users.

The term "equitable" should be applied in its broadest and most general sense. No user or class of users should be called upon during this shortage period to carry an unreasonably disproportionate share of the burden.

This is the message which the Congress is sending to those who will administer this emergency program.

Mr. Chairman, my mail has been unusually heavy in recent weeks from constituents who raise reasonable objections to some of the methods suggested for conservation of scarce fuel supplies. The decisions facing the new Federal Energy Administrator are not easy. The American people are being called upon to make significant sacrifices. At the same time, they expect their Government leaders to discharge their responsibilities with evenhandedness, compassion, integrity, and courage.

I am personally opposed to allocation of scarce gasoline supplies through increased taxes. Such action would only impose heavy economic burdens on those least able to afford them. I have serious reservations regarding the need for rationing at this time, and would hope that it would be used only as a last resort. Rationing can only result in the creation of another bureaucratic maze, leading to new frustrations, particularly for those in the moderate- to low-income bracket.

Finally, Mr. Chairman, I concur with my distinguished colleague from Texas (Mr. PICKLE) in his separate views on this bill as included in the committee report, especially as they pertain to the so-called windfall profit provision. This provision, as it stands, will severely damage the small independent producers in my State of Kansas.

This is not to say that windfall profits of large energy concerns should be above suspicion or subject to the vigilance of the Government.

However, as the gentleman from Texas has so ably pointed out, the question of profits by oil companies should be examined by the Committee on Ways and Means, along with staff experts of the Joint Committee on Economics. These committees have the expertise to determine how to handle "windfall profits."

I would agree that should price gouging or "windfall profits" prove to be a fact, then the Ways and Means Committee should recommend necessary taxing legislation to serve the public interest.

Mr. FASCELL. Mr. Chairman, I rise in strong support of section 115—prohibitions on unreasonable allocation regulations—of the Energy Emergency Act, H.R. 11450. I highly commend the sponsors of this provision and the House Interstate and Foreign Commerce Committee for its wisdom and foresight in recognizing the special problem this section addresses and taking action to insure the greatest equity in dealing with the energy crisis.

The provision states simply:

> Action taken under authority of this Act, the Emergency Petroleum Allocation Act of 1973, or other Federal law resulting in the allocation of refined petroleum products and electrical energy among users or resulting in restrictions on use of refined petroleum products and electrical energy, shall be equitable, shall not be arbitrary or capricious, and shall not unreasonably discriminate among users.

It is designed to provide, to the maximum extent possible: First, fair treatment of the business segments of our economy, and, second, guidelines for the executive branch in developing and administering energy conservation plans so that businesses and their employees will be treated as equitably as possible. The objective is to avoid Government actions which may bankrupt particular businesses, industries or segments thereof and place thousands out of work through an arbitrary or capricious determination that an industry or segment thereof is totally unnecessary.

We feel the threat of such action very acutely in Florida. While Florida is anxious to cooperate to the fullest extent possible, the persistent accusation that tourism is at the bottom of the priority scale of national needs and therefore should be 100 percent restricted is obviously a factor which greatly concerns us. Tourism is a principal industry of the State. If it suffered a 100 percent reduction in energy allocation it would be disastrous, and the ensuing economic catastrophe would be beyond the capability of the State to absorb.

The severe economic dislocation would undoubtedly be felt nationwide.

Section 115 does not require absolute equality of treatment for all businesses. It recognizes that priorities must, of course, be established. But it does prohibit the administration from taking action which unreasonably discriminates against some users.

Major segments of our national industry—whether it be tourism or general aviation—may be considered nonessential to some. But to the thousands of people who support their families from jobs in those industries, I assure you they are by no means nonessential. They must be treated equitably, and fairly, during the energy shortage.

The Senate has already indicated its support for this position. As you know, an amendment to the daylight saving time bill, H.R. 11324, to require that any petroleum allocation program shall not unreasonably discriminate among users or classes of users, was passed by the Senate last week. While the conferees on the bill omitted the provision from the conference bill, they made special note that their action did not indicate any opposition to the provision. The conference reported stated:

> The conferees recognized that severe hardships have been imposed on several sectors of the Nation's economy in recent months through administrative decisions which have arbitrarily cut allocations of fuel to whole sectors of the Nation's economy. The Conferees agreed that unreasonable discriminations in fuel allocations must be terminated at the earliest possible date.

Mr. Chairman, the entire Florida delegation shares this special concern, and last week joined in writing to the new energy czar, William E. Simon, pointing out the unique situation which exists in our State. I insert a copy of that letter dated December 6, 1973, for our colleagues information:

Hon. William E. Simon,
Deputy Undersecretary of the Treasury,
Washington, D.C.

Dear Mr. Simon: The citizens of the State of Florida are concerned over the acute and impending shortage of petroleum products affecting our State. Although we recognize that the shortage is being faced by all Americans, Floridians have a unique problem with respect to meeting our energy demands.

Assuming your office allocated petroleum products pursuant to 1972 distribution levels, Florida will suffer shortages dramatically and significantly greater than the nation as a whole. In order that you be apprised of our plight, please consider the following information:

1. Florida's winter in 1972 was 33% warmer than its prior 30 years average.
2. Florida's population growth was among the highest in the nation with an addition of 300,000 residents this year.
3. Our use of residual fuel oil for generating electricity was over twice the national increase: 22.3% to 10.7%.
4. Our use of middle distillates increased at almost 18% compared to the national average increase of 10.7%.
5. Florida's increased gasoline consumption is over twice as great as the national increase: 11.3% to 4.9%.

With a deficit of 15% to 25% in 1972 levels of petroleum products, a return to an average winter climate, an expected increase in the Florida population growth, especially with cold northern residents moving to Florida causing a continuation in the volatile demography of the state, and with the possible loss of these fuels, Florida can realize the most disastrous economic impact of any state in our nation.

Although we feel our goal is to overcome this crisis with our usual national cooperation, Florida will suffer disproportionately to the rest of the nation.

It is certainly quite clear that to pursue different guidelines could bankrupt many businesses or industries. This would be particularly true in Florida if thinking persists that tourism, a principal industry of the State of Florida, is at the bottom of the priority scale of national needs and therefore should be 100% restricted. If this would occur, it would be disastrous to the State of Florida and the ensuing economic catastrophe would be beyond the capability of the State to absorb. The repercussions would be felt nationwide.

As a matter of fact, travel to the South this winter probably should be encouraged. The energy cost of travel would be more than offset by the gain in the availability of heating oil for critical needs in the North.

Furthermore, there is a fear throughout all industry in Florida that because of an arbitrary, capricious, or inequitable determination affecting tourism, travel and all related industries, all economic sectors in Florida are being adversely affected. A 100% restriction of this industry is viewed tantamount to shutting down all factories or mills of a particular industry in another state.

Furthermore, we reject the concept that tourism and related travel can, or should, be totally eliminated in the establishment of priorities for critical needs. In developing and administering energy conservation plans the Administration must pursue a course of action so that all industries and their employees will be treated as equitably as possible.

We recognize, of course, that priorities must be established and that tourism and related industries may not be on an equal basis with higher national needs, but neither is it necessary to totally destroy the economy of an industry and a state and put hundreds of thousands of people out of work.

Therefore, we sincerely request your particular recognition of the Florida economic problem and urge that you consider these facts in your daily evaluation of fuel distribution.

Sincerely,

Edward J. Gurney, U.S.S., Robert L. F. Sikes, M.C., James A. Haley, M.C., Paul G. Rogers, M.C., Sam M. Gibbons, M.C., J. Herbert Burke, M.C., Louis Frey, Jr., M.C., Bill Gunter, M.C., William Lehman, M.C.

Lawton Chiles, U.S.S., Charles E. Bennett, M.C., Dante B. Fascell, M.C., Claude Pepper, M.C., Don Fuqua, M.C., Bill Chappell, Jr., M.C., C. W. Bill Young, M.C., L. A. Bafalis, M.C.

Mr. Chairman, I cannot stress enough the importance of insuring in the bill we pass today that we make absolutely clear to the administration that arbitrary discriminatory actions will not be allowed. With the enactment of the provision contained in section 115 the Congress explicitly states its policy intent to the administration. It then becomes incumbent upon us to make sure that congressional intent is clearly understood and faithfully carried out.

We are acting today on a bill which gives the executive branch and the new Federal Energy Administration broad, far-reaching powers. The critical disruption in the petroleum industry appears to warrant the granting of such authority. Based on recent administration decisions, however, I do have reservations about the direction our energy programs and Government policy concerning energy may take. The Congress must not forfeit its responsibility during the energy crisis—we must instead act to set policy guidelines and make absolutely sure that they are honored.

Mr. de la GARZA. Mr. Chairman, if the fuel shortage is permitted to give birth to a food crisis in the United States, the present situation will seem like a Sunday school picnic in comparison to what the future may hold.

Farming, as we all know, is no longer carried out by a man with a mule and a plow. Every phase of our vast agricultural industry is highly mechanized—from preparing the soil for planting to the harvesting of crops to the transport of those crops to market. And machines require fuel.

Unless adequate supplies of essential fuel are allocated to people engaged in agricultural pursuits, we will face an extremely serious threat of food shortages—accompanied, inevitably, by higher prices that will place a heavy burden on all consumers, as well as many jobs for all who work in agriculture.

I have reason to know that this danger is already developing. Agriculture is of prime importance in my south Texas district. Daily I am hearing cries of distress from farm producers and ranchers there and from the truck operators upon whom they depend for transporting what they produce. They are not getting the fuel they must have. Their needs cannot be met by slogans and public relations programs, no matter how skillfully constructed.

As the result of hearings conducted by the House Agriculture Committee, on which I serve, agriculture is included in the occupations given priority under the mandatory fuel allocation program. But a priority is worthless unless it is honored, and the information I receive is that this priority is not being uniformly honored in my area. Suppliers of petroleum products say they are unable to fill orders from their distributors. The distributors consequently cannot supply their customers, the food producers and food transporters of south Texas.

Their need is imperative. Their need is now. I cannot see, nor has anyone given me any assurance, that this bill will provide the necessary fuel in a fair and equitable manner.

Mr. HOGAN. Mr. Chairman, I intended to offer an amendment to this bill to insure that firetrucks receive adequate fuel, but the Federal Energy Agency has already provided in its allocations for such emergency vehicles.

In light of the serious energy crisis that faces us, I was concerned that all segments of our society receive just and equal treatment in any measure taken to conserve our energy supplies.

The safety and well-being of our citizens must be of paramount concern. There are certain functions which are vital to the safety of our cities and communities and one of paramount importance is our fire departments.

In a recent instance in Washington County, Md., a firetruck pulled into a gas station and was only allowed $3 worth of gasoline. The consequences of this are evident. These large firetrucks receive approximately 1 to 3 miles per gallon on high test gasoline and it does not take much of a mathematician to figure out how far $3 worth of gasoline will get one of these trucks in the event of an emergency.

In addition, while these trucks are pumping water they must keep their engines operating. Most trucks have the capacity to run for 2½ to 3 hours before they need refueling.

Mr. Chairman, many steps have been advocated which would help conserve our energy supplies and I am hopeful that the passage of the bill before us today will take us still one step closer to meeting this goal. However, I am concerned that we do not act in haste and forget services which are vitally important to the safety of our cities and communities across the country. The functions performed by our firemen are a prime example.

Those members on the Interstate and Foreign Commerce Committee saw the need to include a provision which would make it a civil violation to deny fillups to trucks on cargo runs. This is understandable when one considers the role that these trucks play in keeping our economy moving.

However, the firemen of this country play a significant role in insuring the safety of our homes, businesses, schools, and other community buildings.

I am pleased that provisions will be made for them. I hope, however, that adequate provision should be made to insure that volunteer firemen are given ample fuel for their personal cars so that they can respond to fires.

Mr. BLACKBURN. Mr. Chairman, today the House of Representatives is considering the National Emergency Energy Act of 1973. This legislation will have a far-reaching effect upon the lives of all Americans. For the first time in our history, the Congress proposes to grant to the President and the Administrator of the newly created Federal Energy Administration the power to regulate an important facet of our business and personal lives regarding our use of energy. Under the bill which we are today debating, the Administrator could shorten the hours businesses are open and could decide how much fuel any individual can receive for any of the many purposes for which we as individuals use energy.

I am sure that if these were normal times many of the Members who will so strongly support this legislation would rebel at the invasion of individuals' privacy as well as the rights which should be left to the discretion of State and local governments. However, the energy shortage which we are facing is not a normal occurrence.

All Members of this body have received numerous communications from their constituents informing them of their preference for either rationing, placing a tax on energy products, or allowing prices of these products to rise in order to allocate them.

I have given a great deal of time and thought to this problem. Needless to say, we will find it necessary to begin curtailing consumption of petroleum products. It has been our previous national experience, except in times of war, to expect and receive a constant expanding supply of petroleum in order to meet our demands for these products. We will undergo considerable discomfort while adjusting to a reversal of this previous experience. Such a reversal will not be easy to accept and will not be made without readjusting our ways of doing business. The standards of comfort and convenience to which we have all become accustomed will be reduced. I share the concern of many of my constituents that no particular facet of our economy should be forced to bear the total burden that is being forced on our society because of our petroleum supply problem.

Those who advocate rationing feel that this method will assure that equal distribution of products to all segments of our society is granted. Frankly, I feel that if we should come to rationing, we will find the heavy hand of Government making arbitrary and sometimes questionable decisions as to true necessity versus pure luxuries and all of the gradients between them. Such judgment would be broad ranging and enforced with the power of law. Individuals and industries adversely affected by Government decisions will find themselves in a hopeless contest with the massive power of the Federal Government against them.

I shudder when I think of the very expensive bureaucracy of administrators and policemen which would be required under rationing. The cost of this bureaucracy would have to be paid by the American people and they will not receive any direct benefit from this investment. In my own opinion, rationing will only decrease the incentive to produce while causing serious disruptions in the economy. Recent experiences with wage and price controls should clearly demonstrate that such Government interference only leads to shortages, inequities, and severe economic disruptions. Such distortions occur because Government decisions are dictated by political pressures many times rather than good business or economic considerations.

It is my feeling that the price mechanism operates best. The best allocator of resources is the price mechanism under a free market economy whether the resources be beef, bread, or petroleum. Under the price mechanism, we each determine those resources which are vital and necessary to us and which resources are necessary for our comfort and leisure. I believe that the price mechanism is more than adequate to allocate our fuel products and see no reason at the present time for the Federal Government to place an additional tax to allocate petroleum on the American people when we face the prospects of a serious economic decline because of the energy shortage. A very persuasive argument in allowing prices to rise is the fact that prices will serve as a stimulus for increased production. Thus, the price mechanism will serve to stimulate supply while rationing with controlled prices will do nothing to improve the supply.

Frankly, I do not think that prices of petroleum products are going to become so high that any productive citizen will not be able to secure gasoline for his necessary uses. Increased prices will limit use and help eliminate waste. When we pass any high school in America we can see 50 to 100 automobiles that are being driven by students who could have ridden the bus. This only reinforces my belief that we have not become frugal in the use of this vital resource.

Of course, if the price of gasoline increases, the cost of doing business for anyone who uses gasoline in their business would unavoidably be increased which means that the cost of providing their services to the public will be increased. In short, we will have to make some readjustments.

We are bidding for petroleum resources on the world markets against the English, Germans, French, Italians, and Japanese. As they bid higher for these resources from the oil-producing states, we must be prepared to meet their bids, or we will not receive these resources. There is no way that we can insulate ourselves from the influence of world market forces.

The catalyst for bringing this whole problem to public attention was the cutoff of fuel supplies by the Arab nations. The actual loss of fuel from the Middle East will probably come close to 17 percent of our total consumption. We directly imported from the Middle East only 5 to 7 percent of our petroleum products. However, we have been receiving from Western Europe refined petroleum products which had their origin in the Middle East. The loss of these refined petroleum products from Europe, indirectly coming from the Middle East, has considerably aggravated our energy problems.

Many people have advocated that we should withdraw our support from Israel in order to satisfy the oil-producing states of the Middle East and thus receive needed petroleum products. In light of the fact that the United States was instrumental in the establishment of Israel, along with many other nations, I believe that we have an obligation to the Israelis to help them maintain their existence. I am hopeful that present diplomatic initiatives will result in the Arab States recognizing that Israel has a right to exist and that the borders involved can be adjusted in such a way to provide security for all the nations involved.

It has been suggested that the United States should cut off the export of food grains and other materials to Middle East oil-producing countries in order to force them to make shipments of petroleum to us. The oil-producing countries have large monetary reserves and essential commodities and what they can buy from us can currently be purchased from other sources in the world.

Discussions have been given to the fact that the United States is still exporting petroleum products. In fact, the amount being exported represents only one-tenth of the amount being imported. Thus, if you should stop exporting, other nations could retaliate and we would lose ten barrels for each ten barrels that we might save. Obviously, such a move would not be to our national advantage. Furthermore, for the most part, products being exported are going into Canada and Mexico to serve their border areas as a matter of convenience because their refineries will not normally serve these areas. Both of these countries are exporting to the United States far more than they are importing from us.

I am somewhat encouraged by reports that our consumption of energy for the first time in history has shown a decrease during the past month. This indicates that all of us, whether businessmen or individuals, are making adjustments in our consumption habits so as to insure that we receive the greatest benefit from our energy sources. I have noticed fewer cars on the roads on weekends and those on the highways are driving at a reduced speed as compared with even 3 months ago. Lights are no longer prominent in our places of business or highways. Reports from gas and electric companies indicate that people are cooperating in turning back the thermostats in our businesses and homes. All of these conservation measures being practiced by us will have a healthy cumulative effect. Most important, the fact that the American public is accepting these practices indicates that once again they are willing to share necessary burdens for the common good of all of us.

Mr. CAREY of New York. Mr. Chairman, H.R. 11450, over which the House Commerce Committee and the House itself have worked diligently, is a fairly good bill, under the circumstances. But it remains a patchwork—an effort to design emergency legislation under emergency conditions, with little or no cooperation from the executive branch—and certainly no leadership. As I said in my recent remarks during debate on the trade bill, this administration's track record on energy is "dismal—unparalleled."

I shall vote for the bill, because it is the best we could come up with on such short notice. It is an effort by the Congress, starting from scratch, to devise ways and means of confronting the energy crisis and winning. No interest and leadership escaped from the White House on this bill—no great concerted and coordinated effort to marshal the intellectual forces of the vast executive branch could be noticed by the committee during their herculean efforts.

Mr. Chairman, this bill should pass. We need it, and we need it now. I realized that the initiative on this issue must come from the Congress and for that reason introduced H.R. 11505, the House companion bill to Senator JACKSON's bill in the Senate. However, there is much we should be studying and investigating in our efforts to continually improve this bill and others addressing our energy supply and research problems.

As a member of the Ways and Means Committee's task force on energy, I shall be looking into methods of improving our supply of imported petroleum and refined products and in developing a common position of solidarity with which the oil-consuming nations can face the blackmail of the OPEC nations.

Also as cochairman of the Democratic Study Group's task force on energy, along with my friend and colleague, Congressman McCORMACK of the Joint Committee on Atomic Energy, I shall be looking for ways in which the United States, through our technology and scientific know-how, will be able to reinstate our research and development leadership, so the world will again beat a path to our doors, to share in the wealth of new energy we shall unlock from oil shale, coal gasification, nuclear, solar, and geothermal sources.

It is in this way that we shall be able to continually improve this new series of energy laws—tailoring them gradually to meet the challenges ahead. They will work now, but these laws will work even better in the future.

Mr. Chairman, in my efforts within both the Ways and Means Committee and the DSG task force, I shall feel fortunate that I have such a long and close relationship with my good friend and colleague, Senator JACKSON, chairman of the Senate Interior Committee—the "energy" committee of that body.

With his leadership and that of Chairman STAGGERS, the Congress will improve on this legislative energy fabric before us. We shall devise a new weave—one strong and resilient—one that shall withstand the tensions and challenges that this Nation faces in the months and years ahead. But that challenge shall find that fabric of national purpose and resolve a tapestry of American life—and each thread of each individual citizen sacrifice will make both the pattern and the strength.

Ms. HOLTZMAN. Mr. Chairman, I rise in support of the amendment—which seeks to limit the bill's antitrust exceptions for oil companies—offered for the distinguished chairman of the Judiciary Committee (Mr. RODINO).

I am amazed at those who want to create for the oil companies broad exceptions from the antitrust laws in the middle of this energy crisis. For as the Federal Trade Commission's recent study shows, the energy crisis is in part a result of anticompetitive practices by the oil companies. Thus if we want to remedy the shortages caused by monopoly-type practices it is imperative that we strengthen enforcement of the antitrust laws against the oil companies rather than relax them as the committee bill seeks to do.

For this reason, I support Mr. RODINO's amendment, although I would have preferred even stronger provisions.

I am, however, somewhat troubled that the Department of Justice will have to enforce the provisions of this amendment. We cannot close our eyes to the fact that the Nixon administration's Justice Department has taken virtually no action against the anticompetitive practices of the oil companies. Nor can we close our eyes to large and sometimes illegal contributions made by major oil companies to President Nixon's campaigns. Can we really expect from this Justice Department the kind of impartial, forthright enforcement of the antitrust laws we so desperately need at this time? Can we really expect from it the proper policing of the limited exemptions to the antitrust laws created in this amendment?

We can take some heart, however, from the fact that the amendment's places equal policing powers in the hands of the Federal Trade Commission.

If this amendment is adopted, these two agencies will have an enormous responsibility to prevent the consumers and small businesses of this country from being fleeced further by the actions of the major oil companies. I earnestly hope that they will carry out this public trust with the energy and impartiality it deserves.

Mr. DRINAN. Mr. Chairman, the Emergency Energy Act which is presently before us for consideration, is a good bill. This bill grants temporary emergency powers to the President to deal with energy shortages.

Title I of this bill amends the Emergency Petroleum Allocation Act, authorizing the President to designate priority users of petroleum products and to allocate petroleum products among those users. The vital services which receive the top priority include, quite properly, new housing construction, education, health care, hospitals, public safety, energy production, agriculture, and transportation services. In addition, title I requires the President to consult with the Department of Labor with regard to the impact on the Nation's unemployment of the energy shortage.

This title also establishes a Federal Energy Administration. This new, independent regulatory agency will collect information on the energy shortage and make legislative recommendations to the Congress.

Mr. Chairman, I and other Members of the House joined to defeat an amendment which sought to strike congressional control over Federal energy conservation plans. The bill's provision that the Federal Energy Administrator shall propose energy conservation plans to Congress within 30 days was attacked by those who would prefer that Congress not be able to amend such plans. I opposed the amendment because I did not want to give to this administration the absolute power to set all energy policy without regard to the congressional will.

I also opposed an amendment which had the effect of exempting the coal industry from vitally important provisions in this bill which would restrict the receipt of windfall profits by the giant energy companies. Unfortunately, the coal interests prevailed. Nonetheless, the windfall profit section of this bill provides that any person who believes that established prices would allow windfall profits to the giant energy producing companies may petition for a refund and have the Renegotiation Board establish a new sales price which prevents such profits.

I supported the Rodino amendment to this bill which passed by a great margin. The bill as it came to the floor contained provisions exempting oil companies and retail business establishments from Federal, State, and local antitrust laws. As drafted, this bill would have permitted producers, refiners, marketers, and distributors to enter into agreements among themselves governing the retail marketing and distribution of petroleum products. I opposed, along with a majority of the Members of this House, this enormous grant of authority to large oil companies to enter into agreements which would be exempt from antitrust scrutiny.

I am hopeful that in our haste to adequately cope with the energy crisis, we shall not disregard the important environmental protections, such as air quality standards, that we have enacted. I, along with others, have serious misgivings and doubts about the wisdom of exempting actions taken under this bill from the requirements of the Environmental Policy Act of 1969 as called for in title II of this bill.

Mr. Chairman, section 123 authorizes the Federal Energy Administrator to restrict exports of fuels and energy sources, including petrochemical feedstocks. I have sponsored legislation in the House which will prohibit the export of any petrochemical feedstocks until the Cost of Living Council removes the price control regulations on petrochemicals. It is absolutely necessary for the Cost of Living Council to remove its price control regulations on petrochemicals. I shall call upon the Federal Energy Administrator, as soon as this bill is enacted, to do all in his power to stop the export of petrochemical feedstocks which has been so damaging to our plastics industry. The plastics industry in this country has been asked to bear the burden of the shortsighted price controls of the Costs of Living Council.

Mr. Chairman, the administration wants to hire 250 oil company executives to help implement the Emergency Energy Act. I will oppose any amendment which exempts these oil company executives from Federal conflict-of-interest laws. If oil company executives want to join in the effort to come to some sensible decisions on energy policy, then they should be willing to give up their extremely lucrative jobs to help solve the crisis which they and their companies helped create. Nothing could be less appropriate than having highly paid oil company executives participate in decisions which will affect the supply and distribution of the petroleum companies to whom they owe their primary allegiance. Exempting these executives from conflict-of-interest laws would give them a one-way ticket to what could be the final raid on the American people by the giant oil companies.

I am hopeful that this bill will be a major step forward to achieving a meaningful national energy policy worked out with the cooperation of the Congress and the executive branch.

Mr. STAGGERS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the Chair, Mr. BOLLING, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 11450) to direct the President to take action to assure, through energy conservation, rationing, and other means, that the essential energy needs of the United States are met, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on the bill under consideration today.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

HOUR OF MEETING ON FRIDAY, DECEMBER 14, 1973

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 10 o'clock a.m. tomorrow, Friday, December 14, 1973.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

A MAN TO REMEMBER

(Mr. VAN DEERLIN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. VAN DEERLIN. Mr. Speaker, in these sorry times, the once laudable calling of public service is suffering from a severe black eye.

The antics in office of some of our high officials have generated skepticism about not only individuals but the entire breed.

Luckily for all of us, there are still men and women whose performance and integrity in the offices they hold cannot be seriously questioned.

One such person is Nicholas Johnson, who stepped down last week after a stormy 7-year term on the Federal Communications Commission. Before that, while still in his early thirties, he put in 3 years as Federal Maritime Administrator.

In both these roles, Mr. Johnson consistently distinguished himself as an ardent, outspoken, and articulate defender of the public interest.

Important segments of the broadcast and maritime industries often have been at odds with Mr. Johnson, but they recognized in him a formidable and entirely honest opponent.

Nick's farsighted thinking, his eloquent dissents, just naturally attracted attention in Congress and the courts.

While serving on the Communications Commission, he was instrumental in developing and promoting policies to foster dialog between broadcast licensees and the public, to allow for the orderly growth of cable television and the use of domestic satellites, to check broadcast and telephone monopolies and to take some of the hard-sell off the airwaves and replace it with more public-interest programing.

Like many of my colleagues in Congress, I have occasionally disagreed with Mr. Johnson's opinions and sometimes with his style. Happily, the time is not yet in America when we demand conformity as the price of respect. Against the cynicism that seems to surround governmental institutions, Mr. Johnson has served us all well—even those on the other side of the ideological fence.

He never forgot that his most important client was the public, and all his actions over the years reflected this firmly held tenet.

We need more men of Nick Johnson's caliber in public life. I hope and expect he will return soon.

PROPOSED AMENDMENT TO ENERGY EMERGENCY ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. BAKER) is recognized for 5 minutes.

Mr. BAKER. Mr. Speaker, in compliance with rule XXIII of the House of Representatives, I am submittting for the RECORD an amendment I intend to offer at the appropriate time to the Staggers substitute for H.R. 11450.

Following is the text of the amendment which I will support by explanation at the time of presentation:

Amendment to be offered by Mr. BAKER, of Tennessee, to the amendment (H.R. 11882) in the form of a substitute offered by Mr. STAGGERS, of West Virginia:

On page 15, strike lines 13 and 14 and insert in lieu thereof the following:

"(d) Coal production authority.—The Administrator may take such actions as are necessary to assure an adequate supply of coal to attain the objectives of this section, including, but not limited to, the granting of exemptions from provisions of the Economic Stabilization Act which inhibit the ability of coal producers to obtain the necessary equipment and personnel for production and distribution of coal; and the granting of exemptions, on a case-by-case basis, from provisions of the Federal Coal Mine Health and Safety Act, in such cases as mines located above the water table or in which methone has not been detected as prescribed in section 303(h) of such Act, where it has been determined (1) that such provisions substantially reduce the ability of the producer to provide necessary supplies of coal in an economical manner, and (2) that the exemption will not materially affect the health and safety of employees of that producer."

"(e) Expiration.—The authority under this section (other than subsections (b) and (d) shall expire on May 15, 1975."

POSSIBLE IMPROPER TAX DEDUCTIONS OF THE PRESIDENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 20 minutes.

Mr. VANIK. Mr. Speaker, in further analyzing the tax figures submitted by the President to the American people, several glaring questions become apparent.

It appears that for the 4 years in question, the President took deductions for costs incurred in the use of property for official purposes at his San Clemente and Key Biscayne vacation homes. Apparently, the deductions were for periods when he used his home for the conduct of official business. In his report, the President took a total business use deduction for his San Clemente and Key Biscayne homes in 1969 for $11,285.67, and in 1970 for $13,964.38, in 1971 for $16,367.79 and in 1972 for $15,337.13. The grand total of business use deductions of his private homes total $56,954.97.

According to my calculations, the President spent 71 days at San Clemente and Key Biscayne in 1969, which provided him a tax deduction of $158 per day. In 1970, he was at his two vacation homes for 90 days for a daily tax deduction of $155. In 1971, he was at his two homes for a total of 95 days, receiving a per diem deduction of $172 per day. In 1972, the President spent "only" 69 days at the two vacation spots for a daily tax deduction of $222.

A tax deduction for the use of space in one's home for business purposes has been carefully regulated by the Internal Revenue Service, which, since 1962, has specified that one may take a business—use deduction if one has to work at one's residence:

> An employee who, as a condition of his employment, is required to provide his own space and facilities for performance of his duties and regularly uses a portion of his personal residence for that purpose may deduct a pro rata portion of the expenses of maintenance and depreciation on his residence. *However, the voluntary, occasional,* or incidental use by an employee of a part of his residence in connection with his employment does not entitle him to a business expense deduction for any portion of the depreciation and expenses of maintaining his residence. Internal Revenue Bulletin 62–180, 1962–2, C. B. 52 (emphasis added.)

The Internal Revenue ruling also states that in claiming a business use tax deduction, one can take a "pro rata portion of such items as rent, light, taxes, and interest on mortgage." "Expenditures for lawn care, landscaping, et cetera, are not deductible." In reporting on the President's Sunday release of tax information, some newspapers reported he took deductions for gardening.

The President of the United States is certainly entitled to live and to work wherever he likes. The Government provides him with the White House and Camp David, and as Commander in Chief, he is entitled to live and work in any American military establishment in the United States. Therefore, personal tax deductions for voluntary visits to his personal, vacation homes seem highly questionable.

A September 1973 tax court decision—*Stephen A. Bodzin* v. *Comissioner of Internal Revenue*—Tax Court, Docket No. 1104–71—expands the interpretation on the use of space in one's home for business purposes. The Federal attorneys argued against this decision on the basis of the 1962 Revenue ruling. As far as the IRS was concerned, the Revenue ruling was the law.

The new decision, now under appeal by the IRS, was not operative for the period in which the President made his business use deductions. Therefore, at the time that the President claimed the deduction, it appears that he was not entitled to claim the deduction for the years in question. Moreover, the IRS continues to oppose the type of deduction taken by the President. The September tax court decision cannot, in my opinion, make the President innocent of a tax deduction that may have been improper at the time he claimed it.

It may be that the President took the business use deduction on the basis of special tax rulings. If the President is the beneficiary of a private and secret IRS tax ruling for his deductions, the IRS has the duty to place such a ruling in the record.

Further, the President says that he has cleared his tax returns with the Internal Revenue Service. I do not understand how this can be possible when the IRS is opposing in court claims of similar deductions by ordinary taxpayers.

I am accordingly requesting the IRS to advise whether any taxpayer can claim a deduction for the business use of space in his home, where such utilization is voluntarily undertaken or casual, under the tax laws and regulations as they existed prior to 1973.

I would like to enter in the Record at this point a copy of the Tax Court decision now under appeal:

[U.S. Tax Court, Docket No. 1104–71, filed Sept. 4, 1973]

STEPHEN A. BOZDIN AND TANYA K. BOZDIN, PETITIONERS VERSUS COMMISSIONER OF INTERNAL REVENUE, RESPONDENT

In 1967 the petitioner-husband was a Government attorney. In connection with his business he found it helpful to maintain a small office in his apartment. There, in the evenings and on weekends, he frequently worked on his cases and studied current legal developments. The maintenance of his home office was not required by his employer; nor was it, in a strict sense, required by the nature of his employment. But it was directly and closely related to his business. His employer provided office facilities, and these facilities were available to petitioner at all times—evenings and weekends included. Petitioner lived approximately 20 to 30 minutes by car from his employer's offices. His use of the home office to some extent served his own convenience, but it was also more efficient.

Held, petitioner is entitled to deduct the reasonable, actual cost of his home office as an ordinary and necessary business expense under section 162, I.R.C. 1954.

John J. Yurow, for the petitioners.

Steven G. Goldstein and Robert S. Erickson, for the respondent.

Dawson, Judge: Respondent determined a deficiency in petitioners' Federal income tax for the year 1967 in the amount of $87.78. The only issue presented for our decision is whether petitioner Stephen A. Bodzin is entitled to deduct a portion of the cost of one room in his apartment as a business expense because of the use of the room as a home office. The issue is argued within the context of sections 162 and 262, Internal Revenue Code of 1954.

FINDINGS OF FACT

Some of the facts have been stipulated. The stipulation of facts and the exhibits attached thereto are incorporated herein by this reference.

Stephen A. Bodzin and Tanya K. Bodzin (the petitioners herein) are husband and wife whose legal residence was in Alexandria, Virginia, when they filed their petition in this proceeding. They filed their joint Federal income tax return for taxable year 1967 with the district director of internal revenue at Richmond, Virginia.

During the entire year 1967 Stephen A. Bodzin (hereinafter referred to individually as petitioner) was employed as an attorney-adviser in the Interpretative Division, Office of the Chief Counsel, Internal Revenue Service. The Interpretative Division prepares legal opinions for the guidance of officials and employees of the Internal Revenue Service; reviews rulings or opinions referred to the Office of Chief Counsel by the Office of the Assistant Commissioner (Technical); reviews or assists in preparing mimeographs and press releases when referred to the Chief Counsel's Office for consideration; reviews and edits revenue rulings which are to be published; reviews closing agreements; and assists in maintaining digests of the opinions of the Chief Counsel. In short, the primary function of the Interpretative Division is to be a lawyer for the Commissioner of Internal Revenue. The work of the Interpretative Division has an appreciable effect on the interpretation and administration of the Federal tax laws.

Petitioner's duties as an attorney-adviser included the following: He worked on proposed ruling letters and published rulings, requests for technical advice referred to the Office of Chief Counsel by the Assistant Commissioner (Technical), and requests from other divisions within the Office of Chief Counsel for an opinion with regard to particular tax law problems. Although petitioner had been employed for only 6 months at the beginning of 1967 and his relative inexperience was at first taken into consideration by his supervisors, he was assigned a wide variety of important and complex legal problems. When assigned a problem he would first read and review the request and administrative files and proceed to analyze the facts and issues involved. Next he would research the problem extensively, using the references available in his own office area, the Chief Counsel's library, the Interpretative Division Digest Section, and such other sources as were available to him. He also conferred with others, such as reviewers, officials of the Service, and taxpayers' attorneys, to obtain their views and additional information. At the conclusion of all this, the petitioner would ordinarily draft a proposed memorandum—sometimes called a General Counsel Memorandum or G.C.M.—containing his final judgment of the problem. He might make several drafts of a G.C.M. before producing one that he was satisfied with. A proposed G.C.M. was reviewed carefully and thoroughly by his supervisors. Sometimes the petitioner would also prepare a "side memorandum" to accompany his draft of the G.C.M.

The duties of an attorney in the petitioner's position required mature judgment and an ability to apportion one's own time and workload. Petitioner generally worked independently, without day-to-day supervision, receiving guidance only when requested or when guidance was deemed necessary.

It was the policy of the Interpretative Division to complete its cases as expeditiously as possible, the quality of the work performed on each case being emphasized above all else. No specific number of cases was required to be completed at the end of a given week or month. Attorney Production Reports were, however, required. Each week the petitioner filled out one such report showing the number of cases disposed of in the preceding week, the number of cases on hand, and the number of 60-day cases and expedite cases on his docket. The report also listed the date on which each case was received by him, the date on which he expected to begin work on the case, the date on which he actually began work on the case, and the target date by which he expected to finish the case. Petitioner was given the responsibility of setting his own target dates. They were supposed to be realistic ones. However, he could, and often did, extend them. So-called "expedite" cases were to be completed within a short period of time. Though rare, petitioner did receive and work on some expedite cases.

It was not the policy of the Interpretative Division to request its attorneys to work overtime. Accordingly, petitioner was not required, requested, expected, or encouraged to work after normal working hours (9 a.m. to 5:30 p.m.).

Nevertheless, petitioner's duties and responsibilities were of such a nature that he frequently deemed it desirable to work overtime in order to meet deadlines, self-imposed or otherwise, and to insure that work was performed to the best of his abilities.

In addition, petitioner liked to use evenings and weekends to read widely about current developments in the tax law. He would spend hours reading such things as advance sheets of various Federal tax services and Tax Court opinions. Petitioner was not given any additional compensation for overtime work since his salary was regarded as covering all job-connected work regardless of the number of hours devoted thereto.

During 1967 the petitioner, his wife and one child lived in an apartment in Alexandria, Virginia, across the Potomac River from Washington, D.C. The apartment consisted of a living room, dining room, kitchen, two bedrooms, two bathrooms, and a study or den. The study was a separate room, approximately 8 feet by 12 feet in size. It was furnished with a large desk, a desk chair, several book cases, several cabinets, and several lamps. The bookshelves contained, among other things, a one-year-old looseleaf tax service, a set of Seidman's Legislative History of the Income Tax Laws, and various tax treatises and lawbooks. There was no other furniture or appliances in the room. The room was not used when entertaining visitors and was generally not used by anyone except the petitioner. He used the room as his home office.

Petitioner occasionally used the room for purposes unrleated to his business, including payment of bills, reconciliation of monthly bank statements, and stamp collecting. He stored in the room personal papers, his stamps, and his personal library. To this was added some of his wife's personal library.

Petitioner usually worked in his home office two or three evenings during the week and for 3 to 5 hours on weekends. He worked on cases and other matters assigned to him and read about recent developments. With respect to his cases, he would rely sometimes on reference materials of his own stored in the study and sometimes on materials that he had photocopied and brought home. He frequently worked on the first draft of memoranda while at home in his home office. He would often prepare for upcoming conferences while there.

During 1967 the petitioner customarily traveled the 10 miles to and from work in a car pool that left the Federal Triangle area of downtown Washington, D. C., shortly after 5:30 p.m. Therefore, whenever petitioner found it desirable to work past the normal working hours he was faced with the following three choices: (1) Go home with the car pool and return to the Internal Revenue Service offices after dinner; (2) use public transportation or call home for a ride after working late at the Internal Revenue Service offices and eating dinner downtown, eating no dinner, or postponing dinner until arriving at home; (3) bring work home to his home office. In such situations petitioner almost invariably chose to bring the work home because it was more convenient to do so and because he thought it was more efficient. It enabled him to make better use of his car pool and to spend more time with his family.

The Internal Revenue Service offices are located at 1111 Constitution Avenue in downtown Washington, D.C. Petitioner was provided an office in that building. At all relevant times his office in the Internal Revenue building was heated and air-conditioned 7 days a week, 24 hours a day. If he had chosen to do so, the petitioner could have worked comfortably in his Internal Revenue Service office in the evenings and over weekends and holidays. The Internal Revenue building was, and is, at all times open to persons having the proper security clearance and identification. Petitioner always had both.

Petitioners paid a total of $2,100 in rent for their apartment in 1967. Having determined that $100 of this amount was allocable to the use of their study as a home office, they deducted the $100 as "business expenses deductible under sec. 162"—an itemized miscellaneous deduction. Respondent disallowed the claimed deduction.

ULTIMATE FINDINGS

1. Petitioner's use of his home office was appropriate and helpful to the performance of his duties as an attorney for the Internal Revenue Service.

2. Petitioner's expenses of maintaining his home office in 1967 constituted ordinary and necessary business expenses.

OPINION

Petitioner contends that the claimed deduction is an ordinary and necessary business expense under section 162(a). Respondent, while in no way challenging the correctness of the amount involved, would disallow the deduction on the ground that the expense "was not required in order for the Petitioner to properly perform his employment duties." According to respondent, the petitioner must prove "that the nature of his duties required working after normal working hours and that his employer failed to provide him with an office that was adequate and reasonably accessible for the performance of such work." Respondent argues that the petitioner fails to establish his right to the claimed deduction when it appears that he "voluntarily chose to work after normal working hours and that he [petitioner] performed such work at home rather than at the office of his employer solely because of personal reasons." Alternatively, respondent argues that the expense incurred was an expense of his employer (the Internal Revenue Service) which petitioner voluntarily assumed; therefore, it cannot be deducted by petitioner.

With respect to his primary ground, respondent attempts to rehabilitate Rev. Rul. 62–180, 1962–2 C.B. 52, which laid down guidelines for determining the deductibility of home office expenses and for figuring the amount of such expenses. The ruling states that one requirement for deductibility is "that, as a condition of his employment, he [the taxpayer] * * * [must be] required to provide his own space and facilities for performance of some of his duties." Respondent has argued in the past that this means that the employer, if one exists, must require that the taxpayer provide his own facilities. *Newi* v. *Commissioner*, 432 F. 2d 998 (C.A. 2, 1970), affirming a Memorandum Opinion of this Court. Compare *Harold A. Christensen*, 17 T.C. 1456 (1952), (promotion and entertainment expenses paid by a drug company field manager); *John J. Ide*, 43 B.T.A. 799 (1941), (travel and entertainment expenses paid by a Government employee); *David J. Primuth*, 54 T.C. 374 (1970), (employment agency business). This argument has been previously rejected. *Newi* v. *Commissioner, supra*. Respondent now hastens to point out that, although parts of the ruling are misleading, "the examples set forth in Rev. Rul. 62–180, supra, make it clear that the term 'required as a condition of employment' means required in order to properly perform the employment duties." We think this approach is also unsatisfactory in that "required" can be interpreted strictly as meaning "absolutely essential" or "absolutely necessary" and such an interpretation leads to the imposition of a standard which is too strict. Therefore, we likewise reject the rehabilitated version of this ruling.

Respondent makes further use of the revenue ruling in connection with a correlative argument. He contends that "[W]here the work was done at home only as a matter of convenience in spite of adequate office facilities, the deduction is properly disallowed." This argument is illustrated by example (4) of Rev. Rul. 62–182, *supra* at 56. The argument and the test that it seeks to establish are too broad. The test could be made to work, however, if the word "only" was emphasized, but we need not fiddle with it since a better test already exists.

The applicable test for judging the deductibility of home office expenses is whether, like any other business expense, the maintenance of an office in the home is appropriate and helpful under all the circumstances. *Newi* v. *Commissioner supra*; *LeRoy W. Gillis*, T.C. Memo. 1973–96. That the maintenance of the home office can be characterized as "a matter of convenience" due to the existence of duplicate employer-provided facilities does not void the conclusion that the expenditure is appropriate and helpful. A finding that the home office was simply for the taxpayer's personal convenience would bar the deduction if the Court concluded that personal convenience was the primary reason for maintaing the office. Such a finding would displace any conclusion as to "appropriateness" and "helpfulness." Of course, a finding of bad faith on the part of the taxpayer, i.e., that he sought only to manufacture a deduction, would also be decisive in favor of the respondent's determination.

In this case there is no question as to the good faith of the petitioner or the reasonableness of the amount. Cf. *Commissioner* v. *Heininger*, 320 U.S. 467 (1943). We have found as an ultimate fact, on this record, that the expenses at issue were directly related and pertained to his business—that of a Government attorney. It makes no difference that the petitioner was not required to maintain a home office, that he wanted merely to do a good job, and that he liked his work. The expenses were "necessary" because they were appropriate and helpful in the conduct of his business. They enabled him to keep a facility in his home wherein he could, and did, work. See *Newi* v. *Commissioner, supra*; *Blackmer* v. *Commissioner*, 70 F.2d 255 (C.A. 2, 1934). They were "ordinary," and not capital, in nature. See *Welch* v. *Helvering*, 290 U.S. 111 (1933); *Commissioner* v. *Tellier*, 383 U.S. 687 (1966). Accordingly, we hold that the home office expenses of this petitioner fall within section 162 and outside section 262.

With respect to respondent's alternative argument, it is our view that the home office expenses of the petitioner were not the responsibility of the Internal Revenue Service; that petitioner had no right to reimbursement for such expenses; and, consequently, he did not voluntarily assume them.

Reviewed by the Court.

Decision will be entered under Rule 50.

RAUM, J., did not participate in the disposition of this case.

SCOTT, J., dissenting: Even though I recognize that the authorities cited in the majority opinion, particularly the memorandum opinions referred to therein, support the conclusion reached, I respectfully disagree with that conclusion since in my view the use by an employed lawyer of a part of his home for doing professional reading and some written work for his employer does not change the personal expense of rental of a home to a business expense. Under the holding of the majority opinion, there would certainly be no professional person, and very few if any business people, who would not be entitled to deduct as a business expense some portion of the cost of rental of a home or the maintenance of a house since the great majority of such persons do professional reading and written work for themsleves or their employers in their homes. In fact, this is probably true of the majority of persons interested in their work regardless of the type of work tney do unless their work is purely mechanical in nature. In my view it was never the intent of section 162 to change the personal expenditure of a taxpayer for a home for himself and his family into a business expense merely because that taxpayer is sufficiently interested in the work in which he engages to do some work in his home.

DRENNEN and FEATHERSTON, JJ., agree with this dissent.

FEATHERSTON, J., dissenting: I respectfully dissent. Section 162(a) allows as a deduction "all the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business." In my opinion, the rental expenses here in issue were not paid or incurred in carrying on any business. Rather, they were paid by petitioner in providing a home for himself and his family and are nondeductible "personal, living, or family expenses" under section 262.

In my view, it is beside the point that petitioner's overtime work or his use of his home office was "appropriate and helpful to the performance of his duties as an attorney for the Internal Revenue Service." That is not the issue. The question is whether the rental expenses were paid or incurred in carrying on petitioner's business. And there is nothing to show that he would not have incurred these same rental expenses (or that his rent would have been less) if he had found it more convenient to do his overtime work at the office provided and maintained for that purpose by his employer.

Surely the Commissioner would not be heard to claim petitioner received additional taxable income if he used his Internal Revenue Service office for such personal purposes as storing his golf clubs, keeping his umbrella or raincoat available for a rainy day, eating his lunch, taking personal telephone calls, etc. Such uses are merely incidental to the business use of the office. Similarly, petitioner's use of a room in his apartment for a few hours of overtime work each week is merely incidental to the purely personal purpose for which the rent was expended.

I am aware that language tending to support the majority appears in some prior opinions on home offices and that the Commissioner's action in this area has not always been consistent. But to say, as does the majority, that the applicable test for judging deductibility of home office expenses is whether "the maintenance of an office in the home is appropriate and helpful under all the circumstances" does not provide a practical guide. Indeed, in my opinion, that test confuses petitioner's personal convenience in doing overtime work with the purpose for which his rent was actually paid. Where it is not shown that rent was paid for the purpose of acquiring home office space—in addition to the rent otherwise required to obtain living quarters—the reasoning of Fausner v. Commisisoner, U.S. (1973), clearly suggests that a deduction is not allowable under section 162(a).

DRENNEN, J., agrees with this dissent.

QUEALY, J., dissenting: Section 162 provides for the deduction of "the ordinary and necessary expenses" paid or incurred by a taxpayer in carrying on his trade or business. In my opinion, the deduction in question was neither "ordinary" nor "necessary." The petitioner was a salaried employee of the Internal Revenue Service. He was neither required, nor did his superiors expect him, to do any work at his place of residence.

This is not a situation in which the petitioner actually transacted any business from his residence. Taking his testimony at face value, the principal so-called business use of the petitioner's "study" was limited to reading upon current tax reports and keeping abreast of developments in his field, an avocation which might improve his skills, but where, when, and to what extent he engaged therein was solely a matter of personal choice and convenience. He could have done as much at the dining room table.

While the amount claimed as a deduction is hardly significant, I would regard it as the "nose of the camel."

It is a common practice for lawyers, doctors, engineers, and other profesisonals who have any interest in attaining excellence in their profession, to read up on technical publications and other informative materials outside of their normal working hours. Such a practice hardly justifies claiming some part of the cost of the residence as a trade or business expense within the meaning of section 162. It is solely a matter of personal choice and convenience, to which I would apply the same rules which have recently been affirmed by the U.S. Supreme Court with respect to a taxpayer's expenses of driving to and from his job. See Donald W. Fausner v. Commissinoer, — U.S. —, June 25, 1973, affirming 472 F. 2d 561 (C.A. 5, 1973). In order for such an expense to constitute an allowable deduction, I would require as a minimum proof on the part of the taxpayer that the space claimed to have been devoted to this purpose in the residence of the taxpayer would not have ben acquired except for such purpose.

DRENNEN, J., agrees with this dissent.

ENERGY CONSERVATION PLAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. ROONEY) is recognized for 10 minutes.

Mr. ROONEY of Pennsylvania. Mr. Speaker, I am pleased to note that included in section 105 of the Energy Emergency Act (H.R. 11450) is language I offered during our committee's consideration of this measure to define the term "energy conservation plan" to include "priority allocation plans for energy conserving recyclable raw materials for use within the United States."

As I explained to the committee, the primary recyclable raw materials my amendment is intended to deal with are ferrous scrap and nonferrous metal scrap.

Ferrous scrap requires substantially less energy to convert to steel than iron ore. A recent article in the American Metal Market reports a speech by E. F. Andrews, vice president of Allegheny Ludlum Industries, Inc. in which he calls attention to the tremendous loss of energy by permitting significant exports of ferrous scrap. Andrews stated that the energy required to convert ferrous scrap into an ingot ton of steel is 5.5 million Btu's. When scrap is not available and iron ore is used, it requires 18 million Btu's to produce an ingot ton of steel—a difference of 12.5 million Btu's of energy. Ferrous scrap exports this year will total a record high of almost 12 million tons. Andrews calculates that this represents 150 trillion Btu's of energy, equal to 6 million tons of coal, 25.5 million barrels of oil, 44 billion kilowatt-hours of electricity or 150 billion cubic feet of gas.

Constituents of mine from the steel industry, foundries and the United Steel Workers of America have over the past year been expressing growing concern over the growing scarcity of ferrous scrap caused by record exports at a time of unprecedented domestic demand. Both domestic consumption and exports of ferrous scrap are at record highs. This year it is estimated that total consumption will reach 55 million tons, with almost 12 million of this in exports. In the past 5 years the average total of exports and domestic consumption has been 43 million tons. The Department of Commerce estimates domestic demand in 1974 at a record 48 million tons and foreign demand at 18 million tons—a total of 66 million tons. This is an increase of 20 percent over this year and 46 percent over 1972.

This constantly rising demand for ferrous scrap will continue due to the increasing use by the steel industry of the electric furnace process which uses ferrous scrap as the exclusive basic raw material.

During this period of sharply rising domestic demand for ferrous scrap, exports have risen from 6.3 million tons in 1971, to 7.4 million tons in 1972, to an estimated figure of almost 12 million tons this year.

The short supply of ferrous scrap has been well demonstrated by the record high prices. Over the past 12 months prices have doubled. For example, the weekly composite price of No. 1 heavy melting scrap was $80.33 a ton on November 23 compared with $39 a year ago. Scrap prices are volatile and accurately reflect supply and demand. The supply picture is extremely serious and getting worse, not better.

Foundries and steel plants now fear that in 1974 there will not only be tight supplies, delays in receiving scrap and poorer quality scrap, but actual outages resulting in production cutbacks or stoppages.

It is incongruous that under such circumstances of unprecedented domestic demand and short supply, at a time we are told we must take drastic measures to save energy, that tremendous quantities of this scarce recyclable material are still being exported.

To dissipate precious recyclable raw

materials which can save us precious energy does not make sense in a period of energy crisis we face today.

NO TIME FOR PROFITEERING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. Chappell), is recognized for 5 minutes.

Mr. CHAPPELL. Mr. Speaker, most Americans are rallying to the fuel shortage with the same mettle and spirit in which they always seem to respond. They are taking individual responsibility to see that fuel is not waste—that they personally use less fuel—and this will have a favorable effect on our supply. Right here in the Washington, Virginia area, consumption was much less than expected for the month. This attitude portends good for the country.

There are those, however, who would profiteer from the fuel shortage we are experiencing. This is no time for profiteering. Let those oil companies who would profiteer be warned that they push nationalization of the oil industry—and this we do not want. Whatever it takes to protect our people from gouging—or from unnecessary shortages brought about by an oil industry too anxious for greater than fair profits—I believe the Congress will do.

SECRETARY SHULTZ OPPOSES CPA APPEAL POWER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. Fuqua) is recognized for 5 minutes.

Mr. FUQUA. Mr. Speaker, as part of my continuing effort to gain insight from agencies that would be affected by the proposed Consumer Protection Agency, I have received a very informative letter from the Secretary of the Treasury, George P. Shultz.

Secretary Shultz states that his Department is "extremely concerned" over the adverse effect of granting such a CPA the right to seek to overthrow the major final decisions of his agency by taking the Department to court. Secretary Shultz's illuminating letter in opposition to granting the nonregulatory CPA such extraordinary power should make us all wonder at how the dangerous proposals for CPA appeal power ever got to be seriously considered by Congress.

APPEAL POWER A KEY QUESTION

As you know, the Senate filibuster led by Senator Sam Ervin which killed all prospects of a CPA bill last Congress centered on the dangers of allowing the Government to "unfinalize" its own final decisions through the unusual medium of creating a nonregulatory Government agency to attack regulatory Government agencies in Government courts.

Right now, in a subcommittee on which I serve, we are considering three differing CPA bills, two of which would grant the CPA the right to appeal to the courts the final decisions of other agencies, including the power of the CPA to attempt to reorder the priorities of its sister agencies by suing them when they failed to take requested action. Only one bill, H.R. 564 by Congressman Brown of Ohio and myself, would preclude such potentially disruptive power from the CPA.

EXPERTS AGREE ON RISKS

During the hearings on these bills, the two most credible expert witnesses on appeal powers both agreed that there were dangers in granting such an extraordinary power to a nonregulatory agency such as the CPA. One of these witnesses, Prof. Harold Petrowitz of American University, stated that in his opinion the risk was not worth taking and pointed specifically to the dangers involved in appealing final Government contract dispute decisions. The second expert witness, Prof. Antonin Scalia who is now chairman of the administrative conference, explicitly warned us of the risks but said that in his opinion these risks were worth taking.

EFFECT ON ENERGY PROGRAMS

Congress, of course, is to be the only one to decide whether the very real risks of granting the CPA appeal power are worth taking at this time. Since these experts testified, a new dimension of risk has been added—we have begun to implement emergency measures to help solve the energy crisis.

Imagine a 3- to 24-month delay of final administrative actions to solve the energy crisis while the CPA takes the President, the Federal Energy Administration, the Treasury Department, or all three to court—as it could under the two pending bills which would grant the CPA appeal rights. This is one of the major concerns of Secretary Shultz, a concern which I share with him.

EFFECT ON TAX AND CUSTOMS DECISIONS

Secretary Shultz, in his letter to me, points out that there are "literally millions" of tax and customs decisions made each year by his Department, and warns, "It would impose a tremendous burden on taxpayers, importers, and the Department alike to make these decisions subject to appeal at the instance of the Consumer Protection Agency."

The Secretary also states that, "We would be equally opposed to granting such an appeal power with respect to actions such as the adoption of regulations and the publication of Internal Revenue or customs rulings that are not subject to review under present law."

THE "PRESENT LAW" NONSAFEGUARD

Secretary Shultz, in one part of his letter, raises a question concerning an apparent limitation of the CPA appeal right in the two bills which would grant such a power. This provision which is being wrongly interpreted by some as a major safeguard, limits the CPA's right of appeal to Federal actions "reviewable under law" in one bill and, in the case of the other bill, where "a right of judicial review is otherwise accorded by law."

What these "present law" provisions mean has been clearly spelled out in the legislative history—if anyone may seek judicial review of a type of Federal action, the CPA may. This, as you will see, will at the most safeguard from CPA appeal only those extremely rare instances where Congress has expressly prohibited everyone from challenging in court particular Federal action affecting them; and this nonsafeguard may not even go that far.

For example, sponsors of CPA bills with appeal power have pointed out that if a Federal agency determines that a businessman is innocent of charges concerning violations of law, the CPA may take that agency to court. It can do this because, if the businssman had been found guilty by the agency, he could have appealed that decision to courts. Professor Petrowitz pointed out that, although one Government agency cannot now appeal the final decisions of another in significant Government contract areas, individual contractors could. Therefore, he stated, the CPA could.

More to the point, in a response to my inquiry, the Internal Revenue Service pointed out that essentially all actions taken by the Internal Revenue Service with respect to tax liabilities, such as assessments and disallowances of claims for refunds, are appealable to the courts under the provisions of title 26 of the United States Code. This IRS letter may bear further review in light of Secretary Shultz' warnings. The IRS response was inserted into the Record by me on November 13.

Finally, we have had proponents of CPA appeal power point out with satisfaction in our hearings that this limitation of review to availability where allowed by present law is no safeguard at all. In doing this, the Administrative Procedure Act was cited as one present law which provides very clearly that—

> A person . . . adversely affected or aggrieved by agency action within the meaning of a relevant statute, is entitled to judicial review thereof.

And that—

> Agency action made reviewable by statute and final agency action for which there is no other remedy in a court are subject to judicial review. (See 5 USC 702 and 704.)

Thus, as Chairman Scalia acknowledged, the right of judicial review is an "empty bottle."

Mr. Speaker, for the important reasons already stated, I now include in the Record the objections of the Secretary of the Treasury, George P. Shultz, to granting any CPA appeal powers.

The Secretary of the Treasury,
Washington, December 11, 1973.

Hon. Don. Fuqua,
House of Representatives,
Washington, D.C.

Dear Mr. Fuqua: Further reference is made to your letter of November 20 relative to appeal powers of a proposed Consumer Protection Agency.

Energy related decisions of this Department which might be subject to the Consumer Protection Agency appeal power primarily, but not exclusively, involve decisions made under the internal revenue and customs laws. We will first state our comments in general terms, however, because we feel that they are equally applicable whether the issues involved relate to energy or to other matters that might be deemed to affect consumer interests.

We are extremely concerned about the adverse impact on the administration of our internal revenue and customs laws that would result from vesting an appeal power in the proposed Consumer Protection Agency. It is essential that administrative decisions in individual income tax and Customs cases be exempted from any such appeal power. Literally millions of such decisions are made each year in the review of individual income tax returns and Customs entries. In fiscal 1972, for example, approximately 1.7 million audits were conducted by the Internal Revenue Service, and 3 million formal, commercial entries were processed by the Customs Service. Most of these actions are closed without recourse to the courts. It would impose a tremendous burden on taxpayers, importers and the Department alike to make these decisions subject to appeal at the instance of the Customer Protection Agency.

We would be equally opposed to granting such an appeal power with respect to actions such as the adoption of regulations and the publication of Internal Revenue or Customs rulings that are not subject to review under present law. To provide necessary guidance for taxpayers in the determination of their individual tax liability and for importers with respect to Customs liabilities, it is important that the promulgation of regulations and rulings not be unnecessarily delayed. As a matter of policy, the Treasury Department already affords an opportunity for comment on proposed regulations, and consumer interests, thus, already have ample opportunity to make their views known on tax and Customs regulations. While we do not know what exact statutory language is presently under consideration, we have examined the appeal power provisions in H.R. 14 and H.R. 21, both of which appear limited to administrative actions that are subject to appeal under present law. We would hope that any provision that may be adopted would, at a minimum, be so limited.

While we have spoken in general terms, we must emphasize that many administrative Treasury decisions in individual cases, as well as in regulations of general application, relate to energy, either directly or indirectly. An example under the Internal Revenue law would be decisions regarding the calculation of tax liability when the percentage depletion deduction for minerals is involved. Customs regulations affecting the movement and handling of cargo, and thus the amount of fuel expended by carriers, are a further example of this interrelationship. The delays and disruptions from appeals by the proposed Consumer Protection Agency in matters such as these, and a myriad of others, could be widespread and involve a large number of cases and individuals.

Sincerely yours,

GEORGE P. SHULTZ.

ANDREW E. RUDDOCK IS RETIRING FROM KEY CIVIL SERVICE POST

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. DULSKI) is recognized for 5 minutes.

Mr. DULSKI. Mr. Speaker, the decision of Andrew E. Ruddock to retire at the end of the month is a distinct loss to all Federal employees, present and retired.

For the past 34 years, Mr. Ruddock has been employed by the U.S. Civil Service Commission in a variety of capacities, principally with relation to the civil service retirement and health benefits program.

He has been director since the Commission created the Bureau of Retirement, Insurance, and Occupational Health in 1959. Previously, he was in the former Retirement Division, being named associate chief in 1951 and chief in 1953.

Mr. Ruddock's expertise in these fields is without peer. He has appeared frequently as a witness before our committee and always has been responsive, frank, and helpful in discussing the subject at hand. He will be very much missed here at the Capitol as he will be at the Commission.

Without question, he is one of the Commission's most dedicated employees. He has played a vital role in the progressive development of the civil service retirement, group health insurance, and health benefits programs.

Chairman Robert E. Hampton, in announcing the retirement, recalled that Mr. Ruddock was responsible in 1954 for putting the civil service life insurance program into effect within 12 days after it became law. This clearly is a man who does his homework.

Recently, I raised questions about the finnacial stability of the civil service retirement fund. Naturally, it was Mr. Ruddock to whom the Commission turned to be the principal witness before our committee to explain in careful detail the deficit situation which had developed over the years.

Mr. Speaker, the Commission tendered its highest honor to Mr. Ruddock in 1961 when he was given the Commissioners' Award for Distinguished Service.

We in Congress do not have awards to give outstanding civil servants. But we can give them public recognition for their devotion and dedication to the best interests of our Federal establishment.

As chairman of the Committee on Post Office and Civil Service, this is what I do here today.

To Mr. Ruddock, I say: Your 34 years of continuous Federal employment have been exemplary. All who benefit from the programs which have been under your wing are deeply grateful for your stellar service. You have our sincere best wishes in your days of retirement ahead.

Mr. Speaker, as Mr. Ruddock leaves public service, he leaves a legacy of fine and capable assistants to take over his responsibilities. Thomas A. Tinsley will become director, John G. McCarthy associate director for operations, and Solomon Papperman associate director for policy. We welcome these promotions.

SASKATCHEWAN OIL PRODUCTION TREND

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Montana (Mr. MELCHER) is recognized for 5 minutes.

Mr. MELCHER. Mr. Speaker, an Associated Press news article published over 10 days ago accurately described an ordered cutback in oil production in Saskatchewan by the provincial government. The article refers to over 10 percent reduction of the 200,000 barrel daily production of this Canadian province and cites the reason "because the United States is cutting back on its purchases of Saskatchewan crude."

At a time when refineries are desperately trying to get all of the oil they can to satisfy the customers, this article appeared in direct conflict with United States and Canadian efforts.

In phone conversation with Jack Stabback, oil member of the Canadian National Energy Board at Ottawa, I learned that, indeed, the provincial government had ordered a cutback in production of 31,000 barrels per day, because it was not being accepted by the usual U.S. refineries. U.S. oil companies had switched orders for lighter crude from Alberta. Total allocation to U.S. oil companies by the Canadians remains at just under a million barrels per day and refineries had opted to use their allocation from more desirable sources than the heavy, dark crude oil available to them from these particular Saskatchewan wells.

Mr. Stabback informed me that the "board had been wrestling with the problem, because we do not like to shut in production."

He continued:

> We have quickly switched 10,000 barrels of this production to Districts 1 through 4 but the total allocation remains the same because District 5, the Puget Sound Area, allocation was down 10,000 for lack of pipeline capacity.

He assured me that the board would look at a greater exibility in their allocation program to take into consideration grades of oil.

As we continue to straighten out the problems involved with oil shortages here in our country, we should also make certain that we work closely with the Canadian National Energy Board to assure the continuation of the million barrel per day supply we import from our friendly northern neighbors. A copy of a news article follows:

> UNITED STATES TRIMS OIL BUYING IN CANADA
>
> CALGARY, ALTA.—The Saskatchewan government has ordered oil companies to reduce their production in the province because the United States is cutting back on its purchases of Saskatchewan crude, the Saskatchewan mineral resources department says.
>
> A spokesman for the department said in a telephone interview that the government has sent letters to oil companies ordering a 16 per cent cutback in production in southeast Saskatchewan (9,300 barrels per day) and a 40 per cent reduction in southwest Saskatchewan (26,200 barrels) for December.
>
> Saskatchewan crude production normally averages 200,000 barrels daily.
>
> The demand for crude exports to the northern United States will fall short of the province's production capacity next month, and because the province does not have adequate storage facilities, the government has decided to reduce production, he said.
>
> The spokesman said U.S. buyers have created the situation by deciding to reduce crude imports from Saskatchewan. He did not say why U.S. buyers wanted to reduce their imports of Saskatchewan crude.

"ART AND THE FUTURE" A SIGNIFICANT BOOK BY DOUGLAS M. DAVIS

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, I take this time to call to the attention of Mem-

bers of the House the recent publication of a book which I believe is of considerable significance to all those concerned about the arts in modern society.

The book, entitled, "Art and the Future: A History/Prophecy of the Collaboration Between Science, Technology, and Art," is by Douglas M. Davis, the distinguished art critic for Newsweek magazine and himself an artist whose work is chiefly in the field of videotape, graphics, and other media.

In his book, Mr. Davis discusses the significance for the arts of the developments of modern science and technology.

To quote him:

> Man is creating in our time new tools and methods at a rate unmatched in the past. Their presence is—as we shall see throughout this book—a creative presence. As these new means have multiplied in the twentieth century, they have steadily altered not only our sensibilities but the form and purpose of art itself. What begins as a conscious attempt to fit new materials into old forms ends with new forms based on those materials. Technology, now is our environment, our landscape. New tools and knowledge no longer hide from the artist: they surround him. He can no more escape them in his work than Constable could escape the fields and trees of England or Winslow Homer the seacoast of Maine. The story that must be told, then, has to do with that development and its consequences, for both art and life.

Mr. Speaker, further to quote Mr. Davis:

> Art can no more reject either technology or science than it can reject the world itself . . . the future, if no better, is at least uncharted and therefore malleable. It will fail us only if we surrender knowledge and technology to the utilitarians.

If his book succeeds, Mr. Davis concludes:

> It will remind artists everywhere of what has been accomplished in this century through collaboration and why. Out of that awareness can come an art and a society at once saner and freer than any we have ever seen before.

Mr. Speaker, evidence of the significance of Mr. Davis' book is, I think, the considerable number of laudatory reviews it has received from outstanding critics of art, both in this country and abroad.

I ask unanimous consent to insert at this point in the RECORD several of these reviews, and I wish to call particular attention to that of Alan M. Kriegsman in the November 11, 1973, issue of the Washington Post:

[From the Washington Post, Nov. 11, 1973]

A CONSORT OF ART AND TECHNOLOGY

(By Alan M. Kriegsman)

In this age of computer music, kinetic sculpture and video graphics, it may be late in the game to ask whether it's a healthy thing for art to be consorting with technology. Healthy or not, art has plunged ahead, and the fraternization seems to be accelerating with each passing day. But for this very reason, one can hardly help questioning the relationship. Are there some kinds of interaction between esthetics and science which are more benevolent than others? How has the application of technology changed the ways in which we enjoy or evaluate the arts? Where is all this artistic traffic in hardware software likely to lead us in times to come?

It is just these questions which Douglas Davis addresses so boldly in his new book, "Art and the Future: A History/Prophecy of the Collaboration Between Science, Technology and Art." His answers may not satisfy everyone, but they assuredly shed light on the problems, and indeed, give the whole subject new urgency and significance.

Davis is ideally qualified for the task. As art critic for Newsweek Magazine, former arts columnist for The National Observer and contributor to such diverse publications as The New York Times, Radical Software, Artforum and Holiday, he has often shown himself to be a perceptive, literate, well-informed observer. He's also a doer in the arts. A one-man invitational exhibit of his work in videotape, graphics and other media has just concluded at the University of Santa Clara. Other displays of his creative effort have taken place in Washington, Paris, Mexico City, Amsterdam, Helsinki and elsewhere. Next month, he begins a year's appointment as artist-fellow at MIT's Center for Advanced Visual Studies.

Davis is scarcely the first to come to grips with the scary marriage between art and science. His book, however, is unprecedented in the scope, depth and lucidity of its treatment. Despite the Wagnerian sound of the title, there's nothing ponderous or pontifical about the volume. It is imbued, though, with a feeling of personal passion and excitement which one seldom encounters in books of this kind. The train of thought is occasionally elusive or hard to follow, though some opacity is inherent in the nature of the subject. But the discussion is consistently provocative, and never less than engrossing. The book's own handsome graphics and illustrations—Davis himself had a hand in the design—make its dialectics that much more persuasive.

The scope is immense. The historical survey which constitutes Part I starts with Leonardo, the prototype of the Renaissance artist whose interest in esthetics was fed by science and vice-versa. The trail leads phase by phase through the pioneer movements early in the present century up to the borders of the present, ending on the frontier of electronic, cybernetic and environmental art based on the most recent advances in technology. Duchamp, Calder, Moholy-Nagy, Cage, Kaprow, Warhol, Stockhausen, Tinguely, Caro, McLuhan, Fuller, Rauschenberg, Kluver, Kepes, Paik, Naumam, and Vandercheek are among the seminal figures dealt with.

A HISTORY OF IDEAS

What Davis gives us, however, is no mere chronicle. It is a history of ideas, of evolving concepts, rather than of specific techniques or accomplishments. The result is an elucidation of the themes, trends and motivations which shaped the vast changes technology has wrought within the arts.

Part II is a collection of interviews and statements by some of the key personnages in the evolving alliance—Nicholas Schoffer, Jean Tinguely, Billy Kluver, James Seawright and others. Most audacious and stimulating of all is Part III, called "Prophecy: The Art of the Future" Davis is not concerned with what he calls "the banality of specific prediction." Instead, he tries to extrapolate, from themes gathered earlier in the book, what kinds of creative needs and goals the continuing rise of technology is likely to impose upon man.

According to Davis, the advent of technology has led to an increasing dematerialization of the arts. In place of fixed, confined and immutable objects, the artist now deals in evanescent images, "real time" performances, streaks of light in the sky, electronic impulses, shifting, variable and collapsing forms. Process and concept—the doing, not the thing done—have come to seem more meaningful than static monuments, because they seem to approximate more closely the spontaneity and transformation of life itself.

Technology can also expand the limits of human creativity, Davis maintains, by extending man's senses, mind and imagination into the realm of the unpredictable. And this is where science and art have a common stake. "What unites both, it seems to me," Davis writes, "is the drive to find truths—information, if you will—outside the prevailing consensus."

At the same time, the thrust of technology is to eradicate the mystique of art, art as an enclosed domain of the gifted, created by an elite for an elite. With the aid of technology, art now travels with the speed of light, and reproduces itself indefinitely. All can have access. And all can participate.

"Technology steadily reduces the need for specialized physical skills in art," Davis observes. But reducing the need for physical skills is also to remove barriers to conceptual ingenuity. The laser, the computer and the cathode ray tube can do things no hands can do, but they are open to all hands.

Davis, then, is sanguine about the potential of technology as a force for the betterment of man and society. He is, however, anything but blind to the dangers of misapplication. A central theme of the book is the Frankenstein complex which lies at the heart of man's feelings about machines. There is always the possibility, frighteningly real, that man may end up the slave or victim of his own technological creations, as indeed he already has in more than one notorious instance. Therein, says Davis, lies the imperative for a reciprocal relation between science and art. Technology is here to stay. What comes of it will depend on what we do with it.

In his introduction, Davis writes: "The (Vietnam) war has sickened us all, and we hear little at this hour about the creative potential of technology and much about its destructive capacity. Rather, we are told by a variety of sophisticated Luddites that we must retrench. This position cannot long endure, of course. Art can no more reject either technology or science than it can reject the world itself. The world can no more reject them than it can accept hunger, disease, ignorance, or the feudal structures that nourished them. We have sentimentalized too long a past that was in fact brutal and sordid. The totalitarianism that reared the pyramids and subjugated medieval Europe proceeded without the benefit of computers of the Los Angeles County Museum. The future, if not better, is at least uncharted and therefore malleable. It will fail us only if we surrender knowledge and technology to the utilitarians."

Unstated here, but implicit through out the whole rest of the book, is a corollary. The future will not fail us if ways can be found to bring man's artistic sensibility into fruitful alignment with science and technology. The utility of art lies not in efficiency or bulk, but in a keener, deeper, less fettered vision of life. In quest of this vision science can be both handmaiden and beneficiary.

[From the Library Journal, Sept. 15, 1973]

BOOK REVIEW

Davis, an artist himself and art critic for Newsweek, has assembled the history of technology and art from the industrial revolution to the present. Rather than interpreting, he has organized and clarified the interchanges between art and technology, in a major achievement in contemporary art history. A section of statements from representative artists, a prophecy analyzing possible future directions, a glossary, and a thorough bibliography further enhance the already considerable value of the work. Davis' book provides a historically organized complement to other important, but less historically oriented studies, such as Jonathan Benthall's Science and Technology in Art Today (LJ, Dec. 15, 1972); and it updates earlier histories. Accessible to both specialists and laymen, this is highly recommended for academic and public libraries—Elizabeth B. Bailey, University of Alabama in Huntsville Library.

[From the Economist, Oct. 6, 1973]

The Origins of Western Art

(By Ann Powell)

Art and the Future

(By Douglas Davis)

The story of western art's evolution stretches over tens of thousands of years, from the long-hidden paintings at Altamira to the monuments of imperial Rome. It is, of course, the story of a dramatic change in climate which encouraged food cultivation and so made possible man's progress from the cave to the city. Miss Powell has produced a very readable account of this drama of art and civilisation. It is something of a tour-de-force, taking us from the cave paintings and the early discoveries in pottery and metal-working to the great bronze age civilisations in Mesopotamia, Egypt and Asia Minor, to classical Greece and, finally, to the late Roman art of the third and fourth centuries AD. But though the conciseness leaves one a little breathless, it finds rooms for the themes of myth, magic and ritual running through all epochs.

AN INTELLECTUAL CHALLENGE

Intriguingly, understanding (or at least plausible explanation) of art seems less certain when it comes close to our own time. Mr. Davis, art critic of Newsweek, takes up the story of art with Marcel Duchamp. It is an intellectual challenge to read these two books in succession. Perhaps the link between them lies in a small illustration in Miss Powell's book that depicts a bronze ritual vehicle with animated figures, soldiers, mounted warriors and deer, believed to have been made in the seventh century BC. It is impossible to look at without seeing movement, even though we know the model is static. What substitute is there in kinetic art for that magical illusion?

It is just 60 years since Duchamp exhibited his bicycle wheel, which could be spun by hand. In no time at all motorised objects followed; kinetic art had a good run until the outbreak of the second world war. Technology was not again married with art until the mid-1950s, but the honeymoon then lasted for a decade. Now, Mr. Davis admits, "The heady euphoria of the mid-1960s", when collaboration between artists and engineers was at its height, has passed. But, he contends, this retrenchment cannot last: art cannot reject science.

He hopes to persuade artists by showing them what has been achieved in this century through collaboration (and why). It is an excellent, well-illustrated account of light-painting, computer-sculpture, sound-vision and so on. In his final chapter, he puts forward his own views. He sees art as metaphysical information, arguing that it has always been read for messages beyond itself; he thinks the future will fail only if knowledge is surrendered to the utilitarians.

The old magic was localised: in a museum, a cathedral or a rich man's villa. The printing press, photography, film and television have made the inaccessible constantly accessible. But magic has not been abolished. The scientist, like the artist, assumes a magical relationship with the real world. Warming to his theory, Mr. Davis contends that the space programme is no more useful than, say, the images thrown on a screen by Palk's video synthesiser. Many of his readers will drop out at this point. But it would be a pity to miss the quite typical conclusion, that "we are doomed to the excitement of going on".

[From the San Diego Union, Sept. 9, 1973]

Book Review

Art and the Future; by Douglas Davis; Praeger; 194 pages; $20. It looks like a radar dish trying to swallow a huge hot dog, but actually it's the work of an artist and all 280 feet of it was exhibited in Germany in 1968 (it took five truck cranes to lift it). Another artistic work depicts a nude woman as a computer would see her. And there is a fountain made out of stainless steel, motorized and programmed so that it vibrates and reflects light in many directions, like water splashing from a water fountain. These are some of the directions art is taking—fascinating, beautiful and sometimes bizarre directions. This is the art of the future as Davis sees it. The book is an eye-opener for those who think of art in traditional terms.

[From the Houston Chronicle, Sept. 16, 1973]

What Those Crazy Avant Garde Artists Are Up To

(By Ann Holmes)

Art and the future, by Douglas Davis. Praeger. $20.

For those who wonder what those "crazy avant-garde artists" are really up to, or for art buffs who find it hard to keep up with the ever-changing "movements," here is a book that admirably gets it all together. It answers many questions, shows in 300 illustrations some amazing art works, and, in the end, poses a question or two of its own.

Author Davis is both critic (for Newsweek) and contemporary artist himself. His 208-page volume is a richly packed study and a valuable addition to the literature on art and artists. He subtitles his work "A History/Prophecy of the Collaboration Between Science, Technology and Art," and if his prophecies seem hair-raising, his art history is sounder stuff.

Asserting that artists have always reached for different tools to make ever new statements, Davis concentrates upon the era spanned by such earlier movements as Futurism, Dadaism, Constructivism and Surrealism, and moves on to Pop Art in its many manifestations here and abroad; the light-kinetic sculpture experiments, Happenings, Environments, Multiple Art, Sky Art, Minimal Art, Computer Music and Art, and Conceptual Art in which the idea is all and a product would be redundant.

The book is peopled with principals from the 20th century art world, the Rauschenburgs, Pollocks, Johns, the David Smiths and Tony Smiths, and it is good to see space age rocket designer and artist Frank Malina of Brenham, Texas, and Paris, France, well represented along with his beautiful lumidyne light boxes.

Artists are now finding themselves clumsily in the way of computer-brained machines and empirically Douglas's logic allows him to believe we are now doomed to "the excitement of going on," and that, the "end of man is the future of art."

[From Women's Wear Daily, Oct. 1, 1973]

Art Critic With A View On Space

It's becoming easier to imagine the artist and scientist as compatriots. The experiments using computers to draw human characters are as crude in their way as prehistoric cave murals; yet they are forming the foundation for more complete artistic applications.

While the prospect of seeing computer programmers as pioneers in modern art may seem chilling to traditionalists, Douglas Davis rejoices over the idea.

Davis, the art critic of Newsweek, has documented his joy in "Art and the Future" (Praeger, $20.00). He describes scientists who are using computers and cathode ray tubes for portraits and animation. He illustrates how multi-media art can use electronic effects as a synthesis for tying together different art forms.

But Davis is particularly excited about the impact of science/art on America.

"Thousands of scientists and engineers have changed their attitudes. Once an artist begins to collaborate with a scientist, he is not submitting to a military/industrial complex. The subversion is all on the other side."

The "subversion is the process of bringing the artist's values to the scientist. Davis sees the moon flights as being the most important scientific/artistic influence on contemporary art, just as the atomic bomb was the permeating influence on the art of the 50's.

"It is a subconscious influence, and then the art operates on the fringe of the public consciousness. The colors used by Jackson Pollock came out of a world transformed by technology. Its more difficult to see how his institution and impulses were influenced by science, but remember that the atomic bombs development was also influenced by intuition and impulses."

Davis doesn't think much of the fear that computers will dehumanize the world. "The first thing that an artist wants to do with a tool that comes out of science is capture it. The best way to capture a computer is to make it do very utilitarian things."

Accordingly, added Davis, a way for an artist to take advantage of the space program is to adapt the space program's systems approach.

"It's clear from the art that is being introduced now that the earth is becoming thought of as a space ship. Since 1970, there have been an increasing use of land forms in art, and the idea of a land form as a part of a system has become pervasive.

"I, for one, have always been excited by the space program. I think there was a lot of discussion about the priorities of the space program against the needs of poverty and education programs. The real target of budget cutting should be military spending."

It was a brief trip into space, said Davis, that made Gertrude Stein finally appreciate the avante-garde art of her day.

"She had never understood Picasso until she went up in an airplane. When she looked at the land from above, she finally saw the point of looking at the world from several fields of vision.

"Just as Rauschenberg has been influenced by the pictures from the moon, the early Cubists addressed themselves to perspectives from the new flying machines. Up until then, what Aristotle said, that no object nine miles long can be beautiful, was a truism.

"But Aristotle had never been in an airplane."

[From Newsweek, Oct. 1, 1973]

Dead or Alive?

"Art is dead," proclaimed the poster at the International Dada Fair in 1920. "Long live Tatlin's machine art." Nowadays the cry that art is dead is much more likely to come from the proponents of traditional art, a dwindling bastion surrounded by the ever-spawning successors of Tatlin and other innovators of twentieth-century art. Despite today's near-instant communication, most of the "public," at least in the U.S., is really unaware that what they still think of as "art" is a minority activity. Painting and sculpture, in the sense that most reasonably cultivated people think of them, are indeed, for all practical purposes, dead, replaced among young artists all over the world by myriad activities closely involved with new science, technology and philosophy.

This state of affairs has given rise to increasingly acrimonious debate among critics, a debate that Douglas Davis is not too far out in characterizing as largely "generational." As Newsweek's art critic——and as an artist himself—Davis has been closely identified with that dirty word, the avant-garde, and has probably brought news of it to more readers than any other journalist. His new book is sure to arouse wrath on the right and even on the left, the art world being what it is. Nevertheless, "Art and the Future" is the most comprehensive summary of the new forms and activities in art, the most unblinking rationale for the spirit of that art, and the best book for the "ordinary" reader who wants to know what in the name of Michelangelo is going on and why.

THE HISTORICAL BACKGROUND

Davis begins by sketching in the historical background to the recent seemingly apocalyptic events in what used to be comfortably called the fine arts, pointing out that "artists have always been involved with 'technology,' with the use, that is, of relatively new tools, methods and knowledge to extend their work." For Davis there is a direct line from Leonardo, the artist-engineer-philosopher, to artists like Laszlo Moholy-Nagy, the first modern to work extensively with light and movement, and composer John Cage, who established silence, noise and chance as esthetic principles. Davis' heroes among the pioneers of modern art include the Russian constructivists—men like Tatlin and Lissitsky, who until they were crushed by Stalin's repressive philistinism were euphorically creating an art that seemed to reflect the best energies of a modern society.

Davis' prospective on more recent phenomena such as pop art opposes critics who see Warhol's Coke bottles and Liechtenstein's comic strips as symptoms of the terminal vulgarization of America. For Davis the pop artists were perfectly in tune with a new American (and British) culture that was replacing outmoded, "elitist" ideas of high-brow art with a "new realism" in which mass production "steadily reduces the hold of the elite upon art and steadily inculcates classless esthetic values."

Brood: The artists whom Davis admires today combine this anti-elitism with the cool professionalism of contemporary scientists, engineers and philosophers. These artists, in sculptor David Smith's words, want to create an art "that men could view as natural, without reverence or awe." Davis shows how this sensibility operates in engaging or startling ways: Nicholas Schöffer creates "Cybernetic Cities," urban environments that resonate with light, color and sound on an epic scale: Hans Haacke exhibits "ongoing natural processes, including . . . a brood of chickens hatching"; David Rosenbloom wired groups of people into a "brain wave-computer-synthesizer-loud-speaker system," which allowed them to generate their own musical tones.

These examples are merely among the most extreme in a near-global activity that is reflected in Davis's text (which includes revealing interviews with many artists) and in the 250 black-and-white and 44 color illustrations. Davis has his cavalier moments: "The condition of American art in the 1930s was absolutely retrograde in any case. What passed for the American vanguard—painters like Stuart Davis and Edward Hopper—were largely descendants of the School or Paris." Here he provides much too inadequate a kettle for some big—and very different—fish. But I don't see how one can argue with his chief and crucially important thesis. The forms, methods, materials and assumptions of art *are* changing—as irrevocably as other assumptions and methods in the evolution of human consciousness.

Some will point to Jean Tinguely's 1960 machine, which destroyed itself in the garden of New York's Museum of Modern Art, as the perfect metaphor for modern art. For Davis, Tinguely's machine is crucial, but only in its demonstration that machines as well as men must be free so that both can collaborate in the "central fact" of art—"the probing, discovering purpose of man."

[From Science News, Aug. 11, 1973]

BOOK OF THE WEEK

Defines and places in critical context dozens of movements, discussing hundreds of works, from futurism, light-kinetic sculpture, and happenings to sky art, computer film, and conceptual art.

[From World Future Study Bulletin, July 1973]

ART AND THE FUTURE: A HISTORY/PROPHECY OF THE COLLABORATION BETWEEN SCIENCE, TECHNOLOGY AND ART

This book discusses the radical turn in 20th century art away from the studio toward a full-blooded collaboration with science and technology.

It documents the movement from Cubism and Futurism to the latest advances in computer art and conceptual art.

Comment: "A well-documented report on the more innovative trends in contemporary art."

[From the San Francisco Sunday Examiner and Chronicle, Oct. 21, 1973]

THE DAVIS TAPES—NEW ART FORM AT SANTA CLARA

(By Alfred Frankenstein)

St. Jude is the patron saint of ultimate extremity. You pray to him when everything else has been exhausted and the impossible remains your only hope. And so when the de Saisset Art Gallery at the University of Santa Clara received an endowment in support of an annual show, it was promptly dubbed the St. Jude Invitational.

This year's St. Jude Invitational is the first one-man show of videotape we have had in the Bay Region. It is the work of the New York artist Douglas Davis who came to the Santa Clara campus and made seven videotapes there. He also brought with him some of his older work, notably one called "Talk-Out," made in collaboration with James Harithas, director of the Everson Museum in Syracuse, N.Y., which was the first museum in the country to establish a videotape department under a full-time curator. For videotape is growing as an art medium and has already sprouted several different schools and styles.

Douglas Davis does not hold with the abstract videotapists, like Don Hallock, whose work, as currently displayed at the San Francisco Museum of Art, was reviewed with great enthusiasm in these columns not long ago. Neither does he hold with the conceptual artists, who seem to use videotape for the purpose of driving everybody insane. He has some sense of the medium and its potentials, and if his practice has not entirely caught up with his theory as yet, he has time on his side.

A VERY REMARKABLE BOOK

In a very remarkable book which Davis recently published, "Art and the Future," a survey of the collaboration between art, science, and technology, is a very remarkable sentence: "The future . . . will fail us only if we surrender knowledge and technology to the utilitarians." Nothing could be less utilitarian than the Davis tapes at Santa Clara.

The great trouble with a videotape show is that it takes so long to see it. You can't run in and run out as you can at a show of paintings. I was told that to see the entire Davis exhibition would take over four hours, but nobody is expected to gulp it all down at once. Taking his cue from television, where videotape was born, Davis likes a loose, open, casual, unstructured relationship between the work and its audience. He doesn't mind if you get up and go to the bathroom while the set is on; he rather enjoys the idea.

I paid close attention to the seven tapes made at and for Santa Clara and saw random samples of the others.

SPIRALLING

The best of the Santa Clara tapes, I thought, was one called "Spiralling." Davis' scenario for this is as follows:

"1. Hundreds of students out on a football field, arranged in concentric rings. Everyone is holding some method of reproduction—cameras of any kind, mirrors, drawing pencils. I am in the middle. As tape starts I pan around the figures, all standing still. About a minute.

"2. I crouch as I pan, a signal to the inner ring to begin to pan, moving around me, which signals the next ring, and the next. Very slowly at first. About a minute.

"3. The movement increases slowly until at the end it is racing and people fall dizzied to the ground."

The remarkable thing about this work is its choreography. It starts with the people moving around the camera and ends with the camera moving around the people, the whole at ever-increasing speed. In some of Davis' compositions there is little rhythm; they subscribe to what, in a different context, Sam Hunter called "the esthetics of boredom," and sometimes the esthetics there are hard to see.

A most entertaining tape by Davis is one in which his two hands explore the surface of the screen. "After about a minute the hands begin to scratch and claw at the screen, sense of panic slowly building. About 2 minutes. Tape ends with the hands furiously knocking, trying to break and reach through the screen at the viewer."

I saw very little panic in that tape, except in the knocking at the end, and that seemed comical in its tiny violence. Most of the time those hands were engaged in a very animated dialogue. They appeared again, in a tape wherein the camera was dangled, twisting and turning, from the top of a high building while the hands reached out of a window beseechingly and at last won their prize; the camera dropped into the hands and their fingers closed over it to finish the piece.

In another composition, the camera explored the lumps and hollows of a nude figure; transforming them into shorelines and mountain ranges and dissolving them into light. In still another, Davis stopped automobiles with a smoke bomb in the middle of the street, jammed up the traffic at least from San Jose to Burlingame, and then walked off. This resembled the Happening of blessed memory rather more than the rest of the tapes. And along about this time I got into an argument with George Bowling of the museum staff, who has long worked with video-tape.

Bowling insisted that one of the major virtues of video is that it happens in "real time." The ball game, the Senatorial investigation, or the Presidential speech that you see on television is occurring then and there, as you see it. But I replied that what we were seeing was a set of tapes taken weeks earlier; the events on the screen were happening in past time, not "real time." Bowling nevertheless insisted that the videotape preserved a sense of real time far more successfully than motion picture film, and that is clearly true for him.

One very important difference between videotape and film is that in watching video you are looking directly at a source of light rather than reflected light, as is the case with film. (And where did that headache come from?) Video color is much cruder than film color, but Bowling suggested that this did not make a great deal of difference to Davis.

The Santa Clara tapes are currently being shown in a gallery with two screens, or monitors as they are called in the trade, placed one on top of the other. The upper one is smaller than the lower, much more brilliant in light, and much more garish in color. The two screens are used as a matter of convenience because the room sometimes fills up with students and under those circumstances the larger, lower screen is difficult to see. But the contrast in size, color, and illumination between the two is quite interesting. I thought it was deliberate until Bowling said it wasn't.

"Talk-Out" seemed to involve a good deal of self-congratulatory verbiage about the fact that in it Davis and Harithas were going to talk to people who phoned in, as if they had just discovered that form of communication. But they also put on some of Davis' earlier tapes, including a rather fascinating one that involved numbers inscribed in many different ways on many different surfaces while the Boston Symphony Orchestra played the "Bolero" by Ravel. "Music," said Goethe, * * *

A COMMENT BY GYORGY KEPES

I quote also, Mr. Speaker, the comment on "Art and the Future" by the distinguished artist and teacher, Gyorgy Kepes, of the Massachusetts Institute of Technology:

> I found it provocative, imaginative, and at the same time beautifully documented. I think that it is an important book, for it brings into constructive and affirmative focus the wide variety of explorations in the arts of the late twentieth century.

William Van Dyke, Director of the Department of Film for the Museum of Modern Art in New York City, commented:

> I have read Doug Davis' new book Art and the Future with a growing sense of appreciation and admiration. Not only is it revelatory but it is beautiful, and it comes at just the right time. Everyone who may even vaguely sense the attempts of art and technology to mate productively should enjoy the book and treasure it for its insights.

Too often, I think, Mr. Speaker, we fail to appreciate the significance in the eyes of foreign observers of developments in American art. "Art and the Future" has been selected by the U.S. Information Agency for distribution to U.S. Information Service posts abroad which subscribe to the agency's significant book conscription service. Part of the USIS comment on Mr. Davis' book follows:

> A look at modern art's past, present, and possible future collaborations with science and technology. This volume, written by the art critic of Newsweek, shows vividly the radical turning away from the studio of twentieth century art and toward a full collaboration with science and technology. Liberally illustrated, with some color but mostly black and white, the major artists of the world are interviewed both on their work and where they see the future of art. In addition, a documentation of the early history of twentieth century art is given, to show how the latest advances in conceptual and computer art were arrived at. In the end, it is a philosophical, scientific, and aesthetic book, as well as a book of art. Most of the book is concerned with what is going on in the world today, however, rather than what the future might be, and it is in this that the book is most valuable. Hundreds of artists, scientists, engineers, and organizations have provided first-hand information on the current state of their work, and brought together they provide a kaleidoscopic vision of the dynamic state of art today. The author provides a critical view of all these movements, and tries to sort out everything from electronic music to neon art to iron sculpture.

Mr. Speaker, to reiterate, "Art and the Future" is a study that will be read with keen interest by anyone interested in the relationships between 20th century art and 20th century society.

AMERICAN OPINION ON WORLD POVERTY AND DEVELOPMENT

(Mr. BINGHAM asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BINGHAM. Mr. Speaker, in the RECORD for December 11 at pages 40907–40909, I introduced a summary of a comprehensive survey of American attitudes toward the problems of poor countries and programs designed to help them, conducted by the Overseas Development Council. The survey is most revealing and in many respects surprising. For example, it tends to show that union members are more favorable to free trade than nonunion members.

Following are the detailed results of the survey, showing questions and answers, with group breakdowns, and so forth:

ANNEX A: SURVEY QUESTIONNAIRE AND RECORD OF RESPONSES OF NATIONAL POPULATION SAMPLE

(NOTE.—All open-ended questions are marked with an asterisk. In the case of open-ended questions, only those answers offered by 10 per cent or more of the respondents are included in this Annex.)

[Answers in percent]

1. This is a survey about world problems. I would like to ask you first if you think that tension in the world is greater than it was 10 years ago, about the same, or has world tension eased during the last 10 years?

Greater	67
About the same	18
Eased	13
Not sure	2

2. And to look ahead 10 years from now, do you think world tensions will be greater than they are today, about the same, or will world tensions ease during the next 10 years?

Greater	38
About the same	24
Ease	27
Not sure	12

3. How about the general living conditions of most of the people in the world? Would you say that living conditions in the world today are better than, about the same, or not as good as they were 10 years ago?

Better	63
About the same	18
Not as good	15
Not sure	4

4. And would you say that living conditions in the world 10 years from now will be better than, about the same, or not as good as they are today?

Better	49
About the same	22
Not as good	17
Not sure	11

5a. How much do you feel the United States government is doing at this time to fight domestic poverty? Is it doing more than it should, about the right amount, or less than it should?

More than it should	13
About right	28
Less than it should	54
Not sure	5

5b. And do you think our government is doing more than it should, about the right amount, or less than it should to fight poverty in other parts of the world?

More than it should	44
About right	31
Less than it should	17
Not sure	8

6a. Would you say the commitment of the United States government to help solve the problems of hunger and poverty in the world is very strong, fairly strong, or not strong at all?

Very strong	31
Fairly strong	49
Not strong	15
Not sure	5

6b. And in your honest opinion—is your own personal commitment to help solve the problems of hunger and poverty in the world very strong, fairly strong, or not strong at all?

Very strong	20
Fairly strong	43
Not strong	32
Not sure	5

6c. Concerning the problem of hunger and poverty, do you feel that people like yourself are doing all they can to solve it, as much as can be expected, less than expected, or almost nothing at all?

Doing all they can	14
As much as can be expected	40
Less than expected	30
Nothing at all	13
Not sure	3

7. Here is a card showing some estimates in the U.S. budget for 1973. Looking at the amount of recommended budget for medical services, would you favor increasing the budget, keeping it the same, or cutting the services?

[In percent]

	Increase	Keep same	Cut	Not sure
Medical services	51	38	6	5
Space research	13	39	44	4
National defense	10	46	38	6
Economic assistance to foreign countries	8	41	43	7
Farm price supports	32	38	18	13
Social security	50	40	6	4
Military assistance to foreign countries	4	38	52	7
Food stamps	25	40	24	11
Education	68	26	3	3
Pollution control	65	26	5	5

8a.* In the context of world problems, what does the word *development* mean to you?

Improving living conditions, raising standard of living	13
Helping people stand on their own feet, help themselves, self-improvement	12
Growth, building things up, getting stronger	12

b.* And what do the words *foreign aid* mean to you?

Helping, aiding other countries, people	41
Sending money to foreign countries	24
Sending food to foreign countries	13
Handouts, give-aways, wasting money	13

9a.* If the United States decided to stop all of its economic foreign assistance programs, what do you think would happen to the countries we are now helping?

They would help themselves, would learn to rely on themselves, would get along	23
Communists (China, Russia) would take over; they'd go Communist	20
Their growth would stop; they'd go backward to where they were	16
They'd collapse, would go downhill fast, fall apart	13
They would get help from someone else, would turn to others for help	11
They would starve; hunger	10

9b.* And if the United States decided to stop all of its economic foreign assistance programs, what effects do you think it would have on the United States in the long run?

Would be less popular, lose friends, allies; would be hated, have more enemies; would hurt relations with other countries	20
We would have more money to spend at home, more money to fight domestic problems	17
Would lose trade, import prices would rise	10
Not sure, don't know	14

10. Here is a list of different countries in the world.

A. Which two or three countries on this list do you feel you know the most about?

B. And about which two or three countries on the list do you feel you know the least?

C. Which two or three countries on the list would you say have the highest standard of living?

D. And which two or three countries would you say have the lowest standard of living?

E. If you had your say about our foreign assistance, which two or three of the countries on this list would you first assist?

F. Why would you select these countries to assist?

G. And which two or three of the countries on the list would you least favor giving assistance

H. Why would you least favor giving assistance to these countries?

[In percent]

	A. Know most	B. Know least	C. Highest standard	D. Lowest standard	E. Most favor assistance	G. Least favor assistance
Argentina	11	9	32	2	10	5
Bangladesh	9	30	1	33	24	2
Bolivia	2	19	3	3	4	1
Brazil	14	5	27	1	10	4
Chile	6	10	4	4	7	4
Mainland China	25	12	11	11	4	39
Egypt	16	6	7	4	4	12
India	24	3	2	38	29	3
Indonesia	5	9	1	7	7	2
Kenya	3	21	2	8	6	1
Nigeria	4	12	2	9	7	2
Pakistan	9	6	1	19	13	3
Peru	4	13	3	5	6	1
South Africa	15	7	16	11	10	8
South Korea	20	4	5	8	12	5
Soviet Union	52	4	39	2	1	57
Tanzania	0	52	1	5	3	2
None of the above	10	5	3	2	7	5
Don't know	8	10	27	23	23	23

F. Why would you select these countries to assist?

They are the poorest, have the lowest standard of living, need it most, have the most problems	24
They need our help, just need it	13
They are hungry; need food	13
Are overpopulated; suffer problems of overpopulation	10
Have had recent problems, wars, inner turmoil	10
Have heard more about them on TV, radio, newspaper	10
Don't know, not sure	12

H.* Why would you favor these countries least for assistance?

They can take care of themselves, don't need us	26
They are Communist, do not want to support Communists	17
They are our enemies, oppose us, not our friends, hostile, would harm us, we are competitors, threat to security	14
Don't know, not sure	12

11a. Here is a list of various world problems that have been mentioned by people like yourself. How serious do you consider each problem—very serious, somewhat serious, or not serious at all? If you do not think it is a problem, just say so.

RESPONSES TO QUESTIONS 11a, 11b, AND 11c

[In percent]

	A. Seriousness of problem					B. Priority	C. Problem affects			
	Very serious	Somewhat serious	Not serious	Not a problem	Not sure	Top priority	Rich countries	Poor countries	Everyone	Not sure
Too much automation	16	28	27	20	9	2	54	7	32	8
Socialism	19	29	23	12	17	4	14	21	54	11
Corrupt government	54	30	8	3	5	23	13	14	70	3
Hunger and poverty	69	24	5	1	1	41	3	43	52	2
Too much technology	7	16	23	3	15	1	46	10	30	15
Trade barriers	9	31	26	13	22	1	18	19	51	12
Religious wars	33	29	18	10	10	5	6	21	61	12
Communism	54	25	11	4	6	20	5	23	67	5
Using up natural resources	59	23	6	4	7	18	24	4	69	3
Overpopulation	50	28	12	5	5	16	2	36	60	2
Lack of communication among people	50	31	11	4	5	14	7	10	80	3
Poor medical care	48	33	12	4	3	17	2	43	52	2
Hatred between racial and ethnic groups	55	32	8	2	3	17	10	7	79	4
Pollution	62	27	6	2	3	24	20	5	74	3
Illiteracy	37	37	14	5	7	9	2	52	43	3
Lack of adequate housing	38	40	14	4	5	7	3	47	48	3
Capitalism	17	26	22	19	16	2	30	11	50	9
Drug abuse	78	16	4	1	2	46	20	3	76	1
Corporate power	28	31	15	9	18	3	51	6	36	7
Territorial disputes	19	31	20	12	18	2	9	19	60	12

11b. Now, if you were to set priorities, which two or three problems on the list should receive top priority consideration, in your opinion?

11c. Now, considering the problem of __________, which countries does it affect more—rich countries or poor countries, or does the problem affect everyone in the world just about the same? (Asked for all problems considered either "very serious" or "somewhat serious.")

12a. And now if you were to estimate the number of people in the world who are now living in underdeveloped countries, what would you say?

Less than ten percent	5
About one quarter	22
About one half	28
About three quarters	22
About ninety percent	5
Not sure	19

12b. How much would you say problems faced by poor people in the world affect the people of the United States—a great deal, somewhat, or hardly any at all?

Great deal	30
Somewhat	36
Hardly any	25
Not sure	10

13. *In what ways would you say the problems of other people in the world affect us in the United States? (Asked of those who answered "great deal" or "somewhat" in above question.)

Takes money out of the country, have to keep sending aid, keeps us from solving our own problems	15
Affects us economically	15
Does affect us because we help, we're expected to help; it's our responsibility to help	12
Costs us extra taxes	11
It affects our attitudes, what we think and what we do	11
Affects us militarily; we get involved	10
Not sure, don't know	9

14a. Concerning the United States giving foreign assistance—would you say you are strongly in favor, somewhat in favor, somewhat against, or strongly against the United States giving assistance to underdeveloped countries?

Strongly in favor	16
Somewhat in favor	52
Somewhat against	19
Strongly against	9
Not sure	4

14b. *Why do you feel that way?

The wealthy should help the poor; people should help each other, we should share, feed hungry people, they need it	27
We should help our own first, take care of our own	17
It's our obligation, responsibility, Christian duty, it is our moral duty	11

15a. Here are some statements concerning the total United States budget for fighting hunger and poverty both domestically and internationally. With which statement do you agree the most?

The total budget should be used for domestic poverty	13
A small percentage of the budget should be used to fight poverty in other parts of the world	55
The budget should be divided about fifty-fifty between the poor of the U.S. and the poor in other parts of the world	18
The budget should be divided proportionally so that most of it would go to help the poor in other parts of the world	6
Not sure	8

15b. If you were told that 95 per cent of the poor people in the world lived in other countries, and the United States had only 5 per cent of the world's poor, would you reconsider your distribution of money?

Yes, would reconsider	26
No, would not reconsider	59
Not sure	15

15c. Now, considering these statements

once again, with which statement do you agree the most? (Asked of those who answered "yes" to above question.)

The total budget should be used for domestic poverty	4
A small percentage of the budget should be used to fight poverty in other parts of the world	9
The budget should be divided about fifty-fifty between the poor of the U.S. and the poor in other parts of the world	35
The budget should be divided proportionally so that most of it would go to help the poor in other parts of the world	53
Not sure	5

16a. As you probably know, the United States is only one of many countries that has economic foreign assistance programs. When you compare the wealth of the United States to that of other wealthy countries. such as Sweden or Canada, would you say our economic foreign assistance budget is relatively greater than, about the same, or less than foreign assistance programs of other wealthy countries.

Greater	69
Same	11
Less	2
Not sure	18

16b. And, in your opinion, *should* our economic foreign assistance budget be greater than, about the same, or less than other countries in comparison with our wealth?

Greater	20
Same	55
Less	12
Not sure	13

17a. Some people have said that there will always be wealthy people and there will always be poor people. Do you believe that poverty could be virtually eliminated in the United States within the next fifty years, or not?

Poverty could be eliminated	38
Poverty could not be eliminated	56
Not sure	6

17b. And do you think poverty could be virtually eliminated in the world within the next fifty years?

Poverty could be eliminated	15
Poverty could not be eliminated	76
Not sure	9

17c. Would you say that the gap between the rich and poor people in the United States has widened in the past ten years, is about the same, or that the gap between rich and poor people in the United States is narrower than ten years ago?

Gap has widened	34
Gap about the same	31
Gap is narrower	28
Not sure	7

17d. And would you say the gap between rich countries and poor countries has widened in the past ten years, is about the same, or that the gap between countries is narrower than ten years ago?

Gap has widened	31
Gap about the same	33
Gap is narrower	19
Not sure	17

18a. When the United States gives economic assistance to underdeveloped nations, would you say that it is mostly in the form of loans that are supposed to be repaid, or do you think it is mostly in the form of grants that do not have to be repaid?

Loans	35
Grants	47
Neither	9
Not sure	16

18b. And if you were to choose the kind of financial assistance we give to underdeveloped nations, do you think it should be mostly as loans, or mostly as grants that do not have to be repaid?

Loans	68
Grants	17
Neither	5
Not sure	11

18c. For loans that we have already given underdeveloped countries, do you feel that the loans are usually completely repaid, mostly repaid, only partially repaid, or not repaid at all?

Completely repaid	4
Mostly repaid	5
Partially repaid	51
Not repaid at all	31
Not sure	10

19a.* If you had to explain to someone why poor people are poor, what would you say?

Lack of education, ignorance, illiteracy	43
Lazy, no ambition, no drive, don't get out and work, want to be poor, prefer welfare	40
Lack of opportunity, never had a chance, can't get decent jobs, don't have equal opportunity	25
They are born into it, the only life they know, it's environmental, they inherit it	19

19b.* As you know, there are many countries in the world that are underdeveloped. How would you describe an underdeveloped country? What are some of the main characteristics of an underdeveloped country?

Poor educational facilities, uneducated, illiterate	40
Not enough technology, manufacturing, industry, no exports for trade	24
Poor economy, low standard of living, poverty stricken	20
Can't feed their own people, hunger	19
Limited natural resources, poor land, no tools	12
Bad housing	12
Poor government, unstable governments that exploit	12
Do not use their resources to the fullest, do not work up to their potential	11
Poor medical facilities, much illness, disease, high mortality	10

19c.* What would you say are the most important reasons for a country like ours to help an underdeveloped country?

For moral, humanitarian reasons; our responsibility. We should, ought to. They need it. We should help mankind	29
To help them help themselves, to make them self-sufficient	18
We have so much, have disproportionate share of wealth. Help balance wealthy nations and poor nations	13
To have them as friends, allies; we may need help someday	10

20. Here is a card with different statements concerning help given to underdeveloped countries. Which statement comes closest to your own view?

Underdeveloped countries can make it on their own without help from the outside	6
Underdeveloped countries need a little help from the outside to get to the point when they can stand on their own	50
Underdeveloped countries will need a great deal of help for a long time before they can become self-sufficient	30
No matter how much help underdeveloped countries are given, they will never be able to make it without help from the outside	9
Not sure	5

21a. This is a list of some of the things that can be done as foreign assistance. Considering aid for medical care, would you say that it is a very effective form of assistance, somewhat effective, or not effective at all in helping underdeveloped countries? (Asked for each type of assistance listed.)

RESPONSES TO QUESTIONS 21a, 21b, AND 21c

[In percent]

	Very effective	Somewhat effective	Not effective	Not sure	Favor most	Favor least
Send medical help, doctors, and nurses	63	31	4	3	52	1
Encourage investment of U.S. corporations in these countries	22	43	21	14	8	21
Lower tariffs, open trade	22	44	14	20	5	11
Send machinery	40	43	12	5	8	8
Aid in birth control	50	28	13	9	26	9
Give financial grants	21	41	27	11	6	34
Send food, clothing	53	38	7	2	27	4
Train their students in our universities	55	31	9	6	29	7
Send technicians, engineers	49	37	8	6	16	4
Provide military training and equipment	11	33	45	10	1	49
Send teachers, books	59	33	5	4	27	3
Provide spiritual training, missionaries	38	37	20	6	13	18
Help underdeveloped countries sell their products in the United States	34	44	12	10	8	11
Provide low-interest loans	32	44	14	10	9	13
Send tractors, fertilizers, seed	53	35	7	5	19	6

21b. Now, which two or three of the methods of assistance listed here would you favor the most as foreign assistance policy for the United States?

21c. And which two or three of the methods of assistance listed here do you favor the least as foreign assistance policy for the United States?

22. Now here is a card with a scale on it from minus three to plus three. I am going to read you some words and I want you to tell me how you feel about the words. If you have strong positive feelings about the word, you would say plus two or plus three. If you have strong negative feelings, you would say minus two or minus three. If you have mild feelings one way or the other, you would say plus one or minus one. If you have no feelings about the word, say *zero*. If you don't know the word, just say so. Now, for the word *cooperation*, what number on the scale would you select?

[In percent]

	Negative				Positive			
	−3	−2	−1	0	+1	+2	+3	Don't know word/not sure
Cooperation	2	3	3	7	16	31	34	5
Foreign assistance	8	11	11	8	32	20	8	4
Development	2	1	3	9	26	30	23	5
Foreign aid	8	9	12	8	32	19	7	4
Capitalism	10	8	12	22	14	10	10	13
Social justice	4	3	4	14	18	17	27	13
Free trade	4	6	9	17	25	18	13	10
Population control	4	2	4	10	18	18	38	5
Isolationism	18	12	13	23	7	4	3	20
United Nations	6	4	7	14	23	19	21	6
Import taxes	4	6	11	20	24	16	9	11
Communism	42	11	14	12	5	4	7	5
Protectionism	5	4	9	22	15	10	11	22
Redistribution of wealth	12	8	9	21	16	10	12	13

23a. Here is a list showing different groups that help people in underdeveloped countries. For each group mentioned on the list, do you think the job it does in helping people in underdeveloped countries is very effective, only somewhat effective, or not effective at all?

[In percent]

	Very effective	Somewhat effective	Not effective	Not sure
Peace Corps	50	38	6	6
Religious groups	33	48	13	6
World Bank	11	30	16	43
YMCA/YWCA	18	39	18	25
United Nations	29	43	17	11
U.S. corporations	15	45	19	21
CARE	50	37	5	8
Private foundations	17	46	15	22
Red Cross	51	33	10	6
UNICEF	38	34	7	21

23b. It has been suggested that the United States government should give more of its foreign assistance money to organizations like the ones on this list and give less money directly to the countries. Do you feel that the U.S. government should give money to organizations or should it give the money directly to the governments of the countries themselves?

Give money to organizations	57
Give money to countries	22
Not sure	21

23c. If the U.S. government did decide to give more foreign assistance money to organizations like those on the list, which two or three organizations would you favor the most for receiving money?

Peace Corps	57
Religious groups	29
World Bank	6
YMCA/YWCA	8
United Nations	13
U.S. Corporations	3
CARE	46
Private foundations	6
Red Cross	46
UNICEF	28
Other (write in)	1
Not sure	5

24a. Have you ever personally contributed money to an organization that works to help people in underdeveloped countries?

Have contributed	74
Have not contributed	22
Not sure	4

24b. To which organizations have you contributed money? (Asked of those who answered "Have contributed" to above question.)

Peace Corps	8
Religious groups	39
World Bank	1
YMCA/YWCA	12
United Nations	2
U.S. Corporations	1
CARE	33
Private foundations	6
Red Cross	64
UNICEF	50
Other	5
Not sure	1

25a. As you know, the United States puts import taxes, quotas, and other barriers on products coming in from various countries. Considering products coming from wealthy countries such as West Germany and Japan, would you say you strongly approve, mildly approve, mildly disapprove, or strongly disapprove of import restrictions on goods coming in from wealthy countries?

Strongly approve	44
Mildly approve	28
Mildly disapprove	9
Strongly disapprove	6
Not sure	12

25b. And considering the products coming in from underdeveloped countries, would you say you strongly approve, mildly approve, mildly disapprove, or strongly disapprove of import restrictions on goods coming in from underdeveloped countries?

Strongly approve	14
Mildly approve	30
Mildly disapprove	21
Strongly disapprove	18
Not sure	16

26a. There has been a great deal of discussion on the idea of free trade between the United States and underdeveloped nations—that is, the lowering or elimination of restrictions on products coming from these countries. Here are some of the things that have been said by people who favor free trade. Which one of these statements is the most important reason to favor free trade as far as you are concerned?

More export jobs	9
Helps underdeveloped countries	40
Lower prices	14
Stimulate competition	18
Not sure	18

26b. Now, here are some statements by those who oppose free trade. Which one statement is the most important reason to oppose free trade, as far as you are concerned?

Unfair competition	14
Intensity of problem of trade balance	14
Put American laborers out of work	49
U.S. too dependent	5
Not sure	18

26c. Now that you have read some of the arguments about free trade with underdeveloped countries, would you say you basically favor the idea of free trade, or oppose it?

Favor	41
Oppose	34
Not sure	25

26d. If American workers who lost their jobs because of free trade did not suffer any personal financial loss and were retrained in jobs equal to or better than their old ones, would you basically favor the idea of free trade, or oppose it? (Asked of those who were "opposed" or "not sure" in above question.)

Favor	44
Oppose	26
Not sure	30

27a. Have you ever traveled outside of the United States?

Yes, have traveled	52
No, have not traveled	48

27b. If you added together all of the time you have spent traveling, how much time would you estimate you have spent outside the United States? (Asked of those who answered "yes" to above question.)

One month or less	48
2–4 months	13
5–7 months	5
8–11 months	3
1 year or more	31

27c. Which parts of the world have you personally visited?

North America (Canada, Mexico)	71
Western Europe	26
Eastern Europe	11
Asia	9
Middle East	6
Far East	13
Central America	5
South America	7
Africa	5
Other	14

27d. Would you say that your traveling was mostly for business reasons, for educational purposes, to work abroad, for military service, or for pleasure?

Business	3
Educational	5
Work	3
Military or other government service	29
Pleasure	58
Not sure	1

28a. In which part of the United States did you spend most of your youth? The East, the South, the Midwest, or the West?

East	32
South	25
Midwest	29
West	12
Outside the U.S	2
Not sure	—

28b. In your youth, did you live mainly in a city, in the suburbs, in a small town, or on a farm?

City	32
Suburb	15
Small town	28
Farm	24
Not sure	1

29. And would you say that in your youth your family was lower income, middle income, or upper income?

Lower income	39
Middle income	56
Upper income	4
Not sure	1

30a. Now I would like to know how important you feel television has been as a source of information for you in learning about the various problems in the world. Is television very important, somewhat important, or not important at all? How about the newspapers? Have they been very important, somewhat important, or not important at all as a source of information to you?

30b. And of these sources of information, which two or three would you say are the most reliable?

30c.* Why do you feel that these are the most reliable sources?

They are there, on the scene, on the spot; most coverage	15
They are quick, up to date, inform me daily	13
I'm exposed more to it, it's more accessible. That's where I get all my news; it's all we have	12

30d. And which two or three of these sources would you say are the least reliable?

30e.* Why do you feel that these are the least reliable sources?

They are biased, onesided, prejudiced	17
Based on opinions, their own views, exaggerations, other sources	17
They give false information, not factual, not truthful, not always well informed	12
Just don't read/listen to them, just don't rely on them	12

[In percent]

	A. Importance					
	Very-important	Somewhat important	Not important	Not sure	B. Most reliable	D. Lease reliable
Television	64	29	6	1	64	11
Newspapers	62	31	7	--------	52	16
Radio	42	41	16	1	27	7
School	40	34	22	4	13	6
Family	28	38	31	3	8	14
Friends	21	45	33	2	3	34
Church	23	36	38	3	12	16
Special meetings	12	29	53	6	4	22
Magazines	25	43	28	4	12	17
Books	30	40	27	3	10	9
Pamphlets and newsletters	16	40	39	5	4	30
Your work experience	25	32	38	5	8	14
Your personal experience	33	36	26	5	17	9

31a. And have you ever volunteered your spare time to an organization that was involved in helping people in underdeveloped countries?

Have volunteered	17
Have not volunteered	81
Not sure	2

31b. If you were asked to give time to an organization that helped people in underdeveloped countries, would you be more willing to help an organization that was backed by our government or would you be more willing to help a private organization?

More willing to help government organization	34
More willing to help private organization	34
No difference	19
Not sure	13

32a. If you were asked to volunteer your time or contribute money, would you prefer to help poor people in the United States or would you rather help poor people in underdeveloped countries?

United States	83
Underdeveloped countries	6
No difference	8
Not sure	4

32b. Would you say that poor people in the United States basically have things better, about the same, or worse than poor people in other countries?

Better	68
About the same	23
Worse	3
Not sure	6

33. Now I am going to read to you a list of statements that have been made by other people we have interviewed. For each statement, I want you to tell me if you agree strongly, agree somewhat, disagree somewhat, or disagree strongly with the statement?

RESPONSES TO QUESTION 33

[Percent]

	Agree strongly	Agree somewhat	Disagree somewhat	Disagree strongly	Not sure
The United States already has a large budget deficit and cannot afford to help underdeveloped nations	23	29	29	11	8
Our Government should do more to encourage businessmen to invest in underdeveloped countries	19	36	20	12	14
The United States is doing more than its fair share in helping underdeveloped countries	50	29	12	3	6
If we do not help other countries, the Communists will take them over	37	29	17	9	8
Too much foreign aid is wasted in our own bureaucracy and never finds its way abroad	46	27	9	4	14
The United States exploits poor countries just to get what it needs	7	17	26	38	13
Too much of our foreign assistance money is kept by the leaders of poor countries and does not get to the people	46	30	6	2	16
Foreign aid should come from voluntary contributions rather than taxes	30	27	20	11	12
We help some countries because it is morally right to do so	31	45	11	5	8
It is more important to help the poor people in this country first before doing anything in foreign assistance	63	20	9	3	3
We help some countries because poverty breeds violence	28	40	13	7	11
The United States should pay back the money corporations lose when they are nationalized by other countries	4	9	22	42	23
Countries that receive foreign assistance should have the right to determine how to spend the money	12	29	26	22	12
It is really in the best interest of the United States to help poor countries	31	46	11	4	8
Without trade with other countries, the United States would suffer considerable economic hardships	33	33	15	7	12
The United States should help only those underdeveloped countries that will support a democracy	27	26	21	12	14

34a. As you know, many things have changed over the past ten years. Would you say your attitudes and opinions concerning the problems of the world are almost the same as those of the young people in your family, very much the same, fairly different, or completely different from those of the young people in your family?

Almost the same	23
Very much the same	25
Fairly different	24
Completely different	16
Not sure	11

34b.* In what ways would you say that you are most different from the young people in your family in your feelings about the problems of the world?

We are about the same, don't really disagree	23
Don't agree with their outlook on life, just different	12
We differ on Vietnam, foreign policy; foreign aid	10
No children or children too young	10

35a. I'd like to ask in which countries your grandparents were born.

U.S. and North America	65
Western European countries	27
Eastern European countries	10
Soviet Union	2
Arab countries	[1]
China and Far East	1
Africa	1
South America	[1]
Central America	[1]

[1] Less than 1 percent.

Other (specify)	5
Not sure	2

35b. And when you think back about your family heritage, with which countries of the world do you identify?

U.S. & North America	36
Western European countries	42
Eastern European countries	10
Soviet Union	1
Arab countries	**
China & Far East	1
Africa	4
South America	**

Central America	**
Other (specify)	7
Not sure	6

** (Less than one per cent)

36a. Would you say that you have ever personally experienced hunger and poverty?

Yes, have experienced	27
No, have not experienced	72
Not sure	1

36b. Have you ever lived in a situation where your neighbors suffered from hunger and poverty?

Yes, have	40
No, have not	58
Not sure	3

36c. Would you say you know a great deal about hunger and poverty, some but not much, or hardly anything?

Great deal	23
Some, but not much	51
Hardly anything	25
Not sure	1

37a. Are you registered to vote at this time?

Yes, registered	81
No, not registered	18
Not sure	1

37b. Are you registered as a Democrat, Republican, or Independent? (Asked of those registered to vote.)

Democrat	52
Republican	26
Independent	16
Other	3
Not sure	4

38a. Now here is a card with a scale describing the political views of different types of people. Where would you place yourself on the scale?

38b. And for the young members of your family, where would you say they are on the scale politically?

[In percent]

	(a) Self	(b) Young in family
Radical left:		
1	2	2
2	3	3
Liberal:		
3	11	14
4	8	8
Moderate:		
5	41	28
6	9	6
Conservative:		
7	15	9
8	2	1
Ultraconservative:		
9	1	1
Not sure	8	21

ANNEX B; SURVEY SAMPLING TECHNIQUE [1]

PHILOSOPHY UTILIZED IN SAMPLE DESIGN

The national sample cross section design has been done with the purpose of maximizing the useful stratification which may be employed to produce a sample with greatest accuracy for a fixed sample size. We have tried not to introduce excessive refinements, but have followed the stratagem of stratifying where possible and introducing random elements (which insure that we achieve a truly random sample that is projectible) at the lowest possible level.[2]

A careful examination of the distribution of the youth population (those eighteen to twenty-five years of age) and the adult population (eighteen years and older) has indicated that the distribution of these two segments does differ by fractions of a per cent, but there is no place where the difference is such that a separate sample for the two elements would be justified. Therefore, we have used the adult population as the basic frame for both samples. If we were dealing with a sample size of 50,000 or more, the theoretical imperfection of the youth sample using an adult sample framework might be great enough to cause us to change our basic strategy. But, in practical terms, with a sample size of 1,200 the standard error of estimate is of sufficient size to mask in an overwhelming fashion any imperfections which this frame represents for the youth sample.

STRATIFICATION OF THE NATIONAL SAMPLE

The stratification employed in the construction of this national sample follows the rough outlines of procedures for the development of national samples by the leading market research firms in the United States. These considerations deal with not only the potentially theoretically desirable stratifications, but also with the factors which have been found to really matter in a large number of sociological, business, and political inquiries implemented through the methodology of survey research.

The basic stratification employed is that of region within the United States. Repeatedly, differences in view have been exhibited among the East, Midwest, South, and West. We have followed the definition of these regions employed by the Census. Within a region the next most important differences in opinion have been those associated with the most urban and lesser urban parts. Thus the data on population has been stratified on the basis of cities, suburbs, other urban, and rural. This stratification is even more refined in the context that within a region cities have been ordered from largest to smallest, associated suburban parts also have been ordered from largest to smallest, and the other urban population strata have been geographically spread as have been the rural population strata. The strategy of organization is similar to that adopted by the Wooldridge Committee in its study of the National Institutes of Health Program.[3] This type of stratification scheme assures that every size of city, suburb, town, and rural area will be included within one percentage point of its actual distribution within the total population.

Once the adult population (for purposes of the general population sample, eighteen years and older) of the United States has been arrayed in this manner, a tape is prepared with each major unit (cities, suburbs, other urban by state, and rural by state) represented by proper subtotals. A random selection tape is constructed using the following device. In order to bring intra-cluster correlation effects to a minimum, and still keep costs of interviewing at a reasonable level, we selected a cluster size of six interviews, thereby requiring 200 sample points for a sample of 1,200 respondents. We then divided the total adult population of the United States eighteen years and older by 200. This number, the sampling interval, is then multiplied by a random number, to give a random starting point.

The above procedure defines the sample in terms of gross units. The sample is further refined by the use of tract and block information in those areas for which such information exists, in that the tract material can be accumulated to the actual point within the selected area, and hence unique blocks selected. Outside of tracted areas, similar techniques can be used to define explicit towns, or minor civil divisions, and random area's selection is made within these small units.

The result of utilizing these procedures can be seen in the following table which gives the characteristics of the U.S. adult population and corresponding sample points.

	U.S. adult population		Sample points	
	Number	Percent	Number	Percent
Total	133, 567, 845	100	200	100
East	33, 014, 905	25	49	25
Midwest	36, 732, 026	28	56	28
South	40, 959, 216	30	61	30
West	22, 861, 698	17	34	17
Cities	43, 599, 090	33	66	33
Suburbs	35, 204, 430	26	52	26
Other urban	20, 722, 528	16	32	16
Rural	34, 041, 797	25	50	25

The selection of households within the selected areas is done utilizing random starting points, and the selection of individuals within the households for interview is also done utilizing random selection procedures. From the random starting point, the interviewer is directed in a systematic manner, so that this freedom of choice in household selection is minimal.

Two call backs were made for selected households, and complete records were kept of the results of each attempt at contact. When the designated respondents were not at home, appointments were made, and call backs at the appointed time were employed. The call backs were spread over different times of the day to insure that there was a maximum chance of contact being made.

Two random selection procedures for respondents within a household were utilized, one for the adult sample and one for the youth sample. The basic difference in the procedures is that the eligibility of youth in the noncollege youth sample was restricted by age (eighteen to twenty-five years) and by the fact that they are not attending college.

THE COLLEGE YOUTH SAMPLE

The college youth sample was constructed by a random selection of students from college campuses. We obtained up-to-date enrollment figures from the National Center for Educational Statistics of the U.S. Department of Health, Education, and Welfare. These figures were used to build a frame stratified by region, type of college (public or private), and by size of college within region within type. From this frame, forty colleges were selected and ten students were interviewed at each college.

PROCEDURES FOR FINAL ANALYSIS

All college youth were obtained from the college youth sample, and no college youth were obtained in the eighteen to twenty-five year old youth national cross section. These two segments were melded in appropriate proportions to obtain the material for the aggregate youth sample.

Similarly, the youth sample was appropriately weighted into the adult national cross section.

After weighting had been applied, the youth sample and adult sample were completely projectible to their respective populations.

Both the adult sample and the youth sample are of nominal size (1,200), and the weighting procedures applied did not change this nominal effective size very much. The standard error is very near the value of 1.7 per cent, which could be expected from a sample of 1,200 with this degree of clustering.

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[1] Excerpted, with minor revisions, from the study on American attitudes toward international development conducted by Peter D. Hart Research Associates, Inc., Washington, D.C. for the Overseas Development Council (1972).

[2] W. G. Cochran, *Sampling Techniques*, 2nd ed. (New York: John Wiley & Sons, Inc., 1973).

[3] *Biomedical Science and Its Administration*, A Study of the National Institutes of Health, Report to the President, February 1965.

GENERAL POPULATION SAMPLE[1]

	Sample size	Percent
Total	1,203	100
Sex:		
Male	593	50
Female	605	50
Age:		
18 to 25	242	20
26 to 35	278	23
36 to 50	334	28
Over 50	333	28
Education:		
College graduates	154	13
Some college	137	11
High school graduates	440	37
Non-high school graduates	360	30
Occupation:		
Professional/executive	267	23
White collar	172	17
Blue collar	438	24
Income:		
Under $7,000	359	30
$7,000 to $15,000	430	45
Over $15,000	245	20
Race:		
White	1,044	87
Black	129	11
Other	23	2
Region:		
Northeast	291	24
North-central	341	28
South	361	30
West	209	18
Size of place:		
City	377	33
Suburban	291	26
Town	177	16
Rural	275	25
Religion:		
Protestant	727	61
Catholic	298	25
Jewish	27	2
Other	69	6
None	73	6

[1] The sample was weighted by age. All of the numbers shown here are adjusted by the weighting process. See the section on "weighting" for greater detail.

YOUTH SAMPLE OVERVIEW

	Sample size	Percent
Total	1,222	100
Sex:		
Male	623	51
Female	594	49
Age:		
18	203	17
19	178	15
20	147	12
21	173	14
22	107	9
23	94	8
24	137	11
25	170	14
Race:		
White	1,057	87
Black	134	11
Other	22	2
Marital status:		
Married	444	37
Single	742	61
Other	28	2
Region:		
Northeast	292	24
North-central	336	28
South	348	28
West	246	20
Size of place:		
City	273	34
Suburban	217	27
Town	123	15
Rural	196	24
Family income:		
Under $7,000	337	28
$7,000 to $15,000	458	38
Over $15,000	322	26
Religion:		
Protestant	559	46
Catholic	323	27
Jewish	46	4
Other	102	8
None	184	15
College experience	703	58
Noncollege	519	42
In college now[1]	413	34
Freshman	114	28
Sophomore	100	24
Junior	84	20
Senior	72	17
Graduate student	43	10
Major:[1]		
Humanities/social science	126	31
Science/math	50	12
Business	55	14
Engineering	23	5
Education	60	14
Other	94	23
Size of school:[1]		
Under 6,500	123	30
6,500 to 20,000	137	33
Over 20,000	153	37

[1] Percentages based on students only.

WEIGHTING

A complete study of approximately 1,200 people between the ages of eighteen and twenty-five was conducted separately from the general population study. A separate sampling of individuals over twenty-six years of age was conducted simultaneously. A total of 999 people over age twenty-six were interviewed. To meld these two studies together in proper proportion so that we would have an accurate general population sample of 1,200 respondents, it was determined that we would weight the youth sample by a factor of two tenths. Thus, overall, the general population sample is a statistically reliable cross-section of all adult Americans over the age of eighteen. For the youth study, the sample did not require weighting.

ANNEX C: SAMPLING ERROR AND STATISTICAL SIGNIFICANCE TABLES

SAMPLING ERROR

Although many people find it hard to believe that a sample of 1,200 can represent the population of the United States, this is nonetheless statistically true. However, in reading the data, it should be kept in mind that the results are subject to sampling error. i.e., the difference between the results obtained from the sample and those which would be obtained by surveying the entire population. The size of a possible sampling error varies to some extent with the size of the sample and with the percentage giving a particular answer. The following table sets forth the range of error in samples of different sizes and at different percentages of response. Thus, for example, if the response for a sample size of 1,200 is 30 per cent, in 95 cases out of 100, the response in the population will be between 27 per cent and 33 per cent.

RECOMMENDED ALLOWANCE FOR SAMPLING ERROR (PLUS OR MINUS) AT 95 PERCENT CONFIDENCE LEVEL

	Sample size				
Percent of response	1,200	900	500	250	100
10 percent (90 percent)	2	2	3	5	7
20 percent (80 percent)	3	3	4	6	10
30 percent (70 percent)	3	4	5	7	11
40 percent (60 percent)	3	4	5	7	12
50 percent	3	4	5	8	12

SIGNIFICANCE OF DIFFERENCE

When is a difference between two results significant? As in the case of sampling error, the answer depends on the size of the samples involved and percentage giving a particular answer. The following table has two charts, one showing the significance of difference between different-sized samples when the per cent giving an answer is near 50 per cent and the other showing the significance of difference when the per cent giving an answer is near 20 per cent or 80 per cent. Thus, for example, if one group of size 900 had a response of 56 per cent "yes" for a question and an independent group of size 250 had a response of 43 per cent "yes" for the same question, in 95 cases out of 100, the difference in the "yes" response rate for these two groups would be 13 per cent (56 per cent minus 43 per cent), plus or minus 8 per cent, or between 5 per cent and 21 per cent.

RECOMMENDED ALLOWANCE FOR SIGNIFICANCE OF DIFFERENCE BETWEEN 2 PERCENTAGES AT 95 PERCENT CONFIDENCE LEVEL

1st sample size/2d sample size	1,200	900	500	250	100
Percent of response near 50 percent:					
1,200	5	5	6	8	12
900	5	6	7	8	12
500	6	7	7	9	13
250	8	8	9	11	14
100	12	12	13	14	17
Percent of response near 20 or 80 percent:					
1,200	4	4	5	7	10
900	4	4	5	7	10
500	5	5	6	7	10
250	7	7	7	8	11
100	10	10	10	11	13

ANNEX D: THE SYMPATHY AND INFORMATION INDICES

SYMPATHY INDEX

The sympathy index is a measurement of a respondent's basic attitudinal orientation to assisting the process of development in the poor countries. This index was developed from a selection of the nine survey questions thought to be the best indicators of public opinion on both governmental and personal commitment to solving global poverty problems.

Respondents could score a minimum of zero and a maximum of four on each of the nine questions. The maximum score, indicating support for development issues examined, was thirty-six points; the lowest possible score of zero indicated basic opposition to development concerns. Obviously, no single response by itself offers an accurate indication of development sympathy or opposition. Yet, if a respondent scored twenty or higher on the index, he was designated as being in basic sympathy with the problems of poor countries and peoples and desirous of assisting those countries in solving their problems. (Such a respondent would support a vigorous U.S. international effort on trade and assistance policy.) The nine questions comprising the index are listed below.

1. How much do you feel the United States government is doing at this time to fight domestic poverty? Is it doing more than it should (0 points), about the right amount (2 points), or less than it should (4 points)?

2. Do you think our government is doing more than it should (0 points), about the right amount (2 points), or less than it should (4 points) to fight poverty in other parts of the world?

3. In your honest opinion, is your own personal commitment to help solve the problems of hunger and poverty in the world very strong (4 points), fairly strong (2 points), or not strong at all (0 points)?

4. If you were to set priorities, which two or three problems on the list should receive top priority consideration in your opinion? Answer: Hunger and poverty (4 points).

5. Concerning the United States giving foreign assistance—would you say you were strongly in favor (4 points), somewhat in favor (3 points), somewhat against (1 point), or strongly against (0 points) the United States giving assistance to underdeveloped countries?

6. Considering the products coming in from underdeveloped countries, would you say you strongly approve (4 points), mildly approve (3 points), mildly disapprove (1 point), or strongly disapprove (0 points) of import restrictions on goods coming in from underdeveloped countries?

7. Do you agree strongly (0 points), agree slightly (1 point), disagree somewhat (3 points), or disagree strongly (4 points) with the following statement: the United States already has a large budget deficit and cannot afford to help underdeveloped countries?

8. Do you agree strongly (0 points), agree

slightly (1 point), disagree somewhat (3 points), or disagree strongly (4 points), with the following statement: the United States is doing more than its fair share in helping underdeveloped countries?

9. Do you agree strongly (4 points), agree slightly (3 points), disagree somewhat (1 point), or disagree strongly (0 points), with the following statement: we help some countries because it is morally right to do so?

The sympathy index is most useful in showing different levels of response of various socio-economic groups. This index only indicates relative support on a broad range of issues comprising the needs of the underdeveloped countries today. Absolute support for specific aid proposals is discussed in Chapter III.

An individual was considered basically unsympathetic on international development issues if he scored fourteen or lower on the sympathy index. Someone who scored between fifteen and nineteen was considered "uncommitted"—i.e., ambivalent to the problems of the poor countries.

An analysis of answers to the individual questions comprising the index reveals that those social groups—persons of a certain age, party, or education—with higher percentages of pro-development answers than others on one question will similarly score comparatively high on other questions. For example, 63 per cent of the college graduates sampled were in favor of the United States giving foreign aid (Question 5), while only 50 per cent of those who have not completed high school answered similarly. In contrast, the question about the United States doing its fair share for development (Question 8) showed lower support for development than demonstrated by any other question on the index. Just 21 per cent of the college graduates felt that the United States was doing less than its fair share—but only 6 per cent of those who have not completed high school felt likewise. Therefore, answers to both questions show higher support among college graduates for improving the lot of the poor countries than among any other educational category. This pattern is similar for six of the nine individual questions, as well as for the whole index itself.

Thus the sympathy index conveniently summarizes the results of the individual questions. The index was composed independently of the survey results; had questions 3, 4, and 9 not been included in the index, correlations shown in Chapter VI would be far stronger.

INFORMATION INDEX

The second index developed for the analysis of the data of this survey was called the information index. While this survey was not conducted for the primary purpose of determining how much Americans knew about the objective facts and figures of development, a number of questions in the survey did provide us with some measure of how well informed the public is on development issues. We already know from previous surveys cited in this monograph that very few Americans have over the years consistently scored high on information questions regarding the foreign assistance program. Alfred Hero states, "Less than one adult out of ten has known or guessed within a billion dollars of the correct figure of the overall aid budget. Similarly, small minorities have known or guessed, that foreign aid has constituted less than 5 per cent of the national budget, or less than one per cent of the GNP. . . ." We did not, therefore, repeat objective questions of that nature. We did, however, examine the level of public awareness on a few of the issues which one would expect a "well-informed" public to score high. The five questions comprising this index are shown below.

1. Which two or three countries on the list have the highest standard of living?

Argentina, Bangladesh, Bolivia, Brazil, Chile.

Mainland China, Egypt, India, Indonesia, Kenya.

Nigeria, Pakistan, Peru, South Africa, South Korea.

Soviet Union, Tanzania, None of the Above, Don't Know.

Answer: Any 2 of the following countries: Soviet Union, Argentina, South Africa, Brazil, Chile (2 points).

2. Which two or three countries would you say have the lowest standard of living?

Answer: Any two of the following countries: Tanzania, Nigeria, India, Bangladesh, Indonesia, Pakistan (2 points)

3. If you were to estimate the number of people in the world who are now living in underdeveloped countries, what would you say: Less than 10 percent, about one quarter, about one half, about three quarters, about ninety per cent, not sure?

Answer: About three quarters (3 points)

4. As you probably know, the United States is only one of many countries that have economic foreign assistance programs. When you compare the wealth of the United States to that of other wealthy countries, such as Sweden or Canada, would you say our economic foreign assistance budget is relatively greater than, about the same, or less than foreign assistance programs of other wealthy countries?

Answer: Less than (1 point)

5. For loans that we have already given underdeveloped countries, do you feel that the loans are usually completely repaid, mostly repaid, only partially repaid, or not repaid at all?

Answer: Completely repaid (1 point)

An individual who scored nine on the information index received a perfect score. Any respondent who scored five or above was judged to be informed on development issues. Similarly, anyone who scored zero was judged to be uninformed on development issues. Since each of the information index questions does not carry the same importance as a gauge of development information awareness, different values or weights were assigned to the scoring of the five questions. Question three, regarding the population size of the developing world relative to that of the industrialized world, was judged to be the most important question for an informed respondent to answer correctly and was therefore assigned a weight of three points. Questions one and two, regarding the relative wealth and poverty of a number of countries, were considered next in importance on the information index and were assigned weights of two points each. Questions four and five were judged non-essential increments of information for a respondent to have and hence were assigned weights of one point each.

Only those questions considered to be clearly objective and to measure relatively important facts for an informed respondent to know were selected for use in the information index. Since the information index was not intended to be a precise mechanism for determining the knowledge of respondents, we chose to analyze only the responses at each extreme of the index—i.e., those respondents very informed, and those very uninformed scoring zero.

THE USE OF COAL TO HELP SOLVE THE ENERGY CRISIS

(Mr. PRICE of Illinois asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PRICE of Illinois. Mr. Speaker, 6 months ago an outstanding leader in the electrical energy industry of the United States prepared a "Memorandum on a Program for Immediate Action to Significantly Defuse the Threatened Energy Crisis." This memorandum was sent to over 30 leaders of industry and government.

The plan proposed by Mr. Sporn is just another example of the great vision this gentleman has exhibited concerning important steps which this Nation must take. Unfortunately, 6 months later, we still have not done anything to carry out Mr. Sporn's plan. More unfortunately, since Mr. Sporn submitted his plan, the interruption of our Mideast fuel supplies has made the matter a great deal worse.

Mr. Sporn's plan concerns the immediate construction of 40,000 megawatts of coal fueled generating capacity in 10 regions of the country. Full well realizing that the leadtimes for such an effort will require 4 or 5 years, it is one of the two major things we can do to help ourselves out in this impending energy crisis. The only significant road to alleviating our energy problems, in addition to conservation, is the immediate construction of coal and nuclear fueled electrical generating plants. Such plants do not require any research and development nor do they involve any dependence on foreign nations for their design, construction, and operation.

The plan proposed by Mr. Sporn would add 40,000 megawatts of generating capacity. This capacity will generate the same amount of electricity as would be generated in oil-fired plants requiring the combustion of one-half billion barrels of oil a year. The significance of Mr. Sporn's plan in this light is obvious.

I request permission to print in the Record at this time for the benefit of all my colleagues, a copy of Mr. Sporn's June 1, 1973, plan, for immediate action to help in our energy crisis.

Memorandum on a Program for Immediate Action to Significantly Defuse the Threatened Energy Crisis

At the latest meeting of the General Technical Advisory Committee to the Office of Coal Research, George Fumich asked the members to give their ideas on what OCR can propose in the current disturbed and disturbing energy situation. What follows is an attempt to comply with that request.

OCR was created to bring some relief to the economically depressed coal industry and particularly to the Appalachia area. Today, some twelve years later, when we are on the threshold of producing some results, it is clear that the beneficiary of its research program will be not so much the coal industry as the country as a whole. For the first time in its history as a high energy using society the country is on the brink of an energy crisis which, if allowed to fully develop, could be deeply disturbing to the entire national economy, indeed to our whole style of living and to our functioning in the society of nations.

This threatened crisis has resulted from the conjoining of a series of developments among which are acceleration in growth in our total energy requirements, increase in our electric energy use even above the long time historical record of an annual rate of 7.2%, growth in our oil and gas use while our endemic supply of these two important energy components is declining, and relative decline in our use of coal. Of these the latter is, perhaps, the most disturbing.

Everybody agrees that if the threatened crisis is to be diverted for the immediate future it will have to be brought about by greater reliance on coal. Yet the sad fact is that use of coal is declining and coal mined for the first four and a half months of 1973 is 7.2% below the corresponding period of 1972.

If we have to rely more and more on foreign imports of gas and oil, the two largest components of our total energy, to keep our energy supplies in balance, we are going to be confronted with a series of developments in the political and economic affairs of the country fraught with the greatest danger. To avoid this we must increase the contribution coming into our total energy system from nuclear and coal sources. In this memorandum I want to concentrate on the coal contribution.

I believe the time has come when the country must make a very sharp and significant commitment to coal and lay down a program under which we shall make clear not only to our own people but to the entire world that we have the coal resources and we are going to utilize them to avoid the consummation of these crisis inducing developments.

The specific program I would urge is that OCR act as the catalyst to bring about a commitment to build ten large (about 4,000 mw each) regional power plants burning coal. In some regions a full plant could be built, owned, and operated by the largest utility in the region. Examples of such companies are TVA, the Southern Company, American Electric Power Company, Commonwealth Edison Company, Southern California Edison Company.

In other regions, a regional generating company, with undivided interests among its group of member companies as typified by some of the relatively recently organized companies in western Pennsylvania, might be the best mechanism. The exact form in each of the regions could best be determined by the existing electric energy producers of the region.

These plants, operating at a capacity factor of 75%, will generate approximately 275 billion kwh and will consume 10 million tons of coal per plant per year, or a total 100 million tons. This will result in displacing 400 million barrels of oil per year, most of which will otherwise be committed for future oil burning plants.

Most of the coal that will carry out this displacement will be mined from reserves lying east of the Mississippi. Where normally the sulphur content is above 2%, it will be washed down to 2%, which is technically feasible and environmentally adequate, provided the required SO_2 limitation is taken care of by tall stacks.

As part of the environmental protection program, it is proposed to build at each plant an elaborate system of observation and monitoring so as to be able to trace the effect of the SO_2 from the time it leaves the stack until it has been completely diffused in the atmosphere or absorbed within the surrounding ecological systems.

The problems in planning such a program are going to be numerous and difficult but not insoluble, particularly so if the project is organized with full consideration given from the beginning to all the social, economic, and technical questions that will be raised. The planning of the organization of the regional groups for absorbing each regional plant's output, of sites of the plants themselves, of the transmission of the energy, the providing of the necessary heat sinks (which can be handled by dry cooling towers), the development of the necessary mining capacity, and the transportation facilities of the fuel to the extent it is not mouth of mine, all this can go on simultaneously.

While no detailed estimates of capital costs have been made, a rough evaluation of cost may be of interest. This can be broken into the following four components whose cost per kw and total costs are given in the table below:

	Cost per kW	Total cost (billions)
10—4,000 MW plants	$175.00	$7.00
100,000,000 tons of coal per year	[1] 15.00	1.50
Transmission	25.00	1.00
Instrumentation	5.00	.20
Total		9.70
Total per kW	242.50	

[1] Cost expressed as dollars per ton per year.

Under present conditions this is certainly a reasonable cost.

The announcement of such a program could be one of the most salutary items in the history of the country. It would be notice to the entire nation that we do not propose to stand by, while we have the necessary resources, in trembling and fear for the consequences of their use, when such use will be made intelligently, knowledgeably, and responsibly. It would be notice to the world that we are not going to permit anything to develop that will fracture the continuity of the United States moving forward as the great nation that it now is. It would be notice to the foreign energy producing countries that the idea of using the monopoly control in one primary fuel to control the very life of a country like ours or of other industrially advanced countries is a dangerous illusion. Any such ill advised effort can only end in failure, provided it is countered by a firm determination on the part of the threatened country to find alternative sources of primary energy that are endemic, entirely within its own control, and sufficient to take care of its needs.

We can do all that. But we cannot wait much longer before we start.

SITING AND LICENSING OF NUCLEAR POWERPLANTS

(Mr. PRICE of Illinois asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PRICE of Illinois. Mr. Speaker, I am introducing today a bill to amend the Atomic Energy Act to restructure the AEC licensing process. Congressman CHET HOLIFIELD and Congressman CRAIG HOSMER have joined me on this bill.

The purpose of this amendment is to provide the means of expediting the AEC licensing process consistent with due consideration of environmental requirements and the rights of persons whose interests are affected by the granting of an AEC construction permit or operating license.

As Chairman of the Joint Committee on Atomic Energy, I plan to hold a series of hearings on the problems associated with the siting, construction and operation of nuclear powerplants, including consideration of this bill and other measures proposed to expedite the licensing and construction process.

Mr. Speaker, with the energy crisis which we have been predicting for some time now upon us, it is imperative that measures to get nuclear electric powerplants sited and constructed and operated more expeditiously be undertaken. Every year we can shorten the span of time required to order, license, construct and begin operations of the nuclear powerplants in the United States means the savings of millions of gallons of oil which would otherwise be required to produce the needed electric power and which would come from foreign sources.

Mr. Speaker, the joint committee has been requesting the Atomic Energy Commission for almost a year to come forth with measures, including proposed legislation, to expedite the licensing and construction process of nuclear powerplants. But so far all we have received are copies of speeches and messages, with no concrete proposals.

I am hopeful that the bill I am introducing will stimulate consideration of this matter by the Commission and the nuclear community so that we can come up with necessary improvements in the licensing process in the next session.

The background of the proposed bill goes back to proposals made by former Commissioner James T. Ramey in 1969 before the Federal Bar Association to provide for environmental proceedings on the "early siting" of nuclear powerplants, followed by expedited construction permit proceedings, and finally limited proceedings at the operating licensing stage. Proposed legislation to carry out these purposes was introduced by the administration in 1971 and again in 1972. Nothing was introduced by the administration in 1973.

The President, however, in his most recent energy message did establish a goal of cutting back on the timespan from ordering a nuclear plant to operation from 9 or 10 years to 6 years. We are looking forward to administration proposals to achieve this objective.

Certainly it should be possible to shorten the timespan of 9 or 10 years to get additional nuclear powerplants constructed and operating. The original Shippingport plant took less than 4 years to build and plants built in the mid and late 1960's took only around 5 years. In Japan, nuclear plants of U.S. manufacture still take only 4 years.

The key to the proposed revisions in the bill I have introduced is the use of the judicial type of "early site" hearing on the environmental aspects of the selection of a nuclear powerplant site, and then provide for "legislative type" hearings in regard to the construction permit and operating license for nuclear powerplants. Provision is made for encouraging the construction of approved standardized plants, which should lessen or eliminate questions as to the safety of individual plants in licensing proceedings. Provision is also made to require threshold showings by intervenors as to realistic safety questions before these matters can be raised in a licensing proceeding.

Any legislation must recognize that there will be a transitional period while AEC and the nuclear industry are developing standardized plants and an inventory of approved sites. I hope that AEC regulations under my proposed amendments would have the necessary procedural flexibility to cover this transitional period.

Mr. Speaker, all of us believe that all environmental and safety questions should be carefully considered in AEC licensing proceedings. But counsel for intervenors have on occasion abused their rights, and have used the threat of delay to bargain for unrelated objectives. This happened in regard to operating licenses on the Palisades and Point Beach and other plants. It has been happening more frequently in relation to construction permits. The Shoreham and Midland cases are examples of the delays here. We are also beginning to hear of potential and possible actual delays due to antitrust considerations. These should be considered also.

In any hearings on nuclear licensing improvements, the role of State siting agencies should, of course, be considered. In this connection, I am hopeful that proposed legislation by Congressman Mike McCormack can be prepared and considered.

Of great importance is the fact that the delay syndrome has affected the whole site selection and construction and licensing process. Commissioner Doub and former Commissioner Ramey have pointed out the delays by the Commission itself by its time-consuming questions and answers and ratcheting of requirements. Industry and labor have also had their problems of meeting schedules and providing adequate quality assurance.

I expect that the joint committee will explore all these matters in the hearings which we will hold. I have today introduced legislation concerning siting of nuclear powerplants.

I would like to have printed in the Record a brief analysis of the provisions of the bill:

Analysis of Proposed Legislation

The Atomic Energy Act of 1954, as amended, prohibits, except as provided in section 91, the transfer or receipt in interstate commerce, manufacture, production, transfer, acquisition, possession, use, import, or export of any utilization or production facility except under and in accordance with a license issued by the Atomic Energy Commission (section 101). Utilization and production facilities are defined in sections 11 v. and 11 cc. of the Act and include, among other things, nuclear power reactors; nuclear testing, research and medical reactors; and nuclear fuel reprocessing plants.

The Act also provides (section 185) that applicants for licenses to construct or modify production or utilization facilities shall, if the application is otherwise acceptable to the Commission, be initially granted a construction permit. Upon completion of the construction or modification, upon the filing of any additional information needed to bring the original application up to date, and upon finding that the facility has been constructed and will operate in conformity with the application, as amended, the provisions of the Act, and the Commission's rules and regulations, and in the absence of any good cause shown to the Commission why the granting of a license would not be in accordance with the provisions of the Act, the Commission is directed to issue a license to operate the facility to the applicant.

Section 189 of the Act requires the Commission to hold a hearing after thirty days' notice and publication in the Federal Register on each application for a *construction permit* for a production or utilization facility under section 103 or 104 b. and on any application for a construction permit for a testing facility under section 104 c. When such a hearing has been held, the Commission may, in the absence of a request for a hearing by any person whose interest may be affected by the proceeding, issue an *operating license* for such facility without a hearing, but upon thirty days' notice and publication once in the Federal Register of its intent to do so.

The proposed legislation would amend section 189 a. of the Act to expressly authorize the Commission in connection with construction permit proceedings to hold separate hearings on the environmental aspects of a proposed plant and site and the radiological safety aspects of the proposed plant, respectively. This language clarifies and confirms authority the Commission already has. The legislation further provides that where AEC has approved a site from an environmental standpoint in which a regular quasi-judicial hearing is held, then no mandatory hearing is required on the radiological safety of the proposed nuclear power plant. The legislation further provides that with thirty days' notice, any person whose interest may be affected by the proceeding and who can show that there is an unresolved radiological question significantly affecting the public health or safety, may require a hearing. Such a hearing will be of the "legislative type" if the applicant has submitted a standardized plant of the type approved by AEC.

The proposed legislation would amend section 189 a. of the Act to permit, in cases in which a construction permit for a facility pursuant to section 103 or 104 b., or for a testing facility pursuant to section 104 c. had been issued following the holding of a hearing, the issuance of an operating license or an amendment to a construction permit or an amendment to an operating license without a hearing except in proceedings in which a prima facie showing is made by a person whose interest may be affected by the proceeding that (1) a specifically identified question substantially affecting the public health and safety, or the common defense and security, or the protection of the environment was left unresolved in connection with the most recent licensing action in the proceeding or (2) as a result of a significant advance or change in the technology occurring after the most recent licensing action in the proceeding, the addition, elimination or modification of structures, systems or components of the facility will provide substantial, additional protection which is required for the public health and safety, or the common defense and security, or the protection of the environment.

In proceedings in which such a prima facie showing had been made, the hearing would be of the legislative type and would not be subject to sections 554, 556 and 557 of Title 5 of the United States Code, and the Commission would be authorized, upon a determination that such action is necessary in the public interest to avoid unnecessary delay, to issue the operating license or amendment in advance of completion of the hearing, with appropriate conditions to assure that any subsequent action of the Commission in the proceeding will be given full force and effect. The new provisions pertaining to hearings at the operating license stage would not apply to proceedings in which a notice of hearing or notice of intent to issue a license had been published on or before the date of enactment into law of the proposed legislation. No hearing would be required at the operating license stage if the applicant had supplied, in connection with a previous licensing action in the proceeding, the technical information, including the final design of the facility, required to complete the application, unless a prima facie showing had been made by a person whose interest may be affected by the proceeding, that as a result of a significant advance or change in the technology occurring after the most recent licensing action in the proceeding, addition, elimination or modification of structures, systems or components of the facility will provide substantial, additional protection which is required for the public health and safety, or the common defense and security or the protection of the environment.

Section 2 of the bill provides that none of the amended changes are intended to affect the hearing provisions of section 105, Anti-Trust Provisions. However, Chairman Price has indicated an intent to review actual or potential problems of delay under section 105 during the hearings conducted in 1974.

STRENGTHENING COMMODITY FUTURES REGULATION

(Mr. POAGE asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. POAGE. Mr. Speaker, today I am introducing a bill to strengthen the regulation of futures trading and which recommends a broad Federal program designed to assure the continued integrity of the futures market. I do this not only as chairman of the Committee on Agriculture but on behalf of all of my colleagues who served on the ad hoc subcommittee which drafted the bill. We do this with the idea that this will give all interested parties adequate opportunity to suggest changes, and we invite suggestions.

I realize that few Members are fully conversant with the complexities of the trading of futures contracts, and the role of the Federal Government in regulating futures transactions. It is the system which underlies the cash sales and purchases of agricultural products and other commodities. Nevertheless, I would hope that the Members and their staffs would gird themselves for dealing, in the near future, with this complicated and volatile business and the issue of what the appropriate Federal role should be in regulating the trading of futures on the exchanges in this country.

Mr. Speaker, before I proceed to discuss the contents of the bill, I would like to take a moment to discuss the background of the legislation, and why I am introducing it.

The trading of futures is a multi-billion dollar business. This year, the volume of futures contracts was approximately 268 billion dollars on regulated commodities alone, and estimates before the Committee on Agriculture indicate that we can expect that the volume will rise, in the near future, to over half a trillion dollars volume. This, of course, represents a substantial increase over these same transactions during the past several years.

Futures trading is among the most volatile of occupations. Contracts worth tens of thousands of dollars or more are bought and sold in the blink of an eye in open pits at any of several exchanges around the country. Approximately 90 percent of all futures traded in the United States are in agricultural commodities; 80 percent of which are produced here in the United States. The prime reason for the existence of the futures market has been, and remains, a hedging device for the cash purchases and sales of agricultural commodities, although in recent years new contracts for metals, and other commodities and products have become increasingly necessary as other industries have realized the usefulness of hedging in services or products that are subject to wide price fluctuations.

For every sale of a "short" futures contract, there must be an offsetting purchase or "long." Many of these purchasers are those who hedge on the opposite side. However, virtually since their inception, the necessary liquidity in contract markets has been provided by speculators, or those who have no existing cash risk to offset through the purchase or sale of futures contracts. Speculators, subject to certain limits as provided by the Commodity Exchange Commission, seek to profit off the shifts in price levels of the contracts. In so doing, they provide a very real service to the market and its users, by providing liquidity.

For 60 years or more, futures markets operated in a posture that encouraged no government interference or supervision of their activities. However, beginning in 1922, the Federal Government injected itself in a minor supervisory role over grain futures when the Congress enacted a limited "Grain Futures Trading Act." In 1936, the act was amended, and broadened, and became the present Commodity Exchange Act which envisioned a mixture of limited Federal supervision, and strong self-regulation of the markets by their members. It has been amended many times, in reaction to specific major and minor problems that required the attention of the Congress and was last amended by legislation from the Agriculture Committee a few years ago.

Again today, Congress has taken notice of the situation in the futures markets. Unlike past years, however, and past approaches of the Congress, we seek not only to assist the futures industry in dealing with immediate problems that beset it—problems, I might add, that have brought about a crisis by the lack of public confidence in the present regulatory scheme—but we also seek to look ahead and deal with the problems that are clearly on the horizon.

First, as to immediate problems, the strains of a shortage situation in the past year in many of the cash crops that are the subjects of futures contracts were reflected dramatically in the futures markets which had become accustomed to trading futures in periods of surplus. Also, the present regulatory activities of the Commodity Exchange Authority in the Department of Agriculture are totally inadequate to police the industry under the limited authority given them by the present law. I provide no brief here for these situations, but refer my colleagues to the excellent work done by the gentleman from Iowa (Mr. Smith) and the members and staff of the Subcommittee on Special Small Business Problems of the Select Committee on Small Business which investigated the problems besetting the futures industry earlier this year.

During the past year, these and many other problems have been compounded in the public eye, with failures of futures commission merchants who have been trafficking exclusively in futures that are not regulated by the present act. As an example of how disastrous such an occurrence can be, a California firm's failure reportedly took $71 million of commodity customers' money down with it. In Texas, another firm dealing in nonregulated commodities has recently collapsed, also causing great loss to customers. These firms were vending a risky form of "puts and calls" or "options" as they are sometimes called. Under the theory of options trading, which is prohibited under present law for the handful of commodities covered under the present act, the customer does not buy or sell a contract for future delivery of a commodity as most hedgers or speculators in regulated commodities undertake. Instead, he or she purchases the "right" to purchase or sell a contract in the future, paying a tremendous premium for someone else to actually guarantee to provide the actual contract at a specified price. Because there are no margin calls, and the degree of exposure is fixed, it initially appears more attractive to the small investor.

However, because some individuals will seek opportunities to exploit any given system, the high cost of "hedging" the options, as must be done to protect both the customer and options merchant, has proved forbidding to many merchants seeking option customers, so they write so-called naked options, which are not hedged or covered in any way. The good faith and solvency of the broker is all that is securing the transaction.

It has been documented that, in some of these firms, customers who desired the proceeds of their transaction in these options were actually paid in many instances from other customers' accounts, and eventually the pyramid structure created, where one customer's account is robbed to pay another, collapses. Because there is no requirement on the options merchant to segregate customers' funds, as the law now requires for the trading of futures in regulated commodities, the investments of the customers are usually lost.

Nor are the "regulated" futures commission merchants so tremendously more secure. Regulated firms do go under as well and because there had been insufficient attention given by a regulatory body to the bookkeeping practices of one which recently collapsed it was found too late that customers' accounts had not been segregated as required by law with a resultant loss of the funds supposedly belonging to the customers.

On the floors of the exchanges where commodity futures are bought and sold there is little or no real security for the customer, despite the inherent honesty of most brokers. Brokers, like many futures commission merchants, number among themselves the most honorable of men. Yet, there are also those who have been attracted to futures markets for their volatile environment and the hoped-for ability to reap great profits in a hectic atmosphere—at times taking advantage of that atmosphere at the customer's expense. Again, because not all commodities are covered under the present act, many attempts at self-regulation in those exchanges have been and continue to be dismal failures. Attempted investigations in regulated changes are often characterized by the unwillingness of the investigating committees to inquire too closely into the possible excesses of their own brethren. In one unregulated exchange it is continually charged that the owners of the exchange manipulate and evade the trading rules for their own personal gain. Brokers, customers, and, eventually, the American economy, suffer in this atmosphere of so-called self-regulation where tradition and self-interest has been allowed to displace the public interest.

Mr. Speaker, today I will not attempt to chronicle all that has been learned through the investigations of the Committee on Agriculture, in our October hearings on possible amendments to the present act, the earlier hearings of the Subcommittee on Small Business Problems, and the excellent job that has been done by the news media on the subject, despite a few excesses.

I would like to turn now, however, to a problem that is becoming increasingly severe and which mandates sure changes in the philosophy of self-regulation as it is now practiced.

Many of these immediate problems facing the industry can be easily cured by simple changes in the language of the law. However, from witnesses, customers, the news media, the exchanges themselves and separate staff investigations of the two House committees, it has become increasingly clear that there are great problems in the entire structure of Federal authority over futures trading which demands the attention of the Congress, inasmuch as they are problems that are a function of the system of self-regulation by the exchanges under a limited Federal "umbrella" of authority.

To deal for a moment with basics, the origin of self-regulation by the stock and commodity exchanges is apparently obscure. However, certain theories have been advanced to explain why the futures exchanges, standing almost alone in the American industrial society, elected to develop an extensive system of self-regulation.

The evolution of self-regulation by the stock and commodity exchanges was probably the result of two principal factors. First, the centralized nature of the market brought most industry participants into close proximity, thereby making it feasible to construct more elaborate institution functions. Second, the unusual sensitivity of the industry, led almost naturally to a code of conduct and honesty.

The founders of most exchanges were men of acknowledged leadership in their communities. They recognized that it was simply "good business" to discourage sharp practices which could undermine the vital public confidence in the exchanges. Therefore, as long as 100 years before the first Federal legislation in the area, the exchanges, which then dealt only with cash commodities, had some sort of a self-regulatory system complete with codes of conduct, surveillance procedures, and disciplinary powers.

In the late 19th century and the first quarter of the 20th century, exchange self-regulation was viewed by the exchanges as establishing codes of conduct which were goals or objectives rather than minimum standards. Exchanges promulgated many bylaws and rules descriptive of "ideal industry practice," and encouraged their members to strive toward that ideal. Very little thought was probably given to whether the failure to meet those ideals would expose the exchanges to legal liability, since the courts looked upon exchange self-regulation as a desirable objective for better practices rather than a guarantee of members' performance and compliance.

Beginning approximately 50 years ago, the legal posture of exchange self-regulation began to change. Slowly the courts began to look upon exchange self-regulation as a guarantee to the public that its members would not violate its code of conduct. Additionally, when the Commodity Exchange Act was enacted, courts implied a private remedy for individual litigants in the Commodity Exchange Act. Thus, today the judgment of the board of directors of many of the exchanges in implementing decisions under self-regulatory functions is becoming increasingly a justiciable issue.

Attorneys for exchanges are now advising their clients to prune out rules or regulations where the enforcement capability is questionable. Instead of a situation where self-regulatory activities should be expanding for a given contract market, the exchange can now provide solid reason for shrinking the protection given the customer and the public through self-regulation.

Self-regulation is a commendable concept; however, from both the interests of the American people and the exchanges themselves, it is clear that the time is now upon us for a significant change in the parameters of Federal authority over the exchanges. Already, many State laws are exercising jurisdiction over these same markets to fill what had become a vacuum of regulation. Varied and often conflicting regulation such as this could become a burden on commerce, if it is not already. With States seeking additional authority, litigants challenging self-regulatory judgments, a weak system of Federal regulation, several recent examples of abuse within the present futures structure and the exchanges, many brokers and futures commission merchants, large and small users of the futures markets, and officials of the Department of Agriculture calling for change, it is incumbent on Congress to act, and act expeditiously through meaningful, thoughtful change that is well reasoned and sure.

The Committee on Agriculture has actually been seeking an answer to the problems facing this industry for the past 5 months. During the August recess this year, the committee staff began a review of the existing act, studies of the problems and their possible solution. On the return of the Congress, I and several members of the committee met informally with small separate groups of Commodity Exchange Authority officials, heads of the boards of trade, and users of the futures market. Without exception, there is dissatisfaction with the present state of the law.

After orientation meetings for members of the full committee, hearings were set on a series of concepts taking the form of amendments to the present act. No actual language was before the witnesses or the Committee in order to provide an atmosphere of completely free discussion. These hearings were held in connection with the following committee announcement:

Announcement of Commodity Exchange Authority Act Hearings Before the House Committee on Agriculture, October 16, 17, and 18, 1973

The House Committee on Agriculture expects to review the Commodity Exchange Act with a view toward strengthening and revising the existing law. A preliminary review has revealed a number of areas of possible revision.

The primary purpose of the hearings announced today is to receive comments on the following list of areas of Committee interest. The Committee has not endorsed any of these concepts but rather is seeking to compile a record of evidence and promote a dialogue and an exchange of information between all interested witnesses and Committee members which would later provide a sound basis for meaningful reform and a strengthening of existing Commodity Exchange Act authority.

This list should not be construed to be all inclusive. To the contrary, all views pertinent to the subject of the Commodity Exchange Act, presently pending bills, along with any other suggestions by witnesses for revision are solicited. Because of the complexity of this subject, oral testimony will necessarily be limited in presentation but should not be limited in scope. More comprehensive views on any or all subjects should be submitted in writing and addressed to the subjects listed below in the order presented—

1. Creating an independent Commodity Exchange Commission modeled after the Securities and Exchange Commission and transfer to it the authority now exercised by the existing Commodity Exchange Commission and Commodity Exchange Authority;
2. Authorizing the Commission to require, after appropriate notice and hearing, a contract market to effect specified changes in its rules and practices as determined necessary for the protection of persons producing, handling, processing or consuming any commodity or byproduct of a commodity traded for future delivery;
3. Giving the Commission authority to regulate the content of advertising of a firm soliciting customers for the futures market;
4. Providing for the computerization of floor trading on the floor of a contract market;
5. Creating a government sponsored insurance or trust fund to provide protection for commodity investors from the possibility of loss of funds in the event of financial failure of a contract market or commission merchant;
6. Allowing the commission to set margin requirements;
7. Bringing all future trading under federal regulation;
8. Relieving CEA of the responsibility for investigating and prosecuting cash market price manipulations (except those related to operations in a commodities futures market);
9. Limiting trading by floor brokers for their own account and for customers;
10. Limiting trading by futures commission merchants for own account and customers;
11. Providing for injunction authority to stop any person from violating the Act or regulations and to stop any trader from maintaining sufficient control over a commodity futures contract to effectively restrain trading in such contract;
12. Requiring boards of trade to demonstrate that the contracts for the commodities for which they are designated or seek designation serve an economic purpose;
13. Giving the Secretary and the Commodity Exchange commission authority to impose money penalties in administrative proceedings;
14. Expanding registration and fitness check authority to include all individuals handling commodity customers' accounts. At present such authority is limited to futures commission merchants and floor brokers;
15. Giving the Secretary authority to require, in emergency situations, that contract markets take such actions as the Secretary may direct to facilitate the orderly trading in or liquidation of any futures contract;
16. Giving the Secretary authority to require contract markets to permit delivery at multiple delivery points if he finds that this will tend to prevent or diminish price manipulation, market congestion, or the abnormal movement of such commodity in interstate commerce;
17. Requiring each contract market to establish a procedure for settlement of customers' claims;
18. Providing for an appeal to the Commission from decisions on customers' claims;
19. Giving the Comptroller General access to books and records of the Commission;
20. Requiring the Commission to make annual reports to Congress, and prompt reports of unusual transactions;
21. Providing a civil remedy (treble damages) in cases where a trader obtained and profited from inside information concerning proposed government action;
22. Making it unlawful for a government employee to disclose confidential government crop or other confidential information to persons not specifically authorized to receive it;
23. Establishing an office within the Commodity Exchange Authority to monitor markets, study market conditions, and disseminate such information to the public as will prevent undue speculation and provide for informed trading;
24. Banning speculation or hedging in commodity futures by foreign governments or their agencies in contract markets; and
25. Requiring the CEA to restrict excessive speculation in commodity markets when speculative transactions exceed 50 percent of the market in a particular commodity.

In addition, the Committee is interested in hearing any other suggestions defining the appropriate federal role in the regulation, if any, or protection of the integrity of the practice of forward contracting of agricultural commodities.

These hearings continued into a following week with testimony from a broad spectrum of witnesses. Again, we were helped greatly by the input of the gentleman from Iowa (Mr. SMITH) who provided us with an extensive summary of his committee's investigation.

As a result of these hearings, the committee directed that a special ad hoc subcommittee be formed, to formulate the proposal I introduce today on behalf of myself and every member of the subcommittee. In a series of informal sessions over a period of several weeks, the subcommittee, ably led by our committee vice chairman, the gentleman from Kentucky (Mr. STUBBLEFIELD), formulated and refined the legislation. During the same period, the members of the subcommittee officially traveled to Chicago to view the floor operations on the Chicago Board of Trade and the Mercantile Exchange, and met also with Department and CEA officials.

The bill I am introducing today, on behalf of myself, the gentleman from Kentucky (Mr. STUBBLEFIELD), the gentleman from Washington (Mr. FOLEY), the gentleman from Minnesota (Mr. BERGLAND), the gentleman from Texas (Mr. PRICE), and the gentleman from Nebraska (Mr. THONE) is the product of those efforts.

As written, the bill has five titles, amending the Commodity Exchange Act as follows: Title I creates a new Commodity Futures Trading Commission to regulate the trading of futures. Title II makes certain major and minor changes in activities allowed under the present act, and moves to generally strengthen the authority for regulation of the exchanges and persons registered under the act. Title III creates a new Federal Commodity Account Insurance Corporation to provide protection to smaller investors against the financial failure of the brokerage house servicing their commodity account. Title IV contains enabling authority for the creation of National Futures Association(s), and title V contains several sections implementing programs contained in earlier titles, and providing necessary changes in the act to provide for the new authority to regulate futures not covered under the present act. A more complete, although brief, summary of the provisions of the bill follows:

SUMMARY OF THE MAJOR PROVISIONS OF H.R. 11955, A BILL TO AMEND THE COMMODITY EXCHANGE ACT

The bill is drafted in the form of amendments to the Commodity Exchange Act (7 U.S.C. 1 *et seq.*) and contains five titles.

Title I creates a new five man regulatory commission within the structure of the Department of Agriculture to be called the "Commodity Futures Trading Commission". The Secretary of Agriculture will be the permanent Chairman of the Commission. The remaining four members of the Commission will be appointed by the President from the general public and confirmed by the Senate. No more than two of the public members shall be of the same political party. The public members will be appointed for staggered five-year terms and will be compensated at Executive Level IV on a per diem basis for the time they spend in the performance of their official activities. They could, therefore, serve part time or full time depending upon the workload of the new Commission. The bill requires that the public members be knowledgeable in the commodity trading business and prohibits them from participating directly or indirectly in any market operations on transactions subject to regulation by the Commission. The Commission will be allowed to utilize the facilities and services of the Department of Agriculture, without cost, including office space. The Commission will be required to meet as often as necessary but not less than one regular meeting per month. Additional meetings may be called by the Chairman or any two members of the Commission.

All existing authority under the Commodity Exchange Act presently delegated to the Secretary of Agriculture and the old Commodity Exchange Commission will be transferred to the new Commission. All existing personnel of the CEA will be transferred to and be employees of the Commission. Provision is made for a Secretary to the Commission, who will be responsible directly to the Commission members. Line responsibilities will be delegated to an Executive Director who will perform the day to day functions of the operation of the Commission under the direction of the members of the Commission. In addition, the Commission will have its own General Counsel and legal staff as well as independent budgeting capability and its own Administrative Law Judges. Commission budgets will be forwarded to the Secretary of Agriculture for transmittal purposes in the Department of Agriculture's budget requests.

A customer reparation proceeding before the Commission will be authorized for handling customer complaints which arise from violations of the Act, particularly those which result in monetary damages to the customer. The Commission will have original jurisdiction to consider all such complaints which have not been resolved through the informal settlement procedure required of the contract markets and registered futures associations under the bill. Formal hearings will be held in those cases involving amounts in controversy which exceed $2,500 and will be in accordance with the Administrative Procedure Act. Initially, complaints would be considered by an Administrative Law Judge and then reviewed by the Commission before a final order is entered.

A special judicial review of Commission decisions will be established for these proceedings which will allow either party adversely affected to appeal to the U.S. District Court.

The Commission will be directed to take into consideration the public interest designed to be protected by the antitrust laws of the United States before issuing any order, rule or regulation under the Act and before requiring or approving any bylaw, rule, regulation or resolution of a contract market or registered futures association. Accordingly, a contract market, registered futures association, or person registered under the Act, who is acting pursuant to and in accordance with a Commission order, rule or regulation or a required or approved contract market bylaw, rule, regulation or resolution will not be deemed to be in violation of the antitrust laws by such action. The scope of such action under approved contract market bylaws, rules, regulations and resolutions will be limited to those relating solely to futures contract specifications and other trading requirements.

An organizational chart follows showing the proposed structure of the new Commission.

Title II provides broad new authority to the new Commission over futures trading in a number of areas. All commodities trading in futures will be brought within federal regulation under the aegis of the new Commission, however, provision is made for preservation of Securities Exchange Commission jurisdiction in those areas traditionally regulated by it. "Commodity Trading Advisors" and "Commodity Pool Operators" will be brought within the purview of the Act and will be required to register with the Commission annually. Trading by floor brokers and futures commission merchants for their own accounts and at the same time trading for their customers will be restricted and allowed only under such circumstances as prescribed by the Commission. The existing registration and examination for fitness requirement will be expanded to include all individuals handling customer accounts. Contract markets will be required to demonstrate that the futures contracts for the commodities for which they are designated or seek designation serve an economic purpose. The Commission will be given authority to require contract markets, after hearing and comments procedure, to permit delivery of the commodity at additional geographical locations if it finds that this will tend to diminish price manipulation, market congestion, or the abnormal movement of such commodity in interstate commerce. Contract markets will be required to establish their own customer claims settlement procedures complementing the Commission's procedures for the handling of customer complaints. Contract markets will be required to submit their bylaws, rules, regulations or resolutions which relate to the terms and conditions of futures contracts or other trading requirements to the Commission for its approval.

The Commission will be given authority through the Attorney General to seek injunctions to stop any person from violating the act or regulations thereunder and to stop any trader from controlling a commodity futures contract to the extent that he is effectively restraining trading in such contract. The Commission will have authority to impose monetary penalties up to $100,000 in both administrative and criminal proceedings for violations of the Act. The Commission will be authorized to require a contract market, after notice and hearing, to effectuate changes in its rules and practices which the Commission determines to be necessary for the protection of the public interest. The Commission will have authority to promulgate special rules and regulations for persons registered under the Act but who are not members of a contract market which may reasonably be required to protect the public interest. The Commission will have special emergency authority to direct contract markets to take such actions as it may deem necessary in "market emergency" situations, such as war, price controls, export embargoes, or significant intervention of a foreign government in the futures market, in order to facilitate the orderly trading in or liquidation of any futures contract.

Title III creates a commodity investor protection corporation to insure individual customer accounts up to $50,000 against futures commission merchants' insolvency or bankruptcy.

The corporation will be a wholly owned government corporation and be named "The Federal Commodity Account Insurance Corporation". It initially will be funded by a 10 million dollar loan authority from the Treasury but will ultimately be self-funding. It will be governed by a ten member Board of Governors which will be made up from members of the Commodity Futures Trading Commission and from the public appointed by the Commission.

Title IV provides enabling authority for persons registered under the Act and in the commodity trading business to establish a voluntary futures association or associations which would have authority to regulate the practices of its members in the public interest. Such an association would register with the Commission and establish a uniform code of professional conduct for those in the commodities business and have disciplinary authority over its members. It would also be required to establish a procedure for the settlement of claims and complaints against its members similar to that required of contract markets. Association rules and actions would be subject to review by the new Commission. Association activity would serve solely as a complement rather than a displacement to the authority of the new Commission.

Title V contains miscellaneous provisions most of which are conforming amendments. In addition, the Commission will be authorized, if it deems such necessary, to make exceptions from speculative limits for arbitrage transactions. The definition of hedging under existing law will be expanded for purposes of exceeding the speculative limits in order to make allowances for additional types of commodities proposed for coverage under the Act. "Crossing of Trades" authority will be expanded to include all commodities. There will be a requirement that "U.S. standards" for commodities be specifically adopted by the Commission. The criminal penalties will be expanded under the Act to include certain acts made unlawful under the provisions of the bill. All operations of the Commodity Exchange Commission pending upon enactment, including all administrative proceedings, will be transferred to the new Commission and will continue to completion without abatement.

Mr. Speaker, while the provisions of the bill speak for themselves, there is one additional area I would like to cover today—the provision to establish the new Commodity Futures Trading Commission (CFTC) to be chaired by the Secretary of Agriculture.

At the outset, there have been several suggestions as to the structure of the regulatory body that should have oversight over futures trading.

First, there were suggestions to keep the present regulatory body as it was in, and completely under, the jurisdiction of the Department of Agriculture, run by the Secretary of Agriculture, and the Commodity Exchange Commission.

The strength of such a proposal was that it found support among the exchanges; it recognized that 90 percent of futures contracts traded on exchanges were agricultural products; that the Department had historical expertise in dealing with commodities futures and the personnel and an existing structure oriented toward regulation. Also, proponents pointed out that the Department itself was showing an increasing willingness to strengthen the CEA within its structure.

The other side of the proposal was the historical weakness of the Commodity Exchange Authority, often finding itself being treated as a stepchild by the Department, the Office of Management and Budget and with little respect as a regulatory body within the industry itself—despite the sincere and well-meaning efforts of its officials. The following table demonstrates how clearly the CEA has failed to move with the times, as the number of contracts traded has more than doubled, while the level of employment at the Commodity Exchange Authority has actually declined from its 1971 level. Additionally, the level of employees within the GS systems is apparently inadequate to attract and retain the necessary expertise to supervise such a complicated market structure. The table follows:

COMMODITY EXCHANGE AUTHORITY: APPROPRIATION, EMPLOYMENT, NUMBER OF CONTRACTS TRADED, FISCAL YEAR 1965 THROUGH FISCAL YEAR 1974

Fiscal year	Appropriation	End of year employment	Number of contracts traded (millions) Regulated markets	Nonregulated markets
1965	1,169,000	125	7.4	0.9
1966	1,197,000	130	8.1	.8
1967	1,434,000	134	9.6	1.0
1968	1,560,000	152	7.4	1.4
1969	1,895,000	152	8.6	1.7
1970	2,491,000	165	10.3	2.0
1971	2,729,000	166	11.8	2.5
1972	2,843,000	160	12.6	3.0
1973	2,906,000	159	17.8	5.8
1974 (estimate)	3,582,000	200	19.3	7.3

Additionally, under the present act, there is a great confusion of authority as a result of the division of powers between the largely inactive Commodity Exchange Commission and the Secretary. For example, the CEA Administrator is actually subject to direction from two sources—directly under the CEC and under two tiers of control within the Department itself. Legal staff and administrative law judges are borrowed from the Department.

A second concept presented to the committee was the creation of a new independent Commission. In addition to the practical difficulties of putting such a concept into effect without tremendous associated costs, and the creation of yet another giant bureaucracy with its demands for increasing space, costly new buildings, and associated demands for an entirely new separate support structure, was the practical difficulty of creating an effective organization de novo. Neither the public nor the industry can afford such a gap in the regulation of this volatile economic force.

Yet, there were significant strengths associated with the Commission concept: independence of budgetary authority, separate legal staff, and the input of public members who could do much to temper the thrust of an agency completely subject to the political winds which fan every administration.

There was also a proposal advanced briefly to place the regulation of futures trading within the present SEC. The advantages were the existence of the SEC as an independent regulatory structure. The disadvantages were legend.

Often erroneously viewed as twins, there is little correlation in theory or in fact between the regulation of futures trading and the regulation of securities transactions. Futures trading regulation is essentially a regulation of a marketing device, that is, a contract right which is terminable at a time certain, for agricultural commodities while the SEC regulates the handling of certificates of tangible ownership which are permanent in nature.

Futures, and their handling, are a highly specialized skill which is normally obtained expensively in the marketplace. Few, if any, universities teach the ins and outs of commodities trading, and those that do usually present it as an adjunct to coursework in agricultural economics. While securities markets attract the small speculator, with a limited exposure to loss, futures speculation is normally limited to the more venturesome and solvent speculator. In fact, many commission merchants discourage small investors, since according to a major board of trade, three out of four first-time investors in commodities suffer a net loss. Additionally, the concepts of margin—which is a guarantee of performance in the futures market as contrasted with an extension of credit by the broker in the securities industry—the actual delivery of commodities in certain limited situations—approximately 3 percent—of all contracts, and the handling of devices such as options are, and should remain, entirely different within the respective spheres of regulation.

The existence of another, more volatile regulatory function with the SEC could create difficulties that could probably never be overcome. No SEC Commissioner is appointed because of expertise in futures trading, and a merger of the staffs of the CEA within the respective organizations would do little more than precipitate a continuing conflict as to the priorities of the Commission with its jurisdiction so confused. The possibility seemed to terrify experts on futures trading who appeared before the full committee, and who met with the committee staff on numerous occasions. Neither is it a welcome prospect at the SEC.

In adopting the concept of the Commodities Futures Trading Commission, the bill seeks to build a bridge between the philosophy of regulatory independence and the reality of maintaining the expertise of the Department of Agriculture. We believe that we have succeeded **in combining the two concepts—drawing upon the strengths of the existing structure and leaving behind the weaknesses. In doing so, we have been able to give the CFTC independence in budgetary authority, independent legal staff, including administrative law judges, and by adding public members—personnel and policy—these are the strengths of the independent Commission concept. From the existing regulatory body we have been able to retain experience, cohesiveness of purpose, and administrative support for both technical and administrative purposes. This should provide a reduction in cost from complete independence. Additionally, with an administration official as chairman, the Commission will be continually connected to the policies of the Government, which so strongly affect the reactions of the market. For example, if an emergency embargo on all commodity exports were decided by the administration to be necessary, which I personally would hope would never again be necessary, the Commission would have a headstart in promulgating emergency policies to meet the crisis, hopefully, even before the markets had reacted. Additionally, because of the committee's desire to keep the Commission responsible for cash market manipulations, it will have closer ties to the Department most responsible for those cash transactions.**

Mr. Speaker, we are sincerely hopeful that, like Moses, this course can lead us to the "promised land" of adequately protecting the public interest without severely restricting the free market system.

I do not suggest that the legislation before us is perfect; but it does represent a considered approach toward solving a great deal of the problems besetting futures markets which I hope Members of the Congress, the industry and the public will examine closely prior to hearings on the bill. These hearings will be before our full committee at a date to be announced soon, but in all probability, before the end of January.

LESS DRIVING MEANS LOWER AUTO INSURANCE RATES?

(Mr. RUNNELS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. RUNNELS. Mr. Speaker, today I have introduced a bill which would guarantee that the reduction in auto accidents which results from nationwide fuel conservation measures will be reflected in a reduction into auto insurance premiums.

My bill is called the Auto Insurance Rate Reduction Commission Act. It would create a temporary commission which would: First, study the decrease in accident rates under our new fuel conservation measures; second, study concomitant decreases in costs to auto insurers; and third, recommend to Congress within 6 months legislation to bring about appropriate auto insurance premium reductions.

Our President is working diligently with officials of the new Federal Energy Administration to formulate fuel conservation measures for the entire Nation. As far as I have been able to determine, at least 36 States have already acted to reduce their speed limits. Most of the gas stations of the Nation have begun closing on Sundays. Many of the Nation's commuters have either formed car pools or switched to mass transit facilities to get to work each day. Gasoline prices are going higher and higher.

The effect of these fuel conservation measures is already reflected in decreasing accident rates in many, if not all of our communities. If accident rates are going down it stands to reason that auto insurance rates should go down as well.

At this point let me emphasize that my bill would only study these matters to see if, in fact, auto insurance premiums are being or should be reduced in a fair and equitable manner. I realize that Congress many years ago delegated to the States the power and authority to regulate and control auto insurance rates. It is for that reason that I have chosen to have a commission study this matter and then, only after careful consideration, recommend appropriate action to be taken by Congress.

According to the Insurance Information Institute, $16.25 billion worth of auto insurance premiums were written in 1972. If a change in those costs to the American consumer is warranted and can be made in a fair and equitable manner, then Congress has a duty to see that it is done.

Here is a brief summary of my bill:

(1) It would create an Auto Insurance Rate Reduction Commission;

(2) The three member Commission would exist for not more than 6 months;

(3) The Commission would consist of the Chairman of the House Interstate and Foreign Commerce Committee, the Chairman of the Senate Commerce Committee, and the Special Assistant to the President for Consumer Affairs;

(4) Commission members would receive no compensation except for travel and other expenses;

(5) The Commission would recommend legislation to Congress deemed appropriate and then cease to exist.

I will be reintroducing this bill with cosponsors in the near future. Any of my colleagues who would like to cosponsor it or require additional information should contact me or my assistant, Tim Glidden on extension 52365.

GASOLINE ECONOMY AND AUTOMOBILE ENGINES

(Mr. HAYS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HAYS. Mr. Speaker, I would like to direct the Members' attention to a letter from a constituent of mine in Malaga, Ohio, about gasoline economy and automobile engines. Mr. Karl V. Baker of Malaga, Ohio, has sent me the following letter and I commend it to the Members' attention:

BAKER'S MACHINE SHOP,
Malaga, Ohio, November 26, 1973.

Hon. WAYNE L. HAYES,
U.S. Congressman,
Washington, D.C.

DEAR MR. HAYS: Due to the fuel shortage that is upon us, in these trying times, I have been testing and improving on my 1965 G.M.C. pick-up truck. It came as ordered from the factory, 230 cu. in. in line 6 cyl. engine, three and seven-eighths bore, three and one-half inch stroke. Being a Chevrolet engine, I also ordered a special Spicer three-quarter ton, three-quarter floating rear axle, ratio 3.54:1, this truck is equipped with 6.50–16 inch, 6 ply tires, with regular gasoline the engine gave around twenty to twenty-two miles per gallon.

This engine did not prove out so good, pumped oil, and several problems caused by bad workmanship.

So at about 78,000 miles, I decided to build an engine of my own, to prove that a high torque engine can conserve more fuel at low R.P.M. than a short torque engine at higher R.P.M.

So I obtained a 1964 Chevrolet engine from a junk yard, rebored block .020 in. oversize, and rebuilt and reconditioned and assembled, better than a new short block from the factory. The engine was installed, being a 295 cu. in. displacement, a larger radiator was installed, and only the starter and alternator are left of the original engine under the hood.

An inverse oiler was installed to lubricate the top rings and valves, stems and guides, after they lowered the lead content in gasoline, this oil used is a high temperature oil, and is metered into the engine through the intake manifold at a ratio of four ounces to five gallons of gasoline.

I also installed a manual control, (of my own design). Fuel pressure to the carburetor, and all the excess fuel is returned to the gas tank by a return line.

These are some of the results I have obtained, cruising at 50 m.p.h.:

Engine R.P.M.—2,000.
S.A.E. Net Torque (lbs.-ft.)—215.
120 h.p. at 3600 R.P.M.
Regular gasoline, approx. 89 octane.

Average of 19 to 20 miles per gallon of gasoline.

What I have proven in my mind, is that all of these anti-pollution gizmos are wasting more gasoline, costing the owner extra on a new car and causing excess operating costs, double air pollution, plus poor performance due to low manifold vacuum, just as an old worn engine, with worn out piston rings and leaky valves, becomes a gas hog.

Now to think what a savings this would be in fuel consumption over the Nation, half of the pollution eliminated, burn a fuel once and that's it. So drive twice as far on a gallon of gasoline. Burn it—don't waste it!

It's a shame, new cars and pick-ups, with only a 250 cu. in. displacement engine, 8 and 9 miles per gallon of gasoline. Carbon monoxide cannot be burned the second time, no carbon or oxygen, you cannot burn it, or put it in a bag, but a good engine will emit a minimum amount if given half a chance.

I forgot about the valve cover on this engine. All openings were patched and the oil filler cap was bored to receive rubber grommet. The guts were removed from the ventilation valve, the valve body installed in oil filler cap, and a hose goes from here to the oil bath air cleaner.

The vapors or fumes from the crankcase are returned to the engine intake. These fumes or vapors are high in moisture, which in turn, reduces carbon deposits, makes fuel burn better. Other fumes such as oil mist help to lubricate all moving parts that they come in contact with. The reason for attaching this hose to filler cap is to prevent excessive sweating inside of the valve cover, this is sort of holding a slight vacuum and there is no cold air from the atmosphere to circulate. This reduces excessive sweating in cold weather which will drain down in the oil in the crankcase, adding water to the oil. That causes a poor quality of lubrication, but in hot weather the condition is held to a minimum. We use a 190 degree thermostat in the cooling system. The high temperature makes a motor run at peak performance, thus helping to get better mileage on gasoline.

This is another reason for increasing gasoline mileage, and saving fuel. What became of our good engineers in the automotive industries? They are afraid to get their hands dirty, protected by a union card, and don't give a damn for their fellow men. I am self-employed and still know right from wrong, doing the best I can, with what I've got.

Yours for removing this trouble-maker from our automobiles, and having cleaner air in the good old U.S.A.

Yours very truly,

KARL V. BAKER.

THE BANK HOLDING COMPANY ACT AND RELATED STATUTES—THE NEED FOR REVISION

(Mr. PATMAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PATMAN. Mr. Speaker, 3 years ago, in December 1970, the Congress finally passed and the President signed into law major amendments to the Bank Holding Company Act of 1956.

The impetus for this legislation was created in the late 1960's by the rush of major banking institutions to convert themselves into one bank holding company, thus avoiding both the limitations placed on the activities of commercial banking corporations under the banking laws, and the limitations applied to holding companies controlling more than one bank under the original Bank Holding Company Act of 1956. This was known as the one bank loophole.

It was feared that by the device of the one bank holding company, the strong public policy of separating commercial bank from nonbanking business activities would soon be destroyed.

During the course of congressional consideration of amendments to the Bank Holding Company Act in 1969 and 1970 many other issues were raised and resolved by the legislation that was ultimately passed.

The legislation signed into law in December 1970 can be summarized as follows:

It brought holding companies controlling only one bank under regulation of the Bank Holding Company Act for the first time.

It retained essentially the language of the 1966 act test to be applied in approving bank-related activities, that is, "so closely related to banking or managing or controlling banks as to be proper incident thereto", with some minor modifications in the language of this test. In addition, it added a public benefits test, requiring the Federal Reserve Board to find that the nonbank activities being sought for approval have certain enumerated benefits to the public which outweigh certain enumerated adverse effects.

It permitted the Federal Reserve Board to grant exemptions to Bank Holding Company Act regulations with respect to banks primarily engaged in foreign commerce activities.

It changed the definition of bank holding company to include partnerships.

It permitted the Federal Reserve Board to grant or continue exemptions from the act under certain narrowly defined specified conditions, and exempted from application of either all or part of the act certain special situations.

It prohibited banks, bank holding companies and subsidiaries from engaging in anticompetitive tie-in arrangements—with certain exceptions—by which these institutions could unfairly compete with nonbank competitors.

It provided for the right of competitors and others to join as parties in interest in Federal Reserve Board proceedings and to appeal from decisions of the Federal Reserve Board in cases involving section 3—bank acquisitions—and section 4—nonbank acquisitions—of the Bank Holding Company Act, as well as in cases involving the antitie-in provisions of the act.

Since the passage of the 1970 amendments, the Federal Reserve Board has issued many rulings and regulations concerning enforcement of that act. Most of the Board's activity has been in two areas. One is the question of what nonbank activities are closely related to banking and thus can be carried on by bank holding companies, and the other has involved applications for acquisitions by bank holding companies of banking corporations.

Issues involving bank holding company law should in no sense be regarded as narrow technical questions. Indeed, they embody two of the most fundamental economic questions facing the American public today—issues which the upcoming hearings announced in the RECORD of December 5 will explore in detail:

First. Do we want to abandon or do we want to strengthen the clear separation of the business of banking from activities involving commerce, industry, and the investment banking business, as set forth in the Bank Holding Company Act of 1956 and the Glass-Steagall Act of 1933?

Second. Do we want to perpetuate or do we want to substantially reduce the enormous concentrations of economic power now lodged in our banking institutions, including holding companies, and, indeed restore and greatly increase competition among all banking institutions in all parts of the country?

FEDERAL RESERVE BOARD RULINGS ON NONBANK ACTIVITIES OF HOLDING COMPANIES

In the area of closely related activities, the Federal Reserve Board has approved 11 activities. These are:

First. Making loans directly or through subsidiary or the accounts of others, such as through mortgage companies, finance companies, credit card companies or factoring companies.

Second. Operating as an industrial bank or industrial loan company.

Third. Servicing loans.

Fourth. Conducting fiduciary activities.

Fifth. Acting as investment or financial advisor, including serving as an advisory company to real estate investment trusts; serving as an investment advisor to mutual funds; providing investment advice to other persons; providing general economic, statistical forecasting and industry studies and information; and providing financial advice to State and local governments concerning the issuance of securities.

Sixth. Leasing personal and real property, under certain limitations.

Seventh. Making equity investments in corporations that promote the community welfare.

Eighth. Providing bookkeeping and data processing services, under certain limitations.

Ninth. Operating insurance agencies, under certain limitations.

Tenth. Operating an insurance underwriting company limited to writing declining term credit life, health and accident insurance in connection with the granting of credit.

Eleventh. Operating a courier service, under certain limitations.

The Federal Reserve Board has also determined that seven activities are not closely related to banking and therefore cannot be carried on by bank holding companies. These are:

First. Equity funding, which is the combined sale of mutual funds and insurance.

Second. Underwriting life insurance that is not sold in connection with credit transactions of the bank holding company or a subsidiary.

Third. Real estate brokerage.

Fourth. Land development.

Fifth. Real estate syndication.

Sixth. Management consulting.

Seventh. Property management services.

In addition to the above, the Board has pending in various stages of consideration the following subjects:

First. Whether bank holding companies should be permitted to own or control savings and loan associations.

Second. Whether bank holding companies should be permitted to own or control underwriting of real estate mortgage guarantee insurance.

Third. Whether certain additional restrictions should be placed on bank holding companies' activities in the sale of insurance.

Fourth. Consideration of certain revisions to the current regulations governing bank holding company activities in the data processing fields dealing with such matters as the definition of what constitutes data processing and the use of illegal tie-in in holding company selling of data processing services.

Fifth. Consideration of revisions in the regulations pertaining to personal and real property leasing by bank holding subsidiaries.

A number of individuals and groups have raised serious questions concerning several of the activities which the Federal Reserve Board has determined to be "closely related to banking" and, therefore, can be carried on by bank holding companies. These include acting as investment advisor to real estate investment trusts and mutual funds, the leasing of personal and real property, the providing of bookkeeping and data processing services, and operating insurance agencies.

Considering the legislative history of the Bank Holding Company Act Amendments of 1970, court decisions involving similar questions and the arguments that have been made against the propriety of bank holding companies engaging in several of these approved activities, a substantial question as to the correctness of the interpretations of the act by the Federal Reserve Board can be raised. In my view the time has come to consider amendments to that act in specific areas of activity in order to protect the legitimate interests of the public, the consumer, and small business groups, against the predatory activities of bank holding companies, particularly large bank holding companies.

FEDERAL RESERVE BOARD RULINGS ON HOLDING COMPANY BANK ACQUISITIONS

In the area of bank acquisitions by bank holding companies, the Board has rapidly accelerated its activity in approving a large number of such acquisitions. At the end of 1970, there were 163 bank holding companies controlling 895 banks. Within 2 years the picture had changed radically. At the end of 1972, there were 1,493 holding companies controlling 2,270 banks. Thus, at the end of 1970, 6.7 percent of all banks in the country were controlled by bank holding companies, while only 2 years later 21 percent of all banks were controlled by bank holding companies, a three-fold increase.

Turning to the record of the Federal Reserve Board during this period, in 1971, the first year after the new amendments to the Bank Holding Company Act, the Board approved 117 bank acquisitions by holding companies. In 1972, the Board more than doubled that number of approvals to 251. And in the first quarter of 1973, the Board approved another 55, for a total of 423 bank acquisition approvals by holding companies over a 27-month period. During this same period, the Board denied only 29 such acquisition applications.

The most important question raised by this large number of approvals is whether a proper regard has been given by the

Board to the future statewide banking structure that is likely to result from the mass approvals that are being made on a case-by-case basis.

As a result in large part of Board approvals of bank acquisitions by bank holding companies, the percentage of total commercial bank deposits held by the four largest banking organizations in a State increased in 25 States in the 2-year period of 1971–1972. And during the same period this percentage for the 10 largest banking organizations has increased in 26 States. Of particular note is the large increase in banking concentration that has occurred in such States as Alabama, Colorado, Florida, Maine, Missouri, New Jersey, New Mexico, Tennessee, Texas, and Wyoming.

Once a large number of independent competitive banking institutions have been absorbed by a few statewide bank holding company systems, it will be very difficult to reconstruct or develop a competitive banking system in a given market or statewide. Thus the Board's actions in this area are critical to the issue of maintaining and creating competitive banking markets.

It should also be noted that on several occasions two of the seven members of the Federal Reserve Board, Vice Chairman Robertson, now retired, and Governor Brimmer, have dissented strongly from approvals by the Board on this very issue. It may very well be appropriate for Congress to establish through legislation certain guidelines for approval of bank holding company bank acquisitions in order to preserve independent banking institutions and competition within statewide banking systems.

NEW FORMS OF BANK CONCENTRATION

Since the passage of the Bank Holding Company Act Amendments of 1970, another wave of bank consolidations has begun through acquisitions of large numbers of independent banking corporations by bank holding company organizations. Often these bank holding companies have been newly created out of leading banks in various States. This nucleus of a large bank as the so-called lead bank in a newly created bank holding company forms the basis for a number of rapidly expanding statewide banking systems, a phenomenon which had not existed in many States prior to the passage of the 1970 amendments. Because of the prohibitions against interstate banking, the push for development and rapid growth of large banking institutions on a statewide level is not surprising.

For a complete set of statistical tables documenting this trend toward statewide banking concentration, see chapters 7 and 8 of the Domestic Finance Subcommittee Staff Report, "Financial Institutions: Reform and the Public Interest," published in August 1973.

BANKING AGENCIES' FAILURE TO FOLLOW CONGRESS' PRO-COMPETITIVE POLICY

Another problem that has arisen in connection with Congress' interest in maintaining healthy competition among competing financial institutions appears to be the failure of the bank regulatory agencies, which have the primary responsibility for carrying out this policy, to vigorously enforce the procompetitive policy which Congress had enunciated in the Bank Merger Act and the Bank Holding Company Act.

It is clear from Congress' consideration of the Bank Holding Company Act Amendments of 1970 that it felt the Federal Reserve Board to be best equipped on the basis of past performance to carry out the congressional mandate for maintaining competition within the banking field, particularly in the growing area of bank holding company acquisitions.

It was the intent of Congress, as it is in giving any regulatory agency the authority to carry out a broad public policy, that individual decisions in bank holding company cases be made on the basis of a broad overall view toward developing over a period of time a competitive structure for the banking industry in particular markets.

The function of the Federal Reserve Board in these matters is not properly regarded as the same as a court of law deciding each individual case only on the merits of that particular controversy. If that were the case, there would be little use in delegating to a specialized agency with expertise in a particular field the responsibility for carrying out a broad gage policy enunciated by Congress. If Congress had wanted only a case-by-case treatment instead of wanting the development by a specialized agency of a long-range policy, it would have turned the whole matter over to the courts, as it has in other instances.

One of the leading treatises on the purpose of Congress setting up specialized regulatory agencies points out the essential distinction between the role of the judiciary and the role of an administrative body in deciding cases.

> The judicial function is traditionally to weigh the merits of particular controversies, but not to engage in a consistent determination of policy or to maintain steady contact with a general and continuing problem. Accordingly, a body which could combine both functions—ascertainment of facts and the establishment of a continuous and uniform policy the development of which is not dependent upon the largely accidental emergence of litigated cases—would be logically chosen to perform functions of this nature. So it is that administrative agencies have been devised to concentrate their attention upon phases of work somewhat alien to the basic function of courts and legislatures, and from their concentration have developed the special knowledge and special skills which characterize the administrative process at its best. (Gellhorn and Byse, *Administrative Law Cases and Comments*, p. 3).

Despite the general acceptance of the above statement as describing the proper role of an administrative agency, a majority of the Federal Reserve Board, in deciding a number of important cases under the Bank Holding Company Act involving serious questions of reduction of competition, has openly and consciously articulated a completely opposite view.

For example, in the Federal Reserve Board's controversial decision in the First Florida Bancorporation case of February 16, 1973, in which the Board was divided 4–3 in approving the merger of two large Florida bank holding companies, the opinion of the majority of the Board states:

> With respect to the question whether the proposal will have a significantly adverse effect on competition due to the fact that it "could trigger" similar consolidations among large Florida holding companies, the Board believes that each application before it should be decided on the merits of that particular application. As we have previously stated, each subsequent application must also receive the approval of the Board and will be analyzed on the basis of the competitive structure of the market and other facts existing at the time of Board consideration.

A minority of the Board, usually Governors Robertson and Brimmer, in a number of dissents from the Board's approval of acquisitions under the Holding Company Act, have condemned this approach of the majority of the Board.

As stated by former Governor Robertson in his dissent in the First International Bankshares, Inc. of Dallas, Texas, case of November 30, 1972:

> The present application demonstrates a need for Board analysis going beyond the *ad hoc* approach and for a more thorough examination of Texas banking markets not only as they exist today but as they are reasonably likely to develop over the next decade, utilizing our knowledge of other alignments, past as well as prospective, in approving or disapproving any specific formation.

In light of a majority of the Board's failure to decide cases on the generally accepted basis of carrying out a broad overall policy, Congress should consider insisting that the Board decide individual cases in the future involving major questions of competition on the basis of an overall policy of creating a competitive banking structure in a market, not on the basis of only the facts of the individual case before it. Given the basis on which a majority of the Federal Reserve Board has decided several important cases recently, there is a serious question as to whether a competitive environment in banking, particularly on a statewide level, can be achieved over the next few critical years without new legislative initiatives.

FEDERAL RESERVE BOARD PROCEDURES IN HOLDING COMPANY CASES

A final issue in the bank holding company area which should also be considered during our hearings involves the question of the Federal Reserve Board adopting procedures for deciding cases under the Bank Holding Company Act which are fair to all interested parties. In some cases the Board has provided virtually no record for the rationale or reasoning behind a particular determination. This may indicate the failure of the Board to recognize the necessity of performing detailed, in depth analyses of industries and market conditions and make these part of the record, when dealing with broad areas of economic development. Also, in many cases the Board's opinions are simply the conclusion it has reached and do not include any statement of the reasoning and rationale of how or why it reached a particular decision. In order to provide due process of law, it seems that a full-blown explanation of why a decision is made should be part of the record so that an appeal from that decision to the courts can be facilitated for those who do not agree with it.

Particularly in the area of the so-called public benefits test, there is very little discussion of the considerations given as to whether, for example, approval or denial of an application would result in more or less competition, an increase in the concentration of economic power, greater convenience to the public or unfair competition. These are important concepts deliberately required by the statute to be examined carefully by the Federal Reserve Board in making its determinations, and they should be carefully examined in every case. It is not clear from the opinions to date that this has been done.

Other procedural questions, such as delegation of authority to the regional Federal Reserve banks and an adequate hearing process have also been raised. It may be necessary for Congress to consider amendments to the act to correct these important procedural defects as well.

In fact, in light of the above discussion, careful consideration of the need for an entirely new administrative process involving a separate regulatory organization may very well be in order.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. Johnson of California (at the request of Mr. O'Neill), for today and Friday, December 14, on account of illness.

Mr. Andrews of North Dakota (at the request of Mr. Rhodes), after 4:30 p.m. for the balance of the day, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Young of South Carolina), to revise and extend their remarks, and to include extraneous matter:)

Mr. McClory, on Tuesday, December 18, for 60 minutes.

Mr. Baker, today, for 5 minutes.

(The following Members (at the request of Mr. Owens) to revise and extend their remarks and include extraneous material:)

Mr. Vanik, for 20 minutes, today.

Mr. Rooney of Pennsylvania, for 10 minutes, today.

Mr. Gonzalez, for 5 minutes, today.

Mr. Chappell, for 5 minutes, today.

Mr. Fuqua, for 5 minutes, today.

Mr. Dulski, for 5 minutes, today.

Mr. Melcher, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Brademas, and to include extraneous matter notwithstanding the fact it exceeds two pages of the Congressional Record and is estimated by the Public Printer to cost $679.

Mr. Bingham, and to include extraneous matter notwithstanding the fact that it exceeds six pages of the Congressional Record and is estimated by the Public Printer to cost $1,254.

Mr. Kemp to revise and extend his remarks immediately following Mr. Price of Texas on the Broyhill amendment in the Committee of the Whole today.

Mr. Frenzel to revise and extend his remarks immediately following Mr. Price of Texas on the Broyhill amendment in the Committee of the Whole today.

Mr. Winn to revise and extend his remarks immediately following Mr. Price of Texas on the Broyhill amendment in the Committee of the Whole today.

Mr. Young of South Carolina to revise and extend his remarks immediately following Mr. Price of Texas on the Broyhill amendment in the Committee of the Whole today.

Mr. Fascell on H.R. 11450 and to include extraneous matter.

Mr. Conte, and to include a statement right after the Ancher Nelsen amendment.

Mr. Bevill to revise and extend his remarks on the Dingell amendment.

Mr. Hechler of West Virginia, and to include extraneous matter.

(The following Members (at the request of Mr. Young of South Carolina, and to include extraneous material:)

Mr. Frelinghuysen.

Mr. Price of Texas.

Mr. Crane in five instances.

Mr. Archer in two instances.

Mr. Huber in three instances.

Mr. Baker.

Mr. Erlenborn.

Mr. Hosmer in two instances.

Mr. McCloskey in two instances.

Mr. Don H. Clausen.

Mr. Steiger of Arizona.

Mr. Conte.

Mr. Pritchard.

Mr. Shriver.

Mr. McClory.

Mr. Kemp.

Mr. Derwinski in two instances.

Mr. Cleveland.

Mr. Dennis.

Mr. Ashbrook in three instances.

(The following Members (at the request of Mr. Owens) and to include extraneous material:)

Mr. Jones of Tennessee.

Mr. McSpadden in two instances.

Mrs. Griffiths.

Mr. Gonzalez in three instances.

Mr. Rarick in three instances.

Mr. O'Neill.

Mrs. Schroeder.

Mr. Harrington in three instances.

Mr. Brinkley.

Mr. Waldie in four instances.

Mr. Yatron.

Mr. Evins of Tennessee.

Mrs. Chisholm.

Mr. Ryan in two instances.

Mr. Riegle.

Mr. Nix.

Mr. Jones of Alabama.

Mr. Patten.

ENROLLED BILL SIGNED

Mr. HAYS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 3490. An act to amend section 40b of the Bankruptcy Act (11 U.S.C. 68(b)) to remove the restriction on change of salary of full-time referees.

ADJOURNMENT

Mr. OWENS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 27 minutes p.m.), under its previous order, the House adjourned until tomorrow, Friday, December 14, 1973, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1633. A letter from the Assistant Secretary of State for Congressional Relations, transmitting reports on political contributions made by Ambassadors-designate Harry G. Barnes, Jr., Heyward Isham, Ralph McGuire, David H. Popper, Francis Edward Meloy, Jr., Anthony D. Marshall, Joseph John Jova, and U.S. Representative-designate to the European Office of the United Nations Francis L. Dale, and their families, pursuant to section 6 of Public Law 93–126; to the Committee on Foreign Affairs.

1634. A letter from the Assistant Secretary of Defense (Comptroller), transmitting the annual report of the Department of Defense on its disposition of foreign excess personal property during fiscal year 1973, pursuant to section 404(d) of Public Law 81–152; to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. PATMAN: Committee on Banking and Currency. S. 513. An act to amend section 232 of the National Housing Act to authorize insured loans to provide fire safety equipment for nursing homes and intermediate care facilities (Rept. No. 93–729). Referred to the Committee of the Whole House on the State of the Union.

Mr. EVINS of Tennessee: Select Committee on Small Business. Report on the problems of third party prepaid prescription programs (Rept. No. 93–730). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DORN:

H.R. 11937. A bill to require the Secretary of the Interior to make a feasibility study of connecting state Highway 11 in South Carolina with the proposed Blue Ridge Parkway extension; to the Committee on Interior and Insular Affairs.

H.R. 11938. A bill to provide a penalty for the robbery or attempted robbery of any narcotic drug from any pharmacy or physician's office; to the Committee on the Judiciary.

By Mr. HUBER:

H.R. 11939. A bill to amend the Economic Stabilization Act of 1970 to exempt stabilization of the price of petrochemicals from coverage under the act; to the Committee on Banking and Currency.

H.R. 11940. A bill to impose an embargo on the export of petrochemicals until price controls on petrochemicals are removed; to the Committee on Banking and Currency.

By Mr. KARTH (for himself, Mr. Conable, Mr. Pettis, Mr. Ullman, Mr. Waggonner, Mr. Burke of Massachusetts, Mr. Carey of New York, Mr. Burleson of Texas, Mr. Corman, Mr. Landrum, Mr. Clancy, and Mr. Fulton):

H.R. 11941. A bill to amend the Internal Revenue Code of 1954 to provide that the tax on the amounts paid for communication services shall not apply to the amount of the State and local taxes paid for such services; to the Committee on Ways and Means.

By Mr. KEMP:

H.R. 11942. A bill to prohibit common carriers in interstate commerce from charging elderly people more than half fare for their transportation during nonpeak periods of travel, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. LENT:

H.R. 11943. A bill to establish a National Center for the Prevention and Control of Rape and provide financial assistance for a research and demonstration program into the causes, consequences, prevention, treatment, and control of rape; to the Committee on Interstate and Foreign Commerce.

By Mr. MARAZITI:

H.R. 11944. A bill to direct the President to prohibit the export of oil drilling and refining equipment; to the Committee on Banking and Currency.

By Mr. PRICE of Texas:

H.R. 11945. A bill to amend the Clean Air Act in order to exempt motor vehicles operated or purchased in certain rural areas from certain emission control requirements; to the Committee on Interstate and Foreign Commerce.

By Mr. RARICK (for himself, Mrs. Holt, Mr. Nichols, Mr. Talcott, Mr. Veysey, Mr. Camp, and Mr. Bauman):

H.R. 11946. A bill to amend title XI of the Social Security Act to repeal the recently added provision for the establishment of Professional Standards Review Organizations to review services covered under the medicare and medicaid programs; to the Committee on Ways and Means.

By Mr. RODINO:

H.R. 11947. A bill to impose an embargo on the export of petrochemicals until price controls on petrochemicals are removed; to the Committee on Banking and Currency.

By Mr. RUNNELS:

H.R. 11948. A bill to establish an Auto Insurance Rate Reduction Commission to study the impact of fuel conservation actions on auto insurance costs and to recommend legislation which would implement appropriate reductions in auto insurance premiums; to the Committee on Interstate and Foreign Commerce.

By Mr. STEED:

H.R. 11949. A bill to declare that certain federally owned land is held by the United States in trust for the Kiowa, Commanche, and Apache Indian Tribes of Oklahoma; to the Committee on Interior and Insular Affairs.

By Mr. STUBBLEFIELD:

H.R. 11950. A bill to amend the National Emissions Standards Act in order to conserve fuel; to the Committee on Interstate and Foreign Commerce.

By Mrs. SULLIVAN (for herself, Mr. Murphy of New York, Mr. Leggett, Mr. Eckhardt, Mr. Bowen, Mr. Forsythe, Mr. du Pont, Mr. Lott, and Mr. Treen):

H.R. 11951. A bill to authorize the construction and operation of high seas oil ports, to be located in the offshore coastal waters of the United States, in order to facilitate the importation of petroleum and petroleum products into the United States, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. WALDIE:

H.R. 11952. A bill to establish a National Energy Information System, to authorize the Department of the Interior to undertake an inventory of U.S. energy resources on public lands and elsewhere, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 11953. A bill to amend the Internal Revenue Code of 1954 to allow an individual an income tax deduction for the expenses of traveling to and from work by means of mass transportation facilities; to the Committee on Ways and Means.

By Mr. WOLFF (for himself, Mr. Brasco, Mrs. Chisholm, Mr. Duncan, Mr. Fauntroy, Mr. Harrington, Mr. Koch, Mr. Matsunaga, Mr. Owens, Mr. Metcalfe, Mr. Moakley, Mr. Moorhead of Pennsylvania, Mr. Podell, Mr. Rosenthal, Mr. Yates and Mr. Yatron):

H.R. 11954. A bill to amend the Internal Revenue Code of 1954 to allow an income tax deduction for the expenses of traveling to and from work by means of mass transportation facilities; to the Committee on Ways and Means.

By Mr. POAGE (for himself, Mr. Stubblefield, Mr. Foley, Mr. Bergland, Mr. Price of Texas, and Mr. Thone):

H.R. 11955. A bill to amend the Commodity Exchange Act to strengthen the regulation of futures trading, to bring all agricultural and other commodities traded on exchanges under regulation, and for other purposes; to the Committee on Agriculture.

By Mr. McCORMACK:

H.R. 11956. A bill to amend the Federal Food, Drug, and Cosmetic Act to include a definition of food supplements, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. PRICE of Illinois (for himself, Mr. Holifield, and Mr. Hosmer):

H.R. 11957. A bill to amend the Atomic Energy Act of 1954, as amended, to restructure the hearing process with respect to licenses to construct or operate utilization or production facilities; to the Committee on the Joint Committee on Atomic Energy.

By Mr. RARICK:

H.R. 11958. A bill to authorize and direct the Administrator of the Federal Energy Administration to study and develop methods whereby agricultural crops and their byproducts may be employed as an alternate source of energy; to the Committee on Agriculture.

By Mr. RYAN:

H.R. 11959. A bill to amend the Federal Election Campaign Act of 1971, to establish a campaign financing fund with respect to Federal elections, and for other purposes; to the Committee on House Administration.

By Mr. TIERNAN:

H.R. 11960. A bill to amend section 64 of the Bankruptcy Act to increase the maximum amount of wages and commissions accorded a priority over other debts of a bankrupt, and to clarify the definitions of wages accorded such priority; to the Committee on the Judiciary.

By Mr. HANLEY (for himself, Mr. Anderson of California, Mr. Badillo, Mr. Bell, Mr. Brasco, Mr. Breckinridge, Mrs. Chisholm, Mrs. Collins of Illinois, Mr. Conyers, Mr. Dominick V. Daniels, Mr. Denholm, Mr. Derwinski, Mr. du Pont, Mr. Eilberg, Mr. William D. Ford, Mr. Frenzel, Mr. Frey, Mrs. Grasso, Mr. Gude, Mr. Hogan, Mrs. Holt, Mr. Hudnut, Mr. Hungate, Mr. Kyros, and Mr. Melcher):

H.J. Res. 860. Joint resolution to provide for the designation of February 20 of each year as "Postal Employees Day"; to the Committee on the Judiciary.

By Mr. HANLEY (for himself, Mr. Moakley, Mr. Pickle, Mr. Podell, Mr. Roe, Mr. Roncallo of New York, Mr. Rosenthal, Mr. Roy, Mr. Sebelius, Mr. Stark, Mr. Thone, Mr. Waldie, Mr. Walsh, Mr. Charles H. Wilson of California, and Mr. Yatron):

H.J. Res. 861. Joint resolution to provide for the designation of February 20 of each year as "Postal Employees Day"; to the Committee on the Judiciary.

By Mr. KETCHUM (for himself, Mr. Seiberling, Mr. Huber, Mr. Ruppe, Mr. St Germain, Mr. Breaux, Mr. Riegle, Mr. Cleveland, Mr. Guyer, Mr. Horton, Mr. Steiger of Arizona, Mr. Clancy, Mr. McClory, Mr. Collins of Texas, Mr. Robert W. Daniel, Jr., Mr. Evins of Tennessee, Mr. Hunt, Mr. Lehman, Mr. Helstoski, Mr. Anderson of Illinois, Mr. Kyros, Mr. Miller, Mr. Findley, and Mr. Abdnor):

H.J. Res. 862. Joint resolution authorizing increased production of petroleum from the Elk Hills Naval Petroleum Reserve for national defense purposes; to the Committee on Armed Services.

By Mr. ROYBAL (for himself and Mr. Pettis):

H.J. Res. 863. Joint resolution to designate the third week in April of each year as "National Coin Week"; to the Committee on the Judiciary.

By Mr. WIDNALL:

H.J. Res. 864. Joint resolution to amend the Housing and Urban Development Act of 1968 to increase the limitation on the face amount of flood insurance coverage authorized to be outstanding and to extend the emergency flood insurance program, and other purposes; to the Committee on Banking and Currency.

By Mr. ECKHARDT (for himself, Mrs. Chisholm, Mrs. Collins of Illinois, Mr. Conyers, Mr. Dellums, Mr. Drinan, Mr. Edwards of California, Mr. Harrington, Mrs. Heckler of Massachusetts, Mr. Helstoski, Mr. Lehman, Mr. Mazzoli, Mr. Melcher, Mr. Metcalfe, Mrs. Mink, Mr. Moakley, Mr. Nix, Mr. Rangel, Mr. Rosenthal, Mr. Seiberling, Mr. Stark, and Mr. Tiernan):

H. Con. Res. 400. Concurrent resolution, U.S. military involvement in Southeast Asia; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. PEPPER introduced a bill (H.R. 11961) for the relief of Edward M. Fleming Construction Co., Inc., a corporation in the process of liquidation represented by its surviving board of directors, which was referred to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

374. The SPEAKER presented a petition of the council of the city of Parma, Ohio, relative to granting relief to radio station WSUM, of Parma, in the event full time daylight saving time is instituted, which was referred to the Committee on Interstate and Foreign Commerce.

SENATE—*Thursday, December 13, 1973*

The Senate met at 11 a.m. and was called to order by the President pro tempore (Mr. EASTLAND).

PRAYER

The Reverend Dr. C. Leslie Glenn, canon and subdean, the Washington Cathedral, Mount St. Alban, Washington, D.C., offered the following prayer:

O Lord, our Heavenly Father, the high and mighty Ruler of the Universe, who dost from Thy throne behold all the dwellers upon Earth; most heartily we beseech Thee, with Thy favor to behold and bless Thy servant, GERALD, as he begins his duties as Vice President of the United States. Guide the President, the Senate, and Representatives in Congress and all others in authority; and so replenish them with the grace of Thy holy spirit, that they may always incline to Thy will, and walk in Thy way. Endue them plenteously with heavenly gifts; grant them in health and prosperity long to live; and finally, after this life, to attain everlasting joy and felicity; through Jesus Christ our Lord. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, December 12, 1973, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider a nomination on the Executive Calendar.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDENT pro tempore. The nomination on the Executive Calendar will be stated.

ENVIRONMENTAL PROTECTION AGENCY

The second assistant legislative clerk read the nomination of Alan G. Kirk II, of Virginia, to be an Assistant Administrator of the Environmental Protection Agency.

The PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be notified of the confirmation of this nomination.

The PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

There being no objection, the Senate resumed the consideration of legislative business.

ORDER OF BUSINESS

The PRESIDENT pro tempore. Does the distinguished minority leader wish recognition at this time?

Mr. HUGH SCOTT. Mr. President, I yield back my time.

The PRESIDENT pro tempore. Under the previous order, the distinguished Senator from Alaska (Mr. GRAVEL) is now recognized for not to exceed 15 minutes.

(The remarks Senator GRAVEL made at this point on the introduction of S. 2806, the Energy Revenue and Development Act of 1973, are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

RAIL SERVICES ACT OF 1973

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the vote by which H.R. 9142, the railroad bill, passed on Tuesday, together with the third reading, the order to send the bill to conference and the naming of the conferees be reconsidered and that the amendment offered by the Senator from Indiana (Mr. HARTKE), inserting new language on page 52, between lines 15 and 16, be stricken, and that the bill as thus amended be considered as having been read a third time and passed, and that as thus passed, a motion to reconsider that vote be considered as having been entered and laid on the table, and that the Senate insist on its amendments, request a conference, and that the same conferees be reappointed.

Mr. GRIFFIN. Mr. President, reserving the right to object, I wonder if the distinguished majority whip would confirm for me that this request has been cleared with the ranking Republican member of the Committee on Commerce (Mr. COTTON) and the Senator from Maryland (Mr. BEALL).

Mr. ROBERT C. BYRD. Yes, I shall be glad to. This amendment was agreed to by the Senate by voice vote when only a few Senators were in the Chamber. I was not in the Chamber. In saying that, I am not implying that the distinguished Senator from Indiana (Mr. HARTKE) planned it that way when he offered the amendment. Senators are often not on the floor, when amendments are agreed to by voice vote. This occurs almost daily here, but it is a bad precedent, in the judgment of many of us, to appropriate on an authorization measure.

This amendment was called to my attention by the distinguished Senator from Alaska (Mr. STEVENS) after the amendment was agreed to. I would not have known to this day, perhaps, if it had not been called to my attention by the Senator.

Thereupon, I went to the Senator from Maryland (Mr. BEALL), the ranking minority member of the committee, yesterday. I also went to the Senator from Indiana (Mr. HARTKE), the manager. Both Senators readily agreed to the unanimous consent request I have made. I did not make the request yesterday, but I thought it was of such importance and significance, it should be cleared first with the leadership from both sides. I cleared it this morning with the distinguished majority leader and the distinguished Republican leader. Upon the suggestion of the able Senator from Pennsylvania (Mr. HUGH SCOTT) I went to see the Senator from New Hampshire (Mr. COTTON), who is the ranking member of the Committee on Commerce. I cleared the request with him in the presence of 13 members of the Committee on Appropriations, including Chairman MCCLELLAN, Mr. YOUNG, Mr. BROOKE, Mr. STEVENS, Mr. BELLMON, and other members on the majority and minority sides.

It is my understanding that Representative MAHON, chairman of the House Appropriations Committee, will vigorously object to this amendment when it reaches conference. I have asked the chief counsel of the Committee on Appropriations to contact the Office of Management and Budget to see if we can get a budget request up here over the weekend if the administration wants this money. The Office of Management and Budget should be willing to send a budget request, and the funds could then be placed in the foreign aid appropriation bill on Monday when Mr. INOUYE brings it to the floor.

Incidentally, as chairman of the Appropriations Subcommittee on Transportation, I would point out that the committee report, which accompanied the supplemental appropriations bill that was acted on by the Senate yesterday, included the following language in anticipation of the enactment of the Rail Services Act:

> The Committee is aware of the urgency for moving ahead as quickly as possible with implementation of S. 2767 "The Rail Services Act of 1973" or other similar authorizing legislation as soon as enacted. It is the Committee's intent, therefore, that funds currently available to the Department of Transportation for surface transportation and the Interstate Commerce Commission be used on a temporary basis to defray the Commission's and the Department's costs associated with the immediate and orderly implementation of the act, including the start-up costs of the Government National Railway Association, as necessary.
>
> The Committee directs the Department and the Commission to apprise the Committee of the funds used for these purposes on a continuing basis, and expects that the temporary reprogrammings will be made in such a way to minimize adverse impact on ongoing program activities.
>
> The Committee directs that the regular supplemental appropriation process be used

to finance the programs authorized by the act and that these appropriations be used to repay funds temporarily used during the interim.

Mr. GRIFFIN. I thank the Senator. I think the Senate, Congress, and the taxpayers owe the Senator from West Virginia gratitude, because I agree with him. This would be very bad legislative procedure and an unfortunate precedent.

I think that it is especially bad when a step of that kind is taken by amendment on the floor of the Senate which is not adequately understood by the Senate. If the Senate had known what it was doing at the time, it would be a different question.

Mr. ROBERT C. BYRD. I thank the Senator.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I wish to thank the distinguished Republican whip and I also express appreciation to the Senator from Alaska (Mr. STEVENS), who is not in the Chamber at this time, but for whom I would not have known that the amendment had been inserted in the bill. I also thank Mr. HARTKE and Mr. BEALL for their cooperation and understanding; and may I say that they readily agreed to this procedure and for that I am grateful, and I am sure the Senate is grateful.

ORDER FOR PRINTING H.R. 9142 IN THE RECORD

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the bill (H.R. 9142), to authorize and direct the maintenance of adequate and efficient rail services in the Midwest and Northeast region of the United States, and for other purposes as passed on December 11 and as reconsidered and further amended and passed on December 13, be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

H.R. 9142

Strike out all after the enacting clause and insert:

TITLE I—FORMAL PROVISIONS

SHORT TITLE AND TABLE OF CONTENTS

SEC. 101. (a) SHORT TITLE.—This Act may be cited as the "Rail Services Act of 1973".

(b) TABLE OF CONTENTS.—

TITLE I—FORMAL PROVISIONS

Sec. 101. Short title and table of contents.
Sec. 102. Declaration of policy.
Sec. 103. Definitions.

TITLE II—GOVERNMENT NATIONAL RAILWAY ASSOCIATION

Sec. 201. Formation and structure.
Sec. 202. General powers and duties of the Association.
Sec. 203. Access to information.
Sec. 204. Reports.
Sec. 204A. Consolidation study.
Sec. 205 Rail Emergency Planning Office.
Sec. 206. Final system plan.
Sec. 207. Adoption of final system plan.
Sec. 208. Review by Congress.
Sec. 209. Judicial review.
Sec. 210. Obligations of the Association.
Sec. 211. Loans.
Sec. 212. Records, audit, and examination.
Sec. 213. Emergency assistance pending implementation.
Sec. 214. Authorization for appropriations.
Sec. 215 Maintenance and improvement of plant.

TITLE III—UNITED RAIL CORPORATION

Sec. 301. Formation and structure.
Sec. 302. General powers of the Corporation.
Sec. 303. Valuation and conveyance of rail properties.
Sec. 304. Termination of rail service.

TITLE IV—LOCAL RAIL SERVICES

Sec. 401. Findings and purposes.
Sec. 402. Rail service continuation subsidies.
Sec. 403. Acquisition and maintenance loans.

TITLE V—EQUIPMENT IMPROVEMENT

Sec. 501. Formal provisions.
Sec. 502. Obligation Guarantee Board.
Sec. 503. Guarantee of equipment obligations.
Sec. 504. Issuance of notes or obligations.
Sec. 505. Audit of transactions.
Sec. 506. Default.
Sec. 507. National Rolling Stock Information System.
Sec. 508. Utilization measurement and oversight.
Sec. 509. Prerequisites to establishment.
Sec. 510. Railroad Equipment Authority.
Sec. 511. General powers of the Authority.
Sec. 512. Financing.
Sec. 513. Conversion to private ownership.
Sec. 514. Information system.
Sec. 515. Use of equipment supplied by the Authority.
Sec. 516. Commission review.
Sec. 517. Enforcement.
Sec. 518. Annual report.
Sec. 519. Protective arrangements for employees.

TITLE VI—EMPLOYEE PROTECTION

Sec. 601. Definitions.
Sec. 602. Offers of employment.
Sec. 603. Assignment of work.
Sec. 604. Collective bargaining agreements.
Sec. 605. Employee protection.
Sec. 606. Performance of work.
Sec. 607. Arbitration.
Sec. 608. Acquiring railroads.
Sec. 609. Payment of benefits.
Sec. 610. Work rules study.
Sec. 611. Employee displacement study.

TITLE VII—GENERAL PROVISIONS

Sec. 701. Relationship to other laws.
Sec. 702. Annual evaluation by the Secretary.
Sec. 703. Freight rates for recyclables.
Sec. 704. Separability.

DECLARATION OF POLICY

SEC. 102. (a) FINDINGS.—The Congress finds and declares that—

(1) Essential rail service in the Midwest and Northeast region of the United States is provided by railroads which are today insolvent and attempting to undergo reorganization under the Bankruptcy Act.

(2) This essential rail service is threatened with cessation or significant curtailment because of the inability of the trustees of such railroads to formulate acceptable plans of reorganization. This rail service is operated over rail properties which were acquired for a public use, but which have been permitted to deteriorate and now require extensive rehabilitation and modernization.

(3) The public convenience and necessity require adequate and efficient rail service in this region and throughout the Nation to meet the needs of commerce, the national defense, the environment, and the service requirements of passengers, United States mail, shippers, States and their political subdivisions, and consumers.

(4) Continuation and improvement of essential rail service in this region is also necessary to preserve and maintain adequate national rail services and an efficient nationl rail transportation system.

(5) Rail service and rail transportation offer economic and environmental advantages with respect to land use, air pollution, noise levels, energy efficiency and conservation, resource allocation, safety, and cost per ton-mile of movement to such extent that the preservation and maintenance nationwide of adequate and efficient rail service is in the national interest.

(6) These needs cannot be met without substantial action by the Federal Government.

(b) PURPOSES.—It is therefore declared to be the purpose of Congress in this Act to provide for—

(1) the identification of a rail service system in the Midwest and northeast region which is adequate to meet the needs and service requirements of this region and of the national rail transportation system;

(2) the restructuring of railroads in this region into an economically viable system capable of providing adequate and efficient rail service to the region;

(3) the establishment of the Government National Railway Association, with enumerated powers and responsibilities;

(4) the establishment of the United Rail Corporation, with enumerated powers and responsibilities;

(5) assistance to States and local and regional transportation authorities for continuation of local rail services threatened with cessation;

(6) loan guarantees for railroad equipment acquisitions and incentives for improved utilization of railroad rolling stock; and

(7) necessary Federal financial assistance at the lowest possible cost to the general taxpayer.

DEFINITIONS

SEC. 103. As used in this Act (unless otherwise provided in title V of this Act)—

(1) "Association" means the Government National Railway Association, established under section 201 of this Act.

(2) "Commission" means the Interstate Commerce Commission.

(3) "Corporation" means the United Rail Corporation, established under section 301 of this Act.

(4) "Effective date of the final system plan" means the date of the joint resolution of the Congress approving and setting forth the maximum obligational authority of the Association for purposes of implementing the final system plan or any revised final system plan which has been deemed approved by Congress, in accordance with section 208 of this Act.

(5) "Employee stock ownership plan" means a technique of corporate finance that uses a stock bonus trust or a company stock money purchase pension trust which qualifies under section 401(a) of the Internal Revenue Code of 1954 (26 U.S.C. 401(a)) in connection with the financing of corporate improvements, transfers in the ownership of corporate assets, and other capital requirements of a corporation and which is designed to build beneficial equity ownership of shares in the employer corporation into its employees substantially in proportion to their relative incomes, without requiring any cash outlay, any reduction in pay or other employee benefits, or the surrender of any other rights on the part of such employees.

(6) "Final system plan" means the plan adopted by the Association in accordance with the requirements of section 206 of this Act.

(7) "Includes" should be read as if the phrase "but is not limited to" were also set forth.

(8) "Office" means the Rail Emergency Planning Office, established under section 205 of this Act.

(9) "Profitable railroad" means a railroad which is not a railroad in reorganization. The term does not include the Corporation, the National Railroad Passenger Corporation, or a railroad owned, leased, or controlled by a railroad in reorganization in the region.

(10) "Rail properties" means assets or rights owned, leased, or otherwise controlled by a railroad which are used or useful in rail transportation service.

(11) "Railroad" means a common carrier by railroad as defined in section 1(3) of part I of the Interstate Commerce Act (49 U.S.C. 1(3)). The term includes the Corporation and the National Railroad Passenger Corporation.

(12) "Railroad in reorganization" means a railroad which is subject to a bankruptcy proceeding and which has not been determined by a court to be reorganizable on an income basis within a reasonable time pursuant to section 207(b) of this Act. A "bankruptcy proceeding" includes a proceeding pursuant to section 77 of the Bankruptcy Act (11 U.S.C. 205) or an equity receivership or equivalent proceeding.

(13) "Region" means the States of Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, Ohio, Indiana, Michigan, and Illinois; the District of Columbia; and those portions of contiguous States in which are located rail properties owned or operated by railroads doing business primarily in the aforementioned jurisdictions (as determined by the Commission by order).

(14) "Secretary" means the Secretary of Transportation, except as otherwise indicated.

(15) "State" means any State or the District of Columbia.

TITLE II—GOVERNMENT NATIONAL RAILWAY ASSOCIATION

FORMATION AND STRUCTURE

SEC. 201. (a) ESTABLISHMENT.—There is established, in accordance with the provisions of this section, an incorporated nonprofit association to be known as the Government National Railway Association.

(b) ADMINISTRATION.—The Association shall be directed by a Board of Directors. The individuals designated, pursuant to subsection (d)(2) of this section, as the Government members of such Board shall be deemed the incorporators of the Association and shall take whatever steps are necessary to establish the Association, including the filing of articles of incorporation.

(c) STATUS.—The Association shall be a government corporation of the District of Columbia subject, to the extent not inconsistent with this title, to the District of Columbia Nonprofit Corporation Act (D.C. Code, sec. 29–1001 et seq.). Except as otherwise provided, employees of the Association shall not be deemed employees of the Federal Government. The Association shall have succession until dissolved by Act of Congress, shall maintain its principal office in the District of Columbia, and shall be deemed to be a resident of the District of Columbia with respect to venue in any legal proceeding.

(d) BOARD OF DIRECTORS.—The Board of Directors of the Association shall consist of 13 individuals, as follows:

(1) the Chairman, a qualified individual who shall be appointed by the President, by and with the advice and consent of the Senate;

(2) four Government members, who shall be the Secretary, the Chairman of the Commission, the Secretary of the Treasury, and the Administrator of the Environmental Protection Agency, or their duly authorized representatives; and

(3) eight nongovernment members, who shall be appointed by the President, by and with the advice and consent of the Senate, on the following basis—

(A) one to be selected from a list of qualified individuals who are representative of profitable railroads recommended by the Association of American Railroads or its successor;

(B) one to be selected from a list of qualified individuals who are representative of railroad labor recommended by the American Federation of Labor and Congress of Industrial Organizations or its successor;

(C) one to be selected from a list of qualified individuals recommended by the National Governors Conference;

(C) one to be selected from a list of qualified individuals recommended by the National League of Cities and Conference of Mayors;

(E) two to be selected from lists of qualified individuals recommended by shippers and organizations representative of significant shipping interests including small shippers;

(F) one to be selected from lists of qualified individuals recommended by consumer organizations, community organizations, and recognized consumer leaders; and

(G) one to be selected from lists of qualified individuals recommended by financial institutions, the financial community, and recognized financial leaders.

As used in this paragraph, a list of qualified individuals shall consist of no less than three individuals.

Except for the members appointed under paragraphs (1) and (3) (A), (B), (E), and (G), no member of such Board may have any employment or other direct financial relationship with any railroad. A member of such Board who is not otherwise an employee of the Federal Government may receive $300 per diem when engaged in the actual performance of his duties plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties.

(e) TERMS OF OFFICE.—The terms of office of the nongovernment members of the Board of Directors of the Association first taking office shall expire as designated by the President at the time of nomination—two at the end of the second year; two at the end of the fourth year; and four at the end of the sixth year. The term of office of the Chairman of such Board shall be 6 years. Successors to members of such Board shall be appointed in the same manner as the original members and, except in the case of government members, shall have terms of office expiring six years from the date of expiration of the terms for which their predecessors were appointed. Any individual appointed to fill a vacancy occurring prior to the expiration of any term of office shall be appointed for the remainder of that term.

(f) QUORUM.—Seven members of such Board, including three of the nongovernment members, shall constitute a quorum for the transaction of any function of the Association.

(g) PRESIDENT.—The Board of Directors of the Association, upon the recommendation of the Secretary, shall appoint a qualified individual to serve as the President of the Association at the pleasure of such Board. The President of the Association, subject to the direction of such Board, shall manage and supervise the affairs of the Association.

(h) EXECUTIVE COMMITTEE.—The Board of Directors of the Association shall have an executive committee which shall consist of the Chairman of such Board, the Secretary, and three other members who shall be selected by the members of such Board.

(i) MISCELLANEOUS.—(1) The Association shall have a seal which shall be judicially recognized.

(2) The Administrator of General Services is authorized and directed to furnish the Association with such offices, equipment, supplies, and services as he is authorized to furnish to any other agency or instrumentality of the United States.

(3) The Secretary is authorized to transfer to the Association or the Corporation rights in intellectual property which are directly related to the conduct of the functions of the Association or the Corporation, to the extent that the Federal Government has such rights and to the extent that transfer is necessary to carry out the purposes of this Act.

(j) USE OF NAMES.—No person, except the Association, shall hereafter use the words "Government National Railway Association" as a name for any business purpose. No person, except the corporation directed to be established under section 301 of this Act, shall hereafter use the words "United Rail Corportation" as a name for any business purpose. Violations of these provisions may be enjoined by any court of general jurisdiction in an action commenced by the Association or the Corporation. In any such action, the Association or the Corporation may recover any actual damages flowing from such violation, and, in addition, shall be entitled to punitive damages (regardless of the existence or nonexistence of actual damage), not to exceed $100 for each day during which such violation was committed. The district courts of the United States shall have jurisdiction over actions brought under this subsection, without regard to the amount in controversy or the citizenship of the parties.

GENERAL POWERS AND DUTIES OF THE ASSOCIATION

SEC. 202. (a) GENERAL.—To carry out the purposes of this Act, the Association is authorized to—

(1) engage in the preparation and implementation of the final system plan;

(2) issue obligations under section 210 of this Act and make loans under section 211 of this Act;

(3) provide assistance to States and local or regional transportation authorities in accordance with section 403 of this Act;

(4) sue and be sued, complain and defend, in the name of the Association and through its own attorneys; adopt, amend, and repeal bylaws governing the operation of the Association and such rules and regulations as are necessary to carry out the authority granted under this Act; conduct its affairs, carry on operations, and maintain offices;

(5) appoint, fix the compensation, and assign the duties of such attorneys, agents, consultants, and other full-time and part-time employees as it deems necessary or appropriate: *Provided*, That (1) no officer of the Association, including the Chairman, may receive compensation at a rate in excess of that prescribed for level I of the Executive Schedule under section 5312 of title 5, United States Code; and (2) no individual may hold a position in violation of regulations which the Secretary shall establish to avoid conflicts of interest and to protect the interests of the public;

(6) acquire and hold such real and personal property as it deems necessary or appropriate in the exercise of its responsibilities under this Act, and may dispose of any such property held by it;

(7) consult with the Secretary of the Army and the Chief of Engineers and request the assistance of the Corps of Engineers in supervising or consulting on any construction, reconstruction installation, or other improvements financed by any obligations issued or loans made by the Association. Such improvements may include rights-of-way, bridges, tunnels, grade crossings, signals, and other safety-related equipment, and tracks, and other facilities used or capable of being used in rail transportation service or in ways ancillary to such service. The Secretary of the Army shall direct the Corps of Engineers to cooperate fully with the Association, the Corporation, or any entity designated in accordance with section 206(c)(1)(C) in order to carry out the purposes of this Act;

(8) consult on an ongoing basis with the Chairman of the Federal Trade Commission and the Attorney General to assess the possible anticompetitive effects of various proposals and to negotiate provisions which would, to the greatest extent practicable in accordance with the purposes of this Act and the goal set forth in section 206(a)(5) of this Act alleviate any such anticompetitive effects. For the purposes of carrying out their responsibilities under this paragraph the Chairman of the Federal Trade Commission and the Attorney General shall have the

same access to information as the Secretary, the Office, and the Association have under section 203 of this Act. The Chairman of the Federal Trade Commission and the Attorney General shall prepare reports to be published and transmitted as attachment to the preliminary and final system plans which reports shall set forth their views as to whether each plan contains provisions having potentially anticompetitive effects and whether the goal set forth in section 206(a)(5) has been met. The report shall also set forth proposed amendments, modifications, or deletions to such plans designed to alleviate any anticompetitive provisions found therein or to achieve such goal;

(9) consult with representatives of science, industry, agriculture, labor, environmental protection and consumer organizations, and other groups, as it deems advisable; and

(10) enter into contracts, execute instruments, incur liabilities, and do all things necessary, appropriate, or identical to the proper management of its affairs and the prudent exercise of its responsibilities, including protecting the interests of the United States.

(b) INVESTMENT OF FUNDS.—Uncommitted moneys of the Association shall be kept in cash on hand or on deposit, or invested in obligations of the United States or guaranteed thereby, or in obligations, participations, or other investments which are lawful investments for fiduciary, trust, or public funds.

(c) EXEMPTION FROM TAXATION.—The Association, including its franchise, capital reserves, surplus, security holdings, and income shall be exempt from all taxation now or hereafter imposed by the United States, any commonwealth, territory, dependency, or possession thereof, or by any State or political subdivision thereof, except that any real property of the Association shall be subject to taxation to the same extent according to its value as other real property is taxed.

(d) ANNUAL REPORT.—The Association shall transmit to the Congress and the President, not later than 90 days after the end of each fiscal year, a comprehensive and detailed report on all activities of the Association during the preceding fiscal year. Each such report shall include (1) the Association's statement of specific and detailed objectives for the activities and programs conducted and assisted under this Act; (2) statements of the Association's conclusions as to the effectiveness of such activities and programs in meeting the stated objectives and the purposes of this Act, measured through the end of the preceding fiscal year; (3) recommendations with respect to any changes or additional legislative action deemed necessary or desirable; (4) a statistical compilation of the obligations issued, loans made, and equipment obligations guaranteed under this Act; (5) a summary of outstanding problems confronting the Association, in order of priority; (6) all other information required to be submitted to the Congress pursuant to any other provision of this Act; (7) an evaluation of the current state of rail services in the United States, by regions; and (8) the Association's projections and plans for its activities and programs during the next fiscal year.

(e) BUDGET.—The receipts and disbursements of the Association in the discharge of its functions shall not be included in the totals of the budget of the United States Government, and shall be exempt from any annual expenditure and net lending (budget outlays) limitations imposed on a budget of the United States Government. The Chairman of the Association shall transmit annually to the Congress a budget for program activities and for administrative expenses of the Association. The Chairman shall report annually to the Congress the amount of net lending of the Association, which would be included in the totals of the budgets of the United States Government, if the Association's activities were not excluded from those totals as a result of this section.

(f) ACCOUNTABILITY.—Section 201 of the Government Corporation Control Act (31 U.S.C. 856) is amended by striking out "and" in the last clause thereof and the period at the end thereof and inserting at the end thereof the following: ", (8) the Government National Railway Association.".

ACCESS TO INFORMATION

SEC. 203. Each railroad shall maintain and make available such records, make and submit such reports, and provide such data, materials, or other information as the Secretary, the Office, or the Association shall reasonably require or request which is relevant to any function under this Act. Any officer or employee duly designated by the Secretary, the Director of the Office, or the President of the Association, upon presenting appropriate credentials and a written notice of inspection authority, is authorized to inspect, at reasonable times, records, papers, processes, rolling stock, equipment, or facilities of any such railroad in furtherance of any such function. The Secretary, the Office, and the Association, or any duly authorized officer or employee thereof, may for the purpose of carrying out any such function, hold such hearings, sit and act at such times and places, administer such oaths, and require by subpoena or other order the attendance and testimony of such witnesses and the production of such evidence as is deemed advisable. Subpoenas shall be issued under the signature of the Secretary, the Director of the Office, or the President of the Association and may be served by any duly designated individual. In case of contumacy or refusal to obey such a subpoena or order by any person who resides, is found, or transacts business within the jurisdiction of any district court of the United States, such district court shall, upon the petition of the Secretary, the Director of the Office, or the President of the Association, have jurisdiction to issue to such person an order requiring such person to comply forthwith. Failure to obey such an order is punishable by such court as a contempt of court.

REPORTS

SEC. 204. (a) PREPARATION.—(1) Within 30 days after the date of enactment of this Act, the Secretary shall prepare a comprehensive report containing his conclusions and recommendations with respect to the geographic zones within the region at and between which rail service should be provided and the criteria upon which such conclusions and recommendations are based; and (2) within 300 days after the date of enactment of this Act, the Secretary shall prepare a comprehensive report containing his conclusions with respect to essential rail services within the Nation in the area outside the region, and his recommendations as to the geographic zones at and between which rail service should be provided. The Secretary may use as a basis for the identification of such geographic zones the standard metropolitan statistical areas, groups of such areas, counties, or groups of counties having similar economic characteristics such as mining, manufacturing, or farming.

(b) SUBMISSION.—Upon completion, the Secretary shall submit the reports required by subsection (a) of this section to the Office, the Association, the Governor and public utilities commission of each State studied in the report, local governments, consumer organizations, environmental groups, the public, and the Congress. The Secretary shall further cause a copy of each report to be published in the Federal Register.

(c) TRANSPORTATION POLICY.—Within 180 days after the date of enactment of this Act, the Secretary shall formulate and submit to Congress a national transportation policy. The Secretary shall consider all relevant factors in formulating this national transportation policy, including the need for coordinated development and improvement of all modes of transportation, and recommendations as to the priority which should be assigned to the development and improvement of each such mode.

(d) STUDY OF NATIONALIZED RAIL PASSENGER SERVICE.—Within 360 days after the date of enactment of this Act, the Secretary shall prepare and submit to Congress a comprehensive report on the feasibility and desirability of nationalization of rail passenger service in the United States. The report shall consider the extent and nature of the Federal commitment to rail passenger service, the long-standing lack of commitment of private railroad companies to rail passenger operations, the current financial crisis of intercity and rail mass transit operations, the potential for coordination of the national rail passenger system, including rail mass transit and subway lines, the implications of including other public transportation modes within the nationalized system, the estimated costs, economic, social, and environmental, of nationalization of rail passenger service, the relative efficiency and transportation effectiveness of nationalization, and such other matters as the Secretary deems relevant.

(e) RAIL PASSENGER TRANSPORTATION.—Within 180 days after the date of enactment of this Act, the Secretary shall prepare and submit to Congress a comprehensive report on the feasibility and desirability of expanding service by the National Railroad Passenger Corporation. The report shall consider the current and projected shortage of refined petroleum products, curtailment of alternative modes of travel, availability of additional equipment for the provision of rail passenger service (whether domestic or foreign), the economic feasibility of additional service on existing routes and expansion of service to new routes, and such other matters as the Secretary deems relevant. The National Railroad Passenger Corporation shall cooperate fully with the Secretary in the preparation of this report.

CONSOLIDATION STUDY

SEC. 204A. (a) ESTABLISHMENT.—There is established an American Railroad Consolidation Commission.

(b) BOARD.—(1) The Consolidation Commission shall consist of 9 members appointed to serve at the pleasure of the President, 2 representing railroad management, 2 representing railroad labor organizations, and 2 representing appropriate Government departments and agencies, and 3 other qualified individuals.

(2) The President shall designate a Chairman and a Vice Chairman from among the members of the Consolidation Commission. Any vacancy in the membership of the Consolidation Commission shall not affect its powers and shall be filled in the same manner in which the original appointment was made.

(3) Five members of the Consolidation Commission shall constitute a quorum, but a lesser number shall constitute a quorum for the purpose of conducting hearings.

(4)(A) A member of the Consolidation Commission who is otherwise an officer or employee of the United States shall serve without additional compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of duties of the Consolidation Commission.

(B) A member of the Consolidation Commission from private life shall receive $100 per day when engaged in the actual performance of duties of the Consolidation Commission, and shall receive reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties.

(c) Functions—The Consolidation Commission shall—

(1) After investigation and study, formulate a plan for the consolidation of all class I, privately owned, common carriers by railroad, including their railroad subsidiaries and affiliated terminal companies, in the United States, exclusive of Alaska and Hawaii, and excluding lines wholly owned and operated by Canadian National and Canadian Pacific Railways, into one private corporation and to assess and determine the value of such railroads as a whole, the value of each separate component and proper capitalization of the entire system and distribution of securities to its components.

(2) Study of railroad diversification into businesses not traditionally considered part of a railroad operations. The study shall consider, among other things, the contribution of diversification to deterioration in rail passenger service and in the efficient movement of freight, to lack of growth of railroad operations, and to the direct or indirect diversion of railroad revenues, assets and management attention from railroad operations into such other businesses. The study shall set forth and evaluate various measures which may be taken to correct adverse conditions attributable to diversification.

(3) After adoption and authorization of such plan by Act of Congress, take such initial steps as are authorized by such Act, to carry out such plan.

(d) Powers.—(1) The Consolidation Commission may for the purpose of carrying out this Act—

(A) Appoint and fix the compensation of an Executive Director and such additional staff personnel as he deems necessary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of such title;

(B) Procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $100 a day for individuals; and

(C) Request and accept from any executive department or agency, or Congressional committee, any information and assistance deemed necessary to carry out its functions under this Act, and each such department and agency is authorized, to the extent permitted by law and within the limits of available funds to furnish information and assistance to the Consolidation Commission.

(2)(A) The Consolidation Commission, or at its direction, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this Act, hold such hearings, sit and act at such times and places, administer such oaths, and require by subpoena or otherwise the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents as the Consolidation Commission or such subcommittee or member may deem advisable. Any member of the Consolidation Commission may administer oaths or affirmations to witnesses appearing before the Consolidation Commission or before such subcommittee or member. Subpoenas may be issued under the signature of the Chairman or Vice Chairman and may be served by any person designated by the Chairman or Vice Chairman.

(B) In the case of contumacy or refusal to obey a subpoena issued under paragraph (1) of this subsection by any person who resides, is found, or transacts business within the jurisdiction of any district court of the United States, such court, upon application made by the Attorney General of the United States, shall have jurisdiction to issue to such person an order requiring such person to appear before the consolidation Commission or a subcommittee or member thereof, there to produce evidence if so ordered, or there to give testimony touching the matter under inquiry. Any failure of any such person to obey any such order of the court may be punished by the court as a contempt thereof.

(e) Report.—Not later than 1 year, unless said period is extended by order of the President, the Consolidation Commission shall report to the President and the Congress the plan formulated pursuant to this Act, together with its recommendations for such legislation as is necessary to adopt and carry out such plan.

RAIL EMERGENCY PLANNING OFFICE

Sec. 205. (a) Establishment.—There is established, on the date of enactment of this Act, a new Office in the Commission to be known as the Rail Emergency Planning Office. The Office shall function continuously pursuant to the provisions of this Act, and shall cease to exist 5 years after the date of enactment of this Act. The Office shall be administered by a director.

(b) Director.—(1) The Director of the Office shall be appointed by the Chairman of the Commission with the concurrence of 5 members of the Commission and shall take office upon issuance of a resolution endorsing such appointment by both the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Commerce of the Senate.

(2) The Director of the Office shall administer and be responsible for the discharge of the functions and duties of the Office from the date he takes office unless removed for cause by the Commission.

(3) The Director of the Office shall be compensated at a rate to be set by the Chairman of the Commission without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, classification, and General Schedule pay rates, but at a rate not in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of such title.

(c) Duties.—The Office shall, with the assistance of the Secretary and the Association—

(1) study and evaluate the Secretary's report on rail services in the region required under section 204(a)(1) of this title and shall solicit, study, and evaluate the views with respect to present and future rail service needs of the region from Governors of States within the region; mayors and chief executives of political subdivisions within such States; shippers; the Secretary of Defense; manufacturers, wholesalers, and retailers within the region; consumers of goods and products shipped by rail; and all other interested persons, The Office is authorized and directed to conduct public hearings to solicit comments on such report and to receive such views;

(2) prepare a detailed—

(A) information survey of existing rail services in the region, including patterns of traffic movement, traffic density over identified lines, pertinent costs and revenues of lines, plant, equipment, facilities (including yards and terminals), and property suitable for rail services in the region;

(B) economic and operational study and analysis of present and future rail service needs in the region, taking into account the reports, views, and comments received under paragraph (1) of this subsection; the nature and volume of the traffic in the region now being moved by rail or likely to be moved by rail in the future; the extent to which available alternative modes of transportation could move such traffic as is now carried by railroads in reorganization; the relative economic, social, and environmental costs that would be involved in the use of such available alternative modes, including energy resource costs; and the competitive or other effects on profitable railroads;

(C) study of methods of achieving economies in the cost of rail system operations in the region including consolidation, pooling, and joint use or operation of lines, facilities, and operating equipment; relocation; rehabilitation and modernization of equipment, track, and other facilities; and abandonment of lines consistent with meeting needs and service requirements; together with an evaluation of the anticipated economic, social, and environmental costs and benefits of each such method;

(D) study of rail passenger services in the region, in terms of scope and quality;

(E) study of the costs and benefits of any change proposed in the Secretary's report required under section 204(a)(1) of this Act or any views or comments received under paragraph (1) of this subsection;

(F) study of the effect on railroad employees of any restructuring of rail services in the region; and

(G) report to be submitted to the Commission and the Association and published in the Federal Register. Such report shall include all the aforementioned material in this subsection together with a preliminary identification on a map of the region the rail services system which in the judgment of the Office would best satisfy present and future rail services needs in the region. Such report shall be submitted within 240 days after the date of establishment of the Office;

(3) solicit, study, and evaluate the views of all government officials and persons who submitted views, reports, or testimony under paragraph (1) of this subsection with respect to the report prepared by the Office under paragraph (2)(G) of this subsection;

(4) prepare and submit to the Commission, the Congress, and the Association its proposal for the preliminary system plan within 300 days after the date of establishment of the Office. Such proposal shall be designed to meet all of the requirements of section 206 of this Act;

(5) prepare and submit to the Committee, the Congress, and the Association its evaluation and critique, together with detailed reasons and recommended alternatives for provisions rejected, of the preliminary system plan within 60 days after its adoption and release by the Association under section 207 (a) of this Act;

(6) make determinations of qualifications for rail service continuation subsidies in accordance with subsection (f) of this section; and

(7) perform such duties as the Board of Directors, the Executive Committee, or the President of the Association shall request.

(d) Powers.—The Director of the Office is subject to the direction of and shall report to such member of the Commission as the Chairman thereof shall designate. The Chairman may designate himself as that member. Such Director is authorized, with the concurrence of such member or the Chairman (in case of disagreement) of the Commission, to—

(1) appoint, fix the compensation, and assign the duties of employees of the Office without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and to procure temporary and intermittent services to the same extent as is authorized under section 3109 of title 5, United States Code, but at rates not to exceed $250 a day for qualified experts. Each department, agency, and instrumentality of the executive branch of the Federal Government and each independent regulatory agency of the United States is authorized and shall give careful consideration to a request to furnish to the Director of the Office, upon written request, on a reimbursable basis or otherwise, such assistance as such Director deems necessary to carry out the functions and duties of the Office. Such

assistance includes transfer of personnel with their consent and without prejudice to their position and rating; and

(2) enter into, without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of the functions and duties of the Office, with any government or person.

(e) Review of Commission.—Upon the adoption of the final system plan by the Association under section 207(c) and the submission of such plan to Congress under section 208(a) of this Act, the Commission shall submit to the Congress an evaluation and critique of the final system plan delivered to both Houses of Congress and its recommendation with respect to the acceptance or rejection of such plan. If the Commission recommends that either the House of Representatives or the Senate pass a resolution stating that it does not favor the plan, the Commission shall recommend what changes, if any, should be made in the final system plan and the reasons therefor.

(f) Continuation and Abandonment.—(1) The Office shall make and maintain a list of its determinations of qualification for rail service continuation subsidies. A copy of such list shall be transmitted to the Secretary and the Governors of the States and shall be published in the Federal Register at least once each year.

(2) Rail properties qualified for rail service continuation subsidies are—

(A) those rail properties of railroads in reorganization which are not included on the final system plan;

(B) those rail properties which have been or are subsequently purchased, leased, or operated by a State agency or with respect to which a State or political subdivision thereof has invested substantial sums for improvement and maintenance of rail service;

(C) those rail properties with respect to which the Commission issues a certificate of abandonment effective on or after the date of enactment of this Act and those rail properties with respect to which the Commission has issued a certificate of abandonment within 5 years prior to the date of enactment of this Act and which remain in condition for rail service; and

(D) those rail properties which the Office shall find to have been constructively abandoned. A finding of constructive abandonment shall be made by the Office, upon the request of a State, if the Office, in its discretion, determines that service over a particular rail property has been permitted by the carrier to deteriorate to the extent that it is no longer adequate to meet the requirements of the public convenience and necessity.

(3) The Office shall assist States and local and regional transportation agencies in making determinations whether to provide rail service continuation subsidies to maintain in operation particular rail properties by making advisory determinations upon request by a State as to whether particular rail properties are suitable for rail service continuation subsidies. Such advisory determinations shall be made on the following basis: Rail properties are suitable if the cost of the required subsidy for such properties per year to the taxpayers is less than the cost of termination of rail service over such properties measured by increased fuel consumption and operational costs for alternative modes of transportation, the cost to the gross national product in terms of reduced output of goods and services, the cost of relocating or assisting through unemployment, retraining, and welfare benefits to individuals and firms adversely affected thereby, and the cost to the environment measured by damage caused by increased pollution.

(g) Other Studies.—Within 300 days after the effective date of the final system plan, the Office shall, with the assistance of the Secretary and the Association—

(1) study, evaluate, and hold public hearings on the Secretary's report on essential rail services within the Nation, which is required under section 204(a)(2) of this title, and the Secretary's formulation for a national transportation policy, which is required under section 204(c) of this title. The Office shall solicit, study, and evaluate comments, with respect to the content of such documents and the subject matter thereof, from the same categories of persons and governments listed in subsection (c)(1) of this section but without any geographical limitations; and

(2) prepare a detailed information survey and detailed and comprehensive studies with respect to States outside the region covering the same material required to be surveyed and studied with respect to the region under subsection (c)(2) of this section, including a comprehensive report to be submitted to the Commission, the Association, the Secretary, and the Congress and to be published in the Federal Register.

FINAL SYSTEM PLAN

Sec. 206. (a) Goals.—The final system plan shall be formulated in such a way as to effectuate the following goals:

(1) the creation of a financially self-sustaining rail service system in the region;

(2) the establishment and maintenance of a rail service system adequate to meet the rail transportation needs and service requirements of the region;

(3) the establishment of improved high-speed rail passenger service, as recommended by the Secretary in his report of September 1971, entitled "Recommendations for Northeast Corridor Transportation";

(4) the maximum use of those modes of transportation in the region which require the smallest amount of scarce energy resources and of those modes which can most efficiently transport energy resources, and preservation to the maximum extent practicable of existing railroad trackage in any area in which fossil fuel natural resources are located;

(5) the stimulation of competition in the region in the provision of transportation services;

(6) the achievement in the region of any ambient air quality standard established pursuant to the Clean Air Act, as amended (42 U.S.C. 1857 et seq.);

(7) the movement of passengers and freight in rail transportation in the region in the most efficient manner consistent with safe operation; and

(8) the minimization of job losses and associated increases in unemployment and community benefit costs in areas presently served.

(b) Factors.—The final system plan shall be based upon due consideration of all factors relevant to the realization of the goals set forth in subsection (a) of this section. Such factors include the need for and the cost of rehabilitation and modernization of track, equipment, and other facilities; methods of achieving economies in the cost of rail operations in the region; means of achieving rationalization of rail services and the rail service system in the region; marketing studies; the impact on railroad employees; consumer needs; traffic analysis; financial studies; and any other factors identified by the Office under paragraph (2) of section 205(c) of this Act or in the report of the Secretary required under section 204(a)(1) of this Act.

(c) Designations.—The final system plan shall designate—

(1) those rail properties operated by any railroad in reorganization in the region and any railroad leased, operated, or controlled by any railroad in reorganization in the region which—

(A) shall be operated by the Corporation, and shall provide which rail properties are to be transferred to and acquired by the Corporation in accordance with this Act;

(B) shall be offered for sale to a profitable railroad operating in the region and, if purchased, shall be operated by such railroad and, what additions to or changes in the designation of rail properties to be acquired and operated by the Corporation shall be made if that designated profitable railroad fails to purchase such properties;

(C) shall be purchased or leased from the Corporation by the National Railroad Passenger Corporation or a regional transportation authority for improvement to achieve the goal set forth in subsection (a)(3) of this section;

(D) may be purchased or leased from the Corporation by a State or local or regional transportation authority to meet the needs of commuter and intercity rail passenger service; and

(E) if not otherwise required to be operated by the Corporation or any other railroad, are suitable for use for other public purposes, including highways, other forms of transportation, conservation, energy transmission, education or health care facilities or recreation. In carrying out this paragraph, the Association shall solicit the views and recommendations of the Secretary, the Secretary of the Interior, the Administrator of the Environmental Protection Agency, and other agencies of the Federal Government and of the State and the political subdivisions thereof within the region, and the general public; and

(2) which rail properties of profitable railroads operating in the region may be offered for sale or lease to the Corporation and which rail properties of profitable railroads operating in the region may be offered for sale or lease to other profitable railroads operating in the region subject to paragraphs (3) and (4) of subsection (d) of this section.

(d) Transfers.—All transfers or conveyances pursuant to the final system plan shall be made in accordance with, and subject to, the following principles:

(1) All rail properties to be transferred to the Corporation by a profitable railroad, by trustees of a railroad in reorganization or by any railroad leased, operated, or controlled by a railroad in reorganization in the region shall be transferred in exchange for value in the form of stock and other securities of the Corporation (including obligations of the Association) and the other benefits accruing to such railroad by reason of such transfer.

(2) All rail properties to be conveyed to a profitable railroad operating in the region by trustees of a railroad in reorganization or by any railroad leased, operated, or controlled by a railroad in reorganization in the region shall be conveyed in exchange for compensation from the profitable railroad.

(3) Notwithstanding any other provision of this Act, no acquisition under this Act shall be made by any profitable railroad operating in the region without a determination with respect to each such transaction and all such transactions cumulatively (A) by the Association, upon adoption and release of the preliminary system plan, that such acquisition or acquisitions will not materially impair the profitability of any other profitable railroad or of the Corporation, and (B) by the Commission, which shall be made within 90 days after adoption and release by the Association of the preliminary system plan, that such acquisition or acquisitions will be in full accord and comply with the provisions and standards of part I, section 5 of the Interstate Commerce Act. The determination by the Association shall not be reviewable in any court. The determination by the Commission shall be reviewable only in the special court. Appeal to the special court shall be taken within 10 days after the Commission makes its determination, and the special court shall complete its review and render its decision within 20 days after such appeal is taken. There

shall be no review of the decision of the special court.

(4) Where the final system plan designates specified rail properties of railroads in reorganization in the region, of railroads leased, operated, or controlled by railroads in reorganization, or of profitable railroads operating in the region which may be offered for sale or lease to a profitable railroad or profitable railroads operating in the region or to the Corporation, such designation or authorization shall terminate 60 days after the effective date of the final system plan unless a binding agreement with respect to such properties has been entered into and concluded by that date. The final system plan shall designate what changes or additions shall be made if contemplated binding agreements are not so entered into and concluded.

(5) All properties sold by the Corporation pursuant to sections 206(c)(1)(C) and 701(d) of this Act shall be transferred at a value related to the value received for the transfer to the Corporation of such properties.

(e) Corporation Features.—The final system plan shall set forth—

(1) pro forma earnings for the Corporation, as reasonably projected and considering the additions or changes in the designation of rail properties to be operated by the Corporation which may be made under subsection (d)(4) of this section;

(2) the capital structure of the Corporation, based on the pro forma earnings of the Corporation as set forth, including such debt capitalization as shall be reasonably deemed to conform to the requirements of the public interest with respect to railroad debt securities, including the adequacy of coverage of fixed charges; and

(3) the manner in which employee stock ownership plans shall, to the extent practicable, be utilized for meeting the capitalization requirements of the Corporation, taking into account (A) the relative cost savings compared to conventional methods of corporate finance; (B) the labor cost savings; (C) the potential for minimizing strikes and producing more harmonious relations between labor organizations and railway management; (D) the projected employee dividend incomes; (E) the impact on quality of service and prices to railway users; and (F) the promotion of the objectives of this Act of creating a financially self-sustaining railway system in the region which also meets the service needs of the region and the Nation.

(f) Value.—The final system plan shall designate the value of all rail properties to be transferred under the final system plan and the value of the securities and other benefits to be received for transferring those rail properties to the Corporation in accordance with the final system plan.

(g) Other Provisions.—The final system plan may recommend arrangements among various railroads for joint use or operation of rail properties on a shared ownership cooperative, pooled, or condominium-type basis, subject to such terms and conditions as may be specified in the final system plan. The final system plan shall also make such designations as are determined to be necessary in accordance with the provisions of section 402 or 403 of this Act.

(h) Obligational Authority.—The final system plan shall set forth the amount of obligations of the Association which are necessary to enable it to implement the final system plan.

(i) Terms and Conditions of Securities.—The final system plan may include terms and conditions for any securities to be issued by the Corporation which in the judgment of the Association will minimize any actual or potential debt burden on the Corporation. Such terms and conditions shall not become effective without affirmative approval, with or without modification, by Congress.

ADOPTION OF FINAL SYSTEM PLAN

Sec. 207. (a) Preliminary System Plan.—Within 300 days after the date of enactment of this Act, the Association shall adopt and release a preliminary system plan prepared by it on the basis of reports and other information submitted to it by the Secretary, the Office, the Chairman of the Federal Trade Commission, the Attorney General, and interested persons in accordance with this Act and on the basis of its own investigations, consultations, research, evaluation, and analysis pursuant to this Act. Copies of the preliminary system plan shall be transmitted by the Association to the Secretary, the Office, the Governor and public utility commission of each State in the region, the Congress, each court having jurisdiction over a railroad in reorganization in the region, the special court, interested persons, and a copy shall be published in the Federal Register. The Association shall invite and afford interested persons on opportunity to submit comments on the preliminary system plan to the Association within 60 days after the date of its release. The Secretary, the Office, and the Association are authorized to hold public hearings on the preliminary system plan, in accordance with the provisions of section 553 of title 5, United States Code. In the case of hearings held or comments or recommendations received by the Secretary or the Office on the preliminary system plan, the Secretary and the Director of the Office shall submit to the President of the Association a summary and analysis thereof not later than 60 days after the date of release of such plan.

(b) Approval.—Within 90 days after the adoption and release by the Association of the preliminary system plan pursuant to subsection (a) of this section, each United States district court or other court having jurisdiction over a railroad in reorganization shall decide whether or not such railroad shall be reorganized by means of transferring some of its rail properties to the Corporation pursuant to the provisions of this Act. Because of the strong public interest in the continuance of rail transportation in the region pursuant to a system plan devised under the provision of this Act, each such court shall order that reorganization be proceeded with pursuant to this Act unless it finds (1) that the railroad is reorganizable on an income basis within a reasonable time under section 77 of the Bankruptcy Act (11 U.S.C. 205) and that the public interest would be better served by such a reorganization than by a reorganization under this Act, or (2) that reorganization under this Act is not possible on terms which would be fair and equitable to the estate of the railroad in reorganization. An appeal from an order made under this section may be made only to the special court. Appeal to the special court shall be taken within 10 days following entry of an order pursuant to this subsection, and the special court shall complete its review and render its decision within 20 days after such appeal is taken. There shall be no review of the decision of the special court.

(c) Adoption.—Within 420 days after the date of enactment of this Act, the executive committee of the Association shall prepare and submit a final system plan for the approval of the Board of Directors of the Association. A copy of such submission shall be simultaneously presented to the Commission. The submission shall reflect evaluation of all responses and summaries of responses received, testimony at any public hearings, and the results of additional study and review. Within 30 days thereafter, the Board of Directors of the Association shall by a majority vote of all its members approve a final system plan which meets all of the requirements of section 206 of this title.

REVIEW BY CONGRESS

Sec. 208. (a) General.—The Board of Directors of the Association shall deliver the final system plan adopted by the Association to both Houses of Congress and to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Commerce of the Senate. The final system plan shall be deemed approved at the end of the first period of 60 calendar days of continuous session of Congress after such date of transmittal unless either the House of Representatives or the Senate passes a resolution during such period stating that it does not favor the final system plan: *Provided*, That the Association's obligational authority as set forth in the final system plan adopted by the Association and submitted to Congress shall not become effective until approved (as submitted or as modified) by joint resolution of Congress.

(b) Revised Plan.—If either the House or the Senate passes a resolution of disapproval under subsection (a) of this section, the Association, with the cooperation and assistance of the Secretary and the Office, shall prepare, determine, and adopt a revised final system plan. Each such revised plan shall be submitted to Congress for review pursuant to subsection (a) of this section.

(c) Computation.—For purposes of this section—

(1) continuity of session of Congress is broken only by an adjournment sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 60-day period.

JUDICIAL REVIEW

Sec. 209. (a) General.—Notwithstanding any other provision of law, the final system plan which is adopted by the Association and which becomes effective after review by the Congress is not subject to review by any court except in accordance with this section. After the final system plan becomes effective under section 208 of this Act, it may be reviewed with respect to matters concerning the value of the rail properties to be conveyed under the plan and the value of the consideration to be received for such properties.

(b) Special Court.—Within 180 days after the date of enactment of this Act, the Association shall make application to the judicial panel on multi-district litigation authorized by section 1407 of title 28, United States Code, for the consolidation in a single, three-judge district court of the United States of all judicial proceedings with respect to the final system plan. Within 30 days after such application is received, the panel shall make the consolidation in a district court (cited herein as the "special court") which the panel determines to be convenient to the parties and the one most likely to be able to conduct any proceedings under this section with the least delay and the greatest possible fairness and ability. Such proceedings shall be conducted by the special court which shall be composed of three Federal judges who shall be selected by the panel, except that none of the judges selected may be a judge assigned to a proceeding involving any railroad in reorganization in the region under section 77 of the Bankruptcy Act (11 U.S.C. 205). The special court is authorized to exercise the powers of a district judge in any judicial district with respect to such proceedings and such powers shall include those of a reorganization court. The special court shall have the power to convey rail properties of railroads owned, operated, or controlled by a railroad in reorganization in the region. The panel may issue rules for the conduct of its functions under this subsection. No determination by the panel under this subsection may be reviewed in any court.

(c) Delivery of Plan to Special Court.—Within 90 days after its effective date, the Association shall deliver a certified copy of the final system plan which has been adopted by the Association and become effective after review by the Congress in accordance with this Act to the special court and shall certify to the special court—

(1) which rail properties of the respective railroads in reorganization in the region and of any railroad leased, operated, or controlled by such railroads in reorganization are to be transferred to the Corporation in accordance with the final system plan;

(2) which rail properties of the respective railroads in reorganization in the region or railroads leased, operated, or controlled by such railroads in reorganization are to be conveyed to profitable railroads, in accordance with the final system plan;

(3) which rail properties of profitable railroads in the region may be offered for sale or lease to the Corporation and which rail properties of profitable railroads in the region may be offered for sale or lease to other profitable railroads;

(4) the amount, terms, and value of the securities of the Corporation (including any obligations of the Association) to be exchanged for those rail properties to be transferred to the Corporation pursuant to the final system plan and as indicated in paragraph (1) of this subsection; and

(5) that the transfer of rail properties in exchange for securities of the Corporation (including any obligations of the Association) and other benefits is fair and equitable and in the public interest in accordance with the standards applicable to the approval of a plan of reorganization or a step in such a plan under section 77 of the Bankruptcy Act (11 U.S.C. 205).

(d) Bankruptcy Courts.—Within 90 days after its effective date, the Association shall deliver a certified copy of the final system plan which has been adopted by the Association and become effective after review by the Congress in accordance with this Act to each district court of the United States or any other court having jurisdiction over a railroad in reorganization in the region and shall certify to each such court—

(1) which rail properties of that railroad in reorganization are to be transferred to the Corporation under the final system plan; and

(2) which rail properties of that railroad in reorganization, if any, are to be conveyed to profitable railroads operating in the region, under the final system plan.

OBLIGATIONS OF THE ASSOCIATION

Sec. 210. (a) General.—To carry out the provisions of this title and of title III of this Act, the Association is authorized to issue bonds, debentures, trust certificates, securities, or other obligations (herein cited as "obligations") in accordance with this section. Such obligations shall have such maturities and bear such rate or rates of interest as are determined by the Association with the approval of the Secretary of the Treasury. Such obligations shall be redeemable at the option of the Association prior to maturity in the manner stipulated in each such obligation, and may be purchased by the Association in the open market at a price which is reasonable.

(b) Maximum Obligation Authority.—The aggregate amount of obligations of the Association issued under this section which may be outstanding at any one time shall not exceed the obligational authority affirmatively approved by joint resolution of the Congress.

(c) Guarantees.—The Secretary shall guarantee a payment of principal and interest on all obligations issued by the Association in accordance with this Act and which the Association requests be guaranteed.

(d) Validity.—No obligation issued by the Association under this section shall be terminated, canceled, or otherwise revoked, except in accordance with lawful terms and conditions prescribed by the Association. Such an obligation shall be conclusive evidence that it is in compliance with this section, has been approved, and is legal as to principal, interest, and other terms. An obligation of the Association shall be valid and incontestable in the hands of a holder, except as to fraud, duress, mutual mistake of fact, or material misrepresentation by or involving such holder.

(e) The Secretary of the Treasury—If at any time the moneys available to the Secretary are insufficient to enable him to discharge his responsibilities under subsection (c) of this section, he shall issue notes or other obligations to the Secretary of the Treasury in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Such obligations shall bear interest at a rate to be determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of such obligations. The Secretary of the Treasury is authorized and directed to purchase any such obligations and for such purpose is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended. The purposes for which securities may be issued under such Act are extended to include any purchase of notes or other obligations issued under this subsection. At any time, the Secretary of the Treasury may sell any such obligations, and all sales, purchases, and redemptions of such obligations by the Secretary of the Treasury shall be treated as public debt transactions of the United States.

(f) Authorization for Appropriations.—There are hereby authorized to be appropriated to the Secretary such amounts as are necessary to discharge the obligations of the United States arising under this section.

(g) Lawful Investments.—All obligations issued by the Association shall be lawful investments and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority and control of the United States or any officer or officers thereof. All such obligations issued pursuant to this section shall be exempt securities within the meaning of laws administered by the Securities and Exchange Commission.

LOANS

Sec. 211. (a) General.—The Association is authorized, in accordance with the provisions of this section and such rules and regulations as it shall prescribe, to make loans to the Corporation, the National Rail Passenger Corporation, a regional transportation authority, and other railroads (including a railroad in reorganization which has been found to be reorganizable under section 77 of the Bankruptcy Act pursuant to section 207(b) of this title) in the region, for purposes of assisting in the implementation of the final system plan or pursuant to section 403 of this Act, and to railroads outside the region which are threatened with insolvency in the absence of such loans. No such loan shall be made by the Association to a railroad unless such loans shall, where applicable, be treated as an expense of administration. The rights referred to in the last sentence of section 77(j) of the Bankruptcy Act (11 U.S.C. 205(j)) shall in no way be affected by this Act. In making loans to profitable railroads the Association shall consider whether the applicant has an employee stock ownership plan and shall give special consideration to profitable railroads who have such a plan.

(b) Applications.—Each application for such a loan shall be made in writing to the Association in such form and with such content and other submissions as the Association shall prescribe to protect reasonably the interests of the United States. The Association shall publish a notice of the receipt of each application in the Federal Register and shall afford interested persons an opportunity to comment thereon.

(c) Terms and Conditions.—Each loan shall be extended in such form, under such terms and conditions, and pursuant to such regulations as the Association deems appropriate. Such loan shall bear interest at a rate not less than the greater of a rate determined by the Secretary of the Treasury taking into consideration (1) the prime rate as determined by the Secretary of the Treasury, or (2) the current average yield on outstanding marketable obligations of the Association with remaining periods of maturity comparable to the average maturities of such loans, plus such additional charge, if any, toward covering costs of the Association as the Association may determine to be consistent with the purposes of this Act.

(d) Modifications.—The Association is authorized to approve any modification of any provision of a loan under this section, including the rate of interest, time of payment of interest or principal, security, or any other term or condition, upon a finding by the Association that such modification is equitable and necessary or appropriate to achieve the policy declared in subsection (f) of this section.

(e) Prerequisites.—The Association shall make a finding in writing, before making a loan to any applicant under this section, that—

(1) the loan is necessary to carry out the final system plan or to prevent insolvency;

(2) it is satisfied that the business affairs of the applicant will be conducted in a reasonable and prudent manner; and

(3) the applicant has offered such security as the Association deems necessary to protect reasonably the interests of the United States.

(f) Policy.—It is the intent of Congress that loans made under this section shall be made on terms and conditions which furnish reasonable assurance that the Coropration or the railroads to which such loans are granted will be able to repay them within the time fixed and that the goals of the final system plan are reasonably likely to be achieved.

RECORDS, AUDIT, AND EXAMINATION

Sec. 212. (a) Records.—Each recipient of financial assistance under this title, whether in the form of loans, obligations, or other arrangements, shall keep such records as the Association or the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance and such other records as will facilitate an effective audit.

(b) Audit and Examination.—The Association, the Secretary, and the Comptroller General of the United States, or any of their duly authorized representatives shall, until the expiration of 3 years after the implementation of the final system plan, have access for the purpose of audit and examination to any books, documents, papers, and records of such receipts which in the opinion of the Association, the Secretary, or the Comptroller General may be related or pertinent to the loans, obligations or other arrangements referred to in subsection (a) of this section. The Association or any of its duly authorized representatives shall, until any financial assistance received under this title has been repaid to the Association, have access to any such materials which concern any matter that may bear upon—

(1) the ability of the recipient of such financial assistance to make repayment within the time fixed therefor;

(2) the effectiveness with which the proceeds of such assistance is used; and

(3) the implementation of the final system plan and the realization of the declaration of policy of this Act.

EMERGENCY ASSISTANCE PENDING IMPLEMENTATION

SEC. 213. (a) EMERGENCY ASSISTANCE.—The Secretary is authorized, pending the implementation of the final system plan, to pay to the trustees of railroads in reorganization such sums as are necessary for the continued provision of essential transportation services by such railroads. Such payments shall be made by the Secretary upon such reasonable terms and conditions as the Secretary establishes, except that recipients must agree to maintain and provide service at a level no less than that in effect on September 30, 1973.

(b) AUTHORIZATION FOR APPROPRIATIONS.—There is authorized to be appropriated to the Secretary for carrying out this section such sums as are necessary, not to exceed $85,000,000, to remain available until expended.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 214. (a) SECRETARY.—There is authorized to be appropriated to the Secretary for purposes of preparing the reports and exercising other functions to be performed by him under this Act such sums as are necessary, not to exceed $15,350,000, to remain available until expended.

(b) OFFICE.—There are authorized to be appropriated to the Commission for the use of the Office in carrying out its functions under this Act such sums as are necessary, not to exceed $12,500,000, to remain available until expended. The budget for the Office shall be submitted by the Commission directly to the Congress and shall not be subject to review of any kind by any other agency or official of the United States. Moneys appropriated for the Office shall not be withheld by any agency or official of the United States or used by the Commission for any purpose other than the use of the Office. No part of any other moneys appropriated to the Commission shall be withheld by any other agency or official of the United States to offset any moneys appropriated pursuant to this subsection.

(c) ASSOCIATION.—There is authorized to be appropriated to the Association for purposes of carrying out its administrative expenses under this title and title III of this Act such sums as are necessary, not to exceed $26,000,000, to remain available until expended.

(d) CONSOLIDATION COMMISSION.—There is authorized to be appropriated such amount, not to exceed $500,000, as is necessary to carry out the provisions of this Act.

MAINTENANCE AND IMPROVEMENT OF PLANT

SEC. 215. Prior to the date upon which rail properties are conveyed to the Corporation under this Act, the Secretary, with the approval of the Association, is authorized to enter into agreements with railroads in reorganization in the region for the acquisition, maintenance, and improvement of railroad facilities and equipment necessary to implement any final system plan. Notwithstanding section 210(b) of this Act, the Association shall issue obligations under section 210(a) of this Act in an amount sufficient to finance such agreements and may require the Corporation to assume any such obligations. However, the Association may not issue obligations under this section in an aggregate amount in excess of $150,000,000. The Secretary may not enter into any agreements under this section until he issues regulations setting forth procedures and guidelines for the administration of this section. The Corporation shall not be required under title III of this Act to compensate any railroad in reorganization for that portion of the value of rail properties transferred to it under this Act which is attributable to the acquisition, maintenance, or improvement of such properties under this section.

TITLE III—UNITED RAIL CORPORATION

FORMATION AND STRUCTURE

SEC. 301. (a) ESTABLISHMENT.—There shall be established within 300 days after the date of enactment of this Act, in accordance with the provisions of this section, a corporation to be known as the United Rail Corporation.

(b) STATUS.—The Corporation shall be a for-profit corporation established under the laws of a State and shall not be an agency or instrumentality of the Federal Government. The Corporation shall be deemed a common carrier by railroad under section 1(3) of the Interstate Commerce Act (49 U.S.C. 1(3)), shall be subject to the provisions of this Act and, to the extent not inconsistent with such Acts, shall be subject to applicable Sate law. The principal office of the Corporation shall be located in Philadelphia in the Commonwealth of Pennsylvania.

(c) INCORPORATORS.—The members of the executive committee of the Association shall be the incorporators of the Corporation and shall take whatever steps are necessary to establish the Corporation, including the filing of articles of incorporation. The incorporators shall also serve as the board of directors of the Corporation until the stock and other securities of the Corporation are distributed to the estates of the railroads in accordance with section 303(c) of this Act and shall adopt the initial bylaws of the Corporation.

(d) BOARD OF DIRECTORS.—The Board of Directors of the Corporation shall consist of 15 individuals selected in accordance with the articles and bylaws of the Corporation: *Provided,* That so long as a substantial amount, as determined by the Secretary of the Treasury, of the outstanding indebtedness of the Corporation consists of obligations of the Association or other debts owing to or guaranteed by the United States, three of the members of such board shall be the Secretary, the Chairman and the President of the Association and five of the members of such board shall be individuals appointed as such by the President, by and with the advice and consent of the Senate.

(e) COMPENSATION.—So long as a substantial amount, as determined by the Secretary of the Treasury, of the outstanding indebtedness of the Corporation consists of obligations of the Association or other debts owing to or guaranteed by the United States, no director or officer of the Corporation may receive compensation at a rate in excess of that prescribed for level I of the Executive Schedule under section 5312 of title 5, United States Code.

(f) INITIAL CAPITALIZATION.—For purposes of initial capitalization the Corporation is authorized to issue sufficient stock and other securities to carry out the final system plan.

(g) AUDIT AND EXPENDITURES.—So long as a substantial amount, as determined by the Secretary of the Treasury, of the outstanding indebtedness of the Corporation consists of obligations of the Association or other debts owing to or guaranteed by the United States, the Corporation shall be subject to the provisions of the Government Corporation Control Act for the purposes of a Federal Government audit. Section 201 of the Government Corporation Control Act (31 U.S.C. 856) is amended by inserting at the end thereof the following: ", (9) the United Rail Corporation to the extent provided in the Rail Services Act of 1973.".

(h) ANNUAL REPORT.—The Corporation shall transmit to the Congress and the President, not later than 90 days after the end of each fiscal year, a comprehensive and detailed report on all activities and accomplishments of the Corporation during the preceding fiscal year.

GENERAL POWERS OF THE CORPORATION

SEC. 302. In addition to the powers conferred upon it under the laws of the State or States in which it is incorporated and the powers of a railroad in any State in which it operates, the Corporation shall have all powers vested in it under this Act including the authority to take all steps necessary to acquire rail properties in accordance with the final system plan; to operate, rehabilitate, and modernize such properties; and to maintain adequate and efficient rail services in the region: *Provided,* That the Corporation shall not engage in nontransportation related activities, so long as a substantial amount, as determined by the Secretary of the Treasury, of the outstanding indebtedness of the Corporation consists of obligations of the Association or other debts owing to or guaranteed by the United States.

VALUATION AND CONVEYANCE OF RAIL PROPERTIES

SEC. 303. (a) DEPOSIT WITH COURT.—Within 10 days after delivery of a certified copy of a final system plan pursuant to section 209(c)—

(1) the Corporation, in exchange for the rail properties of the railroads in reorganization in the region and of railroads leased, operated, or controlled by railroads in reorganization in the region to be transferred to the Corporation, shall deposit with the special court all of the stock and other securities of the Corporation and obligation of the Association designated in the final system plan to be exchanged for such rail properties;

(2) each profitable railroad operating in the region purchasing rail properties from a railroad in reoganization in the region as provided in the final system plan shall deposit with the special court the compensation to be paid for such rail properties.

(b) CONVEYANCE OF RAIL PROPERTIES.—(1) The special court shall, within 10 days after deposit under subsection (a) of this section of the securities of the Corporation, obligations of the Association, and compensation from the profitable railroads operating in the region, order the trustee of trustees of each railroad in reorganization in the region to convey forthwith to the Corporation and the respective profitable railroads operating in the region, all right, title, and interest in the rail properties of such railroad in reorganization and shall itself convey all right, title, and interest in the rail properties of any railroad leased, operated, or controlled by such railroad in reorganization that are to be conveyed to them under the final system plan as certified to such court under section 209(d) of this Act.

(2) All rail properties conveyed to the Corporation and the respective profitable railroads operating in the region under this section shall be conveyed free and clear of any liens or encumbrances, but subject to such leases and agreements as shall have previously burdened such properties or bound the owner or operator thereof in pursuance of an arrangement with any State, regional, or local transportation authority under which financial support from such State, regional, or local transportation authority was being provided at the time of enactment of this Act for the continuance of rail passenger service or any lien or encumbrance of no greater than 5 years' duration which is necessary for the contractual performance by any person of duties related to public health or sanitation. Such conveyances shall not be restrained or enjoined by any court.

(3) Notwithstanding anything to the contrary contained in this Act, if railroad rolling stock is included in the rail properties to be conveyed, such conveyance may only be effected if the profitable railroad operating in the region or the Corporation to whom the conveyance is made assumes all of the obligations under any conditional sale agreement, equipment trust agreement, or lease in respect to such rolling stock and such conveyance is made subject thereto; and the provisions of this Act shall not affect the title and interests of any lessor, equipment trust trustee, or conditional sale vendee or assignee under such conditional sale agreement,

equipment trust agreement or lessor under section 77(j) of the Bankruptcy Act (11 U.S.C. 205(j)).

(c) Findings and Other Distribution.—(1) After the rail properties of railroads in reorganization in the region have been conveyed to the Corporation and profitable railroads operating in the region under subsection (b) of this section, the special court, giving due consideration to the findings contained in the final system plan, shall decide whether—

(A) the transfers of rail properties of each railroad in reorganization to the Corporation in exchange for the securities and the other benefits accruing to such railroad in reorganization as a result of such exchange, as provided in the final system plan and this Act, and

(B) the conveyance of rail properties of each railroad in reorganization to a profitable railroad operating in the region in accordance with the final system plan.

are fair and equitable to the estate of each railroad in reorganization in accordance with the standard of fairness and equity applicable to the approval of a plan of reorganization or a step in such a plan under section 77 of the Bankruptcy Act (11 U.S.C. 205).

(2) If the special court finds that the terms of one or more exchanges for securities and other benefits are not fair and equitable to an estate of a railroad in reorganization which has transferred rail properties pursuant to the final system plan, it shall—

(A) enter a judgment reallocating the common stock of the Corporation in a fair and equitable manner if it has not been fairly allocated among the railroads in reorganization transferring rail properties to the Corporation, and

(B) if the lack of fairness and equity cannot be completely cured by a reallocation of the Corporation's common stock, order the Corporation to provide for the transfer to the railroad in reorganization securities of the Corporation or obligations of the Association as designated in the final system plan in such nature and amount as would make the exchange or exchanges fair and equitable to the estate of the railroad in reorganization.

(3) If the special court finds that the terms of one or more conveyances of rail properties of a railroad in reorganization to a profitable railroad operating in the region in accordance with the final system plan is not fair and equitable to an estate of a railroad in reorganization, it shall enter a judgment against such profitable railroad.

(4) Upon making the findings referred to in this subsection, the special court shall order distribution of the securities, obligations, and compensation deposited with it under subsection (b) of this section to the trustee or trustees of each railroad in reorganization in the region who conveyed right, title, and interest in rail properties to the Corporation and the respective profitable railroads under such subsection. Any excess securities, obligations, or compensation shall be returned to the Corporation or any applicable profitable railroad.

(d) Appeal.—A finding or determination entered pursuant to subsection (c) of this section may be appealed directly to the Supreme Court of the United States in the same manner that an injunction order may be appealed under section 1253 of title 28, United States Code: Provided, That such appeal is exclusive and shall be filed in the Supreme Court not more than 5 days after such finding or determination is entered by the special court. The Supreme Court shall grant the highest priority to the determination of any such appeals.

TERMINATION OF RAIL SERVICE

Sec. 304. (a) Discontinuance.—Except as provided in subsections (c) and (f) of this section, (1) rail service on rail properties of a railroad in reorganization in the region which conveys to the Corporation or to profitable railroads operating in the region all or substantially all of its rail properties designated for such conveyance in the final system plan, and (2) rail service on rail properties of a profitable railroad in the region which transfers substantially all of its rail properties to the Corporation pursuant to the final system plan may be discontinued to the extent such discontinuance is not precluded by the terms of the leases and agreements referred to in section 303(b)(2) if—

(A) the final system plan does not designate rail service to be operated on such properties; and

(B) not sooner than 30 days following the effective date of the final system plan the trustee or trustees of the applicable railroad in reorganization give notice in writing of intent to discontinue such rail service on a date certain which is not less than 90 days after the date of such notice; and

(C) the notice required by paragraph (B) of this subsection is sent by certified mail to the Governor and State transportation agencies of each State and to the government of each political subdivision of each State in which such rail properties are located and to each shipper who has used such rail service during the previous 12 months.

(b) Abandonment.—(1) Rail properties over which rail service has been discontinued under subsection (a) of this section may not be abandoned sooner than 180 days after the effective date of such discontinuance except as provided in subsections (c) and (f) of this section. Thereafter, except as provided in subsection (c) of this section, such rail properties may be abandoned upon 30 days' notice in writing to all those required to receive notice under paragraph (2)(c) of subsection (a) of this section.

(2) Any rail properties designated in the final system plan as rail properties which are suitable for use for other public purposes may not be sold, leased, exchanged, or otherwise disposed of for a 270-day period beginning on the date of notice of proposed abandonment under this subsection unless they are sold, leased, exchanged, or otherwise disposed of for those designated public purposes.

(c) Relationship With Other Laws.—Rail service may be discontinued and rail properties may be abandoned under subsections (a) and (b) of this section notwithstanding any provision of the Interstate Commerce Act (49 U.S.C. 1 et seq.) or the constitution or law of any State or the decision of any court or administrative agency of the United States or of any State. No rail service may be discontinued and no rail properties may be abandoned pursuant to this section—

(1) after 2 years from the effective date of the final system plan or more than 2 years after the final payment of any rail service continuation subsidy is received, whichever is later; or

(2) if a shipper, a State, the United States, a local or regional transportation authority, or any responsible person offers—

(A) a rail service continuation subsidy which covers the difference between the revenue attributable to such rail properties and the avoidable costs of providing service on such rail properties plus a reasonable return on the value of such rail properties,

(B) a rail service continuation subsidy which is payable pursuant to a lease or agreement with a State, regional, or local transportation authority under which financial support was being provided at the time of the enactment of this Act for the continuance of rail passenger service, or

(C) to purchase, pursuant to subsection (d) of this section, such rail properties or related facilities for their minimum constitutional value in order to operate rail service over such properties.

If a rail service continuation subsidy is offered, the government or person offering the subsidy shall enter into an operating agreement with the Corporation or any responsible person under which the Corporation or such person will operate rail service over such rail properties and receive the difference between the revenue attributable to such properties and the avoidable costs of providing service on such rail properties and the trustee of any railroad in reorganization shall receive a reasonable rate of return on the value of any rail properties for which a rail service is operated under such subsidy. Within 180 days after the date of enactment of this Act, the Commission shall determine and publish standards for determining the "revenue attributable to the rail properties", the "avoidable costs of providing service" and "a reasonable return on the value" as those phrases are used herein, after a proceeding in accordance with the provisions of section 553 of title 5, United States Code.

(d) Purchase.—If an offer to purchase is made under subsection (c)(2)(B) of this section, such offer shall be accompanied by an offer of a rail service continuation subsidy. Such subsidy shall continue until the purchase transaction is completed, unless a railroad assumes operations over such rail properties on its own account pursuant to an order or authorization of the Commission. Whenever a railroad in reorganization in the region or a profitable railroad gives notice of intent to discontinue service pursuant to subsection (a) of this section, such railroad shall, upon the request of anyone apparently qualified to make a purchase offer promptly make available its most recent reports on the physical condition of such property together with such traffic and revenue data as would be required under subpart B of part 1121 of chapter X of title 49 of the Code of Federal Regulations and such other data necessary to ascertain the avoidable costs of providing service over such rail properties.

(e) Abandonment by Corporation.—After the rail system to be operated by the Corporation under the final system plan has been in operation for 2 years, the Commission may authorize the Corporation to abandon any rail properties as to which it determines that rail service over such properties is not required by the public convenience and necessity. The Commission may, at any time after the effective date of the final system plan, authorize additional rail service in the region or authorize the abandonment of rail properties which are not being operated by the Corporation or by any other person. Commission determinations under this subsection shall be made pursuant to applicable provisions of the Interstate Commerce Act (49 U.S.C. 1).

(f) Interim Abandonment.—After the date of enactment of this Act, no railroad in reorganization may discontinue or abandon any line of railroad other than in accordance with the provisions of this Act, unless it is authorized to do so by the Association and unless no affected State or local or regional transportation authority opposes such action, notwithstanding any provision of any other Federal law, the constitution or law of any State, or decision or order of, or the pendency of any proceeding before any Federal or State court, agency, or authority.

(g) Report on Abandonments: Partial Moratorium.—The Commission shall submit to the Congress within 90 days after the date of enactment of this Act a comprehensive report on the anticipated effect, including the environmental impact, of abandonments in States outside the region. No carrier subject to part I of the Interstate Commerce Act shall abandon, during a period of 730 days after the date of enactment of this Act, all or any portion of a line of railroad (or operation thereof outside the region), the abandonment of which is opposed by any—

(a) passenger, consignor, or consignee served thereby during the 18 months preceding the date of filing of the abandonment application; or

(b) State, county, or municipality served by that line.

TITLE IV—LOCAL RAIL SERVICES

FINDINGS AND PURPOSES

Sec. 401. (a) Findings.—The Congress finds and declares that—

(1) The Nation is facing an energy shortage of acute proportions in the next decade.

(2) Railroads are the most energy-efficient mode of transportation for the movement of passengers and freight and cause the least amount of pollution.

(3) Abandonment, termination, or substantial reduction of rail service in any locality will adversely affect the Nation's long-term and immediate goals with respect to energy conservation and environmental protection.

(4) Under certain circumstances the cost to the taxpayers of rail service continuation subsidies would be less than the cost of abandonment of rail service in terms of lost jobs, energy shortages, and degradation of the environment.

(b) Purposes.—Therefore, it is declared to be the purpose of the Congress to authorize the Secretary to maintain a program of rail service continuation subsidies.

RAIL SERVICE CONTINUATION SUBSIDIES

Sec. 402. (a) General.—The Secretary shall provide financial assistance to a State in accordance with this section for the purpose of rail service continuation subsidies. For purposes of subsection (b)(1) of this section the Federal share of a rail service continuation subsidy shall be 75 per centum and the State share shall be 25 per centum. For purposes of subsection (b)(2) of this section a State receiviing discretionary assistance shall be required to contribute at least 25 per centum of the cost of the program for which the Federal assistance is provided.

(b) Entitlement.—(1) Each State is entitled to an amount for rail service continuation subsidies from 75 per centum of the sums appropriated each fiscal year for such purpose in the ratio which the total number of miles of rail properties in such State which have qualified under this Act for rail service continuation subsidies bears to the total number of miles of rail properties in all the States which have qualified under this Act for rail service continuation subsidies, as determined on the basis of the lists of determinations transmitted to the Secretary by the Office pursuant to section 205(f) of this Act. The entitlement of any State which is withheld in accordance with this section and any sums not used or committed by a State during the preceding fiscal year shall be reallocated to other States in proportion to the original entitlement to such States. Any amount reallocated to a State during a year shall be deemed part of its entitlement for such year.

(2) The Secretary is authorized to provide discretionary financial assistance to a State, local, or regional transportation authority for the purpose of continuing local rail services, including assistance for the purposes enumerated in section 403 of this title.

(c) Eligibility.—A State is eligible to receive rail service continuation subsidies pursuant to subsection (b) of this section in any fiscal year if—

(1) the State has established a State plan for rail transportation and local rail services which is administered or coordinated by a designated State agency;

(2) the State agency has authority and administrative jurisdiction to develop, promote, supervise, and support safe, adequate, and efficient rail services; employs or will employ, directly or indirectly, sufficient trained and qualified personnel; and maintains or will maintain adequate programs of investigation, research, promotion, and development with provision for public participation;

(3) the State provides satisfactory assurance that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this title to the State; and

(4) the State complies with the regulations of the Secretary issued under this section.

(d) Regulations.—Within 90 days after the date of enactment of this Act, the Secretary shall issue, and may from time to time amend, regulations with respect to basic and discretionary rail service continuation subsidies.

(e) Payment.—The Secretary shall pay to each State an amount equal to its entitlement under subsection (b)(1) of this section. Any amounts which are not expended or committed by a State pursuant to subsection (b) during the ensuing fiscal year shall be returned by such State to the Secretary, who may use such amounts in accordance with subsection (b)(2) of this section.

(f) Record, Audit, and Examination.—(1) Each recipient of financial assistance under this section, whether in the form of grants, subgrants contracts, subcontracts, or other arrangements, shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance was given or used, the amount of that portion of the cost of the project supplied by other sources, and such other records as will facilitate an effective audit.

(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives shall, until the expiration of 3 years after completion of the project or undertaking referred to in paragraph (1) of this subsection, have access for the purpose of audit and examination to any books, documents, papers, and records of such receipts which in the opinion of the Secretary or the Comptroller General may be related or pertinent to the grants, contracts, or other arrangements referred to in such paragraph.

(g) Withholding.—If the Secretary, after reasonable notice and opportunity for a hearing to any State agency, finds that a State is not eligible for rail service continuation subsidies under subsections (c) and (d) of this section, payment to such State shall not be made until there is no longer any failure to comply.

(h) Authorization for Appropriations.—(1) There is authorized to be appropriated to carry out the purposes of this section such sums as are necessary, not to exceed $200,000,000 for each of the first two fiscal years including and following the effective date of the final system plan. Such sums as are appropriated shall remain available until expended.

(2) Three-fourths of the sums appropriated pursuant to the authorization of this subsection shall be reserved for allocation to States under subsection (b)(1) of this section. One-fourth of the sums appropriated pursuant to the authorization of this subsection shall be reserved for distribution by the Secretary under subsection (b)(2) of this section.

(i) Definition.—As used in this section, "rail service continuation subsidies" means subsidies calculated in accordance with the provisions of section 304(c) of this Act to cover costs of operating adequate and efficient rail service, including where necessary improvement and maintenance of tracks and related facilities.

ACQUISITION AND MODERNIZATION LOANS

Sec. 403. (a) Acquisition.—If a State which is eligible for assistance under section 402(c) of this title or a local or regional transportation authority has made an offer to purchase any rail properties of a railroad pursuant to section 304(c) of this Act or other lawful authority, the Secretary is authorized to direct the Association to provide loans to such State or local or regional transportation authority not to exceed 75 per centum of the purchase price.

(b) Modernization.—In addition to such acquisition loans, the Secretary is authorized to direct the Association to provide additional assistance not to exceed 75 per centum of the cost of restoring or repairing such rail properties to such condition as will enable safe and efficient rail transportation operations over such rail properties. Such financial assistance may be in the form of a loan or the guarantee of a loan. The Association shall provide such financial assistance as the Secretary may direct under this section and shall adopt regulations describing its procedures for such assistance. With the approval of the Secretary, a State may expend sums received by it under section 402 of this title for acquisition and modernization pursuant to this section.

TITLE V—EQUIPMENT IMPROVEMENT

FORMAL PROVISIONS

Sec. 501. (a) Short Title.—This title may be cited as the "Rolling Stock Utilization and Financing Act of 1973".

(b) Findings.—The Congress finds and declares that—

(1) There is at present a shortage of general service railroad freight cars available to producers of goods and manufacturers of products.

(2) This shortage results both from an inadequate number of such cars and from their underutilization.

(3) This shortage of available general service railroad freight cars has caused—

(A) losses to producers of goods and manufacturers of products which have resulted in higher prices to consumers of goods and products;

(B) losses to railroads of revenue, thereby threatening their financial condition.

(c) Purposes.—The Congress hereby declares that the purposes of this title are—

(1) to improve the utilization and distribution of rolling stock to meet the needs of commerce, users, shippers, the national defense, and the consuming public;

(2) to assist railroads in acquiring additional rolling stock and equipment or facilities to provide expeditious service to meet the increasing demands of the Nation's economy; and

(3) to assist in achieving full employment by assuring adequate equipment necessary to transport the products of American industry.

(d) Definitions.—As used in this title—

(1) "Authority" means the Railroad Equipment Authority authorized under section 510 of this title.

(2) "Board" means the Obligation Guarantee Board established under this title.

(3) "Car-pooling company" means a company that furnishes rolling stock to three or more railroads on a shared ownership or pooled basis through user or lease arrangements.

(4) "Directors" means the Board of Directors of the Authority.

(5) "Equipment or facilities" includes data processing and other computer technology;

machines and systems for loading and unloading rolling stock; yards and terminals for originating, modifying, or terminating the movement of rolling stock; and other equipment or facilities, including ferries and related shoreside facilities designed primarily for the transportation of rolling stock by water, which are necessary to improve the utilization of rolling stock or improve the movement of goods and products by rail or express.

(6) "Equipment obligation" means a bond, note, conditional sale agreement, equipment trust certificate, lease obligation, security agreement, or other obligation issued or granted to finance, or refinance rolling stock or equipment or facilities.

(7) "Fund" means the Obligation Guarantee Fund.

(8) "Holder" means, unless otherwise provided, the holder of an equipment obligation. If a bank or trust company is acting as agent or trustee for the holder of the equipment obligation, such bank or trust company shall be regarded as the holder.

(9) "Lease" means a contractual arrangement under which the legal owner furnishes rolling stock or equipment or facilities to a railroad or a car pooling company and such ralroad or company receives the benefits, through reduced rentals, of any tax benefits available.

(10) "Lease obligation" means all of the lessee's payment obligations under a lease including rentals, termination payments, and tax indemnification payments.

(11) "Obligor" means the debtor under an equipment obligation. The term includes the original obligor and any successor or assignee of such obligor who is approved by the Board.

(12) "Principal" when used with reference to a lease obligation means all of the payment obligations of the lessee under a lease, including rentals, termination payments, and tax indemnification payments, but does not mean interest.

(13) "Railroad" means a common carrier by railroad or express, as defined in section 1(3) of the Interstate Commerce Act (49 U.S.C. 1(3)), and includes, where the Board makes an appropriate finding, a railroad controlled by another railroad within the meaning of section 1(3) of the Interstate Commerce Act (49 U.S.C. 1(3)(b)). The term does not include the Authority.

(14) "Rolling stock" includes any type of new or rebuilt standard gauge locomotive, caboose, refrigerator car, general service railroad freight car, or express van the use of which is not limited to any specialized purpose by particular equipment, design, or other features. General service railroad freight car includes a boxcar, gondola, open-top or covered hopper car, and flatcar. The Board may designate other types of cars as rolling stock upon a written finding, with reasons therefor, that such designation is consistent with the purposes of this title.

OBLIGATION GUARANTEE BOARD

SEC. 502. (a) BOARD.—There shall be established in the Department of Transportation an independent agency to be known as the Obligation Guarantee Board. The Board shall be composed of 6 members and a chairman. Two of the members shall be the Secretary of Transportation and the Secretary of the Treasury, or their duly authorized representatives, who shall serve ex officio with the same powers as other members of the Board. The President shall, within 90 days of the enactment of this Act, appoint the other members and the chairman of the Board, by and with the advice and consent of the Senate, on the following basis—

(1) three to be selected from lists of qualified individuals recommended by shippers and organizations representative of significant shipping interests including small business users of railroad transportation services;

(2) one to be selected from lists of qualified individuals recommended by consumer organizations, community organizations, and recognized consumer leaders;

(3) one to be selected from lists of qualified individuals recommended by the national organization of the State commissions, referred to in sections 202(b) and 205(f) of the Interstate Commerce Act (49 U.S.C. 202 (b), 205(f)), who shall be a member of a State agency authorized by the law of any State to set rates for transportation by railroad.

As used in this subsection, a list of qualified individuals shall consist of not less than three individuals.

(b) COMPENSATION.—A member of the Board who is not otherwise an employee of the Federal Government may receive $150 per diem when engaged in the actual performance of duties vested in the Board plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties.

(c) TERMS OF OFFICE.—The terms of office of the members first taking office (other than those of the two members who shall serve ex officio) shall expire as designated by the President at the time of nomination, three at the end of the third year, and two at the end of the sixth year. The member appointed by the President, by and with the advice and consent of the Senate, to be chairman of the Board shall serve as chairman until his term of office as a member expires and a successor is duly apopinted. Successors to members of the Board shall be appointed in the same manner as the original members and shall have a term of office expiring 6 years from the date of expiration of the term for which their predecessors were appointed. Any member apopinted to fill a vacancy on the Board occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

GUARANTEE OF EQUIPMENT OBLIGATIONS

SEC. 503. (a) GENERAL.—The Board is authorized, in accordance with the provisions of this section, to guarantee and to make commitments to guarantee the payment of interest on and the principal balance of an equipment obligation prior to, on, or after the date of execution or the date of disbursement of such obligation: *Provided*, That no equipment obligation in the form of a lease obligation shall be guaranteed unless and until the Board finds, after notice and an opportunity for comment by interested persons and publication in the Federal Register of this finding and the reasons therefor, that no other reasonable means of equipment financing or refinancing is reasonably available to the applicant, and that approval of the guarantee application will serve the public interest. Each guarantee of an equipment obligation shall be made in accordance with the provisions of this title and such rules as the Board may prescribe to protect reasonably the interests of the United States. Each application for the guarantee of an equipment obligation shall be made in writing to the Board in such form and with such content as the Board prescribes. Such application shall be granted if the Board determines that the proposed, negotiated, or executed equipment obligation is eligible for such guarantee. Each guarantee and commitment to guarantee shall be extended in such form, under such terms and conditions, and pursuant to such regulations as the Board deems appropriate, consistent with the purposes of this title. Each guarantee and commitment to guarantee shall inure to the benefit of the holder of the equipment obligation to which such guarantee or commitment applies. In no event shall any such holder receive or be entitled to retain payment from said guarantee in a total amount which, together with any other recovery, including a security interest in the rolling stock or equipment or facilities, exceeds the actual loss of such bidder.

(b) FUND.—An Obligation Guarantee Fund shall be established and administered by the Board as a revolving fund to carry out the provisions of sections 503 through 506 of this title. Moneys in the fund shall be deposited in the Treasury of the United States to the credit of such fund or invested in bonds or other obligations of the United States approved by the Secretary of the Treasury.

(c) MAXIMUM PERMISSIBLE GUARANTEE.—Except as otherwise provided, the Board shall not guarantee payment of the principal of an equipment obligation in an amount in excess of 80 per centum of the value of the rolling stock or equipment or facilities which are being financed or refinanced thereby. The Board may guarantee an amount not in excess of 95 per centum of such value upon a finding made in writing by the Board and published with detailed reasons therefor in the Federal Register that an applicant railroad would not otherwise be able in its present financial condition to acquire such equipment or facilities or rolling stock on reasonable terms and conditions and that such acquisition by the applicant railroad is necessary to achieve the purposes of this title. In the case of a lease obligation, the Board may guarantee payment of the entire principal together with the amount necessary to guarantee to the lessor, upon default of such obligation, the cost of tax recapture under sections 47 and 1245 of the Internal Revenue Code of 1954 (26 U.S.C. 37, 1245), upon a finding made in writing by the Board and published with detailed reasons therefor in the Federal Register that the applicant is a railroad which has filed a petition for reorganization under section 77 of the Bankruptcy Act (11 U.S.C. 205); that such petition has been approved; and that the judge in such proceeding certifies to the Board that the railroad is making all reasonable efforts to achieve reorganization and that such guarantee is reasonable and necessary. In all cases, the Board shall make a determination of the value of the rolling stock or equipment or facilities which are being financed or refinanced thereby, and such determination of value shall be conclusive and not subject to review in any court.

(d) MODIFICATIONS.—The Board is authorized to approve any modification of any provision of a guarantee or a commitment to guarantee such obligation, including the rate of interest, time of payment of interest or principal, security, or any other terms and conditions upon a finding in writing by the Board that such modification is equitable and not prejudicial to the interests of the United States under this title. Such approval shall not be granted without prior consent by the holder of such obligation.

(e) MAXIMUM OBLIGATIONAL AUTHORITY.—The aggregate unpaid principal amounts of equipment obligations and interest thereon which may be guaranteed by the Board under this title shall not exceed $2,000,000,000 at any one time; and at least 70 per centum of such sum shall guarantee equipment obligations financing or refinancing rolling stock.

(f) RATE OF INTEREST.—Interest (exclusive of premium charges for guarantee and service fees) shall be payable on each equipment guaranteed by the Board. The rate of interest shall not exceed the per centum per annum rate on the unpaid principal of such obligation determined by the Board to be reasonable upon consideration of the range of interest rates currently prevailing in the private market for similar obligations. In the case of lease obligations guaranteed by the Board, such lease obligation shall contain a rental rate on the value of the rolling stock, equipment, or facilities which reflects an effective interest rate not to exceed a per centum per annum rate determined by the Board to be reasonable upon consideration of the range of effective interest rates prevailing in the private market for similar obligations.

(g) NOTICE.—Upon receipt of an application for an equipment obligation guarantee, the Board shall cause a notice of such application to be published in the Federal Register and shall invite and afford interested persons an opportunity to submit comments on such application at a proceeding to commence within 21 days after the date of such publication. Notice of such proceedings shall be published in the Federal Register. Such notice shall include—

(1) a statement of the time, place, and nature of the proceeding; and

(2) a description of the subjects and issues involved.

(h) Requirements for Guarantees.—No equipment obligation shall be guaranteed by the Board and no commitment shall be made by it to guarantee any such obligation under this title unless it first makes a finding in writing that—

(1) the equipment obligation (other than a lease obligation) is secured by rolling stock or equipment or facilities to be financed thereby;

(2) payment of the equipment obligation (other than a lease obligation) is required by its terms to be made within 15 years from the date of its execution;

(3) the leasing, financing, or refinancing of the rolling stock or equipment or facilities directly related to improving the utilization of rolling stock is justified by the present and probable future demand for rail services to be rendered by the applicant;

(4) the applicant has given reasonable assurances that any rolling stock in its control and the rolling stock or equipment or facilities to be acquired with the equipment obligation will be economically and efficiently utilized;

(5) the purchase or lease of the rolling stock or equipment or facilities will serve to meet demonstrable needs for rail services and to provide shippers with improved service;

(6) the probable value of such rolling stock or equipment or facilities is sufficient to provide the United States reasonable security and protection in case of default and repossession by the holder of the equipment obligation or in case of possession or purchase by the Board; and

(7) the transaction will result in a net increase in the total load-carrying capacity of the applicant's rolling stock.

(i) Conditions and Guarantees.—No guarantee or commitment to guarantee an equipment obligation shall be extended under this title unless the obligor first agrees in writing that so long as any interest or principal on such obligation is due and payable—

(1) there will be no net decrease in the load-carrying capacity of such obligor's rolling stock;

(2) there will be no increase in discretionary dividend payments over the average amount paid during the 5 years preceding the enactment of this title without prior approval of the Secretary in writing, based on findings, published, with reasons therefor, in the Federal Register, made after public hearings with opportunity for submission of comments by all interested parties, that such increase in dividends will not decrease the ability of the obligor to provide improved car services;

(3) the obligor will not use assets or revenues related to or derived from railroad operations in nonrailroad enterprises without prior approval of the Secretary in writing based on findings, published, with reasons therefor, in the Federal Register, made after public hearings with opportunity for submission of comments by all interested parties, that such use of assets or revenues will not decrease the ability of the obligor to provide improved car service;

(4) the obligor shall take all reasonable and practical steps possible, in accordance with such guidelines as may be established by the Secretary and the Commission, to improve the equitable distribution and efficient and expeditious use of all rolling stock and equipment, including cooperating with the Secretary in programs under sections 507 and 508 of this title.

(j) Breach of Conditions.—The Secretary is authorized and directed to commence an action in any district court of the United States in which venue is proper to enjoin any activity found by the Secretary to be in violation of any condition specified in subsection (i) of this section. In addition, any person who knowingly violates or contributes to the violation of any of the conditions specified in such subsection shall be subject to a civil penalty, to be levied by the Secretary, not to exceed $10,000.

(k) Lease Obligation.—Before guaranteeing any lease obligation under this section the Board shall make a finding in writing that—

(1) the terms of the lease obligation provide that if there is a default by the lessee and payment is demanded from the Board by the lessor pursuant to the guarantee, the Board shall have the right in its discretion—

(A) to demand possession of the leased property from the lessee or the right to purchase the leased property for fair market value: Provided, That in no event shall the Board pay more than an amount equal to the sum of the lease rentals and financial obligations remaining during the term of the lease; or

(B) to permit the lessor to repossess the leased property from the lessee for the purpose of leasing it, in good faith and at not less than its fair rental value based upon fair market value, to new lessees: Provided, That any amounts collected from such new lessees in excess of the amount to which the lessor would have been entitled under the original lease, plus costs, shall be paid by the lessor to the Board for deposit in the fund. If the amount collected from such new lessees is less than the amount to which the lessor would have been entitled under the original lease, plus costs, the Board shall pay the difference to the lessor from the fund; and

(2) the terms of the lease obligation provide that if there is a default by the lessee, any amounts received by the holder of the lease obligation in settlement, including amounts received from the Board pursuant to the guarantee, are income and proceeds from the property subject to such lease and subject to claims of any holder of an equipment obligation to the extent of the lease obligation holder's outstanding obligation to such holder under an equipment obligation.

(l) Investigation Charge.—The Board shall charge and collect from each applicant for the guarantee of an equipment obligation such amounts as it deems reasonable for the investigation of such application, the appraisal of the security for such obligation, or for the issuance of a commitment to guarantee. Such charges shall not aggregate more than one-half of 1 per centum of the principal amount of the equipment obligation with respect to which the guarantee application is made.

(m) Premium Charge.—The Board shall set a premium charge of not more than 1 per centum per annum for an equipment obligation guaranteed under this title. Such charges shall be computed on the basis of the principal amount outstanding on the equipment obligation at the time payment is due and shall be paid when the obligation is first guaranteed by the Board, and thereafter annually on the anniversary date of such guarantee.

(n) Administrative Costs.—All moneys received by the Board under this title shall be deposited in the fund. An amount which shall not exceed 5 per centum of the total annual premium charges collected under subsection (m) of this section may be used by the Board to pay administrative costs and expenses incurred by it pursuant to this title.

ISSUANCE OF NOTES OR OBLIGATIONS

Sec. 504. (a) Authorization.—The Board is authorized to issue notes or other obligations to the Secretary of the Treasury in such forms and denominations, bearing such maturities, and subject to such terms and conditions as the Board, with the approval of such Secretary, may prescribe. Such obligations may be issued whenever the moneys in the fund are not sufficient to pay any amount which the Board is required to pay under an agreement under section 503 of this title. Such obligations shall bear interest at a rate to be determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States on comparable maturities during the month preceding the issuance of such obligations. The Secretary of the Treasury is authorized and directed to purchase any such obligations and for such purpose is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended. The purposes for which securities may be issued under such Act are extended to include any purchase of notes or other obligations issued under this subsection. At any time, the Secretary of the Treasury may sell any such obligations, and all sales, purchases, and redemptions of such obligations by the Secretary of the Treasury shall be treated as public debt transactions of the United States. Funds borrowed under this subsection shall be deposited in the fund and redemptions of any such obligations shall be made by the Board from the fund.

(b) Disposition of Property.—Notwithstanding any other provision of law, the Board is authorized to perform any acts which it considers necessary, in its discretion, to complete, recondition, reconstruct, renovate, repair, maintain, manage, operate, charter, lease, rent, sell or otherwise dispose of any property or other interests acquired by the Board under an agreement pursuant to section 503 of this title.

(c) Validity.—No contract or commitment to guarantee an equipment obligation entered into by the Board pursuant to this title shall be terminated, canceled, or otherwise revoked, except in accordance with lawful terms and conditions prescribed by the Board. Such a contract or commitment shall be conclusive evidence that the underlying obligation is in compliance with the provisions of this title and that such obligation has been approved and is legal as to principal, interest, and other terms. Such a contract or commitment shall be valid and incontestable in the hands of a holder as of the date when the Board entered into such contract or commitment, except as to fraud, duress, mutual mistake of fact, or material misrepresentation by or involving such holder.

AUDIT OF TRANSACTIONS

Sec. 505. (a) General.—The financial transactions of the Board shall be audited by the Comptroller General of the United States, in accordance with such rules and regulations as he may prescribe. Representatives of the Comptroller General shall have access to all books, accounts, records, reports, files, and other papers, things, or property pertaining to such transactions by the Board and necessary to facilitate an audit. Such representatives shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. All such property of the Board shall remain in the possession and custody of the Board.

(b) Access to Information.—The representatives of the Comptroller General shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by any obligor for which the Board has guaranteed an equipment obligation to the extent they pertain to such obligor's financial transactions and are deemed by the Comptroller General to be necessary to facilitate any audit of the financial transactions of the Board. Such representatives shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. All such property of such obligor shall remain in the possession and custody of the obligor.

(c) REPORTS—The Comptroller General shall make a report of each such audit to the Congress. Such report shall contain all comments and information which the Comptroller General deems necessary to inform Congress of the financial operations and condition of the fund and any recommendations which he deems advisable. Such report shall indicate specifically and describe in detail any program, expenditure, or other financial transaction or undertaking observed in the course of such audit which the Comptroller General deems to have been carried on or made without lawful authority. A copy of such report shall be furnished to the President, the Secretary, the Commission, and the Board at the time it is submitted to the Congress.

DEFAULT

SEC. 506. (a) GENERAL.—If there is a default in any payment by the obligor of principal or interest due under an equipment obligation guaranteed under this title, which has continued for 30 days, the holder of such obligation or his agent has the right to demand payment by the Board of the unpaid interest on and the unpaid principal of such obligation. Such payment may be demanded after or before the expiration of such period as may be specified in the guarantee or related agreements, but not later than 90 days from the date of such default. Within such period as may be specified in the guarantee or related agreements, but not later than 60 days from the date of such demand, the Board shall pay to such holder the unpaid interest on and the unpaid principal of such obligation. However, the Board shall not be required to make any such payment if it finds, prior to the expiration of such period, that there was no default by the obligor in the payment of interest or principal or that such default has been remedied.

(b) RIGHTS OF BOARD.—If the Board makes a payment to a holder under subsection (a) of this section, the Board shall have all the rights in any security which it held with respect to its guarantee of such obligations as are conferred upon the Board under any security agreement with the obligor and shall be subrogated to all the rights of such holder under any security agreement between the holder and the obligor. Notwithstanding any other provision of law, the Board is authorized, in its discretion, to complete, recondition, reconstruct, renovate, repair, maintain, operate, charter, rent, sell, or otherwise dispose of any property by it pursuant to such security agreement. The terms of any such sale or other disposition shall be as approved by the Board.

(c) PAYMENT.—Any amount required to be paid by the Board pursuant to subsection (a) of this section shall be paid in cash.

(d) ACTION AGAINST OBLIGOR.—If there is a default under any contract or commitment to guarantee an equipment obligation, the Board shall take such action against the obligor or any other parties liable thereunder as is, in its discretion, necessary to protect the interests of the United States. Such a suit may be brought in the name of the United States or in the name of the holder. Such holder shall make available to the United States all records and evidence necessary to prosecute any such suit. The Board shall have the right, in its discretion, to accept a conveyance of title to and possession of property from any party liable to it whenever the value of such property is not greater than the unpaid interest on and unpaid principal of the defaulted obligation. If the Board receives, through the sale of property, an amount greater than its costs and the amount paid to the holder under subsection (a) of this section, it shall pay such excess to the obligor.

NATIONAL ROLLING STOCK INFORMATION SYSTEM

SEC. 507. (a) PLAN.—(1) The Secretary shall, not more than 180 days after the date of enactment of this Act, designate a plan or alternative plans to establish a national rolling stock information system which shall be designed to facilitate equitable distribution and expeditious utilization of rolling stock operated within the continental United States and/or owned directly or indirectly by railroads and carpooling companies. Such a system shall be capable of furnishing such information as the Secretary determines to be necessary for the expeditious utilization of rolling stock, including information related to the—

(A) length of time each piece of rolling stock is moving and loaded, moving and unloaded, idled and loaded, and idled and unloaded;

(B) owner, type, size, and capacity, year of manufacture, identifying number, and special features of each piece of rolling stock;

(C) origin and destination of cargo;

(D) railroad in control of rolling stock movement, expected time of interchange, and degree of utilization of each piece of rolling stock by the controlling railroads; and

(E) current status and location of each piece of rolling stock, time such status and location is expected to change, and anticipated future commitments of such rolling stock.

(2) The Secretary shall develop such plan or plans after consultation and discussion with the Secretary of Defense, the Administrator of the National Aeronautics and Space Administration, the executive officers of major private manufacturers and suppliers of information location and retrieval systems, shippers, railroads, the Commission, and any other Government agency, private organization, or private citizen that presents a useful submission regarding such a system. The Secretary is authorized to pay reasonable expenses, including honoraria, for individuals invited by him to present their submissions in person. The Secretary shall cause such plan or plans to be published in the Federal Register and shall invite interested persons to comment thereon at a public hearing pursuant to section 553 of title 5, United States Code, to be held not less than 90 days after the date of such publication. After such hearing, and not more than 1 year after the date of enactment of this Act, the Secretary shall publish the final plan for a national rolling stock information system. This final plan shall include technical specifications and other details for the equipment required under such plan. Such plan shall include means for coordinating or integrating such system with any existing information systems to the extent the Secretary finds such coordination will contribute in an expeditious, cost effective, and technically feasible manner to the implementation of an effective national system. The Secretary from time to time may cause such plan to be modified or amended, pursuant to section 553 of title 5, United States Code.

(b) IMPLEMENTATION.—Following the publication of the final plan required under subsection (a) of this section, the Secretary shall take all action necessary, including the issuance of rules, regulations, and guidelines, to cause such plan to be implemented within a reasonable time. The Secretary is authorized to contract with and provide technical assistance to individual railroads or groups of railroads working together, including the share of costs and the funding in part of demonstration projects, to assist in the establishment of the national rolling stock information system.

(c) ANTITRUST LAWS INAPPLICABLE.—The antitrust laws of the United States are inapplicable to the extent necessary to carry out the purposes of this section as to any person who contracts with the Secretary or acts in conformity with the final plan under subsection (a) of this section.

(d) CENTER.—The Secretary may establish and maintain or assist in establishing and maintaining a centrally located national rolling stock information center. The Secretary of Defense may assist the Secretary to establish such center. Such center may operate as a depository and dissemination center for all such information as may be provided by the national rolling stock information system. The Secretary may make information gathered in such center available to any person subject to such rules as the Commission might prescribe to insure the confidentiality of certain kinds of competitive information supplied for use in connection with the system.

(e) REPORT.—The Secretary shall report semiannually directly to the Congress, without modification of such report by any other Federal agency, with respect to the progress made in implementing the national system provided for in subsection (a) of this section. Such reports shall include recommendations for such additional funding as may be necessary to make the national system fully effective.

(f) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated to the Secretary out of money in the Treasury not otherwise appropriated, the sum of $10,000,000 for purposes of this section.

UTILIZATION MEASUREMENT AND OVERSIGHT

SEC. 508. (a) ROLLING STOCK UTILIZATION INDEX.—Not less than 90 days after the date of enactment of this Act, the Secretary shall develop and promulgate an index to measure the degree of utilization of rolling stock. The Secretary shall cause to be compiled data required by such index. At least once each quarter per annum, the Secretary shall publish such index, together with a report setting forth any changes in such utilization and his evaluation of the reasons therefor.

(b) COMMISSION REPORT.—The Commission shall publish a report on utilization of rolling stock 30 days after the publication of each report by the Secretary under subsection (a) of this section. The Commission in its report shall consider and comment upon the latest such report by the Secretary.

(c) ENFORCEMENT.—The Secretary shall, with the assistance of the Attorney General, make full use of existing law to bring about improvements in the utilization of rolling stock. The Secretary shall have such standing as is necessary to bring or intervene in proceedings before Federal regulatory agencies and courts. Attorneys appointed by the Secretary may appear for and represent him in any such case or hearing.

(d) UTILIZATION STUDY.—The Secretary shall prepare a study on the utilization of freight cars and means to improve such utilization including consideration of per diem and other car hire charges, demurrage, car service rules and orders of the Commission and of the railroads, the practice of assigning cars to specific traffic or shippers, payments for use of privately owned cars, and publicly and privately owned carpools. The Secretary shall submit legislative recommendations based upon such study within 2 years after the date of enactment of this Act.

PREREQUISITES TO ESTABLISHMENT

SEC. 509. (a) GENERAL.—The Authority, authorized by section 510 of this title, shall be established only if—

(1) two years or more after the date of enactment of this Act—

(A) the Commission finds, in accordance with section 553 of title 5 of the United States Code, that there is still, as a result of inadequate utilization or inadequacy of supply or both, a continuing shortage of rolling stock in the Nation. In determining whether there is such a shortage, the Commission may consider, without incorporating in such a finding, the following factors—

(i) whether any category of rolling stock is not available to meet a demand equivalent to the average peak demand for such category of rolling stock in the 4 years prior to the time of such finding;

(ii) any governmental program, regulation, or action affecting demand for or supply of freight cars;

(iii) the extent, duration, and impact of seasonal peaks in demand for rolling stock;

(iv) the local, regional, or national scope of any reported problems of demand or supply related to rolling stock;

(v) the impact of severe weather conditions which disrupt marketing, distribution, or railroad operating factors;

(vi) The ability of shippers to load more cars if available; and

(vii) the extent to which any failures to furnish cars promptly result from factors not subject to railroad control.

The presence of any or all such factors shall not preclude a finding by the Commission that there is a continuing shortage of rolling stock; or

(B) the Secretary finds that there has not been a significant increase in the utilization of rolling stock since the date of enactment of this Act;

(2) six months after an affirmative finding under either subparagraph (A) or (B) of paragraph (1) of this subsection, the Commission or the Secretary finds that efforts to form and operate a not-for-profit nongovernmental corporation, or corporations, to acquire, maintain, and provide a free running national pool of rolling stock have not succeeded or have been inadequate in size, scope, and operation to establish the feasibility of a national pool, or have failed to employ innovative concepts for equitable distribution and expeditious use of rolling stock; and

(3) the Congress, by affirmative concurrent resolution, authorizes the establishment of the Authority.

(b) Reports.—Two years after the date of enactment of this Act and on the anniversary date thereof each consecutive year thereafter for 5 years, the Commission and the Secretary shall each transmit to the President and Congress a report on rolling stock which shall include each finding made since the previous such report, if any, pursuant to subsection (a) of this section. If the Authority authorized by section 510 of this title is not established in accordance with the provisions of subsection (a) of this section, such Authority shall nonetheless be established 7 years and 6 months after the date of enactment of this Act if—

(1) in the final reports made by the Commission and the Secretary under this subsection—

(A) the Secretary or the Commission finds that the creation of an authority to acquire, maintain, and provide general service railroad freight cars and other rolling stock; to manage a pool of such rolling stock; and to develop and employ innovative concepts for the equitable distribution and expeditious use of such stock would contribute significantly to improvement of the utilization and distribution of rolling stock; and either

(B) the Commission finds that there is still, as a result of inadequate utilization or inadequacy of supply, or both, a continuing shortage of rolling stock in the Nation; or

(C) the Secretary finds that there has not been a substantial and significant increase in the utilization of railroad rolling stock; and

(2) the Congress, by affirmative concurrent resolution, authorizes the establishment of the Authority.

RAILROAD EQUIPMENT AUTHORITY

Sec. 510. (a) Authorization.—There is hereby authorized to be established, in accordance with the provisions of section 509 of this title and of this section, a corporation to be known as the Railroad Equipment Authority. The Board of Directors first appointed shall be deemed the incorporators, and the incorporation shall be held to have been effected from the date of the first meeting of such Board.

(b) Purposes.—The purposes of the Authority are to acquire, maintain, and provide general service railroad freight cars and other rolling stock; to manage a pool of such rolling stock; and to employ innovative concepts for equitable distribution and expeditious use of such stock to meet the needs of the national economy and the national defense.

(c) Status.—(1) The Authority shall be a government corporation of the District of Columbia subject, to the extent not inconsistent with this title, to the District of Columbia Business Corporation Act (D.C. Code 29-901 et seq.) and administered by a Board of Directors.

(2) The Authority shall not be subject to the provisions of the Interstate Commerce Act (49 U.S.C. 1 et seq.) or of any other law with respect to railroads, except that it shall be subject to—

(A) sections 1(10) through 1(17) of the Interstate Commerce Act (49 U.S.C. 1(10)-1(17));

(B) the Railway Labor Act, with respect to the representation of employees of the Authority for purposes of collective bargaining, the handling of disputes between the Authority and its employees, and other dealings with employees; the Railroad Retirement Act; and the Railroad Unemployment Insurance Act;

(C) the Federal Employers Liability Act; and

(D) the same laws and regulations with respect to safety as are applicable to any common carrier under part I of the Interstate Commerce Act.

(d) Board of Directors.—The Board of Directors of the Authority shall consist of 11 individuals who shall be appointed by the President, by and with the advice and consent of the Senate on the following basis—

(1) three to be selected from a list of qualified individuals recommended by the Association of American Railroads or its successor, one of whom shall be representative respectively of eastern-, western-, and southern-territory railroads;

(2) one to be selected from a list of qualified individuals recommended by the American Federation of Labor and Congress of Industrial Organizations or its successor, who shall be representative of railroad labor;

(3) one to be selected from a list of qualified individuals recommended by the National Academy of Sciences as persons with expert knowledge or experience with data processing and information systems and the application of computer technology to systems management;

(4) four to be selected from lists of qualified individuals recommended by shippers, organizations representative of significant shipping interests including small shippers, consumer organizations, community organizations, and recognized consumer leaders, who shall be representative of consumers of transportation services and consumers of goods and products shipped by railroad;

(5) one to be selected from a list of qualified individuals recommended by the Secretary of Defense; and

(6) to be selected from a list of qualified individuals recommended by the Secretary of Transportation.

As used in this subsection, a list of qualified individuals shall consist of no less than three individuals. The President shall appoint one of the members, by and with the advice and consent of the Senate, to serve as Chairman for a term of 4 years. A member of the Directors who is not otherwise an employee of the Federal Government may receive $150 per diem when engaged in the actual performance of his duties plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties.

(e) Terms of Office.—The terms of office of the members first taking office shall expire as designated by the President at the time of nomination—four at the end of the third year; four at the end of the sixth year; and three at the end of the ninth year. Successors to members of the Directors shall be appointed in the same manner as the original members and shall have a term of office expiring nine years from the date of expiration of the term for which their predecessors were appointed. Any member appointed to fill a vacancy in the Directors occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

(f) General.—The Directors shall direct the exercise of all the powers of the Authority. So long as there are four members in office, the Directors are empowered to execute the functions of the Authority. Four of the Directors shall constitute a quorum for the transaction of such functions.

(g) Antitrust Laws Inapplicable.—The antitrust laws of the United States are inapplicable to the extent necessary to carry out the purposes of this title as to any person who contracts with the Authority with respect to the operation or maintenance of rolling stock or the design or implementation of a national rolling stock information system or the use of information from such system.

GENERAL POWERS OF THE AUTHORITY

Sec. 511. To carry out the purposes of this title, the Authority is empowered to—

(a) build, rebuild, purchase, own, lease, control, and manage rolling stock or equipment or facilities;

(b) require or contract for the use of physical facilities, equipment, and devices useful in developing equitable distribution and in maintaining expeditious use of rolling stock;

(c) build, rebuild, operate, maintain, and repair its rolling stock, equipment, and facilities or enter into agreements and contracts for the performance of such work and for the performance of all services and work incidental thereto and consistent with prudent management;

(d) conduct and contract research and development that may lead to new and practical technologies, systems, and methods for the efficient and economical movement, distribution, solicitation, collection, loading and unloading, packaging, and processing of freight shipments involving railroads;

(e) sue and be sued, complain and defend, in its corporate name and through its own attorneys; adopt, alter, and use a corporate seal, which shall be judicially noticed; adopt, amend, and repeal such bylaws, rules, and regulations as may be necessary for the conduct of its affairs; conduct its business, carry on operations, maintain offices, and exercise the powers granted under this title in any State;

(f) purchase, lease, or otherwise acquire, own, hold, improve, use, or deal in and with any property (real, personal, or mixed, tangible or intangible) or interest in property, wherever situated; sell, convey, mortgage, pledge, lease, exchange, or otherwise dispose of property and assets; accept gifts or donations of any property or services in aid of any purpose of the Authority;

(g) appoint such attorneys, employees, agents, consultants, and other personnel as it deems necessary; define the duties of such personnel and determine and pay compensation for their services. Except as otherwise specifically provided, such personnel shall not be subject to laws relating to Federal employees with respect to appointments, promotions, adverse actions, hours of work, rates of compensation, allowances, leave, unemployment compensation, compensation for work-related injuries, and Federal benefits for retirement, life insurance, and health benefits; and

(h) enter into contracts, execute instruments, incur liabilities, and do all things necessary or incidental to the proper management of the affairs and the proper and prudent conduct of the business.

FINANCING

SEC. 512. (a) PER DIEM SURCHARGE.—Each railroad, except a switching and terminal railroad, shall pay to the Authority a per diem surcharge of 50 cents per car-day on each unit of rolling stock for each day that such a railroad incurs a car hire charge for the use of such unit of rolling stock. The Directors shall impose such per diem surcharge not later than 60 days after taking office under section 511 of this title and shall terminate it when it has collected such sum as may be necessary for the purposes of this title but not less than $10,000,000 nor more than $30,000,000. Surcharges are payable on the tenth day of the second month succeeding the month in which the charge accrues. Within 6 months of the termination of such surcharge, the Authority shall refund to any railroad or group of railroads under common management and control any payments made by such railroad or railroads in excess of 10 per centum of the total paid by all railroads.

(b) NEGOTIABLE DEBENTURES.—The Authority shall issue to each railroad a negotiable debenture in the amount of the surcharge paid under subsection (a) of this section. The debenture shall bear and pay interest at a rate to be determined by the Secretary of the Treasury to be the current rate for similar debentures in the open market. The par value of such debentures shall be due and payable December 31 of the thirtieth year after the date of issuance thereof or the first business day thereafter if such date is a Saturday, Sunday, or holiday. Such debentures are debts of the Authority but are subordinate to all other such debts. The United States of America does not guarantee either the par value or the interest on such debentures.

(c) REFUND OF PER DIEM SURCHARGES.—(1) In the event of partial or complete liquidation of the Authority, any assets remaining after the payment of its obligations and expenses shall be distributed pro rata to the railroads, but the amount so distributed shall not exceed in any case the amount paid as per diem surcharges under subsection (a) of this section plus accrued interest, if any. The remainder of such assets shall be paid into the Treasury of the United States and credited to miscellaneous receipts.

(2) In the event of complete liquidation of any railroad subject to this title, the Directors of the Authority may, if and when funds are available, refund to such railroad a sum of not to exceed the amount paid in as per diem surcharges under the provisions of subsection (a) of this section plus accrued interest, if any.

(d) INCURRENCE OF DEBT FOR CAPITAL PURPOSES.—The Authority is empowered to incur debt for capital purposes. Such debt may be incurred in the form of bonds, debentures, equipment trust certificates, conditional sale agreements, or any other form of securities, agreements, or obligations. So long as all the capital stock of the Authority is owned by the United States, the payment of principal and interest on all obligations issued by it is guaranteed by the United States. Such guarantee shall be expressed on the face of the obligation. So long as any capital stock is owned by the United States, payment of principal and interest on obligations issued by the Authority may, in the discretion of the Directors, be guaranteed by the United States Such guarantee shall be expressed on the face of the obligation. Guaranteed obligations shall not exceed $1,000,000,000 in principal amount outstanding at any one time. Such obligations may be redeemable at the option of the Authority before maturity in such manner as may be stipulated therein and shall be in such forms and denominations, have such maturities, and be subject to such terms and conditions as shall be determined by the Directors, with the approval of the Secretary of the Treasury. The Authority may also incur debt not guaranteed by the United States, in addition to that provided for under subsection (b) of this section.

(e) PURCHASE OF OBLIGATIONS BY TREASURY.—The Secretary of the Treasury may elect to purchase the obligations of the Authority guaranteed by the United States in an amount not to exceed $1,000,000,000 in principal amount outstanding at any one time, under such terms, including rates of interest, as he and the Directors may agree, but at a rate or yield no less than the current average yield on outstanding Treasury securities of comparable maturity, as determined by the Secretary of the Treasury.

(f) PUBLIC DEBT TRANSACTION.—For the purpose of any purchase of the obligations of the Authority, and to enable him to carry out his responsibility relating to guarantees made pursuant to this section, the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force, are extended to include any purchases of the obligations of the Authority under this Act. The Secretary of the Treasury may at any time sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations of the Authority acquired by him hereunder. All redemptions, purchases, and sales by the Secretary of the Treasury of the obligations of the Authority shall be treated as public debt transactions of the United States.

(g) AUTHORIZATION FOR APPROPRIATIONS.—(1) In order to facilitate the formation and the implementation of the objectives of the Authority, there is hereby authorized to be appropriated, out of money in the Treasury not otherwise appropriated, the sum of $10,000,000 to be used to acquire capital stock of the Authority, such sum to continue to be available until expended.

(2) There are authorized to be appropriated to the Secretary of the Treasury such sums as may be necessary to pay the principal and interest on notes or obligations issued by him as a consequence of any guarantee made under this section.

(3) In the event of any default on any guaranteed obligation, and payment in accordance with a guarantee by the United States, the Attorney General shall take appropriate action to recover the amount of such payments, with interest, from the Authority or other persons liable therefor.

(h) LAWFUL INVESTMENT AND EXEMPTION FROM REGULATIONS AND RESTRICTIONS.—Securities guaranteed under this section shall be lawful investments and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under authority or control of the United States or of any officer or officers thereof, and shall be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission. The limitations and restrictions as to a National or State bank dealing in, underwriting, or purchasing investment securities for its own account, as provided in section 5136 of the Revised Statutes, as amended (12 U.S.C. 24), and section 5(c) of the Act of June 16, 1933 (12 U.S.C. 335), shall not apply to securities guaranteed under this section.

(i) CAPITAL STOCK.—(1) The Authority is authorized to issue and have outstanding capital stock in such amounts and of such classes as it shall determine. At no time shall the aggregate of the shares of the capital stock of the Authority owned by a single railroad or by any person controlling one or more railroads, as defined in section 1(3)(b) of the Interstate Commerce Act (49 U.S.C. 1(3)(b)), directly or indirectly through subsidiaries or affiliated companies, nominees, or any person subject to its direction or control or by any other stockholder, or any syndicate or affiliated group of such stockholders exceed 5 per centum of such shares issued and outstanding.

(2) The requirement of section 45(b) of the District of Columbia Corporation Act (D.C. Code, sec. 29–920 (b)) as to the per centum of stock which a stockholder must hold in order to have the rights of inspection and copying set forth in that subsection shall not be applicable in the case of holders of the stock of the Authority, and they may exercise such rights without regard to the percentage of stock they hold.

(3) Capital stock of the Authority offered and sold to the public shall be offered in compliance with all applicable laws of the United States governing the offering and sale of securities by private corporations.

(j) AUDIT AND EXPENDITURES.—(1) So long as any capital stock of the Authority is owned by the United States, "Railroad Equipment Authority" shall be subject to the provisions of the Government Corporation Control Act (31 U.S.C. 841 et seq.).

(2) Except as otherwise provided pursuant to paragraph (1) of this subsection, the Authority is authorized to make such expenditures and to enter into such contracts, agreements, and arrangements as it deems necessary, upon such terms and conditions and in such manner as it decides. This authorization includes the power to make a final settlement or compromise of all claims and litigation by or against the Authority.

(3) Nothing in this subsection shall be construed to deny the Authority the power to obtain audits of its accounts and reports concerning its financial condition and operations by a firm or firms of certified public accountants. Such audit and reports would be in addition to those required by this subsection.

(4) Section 201 of the Government Corporation Control Act (31 U.S.C. 856) is amended by inserting at the end thereof the following: ", and (10) the Railroad Equipment Authority.".

CONVERSION TO PRIVATE OWNERSHIP

SEC. 513. (a) PLAN FOR PUBLIC SALE.—As soon as practicable, a panel composed of the Secretary of Transportation, the Secretary of the Treasury, the Chairman of the Securities and Exchange Commission, the Chairman of the Commission, and the Chairman of the Directors of the Authority shall submit to the President and to the Congress a plan for the public sale of stock in the Authority after finding that a market exists for the sale of such stock and that the purposes of this title will be served thereby. This plan shall include, among other elements, a program which—

(1) will require refinancing, or the establishment of a reserve fund or other method, in order to protect the public interest against defaults on obligations of the Authority guaranteed by the United States; and

(2) will assure that the sale of the stock will result in a wide dispersion in the ownership of the stock.

(b) Requirements.—The plan for sale of stock to the public shall specify a program for systematically reducing the amount of obligations of the Authority guaranteed by the United States and shall propose a capital structure for the Authority designed to insure sound financial and operating performance. Unless the Congress disapproves the plan within 6 months following submission of the plan to it, stock shall be sold in accordance with the plan.

(c) New Board Members.—Upon the sale of stock to the public, the Directors may be enlarged by the addition of members elected by owners of such stock. In no event, however, shall the Directors have more than 15 members while any capital stock in the Authority is held by the United States. During such period, the rights and privileges of owners of such stock, including determination of the number of directors to be so elected, shall be set forth in the bylaws of the authority.

(d) Proceeds of Sale.—The proceeds from the sale of stock to the public shall be applied to the retirement of the stock held by the United States. *Upon the retirement of all the stock held by the United States,* the terms of office of the Directors appointed under section 510(d) of this title shall terminate as provided by the plan under subsection (a) of this section. Thereafter, all except three of the Directors shall be elected by the owners of the stock. The President shall have authority to appoint such three Directors, by and with the advice and consent of the Senate—

(1) one to be selected from a list of qualified individuals recommended by the American Federation of Labor and Congress of Industrial Organizations;

(2) one to be selected from a list of qualified individuals recommended by the Federal Trade Commission, after consultation with organizations of consumers; and

(3) one to be selected from a list of qualified individuals recommended by the Commission, after consultation with organizations of shippers.

As used in this subsection, a list of qualified individuals shall consist of no less than three individuals.

(e) Position of United States.— Upon the retirement of all the stock held by the United States—

(1) The Authority shall pay an annual fee to the United States equal to the difference between the amount of interest actually paid upon outstanding guaranteed obligations and the amount which would have been paid, as determined by the Secretary of the Treasury, if such obligations had not been guaranteed by the United States, plus one-fourth per centum;

(2) The Authority shall make every effort to refinance obligations in order to terminate the liability of the United States arising from its guarantee of obligations; and

(3) The Secretary of the Treasury may no longer purchase or guarantee the notes or other obligations of the Authority.

(f) Default.—If the Authority defaults in the payment of obligations guaranteed by the United States, the United States is authorized to take control and appoint a new Board of Directors pursuant to section 510(d) of this title.

INFORMATION SYSTEM

Sec. 514. (a) Establishment.—If a national rolling stock information system, as defined in section 507 of this title, is not operating effectively when the Authority is established, it shall establish such a system. If the Authority undertakes to establish such a system, the Secretary shall grant it access to and authority to use all information, studies, designs, equipment, facilities, computer programs, and other things acquired or developed under section 507 of this title. The Secretary shall give the Authority all possible assistance to further the purposes of this section.

(d) Informational Access.—Data and other information derived from the national rolling stock information system shall be made available on an equal basis to the Authority, shippers, railroads, the Commission, the Secretary, and interested members of the public, subject to rules to be issued by the Commission to preserve the confidentiality of certain types of competitive information furnished for use in connection with the system.

(c) Report.—The Authority shall report to the Congress annually on the progress made in implementing such national system. Each report shall include recommendations as to any additional funding deemed necessary to make the national system more effective. The Commission shall publish a report on such system 30 days after the publication of each report by the Authority under this subsection.

USE OF EQUIPMENT SUPPLIED BY THE AUTHORITY

Sec. 515. (a) User Charges.—The Authority shall establish and maintain a schedule of charges for the use of general service railroad freight cars and other rolling stock, and equipment directly related to the utilization of rolling stock. The rates shall be such as will, in the judgment of the Directors, enable the Authority to meet its operating and administrative expenses, including depreciation and carrying-charges for indebtedness, and to provide sufficient earnings to facilitate conversion to private ownership under section 513 of this title as soon as possible. Such charges shall in no case exceed 150 per centum of the cost to the Authority of acquiring, owning, maintaining, and operating the rolling stock of equipment being so used. In establishing such charges, the Authority shall consider prevailing rates and conditions for similar equipment.

(b) User Charges Precluded.—The Authority shall not assess any charges for rolling stock located on a railroad where that rolling stock is not required by such railroad for use in originating traffic: *Provided,* That—

(1) such rolling stock is not the subject of a car service order by the Authority or the Commission; and

(2) such railroad furnishes appropriate notice to the Authority pursuant to terms and conditions established by it regarding the use of such rolling stock.

(c) Conditions on Use.—The Authority shall establish—

(1) reasonable rates of compensation for storage of excess rolling stock on the property of any railroad, through negotiation with such railroad;

(2) terms and conditions governing the use of its equipment, including requirements for identification of rolling stock, as are in its judgment appropriate to effectuate the purposes of this title. Such terms and conditions may be modified and amended from time to time; and

(3) just and reasonable car service rules, regulations, and practices, and car distribution directions with respect to its rolling stock. Such rules, regulations, and practices shall be established after consulting with the Commission, railroads and car distribution agencies. They shall, together with car distribution directions issued thereunder, take precedence over any rules, regulations, or practices in conflict therewith which are issued or applied by any railroad or group of railroads. Such rules, regulations, and practices may be modified and amended from time to time.

(d) Compliance With Conditions.—Each railroad shall comply with such car service rules, regulations, and practices as may be established, together with such car distribution directions as may be issued, pursuant to this section.

(e) Interchange of Cars.—No railroad may refuse to transport any rolling stock owned, leased, controlled, or managed by the Authority, whether loaded or empty, subject to any applicable safety regulations, reasonable interchange rules, reasonable line clearances, reasonable weight limitations, and user charges set under this section. No railroad shall be entitled to any compensation from the Authority for moving empty rolling stock owned, leased, controlled, or managed by the Authority which is moving under a car distribution directive issued by the Commission or by the Authority for the purposes of distributing such rolling stock for loading.

COMMISSION REVIEW

Sec. 516. The Authority shall be subject to sections 1(10) through 1(17) of the Interstate Commerce Act (49 U.S.C. 1(10)–1(17)), and the orders of the Commission thereunder to the extent applicable. Upon petition of any person affected by any charge, rule, regulation, practice, term, condition, directive, or other provision issued or maintained by the Authority, or upon its own motion, the Commission shall make an investigation and shall order any such provision which it finds not to be in conformity with this title, or to be inconsistent with any applicable rule, order, or directive of the Commission issued pursuant to such sections, to be canceled, annulled, amended, or suspended as the Commission shall find to be appropriate.

ENFORCEMENT

Sec. 517. (a) General.—In an appropriate civil action, the Authority may apply to any district court of the United States which has jurisdiction over the parties and in which venue is properly laid under section 1291 of title 28, United States Code, for an order or judgment to enforce compliance with any obligation owing to it under or in accordance with any provision of this title or under or in accordance with any agreement or regulation entered into or issued pursuant to this title. Nothing contained in this section shall be construed to relieve any person from any punishment, liability, or sanction which may be imposed otherwise than under this title.

(b) Equitable Relief.—(1) If the Authority, any railroad, or any person fails or neglects to comply with any rule, regulation, or practice established under this title, fails to pay any charge imposed under this title, fails or refuses to comply with any car distribution directive or other order issued under this title, or fails to obey any directive by the Commission to pay charges, any district court of the United States having jurisdiction over the parties and in which venue is properly laid under section 1291 of title 28, United States Code, may grant relief. Upon a petition by the Commission or by the Authority, such court shall have jurisdiction to grant such relief as may be necessary or appropriate to prevent or terminate such failure or refusal.

(2) If the Authority, any railroad, or any other person violates or threatens to violate any provision of this title or any rule, regulation, or order issued under this title, any district court of the United States having jurisdiction over the parties and in which venue is properly laid under section 1291 of title 28, United States Code, may grant relief. Upon a petition in such a case, or, in the case of a labor agreement, upon the petition

of any employee affected thereby or a duly authorized representative of such employee, such court shall have jurisdiction to grant such equitable relief as may be necessary or appropriate to prevent or terminate such violation.

ANNUAL REPORT

SEC. 518. The Authority shall cause to be prepared and transmit simultaneously to the President and the Congress an annual report commencing 1 year after its establishment. Such report shall include—

(a) a comprehensive and detailed review, analysis, and evaluation of its operations, activities, accomplishments, and outstanding problems, together with its objectives and plans for the future;

(b) an account of the state of railroad freight service in the United States, including the number of rolling stock, by classes, acquired and owned, leased, controlled, or managed by it and the number acquired and owned, leased, controlled, or managed by the railroads; and

(c) a statement of its receipts and expenditures for the previous year, its methods for determining the type and amount of rolling stock acquired, and the criteria used by it in distributing rolling stock.

The Commission and the Secretary shall from time to time, but not less than once every 2 years, investigate and evaluate the performance of the Authority in light of the purposes of this title and each shall cause to be prepared and transmit, simultaneously to the President and the Congress, a report thereon.

PROTECTIVE ARRANGEMENTS FOR EMPLOYEES

SEC. 519. (a) GENERAL.—In carrying out their functions under this Act and as a condition precedent to the execution of any contract, the guarantee of any obligation, and the approval or inducement of any other action under this Act, the Board, the Secretary, and the Authority shall take adequate steps to protect the interests of affected employees. Each contract as to which any railroad or car-pooling company is either a party or a beneficiary shall include fair and equitable arrangements, as certified by the Secretary of Labor, to protect the interests of individual railroad employees who are or who may be affected in their employment by such contract. Such protective arrangements shall include the arrangements specified in section 405 of the Rail Passenger Service Act of 1970 (45 U.S.C. 565); section 13 of the Urban Mass Transportation Act of 1964 (49 U.S.C. 1609); and section 6 of the High Speed Ground Transportation Act of 1965 (49 U.S.C. 1636).

(b) BUILDING AND REBUILDING CONTRACTS OF CORPORATION.—The Authority, in awarding contracts for the building or rebuilding of rolling stock under this title, shall conform to prevailing practices in the railroad industry at the time of each such contract in dividing such work between railroads with facilities for building and rebuilding rolling stock and nonrailroads with such facilities. Such contracts as are awarded to railroads shall be performed through the use of the facilities and the employees of such railroads and shall not be subcontracted. In awarding such contracts, the Authority shall be guided by the relative proportions of such building and rebuilding as was performed in railroad as opposed to nonrailroad facilities during the 5-calendar-year period preceding the award of such contract. Variations from these proportions shall not exceed 5 per centum if the total amount of building and rebuilding declines from levels at the date of enactment of this Act. If the Authority fails to maintain required relative proportions in distributing such work to railroad facilities under such contracts, the fair and equitable employee protective arrangements required by subsection (a) hereof shall become effective. Notwithstanding the foregoing, no contract shall be awarded by the Authority for the building or rebuilding of rolling stock unless the work to be performed is reasonably expected to meet or exceed the minimum specifications established by it in accordance with the purposes of this title.

(c) JOB TRAINING.—Railroad employees adversely affected by any action taken pursuant to this title designed to provide for more effective use and distribution of rolling stock shall be reassigned and if necessary retrained to perform the new tasks covering the functions which they had performed prior to such action. The performance of such functions shall be considered to be within the same craft or class as that in which such railroad employees were classified prior to such change and the rights of such employees to the same representation shall be preserved. A railroad employment position which is affected by any such change may be eliminated as it becomes vacant through the death or voluntary resignation or retirement of the employee holding such position.

(d) OTHER LAWS.—In his administration of the provisions of this title, the Secretary of Labor shall consolidate the program authorized herein with the companion programs under the Rail Passenger Service Act of 1970 (45 U.S.C. 565); the Urban Mass Transportation Act of 1964 (49 U.S.C. 1609); and the High Speed Ground Transportation Act of 1965 (49 U.S.C. 1636). The Secretary of Labor shall uniformly develop, interpret, and apply the procedures and standards under these several laws.

(e) REPAIR AND MAINTENANCE CONTRACTS.—To the extent practicable, the Authority shall award contracts for the repair and maintenance of its rolling stock to railroads with facilities for performing such work.

(f) CONSTRUCTION CONTRACTS.—In the exercise of their respective authority under this title, the Board, the Secretary, and the Authority shall take all steps necessary to insure that all laborers and mechanics employed by contractors and subcontractors in the performance of construction work financed with the assistance of funds received under any contract or agreement entered into under this title shall be paid wages at rates no less than those prevailing on similar construction in the same locality, as determined by the Secretary of Labor in accordance with the Davis-Bacon Act. The Board, the Secretary, or the Authority shall not enter into any such contract or agreement without first obtaining adequate assurance that required labor standards will be maintained on the construction work. Wage rates provided for in collective-bargaining agreements negotiated under and pursuant to the Railway Labor Act or the National Labor Relations Act shall be considered to be in compliance with the Davis-Bacon Act; the highest of such wage rates shall be the applicable standard for all laborers and mechanics not covered by any such agreement and employed by contractors and subcontractors engaged in the building of rolling stock under contracts awarded by the authority under this title.

TITLE VI—EMPLOYEE PROTECTION

DEFINITIONS

SEC. 601. As used in this title—

(1) "Acquiring railroad" means a railroad, except the Corporation, which seeks to acquire or has acquired, pursuant to the provisions of this Act, all or a part of the rail properties of one or more of the railroads in reorganization, the Corporation, or a profitable railroad.

(2) "Employee of a railroad in reorganization" means a person who, on the effective date of a conveyance of rail properties of a railroad in reorganization to the Corporation or to an acquiring railroad, has an employment relationship with either said railroad in reorganization or any carrier (as defined in parts I and II of the Interstate Commerce Act) which is leased, controlled, or operated by the railroad in reorganization except a president, vice president, treasurer, secretary, comptroller, and any other person who performs functions corresponding to those performed by the foregoing officers.

(3) "Protected employee" means any employee of an acquiring railroad adversely affected by a transaction and any employee of a railroad in reorganization who on the effective date of this Act have not reached age sixty-five.

(4) "Class or craft of employees" means a group of employees, recognized and treated as a unit for purposes of collective bargaining, which is represented by a labor organization that has been duly authorized or recognized pursuant to the Railway Labor Act as its representatives for purposes of collective bargaining.

(5) "Representative of a class or craft of employees" means a labor organization which has been duly authorized or recognized as the collective bargaining representative of a class or craft of employees pursuant to the Railway Labor Act.

(6) "Deprived of employment" means the inability of a protected employee to obtain a position by the normal exercise of his seniority rights with the Corporation after properly electing to accept employment therewith or, the subsequent loss of a position and inability, by the normal exercise of his seniority rights under the applicable collective bargaining agreements, to obtain another position with the Corporation: *Provided, however,* That provisions in existing collective bargaining agreements of a railroad in reorganization, which do not require a protected employee, in the normal exercise of seniority rights, to make a change in residence, in order to maintain his protection, will be preserved and will also be extended and be applicable to all other protected employees of that same craft or class. It shall not, however, include any deprivation of employment by reason of death, retirement, resignation, dismissal or disciplinary suspension for cause, failure to work due to illness or disability, nor any severance of employment covered by subsections (d) and (e) of section 605 of this title.

(7) "Employee adversely affected with respect to his compensation" means a protected employee who suffers a reduction in compensation.

(8) "Transaction" means actions taken pursuant to the provisions of this Act, other than title V of this Act, or the results thereof.

(9) "Change in residence" means transfer to a work location which is located either (1) outside a radius of thirty miles of the employee's former work location and farther from his residence than was his former work location or (2) more than 30 normal highway route miles from the employee's residence and also farther from his residence than was his former work location.

OFFERS OF EMPLOYMENT

SEC. 602. (a) APPLICABLE LAW.—The Corporation and, where applicable, the Association shall be subject to the provisions of the Railway Labor Act and shall be considered employers for purposes of the Railroad Retirement Act, Railroad Retirement Tax Act, and the Railroad Unemployment Insurance Act. The Corporation, in addition, shall, except as otherwise specifically provided by this Act, be subject to all Federal and State laws and regulations applicable to carriers by railroad.

(b) MANDATORY OFFER.—The Corporation shall offer employment, to be effective as of the date of a conveyance or discontinuance of service under the provisions of this Act, to each employee of a railroad in reorganization who has not already accepted an offer of employment by the Association, where applicable, or an acquiring railroad. Such offers of employment to employees represented by labor organization will be confined to their same craft or class. The Corporation shall apply to said employees the protective provisions of this title.

(c) ASSOCIATION.—After the transfer of rail properties pursuant to section 303, the Association, in employing any additional employees, shall give priority consideration to employees of a railroad in reorganization and the provisions of this title shall apply to any such employees employed by the Association as if they were employees of the Corporation.

ASSIGNMENT OF WORK

SEC. 603. The Corporation shall have the right to assign, allocate, reassign, reallocate, and consolidate work formerly performed on the rail properties acquired pursuant to the provisions of this Act from a railroad in reorganization to any location, facility, or position on its system provided it does not remove said work from coverage of a collective-bargaining agreement and does not infringe upon the existing classification of work rights of any craft or class of employees at the location or facility to which said work is assigned, allocated, reassigned, reallocated, or consolidated and shall have the right to transfer to an acquiring railroad the work incident to the rail properties or facilities acquired by said acquiring railroad pursuant to this Act, subject, however, to the provisions of section 608 of this title.

COLLECTIVE BARGAINING AGREEMENTS

SEC. 604. (a) INTERIM APPLICATION.—Until completion of the agreements provided for under subsection (d) of this section, the Corporation shall, as though an original party thereto, assume and apply on the particular lines, properties, or facilities acquired all obligations under existing collective bargaining agreements covering all crafts and classes employed thereon, except that the Agreement of May, 1936, Washington, District of Columbia, and provisions in other existing job stabilization agreements shall not be applicable to transactions effected pursuant to this Act with respect to which the provisions of section 605 shall be superseding and controlling. During this period, employees of a railroad in reorganization who have seniority on the lines, properties, or facilities acquired by the Corporation pursuant to this Act shall have prior seniority roster rights on such acquired lines, properties, or facilities.

(b) SINGLE IMPLEMENTING AGREEMENT.—On or before the date of the adoption of the final system plan by the Association under section 207(c) of this Act, the representatives of the various classes or crafts of the employees of a railroad in reorganization involved in a conveyance pursuant to this Act and representatives of the Corporation shall commence negotiation of a single implementing agreement for each class and craft of employees affected providing (1) the identification of the specific employees of the railroad in reorganization to whom the Corporation offers employment; (2) the procedure by which those employees of the railroad in reorganization may elect to accept employment with the Corporation; (3) the procedure for acceptance of such employees into the Corporation's employment and their assignment to positions on the Corporation's system; (4) the procedure for determining the seniority of such employees in their respective crafts or classes on the Corporation's system which shall, to the extent possible, preserve their prior seniority rights; and (5) the procedure for determining equitable adjustment in rates of comparable positions. If no agreement with respect to the matters referred to in this subsection is reached by the end of thirty days after the commencement of negotiations, the parties shall within an additional ten days select a neutral referee and, in the event they are unable to agree upon the selection of such referee, then the National Mediation Board shall immediately appoint a referee. After a referee has been designated, a hearing on the dispute shall commence as soon as practicable. Not less than ten days prior to the effective date of any conveyance pursuant to the provisions of this Act, the referee shall resolve and decide all matters in dispute with respect to the negotiation of said implementing agreement or agreements and shall render a decision which shall be final and binding and shall constitute the implementing agreement or agreements between the parties with respect to the transaction involved. The salary and expenses of the referee shall be paid pursuant to the provisions of the Railway Labor Act.

(c) Notwithstanding failure for any reason to complete implementing agreements provided for in subsection (b) of this section, the Corporation may proceed with a conveyance of properties, facilities, and equipment pursuant to the provisions of this Act and effectuate said transaction: Provided, That all protected employees shall be entitled to all of the provisions of such agreements, as finally determined, from the time they are adversely affected as a result of any such conveyance.

(d) No later than sixty days after the effective date of any conveyance pursuant to the provisions of this Act, the representatives of the various classes or crafts of the employees of a railroad in reorganization involved in a conveyance and representatives of the Corporation shall commence negotiations of new collective-bargaining agreements for each class and craft of employees covering the rates of pay, rules, and working conditions of employees who are employees of the Corporation, which collective-bargaining agreements shall include appropriate provisions concerning rates of pay, rules, and working conditions but shall not include any provisions for job stabilization resulting from any transaction effected pursuant to this Act which may exceed or conflict with those established or prescribed herein.

EMPLOYEE PROTECTION

SEC. 605. (a) EQUIVALENT POSITION.—A protected employee whose employment is governed by a collective-bargaining agreement will not, except as explicitly provided in this title, during the period in which he is entitled to protection, be placed in a worse position with respect to compensation, fringe benefits, rules, working conditions, and rights and privileges pertaining thereto.

(b) MONTHLY DISPLACEMENT ALLOWANCE.—A protected employee, who has been deprived of employment or adversely affected with respect to his compensation, shall be entitled to a monthly displacement allowance computed as follows:

(1) Said allowance shall be determined by computing the total compensation received by the employee, including vacation allowances and monthly compensation guarantees, and his total time paid for during the last twelve months immediately prior to his being adversely affected in which he performed compensated service more than 50 per centum of each of such months, based upon his normal work schedule, and by dividing separately the total compensation and the total time paid for by twelve, thereby producing the average monthly compensation and average monthly time paid for; and, if an employee's compensation in his current position is less in any month in which he performs work than the aforesaid average compensation, he shall be paid the difference, less any time lost on account of voluntary absences other than vacations, but said protected employee shall be compensated in addition thereto at the rate of the position filled for any time worked in excess of his average monthly time: *Provided, however,* That—

(A) in determining compensation in his current employment the protected employee shall be treated as occupying the position, producing the highest rate of pay to which his qualifications and seniority entitles him under the applicable collective-bargaining agreement and which does not require a change in residence;

(B) the said monthly displacement allowance shall be reduced by the full amount of any unemployment compensation benefits received by the protected employee and shall be reduced by an amount equivalent to any earnings of said protected employee in any employment subject to the Railroad Retirement Act and 50 per centum of any earnings in any employment not subject to the Railroad Retirement Act;

(C) a protected employee's average monthly compensation shall be adjusted from time to time thereafter to reflect subsequent general wage increases;

(D) should a protected employee's service total less than twelve months in which he performs more than 50 per centum compensated service based upon his normal work schedule in each of said months, his average monthly compensation shall be determined by dividing separately the total compensation received by the employee and the total time for which he was paid by the number of months in which he performed more than 50 per centum compensated service based upon his normal work schedule; and

(E) the monthly displacement allowance provided by this section shall in no event exceed the sum of $2,500 in any month except that such amount shall be adjusted to reflect subsequent general wage increases.

(2) A protected employee's average monthly compensation under this section shall be based upon the rate of pay applicable to his employment and shall include increases in rates of pay not in fact paid but which were provided for in national railroad labor agreements generally applicable during the period involved.

(3) If a protected employee who is entitled to a monthly displacement allowance served as an agent of a representative of a craft or class of employees on either a full or part-time basis in the twelve months immediately preceding his being adversely affected, his monthly displacement allowance shall be computed by taking the average of the average monthly compensation and average monthly time paid for of the protected employees immediately above and below him on the same seniority roster or his own monthly displacement allowance, whichever is greater.

(4) An employee and his representative shall be furnished with a protected employee's average monthly compensation and average monthly time paid for, computed in accordance with the terms of this subsection, together with the date upon which such computations are based, within thirty days after the protected employee notifies the Corporation in writing that he has been deprived of employment or adversely affected with respect to his compensation.

(c) Termination of Allowance.—The monthly displacement allowance provided for in subsection (b) of this section shall continue until the attainment of age sixty-five by a protected employee with five or more years of service on the effective date of this Act and, in the case of a protected employee who has less than five years service on such date, shall continue for a period equal to his total prior years of service: *Provided*, That such monthly displacement allowance shall terminate upon the protected employee's death, retirement, resignation, or dismissal for cause; and shall be suspended for the period of disciplinary suspension for cause, failure to work due to illness or disability, voluntary furlough, or failure to retain or obtain a position available to him by the exercise of his seniority rights in accordance with the provisions of this section.

(d) Transfer of Employment.—(1) A protected employee who has been deprived of employment may be required by the corporation, in inverse seniority order and upon reasonable notice, to transfer to any bona fide vacancy for which he is qualified in his same craft or class on any part of the Corporation's system and shall then be governed by the collective bargaining agreement applicable on the seniority district to which transferred. If such transfer requires a change in residence, any such protected employee may choose (A) to voluntarily furlough himself at his home location and have his monthly displacement allowance suspended during the period of voluntary furlough, or (B) to be severed from employment upon payment to him of a separation allowance computed as provided in subsections (e) and (f) of this section, which separation allowance shall be in lieu of all other benefits provided by this title.

(2) Such protected employee shall not be required to transfer to a location requiring a change in residence unless there is a bona fide need for his services at such location. Such bona fide need for services contemplates that the transfer be to a position which has not and cannot be filled by employees who are not required to make a change in residence in the seniority district involved and which, in the absence of this section, would have required the employment of a new employee.

(3) Such protected employee who, at the request of the corporation, has once accepted and made a transfer to a location requiring a change in residence, shall not be required again to so transfer for a period of three years.

(4) Transfers to vacancies requiring a change in residences shall be subject to the following:

(A) The vacancy shall be first offered to the junior qualified protected employee deprived of employment in the seniority district where the vacancy exists, and each such employee shall have twenty days to elect one of the options set forth in paragraph (1) of this subsection. If that employee elects not to accept the transfer, it will then be offered in inverse seniority order to the remaining qualified, protected employees deprived of employment on the seniority district, who will each have twenty days to elect one of the options set forth in paragraph (1) of this subsection.

(B) If the vacancy is not filled by the procedure in paragraph (4)(A) of this subsection, the vacancy will then be offered in the inverse order of seniority to the qualified, protected employees deprived of employment on the system and each of such employees will be afforded thirty days to elect one of the options set forth in paragraph (1) of this subsection.

(C) The provisions of this paragraph (4) shall not prevent the adoption of other procedures pursuant to an agreement made by the Corporation and representative of the class or craft of employees involved.

(e) A protected employee who is tendered and accepts an offer by the Corporation to resign and sever his employment relationship in consideration of payment to him of a separation allowance, and any protected employee whose employment relationship is severed in accordance with subsection (d) of this section, shall be entitled to receive a lump-sum separation allowance not to exceed $20,000 in lieu of all other benefits provided by this title. Said lump-sum separation allowance, in the case of a protected employee who had not less than three nor more than five years of service as of the date of this Act, shall amount to two hundred and seventy days' pay at the rate of the position last held and, in the case of a protected employee having had five or more years' service, shall amount to the number of days' pay indicated below at the rate of the position last held dependent upon the age of the protected employee at the time of such termination of employment:

60 or under	360 days' pay
61	300 days' pay
62	240 days' pay
63	180 days' pay
64	120 days' pay.

(f) The Corporation may terminate the employment of an employee of a railroad in reorganization, who has less than three years' service as of the effective date of this Act: *Provided, however*, That in such event the terminated employee shall be entitled to receive a lump sum separation allowance in an amount determined as follows:

2 to 3 years' service	180 days' pay at the rate of the position last held.
1 to 2 years' service	90 days' pay at the rate of the position last held.
Less than 1 year's service	5 days' pay at the rate of the position last held for each month of service.

(g) Any protected employee who is required to make a change of residence as the result of a transaction shall be entitled to the following benefits:

(1) Reimbursement for all expenses of moving his household and other personal effects, for the traveling expense of himself and members of his family, including living expenses for himself and his family, and for his own actual wage loss, not to exceed ten working days: *Provided*, That the Corporation or acquiring railroad shall, to the same extent provided above, assume said expenses for any employee furloughed with three years after changing his point of employment as a result of a transaction, who elects to move his place of residence back to his original point of employment. No claim for reimbursement shall be paid under the provisions of this section unless such claim is presented to the Corporation or acquiring railroad within ninety days after the date on which the expenses were incurred.

(2)(A)(i) If the protected employee owns, or is under a contract to purchase, his own home in the locality from which he is required to move and elects to sell said home, he shall be reimbursed for any loss suffered in the sale of his home for less than its fair market value. In each case the fair market value of the home in question shall be determined as of a date sufficiently prior to the date of the transaction so as to be unaffected thereby. The Corporation or an acquiring railroad shall in each instance be afforded an opportunity to purchase the home at such fair market value before it is sold by the employee to any other person.

(ii) A protected employee may elect to waive the provisions of paragraph (2)(A)(i) above, and receive, in lieu thereof, an amount equal to his closing costs which are ordinarily paid for and assumed by a seller of real estate in the jurisdiction in which the residence is located. Such costs shall include a real estate commission paid to a licensed realtor (not to exceed $3,000 or 6 per centum of sale price, whichever is less), and any prepayment penalty required by the institution holding the mortgage; such costs shall not include the payments of any "points" by the seller.

(B) If the protected employee holds an unexpired lease on a dwelling occupied by him as his home, he shall be protected from all loss and cost in securing the cancellation of said lease.

(C) No claim for costs or loss shall be paid under the provisions of this paragraph (2) unless such claim is presented to the Corporation or an acquiring railroad within ninety days after such costs or loss are incurred.

(D) Should a controversy arise with respect to the value of the home, the costs or loss sustained in its sale, the costs or loss under a contract for purchase, loss or cost in securing termination of a lease, or any other question in connection with these matters, it shall be decided through joint conference between the employee, or his representative, and the Corporation or an acquiring railroad. In the event they are unable to agree, the dispute or controversy may be referred by either party to a board of competent real estate appraisers, elected in the following manner: One to be selected by the employee or his representative and one by the Corporation or an acquiring railroad, and these two, if unable to agree upon a valuation within thirty days, shall endeavor by agreement within ten days thereafter to select a third appraiser, or to agree to a method by which a third appraiser shall be selected, and, failing such agreement, either party may request the National Mediation Board to designate within ten days a third qualified real estate appraiser whose designation will be binding upon the parties. A decision of a majority of the appraisers shall be required and said decision shall be final and conclusive. The salary and expenses of the third or neutral appraiser, including the expenses of the appraisal board, shall be borne equally by the parties to the proceedings. All other expenses shall be paid by the party incurring them, including the compensation of the appraiser selected by such party.

(h) Should a railroad rearrange or adjust its forces in anticipation of a transaction with the purpose or effect of depriving a protected employee of benefits to which he otherwise would have become entitled under this title, the provisions of this title will apply to such employee.

PERFORMANCE OF WORK

Sec. 606. All work in connection with the operation or services provided by the Corporation on the rail lines, properties, equipment, or facilities acquired pursuant to the provisions of this Act and the maintenance, repair, rehabilitation, or modernization of such lines, properties, equipment, or facilities which has been performed by practice or agreement in accordance with provisions of the existing contracts in effect with the representatives of the class or craft involved shall continue to be performed by said Corporation's employees, including employees on furlough. Should the Corporation lack a sufficient number of employees, including employees on furlough, and is unable to hire additional employees, to perform the work required, it shall be permitted to subcontract that part of such work which cannot be performed by its employees including those on furlough, except where agreement by the representatives of the employees of the class or craft involved is required by applicable collective bargaining agreements. The term "unable to hire additional employees" as used in this section contemplates establishment and maintenance by the Corporation of an apprenticeship, training, or recruitment program to provide an adequate number of skilled employees to perform the work.

ARBITRATION

Sec. 607. Any dispute or controversy with respect to the interpretation, application, or enforcement of the provisions of this title, except section 604(d) and those disputes or controversies provided for in subsection (g)(2)(D) of section 605 and subsection (b) of section 604 which have not been resolved within ninety days, may be submitted by either party to an Adjustment Board for a final and binding decision thereon as provided in section 3 Second, of the Railroad Labor Act (45 U.S.C. 153 Second), in which event the burden of proof on all issues so presented shall be upon the Corporation or, where applicable, the Assocation.

ACQUIRING RAILROADS

Sec. 608. An acquiring railroad shall offer such employment and afford such employment protection to employees of a railroad from which it acquires properties or facilities pursuant to this Act, and shall further protect its own employees who are adversely affected by such acquisition, as shall be agreed upon between the said acquiring railroad and the representatives of such employees prior to said acquisition: *Provided, however,* That the protection and benefits provided for protected employees in such agreements shall be the same as those specified in section 605 of this title; *And provided further, however,* That unless and until such agreements are reached, the acquiring railroad shall not enter into purchase agreements pursuant to section 206 of this Act.

PAYMENT OF BENEFITS

Sec. 609. The Corporation, Association, (where applicable), and acquiring railroads, as the case may be, shall be responsible for the actual payment of all allowances, expenses, and costs, provided protected employees pursuant to the provisions of this title. The Corporation, Association (where applicable), and acquiring railroads shall then be reimbursed for such actual amounts paid protected employees, not to exceed the aggregate sum of $250,000,000, pursuant to the provisions of this title by the Railroad Retirement Board upon certification to said Board by the Corporation, Association, and acquiring railroads of the amounts paid such employees. Such reimbursement shall be made from a separate account maintained in the Treasury of the United States to be known as the Regional Rail Transportation Protective Account. There is hereby authorized to be appropriated to such protective account annually such sums as may be required to meet the obligations payable hereunder, not to exceed in the aggregate, however, the sum of $250,000,000. There is further authorized to be appropriated to the Railroad Retirement Board annually such sums as may be necessary to provide for additional administrative expenses to be incurred by the Board in the performance of its functions under this section.

WORK RULES STUDY

Sec. 610. The Secretary of Labor, in consultation with the Secretary, the Chairman of the Commission and other interested parties, shall conduct a study of the effect of existing work rules on the consolidation of the operations of the railroads in reorganization under this Act. The Secretary shall submit to the President and to the Congress his findings and recommendations as a result of such study no later than the date for submission of the final system plan as provided in subsection 207(c) of this Act.

EMPLOYEE DISPLACEMENT STUDY

Sec. 611. (a) Scope.—The Secretary of Labor shall, within 1 year after the Corporation commences operations and each year for the succeeding four years thereafter, conduct a study of and report to the President and the Congress on the extent of the displacement of railroad employees and the extent to which the railroad industry as a whole and each individual carrier contribute to the solution of the displacement problem by employing workers displaced as a result of this Act.

(b) Roster.—The Corporation, acquiring railroads, and the Railroad Retirement Board, shall maintain a roster or rosters of railroad employees furloughed, displaced, transferred, or otherwise affected as a result of transactions under this Act, and shall provide such information together with other information needed and requested by the Secretary of Labor in fulfilling his responsibilities under this section.

(c) Authorization for Appropriations.—There is authorized to be appropriated annually to the Secretary of Labor and to the Railroad Retirement Board such sums as may be necessary to provide for additional administrative expenses incurred by the Secretary of Labor and the Railroad Retirement Board in the performance of their functions under sections 610 and 611 of this title.

TITLE VII—GENERAL PROVISIONS

RELATIONSHIP TO OTHER LAWS

Sec. 701. (a) Antitrust.—(1) Except as specifically provided in paragraph (2) of this subsection, no provision of this Act shall be deemed to convey to any railroad or employee or director thereof any immunity from civil or criminal liability, or to create defenses to actions, under the antitrust laws.

(2) The antitrust laws are inapplicable with respect to any action taken to formulate or implement the final system plan where such action was in compliance with the requirements of such plan.

(3) As used in this subsection, "antitrust laws" includes the Act of July 2, 1890 (ch. 647, 26 Stat. 209), as amended; the Act of October 15, 1914 (ch. 323, 38 Stat. 730), as amended; the Federal Trade Commission Act (38 Stat. 717), as amended; sections 73 and 74 of the Act of August 27, 1894 (28 Stat. 570), as amended; and the Act of June 19 1936 (ch. 592, 49 Stat. 1526), as amended.

(b) Commerce and Bankruptcy.—The provisions of the Interstate Commerce Act (49 U.S.C. et seq.) and the Bankruptcy Act (11 U.S.C. et seq.) are inapplicable to transactions under this Act to the extent necessary to formulate and implement the final system plan whenever a provision of any such Act is inconsistent with this Act.

(c) Environment.—(1) The provisions of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332 (2)(C)) shall not apply with respect to any action taken under authority of this Act before the effective date of the final system plan;

(2) With respect to any action taken under authority of this Act after the effective date of the final system plan in a proceeding before the Commission, or in any other proceeding before the Commission after the date of enactment of this Act, the proponent of any rule or order shall have the burden of proving that any action requested of the Commission shall not significantly impair the quality of the human enviroment, or otherwise be inconsistent with the purposes and objectives of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Clean Air Act of 1970 (42 U.S.C. 1857 et seq.), the Water Quality Improvement Act of 1970 (33 U.S.C. 1151 et seq.), the Resource Recovery Act of 1970 (42 U.S.C. 3251 et seq.), the Noise Control Act of 1972 (42 U.S.C. 4901), or any other Federal law administered by the Administrator of the Environmental Protection Agency. In no case shall the Commission take significant action under any provision of the Interstate Commerce Act without including as part of such action an assessment or statement of its impact on the environment. The Commission shall make such assessment or statement as part of its initial decision. Any party or other interested person may seek agency review within 45 days of the date of issuance of such initial decision by the Commission.

(d) Northeast Corridor.—(1) Rail properties designated in accordance with section 206(c)(1)(C) of this Act shall be purchased or leased by the National Railroad Passenger Corporation or the regional transportation authority designated in the final system plan. The Corporation shall negotiate an appropriate sale or lease agreement with the National Railroad Passenger Corporation or regional transportation authority as provided in the final system plan.

(2) Properties acquired pursuant to this subsection shall be improved in order to meet the goals set forth in section 206(a)(3) of this Act at the earliest practicable date, but in no event later than 6 years after the date of enactment.

(3) The Secretary shall begin the necessary engineering studies upon enactment.

(4) The final system plan shall provide for any necessary coordination by freight or commuter services of use of the facilities designed in section 206(c)(1)(C) of this Act. Such coordination may be effectuated through a single operating entity, designated in the final system plan, or as mutually agreed upon by the interested parties.

(5) Construction or improvements made pursuant to this subsection shall be under the supervision of and in consultation with the Corps of Engineers.

(e) Emergency Service.—Section 1(16) of the Interstate Commerce Act (49 U.S.C. 1(16)) is amended by inserting "(a)" before the word "Whenever" in the first sentence and adding the following new paragraph:

"(b) Whenever any carrier by railroad is unable to transport the traffic offered it because—

"(1) its cash position makes it continuing operation impossible;

"(2) it has been ordered to discontinue any service by a court; or

"(3) it has abandoned service without obtaining a certificate from the Commission pursuant to this section;

the Commission may, upon the same procedure as provided in paragraph (15) of this section, make such just and reasonable directions with respect to the handling, routing, and movement of the traffic available to such carrier and its distribution over such carrier's lines, as in the opinion of the Commission will best promote the service in the interest of the public and the commerce of the people subject to the following conditions:

"(A) Such direction shall be effective for no longer than 60 days unless extended by the Commission for cause shown for an additional designated period not to exceed 180 days.

"(B) No such directions shall be issued

that would cause a carrier to operate in violation of the Federal Railroad Safety Act of 1970 (45 U.S.C. 421) or that would substantially impair the ability of the carrier so directed to serve adequately its own patrons or to meet its outstanding common carrier obligations.

"(C) The directed carrier shall not, by reason of such Commission direction, be deemed to have assumed or to become responsible for the debts of the other carrier.

"(D) The directed carrier shall hire employees of the other carrier to the extent such employees had previously performed the directed service for the other carrier, and, as to such employees as shall be so hired, the directed carrier shall be deemed to have assumed all existing employment obligations and practices of the other carrier relating thereto, including but not limited to agreements governing rate of pay, rules and working conditions, and all employee protective conditions commencing with and for the duration of the direction.

"(E) Any order of the Commission entered pursuant to this paragraph shall provide that if, for the period of its effectiveness, the cost as hereinafter defined, of handling, routing, and moving the traffic of another carrier over the other carrier's lines of road shall exceed the direct revenues therefor, then upon request, payment shall be made to the directed carrier, in the manner hereinafter provided and within 90 days after expiration of such order, of a sum equal to the amount by which such cost has exceeded said revenues. The term 'cost' shall mean those expenditures made or incurred in or attributable to the operations as directed, including the rental or lease of necessary equipment, plus an appropriate allocation of common expenses, overheads, and a reasonable profit. Such cost shall be then currently recorded by the carrier or carriers in such manner and on such forms as by general order may be prescribed by the Commission and shall be submitted to and subject to audit by the Commission. The Commission shall certify promptly to the Secretary of the Treasury the amount of payment to be made to said carrier or carriers under the provisions of this paragraph. Payments required to be made to a carrier under the provisions of this paragraph shall be made by the Secretary of the Treasury from funds hereby authorized to be appropriated in such amounts as may be necessary for the purpose of carrying out the provisions hereof.".

ANNUAL EVALUATION BY THE SECRETARY

Sec. 702. As part of his annual report each year, the Secretary shall transmit to Congress each year a comprehensive report on the effectiveness of the Association and the Corporation in implementing the purposes of this Act, together with any recommendations for additional legislative or other action.

FREIGHT RATES FOR RECYCLABLES

Sec. 703. (a) Rate Policy.—In view of existing and anticipated shortages of critical natural resources, the Transportation Commissions, within the scope of their respective jurisdictions, are hereby directed to effect with the least practicable delay such lawful changes in the rate structure of the country as will promote the freedom of movement by common carriers of recyclable materials at the lowest possible lawful rates compatible with the maintenance of adequate transportation service: *Provided,* That no investigation or proceeding resulting from the enactment of this section shall be permitted to delay the decision of cases now pending before either of these commissions and involving rates on recyclable materials, but such cases shall be decided in accordance with this section.

(b) Investigating Rates.—The transportation commissions, within the maximum scope of their respective statutory jurisdictions, shall, within 36 months after the date of enactment of this Act and on a continuing basis thereafter—

(1) investigate and formally identify all rates charged by transportation carriers subject to their respective jurisdictions for the transportation of recyclable materials and shall, in each case, after a hearing has been afforded, determine whether the rates charged and the terms and conditions of transportation for such materials are reasonable or whether they unjustly discriminate against the movement or shipment in interstate or foreign commerce of recyclable materials and in favor of competing virgin natural resource materials or commodities;

(2) issue appropriate orders in all cases where the rates charged or terms and conditions of transportation applicable to recyclable materials are found to be unreasonable or discriminatory pursuant to which such rates and conditions of transportation will be effectively canceled and repealed and replaced by rates, tariffs, and conditions of transportation which are found to be fair; reasonable, and nondiscriminatory; and

(3) file annual reports with the President and the Congress on the 10th day of December of each year and such terminal reports as shall be appropriate to reflect all actions commenced or completed under the Act during the reporting period to eliminate unreasonable and unjustly discriminatory rates for the transportation of recyclable materials.

(c) Intervention.—The Administrator of Environmental Protection Agency shall take such steps as are necessary to insure that the directives of subsections (a) and (b) of this section are carried out as expeditiously as possible, including the initiation of and intervention in proceedings before the Transportation Commission. Such Administrator shall have such standing in proceedings before these commissions as is necessary to comply with this subsection. Attorneys appointed by such Administrator may appear for and represent him in any such proceedings.

(d) Unreasonable and Discriminatory Rates.—(1) In addition to all other obligations imposed by law, a Transportation Commission shall not approve, authorize, or allow to go into effect any rate or charge increase for the transportation of recyclable materials which is unreasonable or unjustly discriminatory when such increase or existing rate for such recyclable materials is compared with the increase approved, authorized, or allowed to go into effect or with the existing rate demanded or collected by the railroad or carrier for the transportation of virgin natural resources which complete with such recyclable material.

(2) In addition to all other obligations imposed by law, it shall be unlawful for any railroad, common carrier by water, motor carrier, or any group, conference, or association of railroads or carriers, or for any officer or agent thereof to (1) file with the Transportation Commission or (2) demand, charge or collect any rate or charge, schedule of rates or charges, proposed rate or rate increase, classification or tariff for the transportation of recyclable materials which is unreasonable or unjustly discriminatory when compared with any rate or charge, schedule of rates or charges, proposed rate or rate increase, classification or tariff already on file or filed or charged or demanded by such railroad, carrier, group, conference or association of railroads or carriers for the transportation of virgin natural resources that compete with such recyclable materials; and before any such rate, charge, rate increase, schedule, tariff, or classification is accepted for filing, the filing party shall be required to furnish such evidence as shall be necessary to establish that the same is not unreasonable or unjustly discriminatory.

(e) Complaints.—Any person may file a complaint with a Transportation Commission which alleges that rates charges, or tariffs or proposed rate increases for the transportation of recyclable materials within its jurisdiction and not already under investigation are unreasonable or unjustly discriminatory or both. Upon filing of any such complaint, the affected Commission shall forward a copy thereof to the railroads or other carriers whose rates or proposed rate increases are challenged. Such carriers shall be offered a reasonable opportunity to answer such allegations in writing. The affected Commission shall thereupon investigate and, after a hearing has been afforded, determine whether such rates, charges, tariffs, or proposed rate increases are unreasonably or unjustly discriminatory when compared with the rates, charges, or tariffs charged or filed by responding railroads or other carriers for transportation of competing virgin natural resources. If such rates, charges, tariffs, or proposed rate increases are found to be unreasonable or unjustly discriminatory, the affected Commission shall issue an appropriate order which effectively cancels such rates, charges, or tariffs or denies such rate increases, and replaces them with rates, charges, tariffs, and conditions of transportation found to be reasonable and nondiscriminatory, and the respondents shall be ordered to comply with the affected Commission's rulings.

(f) Proceedings.—(1) In any proceeding under this section, the railroads or carriers whose existing or proposed rates are under investigation shall establish by a preponderance of the evidence on the record, subject to cross-examination, that such rates are reasonable and nondiscriminatory.

(2) The Transportation Commission shall make specific findings based upon appropriate references to the record with respect to all determinations made by it in accordance with this section. If either Commission wishes to rely on its own experts in making these findings, such experts shall place all evidence in the record, subject to cross-examination.

(3) With respect to detrminations required under this title, facts and conclusions offered in evidence by other governmental agencies having specific expertise in such matters as functional equivalence, substitutability, or environmental impact and the degree thereof, shall be presumed to be true unless rebutted by a preponderance of the evidence.

(4) Because of the important environmental interest involved in such proceedings, the Transportation Commissions shall give full preference to the hearing and decision of such questions and decide them as speedily as possible. In any such case, a Transportation Commission may by subpoena compel the attendance of witnesses and the production of books, papers, documents, and such other evidence as may be required. Attendance of witnesses and production of evidence in response to subpoena may be required from any place in the United States to any designated place of hearing. Persons acting under subpoena, except employees of either such commission, shall be entitled to the same fees and mileage as are paid for appearances in the courts of the United States. Obedience to any such subpoena shall, on application of the affected commis-

sion, be enforced by any district court of the United States having jurisdiction over the parties or witnesses involved. In such cases, depositions, written interrogatories, and other discovery procedures shall be available to the extent practicable and in conformity with the rules applicable to civil proceedings in the district courts of the United States.

(g) REVIEW.—Orders issued by a Transportation Commission pursuant to this section shall be subject to judicial review or enforcement by any court with appropriate jurisdiction in accordance with the provisions of the Interstate Commerce Act (49 U.S.C. 1, et seq.) and the Shipping Act of 1916 (46 U.S.C. 801, et seq.).

(h) PRESUMPTION AND DEFINITION.—For the purposes of this section—

(1) A recyclable material which is functionally or technically equivalent to or substitutable, in any industrial or manufacturing process, for any virgin natural resource material shall be presumed to be competitive with such virgin natural resource material unless this presumption is rebutted by a preponderance of the evidence.

(2) "Recyclable material" means any material such as scrap metal, discarded textiles, rubber, plastic, glass, and others which still have useful physical or chemical properties after serving a specific purpose and can, therefore, be usefully recovered from solid waste resources such as garbage, refuse, or trash or from industrial, commercial, and agricultural operations for reuse or recycling.

(3) "Transportation Commission" means, to the extent of their respective jurisdictions, the Federal Maritime Commission and the Interstate Commerce Commission.

(i) REGULATION.—The Transportation Commissions are authorized to prescribe such regulations as may be necessary to carry out the provisions and purposes of this section.

(j) PENALTIES.—Any person who violates subsection (d) of this section shall be subject to a civil penalty of not more than $5,000 for each such violation. Such civil penalty shall be assessed by the Transportation Commission which has jurisdiction over the violation. Such penalty may be remitted or mitigated upon such terms as the affected Commission shall deem consistent with the purposes of this section.

SEPARABILITY

SEC. 704. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

Amend the title so as to read: "An Act to authorize and direct the maintenance of adequate and efficient rail services in the Midwest and Northeast region of the United States, and for other purposes."

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be charged against the order of time allotted to Mr. LONG.

The PRESIDING OFFICER. Without objection, it is so ordered. The Clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. President, I ask unanimous consent that the remainder of the time allotted to Mr. LONG be vacated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, I yield back the time remaining under my special order.

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business for not to extend beyond the hour of 12 noon, with statements therein limited to 3 minutes.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER THAT AMENDMENTS TO S. 1868 AND S. 2686 AT THE DESK PRIOR TO CLOTURE VOTES QUALIFY UNDER THE RULE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent in accordance with the rather normal procedure, certainly as of late, that, on both of the bills, the Rhodesian chrome bill and the legal services bill—in connection with each of which there will be a vote on a motion to invoke cloture today—all amendments that are at the desk, as of the hour the rollcall vote begins on the motion to invoke cloture, may be considered as having been read by the clerk, so that they may be qualified to be called up under the rule.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COTTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGAL SERVICES CORPORATION ACT—SUBMISSION OF AMENDMENT

AMENDMENT 898

Mr. COTTON. Mr. President, I send to the desk an amendment to S. 2686, the Legal Services bill, and ask that it be read so that it will qualify under the rules of the Senate.

The PRESIDING OFFICER. The amendment does not have to be read. Under the unanimous-consent agreement previously entered into, the amendment will be considered as having been read.

The amendment will be received and printed and will lie on the table.

Mr. COTTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the PRESIDENT pro tempore:

A petition from Miro Nohavec, Franklin Lakes, N.J., praying for redress of grievances. Referred to the Committee on the Judiciary.

A petition from Earle Ray Esgate, San Jose, Calif., praying for redress of grievances. Referred to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INOUYE, from the Committee on Appropriations, with amendments:

H.R. 11771. An act making appropriations for foreign assistance and related programs for the fiscal year ending June 30, 1974, and for other purposes (Rept. No. 93–620).

By Mr. GRAVEL, from the Committee on Public Works, without amendment:

S. 1561. A bill to provide that Mansfield Lake, Ind., shall be known as "Cecil M. Harden Lake" (Rept. No. 93–624);

S. 2509. A bill to name structure S–5A of the Central and Southern Florida Flood Control District, located in Palm Beach County, Fla., as the "W. Turner Wallis Pumping Station" in memory of the late W. Turner Wallis, the first secretary-treasurer and chief engineer for the Central and Southern Florida Flood Control District (Rept. No. 93–625);

S. 2535. A bill to designate the Chartiers Creek flood protection project in Allegheny County, Pa., as the "James G. Fulton flood protection project"; (Rept. No. 93–626); and

H.R. 655. An act to provide for the naming of the lake to be created by the Buchanan Dam, Chowchilla River, Calif. (Rept. No. 93–627).

By Mr. RANDOLPH, from the Committee on Public Works, with amendments:

H.R. 11372. An act to conserve energy on the Nation's highways (Rept. No. 93–628).

By Mr. SPARKMAN, from the Committee on Banking, Housing and Urban Affairs, without amendment:

S. 2795. A bill to authorize the Secretary of the Treasury to change the alloy and weight of the 1 cent piece (Rept. No. 93–622).

By Mr. JACKSON, from the Committee on Interior and Insular Affairs, with an amendment:

H.R. 620. An act to establish within the Department of the Interior and additional Assistant Secretary of the Interior for Indian Affairs, and for other purposes (Rept. No. 93–623).

By Mr. McGEE, from the Committee on Post Office and Civil Service, without amendment:

S. 2264. A bill to provide civil service retirement credit for certain language instructors of the Foreign Service Institute, Department of State (Rept. No. 93–629).

By Mr. MUSKIE, from the Committee on Public Works, without amendment:

S. 2812. An original bill to authorize a formula for the allocation of funds authorized for fiscal year 1975 for sewage treatment construction grants, and for other purposes (Rept. No. 93–630), together with additional views.

HEALTH MAINTENANCE ORGANIZATION ACT OF 1973—CONFERENCE REPORT—REPORT OF A COMMITTEE—(REPT. NO. 93–621)

Mr. KENNEDY, from the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 14) to amend the Public Health Service Act to provide assistance and encouragement for the establishment and expansion of health maintenance organizations, health care resources, and the establishment of a Quality Health Care Commission, and for other purposes, submitted a report thereon, which was ordered to be printed.

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

By Mr. CANNON, from the Committee on Armed Services:

James W. Plummer, of California, to be Under Secretary of the Air Force.

The above nomination was reported with the recommendation that the nomination be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

By Mr. EASTLAND, from the Committee on the Judiciary:

Richard Owen, of New York, to be U.S. district judge for the southern district of New York;

Albert J. Engel, of Michigan, to be a U.S. circuit judge for the sixth circuit; and

Russell James Harvey, of Michigan, to be U.S. district judge for the eastern district of Michigan.

By Mr. EASTLAND, from the Committee on the Judiciary:

John O. Olson, of Wisconsin, to be U.S. attorney for the western district of Wisconsin;

William C. Conner, or New York, to be U.S. district judge for the southern district of New York;

Evan LeRoy Hultman, of Iowa, to be U.S. attorney for the northern district of Iowa;

William A. Quick, Jr., of Virginia, to be U.S. marshal for the western district of Virginia;

Era DeMent, of Alabama, to be U.S. attorney for the middle district of Alabama;

Julio A. Brady, of the Virgin Islands, to be U.S. attorney for the Virgin Islands; and

William B. SAXBE, of Ohio, to be Attorney General.

The above nominations were reported with the recommendation that the nominations be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

By Mr. SPARKMAN, from the Committee on Banking, Housing, and Urban Affairs:

Ralph Dwight DeNunzio, of Connecticut, to be a Director of the Securities Investor Protection Corporation.

The above nomination was reported with the recommendation that the nomination be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. GRAVEL:

S. 2806. A bill to establish an Energy Trust Fund funded by a tax on energy sources, to establish a Federal Energy Administration, to provide for the development of domestic sources of energy and for the more efficient utilization of energy, and for other purposes. Referred to the Committee on Finance.

By Mr. TALMADGE (for himself and Mr. NUNN):

S. 2807. A bill to name the Federal building, U.S. Post Office, U.S. courthouse in Brunswick, Ga., as the "Frank M. Scarlett Federal Building". Referred to the Committee on Public Works.

By Mr. HANSEN:

S. 2808. A bill to authorize the Secretary of the Interior to sell certain rights in the State of Wyoming. Referred to the Committee on Interior and Insular Affairs.

By Mr. MONDALE (for himself and Mr. HART):

S. 2809. A bill to amend the Manpower Development and Training Act (P.L. 87–415, as amended) to require prenotification to affected employees and communities of dislocation of business concerns, to provide assistance—including retraining—to employees who suffer employment loss through the dislocation of business concerns, to business concerns threatened with dislocation, and to affected communities, to prevent Federal support for unjustified dislocation, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. GOLDWATER:

S. 2810. A bill to protect the constitutional right of privacy of individuals concerning whom identifying numbers or identifiable information is recorded by enacting principles of information practice in furtherance of amendments I, III, IV, V, IX, X, and XIV of the U.S. Constitution. Referred to the Committee on the Judiciary.

By Mr. MONDALE:

S. 2811. A bill to provide a simplified and uniform procedure for the imposition, collection, and administration of State and local sales and use taxes with respect to interstate commerce, to reduce significantly the burden of tax compliance for persons engaged in making sales in interstate commerce, and to eliminate restrictions on the taxing power of the States which now prevent them from securing collection and remittance of such taxes on certain interstate sales. Referred to the Committee on Finance.

By Mr. MUSKIE:

S. 2812. An original bill to authorize a formula for the allocation of funds authorized for fiscal year 1975 for sewage treatment construction grants, and for other purposes. Placed on the calendar.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRAVEL:

S. 2806. A bill to establish an Energy Trust Fund funded by a tax on energy sources, to establish a Federal Energy Administration, to provide for the development of domestic sources of energy and for the more efficient utilization of energy, and for other purposes. Referred to the Committee on Finance.

THE ENERGY REVENUE AND DEVELOPMENT ACT OF 1973

Mr. GRAVEL. Mr. President, I am today introducing legislation to initiate and finance a national energy program, the aim of which is to develop our massive indigenous fossil fuel resources and to assist in the development of alternative sources of energy including coal gasification and liquefaction, solar, geothermal, nuclear, tidal, conversion of combustible waste materials and others.

The bill I am sponsoring would establish an energy trust fund, supported by the revenues of an energy tax—that is, a Btu tax at the source of all energy produced in, or imported into, the United States. The trust fund would be administered by the Secretary of the Treasury and the funds would be transferred to a Federal Energy Administration annually in accordance with appropriations from the trust fund. The bill would also establish a Commission on Energy Technology composed of scientists, engineers and economists. Their task would be to critically analyze the Government-sponsored research and development efforts, and the performance of the private sector in responding to the incentives provided in this bill to meet the energy needs of the Nation. This Commission would advise the executive and the Congress through public reports on the efficacy of the various options undertaken and contemplated as part of a national energy policy. The Commission would be charged with constructing an energy model on the United States and the vital information from this model would be made public on a monthly basis.

I am gratified that the administration has recently taken steps to create a Federal Energy Administration by Executive order. I have urged such an action for sometime, and in fact, gave a draft of the statutory language to create such an administration to Governor Love 1 month ago, when he was still energy czar.

While I applaud this move, it is my conviction that a clear statutory mandate is needed if we are to move our country toward a comprehensive national energy policy designed to achieve energy independence over the next decade. The bill I am introducing today would provide such a mandate and commit our country to the task of becoming energy independent by 1985.

NEED: A NATIONAL ENERGY POLICY

It is my privilege to serve as chairman of the Subcommittee on Energy of the Committee on Finance. Our subcommittee recently conducted a series of hearings on the subject of fiscal policy and energy crisis. We heard from representatives of the administration, the Department of the Treasury, the academic community, and the private sector. In the course of our hearings, it became clear that our country lacks a long-term policy and program to increase the supply of energy in the coming years. Congress and the Executive have devoted their efforts to allocating short supplies to competing users and have centered the debate on such issues as a gasoline tax vs. rationing. The supply side of the equation has not received the attention it deserves.

The legislation I am introducing today is designed to provide a policy and program to develop our massive fossil fuel resources and to coordinate efforts to reach out for ways of tapping for commercial use the ultimate sources of energy—the sun, the tides, the heat of the earth's crust.

What is the nature of the so-called energy crisis? How did it happen? What does it mean to the average American? And how can we overcome it? These are questions most Americans are asking, and questions we must answer. For a decade or more the energy crisis has been a dark storm on the horizon.

For many reasons, but primarily because we have lacked a national energy policy, we have been charting a steady course toward that storm. Despite the repeated forecasts of energy experts, despite many opportunities to change our course, we are today faced with serious shortages of fossil fuels.

The duration and degree of the crisis for the present depend less upon remedial public policies than upon the severity of the coming winter. If the weather is warm, we will get by without great discomfort. If the weather is cold, we face serious shortages of heating fuels and the prospect of closed schools and plants. For the time being we can do little more than eliminate energy waste and restrain energy consumption. But what about the winters and years ahead? If we do not make the critical decisions now, those winters and years will be bleak indeed.

For the longer term it is within our power to solve our energy problems—if we have the wisdom and intelligence and will to do so. In the past, we have not evinced those qualities, and we have not shown foresight in our use of energy. In my opinion, the challenge ahead of us is as great as our country has confronted since World War II. If we can bring our country's finest qualities to the task, we can convert the energy crisis into energy promise and environmental opportunity.

In my judgment, the Arab oil boycott can be a golden opportunity. They did us a favor by forcing us to come to grips with all our divergent interests and make the decisions necessary that will insure our economic and military viability in the future. Had they waited until we drifted into a 50-percent dependency on them, it would have been too late to do anything but capitulate to their demands as we see happening in Europe and Japan. I am not suggesting the Arab position in the Middle East is totally in error. There is probably enough finger pointing and those situations are never black and white. But they have acted in what they perceive to be their own self-interest, and now we must act in our own self-interest. The fact is even without an Arab-Israeli conflict we would have had an energy crisis. They only brought the crisis to a head. We can make the crisis truly advantageous to ourselves.

How the energy crisis came about is a long story—a story subject to interpretation and disagreement. Past mistakes, however, should be reviewed, not for the purpose of fixing blame, but for their value in charting the future. The energy crisis is a crisis of our own making, and resolving it will require the full cooperation and finest efforts of Congress, the executive branch, private industry, and the American people. Fortunately, the essential tools and resources are at hand; we need only the intelligence and determination to use them wisely and well.

THE ENERGY SHORTAGE IS NOT A RESOURCE SHORTAGE, BUT A POLICY SHORTAGE

America's energy crisis—unlike Europe's or Japan's—is not a shortage of resources. Our country is endowed with enormous fossil fuel resources.

The United States has a large potential resource base of fossil fuels sufficient to meet its needs for several hundred years at present consumption levels. What exists today is a widening gap between energy consumption and the production of available energy supplies.

While there is certainly room for error in estimating the size of our energy resources, responsible studies have concluded that our indigenous resources are truly massive. I ask unanimous consent to have printed in the Record a table which compares the potential resources base with 1972 U.S. consumption.

There being no objection, the table was ordered to be printed in the Record, as follows:

TABLE 1.—U.S. CONSUMPTION AND RESOURCES OF ENERGY FUELS

Energy fuels	Potential resources	1972 consumption
Oil [1]	346 billion bbls	6.0 billion bbls.
Natural gas [1]	1,178 trillion cu ft	22.6 trillion cu ft.
Coal [2]	394 billion tons	517 million tons.
Uranium [3]	1.6 million tons	16 thousand tons.
Oil shale [4]	189 billion bbls	None.

[1] U.S. Geological Survey.

[2] U.S. Bureau of Mines.

[3] U.S. Atomic Energy Commission.

[4] National Petroleum Council. U.S. Energy Outlook, a Mutual Appraisal.

Mr. GRAVEL. If we developed all oil and gas resources in this country, we would have more than 100 times our 1973 needs. Our coal resources are 600 times current production. But it will take many years and huge amounts of capital to develop those resources.

In addition to these conventional sources of energy, the United States has the technology to develop alternative sources of energy from the Sun—solar—the wind, the Earth's crust—geothermal—the power of the atom—nuclear fission and fusion—and others. There are already existing facilities to "gasify" coal, and liquefaction of coal is also possible.

A strong, well-coordinated research and development program is necessary to develop these alternatives and to translate their technological feasibility into commercial uses in the most environmentally sensible way possible. There are generally considered longer range solutions and not remedies for the short-term problem. The short-term problem, it appears, can only be mitigated by cutbacks in U.S. consumption.

We have huge energy resources, but we have failed to allocate the capital, time and technology required to develop them and to bring them to the marketplace. Let me repeat: There is no shortage of energy resources in America; there is a shortage of energy policy.

HUGE CAPITAL REQUIREMENTS NEEDED TO DEVELOP RESOURCES

Developing and marketing our energy resources in the future is going to require greater effort and better planning than we have demonstrated in the past. It will take money. The National Petroleum Council estimates that we will require a capital investment of between $375 billion and $547 billion to produce our energy needs through 1985. I ask unanimous consent to have printed in the Record a table estimating the capital requirements of the energy industries. Governor Love told us the costs would approach $1 trillion, while the Chase Manhattan expert, John Winger, said that Banks studies estimated the capital requirements at $1.3 trillion.

There being no objection, the table was ordered to be printed in the Record, as follows:

TABLE 2.—SUMMARY OF CUMULATIVE CAPITAL REQUIREMENTS, U.S. ENERGY INDUSTRIES 1971–85

[In billions of 1970 dollars]

	Initial appraisal	High supply	Intermediate supply		Continua- of current trends
Oil and gas					
Exploration and production	92.4	171.8	144.8	135.1	88.0
Oil pipelines	3.5	7.5	7.5	7.5	7.5
Gas transportation	21.0	56.6	46.9	39.8	29.5
Refining [1]	20.0	19.0	24.0	30.0	38.0
Tankers, Terminals	14.5	2.0	9.0	16.0	23.0
Subtotal	151.4	256.9	232.2	228.4	186.0
Synthetics:					
From petroleum liquids		5.0	5.0	5.0	5.0
From coal (plants only)	1.5	12.0	4.6	4.6	1.7
From shale (mines and plants)	.5	4.0	2.2	2.2	.5
Subtotal	2.0	21.0	11.8	11.8	7.2
Coal: [2]					
Production	9.3	14.3	10.4	10.4	9.4
Transportation	6.0	6.0	6.0	6.0	6.0
Subtotal	15.3	20.3	16.4	16.4	15.4
Nuclear: Production, processing, enriching	5.0	13.1	11.0	8.5	6.7
Total, all fuels	173.7	311.3	271.4	265.1	215.3
Electric generation, transmission [3]	200.0	235.0	235.0	235.0	235.0
Water requirements	(4)	1.1	.8	.8	.7
Total energy industries	373.7	547.4	507.2	500.9	451.0

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[1] Based on maximum U.S. requirements, some of which may be spent outside the United States.

[2] The last 4 columns do not include capital requirements for coal production for synthetic fuels. These requirements in billions of 1970 dollars are as follows: High supply—2.0; Intermediate supply—0.8; Continuation of current trends—0.3.

[3] Condition 1; capital requirements under all 6 conditions postulated by the electricity task group are as follows:

Condition	Cumulative Investment (1971–85) in billions of 1970 dollars 1	2	3	4	5	6
Powerplant construction	181	183	186	169	196	163
Transmission (estimated at 30 percent of condition 1 cumulative powerplant investment)	54	54	54	54	54	54
Total	235	237	240	223	250	217

[4] Not available.

NEED FOR A GAME PLAN

Mr. GRAVEL. Achieving near energy self-sufficiency by 1985 will also take planning. We must bring our technology to bear on the task of researching and developing alternative energy systems and sources, including gasification and liquefaction of coal as well as solar and geothermal energy, the most plentiful and promising energy resources we have. We have to develop a game plan to do these things in an environmentally sensible way.

We must also find new ways to use fuels more efficiently. In the past we have squandered our energy resources. Our demand for energy now equals one-third the world's consumption, and a significant portion is wasted. Our use of energy has developed without restriction, without planning, and with little or no attention to efficient consumption. The average electric power plant wastes almost one-half the energy potential of the coal which it consumes. Our automobiles, our appliances, generally consume and waste ludicrously large amounts of energy. Air and water pollution are often wasted energy resources.

NOTHING VALUABLE CAN BE "CHEAP"

Our past energy policies—or, more accurately, our past energy decisions—were designed simply to keep energy cheap, to encourage its consumption, and not to worry too much about where it was coming from. We regulated the price of natural gas and made our most valuable source of energy our cheapest fuel. We failed to realize that the regulation of natural gas prices drove other fossil fuels, particularly coal, into the ground and diverted capital from energy to other forms of investment. We foresaw the risk of relying on insecure foreign sources of energy, but we failed to take appropriate steps to reduce the risk because we wanted "cheap" foreign oil.

In our haste to protect our environment, we failed to develop and apply the technology to use fuels efficiently without polluting our air and water. Now, a 1973 Vega has the same gas mileage as a 1966 Cadillac.

We shackled our economy with price controls, creating bottlenecks, short supplies, a gush of exports, all to the detriment of the very consumers we were trying to protect.

Our tax policies discourage domestic exploration and drilling vis-a-vis foreign investment, so the capital we needed at home fled to foreign lands in search of "cheap" foreign oil.

We opened up our market to this oil by dismantling our import program and in 1972 imported about 30 percent of our consumption.

Now we find, however, that the oil our companies found abroad is no longer cheap—the average cost of foreign crude is $6.50 a barrel versus $4.15 for domestic crude—foreign prices are rising daily; nor is foreign crude available, because the producing nations have retaliated against us for our support of Israel in the recent Middle East crisis.

So, today we face an energy crisis with serious social, economic, and political ramifications. We are consuming oil at a rate of over 17 million barrels a day. We are producing at a rate of about 11 million barrels a day, and the rate of our production continues to fall behind the rate of our consumption. The remaining 6 million barrels of oil that we require each day must be imported. But a substantial part of our foreign supply has been curtailed, leaving us with a shortfall of some 3 million barrels a day. If and when foreign imports again become available, we will find that the cost of foreign oil will be a substantial drain on our balance of payments—at least $40 billion by 1980—and on our economy unless we adopt policies that reduce our dependency. Incidentally, that was projected to be the drain on our balance of payments in 1985. With the changes in prices today, that has been advanced by 5 years. We will never return to a "business as usual" basis in oil again.

If our goal is energy self-sufficiency over the next decade, we must apply our imagination and intelligence to the task and get started immediately.

The first thing we must recognize is that the cost of such an effort will be high—it will be high in terms of prices to consumers, in terms of changes in the habits of our people, and in terms of trade-offs with our environmental objectives and other national goals. The energy crisis is the direct result of our decisions in the past to artificially suppress energy prices. To resolve the energy crisis, the American people must understand that the era of cheap, unlimited energy is over and the free market, guarded by incentives to plow back increased earnings, must now be permitted to work its will.

The alternative is a growing energy shortage, reduced output and the risk of economic recession.

NO SUBSTITUTE FOR THE MARKET FOR ALLOCATING GOODS AND SERVICES

In large measure, our present energy shortages are the result of our past, ill advised attempts to intervene in the energy marketplace. We must realize that there is no substitute for the law of market supply and demand. If we are to have adequate supplies and more intelligent consumption of energy, prices must be permitted to rise. These costs will be borne by the American public either as consumers or taxpayers.

NATURAL GAS REGULATION

The regulation of natural gas offers the best example of the folly of our past energy decisions. Natural gas is of such critical importance to the homeowner, the farmer, as well as certain segments of industry that the current natural gas shortage is in large measure the most critical energy problem facing the Nation. Yet, this country has been following a policy whose effects appear totally inconsistent with our energy needs—the Federal Power Commission's regulation of the price of natural gas at the wellhead. MIT's Paul MacAvoy and Robert Pindyck and Harvard's Steven Breyer concluded in their econometric studies that regulation of gas wellhead prices has produced the natural gas shortage that we are experiencing today.

Their study suggests that a phased deregulation would lead to a substantial increase in both reserves and production supply and that excess demand would be significantly reduced in 2 years and totally eliminated by 1979. These results are shown in table 3. The study projects that the alternative policy of strict controls—shown in table 5—would result in an increasing gap between production and consumption.

Mr. President, I ask unanimous consent to have printed in the RECORD two tables to which I have just referred.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TABLE 3.—THE EFFECTS OF PHASED DEREGULATION

Year	Field price on new contracts (cents per Mcf)	Additions to reserves (trillion cubic ft.)	Production supply (trillion cubic ft.)	Production demand (trillion cubic ft.)	Excess demand over production (continental United States trillion cubic ft.)
1972	26.3	9.8	19.3	23.3	4.1
1973	29.6	12.7	22.1	24.4	2.3
1974	44.1	13.8	25.0	25.4	.3
1975	47.7	15.4	26.0	26.4	.3
1976	51.3	18.3	27.1	27.4	.3
1977	54.9	22.2	28.2	28.5	.3
1978	58.4	25.9	29.5	29.7	.2
1979	62.0	29.9	31.0	31.0	0
1980	65.5	34.6	32.8	32.4	.3

TABLE 4.—THE EFFECTS OF STRICT CONTROLS

Year	Field price on new contracts (cents per Mcf)	Additions to reserves (trillion cubic ft.)	Production supply (trillion cubic ft.)	Production demand (trillion cubic ft.)	Excess demand over production (continental United States trillion cubic ft.)
1972	26.3	9.8	19.3	23.3	4.0
1973	29.6	12.7	22.0	24.3	2.3
1974	30.5	13.8	22.8	25.6	2.8
1975	31.3	15.2	23.4	26.9	3.6
1976	32.1	16.8	24.0	28.5	4.5
1977	33.0	18.7	24.7	30.3	5.5
1978	33.8	20.8	25.7	32.2	6.6
1979	34.6	23.2	26.7	34.4	7.7
1980	35.5	26.3	28.0	36.9	8.9

Source: Paul W. MacAvoy and Robert S. Pindyck "Alternative Regulatory Policies for Dealing with the Natural Gas Shortage" Bell Journal of Economics and Management Service, Vol. 4, No. 2. Autumn 1973, pp. 489 and 491.

Mr. GRAVEL. Mr. President, price controls of the past 2 dozen years have been accompanied by a steady decline in reserves—output is not being fully "replaced" in the supply line by new reserves—coupled with a huge excess in demand at the regulated prices. The underpricing of domestic natural gas distributors are direct causes of the recent contracts with Algeria and other foreign nations to import liquefied gas—LNG—at prices at least triple those on existing domestic gas contracts. Profs. James Cox and Arthur Wright of the University of Massachusetts earlier this year stated in testimony before the House Ways and Means Committee:

> The principal cause of the unseemly situation (the natural gas shortage) is wrongheaded price regulation by the Federal Power Commission which has controlled field contract prices of gas for interstate shipment since about 1955. The FPC has held field prices so low that gas companies have not found it profitable to develop and produce gas for interstate shipment from new domestic reserves. Regulatory agencies at the retail level have transmitted the FPC's underpricing to retail markets by basing rates on field prices plus pipeline charges. . . . "The solution to both the present and future shortages advanced by both industry spokesmen and others not open to conflict of interest, is to deregulate the field price of gas. The major argument for deregulating, aside from doing away with exceedingly cumbersome bureaucratic machinery, is that, on the best available economic evidence, the field prices of natural gas were set by competitive forces before the FPC began fixing prices. . . .

That is a conclusion from two University of Massachusetts professors, who realize that that State as well as the rest of New England and the upper Midwest will be the hardest hit by the natural gas shortage. The estimated shortage that we can anticipate by region, if we adopt strict controls advocated by some, is shown in the following table supplied to the subcommittee by the MIT energy group.

Mr. President, I ask unanimous consent to have printed in the RECORD table 5, showing regional shortages from strict controls.

There being no objection, the table was ordered to be printed in the RECORD. as follows:

TABLE 5.—REGIONAL SHORTAGES FROM STRICT CONTROLS, EXCESS DEMAND, BY REGION

[Trillions of cubic feet]

Year	West	Northeast	Southeast	North-central	South-central	Total
1977	1.1	1.3	0.9	3.0	0.1	6.2
1978	1.2	1.6	.9	3.4	.2	7.4
1979	1.4	1.8	1.0	3.9	.4	8.5
1980	1.6	2.1	1.1	4.3	.6	9.7

Mr. GRAVEL. Mr. President, since natural gas at the wellhead accounts for only 10 to 15 percent of the cost to the consumer, the price increases at the wellhead which can be expected from deregulating the price of a commodity in short supply would increase consumer prices modestly. In 1972, the average annual gas bill of the residential consumer amounted to $155.73. A recent study by Foster Associates estimated that with deregulation of gas prices, the cost would increase in the short term by $8.30 per year using a 55-cent field market-price assumption and by $10.03 per year at a 65-cent estimate. Over the period to 1980, the increase in residential consumer costs owing to rising field prices would be 2.8 or 3.4 percent per year at the 55 and 65 cent market price assumptions. These price assumptions are consistent with the studies of MacAvoy and Pindyck referred to above.

I believe if Americans were given the choice of paying $10 or $20 more to heat their homes they would gladly pay that price rather than run around looking for hot water bottles, electric heaters, or three pair of heavy underwear.

Unless increased production is made more attractive—by lifting price controls or by direct subsidy—the alternative appears to involve running out of sufficient domestic gas to heat homes and relying on Soviet or Algerian gas which, besides the risk of interruption, is triple the domestic prices and would still be higher than domestic prices even after deregulation.

In testifying before our subcommittee, Professors MacAvoy and Pindyck reached the following conclusion:

> The decade of price ceilings imposed by the Federal Power Commission created 1972–73 shortages of natural gas as great as 10 percent of demand.
>
> The operation of OPEC controls over foreign crude oil, if successful in raising crude prices to the monopoly level, has the effect of raising the demands for domestic gas even more. The most effective long term domestic policy response would be to allow gas prices to increase as well—so as to add to domestic gas production and to eliminate more elastic demanders from the combined oil-gas markets. The simulations reported here establish that this can be done at relatively low domestic gas prices—those on new contracts of 60 to 70 cents per Mcf equivalent at the wellhead to crude oil at $3.60 to $4.20 per barrel.

That is the conclusion of independent experts, without any industry or political ax to grind. They are MIT professors who have done their homework. Natural gas is but one example of how price controls have distorted the efficient allocation of resources. Another example of the importance of prices to energy supply and demand is the case of gasoline.

During the last 2 years, the real price of gasoline has declined almost 8 percent according to Paul McCracken, former Chairman of the Council of Economic Advisors, whose excellent article on rationing against the marketplace, appears as Appendix A. Is there any wonder why we now face a shortage of gasoline? The market price for any commodity must reflect the costs of production and distribution and a reasonable profit expectation.

Recent experience with controls on the price of one produce and no controls on all costs or market substitutes and the subsequent market distortions caused thereby should be enough evidence to question the wisdom of FPC pricing policies. As had been widely reported in the press last summer, controls over the price of chicken but not the cost of feed, led to the drowning of baby chickens. Similarly, controls over the price of gas but not the cost of producing it, prevents a lot of natural gas from being found.

DEFINING THE ROLE OF THE PUBLIC AND PRIVATE SECTOR

The urgent task confronting the Congress and the executive branch is to define the respective roles of the public and private sectors in carrying out a national energy policy. In the past, government has sought to intervene unreasonably in the marketplace, and today we are suffering the consequences. In the future, we must be certain that government and industry each perform the roles for which they are best suited. The proper function of government is not to thwart or supplant free market forces, but to supplement them, to give them direction, and when necessary and desirable, to extend their reach.

Clearly there are functions, such as long term energy research, which are best carried out under government sponsorship. Just as clearly, there are functions, such as energy production, for which the private sector is best suited.

Both the Congress and the Executive need to define more clearly and realistically the respective tasks confronting our government and our private sector. We must appreciate the interrelationship which exists among various forms of energy. And, we must work harder to coordinate and consolidate our many diverse and often contrary national priorities. Above all, we must develop a comprehensive and consistent national energy policy, a policy which recognizes the essential role of energy in our national life and which is directed at making adequate supplies of safe and clean energy available for our people.

TRADE POLICY AND NEAR ENERGY SELF-SUFFICIENCY

Given the economic and political facts of life and the importance of energy to our national economy and security, a "free trade" philosophy in energy is simply contrary to the goal of achieving near energy self-sufficiency. With over 63 percent of the proven free world crude oil reserves in the Middle East and much lower extraction costs in that area of the world, a free trade philosophy in oil will result in the decimation of the U.S. domestic industry and a reliance on extremely insecure sources of supply. Recent experience demonstrates the folly of becoming dependent on foreign oil. Ever since 1947 the Congress has expressed its concern over becoming excessively dependent on insecure foreign sources of supply for a vital raw material such as oil. A history of this concern is described in Appendix B, including a magnificently far-sighted speech in 1959 by the chairman of the Committee on Finance (Mr. LONG).

The embargo by the oil exporting Arab countries in November finally brought home what so many Members of Congress, including Senators LONG, SYMINGTON, ROBERT C. BYRD, and others still in this body, had warned against for so many years.

If we want to have a secure source of domestic energy we are going to have to pay more for our consumption and we are going to have to protect the industry against excessive imports. It is just that simple.

It should be clear now that foreign sources of petroleum cannot and should not be relied upon to satisfy any significant portion of U.S. energy needs. We should have listened to the warnings that were raised all during the fifties and sixties.

Instead of heeding this advice we went in the opposite direction. We began to view the oil industry as a bunch of robber barons out to take the American public for a ride. So we proceeded to dismantle the oil import program, cut the depletion allowance, place price controls, bring antitrust suits, stop offshore drilling and a whole host of other measures to cripple industry efforts to bring on domestic sources of supply. The 1969 Tax Reform Act alone cut the capitalization of the oil industry by $500 million, which is paid by the consumer today. As a result, two things happened: we drove many of the independents out of business and encouraged the majors to invest abroad and in real estate and other ventures totally unrelated to oil. As a result, oil companies are today becoming conglomerates—the "oil business" is almost a dirty word in American politics. Now the talk is to set up a Government-owned oil company to do the job that privately owned companies allegedly cannot do. Well, if anybody has any faith that the bureaucrats in Washington can run an oil business, he is, at best, naive.

SUMMARY OF THE BILL

The bill I am introducing today would give us such a national energy policy and commit us on the road to energy independence. At the center of the "Energy Revenue and Development Act of 1973," is a proposal to create an energy trust fund financed with the revenues of a tax on all fossil fuels produced or imported into the United States. This fund would raise $50 billion over a 10-year period. Initially, a tax of 4.1 cents per million Btu would be levied at the source of production or importation. Thereafter, the tax would increase gradually until a maximum rate of 6.5 cents per million Btu is reached in 1978. From 1978 until 1985 the tax would be decreased gradually per year until a tax rate of 2.8 cents per million Btu is reached. To give some idea of what this would mean in terms of a barrel of oil or a ton of coal or a trillion cubic feet of gas, Dr. Warren Donnelly of the Library of Congress, who gave us invaluable assistance in computing the tax schedule, estimated that at 5 cents per million Btu—which is ½ cent higher than the average rate of tax in the bill—the increase in a crude barrel of oil would be 29 cents, a short ton of coal, $1.20, and a thousand cubic feet of natural gas, 5 cents.

The estimated revenues from the tax are shown below:

Mr. President, I ask unanimous consent to have printed in the RECORD table 6 showing estimated income from energy tax, 1974 to 1985.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 6.—ESTIMATED INCOME FROM ENERGY TAX, 1974–85

Year	Estimated national energy input [1] quadrillion Btu (10^{1})	Proposed tax rate (cents per million Btu)	Tax income (billion)
1974	77.7	4.1	$3.2
1975	80.3	4.5	3.6
1976	83.4	5.2	4.3
1977	86.0	5.9	5.1
1978	89.0	6.5	5.8
1979	92.0	5.9	5.4
1980	96.0	5.2	5.0
1981	97.8	4.5	4.4
1982	100.6	4.1	4.1
1983	103.5	3.4	3.5
1984	107.2	2.8	3.1
1985	116.6	2.2	2.5
Total			50.0

[1] Walter G. Dupree and James A. West. United States Energy Through the Year 2000. Department of the Interior, 1972, p. 7; for the years 1975, 1980, 1985. Other yearly values by graphical extrapolation.

Mr. GRAVEL. Mr. President, the revenues from this energy tax would be placed in an energy trust fund administered by a Federal Energy Administration. As with other Federal trust funds, the Secretary of the Treasury would serve as trustee and would be empowered to invest the fund receipts in U.S. Government securities.

The Federal Energy Administration (FEA) would oversee the formulation of a national energy policy and undertake a national program of energy development. Energy functions currently carried on by the Departments of Interior, Transportation, Commerce, and other agencies would be transferred to the FEA. The Federal Energy Administration would plan for the intelligent and environmentally sound development of U.S. fossil fuel resources and the bringing on stream for commercial uses the unconventional forms of energy—solar, geothermal, tidal, nuclear, fusion, et cetera. The agency could provide loan guarantees to the private sector to develop such resources as shale oil, coal gasification and liquefaction.

In order to bring about energy production and development in the most effective way possible, the FEA would be authorized to enter into contracts with private persons for research and development and the exploration and drilling of public lands. These contracts would include provisions for loan guarantees, where appropriate, purchase agreements for energy resources discovered or produced. These contracts would also contain provisions imposing an excess profits tax to recapture corporate profits exceeding 20 percent, when they are not plowed back into the business.

Another feature of my bill, which I believe merits careful consideration, is a provision which creates an independent Commission of Energy Technology Assessment (CETA).

This office, which would be composed of 21 eminent scientists, engineers, and economists would establish standards and goals for the research and development being conducted under the sponsorship of the Federal Energy Administration. The CETA would also prepare cost/benefit analyses, evaluate alternative forms of energy, and project our energy needs in the future and how these needs can most effectively be met. It would critically evaluate all the publicly financed research and development efforts and be a kind of watchdog to protect the taxpayers' money from being wasted on ill-conceived projects. It would enter into contracts with private nonprofit institutions—educational institutions and research centers—to perform adversary studies on publicly financed programs and on the efforts of the private sector.

The Energy Revenue and Development Act of 1973 would also phase out, over a period of one year, price controls on crude oil and petroleum products, price ceilings on new natural gas, and on existing gas as the contracts come due.

Elimination of price controls would be coupled with an excess profits tax to insure there is no rip off by the producers or by anyone contracting with the Federal Energy Administration, and that the moneys are put back into the search for new energy resources.

FOUR BASIC OPTIONS

There are basically four basic approaches to resolve the energy shortage and they are not necessarily mutually exclusive.

THE INCENTIVE OPTION

One option is to provide tax or other incentives to produce and deliver energy supplies. Tax incentives tend to decrease price and stimulate supply (and, because of the lower prices, also demand).

CONSERVATION TAXES

Another option is to tax production or consumption. This option could dampen demand by increasing price. Its effect on supply depends on whether the moneys collected are invested in the search for new energy sources.

RATIONING

A third option is to adopt rationing. This would force a decrease in demand, but does not increase supply. It could lead to a "black market" or a "white market" for the ration tickets depending on how it is managed. I think the preference of all of us in this body would be a white market, if we had to go to the rationing route for a period of time. But again rationing does nothing to increase supply which is what we need to do to become energy independent.

FREE MARKET

A final option is to let the market itself allocate scarce resources. In the short run this will increase price and reduce demand. With increased prices, there will be an incentive by the producers to invest in new supply. As this happens prices will settle out at an equilibrium level. This is by far the best long-term option. It is based on the economic theories that have worked in the capitalistic system for centuries.

Ultimately, in a shortage situation prices will increase under any system. But if we let the market work we will encourage the enormous volume.

Unlike Europe and Japan, the United States has relatively great amounts of energy resources which have not been developed to anywhere near their potential. If these resources are to be developed, it will be necessary to allow market forces to operate so that the relative prices of the competing fuel sources will be high enough to permit the economically feasible development of such sources. Given this current scarcity, it is reasonably clear that market forces will bring about sufficient price increases to promote the development of these additional methods for supplying energy, such as crude oil, coal, liquefaction, gasification, oil shale, and so forth. It is also reasonably clear that the prospective price increases would be sufficient to begin to encourage the great amount of capital which will have to be invested in the industry in order to discover, develop, and produce the required fuels.

According to several experts I have talked to, a price of $7 per barrel for crude oil would be adequate to enable the industry to develop sufficient alternative sources of fuel to meet much of the Nation's needs. In terms of gasoline for instance, this $7 price would translate into a price increase of approximately 10 cents per gallon at the pump. This is a reasonable price increase, and the consumer would most likely be willing to pay such prices in order to be able to have the fuel that he needs.

On the other hand, the industry will not be willing to spend the billions of dollars which would be required to develop these new methods for providing energy unless it can be sure that the price will remain at levels high enough for the long period of time required to develop these new methods.

Given this need to maintain appropriate domestic prices, I have proposed in my bill the creation of a variable levy system. The levies would be essentially the difference between prevailing domestic prices and the price of imported petroleum. At present, with foreign crude oil selling at higher than domestic prices there would be no levy. However, with a "lifting price" or extracting cost as low as 13 cents per barrel for Saudi Arabian sweet crude, there is always the possibility that Saudi Arabia and other Arab countries could set prices well below prevailing domestic prices so as to insure that the United States would never be able to develop major new supplies of energy resources. The variable levy system itself would be structured somewhat along the lines of the system utilized by the European Community in its common agricultural policy (CAP).

The second trade measure in my bill would establish a quota of 5 percent on imports from nations that embargo their shipments to the United States. These Arab nations have demonstrated convincingly that we cannot depend on them. The import licenses for their oil would be auctioned off to the highest bidder. This would bring in additional revenues to the Federal Government and avoid the bureaucratic machinery and favoritism that characterized the oil import program.

TAX INCENTIVES FOR DOMESTIC DRILLING

The subcommittee took testimony from a number of experts on the energy situation and it became apparent that providing foreign depletion allowances and intangible drilling expenses in countries which embargo shipments of oil to the United States makes little sense. It also may not make much sense to provide a foreign tax credit in those instances.

Senators RIBICOFF and MONDALE have introduced legislation which would effectively end these tax incentives for income and expenses in those countries which embargo oil shipments to the United States. These proposals should be seriously considered.

My own proposal would end the foreign depletion allowance prospectively, as well as intangible drilling expensing on foreign production. That seems to be equitable to existing investments and also tells our corporations: "Look, we need your capital back home to invest in our own massive energy resources." My proposal does not affect the foreign tax credit, which is a very complex area, and there are good arguments for avoiding double taxation by retaining the credit.

In addition, I believe that for the foreseeable future we will have to adopt some kind of additional fiscal incentive to encourage domestic drilling and exploration in the United States. Accordingly, I have in my bill a 14-percent investment tax credit for the costs of new drilling, new refinery capacity, and the costs in transporting, storing, and distributing all sources of fossil fuel energy—coal, gas, and oil.

The PRESIDING OFFICER. The time of the Senator from Montana has expired.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that I may be permitted to yield 5 minutes of my time to the Senator from Alaska.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAVEL. In the long run, I believe the free market is the best incentive for encouraging investment. However, in the short run, we may need to adopt a tax credit for domestic investment in our own resources. This will tend to keep prices lower than they would otherwise go and also attract capital into these ventures.

INFRASTRUCTURE SHORTAGE—STEEL PIPE, DRILLING EQUIPMENT, RIGS, ET CETERA

It also became apparent during our hearings that there is a serious shortage of equipment needed to explore for new domestic sources of oil and gas. I am referring to such materials as steel pipe, rigging equipment, casting, drills, and the like. This shortage is to a large extent the result of Government price controls and import restraints on these products. Accordingly, my bill would direct the President to remove price controls on these products and any others in short supply that are needed in the exploration, extraction, and transportation of petroleum and petroleum products and natural gas. It would also direct the President to inform those foreign nations that are restraining their exports of these products to the United States to remove these voluntary export restraints.

U.S. NEGOTIATOR AND A CONSUMERS UNION

There are several other aspects of the energy problem that must be considered. The producer countries have a very formidable cartel—OPEC—which in a sellers market is driving petroleum prices out of sight. To counter this producers union, two things are necessary.

First, we must appoint a high level Government official to negotiate on price, instead of having the producing nations pick off one private company after another and use salami tactics to drive the prices through the roof. Thus, my bill would direct the Energy Administrator to be the negotiating arm of the United States in dealing with the producing nations.

Second, one consuming nation, just like one private company, cannot be in a strong bargaining position if the other consuming nations capitulate to the producers cartel demands. Thus we need a "consumers union" of importing countries which will bargain collectively with the producing nations. I understand that because of the relative difference in dependencies, other consuming nations are not very interested in this approach. As an incentive to them, I would suggest that we deny any consuming nation most-favored-nation treatment in our market unless they join us in the consumers union. That is strong medicine, but this is such a serious problem, the medicine is needed.

I hope this suggestion will not be misinterpreted within the Arab community. It is a constructive suggestion. They are pursuing their policies and goals for their own best self-interest. Certainly they are entitled to do that; but as occurs many times in the actions of nations, things can get out of hand. They have an organization, which is not a monolith, but certainly permits them to act in some degree of unison. They think this is in their interest.

I think it would be in our best interest to act similarly, in unison as consuming nations. Collectively it would be in the best interests of all nations, the producing and the consuming nations, to have a consumers' union. Then we would have a vehicle to clear disagreements and to negotiate on an even basis. Such a vehicle would assure a reasonableness which might not otherwise be present; the alternative would be a recourse to violence.

So I would hope this suggestion would be looked upon as a constructive proposal to handle problems that will inevitably occur in the future.

In conclusion, Mr. President, I wish to emphasize to my colleagues that the Energy, Revenue, and Development Act of 1973 offers a comprehensive approach to this country's energy problems by increasing our supply of safe, clean energy. It is designed to help bring about near energy self-sufficiency by 1985. It would lead us to national energy policy and program and commit our country to the task of developing our indigenous fossil fuel resources as well as alternative sources and systems of energy including coal gasification and liquefaction, solar, geothermal, and others. It is the intention of the Subcommittee on Energy to hold hearings on this bill shortly in the week of January 14. I invite all interested parties to submit comments for the record of those hearings. I urge my colleagues to give this bill their careful attention, and I certainly welcome their support.

Mr. President, I ask unanimous consent that appendixes be included in the RECORD along with my remarks. I also ask unanimous consent that speeches made in prior years, which I have here from prior CONGRESSIONAL RECORDS, also be inserted in the RECORD. I think these statements demonstrate, from the historical point of view, that an awareness of the problem did exist in the Congress. A proper definition of the problem did exist at an earlier time, but, for some reason, we did not heed the warnings of those in this body concerned with becoming overly dependent on foreign supplies for a vital raw material.

I hope we will have the wisdom and good sense to realize these errors and chart a course that will be in the best interests of this Nation and, I think very sincerely, in the best interests of all human beings on this planet.

The PRESIDING OFFICER. Without objection, the several requests are agreed to.

The material ordered to be printed in the RECORD is as follows:

APPENDIX A

COUPON BOOK ECONOMICS

(By Paul W. McCracken)

During the weeks immediately ahead decisions will be made about energy that will in quite fundamental ways shape not only our economy but also the future course of American life. And there is an uncomfortably high probability that we shall set ourselves on a course of action that will be difficult to reverse and bitterly regretted.

That we confront a difficult energy problem is clear enough. We are consuming oil at the rate of just over 17 million barrels per day. Domestic production is about 11 million and not rising. Directly and indirectly roughly one-third of the six million that must be imported has been coming from the embargo area. The annual growth in demand could be expected to add roughly another million barrels per day to our requirements, and this also would in the normal course of things have come from the Persian Gulf because that is where the oil is.

This confronts us with a tough problem, one whose gravity is not to be minimized. Looking toward the year ahead we have a shortfall in probable petroleum supply of 15% to 20% relative to normal demand, and oil and gas in turn supply roughly half of our energy requirements. When we remember that a spot shortage at one point can have domino effects in other directions, the large potential that this shortage has for disorganizing our economic life becomes apparent. But for a nail . . . some kingdoms can be lost.

What should our energy programs do for us? What are the guidelines for determining what we should do and should not do? Precisely because the problem is so urgent we need to take time enough to perceive the longer run consequences of our short run actions. We have this problem of energy today in part because we did not take time a few years ago to think through the longer range results of some immediate actions. In a seizure of evangelical fervor, for example, we charged mindlessly ahead on some environmental standards that were clearly building up requirements for oil and gas which could not be met even before the Mideast war. The result of this theologization of environmental programs, which tended to treat questions about consequences almost with contempt or as sin, is that as these painful consequences now become more apparent the perfectly good cause of having regard for our environment is threatened with being discredited. If so it will have hard going to recover support from a public understandably suspicious because of having been burned once.

There will in this urgent energy problem again be a tendency to act as if the problem is so urgent that we must mount our steed and ride instantly off at top speed without even taking time to make sure that we are headed in the right direction.

SOME SOCIAL VALUES

Efforts at voluntary conservation are, of course, commendable. There are even social values to be derived at these joint efforts for the common good. And there can be no doubt that habits about energy use, reflecting quite rational responses to cheap energy prices (and not, as some comments seem to suggest, a new variant of original sin), have led to some uses that can readily be curtailed. Indeed, it is possible that something approaching half of our shortfall could be taken up by such careful using of energy more sparingly.

Rationing commends itself to many as the way to handle the remainder of the job. It seems fair because "everybody would be treated alike."

If we do go into rationing, certain predictions can confidently be made. One is that what starts out as "treating everybody alike" will be a program that each citizen is sure is discriminating against him. For one thing there is infinite variation in people's situations. Giving everybody X gallons per week, or even everybody in Z category X gallons, will be just fine for the inactive family whose car spends most of its time getting dusty in the garage; and it might be lethal for the active family using the car for all manner of things. There is a way to use this enormous variation in individual situations, but more of that later.

The result is that a rationing program in practice would waste gasoline and oil because simplistic and across-the-board rules, inevitable in such a broadside program, would put substantial amounts of these scarce products into the hands of those for whom the need would be of secondary urgency.

A more unfortunate aspect of rationing would be its adverse effect on public morality. If there is one lesson to be drawn from experience with these programs it is that black markets would flourish. Thus those with "flexible" standards of morality, or who have political pull, or who can work some other angle will do relatively well, while the ordinary decent citizen will wind up with the dry gasoline or oil tank. Economies that are managed by license and edict and coupon books are also economies with pervasive corruption and graft. This is no accident. Those possessing the authority to grant favorable decisions possess something of great value, and there will be growing numbers who are willing to pay the price. All they will need to do is look around them to conclude that almost "everybody does it."

The major weakness of the rationing approach is that it slows down the process of curing the problem. Businesses inevitably will be reluctant to commit capital for products that are to be sold in a rationed market. It is one thing to bet one's ability to match wits with market forces and quite another to bet against the vagaries of government decisionmaking.

Rationing, which starts out as a holding action during a shortage, will incalculably prolong the shortage.

Another approach for dealing with the shortage is the imposition of a stiff tax on gasoline and fuel oil. This would be vastly superior to rationing. It encourages every user to examine his own unique and peculiar combination of circumstances for ways to use scarce, high-priced products more sparingly. There is the usual skepticism about whether a higher price would have much effect, but the limited factual evidence available suggests that with something like a 20-cent-per-gallon tax on gasoline the shrinkage in use would bring demand into balance with limited supplies even with the absence of Mideast oil. And this would "treat everybody alike" in the meaningful sense that the intensity of pain for the last gallon given up in each case would be more nearly equal for all people than with rationing. It would use these scarce resources more efficiently.

This tax approach has two drawbacks. One is that an increase in price would hit lower income groups harder than those with high incomes. This is less certain than seemingly obvious. A lower income family (e.g., a retired couple) may find it easy to avoid the problem by curtailing use while a family with a larger income and less ability to cut usage will feel the bite. Moreover, there are far more effective ways directly to take care of society's quite legitimate concern about income distribution than to paralyze the pricing system. In this specific case, for example, we could have a rising deduction from income taxes going down the income scale with the credit payable in cash if it exceeded the income tax liability. The better approach, of course, would be to have a full-scale income maintenance program.

The more serious though less obvious drawback of the tax approach is that it does nothing to cure the fundamental need for enlarging our supply capability. It uses the pricing system to ferret out usages of secondary importance, but it does not use the pricing system to make a commitment of capital into energy production more profitable. Thus it would be a policy to allocate scarcity but not to eliminate it.

This leads to the third approach. Ever since the pricing system was invented, there has been a way to handle the shortage while fundamental forces are being set to work to correct it. What Americans most need now is enough clear-headedness at both ends of Pennsylvania Avenue so that higher prices for energy can start to get us more oil and gas. This will mean higher profits for the energy companies, but the U.S. Treasury will be a majority participant in the increased profits.

Here we do need to keep some specific facts in perspective. During the last decade the real retail price of gasoline excluding taxes (i.e., this price adjusted to allow for changes in the value of the dollar generally) declined 8% and during the last two years the real price of gasoline has declined almost 8%. A change in the ever more bargain basement character of these prices was about due in any case.

Of the three ways to regain balances between demand and more limited supplies, an outright higher price would be most effective, and rationing at the outset would be most attractive (and, in the end, most disappointing). We have, therefore, a good chance that within the next few months rationing of gasoline and fuel oil will be adopted. Is there anything that can be done to minimize its perverse effects? Not much. Rationing, particularly peacetime rationing, almost inherently works badly and encourages black-marketeering, corruption, and waste.

AVOIDING A BLACK MARKET

One modification of the rationing system would, however, be helpful if the political process insists on going down that road. That would be to allow gasoline coupons to be freely bought and sold. In this way gasoline would be utilized for the most urgently felt needs. There would more nearly be equal sacrifice "at the margin." There would be no black market. And demand for gasoline would still be held in the aggregate to supplies available if the right total amount of coupons had been issued.

After this system operated for a while, we would begin to perceive that what we had was a free market for gasoline plus a slightly disguised income redistribution program. It might then occur to us that we should have a straightforward income distribution program plus the straightforward superiority of the price system in free and open markets to handle the economy's allocations function.

If we could be sure of that result, a bout with rationing would almost be tempting.

APPENDIX B

HISTORY OF CONGRESSIONAL CONCERN OVER EFFECT OF OIL IMPORTS ON NATIONAL SECURITY

The Congress has long recognized the need for preserving a healthy petroleum industry in the United States. On January 31, 1947, the Special Committee Investigating Petroleum Reserves, set up by the Senate, concluded as follows:

"In the final analysis the reserves within our own borders are more likely than not to constitute the citadel of our defense.

"It follows that nothing should be done to weaken the productive capacity of domestic reserves, and that every possible step should be taken to increase these reserves and continuously to develop them to such a degree as would occasion no regret in the event of war." The Committee's report went on to say: "This Nation now faces two alternatives:

"Either—

"1. To await with hope the discovery of sufficient petroleum within our boundaries that the military requirements of the future will occasion no concern, and in the meantime to depend upon foreign oil and trust that war will not cut off our imports;

"Or—

"2. To take steps to guarantee a dometic petroleum supply adequate for all eventualities by means of:

"(a) Incentives to promote the search for new deposits of petroleum within the boundaries of the United States and in the continental shelf; and

"(b) The continuation of the present program looking to the manufacture of synthetic liquid fuels to supplement our domestic crude supply.

"All the facts before us impel the choice of the second alternative."

That was back in 1947. Congress continued to be concerned with the effect of imports of foreign oil on the national security during the 1950's.

In 1954, the Congress again expressed its concern over the effect of lowering import barriers on the industry.

Section 2 of the Trade Agreements Extension Act of 1954 provided that no action was to be taken "to decrease the duty on any article" if the President found that such reduction "would threaten domestic production needed for projected national defense requirements." This amendment was added on the Senate floor after the one-page 1954 Trade Extension Act had passed the House and had been approved by the Senate Finance Committee without amendment.

The section 2 amendment was proposed by Senator Symington and passed the Senate the following day. In the Congressional Record, the Senator briefly expressed his reasons for offering the amendment:

"I plan to offer an amendment, which in effect would require testing tariff decreases against defense requirements.

"I believe it should be mandatory for the administration to make certain that no tariff should be reduced, whenever such reduction would threaten continued domestic production necessary to meet our projected defense requirements.

"I refer to articles identifiable as necessary for national defense."

In 1955, the Congress adopted the Senate Finance Committee's national security amendment to the Trade Agreement Extension Act, which read as follows:

"In order to further the policy and purpose of this section, whenever the Director of the Office of Defense Mobilization has reason to believe that any article is being imported into the United States in such quantities as to threaten to impair the national security, he shall so advise the President, and if the President agrees that there is reason for such belief, the President shall cause an immediate investigation to be made to determine the facts. If, on the basis of such investigation, and the report to him of the findings and recommendations made in connection therewith, the President finds that the article is being imported into the United States in such quantities as to threaten to impair the national security, he shall take such action as he deems necessary to adjust the imports of such articles to a level that will not threaten to impair the national security."

On April 23, 1957, upon review of the oil import situation and projected increases in oil imports, the Director of the Office of Defense Mobilization "advised the President pursuant to section 7 of the Trade Agreements Extension Act of 1955, that he had reason to believe that crude oil is being imported into the United States in such quantities as to threaten to impair the national security."

On July 29, 1957, President Eisenhower approved a Special Cabinet Committee's report establishing what became known as the "Voluntary Oil Import Program".

MANDATORY OIL IMPORT PROGRAM—1959

This voluntary program continued in operation until March 10, 1959, at which time the President established the mandatory oil import program. In contrast to the voluntary program which covered only crude oil imports, the mandatory oil import program covered imports of crude oil and its products and derivatives.

The Mandatory Program was established after the Director of the Office of Civil and Defense Mobilization, in his memorandum for the President quoted the Secretary of Commerce as follows:

"It is my considered opinion that the present rate of imports of crude oil and its derivatives and products is a major contributing factor in the decline in drilling operations both for exploration and development in the search for new oil reserves . . . Continuation of this trend will inevitably result in lowering of our available reserves."

The Mandatory Oil Import Program (MOIP) is an example of a trade-related program which was conceived to achieve one purpose—to protect a domestic industry deemed vital to the national defense—but whose implementation was fraught with special favors and exemptions. In some respects changed economic circumstances dictated the constant evolution of the program. But in other respects the program bordered on scandalous and silly exemptions.

Critics began to attack the program with increasing force in the late 1960's, feeling that the solution to the United States oil problem was simply to abandon import controls. They, like most other Americans, failed to perceive that once this nation became dependent on foreign sources for a vital raw material it would be a sellers' market and the imported oil would no longer be cheap.

As the program was unraveled and finally abandoned, U.S. imports shot up dramatically, both in volume and value. With a seller's market prices more than doubled, the volume of imports rose by more than 50 percent between 1971 and 1973, while the value increased by more than 100 percent.

APPENDIX C

EXPLORATION (GEOPHYSICAL CREW ACTIVITY, ACREAGE UNDER LEASE, WILDCAT WELLS DRILLED)

Year	Crew months worked	Total acres leased Jan. 1 (thousands)	Wildcat wells		
			Total	Dry	Percent dry
1953	8,675	NA	13,313	10,633	79.9
1954	7,969	315,568	13,100	10,389	79.3
1955	8,240	NA	14,942	11,832	79.2
1956	7,857	383,863	16,207	13,118	80.9
1957	7,242	NA	14,714	11,904	80.9
1958	5,731	371,146	13,199	10,632	80.6
1959	5,696	382,607	13,191	10,577	80.2
1960	5,207	424,251	11,704	9,515	81.3
1961	5,024	416,871	10,992	9,022	82.1
1962	4,231	408,870	10,797	8,815	81.6
1963	4,174	387,457	10,664	8,686	81.5
1964	4,406	372,408	10,747	8,951	83.3
1965	4,471	375,306	9,466	8,050	84.6
1966	3,835	350,895	10,313	8,705	84.4
1967	3,496	333,858	8,878	7,368	82.9
1968	3,390	325,106	8,806	7,439	84.5
1969	3,259	332,005	9,701	8,001	82.5
1970	2,521	343,213	7,693	6,422	83.5
1971	2,760	332,647	6,922	5,834	84.3
1972	NA	350,725	7,539	6,254	83.0

DRILLING (ROTARY RIGS ACTIVE AND TOTAL WELL COMPLETIONS)

Year	Rigs active	Total well completions				
		Oil	Gas	Dry	Service	Total
1953	2,613	25,762	3,806	18,449	1,262	49,279
1954	2,509	29,773	3,977	19,168	1,012	53,930
1955	2,687	31,567	3,613	20,742	760	56,682
1956	2,619	30,730	4,543	21,838	1,049	58,160
1957	2,429	28,612	4,626	20,983	1,409	55,024
1958	1,923	24,578	4,803	19,043	1,615	50,039
1959	2,074	25,800	5,029	19,265	1,670	51,764
1960	1,746	21,186	5,258	17,574	2,733	46,751
1965	1,763	21,101	5,664	17,106	3,091	46,962
1962	1,637	21,249	5,848	16,682	2,400	46,179
1963	1,501	20,288	4,751	16,347	2,267	43,653
1964	1,502	20,620	4,855	17,488	2,273	45,236
1965	1,388	18,761	4,724	16,025	1,922	41,432
1966	1,270	16,780	4,377	15,227	1,497	37,881
1967	1,134	15,329	3,659	13,246	1,584	33,818
1968	1,170	14,331	3,456	12,812	2,315	32,914
1969	1,195	14,368	4,083	13,736	1,866	34,053
1970	1,038	13,020	3,840	11,260	1,347	29,467
1971	975	11,858	3,830	10,163	1,449	27,330
1972	1,107	11,306	4,928	11,057	1,464	28,755

DISCOVERIES (NEW RESERVES ADDED)

Year	Liquid Hydrocarbons (million barrels)			Natural gas (trillion cubic feet)	Crude oil per new oil well (barrels)	Natural gas per new gas well (million cubic feet)
	Crude oil	Gas liquid	Total liquids			
1953	3,296	744	4,040	20.9	127,940	5,480
1954	2,873	107	2,980	9.6	96,496	2,423
1955	2,871	515	3,386	22.0	90,949	6,085
1956	2,974	810	3,784	24.8	96,778	5,470
1957	2,425	137	2,562	20.2	84,755	4,364
1958	2,608	858	3,466	19.0	106,111	3,946
1959	3,667	703	4,370	20.8	142,131	4,132
1960	2,365	725	3,090	14.2	111,630	2,696
1961	2,658	695	3,353	17.3	125,965	3,059
1962	2,181	733	2,914	19.6	102,640	3,359
1963	2,174	878	3,052	18.4	107,156	3,877
1964	2,665	609	3,274	20.4	129,243	4,212
1965	3,048	832	3,880	21.5	162,464	4,545
1966	2,964	894	3,858	20.4	176,638	4,650
1967	2,962	930	3,892	22.0	193,228	6,000
1968	2,455	686	3,141	13.8	171,306	3,998
1969	2,120	281	2,401	8.5	147,550	2,082
1970[1]	3,089	308	3,397	11.6	237,250	3,021
1971[1]	2,318	347	2,665	10.1	195,480	2,637
1972[1]	1,558	238	1,796	9.8	137,803	1,987

[1] Excludes 9.6 billion barrels of crude oil and 26 trillion cubic feet of natural gas added for Alaskan North Slope.

PROVED RESERVES (LIQUID HYDROCARBONS AND NATURAL GAS)

Dec. 31st	Liquid hydrocarbons (million barrels)			Natural gas (trillion cubic feet)	Reserve/production ratio		
	Crude oil	Gas liquids	Total liquids		Crude oil	Total liquid	Natural gas
1953	28,945	5,438	34,383	210.3	12.5	13.2	22.9
1954	29,561	5,244	34,805	210.6	13.1	13.6	22.5
1955	30,012	5,439	35,451	222.5	12.4	12.8	22.1
1956	30,435	5,902	36,337	236.5	11.9	12.5	21.8
1957	30,300	5,687	35,987	245.2	11.8	12.4	21.4
1958	30,536	6,204	36,740	252.8	12.9	13.5	22.1
1959	31,719	6,522	38,241	261.2	12.8	13.3	21.1
1960	31,613	6,816	38,429	262.3	12.8	13.2	20.1
1961	31,786	7,049	38,835	266.3	12.6	13.0	19.9
1962	31,389	7,312	38,701	272.3	12.3	12.8	20.0
1963	30,970	7,674	38,644	276.2	11.9	12.4	19.0
1964	30,991	7,747	38,738	281.3	11.7	12.2	18.3
1965	31,352	8,024	39,376	286.5	11.7	12.1	17.6
1966	31,452	8,329	39,781	289.3	11.0	11.5	16.5
1967	31,377	8,614	39,991	292.9	10.3	10.9	15.9
1968	30,707	8,598	39,305	287.4	9.8	10.3	14.8
1969	29,632	8,143	37,775	275.1	9.3	9.6	13.3
1970[1]	29,401	7,703	37,104	264.7	8.8	9.1	12.1
1971[1]	28,463	7,304	35,767	252.8	8.7	8.9	11.5
1972[1]	26,739	6,787	33,536	240.1	8.1	8.3	10.7

[1] Excludes 9.6 billion barrels of crude oil and 26 trillion cubic feet of natural gas added for Alaskan North Slope.

PRODUCTIVE CAPACITY (CRUDE OIL AND NATURAL GAS LIQUIDS)

[In thousands of barrels daily]

Dec. 31	Productive capacity			Crude oil capacity		
	Crude oil	Gas liquids	Total	Yearly change	Spare	Percent spare
1953	7,926	744	8,670	------------	1,583	20.0
1954	8,442	778	9,220	+516	1,635	19.4
1955	8,929	825	9,754	+487	1,778	19.9
1956	9,250	850	10,100	+321	2,080	22.5
1957	9,493	880	10,373	+243	2,783	29.3
1958	9,656	930	10,586	+163	2,603	27.0
1959	9,708	967	10,675	+52	2,673	27.5
1960	9,892	1,041	10,933	+184	2,709	27.4
1961	10,081	1,049	11,130	+189	2,749	27.3
1962	10,169	1,090	11,259	+88	2,627	25.8
1963	10,286	1,177	11,463	+117	2,672	26.0
1964	10,534	1,222	11,756	+248	2,730	25.9

PRODUCTIVE CAPACITY (CRUDE OIL AND NATURAL GAS LIQUIDS)—Continued

[In thousands of barrels daily]

	Productive capacity			Crude oil capacity		
Dec. 31	Crude oil	Gas liquids	Total	Yearly change	Spare	Percent spare
1965	10, 743	1, 281	12, 024	+209	2, 448	22. 8
1966	11, 050	1, 405	12, 455	+307	2, 240	20. 3
1967	11, 218	1, 488	12, 706	+168	2, 122	18. 9
1968	11, 137	1, 586	12, 723	−81	1, 899	17. 1
1969	11, 013	1, 676	12, 689	−124	1, 376	12. 5
1970	10, 794	1, 760	12, 554	−219	1, 331	12. 3
1971	10, 246	1, 789	12, 035	−519	692	6. 8

OIL SUPPLY (DOMESTIC PRODUCTION AND TOTAL IMPORTS)

[In thousands of barrels daily]

	Domestic production			Imports		
Year	Crude oil	Gas liquids	Total	Total	Percent of supply	Total
1953	6, 458	655	7, 113	1, 034	12.7	8, 147
1954	6, 343	692	7, 035	1, 052	13.0	8, 087
1955	6, 807	772	7, 579	1, 248	14.1	8, 827
1956	7, 151	801	7, 952	1, 436	15. 2	9, 388
1957	7, 170	809	7, 979	1, 574	16. 4	9, 553
1958	6, 710	808	7, 518	1, 700	18. 3	9, 218
1959	7, 053	880	7, 933	1, 780	18. 2	9, 713
1960	7, 035	930	7, 965	1, 815	18. 3	9, 780
1961	7, 183	991	8, 174	1, 917	18. 7	10, 091
1962	7, 332	1, 021	8, 353	2, 082	19. 6	10, 435
1963	7, 542	1, 098	8, 640	2, 123	19. 4	10, 763
1964	7, 614	1, 155	8, 769	2, 258	20. 1	11, 027
1965	7, 804	1, 210	9, 014	2, 468	21. 1	11, 482
1966	8, 295	1, 284	9, 579	2, 573	20. 8	12, 152
1967	8, 810	1, 410	10, 220	2, 537	19. 4	12, 757
1968	9, 096	1, 503	10, 599	2, 840	20. 6	13, 439
1969	9, 238	1, 589	10, 827	3, 166	22. 1	13, 993
1970	9, 637	1, 660	11, 297	3, 419	22. 7	14, 716
1971	9, 463	1, 692	11, 155	3, 926	26. 0	15, 081
1972	9, 451	1, 729	11, 180	4, 741	29. 8	15, 921

TOTAL IMPORTS

[In thousands of barrels daily

Year	Crude oil	Light products	Sub-total	Residual fuel	Total imports	Percent of total domestic production
1953	648	26	674	360	1, 034	14. 5
1954	656	42	698	354	1, 052	15. 0
1955	782	49	831	417	1, 248	16. 5
1956	934	57	991	445	1, 436	18. 1
1957	1, 023	76	1, 099	475	1, 574	19. 7
1958	953	248	1, 201	499	1, 700	22. 6
1959	966	204	1, 170	610	1, 780	22. 3
1960	1, 015	163	1, 178	637	1, 815	22. 8
1961	1, 045	206	1, 251	666	1, 917	23. 5
1962	1, 126	232	1, 358	724	2, 082	24. 9
1963	1, 131	245	1, 376	747	2, 123	24. 6
1964	1, 198	252	1, 450	808	2, 258	25. 7
1965	1, 238	286	1, 524	944	2, 468	27. 4
1966	1, 225	316	1, 541	1, 032	2, 573	26. 9
1967	1, 128	324	1, 452	1 085	2, 537	24. 8
1968	1, 290	430	1, 720	1, 120	2, 840	26. 8
1969	1, 409	492	1, 901	1, 265	3, 166	29. 2
1970	1, 324	567	1, 891	1, 528	3, 419	30. 3
1971	1, 681	662	2, 343	1, 583	3, 926	35. 2
1972	2, 216	783	2, 999	1, 742	4, 741	42. 4

TOTAL IMPORTS (BY COUNTRY OF ORIGIN)

[In thousands of barrels daily]

	Western Hemisphere				Eastern Hemisphere			
Year	Canada	Venezuela	Other	Western Hemisphere total	Mideast	Africa	Other	Eastern Hemisphere total
1953	8	451	311	770	226	----------	38	264
1954	8	476	312	796	219	----------	37	256
1955	48	547	344	939	277	----------	32	309
1956	123	638	349	1, 170	290	----------	36	326
1957	159	754	353	1, 266	244	----------	64	308
1958	87	699	469	1, 255	361	9	75	445
1959	161	781	473	1, 355	350	5	70	425
1960	122	832	445	1, 399	332	5	79	416
1961	193	815	491	1, 499	344	7	67	418
1962	250	906	505	1, 661	315	31	75	421
1963	265	900	558	1, 723	303	31	66	400
1964	299	934	584	1, 817	317	54	70	441

TOTAL IMPORTS (BY COUNTRY OF ORIGIN)—Continued

[In thousands of barrels daily]

	Western Hemisphere				Eastern Hemisphere			
Year	Canada	Venezuela	Other	Western Hemisphere total	Mideast	Africa	Other	Eastern Hemisphere total
1965	323	995	651	1, 969	360	69	70	499
1966	384	1, 018	674	2, 076	318	87	92	497
1967	450	937	757	2, 144	209	59	125	393
1968	507	886	871	2, 204	219	159	198	576
1969	608	875	999	2, 482	193	229	262	684
1970	766	990	1, 102	2, 858	184	127	250	561
1971	857	1, 019	1, 195	3, 071	378	204	267	849
1972	1, 108	960	1, 331	3, 399	473	500	369	1, 342

CONSUMPTION

	Petroleum demand (thousands of barrels per day)			Percent U.S. energy consumption		
Year	Domestic	Export	Total	Liquid petroleum	Natural gas (dry)	Tota
1953	7, 624	401	8, 025	42.7	21.6	64. 3
1954	7, 784	355	8, 139	44. 3	23. 5	67. 8
1955	8, 493	368	8, 861	43. 8	23. 1	66. 9
1956	8, 822	430	9, 252	44. 4	23. 4	67. 8
1957	8, 860	568	9, 428	44. 4	24. 8	69. 2
1958	9, 146	276	9, 422	45. 0	26. 5	71. 5
1959	9, 494	255	9, 749	45. 3	27. 6	72. 9
1960	9, 807	202	10, 009	44. 8	28. 9	73. 7
1961	9, 985	174	10, 159	44. 9	29. 0	73. 9
1962	10, 410	168	10, 578	44. 6	29. 5	74. 1
1963	10, 753	208	10, 961	44. 2	29. 8	74. 0
1964	11, 032	202	11, 234	43. 5	30. 3	73. 8
1965	11, 523	187	11, 710	43. 6	30. 2	73. 8
1966	12, 095	198	12, 293	43. 2	30. 9	74. 1
1967	12, 569	307	12, 876	43. 5	31. 3	74. 8
1968	13, 404	231	13, 635	43. 8	31. 7	75. 5
1969	14, 148	233	14, 381	43. 7	32. 4	76. 1
1970	14, 709	259	14, 968	44. 0	32. 8	76. 8
1971	15, 225	224	15, 449	44. 4	33. 2	77. 6
1972	16, 366	223	16, 589	45. 5	32. 3	77. 8

GAS SUPPLY AND PRICE

	Supply (billion cubic feet)				Prices (cents per MCF)	
		Imports				
Year	Production	Total	Percent of supply	Total	Current cents	Constant 1972 cents
1953	8, 397	----------	----------	8, 397	9. 2	15. 2
1954	8, 742	----------	----------	8, 742	10. 1	16. 4
1955	9, 405	----------	----------	9, 405	10. 4	16. 7
1956	10, 064	----------	----------	10, 064	10. 8	16. 8
1957	10, 680	38	0. 4	10, 718	11. 3	16. 9
1958	11, 030	136	1. 2	11, 166	11. 9	17. 4
1959	12, 046	134	1. 1	12, 180	12. 9	18. 5
1960	12, 771	156	1. 2	12, 927	14. 0	19. 8
1961	13, 254	219	1. 6	13, 473	15. 1	21. 1
1962	13, 877	401	2. 8	14, 278	15. 5	21. 4
1963	14, 747	406	2. 7	15, 153	15. 8	21. 5
1964	15, 462	442	2. 8	15, 904	15. 4	20. 6
1965	16, 040	457	2. 8	16, 497	15. 6	20. 5
1966	17, 207	480	2. 7	17, 687	15. 7	20. 1
1967	18, 171	564	3. 0	18, 735	16. 0	19. 8
1968	19, 322	652	3. 3	19, 974	16. 4	16. 9
1969	20, 698	727	3. 4	21, 425	16. 7	19. 0
1970	21, 920	821	3. 6	22, 741	17. 1	18. 4
1971	22, 493	935	4. 0	23, 428	18. 2	18. 8
1972	22, 910	1, 307	5. 4	24, 217	19. 5	19. 5

PRICES

	Crude oil at well (per barrel)			Motor gasoline retail (cents per gallon)		
Year	Current dollars	Constant 1958 dollars	Constant 1972 dollars	Excise tax	Taxes	Total
1953	2. 68	3. 03	4. 42	21. 28	7. 41	28. 69
1954	2. 78	3. 10	4. 52	21. 56	7. 48	29. 04
1955	2. 77	3. 05	4. 45	21. 42	7. 65	29. 07
1956	2. 79	2. 97	4. 33	21. 57	8. 36	29. 93
1957	3. 09	3. 17	4. 63	22. 11	8. 85	30. 96
1958	3. 01	3. 01	4. 39	21. 47	8. 91	30. 38
1959	2. 90	2. 85	4. 16	21. 18	9. 31	30. 49
1960	2. 88	2. 79	4. 07	20. 99	10. 14	31. 13
1961	2. 89	2. 76	4. 03	20. 53	10. 23	30. 76
1962	2. 90	2. 74	4. 00	20. 36	10. 28	30. 64
1963	2. 89	2. 70	3. 93	20. 11	10. 31	30. 42
1964	2. 88	2. 65	3. 86	19. 98	10. 37	30. 35
1965	2. 86	2. 58	3. 76	20. 71	10. 46	31. 17

PRICES—Continued

Year	Crude oil at well (per barrel)			Motor gasoline retail (cents per gallon)		
	Current dollars	Constant 1958 dollars	Constant 1972 dollars	Excise tax	Taxes	Total
1966	2.88	2.53	3.69	21.57	10.51	32.08
1967	2.91	2.47	3.61	22.55	10.60	33.15
1968	2.94	2.40	3.51	22.93	10.78	33.71
1969	3.09	2.41	3.51	23.85	10.99	34.84
1970	3.18	2.35	3.43	24.55	11.14	35.69
1971	3.39	2.39	3.49	25.24	11.24	36.48
1972	3.39	2.32	3.39	24.46	11.67	36.13

PRICE AND COST INDEXES (1967=100)

Year	Wholesale prices			Retail prices		
	Crude oil	Refined products	All commodities	Gasoline (ex. tax)	Gasoline (incl. tax)	All items
1963	98.7	95.1	94.5	89.2	91.8	91.7
1964	98.3	90.7	94.7	88.6	91.6	92.9
1965	98.2	93.8	96.6	91.8	94.0	94.5
1966	98.9	97.4	99.8	95.7	96.8	97.2
1967	100.0	100.0	100.0	100.0	100.0	100.0
1968	100.8	98.1	102.5	101.7	101.7	104.2
1969	105.2	99.6	106.5	105.8	105.1	109.8
1970	106.1	101.1	110.4	108.9	107.7	116.3
1971	113.2	106.8	113.9	111.9	110.0	121.3
1972	113.8	108.9	119.1	108.5	109.0	125.3

Year	Cost indexes (1967=100)			Drilling costs		
	Oil field machinery	Oil well casing	Oil field wages	Total (thousands)	Per well	Per foot
1963	93.3	88.9	89.8	2,302,864	55,023	$12.69
1964	94.8	91.9	90.8	2,427,367	55,820	12.86
1965	95.2	96.2	93.2	2,401,437	60,648	13.44
1966	96.5	96.2	96.3	2,360,740	68,386	14.95
1967	100.0	100.0	100.0	2,299,178	72,902	15.97
1968	106.4	101.2	104.0	2,409,360	81,463	16.83
1969	112.7	104.5	110.5	2,610,671	88,554	17.56
1970	118.4	109.1	117.8	2,578,682	94,885	18.84
1971	122.6	120.7	128.0	2,371,492	94,708	10.03
1972	127.3	128.4	136.7	NA	NA	NA

COMPOSITE VALUE AND PRICE OF OIL AND GAS

Year	Value at wellhead (million dollars)			Natural gas price (per barrel)	Composite price oil and gas (per barrel)	
	Crude oil	Natural gas	Total		Current dollars	Constant 1972 dollars
1953	6,327	775	7,102	0.50	1.83	3.00
1954	6,425	883	7,308	.54	1.86	3.03
1955	6,870	978	7,848	.56	1.86	2.99
1956	7,297	1,084	8,381	.58	1.87	2.90
1957	8,079	1,202	9,281	.61	2.02	3.02
1958	7,380	1,317	8,697	.64	1.94	2.83
1959	7,473	1,557	9,030	.70	1.88	2.70
1960	7,420	1,790	9,210	.76	1.86	2.63
1961	7,566	1,996	9,562	.81	1.88	2.62
1962	7,769	2,145	9,914	.84	1.89	2.60
1963	7,966	2,328	10,294	.85	1.88	2.56
1964	8,017	2,387	10,404	.83	1.84	2.47
1965	8,147	2,495	10,642	.84	1.83	2.41
1966	8,727	2,703	11,430	.85	1.82	2.33
1967	9,375	2,899	12,274	.86	1.87	2.32
1968	9,795	3,169	12,964	.88	1.88	2.24
1969	10,427	3,456	13,883	.90	1.93	2.19
1970	11,174	3,746	14,920	.92	1.97	2.12
1971	11,693	4,097	15,790	.98	2.07	2.13
1972	11,700	4,500	16,200	1.05	2.10	2.10

FINANCIAL DATA

Year	Rate of return (percent)		Exploration and development outlays (Million dollars)		
	U.S. oil companies	All manufacturing companies	Large companies	Independents	Total
1952	11.5	10.3	1,855	1,770	3,625
1953	11.8	10.5	2,014	1,961	3,975
1954	9.8	9.9	2,180	2,120	4,300
1955	10.2	12.6	2,383	2,292	4,675
1956	10.5	12.3	2,621	2,454	5,075
1957	10.1	10.9	2,673	2,427	5,100
1958	7.2	8.6	2,241	1,984	4,225
1959	8.5	10.4	2,455	1,895	4,350
1960	8.8	9.2	2,412	1,788	4,200
1961	8.7	8.9	2,417	1,583	4,000
1962	8.8	9.8	2,848	1,577	4,425
1963	9.8	10.3	2,452	1,673	4,125
1964	10.1	11.6	2,817	1,633	4,450
1965	11.3	13.0	2,847	1,363	4,210
1966	12.3	13.4	2,990	1,260	4,250
1967	12.6	11.7	3,212	1,153	4,365
1968	12.2	12.1	4,087	1,303	5,390
1969	10.9	11.5	3,768	1,482	5,250
1970	9.9	9.3	3,119	1,656	4,775
1971	9.3	9.7	2,740	1,160	3,900
Average 1952–71	10.2	10.8	2,707	1,727	4,434

APPENDIX D

ADDRESS BY RUSSELL B. LONG ON MARCH 26, 1959, ON THE MANDATORY OIL IMPORT PROGRAM—MANDATORY CONTROL OF OIL IMPORTS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed, and the Chair recognizes the Senator from Louisiana [Mr. LONG].

Mr. LONG. Mr. President, today I should like to expand upon my remarks of March 20 concerning the program which has recently been put into effect which provides for a mandatory system for the control of imports of petroleum and petroleum products into the United States. I ask unanimous consent that, in the event there are any interruptions in the course of my remarks, they be printed immediately following my address in the RECORD, and, furthermore that insertions I have prepared may appear in the RECORD at the appropriate place.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. LONG. Mr. President on March 10 the President of the United States issued a proclamation to regulate the imports of oil and its principal products into the United States. The basis for the President's action was legislation passed last year by the Congress the so-called defense amendment, section 8 of the Trade Agreements Extension Act, which amends the Reciprocal Trade Act to read as follows:

"SEC. 2. * * *

"(b) Upon request of the head of any Department or Agency, upon application of an interested party, or upon his own motion, the Director of the Office of Defense and Civilian Mobilization * * * shall immediately make an appropriate investigation, * * * to determine the effects on the national security of imports of the article which is the subject of such request, application, or motion. If, as a result of such investigation, the Director is of the opinion that the said article is being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security, he shall promptly so advise the President, and, unless the President determines that the article is not being imported into the United States in such quanties or under such circumstances as to threaten to impair the national security as set forth in this section, he shall take such action, and for such time, as he deems necessary to adjust the imports of such article and its derivatives so that such imports will not so threaten to impair the national security.

"(c) For the purpose of this section, the Director and the President shall, in the light of the requirements of national security and without excluding other relevant factors, give consideration to domestic production needed for projected national defense requirements, the capacity of domestic industries to meet such requirements, existing and anticipated availabilities of the human resources, products, raw materials, and other supplies and services essential to the national defense, the requirements of growth of such industries and such supplies and services including the investment, exploration, and development necessary to assure such growth, and the importation of goods in terms of their quantities, availabilities, character, and use as those affect such industries and the capacity of the United States to meet national security requirements. In the administration of this section, the Director and the President shall further recognize the close relation of the economic welfare of the Nation to our national security, and shall take into consideration the impact of foreign competition on the economic welfare of individual domestic industries; and any substantial unemployment, decrease in revenues of Government, loss of skills or investment, or other serious effects resulting from the displacements of any domestic products by excessive imports shall be considered, without excluding other factors, in determining whether such weakening of our internal economy may impair the national security."

At the time when the amendments of 1958 were being considered, the defense amendment of 1955 was already in effect. The 1955 amendment gave the President far more discretion than the 1958 amendment. Even under the 1955 amendment, however, the President's Cabinet Committe had already determined that an adequate domestic petroleum industry was essential to national defense and that the ratio of exports to imports prevailing in 1954 was the desirable level.

A voluntary control program was in effect in 1958 with the understanding that a mandatory program would be necessary if the voluntary program failed to achieve its objective.

It was understood in the House of Representatives that the defense amendment which they wrote into the act before the bill came to the Senate was designed for just such a situation as existed in the petroleum industry.

I should like to call the attention of the Senate to a colloquy between the chairman of the Ways and Means Committee of the House of Representatives, the Honorable WILBUR MILLS, and the Member of Congress from the 13th District in Texas, the Honorable FRANK IKARD, on June 10, 1958, on the defense amendment.

Let me quote from this colloquy:

"Mr. IKARD. Mr. Chairman, I would like to ask the distinguished chairman of the committee two or three questions.

"Is it a fact that the so-called national security section of the committee bill has as its purpose providing the executive department with a means of taking whatever action is necessary to avoid a threat to our national security through imports and to make such * * * that injury to a particular industry essential to the national security will be avoided?

"Mr. MILLS. The answer is 'Yes'.

"Mr. IKARD. Is it a fact that the national security amendment of the present law was amended by the committee as reflected in the committee bill for the purpose of improving and facilitating the operation of this provision by providing specific critera and guidelines for use in its administration?

"Mr. MILLS. The answer to that question is 'Yes.'

"Mr. IKARD. The national security section of the committee bill specifies certain factors which would govern the Director of the Office of Defense Mobilization and the President in determining whether imports are a threat to national security. These are stated in the committee bill substantially as follows:

" 'The Director and the President shall * * * give consideration to domestic production needed for projected national defense requirements, the capacity of domestic industries to meet such requirements, existing and anticipated availability * * * products, raw materials, and other supplies and services essential to the national defense, the requirements of growth of such industries and such supplies and services including the investment, exploration, and development necessary to assure such growth, and the importation of goods in terms of their quantities, availabilities, character, and use as those affect such industries and the capacity of the United States to meet national security requirements.'

"Mr. IKARD. I am interested in knowing how these criteria would relate to the problem of excessive imports of petroleum and petroleum products. It is intended that under this provision imports of petroleum and petroleum products be held at levels which would permit the domestic industry to engage in a vigorous program of exploration at a rate consistent with the demands of our economy?

"Mr. MILLS. This provision is intended to hold imports at a level which will permit the United States to have sufficient oil, known, discovered, and developed as is required to meet our national security needs.

"Mr. IKARD. Does the committee amendment that will be offered to the national security section of the committee bill dealing with investment, exploration, and development necessary to assure the proper growth of an industry have any significance to the petroleum industry and other extractive industries?

"Mr. MILLS. Yes. This amendment will be offered to the bill for the purpose of further clarifying the committee's intentions with respect to encouraging free enterprise, exploration for, and the development of our natural resources at a rate sufficient to meet the demands of our national security. If drilling and exploration activities do not reach a satisfactory level, then under this provision the President or his designate would have the responsibility of re-evaluating existing programs for the regulation and control of imports to see that they meet the requirements of the new standards in the committee bill.

"Mr. IKARD. In the case of petroleum, is it intended that if the pending committee bill becomes law that a new study and certification would be necessary?

"Mr. MILLS. The answer is "No." I refer the gentleman specifically to the language on page 17, lines 15 to 17, which he offered in the committee to guarantee that the answer would be "No."

"Mr. IKARD. Is it intended that when the imports of a natural resource are controlled under the provisions of the national security section of the committee bill, and with particular reference to petroleum, that such control should take into consideration the importation of products, derivatives, or residues of petroleum so that these products and derivatives could not be imported in a way that would circumvent the control of the imports of the basic natural resources?

"Mr. MILLS. Yes. Clearly, when a decision is taken to restrict imports in the interest of national security it is our intention that the decision be effective and not rendered ineffective by circumvention."

Under these circumstances, it is difficult for anyone who supported the defense amendment of 1958 to conceive how anyone could possibly argue he did not understand that the defense amendment of 1958 would require greater protection of the domestic petroleum industry. Certainly, those of us who served on the Finance Committee explored this matter very carefully when the Secretary of Commerce testified before the committee.

Much of the language which went beyond the 1955 amendment was drafted with the petroleum industry specifically in mind. While there is no transcript of the executive session before the Committee on Finance, I am certain that every member of the committee recalls distinctly that the relationship of the amendment to the petroleum industry was thoroughly discussed when the committee considered this matter.

The Senate Finance Committee broadened the language of the House bill to strengthen the defense amendment. I should like to quote from the committee report on this measure:

"The Finance Committee accepted the section of the House bill relating to the national security, but amended it for the express purpose of strengthening and increasing its effectiveness. As was the purpose when the national security section was added in the 1955 extension of the act, the amendments are designed to give the President unquestioned authority to limit imports which threaten to impair defense-essential industries. Section 8 of the bill as reported grants to the Presidnet a potentially fast-moving vehicle for guarding our national security in this respect.

"The bill as reported provides that imports of an article, or its derivatives, must be adjusted unless the President finds that they are not entering in such volume as to threaten the national security, after the Director of the Office of Defense Mobilization has indicated such a threat exists. Language was further added directing attention and providing possible action whenever danger to our national security results from a weakening of segments of the economy through injury to any industry, whether vital to the direct defense or a part of the economy providing employment and sustenance to individuals or localities. The authority of the President is thereby broadened considerably, but the dangers inherent in an economy suffering from unemployment, declining Government revenue, or loss of skills, and investment because of excessive imports of one or more commodities, must be recognized and avenues provided whereby they may be lessened."

No one can read the legislative history of this amendment and have any doubt that such a mandatory program is exactly what was intended by the bill.

Mr. President, the problem of excessive imports of our fuel supplies has not been of concern only to the oil industry. Our coal producers supply much of our domestic fuel needs and have been having an extremely difficult time as well. The order placing residual fuel oil on the quota list should help revive that industry so vital to our national well-being and to the economies of certain sections of our country.

The President has not been hasty in responding to the duty that Congress has imposed upon him to limit oil imports. Many distinguished Members of this body have been urging the administration to take this action for some time as it has become increasingly apparent to us that the domestic industry, so vital to our whole economy, has been driven into a dangerously low level of production and exploratory activity.

Last year I felt it necessary to introduce an amendment which would require the President to limit the amount of foreign oil that could be brought into this country. I did not bring this amendment to a vote because I was assured that the defense amendment was designed to meet the problem.

In issuing the proclamation establishing the mandatory control program, the President said:

"The new program is designed to insure a stable, healthy industry in the United States capable of exploring for and developing new hemisphere reserves to replace those being depleted. The basis of the new program, like that for the voluntary program, is the certified requirements of our national security which make it necessary that we preserve to the greatest extent possible a vigorous, healthy petroleum industry in the United States."

It has been contended by some that the national security argument is specious. I do not see how anyone who is aware of the facts of the case can make such a statement, especially in view of the position of the Commander in Chief of our Armed Forces and the Special Committee To Investigate Crude Oil Imports, composed of the following Cabinet members: John Foster Dulles, Secretary of State; Neil H. McElroy, Secretary of Defense; Robert B. Anderson, Secretary of the Treasury—former Assistant Secretary of Defense, former Secretary of the Navy; Fred A. Seaton, Secretary of the Interior; James P. Mitchell, Secretary of Labor; Lewis L. Strauss, Secretary of Commerce—also rear admiral, retired, former Chairman of the Atomic Energy Commission.

On March 6, this special committee recommended the voluntary import program be replaced by a mandatory program. In their report to the President, they said:

"On February 27, 1959, the Director, Office of Civil and Defense Mobilization, reported to you that crude oil and its principal derivatives were being imported into the United States in amounts which threaten to impair the national security. In the light of that finding, the special committee recommends that the voluntary oil import program be replaced by a mandatory program which will limit the imports of crude oil and certain derivatives to such levels as the national security requires and will allocate such imports as are authorized among companies in a fair and equitable manner."

Mr. President, those who argue that it is not necessary to the security of the United States that we have a healthy domestic oil industry capable of rapidly expanding its production in time of emergency must be of the school who believe that any future wars will be of the pushbutton nuclear type.

Apparently they rely upon statements of some of our military leaders that a thermonuclear war would cause such devastation that the outcome would be decided within 72 hours. From this statement they reason that the ability to fight a long, protracted war is no longer necessary. Hence, they suggest that there is no real need to maintain a domestic oil industry of any real magnitude.

If the gentlemen are correct, what we say and do here will make little difference one way or another. If there is such a nuclear conflict, utilizing all of the weapons that have recently been developed whose destructive power is almost beyond comprehension, the best that we could hope for is that possibly 60 million of the enemy would be destroyed while only 15 million or 20 million of our own would be lost. We might be able to completely destroy the enemy's warmaking potential, with our losses limited to perhaps 10 percent of our population. On the other hand, it is conceivable, and some say that it is highly probable, that civilized man would be completely eradicated from the face of the planet in such a holocaust.

Now, let us analyze that logic for a minute. Have any of the military leaders ever said that we do not need to have a domestic fuel industry adequate for our needs? Not at all. Have any of our military leaders suggested that we should not be able to fight a limited war with conventional weapons? Not that I know of.

Quite the contrary. Gen. Maxwell Taylor, the Chief of Staff of the U.S. Army, and Adm. Arleigh Burke, our Chief of Naval Operations, both state clearly that while we must stay prepared for a nuclear war, it is much more likely that the hostilities in which we will be engaged will continue to be wars of a limited nature.

Since World War II, there have been 18 wars of various sizes. Atomic weapons have not been used in any of them. Some of those wars were large and extremely significant. So was the result of the military decision.

Among them were the civil war leading to Communist victory in China, the war in Korea, the war in Indochina, the revolutions in Indonesia, the fighting in Greece, the warfare in the Near East, and the revolution in Hungary.

During the Suez crisis we had a good indication of the importance of a dependable supply of oil. England and France were frantic. They were fighting to protect their lifeline to the oil in the Near East. In England gasoline was rationed to approximately 7 gallons per month. Gasoline reserves were rapidly depleted in France.

It was the United States with its surplus productive capacity which was able to maintain a position of strength and confidence. We were able to go to the aid of our friends with large quantities of surplus oil and forgo imports from abroad at the same time.

It is because we wish it that way that we are constantly called upon to shoulder the heavy end of the load. Yet the truth is that aside from the oil in the United States, the free world is in a very vulnerable position insofar as its fuel requirements are concerned.

This is especially true of all of our allies in Europe, Australia, New Zealand, and even Japan. In the event of an emergency that disrupted the oil supply from Venezuela, the Middle East, and Indonesia, over 368 million people who are our allies would be dependent upon us for oil.

It would be extremely dangerous and unwise to permit our domestic oil industry to wither away as a result of foreign oil imports until we were no longer able to provide even our own requirements in an emergency.

We know that the Government of Venezuela is friendly as of today but the reception given our Vice President and his wife by Communist sympathizers is enough to put us on notice that the situation there could change overnight.

I do not think our friends from New England would like to be completely dependent upon the Middle East for fuel oil to keep them warm on cold winter nights. We all are familiar with the conflicts and the basic instability of that part of the world at present. With Nasser, Kassem, and Khrushchev all vying for supremacy, that source could be denied us at any time.

It is difficult to see how anyone fully aware of the facts could deny that a healthy oil industry is vital to our national security.

Recently a shipment of Rumanian oil reached the United States. Russia is now exporting large quantities of oil to certain areas in Europe and Iceland. I certainly hope that those opposed to a strong oil-producing industry in America are not so foolish as to believe that we might be able to import Rumanian and Russian oil in time of crisis.

PROBLEM OF MAINTAINING ADEQUATE CAPACITY

Those of us who understand the petroleum business are frequently confronted with opponents whose arguments have so little foundation in fact that we have a hard time even understanding what they are trying to say. For example, I have found people who would presume to express an opinion about the subject who are under the impression that an industry with proved reserves adequate to last 15 years should be able to produce all those reserves in 4 or 5 years to meet an emergency. This fails to take into account the actual facts of the situation.

If a well is pulled too hard, the ability of the well to drain oil from the sand where it is usually located is destroyed. Most oil is found in a strata of sand or shale on top of an almost inexhaustible supply of salt water. If pulled too rapidly for good conservation purposes, the salt water will be drawn into the pipe, and it may be a long time before oil can be produced from the well again. In some cases the well will be permanently killed.

In other cases the pressure of gas above the oil is required to force the oil to the surface. The principle of this operation is like a seltzer-water bottle, in which the gas is above the water and a tube extends from the mouth of the bottle into the water. The gas pressure pushes down on the water, forcing it up the tube and out of the bottle. In the case of an oil well, if the oil is extracted too rapidly, the gas will be exhausted too quickly, thereby forcing the use of a pump to lift the oil.

Another method of getting oil to the surface is called water flooding. In a field where there is no gas pressure, water is pumped into a well. The oil floats above the water, making it possible to lift the oil by pumping or flowing it slowly.

No matter what method is used, only a certain amount of oil can be taken from the ground each day without reducing the capacity to produce that which could otherwise be recovered.

The present capacity of the industry is somewhat greater than 10 million barrels per day, compared to about 7 million domestic production and 9 million domestic consumption.

In addition to the heavy losses suffered by trying to produce oil too quickly from a well, there must be sufficient transportation facilities to carry the oil to the refineries where it is turned into the petroleum products that are needed. Oil must be carried by pipeline, by water, or by the railroads. A tremendous increase in domestic production would dislocate existing transportation facilities, and if the domestic industry were to be further curtailed, transportation facilities would not be adequate to meet an emergency increase in domestic production. Transportation difficulties became a very serious problem when the industry was called upon to expand its production during the Suez crisis.

On March 6, 1959, the above ground crude oil stocks of the United States were estimated at 256 million barrels and petroleum product stocks were estimated at 488 million barrels. The National Petroleum Council estimates that only 30.1 percent of the crude oil stocks are readily available and only 65 percent of the product stocks, the rest being the fill in pipelines necessary to insure a smooth flow, and in the bottom of storage tanks. Available crude oil is estimated at 77 million barrels, and available products are estimated at 314,894,000 barrels. Thus, we have approximately a 10-day supply of available crude above ground and a 30-day supply of products. This is not enough to carry us very far in case of an emergency.

It might be asked. Why not store more above ground where it is readily available? This suggestion runs afoul two objections. First, because it is wasteful due to evaporation; and, second, because of the excessive cost of tank storage. It costs approximately $2 per barrel to store oil above ground. To store a 10-day supply of 70 million barrels costs about $140 million, not including the cost of the loss due to evaporation, which would be considerable if the oil has to be stored for a long period. It is far more efficient and economical to keep the oil in the ground, and to maintain at all times a sufficient number of wells capable of stepping up production without undue loss.

WE ARE NOT RUNNING OUT OF OIL

Several Senators have recently taken the floor to argue that it would be far better to save our own oil and import all the oil we can get, husbanding our own supplies for an emergency.

This is the fallacious idea that the domestic petroleum industry has had to contend with since shortly after it was founded just 100 years ago this year. The fact that the domestic industry is 100 years old and today is stronger in terms of reserves in the ground than at any time in its history, is proof of that.

I would like to cite a few examples of oil prophecies of the past which claimed the hour of extinction was at hand and show the progress of the domestic oil-producing industry despite these forecasts of doom.

First. In 1891, just 32 years after the first well was drilled successfully, the U.S. Geological Survey stated there was little or no chance for oil to be found in Kansas or Texas. In reality, more than 25 billion barrels of oil have been produced in these two States since that date.

Second. In 1914, an official of the U.S. Bureau of Mines stated that a total production of only 5.7 billion barrels of oil was possible in the United States. In reality, 56 billion barrels have been produced from 1914 to 1959.

Third. In 1947, the Chief of the Petroleum Division of the Department of State said sufficient oil cannot be found in the United States. From 1947 through 1958, 26 billion barrels of crude oil were produced and, in addition, 9 billion barrels were added to our known reserves.

Fourth. As late as 1949, the then Secretary of the Interior stated that the end of the U.S. oil supply was almost in sight. Since that date the domestic oil-producing industry has found more than 29 billion barrels of oil.

Today, total U.S. production is 7,100,000 barrels daily and the Nation's petroleum reserves are at an all-time high of 16 billion barrels.

In contrast to these earlier forecasts of the United States running out of oil, however, the U.S. Bureau of Mines, in a statement before the House Appropriations Subcommittee, recently set total U.S. recoverable crude oil reserves at 300 billion barrels under known recovery methods. This 300-billion-barrels figure refers to the so-called potential reserves which estimates the amount of oil that experience causes us to predict we can find and produce. This does not take into consideration increased efficiency in production or the development of better technology in the search for and development of domestic reserves.

Neither do these figures take into consideration the U.S. Geological Survey estimates of available oil from western shale deposits of more than 1 trillion barrels.

Thus, it should be apparent to all, that as long as we have oil producers in this country, we will have oil. The only essential for the next 1,000 years is the oil producer. He is the indispensable element.

This brings me to the final answer to the "running out of oil" song which those who would profit most by loosening a flood of foreign oil into this country sing so loudly.

Most of us here in the Senate are fairly well versed in the rudiments of economics. Thus, I think we can all understand that if a producer cannot sell his product, he soon goes out of business. The domestic oil producers do not have an inexhaustible supply of funds, despite what we may hear to the contrary. In order to go out and look for new oil fields, in order to drill the wells once he thinks he has found a possible producing area, he first must sell some of the oil he has found in the past. He must pay the debts he incurred while finding and producing his previous wells and still have enough money left over to look for more oil. He cannot do this if he cannot sell the oil he has already found.

That oil does him, the economy, or the national security very little good until it is produced, sold, and processed. And, believe me, Mr. President, the oil he has not found yet cannot do anyone any good. If you do not believe me, just ask the Indians.

It takes from 3 to 10 years to develop a large oil field into shape so that it would be available in time of need. Oil potentials are found and developed. They simply cannot be found nor developed overnight, as some would have you believe.

Some of my friends who complain about the necessity of insuring a healthy domestic petroleum industry remind me of the little pig who built his house of straw to keep the wolf away. They will share the benefits of our internal strength if, like the pig who built his house of brick, we insure our security by maintaining an adequate domestic fuel supply.

The more one explores the facets and problems of maintaining an adequate supply of fuel to meet whatever war or emergency this Nation might face, the more one is forced to the inescapable conclusion of the Special Cabinet Committee which follows:

"In summary, unless a reasonable limitation of petroleum imports is brought about, your Committee believes that: In the event of a serious emergency, this Nation will find itself years away from attaining the level of petroleum production necessary to meet our national security needs." (Taken from the report of the Special Committee To Investigate Crude Oil Imports, July 29, 1957.)

The Secretary of the Interior has correctly stressed the crucial necessity of finding and developing additional reserves as our existing reserves are depleted. He has pointed out that since 1956 the number of wells drilled has declined by approximately 16 percent. Senators will note that the defense amendment, for which they voted, placed particular stress upon just such factors. Once again I invite attention to the last paragraph of section 8 of the Trade Agreements Extension Act which I have previously quoted.

FOREIGN TRADE: THE DOLLAR GAP IS GONE

Apart from the needs of national defense, it would be well to consider our imports and exports in oil as compared to other aspects of our foreign trade. Let us separate some of the facts of the situation from the fiction and the myth that exist today.

In the first place, there is no longer any dollar shortage throughout the world. Perhaps there may be a shortage of dollars in a few countries, but in the world as a whole foreign dollar holdings now amount to more than $16 billion. I first came to Washington in 1948. We were told that it was necessary to pass the Marshall plan to give away $17 billion as a contribution to the economic reconstruction of Europe. It was contended at that time that Europe was not in a position, and could not be in the foreseeable future, to repay the dollars which she needed from us. We were told that it was necessary to close the dollar gap, which theoretically represents the difference between our exports and our imports from Europe.

Ten years later we find that every year since 1948 foreign nations have received more dollars from the United States than they have paid out. While it is true that an American is not entitled to demand payment in gold for his dollars, foreign nations and foreign businesses are in a position to demand gold payments.

Much of the dominant position of the United States in international commerce has been related to our ability to redeem our currency abroad by payment in gold. When the great hue and cry to close the dollar gap was raised in 1948, we then had at Fort Knox $24.400 million, in round figures, worth of gold. Foreign nations held $7,700 million, leaving us $16,700 million in gold that we could call our own. By the end of 1958, our gold balance had declined to $20,600 million, with foreign nations holding $17,600 million, leaving us only $3 billion in gold not subject to foreign claims. We were told that this is less than the bare minimum which it is necessary to keep on hand for the protection of our own currency within the United States. Therefore, the fact of the matter is that, when we look to the world as a whole, far from having a situation that requires that we place more of our dollar holdings in the hands of foreign nations, we have, in fact, just the opposite situation.

I am not saying that there are not a number of ways by means of which we can adjust our present situation in order to reverse the flow of our dollars to foreign nations. There are a number of expedients which we can use to protect our position; but, so long as we stick to present policies, we have depleted our gold reserves as far as we can afford.

One may ask how we came to be in such an unfavorable position on trade balances, when our exports have been exceeding our imports by more than $6 billion a year. Much of the misunderstanding in this field has resulted from a failure of administration propagandists to tell the whole story. When they compute an export figure of $17,900 million for 1958, compared to an import figure of $12,800 million for the same period, they stop at that point, without telling the rest of the story.

The spokesmen for unlimited imports leave out of their calculations over $3 billion of military expenditures overseas in payments for base rights and in payrolls of servicemen.

They overlook almost $3 billion of direct aid to foreign governments.

They overlook $3 billion annually of American investment in foreign countries.

They overlook the tourist expenditures of about $1¾ billion annually going to citizens of foreign countries.

When all of these factors are taken into account, it is easy enough to see why our dollar is declining at the very time when we had been led to believe that we would be in better shape than ever.

Therefore, let us get this matter straight, once and for all. There is no dollar shortage in any general sense. We are on the short end of payment balances. In a general sense, it is this Nation which owes the money, not the foreign countries.

MOST INDUSTRIES EXPORT MORE THAN THEY IMPORT

Now let us further analyze the nature of foreign imports into this country. Of $12,800 million of foreign products imported into the United States last year, almost half of these products came in without any charge whatever for duty. These products were on the free list. For the most part they are not produced in the United States. I have in mind such products as coffee, cocoa, bananas, industrial diamonds, various metals, ores, and newsprint.

When we add to the list of imports which come in duty-free the imports which are subject to duty, although they are not competitive with American products, such as chrome, nickel, manganese, and cut diamonds, we find that more than half of the products imported into the United States are not competitive with those produced here. With regard to that half of our imports, we are trading in the old and traditional sense, whereby a Nation imports the things it does not produce and cannot produce, and exports the things it produces in surplus. This much of our foreign-trade picture should be simple and relatively uncomplicated.

There is a second type of trade, which is generally accepted and favored by all nations. This is the kind of trade in which a nation imports a product which is not essential to the security of the importing nation, and which has always been produced more cheaply by foreign nations.

The third category of imports are those which most nations prohibit. Those imports would have the effect of curtailing or destroying an established domestic industry. I have not been able to find a single instance, with the exception of the United States of America, in which a country has permitted one of its major industries to lose its domestic market, or even a significant portion of its domestic market. I am sure there must be instances in which this has resulted; yet I have challenged some of those who pose as experts in this field to cite me even one. Thus far they have not done so. It is certainly true in a general sense that every nation imposes tariffs and quotas or provides subsidies for its domestic industries before it permits them to be driven out by low-cost foreign competition. In the United States only 1½ percent of our gross national product, or 3 percent of our movable production, is represented by imported products which are competitive with American production.

In almost every major industry, our exports exceed our imports.

For example: Our Nation exports nearly five times as much in the field of chemicals and related products as it imports.

We export about 14 times as much industrial office and printing machine equipment as we import.

We export nearly four times as much in the scientific and professional instruments field as we import.

The automobile industry is an interesting example of foreign trade. At present, we import almost four times as many cars as we export. Yet, when we compare the total dollar volume of exports of automobiles, parts, and accessories, to the total volume of imports, we find that our exports are well over twice our imports.

The answer to these seemingly contradictory statistics in connection with the automobile industry is that almost three-fourths of the value of automobile exports is composed of component parts and trucks, which are produced in this country, but are assembled in other countries. Thus, we import more finished products, more complete automobiles; but we export far more in the way of semifinished automobiles.

In other words, except for sugar and wool, which industries are protected by special arrangements under law, every other American major industry, except the minerals and the paper industries, exports far more than it imports. This statement is even true of the textile industry as a whole, although certain segments of that industry do face stiff foreign competition.

Petroleum and petroleum products, therefore, constitute the principal industry unprotected by a firm arrangement in Federal law in which imports greatly exceed exports. In the petroleum industry, as I have said, the imports exceed exports by over five to one.

Mr. President, I would like to have printed at this point in the RECORD a table comparing imports to exports in certain industries.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

IMPORTS COMPARED TO EXPORTS

	Exports (millions of dollars)		Imports (millions of dollars)		Export-import ratio (approximate)
	January 1957	September 1958	January 1957	September 1958	
Petroleum and petroleum products	725.0	351.0	1,365.7	1,826.0	5 to 1.
Chemicals and related products	1,038.0	995.4	205.8	207.1	1 to 5.
Industrial, office, and printing machinery industry	1,950.8	1,813.7	151.9	131.6	1 to 14.
Automobiles, parts and accessories	989.4	803.3	227.8	387.5	1 to 2.
Textile fibers and manufactures	1,322.0	1,013.2	753.7	668.5	2 to 3.
Photographic and projection goods	75.6	77.9	29.8	29.1	2 to 5
Scientific and professional instruments	77.0	75.3	21.2	20.5	1 to 4.

PETROLEUM INDUSTRY ABSORBS FAR MORE THAN ITS SHARE OF IMPORTS

Mr. LONG. Mr. President, petroleum and petroleum products have accounted for a steadily declining percentage of total U.S. exports. At the same time oil has accounted for a steadily increasing share of total U.S. imports.

I would like to insert in the RECORD at this point, a table showing these contrasting trends.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

	Exports of petroleum and products as percent of value of total exports of U.S. merchandise	Imports of petroleum and products as percent of total value of U.S. imports for consumption
Average, 1936–40	10.9	2.0
Average, 1941–45	5.8	2.7
Average, 1946–50	4.8	5.8
Average, 1951–56	4.7	7.3
Average, 1956[1]	4.0	10.2
Average, 1957[1]	4.8	12.0
Average, 1958	3.3	12.9

[1] Affected by Suez crisis.

Mr. LONG. In 1958, as is apparent from this table, oil accounted for 12.9 percent of the total dollar volume of U.S. imports. When it is realized that approximately half of these imports are not competitive with American goods, it is apparent that oil accounted for well over 25 percent of the dollar volume of all competitive imports.

The petroleum industry recognizes the important role of international trade. However, let us take a look at the relative position of oil in total U.S. foreign trade for 1957 and compare this with 1934, the year the trade agreement program was authorized. In 1934 oil imports were valued at about $36 million, or 2 percent of the total value of all imports of all commodities. In 1957 these figures were $1.5 billion, or 12 percent of this Nation's import trade. Obviously, oil has already contributed a substantial and increasing share of the total U.S. import trade. This one industry, so vital to national security, should not be expected to contribute to increasing international trade beyond the point that endangers the maintenance of adequate domestic supplies.

This history shows that oil has more than done its part in encouraging world trade. To further the extent of contribution petroleum has made since 1939, the date of the original Venezuela agreement, total annual dollar value of petroleum imports has increased more than 35 times, from approximately $40 million to about $1.5 billion in 1957.

Comparing the first half of 1956 to the first half of 1958, we see that the production of crude oil in the United States dropped by 698,000 barrels daily, while production in the Middle East increased by 502,000 barrels daily and Venezuelan production increased 155,000 barrels daily. U.S. production was down 9.7 percent in this period, while Middle East production was up 13.9 percent, Venezuelan production up 6.6 percent. Far East production up 19.2 percent, and Canadian production up 4.6 ercent.

The following chart shows changes in crude oil production from the first half of 1956 to the first half of 1958:

Changes in crude oil production—First half 1958 versus first half 1956

		Barrels daily
Middle East	up	502,000
Venezuela	up	155,000
Far East	up	75,000
Canada	up	20,000
United States	down	698,000

		Percent
Middle East	up	13.9
Venezuela	up	6.6
Far East	up	19.2
Canada	up	4.6
United States	down	9.7

Mr. President, the importation of oil into the United States has increased tremendously in the last 5 years, as demonstrated by the next exhibit showing the source and amount of U.S. crude oil imports from 1954 though 1958:

SOURCE OF U.S. CRUDE-OIL IMPORTS

[Thousands of barrels per day]

Year	Canada	Venezuela	Other Western Hemisphere countries	Total Western Hemisphere imports	Eastern Hemisphere countries	Total
1954	7	352	47	406	251	656
1955	46	386	43	475	307	782
1956	117	456	42	615	319	934
1957	151	531	35	717	304	1,622
1958	84	433	29	546	407	953

Most industries which face stiff foreign competition have the protection of tariffs. On goods which are protected, excluding oil, the average tariff is almost 15 percent ad valorem, compared to a tariff of approximately 3 percent in the case of oil.

In almost every case where imports of a product exceed the exports of that product there is a program to protect our domestic industry. Two examples of this are sugar and wool. The level of American production of these products is sustained by acts of Congress.

In 1958, our exports totaled $17.9 billion, and our imports totaled $12.8 billion. In 1957 our exports were valued at $20.8 billion, while imports were valued at $12.8 billion. Our imports have been roughly equal to two-thirds of our exports. Only half of the goods we import compete directly with American goods. Only about $6.5 billion of our annual imports are competitive.

Thus we see that the average ratio of exports to all competitive imports for the last 2 years is approximately 3 to 1. Our exports are three times as large as our imports for American industry as a whole.

Compare this favorable ratio to the situation which exists in the oil industry, where we import over five times as much as we export. Is it not then apparent that the oil industry is already absorbing at least several times more than its fair share of the burden of foreign trade?

What other American industry and its workers would be willing to give 20 percent of their market to foreign imports, and lower their tariff to 3 percent, without the prospect of some sort of protection?

I should like to put my friends on notice that if their attitude concerning protection for an industry, which is so vital to our national security, is one of unrestricted free trade, we may require that they live by the same standards they set for us.

It should be emphasized that under the provisions of the defense amendment, the President has the power to raise as well as lower the import quotas. It is not a one way street. If any of the fears expressed by opponents of the program materialize, the President has the authority to increase the quota.

DOMESTIC PRODUCTION WILL PROTECT THE CONSUMER

Many fallacious arguments have been used in attacking the President's long-overdue action to regulate oil imports. It has been stated that the President's order is a major contribution to inflation.

The record of the oil producing industry refutes this statement. The domestic petroleum producing industry has been one of the least inflationary industries in the United States. Since December of 1947, crude oil prices have been adjusted upward in only two instances, once in June 1953 and again in January 1957. Both increases were nominal and insufficient to offset increasing costs. Since the last increase, prices have been eroded away until today in many of the oil producing areas of the United States the price is below what it was before January 1957.

In the latest 16 months, studies made by the Oil and Gas Journal indicate that oil producers have lost $807,718 a day in income through crude price cuts, involving 5,487,200 barrels a day. During this time some crudes have sustained two price cuts.

Mr. President, the following table shows cuts in the price of crude oil, the amount of crude affected, and the total daily dollar loss to producers:

	Barrels per day	Amount of cut (cents)	Total loss
October 1957 to April 1958	1,945,000	13.1	$250,000
May to October 1958	2,260,470	20.51	463,000
November 1958 to mid-January 1959	2,282,050	8.75	112,188

Mr. President, a few upward adjustments were made in this period which added $17,470 to producers' income.

Since 1947, this industry has absorbed more than 11 general increases in the price of steel, which it uses by the millions of tons every year. Industry wage rates have increased on 10 occasions, and there have been increases in the price of all of its equipment from drill pipe to oilfield machinery.

We often hear complaints about the high price of gasoline at the service station. Yet today we pay only 2 percent more for gasoline—less taxes—than we did in 1926. It is true that since 1926 the tax on gasoline has increased 270 percent. The 2-percent increase in the price of gasoline is in contrast to a 63-percent increase in the consumer price index for all commodities during the same period. Nor does it take into account the tremendous improvement in the quality of the gasoline.

This history of the petroleum industry is persuasive argument that the consumers of this Nation will not be the victims of unreasonable price increases because of a very modest restriction placed upon the importation of foreign oil.

It would be well to keep in mind that imports had been steadily increasing until the President's order went into effect and inflation had increased tremendously during this period

It has been mentioned in the Senate that New England has experienced an increase of about 2 cents per gallon in the price of fuel oil within the last few months. It was said that this was the result of the voluntary controls over the importation of oil.

In view of the fact that imports continued to increase until March 10, it is difficult to see how this raised the price of fuel oil. It is probable that the increase in fuel oil prices was due to the increase in transportation costs.

The increase in tank-wagon prices in four Midwestern States has been criticized. Let me say that a one-half cent per gallon increase is hardly worth commenting on in this regard. There are frequent price fluctuations in tank-wagon prices throughout the United States at all times. If there were not this price difference, it is likely that someone would contend that there was an industry monopoly and that the industry was not subject to competitive conditions.

Oddly enough, the price increase of the Standard Oil Co. of Indiana was that which was referred to. I should like to point out that this is one of the major oil importing companies which was not in favor of the mandatory program. When it was pointed out in the Senate that "these oil interests could not wait for the ink to get dry on the President's proclamation before they started raising prices," it might be said that, inasmuch as Standard Oil of Indiana was opposed to the mandatory program, they could have raised prices in order to discredit the program and make it appear as if it were responsible for what was actually a long-contemplated price increase.

The independents and other domestic producers would want this program to be popular, while the large importers might well want the program to be unpopular.

When critics of this program referred to the problem of increased unemployment, they could not be referring to the tens of thousands of oil field workers who will be put back to work, as a result of the President's program. As a matter of fact, a tabulation and estimate the junior Senator from Louisiana had made as to the effect of increased imports in Louisiana indicates that in Louisiana alone, which is not the largest producing State by any means, unemployment increased about 25,000 because of increased oil imports.

The increased production from domestic wells, which have long been producing at uneconomically low daily allowables, should help to hold down the price of oil.

Foreign imports do not tend to lower the price of oil—they merely lower American production. This is true because the importers own most of the refinery capacity. The more they import the less domestic oil they buy. The less they buy, the less oil the independents can produce, once the aboveground storage has been fully utilized. At this point, State programs prorate production to prevent waste and to permit to each producer his share of daily allowables.

It is unsound from the consumers economic standpoint to become dependent upon foreign oil. Even if foreign sources were not susceptible to the whims of dictators and unstable governments, it should be remembered that foreign oil production is controlled by a handful of international oil combines. In contrast, the domestic petroleum industry consists of thousands of individuals, partnerships, and companies engaged in the production of petroleum. In view of these facts, is it better for the consumers of this Nation to be at the mercy of a few international oil companies? Or is it better that they rely upon thousands of producers in this country? The answer is obvious. The President's order, by preserving competition, will better protect the consumer.

The capacity of American producers is over 10 million barrels per day. They have been permitted to produce only 7,100,000 barrels per day.

DANGER OF UNDESIRABLE CONTROL OF INDUSTRY

The objection has been raised that the order of March 10 leads straight down the road to greater bureaucratic control over U.S. industry.

This supposition is completely fallacious. Since the first days of our Constitution, the Federal Government has regulated foreign commerce. This exercise of constitutional authority need not, and, in fact, it cannot legally lead to controls of prices and wages of domestic industries.

As I have mentioned previously, the action of the President to limit oil imports is under specific provisions of law wherein the Congress has delegated responsibility to the President. The law, commonly referred to as the national security amendment, was first enacted as section 7 of the Trade Agreements Extension Act of 1957. It was further amended and clarified last year in section 8 of the Trade Agreements Extension Act of 1958. This law gives the President authority to limit imports in the interest of national security. The law gives the President absolutely no authority to control prices, wages or any aspect of a domestic industry. To attempt to do so would be outside the law. It is fantasy to speculate that this law authorizes broadside Government controls of industry operations. Any attempt to so extend it certainly would fail for lack of legal basis.

Some Members of this body seem to abhor the thought of the Federal Government exercising its constitutional right and responsibility to control foreign commerce. The fact is that until recently the few international oil companies which control most of the foreign oil production have been controlling oil imports to their own liking.

For almost 4 years, the executive branch has been endeavoring to persuade these importing companies to limit their imports. These pleas and efforts for voluntary restriction have been flagrantly disregarded by importing companies with the result that imports have jumped to unprecedented levels.

CHARGE OF DISCRIMINATION UNFOUNDED

It has been charged that the President's program is discriminatory against regions of the United States without indigenous fuel supplies. This charge is likewise without foundation.

The President's order will not result in a drastic cutback in imports. It, in fact, will permit petroleum imports at a very substantial rate. Prior to World War II, total petroleum imported into the United States amounted to about 5 percent of domestic production. Following World War II, during the period 1946 to 1950, imports increased rapidly, averaging about 10 percent of domestic production. During the period 1951 to 1955, imports increased further, averaging about 16 percent of domestic production. The new oil import order will permit imports to continue at a rate equivalent to a rate of approximately 20 percent of domestic production. Certainly this cannot be criticized as a drastic cutback. It is, in fact, a most reasonable limitation.

It is true that the order constitutes a cutback from the rate of imports during the past 3 years. For example, during 1958 total imports amounted to 25 percent of domestic production. But it became obvious that such high rates of imports were crippling the domestic industry and causing a serious decline in the exploratory and development efforts of the domestic industry. No one has sought to eliminate all petroleum imports.

The President's Special Cabinet Committee To Investigate Crude Oil Imports carefully considered this aspect of the problem. In its 1957 report, it had this to say:

"Domestic consumers are utilizing an increasing amount of petroleum products for transportation, fuel, heating, and many other aspects of consumer life. In the event of a national emergency, it is essential to these consumers that there be adequate supplies at reasonable cost, both now and in the future. The low cost of imported oil is attractive, but excessive reliance upon it in the short run may put the Nation in a long-term vulnerable position. Imported supplies could be cut off in an emergency and might well be diminished by events beyond our control. This vulnerability could easily result in a much higher cost, or even in the unavailability, of oil to consumers. It is therefore believed that the best interests of domestic consumers, as well as of national security, will be served if a reasonable balance is maintained between domestic and foreign supplies."

During recent months the Government of Venezuela has taken action to increase the taxes imposed upon American companies operating there. This action further illustrates the instability of foreign oil from a consumer standpoint.

As consumers, the more we become dependent on any foreign source, the more we are at their mercy with respect to the price we are forced to pay. Once we become dependent upon foreign sources, we will have no choice but to pay whatever price is asked. The slight savings we might temporarily enjoy could prove very expensive a few years from now.

CANADA IS TREATED FAIRLY

The mandatory oil import program has been criticized on the grounds that it would complicate our relations with Canada. Let us weigh the impact of the program upon our northern neighbor before we jump to that totally unwarranted conclusion. It is important to realize several facts:

First, oil as such is a minute particle of our overall trade with Canada.

Second, the mandatory program makes generous allowances for Canadian oil imports.

Third, the importing companies in the Pacific Northwest have not been filling their allocations under the voluntary program with Canadian oil, not because of any U.S. Government restrictions, but because these importers found a cheaper source of supply, namely the Eastern Hemisphere.

As to oil in the overall Canadian trade picture, it should be noted that in 1958 petroleum accounted for only 2.4 percent of the total U.S. exports to Canada and only 3 percent of the total U.S. imports from Canada.

In 1958 the United States exported $3,400 million worth of goods to Canada. Petroleum accounted for $82 million of that total. We imported $2,600 million in goods from Canada, of which $78 million was in petroleum. The following table presents these figures:

CANADIAN-AMERICAN TRADE, 1958

	Total exports (millions)	Petroleum exports (millions)	Percent of total
Canada to United States	$2,600	$78	3.0
United States to Canada	3,400	82	2.4

This chart illustrates the obvious fact that Canada finds it economical to ship oil to us in the west and we find it economical to ship oil to Canada in the east.

The mandatory program makes allowances for refineries in the north central portion of the United States, which have easiest access to Canadian oil. It provides that imports of these refiners will not be within the program. Thus, they will be allowed to import without restrictions whatever they need in the way of imports from Canada.

During the past year when the voluntary program was in effect, importers in the U.S. Pacific Northwest, who historically have purchased Canadian crude oil, began to turn more and more to the cheaper crudes of the Eastern Hemisphere.

The voluntary program did not establish the source of imports, nor does the present mandatory program. If importers wish to purchase all their imports from Canada, there is nothing in the program to rule otherwise.

But let us face the facts. By and large, American importers do not want oil from Canada. In 1957, imports into the west coast from Canada totaled 95,000 barrels daily. In 1958, this total dropped to 25,000 barrels daily despite the fact the Government's crude oil allocation was more than 75,000 barrels daily for companies in that area who normally imported from Canada.

In the last quarter of 1958, imports from Canada into the west coast totaled only 11,000 barrels daily, some 65,000 barrels below the daily allocation. This decline took place despite the fact that two of the importing companies in the area have pipelines from Canada to their refinery gates.

This record shows that the President's program does not discriminate against Canada. If there is, or has been discrimination, it has been at the hands of the importing companies, not the U.S. Government.

In addition, let us examine Canada's own record. In 1954, Canada imported 95,000 barrels daily from the United States. In 1957, this declined to 80,000 barrels daily. In contrast, during this same period, imports into Canada from the Middle East and Venezuela increased from 218,000 barrels daily in 1954 to 320,000 barrels daily in 1957. As a result, about 45 percent of Canadian consumption is being supplied by Middle East and Venezuelan oil. Canada imports large quantities of low-cost Middle East and Venezuelan oil, rather than U.S. oil, to meet her large eastern markets, and, at the same time, takes the position that she has an established right to export her own production into the United States.

It might be well to take a look at our trade experience with Canada during the Korean conflict. In 1950, we imported 108,000 tons of lead pigs and bars from Canada. On January 26, 1951, our Government felt it necessary to impose price controls upon lead and other non-ferrous metals. This immediately caused Canadian producers to divert their lead to other markets where they could obtain a higher price. Our lead imports from Canada were cut almost in half. In 1951, they dropped to 57,000 tons. In spite of our great need for lead during the Korean conflict, the incentive to sell to other markets was too great for our Canadian neighbors to refuse.

This is not to condemn our good neighbors but merely to point out that a fair minded Canadian has no basis to criticize an order which protects American interests in a moderate way without discriminating against Canada.

VENEZUELA UNDERSTANDS

The fear has been expressed that this program would damage our relations with Venezuela. It would appear that Americans are more worried about this than the Venezuelans. Their Minister of Mines and Hydrocarbons, Sr. Juan Pable Perez Alfonzo, has stated that he does not regard the new U.S. mandatory imports control plan as a substantial change in the situation. Sr. Alfonzo said:

"Obligatory restrictions in the United States do not modify substantially the existing situation of the oil industry in this nation.

"For some time now, voluntary restrictions have shown the way toward stability of markets and prices. It is this stability that we are interested in.

"Venezuela, like the United States, wants to avoid upsetting the oil industry either here or there through undue market competition."

It must be remembered that there has been a fantastic increase in the importation of oil from Venezuela in the last 10 years. No other nation than the United States, capable of producing all the oil it needs, would consider allowing as much oil to come into the country. No other nation would have been so self-effacing.

The Venezuelans are certainly intelligent enough to recognize their good fortune in obtaining a large share of the American market.

Our prime purpose in economic assistance to friends and allies should be to help other nations to provide their own requirements rather than to displace American workers.

Our good-neighbor policy of allowing excessively large imports has benefited more than anyone else, the large oil companies. A country such as Argentina, which has its own nationalized oil industry, will find little opportunity to sell oil in the United States. The large integrated companies who own the tankers and the refineries are not interested in buying oil from other sources. They will not ship it and they will not be anxious to refine it. They can make more money producing their own oil overseas.

Mr. President, I have felt compelled to go into considerable detail to produce the facts and figures to put to rest a great number of uninformed charges and statements which have been cast about this Chamber and that of the House of Representatives in rather willy-nilly fashion. Their statements do credit to the extremities of their imagination. Practically none of these statements had any documentation whatever. I regret to say that a number of them exposed an abysmal lack of information concerning even the most elementary aspects of the petroleum industry. A great number of them would appear to rely upon the popular misconception that the domestic petroleum producer is a powerful, vested, special interest, gaining special advantages to which he is not entitled.

Herblock, the great cartoonist for the Washington Post, usually pictures the typical oil man as fat and prosperous and a cigar smoker. This picture, while extremely exaggerated, should be confined strictly to the importer. The typical domestic producer who is not in a position to operate overseas, could more accurately be pictured in khaki work clothes. Most of our small independent producers work hard for no more than the equivalent of a decent wage, and many go broke. A few lucky and skillful ones strike it rich, but that percentage is extremely small.

At a later date, I expect to present more information to clear up the false public impression about the financial status of the independent oil producers. It will be shown that earnings for the domestic industry as a whole are about the same as for manufacturing generally.

THE FOREIGN TAX CREDIT

It is the billion-dollar American oil companies which are reaping the benefits from foreign oil imports. These large corporations are benefited by a tax advantage which makes the percentage depletion allowance appear very small by comparison.

The operation of the foreign tax credit has caused the large oil companies to pay practically no tax whatever on their fantastic profits from foreign oil. As I have attempted to explain to a number of my friends, any reduction in percentage depletion for oil would not bring additional revenue to the U.S. Government from the enormous income from foreign oil, because it would only result in Venezuela, Saudi Arabia, Iraq, Kuwait, and Indonesia increasing their tax on American oil companies to claim for their treasuries that which would otherwise escape their taxation to the benefit of Uncle Sam.

Anyone who cared to enlighten himself on the manner in which this foreign tax credit has been used to deny revenue to our Government could satisfy himself in short order by reading the report drafted by the Joint Committee on Internal Revenue Taxation and made available to the Senate Committee on Finance. The report explains how this type of tax avoidance was used by Arabian American Oil Co., in pursuance of policies of the Government of Saudi Arabia.

INFERENCES OF CORRUPTION

I notice that the junior Senator from Wisconsin [Mr. PROXMIRE] told the Senate yesterday:

"The oil industry has won a position of corrupting power and influence in our Federal Government."

Mr. President, that statement sounds extremely like some of those which I have heard made by a previous junior Senator from Wisconsin. I hope very much he will produce his evidence that the smaller and independent domestic producers have corrupted the Congress which passed a law compelling the President to take action or that they corrupted the President who acted, well knowing that it was his duty. If the junior Senator from Wisconsin knows of unexposed corruption in Government, it is certainly his duty to bring forth his evidence

During my 10 years of service in the Senate, it has been my duty to vote upon a number of trade bills and a number of amendments affecting the petroleum industry when such amendments were offered to trade bills. In some years when oil imports were at a lower level, I have voted on the side of the major companies. In recent years, when oil imports began to threaten the domestic industry, I have felt it my duty to vote and fight to control foreign imports.

It has always been my feeling that both the large corporations and the small producers were entitled to be heard by the junior Senator from Louisiana. Both sides have very large investments in the State which sent me to the Senate. I am prepared to testify under oath that there hasn't ever been a single instance in 10 years during which the representatives of oil producers, either large or small, be they foreign producers or domestic companies, have made any offer to reward or threat of reprisal with regard to any position that I have taken or proposed to take concerning their interest. The junior Senator from Louisiana is certainly not one who owes his election to the influence of the oil companies. They were almost unanimous in their opposition to me—I mean both the independent and the major oil producers—when I was elected to the Senate in 1948, in large measure because I had strongly favored a very heavy increase in severance tax on oil at the State level. If I had known them to be less than honorable, I would not state to the contrary.

I believe I have shown that the President's order will help to preserve a domestic petroleum industry. In preserving the thousands of small independent producers, the President's order will assure vigorous competition by many thousands of competitors. Such competition is necessary if the consumer is to be protected from monopolistic pricing.

I believe I have demonstrated that the President's order has not and will not disturb our friendly relations with our neighbors or our friends throughout the world.

Quite the contrary, it will assure our ability to go to the aid of at least a dozen of our important friends and allies throughout the world in the event that everyone else fails them.

I believe I have demonstrated that the petroleum industry has accepted a rate of competitive imports compared to exports many times beyond the contribution of other American industries.

Above all, I believe I have demonstrated that the logic of the report of the President's Special Committee to study this matter is inescapable, and that the security of this Nation requires that we maintain a domestic petroleum industry adequate to serve this Nation in times of crisis.

Those who have experienced the cold winter months of World War II when fuel was strictly rationed and those who stand ever ready to make great sacrifices if need be in time of peace as well as in time of war, would never want this Nation to be at the mercy of uncertain and undependable sources of fuel during wartime or during national emergencies.

It is for this final reason that I am satisfied that all thoughtful Americans who take the trouble to acquaint themselves with the problem will hail the President's order as a desirable one, required by act of Congress and required by his duty to preserve this Nation.

Mr. GRAVEL. Mr. President, I ask unanimous consent that following my remarks and the appendices and other insertions, the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2806

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—SHORT TITLE; STATEMENT OF POLICY AND PURPOSES

SHORT TITLE

SEC. 101. This Act may be cited as the "Energy Revenue and Development Act of 1973".

STATEMENT OF POLICY AND PURPOSES

SEC. 102. The Congress finds and declares that—

(1) It is the policy of the United States to achieve energy independence by 1985 and to reduce progressively the dependence of the United States on foreign sources of energy between now and that date.

(2) The achievement of this goal is essential for the nation's economic growth, full employment, balance of payments equilibrium, and national security.

(3) A well-coordinated and defined national energy policy is needed to achieve energy independence by 1985. Such a policy must be implemented by a central Federal authority which would coordinate and define all energy policies and programs. An independent Commission of qualified scientists, engineers, and economists is needed to advise and assist this authority and publicly evaluate its policies and programs.

(4) The United States, including its continental shelf, has an enormous energy resource base, including an estimated 346 billion barrels of oil; 1178 trillion cubic feet of natural gas; 394 billion tons of coal; 1.6 million tons of uranium; and 189 billion barrels of oil shale. Rapid development of these massive energy sources is imperative.

(5) While developing fully these resources, the public and private sectors must develop alternative sources of energy including solar energy, wind, geothermal energy, ocean thermal gradients, coal gasification and liquefaction, nuclear fusion and fission, the conversion of organic materials to energy, and others.

(6) Achieving energy independence requires a massive investment of capital and technology over the next decade.

(7) Adequate and assured public financing of research and development programs requires the imposition of taxes on energy sources and the appropriation of the revenues from these taxes to a special energy trust fund.

(8) The private market must be allowed to operate freely in order to attract capital for the development of our indigenous energy resources. Accordingly, energy independence requires that price controls be phased out on petroleum and petroleum products, natural gas, and coal, and immediately terminated on essential articles needed in the extraction, refining, and transportation of petroleum and gas and the extraction of coal, subject to safeguards to assure that termination of such controls does not result in excessive profits.

(9) Foreign energy resources have proven to be an unreliable source of supply. In order to attract the capital necessary for the development of secure domestic resources, it will be necessary to impose variable duties on imported petroleum and petroleum products from all countries, and quota limitations on petroleum and petroleum products imported from foreign countries which have embargoed shipments of petroleum to the United States.

(10) The granting of tax incentives to stimulate the domestic production of petroleum and coal, and the removal of tax incentives which encourage foreign production of petroleum by American companies, are necessary components of a national energy policy.

TITLE II—ENERGY TRUST FUND; TAX ON ENERGY SOURCES

ENERGY TRUST FUND

Sec. 201. (a) Establishment of Trust Fund.—There is hereby established in the Treasury of the United States a trust fund to be known as the "Energy Trust Fund" (hereafter in this section referred to as the "Trust Fund"). The Trust Fund shall consist of such amounts as may be appropriated or credited to it as provided in this section.

(b) Transfer of Amounts to Trust Fund.—

(1) In general.—There is hereby appropriated to the Trust Fund amounts equivalent to the taxes received in the Treasury under section 4496 of the Internal Revenue Code of 1954 (tax on energy sources).

(2) Method of transfer.—The amounts appropriated by paragraph (1) shall be transferred at least monthly from the general fund of the Treasury to the Trust Fund on the basis of estimates by the Secretary of the Treasury of the amounts referred to in paragraph (1) received in the Treasury. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(c) Appropriation of Additional Sums.—There are hereby authorized to be appropriated to the Trust Fund such additional sums as may be required to make expenditures referred to in subsection (e)(1) of this section.

(d) Management of the Trust Fund.—

(1) In general.—It shall be the duty of the Secretary of the Treasury to manage the Trust Fund and (after consultation with the Administrator of the Federal Energy Administration) to report to the Congress not later than the first day of March of each year on the financial condition and the results of the operations of the Trust Fund during the preceding fiscal year and on its expected condition and operations during each fiscal year thereafter. Such report shall include the recommendations of the Administrator of the Federal Energy Administration as to the amount of revenues needed by the Trust Fund during the following fiscal year to meet expenditures from the Trust Fund during such fiscal year. Such report shall be printed as a House document of the session of the Congress to which the report is made.

(2) Investment.—It shall be the duty of the Secretary of the Treasury to invest such portion of the Trust Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired (A) on original issue at the issue price, or (B) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of special obligations exclusively to the Trust Fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the Public Debt; except that where such average rate is not a multiple of one-eighth of 1 percent, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary of the Treasury determines that the purchase of other interest-bearing obligations of the

United States, or of obligations guaranteed as to both principal and interest by the United States on original issue or at the market price, is not in the public interest.

(3) Sale of obligations.—Any obligation acquired by the Trust Fund (except special obligations issued exclusively to the Trust Fund) may be sold by the Secretary of the Treasury at the market price, and such special obligations may be redeemed at par plus accrued interest.

(4) Interest and certain proceeds.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

(e) Expenditures from the Trust Fund.—

(1) Energy programs.—Amounts in the Trust Fund shall be available, as provided by appropriation Acts, for making expenditures to carry out the provisions of titles III and IV of this Act.

(2) Refunds of taxes.—The Secretary of the Treasury shall pay from time to time from the Trust Fund into the general fund of the Treasury amounts equal to the amounts of refunds or credits of overpayments of the tax imposed by section 4496 of the Internal Revenue Code of 1954.

TAX ON ENERGY SOURCES

SEC. 202. (a) Imposition of Excise Tax on Energy Sources.—Chapter 36 of the Internal Revenue Code of 1954 (relating to certain other excise taxes) is amended by adding at the end thereof the following new subchapter.

"Subchapter F—Tax on Energy Sources

"Sec. 4496. Imposition of taxes.
"Sec. 4497. Definitions; special rules.
"Sec. 4498. Certifications by Federal Energy Administrator.
"Sec. 4499. Cross reference.

"(a) IMPOSITION OF TAXES.—There is hereby imposed, at the rate provided in subsection (b)—

"(1) upon the extraction of oil, gas, or coal within the United States, a tax on the BTU content of the oil, gas, or coal,

"(2) upon the production of electricity (or other consumable energy) within the United States using any energy source other than oil, gas, or coal, or any product or derivative thereof, a tax on the BTU content equivalent of the energy source, and

(3) upon the importation into the United States of oil, gas, or coal, or any product or derivative thereof, a tax on the BTU content of the oil, gas, coal, product, or derivative.

"(b) RATES OF TAX.—The rate of tax referred to in subsection (b) is—

Per 1,000,000 BTU content (or BTU content equivalent)

[In cents]

"For the one-year period beginning on:

July 1, 1974	4.1
July 1, 1975	4.5
July 1, 1976	5.2
July 1, 1977	5.9
July 1, 1978	6.5
July 1, 1979	5.9
July 1, 1980	5.2
July 1, 1981	4.5
July 1, 1982	4.1
July 1, 1983	3.4
July 1, 1984	2.8

"(c) By Whom Paid.—The tax imposed by subsection (a)(1) shall be paid by the person who extracts the oil, gas, or coal. The tax imposed by subsection (a)(2) shall be paid by the person who produces the electricity or other consumable energy. The tax imposed by subsection (a)(3) shall be paid by the importer.

"SEC. 4497. DEFINITIONS; SPECIAL RULES.

"For purposes of this subchapter—

"(a) BTU.—The term 'BTU' means the quantity of heat required to raise the temperature of one pound of water one degree Fahrenheit at or near its point of maximum density.

"(b) BTU Content.—The BTU content of oil, gas, and coal extracted within the United States, and of oil, gas, and coal, and any product or derivative thereof, imported into the United States, shall be determined on the basis of certifications of the Administrator of the Federal Energy Administration under section 4498(a).

"(c) BTU Content Equivalent.—The BTU content equivalent of energy sources of electricity (or other consumable energy) produced within the United States shall be determined on the basis of certifications of the Administrator of the Federal Energy Administration under section 4498(b).

"(d) United States.—The term 'United States' has the meaning given to it by section 638(1).

"SEC. 4498. CERTIFICATION BY FEDERAL ENERGY ADMINISTRATOR.

(a) Fossil Fuels.—The Administrator of the Federal Energy Administration shall—

"(1) establish classifications or grades for—

"(A) oil, gas, and coal extracted within the United States, and

"(B) oil, gas, and coal, and products and derivatives thereof, imported into the United States, and

"(2) from time to time, certify to the Secretary or his delegate, for purposes of applying the taxes imposed by sections 4496(a) (1) and 4496(a)(3), the average BTU content for each class or grade so established.

"(b) OTHER ENERGY SOURCES.—The Administrator of the Federal Energy Administration shall, from time to time, determine and certify to the Secretary or his delegate, with respect to electricity (or other consumable energy) produced from any source other than oil, gas, or coal, or any product or derivative thereof, the average BTU content of the quantity of oil, gas, or coal which would be required, if used as the energy source, to produce the same number of kilowatts of electricity (or the same number of units of other energy). For purposes of applying the tax imposed by section 4496(a)(2), the BTU content equivalent of electricity produced in any geographic area shall be based on the fossil fuel energy source predominantly used for the production of electricity in the same geographic area.

"SEC. 4499. CROSS REFERENCE.

"For penalties and administrative provisions applicable to this subchapter, see subtitle F."

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 36 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new item:

"SUBCHAPTER F. TAX ON ENERGY SOURCES."

TITLES III—FEDERAL ENERGY ADMINISTRATION ESTABLISHMENT

SEC. 301. (a) There is established the Federal Energy Administration (hereinafter called the "Administration"). The Administration shall be headed by an Administrator (hereinafter referred to as the "Administrator"), who shall be appointed by the President of the United States, by and with the advice and consent of the Senate. Under the supervision and direction of the President, the Administrator shall be responsible for the exercise of all powers and the discharge of all duties of the Administration, and shall have authority and control over all personnel and activities thereof.

(b) There shall be in the Administration a Deputy Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall perform such duties and exercise such powers as the Administrator may prescribe. The Deputy Administrator shall act for, and exercise the powers of, the Administrator during his absence or disability.

(c) The Administrator and the Deputy Administrator shall not engage in any other business, vocation, or employment while serving as such.

NATIONAL ENERGY PROGRAM

SEC. 302. (a) The Administration, in order to carry out the purposes of this Act, shall develop, direct, and carry out a national energy program involving energy research, demonstration, development, utilization, and conservation in order to meet the present and future energy needs of the United States.

(b) In carrying out its functions the Administration shall—

(1) develop the technology and information base necessary to support development of the widest possible range of options available for future energy policy decisions of the United States by pursuing research, demonstration, and development programs in a wide variety of energy technologies with a view to progressively reducing the dependency of the United States on foreign sources of energy so that by 1985, imports of energy will be less than 5 per centum of domestic consumption;

(2) provide for the assessment, overview, and direction of the energy research and development activities of the Federal Government with a view to assuring adequate, reliable, economical, and environmentally acceptable energy systems to support the essential needs, present and future, of the United States;

(3) encourage the conservation of limited energy resources and maximize the efficiency of energy development, production, conversion, and use;

(4) provide the most effective short-term solutions to immediate energy shortage problems which are having serious impacts upon the Nation; and

(5) formulate and carry out a comprehensive energy research, development, and demonstration program which (A) will advance the policies and purposes of this Act, (B) is designed to make available to American consumers domestic fossil fuels, nuclear fuels, geothermal energy, and the potentially unlimited reserves of solar power, tidal power, and other unconventional sources of energy, and (C) will insure that full consideration and adequate support is given to—

(i) improving the efficiency, conservation, and environmental effects of the conventional sources of energy, including discovery, production, conversion, transportation, and use, and the disposal of waste products;

(ii) advancing energy research, development, and demonstration of unconventional energy sources and technologies, including, but not limited to, solar energy, geothermal energy, magnetohydrodynamics, nuclear fusion and fission processes, fuel cells, low head hydroelectric power, use of agricultural products for energy, tidal power, ocean current and thermal gradient power, wind power, automated mining methods and in situ conversion of fuels, cryogenic transmission of electric power, electrical energy storage methods, alternatives to internal combustion engines, solvent refined coal, utilization of waste products for fuels, and direct conversion methods; and

(iii) improving management techniques and the effectiveness of management of existing energy systems through quality control; application of systems analysis, communications, and computer techniques; and public information to improve the reliability and efficiency of energy supplies and encourage the conservation of energy resources.

AUTHORITY OF ADMINISTRATION

SEC. 303. (a) In the performance of its functions the Administration is authorized—

(1) to make, promulgate, issue, rescind, and amend rules and regulations governing the manner of its operations and the exercise of the powers vested in it by law;

(2) to appoint and fix the compensation of such officers and employees as may be necessary to carry out such functions, and, to the extent that it determines such action necessary to the discharge of its responsibilities, to appoint, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, scientific, engineering, and administrative personnel and compensate such scientific, engineering, and administrative personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but in no event in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of title 5, United States Code;

(3) to acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain laboratories, research and testing sites and facilities, vehicle quarters and related accommodations for employees and dependents of employees of the Administration, and such other real and personal property (including patents), or any interest therein, as the Administration deems necessary within the continental United States; to acquire by lease or otherwise, through the Administrator of General Services, buildings or parts of buildings in the District of Columbia for the use of the Administration for a period not to exceed ten years without regard to the provisions of the first section of the Act of March 3, 1877 (40 U.S.C. 34); to lease to others such real and personal property; to sell and otherwise dispose of real and personal property (including patents and rights thereunder) in accordance with the provisions of the Federal Property and Administrative Services Act of 1949, as amended; and to provide by contract or otherwise for cafeterias and other necessary facilities for the welfare of employees of the Administration at its installations, and purchase and maintain equipment therefor;

(4) to accept unconditional gifts or donations of services, money, or property, real, personal, or mixed, tangible or intangible;

(5) without regard to section 3648 of the Revised Statutes (31 U.S.C. 529), to enter into and perform such contracts, leases, cooperative agreements, or other transactions, and to make such grants, all in consultation with the Commission on Energy Technology Assessment established pursuant to title IV of this act, as may be necessary in the conduct of its work and on such terms as it may deem appropriate, with any agency or instrumentality of the United States, or with any State, territory, or possession of the United States, or with any political subdivision thereof, or with any person, firms, association, corporation, or educational institution. To the maximum extent practicable and consistent with the accomplishment of the purposes of this act, such contracts, leases, agreements, and other transactions shall be allocated by the Administrator in a manner which will enable small-business concerns to participate equitably and proportionately in the conduct of the work of the Administration;

(6) to enter into a contract or other agreement with any person, firm, association, corporation, or other entity, pursuant to which contract or agreement (A) such person, firm, association, corporation, or entity shall be authorized to design, construct, operate, and maintain a demonstration type, or full-scale, commercial-size, facility to produce energy from oil shale, coal gasification, solar power, tidal power, or other unconventional sources of energy and (B) the Administration would be authorized to financially assist in the designing and construction of any such facility by means of a loan guarantee in accordance with the provisions of section 304 of this Act;

(7) to enter into a contract or other agreement with any person, firm, association, corporation, or other legal entity engaged in the prospecting, exploration, development, or production of oil or natural gas in accordance with the mining or mineral leasing laws of the United States, pursuant to which the Administration shall financially assist such person, firm, association, corporation, or entity in carrying out such prospecting, exploration, development, or production by means of a loan guarantee in accordance with the provisions of section 304 of this Act;

(8) to use, with their consent, the services, equipment, personnel, and facilities of Federal and other agencies with or without reimbursement, and on a similar basis to cooperate with other public and private agencies, institutions, and instrumentalities in the use of services, equipment, and facilities. Each department and agency of the Federal Government shall cooperate fully with the Administration in making its services, equipment, personnel, and facilities available to the Administration;

(9) to appoint, in accordance with the applicable provisions of the Federal Advisory Committee Act, such advisory committees as may be appropriate for purposes of consultation and advice to the Administration in the performance of its functions;

(10) to establish within the Administration such offices and procedures as may be appropriate to provide for the greatest possible coordination of its activities under this Act with related scientific and other activities being carried on by other public and private agencies, institutions, and instrumentalities;

(11) to obtain services of experts and consultants in accordance with section 3109 of title 5, United States Code;

(12) (A) to consider, ascertain, adjust, determine, settle, and pay, on behalf of the United States, in full satisfaction thereof, any claim for $5,000 or less against the United States for bodily injury, death, or damage to or loss of real or personal property resulting from the conduct of the Administration's functions as specified in this Act, where such claim is presented to the Administration in writing within two years after the accident or incident out of which the claim arises; and

(B) if the Administration considers that a claim in excess of $5,000 is meritorious and would otherwise be covered by this paragraph, to report the facts and circumstances thereof to the Congress for its consideration; and

(13) to reimburse, to the extent determined by the Administrator or his designee to be fair and reasonable, the owners and tenants of land and interests in land hereafter acquired by the United States for use by the Administration by purchase, condemnation, or otherwise for expenses and losses and damages incurred by such owners and tenants as a direct result of moving themselves, their families, and their possessions because of such acquisition. Such reimbursement shall be in addition to, but not in duplication of, any payments that may otherwise be authorized by law to be made to such owners and tenants. The total of any such reimbursement to any owner or tenant shall in no event exceed 25 per centum of the fair value, as determined by the Administrator, of the parcel of land or interest in land to which the reimbursement is related. No payment under this paragraph shall be made unless application therefor, supported by an itemized statement of the expenses, losses, and damages incurred, is submitted to the Administrator within one year from (A) the date upon which the parcel of land or interest in land is to be vacated under agreement with the Government by the owner or tenant or pursuant to law, including but not limited to, an order of a court, or (B) the date upon which the parcel of land or interest in the land involved is vacated, whichever first occurs. The Administrator may perform any and all acts and make such rules and regulations as he deems necessary and proper for the purpose of carrying out this paragraph. Funds available to the Administration for the acquisition of real property or interests therein shall also be available for carrying out this paragraph.

LOAN GUARANTEES

SEC. 304. (a) In order to financially assist any person, firm, association, corporation, or other legal entity in carrying out any contract entered into pursuant to paragraph (6) or (7) of section 303 (a) of this Act, the Administration may, in accordance with the provisions of this section, guarantee to non-Federal lenders making loans to any such person, firm, association, corporation or entity, payment of principal of and interest on loans, made by such lenders, which are approved under this section.

(b) No loan guarantee under this section for any such purpose referred to in subsection (a) of this section may apply to so much of the principal amount thereof as exceeds 90 per centum of the cost of carrying out any such purpose.

(c) For each project for which a guarantee of a loan is sought pursuant to this section, there shall be submitted to the Administration an application by any such person, firm, association, corporation, or entity seeking such guarantee. Such application shall contain such information as the Administration may require to carry out the purposes of this section.

(d) The Administration may approve such applications only if—

(1) it is assured that the applicant will keep such records, and afford such access thereto, and make such reports, in such form and containing such information, as the Administration may reasonably require; and

(2) it determines, in the case of a loan for which a guarantee is sought, that the terms, conditions, maturity, security (if any), and schedule and amount of repayments with respect to the loans are sufficient to protect the financial interests of the United States and are otherwise reasonable and in accord with regulations, including a determination that the rate of interest does not exceed such per centum per annum on the principal obligation outstanding as the Administration determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States.

(e) (1) In the case of any such loan guaranteed under this section, the United States shall be entitled to recover from the applicant the amount of any payments made pursuant to any such guarantee under this section, unless the Administration for good cause waives its right to recovery, and, upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payments with respect to which the guarantee was made.

(2) Guarantees of loans under this section shall be subject to such further terms and conditions as the Administration determines to be necessary to assure that the purposes of this section will be achieved, and, to the extent permitted by subsection (f), any of such terms and conditions may be modified by the Administration to the extent it determines such modification to be consistent with the financial interest of the United States.

(f) Any guarantee of a loan pursuant to this section shall be incontestable in the hands of an applicant on whose behalf such guarantee is made, and as to any person who makes or contracts to make a loan to such applicant in reliance thereon, except for fraud or misrepresentation on the part of such applicant or such other person.

(g) The cumulative total of the principal of the loans outstanding at any time with respect to which guarantees have been issued under this section may not exceed such limitations as may be specified in appropriations Acts.

(h) With respect to any contract or other agreement entered into pursuant to section 303(a)(6) involving the designing, construction, operation, and maintenance of commercial or demonstration type facilities to produce energy from oil shale, coal gasification, solar power, tidal power, or other unconventional sources of energy, the Administration is authorized to include as a part of such contract or agreement provisions pursuant to which the Administration agrees to purchase any such energy so produced on a cost and reasonable profit basis. Energy so acquired by the Administration shall be disposed of in such manner and under such terms and conditions as the Administration shall prescribe. Revenues received by the Administration arising out of the disposition of such energy shall be deposited in the trust fund established by title II of this Act and shall be available for use by the Administration in the same manner and to the same extent as other moneys within such trust fund. Notwithstanding any other provision of law, no energy product produced or manufactured by any such facility with respect to which a loan guarantee was entered into pursuant to this section shall be exported from the United States for use in any other country.

PATENT POLICY AND MANDATORY LICENSING

SEC. 305. (a) (1) All research, development, demonstration, or projects contracted for, or financially assisted by the Administration pursuant to this Act, shall require as a condition of Federal participation that all information—whether patented or unpatented, in the form of trade secrets, know-how, proprietary information or otherwise—resulting in whole or in part from federally assisted research shall be made available at the earliest possible date to the general public, including, but not limited to, nongovernmental United States interests capable of bringing about further development, utilization, and commercial applications of such results.

(2) The Administrator, in administering patents pusuant to this Act, shall make a determination, case by case, in an on-the-record proceeding conducted in accordance with the provisions of the Administrative Procedure Act, as to whether patent licenses shall be granted on a royalty-free basis or upon a basis of charges designed to recover part or all of the costs of the Federal research. He shall make Government patent rights and technological and scientific know-how available on nonexclusive and nondiscriminatory terms to qualified applicants.

(3) (A) Whenever a participant in any program, contract, or energy research and development project pursuant to this Act holds background patents trade secrets, know-how, or proprietary information which will be employed in the proposed program, contract, or research and development project, the Administrator shall enter into an agreement which will provide equitable protection to the rights of the public and the participant:

Provided, however, That any such agreement shall provide that when the program, contract, or energy research and development project reaches the stage of possible commercial application, any of the participant's previously developed background patents, trade secrets, know-how, or proprietary information reasonably necessary to possible commercial application of the energy process or system developed under this title will be made available to any qualified applicant on reasonable and nondiscriminatory license terms or in other forms which shall take into account that the commercial viability of the total energy process or system was achieved with the assistance of public funds.

(B) As employed herein, the term "background patent" means a United States patent owned or pending by a contractor, grantee, participant, or other party conducting research or development work, or both, pursuant to this Act which would be infringed by the practice of any new technology developed under the research or development work, or both, contracted for, sponsored or cosponsored pursuant to this Act, or any demonstration-type or commercial-size facility federally assisted pursuant to this Act.

(b) Whenever the Administration determines that—

(1) (A) in the implementation of the requirements of this Act a right under any United States patent, which is not otherwise reasonably available, is reasonably necessary to the development or demonstration of an energy system or technology pursuant to this Act, and

(B) there are no reasonably equivalent methods to accomplish such purpose, and

(2) the unavailability of such right may result in a substantial lessening of competition or tendency to create a monopoly in any line of commerce in any section of the country,

the Administration shall so certify to a district court of the United States, which shall review the Administration's determination. If the district court upholds such determination, the court shall issue an order requiring the person who owns such patent, or rights thereunder, to license it on such reasonable and nondiscriminatory terms and conditions as the court, after hearing, may determine. Such certification may be made to the district court for the district court in which the person owning the patent resides, does business, or is found.

(c) The Administration shall, in determining license terms, duly consider and give weight to the effects of such terms on competition and small business.

(d) Nothing in this section shall be deemed to convey to any individual, corporation, or other business organization immunity from civil or criminal liability, or to create defenses to actions, under the antitrust laws.

(e) As used in this section, the term "antitrust laws" means—

(1) the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 (15 U.S.C. 1 et seq.), as amended;

(2) the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 12 et seq.), as amended;

(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.), as amended;

(4) sections 73 and 74 of the Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes", approved August 27, 1894 (15 U.S.C. 8 and 9), as amended; and

(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

MONETARY AWARDS

SEC. 306. (a) Subject to the provisions of this section, the Administrator is authorized, upon his own initiative or upon the application of any individual, partnership, corporation, association, institution, or other entity, to make a monetary award, in such amount and upon such terms as he shall determine to be warranted, to any such individual, partnership, corporation, association, institution, or other entity, for any scientific or technical contribution to the Administration which is determined by the Administrator to have significant value in the conduct of energy activities. In determining the terms and conditions of any award the Administrator shall take into account—

(1) the value of the contribution to the United States;

(2) the aggregate amount of any sums which have been expended by the applicant for the development of such contribution;

(3) the amount of any compensation (other than salary received for services rendered as an officer or employee of the Government) previously received by the applicant for or on account of the use of such contribution by the United States; and

(4) such other factors as the Administrator shall determine to be material.

(b) If more than one applicant under subsection (a) of this section claims an interest in the same contribution, the Administrator shall ascertain and determine the respective interests of such applicants, and shall apportion any award to be made with respect to such contribution among such applicants in such proportions as he shall determine to be equitable. No award may be made under subsection (a) of this section with respect to any contribution—

(1) unless the applicant surrenders, by such means as the Administrator shall determine to be effective, all claims which such applicant may have to receive any compensation (other than the award made under this section) for the use of such contribution or any element thereof at any time by or on behalf of the United States, or by or on behalf of any foreign government pursuant to any treaty or agreement with the United States, within the United States or at any other place; or

(2) in any amount exceeding $100,000, unless the Administrator has transmitted to the appropriate committees of the Congress a full and complete report concerning the amount and terms of, and the basis for, such proposed award, and thirty calendar days of regular session of the Congress have expired after receipt of such report by such committees.

AMENDMENTS

SEC. 307. (a) Section 5313 of title 5, United States Code, is amended by adding at the end thereof the following:

"(22) Administrator of the Federal Energy Administration.".

(b) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following:

"(60) Deputy Administrator of the Federal Energy Administration.".

AUTHORIZATION

SEC. 308. (a) There are authorized to be appropriated out of the Energy Trust Fund (established by title II of this Act) such sums as may be necessary to carry out this Act. Sums appropriated pursuant to this section shall remain available until expended.

(b) Any funds appropriated for the construction of facilities may be used for emergency repairs of existing facilities when such existing facilities are made inoperative by major breakdown, accident, or other circumstances and such repairs are deemed by the Administrator to be of greater urgency than the construction of new facilities.

REPORTS

SEC. 309. (a) The Administration shall submit to the President for transmittal to the Congress in January of each year a report, which shall include (1) a comprehensive description of the programed activities and accomplishments of the Administration in the field of energy activity during the preceding calendar year, and (2) an evaluation of such activities and accomplishments in terms of the attainment of, or the failure to attain, the objectives and purposes of this Act.

(b) Any report made under this section shall contain such recommendations for additional legislation as the Administrator or the President may consider necessary or desirable for the attainment of the objectives and purposes of this Act.

TRANSFER OF FUNCTIONS

SEC. 310. (a) There are hereby transferred to the Administration, all functions (including powers, duties, activities, facilities, and parts of functions) which were carried out immediately before the effective date of this section, by the Atomic Energy Commission and which relate primarily to the peaceful uses of atomic energy.

(b) With respect to any function transferred by this section and exercised after the effective date of this section, reference in any other Federal law, rule, or regulation to the Atomic Energy Commission shall, to the extent of the functions so transferred, be deemed to mean the Administration.

(c) In the exercise of any such function so transferred, the Administration shall have the same authority as that vested in the Atomic Energy Commission immediately prior to its transfer and the actions of the Administration, in exercising such function, shall have the same force and effect as when exercised by the Atomic Energy Commission immediately prior to its transfer by this section.

(d) All personnel, assets, liabilities, property, and records as are determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with any function transferred by this section are hereby transferred to the Administration in such manner and to such extent as the said Director shall prescribe. Such personnel shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions.

FUTURE TRANSFER OF FUNCTIONS

SEC. 311. (a) Subject to the provisions of this section, the President, for a period of thirty-six calendar months following the effective date of this section, may transfer to the Administration any functions (including powers, duties, activities, facilities, and parts of functions) of any other department or agency of the United States, or of any officer or organizational entity thereof, which relate primarily to the functions, powers, and duties of the Administration as prescribed by this Act. In connection with any such transfer, the President may, under this section or other applicable authority, provide for appropriate transfers of records, property, personnel, and funds.

(b) No transfer shall be made under this section or any other law until (1) a full and complete report concerning the nature and effect of such proposed transfer has been transmitted by the President to the Congress, and (2) the first period of sixty calendar days of regular session of the Congress following the date of receipt of such report by the Congress has expired without the adoption by the Congress of a concurrent resolution stating that the Congress does not favor such transfer.

TITLE IV—COMMISSION ON ENERGY TECHNOLOGY ASSESSMENT

ESTABLISHMENT OF COMMISSION

SEC. 401. (a) There is hereby established the Commission on Energy Technology Assessment (hereinafter referred to in this section as the "Commission"), which shall be independent of the executive departments.

(b) The Commission shall consist of an Energy Technology Assessment Board (hereinafter referred to in this section as the "Board") which shall formulate and promulgate the policies of the Commission, and a Commissioner who shall carry out such policies and administer the operations of the Commission. The Commissioner shall be appointed by the President of the United States, with the advice and consent of the Senate.

(c) The Board shall consist of twenty-two members as follows:

(1) seven members appointed by the President of the United States, with the advice and consent of the Senate, who shall be persons eminent in one or more fields of the physical, biological, or social sciences;

(2) seven members appointed by the President of the United States, with the advice and consent of the Senate, who shall be persons eminent in the field of engineering;

(3) seven members appointed by the President of the United States, with the advice and consent of the Senate, who shall be persons eminent in the field of economics; and

(4) the Commissioner, who shall not be a voting member.

(d) Members of the Board, including the Commissioner, shall receive basic pay at the rate provided for level II of the Executive Schedule under section 5314 of title 5, United States Code.

(e) The Commissioner shall be appointed for a term of ten years. Members of the Board shall be appointed for terms of ten years, except that, of the members first appointed (other than the Commissioner), seven shall be appointed for terms of four years, seven for terms of seven years, and seven for terms of ten years. Vacancies in the membership of the Board shall not affect the power of the remaining members to execute the functions of the Board and shall be filled in the same manner as in the case of the original appointment.

(f) The Commissioner shall serve as chairman of the Board. The Deputy Commissioner shall act in the place and stead of the chairman in the absence of the chairman.

(g) (1) The basic functions of the Commission shall be—

(A) to advise, consult with, and make recommendations to, the Administration;

(B) to provide early indications of the probable beneficial and adverse impacts of the applications of technology related to energy;

(C) to analyze the quality of research, development, and demonstration contracted for by the Administration in carrying out the purposes of this Act, and the Commission is authorized to enter into contracts with individuals, private agencies and entities, educational institutions, and other non-governmental sources in making such analysis;

(D) to establish standards and goals for research, development, and demonstration on a priority basis in accordance with the present and future energy needs of the United States;

(E) to engage in studies to evaluate the relative benefits and costs of alternative forms of energy; and

(F) to construct and maintain economic models of the energy needs of the United States economy and the alternative means and costs of satisfying such needs currently and during the subsequent five years.

(2) In carrying out such functions, the Commission shall—

(A) identify existing or probable impacts of technology or technological programs relating to energy;

(B) where possible, ascertain cause-and-effect relationships;

(C) identify alternative technological methods of implementing specific programs relating to energy;

(D) identify alternative programs for achieving requisite goals;

(E) make estimates and comparisons of the impacts of alternative methods and programs relating to energy;

(F) estimate the economic costs of alternative energy sources and programs when technological development has been completed;

(G) identify the availability of various forms of energy from domestic and foreign sources and their prospects as reliable continuous sources of supply in the future;

(H) present findings of completed analyses to the Administration, to the appropriate committees of the Congress, and to the public;

(I) identify areas where additional research or data collection is required to provide adequate support for the assessments and estimates described in subparagraphs (A) through (H) of this paragraph;

(J) from time to time, take such action as may be necessary to keep the public fully informed as to its findings and recommendations in connection with the carrying out of such functions; and

(K) undertake such additional associated activities as the Commission may determine necessary, or that the Administration may request.

(h) The Board is authorized to sit and act at such places and times as it may determine, and upon a vote of a majority of its members, to require by subpena or otherwise the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths and affirmations, to take such testimony, to procure such printing and binding, and to make such expenditures, as it deems advisable. The Board may make such rules respecting its organization and procedures as it deems necessary, except that no recommendation shall be reported from the Board unless a majority of the Board assent. Subpenas may be issued over the signature of the Chairman of the Board or of any voting member designated by him or by the Board, and may be served by such person or persons as may be designated by such Chairman or member. The Chairman of the Board or any voting member thereof may administer oaths or affirmations to witnesses.

(i) In addition to the powers and duties vested in him by this section, the Commissioner shall exercise such powers and duties as may be delegated to him by the Board.

(j) The Commissioner may appoint, with the approval of the Board, a Deputy Commissioner who shall perform such functions as the Commissioner may prescribe and who shall be Acting Commissioner during the absence or incapacity of the Commissioner or in the event of a vacancy in the office of Commissioner. The Deputy Commissioner shall receive basic pay at the rate provided for level IV of the Executive Schedule under section 5315 of title 5.

(k) The Commission shall have the authority, within the limits of available appropriations, to do all things necessary to carry out the provisions of this section, including, but without being limited to, the authority to—

(1) make full use of competent personnel and organizations outside the Commission, public or private, and form special ad hoc task forces or make other arrangements when appropriate;

(2) enter into contracts or other arrangements as may be necessary for the conduct of the work of the Commission with any agency or instrumentality of the United States, with any State, territory, or possession or any political subdivision thereof, or with any person, firm, association, corporation, or educational institution, with or without reimbursement, without performance or other bonds, and without regard to section 5 of title 41;

(3) make advance, progress, and other payments which relate to technology assessment in the energy field without regard to the provisions of section 529 of title 31;

(4) accept and utilize the services of voluntary and uncompensated personnel necessary for the conduct of the work of the Commission and provide transportation and subsistence as authorized by section 5703 of title 5 for persons serving without compensation;

(5) acquire by purchase, lease, loan, or gift, and hold and dispose of by sale, lease, or loan, real and personal property of all kinds necessary for or resulting from the

exercise of authority granted by this section; and

(6) prescribe such rules and regulations as it deems necessary governing the operation and organization of the Commission.

(l) Contractors and other parties entering into contracts and other arrangements under this section which involve costs to the Government shall maintain such books and related records as will facilitate an effective audit in such detail and in such manner as shall be prescribed by the Office, and such books and records (and related documents and papers) shall be available to the Office and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination.

(m) The Commission, in carrying out the provisions of this chapter, shall not, itself, operate any laboratories, pilot plants, or test facilities.

(n) The Commission is authorized to secure directly from any executive department or agency information, suggestions, estimates, statistics, and technical assistance for the purpose of carrying out its functions under this section. Each such executive department or agency shall furnish the information, suggestions, estimates, statistics, and technical assistance directly to the Commission upon its request.

(o) On request of the Commission, the head of any executive department or agency may detail, with or without reimbursement, any of its personnel to assist the Commission in carrying out its functions under this section.

(p) The Commissioner shall, in accordance with such policies as the Board shall prescribe, appoint and fix the Compensation of such personnel as may be necessary to carry out the provisions of this section, and obtain services of experts and consultants in accordance with section 3109 of title 5, United States Code.

(q) The Commission shall submit to the Congress an annual report setting forth actions taken by it during the calendar year preceding such report in carrying out its functions under this section, including its expenses with respect thereto. Such report shall be submitted not later than March 15 of each year and shall be available to the public.

(r) For the fiscal year ending June 30, 1975, there is authorized to be appropriated such sum, not to exceed $———, as may be necessary to enable the Commission to carry out its functions under this section. To enable the Commission to carry out its functions each fiscal year thereafter, there is authorized to be appropriated out of moneys in the trust fund established pursuant to title II of this Act an amount equal to one per centum of moneys received by such fund during the preceding fiscal year.

TITLE V—TERMINATION OF PRICE CONTROLS

PETROLEUM PRODUCTS, CRUDE OIL, NATURAL GAS, COAL, AND DRILLING AND MINING EQUIPMENT

SEC. 501. Section 203 of the Economic Stabilization Act is amended by adding at the end thereof the following new subsections:

"(k) Upon the expiration of 1 year following the date of enactment of this subsection, or on the date provided in section 218, whichever is earlier, the authority conferred by this section to stabilize the prices of petroleum products, crude oil, natural gas, and coal shall terminate, but such termination of authority shall not affect any action or pending proceedings, civil or criminal, not finally determined on the date of such termination of authority, nor any action or proceeding based upon any act committed prior to such date. Immediately upon the enactment of this subsection, the President or his delegate shall begin to make such periodic adjustments in ceiling prices of commodities referred to in the preceding sentence as may be appropriate to ensure that such termination of authority may be accomplished in a manner which does not cause undue disruption or dislocation in the economy or any industry.

"(l) Notwithstanding the provisions of section 218, the authority conferred by this section may not be exercised after the date of the enactment of this subsection to stabilize the prices of steel pipe, drilling equipment, casing, or any other steel product which the Secretary of the Interior certifies is in short supply in the United States and is used in the extraction, refining, or transportation of crude oil or gas, or in the extraction of coal, but the provisions of this subsection do not affect any action or pending proceedings, civil or criminal, not finally determined on such date, nor any action or proceeding based upon any act committed prior to such date."

NATURAL GAS DEREGULATION

SEC. 502. (a) Section 1(b) of the Natural Gas Act is amended to read as follows:

"(b) The provisions of this Act shall apply to the transportation of natural gas in interstate commerce, to the sale in interstate commerce of natural gas for domestic, commercial, industrial, or any other use, and to natural gas companies engaged in such transportation or sale, but shall not apply to any other transportation or sale of natural gas or to the local distribution of natural gas or to the facilities used for such distribution or to the production or gathering of natural gas or to the sale of natural gas dedicated for the first time to interstate commerce or rededicated upon expiration of an existing contract on or after the date of the enactment of the Energy Revenue and Development Act of 1973, or produced from wells commenced on or after such date, for domestic, commercial, industrial, or any other use, by any person, whose principal business is not the transportation of natural gas in interstate commerce."

(b) Section 2(6) of the Natural Gas Act is amended by striking the last two words and by inserting before the period at the end thereof a comma and the following: "subject to the exception in section 1(b) above".

(c) Section 2 of the Natural Gas Act is amended by adding at the end thereof the following new clause:

"(10) 'Affiliate' of another person means any person directly or indirectly controlling, controlled by, or under common control with such other person."

(d) Section 3 of the Natural Gas Act is amended by striking from the first sentence "or import any natural gas from a foreign country" and by striking from the second sentence "or importation".

(e) Section 4(e) of the Natural Gas Act is amended by inserting before the period at the end thereof a colon and the following: "*Provided, however,* That the Commission shall have no power to deny, in whole or in part, that portion of the rates and charges made, demanded, or received by any natural gas company for or in connection with the purchase of natural gas exempt from this Act pursuant to section 1(b) except to the extent that the rates or charges made, demanded, or received for natural gas by an affiliate of the purchasing natural gas company exceed those made, demanded, or received by persons not affiliated with the purchasing natural gas company: *Provided further,* That the Commission shall have no power to deny, in whole or in part, that portion of the rates or charges made, demanded, or received by any natural gas company for natural gas produced from the properties of that company from wells commenced on or after the date of the enactment of the Energy Revenue and Development Act of 1973, except to the extent that the rates or charges made, demanded, or received exceed those made, demanded, or received for natural gas by persons not affiliated with the purchasing natural gas company."

(f) Section 5(a) of the Natural Gas Act is amended by inserting before the period at the end thereof a colon and the following: "*Provided, however,* That the Commission shall have no power to deny, in whole or in part, that portion of the rates and charges made, demanded, or received by any natural gas company for or in connection with the purchase of natural gas exempt from this Act pursuant to section 1(b), except to the extent that the rates or charges made, demanded, or received for natural gas by an affiliate of the purchasing natural gas company exceed those made, demanded, or received by persons not affiliated with the purchasing natural gas company: *And provided further,* That the Commission shall have power to deny, in whole or in part, that portion of the rates or charges made, demanded, or received by any natural gas company for natural gas produced from the properties of that company from wells commenced on or after the date of the enactment of the Energy Revenue and Development Act of 1973, except to the extent that the rates or charges made, demanded, or received exceed those made, demanded, or received from natural gas by persons not affiliated with the purchasing natural gas company: *And provided further,* That the Commission shall have no power to order a decrease in the rate or charge made, demanded, or received for the sale of natural gas by any person not engaged in the transportation of natural gas in interstate commerce or by any affiliate of such person, if such rate or charge shall have been previously determined to be just and reasonable, such determination being final and no longer subject to judicial review."

TITLE VI—TAX ENFORCEMENT PROVISIONS

EXCISE TAX ON UNINVESTED PROFITS FROM FROM ENERGY SOURCES

SEC. 601. (a) Imposition of Tax.—Subtitle D of the Internal Revenue Code of 1954 (relating to miscellaneous excise taxes) is amended by adding at the end thereof the following new chapter:

"CHAPTER 43.—UNINVESTED PROFITS FROM ENERGY SOURCES

"Sec. 4960. Excise tax on uninvested profits from energy sources.
"Sec. 4961. Determination of tax base.
"Sec. 4962. Net investment in energy sources.

"SEC. 4960. EXCISE TAX ON UNINVESTED PROFITS FROM ENERGY SOURCES

"(a) TAX IMPOSED.—There is hereby imposed an excise tax equal to 40 percent of the profits from energy sources of every person for the taxable year to the extent such profits are not invested as required by subsection (c). This section does not apply to a public utility as defined in section 247(b)(1) (relating to the dividends paid deduction for public utilities).

"(b) PROFITS FROM ENERGY SOURCES.—For purposes of this chapter, the term 'profits from energy sources' means profits (computed as provided in section 4961) derived from the production, transportation, transmission, importation, and sale of consumable energy, or of fuel for conversion into consumable energy.

"(c) REINVESTMENT OF PROFITS FROM ENERGY SOURCES.—

"(1) Investment required.—Profits from energy sources in excess of the profit allowance provided in subsection (d) must be invested in qualified energy projects by the end of the taxable year following the taxable year during which such profits were earned. An investment is made when—

"(A) the taxpayer makes an outlay with respect to a qualified energy project, or

"(B) enters into a contract under which he is obligated to make the outlay within a two-year period beginning on the effective date of the contract.

"(2) Qualified energy project.—To qualify under this subsection, an energy project must further the expansion or improvement of existing energy sources, or must further the exploration for, research on, or development of new energy sources, which—

"(A) are located within the United States or its possessions (within the meaning of section 638), and

"(B) have been determined by the Administrator of the Federal Energy Administration materially to assist in the development of the domestic energy resources of the United States.

Determinations by the Administrator under this paragraph may describe projects by their general characteristics and location and shall be published in the Federal Register.

"(3) Administrative actions.—Within 6 months after the date of enactment of this chapter, and as frequently thereafter as may be necessary—

"(A) the Secretary or his delegate shall prescribe such regulations as he may deem necessary to specify the outlays which will meet the investment requirements of paragraph (1), and

"(B) the Administrator shall publish determinations of qualified energy projects which meet the requirements of paragraph (2).

"(d) Profit Allowance.—The profit of any persons from energy sources for the taxable year shall be reduced by—

"(1) 20 percent of his average net investment for the taxable year in energy sources (determined under section 4962) for the taxable year, or

"(2) $100,000,

whichever is greater.

"Sec. 4961. Determination of Tax Base

"(a) Profit From Energy Sources.—The profit from energy sources shall equal the sum of—

"(1) the taxable income derived by the taxpayer from energy property (as defined in section 4962(d)), computed with the modifications specified in subsection (b), plus

"(2) gain realized from the sale or exchange of energy property.

In the case of oil and gas wells and other mineral interests, for purposes of this chapter, the term 'taxable income from energy sources' has the same meaning as the term 'taxable income from the property' has for purposes of section 613.

"(b) Modifications.—The modifications referred to in subsection (a) are as follows:

"(1) Qualified investments.—A deduction or capital loss shall not be allowed with respect to an outlay—

"(A) treated by the taxpayer as a qualified investment under section 4960(c), or

"(B) attributable to an outlay which, in a prior taxable year, was treated by the taxpayer as a qualified investment under section 4960(c),

of profits from energy sources for any taxable year to which section 4960 applied.

"(2) Capital gains and losses of taxpayers other than corporations.—In the case of a taxpayer other than a corporation—

"(A) the amount deductible on account of losses from sales or exchanges of energy properties which are capital assets shall not exceed the amount includible on account of gains from sales or exchanges of such properties; and

"(B) the deduction provided by section 1202 for long-term capital gains from the sale or exchange of energy property shall not be allowed.

"(3) Accelerated depreciation.—

"(A) Limited deduction allowed.—In the case of energy property which is subject to the allowance for depreciation, the deduction allowable for the taxable year for exhaustion, wear and tear, obsolescence, or amortization shall not be allowed to the extent that such deduction exceeds the depreciation deduction which would have been allowable for the taxable year had the taxpayer depreciated the property under the straight-line method for each taxable year of its useful life for which the taxpayer has held the property.

"(B) Recaptured depreciation.—To the extent that any deductions for depreciation have been disallowed under subparagraph (A) with respect to section 1245 or section 1250, as the case may be, shall be appropriately reduced.

"(4) Deductions for income taxes.—A deduction shall be allowed for that portion of the taxes imposed by chapter 1 for the taxable year, reduced by the sum of the credits allowable under—

"(A) section 37 (relating to retirement income),

"(B) section 38 (relating to investment credit),

"(C) section 40 (relating to expenses of work incentive program), and

"(D) section 41 (relating to contributions to candidates for public office),

which are attributable to profits from energy sources.

"(c) Withdrawal of Investment.—

"(1) Increase in profits caused by withdrawal.—If energy property with respect to which a qualified investment was made during a taxable year to which section 4960 applies is disposed of, or is devoted to a nonqualifying use, the profits from energy sources shall be increased by an amount equal to the difference between the greater of—

"(A) the amount treated as a qualified investment with respect to such property, or

"(B) (i) in the case of a sale, exchange, or involuntary conversion, the amount realized, or

"(ii) in the case of any other disposition, or a nonqualifying use, the fair market value of such property, and

the recognized gain, if any, resulting from the disposition of such property.

"(2) Nonqualifying use.—A use of energy property is a nonqualifying use if the property as so used would not meet the requirements of section 4960(a) for purposes of a direct investment of energy profits.

"(3) Exceptions.—Paragraph (1) shall not apply to—

"(A) a disposition by gift;

"(B) a transfer at death, except as provided in section 691 (relating to income in respect of a decedent);

"(C) a transfer in which the basis of property in the hands of a transferee is determined by reference to its basis in the hands of the transferor by reason of the application of section 332, 351, 361, 371(a), 374(a), 721, or 731, except as provided below; and

"(D) a disposition in which gain is not recognized in whole or in part under section 1031 or 1033, except as provided below.

In dispositions to which subparagraphs (C) and (D) apply, paragraph (1) shall apply only to the extent that (i) the sum of the value of property which does not qualify to be received without recognition of gain and the amount of money which are received by the taxpayer in the disposition, exceeds (ii) the gain recognized.

"Sec. 4962. Net Investment in Energy Sources.

"(a) In General.—For purposes of this chapter, the term 'net investment in energy sources' means the average amount for the taxable year of that portion of the adjusted basis of energy property which is attributable to the equity interest of the taxpayer.

"(b) Equity Interest.—The equity interest of the taxpayer in energy property shall be determined by taking into account indebtedness incurred or continued by him which is directly related—

"(1) to the production of profits from energy sources, or

"(2) to the interest of the taxpayer in a partnership, trust, or corporation which is primarily engaged in the production of profits from energy sources.

In the case of a partnership, to the extent that indebtedness incurred or continued by the partnership results in adjustments to the basis of the interest of the taxpayer in the partnership under section 752 (relating to the effect of partnership liabilities), the indebtedness of the partnership shall be treated as indebtedness incurred or continued by the taxpayer.

"(c) Reinvestment.—No increase in net investment shall be allowed for purchases by the taxpayer of energy property if a sale of other energy property was made by the taxpayer within a period beginning six months before the purchase and ending six months after the purchase, unless the sale and purchase results in—

"(1) a material change in the kind of energy property held or used by the taxpayer, or

"(2) an increase in the amount of such property.

If no material change in the kind of property results from the sale and purchase, an increase in basis allowed under paragraph (2) shall be limited to the increase in the amount of energy property held or used by the taxpayer.

"(d) Energy Property.—For purposes of this chapter, 'energy property' means property, or an interest in property—

"(1) held by the taxayer for, or

"(2) used by the taxpayer directly in,

the production of profits from energy sources. The term includes an interest in a partnership, trust, or corporation only if such partnership, trust, or corporation is primarily engaged in the production of profits from energy sources.

"(e) Regulations.—The Secretary or his delegate shall prescribe such regulations as he may deem necessary to determine the net investment of the taxpayer in energy sources by applying the rules provided in this section."

(b) Clerical Amendment.—The table of chapters for such subtitle D is amended by adding at the end thereof the following new item:

"Chapter 43. Uninvested Profits From Energy Sources."

(c) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

TITLE VII—IMPORTS OF PETROLEUM AND PETROLEUM PRODUCTS, NATURAL GAS, AND CERTAIN DRILLING AND MINING EQUIPMENT

VARIABLE IMPORT DUTIES

Sec. 701. (a) The headnotes for schedule 4, part 10, of the Tariff Schedules of the United States are amended by adding at the end thereof the following new headnote:

"4. (a) The duty imposed by this headnote is, with respect to any article described in this part—

"(1) the amount by which the domestic price of similar domestic articles in effect for the month in which such article is imported (as determined and prescribed under subsection (b)), exceeds.

"(2) the price (or value) of the article including any duty imposed by this part, other than this headnote) on the date and at the place of importation.

"(b) The Secretary of the Treasury shall, at the end of each month, determine the average price at which each of the articles described in this part which was extracted or produced in the United States was sold during such month in the United States. The average price so determined for each article shall, for purposes of subsection (a)(1), be prescribed by the Secretary of the Treasury as the domestic price of such article in effect for the following month."

(b)(1) The rates of duty in rate columns numbered 1 and 2 for all items in schedule 4, part 10, of the Tariff Schedules of the United States (other than for items 475.15 and 475.70) are each amended by adding at the end thereof "+ the duty (if any) imposed by headnote 4".

(2) The rates of duty in rate columns numbered 1 and 2 for items 475.15 and 475.70 of such Schedules are each amended by adding at the end thereof ", except for the duty (if any) imposed by headnote 4".

(c) The amendments made by this section shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the first day of the first month which begins more than 30 days after the date of the enactment of this Act.

IMPORTS FROM CERTAIN ARAB COUNTRIES

SEC. 702. (a) The total quantity of the articles described in schedule 4, part 10, of the Tariff Schedules of the United States which may be imported into the United States during the calendar year 1974 and each subsequent calendar year from the countries enumerated in subsection (b) shall not exceed 5 percent of the estimated United States consumption of such articles for such year.

(b) The countries to which this section applies are Saudi Arabia, Libya, Algeria, United Arab Emirates, Kuwait, Egypt, Oman, Iraq, Syria, Qatar, and Bahrain.

(c) The Secretary of the Interior (hereafter in this section referred to as the "Secretary") shall before the beginning of each calendar year estimate the United States consumption of the articles described in schedule 4, part 10, of the Tariff Schedules of the United States for such calendar year. The Secretary may, from time to time during any calendar year, revise his estimate of United States consumption of such articles for such year. The Secretary shall publish his estimate for each calendar year and any revised estimate for such year in the Federal Register.

(d) The President shall by proclamation limit the total quantity of articles described in schedule 4, part 10, of the Tariff Schedules of the United States which may be entered, or withdrawn from warehouse, for consumption from the countries enumerated in subsection (b) during each calendar year to the quantity prescribed for such year under subsection (a), based upon the estimates, or revised estimates, made by the Secretary for such year under subsection (c). In any case in which any revised estimate results in a quantity of such articles which may be imported into the United States during a calendar year which is lower than the quantity resulting from the original estimate or a previous revised estimate for such year, the total quantity of such articles which may be imported during such year shall not be less than the quantity actually imported on or before the date on which the Secretary publishes such revised estimate.

(e) The Secretary shall issue licenses for the importation into the United States of articles the importation of which is limited by a proclamation of the President under subsection (d). The Secretary shall publicly announce the time, manner, and place for the submission of bids for the purchase of licenses to import specified quantities of such articles from the countries enumerated in subsection (b). Each license shall be issued under this subsection to the highest responsible bidder unless the Secretary determines that no bid is sufficiently high or that there has been collusion among bidders. In issuing licenses under this subection, the Secretary shall endeavor to assure, to the maximum extent possible, adequate supplies in Puerto Rico of the articles described in schedule 4, part 10, of the Tariff Schedules of the United States.

(f) The President may suspend any proclamation made under subsection (d), or increase the total quantity proclaimed under such subsection, if he determines and proclaims that such action is required by overriding economic or national security interests of the United States, giving special weight to the importance to the nation of the economic well-being of the domestic petroleum industry.

(g) The Secretary shall issue such regulations as he determines to be necessary to carry out, and to prevent circumvention of, the purposes of this section.

(h) All determinations by the President and the Secretary under this section shall be final.

RELAXATION OF IMPORT CONTROLS ON CERTAIN STEEL DRILLING AND MINING EQUIPMENT

SEC. 703. The President is requested to enter into negotiations with those foreign countries which have voluntarily limited the quantity of steel products which may be imported into the United States from such countries so as to permit the importation of increased quantities of steel pipe, drilling equipment, casing, and other steel products which the Secretary of the Interior certifies are in short supply in the United States and are used in the extraction, refining, or transportation of crude oil or gas, or in the extraction of coal.

NEGOTIATIONS BY OIL IMPORTING COUNTRIES WITH OIL EXPORTING COUNTRIES

SEC. 704. (a) The President is requested to enter into negotiations with foreign countries which are major importers of petroleum and petroleum products for the purpose of forming an organization of which all countries which are major importers of petroleum and petroleum products will be members and which will be authorized by each member country, in conformity with subsection (b), to represent that country in negotiations with foreign countries which are major exporters of petroleum and petroleum products.

(b) Any organization formed pursuant to the negotiations referred to in subsection (a) shall be the exclusive agent of each member country for negotiating with foreign countries which are major exporters of petroleum and petroleum products, and with any organization representing all or a portion of such countries, with respect to all matters relating to the export of petroleum and petroleum products from such major exporting countries and the import of petroleum and petroleum products into member countries of such organization, and particularly with respect to—

(1) the quantities of petroleum and petroleum products to be exported by such foreign exporting countries to member countries of such organization, and

(2) the prices to be paid by such member countries for petroleum and petroleum products imported from such major exporting countries.

(c) The Administrator of the Federal Energy Administration shall be the chief representative of the United States in any organization formed pursuant to negotiations referred to in subsection (a). Until such an organization is formed, the Administrator of the Federal Energy Administration shall, notwithstanding any other provision of law, represent the United States in all negotiations with foreign countries which are major exporters of petroleum and petroleum products with respect to matters described in subsection (b).

(d) Notwithstanding any other provision of law or of any agreement entered into by the United States, if any foreign country which is a major importer of petroleum and petroleum products—

(1) refuses to enter into the negotiations referred to in subsection (a),

(2) refuses to become a member of an organization formed pursuant to such negotiations, or, after becoming a member, withdraws from membership, or

(3) while a member of such organization, fails to abide by the decisions and actions of such organization, the products of such country, whether imported directly or indirectly, shall not, during the period of such refusal, withdrawal, or failure, be accorded most-favored-nation treatment and shall be subject to the rates of duty set forth in rate column numbered 2 of the Tariff Schedules of the United States.

TITLE VIII—EXPORT CONTROLS ON PETROLEUM, PETROLEUM PRODUCTS, NATURAL GAS AND COAL, AND CERTAIN DRILLING AND MINING EQUIPMENT

DEFINITIONS

SEC. 801. For purposes of this title—

(1) "Secretary" means the Secretary of Commerce;

(2) "energy producing commodity" means any article described in schedule 4, part 10, of the Tariff Schedules of the United States and coal; and

(3) "essential drilling or mining article" means any article which the Secretary of the Interior has certified to the Secretary is used in the extraction, refining, or transportation of crude oil or gas, or in the extraction of coal, and is in short supply in the United States.

DETERMINATION OF QUANTITIES AVAILABLE FOR EXPORT

SEC. 802. (a) At least quarterly during any period of nationwide energy emergency, and at least annually during any other period, the Secretary shall determine the quantity of each energy producing commodity, if any, and the quantity of each essential drilling or mining article, if any, that will be available for export during the succeeding quarter or year, as the case may be, and shall cause such determination to be published in the Federal Register.

(b) Such determination shall be made by estimating the total quantity of domestic production of each energy producing commodity and each essential drilling or mining article and subtracting from each such quantity the sum of—

(1) the quantity of each such commodity or each such article which the Secretary estimates will be necessary to meet domestic needs; and

(2) the quantity of each such commodity and each such article the Secretary estimates will be necessary for a reasonable carryover, taking into account any current or possible future national and international emergencies and the need to maintain adequate inventories. The quantity of any such commodity or any such article which remains, if any, shall be the quantity available for export.

LICENSING AND ALLOCATION OF EXPORT AUTHORITY

SEC. 803. (a) No energy producing commodity or essential drilling or mining article may be exported to any foreign country unless the exporter has been issued a license by the Secretary for the export of a quantity of such commodity or such article to such country, or unless such export is exempt under the provisions of section 806, or section 807(3).

(b) The quantity of any commodity or article available for export shall be allocated among foreign countries by the Secretary on the basis of—

(1) the quantity of such commodity or article exported to such country during a representative base period; and

(2) such other factors as the Secretary determines to be fair, equitable, and sufficient to protect the interests of traditional trading partners of the United States.

ISSUANCE OF LICENSES

SEC. 804. (a) Upon establishing allocations under section 803, the Secretary shall publicly announce such allocations, and shall announce the time, manner, and place for the submission of bids for the purchase of licenses to export specified quantities of such commodities and articles to specified countries.

(b) Each license shall be issued under this section to the highest responsible bidder unless the Secretary determines that no bid is sufficiently high or that there has been collusion among the bidders.

ADMINISTRATIVE ADJUSTMENTS

SEC. 805. The Secretary may make adjustments in quantities determined under section 802 and of allocations determined under section 803 if he determines on the basis of new information that original determinations were erroneous.

EXEMPTIONS

SEC. 806. (a) The Secretary may exempt from payment of any license fee an export which he determines involves—

(1) the export of an energy producing commodity or an essential drilling or mining article to a developing foreign country with a serious need for such commodity or article; and

(2) such action would be in the best interests of the foreign relations of the United States and would not have an adverse effect on the energy needs of the United States and the program provided for under this title.

(b) The Secretary may exempt from the application of this title or any requirement under this title the export of any energy producing commodity or essential drilling or mining article which he determines—

(1) involves a temporary export for processing purposes to a foreign country and will result in a subsequent import of such commodity or article to the United States; or

(2) will be offset by a subsequent import of another energy producing commodity or essential drilling or mining article or other matter essential to the energy needs of the United States.

ADMINISTRATION

SEC. 807. The Secretary is authorized to issue such rules and regulations as may be necessary to carry out the provisions of this title, including rules and regulations—

(1) providing for the reduction, suspension, or termination of the allocation of any commodity or article made under this title to any foreign country if the Secretary finds that such country is reexporting all or any portion of such allocation under circumstances that tend to disrupt the regulatory program established under this title;

(2) limiting or prohibiting the sale or transfer after issuance of export licenses issued under this title if the Secretary finds such limitation or prohibition necessary to the orderly administration of the regulatory program established under this title; and

(3) exempting from application of this title any commodity or article the domestic production of which the Secretary determines will equal or exceed domestic and foreign demand.

TITLE IX—TAX INCENTIVES FOR INCREASED PRODUCTION OF ENERGY SOURCES

TAX CREDIT FOR DOMESTIC EXPLORATORY DRILLING AND SECONDARY AND TERTIARY RECOVERY COSTS

SEC. 901. (a) Section 46 of the Internal Revenue Code of 1954 (relating to amount of investment credit) is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) GENERAL RULE.—The amount of the credit allowed by section 38 for the taxable year shall be equal to the sum of—

"(A) 7 percent of the qualified investment (as defined in subsection (c)) for the taxable year,

"(B) 14 percent of the domestic exploratory drilling expenses (as defined in subsection (f)) paid or incurred with respect to qualified domestic exploratory oil or gas wells completed during the taxable year, and

"(C) 14 percent of the costs paid or incurred during the taxable year for the secondary and tertiary recovery of oil or gas from wells located in the United States and its possessions (within the meaning of section 638)."; and

(2) by adding at the end thereof the following new subsections:

"(f) DOMESTIC EXPLORATORY DRILLING EXPENSES.—

"(1) IN GENERAL.—For purposes of this subpart, the term 'domestic exploratory drilling expenses' means, with respect to a qualified domestic exploratory oil or gas well, the sum of—

"(A) the intangible drilling and development costs (within the meaning of section 263(c)) paid or incurred with respect to such well, and

"(B) in the case of a well which is completed at a depth of not less than 1,250 feet, the qualified geological and geophysical costs, not in excess of $50,000, assigned to such well under paragraph (3).

"(2) EXPLORATORY OIL OR GAS WELLS.—For purposes of paragraph (1), the term 'qualified domestic exploratory oil or gas well' means a well—

"(A) which is drilled within the United States or its possessions (within the meaning of section 638) for the purpose of producing oil or gas in commercial quantities,

"(B) which has been completed to the point of production or abandonment, and

"(C) (i) neither the bottom nor any producing interval of which is within 2 miles horizontally from the nearest producing interval of any well which is or has been capable of producing oil or gas in commercial quantities, or

"(ii) neither the bottom nor any producing interval of which is less than 3,000 feet below the lowest part of any known commercially producible deposit of oil or gas which lies closer to the earth's surface and is penetrated by any well capable of producing oil or gas in commercial quantities. An offshore well which is a qualified domestic exploratory oil or gas well within the meaning of the preceding sentence except that is not drilled for the purpose of producing oil or gas in commercial quantities, may, under regulations prescribed by the Secretary or his delegate, be treated as a qualified domestic exploratory oil or gas well.

"(3) Geological and geophysical costs.—

"(A) Qualified geological and geophysical costs.—For purposes of paragraph (1), the term 'qualified geological and geophysical costs' means, for any taxable year, so much of the taxpayer's geological and geophysical costs for the taxable year as does not exceed $50,000 multiplied by the number of qualified domestic exploratory oil and gas wells completed by the taxpayer during the taxable year at a depth of not less than 1,250 feet.

"(B) Geological and geophysical costs.—For purposes of subparagraph (A), a taxpayer's geological and geophysical costs for any taxable year are the expenses (not including any overhead expenses) paid or incurred by the taxpayer, or by any component member of the same controlled group of corporations (as defined in section 1563) of which the taxpayer is a member, in the search for oil or was within the United States and its possessions (within the meaning of section 638).

"(C) Assignment of qualified costs to wells.—The taxpayer shall, for purposes of paragraph (1), assign his qualified geological and geophysical costs for each taxable year to qualified domestic exploratory oil and gas wells completed by him during the taxable year at a depth of not less than 1,250 feet at such time and in such manner as the Secretary or his delegate prescribes by regulations."

(b) The amendments made by subsection (a) shall apply with respect to oil and gas wells the drilling of which is commenced after the date of the enactment of this Act.

ADDITIONAL TAX CREDIT FOR DEPRECIABLE PROPERTY USED IN EXTRACTION, ETC., OF ENERGY SOURCES

SEC. 902. (a) Section 46(c) of the Internal Revenue Code of 1954 (relating to qualified investment) is amended by adding at the end thereof the following new paragraph:

"(4) Property used in extraction, etc., of energy sources.—In the case of section 38 property which is placed in service for the exploration for, other development, extraction, refining, storage, or transportation of, oil, gas, coal, or any other energy source, the qualified investment shall be two times the qualified investment determined under paragraphs (1), (2), and (3)."

(b) The amendment made by subsection (a) shall apply with respect to property placed in service after the date of the enactment of this Act.

TECHNICAL AND CLERICAL AMENDMENTS

Sec. 903. (a) The heading of section 38 of the Internal Revenue Code of 1954 is amended by inserting after "PROPERTY" the following: "AND IN PRODUCTION OF OIL AND GAS".

(b) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after "property" in the item relating to section 38 the following: "and in production of oil and gas".

(c) The heading of subpart B of part IV of subchapter A of chapter 1 of such Code is amended by inserting after "Property" the following: "and in Production of Oil and Gas".

(d) The table of subparts for part IV of subchapter A of chapter 1 of such Code is amended by inserting after "property" in the item relating to subpart B the following: "and in production of oil and gas".

(e) Section 48 of such Code is amended by redesignating subsection (k) as (l), and by inserting after subsection (j) the following new subsection:

"(k) Domestic Exploratory Drilling Expenses and Secondary and Tertiary Recovery Costs.—Under regulations prescribed by the Secretary or his delegate, references in section 46(a)(4), section 46(d)(1), and subsections (e) and (f) of this section to qualified investment shall be treated as also referring to domestic exploratory drilling expenses and secondary and tertiary recovery costs."

(f) The Secretary of the Treasury or his delegate is authorized to prescribe such regulations as may be necessary to carry out the purposes of the amendments made by this title.

TITLE X—MISCELLANEOUS TAX PROVISIONS

REMOVAL OF PREFERENTIAL TAX TREATMENT FOR NEW OIL AND GAS WELLS LOCATED OUTSIDE THE UNITED STATES

SEC. 1001. (a) Section 613 of the Internal Revenue Code of 1954 (relating to percentage depletions) is amended by striking out subsection (d) and inserting in lieu thereof the following:

"(d) OIL AND GAS WELLS LOCATED OUTSIDE THE UNITED STATES.—Subsections (a) and (b) shall not apply with respect to oil and gas wells located outside the United States the drilling of which is commenced after the date of the enactment of the Energy Revenue and Development Act of 1973."

(b) INTANGIBLE DRILLING AND DEVELOPMENT COSTS.—Section 263(c) of such Code (relating to intangible drilling and development costs in the case of oil and gas wells) is amended by adding at the end thereof the following new sentence: "The regulations so prescribed shall not apply with respect to oil and gas wells located outside the United States the drilling of which is commenced after the date of the enactment of the Energy Revenue and Development Act of 1973."

CREDIT OR DEDUCTION FOR RESIDENTIAL ENERGY CONSERVATION EXPENDITURES

SEC. 1002. (a) Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by renumbering section 42 as 43, and by inserting after section 41 the following new section:

"SEC. 42. RESIDENTIAL ENERGY CONSERVATION EXPENDITURES.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of so much of the residential energy conservation expenditures paid or incurred by the taxpayer during the taxable year as does not exceed $1,000.

"(b) LIMITATION.—The credit under subsection (a) for any taxable year shall not exceed tne amount of the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowable under the preceding sections of this subpart (other than sections 31 and 39).

"(c) RESIDENTIAL ENERGY CONSERVATION EXPENDITURES.—For purposes of this section, the 'residential energy conservation expenditure' means any expenditure otherwise chargeable to capital account, or any expense, paid or incurred for—

"(1) improvements or repairs, designed to reduce heat loss in winter and heat gain in summer, to property used by the taxpayer as his principal residence, including the installation of insulation, storm windows and doors, caulking, humidifiers, and other property designed for energy conservation, and

"(2) any device or system designed to utilize solar energy to provide heating or cooling which meets performance criteria established by the National Bureau of Standards.

"(d) ELECTION TO TAKE DEDUCTION IN LIEU OF CREDIT.—This section shall not apply in the case of any taxpayer who for the taxable year elects to take the deduction provided by section 219 (relating to deduction for residential energy conservation expenditures). Such election shall be made in such manner and at such time as the Secretary or his delegate shall prescribe by regulations.

"(e) NO ADJUSTMENTS TO BASIS.—Notwithstanding the provisions of section 1016 (a), no adjustment to the basis of property shall be made for any residential energy conservation expenditure which is taken into account in computing the amount of the credit allowed by subsection (a).

"(f) REGULATIONS.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the purposes of this section."

(b) Part VII of subchapter B of chapter 1 of such Code (relating to additional itemized deductions for individuals) is amended by renumbering section 219 as 220, and by inserting after section 218 the following new section:

"SEC. 219. RESIDENTIAL ENERGY CONSERVATION EXPENDITURES.

"(a) ALLOWANCE OF DEDUCTION.—In the case of an individual, there shall be allowed as a deduction so much of the residential energy conservation expenditures (as defined in section 42 (c)) paid or incurred by the taxpayer during the taxable year as does not exceed $1,000.

"(b) ELECTION TO TAKE CREDIT IN LIEU OF DEDUCTION.—This section shall not apply in the case of any taxpayer who for the taxable year elects to take the credit against tax provided by section 42 (relating to credit against tax for residential energy conservation expenditures). Such election shall be made in such manner and at such time as the Secretary or his delegate shall prescribe by regulations.

"(c) NO ADJUSTMENTS TO BASIS.—Notwithstanding the provisions of section 1016 (a), no adjustment to the basis of property shall be made for any residential energy conservation expenditure which is allowed as a deduction under subsection (a).

"(d) REGULATIONS.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the purposes of this section."

(c) Section 62 of such Code (relating to definition of adjusted gross income) is amended by inserting after paragraph (9) the following new paragraph:

"(10) RESIDENTIAL ENERGY CONSERVATION EXPENDITURES.—The deduction allowed by section 219."

(d) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 42. Residential energy conservation expenditures.
"Sec. 43. Overpayments of tax."

(e) The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 219. Residential energy conservation expenditures.
"Sec. 220. Cross references."

(f) The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

TITLE XI—TRANSFER TO THE SECRETARY OF THE INTERIOR OF JURISDICTION OVER THE NAVAL PETROLEUM AND OIL SHALE RESERVES; INCREASED PRODUCTION ON FEDERAL LANDS

TRANSFER OF JURISDICTION

SEC. 1101. (a) Effective upon the expiration of the ninety-day period following the date of the enactment of this title, all jurisdiction and control of the Secretary of the Navy (including those powers and functions conferred on the Secretary of the Navy by chapter 641 of title 10, United States Code, which are necessary to the Secretary of the Interior to enable him to carry out his duties under this title) over all properties inside the naval petroleum and oil shale reserves of the United States (including lands covered by leases) are transferred to the Secretary of the Interior.

(b) Except as provided in this title, the lands comprising the naval petroleum and oil shale reserves shall be administered by the Secretary of the Interior in the same manner and subject to the same laws of the United States, including the mineral leasing laws, as other public lands of the United States.

(c) Nothing in this title shall be construed as affecting any lease, contract, or other agreement entered into prior to the date of the enactment of this title, or the carrying out of such lease, contract, or agreement in accordance with the terms thereof, or to prohibit the continuance of any prodution of oil and gas being carried out prior to the date of the transfer of the jurisdiction and control of the naval petroleum and oil shale reserves to the Secretary of the Interior by this title. The Secretary of the Interior is authorized to exercise the powers and functions transferred to him by this title to the extent necessary to enable him to carry out the provisions of this subsection, including those involving the disposition of oil and gas products (including royalty products) from lands in the naval petroleum and oil shale reserves and lands outside such reserves covered by joint, unit, or other cooperative plans, for the benefit of the United States.

COMPREHENSIVE PLANS FOR LAND USE OR DISPOSITION

SEC. 1102. On or before the expiration of the twelve-month period following the date of the enactment of this title, the Secretary of the Interior shall report to the Congress a comprehensive plan or plans containing his recommendations for a program for the best and most appropriate use or disposition of the surface of the naval petroleum and oil shale reserves lands the jurisdiction and control with respect to which are transferred by this title. In preparing any such plan or plans pursuant to this section, the Secretary of the Interior shall seek the views and recommendations of the Joint Federal-State Land Use Planning Commission for Alaska established by the Alaskan Native Claims Settlement Act to the extent that such plan or plans involve or otherwise affect lands within Naval Petroleum Reserve Numbered 4.

CLAIMS OF ALASKAN NATIVES

SEC. 1103. Nothing in this title shall be construed as affecting in any manner or to any extent any right of, or claim by, Alaskan Natives to ownership of any of the lands, or interests therein, comprising Naval Petroleum Reserve Numbered 4.

INCREASED PRODUCTION OF OIL AND GAS ON FEDERAL LANDS

SEC. 1104. (a) The Secretary of the Interior is authorized and directed to require that any oil and gas field on lands or interests in lands owned by the United States, including lands on the Outer Continental Shelf—

(1) be fully developed as expediently as is reasonably justified;

(2) be produced at the maximum efficient rate of production where such field has not been so developed and produced; or

(3) be produced in excess of its maximum efficient rate of production if the Secretary finds that production at such rates is necessary to meet essential national energy requirements, except that no producer shall be required to produce crude oil in excess of the maximum efficient rate if production at such rate for a period of more than 180 days may create excessive risk of loss in the ultimate recovery of crude oil.

As used in this subsection, the term "maximum efficient rate" means production at a rate which may be sustained without damage or loss to the oil and gas reservoir or the ultimate recovery of crude oil under sound conservation, economic, or engineering principles.

(b) Notwithstanding any other provision of law, the Secretary of the Interior is authorized and directed, under such terms and conditions as he may prescribe, to unitize or require the unitization of the lessees' interests in lands or interests in lands of the United States and such cooperative or pooling agreements as may be necessary or desirable for the joint operation of oil and gas fields referred to in subsection (a) to achieve full development and maximum production as provided herein.

(c) Subject to the rights of any party under pending litigation, the Secretary of the Interior may, upon petition by a lessee or on his own motion, review and reinstate any application for permission to explore, develop, or erect development platforms within leases on the Outer Continental Shelf. Whenever the review and reinstatement leads to the granting of an application or permit which had been previously denied on environmental grounds or for public purposes—

(1) if the term of the lease was not otherwise extended by production of oil and gas, the period of time during which the original application was being prosecuted before the Secretary and the Secretary's action contested before the courts shall be computed to extend the primary term of such lease for a like period; and

(2) if the term of the lease was extended by the production of oil and gas, the costs to the lessee of prosecuting the original application before the Secretary and contesting the Secretary's action before the courts may be offset against future royalty payments due under such lease, subject to audit and confirmation by the Secretary.

Mr. LONG. Mr. President, I wish to commend the distinguished Senator from Alaska, the chairman of the Finance Committee's Subcommittee on Energy, for the fine statement he has made here today and for the great amount of time and effort he has obviously devoted to the legislation he is today introducing. It is apparent that he has given the energy problem his close attention, and it is equally apparent that his proposal deserves our careful consideration.

Last month, under his leadership, the Subcommittee on Energy conducted an excellent series of hearings on the subject of fiscal policy and the energy crisis with a distinguished list of witnesses, including representatives from the executive branch, the academic community, and the private sector. To each of the witnesses, the subcommittee addressed these basic questions: "Should fiscal policy be employed to mitigate the current energy shortage and to assist in the transition to alternative energy sources? If so, how?" The answers of the witnesses to the first question were unanimously affirmative. The responses of the witnesses to the second question, of course, varied from witness to witness, but every witness agreed that incentives—either price incentives or tax incentives or both—are required if the supply of energy is ever to catch up with the demand for energy in this country.

The energy shortages we are today experiencing are largely the result of our past energy decisions—decisions which have served to diminish the incentives for finding and producing energy. If we devote our attention solely to the task of restraining energy consumption—without taking steps to increase our energy supply—then the energy crisis will be our legacy to future generations. If we immediately take steps to increase our domestic energy supplies, then the energy crisis is a problem we can surmount and put behind us.

As I understand it, the bill being introduced today addresses itself the task of increasing our domestic energy supplies. The emphasis is to let the private market work freely instead of establishing a Government-owned oil company which some naive individuals have suggested would resolve our energy problems.

The Senator's bill would formulate a national energy policy and help develop our conventional energy resources as well as alternative energy resources. I commend the Senator from Alaska, and I call upon my colleagues to give his proposals their careful consideration.

By Mr. MONDALE:

S. 2811. A bill to provide a simplified and uniform procedure for the imposition, collection, and administration of State and local sales and use taxes with respect to interstate commerce, to reduce significantly the burden of tax compliance for persons engaged in making sales in interstate commerce, and to eliminate restrictions on the taxing power of the States which now prevent them from securing collection and remittance of such taxes on certain interestate sales. Referred to the Committee on Finance.

STATE TAXATION OF INTERSTATE COMMERCE ACT

Mr. MONDALE. Mr. President, I am introducing a bill to provide a uniform system for the application of State and local sales and use taxes to transactions in interstate commerce. Its title is "The State Taxation of Interstate Commerce Act."

On September 18 and 19 of this year, the Committee on Finance's Subcommittee on State Taxation of Interstate Commerce, which I chair, held hearings which focused on the problems involved in State taxation of businesses operating, and transactions occurring, in interstate commerce. There was a broad range of testimony directed at the problems involved in the State taxation of corporate income derived from interstate business, and in the imposition of State and local sales and use taxes upon interstate sales. In the course of those hearings I was very impressed by the serious problems encountered by small businesses operating in interstate commerce. By and large the problems described involved their enormous difficulty in attempting to become aware of and comply with the sales and use tax provisions of each of the States and local jurisdictions in which these companies found themselves doing business. At the same time, I was also made aware of the broad differences in views which exist with respect to the establishment of uniform rules regarding State taxation of corporate income derived from interestate operations.

Accordingly, with the introduction of this bill, I propose to separate the legislative consideration of these wholly unrelated issues. My intention is to direct complete and undivided attention toward solution of the most compelling aspect of State and local taxation of interstate businesses, which our hearings have indicated is capable of relatively quick resolution. Indeed, a review of the developments since 1961, when Congress first directed that a study be made of interstate sales and use taxes shows that inclusion of remedial provisions on this issue in an omnibus State taxation bill has merely resulted in this particular issue being shelved rather than receiving the prompt attention it deserves.

I propose to provide the Congress, businessmen, consumers, and State tax officials alike with the opportunity to consider a uniform system for the application of sales and use taxes in interstate commerce which is based on the premise that there are some problems in the sales and use tax field that are different from those found in the income tax field and consequently require different solutions.

The objectives of the bill which I have introduced are: First, to provide a uniform system for the imposition of State and local sales and use taxes on interstate sales; second, to provide simplified and uniform compliance procedures; and third, to provide for the imposition of such taxes equally on all sales made within each State marketplace. The remedial provisions of the bill are directed exclusively to the solution of today's interstate sales and use tax problems. These provisions have been the subject of extensive analysis and public discussion. Welded together in the bill are the provisions of "The Interstate Sales and Use Tax Act," S. 282, now pending before the Committee on Finance and the "Louisiana Plan" which was presented to the Subcommittee on State Taxation of Interstate Commerce at its September hearings by Mr. Joseph N. Traigle, collector of revenue, State of Louisiana. The provisions of S. 282 have been formally endorsed by the National Association of Tax Administrators. I hope that the bill I am introducing today will be able to receive similar endorsement.

Today 45 States impose sales taxes. In 24 of those States, local governments also impose sales taxes. In the State of Alaska, only local sales taxes are imposed. These local sales taxes are completely administered by the State governments in all but six States. The legislation submitted today would enable interstate businesses to comply more easily with the sales tax provisions of the State and local jurisdictions in which they do business. It would also authorize the imposition and collection of such taxes on all sales made within each State so as to eliminate any competitive disadvantage which now exists with respect to sellers in each State presently required to collect and remit these taxes.

The approach taken in this bill is designed to simplify the compliance burdens on interstate sellers. It is also designed to eliminate the current exemption of some interstate businesses from these taxes. It would appear that the unification of these taxes into no more than 50 separate State sales taxes with uniform reporting procedures and requirements is consonent with our Federal system of government. In this way the sovereign taxing authority of each State is preserved. At the same time the bill attempts to remove the kind of administrative and recordkeeping requirements that the Supreme Court feared could entangle an interstate business in a virtual welter of complicated obligations to numerous taxing jurisdictions without legitimate claim to impose a share of the cost of government. *National Bellas Hess, Inc.* v. *Department of Revenue*, 386 U.S. 753 (1967).

Mr. President, my purpose in introducing this bill is simple and direct. I want to focus attention on the basic issues involved in the application of State and local sales and use taxes to interstate business and to provide an opportunity for the consideration and debate of these issues on their merits. I am not wedded to every provision in this bill; it is a vehicle for discussion. I solicit the written views of those interested in the provisions of this bill so they may be reviewed by our subcommittee and the full Committee on Finance.

Mr. President, I wish to point out that the introduction of this bill, which intentionally excludes any provisions affecting State-imposed taxes on corporate income, should in no way be interpreted as an attempt to close the door on the possibility of remedial legislation in that area. The introduction of this bill merely evidences the fact that the sales and use tax aspect of the problems can be solved now. Consistent with our obligation to come to grips with the more difficult problems inherent in the State corporate income tax area, the Subcommittee on State Taxation of Interstate Commerce will continue to make every effort to assist the States and the business community to resolve the controversial issues that must ultimately be reconciled. It is my hope that some consensus for such legislation will be forthcoming soon.

Mr. President, I ask unanimous consent that this bill be referred to the Committee on Finance. I also ask unanimous consent that a copy of the bill be printed in the Record. Finally, I ask unanimous consent that an explanatory statement, briefly summarizing the provisions of the bill, be printed in the Record immediately following the text of the bill.

There being no objection, the bill and statement were ordered to be printed in the Record, as follows:

S. 2811

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "State Taxation of Interstate Commerce Act".

TITLE I—TAXING POWER

Sec. 101. Power of a State of tax.

(a) In General.—Each State shall have power to require persons subject to a uniform State and local tax (as defined in section 303) to collect and remit that tax on sales made by that person within that State.

(b) Limitations.—No State or political subdivision of a State may impose a sales tax or a use tax, other than a uniform State and local tax described in section 303 imposed and administered in accordance with the provisions of this Act, with respect to the sale within that State or political subdivision of tangible personal property by a person who—

(1) does not have a business location in that State, or

(2) does not regularly make household deliveries in that State (other than by common carrier or the United States Postal Service).

Sec. 102. Voluntary submission to tax.

Notwithstanding the provision of section 101, a person who does not have a business location in a State or political subdivision of that State, or who does not regularly make household deliveries in that State or political subdivision, may elect to become subject to the sales and use tax laws of that State or political subdivision in lieu of being subject to the uniform State and local tax imposed by that State. A State or political subdivision of a State may require such a person to collect and remit the sales or use tax imposed by that State or political subdivision (instead of the uniform State and local tax imposed by that State), but no State or political subdivision may require any person to make such an election as a condition of doing business in that State or political subdivision.

Sec. 103. Application of tax.

A tax imposed by a State or a political subdivision of a State in accordance with the provisions of this Act may apply to sales the destination of which is in that State or political subdivision without regard to the location of the place at which or the method by which that sale was solicited, the location of the place at which the order for the sale was accepted, the location of the place from which the property which is the subject of the sale was shipped, or the method by which that property was shipped.

Sec. 104. Savings provision for certain methods of collection.

Nothing in this Act prohibits any State or a political subdivision of a State from requiring an advance payment of a sale or use tax to a seller as agent for a State or political subdivision by a purchaser of tangible personal property for resale and nothing in this Act prevents a State or a political subdivision of a State from requiring a seller to collect and remit such advance payments as an agent for the State or political subdivision if credit for the advance payment is allowed in determining sales tax liability of the purchaser under statutory provisions in effect in that State or political subdivision on December 31, 1973.

TITLE II—RULES FOR APPLICATION OF TAXES

Sec. 201. Reduction of multiple taxation.

(a) Taxation of Out-of-State Sales.—No State or political subdivision of a State may impose a sales or use tax, or a uniform State and local tax, with respect to the sale of tangible personal property unless the destination of the sale is—

(1) in that State, or

(2) in a State or political subdivision of a State for which the tax is required to be collected under a reciprocal collection agreement authorized under section 405.

(b) Credit for Taxes Paid.—No State or political subdivision of a State may impose a sales tax, use tax, or uniform State and local tax with respect to the sale of tangible personal property on which such a tax, imposed by another State or a political subdivision of that other State, has been paid unless the State or political subdivision imposing the tax allows a credit against its tax for the amount of the tax paid with respect to the property to the other State or political subdivision. For purposes of determining the credit allowable under a tax imposed in accordance with the provisions of the preceding sentence—

(1) a State is not required to permit a credit against a tax imposed by it for any tax imposed by a political subdivision of another State; and

(2) a political subdivision of a State is not required to permit a credit against a tax imposed by it for any tax imposed by another State.

(c) Refund of Taxes.—No State or political subdivision of a State may impose a sales tax, use tax, or uniform State and local tax with respect to the sale of tangible personal property unless that State or political subdivision provides for the payment of a refund of that tax if such a tax is paid subsequently to another State or political subdivision with respect to that property on account of a liability for the payment of the tax which arose before the liability for the payment of the tax to that State or political subdivision arose. The amount of the refund payable by a State or political subdivision under a tax imposed in accordance with the provisions of the preceding sentence—

(1) shall not, in the case of a State government, exceed the amount of the tax imposed by the government of another State; and

(2) shall not, in the case of a political subdivision of a State, exceed the amount of the tax imposed by the political subdivision of another State which imposed the tax.

No State or political subdivision shall be required under this subsection to pay a refund of tax if the application for that refund is filed with that State or political subdivision more than one year after the date on which the tax on which the refund is based was paid.

(d) Limitation on Credit or Refund for Taxes Paid.—No State or political subdivision of a State shall be required to allow a credit under subsection (b), or to pay a refund under subsection (c), with respect to a tax imposed by another State or a political subdivision of another State if that tax was measured by periodic payments made under a lease prior to the sale, possession, storage, use, or other consumption of the property with respect to which the tax is imposed in the State or political subdivision imposing the tax. Nothing contained in this Act shall be construed to extend the period within which a refund of tax may be made under the laws of any State or political subdivision of a State.

(e) Vehicles and Fuels.—Nothing in subsection (a) shall be construed to affect the power of a State or a political subdivision of a State to impose or require the collection of a sales or use tax with respect to motor vehicles registered in that State. Nothing in this section shall be construed to affect the power of a State or political subdivision of a State to impose or require the collection of a sales or use tax with respect to motor vehicle fuels sold or consumed in that State.

Sec. 202. Transportation charges.

No State or political subdivision of a State shall have power to impose a sales tax, use tax, or uniform State and local tax under which freight charges or other charges for transporting the tangible personal property to which the tax relates are used in determining the tax payable with respect to the sale or use of that property if the freight charges or other charges are separately stated in writing by the seller to the purchaser, and if such charges do not exceed a reasonable charge for transportation by facilities of the seller or the charge for transportation by the carrier when the transportation is by other than the seller's facilities.

Sec. 203. Exempt sales.

(a) In General.—No State or political subdivision of a State shall have power to impose a sales tax, use tax, or uniform State and local tax unless the law under which that tax is imposed provides for the exemption from tax of sales described in subsections (b), (c), (d), (e), and (f) in accordance with the provisions of those subsections.

(b) Sales for Resale.—No seller shall be liable for the collection or payment of a sales tax, use tax, or uniform State and local tax with respect to an interstate sale of tangible personal property if the purchaser of such property furnishes or has furnished to the seller a certificate or other written form of evidence attesting to the fact that the property is being purchased for resale. Any such certificate or other written form of evidence shall give the name and address of the purchaser, his registration number, the citation for the exemption under the respective State or political subdivision law, and shall be signed by the purchaser or his representative. Nothing in this subsection shall relieve a seller of the liability for collecting and remitting an advance payment of a sales or use tax required to be made by a purchaser for which the purchaser will receive a credit in determining liability of the purchaser under statutory provisions in effect on December 31, 1973.

(c) Sales to the United States Government.—No State or political subdivision thereof may impose a sales or use tax on tangible personal property sold directly to the United States Government and no seller shall be required to collect or remit a sales or use tax on such sales.

(d) Sales for Transshipment.—No seller shall be liable for the collection or payment of a sales or use tax with respect to an interstate sale of tangible personal property if the purchaser furnishes or has furnished to the seller a statement in writing that the property will be transshipped from the destination within the United States to a point outside the United States for use or consumption outside the United States. Nothing in this subsection shall prevent the imposition of a sales or use tax by a State or political subdivision on property initially covered by this exemption upon its subsequent return to a State or political subdivision for use or consumption.

(e) Elective Exemptions.—No seller shall be liable for the collection or payment of a sales or use tax with respect to an interstate sale of tangible personal property if the purchaser of such property furnishes or has furnished to the seller—

(1) a registration number or other form of identification indicating that the purchaser is registered with the State or the political subdivision thereof imposing the sales or use tax which is the destination at which the property will be delivered to the purchaser, and

(2) a certificate from the State or political subdivision having jurisdiction to require seller collection of the tax setting forth a legal citation under the laws of that State or political subdivision which specifically exempts the property or transaction from the tax imposed by that State or political subdivision.

(f) Retention of Certificates.—Any certificate required under subsections (b) through (e) shall be retained by the seller and made available by him to any taxing authority for inspection for 36 months after the date of the sale to which it relates. No sale shall be treated as a sale described in any of those subsections unless the seller can make the certificate relating to that sale available to the taxing authority requesting inspection of it during that 36-month period.

SEC. 204. Accounting requirements

Any State which imposes a uniform State and local tax in accordance with the provisions of this Act may require any person engaged in the business of selling property to which that tax applies to collect that tax and remit it to the State and to maintain such records and information as may be necessary for the proper administration of that tax, but no State shall have power to require that person to account for sales on the basis of any geographic or political subdivision of the State.

TITLE III—DEFINITIONS AND RULES

SEC. 301. Sales tax.

The term "sales tax" means any tax imposed with respect to retail sales, and measured by the sales price of tangible personal property or services with respect thereto, which is required by State law to be stated separately from the sales price by the seller, or which is customarily stated separately from the sales price.

SEC. 302. Use tax.

The term "use tax" means a tax imposed only once with respect to the exercise or enjoyment of any right of ownership or use of, or of any power over, tangible personal property incident to the ownership or possession of that property under lease or otherwise (including the consumption, holding, retention, or other use of that property) which is measured by the purchase price or value of the property.

SEC. 303. Uniform State and local tax.

(a) IN GENERAL.—The term "uniform State and local tax" means a sales or use tax, or a combined sales and use tax, certified to the Secretary of Commerce of the United States by the chief executive officer of a State as the single sales, use, or combined sales and use tax imposed by that State on—

(1) sales with a destination in that State of tangible personal property by a person who does not maintain a place of business in the State or make regular household deliveries in the State, or

(2) the use of tangible personal property in that State acquired by purchase, by a resident of that State, from such a person.

(b) Rate of Tax.—

(1) SALES TAX.—If the uniform State and local tax is a sales tax, it shall be a percentage of the amount of any sales to which it applies. That percentage shall not exceed the sum of—

(A) the percentage rate applicable under any sales tax imposed by the government of the State to sales of such property sold within the State by residents of that State, and

(B) a percentage rate equal to a fraction, the numerator of which is the sum of the revenues of each political subdivision within that State from sales taxes imposed by such political subdivisions on sales of such property during the most recent fiscal year for which data is available (adjusted for any change in the rate of such sales taxes), and the denominator of which is the sum of the amounts of the sales to which such sales taxes applied.

(2) USE TAX.—If the uniform State and local tax is a use tax, it shall be a percentage of the value of the property to which it applies. That percentage shall not exceed the sum of—

(A) the percentage rate applicable under any use tax imposed by the government of the State on the use of such property by residents of that State which is acquired by purchase from other residents of that State, and

(B) a percentage rate equal to a fraction, the numerator of which is the sum of the revenues of each political subdivision within that State from use taxes imposed by such political subdivisions on the use of such property for the most recent fiscal year for which data is available (adjusted for any change in the rate of such use taxes), and the denominator of which is the sum of the values of the property to which such use taxes applied.

(3) Combined sales and use tax.—If the uniform State and local tax is a combined sales and use tax, the sales tax portion shall be determined under paragraph (1) and the use tax portion shall be determined under paragraph (2).

SEC. 304. Sale; sales price; purchase price.

The terms "sale", "sales price", and "purchase price" include (but are not limited in meaning to) amounts paid under leases and rental payments for the use of property and amounts paid for services which are defined as taxable services under the laws of a State or political subdivision thereof.

SEC. 305. Interstate sale.

The term "interstate sale" means a sale in which tangible personal property sold is shipped or delivered to the purchaser in a State from a point outside that State.

SEC. 306. Destination.

The term "destination of a sale" means the State or political subdivision in which possession of the property is physically transferred to the purchaser or to which the property is shipped to the purchaser regardless of the f.o.b. point or other conditions of the sale.

SEC. 307. Business location.

A person shall not be considered to have a business location within a State or political subdivision unless he—

(1) owns or leases real property within that State or political subdivision,

(2) has an employee located within that State or political subdivision,

(3) regularly maintains a stock of tangible personal property in that State or political subdivision for sale in the ordinary course of his business, or

(4) is engaged in the business of leasing tangible personal property to other persons for use in that State or political subdivision.

For purposes of paragraph (3), property held by a consignee under consignment and offered for sale by him on his own account shall not be considered as stock maintained by the consignor, and property held by a purchaser under a sale or return arrangement shall not be considered as stock maintained by the person who furnishes the stock to the purchaser under that arrangement. If a person has a business location in a State or a political subdivision solely on account of paragraph (4), he shall be considered to have a business location in that State or political subdivision only with respect to such property.

SEC. 309. Location of employee.

(a) IN GENERAL.—An employer shall be considered to have an employee located within a State or political subdivision if the employee's service for the employer is performed entirely or primarily in that State or political subdivision. An employer shall not be considered to have an employee located in a State or political subdivision if the employee's activities on behalf of his employer within that State or political subdivision consists entirely of—

(1) the solicitation of orders for sales of tangible personal property which are sent outside the State or political subdivision for approval and which are filled by shipment or delivery from outside that State or political subdivision, or

(2) the solicitation of orders in the name of, or for the benefit of, a prospective customer of his employer if those orders are orders described in paragraph (1).

(b) Employees of Contractors and Extractors.—If the employer is engaged in the performance of a contract for the construction of improvements on or to real property in a State or political subdivision or of a contract for the extraction of natural resources located in a State or political subdivision, an employee whose services are related primarily to the performance of the contract shall be considered to be located in that State or political subdivision. This subsection shall not apply with respect to services performed in installing or repairing tangible personal property which is the subject of interstate sale by the employer, if such installing or repairing is incidental to the sale.

(c) The term "employee" has the same meaning as it has for purposes of Federal income tax withholding under chapter 24 of the Internal Revenue Code of 1954.

SEC. 310. State.

The term "State" means the several States of the United States and the District of Columbia.

SEC. 311. State law.

References in this Act to "State law", and "the laws of the State", include the constitution, statutes and other legislative acts, judicial decisions, and administrative regulations and rulings of a State and of any political subdivision.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. Prohibition against discrimination based on out-of-state occurrences.

No State or political subdivision of a State may impose a sales tax, use tax, or uniform State and local tax under which a person liable for the payment or collection of that tax is liable for the payment or collection of a higher rate of tax than any other person subject to that sales, use, or uniform State and local tax because—

(1) he is incorporated or qualified to do business in another State or political subdivision, or because he engages in any activity in another State or political subdivision,

(2) he is taxable under the laws of another State or political subdivision of that State, or

(3) other persons (including any agency of a State or a political subdivision of a State) are engaged in activities in another State or political subdivision of that State which affect him.

The application of a uniform State and local tax to a person at a higher rate of tax than the combined State and local sales or use tax which might otherwise be applicable to such person (if he made an election under section 102) is not a violation of the provisions of the preceding sentence.

SEC. 402. Permissible audits.

(a) AUDITS BY STATE AND POLITICAL SUBDIVISION.—Any State or political subdivision of a State which imposes a sales tax or use tax (but not a uniform State and local tax) shall have power, independently or in combination with any other State or political subdivision or group of States or political subdivisions, to conduct audits of the records of any person who is liable for the payment or collection of that tax.

(b) AUDITS BY STATE ONLY.—If any State imposes a uniform State and local tax, only the State shall have the power, independently or in combination with any other State or group of States who have also imposed such a tax, to conduct audits of the records of any person who is liable for the payment or collection of that tax.

SEC. 403. Limitation on audits.

No State or political subdivision shall conduct an audit in combination with any other State or political subdivision of a State unless it certifies to the person subject to the audit that any information obtained as a result of the audit will remain confidential between parties to the joint audit and will be used to establish tax liability with respect to the period covered by the audit only. If a State or political subdivision of a State audits a person in accordance with the provisions of this section it may not subsequently conduct an audit of that person for a prior taxable period, unless the person and the State or political subdivision shall have previously entered into an agreement, binding upon both parties under the laws of the State or political subdivision, under which liability for such prior period may be determined. The preceding sentence does not apply to any audit of such a prior taxable period if the State or political subdivision is permitted, under section 406(b), to make an assessment with respect to that period.

SEC. 404. Prohibition against audit charges.

No charge may be imposed upon a person audited by a State or political subdivision thereof to cover any part of the cost of conducting that audit outside that State or political subdivision, respectively.

SEC. 405. Reciprocal collection agreements.

The Congress hereby gives its consent to agreements between and among States under which one State will undertake to collect a sales tax, use tax, or uniform State and local tax imposed by another State whenever the person liable for the payment or collection of such tax has a business location in the State which undertakes the collection but not in the State which imposes the tax, but such agreements shall not provide for the collection of tax with respect to a sale or use of tangible personal property which is not taxable under the laws of the State which imposes the tax.

SEC. 406. Liability with respect to unassessed taxes.

(a) LIMITATION ON ASSESSMENT PERIOD.—Except as provided in subsection (b), no State or political subdivision thereof shall have the power, after the date of enactment of this Act, to assess against any person for any period ending on or before such date a sales or use tax with respect to tangible personal property, if during such period that person—

(1) was not registered in the State or political subdivision for the purpose of collecting tax,

(2) had no business location in the State or political subdivision,

(3) did not regularly engage in the household delivery of property in the State or political subdivision (other than by common carrier or United States Postal Service), or

(4) did not regularly solicit orders for the sale of tangible personal property by salesmen, solicitors, or other representatives in the State or political subdivision.

(b) EXTENSION WHERE REQUIRED BY LAW.—A State or political subdivision may make an assessment covering a period prior to enactment of this Act if the State or political subdivision and the person subject to the tax where legally bound by agreement, contract, decision of any court having jurisdiction, or statutory or constitutional provision to determine liability after enactment of this Act.

TITLE V—ADMINISTRATIVE PROVISIONS

SEC. 501. Return forms.

(a) IN GENERAL.—

(1) Sales or use tax returns.—A State or a political subdivision of a State may require the filing of returns by persons liable for the payment of any sales tax or use tax imposed by that State or political subdivision (other than a uniform State and local tax).

(2) Uniform State and local tax returns.—A State which imposes a uniform State and local tax applicable only to persons who do not have a business location within that State, or who do not regularly make parcel deliveries in that State, may not require such a person to file a return containing information other than—

(A) the name and address of such person;

(B) the Federal employer identification number of such person;

(C) the type of report;

(D) the period covered by the report;

(E) the gross sales of that person within the State or political subdivision;

(F) the total amount of sales by that person within the State which are exempt from such tax;

(G) the sales of such person within that State or political subdivision which are subject to tax; and

(H) the liability of that person for the payment or collection of tax.

(3) Standard form.—The Secretary of Commerce shall make available to the States a standard form for the return of the uniform State and local tax which shall be used by any State which imposes such a tax.

(4) Time for filing.—A State or political subdivision of that State may require returns described in paragraph (2) to be filed with it not later than 30 days after the end of each calendar quarter with respect to taxes for that quarter, but shall permit any taxpayer required to file such a return to elect, at such time and in such manner as that State or political subdivision may by law prescribe, to file such returns not later than the last day of each month with respect to taxes for the preceding month.

(b) ANNUAL SUMMARY.—Any person liable for the payment or collection of any tax to which this Act applies shall file annually with his Federal income tax return a schedule showing gross receipts from the sale of tangible personal property within each State. The Secretary of the Treasury shall provide the information shown on such schedules to the appropriate officers within each State engaged in the administration of the tax laws of that State. Failure to file such a schedule is punishable by a fine of not to exceed $1,000, imprisonment for 1 year, or both.

SEC. 502. Exemption for minimum sales of tangible personal property in interstate commerce.

No State or political subdivision of a State shall have power to impose a uniform State and local tax, on the sale of tangible personal property within that State or political subdivision, as the case may be, with respect to any person who does not sell tangible personal property for a price, in the aggregate, in excess of $10,000 within that State during the calendar year.

TITLE VI—REMEDY; EFFECTIVE DATE

SEC. 601. Remedy.

Any person who is liable for the payment of a tax imposed by a State or political subdivision with respect to the sale of tangible personal property within that State may, notwithstanding any other provision of law, bring an action in any district court of the United States for a district located within that State for a declaratory judgment with respect to whether the law under which that tax is imposed meets the requirements of this Act.

SEC. 602. Effective date.

Except as provided in sections 403 and 406, this Act shall apply to the sale or use of any tangible personal property occurring after January 1, 1976.

SEC. 603. Non-separability.

It is the intention of the Congress in enacting this Act to provide a single integrated statutory framework for the State taxation of interstate commerce. If any provision of this Act, or the application thereof to any person or circumstance is held invalid under the Constitution by any court of the United States, then, if such holding is not appealed, the remainder of this Act shall cease to be effective on the day after the last date on which an appeal could have been timely filed with respect to such holding.

BRIEF SUMMARY OF THE STATE TAXATION OF INTERSTATE COMMERCE BILL APPLYING TO ALL INTERSTATE SALES OF TANGIBLE PERSONAL PROPERTY

This bill is intended to provide a simplified and uniform procedure for the imposition, collection and administration of State and local sales and use taxes imposed upon interstate sales. It also is designed to reduce the burden of tax compliance for persons making such sales and to eliminate restrictions on the taxing power of the States which presently prevent them from imposing and collecting these taxes on certain interstate sales.

1. The proposed bill would permit a State to treat every sale of tangible personal property within its borders as a taxable transaction whether or not the interstate seller had a "business location" or made "regular household deliveries" of goods in the market State, and the seller would be required to collect and remit the taxes imposed on such interstate sales. However, a State or political subdivision would be precluded from imposing a sales or use tax upon these interstate vendors without a "business location" in the State unless the tax imposed were the uniform State and local combined tax authorized under this bill.

2. Each State, in order to impose a sales tax on such interstate vendors, would have to adopt a State-wide uniform sales tax rate which would apply to covered sales anywhere within the State. The distribution of the receipts from this tax would be divided between the State and local governments pursuant to an arrangement to be worked out by the State and local governments located therein. This uniform rate of tax would be computed by using a weighted average and would not exceed the maximum combined State and local tax rate authorized by the State. All States adopting the uniform tax rate would be required to file certified State-wide tax rates with the Secretary of Commerce.

3. Taxpayers subject to this tax would have to maintain sales records by State only and would not be required to separately account for any sales made in local taxing jurisdictions. However, any person subject to this uniform tax could elect to voluntarily comply with separate State and local sales and use provisions rather than being subject to the uniform State-wide tax.

4. A uniform reporting form would be provided requiring only the name and address of the seller, his Federal employer identification number, the type of report (total company, division, etc.), period covered by the report, gross sales within the State, exempt sales within the State, net taxable sales, and tax liability. This uniform form would be developed with the assistance of the Department of Commerce. Every taxpayer would be able to obtain a copy of the uniform tax form and a current statement of all certified State-wide tax rates from any State utilizing the uniform procedure or the Department of Commerce.

5. Under the proposed bill a number of uniform exemptions would be provided. All sales for resale would be exempt. Sales to the United States Government and sales for transshipment to another taxing jurisdiction or another country would also be exempt. Also, any exemption valid under State law evidenced by a valid exemption certificate received by the vendor from the purchaser could be claimed. States would also be required to allow a credit for any sales or use taxes previously paid, not to exceed the tax levied by the State providing the credit. Liability for these taxes would be required to be reported at the end of each calendar quarter. A taxpayer could elect to make reports and payments in any other manner with the consent of the taxing State. Interstate sellers making sales of less than $10,000 per year in a State would be exempt from the imposition of the uniform sales and use tax.

6. The States would have authority to audit the books and records of any taxpayers subject to this uniform tax. The audit could be conducted independently or in combination with other States or a group of States, provided each of the States involved in a joint audit provides the taxpayer with 30 days written advance notice of such an audit and guarantees the confidentiality of any information obtained. No charge may be imposed on a taxpayer to cover any part of the cost of conducting an audit outside the State.

7. Where freight charges or other charges are separately stated in writing by the seller to the purchaser and these charges are reasonable for transportation, such charges would not be included in determining the amount of the sale subject to tax.

8. The provisions of this Act are to apply to the sale of tangible personal property occurring after January 1, 1976. No State or political subdivision would have a right to assess against any person after the date of enactment of the Act any tax liability which would not have existed but for the adoption of these provisions. This provision would bar assessment of any past liabilities of persons who had no business location within the State or political subdivision or did not regularly engage in household deliveries of property in the State or political subdivision or who did not regularly solicit orders for sales of tangible personal property through salesmen, solicitors, etc., or who were not registered in the State or political subdivision for the purposes of collecting sales and use taxes.

9. Any person liable for the taxes imposed under the bill would be provided with a right to sue in the United States District Court within the State imposing the tax under the bill for a declaratory judgment as to whether the State complied with the provisions of the bill in imposing its tax.

10. The bill provides for the filing of an annual summary with each taxpayer's Federal income tax return. The summary would show the taxpayer's gross receipts from the sale of tangible personal property within each State. This information is authorized to be made available by the Secretary of the Treasury to appropriate State officials engaged in the administration of a State's tax laws.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 100

At the request of Mr. PELL, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of S. 100, to provide a national program to make the international metric system the predominant but not exclusive system of measurement in the United States.

S. 2731

At the request of Mr. BENTSEN, the Senator from Pennsylvania (Mr. HUGH SCOTT) was added as a cosponsor of S. 2731 to amend the Tariff Schedules of the United States to provide for the duty-free entry of methanol imported for use as fuel.

SENATE JOINT RESOLUTION 174

At the request of Mr. ABOUREZK, the Senator from Colorado (Mr. HASKELL) was added as a cosponsor of Senate Joint Resolution 174, to direct the Interstate Commerce Commission to provide an equitable formula for the distribution of grain cars.

SENATE RESOLUTION 216—ORIGINAL RESOLUTION REPORTED AUTHORIZING SUPPLEMENTAL EXPENDITURES BY THE COMMITTEE ON COMMERCE FOR INQUIRIES AND INVESTIGATIONS

(Referred to the Committee on Rules and Administration.)

Mr. MAGNUSON, from the Committee on Commerce reported the following original resolution:

S. RES. 216

Resolved, That section 2 of Senate Resolution 45, Ninety-third Congress, agreed to March 15, 1973, as amended, is amended by striking out "$1,300,000" and inserting in lieu thereof "$1,375,000".

FLOOD DISASTER PROTECTION ACT OF 1973—AMENDMENTS

AMENDMENTS NOS. 893 AND 894

(Ordered to be printed and to lie on the table.)

Mr. BELLMON submitted two amendments intended to be proposed by him to the bill (H.R. 8449) to expand the national flood insurance program by substantially increasing limits of coverage and total amount of insurance authorized to be outstanding and by requiring known flood-prone communities to participate in the program, and for other purposes.

AMENDMENT NO. 895

(Ordered to be printed and to lie on the table.)

Mr. STEVENS. Mr. President, the amendment which I am submitting today to H.R. 8449 increases the eligibility limits for flood insurance coverage for residential properties from $35,000 aggregate liability for single family dwellings to $50,000, and from $100,000 for any residential structure containing more than one dwelling unit to $150,000.

The inflated cost of living and the substantially higher housing costs in Alaska, as well as increasing national housing costs, require that these limits be increased so that those Alaskan areas affected by H.R. 8449 and subject to the procurement of flood insurance will be able to meet applicable conditions of insurability.

At present, 42 U.S.C. 4013 puts limits of flood insurance coverage of $17,500 aggregate liability for any dwelling unit, and $30,000 for any single dwelling structure of more than one unit. H.R. 8449 raises the limits to $35,000 and $100,000. I am convinced that increased housing costs in Alaska and other States, require that the limits be increased accordingly to the limits specified in my amendment. I am informed that the average cost of single family dwellings in Alaska is about $45,000. My amendment would increase liability limits to reflect the increasing costs both in Alaska and the rest of the Nation, and, therefore, extend the availability of coverage under this act.

WATER RESOURCES DEVELOPMENT AND RIVER BASIN MONETARY AUTHORIZATIONS ACT OF 1973—AMENDMENT

AMENDMENT NO. 896

(Ordered to be printed and to lie on the table.)

Mr. HELMS (for himself and Mr. ERVIN) submitted an amendment intended to be proposed by them jointly to the bill (S. 2798) authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes.

PROHIBITION ON THE IMPORTATION OF RHODESIAN CHROME—AMENDMENT

AMENDMENT NO. 897

(Ordered to be printed and to lie on the table.)

Mr. HARRY F. BYRD, JR., submitted an amendment intended to be proposed by him to the bill (S. 1868) to amend the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome and to restore the United States to its position as a law abiding member of the international community.

LEGAL SERVICES CORPORATION ACT—AMENDMENTS

AMENDMENT NO. 898

Mr. COTTON submitted an amendment intended to be proposed by him to the bill (S. 2686) to amend the Economic Opportunity Act of 1964 to provide for the transfer of the legal services program from the Office of Economic Opportunity to a Legal Services Corporation, and for other purposes.

INDEPENDENT SPECIAL PROSECUTOR ACT OF 1973—AMENDMENT

AMENDMENT NO. 899

(Ordered to be printed and to lie on the table.)

Mr. MONDALE. Mr. President, although S. 2611, the Special Prosecutor bill, has been placed on the calendar and may not be taken up by the Senate until next session, I wish to submit an amendment to S. 2611 at this time so that my colleagues may review the amendment and so that it may be taken up by the Senate when, and if, S. 2611 is before this body.

My amendment adds a sentence to section 6 of the bill. It provides:

> Notwithstanding any other provision of law, all personnel of the Special Prosecutor appointed by the Attorney General pursuant to regulation and holding office on the date of enactment of this Act or on the date on which the Special Prosecutor assumes office under this Act are transferred to the Special Prosecutor appointed under this Act. The Special Prosecutor appointed under this Act shall have the sole authority to discharge any personnel transferred under this subsection and to discharge any other personnel appointed by him.

During the last several days, we have witnessed a series of attacks on the special prosecution staff which Archibald Cox assembled and Leon Jaworski inherited. The attacks have originated in the White House and have been most bitter. For instance, Ronald Zeigler stated that members of the Special Prosecutor's staff have an "ingrained suspicion and visceral dislike for this President and this administration."

We all know about the events of October 20. The President caused Special Prosecutor Cox to be fired; Attorney General Elliot Richardson resigned because he would not fire Cox; and Deputy Attorney General William Ruckelshaus was also fired for refusing to fire Cox. The "Saturday Night Massacre" was precipitated by the President's refusal to surrender the so-called Watergate tapes and Special Prosecutor Cox's insistence on using the courts to force the surrender of the tapes.

Following the events of that weekend, an unprecedented public outcry arose. From around the country came letters, telegrams, phone calls, editorials, commentaries—all voicing public outrage over the events of the weekend. The events of that weekend created a sense of turmoil and outrage in this country that is still evident in the mail I receive daily. The country saw that a complete investigation of the Watergate affair was necessary, and they told the President that they would not tolerate sabotage of that investigation.

It may be that the recent criticisms of the Special Prosecutor's staff by the White House merely represent inadvertent outbursts caused by a sense of frustration over the events of the past months.

However, it may also be that the White House purge target is not the Special Prosecutor this time, but rather the Special Prosecutor's staff. I seriously doubt the legality of any plans the White House may have to fire members of the Special Prosecutor's staff. In addition, I am seriously dismayed if, in fact, thought is being given to such action.

No step could more easily throw this Nation back into the turmoil that we experienced over the weekend of October 20 than an attempt by the White House to tamper with the Special Prosecutor's staff. Such an action would only serve to further undermine the President's credibility and to further convince the public that a fair and complete Watergate investigation will never take place as long as this administration is in power.

In order to insure against such an eventuality, I am amending the bill to create an independent Special Prosecutor by adding a provision which vests the sole power to fire employees of the special prosecution force in the Special Prosecutor himself. Under the bill, he is already given the power to "appoint, fix the compensation, and assign the duties of such employees as he deems necessary." It seems obvious that he, and he alone, should have the power to discharge said employees. The recent attacks on the staff by the White House, and the possibility of Presidential interference with the staff that these attacks may portend, make the vesting of the sole power of discharge in the Special Prosecutor imperative.

The current Department of Justice guidelines give the Special Prosecutor this power. And any bill which the Congress passes to create an independent Special Prosecutor should contain a provision such as the one I am offering today.

The Special Prosecutor's staff consists of a group of talented, qualified, and dedicated individuals. The men and women on the Special Prosecutor's staff have the day-to-day responsibility for one of the most important criminal investigations in American history. Unfounded or unsupportable charges against the staff serve no useful national purpose. Attempts to purge the staff would be disastrous.

I ask unanimous consent that the text of my amendment be printed in the RECORD at this point.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 899

On page 14, line 1, insert "(a)" after "SEC. 6.".

On page 14, between lines 21–22, insert the following:

"(b) Notwithstanding any other provision of law, all personnel of the Special Prosecutor appointed by the Attorney General pursuant to regulation and holding office on the date of enactment of this Act or on the date on which the Special Prosecutor assumes office under this Act are transferred to the Special Prosecutor appointed under this Act. The Special Prosecutor appointed under this Act shall have the sole authority to discharge any personnel transferred under this subsection and to discharge any other personnel appointed by him.".

PRISONER OF WAR AND MISSING IN ACTION TAX ACT—AMENDMENTS

AMENDMENT NO. 900

(Ordered to be printed and to lie on the table.)

Mr. BEALL. Mr. President, I am submitting an amendment I intend to offer to H.R. 8214. This amendment is identical to S. 2347, the Historical Structures Tax Act which I introduced on August 3, 1973. This legislation was referred to the Committee on Finance where it is currently pending. I would note, Mr. President, in closing, that S. 2347 has been cosponsored by Senators BIBLE, DOLE, DOMENICI, DOMINICK, GOLDWATER, JAVITS, MCINTYRE, METCALF, MOSS, PERCY, STEVENS, and TOWER.

AMENDMENT NO. 903

(Ordered to be printed and to lie on the table.)

Mr. SCHWEIKER submitted an amendment intended to be proposed by him to the bill (H.R. 8214) to modify the tax treatment of members of the Armed Forces of the United States and civilian employees who are prisoners of war or missing in action, and for other purposes.

HOUSING ACT OF 1973—AMENDMENT

AMENDMENT NO. 901

(Referred to the Committee on Banking, Housing and Urban Affairs.)

Mr. WEICKER. Mr. President, I am submitting an amendment to S. 2182, the proposed Revised Housing Act of 1973. As you know, this bill is now pending before the Committee on Banking, Housing and Urban Affairs, of which I am a member. The amendment which I am formally introducing today, and which I have already raised in the committee, would amend section 2A of the bill. This section, as now written, authorizes bond guarantees and interest subsidies for the taxable bonds issued by State housing finance agencies. This would be the first time that the Congress has specifically authorized support for, and assistance to, these State agencies, and I compliment Senator SPARKMAN for making this proposal in his original bill.

My proposed amendment would expand the scope and reach of section 2A. This is essential, given the present housing stalemate. The administration has proposed that the existing Federal production programs be terminated, to be replaced by a form of income support or housing allowances to the poor. While I am sympathetic to certain aspects of this approach and while I recognize that the old programs have their weaknesses and need reform, I am not convinced that there will be an adequate supply of housing and an adequate rate of housing construction for low-, moderate-, and middle-income families, unless there is some form of subsidy for housing production. Certainly, production incentives are necessary in areas of low vacancy and high construction costs, such as my own State of Connecticut.

By the amendment I offer today, I have sought a middle ground, which would maintain some form of production subsidy—though a shallow one—available for use with the Federal interest subsidy programs, with the proposed program of leasing for low-income families, or with housing allowances. I would seek to use and to strengthen the State housing finance agencies for this purpose. There are now 31 such agencies, and they have become an important factor in the housing field. The staffs of these agencies are enthusiastic and anxious to get on with the job of developing housing. They are close to the problems of their States and to local needs. Moreover, the State agencies have a flexibility and a responsiveness which cannot always be achieved by HUD. At the present time, State housing finance agencies raise their money by floating tax-exempt bonds, and use the proceeds of those bond issues to make mortgage loans to housing sponsors at below-market interest rates. Up to now, the Federal Government has not supported their activities, except indirectly, by maintaining the tax-exempt status of their bonds.

We should be doing more for these increasingly important institutions. We should recognize that State housing finance agencies may represent the cheapest and most flexible manner by which to expand the supply of housing, and that it is in the national interest to help them do this job. My amendment goes beyond the present section 2A by allowing the State agencies to use their funds to support a range of housing, rather than just housing which is receiving Federal interest subsidies, under sections 235, 236 or successor programs. Moreover, my amendment would give these agencies maximum flexibility to carry out their programs, as long as their activities meet the general national objectives which are set forth. We would authorize a program of direct low-interest Federal loans to State housing finance agencies, so that they could raise their funds without floating bond issues and at the lowest possible cost. Those low costs could then be passed directly on to the sponsors and developers of the housing in the form of lower cost financing, and, through them on to the consumers of the housing, in the form of low rents or low purchase prices.

Specifically, the amendment would retain the original provisions of section 2(A) regarding Federal interest subsidies on taxable bonds issued by State housing finance agencies.

However, my amendment increases the flexibility of State housing finance agencies, by eliminating a provision which, in effect, forced States to only utilize this form of assistance in conjunction with the section 502 program.

Second, the Secretary would be authorized to make direct 4-percent Federal loans, which would have a maturity of 40 years to approved State housing finance agencies. The proceeds of such loans would be used in a revolving fund for the purpose of making low-interest mortgage loans.

Furthermore, the Secretary is given discretionary authority to require security for the repayment of the loans as he deems it appropriate. The amendment provides authorization levels of $100 million for fiscal year 1975, 1976, $150 million for fiscal year 1977, 1978, and $200 million for fiscal year 1979.

Thus, a State housing finance agency, which presently depends on tax exempt financing to establish their needed financial resources, would be offered additional forms of Federal assistance in supporting their efforts to stimulate housing production.

There are three other significant features of the amendment that I would like to mention. First, unlike S. 2182, in the direct loan program, the State would be the mortgagee of the housing projects and if a specific project defaults, the State agency would end up holding the mortgage. By requiring the States to assume the risk on an individual project, it will assure a close scrutiny by State housing finance agencies as to the feasibility of a proposed housing project. In utilizing the taxable bond mechanism, the Federal Government would only guarantee on a default of a bond issue, not a default on an individual project.

Second, the amendment details several eligibility requirements that must be met by State housing finance agencies in order to qualify for Federal assistance under this section. To be eligible for assistance, a State housing finance agency must meet the following important criteria:

First. It must operate in a State in which the Secretary has determined that the existing supply of housing is inadequate and the costs of development discourage the necessary housing construction by the private market;

Second, It must formulate and is implementing a State housing program which takes into account the housing needs of all persons, particularly those of low- and moderate-incomes and those displaced by governmental action;

Third. In providing housing assistance, it must establish priorities consistent with State, area-wide and local programs of community development, including programs of slum clearance, urban renewal, social and public services, transportation and environmental protection;

Fourth. In providing housing assistance, it must seek to avoid undue concentration of low-income families and to promote equal opportunities in housing;

Fifth. It must operate in a State in which public and private resources will be available to supplement its activities; and

Sixth. It has the capability and experience to carry out its program, and to utilize effectively the proceeds of the loans made available under this section.

Third, the Secretary is required to conduct an annual review and audit of the activities of approved State housing finance agencies. While State housing finance agencies are given the flexibility to determine their own priorities at housing needs my amendment institutes a proper degree of Federal oversight so as to insure that the Federal funds are effectively and prudently utilized. For if the Secretary determines the performance of the agencies failed to meet the requirements, previously set forth, the Secretary will no longer enter into any new commitment for Federal assistance until he is satisfied that the State housing finance agencies have complied with the general requirements.

Mr. President, I hope that we shall be successful in taking this first step this year. By beefing up these State agencies on an experimental basis, we will be in a position to consider a comprehensive program of support for State housing activities next year.

I ask unanimous consent to have my amendment printed in the Record.

There being no objection the amendment was ordered to be printed in the Record, as follows:

AMENDMENT No. 901

Strike from page 6, line 21 through page 12, line 6 and substitute in lieu thereof the following:

"Sec. 2A. (a) The Secretary is authorized to guarantee, and enter into commitments to guarantee all or any portion of the payment of interest and premium, if any, to the holder of the bonds issued by or on behalf of State housing finance agencies approved by the Secretary pursuant to subsection (e) for the purpose of financing the acquisition of land and the construction or rehabilitation thereon of housing, particularly those of low- and moderate-income family. The Secretary may make such guarantees and enter into such commitments upon such terms and conditions contained in subsection (c), except that no bond shall be guaranteed under this section if income thereon is exempt from Federal taxation.

"(b) In the case of any bond guaranteed under subsection (a) of this section, the Secretary is authorized to make grants not to exceed 33⅓ per centum of the interest paid on such obligations. The aggregate amount of such grants may not exceed $100,000,000 prior to July 1 1975. There is authorized to be appropriated the sum of $100,000,000 for the purpose of making grants under this paragraph.

"(c) (1) The full faith and credit of the United States is pledged to the payment of all guarantees made under this section with respect to principal, interest, and premium. Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the bonds for such guarantee, and the validity of any guarantee so made shall be incontestable in the hands of a holder of the guaranteed bond.

"(2) The Secretary shall take such steps as he considers reasonable to assure that bonds guaranteed under this section will—

"(A) be issued to investors approved by, or meeting requirements prescribed by, the Secretary, or, if an offering to the public is contemplated, be underwritten upon terms and conditions approved by the Secretary;

"(B) contain or be subject to repayment maturity, and other provisions satisfactory to the Secretary; and

"(C) contain or be subject to provisions with respect to the protection of the security interests of the United States, including any provisions deemed appropriate by the Secretary relating to subrogation, liens and releases of liens, payments of taxes, escrow of trusteeship requirements, or other matters.

"(3) The Secretary is authorized to establish and collect fees for guarantees under this section, and may make such charges in connection with guarantees as he considers reasonable for the analysis of applications appraisals, inspections, and other activities related to such assistance.

"(d) (1) The Secretary is authorized to make loans to any State housing finance agency approved by the Secretary pursuant to subsection (e) of this section. Any such loan shall bear interest at a rate of no more than 4 per centum per annum, shall have a maturity of not to exceed 40 years, and shall be subject to such terms and conditions as the Secretary may prescribe in order to carry out his functions under this subsection; provided, that the proceeds of such loans shall be used as a revolving fund for the purpose of making low-interest mortgage loans.

"(2) There is hereby authorized to carry out the purposes of this subsection not to exceed $100,000,000 for Fiscal Year '75 and Fiscal Year '76, $150,000,000 for Fiscal Year '77 and Fiscal Year '78 and $200,000,000 for Fiscal Year '79. To the maximum extent practicable the Secretary shall allocate amounts available under this subsection among approved State housing finance agencies, such allocation to be made on an equitable basis.

"(3) The Secretary may require such security for the repayment of the loans authorized by this subsection as he deems prudent and appropriate, including, but not limited to arrangements for the pledge of general or specific revenues of any approved State housing finance agency.

"(e) A State housing finance agency shall be approved for guarantees, interest subsidies and loans under this section, if such agency—

"(1) operates in a State in which the Secretary has determined that the existing supply of housing is inadequate and the costs of development discourage the necessary housing construction by the private market:

"(2) has formulated and is implementing a State housing program which takes into account the housing needs of all persons, particularly those of low and moderate incomes and those displaced by governmental action;

"(3) in providing housing assistance, shall establish priorities consistent with State, area-wide and local programs of community development, including programs of slum clearance, urban renewal, social and public services, transportation and environmental protection;

"(4) in providing housing assistance, seeks to avoid undue concentration of low-income families and to promote equal opportunities in housing;

"(5) operates in a State in which public and private resources will be available to supplement its activities; and

"(6) has the capability and experience to carry out its program and to utilize effectively the proceeds of the loans made available under this section.

"(f) If the Secretary, after an annual audit and review of the activities of all State housing finance agencies approved pursuant to subsection (e) of this section, finds that any such agency has failed to comply substantially with the requirements of said subsection, the Secretary, until he is satisfied that there is no longer any such failure to comply, shall enter into no new guarantees, or commitments to guarantee, or commitments for grants under subsection (b) or loans under subsection (d) of this section.

"(g) (1) The first paragraph of section 24 of the Federal Reserve Act is amended by inserting the following before the period at the end of the fourth sentence thereof: "or under section 2A of the Revised National Housing Act".

(2) The twelfth pargaraph of section 5(c) of the Homeowners' Loan Act of 1933 is amended by adding in the last sentence immediately after the words "or under part B of the Urban Growth and New Community Development Act of 1970" the following "or under section 2A of the Revised National Housing Act".

"(h) The interest paid on and received by the purchaser of any bond guaranteed under this section to which grants are made under subsection (b) (or his successor in interest) shall be included in gross income for the purposes of chapter 1 of the Internal Revenue Code of 1954."

AMENDMENT OF THE EXPORT ADMINISTRATION ACT OF 1969

AMENDMENT NO. 902

(Ordered to be printed and to lie on the table.)

Mr. HARTKE. Mr. President, I submit an amendment to H.R. 8547, an act to amend the Export Administration Act of 1969, and ask that it be printed.

Mr. President, in order to ease the present critical short supply of iron and steel scrap, I am submitting this amendment today to H.R. 8547, which would limit exports of this scarce commodity to 500,000 net tons per month for the remainder of fiscal year 1974. The amendment does exclude stainless steel scrap from these controls.

Almost all of our ferrous foundry industry and a significant part of the domestic steel industry use scrap iron and steel as their primary raw material. These industries are basic to the domestic economy of the United States. Foundries and steel plants now fear that in 1974, there will not only be tight supplies of iron and steel scrap, delays in receiving this material, and poorer quality scrap, but actual outages resulting in production cutbacks, or stopages.

In the last 5 years, the average total of exports and domestic consumption has been 43 million tons. Twice during this period we have experienced sharp price increases which reflected supply-demand imbalances. These imbalances occurred whenever the annual total of exports and domestic purchases exceeded 45 million tons.

In the latter part of 1972, scrap exports and domestic purchases climbed to a point where the supply-demand relationship was again strained. In late December, the price of No. 1 grades of scrap jumped sharply. Beginning in early 1973, scrap users indicated that the projections for scrap, both domestic and abnormally high foreign demand, were going to seriously affect both the supply and the already climbing price of ferrous scrap. An export level of 1 million tons per month coupled with domestic demands of 43.5 million tons for a total of 55.5 million tons for the year, was predicted.

Clearly some action by the Commerce Department, in accordance with the powers granted it under the Export Administration Act to limit the amount of scrap exports, was called for. On July 2, of this year, the Secretary of Commerce stated with regard to scrap exports and domestic supply—

> I have determined that the criteria set forth in the Export Administration Act have been met for this commodity.

The act reads, in part, as follows:

> SEC. 3. (2) It is the policy of the United States to use export controls . . . to the extent necessary to protect the domestic economy from the excessive drain of scarce materials and to reduce the serious inflationary impact of abnormal foreign demand.

Yet, in the months which followed this announcement, scrap exports have continued almost unrestricted. The third quarter of 1973, was the first time in many years that scrap exports had been controlled. Nevertheless, during this same period an all-time quarterly record was set for the amount of scrap iron and steel to go into exports.

During 1973, the domestic foundry and steel industries have been consuming scrap at a rate well in excess of anything this Nation has ever experienced. Simultaneously, we have been exporting scrap at record levels that are 50-percent higher than the average of the last 5 years. Our current rate of domestic consumption and our rate of scrap exports, if continued for the last 2 months of this year, will produce an annual total of approximately 56 million tons. This would be 10 million tons, or about 22 percent, more than this Nation has ever produced even under the stimulus of the high prices of 1969 and 1970. Late in September, the price of No. 1 heavy melting scrap increased by $13 per ton. It appears that we have been consuming inventories for months, and are now getting perilously close to the crisis point. On Monday, November 12, the Wall Street Journal reported that No. 1 grades of scrap were selling for $86 per ton, in comparison with $38 per ton a year ago. Some scrap is currently moving at prices well above the $86 figure.

So now we are faced with the very real possibility of production curtailments in these two basic industries. Alarm is now being sounded in the construction industry about shortages of steel reinforcing bars, traceable to the scrap metal problem. A principal producer of silos for the storage of agricultural products has stated that under existing conditions the silo industry will only be able to construct 5,000 silos during 1974, in contrast to the industry's capacity of 13,000 units, due to a shortage of scrap for the manufacture of nine-sixteenth-inch round steel for the construction of domestic silos. This could not come at a less fortunate time, when substantial new acreage is being planted to help restore a world supply demand balance for feed grains and other commodities.

A few weeks ago, a steel castings company in Detroit, Mich., wired the Department of Commerce that it was down to its last 3 days of supply of scrap metal, could obtain no more scrap metal, and if something was not done, would shut down. The administration reportedly contacted the Institute of Scrap Iron and Steel, which in turn contacted the original dealer who then offered only 25 tons of ferrous scrap to the casting firm at a price of $115 per ton. Hence, newspaper quotations of composite steel scrap price of $86 per ton would even appear to understate the current situation in certain cases.

One foundry in Indiana reports that it has been forced to shut down 2 full scheduled days due to a lack of cast metal scrap. They are apparently operating on a day-to-day basis.

Another firm in Illinois telegraphs:

> Presently unable to procure ferrous scrap at any price for our foundry consumption. Have curtailed operations. Shutdown is imminent if no scrap is received.

I do not know whether scrap dealers, acting at the urging of the administration, have moved to cover this foundry's needs.

Still another midwestern foundry reports a 16-percent reduction in operations due to inability to purchase ferrous scrap, and with an inventory of only a few days, shutdown may be imminent.

A Texas firm reports imminent shutdown of 2 of its foundries employing 400 people in Pennsylvania and New Jersey because no adequate scrap is available at any price.

If these basic industries, iron and steel, reduce schedules because of raw material shortages, the ripple effect into other industries will quickly follow.

Why, then, has action to control scrap iron and steel exports been ineffective? Why, in light of the July 2 finding, have scrap exports in the third quarter of 1973 been permitted to exceed those for any quarter in our history?

It should also be noted, at a time of critical national shortages of energy, that the use of scrap is a great conservation of this precious commodity.

Ferrous scrap requires substantially less energy to convert to steel than iron ore. A recent article in the American Metal Market reports a speech by E. F. Andrews, vice president of Allegheny Ludlum Industries, Inc., in which he calls attention to the tremendous loss of energy by permitting significant exports of ferrous scrap. Andrews stated that the energy required to convert ferrous scrap into an ingot ton of steel is 5.5 million British thermal units. When scrap is not available and iron ore is used, it requires 18-million British thermal units to produce an ingot ton of steel—a difference of 12.5 million British thermal units of energy. Ferrous scrap exports this year will total a record high of almost 12 million tons. Andrews calculates that this represents 150 trillion British thermal units of enenergy, equal to 6 million tons of coal, 25.5 million barrels of oil, 44 billion kilowatt hours of electricity or 150 billion cubic feet of gas.

Mr. President, I ask unanimous consent that this article be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HARTKE. Mr. President, price increases for ferrous scrap of the magnitude we are witnessing have been increasing by about $1 billion the cost of operations of foundries and cold metal shops which use only one-fifth as much of our scarce energy supply to produce a ton of steel as do ore users. Ultimately, the American consumer pays for these increases.

Mr. President, the need for this amendment is clear. Potential adverse economic consequences grow more severe with each passing week. The Congress must meet its responsibilities and take corrective action immediately.

Mr. President, I ask unanimous consent that the text of my amendment be printed in the RECORD at this point.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 902

At the end of the Act, insert the following new section:

SEC. 2. The Export Administration Act of 1969 is further amended by redesignating sections 10, 11, 12, 13, and 14 as sections 11, 12, 13, 14, and 15 respectively, and by inserting immediately after section 9, the following new section:

"Scrap Iron and Steel

"SEC. 10. (a) For the balance of fiscal year 1974, not more than five hundred thousand (500,000) tons of iron and steel scrap, with the exception of stainless steel scrap, may be exported each month from the United States, including the District of Columbia, the Canal Zone, Puerto Rico, and all territories, dependencies and possessions of the United States.

"(b) The Secretary of Commerce is directed to allocate the iron and steel scrap that may be exported under (a) of this section in such a way as to alleviate any problem of excess scrap that may occur in west coast states or New England states as a result of generating more iron and steel scrap than is locally consumed.

"(c) Nothing in this section shall prevent the Secretary of Commerce from using export controls to the extent necessary to protect the domestic economy from the excessive drain of scarce materials by restricting the export of scrap iron and steel sooner or to a greater extent than provided in this section in order to carry out the policy of the United States as set forth in this Act."

EXHIBIT 1

ANDREWS TAKES A LOOK AT SCRAP EXPORTS IN TERMS OF LOST COAL, OIL, GAS BTUs

PHILADELPHIA.—The heavy export of scrap iron has not only led to sharply higher prices on this vital raw material for steelmaking but also represents a substantial loss of energy, according to E. F. Andrews, vice-president, materials and services, Allegheny Ludlum Industries, Inc.

Addressing the Purchasing Management Association of Philadelphia last week, Andrews contended that the American steel industry will pay almost $1.5-billion more for scrap this year, and that each ton of scrap exported represents an energy "loss to the nation equal to 12.5-million BTUs."

In support of his charge that scrap exports represent a loss of energy, Andrews asserted: "The energy required to convert steel scrap into an ingot ton of steel is 5.5-million BTUs. When that scrap is not available and iron ore is used, it requires 18-million BTUs to produce an ingot ton of steel. Thus, when we deny ourselves by export an available ton of scrap, we have exported 12.5-million BTUs of energy."

Since scrap exports this year will be nearly 12-million tons, Andrews contended, they represent 150-trillion BTUs of energy, equal to 6-million tons of coal, 25.5-million barrels of oil, 44-billion kilowatt-hours of electricity or 150-billion cubic feet of gas.

"Thus," he declared, "we have exported enough energy to supply the total per capita needs of Oakland, Minneapolis, Louisville or Toledo. We have exported enough energy to heat 725,000 six-room houses for a full year. That is enough to heat the homes in Denver, Hartford, Des Moines, Boston and Newark for a year. We have exported enough energy to supply electrical power needs for the populations of Boston, Hartford, Pittsburgh, Philadelphia and Chicago combined, for one year."

Andrews, who is also chairman, Business Survey Committee, of the National Association of purchasing Management, told his audience that "purchasing management now possesses a new, and deeper, dimension. With America a have-not nation for the vast majority of critical metals and materials it needs, purchasing management must face up to what is happening in the country. We are closing off our supplies, dissipating our resources, and giving away our energy.

"During the past year, we have all been aware of the tremendous increase in the export of scrap," Andrews said. "We have been exporting carbon scrap at the rate of about 12-million tons per year. It is acknowledged that this has been the predominant, if not the sole cause, for the rapid rise in the price of scrap. Most reliable indicators show scrap prices have risen over $30 per ton. The United States consumes 45-million tons of purchased scrap annually. Therefore, total out-of-pocket price of scrap has risen $1,350 billion annualized.

"The value of the scrap exported is approximately $500 million. The value of the steel imported is $2 billion. While this unfavorable balance of trade is bad enough, it does not take into account that, when we export scrap, "we must reach to a foreign country to purchase virgin units of iron, nickel, chrome, manganese, etc., to replace the units lost in the scrap export."

SOCIAL SECURITY BENEFITS INCREASE—AMENDMENTS

AMENDMENTS NOS. 904 THROUGH 911

(Ordered to be printed and to lie on the table.)

Mr. HARTKE. Mr. President, today I submit a series of amendments to H.R. 11333, a bill providing for increases in social security and supplementary security income which passed the House of Representatives on November 15 of this year.

Without going into detail on the substance of each of these amendments, I will summarize them at this time.

First. An amendment to provide for an immediate 7-percent social security benefit increase, with a full 11-percent increase to be effective in June 1974. This is identical to the provision recently passed by the Senate in H.R. 3153 but which is now endangered by opposition from the House of Representatives. Members of the House have indicated that Senate action on a benefit increase would be more appropriate with regard to H.R. 11333 than as an amendment to H.R. 3153.

Second. An amendment to provide for coverage of out-of-hospital prescription drugs under medicare. A similar amendment was added by the Senate to H.R. 3153, but it, too, is endangered by opposition from the House.

Third. An amendment to liberalize disability provisions of the Social Security Act which apply to blind persons. This is a provision which has passed the Senate on at least six occasions in recent years, the most recent as an amendment to H.R. 3153. It, too, is endangered by opposition to the House. As in the case of the previous two amendments, H.R. 11333 may be a more appropriate vehicle for amendment than was H.R. 3153.

Fourth. An amendment to provide for eye, ear and dental coverage under medicare. This is siimlar to a provision passed by the Senate last year but dropped in conference with the House.

Fifth. An amendment to reduce social security payroll taxes for low-income wage earners so as to reduce the heavy burden which the current working generation has to pay to shoulder the burden for the cost of benefits being given to those already retired.

Sixth. An amendment to allow Federal employees the right to elect social security coverage in addition to their present right to elect coverage under the civil service retirement system.

Seventh. An amendment to allow social security benefits to be given to a disabled wife or husband of a retired worker, even if the disabled person has not yet reached age 62.

Eighth. An amendment to provide for full coverage for the services of independent practitioners of psychology under medicare.

Mr. President, most of these proposals are measures which I have offered for several years. The time is long overdue for their enactment.

I ask unanimous consent that the text of each of my amendments be printed in the RECORD following my remarks.

There being no objection, the amendments were ordered to be printed in the RECORD, as follows:

Amendments 906, 908, and 909 are not included in today's RECORD.

AMENDMENT No. 904

Strike all beginning with page 1, line 3 through and including page 18, line 19, and insert in lieu thereof:

INTERIM COST-OF-LIVING INCREASE IN SOCIAL SECURITY BENEFITS

SEC. 1. (a) Section 201 of Public Law 93-66 is amended—

(1) in subsection (a)(1), by striking out "the percentage by which the Consumer Price Index prepared by the Department of Labor for the month of June 1973 exceeds such index for the month of June 1972" and inserting in lieu thereof "7 per centum",

(2) in subsection (a)(2), by striking out "after May 1974 and prior to January 1975, and, in the case of lump-sum death payments under such title, only with respect to deaths which occur after May 1974 and prior to January 1975" and inserting in lieu thereof "with respect to which this section is effective, and, in the case of lump-sum death payments under such title, only with respect to deaths which occur in months with respect to which this section is effective",

(3) in subsection (b), by striking out "based on the increase in the Consumer Price Index described in subsection (a)" and inserting in lieu thereof "7 per centum", and

(4) in subsection (c)(2), by striking out "(except for purposes of section 203(a)(2) of such Act, as in effect after May 1974)" and inserting in lieu thereof "except for purposes of section 203(a) of such Act, as in effect after December 1973, which section (as so in effect) shall, for purposes of the increase in social security benefits provided by this section, be deemed to be in effect for and after the first month with respect to which such increase is effective)".

(b) Section 201 of Public Law 93-66 is further amended by adding at the end thereof the following new subsection:

"(e) For purposes of subsection (a)(2), this section is effective with respect to the month in which this subsection is enacted and for each month thereafter which begins prior to June 1974.".

ELEVEN-PERCENT INCREASE IN SOCIAL SECURITY BENEFITS

SEC. 2. (a) Section 215(a) of the Social Security Act is amended by striking out the table and inserting in lieu thereof the following:

"TABLE FOR DETERMINING PRIMARY INSURANCE AMOUNT AND MAXIMUM FAMILY BENEFITS

"I		II	III		IV	V
(Primary insurance benefit under 1939 act, as modified)		(Primary insurance amount effective for September 1972)	(Average monthly wage)		(Primary insurance amount)	(Maximum family benefits)
"If an individual's primary insurance benefit (as determined under subsec. (d)) is—		Or his primary insurance amount (as determined under subsec. (c)) is—	Or his average monthly wage (as determined under subsec. (b)) is—		The amount referred to in the preceding paragraphs of this subsection shall be—	And the maximum amount of benefits payable (as provided in sec. 205(a)) on the basis of his wages and self-employment income shall be—
"At least—	But not more than—		At least—	But not more than—		
" ----------	$16.20	$84.50	----------	$76	$93.80	$140.80
$16.21	16.84	85.80	$77	78	95.50	143.00
16.85	17.60	87.80	79	80	97.50	146.30
17.61	18.40	89.40	81	81	99.30	149.00
18.41	19.24	91.00	82	83	101.10	151.70
19.25	20.00	92.90	84	85	103.20	154.80
20.01	20.64	94.60	86	87	105.10	157.70
20.65	21.28	96.20	88	89	106.80	160.20
21.29	21.88	98.10	90	90	108.90	163.40
21.89	22.23	99.80	91	92	110.80	166.20
22.29	22.68	101.40	93	94	112.60	169.00
22.69	23.08	103.00	95	96	114.40	171.60
23.09	23.44	104.90	97	97	116.50	174.80
23.45	23.76	106.70	98	99	118.50	177.80
23.77	24.20	108.80	100	101	120.80	181.20
24.21	24.60	110.50	102	102	122.50	183.80
24.61	25.00	112.10	102	104	124.50	186.80
25.01	25.48	114.20	105	106	126.80	190.20
25.49	25.92	116.00	107	107	128.80	193.20
25.93	26.40	117.90	108	109	133.90	196.40
26.41	26.94	119.70	110	113	132.90	199.40
26.95	27.46	121.40	114	118	134.80	202.20
27.47	28.00	123.30	119	122	136.90	205.40
28.01	28.68	125.10	123	127	138.90	203.40
28.69	29.25	127.10	128	132	141.10	211.70
29.26	29.68	123.80	135	136	143.00	214.50
29.69	30.56	130.50	137	141	144.90	217.40
30.57	30.92	132.50	142	146	147.10	220.70
30.93	31.36	134.50	147	150	149.10	223.70
31.37	32.00	136.00	151	155	151.00	226.50
32.01	32.60	138.00	156	160	153.20	229.80
32.61	33.20	139.70	161	164	155.10	232.70
33.21	33.88	141.60	165	169	157.20	235.80
33.89	34.50	143.40	170	174	159.20	238.90
34.51	35.00	145.20	175	178	161.20	241.80
35.01	35.80	147.20	179	183	163.40	245.10
35.81	36.40	148.80	184	188	165.20	247.80
36.41	37.08	150.90	189	193	167.50	251.40
37.09	37.60	152.70	194	197	169.50	254.40
37.61	38.20	154.40	198	202	171.40	257.10
38.21	39.12	156.40	203	207	173.70	260.60
39.13	39.68	158.20	208	211	175.70	263.60
39.69	40.33	159.80	212	216	177.40	266.10
40.34	41.12	161.80	217	221	179.60	269.40
41.13	41.76	163.80	232	225	181.60	272.40
$41.77	$42.44	$165.50	$226	$230	$183.80	$275.70
42.45	43.20	167.50	231	235	184.80	278.70
43.21	43.76	169.40	236	239	188.10	282.20
43.77	44.44	171.00	240	244	189.90	286.20
44.45	44.88	172.70	245	249	191.70	292.10
44.89	45.60	174.80	250	253	194.10	296.80
		176.60	254	258	196.10	302.60
		178.10	259	263	197.70	308.40
		180.20	264	267	200.10	313.10
		182.00	268	272	202.10	319.00
		183.90	273	277	204.20	324.80
		185.70	278	281	206.20	329.50
		187.50	282	286	208.20	335.40
		189.50	287	291	210.40	341.30
		191.10	292	295	212.20	345.90
		193.10	296	300	214.40	351.70
		194.90	301	305	216.40	357.60
		196.60	306	309	218.30	362.40
		198.60	310	314	220.50	368.20
		200.30	315	319	222.40	374.10
		202.00	320	323	224.30	378.80
		204.00	324	328	226.50	384.70
		205.80	329	333	228.50	390.50
		207.90	334	337	230.80	395.20
		209.40	338	342	232.50	401.00
		211.20	343	347	234.50	406.90
		213.30	348	351	236.80	411.50
		215.00	352	356	238.70	417.40
		217.00	357	361	240.90	423.30
		218.70	362	365	242.80	428.00
		220.40	366	370	244.70	433.80
		222.40	371	375	246.90	439.60
		224.20	376	379	248.90	444.50
		226.20	380	384	251.10	450.30
		227.80	385	389	252.90	456.10
		229.60	390	393	254.90	460.80
		231.60	394	398	257.10	466.70
		233.30	399	403	259.00	472.60
		235.40	404	407	261.30	477.20
		236.90	408	412	263.00	483.10
		238.60	413	417	264.90	488.90
		240.30	418	421	266.80	493.60
		242.20	422	426	268.90	499.40
		243.80	427	431	270.70	505.30
		245.40	432	436	272.40	511.20

"TABLE FOR DETERMINING PRIMARY INSURANCE AMOUNT AND MAXIMUM FAMILY BENEFITS—Continued

"I		II	III		IV	V
(Primary insurance benefit under 1939 act, as modified)		(Primary insurance amount effective for September 1972)	(Average monthly wage)		(Primary insurance amount)	(Maximum family benefits)
"If an individual's primary insurance benefit (as determined under subsec. (d)) is—		Or his primary insurance amount (as determined under subsec. (c)) is—	Or his average monthly wage (as determined under subsec. (b)) is—		The amount referred to in the preceding paragraphs of this subsection shall be—	And the maximum amount of benefits payable (as provided in sec. 205(a)) on the basis of his wages and self-employment income shall be—
"At least—	But not more than—		At least—	But not more than—		
		$247.40	$437	$440	$274.70	$513.50
		248.90	441	445	276.30	516.50
		250.60	446	450	278.20	519.40
		252.50	451	454	280.30	521.70
		254.10	455	459	282.10	524.60
		255.80	460	464	284.00	527.50
		257.40	465	468	285.80	530.00
		259.40	469	473	288.00	532.80
		260.90	474	478	289.60	535.80
		262.60	479	482	291.50	538.20
		264.50	483	487	293.60	541.20
		266.10	488	492	295.40	544.10
		267.80	493	496	297.30	546.40
		269.70	497	501	299.40	549.30
		271.20	502	506	501.10	552.10
		272.90	507	510	503.00	554.60
		274.60	511	515	504.90	557.50
		276.40	516	520	306.90	560.50
		278.10	521	524	308.70	562.70
		279.80	525	529	310.60	565.70
		281.70	530	534	312.70	568.60
		283.20	535	538	314.40	571.00
		284.90	539	543	316.30	573.90
		286.80	544	548	318.40	576.80
		288.40	549	553	320.20	579.80
		290.10	554	556	322.10	581.50
		291.50	557	560	323.60	583.00
		293.10	561	563	325.40	585.70
		294.60	564	567	327.10	588.00
		296.20	568	570	328.80	589.80
		297.60	571	574	330.40	592.00
		299.20	575	577	332.20	593.90
		300.60	578	581	333.70	596.10
		302.20	582	584	335.50	597.90
		303.60	585	588	337.00	600.30
		305.30	589	591	338.90	602.00
		306.80	592	595	340.60	604.40
		308.30	596	598	342.30	606.10
		309.80	599	602	343.90	608.60
		311.30	603	605	345.60	610.30
		312.80	606	609	347.30	612.50
		314.40	610	612	349.00	614.40
		315.90	613	616	350.70	616.70
		317.40	617	620	352.40	619.10
		318.90	621	623	354.00	620.80
		320.40	624	627	355.70	623.20
		321.90	628	630	357.40	625.30
		323.40	631	634	359.00	628.40
		325.00	635	637	360.80	631.30
		326.00	638	641	362.60	634.40
		328.00	642	644	364.10	637.20
		329.60	645	648	365.90	640.30
		331.00	649	652	367.50	643.10
		332.00	653	656	368.60	645.00
		332.90	657	660	369.60	646.70
		334.10	661	665	370.90	649.10
		335.30	666	670	372.20	651.40
		336.50	671	675	373.60	653.70
		337.70	676	680	374.90	656.10
		338.90	681	685	376.20	658.40
		340.10	686	690	377.60	660.70
		341.30	691	695	378.90	663.10
		342.50	696	700	380.20	665.40
		543.70	701	705	381.60	667.70
		344.90	706	710	382.90	670.00
		346.10	711	715	384.20	672.40
		347.30	716	720	385.60	674.70
		348.50	721	725	386.90	677.00
		349.70	726	730	388.20	679.40
		350.90	731	735	389.50	681.70
		352.10	736	740	390.90	684.00
		53.30	741	745	392.20	686.40
		$354.50	$746	$750	$393.50	$688.70
		355.50	751	755	394.70	690.70
		356.50	756	760	395.80	692.60
		357.50	761	765	396.90	694.60
		358.50	766	770	398.00	696.50
		359.50	771	775	399.10	698.50
		360.50	776	780	400.20	700.30
		361.50	781	785	401.30	702.30
		362.50	786	790	402.40	704.20
		363.50	791	795	405.50	706.20
		364.50	796	800	404.60	708.10
		365.50	801	805	405.80	710.10
		366.50	806	810	406.90	712.00
		367.50	811	815	408.00	714.00
		368.50	816	820	409.10	715.90
		369.50	821	825	410.20	717.90
		370.50	826	830	411.30	719.80
		371.50	831	835	412.40	721.80
		372.50	836	840	413.50	723.70
		373.50	841	845	414.60	725.70
		374.50	846	850	415.70	727.50
		375.60	851	855	416.90	729.50
		376.50	856	860	418.00	731.40
		377.50	861	865	419.10	733.40
		378.50	866	870	420.20	735.30
		379.50	871	875	421.30	737.30
		380.50	876	880	422.40	739.20
		381.50	881	885	423.50	741.20
		382.50	886	890	424.60	743.10
		383.50	891	895	425.70	745.10
		384.50	896	900	426.80	747.00
		385.60	901	905	428.00	749.00
		386.50	906	910	429.10	750.90
		387.50	911	915	430.20	752.90
		388.50	916	920	431.30	754.70
		389.50	921	925	432.40	756.70
		390.50	926	930	433.50	758.60
		391.50	931	935	434.60	760.60
		392.50	936	940	435.70	762.50
		393.50	941	945	436.80	764.50
		394.50	946	950	437.90	766.40
		395.50	951	955	439.10	768.40
		396.50	956	960	440.20	770.30
		397.50	961	965	441.30	772.30
		398.50	966	970	442.40	774.20
		399.50	971	975	443.50	776.20
		400.50	976	890	444.60	778.00
		401.50	981	985	445.70	780.00
		402.50	986	990	446.80	781.90
		403.50	991	995	447.90	783.90
		404.50	996	1,000	449.00	785.80
			1,001	1,005	450.00	787.50
			1,006	1,010	451.00	789.30
			1,011	1,015	452.00	791.00
			1,016	1,020	453.00	792.80
			1,021	1,025	454.00	794.50
			1,026	1,030	455.00	796.30
			1,031	1,035	456.00	798.00
			1,036	1,040	457.00	799.80
			1,041	1,045	458.00	801.50
			1,046	1,050	459.00	803.30
			1,051	1,055	460.00	805.00
			1,056	1,060	461.00	806.80
			1,061	1,065	462.00	808.50
			1,066	1,070	463.00	810.30
			1,071	1,075	464.00	812.00
			1,076	1,080	465.00	813.80
			1,081	1,085	466.00	815.50
			1,086	1,090	467.00	817.30
			1,091	1,095	468.00	819.00
			1,096	1,100	469.00	820.80.'

(b) (1) Effective June 1, 1974, sections 227 and 228 of the Social Security Act are amended by striking out "$58.00" wherever it appears and inserting in lieu thereof "the larger of $64.40 or the amount most recently established in lieu thereof under section 215 (1)", and by striking out "$29.00" wherever it appears and inserting in lieu thereof "the larger of $32.20 or the amount most recently established in lieu thereof under section 215(1)".

(2) Section 202(a) (4) of Public Law 92-336 is hereby repealed.

(c) The amendment made by subsection (a) shall apply with respect to monthly benefits under title II of the Social Security Act for months after May 1974, and with respect to lump-sum death payments under section 202(1) of such act in the case of deaths occurring after such month.

(d) Section 202(a) (3) of Public Law 92-336 is amended by striking out "January 1, 1975" in subparagraphs (A), (B), and (C) and inserting in lieu thereof in each instance "June 1, 1974".

MODIFICATION OF COSTS-OF-LIVING BENEFIT INCREASE PROVISIONS

SEC. 3. (a) Clause (i) of section 215(1) (1) (A) of the Social Security Act is amended to read as follows: "(i) the calendar quarter ending on March 31 in each year after 1974, or".

(b) Clause (ii) of section 215(i)(1)(B) of such act is amended by striking out "in which a law" and all that follows and inserting is lieu thereof "if in the year prior to such year a law has been enacted providing a general benefit increase under this title or if in such prior year a benefit increase becomes effective; and".

(c) Section 215(i)(2)(A)(i) of such act is amended by striking out "1974" and inserting in lieu thereof "1975", and by striking out "and to subparagraph (E) of this paragraph".

(d) Section 215(i)(2)(A)(ii) of such Act is amended—

(1) by striking out "such base quarter" and inserting in lieu thereof "the base quarter in any year";

(2) by striking out "January of the next calendar year" and inserting in lieu thereof "June of such year";

(3) by striking out "(subject to subparagraph (E))": and

(4) by striking out "(but not including a primary insurance amount determined under subsection (a)(3) of this section)".

(e) Section 215(i)(2)(B) of such Act is amended by striking out "December" each place it appears and inserting in lieu thereof "May", and, by striking out "(subject to subparagraph (E))".

(f) Section 215(i)(2)(C)(ii) of such Act is amended by striking out "on or before August 15 of such calendar year" and inserting in lieu thereof "within 30 days after the close of such quarter".

(g) Section 215(i)(2)(D) of such Act is amended by striking out "on or before November 1 of such calendar year" and inserting in lieu thereof "within 45 days after the close of such quarter".

(h) Section 215(i)(2) of such Act is amended by striking out subparagraph (E).

(i) For purposes of section 203(f)(8) of the Social Security Act, so much of section 215(i)(1)(B) of such Act as follows the semicolon, and section 230(a) of such Act, the increase in benefits provided by section 102 of this Act shall be considered an increase under section 215(i) of the Social Security Act.

(j)(1) Section 230(a) of such Act is amended—

(A) by striking out "with the first month of the calendar year" and inserting in lieu thereof "with the June"; and

(B) by striking out "(along with the publication of such benefit increase as required by section 215(i)(2)(D))" and by striking out "(unless such increase in benefits is prevented from becoming effective by section 215(i)(2)(E))".

(2) Section 230(c) of such Act is amended by striking out "the first month" and inserting in lieu thereof "the June".

(k)(1) Section 203(f)(8)(A) of such Act is amended to read as follows:

"(A) Whenever the Secretary pursuant to section 215(i) increases benefits effective with the month of June following a cost-of-living computation quarter, he shall also determine and publish in the Federal Register on or before November 1 of the calendar year in which such quarter occurs a new exempt amount which shall be effective (unless such new exempt amount is prevented from becoming effective by subparagraph (C) of this paragraph) with respect to any individual's taxable year which ends after the calendar year in which such benefit increase is effective (or, in the case of an individual who dies during the calendar year after the calendar year in which the benefit increse is effective, with respect to such individual's taxable year which ends, upon his death, during such year).".

(2) Section 203(f)(8)(B) of such Act is amended by striking out "no later than August 15 of such year" and inserting in lieu thereof "within 30 days after the close of the base quarter (as defined in section 215(i)(1)(A)) in such year".

(3) Section 203(f)(8)(C) is amended by striking out "or providing a general benefit increase under this title (as defined in section 215(i)(3))".

(l)(1) Section 215(a)(3) of the Social Security Act is amended by striking out "$8.50" and inserting in lieu thereof "the larger of $9.50 or the amount most recently established in lieu thereof under section 215(i)".

(2) The amendment made by paragraph (1) shall apply with respect to monthly benefits under title II of the Social Security Act for months after May 1974, and with respect to lump-sum death payments under section 202(i) of such Act in the case of deaths occurring after such month.

INCREASE IN EARNINGS BASE

SEC. 4. (a) (1) Section 209(a)(8) of the Social Security Act is amended by striking out "$12,600" and inserting in lieu thereof "$13,200".

(2) Section 211(b)(1)(H) of such Act is amended by striking out "$12,600" and inserting in lieu thereof "$13,200".

(3) Sections 213(a)(2)(ii) and 213(a)(2)(iii) of such Act are each amended by striking out "$12,600" and inserting in lieu thereof "$13,200".

(4) Section 215(e)(1) of such Act is amended by striking out "$12,600" and inserting in lieu thereof "$13,200".

(b)(1) Section 1402(b)(1)(H) of the Internal Revenue Code of 1954 (relating to definition of self-employment income) is amended by striking out "$12,600" and inserting in lieu thereof "$13,200.

(2) Effective with respect to remuneration paid after 1973, section 3121(a)(1) of such Code is amended by striking out the dollar amount each place it appears therein and inserting in lieu thereof "$13,200".

(3) Effective with respect to remuneration paid after 1973, the second sentence of section 3122 of such Code is amended by striking out the dollar amount and inserting in lieu thereof "$13,200".

(4) Effective with respect to remuneration paid after 1973, section 3125 of such Code is amended by striking out the dollar amount each place it appears in subsections (a), (b), and (c) and inserting in lieu thereof "$13,200".

(5) Section 6413(c)(1) of such Code (relating to special refunds of employment taxes) is amended by striking out "$12,600" each place it appears and inserting in lieu thereof "$13,200".

(6) Section 6413(c)(2)(A) of such Code (relating to refunds of employment taxes in the case of Federal employees) is amended by striking out "$12,600" and inserting in lieu thereof "$13,200".

(7) Effective with respect to taxable years beginning after 1973, section 6654(d)(2)(B)(ii) of such Code (relating to failure by individual to pay estimated income tax) is amended by striking out the dollar amount and inserting in lieu thereof "$13,200".

(c) Section 230(c) of the Social Security Act is amended by striking out "$12,600" and inserting in lieu thereof "$13,200".

(d) Paragraphs (2)(C), (3)(C), (4)(C), and (7)(C) of section 203(b) of Public Law 92–336 are each amended by striking out "$12,600" and inserting in lieu thereof "$13,200".

(e) The amendments made by this section, except subsection (a)(4), shall apply only with respect to remuneration paid after, and taxable years beginning after, 1973. The amendments made by subsection (a)(4) shall apply with respect to calendar years after 1973.

(f) The amendments made by this section to provisions of the Social Security Act, the Internal Revenue Code of 1954, and Public Law 92–336 shall be deemed to be made to such provisions as amended by section 203 of Public Law 93–66.

CHANGES IN TAX SCHEDULES

SEC. 5. (a)(1) Section 3101(a) of the Internal Revenue Code of 1954 (relating to rate of tax on employees for purposes of old-age survivors, and disability insurance) is amended by striking out paragraphs (4) through (6) and inserting in lieu thereof the following:

"(4) with respect to wages received during the calendar year 1973, the rate shall be 4.85 percent;

"(5) with respect to wages received during the calendar years 1974 through 2010, the rate shall be 4.95 percent; and

"(6) with respect to wages received after December 31, 2010, the rate shall be 5.95 percent."

(2) Section 3111(a) of such Code (relating to rate of tax on employers for purposes of old-age, survivors, and disability insurance) is amended by striking out paragraphs (4) through (6) and inserting in lieu thereof the following:

"(4) with respect to wages paid during the calendar year 1973, the rate shall be 4.85 percent;

"(5) with respect to wages paid during the calendar years 1974 through 2010, the rate shall be 4.95 percent; and

"(6) with respect to wages paid after December 31, 2010, the rate shall be 5.95 percent.".

(b)(1) Section 1401(b) of such Code (relating to rate of tax on self-employment income for purposes of hospital insurance) is amended by striking out paragraphs (2) through (5) and inserting in lieu thereof the following:

"(2) in the case of any taxable year beginning after December 31, 1972, and before January 1, 1974, the tax shall be equal to 1.0 percent of the amount of the self-employment income for such taxable year;

"(3) in the case of any taxable year beginning after December 31, 1973, and before January 1, 1978, the tax shall be equal to 0.90 percent of the amount of the self-employment income for such taxable year;

"(4) in the case of any taxable year beginning after December 31, 1977, and before January 1, 1981, the tax shall be equal to 1.10 percent of the amount of the self-employment income for such taxable year;

"(5) in the case of any taxable year beginning after December 31, 1980, and before January 1, 1986, the tax shall be equal to 1.35 percent of the amount of the self-employment income for such taxable year; and

"(6) in the case of any taxable year beginning after December 31, 1985, the tax shall be equal to 1.50 percent of the self-employment income for such taxable year."

(2) Section 3101(b) of such Code (relating to rate of tax on employees for purposes of hospital insurance) is amended by striking out paragraphs (2) through (5) and inserting in lieu thereof the following:

"(2) with respect to wages received during the calendar year 1973, the rate shall be 1.0 percent;

"(3) with respect to wages received during the calendar years 1974 through 1977, the rate shall be 0.90 percent;

"(4) with respect to wages received during the calendar years 1978 through 1980, the rate shall be 1.10 percent;

"(5) with respect to wages received during the calendar years 1981 through 1985, the rate shall be 1.35 percent; and

"(6) with respect to wages received after December 31, 1985, the rate shall be 1.50 percent.".

(3) Section 3111(b) of such Code (relating to rate of tax on employers for purposes of hospital insurance) is amended by striking out paragraphs (2) through (5) and inserting in lieu thereof the following:

"(2) with respect to wages paid during

the calendar year 1973, the rate shall be 1.0 percent;

"(3) with respect to wages paid during the calendar years 1974 through 1977, the rate shall be 0.90 percent;

"(4) with respect to wages paid during the calendar years 1978 through 1980, the rate shall be 1.10 percent;

"(5) with respect to wages paid during the calendar years 1981 through 1985, the rate shall be 1.35 percent; and

"(6) with respect to wages paid after December 31, 1985, the rate shall be 1.50 percent.".

(c) The amendment made by subsection (b)(1) shall apply only with respect to taxable years beginning after December 31, 1973. The remaining amendments made by this section shall apply only with respect to remuneration paid after December 31, 1973.

ALLOCATION TO DISABILITY INSURANCE TRUST FUND

SEC. 6. (a) Section 201(b)(1) of the Social Security Act is amended by striking out "(E)" and all that follows down through "which wages" and inserting in lieu thereof the following: "(E) 1.1 per centum of the wages (as so defined) paid after December 31, 1972, and before January 1, 1974, and so reported, (F) 1.15 per centum of the wages (as so defined) paid after December 31, 1973, and before January 1, 1978, and so reported, (G) 1.2 per centum of the wages (as so defined) paid after December 31, 1977, and before January 1, 1981, and so reported, (H) 1.3 per centum of the wages (as so defined) paid after December 31, 1980, and before January 1, 1986, and so reported, (I) 1.4 per centum of the wages (as so defined) paid after December 31, 1985, and before January 1, 2011, and so reported, and (J) 1.7 per centum of the wages (as so defined) paid after December 31, 2010, and so reported, which wages".

(b) Section 201(b)(2) of such Act is amended by striking out "(E)" and all that follows down through "which self-employment income" and inserting in lieu thereof the following: "(E) 0.795 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1972, and before January 1, 1974, (F) 0.815 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1973, and before January 1, 1978, (G) 0.850 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1977, and before January 1, 1981, (H) 0.920 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1980, and before January 1, 1986, (I) 0.990 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1985, and before January 1, 2011, and (J) 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 2010, which self-employment income".

AMENDMENT No. 905

At the end thereof, add the following new section:

PAYROLL TAX FOR LOW-INCOME INDIVIDUALS

SEC. —. (a) Section 3101 of the Internal Revenue Code of 1954 (relating to tax on employees) is amended by adding at the end thereof the following new subsection:

"(c) ALTERNATE TAX ON LOW-INCOME INDIVIDUALS.—

"(1) IN GENERAL.—In the case of an individual whose adjusted social security income for the calendar year is less than $850, there is hereby imposed on the income of such individual (in lieu of the taxes imposed by subsections (a) and (b)) a tax determined under the following table:

"If the adjusted social security income is:	The tax is the following percentage of the taxes imposed by subsections (a) and (b):
Less than 0	10 percent.
0 to $49	15 percent.
$50 to $99	20 percent.
$100 to $149	25 percent.
$150 to $199	30 percent.
$200 to $249	35 percent.
$250 to $299	40 percent.
$300 to $349	45 percent.
$350 to $399	50 percent.
$400 to $449	55 percent.
$450 to $499	60 percent.
$500 to $549	65 percent.
$550 to $599	70 percent.
$600 to $649	75 percent.
$650 to $699	80 percent.
$700 to $749	85 percent.
$750 to $799	90 percent.
$800 to $849	95 percent.

"(2) ADJUSTED SOCIAL SECURITY INCOME.—For purposes of this subsection, the adjusted social security income of an individual for any calendar year is his adjusted gross income for his taxable year beginning in such calendar year (determined under section 62), minus the sum of—

"(A) $1,300, and

"(B) the amount of personal exemptions to which he is entitled under section 151.

In the case of a married individual whose spouse receives wages or self-employment income during such year, his adjusted gross income and the number of exemptions to which he is entitled shall, for purposes of this paragraph, be determined as if he were not married."

(2) Section 3102 of such Code (relating to deduction of tax from wages) is amended by adding at the end thereof the following new subsection:

"(d) WITHHOLDING ON WAGES OF LOW INCOME INDIVIDUALS.—

"(1) IN GENERAL.—In the case of an individual whose adjusted wages are less than $850 (computed at an annual rate), the employer of such individual shall deduct from the wages paid (in lieu of the amount required to be deducted under subsection (a)) an amount of the tax imposed by section 3101 determined under the following table:

"If the adjusted wages (computed at an annual rate) are:	The amount to be deducted is the following percentage of the amount required to be deducted under subsection (a):
Less than 0	10 percent.
0 to $49	15 percent.
$50 to $99	20 percent.
$100 to $149	25 percent.
$150 to $199	30 percent.
$200 to $249	35 percent.
$250 to $299	40 percent.
$300 to $349	45 percent.
$350 to $399	50 percent.
$400 to $449	55 percent.
$450 to $499	60 percent.
$500 to $549	65 percent.
$550 to $599	70 percent.
$600 to $649	75 percent.
$650 to $699	80 percent.
$700 to $749	85 percent.
$750 to $799	90 percent.
$800 to $849	95 percent.

"(2) ADJUSTED WAGES.—For purposes of this subsection, the adjusted wages of an individual for any period is the amount of wages (adjusted to an annual rate), minus the sum of—

"(A) $1,300, and

"(B) the amount of personal exemptions to which he is entitled under section 151.

In the case of a married individual whose spouse receives wages during such period, the number of exemptions to which he is entitled shall be determined as if he were not married.

"(3) CREDIT AGAINST TAX.—Amounts deducted from the wages of an employee under this subsection shall be allowed as a credit against the tax imposed on the employee under section 3101.

"(4) WITHHOLDING CERTIFICATES.—Each employee shall furnish his employer with a signed certificate setting forth such information as is necessary to enable the employer to determine whether this subsection is applicable to him, and the amount of tax to be deducted under this subsection. Such certificate shall be in such form, shall be furnished at such time or times, and shall remain in effect for such period as the Secretary or his delegate prescribes by regulations.

"(5) REGULATIONS.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the purposes of this subsection and section 3101(c)."

(b) Section 1401 of the Internal Revenue Code of 1954 (relating to rate of tax on self-employment income) is amended by adding at the end thereof the following new subsection:

"(c) ALTERNATE TAX ON LOW-INCOME INDIVIDUALS.—

"(1) IN GENERAL.—In the case of an individual whose adjusted social security income for the taxable year is less than $850, there is hereby imposed on the self-employment income of such individual (in lieu of the taxes imposed by subsections (a) and (b) a tax determined under the following table:

"If the adjusted social security income is:	The tax is the following percentage of the taxes imposed by subsections (a) and (b):
Less than 0	10 percent.
0 to $49	15 percent.
$50 to $99	20 percent.
$100 to $149	25 percent.
$150 to $199	30 percent.
$200 to $249	35 percent.
$250 to $299	40 percent.
$300 to $349	45 percent.
$350 to $399	50 percent.
$400 to $449	55 percent.
$450 to $499	60 percent.
$500 to $549	65 percent.
$550 to $599	70 percent.
$600 to $649	75 percent.
$650 to $699	80 percent.
$700 to $749	85 percent.
$750 to $799	90 percent.
$800 to $849	95 percent.

"(2) ADJUSTED SOCIAL SECURITY INCOME.—For purposes of this subsection, the adjusted social security income of an individual for any taxable year is his adjusted gross income for such year (determined under section 62), minus the sum of—

"(A) $1,300, and

"(B) the amount of the personal exemptions to which he is entitled under section 151.

In the case of a married individual whose spouse receives wages or self-employment income during each year, his adjusted gross income and the number of exemptions to which he is entitled shall, for purposes of this paragraph, be determined as if he were not married."

(c) Section 31(b) of the Internal Revenue Code of 1954 (relating to credit for special refunds of social security tax) is amended by striking out the heading and paragraph (1) and inserting in lieu thereof the following:

"(b) CREDIT FOR EXCESS WITHHOLDING OF SOCIAL SECURITY TAX.—

"(1) IN GENERAL.—The Secretary or his delegate may prescribe regulations providing for the crediting against the tax imposed by this subtitle of amounts deducted under section 3102 from the wages paid to the taxpayer in excess of the tax imposed on such wages by section 3101, including the amount determined by the taxpayer or the Secretary or his delegate to be allowable under section 6413(c) as a special refund of such tax. The amount allowable as a credit under such regulations shall, for purposes of this subtitle, be considered an amount withheld at source at tax under section 3402."

(d) There is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, to the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and the Federal Health Insurance Trust Fund amounts (as determined by the Secretary of the Treasury) equal to losses of revenues of such trust funds resulting from the application of sections 3101(c) and 1401(c) of the Internal Revenue Code of 1954. The amounts appropriated by the preceding sentence shall be transferred from time to time from the general fund in the Treasury to the respective trust funds on the basis of estimates by the Secretary of the Treasury. Proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or were less than the amounts which should have been transferred.

PARTIAL GENERAL FINANCING OF RETIREMENT BENEFITS

SEC. 7. (a) In addition to any other funds appropriated or authorized to be appropriated pursuant to other provisions of law for any fiscal year to the Federal Old-Age and Survivors Insurance Trust Fund, and in addition to any other funds authorized by other provisions of law to be appropriated to or deposited in the Federal Disability Insurance Trust Fund for any fiscal year, there are authorized to be appropriated to each of such funds the following amounts:

(1) For the fiscal year ending June 30, 1974, an amount equal to one twenty-fifth of the expenditures from such fund for such year;

(2) For the fiscal year ending June 30, 1975, an amount equal to three-fiftieths of the expenditures from such fund for such year;

(3) For the fiscal year ending June 30, 1976, an amount equal to two twenty-fifths of the expenditures from such fund for such year;

(4) For the fiscal year ending June 30, 1977, an amount equal to one-tenth of the expenditures from such fund for such year;

(5) For the fiscal year ending June 30, 1978, an amount equal to three twenty-fifths of the expenditures from such fund for such year;

(6) For the fiscal year ending June 30, 1979, an amount equal to seven-fiftieths of the expenditures from such fund for such year;

(7) For the fiscal year ending June 30, 1980, an amount equal to four twenty-fifths of the expenditures from such fund for such year;

(8) For the fiscal year ending June 30, 1981, an amount equal to nine-fiftieths of the expenditures from such fund for such year; and

(9) For any fiscal year ending after June 30, 1981, an amount equal to one-fifth of the expenditures from such fund for such year.

(b)(1) Funds authorized to be appropriated under subsection (a) shall be appropriated for any fiscal year on the basis of estimates by the Congress of the amounts which will be expended for such year from the trust fund to which funds are being appropriated, reduced, or increased to the extent of any overappropriation or underappropriation under this section to such fund for any preceding year with respect to which adjustment has not already been made.

(2) The Secretary of Health, Education, and Welfare shall furnish to the Congress such information, data, and actuarial studies as may be appropriate to enable the Congress to make the estimates referred to in paragraph (1).

HOSPITAL INSURANCE BENEFITS UNDER PART A OF MEDICARE FOR UNINSURED INDIVIDUALS WHO HAVE ATTAINED AGE 65

SEC. 8. (a) Section 1811 of the Social Security Act is amended by striking out "and are entitled to retirement benefits under title II of this Act or under the railroad retirement system".

(b)(1) Section 226(a) of such Act is amended to read as follows:

"(a) Every individual who—

"(1) has attained age 65, and

"(2) is—

"(A)(i) entitled to monthly insurance benefits under section 202, or (ii) a qualified railroad retirement beneficiary, or

"(B) a resident of the United States (as defined in section 210(i)) and—

"(i) a citizen of the United States (as so defined), or

"(ii) an alien lawfully admitted for permanent residence who, after being so admitted, has resided in the United States (as so defined) continuously for a period of not less than 5 years,

shall be entitled to hospital insurance benefits under part A of title XVIII for each month for which he meets the conditions specified in paragraph (1), beginning with the first month after December 1973 for which he meets the conditions specified in paragraphs (1) and (2)."

(2) Section 226(1) of such Act is hereby repealed.

(3) Section 103 of the Social Security Amendments of 1965 is hereby repealed.

(c) Section 1818 of such Act is hereby repealed.

(d) The amendments and repeals made by the preceding provisions of this section shall take effect on January 1, 1974.

AUTOMATIC COVERAGE (WITHOUT PAYMENT OF PREMIUM) FOR BENEFITS, UNDER PART B OF MEDICARE, OF INDIVIDUALS ENTITLED TO BENEFITS UNDER PART A OF MEDICARE

SEC. 9. (a) Section 1831 of the Social Security Act is amended to read as follows:

"SEC. 1831. There is hereby established an insurance program to provide medical insurance benefits in accordance with the provisions of this part for all individuals who are entitled to the hospital insurance benefits provided by part A."

(b)(1) Section 1836 of such Act is amended to read as follows:

"SEC. 1836. Every individual who, for any period of time, is entitled to hospital insurance benefits under part A shall, for such period of time, be entitled to the benefits provided by the insurance program established by this part."

(2) The heading to such section 1836 is amended to read as follows: "INDIVIDUALS ENTITLED TO BENEFITS".

(d) Sections 1837, 1838, 1839, 1840, 1843, and 1844 of such Act are hereby repealed.

(e) Section 1902(a)(10) of such Act is amended by striking out "the making available of supplementary medical insurance benefits under part B of title XVIII to individuals eligible therefor (either pursuant to an agreement entered into under section 1843 or by reason of the payment of premiums under such title by the State agency on behalf of such individuals), or".

(f) Section 1902(a)(15) of such Act is amended by striking out "either or both of".

(g) Section 1903(a)(1) of such Act is amended by striking out "(including expenditures for premiums under part B of title XVIII, for individuals who are recipients of money payments under a State plan approved under title I, X, XIV, or XVI, or part A of title IV, and, except in the case of individuals sixty-five years of age or older who are not enrolled under part B of title XVIII, other insurance premiums for medical or any other type of remedial care or the cost thereof)" and inserting in lieu thereof "(including insurance premiums for medical or any other type of remedial care or the cost thereof)".

(h) Section 1903(b) of such Act is amended by striking out paragraph (1) thereof and by striking out "(2)" at the beginning of paragraph (2) thereof.

(i)(1) Section 21(c) of the Railroad Retirement Act of 1937 is amended by striking out "part A" and inserting in lieu thereof "parts A and B".

(2 Section 21(d) of such Act of 1937 is amended by striking out "and sections 1840, 1843, and 1870" and inserting in lieu thereof "and section 1870".

(3) Section 22 of the Railroad Retirement Act of 1937 is amended by striking out "and their eligibility to enroll under part B of such title XVIII".

(j) The amendments and repeals made by the preceding provisions of this section shall take effect January 1, 1974.

AMENDMENT NO. 907

At the end thereof, add the following new section:

PRESCRIPTION DRUGS UNDER MEDICARE

SEC. —. (a)(1) Section 1861 of the Social Security Act is amended by adding after subsection (z) thereof (as added by section 234(f) of this Act) the following new subsection:

"(z–1)(1) The term 'covered drugs' means those drugs appearing on the list specified in paragraph (2) of this subsection.

"(2)(A) Subject to the provisions of subparagraph (C), the Secretary shall, with the advice of the Expert Committee on Drug Coverage established by section 1868, establish and publish a list of those drugs for which payment may be made subject to the conditions of section 1812(a)(4) under part A of this title. The Secretary shall distribute such list on a current basis to practitioners licensed by law to prescribe and administer drugs or to dispense drugs and shall make such other distribution as in his judgment will promote the purposes of this title. He shall from time to time (but at least once a year) review such list, and shall revise it or issue supplements thereto, as he may find necessary, so as to maintain insofar as practicable currency in the contents thereof and shall publish and distribute such revisions in accordance with the preceding sentence.

"(B) Each drug appearing on the list established under subparagraph (A) shall be designated by its established name and with respect to each such drug, the Secretary may include such other information as he finds necessary to promote the purposes of this subsection and section 1919.

"(C) A drug shall not appear on the list established under subparagraph (A) unless—

"(i) such drug is lawfully available for dispensing or administration to humans; and

"(ii) it is determined by the Secretary, with the advice of the Expert Committee on Drug Coverage, to be useful in the treatment of diabetes, high blood pressure, chronic cardiovascular, respiratory, or kidney diseases or conditions, arthritis, gout, rheumatism, tuberculosis, glaucoma, thyroid disease, or cancer.

"(D) For purposes of this subsection—

"(i) the term 'drug' means a drug as defined in section 201 of the Federal Food, Drug, and Cosmetic Act (including those specified in section 351 of the Public Health Service Act); and

"(ii) the term 'established name' shall have the meaning assigned to such term by section 502(e)(2) of the Federal Food, Drug, and Cosmetic Act."

(2) Section 1861(t) of such Act is amended by inserting after "subsection (m)(5)" the following: "or subsection (z–1)".

(b) Section 1812(a) of such Act is amended by—

(1) striking out "and" at the end of paragraph (2);

(2) striking out the period at the end and inserting in lieu thereof: "; and"; and

(3) adding at the end the following new paragraph:

"(4) covered drugs furnished to such individual, but not when furnished to him while he is an inpatient in a hospital."

(c) Section 1813 of such Act is amended by adding at the end the following subsection:

"(c)(1) The amount payable for a covered drug furnished an individual shall be reduced by an amount equal to the copayment determined under paragraph (2) or, if less, the charges imposed with respect to such individual for such covered drug, except that, if the customary charges for such covered drug are greater than the charges so imposed, such customary charges shall be considered to be the charges so imposed.

"(2) The copayment specified in paragraph (1) shall be $2.00 the first time any particular prescription is filled and $1.00 each time a prescription is refilled."

(d) Title XVIII of the Social Security Act is amended by adding after section 1818 of such Act (as added by section 202 of this Act) the following new subsections:

"PAYMENT FOR COVERED DRUGS; CONDITIONS AND LIMITATIONS ON SUCH PAYMENT

"Sec. 1819. (a)(1) The amount paid to any provider of drugs with respect to covered drugs for which payment may be made under this part shall, subject to the provisions of this section and section 1813(c), be the reasonable drug charge with respect to such drugs.

"(2)(A) The 'reasonable drug charge' for a covered drug shall be the acquisition allowance plus a dispensing allowance.

"(B) The Secretary shall by regulations establish the method or methods for determining the acquisition allowance of a covered drug, giving consideration to the cost to providers of drugs of acquiring the drug by its established name. If the source from which any covered drug is available charges different prices therefor to different classes or types of providers, or if a class of providers may reasonably obtain such drug from only certain types of sources, the Secretary may, in establishing the acquisition allowance, take into account these differences.

"(C) The Secretary shall by regulations establish the methods for determining a dispensing allowance for a covered drug, giving consideration to such factors as cost of overhead, professional services, and a fair profit. He may provide different dispensing allowances for different classes of providers.

"(b) Payment for covered drugs furnished to an individual may be made only to a dispenser of drugs eligible therefor under subsection (c) and only if—

"(1) written request, signed by such individual, except in cases in which the Secretary finds it impracticable for the individual to do so, is filed for such payment in such form, in such manner, within such time, and by such person or persons as the Secretary may by regulation prescribe; and

"(2) a written prescription, signed by a physician, was filed with such provider of drugs; except that (pursuant to such regulations as the Secretary may prescribe) no payment may be made for a covered drug—

"(3) if it is prescribed in an unusual quantity; or

"(4) if it fails to meet such requirements as to quality and standards of manufacture as the Secretary may prescribe; or

"(5) it fails to meet such specifications as to dosage form as the Secretary may require.

"(c) For purposes of subsection (a), a provider of drugs shall be eligible for payment if—

"(1) he is licensed or authorized pursuant to State law to dispense drugs to humans;

"(2) he agrees to comply with such rules and regulations as the Secretary may issue with respect to—

"(A) submission of bills at such frequency and on such forms as may be prescribed in such rules and regulations;

"(B) availability for audit of his records relating to drugs and prescriptions;

"(C) the maintenance and retention of such records relating to the cost of drugs as may be specified in such rules and regulations;

"(3) he meets such other conditions relating to health and safety as the Secretary may find necessary;

"(4) he agrees not to charge any individual for a drug for which such individual is entitled to have payment made under this part an amount in excess of the customary charge at which such dispenser of drugs sells or offers such drug to the public at the time such drug is furnished to such individual."

(e) Title XVIII of the Social Security Act is further amended by adding after section 1867 of such Act the following new section:

"FORMULARY COMMITTEE

"Sec. 1868. (a) (1) There is hereby established, within the Department of Health, Education, and Welfare, a Formulary Committee, a majority of whose members shall be physicians and which shall consist of the Commissioner of Food and Drugs and of four individuals (not otherwise in the regular full-time employ of the Federal Government) who are of recognized professional standing and distinction in the fields of medicine, pharmacology, and pharmacy, to be appointed by the Secretary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. The Chairman of the Committee shall be elected, from the appointed members thereof, by majority vote of the members of the Committee for a term of one year. A member may succeed himself as Chairman.

"(2) Each appointed member of the Formulary Committee shall hold office for a term of five years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and except that the terms of office of the members first taking office shall expire, as designated by the Secretary at the time of appointment, one at the end of the first year, one at the end of the second year, one at the end of the third year, and one at the end of the fourth year. A member shall not be eligible to serve continuously for more than two terms.

"(b) Appointed members of the Formulary Committee, while attending meetings or conferences thereof or otherwise serving on business of the Committee, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding $100 per day, including traveltime, and while so serving away from their homes or regular places of business they may be allowed travel expenses, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(c)(1) The Formulary Committee is authorized to engage such technical assistance as may be required to carry out its functions, and the Secretary shall, in addition, make available to the Formulary Committee such secretarial, clerical, and other assistance as the Formulary Committee may require to carry out its functions.

"(2) The Secretary shall furnish to the Formulary Committee such office space, materials, and equipment as may be necessary for the Formulary Committee to carry out its functions.

"(d)(1) The Formulary Committee shall compile, publish, and make available a Formulary of the United States (hereinafter in this title referred to as the 'Formulary').

"(2) The Formulary Committee shall periodically revise the Formulary and the listing of drugs so as to maintain currency in the contents thereof.

"(3) The Formulary shall contain an alphabetically arranged listing, by established name, of those drugs and biologicals that shall be deemed qualified drugs for purposes of the benefits provided under section 1812 (a)(4).

"(4) Publish and disseminate at least once each calendar year among physicians, pharmacists, and other interested persons, in accordance with directives of the Secretary, (i) an alphabetical list naming each drug or biological by its established name and such other information as the Secretary deems necessary, (ii) an indexed representative listing of such trade or other names by which each such drug or biological is commonly known, together with the maximum allowable cost for various qualities, strengths, or dosage forms thereof, together with the names of the supplier of such drugs upon which the maximum allowable cost is based, (iii) a supplemental list or lists, arranged by diagnostic, prophylactic, therapeutic, or other classifications, of the drugs included in the Formulary, and (iv) information (including conditions of use required in the interest of rational drug therapy) which will promote the safe and effective use, under professional supervision, of the drugs listed in the Formulary,

"(5) The Formulary Committee shall exclude from the Formulary any drugs which the Formulary Committee determines are not necessary for proper patient care, taking into account other drugs that are available from the Formulary.

"(e)(1) In considering whether a particular drug shall be included in the Formulary, the Formulary Committee is authorized to obtain (upon request therefor) any record pertaining to the characteristics of such drug which is available to any other department agency, or instrumentality of the Federal Government, and, as a condition of such inclusion, to require suppliers of drugs to make available to the Committee information (including information to be obtained through testing) relating to such drug. If any such record or information (or any information contained in such record) is of a confidential nature, the Formulary Committee shall exercise utmost care in preserving the confidentiality of such record or information and shall limit its usage thereof to the proper exercise of such authority.

"(2) The Formulary Committee shall establish such procedures, as may be necessary to determine the propriety of the inclusion or exclusion in the Formulary, of any drug, including such data and testing as it may require of a proponent of the listing of a drug in the Formulary.

"(f) (1) The Formulary Committee, prior to making a final determination to remove from listing in the Formulary any drug which would otherwise be included therein, shall afford a reasonable opportunity for a hearing on the matter to any person engaged in manufacturing, preparing, propagating, compounding, or processing such product who shows reasonable grounds for such a hearing. Any person adversely affected by the final decision of the Formulary Committee may obtain judicial review in accordance with the procedures specified in section 505 (h) of the Federal Food, Drug, and Cosmetic Act.

"(2) Any person engaged in the manufacture, preparation, propagation, compounding, or processing of any drug not included in the Formulary which such person believes to possess the requisites to entitle such drug to be included in the Formulary, may petition for inclusion of such drug and, if such petition is denied by the Formulary Committee, shall, upon request therefor, showing reasonable grounds for a hearing, be afforded a hearing on the matter. The final decision of the Formulary Committee shall, if adverse to such person, be subject to judicial review in accordance with the procedures specified in section 505(h) of the Federal Food, Drug, and Cosmetic Act.

"(g) Drugs and biologicals shall be determined to be qualified drugs only if they can legally be obtained by the user only pursuant to a prescription of a physician; except that the Formulary Committee may include certain drugs and biologicals not requiring such a prescription if it determines such drugs or biologicals to be of a lifesaving nature.

"(h) In the interest of orderly, economical, and equitable administration of the benefits provided under section 1812(a) (4), the Formulary Committee may, by regulation, provide that a drug or biological otherwise regarded as being a qualified drug shall not be so regarded when prescribed in unusual quantities.

(i) The heading of part A of title XVIII of such Act is amended by striking out "INSURANCE" and inserting in lieu thereof "INSURANCE AND DRUG".

(j) Section 1811 of such Act (as amended by section 201(a) (2) of this Act) is further amended by inserting after "services" the following: "and the cost of covered drugs".

(k) Section 1814(c) of such Act is amended by—

(1) adding at the end of the heading the following: "or Federal Provider of Drugs";

(2) inserting "(1)" after "(c)"; and

(3) adding at the end of the following new paragraph:

"(2) No payment may be made under this part to any Federal provider of drugs (as provided for in section 1819), except a provider of drugs which the Secretary determines is dispensing drugs to the public generally as a community institution or agency; and no such payment may be made to any provider of drugs for any drug which such provider is obligated by a law of, or a contract with, the United States to render at public expense."

(l) Section 1815 of such Act is amended by—

(1) adding at the end of the heading the following: "and Providers of Drugs";

(2) adding after "provider of services with respect to the services furnished by it": ", and each provider of drugs with respect to drugs,";

(3) inserting after "provider of services" the second time it appears "and the provider of drugs, as the case may be,".

(m) Section 1861(r) of such Act (as amended by other provisions of this Act) is further amended by adding at the end thereof the following new sentence: "For purposes of section 1819, such term includes any such doctor only with respect to drugs he is legally authorized to prescribe by the State in which he prescribes such drugs."

(n) Section 1869(c) of such Act is amended by inserting after "provider of services" the following: "or any person dissatisfied with any determination by the Secretary that he is not a provider of drugs eligible for payment under this title,".

(o) (1) Section 1870(a) of such Act is amended by—

(A) inserting ", provider of drugs," after "provider of services"; and

(B) inserting "or drugs" after "items or services". (2) Section 1870(b) of such Act is amended by—

(A) inserting ", or provider of drugs," after "provider of services" each time it appears;

(B) inserting "or drugs" after "items or services"; and

(C) adding at the end of paragraph (2) the following: "any payment has been made under section 1819 to a provider of drugs for drugs furnished an individual,".

(3) Section 1870(d) of such Act is amended by inserting: ", or provider of drugs," after "provider of services".

(p) The heading of section 226 of such Act is amended by striking out "INSURANCE" and inserting in lieu thereof "INSURANCE AND DRUG".

(q) Section 226(b) (1) of such Act (as amended by section 201(b) of this Act) is further amended by—

(1) striking out "(as such terms are defined" and inserting in lieu thereof the following: "and for covered drugs (as such terms are defined"; and

(2) inserting ", and (C) no such payment may be made for covered drugs furnished before July 1, 1972; and" immediately before the semicolon at the end thereof.

(r) Section 21(a) of the Railroad Retirement Act of 1937 is amended by—

(A) striking out "and" which follows "extended care services,"; and

(B) striking out "post-hospital home health services" and inserting in lieu thereof "post hospital home health services, and covered drugs".

(s) Section 21(e) of the Railroad Retirement Act of 1937 is amended by inserting after "services" the first time it appears "(other than covered drugs)".

"MAXIMUM ALLOWANCE COST FOR QUALIFIED DRUGS

"SEC. 1869. (a) For purposes of this part, the term 'maximum allowable cost' means the following:

"(1) When used with respect to a prescription legend drug, such term means the lesser of—

"(A) the amount determined by the Formulary Committee, in accordance with subsection (b) of this section, plus a reasonable fee determined in accordance with subsection (c) of this section, or

"(B) the actual, usual, or customary charge at the price at which it is generally available to establishments dispensing drugs.

"(2) In considering (for purposes of the maximum allowable cost for any drug) the various sources from which and the varying prices at which such drug is generally available, there shall not be taken into account the price of any drug which is not included in the Formulary.

"(3) Whenever an amount or amounts at which a qualified drug is generally available for sale to the ultimate dispensers thereof vary significantly among the various regions of the United States or among such ultimate dispensers, the Formulary Committee may determine a separate amount or amounts with respect to such drug for various regions or for various classes of its ultimate dispensers.

"(c) (1) Any licensed pharmacy, which is a provider of services for purposes of this part, shall, in a form prescribed by the Secretary, file with an intermediary or other agency designated by the Secretary, a statement of a fee for the purpose of establishing the maximum allowable cost as defined in (a) above. Such fee shall include such costs, including the costs of professional services and a fair profit, which are reasonably related to the provision of pharmaceutical service rendered to persons entitled to receive benefits under this part.

"(2) Any licensed pharmacy shall, except for subsection (a) (1) (B) above, be reimbursed, in addition to any amounts provided for in subsection (b) above, the amount of the fee filed in (1) above, except that no fee shall exceed the largest fee filed by 90 per centum of such licensed pharmacies.

"(3) The Secretary shall, in addition to statements required pursuant to paragraph (2), require a form and at a time suitable to him financial or other data to justify recognition of any fee (A) which amount falls between the fiftieth and ninetieth percentile of all fees filed by participating pharmacies, or (B) in any case where a participating licensed pharmacy has, in the preceding four calendar quarters, been among the highest 20 per centum by prescription volume of all pharmacies participating in the program.

"(4) Where no fee statement or other information required by the Secretary has been filed by a licensed pharmacy otherwise qualified and participating in the program, fees to which such pharmacies may be entitled shall be limited to the amount of the lowest fee filed by any licensed pharmacy described in paragraph (1) above.".

(i) Section 1861(t) of the Social Security Act is amended—

(1) by inserting ", or as are approved by the Formulary Committee" after "for use in such hospital"; and

(2) by adding at the end thereof the following new sentence: "The term 'qualified drug' means a drug or biological which (1) can be self-administered, (2) is furnished pursuant to a physician's prescription or a physician's certification that it is a lifesaving drug which is medically required by such individual when not an inpatient in a hospital or extended care facility, (3) is included by strength and dosage forms among the drugs and biologicals approved by the Formulary Committee, (4) is dispensed (except as provided by section 1814(j)) by a pharmacist from a licensed pharmacy, and (5) which is generally available for sale to establishment dispensing drugs in an amount or amounts equal to or lesser than the amount or amounts established by the Formulary Committee pursuant to section 1820(b)."

(j) Section 1861(u) of the Social Security Act (as amended by section 227(d) (1) of this Act) is further amended by striking out "or home health agency" and inserting in lieu thereof "home health agency, or licensed pharmacy".

(k) Section 1861(v) of the Social Security Act (as amended by sections 227(c), 223 (b), 251(c), and 221(c) (4) of this Act) is further amended—

(1) by striking out "The reasonable cost" in the first sentence of paragraph (1) and inserting in lieu thereof "Except as provided in paragraph (7), the reasonable cost"; and

(2) by adding at the end thereof the following new paragraph:

"(7) (A) With respect to any qualified drug, the maximum allowable cost shall be an amount determined in accordance with section 1820 of this Act."

(l) Section 1861 of the Social Security Act is further amended by adding at the end thereof the following new subsection:

"Licensed Pharmacy

"(Z-1) The term 'licensed pharmacy' (with respect to any qualified drug) means a pharmacy, or other establishment providing community pharmaceutical services, which is licensed as such under the laws of the State in which such drug is provided or otherwise dispensed in accordance with this title."

(m) (1) The first sentence of section 1866 (a) (2) (A) of the Social Security Act is amended by striking out "and (ii)" and inserting in lieu thereof the following: "(ii) the amount of any copayment required pursuant to section 1813(a) (4), and (iii)".

(2) The second sentence of section 1866 (a) (2) (A) of such Act is amended by striking out "clause (ii)" and inserting in lieu thereof "clause (iii)".

(n) The amendments made by this section shall apply with respect to items and services furnished on and after the 1st day of January 1974.

Amendment No. 910

At the end thereof, add the following new section:

Insurance Benefits for Disabled Wives and Husbands

Sec. —. (a) (1) Section 202(b) (1) (B) of the Social Security Act is amended to read as follows:

"(B) (i) has attained age 62, or (ii) in the case of a wife (I) has in her care (individually or jointly with such individual) at the time of filing such application a child entitled to a child's insurance benefit on the basis of the wages and self-employment income of such individual, or (II) has not attained age 65 and is under a disability (as defined in section 223(d)),".

(2) (A) So much of section 202(b) (1) of such Act as succeeds clause (D) but appears before clause (E) is amended to read as follows: "shall (subject to subsection (s)) be entitled to a wife's insurance benefit for each month, beginning with—

"(E) if she satisfies subparagraph (B) by reason of clause (ii) (II) thereof—

"(i) the first month after her waiting period (as defined in paragraph (4)) which she becomes so entitled to such insurance benefits, or

"(ii) the first month during all of which she is under a disability and which she becomes so entitled to such insurance benefits, but only if she was previously entitled to insurance benefits under this subsection on the basis of being under a disability and such first month occurs after the month in which a previous entitlement to such benefits on such basis terminated, or

"(F) if she satisfies subparagraph (B) without regard to clause (ii) (II) thereof, the first month in which she becomes so entitled to such insurance benefits,

and ending with the month preceding the first month in which any of the following occurs:".

(B) Section 202(b) (1) of such Act is further amended by redesignating subparagraphs (E), (F), (G), (H), (I), (J), and (K) as subparagraphs (G), (H), (I), (J), (K), (L), and (M), respectively.

(C) Section 202(b) (1) of such Act is further amended—

(i) by striking out "or" at the end of the paragraph thereof redesignated by subparagraph (B) of this paragraph as subparagraph (L),

(ii) by striking out the period at the end of the paragraph thereof redesignated by subparagraph (B) of this paragraph as subparagraph (M) and inserting in lieu of such period ", or", and

(iii) by adding after the paragraph so redesignated as subparagraph (M) the following new subparagraph:

"(N) if she is entitled to such benefits by reason of the provisions of subparagraph (B) (ii) (II), the third month following the month in which her disability ceases (unless she attains age 62 on or before the last day of such third month).".

(3) Section 202(b) of such Act is further amended by adding at the end thereof the following new paragraph:

"(4) The waiting period referred to in paragraph (1) (E) (i), in the case of any wife, is the earliest period of five consecutive calendar months—

"(A) throughout which she has been under a disability; and

"(B) which begins not earlier than the first day of the seventeenth month before the month in which her application is filed.".

(b) (1) Section 202(c) (1) (B) of such Act is amended to read as follows:

"(B) (i) has attained age 62, or (ii) has not attained age 65 and is under a disability (as defined in section 223(d)),".

(2) So much of section 202(c) (1) of such Act as succeeds paragraph (D) thereof is amended to read as follows: "shall be entitled to a husband's insurance benefit for each month, beginning with—

"(E) if he satisfies subparagraph (B) by reason of clause (ii) thereof—

"(i) the first month after his waiting period (as defined in paragraph (4)), in which he becomes so entitled to such insurance benefits, or

"(ii) the first month during all of which he is under a disability and which he becomes so entitled to such insurance benefits, but only if he was previously entitled to insurance benefits under this subsection on the basis of being under a disability and such first month occurs after the month in which a previous entitlement to such benefits on such basis terminated, or

"(F) if he satisfies subparagraph (B) by reason of clause (i) thereof, the first month in which he becomes so entitled to such insurance benefits,

and ending with the month preceding the month in which any of the following occurs: he dies, his wife dies, they are divorced, or he becomes entitled to an old-age or disability insurance benefit, which is equal to or exceeds one-half of the primary insurance amount of his wife, or his wife is not entitled to disability insurance benefits and is not entitled to old-age insurance benefits, or if he is entitled to husband's insurance benefits by reason of the provisions of subparagraph (B) (ii), the third month following the month in which his disability ceases (unless he attains age 62 on or before the last day of such third month).".

(3) Section 202(c) of such Act as amended is further amended by adding at the end thereof the following new paragraph:

"(4) The waiting period referred to in paragraph (1) (E) (i), in the case of any husband, is the earlier period of five consecutive calendar months—

"(A) throughout which he has been under a disability, and

"(B) which begins not earlier than the first day of the seventeenth month before the month in which his application is filed.".

(c) (1) The third sentence of section 203(c) of such Act is amended by inserting immediately before the period at the end thereof the following: "; nor shall any deduction insurance benefit for any month in which the wife or husband has not attained age 65 and is entitled to such benefit on the basis of being under a disability".

(2) The third sentence of section 203(f) (1) of such Act is amended—

(A) by striking out "or" at the end of clause (D), and

(B) by inserting immediately before the period at the end thereof the following: ", or (F) for which such individual is entitled (on the basis of being under a disability) to wife's or husband's insurance benefits and has not attained age 65".

(3) The first sentence of section 216(i) of such Act is amended by striking out "sections 202(d)," and inserting in lieu thereof "sections 202(b), 202(c), 202(d),".

(4) (A) Section 222(a) of such Act is amended by inserting "husband's insurance benefits, wife's insurance benefits," immediately after "child's insurance benefits,".

(B) Section 222(b) (1) of such Act is amended by inserting "a wife who has not attained age 62, a husband who has not attained age 62," immediately after "entitled to child's insurance benefits,".

(C) (i) Section 222(d) (1) of such Act is amended—

(I) by striking out "or" at the end of paragraph (C) thereof;

(II) by inserting at the end of paragraph (D) the following: "or"; and

(III) by inserting immediately after paragraph (D) thereof the following new paragraph:

"(E) (i) entitled on the basis of being under a disability to wife's insurance benefits under section 202(b) prior to attaining age 62, or

"(ii) entitled on the basis of being under a disability to husband's insurance benefits under section 202(c) prior to attaining age 62,".

(ii) Section 222(d) (1) of such Act (as so amended) is further amended by inserting "the benefits under section 202(b) for wives who have not attained age 62 and are under a disability, the benefits under section 202(c) for husbands who have not attained age 62 and are under a disability," immediately after "under section 202(d) for children who have attained age 18 and are under a disability,".

(5) (A) Section 223(d) (2) (A) of such Act is amended by inserting ", and except a wife or husband for purposes of section 202 (b) or (c)" immediately after "or (f)".

(B) Section 223(d) (2) (B) of such Act is amended—

(i) by striking out "A widow" and inserting in lieu thereof "A wife, husband, widow"; and

(ii) by striking out "202(e)" and inserting in lieu thereof "202(b), (c), (e),".

(6) Section 225 of such Act is further amended—

(A) by inserting "or that a wife who has not attained age 62 and is entitled (on the basis of being under a disability) to benefits under section 202(b), or that a husband who has not attained age 62 and is entitled to benefits under section 202(c)," immediately after "believes that an individual entitled to benefits under section 223,", and

(B) by inserting "202(b), 202(c)" immediately after "may suspend the payment of benefits under such section".

(d) The amendments made by the preceding provisions of this section shall apply with respect to monthly benefits under title II of the Social Security Act for months after the month which follows the month in which this Act is enacted.

(e) Section 202(q) of the Social Security

Act is further amended by adding at the end thereof the following new paragraph:

"(10) Notwithtsanding the preceding provisions of this subsection, no reduction shall be made under this subsection in the wife's or husband's insurance benefit of any individual for any month prior to the month in which such individual attains age 65 if such individual is entitled to such benefit on the basis of being under a disability.".

(f) The amendment made by subsection (a) shall be effective with respect to monthly insurance benefits under section 202 (b) or (c) for months after the month which follows the month in which this Act is enacted.

Amendment No. 911

At the end thereof, add the following new section:

COVERAGE OF PSYCHOLOGISTS' SERVICES

Sec. — (a) Section 1861(r) of the Social Security Act is amended (1) by striking out "or (4)" and inserting in lieu thereof "(4)" and (2) by inserting before the period at the end thereof the following: ", or (5) a psychologist licensed or certified as such by a State, but only for purposes of section 1861(s)(1) and section 1861(s)(2)(A) and only with respect to functions which he is legally authorized to perform as such by the State in which he performs them."

(b) The amendment made by subsection (a) shall apply only with respect to services performed on or after the date of enactment of this Act.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Charles D. Loos, of Indiana, to be U.S. marshal for the Southern District of Indiana for the term of 4 years (reappointment).

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Thursday, December 20, 1973, any representations or objections they may wish to present concerning the above nomination, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

ANNOUNCEMENT OF HEARINGS BY THE SPECIAL SUBCOMMITTEE ON INTEGRATED OIL OPERATIONS

Mr. HASKELL. Mr. President, on December 20, 1973, the Special Subcommittee on Integrated Oil Operations of the Senate Interior Committee will hold its final public hearing of this session on the competition in the petroleum industry. The hearing will be convened at 10 a.m. in room 3110 of the Dirksen Senate Office Building.

Witnesses expected to testify are: Prof. Morris Adelman, MIT; Prof. Albert Meyer, Harvard University; Prof. Thomas Stauffer, Harvard University; Prof. John Blair, University of South Florida; Mr. Mike Ameen, Aramco. The issues which will be discussed are: Are our domestic energy problems attributable in part to inadequate international competition, and what is the physical extent of economically recoverable U.S. petroleum resources?

Interested or affected parties desiring to file statements for the record should do so within 2 weeks. Statements should be sent to Miss Nancy Hartzog of the Interior Committee staff.

NOTICE OF HEARINGS ON PROPOSED CONSTITUTIONAL AMENDMENT

Mr. BAYH. Mr. President, The Senate Subcommittee on Constitutional Amendments has rescheduled its hearings on Senate Joint Resolution 5. These hearings will take place on Wednesday, December 19 in room 2228 of the Dirksen Senate Office Building at 10:30 a.m.

Senate Joint Resolution 5 proposes a constitutional amendment to lower the age of eligibility for Congress by 3 years. Thus a person could run for the Senate at age 27 instead of 30 and in the House the age of eligibility would be 22 instead of 25. The lowering of the eligibility age for Congress by 3 years would correspond with the 26th amendment which lowered the voting age by 3 years from 21 to 18.

Any persons wishing to testify or submit statements for the hearing record should contact J. William Heckman, chief counsel of the subcommittee, room 300, Russell Senate Office Building, Washington, D.C. 20510, as soon as possible.

THE ENERGY CRISIS—NOTICE OF HEARINGS

Mr. PELL. Mr. President, it is becoming all too apparent to the Nation that the "energy crisis" will have serious ramifications which we would never have deemed possible when talking about curtailment of gas consumption last summer. Each day brings out new facets of the problem which is having a marked effect on the national pattern of living.

As chairman of the Subcommittee on Education of the Committee on Labor and Public Welfare, I am receiving increasing information on the very disastrous effect that the cutback on available fuel is having on the education system, both on the elementary and secondary and college levels.

The immediate manifestations are shown both in extended college Christmas vacations and the closing of elementary and secondary schools. Unfortunately, the reports that we have received are sporadic; therefore, the Subcommittee on Education will hold hearings on the effect of the "energy crisis" on education, on Wednesday, December 19, 1973.

It is my hope that these hearings will not only discuss the depths of the problem, but also kindle the discussion about who is to bear the brunt of the crisis. Must we close our schools when businesses are allowed to stay open until midnight? Has anyone thought of a comparison of the escalating cost of heating fuel with the cost of running our Nation's schools? It is our hope that people knowledgeable in education, as well as people dealing with the energy crisis will testify. Those who wish to do so should contact Stephen J. Wexler, counsel, Subcommittee on Education, room 4230, U.S. Senate, Washington, D.C. 20510, 202-225-7666.

ANNOUNCEMENTS OF HEARINGS ON THE POTENTIAL EFFECTS OF THE ENERGY CRISIS ON THE HEALTH CARE SYSTEM

Mr. KENNEDY. Mr. President, the Health Subcommittee will hold a hearing on Monday, December 17, 1973, on the potential effects of the energy crisis on the health care system, in room 4232, Dirksen Building, at 10 a.m.

Persons interested in submitting testimony for the record should contact the subcommittee staff, room 4226, Dirksen Building.

ADDITIONAL STATEMENTS

STATUS REPORT ON PUBLIC FINANCING

Mr. CRANSTON. Mr. President, one of the major reforms coming out of the Watergate scandals will hopefully be the move to public financing of campaigns. It is a concept which has gained broad and growing support throughout the country, irrespective of party lines.

The fight recently waged in the Senate for the public financing amendment is an excellent example of the bipartisan concern with the effect private money has on the American body politic. A bipartisan group of nine Senators, led by the distinguished minority leader, Mr. Hugh Scott, and by one of the national leaders of the Democratic Party, the distinguished senior Senator from Massachusetts, Mr. Kennedy, recently achieved, for the first time, a majority vote in favor of a system of public financing of Presidential and congressional campaigns.

The current status of public financing was ably discussed by Senators Hugh Scott and Kennedy in an article appearing in yesterday's New York Times and I ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the New York Times, Dec. 12, 1973]

The Only Good Politics Is Clean Politics

(By Edward M. Kennedy and Hugh Scott)

Washington.—Most of the things that are wrong with politics in this country can be traced directly to the way we finance campaigns for public office. We would have a different country today if the political power of campaign contributors were measured by their votes and voices, instead of by their pocketbooks.

Amid so much that is negative today—the glaring daily headlines and public hearings, the current and prospective Cox-Jaworski indictments, the pending court proceedings—reform of campaign financing stands out like a beacon as the most positive and forward-looking contribution Congress can make to end the crisis over Watergate and restore the shattered confidence of the people in the integrity of their Government.

At a single stroke, by enacting a program of public financing for Federal elections, we can shut off the underground rivers of private money that pollute politics at every level of the Federal Government. If, anything, the crisis over private money in public life is as deep and serious as the energy crisis or Vietnam, and no one in public office can ignore the problem. Just as the War Powers Act passed by Congress over the President's veto last month means no more Vietnams, so the campaign financing bill means no more Watergates.

The last-minute filibuster that killed campaign financing legislation in the Senate cannot obscure the positive results of the strong bipartisan effort for reform. We may have lost battle, but we have not lost the war.

First, by solid majority votes, the Senate demonstrated it is ready to adopt public financing for its own elections, ready to prohibit essentially all private financing in general elections for Federal office, and ready to move to a system of matching grants for small private contributions ($100 or less) in primary elections, at least for the office of President.

Second, progress is coming rapidly. Last July, a public financing amendment we offered, dealing with Senate and House general elections, not primaries, was defeated by a margin of 53 to 38 on the Senate floor. Four months later, the vote was just the opposite, 52–40, to accept essentially the same provision. The vote was even stronger, 54 to 38, to accept the new matching-grant provision dealing with Presidential primaries. Inevitably, the next time, there will be a vote on public financing for Congressional primaries, too, and perhaps, on an optional basis, for state and major local elections as well.

Third, next time is coming soon. The pledges by Senate and House committees to send reform legislation to the floor of both Congressional chambers in February, 1974 was no small victory, a guarantee that this Watergate reform will not be bottled up any longer. And if the guarantees prove less solid than we think, we'll be back again with another public financing rider on another bill next year.

Fourth, the Senate strategy was a genuine joint venture, a bipartisan effort combining the work of all the Senators—Alan Cranston, Philip Hart, Charles Mathias, Walter Mondale, Richard Schweiker, Robert Stafford, Adlai Stevenson, and ourselves—who had sponsored public financing bills earlier in the session. That so many originally divergent views could be consolidated into the common denominator of the amendment offered to the debt ceiling act was a significant factor in the full Senate's acceptance of the proposal.

Fifth, the debate demonstrated the coming of age of Common Cause, John Gardner's people lobby, as a powerful new and positive influence for reform and decent government. Thanks to Common Cause, the A.F.L.–C.I.O. and U.A.W., and Philip Stern's center for public financing, the spotlight of public opinion is now squarely on Congress and public financing.

Our main regret is that public financing is still an issue on which the people are ahead of the politicians. A poll shortly after Labor Day showed that 65 per cent of the public, the same margin for both Republicans and Democrats, favored full public funding of all Federal elections, Presidential, Senate and House, and a complete prohibition on private contributions. And that was before the Justice Department took the Agnew case to the grand jury, and before the dramatic and repugnant disclosures of the campaign financing phase of the Watergate hearings.

The best bargain the taxpayer can get is an honest, clean election.

THE PROPOSED SOLUTION TO THE NORTHEAST RAILROAD CRISIS

Mr. HANSEN. Mr. President, on Tuesday, December 11, the Senate passed S. 2767, the proposed solution to the Northeast railroad crisis. Because of the extreme cost to the taxpayers, particularly in providing displacement allowances to railroad employees who may lose their jobs due to the consolidation of the seven bankrupt railroads into one, allowances which are not available to other private industry employees who are also facing possible loss of employment because of the fuel and energy crisis, I felt obligated to vote against the bill.

I want to commend, however, the management of the Union Pacific, and particularly Mr. Frank E. Barnett, chairman of the board, for its part in attempting to work out a solution to this very complex problem.

Mr. Barnett was primarily responsible for drafting the legislation which was considered by both the House and the Senate and, with the president of the Southern Railroad, negotiated on behalf of the industry the labor protection provisions included in the bill. While, as I mentioned, I found the provisions too generous as compared to the protection now available for other possibly displaced employees, I realize the extreme difficulty in negotiating labor agreements and certain very favorable changes in railroad labor practices were accomplished. These changes indicate progress in ridding the industry of work rules which have hampered productivity in this vital industry. For example, management of the new railroad company that will emerge will for the first time have the right to consolidate or transfer jobs and employees from one section of the Northeast to any other region where needed, and railroad labor has agreed to binding arbitration in establishing the procedures calling for such transfers.

I realize the importance to Wyoming in arriving at a solution to the Northeast railroad crisis because a large percentage of the minerals and agricultural products of Wyoming must be moved into the Northeast States and much of the manufactured products of the Northeast can only move out of and into Wyoming by rail. I hope the legislation now passed will be successful.

INDIVIDUAL VIEWS ON WATER RESOURCES DEVELOPMENT ACT

Mr. BUCKLEY. Mr. President, I am advised that on Tuesday, when we introduced the Water Resources Development Act of 1973, the gentleman from Alaska (Mr. GRAVEL) took occasion to comment adversely on the individual views I had submitted for inclusion in the committee report. Rather than address myself to his comments, I will let my statement speak for itself. Mr. President, I ask unanimous consent that my individual views be printed in the RECORD.

There being no objection, the views were ordered to be printed in the RECORD, as follows:

INDIVIDUAL VIEWS OF JAMES L. BUCKLEY ON WATER RESOURCES DEVELOPMENT ACT

During the markup session of the Subcommittee on Water Resources, and again at the meeting of the full Committee, I moved to strike from the Water Resources Development Act more than forty projects (a number of which I will detail later in these views) whose aggregate cost came to more than $109 million, or approximately ten percent of the identifiable cost of the bill.

I moved to strike these items not because of their cost, but because in each instance they appeared to be special interest projects offering localized benefits without reference to any national policy established by the Congress. I moved to strike them because they appeared to exemplify that quaint and hoary custom of legislating special favors for special constituencies on an *ad hoc* basis inconsistent with settled practice. In short, in an era when we are all conscious of a widespread public distrust of government, I moved to strike those projects that might be described by unfriendly critics as "pork".

In raising questions about the inclusion of these items, it was not my purpose to moralize or to impugn the motives of the very fine sponsors of the various projects. Rather, it was my purpose to precipitate a re-examination of some ancient practices that, while accepted by custom, are nonetheless political in essence and discriminatory in effect. Any time a given community is provided more favorable treatment than another because of the political clout of interested members of the Senate or House, any time we waive the normal rules and procedures for no better reason than that one of our colleagues has stated that the project is important to him, anytime we act from other than a *national* perspective in the implementation of *national* policy, we necessarily favor some at the expense of others.

There are those, I know, who will feel that I am being naive in attempting to stimulate such a re-examination, and that the interests of institutional comity far outweigh the theoretical benefits to be derived from adhering to an even-handed policy when it comes to dispensing federal funds for projects of great local importance. This was made very clear when I suggested, in the meeting of the full committee, that the names of the Congressional sponsors of each of the projects ought, in the future, to be omitted from the work sheets provided members of the Committee for help in their deliberations. I suggested that knowledge of the identity of the sponsors might somehow affect our judgment of the merits of the projects in question. The Chairman of the Subcommittee, Mr. Gravel, whose permission I have to reproduce his remarks, commented as follows:

Senator GRAVEL. With respect to putting names on the column here, there is nothing wrong. I think we are all politicians. We are going to find out who the names are. We are going to get a telephone call. You are going to suffer retribution if you vote against a person's project.

(I)f we are going to be responsible adults. we must realize that when we commit a political act we can suffer political consequences.

When — (a powerful senior Senator) has a project in here that he wants, that project carries an extra weight. It is a lot more than—(a very junior Senator's) project. If any one is immature enough to think in this Congress or in the media of this country that this is not the case, then they shouldn't be, they are not mature enough to serve in this Congress.

So from my point of view, there is no reason why we shouldn't see those names so we know who is involved.

Senator BUCKLEY. So we know how to distribute the pork.

Senator GRAVEL. Not necessarily, to understand what we are doing politically because it does offer political consequences. I think that is part of the maturity of being a political person.

The Chairman of the subcommittee is saying, in effect, that political maturity involves scratching one another's backs in order to trade off favors at the public expense. I submit that this is a view of political maturity that we had better outgrow if we in the Congress ever want to regain public confidence.

I believe the time is ripe to reconsider past practices, however sanctioned by custom, and to think through their implications. The public isn't buying "politics as usual" these days, and nor should we. We are going through a traumatic period in this country, a period in which public respect for government is at a very low ebb. As a result of the introspection and criticism of the past months, all kinds of political habits are being re-examined, and significant reforms are being instituted. We are requiring far-reaching changes in the whole structure of campaign financing, we are insisting on the adoption of "Caesar's wife" standards by the Executive and by state and local governments. The Congress cannot exempt itself from this same scrutiny. If we hope to regain some measure of public confidence, we must be willing to scrutinize our own folkways to see if they in fact meet the standards that the public expects of us and that we expect of others.

Perhaps I am tilting at windmills, but I like to think not. I do not believe that my objective is impossible of attainment. Surely the support that I received in striking a number of items indicates a healthy willingness to re-examine specific projects in the light of established policies governing the federal funding of local projects.

I recognize that there in fact exists on overwhelming inhibition created by the fact that many of the sponsors are men of great personal prestige and influence. Yet my respect for these men is such that I, for one, am confident that they would not resort to petty acts of retaliation for positions honestly and consistently taken. I believe that if we will just consciously close the chapter on the era of special interest legislation, we can in the future move to a consideration of individual projects based solely on whether or not they qualify for funding under national policies adopted by the Congress.

The balance of my remarks discusses those particular sections of the Water Resources bill which I asked the Committee to scrutinize in the light of the policy I have described above.

Each of these provisions falls into the category of "special interest" because the benefit which the authorized project bestows on the affected community is above and beyond that which is available to all other equally deserving localities under existing federal policy, as determined by the Congress.

I did not question the need for or merits of any project. There is no doubt that each provision which might be classed "special interest" would greatly benefit the individual community. In this sense, they are all "good" projects.

When a "clean Senate bill" was presented to the Subcommittee, I identified 44 sections which could be classified as "special interest." The known cost of these projects totaled over $109 million; however, ten provisions had indeterminate costs.

During the subcommittee markup I moved to strike these sections of the bill en bloc on the grounds that none of the provisions fitted into a consistently applied federal policy. This approach was rejected by the Subcommittee, and we proceeded to consider each of over 100 sections individually. At appropriate points I moved to strike any section that I believed was inconsistent with existing policy. A number of these motions were not seconded. A large majority were defeated. The Subcommittee did agree, however, to delete nine "special interest" sections, two of them for projects located in New York State. These two provisions were struck from the bill not because they were found to be inconsistent with federal policy, although that was my reason for offering the motion, but because a Senator in whose state the projects were located had asked that they be stricken. I suggested that this is the wrong reason. As I have pointed out, the identity of the sponsor of any provision ought not to be the relevant criterion for including it in or excluding it from water resources legislation.

My list of 44 sections included ten projects which were justified as "demonstration projects" for streambank erosion control. As a result of the questions I raised, these were consolidated into a single demonstration program, at a savings of $61 million compared to the total cost of the ten sections considered individually. I believe this was a beneficial change. I have no quarrel with the need for information to aid communities in coping with severe streamback erosion, but such projects ought to be authorized under the aegis of consistent criteria and the information disseminated to other communities. I believe section 12 of the reported bill succeeds in this respect.

During the full committee markup, I moved several amendments to delete the "special interest" provisions which remained. I organized these sections by groups, each representing a category of deviation from accepted practice.

One amendment sought to delete three sections directing the Army Corps to construct roads which are not considered Corps responsibility under present law. Although my amendment failed, similar authority for special roads in other states was deleted upon my motion in Subcommittee. Hence, the Committee did not act consistently on this policy.

A second amendment sought to strike eight sections which were justified by the claim of inadequate planning or findings on the part of the Army Corps of Engineers. In many instances, local claims for mitigation are contested by the Corps. I questioned these sections not because I am not sympathetic to the problems faced by local communities, but because I believe Congress is providing relief on an *ad hoc* basis without examining the institutional deficiencies which give rise to what is evidently a widespread problem. Although my amendment failed, I have been assured by the Chairman that the Committee will hold hearings in order to devise a national approach which would seek to provide, on an equitable basis, an appropriate means of adjudicating disputes between local interests and the Corps.

I also offered an amendment designed to conform the local payback deferral provision in section 29 to the general policy established by section 70. The Committee declined to do this, thereby contravening its own newly-adopted policy.

Apart from those special projects which I have described above, I also offered an amendment to section 65 regarding the interest rate to be used in computing costs and benefits of water resources projects. My amendment provided that no existing project, or one fully approved in this legislation could be judged non-feasible *solely* on account of the new interest rate established by the Water Resource Council on September 10th. This would have provided an alternative to continuing to use unrealistic rates of interest, some as low as 2½ percent, on projects which have been authorized but on which construction has not begun.

I propose to re-offer one or more of the above amendments when the bill comes to the Senate floor.

CONSTITUTIONAL RIGHTS INVESTIGATION OF INTERNAL REVENUE SERVICE DOMESTIC INTELLIGENCE UNIT

Mr. ERVIN. Mr. President, early last spring I became aware of the existence of a special domestic intelligence unit operated under the aegis of the Internal Revenue Service. The attached IRS memorandum dated December 18, 1972, to all Directors from the North Atlantic Regional Commissioner was, I believe, the first indication any of us had that the "views and philosophies" of taxpayers were under investigation by the Internal Revenue Service.

On May 21, 1973, after checking the authenticity of the memorandum, I initiated an inquiry into the activities of this IRS domestic intelligence unit in a letter to the Department of the Treasury:

> I have been informed that within the Internal Revenue Service there is a "Special Service Staff" which collects, analyzes and disseminates information on non-violent individuals and groups promoting what the Internal Revenue Service considers to be extremists' views or philosophies. I would appreciate your providing me with an account of the duties of this Special Service Staff, the number (by employment status) of its employees, and any statutory or regulatory authority for such activities. Please include any Special Service Staff manuals which may exist and, if possible, all memoranda regarding the establishment of this group, which I understand occurred in 1969. In addition, please furnish me with the number of individuals and the number of groups on which the Special Service Staff keeps files, together with a summary of the kinds of information contained in those files. I would also like to see the list of agencies and organizations to whom information from the Special Service Staff files is available. If there are any measures or guidelines regarding file security or confidentiality of information, please include these also.

Through the able staff of the Constitutional Rights Subcommittee, and with the cooperation of Commissioner Alexander and his special assistant, Mr. Burke Willsey, I am currently engaged in an investigation of the non-tax-related, domestic intelligence activities of the IRS Special Service Staff.

I understand that the excellent staff of the Joint Committee on Internal Revenue Taxation has been intensively investigating the tax-related activities of the Special Service Staff and will soon publish a report of their findings. I look forward to perusing the joint committee's report with great interest. Since the Special Service Staff's activities involve the impact on the tax responsibilities of IRS as well as the impact on the constitutional rights of all Americans, I am hopeful that this two-pronged investigation—each committee operating in the field of its special expertise—will together resolve all the questions that have been raised.

In the meantime, let me add, the Commissioner of Internal Revenue announced on August 9, 1973, that the Special Service Staff will be disbanded. For the information of my colleagues I have attached to these remarks the IRS news release, announcing this proposed disbandment. I understand that as of today the Special Service Staff has not yet finally been dissolved. When the process is complete and a full report is made to the Commissioner on the staff's activities, I understand that the Internal Revenue Service intends to release to the public a full report on the Special Service Staff.

For my part, as chairman of the Constitutional Rights Subcommittee, I will continue to trace the establishment and activities of the Special Service Staff as a domestic intelligence unit which collected non-tax-related information on the political views and philosophies of those who have disagreed with the present administration.

Mr. President, I ask unanimous consent that the memorandum and news release to which I have previously referred be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

To: All Directors.
From: Regional Commissioner, North-Atlantic Region.
Subject: Special Services Staff (ACTS:C:SS).

Some of you are well aware of the Special Services Staff (ACTS:C:SS) in the National Office, but I thought I would take this opportunity to give you some background on its formation and its mission, how it operates and how we as line managers can assist in its operation, as well as utilize its files to our benefit.

A special compliance group was established in 1969 to receive and analyze all available information on organizations and individuals promoting extremists' views or philosophies. The identification of those included in the program was without regard to the philosophy or political posture involved; rather it was directed to the notoriety of the individual or organization, the probability that publicity might result from their activities and the likelihood that this notoriety would lead to inquiries regarding their tax status.

Liaison was established with Federal Investigative and law enforcement agencies to provide additional information on matters involving taxable income of individuals, activities of organizations having, or seeking, tax exempt status and the identity of individuals or exempt organizations providing financial support to activist groups.

On February 11, 1972, the group was formalized as the Special Services Staff. Currently, this Staff has 11,000 files (8,000 individual and 3,000 organizations). The composition of these files includes 12,000 classified documents. In addition, they have available a listing of 16,000 entities who fall into the category of posing a threat and probability of tax violation.

The Staff acts as a central intelligence-gathering facility for data from within IRS and from other investigative or law enforcement agencies. Accumulated data suggests there are two major categories of organizations and individuals identified as likely to be violating Federal Tax Statutes: (1) Violent Groups—those who advocate and practice arson, fire-bombing and destruction of property; use coercive threats for funds through U.S. Postal Service; make threats against public officials; plan and organize prison riots; engage in activities involving illegal accumulation of firearms and ammunition; have been identified as planning and carrying out skyjacking; and, those who print and distribute publications advocating revolution against the Government of this country. In category (2) where is ample evidence of activities involving so-called Non-Violent Groups, who by alleged peaceful demonstrations oftentimes deliberately initiate violence and destruction. Included are those who publicly destroy and burn draft cards, destroy Selective Service Office records, participate in and organize May Day demonstrations, organize and attend rock festivals which attract youth and narcotics, aid in funding sale of firearms to the Irish Republican Army, Arab Terrorists, etc., travel to Cuba, Algeria and North Vietnam in defiance of existing statutes (relating to seditious acts), inciting commotion and resistance to authority by encouraging defectors in the Armed Forces to enter into alliances to subvert this nation, and there is evidence from classified documents that transfers of large amounts of money to and from the USA are being used to establish and organize groups with the view of overthrow of this Government.

Currently, when information is received, it is reviewed for indication of non-compliance. When indications are present, file searches, if possible, are made to determine if returns are filed and taxes paid.

If the review so warrants, pertinent data is referred to the District, Audit, Intelligence or Collection and Taxpayer Service Divisions. These referrals may relate to specific individuals, organizations or groups of individuals. In addition, information and trends on the various movements are sent to the Districts affected. The Districts determine to what extent the information is used.

The Special Service files contain a great deal of material which has not been evaluated and, consequently, has not been referred to the field. This material is available to Revenue Agents, Special Agents and Revenue Officers working on organizations or individuals involved. Should an Agent or Revenue Officer be assigned a case falling into one of the categories, he should feel free to direct an inquiry to the Special Services Staff to see if there is any information on file or that can be obtained that would aid in their investigation. Inquiries can either be by mail or telephone to the following: Mr. Paul H. Wright, P.O. Box 14197, Benjamin Franklin Station, Washington, D.C. 20044, Area Code: 202–964–4326.

Many of the files contain detailed financial information. In such instances it may be preferable to have field personnel come in and extract data. But, due to the classified nature of the files, it would be necessary to obtain secret security clearance for each employee making such an inspection. Although some of the files are top secret, Special Services Staff members with this clearance can extract data of this nature if needed.

While the Special Services Staff is essentially an information-gathering and dissemination operation, it should not be considered a one-way street. Field personnel should be alert and refer information concerning these organizations and individuals indicating they willfully ignore or violate Tax Statutes. This added input will establish an effective two-way communication channel, greatly improving required Internal Revenue action. This is especially true where such information should cross district or regional lines, permitting coordination with other offices. Field personnel should be alert to criminal violations other than those involving *Tax Statutes*. This includes any indication of acts of violence, falsification of official documents and threats against Government officials or offices. Such information should also be channeled to the Staff so that they can coordinate with the appropriate agency.

The magnitude and potential of this facility is unlimited; a recent audit supports the conclusion that this function offers high potential as a deterrent to widespread tax violation sponsored by activist groups.

If you are aware of any individuals or organizations in your District that would fall into these categories, please furnish this information to the ARC (ACTS) for referral to the National Office.

DEPARTMENT OF THE TREASURY,
INTERNAL REVENUE SERVICE,
Washington, D.C., August 9, 1973.

WASHINGTON, D.C.—The Special Services Staff within the Internal Revenue Service will be disbanded, Commissioner of the Internal Revenue Donald C. Alexander announced today.

"The tasks now being performed by the Staff," Mr. Alexander said, "can be handled efficiently by other components of the Service as a part of their regular enforcement activities."

The decision was reached after a two-month study ordered by Mr. Alexander immediately after he entered office. The study showed that the function performed by the Staff could be carried out by other units of the IRS having responsibilities for enforcement and administration of the tax laws.

The Staff was originally formed in 1969 as a result of inquiries made of IRS by the Permanent Subcommittee on Investigations of the Senate Committee on Government Operations. At that time, in the wake of civil disruptions and demonstrations by "extremist" organizations, the Subcommittee raised questions concerning the financial resources available to these organizations. There was evidence that some of the organizations which enjoyed tax exempt status were not complying with the tax laws. The assignment of the Staff was to gather information on the sources of funding of these organizations and to check the income tax status of the organizations and their principals.

The data-gathering work of the group is presently confined to tax resistance organizations and those individuals who publicly advocate noncompliance with the tax laws. "The IRS will continue to pay close attention to tax rebels," Mr. Alexander said, "but political or social views, 'extremist' or otherwise, are irrelevant to taxation; the work of the Staff as a separate unit will be phased out."

SOCIAL SECURITY TAXES

Mr. BEALL. Mr. President, a week and a half ago, the U.S. Senate, by an overwhelming vote, granted the fifth major increase in social security benefits since 1969—15 percent increase in 1970, 10 percent increase in 1971, 20 percent increase in 1972 and a 5.9 percent increase in June of 1974 which will be nullified by enactment of the 11-percent increase in H.R. 3153.

Since 1969, the Congress has set in motion a process which has now built up its own momentum and it could have a significant impact upon the well-being of all of our citizens in years to come. As one who serves as the ranking minority member of the Labor and Public Welfare Committee's Subcommittee on Aging, I share the desire of my colleagues to increase benefits to those who truly need them. I have spoken out on this issue on a number of occasions, most recently in a statement during the Senate consideration of H.R. 3153—Congressional Record, November 30, 1973.

The second aspect of this problem is, in itself, subdivided into two parts. The Social Security System is so large and so complex that an actuarial table exists to justify almost any point of view. It has become very fashionable in recent years to advocate social security increases without establishing a corresponding mechanism for replacing these funds. The Social Security Trust Fund is far too large and serves far too many people for us to gamble with its viability. We must never put ourselves in the position of promising benefits to our citizens which we may be unable to deliver at some future date.

The second aspect of this problem, and the one which has remained largely invisible in recent years, is the rapidly increasing tax burden which falls most heavily upon the already hard pressed middle class. During the Senate's consideration of H.R. 3153, I received a number of letters expressing opposition to the benefit increase on the grounds that it would entail a significant tax increase. I have selected several of those letters which most articulately expressed various aspects of this problem and I ask unanimous consent that these letters be printed, in whole or in part, in the Record at the conclusion of my remarks. In addition, Mr. President, the December issue of Fortune magazine carries an editorial entitled "Social Security: The Real Cost of Those Rising Benefits" and I ask unanimous consent that this article also be printed in the Record at the conclusion of my remarks.

Mr. President, when I first came to the Congress in 1969, there was a general realization that two basic reforms had to be undertaken in the social security system. First of all, there had to be a significant improvement in the benefit levels offered to our Nation's senior citizens. During the course of the past 5 years, social security benefits have been increased approximately 68.5 percent. In addition, President Nixon took the lead in urging the Congress to adopt an automatic cost of living increase procedure which would serve to make social security benefits "inflation proof." Under the President's leadership, this automatic increase procedure was enacted into law and it will become fully effective in 1974. I believe that the time has come for the Congress to allow the automatic cost of living escalator to operate so that we can judge its adequacy. Clearly caution is called for in future congressional deliberations on this matter because I fear the possibility of a taxpayers' revolt against improved benefits for our Nation's senior citizens. We must not trigger a backlash among the middle class that would manifest itself in hostility and resentment against our 20 million senior citizens.

Mr. President, the exhibits I am inserting in the Record are the tip of an iceberg, and I believe it is incumbent upon us, as responsible legislators, to move with prudence and caution lest we trigger antagonism between those who receive social security benefits and those who pay taxes for such benefits.

There being no objection, the material was ordered to be printed in the Record, as follows:

George, Miles & Buhr,
Salisbury, Md., November 13, 1973.

Hon. J. Glenn Beall, Jr.,
U.S. Senate, Senate Office Building, Washington, D.C.

Dear Senator Beall: As laudable as the intent may be, I feel that it is time for the Congress to impose a "hold" on further social security increases.

The latest proposed increase will impose additional financial penalties on worker and employer alike. As an employer, the matching sum paid by us on each employee has now grown so large that it inhibits our ability to provide continuing salary increases and new fringe benefits.

I urge you to vote against the proposed increases. There are more working voters than social security recipient voters.

Sincerely,

Wm. B. Miles, Jr.

Baltimore, Md., *November 21, 1973.*

Hon. J. Glenn Beall, Jr.,
U.S. Senate, Washington, D.C.

My Dear Senator: I noted with interest newspaper accounts to the effect that Social Security benefits are to be increased, and that this is to be coupled with a maximum increase of $140.40 in the Social Security tax of persons earning $13,200 or more, with lesser proportionate increases for those earning between $10,800 and $13,200.

I would be the last to deny the need for decent levels of benefits for retired beneficiaries of Social Security, but I am troubled by the ease with which Congress reduces the take home pay of middle income salaried professionals to pay for this increase. My concern has been enhanced by recent reports in the *Baltimore Evening Sun* to the effect that Congress is considering eliminating certain itemized deductions from the federal income tax—specifically the state gasoline tax deduction—and that there is also discussion of abolishing the $100 dividend exclusion, thereby significantly raising the federal income tax of middle income salaried persons, especially if they are small stockholders. Meanwhile, I have not read reports that any consideration is being given to raising the individual exemption for taxpayers, or reducing the basic tax rate, much less reforming the taxation of such items as capital gains so that persons in high income brackets do not escape paying their fair share.

It would really be desirable for you and your colleagues to come to have a clear grasp of the household budgetary situation of your middle income constituents. For example, I am an assistant professor at the University of Maryland Baltimore County. Last year, I received a salary which I would consider to be about average for a faculty member of my rank. My salary increment for 1973–74 was 3.8%, during a period when prices were rising in excess of 7%. Thus, I am now over the bracket in which it will become necessary to pay the new maximum Social Security tax. Faculty members at UMBC have been told by our Chancellor that the University's asking budget for 1974–75 provides for faculty salary increments of about 7%, although I take it that this is likely to be reduced by the Legislature. Thus, the great difficulty is that persons such as myself have the impossible task of attempting to stay abreast of the cost of living during a period of soaring food prices, uncontrolled rents, availability of mortgage money at very high rates if at all, inflated costs of new homes, and increases in the price of gasoline due to the energy crisis which are projected to go as high as 80 cents a gallon by Spring. On top of this, Congress now enacts a reduction of $140 in my take home pay. In other words, it would now be necessary for me to get a salary increase next year of 8% instead of 7% merely to keep abreast of the increases in the cost of living, because 1% of my salary will be lost under the Social Security tax increase. My dear Senator, I can assure you that I have not the slightest expectation of an 8% increase from the State of Maryland next year. Moreover, if I should have to pay up to 1% more of my salary in federal income tax because of changes in the itemized deductions, or if there should be further increases in the cost of living beyond what is now being projected, I simply don't see how my budget can stand it unless I do something to augment my basic take home pay. The simple fact of the matter is that salaried professionals such as myself have, over the last few years, experienced a net loss in real wages due to both inflation and changes in the tax structure. Thus, we have not shared in whatever increases in economic productivity may have occurred.

May I have your comments at your early convenience, including some indication of any specific things that the federal government is doing—or that are proposed—in order to ease the burden on middle income salaried professionals such as myself.

Sincerely yours,

Alan L. Seltzer.

Adelphi, Md., *November 27, 1973.*

Hon. Glenn Beall,
U.S. Senate,
Washington, D.C.

Dear Glenn: Once again the Senate will consider the need for an increase in Social Security benefits and once again I am asking that you vote for the taxpayer and the thousands of Maryland youths whose old age security is jeopardized by the unjustified benefit increases that have become a political hallmark of our old age system.

As the enclosed chart shows, Social Security taxes have become a significant burden for both employer and employee. Indeed, the Social Security Administration has indicated that half of American taxpayers pay more in OASDI taxes than income taxes and, at the present rate of progression, every taxpayer will soon be doing likewise.

Not readily as apparent, the chart also shows that retirees are likely to draw more in one year's benefits than they paid in taxes during their entire working careers . . . a return that far exceeds any other avenue of investment open to them. And although the cost of living has increased significantly since the last benefit increase, it should be pointed out that since 1969 Congress has raised benefits by a cumulative 70% while the consumer price index has risen 31%. Where then is the case for another benefit increase?

On the other hand, someone should be concerned about the many young Maryland families with both spouses working and paying OASDI taxes and the prospects for their retirement security. In the face of a rising chorus of taxpayer complaints against a system whereby 60 million pay taxes to support 25 million, what will be the situation when these young people retire and there are more retirees than workers?

In the face of this evidence, who will you vote for?

Sincerely,

Michael J. Romig.

SOCIAL SECURITY TAX SCHEDULES, 1937 THROUGH 1974

Years	Tax rate (percent)	Wage base	Maximum tax[1]
1937–49	2	$3,000	$60.00
1950	3	3,000	90.00
1951–53	3	3,600	108.00
1954	4	3,600	144.00
1955–56	4	4,200	168.00
1957–58	4.5	4,200	189.00
1959	5	4,800	240.00
1960–61	6	4,800	288.00
1962	6.25	4,800	300.00
1963–65	7.25	4,800	348.00
1966	8.4	6,600	554.40
1967	8.8	6,600	580.80
1968	8.8	7,800	686.40
1969–70	9.6	7,800	748.80
1971	10.4	7,800	811.20
1972	10.4	9,000	936.00
1973	11.7	10,800	1,263.60
1974, under pending legislation	11.7	13,200	1,554.40

[1] Maximum combined tax for both employer and employee.

Baltimore, Md., *December 3, 1973.*

Senator J. Glenn Beall, Jr.,
Senate Office Building,
Washington, D.C.

Dear Senator Beall: You will shortly be considering a further increase in social security payments as well as additional FICA deductions.

As I pointed out to you in previous letters, I cannot see the logic of taxing currently employed persons to pay for benefits for those who are now retired. While this idea would not win you many friends among the retired persons, I am sure it will win you many, many more friends among those of us who are currently working. After all, there must come a time when we will have to stop giving away something for nothing. Please vote against these increases.

Howard F. Brenner.

Laurel, Md., *December 4, 1973.*

Senator J. Glenn Beall, Jr.,
Senate Office Building,
Washington, D.C.

Dear Senator Beall: I wish that you and all of your fellow Senators would start thinking about what you are doing to the average middle income person by increasing Social Security. First, I personally look forward to not having to pay the Social Security tax at the end of the year because it adds extra money into my budget for Christmas shopping. Second, as an employee of a large corporation the most my salary is allowed to increase is 5.5 percent yet you raise Social Security benefits by 11 percent and increase my tax by 22 percent. Third, you are reducing corporate profits at a time when unemployment is on the rise since they also will have to pay more into Social Security. Fourth, as a person in his early thirties, I can never hope to recover even a fraction of the high Social Security tax that I am forced to pay even if I live for many years after I reach the age of 65.

In conclusion I wish that you would remember that Social Security is supposed to be an addition to ones retirement fund, *not* the retirement fund itself. I thought you might be interested in a joke heard often at work—Social Security must be a bad deal because the people who administer it are not covered by it.

Thank you for your consideration.

Sincerely,

James H. Stiegler.

Social Security: The Real Cost of Those Rising Benefits

Once again social-security benefits and taxes are being raised by Congress. Once again, despite some quibbling about the amount of the raise, there has been no real resistance to the process. And, once again, any reasonable case for a raise is hard to discern.

This performance demonstrates among other things, the extent to which all that brave talk about "reordering priorities" has subsided. The Administration's principal priority last month appeared to be survival. And a fair number of Congressmen who had been dwelling heavily on the need for more sophisticated decision-making procedures, so that they could see the whole picture when voting on particular bills, seem silent. (Both the House and Senate have budget-control legislation before them, but their versions differ and no such law is apt to be in effect before 1975.) It is obviously more agreeable to vote benefits for the old folks than it is to focus on painful decisions about what the country can afford in a period of budgetary constraints.

There is no doubt that the higher benefits are popular—even though they entail some stiff new taxes. But there is also no doubt that this popularity rests to some extent on a vast misconception. There is a widespread belief that benefits voted in the past have been wiped out by inflation. The fact is that social-security payments have grown far more rapidly than the cost of living has risen, and the margin is substantial no matter which base date one begins from or which kind of benefit one examines.

THE PENSIONERS HAVE DONE BETTER

Indeed, one might argue that, in a period when many employed Americans really *have* had their income gains eroded by rising prices, the retired have been extraordinarily favored in scoring steady gains in real income. During the five years ending this fall, for example, the consumer price index rose at an average annual rate of 5.2 percent, while average monthly benefits to retired workers rose by 10.9 percent. The recent record features a benefit increase of about 20 percent that went into effect in September, 1972; another 5.9 percent raise was scheduled to be paid out next July and an escalator providing for further automatic raises was scheduled for the following January.

It was against this background that the House Ways and Means Committee voted last month to increase that forthcoming raise: the committee specified a raise of 11 percent, with 7 percent due to take effect in March. The committee also voted to increase the social-security tax rise that had been scheduled to take effect next month. The new maximum tax, payable by anyone making $13,200 or more, is $772.20—a rise of $140.40.

Thus social-security taxes continue to take larger bites out of middle-class family income. There are now millions of families with incomes in the $10,000 to $15,000 range for whom these taxes are more burdensome than the federal income tax.

It is increasingly clear, in any case, that this noncontroversial and largely undebated rise in social-security taxes has put a new light on the issue of a 1974 tax increase, which was being seriously considered in Congress and by the Administration a while back. It will now be very hard to increase taxes; or, more precisely, we have now had the increase and we have already allocated its proceeds. Any new demands on the budget—for increased military spending, say, or for tax incentives related to the energy crisis—must either go unmet or be financed by inflationary deficits. It is hard to believe that any rational appraisal of U.S. priorities nowadays would have resulted in the kind of allocations that Congress has rather mindlessly opted for.

NERVE GAS

Mr. MOSS. Mr. President, the Army has announced plans to make a new and improved brand of nerve gas. Let me say that my great faith in the Army, not to mention my faith in American science and technology, leads me to believe that we will be successful in our pursuit of a better nerve gas.

But before we set out on this project, there is one rather fundamental question that should be answered: Is there really any need for this lethal gas in the first place?

The people of Utah began asking this question several years ago when some VX-type nerve gas was released—apparently by accident—at Skull Valley, Utah, and resulted in the deaths of 6,400 sheep.

In Utah, we have good reason to be concerned about the possibility of another such accident. There is now stored near Tooele the largest single stockpile of nerve gas in the United States. The mute presence of row upon row, barrel after barrel of this deadly material is a stark reminder of the gruesome refinements that have been brought to modern warfare.

At one time, this Nation considered the possession of chemical weapons a necessary evil. Recently, however, a number of us have begun to doubt whether there is any need at all for deterrent stockpile of nerve gas.

In September, Senator Haskell and I sponsored an amendment to the defense authorization bill calling for the Academy of Sciences to study the most effective means of eliminating all existing supplies of chemical warfare agents in the United States. This amendment became part of the authorization bill, but unfortunately it was dropped in conference.

In October, the House Armed Services Committee held 2 days of hearings for the sole purpose of examining national defense policy with respect to chemical weapons.

Quite clearly, there are now serious doubts about U.S. policy on chemical warfare. So this is hardly an appropriate time for the Army to go ahead with plans to replace today's nerve gas with a newer model.

Mr. President, I plan to bring up the issue of our nerve gas policy later this week when we are discussing the defense appropriations bill.

What is desperately required at this time is not a better gas, but a complete discussion of our entire policy on chemical agents. An editorial in this morning's Washington Post presents very cogently the case for a critical reexamination of the U.S. policy in this area. I ask unanimous consent that it be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Chemical Warfare

A major opportunity exists to move toward a more responsible policy on chemical warfare but the opportunity may be overwhelmed by Army singlemindedness unless others pay heed. The opportunity was created by a wave of public concern over the storage, testing and transport of nerve gas. Plainly, this was the moment to question whether the United States needed to be in the chemical warfare business at all. The Army, however, plans to solve the problem—which it defines as a public relations problem involving storage and transport—by producing a new brand of nerve gas. To produce the new and destroy the old will cost something like half a billion dollars. As any close student of government ought to know, once a new investment of that scale has been made, the Army's institutional interest in protecting it will be very large.

In fact, what is the reason for this country to remain ready to engage in chemical warfare? The Army's reason is to deter the Soviet Union from using chemical agents. This is like saying that in order to deter the Russians from trampling us with elephant herds, we must raise our own elephant herds. It is, in a word, ridiculous. No canon of war requires the United States to respond with the same weapon used by a foe. We would still retain a broad range of other choices if we relinquished nerve gas and like chemical agents. By relinquishing chemicals, however, the United States would be making a modest but real contribution to a more civilized international society. For the truth is, chemical warfare conveys an image of horror out of proportion to its military potential. Mere possession of chemical agents has come to be a political debit. Whatever the military effectiveness of the chemical agents used by the United States in Vietnam—certain tear gases and herbicides—few detached observers would contend that they outweighed the political opprobrium attached to their use.

In his first term, of course, President Nixon did renounce "the first use of lethal chemical weapons" and of "incapacitating chemicals" as well. He has not, however, moved on to sign the international treaty, known as the Geneva Protocol, which outlaws first use in war of chemical (and biological) agents. Mr. Nixon submitted the Protocol to the Senate in 1970. But because he explicitly excluded control of "riot control agents and chemical herbicides"—not "lethal" or "incapacitating," he claimed—the Foreign Relations Committee referred the treaty back to him. The committee's entirely reasonable view was that it would lower rather than raise the barrier against chemical warfare to ban all forms except the ones which the United States actually was equipped to use.

This is a good time to review the whole question of chemical warfare. The pending need for a half billion dollars for changing models of nerve gas makes the issue acutely topical. The end of American combat in Vietnam makes it possible to consider the Geneva Protocol in an atmosphere free of the turbulent currents of the war. One of the moral highlights of President Nixon's first term was his courageous renunciation of biological warfare—the production of biological agents, their possession and their use. He could well match that achievement with a step forward on chemical warfare now.

DEATH OF HON. GEORGE L. SMITH II, SPEAKER OF THE GEORGIA HOUSE OF REPRESENTATIVES

Mr. TALMADGE. Mr. President, the State of Georgia and the Georgia General Assembly mourn the passing of the Honorable George L. Smith II, speaker of the Georgia House of Representatives, in Atlanta on Sunday, December 9, 1973.

The State of Georgia lost a leader and a statesman. I lost a steadfast friend and valued counsel, a man I have known and admired since our college days, the better part of 40 years.

George L. Smith was in every sense of the word a dedicated public servant. He was cut from an old-fashioned cloth. His word was his bond. His integrity was unquestioned. He was fair. He was good. He was honest.

He coveted no higher office than that which he held. His heart belonged to the Georgia House and its members knew it. He knew when to compromise without giving up substance and honor and, always, when a question was put to him his first response would be, "Is it good for the State of Georgia?"

George L. Smith II, was born in Emanuel County, Ga. He was graduated from Swainsboro High School and from the University of Georgia where he earned his degree in law. He was president of the Georgia Jaycees and, for many years, served as a member of the board of governors of the Georgia Bar Association. He was long active in the Georgia Democratic Party and served as a member of the State Democratic executive committee. Nationally, Speaker Smith was a past president of the National Conference of State Legislative Leaders and, at the time of his death, served on the executive committee of this prestigious organization which is composed of the leadership from every State legislature.

George L. Smith was speaker of the Georgia House for 11 years, the longest any man has held this great position. He served as speaker with three Governors and was a stabilizing force in Georgia political affairs for many years. He was a shepherd of reason. He was a steward of progress.

Georgia will never see another George L. Smith. He was a man's man, a politician's politician, and a legislator's legislator.

George L. Smith was my friend. I mourn his passing. Mrs. Talmadge and I extend our heartfelt condolences to his wife Sally, and his daughter Sally Smith.

Mr. President, I ask unanimous consent that several timely newspaper articles and editorial tributes to Speaker Smith be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Atlanta Constitution, Dec. 10, 1973]

House Speaker Smith Dies

(By David Morrison and Celestine Sibley)

House Speaker George L. Smith died at 4:45 p.m. Sunday, the victim of a massive stroke that kept him unconscious for three weeks.

"He had moments in which he responded to his relatives," an attending physician said, "but he never fully regained consciousness."

After family members were notified and word of the speaker's death circulated, state officials, politicians and friends of the family flooded the switchboard of Piedmont Hospital in Atlanta with expressions of sympathy.

"George L. Smith was one of the finest leaders Georgia has ever known," said Gov. Jimmy Carter, who arrived at the hospital shortly after the speaker's death. "He was a close personal friend of mine and he will be sorely missed in the future."

Carter praised Smith, a 27-year veteran legislator, for "enlightened leadership" in the lower house of the General Assembly. Carter said Smith possessed an innate "ability to bring order out of chaos."

The body will lie in state at the Capitol Tuesday, Gov. Carter said.

Mrs. Smith, daughter Sally and other family members present at the time of the speaker's death planned to stay in Atlanta overnight Sunday before returning to Smith's hometown of Swainsboro to make funeral arrangements.

Former U.S. Sen. David Gambrell, also present at the hospital, said Smith's death is "a very sad occasion for this state. He was a man of great ability."

"We have seen a lot of changes in the legislative system and he has been a leader in that," Gambrell said. "It will be difficult to replace a man of his ability."

The death of the popular Democratic leader left many questions unanswered for the 1974 session of the General Assembly.

However, Carter predicted that Smith's death will cause state lawmakers to set aside political differences and create a productive atmosphere in the General Assembly.

"George L. was one of the greatest Georgians that ever lived," Carter said. "He's put his leadership to great use.

"He has set an example for integrity and competence that many other politicians will emulate for years to come."

Dr. Lamont Henry, an associate of Smith's personal physician, Dr. Bernard Wolff, said there was little chance during the speaker's fight for life that he would survive. Smith suffered a massive stroke at the base of the brain three weeks ago Sunday which Henry described as the ultimate cause of death.

Such a stroke is caused primarily by the filling in of chief arteries, Henry said. The result is sudden or gradual obliteration of the blood supply to the brain.

Wolff was out of town at the time of Smith's death. However, the speaker was attended by another of his associates, Dr. Charles Upshaw Jr.

Mrs. Smith was present as was Smith's daughter, Sally, an airline stewardess, who arrived on a flight from Tampa, Fla., Sunday afternoon.

Speaker Smith, whose 61st birthday anniversary occurred after he was admitted to Piedmont Hospital, visited the Georgia Capitol for the first time when he was a small boy. He saw the House of Representatives in operation—and it was the beginning of a lifetime love affair.

Other men have used legislative service as a stepping stone to more exalted political office. Other men consider the Georgia House or Senate a way station on a trip to the post of governor, congressman, judge or even President of the United States.

George L. Smith II considered the position of Speaker of the Georgia House "the best job and man could ask for—the highest calling."

He held that job for 11 of his years as a seldom opposed, never defeated House member, bringing to it a fierce love and pride that did much through the years to burnish the image of the House itself. He came to the House in 1945, a largely wool hat legislature controlled by the governor he had supported, Eugene Talmadge. Peanut hulls rattled underfoot on the floor, cuspidors were awash with amber and it wasn't unusual to hear the clink of liquor bottles in members' desks. Rep. Smith quickly became a member of the celebrated law-making triumvirate which included Rep. Frank Twitty of Mitchell County, long-time floor-leader, and Rep. Jack Ray of Warren, later state treasurer.

They were a formidable trio who could marshal the votes to pass any bill in which they were interested. One of their strengths was later to become Smith's greatest asset as Speaker of the House.

He knew the House rules "backards, forwards, right side up and upside down," as one member remarked. He studied the rule book as much for pleasure as for profit and he mastered parliamentary procedure for love of its stately language as for the advantage it gave him in a law-passing maneuver.

Later he would make a study of British parliamentary practice, sitting long hours in the House of Commons and tracing the origins of Georgia's parliamentary ritual to its source. Friends he made in British parliament occasionally returned his calls, visiting with him in the Georgia House.

Rep. Smith became Speaker of the House in 1959 with the administration of Gov. Ernest Vandiver. When Carl Sanders became governor in 1963 George L. Smith was replaced by George T. Smith as Speaker. When neither Republican Howard ("Bo") Callaway nor Democrat Lester Maddox received a majority vote in the 1966 general election for governor, Rep. Smith got the chance he had been awaiting for 20 years.

The General Assembly took to itself the responsibility of naming a Speaker, heretofore the privilege of the governor, and George L. Smith got the job.

It was the first "independent" legislature in history and the man who had loved it since boyhood became its leader, possessing powers he always denied holding. The stories of his political power were legion but efforts to give him the nickname "King George" fizzled out because of his accessibility and easy informality with members and the press. However, he was zealous to enforce the rules of the House, wielding a heavy gavel at the first sign of disturbance, particularly if a member used profanity in debate or appeared in the chamber with a bottle of liquor in his possession.

He believed that House members, particularly, Senate members by association with the House, were entitled to more pay and he worked unsuccessfully to get a law passed to increase their terms of office from two to four years. By the same token he expected House members to work and he kept a weather eye on the calendar to be sure no bills were caught in a log jam in the final days of a session and failed of passage. (Some bills, he sometimes pointed out with wry humor, were introduced by their authors with death on the calendar in mind as their most desired destiny.)

[From the Atlanta Journal, Dec. 10, 1973]

Smith's Body To Lie in State Tuesday at Capitol

The body of Georgia House Speaker George L. Smith II, who died Sunday afternoon, will lie in state at the state Capitol from noon until 8 p.m. Tuesday.

Members of the General Assembly and friends of the 61-year-old speaker will act as an honor guard while the body is in the rotunda on the second (main) floor of the Capitol.

A delegation led by Gov. Jimmy Carter will escort the body into and out of the rotunda, it was decided at a meeting of the Smith family and state officials shortly after noon Monday.

Funeral services will be held at 3 p.m. Wednesday in Smith's home town of Swainsboro, at the First United Methodist Church.

Most state officials, including Gov. Carter, are expected to attend. The day has been declared "a period of mourning" for Smith, and the Capitol will be closed.

Smith, one of the most powerful men in state government, died at 4:45 p.m. Sunday at Piedmont Hospital in Atlanta where he had been since suffering a stroke Nov. 11.

Smith, who was 62 on Nov. 27, served as speaker of the Georgia House from 1959 until his death, with the exception of the four years, 1962–1964, of the Carl Sanders administration when Sanders as governor pushed through the election of then Rep. George T. Smith to lead the House.

George L. Smith is credited with taking over a disjointed, usually ineffective and often rowdy House in 1959 and through tight control of the membership and sophisticated use of parliamentary procedures instituted a relatively high degree of reform.

His influence on the Georgia House of Representatives carried over into the Senate, which over the years improved its own standards after being frequently compared unfavorably to the House.

Few laws passed either house of the Georgia General Assembly during the Smith years without his personal involvement.

Smith died after battling the effects of the massive stroke for 29 days. He was stricken at his Swainsboro home on Nov. 11 and brought to Atlanta after he failed to respond to treatment.

He remained unconscious and in critical condition most of the time.

"He had moments in which he responded to his relatives, but he never fully regained consciousness," an attending physician said.

Carter ordered state flags to fly at half staff until after the funeral.

The son and grandson of South Georgia physicians, Smith broke family tradition and entered the University of Georgia Law School, where he was graduated and admitted to the bar at age 20.

He returned to practice law in Swainsboro and in 1937 was elected solicitor of the City Court and became city attorney in 1941.

He was elected to the Georgia House from Emanuel County in 1945, served as speaker pro tem from 1947 to 1954, and became Speaker in 1959.

Early newspaper accounts describe him as "cool and fair" in House debates.

Later, as "Mr. Speaker," he acquired the reputation of ruling the House with an iron hand and a rare dedication to parliamentary and political detail. Few bills passed over his opposition, and fewer still failed if he really wanted to push them.

After the gubernatorial election became deadlocked in 1967, with neither Democrat Lester Maddox nor Republican Howard "Bo" Callaway gaining a popular majority due to a write-in movement, the House seized the initiative and elected Smith as its first independent speaker. Prior to that time, the House had rubberstamped the governor's choice for the leadership job.

Consequently, the Swainsboro legislator came to embody the concept of a legislature independent from the governor's office. He himself had been tapped in 1959 as the representative of Gov. Ernest Vandiver, but he ran the House without interference from Govs. Maddox and Carter.

Smith came from a distinguished Georgia family. His father was the late Dr. DeSaussure Dugas Smith of Emanuel County, and his grandfather the late Dr. George Leon Smith of Washington County. A brother, Dr. Wilder Smith, carries on the family medical tradition with a practice in Swainboro.

Smith was born in the small Emanuel County community of Stillmore on Nov. 27, 1912. His mother was the former Gladys Wilder of Pike County, a former regent of the Daughters of the American Revolution and a former state vice president of the PTA.

In 1937, Smith married Frances "Sally" McWhorter Mobley of Monroe, Ga., daughter of Mr. and Mrs. Arthur C. Mobley. Her father was one-time state superintendent of banks.

They have one daughter, Sally, born in 1946.

Smith's list of civic connections was almost endless. He was a Mason, Shriner, Kiwanian, Jaycee and Delta Tau Delta.

He was a Methodist.

At various times, Smith held offices or was a member of the Board of Governors of the old Georgia Bar Association, State Democratic Executive Committee and the National Conference of State Leaders (NCSLL).

He was elected to NSCLL's executive committee in 1960 and became president of the national organization during its 1963–64 term.

[From the Atlanta Constitution, Dec. 10, 1973]

Political Leaders Pay Tribute Following Smith's Death

(By Tom Henderson and Gary Hendricks)

"The House can elect another speaker, but Mr. Smith will always be the speaker as far as I'm concerned," said Rep. J. Robin Harris of Decatur Sunday night.

Sadness and a sense of loss were the first reactions of long-time friends and political associates of House Speaker George L. Smith following the veteran politician's death Sunday.

"George took my grandfather's place in the House when he died after taking office in 1945. He'd been there ever since," said State Sen. Jay Cox of Twin City, who represented Smith in the upper house of the legislature.

"After a couple or three weeks you learned to live with him being in terrible shape—but there is still the shock," Cox said.

Most political leaders contacted Sunday night were reluctant to speculate on how Smith's death would affect the House in the upcoming session in January. But expressions of personal loss were almost all followed by statements of the state's political loss.

"We're going to really miss him. I just don't know how he can be replaced. We don't find men of his type very often," said Sen. Hugh Gillis of Soperton.

"I hope we will be a stronger House by his having passed our way," said Rep. Bill Lee of Clayton County when asked how Smith's absence would affect the House.

"I would like to think that the members of the House would rise to the occasion and conduct themselves in the next session in a manner to bring credit on the House, because this is what the speaker would want," said Rep. Harris, former chairman of the House Judiciary Committee.

Smith's behind-the-scenes maneuvering was as effective in squashing internal squabbling in the House as his gavel was in controlling floor debates and his death leaves a void in the political power structure of the legislature.

"We've lost a unique individual, a man who provided stability to the government," said Rep. Peyton Hawes, chairman of the Fulton County delegation.

"I just don't know what will happen."

James H. (Sloppy) Floyd, chairman of the House Appropriations Committee and a close friend of Smith's, learned of the speaker's death late Sunday from a newsman.

Awakened at his home in Trion, Floyd said "Georgia has lost one of its greatest citizens and one of its most influential leaders in history. His influence and his thoughts will be felt for many years to come."

"Judge" J. Roy McCracken, who represented Jefferson County in the House for 39 years was one of Smith's oldest friends and associates.

"One of the strongest legislative leaders we have ever had was George Smith. He was instrumental in re-establishing legislative independence. I think the state has lost a great citizen," McCracken said.

O. P. Hanes, who became Smith's top aide after retiring from many years as a political writer for the Associated Press, said Smith was "one of the best friends I've had for a long time. I've just lost a long time friend. I'm pretty shook up about it."

Others were shaken by Smith's death as well, even though the veteran House leader had been in critical condition at Piedmont Hospital since a stroke three weeks ago.

"I'm kind of shook right now," said House Majority Leader George Busbee "I've just lost one of my closest friends and we've lost one of the greatest Georgians and greatest speakers Georgia has ever known."

Speaker Pro-Tem Tom Murphy of Bremen, who would have filled in for Smith had the speaker lived but been unable to carry out his duties in January, said he thought it would be inappropriate to comment on who might succeed Smith in the speaker's chair.

"He was a good friend and a good man," said Murphy. "The state lost a great man and the House lost a great speaker, whom we leaned on so heavily."

House Minority Leader Mike Egan called Smith "the greatest legislative leader in this country. He will be missed personally by all of us."

"I just haven't brought myself together enough to think about what the future brings," Egan said.

Reached late Sunday night, Lt. Gov. Lester Maddox, who often locked horns with Smith while governor, called the speaker's death "a sad and tragic thing.

"He loved politics, he loved government, and most of all he loved the General Assembly," said Maddox, who added that he joined Smith's family in mourning.

Atlanta Mayor Sam Massell said, "George L. Smith was an able parliamentarian and a dedicated public official. As a friend of Atlanta, he understood the problems of Georgia's cities. My thoughts are with his family at this hour of sadness."

[From the Atlanta Journal, Dec. 10, 1973]

George L. Smith II

It was with deep regret that we learned of the death of Speaker of the House George L. Smith II of Swainsboro.

Mr. Smith was speaker for many years. While he easily could have won higher political office, the House was his life and the running of it was all he wanted.

In this we were fortunate. Mr. Smith was an intelligent man, an able lawyer and an astute politician. Under his leadership the House could and frequently did perform ably. His presence as speaker was our insurance against the acts of an incompetent in the governor's chair as in this event the House and its speaker could be depended upon to do the real running of the state.

Mr. Smith was a gentleman, a good friend and a good companion. He represented a rural area but he understood urban problems and was sympathetic with them. He loved his state and he wanted peace and prosperity for it and for all races. His was a good life and a constructive one and Georgia is better for it. The Journal joins his many other friends in offering sympathy to his family.

[From the Atlanta Constitution, Dec. 11, 1973]

The Speaker's Legacy

House Speaker George L. Smith, as he himself might have phrased it, was a creature of the Georgia House. He loved its legislative processes, the give and take of debate, and he proved himself again and again a stable sound influence for good government in Georgia, a man who loved his state and cared about how government responded to people.

We mourn Speaker Smith. His body lies in state at the State Capitol today. There will be many who will pay tribute.

There is another thing to be said. It is vital that the Georgia House move promptly to elect a new Speaker of the House. We say this not in unseemly haste, certainly not in any disrespect to the departed, but rather in the belief that Smith himself would place the same importance on such action. Indeed, he never recovered consciousness fully from the stroke that felled him. But we believe that, had he been conscious and alert in his last few days, Smith himself might have urged such prompt action on the Georgia House.

We say this not in the sense of having any candidates to offer. The selection of a new Speaker is rightly a choice to be made by the members of the Georgia House.

But we would say this. Speaker Smith gave a new dignity and significance to the deliberations of the House that he loved. At a time when the State Senate, more often than not, devoted its energies to petty bickering and stumbled along without firm leadership, Speaker Smith kept his own strong hand on the captain's wheel of the Georgia House. He did his part in making things work, in making government function in the best sense.

The choice of Speaker Smith's successor addresses itself to all the members of the Georgia House. It is a choice that needs to be made soon. We hope all the members of the House will face up to that choice, not in a sense of partisan jockeying for position, but with an earnest commitment to try to do what is best for the state.

[From the Atlanta Constitution, Dec. 11, 1973]

The Man With the Job He Wanted

(By Reg Murphy)

Over the years Speakers of the Georgia House have gone on to other—not to say bigger—things. George L. Smith II was the exception, and therein lies the secret of one man's power in a system where power comes to those who grasp it.

Before Smith's time, Roy Harris was the speaker. He went on to gain a reputation as a kingmaker. Much of that reputation was myth; he didn't really elect many governors. But he did help Ed Rivers, Ellis Arnall and Eugene Talmadge in their races.

Fred Hand, whose hand on the Speakership was strong, thought he had built enough bridges over troubled waters to win the governorship. He went down to ignominious defeat, and retreated to Pelham.

In late years, George L. Smith did more than inject initials into Georgia politics. He was the Speaker, and later won the lieutenant governor's job before running out of votes against Lt. Gov. Lester Maddox.

All those worthies though they were building for the future when they wielded the gavel in the House.

Only George L. Smith of Swainboro was strong enough to stop there. (Strong being defined as making the decision to see his limitations and live with them.) "This is the only political ambition I've got," he told me many times.

Just a few days before he suffered the stroke that proved fatal, we were chatting on a MARTA bus. He was riding from a downtown hotel to the Capitol—no cabs or limousines for him just to get to work. A city bus would do just fine.

Anyhow, he was making plans for a new legislative session which begins in January. He thought it might be possible to show the voters that he could bring order to the House in contrast to the chaos he saw Maddox bringing to the Senate.

It was a passion of Smith's to prove that the House was the better of the two deliberative bodies. And that was how he fitted into the overall pattern to win legislative independence.

Independence was a battle to which he came late. He and Frank Twitty of Camilla once controlled the House—he as speaker, Twitty as floor leader—by getting governors to dispense roads and jobs to those who voted with them. In return, the governors got their programs through. There was no independence.

Twitty tired of the legislature, and Smith came to believe it was his high calling to hold the House aloof from the governor's office most of the time.

By the time Maddox was a contestant in the 1967 assembly, where the legislature had to give somebody a majority, Smith went with him rather than with Republican Bo Callaway.

In one of the brilliant pieces of legislative strategy of our time, Smith and friends then proceed to strip Maddox of every power save ribbon-cutting and bicycle-riding. They made budgets and policy while Maddox made speeches. They held the little man in political (not personal) contempt while they made state policy.

Smith was no liberal, no visionary, no do-gooder. He was a tough, resilient, sometimes devious House Speaker. He was too close to some lobbyists, and he suffered occasionally from delusions of grandeur, as when he had a fireplace installed in his office.

With it all, he was a leader. He came from the school which thought the government ought to help those who helped the House leadership. Usually he could find a way to make that happen.

He was, finally, the man who thought the House speakership worthy of his best efforts, not a stepping stone to something else. In an age of unbridled ambition, there was a great deal to be said for working very hard at the only job he wanted.

[From the Atlanta Constitution, Dec. 11, 1973]

"Gentleman From Emanuel" Hard Loss for Georgia

(By Celestine Sibley)

Rep. Robin Harris, who says most things well, expressed it for me the other day when he said that the Georgia House can and must elect another Speaker but as far as he is concerned George L. Smith II, now dead, will always be "the Speaker."

Through the years Georgians have seen presiding officers come and go—kings and clowns and well-intentioned fumblers. Among them all George L. Smith, "the gentleman from Emanuel," stood out as the most skillful, the hardest working, the most dedicated Speaker. You could disagree with him—and all of us did from time to time—but you had to admire his ability. I've seen the Georgia House in chaos, particularly one night at the hour of adjournment sine die when the issue of reapportionment was still not resolved. Disagreement followed by disorder swept the chamber. There were shouting matchs and near fist fights. The then Speaker was a well-meaning man but totally inexperienced in coping with a fractious, angry, rebellious House. He finally turned to George L. Smith for help.

It was late in the day for George L., as everybody called him, to take over. He had no official status in controlling the House but from his place on the floor he got the attention of the angry, milling members and somehow got them back to their seats and parliamentary order restored. He did it with patience, good-humor and an appeal for fair play. Sometimes he was not always patient and good-humored. (Once in a column I accused him of losing his ability to laugh and he later told me he was so afraid it was true he clipped the column and framed it to hang in his office—"Just to remind me," he said.) But he was always fair. When he erred, as all men do, he was quick to apologize and to make amends. Last year when the matter of a salary raise for members of the General Assembly was before the House, the Speaker thought he might follow the historic pattern and not ask for a roll call vote. Nobody had ever asked members to stand up and be counted when it came time to vote themselves a pay raise.

At the last minute when he looked over the House, Speaker Smith later told me, he knew the members were above such behavior. They were willing to put their votes and their names on the record, he said. It turned out they were. In the criticism which later engulfed the Senate for its secret vote, he was very happy and proud of the House for its behavior.

Just as he loved the House, maybe second only to the two Sallys in his life, his wife and his daughter, George L. loved his state. The last time the General Assembly made a special train junket to the coast to inspect state properties, I sat with the Speaker and his wife for a little while. I never will forget how his face brightened as the train rolled closer to his own Emanuel county.

He said he got a special good feeling, a sort of lift, when he saw the fields and the trees of home. Wherever he traveled—and in recent years he and Mrs. Smith traveled far—he felt his spirits lighten and his heart beat faster when he came back to Georgia. He was a citizen Georgia can ill afford to lose.

[From the Atlanta Constitution, Dec. 11, 1973]

Smith To Lie in State at Capitol Until Swainsboro Rites

(By Celestine Sibley)

In a hushed Capitol with the flag flying at half staff and a wreath of white chrysanthemums mutely marking the closed door to the House of Representatives, state officials and his aides Monday worked out details for the lying in state and funeral of House Speaker George L. Smith II.

The Swainsboro attorney, who died at Piedmont hospital Sunday afternoon, was the first House speaker in state history to die in office. He will be the 12th public figure in history to lie in state in the rotunda of the state Capitol.

Official mourning for the man who has been called one of the most influential and respected political leaders in the state will begin at noon Tuesday when his body will arrive at the Capitol for an eight-hour period. Flags were ordered by Gov. Jimmy Carter to remain at half staff on all buildings and grounds throughout the state until after Smith's funeral at the Swainsboro First United Methodist Church at 3 p.m. Wednesday.

Gov. Carter will be waiting at the curbside in front of the Capitol Tuesday to meet the House speaker's widow, their daughter, Sally, and other members of the family. They will be greeted at the door by Lt. Gov. Lester Maddox, Secretary of State Ben Fortson, other constitutional officers, and the leadership of the House and the Senate. National Guardsmen will bear the body to its resting place in the great circular hall in the center of the Capitol, where Confederate President Jefferson Davis was the first person to lie in state in 1893. The Third Army band will play two hymns selected by Mrs. Smith as her husband's favorites, "A Mighty Fortress is Our God" and "Battle Hymn of the Republic," after which L. T. Gilstrap, an assistant House clerk and an ordained minister, will say a prayer.

Gov. Carter will escort Mrs. Smith and their daughter Sally to the rotunda and place a wreath beside the casket, opposite a wreath from the speaker's staff. Smith's body will remain at the Capitol until 8 p.m., when, after a prayer and a hymn played by the National Guard band, it will be moved with a state patrol escort to Swainsboro for the funeral. Carter said Monday his office had been flooded with expressions of sorrow from "the private citizens of Georgia."

"A large number of them and all the state's department heads feel deeply indebted to him for what he has done for them," the Governor said. "They have pledged their support to me and to members of the General Assembly to demonstrate their love of George L. at the coming session. Everybody is determined to make this session especially productive because of the high regard they hold for George L."

Smith was the first speaker of the House to be elected to that post by the independent action of his fellow legislators. He was named in 1966 before the legislature resolved the close vote between Lester Maddox and Republican Howard (Bo) Callaway by electing Maddox governor.

As an independent speaker, the governor said, Smith "expressed—accurately, I feel—the attitude of members of the House." He credited the Speaker with pushing to passage many administrative bills after they were "worked out jointly." The last time Smith took the floor of the House to argue for the passage of a bill was when the governor's bill for early childhood development centers was up for consideration. It passed overwhelmingly.

Throughout the Capitol Monday legislators gathered to speak in low tones of their last conversations with the House leader. Commissioner of Agriculture Tommy Irvin, who will be one of those to greet the Smith family at the Capitol door Tuesday, said he was talking with the speaker less than an hour before Smith suffered a stroke while working in his office in Swainsboro on Nov. 11. They were discussing agricultural bills which may face the upcoming session of the General Assembly.

An honorary escort accompanying the body from A. S. Turner Funeral Home in Decatur to the Capitol will include Smith's aide Bobby Dwelle, House Sergeant at Arms Ed Moses, Gary Mims, Sid Shepherd, Loren Gary, Richard Harper, Sen. Render Hill, his son, Jimmy, House Messenger Elmore Thrash, House Doorkeeper Marion Toms, Clerk Glenn W. (Jack) Ellard, Assistant Clerk Jack Green and Glenn Weathington.

The speaker's nephews will serve as pallbearers. They are: Larry Hayes, Bill Edenfield, Smith Edenfield, Charles Price, George Smith III, Mason Smith, Wilder Smith, Jr., Dess Smith and Roy Hayes.

Mrs. Ernestine Holland, the speaker's secretary for nine years and one of those present in his hospital room at the time of his death, said Mrs. Smith had asked six longtime friends, members of a group of seven couples who were married about the same time the Smiths were married, to serve as honorary pallbearers. They are: Roy Bowen, Charles Elliott, Rufus Youmans, Jimmy Moran, Burchell Smith and Reid Watson.

Mrs. Holland said it is the family's wish to concentrate the public mourning for the speaker in the Capitol in Atlanta and have the service in the First United Methodist Church in Swainsboro mainly for his hometown and Emanuel County friends. There will be a small section reserved for Gov. and Mrs. Carter, who will fly down Wednesday morning with Lt. Gov. and Mrs. Maddox and about a dozen members of the General Assembly. The service will be broadcast to the churchyard for those who cannot find seats in the small sanctuary.

Mrs. Holland asked members of the House and Senate who wish to serve as honor guards beside his coffin in the rotunda to meet in the House chamber between 10 and 11 a.m. Tuesday. They will serve two at a time, along with two National Guardsmen, for 15-minute intervals from noon to 8 p.m.

Members who will flank the Governor and other state officials when he goes out to meet Mrs. Smith will be Lt. Gov. Maddox, President Pro Tem Hugh Gillis, Speaker Pro Tem Tom Murphy, House Majority Floor Leader George D. Busbee, House Minority Leader Mike Egan, Majority Whip Jack Connell, Minority Whip Harry Gesinger, and Reps. Roy Lambert, Ward Edwards, Leon Floyd and Herbert Jones.

Chairmen of the House's 27 standing committees have sent flowers to Swainsboro in the names of their groups. Those who will move with the speaker's family into the church will include his secretary for 33 years, Mrs. Florrie Mae Peebles of Swainsboro and his staff of five secretaries at the Capitol, led by Mrs. Holland.

[From the Atlanta Journal, Dec. 12, 1973]

Smith Funeral Rites Held

(By Prentice Palmer)

The Capitol said goodby to "Mr. Speaker" in solemn, hushed tones.

An estimated 2,000 to 3,000 Georgians filed by the bronze-colored casket which held the body of George L. Smith II, speaker of the Georgia House of Representatives for 11 years.

The body lay in state in the rotunda of the Capitol for eight hours Tuesday as high elected officeholders and secretaries paid their last respects to a man who in many respects was the most powerful political figure in Georgia.

Funeral services for Smith, who died Sunday following a stroke Nov. 11, were held at

3 p.m. Wednesday in his home town of Swainsboro.

The Speaker, 61, was the 12th public figure to lie in state in the Capitol in Georgia history. Confederate President Jefferson Davis was the first and U.S. Sen. Richard B. Russell Jr. preceded Smith.

He was elected to the House in 1945, served as speaker pro tem from 1947 to 1954, became speaker in 1959 and held the post continuously except for four years.

Smith's body was borne into the rotunda in a flag-draped casket carried by National Guardsmen while the 214th Army Band from Ft. McPherson played "A Mighty Fortress Is Our God" and "Battle Hymn of the Republic," two of Smith's favorite works.

Gov. and Mrs. Jimmy Carter headed a group of state officials who met the speaker's widow, Frances, and their daughter, Sally, as they arrived at the Capitol with other members of the family.

Lt. Gov. Lester Maddox led a delegation of Georgia political figures who formed a corridor for the family and the body into the rotunda, located on the main level of the four-level Capitol.

It was minutes past noon as L. T. Gilstrap, an assistant House clerk and ordained minister, faced the two Smith women and quietly opened a Bible.

"To everything there is a season, and a time to every purpose under the heaven."

The two women held hands tightly as Gilstrap, then Carter, said brief prayers.

Just before the public was allowed to file by the casket, Mrs. Ernestine Holland, the speaker's Atlanta secretary for many years, placed a gavel across the speaker's crossed arms. Army and Air Force National Guardsmen stood at attention.

The body left the Capitol at 8 p.m. for Swainsboro, accompanied by the Georgia State Patrol.

CONSTITUTIONAL RIGHT TO PRIVACY VIOLATED BY BEHAVIOR MODIFICATION DRUG ABUSE PREVENTION PROGRAM

Mr. ERVIN. Mr. President, all over the Nation the courts are showing an increasing willingness to come to the protection of individual privacy, that right which Justice Brandeis described almost half a century ago as "the right to be let alone—the most comprehensive of rights and the right most valued by civilized men."

The Federal District Court for the Eastern District of Pennsylvania, in a recent opinion by Judge John Morgan Davis, in the case of Merriken against Cressman, has upheld the constitutional right to privacy. The case involved a drug abuse prevention program, which not only pressured school students involuntarily to disclose personal information through personality tests, but also applied privacy invading behavior modification, as well as the harmful and often self-fulfilling prophecy of labeling innocent students as "potential drug abusers." It seems to me that Judge Davis' opinion ably speaks for itself in describing both the privacy-invading program and the constitutional right to privacy which forbids forcing it on public school students.

Both because of the excellence of Judge Davis' opinion and because I have received numerous complaints about federally funded drug abuse prevention programs which appear to employ unconstitutional invasions of the privacy and personal integrity of thousands of young Americans, I, therefore, ask unanimous-consent request that Judge Davis' opinion be printed in the RECORD following these remarks.

There being no objection, the opinion was ordered to be printed in the RECORD, as follows:

OPINION AND ORDER

[In the U.S. District Court for the Eastern District of Pennsylvania—Civil Action No. 72-2057, September 28, 1973]

Michael Merriken, et al. vs. Wilmer D. Cressman, et al.

I. FINDINGS OF FACT

1. Plaintiff, Michael Merriken, is an eighth grade student at Stewart Junior High School, Marshall and Forrest Avenues, Norristown, Pa. Plaintiff, SYLVIA MERRIKEN, is the mother of MICHAEL MERRIKEN, is a resident of Montgomery County, and pays real estate and other taxes to the county. (N.T. 12/1/72 at 13; N.T. 12/18/72 at 130)

2. Defendants are the Montgomery County Commissioners, the members of the Norristown Area School Board, the superintendent of schools of the Norristown Area School Board, and the principal of Stewart Junior High School. (N.T. 12/1/72 at 13–14)

3. Defendants, acting in concert with each other and with Fred Streit Associates, intend to introduce a program entitled Critical Period of Intervention (CPI) into the Norristown Area School District to be administered to eighth grade students including Plaintiff, MICHAEL MERRIKEN. (N.T. 12/1/72 at 14; N.T. 12/18/72 at 132; N.T. 5/18/73 at 49–50)

4. Defendants intend to expend public tax monies to implement the CPI Program. (N.T. 12/1/72 at 16)

5. The stated purpose of the CPI Program is as a drug prevention approach as contrasted drug rehabilitation efforts. It is designed to aid the local school district in identifying potential abusers, prepare the necessary intervention, identify resources to train and aid the district personnel to remediate the problems and, finally, to evaluate the results. (N.T. 12/1/72 at 14; Plffs' Exh. 7)

6. When suit was first instituted, Defendants did not intend to obtain the affirmative consent of parents to the participation of their children in the CPI Program. Rather, Defendants proposed a "book of the month club" approach in which a parent's silence would be construed as acquiescence. (Plffs' Exh. 3) It was only after suit was started that Defendants offered to change that format so that affirmative written parental consent to participation in the CPI Program would be required. (Plffs' Exh. 4)

7. However, the revised letter to parents makes no provision whatsoever for allowing parents to see the test instrument itself. (Plffs' Exh. 4; N.T. 5/18/73 at 128–129)

8. As originally proposed, the CPI Program contained no provision for student consent. After commencement of litigation, Defendants did modify the test instrument to allow students to return a blank questionnaire. However, no affirmative written consent from the students is contemplated nor is any data made available to students in advance to assist them in their decision. (Defts' Exh. 11; N.T. 5/18/73 at 84; 121–122; N.T. 12/18/72 at 132)

9. In addition to a letter, Defendants propose to send to parents a question and answer sheet explaining the CPI Program. (Plffs' Exh. 5) By the admission of its author, Mr. Streit, that document is a "selling device", "an attempt to convince the parent to allow the child to participate". The whole purpose in composing that document "was to convince parents that they ought to allow their children to participate". (N.T. 5/18/73 at 124) Mr. Streit acknowledged that "there is nothing in this document . . . that is critical of or negative about the CPI Program". (N.T. 5/18/73 at 124)

10. Two child psychiatrists testified without contradiction as to several negative, and indeed dangerous aspects of the CPI Program, none of which are mentioned or referred to in any of the materials to be made available to parents. These dangers include the risk that the CPI Program will operate as a self fulfilling prophecy in which a child labelled as a potential drug abuser will by virtue of the label decide to be that which people already think he or she is any way. (N.T. 12/18/72 at 28–29, 90–92) In fact, the CPI Program manual itself, not available to parents, acknowledges this risk. (Plff's Exh. 7) Another danger mentioned is that of scapegoating in which a child might be marked out by his peers for unpleasant treatment either because of refusal to take the CPI test or because of the results of the test. (N.T. 12/18/72 at 31–32; 90–91) That this is not a mere hypothetical risk was illustrated by an incident involving Plaintiff, MICHAEL MERRIKEN, in which fellow students accused him of being a drug user because his mother does not want him to participate in the CPI Program. (N.T. 12/18/72 at 132–35) Drs. Gordon and Hanford also described the severe loyalty conflict that might result by asking children the types of personal questions about their relationship with parents and siblings which are included in the CPI questionnaire. (Plff's Exh. 1; N.T. 12/18/72 at 30–31, 86) A final example has to do with the qualifications of the personnel who will administer the so-called interventions once the results of the CPI questionnaire have been evaluated. As both psychiatrists pointed out, the types of psychotherapy that are suggested as interventions in the CPI Program are quite sophisticated and require the skills of trained psychotherapists, psychiatrists, psychologists, etc. who have undergone many years of training. However, the CPI Program contemplates that these sophisticated psychotherapy techniques will be administered by school personnel, including teachers without any particular qualifications who have undergone only a short crash course. (N.T. 12/18/72 at 36–38; 92–96; Plffs' Exh. 7; N.T. 5/18/73 at 171)

11. According to the Program, CPI is a "drug prevention approach as contrasted with drug rehabilitation efforts . . . It is designed to aid the local school district in identifying potential abusers, prepare the necessary interventions, identify resources to train and aid the district personnel to remediate the problems and, finally, to evaluate the results". (Plffs' Exh. 7) However, the Program nowhere defines the term "potential [drug] abuser". All that the Program does state is that it will identify patterns similar to marijuana, LSD, barbiturate or amphetamine user. There is no reference to such drugs as cigarettes, alcohol, opium, heroin or cocaine. Moreover, there is no statement as to what constitutes abuse. The study on which CPI is based, however, does contain "an arbitrary set of decisions . . . to define the degrees of use, known or experimental, moderate or heavy". (Plffs' Exhs. 6 & 7; N.T. 5/18/73 at 147)

12. Identification of a potential drug abuser, emotionally handicapped student, or student with deviant behavior or student with specific problems is accomplished by

requiring students such as Plaintiff and also their teachers to complete test questionnaires. (Plffs' Exhs. 1 & 2) The questionnaires ask such personal and private questions as the family religion, the race or skin color of the student (Defendants have since stipulated to dropping this question), the family composition, including the reason for the absence of one or both parents, and whether one or both parents "hugged and kissed me good night when I was small", "tell me how much they love me", "enjoyed talking about current events with me", and "make me feel unloved". In addition, both students and teachers are asked to identify other students in the class who make unusual or odd remarks, get into fights or quarrels with other students, make unusual or inappropriate responses during normal school activities, or have to be coaxed or forced to work with other pupils. Students are at no time given any guidance as to what should be considered an odd or unusual remark or what is to be considered an inappropriate response. For example, there is no warning that political differences or unusual and imaginative insights should not be looked upon as odd remarks or inappropriate responses. (N.T. 5/18/73 at 120–121)

13. Although the CPI Program constantly refers to confidentiality, no specifics are given in the Program itself as to how confidentiality is to be maintained after evaluation. Mr. Streit did testify on this subject but that testimony is far different from what appears in the printed CPI materials. The Program, by its own terms, contemplates the development of a "massive data bank" and also dissemination of data relating to specific students to various school personnel, including superintendents, principals, guidance counsellors, athletic coaches, social workers, PTA officers, and school board members (Plffs' Exh. 6) In fact, at a meeting of the Norristown School Board on Monday, October 23, 1972, parents were advised that teams of faculty members had already been selected to receive data back from the CPI Program in order to implement the intervention stage of the Program in the various schools in Norristown. (N.T. 5/18/73 at 170–171)

14. Even if those who are to be working with the CPI Program were to try and be as confidential as possible, in accordance with Mr. Streit's testimony, there is absolutely no assurance that the materials which have been gathered would be free from access by outside authorities in the community who have subpoena power. Thus, there is no assurance that should an enterprising district attorney convene a special grand jury to investigate the drug problem in Montgomery County, the records of the CPI Program would remain inviolate from subpoena and that he could not determine the identity of children who have been labelled by the CPI Program as potential drug abusers. (N.T. 5/18/73 at 172–173)

15. The second step of the CPI Program is "intervention" or "remediation". The stated purpose of this phase is "to change the cognitive and affective domains of potential drug abusers and other forms of deviant behavior". (N.T. 5/18/73 at 164–166) Intervention may take several forms, some of which are compulsory for the student and which seriously limit and infringe upon individual liberty. For example, one form of intervention, Guided Group Interaction (GGI) is specifically described in the CPI Program as an "involuntary assignment". GGI operates as follows:

a. "The peer group acts as a leveller or equalizer insuring that its members do not stray too far from its ranks".

b. The objective is "specific alteration in acting out or deviant behavior" with undefined terms.

c. "Deviancy is painstakingly defined and discouraged by the group itself. It can include not only socially proscribed behavior but any action which violates the group's specific normative system."

d. Members are compelled to "explain . . . why they have been assigned to the program . . ."

e. The group may impose sanctions on members, including "work detail, withdrawal of past privilege, recommendation to a special unit for intensive training, or the assignment of more onerous tasks". (Plffs' Exh. 6)

16. Intervention is also another major threat to the confidentiality of the CPI Program. For example, one form of intervention is Referral Intervention. Under this program, "responsible school personnel make referral interventions when remediation needed by a particular student far exceeds available school resources. This referral intervention utilizes community resources such as clinics, hospitals, rehabilitation centers, etc. to help the seriously disturbed or serious drug-user student." Another form of intervention is Adult Role Model in which "teachers [are] . . . asked to select two children from the list of identified emotionally handicapped children. They would be given background information on each child . . ."

17. The CPI Program results will not be made available to parents unless they affirmatively request them. (N.T. 5/18/73 at 170)

II. DISCUSSION

The CPI Program as presented above is considered by its advocates, the Defendants, as a voluntary program in which affirmative parental consent is now given before participation by the student; and a student may return a blank questionnaire when the test is administered without apparent recrimination. It is contended that the Program is constitutional and is within discretionary power of the School Board.

The Plaintiffs assert that the Program is not voluntary because individuals' constitutional rights are waived without knowing, intelligent and aware consent. See *Brady v. U.S.*, 397 U.S. 742, 90 S. Ct. 1463, 25 L. Ed. 2d 747 (1969). Before the Court reaches the question of the voluntariness of this Program, we will examine the alleged violations of the Constitution and state why individual constitutional rights are involved in this litigation.

The Plaintiffs claim that the CPI Program will interfere with and impede the Plaintiffs' rights of freedom of religion, freedom of speech, freedom of assembly, privilege against self-incrimination and right to privacy guaranteed by the First, Fourth, Fifth, Ninth and Fourteenth Amendments to the Constitution of the United States.

The main thrust of the Plaintiffs' argument that the CPI Program is an involuntary invasion of constitutionally protected rights, is the violation of the right to privacy. They base their argument mainly on *Griswold v. Connecticut*, 381 U.S. 479, 85 S. Ct. 1678, 14 L. Ed. 2d 510 (1965), in which the Supreme Court ruled that inherent in the first nine Amendments to the Constitution is a right to privacy which is binding on the States as well. In a more recent case, the Supreme Court re-emphasized its position on the right of privacy in *Roe v. Wade*, 410 U.S. 113, 93 S. Ct. 705, ——— L. Ed. 2d ——— (1973), and restated some of the general factual situations to which this right would apply. The Court said in *Wade, supra*, at 152–153;

"The Constitution does not explicitly mention any right of privacy. In a line of decisions, however, going back perhaps as far as *Union Pacific R. Co. v. Botsford*, 141 U.S. 250, 251 (1891), the Court has recognized that a right of personal privacy, or a guarantee of certain areas or zones "of privacy, does exist under the Constitution. In varying contexts, the Court or individual Justices have, indeed, found at least the roots of that right in the First Amendment, *Stanley v. Georgia*, 394 U.S. 557, 564 (1969); in the Fourth and Fifth Amendments, *Terry v. Ohio*, 392 U.S. 1, 8–9 (1968), *Katz v. United States*, 389 U.S. 347, 350 (1967), *Boyd v. United States*, 116 U.S. 616 (1886), see *Olmstead v. United States*, 277 U.S. 438, 478, (928) (Brandeis, J. dissenting); in the penumbras of the Bill of Rights, *Griswold v. Connecticut*, 381 U.S., at 484–485; in the Ninth Amendment, *id.*, at 486 (Goldberg, J., concurring); or in the concept of liberty guaranteed by the first section of the Fourteenth Amendment, see *Meyer v. Nebraska*, 262 U.S. 390, 399 (1923). These decisions make it clear that only personal rights that can be deemed 'fundamental' or 'implicit' in the concept of ordered liberty, *Palko v. Connecticut*, 302 U.S. 319, 325 (1937), are included in this guarantee of personal privacy. They also make it clear that the right has some extension to activities relating to marriage, *Loving v. Virginia*, 388 U.S. 1, 12 (1967); procreation, *Skinner v. Oklahoma*, 316 U.S. 535, 541–542 (1942); contraception, *Eisenstadt v. Baird*, 405 U.S. at 453–454, *id.*, at 460, 463, 465 (White, J. concurring in result); *family relationships*, *Prince v. Massachusetts*, 321 U.S. 158, 166 (1944) and *child rearing* and education, *Pierce v. Society of Sisters*, 268 U.S. 510, 535 (1925), *Meyer v. Nebraska, supra*." (Emphasis added)

This Court will look closely at the factual situation as it relates to family relationships and child rearing. The CPI Program questionnaire asks whether the student's family is "very close, somewhat close, not too close, or not close at all." (Plffs' Exh. 1—Question 7) In addition, the student is asked to answer questions of such intimate things of his parents as to whether they "hugged and kissed him good-night when he was small" (question 53); whether they told him how "much they loved him or her" (Question 54); whether the parents "seemed to know what the student's needs or wants are" (Question 116); and whether the student "feels that he is loved by his parents" (Question 112).

The above questions are samples which represent the highly personal nature of the entire questionnaire. These questions go directly to an individual's family relationship and his rearing. There probably is no more private a relationship, excepting marriage, which the Constitution safeguards than that between parent and child. This Court can look upon any invasion of that relationship as a direct violation of one's Constitutional right to privacy.

The fact that the students are juveniles does not in any way invalidate their right to assert their Constitutional right to privacy. In a "freedom of speech" case involving the wearing of black arm bands protesting the Viet Nam War by students, the Supreme Court, in *Tinker* v. *The Des Moines School District*, 393 U.S. 503, 89 Sup. Ct. 733, 21 L. Ed. 2d 731 (1968), said at Page 511:

"School officials do not possess absolute authority over their students. Students in school as well as out of school are 'persons' under our Constitution. They are possessed of fundamental rights which the State must respect, just as they themselves must respect their obligations to the State."

This Court would add that the right to privacy is on an equal or possibly more elevated pedestal than some other individual Constitutional rights and should be treated with as much deference as free speech. The United States Court of Appeals for the Third

Circuit held in *Stull* v. *The School Board of Western Beaver Junior-Senior High School,* 459 Fed. 2d 339 (1972), in reversing the District Court, that high school dress codes governing the length of hair in the absence of any evidence of disruption or of a health hazard or of an effect on academic accomplishment was violative of due process. In another case involving hair length, the United States District Court for the Northern District of Illinois stated in *Miller* v. *Gillis,* 315 Fed. Supp. 94 (1969):

"Students are persons under the Constitution; they have the same rights and enjoy the same privileges as adults. Children are not second class citizens. Protections of the Constitution are available to the newborn infant as to the most responsible and venerable adult in the Nation."

As this Court ascertains from the above authority that children who are students are entitled to exercise their Constitutional rights, the question then arises whether parents, as guardians of the children, can waive their children's Constitutional rights. In the case at Bar, the children are never given the opportunity to consent to invasion of their privacy; only the opportunity to refuse to consent by returning a blank questionnaire. Whether this procedure is Constitutional is questionable, but the Court does not have to face that issue because the facts presented show that the parents could not have been properly informed about the CPI Program and as a result could not have given informed consent for their children to take the CPI test.

Before dwelling on the question of "informed consent", it should be noted that the case before the Court is a civil case. The Supreme Court has indicated that in civil cases as well as criminal cases the Court should indulge in every reasonable presumption against waiver of procedural due process and an individual's Constitutional rights. See *Fuentes v. Shevin,* 407 U.S. 67, 92 S. Ct. 1983, 32 L. Ed. 2d 556 (1971): *Ohio Bell Telephone Co. v. The Public Utilities Comm.,* 301 U.S. 292, 307; 57 S. Ct. 724, 81 L. Ed. 1093 (1936); and *Aetna Insurance Co. v. Kennedy,* 301 U.S. 389, 393; 57 S. Ct. 809, 81 L. Ed. 1177 (1936). The standards stated in *Brady v. U.S., supra* are applicable in this case, as The Supreme Court stated at 748:

"Waivers of Constitutional rights not only must be voluntary but must be knowing, intelligent and done with sufficient awareness of the relevant circumstances and likely consequences."

The facts as stated show that the letters to the parents were "selling devices" aimed at gaining consent without giving negative information that would make the parents completely aware of "the relevant circumstances and likely consequences" of the Program. Mr. Streit, the man who conceived the CPI Program, admitted that the letter to the parents gave only one side of the test picture. There were no statements to the parents concerning the self-fulfilling prophecy, scapegoating of those children who opted not to participate or the ultimate use of the data as it would affect their children and law authorities who might find it necessary to use that information to learn more about the drug situation in the local community.

The Law does not abound with cases, or expert treatises on the problem of personality testing and confidentiality, and the problems of informed consent. However, in a recent Federal Bar Journal article by Charles W. Sheerer and Ronald A. Roston, on "Some Legal and Psychological Concerns About Personality Testing in the Public Schools", 3 Fed. Bar Journal 111 (1971), there is some insight into the problem of scientific testing and the American parent. They stated at 114–115:

"The average American parent has a great and naive faith in 'scientifically' constructed tests. This faith is reinforced by the unconscious desire of the more insecure parents to avoid involvement and to depend on 'professionals' to make the difficult decisions in the education and maturation of their children . . .

"In all probability, he is not clear regarding the qualifications of the school 'psychologist' who is likely to hold a master's degree in school psychology, not from the psychology department of a college or university, but from an education school or department. Chances are great he has not had significant supervision in a hospital, or outpatient clinic, or from a clinical psychologist or psychiatrist. He is likely to be considered 'untrained' by the persons that parents have in mind when they 'picture' a psychologist . . . Informed consent for personality testing should be comparable to the informed consent ideally obtained by a physician prior to the performance of surgery . . ."

This Court feels that however good may be the intent and motive of the Defendant, the presentation of the CPI Program to the student and the student's parents is far from candid, and any attempt at informed consent does not reach the level that this Court would consider adequate as in the "consent ideally obtained by a physician prior to the performance of surgery". The parents are not aware of the consequences and there is no substitute for candor and honesty in fact, particularly by the school board who, as the ultimate decision maker as far as the education of our children is concerned, should give our citizenry a more forthright approach. The attempt to make the letter requesting consent similar to a promotional inducement to buy, lacks the necessary substance to give a parent the opportunity to give knowing, intelligent and aware consent.

The actual testing of the students and the results gained are suspect. All that the Program does state is that it will identify patterns similar to marijuana, LSD, barbiturate or amphetamine users. There is no reference to the use of drugs and there are no statements as to what constitutes abuse. The study nowhere defines what is a potential drug abuser and is vague in the relationship of its background analysis to the intended results.

There is a statement concerning the confidentiality of the test during its administration and during the immediate evaluation period that is comprehensive and well explained, but the credibility of the confidentiality of this Program breaks down when the potential drug abusers are reported to the school superintendent. The school will then attempt remediation by the use of teachers, guidance counselors and others, who have had little training in the area of psychological therapy in either individual or group therapy sessions. The ultimate use of this information, although possibly gained with a great deal of scientific success, is the most serious problem that faces the Court. How many children would be labeled as potential drug abusers who in actuality are not, and would be subjected to the problem of group therapy sessions conducted by inexperienced individuals?

Strict confidentiality is not maintained after evaluation and there are many opportunities for a child to suffer insurmountable harm from a labeling such as "drug abuser" at an age when the cruelty of other children is at an extreme. The seriousness of this problem is illustrated by the fact that if one child is so harmed and would be temporarily or permanently damaged by the label of "drug abuser" is this Program worth the effort to identify other actual "drug abusers".

When a program talks about labeling someone as a particular type and such a label could remain with him for the remainder of his life, the margin of error must be almost nil. The preliminary statistics and other evidence indicate there will be errors in identification. The Court recognizes that the Supreme Court has spoken and many Law Review authorities have spoken about a balancing test. What this means is that the Court balances the invasion of privacy against the public need for a program to learn and possibly prevent drug abuse in a society which has become highly aware of the dangers and effects of drug abuse. If the Court finds the public need so great and the invasion minimal, then it could sanction the Program in favor of public need. The Supreme Court in *Barenblatt v. U.S.,* 360 U.S. 109, 79 Sup. Ct. 1081, 3 L.Ed. 2d 1115 (1959) stated at 126:

"Where First Amendment rights are asserted to bar governmental interrogation resolution of the issue always involves a balancing by the courts of the competing private and public interests at stake in the particular circumstances shown." See also *Konigsberg v. California State Bar Association,* 353 U.S. 252, 77 Sup. Ct. 722, 1 L. Ed. 810 (1957); and 366 U.S. 36, 81 Sup. Ct. 997, 6 L. Ed. 2d 105 (1961).

The Court, in balancing the right of an individual to privacy and the right of the Government to invade that privacy for the sake of public interest, strikes the balance in favor of the individual in the circumstances shown in this case. In short, the reasons for this are that the test itself and the surrounding results of that test are not sufficiently presented to both the child and the parents, as well as the Court, as to its authenticity and credibility in fighting the drug problem in this country. There is too much of a chance that the wrong people for the wrong reasons will be singled out and counselled in the wrong manner.

The Plaintiff also contends that other Constitutional rights will be violated if the Defendants are allowed to proceed with the CPI Program. There is no other Constitutional right that this Program would violate besides privacy. The protection against self-incrimination violation may be moot because of the new Pennsylvania Law which attempts to prevent the use of information, obtained confidentially from students, from being used against them in legal proceedings without consent. (24 P.S. § 13–1319)

The evidence presents no violation of the Constitutional right of the student to speak or assemble. The Court recognizes, however, that young people at the junior high school level are ostracized for unpopular views by their peers but no school authority is preventing the students from speaking or assembling. Although there may be a chilling effect or a step in the direction toward the prevention of free speech and assembly, this Court feels that there is no violation of Constitutional rights in this particular fact situation.

The Defendant maintains that the Legislature has vested the school board with discretionary power to act, that is, to test its students, and the burden placed on the Plaintiffs to show that this power is being abused is extremely heavy. *Lamb v. Reeding,* 234 Pa. 481 (1912); *Robb v. Stone,* 296 Pa. 1922 (1929); and *Richmond v. Cole Township School Directors,* 317 Pa. 266 (1935). However, as the facts presented in this case, vis-a-vis, a violation of one's Constitutional rights, so overwhelmingly carries the burden there is no question that the school board has overstepped its discretionary authority.

The CPI Program attempts to determine relative to today's problem of drug use and abuse what steps can be taken to prevent students from becoming drug abusers; and if such a program as presented here could be used to identify those who are potential drug abusers. Unfortunately, this Program does not meet the necessary Constitutional and procedural requirements. Setting precedents as to invasion of Constitutional rights without informed consent must be examined very closely and only employed when the balance weighs so heavily in favor of the public need. As the Program now stands the individual loses more than society can gain in its fight against drugs. The Court will enjoin this Program as it fails to meet Constitutional standards.

III. CONCLUSIONS OF LAW

1. This action is brought to redress the deprivation by Defendants, under color of state law, of the rights, privileges and immunities secured to Plaintiffs by Article I, Section 9, Clause 3 and the First, Fourth, Fifth, Ninth and Fourteenth Amendments of the United States Constitution. The Court has jurisdiction of the action pursuant to 28 U.S.C. § 1343; 28 U.S.C. § 1331.

2. The CPI Program will violate the Plaintiffs' right to privacy inherent in the penumbras of the Bill of Rights of the United States Constitution.

3. Under the CPI Program, Defendants would unlawfully and without authority attempt to exercise the exclusive privileges of parents, extending into areas beyond matters of conduct and discipline, in excess of their power and contrary to law.

4. The CPI Program will be administered without the knowing, intelligent, voluntary and aware consent of parents or students.

5. Defendants, their agents, servants and employers and all persons acting in concert with them are permanently enjoined and restrained from implementing or in any other way proceeding with the CPI Program and from expending any further county or school district revenues on the CPI Program.

FAIR TREATMENT FOR SMALL BUSINESSES DURING FUEL SHORTAGES

Mr. SPARKMAN. Mr. President, the Subcommittee on Environmental, Rural and Urban Economic Development of the Select Committee on Small Business recently concluded 3 days of hearings on the impact of fuel shortages on small business. I want to commend the chairman of the subcommittee, the Senator from Georgia (Mr. NUNN), for conducting this timely and much needed inquiry.

Among witnesses heard was an independent businessman from my own State of Alabama, Carl Vaught, who is president of the Alabama Refining Co. This company is a small business refinery, but we in Alabama take pride in the fact that it is one of the top five suppliers of fuels to the Defense Department.

Mr. Vaught's testimony illustrates some of the many problems which independent businessmen are experiencing as the shortage of oil in this country becomes more apparent. I was particularly impressed with Mr. Vaught's survey of customers which established that the 29,000 barrels of fuel oil he produced in November 1972, sustained 3,600 full-time jobs. Put another way, one job must be supported by 8 barrels of fuel oil a month in the industries and facilities which he services. It is apparent that the economy of the Mobile area, including its fishing fleets, port facilities, paper and chemical plants, and food production is not in a position to sustain massive cutbacks of fuel. Accordingly, our fuel shortages must be solved in a way that assures small and other businesses in Alabama a fair share of available petroleum products.

I believe that this well-prepared and documented testimony deserves wider circulation. For this purpose I would like to ask unanimous consent that the statement and certain exhibits be printed in the RECORD following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF H. CARL VAUGHT

Thank you very much for the privilege of appearing before this subcommittee. I am H. Carl Vaught, President of Alabama Refining Company, Inc. of Mobile, Alabama, a wholly-owned subsidiary of Marion Corp., incorporated in Nevada. Alabama Refining Company consists of a single small business oil refinery engaged in producing and distributing several refined petroleum products. I am a Director of the National Petroleum Refiners Association and a member of the American Institute of Certified Public Accountants. My total association with the petroleum industry covers nineteen years with both large and small businesses, and as a practicing Certified Public Accountant with clients involved principally in the oil and gas industry.

I. BRIEF HISTORY OF THE COMPANY

Alabama Refining Company constructed its facility in 1967 in Mobile, Alabama, in order to manufacture and provide jet turbine fuel to the several large military installations nearby and to eventually meet the growing needs of a developing Eastern Gulf Coast for industrial fuel oil. This venture constituted the first new refinery in the United States since inception of the Mandatory Oil Import Program in 1959, and the Small Business set-aside program encouraged our company to maintain a satisfactory market for over 50 percent of its production. In addition, the establishment of the Start-up Oil Import Quota in 1968 enabled this business to compete with large and more established refineries.[1]

Since its inception our refinery has undergone and is still undergoing a series of expansions. Initially designed to operate at 10,000 barrels per day, the refinery is currently operating at 15,000 barrels per day. (An increase in operating capacity of up to 20,000 barrels per day was, prior to the mandatory allocation program, planned by August 1974.) With continued emphasis on producing jet aircraft fuel, our refinery has become one of the five largest suppliers of grade JP-4 jet fuel to the Department of Defense. With increased industrial development and decreasing supply of other fuels the company has also rapidly expanded its fuel oil service to industries in the Eastern Gulf Coast Region. Alabama Refining Company produces the following products shown as percentages of its crude oil supply:

(In percent)

LPG	5
Jet aircraft turbine fuel	50
No. 2 oil	20
Lube oil base stock	15
Total	100

The company's product distribution is summarized as follows:

(In percent)

Military and governmental needs	55
Fishing, transportation, and manufacing	15
Sales for further processing	30
Total	100

II. FOREWARNINGS OF AN ENERGY SHORTAGE

The present energy shortage or crisis should not come as a surprise to this country. All indications of a forthcoming shortage were present by mid-1970. Indeed, the problem was widely discussed and well defined by both industry and government several years ago, and several large oil companies prepared and distributed excellent presentations regarding this problem. An example of such a presentation (by Shell) is contained in Exhibit A hereto. In addition, both Time and U.S. News and World Report featured in August of 1970 reports which warned of impending fuel shortages. (See Exhibit B hereto) Although this country escaped a fuel shortage during the winter of 1970–71, Time magazine published in April of 1971 additional warnings of energy troubles ahead. (See Exhibit C hereto) Anticipated shortages in the winters of 1971–72 and 1972–73 did not reach major proportions primarily because of unseasonably warm weather over large areas of the United States. We lived, however, in a "fool's paradise" while supply conditions continued to worsen and government policy remained geared to the 1960's.

Several proposals made by the industry representatives which would have provided environmentally acceptable fuel oils from imported crude oil in what was then excess United States refining capacity were not approved. Alabama Refining Company petitioned the Office of Emergency Preparedness and the Secretary of Interior on September 14, 1970 regarding a plan of this type without ever receiving a response. (See Exhibit D hereto) Indeed, much of the government's attention in this regard seemed not to be directed to industry's efforts to get to the source of the problem but to the plight of many private distributors and consumers whose difficulties were only symptoms of the problem. In many cases such shortages resulted from inadequacies of transportation, archaic procurement methods, and previous business considerations which backfired in light of rapidly changing conditions. This matter is covered in more detail in our initial comments applicable to proposed mandatory fuel allocation in September of 1973. (See Exhibit E hereto)

While the demand for refined petroleum products in the United States was in the process of doubling between 1960 and 1975, it was not until April 18, 1973, that the Federal Government took the initial step to minimize the impending energy shortage. At that time Presidential Proclamation 3279 was modified to lift restrictions on oil imports and establish a National Energy Office. The recently-passed Emergency Petroleum Allocation Act of 1973, which seeks to distribute the available energy supply equitably cannot be expected to solve the shortage itself.

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[1] The Senate Select Committee on Small Business supported and was instrumental in the start-up import quota incentive being established. Since its creation there were several new refineries built and numerous expansions which benefited from having initial import quota parity.

III. ENERGY OUTPUT AND ENVIRONMENTAL AND OTHER GOVERNMENTAL POLICIES

Not only has the Federal Government's reaction to the energy shortage been untimely, but domestic policies relating to environmental programs have also hindered efforts to increase energy production. For example, but for the delays caused by judicial and administrative proceedings, the Alaska Pipeline might today be available to help alleviate the energy shortage which this country faces.

We in the State of Alabama face a particularly difficult environmental barrier. The Mobile County Board of Health has directed industry within its jurisdiction to comply with federal primary air standards by January of 1974, a whole year earlier than is generally required under federal law. Without some flexibility or extension of time with respect to this requirement. we will be unable to meet these standards since the necessary anti-pollution equipment is presently unavailable.

For example, a vapor recovery system on oil storage tanks requires considerable plate steel and tubular steel, both of which are presently on allocation to manufacturers. An order for steel plate which is placed today cannot be delivered until December of 1975, which is well beyond federal, state, and Mobile County environmental compliance deadlines. Further, it is now virtually common practice to barter scarce petroleum products for scarce items of steel, and such bartering is the only hope this company has to meet even federal environmental compliance deadlines. Under present regulations a failure to meet such deadlines may result in court-ordered shutdowns. While we think it is unlikely in view of the energy crisis that federal or state authorities would require a refinery to cease operating, the refinery is nevertheless subject to criminal and civil sanctions for failure to comply, absent any extensions of time for compliance.

Although we are not unmindful of industry's firm obligation to manufacture its products within acceptable ambient air standards, we feel that in view of the energy crisis with which this country is presently confronted, as between cleaner air and immediate and maximum output of energy through available sources, the balance is weighted in favor of energy output, at least until the present crisis is abated.

In addition, the public's concern over inflation preempted measures which could have been taken to minimize the energy shortages. For example, in some cases, regulations issued under the Economic Stabilization Act actually resulted in domestically produced heating oil being exported because of the great disparity in foreign and domestic prices.

IV. EFFECTS OF MANDATORY ALLOCATION

Mandatory allocation of crude oil and refined petroleum products will have profound effects on both large and small businesses. Fossil fuels provide over 90 percent of the useable energy in the United States, and practically all of the population utilizes commercial energy in some form. Small businesses account for 50 percent of this country's total employment and 40 percent of its gross national production. Limitations on available energy will, in all probability, result in significant unemployment. The crippling, if not extinction, of small businesses can be expected in any prolonged period of restricted energy sources.

The following information is intended to demonstrate to this subcommittee the effects of mandatory allocation on the region served by our company. I am in a position to be specific inasmuch as we deal directly with fuel consuming enterprises and not from an office located hundreds of miles away with representation through jobbers, dealers, agents or brokers. Currently we distribute No. 2 and/or No. 2 diesel oil to 25 businesses, approximately one-half of which are small businesses, which can be classified into the following categories:

1. Fishing and Food Processing.
2. Chemical and Manufacturing.
3. Transportation.
4. The Port of Mobile.

Each of the above can be considered "fuel intensive industries," i.e., fuel is a major cost of production or cost of service item to them.

We asked each of our customers of industrial fuel oils to comment with respect to:

1. The effects of a 15 percent fuel oil reduction on his business.
2. The effects of a 30 percent fuel oil reduction on his business.
3. The effects on his business should it receive no fuel from Alabama Refining Company.

The consensus of our poll was that any reduction in fuel oil availability would probably proportionately decrease production as well as affect employee lay-offs. It is our understanding that in the case of a 30 percent reduction in fuel oil availability, approximately 800 full-time workers of these companies would be laid off.

Additionally, these 25 businesses were almost universally of the opinion that any attempt to acquire replacement fuel, through federal or state agencies, would require several months, during which time much damage would have been done to the businesses. In the event we could not offer fuel oil to these customers, several businesses would immediately be required to cease operations, and several others would be required to severely restrict production resulting in an immediate lay-off totalling over 3,600 full-time employees. (See Exhibit F hereto) Over the longer term much larger numbers of lay-offs would result in other industries serving our fuel oil customers.

As an example, the operations of the Alabama State Docks, which is the nation's 13th largest port handling an average of 605,000 tons of cargo monthly, would be severely hampered by petroleum production cutbacks. Exhibit F indicates that 29,000 barrels of No. 2 fuel oil per month to basically fuel intensive industries sustain over 3,600 full-time jobs. Stated in another way, eight barrels per month of No. 2 fuel oil equals one full-time job in these particular industries. We believe that our general location has an economy which is not sufficiently strong to withstand many business closures and/or employment lay-offs. While our area of operation is also served by several major oil companies, they have all curtailed supplies to some extent. To date, however, we have not rationed products to any customer.

We estimate that a return to 1972 production levels under mandatory crude oil allocation will result in a 37 percent decrease in production. Such a decrease would severely curtail a major source of the Defense Department's jet aircraft turbine fuel. Most of this jet fuel is used at Fort Benning and Moody Air Force Base in Georgia, at Pensacola Naval Air Station, Eglin Air Force Base and Tyndall Air Force Base in Florida, and at other defense locations in south Alabama and southern Mississippi. Replacement for this supply, if available at all, would necessitate transportation from much greater distances and would place an additional burden on already strained water transportation systems at greater costs.

Further, a return to lower 1972 production levels would result in abandoning future refinery expansion plans, a result entirely incompatible with this nation's need for additional refinery capacity.

The effects of mandatory allocation of petroleum products on small businesses relate to the same economies of scale which give rise to mass production. Mass production results in lower per unit costs of manufacturing. By this same function, a production curtailment in a small business is more severely felt than a like percentage production curtailment in a large business. For example, a 30 percent fuel shortage resulting in a 30 percent production cutback could result in a small business operating at less than its breakeven point, whereas a large business in the same industry possibly could sustain itself indefinitely, although at lower profitability.

V. RECOMMENDATIONS

In conclusion, I respectfully make the following recommendations to the subcommittee:

1. I recommend that allocation programs should be sufficiently flexible to avoid employee lay-offs or production decreases which result in an inability to continue in business. Such regulations should apply in the first instance to going concerns rather than to businesses which have already succumbed to the energy crisis.

2. I recommend that legislation be enacted which, upon certification by the business that antipollution equipment is unavailable, requires federal, state and/or local authorities to grant extensions of time in which to comply with environmental standards. In this regard, I would further recommend that small businesses be granted such extensions upon certification that installation of such antipollution equipment, even if available, will be so costly as to cause that business to operate at a loss. It can be expected that petroleum production cutbacks will create substantial profit losses to small business and indeed cause many to operate at a loss. We believe it would be grossly inequitable to require companies in such circumstances to assume the enormous costs of installing antipollution equipment until the present energy crisis subsides.

3. I further recommend that, insofar as it is possible, any mandatory allocation program should exempt from crude or refined petroleum product cutbacks energy producing businesses. Crude oil in particular should be excluded from allocation, since it is neither a consumer item nor generally an industrial fuel.

4. I recommend that refined petroleum products traded for other products, crude oil, or an absolutely essential product of service be exempt from allocation by the producer or party relinquishing such material in trade. Such trades do not affect the overall supply available, but rather serve to decrease transportation costs and/or permit up-grading of such materials to higher uses. For example, heavy residual oils are permitted to be cracked up to home heating fuel oils through trading by a refinery without cracking equipment to a refinery having this capability. Exchanges are an important element to many refiners. For example, over 11,000 out of the total 15,000 BPCD of crude oil used by our refinery is derived from exchanges.

5. Lastly, I would recommend that legislation be passed prohibiting the export of gasoline, distillate fuel oils, and propane gas until such time as shortages of these products no longer are present. I understand that legislation in this regard is presently pending before Congress, and we urge its enactment.

Mr. Chairman, I would be pleased to respond to any questions you or other members of the subcommittee may have. I appreciate your attention and the privilege of appearing before you today.

[From U.S. News & World Report, Aug. 24, 1970]

United States Moves Toward a Fuel Crisis

With little advance warning, the U.S. finds itself on the brink of an energy crisis. There are growing shortages of fuels from which energy flows to keep America's machinery humming and provide the base for its high standard of living.

Alarm is spreading at the highest levels in Washington.

The problem goes far beyond finding power to carry Eastern cities through the remaining days of summer heat and smog. Predicted are shortages, now or in the near future, of every basic source of energy—oil, natural gas, coal, hydroelectric power and nuclear power.

President Nixon, on August 6, warned of "the acute shortage of clean fuels for this winter." He directed his Domestic Council to take steps to alleviate this winter's shortages, and "to ensure an adequate fuel supply for the next five years."

On August 10, the Chairman of the Federal Power Commission, John N. Nassikas, reported coal stocks of many power companies "below normal operating levels," natural-gas supplies "critically short," and the supply of heavy fuel oil for utilities and industries jeopardized by a shortage of oil tankers.

WHAT HAPPENED?

Only a few months ago, the structure on which the U.S. supply of essential power sources is based seemed relatively secure and stable.

As 1969 ended, there was concern over dwindling U.S. reserves of natural gas, documented in a staff report of the Federal Power Commission. But the supply of crude oil available to the U.S. seemed more than ample. In fact, the majority of a Cabinet task force urged in February, 1970, that oil-import controls be modified to bring more foreign oil into the country and thus lower prices of gasoline and petroleum products.

Now, fast-moving developments have sent the nation's energy-supply structure tumbling. Growing concern over environment is seen by many experts as the main trigger to recent events. Says Charles Primoff, chief of the fuels and energy division of the White House Office of Emergency Preparedness:

"Environment is a principal reason for this sudden plunge into fuel scarcity. Air-pollution regulations, going into effect in many areas, have ruled out high-sulphur fuels—especially coal. Utilities, industries, government installations, office and apartment buildings are trying to switch to natural gas or low-sulphur residual oil.

"Natural-gas supply was already pinched. U.S. refineries for years have been cutting back on production of residual oil because imports made the price unattractive. Then came trouble in the Middle East, forcing more shipment of oil to Europe the long way around Africa. Tanker rates have gone through the roof, and so has the price of imported residual oil.

"Now coal, which could help ease this crisis, has become scarce. New environmental laws have increased strip-mining costs. The Federal Coal Mine Health and Safety Act, effective this year, has pushed up costs in underground mines.

"Some mines have closed, and many more may have to close. Others have been reluctant to expand production because of predictions that nuclear power would take over much of their market. But growth of nuclear power is far behind schedule for many reasons, not the least of which is the problem of locating plants where they will not disturb environment or people."

HIGHER PRICES?

If environment is to be protected and fuel shortages averted in the short and long-range future, energy experts say, consumer costs must rise sharply.

"The days of artificially low energy costs are drawing to a close," says John D. Emerson of the energy-economic division of the Chase Manhattan Bank in New York City. Mr. Emerson puts the situation in this perspective:

"Efforts will undoubtedly be made to protect the homeowner from the impact of the widespread and severe shortages which will develop over the next decade. Their success will vary from region to region. At this stage, it is not possible to be more precise. But one thing is sure: whether efforts are made to increase domestic supplies of suitable fuels for the residential market, or whether the nation will come to rely more on imports of foreign fuels, prices will rise."

A long period in which U.S. consumers have enjoyed a fast-rising supply of energy, at relatively stable costs, appears to be nearing an end.

American homes in 1970 consume more than six times as much electricity as they did in 1950. Use of basic fuels for home heating has increased by 50 per cent in the same period.

On August 7, Dr. Paul W. McCracken, Chairman of the President's Council of Economic Advisers, issued an "inflation alert" in which he stated that "an important increase appears to be in progress in energy prices." Dr. McCracken gave this detail:

"Electricity prices have to date moved only slowly. Wholesale electricity prices are up only 1.8 per cent in the 12 months ending in June, although this is itself a departure from the stability of earlier years. Wholesale natural-gas prices have increased about 3 per cent in the last 12 months.

"These conditions of stability, however, are likely to change. . . . The prices of fossil fuel (coal and oil), which accounts for over three quarters of the production cost to generate electric power, have skyrocketed. Over half of the electric power in the county is generated by burning coal, and utility rates often contain an escalator clause tying the price of power to the price of fuel. . . ."

Dr. McCracken noted that the Tennessee Valley Authority, a public power agency long regarded as a "yardstick" for the power industry, is planning a substantial rate increase.

The higher TVA rates, effective October 1, will boost power costs to consumers in the utility's Southeastern U.S. service area by an estimated 23 per cent. The rate boost is attributed by TVA officials to "rapidly rising costs for the coal burned in TVA steam-electric plants."

U.S. demand for energy in the decade 1970 to 1980 is expected to increase by 56 per cent. That forecast comes from the energy-economics division of the Chase Manhattan Bank, which provides this breakdown of present sources of energy:

(In percent)

Oil	44.7
Natural gas	31.4
Coal	20.0
Hydropower	3.6
Nuclear power	0.3

All of these five energy sources must be expanded in the decade ahead if Americans continue to live in the style to which they have become accustomed. This look at present prospects and a size-up of possible expansion of each energy source comes from experts in government and industry:

OIL: THE BIG SCRAMBLE

U.S. demand for oil is tremendous—an average of 14.8 million barrels a day. The system delivering this oil, experts say, had become so strained that recent demand shifts have knocked it out of kilter.

A basic switch, says Richard J. Gonzalez, oil economist and consultant in Houston, Tex., has been to the industrial fuel oil known as "residual" because it is what remains when higher-quality products have been refined from crude petroleum.

A major source has been Venezuela, but much of its petroleum is too high in sulphur to meet U.S. air-pollution regulations. Equipment to remove sulphur from Venezuelan oil is going in, but will not be ready for several months.

A scramble for other sources of residual oil, combined with the tanker shortage, has pushed the average price on the U.S. East Coast to $4 a barrel, more than double that of a year ago.

Meanwhile, demand for all kinds of oil is rising fast. "Allowable" production in Texas, top oil-producing State, was raised August 1 to the highest level in 17 years. Louisiana's production is also at a record high.

Mr. Gonzalez notes that federal leasing of offshore lands is at a virtual standstill, because of concern over oil spills.

More oil from Canada is a possibility to ease the present crisis, but over the long pull U.S. officials are not counting on large amounts from that country because demand there is rising, too.

Mr. Emerson of the Chase Manhattan Bank says that, at best, the flow of oil from Alaska by the end of this decade will be 2.5 million barrels a day. By that time, he predicts that U.S. demand may be as high as 25 million barrels daily, and as much as 7 million barrels a day will have to be imported from the Middle East and Africa.

Price and supply of Middle East oil, experts note, can change quickly. A few months ago, Persian Gulf oil could be laid down in the U.S. for less than $3 a barrel. Now, because of higher tanker rates, the cost ranges from $4.60 to $4.70 a barrel.

NATURAL GAS: A SQUEEZE

Gas producers have long maintained that federal regulation had held prices too low to encourage exploration. The Federal Power Commission, since a U.S. Supreme Court decision in 1954, has had authority to regulate wellhead prices of natural gas moving through interstate pipelines.

Now the FPC is acting to raise price ceilings. Says Chairman Nassikas, who came to the Commission in 1969: "We are attempting . . . to recognize the law of supply and demand and market conditions by taking action . . . to get gas flowing."

Most industry experts are predicting that critical natural-gas shortages will persist, even so. At hearings held in mid-July in New Orleans by the Interior Department on whether to open new areas offshore from Louisiana for oil and gas exploration, Mr. Emerson of Chase Manhattan Bank said:

"The total availability of gas that we can see in 1980 amounts to 63 billion cubic feet a day. Compared to the potential demand of 93 billion cubic feet a day, there is thus a deficit of 30 billion cubic feet a day—equivalent to more than 5 million barrels of oil."

COAL: SPOT SHORTAGES

The Office of Emergency Preparedness estimates total 1970 use of coal at 583 million tons, and production at only 571 million. Above-ground inventories are already shrinking, and spot shortages are showing up.

In early August, according to OEP officials, electric utilities nationally had 50 days' supply on hand. Ninety days' supply is considered normal. Some utilities were reported down to five days' supply and paying "staggering" prices for additional coal.

Bituminous-coal prices, on the average, increased by 35 per cent from June, 1969, to June, 1970, according to the "inflation alert" issued by the White House on August 7.

Coal-supply problems have been accentuated by a dearth of railroad coal cars. Railroads have hesitated to order new cars in recent years because official forecasts have indicated that nuclear energy would take over much of coal's market for power generation.

For the long range, U.S. underground reserves of coal are enormous. But mining will have to be expanded and technology developed to remove sulphur from the coal itself and the smoke it produces.

NUCLEAR POWER: A SHORTFALL

A comment from FPC Chairman Nassikas: "The program for installations of nuclear power generation has lagged two or three years behind the predicted level of five years ago. . . ."

A study prepared for the Joint Committee on Atomic Energy of the U.S. Congress shows this: Of the 65 nuclear-power units that had been scheduled to go into service between 1970 and 1976, a total of 23 have already been delayed anywhere from a few months to well over a year.

Mr. Nassikas attributes the lag in development of nuclear energy to "delays in deliveries by major manufacturers of equipment, environmental opposition to proposed sites and technological problems affecting both physical and economic operation."

There is optimism that the present shortfall in nuclear energy can be overcome. Mr. Emerson of Chase Manhattan Bank says that an increase in nuclear-power output to furnish close to 10 per cent of total U.S. energy needs is possible by 1980.

HYDROPOWER: THE OUTLOOK

Industry experts say that significant amounts of power can be developed from "pump-storage installations." In these, water is pumped up to storage at a site above a river or reservoir at hours when power demand is low. The water is released to generate "peaking" power at hours when electricity demand is greatest.

New designs for pump-storage plants to make them intrude less on the environment have been developed. It is hoped that these will be acceptable to conservationists.

This sort of compromise, along with measures to overcome technical and other problems that beset the energy industry, are seen as essential if U.S. is to meet its soaring needs for energy.

BEHIND THE GROWING ENERGY SHORTAGE—DEMAND FOR ALL FUELS IS SOARING . . . BUT SQUEEZE ON SOURCES IS TIGHTENING

Oil

Little increase expected from U.S. inland wells. Offshore drilling has been sharply curtailed by concern over oil spills. Oil from rich Alaskan finds will not be available in quantity for years. Worldwide tanker shortage may limit imports of oil for some time.

Natural gas

Worry over air pollution from other fuels has created heavy demand for clean-burning gas. And gas already is being burned faster than new sources can be found. Spot shortages are showing up around U.S.

Coal

Air-pollution controls rule out use of much U.S. coal. New federal laws on mine health and safety have shut down some mines. Export demand is booming. Shortages of coal-carrying rail cars are creating supply problems.

Hydroelectric power

Few sites remain for the big dams that produce hydropower cheaply. Conservationists seek to block use of many that are available.

Nuclear power

Production of energy from this promising source is running far behind expectations. Rising costs and environmental concerns are cited as major reason for this lag.

BRINGING ALASKA'S OIL TO MARKET—A 15-YEAR WAIT

Developing new sources of petroleum—from the time the search for oil begins in an area to the time it is brought to market—can be a long process. Alaska's North Slope, site of one of the richest strikes in history, is a case in point—

1958—North Slope of Alaska is first opened for leasing;

1958–64—Exploration by geologists and seismic crews, looking for sites suitable for drilling;

1964—First "wildcat" well drilled by Sinclair Oil Corporation. Result: a dry hole;

1966—Another "wildcat," drilled jointly by Atlantic Richfield and Humble Oil. Again, a dry hole;

1967—Atlantic and Humble start drilling another well, in April, at Prudhoe Bay. On December 19, drills hit promising formation, push on down to 12,005 feet;

1968—Independent oil consultants, on July 18, confirm discovery of a field holding 5 to 10 billion barrels of oil;

1968–70—Oil companies swarm across Prudhoe Bay area, put down 54 producing wells to tap the rich new pool.

Today—Oil wells have been capped, drilling of new wells is held up. Companies are waiting for start of construction of Trans-Alaska Pipeline, which will bring oil to continental U.S. Pipeline has been held up until Government is satisfied environment won't be spoiled.

Even if construction of pipeline starts this year, it will be 1973, at the earliest, before oil can flow from Alaska to the "lower 48" States. Thus it will have taken at least 15 years from the start of exploration to bring Alaska's new oil to market.

[From Time magazine, Aug. 31, 1970]

THE ENERGY SHORTAGE WORSENS

Incredible as it seems in the resource-rich U.S., this summer's discomfiting electric-power cutbacks are likely to be only a prelude to many more pervasive difficulties. Part of the industrial U.S. is running short of the main source of energy—coal, fuel oil and natural gas. Some forms of rationing have already been imposed, and more may be necessary if winter brings severe weather, strikes in crucial spots, pipeline breaks or new trouble in the Middle East. Though few, if any residential consumers may be asked to curtail their use of fuel or power, there is a possibility of factory closings.

The pinch is already affecting commerce and industry across wide segments of the East and Midwest. Last week the Tennessee Valley Authority disclosed that its normal 60-day stockpile of coal is down to a ten- to twelve-day supply overall, and to four days' worth at some of its thermal power plants. When the town of Braintree, Mass., sought bids recently for oil to run its generating plant for another year, none were submitted. Though there is plenty of natural gas available in the Southwest, the fuel has become so scarce on the East Coast that Elizabethtown (N.J.) Gas Co. is turning away all new commercial and industrial customers. East Ohio Gas Co., which serves Cleveland and adjacent industrial centers, has turned down orders from steel, chemical and rubber companies for 27 billion cu. ft. of gas. The company has also warned that a severe cold spell will cause a repetition of last winter's shortage, when local factories had to close temporarily to provide enough gas to heat homes, schools and hospitals.

THE ACUTE PHASE

The fossil-fuel shortage, warns Chairman John N. Nassakis of the Federal Power Commission, is "the most acute phase of our developing energy crisis." The problem is complicated in some areas by inadequate generating facilities and a lack of pipelines and power grids to carry gas and electricity to industrial centers. "Never before in peacetime have we faced such serious and widespread shortages of energy," says John Emerson, an economist and power expert for Chase Manhattan Bank. Many analysts believe the problems will be temporary, but some maintain that the energy gap may limit economic growth for years to come.

At the very least, the shortages mean that consumers will be forced to pay more for electricity and heat. In its first "inflation alert," the President's Council of Economic Advisers noted that prices of industrial fuel oil rose at an annual rate of 48% during the first half of 1970. Bituminous coal prices climbed at an annual rate of 56%. As a result, the TVA recently posted a 23% increase in its electric rates.

Incongruously, there is abundant fuel underground. The U.S. has at least 800 billion tons of coal stil unmined, enough to last 1,600 years at present consumption rates. Proved reserves of natural gas have dwindled to an eleven-year supply, but the Potential Gas Committee, a study group sponsored by the industry, calculates that the total amount of gas in the U.S., including Alaska, is 1,227 trillion cu. ft., enough to maintain production well into the next century. That, of course, does not take into account the myriad problems of piping the gas to market, from satisfying environment concern to patrolling the pipelines—often by air—for possible leaks. Similarly, although proved oil reserves in the continental U.S. are down to an eight-year supply, oil is still abundant elsewhere.

The shortages are the result of managerial misjudgments, inept government regulation, antipollution pressures and supply difficulties in the Middle East. The main causes:

COAL

The industry began retrenching in the mid-1960s when utility companies, anticipating a much faster shift into nuclear power than has occurred, declined to sign long-term contracts for coal. Facing a diminished prospect for sales, mine operators did not develop their reserves. There is still little evidence that coalmen are scrambling to catch up. Testifying before a Senate subcommittee two weeks ago, TVA Power Manager James E. Watson reported that the companies "frankly say that they won't open a mine unless you guarantee them the kind of return they would get if they were selling gasoline." Inefficient use of freight cars has caused a snarl. About 10% of all U.S. coal is exported, and shippers often store outboard tonnage in rail cars at the ports. Reason: the demurrage charge of $5 a day per car (a figure set by the Government) is less than the cost of building storage facilities.

NATURAL GAS

Demand recently has soared because natural gas is the least pollutive of all fossil fuels. But exploration for new gas fields has declined sharply, partly because investors do not consider the rate of return worth the high risk. The industry, with 40,190,000 commercial, industrial, and residential customers, blames the Federal Power Commission for holding down the price of natural gas to protect consumers. In regulating the price of gas transported across state lines, the FPC provides producers with a return calculated at 12% a year on their investment. Wall Street analysts estimate the usual return at 8%, well below the normal 12% profit for oil.

FUEL OIL

The U.S. is greatly dependent on Venezuelan imports for its heavy heating oil for industrial and commercial use. Domestic supplies are small partly because proven fields yield oil that contains too much sulfur and partly because U.S. companies have found it more profitable to concentrate on higher-priced oils. Utility companies are switching to low-sulfur heating oil to comply with antipollution laws, thus putting an additional strain on available supplies. The main squeeze, however, comes from a global shortage of oil tankers, which has made it more expensive to ship the oil to the U.S. Producers have been forced to send Middle East crude to Europe around the Cape of Good Hope ever since a bulldozer—by accident or design—severed the Trans-Arabian pipeline last spring. The Syrian government has so far refused to allow repairs.

Critics also accuse the U.S. oil industry of contributing to the energy scarcity by controversial—and perhaps monopolistic—practices. Oil companies in recent years have moved aggressively to acquire producers of competitive fuels. Only two of the ten largest U.S. coal companies remain independently owned; the other eight are owned either by oil firms, other mineral companies or large customers such as U.S. Steel. Two U.S. companies have 6 billion or more tons of coal reserves; one is owned by Humble Oil, the other by Continental Oil. The top 20 producers of natural gas are oil companies. In the Gulf of Mexico off Louisiana, where oil companies own 70% of the offshore leases, 517 producing gas wells have been shut off. Some consumer groups complain that the action is part of a concerted effort to pressure the FPC into raising gas prices.

The FPC, which is holding hearings this month on gas prices, no longer dismisses the argument that low prices have depressed natural-gas output. Two weeks ago, Chairman Nassikas called for "a regulatory framework that recognizes the law of supply and demand." On the other hand, utility commissioners from eight Eastern states have appealed to Interior Secretary Walter Hickel to force oilmen to develop their offshore Louisiana gas wells instead of letting them lie dormant.

Partly because soaring tanker rates have lifted the price of imported Middle East crude oil to as much as $4.50 per bbl., demand for domestic oil is increasing. Last week the Texas Railroad Commission, which regulates the oil output in the state, raised production ceilings for the second time in ten days, to virtually 100% of capacity.

WHAT CAN BE DONE?

Texas wells produce little industrial oil, however, and there is nothing that Washington could have done to prevent the shortage of heavy heating oil. For the next few months, the energy shortage seems bound to worsen, barring a return of tranquillity to the Middle East, repair of the Syrian pipeline break and a consequent freeing of tanker tonnage. Nuclear-power plants have been delayed by costs, safety concerns and opposition from environmental groups, and cannot be expected to fill much of the energy gap before the early 1980s. In the meantime, if the nation wants to ease the great shortage, it will have to make difficult choices.

Raising the output of electric power from coal, oil and gas will involve either more pollution or substantially higher costs—and perhaps both. To obtain more natural gas, the Government will probably allow producers a higher rate of return. If the construction of power plants and transmission lines is to be hastened, a multitude of local governments will have to sacrifice some of their authority. Oil in quantity from the rich Alaskan finds will not reach the market for years, even if the Government allows a prompt start on construction of the trans-Alaskan pipeline, which conservationists oppose. Some oilmen believe that a vast untapped pool of oil lies beneath the Atlantic shelf, but offshore drilling has lately been curtailed by concern over oil spills.

Above all, there is a plain need for a coherent national energy policy, balancing the interests of producers and consumers, ecologists and economic expansionists. In resolving those conflicts, the nation may also have to decide whether its energy resources ought to be dominated by a handful of companies.

BLOCK ISLAND POWER CO. MAY BUILD WIND-GENERATORS

Mr. GRAVEL. Mr. President, last month, Henry G. Hutchinson, president of the Block Island Power Co. in Rhode Island, stated that "There's a very real possibility" the company might use wind-generators on the island within a few years.

According to the Associated Press story which appeared November 8 in the New London, Conn., Day, Mr. Hutchinson said that six wind-generators might generate more than half of the islands' electric power. Apparently Mr. Hutchinson is waiting to see how much the utility may have to pay for oil before making his decision.

The president of Block Island's Town Council, Herbert Whitman, said:

> We've got plenty of wind here; it's our cheapest commodity.

The demand for electricity on the island increases about 140 percent during the summer when the populaton rises to about 8,000 persons.

HUMAN RIGHTS ANNIVERSARY

Mr. PROXMIRE. Mr. President, this week we are celebrating the 25th anniversary of the proclamation of the U.N. Declaration on Human Rights. An excellent editorial appeared in the New York Times, commemorating the occasion. It points out quite rightly that no continent is immune from the problems of human rights. No nation can afford to disregard these fundamental issues since they are intertwined so closely with our hopes for world peace.

I ask unanimous consent that the New York Times editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

HUMAN RIGHTS DAY

A quarter of a century ago most of the world's nations were climbing out of the ashes of war. Great dreams could be envisioned without cynicism; the Universal Declaration of Human Rights adopted by the U.N. General Assembly on Dec. 10, 1948, reached beyond questions of war or peace and into the soul of mankind.

Nothing in that great document is irrelevant today. It remains at the very core of the United Nations. It includes the right of freedom and justice; of movement within and beyond the borders of one's own country; of information, assembly and association; of health, education, work and well-being. It is a document that insists upon the right of human dignity without distinction of race or color or sex or birth or social origin.

These age-old longings and goals, assembled by an international parliament in the form of specific articles, have already achieved some beneficial results. The constitutions of many of the states that have come into existence in the last twenty-five years includes articles derived from the Universal Declaration.

In recent days the U.N.'s Third Committee has debated ways to implement the effective enjoyment of human rights enumerated in the Universal Declaration. An effort to create a post of High Commissioner for Human Rights has been deferred for a year; a Declaration on Freedom of Information has also been delayed. These and other alternative approaches for improving human rights and fundamental freedoms will be brought before the General Assembly in 1975.

It is not difficult to list the countries around the world where terrible indignities and violations of the Universal Declaration abound. No continent is immune. But the great document is there to be heeded, the United Nations still exists as a forum for firing the imagination, and men of goodwill are still striving to better the human condition.

NICHOLAS JOHNSON LEAVING FEDERAL SERVICE AFTER 10 YEARS

Mr. MOSS. Mr. President, on December 5, 1973, Nicholas Johnson left the Federal Government after more than 10 years of dedicated, staunchly independent, and fully committed service to his country. Beginning at the remarkably young age of 29, Nick was appointed Martime Administrator by Lyndon Johnson. He served with distinction in that capacity until 1966 when he was appointed to the Federal Communications Commission where he has served for the past 7½ years.

Rarely has a Federal administrative official shown such undiminished zeal and independence over a 10-year span of Government service. Rarely has a Federal commissioner so consistently and intelligently articulated the needs and interests of the public. Rarely has an official of Government so frequently shunned the cloaks of self-protective secrecy to bare the weaknesses and inadequacies of the Federal bureaucracy. Rarely has a Federal employee spoken with such revealing candor to House and Senate investigative and legislative committees.

In this age of turmoil when the integrity, independence, and commitment of public servants is so often questioned, the governmental life and times of Nicholas Johnson serve as a reminder that, with courage, Government officials can be responsive to the common weal.

A brief outline of Nick's life and accomplishments follows:

Nick was born in Iowa where he was involved in virtually every school sport and activity. He organized a student council in fourth grade; lobbied his city council for a swimming pool in junior high; was the only student elected student body president as a junior—and then reelected. The Iowa Bar Association voted him a citizenship prize. His fellow students elected him president of the Iowa Association of Student Councils. He served a 3-year term as national president of the 500,000-member UMCA high school organization—Hi-Y—the youngest member of the national YMCA Board of Directors, and its representative to the National Council of Churches organizations.

In college, at the University of Texas, Nick earned his Phi Beta Kappa key, and was an editor of his law review—while holding down part-time jobs to pay his way, and serving as a Democratic precinct chairman.

After graduating from law school, Nick held two of the law's most prestigious jobs: Clerkships with U.S. Supreme Court Justice Hugo L. Black and U.S. Court of Appeals Chief Judge John R. Brown. Then, as a member of the University of California's outstanding law faculty, he took leave from teaching with Dean Acheson's Washington law firm, Covington & Burling.

Nick was one of President Lyndon B. Johnson's administrative appointments. At 29, Nick was the youngest Maritime Administrator since President Kennedy's father, Joseph P. Kennedy, in 1936. He had responsibility for about $500 million a year in merchant shipping and ship building programs, worldwide offices, and 2,500 employees. In addition, he had responsibility as Director of the War Shipping Administration, and carried three-star admiral rank—as he was also commandant of the Maritime Service and responsible for the 4-year Merchant Marine Academy at Kings Point.

At Maritime he also served the country well in foreign affairs. Nick was chairman of the powerful NATO Planning Board for Ocean Shipping. He worked with the 83-nation international communications satellite organization Intelsat. He directed the international tour of the world's only nuclear-power merchant ship, guiding kings of the Scandinavian nations about the ship as a part of our Atoms for Peace program. As the Vietnam war widened in 1966, Nick left the FMA.

At the Federal Communications Commission, many of Nick's views of the public interest, as contained in carefully drawn and blistering dissents, in his testimony before congressional committees and in speeches, articles and books he has written, have subsequently been adopted by the courts and are now the laws of the land. Nick has fought for lower telephone rates and improved service, for domestic satellite development, for cable television for public broadcasting, for responsible commercial practices, for less violent and more constructive children's programing, for more public service broadcasts, for employment practices in the broadcast industry which conform to equal employment opportunity laws, and for the needs and interests of women, minorities, and finally, for all persons throughout the country who rely upon broadcast services as their major source of news and information.

During his tenure on the Commission Nick authored two successful books—"How To Talk Back to Your Television Set" and "Test Pattern for Living"—which set forth many of his views about broadcasting, Federal regulatory agencies, governments, life, and the times.

In 1967, the U.S. Jaycees selected the Ten Outstanding Young Men of America. One was our colleague from Massachusetts, EDWARD M. KENNEDY. Another was FCC Commissioner Nick Johnson.

Later the New York Times reported college students were turning away from folk heroes like Jerry Rubin and Abbie Hoffman to more solid young leaders. One was Ralph Nader. The other was Nick Johnson. Then the New Republic selected them as the first winners of its coveted Public Defender Award.

Newsweek did a study of the persons most often sought for university presidencies. Four names surfaced: Former Attorney General Ramsey Clark, Common Cause Chairman John Gardner, Ford Foundation President McGeorge Bundy, and—Nick Johnson.

CONTROLLING COMPUTERS WITH CRIMINAL JUSTICE INFORMATION

Mr. ERVIN. Mr. President, two significant commentaries have appeared in print recently dealing with a subject of importance to all Americans—the collection and dissemination of raw arrest records to nonlaw enforcement agencies.

Massachusetts Gov. Francis Sargent, in a letter to the editor of the New York Times, which appeared on November 27, 1973, describes the dilemma faced by State governments in dealing with the NCIC—National Crime Information Center—the computer system established by the Justice Department which collects and disseminates, among other records, raw arrest data. Governor Sargent, in his letter, calls for Federal regulations in the form of legislation to prevent the misuse of the information collected by the NCIC. He emphasizes the urgent need to place restraints on the type of information collected and the recipients to which the information is disseminated. Massachusetts has refused to join the FBI's national computer system and has regulated its own State criminal justice information system. But, as Governor Sargent points out, State regulations are not enough. The Federal Government must act to place restrictions on the collection and dissemination of information in order to protect the individual's privacy. Out of this dilemma arises the question of whether the State can be penalized for refusing to join the Federal computer system, because the Federal system does not provide sufficient privacy safeguards.

A more lengthy analysis of this matter was prepared by Richard E. Cohen for the National Journal—October 27, 1973, volume 5, No. 43. Mr. Cohen describes computerized criminal history systems from their conception to present use, the type of information collected, computerized, and disseminated, as well as the goals of the system. Mr. Cohen's article is especially worthwhile in providing a detailed account of all aspects of NCIC and its effects. From Governor Sargent's letter and Richard Cohen's article, the need for Federal legislation is reinforced. By becoming better informed on this subject, it is my hope that all States will begin enacting legislation to curtail the dissemination of raw arrest records to nonlaw enforcement agencies and to provoke legislation on the Federal level to limit the use of computerized criminal information systems.

It is incumbent upon the Justice Department to propose comprehensive Federal legislation in this area. The Justice Department is required under legislation enacted by Congress this summer to issue regulations on the collection and dissemination of arrest records. It has been almost 5 months since that legislation was enacted and I am disappointed that no regulations have been formulated. I urge the Justice Department to publish the regulations it has prepared and to forward to Congress the draft bill which now sits on the Acting Attorney General's desk.

Mr. President, I ask unanimous consent that the articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, Nov. 27, 1973]

TO GUARD CRIMINAL DATA: THE UNITED STATES MUST ACT

To the Editor:

I wish to commend the National Advisory Commission on Criminal Justice Standards' concerned with safeguarding computerized criminal data banks, as reported recently in The Times.

However, in its emphasis on the need to safeguard state criminal data banks, the commission missed much of the problem.

Many states, including Massachusetts, have already enacted strong protective legislation.

In Massachusetts, for example, only data on individuals convicted, not just arrested, are included. Only law enforcement agencies and agencies given specific statutory authority are allowed access to these files. Furthermore, individuals included are allowed to see their own files and correct them if they are wrong or incomplete.

With recent requirements added to the Law Enforcement Assistance Administration extension legislation mandating similar safeguards on the part of any state wishing to receive Federal funds to construct criminal data banks, I think most states will soon enact comparable controls.

The problem, then, is how to get the Federal Government to enact safeguards as strong as those of the states. Despite our laws in Massachusetts, for example, the moment we join the planned national system, connected through the F.B.I.'s National Crime Information Center (N.C.I.C.), our information flows from our computer and becomes available to anyone with access to any of the planned 45,000 separate N.C.I.C. computer terminals across the country.

There are inherent difficulties in such a national system. For example, although access is prohibited to credit bureaus and other noncriminal justice agencies in Massachusetts, we cannot restrict access to the same data available through terminals outside our borders. We cannot stop the flow of data in Massachusetts citizens from Military Intelligence, the Secret Service, the Post Office, Customs or the various other Federal agencies participating in the N.C.I.C.

For these reasons Massachusetts refused last June to join the N.C.I.C. until equivalent Federal safeguards are instituted.

The immediate response from the Federal Government was hardly encouraging. The Justice Department sued Massachusetts in Federal District Court to get us to open our files to it or any other Federal agency that wanted them.

Fortunately, this fall Attorney General Elliot Richardson ordered the Justice Department to drop the suit. Unfortunately, before he could address himself to safeguarding the N.C.I.C., he resigned.

To date the only time Congress has acted was to override a 1971 court ruling barring the F.B.I.'s dissemination of raw arrest records outside of law enforcement agencies. Congress immediately attached a rider to the Justice Department Appropriations Act to allow the F.B.I. to continue this practice.

Attempts to repeal this rider were defeated this session.

This is why, although I applaud the National Advisory Commission's concerns. I think its admonitions are misplaced. State controls are not enough.

The Justice Department must act. Congress must act.

FRANCIS W. SARGENT,
Governor of Massachusetts.
BOSTON, *November 14, 1973.*

[From the National Journal, Volume 5, No. 43, Oct. 27, 1973]

JUSTICE REPORT AND NIXON ADMINISTRATION WEIGHS RESTRICTIONS ON USE OF CRIMINAL HISTORY DATA BANKS

(By Richard E. Cohen)

Somewhere in the federal government, there is a file on you—perhaps dozens of them.

In this computer age, it is easy technologically to find out what is in those files. A tape whirs. A printer clatters. And, zap, the computer spews out what it knows about you: whether you have a criminal record, how much money you have in your social security account, or whatever information that happens to be stored in that particular data bank.

The process is so fast and simple that it has become a way of life in the 1970s. Thousands of times daily, federal computers spin out bits and pieces of knowledge about Americans who are looking for jobs, applying for grants or doing any number of other things that trigger an electronic search for skeletons in their closets.

Not everyone has access to those files. But with cold dispassion the computers hand up the information to the many public and privates offices that do have entry, such as federal and state agencies, defense contractors and federally insured banks.

Personal data banks have mushroomed so rapidly that no one knows how many there are. A Senate subcommittee recently counted 750 of them in federal agencies alone, and the enumerators regard that number as just the tip of the iceberg.

The proliferation of data banks, the widespread access to their contents and the awareness that their information is not always complete or correct have combined to arouse the concern of Members of Congress, civil libertarians and scholars among others.

To these persons, criminal history data banks are of particular concern because of their ability, rightly or wrongly, to destroy an individual's career.

As criminal justice data-gathering programs develop, it becomes less likely that a person's brush with the law will escape the computer's attention. The Federal Bureau of Investigation (FBI) estimates that its new automated data center, which now has 4.2 million criminal record entries, will contain 21.7 million within 10 years.

As the principal custodian of such files, the Justice Department is taking steps to clamp significant restrictions on their use, as well as the use of other federal and state data banks containing criminal history information.

The department is circulating tentative regulations and legislation that if adopted would affect many agencies and private companies that draw on criminal justice data banks.

Controversy: The Justice Department's move has touched off a debate within the Nixon Administration that could alter federal policy toward the regulation of all data banks, public and private.

At issue is the extent to which individual privacy is to be limited by a public "need to know" and the extent to which the government can collect and disseminate information about an individual without his consent.

The controversy has been sharpened by revelations of military surveillance of civilians and the various illegal events associated with the Watergate scandals. Several sets of congressional hearings during the past decade also have focused public attention on the issue.

Apart from its long-range effects, the debate within the Administration will provide a test of the Justice Department's ability to exert policy control over the traditionally independent FBI.

Agencies that have had access to FBI data banks in their day-to-day operations have met with Justice Department representatives, and have raised objections to portions of the draft bill.

A further element in the controversy is the role of state and local governments, which are prime suppliers of criminal data, and whether they can be penalized if they refuse to cooperate with federal programs for the exchange and collection of data.

In the absence of congressional action to thwart such episodes, there could be repetitions elsewhere of a recent skirmish in Massachusetts, which resulted in a federal retreat from what Gov. Francis W. Sargent, R. called "threats" by the Defense Department and the Small Business Administration to slash their Massachusetts programs if the state continued restricting their access to its data banks.

In addition, a recent report by an HEW Department citizens' advisory committee, proposing strict limitations on data bank use, has brought the issue to the notice of federal policy makers—partially because the recommendations have received support from HEW Secretary Caspar W. Weinberger and Elliot L. Richardson, who established the committee in 1972 while has was HEW Secretary. Richardson resigned as Attorney General on Oct. 20 and President Nixon named Solicitor General Robert H. Bork as acting Attorney General. (*See p. 1621.*)

Background: The current debate is the second round of the policy discussion of federal use and regulation of data banks.

Hearings—During the mid-1960s, congressional hearings gave publicity to the then-incipient use of federal computers.

These hearings "successfully squelched the nearly *fait accompli* of a 'national data center,'" said Norman G. Cornish, deputy staff director of the House Government Operations Subcommittee on Foreign Operations and Government Information and former staff director (1964–65) of the Special Subcommittee on the Invasion of Privacy, chaired by Rep. (1959–73) Cornelius E. Gallagher, D-N.J.

The aborted national data center had been proposed by officials of the Budget Bureau (now the Office of Management and Budget). The Gallagher hearings also resulted in the abandonment of psychological testing of federal employees by the Civil Service Commission, Cornish said.

Though these and subsequent investigatory hearings have accomplished short-term results, neither Congress nor the executive branch has established any comprehensive policy for governmentwide use of data banks. Thus, the increased sophistication in the past few years of federal computer technology has taken place on a relatively uncontrolled and uncoordinated basis.

The Senate Judiciary Subcommittee on Constitutional Rights, chaired by Sen. Sam J. Ervin Jr., D-N.C., has conducted a staff survey of the number of federal data banks, in connection with its study of the impact that computerized information systems can have on individuals. Through agency responses to its questionnaire, the subcommittee has identified more than 750 separate federal banks of data on individuals.

Lawrence M. Baskir, chief counsel and staff director of the subcommittee, said that the figure represents "perhaps a third or a half" of the systems in existence. He said that new systems are "growing like weeds, with little statutory justification."

Credit investigations—The principal congressional action to regulate data bank use was the 1970 passage of the Fair Credit Reporting Act (84 Stat 114), which forced credit bureaus and other consumer reporting agencies to adopt privacy safeguards in the evaluation of a consumer's credit standing and general reputation.

Sen. William Proxmire, D-Wis., who was a chief engineer of the law's enactment, held hearings this month in his Senate Banking, Housing and Urban Affairs Subcommittee on Consumer Credit on a bill he introduced to strengthen the 1970 law. The bill (S 2360) would add several provisions, including one giving consumers the right to inspect their credit files and obtain a written copy of the information.

Another provision would require anyone who takes adverse action against a consumer on the basis of the credit report to inform the consumer in writing of the specific reason for the adverse action.

Sheldon Feldman, the Federal Trade Commission's assistant director for special statutes, testified July 24 before the House Banking and Currency Subcommittee on Consumer Affairs in support of several changes in the act, which the FTC administers. Most of Feldman's recommendations are consistent with S 2360.

Government data banks—The July 1973 report of the HEW Secretary's Advisory Committee on Automated Personal Data Systems. *Records, Computers and the Rights of Citizens,* concluded:

"Even at the federal level there are few statutes that protect personal data in satistical reporting and research files from unintended administrative or investigative uses. The Census Act, the Public Health Service Act and the Social Security Act are notable exceptions. Otherwise, there is little to prevent anyone with enough time, money and perseverance (to say nothing of someone who can issue or obtain a subpoena) from gaining access to a wealth of information about identifiable participants in surveys and experiments. This should not, and need not, be the case."

Baskir of the Ervin subcommittee said that regulation of criminal justice data banks is the "most feasible" effort by Congress in the months ahead because the subject is "narrow enough and we're familiar with the issues."

Acting Attorney General Bork said Oct. 22 that he would carry forward Richardson's programs. Richardson's interest in regulating criminal justice data systems had been pushed along by two events outside his control:

The enactment of a 1972 Massachusetts statute on privacy, which already has caused a confrontation between Massachusetts authorities and the Justice Department over the use of criminal data;

A provision in the recently enacted Crime Control Act of 1973 (87 Stat. 197) prohibiting federal agencies from using, for purposes other than law enforcement, research or statistical information compiled by agencies funded by the Law Enforcement Assistance Administration (LEAA), except where authorized by statute, and also requiring procedures "reasonably designed to ensure that all information is kept current."

This law is the first clear expression of congressional intent that federally supported criminal justice agencies establish procedures to protect the confidentiality and completeness of their data.

Because these agencies provide most of the raw data for the FBI's National Crime Information Center (NCIC), the proviso also is an indirect invitation to the Justice Department to set restrictions on the FBI's data-collection activities.

FBI DATA

The development by the FBI of a computerized criminal history (CCH) program within the NCIC has become the focal point of the national debate over the data bank, because it may supplant much of the current FBI manual identification system.

The CCH program also may challenge traditional state independence in the collection of criminal history data.

Concept: Although the CCH program was created in 1971, and still is only a small element of all criminal information systems on federal and state levels, it has stirred considerable congressional and state reaction because of its potentially broad government-wide dimensions and the resulting fear of misuse.

Search—The genesis for CCH was the July 1969 creation of Project SEARCH, an informal consortium of state governments funded by LEAA. The group's name is an acronym for "System for Electronic Analysis and Retrieval of Criminal Histories"; its goal was to demonstrate and evaluate the technical feasibility and operational utility of an interstate transfer of criminal history data.

While Project SEARCH has continued to provide reports on the use of telecommunications in law enforcement activities, it now plays no operational role in the development of the nationwide criminal data system. A July 1970 report of the Security and Privacy Committee of Project SEARCH, however, has provided one of the principal working papers in the use of such a system.

A key recommendation of the report was that "participating agencies should be instructed that their rights to direct access encompass only requests reasonably connected with their criminal justice responsibilities."

FBI—In late 1970, then Attorney General (1969–72) John N. Mitchell concluded, after a vigorous internal debate between LEAA and the FBI, that the FBI should take control of the SEARCH prototype and operate it as a part of NCIC, which already has been established for purposes such as cataloguing wanted persons, stolen securities and stolen automobiles.

"When it became clear in the fall of 1970 that the system was going to be a reality," said Lawrence Baskir of the constitutional rights subcommittee, "the FBI made a pitch to Mitchell that it ought to run the system. Although former LEAA Administrator (1971–73) Jerris Leonard argued that the states did not want to be part of a system operated by the FBI, given the choice between Leonard and Hoover (J. Edgar Hoover, who was FBI director from 1924 to 1972), Mitchell chose Hoover. The upshot was that the FBI was to run the whole show and the stages were reduced to operating cogs."

Goals—The original goal of the FBI was to have all 50 states in the CCH system by 1975. To date, only six states (Arizona, California, Florida, Illinois, New York and Pennsylvania) have joined, and "it's doubtful that the 1975 goal is attainable because the development is extremely complex," said Norman F. Stultz, chief of the NCIC section in the FBI's computer systems division.

Each state must satisfy three requirements before it can join the CCH system:

The state must maintain a centralized fingerprint identification bureau.

It must have a process for collecting the criminal history data.

It must have a computer capability.

LEAA provides much of the funding to meet these elements, Stultz said.

Operations: Standards for NCIC operation were the subject of considerable discussion during the Senate Judiciary Committee hearings last March into the ill-fated nomination of L. Patrick Gray III to be director of the FBI.

Sen. Charles McC. Mathias, Jr., R-Md., said at the time: "Despite the NCIC's national importance and the nationwide interest in its potential, there is in fact very little, if any, legislative base for it. We, in Congress, never really have set statutory standards for its development and for its operation, for the philosophy with which its activities are conducted, and the statutory base that does exist is a precomputer concept. . . . All of that is just really a pretty vague and misty area."

Gray—In responding to Mathias' concern, Gray referred to a 558-page NCIC operating manual as well as to a policy paper of the NCIC advisory policy board, composed primarily of state and local police chiefs. He said all computers "capable of interfacing directly with the NCIC computer" must be under the management of a criminal justice agency.

Also, Gray said, "Experience to date indicates that the security and confidentiality requirements as contained in the NCIC policy paper governing access to criminal history records are sufficiently stringent. . . ."

However, Gray acknowledged that the FBI "has no further control over the information once it leaves our possession," such as when it is given to another federal agency.

In response to a Mathias question regarding the key issue of whether NCIC safeguards ensure that arrest and disposition records are complete, Gray said:

"The arrest records of the FBI identification division, as well as those of many state and local identification bureaus, are replete with lengthy arrest records of long-time hoodlums and members of organized crime whose arrests never resulted in conviction. Many sex offenders of children are not prosecuted because parents of the victim do not want to subject the child to the traumatic experience of testifying. . . . To prohibit dissemination of such arrest records would be a disservice to the public upon whom they might prey again." (*For background on the FBI's new leadership see Vol. 5, No. 27, p. 988.*)

Stultz—NCIC chief Stultz said FBI policy, as is the case with its manual system of fingerprint files, is that "information is to be used only for criminal justice purposes except where permitted by federal or state statute or executive order." The conflict arises in determining what is "valid use outside criminal justice purposes," he said.

Currently, the quasi-governmental Postal Service and the following federal agencies have "on-line" access to NCIC:

Four divisions of the Treasury Department, including the Internal Revenue Service, Secret Service, Customs Bureau and the Bureau of Alcohol, Tobacco and Firearms;

The four military criminal investigating agencies;

The Justice Department.

In addition, Stultz said, "many agencies" have access to records in the manual division. He was unable to give a precise figure.

Stultz also echoed Gray's testimony that NCIC is a "user's system" in the sense that "the central file is an amplified index of state systems, which the states can modify and update." The information is made available to other states, he said, in accordance with policy set by the NCIC advisory policy board, whose members are appointed by the users.

The board's policy statement says, "The justification for a national index is to efficiently and effectively coordinate 50 state systems for offender criminal history exchange. The need is to identify the interstate mobile offender."

Baskir disputed the FBI's statement that NCIC is a "user's system."

"It's a user's system but the FBI sets the rules," he said. "The demands of uniformity suggest a unified system, and while there is a strong reason to resist centralization, it's difficult to do because there are 51 interests (the FBI and the states), each having its own complex of forces."

GAO criticism—In a Jan. 16, 1973, report, the General Accounting Office (GAO) reviewed the history of NCIC and concluded that "the cost to develop and operate the criminal history exchange system has not been determined . . . (and) . . . sound financial management of a project of this magnitude requires at least an estimate of the costs of the project."

The GAO report referred to unidentified LEAA and state officials' statements that a fully operational system could cost at least $100 million.

FBI and LEAA officials agreed that there is no official estimate of either initial or on-going NCIC costs. The FBI has requested $7.8 million to operate NCIC this fiscal year.

Stultz said he had "no idea" whether the $100-million figure was reasonable but stressed that the FBI "intends to complement the states, not replace them."

George Hall, acting assistant administrator of LEAA's National Criminal Justice Information and Status Service, said, "We are now trying to shed some light on what will be the total cost of NCIC, but the question of the cost of an automated system is not the proper question to ask because some of the components of the system are already authorized for other purposes."

State legislation: Three states—Massachusetts, Alaska and Iowa—have set limits on the use of criminal history records concerning their own citizens. Massachusetts and Alaska adopted statutes based on a model state act developed by Project SEARCH, and the Iowa legislature formulated its own standards. The Alaska and Iowa laws, passed this year, have not yet caused serious federal challenges. But the 1972 Massachusetts law resulted in a confrontation with the Justice Department.

Massachusetts—The Massachusetts statute sets procedures for use and access to individual criminal history records, permitting such records to be disseminated only to criminal justice agencies, except where authorized by statute. In the first seven months of 1973, 72 requests from public and private groups for access to the records were turned down by the state's criminal history systems board. Among those turned down were the Defense Department, Coast Guard, Postal Service and Federal Aviation Administration.

Gov. Sargent said at an Aug. 3 press conference that the Small Business Administration (SBA) has threatened to withhold $30 million in loans and direct aid, and that the Defense Department's Defense Investigative Service has frozen 2,400 jobs in Massachusetts unless the state ties into the NCIC system.

U.S. suit—The most direct challenge to the Massachusetts law was the filing of a suit by James N. Gabriel, U.S. attorney in Massachusetts, contesting the state's limiting access to state criminal history information. The suit, which Gabriel filed June 8, was brought on behalf of SBA and the Defense Department.

At the Aug. 3 press conference, Sargent said: "My concern is locally oriented. We are being penalized and bullied to join a system even though the safeguards are not there."

David P. Heilner, SBA regional director, said:

"We understand what Massachusetts is trying to do, but we're trying to find ways to help people start businesses. We can't help unless we're convinced the man is rehabilitated. Our inability to have access to criminal history files will inhibit us because if Washington asks us to check out a criminal record and we can't get the information, then we can't make the loan."

Soon after he took office, Richardson ordered a review of the Masachusetts suit. The result was that William D. Ruckelshaus, then deputy attorney general, announced Sept. 25 in Boston that he and Gabriel had decided to dismiss the suit, concluding that "it would be more practical, more appropriate and more effective for the affected federal agencies to seek congressional authorization for such access."

Before he left office, Ruckelshaus said the suit was dropped because: "We didn't think we could win in telling a state how to use its information, and the Attorney General has shown a lot of sensitivity to this problem."

Asked why the suit initially was filed, Ruckelshaus said, "There is some question of whether there was an adequate exchange of information between the U.S. attorney's office in Boston and Washington."

CONTROLS

In an effort to deal with the many-faceted problems related to the use of criminal justice data banks, Richardson announced Aug. 3 that LEAA would draft regulations for protection of information in LEAA-funded criminal data systems, and that a Justice Department task force would prepare legislation dealing with security and privacy aspects of all criminal justice information systems.

Martin B. Danziger, an associate deputy attorney general who has been assigned overall department supervision of the two projects, said that Richardson was reacting to several factors, including recently enacted federal and state legislation, the access issue raised by the "Bible rider" (*see box, p. 1605*), a petition for the promulgation of NCIC rules initiated by several political figures and "his own personal interest."

Ruckelshaus, who resigned from the Justice Department at the same time as Richardson, said in an interview before he resigned that the department is trying to guard against "misuse of information."

The administrative regulations are being prepared by LEAA in cooperation with the FBI and must be approved by the Attorney General. The department expects to issue a notice of rule making within a month so that it can get reaction from other agencies and the public.

A draft of the legislation was sent at the end of September to the Office of Management and Budget (OMB), which then circulated it to affected agencies.

Following the initial comments, the bill has been redrafted and again circulated. Both Danziger and OMB officials predict that an Administration bill will be sent to the Congress this session.

Regulations: The effort to develop regulations is the direct result of an amendment to the 1973 Crime Control Act, which extends LEAA authority.

An amendment to that act, cosponsored by Sens. Edwards M. Kennedy, D-Mass., and John L. McClellan, D-Ark., prohibits the use of LEAA-financed research or statistical information for non-law enforcement purposes, and requires that "criminal history information collected, stored or disseminated through support under this title shall contain, to the maximum extent feasible, disposition as well as arrest data where arrest data is included therein."

Thomas M. Sussman, chief counsel to Kennedy's Judiciary Subcommittee on Administrative Practice and Procedure, said the amendment's supporters realized that regulating the LEAA-financed state systems was a "backdoor" approach to solution of the NCIC problem. But he said the amendment was, in part, an effort to show the Justice Department that there is broad support of NCIC regulation in the Senate Judiciary Committee so that it can see "the handwriting on the wall." (McClellan is chairman of the committee's Subcommittee on Criminal Laws.)

The department also is responding to an Aug. 3 petition from Gov. Sargent; Sens. Edward W. Brooke, R-Mass., and Harold E. Hughes, D-Iowa; Reps. Michael J. Harrington, D-Mass., and Barry M. Goldwater Jr., R-Calif., and several private groups, asking that the Attorney General develop standards for CCH operation.

Sarah C. Carey, who has coordinated the legal action as an attorney for the Lawyers' Committee for Civil Rights Under Law, said, "There are presently no controls or formal regulations, only informal regulations on CCH."

Joint process—In a Sept. 10 letter to Kennedy, Richardson said that LEAA and the FBI would issue the regulations jointly within a "few weeks." He added:

"While this cooperative effort takes a bit more time, the end result should be a comprehensive set of regulations governing all aspects of the NCIC system."

Mary C. Lawton, associate deputy attorney general (Office of Legal Counsel), is assisting in the coordination of the LEAA and FBI regulations. She said, "The process has been a whole lot easier than I thought, because the FBI is aware that a bill is being drafted imposing controls on NCIC, and that the regulations must be consistent with the bill.

"The FBI has lost whatever policy fight it was going to make. The new rules will supplant and differ from the old ones. The problem with NCIC is that its only remedy to bring states in line is to kick them out; this is self-defeating."

George Hall, who is the LEAA official most actively involved in the drafting of the regulations, said, "NCIC will continue to be a user's system; setting parameters does not make it less so. Most of the concern in the regulations relates to use of criminal history data outside the criminal justice system."

Stultz of the FBI said he expects that the regulations will be "consistent" with the present NCIC policy. He added that the problem with including criminal dispositions in record keeping is that "the courts and correctional institutions don't have computer capability" and that there is a need for mandatory reporting.

Sample draft—One of several drafts of the regulations, described by a Senate staff aide, who did not want to be identified, as "similar in intent to what the Kennedy-McClellan supporters" were expecting, mandates the regulation of the collection, dissemination and use of criminal justice information in each state by a central committee and limits access to law enforcement agencies specifically authorized to obtain such access, except where otherwise provided by federal or state statute.

The draft regulations make a distinction between "criminal offender records" and "criminal intelligence." Criminal intelligence generally is not public information and relates to data collected in investigations. In the draft made available to *NJR*, access to criminal intelligence information systems would be more strictly regulated than would access to criminal offender records.

Legislation: The preparation of a bill to regulate the exchange of criminal justice information is not a new process for the Justice Department. It is likely, however, that the contents of any bill it sends to Congress this year will be significantly different from its predecessors.

In 1971, Sen. Roman L. Hruska, R-Neb., introduced S. 2546, a Justice Department bill that would have given the Attorney General the power to determine which agencies may have access to criminal justice information. A similar proposal was about to be sent to the Congress this spring, with OMB approval, before the April 30 resignation of former Attorney General (1972–73) Richard G. Kleindienst.

Task force.—Shortly after he took office May 25, Richardson appointed a task force on security and privacy, headed by Jerry Clark, an attorney in the Office of Criminal Justice, which is directed by Danziger. Clark said that "Richardson felt the previous bill needed changes" and that the HEW report (*see box, pages 1602–03*) was one of the key reference points for the task force.

Ms. Lawton of the Office of Legal Counsel said the bill will regulate all federal criminal justice data banks, including those not under the direct supervision of the Justice Department, and would affect, for example, agencies such as the Defense Department and Civil Service Commission, which now rely on these data banks for criminal investigations and security clearances.

OMB—The Richardson-approved bill was sent during the last days of September to OMB, which then referred the bill to several agencies for comment. William V. Skidmore, a branch chief in OMB's legislative reference division, chaired a meeting Oct. 5 during which the bill was discussed among interested agencies. Following the meeting, Danziger said:

"I am very hopeful that we can resolve the conflicts in terms of getting an Administration bill."

In an earlier interview, Wilfred H. Rommel, OMB assistant director for legislative reference, said:

"A lot of work must be done with the bill because many agencies have something to say about it. There is a lot of pressure from the Hill for the Administration to produce a bill this year, and OMB hopes to have something before Congress adjourns."

Agencies: Ms. Lawton predicted in September that when OMB sends the bill to the agencies, "You'll hear the screams."

Although OMB regulations prohibit public comment by agency officials about legislative proposals being drafted, a sampling of opinion lends some credence to her prediction. However, it is apparent that other agency officials recognize an element of inevitability to Administration support of the Justice Department bill.

David B. H. Martin, special assistant to the HEW Secretary and executive director of the HEW privacy report, said the Oct. 5 meeting was "long, discursive and productive; there is a spirit of getting a meaningful bill as soon as possible."

A principal issue during the meeting, Martin said, was that some agencies felt the bill "goes too far" in making it necessary for agencies to get special legislation to revive access to criminal offender records for non-criminal justice purposes. "Not everyone is enchanted with that" and "resistance to changing what's been done for years" is a big obstacle, Martin said.

Treasury—The Treasury Department earlier this year implemented the Treasury Enforcement Communications System (TECS), a criminal records system used by the Internal Revenue Service, Secret Service, Customs Bureau and the Bureau of Alcohol, Tobacco and Firearms. The Justice Department bill likely would regulate TECS, said Brent Moody, deputy assistant secretary (enforcement) of Treasury.

"Although there has been no abuse of today's data banks, more attention is rightfully being paid to the issues of access," Moody said. "There is a need to implement some protections after due deliberations without restricting the operational capability of the systems. We will be cooperative in that type of effort, taking into account our diverse responsibilities, including the protective responsibility of the Secret Service."

SBA—J. Gregory Austin, general counsel of the Small Business Administration, said several agencies, including SBA, need access to good information, for purposes such as determining the grant-worthiness of loan applicants. "The taxpayers would be upset if they felt we were giving grants to an embezzler or member of the Mafia," Austin said.

He said "it is possible under new Justice Department regulations that we would be forced to withhold money" and that some of the positions being advocated within the Administration "may be a bit emotional in terms of 'Big Brotherism.'"

Civil Service—A top staff official of the Civil Service Commission, who did not want to be identified, said the proposed legislation "would put some change in our operations, and I am prepared to defend the need of the commission's getting the fullest practical information bearing on a person's ability to do the job.

"If we don't have the information, this might have a bearing on whether a person is employable for certain jobs. For example, a rule prohibiting arrest records without dispositions would inhibit us because there are all sorts of reasons why a case may be dropped prior to conviction that Civil Service wants to know about."

Defense—According to participants, David O. Cooke, deputy assistant secretary of Defense for administration, has participated in data bank discussions on behalf of the Pentagon. He was not available for comment.

CONGRESS

Assuming an Administration bill is sent to the Congress, it likely would be referred to two subcommittees whose chairmen have been among the Members of Congress most outspoken in arguing for the protection of personal privacy and the confidentiality of records. The two are Sen. Ervin, chairman of the constitutional rights subcommittee, and Rep. Don Edwards, D-Calif., chairman of the House Judiciary Subcommittee on Civil Rights and Constitutional Rights.

Other Members, representing all segments of the political spectrum, have developed an interest in regulation of data banks, with the result that more than two dozen bills have been introduced this year concerning the general subject of privacy and data banks.

Ervin: Because of his time-consuming responsibilities as chairman of the Senate Select Committee on Presidential Campaign Activities, Ervin has been unable to devote as much time to the activities of the constitutional rights subcommittee as he has in recent years.

However, he discussed the issue of access to criminal justice data banks in a June 28 speech at Miami (Ohio) University when he said that arrest records "should be available only to those criminal justice agencies which can demonstrate that they need such arrest and disposition records in order to carry out their law enforcement duties. Other organizations, businesses and the like should have no access to this kind of information, which can be so damaging to the lives and liberties of innocent citizens."

The subcommittee staff has prepared a bill, still being reviewed, which chief counsel Baskir said will serve as an "outer limit" on the boundaries of privacy to balance what he believes will be the "law enforcement systems approach" of the Administration bill. He said he hopes there will be hearings on the legislation next spring.

Edwards: Hearings began Sept. 26 in Edwards' subcommittee on his bill (HR 9783) to regulate the use of federal criminal data banks. In an opening statement, he said:

"We can no longer assume the necessary precautions for the security and privacy of our citizens will be observed without Congress exercising its responsibility to legislate parameters for the operation of these computer data banks."

In an interview, Edwards acknowledged that "we need the support of the Justice Department to pass a bill that means anything." He said the Massachusetts action and HEW study signal some "change in attitude" by parts of the executive branch.

Edwards also said "extradordinary care" should be exercised before any employer is provided information from a criminal justice data system because "many fine people, often minorities, have been treated unfairly."

Goldwater: A bill (HR 10042) introduced by Rep. Goldwater would regulate use of and access to all data banks, public and private. The aim of the legislation, he said, is preventive. "All we're going to do is open up computers so that those who have responsibilities will be aware of the privacy concern; we don't want to impair the growth of technology."

He said there is "little policy difference between regulation of public and business data banks." While it would be preferable, Goldwater said, if the regulation were to be done voluntarily, "I don't see the trend there."

He said his principal concern was to eliminate the citizen's fear of "bigness." Goldwater criticized some Members for supporting privacy legislation because they are "anti-law enforcement and anti-military."

Koch: One Member to whom Goldwater specifically referred was Rep. Edward I. Koch, D-N.Y., who has introduced H.R. 9786, a bill that would establish a Federal Privacy Board to monitor the operation of public and private data banks.

Koch said regulation of data banks is "too big a monster to deal with in a piecemeal fashion." The bill would establish general guidelines that the board would implement on an agency-by-agency basis.

He said that "the time is right" for legislation because people are "fed up with the invasion of privacy by government."

OUTLOOK

The increasing federal presence in law enforcement activities, fostered in part by the growth of state-operated, LEAA-funded programs, has increased the likelihood of broad federal guidelines on the use of criminal justice data banks. This policy formulation may have an effect in the private sector as well as in government.

Ms. Lawton of the Justice Department said that "we're trying to leave the federal-state balance alone" in preparing new regulations and legislation. But she conceded that a federal statute would change the relationship and give the federal government an opportunity to "reach" farther.

How far that reach will extend and how strong an impact it will have will be determined, in large part, by the position put forth in the bill being prepared by the Administration with the Justice Department's leadership.

Paul L. Woodard, former LEAA general counsel and now a consultant for Project SEARCH, said that because some departments traditionally have opposed similar proposals to regulate the use of data banks "there will be a lot of problems in getting a meaningful bill."

An HEW Advisory Unit Proposes a Code of Fair Practice—To Deal With the "Big Brotherism" Problem of Data Banks

The HEW Department's Advisory Committee on Automated Personal Data Systems showed no fear of biting off more than it could chew.

What began last year as a narrow study of the use of social security numbers—which HEW assigns—ended up recently as a broad blueprint for addressing the social implications of computer technology in the hands of public as well as private users.

The committee's executive director, David B. H. Martin, said that because the membership of the committee was broad based, "we hope we have managed to isolate issues that need to be addressed across the board."

Martin, special assistant to the HEW Secretary, is moving to Justice where he will head an office dealing with government information policy. He has been an aide to Elliot L. Richardson, who resigned Oct. 20 as Attorney General, in several capacities.

Background: Richardson established the advisory committee in February 1972, while he was HEW Secretary, after receiving the report of a social security task force headed by former Commissioner (1962-73) Robert M. Ball of the Social Security Administration.

Martin said that the task force, which had studied the use of the social security number as an identifier, concluded that there was a need for consideration of broader issues, including harmful consequences that may result from using automated personal data systems, and safeguards that might protect against potentially broad consequences.

The 25-member committee included computer managers and operators, public and private administrators. legislators and academicians. Its chairman was Willis H. Ware, a computer scientist on the corporate research staff of the Rand Corp. In nine meetings during its year-long existence, the committee heard more than 100 witnesses.

In its report of July 31, 1973, the committee recommended that Congress approve legislation to establish a "Code of Fair Information Practice" for all automated personal data systems. The report discussed cultural ramifications of computer-based record keeping, with particular attention to threats to privacy, and also recommended limitations on use of the social security number.

Concerns: J. Taylor DeWeese, a committee member who is an attorney with the Philadelphia firm of Dilworth, Taxson, Kalish, Levy and Coleman, said the report was "very worthwhile" because it brought together persons of broad backgrounds who engaged in "vigorous debate reflecting their constituencies." DeWeese said it was "unfortunate" that the report contains no description of the extent of data banks and how they are used.

"Our hearings include much good description, but it's buried in the transcript of the hearings," he said. "A fantastic amount of data is being collected with very few controls. There is a marked lack of knowledge by managers of the systems of what they include, how they are being used and who has access."

Another committee member, Guy H. Dobbs, vice president for technical development of computer services of Xerox Corp. in Santa Monica, Calif., said that the committee's report commended "as much as is realistically accomplishable in a legislative sense."

He expressed concern that "policy makers do not appreciate the impact of technology on individual lives," in part, because "our culture and contemporary management of technology is oriented toward technical progress making it difficult for policy makers to appreciate the implications of progress."

Dobbs said the implementation of the committee's recommendations would result in a 5- to 10-per cent increase in cost, primarily for administrative expenses. "This is modest in terms of the possible return in protections to the public," he said.

The purpose of the committee, Dobbs said, was two-fold:

To educate the public and policy makers;

To recommend approaches to satisfy the legislative interest in establishing safeguards.

Recommendations: Executive director Martin said the committee's proposed Code of Fair Information Practice is intended to serve as a "least common denominator" and that several codes are likely to evolve in specialized areas of application. He cited the Fair Credit Reporting Act (84 Stat. 114) as a code already in existence.

The basic elements the committee addressed, he said, are secrecy, right of access, opportunity to view and contest the data and a right to contest the use of the data.

Public notice—The committee recommended that any organization having an automated personal data systems for administrative purposes should give annual public notice of its existence and character.

Before a new system is established or an existing system enlarged, the committee said, the organization should give individuals who may be affected by its operation "a reasonable opportunity to comment." The public notice would include information about the purpose of the system, the categories of persons on whom data are to be maintained, the categories of data to be maintained, the sources of data, the use to be made of the data, procedural safeguards and the name and address of the person immediately responsible for the system.

Access to system—Of particular concern to the committee was a uniform policy for the security of data systems and who may use them.

Its report stated:

"If organizations maintaining personal data systems are left to decide for themselves when and to what extent to adhere fully to the safeguard requirements, the aim of establishing by law a basic code of fair information practice will be frustrated."

Among the recommendations to deal with this concern were:

There shall be no transfer to another organization of individually identifiable personal data that is not maintained in an automated personal data system "without the prior informed consent of the individual to whom the data pertain."

With respect to data already in an automated system, there shall be no transfer of data to another system—except where the individual requests such transfer—unless the organization specifies requirements for security of the data, including limitations on access to it, and determines "that the conditions of the transfer provide substantial assurance that those requirements and limitations will be observed."

The organization shall "take affirmative action" to inform affected employees—those "having any responsibility or function" in any aspect of the system or the use of data it contains—about the safeguard requirements and the rules designed to assure compliance with them.

A complete record of every access and use of any data in the system shall be kept, including the identity of all persons and organizations to which access has been given.

The data shall be as accurate, complete, timely, and pertinent as is necessary to assure accuracy and fairness in determination of any individual's qualifications and opportunities.

Rights of data subjects—The committee recommended giving individuals the right to take affirmative action concerning the accuracy, use and access to information about themselves.

Among the proposed rights are:

The right to be informed whether the data being requested is required legally and the known consequences of providing or not providing the data;

The right of full access to data in the system about one's self in a form comprehensible to him;

The individual's right to be informed about the uses made of data about him, including the identity of all persons and organizations involved, and their relations with the system;

The maintenance of procedures that allow an individual to contest the accuracy, completeness, pertinence and necessity for retaining data about himself and that permit such data to be corrected or amended when the individual so requests. In the event of a disagreement, "the individual's claim should be noted and included in any subsequent disclosure or dissemination of the disputed data," the committee said.

Social security number—The committee recommended that the social security number (SSN) not be made a universal identifier, and that it be used only "for carrying out requirements imposed by the federal government" through a specific legislative mandate.

In all other instances, the report said an individual should not be coerced into providing his SSN, nor should his SSN be used without his consent. The committee also recommended legislation to prohibit use of the SSN for promotional or commercial purposes.

Reaction: Preliminary reaction to the report, which was circulated widely among federal officials, generally has been favorable. Martin said that comments he has received "indicate that people know it's an important problem."

In releasing the advisory committee report, HEW Secretary Caspar W. Weinberger said that "the basic conclusions that the committee has reached are certainly sound" and that an individual should have the right "to know what is in the system about him and not to allow it to be disseminated to other systems without his specific permission. . . ."

Former Attorney General Richardson said determining limits on record keeping "cannot be left exclusively to those who design and apply the technology."

". . . We must make sure," he said, "that the uses made of records about people do not themselves have consequences that are inimical to social values and basic qualities of life that we have long sought to protect."

Sen. Sam J. Ervin Jr., D-N.C., chairman of the Senate Judiciary Subcommittee on Constitutional Rights, which has conducted an extensive study on federal data banks and the Bill of Rights, said the report's principles "provide a sound basis upon which to design safeguards against the misuse of personal data systems." But Ervin expressed concern that the report's "least-common-denominator" approach will result in "the maximum protection actually available to citizens."

Rep. Barry M. Goldwater Jr., R-Calif., saying that "there is not now a satisfactory legal framework to protect our citizens" from indiscriminate use of data, has introduced H.R. 10042, a bill to establish a Code of Fair Personal Information Practice, which is analogous to the one proposed in the HEW committee's report.

Outlook: Lawrence M. Baskir, chief counsel and staff director of Ervin's constitutional rights subcommittee, called the committee's report "a major step" in recognition of the privacy problem because "it not only deals with HEW, but speaks to the entire executive branch."

Executive director Martin said the committee's intention was to "develop a climate" for the evolution of standards on the operation of data bank systems and that, "to the extent other agencies don't react after reading the report in order to make real its recommendations, then it seems to me Congress could undertake to do so."

But Charles C. Joyce Jr., assistant director for government communications of the Office of Telecommunications Policy, said that "because the HEW report did not make a convincing case that we are facing a crisis," it might be better for the Congress to set ground rules on individual records and hold the agencies responsible for enforcement.

The Issue of Access to FBI Arrest Data

The first significant limitations on the distribution of data in FBI files were imposed by Judge Gerhard A. Gesell of the U.S. District Court for the District of Columbia in *Menard v. Mitchell*. His June 15, 1971, ruling set off legislative actions that have diminished somewhat its impact.

As its statutory justification for the collection and exchange of arrest and fingerprint data, the FBI continually has cited 28 USC 534, passed in 1930, which gives the Attorney General power to collect criminal identification records and exchange them "with and for the official use of authorized officials of the federal government, the states, cities and penal and other institutions."

Decision: Responding to the challenge to halt dissemination of arrest and fingerprint data in the FBI manual file, Gesell prohibited the circulation of arrest records outside the federal government for employment or licensing checks and said it was "beyond reason" that Congress intended that a local ordinance or statute authorized a prospective public or private employer to receive fingerprint or arrest information.

Noting that "systematic recordation and dissemination of information about individual citizens is a form of surveillance and control which may easily inhibit freedom to speak, to work and to move about in this land." Gesell said the FBI data system is "out of effective control" and that "the bureau needs legislative guidance and there must be a national policy developed in this area which will have built into it adequate sanctions and administrative safeguards."

Bible rider: Six months later, Congress inserted a provision in the Supplemental Appropriations Act of 1972 (85 Stat 627) giving the FBI authority until June 30, 1972, to exchange criminal record information with federally chartered or insured banks, and authorized state and local public agencies to check the records for employment or licensing purposes.

Sen. Alan Bible, D-Nev., the sponsor of the amendment, said that the termination of service resulting from the *Menard* decision was "completely unacceptable. The FBI," he said, "is the only agency able to provide centralized criminal records services." Bible's amendment was accepted without Senate debate.

When a similar provision was attached to the fiscal 1973 appropriations bill for the Justice Department, the Senate accepted an amendment to the so-called "Bible rider" offered by Sen. Sam J. Ervin Jr., D-N.C., forbidding disseminations of the FBI records unless the record shows that the person pleaded guilty, *nolo contendere*, or was convicted. Ervin said that the FBI should be required to show a guilty disposition of the offense—if there was one—because "dissemination of information, mere arrest, without any follow-up as to whether there was a conviction, has caused great difficulty to many Americans."

However, the conference committee deleted the Ervin amendment and also added the word "hereafter" to the original Bible rider to give it permanent status. Ervin and Rep. Don Edwards, D-Calif., objected to the action, saying that this was a legislative action that should be considered by the Judiciary Committees of the Senate and House. But they did not move to vote against the conference committee action.

When the 1974 Justice appropriations bill (HR 8916) was considered in the Senate Sept. 17, it included the original Bible rider with the Ervin amendment. The issue will be resolved by a conference committee.

House—Jay B. Howe, staff assistant to the House Appropriations Subcommittee on State, Justice, Commerce and the Judiciary, said that the subcommittee did not consider the "Bible rider" issue this year because the word "hereafter" in last year's bill made the amended rider permanent legislation. Howe said that further action on the issue is "something the Judiciary Committees will have to settle."

In an interview, Rep. Edwards said he did not raise the issue when the Justice Department appropriations bill passed the House June 29 because House Parliamentarian Lewis

Deschler had informed him that, due to the addition of "hereafter" in last year's bill, any further action would be improper "legislation in an appropriations bill."

COULD WE ENJOY SOLAR ENERGY IN THE 1970'S?

Mr. GRAVEL. Mr. President, good news is always welcome, and good news about energy and the environment is particularly welcome. Therefore, I think my colleagues will appreciate a paper about solar energy issued recently by the Committee for Nuclear Responsibility, P.O. Box 2329, Dublin, Calif. 94566.

Mr. President, I ask unanimous consent that major excerpts from the paper, entitled "Solar Energy—How Soon?" be printed in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GRAVEL. Mr. President, the argument is persuasively made by the paper's author, Egan O'Connor, that this country could start enjoying significant amounts of safe electric power and clean fuels from solar energy in the 1970's, if Government and industry would just finance and market solar energy as aggressively as they finance and market nuclear fission.

THE BURDEN OF PROOF

I think the burden of proof lies heavily with anyone who denies that thesis, for no one denies that today there are operating solar energy devices which heat buildings, produce electric power, and make methane, hydrogen, and even oil.

Furthermore, no one denies that there is enough clean, constantly renewed solar energy to meet all our conceivable energy needs, both electric and nonelectric. Each year, the Earth's surface receives about 3,600 quintillion British thermal units of solar energy; this compares with year-2000 projected energy requirements for everyone on Earth of 10 quintillion British thermal units per year. I am certainly not suggesting, however, that one species deserves to usurp and degrade a quarter of 1 percent of the planet's energy. Undoubtedly man could reduce the growth of his per capita energy consumption by insisting on more efficient use of energy.

A year ago, the National Science Foundation announced—

> There are no technical barriers to wide application of solar energy to meet U.S. needs . . . Solar energy utilization on a large scale could have a minimal impact on the environment if properly planned.

Meanwhile, first-rate chemists, engineers, and biologists keep assuring us that the use of solar energy is thermodynamically sound and that man can get more energy out of solar power systems than it takes to build and operate them.

For these several reasons, I think the burden of proof lies with people who challenge Ms. O'Connor's thesis:

> If this country were really determined to introduce solar energy in the 1970's, it could be done.

NET ENERGY GAINS: NUCLEAR AND SOLAR

The question of net energy gain is, of course, basic. It would only increase our energy problem to invest in energy systems which fall apart or wear out before they produce at least a little more energy than we spent to build and operate them.

It is worth asking how long it will take before the civilian nuclear power program, which began in 1954 and represents a Government and private investment of at least $45 billion, will provide a net energy gain for this country. Into that calculation must go the energy required to reclaim land stripped for coal to enrich uranium, a share of the Government's giant fuel enrichment plants, the energy to build and operate Government monitoring systems for radioactivity, the energy spent to study the effects of radioactive poisons, and the energy to entomb each radioactive powerplant after its 30-year lifespan; radioactive materials cannot be recycled when the equipment becomes worn or obsolete.

We ought to know something about net energy gains before we let the Atomic Energy Commission invest another $5-billion worth of human and other energy to produce a few small breeder demonstration plants in the 1980's. If this country is looking for energy in a hurry, is that the way to go?

Perhaps we could enjoy a net energy gain faster from solar energy, despite its handicap of long-time neglect.

The November 26 San Francisco Chronicle reports that, according to Dr. Robert Inman, of the Stanford Research Institute, the natural conversion of solar energy by sunflowers, sugarcane, and other plants into carbohydrates, which are easily convertible into clean fuels like methane, could yield us up to 500 times more energy than the energy required to harvest the plant.

It should be noted that when plants are converted into methane gas, the remaining sludge is a fertilizer which can return the original nutrients to the soil for a later crop; therefore, little additional energy need be added for fertilizing.

Natural gas, which is very similar to methane, is accounting for about one-third of the country's entire energy consumption between 1971 and 1975. Nevertheless, Dr. Inman estimates that it would take 110,000 square miles, or only one-fifth of our farmland, to grow enough plants to satisfy our entire current natural gas needs. Of course, algae and trees could make significant fuel contributions without even using farmland.

A CHOICE: FARMING OR FISSION?

Congress should ponder the possibility that one solar energy technique, called farming, might by itself provide about 33 percent of the country's energy almost immediately, while it took 18 years for nuclear fission to provide only 1 percent of the country's energy.

It is time for the American people to tell their representatives at all levels of government whether we should build the country's future on deadly fuels and radioactive poisons, or on sunflowers and sugarcane, and whether we should accept AEC Chairman Dixy Lee Ray's budget recommendation of only $32 million for solar energy and over $700 million for nuclear fission next year.

My own hope is that voters will insist on a major solar energy program starting now, at least as generously funded as nuclear fission, with sufficient budget to contract for large demonstration projects which will simultaneously contribute to the country's clean energy supply while also creating commercial solar energy industries before the end of the 1970's.

EXHIBIT 1

[From the Committee for Nuclear Responsibility, Nov. 7, 1973]

SOLAR ENERGY—HOW SOON?

(By Egan O'Connor)

I wish to address the question of HOW SOON this country could enjoy safe electric power and clean fuels produced by solar energy.

Tonight, President Nixon outlined his concept of "Project Independence"—his name for making this country independent of foreign fuel-sources by 1980.

He did not mention solar energy once. That omission makes his speech completely consistent with the widespread notion that solar energy can't possibly help us out of our energy problems in the 1970's. A typical "explanation" of that "fact" goes like this:

It will take us years to work out the technical problems and test the demonstration plants and reduce the cost. And after that, don't you know it takes 10 or 20 years to build an industry and achieve a significant market penetration? Just look at nuclear fission. After 20 years of work and promotion, it supplies only 1% of our energy. What makes you think it can be any different with solar energy?

It all sounds so plausible that even some friends of solar energy swallow it. I intend to examine those assertions point by point, but first I would like to make two points of my own: there's a lot of solar energy around, and working solar energy equipment exists today. Therefore, if this country were really determined to introduce solar energy in the 1970's, it could be done—which is the thesis of this paper.

WHAT DOES SOLAR ENERGY DO?

To describe the amount of solar energy arriving on this planet every day, I will use some estimates from the article by Dr. M. King Hubbert entitled "The Energy Resources of the Earth" in the September 1971 issue of *Scientific American:*

About 30% of solar energy reaching the Earth is directly reflected back into space. Another 47% of it is absorbed by the atmosphere, the land, and the oceans, where it is converted to heat; this heat, too, is eventually re-radiated into space—otherwise the planet would accumulate more and more heat every day. About 23% of incoming solar energy is spent driving the Earth's water cycle—evaporation and precipitation—before it is re-radiated to space as heat. It takes much less than 1% of our incoming solar energy to power all the winds and the waves and the atmospheric and oceanic circulations; friction eventually converts this energy to heat, too, which is re-radiated.

Amazingly, all the plants on Earth, which provide all the food-energy for all the animals on Earth, use less than three ten-thousandths (0.03%) of the incoming solar radiation. Plants capture solar energy chemically through the process of photosynthesis.

Solar energy, which is just passing through our ecosphere on its way back to space, is manifest in many forms—heat, light, lightning, motion (kinetic energy), and chemical energy; it can also be manipulated to become electric power on its way.

The late, great chemist, Dr. Farrington Daniels, pointed out in 1970 that, "Solar energy is amply adequate for all the conceivable energy needs of the world. It is harmless and it is certain to work . . . Surely solar energy will be important within 20 years, and if enough financial support should become available, the time could be considerably less."

TYPES OF WORKING SOLAR ENERGY EQUIPMENT

It defies common sense to say that, "realistically", solar energy can't help us at all in the 1970's. With our own eyes, we can go visit solar energy equipment and components which are working today:

Solar-heated homes;

Solar-powered refrigerators;

Solar-electrified homes (with wind-generators);

Stoves and cars running on solar-made methane (or hydrogen);

Solar cells silently converting sunlight to electricity with 17% efficiency on Earth, and in Space, running Skylabs;

A power-plant getting 10% of its fuel from organic trash (ex-plants);

An installation producing low-sulfur oil from manure (ex-plants) and sewage;

Fuel-cells producing electricity without thermal pollution;

Electrolyzers converting solar energy to clean hydrogen fuel;

Hydrogen pipelines;

Low-temperature vapor-turbines suitable for solar-heated vapors;

Batteries/flywheels/air-compressors (for solar energy storage);

And an array of working solar devices at Dr. Erich Farber's Solar Energy Lab at the University of Florida (Gainesville 32601) which includes solar engines, solar pumps, solar water heaters, solar sewage treatment, and solar water distillers.

I doubt that Americans could keep their tempers very long if they could see what is being denied to them. Though government and industry are claiming that fossil fuels and nuclear fission are our *only* practical near-term options, I will make my counterclaim again:

Solar energy is the *most* practical and attractive and possibly even the cheapest way to expand our power and fuel supplies under "project independence" during the 1970's.

It takes over 8 years to build a nuclear power plant; it takes about 5 years to build an additional coal-burning plant; it will be 1980 before coal-gasification plants are making a meaningful contribution to our energy supply; the same is true for oil-shale.

To me it seems self-evident that engineers and industry could produce wind-generators and methane-makers and solar heat-concentrating devices just as quickly as they could deliver on the so-called "immediate" fossil-and-fission options. Yet the notion is promoted that solar energy can't even be *considered* as a near-term contributor.

"IT WILL TAKE US YEARS TO WORK OUT THE TECHNICAL PROBLEMS"

This objection often comes from technical experts. For non-technical people to realize what is meant, we can read proposals for solar energy research-grants. They are replete with plans for comprehensive calculations on the performance, durability, efficiency, cost, and other characteristics of practically every sub-system and component; analysis of "trade-offs" at every turn between efficiency, cost, strength, and so forth of the various design variations; analysis of "interface" characteristics of one set of components with another; production and performance tests for various segments of the system, and so forth. Engineering is an awesome art which I respect.

The point is that there can be years of difference, even decades, between developing solar energy systems which just *work* (contribute power), and developing elegant systems which work as well as engineers know they can *someday* work. The first generation of fossil-fuel electric plants certainly did not work as well as today's, but they surely producted a lot of power.

If competent engineers built wind-power plants, methane-power plants, and solar heat-concentrating equipment today with knowledge they have *now,* it is inconceivable that the plants would fail to produce fuel and electric power.

Therefore it is legitimate to ask: when do you interrupt cerebration and start *building?* When is a design good *enough?* When is solar equipment "practical" and who is making that decision?

There are a few engineers who are eager to build solar power systems now for the sake of the country, but the National Science Foundation (which controls all federal solar-power funds) is still cautiously funding paper-work instead of hardware.

The delays do not enrage the typical solar expert, however. After all, he seldom feels personal responsibility for preventing a fossil-fuel and fission nightmare. His personal stake in solar energy centers in a new opportunity to do interesting work, preferably at a comfortable rate, with lots of conferences thrown in.

He is the last person who wants to say that solar energy could contribute to our near-term energy supply, because that would mean pressure on him to produce "quick and dirty" solutions and compromises, instead of the excellent work which will satisfy his soul and possibly enhance his reputation.

It should be no surprise that many solar experts diligently caution Congress and the public not to expect solar energy too soon "because of the difficult technical problems to work out." Someone even managed to persuade a U.S. Senator to make the following statement last month: "It appears that we are still 50 to 60 years away from utilizing solar energy to generate electricity."

It is impossible to digest that statement in view of several solar technologies which could produce significant power NOW. What allowance, for instance, does such a statement make for the proposals of Civil Engineering Professor William Heronemus (University of Massachusetts, Amherst 01002) who has already figured out wind-power systems which could satisfy all the electric power growth for New York City, New England, and Wisconsin, starting now and covering expected demand even in the years 1990 and 2000?

"IT WILL TAKE US YEARS TO TEST THE DEMONSTRATION PLANTS"

True. It could take 5 or 10 years to build and fully test demonstration plants. But suppose that solar engineers are sure their designs will work, and work *safely.* Could we shorten or skip the long demonstration phase?

The suggestion has at least one precedent. The demonstration phase for *large* nuclear fission plants was skipped completely, which was downright dangerous. A possible second precedent could be coal gasification plants; the expectation that they are going to make a meaningful contribution to our energy supplies by 1980 reflects a virtual elimination of their demonstration-phase.

Shortening solar power's demonstration phase *would* create some financial uncertainties, but it would also create some power.

From a business point of view, it is prudent to follow feasibility studies with small prototype plants, and then with bigger better demonstration plants, before committing large chunks of private capital to the "risk" of mass-production. Most prudent of all is to get the government to pay for the first three steps.

The question is: Should we tolerate 5 or 10 years extra deprivation from solar energy for the sake of business prudence?

Business will surely say, "If you want it that badly and fast. YOU (the taxpayers) offer us relief from all risk, and we'll do it for you." That is essentially what was done for civilian nuclear fission, for weapons, for the moon program, and what is proposed now for coal-gasification and geothermal energy. Why not for solar energy?

"IT WILL TAKE YEARS TO REDUCE THE COST"

The myth nurtured in this statement is that near-term solar energy would necessarily be much more expensive than nuclear or fossil energy.

Professor William Heronemus has shown convincingly that, with *mass production* of wind-power equipment, wind-power plants built from now on would be just as cheap, or cheaper, for New England than nuclear plants.

For Wisconsin, he has shown that wind-power electric systems could be competitive when average revenue for a kilowatt-hour delivered on demand by a utility is 3½c. Right now in Washington, D.C., I am paying exactly 3c per kilowatt-hour.

Heronemus has also shown that Wisconsin wind-power systems which produce hydrogen for *direct* use (not for conversion to electricity) would be competitive when natural gas sells for $3.36 per million BTU's (perhaps as early as 1975) or when home heating-oil costs about 28c per gallon (perhaps this winter).

When overt and covert enemies of solar energy are confronted with the near-term competitiveness of wind-power, they retreat to the claim that wind-power is too limited to make any *significant* contribution to our energy supplies. According to Heronemus, however, the total energy available to this country from the winds via practical wind-power systems complete with the necessary storage sub-systems, could total at least one trillion kilowatt-hours per year. That amount represents two-thirds of our *total* 1970 electric power consumption, and about one-quarter of our total alleged requirements for electric power even in 1985.

Space limits me from discussing all the other solar-energy technologies which could be made cost-competitive in the very near future, so I will just quote the conclusion of the National Science Foundation (N.S.F.) Solar Energy Panel in December 1972: "For most applications, the cost of converting solar energy to useful forms of energy is now higher than conventional sources, but due to increasing prices of conventional fuels . . . it will become competitive in the near future." By near future, the N.S.F. Panel specified from 5 to 15 years.

The Panel also singled out sea-thermal power for special mention; sea-thermal power is based on the solar heat collected naturally by the sea. The Panel said that if the U.S. tapped sea-thermal power from the Gulf Stream alone, "the total annual production could exceed the year-2000 projected total energy demands."

The one solar-energy technology whose cost is *always* cited by solar power enemies is, of course, the one which is most expensive today. Namely, solar cells (photo-voltaics) which convert light from the sun directly into electric current.

By citing the cost of the solar cells which are used in the space program, one can indeed make solar electricity sound "unrealistic". After all, one solar array for Apollo cost about $2,000,000 per kilowatt; such figures compare with nuclear power in 1980 at $600 to $800 per installed kilowatt. So we are told, "The cost of solar power will have to be reduced 4,000-fold before it can begin competing."

Those who actually manufacture solar cells for space say the cost is more like $75,000 per kilowatt, because sales are too limited for mass-production. William Cherry, a N.A.S.A. expert, asserts that mass-production could immediately cut the cost of solar cells for use on Earth to about $10,000 per kilowatt.

That would put solar cells into striking range of cost-competition, for all they would need is about a 10-fold cost-reduction (not 4,000-fold). The additional costs of *storing* solar electricity, of course, would require a larger cost-reduction.

If solar cells were mass-produced and their efficiency sacrificed down from nearly 18% to 1%, the cells could probably be made competitive NOW at less than $1,000 per kilowatt; the disadvantage would be the extra area consumed by cells of lower efficiency—perhaps a tolerable disadvantage on a temporary basis.

How long will it take to devise "practical" solar cells of reasonable efficiency (about 7%) at reasonable cost? The N.S.F. Panel estimated 15 years, but progress this year has been made several experts suggest it might be much sooner. The margin of pessimism in some solar-cell estimates can be illustrated as follows:

In 1972, the National Research Council of the National Academy of Sciences stated that, "The additional research required to develop 16% efficient solar cells is estimated at approximately $5-million (60 man-years) . . ."

Nonetheless, in that very same year, Dr. Joseph Lindmayer and his colleagues at COMSAT promptly achieved nearly 15% efficiency on a budget of less than $500,000—one-tenth of the expert estimate. (NOTE: solar cells are more efficient on Earth than in Space; Dr. Lindmayer's COMSAT cell is nearly 18% efficient on Earth).

Dr. Lindmayer, who has founded the Solarex Corporation (1335 Piccard Drive, Rockville, MD 20850), believes that with a research and development budget of $1-million per year, he could produce a 7%–10% efficient solar cell for $1,000 per kilowatt by 1980 or sooner.

So I have two pieces of advice:

1. Don't be shaken by those high figures on the cost of solar cells; in spite of their cost-handicap today, they may turn out to be a near-term winner.

2. Don't forget that there are several *other* solar-energy technologies (wind, sea-thermal, methane, heat) which could certainly become competitive in the 1970's if industry or government would put up the money to begin mass-production.

IT TAKES 10 OR 20 YEARS TO BUILD AN INDUSTRY AND ACHIEVE SIGNIFICANT MARKET PENETRATION

That depends. Once certain basic technical break-throughs had been made, we built a big TV industry, computer industry, space industry, and transistor industry all in less than 10 years. So it is not reasonable to say 20 years are *required* to build solar industries which require no further break-throughs.

If investors would *finance* solar energy solidly, and *market* it as aggressively as nuclear power, then 10 years is a more reasonable estimate than 20 for building a big solar energy industry.

Meanwhile, *during* its growth, the solar industry could make substantial contributions to our energy supply. It is not true that 10 years more must elapse before solar power can start having its impact.

In the last year and a half, more than a dozen small solar-energy companies have been formed, mostly on shoe-strings. These entrepreneurs often say, "We don't want to over-sell solar energy and damage our credibility, because *we* (the tiny company) certainly won't have a significant impact on energy supplies right away."

I agree. Tiny companies with tiny financial resources can not possibly bring about the significant and speedy introduction of solar energy to which Americans are entitled.

And the billion-dollar corporations which *could* do it if the energy corporations continue refusing, probably *won't* do it. Why, for instance, should a Xerox or IBM or MMM or Texas Instruments diversify into solar energy in a big way, when it might mean facing fierce obstruction from even more powerful energy corporations? What company needs headaches like that?

On the other hand, if this country really were determined to introduce solar energy in the 1970's, business arrangements could be made between electronic companies, aerospace firms, oil companies, pipeline owners, utilities, nuclear industries, and building industries to get the job done.

First we would notice the public relations, TV spots and full-page advertisements, about the practicality of inexhaustible, reliable, clean, and natural solar energy. "A simple idea whose time has come". The companies would point out with pride that several solar power technologies would even eliminate thermal pollution of our rivers and bays. Solar-energy development would be equated with patriotism and love of the country—which is correct.

Behind the scenes, meanwhile, the companies would see to it that politicians enacted the right tax-benefits, zoning laws and building codes, and that the rights-of-way for additional pipelines (for solar fuels like methane and hydrogen) were secured, along with the necessary permission to use wind and light and solar heat available on some public land, city-roofs, off-shore areas, or even wind-rights above sections of highways.

For make no mistake: if solar energy is going to have a *significant* impact, lots of laws and regulations will have to be re-written. Tiny solar companies with meager financial resources and non-existent political influence will not be able to achieve significant "market penetration" very fast, no matter how wonderful their equipment is.

So it is *correct* to say that significant contributions from solar energy will be impossible 10 years from now, or even 60 years from now, *unless* powerful interests favor it. We are at their mercy. If they decide to support solar energy now, we could start enjoying it in the 1970's.

"LOOK AT NUCLEAR FISSION . . . WHAT CAN MAKE THE TIME FOR SOLAR ENERGY ANY DIFFERENCE?"

It is true that after 20 years of hard work and promotion, nuclear power contributes only about 1% of our energy. But there is simply no valid projection of its history onto solar energy.

For one thing, nuclear engineers are always at work on the brink of catastrophe and at the edge of knowledge. Because of the radioactivity, they can't even get near the guts of their own machinery after it has gone into operation, and to this day, there is some uncertainty about what is happening in there.

Rep. Chet Holifield, former Chairman of the Joint Committee on Atomic Energy, acknowledged in a speech May 21, 1970: "The construction and operation of nuclear reactors are very very complex, costly, and inherently highly dangerous matters."

Tinkerers don't build nuclear reactors in their back yards. But they do build solar equipment.

The basic simplicity and inherent practicality of many solar energy technologies are manifest in the working mini-systems built by enthusiasts. Many kinds of solar energy equipment can *remain* simple when their size is increased and they go into mass production.

The opposite is true with nuclear power. The inherent complexity and danger never disappear, and as plants are made bigger, they acquire whole new safety problems and more intricate "defenses in depth" against their deadly radioactive centers.

According to Milt Shaw, the AEC's former Director of Reactor Technology and Development, the big reason that nuclear power plants are years behind schedule is that there are not enough people who have learned how to build them. That problem will be virtually non-existent with solar energy equipment.

A second difference is that we are not going to see a regulatory agency having to de-rate or shut down solar power plants to reduce the likelihood of catastrophic injury to the public; yet this is what has happened in the last two years for about one-third of the "operable" nuclear power plants in this country.

A third difference is that utilities won't have to build two solar units to make sure that one is always "operable", which seems to be the only way to secure reliable power from nuclear plants. When a nuclear plant is down for a simple repair, it may take 7 months to do it, because of the radioactivity. And since nuclear plants are huge, they can not be spared that long. I think that nuclear "down time" may help explain why many utilities, which used to be satisfied with reserve equipment of less than 20% above their peak loads, are now building expensive reserves of 30%, 35%, and even over 40% above their peak loads.

Fortunately, solar plants—for example, wind-power stations—can be built in small units which don't deprive the system of huge chunks of power during repair and maintenance.

A fourth difference which could make the introduction of solar energy faster than the introduction of nuclear fission is the probable popularity of solar energy. Furthermore, solar energy could be *cheaper* than nuclear fission, perhaps in cost-to-customers and surely in research and development costs.

The R&D program for civilian nuclear fission has already cost tax-payers over $4-billion and another $5-billion tax-dollars are estimated to bring the nuclear breeder to commercial readiness by 1985. By comparison, the Solar Panel of the N.S.F. estimated that we might bring several solar-energy systems to commercial readiness in just 5 to 15 years with an R&D program of about $3-billion (total, spread over 15 years).

In fact, in S. 2650, Senator Alan Cranston's Solar Heating and Cooling Demonstration Act of 1973, the proposed budget for demonstrating the practicality of solar-heated and solar-air-conditioned buildings is just $50-million total over 3 to 5 years.

Others estimate that just $1- to $50-million per year for a few years would make even solar-cells competitive power-producers on Earth.

Even if such estimates turn out low *by 100%*, it is obvious that making solar energy commercially ready is not going to cost $9-billion in R&D like nuclear power . . .

SOLAR ENERGY—HOW SOON?

Let's return now to the original question: HOW SOON could this country enjoy safe electric power and clean fuel produced by solar energy? I think it is a political matter first (our *insistence* on doing it) and a technical matter only second . . .

"Had it not been for an abundance of fossil fuels . . . we might today have a 'Solar Energy Economy' just as effective and efficient as our 'Fossil Fuel Economy' ", according to Leon Gaucher in the National Petroleum Institute's *U.S. Energy Outlook,* 1972 . . .

Part of fighting [for solar energy] is developing more trust in our own common sense. This summer, Nobel Laureate (chemistry) Sir George Porter put it very well:

"I have no doubt that we will be successful in harnessing the sun's energy . . . If sunbeams were weapons of war, we would have had solar energy centuries ago."

While public interest in energy is so high, it's the right time to let people know about solar energy. Now's the time to insist on solar power.

IN PRAISE OF AMERICA

Mr. THURMOND. Mr. President, my attention was recently called to an editorial which, in my opinion, is one of the finest I have ever read. It was written a few months ago by Mr. Gordon Sinclair, a radio commentator in Toronto, Canada.

Mr. Sinclair makes the point that the United States is the most helpful—and least helped—nation on Earth. This country funnels billions of dollars into foreign lands for humanitarian purposes, and gets nothing in return. We defeat our enemies and then provide them postwar aid to enable them to prosper. Look at Japan and Germany as they were in 1946 and look at them today.

But, as Mr. Sinclair points out, the United States receives little reciprocation.

In these days when it is "in vogue" to downgrade and criticize this country, it is heartening to read Mr. Sinclair's moving and thought-provoking passages. It strikes me as being ironic, and rather sad, that they would have to come from a foreigner.

Mr. President, I ask unanimous consent that the editorial entitled "In Praise of America," which was reprinted in the Washington Post, December 13, 1973, be printed in the Record at the conclusion of my remarks.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

For the Record: In Praise of America

(By Commentator Gordon Sinclair)

This Canadian thinks it is time to speak up for the Americans as the most generous and possibly the least appreciated people on all the earth.

Germany, Japan and to a lesser extent, Britain and Italy were lifted out of the debris of war by the Americans who poured in billions of dollars and forgave other billions in debts. None of these countries is today paying even the interest on its remaining debts to the United States.

When the franc was in danger of collapsing in 1956, it was the Americans who propped it up, and their reward was to be insulted and swindled on the streets of Paris.

I was there. I saw it.

When distant cities are hit by earthquakes, it is the United States that hurries in to help. . . . This spring, 59 American communities (were) flattened by tornadoes. Nobody helped.

The Marshall Plan and the Truman Policy pumped billions upon billions of dollars into discouraged countries. Now newspapers in those countries are writing about the decadent, war-mongering Americans . . .

Why does no other land on earth even consider putting a man or woman on the moon?

You talk about Japanese technocracy, and you get radios. You talk about German technocracy, and you get automobiles.

You talk about American technocracy, and you find men on the moon—not once but several times—and safely home again.

You talk about scandals, and the Americans put theirs right in the store window for everybody to look at . . .

When the railways of France, Germany and India were breaking down through age, it was the Americans who rebuilt them. When the Pennsylvania Railroad and the New York Central went broke, nobody loaned them an old caboose. Both are still broke.

I can name you 5,000 times when the Americans raced to the help of other people in trouble. Can you name me even one time when someone else raced to the Americans in trouble? I don't think there was outside help even during the San Francisco earthquake.

Our neighbors have faced it alone, and I'm one Canadian who is damned tired of hearing them kicked around. They will come out of this thing with their flag high. And when they do, they are entitled to thumb their noses at the lands that are gloating over their present troubles.

I hope Canada is not one of these.

THE NEED FOR COOPERATION IN ENERGY RESEARCH

Mr. ROTH. Mr. President, I was very pleased to see the strong emphasis that Secretary of State Kissinger gave yesterday to the need for cooperation in energy research and development between the United States, Japan, and Western Europe.

As I said in hearings last week on S. 2744, a bill to establish an Energy Research and Development Administration, I believe that it is extremely important to share the costs of energy research and development with our allies. There has been a lot of talk about burden-sharing with our allies in defense matters, and yet a great deal of difficulty in working out appropriate arrangements given the great differences in military technologies and defense requirements of these countries.

It seems to me that there is a great deal of opportunity for burden sharing in developing new energy and related environmental technologies. Western Europe, Japan, and the United States all face the same fundamental problem—a need to import petroleum in order to meet the high levels of demand in our industrial societies. Despite the future development of Alaskan reserves for us and the North Sea for Europe, our demands will grow so rapidly, projections for all regions suggest increasing dependence on foreign supplies, unless a technological breakthrough is made.

It is absolutely essential that we carry out the goals we have set of achieving a capacity for energy self-sufficiency. These goals can be achieved more quickly if we cooperate with other technologically advanced societies.

A deficiency of S. 2744 as it now reads is that there is no provision for international cooperation either in the goals or in the structure of the new Fnergy Research and Development Administration. Accordingly I have drafted an amendment, which I intend to offer in markup in the Government Operations Committee, to insure that one of the purposes of ERDA will be to seek and participate in international cooperation in energy and related-environmental technologies. My amendment also provides that a single high level officer will be responsible for ERDA's effort to seek burden-sharing in energy research.

Mr. President, I ask unanimous consent that the text of Secretary of State Kissinger's speech, as printed today in the New York Times, be printed in the Record.

There being no objection, the speech was ordered to be printed in the Record, as follows:

Text of Address by Kissinger in London on Energy and European Problems

Washington, December 12.—Following is the prepared text of an address by Secretary of State Kissinger to the Pilgrims, a British-American organization, in London today, as made public by the State Department:

I am grateful for the opportunity to speak to you this evening because, like most Americans, I am seized by a mixture of pride and terror when invited to appear before a British audience. In my particular case and without any reflection on this distinguished assemblage, it is probably more terror than pride for there is no blinking the fact—it is there for all to hear—that my forebears missed the Mayflower by some 300 years.

Our two peoples have been more closely associated than any other two nations in modern history—in culture and economics, in peace and in war. We have sometimes disagreed. But the dominant theme of our relationship in this century has been intimate alliance and mighty creations.

In 1950, while the Atlantic alliance was considering a continuing political body, my great predecessor Dean Acheson spoke to this society. Describing the travails of creation, Acheson noted that a "strange and confusing dissonance has crowded the trans-Atlantic frequencies." But he added that this "dissonance flows from the very awareness that difficult decisions must be made and is a part of the process of making them."

Again today America and Western Europe find themselves at a moment of great promise and evident difficult—of renewed efforts to unite and old problems which divide. It is a time of both hope and concern for all of us who value the partnership we have built together. Today, as in 1950, we and Europe face the necessity, the opportunity and the dilemma of fundamental choice.

PROBLEMS AND HOPES

Because we have an historical and intimate relationship, I want to speak tonight, frankly, of what has been called the "Year of Europe" of the difficulties of 1973 and the possibilities of 1974 and beyond.

Last April, the President asked me to propose that Europe and the United States strive together to reinvigorate our partnership. He did so because it was obvious that the assumptions on which the alliance was founded have been outstripped by events.

Europe's economic strength, political cohesion, and new confidence—the monumental achievements of Western unity—have radically altered a relationship that was originally shaped in an era of European weakness and American predominance.

American nuclear monopoly has given way to nuclear parity raising wholly new problems of defense and deterrence—problems which demand a broad re-examination of the requirements of our security and the relative contribution to it of the United States and its allies.

The lessening of confrontation between East and West has offered new hope for a relaxation of tensions and new opportunities for creative diplomacy.

It has become starkly apparent that the great industrialized democracies of Japan, Europe and North America could pursue divergent paths only at the cost of their prosperity and their partnership

These historic changes were occurring in a profoundly changed psychological climate in the West. The next generation of leaders in Europe, Canada and America will have neither the personal memory nor the emotional commitment to the Atlantic alliance of its founders.

Even today, a majority on both sides of the Atlantic did not experience the threat that produced the alliance's creation or the sense of achievement associated with its growth. Even today, in the United States, over 40 Senators consistently vote to make massive unilateral reductions of American forces in

Europe. Even today, some Europeans have come to believe that their identity should be measured by its distance from the United States.

On both sides of the Atlantic we are faced with the anomalous—and dangerous situation which in the public mind identifies foreign policy success increasingly with relations with adversaries while relations with allies seem to be characterized by bickering and drift.

UNITED STATES INTENTIONS EXPLAINED

There exists, then, a real danger of a gradual erosion of the Atlantic community, which for 25 years has insured peace to its nations and brought prosperity to its peoples. A major effort to renew Atlantic relations and to anchor our friendship in a fresh act of creation seemed essential. We hoped that the drama of the great democracies engaging themselves once again in defining a common future would infuse our Atlantic partnership with new emotional and intellectual excitement. This was the origin of the initiative which came to be called the "Year of Europe."

Let me lay to rest certain misconceptions about American intentions:

The President's initiative was launched after careful preparation. In all of our conversations with many European leaders during the winter and spring of 1972–73 there was agreement that Atlantic relations required urgent attention to arrest the potential for growing suspicion and alienation between Europe and America.

We do not accept the proposition that the strengthening of Atlantic unity and the defining of a European personality are incompatible. The two processes have reinforced each other from the outset and can continue to do so now. The United States has repeatedly and explicitly welcomed the European decision to create an independent identity in all dimensions—political and economic. Indeed, we have long—and more consistently than many Europeans—supported the goal of political cohesion.

We have no intention of restricting Europe's international role to regional matters. From our perspective European unification should enable Europe to take on broader responsibilities for global peace that ultimately can only contribute to the common interest. The American initiative was meant to mark Europe's new pre-eminence on the world scene as well as within the North Atlantic community.

A comprehensive re-examination of all aspects of our relationship—economic, political, and military—is imperative. It is a fact that our troops are in Europe as a vital component of mutual defense. It is also a fact—indeed, a truism—that political, military and economic factors are each part of our relationship. In our view, the affirmation of the pervasive nature of our interdependence is not a device for blackmail. On the contrary, it is the justification for conciliatory solutions, for the specialized concerns of experts and technicians have a life of their own and a narrow national or sectarian bias. The purpose of our initiative was to override these divisive attitudes by committing the highest authority in each country to the principle that our common and paramount interest is in broadly conceived cooperation.

Since last April Europe has made great strides toward unity—particularly in political coordination. The United States strongly supports that process. But as an old friend we are also sensitive to what this process does to traditional ties that in our view remain essential to the common interest.

Europe's unity must not be at the expense of Atlantic community, or both sides of the Atlantic will suffer. It is not that we are impatient with the cumbersome machinery of the emerging Europe. It is rather the tendency to highlight division rather than unity with us which concerns us.

UNEASINESS ACKNOWLIDGED

I would be less than frank were I to conceal our uneasiness about some of the recent practices of the European community in the political field. To present the decisions of a unifying Europe to us as faits accomplis not subject to effective discussion is alien to the tradition of U.S.-European relations.

This may seem a strange complaint from a country repeatedly accused of acting itself without adequately consulting with its allies. There is no doubt that the United States has sometimes not consulted enough or adequately—especially in rapidly moving situations, but this is not a preference; it is a deviation from official policy and established practice—usually under pressure of necessity. The attitude of the unifying Europe, by contrast, seems to attempt to elevate refusal to consult into a principle defining European identity. To judge from recent experience, consultation with us before a decision is precluded, and consultation after the fact has been drained of content. For then Europe appoints a spokesman who is empowered to inform us of the decisions taken but who has no authority to negotiate.

We do not object to a single spokesman but we do believe that as an old ally the United States should be given an opportunity to express its concerns before final decisions affecting its interests are taken, and bilateral channels of discussion and negotiation should not be permitted to atrophy—at least until European political unity is fully realized. To replace the natural dialogue with extremely formalistic procedures would be to shatter abruptly close and intangible ties of trust and communication that took decades to develop and that have served our common purposes well.

PROBLEMS OF TRANSITION

The United States recognizes the problems of a transitional period as Europe moves toward unity. We understand the difficulty of the first hesitant steps of political coordination. But we cannot be indifferent to the tendency to justify European identity as faciliting separateness from the United States; European unity, in our view, is not contradictory to Atlantic unity.

For our part we will spare no effort to strengthen cooperative relationships with a unifying Europe, to affirm the community of our ideals and to revitalize the Atlantic relationship. That was the purpose of our initiative last April. It remains the central goal of our foreign policy.

The leaders of the European community meet this week. They will consider the nature of European identity; no doubt they will adopt common policies and positions. In the light of this important meeting, let me outline the position of the United States:

Détente is an imperative. In a world shadowed by the danger of nuclear holocaust there is no rational alternative to the pursuit of relaxation of tensions. But we must take care that the pursuit of détente not undermine the friendships which made détente possible.

Common defense is a necessity. We must be prepared to adjust it to changing conditions and share burdens equally. We need a definition of security that our peoples can support and that our adversaries will respect in a period of lessened tensions.

European unity is a reality. The United States welcomes and supports it in all its dimensions, political as well as economic. We believe it must be made irreversible and that it must strengthen trans-Atlantic ties.

Economic interdependence is a fact. We must resolve the paradox of growing mutual dependence and burgeoning national and regional identities.

WILL PRESS DIALOGUE

We are determined to continue constructive dialogue with Western Europe. We have offered no final answers; we welcome Europe's wisdom. We believe that this opportunity will not come soon again.

So let us rededicate ourselves to finishing the task of renewing the Atlantic community.

First, let us complete the work before us; let us agree on a set of declarations equal to the occasion so that they may serve as an agenda for our governments and as an example and inspiration for our peoples.

Second, let us then transform these declarations into practical and perceptible progress. We will restore mutual confidence if our policies begin to reinforce rather than work against our common objectives. And let us move quickly to improve the process of consultation in both directions. The United States Government made concrete suggestions in this regard at the recent meeting of the foreign ministers in the North Atlantic Council.

A UNIQUE ALLIANCE

But let us also remember that even the best consultative machinery cannot substitute for common vision and shared goals; it cannot replace the whole network of intangible connections that have been the real sinews of the trans-Atlantic and especially the Anglo-American relationship.

We must take care lest in defining European unity in too legalisic a manner we lose what has made our alliance unique: that in the deepest sense Europe and America do not think of each other as foreign entities conducting traditional diplomacy, but as members of a larger community engaged, sometimes painfully but ultimately always cooperatively, in a common enterprise. The meeting to which the foreign ministers of the community were courteous enough to invite me marks a significant step forward in restoring the intangibles of the trans-Atlantic dialogue.

Let us put false suspicious behind us. The Presidest did not fight so hard in Congress for our troops in Europe, for strong defenses, for a conciliatory trade bill, for support for allies around the world; he did not strive so continually to consult on SALT and develop common positions on M.B.F.R.; he did not stand up so firmly to challenges in crises around the world—suddenly to sacrifice Western Europe's security on the altar of condominium. Our destiny, as well as the full strength of our military power, is inextricably linked wtih yours.

NEW CHALLENGES AHEAD

As we look into the future we can perceive challenges compared to which our recent disputes are trivial. A new international system is replacing the structure of the immediate postwar years. The external policies of China and the Soviet Union are in periods of transition. Western Europe is unifying. New nations seek identity and an appropriate role. Even now, economic relationships are changing more rapidly than the structures which nurtured them. We, Europe, Canada, and America, have only two choices: creativity together or irrelevance apart.

The Middle East crisis illustrates the importance of distinguishing the long-range from the ephemeral. The differences of recent months resulted not so much from lack of consultation as from a different perception of three key issues: Was the war primarily a local conflict or did it have wider significance? Has the energy crisis been caused primarily by the war or does it have deeper causes? Can our common energy crisis be solved by anything but collective action?

As for the nature of the Middle East conflict, it is fair to state, as many Europeans including your Foreign Secretary have, that the United States did not do all that it might have done before the war to promote a permanent settlement in the Middle East.

Once the war began, the United States demonstrated great restraint until the Soviet effort reached the point of massive intervention. Once that happened, it became a question of whether the West would retain any influence to help shape the political future of an area upon which Europe is even more vitally dependent than the United States. We involved ourselves in a resupply effort, not to take sides in the conflict but to protect the possibility of pursuing after the war the objective of a just, permanent settlement which some of our allies have urged on us ever since 1967.

OIL CRISIS IS CHRONIC

At the same time, we must bear in mind the deeper causes of the energy crisis: it is not simply a product of the Arab-Israeli war; it is the inevitable consequence of the explosive growth of worldwide demand outrunning the incentives for supply. The Middle East war made a chronic crisis acute, but a crisis was coming in any event. Even when prewar production levels are resumed, the problem of matching the level of oil that the world produces to the level which it consumes will remain.

The only long-term solution is a massive effort to provide producers an incentive to increase their supply, to encourage consumers to use existing supplies more rationally and to develop alternate energy sources.

This is a challenge which the United States could solve alone with great difficulty and that Europe cannot solve in isolation at all. We strongly prefer and Europe requires a common enterprise.

To this end, the United States proposes that the nations of Europe, North America and Japan establish an energy action group of senior and prestigious individuals, with a mandate to develop within three months an initial action program for collaboration in all areas of the energy problem. We would leave it to the members of the nine whether they prefer to participate as the European community.

ACTION AREAS OUTLINED

The group would have as its goal the assurance of required energy supplies at reasonable cost. It would define broad principles of cooperation, and it would initiate action in specific areas:

To conserve energy through more rational utilization of existing supplies;

To encourage the discovery and development of new sources of energy;

To give producers an incentive to increase supply;

To coordinate an international program of research to develop new technologies that use energy more efficiently and provide alternatives to petroleum. The United States would be willing to contribute our particular skills in such areas as the development of the deep seabed.

The energy action group should not be an exclusive organization of consumers. The producing nations should be invited to join it from the very beginning with respect to any matters of common interest. The problem of finding adequate opportunity for development, and the investment of the proceeds from the sale of energy sources would appear to be a particularly important area for consumer-producer cooperation.

URANIUM FOR REACTORS

As an example of a task for the energy action group, I would cite the field of enriching uranium for use in nuclear power reactors. We know that our need for this raw material will be great in the nineteen-eighties. We know that electric utilities will wish to assure their supply at the least possible cost. We know that European countries and Japan will wish to have their own facilities to produce at least part of their needs for enriched uranium. Such plants require huge capital investment. What could be more sensible than that we plan together to assure that scarce resources are not wasted by needless duplication?

The United States is prepared to make a very major financial and intellectual contribution to the objective of solving the energy problem on a common basis. There is no technological problem that the great democracies do not have the capacity to solve together—if they can muster the will and the imagination. The energy crisis of 1973 should become the economic equivalent of the Sputnik challenge of 1957. The outcome can be the same. Only this time, the giant step for mankind will be one that America and its closest partners take together for the benefit of all mankind.

We have every reason of duty and self-interest to preserve the most sucecssful partnership in history. The United States is committed to making the Atlantic community a vital positive force for the future as it was for the past. What has recently been taken for granted must now be renewed. This is not an American challenge to Europe; it is history's challenge to us all.

LOOSENING TIES PAINFUL

The United Kingdom, we believe, is in a unique position. We welcome your membership in the European community—though the loosening of some of our old ties has been painful at times. But you can make another historic contribution in helping develop between the United States and a unifying Europe the same special evidence of intimacy that benefited our two nations for decades. We are prepared to offer a unifying Europe a "special relationship," for we believe that the unity of the Western world is essential for the well-being of all its parts.

In his memoirs Secretary Acheson described the events of his visit to London in the spring of 1950. He described the need of his time for an "act of will, a decision to do something" at a crucial juncture.

We require another act of will—a determination to surmount tactical squabbles and legalistic preoccupations and to become the master of our destinies. We in this room are heirs to a rich heritage of trust and friendship. If we are true to ourselves, we have it in our power to extend it to a united Europe and to pass it on, further enriched and ennobled, to succeeding generations.

THE CURRENT ENERGY CRISIS

Mr. HASKELL. Mr. President, the Small Business Subcommittee on Environmental, Rural, and Urban Economic Development, chaired by Senator NUNN, held 3 days of hearings recently on the impact of fuel allocations on small business. I want to commend Senator NUNN for calling these hearings to provide a forum for small businessmen to tell their side of the story and to have an input into finding solutions to problems resulting from the current energy crisis.

I was particularly pleased that representatives of agriculture and ski interests in Colorado were on hand to give their views on the situation as it affects their industries. I think all too often small business is left out in the cold when it comes to national policymaking, because it lacks the representation in Washington to plead its case. I think these hearings will help us assist small business through the current crisis.

Statements by witnesses confirmed what I have felt for some time, that we are just now beginning to realize the full effects of the energy crisis, which if the situation is bad could result in a shortfall of 25 to 30 percent in overall petroleum products instead of the 17 percent estimated by the administration. Various State officials and representatives of small business testified on the urgent need for a more clear cut national policy on energy and for more vigorous and prompt action at the top to implement it. Clearly, without such a policy we will have economic dislocation as has not been seen in many years.

Committee of the Senate and House, including the Interior Special Subcommittee on Integrated Oil Operations that I chair, have already begun to study various aspects of the energy crisis. I think it is vitally important for Congress to pursue these various probes and take action if the administration continues to fail to come to grips with the situation confronting us all.

I personally feel that one way to meet the crisis is to institute gasoline rationing, and during debate on the emergency energy bill I offered an amendment calling on the President to implement such a program not later than January 15, 1974.

Mr. President, one of the major themes running through the testimony at the subcommittee's hearings was a lack of definite knowledge on where we stand and just what we have to work with. Witnesses indicated that even with all its problems a system of rationing would be more desirable from this standpoint than a system of taxation, which could be inequitable in many cases. I realize that rationing is unpleasant to many and advocation of such a policy is considered to be politically risky. But I feel that if the facts are made known the American people, including business, industry, and other segments of the economy, would join in whatever efforts are needed to accomplish our goals.

Fortunately, I am not alone in my views. For example, at the hearings Governor Carter of Georgia called for a comprehensive national policy established by the Congress to include a unified system of allocation or rationing, with coupons to be legally negotiable. Governor Curtis of Maine testified:

> The absence of a promptly imposed gasoline rationing program cripples the ability of business and private citizens to arrange their activities in line with the amount of fuel they are likely to have. Immediate gasoline rationing, I am convinced, is the only answer. Although I recognize gas rationing could bring its own brand of injustice, I believe it would be much easier to endure than if gasoline distribution were left open to hoarding and the other uncertainties of a tight market.

The administration's current energy program is basically a voluntary one and it seems to me that in failing to take vigorous action it is playing Russian roulette with our economy.

One administration witness acknowledged that there has been considerable disagreement among the President's advisers as to the impact or scope of the shortages and on what would be the most appropriate action to take at this time. Such confusion only serves to make worse the problems small businessmen and others are encountering in their efforts to cope with the current crisis.

Indications were that in the future the administration will change and go to rationing; that the decision whether to ration or not to ration will be reconsidered a significant number of times in the near future; and that the President's decision of November 25 is not the last word and will be reconsidered.

All I can say is that if this is the case I hope the administration does not wait too long. I do not think we have the time. I believe rationing is inevitable, and I hope the administration will come forth with an equitable system, which in my opinion would provide a better way of dealing with energy shortages than the heavy tax approach now under consideration by some high-level energy officials.

LAW OF THE SEA CONFERENCE

Mr. PELL. Mr. President, mankind's agenda for the closing quarter of this 20th century is filling up with an increasing number of momentous issues. Of these, the need for the establishment of an orderly regime to govern the use of the oceans and the exploitation of their rich resources is one of the most compelling. I have just returned from the United Nations where are taking place the initial talks of the Third United Nations Conference on the Law of the Sea, which is meeting now in New York to decide on the organization of a 10-week session of the conference next summer in Caracas, Venezuela. As a congressional adviser over the past years to our delegation to the preliminary committee meetings and to the conference, I have been following law of the sea developments with the closest attention. Hopefully at Caracas, international agreement can be reached on the structure of a viable and equitable oceans regime. A final session to formalize the results obtained may then be held in Vienna in 1975.

I not only came away from the current meetings impressed by the complexity, scope, and far-reaching consequences of the problems involved in the various Law of the Sea issues, but also by the mounting urgency of finding their solutions. As United Nations Secretary-General Waldheim said at the opening of the Conference, "Time is not on our side and delay would be perilous," since, he warned, "we face the very real probability of increasing the causes of disputes between nations unless agreement is reached."

The need for agreement is widely shared among thinking people concerned with assuring that the world of our children will be a more rational, cooperative, and peaceful place for them to live in than ours has been.

Our distinguished former Secretary of State, Dean Rusk, for instance, recently wrote me that he is—

> . . . deeply concerned about the possible failure to reach international agreements on the Law of the Sea, because I believe that would usher in a national race for the control of open ocean areas which would be incredibly dangerous.

Elizabeth Mann Borgese, the brilliant daughter of a brilliant father, the writer Thomas Mann, is another thinker and doer concerned with another but equally pressing aspect of ocean space. She has been working tirelessly for an oceans regime capable of coping with the practical requirements of today's and tomorrow's technological society. Working through the Center for the Study of Democratic Institutions, she is an activist believer that, to quote her, "The oceans are the great laboratory for the making of the new world order" needed to assure the maximum benefits to mankind from technological and material progress, as well as to deal with the global problems that this progress creates: an increase in the potential clash of international versus national interests, protection of the environmental quality of ocean space, conservation of world food fish stocks and ocean wildlife, peaceful and rational exploitation of the oceans mineral and petroleum resources, maintenance of the freedom of navigation, and regard for the oceans as the "common heritage of mankind."

As Mrs. Borgese writes:

> International organizations, as they developed during the past half century, are simply not geared to cope with problems of this sort.

She says man is "living with one foot in the 21st century, while dragging the other in the 19th."

The Law of the Sea Conference will provide man with a unique opportunity to prove that at least in the vast realm of ocean space, he is capable of striding into the 21st century on both feet rather than limping into it on one.

Mrs. Borgese has been a leading spirit in Pacem in Maribus, which held its fourth meeting earlier in the year in Malta under the center's auspices. From this meeting, emerged a set of guidelines and recommendations for a practical and specific approach to the work of the United Nations Conference on the Law of the Sea. For anyone seeking an understanding of the significance and goals of the conference, this statement provides valuable insight into the nature of the problems and ways leading to their resolution.

I ask unanimous permission that this statement be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Recommendations From Pacem in Maribus IV to the United Nations Committee on the Peaceful Uses of the Sea-Bed

At the end of the Pacem in Maribus IV Convocation, the prevailing view was that the success of the forthcoming Law of the Sea Conference is vitally important to all nations and to mankind as a whole; that the Declaration of Principles adopted by the United Nations in 1970 should not only form the basis for a future international regime for the Sea-Bed, Ocean Floor and Subsoil thereof beyond the Limits of National Jurisdiction, but that it needs to be supplemented to conform to contemporary technological conditions and to the aspirations of the international community today.

Since the manner in which the objectives and principles are defined may be decisive for the success of the Conference, it was felt that these objectives and principles should adequately reflect the persuasive evidence produced in the discussions within the U.N. since the initial text was adopted, to the effect that the Sea-Bed, Ocean Floor and Subsoil thereof beyond the Limits of National Jurisdiction must be considered as *part of ocean space* which is an ecological whole; that man's multiple uses of ocean space intersect and interact; that activities in the water column may affect the sea-bed and vice versa; that activities in the areas under national jurisdiction may affect international areas, and vice versa; that the conservation of the marine environment and the rational management of its resources are essential to the survival of humanity.

Therefore, the U.N. Committee on the Peaceful Uses of the Sea-Bed might consider the following points as a possible basis for the U.N. Conference on the Law of the Sea.

OCEAN SPACE AS A WHOLE

1. Ocean space and the air column above it are an ecological unity. Increasing world industrialization, multiplying populations, coastal congestion, increased world use of chemicals, and many other factors are subjecting the marine environment to unprecedented pressures particularly in the vicinity of highly industrialized countries. No one State can cope alone with the developing situation. Minimum world-wide standards are thus required with regard to the avoidance of pollution in the marine environment.

2. Rapidly advancing technology is enabling man significantly to change the state of the marine environment through diversion of important rivers and marine currents, weather modifications and other means. Use of technology which can seriously affect the natural state of the marine environment over large areas must be subjected to international control.

3. The development of super-tankers, liquified natural gas carriers, submarine navigation, ships with nuclear propulsion and other developments are creating new hazards to the marine environment and to the safety of navigation. Minimum international standards must be elaborated through global marine institutions with comprehensive functions which can take into due account the interaction between major peaecful uses of the sea.

4. Ocean space is becoming an economic unity in that the uses of the surface of the sea, of the water column and of the seabed are becoming increasingly interlinked. International law must recognize this fundamental fact by consolidating existing legal regimes for different activities.

5. The rapid increase of man's multiple activities requires the management of the seas and its resources to a much larger extent than has been the case in the past. Present realities make it mandatory that control and management of the oceans must be shared between coastal states and the international community in accordance with the principle of the common heritage of mankind.

OCEAN SPACE WITHIN NATIONAL JURISDICTION

6. Precise over-all limits to national jurisdiction are required.

7. Navigation, overflight, scientific research, the laying of submarine cables and perhaps some other activities are vital public international interests and as such must be internationally protected within the limits of national jurisdiction.

8. Due to technological advance and increasing fishing effort, intolerable pressures are developing on desirable fish stocks in some parts of the world. Global minimum standards of biological and economic management must be elaborated to be implemented through regional bodies and marine institutions for ocean space with comprehensive functions.

9. Special international protection must be accorded to slowly reproducing marine species, such as sea mammals.

10. Coastal states have obligations as well as rights in the area of ocean space within their jurisdiction; these obligations extend not only to the protection within the jurisdiction of such activities as may be considered public international interests, but

also to management of the environment and of living resources in a manner conforming at least to minimum international standards.

11. States which do not possess the financial or technical capability to attain minimum international standards must receive the assistance needed through comprehensive institutions for ocean space.

OCEAN SPACE BEYOND NATIONAL JURISDICTION

12. It is strongly recommended that not only the seabed, but also ocean space and its resources beyond national jurisdiction be considered a common heritage of mankind and that appropriate treaty articles embodying this concept be included in any draft treaty.

13. It is believed that only through the adoption and subsequent implementation by the international community of the basic concept of common heritage of ocean space beyond national jurisdiction, can the future beneficial use of ocean space and its resources by all states be assured, and indeed expanded, in contemporary conditions of intensive exploitation accompanied by increasingly powerful technology.

14. The concept of common heritage of mankind of ocean space and its resources beyond national jurisdiction must form the basis of future international law of the sea and be given expression in an international treaty or treaties generally agreed upon by the international community which harmonize the rights of states with the emerging world interest.

15. The treaty or treaties to which reference has been made must include provision for a machinery balanced in such a manner as to insure that the decisions of the machinery reasonably reflect the wishes of the majority of the population of the world giving due weight to the needs of the developing nations and to the economic dependence of states on ocean space.

16. Land-locked and shelf-locked countries must be assured access to ocean space, must be given the opportunity, on an equal basis with coastal states, to take part in the exploitation of resources beyond national jurisdiction and must participate in the sharing of benefits derived from the exploitation of ocean resources beyond national jurisdiction.

THE INTERNATIONAL MACHINERY

17. The international machinery must perform, inter alia, the following functions:

a. Providing a general forum for the discussion, negotiation and accommodation of national interests in ocean space;

b. General and non-discriminatory standard setting and regulation in respect to major peaceful uses of ocean space;

c. Biological and economic management and conservation of the living resources of the sea beyond national jurisdiction and conservation and management, in cooperation with the coastal state, of living resources which migrate between ocean space under national jurisdiction and ocean space beyond national jurisdiction;

d. Exploration and exploitation of nonliving resources of ocean space beyond national jurisdiction either directly or in participation with states or through a system of licenses;

e. Equitable sharing of benefits derived from the exploitation of the living and nonliving resources of ocean space beyond national jurisdiction, which also makes provision for a contribution from coastal states in respect to benefits derived from the exploitation of resources in areas of ocean space under their jurisdiction. Such a contribution appears justified in view of the benefits that would be derived by the coastal state from the management of resources outside its jurisdiction;

f. Protection and general regulation in ocean space of such activities exclusively for peaceful purposes as may be considered to be of vital international public interest;

g. Providing a mechanism for the effective access of technologically less developed countries to advanced marine technology relevant to their needs and for the transfer of such technology.

h. Promotion of scientific research in ocean space and establishment of an effective mechanism for associating scientifically less advanced countries in such research.

i. Providing to the international community such services in ocean space as may be considered necessary or desirable; inter alia, to sail vessels for rescue, scientific or other international community purposes.

18. Many of the proposed functions of the international institutions could, it is believed, be appropriately undertaken through regional bodies.

19. It is believed that it is of great importance either to consolidate existing U.N. bodies primarily dealing with questions concerning ocean space into the future international institutions for ocean space, or at least to coordinate their activities through the institutions in order to avoid bureaucratic proliferation, duplication of activities, inadequate or excessively complex coordination machineries at the international level.

20. The international regime should provide machinery for interdisciplinary discussion and decision-making involving, as far as possible, all users of ocean space and resources and including, in particular, science, industry and the service sector.

21. It is considered very important to stress that international law and practice concerning the legal responsibility of states and of the persons under their jurisdiction with regard to culpable activities which cause damage to other states in the marine environment must be considerably expanded and made more precise: in particular a course of action must be given to the international community through the international institutions with regard to deleterious activities in ocean space beyond national jurisdiction.

22. It is scarcely necessary to stress that no institutional system for ocean space would be complete without appropriate machinery for the compulsory settlement of disputes.

TRIBUTE TO CHAPLAIN JAMES E. ROGERS

Mr. THURMOND. Mr. President, Chaplain James E. Rogers of the Columbia, S.C., VA hospital was recently appointed Deputy Director of the VA Chaplains Service. I congratulate Chaplain Rogers and wish him well in his new post of duty.

An excellent article, which contains a biographical sketch of Chaplain Rogers, appeared recently in The Stars and Stripes—The National Tribune.

Mr. President, I am pleased to call this account to the attention of the Senate, and ask unanimous consent that the article entitled "Chaplain James E. Rogers New Deputy Director of VA Chaplains," which appeared in The Stars and Stripes—The National Tribune on December 6, 1973, be printed in the RECORD at the conclusion of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CHAPLAIN JAMES E. ROGERS, NEW DEPUTY DIRECTOR OF VA CHAPLAINS

A well known Veteran, Chaplain James E. Rogers of the Columbia, South Carolina V.A. Hospital, has been appointed Deputy Director of Chaplains Service, Washington, D.C., by the Administrator of Veterans Affairs, the Honorable Donald E. Johnson.

In making this selection, the Administrator reached down into the ranks and selected a long time career Chaplain. Chaplain Rogers went with the VA while still on terminal leave after having served in World War II as a Chaplain for 40 months. The VA Chaplaincy was in its formative years when he served his first appointment at Wadsworth, Kansas. His 27 years of service in the V.A. also include Oteen, North Carolina, Atlanta, Georgia and for the past thirteen years at the Columbia VA Hospital.

Many veterans will remember "Chaplain Jim" when he served the Oliver General Hospital, one of his many hospital assignments during World War II.

While stationed at an army hospital in the Pacific, he was selected as the Armed Forces radio preacher for Sunday services for a period of six months.

"Chaplain Jim" has been very active in Veteran Affairs. He has held many responsible offices in the American Legion and the 40 and 8. When he received his promotion, he was Gran Chef de Gare of Voiture 1025 of Columbia, Grand Amonier of the State 40 and 8, and Chaplain of Post 6, Columbia. He has been active in the Disabled American Veterans both on a state and national level. He served for many years as State Chaplain and two years as National Chaplain of the Disabled American Veterans. Among his many other activities, he has served as a Wing Chaplain in the Civil Air Patrol.

Though he is known throughout the United States by veterans from all walks of life for his eloquent and forceful speeches at numerous Memorial Services, he is better known affectionately in the hearts of Veterans as just "Chaplain Jim."

Veterans organizations across America have honored him with many commendations. He has been cited by Congress on three occasions for his compassionate ministry to the Veterans of America. He was honored on two occasions by being asked to have the Memorial Prayer at Arlington Cemetery on Memorial Day. He was guest Chaplain for the opening prayer three times in the U.S. House of Representatives and once in the U.S. Senate.

Only those close to "Chaplain Jim" know that he is an author and poet—a writer of somewhat national distinction. His patriotic, historical prose and poetry have appeared in national journals and magazines. His most recent literary work, "A Gold Star Mother", has received national acclaim and has appeared in the Congressional Record.

Last year "Chaplain Jim" was selected as the Federal Employee of the Year for the Greater Columbia Area by the Executive Council of Columbia.

To those that know the life of Jim Rogers, it reads like a character in one of Horatio Alger's books. He was orphaned at the age of four and spent his formative years in a Methodist Children's Home.

After high school he attended Atlantic Christian College in Wilson, North Carolina on an athletic scholarship. He earned letters in basketball, baseball, track and tennis and was Captain of the basketball team and was selected all-conference guard.

He received his B.D. Degree from Duke University.

His only assignment by the church was Associate Pastor of the Central Methodist Church, Florence, South Carolina. While in Florence, he married the former Mildred McKeithen. The Rogers have four children: Mrs. E. L. (Anne) McWilliams of Tampa, Florida, Mrs. Randall (Patty) Dennis of Columbia, Miss Louise Rogers and James, Jr. also of Columbia.

"'Chaplain Jim' will assume his new duties December 2nd, and in behalf of all Veterans—to him our best wishes and God's richest blessings", said Col. John R. Taylor, Wing Commander, South Carolina Civil Air Patrol.

UNEMPLOYMENT AND THE ENERGY CRISIS

Mr. NELSON. Mr. President, I would like to call the attention of my colleagues, and of all those concerned with the effects of the energy shortage on the economy, to the hearings being held this week by my able and distinguished colleague from the State of Wisconsin, Representative Henry Reuss, in his capacity as chairman of the Joint Economic Subcommittee on International Economics.

As chairman of the Subcommittee on Employment, Poverty, and Migratory Labor, I was particularly concerned by the testimony on the first day of those hearings. Herbert Stein, Chairman of the President's Council on Economic Advisors, and John Sawhill, Associate Director of the Office of Management and Budget and Deputy Administrator of the Federal Energy Administration, testified that unemployment would not go above 6 percent at any time in 1974. Such a rosy outlook for unemployment, with its implication of little or no economic distress, was predicted despite Stein's expectation of a shortage of 3.5 million barrels a day, or 17.5 percent of the total demand for energy, and despite his expectation of the continuation of the Arab embargo throughout 1974. Stein predicted that American economic stability would stem from "success of the present voluntary program for cuts in home heating fuel and private use of gasoline." The administration would be able to solve whatever unemployment problems that arise, according to Stein, simply by giving a bigger share to industry of fuel that might be "saved" by those voluntary measures.

Mr. President, I am appalled by the apparent reluctance of Mr. Stein and the other White House economic staff to admit to the potential economic disaster inherent in this national crisis. Other witnesses before the Joint Economic Subcommittee, from outside the Government, were not nearly so optimistic as were the President's advisers.

Dr. Anne Carter, of the Brandeis Department of Economics, testified that even if the shortage is as low as 12 percent, unemployment could go up as much as 3 percent during 1974. If the shortage is as high as 20 percent, Dr. Carter considers an unemployment rate of 10 percent well within reason.

Even more alarming was the testimony of economic analysts from the Arthur D. Little Co., because their research was done at the request of the petrochemical industry itself, to enable that industry to assess the impact of the shortage on its own economic outlook. Using an arbitrary figure of a 15-percent cutback in petrochemical industry output due to shortages, the Arthur D. Little analysts estimated a loss of 1.6 to 1.8 million jobs in the consuming industries and loss of domestic production value of from $65 to $70 billion annually. Industries that consume petrochemical products cut a broad swath across industrialized America. They include industries that produce clothing, automobiles, soap and other toilet preparations, fabricated plastics, fertilizers, and other agricultural chemicals, furniture, paint, and medicine. A 1.8-million-job decline in those industries alone would comprise an increase of more than 2 percent in the rate of unemployment, which currently stands at 4.7 percent. And the effects of such a decline upon other areas of the economy would be equally catastrophic.

Why is it, then, that our President's advisers continue to refuse to take seriously the estimates of an ever-increasing number of private and public analysts? Simply giving enough fuel to industry is not going to solve any problems if the fuel just is not available. It is high time for this administration to get its head out of the economic sand.

Mr. President, I ask unanimous consent that the Arthur D. Little study, "U.S. Petrochemical Industry Impact Analysis," be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

U.S. Petrochemical Industry Impact Analysis—A Report to the Petrochemical Energy Group

Arthur D. Little, Inc.,
November 1973.

I. SUMMARY

The current shortages of oil and gas in the United States have forced the Federal Government to implement a Mandatory Fuel Allocation Program, a Mandatory Allocation Program for Propane, and to supervise an expanding level of curtailments in natural gas supplies to interstate pipelines. These shortages will have a significant impact on the whole economy and the petrochemical industry as a major consumer of oil and gas hydrocarbons will be directly affected. However, the impact on this industry and its customers will be significantly greater than on other industries because these hydrocarbons are used not only as fuel but also as the primary raw materials or feedstocks for this business.

As a result of the current shortages, it is not unrealistic to expect that petrochemical production will decline in the near future. To assess the impact of a decline in petrochemical production on the nation's economy as a whole, the Petrochemical Energy Group (PEG) asked Arthur D. Little, Inc. (ADL) to develop an estimate of the effect of a 15% decline in the organic chemicals industry on consuming industries. Through the use of input-output economic analysis, ADL estimates that a sustained 15% reduction in the output of the organic chemicals industry could result in a loss of 1.6 to 1.8 million jobs consuming industries and a loss of domestic production value of $65–$70 billion annually.

While our analysis assumes a decline in production of 15%, it is difficult at this time to anticipate just how extensive a decline will actually result from the current allocation and curtailment programs. Should these programs not provide for the feedstock and process fuel needs of the petrochemical industry, its output will be reduced with the effects cascading throughout the economy.

II. INDUSTRY IMPACT ANALYSIS

To evaluate how a sustained 15% reduction in the output of the U.S. organic chemicals industry will impact on the U.S. economy requires an analytical framework that is a balanced, internally consistent model of the U.S. economy which identifies this sector of the chemical industry and defines its relationship to primary, secondary, and final demand markets. Input/Output economic models have this capability and Arthur D. Little, Inc., uses this type of model in its economic forecasting and regional impact analysis work. The effects developed in this report reflect the current relationships that exist within the ADL Input/Output model based on the Input/Output table originally developed by the U.S. Office of Business Economics for 1963 which has been revised, expanded, and updated by ADL.

A. Background on input/output models

Input/Output analysis focuses on the interaction of all industries in producing our gross national product. Each row of an Input Output table identifies the interindustry sales structure of the economy by depicting the sales of a particular industry to each of its industrial customers, as well as to final markets.

Although Input/Output analysis has a variety of applications, its major contribution is that it permits measurement of the industrial repercussions of changes in demand levels or production activities. For example, the Input/Output technique allows one to estimate the total impact upon various sectors of the economy of an increase in the demand for passenger cars. This increase in demand will lead to an increase in the output of the automobile industry. However, there will be further impacts. The automobile industry will demand more upholstery fabrics and the increased production of these fabrics will require more synthetic fibers and more plastics. The use of Input/Output techniques allows one to quantify the magnitudes of the increased production in all affected industries.

In like fashion, the Input/Output methodology can be used to identify the impact of a reduction in the output levels of particular raw material suppliers on the level of production in related final end-use markets. By transforming the Input/Output matrix, one can obtain production multipliers which indicate how a change in demand in a final user market will impact upon all industries in the economy. By identifying the ultimate end-use markets for a particular raw material, one can utilize these production multipliers to estimate the resultant impact upon the economy from a cutback in the production in a given sector.

B. Impact of the petrochemical industry

The U.S. petrochemical industry takes certain petroleum fractions, natural gas, and natural gas liquids, and transforms them into a wide variety of man-made materials. The production of the basic chemicals and many intermediate products is typically classified in government statistics within the Standard Industrial Classification for Organic Chemicals (SIC 2818). These intermediates are then sold to other sectors of the Chemicals and Allied Products industry for conversion to such products as synthetic fibers, plastics, synthetic rubber, detergents, and paints. In turn, the fibers, plastics and rubbers are fabricated into end products used in thousands of consumer products.

Although other hydrocarbon source raw materials have been used by the Organic Chemicals industry, this industry today is more than 95% dependent on hydrocarbons from petroleum and natural gas. Thus, a reduction in the amount of feedstocks available to the industry will be translated directly to a loss in physical output of the industry.

For the purposes of this analysis we have assumed that a reduction in feedstocks and fuel supplies will be distributed evenly throughout the industry affecting the output of all products equally.

If petrochemical output is reduced by no more than about 5%, imports of primary and intermediate organic chemicals might mitigate the effects of a decline in the output of primary petrochemicals. However, this would reduce or eliminate the favorable $1.3 billion annual balance of trade in petrochemicals. If industry output were reduced by more than 5%, the current worldwide shortage of primary petrochemicals and intermediates would limit the ability of consuming industries to secure supplies abroad. The use of substitute materials might also mitigate the effects on lost production and employment. However, given the current tightness of supplies for most basic commodities, it is unlikely that adequate quantities of substitute materials will be available.

Every effort has been made in this analysis to eliminate double counting which could result from two industry sectors supplying the same final market. For example, plastics, fabrics, and tires supplied to the automotive industry are all derived from petrochemicals and the full impact could be attributed to any one of these primary market sectors. In this case the impact was determined in the plastics sector and not included in the synthetic fiber and synthetic rubber calculation.

The results of our basic impact analysis are summarized in Table 1. A review of the results of our basic impact analysis (Tables 2–6) indicated that there were several special factors that must be taken into account in reaching a conclusion regarding the magnitude of the impact of a 15% decline in the production of organic chemicals. These factors include:

Inflation—In our basic analysis, the data on value shipments and employment has been taken from the 1970 Annual Survey of Manufactures. Our analysis did not include an upward adjustment in the value of lost production to account for price movements in each of the industries included for the 1971–1973 period. Based upon an annual average rate of increase in the GNP-deflator of 4.3% during this period, the value of lost production would need to be increased more than $8.7 billion to reflect current (1973) price conditions.

Incomplete coverage—Our basic analysis concentrated upon estimating the impact upon major end-use markets. This procedure omits, therefore, consideration of the impact on several relatively smaller markets such as the paper and non-ferrous wire coating industries for plastics, the rug industry for synthetic fibers, and non-automotive rubber products for synthetic rubber. A more detailed review of these other markets indicates the impact of lost production would increase by another $7.0 billion and an additional 175,000 jobs would be lost.

Non-Linear Effects.—The Input/Output methodology employed in our analysis implicitly assumes linear relationships between inputs of particular commodities and production in consuming industries. For most industries in the U.S. economy, such an assumption is acceptable since many production functions are approximately linear with respect to material inputs. However, in the case of crop production, this linearity assumption is not valid regarding crop yield in response to fertilizer and pesticide inputs.

At current levels of usage in the U.S., a reduction in the level of application of nitrogen fertilizers would not result in a directly proportional reduction in crop yield. A similar situation would also apply to the reduction in the use of insecticides and herbicides. We estimate that a reduction of 15% in the use of nitrogen fertilizers and pesticides would probably result in a reduction of agricultural output of approximately 5%. This relationship is generally supported by statistical data on increases in yield, and in total agricultural output of the major crops, and usage of nitrogen fertilizer.

To adjust for this non-linear relationship, we have reduced our estimate of the impact upon production in the food processing industry by two-thirds. This adjustment has the effect of reducing the lost production value in our basic analysis by more than $13.0 billion.

On balance, these special factors add $2.5 billion of additional lost production to our basic impact analysis or less than a 5% upward adjustment. As a result, we conclude the probable range of the total economic impact of a sustained 15% reduction in the production of organic chemicals will be an annual loss in production of $65–$70 billion and a loss of 1.6–1.8 million jobs.

TABLE 1.—SUMMARY, IMPACT OF A 15 PERCENT DECLINE IN PRODUCTION OF ORGANIC CHEMICALS

Item	Loss in production value (millions)	Loss in employment (thousands)
A. Basic analysis:		
1. Organic chemicals	$1,100	15
2. Primary markets for organic chemicals	3,910	71
3. Final market for organic chemicals	67,270	1,804
B. Special factors:		
4. Inflation (1970–73)	+8,750	
5. Incomplete coverage (plastics, fibers, rubbers)	+7,030	+175
6. Nonlinearity effects	−13,200	−330
7. Net effect	+2,580	−155
Adjusted total	[1] 69,850	[2] 1,735
C. Probable range of impact	65,000–70,000	1,600–1,800

[1] Sum of 3 and 7.

[2] Sum of 1, 2, 3, and 7.

Sources: 1970 Annual Survey of Manufactures, 1963 input-output table, ADL input-output model.

TABLE 2.—IMPACT ANALYSIS—SUMMARY: 15 PERCENT DECLINE IN PRODUCTION OF ORGANIC CHEMICALS

Market	Annual loss in production value (millions)			Loss in employment (thousands)
	Primary market	Secondary market	Final market	
Plastics	$645			11
Fabricated plastics		$1,050		43
Final markets			$28,250	700
Synthetic fibers	425			10
Fabrics and yarns		2,675		70
Final markets			4,390	110
Synthetic rubber	150			2
Tires		690		15
Final markets			580	15
Agricultural chemicals	130			2
Final markets			19,775	495
Medicinals and pharmaceuticals	980			18
Final markets			1,130	28
Soaps and detergents	450			5
Final markets			515	13
Paint	510			11
Final markets			6,000	150
Toilet preparations	520			8
Final markets			600	15
Cellulosic fibers	100			4
Final markets			6,030	150
Subtotal	3,910		67,270	1,875
Organic chemicals	1,106			15
Total, final market impact			67,270	1,890

Note: Every effort has been made to avoid double-counting by including the impact upon a particular final market only once in our estimates, although a final market may purchase materials from more than one sector. For example, plastics, fibers, and rubbers all are used in automobiles, but the impact on the auto industry has been included only once under the plastics sector.

Sources: 1970 Annual Survey of Manufactures, 1963 input-output table, ADL input-output model.

TABLE 3.—IMPACT ANALYSIS, 15 PERCENT DECLINE IN PRODUCTION OF ORGANIC CHEMICALS

	Amount Millions
1. 1970 value of shipments, organic chemicals (Sic 2818)	$7,373
2. 15 percent reduction in (1)	1,106

	Percent of organic chemical sales	Decline in consumption of organic chemicals (millions)
3. Distribution of organic chemical sales:		
(a) Plastics	30	$332
(b) Organic fibers	14	155
(c) Agricultural chemicals and food processing	8	88
(d) Medicinals and pharmaceuticals	4	44
(e) Soaps and detergents	4	44
(f) Synthetic rubber and tires	6	66
(g) Paint	3	33
(h) Toilet preparations	2	22
(i) Cellulose fibers	2	22
Total	73	806

	Factor	Annual loss in production (millions)	Loss in employment (thousands)
4. Impact of above declines in organic chemical production on:			
(a) Plastic resins, final markets (see table 4)		$28,250	700
(b) Synthetic fibers, final markets (see table 5)		4,390	110
(c) Agricultural chemicals and food processing:			
(1) 1970 value of shipments, agricultural chemicals (SIC 2879)		858	
(2) 15 percent reduction in (1)		128	2
(3) 15 percent reduction in food processing (SIC 20)		14,647	
(4) Output multiplier for food processing	1.35		
(5) Decline in shipments in all other sectors		19,773	495
(d) Medicinals and pharmaceuticals:			
(1) 1970 value of shipments, medicinals and pharmaceuticals (SIC 2833, 2834)		6,556	
(2) 15 percent reduction in (1)		983	18
(3) Output multiplier for medicinals and pharmaceuticals	1.15		
(4) Decline in shipments in all other sectors		1,130	28

TABLE 3.—IMPACT ANALYSIS, 15 PERCENT DECLINE IN PRODUCTION OF ORGANIC CHEMICALS—Cont.

	Factor	Annual loss in production (millions)	Loss in employment (thousands)
4. Impact of above declines—Cont.			
(e) Soaps and detergents:			
(1) 1970 value of shipments, soaps and detergents (SIC 2841)		$2,989	
(2) 15 percent reduction in (1)		448	5
(3) Output multiplier for soaps and detergents	1.15		
(4) Decline in shipments in all other sectors		515	13
(f) Synthetic rubber and tires (see table 6)		583	15
(g) Paint:			
(1) 1970 value of shipments, paint (SIC 2851)		3,408	
(2) 15 percent reduction in (1)		511	11
(3) 15 percent reduction in maintenance		7,500	
(4) Output multiplier for maintenance	0.8		
(5) Decline in shipments in all other sectors		6,000	150
(h) Toilet preparations:			
(1) 1970 value of shipments, toilet preparations (SIC 2844)		3,461	
(2) 15 percent reduction in (1)		519	8
(3) Output multiplier for toilet preparations	1.15		
(4) Decline in shipments in all other sectors		597	15
(i) Cellulose fibers:			
(1) 1970 value of shipments, cellulose fibers (SIC 2823)		685	
(2) 15 percent reduction in (1)		103	4
(3) 15 percent reduction in rugs, tire cord, etc		3,350	
(4) Output multiplier for rugs, tire cord, etc	1.8		
(5) Decline in shipments in all other sectors		6,030	150

	Annual loss in production value (millions)	Loss in employment (thousands)
Total impact:		
Organic chemicals	$1,106	15
Primary markets	3,910	71
Secondary markets in fibers, rubbers and plastics	4,415	128
Final markets for organic chemicals	67,270	1,676
Total		1,890

Note: Every effort has been made to avoid double-counting by including the impact upon a particular final market only once in our estimates.

Source: 1970 Annual Survey of Manufactures, 1962 input-output table, ADL input-output model.

TABLE 4.—IMPACT ANALYSIS, 15 PERCENT DECLINE IN PRODUCTION OF PLASTIC RESINS

	Factor	Amount (millions)
1. 1970 value of shipments, plastic resins (SIC 2821)		$4,286
2. 15-percent reduction in (1)		643
3. Percent of plastic resin shipments to nonintegrated plastic fabrication (SIC 3079)	41	
4. Reduction in plastic resin sales to plastic fabrication: (2)×(3)		264
5. 1970 value of shipments, plastic fabrication		6,993
6. Value of plastic resin consumed by plastic fabrication: (3)×(1)		1,757
7. Less reduction in plastic resin availability: (4)		264
8. Net shipment of plastic resin to plastic fabrication: (6)—(7)		1,494
9. Therefore, value of shipments, plastic fabrication: (5)×(8)—(6)		5,944
10. Net decline in shipments of plastic fabrication: (5)—(9)		1,049
11. Major end-use markets for plastic fabrication		

	Factor	Shipments (millions)	Annual loss in production value (millions)
Percent of shipments:			
2.5 percent—upholstery:			
1. 1970 value of shipments		$5,080	
2. 15 percent reduction in (12)		762	
3. Output multiplier	1.5		
4. Decline in shipments in all other sectors			$1,143
8.4 percent—furniture:			
1. 1970 value of shipments		8,967	
2. 15 percent reduction in (14)		1,345	
3. Output multiplier	1.6		
4. Decline in shipments in all other sectors			2,152
8.4 percent—motor vehicles:			
1. 1970 value of shipments		45,692	
2. 15 percent reduction in (16)		6,854	
3. Output multiplier	1.4		
4. Decline in shipments in all other sectors			9,595
7.4 percent—construction:			
1. 1970 value of production		77,255	
2. 15 percent reduction in (18)		11,588	
3. Output multiplier	.8		
4. Decline in shipments in all other sectors			9,270
8.3 percent—packaging:			
1. 1970 value of shipments		41,600	
2. 15-percent reduction in (20)		6,237	
3. Output multiplier	1.0		
4. Decline in shipments in all other sectors			6,237
7.2 percent—miscellaneous manufacturing:			
1. 1970 value of shipments		9,767	
2. 15-percent reduction in (22)		1,465	
3. Output multiplier	.9		
4. Decline in shipments in all other sectors			1,319

	Annual loss in production (millions)	Loss in employment (thousands)
Total impact:		
Plastic resins	$643	11
Fabricated plastics	1,049	43
All other industries	28,251	700
Total		754

Sources: 1970 annual survey of manufactures, 1963 input-output table, ADL input-output model.

Note: Every effort has been made to avoid double-counting by including the impact upon a particular final market only once in our estimates.

TABLE 5.—IMPACT ANALYSIS, 15 PERCENT DECLINE IN PRODUCTION OF SYNTHETIC FIBERS

	Factor	Amount (millions)
1. 1970 value of shipments, synthetic fibers (SIC 2824)		$2,822
2. 15 percent reduction in (1)		423
3. Percent of synthetic fibers shipments made to fabrics/yarn industry (SIC 221, 222, 223, 224, 226, 228)	60	
4. Reduction in synthetic fiber sales to fabrics/yarn industry: (2)×(3)		254
5. 1970 value of shipments, fabrics/yarn		17,699
6. Value of synthetic fibers consumed by fabrics/yarn industry: (3)×(1)		1,681
7. Less reduction in synthetic fiber availability: (4)		254
8. Net shipment of synthetic fiber to fabrics/yarn: (6)—(7)		1,427
9. Therefore, value of shipments, fabrics/yarn: (5)×(8)=(6)		15,025
10. Net decline in shipments, fabrics/yarn: (5)—(9)		2,674
11. Output multiplier for fabrics/yarn (net)	1.8	
12. Decline in shipments in all other sectors: (10)×(11)		4,815
13. Net decline in shipments in all other sectors: (12)—(2)		4,392

Total impact:	Annual loss in production (millions)	Loss in employment (thousands)
Synthetic fibers	$423	10
Fabrics/yarn	2,674	70
All other industries	4,392	110
Total		190

Note: Every effort has been made to avoid double-counting by including the impact upon a particular final market only once in our estimates. For example, synthetic fiber sales to upholstery or tire manufacturers have been excluded because the impact for these industries has been calculated elsewhere in this analysis.

Sources: 1970 Annual Survey of Manufactures, 1963 input-output table, ADL input-output model.

TABLE 6.—IMPACT ANALYSIS, 15 PERCENT DECLINE IN PRODUCTION OF SYNTHETIC RUBBER

	Factor	Amoun (millions
1. 1970 value of shipments, synthetic rubber (SIC 2822)		$992
2. 15 percent decline in (1)		149
3. Percent of synthetic rubber shipments made to tire industry	45	
4. Reduction in synthetic rubber sales to tire industry: (2)×(3)		67
5. 1970 value of shipments, tires (SIC 3011)		4,587
6. Value of synthetic rubber consumed by tire industry: (3)×(1)		445
7. Less reduction in synthetic rubber availability: (4)		67
8. Net shipments of synthetic rubber to tire industry: (6)—(7)		378
9. Therefore, value of shipments of tire industry: (5)×(8)÷(6)		3,896
10. Net decline in shipments of tires: (5)—(9)		690
11. Output multiplier for tires (net)	1.06	
12. Decline in shipments in all other sectors: (10)×(11)		731
13. Net decline in shipments in all sectors: (12—(2)		583

	Annual loss in production (millions)	Loss in employment (thousands)
Total impact:		
Synthetic rubber	$149	2
Tire shipments	690	15
All other industries	583	15
Total		32

Note: Every effort has been made to avoid double-counting by including the impact upon a particular final market only once in our estimates. For example, tire sales to the auto industry are excluded because the impact for the auto industry has been calculated elsewhere in this analysis.

Sources: 1970 Annual Survey of Manufacturers, 1963 input-output table, ADL input-output model.

SENATOR BENTSEN'S ADDRESS TO THE WORLD AFFAIRS COUNCIL OF PHILADELPHIA

Mr. McGEE. Mr. President, last night my distinguished colleague, the junior Senator from Texas (Mr. BENTSEN), addressed the World Affairs Council of Philadelphia.

I was very impressed with his observations on international affairs in general and United States-Latin American affairs in particular. I sincerely believe that Senator BENTSEN has made an invaluable contribution to the debate on international relations with his very subsantive and poignant observations.

I could refer to some portions of his speech which would demonstrate his farsightedness on the issues with which he dealt. However, in reading his remarks, I felt the entire text was a demonstration of the excellent and far-reaching grasp he has on international matters.

I commend my distinguished colleague for his excellent presentation and urge all in this body to give serious consideration to his remarks.

I ask unanimous consent that his speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

ADDRESS BY HON. LLOYD BENTSEN

I am honored to be with you today and I welcome the opportunity to share with you my concern about a neglected aspect of our foreign policy.

It is a paradox of this age, in which technological achievements have outstripped human insights, that we can travel in outerspace to explore "the dark side of the sun" and "the dark side of the moon" while there are "dark" sides of our own planet that remain virtually unknown to us earth-bound mortals.

We are ignorant of dramatic events within our own hemisphere that can affect our daily lives for years to come.

Unfortunately, we have not approached foreign affairs with the global perspective that is the gift of the astronauts. Our foreign policy has been fragmented and piecemeal. Our attention shifts from one trouble spot to another—always to the neglect of other areas, where time does not stand still.

It is difficult to criticize our foreign policy when we have a new Secretary of State whose performance has been universally hailed in superlatives. And I don't deny Secretary Kissinger any of these tributes. I join with fellow Americans in applauding his achievements: In Paris and Vietnam, in Peking and Moscow, and in the explosive Middle East.

It would be difficult to ask more of any one man.

But I am sure Secretary Kissinger would be the first to agree on the need to see the globe whole, with all its interrelated parts in perspective.

It is time to stop shifting the emphasis of our foreign policy with each change of the political winds.

It is time to scrap sloganeering as a substitute for policy.

We can move from the Year of Europe to the Age of Asia—and, I suppose, on to the Afternoon of Africa—without accomplishing much more than providing good headline copy.

Meanwhile, events continue to move in other parts of the globe. When these events explode into crisis, we turn our attention to the neglected area in an attempt to patch up the damage that was done while our backs were turned.

A prime example is our neglect of Latin America—the home of 270 million people, with the fastest growing population in the world. At the present rate, its population will reach 600 million by the end of this century. By all forecasts, the United States by that time will have only half as many people as Latin America—but ten times the wealth.

And already the impoverished masses of Latin America are restless with the hopes and expectations of a better life. Few of these expectations are being met. Too many dreams are being deferred.

Sol Linowitz, our former ambassador to the Organization of American States, once said: "Coffee, sugar, and cocoa may be breakfast foods in the United States, but in Latin America . . . they are the staff revolutions feed on."

Our backs have been turned on Latin America for too long.

From the time of the Monroe Doctrine, 150 years ago, we have viewed Latin America as our own special preserve. We have come to take it for granted. In recent years, we have lost track of what Latin America means to us, not just strategically and economically, in terms of trade and raw materials, but as a hemispheric neighbor and a growing member of the community of nations, with problems and potentials we cannot afford to ignore.

The Good Neighbor Policy and the Alliance for Progress are now little more than slogans of the past. The slogan for today might well be summarized in the headlines: "Leftovers for Latin America."

But there are no such headlines. Reporting from Latin America is minimal—perhaps because public interest is minimal. And so we have the unbroken pattern: lack of interest results in lack of information, and vice versa.

Little has been done, by all the combined media for education, to dispel our widespread ignorance of the history and problems of Latin America. Although there are almost 9 mililon people in the United States now who have ethnic and linguistic ties to Latin America, how much do we really know about our neighbors to the south?

Our children grow up unable to communicate with Spanish-speaking neighbors just across the border or—or, in many cases, just across the street. They grow up with little awareness of the "other" Americans who share this hemisphere with us. Their history books tell them of the early explorations of the Spanish— and after that the entire South American continent sinks out of sight, like the Lost Atlantis.

Our study of history and politics is weighted heavily in the direction of Europe, which, although more remote geographically, is closer to us by kinship. After all, the roots of our past are mainly in Europe.

But what of the future?

We live in an age of unparalleled change, and the habits of the past will not suffice for the challenges of the future. In Latin America, challenges abound, beginning with poverty, illiteracy, hunger, high birth rates and high mortality rates. There is the challenge of massive unemployment in an area where the tools for economic development are limited. There is the challenge of attracting capital to establish basic industries, to catch up with the technologically advanced world, and to build markets essential to a healthy economy. A further challenge lies in the need for land reform and agricultural modernization.

All these are challenges to the continent's ability to develop. But are these *our* challenges? What have they to do with us?

Simply this: Any threat to peace and stability in one part of the world threatens peace and stability everywhere. The future stability of the Western Hemisphere will depend on how effectively the Latin countries deal with their staggering problems.

So the question becomes: Can we continue to ignore our Latin neighbors?

Can we continue to exclude them from our policy considerations while we court the favor of China and Japan, Russia and the countries of Western Europe?

This may not be the intent of our foreign policy, but it has been the effect. Our closest neighbors feel alienated, left out of the total picture.

The geographical proximity of Latin America has inspired a misleading concept of "Pan-Americanism" which conceals formidable language and cultural barriers. These barriers are heightened by new political and economic trends and by rapidly developing problems that have created points of friction between us—problems that are not necessarily of our making, but for which we have offered no real solutions.

One obvious point of friction is Cuba. Here we have a perfect example of the need for a global approach. To understand the tensions that have developed over our Cuba policy, we have to look also at our China policy, and our relationship to the Communist world.

Latin America—more than any other region—has followed our lead on Communism. For more than two decades, it gave loyal support to our efforts to isolate China, and in spite of growing misgivings, cast its solid bloc of 20 votes to exclude Communist China from the United Nations.

Likewise—and again with growing misgivings—it has backed our policy of boycotting Cuba and denying it membership in the OAS.

But our sudden reversal of policy in China left the Latin countries out on a limb. Naturally, they are disconcerted. Naturally, they suspect that we could just as easily do an aboutface toward Cuba, leaving them in the humiliating position of having to follow our initiative rather than their own instincts. And so we have chipping away of the OAS blockade of Cuba and an increasing trend toward establishing diplomatic and economic ties with Cuba in the face of a U.S. policy of isolation.

Another trend is the developing flirtation—both diplomatic and economic—between Latin America and the Communist countries, which threatens to undercut our influence. In view of changing alignments, this should not be surprising. But it has disturbed the comfortable status quo.

Another new trend I detect is the increasing competition of Japanese and European investment in Latin America, and more and more favoritism toward Europe and Japan as major sources of imports, rather than the United States. We are uneasy about losing what we consider our share of the Latin market, and we view with suspicion—if not alarm—European and Asian efforts to preempt that market.

The Latins, for their part, resent the domination of their economy by United States investors and there has been created a climate of uncertainty by foreign investment regulations and restrictions.

The Canal Zone remains a friction point. The bitterness in Panama over U.S. sovereignty within the Canal Zone is shared in varying degrees by her neighbors.

Another problem which we fail to sufficiently recognize as tension-producing is the widening technology gap between the United States and Latin America. We live in a nuclear age; they do not. They fear and distrust our sophisticated weapons systems and our power of mass destruction.

Underlying all these tensions and related to the technology gap is the terrible disparity in living standards, to which we are not sufficiently sensitive. Barbara Ward has described the gap between the haves and the have-nots as "the most tragic and urgent problem of our day." Its urgency lies in its potential for political unheaval.

Having reviewed some of the major problems and trends—in mere outline form, as the limitation of time demands—let us turn our attention to possible solutions.

First, we need to open and maintain a dialogue with Latin America to agree on common goals for both continents and to make the necessary commitments to achieve these goals.

Statements of good intentions are not enough. Reiteration of tired old slogans is not enough. What we need is a new beginning—and we must begin at the top.

When President Nixon was inaugurated in 1969, he made an auspicious beginning by talking about what our policy in Latin America should be. That turned out to be the last landmark of presidential interest in the area. Words have not been followed by action or commitment.

Too much time has elapsed now since President Nixon announced his intention to visit Latin America before the end of the year. The year is ending, and it is obvious that Mr. Nixon's agenda is occupied with other matters.

Too much time has elapsed since Secretary of State William Rogers remarked, in a speech last summer, that a new policy toward Latin America is long overdue. Today it is even longer overdue.

The new Secretary of State announced several weeks ago that there would be new initiatives in Latin America. That was a welcome statement, and I sincerely hope that these initiatives are forthcoming—and soon. But my hopes are tempered by the knowledge that Secretary Kissinger is the one who has placed such strong emphasis on The Year of Europe, which has been dismally unproductive.

Nevertheless, I think we can anticipate that he and the President will be holding summit conferences in Europe—as well as in Asia and Africa.

If they meet with the Chinese, the Russians, the leaders of Europe and the leaders of the Middle East—then why not a summit meeting with our closest neighbors? They deserve a place in our foreign policy considerations. And they deserve, incidentally, to be briefed on the new initiatives in our foreign policy so that they are not operating in the dark.

Such a meeting could do much to dispel their distrust of our new-found friendship in the Communist world, and their resentment over being taken for granted.

Second, we need to develop a policy of "aid through trade" in Latin America.

During the euphoric Sixties, we offered foreign aid as a hopeful panacea from all the ills of the developing nations. That kind of aid is no longer feasible for our own point of view, nor always desirable from the recipients' point of view. It encourages dependence rather than interdependence. It engenders the suspicion that we are trying to buy friendship.

Now it is time to think of trade as a means of development which is mutually advantageous.

For years the U.S. has talked about generalized trade preferences for the developing countries. Such a proposal is included in the new trade bill which is now before the House of Representatives. I am hopeful that—finally—action will replace verbiage and Latin America will get the trade preferences it so urgently needs. This will assist in accelerating Latin America's development and thereby provide expanded markets for U.S. goods. In the past Latin America has bought about $5 billion in goods from us every year and under normal conditions that amount could be expected to grow to at least $7 or $8 billion by the end of this decade.

Third, we need to clarify the role of private investment in Latin America, as well as the role of multinational corporations.

At present, U.S. private investment in Latin America, with a book value of $13 billion, brings us a return of nearly $2 billion a year in profits and royalties. This is a significant element in our own economy as well as in the economic development of countries needing the capital that American business can provide.

But it has been a far from satisfactory relationship.

Resentment has smoldered in Latin countries over the domination of U.S. investors and their political influence in the countries where they operate, the most notable examples being Cuba and Chile. As a result of increasingly negative attitude toward U.S. investors, some nations have imposed higher taxes on corporate enterprise and restrictions on U.S. companies and investments, and there have been instances of nationalization of U.S. companies without appropriate compensation.

This has not always worked to the advantage of the local economy. It has discouraged investment and deprived the area of goods and services and technical expertise which are needed for its development.

It is time to re-examine these policies. It is time for us to get together with the Latin American countries and formulate a code of conduct for responsible international companies, setting forth the rights and responsibilities of a company in the country where it operates, and making clear provisions for the resolution of disputes.

With this understanding, a U.S. company could, in good conscience, call on the American government for assistance when it has a legitimate complaint. At the same time, the United States could insist that U.S. companies fulfill their obligations to their host country.

Fourth, we should welcome, even encourage, the flow of investment into Latin America from other nations of the world.

We can be confident that this will happen, with or without our encouragement; foreign investors, most notably the Japanese, are finding attractive opportunities in Latin America. We need not fear that their presence will erode our position of leadership. Rather, it will help moderate the problems and ease the tensions created by foreign investment. The developing nation will learn that all foreign investment behaves in substantially the same way. And the development of consortia for major investments will reduce the risk of political attack based on "invasion of sovereignty."

So it is in our own interest to see Latin America develop multilateral economic relations with the rest of the world in order to bring in more aid and investment from other developed countries and open up markets abroad for her products.

This would make the Latin countries less dependent on the United States for aid flows and less susceptible to U.S. economic policy.

Fifth, we need to establish ourselves in the role of Good Neighbor rather than Big Brother.

This calls for increased sensitivity on the part of government and business.

We must not dictate programs to the Latins. Rather, we must respond to their needs—not as we see them, but as the Latins themselves perceive them and evidence them by their own initiatives. This kind of enlightened attitude is essential to counteract antipathy toward foreign capital and to stem the rising tide of nationalism.

Rather than fear nationalism, we need to recognize it is a necessary ingredient for real economic and social progress. We must then reconcile our corporate policies and activities with the legitimate objectives of nationalism.

Sixth, we should enlist the corporation of United States industry in providing further training capability to Latins to help close the technological gap. This is important to promote economic growth and to reduce widespread unemployment and underemployment.

Finally—and this is by no means the least significant step, politically, economically, and psychologically—we should move toward normalizing relations with Cuba.

In view of our new attitude toward the Soviet Union and the People's Republic of China, consistency demands a similar posture toward our closest neighbor.

If we learned anything from our experience with Communist China, we learned that twenty years of non-communication and isolation handicapped us as well as the Chinese.

We learned that we cannot afford to live in ignorance of any other nation in this shrinking world.

We cannot afford to close our eyes and our minds to the existence of any nation simply because we do not fully support its policies

Clearly, we have more to gain from talking with people than from ignoring them.

Improving relations with Cuba would be symbolic of a new political maturity in the United States; of a new willingness to respect differences among peoples; and of a new realization that Latin America is seeking to fulfill its own destiny in its own way.

As the people of Latin America strive toward this goal, they need our cooperation, our commitment, and our support.

We have given that support in the past—but it has not been consistent.

A decade ago, the Alliance for Progress was hailed as one of the promising initiatives of the Kennedy Administration. But now the Alliance for Progress has been superseded by a policy of noninvolvement. Now, when the need for cooperation and coordination of effort is greater than ever, we seem to be pulling away from the Latins.

Ironically, the hopes and dreams of the Alliance were abandoned just when it was managing to achieve a real per capita growth averaging 2.4% annually. Despite its admitted failures and shortcomings, the Alliance did spark the development of important public works projects and social programs—with the bulk of the capital provided by the Latins themselves. And it did provide evidence of our willingness to make a commitment to our hemispheric neighbors.

It is time to renew that commitment.

It is time to view Latin America in the context of a global foreign policy.

I am not recommending a shift of emphasis from one hemisphere to another, or from one continent to another.

What I am recommending is a balanced view of international affairs, with all the new realities and all the interrelationships of diverse nations and cultures.

We have the opportunity to reassert our role as good neighbor to a continent that is threatened with instability; overwhelmed by problems of widespread poverty and illiteracy, soaring birthrates, rampant disease and high mortality rates. And I *am* recommending that we take advantage of that opportunity.

If we can demonstrate our capacity to work with the Latins—our nearest neighbors—in a spirit of true partnership, we will have laid the foundation for dealing with similar problems elsewhere.

We have at our door an opportunity to establish a precedent for international cooperation.

It is an opportunity we cannot afford to lose.

WHALES AND FISHERY PROTECTION

Mr. PELL. Mr. President, today, the Japanese whaling fleet, in defiance of world opinion, is scheduled to sail for Antarctica to open another season of killing and decimation of the world's whale population, an invaluable asset of the common heritage of man. For some dangerously dwindling species of whale, this decimation may be irreversible. The ships of the Soviet Union unfortunately are also expected to join in this murderous hunt.

At this moment, too, foreign factory ships are literally vacuuming the fishing banks of the seven seas, threatening to deplete the world food fish stocks. This destructive practice is striking the New England fisheries a particularly hard blow. For example, in both the Atlantic and Pacific, the halibut has practically disappeared as a source of protein-rich and delicious table fish.

This reckless disregard for reasonable conservation measures to assure the replenishment of fish stocks and the continued existence of marine wildlife species, especially the whales, dolphins, seals, and other ocean mammals, calls for urgent action aimed at helping to prevent an economic and ecological catastrophe.

In addition to this critical problem, I would like to comment on the pressing plight of the whale. In recent years, the United States has taken a number of actions demonstrating its concern for the protection and conservation of world whale stocks. In 1970,the Secretary of the Interior placed the eight major species of great whales on the endangered species list pursuant to the Endangered Species Act of 1969. This action brought into effect in December of 1971, a prohibition on the importation into the United States of whale products. Again in 1971, the Secretary of Commerce announced that after the 1971 whaling season, no further licenses would be issued to U.S. nationals to take whales for commercial purposes.

During this period, both the House and the Senate adopted resolutions urging a 10-year moratorium on all commercial whaling and, in 1972, a U.S. recommendation calling for a moratorium on the commercial killing of whales was overwhelmingly adopted by the United Nations Conference on the Human Environment. This vote was confirmed again in 1973 at the first session of the United Nations Governing Council for Environmental programs. We can, indeed, be proud of our record in a world effort to save the whales.

Despite this display of worldwide concern, the International Whaling Commission—(IWC—has been disappointingly unresponsive. In 1972 and 1973, the IWC rejected a moratorium by votes of 6 to 4—with 4 absentions—and then by a failure to obtain a three-quarters majority of 8 affirmative to 5 negative votes—with 1 abstention. The opposition to a moratorium has been led by Japan and Russia, two countries responsible for about 85 percent of the 35,000 whales killed each year.

Last year, the IWC, by a three-fourths majority of its members, voted to enact conservation measures designed to protect the sperm, fin, and minke whales in the Antarctic. Both the Soviet Union and Japan rejected parts of these measures.

The reckless slaughter of whales has reduced five species to near extinction, including the magnificent blue whale, the largest creature that inhabits the earth. The feeble efforts of the IWC to protect these magnificent mammals has met with little success. As Dr. Robert White, U.S. Commissioner to the IWC has stated:

> The action of Japan and the Soviet Union in ignoring the overwhelming sense of the Commission in which they sit, calls into question whether the I.W.C. as presently constituted is capable of serving the cause of conservation, or only that of the whaling industry.

It is high time that the responsible governments of this world take positive action to protect these fascinating creatures before they become extinct. Fortunately there are also concerned private organizations working tirelessly and imaginatively to make our space ship planet safe for the mammals family of Moby Dick.

In this connection, I ask unanimous consent to have printed in the Record the Commerce Department release on the U.S. protest of the refusal of Japan and the U.S.S.R. to comply with the IWC conservation measures, together with statements of the National Wildlife Federation, Project Monitor and the Friends of Animals, Inc.

There being no objection, the material was ordered to be printed in the Record, as follows:

Release of Department of Commerce: October 22, 1973

The Governments of Japan and the Soviet Union have effectively refused to comply with vital conservation decisions taken by the International Whaling Commission in London last June, it was revealed today.

Dr. Robert M. White, U.S. Commissioner to the IWC, termed their actions a serious setback to protection of the world's whale population. Dr. White, Administrator of the Commerce Department's National Oceanic and Atmospheric Administration, said the U.S. Government is protesting strongly and urging them to reconsider.

"The nations of the world have indicated almost unanimously their determination that the whales be protected—at the UN Conference on the Human Environment in Stockholm in 1972, and this year at the meeting of the Governing Council of the UN Environmental Program in Geneva," Dr. White said. "The world has been looking to the International Whaling Commission to transform these recommendations into realities. That Commission, responding to world opinion and to the best available scientific evidence, has voted for a series of important conservation measures. The action of Japan and the Soviet Union in ignoring the overwhelming sense of the Commission in which they sit, calls into question whether the IWC as presently constituted is capable of serving the cause of conservation, or only that of the whaling industry.

"It is clear that if this continues, the convention of the IWC governing the protection and management of whales must undergo sweeping change. Five of the eight species of great whales are in danger of extinction,,and their conservation must be a paramount consideration." In a communication from the Secretary of the IWC to Dr. White dated October 5, the U.S. Government has been informed that the Japanese have objected to IWC decisions to cease the taking of Antarctic fin whales by June 30, 1976; and that both Japan and the Soviet Union have objected to IWC decisions to set the next season's quota on minke whales at 5,000; and to set catch quotas on sperm whales in the Southern Hemisphere for the next season by areas. This means that these nations refuse to abide by these decisions. In a note dated September 19, the Japanese Embassy informed the State Department of the above objections and announced its intention to set "voluntary quotas" on fin and minke whales. The note also explained the reasons for the Japanese objections.

Addressing the IWC in London, Dr. White termed the fin whale "the most seriously depleted of all the species now being killed commercially," and declared that an immediate, complete moratorium was the most urgent issue facing the Commission.

The Commission, by a required three-fourths majority, recognized the seriousness of this depletion by voting a three-year phased moratorium which would accommodate the need to stop taking fin whales in the Antarctic and take into account the economic impact upon Japan's whaling industry.

The new Japanese objection stated that the catch quota for next season is less than half the sustainable yield named by the IWC scientific committee, and cited the demand for whale meat as food in Japan. It further expressed the fear that this ban might lead to a total ban on all whaling. It pledged to maintain quotas at the present level should stock conditions remain unchanged.

Dr. White points out that in objecting to the fin whale moratorium, Japan is disregarding the wishes of a three-quarter majority of member nations, and that the majority decision arose from recognition of the importance of allowing for the quickest possible recovery of the species. Dr. White added that the protein involved in 1,500 fin whales would amount to an insignificant contribution to the meat requirement of Japan.

The second major issue raised by Japan and the Soviet Union is the minke whale quota. The whaling nations proposed a take of 12,000, but the IWC scientific committee set a figure of 5,000. In the IWC's plenary session, Japan proposed 8,000. The final vote was for 5,000, with only Japan in opposition. (The U.S.S.R. at the June meeting of the IWC supported the quota of 5,000. It has now in effect reversed that position.)

Japan's objection argues that a sustainable yield (that does not further deplete but does not restore depleted stocks) is over the 5,000-whale quota, and that even if catches were to increase, sustainable yield would, too. It said it would "set a quota voluntarily, based on scientific findings of the stock," and added it would consult with the U.S.S.R., another pelagic whaling nation, if necessary.

On this point, the U.S. position is that the Japanese and Soviet action flies in the face of the views of all other member nations and of the IWC's scientific committee. This committee, at the 24th meeting of the IWC in 1972, estimated the minke whale population at 150,000 with a maximum sustainable yield of 5,000. In this year's session Japanese scientists estimated the population at 298,000, with a maximum sustainable yield of 12,230. The scientific committee maintained the 5,000 figure. It pointed out that no sound basis exists for determining which figure is the most accurate, and emphasized the need for a conservative approach.

The IWC agreement on sperm whales approved a quota of 4,000 female animals in the Southern Hemisphere, to be taken only in three geographic areas. The arrangement was suggested by the scientific committee, and approved by the technical committee and the plenary session, with only Japan and the U.S.S.R. in opposition.

Japan conceded that the rationale was acceptable but held that the area-oriented quotas were not based on any classification of sperm whale stocks in the Southern Hemisphere, therefore, strict implementation would have no scientific validity. It argued that the IWC decision gave no consideration to whaling operations under the control system, entailing technical and legal difficulties under the provisions of the Convention governing the IWC. In this case, no counter-offer was made.

The U.S. protests to Japan and the Soviet Union state that their objections were directly opposite to the strong advice of the Scientific Committee, which does not consider that a single quota should be set for each sex for the Southern Hemisphere. Quotas-by-area are the antidote to overfishing, according to the committee. Failure to implement this management measure will inevitably result in further overfishing of the sperm whale stocks.

In conclusion, the U.S. expresses the hope that the Japanese and Soviet governments will reconsider their decisions in the next 90 days, and that each will "make its plans regarding a strengthened secretariat known, and thereby indicate its intention to make IWC a viable conservation organization."

INTERNATIONAL WHALING COMMISSION

The International Whaling Commission was established under the 1946 International Convention for the Regulation of Whaling. The United States implemented the terms of the Convention by enacting the Whaling Convention Act of 1949 (16 U.S.C. 916).

The Commission meets at least once a year to consider the condition of world whale stocks and to recommend measures for their conservation. It regularly assesses the condition of the stocks and their capacity to sustain a commercial harvest, and each year recommends catch limits and other regulations. Its recommendations are considered by the member governments and serve as the basis for setting national rules and regulations to control their whaling industries.

Because of a continuing decline in stocks, the Commission has instituted a total worldwide ban on killing blue, gray, bowhead, humpback, and right whales, and has significantly reduced catch quotas on sperm, fin, sei, Bryde's, and minke whales, to prevent overfishing and to permit recovery of the stocks of these species.

Statement of National Wildlife Federation: Whale Killing Prompts American Boycott of Japan, U.S.S.R. Goods

In a strongly worded letter to President Nixon, the head of the world's largest private conservation organization has urged a massive American boycott of all Japanese and Russian products in response to those countries' "short-sighted" and "callous" whaling activities.

The need for a major boycott, according to Tom Kimball, executive vice president of the National Wildlife Federation, is based on the unwillingness of Japan and the Soviet Union to revise their whaling practices despite the declining numbers of the earth's largest living creature. "The best scientific information available points towards the extinction of at least some of the eight species of great whales," Kimball noted, "unless all whaling nations are willing to revise their practices to the degree necessary to insure the survival of these great marine mammals."

"It seems to us that our persuasion, to be effective, must hit the Japanese and the Russians in their pocketbooks," argued Kimball. "If our boycott of Japanese-made automobiles, electronic equipment, cameras, and clothing, and such Russian consumer products as canned fish, alcoholic beverages, and furs is successful, perhaps the industrial sector of those two nations can succeed in changing their governments' whaling practices."

Satisfactory substitutes have been found for all whale products, including lubricants, cosmetics, soap, paint, shoe polish, and margarine. Much is used for food for pets or for ranch mink. Though whale meat is eaten in small quantities by the Japanese and Russians, "the amount of protein which it contributes to the Japanese (and Russian) diet is, by any standards, insignificant," Kimball stated.

Despite the demise of the great sea leviathans, the Soviets and Japanese unrelentingly keep the pressure up. Last year, the Japanese mounted four whaling expeditions and the Russians three. Each consisted of a huge factory ship almost as big as an aircraft carrier, attended by a fleet of small, fast catcher boats that run down the whales and kill them with cannon-fired harpoons, which carry explosive charges that detonate inside the animals.

The Japanese and Soviets are currently the only countries engaged in major whale-killing efforts. The U.S. phased out its last whale fleet in 1971 and has banned the importation of all whale products. The British, the Norwegians, and the Dutch left the major hunting grounds—the Antarctic and the North Pacific—a few years ago when the supply of whales dropped so low that expeditions became unprofitable.

While Kimball admitted that there is a dearth of comprehensive, reliable population statistics on whales, scientific indications and declining whale harvests point to a major survival threat for most species of whales. In the last 50 years, over two million whales have been killed and, in just the past three seasons, the figure has averaged about 37,000, a decline reportedly due to the fact that there were fewer whales to be killed. The over-all quota set by the International Whaling Commission for the 1973–74 season is 37,500.

Although representatives of the first U.N. Conference on the Human Environment held in Stockholm last year voted unanimously to support a 10-year halt to whaling and the U.S. strongly called for a moratorium at the annual International Whaling Conference meeting this past June, Japan and Russia have consistently rebuffed restrictions on whaling. The two countries continue to haggle over their share of the remaining whales and dispute all scientific warnings that the whales are dwindling.

"At the (IWC) meeting," Kimball pointed out to the President, "both Russia and Japan declared their unwillingness to abide by an earlier decision made by all 14 member nations to provide the Commission with a strengthened secretariat. In addition, the Japanese voted against three principal conservation decisions and the Russians voted against two. . . . The recommendations are biologically-sound and predicated on viable wildlife management principles.

The three IWC measures which Japan and Russia have chosen to ignore involve limiting the harvest of fin whales, minke whales, and sperm whales, all considered seriously depleted.

Japan alone opposed the IWC recommendation which would limit the 1973–74 quota of fin whales, the second largest creature, to 1,450 and would phase out all hunting of the species by June 1976. The U.S. had urged in immediate moratorium. Although there were once an estimated half million of these animals, optimistic guesses currently put their number at about 80,000.

Both the Soviets and the Japanese have announced that they will not limit their take of minke whales to a total of 5,000 in 1973–74, the same quota as last year. Thinking it would be the only nation hunting minke whale in 1972, Kimball explained, "Japan agreed to a 5,000 quota. However, the Soviets decided to harvest the minke whale, beat Japan to the Antarctic hunting waters and took the first 3,200, limiting the Japanese catch to about 2,500 whales." Japan is using its own set of scientific figures this year to justify taking up to 12,230 minke whales.

Also, the Japanese and Russians have both ignored an IWC effort to set 1973–74 quotas on sperm whales based on geographical areas in the Southern Hemisphere rather than on sex. Catching by sex, without regard to geographical location, encourages overkill in more easily accessible hunting waters, according to biologists.

Representing both the active whaling nations and nations with an interest in whaling, including the U.S., the IWC theoretically regulates international whale killing. Member nations, however, are not bound to abide by the Commission's decisions and, just as Russia and Japan have done, members are free to enter a formal objection and do as they please.

"Since Japan and Russia are acting within the legal constraints of the IWC Charter" Kimball stated, "that body is apparently helpless to act."

Besides urging a mass American boycott of Soviet and Japanese goods, Kimball asked the President to combine the consumer action with "firm Federal action." The President was urged to work with the Congress to develop a condemnation of current Japanese-Russian whaling practices, explore the use of a variety of diplomatic channels to dissuade Japan and Russia from continuing their whaling practices, and undertake a review of U.S. trade agreements with Japan and Russia.

"For example," Kimball noted, "there is considerable bargaining leverage to be gained from our wheat transactions with the USSR and our soybean sales to Japan."

"We are fully aware of the serious . . . economic impact (the boycott) might have on trade relations, especially with Japan," the head of the 3 and ½ million member organization stated. However, "we cannot afford to procrastinate any longer. The lengthy delays in reaching amicable settlements with the Governments of Japan and the USSR are jeopardizing the continued existence of the great whales."

In addition to boycotting Soviet and Japanese goods, the National Wildlife Federation also urges that American consumers notify dealers, the ambassadors of each of the countries, and the U.S. State Department of their actions.

Statement of Project Monitor

The Japanese Government was accused today of threatening the near or actual extinction of several species of whales and of ignoring internationally-agreed-to measures to conserve and prevent the depletion of other whale stocks.

The basis for this charge is Japan's recent announcement that it was rejecting three major conservation measures adopted at the June, 1973 meeting of the International Whaling Commission of which Japan is a member. This flagrant action on the part of Japan is indicative of that nation's almost total disregard for conservation concepts and for the opinion of the international community on protecting and preserving the environment.

Because of Japan's determination to ignore world opinion and continue its greedy and short-sighted whaling policies, a coalition of major environmental and conservation groups has proposed a boycott of Japanese products in the United States and an embargo on Japanese fisheries imports.

At the London meeting of the International Whaling Commission, a ¾ majority of the fourteen member nations (Argentina, Australia, Canada, Denmark, France, Iceland, Japan, Mexico, Norway, Panama, South Africa, Soviet Union, United Kingdom and United States) voted to phase out the killing of the depleted fin whales in the Antarctic, bringing the slaughter to an end no later than June 30, 1976. The Commission by a vote of 13 to 1, rejected Japan's demands for a quota of 8,000 to 12,000 minke whales in the Antarctic, and elected to hold the kill of these whales to a maximum of 5,000 for the 1973–74 season.

However, in a note dated September 19, 1973, the Japanese embassy conveyed to the Department of State its Government's refusal to comply with Commission decisions which were opposed by Japan during the deliberations in June. The note said Japan would set quotas "voluntarily" on Antarctic fin and minke whales in line with Japanese "interests." The note also stated that Japan would not observe "by area catch quotas" for sperm whales in the southern hemisphere as had been agreed to.

On October 16th in Washington, leaders of national organizations who have been working together under the aegis of Project Monitor, including Friends of the Earth, Animal Welfare Institute, Fund for Animals, Defenders of Wildlife, Environmental Policy Center, Animal Protection Institute, Let Live, Inc., and the Society for Animal Protective Legislation, accused the Japanese Government of "bowing to the blind greed of the major Japanese whaling companies". Japan, they asserted, must bear a major responsibility for two decades of mindless destruction which has brought the blue and humpback whales to the verge of extinction. The blue whale is the largest animal that has ever lived. The humpback whale is best known for its beautiful and mysterious "song" which has inspired symphonies and has been made into a popular record album. Recent studies indicate that even the small estimated numbers of humpbacks were too optimistic. The fin whales are critically depleted, and the future of all species of these unique and magnificent mammals is in grave jeopardy.

The conservationists ridiculed recent Japanese contentions that whale meat is a major source of protein for the Japanese people. They cited an analysis derived from Japanese fisheries data showing that whale meat constitutes less than one percent of the Japanese protein intake, and that antarctic fin whales make up only a fraction of that. They noted that 12 million pounds of whale meat from Japan was exported to the United States for pet food in early 1971, before the ban imposed under the Endangered Species and Marine Mammal Protection Acts. They further noted that Japanese canned whale meat for human consumption, illegally offered for sale, had recently been confiscated by the State of New York.

Leaders of the national organizations stated, "Japan has pursued a policy of unrestrained rapacity, not only toward whales but toward dolphins, porpoises, endangered sea turtles, and other marine creatures. This is in contemptuous disregard for international opinion, which strongly favors the conservation of whales and other marine mammals. Japan's overfishing of salmon and other fish stocks is well known. Under present circumstances, we feel that we have no choice but to ask the members of our organizations, and all other concerned Americans, to refrain from buying Japanese products and to express this intention by writing to dealers in such products until Japan agrees to end its ruthless destruction of the great whales".

They noted that the American people each year buy literally billions of dollars worth of Japanese goods: Sony and Panasonic radios and television sets; Datsun and Toyota automobiles; Honda and Yamaha motorcycles; Nikon cameras, and other goods that compete with American products. The leaders of the groups emphasized that Japan was jeopardizing the good will and respect necessary for such unilaterally lucrative trade.

At the London meeting of the International Whaling Commission, the United States delegation for the second year in a row pushed for a ten-year moratorium on all commercial whaling. The proposal passed by a majority of 8–5 with one absention, but did not receive the necesary 3/4 majority and so was not adopted. The U.S. position involves more than preventing the extinction of the largest and among the most intelligent animals that has ever inhabited the earth, or of halting the incredible suffering being inflicted on these friendly highly evolved mammals. There may be serious danger that in eliminating these leviathans we are further upsetting the delicate balance of life in the world's ocean ecosystems whose health and stability are fundamental to man's own survival. By further depleting the remaining whale stocks to obtain products for which there are readily available substitutes (oils for lipstick and other cosmetics, food for mink and sable)—man may be playing a dangerous game.

The conservation groups pledged an all-out campaign to save the whales. "We will urge our government to take every legal means available to exert economic and political pressure on the Japanese to bring about compliance with policies aimed at preserving the great whales".

A possible means of exerting economic pressure might be the "Pelly Amendment" to the Fisherman's Protective Act of 1967 which permits the United States to embargo fisheries products from nations flouting international programs established for the conservation of marine resources. A means of exerting political pressure would be a motion of censure in the United Nations. The official policy of the United Nations, first adopted at the U.N. Conference on the Human Environment at Stockholm in 1972 by a vote of 53–0 and confirmed unanimously (with a reservation by Japan only) by the 58-nation governing council of the U.N. Environmental Program in 1973, is for a ten-year moratorium on the commercial killing of all species of whales.

STATEMENT OF THE FRIENDS OF ANIMALS, INC.:
SAVE THE WHALES

The great whales have always fascinated man. They are as mysterious as the oceans they inhabit. The smaller whales, the porpoise and dolphin, are a source of joy to all who know them as well as the fisherman's guide to the coveted school of tuna. The world can ill afford the annihilation of this unique and ecologically essentially animal species which is currently being hunted down towards extinction.

There is general accord among most nations that there should be a moratorium on the slaughter of all great whales. Unfortunately, however, Japan and Russia have not subscribed to the common consensus.

Mrs. Alice Herrington, Director of Friends of Animals, Inc., has observed that next month, December, the whaling fleets of Japan and Russia plan to penetrate the Antarctic—territory which belongs to the people of the world just as the whales themselves are the common property of all mankind. Thousands of whales will be taken to add to the dread statistic of captured whales. Primarily the whale is sold for pet food, machine oil, lipstick and a variety of other products for all of which there are substitutes. A very small amount is used in Japan for human consumption and this source of protein can readily be replaced by soybeans. Can there be any justification for a slaughter which will feed a few people only for a few years before the great whales are gone?

Our message to Japan and Russia, on behalf of ourselves, the members of Friends of Animals, and the people of this nation, should be a combined note of disapproval and a plea for a halt to the massacre of whales.

ENERGY RESEARCH AND ALASKAN RESOURCES

Mr. GRAVEL. Mr. President, in the past several months, the attention of the Senate, and in fact of the whole country, has been focused on the trans-Alaska pipeline. Alaska has been trying to start construction on the vital project since 1969 but has been stalled by outside interests. It took a very real national crisis before we could proceed with a project that, had it been approved sooner, would have forestalled or mitigated our national energy crisis.

But I do not rise, Mr. President, to address the inequities of the past, but to point to the possibilities of the future. Alaska has an enormous and varied energy potential. Our State stands ready to develop this energy potential to serve the Nation when the Nation is ready to let us proceed and will provide the technology required to fully explore and develop our resources and transport them to national markets.

In the past few weeks, the Senate has spent considerable time on energy conservation bills. These bills could have a significant impact on decreasing energy consumption and temporarily reducing part of our energy shortage. However, in the long run, we cannot depend exclusively on decreasing demand, which reduces goods, services, and other opportunities available to our citizens, but should emphasize increasing our supply of energy resources.

Today I introduced a bill to do just that—to provide the funding necessary to finance an extensive program of research and development to increase our domestic energy supplies. The projects that will be funded under this bill will permit us to make great leaps in energy technology and thus to provide for the energy needs of our citizens in the years to come.

The importance of technological development cannot be stressed too much. Technology advances turn untapped wealth and unknown potential into natural resources. For example, at one time oil was considered a nuisance, a hindrance to water drilling and supply operations. Now it is a vital resource. We are a step ahead today. We have already identified potential new sources of energy resources. However, we must improve the technology by which we convert those sources into consumable supplies. Many long existing forces and substances can be turned into the resources of the future, for we do not just have natural resources; we develop and create them.

Alaska has many potential resources, resources that can be tapped if the proper technology is developed. It has the potential for geothermal energy, tidal energy, and windpower, and it also has vast deposits of coal and oil.

Man areas in Alaska have been identified as potential sources of geothermal energy. Some can be used today if our country commits itself to their development and provides the funds for converting this energy to a usable form and demonstrating its feasibility as a commercial source. Other areas may become commercially feasible with further progress in geothermal energy conversion research.

Tidal energy can also become a reality in our State. Cook Inlet in south-central Alaska has some of the highest tides in the world, tides that could drive large generators to provide clean energy. The development of this eternal source of energy could have a significant impact on U.S. energy supplies. While the potential is great, the private sector has not adequately researched this important energy source. Therefore, Government must demonstrate its potential and prove its feasibility.

Windpower is becoming another possible energy source. The windswept Aleutian chain in Alaska would be a very good place to test the commercial feasibility of wind energy. The potential exists, Mr. President, to use windpower to produce hydrogen fuel, the cleanest burning of all combustion energy sources. But the private sector must be persuaded that it should expand into this area. Demonstration programs under my bill would provide this incentive.

Alaska also has substantial deposits of conventional fuels—coal, oil, and natural gas. For example, two-thirds of the U.S. coal reserves are located in Alaska. To make development economically feasible and to provide for efficient modes of transportation to the lower 48, further research should be done on coal gasification and liquefaction and oil and gas technology. Government sponsored and financed energy research could provide the necessary incentive to interest the private sector in such developments.

The oil and gas reserves in our State mandate that additional pipelines be built to transport our resources to the contiguous States. The first pipeline has been authorized, but more must follow.

The first trans-Alaska pipeline will be a model of environmental engineering. It will demonstrate the way to the safe development of our resources and protection of our environment. The environmental impact statement prepared on this project will be the yardstick for measuring the completeness of those to come, both for development in Alaska and other States. Be assured Alaska will not let oil companies and other developers trample our beautiful countryside and rape our resources, but we will make available our energy resources to the rest of the country in a manner that will also conserve our other natural resources, our splendor, and natural beauty.

Our energy supplies are contingent upon an adequate research and development effort. A resolve to increase domestic production is not enough; we must provide adequate funds to carry out the research necessary to develop new technologies of resource use. It is for this reason that I have been working on legislation to establish a trust fund to finance R. & D.

As chairman of the Finance Committee's Subcommittee on Energy, I called for hearings in November to consider the trust fund concept and other fiscal matters as they relate to energy. As a result of those hearings, I am convinced that we can and must establish a trust fund to insure that adequate funds are contributed to our research effort on a sustained and stable basis. With a minimal tax on energy sources, we can finance a research effort that will open up new horizons of resource applications.

Other bills have been submitted to increase our Federal research and development effort, but the other bills have not provided the means to finance such an effort. I am thoroughly convinced that we must establish a mechanism whereby a substantial, stable and suitable research program can be funded. It is with this thought in mind that I drafted and submitted my bill.

The energy trust fund bill allows the Government to finance this effort at the levels warranted by the energy crisis. However, it provides, through the trust fund, that this will be a noninflationary, pay-as-you-go program.

Thus the extensive research effort I propose will not be financed by direct spending with its attendant inflationary and debt creating problems, but by a tax on energy production. Funds collected by this tax will be invested in research to help the private sector develop the technology it needs to increase our domestic energy production.

The energy trust fund bill is designed to overcome the principal problem that faces existing proposals—securing adequate financing for research efforts. As my colleagues well know, past efforts to limit expenditures to noninflationary levels have resulted in most programs being trimmed to the bone. But increasing energy programs requires either that further cuts be made in existing programs or that additional revenues be raised. As there are few places to make further cuts, I have provided a mechanism that could be used to raise additional revenues. Thus while other research plans are proposed, they are meaningless unless we also provide the means to finance them.

My energy bill will also eliminate much of the Government control and regulation which has stifled energy exploration and development in the private sector. While this bill places the responsibility for energy planning and research on the Government, it returns the free market to the private sector.

Furthermore, the bill provides incentives for private enterprise to increase domestic energy exploration and development, thus increasing domestic supplies and energy independence. It also provides for transferring naval petroleum reserves to the Department of the Interior. The Interior Department can then lease these lands so that their oil and gas supplies can be used to meet our needs.

Mr. President, Alaska's resources can and should be developed to meet America's needs. Alaska's energy potential can become a reality with a properly financed energy research effort. I would not be surprised, Mr. President, if our country reaches "Project Independence" by 1980 or 1985. And I would not be surprised if Alaska is supplying over 20 percent of our country's energy needs at that time.

THE UNITED STATES AND WORLD AFFAIRS

Mr. PELL. Mr. President, on this past weekend, my distinguished senior colleague from Rhode Island (Mr. PASTORE) delivered in Rhode Island an excellent and perceptive address on the current position of the United States in world affairs.

In his remarks, Senator PASTORE demonstrated, as he has so often here in the Senate, his extraordinary ability to bring into sharp focus the real issues that confront our country—issues that often are obscured in the flux of daily events and monthly crises.

My senior colleague argues, persuasively and cogently, that the foreign policy of our Nation must be adapted to emerging realities of the world.

Mr. President, I believe Senator PASTORE's message is one we should all heed, and I ask unanimous consent that the text of the excellent address delivered by my senior colleague on Sunday, December 9, at the 25th annual breakfast meeting of the Catholic Association of College Alumni at the Colonial Hilton Inn, at Providence, R.I., be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

REMARKS OF SENATOR JOHN O. PASTORE

Fellow Americans, I have been in public life for thirty-eight years. I have seen things come—and I have seen things go. I have lived through several wars—a depression—several recessions—periods of prosperity—the splitting of the atom—the landing of men on the moon—and many other scientific and technological achievements which were considered to be beyond belief.

Moreover, I have found that rarely in human affairs is one confronted with a situation which is all white or all black—and an assessment of American foreign policy as we approach the last quarter of the twentieth century is no exception.

We do not have a foreign policy simply because it is fashionable to have one or because our neighbors have one. We have a foreign policy to advance what we conceive to be our national interests.

There may be disagreement as to where the national interests lie in specific situations—or as to what concrete policies will best promote them—but, by and large, our basic national interests are constant.

Peace and prosperity are as good a short way of putting it as any. The world situation in which these national interests exist, however, is always changing and these changes have to be taken into account if policy is to do what it is supposed to do.

It is my thesis this morning that we have been wanting in adapting to changes which have taken place in the world in the last twenty years—changes which we ourselves have done much to bring about.

We have, for example, established lines of communication with the People's Republic of China and we have moved toward detente with the Soviet Union. But in most other respects, American foreign policy is still too much a prisoner of the 1940's and 1950's. Consider the paradoxes which result:

At a time when we are belatedly recognizing—de facto if not yet de jure—the existence of the People's Republic of China, we are still maintaining 125 military bases and facilities in Japan—presumably to protect the Japanese from the Chinese, while the Japanese are falling all over themselves to do business with the Chinese.

At a time when we are proclaiming to talk with the Soviet Union, we are maintaining over 300,000 American Troops and more than 7,000 nuclear weapons in Europe, while European currencies get stronger and the dollar gets weaker—and while we live up to our full commitment, I regret to say not a single one of our NATO partners does.

I most certainly approve of our approaches to the People's Republic of China and I approve of the detente with the Soviet Union. But—in too many respects—we are still acting as though these things had never happened.

Détente is more than desirable—in this nuclear age it is imperative. If it were ever true that war is an extension of policy by other means, it is now true that the supreme objective of our policy must be the avoidance of war.

In a nuclear war, there will be no winner—the loser will be the human race.

Secretary Kissinger put it very well when he said in his October 25 press conference:

"The United States and the Soviet Union are, of course, ideological and, to some extent, political adversaries. But the United States and the Soviet Union also have a very special responsibility. We possess—each of us—nuclear arsenals capable of annihilating humanity. We—both of us—have a special duty to see to it that confrontations are kept within bounds that do not threaten civilized life. Both of us, sooner or later, will have to come to realize that the issues that divide the world today, and foreseeable issues, do not justify the unparalleled catastrophe that a nuclear war would represent."

Furthermore, if it were not for such détente as has already been achieved, there would still be a war in the Middle East and by this time it might well have spread beyond the Middle East. We can only hope that the end of the fighting will lead, finally, to a just and durable peace in that tormented area.

But—while welcoming the containment of hostilities—we have to recognize also that it has resulted in a considerable strain on our traditional alliances.

In part, this is because Western Europe and Japan are much more dependent than we on Middle Eastern oil and, consequently, susceptible to pressures from Arab nations.

But the problem—I think—goes deeper than that and is rooted in the failure both by ourselves and our allies to adjust to more profound changes in the world, principally those represented by the new U.S. relationship with the Soviet Union and mainland China plus, importantly, the increase in nuclear weapons.

A substantial European point of view was well expressed by the French Foreign Minister last month when—in the same speech—he complained about our failure to consult with NATO during the Middle East crisis and—in the same breath—urged us not to withdraw any of our troops from Europe.

This—it may be noted parenthetically—is coming from the country which asked us to withdraw troops from France not many years ago and which insisted that NATO headquarters be moved from Paris at the cost of millions of dollars. Many Europeans want it both ways and clearly you "can't have your cake and eat it too."

Now I know that matters will not be improved by trans-Atlantic backbiting and I do not intend to indulge in it this morning. What is needed instead is mutual reconsideration of what is required for our joint defense now in 1973—and not what was required in 1950.

The only way to defend the Atlantic community, including the United States, is to prevent a war from happening. Fundamental to this is our deterrent strength—Minuteman—Polaris—Poseidon—B-52's—and the B-1 and Trident soon to come.

The question may be fairly asked—with all of this destructive power—and with both Great Britain and France having nuclear capabilities—do we—do the Europeans—need all of the 7,000 American nuclear weapons in Europe?

Reasonable people can differ as to how much is enough, but surely it is less than we now have. And the same can certainly be said of the Russians as well. To keep on making more and more of the same things is utter madness.

What is important here is not quantity—which we have to excess—but quality, which we must be vigilant to maintain. What is important is that we be sure that our deterrent continues to deter—that it continues to be immune to disabling action by an enemy.

This means research. It means development of weapons of improved technology and of improved counter-measures. But it does not mean wasting our resources to accumulate more of what we already have too much of.

Granted that in 1950 it was in our interest to provide a protective umbrella for Japan and Western Europe. But this hardly qualifies as eternal truth. It is time for the Japanese and the Europeans—who have grown rich under the protection of this umbrella—to assume more of the burden of supporting it.

To say this is not to advocate abandonment of our allies, although some of our allies choose to interpret it that way.

One of the problems lies in the way we have handled the two sets of relationships—our changing relations with the Chinese and Russians on the one hand and our relations with the Japanese and NATO on the other. The two have not been synchronized.

The Japanese were profoundly shocked by the abruptness of the surprise announcement of President Nixon's trip to Peking, an announcement which they correctly interpreted as signalling a fundamental change in our Asian policy without any prior notice, much less consultation.

We may accept the explanation—which we have heard many times from the President and Dr. Kissinger—that such extreme secrecy was necessary to protect extraordinarily delicate negotiations. But that does not change the objective fact of Japanese shock. Neither does the point that the Japanese themselves—even prior to the announcement of the Nixon visit—were flirting with the Chinese tradewise.

Similarly, with respect to NATO, it is possible to understand a certain nervousness on the part of the Europeans over where detente may lead—and this despite the fact that the Europeans themselves have been opening communications and trade routes to the East for longer and more vigorously than we have.

Clearly, more attention needs to be paid to our alliances. We need NATO. We need Japan. But they need us too. Both we and they need to take a fresh look—together—at the realities of the world of 1973.

I do not see any fundamental divergence in the interests of the United States, of Western Europe, and of Japan. It is in their interests—as ours—that there be peace in the Middle East.

It is in their interests—as ours—that the 800 million Chinese be brought into the community of nations. It is in their interests—as ours—that superpower rivalry be contained. And it is in their interests—as ours—that the United States be less involved in their defense.

It also has to be said, regretfully, that one of the things bothering our allies is a crisis of confidence. This is a natural result of their seeing our own affairs in such wild disarray.

This is a matter which I am sure we will resolve in time and, meanwhile, our diplomacy simply has to live with it.

It is not simply with respect to Europe and Japan that our perception of the world has not kept pace with reality. Indeed, this is true perhaps especially with respect to the less developed countries of Latin America, Africa, and Asia.

Here our policies are scarcely touched by the winds of change that have blown over our relations with Moscow and Peking. We still identify ourselves—to our long-range detriment—with unpopular governments because they are anti-Communist or "on our side", whatever that means.

We still justify an astonishing proportion of our foreign aid program on grounds which are hardly distinguishable from the rationale of the cold war.

We need a foreign aid program—but we need one considerably different—and considerably smaller—than the one we've got, which can reasonably be described as a jerry-built boondoggle.

Our capacity to extend foreign aid is much smaller than we thought twenty years ago—smaller both in terms of the resources which we can devote to it in the light of our own economic situation—and smaller in terms of our human abilities to achieve results.

The foreign aid program should be aimed more at economic development and less at the support of foreign military forces and unpopular governments.

Economic development is a much more complicated process than was once thought—and there are not many places where an injection of foreign aid dollars is all that is required to bring it about. My own view is that our efforts should be channeled primarily into providing food for the hungry and technical assistance to the extent of our capabilities.

When you come right down to it, these capabilities are really quite small. The limiting factor in our technical assistance programs has always been people—not money.

The demands on a shirtsleeve diplomat are greater than on his striped-pants colleague. The striped-pants diplomat moves along the sophisticated elite, frequently educated in Europe or the United States. The shirtsleeve diplomat deals with the common masses—the poor and deprived, so to speak—always allergic to change and frequently untutored. Besides his own technical specialty, he must be a master of the local language and culture. This is a combination which is not commonly found in the United States.

In short, we ought to begin doing things we need to do and stop doing things out of force of habit.

We have now decided we can talk to the Chinese and that we can get along—indeed, that we have to get along—with the Russians, but our policy toward Cuba has not moved one eyelash since 1962.

Are the 6 million people on that wretched island so much greater a threat to our peace and security than the 800 million Chinese and the 250 million Russians?

We have gotten our troops out of Vietnam—thank God—but we still have more than half a million others scattered elsewhere around the world. Do we really need them—or are we just used to it?

We are still spending money overseas like we could afford it. Are we getting our money's worth—or do we just have the habit?

We are still stockpiling weapons like we were getting ready to fight the last war. Do we really need them—or is this just a process of inertia?

To conclude—I think it is good that we have changed our China policy. I think it is good we have improved our relations with the Soviet Union.

Quite part from everything else that has been going on in the world—and there has been a good deal—these two things by themselves have radically changed the world situation.

We have not yet thought through the implications of these changes and adjusted our other policies accordingly. Hopefully, this process is high on Dr. Kissinger's agenda. But—as we learned to our sorrow in the 1960's—a foreign policy is only as good as the public support it commands.

If the rethinking and reassessment which the times now require are confined to the State Department and the White House—or even the Congress—the results will be sterile and futile. It has to be a public process with wide public participation.

That is why I have been glad to share these thoughts with you this morning.

Thank you very much.

ADDITIONAL SUPPORT FOR THE AMERICAN FOLKLIFE PRESERVATION ACT

Mr. ABOUREZK. Mr. President, I have been extraordinarily pleased by the support and interest indicated on behalf of S. 1844, the American Folklife Preservation Act. When I originally introduced this bill on May 17 of this year I was joined by 13 cosponsors. Since that time the list of sponsors has grown to 56.

But the support for this bill is not restricted to Capitol Hill. On September 13, I inserted a sampling of my mail on this bill. And since that date, support from professional folklorists, private citizens, and organizations has continued to increase.

Two associations which have added their voice of support are the American Library Association and the American Folklore Society. Both of these are highly respected associations deeply committed to the preservation of American folklore.

Mr. President, as evidence of the support this bill enjoys, I ask unanimous consent that a list of all Senate cosponsors, a letter from the American Library Association, and a resolution adopted by the American Folklore Society at their recent annual convention in Nashville, Tenn., be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COSPONSORS OF S. 1844

Alaska: Stevens, Gravel.
Arizona: Goldwater.
Arkansas: McClellan, Fulbright.
California: Cranston, Tunney.
Colorado: Dominick.
Delaware: Biden.
Florida: Chiles.
Georgia: Talmadge.
Hawaii: Fong, Inouye.
Idaho: Church.
Illinois: Percy, Stevenson.
Indiana: Bayh.
Iowa: Clark.
Kansas: Dole.
Kentucky: Cook, Huddleston.
Louisiana: Long, Johnston.
Maine: Muskie, Hathaway.
Maryland: Mathias.
Massachusetts: Kennedy.
Minnesota: Mondale, Humphrey.
Missouri: Eagleton.
Montana: Metcalf.
Nevada: Bible.
New Hampshire: McIntyre.
New Jersey: Case, Williams.
New Mexico: Montoya, Domenici.
New York: Javits.
North Carolina: Ervin.
North Dakota: Burdick.
Ohio: Taft.
Oklahoma: Bellmon.
Oregon: Hatfield, Packwood.
Pennsylvania: Scott, Schweiker.
South Dakota: McGovern, Abourezk.
Tennessee: Baker, Brock.
Texas: Bentsen.
Utah: Bennett.
Vermont: Stafford.
West Virginia: Randolph.
Wisconsin: Nelson.
Wyoming: McGee.

AMERICAN LIBRARY ASSOCIATION,
Washington, D.C., November 20, 1973.

Hon. JAMES ABOUREZK,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR ABOUREZK: We have noted with great interest your introduction of S. 1844, the American Folklife Preservation Act, and the large number of cosponsors of the measure in the Senate, as well as the introduction of a counterpart measure by many Members of the House of Representatives.

Our interest in S. 1844 and similar legislation is two-fold. First, it would authorize further development by the Library of Congress of those activities which foster the preservation, study and appreciation of the folk traditions of the American people. As you know, these activities include outstanding folk music and unique collections of manuscripts, documents, books and other publications as well as photographs and other graphic materials.

The contributions of the Library of Congress to the study, preservation and appreciation of the American past, that is, American folklife, are not fully appreciated. Your bill would augment the resources available to the Library for these purposes. Since the Library of Congress is in many ways a keystone of the intricate structure of library services throughout this country, strengthening the Library of Congress, as your bill would do, would thus have the potential effect of promoting the improvement of library services generally.

The second reason for our interest in S. 1844 is that, in addition to the Library of Congress, many other libraries maintain an abiding concern for the varied manifestations of the folk culture of the American people. Most public library systems consider the collection of local history materials a particular responsibility. Such collections typically include the tales, legends and lore of the community from its earliest days, the origins of its place names, the development of its pastimes and celebrations, the correspondence, diaries or other recollections of its citizens of a bygone day, and similar information.

As educational institutions, public, academic and other specialized libraries strive to stimulate the use and appreciation of the materials on their shelves and in their files. Libraries sponsor exhibitions, lectures, performances, broadcasts, publications, and other efforts to inform their patrons. Naturally, these efforts often present aspects of American folklife, such as folksinging, story-telling sessions, demonstrations by craftsmen, examples of the creative traditions of local ethnic groups, and many other comparable events.

Because libraries have long played an important part in the preservation and appreciation of American traditions, in short, the American Library Association endorses S. 1844, and would appreciate having an opportunity to testify in support of the bill when Committee hearings are conducted. One suggestion for possible improvement of the bill in its present form is that you may wish to consider amending Section 5 to include "libraries" in the list of cultural institutions whose work could be aided by the proposed American Folklife Center. Even though libraries would seem to be included among the nonprofit educational institutions mentioned in Section 5, Subsection (6), you may wish to make their potential eligibility more explicit.

Speaking also from the point of view of a library educator, I would like to emphasize the need for such a Center for those of us who work with folk material in our library materials courses such as storytelling and development of children's literature. The impact of American folk material is a significant part of such study. The development of a Center which could be used for research and study would be most valuable.

In conclusion, we are grateful to you for your enlightened sponsorship of this bill, which we will commend to your colleagues for their support, and we are pleased to register our endorsement of the American Folklife Preservation Act.

Sincerely,

JEAN E. LOWRIE,
President, American Library Association.

RESOLUTION ADOPTED BY AMERICAN FOLKLORE SOCIETY

Whereas, The diverse and unique expressions of the American tradition and experience that are defined as folklife must be studied and appreciated if they are to be fostered or preserved; and

Whereas, The support for folklife research, training, collection, and preservation by various agencies of the Federal Government has in the past been uncoordinated and hence sporadic and ineffective; and

Whereas, Finland, Ireland and other nations have demonstrated for many decades that selective and sustained attention to folklife by the national government can strengthen the traditions of the people and thereby augment their pride and dignity; and

Whereas, Congress now has before it the American Folklife Preservation Act which has received the manifest support of a broad cross-section of the entire Congress; Now, therefore, be it

Resolved, That the American Folklore Society respectfully memorializes the 93d Congress of the United States to enact the American Folklife Preservation Act; and be it further.

Resolved, That the Secretary of the Society transmit copies of this Resolution to the Speaker of the House of Representatives and the President of the Senate.

THE ROTC AND AMNESTY

Mr. THURMOND. Mr. President, the December 1973 issue of the National Amvet contains an editorial entitled "Healthy Signs for America," which deals with the issues of ROTC and amnesty.

The editorial speaks for self, and requires no explanation. It is a forthright discussion of two major issues of the day, and I would like to call it to the attention of my colleagues.

Mr. President, I ask unanimous consent that the editorial, "Healthy Signs For America," which appeared in the National Amvet for December 1973, be printed in the RECORD at the conclusion of my remarks.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

HEALTHY SIGNS FOR AMERICA

To citizens who believe in a strong America it is satisfying to see ROTC organizations on campuses over the nation growing stronger. The virulent assaults on

ROTC during the sixties and continuing until the end of the Vietnam war tended to drive possible officer candidates away from training units. They also caused many university and college authorities to cower in their corners.

The University of California at Los Angeles, for example, was a main target of preparedness protesters in recent years. Late reports indicate a substantial gain in the number of freshmen enrolling in the ROTC units of the Army, Navy, and Air Force.

Boston University where studens forced the closing of ROTC operations back in 1969 has asked for a resumption of military training activities. Harvard, it is reliably reported, is considering the resumption of ROTC activities which it tossed out in 1969 at the crest of student attacks on the military.

With the services operating without benefit of draft, it is the more imperative to have good officer material available. Men with education make better soldiers and officers than those without that benefit.

Another encouraging sign of patriotism revived and a stronger America envisioned, is the action of the military services in flatly rejecting a proposal of the Justice Department to permit draft evaders to escape prosecution by joining one of the services. "No soap," was the unanimous response of the military. In the past draft evaders who had not left the country or interfered with draft office operations, were given the choice of entering service or facing prosecution. The services, incidentally, will not accept volunteers under indictment for any crime.

These signs of stiffening of the nation's backbone help account for the lowered voices of those who would like to see amnesty given all draft evaders, regardless of the degree of their offense or whether or not they had sought refuge in foreign lands. Proponents of amnesty also would forgive the man who deserted.

Under the system by which the United States operates, its citizens cannot decide which laws they will obey or disregard. This is fundamental. Draft dodgers and deserters elected to break the law of the land. There is but one out for them—to face juries and judges who will decide to what degree they should be punished.

The dodger and evader not only broke their nation's law—they sent hundreds of other dutiful men to their deaths who took the chance that some dodger or deserter should have taken had he done his duty.

Members of AMVETS can never get around to accepting the idea of amnesty. It is foreign to our system where every man and woman accepts duty no matter the individual hardship or misfortune it brings to their lives.

PROHIBITION ON THE IMPORTATION OF RHODESIAN CHROME

The PRESIDING OFFICER. (Mr. Nelson). Under the previous order, the hour of 12 o'clock having arrived, the Senate will proceed to the consideration of S. 1868, with the pending question to invoke cloture on the bill.

The bill will be stated by title.

The second assistant legislative clerk read as follows:

S. 1868, to amend the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome and to restore the United States to its position as a law-abiding member of the international community.

The Senate resumed the consideration of the bill.

The PRESIDING OFFICER. Time, under the previous agreement, is limited to one-half hour, with 15 minutes to a side. Who yields time?

Mr. HARRY F. BYRD, JR. Mr. President, I yield 6 minutes to the Senator from South Carolina (Mr. Hollings).

The PRESIDING OFFICER. The Senator from South Carolina is recognized for 6 minutes.

Mr. HOLLINGS. Mr. President, this morning, the Washington Post editorialized that a successful cloture vote "will take the votes of Senator Fulbright and Senator Ernest Hollings, Democrat of South Carolina and a few others who disagree with Mr. Byrd on the bill but who are reluctant to vote for cloture."

Mr. President, that story is what prompts me to come to the floor because I have been working on other matters and I had left this debate to others who are far more intimate with the problem.

My position on this issue has been put clearly over the past few years in strong support of the distinguished Senator from Virginia (Mr. Harry F. Byrd, Jr.)

I agree with him. I agree with his premise. I agree with his amendment.

With respect to being reluctant ever to vote for cloture, the Washington Post is also mistaken, in that I just voted for cloture within the past 10 days.

Specifically with relation to Rhodesian chrome, I learned long since, from listening to those with greater experience and wisdom than I that—as Lord Palmerston said a hundred years ago in England—England has no permanent friends, she has no permanent enemies, she has only permanent interests. So it is with America. A nation must move to protect its interests. The law of individual morality does not apply to national morality or to nations.

Would that it could be. We are one Nation under God. I believe that we move more ethically and we move more persuasively in the moral field, but we are not always allowed the luxury of individual morality in our diplomacy.

The premise of individual morality is self-sacrifice. But for the leader of a country, the primary duty is the safety and protection of the people. The last thing the Government leader does is sacrifice his Government or the interest and the safety of his own people. Individual morality and national morality are not one and the same thing.

I have always resisted, if I could, trying to exact our way of life on all other nations in accordance with the United Nations Charter. I wish someone was here in the Chamber now who supports the United Nations, because they so often quote the United Nations Charter and international law and the original preamble and the premises of the United Nations so that we do not interfere in the sovereignty or internal affairs of the several member nations.

Yet on other occasions they are ready and willing to do just that. And on the matter of the trade bill, I will join them. I have joined in the Jackson resolution. The distinguished Senator from Minnesota (Mr. Humphrey) has been the leader, along with Senator Jackson, on that.

All I ask is that when we get to Rhodesia, let us not become suddenly holier-than-thou. I do not know where we come by this sanctimony now about the United Nations and its Charter.

Let us speak about the United States. Let us allude, as Palmerston urged, to the interests and well-being of the American people. The United States needs chrome. We are a steel-producing nation; 67.3 percent of the world's chrome supplies lie within Rhodesia. We tried to have an impact in Rhodesia, during the latter 1960's, by joining in the United Nations Sanctions. That effort was a total failure. All we did was cut our nose to spite our face. We learned that Russia—a Communist country—was taking chrome from Rhodesia and reshipping it to the United States at three times the cost.

Rather than exact the moral principles of self-government that we had hoped to bring about in a more vivid fashion with that particular United Nations resolution, in practice we found that we were rewarding probably an even more heinous situation in the Communist country of the U.S.S.R. and paying three times the price for it. That is why we passed the Byrd amendment 2 years ago. That is why the Byrd amendment is right for America.

Mr. President, this issue is very clear cut. I wish someone would come in here in these last minutes of the debate and argue the point, because I think we are all in support, generally speaking, of the free-fighting people of Israel.

We have under the United Nations Security Council, a unanimous resolution, No. 242, passed in November of 1967, which the Senator from Minnesota and everyone else was for.

Mr. President, I read a statement in the newspaper that several of the Senators debating this matter are saying, "Every right thinking person in Washington disagrees with the Byrd amendment." Well I disagree with them.

The PRESIDING OFFICER (Mr. Cannon). The 6 minutes of the Senator from South Carolina have expired.

Mr. HOLLINGS. Then I will have to yield.

Mr. HARRY F. BYRD, JR. Mr. President, does the Senator want an additional minute?

Mr. HOLLINGS. It struck me about the "right thinking people in Washington" statement that one of the most factual and lucid and right-thinking statements on this whole matter was delivered in this Chamber on Monday by the distinguished Senator from Nevada (Mr. Cannon). His speech covered the situation thoroughly and dispassionately.

He is chairman of the Armed Services Subcommittee on National Stockpile and Naval Petroleum Reserves and a recognized expert on the stockpiling of vital strategic materials. I wish I had the time to cover some of the points the distinguished Senator from Nevada made, but I know that time is limited. He is to be commended on the depth and quality of his statement.

I appreciate very much the courtesy of the Senator from Virginia in yielding me this time, and I commend him for the leadership and wisdom he has given us on this important matter.

Mr. HARRY F. BYRD, JR. Mr. President, I am very grateful to the Senator from South Carolina for his strong support.

Mr. President, I reserve the remainder of my time, and I hope that any time to run now will be counted against the opponents, who are not here to debate the bill.

The PRESIDING OFFICER. The Chair would advise the Senator from Virginia that if no one yields time, then time will run against both sides equally.

Mr. ROBERT C. BYRD. Mr. President, if the Senator from Virginia will yield me 10 seconds, I ask unanimous consent that the time on the first rollcall vote today be limited to 15 minutes rather than 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. Who yields time?

Mr. CURTIS. Mr. President, will the Senator from Virginia yield me some time?

Mr. HARRY F. BYRD, JR. I yield 2 minutes to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 2 minutes.

Mr. CURTIS. Mr. President, I shall support the position of the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.) and vote against cloture.

It is not my purpose in this brief time to discuss the merits or demerits of the proposal before us.

I invite attention to an extremism which appears in the title of the bill which begins, "To amend the United Nations Participation Act of 1945 and to halt the importation of Rhodesian chrome."

Now, Mr. President, people have a perfect right to argue their position on that. But what right has any Senator or any group of Senators to introduce a bill into the Senate the purpose of which is ". . . to restore the United States to its position as a law-abiding member of the international community"?

Mr. President, the United States of America is—I repeat is—a law-abiding member of the international community.

No nation in history has a more honorable record, has fewer blemishes in its history, or has been more generous toward all mankind.

Personally, I am suspicious of any piece of legislation that starts out as its premise, branding the United States of America as not being a law-abiding member of the international community. The title of this bill is outrageous. It shows the intent and purpose of the move.

The PRESIDING OFFICER. Who yields time? If no one yields time, the time will be charged equally to each side.

Does the Senator from Minnesota desire to use his time or shall the time continue to run? The time is running against each side equally at this time.

Mr. HUMPHREY. It is the understanding of the Senator from Minnesota that each side has 15 minutes.

The PRESIDING OFFICER. Now 14½ minutes remain to the Senator from Minnesota.

Mr. HUMPHREY. I yield 3 minutes to the Senator from Wyoming.

Mr. McGEE. Mr. President, rather than review the long story of this business, I want to point out what is coming to a head here. What is really on the line is a delaying tactic to prevent the Senate from voting on the central issue. The central issue is not chrome from Rhodesia. The central issue is not repealing something just to repeal it. The central issue is, What is going to happen to the United Nations? It is the United Nations that is on the line here today.

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. McGEE. I have only 3 minutes.

It is already laid on the line that we have no longer any basic strategy consideration in the Rhodesian chrome issue. It is already laid on the line that we have no great trade considerations, with the exception of two or three companies. It is already on the line that labor in this country is being hurt by our violation of sanctions. It has already been laid on the line that the Byrd amendment impedes the efforts of the foreign policy of the United States, as testified to by the Secretary of State, Dr. Kissinger, as petitioned by the President of the United States. They ask that we get this off the books and get the United States back into the United Nations, with a clean record of integrity.

We cannot sneak out of the U.N. on the unilateral action of this body. If we are going to get out of the U.N., let us start legislation that says precisely that. Let us not bring in all this balderdash about chrome from Rhodesia.

So, Mr. President, that is the issue here, and every Member of this body ought to know what he is voting. He is voting to start getting out of the U.N. There are those who are telling us now, "Get the U.S. out of the U.N. out of the U.S." Let them say so. Let us be forthright about it.

The United States of America is the only member of the United Nations that has flagrantly, unilaterally defied its own action in that body. It means that if our credentials are to remain in good faith in a world community that, God knows, is troubled sufficiently now, that if the United States is to go back under the charter of the United Nations and protect its interests through that process, this amendment must be repealed. That is the whole issue.

We are only asking our colleagues here, in their consideration, that the Senate of the United States, which is being watched by the world at this moment, be permitted to vote on the question of repeal and not to hide behind the two-thirds majority required to achieve cloture.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. HUMPHREY. I yield myself such time as I may need.

I. THE UNITED STATES HAS VIOLATED INTERNATIONAL LAW AND BROKEN ITS TREATY OBLIGATIONS TO THE UNITED NATIONS

Article 25 of the U.N. Charter states that all member states are legally bound to comply with sanctions. Section 5(a) of the United Nations Participation Act of 1945 gave the President express authority to implement sanctions when imposed by the United Nations.

The United States fully supported sanctions against Rhodesia in the Security Council. At that time, we made a national commitment to comply with sanctions. We have broken our word.

We need now more than ever to build the faith of other nations in our commitment to treaty obligations and international agreements:

The international monetary situation is in a state of flux. We want to negotiate new agreements that reflect the new realities. And we want other nations to participate in these negotiations with confidence that we will abide by agreements made.

Some have questioned the strength of our commitment to NATO, wondering if we would, in fact, come to the defense of Europe if we felt the costs to the United States would be great. We are now seeking to reassure the European nations that NATO is still important to use and that we would defend democracy in Western Europe if it were threatened.

We are preparing for another round of trade negotiations in the GATT. We will want other nations to comply with the rules of the GATT and to trust that we will also comply with them.

We have recently finished one round of strategic arms limitation talks and are proceeding with another. If both sides live up to the commitments made at these talks, the threat of devastating war will be decreased and the drain of exorbitant defense spending on the economies of the United States and the Soviet Union will be lessened. The Soviet Union recently expressed its trust in the new "détente" and in these agreements by greatly reducing its defense budget. But we cannot keep this trust if we violate our international agreements.

Those who argue that the United States should not have to comply with international law and should not have to live up to treaty obligations when it is inconvenient for us would probably like to see this country isolated from the rest of the world. This is not possible.

The United States needs raw materials produced in other countries.

The United States needs markets for her exports and internationally observed rules for trade.

The United States needs arms limitation agreements and nuclear nonproliferation agreements if we are to be at all secure and if we want to use our resources to improve the quality of life in this country.

The United States cannot afford to live in a world where nations obey international law and fulfill treaty obligations only when it costs them nothing to do so. Yet in violating international law and breaking our treaty obligation to the United Nations, we are setting an example for the other nations to follow.

QUOTATIONS ON U.S. VIOLATION OF INTERNATIONAL LAW BY BREAKING SANCTIONS AGAINST RHODESIA

Ambassador Scali:

> Other nations, regardless of their feelings as concerns southern Africa, can only be alarmed over the challenge to international law, to the sanctity of treaties, and to the concept of collective security offered by Section 503 of the 1971 Military Procurement Act . . .

> We could find that America's friends begin to doubt the dependability of an ally that is willing to disregard its obligations under a treaty central to the whole concept of collective security, as the U.N. Charter.

Former Chief Justice Earl Warren:

> This nation has never made a more solemn or fateful commitment than it made when it ratified, by an overwhelming majority, the treaty commitment represented by the Charter of the United Nations. Under that treaty, we firmly committed ourselves to observe, abide by and carry out the orders of the Security Council where the veto gave us the power to block any action with which we disagreed . . . there was a profoundly negative significance in the . . . action of our Congress in voting to violate our treaty commitment and authorize the importation of Rhodesian chrome ore.

II. THE VIOLATIONS OF INTERNATIONAL SANCTIONS AGAINST RHODESIA HAS SERIOUSLY UNDERMINED OUR PRESTIGE AND EFFECTIVENESS IN THE UNITED NATIONS

The General Assembly has passed four resolutions appealing to the United States Government not to implement legislation allowing the importation of goods under sanctions. Another resolution was passed by the General Assembly requesting "states with legislation permitting the importation of minerals and other products from Southern Rhodesia to repeal it immediately."

The United States has had increasing difficulty in marshalling the votes we need in the General Assembly on issues of importance to us. Our violation of a commitment made by the member states of the U.N., a commitment which is extremely important to many of these states, makes it much harder to get their cooperation on issues of importance to us.

The United States is committed to the United Nations. We were instrumental in forming it. Secretary of State Kissinger recently reaffirmed—in a speech before the U.N. General Assembly—our commitment to this organization which is more important to us now than when it was formed:

> My country remains committed to the goal of world community. We will continue to work in this parliament of man to make it a realty . . .
>
> We strive for a world in which the rule of law governs and fundamental human rights are the birthright of all. Beyond bilateral diplomacy, the pragmatic agreements and dramatic steps of recent years, we envisage a comprehensive, institutionalized peace encompassing all nations, large and small—a peace which this organization is uniquely situated to foster and to anchor in the hearts of men. . .
>
> In this spirit we ask this Assembly to move with us from détente among the big powers to cooperation among all nations, from coexistence to community.

These appear to be empty words when the United States is violating sanctions imposed by the United Nations on the grounds that "fundamental human rights are the birthright of all."

The United States had the power to veto the sanctions resolutions in the Security Council; but we did not. We gave our full support to those resolutions.

How can we expect nations which do not have the veto power in the Security Council to comply with U.N. decisions when we who have the veto power do not comply with them?

We believe the Security Council must be able to act quickly and effectively in order to avert war, avoid the escalation of violence.

International sanctions is the most effective non-violent weapon the Security Council has to counter violence. This is the first time in the history of the U.N. that this weapon has been used.

In violating these sanctions, we have undermined the effectiveness of the Security Council. By setting the example of a permanent member violating a commitment made in the Security Council, we have perhaps weakened the binding nature of agreements made there.

This undermining of the Security Council runs counter to our stated commitment to making this body a stronger instrument in the maintenance of world peace.

During the recent Middle East crisis we saw the importance of a strong Security Council. It is important that both sides view the agreement made there as binding.

Senator CANNON pointed out that the Arabs were violating a United Nations agreement in withholding oil from the United States.

Was he implying that the United States should follow the lead of the Arab States in violating commitments to the United Nations?

Is it not more accurate to assume that the Arab States were following the lead of the United States?

This country played a major role in founding the United Nations. We have the power to veto any decision made by the U.N. If we refuse to comply with our treaty obligations to the U.N., we can only expect other states to follow our example.

III. OUR VIOLATION OF SANCTIONS AGAINST RHODESIA HAS SERIOUSLY DAMAGED OUR RELATIONS WITH THE OTHER AFRICAN STATES

We cannot dismiss lightly the impact our seeming support of white supremacy in Rhodesia has had on our relations with the African States. These States are becoming increasingly important to the United States as a source of valuable raw materials, a market for our products and a focus of foreign investment.

An example of how our stand on white supremacy could seriously hurt us economically is our relations with Nigeria.

In an article from the December 10 Washington Post, David Ottaway pointed out:

> American-Nigerian relations seem only correct, not close.
>
> Nor are the prospects for an improvement in U.S. ties with Nigeria particularly bright. There is little appreciation here for what Nigerians regard as an American policy of strong support for white-ruled southern Africa and Portugal's colonial African wars.
>
> With Nigeria now taking on a leadership role, the chances for a more open clash between the two countries seem good and Nigeria is not without the means to pressure Washington over its African policy.
>
> American business has a $1 billion investment here already, mainly in the oil industry. The amount is likely to double over the next few years, making Nigeria more important to U.S. investors than South Africa.
>
> In addition, American industry, homes and cars are now getting over 700,000 barrels of Nigerian oil directly or through the Caribbean, establishing this country as a major source of fuel supplies for the United States.

David Newsom, Deputy Assistant Secretary of State for African Affairs, has stated:

> In my four years as Assistant Secretary the exemption on Rhodesian sanctions has been the most serious blow to the credibility of our African policy . . . The impact is greatest in countries where we have very specific interests, such as Nigeria and Kenya, and is greatest among the youth who are the coming generation in Africa.

At their independence, the African States held the United States in high regard because we were committed to human rights and racial equality. We have now lost the trust of many of these states because our commitment to human rights and racial equality in Southern Africa seems extremely shallow. We have not even been willing to make the modest sacrifice of complying with sanctions against Rhodesia in defense of these principles. The African States are beginning to look to other friends—the Arab States—which have shut off oil to South Africa, Rhodesia and Portugal—the Soviet Union and the People's Republic of China—which support the liberation movements.

Those who say the African States do not really care about racial oppression in Southern Africa are engaging in wishful thinking.

The Organization of African Unity was founded to promote the liberation of the African States dominated by white minorities.

South Africa, Rhodesia, Angola, Mozambique, and Guinea-Bisau represent the anachronistic remains of racial oppression on the continent. This is particularly offensive to countries which have recently become independent and proven their ability to govern themselves.

African States bordering on the white-dominated states have been particularly vocal in their criticism of these regimes. They have harbored liberation movements, at great peril to themselves. Among these states are Zambia, the world's leading exporter of copper, and Zaire, a country wealthy in raw materials and the supplier of a 90 percent of our cobalt.

African States comply with sanctions against Rhodesia, some at great cost. Zambia has had to reroute most of her trade at great expense in order to comply with sanctions.

The African States and nonwhite states throughout the world see white supremacy in southern Africa as one of the most important international political issues. If the United States is to keep the trust of these countries, if we are to convince them that we want to share as equal partners in the development of their valuable resources, then we will have to prove that our commitment to human rights and racial equality is a real one.

IV. U.S. VIOLATION OF SANCTIONS HAS UNDERMINED THE CREDIBILITY OF OUR COMMITMENT TO INTERNATIONAL COOPERATION IN THE PEACEFUL RESOLUTION OF CONFLICT

Sanctions are the most effective weapon the international community has to apply nonviolent pressure on nations which pose a threat to international peace.

They were imposed on Rhodesia because it was recognized that the attempts of the white minority there to govern the black majority by force posed a serious threat to international peace.

It was hoped that sanctions would force the illegal regime to reach a negotiated settlement with the black population.

The chances for such a negotiated settlement are now greater than ever before:

A new political party committed to a nonviolent transition to majority rule has won the support of the African population in Rhodesia. This party is seeking negotiations with the white minority regime.

On May 22 of this year the Security Council passed a resolution calling for a strengthening of the sanctions program. This is likely to close the biggest gaps in the sanctions program.

The United States can either join the rest of the international community in this attempt to strengthen sanctions and force the regime to negotiate; or we can continue to give moral and economic support to Ian Smith in his attempt to maintain his rule through force.

Those who argue that sanctions against Rhodesia are unjustified because it is not a threat tc international peace do not know the facts:

In the past year, 20 Zambian civilians have been killed by Rhodesian land mines along the Rhodesia-Zambia border.

In the last few months, there have been reports of Rhodesian army raids into Mozambique.

This violence is likely to grow and to continue to spread to neighboring states if a negotiated settlement is not reached, and if the Africans find they have no way of winning their rights other than through violence.

If our claims that we seek negotiated settlements of disputes are to be credible at all, we should support this attempt to use international pressure to force the Rhodesians to negotiate.

Mr. President, the Senator from Wyoming, who just addressed the Senate, and who has to attend a meeting on the Defense Appropriations, stated the case very well.

It is my understanding that today we will be opening our debate on the Defense Appropriations, a bill that will involve well over $70 billion. We are going to dispose of that bill within a day. But when we come to an issue such as the one now before the Senate—namely, the fulfillment of our obligations under international law and treaty—we have delay, delay, and delay.

Whether we individually like it or not, article 25 of the United Nations Charter states that all member states are legally bound to comply with sanctions. I have heard, of course, that there are all kinds of violations of sanctions, and there is no doubt about that.

But ours is the only government of any major consequence that by an act of its parliament has seen fit to violate our commitments and obligations under the treaty. I do not say that we could not do it; I simply say it is wrong to do it.

The United States fully supported sanctions against Rhodesia in the Security Council. At that time we made a national commitment to comply with sanctions, and we have broken our word. I heard it said in the Senate the other day that, after all, the Arab States were engaged in a kind of embargo with sanctions; that they have violated the Charter. That is true. But we are not in much of a position to condemn them; we are not in much of a position to condemn the Arab nations for having violated their obligations under the Charter. If we, by act of Congress, condemn them for violating the Charter, we have weakened our own position.

I have heard it argued that economic growth in Rhodesia will be beneficial to the African population if we buy chrome from Rhodesia; that that will mean that everybody in Rhodesia will be better off. Mr. President, the argument that economic growth in Rhodesia will be beneficial to the development of Rhodesia must be judged against the economic growth as it affects everyone in South Africa. Equal rights will give the white regime in Rhodesia more power and will give them the resources to break down the kind of power that now exists in that country and exists in South Africa.

So I do not think we make a case for what we have done under the so-called Byrd amendment by saying that everybody else is doing it; why not us?

Mr. President, our Government, through acts of Congress, has violated the law. What is more important, the United Nations itself has, from time to time, expressed its concern over our violation of the Security Council resolution of sanctions against Rhodesia. The General Assembly has passed four resolutions, appealing to the U.S. Government not to implement legislation which would allow the importation of goods under sanctions.

Another resolution was passed by the General Asembly, requesting that states which have passed legislation permitting the importation of minerals and other products from Southern Rhodesia, repeal them immediately. We are paying a heavy price for that kind of action.

The United States has had increasing difficulty in marshaling the votes we need in the General Assembly on issues of importance to us. Our violation of a commitment made by the member states of the United Nations, a commitment which is extremely important to many of these states, makes it much harder to get their cooperation on issues of importance to us.

I again refresh the memory of Senators that we are acting in cooperation with countries in Africa.

Maybe it should be noted once again how much this country consumes and how much of it we have to get from other people. In the energy field, with 6 percent of the world's population, we consume over 35 percent of all the energy in the world. With 6 percent of the world's population we consume over 40 percent of all the natural resources produced in the world. It just so happens that Africa is a treasurehouse of resources vital to the economic growth and development of the United States.

We have observed how the Arab countries can take action because they did not like our policy. One of these days the African countries are going to say they do not like our policies and they are going to shut off materials like tin, iron, manganese, cobalt, and a host of materials necessary for this Nation. But there is a better way to do things. The better way is to cooperate; the better way is to do what is right.

We do not condone in the United States 5 percent of the people controlling 95 percent of the people. We believe in one man, one vote.

But Rhodesia is a flagrant example of the minority controlling the lives of a vast majority. Rhodesia is an insult to the whole concept of equal rights and equal treatment under the law. We are not arguing just chrome here. We are arguing political principles.

I heard the argument here not long ago that, after all, Rhodesia declared her independence from Great Britain just as we did. Fine. But let me tell Senators there is a lot of difference in declaring independence and saying that all men are created equal, and that they are endowed by their Creator with certain inalienable rights, and among these are life, liberty, and the pursuit of happiness. That is not what Rhodesia says. Their unilateral independence declares that a certain 5 percent of the people are more equal than others. To the everlasting credit of Great Britain, she said that when a country was breaking away from their empire and declaring independence, they wanted it on the basis of equality of treatment for their citizens.

Mr. President, I join with many people who have spoken on this matter: The President of the United States, the Secretary of State, the Secretary of Defense, the Ambassador to the United Nations, the former Chief Justice of the United States, and a host of editorial opinion in this country asking us to do a very simple and decent thing; namely, to abide by the law to fulfill our obligations under treaty; to do what is right. The labor movement of this country representing the working people has come in to testify in support of the resolution before us and against the so-called Byrd amendment. The witnesses who have come in to support the Byrd amendment are those that are in certain types of steel industry, and mainly one company.

I submit that the action that was taken here is not good for American mining; it is not good for American industry; it is not good for our position in the world community; it is not good for our long-term needs for resources.

In other words, we have locked ourselves in by the so-called Byrd amendment to a position that is detrimental to us politically, socially, and economically. We have the opportunity now to correct that wrong.

Ambassador Scali, speaking in the United Nations, said it well when he said:

> Other nations, regardless of their feelings as concerns southern Africa, can only be alarmed over the challenge to international law, to the sanctity of treaties, and to the concept of collective security offered by Section 503 of the 1971 Military Procurement Act . . .
>
> We could find that America's friends begin to doubt the dependability of an ally

that is willing to disregard its obligations under a treaty central to the whole concept of collective security, as the U.N. Charter.

The PRESIDING OFFICER. All of the Senator's time has expired.

Mr. HARRY F. BYRD, JR. Mr. President, I yield 2 minutes to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. ERVIN. Mr. President, I rise in defense of the Charter of the United Nations and also in defense of the Constitution of the United States. I think the Byrd amendment is in harmony with both of these documents.

Rhodesia is either a part of the British Empire or it is an independent country. How the voting is done in Rhodesia is an internal matter, just as it is in the United States as to who is eligible to vote.

I do not approve of the actions of Rhodesia in some respects but neither do I approve of the action of Russia in many respects, and as a result of the embargo on chrome from Rhodesia we have been buying chrome from Russia.

The Charter of the United Nations states in section 7 of article 2, chapter 1:

> 7. Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.

There is nothing in the Charter which gives the President of the United States rather than Congress the power to regulate our foreign commerce. The Byrd amendment is absolutely consistent with the Charter of the United Nations and it is consistent with the provisions of the Constitution which states that Congress and not the United Nations and not the President shall regulate the foreign commerce of the United States.

Mr. HARRY F. BYRD, JR. I thank the distinguished Senator from North Carolina.

Mr. President, I yield 1 minute to the distinguished Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. ALLEN. I thank the Senator from Virginia.

Mr. President, one thing that rubs me about this bill is the title that says it is going to help the importation of Rhodesian chrome and restore the United States to its position as a law-abiding member of the international community.

I wonder why our country is not right sometimes in the eyes of leading political figures here in the Senate and the Nation. Why is our adversary always in the right and why are we not sometimes in the right?

Another thing to which I object is the statement made on this floor that the provisions of the United Nations' Charter have equal standing with the Constitution of the United States. The next thing you know, Mr. President, when the President and the Vice President take office they will have to swear to support and defend the Constitution of the United States and the Charter of the United Nations.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HARRY F. BYRD, JR. Mr. President, I cannot accept the premise that this legislation enunciates, namely, that any action of the Security Council of the United Nations, in the words of the sponsors of S. 1868, becomes the same as part of the Constitution of the United States and the supreme law of the land. I cannot accept that.

The title of this measure says that the United States is not a law-abiding member of the international community. I refer to the title of the pending legislation.

The pending amendment which this legislation would repeal has been tested in the courts of the United States. It has been upheld by the courts of the United States.

I also point out that when the legislation was enacted 2 years ago it received support from representatives from 46 of the 50 States.

I make one final comment, and that is that I have been trying hard for some time to get the chief sponsors on the floor where I could have a debate with them, but only last Friday did I have the opportunity to have a debate with the chief sponsor of this bill, the distinguished and able Senator from Minnesota.

Mr. HUMPHREY. Mr. President, will the Senator yield at that point?

Mr. HARRY F. BYRD, JR. I think it would be a great mistake to invoke cloture. There are a lot of questions I want to address to him. I was here last night when the Senate adjourned, ready and willing to ask questions about this proposal, because there are many questions I want to ask the Senator.

Mr. TAFT. Mr. President, we have been hearing a great deal of talk about the moral aspects of trade with Rhodesia. I feel that most of the statements we have heard have been oversimplifications. In fact, the moral issue of this trade is vastly more complex than it might seem on the surface.

The first moral question we must ask ourselves—and it is a very serious question—is how we can best help the people of Rhodesia, black and white, move toward a racially just society, rather than strut our good intentions about on the public stage. In the latter respect, denunciations and condemnations might be in order, and economic sanctions would be a proper tool. Such sanctions would purport to show the public that we, in our morally superior position, will not associate with those who do not view all men in their nations as equal in rights.

If, however, our morality causes us to feel responsible for the results of our actions as well as for our intentions, we must be more cautious. We must review the effects that sanctions have had upon race relations in Rhodesia, and consider whether another course of action might not yield better results.

When Rhodesia declared her independence from Britain, she did not have an apartheid system and racial separation was more a product of economic than political and legal segregation, and, however much we deplore any segregation, that based on wealth can sometimes be overcome by the efforts of the individual and by social change. What does the application of sanctions seem to have done to this situation? Firstly, it pushed Rhodesia economically into the arms of South Africa. This economic relation fostered closer political relations, in terms of domestic as well as foreign policies. In other words, it facilitated and encouraged the importation of apartheid into Rhodesia.

But more importantly, sanctions replaced the confident and, compared to South Africa, more relaxed attitudes of the white Rhodesians with an outlook of fear and tension—an outlook which produced rigidity and a siege mentality. The feeling of having their very existence threatened led the whites of Rhodesia to become, not more accommodating with their black fellow countrymen, who were, supposedly, being helped by the sanctions, but harsher and more rigid toward them. I think that even an amateur psychologist should understand the inevitability of this reaction by the white Rhodesians.

As Rhodesia provides an example of how sanctions, with their attendant economic and psychological hardships, cause deterioration in race relations, so we see how in the same time period prosperity has tended to break down racial barriers in South Africa. The economic pressure of the need, in a booming economy, for skilled labor, coupled with the confident and relatively secure attitude of white South Africans, has brought about a degree of rapid removal of barriers of apartheid. I ask permission at this time to insert into the Record an article from Time magazine of October 25, 1973, describing this breakdown of apartheid:

There being no objection, the article was ordered to be printed in the Record, as follows:

Softening Apartheid

For more than a generation, the cornerstone of South Africa's internal policy has been apartheid, or "separate development" for the country's 16 million blacks, 4,000,000 whites, 2,000,000 "coloreds" (mixed bloods) and 750,000 Asians. To protest such racist policies, the United Nations General Assembly last week refused, by a vote of 72 to 37, to accept South Africa's credentials. It was a symbolic gesture, signifying the assembly's disapproval but carrying no force to keep the nation from taking its place in the U.N. Time Correspondent Lee Griggs recently traveled extensively throughout South Africa for the first time in eleven years to assess the plight of blacks. He discovered that in countless ways the granite-hard face of apartheid is cracking.

In perhaps the most significant modification of apartheid since it became national policy in 1948, Prime Minister John Vorster last week virtually abandoned the Job Reservation Act, under which the best jobs in the country have long been reserved for whites. Though the law will remain on the books, Vorster declared that, if employers and trade unions approve, the government will allow more and more blacks to move into skilled jobs. The goal, he said is to find ways to improve "the productive use of non-white labor."

The reasons for the change are hardly altruistic. South Africa's booming economy is faced with a white-labor shortage, and the obvious solution is to train blacks to fill the gap. Blacks now drive trucks, and supervise shunting in rail yards; soon they will take over 14,000 mining jobs formerly reserved for whites. The change is also a result of continuing social pressures—the migration, for example, of Afrikaner farmers who are moving to the cities and becoming partly liberalized in the process.

Whatever the reasons, the effects are visible everywhere. In the capital city Pretoria, public parks were integrated a few weeks ago. On a recent evening in Pretoria's new luxury hotel, the Burgerspark, the dining room was filled with almost as many black guests as white. Elevators may still carry "Slegs vir blankes" (reserved for whites) signs, but the rule is ignored. Whites stand beside blacks in many of the same queues. Air travel is integrated. Some parishes of the Dutch Reformed Church now permit multiracial attendance at weddings, funerals and other services.

The Immorality Act, which bans interracial sex, is still in force, but prosecutions are rare. Even the courts seem to be mellowing. A black man recently sued and collected damages from a white who had called him a kaffir (the South African equivalent of nigger). Ever since blacks and whites competed against each other in body-contact sports at the South African Games last January, integration in athletic events has been increasing. This month blacks played against whites for the first time in an international cricket tournament.

AID CENTERS

One of the most hated aspects of apartheid has been the "pass laws," which require blacks to carry permits whenever they travel outside the semiautonomous black regions called Bantustans. The pass laws are still in effect, and more than 600,000 blacks were arrested last year for violating them. But nowadays an offender is less likely to be automatically jailed for a pass-law transgression or other minor infraction—partly because of the work of a string of government "aid centers" that have been established to help blacks cope with the law. Moreover, the area within which a single pass is valid has been increased—from about 50 miles to as much as 180 miles.

None of these changes exactly qualifies John Vorster for a human-brotherhood award. South Africa's blacks, after all, still have no vote, no right to own property and no real freedom of movement outside the black regions. And, given the depth and prejudice of white South Africa's attitudes, it remains to be seen whether a profound social change has really begun. But the short-term trend is clearly toward modest liberalization, particularly in business and industry, and for this the Vorster government deserves a measure of credit.

Mr. TAFT. It seems clear, not only from these examples, that prosperity is one of the best tools for breaking down social barriers in a society, and, conversely, that the tension arising from adverse economic pressure and from outside moral condemnation may strengthen such barriers. I thus return to my original question: Are we concerned only with a showing of moral rectitude, or are we genuinely interested in helping the people of Rhodesia, white and black, toward resolving racial and nation dividing problems? In the latter case, I suggest that sanctions are probably counterproductive.

Further, I must suggest that the direction in which sanctions are pushing Rhodesia—a direction for which, also, the white Rhodesians bear heavy responsibility—is toward the ultimate moral catastrophe, racial war. It is clear to all of us, I think, that such a tragedy must be avoided, that the course of events must be reversed.

But sanctions have not reversed it and show no promise of reversing it. Can our morality permit us, then, to continue sanctions, to vote to strengthen them? I submit that, as we must try to bring Rhodesia on to a different course, so we must take a different course ourselves. All the good intentions in the world will not remove our moral responsibility if we vote to continue sanctions, and those sanctions help push Rhodesia into racial war.

There has also been a great deal of talk about the moral and practical necessity for the United States to comply with the United Nations resolution imposing sanctions on Rhodesia. Were the United Nations acting consistently on the basis upon which sanctions were imposed on Rhodesia, and were the other members of the U.N. acting, in their trade policies, as they vote in the U.N., this would be true. In fact, in both cases the U.N. betrays astounding hypocrisy from which we should be trying to rescue it.

In terms of the action of the U.N. collectively, the sanctions on Rhodesia have moral value only if they are coupled with sanctions against all nations which, as a policy, discriminate against minorities. If this is U.N. policy, where are the sanctions against other oligarchies and the Soviet Union, a nation which, in the view of many, is equally harsh on minorities as is Rhodesia? In fact, Rhodesia suffers sanctions because she is a small nation. Others do not suffer them because they are bigger or more favored in their allies. I will leave to my distinguished colleagues the judgment of the moral worth of that basis of so condemning a nation.

Furthermore, it is no secret that many members of the U.N. voted sanctions with great fanfare, then ignored them as soon as they or their nations smelled a profit. These Nations—I include the Soviet Union among them—now denounce us as immoral for doing openly, by act of Congress, a right always reserved by our constitution, what they have done with falsified shipping documents and third-flag freighters. Again, I leave judgment of the worth of these denunciations up to my colleagues.

In fact, the sanctions were voted originally and are clamored for now by the U.N. not as a reflection of any general, consistent, morally based policy, but because of the political strength of the Afro-Asian bloc. And what the whole affair points out is the need for facing up to the power, in the U.N. and elsewhere, of that bloc. If the U.N. is to be effective, it cannot be dominated by any group representing a special power and interest bloc.

I have always stood for the strengthening of international institution and international law. I currently have pending before the Senate Foreign Relations Committee five resolutions designed to strengthen the International Court of Justice. The case of the U.N. sanctions against Rhodesia is a good example of why our international institutions need to be reformed and strengthened. The best way to deal with the Rhodesian problem, and with all problems involving repressive policies on the part of a State, would be through fair, impartial, and universally accepted and respected international organizational courts. The U.N. dominated as it has been on such questions by the interests of the Afro-Asian bloc, can make no legitimate claim to these qualities.

Let us, then, instead of agreeing to the current hypocritical situation in the U.N. by caving in to the Afro-Asian bloc, take the lead in reforming the U.N. and the other international organizations such as the International Court of Justice. Let us have the courage, first, to demand the end to a masquerade of politics in the cloak of righteousness, and insist on real justice, real fairness, real morality in and from these bodies. Then, the United States will adhere, by law, to these organizations' decisions.

There is, finally, a moral aspect to the wider political implications of a caving in, in the name of "morality," to the demands of the Afro-Asian bloc. The next target of that bloc is our ally, Portugal. Portugal is vital to our defense structure and Europe's. But more importantly, in the face of a very important moral issue, the rescue of Israel from the recent onslaught of her neighbors, only Portugal, among all our allies, had the courage to give us use of the facilities we needed to resupply Israel. This decision by Portugal—which has led the Arabs to redouble their help to the Rebels in the Portugese overseas provinces—had moral implications, and those of us who support Israel's right to exist have a moral debt to Portugal. I submit that the demands by the Afro-Asian bloc for our abandonment of Portugal should be examined and rejected, morally as well as politically, as not acceptable to us.

Accordingly, I will cast my vote against S. 1868. I urge my colleagues to consider seriously the real moral questions of this bill, the cause of peace and strength, before they make their final decision on this issue.

Mr. KENNEDY. Mr. President, I am pleased to take this opportunity to express, once again, my full support for S. 1868—because this legislation will restore the U.S. commitment to the United Nations resolution which imposed economic sanctions against Southern Rhodesia.

The United States stands as the only country in the world to actually enact a law that breaks the United Nations agreement on this matter. When section 503 of the Military Procurement Act was written into law in 1971, that provision allowed shipments of more than 70 commodities to enter U.S. ports from Southern Rhodesia. Presumably, only imports of strategic and critical materials were authorized under section 503. It is conceivable that chromium ore might fit that category, but no one has adequately explained why the Treasury Department issued an import license to also allow goose down to be exported from Rhodesian farms.

The entire handling of this sensitive issue has been clouded and distorted well beyond reasonableness. For the arguments used in 1971 and in 1972 by proponents of section 503 proved to be wholly unfounded and baseless. Congress succumbed to six spurious contentions in 1971; namely, that:

First. A roll back of sanctions would end the U.S. dependence on the Soviet Union for chrome ore—a critical material whose shortage could endanger the national security.

Second. The chrome amendment would stop the inflationary rise in the price of Russian chromite since the availability of Rhodesian chromite would halt the rise in Russian prices.

Third. The United States was not acting realistically. Other nations were violating the sanctions, so there was no reason for the United States to continue sanctions.

Fourth. American jobs would be lost unless Rhodesian chrome could be imported to keep the industry competitive. According to this theory, the U.S. ferrochrome industry was being threatened by the sanctions.

Fifth. Sanctions prohibit free trade. And the removal of sanctions would be wholly in the interests of the United States because that would stimulate free trade.

Sixth. Finally, it was claimed that the United States had no legal basis for meddling in the internal affairs of another state. This argument contended that the President had no authority to maintain sanctions since the Congress never voted for the American sanctions program.

These are the arguments used during congressional debates in the fall of 1971 when our Government stumbled into its indefensible position on this important matter. Twenty-three months have elapsed since the chrome amendment was passed and the scorecard on the actual effects of this amendment is most dramatically described by the U.S. Ambassador to the United Nations—the Honorable John Scali. In his testimony last September, before the Senate Foreign Relations Committee, Ambassador Scali discussed "* * * the costs the United States pays for keeping" the chrome amendment on the books.

First, the Ambassador cited the direct economic costs of the amendment. In exact contrast to the claims made by chrome proponents—the amendment's 23-month history demonstrates that several U.S. factories are suffering serious losses because of chrome imports. For those who claimed jobs would be lost unless imports were allowed, the truth is that at least one firm is threatening to close its plant with over 300 workers, due to the imports of ferrochromium.

Second, Ambassador Scali cited his personal experience about the effect the chrome amendment has on our foreign relations. He declared that there is no question that the United States is paying a price far out of proportion to any benefits that "section 503 has brought, or might ever bring, our country." The attitude of many nations as seen by Ambassador Scali, "is that if the United States is going to take a position detrimental to their interests on an item of little concern to us but of great importance to them, they will do the same to us when they get the opportunity." Not only the governments of black Africa are concerned about section 503, but the British Government has made it clear that the repeal of section 503 would aid negotiations to solve the British-Rhodesian impasse. Yet, no one knows better than Ambassador Scali that the chrome amendment gives the rebel Rhodesian regime an undeserved psychological boost. As long as the United States violates the sanctions agreement, Rhodesia's Ian Smith can feel assured that his country's Government has a willing ally in the United States.

Perhaps, the most persuasive reason for demanding an end to the chrome amendment is to simply accept the fact that the United States does not need chrome from Southern Rhodesia for strategic defense requirements or for any other reason. One day after the first shipment of Rhodesian ore docked at a Louisiana port last year, the Senate approved a bill to permit U.S. firms to obtain over 80 percent of the chrome ore from our vast inventory of excess stockpiled ore.

It is clear that the dire predictions made by proponents of the chrome amendment 2 years ago failed to materialize. Indeed, there are explicit illustrations that the amendment has backfired. For that reason, it is vital to fully consider what would emerge if S. 1868 were enacted.

There was never any real validity to the argument that chrome imports were vital to our national security. The present administration has severely challenged claims that the United States ought not to depend upon trade with the Soviet Union. The Russian wheat deal, the multibillion dollar natural gas negotiations with Russia and the overall détente that the United States has established with the Soviet Union have totally erased any basis for that argument in the chrome issue.

Above all, there is the international legal obligation that the United States made in 1966 and confirmed in 1968. We voted for sanctions in 1966 because we believed that it was in our country's best interest. If we had vetoed sanctions, that would have been one issue. But we did not.

And so our violation of that sanction agreement broadcasts to the world what price the United States puts on its word. Let us act now to affirm the claim that all people must be granted personal rights, self-determination and fundamental freedoms. Let us take the first step in that direction and enact the provisions of S. 1868.

Mr. HELMS. Mr. President, the current campaign against the Rhodesian nation is a contradiction wrapped in an absurdity and cloaked in a confusion.

It is a contradiction to punish Rhodesia for its sins, while in the process giving a huge windfall benefit to one of the most wicked regimes in the history of the world.

It is absurd to act against Rhodesia at the behest of a majority vote of the United Nations, when the fact is that the United Nations contains a clear majority of nations which—to put it charitably—are in no position to be giving moral advice to anyone, at any time, for any purpose.

It is confused—confused beyond the dreams of mad logicians—for the United States to be concerning itself with this minor matter of Rhodesia, at a time when the most basic presupposition of our recent foreign policy—détente—is in peril.

Mr. President, I want to explain each of these three points.

First, consider the matter of punishing Rhodesia for its alleged sins, while, in the process, conferring a blessing on demonstrably one of the world's wickedest regimes.

Has Rhodesia sinned? Some say it has.

Is Rhodesia sinning now? Some say it is.

Do these contentions, even if everyone would agree they are accurate, distinguish Rhodesia in any way from every other nation that has existed, does exist or will exist? No, they do not.

The point is, we cannot punish Rhodesia without giving aid and comfort to a regime, the wickedness of which causes Rhodesia's inadequacies to pale to insignificance. I am referring, of course, to the Soviet Union.

It is no secret that the key question before us is whether the United States shall import chrome from Rhodesia.

The United Nations wishes we would not do this. Some in the U.S. Government wish to go along with the United Nations—in this instance, if not invariably.

But few people wish to squarely confront this crucial fact. The United States is going to buy chrome from somewhere and it is not hard to project where that "somewhere" will be if we are denied access to Rhodesian chrome. That "somewhere" will be the Soviet Union.

I do not need to dwell on the contradiction involved in this. Rhodesia, for all her failings, is nothing like the sinister, comprehensive totalitarian tyranny that the Soviet Union is.

Rhodesia, whatever may be her failings, is no threat at all to the peace of her region of the world. The Soviet Union is the biggest threat to the peace of the entire world that the world has ever known.

Rhodesia, whatever her failings is no kind of threat at all to the security of the United States. The Soviet Union is the principal threat to the security of the United States.

Now let me deal with the second point.

It is absurd—literally, absurd—for the United States to act against Rhodesia—or any other nation—because Rhodesia—or any other nation—fails to meet the "high moral standards" decreed by a majority of the nations in the United Nations General Assembly.

Mr. President, we should speak plainly about this.

A majority of the nations in the United Nations are not models of democratic freedom. And a large portion of those nations which are most vigorously denouncing Rhodesia for her racial policies, themselves are hardly models of racial tolerance or political liberty.

My point is simply that a majority vote in the United Nations lacks force—with me, at least—and will, I hope, lack force with the U.S. Congress. There certainly is no reason for us to compromise our national interests to appease the mob instincts of the majority of nations in the United Nations General Assembly.

And the matter of our own national interests brings me, Mr. President, to the matter of confusion. Specifically, it brings me to the matter of the confusion involved in the expenditure of our time and energy punishing Rhodesia at a time when we are engaged in a confrontation with the Soviet Union, the nation that stands to gain most from a ban on imports of chrome by the United Nations.

The Soviet Union today is in mortal—and, be it noted, expensive—contest with us in the Eastern Mediterranean. Yet if we stop importing chrome from Rhodesia, we will become the Soviet Union's best—and, very likely her captive—customer.

This, Mr. President, is the confusion that compounds the absurdity that amplifies the contradiction involved in an attempt to ban U.S. chrome imports from Rhodesia.

I do hope that this Senate will not invoke cloture on debate on this very unwise bill. It is dangerous, and enactment of it must be prevented.

The PRESIDING OFFICER. The time for debate has expired.

Mr. HUMPHREY. I have been asking for weeks to have this legislation brought up——

The PRESIDING OFFICER. The time for debate has expired. The Senate will be in order.

CLOTURE MOTION

The PRESIDING OFFICER. All time for debate having expired, the clerk will now read the motion to invoke cloture.

The second assistant legislative clerk read the cloture motion, as follows:

> We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon the bill (S. 1868), a bill to amend the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome and to restore the United States to its position as a law-abiding member of the international community.

Mike Mansfield
Gale W. McGee
Hubert H. Humphrey
Edward W. Brooke
Floyd K. Haskell
Jacob K. Javits
Quentin N. Burdick
Clifford P. Case
Alan Cranston
Edmund S. Muskie
Philip A. Hart
George McGovern
Abraham Ribicoff
Harold E. Hughes
Frank E. Moss
Daniel K. Inouye
Lee Metcalf
Dick Clark
Ted Stevens
Edward M. Kennedy
Jennings Randolph

CALL OF THE ROLL

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair now directs the clerk to call the roll to ascertain the presence of a quorum.

The second assistant legislative clerk called the roll, and the following Senators answered to their names:

[No. 576 Leg.]

Abourezk
Aiken
Allen
Baker
Bartlett
Bayh
Beall
Bellmon
Bennett
Bentsen
Bible
Biden
Brock
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cook
Cotton
Cranston
Curtis
Dole
Domenici
Dominick
Eagleton
Eastland
Ervin
Fannin
Fong
Goldwater
Gravel
Griffin
Gurney
Hansen
Hart
Hartke
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Kennedy
Long
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

Mr. ROBERT C. BYRD. I announce that the Senator from Louisiana (Mr. JOHNSTON), and the Senator from Arkansas (Mr. FULBRIGHT) are necessarily absent.

I further announce that the Senator from Idaho (Mr. CHURCH) is absent on official business.

I also announce that the Senator from Missouri (Mr. SYMINGTON) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Ohio (Mr. SAXBE) is detained on official business.

VOTE

The PRESIDING OFFICER (Mr. CANNON). Pursuant to rule XXII, a rollcall has been had, and a quorum is present.

The question before the Senate is, Is it the sense of the Senate that debate on S. 1868, a bill to amend the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome and to restore the United States to its position as a law-abiding member of the international community be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Louisiana (Mr. JOHNSTON) and the Senator from Arkansas (Mr. FULBRIGHT) are necessarily absent.

I further announce that the Senator from Idaho (Mr. CHURCH) is absent on official business.

I also announce that the Senator from Missouri (Mr. SYMINGTON) is absent because of illness.

On this vote, the Senator from Arkansas (Mr. FULBRIGHT) is paired with the Senator from Idaho (Mr. CHURCH) and the Senator from Missouri (Mr. SYMINGTON). If present and voting, the Senator from Arkansas would vote "nay" and the Senators from Idaho and Missouri would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Ohio (Mr. SAXBE) is detained on official business.

The yeas and nays resulted—yeas 62, nays 33, as follows:

[No. 577 Leg.]

YEAS—62

Abourezk
Aiken
Baker
Bayh
Beall
Bentsen
Biden
Brooke
Burdick
Case
Chiles
Clark
Cook
Cranston
Dole
Domenici
Eagleton
Fong
Gravel
Griffin
Hart
Hartke
Haskell
Hatfield
Hathaway
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Kennedy
Magnuson
Mansfield
Mathias
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Stafford
Stevens
Stevenson
Tunney
Weicker
Williams
Young

NAYS—33

Allen
Bartlett
Bellmon
Bennett
Bible
Brock
Buckley
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Cotton
Curtis
Dominick
Eastland
Ervin
Fannin
Goldwater
Gurney
Hansen
Helms
Hollings
Hruska
Long
McClellan
McClure
Nunn
Scott, William L.
Sparkman
Stennis
Taft
Talmadge
Thurmond
Tower

NOT VOTING—5

Church
Fulbright
Johnston
Saxbe
Symington

The PRESIDING OFFICER (Mr. TUNNEY). On this vote, there are 62 yeas and 33 nays. Two-thirds of the Senators present and voting not having voted in the affirmative, the motion is rejected.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States, submitting nominations, were communicated to the Senate by Mr. Heiting, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session,

The PRESIDING OFFICER (Mr. CANNON) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on Foreign Relations.

(For nominations this day received, see the end of Senate proceedings.)

LEGAL SERVICES CORPORATION ACT

The PRESIDING OFFICER (Mr. TUNNEY). Under the previous order, the Senate will now proceed to the consideration of S. 2686, with the pending question being to invoke cloture on the bill.

The bill will be stated by title.

The legislative clerk read as follows:

> S. 2686, to amend the Economic Opportunity Act of 1964 to provide for the transfer of the Legal Services program from the Office of Economic Opportunity to a Legal Services Corporation, and for other purposes.

The Senate resumed the consideration of the bill.

The PRESIDING OFFICER. Time for debate is limited to 30 minutes, divided and controlled equally by the Senator from Minnesota (Mr. MONDALE) and the Senator from North Carolina (Mr.

HELMS) or their designees; with the vote to occur immediately upon conclusion of the 30 minutes, with no automatic live quorum call under the rule.

Mr. NELSON. Mr. President, the control of the time on the bill for the proponents should be under my control, and I ask unanimous consent that I be permitted to control the 15 minutes——

The PRESIDING OFFICER. Or the Senator's designee?

Mr. NELSON. Or my designee, yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, is it 30 minutes, with 15 minutes to a side?

The PRESIDING OFFICER. That is correct.

Mr. NELSON. I thank the Chair. I yield 5 minutes to the Senator from New Jersey (Mr. WILLIAMS).

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 5 minutes.

Mr. KENNEDY. I should like to have 4 or 5 minutes.

Mr. WILLIAMS. Mr. President, in the next few minutes we will vote on the motion to close debate on S. 2686, the Legal Services Corporation Act.

As chairman of the Labor and Public Welfare Committee, I have borne witness to the long and difficult path which this bill and its predecessors have taken.

There has been congressional debate on the subject of legal services since the 91st Congress. S. 2686 is, in fact, a product of these debates.

In my judgment, we have had ample time to make up our minds. I urge that we end debate and come to a vote on this issue.

Mr. President, I should like to say at the outset that I have nothing but respect and admiration for the way the managers of the bill, the Senator from Wisconsin (Mr. NELSON), the Senator from Minnesota (Mr. MONDALE), and the Senator from New York (Mr. JAVITS), have handled this complex and sensitive subject. They have pursued the issue of legal services for the poor and disadvantaged with rare combination of passion, patience, and persistence. And that brings us to this critical debate.

Mr. President, it is my firm belief that the constitutional principles of due process and equal protection require that a quality standard of legal representation be provided to all of our citizens regardless of financial status.

Essential to such a system is that it not be subject to political partisanship or constrained by capricious statutory limitation.

I believe that S. 2686 creating an independent Legal Services Corporation satisfies these requisites.

Although previous legislative attempts have ended in deadlock, I am encouraged that this year's efforts will not be in vain.

Strenuous efforts were made by the committee to reconcile its philosophy on legal services with that of the administration's.

Indicative of the bill's bipartisan support was the fact that it was reported favorably out of committee, 16 to 0.

I personally have received hundreds of communications with regard to legal services from all parts of the country, and from literally all walks of life.

The consensus has been highly favorable urging the establishment of an independent legal services corporation.

Formal resolutions from dozens of State bar associations, and even many State legislatures, have been sent to me requesting the continuation of legal services for the poor and disadvantaged.

County and local officials have done likewise.

But perhaps it has been the simple handwritten letters from the many grateful persons, who have received, or are presently receiving legal assistance, which have moved me the most.

While volume, of course, is impressive, what has struck me most profoundly has been the singular need expressed for the program.

These letters vividly describe how the various legal services projects have provided not only help, but also hope, to so many throughout the country.

The intent of this bill is simple—to allow legal services attorneys to be attorneys in the fullest sense of the term.

Participating attorneys must be endowed with the same professional tools as their private sector counterpart.

To do otherwise would not only violate the canons of ethics of the legal profession, but would do grievous harm to the concept of equal justice for all under law.

The organized bar will vouch for the success of Legal Services; and in fact, almost without exception, has endorsed its continuation.

This is clearly because there is a universal recognition that the types of clients, and the nature of their cases, are not now being adequately served.

Without the Legal Services attorney, there is virtually no one to come forward and handle these cases.

Mr. President, the hour is near. Further debate can serve no useful purpose.

The issues are the same as they always have been; and so, unfortunately, are the needs of the poor and disadvantaged.

Once again, I urge my colleagues to vote for cloture, so that we may have the opportunity to vote on the merits of S. 2686.

It is up to us today, to decide whether or not we will have a meaningful Legal Services program. Further delay will not achieve this objective.

The PRESIDING OFFICER. Who yields time?

Mr. NELSON. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Ten minutes.

Mr. NELSON. I yield 1 minute to the distinguished Senator from Minnesota (Mr. HUMPHREY).

EQUAL JUSTICE FOR THE POOR

Mr. HUMPHREY. Mr. President, I urge the Senate to take favorable action on S. 2686, the Legal Services Corporation Act. It is essential that the uncertainty which has clouded the future of Federal assistance for legal services on behalf of millions of lower-income Americans, during 3 years of disagreement between the administration and Congress, should now be ended.

I strongly supported the initiation of the legal services program under title II of the Economic Opportunity Act of 1964 as a vital component of the war on poverty. Far too often, living in poverty means not having access to information about the legal system. It means not being able to afford the cost of legal counsel to appeal for a resolution of public or private disputes. And it can frequently mean a delay of pustice, whose ultimate effect is that justice is denied.

It is profoundly wrong that any American, simply because of having a lower income, should somehow be deemed less equal before the law, condemned to a position of second-class citizenship where limitations are placed on the constitutional guarantee of equal protection of the laws, in the actual working of the legal system.

I was privileged to be part of an administration that moved decisively to redress this major grievance, in launching an unprecedented nationwide attack on the causes and conditions of poverty and, more particularly, in expanding the Legal Services program in only 2 years to a Federal allocation of $26 million in 1966 to support 157 projects with some 1,000 lawyers providing legal advice, representation, counseling, education, and other services to further the cause of justice among persons living in poverty.

Since returning to the Senate in 1971, I have consistently supported legislative effors to establish an independent Legal Services program to uphold the justice that is above politics. In the face of administration opposition to provisions establishing a Legal Services Corporation to carry out this program objective, under two consecutive measures authorizing the continuation of antipoverty programs, Congress finally mandated the specific funding of the Legal Services program, in the Economic Opportunity Amendments of 1972, at a level of $71.5 million in fiscal 1974.

I am hopeful that indications of administration support for the bill presently before the Senate will prove to be correct, for S. 2686 represents the product of a sustained bipartisan effort in the Senate to work out provisions, drawing upon administration proposals, to establish a private, nonprofit, federally funded legal services corporation to which the duties and the responsibilities of the current OEO program will be transferred. Statements of agreement by the White House to the principal features of this bill would represent a substantial change of administration policy which early this year called for the phaseout of the current program, despite the congressional mandate in the 1972 law, and which had to be evaluated in light of the abrupt dismissal of the program's acting director as well as the termination of a program sponsored by the American Bar Association to help protect legal services attorneys from being subjected to political pressures in handling their cases.

ACCOMPLISHMENTS OF LEGAL SERVICES PROGRAM

Mr. President, in case after case it has been shown that effective legal services, by restoring hope and affirming the dignity of the individual, provide one of the most successful measures by which families who have been the victims of the debilitating forces of poverty can be helped to help themselves.

The cost-effectiveness and success of the Legal Services program are well established. Over 1 million clients have been served annually, at a cost of only about $50 per case. Legal Services attorneys have handled 83 percent of their cases without litigation, and, where appeal to the courts has been necessary, they have won 85 percent of their clients' cases. These figures dramatically refute spurious claims that the Legal Services program has contributed to the clogging of court calendars and has victimized its clients. And a General Accounting Office report effectively puts down the claim that Legal Services lawyers too often engage in improper activities which, moreever, are of little or no direct benefit to poor clients. The GAO survey earlier this year clearly indicated that the major portion of attorneys' time is spent on handling the immediate problems of families in poverty—domestic relations, consumer and job-related problems, and housing and welfare needs.

Where Legal Services attorneys have undertaken efforts to achieve reforms in the law or in its administration, they have been responding to repeated evidences, in the course of their daily case work, of urgent human needs that have gone unmet—providing a nutritious daily lunch for a child at school; correcting a sudden reduction in a monthly welfare check on which a family is dependent; protection of children in older housing from lead-based paint poisoning; helping a black or Spanish-surnamed applicant to have an equal chance in being employed as a policeman; prohibiting a stiff increase in rent charged a low-income mother in a public housing unit, or halting retaliatory acts by landlords against tenants who report violations of local housing codes; preventing an unfair garnishment of wages to pay off a loan or consumer credit agreement; and enabling an Indian tribe to meet legal qualifications in carrying out an agreement with the State on a program of assistance.

Mr. President, the Legal Services program today supports 256 local projects with more than 900 branch offices staffed by more than 2,200 full-time attorneys. Despite this impressive expansion in only a few years, the program is able to reach only a small percentage of families in poverty. For example, as recently reported by Legal Assistance of Minnesota, legal services are of critical importance in rural areas, but even the existence of present operational units has been threatened under proposed regulations of the Social and Rehabilitation Service which itself recognizes that legal services in such areas are extremely limited.

MAIN PROVISIONS OF BILL

I believe that enactment of the Legal Services Corporation Act can launch a vitally needed nationwide effort to expand services, while at the same time insuring that this program will be independent and free from political interference to enable a lawyer to serve his clients to the extent of his professional responsibility and the ethical mandates of the profession. The bill contains adequate safeguards to assure that the Corporation and its guarantees will be effectively monitored and measured by professional standards of the justice system, to the end that this program will be expanded and strengthened as an integral part of that system. And this legislation responds affirmatively to recommendations to assume administrative accountability, in legal services projects both to the public and its elected representatives.

The Legal Services Corporation Act would establish a private nonprofit corporation to provide financial support for legal assistance in noncriminal proceedings or matters, to persons financially unable to afford this assistance. The Corporation would be directed by an 11-member board appointed by the President, by and with the advice and consent of the Senate.

This method of choosing board members represents a substantial compromise with the administration by Senators who have been deeply concerned that legislation enacted by Congress assure the independence and professional integrity of the Corporation. And I am totally opposed to any amendment to this legislation whose effect would be to go beyond this compromise, which includes the stipulation that no more than six members of the board could be of the same political affiliation, and that a majority would have to be lawyers.

The Corporation would be authorized to make grants or enter into contracts with individuals, partnerships, firms, organizations, and corporations, as well as with State and local governments for the purpose of providing legal assistance to eligible clients. This flexibility is important to promoting measures for assistance of the highest quality.

To continue to assist lawyers overburdened with the demands of immediate casework, the Corporation has the authority to provide for research, clearinghouse, and other backup programs essential to the vitality of legal services, and to the improvement of service delivery, and in the promotion of indepth legal research.

LAWYER ACTIVITIES FOCUSED ON CLIENT NEEDS

Various restrictions and safeguards provided in this bill on the activities of Legal Services project attorneys will enable them to concentrate their efforts on providing legal assistance to the eligible poor—and provision is made for clear criteria on client eligibility. Legal Services attorneys are prevented from involving themselves in nonclient oriented activities while they are on the job—including picketing, boycotts, strikes, or public demonstrations. By application of the Hatch Act, they are prohibited from engaging in political activities. Only as necessary to the provision of legal advice and representation for eligible clients may these attorneys seek to influence legislation before Congress or before any State or local legislative body—as any lawyer can and should in carrying out his responsibility under the canons of ethics to provide a full range of services to his or her client. Any activity by an attorney must be directly related to affirming a client's legal rights and responsibilities.

I believe such provisions adequately guard against abuses under this program, which have actually been extremely limited, while at the same time giving attorneys the flexibility and freedom they require in advising and representing eligible clients to the best of their ability.

Finally, additional monitoring measures are provided in this bill through the authorization of State advisory councils to be appointed by a Governor after recommendations are made by a State bar association. I remain seriously concerned about the manner in which this provision may be implemented in respective States, as well as the provision for direct funding of State and local government-sponsored legal services projects where nongovernmental alternatives are determined to be inadequate. But such provisions again reflect responsible compromise between the administration and Senators committed to the continued development of a strong legal services program, and they should be interpreted in light of the overall positive and progressive objectives of this bill.

I find the establishment, under this bill, of a National Advisory Council to consult with the Corporation on its activities, regulations, and guidelines, to be of special importance. While it is provided that this Council shall be appointed by the Board of the Corporation, I am hopeful that the members of this Council—representative of the organized bar, legal education, legal services project attorneys, eligibile clients, and the general public—will exercise a vital oversight function in the public interest and on behalf of millions of poor Americans whom this program is intended to serve.

OPPOSITION TO HOUSE BILL

Mr. President, the Senate version of the Legal Services Corporation Act must be regarded as the only viable legislative instrument before Congress to establish this critically needed independent program. The House-passed bill is totally unacceptable and would result in a substantial regression in legal services on behalf of the poor. Crippling amendments added on the House floor last June to H.R. 7824 place severe restrictions on the off-time activities of Legal Services lawyers, eliminate the backup research centers altogether, and prohibit the furnishing of Legal Services in a number of situations, without regard to the eligibility of the client or the lawyer's professional advice or judgment. Further restrictions on legislative and administrative representation by Legal Services attorneys would, in practice, terminate this legitimate and necessary service on behalf of eligible clients. And it could well be expected that the requirement in the costs of court cases lost by Legal Services attorneys, would work as an economic lever to undermine the entire program.

Mr. President, I urge the Senate to take early and favorable action on the Legal Services Corporation Act, S. 2686, in the form in which it has been reported to the Senate by the Committee on Labor and Public Welfare. In a time when the credibility of governmental institutions is at issue, it is essential that Congress demonstrate an effective response to an urgent need of those whose experiences with such institutions and with our legal system have too often been unresponsive or entirely negative. They have a right to hope, to dignity, and to equal treatment in our democracy, and effective legal services can be a vitally important reason for them to believe that this right is a reality in America.

The PRESIDING OFFICER. Who yields time?

Mr. GOLDWATER. Mr. President, will the Senator from North Carolina yield a few minutes to me?

Mr. HELMS. I am happy to yield to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, I hope that further decisions on this bill will be put off until next year. There is no real urgency for the consideration of it this year. If cloture is successful, we are faced with 65 amendments, and unquestionably many more, and many of us would care to speak at length.

Mr. President, in debate on the floor a number of years ago on this matter, I pointed out the abuses that were being practiced in my State of Arizona; and I was assured by the managers of the bill at that time that these political abuses would not continue. They have continued.

In the Navajo nation alone, more money is being spent for the operation of this program than is being spent by the Attorney General's office in Arizona, by some three times.

Participants in this program have been very active on the Navajo reservation, which is 16 million acres, comprising more than 30 percent of all the Indians in this country, in an effort to register Indians as Democrats.

If it were bipartisan, I still would object, because I do not think it is the duty or the necessity of these young men, employed for legal purposes, to become active in a political party, regardless of which side it is.

These practices, I repeat, which were abusive to me at that time, are still being practiced. If I felt there were any way by which it could be stopped, I would not be so much in opposition to the bill, because I recognize that there are certain areas in which this bill would be of benefit and would be applicable. But the experiences we have had in my State—and I am only speaking for my State—have been such that I am forced to vote against cloture, and I will also vote against the bill, unless we can devise some way to write into this legislation that none of these moneys will be used for political purposes.

I repeat: The last time I participated in debate on this matter, I was assured that this would stop; but thorough investigation in the last election and continuing since that time indicates to me that at least in one area, the practice still continues.

Mr. NELSON. I yield myself 1 minute, to respond to the Seantor.

With respect to the objections that have been raised and mentioned by the distinguished Senator from Arizona, we have very carefully designed, as best we could, in cooperation with the administration, a bill which would prohibit Legal Services employees engaged in legal services activities from engaging in political activities, or in picketing or public demonstrations or encouraging such activities.

If the Senator would look at the bill, he would agree that we have covered the problem that concerns him. Section 1006 (d)(3) provides: "Neither the Corporation nor any recipient shall contribute or make available corporate funds or program personnel or equipment to any political party or association, or the campaign of any candidate for public or party office."

We have taken each of these problems and have done our best to design the legislation so that the abuses which are complained about can not be repeated. As I have said, the administration supports enactment of this legislation by the Senate.

Mr. GOLDWATER. I say to the Senator that the same words were used in debate—I believe it was 4 years ago; it might have been 3. I was assured that the language of the bill would stop all this.

I can assure the manager of the bill that these practices still continue. I understand, although I do not have the references handy, that there are exceptions in all of these; and I think it is under these exceptions that they begin to operate outside the intent of the framers of the bill.

I am not accusing the committee of anything. I am just making a report that can be substantiated in full, by sworn testimony, that the practice of these people is still to engage in politics. I do not care for which side they engage in this practice It is wrong to use public money for political purposes.

Mr. NELSON. Mr. President, I yield myself 15 seconds.

It is correct that, when the legislation was on the floor in 1971 and 1972, I assured Members that language was in the bill to meet the problems complained about. Although the language was in the bill passed by the Congress, the President vetoed the bill in 1971. And such language was in the bill passed by the Senate in 1972, but we could not reach agreement with the House, so we are operating on the old legislation. That is why these abuses continue.

Mr. President, I yield 3 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I want to emphasize once again that the Legal Services Corporation Act, S. 2686, is well-known to the Members of this body.

It represents essentially the same concept and the same provisions that have been approved by this body not once, but twice before. In 1971, it formed part of the OEO bill which was debated for 2 days prior to a 49 to 12 vote on final passage. There was a third day of debate prior to the adoption of the conference report on this measure.

In 1972, it was debated for 5 days, the vast majority of that time spent on discussion of the legal services corporation provisions. Eleven amendments were adopted One amendment to delete the legal services section entirely was defeated after substantial debate. A motion to send the measure to committee for the deletion of legal services provision also was defeated by a substantial margin. Subsequently the entire bill was adopted by a 75 to 13 vote.

Opposition to the measure centered on the authority to name the board of directors of the corporation.

The continuing opposition of the administration to restrictions on that power of appointment was a major factor in the veto of the original bill and in the inability of the conference committee to reach agreement on a provision that would not be vetoed.

Those objections no longer exist. We have succeeded, and much credit should go to Senators NELSON, JAVITS, MONDALE, CRANSTON, and TAFT in that effort, in reaching agreement with the administration on the bill now before us.

We have given to the President the power to appoint the board directors, with the advice and consent of the Senate. I would prefer the original language; but, as the price of administration support, I felt it was an acceptable compromise.

I would call to the attention of my colleagues the obvious attempt of the opponents to delay this measure, to deny the Senate the powers to work its will. They originally placed a hold on the bill threatening a filibuster. The 100 amendments which have been offered are dilatory in nature almost to a one. They do not seek to improve the bill. They seek only to prevent its consideration on the merits. Nor have they designed to call up a single one of those amendments since the bill was first laid down as the pending business.

We must no longer permit this delay to continue.

The letter from Mr. Laird printed in the RECORD on Monday states explicitly:

> Therefore, we urge that final action be taken on the bill in this general form by the full committee and by the Senate followed by an expeditious reconciliation of issues with the House passed bill so that the best possible measure may result and a National Legal Services Corporation may be implemented at the earliest opportunity.

This bill reflects the overwhelming belief of the organized bar, of the administration and of this committee, which has followed the development of the legal services program since its inception, that providing access to the legal system on an equal footing to the poor is vital to the future of the Nation.

This bill reflects a mutual concern of members on both sides of the aisle that legal services attorneys have the capacity and the independence from political pressure to provide to the poor, competent legal counsel.

I believe this view, which is stated by President Nixon in his message to Congress and is incorporated in the measure before us deserves the support of the Senate.

Let me read to the members the statement of findings and declaration of purpose of this legislation; which clearly enunciates the objectives which this measure seeks to insure:

First, there is a need to provide equal access to the system of justice in our Nation for individuals who seek redress of grievances;

Second, there is a need to provide high quality legal assistance to those who would be otherwise unable to afford adequate legal counsel and to continue the present vital legal services program;

Third, providing legal assistance to those who face an economic barrier to adequate legal counsel will serve justice far better and more rationally than leaving them with recourse only to less peaceful means;

Fourth, for many of our citizens, the availability of legal services has reaffirmed faith in our government of laws;

Fifth, to preserve the strength of the legal services program it must be insulated from political pressures; and

Sixth, lawyers providing such services must have full freedom to protect the best interests of their clients in keeping with the Code of Professional Responsibility, the Canons of Ethics, and the high standards of the legal profession.

Business executives and corporations deduct from their income taxes the cost of legal expenses, including legislative representation, related to the conduct of their business. That deduction represents a subsidy by taxpayers to a wide variety of individuals, corporations and organizations.

In this measure we are seeking to provide some equivalent access to the judicial system to the poor that we have traditionally given to the economically powerful. It is the poor who are most vulnerable to economic pressures, to illegal acts, to the neglect of institutions, and it is the poor who are least able to seek a remedy through the laws which are supposed to protect all of our citizens equally.

The Supreme Court in Gideon versus Wainwright stated:

> From the very beginning, our state and national constitutions and laws have laid great emphasis on procedural and substantive safeguards designed to assure fair trials before impartial tribunals in which every defendant stands equal before the law. This noble ideal cannot be realized if the poor man charged with crime has to face his accusers without a lawyer to assist him.

Equal treatment in criminal matters is a matter of right, and I believe that equal access to the legal system in civil cases is a matter of justice.

Mr. President, there is an extraordinary irony in listening to this debate at this time. We have set up a tax system in this country which permits large companies and corporations to spend hundreds of millions of dollars to conduct their legal affairs and to engage in lobbying and then to deduct the expenses from their taxes. Lawyers for those companies and corporations can come to Congress and involve themselves in political activities by lobbying on particular issues. Those expenses for legislative representation can be deducted as business expenses.

In this legislation we are trying to provide a few million dollars to look after the interests of the poor. This measure is supported by the American Bar Association and those concerned with providing equal justice to all Americans. It is supported by the results of the activities of these legal services attorneys. Statistics show that they won 85 percent of the cases actually litigated so the cause of justice must have been on the side of those people they were defending.

This is a sound legislative proposal. Congress and the Senate voted on two different occasions to support it.

Mr. President, I hope the Senate will support us in the vote to invoke cloture.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. HELMS. I yield to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, the Senator from Massachusetts, when he tries to compare corporate or company lawyers——

Mr. KENNEDY. Mr. President, whose time is being used?

Mr. HELMS. I yielded to the Senator from Arizona.

Mr. GOLDWATER. Our time.

The PRESIDING OFFICER. The Senator may proceed.

Mr. GOLDWATER. Mr. President, when the Senator from Massachusetts tries to compare corporate or company lawyers with lawyers hired by the OEO, or whatever we call the organization, there is no comparison at all. The individual member of the bar who represents a company or a corporation represents both Democrat and Republican. I think of many, many prominent lawyers in this town who are strong Democrats. I respect them for that. Many are strong Republicans. But we are talking about a group of people hired, in this case, to work for the Indians, and in this case they are actively engaged in political registration on the reservation, not in a bipartisan manner, but in a one-party manner. That is what I object to.

I do not object to giving legal aid to those who need it, but I do object to an agency spending three times as much money involving 325,000 people as my State spends on 3 million people.

I object to the fact that they are engaged in political work. Representing an Indian who has a valid complaint against an Indian trader, or anybody else, is one thing, but when that individual ceases to be a lawyer with a client but represents a political party, that is wrong.

Mr. KENNEDY. Mr. President, the Senator from Arizona is not talking about the bill before us because section 1007(a)(c) prohibits voter registration activities. So that argument is not relevant to this legislation.

Also, I draw attention to title XXVI of the United States Code which permits deductions for companies and corporations for highly paid lawyers and lobbyists to do their legislative work and then deduct the expenses as business expenses from their tax returns.

Mr. GOLDWATER. I might point out that a man engaged in lobbying on this Hill is not comparable to a man out registering voters, whether he be Republican or Democrat.

In reference to section 1007, I recall in debate with the Senator from Massachusetts (Mr. KENNEDY) and others 3 or 4 years ago I was assured that this would not happen again, but it has never stopped. It is one thing for a man to represent *x* corporation from Massachusetts or Arizona and ask us to vote for something, and that company be allowed to deduct the expense; that same company cannot give, under law, money to a political campaign. That argument I do not follow at all.

Mr. HELMS. Mr. President, the Senate is being asked to shut off debate on the very controversial legislation establishing a Legal Services Corporation. The proponents of the bill have repeatedly said that all the arguments about this program have been thoroughly aired, and that we have now exhausted everything that can be said about it. The Senate has been told that the time has come to shut off debate.

Mr. President, I submit that this is a very peculiar point of view. The proponents are so certain that everything has been said on the topic that they did not even hold hearings on the matter this year. Yet, they have written an entirely new bill, a bill that will have a great impact on the judicial system of this country. This bill has never received a review from the Senate committee best qualified to study its impact upon the judicial system, the Senate Committee on the Judiciary.

In my judgment, a simple debate on the floor of the Senate is not enough to study the implications of such legislation. The proponents have said that they were willing to stay here until the late hours of the night to debate the merits of their bill.

But, Mr. President, oratory is not enough. I doubt whether we would make much progress in arriving at a common understanding if two or three Senators on each side were to engage in rhetorical exercises until late night or early morning. Many Senators who are opposed to the bill see grave deficiencies in the language and in the impact of that language. Quite a number of Senators have introduced substantive amendments to the bill.

It is my understanding that these Senators would like to bring these amendments before the consideration of this body. The unusually large number of amendments is a token, in itself, of the grave misgivings which many Senators have about this bill. If the bill had been properly considered by the Judiciary Committee, perhaps many of these misgivings would have been removed. But it was not considered by the relevant committee. This is why, or so I have been told by many of those who have doubts about the bill, so many amendments have been filed. The bill is in no condition to be ready for debate on the floor of the Senate.

Mr. President, the opponents of the bill have listened patiently while the proponents explained their views. But no sooner had they finished their opening presentation than they presented a petition for cloture, the petition which will be acted upon shortly. They declared that there existed a so-called filibuster by amendment. But this is manifestly absurd. The amendments were offered because the bill, as reported, is in such bad condition. No amendments have as yet come under general discussion. How can it be said that a filibuster exists?

The Senator from North Carolina has not called up any of his amendments because the record will show that each time debate has begun on the bill this week, it has begun at a very late hour in the afternoon. While the Senator from North Carolina is perfectly willing to stay here until a late hour in the evening and debate this bill, debate alone would not suffice. He would like to give every Senator an opportunity of expressing support or disapproval on the record in terms of rollcall votes. There is no reason why this legislation must be passed now with late night rollcall votes. It has no great priority. Legal services will continue.

That is why the Senator from North Carolina hopes that this legislation will be deferred until the next session, when there is time for reform of the program at OEO, when there is time for hearings by the Judiciary Committee, and when there is time for a leisurely debate during the normal hours of the Senate, so that Senators can attend and express their position through rollcall votes.

But if the proponents of this legislation object to full and deliberate consideration of the matter, then the only recourse of the Senator from North Carolina, and of the many other Senators who see deficiencies in the present bill, is to urge full consideration at this time, despite the press of other business. Even if cloture is brought, I feel certain that the opponents of the bill will bring up as many amendments as possible in the allotted time of each Senator in an effort to do the work which should be entrusted to the Judiciary Committee. If the Senate cannot divide its priorities between urgent legislation and less urgent legislation, then we will have to do the best we can, despite whatever problems might be created for Senators who are trying to get away for the recess. But let the record show that it is not the Senator from North Carolina and it is not the Senators who have submitted substantive amendments who are keeping the Senate here. The Senate will be kept here by those who object to deliberate consideration of a complex and controversial bill.

Mr. BROCK. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. HELMS. I yield.

Mr. BROCK. Mr. President, I ask unanimous consent that a member of my staff, Mr. Lyle Ryter, be allowed the privileges of the floor during the remainder of the debate on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I reserve the remainder of my time.

Mr. NELSON. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 4 minutes.

Mr. NELSON. Mr. President, I yield 2 minutes to the Senator from Minnesota (Mr. MONDALE) and then 2 minutes to the Senator from New York (Mr. JAVITS).

Mr. MONDALE. Mr. President, rarely has the Senate had a measure before it that was more ripe for action than this. It is the product not of several days but of several years of action by the committee, by the Senate, by the House, by the White House, and it has the encouragement of those who speak on behalf of the President. It enjoys the support of the American Bar Association and by most practitioners of the law. There is a letter from Mr. Melvin Laird, calling for its adoption. The only question now is whether we believe that the poor ought to have a right to assert their legal and constitutional rights before the courts and tribunals of this land, or whether we do not.

This is not a new fight; this is an old fight. It strikes me that it is especially ironic that this elementary principle of justice in American law, this elementary principle of a government of laws, is being undermined by trying to deny the right of the poor to be heard by the courts. In essence, we are witnessing an attempt to nail the courtroom door shut, and to have, in this country, one system for those who are rich enough to afford lawyers, one system for those who are in a tax situation in which the cost of legal counsel is immaterial, and another system for the poor, where they have no right to go into court, no real right to go before tribunals—administrative or legislative—because they do not have the legal counsel that they need with which to do it.

If there has ever been a matter of simple justice, if there has ever been a measure that enjoys bipartisan support—this measure was unanimously adopted by both Republicans and Democrats on the Labor Committee—it is this.

Mr. JAVITS. The two arguments which I screen out of the arguments by our distinguished colleague from North Carolina, are, first, that the measure should be referred to the Judiciary Committee, and, second, that it will have an adverse impact on the judicial system of this country. His third argument is that Senators should have an opportunity to offer and argue their amendments, and that those who have offered the some 95 amendments should have that opportunity. Let me point out that if it comes to cloture, those amendments will be subjected to the test of germaneness, but they may all be voted on. No Senator can be shut off even if the time has expired.

This corporation measure to establish a legal service has been considered twice before. The Judiciary Committee, as indicated by yesterday's vote, acknowledges the interest of the Committee on Labor and Public Welfare—really because this is a successful and elemental part of the social program and, in terms of the sense of dignity and the benefit of the poor. It has not been sought by the committee whose ox is being gored, cloture or not, the Senator from North Carolina can move to refer it and get a yea and nay vote on referring to the Judiciary Committee right here on the floor, if Senators are given a chance to dispose of the matter. That is why Senators should vote for cloture.

As to the argument of its impact on the legal system, who is a better judge of that than the American Bar Association? And the American Bar Association's president, Mr. Chesterfield Smith, writes the following, and if I use my time reading that, I think that is fine. This is the best evidence. He says:

> The American Bar Association has long been interested in the creation of an independent national legal services corporation and has on three occasions adopted policy positions in support of this concept. I am pleased to inform you that S. 2686, as reported, fully complies with the Association's insistence on assuring the independence of lawyers for the poor to provide professional legal services to clients. I urge that the legislation be speedily and favorably acted upon by the Senate and that any amendments seeking to restrict the independence of lawyers or the access of their clients to our processes of justice be resisted.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JAVITS. In any case, he supports this bill. Therefore, it ought to be passed.

The PRESIDING OFFICER. The Senator from North Carolina has 2 minutes remaining.

Mr. HELMS. Mr. President, I yield to my colleague from Tennessee.

Mr. BROCK. Mr. President, may I take a couple of minutes to set the record straight. There are those of us who oppose this bill and will continue to do so, as best we can, throughout this session; but I want to point out to the Senator from Minnesota that it is not in a desire to deny access to the judiciary or the due process of law to the disadvantaged people of this country. The bill the Senator from North Carolina and I are cosponsoring would enhance their access to legal services and would enhance their opportunity for true services at the community and State level, where people care about them, and not about making their name before the Supreme Court relating to some charge in the street.

I think it is important that we maintain the clarity of this record—that we have every intention of providing for those who cannot provide for themselves access to due process of law and equity under the law.

Therefore, I would urge that we support the motion of the Senator from North Carolina in the effort to extend this debate until that picture is presented to the entire Senate and to the American people.

Mr. CRANSTON. Mr. President, I ask unanimous consent that Neal Levy be granted the privileges of the floor during the debate on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I ask unanimous consent that a "Dear Colleague" letter circulated on yesterday by the Senator from New York (Mr. BUCKLEY) be included in the RECORD and printed at the conclusion of my remarks.

There being no objection, the letter

was ordered to be printed in the Record, as follows:

U.S. Senate,
Washington, D.C., December 13, 1973.

Dear Colleague: A cloture motion has been introduced for action today, Thursday, December 13, on S. 2689, the Labor and Public Welfare Committee proposal for a legal services corporation.

Despite the fact that there have been no hearings on the bill, and that it includes provisions not previously reviewed, despite the fact that the Judiciary Committee has not reviewed it for legal implications, and despite the fact that the bill's critics have not yet had the opportuntiy to present their views on the Floor, its advocates now seek to end debate.

Were this an inconsequential measure, such a course might be explainable, or perhaps even justified—but the bill to give permanent authorization and virtually open-ended funding to private advocacy groups, unaccountable to elected authority, deserves far more attention.

Thoughtful critics have concluded that it is not a poor people's bill. They say it is a lawyer's bill, a busing bill, a welfare bill, an abortion bill, a bill which, if enacted in present form, would reflect a major abdication of Congressional responsibiilty to private special interests.

It is a bill sorely in need of improvement. In fact, more than seventy substantive amendments have been proposed to deal with significant issues raised by the bill. Surely it ought to be subjected to the hearing process, and to the purview of the Judiciary Committee, before we are asked to vote on so far-reaching a measure.

There is no reason why the bill must move to final passage now. It deserves consideration and debate.

Please join me in opposing cloture so that the other side may be heard.

Thank you.

Sincerely,

James L. Buckley.

Mr. CRANSTON. Mr. President, I note that the Senator from North Carolina (Mr. Helms) attempted to make the point that the large number of amendments pending on S. 2686—some 97 filed amendments—indicated the great difficulty Senators had with the pending measure.

I should like to point out to the Senate that all these amendments were filed by seven Members—a very limited representation of "difficulty."

Additionally, many of these amendments are duplicative. For example, the Senator from North Carolina (Mr. Helms) has authored amendment No. 812, which has several sections. The Senator from Idaho (Mr. McClure) has filed amendments Nos. 847, 845, and 843—all of which are contained in Mr. Helms' amendment No. 812.

Another example: Mr. Helms' amendment No. 797 is exactly the same as amendment No. 802; which he himself offered.

Now, Mr. President, I could go on and on with this sort of analysis, but I think I have responded to the very weak point the Senator from North Carolina was attempting to make.

What we have here is, plain and simple, a filibuster—simply that—and I would urge my colleagues to join me in support of the cloture motion before us today. We have already been delayed too long on action on S. 2686.

CLOTURE MOTION

The PRESIDING OFFICER. All time for debate on the motion has now expired. The clerk will read the cloture motion.

The legislative clerk read the motion, as follows:

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon the bill (S. 2686), a bill to amend the Economic Opportunity Act of 1964 to provide for the transfer of the legal services program from the Office of Economic Opportunity to a Legal Services Corporation, and for other purposes.

Mike Mansfield
Gale W. McGee
John O. Pastore
Hubert H. Humphrey
Alan Cranston
Edmund S. Muskie
George McGovern
Philip A. Hart
Robert Taft, Jr.
Floyd K. Haskell
Daniel K. Inouye
Gaylord Nelson
Walter F. Mondale
Edward M. Kennedy
Jacob K. Javits
William D. Hathaway
Joe Biden
Harold E. Hughes
Dick Clark

VOTE

The PRESIDING OFFICER. The question is, is it the sense of the Senate that debate on S. 2686, a bill to amend the Economic Opportunity Act of 1964 to provide for the transfer of the legal Economic Opportunity to a Legal Services Corporation, and for other purposes, shall be brought to a close?

The yeas and nays are mandatory under the rule, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Louisiana (Mr. Johnston) is necessarily absent.

I further announce that the Senator from Idaho (Mr. Church) is absent on official business.

I also announce that the Senator from Missouri (Mr. Symington) is absent because of illness.

I further announce that, if present and voting, the Senator from Missouri (Mr. Symington) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Ohio (Mr. Saxbe) is detained on official business.

The yeas and nays resulted—yeas 60, nays 36, as follows:

[No. 578 Leg.]

YEAS—60

Abourezk
Aiken
Bayh
Beall
Bentsen
Biden
Brooke
Burdick
Case
Chiles
Clark
Cook
Cranston
Domenici
Eagleton
Fong
Gravel
Griffin
Hart
Hartke
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Kennedy
Magnuson
Mansfield
Mathias
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Stafford
Stevens
Stevenson
Taft
Tunney
Weicker
Williams

NAYS—36

Allen
Baker
Bartlett
Bellmon
Bennett
Bible
Brock
Buckley
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Cotton
Curtis
Dole
Dominick
Eastland
Ervin
Fannin
Fulbright
Goldwater
Gurney
Hansen
Helms
Hruska
Long
McClellan
McClure
Nunn
Pearson
Scott,
  William L.
Sparkman
Stennis
Talmadge
Thurmond
Tower
Young

NOT VOTING—4

Church
Johnston
Saxbe
Symington

The PRESIDING OFFICER. On this vote there are 60 yeas and 36 nays. Two-thirds of the Senators present and voting not having voted in the affirmative, the cloture motion is not agreed to.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 11576) making supplemental appropriations for the fiscal year ending June 30, 1974, and for other purposes; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon and that Mr. Mahon. Mr. Whitten, Mr. Rooney of New York, Mr. Evins of Tennessee, Mr. Boland, Mr. Flood, Mr. Steed, Mr. Slack, Mrs. Hanszn of Washington, Mr. McFall, Mr. Cederberg, Mr. Michel, Mr. Conte, Mr. Davis of Wisconsin, Mr. Robison of New York, and Mr. McDade were appointed managers on the part of the House at the conference.

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1974

The PRESIDING OFFICER (Mr. Tunney). Under the previous order, the Senate will now proceed to the consideration of H.R. 11575, which the clerk will state.

The legislative clerk read as follows:

A bill (H.R. 11575) making appropriations for the Department of Defense for the fiscal year ending June 30, 1974, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

The Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations with amendments.

EXECUTIVE SESSION

The PRESIDING OFFICER. The Senate will be in order. The Senator from Montana is recognized.

Mr. MANSFIELD. Mr. President, I yield to the distinguished acting Republican leader.

Mr. GRIFFIN. Mr. President, I thank the distinguished majority leader. With his approval, and the approval of the chairman and ranking Republican member of the Committee on the Judiciary, I ask unanimous consent that the Senate go into executive session very briefly for the purpose of considering a number of nominations reported earlier in the day by the Committee on the Judiciary.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE JUDICIARY

The legislative clerk read the nomination of Russell James Harvey, of Michigan, to be a U.S. district judge for the eastern district of Michigan.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

The legislative clerk read the nomination of Albert J. Engel, of Michigan, to be a U.S. circuit judge for the sixth circuit.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

The legislative clerk read the nomination of Richard Owen, of New York, to be a U.S. district judge for the southern district of New York.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

The legislative clerk read the nomination of William C. Conner, of New York, to be a U.S. district judge for the southern district of New York.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

DEPARTMENT OF JUSTICE

The legislative clerk read the nomination of John O. Olson, of Wisconsin, to be U.S. Attorney for the western District of Wisconsin.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

The legislative clerk read the nomination of Evan LeRoy Hultman, of Iowa, to be U.S. attorney for the northern district of Iowa.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

The legislative clerk read the nomination of Era DeMent, of Alabama, to be U.S. attorney for the middle District of Alabama.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

The legislative clerk read the nomination of Julio A. Brady, of the Virgin Islands, to be U.S. attorney for the Virgin Islands.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

The legislative clerk read the nomination of William A. Quick, Jr., of Virginia, to be U.S. marshal for the western District of Virginia.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

Mr GRIFFIN. Mr. President, I ask unanimous consent that the President be immediately notified as to the action of the Senate in confirming each of these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CURTIS). Without objection, it is so ordered.

AUTHORITY FOR COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO FILE REPORT ON H.R. 620

Mr. JACKSON. Mr. President, I ask unanimous consent that the Committee on Interior and Insular Affairs be granted permission to file the report on H.R. 620, to establish within the Department of the Interior and additional Assistant Secretary of the Interior for Indian Affairs, and for other purposes, not later than midnight tonight.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. JACKSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1974

The Senate continued with the consideration of the bill (H.R. 11575) making appropriations for the Department of Defense for the fiscal year ending June 30, 1974, and for other purposes.

Mr. McCLELLAN. Mr. President, today we consider H.R. 11575, the Department of Defense appropriation bill for fiscal year 1974. For the first time in 10 years there are no American GI's peering over gun sights at the enemy, no American warships firing at enemy ships or targets, no American planes bombing hostile concentrations, and no American troops dying on foreign soil. We are at peace, and for this blessing we can be fervently thankful. May the lessons we have learned from recent involvements in war be long remembered.

GENERAL RECOMMENDATIONS

The recommendations of your committee contain a total of $73,235,667,000 for the Department of Defense for fiscal year 1974. This amount will provide: $18,953,401,000 for the Department of the Army; $24,668,681,000 for the Department of the Navy; $22,869,153,000 for the Department of the Air Force; and, $6,744,442,000 for the Defense Agencies.

Funding recommendations include: $22,363,096,000 for the military personnel appropriations; $4,681,900,000 for retired personnel; $22,240,426,000 for the operation and maintenance accounts; $15,869,302,000 for procurement; and, $8,078,353,000 for research, development, test and evaluation.

These appropriations do not include funds for military construction, family housing, foreign assistance and civil defense, which are included in other appropriation bills.

APPROPRIATIONS CEILING

Early last February, I proposed that the Senate Appropriations Committee, through its subcommittee chairmen, undertake to set tentative appropriations ceilings to be observed in their consideration of the various fiscal year 1974 appropriations bills. On April 17, I reported to this body the minimum amount which each subcommittee chairman felt would be required to carry out economically the essential programs for the fiscal year 1974.

At that time, acting as chairman of the Defense Appropriations Subcommittee, I set as a goal a reduction of $3 billion from the President's 1974 budget for the Department of Defense appropriations. This would have the effect of reducing Defense expenditures in 1974 by slightly over half that amount.

I am happy to announce that the bill, as reported, by the Senate Appropriations Committee, will accomplish that objective, that it is within the limitations we set for this appropriation bill earlier this year.

REDUCTIONS RECOMMENDED

Although it is the largest appropriation bill that we shall be called upon to consider in this session of the Congress, nevertheless, the funds recommended are—$2,148,896,000 below those provided for fiscal year 1973; $4,015,046,000 below the budget estimates for fiscal year 1974; and, $865,632,000 under the amount provided by the House of Representatives.

It is the opinion of the committee that the amounts provided are about the maximum sum that the economy of the country can afford to spend and the minimum amount that will reasonably assure an adequate defense posture for our country.

COMMITTEE DELIBERATIONS

Before submitting its recommendations on this measure, the subcommittee spent long hours of painstaking study and deliberation. The five volumes of hearings and related material that you have before you bear mute evidence of the extent of our exhaustive endeavors. In all, they comprise 5,291 pages of testimony by 262 witnesses in 53 separate sessions. I believe it to be one of the most comprehensive examinations and studies of its kind in the history of the committee.

Nor was the committee content to secure the expert opinion of witnesses from the Department of Defense and from those outside the Government who wished to testify. The members of this body were on two separate occasions asked to give their views on the proposed budget and to submit their recommendations to the subcommittee. Twenty-three of the Members of the Senate responded, either in personal appearances before the subcommittee or by submitting statements setting forth their views. This may be the first time that such an effort has been made to secure an expression of opinion on the defense budget from every interested Member of the Senate.

I wish to thank those Members who participated and helped us shape the recommendations you have before you. Without their help, this bill would not otherwise reflect the full balance of measured thinking and judgment that I believe it now represents.

DELAY IN SENATE CONSIDERATION

I deeply regret that the Senate is being asked to consider this important measure at such a late date. As one of the largest appropriations bills ever to be considered by this body, it deserves the most careful deliberations. Inasmuch as we are already 5 months into the fiscal year for which the funds are recommended, it undoubtedly places the Department of Defense in an awkward position, not only in the implementation of new programs requested for fiscal year 1974 but also in developing its budget for fiscal year 1975, which is already in process.

For a number of years, the Congress has been faced with the problem of how to expedite appropriations so as to make the funds available to the various departments and agencies during a period reasonably close to the start of the fiscal year. Thus far, we have not found a ready solution. This deliquency is not the fault of any individual, nor, for that matter, of any single committee. In recent years, the authorization process for the defense appropriations has often proved controversial and, thus time-consuming. Since decisions on authorization measures must precede appropriations, there has been an inevitable delay in the latter. This year, the authorization legislation for defense spending was not signed into law until November 16.

The appropriations procedure has also been time-consuming in recent years. This has been brought about, in part at least, by the very magnitude of the bill and its effect on the economy of the country. I believe that I can state without fear of contradiction that each year the bill receives more and more careful scrutiny, both in the House and in the Senate. Your committee completed its regular hearings with defense officials on July 18. Subsequent to that, we had testimony from Members of the Senate, as well as a session on budget amendments on October 4. The bill was received from the House on December 1. We heard testimony from the Department of Defense on the effect of House action as soon as they were ready to testify, on December 3. The Senate Appropriations Committee and its Subcommittee have acted as expeditiously as was possible—in fact, we could not have proceeded more quickly and still take into consideration the many changes made by the House.

As a result, with the contemplated adjournment of the Congress close at hand, the committee has found itself in a position of having to make many very important decisions in too brief a period of time. I find it hard to defend the present system when the committee is placed in such a position, and hope that some method can be evolved by which a more orderly schedule can be established.

FUNDAMENTAL GUIDELINES

At this point, I would like to describe in some detail two basic principles recognized by the committee in its consideration of the bill.

I. NEED FOR AN ADEQUATE DEFENSE

The first of these is the necessity for an adequate defense posture—one that will honor our treaty commitments, serve as a deterrent and discourage acts of aggression. Since I have been in the Senate, the United States has engaged in three major conflicts. At the outset of each of these struggles, we were either woefully unprepared, as in World War II, or only marginally prepared, as in the Korean war and the beginning of the war in Southeast Asia. It would be idle to speculate over imponderables as to the degree to which our military lack of preparedness encourages these aggressions. Because of the advent of nuclear fission, America can expect no grace period of months of years in which to ready our defenses—a luxury it once enjoyed in the past. In time of crisis, we are now compelled to utilize whatever resources we have at hand.

The hoped-for conclusion of the cold war, the gradual lessening of world tensions, the seemingly satisfactory results of the initial strategic arms limitation agreements, and the remarkable economic recovery and apparent political stability of Western Europe are all, we trust, harbingers of a global era of peace and tranquility.

For this goal we shall all strive mightily, but we are well aware of the fate of nations who are forced to negotiate through weakness. And those nations who in years past have amply demonstrated their desire for world dominance have more recently increased, rather than relaxed, their military potential. Under these conditions, it behooves this country to maintain a military strength commensurate with any anticipated threat, not merely as a bargaining agent, but also as an instrument of survival.

II. NEED FOR ECONOMY

The second principle that guided the committee's deliberations was the all too obvious need for economic stability involving a judicious distribution of the country's resources among the numerous priority items that help to compose our Federal obligations. I need not enumerate at length these familiar needs: a brake on inflation, a strengthening of our dollar abroad, and a long list of social, economic, and environmental needs—many of them urgent—requiring large-scale expenditures over the foreseeable future.

COMMITTEE ACTION

I believe a degree of alleviation to this dilemma is provided in the bill before you inasmuch as it recommends substantial but not debilitating reductions in the national defense budget.

The appropriations in this bill are not out of line with defense appropriations of the decade that preceded the Vietnam buildup. In terms of constant dollars, it probably provides a military preparedness slightly less than that appropriated in fiscal year 1964, our last previous peacetime year.

In so doing, the committee recommends $22,363,096,000 for a total of about 3,167,000 active duty and reserve military personnel. This is a substantial reduction from the fiscal year 1973 total of 3,226,000 and an even greater reduction from the wartime 1968 peak of 4,550,000. That is a reduction of almost 1.5 million. These funds for military personnel, plus the $22,240,426,000 recommended for operation and maintenance, in our judgment, will provide for an Army of 13 divisions, a Marine Corps of 3 divisions, a Navy of 523 commissioned ships and 6,603 aircraft, and an Air Force of 10,573 aircraft and 1,054 intercontinental ballistic missile launchers.

The committee also recommends a total of $15,869,302,000 for the procurement of hardware—the guns, tanks, ships, aircraft, and missiles needed to modernize our forces.

I shall describe briefly committee action on some of the major items that may be of interest to our colleagues.

For the Army: $159.3 million has been provided for the Safeguard antiballistic missile system; and, $143 million is recommended for the purchase of 480 M-60A1 tanks.

For the Navy: $1.8 billion to buy 232 combat aircraft of various types; $255 million for Poseidon missiles; and, $278 million for other Navy and Marine Corps missiles; $79 million for the DLGN guided missile frigate, which will provide long leadtime items for the purchase of two ships; $29 million for the first vessel in the sea control ship program; $587 million for the Trident submarine program, which will procure the first ship, and an additional $41 million for long leadtime items for follow-on submarines; $116 million for the Polaris-to-Poseidon submarine conversion program; $657 million for a nuclear attack aircraft carrier, the third ship of the *Nimitz* class; and, $913 million for the nuclear attack submarine program, which will fund the construction of five such submarines and procure the long leadtime items necessary for future ships, and finally, $586 million for seven DD-963 class destroyers as well as long leadtime items for future ships.

For the Air Force, the committee has recommended: $1 billion for 180 combat aircraft of various types; $358 million for the procurement of 241 other aircraft; and, $1.4 billion for missile procurement.

A total of $8,078,353,000 is provided for the research, development, test and evaluation which must be pursued if our military machine is not to fall technologically behind the progress being made by other nations. Included are funds for the B-1 manned bomber, the Trident submarine and missile program, the advanced attack helicopter and the site defense program.

The funds provided under title V are the investment that we must make to assure the preservation of our technological superiority over any other nation. Hopefully, these sums will provide us with those weapon systems necessary to adequately meet any international crisis.

AN ECONOMICAL DEFENSE POLICY NEEDED

Some military authorities may look upon this as a lean budget. Nevertheless, I am confident that their objectives can be met if they apply the same diligent scrutiny to their programs as the members of the committee applied in making our recommendations.

In a budget the size of this one, there are bound to be some waste, extravagance, duplication, and overlapping. There is also the very human desire of those charged with the responsibilities in a given field to provide the very best that is available in equipment and weaponry in order to do the job. Within limits, this objective is most laudable. Carried to the extreme, it can be too costly. The Department of Defense must tailor its procurement and operational costs to the financial resources that can properly be made available.

Many of these economies can be best accomplished on a job level, wherein application of cost-conscious methods can produce substantial savings. I hope this will be encouraged and practiced by the military to the greatest extent possible.

But more strenuous efforts should be made at higher levels of administration and policymaking. The Department of Defense should insist upon a "fly-before-you-buy" policy, not only in aircraft procurement, but in every field of technical endeavor. Frequent costly change orders inevitably precipitate expensive overruns that can be eliminated. The Department of Defense should learn to curb its appetite for the latest gadgetry, the most recent improvement, the more desirable but not absolutely necessary equipment. It needs, where feasible, to develop weapons with multipurpose functions so as to avoid expensive proliferation of types. It must limit research to essential areas, to think of such research as a tool for necessary defense rather than a subsidy with which marginal advancement or benefits may be derived. And it must husband its personnel, both military and civilian, and concentrate more on essential tasks.

Today, 56 cents out of every defense dollar goes to pay any related costs of personnel. Every combat soldier in the field requires several men in uniform to back him up. This may be necessary in an age of advanced weaponry involving a high degree of maintenance, supply and mobility, but it also should require every administrator and field commander to utilize the personnel at his disposal more carefully on only essential tasks.

During the course of our hearings, I repeatedly advised the departmental officials who appeared before our subcommittee that substantial budgetary reductions would be proposed and admonished them to reexamine their requests for possible reductions. Thus, they are aware of the concern with which the committee considered our deteriorating fiscal resources. They should be well prepared by this time for the recommendations contained in this bill.

THE DANGER OF SWEEPING REDUCTIONS

I know that there are many well informed and patriotic Americans, including Members of this body, who believe that the funds recommended can be further reduced. A number of Senators who testified before the committee indicated either generally or specifically where reductions should be made. The committee has considered each of these with utmost care. I shall likely speak to some of these areas during our deliberations. In some instances, the committee felt that requested reductions were feasible; in others, the committee believed that substantial reductions would either weaken to an undesirable degree our future defense posture, or, by lengthening the production time, escalate the cost uneconomically.

Those advocating sweeping reductions base their argument on the belief that Russia is not bent upon aggression and that, therefore, we should channel our resources into other areas of national concern. Such an appeal is almost certain to be more welcome to our people than one that urges them to make sacrifices for the national defense. The easy way is far more persuasive when the need for sacrifice and denial cannot be proved with finality.

On the other hand, however, we cannot prove that partial disarmament, even total disarmament for that matter, would encourage the forces of aggression to reduce their reliance on overwhelming force. We can only point to what has happened when our own Nation and other nations have chosen the easy course. Unfortunately, such a choice is never pinpointed on a particular issue or a single vote.

It is easy to prove that war—even the preparation for war, even an adequate defense—are wasteful. Except for the jobs that are created through the production of weapons and the maintenance of forces, the sole benefit derived from defense expenditures is the preservation of peace. Defense costs, in effect, are a very expensive insurance policy which we hope will deter aggression and prevent war.

Sweeping reductions in appropriation requests or across-the-board cuts in expenditures would at this time not only jeopardize our bargaining position in arms reduction negotiations, but would also risk the exploitation of that weakness around the world. I do not believe that we desire this. Our concern for national security and survival dictate otherwise.

FAITH IN AMERICAN PEOPLE

The history of this Nation is replete with evidence that the American people are willing to make whatever sacrifices necessary to preserve their freedom and the independence and sovereignty of our Nation. And I have complete confidence that the American people of today have the same fortitude, strength of character, and the willingness, however unpleasant it may be, to make such sacrifices once they are armed with facts that make such sacrifices necessary or imperative.

We live in a period of international uncertainty—in an age in which no nation of which I am aware has been willing to give up more than it expects to receive, except the United States. It is a time when a reduction in arms can be achieved only by bargaining from strength. We cannot go to the bargaining tables with little to give but our good will. We must demonstrate military preparedness and a will to use it, if necessary, in order to have persuasive influence.

THE HIGH COST OF DEFENSE

Many people assumed with some logic that, once the war in Southeast Asia was concluded, defense appropriations would show a marked reduction approaching the prewar level of appropriations. For fiscal year 1969, total war costs amounted to almost $29 billion. For fiscal year 1973, they were estimated at about $7 billion. What became of this supposed windfall in savings—the so-called "peace dividend"—once the war was over?

Regretfully, but truly, it has largely been swallowed up by continuing inflation; by the introduction of the all-volunteer concept necessitating higher pay for military personnel; by the ever-increasing sophistication of weapons; and, by devaluation of the dollar. As a result, we are receiving less and less defense for each dollar we spend on the military.

INFLATION COSTS

By far, the largest cause of increased costs—and one that permeates all the others—is an unbridled inflation. Soaring prices and pay costs have not only gobbled up the so-called peace dividend but it is nibbling at the remaining prewar baseline costs. Just a few statistics will help highlight this problem.

During the past 10 years, civilian salaries, including those for wage board employees, have risen by about 85 percent.

During the past 8 months, purchases of supplies, minor equipment, and services have gone up by 8 percent, an inflationary increase of 1 percent per month.

During the period since the time the budget was formulated last fall, the average daily rate for feeding enlisted personnel has increased from $1.65 to $2.15 per day—a 30 percent jump.

I was struck by these astronomical food cost increases and ran a check on 12 common food items served in the mess halls of the military services. I found that these items had, on the average, increased about 60 percent in the past 10 years.

	Cost in 1964 (cents)	Cost today[1] (cents)	Percent change
h. Cost of food items:			
White bread 1 lb.	0.21	0.27	28.6
Round steak 1 lb.	1.04	1.76	69.2
Rib roast 1 lb.	.83	1.54	85.5
Chuck roast 1 lb.	.57	1.04	82.5
Pork chops 1 lb.	.88	1.52	72.7
Bacon 1 lb.	.67	1.23	83.6
Hamburger 1 lb.	.49	.95	93.9
Pork loin 1 lb.	.61	1.12	83.6

	Cost in 1964 (cents)	Cost today[1] (cents)	Percent change
h. Cost of food items—Cont.			
Milk ½ gal	0.48	0.73	52.1
Butter 1 lb	.74	.85	14.9
Eggs 1 doz	.54	.74	37.0
Coffee 1 lb	.82	1.06	29.3

[1] August 1973.

Undoubtedly, inflation has been our No. 1 enemy in our efforts to establish lower costs—to reduce defense spending.

ALL-VOLUNTEER CONCEPT COSTS

Military personnel costs have, in recent years, increased even more markedly, as a result of inflation and the introduction of the all-volunteer concept. The latter has necessitated significant pay increases to make a military career more attractive. It is impossible to completely disassociate these two pressures, and any analysis of the following examples should bear in mind that they are the effect of both factors.

In 1964, a first-class private received $85 a month in pay. Today he receives $366—over four times as much.

In 1964, a sergeant in the grade of No. 7 received $340 a month. Today he receives $789, more than 2¼ times as much. Commissioned officers have received similar increases.

Thus, although the total number of military personnel is presently below the 1964 level, the 1974 costs will have nearly doubled.

INCREASED PRODUCTION COSTS

Weapons and equipment have suffered similar increases in cost. Much of this is due to inflation, but, in addition, the sophistication demanded of modern weaponry has also taken its toll.

In World War II, a B–29 bomber cost $680,000. Today's FB–111 costs $9.5 million—almost 14 times as much.

A P–51 fighter aircraft of 30 years ago cost $54,000. An A–7A of today costs $2.8 million—more than 50 times as much.

Or consider more recent comparisons:

In 1964 the cost of a 2½ ton Army truck was $8,700. Today it costs $15,500.

A jeep has gone from $3,300 in 1964 to $4,160 in 1973.

An M–60 tank produced in 1964 cost $170,000. Today the M–60A1 is priced at $295,400.

A nuclear submarine of 1964 cost about $81 million; today an SSN costs $181 million.

A destroyer escort in 1964 had a price tag of $29 million; the DD–963 in the 1973 budget is estimated to cost a little over $90 million.

CURRENCY DEVALUATION

Finally, a fourth consideration is the effect currency revaluation has had on the cost of maintenance of our military forces abroad. Actually, this has had a double impact on the shrinking dollars spent overseas. Not only has the dollar itself been devalued, but the major countries in which our troops are based have suffered massive inflation similar to that we are experiencing here, forcing our military service to utilize marked down dollars to pay for marked up goods and services. Just one glaring example should suffice. In Germany, the American dollar has declined 33.6 percent in relationship to the deutschemark since last October, when the budget was prepared. While devaluation in other countries has not been as precipitous, the overall effect has been an increase of $375 million in dollar costs to maintain our troops overseas.

BUDGET AMENDMENTS

The impact of inflation and currency revaluation on defense spending was dramatically illustrated in September after our hearings were virtually concluded. Largely as a result of price increases and a shift of emphasis from Southeast Asia, the President submitted budget amendments involving over $1.5 billion in necessary budget adjustments. Currency revaluation, petroleum costs, and food price changes had added about $1 billion to the fiscal year 1974 costs between November 1972—when the budget was prepared—and June 1973. During the same period, inflation on other items had added another $2 billion to the cost of services, supplies, and equipment. This $3 billion increase actually applies to areas of the budget for which $27 billion was originally requested. Half of the $3 billion increase has been absorbed within the appropriation requests and the other half also has been absorbed by means of transferring funds between appropriations through the amendments requested. No additional funds have been requested. The obvious result, however, is less defense for the same money.

PAY ACT INCREASES

Even all this does not reflect the total of swelling defense costs. You will recall that Public Law 93–50, enacted July 1, 1973, provided for increases of about $1 billion in pay for military and civilian personnel for fiscal year 1973. The two pay increases carried out as of January 1, 1973, and October 1, 1973, have been included in the budget requests and will be considered at a later date. They total an estimated $2.7 billion.

THE DEFENSE BILL IN PERSPECTIVE

We hear much talk these days of the necessity for a massive reordering of national priorities, for a greater emphasis on human resource programs. The plain truth is that such a reordering of priorities has already taken place. By any yardstick, spending on defense is declining substantially—as a percentage of the Gross National Product, as a share of the Federal budget, and most dramatically, as a percentage of all Federal spending.

The cost of the Federal Government has increased from $118.6 billion in fiscal year 1964 to $268.7 billion—the administration's budget for fiscal year 1974. This is an increase of $150 billion—or a 127 percent boost within 10 years' time. Defense spending rose during the same period from $49.6 billion to an estimated $79.0 billion—an increase of slightly less than 60 percent.

Ten years ago, 42.8 percent of total Federal expenditures was for the military. In 1968, at the height of the war in Vietnam, military costs rose to 43.6 percent of the total. Now, only 30 percent of all outlays are attributable to the military functions and military assistance programs of the Department of Defense.

The reduction taken in the proportion of our national wealth devoted to defense is even more compelling in terms of the gross national product. Defense programs accounted for 8.3 percent of the total in 1964; they will account for only about 6 percent during fiscal 1974.

At the same time, Federal outlays for human resource programs—education and manpower; health, including medicare and medicaid, income security, and social security; public assistance and unemployment insurance; and veterans' benefits have increased from 28.9 to 46.7 percent. In dollar terms, this is an increase of from $34.3 to $125.5 billion—or nearly half of all Federal expenditures.

From 1964 to 1974, Federal aid to education jumped 440 percent—from $1.1 to $6 billion.

From 1964 to 1974, public assistance rose 248 percent—from $3.1 to $10.7 billion.

From 1964 to 1974, social security increased 236 percent—from $16.2 to $54.3 billion.

From 1964 to 1974, health care and medical services, including medicare and medicaid, climbed dramatically by 4,509 percent—from $393 million to $18.1 billion.

The principal cause of the increase in the cost of Government has not been in military spending during the past 10 years, but in the other items to which I have just alluded.

This is incontestable evidence that, contrary to the misconceptions of many, our Government is spending far less to maintain our national security than it is spending for human needs in nondefense programs.

TRIBUTE TO MEMBERS

I wish to express my sincere thanks to all those members of the committee who have contributed to the formulation of the committee recommendations. I also wish to express again our gratitude to those Senators who appeared before the subcommittee or provided statements indicating their opinions on various items in the bill.

Most of all, I wish to pay tribute to the senior Senator from North Dakota (Mr. YOUNG), who since 1951 has been a member of the subcommittee and since 1967 has been the ranking minority member. His breadth of knowledge, years of experience, and reasoned approach have been of inestimable aid in fashioning this bill. By his actions I know that he shares my belief that we should put the security of our Nation above other considerations.

I wish to thank personally and for the committee the members of the staff who have devoted many months to the technical aspects of the bill and who in recent weeks have spent long days in expediting the measure so that the Senate could have the bill before it today. I refer to James R. Calloway, the committee counsel; Guy G. McConnell, the clerk to the subcommittee; Francis S. Hewitt; Frederick W. Rhodes; Thomas M. Gunn;

Henry Hodges; Nathan Miller; Joel E. Bonner; and Miss Jane McMullan.

They have helped the subcommittee with the bill. They are dedicated public servants. Without their extra help it would have taken us much longer to get the bill to the floor of the Senate; and when we did, it would not have been so well prepared and presented as it is now, because of their efforts. They have been of immeasurable assistance in fashioning this bill.

CONCLUSION

The committee, in reporting the bill, has sought the road of security without excesses, the muscle without the fat, the car without the chrome.

To those who might have hoped for a larger appropriation recommendation, I would reiterate that the committee in its judgment believes that the amounts provided here are adequate for our defense of today and our preparations for the future. To those who might hope for even more substantial reductions in the bill, I would state again that the committee felt the amounts recommended are necessary if we are to maintain a military posture that will be adequate for our defense and serve as a deterrent to any would-be aggressor.

Recent international events indicate that all nations are not yet willing to adjudicate their disputes through diplomatic negotiation. Thus, we must approach the future confident and reassured of our own capabilities. Further arms limitation talks must likewise be approached with strength and determination and not through fear and weakness. Hopefully, today's preparedness may create tomorrow's peace. Meanwhile, as much as at any time in our history, Thomas Jefferson's oftquoted maxim should be our watchword: Eternal vigilance is the price of liberty. I hope this Nation will never forget it.

Mr. President, we hope that the work our committee has reported to the Senate in the pending bill will have the support of our colleagues and that they will find that over all, the committee has performed a good service in its processing of this measure and in the recommendations it has made.

Mr. President, I am glad at this time to yield to the distinguished Senator from North Dakota.

The PRESIDING OFFICER (Mr. HELMS). The Senator from North Dakota is recognized.

Mr. YOUNG. Mr. President, I deeply appreciate the favorable comments just made by the distinguished chairman of the Appropriations Committee concerning my work on this bill. It has meant many months of hard work. In a way, I have enjoyed it, and I have learned a lot from working with the distinguished chairman of the committee on this bill.

Mr. President, I believe the defense appropriations bill we are now considering represents the best possible compromise between the Office of Management and Budget and the Joint Chiefs of Staff, who urgently requested considerably higher appropriations, and a sizable membership in the Congress who have expressed determination to make much deeper cuts in this budget.

Mr. President, the distinguished chairman of the Appropriations Committee, (Mr. MCCLELLAN) is a strong believer in an adequate national defense and is to be commended for making sizable cuts in this defense bill—and I believe without serious harm to our national defense.

As the ranking Republican on this Defense Subcommittee, as well as the full committee, I have worked very closely with him and am generally satisfied with this bill. This defense appropriations bill we are considering today totals $73,235,677,000 which is $865,632,000 less than the amount approved by the House; $4,015,046,000 less than the budget request; and $2,148,896,000 less than the appropriations for the last fiscal year.

Secretary of Defense Schlesinger and other Defense officials requested restoration of $1,097,543,000 of the reductions contained in the House bill.

Mr. President, we on the Appropriations Committee believe that restoration of that amount to be impossible. However, we did consider those programs the Secretary of Defense deemed most urgent and critical and approved restoration only of what we believed absolutely essential and in most cases when offsetting reductions could be made in other defense programs.

This defense appropriation is still the biggest of all Federal appropriation bills, but it is important to note that as a percentage of the total budget, it is the lowest since before the Korean war—fiscal year 1950. Some of the major reasons why additional reductions could not be made include:

First. Pay for military and civilian personnel continues to increase. This is largely because of the sizable pay increases which were necessary if we were to end the draft and have an all-volunteer military force. The average serviceman 5 years ago received only about $5,500 a year, and now the average pay for military personnel is $10,000. Even though our military force has been reduced by 1,422,000 since fiscal year 1972, personnel costs still represent 56 percent of the total budget request.

Second. Inflation has caused the price of the weapons systems such as the F–14 and F–15, submarines and tanks to spiral to new highs. A few short years ago a submarine cost approximately $50 million. Today the cost is approximately $180 million.

Third. Purchase prices for goods and services rose in the first quarter of fiscal year 1974 by 5.1 percent above the fiscal year 1973 average. The Department of Defense has estimated that prices for fiscal 1974 as a whole will be about 7 percent above the average of the previous fiscal year. If this is the case, and I find no reason to doubt it, the increased costs will amount to $2.5 to $3 billion without considering pay and allowances.

Fourth. These inflationary cost increases apply to almost every section of our economy and almost everything the American people have to buy. While inflation has added to the costs of our national defense here at home, devaluation of the dollar has meant additional costs to our military forces all over the world.

Mr. President, the Department of Defense has made some serious mistakes in the past. They have often spent billions of dollars on research and development of many weapons systems and then abandoned some of them even before they got into production. After spending billions of dollars, some were abandoned when it was found that the equipment was either obsolete or inferior to Russian military equipment. Let me cite a few examples:

First. The XB–70 bomber entered the development program in 1958 and was terminated in 1967 after $1,468,100,000 had been spent on it.

Second. The F–111B for the Navy cost $384 million between 1961 and 1968 when it was dropped.

Third. Development of the main battle tank commenced in 1964 only to be canceled in 1972 after $234 million had been spent on it.

Fourth. $1,491,900,000 was the cost of the manned orbital laboratory between 1964 and 1969, when it was canceled.

Fifth. The Cheyenne attack helicopter was under development from 1966 to 1972. After $384 million was spent on this helicopter, the program was terminated.

These are some of the more expensive items that were started and the projects never completed. I am sure that a considerable amount of technology which has been applied to other programs was gained in these programs, but still large sums of money were expended without gainful benefit being derived from the original purpose of the program.

In this development of a highly sophisticated equipment of a type that has never been made before, it is understandable that large sums of money can be wasted in research and development. When a project is first undertaken, it is not possible to know exactly what the end product is going to be in this type of research and development. I feel strongly, though, that much more can and must be done to reduce the ofttimes wasteful expenditures in developing new and sophisticated weapons.

With all our mistakes we are still the most powerful military nation in the world. Most of our weapons are superior. However, there are some notable exceptions. The recent Middle East war demonstrated to our alarm, some areas where the Russians had weapons superior to ours. The SA–6 surface-to-air missile supplied by Russia to the Arabian governments is superior to any surface-to-air missile we have.

The antitank missile supplied by the Russians in this war is at least as good as or potentially better than anything we have. The Russian Styx surface-to-surface missile continues to be a threat to our naval forces wherever they may encounter Russian units so equipped. We have developed many similar type missiles, but I doubt if we have one as simple and effective as the Russian Styx missile.

The Russian Foxbat fighter plane flies higher and faster than any fighter plane we have in our inventory. We believe that with some of our weapons used by the F–14, such as the Phoenix missile, will be a superior fighter to anything the Russians have. The F–15, when fully equipped with its new weapons and deployed in our active forces, will also be at least equal to or better than the Russian Foxbat.

Mr. President, I mention these shortcomings in our military system primarily to point out why we must continue—whether we like it or not—to spend large sums of money on research and development of new weapons unless we are willing to become a second-rate power to Russia.

Mr. President, as I previously pointed out, and believe, we are superior in most of our weapons systems.

Both the F-15 and F-14 are needed to replace obsolescent aircraft in the current inventory as well as to provide a viable capability. The Appropriations Committee did not approve the entire request by the Joint Chiefs of Staff for the F-15 and F-14. We believe that within the funds that can be made available our major defense needs will be met.

Our B-52 bombers will soon be 20 years old and are fast becoming obsolete and uneconomical to maintain. There is money in this bill to provide further modifications to the B-52D's in order to sustain their readiness and flight capabilities until they can be replaced. The replacement for the B-52 will be the B-1 bomber—that is, if Congress continues to fund it. The funds contained in this bill are for research and development of this new and much more capable bomber. However, this plane will not be operational for 4 or 5 years.

Mr. President, much has been said about the development of the Trident submarine. The Trident submarine will provide increased capabilities in our submarine launched ballistic missile force. This submarine is needed to replace the original Polaris submarines that cannot be converted to Poseidon submarine. In addition, this submarine will strengthen the position of our negotiators in the Strategic Arms Talks. This program has been funded as requested except advance procurement funds have been reduced by $240 million for submarines five through seven.

These are only a few examples of funds for the procurement of new and more modern weapons systems. I believe this is the minimum we must do if we are to keep pace with the ever-increasing Russian military might.

Mr. President, as I have often said, I do not believe it is necessary now, or ever has been, for the United States to maintain the biggest military force in the world—but I have always strongly believed that the weapons we provide our combat forces should be the most modern possible and not second best to any other nation.

In closing, I want to express the highest commendation and appreciation to the able staff members for their assistance in handling this most difficult of all bills. We on the Appropriations Committee do not have the biggest staff but those we have are very capable.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc, and that the bill as thus amended be considered as original text for the purpose of further amendment, with the understanding that no points of order be considered as waived by reason thereof.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Arkansas? The Chair hears none, and it is so ordered.

The amendments agreed to en bloc are as follows:

On page 2, line 10, after the word "elsewhere", strike out "$7,131,437,000" and insert "$7,098,050,000".

On page 2, line 18, after the word "cadets", strike out "$5,281,995,000" and insert "$5,271,350,000, of which not to exceed $9,900,000 shall be transferred to appropriate accounts under this head for the fiscal years 1969, 1971, and 1972 but only in such amounts as are necessary for payments to the Internal Revenue Service for unpaid withholding taxes, and the accounts in such fiscal years shall be adjusted accordingly."

On page 3, line 8, after the word "elsewhere", strike out "$1,549,452,000" and insert "$1,547,000,000".

On page 3, line 17, strike out "$6,886,411,000" and insert "$6,863,350,000".

On page 6, line 6, after the word "forces", strike out "$93,382,000" and insert "$104,582,000"; in line 7, after the word "forces", strike out "$1,619,465,000" and insert "$1,652,644,000"; at the beginning of line 9, strike out "$309,678,000" and insert "$310,178,000"; in line 10, after the word "maintenance", strike out "$1,808,832,000" and insert "$1,807,832,000"; in line 11, after the word "activities", strike out "$968,531,000" and insert "$1,087,831,000"; in line 13, after the word "activities", strike out "$321,658,000" and insert "$330,379,000"; at the beginning of line 15, insert "$262,337,000"; in the same line, after the word "all", strike out "$6,133,747,000" and insert "$6,153,747,000"; in line 21, after the word "purposes", insert a comma and "and his determination shall be final and conclusive upon the accounting officers of the Government"; and, in line 25, after the word "facilities", insert a colon and "*Provided further*, That the Secretary of the Army may transfer up to 5 per centum of the amount of any subdivision of this appropriation to any other subdivision of this appropriation, but no subdivision may thereby be increased by more than 10 per centum and the Secretary of the Army shall notify the Congress promptly of all transfers made pursuant to this authority.

On page 7, at the beginning of line 12, strike out "$335,566,000" and insert "$334,236,000"; at the beginning of line 13, strike out "$2,371,731,000" and insert "$2,334,618,000"; in line 14, after the word "communications", strike out "$304,935,000" and insert "$303,225,000"; in line 15, after the word "maintenance", strike out "$2,032,246,000" and insert "$2,036,000,000"; at the beginning of line 17, strike out "$423,822,000" and insert "$451,793,000"; in the same line, after the word "activities", strike out "$354,666,000" and insert "$354,645,000"; in line 19, after the word "activities", strike out "$178,353,000" and insert "$177,285,000"; in line 20, after the word "all", strike out "$6,023,200,000" and insert "$6,013,683,000"; in line 23, after the word "expenses", insert a comma and "as authorized by section 7202 of title 10, United States Code,"; on page 8, at the beginning of line 1, strike out "and payment may be made on his certificate of necessity for confidential military purposes" and insert "and his determination shall be final and conclusive upon the accounting officers of the Government"; and, in line 15, after the word "continued", insert a colon and "*Provided further*, That the Secretary of the Navy may transfer up to 5 per centum of the amount of any subdivision of this appropriation to any other subdivision of this appropriation, but no subdivision may thereby be increased by more than 10 per centum and the Secretary of the Navy shall notify the Congress promptly of all transfers made pursuant to this authority."

On page 9, at the beginning of line 1, strike out "$213,552,000" and insert "$212,374,000"; at the beginning of line 3, strike out "$101,629,000" and insert "$101,254,000"; in line 4, after the word "activities", strike out "$66,527,000" and insert "$66,486,000"; in line 5, after the word "activities", strike out "$29,048,000" and insert "$29,642,000"; in line 6, after the word "all", strike out "$411,645,000" and insert "$410,645,000"; and, in line 9, after the word "facilities", insert a colon and "*Provided further*, That the Secretary of the Navy may transfer up to 5 per centum of the amount of any subdivision of this appropriation to any other subdivision of this appropriation, but no subdivision may thereby be increased by more than 10 per centum and the Secretary of the Navy shall notify the Congress promptly of all transfers made pursuant to this authority."

On page 9, line 19, after the word "forces", strike out "$1,124,154,000" and insert "$1,117,192,000"; in line 20 after the word "forces," strike out $1,014,019,000" and insert "$1,014,082,000"; at the beginning of line 22, strike out "$532,343,000" and insert "$530,843,000"; in the same line, after the word "sealift", strike out "$179,240,000" and insert "$177,530,000"; at the beginning of line 24, strike out "$2,318,938,000" and insert "$2,311,568,000"; on page 10, line 1, after the word "activities", strike out "$517,736,000" and insert "$563,713,000"; in line 3, after the word "activities", strike out "$211,467,000" and insert "$215,882,000"; in line 4, after the word "nations", strike out "$256,733,000" and insert "$150,033,000"; in line 5, after the word "all", strike out "$6,532,100,000" and insert "$6,458,241,000"; in line 8, after the word "expenses", insert a comma and "to be expended on the approval or authority of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes, and his determination shall be final and conclusive upon the accounting officers of the Government; and, in line 15, after the word "facilities", insert a colon and "*Provided further*, That the Secretary of the Air Force may transfer up to 5 per centum of the amount of any subdivision of this appropriation to any other subdivision of this appropriation, but no subdivision may thereby be increased by more than 10 per centum and the Secretary of the Air Force shall notify the Congress promptly of all transfers made pursuant to this authority."

On page 11, line 4, after the word "activities", strike out "$243,885,000" and insert "$49,749,000"; in line 9, after the word "Service", strike out "$20,194,000" and insert "$20,320,000"; in line 10, after the word "Agency", strike out "$145,649,000" and insert "$148,149,000"; in line 13, after the word "activities", strike out "$450,859,000" and insert "$448,159,000"; in line 14, after the word "all", strike out "$1,650,408,000" and insert "$1,456,198,000"; in line 17, after the word "expenses", insert a comma and "to be expended on the approval or authority of the Secretary of Defense, and payment may be made on his certificate of necessity for confidential military purposes, and his determination shall be final and conclusive upon the accounting officers of the Government"; and, in line 24, after the word "facilities", insert a colon and "*Provided further,* That the Secretary of Defense may transfer up to 5 per centum of the amount of any subdivision of this appropriation to any other subdivision of this appropriation, but no subdivision may thereby be increased by more than 10 per centum and the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority."

On page 12, line 13, after the word "communication", strike out "$255,000,000" and insert "$253,900,000".

On page 12, line 23, after the word "communications", strike out "$172,000,000" and insert "$170,750,000".

On page 13, line 19, after the word "communications", strike out "$223,000,000" and insert "$222,800,000".

On page 14, line 11, after the word "aircraft", strike out "$524,000,000" and insert "$523,839,000".

On page 15, line 7, after the word "Bureau", strike out "$518,000,000" and insert "$510,500,000".

On page 16, after line 7, insert:

Contingencies, Defense

> For emergencies and extraordinary expenses arising in the Department of Defense, to be expended on the approval or authority of the Secretary of Defense and such expenses may be accounted for solely on his certificate that the expenditures were necessary for confidential military purposes; $5,000,000: *Provided,* That a report of disbursements under this item of appropriation shall be made quarterly to Congress.

On page 17, line 10, after the word "purposes", strike out "$139,400,000" and insert "$138,400,000".

On page 18, line 5, after the word "purposes", strike out "$514,600,000" and insert "$525,100,000".

On page 19, line 15, after the word "purposes", strike out "$931,300,000" and insert "$676,100,000"; and, at the beginning of line 16, strike out "$46,100,000 which shall be derived by transfer from "Procurement of Ammunition, Army, 1973/1975"." and insert "$146,100,000, of which $100,000,000 shall be derived by transfer from the Army Stock Fund, and $46,100,000 which shall be derived by transfer from "Procurement of Ammunition, Army, 1973/1975"."

On page 20, line 12, after the word "purposes", strike out "$502,290,000" and insert "$460,590,000"; in line 13, after the amendment just above stated, strike out "of which $200,000 shall be available for reimbursement to the appropriation "Military assistance," "; in line 15, after the word "addition", strike out "$27,000,000" and insert "$39,500,000"; and, in the same line, after the word "which", strike out "$8,000,000" and insert "$20,500,000".

On page 21, line 6, after the word "plants", strike out "$2,785,200,000" and insert "$2,646,700,000".

On page 21, line 23, after the word "plants", strike out "$790,700,000" and insert "$834,700,000".

On page 22, line 12, after the word "amended", strike out "$3,453,800,000" and insert "$3,468,100,000".

On page 23, at the beginning of line 12, strike out "$1,261,000,000" and insert "$1,202,300,000".

On page 24, line 20, after the word "things", strike out "$2,693,800,000" and insert "$2,470,900,000"; in line 21, after the amendment just above stated, strike out "of which $28,300,000 shall be available for reimbursement to the appropriation "Military assistance"; and, on page 25, after "1975", strike out "and of the total funds transferred $41,000,000 shall be available for reimbursement to the appropriation "Military assistance",".

On page 25, at the beginning of line 20, strike out "$1,371,500,000" and insert "$1,392,600,000".

On page 26, at the beginning of line 16, strike out "$1,605,600,000" and insert "$1,589,300,000".

On page 27, line 9, after the word "amended", strike out "$66,000,000" and insert "66,280,000".

On page 27, line 20, after the word "law", strike out "$1,866,458,000" and insert "$1,890,908,000, and in addition, $3,500,000 to be derived by transfer from 'Research, Development, Test, and Evaluation, Army, 1973/1974',".

On page 28, line 6, after the word "law", strike out "$2,616,065,000" and insert "$2,647,945,000".

On page 28, line 14, after the word "law," strike out "$2,998,000,000" and insert "$3,057,000,000".

On page 29, line 2, after the word "law", strike out "$461,400,000" and insert "$457,900,000".

On page 30, line 8, after "June 30", strike out "1975" and insert "1976".

On page 41, after line 5, strike out:

> Sec. 718. None of the funds in this act shall be available for the enlistment or pay of non-prior service personnel during fiscal year 1974 when the enlistment will cause the percentage of non-high school graduate enlistments of the service concerned to exceed 45 per centum or the mental category IV enlistments to exceed 18 per centum of the total non-prior service enlistments for the entire fiscal year.

On page 41, at the beginning of line 14, change the section number from "719" to "718".

On page 41, at the beginning of line 21, change the section number from "720" to "719".

On page 42, at the beginning of line 19, change the section number from "721" to "720".

On page 43, at the beginning of line 1, change the section number from "722" to "721".

On page 43, at the beginning of line 8, change the section number from "723" to "722".

On page 43, at the beginning of line 14, change the section number from "724" to "723".

On page 44, at the beginning of line 19, change the section number from "725" to "724".

On page 45, at the beginning of line 3, change the section number from "726" to "725".

On page 45, at the beginning of line 8, change the section number from "727" to "726".

On page 45, at the beginning of line 19, change the section number from "728" to "727".

On page 45, at the beginning of line 24, change the section number from "729" to "728".

On page 46, at the beginning of line 13, change the section number from "730" to "729".

On page 46, at the beginning of line 22, change the section number from "731" to "730".

On page 47, at the beginning of line 8, change the section number from "732" to "731".

On page 47, at the beginning of line 18, change the section number from "733" to "732".

On page 48, at the beginning of line 8, change the section number from "734" to "733".

On page 48, after line 16, strike out:

> Sec. 735. During the current fiscal year upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed $500,000,000 of the appropriations of funds available to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided,* That such authority to transfer may not be used unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated, and in no case where the item for which funds are requested has been denied by Congress: *Provided further,* That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority.

On page 49, after line 8, insert a new section, as follows:

> Sec. 734. During the current fiscal year upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed $750,000,000 of the appropriations or funds available to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or funds to which transferred: *Provided,* That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority.

On page 49, at the beginning of line 21, change the section number from "736" to "735".

On page 50, at the beginning of line 4, change the section number from "737" to "736".

On page 51, at the beginning of line 12, change the section number from "738" to "737".

On page 51, at the beginning of line 21, change the section number from "739" to "738".

On page 52, at the beginning of line 5, change the section number from "740" to "739".

On page 52, at the beginning of line 14, change the section number from "741" to "740"

On page 52, after line 18, strike out:

> SEC. 742. (a) During the last quarter of the fiscal year 1974, no funds appropriated by this Act shall be used for the pay, compensation, or allowances of commissioned officer personnel on active duty in the Armed Forces (excluding Reserve officers on active duty training or Reserve officers and Retired officers ordered to active duty for periods of thirty days or less) in excess of the following numbers in each grade:

Ranks	Army	Navy	Marine Corps	Air Force
0–10: General or admiral	13	10	2	14
0–9: Lieutenant general or vice admiral	47	44	8	39
0–8: Major general or rear admiral	174	104	24	141
0–7: Brigadier general or rear admiral	232	145	33	196
0–6: Colonel or captain of the Navy	5,080	4,000	594	6,000
0–5: Lieutenant colonel or commander	11,450	8,000	1,500	13,965
0–4: Major or lieutenant commander	17,580	14,800	2,880	21,600

> (b) Vacancies within the allowances prescribed by subsection (a) of this section for any grade may be assigned to any lower grade or grades.

On page 53, at the beginning of line 6, change the section number from "743" to "741".

On page 53, at the beginning of line 9, change the section number from "744" to "742".

On page 53, at the beginning of line 12, change the section number from "745" to "743".

On page 54, after line 3, strike out:

> SEC. 746. No part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for the reprograming of funds, unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which reprograming is requested has been denied by the Congress.

On page 54, after line 10, insert a new section, as follows:

> SEC. 744. Funds appropriated under this Act to contract for medical care for spouses and children of members of the uniformed services who are serving on active duty may not be expended to provide services any less in scope than those provided under section 1079 of title 10, United States Code, prior to December 1, 1973, including special educational training and therapy for handicapped children.

Mr. McCLELLAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CRANSTON. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I would like to discuss with the distinguished chairman one matter which I have discussed briefly with him prior to this session. Before doing so, I want to pay tribute to the committee for the very hard and effective work it did in trimming this huge request for funds. The chairman has produced some very substantial savings which will not injure national defense in any way. As a matter of fact they will strengthen our national defense posture and strengthen our economy by cutting out waste and by reducing overblown military establishment. I congratulate the committee for that accomplishment.

The Navy proposes, Mr. President, to cut expenses by firing nearly 1,500 civilian workers at the Pacific Missile Range at Point Mugu, Calif., by turning over the operation of the range to a civilian contractor. The Navy estimates the conversion will cost $8.2 million of the taxpayers' money, and then, after a transition of several years, the Navy hopes—I stress hopes—to realize an annual saving of only $1.5 million. That figure is strictly tentative, since the Navy does not really know whether there will be any savings until or unless bids are received and they see what those bids show. As yet there has been no systematic appraisal of any kind to bear out the Navy's allegations about savings.

Of course, if we go through the process of spending a great deal of money and proceed to take bids, it might well then be too late to reverse the course of conversion, whether it saves money or not. By then a substantial investment in the conversion process will have been made, and it may well be too late.

Meanwhile, vital test and evaluation functions at the range are disrupted, while regular personnel are transferred, either full or part time, to the business of preparing the transition to a private contract operation. Morale at the Pacific Missile Range is very low. No one's job is secure.

All this is happening at an installation that, according to the Navy, was one of the best run operations in the naval air missile system.

The Navy, according to the man who did the advance feasibility study, had already decided to contract out operations at PMR and merely commissioned him to show cost effectiveness after the fact.

It appears that the primary reason the Navy had for contracting out was to show an apparent reduction in the number of civilian personnel on board.

Many Government departments and agencies are under pressure to reduce the number of personnel. The Senate agrees with that objective. The committee does. Every American would. But presumably there should be some cuts in functions if any significant reductions in expenditures are to be made. But to my knowledge, the functions are to remain the same.

It appears to me that the Navy has not adequately made its case for disrupting the operations of the Pacific Missile Range.

I should like to read from the House report on this matter, as follows:

> The committee recommends the appropriation of the full $67,166,000 requested for operation of the Pacific Missile Range in fiscal year 1974 but directs that the range continue to be managed as a Government operation and that no part of the funds be utilized for the cost of conversion to a contractor operation.

The report also states:

> It appears that the primary reason the Navy planned to change the operation of the range from government to contractor operation was to show an apparent reduction in the numbers of civilian personnel.

Various departments and agencies are under pressure to reduce the number of Government and military civilian personnel.

Continuing to read from the report—

> The committee supports this objective, but believes that the reduction of personnel must be accompanied by a reduction in function. To merely transfer the same function from government personnel to contractor personnel will not save money.

I note that the Senate report indicates the same amount of money has been appropriated, so there is no direct dollar issue involved. It is simply a matter of how the money will be spent.

I should like to add that the minutes of a meeting held in April 1973 at Point Mugu quoted Adm. T. R. McClellan, Chief of the Naval Systems Command, as saying that the decision to convert the range to contractor operation was "unconfused by the facts." Similarly, the man identified at the meeting as responsible for studying cost-effectiveness was quoted as saying that his job was to justify a decision already taken in secret.

So I would like to ask the distinguished chairman of the committee if it would not perhaps be possible at the conference with the House to reach some agreement which would specify that no money should be spent on conversion until the Navy's case is proven.

Mr. McCLELLAN. Mr. President, as I understand it—and I have no personal interest in it—they wish to, and are in the process of making a study, to determine whether it can be operated more economically under a private contract than under the in-house operation. Am I correct?

Mr. CRANSTON. Yes, but the trouble is——

Mr. McCLELLAN. We are not keeping the Department from continuing to operate the range.

Mr. CRANSTON. No.

Mr. McCLELLAN. They are making a study to ascertain whether it can be managed and operated under private contract more economically than it is at present. I can see no objection to that. We are not making any change at this time. They would have to come back here with a report and until we get that report it may be rejected, but I do not know, but I am sure at that time we would all want to evaluate it and make a proper and judicious assessment of the facts. I do not know whether it is or is not more economical to convert. Apparently they have some idea that private operation would be more economical. Generally, I would think there could be no objection if that is true. What is the primary mission of the range.

Mr. CRANSTON. It is a missile range.

Mr. McCLELLAN. Yes, a firing missile range. Personally I do not know at the moment——

Mr. CRANSTON. I should like to make plain——

Mr. McCLELLAN (continuing). It does not strike me that unless there is some situation that I cannot possibly conceive of at the moment, it seemed to me it would be unlikely that private management could operate it more economically than the service itself.

Mr. CRANSTON. I would concur with the chairman.

Mr. McCLELLAN. That is the way it appears to me now, that if at any time we could evaluate the situation to make a determination where economies can be effected, I do not think I would want to oppose it. That is what they are doing, as I understand it.

Mr. CRANSTON. I am not asking the chairman of the committee, or the Senate, or the conference, to oppose that. What I am asking is if it would be possible, in the conference, to work out language with the House, which has taken quite a different position, to the effect that the Navy should not proceed with the actual investment in conversion, or with the implementation of conversion planning, until its case has been established.

Mr. McCLELLAN. I do not believe this language would authorize them doing it. Certainly the language in the House report would not authorize them to do it. I would say to the Senator from California that I would have no objection myself to modifying it, with the House, and agreeing on some language here to make certain that no such transfer is made or changes made until completion of the study. I would be in favor of that. We do not give permission here to make the change.

Mr. CRANSTON. I would appreciate that very much.

Mr. McCLELLAN. That is the way I feel about it, but, at the same time, I can see no reason to say "No, you cannot study, or you cannot even make an examination of the situation, to determine whether economies can be effected." I do not want to say that. But I do not think the Senator wants that, either.

I think the Senator believes in economy in military spending. He has demonstrated that time and again.

Mr. CRANSTON. I thank the chairman very much. What he has said is very helpful.

AMENDMENT NO. 891 AS MODIFIED

Mr. CRANSTON. Mr. President, I call up my amendment No. 891 as modified and ask that it be stated. I send the modification to the desk.

The PRESIDING OFFICER (Mr. HELMS). The amendment as modified will be stated.

The legislative clerk read as follows:

> On page 38, line 15, strike the period and insert the following: "; *Provided, however,* That none of the funds appropriated by this Act shall be available to support U.S. military personnel based in foreign countries, not including the personnel assigned to duty aboard naval vessels of the United States, in a number greater than 423,000, a force level to be reached not later than June 30, 1974."

Mr. CRANSTON. Mr. President, I will be quite brief. This is a matter that I have discussed with the chairman. I testified before the appropriate subcommittee and I communicated with members of the committee in regard to this general matter during the time the committee was considering the measure now before the full Senate.

The principal cosponsors of this measure are Senators HUMPHREY, PROXMIRE, SCHWEIKER, and MATHIAS. The main provisions require that of the roughly 61,000 military personnel cut by the Appropriations Committee, 40,000 must be cut from overseas.

I want again to congratulate the committee on surpassing the House in increasing the overall manpower cut in this bill. The committee has taken a very fine step in a necessary direction.

The 40,000 reduction proposed in my amendment is to be made in land-based U.S. troops stationed on foreign soil by June 30, 1974. This is an 8.6 percent cut.

Naval personnel assigned to the fleets are excluded from the cuts, even if homeported overseas. Troops in U.S. territories and possessions are similarly excluded. The cuts may be made anywhere in the world. Discretion is left to the President.

The main arguments for the measure I have just described are as follows:

First, it conforms precisely to previous Senate action.

The Byrd-Humphrey amendment to the military procurement authorization bill, adopted by the Senate on September 27 by a vote of 48 to 36, required the same cut in overseas troops—40,000 by June 30, 1974. That amendment was dropped in conference.

Second, the total direct and indirect cost of maintaining overseas troops—including backup, logistics, et cetera—is very roughly $30 billion a year. There are approximately 463,000 nonfleet personnel stationed in foreign countries, of whom 291,000 are in Western Europe and related areas and 182,000 in Southeast Asia, the western Pacific, and elsewhere.

The Defense Department directly or indirectly employs 167,000 foreign nationals to support them on 1,963 bases in 34 countries.

In general, this pattern became established during the cold war, at a time when our allies were poor and relatively defenseless. Vast U.S. military and economic aid programs, plus general détente, have made deployment on such a massive scale obsolete. The purpose of overseas deployment was originally to permit allies to develop their own economy and defense under U.S. protection; deployment was never intended to be permanent.

Third, the balance-of-payments cost associated with overseas military spending is roughly $4.9 billion a year, eroding the dollar and contributing to inflation. A withdrawal of 40,000 U.S.troops from foreign countries works out to a balance-of-payments saving of roughly $347 million after the first year, and roughly $94.5 million in the first year.

Fourth, Defense Department spokesmen have indicated that an overseas troop cutback is under consideration, but this has been true for some time, and no significant results have been forthcoming.

Fifth, the amendment would not affect the security of Israel, since the U.S. Sixth Fleet would be exempted from cuts.

Sixth, the improved transport and mobile force capacity of U.S. forces permits a rapid response to crisis. Forward-based deployment's unnecessary in many cases.

Seventh, cuts could be made in support forces rather than primarily in combat strength. The U.S. "tooth-to-tail" ratio is heavily imbalanced If necessary, our allies could fulfill more support functions.

That, in essence, is the nature of this amendment. At an appropriate time—but not now, when so few Members are in the Chamber—I will request the yeas and nays on this amendment. I will say no more at this point.

(At this point, Senator WILLIAM L. SCOTT assumed the chair.)

Mr. McCLELLAN. Mr. President, as the record of votes in the Senate in the past will demonstrate, I am fully in sympathy with what the distinguished Senator is trying to do. Not only have I voted that way in the Senate Chamber, but also, in public addresses, I have stated my position—I am speaking now as to NATO—I believe we should and can reduce our troop strength over there.

As to other places the Senator may have in mind, I do not know. As we considered this bill, I had in mind to try to find some way to bring about a reduction in troops abroad. But in view of the developments that have occurred recently, and in view of the attempts now being made in Western Europe for us to reach some accommodation about conditions that now prevail, as well taking into account the situation in the Middle East, which the Senator says he exempts, I doubt that it is wise to make adjustments in this fashion.

Mr. President, we have taken this matter up with the Defense Department, and I should like to read from our report. We have given this matter careful consideration. We are going into it, and we are going to require reduction of these forces wherever we can demonstrate that it is feasible and that in doing so we will not do injury to our military position and responsibilities. I read from page 18 of the committee report, the top paragraph, entitled "Department of Defense Programs, Reduction in Overseas Troops and Facilities." In connection with this reduction of troops—and that is all this applies to—we also want to close bases in certain places where we find they can be discontinued and thus bring those troops home. The committee makes this report:

> The committee is concerned about the number of our troops stationed abroad and the high cost incurred in maintaining and supporting this force.

Mr. President, I had quite a conversation with the Secretary of Defense about this matter before this bill was reported. Senator YOUNG, the ranking minority member, is also interested in this matter, and we discussed it together and with the Secretary of Defense.

> The committee has frankly discussed this situation with the Department of Defense and has intended to impose a reduction in the number of overseas troops and facilities. We have held this action in abeyance, however, upon receiving firm assurances from the Secretary of Defense that the matter is under active consideration and that recommendations will be submitted to the committee in the very near future.
>
> The committee intends to pursue this matter on its own and if such action is not forthcoming, it will undertake to impose overseas force reductions during fiscal year 1975.

We have in mind—and we are in the process of developing this information—requiring the closing of a number of bases overseas and requiring those troops to be brought home. I will support that. I can give my colleagues absolute assurance that in the next bill, next year, we will not only have a reduction of personnel, but also, we will have a number of bases ordered closed and the persons brought home.

This should have been done before now. But I remind the Senator that I became chairman of this committee a little more than a year ago, after I had been engaged in a hard campaign, and we did the best we could with the bill last year.

This year, we have worked on it constantly, to try to find areas in which we could make the reductions for which the Senator has commended us.

As to this proposal, we feel it needs a little further study and a little more examination before, in a meat-ax fashion, we reduce our forces by this amount.

I know the Senator does not intend to do anything that would be a disadvantage to us in any operation we might have to engage in, in the Mediterranean.

As the Senator knows, we have 122,000 troops in territories and our possessions and on ships. We have a total of 585,000 that might be termed overseas forces.

I point out that of that number 122,000 are on ships, and in our possessions and in our territories. That leaves 463,000 from which the Senator wishes to take the number he has suggested. I do believe that we should do this in a little more orderly and thorough manner. We have 319,000 troops in Europe. My own feeling is that we could take out a minimum of 69,000 of those troops and still have that token force over there, an adequate token force for our purposes.

Some of these matters have become bogged down in negotiations between our allies and Secretary Kissinger and others who are trying to resolve this at this time.

However, I am certainly willing next year to come in here with a specific reduction—and I cannot guarantee it—that would equal what the Senator wants to do. I believe that is a better approach to the problem.

Suppose something does occur. I hope it does not, but it could. We had a potential threat recently. Suppose something should occur where we would have to send additional strength into the Mediterranean area. If we were to make this cut we would find ourselves in a distressing situation. I think we should weigh it in light of what the committee has undertaken to do.

The committee wishes to make an intelligent judgment in this matter. They are fully apprised that this problem is coming to a head. We have not been deceiving them. They fully understand what we are talking about. I am confident they are busily at work to meet the requirements of the committee.

Mr. YOUNG. Mr. President, will the Senator yield?

Mr. McCLELLAN. I yield.

Mr. YOUNG. Mr. President, I take the same position that the chairman of the committee takes. We both are for reducing forces overseas and we have voted for it.

Mr. McCLELLAN. I know I voted for it.

Mr. YOUNG. But I believe this is the wrong time to do it. The committee bill does cut funds so deeply that they will probably be forced to do it anyway.

To mandate a reduction now when talks are going on with NATO, I do not think it would be the right thing to do. I hope the Senator from California would not press his amendment because it is not the appropriate time to do it.

Mr. McCLELLAN. I believe there are 61,000 troops now and with this cut which we will make next year in some fashion and to some degree, would make it 40,000 or maybe more. I indicated a few moments ago I was thinking in terms of about 69,000 because I am persuaded that if we maintain 250,000 troops over in NATO we are doing our part so far as providing troops and personnel. That is the goal I have in mind if we can reach it.

I would not oppose what the Senator is trying to do, but I am simply trying to do this in a fashion that will be in keeping with the best orderly process of making a reduction in our troops abroad.

Mr. CRANSTON. I thank the Senator.

Mr. McCLELLAN. I am willing to go ahead, unless the Senator wishes to suggest a quorum and vote now.

Mr. CRANSTON. I would like to ask a couple of questions. I appreciate very much the Senator's approach to the matter, and I know he is generally in support of these objectives.

The Senator spoke of the Middle East problem. The major U.S. force in that general area is the Sixth Fleet, which is exempted from this amendment.

Mr. McCLELLAN. I understand that.

Mr. CRANSTON. I do not specify in the amendment that the cuts would have to come in NATO countries or in any other particular place.

Mr. McCLELLAN. I know, but I have indicated where I think it should take place.

Mr. CRANSTON. I would like to ask the Senator whether or not there has been substantial progress toward mutual force reductions in Europe.

Mr. McCLELLAN. I think we have reduced overseas, and I believe we can reduce further.

Mr. CRANSTON. If we find that multilateral force reductions are getting nowhere, will the Senator favor cutting U.S. troops in NATO countries, as well as elsewhere in the world? These options have been under discussion for years.

Mr. McCLELLAN. I certainly emphasize that is now my position. I expect to continue that position. Something could happen to cause me to change my mind.

I do not foresee any such contingency, but I do not know what world conditions in Europe will be when we are marking up the bill, so I cannot make a commitment. But I submit what I have said today, reinforced by my past record as to my good intentions at the moment.

Mr. CRANSTON. I understand the Senator's intentions. I know he has favored overseas troop reductions for a long time. The thing that bothers me is that we have not yet had legislation that mandates a cut.

Mr. McCLELLAN. It is a delicate matter. We do not have the legislation but the colloquy that we are having on the floor now, in my judgment, will have some significant effect in the next few months. I hope it will.

Mr. CRANSTON. I certainly hope it will.

I wish to ask one other question of the Senator. I have adopted a very minimal figure in suggesting a cut of 40,000, which is far smaller than that presented to the Senate in September during debate on the authorization bill.

I know the Senator cannot be specific, but I would hope if we could agree on, say, a cut of 30,000 now, there might be a larger cut a year from now. And if I do not press the amendment now, I hope the Senator will be shooting for something higher next year.

Mr. McCLELLAN. I am not going to promise but I have indicated what I think about NATO. It would be 1½ times more, 1¾ times more than what the Senator is asking to cut this bill. I think we could do that but I point out that there are a number of bases abroad, installations that should be closed and we are working on that, and that will mean as we close them, those people will be brought home. I do not believe they would be redeployed somewhere else. In fact, the purpose is to close the bases and effect the savings.

Again, I cannot speak for the entire committee. After all, I am only the chairman and preside and have only one vote. On this subcommittee we have some very fine personnel and I think most of them are in sympathy with the Senator's objectives. That would be my estimate of the matter.

Mr. CRANSTON. I would like to ask whether or not the distinguished Senator representing the minority side on the committee concurs with the chairman, who, of course, has indicated that he can speak only for himself and not for the committee. The question is whether or not significant steps can be taken next year toward the reduction of troops—unless, of course, the world situation alters in such a way that more troops are called for.

Mr. YOUNG. Mr. President, my position is substantially the same as that of the chairman. I have been hoping for years that this could be done. I am very sympathetic to the Senator's objective.

I hope we can accomplish the Senator's objective in another year. I would not vote for it right now, because I think it is the wrong time to do it in view of the world situation. However, although I am very sympathetic with the idea of the Senator from California, I hope he will not press his amendment today.

Mr. CRANSTON. Mr. President, in view of the assurances given by the two Senators who have considerable influence in the committee, and because these Senators say that they will work toward achieving our common objective, I will withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

The bill is open to further amendment.

Mr. McCLELLAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PASTORE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PASTORE. Mr. President, I send an amendment to the desk and ask to have it stated.

The PRESIDING OFFICER. The clerk will read the amendment.

The legislative clerk read the amendment, as follows:

> On page 25, line 20, strike "$1,392,600,000" and insert the following: "$1,395,800,000".

Mr. PASTORE. Mr. President, the House did not allow $4.3 million for the procurement of transponders for the Air Force satellite communications system. Deletion of the transponder package from the host satellite will result in a critical reduction in our strategic communications capability.

My amendment restores $3.2 million of the House reduction. This is the amount required to provide the necessary survivability and reliability to this communications system.

This was an inadvertence. I understand the committee is ready to accept the amendment, and I shall not pursue it further.

Mr. McCLELLAN. Mr. President, I thank the Senator. Yes, Mr. President, through an inadvertence it was left out. I am sure the distinguished Senator from North Dakota will agree with me.

Mr. YOUNG. Yes, Mr. President; it was my understanding that we intended to put it in.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Rhode Island.

The amendment was agreed to.

Mr. PASTORE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PASTORE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PASTORE. Mr. President, I send to the desk an amendment on behalf of the Senator from Tennessee (Mr. Baker), which I ask to have read.

The PRESIDING OFFICER. The clerk will read the amendment.

The legislative clerk read the amendment offered by Mr. Pastore in behalf of Mr. Baker, as follows:

> At the appropriate place in the bill insert a new Title as follows:
>
> TITLE—DEFENSE MANPOWER COMMISSION
>
> There is hereby appropriated the sum of $750,000 for use in carrying out the provisions of Title VII of the Department of Defense Appropriation Authorization Act, 1974.

Mr. PASTORE. Mr. President, this is a very simple amendment. It is being suggested by the Senator from Tennessee (Mr. Baker). It has to do with adding $750,000 for a Defense Manpower Commission study. I understand this study was placed in the committee report but does not appear in the bill. We thought it would be feasible to put it in the bill.

Mr. MANSFIELD. Mr. President, if the Senator will yield, I raised this question in the Committee on Appropriations. The figure was $500,000. The committee unanimously voted to raise it to $750,000.

Mr. YOUNG. Mr. President, the committee approved the item by putting it in the report, so I have no objection.

Mr. GOLDWATER. Mr. President, it was in the authorization bill but, frankly, we have the Armed Services Committees of the House and the Senate and the Appropriation Committees of the House and the Senate studying this all the time. In fact, it now charged to the Armed Services Committee that we set the troop level or strength of the military. I think we would only be doing something redundant if we appropriated $750,000 to do what we are already doing today, and, on top of what the committees are doing, this matter is in constant perusal by all branches of the military and the Joint Chiefs of Staff in the Pentagon.

It is not a large sum of money, but what I am concerned about here is that if we keep adding these sums to study the same thing, we have this duplication of effort. I would rather see funds to study procurement. I think procurement is a dark and fuzzy field, about which we do not know too much, and where we can save money. All of us are familiar with the problems of personnel. We have considered the Joint Chiefs of Staff's recommendations on personnel, plus our own particular determinations in committee.

Mr. President, I am not too strong in my opposition to this. I think it is another appropriation that we do not need, because it would create another commission to do something that the woods are full of right now.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. William L. Scott). The Senator from Mississippi is recognized.

Mr. STENNIS. Mr. President, it is correct, I think, that this provision is in the authorization bill. I have not personally considered this matter myself. But, so far as any implication here is concerned that the committees are not doing anything about this, I want to strongly refute that idea because the committees have been effective in it for 2 or 3 years, more effective than the membership has a chance to know.

Mr. President, we really have an expert in this field. Personnel is the most difficult of all problems. I would like to know who appoints the members of the Commission, and how they are selected.

Mr. MANSFIELD. Mr. President, the amendment was offered on the floor of the Senate. It was accepted unanimously. The authorization for $2.5 million for a 7-member commission was authorized at that time. When I appeared before the Appropriations Committee yesterday, the figure of $500,000 was mentioned. I asked that it be raised to $700,000. The committee, of which the Senator is a member, unanimously agreed to that.

The Speaker and the minority Member of the House have made their appointments. The Senate will make two appointments. The President will make three appointments. This is a commission to do something that in no way interferes with what any other commission is doing. It is worthwhile. I think that what the Armed Services Committee authorized and what the Appropriations Committee approved unanimously ought to be granted on the floor of the Senate.

Mr. STENNIS. Mr. President, the reason I am unfamiliar with the matter is that I have had an enforced absence here. I was away one day this week, and that was the day the provision was discussed before the full committee.

I can see where this matter, if properly handled, could be of assistance to us. However, I may suggest that whoever serves ought to be someone who is an expert in this field, some of the members ought to be. It is a matter that I have tried to deal with.

Mr. PASTORE. Mr. President, the only reason I offer the amendment is because what the distinguished majority leader has said is true. The matter was brought up before the committee. I was there. The distinguished Senator from Mississippi could not be there because he was engaged on official business elsewhere in the Capitol. In his absence it was approved unanimously. I do not remember one dissenting vote. And that is the reason I took it upon myself to offer the Baker amendment.

Mr. BAKER. Mr. President, the amendment would add a new title to the bill and would appropriate $750,000 for the establishment and operation of the Defense Manpower Commission through the end of the present fiscal year. Although the Commission was mandated by title VII of the military procurement authorization bill recently signed by the President, and although that authorization provided for $2.5 million for the 2-year study, the Department of Defense failed to request any money for this matter when they sent the appropriation bill to the Congress. I do not wish to speculate on why the Pentagon failed to do so, but it would seem fair to assert that they usually do not forget things they want and vice versa.

In any event, the purpose of this

amendment is to carry out the will of the Congress as expressed in the military procurement authorization bill passed over 2 months ago.

In lieu of a specific request from the Department of Defense, the Appropriations Committee left specific funding for the Commission out of the bill itself. Instead, they recommended in the report that the Secretary of Defense use $750,000 of the funds appropriated for his own "activities" to create the Commission. I do not question the Pentagon's willingness to comply with the request of the committee eventually. What I do question is whether that request will be met in time for the Commission to be underway before the spring. As many of my colleagues know, there are a number of manpower-related proposals presently pending before the Armed Services Committees in the House and the Senate. I am told those proposals are to be considered next year sometime. If the Commission is to have any input on this important legislation, it will have to be established and underway no later than the end of February. It is for this reason that I have proposed a specific appropriation of funds so that as soon as this bill is signed into law, the Commission might begin discharging its ambitious mandate.

That mandate, which calls for the appointment of seven individuals, four by the Congress and three by the President, requires the Commission to conduct a comprehensive study and investigation of the overall manpower requirements of DOD, both short term and long term. In carrying out such a study, the Commission is urged to give special consideration to—

First, the effectiveness with which civilian and active duty personnel are utilized, particularly in headquarters staffing and in the number of support forces in relation to combat forces;

Second, whether the pay structure, including fringe benefits, is adequate and equitable at all levels;

Third, the distribution of grades within each Armed Force and the requirements for advancement in grade;

Fourth, the cost-effectiveness and manpower utilization of the U.S. Armed Forces as compared with the armed forces of other countries;

Fifth, whether the military retirement system is consistent with overall Department of Defense requirements and is comparable to civilian retirement plans;

Sixth, the methods and techniques used to attract and recruit personnel for the Armed Forces, and whether such methods and techniques might be improved or new and more effective ones utilized;

Seventh, the implications for the ability of the Armed Forces to fulfill their mission as a result of the change in the socioeconomic composition of military enlistees since the enactment of new recruiting policies provided for in Public Law 92–129 and the implications for national policies of this change in the composition of the Armed Forces; and

Eighth, such other matters related to manpower as the Commission deems pertinent to the study and investigation authorized by this title.

There are a number of reasons why Senator BENTSEN and I proposed such a comprehensive study. Despite the fact that the United States is no longer engaged in combat anywhere in the world and that there has been a general improvement in relations with the Soviet Union and the People's Republic of China, we are nevertheless spending more on defense than ever before. This has prompted many Members of both bodies and their respective committees, to undertake a more extensive examination of the defense budget than usual and to support a variety of cuts in an effort to justify the expenditure of every dollar. I do not question the objective of such an exercise; in fact, it represents the essence of legislative oversight. But what I do question is an almost unavoidable tendency to devote the preponderance of our frugality to the most visible pieces of hardware in the defense budget. We do so to the exclusion of civilian and military manpower when manpower in the past 20 years has accounted for 93 percent of the increases in defense spending and 96.4 percent in the past 10 years. Moreover, this year, manpower narrowly defined, accounts for 56 percent of the total defense budget. But if we include all manpower-related expenditures, we find that over 66 percent of the total defense budget is going for personnel as opposed to weapons.

This is not to say that I oppose the closest scrutiny of expenditures on all weapons projects, nor that I am unaware of attempts by the appropriate committees of Congress to deal with the issue of manpower; but rather that unless we attempt to come to grips with this complex issue with the same meticulous zeal that we have devoted to weapons in the past, then I fear we run the risk of eventually pricing our defense program virtually out of existence. It is for this reason that Senator BENTSEN and I originally proposed the Commission, and it is for this reason that the Congress agreed to that proposal in the military procurement authorization bill. The amendment we now offer is to provide adequate funding for the Commission so that it might proceed immediately to the task before it.

I urge my colleagues to support this effort.

Mr. BENTSEN. Mr. President, I am delighted that the Appropriations Commitee has accepted the amendment of the senior Senator from Rhode Island to provide $750,000 for the Military Manpower Commission approved by the Congress as part of the military procurement bill.

The report issued by the Senate Appropriations Committee authorizes the Secretary of Defense to transfer funds in this same amount for the Commission. Normally, this would be sufficient to insure that the funds would be made available in a timely and cooperative fashion, but I am concerned that this may not be a normal case. The Department of Defense vigorously opposed the establishment of this Commission when it was considered by the House-Senate conferees on the proceurement bill. After the Commission became law, the Department still made no request to the Senate Appropriations Committee in order to provide funds for the Commission. And now we come to the final consideration of this matter with report language that only "recommends" that the Department of Defense make funds available for the Commission. For these reasons, I believe that the committee has acted most wisely in accepting the amendment of the senior Senator from Rhode Island (Mr. PASTORE).

The work of the Manpower Commission may prove to be one of the greatest aides the Congress has in dealing with the military personnel issues that will face us in the next 2 years.

Particularly, I am referring to the staggering increases in Department of Defense personnel costs both civilian and military. Current estimates are that the defense budget will exceed $115 billion by 1980. A staggering figure—particularly when one considers that approximately two-thirds of that amount will be attributable to the direct and indirect cost of personnel.

This is a trend that has developed over the last 20 years and which has reached such startling proportions that serious questions must be asked about the entire structure of our military manpower policy. Some figures might be illustrative.

During the 20-year period between 1954 and 1974, defense outlays increased by about $35 billion. Of that amount, 93 percent, or $33 billion, went for pay and operating costs, with only 71 percent going for capital investments such as weapons and construction.

Manpower costs have not only increased as a percentage of the defense budget, but we are actually paying significantly more in personnel costs for significantly fewer people. For example, defense is paying $22 billion more in fiscal year 1974 than in fiscal year 1964 in pay and allowances for 400,000 fewer military personnel.

The average cost of maintaining a U.S. serviceman on active duty has increased from about $3,400 in 1950 to about $12,400 in 1974, an increase of 262 percent.

Now I am not urging that we can or should provide for defense manpower costs at the same rate we did in the 1950's. I am saying, however, that we cannot afford to utilize personnel today as we did when $75 per month paid a private's salary and, regrettably, that is too often the case.

The purpose of the Manpower Commission, then, will be to examine the personnel pipeline of the Department of Defense—specific recommendations on how reforms can be made and savings achieved.

I believe this Commission can make a significant contribution to congressional understanding of these personnel issues and will prompt congressional action to bring these costs under control. I hope the conference committee will accept the Senate position on this item and I commend the chairman of the committee, Senator McCLELLAN for his work on this vital issue.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Tennessee (Mr. BAKER). (Putting the question.)

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. HATHAWAY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

On page 44, line 11, beginning with the word *"Provided,"* strike out all down through the colon in line 14.

Mr. HATHAWAY. Mr. President, this amendment to the defense appropriation bill would strike from it the provision which prohibits the payment of a price differential on contracts made for the purpose of relieving economic dislocations. This prohibition, commonly referred to as the Maybank amendment, has the effect of severely limiting the Government's program of aiding areas of high unemployment through the award of contracts. In my opinion, it is time that we reconsider the purpose of this provision in light of the present economic conditions. It is my understanding that this limiting language has been included in each of the defense appropriation bills since 1953.

It was originally inserted in the act to prevent negotiations of contracts at premium prices with firms in labor-distressed areas. The debate on the prohibition, when it was first introduced, centered around the textile industry, with the concern expressed that some mills would be favored over others. But many of the problems within the textile industry have long since been changed. This was back at the time when the New England textile industry was moving south; and in an effort to keep some of the textile industry in New England, the Defense Department was inclined to award contracts at a higher price to New England mills than to the southern mills. The Maybank amendment was offered by the late Senator Maybank of South Carolina to prevent that from happening, so the Secretary of Defense went along with it.

But that problem has taken care of itself. Most of the textile mills have moved south, very few are left in the New England area, and the problem that the Maybank amendment was intended to take care of has been taken care of. Over the years, this amendment has been left in the act, even though, in my opinion, at least, it has outlived its usefulness.

What is left, however, through the prohibitory language is the requirement of a guarantee that any contract which is awarded as a result of preference procedures to firms that qualify for labor surplus area assistance must be awarded at the lowest possible prices.

By requiring this guarantee, any procurement of goods or services which is suitable for award to labor surplus area firms must be split. One part of the requirement is open to unlimited competition by all firms interested in performing the contract. The other part is set aside for the exclusive award to labor surplus area firms. The labor surplus area firms must then meet the price which was competitively reached on the non-set-aside portion. In this way, it has been ruled that the Government is assured of receiving the lowest possible price on the contract awarded to the labor surplus area firm.

If, for example, the Government wants to have a thousand widgets made, it can specify that 200 of the widgets must be made in a labor surplus area; but the other 800 widgets are to be open for competitive bid. Once the price has been established by competitive bidding throughout the country in labor surplus and nonsurplus areas, that is the price that the Government will pay for the 200 that will be made in the labor surplus area.

While I firmly believe that the Government must seek competition and achieve a competitively derived price whenever it is possible to do so, I do not see the reason for this complicated procedure, which greatly restricts the labor surplus area program.

What I am suggesting by the deletion of this prohibition in the defense appropriation bill is simply to restore the right to the procuring agencies to set aside totally an appropriate procurement for firms which qualify under the labor surplus area program.

To go back to the widgets example, the Defense Department could put the entire 1,000 widgets out for bid but restrict the bidding to firms located in labor surplus areas throughout the country. This does not mean that the Defense Department would be allowed to say that the widgets could be bid on only in labor surplus areas in New England, in California, or in any other geographical area in the country; it means simply that bidders would be restricted to those in labor surplus areas throughout the entire country, so there would be bidders on widgets all the way from Maine to Hawaii.

But it would restrict it to manufacturers in those areas alone, and in that way we would be assured that those labor surplus areas are going to get a greater share of Defense Department contracts than they are getting at the present time.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. HATHAWAY. I am glad to yield to the Senator from Rhode Island.

Mr. PASTORE. I quite agree with the Senator that there was a time, at the time of the exodus of the textile industry out of New England to the South, which was a rather agonizing experience for all of us in Rhode Island. I was Governor at the time. At that time 45 percent of our gross income came from the textile industry, and it dwindled until it is now less than 15 percent.

Even the South now has troubles with the textile industry, because most of it has been severely damaged by textile imports from Japan, and underdeveloped countries.

We in Rhode Island have been and are very much distressed by the closing of our naval facilities. With less than 1 percent of the population, we have taken 50 percent of the cuts in naval installations.

We are a labor surplus area, and it looks to me as though the evolution has come about that, whereas this provision was originally intended to help the South, since the Navy has now moved to the South, I believe the spirit of the Maybank amendment should be reversed to be of more assistance to us.

I think the amendment ought to be studied. I think the Senator makes a good point, but I would be rather reticent, at this time, to push an amendment to delete it completely from the law without it being given a study. If it is true that it would bring about the effect the Senator from Maine would like to bring about, I will be the first one to go along with it. I think if we could get a promise from the committee that they would look into the amendment and come back with a report early next year, we would all be better off. We are a labor surplus area in Rhode Island.

Mr. HATHAWAY. Yes, you are. The Defense Department defines a labor surplus area as an area of high unemployment. In other words, you have a lot of people who are out of work.

That is the way the Defense Department defines an area of high unemployment.

Mr. PASTORE. Does the Senator say this amendment is intended to help the unemployed?

Mr. HATHAWAY. Yes; I am going to go on, in my remarks, to state what an area of surplus labor is considered to be. There are three categories of them: areas of substantial unemployment, areas of sustained unemployment, and areas of concentrated unemployment or underemployment. The Maybank amendment was intended to prevent the Secretary of Defense from awarding a contract, we will say, for Army uniforms to a textile mill in New England at a higher price than he would award the same contract to a textile mill in South Carolina, in order to keep the New England mills where they were.

Mr. PASTORE. Like we did on the Small Business Administration?

Mr. HATHAWAY. Senator Maybank put in this amendment to prevent that from happening, so that the Secretary of Defense would have to buy the uniforms at the same price from a New England mill or a southern mill. At that time the southern mills were able, because of lower labor costs, to bid much lower than the New England mills were.

Mr. PASTORE. I will have to support the Senator's amendment.

Mr. HATHAWAY. I realize that the term "labor surplus area" as used by the Department of Defense is rather misleading, but they actually mean areas of high unemployment.

Mr. President, I have the matter broken down in a little greater detail. I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks the definitions of labor surplus areas.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PASTORE. Mr. President, I am afraid that if we pursue this, we may take a chance of losing it, which I think is quite likely on the floor of the Senate at the present time. I repeat my plea that if we could get a promise from the committee, I will stand shoulder to shoulder with the Senator from Maine to see that this equity is brought about. I think we would be much more successful. I am afraid if we push it at this point, we would weaken our position.

I think the question at this time is to help the areas that are depressed. I think it would be to the future benefit of the overall economy if we did something along that line.

Mr. HATHAWAY. I appreciate the remarks of the Senator from Rhode Island.

Mr. McCLELLAN. Mr. President, will the Senator yield?

Mr. HATHAWAY. I yield to the chairman.

Mr. McCLELLAN. If we take this amendment—assume we take it and go to conference—we go to the conference without any record. There is confusion as to what it means and how it would apply. We would not get anywhere with it, in my judgment.

Moreover, if we lose it over there this year, and go back there next year, they would say, "Well, there was opposition about that last year."

I do not know the answer, but we have had no opportunity to study the matter, it was not before the committee. This provision has been in the law for 20 years, and I am reluctant, in behalf of the committee, to accept the amendment and take it to conference, because, to repeal the law, we ought to have adequate hearings on it. We must know what the effect has been, what the harmful effects are, why its effectiveness would no longer prevail, and why we should discontinue it.

We have this problem, and I would like for all Senators to think about it. This committee, in trying to handle a $75 billion defense bill, has a terrific job. It is just stupendous, and we need the help of our colleagues. We need this assistance.

Where Senators find something that perhaps ought to be changed and corrected, with less money for this and more for that, we need your help. Come forward and give us the facts, so that we can evaluate it, because it is awfully hard to do it on the floor of the Senate.

Of course, Senators have that privilege, but if we can get our colleagues, when they detect these things in time, to give them to us and let us study them, it will be very helpful, and as a result we will often be able to resolve the matter before we get to the Senate floor.

I would hope the Senator would be agreeable to proceed in accordance with the suggestion made by the Senator from Rhode Island. I do not want to fight it or oppose it; I do not want to get in that position, because I do not know; but it would strike me that it is putting a lot of power in the Defense Department to say, "Well, you go over here and make a contract and pay a lot more for something than you could if you got it somewhere else."

It is not an altogether one-sided issue.

Mr. PASTORE. Mr. President, if the Senator will yield, of course, there is precedent for it. It was done in the Small Business Administration. And I think, after all, if we do have a depressed area anywhere in the country, it is essential to the national stability, because without stability in the economy, I do not think we will have good security.

There was a reason for doing this, and I think the whole thing should be reviewed very academically, and we should try to get the right answer.

I thank the Senator for yielding.

Mr. YOUNG. Mr. President, will the Senator yield?

Mr. HATHAWAY. I am glad to yield to the Senator from North Dakota.

Mr. YOUNG. I am sympathetic with the Senator's objective, but I think we really should have hearings on this matter, because we have a problem with the energy crisis, and there may well be depressed areas all over the United States. I do not know how the Defense Department would determine which would be the worst depressed area. We do have some unusual problems now.

Mr. HATHAWAY. As I mentioned in the course of my remarks, it would not be done on a geographical basis. It would be done the same way that small business contracts are let now by the Department of Defense. In other words, they let contracts that can be bid on exclusively by small business firms throughout the country, not on a geographical basis. The same rule would apply with respect to depressed areas or areas of high unemployment, and not on a geographical basis. A contract would be put out by the Department of Defense and the only bidders would be those firms located in areas of high unemployment throughout the country. The Secretary could not designate a certain geographical area.

But I agree with the remarks of the distinguished Senator from Rhode Island (Mr. PASTORE) that this matter should be studied by the committee. I appreciate the assurances given to me by the chairman and the ranking minority member that such a study will be undertaken before the Defense appropriation comes up next year.

Mr. PASTORE. This is legislation I would hope within the very near future that the Senator from Maine (Mr. HATHAWAY) would introduce a bill on, to do exactly what he is proposing now; so that then, he and I can appear before the subcommittee and make our presentation.

Mr. HATHAWAY. I thank the Senator from Rhode Island. I have introduced a bill to allow priority for defense contracts in areas of high unemployment, and I appreciate the remarks of the Senator from Rhode Island, that he will work with me on a bill to accomplish what the pending amendment is trying to accomplish. With the assurances that have been given to me on this matter, Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. HATHAWAY. Mr. President, to complete my remarks, may I say that those qualified firms which would be bidding on this set-aside would be competing among themselves and their prices would necessarily be competitive. Unless the prices bid in the set-aside are fair and reasonable, the Government would be justified, and indeed should, cancel the set-aside and readvertise the procurement without restriction. I have faith in our procurement officials that they would recognize when the bids might appear excessive compared with current prices in the marketplace and take appropriate action. A total set-aside for labor surplus area qualified firms would not be an opportunity to take advantage of the Government.

May I add that the contracts awarded under this program are for the goods and services which the Government routinely purchases to meet its needs. It is a procedure for selecting firms to perform the work in areas experiencing high unemployment, thereby contributing to the economic health of the community in which the contractor is located. It has the added feature of encouraging the hiring of the disadvantaged persons. Eliminating this restrictive provision actually contributes to the more efficient and orderly process of contracting.

Under the Baybank amendment language, the scope of the program is severely limited. Out of a total contract expenditure in fiscal year 1973 by both civilian and defense procuring agencies of $45 billion, only $195.7 million in labor surplus area contracts were awarded. That is 0.4 percent. Several witnesses testifying before the Government Procurement Subcommittee of the Small Business Committee on this program during this past year agreed that, without the Maybank amendment restricting the program, labor surplus area procurement would surely expand. These witnesses are the people responsible for the operation of the current program, and thus their testimony is of real value.

In terms of cost of the operation of the program, it is very reasonable. In these same hearings, the Department of Labor estimated the Federal and administrative costs connected with the program are only about $1.5 million a year. Comparing this with the number of disadvantaged persons reported hired pursuant to the program, this would result in a placement expense of only $40 per person. This might be compared with the program costs under other job preparation and training programs which generally run from $1,000 to several thousand dollars per individual placed.

Although the labor surplus area procurement program would appear to be economically wise, the effect of the Maybank amendment prohibition brings what I believe to be the unintended result of making the contract procedures under the program more costly. While requiring that no price differential is to be paid, the procedure of splitting the purchase into two or more contract awards actually increases the time, work, and resulting expense to the procuring agencies. Instead of one contract to award, one contract performance to administer, and one contractor to pay, by the device of splitting the procurement, there are two or more contracts to award, administer and close out. The additional man-hours required to take these additional measures naturally adds to the cost of administering the contracts.

In short, I do not believe that the prohibition of the payment of a price differential in the contracts concerned with economic dislocation is any longer relevant to the evil it was designed to avoid and is in fact highly detrimental to the labor surplus area procurement program. This would seem to be a particularly appropriate time to remove this obstacle from a program designed to contribute to the economic health of depressed communities and areas. If the economic prognosticators prove to be correct in their predictions, our economy is headed for difficult times with rising unemployment.

Certainly, at present, there are areas experiencing unemployment far above that reported for the Nation as a whole. While I hope the unemployment picture does not become worse, I feel that we must open the way to every form of suitable assistance. This labor surplus area program holds out promise for relief. It should not be fettered with an unnecessary limitation. I urge my colleagues to join with me in striking from the defense appropriation bill this limitation on the expenditure of public funds.

EXHIBIT 1

DESIGNATION OF UNEMPLOYMENT AREAS

AREAS OF SUBSTANTIAL UNEMPLOYMENT

A labor area in which the current and anticipated local labor supply substantially exceeds labor requirements. An area is placed in this category when:

(1) Unemployment in the area is equal to 6 percent or more of its work force, discounting seasonal or temporary factors, and

(2) It is anticipated that the rate of unemployment during the next 2 months will remain at 6 percent or more, discounting temporary or seasonal factors.

AREAS OF PERSISTENT UNEMPLOYMENT

A labor area, or a city of 250,000 or more population, or a county, when unemployment during the most recent calendar year has averaged 6 percent or more of the work force, and the rate of unemployment has:

(1) Averaged 6 percent or more and has been at least 50 percent above the national average for 3 of the preceding 4 calendar years, or

(2) Averaged 6 percent or more and has been at least 75 percent above the national average for 2 of the preceding 3 calendar years, or

(3) Averaged 6 percent or more and has been at least 100 percent above the national average for 1 of the preceding 2 calendar years.

SECTIONS OF CONCENTRATED UNEMPLOYMENT OR UNDEREMPLOYMENT

Sections of concentrated unemployment or underemployment include all places participating in the Department of Labor's "concentrated employment program," all "target areas" under the "model cities" program of the Department of Housing and Urban Development, all areas which were identified for Federal assistance to provide public service employment under section 6 of the Emergency Employment Act of 1971 (P.L. 92–54), and Indian reservations with a population of 4,000 or more.

Mr. McCLELLAN. Mr. President, I thank the Senator. I appreciate his consideration. Apparently it seems that this is primarily a matter of legislation. It may be that the Armed Services Committee should consider it, if the Senator introduces such a bill. We would certainly welcome his appearance before the Defense Appropriations Subcommittee next year when we are holding hearings so that we can make a record on it.

Mr. HATHAWAY. I thank the Senator from Arkansas very much.

Mr. NELSON. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

On page 28, line 8 add, after "1975" the following: "provided further, that no part of the appropriation contained in this act shall be used for Full Scale Development of Project Sanguine."

Mr. NELSON. Mr. President, from the record of the testimony in both Houses, it is quite clear that there is no money in this bill for the purpose of full-scale development of Project Sanguine, the proposed Navy communications system.

However, since that is the intent of the committee and since it is agreed, by everyone, that no moneys of the $16,600,000 shall be spent for other than the continuance of the environmental studies to determine the environmental impact, if any, of the communication system, once it is deployed.

And that the balance of the moneys shall be spent only for the validation phase of Project Sanguine, that aspect of the project to test its practicability and its feasibility, and since that is agreed to by the Navy from its testimony and from the committee report, I would like to see this sentence added on page 28, so that it is written into the statute, that—

None of the $16,600,000 shall be spent for any other purpose than the purposes of the validation of the system and the environmental studies.

Mr. McCLELLAN. Mr. President. will the Senator from Wisconsin yield?

Mr. NELSON. I yield.

Mr. McCLELLAN. I have considered the Senator's amendment, and I have discussed it with the distinguished Senator from North Dakota (Mr. YOUNG), the ranking minority member on the Appropriations Committee and also on the subcommittee, and I see nothing wrong with the Senator's amendment. I have no objection to it. It is not the intent that this money be used for procurement. We are developing a system here. To use the term "full scale procurement," I do not think that would preclude the department from procuring a prototype or other equipment that might be needed. But I would agree with the Senator, I do not think it should be full scale procurement until the system has been researched, tested, and developed. If that is satisfactory to the Senator, I will accept the amendment.

Mr. NELSON. Fine. I used the phrase which the Navy uses "full scale development of Project Sanguine," which, by their definition, means deployment of the system for use.

Mr. McCLELLAN. I would not want them to do that. I am happy personally to accept the amendment.

Mr. YOUNG. Mr. President, I have no objection to the amendment. I think it is a good amendment.

Mr. NELSON. I thank both Senators from Arkansas and North Dakota.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wisconsin.

The amendment was agreed to.

Mr. NELSON. Mr. President, I send to the desk another amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

On page 28, lines 28 and 29, delete "$2,647,945,000" and substitute "$2,631,345,000."

Mr. NELSON. Mr. President, I will be very brief as to this amendment. It would, in fact, delete from the bill the $16,600,000 for the completion of the continuation of the validation phase and for the environmental study. I realize that the Appropriations Committee has acted on it and inserted it in the bill, and that, given the fact that we would have to discuss it a couple of days in order to get some attention around here, I am not——

The PRESIDING OFFICER. The Chair would advise the Senator from Wisconsin that the amendment as stated by the clerk is not properly identified. There are no lines 28 and 29 on the page the Senator refers to.

Mr. NELSON. Mr. President, I modify my amendment so that it will read:

On page 28, lines 6 and 7.

Strike "lines 28 and 29."

Mr. President, I am aware that it would not be possible to get the votes to strike this appropriation, but I just want to be sure that the record is clear on it, that we are not going beyond the validation phase.

Mr. President, I would simply ask for a voice vote on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wisconsin.

Those who favor the amendment will say "aye." Opposed "no."

The Chair is in doubt and calls for a division.

On a division, the amendment was rejected.

Mr. NELSON. Mr. President, I will just take a couple of more minutes.

Last year, when the authorization bill came from the Armed Services Committee, we had a dialog on the floor of the Senate in which this project was discussed in considerable detail, and it was understood at that time that these moneys would only be for the completion of the environmental studies and the validation phase of that communications system.

I exchanged letters with the Navy last year on the specific issue of the studies and the validation phase, and I received their assurances, in writing, that there would be no full-scale development and that once the validation phase was over and the environmental studies were over, if they then thought the system was a necessary part of our communications system and our weapons system, they would then come to Congress and ask for appropriations for the full-scale deployment, at which time, of course, there would be hearings and debate in both Houses on the question of whether or not this communictions system is in fact a necessary and critical system to have as part of our defense system.

I ask unanimous consent that an exchange of letters I had in June of 1972 with the Navy, one by me to the Secretary of the Navy and one to me from the Assistant Secretary of the Navy, be printed at this point in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON FINANCES,
Washington, D.C., June 6, 1972.

Hon. JOHN W. WARNER,
Secretary of the Navy,
The Pentagon.

DEAR MR. SECRETARY: Congress will soon be making the decision on the Navy's proposal that, in fiscal year 1973, Project Sanguine be advanced to the "Validation" phase and that some $12 million be appropriated for this purpose. In a continuing effort to evaluate the program, there have recently been a series of Naval briefings as well as a productive meeting between Naval scientists working on Project Sanguine and distinguished scientists who have asked probing questions concerning the technical feasibility of the system.

This letter is being written, prior to Congressional action, based upon my interpretation of the series of conference between myself, my staff, independent scientists, and Navy representatives over the past few months. It is for the purpose of reviewing the status of Project Sanguine and the FY 1973 proposals for it.

1. TECHNICAL FEASIBILITY

Scientists working on Project Sanguine are convinced that the practical feasibility of the communications system has been demonstrated. The Navy proposes, in FY 1973 to further test the practical aspects of the system during this test or development phase. Other eminent scientists, outside the program, express serious reservations concerning the technical feasibility of it.

Bearing importantly on this divergence of views is the need, raised both in the National Academy of Sciences report on Sanguine and by the distinguished scientists who have been critical of it, for a full-scale discussion in the national scientific community of the technical questions involved.

Sanguine obviously involves different theories and techniques of communication that have not had wide-spread, careful analysis by the scientific community. It is my understanding that the Navy agrees that the unclassified data respecting technical aspects of this system should be widely published in scientific journals so that it can be evaluated by experts in all of the scientific disciplines involved and the Navy agrees to make the unclassified data available.

In my opinion, the question of the practical feasibility of the system remains open until the scientific community has had ample opportunity to evaluate the data.

2. ENVIRONMENTAL IMPACT

In March, 1971, the Navy said, in its draft environmental impact statement on Sanguine, that it could build such a system compatible with the environment. Among those critical of this report were the environmental subcommittee of the Governor's Ad Hoc Committee on Sanguine in Wisconsin; the U.S. Army Corps of Engineers; and the U.S. Forest Service, which questioned the entire test procedure because of the lack of previous information on the test sites prior to their development.

In addition, preliminary results of tests, conducted by the Hazelton Laboratories of Virginia under contract with the Navy, indicated seed growth retardation, avoidance of electrical fields by aquatic life, mutagenisis of fruit flies (at a rate "too important to be neglected. . . ") and other potentially serious acute and chronic effects from Project Sanguine.

Recently, in April, 1972, the Navy filed a second environmental impact statement, which, based on pilot projects, concludes essentially that Sanguine will not have a substantial adverse effect on the environment. While their evaluation of this document is not yet completed, I am informed that the environmental subcommittee of the Governor's Ad Hoc Committee is critical of this statement for much the same reasons raised with the first statement. The subcommittee expects to issue a critique on this environmental statement on June 15, 1972.

Of course, environmental research on Project Sanguine is continuing. There are now studies being conducted at nine colleges or universities, some of which started as little as a month ago, and most of which will be completed in a year or so. Also, the Navy's FY 1973 proposed budget for Project Sanguine earmarks some $400,000 for continuing environmental study purposes.

Therefore, the question of the environmental impact remains unresolved for the time being.

I would like also to note that the Navy advises me that a final decision on the site for Project Sanguine has not been made. It is also the position of the Navy that continued testing at the existing site is essential to complete development and evaluation of Sanguine regardless of ultimate site location.

In summary, it is my understanding in my discussions with the Navy that the FY 1973 appropriations on which the Congress is asked to act involve only continuation of research and development ("Validation" phase) and do not include any funds for the Final Development and Deployment phases. I would appreciate being advised if my interpretations of these conferences do in fact represent a correct view of the status of Project Sanguine and the purpose of the funds requested for FY 1973.

Sincerely yours,

GAYLORD NELSON,
U.S. Senator.

NAVY'S RESPONSE TO SENATOR NELSON

DEPARTMENT OF THE NAVY,
OFFICE OF THE SECRETARY,
Washington, D.C., June 9, 1972.

Hon. GAYLORD NELSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR NELSON: In your letter of June 6, 1972 you requested Navy confirmation of your interpretation of recent events affecting the status of Sanguine and the purpose of the funds requested for FY73.

I am pleased to advise you that your understanding of the efforts planned for Sanguine in FY73 are correct. I have enclosed a copy of the letter recently sent to the Chairman of the Committees on Appropriations and Armed Services which also discussed the Navy's plans for Sanguine in FY73.

The technical feasibility of Sanguine has received considerable study and review for over ten years. This work has been supported by actual communications experiments with submerged submarines to test all aspects of the system.

As you correctly noted the Sanguine system involves concepts and theories that have not been extensively ulilized in other systems. This is one of the reasons for the long and careful Navy research and development efforts since 1958. There are always some differing opinions on new scientific concepts. These can be best resolved by conducting actual experiments to test applicable theories while at the same time conducting scientific/technical discussions with all interested parties. The Navy has in the past and will continue in the future to encourage publication of unclassified technical material by the scientists working on the project. Considerable technical material was recently provided to Sanguine critics which should assist in their understanding and evaluation of Sanguine. The Navy will continue to cooperate in providing unclassified information regarding particular technical areas.

Several technical and professional societies will have sessions during the coming year specifically devoted to scientific papers on Sanguine. Several of the technical critics have indicated they will participate in these sessions which should provide a forum for meaningful technical exchange.

The Navy is not yet in a position to make a final assessment of the environmental impact of the construction and operation of an operational system. Environmental research is continuing and there has not been a decision on a final site or design. The recent Environmental Impact Statement (EIA) states there will be no adverse impact during the next four years of development. I must emphasize that this statement covers the remainder of Sanguine development only, and there is no intention that it be construed to be a statement of final impact, which as you know will be dependent upon results of this next phase as well as the exact location of the site. The present EIS does contain the current assessment of the potential impact from construction and operation of a Sanguine system. The final evaluation will be submitted in an updated EIS prior to requesting authorization for construction of an operational system.

The funds requested for Sanguine in FY 73 are for continuation of research and development as part of the Validation Phase of the major defense systems development and acquisition cycle. Approval of these funds, and the conduct of the Validation phase, do not constitute a commitment to full scale development or production of a Sanguine system. Develpment needs to proceed in order to insure that future decisions on full scale development are based on availability of all necessary factors, including environmental issues.

The FY73 efforts for Sanguine do involve contracting with industry for competitive preliminary development tasks and continued testing at the existing Wisconsin Test Facility. The operation of the test facility will continue as in the past with only the addition of buried cable tests to provide additional data on cost, environmental considerations and antenna radiation factors.

I believe the recent discussion and reports made available including the NAS/E report will do much to provide a basis for future consideration of the Sanguine program.

Sincerely,

ROBERT A. FROSCH,
Assistant Secretary of the Navy.

Mr. NELSON. Mr. President, a number of environmental studies are still underway and not completed. There have been eight environmental studies—on various environmental issues and problems—in separate contracts with various universities, and 15 remain uncompleted. I ask unanimous consent that a brief summary of the studies that have been completed

and those that are not completed be printed at this point in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Environmental Studies

The following summarizes the eight environmental impact studies which have been completed:

Low frequency electromagnetic radiation and genetic aberrations.—Dr. Sidney Mittler, Northern Illinois University, September 15, 1972; 13 pp.

A strain of adult male Drospohila were exposed for 5 days to 75, 60, or 45 Hz, 10 v/m and 1 gauss and then mated to female Drosophila. The low frequency electromagnetic radiation did not induce any of the following genetic aberrations: sex-linked recessive lethals, trans-locations between II and III chromosomes, loss of the X or Y chromosomes, nondisjunction, and dominant lethals.

Pigeon and rat behavioral study.—Dr. M. J. Marr, Ga. Tech.

Pigeons and rats were the test specimens to determine whether electromagnetic fields of the type encountered in a Sanguine environment could influence behavior. The test subjects were trained to perform behavioral tasks to determine whether exposure to ELF fields affected operant behavior and whether these fields were perceived. The study began in September 1971 and was completed in December 1972. The final report is expected in March 1973.

Sunflower growth study.—Dr. G. M. Rosenthal, University of Chicago.

This study was performed in 1972 to determined whether growth retardation effects found in earlier studies were a result of exposure to ELF fields or whether the results was caused by other influences inherent in the test procedure. Tests were conducted in a greenhouse using ordinary greenhouse growing conditions. The study began in the Spring of 1972 and was completed in December 1972. The final report is expected in March 1973.

Impact of extremely low frequency electromagnetic fields on soil arthropods—ongoing studies at the Wisconsin Test Facility.—Dr. Bernard Greenberg, University of Illinois, January 25, 1973.

A population census of key soil arthropods living near the Sanguine antenna and in control plots 7 to 12 miles away was made during the summer of 1972. The data were compared to data from three previous years. The data show no effect on soil arthropods exposed to the Sanguine WTF.

A different class of organisms could have been chosen for study but arthropods were chosen for two reasons. First, community structure is more stable at the higher taxonomic level of arthropoda. Second, the taxa used in the study fit into defined ecological roles; cryptostigmata and collembola are primary consumers or prey while Mesotigmata and Prostigmata are secondary consumers or predators.

WTT animal oxygen consumption study.—Dr. Bernard Greenberg, University of Illinois.

Oxygen consumption tests were made on five species of animals living in the vicinity of the Sanguine Wisconsin Test Facility during the summer of 1972. Respiratory quotient is a key physiological function. The report is expected in March 1973.

WTF ecological survey.—This survey was conducted during the summer of 1971 at the Sanguine Wisconsin Test Facility to obtain quantitative descriptions of forest ecosystems adjacent to the Sanguine antenna right-of-way, quantitative descriptions of herbaceous ecosystems within the Sanguine right-of-way, and census of apical bud mortality in pine forests adjacent to the Sanguine antenna right-of-way. Comparisons with data from areas remote from the Sanguine antenna showed no significant differences in any of the above parameters.

Evaluation of the health of personnel working near Project Sanguine test facility from 1971 to 1972.—Naval Medical Research Unit No. 4, December 1972; 42 pp.

Base line "problem-oriented" medical data, laboratory and physiological parameters were established for 24 personnel at Project Sanguine Test Facility in 1972. Comparisons were made between 9 test subjects and a group of age-sex matched controls after the follow-up examination. No differences of significance were noted between Sanguine and Control subjects. No evolution of abnormalities attributable to ELF exposure occurred during the interval between examinations. The medical problems of both groups are discussed.

Effects of low frequency electrical current on various marine animals.—Naval Air Development Center, 21 June 1972; 17 pp.

Threshold responses (gross movement) of various sea animals at low alternating electrical currents have been investigated. Although variable with species, shape of frequency response curve for representative currents was quite similar with all animals.

The threshold levels determined in this study are levels where the organism immediately sense the current. Threshold levels ranged from 2 to 28 milliamperes per square centimeter depending on the species.

Question. Identify each of the 15 studies in progress or planned, indicating by whom, starting and ending date, cost, add brief description.

Answer. The 15 studies in progress or planned are:

Bean root tip chromosome study.—Dr. M. Miller, University of Rochester, 15 Sept. 1972–31 December 1973. $41,000.

Bean roots are being exposed to ELF electric and magnetic fields. Rate of root growth is being studied, the mitotic index is being determined, and the chromosomes are being studied to determine whether any aberrations occur. The study began in September 1971 and is expected to be completed in December 1973.

The bean *Vicia faba* is widely used in cytogenetic studies. The root tip cells are synchronized through at least the first cell replication. The cells in the dormant seed when given suitable germination conditions arrive at mitosis in 55 hours. Mitosis is the process by which a cell nucleus divides into two. A plant root grows by extending its tip which contains the mitotically active cells of the root.

Fish sensitivity and behavioral study.—Dr. J. McCleave, University of Maine, 1 December 1972–31 December 1973. $26,000.

The threshold levels at which fish Atlantic Salmon and American Eel perceive the ELF field are being determined. Behavior is being studied to determine whether fish are affected at field levels lower than those they can perceive. The study began in September 1971 and is expected to be completed in December 1973.

Chicken growth, development and behavior study.—Dr. W. Durfee, University of Rhode Island. 15 September 1972–31 December 1973. $39,000.

The chicken is being studied while exposed to ELF fields during incubation and up to sexual maturity. Embryonic development outside the body of the parent provides an opportunity to study early developmental responses. Growth, development, and behavior are being studied. The study began in September 1971 and is expected to be completed in December 1973.

Mold growth and development study.—Dr. E. Goodman, University of Wisconsin-Parkside. 15 September 1972–31 December 1973. $59,000.

Physiological processes of mold are being studied while exposed to ELF fields through many life cycles. Among the parameters being studied are the onset of mitosis as it progresses through its life cycle, protoplasmic streaming, and DNA replication. The study began in September 1971 and is expected to be completed in December 1973.

Slime mold was chosen for study because (1) its natural habitat is at ground level on decaying vegetation, (2) its normal life cycle has been extensively documented both morphologically and biochemically, (3) it undergoes a naturally synchronous mitosis at predictable intervals, and (4) it goes through many life cycles in a relatively short period of time.

Plant and soil microorganism metabolism study.—Dr. W. Gardner, University of Wisconsin-Madison. 15 September 1972–31 December 1973. $52,500.

Plant metabolism is being studied while exposed to ELF fields under controlled laboratory conditions. Among the parameters being measured are water uptake across root membranes and its ultimate influence upon photosynthesis, response of the stomates, and plant transpiration.

Metabolic activity in soil microoragnisms is also being studied under controlled laboratory conditions. Solute and water transport across cell membranes are being measured. Measurements are being made of transport constants, uptake velocities, and turnover times and rates for solutes such as sugars and amino acids.

These studies began in September 1971 and are expected to be completed in December 1973.

Biorhythm study.—Dr. F. Halberg, University of Minnesota. 15 September 1972–31 December 1973. $51,000.

This study is utilizing the biological rhythms of organisms exposed to ELF fields as an indicator of biological effect. The test specimens are the rat, mouse, flour beetle, and silk tree. Biorhythms being measured include body temperature, estrus cycle, susceptibility to drugs, and movement. The study began in September 1971 and is expected to be completed in December 1973.

Primate neurophysiological study.—Dr. R. Medici, UCLA. 15 September 1972–31 December 1973. $80,000.

This study involves the behavior and electroencephalographic (EEG) records of monkeys exposed to ELF fields. The test subjects EEG is recorded while performing a task which if performed correctly results in a food reward. This kind of test would detect subtle effects. The study began in September 1971 and is expected to be completed in December 1973.

WTF gull chick study.—Dr. William E. Southern, Northern Illinois University. $20,000 (Initial Proposed Fee).

It is proposed to study the orientation of gull chicks exposed to the ELF fields produced by the Sanguine antenna. Orientation is an important parameter in bird migration and orientation of gull chicks in relation to migration has been well documented. The estimated length of time to perform the study is one summer and it is proposed to perform the study during the summer of 1973.

WTF homing pigeon study.—Dr. Lewis C. Graue, Bowling Green State University. $12,000 (Initial Proposed Fee).

It is proposed to study the homing ability of pigeons exposed to the ELF fields produced by the Sanguine antenna. Homing ability is also a parameter involved in bird migration. This study is proposed to be performed during the summer of 1973.

WTF soil arthropod study.—Dr. Bernard Greenberg, University of Illinois. $15,000 (Estimated).

This study is to be continued each summer while WTF is operated. It is proposed to continue the study during the summer of 1973 of soil arthropods in the vicinity of the Sanguine antenna that was started in 1969. Results of field ecological studies become more statistically significant as the length of time over which data collected is increased.

WTF oxygen consumption study.—Dr. Bernard Greenberg, University of Illinois. $10,000 (Estimated).

This study is to be continued each summer while WTF is operated.

It is proposed to continue the oxygen consumption study during the summer of 1973 which was started in 1972.

Human study.—Dr. D. E. Beischer, Naval Aerospace Medical Research Laboratory. April 1972–December 1974, $200,000.

A study is being performed using man as the test subject. Both psychological and physiological indicators are being studied in relation to exposure to ELF electric and magnetic fields. Expect completion by the end of 1974.

Evaluation of the health of personnel working near the facility, Naval Medical Research Unit.—Dr. Peter Krumpe, Navy Bureau of Medicine, $20,000.

The base line "problem-oriented" medical data collection started in 1971 will continue throughout the life of the WTF. Reports are expected in January of each year.

Animal study.—Dr. McKinney, Naval Air Development Center. April 1971–July 1974. $60,000.

Blood pressure, EKG, and certain enzyme systems are being studied in the beagle dog in relation to ELF electric field exposure. Weight gain studies on young rats exposed to ELF electric fields are also being performed. Hatchability of frog eggs and viability and metamorphosis of tadpoles are also being studied. These studies began in 1971 and are expected to be completed around July 1974.

U.S. Forest Service study.—$25,000.

This study is to be continued each summer while WTF is operated. The U.S. Forest Service is collecting baseline data on populations of various species in the vicinity of the Wisconsin Test Facility. These data can be used to detect future changes in population trends. The species included in this study are deer, small mammals, grouse, and eagle-osprey. First annual report was received. No conclusions can be drawn at this time. Expect to continue for several years with reports due in January of each year.

Question. Do you anticipate that any more environmental duties will be required beyond the 25 in progress or planned?

Answer. Two environmentally-related studies are required in addition to the fifteen studies now in progress or planned as continuations of existing programs. These are the Environmental Site Survey and the Ecological Data Base for the Texas and Michigan candidate areas.

The environmental site survey is necessary to catalog the total environmental characteristics of a candidate deployment area for Sanguine. The natural features and the social-economic features are included in this descriptive catalog. Both these terms are used in the broad sense so that all important and sensitive parameters are included in the study. The results of the inventory will be used initially to design a computerized process by which the data can be stored and retrieved. Following this, programs will be developed to depict conceptually the layout of candidate Sanguine Systems to minimize environmental impact commensurate with system design requirements. By a process of iterative studies, with appropriate local inputs, a final deployment scheme for Sanguine will be developed. This work will become the framework for the environmental impact statement for Sanguine System construction.

The Ecological data base is viewed as a long-term study which will provide a method for the continual assessment of environmental impact of Sanguine System construction and operations. It should be recalled that the Navy is in a position at the present time of trying to prove a negative hypothesis—that Sanguine electromagnetic fields *will not* produce adverse environmental reactions. This is not possible in the scientific sense, a point on which the Navy and its environmental critics agree. This being the case, the present research program has as its ultimate objective the collection of sufficient factual information so that a rational assessment of expected impact can be made. If this can be achieved, then it should be possible to show that an acceptably low risk would be taken in proceeding with the construction of the system.

The ecological data base initially will provide the essential indicators of the general health and balance of ecological communities in the candidate area prior to construction. Studies are planned for initiation during late FY 73 or early FY 74, and will be designed according to inputs from local experts, among others. These studies will be continued after construction (assuming that to be the case). This permits a continuing assessment of the environmental impact of Sanguine operations, if any, to be made and documented. Since it is intended that system construction will be a phased activity, appropriate action could be taken as necessary to avoid any undesirable environmental effects attributable to the system.

Question. Your descriptive summary shows procurement costs for Stage I only, totaling [deleted] million. Why don't you also show the Stage II costs of [deleted] million and Stage III costs of [deleted] million? These make the total program cost add up to $1 billion.

Answer. The costs shown are cumulative therefore the total investment costs for the entire system is [deleted]. At the present time Navy has planned a Stage I system only for inclusion in the Five Year Defense Plan (FYDP). A decision to budget for a Stage II or III system has not, and need not, be made at this time. Since Sanguine can be built in a modular fashion these decisions can be made at a future time after the initial production decision and prior to the completion of Stage I.

Question. The second largest item in your request is $3.1 million for test and evaluation also to be performed under contract. For what and when will this amount be used?

Answer. This will be used for the design and acquisition of long lead time test equipment to simulate the effects of Electro-magnetic Pulse (EMP) that results from a nuclear burst. A portion of funds will also be used for planning for blast and shock test of the transmitter facilities utilizing the High Explosive Simulation Test (HEST) techniques.

Mr. NELSON. Mr. President, I yield the floor.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. McINTYRE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

> On page 8, line 11, after the word "yards" strike the colon and insert instead the following: "and not less than $359,919,000 shall be avaliable for the performance of such work in private shipyards:".
>
> On page 8, line 9, strike the word "more" and insert in lieu thereof the word "less".

Mr. McINTYRE. Mr. President, the Senator from Maine (Mr. HATHAWAY) is a cosponsor of this amendment.

The amendment would remove the $851,672,000 ceiling on the amount which can be spent for the repair, overhaul and alteration of naval vessels in public shipyards.

The House of Representatives has passed such a statutory requirement—setting that limit, or ceiling, at $851 million for fiscal 1974—and its language survived in committee in the Senate.

Because the Navy repair and alteration program involves such a complex of variables—including the question of when repair or alteration is necessary, what shipyards might have the immediate manpower, expertise and facilities to carry out the work, and whether such work can or should be mandated to private or public shipyard—I believe imposing a dollar ceiling would be the wrong thing to do, and given the late date in the fiscal year—we are almost 6 months into fiscal 1974—it is certainly the wrong time to do it.

The issue is what such an arbitrary spending ceiling—and the resulting administrative snarl—would do to efficiency and economy and, indeed, to the responsiveness of our defense capability.

Mr. President, the amendment I am proposing, instead of setting a ceiling, or limitation, on the amount of alteration and repair money that could be spent in public yards, would, in effect, take the Navy at its word and place a floor under what the Navy will be able to spend in public shipyards and what the Navy will have to spend in private shipyards.

It would take the figures the Navy gave last summer to the House Appropriations Committee and would say that the Navy shall have available to spend not less than $851,672,000 in the public shipyards for repair and alteration, and not less than $359,919,000 in the private shipyards in this country.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. McINTYRE. I yield.

Mr. PASTORE. As I understand the figure that the Senator has allocated to private shipyards, it comes to 29.7 percentagewise. Is that correct?

Mr. McINTYRE. The Senator is correct.

Mr. PASTORE. Mr. President, I think this actually reduces to dollars what was more or less intended as percentages in the House language. I believe we should take it to conference, and I so recommend to the manager of the bill.

Mr. McINTYRE. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were not ordered.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PASTORE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from New Hampshire.

Mr. HOLLINGS. Mr. President, I rise to support the amendment of my friend from New Hampshire, Senator McIN-

TYRE, which would delete from the bill a limitation on the amount of alteration, overhaul, and repair work which can be done at naval shipyards and substitute a floor on expenditures at both public and private yards which closely approximate what the Navy anticipates to be the amounts expended during this fiscal year at private and public yards.

In practical terms the language presently in the bill would result in the loss of almost 3,500 jobs at eight of our naval yards while the substitute amendment would hold employment at its present level. I would ask unanimous consent to introduce at this point in the Record a table showing the changes in personnel which would be required by the bill's language. How can we expect the Navy to continue to do a good job when we continually impose restrictions on their operations and reductions in their personnel?

There being no objection, the table was ordered to be printed in the Record, as follows:

Naval shipyard	Required EO fiscal year 1974 current sked	Required EO fiscal year 1974 70/30 split
Portsmouth	5, 900	5, 500
Philadelphia	7, 500	6, 600
Norfolk	10, 300	9, 650
Charleston	6, 900	6, 200
Puget Sound	9, 200	8, 850
Mare Island	7, 700	7, 700
Long Beach	7, 300	6, 750
Pearl Harbor	5, 200	5, 200
Total	59, 900	56, 450

Mr. HOLLINGS. Mr. President, a comparison of the personnel levels at private and public shipyards quickly indicates that the navy yards have been losing personnel while the private yards have been gaining. For example, in 1968 the Navy shipyards had more than 50 percent of the employees than they do now. The Kiser Engineers Study recommended a minimum shipyard employee complex of 72,000 for optimum efficiency at 10 yards. We are now losing two yards and looking at an employee level of under 60,000. If this language remains in the bill, personnel would drop by another 3,500.

Mr. President, the Navy has played fair with the private yards and the private sector has received a significant portion of the total work to be allocated. For example, figures released by Statistical Quarterly, Shipbuilders Council of America, show that the private share of alteration, repair, and conversion escalated from 31.7 percent and $1,144,989 in 1971 to 36.7 percent and $1,594,000 in 1973. Over the past 20 years, the private share has escalated from 7 to 36.7 percent. In addition, the private yards handle all new construction.

Twenty years ago, the Navy shipyards handled 70 percent of new construction. Today, they handle none. Twenty years ago, the Navy handled 100 percent of all conversions. Today, they handle only 33 percent. And in repair and alterations the private participation has grown by 20 percent over the past 20 years. On balance, the private yards handle 86 percent of the Nation's business.

As a member of the Commerce Committee, I have worked actively to encourage private commercial shipping, including the construction of new merchant vessels. At the same time, we must recognize how vitally important it is to our national security that the Navy retain its capability to repair and maintain its fleet. The facts that I have previously cited indicate that the Navy has played fair with the private yards and is trying its best to assign to the private yards as much work as feasible. The McIntyre amendment would continue this balance and this trend. On the other hand, it would be unfair for us to restrict the Navy and tie its own hands by legislating, as the bill presently does, the maximum volume they can handle. The Navy has stated that it must have flexibility in this area, and I think it is incumbent upon us to accord them this flexibility.

Accordingly, I urge my colleagues to support the McIntyre amendment.

The amendment was agreed to.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. McINTYRE. I yield.

Mr. MANSFIELD. Mr. President, I should like the Record to note that the vote was unanimous for the amendment.

Mr. PASTORE. That is right.

Mr. YOUNG. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

> On page 27, lines 20 and 21, strike out "$1,890,908,000" and insert in lieu thereof "$1,915,908,000."

Mr. YOUNG. Mr. President, I am offering this amendment for the distinguished Senators from Alabama (Mr. Allen and Mr. Sparkman) and others who may wish their names to be added as cosponsors.

Mr. President, the amendment would add $25 million for the site Defense program. This is for the Minuteman.

We need to maintain a timely and credible hedge against the possible abrogation of the Antiballistic Missile Treaty, the Interim Agreement on offensive nuclear weapons or, of even greater imporance, the failure to reach a final agreement on offensive weapons in the talks which are continuing between the United States and the Soviet Union.

To this end, the Congress should provide for the continued research and development of technology which is so vital to our ability to protect ourselves against threats and pressures—to say nothing of actual attacks—by an enemy. I have reviewed the program and decided that we should restore the $25 million cut we imposed on this program in the committee.

Mr. President, this is a new type defense for the Minutemen and we should do the necessary R. & D. If for any reason the U.S.S.R. should disregard the defensive weapons agreement or for any other reason initiate actions which would be a threat to the survival of our Minutemen, the technology would be accomplished and production of this system could be commenced to meet the threat.

It is for these reasons that I offer this amendment.

Mr. McCLELLAN. Mr. President, I have discussed the amendment with the parties interested. There is a problem. I am going to take the amendment to conference and try to work it out. I cannot guarantee the outcome, but I am willing to take it to conference.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendent was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. McCLELLAN. Mr. President, I understand a Senator who is a member of the committee has an amendment. I do not wish to rush the bill through.

Mr. YOUNG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

Mr. McINTYRE. Mr. President, I ask unanimous consent that the names of the following Senators be added as cosponsors of the amendment just adopted unanimously: Senators Cotton, Hollings, Schweiker, Magnuson, Muskie, Hathaway, Fong, Hugh Scott, Jackson, and Cranston.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COTTON. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> At the end of the bill add the following new section:
>
> Sec. —. None of the funds contained in this act shall be used to furnish petroleum products to Southeast Asia.

Mr. COTTON. Mr. President, in today's New York Times, I find an article which has caused me to offer this amendment. The article indicates, and the Pentagon apparently has confirmed it, that the Department of Defense, out of its total oil reserves, is currently providing 22,000 barrels of petroleum daily to South Vietnam and 1,500 barrels daily to Cambodia, for a total of 23,500 barrels, which is described as "considerably less than two-tenths of 1 percent of current U.S. domestic oil demand."

The article states:

> The Defense Department acknowledged that these fuel needs would be met indirectly out of civilian supplies of fuel in the United States, as the war reserves are eventually to be replaced with fuel commandeered from the domestic stocks.

I must say that my information is based purely and simply on this article and the statement of the article written by John W. Finney is that the Department of Defense made the statement.

This means that eventually we must make up to the Department of Defense this oil that is being furnished to Southeast Asia. In the meantime, and now I am drawing upon my imagination, bolstered a bit by past experience and observation, much of that oil is likely to be bombed out by the North Vietnamese.

I am one of those Senators who long supported the President as he slowly, gradually, painfully, and conscientiously, I believe, dragged us out of Southeast Asia and brought our American personnel home. I did so because we were so committed with one-half million men over there. We were so heavily committed that I felt we could not abruptly impede the careful effort to extricate ourselves. But it would seem obvious that we are not going to be able to continue—by money and by oil, by supplies and by ammunition—to bolster them up. Certainly the South Vietnamese can fight and I guess they do fight. But the Cambodians are not——

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. COTTON. I yield.

Mr. MANSFIELD. I think the figures announced by the Senator are correct: 22,000 barrels a day to South Vietnam and 1,500 barrels a day to Cambodia. No mention is made of Laos, but certainly they are getting some oil, too. I understand, if my recollection is correct, that this 23,550 barrels of petroleum amounts to 1 million gallons.

Furthermore, it is my understanding that South Vietnam, in its relationship with the Arab countries, has not been cut off, but after we quit supplying them out of our stocks, and the military taking care of them 100 percent, South Vietnam can expect to buy oil from the Middle East, but that we will pay for that oil, too.

So I think the Senator has raised a very valid point. There is still too much American participation in Indochina in the form of civilians and otherwise, and hundreds of millions of dollars, very likely billions of dollars, still being spent there, when the war was supposedly concluded the early part of this year.

Mr. COTTON. I thank the distinguished Senator.

Mr. President, I have just been handed this item from the news ticker tape:

> Commerce Secretary Frederick Dent today moved to curb rising exports of petroleum by requiring exporters—starting tomorrow—to get licenses to ship oil and other petroleum products out of the country.

Further quoting Secretary Dent:

> Said exports of energy-related products averaged 43,300 barrels per day during the first ten months of this year. This was only 0.3 percent of the estimated domestic demand of 17 million barrels a day and 0.8 percent of the amount of petroleum products the United States imported during that period.
>
> However, other government statistics showed that petroleum exports rose sharply in November, and Commerce Department officials said that, because exporters could get higher prices overseas, exports probably would continue to rise unless the government curbed them.
>
> One Commerce Department official said the average daily exports of 43,300 barrels per day in the first 10 months of 1973 did not include oil made available to South Vietnam through U.S. military authorities. This oil, taken from U.S. military stocks, have been estimated to range as high as 1 million barrels per day.

So that is the situation, Mr. President. We are not going to save Southeast Asia by oil. We are not going to save them unless they can save themselves, in the long run.

In New England we are facing perhaps the greatest hardship, as great as any section of the country and greater than most sections of the country, and where we are now further restricted to 15 percent less fuel oil than we had last year.

I do not know how any Senator from the States in New England or from Minnesota or from the Northern border States with Canada, the cold-weather States of this country facing the coming winter, with no prospect, no real, assured prospect, despite all the optimistic comments that have been made, of obtaining more imports, could sit here, in justice to the people that we represent, and not do something to check that flow of precious oil that we need so badly.

This Senator had hoped that when we got the men home from Southeast Asia we could get clean out of that situation. We cannot—this country cannot—continue forever to bear the burden or continue the hopeless task of maintaining the defense of people who, in most cases, seem unable to defend themselves. They have our sympathy and they have our cooperation, but we cannot drain the lifeblood of this country, even though apparently we have gotten out of the Asian war. If we are going to do this sort of thing in this crisis, the next step you will hear is that we want to send some American troops back to help them. It will come as surely as night follows day. We have to draw the line somewhere and get out of it clean.

I speak as a Senator who steadfastly supported our effort throughout those long, weary years when the President of the United States, and I honor him for it, was trying to extricate us, as he expressed it, with honor. But there is a time when we owe something to our own people, and I offer this amendment conscientiously because I do not think we are going to do any good, in the long run, by sending oil over there, to be destroyed by the enemy.

I am not doing it selfishly for the people I represent. I think I do it conscientiously as a national policy. But I will add, Mr. President—and this will terminate my remarks—that I do not propose to see my people suffer from the cold in New England and see this oil going out of the country and know, in addition to that, that the Pentagon, without our knowledge, is expecting us to make up, from already scarce domestic supplies, this draining of such oil as they furnish to these governments, from the military reserves controlled for military defense purposes.

Therefore, I hope this amendment will be adopted, and I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Hampshire. The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Louisiana (Mr. Johnston) and the Senator from Hawaii (Mr. Inouye) are necessarily absent.

I further announce that the Senator from Idaho (Mr. Church) is absent on official business.

I also announce that the Senator from Missouri (Mr. Symington) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. Bennett) and the Senator from Ohio (Mr. Saxbe) are necessarily absent.

I further announce that the Senator from Idaho (Mr. McClure) is absent on official business.

The result was announced—yeas 60, nays 33, as follows:

[No. 579 Leg.]

YEAS—60

Abourezk
Aiken
Allen
Bayh
Beall
Bible
Biden
Brooke
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Clark
Cook
Cotton
Cranston
Dole
Domenici
Eagleton
Eastland
Ervin
Fulbright
Gravel
Hartke
Haskell
Hatfield
Hathaway
Hughes
Humphrey
Kennedy
Magnuson
Mansfield
Mathias
McClellan
McGovern
McIntyre
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott,
  William L.
Sparkman
Stafford
Stevenson
Talmadge
Tunney
Weicker
Williams
Young

NAYS—33

Baker
Bartlett
Bellmon
Bentsen
Brock
Buckley
Chiles
Curtis
Dominick
Fannin
Fong
Goldwater
Griffin
Gurney
Hansen
Hart
Helms
Hollings
Hruska
Huddleston
Jackson
Javits
Long
McGee
Metcalf
Nunn
Percy
Scott, Hugh
Stennis
Stevens
Taft
Thurmond
Tower

NOT VOTING—7

Bennett
Church
Inouye
Johnston
McClure
Saxbe
Symington

So Mr. Cotton's amendment was agreed to.

Mr. COTTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCLELLAN. Mr. President, I would like to ascertain, while we have this splendid attendance, how many more amendments we may expect this evening. I know of one; the Senator from Wisconsin (Mr. Proxmire) has one. I know of no other at the moment.

I am just trying to ascertain so that if we can dispose of this amendment quickly, I think we can have a vote on passage, unless there are other amendments I do not know of.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. McCLELLAN. I yield.

Mr. JAVITS. Mr. President, I would like to comment on an item included in the Senate-passed defense procurement bill relating to funding for the A–10 close air support plane, produced by Fairchild Industries.

The House-passed defense appropriations bill included $107.4 million for research and development for six airplanes—a cut of $5 million from the original administration request of $112.4 million for 10 airplanes. Senate committee action further reduced the appropriation for this plane to $97 million. The aggregate cuts in this program represent a most serious reverse to efforts to improve our system of defense procurement. Also, it has serious implications for the expertise of the aerospace industry in New York.

During the debate on the authorization for this airplane, September 21, 1973, I supported this program because it represented an inexpensive and extremely effective solution to the problem of close air support and, most importantly, I supported the program because of the philosophy which it represented of "fly before you buy" and "design to price." For years, many in Congress have sharply criticized the Department of Defense for designing needlessly sophisticated and unnecessarily expensive weapons systems. In my judgment, many of those systems that we are asked to approve are still far too costly and do not improve our national security to a compensable extent.

However, the A–10 close ground support aircraft program is an example of a prudent and rational design approach. The Air Force A–10 is the first aircraft ever developed specifically to support and to save the lives of our soldiers on the ground. The A–10 was designed to price and it is still within that price. It has been through fly-before-buy and a competitive prototype fly off. The contractor and the Air Force have met or exceeded all requirements for this aircraft.

Furthermore, Deputy Secretary of Defense Clements has stated in a letter to Senator MATHIAS dated November 17, 1973:

> The Arab-Israeli conflict has confirmed the need for an aircraft with the tank killing capability designed into the A–10. I believe this fact will be even more evident after analysis of the major Arab-Israeli engagements. The A–10 with its 30mm cannon potentially represents a formidable and much needed addition to our fire support weapons.
>
> I would like to point out that this system has been designed for maximum survivability primarily against the effects of conventional antiaircraft guns. The A–10, like all tactical aircraft, is not designed to sustain a direct hit by a SAM. However, the design features, which include armor plating, system redundancies, and reduced vulnerable area, should also increase its survival capability against SAMs. We are initiating a new study of A–10 vulnerability to a variety of new threats. This will help us in our final determination of the role for this new capability in our force structure.

Finally, Mr. President, there is the question of the impact of cutbacks of the A–10 program on Suffolk County, Long Island, N.Y., where Fairchild Industries will produce the A–10. In past years, while the Nation has enjoyed a period of prosperity, the aerospace industry has been depressed with an inordinately high impact on those regions, such as Suffolk County, which rely heavily on the aerospace industry for jobs. This cut will certainly result in schedule slippage leading to inevitable increases in program costs; possible layoffs on Long Island; and a delay in the overall Air Force program to modernize its air capability. This threat to the established aerospace technology expertise represented on Long Island deserves consideration for its wide ranging impact.

Mr. President, I oppose these cutbacks in this urgently needed and cost-effective program, and I urge the Senate conferees to uphold the House version providing $107.4 million for the A–10 program.

ST. ALBANS NAVAL HOSPITAL

Mr. President, on another matter, I would like to commend the committee for retaining the House language providing for the continuation of the St. Albans Naval Hospital in Queens, N.Y. This hospital serves a great many people entitled to service and it is vital that it remain open.

The PRESIDING OFFICER. The Senate will be in order.

Mr. CHILES. Mr. President, will the chairman yield?

Mr. McCLELLAN. I yield.

Mr. CHILES. I am not sure that I shall have an amendment, but I think I would like to look at the bill.

It seems to me it would be pretty foolish to send any money to Southeast Asia if we are not going to allow the tanks to run or the planes to fly, or allow oil or grease for the guns. It seems to me that we would be foolish to send any other dollars over there.

Mr. McCLELLAN. As the Senator knows, this amendment will go to conference, and I am persuaded we are going to have a great problem with it there. [Laughter.]

I hope we can take the bill as it is, with this next amendment, and go to conference and move along.

Mr. COTTON. Mr. President, will the Senator yield?

Mr. CHILES. I yield.

Mr. COTTON. I want to reassure the Senator from Florida that the purpose of offering the amendment was to preclude the sending of oil to Southeast Asia and the use of money for that purpose from this particular bill. It does not preclude the furnishing of money for oil under any other act, nor does it preclude their buying oil from some other country that might be asked to send it. Obviously, it covers the Government and the governments of the two countries that have been mentioned. It does not have anything to do with the furnishing of oil to our military bases and forces in that area. It simply prevents the Pentagon from doing this as they have been doing it without our knowledge.

Mr. PROXMIRE. Mr. President, I send to the desk an amendment and ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment, as follows:

> On page 52, between lines 18 and 19, insert the following:
>
> SEC. 741. (a) During the last quarter of the fiscal year 1974, no funds appropriated by this Act shall be used for the pay, compensation, or allowances of commissioned officer personnel on active duty in the Armed Forces (excluding Reserve officers on active duty training or Reserve officers and Retired officers ordered to active duty for periods of thirty days or less) in excess of the following numbers in each grade:

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the further reading of the amendment be dispensed with.

Mr. GOLDWATER. I object.

Mr. PROXMIRE. A copy of the amendment was placed on the desk of every Senator, so that he might read it. However, the clerk may continue to read.

The PRESIDING OFFICER. The clerk will continue to read the amendment.

The legislative clerk read the remainder of the amendment, as follows:

Ranks	Army	Navy	Marine Corps	Air Force
0–10: General or admiral	13	10	2	14
0–9: Lieutenant general or vice admiral	47	44	8	39
0–8: Major general or rear admiral	174	104	24	141
0–7: Brigadier general or rear admiral	232	145	33	196
0–6: Colonel or captain of the Navy	5, 080	4, 000	680	6, 000
0–5: Lieutenant colonel or commander	11, 450	8, 000	1, 505	13, 965
0–4: Major or lieutenant commander	17, 580	14, 800	2, 884	21, 600

> (b) Vacancies within the allowances prescribed by subsection (a) of this section for any grade may be assigned to any lower grade or grades.
>
> Renumber Sections 741 through 744 as Sections 742 through 745, respectively.

Mr. PROXMIRE. Mr. President, the amendment restores what the House Committee on Appropriations and the House put in the bill. The Senate Committee on Apppropriations struck it out. The purpose of the provisions that the House placed in the bill was to limit grade-creep, to limit the enormous increase we have had in the number of high ranking officers.

I might say in explanation that this is one of the ways in which we controlled the number of top officers in the military during most of the 1950's. It worked at that time. Since then, we have had an explosion of top officers which has been extremely costly to the Government.

We have a military crisis facing this Nation. It is not a crisis of nuclear weapons. It is a question of bureaucratic strangulation. We are well along the road to a second-rate conventional force structure, incapable of reacting to emergencies, inefficient in the field, and dangerously low in capability.

The threat comes from within. The bureaucracy is growing while the combat force dwindles. Fewer weapons, fewer men in combat positions, more supervisors, more command echelons, review boards, analysis groups, staffing elements, headquarters—these constitute the bureaucratic quagmire now strangling our Armed Forces.

It will not be many years before the Air Force has one plane, the Navy sails one ship, and the Army rolls a single tank. Am I exaggerating? Let the Senate be the judge. Listen to what the Secretary of Defense says:

> Nobody really pays attention to this.

Referring to the growth of the bureaucracy and support establishment, he said:

> Because it is so much more fun to argue about Trident and the F-14. If the trend continues, we will have a military budget that is devoted exclusively to retirement pay and the maintenance of rear-echelon support structure—with no combat forces at all.

He is absolutely right. That is exactly where we are headed. Every year we talk about the problem. The reports we issue cite the alarming facts. But no action is taken. What does it take to get us going on this problem?

Adm. Hyman G. Rickover is the father of the nuclear navy. He is one of the most honest and hard working officers ever in the service of our country. There is not a man in the Senate that does not respect his opinion. And we know that his opinions, be they critical about Congress or the military, are motivated by unquestionable loyalty. So what does this man have to say about our present military structure?

Before the House Appropriations Committee Admiral Rickover said, and I quote:

> There is a sickness in the Defense Department which has been going on for many years.

He went on to document what has caused this sickness. He mentioned the professional problem solvers, high ranking officers with large staffs that add bureaucracy to complex problems but no experience. He has said that:

> At each level of the bureaucracy, people try to minimize the risk of displeasing higher administrative authorities by calling for masses of information before they concur with the release of funds.

He castigated the nontechnical bureaucracy.

Then he testified that we are greatly overstaffed in headquarters. Let me cite his words:

> From fiscal year 1964, the 1st pre-Vietnam year, to fiscal year 1973 there has been an 11 percent decrease in military personnel. Despite this reduction in total personnel, the number of flag officers in the military services, for example, has increased by 44, the number of senior officers such as colonels, lieutenant colonels, and in the Navy, captains and commanders has increased by 5,037. This committee has estimated that the total increase in grade level, or grade-creep cost about $1.3 billion in fiscal year 1973.

And as Admiral Rickover pointed out, much of the strength in the higher officer grades is concentrated in support roles—not combat but support.

Now one might say we have all heard this before and it is true. But what can be done? Are there any concrete recommendations by responsible authorities. Fortunately, Admiral Rickover has provided a straightforward approach. He has recommended that:

> Congress should refuse to appropriate any funds for the military until the Department of Defense has reduced by at least half the number of management echelons between the technical or operational level, where major defense projects are conceived and carried out, and the Secretary's staff, where they must be approved.

He continued:

> I would also reduce over a period of 5 years the number of flag and senior officers, by 50 percent from what they are now.

Mind you, Mr. President, I am not doing this. This is what the House did, to put a ceiling on the level we have now so that it does not get worse.

Admiral Rickover continued by saying:

> If you would do that we would have a far more efficient military organization.

Let me repeat that last sentence—

> If you would do that we would have a far more efficient military organization.

So why are we not doing just that? A 10-percent reduction in flag and general rank officers would not be excessive. Let us get down to that lean-mean military that is essential in times of economic stress. It seems to me that if we get down to that, we would have a far more effective and efficient operation.

What my amendment does is to recognize what was done in the 1950's.

One of the ways Congress can reassert its authority in this area is to establish officer grade limitations. Congress has the authority to determine how many four- and three-star generals there should be or the number of admirals. In the 1950's we exercised that authority. Language used to be put into the defense bill that established ceilings for officers in the ranks of major/lieutenant commander and above. I propose that we do exactly the same now—in this bill.

My amendment would establish limits on all ranks of field grade, O-4, and above. At present there are 38 generals and admirals. Under my proposal there would be a ceiling of 38. No reduction. There are 142 lieutenant generals and vice admirals. The amendment would call for a ceiling at 139. There are 456 major generals and rear admirals compared to 443 under my amendment. It would be very close to our present level, somewhat below.

And finally there are 627 brigadier generals and rear admirals as compared to the ceiling of 606 under the new proposal. Thus there would be only very minor reductions. Much less than recommended by Admiral Rickover—far less. This has been accepted by the House. It was in the bill as it came before us and it was taken out by the Appropriations Committee.

Therefore, the acceptance of my amendment would allow identical provisions to go to conference and be accepted without compromise.

Now let us take a look at the facts involved. Just how many officers do we have today compared to the total military force? Are there fewer now than in 1945 or more?

Much has been made of the statistics that there were 20 four- or five-star generals and admirals at the height of World War II with a total force of 12.1 million while there are 39 now with a force of 2.2 million. More generals and admirals with six times fewer men. These facts are significant but they do not tell the whole story. The best measure of grade creep comes when comparing the ratio of officers per troops.

When looked at this way the full meaning of Admiral Rickover's warning becomes clear. During World War II there was 1 four- or five-star officer for every 600,000 troops. During the Korean war it was 1 for every 145,000 troops. Now there is 1 for every 20,000. Where will it stop? Plot that on a curve and there will soon be one four- or five-star general for every one trooper. Perhaps by the year 2015. That is the current progression if you follow it on out.

In other words there are 10 times more four- and five-star officers per troops now than in World War II. Ten times more.

There are seven times more lieutenant generals and vice admirals per ratio of troops now than in 1945. Back then these three-star officers were 1 in 120,000. Now they are 1 in 15,500.

Only in the category of major generals, brigadier generals, and rear admirals is there any indication of a decline in real numbers or ratios. This slight dip in one category, however, is more than made up for by the swing upward in the number of colonels and Navy captains. From 15,000 in 1945 they have climbed to 16,500 in 1972. During the Second World War there was one colonel or Navy captain for every 808 men. In 1972 there was 1 out of every 143, and increase of about six times by constant ratio.

Looking at all officers above the rank of colonel/captain the story remains dismal. Nor is there any significant improvement in sight.

Mr. President, I ask unanimous consent that the appropriate tables showing numbers of officers and the corresponding ratios by year be printed in the RECORD along with the grade limitation structure recommended by this amendment and the House Appropriations Committee.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

DEPARTMENT OF DEFENSE—MILITARY PERSONNEL ON ACTIVE DUTY BY GRADE IN WHICH SERVING, JUNE 30, 1946

	Total, Department of Defense	Army and Air Force			Navy (excluding Coast Guard)	Marine Corps
		Total, War Department	Army commands	Air Force commands		
Total	12,123,455	8,267,958	5,985,099	2,282,259	3,380,817	474,680
Officers, total	1,260,109	891,663	510,209	381,454	331,379	37,067
General of the Army—Fleet admiral	7	4	1,221	298	3	----
General—Admiral	31	13		----	17	1
Lieutenant general—Vice admiral	101	50		----	49	2
Major general } Rear admiral	1,929	392		----	[1] 401	28
Brigadier general }		1,060		----		48
Colonel—Captain	14,989	10,721	8,145	2,576	3,877	391
Lieutenant colonel—Commander	36,967	29,077	21,852	7,225	6,861	1,029
Major—Lieutenant commander	91,602	70,086	46,686	23,400	19,356	2,160
Captain—Lieutenant	300,610	197,591	125,885	71,706	96,784	6,235
1st lieutenant—Lieutenant (junior grade)	436,792	328,245	193,328	134,917	94,278	14,269
2d lieutenant—Ensign	294,121	198,164	96,229	101,935	86,316	9,641
Chief or comm. warrant	82,960	56,260	16,863	39,397	23,437	3,263
Warrant junior grade or warrant						
Flight officers						
Enlisted, total	10,795,775	7,374,710	5,743,905	1,990,805	2,988,207	432,858
E-7 [2]	248,520	112,307	70,845	41,462	124,310	11,903
E-6 [2]	533,084	215,396	110,073	105,323	300,315	17,383
E-5 [2]	1,089,117	611,859	363,468	248,391	449,426	27,832
E-4 [2]	1,734,787	1,051,275	693,410	357,865	633,799	49,713
E-3 [2]	2,388,387	1,541,699	1,090,107	451,682	757,809	88,879
E-2 [2]	2,910,031	2,255,620	1,832,586	423,034	500,225	154,186
E-1 [2]	1,891,849	1,586,554	1,313,506	273,048	222,323	82,972
Officer candidates, total	67,571	1,585	1,585	----	61,231	4,755
Cadets USMA	1,585	1,585	1,585	----	----	----
Navy officer candidates	61,231	----	----	----	61,231	----
Marine Corps officer candidates	4,755	----	----	----	----	4,755

[1] Includes 140 commodores.

[2] Grade designations established by "Career Compensation Act of 1949." Includes 16,764 aviation cadets.

DEPARTMENT OF DEFENSE—MILITARY PERSONNEL ON ACTIVE DUTY BY GRADE IN WHICH SERVING, OCT. 31, 1972

	Total Department of Defense	Army	Navy	Marine Corps	Air Force
Total	3,635,912	1,596,419	824,265	231,967	[1] 983,261
Officers, total	375,829	148,427	82,274	16,413	128,742
General of Army or fleet admiral	6	3	3	----	----
General or admiral	19	8	5	1	5
Lieutenant general or vice admiral	65	22	25	4	14
Major general, brigadier general, or rear admiral	1,052	165 281	[2] 256	18 31	120 181
Colonel or captain	12,490	4,869	2,983	516	4,122
Lieutenant colonel or commander	28,927	12,830	6,632	1,011	8,454
Major or lieutenant commander	53,008	17,249	12,222	2,848	20,689
Captain or lieutenant	107,412	36,988	24,958	5,549	39,917
1st lieutenant or lieutenant (j.g.)	81,556	36,595	15,004	647	29,310
2d lieutenant or ensign	65,937	24,922	14,356	4,932	21,727
Chief or Comm Warrant W-4	447	281	15	20	131
Chief or Comm Warrant W-3	2,507	853	1,011	358	285
Chief or Comm Warrant W-2	6,706	2,243	2,974	459	1,030
Junior warrant or warrant	15,697	11,118	1,803	19	2,757
Enlisted, total	3,245,310	1,446,266	735,753	215,554	847,737
E-7	154,837	43,930	58,104	7,657	45,146
E-6	202,123	78,367	61,849	7,935	53,972
E-5	364,434	165,396	60,790	11,441	126,807
E-4	630,129	326,603	115,124	28,791	159,611
E-3	845,724	411,604	220,249	33,177	180,694
E-2	806,266	295,684	177,118	105,849	227,615
E-1	241,797	124,682	42,519	20,704	53,892
Officer candidates, total	14,773	1,726	6,265	----	6,782
Cadets USMA	1,726	1,726	----	----	----
Navy Officer Candidates	6,265	----	6,265	----	----
Aviation Cadets	6,782	----	----	----	6,782

[1] Includes 4 commodores.

[2] Includes 9,787 Army personnel in training for SCARWAF duty

DEPARTMENT OF DEFENSE—MILITARY PERSONNEL ON ACTIVE DUTY BY GRADE IN WHICH SERVING, JUNE 30, 1971

	Total Department of Defense	Army	Navy	Marine Corps	Air Force
Total	2,714,727	1,123,810	623,248	212,369	755,300
Officers, total	371,416	148,950	74,782	21,765	125,919
General of Army or fleet admiral	1	1	----	----	----
General or admiral	39	15	9	2	13
Lieutenant general or vice admiral	145	45	49	9	42
Major general, brigadier general, or rear admiral	1,145	197 255	256	28 38	157 214
Colonel or captain	17,388	6,008	4,286	747	6,347
Lieutenant colonel or commander	40,431	14,607	8,673	1,650	15,501
Major or lieutenant commander	65,724	22,302	15,015	3,350	25,057
Captain or lieutenant	122,351	49,130	18,829	5,643	48,749
1st lieutenant or lieutenant (junior grade)	59,686	24,010	13,738	6,084	15,851
2d lieutenant or ensign	39,288	13,691	9,488	2,522	13,587
Chief warrant officer W-4	2,345	1,621	243	83	398
Chief warrant officer W-3	3,637	3,219	104	314	----
Chief warrant officer W-2	14,848	11,076	2,815	957	----
Warrant officer W-1	4,388	2,773	1,277	338	----
Enlisted, total	2,329,754	971,872	542,298	190,604	624,980
E-9	15,926	4,546	3,390	1,700	6,290
E-8	40,842	15,687	9,018	3,750	12,387
E-7	151,649	58,392	38,864	8,903	45,490
E-6	270,733	94,725	77,693	14,760	83,555
E-5	450,338	181,068	94,370	25,236	149,664
E-4	576,306	266,825	118,315	33,788	157,378
E-3	409,904	129,900	134,680	43,722	101,602
E-2	210,415	74,958	53,226	30,789	51,442
E-1	203,641	145,771	12,742	27,956	17,172
Officer candidates, total	13,557	2,988	6,168	----	4,401
Cadets USMA	2,988	2,988	----	----	----
Midshipmen USNA	4,485	----	4,485	----	----
Cadets USAFA	4,401	----	----	----	4,401
Naval enlisted officer candidates	1,683	----	1,683	----	----

DEPARTMENT OF DEFENSE—MILITARY PERSONNEL ON ACTIVE DUTY BY GRADE IN WHICH SERVING, JUNE 30, 1952

	Total Department of Defense	Army	Navy	Marine Corps	Air Force
Total	2,371,574	865,463	593,824	199,168	713,119
Officers, total	331,233	120,576	71,170	19,609	119,478
General of the Army or fleet admiral	1	1			
General or admiral	38	13	9	2	14
Lieutenant general or vice admiral	142	48	47	8	39
Major general or rear admiral (U)	480	197	105	24	154
Brigadier general or rear admiral (L)	651	249	153	38	21
Colonel or captain	16,547	5,647	4,101	697	6,102
Lieutenant colonel or commander	36,832	12,411	8,443	1,544	14,434
Major or lieutenant commander	61,432	20,133	15,446	3,053	22,800
Captain or lieutenant	112,674	39,405	19,301	5,036	48,662
1st lieutenant or lieutenant (jg)	43,114	15,535	9,270	4,717	13,592
2d lieutenant or ensign	37,620	11,402	10,253	2,681	13,284
Chief warrant officer W-4	1,923	1,464	109	164	186
Chief warrant officer W-3	4,548	3,279	639	630	
Chief warrant officer W-2	12,600	9,289	2,684	627	
Warrant officer W-1	2,631	1,503	1,010	118	

	Total Department of Defense	Army	Navy	Marine Corps	Air Force
Enlisted, total	2,026,542	740,931	516,391	179,559	589,661
E-9	15,230	4,082	3,747	1,495	5,906
E-8	37,922	13,644	9,057	3,288	11,933
E-7	140,541	50,644	37,722	8,664	43,511
E-6	250,660	82,903	74,894	12,912	79,951
E-5	366,088	123,291	83,191	25,310	134,296
E-4	473,310	189,972	107,592	22,800	152,946
E-3	305,381	85,125	99,464	28,434	92,358
E-2	195,745	74,068	50,503	34,367	36,807
E-1	241,665	117,202	50,221	42,289	31,953
Officer candidates, total	13,799	3,956	5,863		3,980
Cadets, U.S. Military Academy	3,956	3,956			
Midshipmen, U.S. Naval Academy	4,236		4,236		
Cadets, U.S. Air Force Academy	3,980				3,980
Naval enlisted officer candidates	1,627		1,627		

JUNE 30, 1945

Category	Total	DOD ratio	Officer ratio
Generals of the Army/fleet admirals and generals/admirals	20	1/606,172	1/63,005
Lieutenant generals/vice admirals	101	1/120,034	1/12,476
Major generals/brigadier generals/rear admirals	1,929	1/6,284	1/653
Colonels/captains	14,989	1/808	1/84
All generals	2,050	1/5,913	1/614
All categories above	17,039	1/711	1/73
Total, DOD Armed Forces	12,123,455		
Total, Officer Corps	1,260,109		
Total, Officer Corps/total DOD ratio		1/9.6	

JUNE 30, 1952

Category	Total	DOD ratio	Officer ratio
Generals of the Army/Fleet Admirals and generals/admirals	25	1/145,436	1/15,033
Lieutenant generals/vice admirals	65	1/55,937	1/578
Major generals/brigadier generals/rear admirals	1,052	1/3,456	1/357
Colonels/captains	12,490	1/291	1/30
All generals	1,142	1/3,183	1/329
All categories above	13,632	1/266	1/27
Total, DOD Armed Forces	3,635,912		
Total, Officer Corps	375,829		
Total Officer Corps/total DOD ratio		1/9.6	

JUNE 30, 1971

Category	Total	DOD ratio	Officer ratio
Generals of the Army/fleet admirals and generals/admirals	40	1/67,868	1/9,285
Lieutenant generals/vice admirals	145	1/18,722	1/2,561
Major generals/brigadier generals/real admirals	1,145	1/2,370	1/324
Colonels/captains	17,388	1/156	1/21
All generals	1,330	1/2,041	1/279
All categories above	18,718	1/145	1/20
Total, DOD Armed Forces	2,714,727		
Total, Officer Corps	371,416		
Total, Officer Corps/total DOD ratio		1/7.3	

OCTOBER 31, 1972

Category	Total	DOD ratio	Officer ratio
Generals of the Army/Fleet Admirals and generals/admirals	39	1/60,809	1/8,493
Lieutenant generals/vice admirals	142	1/16,701	1/2,332
Major generals/brigadier generals/rear admirals	1,131	1/2,096	1/292
Colonels/captains	16,547	1/143	1/20
All generals	1,312	1/1,807	1/252
All categories above	17,859	1/132	1/18
Total, Officer Corps/total DOD ratio		1/7.1	

	Budgeted ceilings end year of June 30, 1974	Proxmire amendment ceilings	Reduction
0-10 General/admiral	38	38	0
0-9 Lieutenant general/vice admiral	142	139	3
0-8 Major general/rear admiral	456	443	13
0-7 Brigadier general/rear admiral	627	606	21
Subtotal	1,263	1,226	37
0-6 Colonel/Navy captain	15,785	15,679	106
0-5 Lieutenant colonel/commander	35,152	34,921	231
0-4 Major/lieutenant commander	57,379	56,864	515
			852
Total	109,579	108,690	889

Note: Percent of total reduction: 0.8 percent.

Mr. PROXMIRE. Mr. President, what does this ongoing increase in officers mean? First, it means an inevitable multiplication of staffs where high-ranking officers can be placed. Admiral Rickover can work without a staff but there are few if any others like him. So the higher the rank and numbers, the more slots must be opened up to accommodate the rank. Therefore, high-ranking officers are occupying even lower echelons of responsibility.

Headquarters are built up to supervise the supervisors. The Armed Services Committee has pointed out that there are 9,500 headquarters staff assigned to European stations. In the Supreme Headquarters Allied Powers Europe, there are 31 generals and admirals, 141 colonels and Navy captains, and 332 lieutenant colonels and Navy commanders.

Take a look at Hawaii. There are five major commands in Hawaii alone—4,641 personnel are assigned to these five commands and a unified command.

One thousand and twenty-eight men are assigned to the Army headquarters in Hawaii which only looks after the single U.S. division in Korea. Furthermore, there are 948 more people assigned to headquarters in the 8th Army Command in Korea and 123 assigned to the Army I Corps in Korea. This is not counting the 274 assigned to the United Nations Joint U.S. Command in the same place.

As the Armed Services Committee report concluded, the Second Infantry Division in Korea must be the most supervised unit in the world.

In total these five Hawaiian commands contain 41 generals and admirals, 263 colonels and Navy captains, and 524 lieutenant colonels and Navy commanders.

Now I can understand why military men like to serve in Hawaii. Who would not enjoy that beautiful State? But this is precisely the bloated structure Admiral Rickover has warned us against.

The day may come when we will need to fight. I hope that the headquarters generals and admirals are in good shape. They may have to get out in the field to flesh out our combat divisions.

Mr. President, let me recapitulate briefly. We have a crisis staring us in the face. Even our best military leaders have sounded the alarm—the Secretary of Defense and the famed Admiral Rickover. We must move now to regain control over the number of headquarters and field rated officers in our Armed Forces. Admiral Rickover has said:

> We have almost reached the point where the Congress will become little more than a constitutional relic, a vestigial organ of the body politic.

I hope he is wrong on that account.

The acceptance of this amendment would be a signal to those in the Defense Department who have voiced the same concerns.

With the committee mandated reduction of 62,000 personnel in the Armed Forces, there will be attempts to release low-ranking officers and enlisted men.

Only by establishing a firm Grade Creep provision can this tendency be curtailed.

Any cuts made should be distributed and should not perpetuate the existing grade escalation problem. This amendment will be an insurance policy against continuation of policies and promises for reform which we always get. We bring up these amendments, and they say, "Let us work on it; we are making progress; we are moving ahead." But they never materialize.

Mr. President, in 1959 the Pentagon promised to put forward grade creep legislation, but nothing happened. Last year, the Department of Defense was pressured into conducting another review, and they subsequently submitted a report entitled "Report on Officer Grade Limitations." I hold in my hand the report they developed after I offered an amendment, and the amendment was considered by the Senate, and we acted on it. They said that they would study the entire problem and make a report. But again they declined to deal with the problem. Their legislative recommendations were partial at best and completely exempted all generals and admirals. Fourteen years is long enough. Obviously they cannot step on the toes of fellow high-ranking officers. It is difficult for the Pentagon to do that. But Congress is in a position to act, and that is why the House was wise in acting as they did.

As Admiral Rickover has testified, the Pentagon will not make these decisions. They have had not 1 year or 2 years but 14 years. It is up to Congress. I hope that under the circumstances we can act. The House has done so. I think we should do no less.

Mr. President, I yield the floor.

Mr. McCLELLAN. Mr. President, I wish to make this observation. It may very well be that the military services are top heavy with commissioned personnel and that the number ought to be reduced. But what we are doing with provisions such as this in an appropriation bill—and we are doing more and more of of it—is destroying the integrity of the legislative committees. I think the Armed Services Committee should have the responsibility and should take the responsibility for taking an issue of this kind, reviewing it, studying it, getting information about it, and then legislating accordingly. That is the only reason why I favor striking this proposal, because it has not had that in-depth study.

The Armed Services Committee could take this matter and go into it and bring to this body proposed legislation to deal with the problem, deal with it properly.

If this amendment were offered here in the Senate and had not come from the House, as it did, it would be subject to a point of order, because it is legislation.

The whole purpose of striking this matter, the prime purpose, was to preserve the proper committee jurisdiction. It is legislation. Occasionally, we do this in some emergency situations. In that situation, we give notice here under the rule and amend an appropriation bill with legislation. But this is a practice about which, in my judgment, we ought to be a little more circumspect.

Otherwise, in my judgment, we are going to impair the integrity of our legislative committees. The Appropriations Committee is not a place for legislation. We ought to take this provision to the House in this manner and go back into conference and talk about it.

Perhaps many officers ought to be dismissed from the service, or maybe we ought not give more commissions in a certain grade. I am not opposed to that. But there are not a great deal more than there were years ago, percentage-wise. The matter should be studied.

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. YOUNG. Mr. President, I agree with the chairman of the Committee on Appropriations that this is not a matter that should be handled by the Appropriations Committee. The Committee on Appropriations does not have the background or experience of the Armed Services Committee. Also, this should be a matter for legislation and not appropriations.

One reason I am against this amendment is that, although one may agree with the Senator from Wisconsin that perhaps there are sufficient or even too many officers' billets, but is there enough flexibility? I cite, for example, that of admirals and generals, where they change billets in NATO, or the Joint Chiefs of Staff.

Perhaps a compromise could be reached in conference by which the services would have the same total number of officers in each rank but more flexibility for change an officer of a different service is assigned a billet previously held by another service.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. YOUNG. I yield.

Mr. GOLDWATER. Mr. President, we have been through this time and again, where, by an amendment on the floor, an effort is made to cut down the number of officers in the armed services.

It is interesting to learn that of the leading military countries in the world, with the exception of the Soviet Union—material cannot be gathered on them—the United States has 54 generals and admirals per 100,000 active duty servicemen. Only one country in the world has fewer, and that is the Free Republic of Germany, with 47. It reaches a height of 373 generals per 100,000 for Sweden. Strangely, for those who like to use the argument that the man in uniform causes war, Sweden has not been in a war since 1814.

Mr. President, the position of the star rank officer—and I include colonels not in star but top ranking—has changed. We are approaching an army greatly reduced in size but greatly in demand of highly trained technical people—people with doctor's degrees and master's degrees, something we never required, even in World War I or World War II. But war is becoming more of an electronic affair than a man-to-man affair, and we are going to need high-ranking people whether we like it or not, whether some Senators feel it is out of balance or not. We are going to have to provide these ranks in order to compete with the obtaining of skills that are badly needed in the civilian sector.

We keep hearing about the number of generals and colonels and lieutenant colonels and admirals, and so forth, but nobody ever raises on this floor the bloated condition of the civil service. We have civilian executive suites manned by more than four times as many super grades—GS-16, 17, and 18—equivalent to general and flag rank, as are in military headquarters.

Yet, I never hear of anyone getting up on the floor to cut the civil service, to cut our own bloated staffs, to cut out all the committees we do not need in Congress. All we hear is abuse heaped upon the military because we have a number of general officers and a number of admirals.

Mr. President, this is the prerogative of the Committee on Armed Services; and, speaking as a member of that committee, we give this our constant attention. We have not yet found it advisable to cut down the number of flag rank officers or colonels or lieutenant colonels. In fact, we are faced now with some problems created by the House in losing good men, mainly by having denied these men flight pay and other types of hazard pay.

So, Mr. President, I am hopeful that this amendment will be soundly defeated. It is not in the best interests of the military. It is not in the best interests of our country.

Mr. STENNIS. Mr. President, I shall not detain the Senate very long on this matter. It has been gone over many times on the floor of the Senate. The manpower matter was last considered on the floor by an amendment offered to the authorization bill by the Senator from Wisconsin, and I have no critical words as to him. He works hard and does a great deal of good. On a rollcall vote, the Senate voted down that proposal, 41 to 31.

Mr. President, reference has been made to Admiral Rickover and what he may have said at any given time, especially on matters outside of his line of duty. He is one of the best officers we have or have had for a long time. I have a great deal of respect for him. I have found, though, that he is not timid in asking for money or manpower if it is something directly in line with what he is doing. He does an excellent job in whatever assignment he undertakes.

We have two bills now. Intentionally or not, this has the effect of giving the impression that the Committee on Armed Services is not doing its job. A good many years ago Senator Russell appointed a subcommittee on the subject of general officers and he made me the chairman of that subcommittee. We recommended a formula that was below the legal ceiling, and we said we would not approve more than was contained in the legal formula. That is known as the Stennis amendment. That was debated for many years in various publications. But I never did yield, and we held them below the legal ceiling. I did learn a little bit about the subject matter in all of that experience.

Then, the war in Vietnam came along. It virtually destroyed that lowered ceiling and we have not yet gotten back to it. Some of my work has been on this very sticky and vexing problem of manpower that has to be dealt with. I did not get to it but we did get an excellent staff person who is working on the problem. He knows the problem from A to Z and he has already turned in some good work with relation to it and has been of help to the Senator from Missouri (Mr. Symington) and other members of the committee.

We have had two bills in the last 10 days that would authorize the Department of Defense to discharge regular colonels and lieutenants colonels. Their position is they do not have the authority to do what we are demanding be done, and already have demanded in law by reducing the money. They have to get rid of them under that law but they do not have proper authority. We are going into that to see if it is necessary to have legislation. But that does show that the Department of Defense is now moving on this matter in a very orderly way.

So far as those two bills are concerned affecting lieutenant colonels and colonels, if we find it to be correct we will, of course, bring that out in the form of proposed legislation.

I warn Senators now there is no more difficult matter to deal with than this manpower problem. I know they are inclined to hold onto everything they have over in the Department of Defense, but they are going to have to yield more on the manpower and make some reductions. From the standpoint of sound military strength, we better do it now under the guidance of someone who knows the problem and who can interpret all the law on the subject.

Also, I want us to allow some kind of margin if we get into a threat of war. After all, we cannot go down to Pennsylvania Avenue and 12th Street and blow a whistle and get a lot of men to lead in combat or direct logistics, or anything else. These men have to be trained all the way up and be experienced in some degree. Too rigid a requirement would have knocked out all the Eisenhowers and all the Bradleys and some others I could name that came along in World War II and gave the leadership to serve this Nation.

I am not asking for any favors for the Committee on Armed Services. This is our duty under direct mandate of law. I think we are making reasonable headway on it. I think we have a Secretary of Defense that is trying to do something about this very problem, but in an orderly and systematic way.

Mr. President, I have one other point, and this is virtually all I will have to say. We passed a law with respect to the Air Force. The Senator from Wisconsin was in on that. He was very helpful in his leadership. He presented an amendment on the subject and we agreed to a modification, and I believe on September 30, 1974, they must have ready for presentation to Congress a modified plan for officers in all the services and not only the Air Force. The other services are required to have something here that will be orderly and have meaning. Frankly, I think they are going to do it. They will have to do it under the leadership of the present Secretary of Defense.

This amendment would knock out 889 men. I do not know where those numbers came from. I do not know what kind of system was used. Beginning with majors and lieutenant commanders, that is the figure I have on the number of reductions.

My suggestion is that we let this matter ride along with this plan that is already in effect, and a part of which is in the law. The rest of it is in plans of the Secretary of Defense and I believe that in the intervening months, the next 6, 8, or 10 months, that a much sounder and more effective method will be found and adopted.

I am for it, but if I am the last one left I am not going to go overboard on some kind of plan just to reduce officers by number, by cutting off the appropriation money and just take them out, let them go, push them out, or just stop the pay. I am not going to take part in a plan like that. I am just one Senator, of course. I am glad to submit this matter to the Senate.

I have before me a copy of a letter addressed to Mr. James R. Schlesinger, Secretary of Defense, with respect to the Senator's amendment. I wrote to the Secretary because I was against the amendment and voted against it. This is the amendment that was defeated by a vote of 41 to 31. I was calling upon the Secretary of Defense to do something about the matter.

Mr. President, I ask unanimous consent to have printed in the Record at this point the letter dated October 24, 1973, addressed to James R. Schlesinger, Secretary of Defense.

There being no objection, the letter was ordered to be printed in the Record, as follows:

October 24, 1973.

Hon. James R. Schlesinger,
Secretary of Defense
Washington, D.C.

Dear Mr. Secretary: As you know, one of the amendments recently considered on the Senate Floor in connection with the FY 1974 Military Procurement Authorization Bill was a proposal by Senator Proxmire which would have required as a matter of law certain reductions in the headquarters and headquarters staff. Those reductions were suggested in the Committee Report as illustrative of reductions which could be made in support and headquarters activities. The Committee Report indicated that over 10,000 positions might possibly be saved in this area.

The amendment was defeated and I opposed the adoption of the amendment. I would not want my vote as well as that of many Senators to be mis-interpreted as meaning that no reductions in headquarters personnel are desirable or possible. The reason for opposing this amendment was based on the Committee position that while substantial cuts should be made, the Secretary of Defense should apportion the cuts and have the latitude to make the cuts wherever he deemed best, as part of his management responsibilities. The Committee Report cited the headquarters activities among a number of others as being illustrative of areas where reductions might well be made in non-combat activities.

I realize that many times the Congress makes what might be termed as "gestures" in support of manpower reductions but these are never made mandatory as a matter of hard law. The Services understandably do not take these actions too seriously if they are not specifically required by law.

The point I can not too strongly emphasize in this letter is that if the Department of Defense does not make rather substantial reduction in the one million men in headquarters and support activities in the coming months, you can be sure that the Armed Services Committee will be compelled to take more stringent action next year in order to achieve some results. I recognize that over the years headquarters and support activities, especially NATO, have become institutionalized and there is great resistance in reducing un-needed or marginal functions. This results in a tendency on the part of the Services to make any mandated reductions in combat activities.

I am sympathetic to the severe problems you face in achieving meaningful reductions in this area. I write this letter to put the Services on notice of the Committee's intention next year, so far as I am concerned, if demonstrable results are not otherwise achieved.

Sincerely,

John C. Stennis.

Mr. PROXMIRE. Mr. President, I shall be very brief. No one in the Senate speaks with more authority on this subject than the distinguished Senator from Mississippi. Not only do we all respect him and admire him, but we have great affection for him. When he speaks on this subject most of us are inclined to simply support him because he has such great experience. But I submit under these circumstances if we are going to act to do something about the tremendous number of admirals and generals we have, compared to our experience in the past, our experience in World War II and the Korean war, here is the one way, the one effective way we can act.

The distinguished Senator from Mississippi has asked us to wait until we can get further information and act in a more orderly way. There is an old song, an old constantly repeated refrain. The Department of Defense has been studying this question. We could almost put that to music. Well they came forth with their report, and what did their report do? It provided us with no recommendation on admirals and generals. I have the report in my hand. This is the kind of literally no action recommendation they make when we have six times as many flag officers now, in relation to our troops, as we had in World War II. When in some categories, full generals, we have more generals absolutely than we had in World War II, it obviously is going to take decisive action by the Congress if something is to be done about it.

This is a very difficult matter to handle, because the Pentagon is concerned about taking care of their own people. That is understandable and it is human. But it is wrong. It is a taxpayer rip-off.

Mr. President, what I have proposed does not require the wholesale discharge of officers. It would be a reduction of eight-tenths of 1 percent, less than 1 percent, easily handled on the basis of attrition. In some categories there would be no reduction whatsoever. In other categories, there would be a reduction of 1 or 1½ percent—a very modest hold-down.

As I say, it is not something that just springs from the office of a Senator. This is something the House Appropriations Committee wrote into the bill. Under the circumstances, I would hope the Senate would favorably consider the amendment and support the position taken by the House.

I yield the floor.

Mr. THURMOND. Mr. President, I rise in opposition to this amendment and I will say just a word or two.

First, I want to commend the able and distinguished chairman of the Appropriations Committee for saying that this is a matter for the Armed Services Committee, and that is exactly what it is.

I appreciate the desire of the distinguished Senator from Wisconsin to reduce the high ranks, and there may be some merit in his position, but how can he say, for instance, that the Navy needs 10 admirals rather than that it needs 12 or 15 admirals? Has he had a chance to study that matter? Has he gone into this carefully? How can he say the Marines need only 1 general rather than 2 or perhaps 3, or that the Air Force needs 10 generals instead of 12 or 16? How can he say the Navy needs 14,800 lieutenant commanders? Why not 15,000 or 16,000?

I could go on.

In other words, Mr. President, this is a matter that deserves the utmost consideration. It deserves the careful consideration of the Armed Services Committee, where the committee can go into it in detail and determine these matters.

The distinguished chairman of the Armed Services Committee has said studies are being made. Further studies will be made. All of us wish to reduce unreasonable numbers of high ranks. At the same time, this is a meat-ax proposal. It is a hit-and-miss proposition to say, "give the Army so many generals, give the Air Force so many," because I am sure the distinguished Senator from Wisconsin has not had the opportunity to go into these questions carefully.

I hope the Senate will defeat the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wisconsin. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Louisiana (Mr. JOHNSTON), the Senator from Hawaii (Mr. INOUYE), the Senator from Arkansas (Mr. FULBRIGHT), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Idaho (Mr. CHURCH) is absent on official business.

I also announce that the Senator from Missouri (Mr. SYMINGTON) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT) and the Senator from Ohio (Mr. SAXBE) are necessarily absent.

I further announce that the Senator from Idaho (Mr. McCLURE) is absent on official business.

The result was announced—yeas 38, nays 53, as follows:

[No. 580 Leg.]

YEAS—38

Abourezk
Bayh
Bellmon
Biden
Burdick
Byrd, Robert C.
Case
Clark
Cranston
Eagleton
Gravel
Hart
Hartke
Haskell
Hatfield
Hathaway
Hughes
Humphrey
Javits
Kennedy
Mansfield
Mathias
McGovern
Mondale
Moss
Muskie
Nelson
Packwood
Pearson
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Stafford
Stevenson
Weicker
Williams

NAYS—53

Aiken
Allen
Baker
Bartlett
Beall
Bentsen
Bible
Brock
Brooke
Buckley
Byrd, Harry F., Jr.
Cannon
Chiles
Cook
Cotton
Curtis
Dole
Domenici
Dominick
Eastland
Ervin
Fannin
Fong
Goldwater
Griffin
Gurney
Hansen
Helms
Hollings
Hruska
Huddleston
Jackson
Long
Magnuson
McClellan
McGee
McIntyre
Metcalf
Montoya
Nunn
Pastore
Pell
Roth
Scott, Hugh
Scott, William L.
Sparkman
Stennis
Stevens
Taft
Talmadge
Thurmond
Tower
Young

NOT VOTING—9

Bennett
Church
Fulbright
Inouye
Johnston
McClure
Saxbe
Symington
Tunney

So Mr. PROXMIRE'S amendment was rejected.

Mr. STENNIS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. YOUNG. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TESTING OF IRRADIATED FOODS AT NATICK, MASS.

Mr. KENNEDY. Mr. President, I am delighted that the Senate Appropriations Committee under the distinguished leadership of Senator McCLELLAN has restored to the Department of Defense appropriation bill $1 million for the wholesomeness testing of irradiated foods.

Since 1963, the irradiated food program has been centered at Natick Army Labs in Massachusetts. The goal of the program has been to develop a safe, cheap, and nutritious method of irradiating food. On October 6, 1972, we were successful in the Senate in restoring $2.2 million to continue this food research and development program. And it is even more crucial that the $1 million needed to complete the program be appropriated now.

Mr. President, irradiated food has gone to the Moon with our astronauts who can testify both as to its nutritious qualities and its attractiveness and tastiness. But further testing is needed to meet FDA requirements for general distribution of irradiation techniques for food preservation.

A 20-year investment of $34.5 million would be wasted if the program ended today; and the program is within 2 years of completion according to those in charge of the project at Natick Labs.

Particularly at this time when the Nation is facing a severe energy shortage, it is crucial that we develop new ways to preserve our food. The research at Natick in the food irradiation program is not simply for the benefit of the Armed Forces; it will ultimately benefit families all across the Nation by providing cheaper food, which can be preserved for long periods of time.

Mr. President, I discussed at some length in the Senate yesterday the world hunger crisis; and I would like to add to those remarks the observation that I do not feel we can afford any longer to turn away from research which may in any way help to alleviate that crisis.

I ask unanimous consent to have printed in the RECORD the remarks of Dr. Edward S. Josephson, the director of the food research program at Natick. He outlines in detail the progress and the potential of the wholesomeness testing of irradiated food project at Natick Labs.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

ACTION BY HOUSE APPROPRIATIONS COMMITTEE RECOMMENDING TERMINATION OF WHOLESOMENESS TESTING OF IRRADIATED FOODS

1. Reference: Committee Print, 93rd Congress, 1st Session, House of Representatives, Report No. 93-662, 26 November 1973, page 204.

2. Problem: "The Committee believes that enough time (20 years) and effort ($34.5 million) have been spent on this project, that its ultimate usefulness is questionable, and that the program should have already developed sufficient data for conclusions to be made. Therefore, the funds requested for further testing have been deleted." One million dollars ($1,000,000) in FY 74 funds are involved.

3. I believe the Committee would not have made its recommendations if it had the following facts:

a. Although the Army Surgeon General and the overwhelming preponderance of experts in the field state that irradiated foods are safe to eat, it is the U.S. Food and Drug Administration (FDA) which must make final judgment. FDA establishes the requirements for the scientific evidence it needs before approving the food irradiation process according to the Food, Drug and Cosmetic Act as amended in 1958 (Radiation is defined as a Food Additive under this act). The evidence FDA requires is a three-year multigeneration study of irradiated beef fed to dogs, rats, and mice and comparing the effects on animals consuming the irradiated beef with control animals eating non-irradiated beef preserved by traditionally approved methods (frozen beef and heat sterilized canned beef). Once these studies begin, they must continue to completion without interruption—if you stop at any stage, you have to start all over again. Involved in the study are 1,500 dogs, 20,000 mice, and 27,000 rats. Termination now, when the beef feeding study is about 55% completed (completion in June 1976) would result in a loss of an investment of 20 years effort and $34.5 million with all the benefits of the food irradiation process lost to the armed forces and to the nation.

b. Success potential of the animal feeding study if carried to completion is excellent. The dogs eating irradiated beef since December 1971 are doing as well as or better than those eating frozen beef or heat sterilized canned beef. The dog feeding study is scheduled for completion in December 1974. The rodent portion of the study, which ran into unexpected nutritional problems not related in any way to irradiation, is now proceeding well. The rodents which have been eating the irradiated beef since April 1973 are performing as well as or better than those eating the frozen or heat sterilized canned beef. This phase of the study will be completed in June 1976.

c. Because irradiation sterilized foods can keep for long periods without refrigeration, they are of particular value when supply or resupply of food is difficult or impossible. For this reason, irradiated ham (Nebraska Space Ham) was used by the astronauts on the Apollo 17 mission to the moon with excellent results. The Nebraska Space ham is a back-up food for SKYLAB to be used in the even power shortages result in spoliage of the non-irradiated foods.

d. Irradiation reduces or eliminates the need for nitrites needed in non-irradiated ham, bacon, sausage, frankfurters, luncheon meats. Nitrites have been indicted as potential cancer-causing agents in non-irradiated cured meats and fish because they can form nitrosamines which are potent carcinogens. If FDA and USDA ban the use of nitrites, this would cause a convulsion in the entire food chain (producers, processors, distributors, vendors and consumers). Terminating the wholesomeness feeding studies could deny the possibility of being able to continue to eat cured meats and fish.

e. The animal feeding study of irradiated beef, because it uses heat sterilized (canned) beef for comparison purposes, serves as a scientific basis for confirming the safety of the thermal processing of foods. The thermal process (canning) discovered in 1809 by Nicholas Appert, evolved over the years to become an established process prior to creation of an FDA. If the irradiated beef study is terminated, the opportunity for verification of the safety to the consumer of the thermal canning process will be lost. The study so far has given the thermal process a clean bill of health.

f. Irradiation sterilized foods, once processed, require no electric, gas, fuel, or other source of energy to prevent spoilage. These foods can "keep" for years without refrigeration. Their widespread use will significantly lower the nation's energy needs at all levels—from the processer to the consumer. This can be realized only if the wholesomeness study can be completed so FDA can issue the necessary regulation permitting the processing, sale, and consumption of foods sterilized by ionizing radiation.

g. Irradiated sterilized foods, because of the long term keeping qualities without refrigeration, can alleviate the violent fluctuations in the marketing of agricultural products—shortages, boycotts, gluts. They can also help our exports and contribute to maintaining a favorable trade balance. They support the nation's foreign policy where food is used as an instrument.

h. Except for meeting the statutory requirements for which the beef feeding study is intended, we have essentially completed R & D on irradiated beef, chicken, pork, ham, ground beef, bacon, pork sausage, corned beef, shrimp, and cod fish cakes. The value of these foods not only to the American taxpayer, but also to the world would be lost if the aspects of the program to meet the statutory requirements are not completed.

i. A recent Department of Commerce Study indicated that had six irradiated meats been available for Southeast Asia in 1968, the U.S. Government would have saved at least $18 million in that year alone. The relatively small additional investment in resources to complete the wholesomeness study of beef would be repaid manifold annually in savings not only to the military, but to society as a whole. This is of increasing importance when the food bill of each and every household keeps jumping.

j. The industry representatives surveyed in March and April 1972—producers, processers, and distributors at the wholesale and retail level—almost unanimously (only one exception of 17 surveyed) indicated their interest in commercializing the food irradiation process once FDA and USDA approvals are received. These approvals can come only if the beef study can be completed.

k. If the process is allowed to "go commercial", we can beneficially use cesium-137, a steadily increasing waste product (30 year half-life) from the atomic reactors, doubling every 4–5 years. There are now hundreds of millions of curies of cesium-137 buried in the ground. Beneficial use of this cesium would be ecologically very significant and will save the very significant amounts of energy used in heat sterilization or for keeping trucks, trains, warehouses, ships, and dock facilities at refrigerated temperatures.

l. As of 30 November 1973, it is estimated that $556,000 have been obligated of the $1,000,000 anticipated in the FY 74 RDT&E appropriation. Termination costs incurred both by the contractor and separation from employment of in-house personnel are not known but could be considerable. As of 30 November 73, approximately $600,000 remain of unobligated funds at the Natick Laboratories in the three other projects in the same program budget element as the Wholesomeness Testing of Irradiated Foods. If restitution of funds expended in the Wholesomeness project is mandatory, it will mean the termination of other RDT&E effort not related to food irradiation encompassing the Mobile Field Kitchen and the Small United Meal, both having high priority under the DOD Food Program.

4. I am sure if the foregoing facts are brought to the attention of the Congress, it will appropriate the funds needed to continue to completion the wholesomeness testing of irradiated beef.

Edward S. Josephson,
Acting Deputy Technical Director for Research, U.S. Army, Natick Laboratories.

Mr. KENNEDY. The Senate is considering the Department of Defense appropriations bill today which contains the funding for our strategic forces. Those forces are predicated on an underlying strategy of nuclear deterrence.

In a statement made to the Pacem in Terris III conference earlier this year, Dr. Herbert F. York of the University of California at San Diego, a former Science Adviser to Presidents Eisenhower and Kennedy and former Director of Defense Research and Engineering for the Department of Defense, makes an eloquent plea for reexamining the level of forces we have constructed in support of that strategy of deterrence.

I particularly would call to the attention of my colleagues, Dr. York's suggestions for steps to lower the level of overkill now contained within the nuclear arsenal of the Soviet Union and ourselves.

I ask unanimous consent that this address, "Deterrence by Means of Mass Destruction," be printed in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

Deterrence by Means of Mass Destruction

(By Herbert York)

In this paper I shall try to make two main points and one specific proposal based on them.

The first point is that, while Deterrence through the Threat of Mutual Assured Destruction may be the best strategy available to us at the present time, we should not delude ourselves into believing that it is a good strategy. It is a terrible strategy, and a very high priority, long-run objective should be to get rid of it altogether.

The second point is that, even if we accept the strategy of deterrence as the best currently available to us, the stockpile of weapons we now rely on to produce it is from ten to one hundred times as murderous and destructive as it needs to be to satisfy that purpose. Therefore, a very high priority objective for the immediate future should be to reduce greatly the current level of "overkill" even while we still maintain the strategy of deterrence.

The specific proposal describes a way to make a very large reduction in overkill without requiring or producing any change in the strategy of nuclear deterrence.

Basically, a strategy of nuclear deterrence is one in which we seek to prevent certain political or military actions by others by threatening to use our nuclear weapons rather than by actually using them. Maintaining such a strategy, therefore, is more a matter of political psychology than of nuclear technology. Someone will be deterred if he believes that the nuclear punishment he will receive will be more severe than the achievement of some particular objective merits. Thus, the actual physical properties of the weapons only enter the deterrence equation insofar as the physical properties affect the beliefs of the various parties. However, if and when deterrence fails, the matter changes radically. Then it is no longer what people believe about the weapons that counts, but the real physical facts about their properties.

Twenty years ago, the general strategy of nuclear deterrence was particularlized in John Foster Dulles' doctrine of Massive Retaliation. The Korean War was fresh in peoples' minds, and those who advocated massive retaliation were in effect saying, "The next time we are seriously challenged, we will not allow the enemy to choose the place and style of warfare most favorable to him." Instead, they said, "If there is another attack anywhere on one of our allies, we will immediately retaliate with a massive nuclear strike on the real source of the new aggression." At that time, the idea was to deter conventional war anywhere in the world, but especially in Europe, through the threat of massive nuclear retaliation. The United States was able to make such a threat because we had an overwhelming superiority in nuclear weapons. We had, perhaps, a few hundred atomic bombs, each somewhat bigger than the one that had killed about 100,000 people in Hiroshima eight years earlier. We also had many long-range aircraft and we had many air bases from which even short-range aircraft could reach the Soviet Union On the other hand, the Soviets had only just begun to accumulate atomic bombs, their aircraft were less capable, and they had no air bases close to our heartland. The situation was so unsymmetrical that it made perfectly good sense from our point of view to deter conventional attack by a threat of massive retaliation.

Since then, the situation has changed radically. In the meantime. the hydrogen bomb has been perfected, resulting in a thousandfold increase in the power of individual weapons. Now nuclear bombs number in the tens of thousands rather than in the hundreds, intercontinental bombers and rockets have replaced short-range aircraft, and forward bases are no longer essential. Most important, there are now two nuclear superpowers possessing these extreme capabilities, and there are three other nuclear powers each of which has a nuclear capability that is small compared to what the superpowers have today, but enormous compared to that which the USA had when it first put forth its policy of massive retaliation. In recognition of the fact that for some time now there has been a rough balance of terror between the two superpowers, we now speak of deterrence as being based on the threat of *Mutual* Assured Destruction. Under such circumstances, one set of strategic nuclear forces does little more than deter a direct attack by another. To be sure, there are those who would like to believe these terribly murderous and destructive forces achieve other, broader objectives, but it is doubtful that they any longer do so. The best that is usually claimed for nuclear deterrence is that it "works," and that it is stable. The first of these claims is speculative—and in any event, unprovable. The fact that there has been no invasion of Western Europe is consistent with the notion that the threat of massive retaliation "worked," but does not prove that it did. Similarly, the fact that there has been no strategic nuclear bombardment by anybody since 1945 is also consistent with the idea that nuclear deterrence works, but again it simply is not possible to prove there is any causal connection.

Along with most others, I believe the current nuclear balance has been stable for some time, and that the SALT I agreements go a long way toward assuring that it will remain stable for the foreseeable future. Moreover, I believe the present balance is stable in two different ways. First, it possesses what is called "crisis stability." That is, in a military crisis, one side cannot add much to its chances of survival by striking first, and so there is no strong inducement to do so. The current nuclear balance is also reasonably stable in the "arms race" sense. That is, there does not appear to be any way for one side to achieve an overwhelming advantage over the other side by quickly acquiring any reasonable quantity of some new weapon, and so again there exists no really strong inducement to do so.

So much for what might be called "the good side" of deterrence; what is wrong with it? Simply this: If for any political or psychological or technical reason deterrence should fail, the physical, biological and social consequences would be completely out of line with any reasonable view of the national objectives of the USA or the Soviet Union. What would these consequences be? I believe the following is as accurate and detailed as is necessary and useful for any general but serious discussion of the subject. In the event of any exchange of blows by the strategic nuclear forces of the USA and the USSR, most of the urban populations of the Soviet Union and the United States could be killed, and most of the industry and commerce could be destroyed by the direct and immediate effects of the nuclear explosions. The towns and rural areas of the two countries would at the same time be subjected to varying amounts of radioactive fallout. The details of what would happen to the people living in such areas depend importantly on the weather conditions prevailing at the time and on the details of the attack pattern, but well over one-half of the town and country populations could be killed by the fallout. In addition, the living standards and the life expectancy of the survivors would be substantially reduced by secondary effects, including both the effect of less-than-lethal levels of fallout and the general breakdown of civilized services. The balance between the damage to the urban population of one side and the damage to the urban population of the other side depends somewhat, but not materially, on who strikes first. However, there is a real possibility that the rural population of the side that strikes first will end up somewhat better off.

In addition, the lives of many millions of people living in the immediate neighborhood of the superpowers would be imperiled by so-called local fallout, and long-range or world-wide fallout would endanger those living in even remote countries. It is very difficult to make precise estimates, but it seems that a full nuclear exchange between the USA and the USSR would result in the order of 10,000,000 casualties from cancer and leukemia in countries situated well away from the two main protagonists. In addition, genetic problems, that are even more difficult to calculate, would affect many, many millions of others, not only in this generation, but for centuries to come. Civilization would survive somewhere, but probably not in the United States or the Soviet Union, and perhaps not elsewhere in North America or Europe.

Some authorities have proposed that we confront these awful possibilities by undertaking huge, complex programs designed to cope directly with a massive nuclear attack. Such programs usually include the installation of a so-called thick system of antiballistic missile combined with very extensive civil defense and post-attack recovery programs. In detailed examinations, however, the main elements of such proposals have always been judged to be either technically unsound, or economically unfeasible, or socially and politically unacceptable, and so no such programs are currently underway or even being seriously considered.

In brief, for now and the foreseeable future, a nuclear exchange would result in the destruction of the two principals as nations regardless of who strikes first. This is what is usually meant by the phrase "Mutual Assured Destruction."

It is most important in any discussion about international affairs or the current military balance to have clearly in mind what the current technical situation means: the survival of the combined populations of the superpowers depends on the good will and the good sense of the separate leaderships of the superpowers. In the Soviet leadership, for whether reason, or as a result of whatever mistaken information, chose to destroy America as a nation, it is unquestionably capable of doing so in less than half an hour, and there is literally nothing we could now do to prevent it. The only thing we could do is to wreak on them an equally terrible revenge. And, of course, the situation is the same the other way around.

No one can say when deterrence will break down, or even why it will. Indeed, if the leadership of all the nuclear powers always behave in a rational and humane way, it never will. But there are now five nuclear powers, and there will be more someday, and if any of them ever makes a technical, political or military nuclear mistake for any reason, real or imagined, then there will be a substantial chance that the whole civilized world could go up in nuclear smoke. This is simply too frightful and too dangerous a way to live indefinitely; we *must* find some better form of international relationship than the current dependency on a strategy of mutual assured destruction.

Let me now turn to the matter of the size of the force currently devoted to mutual assured destruction, and to the matter of "overkill." Informed opinions about how many weapons are really needed vary over an extremely wide range. For example, shortly after leaving the post of Special Assistant to the President for National Security Affairs, McGeorge Bundy wrote, "In the real world of real political leaders—whether here or in the Soviet Union—a decision that would bring even one hydrogen bomb on one city of one's own country would be recognized in advance as a catastrophic blunder; ten bombs on ten cities would be a disaster beyond history; and a hundred bombs on a hundred cities are unthinkable."

For a very much higher estimate, we turn to some calculations made in the early 1960's. In order to quantify the question. It was assumed that "assured destruction" meant guaranteeing the deaths of 25% of the population and the destruction of a majority of its industrial capacity. From that, it was calculated that as many as 400 bombs on target might be needed.

As an intermediate estimate, we may turn to what the French and British have actually done to produce what they evidently think is a deterrent force. In each case the number of large bombs devoted to that purpose seems to be something less than one hundred.

There is, thus, a wide range of views about what is needed for deterrence. My personal view is that Bundy is right: that from one to ten are enough whenever the course of the events is being rationally determined. In the case of irrational behavior, there is no way of calculating what it would take. The case of irrational behavior is, therefore, of little interest in connection with the question of how big the deterrent force should be; rather, the matter of irrational behavior only enters into questions about when and how deterrence will fail, and about whether a policy based on deterrence is of any political value at all.

How do these estimates of need, running from a low of one to a high of 400, compare with what we actually have?

When current plans are completed, just one component of the U.S. strategic force will consist of 31 Poseidon submarines. Each submarine has 16 missiles, each missile can deliver 10 or so warheads, each to a different target. That makes 5,000 warheads altogether, and each of them is about three times as big as the one which killed about 100,000 people in Hiroshima in 1945.

In addition, we plan to retain 10 missile submarines of an older type, which deliver bigger warheads, but not so many of them. In addition to the submarine missiles are the land-based Minuteman and Titan forces, capable of delivering about 2000 warheads, ranging in size from those which are "only" ten times the size of the Hiroshima bomb up to warheads hundreds of times as big.

The third component of the "Triad" of strategic force consists of long-range bombers, mostly B–52's. The details of their capability are less well known publicly than those of the missile forces. It is known, however, that each bomber can deliver many individual weapons, including both air-to-surface missiles and free-fall bombs. The actual number and megatonnage depends more on administrative decisions than on technological limitations. It is, however, clear that the bombers can carry many more megatons than the combined sea-based and land-based missile force. All told, the total number of individual warheads in the force I have described is in excess of 10,000 and their total explosive power is about one half million times as great as the nuclear explosive power used to put the finishing touches on World War II.

By the time the Soviets complete their current round of missile deployments, they will possess a force which is in a general way comparable to ours, though differing in its details. Specifically, in the mid- and late-seventies they will end up with substantially fewer individual warheads, but with substantially more megatonnage.

If one, or ten, or maybe a few hundred bombs on target are all that are needed to deter, how did it happen that we came to possess more than 10,000? And why so much total explosive power?

These numbers are not the result of a careful calculation of the need in some specific strategic or tactical situation. They are the result of a series of historical accidents which have been rationalized after the fact.

In the late forties and early fifties, before the invention of the H–bomb, it was determined that we needed on the order of 1000 delivery vehicles (then land-based and sea-based bombers) in our strategic forces. This was determined by several factors: World

War II and the Korean experience; the need for a relatively large number of vehicles in order to develop the tactics needed to penetrate defenses with high assurance; and, probably most important of all, purely fiscal considerations during the late Truman and early Eisenhower administrations. Then suddenly when the H-bomb was perfected in 1954, the explosive power of the bombs multiplied 1000-fold. When the effectiveness of each nuclear weapon was thus so enormously increased, one might have supposed it would have resulted in a reduction in the number of delivery vehicles needed, but no such adjustment was made. In fact, since the perfection of the H-bomb was one of the technological advances that made long-range missiles practical, the H-bomb actually resulted in a proliferation of types of delivery systems, and that in turn resulted in a small increase in their total numbers. In the late sixties, further technological advances made it possible to provide each individual missile with more than ten individually targetable warheads. Again, one might have expected some adjustment in the number of delivery vehicles, but there was none; the number of land-based missiles and the number of sea-based missiles have both remained exactly the same as they were before this latest innovation was introduced. In sum, very great changes, even order-of-magnitude changes, in the technological capability of the strategic forces have resulted in no change whatsoever in their numbers.

As I remarked before, all of this has been rationalized after the fact. One method for doing so is called "worst case analysis." In such an analysis, the analyst starts with the assumption that his forces have just been subjected to a massive preemptive attack. He then makes a calculation in which he makes a series of very favorable assumptions about the attacker's equipment, knowledge and behavior, and a similar series of very unfavorable assumptions about his own forces. Such a calculation can result in an arithmetic justification for a very large force indeed, provided that we really believe there is a chance that all the many deviations from the most probable situation will go in one way for them and in the other way for us.

An additional argument for possessing many more weapons than are needed for deterrence involves a notion called "Damage Limitation." The idea is that a part of our force should be reserved for attacking and destroying those enemy weapons that for some reason were not used in his first, preemptive strike. Besides the obvious technical difficulties with such a scheme, it is counterproductive for political reasons. In today's world, the internal politics of each of the two superpowers requires them to maintain strategic forces that are roughly equal in size. That in turn means that if one side builds a large force for "damage limiting" purposes, the other side will build a roughly equal force which will inevitably be "damaging producing." Such a chain of events obviously leads from bad to worse. Furthermore, the kind of forces needed for this so-called "damaging limiting" role are technologically identical to those needed for a first strike, and so such a strategy is obviously dangerous for that reason also.

In brief then, even if we accept for the time being the need for a policy of deterrence through mutual assured destruction, the forces now in being are enormously greater than are needed for that purpose. And again, if we recognize that deterrence can fail, and if we admit to ourselves the consequences of such a failure, then we see that greatly reducing the current degree of overkill is both possible and essential.

Before making some specific recommendations about what should be done, I shall first discuss one particular alternative proposal sometimes put forth as a means for improving the current dreadful situation. In that proposal the current deterrence policy, in which populations and industries are the key targets, would be replaced by a policy in which only weapons and military centers are targets. At first glance, it seems that such a policy would be more humane in some useful sense. As a result, such proposals have frequently arisen; the best known being the "counterforce" proposal made by Secretary McNamara at a NATO meeting in 1962. However, the idea has several flaws. First of all, such counterforce strategies, as they are called, always turn out to require, or at least justify, many more and generally larger weapons than are needed for the so-called counter-value, or deterrence strategy. In such a case, a failure in deterrence would generally result in many more deaths, especially in third countries, than would be the case for a force sized for deterrence only. This comes about partly due to an increase in collateral damage through fallout, and also because of the colocation of so many military targets with urban targets such as the military command posts in Washington, Omaha, and Moscow; the transportation centers in St. Louis, Chicago, Kharkov and Kiev; the naval bases at New York, Boston, San Diego, Los Angeles, Leningrad, Sevastopol and Vladivostock, and so on.

Moreover, a policy to target only military installations would only be an administrative arrangement; it would not rely on anything intrinsic in the equipment. Hence such a policy, agreed to internationally or not, could be abandoned or abrogated on short notice, after first being used to justify a substantial increase in force levels. For these reasons, I believe the proposals for improving the present situation by going to a counterforce strategy are among the most dangerous proposals I know.

How might we, then, go about reducing the great overkill inherent in the present Soviet and U.S. forces without at the same time affecting the style and stability of the nuclear deterrence strategy? Recalling that the local fallout from a nuclear exchange can cause the death of more than half of the town and rural populations of the two superpowers, and that the world-wide fallout from nuclear exchange will result in the death of many millions of people in third countries, and noting that fallout is essentially proportional to megatonnage, we see we ought to start by getting rid of those elements of the force that deliver the most megatons. In each case, roughly 20% of the forces carry roughly 80% of the megatons. In the U.S. case, these are the several hundred long-range bombers and the 54 Titan missiles. In the Soviet case, there are the 300 very large SS-9 missiles plus a relatively small intercontinental bomber force. Ridding the world of all these weapons and, of course, prohibiting their replacement by newer versions, would decrease substantially the threat to the rural populations of the two protagonists. It would also reduce the danger to residents of innocent countries five-fold. At the same time, their simultaneous elimination of these weapons through negotiation or, I would venture to say, even their unilateral elimination by one or both sides, would have little effect on the deterrent posture of either side.

There is another area where it should be easy to achieve a further two-fold reduction in potential fallout. Only one-half of our Minutemen are being converted to the new Minuteman III, and only 31 of our 41 Polaris boats are being converted to Poseidons. Simply abandoning the not-to-be converted residuals of these forces would eliminate about one-half the fallout potential of our missile forces. And precisely because these older weapons are less capable, their complete elimination would have only a marginal effect on our ability to deter. Similarly, we may be confident the Soviets also have some obsolescent weapons they could get rid of at the same time in order to keep things in formal balance. And beyond the elimination of these excessively murderous and obsolescent vehicles, we might also consider placing an upper limit on the explosive power of those remaining. For instance, we might set an upper limit in power equal to that of the Hiroshima bomb. The many thousands of bombs that would still remain in the strategic forces, even after the reductions I have suggested, would still seem to be many more than enough for deterrence through mutual assured destruction, even if each bomb were so limited in power.

The overkill capacity in the present forces is so large that even the rather substantial reductions I have suggested would not do much to the threat hanging over the inhabitants of the larger cities; most of them would still be killed in the event of a breakdown of deterrence. But, since there would be big decreases in death and destruction in rural areas and small towns, the prospects for some sort of national survival would be much improved. Perhaps most important, the number of deaths and the amount of genetic damage in innocent countries would be reduced more than ten-fold. And whether or not one believes the leadership of a nation has the right to place all of its own citizens at risk, it surely does not have that right with regard to third parties.

In the real world, admittedly these specific arms reduction suggestions are clearly too much for the short term and too little for the long term.

The short-term objectives, as embodied in the SALT negotiations, are largely devoted to stopping the technological arms race, and real reductions in arms have been relegated to the future.

The long-term objective, as attested to on several solemn occasions by Presidents Kennedy, Johnson and Nixon, and by Chairmen Khrushchev and Brezhnev, are general and complete disarmament. Leaving aside the question of the feasibility of their ultimate objectives, we must even so note that my suggestions are very modest by comparison.

These particular suggestions, then, are meant for the intermediate term, say the next five or ten years. They are for the period after we finally succeed in fully arresting the forward momentum of arms development and deployment but before the final arrival of the conditions necessary for "General and Complete Disarmament."

So far, after almost thirty years of attempts to achieve some kind of serious disarmament, not one single nuclear weapon has even been destroyed or even moved as a result of an agreement to do so. That record could lead to a feeling of utter hopelessness, or it could lead to a renewed determination to accomplish something at long last. Let us try to make it the latter.

Mr. HART. Mr. President, as always, I am dismayed at the enormous sums of money which our Government feels compelled to commit to the defense of our national security. A sum of $73 billion is staggering, although I commend the Senate Appropriations Committee for cutting nearly $1 billion from the House figure. For years, I have been concerned that our priorities for spending demonstrate an overbred concern for the safety, and not the welfare, of our citizens.

For the first time in years, we are not engaged in any military action. I fervently hope that we will continue to be in relative harmony with the rest of the world. I also hope that disarmament negotiations will proceed rapidly. Both of these developments should lead to a more peaceful world, and should also reduce the pressures for military spending in our national budget.

Yet, I recognize that, for the present, we cannot ignore the role of force in the world and the necessity for military readiness on our part. Therefore, my approach to military appropriations has always been that we should pare down—but only to the extent that is not realistically jeopardizing our own defenses.

It is not always easy to apply this standard. Legitimate and, at times, emotional arguments are made on both sides of any defense expenditure. It is sometimes difficult to separate the truly valid claims from the self-serving declarations of the "military-industrial" complex, whose influence was decried by President Eisenhower.

It is especially difficult to make such decisions when they affect an area close to home. One minor item in the Defense budget for 1974 has caused a great deal of concern in Michigan. That is Project Sanguine, a subterranean transmission system designed to communicate alert and other short messages to submarines below the surface. The Navy initiated this project at least 10 years ago claiming that the system was superior to existing or alternative communications schemes because of the ability of low frequency waves to travel to submarines without requiring them to surface and because of an asserted superior invulnerability to nuclear attack.

However, environmentalists have raised serious questions about the ecological effects of such an extensive underground electric system. These questions have not been answered. As a consequence, wherever the Navy has attempted to locate Sanguine, local residents have become alarmed. First, Wisconsin was eliminated as a site. Texas was then proposed with the upper peninsula of Michigan as an additional possibility. Citizens' groups in each place have raised a number of searing questions, related both to environmental and energy impact of the project and its military necessity.

In response to these objections, the House Appropriations Committee, after a series of hearings, voted to terminate the funds for Project Sanguine. Its report noted that:

> At the present time there are six operational communication systems which can be used to communicate with submerged submarines. Other new systems, apart from Sanguine, are under development. It is recommended that these systems be developed rather than the Sanguine system. It would appear that the number of systems in being and under development provide sufficient redundancy for reliable submarine communication—The Navy would be well advised to pursue other means of communicating with submerged submarines which do not involve the political and technical difficulties which beset Sanguine.

It is with regret, then, that I discovered that the Senate Appropriations Committee had restored the funds for Sanguine in its entirety. I do not sit on either committee and make no claim to special expertise in questions of alternative military communications systems. Nevertheless, I was delighted at the House committee action, and hoped that the Senate would follow suit.

It is my personal inclination to vote against any further funds for Sanguine on the strength of the House report and the serious questions raised about the effect of the project. I am concerned that approval of the Defense bill might indicate a wholehearted endorsement of the Sanguine project. I would like the record to show that this is not the case. It is my understanding that the Senate Appropriations Committee has restored the funds for Project Sanguine only for research purposes, and that no final approval is indicated by its move. An unfortunate "streamroller" effect often develops around military systems. We must avoid that here, and I would respeectfully urge the conferees on this bill to reexamine the position of the House committee, with an eye at least to eliminating funds for model development.

RADIO AND TELEVISION ADVERTISING FOR THE VOLUNTEER ARMY

Mr. SCHWEIKER. Mr. President, the report of the Senate Appropriations Committee accompanying H.R. 11575, the fiscal year 1974 appropriations bill for the Department of Defense, includes the following language:

> All effective methods of advertising for recruitment purposes should be used including an equitable allocation between the broadcasting and printed media.

The purpose of this committee report language, which I proposed, is to clarify congressional intent that all media, including radio and television, be available to the Department of Defense and the individual services for the purpose of recruitment for military personnel. It makes absolutely no sense to adopt an All Volunteer Army and then cut the military services off from such an effective way to reach potential recruits as paid prime time radio and television advertising. By saying "all effective methods of advertising," we are indicating that paid radio and television advertising time for recruitment purposes should be available to the military services, just as paid advertising in the print media is available.

The report language I proposed on this subject is particularly important because of confusion that exists concerning the subject of paid radio and television ads for recruitment, and specifically for the Volunteer Army.

During hearings by the Defense Subcommittee of the House Appropriations Committee this year on the defense budget for fiscal year 1974, specific testimony about a congressional prohibition of radio and television recruitment advertising was mentioned. On June 6, 1973, Lt. Gen. Bernard W. Rogers, Deputy Chief of Staff of the Army for Personnel, made the following comments:

> Fiscal year 1972 legislation expressly prohibited the use of recruiting advertising funds for the purchase of broadcast time. The Army, therefore, as well as the other services relied entirely on time made available by broadcasters on a public service basis for any exposure on these media.
>
> Although there is currently no restrictive language in the fiscal year 1973 appropriations bill, we have interpreted the fiscal year 1972 legislation as expressing the sense of Congress and did not program funds for the purchase of broadcast time during fiscal year 1973 and fiscal year 1974. . . .
>
> I do believe, however, that if we were permitted to use prime time broadcast advertising on a paid basis, we could greatly improve the cost effectiveness of our overall advertising program.

Last year, during consideration of the military recruitment authorization bill for fiscal year 1973, H.R. 15995, I introduced the following amendment to clear up any confusion that might have existed about the ability of the services to choose any media they thought would be most effective for their recruitment advertising purposes:

> SEC. 604. In order that all appropriate means may be available to the Department of Defense in furthering its efforts to achieve an all volunteer military force at the earliest practicable date, nothing in this or any other Act shall be construed as prohibiting any branch of the Armed Forces of the United States from expending funds for the purpose of advertising in any type of news media, if the purpose of such advertising is to attract eligible persons to enlist or accept commissions in such Armed Forces and the funds used to pay for such advertising were appropriated for recruiting or advertising purposes.

The Senate Armed Services Committee, and the full Senate, adopted this amendment, but it was deleted by the House-Senate conference on the bill because it was deemed unnecessary. The conference report for that 1973 authorization bill (Rept. 92–1388) made the following statement:

> *Elimination of prohibition on recruitment advertising*
>
> The Senate bill contained a provision (section 604) providing that nothing in this or any other act shall be construed as prohibiting use of any media for the purpose of recruitment advertising.
>
> The House bill contained no comparable provision.
>
> The House conferees opposed the provision as they did not see the necessity for elimination of a prohibition which is presently nonexistent.

If the House and Senate Armed Services Committees state that there is no prohibition of paid radio and television advertising, then there should be no reason why the Defense Department, and the individual services, should have to defer any budget requests for paid radio and television advertising because of a so-called sense of the Congress prohibition, that in fact no longer exists.

The problem concerning congressional intent on the subject began in 1972, in the Defense Department appropriations bill for fiscal year 1972. It will be helpful in clarifying this issue to recite the history of this appropriation bill.

In fiscal year 1971, the Army budget included $10.6 million for radio and television advertisements for the volunteer army. The fiscal year 1972 budget request included a request for an additional $9 million for radio and television advertising for the volunteer army. The House agreed to this additional item, but the Senate rejected it. According to the conference report on this fiscal year 1972 appropriations bill (Rept. 92–754) "the conferees agree to restore $4,500,000 of these funds." However, the conference report went on to make the following statement:

> "The conferees direct that no funds be used for paid television and radio advertisements."

It is clear that this "no funds" statement is considerably broader than the $9 million additional item request that was a subject of conference review. This statement that a blanket prohibition of the use of any funds whatsoever for paid television and radio advertisements, was not confined simply to the $9 million additional item under consideration. And it was unnoticed, I daresay, by nearly all Members of Congress and, therefore, had the effect of congressional intent for fiscal year 1972.

No similar prohibitory language was contained in the fiscal year 1973 appropriations bill. In addition, it was specifically to remove the unwise effects of the 1972 prohibitive appropriations language that I introduced my amendment to the fiscal year 1973 authorization bill. The fact that my 1973 amendment was rejected as unnecessary indicated to me that the military was once again free to develop its most effective military recruitment advertising program, free of any such discriminatory prohibition.

Therefore, I am pleased that the Senate Appropriations Committee this week is accepting my language expressing our endorsement for all advertising chosen by the military.

Unfortunately, as General Rogers testified, uncertainties over congressional intent, still exist, and there were no budget requests for television and radio advertising for fiscal year 1974. I would hope that those services, particularly the Army, that desire to use paid radio and television advertising, would take steps quickly to include these items in their budgets for the current fiscal year 1974, and I am confident that the intent of Congress would be in support of their efforts.

Paid radio and television recruitment ads can enable the services to target specific recruitment appeals in specific areas of the country during prime time hours. It is clearly an effective means of getting the all volunteer message to potential enlistees, and I can think of no good reason to arbitrarily preclude these ads.

Such a policy of cutting off the potential paid prime time radio and television ads is particularly senseless in view of our commitment to an All-Volunteer Army. In the House Appropriations Committee report on the current appropriations bill, criticism was made of the success of the All-Volunteer Army. The committee expressed concern about the All-Volunteer Army concept, but specifically said that the program should be continued at least 1 more year. The committee report language is as follows:

> In addressing the fiscal year 1974 budget request of the Department of Defense, the Committee discussed the all-volunteer force concept at considerable length and concluded that the program should be supported for at least one more year. This decision was made despite considerable doubts on the long range effect of the all-volunteer force concept on America's military posture.

Next year will be a critical test for the All-Volunteer Army, and it is backward in my view to prohibit recruitment efforts, such as paid radio and television advertising, that can be effective in helping to make the All-Volunteer Army a success. Although the House Committee report indicated that paid radio and television advertising could make the overall advertising program more effective, the House report also discussed development of a plan "which allocated the funds in an agreeable manner between and among the competing media networks and the radio stations, et cetera." This should not be construed as expressing congressional intent to wait until fiscal year 1975 for implementation of paid radio and television advertising, because the critical 1-year evaluation period for the Volunteer Army will be over by then. Therefore, it is essential for budgetary decisions regarding paid radio and television advertising to be implemented immediately by the services and by the appropriate congressional committee.

Furthermore, apart from the benefits of an All-Volunteer Army, the 1972 committee report ban on radio and television advertising is an arbitrary, discriminatory provision that Congress should not in any way continue. The broadcast media are clearly an effective advertising medium, and should be available for utilization by those services that desire it. There is no reason for Congress to single out the broadcast media for discriminatory treatment, and to deny the flexibility to the military services to utilize broadcast media advertising if they choose to.

It may be argued that paid radio and television advertising is not necessary because of the availability of public service advertising for the All-Volunteer Army. Although this would not solve the serious problem of discrimination against the broadcast media, I do not think we should kid ourselves and think that public service advertising would be enough.

In the first place, public service time is subject to increasing competition by agencies at all levels of government, with justifiable causes, and nongovernmental organizations as well. This fact alone precludes the availability of sufficient broadcast advertising time.

Second, public service time cannot be effectively organized to reach the greatest possible target audience, desired portions of that audience, at the best possible times, or even to give a coherent, organized message. We know from studies that certain times of the year, such as spring, just before high school graduation, are the most effective times for recruiting. We must permit the military to spend their recruiting dollar to take advantage of this fact.

We know, of course, that certain times of the day are best for reaching the target audience. Public service time is all too often available only when the audience is comprised of children, or some comparable group. The ability to purchase broadcast time would also solve this problem.

We know, furthermore, that dependence on public service does not allow us to effectively focus upon specific regional markets, it does not permit us to effectively make public important changes or innovations, such as pay increases, which would have a great bearing on recruitment, and finally, it does not permit a coordinated advertising campaign that tells a comprehensive story, since the availability of time is fragmented and unpredictable.

Paid radio and television advertising, on the other hand, provides the necessary flexibility to allow the military to maximize its message, particularly through the use of advertisements on local radio and television stations, where specific messages can be delivered to specific communities.

I support the benefits of public service ads, and would expect that broadcast stations would continue to utilize them even when paid, prime time advertisements are being aired on radio and television. We will want public service ads to continue, but I do not think that we will be maximizing the potential for successful recruiting for the all-volunteer Army if we do not also utilize paid advertisements.

In addition, this prohibition is extremely unfair to the broadcast industry and unnecessarily singles out that segment of the media for discriminatory treatment. The freedom to expend authorized advertising funds — approximately $52 million in the fiscal year 1973 budget—for broadcast advertising is essential to permit the Defense Department to maximize the effectiveness and efficiency of its recruiting dollar.

Radio and television advertising is an effective means of reaching the men in the particular age group we are aiming at. In the spring of 1971, the Stanford Research Institute conducted a survey entitled "Effectiveness of the Modern Volunteer Army Programs." The major findings of the study as to the impact of the Army's experimental paid radio and television advertising campaign were as follows:

First, it was very effective in increasing awareness of Army advertising among young male Americans without prior military service;

Second, it was effective in motivating some of these young men to the action represented by making personal inquiry about the Army service for themselves;

Third, it was accompanied by increases in levels of Army enlistments beyond those that past enlistment trends would indicate; and

Fourth, it was accompanied by more pronounced increases in levels of Army enlistments in the geographic section of the United States where the advertising was most intensified.

An additional study conducted by the Gallup group found that—

> There is an advantage of approximately 18 to 1 for paid broadcasting over public service broadcasting against men between the ages of 18 and 34. Most public service programming "does not reach young men" in this particular age group.

Further evidence can be found in a nationwide test conducted during a 13-week period in the spring of 1971. The use of paid radio and television advertising during prime time produced the following results in the 17- to 20-age group:

Awareness of advertising increased by 118 percent;

Overall Army enlistments increased by 13 percent;

True volunteer enlistments increased by 28 percent;

Delayed entry Army enlistments increased by 95 percent;

Army enlistments of 17- to 18-year-olds increased by 35 percent;

Combat arms enlistments increased by 702 percent;

Air Force enlistments increased by 55 percent;

Marine Corps enlistments increased by 71 percent; and

Navy enlistments declined by only 14 percent.

In sum, Mr. President, allowing paid advertisements on the broadcast media will enhance the recruiting effectiveness for the All-Volunteer Army, provide full recruiting options for those services that desire to utilize more effective paid advertisements, will not affect the public service announcement program, will guarantee equal opportunities among all media, and will eliminate arbitrary discrimination against the broadcast media.

In my view, the Senate Appropriations Committee report language is quite clear in paving the way for Defense Department budget expenditures for this program, if the services desire it, and I hope that these efforts can help us to realize the goals of the All-Volunteer Army.

Mr. HOLLINGS. Mr. President, I have discussed the matter of procurement of utility aircraft by the Army and Air Force with my friend and colleague on the House side, Congressman MENDEL DAVIS. As a member of the House Armed Services Committee, he has been actively involved in this question and he was able to refresh my memory to the facts surrounding this request. I recall, too, the comments of another friend and colleague, the late Senator Allen Ellender. After determning that the request was for turboprop utility aircraft and specifying that fact throughout the fiscal year 1972 authorization and appropriation process, I recall Senator Ellender's complaining that the service must not understand the English language and that if we could not trust them on the little things, how in the world could we trust them on the big multimillion or billion dollar requests.

For over 2 years, the services have wanted to purchase utility aircraft. Turboprop craft were the type that they have requested, the type that the Armed Services Committee twice authorized and that the Senate Appropriations Committee now funds for the second time. Yet the turbo-fan—jet—interests are still alive and well, saying that in the interest of fairness and economy no one should be denied a shot at the contract.

But let us look at the facts, Mr. President. They speak for themselves.

In fiscal year 1973 the Air Force requested $8.4 million to purchase 14CX–X aircraft. And the Army had a request for 20 similar aircraft. The authorization bill approved the requests but directed the services to jointly procure the aircraft.

During the appropriations hearings, the late Senator Ellender, who was then chairman of the Appropriations Committee, asked the Air Force witness whether these were jets. The witness, Lt. Gen. Otto J. Glasser, responded:

> No, Sir; these are small aircraft, turboprop aircraft.

Senate Hearings, Department of Defense Appropriations, fiscal year 1973, part 4, February 18, 1972, page 530. Both the Army and Air Force requests were in the enacted bill.

It was understood by everyone familiar with the situation that the services had asked for, and the Congress had approved, the purchase of turbo-prop, not turbo-fan—jet—aircraft.

On January 20, 1973, the Secretary of the Army announced the cancellation of the proposed U–X/CX–X utility aircraft procurement solicitation. He cited three reasons for the cancellation, any one of which would be sufficient to require cancellation. These reasons were:

First. The Army during the fiscal year 1972 budget hearings continuously represented to the Congress that it required and intended to procure a turbo-prop U–21F-type aircraft. The reports of both the House and Senate Armed Services Committees make this abundantly clear. To alter this position at this time and to attempt to procure a jet aircraft seriously and adversely reflects upon the Army's credibility with the Congress. This cannot be permitted. We believe that the Congress has a right to rely upon the accuracy of the information they are furnished by the Army; and the Army in turn has an obligation to act in accordance with the advice furnished to the Congress.

Second. Further, it was not clear that the Army had completely justified the requirements for a jet aircraft. Many of the Army's missions can be adequately accomplished with a turbo-prop aircraft of the U–21 type. Consequently, it was determined that the Army may have overspecified its requirements with the result that it was proposing to pay for added performance not necessary to accomplish its defined mission.

Third. Additionally, despite the fact that a final decision on the award and contract had not been made, specific details as to the evaluation and ranking of the various offerors were known in several quarters. Although it is unclear how this information became known, its release clearly affects the integrity of the procurement process and permits questions as to the validity of the source selection authority itself. This may not be permitted. The source selection process cannot be compromised. It must be completely free from even the slightest question or doubt as to its objectivity. Whenever information of this nature becomes compromised the Army must act positively and promptly to remedy the situation—including cancellation of the competition.

The House Armed Services Committee inquired into the matter again this year during its fiscal year 1974 authorization hearings and in their report, House Report 93–383 at page 32 they stated:

> During the hearings the Army in their FY74 request for 20 additional aircraft . . . again justified a turboprop-type aircraft to the satisfaction of the Committee and the Committee recommends approval of the Army request.

Noting that the services had not utilized the previous year's authorization, the conference committee report stated:

> The failure of the Army to utilize this authority was the result of the inability of the Army and Air Force to enter into a common procurement of a single aircraft as directed by the House-Senate conferees on H.R. 15495, the fiscal year 1973 authorization legislation, Public Law 92–436.
>
> "The House conferees, after considerable discussion, receded from the House position and agreed to deny the Army its request for additional aircraft in fiscal year 1974. However, with respect to the twenty utility aircraft of the Army and the fourteen utility aircraft of the Air Force approved by the Congress for fiscal year 1973, the Conference Committee directs that the Army and Air Force enter into a joint procurement for these thirty-four aircraft; *that the bid proposals be limited to turbo-prop aircraft only;* and that the performance requirements of the selected aircraft be such so as to satisfy the needs of both the Army and the Air Force." (Emphasis added.)

Hence, in light of all that had transpired, it came as a great shock when the House Appropriations Committee ignored all that had transpired by stating in their report that—

> The fiscal year buy of utility aircraft proceed on the basis of the understanding had by this committee last year, and that the specifications be written and the request for proposals specify that the aircraft to be procured may be powered either by turboprop or turbofan engines, so that all qualified aircraft manufacturers may have an opportunity to bid on this procurement.

Mr. President, wisely the Senate committee has reversed the other body's action. To include jet aircraft in this procurement just does not make sense. Senators STENNIS and ELLENDER were the first to see this fact and get us on the right track. Now we must stay on this course.

Now that we are in the throes of a serious energy crisis, this decision is even more sensible. From the standpoint of fuel economy, the turboprop uses 100 gallons less fuel on every 1,000-mile mission. Further, the shorter the distance the greater the savings; for example, on a 400-mile trip which is the average distance for the CX–X/UX mission, the jet would average 177 gallons per hour as compared to 85 gallons per hour for the turboprops, or over twice as much—100-percent-plus—fuel.

Jet proponents argue that to limit procurement to turboprop aircraft would unduly restrict competition. This is not true and was addressed by the Army in its fiscal year 1974 testimony before the House Appropriations Committee:

> General OLENCHUK. I would say, sir, there is a reasonable scope of competition.

The witness cited four craft that could be considered: Beechcraft U–21F, Beechcraft Super 100, Fairchild-Sweringen Merlin III, Piper, and North American Rockwell.

From the standpoint of mission requirements, the turboprop is far better than the jet. For example, the leading turboprops:

First. Have almost double the cabin volume.

Second. Are capable of carrying cargo—engines, gasoline, rations for resupply, and so forth.

Third. Can drop supplies and paratroops.

Fourth. Can provide medical evacuation—litter patients.

Fifth. Have all baggage accessible from inside.

Sixth. Can satisfy aerial platform requirements for all Army Security Agency electronic warfare requirements. Of the total procurement of turboprop aircraft in the Army inventory to date, approximately 30 percent or 80 aircraft have been allocated to support this mission.

Because of the small cabin door, limited cabin volume, and the proximity of the cabin door in front of the wing, the small jet is not capable of supporting these mission requirements. This small jet would be like a "duck out of water" in a hostile environment such as Vietnam. Certainly the aircraft selected to support the CX-X/UX mission must provide a greater capability than an air taxi for generals.

Going back to the 1972 testimony, the "CX-X, a small turboprop, can accomplish all tasks required—operate from small, unimproved fields, irrespective of the altitude and assure safe flight over high air route structures." Let us not lose sight of the purposes and the mission of this craft. Let us stick to our guns and keep faith with the taxpayer.

I feel strongly that the Senate should support the language in the Armed Service Joint Conference report and in the Appropriations Committee report, restricting the procurement to turboprop aircraft that are totally capable of supporting the mission requirements. The services can then get on with the procurement of their aircraft.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 11575) was read the third time.

Mr. McCLELLAN. Mr. President, I thank my colleagues for helping us to expedite consideration of the bill.

Mr. PASTORE. Mr. President, may we have order in the Senate? If compliments are being paid, we ought to hear them.

The PRESIDING OFFICER. The Senate will be in order.

The Senator may proceed.

Mr. McCLELLAN. Mr. President, I would like to announce that on the floor here this afternoon there has been added to the bill as reported by the Senate Appropriations Committee a total of $28,950,000.

Mr. President, with that addition the total amount of the bill is still $3,986,096,000 under the budget. It is also $836,682,000 under the House bill.

So I hope that we have made a record here of trying to be conservative and trying to be economical, particularly with respect to military spending.

The PRESIDING OFFICER (Mr. HUDDLESTON). The question is, Shall the bill pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. JOHNSTON), and the Senator from New Hampshire (Mr. MCINTYRE) are necessarily absent.

I further announce that the Senator from Idaho (Mr. CHURCH) is absent on official business.

I also announce that the Senator from Missouri (Mr. SYMINGTON) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT) and the Senator from Ohio (Mr. SAXBE) are necessarily absent.

I further announce that the Senator from Idaho (Mr. MCCLURE) is absent on official business.

The result was announced—yeas 89, nays 2, as follows:

[No. 581 Leg.]

YEAS—89

Abourezk
Aiken
Allen
Baker
Bartlett
Beall
Bellmon
Bentsen
Bible
Biden
Brock
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cook
Cotton
Cranston
Curtis
Dole
Domenici
Dominick
Eagleton
Eastland
Ervin
Fannin
Fong
Fulbright
Goldwater
Gravel
Griffin
Gurney
Hansen
Hart
Hartke
Haskell
Hathaway
Helms
Hollings
Hruska
Huddleston
Hughes
Humphrey
Jackson
Javits
Kennedy
Long
Magnuson
Mathias
McClellan
McGee
McGovern
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—2

Hatfield
Mansfield

NOT VOTING—9

Bayh
Bennett
Church
Inouye
Johnston
McClure
McIntyre
Saxbe
Symington

So the bill (H.R. 11575) was passed.

Mr. McCLELLAN. Mr. President, I move that the vote by which the bill was passed be reconsidered.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCLELLAN. Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives on the disagreeing votes thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer appointed Mr. MCCLELLAN, Mr. STENNIS, Mr. PASTORE, Mr. MAGNUSON, Mr. MANSFIELD, Mr. SYMINGTON, Mr. YOUNG, Mr. HRUSKA, Mr. COTTON, and Mr. CASE conferees on the part of the Senate.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that Senators INOUYE and SCHWEIKER be added as conferees on the supplemental appropriation bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. HART). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ALLOCATION OF FUEL TO SCHOOL-BUSES

Mr. HARRY F. BYRD, JR. Mr. President, I have been informed that the House of Representatives today adopted an amendment to prohibit the allocation of fuel to school buses which bus students past their neighborhood schools.

Mr. President, this amendment was offered by the distinguished Representative from Michigan (Mr. DINGELL). I note that the distinguished Senator from Michigan (Mr. HART) is now occupying the Chair at the present time.

The legislation adopted by the House today is similar in language to the amendment which was offered to the Senate by the distinguished Senator from North Carolina (Mr. HELMS).

The vote on the amendment passed by the House today, I am informed, was 221 to 192. I believe that is very significant.

I am very proud of my association in the Senate. I am very proud to be a Member of the Senate. But I believe that the House more nearly represents the thinking of the people of this Nation when it adopted this amendment today than the Senate did when, by a one-vote margin, it voted to table the amendment of the distinguished Senator from North Carolina.

Mr. HELMS. Mr. President, I wish to associate myself with the remarks of the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.). I am very proud of the action taken by the House. As has been stated by the Senator from Virginia, I believe that vote more nearly represents the views of the people of the country than does the vote of the Senate, which rejected the proposal by one vote.

Mr. BROCK. Mr. President, I wish to join the distinguished Senator from North Carolina (Mr. HELMS) in expressing gratitude for the leadership of the Senator from Virginia in this matter.

I think the House has again demonstrated that it is the people's voice. I may say to the Senate that it is well past time that this body reflected the mood, the spirit, and the desire of the American people.

The Senator from North Carolina (Mr. HELMS) and I joined in offering an amendment some 2 weeks ago. The amendment was defeated. The Senator from North Carolina is continuing his fight, as he always has, to bring this matter before the Senate. He offered a further amendment on Monday, last, as I recall. That amendment was tabled by a majority of one vote.

I hope that the action of the House today will encourage Members of this body who go to conference to accept not only the expressed desire of the American people, an overwhelming majority of the American people, both black and white, but also the desire of those of us who have worked long and hard for full equality and equal opportunity for all children of this country, both black and white.

I join in expressing my gratitude to my former colleagues in the other body, and I thank the Senator for this time.

LEGAL SERVICES

Mr. JAVITS. Mr. President, I wish to ask the leadership whether it is the intention to call up the legal services bill, which is next in line on the second track. I have asked the distinguished Senator from North Carolina (Mr. HELMS) whether he has any wish to debate the matter tonight. I have no requests for speakers on the affirmative side, but that is natural, as we think we have put in our argument.

If the leadership will advise us, I would also hope that the Senator from North Carolina might see fit to advise us, as well.

Mr. ROBERT C. BYRD. Mr. President, in view of the fact that there will be a vote on the motion to invoke cloture on the legal services bill tomorrow, it was not the intention of the leadership to call up the bill tonight, unless Senators wish to discuss it. The leadership is perfectly willing to call it up if any Senator wishes to address himself to it. Otherwise, the leadership would not call it up.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. HELMS. I see no point in delaying the departure of this body tonight or, for that matter, for the holiday season. Just about all has been said that could be said pro and con. The Senator from North Carolina in no way wants to delay the deliberations of the Senate.

I do wish that my colleagues would give earnest consideration to recommitting this bill to the Committee on the Judiciary, so that some hearings can be held, such hearings not having been held at all at any time this year. It is a completely new bill.

If this could be agreed upon by the leadership and by my friend, the distinguished Senator from New York, this whole controversy could be resolved, and we could go home with a relative degree of happiness, to face whatever consequences we will face when we get there.

Mr. JAVITS. I thank the Senator.

It seems that the Senator similarly has no request for speakers tonight.

As to his point in chief, that he would like to see this matter put over, we would not. We do not feel that that is desirable or necessary. We feel that bringing legal services in an effective manner to those who need them the most, to whom they restore the greatest dignity, is entitled to the highest priority; and within the bounds of possibility, we intend to proceed with the issue.

So I might inform the leadership that, so far as obviously we are concerned, there will be no further debate tonight on this matter.

Mr. HELMS. I agree, Mr. President.

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

HALE BOGGS FEDERAL BUILDING

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2178.

The PRESIDING OFFICER (Mr. HART) laid before the Senate the amendment of the House of Representatives to the bill (S. 2178) to name the U.S. courthouse and Federal office building under construction in New Orleans, La., as the "Hale Boggs Federal Building," and for other purposes, which was to strike out all after the enacting clause, and insert:

That the United States courthouse and Federal office building now under construction at the corner of Camp Street, bounded by Poydras Street, Lafayette Street, and Magazine Street, New Orleans, Louisiana, shall hereafter be known and designated as the "Hale Boggs Federal Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "Hale Boggs Federal Building".

SEC. 2. The first sentence of section 25 of the Dwight D. Eisenhower Memorial Bicentennial Civil Center Act (Public Law 92–520) is amended by striking out "System Facilities Development Foundation at 101 West Ninth Street," and inserting in lieu thereof the following: "Systems Data Center facility in Minnehaha County near".

SEC. 3. Section 11 of the Dwight D. Eisenhower Memorial Bicentennial Civil Center Act (Public Law 92–520) is hereby repealed.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the amendment of the House.

The motion was agreed to.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that tomorrow, after Mr. BENTSEN is recognized, there be a period for the transaction of routine morning business, not to extend beyond 10:30 a.m., with statements therein limited to 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR TIME TO BEGIN RUNNING ON THE MOTION TO INVOKE CLOTURE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at 10:30 a.m. tomorrow, the 1 hour under rule XXII begin running on the motion to invoke cloture on the legal services bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time for debate on the motion to invoke cloture tomorrow be divided equally between Mr. HELMS and Mr. NELSON.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

(The following statement of the program and ensuing discussion, which occurred earlier, just prior to the vote on final passage of the Defense Department appropriation bill, is printed at this point in the RECORD by unanimous consent.)

Mr. GRIFFIN. Mr. President, while we have so many Senators on the floor, I wonder if I could ask the majority leader if he could enlighten us to where we go from here this week and any information about next week.

Mr. PASTORE. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. MANSFIELD Mr. President, in response to the question raised by the acting Republican leader—and I am sure that all Members of the Senate are interested—we will have a cloture vote tomorrow on the legal services bill at either 11 or 12 o'clock.

It had been anticipated that we would take up tomorrow H.R. 8449, the national flood insurance program bill. However, we will take it up on Monday instead.

We are looking at the possibility of taking up H.R. 8547, an amendment to the Export Administration Act of 1969, and are hoping that the distinguished Senator from Alabama (Mr. SPARKMAN) will be able to work out some type of time arrangement.

We will take up the "Walk a Mile for Your Health Day" measure tomorrow. That ought to take about 15 seconds to dispose of.

We are looking into the possibility—and I see the Senator from North Carolina (Mr. ERVIN) on the floor—of seeing if something could be done on S. 2432 and Senate Concurrent Resolution 30, both of which were reported out of the Government Operations Committee.

There is also a bill out of the Committee on Agriculture and Forestry, S. 2150, having to do with the taxability of dividends received by a cooperative and so forth.

There will be three bills from the Public Works Committee, which the Senate will hopefully take up tomorrow. One related to the energy situation has to do with highway speed limits.

Could the Senator from West Virginia tell us what the other bills cover?

Mr. RANDOLPH. Mr. President, one involves the allocation of waste treatment funds authorized for fiscal year 1975. The apportionment of money among the States is by law required to be made by January 1, 1974. The other is S. 1776, as amended by the House. It extends training programs; contains language similar to Senate Joint Resolution 158 which dealt with the subject of reimbursement to States for waste treatment facilities built between 1966 and 1972; and grants authority to the National Waste Quality Commission to enter into a contract to employ an executive director.

I would want to comment on the bill to establish a uniform maximum highway speed limit which we hope will come before the Senate. We hope that bill entitled "The Emergency Highway Energy Conservation Act" will be considered by the Senate tomorrow. Its enactment will result in substantial fuel savings and I believe markedly improved highway safety.

Mr. MANSFIELD. Mr. President, we hope that all three will come before the Senate.

Also, there is the matter of the aluminum penny. Copper is going out.

Copper is going out; it is getting too expensive. But the Committee on Banking and Currency unanimously reported out a bill today which will substitute aluminum for copper in making pennies—big news.

On Monday, the time has not been decided yet, but probably around 1 o'clock, the Senate will take up the nomination of our friend and colleague, WILLIAM SAXBE, to be the next Attorney General of the United States.

We hope to get out no later than next Friday or next Saturday, the 21st or the 22d; but I want to assure our western colleagues we will make every effort to get out ahead of that time if it is at all possible, so that it will be possible for them to get home when their tickets are validated.

Mr. PASTORE. Mr. President, for reasons that are quite obvious, is it possible that we may have a vote on the cloture motion tomorrow, and nail it down?

Mr. MANSFIELD. It is quite possible, but I do not know what the outcome will be. If cloture carries, it means we will be on the bill for the rest of that day and perhaps other days as well. But I would like to get the calendar cleared up as much as possible in the meantime.

Mr. PASTORE. Can we vote at 11 o'clock?

Mr. MANSFIELD. Well, if we come in at 11 o'clock, we have to spend an hour debating the motion itself, before voting.

Mr. PASTORE. I do not want to be too presumptuous, but we could come in at 9:30 and spend an hour debating cloture, beginning at 10, and take a vote at 11.

Mr. GRIFFIN. Mr. President, if the Senator will yield, we have at least one request on this side that the vote not occur until 12 o'clock.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. MANSFIELD. Yes.

Mr. JAVITS. Mr. President, we are approaching the end of the session. The leadership is planning adjournment. There has been on the calendar since March 6, 1973, an item entitled "International Convention on the Prevention and Punishment of the Crime of Genocide." It will take a two-thirds vote to ratify that convention, and a two-thirds vote, should there be an effort to do so, to bring about cloture.

I would like to ask the majority leader whether he has any plan in mind for that particular item of business.

Mr. MANSFIELD. Yes, indeed. It is anticipated that within the first month of our return, sometime in that period, we will take up the so-called Genocide Convention, a treaty which has been on the calendar for a long time— practically all of this first session of the 93d Congress and most of the two sessions of the preceding 92d Congress. So the Senator has my word it will be brought up. The Senate is on notice.

Mr. JAVITS. And the majority leader will, of course, give us due notice of the date?

Mr. MANSFIELD. Oh, yes, at least 2 or 3 days notice, if possible. Certainly 1 at the least.

Mr. JAVITS. I thank the Senator.

Mr. MANSFIELD. That is it.

Mr. ROBERT C. BYRD. Mr. President, the majority leader has stated the program for tomorrow. I will only add this to the majority leader's statement:

The Senate will convene at 10 a.m.

Mr. BENTSEN will be recognized for not to exceed 15 minutes.

Under a previous order, there will then be a period for the transaction of routine morning business, with statements therein limited to 3 minutes, the period not to exceed beyond 10:30 a.m.

At 10:30 a.m., the time will begin running on the motion to invoke cloture on the legal services bill.

At 11:30 a.m., the automatic quorum call will begin, upon the completion of which the automatic yea-and-nay vote will occur on the motion to invoke cloture.

Mr. GRIFFIN. Mr. President, for the purpose of clarification, because several Members are interested, is it the case—and I believe it is—that that rollcall vote would be 15 minutes in length, rather than 10?

Mr. ROBERT C. BYRD. The Senator is correct. I thank him for reminding the Senate.

ADJOURNMENT TO 10 A.M. TOMORROW

Mr. GRIFFIN. Mr. President, in accordance with the previous order, I move that the Senate stand in adjournment.

The motion was agreed to; and at 6:16 p.m., the Senate adjourned until tomorrow, Friday, December 14, 1973, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate December 13, 1973:

DEPARTMENT OF STATE

Viron P. Vaky, of Texas, a Foreign Service officer of Class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Colombia.

Lloyd I. Miller, of Ohio, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Trinidad and Tobago.

CONFIRMATIONS

Executive nominations confirmed by the Senate December 13, 1973:

ENVIRONMENTAL PROTECTION AGENCY

Alan G. Kirk II, of Virginia, to be an Assistant Administrator of the Environmental Protection Agency.

DEPARTMENT OF JUSTICE

John O. Olson, of Wisconsin, to be U.S. attorney for the western district of Wisconsin for the term of 4 years.

Evan LeRoy Hultman, of Iowa, to be U.S. attorney for the northern district of Iowa for the term of 4 years.

Ira De Ment, of Alabama, to be U.S. attorney for the middle district of Alabama for the term of 4 years.

Julio A. Brady, of the Virgin Islands, to be U.S. attorney for the Virgin Islands for the term of 4 years.

William A. Quick, Jr., of Virginia, to be U.S. marshal for the western district of Virginia for the term of 4 years.

(The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

THE JUDICIARY

Albert J. Engel, of Michigan, to be a U.S. circuit judge for the Sixth Circuit.

William C. Conner, of New York, to be U.S. district judge for the southern district of New York.

Richard Owen, of New York, to be U.S. district judge for the southern district of New York.

Russell James Harvey, of Michigan, to be U.S. district judge for the eastern district of Michigan.

EXTENSIONS OF REMARKS

PUBLIC WORKS COMMITTEE ACTION ON AUTO EMISSION CONTROLS REPORTED, DISCUSSED IN BUSINESS WEEK MAGAZINE

HON. JENNINGS RANDOLPH

OF WEST VIRGINIA

IN THE SENATE OF THE UNITED STATES

Thursday, December 13, 1973

Mr. RANDOLPH. Mr. President, on November 28, the Committee on Public Works ordered reported legislation modifying the emission control requirements for automobiles under the Clean Air Act of 1970. This measure, presented to the committee by the Senator from New Mexico (Mr. Domenici), was reported to the Senate on December 4 as S. 2772. This action eliminated an extensive series of inquiries and thorough discussion of the issues by the committee.

This action was realistic considering the status of our knowledge about the effects of automobile pollution and the available technology for its control. The question of emission controls has attracted widespread attention throughout our country and has been widely discussed in the media.

Mr. President, the December 1 issue of Business Week magazine contained a thorough report of the committee's action and an editorial discussing the automobile pollution control effort.

Mr. President, I ask unanimous consent that the Business Week article and editorial be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

The Nod Goes to GM's Catalytic Converter

For months, the auto industry has been split over the effectiveness of catalytic converters to control exhaust emissions. Chrysler has argued loud and long against the devices, General Motors has come out strongly for them, and Ford has been somewhere in between. At midweek, the Senate Public Works Committee refused to change the 1975 standards—in effect, endorsing catalysts and GM's position.

There is no longer much doubt: All 1975 cars sold in California, plus most sold elsewhere, will carry the catalysts. GM is expected to equip nearly all its cars with the devices, Ford as many as 65%. Chrysler will use catalysts, but on how many cars is uncertain.

The committee also agreed to freeze the 1975 standards for one year, giving the auto makers more time to meet the still-tougher standards for carbon monoxide and hydrocarbons originally mandated by the 1970 Clean Air Act.

The decision to go to catalysts next year was engineered by Senator Pete V. Domenici (R-N.M.). Fighting much sentiment to freeze the standards at the current level, as Ford and Chrysler had requested, Domenici drafted a proposal, which passed 11 to 3. Senator Edmund S. Muskie (D-Me.), author of the Clean Air Act, dissented.

THE ARGUMENT

Two main factors persuaded the committee to go to catalysts. First, GM said it had made substantial progress with the devices. It has engineered the price of the 1975 catalytic system down to about $150 per car, will warrant the system for 50,000 mi., and claims that fuel savings will offset the $150 price tag. In fact, GM planned to put catalysts on some of its 1975 cars even if Congress had frozen the standards.

Secondly, the committee felt that the catalysts would save fuel. Until now, auto makers have sacrificed engine efficiency, and hence fuel mileage, to curb pollution. With the catalysts, however, they can tune their engines for optimum efficiency and let the catalysts clean up emissions. As a result, GM says it expects a 13% boost in fuel mileage. Ford also testified that fuel mileage will increase with catalysts, but less than GM says it would.

The committee was concerned that, because the catalysts require unleaded gasoline, as much as 4% or 5% more crude might be needed to refine the unleaded fuel. But the 13% gasoline saving that GM expects means a crude savings of about 6½%. After weighing evidence from the oil companies (some say there will be hardly any crude penalty to produce unleaded fuel), the committee decided, in Domenici's words, "that there is indeed an energy saving in going to catalysts."

NOX RULE

Meanwhile, the auto makers will probably win a reprieve on the third major pollutant, nitrogen oxide. The Environmental Protection Agency, conceding that a measuring error overstated the concentration of NOX, recommended to the committee this week that it set the 1977 NOX standard at 2.0 grams per mile instead of the 0.4 grams per mile now required. If approved by the committee and then by Congress, the more lenient standard means that Detroit will not need a second catalytic system to curb NOX.

In all, the week's events represent an almost complete victory for GM, which has poured thousands of people and hundreds of millions of dollars into catalysts. Says President Edward N. Cole: "General Motors believes the committee's action is in the public interest, both from the standpoint of improving the nation's air quality and also for obtaining maximum value from America's energy resources."

For Chrysler, the compromise was a bitter disappointment. It had argued strongly that catalysts would raise costs, would not help fuel economy, and would not affect pollution.

Is what's good for GM good for the country? Not according to Senator Muskie, who called the committee's action a "retreat." But the committee's chairman, Senator Jennings Randolph (D-W. Va.), said: "I do not believe it's a retreat because the statutory standards still have to be met by 1977. It's only a little stretching out."

Thrift Need Not Be Dirty

As a result of the auto industry's efforts to curb exhaust emissions, fuel mileage has slowly declined 7% to 10% since 1967. Now that the energy crisis has erupted, some people have suggested that emission controls be dropped altogether. Others have been trying to persuade Congress to delay the even tougher 1971 standards.

Either move would be a mistake—as the Senate Public Works Committee recognized this week. Cars are still the major source of pollution in many cities. To decontrol cars would erase four years of progress, and to postpone the 1975 standards would stall the program just short of a major achievement.

Moreover, the catalytic emission control system now planned for many 1975 models may actually boost fuel mileage. The reason: Until now, auto makers have sacrificed engine efficiency to curb pollution. With the catalyst system, the auto makers can tune their engines to optimize efficiency (and hence gas mileage) and let the catalytic converters clean up the emissions. General Motors says it expects a 13% boost in fuel mileage. So confident is GM that it may equip some of its 1975 cars with the catalysts even if Congress freezes the standards at 1974 levels.

It is true that the catalysts need unleaded gasoline, which could require up to 4% or 5% more crude oil to refine than leaded gas. But the 13% gasoline saving GM expects could mean a crude saving of about 6½%. In short, catalysts could save fuel.

It would be an ironic mistake to stop the progress on the threshold of success. Rather, the industry should couple its hard-won and costly gains with a new drive to produce smaller cars. Their overweight gas-guzzlers have contributed far more to the energy crisis than any pollution control system has.

DISORDER IN THE COURTS

HON. LAMAR BAKER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1973

Mr. BAKER. Mr. Speaker, since I am not a member of the legal profession, I am hesitant to criticize those who earn their livelihood by practicing law. But even lawyers recognize that there are degrees of competence in the profession just as in any other field of endeavor and the true course of justice is often hampered by those who have less competence than others.

That is why it was important for Chief Justice Warren Burger to speak out as he did recently on trial lawyers and their role in achieving a more responsive judicial process. An editorial in the December 10 issue of U.S. News & World Report under the title of "Disorder in the Courts" comments on what Justice Burger had to say and how it applies to the American public in eliminating the waste of "time, money, and talent" in courtroom procedures.

Under leave to extend my remarks, I feel my colleagues should heed the Chief Justice's words and the editorial comments of U.S. News & World Report, so I place the editorial in the Appendix of the Record at this point:

Disorder in the Courts

(By Howard Flieger)

The other day the Chief Justice of the United States, Warren E. Burger, put into blunt words some things that have been worrying a lot of people for a long time.

On the basis of two decades of law practice and 18 years as a jurist who has studied thousands of cases, Mr. Burger has concluded:

At least a third, maybe half, of the trial lawyers in this country are incompetent. To put it another way—they simply don't know what they're doing.

Many don't know how to frame a proper question to put to a witness.

All too often, they're not clear on the rudiments of the rules of evidence.

Those among them who learn courtroom practice—if they learn at all—do so by trial-and-error. Anybody who holds a law license can be a trial lawyer. But becoming skilled at it often is a matter of on-the-job training, to the detriment of all concerned.

Said the Chief Justice: "We are more casual about qualifying the people we allow to act as advocates in the courtroom than we are about licensing electricians."

Mr. Burger was talking about incompetence through inexperience. But what he said can be applied in equal measure to the "antic trials" that have for years made a mockery of American courtrooms.

The current best seller, "The Onion Field" by Joseph Wambaugh, details a case in point.

Two men kidnapped a couple of Los Angeles policemen and took them to an onion field, where one of the officers was shot to death. That was in 1963—apparently an uncomplicated, open-and-shut case of murder.

Instead, it become a courtroom epic that lasted seven bewildering years. It went through trials, mistrials, reversals, retrials. A dozen or so judges were subjected to months and years of courtroom bickering. One had heart failure. A juror developed what was diagnosed as a mental ailment. A prosecutor quit in frustration. Once a defendant went on a hunger strike—apparently because his aunt had diabetes, not because of the case.

There were motions to change venue, to dismiss the jury, to postpone, to discharge counsel and judges—one hassle after another.

The crime faded into obscurity. Incoming judges had to try to pick up the threads from outgoing judges, the surviving policeman became a shell of his former self.

At one point one of the distraught lawyers for the State declared:

"Sometimes I get a crazy feeling that it'll never be over. . . . The American system of justice is the laughingstock of the English-speaking world and totally incomprehensible to the rest of the world!"

The record of the case, when it was completed, filled 45,000 pages in 159 volumes.

This was a trial? It was a record-breaking run of a courtroom circus. It would have been hilarious—if it weren't so tragic.

This was not a case Mr. Burger was talking about. He was in general deploring the docket-choking stagnation of trials caused by a large number of courtroom lawyers who, when you come right down to it, simply don't know their business.

The Chief Justice, a student of the need to modernize and speed the path of justice, urges that lawyers be trained as trial specialists. He favors some form of the British system under which only 3,000 of the country's 30,000 attorneys are recognized as barristers, qualified to serve as trial lawyers.

This may or may not be the way to do it. Lawyers, themselves, disagree on remedies.

But it is distressingly clear that something has to be done. Jurists, jurors, dedicated lawyers—and the American public—simply cannot tolerate the time, money and talent wasted in a courtroom comedy of errors.

DR. CHARLES HOLMES HERTY, OF GEORGIA

HON. HERMAN E. TALMADGE

OF GEORGIA

IN THE SENATE OF THE UNITED STATES

Thursday, December 13, 1973

Mr. TALMADGE. Mr. President, the city of Savannah set aside December 4 in honor of a great and industrious Georgian, Dr. Charles Herty, who was principally responsible for the prosperity which came to the State of Georgia and the South through the development of the pulpwood industry and the attraction of new industry.

This outstanding chemist, business and civic leader, and humanitarian was first to prove that southern pines could be utilized for the production of a strong and high-quality newsprint paper. Thus was born the giant pulpwood industry, which grew to become a vital part of the economy of Georgia and the South. The paper industry is the fifth largest in the Nation. The South produces more than 60 percent of all paper and pulp in the United States, and Georgia leads all other States in this production.

A major share of the credit for the success of this industry goes to Dr. Herty, who died in 1938, and whose birthday was celebrated by the city of Savannah on December 4.

Mr. President, Savannah and the entire State of Georgia is greatly indebted to the work of Dr. Herty, and I ask unanimous consent that Savannah Mayor Pro Tempore Frank P. Rossiter's remarks on this occasion be printed in the RECORD, along with the proclamation of the city of Savannah declaring December 4 in Dr. Herty's honor.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REMARKS OF FRANK P. ROSSITER, MAYOR PRO TEMPORE OF THE CITY OF SAVANNAH

It is indeed fitting that we should be gathered in a grove of pine trees to honor Dr. Charles Holmes Herty. And it is likewise fitting that we should be in the shadow of a football field where the University of Georgia team once played for Dr. Herty was the first football coach of the Georgia Bulldogs.

Such was the vision of this eminent scientist that he saw the immense value of the Southern pine many years before others of his time. He preached the potential of the pine from one end of the country to the other, never missing an opportunity to appear on the program at a chemical meeting, a gathering of paper makers or industry-seeking groups.

Dr. Herty was the catalyst for a tremendous development of the paper industry in the South. Truly, "The spark of his genius and energy touched Georgia's pines, and forests of smokestacks began growing in the South."

Today the paper industry is the 5th largest in the nation, and the South produces more than 60 percent of all paper and pulp in the U.S. with Georgia leading the parade of states in production. Certainly the magnitude of this great industry is appreciated by Savannahians.

Dr. Herty was born December 4, 1867, in Milledgeville. He graduated from the University of Georgia in 1886, and obtained his Ph. D. degree from Johns Hopkins University four years later.

He served as professor of Chemistry both at Georgia and the University of North Carolina. His development of the Herty Cup for collecting the gum from pine trees was credited with saving the important gum naval stores industry—an industry vital to the well-being of Savannah for generations.

Dr. Herty was rounding out a great career in the chemical field as a consultant with a large New York firm when the depression struck the nation in 1929. He returned to his native state bent on helping lift Georgia by its bootstraps from this difficult period.

Next to the people of Georgia, Dr. Herty quickly realized that the state's greatest asset was the pine. At the time, there was a shortage of newsprint in this country and the paper industry was building new newsprint mills in Canada.

"Why not move South and use the Southern pine?" Dr. Herty preached.

Paper engineers ridiculed him, contending the high resin content of the Southern pine would foul the clothing of the paper machines.

Dr. Herty went back to the laboratory, and with an assist from Hercules Powder Co., proved that the resin content of second growth pine was less than Northern spruce and hemlock.

He obtained a $50,000 grant from the Chemical Foundation, headed by his friend, Dr. Francis Garvin, and set up shop in Savannah, which he found to be the most progressive city in the state at the time. The Savannah Port Authority and the Savannah Electric & Power Co. assisted him with a staff, power and laboratory on the banks of the Savannah River at the foot of West Broad Street.

His laboratory included a pilot paper machine which could run tests paralleling the results on the giant paper machines. Incidentally, that same pilot machine is in use today at the Herty Laboratory on Brampton Road where some 30 scientists continue research and study for the paper industry as a living memorial to the man we honor this day.

As a cub reporter, I covered Dr. Herty's work at the laboratory on River Street, and got to know the enthusiasm and drive of this tall, kind, affable man who combined the talents of a great scientist and promoter I shared his thrill when the laboratory turned out this first pulp from pine and shipped it to a mill in Thorold, Canada, where it was converted to newsprint. The finished paper was returned to Georgia and put through test runs on the nine leading newspaper presses in the state, including the Savannah Morning News. There were no web breaks. The Southern newsprint performed exceedingly well in all aspects. A new day had indeed dawned for the South!

When Dr. Herty looked at a pine tree, he saw more than a mere tree. He saw a God-given resource for providing paper, valuable chemicals, cellulose for making beautiful dresses and swim suits, cellulose for photographic film and a multitude of other uses. Most of all he saw untold thousands of new jobs.

Throughout the years many Savannahians have held the erroneous belief that Dr. Herty's fame rested on the discovery that kraft paper, such as is turned out today by Union Camp, could be made from Southern pine. Actually, paper had been made some time earlier from pine with the kraft process. Dr. Herty was the first to make newsprint from pine.

Dr. Herty never stopped singing the praise of the Southern pine, citing its rapid growth as compared to the slow rate of growth of spruce and hemlock in the colder climes of the North.

At the time Dr. Herty was spreading the fame and the value of this great resource, the pine was being treated rather poorly in Georgia. Cattlemen let their pineywoods stock graze over the land of their neighbors under Georgia's antiquated Fence Laws. Frequently these cattlemen would set a fire in the woods to burn off the underbrush and thus assure a new crop of grass for the cattle in the spring. It mattered not to them that hundreds of acres of pines were destroyed in the process.

Now the woodlands of our state are well protected against fire and all Georgians appreciate the value of the forests as an important money crop.

Dr. Herty died in Savannah, July 28, 1938.

Today as we gather to honor Dr. Herty on the 106th anniversary of his birth, the finest tribute we could pay his memory would be to warn the burgeoning wood products industry to treat our forests with tender loving care—lest the energy crisis we are experiencing today might one day be duplicated with a scarcity of pulpwood and saw timber and all of the other products so vital to our economy and well being. That would be the message of Charles Holmes Herty were he here this day. Thank you.

PROCLAMATION: THE CITY OF SAVANNAH

Whereas, Dr. Charles Holmes Herty was a native Georgian, born in Milledgeville, Georgia, December 4, 1867; graduated from the University of Georgia 1886; attended Johns Hopkins University, graduated and awarded Ph.D. in Chemistry 1890; returned to University of Georgia as Professor of Chemistry and furthered his studies of chemistry in Germany and Switzerland; and

Whereas, He revolutionized and revitalized the Naval Stores business in the south, and improved methods of procuring gum and invented a ceramic cup for gathering same; he concentrated his studies on the pine-improved methods of planting of pine trees to spread growth and increase size for greatest yield for paper making and many other practical productive uses to benefit more people—raising the standard of living his prime interest; and

Whereas, He was elected president of the American Chemical Society in 1915, was reelected in 1916, and aided largely in making the chemical business one of our giant industries of today. He recommended widespread research and cooperation between businesses for the common good of all. He was an active chemurgist and worked closely with the National Chemurgic Council, whose prime purpose is to use sensibly and profitably surplus farm crops; and

Whereas, He started football at the University of Georgia in 1892—first game with Auburn in Atlanta—Auburn won 10–0. He loved all sports and encouraged participation in them to help make life more enjoyable; and

Whereas, He was honored in 1943 by having a Liberty Ship named in his honor at Sontheastern Ship Building in Savannah. He was also honored in 1946 by having a bronze bust placed in the rotunda of the State Capitol in Atlanta with the following inscription: "The spark of his genius and energy touched Georgia's pines and forests of smokestacks began growing in the south"; and

Whereas, The citizens of Savannah having enjoyed and shared the last and most fruitful years of his life, it is fitting and proper to set aside December 4, 1973, his birthday, and celebrate same in a manner magnifying his good works so that they may shine forth for generations to come and his great benefactions multiply.

A BILL TO ESTABLISH A NATIONAL ENERGY INFORMATION SYSTEM

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1973

Mr. WALDIE. Mr. Speaker, if this Nation is going to manage and contain the energy crisis, the public must be able to get quick, reliable answers to extremely complex questions. At the moment, the Congress and the people are totally dependent on the oil companies for most of the information on which we base our governmental decisions.

I, for one, do not want to have to rely on the major oil companies for this essential information.

It is quite disturbing to me that in the past few weeks, the Federal Government, based largely on information provided by oil companies, has approved measures which the oil companies themselves have been seeking for years but which had been denied to them, because of admitted dangers to the environment or obvious, unreasonable profit gouging:

The Alaskan pipeline bill was approved by the Congress and signed by the President despite formidable opposition which lasted a number of years;

Environmental standards, which were established after prolonged debate and over the opposition of the oil companies, have been relaxed or postponed;

Offshore drilling permits will apparently be granted to once again put the Santa Barbara Channel shoreline in danger of oil spills; and

The Cost of Living Council has permitted increases in heating fuel prices, because refineries operated by the oil companies have refused to produce this needed fuel without such increases.

On top of this, the exorbitant profits that the major oil companies are reaping are well known.

Mr. Speaker, the record is quite clear. The major oil companies have the Nation over a barrel and are being permitted to use the energy crisis to satisfy their unquenchable thirst for profits.

One way, I believe, that we can halt this incredible series of events is to obtain timely and accurate information to help us define our energy needs and resources. In my view, we must take steps to enable the Government to make decisions that greatly affect the oil industry and the Nation on the basis of data and information other than that supplied solely by the industry itself.

Therefore, I am today introducing legislation, entitled the Energy Information Systems Act, which is designed to provide for the collection, organization, and dissemination of energy information by one Federal organization.

It is my belief that this bill, over the long run, will enable energy policymakers in the Government to make decisions and recommendations on the most complete, timely, and unbiased information available. It will enable the Congress as well as the executive branch to discharge its responsibilities to see that energy shortages are borne equitably and that danger to individual Americans due to the lack of energy is minimized. But most important of all, perhaps, is that the bill enable the people to make real and meaningful judgments of those who govern them and of those who have so much power over their very lives.

MR. SAM SIEGEL

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1973

Mr. JONES of Tennessee. Mr. Speaker, I would like to call the attention of this body to one of the most outstanding men in my district, Mr. Sam Siegel of Bruceton, Tenn., who has just been presented the "Outstanding Tennessean Award" by Governor Winfield Dunn at a ceremony in Nashville on November 27. This award is in special recognization for outstanding service to the handicapped. In presenting this award to Mr. Siegel, Governor Dunn praised him for his great efforts in providing employment opportunities to handicapped Tennesseans throughout the year.

Receiving awards is nothing new to Sam Siegel. Last year he received an outstanding employer award from the President's Committee on Employment of the Handicapped. In 1969 he was honored as West Tennessee Regional Employer of the Year for the Handicapped. Mr. Siegel has never turned away anybody seeking employment who has a handicap. He has built ramps into his plant and removed other barriers. He has also adapted machinery so handicapped employees could operate it efficiently.

Sam Siegel's service does not stop here, however. He has served as mayor of Bruceton for several years, and has been active in numerous community service projects, including the West Tennessee Heart Association. Carroll County, his home, has led the Nation in per capita contributions to the Heart Fund for the past 10 years. He works very closely with the less fortunate, and on November 26 treated 39 boys from Boys Town in Jackson, Tenn., to a dinner and provided clothing for them.

This modest man who has contributed so much to so many accepts these awards with humility and the desire to do more for the less fortunate. Truly his "cup runneth over" with kindness. I am proud to call him my friend.

INEQUITIES OF FEDERAL SUBSIDIES

HON. SAM STEIGER

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1973

Mr. STEIGER of Arizona. Mr. Speaker, I would like to share with my colleagues a recent letter I received from the president of a company in my district that serves as a wholesale distributor of golf and tennis fashions. In his letter, Mr. R. Holton Confer, Jr., points up the inequities that result from Federal subsidies.

I urge the Members of the House to reflect on Mr. Confer's letter and to remember it the next time we consider legislation authorizing subsidies—no matter how meritorious the cause may appear to be. The letter follows:

LAKE HAVASU CITY, ARIZ.,
December 6, 1973.

Mr. SAM STEIGER,
House Office Building,
Washington, D.C.

DEAR MR. STEIGER: I noticed in yesterday's Wall Street Journal our government had been officially notified by Pan American Airways the company would need subsidies if the current fuel crisis were to intensify or last for a prolonged period of time.

I wish you would officially notify our government that PoCoJo Enterprises, Ltd., will also need subsidies if the current fuel crisis intensifies or lasts for a prolonged period of time.

Our reasons?

PoCoJo is a wholesale distributor of men's and ladies' fashions to golf and tennis professionals in six southwestern states.

The major ingredient of our fashion wear is polyester. A petroleum derivative, polyester yarn production is being reduced by DuPont (the major manufacturer) by 15%.

Our method of distribution is to visit our customers with three fully stocked 27′ motor homes—fuel usage 6 to 7 miles per gallon.

Our customers, especially at this time of the year, depend on northern tourists for much of their business—tourists who are not traveling.

We are a prime source of supply for our customers and are just as important to them as Pan Am is to its customers.

Since we enjoy similar corporate status (especially at tax time) we'd certainly like to have similar status to stand beside them in the subsidy line. Maintaining corporate position is just as important to us as it is to Pan Am.

Think about it.

Sincerely,

R. Holton Confer, Jr.,
President.

ERIE COUNTY HOUSEWIVES TO END POLLUTION SPEAK OUT FOR CONSERVATION OF ENERGY

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1973

Mr. KEMP. Mr. Speaker, as the debate continues over the best methods to employ to cushion the severity of our present energy shortage, it frequently seems that our demand for energy is directly at odds with our environmental concerns. Great progress has been made in the last few years toward reclaiming our environment from the ravages of pollution and many now wonder if it is possible to keep our country warm as well as clean. I believe we can, Mr. Speaker, but with this controversy in mind, I think a letter which I recently received is particularly noteworthy. The Erie County Housewives to End Pollution has been one of the most active and effective groups in the effort to safeguard our land, our air and our water through recycling. Mrs. Ruth Parnes, chairman of the Energy Task Force of HEP, shows by her recent letter that meeting our energy demands need not be incompatible with our environmental standards as this letter to the President points out.

The letter follows:

Dear President Nixon: We wish to voice our strong support for the recommendations mentioned in your speech on energy aired over TV on Nov. 7, 1973. We feel the problem was well explained and the solution practical.

To be more specific we support the reduction of speed on highways to 50 MPH; lowering of heating temperatures in homes, industry, government and commercial establishments; use of mass transit, car pools; and the burning of coal where possible rather than oil or gas. The use of coal however must be carefully considered in light of what we know its effect to be on human health. For it does a man little good to bring home $175.000 a week if a great deal of it must be spent on doctor's bills, hospital bills, medicines, lost days of work and physical disablement.

As far as future long range plans are concerned we strongly support research in the areas of use of coal (gasification), solar energy, fusion and thermal energy. To a lesser degree we would like to see the use of shale oil. Deriving oil from shale will leave mounds of refuse that would be acceptable only to keep from freezing.

Unfortunately we find the spread of nuclear energy unacceptable at this time. There are already problems with disposal, transport, thermal pollution and operation; and proliferation of these light water nuclear reactors will only multiply the problems. We must urge a go slow policy on growth of this type of energy until such time as these problems are solved.

In the meantime we shall keep our thermostats low, drive slowly, form car pools, take the bus, and ride our bicycles.

Thank you.

Mrs. Ruth Parnes, *Chairman.*

ENERGY CRISIS PROVIDES AMTRAK WITH GOLDEN OPPORTUNITY TO IMPROVE NATION'S RAILROADS

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1973

Mr. EVINS of Tennessee. Mr. Speaker, the Nashville Banner in a recent editorial pointed up one of the positive aspects of the current energy crisis: the opportunity for Amtrak to expand its service and improve the national railroad system.

Obviously, with gasoline shortages, more and more Americans will look to railroads for public transportation, and if railroads can demonstrate efficient service and pleasant surroundings, railroad travel habits can be increased and improved.

This energy crisis provides Amtrak with a golden opportunity to grow, develop, and expand our Nation's railway system—because even if the crisis subsides, the supply of fossil fuels is limited and Americans must depend to a greater degree on rail transportation.

Because of the interest of my colleagues and the American people in this most important subject, I place the editorial in the Record.

The editorial follows:

AMTRAK NOW HAS BEST CHANCE EVER

A First century maxim warns: "Never find delight in another's misfortunes." At the risk of broaching that maxim, we observe with optimism the resurgence of interest in passenger rail service, the obvious offshoot of the nationwide fuel shortage.

Gasoline-gulping automobiles have been hit hard. The nation's fuel shortage has forced Americans to restudy their travel habits, giving Amtrak the best opportunity yet to make passenger rail service a viable alternative to other modes of travel.

The situation in Nashville is similar to that of other rail centers across the country. Amtrak officials are having to turn away would-be passengers. The south-bound trains to Florida through Nashville are booked solid through the holidays.

Some of this can be attributed to normal increased patronage at holiday times. But much of the interest stems from the prospect of travelers not being able to get gasoline for their cars. The closing of service stations on Sunday has cast a pall on weekend motoring.

When President Nixon signed a bill for more money for Amtrak last month, he pointed out the efficiency—energy-wise—of railroads: "Railroads can carry more passengers over greater distances per gallon of fuel than automobiles or airlines are able to do while adding fewer pollutants to the air."

But however efficient railroads are energy-wise, the public will ultimately judge Amtrak on the basis of other efficiencies: schedules, convenience, comfort, reliability, etc. The railroads have fared poorly in these areas in the past.

Officials here have announced plans to improve conditions on the Floridian, the Chicago to Florida train that passes through here, which is Nashville's only passenger train.

That is encouraging news, for if rail service is ever to become a popularly-accepted mode of travel the trains will have to project a warmth that has not been there before.

We hope that Amtrak seizes the energy crisis as an opportunity to prove itself to the traveling public. With imaginative thinking and with proper leadership, rail service could become a primary, rather than a last-resort, means of travel.

THINKING THINGS OVER

HON. DAVID W. DENNIS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1973

Mr. DENNIS. Mr. Speaker, as we pass emergency legislation for ever-increasing allocations, rationing, and controls it might be worth our while to consider how far we have departed from the principles of a free economy. I call attention in this connection to two recent articles in the Wall Street Journal, which I insert in the Record, as follows:

THINKING THINGS OVER

(By Vermont Royster)

BEEFING ABOUT SHORTAGES

Putting one little word after another, whatever happened to the beef shortage?

So many things have happened so fast this year that last summer is almost ancient history. The past gets obliterated in memory not by decades but by months. Sitting in the chill before the TV set it's hard to recall the heat of summer and the dramatic pictures on the evening news of those bare counters in the supermarket meat department.

But for a time back there the TV pictures were also of empty corrals down at the old stockyards, and at our house hamburger was as rare as pheasant under glass. Posses of housewives were ready to hang the butcher and Congressmen from urban districts were muttering dire things about greedy cattlemen, sounding for all the world like sheepherders in one of those range wars right out of "Gunsmoke."

Meanwhile sophisticated commentators were telling us that the beef shortage was permanent and we were just going to have to learn to get our protein from soybean concoctions. A few even viewed this as a good thing, since it would break our horrible habit of munching on burgers and frenchfries.

So a recent visit to the local supermarket in the interests of journalistic enterprise was something of a surprise. The meat counter was obviously beefed up—ground beef, rump roast, eye round, all-beef frankfurters, even steaks from varying parts of the beast, all spread out in tempting array.

To be sure, the prices were beefed up too. Plain old ground beef was 99 cents a pound, the rump roast was $1.38, the eye round roast was $1.88, while the price of sirloin was reserved for J. Paul Getty.

Higher prices, yes. Shortages, no. The bare shelves of summer were created not by the butchers but by some gentlemantly agronomists on the Cost of Living Council. As soon as these gentlemen in their wisdom lifted the price ceilings on beef, the shortages vanished.

For there is a relentless correlation between the two, between the price of a commodity and its availability in the market place. Which is something worth pondering now that we begin to shiver through the winter, industries begin to cut back production and the unemployment lines lengthen.

The choice is between higher prices for energy or a cold, cold winter for everybody. Worse, between higher prices for energy or a cold, cold decade. It's an unhappy choice, true enough, and it would be marvelous if some bureaucrat could issue an order and save us from it. But no rationing program, no matter how elaborate, will produce another barrel of oil, another cubic foot of gas, another BTU of energy from any source. Rationing and price controls can only assure that the shortage will last as long as the programs do.

The problem here—as in the beef shortage or any other shortage—is three-fold. To reduce demand, to allocate the present supply in the most efficient manner and to increase the supply.

Artificially depressed prices and rationing don't decrease demand, they merely shift the pressure from the open market to the black market or the political arena where it's decided who gets what at the artificially cheap price. They don't allocate the supply on an economic but on a political basis. They encourage no new production.

A freely operating market price will do all three. Right now the price of energy would rise, all right, just as did the price of beef. But with the price rise every user, industrial or home consumer, would take a hard look at his energy use.

There's nothing like a pocketbook pinch, whether on the household budget or a company profit-and-loss sheet, to cut out waste and promote the economic use of any resource. As between users, particularly heavy industrial users, price allocates usage on some rational economic basis rather than by the whim of some government bureaucrat.

Meanwhile, of course, the rising price would encourage all sorts of people to dig more oil wells, tap more gas pools, research new energy sources in areas not economic at the present price levels.

To all this there are objections. One is that rising prices fall heaviest upon those who can least afford them. This is true of all prices, whether of beef or gasoline, but the choice is always between a price to put goods on the market or no goods. And in this case with the shortage resulting in unemployment and other assorted ills the real choice for many will be between letting prices rise or no jobs—and no money to buy at any price.

Another objection is that rising prices will benefit producers, all those oil and gas companies. Let us hope so. Looking at the stock market right now, who is going to put up capital to dig new wells or lay new pipelines? Is the objective to restrict "profits" of cattlemen or wildcatters, or to get more beef and more oil? To refuse to reward those who will get more of what we need is, in the old adage, to cut off one's nose to spite one's face.

No consumer, and I am one, likes high prices. But when nature is unkind or politicians foolish we are sure to get them. With energy, nature is unkind in that the sources remaining are expensive to get at. The politicians have foolishly compounded the problem by, first of all, plaguing us with an inflation that forces up the prices of everything necessary to produce energy, from the steel to make drills, to the labor to do the drilling.

Then the politicians penalized capital formations, refused to let pipelines get laid, discouraged the opening of new gas heads, restricted the uses of coal, delayed the construction of nuclear plants—and now act stunned that a shortage is aggravated into a crisis.

There's no use pretending there's an easy way out. We're in for a cruel time, no matter what. But whatever else is done, in the real world we're going to have to pay the real cost of energy or do without—that is, have a permanent crisis. The real price of energy will surely be higher, though not as high as a black-market price. On the other hand, the price of not paying it is a shortage not only of energy but of chemicals, paper, medicines, electricity, food and everything else that requires energy.

So maybe the oil controllers in Washington ought to wander over and have a chat with the beef controllers.

NOTABLE AND QUOTABLE

(Maurice F. Granville, chairman of the board and chief executive officer of Texaco Inc., before the Independent Natural Gas Association of America:)

I am indebted to an individual outside of our industry, Bruce Henderson of the Boston Consulting Group, for a succinct analysis of how a great nation can go about creating an energy shortage. Following is his scenario:

"First, with regard to natural gas, get a ceiling price. This discourages exploration and increases use. Keep the prices down in spite of inflation. This amplifies the effect and guarantees a shortage eventually.

"With regard to coal, ban the use of coal with sulfur content. This sharply restricts the supply. Sharply restrict strip mining for cosmetic reasons. This further restricts the supply. Then suddenly impose drastic new safety rules which will substantially cut output from existing mines. Freeze prices so no one can offset cost increase from reduced output or justify further investment.

"For atomic power, delay construction a matter of years by uncertainty about licensing requirements. Delay operation at full power after construction. Delay start of construction by environmental suits.

"With natural gas, coal and atomic power all severely restricted, that leaves only petroleum. First, grossly increase automotive consumption of gasoline, by requiring drastic reductions in engine efficiency because of pollution-related modifications. That alone will insure a severe shortage of energy. Then ban the use of oil containing sulfur. This severely reduces refining capacity.

"Put into effect new pollution objectives which make refineries far more expensive. At the same time, introduce great uncertainty into the requirements that must be met. That will virtually stop refinery construction or expansion.

"Eliminate practically all new refinery sites because of environmental delaying tactics. Further curtail refinery investment by making supplies of crude oil very uncertain. Block the use of Alaska North Slope by arguments on the cosmetic effects in uninhabited and unreachable regions. Stop the use or search for oil offshore in California because of pollution leaks. Slow all offshore operations for environmental reasons. For good measure, hold down the price of gasoline to half that in Europe. This encourages large cars.

"To be sure that all of the above is misunderstood by the general public, bring a law suit which charges all the largest energy companies with being noncompetitive and therefore causing the energy shortage."

THE NIXON-KISSINGER MIDDLE EAST DILEMMA

HON. ROBERT J. HUBER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1973

Mr. HUBER. Mr. Speaker, it is time to put the recent Middle East peace settlement in its proper perspective. The fact of the matter is that the President's Middle East policy is not as successful as some would lead us to believe. As a direct consequence of the Nixon-Kissinger peace settlement, we are faced with a severe shortage of fuel. The tragedy of this peace is that we could have easily averted our present oil and gas shortage, if we had properly used our strength.

By October 20, 1973, the Soviet Union realized that it was in their best interest to try and bring about a cease-fire. They needed, however, U.S. support to accomplish this. The President quickly agreed to the Soviet's request and sent the Secretary of State to Moscow to help arrange the peace negotiations. This appears to be where we made a crucial mistake. At this point, we could have insisted that the Soviets force their Arab allies to lift the oil embargo against the United States. Instead, "nice guys" that we are, we let ourselves be used to bring about the peace, and received nothing in return. President Nixon and Secretary Kissinger call this peace settlement a triumph. I do not think so.

A recent article in the Washington Post demonstrates clearly how we partially failed in the Middle East. True, we did bring about a peace settlement, but only at enormous expense to ourselves; and an unnecessary expense at that. Naturally, I am happy that a peace accord was reached. The point is, however, that this agreement could have been achieved, and the Arab boycott lifted, if the United States had properly pursued its role as a world leader. The following article by Martin E. Weinstein, which appeared in the Washington Post on Sunday, December 2, addresses itself to this point. I am enclosing Mr. Weinstein's excellent article for the consideration of my colleagues:

MISSING THE BOAT IN THE MIDEAST

(By Martin E. Weinstein)

There is a widespread illusion that the Nixon-Kissinger policy in the Middle East crisis has been a diplomatic success. It has been widely publicized as a masterpiece of timing, agility and firmness that saved the structure of peace, got the Arabs and Israelis moving toward a lasting settlement, and restrained the Soviets from sending their forces into the war.

Like most illusions, this one has shreds of evidence and wisps of logic to hold it together. After all, a cease-fire is in effect, Arab-Israeli negotiations are being planned, and the Soviets didn't send in their troops.

But the harsh truth behind the illusion is that the Nixon-Kissinger policy has conceded to the Soviet Union military predominance in the Middle East and has confirmed the Arabs in their belief that they can rely on Soviet military protection in the pursuit of their policies, either on oil or Israel. The

U.S. policy also has seriously, and perhaps irreparably, damaged our vital alliances with Western Europe and Japan—the relationships which are the basis of American security and prosperity. And, finally, it is leading the United States, along with the rest of the non-Communist world, toward an economic abyss—a severe depression, induced by a shortage of oil and complicated by shortsighted economic nationalism.

UNDERESTIMATING THE EMBARGO

The major flaw in the administration's Middle East policy has been its underestimation of the Arab oil embargo and its consequent failure to have that embargo lifted. The embargo was threatened within a few days of the Egyptian-Syrian attack on Oct. 6, and was officially announced on Oct. 17. From the moment the embargo was declared, it constituted a terrifying threat to American interests—not simply to our interests in the Middle East, but to our entire position as a world power—a threat which Mr. Nixon and Kissinger did not perceive.

The immediate effect of the embargo, as President Sadat and King Faisal intended, and as the Soviets must have understood, was to give an unprecedented battering to the Western Alliance, and by so doing to pushed the United States toward diplomatic isolation. The Western Europeans and Japanese, whose industries would be crippled without Arab oil, had to choose between placating the Arab producers or backing the United States in its "even-handed" policy of equivocal support for Israel. The administration minimized the importance of the oil embargo, brushed off the allies' economic concerns as selfish, and left them no alternative but to appease the Arabs. That, of course, is what they have proceeded to do.

Our position, however, was not irretrievable. Within a few weeks of the war's outbreak, the administration was given an opportunity to correct its initial errors and to act positively on the oil embargo. By Oct. 20, when Secretary Kissinger flew to Moscow to negotiate a cease-fire, it was obvious that the Egyptians and Syrians, despite the advantage of a coordinated, surprise attack and ample supplies of advanced Soviet weapons, were getting into military difficulties. It was a mistake for Secretary Kissinger to have flown to Moscow at all. It was the Arabs and the Soviets who needed cease-fire, and he should have let them come to him. Instead, he rapidly worked out a cease-fire scheme with the Soviets and rushed it through the U.N. Security Council on Oct. 21, with the stipulation that the cease-fire was to take effect on Oct. 22.

By Oct. 22, however, the Israeli's had a sizable tank force West of the Suez Canal. The Egyptians, after underestimating the scope and power of the Israeli crossing, belatedly realized that the Israeli were moving into a position from which they could cut off the Egyptian forces east of the canal and simultaneously attack the Egyptian reserves or even threaten Cairo. Given these circumstances, it is understandable that both sides ignored the cease-fire on Oct. 22 and 23—the Egyptions in the hope of preserving their initial gains and the diplomatic advantages inherent in those victories, the Israelis to compensate for their early setbacks, and to strengthen their bargaining position in the expected negotiations.

By the next day, Oct. 24, it was clear that the Israelis were winning decisively. Suez City was in their hands and the Egyptian 3d Army was cut off from its supplies, including its food and water. Unless the cease-fire was immediately honored, Egypt faced a military disaster.

THE SOVIET NOTES

The Soviet leaders, fully realizing the desperate position of the Egyptians, sent President Nixon several urgent notes, correctly pointing out that the cease-fire was being violated and insisting that we act together to enforce it, especially on the Israelis. According to administration accounts, in one of these notes the Soviet proposed joint Soviet-American intervention to stop the fighting and stated that if the United States did not act together with the Soviet Union, "we the Soviets should be faced with the necessity urgently to consider the question of taking appropriate steps unilaterally."

In plain language, the Soviets were telling the President either to put a leash on the Israeli or the Soviet Union might send in its own forces to save the Egyptians.

The Soviet notes should not have been a shock. They hinted at unilateral intervention but left room for diplomatic maneuver. And why not? They had successfully rattled their missiles in the 1956 Suez Canal crisis. Why not threaten intervention again in 1973, especially since the United States and its allies already had shown themselves weak and divided in their reaction to the oil embargo.

Mr. Nixon and Kissinger responded to this quasi-ultimatum by promptly stopping the Israelis and simultaneously called a worldwide strategic alert. Then, on Oct. 25 and 26, the secretary and the President held televised news conferences at which they stated that their alert had averted a superpower military confrontation in the Middle East. The President announced that this was "the most serious crisis we have had since the Cuban confrontation of 1962," and he strongly implied that he had faced the Soviets down.

A number of critics of the administration promptly charged that the alert was unjustified, that the President had staged a military crisis to divert attention from his Watergate problems. These critics were wrong. The President did face a serious contest with the Soviets. But he avoided it. He did not save the day with his alert. Rather, he avoided a crucial test by giving the Soviets what they demanded and what Egypt desperately needed—an immediate honoring of the cease-fire.

WHAT SHOULD HAVE BEEN

But what of the oil embargo? There is not the slightest evidence that Mr. Nixon or Kissinger ever saw a connection between the cease-fire and the embargo. It should have been clear to them by Oct. 20 that the oil embargo is a more potent weapon in the Middle East war than the Egyptian and Syrian forces, or Soviet arms, and that it is a weapon aimed only indirectly at Israel but directly and menacingly at the United States and the entire Western alliance.

In brief, the administration should have made the lifting of the Arab oil embargo the prerequisite for our support of the cease-fire. This should have been our stand throughout the crisis. Our government should have told the Soviets and the Arabs that we favored a cease-fire and that we wanted negotiation for a lasting peace settlement, but that we could not work for a cease-fire or participate in negotiations while the embargo continued. How could we be expected to press the Israelis to stop fighting in Egypt and Syria while the Arab oil producers persisted in their economic warfare against the United States? If the fighting was to stop, it must stop on both the military and the economic fronts.

The sensible, unprovocative policy the United States should have followed was to stand firmly on the necessity of the embargo being rescinded as part of the cease-fire agreement while opposing intervention in the war by the armed forces of either of the superpowers.

Such a policy would have distributed the tasks of peace-making equitably. It would have breathed life into Secretary Kissinger's repeated but still hollow declarations that he intends to revitalize our alliances with the Europeans and the Japanese. And, most importantly, such a policy would have made it clear to the Arabs that the Soviet Union is not an omnipotent protector and that they cannot use the oil weapon with impunity.

If the administration had perceived the crucial importance of the oil embargo, and had stood fast on the necessity of the embargo being rescinded, then the President's claim to firmness and to coolness under fire would have substance and the secretary's reputation as a diplomatic genius would be at least debatable. As it is what we have are merely illusions.

THE CLEAN AIR ACT

HON. ROBERT PRICE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1973

Mr. PRICE of Texas. Mr. Speaker, on December 12 I introduced legislation which would allow the operation of motor vehicles without emission control devices in areas which lack significant air pollution. The current requirement under the Clean Air Act that manufacturers attach emission control devices to all late-model cars discriminates against the majority of Americans who live in rural and moderately populated areas where pollution is not severe, or very minimal but who are forced to pay extra money for cars with emission control devices they don't need.

Environmental quality is of concern to everyone. We are all familiar with the cities which are constantly plagued with the cloud of gloom which hangs above them and areas where certain weather conditions bring on pollution warnings which keep many people indoors. These citizens in such locations should be protected and my legislation would require the Environmental Protection Agency to identify areas of significant pollution where auto emission controls are needed. Auto emission controls would then not be required on cars operating outside the areas specified by EPA. EPA would develop an identifications system, possibly a window sticker system which would inform law enforcement officials at a glance whether the vehicle carried an emission control device.

This legislation would allow the removal of antipollution devices by individuals, or an individual could order an automobile from a dealer without the emission control device if the dealer operated in an area which lacks significant pollution. All States would be required to conform to these regulations, so that any area determined by EPA to lack significant air pollution could not require the occupants of that area to place antipollution control devices on their autos.

This legislation could have a tremendous impact on fuel savings in a large majority of the United States. According to the 1970 Census, 72.2 percent of the population lives in areas where the population is less than 100,000 and 55.2 percent live in communities of less than 25,000. Areas of this size would probably be similar to those which lack significant air pollution.

A factor of primary concern in the current shortage is the phenomenal increase in the demand for gasoline. This legislation would decrease that demand. Since 1962, the demand for gasoline has increased over 54 percent, and the Office of Emergency Preparedness—OEP—has reported that the demand for gasoline in the first quarter of 1973 was 5.5 percent higher than during the same period only 1 year ago. Several factors have contributed to the increased demand for gasoline, but of these factors, the single most important one—according to a study prepared by the Congressional Research Service at the request of the Senate Interior and Insular Affairs Committee—appears to be the gasoline penalty imposed by antipollution devices. Figures indicate that the new emission control devices on cars decreases mileage by 7 percent or more. OEP estimates that these devices have increased annual gasoline consumption by more than 300,000 barrels a day.

These devices have a greater impact than the number of new cars on the road first indicates. New cars are driven further than older ones each year; that is, a 1-year-old car is driven on the average of 13,200 miles a year in comparison to a 6-year-old car which is driven 8,700 miles a year. The percentage of emission-controlled cars increases daily and the Chase Manhattan Bank has estimated that one-half of the expected growth in gasoline demand will be the result of emission control devices on late model automobiles.

A recent report printed in the April 1937 issue of the Oil and Gas Journal cited the following results of a study:

> One private set of fleet tests indicated the mileage loss of 1971 models over 1970 at 7%, 1972, at 6%, and the 1973 over 1972 at 8%. This represented accumulated mileage loss of 19%; but two direct comparative tests of 1973 models against 1970 models showed a loss ranging from 11% to 17% depending on the number of miles the 1970 models had been driven prior to testing.
>
> These data showed much greater mileage declines than governmental tests made for the Environmental Protection Agency which reported losses of only about 7%.

The issue of Oil and Gas Journal also included a chart, which I have included here, with regard to gas mileage which will be helpful in seeing how stricter controls have reduced gas mileage which in turn has resulted in increased cost for automobile operation. Soon, these controls will bring us to the level of 6.8 miles per gallon which EPA recently released as the gasoline mileage of the 1974 Oldsmobile Toronado. The people in my district, which is one of the larger districts in terms of area, cannot feasibly live with cars which perform at such a gas guzzling rate especially with rumors that gas will go up to a dollar a gallon.

A LOOK AT LATE-MODEL AUTOS

	1970	1971	1972	1973
Horsepower [1]	268	253	168	165
Compression ratio	9.5	8.6	8.5	8.4
Axle ratio	2.74	2.74	2.74	2.77
Weight (pound)	4,362	4,403	4,505	4,653
Acceleration (second):				
0–60 mi/h	10.7	12.0	12.8	13.0
25–60 mi/h	7.8	8.5	9.6	9.5
Miles/gallon	14.1	13.1	12.4	11.6

[1] 1970–71 data are gross horsepower, 1972–73 are net horsepower. All data are based on fleet tests of autos representing range of modells produced by GM, Ford, Chrysler and are not averages for al U.S. autos.

The initial cost of this pollution control device on automobiles is an unnecessary waste of money for those in rural areas. The cost of this device is estimated to add $100 to $200 to the sticker price of a car to meet the 1975 interim standards. In a time when the buying power of our citizens has already been eroded—by increasing taxes—and income is decreasing, why should we force the people in areas where pollution is not a problem to purchase such devices. They should have the option to buy them just as they would any other accessory.

I urge my colleagues, representing both urban and rural districts to support this legislation which would contribute greatly to energy savings—a goal which we all support.

BINARY WEAPONS

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1973

Mrs. SCHROEDER. Mr. Speaker, in October, immediately prior to the House Armed Services Committee hearings on nerve gas storage and transportation, the Army provided several Members with a memo that explained the binary concept of chemical munitions and announced the selection of Pine Bluff Arsenal in Arkansas as a site to produce one of the chemical components of the binary weapons. The Army's rationale for the new weapons stemmed in part from public concern over the storage of mustard gas, phosgene, and GB at the Rocky Mountain Arsenal just 10 miles from the center of Denver. The new binary concept would allow the relatively safe and separate stockpiling of the weapons' two chemical components, neither of which is lethal by itself.

But while the Army's move to protect our own neighborhoods from disaster may be laudable, its decision to produce and stockpile binary chemical weapons as a "deterrent" may prove to be disastrous to any hope of international agreement on their control. Further, by the Army's switch to binary weapons the central question of why we must stockpile these weapons at all has been neatly avoided.

Chemical weapons, cluster bombs, and napalm are designed to exterminate a population, not win ground, liberate, convert or pacify. Such weapons transform killing from a means to an end in itself. As for the deterrent argument, a Washington Post editorial points out that no canon of war requires the United States to respond with the same weapon used by a foe.

Following is the Post editorial on chemical warfare which appeared this morning:

CHEMICAL WARFARE

A major opportunity exists to move toward a more responsible policy on chemical warfare but the opportunity may be overwhelmed by Army singlemindedness unless others pay heed. The opportunity was created by a wave of public concern over the storage, testing and transport of nerve gas. Plainly, this was the moment to question whether the United States needed to be in the chemical warfare business at all. The Army, however, plans to solve the problem—which it defines as a public relations problem involving storage and transport—by producing a new brand of nerve gas. To produce the new and destroy the old will cost something like half a billion dollars. As any close student of government ought to know, once a new investment of that scale has been made, the Army's institutional interest in protecting it will be very large.

In fact, what is the reason for this country to remain ready to engage in chemical warfare? The Army's reason is to deter the Soviet Union from using chemical agents. This is like saying that in order to deter the Russians from trampling us with elephant herds, we must raise our own elephant herds. It is, in a word, ridiculous. No canon of war requires the United States to respond with the same weapon used by a foe. We would still retain a broad range of other choices if we relinquished nerve gas and like chemical agents. By relinquishing chemicals, however, the United States would be making a modest but real contribution to a more civilized international society. For the truth is, chemical warfare conveys an image of horror out of proportion to its military potential. Mere possession of chemical agents has come to be a political debit. Whatever the military effectiveness of the chemical agents used by the United States in Vietnam—certain tear gases and herbicides—few detached observers would contend that they outweighed the political opprobrium attached to their use.

In his first term, of course, President Nixon did renounce "the first use of lethal chemical weapons" and of "incapacitating chemicals" as well. He has not, however, moved on to sign the international treaty, known as the Geneva Protocol, which outlaws first use in war of chemical (and biological) agents. Mr. Nixon submitted the Protocol to the Senate in 1970. But because he explicitly excluded control of "riot control agents and chemical herbicides"—not "lethal" or "incapacitating," he claimed—the Foreign Relations Committee referred the treaty back to him. The committee's entirely reasonable view was that it would lower rather than raise the barrier against chemical warfare to ban all forms except the ones which the United States actually was equipped to use.

This is a good time to review the whole question of chemical warfare. The pending need for a half billion dollars for changing models of nerve gas makes the issue acutely topical. The end of American combat in Vietnam makes it possible to consider the Geneva Protocol in an atmosphere free of the turbulent currents of the war. One of the moral highlights of President Nixon's first term was his courageous renunciation of biological warfare—the production of biological agents, their possession and their use. He could well match that achievement with a step forward on chemical warfare now.

A TRIBUTE TO ERNIE TAYLOR

HON. CLEM ROGERS McSPADDEN

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1973

Mr. McSPADDEN. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the attached "Tribute to Ernie Taylor":

A TRIBUTE TO ERNIE TAYLOR

Hugo, Oklahoma's Ernie Taylor has continued the legacy of Oklahoma professional calf ropers by being crowned this past week in Oklahoma City during the National Finals Rodeo, the 1973 World's Champion Calf Roper.

By winning a total of $38,772, Ernie established a new world's record for money won in a single rodeo event. More than a quarter-century ago, the late Clyde Burk won the World's Title, becoming the first Oklahoman to do so, after the creation of the Rodeo Cowboy Association. Ernie Taylor has been moving steadily up the ladder the last six years on this event as witnessed by his 4th place finish in 1971 and 7th place finish in 1972.

Like many professional cowboy champions of this era, Ernie started his competition in a winning way, by being crowned the Oklahoma High School Champion Calf Roper and later the American Junior Association Calf Roper crown. He was a standout on the Hardin-Simmons University rodeo team. Competing in more than ninety rodeos this year kept Ernie on the road steadily all year long.

In accepting his World's Title in Oklahoma City, December 9, 1973, Ernie paid a moving tribute to his wife, Paulette, for her encouragement and possession of those traits that it takes to be a "rodeo wife." The Rodeo Cowboy Association numbers more than 3,000 members who competed this year in almost six hundred rodeos in the United States and Canada for an alltime payoff record of more than five million dollars. There is a difference between being a male and a man. Ernie Taylor personifies the latter and has perpetuated those traits of rugged individualism that this country so sorely needs. Without a team doctor or trainer, without a guaranteed salary, and without the benefit of state or federal matching funds, this man from Hugo, Oklahoma, with ability and luck, which is the American way, has carved for himself a niche of greatness. The people of his hometown, Hugo, Oklahoma, are honoring him December 15th with a parade and Testimonial Dinner. I join them and Speaker Carl Albert, who represents Choctaw County, Oklahoma, as well as thousands of rodeo fans all over America, in my sincere congratulations to Ernie Taylor—Champion.

TAX DEDUCTIONS FOR PUBLIC TRANSIT EXPENSE

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1973

Mr. WALDIE. Mr. Speaker, today, I am introducing a bill which would allow a tax deduction for workers who use public transportation to and from their jobs.

I introduce this measure not as any long-term solution to the energy problem. Rather, I consider it at least one initial step the Congress can take to assist the lower middle income worker who is becoming the economic scapegoat in our current panic over energy.

At the outset, I would like to say that I believe not only Congress, but all of the American people, are not being properly informed of the dimensions of the energy situation. The first duty of this administration should be to adequately inform the public and its elected officials of exactly what the problem is.

It is clear, however, that the administration is following a time-honored tactic of taking short-term steps to help industry while asking the public to "tighten its belt." We have been told in the so-called phase 1 of the energy plan that Americans must restyle their living habits and learn to suffer. The latter admonition, it should be noted, comes from Mr. William Simon, the executive President Nixon has empowered to administer the new energy agency.

Until the Congress has the explicit details on the scope of our energy needs and reserves I feel the legislation introduced today is needed to benefit the average working American. This bill would offer means of transportation in any energy crisis, a definite incentive to use public transportation.

The bill would allow a commuter to deduct all ordinary and necessary expenses used on mass transportation facilities during a taxable year if travel trips are used to reach work and return home.

This would be a direct and meaningful tax deduction for the average taxpayer who, unfortunately, cannot contribute personal papers to the national archives and end up paying little or no tax to the Federal treasury.

If gasoline prices increase significantly or if prohibitive tax is attached to fuel, both of which actions are being considered by the administration, the working man will be hit the hardest.

The measure also would provide a valuable incentive to the public to use rapid transit facilities. Use of these facilities could lead to broader participation by Federal, State and local sources on enlarging and improving public modes of transportation.

POLITICAL PRISONERS IN YUGOSLAVIA

HON. ROBERT J. HUBER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1973

Mr. HUBER. Mr. Speaker, although Yugoslavia is usually thought of as sort of a liberalized version of Soviet communism, it still has its secret police and suppression of political dissent. In a recent article in the Daily Telegraph of London for November 27, 1973, a comparison of Yugoslav prison conditions with that of political prisoners in the U.S.S.R. is made. I think this comparison will interest my colleagues and the article follows:

THE PRISONERS OF TITO

On Thursday the Communist regime in Yugoslavia will be 30 years old and there are rumours that President Tito will declare an amnesty for people in prison. Will any such amnesty extend to political prisoners, whose numbers have risen in recent years?

Take the case of Vlado Gotovac, the Croat poet and former editor of the *Hrvatski Tjednik,* now serving a four-year sentence. I have just received this account of his conditions in the Stara Gradiska prison camp:

"Vlado is working in the carpenter's shop, so that when he comes out of prison he will be able to make furniture for us all! He has no opportunity of reading or of writing, because he is a 'political criminal,' and in fact can do nothing at all. He is permitted to write his wife one letter of 30 lines a month and to receive one of the same length. His wife can visit him once a month for 20 minutes in the presence of a warden. Every other month he is allowed to receive a food parcel weighing 8lb."

For a writer to be deprived of reading matter and the materials for writing is worse than making him perform physical labour. Even Andrei Sinyavski, the Russian author now safely in France, was allowed to write and to bring out of his Soviet camp the "prison notebooks" now published in the West.

Marshall Tito was himself a political prisoner in the thirties. But prison conditions under the Yugoslav monarchy were such that Tito could make use of his sentence to study Marxism. It is significant that 30 years after he took power he does not permit his own political prisoners equivalent facilities.

TRIBUTE TO SPEAKER GEORGE L. SMITH

HON. DAWSON MATHIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1973

Mr. MATHIS of Georgia. Mr. Speaker, the State of Georgia this week said goodbye to one of her greatest sons, the Speaker of the Georgia House of Representatives, the Honorable George L. Smith.

George L. Smith never sought, nor did he receive, wide popular acclaim throughout this Nation. But he was loved and respected by those he touched outside Georgia, as well as by those he served in his native State.

Mr. Speaker, Speaker Smith was my friend, personally and politically. I first came to know him when I was a green reporter attempting to cover the workings of State government in Atlanta. Very early on, I found a friend in this remarkable man, and formed a friendship that endured until his untimely death. He and I had a relationship based on trust and truth. I both loved and respected this man, and I shall miss him, as will all who knew him. He will also be missed by millions of Georgians who did not know him personally, but were richer for his service.

He was a man who sat in a seat of power, conducted himself with style and grace, radiated dignity, and exemplified integrity.

I am submitting for the RECORD, only two of the flood of articles that filled our State's newspapers on the death of this great Georgian.

HOUSE SPEAKER SMITH DIES

(By David Morrison and Celestine Sibley)

House Speaker George L. Smith died at 4:45 p.m. Sunday, the victim of a massive stroke that kept him unconscious for three weeks.

"He had moments in which he responded to his relatives," an attending physician said, "but he never fully regained consciousness."

After family members were notified and word of the speaker's death circulated, state officials, politicians and friends of the family flooded the switchboard of Piedmont Hospital in Atlanta with expressions of sympathy.

"George L. Smith was one of the finest leaders Georgia has ever known," said Gov. Jimmy Carter, who arrived at the hospital shortly after the speaker's death. "He was a close personal friend of mine and he will be sorely missed in the future."

Carter praised Smith, a 27-year veteran legislator, for "enlightened leadership" in the lower house of the General Assembly. Carter said Smith possessed in innate "ability to bring order out of chaos."

The body will lie in state at the Capitol Tuesday, Gov. Carter said.

Mrs. Smith, daughter Sally and other family members present at the time of the speaker's death planned to stay in Atlanta overnight Sunday before returning to Smith's hometown of Swainsboro to make funeral arrangements.

Former U.S. Sen. David Gambrell, also present at the hospital, said Smith's death is "a very sad occasion for this state. He was a man of great ability."

"We have seen a lot of changes in the legislative system and he has been a leader in that," Gambrell said. "It will be difficult to replace a man of his ability."

The death of the popular Democratic leader left many questions unanswered for the 1974 session of the General Assembly.

However, Carter predicted that Smith's death will cause state lawmakers to set aside political differences and create a productive atmosphere in the General Assembly.

"George L. was one of the greatest Georgians that ever lived," Carter said. "He's put his leadership to great use."

"He has set an example for integrity and competence that many other politicians will emulate for years to come."

Dr. Lamont Henry, an associate of Smith's personal physician, Dr. Bernard Wolff, said there was little chance during the speaker's fight for life that he would survive. Smith suffered a massive stroke at the base of the brain three weeks ago Sunday which Henry described as the ultimate cause of death.

Such a stroke is caused primarily by the filling in of chief arteries, Henry said. The result is sudden or gradual obliteration of the blood supply to the brain.

Wolff was out of town at the time of Smith's death. However, the speaker was attended by another of his associates, Dr. Charles Upshaw Jr.

Mrs. Smith was present as was Smith's daughter, Sally, an airline stewardess, who arrived on a flight from Tampa, Fla., Sunday afternoon.

Speaker Smith, whose 61st birthday anniversary occurred after he was admitted to Piedmont Hospital, visited the Georgia Capitol for the first time when he was a small boy. He saw the House of Representatives in operation—and it was the beginning of a lifetime love affair.

Other men have used legislative service as a stepping stone to more exalted political office. Other men consider the Georgia House or Senate a way station on a trip to the post of governor, congressman, judge or even President of the United States.

George L. Smith II considered the position of Speaker of the Georgia House "the best job any man could ask for—the highest calling."

He held that job for 14 of his years as a seldom opposed, never defeated House member, bringing to it a fierce love and pride that did much through the years to burnish the image of the House itself. He came to the House in 1945, a largely wool hat legislature controlled by the governor he had supported, Eugene Talmadge. Peanut hulls rattled underfoot on the floor, cuspidors were awash with amber and it wasn't unusual to hear the clink of liquor bottles in members' desks. Rep. Smith quickly became a member of the celebrated law-making triumvirate which included Rep. Frank Twitty of Mitchell County, long-time floor leader, and Rep. Jack Ray of Warren, later state treasurer.

They were a formidable trio who could marshal the votes to pass any bill in which they were interested. One of their strengths was later to become Smith's greatest asset as Speaker of the House.

He knew the House rules "backwards, forwards, right side up and upside down," as one member remarked. He studied the rule book as much for pleasure as for profit and he mastered parliamentary procedure for love of its stately language as for the advantage it gave him in a law-passing maneuver.

Later he would make a study of British parliamentary practice, sitting long hours in the House of Commons and tracing the origins of Georgia's parliamentary ritual to its source. Friends he made in the British parliament occasionally returned his calls, visiting with him in the Georgia House.

Rep. Smith became Speaker of the House in 1959 with the administration of Gov. Ernest Vandiver. When Carl Sanders became governor in 1963 George L. Smith was replaced by George T. Smith as Speaker. When neither Republican Howard ("Bo") Callaway nor Democrat Lester Maddox received a majority vote in the 1966 general election for governor, Rep. Smith got the chance he had been awaiting for 20 years.

The General Assembly took to itself the responsibility of naming a Speaker, heretofore the privilege of the governor, and George L. Smith got the job.

It was the first "independent" legislature in history and the man who had loved it since boyhood became its leader, possessing powers he always denied holding. The stories of his political power were legion but efforts to give him the nickname "King George" fizzled out because of his accessibility and easy informality with members and the press. However, he was zealous to enforce the rules of the House, wielding a heavy gavel at the first sign of disturbance, particularly if a member used profanity in debate or appeared in the chamber with a bottle of liquor in his possession.

He believed that House members, particularly, Senate members by association with the House, were entitled to more pay and he worked unsuccessfully to get a law passed to increase their terms of office from two to four years. By the same token he expected House members to work and he kept a weather eye on the calendar to be sure no bills were caught in a log jam in the final days of a session and failed of passage. (Some bills, he sometimes pointed out with wry humor, were introduced by their authors with death on the calendar in mind as their most desired destiny.)

"Mr. Speaker" George L. Smith Buried in Swainsboro Services

(By Celestine Sibley)

George L. Smith II, "Mr. Speaker" to the Georgia House of Representatives for 11 years, was laid to rest in his native Emanuel County Wednesday afternoon in the midst of friends, neighbors and more than 500 political figures who flew in from all parts of Georgia and from Washington, D.C. for the funeral.

The First United Methodist Church of Swainsboro, for which Smith obtained the building site nine years ago, was filled to overflowing, and a throng stood in a chill north wind on the lawn to hear the funeral service broadcast over the speaker system.

The Rev. Vernon Robertson, former pastor of the church, who left Swainsboro to serve as district superintendent and is now chaplain of the Methodist center at Epworth-by-the-Sea on St. Simon's Island, eulogized Smith as a man "who stood tall among us, a man of authority with a spirit of humility and a sincere love of the people of Georgia."

Recently, the minister said, there has been a loss of faith "in the integrity of men in high office," and he cited the speaker of the House as a man whose strength "was based on simple integrity."

"My prayer is simple," he concluded, "God give us more men like George L. Smith."

As the organ played the "Going Home" strains from the New World Symphony, the copper coffin with its blanket of red roses was carried down the aisle by the speaker's six nephews. The speaker's staff formed two lines as an aisle for the passage of the family and the honorary pallbearers, an honor guard of House officials, Gov. and Mrs. Jimmy Carter, Lt. Gov. and Mrs. Lester Maddox, U.S. Sen. Herman Talmadge and Mrs. Talmadge, U.S. Sen. Sam Nunn, and U.S. Rep. Dawson Mathis and Rep. Bo. Ginn. Great numbers of members of the House who could not find room in the church crowded close outside, and a row of state patrolmen stood at attention.

At the cemetery following a brief service, Gov. Carter presented the speaker's widow, Sally, with the American flag which had covered her husband's coffin as his body lay in state in the rotunda of the Capitol. Mrs. Smith and her daughter Sally were escorted to the church and to the cemetery by the widow's brother, Arthur Mobley of Monroe.

Smith, who was to have begun his 29th year in the Georgia House in January, died last Sunday in Piedmont Hospital from a stroke suffered in his Swainsboro law office Nov. 11.

Crowds began gathering in the church as early as 1:30 p.m. to wait for the service, which began at 3 p.m. The chancel was banked with flowers in arrangements ranging from simple sprays and wreaths to an elaborate replica of the state Capitol. Both walls of the sanctuary were also banked with flowers, as was the grave site.

The four-acre site for the church was contributed by a member of the Baptist church after the Methodists had tried unsuccessfully to buy it, he related. George L. Smith visited the owner and talked to her and she said, "My father told me never to sell any property, but he didn't tell me I couldn't give it away."

PETROCHEMICALS—THE MINIATURE ENERGY CRISIS

HON. ROBERT J. HUBER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1973

Mr. HUBER. Mr. Speaker, while there is evidence accumulating that gasoline and oil are in short supply in some parts of the United States, a minicrisis is coming to a head on petrochemical products. In some cases, there is nothing available.

A firm in my own 18th District of Michigan is halting all production within a few days if a supply of the petrochemical product it uses cannot be found. Press reports confirm that this is true across the country. Firms manufacturing plastic products and drugs are approaching a dangerous point due to this situation. In order to try and alleviate this situation, I am joining some of my colleagues in introducing legislation to prohibit export of these items until the present price controls are lifted on these products. Without this action, we are getting into the same silly situation we did on meat not too long ago, where it was more profitable to ship beef to Japan rather than sell it in the United States. The law of supply and demand has not been repealed, I believe. Therefore, I wish to commend to the attention of my colleagues the two articles from the Washington Star-News of December 10 and 11, which describe this situation.

[From the Washington Star-News, Dec. 10, 1973]

Petrochemical Exports Greater Despite Shortage

New York.—Although petrochemicals are in short supply at home because of the energy crisis, Commerce Department figures show that petrochemical exports from January through October were above 1972 levels.

November figures are not yet available, but some industry sources said exports continued to exceed 1972 levels because of higher prices abroad.

At home, the drug industry, a big user of petrochemicals, warned last week that domestic shortages could put medicines in short supply this winter. Manufacturers of other products dependent on petrochemicals have issued similar warnings of cutbacks.

The Arab oil boycott threatens to cut deeply into the production of petrochemicals, which are derived from petroleum and natural gas. Petrochemicals are vital to the manufacture of such varied products as drugs, plastics and synthetic fibers.

Experts analyzing the complicated Commerce Department figures said that export volume was running about 10 to 15 percent above 1972 levels through October. They said the dollar value was about 35 percent above the 1972 figure.

Petrochemical sales, domestic and foreign, totaled $20 billion in 1972. Exports were $2.4 billion.

"We're definitely feeling the supply squeeze, but we have not had to cut back production for penicillin and other drugs," said a spokesman for Pfizer, Inc., a major drug manufacturer. "The situation could get considerably worse if allocations are reduced."

Toy manufacturers are big consumers of plastics made from petrochemicals. The Toy Manufacturers Association said there were enough supplies to complete normal production for this Christmas. But plastics cannot be purchased in sufficient quantities to begin making Christmas toys of 1974, a spokesman said.

In a recent study, Arthur D. Little, Inc., a Massachusetts-based research firm, said that a 15 percent reduction in petrochemical output could leave 1.6 million to 1.8 million unemployed in industries dependent on petrochemicals.

The study said a 15 percent cutback in petrochemical production would cost the economy $65 billion to $70 billion annually. The annual Gross National Product is $1.3 trillion.

The Commerce Department figures were for each of the many petrochemicals exported, but were not totaled. In many of the numerous categories, exports for the first 10 months of 1973 exceeded figures for all of 1972.

Polypropylene exports, for example, totaled $58.02 million from January through October, compared with with $36.68 million in all of 1972. The 1972 export volume was 165.21 million pounds, compared with 262.06 million pounds for the first 10 months of of this year.

Polypropylene is used in the manufacture of synthetic fibers for carpeting, plastic toys, plastic bottles, microfilm and other products. It sold abroad in some areas for 25 to 30 cents a pound, compared with 15 cents at home.

Exports of synthetic dyes were $42.83 million for 32.74 million pounds through October, compared with $34.02 million for 28.97 million pounds for all of 1972.

Benzene, toluene and similar solvents brought $40 million from foreign sales through October, compared with $30.85 million in all of 1972. In the case of benzene, 1.12 million gallons were exported in 1972 compared with 2.3 million in the first 10 months of this year.

"There's no doubt, that price controls have resulted in this increase in exports," said Murray Weidenbaum, an assistant secretary of the Treasury from 1969 to 1971, now a professor of economics at Washington University, St. Louis, Mo.

Under President Nixon's Phase 4 regulations, petrochemical manufacturers can raise prices to offset some cost increases, but they can't increase profits. Price controls do not apply to exports.

A spokesman for Dow Chemical Co., a major petrochemical producer, said Dow exports were up from 1972, but the percentage of increase was not as much as the percentage increase in domestic sales.

Spokesmen for Exxon Chemical and Union Carbide made similar statements when questioned by a newsman. None gave specific figures.

"There might be a short-term gain overseas because of higher prices, but we're trying to take care of our domestic customers," said the Dow spokesman. "At the same time we can't desert customers overseas with whom we've done business for many years."

[From the Washington Star-News, Dec. 11, 1973]

Plastic Firms Ask United States To Let Them Pay More

(By John Holusha)

It's a bit analogous to a group of housewives storming into a market and demanding that the butcher raise the price of meat:

An association of small plastics manufacturers plans to ask the Cost of Living Council today to decontrol the prices of resin, a raw material they buy from giant petrochemical companies. They say they are taking the admittedly unusual step of asking to be allowed to pay more because the present low prices are driving them out of business.

It's not that they don't like getting things at a bargain. The problem, they say, is that what they need is just not available. Most of the producers of the needed resins are multinational companies. Since demand overseas is great and the prices uncontrolled, they're exporting to the highest bidder, the U.S. customers say.

Added to all this is the shortage of petroleum which is the basic raw material for most plastics.

Sheldon M. Edelman, executive director of the New York-based Plastic Products Manufacturers Association, says that as many as 4,000 workers have already been laid off due to the resin shortage. The association represents 174 medium to small firms in the New York area, primarily in labor negotiations.

Edelman explains that the association is pressing for decontrol so that the U.S. firms can at least bid for the supplies they need.

The economics of the industry make price secondary to a steady source of supply. "These injection moulders are so expensive that you've got to work them around the clock to make money. Some of our people are only working one shift now—they aren't even making enough to pay off their notes," Edelman says.

"What most of these people want to do now is simply exist for another year and hope things will get better. They aren't that concerned at the moment about making money."

Although most of the companies, which produce small items like phonograph records, knobs, cases for electrical appliances and buttons, are not under direct control, Edelman said stiff competition would keep most from passing through all cost increases.

The big petrochemical companies, led by Union Carbide and Dow Chemical, understandably agree that lifting prices is the solution. Union Carbide said if price relief isn't granted it will increase exports "significantly."

The resin situation and the spectacle of consumers pleading to let prices increase is what economists term a distortion in the economy caused in this case by price controls. Classic theory says that in cases like this black markets and price gouging will break out.

This is just what has happened, Edelman says. "I can't get anyone to file a complaint, but I hear plenty of rumors about 'middlemen' buying up supplies and charging what they can get."

Edelman said association officials had met with CLC representatives and that government's response was "very favorable." He said several unions representing the plastic workers were supporting the price increase plea.

A CLC spokesman said the plastic producers request is apparently the only case of a consumer requesting price increases. "We get quite a lot of the other kind, you know, but I don't think I've ever heard of this before," the spokesman said.

ADMINISTRATOR SIMON SHEDS LIGHT ON CHRISTMAS TREES

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1973

Mr. WOLFF. Mr. Speaker, I am pleased to note the following clarification by William Simon, Administrator of the Federal Energy Office, on the subject of Christmas tree lighting. This statement should help clear confusion surrounding previous statements which were ambiguous:

Administrator Simon Sheds Light on Christmas Trees

William E. Simon, newly appointed Administrator of the Federal Energy Office, today announced his position on the use of Christmas tree lights during the holiday season. "Promotional, display, and ornamental lighting of homes and apartments will be banned as soon as I receive authority to enforce this regulation," he said. Administrator Simon has already called for adherence to these proposed regulations on a voluntary basis.

"Many patriotic citizens, however, have interpreted the ban on ornamental lighting to include the traditional lights on Christmas trees inside their homes," he explained, "and I feel this would be carrying energy conservation above and beyond the call of duty."

The Administrator said families should be sure to turn off lights in other parts of the house to compensate for the electricity being used to light their trees. He also urged everyone to eliminate exterior lights around their homes this holiday season, and to limit the use of Christmas tree lights to those times when the family is gathered together for holiday festivities.

"For most American families, a beautifully decorated tree with strings of colorful lights has been the focal point of the good fellowship that makes Christmas such a special holiday. I do not want American families to lose the festive spirit of Christmas because of the energy crisis," the Administrator said, "especially when good conservation habits can more than make up for the electricity they will use to light their trees."

Temporary telephone numbers of Federal Energy Office public affairs: General Information, 395-3537; Press Interviews, 395-3497; and Allocation Program, 395-4672.

CALLS FOR INTERNATIONAL COOPERATION

HON. JOEL PRITCHARD

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1973

Mr. PRITCHARD. Mr. Speaker, our distinguished Secretary of State, Mr. Kissinger, gave a most significant address last night in London, and called for a positive program of international cooperation to meet the energy crisis.

It is no secret that relations between the United States and our traditional European allies were strained even prior to the most recent Middle East war, but the pressures and divergent interests of that conflict increased the possibility of erosion within the Atlantic community, and made it imperative that we take the initiative not only to repair any current fissures, but to regroup and take advantage of the enormous talents and resources available to deal with our mutual, worldwide energy problem.

I applaud the President and the Secretary of State for these actions. The proposal of an Energy Action Group, comprised of expert representatives from Europe, North America, and Japan, to develop an initial program for international cooperation within all areas of the energy problem is a major step forward. The group would focus on energy conservation; the discovery and development of new energy sources; how to give producers sufficient incentive to increase supply; and the coordination of international energy research.

As we in Congress today are seeking the best means to deal with the energy shortage here at home, it is most encouraging that our Government is also taking the lead on the international front.

DR. KISSINGER'S SPEECH

Hon. PETER H. B. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1973

Mr. FRELINGHUYSEN. Mr. Speaker, under leave to extend my remarks, I include for the RECORD the text of Dr. Kissinger's December 12 speech, which was given before a meeting of the Pilgrims of Great Britain in London. It is a major statement of U.S. policy toward Europe:

ADDRESS BY THE HONORABLE HENRY A. KISSINGER, SECRETARY OF STATE, BEFORE A DINNER MEETING OF THE PILGRIMS OF GREAT BRITAIN, DECEMBER 12, 1973

I am grateful for the opportunity to speak to you this evening because, like most Americans, I am seized by a mixture of pride and terror when invited to appear before a British audience. In my particular case and without any reflection on this distinguished assemblage, it is probably more terror than pride for there is no blinking the fact—it is there for all to hear—that my forebears missed the Mayflower by some three hundred years.

Our two peoples have been more closely associated than any other two nations in modern history—in culture and economics, in peace and in war. We have sometimes disagreed. But the dominant theme of our relationship in this century has been intimate alliance and mighty creations.

In 1950, while the Atlantic Alliance was considering a continuing political body, my great predecessor Dean Acheson spoke to this Society. Describing the travails of creation, Acheson noted that a "strange and confusing dissonance has crowded the trans-Atlantic frequencies." But he added that this "dissonance flows from the very awareness that difficult decisions must be made and is a part of the process of making them."

Again today America and Western Europe find themselves at a moment of great promise and evident difficulty—of renewed efforts to unite and old problems which divide. It is a time of both hope and concern for all of us who value the partnership we have built together. Today, as in 1950, we and Europe face the necessity, the opportunity and the dilemma of fundamental choice.

THE YEAR OF EUROPE

Because we have an historical and intimate relationship, I want to speak tonight, frankly, of what has been called the "Year of Europe"—of the difficulties of 1973 and the possibilities of 1974 and beyond.

Last April, the President asked me to propose that Europe and the United States strive together to reinvigorate our partnership. He did so because it was obvious that the assumptions on which the Alliance was founded have been outstripped by events.

Europe's economic strength, political cohesion, and new confidence—the monumental achievements of Western unity—have radically altered a relationship that was originally shaped in an era of European weakness and American predominance.

American nuclear monopoly has given way to nuclear parity raising wholly new problems of defense and deterrence—problems which demand a broad reexamination of the requirements of our security and the relative contribution to it of the United States and its allies.

The lessening of confrontation between East and West has offered new hope for a relaxation of tensions and new opportunities for creative diplomacy.

It has become starkly apparent that the great industrialized democracies of Japan, Europe and North America could pursue divergent paths only at the cost of their prosperity and their partnership.

These historic changes were occurring in a profoundly changed psychological climate in the West. The next generation of leaders in Europe, Canada and America will have neither the personal memory nor the emotional commitment to the Atlantic Alliance of its founders. Even today, a majority on both sides of the Atlantic did not experience the threat that produced the Alliance's creation or the sense of achievement associated with its growth. Even today, in the United States, over forty Senators consistently vote to make massive unilateral reductions of American forces in Europe. Even today, some Europeans have come to believe that their identity should be measured by its distance from the United States. On both sides of the Atlantic we are faced with the anomalous—and dangerous—situation which in the public mind identifies foreign policy success increasingly with relations with adversaries while relations with allies seem to be characterized by bickering and drift.

There exists, then, a real danger of a gradual erosion of the Atlantic community which for 25 years has ensured peace to its nations and brought prosperity to its peoples. A major effort to renew Atlantic relations and to anchor our friendship in a fresh act of creation seemed essential. We hoped that the drama of the great democracies engaging themselves once again in defining a common future would infuse our Atlantic partnership with new emotional and intellectual excitement. This was the origin of the initiative which came to be called the "Year of Europe."

Let me lay to rest certain misconceptions about American intentions:

The President's initiative was launched after careful preparation. In all of our conversations with many European leaders during the winter and spring of 1972-73 there was agreement that Atlantic relations required urgent attention to arrest the potential for growing suspicion and alienation between Europe and America.

We do not accept the proposition that the strengthening of Atlantic unity and the defining of a European personality are incompatible. The two processes have reinforced each other from the outset and can continue to do so now. The United States has repeatedly and explicitly welcomed the European decision to create an independent identity in all dimensions—political and economic. Indeed, we have long—and more consistently than many Europeans—supported the goal of political cohesion.

We have no intention of restricting Europe's international role to regional matters. From our perspective, European unification should enable Europe to take on broader responsibilities for global peace that ultimately can only contribute to the common interest. The American initiative was meant to mark Europe's new preeminence on the world scene as well as within the North Atlantic community.

A comprehensive reexamination of all aspects of our relationship—economic, political, and military—is imperative. It is a fact that our troops are in Europe as a vital component of mutual defense. It is also a fact—indeed a truism—that political, military and economic factors are each part of our relationship. In our view, the affirmation of the pervasive nature of our interdependence is not a device for blackmail. On the contrary, it is the justification for conciliatory solutions. For the specialized concerns of experts and technicians have a life of their own and a narrow national or sectarian bias. The purpose of our initiative was to override these divisive attitudes by committing the highest authority in each country to the principle that our common and paramount interest is in broadly conceived cooperation.

THE EUROPEAN IDENTITY

Since last April Europe has made great strides toward unity—particularly in political coordination. The United States strongly supports that process. But as an old friend we are also sensitive to what this process does to traditional ties that in our view remain essential to the common interest.

Europe's unity must not be at the expense of Atlantic community, or both sides of the Atlantic will suffer. It is not that we are impatient with the cumbersome machinery of the emerging Europe. It is rather the tendency to highlight division rather than unity with us which concerns us.

I would be less than frank were I to conceal our uneasiness about some of the recent practices of the European Community in the political field. To present the decisions of a unifying Europe to us as faits accomplis not subject to effective discussion is alien to the tradition of US-European relations.

This may seem a strange complaint from a country repeatedly accused of acting itself without adequately consulting with its allies. There is no doubt that the United States has sometimes not consulted enough or adequately—especially in rapidly moving situations, but this is not a preference; it is a deviation from official policy and established practice—usually under pressure of necessity. The attitude of the unifying Europe, by contrast, seems to attempt to elevate refusal to consult into a principle defining European identity. To judge from recent experience, consultation with us before a decision is precluded, and consultation after the fact has been drained of content. For then Europe appoints a spokesman who is empowered to inform us of the decisions taken but who has no authority to negotiate.

We do not object to a single spokesman but we do believe that as an old ally the United States should be given an opportunity to express its concerns before final decisions affecting its interests are taken, and bilateral channels of discussion and negotiation should not be permitted to atrophy—at least until European political unity is fully realized. To replace the natural dialogue with extremely formalistic procedures would be to shatter abruptly close and intangible ties of trust and communication that took decades to develop and that have served our common purposes well.

The United States recognizes the problems of a transitional period as Europe moves toward unity. We understand the difficulty of the first hesitant steps of political coordination. But we cannot be indifferent to the tendency to justify European identity as facilitating separateness from the United States; European unity, in our view, is not contradictory to Atlantic unity.

For our part we will spare no effort to strengthen cooperative relationships with a unifying Europe, to affirm the community of our ideals and to revitalize the Atlantic relationship. That was the purpose of our initiative last April. It remains the central goal of our foreign policy.

THE COMMON CHALLENGE

The leaders of the European Community meet this week. They will consider the nature of European identity; no doubt they will adopt common policies and positions. In the light of this important meeting, let me outline the position of the United States:

Detente is an imperative. In a world shadowed by the danger of nuclear holocaust there is no rational alternative to the pursuit of relaxation of tensions. But we must take care that the pursuit of detente not undermine the friendships which made detente possible.

Common defense is a necessity. We must be prepared to adjust it to changing conditions and share burdens equally. We need a definition of security that our peoples can support and that our adversaries will respect in a period of lessened tensions.

European unity is a reality. The United States welcomes and supports it in all its dimensions, political as well as economic. We believe it must be made irreversible and that it must strengthen trans-Atlantic ties.

Economic interdependence is a fact. We must resolve the paradox of growing mutual dependence and burgeoning national and regional identities.

We are determined to continue constructive dialogue with Western Europe. We have offered no final answers; we welcome Europe's wisdom. We believe that this opportunity will not come soon again.

So let us rededicate ourselves to finishing the task of renewing the Atlantic community.

First, let us complete the work before us; let us agree on a set of declarations equal to the occasion so that they may serve as an agenda for our governments and as an example and inspiration for our peoples.

Second, let us then transform these declarations into practical and perceptible progress. We will restore mutual confidence if our policies begin to reinforce rather than work against our common objectives. And let us move quickly to improve the process of consultation in both directions. The United States Government made concrete suggestions in this regard at the recent meeting of the foreign ministers in the North Atlantic Council.

But let us also remember that even the best consultative machinery cannot substitute for common vision and shared goals; it cannot replace the whole network of intangible connections that have been the real sinews of the trans-Atlantic and especially the Anglo-American relationship. We must take care lest in defining European unity in too legalistic a manner we lose what has made our alliance unique: that in the deepest sense Europe and America do not think of each other as foreign entities conducting traditional diplomacy, but as members of a larger community engaged, sometimes painfully but ultimately always cooperatively, in a common enterprise. The meeting to which the foreign ministers of the Community were courteous enough to invite me marks a significant step forward in restoring the intangibles of the trans-Atlantic dialogue.

Let us put false suspicions behind us. The President did not fight so hard in Congress for our troops in Europe, for strong defenses, for a conciliatory trade bill, for support for allies around the world; he did not strive so continually to consult on SALT and develop common positions on MBFR; he did not stand up so firmly to challenges in crises around the world—suddenly to sacrifice Western Europe's security on the altar of condominium. Our destiny, as well as the full strength of our military power, is inextricably linked with yours.

As we look into the future we can perceive challenges compared to which our recent disputes are trivial. A new international system is replacing the structure of the immediate post-war years. The external policies of China and the Soviet Union are in periods of transition. Western Europe is unifying. New nations seek identity and an appropriate role. Even now, economic relationships are changing more rapidly than the structures which nurtured them. We, Europe, Canada and America, have only two choices: creativity together or irrelevance apart.

THE MIDDLE EAST AND ENERGY

The Middle East crisis illustrates the importance of distinguishing the long-range from the ephemeral. The differences of recent months resulted not so much from lack of consultation as from a different perception of three key issues: Was the war primarily a local conflict or did it have wider significance? Has the energy crisis been caused primarily by the war or does it have deeper causes? Can our common energy crisis be solved by anything but collective action?

As for the nature of the Middle East conflict, it is fair to state, as many Europeans including your Foreign Secretary have, that the United States did not do all that it might have done before the war to promote a permanent settlement in the Middle East. Once the war began, the United States demonstrated great restraint until the Soviet effort reached the point of massive intervention. Once that happened, it became a question of whether the West would retain any influence to help shape the political future of an area upon which Europe is even more vitally dependent than the United States. We involved ourselves in a resupply effort, not to take sides in the conflict but to protect the possibility of pursuing after the war the objective of a just permanent settlement which some of our allies have urged on us ever since 1967.

At the same time, we must bear in mind the deeper causes of the energy crisis: It is not simply a product of the Arab-Israeli war; it is the inevitable consequence of the explosive growth of worldwide demand outrunning the incentives for supply. The Middle East war mare a chronic crisis acute, but a crisis was coming in any event. Even when pre-war production levels are resumed. The problem of matching the level of oil that the world produces to the level which it consumes will remain.

The only long-term solution is a massive effort to provide producers an incentive to increase their supply, to encourage consumers to use existing supplies more rationally and to develop alternate energy sources.

This is a challenge which the United States could solve alone with great difficulty and that Europe cannot solve in isolation at all. We strongly prefer and Europe requires a common enterprise.

To this end, the United States proposes that the nations of Europe, North America and Japan establish an Energy Action Group of senior and prestigious individuals, with a mandate to develop within three months an initial action program for collaboration in all areas of the energy problem. We would leave it to the members of the Nine whether they prefer to participate as the European Community.

The group would have as its goal the assurance of required energy supplies at reasonable cost. It would define broad principles of cooperation, and it would initiate action in specific areas:

To conserve energy through more rational utilization of existing supplies;

To encourage the discovery and development of new sources of energy;

To give producers an incentive to increase supply; and

To coordinate an international program of research to develop new technologies that use energy more efficiently and provide alternatives to petroleum. The United States would be willing to contribute our particular skills in such areas as the development of the deep seabed.

The Energy Action Group should not be an exclusive organization of consumers. The producing nations should be invited to join it from the very beginning with respect to any matters of common interest. The problem of finding adequate opportunity for development, and the investment of the proceeds from the sale of energy sources would appear to be a particularly important area for consumer-producer cooperation.

As an example of a task for the Energy Action Group, I would cite the field of enriching uranium for use in nuclear power reactors. We know that our need for this raw material will be great in the 1980's. We know that electric utilities will wish to assure their supply at the least possible cost. We know that European countries and Japan will wish to have their own facilities to produce at least part of their needs for enriched uranium. Such plants require huge capital investment. What could be more sensible than that we plan together to assure that scarce resources are not wasted by needless duplication?

The United States is prepared to make a very major financial and intellectual contribution to the objective of solving the energy problem on a common basis. There is no technological problem that the great democracies do not have the capacity to solve together—if they can muster the will and the imagination. The energy crisis of 1973 can become the economic equivalent of the Sputnik challenge of 1957. The outcome can be the same. Only this time, the giant step for mankind will be one that America and its closest partners take together for the benefit of all mankind.

We have every reason of duty and self-interest to preserve the most successful partnership in history. The United States is committed to making the Atlantic Community a vital positive force for the future as it was for the past. What has recently been taken for granted must now be renewed. This is not an American challenge to Europe; it is history's challenge to us all.

The United Kingdom, we believe, is in a unique position. We welcome your membership in the European Community—though the loosening of some of our old ties has been painful at times. But you can make another historic contribution in helping develop between the United States and a unifying Europe the same special confidence and intimacy that benefitted our two nations for decades. We are prepared to offer a unifying Europe a "special relationship," for we believe that the unity of the Western world is essential for the well-being of all its parts.

In his memoirs Secretary Acheson described the events of his visit to London in the spring of 1950. He described the need of his time for an "act of will, a decision to do something" at a crucial juncture.

We require another act of will—a determination to surmount tactical squabbles and legalistic preoccupations and to become the master of our destinies. We in this room are heirs to a rich heritage of trust and friendship. If we are true to ourselves, we have it in our power to extend it to a united Europe and to pass it on, further enriched and ennobled, to succeeding generations.

WE NEED A NEW MINIMUM WAGE BILL

HON. JOHN N. ERLENBORN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1973

Mr. ERLENBORN. Mr. Speaker, nine bills have been vetoed this year. One was overridden, but eight were sustained. Of the eight sustained, the Congress has been able to compromise, or at least move toward compromise, on all but one: a new minimum wage bill.

I am not altogether surprised, however. A few weeks ago, I suggested that if our General Labor Subcommittee chairman could not get the job done perhaps George Meany could. This being the Christmas season, it seems George would rather be a Scrooge than a "meany."

Perhaps after he gets his own Christmas shopping done he will be able to get into the spirit of resolving this unfinished business.

"ASSAULT BY HANDGUN: THE CASE FOR GUN CONTROL"—NO. 57

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1973

Mr. HARRINGTON. Mr. Speaker, an article in the Boston Globe of November 30, by Jeremiah Murphy, reminds me once again of the senseless crimes that easy access to handguns helps make possible. The tragedy of John Rockett's shooting, and the simple manner by which it and thousands of other shootings could have been prevented, leads me to urge my colleagues once again to take up the many gun control bills pending before Congress. Every day adds to the list of murders and woundings that might have been avoided had Congress acted sooner.

Included below is the Boston Globe article:

THE NIGHT EVERYTHING CHANGED

NORWOOD.—Sometimes everything can change in one awful moment, and John Rockett found out about that a few months ago. His whole world changed.

Things were going pretty good for Rockett until that Aug. 17 night, because he was 50 years old with a wife and three sons and a job in Boston as assistant manager for American Airlines.

He was a lector at the early Mass at St. Catherine of Siena Church in Norwood and had been honored by the Knights of Columbus Council as its man of the year.

He and his family were planning to leave their home at 50 Gay st. here in another week and fly to Switzerland for a vacation before the kids went back to school. Things were going pretty good for John Rockett.

But it all changed that night after he drove to Sherwood Shopping Plaza in Natick because his 20-year-old son couldn't get his car started. Chris Rockett worked at Hanlon's Shoe Store and had parked the car behind the store.

Chris was still working so his father went behind the store to check the car. He got out a flashlight and was looking at the engine when he noticed a young man get out of a white Mustang and stand in the darkened area.

Rockett's back was turned when the man approached him and said: "Having trouble?"

"No, I'm just going to leave."

"Give me your money," the man said.

Rockett decided later it was reflex action, because he swung around sharply with the flashlight and struck the man a glancing blow. Then he realized the man was holding a .38 caliber revolver.

Rockett started to run and a shot was fired and he was hit in the shoulder and fell to the ground. The man walked over and took Rockett's wallet out of his pocket. Then the man got into the car and drove away.

Everything changed after that because Rockett was seriously wounded. The bullet had damaged his spinal column and he is paralyzed from the shoulders down.

He spent a long time in Carney Hospital in Dorchester and then was transferred to the Veterans Administration Hospital in West Roxbury.

He is on the South Wing of the second floor, and the other afternoon his wife and Msgr. Robert Sennott of Catherine of Siena Church and two friends were there because the hours are always long in a hospital.

Rockett is a nice looking, middle-aged guy with brown, wavy hair and glasses. Now he has difficulty speaking because of the injury.

He grew up in Newton and Watertown and served in the Army during World War II and then married and was raising a family and looking forward to that trip to Switzerland and . . . then came last Aug. 17.

Mrs. Rockett summed it all up pretty well: "You read about these things happening to others, but you never think it could happen to you."

It happened to John Rockett and everything changed in that one awful moment, and now he doesn't know how much longer he will be in the hospital or when he will be able to return to work. He doesn't know if he will ever walk again.

There is a bitter and tragic postscript. The young man with the white Mustang was never caught. He escaped with the four dollars in Rockett's wallet.

AMERICA SHIFTS TOWARD METRIC

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1973

Mr. McCLORY. Mr. Speaker, "The Shift Toward Metric" is expanding in the United States at an increasing rate, which a greater awareness of this method of measurement by the American public is a proof. This subject is the thesis of an excellent article by Prof. Frances J. Parker, chairman, Home Economics Department, New York State University College, Oneonta, N.Y., which appeared in the November issue of the Journal of Home Economics.

Mr. Speaker, the importance of this Congress in passing vitally necessary metric legislation is underlined by a point made by Dr. Parker:

> Modern man frequently relies on the information and advice of certain key individuals, or opinion leaders, whom he knows and respects. He relies on them for information and advice concerning any new information and advice concerning any new products, ideas, or procedures, and he depends on these people to "legitimize" such things.

Mr. Speaker, without this metric legislation being passed, the country will continue on its slow but progressive drift toward adoption of the metric system by all segments of the society and industry, but without the guidance of the Congress, the opinion leaders, who must "legitimize" the changeover to the metric system. That is why the Secretary of Commerce in his report in 1971 recommended that the Congress establish a metric conversion board to oversee the changeover to the metric system in this country in a planned and coordinated manner. This is not too much to ask.

The following article was adapted from Dr. Parker's paper, "Preparing the Consumer for Metric Conversion," read at the American Psychological Association's meeting in Montreal, Canada, on August 28, 1973. An outstanding scholar, Dr. Parker has involved herself in the problems of metric conversion and is the organizer of the metric instructional kits used by the new Center for Metric Education at Western Michigan University, Kalamazoo, where she was chairman of the department of home economics.

THE SHIFT TOWARD METRIC

(By Frances J. Parker)

In envisioning change, we are all aware of the importance of positive attitudes. For example, I recall the enthusiasm with which our young son described our first dishwasher: "It used to take 30 minutes to do the dinner dishes. Now it only takes half an hour!"

That difference in time sums up the change there will be in American cooking habits after metrication is in general use by business and industry. A different way of measuring will make no real difference in our customary way of going about things in the kitchen, and many of us will be delighted both with the novelty and ease of weighing ingredients in attractive new devices and with the quality of products produced with such precise measurement.

Of course, some individuals will never change to metric measures in their kitchens. Some people have never accepted or used the standard measuring cup; they still use "a handful of this and a dash of that."

The observation made by Senator Charles Sumner in 1866 is as true in 1973 as it was then: "Those who have passed a certain period of life may not adopt the metric system, but the rising generation will embrace it, and ever afterwards number it among the choicest possessions of an advanced civilization."

A survey of home economists by AHEA's Consumer Interests Committee in August 1970 and a national survey (1) of public attitudes toward change to metrication showed that the more knowledgeable a person was about it, the more receptive he would be to the conversion. Those surveyed who were less familiar with the system tended to expect the change to be costly in time and money. Therefore home economists, as agents of change, must launch extensive and intensive educational programs on metrication.

CENTER FOR METRIC EDUCATION

Home economists will find help with their role as agents for change from the U.S. Center for Metric Education, established in 1972 as the first and only center of its kind in the United States. It was located at Western Michigan University and given a $163,000 federal grant from the U.S. Office of Education, to introduce the metric system of measurement into technical education in the United States.

To achieve this goal, the center's first year of operation is being devoted to the development of instructional material. During the second and third years the center will offer in-service seminars for teacher educators in colleges and universities across the nation.

AIDS FOR TEACHERS

Packets of teaching aids for home economics and industrial arts teachers are currently being collected and developed at the center to introduce the metric system into the classroom and thus into the homes and jobs of tomorrow's citizens. The home economics teaching packets will include:

background information about the metric system in other nations and about the impending changeover in the United States to this system.

a description of the role home economists can play in implementing this changeover both in the classroom and in students' homes

suggested learning experiences

inexpensive teaching aids and transparency masters

lists of sources from which teachers can obtain other teaching aids (e.g., metric dress patterns, tape measures, scales, measuring cups, etc.).

Fitted kits are also being prepared to use in various in-service programs for vocational areas of home economics and industrial arts. These kits include measuring devices, course outlines, and audiovisual materials.

TEACHING ABOUT THE CHANGEOVER

Directors of the instructional-material development project at the center have given talks before groups interested in metrication; my own approach has generally been of a persuasive nature, discussing pros and cons of metrication, both showing and telling how simple, logical, and sensible is the impending and inevitable changeover to metrication.

The center has an internationally known board of advisers who are assisting its work. This advisory board recently made a 1-hour videotape, available from the center, which has appeared on numerous television channels in order to acquaint the public with the impact of conversion to metrication at home and on the job.

Other work of the center has been the building of the best metric library in the United States. Since January, its staff has been collecting books, films, tapes, catalogs, and other teaching materials from around the world.

HOW CAN WE REACH MOST PEOPLE?

P. R. Mort has reported a 50-year lag between the creation of knowledge in education and its dissemination.[2] However, we do not have 50 years to "go metric"; 10 years is the lengthiest conversion period commonly recommended. Nor will we reach everyone through the classroom. A strategy is therefore necessary to facilitate implementation of the metric system.

In spite of a vast array of sophisticated communication media and advances in the general population's educational level, studies done in many fields besides home economics show that modern man frequently relies on the information and advice of certain key individuals, or opinion leaders, whom he knows and respects. He relies on them for information and advice concerning any new products, ideas, or procedures, and he depends on these people to "legitimize" such things. Such opinion leaders are reached through communication media, and at least some of the center's work is designed to educate these opinion leaders through articles and programs in the media.

ARE IDEAS CHANGING?

In an effort to discover if the publicity and widespread educational efforts in the Kalamazoo area (where the U.S. Center for Metric Education is located) had had effect on consumer acceptance of metrication, I conducted a very limited replication of selected questions from the U.S. Metric Study.[1]

Testing the premise that the more knowledgeable one is about the metric system, the more accepting of the system one will be, I made a random telephone survey of 137 Kalamazoo area residents using most of the original questions. A comparison of the results of the original survey and the Kalamazoo survey is shown in the table on the facing page.

In questions 1 through 4, consumers did demonstrate more awareness of the metric system; there was also greater confidence about the ease of adjusting to the new system in the answers to questions 9 and 10. The current sample showed in the answer to question 11 that 50 percent of those surveyed thought that U.S. conversion to metric was a good idea; in the original survey 2 years ago, only 25 percent thought it was a good idea.

It is evident that there has been a shift in thinking and that information about, for example, the cost of metric kitchen devices is reaching the public. Only 29 percent in the recent sample thought that the changeover would be too costly, compared with the 50 percent who thought that in the original study (question 19). While 58 percent of the recent sample believed that metric measures would make cost comparison simpler, only 7 percent disagreed. Only 4 percent disagreed with the idea that the metric system would be easier for our children to use than the present system.

Although this recent survey is both limited and unsophisticated, it is an indication that our informal educational efforts are making an impact on consumer knowledgeability about and attitudes toward the metric system.

RESPONSES TO 1971 AND 1973 METRIC SURVEYS

[In percent]

	[1] 1971	[2] 1973
1. Have you ever heard of the metric system?		
Yes	70.0	81
No	30.0	19
Total	100.0	100
2. Could you tell me the names of some measures in the metric system?		
Meter, millimeter, centimeter, kilometer, other prefix with meter	23.0	11
Gram, milligram, centigram, kilogram, other prefix with gram	1.0	4
Liter, milliter, centiliter, kiloliter, other prefix with liter	1.0	2
Two of the above	13.0	18
Three of the above	4.0	15
Incorrect response, don't know	28.0	31
Not asked this question, never heard of the metric system	30.0	19
Total	100.0	100
3. Do you happen to know how the metric measures relate to each other? For example: How many centimeters are in a meter?		
One-hundred	17.9	30
Incorrect response, don't know	23.5	31
Not ascertained	.2	15
Not asked this question, never heard of metric or unable to name measures	58.4	24
Total	100.0	100
4. Do you happen to know the relation of any metric measure to our customary measures? For example: About how many kilometers are in a mile?		
1 kilometer equals ⅝ or 6/10 of a mile or 1 mile equals 1.6 kilometers	3.9	12
1 kilometer equals ½ or ⅗ of a mile or 1 mile equals 1.5 or 1.7–2 kilometers	3.1	5
Incorrect response, don't know	34.4	43
Not ascertained	.2	10
Not asked this question, never heard of metric or unable to name measures	58.4	30
Total	100.0	100
5. Thinking about our customary system, can you tell me: How many pints are in a quart? How many inches in a yard?		
1 correct response	15.0	16
2 correct responses	82.0	77
No correct response	3.0	7
Total	100.0	100
6. Have you as an adult, ever lived or traveled extensively in a foreign country, other than the British Commonwealth countries, where you had to deal with a different measuring system than ours?		
Yes	17.0	26
No	83.0	74
Total	100.0	100
7. Did you have any problems in adjusting to the measuring system? (I do not mean problems with money.)		
Yes	3.2	4
No	13.6	31
Don't know, not ascertained	.2	5
Not asked this question	83.0	60
Total	100.0	100
8. Suppose speed limits were posted as say 80 kilometers an hour instead of 50 miles an hour. Do you think the Ameri-		

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[1] "U.S. Metric Study Interim Report," The Consumer. National Bureau of Standards, Special Publication 345–7. Washington, D.C.: U.S. Government Printing Office, July 1971.

[2] P. R. Mort, "Studies in Educational Innovations for the Institute of Administrative Research: An Overview." In M. B. Miles, Innovation in Education. New York: Teachers College, Columbia University, 1964, pp. 299–337.

RESPONSES TO 1971 AND 1973 METRIC SURVEYS

[In percent]

	[1] 1971	[2] 1973
can people as a whole would adjust fairly easily or with considerable difficulty?		
Fairly easily	20.0	31
With considerable difficulty	74.0	55
Don't know, not ascertained	6.0	14
Total	100.0	100
9. Do you think the American people as a whole would adjust fairly easily or with considerable difficulty to having the temperature reported as zero degrees centigrade instead of 32 degrees Fahrenheit?		
Fairly easily	29.0	39
With considerable difficulty	64.0	45
Don't know, not ascertained	7.0	16
Total	100.0	100
10. Do you think that it would be a good idea or a bad idea for the United States to change to the metric system of measure?		
Good idea	25.0	50
Pro-con	4.0	9
Bad idea	59.0	23
Don't know	12.0	18
Total	100.0	100
11. Why do you say that?		
Rest of world uses metric	15.0	38
Metric decimal easier; U.S. system outdated	14.0	9
Customary system good; we're used to it	23.0	12
Cost reference (cost of change to households, business; taxes)	6.0	0
Age reference (hard for old; easy for young)	11.0	7
Change would be inconvenient, difficult	33.0	15
Other	3.0	0
Don't know, not ascertained	11.0	29
Total	(3)	(3)
12. Shopping and price comparisons would be easier because the metric system can be divided or multiplied by 10.		
Agree	47.0	58
Disagree	37.0	7
Don't know	15.0	31
not ascertained	1.0	4
Total	100.0	100
13. The metric system would be easier than our present system for our children to learn.		
Agree	55.0	69
Disagree	22.0	4
Don't know	23.0	27
Total	100.0	100
Opinions of people who don't think the United States should change to the metric system. Tell me if you agree or disagree with these statements		
14. Life would just be more complicated; we would have to use conversion tables and that would be difficult to handle.		
Agree	61.0	45
Disagree	31.0	30
Don't know	7.0	21
Not ascertained	1.0	4
Total	100.0	100
15. It would be too costly to change over our household measuring devices.		
Agree	50.0	29
Disagree	42.0	49
Don't know	7.0	18
Not ascertained	1.0	4
Total	100.0	100
16. The rest of the world should change to our system.		
Agree	12.0	4
Disagree	77.0	76
Don't know	11.0	20
Total	100.0	100

[1] "U.S. Metric Study Interim Report," The Consumer. National Bureau of Standards, special publication 345-7. Washington, D.C., U.S. Government Printing Office, July 1971.

[2] Survey by Frances J. Parker, Western Michigan University, of 137 respondents, Kalamazoo, Mich. area, 1973.

[3] Adds to more than 100 percent because some respondents gave more than one answer.

THE PRESIDENT'S TAXES

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1973

Mr. DRINAN. Mr. Speaker, today's New York Times carried an excellent article by the distinguished journalist, Anthony Lewis. The questions raised by Mr. Lewis are serious and thought provoking. Many of the questions raised by Mr. Lewis have special relevance for Members of Congress. I commend this article to my colleagues:

NOBLESSE OBLIGE

President Nixon, Nov. 17, explaining why he had paid "nominal" income taxes: "It wasn't because of the deductions for, shall we say, a cattle ranch or interest or all of these gimmicks . . ."

(By Anthony Lewis)

BOSTON, December 12.—Part of the fascination of President Nixon's financial disclosures lies in the previous statements made inoperative. We know now, for example, that interest deductions were, in fact, a most significant reason for his modest tax payments. Over the first four years of his Presidency he deducted $275,376.15 in interest. His accountants went so far as to list a department store finance charge of $1.24.

Then there is the odd little case of Herbert Kalmbach. Last summer, when Mr. Kalmbach admitted arranging the disbursement of cash in bundles to the Watergate defendants, a White House spokesman said he was no longer the President's personal lawyer. Now it turns out that he handles Mr. Nixon's salary checks and California bank account.

The more interesting aspect of the Nixon financial statement is what it tells about the American tax system—and about this President's attitude toward it.

We have not recently had so neatly packaged a demonstration of how the Internal Revenue Code helps the rich get richer. The interest deduction, for instance, is seemingly impervious to tax reform efforts because so many Americans deduct their mortgage interest. But the provision is infinitely less helpful to the average citizen than to the rich, who can borrow vast sums and have the public pay a large part of the cost.

Mr. Nixon is not the only near-millionaire who paid less than $1,000 in Federal income taxes in 1970 and 1971. Some richer men paid less. Recent tax reforms have introduced the concept of a "minimum tax," due despite deductions, but the Nixon case shows what derisory levels of tax obligation it imposes.

Nor is Mr. Nixon the only person to charge off part of the cost of running a house as a business expense. The principle is a familiar one. It may be just a litle unusual that the President deducted the entire cost of maintaining his Key Biscayne home because he has an office there, as well as 25 per cent of the upkeep of his San Clemente house.

One view, therefore, is that the disclosure of what Mr. Nixon has done to avoid taxes should evoke only criticism of the system. He has done no more than hold a mirror to our general corruption, it is said; rather than criticize him we should become serious about reforming the grotesque inequities in our tax law.

But that view misses a central doubt about the conduct of Mr. Nixon's tax affairs. The suspicion remains that he has had especially favorable treatment—advantages beyond the loopholes open to all—precisely because he is President.

Why did the Internal Revenue Service approve a $576,000 deduction for the asserted gift of papers to the National Archives without checking the Archives to see whether the gift had been made before the legal deadline?

How could Mr. Nixon avoid tax on the sale of his New York cooperative apartment by putting the money into a new "principal residence" in San Clemente, and then escape California income tax by claiming he was not a resident there?

By what arithmetic could he avoid paying a capital gains tax on the sale of part of his San Clemente land, when the price per acre was higher than its listed original cost without even counting the value of the house he retained?

Why did the I.R.S. not even audit his 1970 return, which showed total income of $262,942.56 and a tax of only $792.81?

Those are just a few of the questions that raise doubts. Most serious of all, from a legal point of view, is the device of having a Congressional committee judge disputed points in his returns. As in the tapes case, the President in effect wants to pick his own court. Then we heard about "Judge Stennis"; now presumably it will be "Judge Mills."

After all that has happened it is scandalous that senior members of Congress should agree to such a special proceeding. And it is disheartening that the Internal Revenue Commissioner, Donald C. Alexander, a man once highly regarded in the profession, should let a precedent so damaging to the idea of equal treatment in tax matters be set. There may be a good argument for a system of independent audit for the returns of those with tax authority—the President, the Secretary of the Treasury, the Commissioner—but it must be a general system, not special Congressional treatment for one man.

Finally, it has to be said that there is more involved than law. For a man to grow rich while President of the United States by cutting the tax laws so fine is hardly a noble example to his fellow citizens. We want our President to make us seem better than we are. That may sound unfair, but no one is compelled to be President.

COMPUTER CARPOOL EFFORT LAUNCHED BY WICHITA RADIO STATION

HON. GARNER E. SHRIVER

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1973

Mr. SHRIVER. Mr. Speaker, the Federal Energy Office in fuel allocation regulations published today in the Federal Register requests private transportation operators to conserve fuel by reducing vehicle operations, carpooling, using mass transportation, using more energy efficient vehicles when possible.

I take this opportunity to bring to the attention of the Congress and the public a project which has been launched by radio station KLEO in Wichita, Kans., to assist in energy conservation on a voluntary basis. KLEO has announced creation of a commuter computer carpool for Wichita residents.

Listeners who fill out applications will be matched by computer with other workers who live nearby and work similar hours.

Such a project is worthy of the support of citizens who must rely on private transportation to get to work. In addition the success of such carpooling efforts in Wichita and across the country could help us avoid the need for gasoline rationing down the line.

KLEO, its staff and management, are to be commended for their interest and participation in this vital national effort.

A VERY SERIOUS ENERGY CRISIS

HON. DON H. CLAUSEN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1973

Mr. DON H. CLAUSEN. Mr. Speaker, the Nation and the American people are faced with a very serious energy crisis. The United States is confronted not only with current energy shortages, but also with the challenge of meeting our ever-increasing long-range energy needs. Now that the crisis is here, many people are asking "Why didn't they know about this ahead of time?"; "Why weren't they prepared for it?"; "Why has the Government waited until now to do something about it?"; and "What can be done to prevent a similar crisis in the future?"

Given the complexities of this energy "crunch" and the confusion and concern it has created among the American people, I want to take this opportunity to present some thoughts which may help to answer these and other questions my constituents have raised—hopefully with a view toward achieving a better and more balanced understanding of what it is all about, and how we can deal with it.

ORIGINS OF THE ENERGY CRISIS

President Nixon expressed an awareness of and concern for America's energy supplies as early as September 26, 1969, when he said:

> I believe it is essential to develop our resources, when, as we look at the Mideast and other sections of the world, many of our oil supplies could be cut off in the event of a world conflict.

At the same time our colleague, Senator "Scoop" Jackson was voicing this same concern in the Congress.

To gain some ideas about why and how our energy problems arose let us look at some "facts and figures":

The United States, representing 6 percent of the world's population consumes more than one-third of the world's energy.

Demand for petroleum and petroleum products in the United States has been increasing at a rate of over 6 percent every year. In other words, the United States has been doubling its energy consumption about once every 16 years. It was estimated that this "geometric progression" of demand would exceed available energy supplies in 1972.

Current estimates indicate that while petroleum demand will range from 18 to 20 million barrels per day within the next year and only 11 to 12 million barrels per day can be produced domestically.

Domestic oil exploration has declined by some 40 percent in the last 10 years, while imports have risen to 35 percent of U.S. oil consumption.

In short, more people, with more money to spend, are demanding more energy-consuming goods and services than ever before, and this demand has simply exceeded the supply available to us.

What are some of the other factors that have contributed to the energy dilemma? Here are some that are frequently mentioned:

The American oil industry has not upgraded and expanded oil production here at home to keep pace with the growing demand for oil.

The public and private sectors did not move "far enough fast enough" to develop technology that would allow more efficient use of our oil and coal resources while moving more rapidly in the direction of "harnessing" alternative energy sources such as nuclear, geothermal and solar power.

Overdependence on the automobile and underdevelopment of public transportation.

Environmental demands did not adequately recognize or realistically consider the economic and social impacts created by delays in construction of the Alaskan pipeline, automobile emission control devices and other measures on a society which has become far too dependent on oil to meet its energy requirements.

To the American people, energy waste, rather than a commitment to energy conservation, became a way of life.

More recently, the Arab oil embargo and the problems experienced by the administration in "gearing up" its efforts to deal with the current fuel shortages have only added to the complexities and confusion.

EARLY WARNINGS

For a variety of reasons, our Nation now faces a serious problem that has been developing for some time, and apparently the Government, the oil industry, and the public failed to fully recognize or accept the seriousness of the problem in its early stages.

With this in mind, I have asked myself—did I, as one Member of Congress, do enough to alert the people I represent on the north coast of California of an impending energy crisis? Did I take the necessary steps to prepare for or help ease this crisis? Recognizing that the words "enough" and "necessary" contain judgmental values, here is what my research on this question developed.

On February 19, 1972, I issued a public statement and district wide news releases under the headline: "Clausen Sees Cheap Energy Ending." In it, I warned that—

> American consumers may be nearing the end of cheap, plentiful energy in this country and that testimony just presented to the Congress by a House Task Force on Energy and Resources revealed that the U.S. is entering an era of rapidly diminishing energy resources and alarming increases in the costs of producing energy.

On April 10, 1972, I publicly announced that the House Interior and Insular Affairs Committee on which I serve had begun a week of congressional hearings on the Nation's fuel and energy crisis which I felt were of particular interest to the people of the north coast. In that statement, I said:

> For this reason, I have decided to issue daily summaries to the press for the balance of the week outlining the essential testimony presented to our Committee on this important question.

The following is a brief chronology of those daily summaries:

> April 11, 1972: Dealt with the testimony of Administration officials on the President's Energy Message to the Congress in June of 1971 and legislation proposed by the President as "actions designed to provide a clean, abundant and assured supply of energy to the nation at reasonable prices."
>
> April 12, 1972: Summarized the testimony of some of the Nations leading experts in the fuel and energy fields who warned of insufficient fuel resources between now and the year 2000.
>
> April 13, 1972: Reported that testimony to date revealed "the existence of a very serious national problem that many Members of Congress and much of the general public do not fully understand or appreciate.
>
> April 14, 1972: Focused on the question of "energy versus the environment" and highlighted the testimony of several leading environmentalists, some of whom questioned whether or not an energy crisis really existed.
>
> April 17, 1972: In this release I said: While not everyone agrees on the cause, the extent or the cure—the richest nation on earth has suddenly discovered that it is 'energy poor' and and that this new form of 'poverty' threatens our balance of trade, our attempts to clean up the environment, and our desire for clean, cheap energy and fuel."
>
> April 18, 1972: "While I was aware of our dwindling fuel and energy resources prior to these hearings, quite frankly I had no idea of the complexity or the actual severity of this crisis—nor did I have any idea of the 'lateness of the hour.' We, as a nation, have some very serious soul-searching to do and very little time to do it in. We must decide whether, as our national policy, we are going to direct our efforts toward meeting the increased demand for fuel and energy in the future, or make every effort to reduce the demand and consumption thereby extending available services."

Despite these efforts and other warnings issued by many of us in the House and Senate, I believe it is fair to assume now that the public could not really envision an "energy crisis" at that time. I remember well, for example, that my eight public statements on our energy dilemma in that period were met with what I can only describe as public apathy. Some people criticized my efforts as an attempt to divert attention from other issues of the day. Others "charged" it was a "plot" by the major utility companies and oil producers to justify price increases. Overall, there was a general unwillingness on the part of people to accept the fact that the energy crisis was serious or even real.

SOLVING OUR ENERGY PROBLEMS

The Middle East war, the oil "cutoff" and subsequent fuel allocation limitations, plus massive "energy conservation" messages in the media have finally caused Americans to realize that the energy crisis might amount to more than the inconvenience of an occasional fuel shortage or power "brownout." They now know what some of us in the Congress have been attempting to get across for many months—in terms of our national economy, our vital interest in maintaining a relationship with the free world and our efforts to improve the quality of life for all Americans—the energy crisis is our most serious domestic problem. Many now are looking to their elected representatives in the Congress and in their State and local governments to develop and implement effective solutions to bring our Nation through this crisis.

What can we in the Congress do? We can begin by "telling it like it is" to the American people. This is the way I see it from here:

The energy crisis is serious and "for real." It was not contrived to help the oil industry make greater profits. It was not artificially created by the administration as a "smokescreen" for Watergate, as some here implied. Nor is it an attempt to halt the significant progress made in "cleaning up" our environment.

The energy crisis is not simply a temporary program. While there are steps we can, must, and will take to deal with immediate inconveniences and shortages and these steps will bring a measure of relief, we cannot afford to "kid" ourselves that the problem will be completely resolved in the immediate future. The energy supply problem will be with us for some time to come, and it will require far-reaching solutions and all of the ingenuity, cooperation, understanding and commitment we can muster.

The energy crisis is more than just an oil shortage. The problems we face have resulted not only from shortages of petroleum, but because America is so dependent on petroleum, to the exclusion of other less expensive and more plentiful fuel alternatives. Our fuel problems will not magically disappear even if the Arab nations resume full and increasing shipments of oil to the United States in the near future.

Accordingly our energy problem-solving approach must fulfill two basic objectives. First, we must deal with our short-term energy problems which, as I see it, are those we can effectively deal with in the next few years. Then, during the next 20 years, we must meet the challenge of planning and satisfying our long-term energy needs. The Congress and the Executive have recognized this challenge, and are now "gearing up" for a massive research and development effort, so that we can become a self-sufficient nation in the energy field.

SHORT-TERM SOLUTIONS

The answers to our short-term energy shortage problems lie essentially in upgrading and expanding our capacity to produce and make more efficient use of fossil fuel resources.

For example, we must encourage maximum energy conservation here at home so that scarce resources are more efficiently utilized. And if we expect the people to conserve energy, Government and business should not only take the initiative but set an example for every American to follow. In my view, every Government official, including the President, Cabinet-level, and other high-level officials and Members of Congress must curtail the use of gas-guzzling Government limousines, helicopters, and jet aircraft and otherwise "practice what they preach." Nor should the Department of Defense or any other department or agency of Government be exempted from the energy "belt-tightening" in which we are asking everyone to participate. Similarly, oil and utilities companies should discourage rather than encourage increased energy consumption, and should contribute more of their profits and advertising dollars to promote energy conservation.

In my view, these measures, together with the shift in refinery production and the allocation of gasoline at the wholesale and retail levels ordered recently by the President; the mandatory allocation of diesel and other distillate fuels; opening of Elk Hills to increase the available supply of domestic crude oil; implementation of daylight savings time on a year-round basis; a reasonable speed limit on our Nation's roads and highways; and other conservation measures we can take will bring us through the height of this immediate crisis, which as I see it will extend through this winter into next year.

In this regard, there has been a great deal of discussion over the pros and cons of gasoline rationing to individusals and/or imposing additional gasoline taxes. While there is no doubt in my mind that we are facing serious fuel shortages, and I believe we must explore and be prepared to use every available alternative to minimize the impact of these shortages, rationing of gasoline on an individual basis should be a last resort. Based on information I have received, it is estimated that a gas rationing program might require as many as 10,000 employees and an expenditure of many millions of dollars to operate effectively and those of us who remember the gasoline black market of World War II understand the many questions that have been raised as to whether or not a rationing system that would insure fair treatment for everyone is even possible. By the same token, however, I am in complete agreement with the view that a dramatically increased gasoline tax will only hurt low-income families, senior citizens, and others who can least afford it.

In any case, these measures alone will not be enough. We must move forward rapidly to upgrade and expand domestic oil and gas production.

In order to process increased supplies of petroleum with maximum economy and efficiency, however, we must accelerate the construction timetable for the Alaskan pipeline, expand other domestic refining capacity, and modernize our shipping and transportation facilities. The need to move rapidly on these measures is pointed out in a recent independent study which made these projections:

Unless current demands are checked or reversed by 1980, the United States will consume 10 million barrels of oil a day more than at present.

This 10 million barrels per day increase is the equivalent of 5 times the production expected from Alaska's Prudhoe Bay.

Fifty-eight refineries will be required to process this additional crude oil.

If all of this additional petroleum is brought in from foreign nations 325 new "supertankers" will be needed.

At the same time, we must continue the process of making better use of petroleum resources by encouraging use of smaller cars, car pools, and the development of public transportation.

Similarly, we can no longer afford to delay efforts to revitalize our coal industry. In the words of Arnold Miller, president of the United Mine Workers of America:

> We sit squarely on top of the largest readily available supply of coal on earth. . . . Sheer common sense should tell us to put all our efforts into developing coal.

With between one-third and one-half of the world's coal reserves, the United States can meet its energy needs for hundreds of years. But to put this energy potential to work, new more effective and environmentally acceptable mining techniques, improved mine safety, gasification, liquification, and efficient sulfur-removal techniques must be developed so that coal will become an economical, "clean" fuel substitute.

LONG-TERM ENERGY ALTERNATIVES

These steps will help ease the energy "crunch" we are now feeling and will allow us to turn our full attention to long-term planning research and development of new energy sources and technology.

For example, we can vastly expand exploration for and production of geothermal energy, particularly in California where geothermal reserves are known to be extensive; we can greatly improve the "state of the art" in nuclear power generation, to include finding safer, more efficient methods of disposing of or regenerating radioactive wastes; and we can find ways to "harness" and utilize the energy of the Sun.

NEEDED: A NATIONAL ENERGY POLICY

I strongly believe that all these energy alternatives must be directed, and coordinated and funded within the framework of a national energy policy which has the full support of Government, the business and industrial community and the consuming public. In my view, such a national energy policy can and will prevent the confusing "hit and miss" approach to the energy problem-solving efforts of the past, by establishing our energy goals and a timetable for achieving those goals; by allowing and requiring a more balanced and responsible analysis of the environmental, economic, and social impacts of energy exploration, development, and consumption; and by serving as a focal point for the coordination of all energy-related Government programs, policies, and activities under one "umbrella."

A comprehensive and far-reaching national energy policy must also serve as America's "action plan" for attaining energy "self-sufficiency" which, in my judgment, is vitally important to our foreign policy negotiations and national security interests.

CONCLUSION: OUR ENERGY FUTURE CAN BE BRIGHT

I believe the American people are responding magnificently to the energy crisis, just as they have met the challenges of other major crises our Nation has faced in the past.

However, it will not be an easy task. The challenge of meeting our energy needs both now and in the future will carry a high "price tag." For example, energy economists with the Chase Manhattan Bank recently estimated that the outlay necessary to meet our petroleum demands between 1970 and 1985 will be a whopping $1,350 billion. As I said before, the days of "cheap" energy are over, if we are to maintain our social, economic, and environmental objectives.

But I firmly believe that if all Americans will positively participate in working toward the energy alternatives I have outlined here today, our energy future can and will be bright.

Considering the total energy question, and in retrospect, America has been on a collision course with itself ever since the end of World War II. "The Land of Plenty" suddenly is not any longer and an ancient adage is about to replace a contemporary American credo. How many times have we heard the statement:

> There's plenty more where that came from.

Now, it has become clear that the favorite American pastime of squandering must be stopped. We must return now to the wisdom of the ages that tells us to "use it up, make it do, wear it out."

A recent Time essay on the energy crisis said:

> (It) has forced consumers to do something unprecedented—to consider tomorrow. It is a feat that past generations found impossible. To see the future and see it whole, demands the confrontation of unpalatable facts.

Time said:

> Until now, "Power to the People" was only a slogan. Today, the American future is literally in its citizen's hands—hands that rest upon ignition keys, electric switches, purses and wallets. How will America's citizens react? They could continue to do what they have always done; spend and damn the consequences. Or they could acknowledge that the forgotten virtue of thrift, as Ben Franklin preached, is not against the American grain but deep within it.

WHO WOULD SIGN THE DECLARATION OF INDEPENDENCE TODAY?

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1973

Mr. CARTER. Mr. Speaker, if our Nation is to continue to be strong in the years to come, it is imperative that we strive to maintain the dedication and courage exhibited by the founders of our country. The future demands that we fully realize our responsibilities, and I believe that the following item expresses the importance of this matter very well:

WHO WOULD SIGN THE DECLARATION OF INDEPENDENCE TODAY?

Unless it had been signed, there would be no United States today. And no such high wages as Americans enjoy—the highest on earth. And no such high standard of living, which Americans generously share with the poor of the world.

But the men who signed it put their lives and every penny they owned on the line, and many of them lost their fortunes, their homes, their businesses or jobs as a result. *But they signed.*

How many Americans would do as much for the long-range future of their country today?

Would you?

THE PROBLEMS WITH GAS RATIONING

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1973

Mr. ARCHER. Mr. Speaker, there has been much discussion on the question of rationing gasoline as a means to conserve energy. A perceptive analysis of the question was recently presented in a column by Mr. Allan C. Brownfeld entitled "The Last Thing Needed is Gasoline Rationing":

THE LAST THING NEEDED IS GASOLINE RATIONING

WASHINGTON.—The Senate has passed an emergency conservation bill that would give President Nixon broad authority to ration gasoline, reduce speed limits and cut off fuel for activities he deems "nonessential."

The vote in the Senate was 78 to 6 and the bill now goes to the House, where the Commerce Committee has held hearings on the same subject. More than likely, the House will follow suit.

In these actions there is the all too familiar abdication of authority by the Congress. As was done in the Gulf of Tonkin Resolution (which told President Johnson to do "whatever is necessary" to combat aggression in Indochina) the Congress has now told the President to "do whatever is necessary" concerning the energy problem.

In a democratic society, in which the voters elect their representatives and expect them to determine national policy, this provision of a blank check to the executive may not be good enough. If we are, for example, going to have gas rationing, then the Congress should vote for it. It should not be left to the President, and his non-elected advisers, to make such a decision.

That, however, is more a question of who should make the necessary choices rather than what the right choice might be.

At this time, the Nixon administration is split down the middle on the question of gasoline rationing, with at least two top officials, Treasury Secretary George P. Schultz and Council of Economic Advisers Chairman Herbert Stein, dead set against it. They recommend instead a high tax on gasoline—high enough to reduce consumption—with low-income Americans being able to write off the gasoline tax on their income tax.

IRRATIONAL APPROACHES

The fact is that gas rationing is the last thing we need. A high tax on gasoline is close behind it. Both represent irrational approaches to a real problem—approaches which will make things worse, and not better.

The major argument being advanced for rationing is that it is the only way to be "fair" to the poor. The fact is, quite to the contrary, that absolute equity is impossible to achieve. Rationing, in the long run, is unfair to everyone—and to provide a system of rationing for the 100 million automobiles on American roads would require the institution of a huge and costly new bureaucracy.

The current oil crisis, we often forget, has little to do with the Arab boycott—but has a great deal to do with government interference in the free market. In the matter of natural gas, federal regulators kept the price artificially low, which discouraged exploration and encouraged consumption. At the same time, import quotas on oil kept us from meeting the increased demand for petroleum. This is, of course, in addition to the environmental protestors who held up the development of the Alaska pipeline which could provide us with some two million barrels of oil a day—who prevented full development of offshore oil reserves—and who promulgated anti-emissions standards for automobiles and factories which have created vehicles that consume more fuel for less performance.

Thus, long before the Arab boycott—during the past spring and summer—we have been hearing about an "energy crisis." As with so many other alleged "cries," the problems were brought about by government interference in the economy. And, as with other situations of this kind, those who want to solve the problem do not call for an end to governmental involvement—but want to make it total, as with rationing.

CLEAR THE MARKET

Economist Milton Friedman notes that, "If all Mideast oil is shut off, we shall have to do without some 10 per cent of our present oil supplies. That is no tragedy. It means going back to the rate of consumption of 1970 or 1971—when no one thought we had a catastrophic shortage of fuel."

Dr. Friedman states that, "The most effective way to cut consumption and encourage production is simply to let the prices of oil products rise to whatever level it takes to clear the market. The higher prices would give each of the 210 million residents of the U.S. a direct incentive to economize on oil, to increase the supply of oil."

The only alternative to the free market, he points out, is "artificially low prices accompanied by governmental rationing. This method induces each of us to oppose the general interest rather than further it. Our separate incentive is to wangle as much as we can from the rationing authorities . . . 210 million persons each with a separate incentive to economize or 210 million persons dragooned by men with guns to cut down their use of oil—can there be any doubt which is the better system?"

While not as dangerous as rationing, the surtax proposal would also push the nation further away from self-sufficiency in energy. Shale oil might become economically feasible, the Wall Street Journal noted, if the price of crude oil reaches $8.50 a barrel, but only if industry can capture that $8.50. If the equivalent price of crude is pushed to that level with a surtax, the government gets the revenues and shale will remain unprofitable and thus undeveloped.

After our experience with the failure of government controls—it is surely time to give the free market a chance to work.

THE WASHINGTON POST AND DÉTENTE

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1973

Mr. ASHBROOK. Mr. Speaker, on Wednesday, December 12, the Washington Post in a front page headline stated "Trade Bill Passed With Soviet Curbs." In an accompanying article written by Dan Morgan, a Washington Post staff writer, Mr. Morgan makes the statement:

The administration setback came on two votes in which House liberals, concerned about Soviet domestic repression and restrictions on Jewish emigration, sided with hawks who oppose détente.

The "two votes" refers to the passage of the Vanik amendment restricting credits to the Soviet Union and the defeat of the move to remove title IV from the bill.

Since I do not consider myself a "House liberal," I must be one of the "hawks" Morgan is discussing. I do not mind being labeled a hawk as I define a hawk in this context as an American citizen who guards American national security and realistically appraises the designs of foreign powers.

As a hawk I do question Morgan's following statement, "hawks who oppose détente." Speaking as one "hawk," I do not oppose "détente" but the illusion of "détente." And that is a very important distinction. Webster defines illusion as "the state or fact of being intellectually deceived or misled" or "something that deceives or misleads intellectually." This is what has happened. Many have been deceived or misled—some by their own wishful thinking and some by Soviet efforts. But détente has proven to be an empty shell—an empty shell some in policymaking positions and in opinion-making positions are loath to recognize.

The Soviets, judging by their actions, recognize détente as a technique to obtain Western, particularly American, technology to improve their industrial base and military might and to use every opportunity to expand their influence at the expense of the United States. Examples of Soviet actions to back this thesis are legion—Soviet arms deliveries to the Middle East and support for Arab oil cutoffs to the West, Soviet supply of weapons to North Vietnamese, growing Soviet strength in the Indian Ocean and Persian Gulf area, Soviet submarine patrols off the American east coast, Soviet building of new missiles, and numerous others.

We must not confuse realities with illusions. Our national security depends on us being able to make these distinctions and translate them into policies which guarantee our continued strength. If we do not have the will to do what is necessary to withstand the Soviet threat, no one else will do it for us.

WHO IS THE FARMER?

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1973

Mr. PICKLE. Mr. Speaker, it is a long way from Wall Street to Main Street, but the distances are being cut down.

Just as the energy crisis makes it obvious how interdependent the nations of the world have become, recent agricultural fluctuations make it obvious how interdependent are the various segments of our own economy.

With the vast majority of our population now living and working away from the farm, it is helpful, I think, to stop and take a look at the fellow American who puts the bread on our table.

An article in an International Harvester Farm Report does just that, and I would like to reprint the article at this time.

Who Shall Inherit the Earth?

"Most people think the farmer is a fellow who's got a straw hat on, a pipe or a chew of tobacco in his mouth, and a pair of overalls on with the tail of them out, and one suspender is hooked and a pair of shoes or maybe none."

The speaker is a young farmer in a business suit from Alabama, an expert, like any young farmer, on the danger of stereotypes. He relates the essence of the farmer's image today. An image that is perpetuated in spite of the fact that in these times farmers are coming into their jobs better educated. The new generation is not only well read, but many are college graduates and trained in any number of the hundreds of farm-oriented programs that have emerged since World War II. These young farmers are strong managers and very cosmopolitan.

The lure of the cities for rural young people is a fact of our century. Jobs money, prestige and material comfort for all have been the promises of city life.

What are the young people like who chose to remain on farms? And why did they stay? Going beneath the stereotype, what do we find? Young farmers today look like businessmen, act like businessmen—are businessmen.

More than once, young farmers have told International Harvester in a series of in-depth interviews: "If you're farming the same way you did two years ago, you won't be farming two years from today."

HOW DO THEY KEEP UP?

Most young farm operators have had some college experience—and more and more are college graduates. For instance, Gordon Mann of Chickasaw County, Iowa, holds three college degrees. After earning two engineering degrees and a business degree from Harvard University, he and his wife returned to the farm.

Like many young businessmen, young farmers take continuing education courses. Hundreds of classes on vocational-agricultural subjects are offered in the U.S.

And non-farm business people, familiar with annual sales meetings, would be amazed, probably, to find the equivalent information resource for farmers. But especially during the winter, farmers gather to hear about what's new, from neighbors and manufacturers.

"Business is behind a lot of this," says an Ohio farmer. "Fertilizer companies, seed companies, equipment companies. Because they're in business, too, to sell their products. And they're out to help the farmer to use their products, to raise more and better crops. Agriculture is a primary growth industry in the United States. They've had the greatest increase of production per man since World War II that there is."

True enough. In 1950, the U.S. population was 151,325,798. By 1970, we had 203,211,926 people—a growth of 34 per cent in twenty years. Farmers, working 48 million fewer acres since 1950, and working 6.5 billion hours compared to 15 billion hours in 1950, fed and clothed more Americans in 1970. In 1950, one farmer fed and clothed 15 urbanites, compared to more than 47 in 1970.

Farm productivity between 1950 and 1970 increased by these numbers: vegetables up 82 per cent; cotton, 60 per cent; Irish potatoes, 73 per cent; milk, 251 per cent; poultry, 471 per cent; beef, 127 per cent. In 1950, corn farmers got 37 bushels an acre; in 1970, production was up to 87 bushels. Wheat yields were increased per acre by 83 per cent.

And this despite government controls which have kept production down.

TOIL AND ITS REWARDS

So if today's young farmer reflects touches of affluence that have come to many Americans, he is more than entitled to his share. As Emerson said, "The farmer is covetous of his dollar, and with reason . . . He knows how many strokes of labor it represents."

No stereotype is completely unfounded, but the perpetuation of stereotypes is a tragic flaw. And no group suffers more deeply than the young farmer. Because the false bib-and-overalls image is what puts him, according to a recent poll on professional status, so far down the list in terms of what urban America thinks of him. His status in the eyes of his fellow-Americans is part of what a young Ohio farmer meant when he said, "It's a pretty hard thing to start out to be a farmer."

The danger in stereotypes is their one dimensional character. And so it would not be correct to begin and end the "new image" of today's farmer with either overalls or a business suit. Because the farmer doesn't wear a business suit when he's working. But then, neither do the airplane pilot or the cab driver or even the Shakespearean actor. You dress to fit the role. But people play lots of parts. People are complex.

No man is more complex than the farmer. More often than not, he's laborer, manager, carpenter, banker, repairman, employer, mechanic, weatherman scientist and more—all rolled into one hard-working, individual, satisfied to be called "farmer."

And job satisfaction is hard to find these days. The latest Gallup poll on the subject says only 77% of American workers are satisfied with their job, a 10% drop from last year.

Ask most people why they do like their jobs, and they'll probably mention income, fringe benefits. Maybe occasionally the people they work with.

But ask today's young farmers, and you sometimes hear a touch of the poet.

Ohio again: "I think when you work land and work livestock, you really know what creation is all about. Because you see life, you see life every day. You see life, creation, germination. You see birth, you see death, you understand what the whole universe is about, what's going on.

"You know that you have to fit into this pattern, that you don't abuse nature. That you work with nature. And that when you abuse nature, nature aborts."

A young California farmer puts it this way: "We are trying to take better care of the land. In other words, we would like to have the land better after each crop than the prior crop. And I know that practically all the farmers here, the crop is in better shape after they have been farming it than it was before they came. So we are trying to do a better job on it and keep the land in preference."

And a Georgia farmer says: "We see the demand for our grain for Russia, China, India, and so forth. It's good to be a part of knowing that what you are producing is needed. And not only needed, but the bare necessity of life. We can do without a lot of things. Food we cannot. And everyone of us are a part in unity here of accomplishing a part that's more important than defense. More important than any segment of our government, and that's our bare existence from food."

IH has produced a film for both farm and non-farm audiences, "Farming's First Day." And the revealing segments on today's young farmer, themes keep occurring: challenge, freedom, self-reliance, love.

Where does profit stand in the picture? Probably few non-farmers have heard it described this way:

"Farming you are involved with mother nature as well as you are never assured of a market. It is the element of marketing and weather. You are always battling it. So basically a farmer is a gambler. I mean, it is just like rolling the dice in Las Vegas, you might say.

"He plants it today, but he doesn't know for at least a minimum of ninety days how he's come out. He is not going to know whether he won the toss of the dice or not. But he still spent all his money. He put his money on the table, he rolled the dice and it is going to take ninety days to find out whether he won or not."

Another farmer says, "I think that maybe farmers in American society and culture do not necessarily measure by monetary values. Just about how you go about things and have some pride in what you have done, and if you feel like you've done your best and try to preserve what natural resources we have and you try to utilize them in a way that would be beneficial to everybody else."

So, huge gamble notwithstanding, today's young farmer has made a commitment to his job, and to himself. In city life, he finds no attraction. Although some have tried the life.

"I wasn't a farmer all my life. I spent 13 years in a factory, and it just got to me; I quit. Everyday the same thing over and over. Never a chance to go anywhere. Having somebody tell you what you have got to do all the time; when you have got to do it; how you're supposed to do it."

"I could see, all these other people going to work at 7 o'clock and coming back at 5 and I said to myself, 'If that's all life has got in store for me, it ain't going to be worth living.' And these people running around these cities, they don't know what the world's all about."

Whatever negative aspects of farming are cited, the farmers always return to the fact that they love the land and their life with the land.

"I think there is one other satisfaction and that is working with nature. You are with the soil and with the animals and that is different, working with animals, that it is working with people. You talk to them and they don't talk back. And I like this thing of getting up early in the morning in the summertime and getting outside where the air is fresh and clean. That is the part of it I like."

SONS OF FATHERS

Today's young farmer is the son of his father, the son of his forefathers, and the son of these times. He's a Thoreau with 20th Century enterprise. For all his understanding of "a time to every purpose under Heaven," he has to move fast.

For all this, the farmer can't be considered larger than life. Like the rest of Americans, he's confronted with debt, taxes and other enormous problems. He has to rent much of his land because it's too expensive to buy—if he can find it to buy.

But, unlike most Americans, the farmer works with life. And the young farmer, articulate and self-aware, knows he's lucky to understand what others don't.

"Now the big kick is the pollution kick, environment and all this. Why this is nothing new for farm people. They've worked with environment all their life, cause they know that nature is boss. And this is their livelihood. And it doesn't take them long to understand this. When you really appreciate what nature does, what it has to offer, other things fall in place."

The fathers of young farmers, like the majority of fathers at this point in time, knew the Depression. And getting money out of their land had a different meaning than today. Because today's young farmer thinks as much in terms of putting money into the land, in equipment and chemicals. Machines and materials their fathers never knew.

"My dad has been out of farming and out of the state for 20 years. And he understands the basics, but I deal with words he never had to contend with. Pre-emergence, post-emergence and all of this thing, you know. Everyday, everyday you learn, just like going to school. Everyday you learn a new word, and some you can't spell, but everyday there's something new that comes along.

"I think this is what is fascinating, just not going to work everyday putting two bolts in the same hole, and you go home. Everyday it's something new."

In the farmer's immediate experience with seasons and generations of crops and animals, he can appreciate the natural conservativism of his father.

"He's still with us and he's 72 years old. But there's still a lot of knowledge in a man's head when he's 72 years old that you just don't get in 35. Sometimes it's a hindrance. They still remember the Depression a lot. But that's what parents are for, to make you stop and think. Not to tell you what to do, but talk to you."

Many times, of course, the generations confront one another. Because it's not very often that a young farmer will move very far from where he grew up. He knows that land, and to him, that land is better than any other. "Everybody's from someplace and that's the way you are.

You're here and so you're here."

A BOB WILLS TRIBUTE

HON. CLEM ROGERS McSPADDEN

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1973

Mr. McSPADDEN. Mr. Speaker, under the leave to extend my remarks in the Record, I include the following Floyce Korsak article, a "Bob Wills Tribute—Recording a Musical Legacy."

Bob Wills Tribute—Recording a Musical Legacy

(By Floyce Korsak)

Back in the early 30s when America was at its lowest ebb in a depression, a Texas farm boy picked up a fiddle, listened to the homespun music of his elders; the songs of the blacks in the cotton fields of West Texas and to the different drummer in his own heart.

Bob Wills and his fiddle gave birth to a brand new folk music, country-swing, that helped the country sing and dance as it worked its way out of a trying time.

Through the intervening years, the appeal of country music has always held strong in broad segments of the nation, but in recent months, with the economic and emotional barometer of the land again at low ebb, there has been almost phenomenal resurgence of its popularity. This is particularly true among young people.

Thoughts like these were threaded through the conversations of a score or more of musicians who played with Wills, and personnel from United Artists who gathered this week at Sumet Sound Studios to cut two albums of classics made famous by Wills and his Texas Playboys.

Wills himself, who has been disabled by a stroke, was well enough to come to the studio for a few hours and contribute his classic trademark "Ah . . ha . ." to a few of the melodies.

Lynn Schits, who heads sales and promotion for United Artists in Nashville, says there has been a tremendous increase in sales of country music among young people.

"Young people," he says, "are groping for the past. They are looking for a base to hang on to. I remember how I enjoyed sitting and talking for hours to my grandparents. This satisfied a need for security. I just don't think kids have that now.

The youth of America, and Europeans as well, are packing places where they can hear and/or play country music.

"You can see further proof of this in music store sales. For a long time they sold only guitars. Now kids are buying mandolins, banjos and fiddles.

"The demand by younger people for Bob Wills memorabilia and his contributions to folk music ranks at the top.

The two-day recording sessions at Sumet Studios was old home week in its purest sense. Perhaps country-western singer, Merle Haggard, expressed the feelings of everyone in a simple but eloquent way when he said, "I am here out of love and respect for Bob Wills. If it were not for this man I would not be where I am today."

Four of the original Texas Playboys, Leon McAulif, Smokey Dacus, Al Strickland and Eldon Shamblin took part in the sessions this week. Other names easily recognized by the middle-aged generation—Johnny Gimble, Keith Coleman, Leon Rausch and Hoyle Nix—were present.

Nix, a long time friend of Wills, and who can simulate Wills' voice so that it is practically impossible to tell the difference, dubbed in for him at the second session.

Late Tuesday, just as the group was about to tape the Wills classics, "San Antonio Rose" and "Faded Love," word came to the studio that Wills had suffered another severe stroke at his Fort Worth home.

They completed "Faded Love". But with Nix's voice giving forth with Wills' "Ah . . ha", in "San Antonio Rose", the music suddenly stopped. There wasn't a dry eye in the studio.

"A moment like this will never happen again," commented an old friend, Harry Fenstemaker. "It got to everybody. It struck a chord in on everyone's heart."

The legacy that Bob Wills has given the world can best be described in his own words.

"I slurred my fiddle to play the blues."

STRONG MORAL LEADERSHIP NEEDED IN ENERGY CRISIS

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1973

Mr. FINDLEY. Mr. Speaker, the strike and highway blockages by truckers in utter disregard of publc welfare demonstrates what hapens when a nation loses confidence in its leaders. These actions argue more eloquently than words for the speediest possible conclusion of the congressional investigation of President Nixon—in the words of Senator Aiken, "Impeach the President or get off his back." If impeachment is the result, which I doubt, then evidence of impeachable offenses should be presented to the House. So far that has not been done. If, as I suspect, impeachment is proved not warranted, then the President's critics should get off his back and permit him to cope with the immense challenge which is before him and the Nation.

This winter, and the coming few years, may require more Presidential leadership than our Nation has needed since the days of the Great Depression and World War II. Americans who have lost faith in the President are unlikely to heed his pleas that they turn down their thermostats and conserve scarce energy supplies. Yet, that is exactly what must be done. Only Congress has the ability to restore public confidence in the Presidency.

Public disenchantment with the institutions of Government is growing. The following letter from a small Illinois oil distributor indicates the depth of public concern. It also indicates why Congress must get the impeachment question settled and out of the way, so that the President can go about the business of leading the Nation through the energy crisis:

Hon. PAUL FINDLEY,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN FINDLEY: Perhaps you are unaware of the bitterness and disgust of the heating oil consumer. They cannot understand why the Cost of Living Council permits and in fact encourages repeated heating oil price increases while those heating with natural gas and electricity do not share in the increased costs of energy. In addition, beginning Dec. 27 they are allocated 15% less fuel oil while those heating with gas and electricity are only asked to reduce their consumption but their supply is not reduced.

The COLC, and apparently the newly created Federal Energy Commission, reasons that with higher prices less heating oil will be consumed and that refiners will produce more fuel oil and less gasoline. The fact that the home users supply is being reduced 15% and other classifications of users is being reduced various amounts makes less consumption of fuel oil mandatory, so that higher prices are not needed to achieve this objective. As far as the argument for higher prices for fuel oil to encourage higher percentages of production is concerned, in the Wall Street Journal of 12–3–73, M. A. Wright, Chairman of Exxon, states that "distillate production from available crude currently is being maximized". And Standard of Indiana in full page ads in major city newspapers state, "We are producing as much heating oil as we can, and investing heavily to produce even more." Perhaps other major oil companies are already producing as much middle distillate as they can and if not they should be ordered to. In this critical energy crisis why should additional incentives in the way of higher profits on fuel oil be offered to spur its production when tremendous increases in profits is already being realized by the refineries?

According to a report on a St. Louis TV station, in the St. Louis area, of which we are a part, about 10% of the homes are heated by oil and approximately 90% is heated by natural gas and electricity. Most of those heating with oil live in older homes and are people in the lower income group. These are the people who have to suffer the double penalty of a 15% reduction in supply and unrestained price increases. They cannot understand why they are being singled out to suffer this burden and the only explanation we can give is that our margin remains constant and it is the suppliers who raise prices—with the encouragement of the government. Since January of this year Shell has raised heating oil prices 6.7 cents per gallon, which is in excess of 50%, and the COLC and the Federal Energy Commission is encouraging further increases. Does that make sense to you? Mr. Dunlop's objectives seem to be pneumonia and bankruptcy for the poor.

In contrast to concessions to the large oil companies, nothing has been done to alleviate the plight of the small gasoline dealer and oil jobber whose margins remain constant while product availability decreases and operating expenses increases. It is understandable why the smalls keep griping about the favoritism shown big business. It appears that the major oil companies have been getting just about every thing they ask for—and then some—from the COLC and judging from what is to be read in the newspapers there will be more of the same from the Federal Energy Commission. The plans for gasoline allocation and rationing seem to be just as fouled up—give as little as possible to the poor and make it available to the wealthy who can afford to pay a higher price or an additional excise tax. It is all very disgusting. Protests are beginning to spread beyond the grumbling stage, and I think the truckers blockage of highways is just the tip of the iceberg. Most of the truckers who complain, among other grievances, about high diesel fuel prices are probably unaware that it is the large oil companies who with government encouragement are unrestrained in price increases. The resellers margin has been pegged for months.

I am aware of your efforts in behalf of the gasoline dealer and the oil jobber in the past and I want to express my sincere thanks. I hope that you and other members of the Congress can correct some of the inequities I have described.

Sincerely yours,

—————— ——————.

IMPACT OF OIL EMBARGO IS "DISTORTED"

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1973

Mr. EILBERG. Mr. Speaker, after Watergate the energy crisis is probably the most talked about subject in America today.

Unfortunately, like Watergate, the truth about this crisis is a very elusive thing. However, a copyrighted article was published in the Philadelphia Inquirer on this subject. This outstanding piece was written by Donald L. Barlett and James B. Steele and it dispels many of the myths about the energy crisis.

It also raises some very disturbing questions. The article points out that the Nixon administration has been issuing conflicting statistics and statements constantly about this problem and that the needs and interests of the major multinational oil companies are in conflict with the needs of the American people.

My subcommittee will shortly be looking into one aspect of this problem, the Interior Department's administration of the oil reserves located under the Outer Continental Shelf. There are indications again, that the needs of the oil companies are not the same as those of the people of the United States.

Yesterday I inserted the first half of the report published in the Philadelphia Inquirer. At this time I insert the concluding portion:

Focus on Overseas Sales Hurt Domestic Market

UNITED STATES DOES NOT KNOW

The popular predictions of assorted national disasters brought on by the Arab shutoff seem to grow naturally out of the inflated statistics tossed around casually by the federal government's oil policy authorities.

While it is possible to come up with reasonable estimates of the amount of crude oil imported into the United States directly from Arab states, such is not the case when it comes to computing the volume of products refined in other countries from Arab crude oil and then shipped here.

The federal government never has been much interested in charting the flow of international oil and, indeed, the Bureau of Mines has had only one minerals specialist assigned to the task.

As for the data available from foreign countries, it is even more sketchy than that for the United States. And naturally the information is not subject to independent checks.

Then, too, refineries may receive crude oil from a half-dozen different countries. The oil is pooled for refinery runs and the gasoline, home heating oil and other products turned out actually are derived from both Arab and non-Arab oil.

How then does the Interior Department come by its refinery statistics?

Largely from the oil companies themselves, an Interior Department official acknowledged, adding: "We try to pick up statistics wherever we can. But you can guess to a degree."

And that is still another reason for all those conflicting figures coming out of Washington.

Although the Bureau of Mines maintains data on the source of crude oil going into refinery centers in the Caribbean area—which accounts for a sizable volume of United States imports—the information from elsewhere around the world is vague.

In some countries, like Israel and South Africa, oil statistical material is considered secret. Countries like Iran, a major oil producer, do not publish information showing the final destination of all of their exports.

There are reasons for all this secrecy. Iran, for example, which borders the Arab state of Iraq, for years has been sending oil around Arab lands into Israel. Neither government wants to acknowledge the shipments.

But the figures the Bureau of Mines has pulled together for the Caribbean area—the single largest foreign supplier of finished petroleum products to the United States—at least offer some indication of the amount of Arab oil included in refined products that are imported.

During 1971, the most recent year for which figures are available, a refining complex in the Netherlands Antilles received 751,000 barrels of crude oil daily from at least six different sources.

The largest supplier was Venezuela, which shipped in 613,000 barrels a day, or 81 percent of the refinery center's total input.

Other crude oil came from Brazil. Gabon and Nigeria. And there were 33,000 barrels a day that came from some unaccounted-for source.

Only 5,000 barrels a day, or 1 percent of the oil the refinery complex received daily, was shipped from an Arab country, in this case Libya.

WHAT COULD BE DONE

At another Caribbean refinery center, this one in Trinidad, the shipments of Arab crude oil were much higher. The center received 293,000 barrels of crude oil daily, of which 154,000 barrels, or 53 percent, originated in Saudi Arabia and Libya.

The remaining 139,000 barrels a day came from eight different countries—Venezuela, Iran, Angola, Gabon, Indonesia, Brazil, Colombia and Nigeria.

But while Arab crude oil accounted for 53 percent of the crude oil sent to the refinery center, the United States imported only 217,000 barrels of petroleum products a day, or 54 percent of the refinery's total production.

And therein rests another fascinating aspect of the Arab boycott: The multinational American oil companies play a major role in policing the oil embargo for the Arabs.

For in theory, at least, the Trinidad refinery center could take the non-Arab crude oil, refine it and export the finished products to the United States.

It then could take the Arab oil, process it and ship the refined products elsewhere around the world, to those countries not under the Arab embargo.

There is, though, another way in which the international oil companies control the worldwide flow of oil, and that is through their huge tanker fleets.

If the companies were so disposed, and if the Arab cutoff had created truly serious problems, then tankers carrying Arab oil could be directed to those refining centers producing petroleum products for countries not under the embargo.

Similarly, tankers carrying non-Arab oil could be steered to refining centers processing crude oil for distribution in the United States.

But the trading off of oil shipments can work both ways. If the multinational oil companies wanted to emphasize American dependence on Arab oil, then tankers carrying Arab oil could be directed to refining complexes that normally would use non-Arab oil.

Last year, the largest exporter of crude oil and petroleum products to the United States was Canada. The second largest exporter was Venezuela.

In fact, these two countries accounted for imports of 2,068,000 barrels daily—or well over twice as much as the United States received from Arab countries.

But such is not the case with America's five largest international oil companies, which last year produced well over 6,000,000 barrels of crude oil daily in Arab countries.

A Bureau of Mines official told The Inquirer that although the figures for the Caribbean refineries are for 1971, and the volume of oil processed has changed, there is no reason to believe that the percentages of distribution have changed.

He said a survey of the 1972 operations of a Virgin Islands refinery complex showed about the same percentage of crude oil imports by country as in 1971.

REASON FOR SITUATION

With all of the talk about American dependence on Arab oil, it is important, perhaps, to keep a few other statistics in mind.

The growing bind the American oil companies now face in the Arab world is the result of some two decades of multibillion dollar expansion of the Middle East oil reserves.

It was during the early 1920s, when the United States once before feared it was exhausting its domestic oil reserves, that the federal government urged major oil companies to obtain oil reserves in foreign countries, including the Middle East.

A worried Herbert Hoover, then Secretary of Commerce, met with oil industry leaders on August 16, 1921, in Washington and stressed the need to obtain secure sources of foreign oil under the control of American companies.

"Unless our nationals reinforce and increase their holdings abroad," Hoover said, "we shall be dependent upon other nations for the supply of this vital commodity within a measurable number of years . . . We must go into foreign fields in a big way."

Aided by the United States State Department, the oil companies had soon done just that.

The department conducted extensive negotiations with the British, who already had a foothold in Iran where oil was discovered in 1908, to open the door for American companies to explore for oil around the Persian Gulf.

Even so, a glut of oil discoveries in the United States in the 1920s and 1930s dampened interest in the Middle East as American companies were hard-pressed to sell all the oil they had found back home.

American companies reported major oil discoveries in Kuwait and Saudi Arabia in 1938, but it was not until after World War II that production began to rise dramatically, from roughly 700,000 barrels daily then to 12,300,000 daily by 1973.

Once again, in the 1940s, as it had in the 1920s, the State Department played an active role in encouraging the multinational oil companies to secure more foreign oil holdings.

After the war, the oil companies made a fundamental shift in their worldwide distribution system of crude oil due to rising production in the Middle East. Increasingly, they shifted that oil into Europe, a market that previously was served by oil from the United States and Venezuela.

Since then, of course, Arab oil has played an ever greater role in the economies and life of European nations, with the oil companies investing billions of dollars to supply their growing market there and in Asia. Much of the development has come at the expense of the United States.

In the case of Exxon Corp., for example, the company increased its already sizable reserves in the Middle East and Africa, mostly in Arab states, from 24 billion barrels in 1963 to 34 billion barrels in 1972.

At the same time, Exxon's United States reserves increased only slightly, from 5.1 billion barrels to 5.5 billion. Such figures help explain America's slide from self-sufficiency.

But the explanation as to why the multinational oil companies have continued to explore and develop the oil reserves of Arab states while ignoring other regions is found in the nature of the oil industry itself.

The oil industry has a herd instinct, not unlike the 19th century gold rushers who flocked to the Yukon and California in search of quick fortune.

"It's not really a very sophisticated industry," said Donald L. Campbell, a vice president of J. C. Sproule and Associates of Calgary, Canada, a geological consulting firm. "It has a follow-the-leader psychology."

Campbell said substantial exploration was underway in Canada's lower Mackenzie Valley above the Arctic Circle in the late 1950s. Then oil was discovered off the coast of southern Alaska and in the North Sea. The oil rigs soon disappeared from the desolate north and were on their way to the new strikes, he said.

Not only is exploration easier in countries around the Persian Gulf than in less accessible regions, but the oil wells in the Middle East flow with incredible force. Thus, production costs are much cheaper than in places such as Texas.

That powerful economic attraction of Middle Eastern oil development in the past has created the mistaken impression that the Middle East is the only place left in the world with sizable oil deposits. Such is not the case.

In the United States alone, roughly only a third of the oil that has been found in the country's history has ever been produced. The rest is still in the ground. The oil industry has always maintained that it is uneconomic, in most cases, to extract more than one-third of a reservoir's oil.

But that does not mean the oil cannot be produced. In fact, the Quaker State Oil Refining Corp. of Oil City, Pa., has been conducting tests for several years to increase the amount of oil recovered from oil reservoirs.

A company official said most oil eventually can be recovered. "It's really just a matter of economics," he said. "The trick is to get the price down far enough to equal the price of crude."

Or put another way, as the prices of petroleum products rise, the companies will begin extracting the oil that is more expensive to reach and the nation's reserves figure will go up once again.

Indeed, even if there were no more oil discoveries in Alaska or elsewhere in the United States, there remains enough oil in the ground to keep the country running well into the next century.

And that does not include the substantial offshore oil deposits—which are at least five times greater than the present proved reserves of the country. Nor does it include the huge reserves in the Arctic, nor the more exotic sources such as shale oil and tar sands. Nor does it include the massive coal supplies which can be converted into gas.

Computing all these sources together, there are sufficient supplies of petroleum to keep the country running for centuries.

While developing the Arab oil reserves and making much of the world overly dependent on them for supply, the multinational oil companies were ignoring other promising and more politically-stable petroleum regions such as the Canadian Arctic.

To this day, the little exploratory work that has been undertaken in the Canadian Arctic has been done largely by a consortium made up of the Canadian government and independent Canadian oil interests.

The consortium, Panarctic Oils Ltd. of Calgary, has so far discovered five major gas fields in the Arctic islands, and the company estimates it has found roughly 10 trillion cubic feet of natural gas.

Panarctic believes it must find about 30 trillion cubic feet to make a pipeline economical. Geologists have estimated total recoverable natural gas reserves in the Arctic islands at 342 trillion cubic feet.

As an indication of the size of Panarctic's natural gas finds to date, the company has found enough gas to provide residential and commercial heating to Philadelphia for 200 years.

"The major international oil companies were noticeable by their absence, though they surely knew of the area's potential," said R. G. S. Currie, a vice president of Panarctic, in a paper given last May in France. He also offered an explanation for the companies' lack of interest:

"It is understandable that companies having large reserves of low cost oil, in foreign countries of unstable government, would prefer to produce and market these reserves first rather than spend large sums of money to find more oil at home, which would only serve to reduce the market for the foreign crude."

With their interests tied so closely to the Middle East's future, it is not surprising that some of the oil companies publicly urged the United States this summer to give the Arabs more support in working out a peace settlement with Israel.

"There must be understanding on our part of the aspirations of the Arab people and more positive support of their efforts toward peace in the Middle East," Otto N. Miller, California Standard's president, wrote to stockholders and employes in July.

FIT IT TO THE CLOTH

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1973

Mr. CLAY. Mr. Speaker, there has been much discussion as to whether the All Volunteer Military Force has been working well. As one who supported the concept of an All Volunteer Army, I think it is workable.

The St. Louis Post-Dispatch in an editorial on December 7 points out that the main obstacle to this system working properly "is that the Pentagon is still trying to impose the all-volunteer concept on the existing military structure, which is based on obsolete foreign policy assumptions and the luxury of an unlimited supply of involuntary manpower."

The Post-Dispatch offers some alternatives for making the system operative. I want to share this editorial entitled "Fit

It To The Cloth" with my colleagues. The editorial follows:

Fit It to the Cloth

Enlistments for the all-volunteer military force are falling significantly behind quotas, raising "considerable doubts," the House Appropriations Committee said in a report, "on the long-range effect of the all-volunteer force concept on America's military posture." Enlistments in September in all branches of the armed forces, for example, amounted to 32,110, whereas the objective for that month was 38,201. The Army appears to be having the greatest difficulty, having obtained only 82 per cent of its manpower quota in September.

Possibly the easiest way to bring enlistments in line with manpower needs is to reduce the needs, and the House did in fact agree to cut troop levels by 48,000, but that would still give the country a military force of almost 2,200,000. Greater emphasis on recruiting women, raising the age limit and transferring many men from assignments that do not truly require military training to genuine military jobs would also help close the gap.

Perhaps the principal obstacle, though, is that the Pentagon is still trying to impose the all-volunteer concept on the existing military structure, which is based on obsolete foreign policy assumptions and the luxury of an unlimited supply of involuntary manpower. Rather than conclude so quickly that the volunteer system cannot work for America, Congress and the Administration ought to consider how to make the military system accommodate to manpower availability. Some refreshing new perspectives on national defense might emerge.

AN INSPIRATIONAL FAMILY

HON. JACK BRINKLEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1973

Mr BRINKLEY. Mr. Speaker, I recently had the very distinct pleasure of visiting in my Washington office with two good friends—and a truly outstanding couple—from my hometown in Columbus, Ga., Mr. and Mrs. W. L. Pharis.

Mr and Mrs Pharis are the parents of two very talented and successful adult sons—Mr. Hugh Pharis, also of Columbus, and Mr. Robert Pharis, of Albany, Ga. Hugh, an award winning pianist, teaches music in the Muscogee County school system dividing his time between students at five different schools. Robert, also an accomplished pianist and musician, who accompanied his parents on their recent visit with me, is a former schoolteacher and now manages a concession stand in the Albany Post Office. Both are active church members, and active in civic affairs as well.

Both Hugh and Robert, incidentally, are blind.

These remarkable men and their family have set an inspirational example for other handicapped individuals and, indeed, all of us to follow in overcoming seemingly insurmountable adversities to make our lives as meaningful and full as possible. Coincidentally, I was a fellow passenger with Mr. and Mrs. Pharis on their flight home and Hugh was there with his wife to meet them—it was my good pleasure to meet them also.

I highly commend the following articles writen about the Pharises—the first from The Sunday Columbus (Ga.) Ledger-Enquirer magazine of October 8, 1972, and the second from The Columbus Ledger of July 3, 1973—to the attention of our colleagues.

The articles read:

[From the Sunday Ledger-Enquirer Magazine, Oct. 8, 1972]

Brothers Perform Music With Their Eyes Closed

(By William Rowe)

Students at five Muscogee County schools look up to their vocal music teacher—far up. Hugh B. Pharis is a tall man—six-foot-six—and he is slim at 165 pounds.

When he sets up a movie projector to show a music education film, plays the piano, rigs up tape recorder equipment, or pulls out his pocket watch to check the time, students do not realize how unusual he is.

Hugh Pharis is probably the only public school teacher in Georgia who is sightless. He was informed a few years ago that this was true and he has heard of no change.

How does a person who is blind become a public school teacher?

"I tried for the job on a dare," Pharis said. "Some years back, I visited the classroom of my wife Mary (who now teaches fourth grade at Rosemont Elementary) and listened to how she taught the children. Shortly before Christmas holidays I helped her teach her students Christmas music. Then I had a chance to help a physical education instructor with some classes and the principal asked me why I didn't apply for a job as a regular teacher."

Hugh had applied. He had already attended the Georgia Academy for the Blind in Macon, Georgia, Southwestern College, the American Foundation for the Blind in New York, and LaGrange College, earning his B.A. degree in voice and piano, with a minor in psychology.

"But the response to my applications was discouraging," he said. "I received few answers. It seemed nobody believed a blind man could teach public school music."

Hugh Pharis has been proving differently for more than five years, going to a different school each school day, staying the full number of hours, teaching just as any qualified, sighted person does.

"People just don't realize what a blind person can do," Pharis said.

When his sensitive fingers touch the raised numerals and minute marks on his pocket watch, he knows the time. Hugh uses a stick in walking about school grounds and rooms after his wife drives him there. He operates the clothes washer and dryer at home, he climbs a ladder up onto the roof of his home at 5524 23rd Ave., Columbus and uses a house broom to sweep off pine straw—also using the broom to keep tabs on where the edge of the roof is.

Hugh Pharis plays chess and scrabble on Braille boards, he reads novels and nonfiction books translated into Braille, keeps up with radio and television news, he listens to Mary dictate music and he types it out on a Braille writer so that he can practice the composition until he has learned it by heart.

He instructed members of the Jewish Ladies Aid Society of Columbus in the transcription of Braille during one of their projects. He has taken three Columbus College courses along with his wife.

Hugh is an active member of the Columbus Lions Club, which meets Tuesday evenings, and Beallwood Baptist Church, where he is chairman of the music committee. As a Lion, he is co-chairman of the club's school safety patrol committee and serves on sight conservation and publicity committees.

"There are so many jobs a blind person can handle," he said; "such as lawyers, college professors, piano tuning and repair, playing music and entertainment."

More than 30 years ago, when he was not more than nine years old, Hugh had eyesight, although it was not good. He was able to see and learn the colors of his surroundings—the sunsets, the dark thunderheads—and those stored memories enable him to visualize colors today in his mind's eye when someone describes them. Glaucoma cost him the last of his vision at age 17.

In those early days he and his younger brother Robert attended East Highlands Elementary School and East Highland Methodist Sunday School.

So it will be a homecoming today when Hugh and Robert Pharis present a program of piano and organ music at East Highland United Methodist Church at 3:30 p.m., followed by a reception at 4:30 p.m.

Hugh began playing the piano when he was eight years old, studied under "a crackerjack teacher at Macon, a demanding perfectionist who enjoyed music and who was totally blind." Hugh won district and state medals while in high school.

"Robert will play the piano in the program today and I will play the organ," Hugh said. "We have not had much time to practice together, so we will improvise."

Robert Pharis, now 38, manages a concession stand in the lobby of the post office in Albany. He works daily and on Saturday mornings and has manned this post since 1959.

The brothers are the sons of Mr. and Mrs. W. L. Pharis of Columbus, the only two in the family to inherit poor vision.

Robert attended Young Harris and LaGrange College and took piano lessons paid for by the Jewish Ladies Aid Society of Columbus. He took a B.A. degree in English, taught in Canton and Cummings public schools until failing vision forced him to resign in 1969.

Albany postmaster Leon Mott says, "Bob is an inspiration to everyone. Why, when I'm feeling low sometimes, I'll leave my office and go out and just stand and watch Bob or talk with him a few minutes and I feel a lot better."

Optimistic in outlook and active in Albany's First Baptist Church, Robert plays the piano for services and sometimes sings in the choir. He also serves as chaplain and pianist for the Lions Club.

These two sons of Mrs. Pharis, named "Mother of the Year" in Columbus several years ago, presented a program at East Highland Methodist Church in Columbus last year. The congregation moved to invite them back for this afternoon's program.

The performance the Pharis brothers will give required more effort than sighted musicians have to give, because the blind must memorize all their music, "bar by bar, hand by hand and then put it all together," Hugh said. "It takes longer to learn."

But these are brothers who can do it and have. Hugh has years of experience teaching public school children vocal and folk music, enriching their learning with movies and tapes, stimulating their imaginations with challenges that they draw pictures to go with music, taking his vocal group for television performances.

Today's program will not only be a message in music, but will demonstrate what a good use two men have made of their time and talents.

[From the Columbus Ledger, July 3, 1973]

Hugh Pharis Day Is Declared To Honor Blind Lions Member

(By Martha Evans)

It might be only an embarrassingly bald head, but everyone, no matter who he is, has a handicap, the chaperone would tell one civic club audience after another.

The handicap his charges shared was blindness.

Hugh Pharis was in that group of singers who appeared before civic clubs across the state, brought by a chaperone determined to show the sighted world just how bright and capable his young charges were.

As a result of the tour, Pharis came to associate the Lions Club with sight conservation. In 1968, he became a Lion himself.

Now he has been presented a state award, the Lions International Outstanding Blind Person Award at the Multiple District 18 convention held recently in Macon, Ga. And the Columbus Lions Club was to honor him today by designating their luncheon meeting as Hugh Pharis Day.

Pharis, a music teacher in the Muscogee County School District, has apparently reached a point in life where "no" is not a word he hears so frequently.

Previous Ledger stories have told how Pharis, unable to get a teaching job because of his handicap, helped his wife Mary, who was a classroom teacher herself, teach her students several songs.

The principal was impressed and asked Pharis why he didn't apply for a job. Pharis explained how school systems just didn't seem to want to take a risk with a blind teacher but the principal insisted, "Well, one more 'no' wouldn't hurt."

Pharis, to his amazement, got a "yes" and now divides his time among five different elementary schools.

He also knows the meaning of the word "almost," almost being able to see again, but is not bitter that some 30 operations failed to correct the congenital condition.

Pharis was a young student, riding home in a train after another eye operation with his head swathed in bandages. Through a tiny peephole, he could, amazingly, see.

Two days later, the eye hemorrhaged. The surgeon had already given up on the other eye.

Says Pharis, in explaining his lack of bitterness, "I had lived in an environment (the Georgia Academy for the Blind at Macon) where I knew too many kids who had never even seen the light of day." (Pharis was sighted as a child, though his eyes steadily worsened.)

Pharis and his wife Mary enjoy an easy camaraderie which puts visitors and friends at ease about his blindness.

Pharis admits he hopes his membership in the Lions Club here has had that same effect of making members less self-conscious about blindness.

Indeed, a club officer recently called on Pharis to draw a name from a box as the winner of the week's "pot," pocket change contributed by members. Jokingly, the officer noted the drawing would have to be fair.

The only lingering disappointment shared by Mr. and Mrs. Pharis is their failure to adopt a child.

They have been certified by both the local and state adoption agencies since 1970 but have not gotten a child.

With growing competition for available children, Pharis feels they are passed over by caseworkers for a couple where both potential mother and father are sighted.

STATEMENT OF ANDREW YOUNG

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1973

Mr. McCLOSKEY. Mr. Speaker, during the debate on the confirmation of our colleague, Jerry Ford as Vice President of the United States, Mr. Young of Georgia set aside his prepared remarks and delivered one of the most eloquent, impassioned statements I have been privileged to hear since being elected to Congress. The remarks which appear in the Record for December 6 reflect Mr. Young's prepared statement rather than his actual comments. I therefore would like to include for history at this point in the Record what I believe to be a truly inspirational expression of hope for the future of the Nation and our new Vice President:

STATEMENT OF ANDREW YOUNG

Mr. Young of Georgia. Mr. Chairman, there is no decision that I have had to make in the House that has torn me so much, because I find myself torn between my political judgments and my personal judgments. I find myself coming to vote against what I feel to be my own best political interests in disagreeing with many of the colleagues in this House that I respect most.

I do it because I feel a desperate sense of urgency about the division and crisis that besets this nation. I think I make this vote more as a vote of faith and hope than any objective political consideration, for if Gerald Ford had had his way in the Voting Rights Act of 1965, I would not be a member of this House. The amendments which he supported would have kept me in the South, doing whatever I might have been doing at that time.

But it is the very fact that I am from the South, and during the time of my own political life and prior to that, I have seen so many men, about whom I had questions and about whose past I had grave doubts, rise to the occasion.

I remember in 1960 not being pleased at all with the record of John F. Kennedy and wondering what would happen if he were elected President. But, given the choice, I made the right choice. He vindicated me in that choice.

I had doubts about Lyndon Johnson as his successor; but nobody spoke or moved more forthrightly in the civil rights area when he became President of the United States than Lyndon Johnson did.

So I guess my vote for Gerald Ford is coming out of that Southern experience. It is an experience that says that people, given an opportunity to serve in time of crisis, can grow to meet the challenge of that crisis.

I hope and pray for the sake of this nation that Gerald Ford measures up. I hasten to say that I also reserve the right to criticize and will be the first to do so, should he not. I would hope that, along with the American people, we could rise up to express our discontent with anybody that seeks to further polarize and divide this nation along lines of race, class or party. It is time for us to heat the homes of those who are cold, to educate our children. It is time for us to bring a sense of confidence in our government that I hope Gerald Ford can bring. I sense in him the kind of personal integrity that somehow makes me override all my political considerations; so I will vote today to confirm Gerald Ford as Vice President of the United States.

CHARLES A. VINCENT

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1973

Mr. RANGEL. Mr. Speaker, one of the leaders in the regrowth of Central Harlem' economy is Charles A. Vincent. I have had an opportunity to work closely with Mr. Vincent and to observe his efforts on Community Planning Board No. 10 in my congressional district. Both as a citizen and as a businessman, Mr. Vincent has made a major commitment to rebuilding the black capital of America.

Now the CAV Building is being dedicated, the largest black-owned and operated office building in the United States. I was privileged to participate in the groundbreaking ceremonies for the building and I have watched it rise on 125th Street. Its opening signifies a belief in the economic future of Central Harlem.

I congratulate Charles A. Vincent on this landmark step and wish him continued success in his endeavors on behalf of the people of Central Harlem.

Mr. Speaker, I would like to include an article on Mr. Vincent at this point in the Record:

HIS GOOD OFFICES

(By Sandra Satterwhite)

Charles Avery Vincent is noticeably proud of the fact that he got a $15 million private loan to build a 15-story office building in Central Harlem which will house federal offices. The 43-year-old lawyer, a Republican, who seems disdainful of government-sponsored minority capitalism programs, is quick to point out, "I didn't get any subsidies. I borrowed every cent for this project."

And on a more philosophical note, "This is a capitalistic country and it's time for blacks to get into the mainstream of the American economy."

His showcase is the textured brown brick and bronze C.A.V. Building at 55 W. 125th St. (between Lenox and Fifth Avs.) It's billed as "the largest black owned and operated office building in the nation" with 230,000 square feet of rental space, a cafeteria for employes, a cocktail lounge, a reservations only restaurant (or executive dining room) and underground parking.

There'll be an official opening for 500 invited guests next Wednesday in "Vincent's Place" (the cocktail lounge and both dining facilities, an affiliate of Vincent's C.A.V. Enterprises). Tenants will move into the first five floors this month and the rest of the building will open by Feb. 1.

Manufacturers Hanover Trust, which provided the $15 million loan, will move its 125th St. branch into space on the ground floor and Rep. Charles Rangel of the 19th C.D. is expected to be a third-floor tenant. Vincent said that about 90 per cent of the space has already been leased, but he won't give names of corporations because "they want to hold their own press conferences."

Vincent talked about his new building in between numerous incoming phone calls, and seemed to relish his ability to handle two or three at a time. He sat behind the desk at C.A.V. Enterprises (the initials are taken from his name), his real estate development corporation at 32 E. 57th St.

He said that the offices will provide jobs for 2000 and that there should be an improvement in city services. "You can get better police protection, better lighting and transportation because your services depend upon your real estate taxes." He expects to pay at least $250,000.

He had the idea for federal offices because the city has leased a major portion of a building between Seventh and Eighth Avs. and the State Office Building is a block away. "I thought it was a good target to go after. Why shouldn't the federal government be in Harlem?"

Acting through the General Services Administration, the federal government has leased 45,000 square feet. So far the Internal Revenue Service and the Social Security Administration have made plans to open district offices there.

A Southerner who migrated North, Charles Avery Vincent was born on March 4, 1930 in Greensboro, N. C. Both parents died when he was young and an older brother supported the family. He's the youngest of eight children. He moved to Rocky Mount in that state when he was six.

He attended the public schools and graduated from Booker T. Washington HS in 1946. He went on to Lincoln University where he majored in political science and finished in three and a half years in 1949. He got his law degree from Catholic University of America in 1954.

In the '50s he was admitted to the bar in both North Carolina and in Washington, D.C.

Before and shortly after law school he was an assistant historian in the National Archives in Washington, D.C. Moving to Long Island in 1957, he worked in the legal departments of several insurance companies. In 1969 he was an underwriter and clearance officer with the Chicago Title Insurance Co. (Home Title Division of New York), then an assistant vice-president in the Law Dept. of Title Guarantee Co. of New York before leaving in June, 1970 to form C.A.V. Enterprises.

"I'd dealt in this [real estate] for the past six or seven years, only I was doing it from the angle of insuring it and I decided to try it on my own," he said about his decision to launch his company. He thinks this experience had a lot to do with getting his bank loan. I went to them with a package that was well put together and I had gotten some 'Triple A' leases."

He's divorced and lives with his 17-year-old son in Huntington, where he often plays bridge, and in the summer hits the tennis courts and swimming pools.

He now plans to use the 11th floor of the C.A.V. Building for his real estate corporation and hopes to increase the five-member staff. He'll probably have some leverage as chairman of Community Planning Board No. 10, which covers Central Harlem, in getting proposed projects off the drawing boards. But he won't reveal his plans. "I'm still negotiating for additional property but I don't want to go into that."

CHUCK RILEY OF WIBC, INDIANAPOLIS, MAKES POINT THAT THERE IS MUCH RIGHT WITH OUR COUNTRY

HON. WILLIAM G. BRAY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1973

Mr. BRAY. Mr. Speaker, that is something we are inclined to forget—or someone is forever telling us how bad off we are. Following is Mr. Riley's broadcast over station WIBC, Indianapolis, Ind., recently:

COMMENTS BY MR. RILEY ON WIBC

It was the immortal Robert Burns who wrote:

"O would some power the gifti gi'e us
To see ourselves as others see us".

We Americans are probably the most self-critical of any people on earth. Our columnists and commentators, yes even our comedians, find much that is wrong with our country. The extent to which we flagellate ourselves sometimes oversteps the reasonable limits of freedom of speech.

We're also probably the most harshly criticized nation in the world by the press of other countries. Our economic and political foreign policies attract frequent fault-finding in the foreign press.

Against this background of displeasure both at home and abroad, it is rewarding to encounter a favorable public statement about Americans from a radio broadcaster in another country. An editorial presented by Gordon Sinclair on CFRB Radio in Toronto, Canada last June 5th spoke encouraging words about us in a way that would have been difficult for an American. Even though the editorial is now several months old, it is still meaningful enough to merit quotation here in part. My name is Chuck Riley and I'd like to read to you what Mr. Gordon Sinclair had to say:

"This Canadian thinks it is time to speak up for the Americans as the most generous and possibly the least appreciated people on all the Earth. As long as sixty years ago, when I first started to read newspapers, I read of floods on the Yellow River and the Yangtze. Who rushed in with men and money to help? The Americans did.

"They have helped control floods on the Nile, the Amazon, the Ganges and Niger. Today the rich bottomland of the Mississippi is underwater and no foreign land has sent yet a dollar to help.

"Germany, Japan and to a lesser extent, Great Britain and Italy, were lifted out of the debris of war by the Americans who poured in billions of dollars and forgave other billions in debts. None of these countries is today paying even the interest on its remaining debts to the United States.

"When the franc was in danger of collapsing in 1956, it was the Americans who propped it up, and their reward was to be insulted and swindled on the streets of Paris I was there. I saw it.

"When distant cities are hit by earthquake it is the United States that hurries in to help . . . Managua, Nicaragua, is one of the most recent examples. So far this year, over 59 American communities have been flattened by tornadoes. Nobody has helped.

"The Marshall Plan, the Truman Policy, all pumped billions upon billions of dollars into discouraged countries. Now newspapers in those countries are writing about the decadent war mongering Americans. I'd like to see just one of those countries that is gloating over the erosion of the United States dollar build its own airplanes. Does any other country in the world have a plane to equal the Boeing Jumbo Jet, the Lockheed Tristar or the Douglas DC 10? If so, why don't they fly them? Why do all the international lines except Russia fly American planes?

"Why does no other land on earth even consider putting a man or woman on the moon? You talk about Japanese technocracy and you get radios. You talk about German technocracy and you get automobiles. You talk about American technocracy and you find men on the moon, not once but several times . . . and safely home again.

"You talk about scandals and the Americans put theirs right in the store window for everybody to look at.

"Even their draft-dodgers are not pursued and hounded. They are here on our streets, and most of them—unless they are breaking Canadian laws—are getting American dollars from Ma and Pa at home to spend here.

"When the Americans get out of this bind, as they will, who could blame them if they said the Hell with the rest of the world. Let someone else buy the Israel bonds. Let someone else build or repair foreign dams or design foreign buildings that won't shake apart in earthquakes.

"When the railways of France, Germany and India were breaking down through age, it was the Americans who rebuilt them. When the Pennsylvania Railroad and the New York Central went broke, nobody loaned them an old caboose. Both are still broke. I can name you 5,000 times when the Americans raced to the help of other people in trouble. Can you name me even one time when someone else raced to the Americans in trouble?

"I don't even think there was outside help even during the San Francisco earthquake. And finally the American Red Cross was told at its 48th annual meeting in New Orleans recently that it was broke. This year's disasters, with the year less than half old, has taken it all and nobody has helped.

"Our neighbors have faced it alone and I'm one Canadian who is damned tired of hearing them kicked around. They will come out of this thing with their flag high. And when they do, they are entitled to thumb their nose at the lands that are gloating over these present troubles.

"I hope Canada is not one of these."

TRIBUTE TO FRANCIS T. MURPHY

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1973

Mr. BIAGGI. Mr. Speaker, it is with a profound and deep sense of personal loss that I pay tribute today to a great man, Francis T. Murphy, former New York State assemblyman, lawyer and distinguished Demorcratic Party leader, who died recently at the age of 77.

Frank Murphy led an exemplary and rewarding life. He was a man of great personal integrity, dedicated to the proposition of serving his fellow man. He was a rare man, educated and literate, who used his own God given talents to benefit others.

Francis Murphy was a life long resident of the Bronx, a fact which greatly enhanced his effectiveness as a Bronx political leader. He was born in the Throgs Neck section, and was educated at the great institutions of Fordham Prep and later the university.

He served his country in World War I and by rising in rank from a seaman to an ensign, demonstrated the leadership characteristics which were to mark his later career in public service.

In 1923, the same year in which he graduated from New York Law School, he founded the now prestigious law firm of Goldenkoff & Murphy, and served as its senior member until his death. His law career was an active one, he specialized in real estate law, and was a member of many bar associations.

In 1945–46 Frank Murphy served with distinction in the New York State Assembly. His career in the assembly was characterized by the same fundamental beliefs which he carried throughout life, honesty, integrity, and providing service to the residents of the Bronx.

Even though Frank Murphy did serve in the assembly for 2 years, he became more interested in seeing others become elected than himself. After his career in the assembly, Frank Murphy embarked upon a distinguished career in the Bronx County Democratic Party, which was to span nearly a quarter century. In 1949, he was elected a district leader in Bronx County, a position he was to serve in for almost 20 years, during which time he became a close friend and adviser to the current Bronx County Democratic Chairman, Patrick J. Cunningham.

However, most people feel Frank Murphy will be best remembered for his service as the leader of the Chippewa Democratic Club from 1949–72. It was while serving in this capacity that he was best able to demonstrate his unique brand of political prowess, based on a calm disposition, a winning smile, but above all an overriding concern for justice and fairness, and an extensive knowledge of the community and people he served.

As a result of these fine attributes, Frank Murphy's advice was actively sought by all political figures in the Bronx, whether they were aspiring or established, and each was assured that once Frank's advice was offered it was unquestionably sound, coming from a man who knew the art of politics inside out. I remember when I came upon the threshold of the political sphere, he provided me with the opportunity to attain higher goals for which I will be eternally grateful.

His strong belief in high ethical standards for all men in public office was clearly and consistently reflected in the manner in which he conducted his own personal and professional affairs. He truly served as an inspiration for all of us who had the pleasure of coming in contact with him in any capacity.

Yet, despite all of his time-consuming duties in other fields, Frank Murphy prided himself as a loving and dedicated father.

The most rewarding moment of his illustrious career came the day he witnessed his son, Francis T., Jr., sworn in as an associate justice of the New York State Supreme Court.

To his beloved widow, Bertha, his distinguished son, and his daughter, Mrs. Irene McInerney, I wish to extend my heartfelt condolences, and assure them that their loss will be deeply shared by thousands of New Yorkers.

Mr. Speaker, it is especially difficult to pay tribute to a man of the caliber of Francis T. Murphy, difficult in the sense that his passing represents such a tragic loss. With the death of Frank Murphy, the citizens of Bronx County are losing a real statesman, and his family and loved ones are losing a devoted father.

THE DIET WORKSHOP

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1973

Mr. WYDLER. Mr. Speaker, we are all concerned with the future of these United States of America and that each citizen should have a healthy, happy life. Because we are a Nation of plenty, ironically, we are an overweight Nation. This problem frequently has its onset in childhood, for the fat child often grows up to be the fat adult. This adult goes on to be a statistic in the growing numbers compiled by the organizations and agencies that deal with the end results of obesity: cardiovascular disease, emotional disturbances, and disabilities caused by accidents.

During the past years, as the public has become aware of the dangers of overweight, there has developed a search for an answer. One of the answers found has been a system of weight control through group interaction as typified by the program of the Diet Workshop.

In its 8 years of existence, the Diet Workshop has aided hundreds of thousands to lose weight safely, and to remain slim permanently through a thoughtfully developed program of group dieting and nutritional guidance. The founder and national director of the Diet Workshop, Lois L. Lindauer, started with her own weight loss experience. In her desire to help a friend in Boston, she flew to that city weekly from her Long Island home to teach a group of women what she had learned about the role of nutrition in losing weight. With that group, the Diet Workshop was founded in 1965. Today, it has grown into a major organization contributing to the health of the American people through its hundreds of weight control groups across the country.

Lois Lindauer has converted her loss of one-third of herself into a gain for the entire country. With her interest in helping others and her boundless energy, she has awakened members of the Diet Workshop to the importance of sensible diet in personal and family life. She introduced the concept of a medical nutritional consultant for weight control organizations by selecting a physician with an international reputation as nutritional consultant for the Diet Workshop so that her program would always be on sound footing. She initiated nutritional training and certification for staff instructors to assure responsible and knowledgeable leadership in such programs. It is this type of dedication to the requirements of those who entrust their weight loss to her that has brought commendations to Lois Lindauer from the medical and allied professions.

Because Lois Lindauer is a wife and mother as well as a businesswoman, she understands the necessity for inculcating good eating habits at an early age. Her concern is not just for the dieter who comes to her groups for assistance with a personal weight problem, but for the well-being of the whole family involved. By teaching total nutrition to one family member, the Diet Workshop hopes to spread the gospel of proper eating throughout the populace.

As technology eases the burdens of physical work, the need for high caloric intake decreases. Yet as a Nation, we are teaching our button-pushing sons and daughters to eat as their more physically active grandparents did. With all the bounties of nature at hand to supply us, we are not intelligently selecting those foods that will benefit us nutritionally.

Through weight control classes in the Diet Workshop, mothers and fathers learn not only to reduce, but bring to their family tables and their children a diet that is wise in selection and variety—a diet that will insure to us and our dependents the blessings of health and well-being so that the future of coming generations will rest on sturdy shoulders.

By educating the public to the dangers of fad and crash diets, by providing them with a method and recipes for food preparation that make dieting pleasant, the Diet Workshop and its founder, Lois L. Lindauer, are providing Americans with the knowledge they need not only to slim down but to face up to a healthy life.

ELK HILLS NAVAL RESERVE OIL FIELDS AND OTHER ENERGY CRISIS PERSPECTIVES

HON. PAUL G. ROGERS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1973

Mr. ROGERS. Mr. Speaker, Mr. Ralph D. Jackson of Deerfield Beach, Fla., recently called my attention to an editorial by the editor, Jack W. Gore, which appeared in the Tuesday, December 4 edition of the Fort Lauderdale News. The editorial mentions one of the several possible untapped sources of oil which our Nation could utilize during the energy crisis and suggests action by the Congress to implement its availability. I insert Mr. Gore's editorial in the Record at this point, for the consideration of my colleagues in the House:

Country Might Be Better Off if Government Took Sabbatical Now and Then

Back on Nov. 25, there was an editorial in this space commenting on President Nixon's Nov. 7 energy message and, in particular, on his plans to ask the Congress to give him the authority to use some of the vast oil reserves currently earmarked for the U.S. Navy for civilian purposes.

In his message the President said, if given this authority, 160,000 barrels of oil a day could be flowing from the Elk Hills Naval Reserve field in California within two months.

This particular field, we pointed out, contains about one-fourth of all the oil in California, and is only one of at least four oil-rich areas in this country and Alaska reserved specifically for the future needs of the Navy.

Inasmuch as it was reported to us that these reserve fields supposedly contain enough oil to last the Navy for 500 years, we recommended that the Congress initiate quick action on the President's request to divert some of this earmarked oil to civilian use at this particular time.

To date we have seen no action from the Congress along this line. But even more surprising to us has been the fact that the existence of these reserve fields doesn't even seem to be a matter of common knowledge in Washington.

A friend of ours, for instance, sent copies of this particular editorial to several congressmen who expressed some surprise at the extent of these oil reserves and who replied they would most certainly look into the situation.

But even more surprising, if not downright astounding, was something else our friend told us.

He said he had contacted John A. Love, just prior to his being shunted aside as the President's chief energy adviser, and Love told him he was unaware of these Naval Petroleum Reserve fields.

Love did say, however, he would check into the matter and call our friend back. When he did call back Love said he had confirmed the existence of the fields and he indicated he would get right to work in support of the President's plan to expand production from the Elk Hills field and to begin the exploration and development of one of the fields in Alaska.

Now, if this is true, and we have no reason to doubt it, here was the President's chief energy adviser who wasn't even acquainted with the measures the President told the people of this nation, via a nationally-televised speech back on Nov. 7, he was planning to take to ease the current oil shortage.

Well, John Love is now out as the President's chief energy adviser. Over the past weekend he was apparently relieved of his duties because other high administration officials disagreed with the stand he had taken favoring a gasoline rationing program.

His replacement is Deputy Treasury Secretary William E. Simon who will head up a whole new superagency which will be known as the Federal Energy Administration.

We must presume that Simon knows a little more about the energy problems facing this country than Love apparently did but who can count on this in the wonderful world of bureaucracy that runs things in Washington today?

Offhand, we can't see how an import from the Treasury Department can qualify as an energy expert knowledgeable enough to head up a powerful new government department in charge of all energy conservation programs.

But stranger things happen in Washington every day. Our latest information happens to be that, despite the President's request for congressional authority to open these Naval Reserve oil fields, no bill has been introduced to accomplish that purpose.

If and when a bill is introduced it will be sent to the powerful Armed Services Committees of the House and the Senate which are well-sprinkled with strong Navy supporters, and the chances of such a bill being approved and sent to the President for signature before the end of the year are just about nil.

That's the way it goes. As we have said before, while the people of this nation are expected to make all kinds of sacrifices to tide us over the energy crisis, the bureaucrats in Washington make a lot of speeches but do little to change their time-old ways.

The more we look at this entire situation the more we wonder about the ability of our government officials to run a corner grocery store much less the affairs of the biggest and most powerful nation in the world.

It is no wonder the Arab leaders have got us over the proverbial barrel.

They seem to know what they are doing and where they are going while here in this country our own people are being inconvenienced in a dozen different ways while our elected officials can't seem to figure out what is going to happen tomorrow much less a couple of months from now.

There are times when we think this country would be a lot better off if our whole government would take what school teachers call a long sabbatical and let our people solve their own problems for a change, and this is one of those times.

ENERGY CRISIS

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1973

Mr. WALDIE. Mr. Speaker, as you know, I am greatly concerned about the current situation wherein the Congress and the American public are being forced to make decisions regarding the energy crisis solely on the basis of information provided by the major oil companies.

I have therefore introduced legislation which would assure an independent evaluation of our energy needs and an independent evaluation of how we can meet these needs.

In this regard, Mr. Speaker, I would like to introduce into the Record, a letter I recently received from Local 1–5 of the Oil, Chemical and Atomic Workers International Union which sets forth many of the very relevant questions that must be answered concerning our present energy situation and highlights the fact that we do not now have the means of answering those questions.

Mr. Speaker, the full text of the letter follows:

Oil, Chemical and Atomic
Workers International Union,
Martinez, Calif., December 12, 1973.
Hon. Jerome Waldie,
Concord Calif.

Dear Sir: The Oil, Chemical and Atomic Workers International Union, Local 1–5 membership is deeply concerned about the energy crisis and has some suggestions and questions we would like to bring to your attention.

We recommend that a legislative investigating committee with the power to make effective recommendations be formed to investigate the so called "energy crisis".

There are several questions we believe this committee should check out.

1. Did the oil industry make the decision that there was a shortage of crude oil? If so, how was this checked on and by whom?
2. Why are oil wells, that a short time ago were pumping, now shut down?
3. How many producing wells does the oil industry have that are capped?
4. How can the oil industry claim that the reason they have to raise the price of gasoline is because the price of crude is so high when most of the oil companies own their own oil fields?
5. Why, at the time when fuel oils are short has the oil industry shut down refineries?
6. Was the energy crisis contrived by the oil industry for their own self interest to get the following items?
   (a) Alaskan pipeline
   (b) resumption of offshore drilling
   (c) higher crude import quotas
   (d) raise the price of crude
   (e) to drive all independent service station owners out of business.

These are the type questions that our membership is asking, and we believe there are proper questions at this time and somewhere along the line there should be some answers.

Very truly yours,

Charles A. Gaffney,
Secretary-Treasurer.

TRIBUTE TO JIMMY CANNON

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1973

Mr. BIAGGI. Mr. Speaker, I was saddened to learn of the death of one of New York's finest sportswriters, Jimmy Cannon. His departure truly signifies the passing of an era in sports journalism history.

Jimmy Cannon was a New Yorker in the finest tradition of the word. Born in the Greenwich village section, he lived in New York all of his life, thus adding to his overall effectiveness in covering the New York sports scene. His incisive and lively coverage of the always varied and exciting New York sports world delighted readers for almost 30 years.

Jimmy Cannon was able to capture in words many of the significant events which occurred during the years he wrote, first for the Journal American and later the New York Post. What avid sports fan could ever forget, Jimmy's dramatic coverage of such monumental sports events as Joe DiMaggio's 56-game hitting streak, and Roger Maris' successful assault on the coveted home run record of Babe Ruth in 1961.

Despite having many of the great sports figures as close and personal friends, Jimmy never lost the quality essential to be a good newsman—objectivity, a quality which most New Yorkers will remember most fondly about Jimmy Cannon.

Few people realize that before embarking on his illustrious career as a sportswriter, Jimmy Cannon was a noteworthy general news reporter for various newspapers. One of the highlights of this era of his life was being assigned to cover the famous Lindbergh kidnapping, and later the trial of the convicted kidnapper, Bruno Hauptmann in the early 1930's.

Yet sports was always his first love, and fortunately for the millions of sports fans who followed his column, he decided to make sportswriting his vocation. As an avid reader of his column throughout the years, I, too, feel a distinct loss at his passing. Many of the famous sportswriters of today owe much of their success to Jimmy Cannon. I know my loss is shared by millions of New Yorkers, who realize that a part of New York died with Jimmy Cannon.

Mr. Speaker, at this point I would like to insert in the Record an article of the New York Daily News on Jimmy Cannon:

Jimmy Cannon Dies, Sports Columnist, 63

(By Jim McCulley)

Jimmy Cannon, veteran sports columnist who died yesterday at 63, was every ounce a New Yorker. Part of an era passed with him.

Cannon loved Broadway and its people and enjoyed nightlife although a teetotaler for more than 30 years.

Jimmy rubbed elbows with most of the greats of his time in show biz, the sports world, writing and elsewhere on the national scene. He was pals with Mark Hellinger, his boyhood idol, Ernest Hemingway, Damon Runyon and Walter Winchell.

Although a lifelong bachelor, Jimmy was reported from time to time to be engaged to various screen actresses. Lindy's and Toots Shor's were among his favorite haunts.

HAD HIS HEROES

Though a tough, hardened reporter, Jimmy was not free of some hero worship himself. He was close to Joe DiMaggio, Joe Louis and Billy Conn, and towards the end, he believed that Joe Namath was the greatest and could do no wrong. But he frequently carved up sacred cows when he thought they deserved it.

One time he got pushed aside by Roger Maris, when that Yankee was going for Babe Ruth's home run record. He went after Maris in print at the drop of a typewriter keyboard.

He loved to needle the brass by giving them nicknames. He once referred to the late George Weiss, major domo of the Yankees, as "Lonesome George." The name stuck, much to Weiss' irritation, recalls Max Kase, who was his boss on the Journal American.

"He had an original way with words," Ike Gellis, Post sports editor, points out. "The young writers of today were students of his style and his prose, and how he put it all together."

WAS DAILY NEWS COPYBOY

Born in the Village, April 10, 1910, to Thomas J. and Loretta Monahan Cannon, Jimmy started his newspaper career in 1926 with the New York Daily News as a copy boy. Though seriously debilitated by a stroke, suffered as he was preparing to go to the Kentucky Derby in May of '72, Jimmy was until recently writing a weekly column for the New York Post, the paper he served as columnist from 1946 to 1958.

During his long and active career, Cannon also worked for the World Telegram, International News Service, P.M., and twice for the Journal-American. He left the Post to succeed the late Bill Corum as sports columnist on the Journal American. When the Journal-American-World Telegram-Tribune combine closed, Jimmy was retained as a columnist for Hearst Headline Service. And following his illness and partial rehabilitation, the Post rehired him last April.

Before turning to sports writing, Cannon was copyreader and a general news reporter and one of his memorable assignments was the Lindberg kidnapping and the subsequent trial of convicted kidnapper Bruno Hauptmann in the early 30s.

Cannon's body reposes at the Universal Funeral Home, 52d St. and Lexington Ave. Visiting hours are today from 1 p.m. to 10 p.m. A mass will be said at St. Patrick's Cathedral 10:30 a.m., Friday. Burial will follow in Calvary Cemetery, Queens. Cannon is survived by two brothers, Jack, and Thomas J., Jr.

NEW BICENTENNIAL MAGAZINE PRAISES AMERICAN NAVY AND MERCHANT MARINE

HON. EDWARD J. PATTEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1973

Mr. PATTEN. Mr. Speaker, lately, a group deeply conscious of the American heritage started the publication of a new magazine, exclusively devoted to the coming Bicentennial of the American Revolution.

The editor of the magazine is my friend of long-standing Dr. Z. Michael Szaz, who taught as an associate professor for several years at Seton Hall University in South Orange, N.J. The editor-in-chief and publisher is Alex Ostoja-Starzewski, a former Polish Baron who fought both the Nazis and Communists during and after World War II, and served as chief engineer of the Communication Department with the Department of Defense in Vietnam for 4 years. The society editor is Mrs. Maria Fisher whose musical career and charitable and social works are well known to Washingtonians.

The new magazine is aptly called the "American Bicentennial." Its first issue is due to appear in January 1974 with about 20 articles devoted to the American War of Independence, traditions from colonial times to the recent past, the contribution of industries, heritage groups, and intellectuals to the building of America socially, economically, and culturally.

The editors and publishers already issued a sample magazine and one of the articles was printed in full. This article is of particular interest as it gives a bird's eye view of the development of American Merchant Marine in the late 18th century.

I insert into the RECORD the article by the curator of the South Street Seaport Museum of New York, an author of 10 books on American ships and shipping, Mr. Frank O. Braynard:

SHIPS MADE AMERICA

(By Frank O. Braynard)

Ships made America. Ships are in our blood. Without ships there would have been no "New World."

The bicentennial is a fine time to remember this because America has drifted away from its maritime birthright. Today many Americans have forgotten what we owe to ships and to the sea. The foundation for our nation was laid not on rock but on the oceans of the world. We are a maritime people, no matter how we seem to overlook it.

The American Merchant Marine in the late 18th and early 19th century was the right arm of our earliest national growth and identity. Between the Revolution and the end of the War of 1812, American maritime initiative broke ground on four major new fronts. We sailed to the Orient beginning the surge of expansion that would end in the opening of Japan. We created the practical steamboat. We originated the packet. We built the first steamship—the first steam-propelled craft to cross any ocean.

Since the 1920s our maritime strength has declined, despite the brilliance of the clipper ship era. The Civil War forever it seems ended our greatness on the high seas. In the wars after that, the Spanish war, the first great war and the second world *war our weakness* at sea resulted in great stirring on the shipbuilding front but no permanent change in our downward trend was made. It is a sad story of *national neglect and maritime decay*.

Before expanding on our four great maritime accomplishments a quick review of even earlier ties to the sea. The Norsemen lived in their ships. Viking ships did discover America, no matter what the debunkers say. In 986, the same year that Eric the Red led 1,000 colonists from Iceland to his "greenland," another of his breed, a hero named Bjarni, sighted three different lands or islands far to the south of Greenland—but did not land. He probably was as far south as Cape Cod, according to Fred Pohl, lifetime scholar in these matters. From then on North America was seen, visited and explored for 500 years by countless Norsemen.

The story of Norse visits to America is only partially documented, but there are many who believe their exploring reached as far inland as Minnesota. Future scholars will look to this thrilling era for whole new chapters of history.

Ships of Columbus and other explorers have been glorified in moving pictures and through artist's conceptions. In reality they were far more impressive than most people realize. They were tiny, smaller than many yachts of today. They were frail and frequently they were old. The hearts that beat in the bodies these ships brought across the oceans of the globe were brave hearts. It is a truism, but a truism worth restating, without these ships how impossibly crowded would be the Europe and Asia of today.

Between Columbus and his Santa Maria of 1492 and the Pilgrims and their Mayflower of 1620, ships of these interpid explorers expanded the world to its present size. Ships were the space craft of that day. The little settlement on the banks of the Kennebec River in Maine, known today as the Popham Colony, gained a place in history far beyond what might be expected because there they built the first ship ever constructed in North America—the "faire pinnace" Virginia of 30 tons. This was in 1607 and seven years later Adrian Block built another little craft on an island colony of Holland known as Nieuw Amsterdam. The Popham colony died out, but Nieuw Amsterdam prospered and is now New York City. From then on shipyards sprang up all along the coast of Colonial America, but our maritime enterprise was closely held in check by jealous British merchants.

With the Revolution things were different. The bars were down and American maritime enterprise was quick to respond. An 80-ton sloop not much larger than a lifeboat on a modern liner sailed from the East Coast, crossed the Pacific and reached Canton, commanded by Steward Dean. The year was 1784 and Captain Dean and his 15-man crew led the way for an era of maritime expansion that shocked British maritime interests to their innermost being. The Experiment was the name of Dean's craft, and her arrival was something of a sensation. She swung into her assigned wharf at Canton frigate fashion, with strains of martial music intermingling with the piping of the boatswain's whistle and and with all the pomp and style of a war vessel. Because she passed through areas where there were pirates she was armed with six guns, muskets, boarding pikes and cutlasses.

American maritime initiative which produced such voyages as that of the Experiment and the Grand Turk that followed and many others was not entirely based on imagination and boldness for the sake of boldness.

One famous shipowner with a marvelous name, Preserved Fish, had planned to build several steamboats for trans-Atlantic service when the Savannah was first new, but seeing how people feared to send goods aboard her he turned back to sail. He founded the Swallow Tail Line of sailing packets and made a million.

It is odd, but quite true, that the ship, which built America, was, in turn, destroyed by the America it built. The famous phrase by Horace Greeley—"go West, young man, go West"—tells the story better. By binding the country together through the use of steam on its waterways, the steamboat opened such a vast area as men went inland, our money and drive went to developing the North American continent.

The clipper ship era of the 1850s was really a step backward. We perfected the sailing ship, stripping England of its maritime dominance in the process. But we neglected steam. When the Civil War drove our shipping off the high seas because of prohibitive insurance rates due to Confederate raiders, our merchant marine never revived.

The spirit of the early Orient traders, the vision of John Fitch, the practical genius of Robert Fulton, the bravery of Captain Moses Rogers—all these American characteristics were given expression in a new generation of Daniel Boones, gold rush prospectors, trans-Continental railroad builders and Indian fighters. Ships of the desert, the Conestoga wagon, took the place of ships of the sea.

Coastal shipping lasted on. It had been the oldest part of our merchant marine, for in colonial days the coastwise water routes were the roads binding the colonies together. And it was the last to go, killed by World War II when German submarines lurked off our coasts sinking ships silhouetted against the glow of our nighttime lights ashore.

American maritime initiative is not dead, however. The modern merchant marine is showing signs of new life. The American-invented container ship has revolutionized world cargo handling. By reminding us of the nation's past glories, bicentennial planners hope that the nation's 200th birthday may help revive our nautical pride. A great power cannot turn its back upon the sea.

EGYPT, SYRIA KILL ISRAELI POWS

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1973

Mr. ROSENTHAL. Mr. Speaker, as chairman of the Foreign Affairs Subcommittee on Europe, I have recently returned from a study mission to Israel and Europe.

While in Israel I saw documents and photographs showing that Israeli prisoners captured by the Arabs had been bound, blindfolded, mutilated and shot or stabbed to death.

Although the Israelis and Egyptians have completed their exchange of prisoners, the Syrian Government denies the International Red Cross access to Israeli prisoners, will not release the names of those held captive and refuses requests for an immediate exchange of wounded.

I have written to Secretary of State Kissinger asking him to instruct our representatives at the United Nations to introduce a Security Council resolution calling on Syria to fulfill Geneva Convention requirements in the exchange of wounded prisoners.

I also am calling upon our Government and the American Red Cross to exert all their influence through other nations and appropriate international bodies to persuade the Syrian government to abide by the accepted norms of civilized conduct in war.

Israel has already released the names of all prisoners she holds and has permitted International Red Cross access to those soldiers. The fact that Syria has refused to reciprocate threatens the fragile cease-fire and the peace talks which are scheduled to begin next week in Geneva, and it leaves the families of captured Israeli soldiers without information as to the fate of their loved ones.

Mr. Speaker, I am inserting in the RECORD at this point the text of formal complaints submitted by the Government of Israel to the International Committee of the Red Cross in Geneva and to the Secretary General of the United Nations regarding the killing of Israeli prisoners of war by Egypt and Syria.

The formal complaints follow:

DECEMBER 11, 1973.

EGYPT KILLS ISRAELI PRISONERS OF WAR

(Complaint submitted by the Government of Israel to the International Committee of the Red Cross in Geneva, and to the Secretary General of the U.N., December 9, 1973)

Complaint by the Government of Israel respecting grave breaches of the Geneva Convention of 12th August 1949 relative to the treatment of the Prisoners of War perpetrated by the Egyptian Authorities in the course of the hostilities in October and November 1973.

1. The Government of Israel hereby submits to the International Committee of the Red Cross a grave complaint respecting crimes of murder, torture, acts of brutality and other serious breaches of the Geneva Convention of 12th August 1949 relative to the treatment of Prisoners of War perpetrated by the Egyptian Authorities upon Israeli Soldiers taken captive by Egyptian Forces in the course of the hostilities in October and November 1973.

2. Information from various sources indicating crimes perpetrated upon Israeli Prisoners of War in the hands of the Egyptian Authorities came to the knowledge of the Government of Israel during the course of the fighting. With the return of the Israeli Prisoners of War who had been in Egyptian captivity this information was wholly confirmed. The comprehensive investigation now being undertaken by the Israeli Authorities into the treatment meted out to the Israeli Prisoners of War by the Egyptian Authorities has already revealed a shocking chronicle of inhuman acts of cruelty perpetrated on the Israeli Soldiers who were taken captive by units of the Egyptian Army, deeds unimaginable in relations between civilized nations.

3. The Government of Israel would be failing in its duty if, at this stage of the investigation it did not submit a preliminary report on the murders and on the monstrous acts of brutality committed in the case of Israeli Prisoners of War who were in the hands of the Egyptian Authorities. Additional reports and evidence to supplement the particulars enumerated in the present complaint will be transmitted to the International Committee of the Red Cross in due course.

4. WILLFUL MURDER

The Government of Israel is in the possession of proven evidence indicating beyond any doubt that a large number of officers and men of the Israel Defence Forces taken prisoner by Egyptian Troops were deliberately murdered, many of them while lying wounded and helpless. It is not open to doubt that the many instances of murder, acts of brutality and calculated humiliation are the result of planned policy of the Egyptian Authorities. A decisive proof of this may be found in a pocket booklet for the Egyptian Soldier published on 30th June 1973 by the Armed Forces Command of the Egyptian Army entitled, "Our Religious Belief—Our Road To Victory". On Page 9 of the booklet may be found a message of the Chief of the General Staff of the Egyptian Army General Saad Al Shazli, addressed to the officers and men under his command in the following terms:

"Kill them wherever you find them and be careful that they do not trick you, for they are a people of deceivers, pretending to surrender so that they may overcome you and kill you easily. Kill them and do not show any pity or mercy".

A number of cases of proven wilful murder are described below. Additional cases will be submitted to the International Committee as soon as possible.

I. On 7th October 1973 the garrison of a strongpoint of the Israel Defence Forces north of Kantara-East was taken into captivity. An Egyptian Officer assembled the Prisoners of War and handed them over to the Commander of the Local Egyptian Force.

This Commander drew his revolver and killed one of the captured soldiers. At the same place, three other soldiers of the Israel Defence Forces who had previously been taken prisoners were also shot dead by Egyptian Troops.

II. On 8th October 1973, members of an Israel Defense Forces Unit withdrew from a strongpoint near Kantara-East, in an attempt to link up with the Israeli Forces.

Seventeen soldiers from this postion entered a house in the town of Kantara-East. After discovery by Egyptian Forces, they were forced to surrender. Eight of them left the room in which they had concentrated with their hands raised and gave themselves up to soldiers of the Egyptian Army. Nine others remained lying in the room, wounded and helpless. These men indicated to the Egyptians in the clearest possible way their intention to surrender. Despite this, Egyptian Soldiers shot and killed all the wounded soldiers lying there in cold blood.

III. On 8th October 1973 the garrison of an Israel Defence Forces Strongpoint at the southern end of the Suez Canal surrendered after their position had been surrounded by units of the Egyptian Army. The Israeli Soldiers came out of the entrance of the strongpoint with their hands raised. Egyptian Troops opened fire and four Israeli Soldiers were shot and killed. Another soldier was wounded.

IV. On 8th October 1973, a member of the garrison of the Israel Defence Forces Strongpoint opposite the Firdan Bridge on the Suez Canal attempted to surrender. He left the entrance of the strongpoint and approached the soldiers of the Egyptian Army with his hands raised. Egyption Troops opened fire and killed him.

V. On 8th October 1973, ten men of the Israel Defence Forces from a strongpoint situated north of Kantara-East on the Suez Canal were taken prisoner by Egyptian Forces.

An Israeli Officer who was also taken prisoner has testified that a number of Israeli Soldiers remained stretched out on the ground at the entrance to the strongpoint, some dead and some wounded. According to the officer, Egyptian Soldiers went up to the soldiers lying on the ground and stabbed them with their bayonets, killing the wounded among them. The Egyptian Soldiers accompanied their foul deed with cries of joy and triumph.

VI. On 8th October 1973, an Israeli tank was damaged by a missile near a strongpoint of the Israel Defence Forces about 10 kilometers east of the Firdan bridge. Some of the members of its crew managed to escape from it. One of them, a tank gunner, fell to the ground in a state of exhaustion. Two Egyptian Soldiers approached him and kicked him in the stomach. They then opened fire on him at close range and killed him on the spot.

VII. On 21st October 1973, an Israeli tank was hit in the Suez sector. The four members of the crew and two other soldiers who were on the tank were taken prisoner. The Egyptian Soldiers into whose hands they had fallen lined up the six prisoners of war and shot them point blank. All six were killed.

VIII. On 21st October 1973, another Israeli tank was hit in the Suez sector. Two members of the crew, including an officer of the rank of captain, fell into the hands of Egyptian Soldiers. The Israel Prisoners of War were made to sit down next to each other in a depression in the ground. After they had been in the depression for an hour and a half, one of their guards came up and without any reason shot the Israeli Officer in the chest. The Officer died on the spot and his head fell on the shoulder of the Israeli Soldier who was sitting next to him.

IX. On 21st October 1973, an Israel tank was hit by a missile near an Israel Defence Forces Strongpoint half-way between Tassa and Ismailiya. The members of the crew who jumped from the disabled tank hid in a hole in the ground nearby.

After they had been surrounded by Egyptian Soldiers, they surrendered and were taken prisoner. One of them who had been wounded in the foot was shot and killed by an Egyptian Soldier as soon as he noticed the wound.

X. On 21st October 1973, a number of Israeli tanks were hit near a strongpoint situated north of the Great Bitter Lake. The crews jumped from the disabled tanks into a depression in the ground nearby. After they had been surrounded by Egyptian Troops, they surrendered and were taken prisoner. One of the Israeli Prisoners of War, who had been wounded, was then shot and killed by an Egyptian Soldier.

5. CRUEL AND INHUMAN TREATMENT

From the testimony of former Israeli Prisoners of War who have returned from Egypt there emerges a horrifying chronicle of incessant tortures and humiliation which were the lot of the Israeli Prisoners of War throughout the duration of their captivity. All of them report that, notably during the early part of their captivity, they were most cruelly beaten all over their bodies, particularly while being transferred from the place where they had been taken captive to prisons in Egypt, and during the course of interrogation. The cruelty and callousness of the Egyptian Soldiers who were entrusted to look after the Prisoners of War was especially brutal.

They did not confine themselves to beating and kicking the prisoners of war in every part of their bodies, but made a point of stopping at inhabited places en route and inciting the local population to physically assault the helpless Israeli Prisoners of War. As a result, several of the Israeli Prisoners of War arrived at the prisons beaten and bruised all over their bodies, while some of them had open wounds in their heads caused by blows of rifle butts.

The unbridled savagery of the Egyptian Soldiers is seen more than anything else, in the fact that they made a point of assaulting wounded soldiers more than the others: Many of the returned Israeli Prisoners of War have testified that Egyptian Soldiers kicked them cruelly on their open wounds and even spat on them instead of bandaging them.

6. When the captives finally reached prisons in Egypt, their Egyptian jailers made a point of competing with each other in inventing acts of brutality and humiliation such as forcing the Prisoners of War to kneel on the floor of the prison and lick it with their tongues, or urinating into the palms of their hands. The following is a representative sample of the acts of brutality and degradation as related by the returning Prisoners of War.

I. BLOWS

The Israeli Prisoners of War were beaten over all parts of the bodies, with any weapon that came to hand from rifle butts to clubs, whips and palm branches. Many of the returnees still bear marks of the beatings on their bodies, despite the long period of time that has passed since then.

A particularly favoured means used by the Egyptian Jailers was the beating of the Prisoners of War over their heads and on the soles of their feet with rubber truncheons.

II. TORTURE AND DEGRADATION

The Egyptian Jailers made a practice of putting out the stubs of their cigarettes on the necks and backs of the Prisoners of War. Some of them would order the Prisoners of War to kneel on the ground and would then sit on their shoulders and order them to crawl the length of the room with their jailers astride them.

Another system of torture used by the jailers was to perform their bodily functions on the faces and hands of the Prisoners of War. On several occasions they prevented the Prisoners of War from performing their own bodily functions and brought them to a stage where they were forced to perform these functions in their clothes accompanied by the shouts and laughter of their jailers.

III. MEDICAL TREATMENT

As described above, in a great number of cases the Egyptian Soldiers did not give any first aid treatment to the wounded Prisoners of War and even made a point of persistently hitting them on their wounds in order to aggravate their suffering and pain.

Many of the Israeli Prisoners of War refrained from asking for medical treatment in the knowledge that any such request would be answered with blows and torture.

IV. FOOD

During the first days of their imprisonment the Prisoners of War were deliberately deprived of sufficient food and water. A most common system of torture employed by the Egyptian Jailers was to pour a glass of water on the ground before the eyes of a wounded prisoner of war suffering torments of thirst. When the Prisoners of War were finally given food it consisted of dry bread (pitta), uncooked potatoes and onions. The Prisoners of War were hungry most of the time and many of them lost considerable weight during their captivity.

V. SANITARY CONDITIONS

The Egyptian Jailers systematically deprived the Israeli Prisoners of War of washing and minimal sanitary facilities. When they were finally permitted to wash after about three weeks in captivity, they were put into a trough filled with sewage water in which they were required to wash. The cells of the Prisoners of War were full of bugs, lice and other insects, whose depradations deprived them of sufficient sleep.

VI. SEXUAL ASSAULTS

According to the testimony of some of the Prisoners of War sexual assaults, unnatural acts and sodomy were committed on a number of Israeli Prisoners.

There are attested cases of sharp objects having been inserted into the anus of Israeli Prisoners of War.

CONCLUSIONS

7. It is clear from the foregoing that the murders and acts of brutality described herein were part of a deliberate policy and were committed in accordance with systematic instructions issued by a high central authority.

8. The murder of Prisoners of War is a serious breach of Article 13 of the Geneva Convention relative to the treatment of Prisoners of War (The Third Geneva Convention). Under Article 130 of the Convention the wilful killing of a Prisoner of War is defined as a grave breach of the Convention.

9. Acts of Brutality committed on Prisoners of War and the display of Prisoners of War to gratify public curiosity constitute a breach of Articles 13, 14 and 17 of the Convention.

10. The abandonment of wounded soldiers on the battlefield without providing medical treatment for them and the deliberate infliction of suffering or a serious abuse of the body of a soldier, constitute grave breaches of Articles 12 and 50 of the Geneva Convention of 12th August 1949 for the amelioration of the condition of the wounded and sick in armed forces in the field (First Geneva Convention).

11. In accordance with the First Paragraph of Article 12 of the Third Geneva Convention the detaining power is responsible for the treatment given to Prisoners of War who fall into its hands. There is, therefore, no doubt that the Egyptian Authorities bear responsibility for the heinous crimes committed by their troops.

DEMANDS OF THE GOVERNMENT OF ISRAEL

12. The Government of Israel calls upon the International Committee of the Red Cross to condemn the barbaric and revolting crimes committed by members of the Egyptian Armed Forces.

13. The Government of Israel demands of the Egyptian Authorities that they give firm undertakings and issue clear instructions to ensure that there shall be no repetition of the horrendous crimes described in this complaint and that the Government of Egypt will respect the Laws of War and the relevant International Conventions.

14. The Government of Israel demands of the Egyptian Authorities that in accordance with the provisions of Article 121 of the Third Geneva Convention they conduct an official enquiry into the acts of murder and brutality described in this complaint and they forward a report on the matter to the International Committee of the Red Cross.

15. The Government of Israel, in accordance with Article 52 of the First Geneva Convention and Article 132 of the Third Geneva Convention demands that an enquiry shall be instituted into the grave violations of these conventions by the Authorities of the Arab Republic of Egypt as enumerated in this complaint.

The Government of Israel will submit to the enquiry statements, attestations, medical reports and other evidence in support of the charges contained in the present complaint.

DECEMBER 10, 1973.

SYRIA KILLS ISRAELI PRISONERS OF WAR

(Second Complaint submitted by the Government of Israel to the International Committee of the Red Cross in Geneva, and to the Secretary General of the U.N., on December 8, 1973)

Second complaint by the Government of Israel respecting grave violation of the Geneva Convention of 12 August 1949 relative to the treatment of Prisoners of War perpetrated by the Syrian authorities in the course of the battles in October 1973.

INTRODUCTION

1. The Government of Israel hereby submits to the International Committee of the Red Cross a second grave complaint respecting crimes of murder, brutality and serious violations of the Geneva Convention of 12 August 1949 relative to the treatment to Prisoners of War perpetrated by the Syrian authorities, and by Syrian, Moroccan and Iraqi soldiers serving in Syria, upon Israeli soldiers taken prisoner there.

FURTHER CASES OF MURDER

2. Since the submission of the first complaint on 10th November 1973 fresh facts have come to light pointing to further cases of barbarous murders not previously known. These facts, taken together with those recorded in the first complaint by the Government of Israel, justify at this stage the conclusion that no fewer than forty-two separate cases of murder have been committed.

Details of the places in which the further cases of murder have been discovered, and of the number of victims found in each place are as follows:

(*i*) *NAFAH*

In the vicinity of the village of Nafah on the Golan Heights, the Israel Defense Forces found the body of an Israeli soldier who had been shot while his hands were fettered behind his back with telephone wire and a bootlace. His army shirt was wrapped around his breast, his body naked. There were no personal documents and no identity disc on the body or near it.

(*ii*) *Hermon strongpoint*

A number of revolting murders and acts of brutality were perpetrated at the Israel Defence Forces Strongpoint on Mount Hermon. Some of the cases were recorded in the first complaint submitted by the Government of Israel. Other cases, as detailed below, have now come to light:

A. It is clear, from the evidence of Syrian Prisoners who fell into Israeli hands after the Syrian capture of the Strongpoint that five Israeli prisoners, with their hands tied, were taken into the gamesroom of the Strongpoint, where Syrian soldiers maltreated them, struck them with riflebutts then killed them.

The blows and the cries of the Israeli prisoners were plainly heard throughout the Strongpoint.

When it was recaptured the bodies of five Israeli soldiers were found in it by the Israel Defence Forces. Guided by the evidence of a Syrian Prisoner of War who was present at the time of the murders and of the burial of the murdered men, it may be assumed that these were the five Israeli soldiers killed in that spot. The hands of all five were fettered, in three cases in front, in two cases behind their backs, with telephone wire. The faces of all five had been shattered by bullets fired at their heads from close range.

B. The body of another Israeli soldier was found on the road from the Hermon Strongpoint to Majdal Shams. The discovery was made on the evidence of an Israeli soldier who had succeeded in getting away from the Strongpoint after its capture by the Syrians and had seen his comrade taken prisoner by the Syrian soldiers. He had hardly got away when he heard a burst of fire. After the Syrians were driven back, he identified the exact spot and found the body there. There is no doubt that the Israeli soldier had been murdered in cold blood after being taken prisoner: The body way lying on its back, shirt and trousers unbuttoned, boots and socks scattered some distance away.

(*iii*) *Murder of Israeli pilots*

1. According to authenticated material in the possession of the Government of Israel an Israeli pilot who parachuted into Syrian territory was murdered in the precincts of the military airfield at Dumeir. He was stabbed to death by Iraqi soldiers who had taken part in the fighting.

2. According to trustworthy information in the hands of the Government of Israel, six Israeli pilots who parachuted into Syrian territory at different times and places have been murdered. They were shot by bursts of small arms fire.

ABUSE OF ISRAELI PRISONERS

3. In the course of the investigation into the circumstances of the murder of Israeli Prisoners of War and the collection of bodies of Israeli soldiers killed on the battlefield, facts have been ascertained pointing to acts of brutality committed on Israeli Prisoners of War as detailed below:

A. The eyes of an Israeli soldier murdered at the Hushneya Junction, as recorded in the first complaint submitted by Government of Israel, had been gouged.

B. The lower part of the body of the Israeli soldiers murdered in the Hermon Strongpoint showed numerous bruises caused by blows and kicks.

C. Syrian Prisoners in our hands have testified that Syrian Soldiers physically abused a group of twenty-four Israeli Prisoners when they were being marched from the Hermon Strongpoint to the Syrian Lines: They were beaten, knifed and struck with rifle butts.

D. Another Syrian Prisoner has testified that, while the Israeli Prisoners were being taken from the Strongpoint to Damacus, the lorry stopped in the center of Qatana Townlet, so that the inhabitants could look at the Israeli Prisoners. According to this Testimony, a Syrian civilian climbed on to the lorry and started pummelling the prisoners. The Syrian soldiers entrusted with the transportation of the prisoners made no attempt to stop him.

E. Another Syrian Prisoner had testified that he and other Syrian soldiers trampled upon the heads of six Israeli Soldiers, the crews of two Israeli tanks that had been hit. This barbarism was committed although some of the Israeli soldiers were still alive.

F. The Government of Israel has reliable information that a Moroccan soldier serving with the Syrian Forces had a sack filled with parts of bodies of Israeli soldiers (palms and tongues), which he intended to send home as souvenirs.

G. Syrian Prisoners have testified that an Israeli soldier taken prisoner in the Hermon Strongpoint and badly wounded in the stomach was interrogated by the Commander of the Syrian Battalion which had captured the Strongpoint in person. Next morning the prisoner was found dead of his wounds in the very place in which he had been left.

H. Most of the murdered Israeli soldiers were found in the battlefield unclad, only in their underpants. There is no doubt that before killing them, the Syrian soldiers had stripped them of their uniforms as an act of humiliation and dishonor.

DESTRUCTION OF POSSIBLE EVIDENCE AS TO THE IDENTITY OF ISRAELI DEAD

4. (A) The Government of Israel has reliable information that, already prior to the outbreak of the war, instructions were issued to the Syrian Army Troops to remove the identity discs from the bodies of dead Israeli soldiers so as to render their subsequent identification more difficult.

(B) Thus in many cases, the bodies of I.D.F. Soldiers were found with all means of identification, including Identity Discs, removed. Moreover, Syrian Prisoners of War were found to be in possession of the identity cards of Israeli soldiers.

CONCLUSIONS

5. It is patent from the foregoing that murders and acts of brutality described in this complaint and in the first complaint submitted by the Government of Israel on 10th November 1973 were part of a deliberate policy and perpetrated in compliance with systematic directives issued by a high authority.

6A. The murder of Prisoners of War is a violation of Article 13 of the Third Geneva Convention relative to the treatment of Prisoners of War. Under Article 130 the willful murder of a prisoner of war is defined as a grave violation of the convention.

B. The abuse of Prisoners of War, and their display to gratify public curiosity are a violation of Articles 130, 14 and 17 of the Convention. The torture and inhuman treatment of a prisoner of war are a grave violation of the Convention, as defined in Article 130.

C. To abandon wounded soldiers on the battlefield, without providing medical treatment for them, is a violation of Article 12 of the First Geneva Convention of 12th August 1949 relative to the amelioration of the condition of wounded and sick among the members of the Armed Forces of the battlefield. The deliberate infliction of much suffering, or a serious abuse of the body of a soldier, is a grave violation of that Convention, as defined in Article 50.

D. The removal of identity discs from the bodies of the fallen and the making of difficulties in respect of their location are a violation of Article 17 of the First Geneva Convention.

7. In accordance with the first paragraph of Article 12 of the Third Geneva Convention, the detaining power is responsible for the treatment given to prisoners of war who fall into its hands. There is, therefore, no doubt that the Syrian authorities bear responsibility for the heinous crimes committed by Syrian soldiers.

EVIDENCE BY SYRIAN PRISONERS

8. The Government of Israel is prepared to furnish the International Committee of the Red Cross with the testimony of Syrian Prisoners of War referred to in this complaint, which points clearly to the identity of the perpetrators of the murders and acts of brutality and gives particulars of the commanders who ordered these acts.

DEMANDS OF THE GOVERNMENT OF ISRAEL

9. The Government of Israel calls upon the International Committee of the Red Cross to take immediately the necessary steps to condemn the barbaric and revolting crimes that have been described in this complaint and to ensure that proper and full protection is extended to Israeli Prisoners of War.

10. The Government of Israel demands of the Syrian Authorities that they give firm undertakings and issue clear instructions to ensure that there shall be no repetition of the horrendous crimes described in this complaint and that the Government of Syria will respect the Laws of War and the International Convention.

11. The Government of Israel demands of the Syrian Authorities that, in accordance with Article 121 of the Third Geneva Convention, they conduct an official enquiry into the murders and acts of brutality described in this complaint and in the complaint submitted by the Government of Israel to the International Committee of the Red Cross on 10th November 1973 and that a report on the matter be sent to the International Committee of the Red Cross.

12. The Government of Israel demands, in accordance with Article 52 of the First Geneva Convention and Article 132 of the Third Geneva Convention, that an enquiry shall be instituted into the violations of these conventions by Syria, as enumerated in this complaint and in the first complaint submitted by the Government of Israel to the International Committee on 10th November 1973.

STATEMENT ON THE ENERGY CRISIS

HON. DONALD W. RIEGLE, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1973

Mr. RIEGLE. Mr. Speaker, over the last few weeks, I have heard from hundreds of thoughtful and concerned constituents who have raised many questions about the energy crisis—its origins, dimensions, and possible duration—and what can be done to ease its impact.

Recently I have devoted a great deal of attention to these problems and have consulted with government and industry spokesmen representing a wide range of views. Officials from the American Petroleum Industry, Department of Interior's Office of Oil and Gas, Library of Congress' Environmental Policy Division, and the State Department's Office of Fuels and Energy have met with me and my staff for extended discussions of this problem.

In addition, I have been in close contact with General Motors and other firms in Flint, Mich., to determine what impact the fuel shortages are going to have on employment and the general economy of the district. My district staff has also conducted a survey of the local fuel and gasoline dealers to determine the supply situation in the area.

In the following report, I would like to summarize the results of my research on the energy problem and outline my views on this critical national issue.

The report follows:

THE ENERGY CRISIS: BOTH A LONG AND SHORT TERM PROBLEM

The energy crisis has the potential for being the most important and perhaps the most difficult economic and political problem facing the United States. While the Middle East war and the Arab oil embargo have brought the energy situation to the "crisis" stage, our country has fast been approaching a serious energy shortage.

As one indicator of this, economists studying energy use in the United States have observed a change in the relationship between BTU's of energy consumed and national production over the previous five years. Prior to 1969 as the gross national product (GNP) grew from year to year, the amount of energy annually consumed for each unit of GNP decreased. However, beginning in 1969, this trend was reversed. Now we find that the amount of energy consumed for each unit of GNP has been increasing each year instead of decreasing. This is partly explained by the greater "non-productive" use of energy—such as for air-conditioning and the use of poorer quality oil which requires a greater investment of energy to obtain the same amount of energy. Based on this and related findings, economists project that it would only be a matter of years before national consumption would outrun our available supply, and we would face a serious energy shortage.

A useful way to examine the energy problem is to break it into two separate problems. The first is the long term problem of the next fifteen years and beyond; the second is the immediate crisis which suddenly confronted us with the worldwide shortage of crude oil caused by the Arab oil cutbacks.

The long term problem can best be described as finding a way to get the world's ample supply of energy reserves from the areas where it is located to the places where it is needed—in needed quantities, in environmentally desirable forms, and at an economical cost. The long term problem has actually been with us for some time but all of the evidence indicates that steps to avert a future fuel shortage were not being taken. I would also note that for a number of years the United States' refining capacity has been diminishing as few refineries were built to replace old ones, and the need for ports capable of handling supertankers was not met. What is more discouraging is that research into new sources of energy and methods of producing energy compatible with environmental standards has not been adequately supported by the Federal government or private interests.

As we all know this problem of fuel shortage started to catch up with us last winter. Even though the winter was an unusually mild one, there were instances of fuel oil shortages. If the winter had been normal or colder than normal, we could have experienced widespread shortages. This past summer serious gasoline shortages were also predicted, and motorists were warned of serious inconvenience and even hardships. The real possibility of shortages resulted in an allocation system and an abnormal reduction in automobile travel. Partly as the consequence of reduced travel, the shortages never really materialized.

There were a number of factors which contributed to the energy shortage that we experienced last winter and summer.

Federal pollution standards caused an accelerated demand for fuel oil and a major shift from coal to oil-burning boilers took place. In particular, it caused a great demand for low sulphur or "sweet" crude.

Automobile gasoline consumption per car increased about 8% for cars equipped with emission control systems and the added weight needed to meet U.S. safety standards.

U.S. refinery capacity has not expanded at the rate necessary to keep up with demand. In 1971 oil experts were predicting a petroleum shortage in the mid-70's because of this lack of refinery capacity.

A dramatic increase in U.S. energy consumption occurred; total U.S. energy use has been doubling about every ten years, with the demand for electrical power doubling every decade. (The amount of electricity consumed in the decade of the 60's equaled the total consumed in all of our history up to 1960.)

A decline in domestic crude production and a peaking of our natural gas production. Environmental considerations restricted the use of coal and strip mining for coal.

Delay in tapping the oil reserves discovered on the North Shore of Alaska and the offshore continental shelf.

The lack of any effective Federal leasing policy delayed the development of our oil shale resources.

The above factors have all in one way or another contributed to the U.S. dependence upon foreign supplies of oil. During the first quarter of 1973, imports represented 35% of the U.S. petroleum supplies and were growing rapidly. Some experts anticipated imports reaching 7.4 million barrels per day, or 39% of the U.S. petroleum supplies by the first quarter of 1974. Others predicted that domestic needs would require 8.4 million barrels per day in the first quarter, further increasing our reliance on foreign imports.

The second and in many respects the most important aspect of the energy problem is the short-term "crisis" caused by the Arab-Israeli war. The effect of the Arab embargo of oil to the United States is difficult to determine as the political situation is changing daily. At this time, the latest reports promise a partial lifting of the embargo if the United States "guarantees" the withdrawal of Israeli force from all Arab lands occupied in the 1967 Middle East war and the October 1973 war. However, if and when such a withdrawal begins is highly speculative. A great deal hinges on the Arab-Israeli talks opening in Geneva this month.

While the United States imported only 2½% of its oil needs from the Middle East in 1972, this percentage had increased to 6% in 1973 and some believed would reach 10% if the war had not interrupted trade. Indirectly, the United States had actually received a much higher percentage of its oil from the Middle East when you include oil that is refined in Canada, Western Europe, and the Carribean. The indirect and direct imports total over 20%.

Currently our domestic production of oil meets about 70% of our present oil needs. However oil companies maintain that our domestic sources of oil—excluding Alaska and the continental shelf—are already fully tapped, and any increase in demand must be met by increased imports.

This situation made us very vulnerable to the embargo of oil by the Arab oil-producing countries. Before the embargo, we faced a 10% increase in oil demand. Most people agreed that shortages would occur if fuel was not properly allocated and conserved. Thus when the Arab embargo did come, an energy shortage ranging as high as 35% (and 50% in some parts of the country) was predicted.

II. IMPACT OF THE SHORTAGE

Estimates of the shortages we can expect in oil, gas and distillate deliveries vary dramatically. The Administration has consistently been conservative in its estimates of the shortage. The President predicted a 17% shortage of oil due to the loss of imports from the Middle East. On the other hand, estimates from the Congressional Research Service's Environmental Division ranged as high as 35%, if imports from the Caribbean and Canada were also cut off. One spokesman from the Office of Oil and Gas indicated that we were already experiencing a shortage of 15% last month, before the last tanker of Arab oil arrived in this country.

Not withstanding the ambiguity of these estimates, two important points should be emphasized. First, even without the interruption of Arab oil imports, our country was going to be short of fuel this winter—by at least 5% and in some areas by 10 to 15%. Second, if the Arab embargo lasts 90 days or more, which is expected, we will experience shortages throughout the winter.

According to the National Petroleum Council, shortages in the three major products—gasoline, distillates, and heavy fuel oil—are expected to average 25% during the first quarter of 1974. Heavy fuel oil shortages would average 38% nationally and could reach 50% on the East Coast. The northern Midwest, including Michigan, would be next hardest hit. The states of the northern Midwest consume over 4 million barrels of oil a day, second only to the East Coast states which consume almost 6 million barrels per day.

A survey conducted by my district office in Flint, Michigan last month of the local oil distributors indicated that there was no serious supply problems, although two gasoline suppliers were having difficulty getting gasoline supplies. This is a very early survey however, and an effect of the Arab embargo will not be felt until the beginning of January when the winter climate is known.

From all reports, the United States can expect a serious shortage of fuel oil this winter, and the Midwest will be one of the areas that can expect to feel it most.

There have been many projections of unemployment increases because of the energy crisis. The National Petroleum Council projected 7.5–8% unemployment if the embargo lasts through the first quarter of 1974. Other estimates range from 6% to 14% unemployment depending upon different predictions about a number of unknowns—such as duration of the embargo, how cold the winter will be, how much oil will be available from Europe, and how effective our allocation system will be.

In my district of Flint, Michigan, General Motors plant officials announced that 14,000 workers will be laid off for at least a week in December. The lay-off is the result of a decision by GM to stop production of full-size and intermediate size cars for a week at 16 plants, including the home plants of Buick, Pontiac and Oldsmobile. Slack demand for the larger cars, and the uncertain psychology of the consumer was cited as the reason for the lay-offs.

In a recent report, GM officials indicated that they were planning on a lower sales potential for the year 1974 than they had estimated earlier. Total sales were estimated in the range of 13 to 13.5 million units or about 8% to 12% below calendar-year 1973. The total would be composed of 10 to 10.5 million passenger cars and about 3 million trucks—total sales still above any sales prior to 1972.

III. SHORT TERM APPROACHES TO THE ENERGY CRISIS

Faced with such a serious shortage of energy, there are only marginal things that can be done to increase supplies. There is little doubt that our country can not avoid shortages this winter. Decisions are currently being made to determine how the available energy will be distributed—who will be affected and to what degree—and how we can reduce the demand for energy, especially petroleum.

A year ago last September the oil industry projected a fuel shortage for the winter and a gasoline shortage for the spring. And as previously noted there were other warnings, but the Administration took no action to forestall it at that time.

In April, the Congress authorized the President in the Economic Stabilization Act to allocate fuel supplies as he saw fit. In May there was talk about a mandatory allocation program, but the Administration chose to use a voluntary program, and increased demand was met through higher refinery runs.

This fall, the Administration instituted a mandatory allocation plan for middle distillates (includes home heating fuel, diesel fuel) and propane supplies. But this plan did not specify priority uses, so schools and farmers got no more than amusement parks. The middle distillate allocation program used as its base period 1972. The distributors were allowed to control the program and no administrative machinery was set up to control distribution.

Although under the Economic Stabilization Act Amendments of April, the Administration was given the authority to allocate fuels on a mandatory basis, they have been very reluctant to do so, and resorted instead to a voluntary system. This reluctance to move decisively is due to several things: 1) they did not learn the available oil facts, 2) they did not believe the situation was as serious as it was, 3) philosophical inclination made them reluctant to bring government into the oil logistics business, 4) they had five different advisors on energy between March and December, and 5) they recognized the limitation of solutions that did not increase the available supply of oil.

While the President has delivered several messages about the energy crisis, the situation has only been growing worse. The Administration, in a less than candid explanation of the problem, has been making the energy crisis appear far less dangerous than it is.

The personnel turnover we have witnessed as Mr. William Simon now replaces Governor John Love in the long succession of energy "czars" seems to indicate the confusion within the Administration on what tactics to take. Business and industry officials who want to know what actions the Administration is going to take have spoken out forcefully on the economic uncertainty that this hesitancy to act is causing.

While the Administration has held gasoline rationing as a last resort, many reports indicate the necessity of implementing rationing. Recently, the White House announced that it would postpone any decision on rationing until the end of December. However, it is unlikely that the fuel supply situation will be any clearer at that time. So much depends on the Arab/Israeli talks which are not totally under Administrative control.

Further, any delay in implementing some kind of rationing program means a further reduction in our dwindling fuel reserves. A recent staff study published by the Senate Interior Committee suggests that we will exhaust our reserves within 2 months—even with thermostats turned down to 68 degrees and gasoline service stations closing on Sundays.

The Administration alternative seems to be to let the price of oil increase from the present $5 a barrel to $7 which would be passed through to the consumer at the pumps. Fuel costs for consumers could rise as much as 50%. From the hundreds of calls, letters and telegrams I have received from constituents, the preference is clearly for a rationing system over sharp increases in prices.

It is clear that skyrocketing prices or added taxes on fuel would have a severe impact on the poor, those on fixed incomes, and those who are dependent on the automobile for their livelihood. While it seems inevitable that prices will rise for gasoline and other petroleum products, every effort should be made to keep this price in line with the oil companies actual production costs. There is little doubt that their profit levels have been excessive.

IV. CONGRESSIONAL RESPONSE TO THE ENERGY CRISIS

Since the beginning of the 93rd Congress in January, there have been over 800 different bills introduced concerning the energy problems. Over thirty have already had action on the House floor and an equal number have had action in the Senate. The President was granted authority to allocate fuels by the Emergency Stabilization Act of 1970, passed April 30, 1970. Legislation in the 93rd Congress makes Congressional priorities and directives much more explicit.

On November 27, 1973, the Emergency Petroleum Allocation Act of 1973 became public law. This legislation gave the President temporary authority to implement allocation programs affecting suppliers of fuel oil, residual oil, and refined petroleum products. This legislation "directed" the President to make regulations providing for mandatory allocation system within fifteen days.

On November 19, 1973, the Senate passed the National Energy Emergency Act of 1973. This bill is much more specific in setting the priorities of Congress for energy measures and is more comprehensive than the Emergency Petroleum Allocation Act. The President is required to develop and implement nationwide emergency energy "rationing and conservation plans." In addition, the bill allows the President to take certain measures to increase domestic petroleum production. The highlights of the bill include provisions to:

Minimize the impact of energy shortages on employment;

Amend certain portions of antitrust laws;

Modify the Clean Air Act;

Authorize the President to allocate materials, equipment and fuels associated with energy production; and

Allow tax deductions and low-interest loans for energy conservation improvements.

The House passed a similar energy emergency bill on December 13, 1973. The main provisions of the House bill also included authority to create a Federal Energy Administration and required the President to submit proposed energy conservation plans to Congress within 30 days after enactment. Oil- and gas-burning power plants are required to burn coal if they are capable of doing so. Further, petroleum producers and marketers are authorized to implement voluntary agreements for energy conservation purposes and exempts such agreements from the antitrust laws.

In addition to these bills, the Congress has passed legislation authorizing daylight savings time year round and to provide funds for research and development of new energy sources. Many bills have actively promoted mass transportation and high speed railways, such as the Urban Mass Transportation Act and the Railway Reorganization Act. A good deal of the material contained in the eight hundred bills introduced in the Congress has been incorporated in the National Energy Emergency Act.

V. LONG-TERM APPROACHES TO THE ENERGY CRISIS

There seems to be a general consensus that for the next five to ten years there will be no new economical alternative sources of energy. We will have to deal with a relatively static supply of oil for the next five years that will force us to use strict conservation measures to close the gap between supply and demand. Coal and natural gas will also be available, but our supplies are not unlimited and the environmental problems involved in coal as a major energy source are significant.

I think there will be a dangerous temptation to believe that the energy crisis is over when the Arab states lift their embargo. The Arab cut-off did not create the energy shortage; it merely contributed to an already serious energy problem. As a nation, we must fully realize that we can not return to our former consumption habits. With a population of one-sixteenth of the world's population, we consume one-third of the world's energy.

In the days that lie ahead, I urge all Americans to participate in a voluntary conservation effort that goes beyond the guidelines set by the Administration or by legislators. It is the duty of all of us—not just the Administration, Congress, or other governmental organizations—to make sure everyone is treated fairly and equitably and the burden of the energy shortage is shared by all.

EPA PARKING SURTAX—A BUREAUCRATIC ABSURDITY

HON. LEO J. RYAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1973

Mr. RYAN. Mr. Speaker, in an announcement last Friday, the Environmental Protection Agency stated that they were postponing implementation of their proposal to levy a surtax on parking spaces in several areas of the country, one of which was the San Francisco Bay Area.

The original proposal touched off a round of fire from public official and private citizen alike. The announcement by EPA that they were postponing action on their ill-fated proposal was, in my judgment, a direct result of the heat generated by that outcry.

In a recent editorial, the San Mateo Times called the proposed parking surtax a "Bureaucratic Absurdity," and I could not agree more. The proposal that EPA has wisely put off until July of 1975 was more than just absurd; it was arbitrary, discriminatory, and had it been implemented, it would have caused economic chaos in all of the affected areas.

The editorial in the San Mateo Times is an excellent example of a newspaper responding to the concerns and needs of the community that it serves. I insert it in the Record:

EPA Parking Surtax—A Bureaucratic Absurdity

Congressional action is needed to stop some foolishness about to be foisted on the people of California.

While one segment of the federal government is wrestling with the energy crisis to provide sufficient fuel to keep motor vehicles on the road, another and separate governmental agency known as the Environmental Protection Agency (EPA) has adopted rules and regulations for the purpose of removing as many motor vehicles as possible from our highways so that people will turn to public transportation as a substitute.

EPA has promulgated a set of regulations known as the "California Transportation Control Plan" which, among other things, provides for a prohibitive tax in the form of a surcharge on commercial parking spaces, free parking spaces, and on parking spaces provided by employers for their employees. The regulations also provide that ". . . any zoning or land-use requirement specifying that an employer shall provide a given number of employee parking spaces for any given number of employees . . . be of no force or effect" except as approved by the administrator of EPA.

The parking surtax provisions, apart from any other provisions in the regulations, constitute a bureaucratic absurdity apparently dreamed up by bureaucrats in the Agency who wish to turn the clock back to the turn of the century when there were no motor vehicles, no modern highways, and people traveled either by mass transit, bicycle, or by horse and buggy.

The regulations provide for a staggered series of effective dates, and when completely effective there will be parking surcharges in the form of a tax at the rate of 25 cents per hour added to commercial parking fees, a $450 per year surcharge for each parking space on all owners and operators of more than five free parking spaces, and each employer who provides free parking space for his employees will be required to charge his employees $2.50 per day for each employee's free parking space—unless the employee comes to work in a car pool, in which event the rate is 50 per cent if it is a two-person car pool. The charge will be remitted if the employee participates in a three-person car pool.

In addition, the employer is required to institute a program to reimburse employees for expenses in utilizing mass transit in an amount not to exceed $200 per year per employee and to take "all reasonable steps to encourage employees to commute to work by subscription or charter bus and similar privately owned mass transit facilities."

It is estimated that the surcharge will cost a shopping center, such as Hillsdale in San Mateo, approximately $2 million per year. The surcharge could spell financial ruin for private operators of parking garages. Parking meters are not exempt and would be subject to a surcharge of 25 cents an hour over and above the regular fee when the parking tax becomes completely effective. Unmetered curb space in commercial districts would be subject to the $450-per-year surcharge per parking space unless the city in which the curb parking is available installs meters to collect the hourly surcharge rate.

City planning ordinances which have carefully provided that new buildings cannot be constructed without providing adequate parking space for employees are void as to their parking requirements and an employer could construct a new plant without providing any free parking space for employees.

The city attorney of San Mateo has estimated that the total economic impact during the first year of the application of the regulations would be approximately $20 million in San Mateo alone. The cost would go higher as the fees increased annually over a period of three years. Under the penalties for noncompliance a person who knowingly violated any requirement of an applicable implementation plan could be punished by a fine of not more than $25,000 per day of violation or by imprisonment for not more than one year, or both. For second convictions, the penalty is increased to $50,000 per day or two years' imprisonment, or both.

A number of legal actions have already been filed to invalidate the EPA regulations. The state attorney general has filed a legal action. The City Council of San Mateo has authorized the city attorney to file a suit in Federal District Court to obtain a stay order and to test the constitutionality of the regulations.

The legal actions which have been filed and those which will be instituted to invalidate the EPA parking surcharge regulations may result in a favorable court decision which will either postpone or totally invalidate this absurdity. However, the only procedure which is certain to invalidate these regulations would be the adoption of federal legislation amending the Federal Clean Air Act to delete from the Act the authority of EPA to proceed in this ridiculous manner to accomplish the purposes of the Act.

Letters written to the United States senators from California, Alan Cranston and John Tunney, and to the congressmen representing the readers' congressional districts requesting an amendment to the Federal Clean Air Act to eliminate any authority for the EPA to impose taxes or parking surcharges would, in our opinion, be the most effective way to express concern about and opposition to the EPA parking surtax regulations.

SUPPORT FOR WHITE HOUSE CONFERENCE ON LIBRARIES

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1973

Mr. BRADEMAS. Mr. Speaker, as one of the sponsors of a bill to authorize the President to convene a White House Conference on Library and Information Services in 1976, I want to bring to the attention of my colleagues the significant support which has recently been evidenced for such a conference.

I should remind my colleagues as well, Mr. Speaker, that our former colleague, the Honorable GERALD R. FORD of Michigan, the distinguished Vice President of the United States, is sponsor of a similar resolution, House Joint Resolution 734.

Under the sponsorship and leadership of the distinguished junior Senator from Rhode Island the Honorable CLAIBORNE PELL, the Senate has already passed such a resolution.

On December 8, 1973, Mr. Speaker, the Washington Post featured an editorial applauding Congress for providing funds for Federal library programs, funds which President Nixon, in his fiscal 1974 budget, had proposed we eliminate.

The editorial also supported the Ford-Brademas-Pell proposal for a 1976 White House Conference on Libraries and Information Services.

Said the editorial:

> The conference is important. It is not just that we need libraries; what is also needed is serious discussions on how to make them better as the demand for their services increases.

Mr. Speaker, I include in the RECORD the Washington Post editorial as well as a letter in support of such a conference from the Federation of the Indiana Chapters of the American Association of University Professors:

NEW LIFE FOR LIBRARIES

The attack of the Nixon administration on libraries appears to have been repelled. As part of the budget for the Departments of Labor and Health and Welfare, the House and Senate included $170 million for libraries. In the 1974 budget proposals of the administration, no federal assistance was requested for libraries, the idea being that state and local money should take over the full responsibility. The logic of this proposal had a superficial appeal that did not hold up under the kind of scrutiny given by several congressional friends of libraries.

The first argument defending zero funding said that, since the federal share for libraries was approximately 5 to 7 per cent, no libraries would close down when federal funds were withdrawn. This argument, however handy for the purposes of rationalizing, overlooks that many library projects are demonstrations initially funded by federal money, in the hope of stimulating state and local support that would eventually take over. But such demonstrations would have been cut out completely or curtailed. Some of these projects include services to the blind and handicapped, service to prisons, hospitals and mental health institutions. A second argument for cutting off funds was that libraries would become part of revenue sharing, thus categorical assistance was not needed. When the American Library Association examined the situation, however, it found that of the $2.96 billion that went out between January and June of this year, libraries received only $21.7 million, or less than 1 per cent of the total.

Congress did well to rally in support of libraries. In fact, it is taking even further interest—with the introduction of several bills calling for a White House conference on libraries and information services in 1976. The Senate has already passed this legislation and one House bill was offered by Gerald Ford, now Vice President Ford. With this kind of support, a 1976 conference is likely to occur. The conference is important. It is not just that we need libraries; what is also needed is serious discussions on how to make them better as the demand for their services increases.

AMERICAN ASSOCIATION OF
UNIVERSITY PROFESSORS,
December 5, 1973.

Congressman JOHN BRADEMAS,
Rayburn House Office Building,
Washington, D.C.

DEAR CONGRESSMAN BRADEMAS: On behalf of the Indiana Federation of Chapters and its 2,100 members on 46 college and university campuses in Indiana, I would like to endorse the resolutions now before your Select Subcommittee on Education requesting and authorizing the President to call a White House Conference on Library and Information Services.

There is much merit in the proposal. It would provide an excellent opportunity for persons of diverse background, inside and outside the academic community, to focus upon the future needs, goals, and policies of a major national educational resource. By evaluating the current role of libraries and by projecting their future relationship to the educational process, the conference would be of considerable assistance to postsecondary education.

Having recently hosted a statewide conference in Fort Wayne to discuss the academic status of librarians, our Federation is particularly pleased by the suggestion that attendant State Conferences be held in conjunction with the White House Conference.

I would also like to express our appreciation to you for the leading role you have played in promoting this bipartisan proposal.

If we may offer any appropriate assistance to you in this area, please feel free to call upon us.

Yours very truly,

GEORGE W. GEIB.

THE ENERGY CRISIS IN PERSPECTIVE: FREE ENTERPRISE IS THE ANSWER

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1973

Mr. ARCHER. Mr. Speaker, although the energy crisis is serious, the situation is not hopeless. We need self-reliance to meet this challenge. A thorough analysis of the historical background and significance of the energy crisis appeared in an article by Prof. W. Philip Gramm entitled "The Energy Crisis in Perspective" in the Wall Street Journal of November 30, 1973. I agree with his conclusion: We must allow the free market to work in order to solve the energy crisis.

The article follows:

THE ENERGY CRISIS IN PERSPECTIVE

(By W. Philip Gramm)

Much of the prevailing rhetoric on the "energy crisis" expresses this kind of logic: Since there is just so much oil, coal, natural gas and other energy sources, sooner or later we are going to run out. We must, therefore, begin to ration these resources not only to meet the current crisis but to conserve energy in our time and move the day of reckoning further into the future. Americans have been "energy pigs," according to Stewart Udall, and have been operating on the misguided assumption that there is no limit to the quantity of energy. Since we are at the end of the era of cheap fuel and dealing with a problem without precedent, strong and previously unacceptable policies are called for: government regulation of the production and distribution of energy.

Ignored is the fact that mankind has frequently experienced instances of increasing scarcity, and by ingenuity and free action has solved all of them. In fact, we are currently experiencing the *second* major energy crisis in American history.

From the colonization period until the Civil War the major source of artificial lighting in the U.S. and Europe was whale and sperm oil. Since there were no good substitutes for these oils as sources of light, the world's supply of artificial light depended almost exclusively on the whaling industry. People did not need computers to project that the supply of whales could not keep pace with the rapid expansion in demand.

Sperm oil rose from 43 cents per gallon in 1823 to $2.55 a gallon in 1866. Whale oil rose from a low of 23 cents in 1832 to $1.45 a gallon in 1865. As prices rose, gas distilled from coal became an economically feasible substitute causing whale oil demand to fall off sharply in Europe.

In 1859 sperm oil was over $1.36 a gallon. But that same year, an event which in nine years would end the whale oil crisis forever occurred: petroleum was discovered in Pennsylvania. In the meantime, the demand of the Civil War boomed whale oil prices. Not only was there increased demand, the war disrupted production. Conscription of whaling vessels as freight ships and the capture or destruction of ships by Southern privateers caused a decline of more than 50% in the number of U.S. ships in whaling and a 66% decline in tonnage. By 1866, sperm oil had reached a high of $2.55 a gallon.

The high prices for whale and sperm oil between 1849 and 1867 provided a growing profit incentive to develop an efficient refining process for crude petroleum and induced the investment required for the production of kerosene. Beginning in 1867, kerosene broke the sperm and whale oil market and prices tumbled. By 1896, sperm oil was cheaper than it had been in any recorded period—40 cents a gallon—but whale oil lamps were no more than relics for succeeding generations.

TWO VITAL FUNCTIONS

Aside from providing an incentive for the development of petroleum products rising whale and sperm oil prices performed two other vital functions. Rising prices caused consumers to act out of their own self interest to economize the use of oil. Rising prices gave an inducement for producers to increase output of whale and sperm oil through increases in investment, improvements in technology, and increased labor input. The rise in prices from 1820–1847 induced a rise in the tonnage of whaling vessels of almost 600% and produced numerous technological improvements in the whaling industry. It appears that rising prices caused output to increase perhaps by 1,000% or more. Had government possessed the power and volition to ration whale and sperm oil to hold its price down or to levy a tax on oil to reap the gains from the price rise, the shortage would have been catastrophic and the advent of kerosene and other petroleum products might have been delayed for decades.

The whale oil crisis is a case study of how the free-market system solves a scarcity problem. The end product of this process of discovery and innovation is the Petroleum Age in which we live. We owe the benefits and comforts of the present era to free enterprise and the scarcity of whales.

The history of our first "energy crisis" demonstrates that there is no reason to believe that we face long-term doom. If technology were suddenly frozen, some of the dire projections being made now might be realized in several hundred years or less, depending on which "expert of the week" one believes. But technology is not frozen. It is instead progressing at a rate unprecedented in history. The Petroleum Age will pass as did the Stone Age (and the Whale Oil Era). The real danger is that we may foolishly restrict the exploitation of current energy sources and allow them to become valueless. Only if we eliminate the market incentives for innovation and investment will we face a real, long-term "energy crisis."

Though there is no long-term "energy crisis" there is a short-term problem. Economic science teaches that shortages cannot exist in free markets. In free markets prices rise in order to eliminate shortages. "Crisis" as opposed to simple scarcity, results from market disruptions; and the only sector of society which possesses the power to disrupt a large market is the government. Government price ceilings on natural gas at the well-head have been one of the most disruptive public policies. By setting the price of natural gas artificially low, the government has stifled the incentive of producers to increase supplies, while the artificially low price has stimulated demand. Furthermore, since profits are low at these artificially low ceiling prices, investment and exploration have fallen off sharply.

Price controls have also had a detrimental impact on the supply of petroleum products and the construction of refinery capacity, essential to increasing domestic energy supplies. Due to the pressure to keep prices below what the free market would specify, shortages of petroleum products have occurred at both the retail and wholesale levels. Had prices been allowed to rise, the quantity supplied would have expanded to meet the quantity demanded; and each consumer would have had direct incentive to economize on usage. We are only now beginning to realize the distorting impact on the production of inputs essential for fuel production (drilling equipment, tubular steel, etc.) which four phases of price controls have produced.

Environmental legislation and court action also have had a significant impact on the supply and demand for energy. Injunctions against atomic and conventional power plants have prevented the supply of electricity from keeping up with the demand. The injunction against the Alaskan pipeline has impeded the growth of oil supplies. Pollution control devices on automobiles have increased fuel consumption and, thereby, increased the demand for gasoline. Mass conversion from high sulphur to low sulphur fuels in order to comply with EPA regulations to abate pollution has caused a change in the composition of energy demand from plentiful, cheap sources of energy to scarcer more expensive ones.

The energy crisis has made it clear that pollution abatement has a definite cost to society. Only by understanding the costs involved in various forms of pollution abatement can we choose how much environmental protection is optimal.

The bureaucratic method of looking at the supply and demand for energy products differs substantially from the market-directed approach. The bureaucrat presumes first of all that the supply of the product is absolutely fixed. Price does not matter. A price rise, he argues, will not put more oil in the pipelines—at least not before the next election. People "need a certain amount" of the product, and they will always buy the same quantity regardless of price unless they are too poor to afford it at all. These views are, of course, economic nonsense. In weighing the various courses of action which might be followed in minimizing the cost of dealing with the current energy problem it is useful to make a ball park estimate of the price level that the free market would yield in the shortage period.

ESTIMATING OUTPUT AND DEMAND

Estimates of how much the demand for energy sources would decline in a period less than a year, if prices rose by 1%, range from roughly 0.2% to 1.2%. Estimates of how much the quantity supplied would rise in the same period, if prices rose by 1%, vary from roughly 0.6% to 2%. A reasonably conservative estimate is that a price rise of 1% will provoke a decline in the quantity demanded of 0.5% and a rise in the quantity supplied of 1%.

The practical importance of these estimates is that a 10% shortage in the supply of fuel at current prices would yield a free market rise in price of less than 7%! If we are more pessimistic about the shortage and assume that demand exceeds supply by 20% at the current price, we might expect a price rise of less than 14%.

The above estimates, though conservative, do not take account of the disruption produced by the crisis atmosphere that surrounds this issue. Since the magnitude of the crisis has been blown out of all reasonable proportions and people fear shortages and rationing, hoarding by both the supplier and demanders is a genuine possibility. In the very shortrun (up to three months) we might expect prices to rise above the long-term market price. After roughly one to three months we should expect the crisis mania to pass and a general dishoarding to occur so that prices would fall to a level below the above estimates. The estimates are of course based on the assumption of unhampered market adjustments. Government attempts to interfere with this market process would tend to shift the estimates upwards.

The first step in solving the energy shortage is to allow the free market system to work. *All price ceilings and government controls should be eliminated.* Such action would greatly stimulate the supply of energy sources and eliminate shortages. Prices would rise but the expansion of output would hold prices to the minimum which current conditions dictate. Furthermore, the free market will insure that energy will be allocated to the highest priority users. Price increases are not pleasant, but they are better than low prices and no energy. If these higher prices work hardships on the less fortunate among us, special provisions, which would be preferable to the distortions and waste of rationing, could be provided for this small minority.

There is an additional advantage of allowing domestic prices to rise. As prices rise in the U.S., the cost to the Arabs of maintaining the restriction on sales to the U.S. will get higher. If we simply allow the market to work, the agreement to restrict sales to the U.S. will break and with it Arab unity will break. The Arabs are playing a dangerous game. If we allow prices to rise we can expect the development of new domestic sources such as oil shale and domestically produced substitutes for petroleum.

COSTS AND CLEAN AIR

Another step in solving the energy problem is to *inform society of the cost of environmental and ecological programs and allow the people to choose.* If people want the end products of such programs, they will have to pay the cost in higher energy prices. Without adequate information, society will not be able to decide which programs are worth the cost and which are not. If people prefer cleaner air to lower fuel cost they can choose to convert from coal to oil. If they choose lower fuel cost they can burn cheaper and dirtier fuels. Such a system seems preferable to allowing a bureaucrat to decide for them.

To increase supplies we should *open the continental shelf for drilling* but make firms liable for oil spills and other forms of ecological disturbances. Most oil spills are not from drillings but from tankers. By employing the Naval oil reserves, the continental shelf and areas which will become economically feasible at higher prices, output could be greatly expanded.

We should *institute peak-load pricing for electricity in shortage areas.* Brownouts and blackouts occur because in peak use periods overloads occur. By charging more for power in peak use periods, nonessential use would occur in nonpeak load periods when power is cheaper. Under the current system there is no incentive to spread out power use. Peak load pricing could minimize overloads in the current system and allow time for supply sources to catch up to peak load demand.

In a free market, when the price of a good starts to rise, three simultaneous forces are produced. First, people start to use the good more judiciously, second, producers and consumers who use the product begin to search for cheaper substitutes, and third, producers of the product attempt to expand output by using and developing technology to meet the demand. It is this process which has always forestalled doom. We will run out of energy *only* if we prevent the free market from working. Herein lies the real danger of the "energy crisis."

OUR STEEL SCRAP FLOWS ABROAD

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1973

Mr. GAYDOS. Mr. Speaker, steel scrap badly needed by our own industries now is moving out of this country and to competitors abroad at the rate of 12 million tons annually.

My authority for this figure is James M. Underwood, chairman of Vulcan Inc., a producer of ingot molds and other steel products at its plants in Latrobe, Pa., and elsewhere.

Mr. Underwood told Jack Markowitz, business editor of the Pittsburgh Post-Gazette, that the export flow is taking place even though the supply of scrap here is "pinching so tightly" that U.S. firms are compelled to pay $35 a ton more for it than they did last spring.

I quote from Mr. Markowitz' report:

> Steelmakers worldwide, especially in Japan, have tapped the open American scrap market (and) bid up prices frantically on both coasts.

The price last April was $50 a ton. Today it is $85 and, according to Mr. Underwood, our plants are lucky to get it. Shortages have become a major operating problem for Vulcan, he says.

Mr. Underwood would like to see Uncle Sam cut scrap exports at least in half during this time of short supply and I could not agree with him more. Why should our scrap market be open and subject to raids by foreign customers while the material is so scarce that it is boosting prices, thus adding to the inflation problem, and threatening jobs here?

It has long been my opinion, Mr. Speaker, that we have been far too altruistic in our dealings with other nations. I realize that, in the immediate post-World War II era, we had a responsibility to help others and also that our foreign trade is important to us. But the days of our being the No. 1 "have" Nation are over and this needs to be understood not only in Washington but everywhere in the world where Uncle Sam has come to be looked upon as a patsy.

The steel scrap situation is only one of many in which we have subjugated the interests of our workmen and industries to these of others and are continuing to do so. Foreign trade must be conducted on the principle of the "two-way street" and yet our policies in too many cases refuse to recognize this. What other nation would export the scrap it needed at home? I think the answer is found in the present fuel crisis in which our supposed "friends" and "allies" have shown little willingness to divide up their oil with us, or even to cooperate in international solutions to the problem.

I call, Mr. Speaker, on the administration to take immediate action to curb the movement of steel scrap out of this country.

CONGRESSWOMAN PATRICIA SCHROEDER

HON. ANDREW YOUNG

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1973

Mr. YOUNG of Georgia. Mr. Speaker, an interesting article about our colleague, Congresswoman PATRICIA SCHROEDER, has been written by Judith Viorst and published in the November issue of Redbook magazine.

This is a report on a hard-working, conscientious colleague who has earned the respect of this House. As the article says, Congresswoman SCHROEDER serves because she "thinks that people who care make a difference, and in her own modest way PAT SCHROEDER has—whether it is by sponsoring anti-child-abuse legislation, holding housing and tax hearings, getting money for a children's museum in Denver, or voting to shut off funds for the bombing of Cambodia."

The complete article is as follows:

THE WOMAN WHO HAS A BEAR BY THE TAIL

(By Judith Viorst)

How come this pretty, blue-eyed mommy with the green-velvet ribbon in her hair is annoying the mighty Congressman Edward Hébert, 72-year-old chairman of the powerful House Armed Services Committee?

Why can't the woman stay home where she belongs?

There's important business brewing on that committee, which has authorized this year the spending of approximately $80 billion on America's defense establishment—on everything, that is, from military bases to aircraft carriers to cost overruns.

Who's this young upstart to ask, "Do we really *need* to spend?"

This seems to be the sort of muttering that Chairman Hébert (pronounced "A-bear") has been muttering ever since Patricia Schroeder, a first-term, antiwar congresswoman from Denver, Colorado, lobbied her way, against his stern resistance, onto his committee. For Hébert is used to committee members who share his benevolent view of Pentagon needs. What he is not used to is dissent, especially female dissent, and especially dissent from a parvenu lady representative who seems unaware that newcomers keep their mouths shut.

"I hope," Hébert said to her shortly after they met, "that you aren't going to be a skinny Bella Abzug."

"No," she told him firmly, "I am not. I'm going to be me. I am going to be Pat Schroeder."

Hébert is finding Pat Schroeder trouble enough.

Indeed, she is on his committee to make trouble. She is concerned, she says, about the human, quality-of-life issues—better housing, better health care, a better environment in which to bring up a family. "Defense people say they are protecting women and children," she explains. "As a woman with children, I want to be able to say there are other things we can do to protect us than build bases."

But the Armed Services Committee, Mrs. Schroeder points out, controls about 40 per cent of the national budget, and "I can talk all I want about human issues—they've got the dollars." So when the Pentagon wants a billion of those dollars for another nuclear carrier, she thinks it's important to raise some pesty questions. Like: Why, since we have three nuclear carriers already, do we need another one?

Chairman Hébert is not pleased.

"There are certain people," he once said, sighing, as he looked at her, "who make me shudder every time they open their mouth."

On another occasion, when Mrs. Schroeder was pressing for answers about Cambodian bombing raids, Mr. Hébert was rather more invidious. "I wish," he told her, interrupting her questions, "that you'd support our boys like you support the enemy."

And then there was the day Hébert met Jim, Pat's lawyer husband, on the Capitol Hill subway. "So you're the one," he snorted, "who married that woman." He did not sound congratulatory.

Although this made the rounds as a cute little story, opposing Hébert has not been fun and games. The relationship between the committee and the Pentagon tends to be a cordial and approving one. Of the 43 committee members, only a handful persistently stray from the fold. Hébert has said that "the light is always in the window for those who want to come home." But for those who don't, says Pat Schroeder, there are glares, cold stares, ostracism by most of Hébert's loyal supporters and slurs about the "pinko-commie kooks" on the committee.

Indeed, until fairly recently the committee has rarely had to put up with such kooks. The House of Representatives is divided into 21 standing committees, each of which has its realm of expertise—agriculture, for instance, or banking and currency, or foreign affairs, or public works or armed services. All new members of Congress are assigned to one or more of these committees, and most of them traditionally seek out those congenial to their interests. You can spend a lot of time at committee meetings, so you might just as well go where you are likely to feel most at home.

In other words, if you believe that America's ultimate security resides in how the country is humanized rather than how it is fortified, you join a committee that deals with education, or conservation, or equal opportunities, or such. What you do not join is the House Armed Services Committee, which is packed with pro-Pentagon types. You do not join the House Armed Services Committee, whose chairman—even within a system that turns its chairmen into autocrats—is known to be more autocratic than most. You do not join the House Armed

Services Committee, where you are not only consistently unloved but also consistently outvoted.

It doesn't make sense. Except Pat Schroeder believes that, yes, indeed it does.

In fact, she is one of a few members of Congress who in recent years have deliberately joined committees that *aren't* congenial to them. The reasoning goes like this: If you don't like the way a committee is doing its job—if you think, for instance, that the vision of the House Armed Services Committee is "obscured by the shine of military brass"—don't shake your head in dismay and join something cozier. Get on *that* committee, take on *that* chairman, make your opinions heard—though they'll shout you down again and again and again. Be a drop of water and keep dripping on that rock. Someday, somehow, maybe you will reshape it.

Ah, but how? And what exactly does a committee do?

Well, whenever a bill is introduced in the House, it is referred to an appropriate committee—farm bills to Agriculture, labor bills to Education and Labor, military procurement to Armed Services. . . . You get the idea. Ideally the committee members study every aspect of the bill, listen to expert witnesses for and against it, thoroughly and thoughtfully question those witnesses and engage in lively, responsible debate presided over by a strong but fair-minded chairman.

Did I say "ideally"? Let me say it again?

Anyhow, after the debate has been completed and the additions, deletions and compromises have been made, the bill is reported out of committee and sent, for better or worse, to the floor of the House. There, after further adjustments, the bill may be passed and then sent to the Senate for more of the same.

The committee system, it's clear to see, is a good-sized piece of this puzzle we call democracy. Though the U.S. Congress alone has the power to vote a bill into law, it is in large measure within a committee's power to determine the shape of the bill.

But the shape of the 1974 Military Procurement Authorization Bill, reported out of committee last July, wasn't much to Mrs. Schroeder's liking. The major legislation of the House Armed Services Committee, the bill authorized the purchasing of bigger and fiercer—though not necessarily better—billion-dollar military weapons. It authorized spending for weapons Pat Schroeder called "frivolous" and a "boondoggle," as well as a "colossal waste of money." Hébert didn't like that.

Now, Mrs. Schroeder maintains that of course this country must spend money for defense. But she worries about what she terms the committee's "fixation with technology," its belief "that killing an enemy fifteen times over makes us more secure than if we can kill him only five times over." So she tried, through some three months of almost-daily committee meetings, to modify the massive procurement bill.

She modified nothing.

Does this mean that her presence on the committee is useless and futile? She doesn't think so.

For what she did when the bill was reported out of committee was to file seven pages of eloquent "additional views," a scathing critique of committee tactics and practices, which now are a part of our national public record. Calling the House Armed Services Committee the "Pentagon's lobby on the Hill," she observed that it "seemed annoyed at, even frightened of, vigorous and open debate." An unreasonable number of hearings, she noted, were barred to the public, and during one segment of the deliberations 30 witnesses, warmly received, were invited to speak on behalf of the Pentagon's view and only two witnesss, given the shortest of shrifts, were heard against it.

"Some members," she wrote, "gave the impression that doing the hard and tedious work of analysis and criticism of our complicated military program is somehow unseemly, unmilitary—indeed, unpatriotic."

There was plenty more of the same.

Chairman Hébert, said Pat, almost exploded with rage.

"I like you as a person," he growled, his temper just barely controlled, "but you make me very mad." To the Denver *Post*, her hometown paper, Hébert was less restrained. "Of course, I recognize her expertise after she has been here for six months," he said sarcastically. "She's an authority. . . ." And then from the farther end of the generation gap came this bitter and even poignant cry: "I was in the House of Representatives before she was born!"

Now a few of the other valiant committee dissenters also filed their opposition views, but Hébert seemed to feel a special anger toward Pat. "It's because," she declares with conviction, "Hébert is a sexist. He doesn't believe that anyone with a uterus can make a decision on military affairs."

Indeed, his view of Pat's role on his committee was clearly expressed at the outset of her term. "For the House Armed Services Committee's first lovely den mother," he inscribed to her in his book *Creed of a Congressman*, "with the hope you would better understand your chairman after reading between these covers."

She understands, all right. She understands the generation-gap problem and the sexism problem and the problem of bucking a chairman who insists upon obedience from his ranks. It's bad enough, she says, when they clash in private committee meetings, but when she makes these clashes public, it blows his mind.

"So you're going to be one of those cheap kind," he grumbled on one occasion, "who'll do anything for publicity."

Last summer, however, he tried to do more than grumble. Last summer he attempted to take revenge. There are no goodies, he hoped she'd understand, for those who don't learn that "to get along, you go along."

What happened was that Speaker of the House Carl Albert selected Pat to attend the SALT Disarmament Conference in Geneva, Switzerland. (Discussions were being held on chemical warfare, and since there was a problem of nervegas stockpiles in her area, Pat Schroeder was a very suitable choice.) As her chairman, Hébert was requested to send a strictly *pro forma* letter of confirmation, a request that only rarely has been denied. But to everyone's astonishment, Hébert instead replied, "She is not my choice."

In discussion that followed, Hébert made it perfectly clear he was punishing Pat for her voting record on his committee and for her "additional views" on his procurement bill. "I wouldn't send you to represent this committee at a dogfight," he told her.

She wasn't intimidated. Furthermore she wasn't even stopped, since the Speaker arranged for a way to side-step Hébert. He asked the State Department to waive the rule that requires a chairman's confirming letter. Pat got to Geneva.

It ought to be noted that Pat wasn't looking for a paid-by-the-Government free trip to Geneva. Or to anywhere else, for that matter. She already had turned down a couple of luxury jaunts, both here and abroad, questioning their propriety or their usefulness. Indeed, she might even sound priggish, unduly self-righteous, on the subject if it were not for her zesty sense of humor.

And what if she does sound a little self-righteous—so what? In her dealings with Hébert and his committee she has taken on an exhausting and frustrating task. "My only tool is words," she sighs, "and words don't mean a lot."

And, "Yes," she admits, "I do get upset. It's hard to keep on going back and facing him. I can think of ten things I'd rather do than attend a committee meeting. But I go."

The David that Pat Schroeder plays to Héberts' Goliath, however, is civilized and courteous and low-key. She doesn't believe in yelling or screaming or threatening people or banging them on the head. "I decide where to give and where to draw the line," she says, "and then I hang tough."

But "tough" seems a funny word to apply to Pat Schroeder as we sit and talk in her office on Capitol Hill. With her Peter Pan collar, her fresh good looks and her quick, hearty laughter, she resembles the mothers I meet at my children's school. There are crayons on her desk in case her children—Jamie, three, and Scott, seven—come over to visit, and samples of their artwork are taped to her wall. At 33 she is one of 16 women now in Congress, and the first one Colorado has ever sent.

How did she get to Washington? And why?

"I'm here," she replies, "because they literally couldn't find anyone else to run."

Well, that isn't quite true. Denver had a prominent Democrat who was willing to take on the incumbent Republican. But a group of young liberals (Pat's husband Jim among them) were seeking a better candidate for the job. The problem was that 1972 looked like a very bad year to beat a Republican, and prospect after prospect turned them down. "What about your wife?" someone finally asked Jim, who laughed and dismissed the idea. But the next time the question came up, Pat and Jim began to discuss it more seriously. In May, 1972, Pat announced she would run.

It seemed at the time a most unlikely candidacy. For though Pat, a Harvard Law School graduate with experience in teaching, in labor law and in civil-service arbitration (and with a pilot's license as well), certainly had impressive qualifications, her husband had the political ambitions. Indeed, Jim had run, and been defeated, for the Colorado state legislature in 1970 and had planned in 1972 to serve as his law partner's campaign manager.

But instead of helping his partner, Floyd Haskell, get into the Senate, he wound up helping his wife, Pat Schroeder, get into the House.

Needless to say, during the campaign many eyebrows were raised by those who believe that a mommy stays home and bakes cookies. Was she maybe one of those wild, Women's Lib types? Pat decided to laugh such objections away.

"Hi!" she would start off a speech. "I'm that nut you've been hearing about, the one who doesn't shave under her arms, the one who leaps over barricades uttering obscenities, the one who keeps her kids in the freezer."

That helped to melt some voters. Still there'd be that person who would march up to Jim and say with great indignation, "Do you realize that your wife is running for Congress?"

"Hey, no kidding—really?" he would reply. "I thought she'd been out of the house an awful lot lately!"

He didn't joke, however, when someone would want to know: "Why are you letting her run instead of you?"

"I thought," was his answer, "we needed a stronger candidate."

And to everyone's surprise—including the Schroeders'—Pat turned out to be a very strong candidate, and 1972 turned out to be a pretty good year for the young and women's votes. Speaking straightforwardly on the issues, radiating decency and good will, Pat won standing ovations at a Nixon-Schroeder endorsement from the potent Teamsters Union, the primary and in November the election.

What had the Schroeders done to their lives?

Pat says she often asks that question when the pressures pile up, when the House stays in session till 10 p.m., when she finds herself working each night and on the weekends, when old friends don't phone her because "they think I'm a superstar now." She asks it when, squeezed for time, as she always is these days, she runs into a store and says, "Get me three dresses—red, green and some other color. I have only ten minutes." She asks it when a hate call condemns her as an opponent of "Sunday football, guns and God" and when, more chillingly, a bomb threat against her comes into the FBI because, on the issue of Watergate: "She's not kind to our President."

What had they done? She and her family now live for most of the year in northern Virginia, instead of Colorado; her husband has had to find another job; the focus these days is on her career, not his. And since she's not at all sure she wants to stay in politics, is the hassle, is the disruption, really worth it?

The answer, from Pat and Jim both, is: "Yes, it is."

From Jim this "yes" has meant a willingness to set aside his own political and career ambitions and work for a law firm that offers him neither big money nor great prospects but flexibility—in other words, time to help his wife. Indeed, it has meant on occasion a willingness to function as a "wife." It was Jim who flew East to find and buy their house, Jim who stayed home with the children till a sitter was hired, Jim who makes plenty of trips to the pediatrician.

I know a lot of men who could never handle all that.

But Jim, Pat Schroeder insists, is not among them. "I always get a big kick out of the expression that comes over his face," she says, "when someone asks him how his ego is taking this. He doesn't even understand what they mean."

In fact, Pat says, Jim's ego is so secure that he seriously considered not working at all. The $42,500 Pat earns as a member of Congress is more than she and Jim had been making together, and he thought he might like to drop out for a while and experiment with writing or photography. "He has never," says Pat, "been the kind of man who was out to own a Cadillac before he was thirty."

Furthermore, having shared the same courses, the same casebooks, the same teachers at Harvard Law School, they're accustomed to working together, not in competition. Jim has always been, and continues to be, more turned on by politics than Pat is. But his interest, she says, is in the policy, not in the handshaking part, and he's glad to let Pat be the family politician.

Indeed, Pat sometimes kiddingly complains that Jim is like a stage mother, pushing her on to greater and greater roles. She groans when he plans ahead to her next election, or when he says that someday she could make a swell Senator. "I'm not all that sold on what I'm doing here," she says, "and I'm not on a power trip. I sometimes look at Congress and think, What a ridiculous institution!"

But she also thinks that people who care make a difference, and in her own modest way Pat Schroeder has—whether it's by sponsoring anti-child-abuse legislation, holding housing and tax hearings, getting money for a children's museum in Denver or voting to shut off funds for the bombing of Cambodia.

It also matters that Pat continues to duel with Chairman Hébert, who continues to glare at this upstart in his midst. Enthroned in his big committee room with its military flags and carpet of stars, Hébert votes a loud "No! That's the dumbest thing I ever heard!" to Pat's dissenting proposals.

She makes them anyway.

"I believe," she says, "that courage is contagious. Last summer a man who *always* votes with the chairman agreed that, yes, I was right, that this *was* the Pentagon's lobby on the hill. He agreed in private and off the record, of course. But maybe next year he'll be willing to do it publicly."

Furthermore, she adds, there is a certain advantage in being a woman. "How long," she asks, "can committee members allow a female, not even an ex-Marine, to take on the chairman without being embarrassed that they're not fighting him too?"

Pat Schroeder in her own way continues to fight him—firmly, politely, with reason and with facts. To get these facts, which are terribly hard to come by when you're dealing with something as arcane as military budgets, she has chosen to hire an expert of her own, an expert on budgets and weaponry, who can arm her to challenge the Pentagon's point of view.

She also is armed with a healthy dose of humor. At one point, she says, she thought of having some buttons printed that read: "Help—I've got Hébert by the tail."

And maybe if she keeps speaking out, her courage will catch on and the balance of power will shift from Hébert to a Schroeder.

Sometimes the Davids do defeat the Goliaths.

Only time will tell.

ON THE MATTER OF ARTIFICIAL TURF

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1973

Mr. OBEY. Mr. Speaker, this morning the Consumer Product Safety Commission announced in the Federal Register that it is denying the National Football League Players Association's petition regarding the use of artificial turf as a football playing surface.

I find this announcement confusing in light of two prior indications that the Commission is still studying the matter. A public meeting of the Commission and representatives of the NFL Players Association has been schduled for January 4, 1974, for further discussion of the matter. Also, an Associated Press story yesterday indicated the Commission is considering holding public hearings on the subject of artificial turf as a football playing surface.

After reading the announcement in the Federal Register I wrote to Mr. Richard Simpson, Chairman of the Consumer Product Safety Commission, urging that the meeting and public hearings go forward.

For the information of my colleagues the Consumer Product Safety Commission's announcement in today's Federal Register and my letter to the Commission Chairman be inserted in the RECORD at this point.

The articles follow:

CONSUMER PRODUCT SAFETY COMMISSION

NATIONAL FOOTBALL LEAGUE PLAYERS ASSOCIATION

Denial of Petition Regarding Artificial Turf Covering

Section 10 of the Consumer Product Safety Act (Public Law 92–573, 86 Stat. 1217; 15 U.S.C. 2059) provides that any interested person may petition the Consumer Product Safety Commission to commence a proceeding for the issuance of a consumer product safety rule. Section 10 also provides that if the Commission denies such petition, it shall publish in the Federal Register its reasons for such denial.

On June 4, 1973, the Commission received a petition from the National Football League Players Association (NFLPA) requesting the Commission to initiate a proceeding under section 7 of the act (86 Stat. 1212; 15 U.S.C. 2056) to promulgate a consumer product safety standard for artificial turf covering used on athletic playing fields or to declare such product to be a banned hazardous product pursuant to section 8 of the act (86 Stat. 1215; 15 U.S.C. 2057).

Additionally, the NFLPA petition requests the Commission to restrain further use of artificial turf covering or prohibit new installations pending promulgation of a consumer product safety standard or a banning order.

On August 7, 1973, the Commission received from the Monsanto Company a request that the Commission deny the NFLPA petition.

The NFLPA alleges that serious injuries sustained by persons playing football on fields covered with artificial turf include knee and ankle injuries, cartilage and ligament tears, body burns, staphylococcus infections, severe fractures and concussions, heat prostration, and blistering.

Having considered the information and data submitted in support of the NFLPA petition, Monsanto Company's comments, and surveillance data reported by the National Electronic Injury Surveillance System, the Commission concludes that the evidence is insufficient to support the proposition that persons playing football on fields covered with artificial turf incur a significantly greater risk of sustaining more frequent or more severe injuries than persons playing football on fields covered with natural turf.

The Commission also finds that since football-related activities, equipment, and apparel are ranked seventh in the Commission's listing of hazardous consumer products, based upon the frequency and severity of injuries reported to hospital emergency rooms, any action taken by the Commission to reduce or eliminate unreasonable risks of injury to consumers associated with playing football should not be limited to the playing surface. Further, artificial turf has consumer uses other than as a football playing surface; consequently, the scope of any proceeding the Commission might undertake to reduce or eliminate any unreasonable risk of injury to consumers should include all known and possible consumer uses of artificial turf coverings.

Therefore, pursuant to section 10(d) of the Consumer Product Safety Act (Public Law 92–573, 86 Stat. 1217; 15 U.S.C. 2059(d)), notice is hereby given of the Commission's denial of the above-described NFLPA petition.

Dated: December 6, 1973.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc.73–26414 Filed 12–12–73;8:45 am]

HOUSE OF REPRESENTATIVES,
Washington, D.C., December 13, 1973.

Mr. RICHARD O. SIMPSON,
Chairman, Consumer Product Safety Commission, Washington, D.C.

DEAR MR. SIMPSON: This morning the Consumer Product Safety Commission announced in the Federal Register denial of the National Football League Players Association's petition regarding artificial turf as a football playing surface.

I find this announcement highly confusing and inconsistent in light of two prior indications that the Commission is still studying the matter. A public meeting of the Commission and representatives of the NFL Players Association has been scheduled for January 4, 1974 and an Associated Press story yesterday indicated the Commission is considering holding public hearings on the subject of artificial turf as a football playing surface.

I would sincerely hope and strongly urge that the meeting and the hearings go forward, for the following reasons:

(1.) The Consumer Product Safety Commission has ranked football-related activities, equipment and apparel seventh on its list of the 365 most hazardous consumer products. To finally deny the NFL Players Association petition dealing with one of the most controversial of these activities—the use of artificial turf—on the basis of a staff report is inconsistent with the Commission's responsibility to consumers.

(2.) It is my understanding that the Commission has never considered injury data compiled by the NFL teams. The Players Association has been unable to secure this data, but I understand it could be made available to the Commission through the Occupational Safety and Health Administration.

(3.) Despite the lack of official injury data, the Commission did have access to a study, financed by the National Football League, which showed substantially more injuries to athletes playing on artificial rather than natural turf.

(4.) The statutes which created the Consumer Product Safety Commission prevents a petitioner whose petition has been denied from going to court. Thus, it would seem that the Commission has a strong responsibility to conduct thorough and complete investigations—including public hearings when advisable—before denying a petition.

(5.) Finally, denial of the NFL Players Association petition affects a great many more consumers than just the professional players. At the present time, there are some 150 installations of artificial turf on football playing fields. Only 13 of those are used by the National Football League. That means that a substantial majority of those installations are used by college and high school athletes and even some "sandlotters". Actually, the NFL Players Association may be able to solve its problems with artificial turf through collective bargaining with the NFL owners. But, the thousands of amateur athletes from grade school through college have no one to protect them from any dangers which may result from the use of artificial turf except the Consumer Product Safety Commission.

For the above listed reasons, I repeat my concern that further study be given to the use of artificial turf as a football playing surface.

Sincerely yours,

DAVID R. OBEY,
Member of Congress.

THE STATES' SIDE TO NEW FEDERALISM

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1973

Mr. CRANE. Mr. Speaker, recently, a testimonial dinner was given in honor of Howard Phillips, former Acting Director of the Office of Economic Opportunity.

Addressing the dinner audience, Gov. Meldrim Thomson, Jr., of New Hampshire, noted that Phillips, "in a brief 6 months . . . had Congress howling, the army of bungling, self-perpetuating OEO bureaucrats screaming, and the vast majority of hardworking, taxpaying, freedom-loving Americans singing his huzzahs."

While Howard Phillips had "won the first opening skirmish in the new revolution," Governor Thomson noted that "then the field command was changed. Tragically, there has been no follow-through to this all-important conservative victory."

OEO, which was to be dismantled, now is pursuing virtually all of the programs meant to be eliminated. In many instances, it is doing so against the wishes of State officials.

Governor Thomson believes that our free society can only be maintained as long as power is clearly divided between the national and State governments. He expressed the view that the new federalism, to work, must fulfill the wishes of State officials, not nonelected bureaucrats.

In his talk he declared that:

> For 40 years America has dallied in the garden of socialistic ideas. New federalism would set us anew on the path of constitutional government, where free enterprise and human freedom are the warp and woof of our destiny. New federalism would emphasize again the separation of governmental powers, the division of sovereign powers, and the republican form of government—all guaranteed under the federal Constitution.

Thus far, however, the new federalism has won few such battles. Governor Thomson points out that, "except for the brilliant performance of Howard Phillips it is having real trouble converting theory into practice."

Federal bureaucrats, Governor Thomson understands all too well, do not like States. He noted that:

> They love regional government. It is a concept foreign to our federal Constitution, where not once does the word region appear. Yet bureaucrats fight for it because salaries are plush, the pastures of wasteful frivolity lush, and the power of the people nonexistent.

Today, approximately 30 percent of the budget of the State of New Hampshire comes from Federal funding of one kind or another. It is, states Governor Thomson, "difficult for a State to stand straight and clean above its dependence on the Federal Government."

The new federalism, if it is to be more than an empty phrase, must, in Governor Thomson's words, "have strong, independent States operating within the framework of constitutional federalism."

I wish to share Governor Thomson's important address with my colleagues, and insert it into the RECORD at this time:

THE STATE'S SIDE TO NEW FEDERALISM

(By Gov. Meldrim Thomson, Jr.)

Mr. Chairman, ladies and gentlemen, we gather to give testimony to the steadfast and effective adherence to the principles of human liberty by a courageous young man.

When President Nixon announced the goals of new federalism, he launched the new American revolution.

One of the most heavily fortified outer bastions of liberalism was the Office of Economic Opportunity. It lay directly athwart the course of the new revolution.

Last January, the President chose Howard Phillips to lead the assault on the entrenched poverty programs of OEO. Their enfilading fire had cut a wide swath into America's institutions of freedom.

Howie's fight was so successful that in a few short months OEO was infiltrated, dismantled in part, and all of its wretched hypocrisy laid bare.

In a brief six months he had Congress howling, the army of bungling, self-perpetuating OEO bureaucrats screaming, and the vast majority of hard-working, tax-paying, freedom-loving Americans singing his huzzahs from the high hills of hope.

In brilliant fashion Howie won the first opening skirmish in the new revolution. Then the field command was changed. Tragically, there has been no follow-through to this all important conservative victory.

We in New Hampshire can testify to the good works of Howard Phillips during his term as Acting Director of OEO.

Early in my administration last winter Dan Joy came to our office to ask if we would be interested in sponsoring a true test of the voucher plan for financing public education.

I responded with an enthusiastic "yes". I immediately called in our new chairman of the State Board of Education, William P. Bittenbender and obtained his whole-hearted approval.

Since then, we have received a little over $100,000 from OEO for planning, and the encouragement of such persons as Secretary Weinberger, Presidential Assistant Laird, and Vice President Agnew.

But there are strong educational forces at work to see that nowhere in America can a true voucher plan be tested. Things have changed at OEO since January. And the voucher plan proposed for New Hampshire in January is in trouble in September.

We have met with one Federal bureaucratic delay after another. Now we have in our State an evaluation team from the National Institute of Education. Only this morning Mr. Bittenbender advised me that this team is recommending radical changes to the proposed plan that would dilute and make useless the whole plan. Also, the team wants to delay the experiment originally planned for July until November!

Thus, the liberals fight back. The product of the seeds of hope planted last spring has been nipped by the chilling frost of bureaucratic power!

In another area New Hampshire moved in unison with the President in his fight against the continuance of those OEO programs that were wasteful and harmful to our free institutions.

In New Hampshire we have revised the entire State structure for anti-poverty programs. We will now have more State and local influence on the content and administration of these programs.

The State OEO has been replaced with a Division of Human Resources in the Office of Comprehensive Planning.

The new Division has a much wider scope. It is not limited to OEO programs even though it has absorbed control of all functions of the previous OEO operation.

The new Division provides for an evaluation-oriented staff which will have the authority and resources to scrutinize and assess all human resources programs.

It also will prepare for special revenue sharing programs. The new Division will be able to administer these new programs.

This Division also will provide the information needed by county designating agencies who are responsible for authorizing the community action programs to administer programs.

It will give them the knowledge to determine whether these programs are being run correctly. It also can assist them in any changes at the local level, such as removal of programs from the CAPS to other agencies if they deem it desirable. They will have the expertise to oppose programs they and their citizens do not want.

All of these changes would have been impossible under a Federal OEO leadership which was hostile to democratic ideas. Instead, Howard Phillips and his staff were receptive to changes which would decentralize controls and return these decision-making powers to the people of New Hampshire.

This is the new federalism at work in New Hampshire.

There is nothing really new about the President's new federalism, as I understand it. For forty years America has dallied in the garden of socialistic ideas. New federalism would set us anew on the path of constitutional government, where free enterprise and human freedom are the warp and woof of our destiny.

New federalism would emphasize again the separation of governmental powers, the division of sovereign powers, and the republican form of government—all guaranteed under the Federal Constitution.

Thus far new federalism has sought to return to the States and people powers usurped by a voracious and ruthless central government. Except for the brilliant performance of Howard Phillips it is having real trouble converting theory into practice.

STATE SOVEREIGNTY

There is a State side to new federalism that has been wholly overlooked and neglected.

The entire Federal concept was founded on the fact that 13 original and independent States voluntarily parted with that portion of their sovereignty needed to establish a strong national government, reserving to themselves in the 10th amendment all powers not expressly delegated to the national government.

The two oldest State constitutions, those of Massachusetts and New Hampshire, declared their sovereignty prior to June 22, 1788, when New Hampshire's ratification vote made operative the Federal Constitution.

Our State constitution says, and in New Hampshire we believe, that the people have the sole and exclusive right of governing themselves as a free, sovereign and independent State; and do, and forever hereafter shall, exercise and enjoy every power, jurisdiction, and right, pertaining thereto, which is not or may not hereafter be, by them expressly delegated to the United States of America in Congress assembled.

Of late years an aggressive Congress and a fawning judiciary have sucked the very power of sovereignty from the States and substituted therefor the corrosive substance of dependence.

Today States are but thin husks of sovereignty—anachronistic leftovers of a once great constitutional concept. They are names and boundaries on maps but little else.

Federal bureaucrats do not like States.

They love regional government. It is a concept foreign to our Federal Constitution, where not once does the word region appear. Yet bureaucrats fight for it because salaries are plush, the pastures of wasteful frivolity lush, and the power of the people nonexistent.

Today it is difficult for a State to stand straight and clean above its dependence on Federal Government. About 30 percent of our State budget comes from Federal funding of one kind or another.

Not only do most of these funds have strings attached to them but the regulatory twine manipulates the Federal puppets in an incessant whirling-dervish ecstasy of do's and don'ts.

Early in my administration I decided to get rid of a crime commission that had no evaluation of the effectiveness of its grants and was more interested in conferences, seminars and rehabilitation of incorrigibles than in basic law enforcement.

Wind of my plan reached the LEAA office in Boston immediately and brought the Federal official to our State House on the run. Under the pretext of meeting me, a pleasure which under the circumstances seemed highly dubious, he suggested that I should leave the commission intact.

I have heard that kind of advice—just short of veiled threats—several times from Federal bureaucrats. I have great difficulty in refraining from instant adverse reaction.

What you and I know but these fellows cannot understand is that new federalism will work only if we have strong, independent States operating within the framework of constitutional federalism.

The meaning of the dual sovereignty under our federalism was made clear by Madison in the 45th paper of The Federalist where he wrote as follows:

"The powers delegated by the proposed Constitution to the Federal Government are few and defined. Those which are to remain in the state governments are numerous and indefinite. The former will be exercised principally on external objects, as war, peace, negotiation, and foreign commerce; with which last the power of taxation will, for the most part, be connected.

"The powers reserved to the several States will extend to all the objects which, in the ordinary course of affairs, concern the lives, liberties, and properties of the people, and the internal order, improvement, and prosperity of the state."

Madison could not conceive of today's mad rush by governors to Washington for Federal handouts.

He would have been appalled as I was at their reaction to President Nixon's impoundment program—one which incidentally had my wholehearted support from the beginning.

The supplicants of federal succor descended on Washington after the impoundment orders with tin cups in hand. The litany of their tins was sweet music to their liberal brethren on the Potomac.

Madison in the 46th paper suggested that states would fight federal encroachments. He said:

"But ambitious encroachments of the federal government, on the authority of the state governments, would not excite the opposition of a single state, or of a few states only. They would be signals of general alarm. Every government would espouse the common cause."

How wrong was Madison these days have thus far proved. Howard Phillips through OEO started the flow of federal power back to the states. But what was a strong stream in March has become a trickle in September.

If President Nixon's new federalism, so essential to the continued life of our republic, is to be effective, the states must reassert their sovereignty. This will be difficult, but not impossible.

Today's office holders must embrace the ideals of yesterday's founding fathers and be willing to make the same sacrifice of property and lives which they mutually pledged to each other.

The struggle is for raw power. Upon the outcome rest the freedom of Americans and the ultimate hope of all mankind.

Hamilton in the 79th paper neatly summed up today's problem of federal largess as follows: "In the general course of human nature, a power over a man's substance amounts to a power over his will."

The founding fathers knew that a government that controlled a man's property was tyrannical no matter by what name it was called; today's conservatives also know this truism of human liberty.

The more distant, complicated and powerful the seat of government from the people the less they have to say about their own lives.

If we have spent two hundred years merely to concentrate power in an unresponsive and unrepresentative bureaucratic government in Washington then we have swung full circle back to the London of George III.

Never, in the long struggle for human freedom, was the need greater for state sovereignty.

There is no true sovereignty if States are dependent on—

Federal handouts for their economic survival;

Legal aid for the indigent from lawyers not admitted to practice, in some instances with criminal records, and completely unaccountable to either the legislature or governor; and

Family planning that dispenses at taxpayers' expense and against the will of most such persons contraceptives to young, unmarried teenagers.

In New Hampshire we are fighting hard to restore State sovereignty so that our people might once again decide for themselves the things that concern their lives, liberties and properties and might regulate the internal order, improvements and prosperity of their own state.

Thus, when our State library commission recently asked governor and council to join several other states in a court action to strike down the President's impoundment order affecting libraries, I informed our governor's council that I would not do so.

When the legal assistance corporation applied to our Crime Commission for funds to hire counsel for our State prison, I told commission members that such a grant would not have my approval.

The Legal Assistant project in our State has a budget higher than that for the Governor. With this boodle they involve themselves heavily in lobbying and politics, attack through political actions our governmental institutions, and give perfunctory and often useless service to our indigent.

But most of all they are a self-perpetuating and self-directing service entirely unaccountable to our citizens or their elected representatives.

Again, when I found that a family planning unit was fostering promiscuity among our high school students, I moved to block further funding until accountability could be established.

Friends, for years we have railed against the drift toward uncontrollable bureaucratic power in Washington.

We have protested, we have argued, we have lamented, and we have accommodated. And all the while the verities of constitutional government have fallen away one by one.

Our children cannot pray in school, though our lawmakers mock us by publicly praying, and our courts flaunt their hypocrisy by calling on God to hear our oaths.

Our prisons are kept in constant turmoil by a Federal judiciary that is so hopelessly out of touch with the mores of our day and so contemptuous of the Constitution that they daily drag this great country toward rule by usurpation for the benefit of special minorities.

Not until the short, hopeful, and inspiring career of Howard Phillips did our protests begin to bear fruit.

If nothing else, Howie taught us that the strong citadels of liberalism can be breached; that the great powers held in Washington can be redirected back to the people; and that the new federalism of President Nixon can restore that balance in sovereignty so essential to the survival of our Republic.

He has proved also what Gideon learned more than 2,000 years ago, that faith in God and uncompromising devotion to high principle can bring victory though the members who cross the brook of decision be few.

Tonight we pay tribute to the long list of contributions Howard Phillips has made to the cause of freedom. Tomorrow, we shall salute him for the promise of greater success in his goal to restore the power of self-determination to our people. He has fought the good fight and will return to share one day in the victory.

Friends, never in the history of these United States of America was there greater need for perception, industry and vigilance if we are to preserve in our third century the blessings of liberty thus far achieved under our Constitution.

Howard Phillips has pointed the way. We cannot, we shall not, falter!

DILLARD BROWN LASSETER, DEDICATED OFFICIAL

HON. ROBERT E. JONES

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1973

Mr. JONES of Alabama. Mr. Speaker, with the passing of Dillard Brown Lasseter, November 2, 1973, many Members of Congress lost a pleasant friend and adviser.

For the past 20 years Mr. Lasseter was associated with the American Trucking Association and was well known to me and numerous Members of the House as a pleasant companion and a man of great intellect and compassion.

It was my privilege to work with him more than 20 years ago when he was administrator of the Farmers Home Corporation. With his guidance and counsel we were able to prepare and see enacted legislation which opened opportunities for farm ownership to thousands of veterans returning from World War II.

Mr. Lasseter was born in Vienna, Ga., and received a masters degree in political science from New York University. After his graduation, he was appointed by President Woodrow Wilson as a language officer in Peking. He served in World War I as a liaison officer to the British Army.

In the early 1940's, Mr. Lasseter was appointed deputy administrator of the National Youth Administration, one of President Franklin Delano Roosevelt's creations.

Two years later, Mr. Lasseter was appointed regional director of the War Manpower Commission for the District of Columbia, Virginia, Maryland, and North Carolina. As director, he was responsible for the coordination of many war industrial training programs.

President Harry Truman appointed Mr. Lasseter to be administrator of the Farm Security Administration in 1945. A year later, he also was appointed administrator of the Farmers Home Corporation.

The Decatur Daily of Decatur, Ala., of which Mr. Barrett Shelton is publisher, recently printed an editorial concerning Mr. Lasseter's passing. I include the editorial as a part of my remarks at this point:

A CHAMPION OF THE TIMES

In the passing of Dillard Brown Lasseter, 79, in Washington, D.C., Friday, we have lost a champion in our times.

Mr. Lasseter, a native of Vienna, Ga., was well-acquainted with North Alabama through his service in 1945 as administrator of the Farm Security Administration and later as administrator of the Farmers Home Corp. In these agencies, his efforts enabled many veterans returning to this area from World War II to acquire loans for farm ownership.

He was known to all as a gentleman of unusual intellect and compassion for the needs of others.

SAFE SCHOOLS ARE A NECESSITY FOR OUR CHILDREN

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1973

Mr. BINGHAM. Mr. Speaker, the rising tide of crime upon youngsters on their way to and from school has prompted at least one community to protest and demand increased police protection of the nearby streets.

While I believe that the answer to the problem of school crime goes far deeper than the introduction of security guards in and around the school building, I commend the attached article, appearing in the November 27 edition of the New York Times, to my colleagues as an indication of the severity of the problem and the need to act with expedition on the Safe Schools Act, H.R. 2650.

The article follows:

[From the New York Times, Nov. 27, 1973]

ATTACKS IN AN EAST FLATBUSH SCHOOL SPUR DEMAND FOR POLICE PROTECTION

(By George Goodman Jr.)

About 150 teachers and parents of pupils demonstrated outside Public School 219 in the East Flatbush section of Brooklyn yesterday in an appeal for increased police security.

On Nov. 19, a teen-ager entered the school building at 1060 Clarkson Avenue, walked into a room where a teacher was conducting an after-school play-center program, "held a gun to his head and robbed him," said Steven Kotick, an organizer of the protest.

Mr. Kotick, who is also P.S. 219's chapter representative for the United Federation of Teachers, said that on two other occasions a teacher's aide had been mugged by teen-agers in the vicinity of the school on her way to work during the morning.

In the robbery, the man was not harmed, but Mr. Kotick and others at the school said the woman teacher had been knocked to the ground, beaten and kicked before being robbed.

POLICE ACTION AWAITED

"The demonstration was decided on only after the Police Department and the District 18 Community School Board officials failed to respond to our demands for protection," Mr. Kotick said. "We are waiting to see if they come through on their assurances and will take other action if they don't do something about the situation."

At several meetings yesterday, representatives of the 71st Precinct police command and Harvey Garner, the district superintendent, discussed demands by teachers for security in the neighborhood, where merchants and residents charge that police protection has deteriorated since whites moved away.

A uniformed patrolman will be stationed in the block in which the school is situated between 10 a.m. and 6 p.m., a spokesman for the District 18 School Board said.

The school board spokesman said that the police promised continued patrol of the school by a police officer on a motor scooter, but that a lack of funds did not permit additional security personnel within the school building, as demanded by the teachers.

"In both cases, with the patrolman and the scooter policeman, their presence will depend on other needs in the area," he said.

The principal of P.S. 219, Judah Frank, said children as well as adults had been robbed in the area. He said none of the adults had been seriously injured, except the teaching aide, Joyce Rosen.

"Kids are harassed coming and going from school and on one occasion a first grader was robbed of his sneakers and his lunch," Mr. Frank said.

A police officer assigned to the area attributed much of the crime in the region to several gangs, "The Jolly Stompers" and "The Tomahawks."

"It is a high-crime area," he said.

Mr. Kotick said that most of the 1,800 pupils at the school were black and most of its teaching staff was white "but there are no racial overtones in any of this."

Mrs. Denise Roker of 232 East 95th Street, a black woman who is a home-owner and a parent of a P.S. 219 pupil, said as did others in the neighborhood, "police do not patrol the community the way they used to when whites lived here."

Along a string of shops and stores in the 1000 block of Clarkson Avenue, others echoed Mrs. Roker's complaint.

"When you see policemen now they're giving out tickets," said William Myers, a customer in the Three Star barber shop.

At the 71st Precinct station house, Sgt. Thomas Mauro said he could not make "an official comment" on the charges, explaining that community relations personnel had left for the day.

ROYBAL'S STATEMENT ON ASSOCIATED UNIVERSITIES FOR INTERNATIONAL EDUCATION

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1973

Mr. ROYBAL. Mr. Speaker, there is an important part of the Foreign Assistance Act which deals with population planning and health. In this sensitive area development planning must be the responsibility of each sovereign country. U.S. assistance should be administered in a collaborative style to support the development goals chosen by each country receiving assistance. Also, the U.S. cooperation in development should be carried out to the maximum extent possible through the private sector including those areas, such as educational institutions.

Our committee has considered testimony presented by a group of U.S. universities, titled "Associated Universities for International Education." This group has made arrangements with universities in Latin America to initiate the establishing of permanent population centers by the Latin American universities. Such a program will balance the clinical programs for family planning presently supported by AID with a permanent program focusing on each country's social and cultural aspects in population growth, as well as its resources of food, health, housing, education, and employment. The Latin American universities will develop a program that can be introduced into the governmental and educational processes of each country to provide motivation for responsible parenthood.

The international coordinating university will continue to be located in Washington, D.C.

The universities in Brazil have obtained the written consent of the Brazilian Minister of Education to put this program into operation. The universities in Mexico and Colombia have given assurances of their interest in participating.

I believe AID should proceed with this program of the Associated Universities for Internatinal Education.

The Associated Universities' testimony before the House Appropriations Subcommitee on Foreign Operations follows:

SUMMARY OF STATEMENT

Congressman Passman, Congressman Shriver, and members of this committee:

My name is Father T. Byron Collins, S.J., Special Assistant to Father Robert J. Henle, S.J., President of Georgetown University, and Federal Relations Officer for the Consortium, Associated Universities for International Education.

With me is Father Harold C. Bradley, S.J., Director of International Programs at Georgetown University and a member of the executive committee of the Board of Directors of the Consortium, Associated Universities for International Education. Also with me is André Hellegers, M.D., Director of Population Affairs at Georgetown University.

It is a pleasure to testify before your Committee on Appropriations on foreign assistance.

We are here to present a request of a consortium of universities in the United States, with a center at Georgetown University. Our concern lies in the field of the International Population Program of AID. We presented to you last year the outline of this program. Our purpose today is to report to you details of our last year's effort and the need for funds for the international Consortium of Universities.

The present program of AID in the field of population is strongly oriented to supporting only clinical programs for family planning in other countries.

We believe that the clinical programs lack balancing social and human motivation programs in many countries.

For a year representatives of Georgetown have met with staff officers of AID to start the international university program.

The international university program associates indigenous universities in a country with universities in other countries to develop a national and local rationale for the country in reference to its population growth and capability to sustain the growth.

At the suggestion of AID population staff, we have a planning request filed with the Agency for universities in Brazil, Mexico and Colombia. The amount of the grant request is about $50,000. Georgetown University has expended double that amount already in this program.

The amount estimated for the first phase of this Latin American program from AID resources is $2,000,000. From experience, the universities in Brazil, Mexico and Colombia and the United States will have to add another $2,000,000 to the AID amount to make the program effective. We need the AID funds to stimulate the sequential private funds in each country.

The object of the program is to have the universities in Brazil, Mexico, Colombia and the United States to establish a permanent self-sustaining Population Center in each country with an international center in Washington, D.C. at Georgetown University.

We have sufficient interest and assurances from universities in Brazil with the written consent of the Brazilian Minister of Education to start this program. We have like assurances from universities in Mexico and Colombia.

We respectfully request the Committee to encourage AID to develop a balanced population program with expenditures in both social motivation, research and projects as well as a clinical approach with respect for human dignity.

Without this approach the individual population program could be in jeopardy. We note that the present AID population program is barred from Brazil and Mexico. It was recently barred from India.

We enclose complete documentation of the university program for the record.

COMMENTS BY ADMIRAL RICKOVER ON MAN AND HIS WORK

HON. LEO J. RYAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1973

Mr. RYAN. Mr. Speaker, on the occasion of Admiral H. G. Rickover's appearance before a Senate committee recently, he made some comments about the purpose of life which, I believe, have value for every American. The comments are from the text of his testimony:

COMMENTS OF ADMIRAL RICKOVER

Man's work begins with his job, or profession. Having a vocation is always somewhat of a miracle, like falling in love. . . . But having a vocation means more than punching a timeclock. One must guard against banality, ineptitude, incompetence, and mediocrity.

We as a people seem inclined to accept average or mediocre performance. Mediocrity can destroy us just as surely as perils far more famous. It is important that we remember to distinguish between what it means to fail at a task and what it means to be mediocre. There is all the difference in the world between the life lived with dignity and style which ends up failing, and one which achieves power and glory, yet is dull, unoriginal, unreflective, and mediocre. In a real sense, what matters is not so much whether we make a lot of money, hold a prestigious job, or whether we don't; what matters is that we become people who seek out others with knowledge and enthusiasm—that we become people who can enjoy our own company.

For the person who strives to excel, to shoulder responsibility and to speak out, there is an enemy wherever he turns. The enemy is a man who has a total willingness to delegate his worries about the world to officialdom. He assumes that only the people in authority are in a position to know and act. He believes that if vital information essential to the making of public decisions is withheld, it can only be for a good reason. . . .

The enemy is any man whose only concern about the world is that it stay in one piece during his own lifetime. . . . Nothing to him is less important than the shape of things to come or the needs of the next generation.

To struggle against these enemies, and against apathy and mediocrity, is to find the purpose to life.

EXCESSIVE GOVERNMENT SPENDING

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1973

Mr. ASHBROOK. Mr. Speaker, the recent passage of the Budget and Impoundment Control Act by this House has shown a much needed desire to gain control over Government spending. This desire still has to be translated into the actuality of lessening Government expenditures.

Part of the whole problem of excessive Government spending is the Government's great role in the capital market. One of the results has been to increase the cost of borrowing funds for individual Americans and businesses. At the same time the Government's role in this area has led to a further limitation on the funds available for businesses to finance expansion and thereby provide more jobs.

At this point, I include in the RECORD the November, 1973 issue of the Tax Review which deals with "The Governmental Competition for Investment Funds." While I do not necessarily agree with all the recommendations of the article, I do think that they should be discussed. The text follows:

THE GOVERNMENTAL COMPETITION FOR INVESTMENT FUNDS

(By Murray L. Weidenbaum)

We must seriously consider the possibility that the United States has entered a period in which there will be a long-run tendency for the demand for capital to outrun the supply of savings to finance it. Moreover, the situation is likely to be worsened for the typical business firm by the rising extent to which the government itself will become a major competitor for capital funds.

On the supply side, several basic factors will be dampening down the potential for generating savings. In absolute terms, of course, there will be large increases in funds available for investment. Important forces, however, are exercising a depressing effect on the growth rate of savings. Even with the investment credit back on, our tax system does less to encourage private saving and investment than those of most other industrialized nations. Moreover, the social security system—which has been expanded and liberalized recently—discourages private savings.

Finally, consumers—who are the basic source of saving in the economy—will be experiencing some adverse factors in this decade. The changing age distribution of the U.S. population suggests that, if past savings patterns are maintained, the personal saving rate (although not the absolute amount) could decline over the coming decade. Just compare the anticipated trends in the low-saving age groups with the high-saving age brackets, and that does not take much forecasting ability because we are talking about people who are already born and living in the United States.

The prospects are very unfavorable. The number of Americans in the high-spending, low-saving age brackets (20–35) will be rising substantially, from 46 million in 1972 to 60 million in 1982. These are the young people who borrow heavily, particularly to finance and furnish new homes. In striking contrast, the high saving and investment age brackets (40–54) will show a decline in absolute numbers, from 36 million to 34 million in 1982.

On the demand side, in contrast, there clearly will be rapidly rising requirements for new capital investment, in both the public and private sectors. Estimates in the tens of billions each have been made for such high-priority items as pollution control equipment, housing and communty facilities, mass transportation systems, and exploration and development of domestic energy sources.

In the public sector, the Tax Foundation has estimated that new security issues by state and local government will almost double during the current decade, rising from $18 billion in 1970 to approximately $35 billion in 1980. These estimates of course exclude the periodic refunding of maturing securities. On this basis, net long-term debt of states and their localities will more than double during the 10-year period, rising from $122 billion in 1970 to $260 billion in 1980.

On the Federal side, the amount of external financing essentially will be a matter of fiscal policy. The extent to which the Federal government, like so many business firms, relies on the flow of internal funds to meet much of its financing requirements should not be overlooked. In the government's case, it is not retained earnings, but rather the current accumulations in the social security and other trust funds which are invested in government securities. In the fiscal year 1972, Federal departments and agencies acquired $8 billion of Federal securities. In the fiscal year 1974, these net purchases are anticipated to total $16 billion. All in all, the Federal government itself will be holding $140 billion of its own securities by June 30, 1974.

A number of public and private forecasts show that, by 1976 or 1977 or some other future year, the Federal government may be operating at a surplus—and, hence, that no external financing will be needed. For example, the President's January budget estimated a margin of $35 billion by which revenues would exceed outlays, on a full-employment basis, in 1978. Do not be misled by these statistical exercises. I have done them myself and find them very useful; but we must recognize them as a form of mental gymnastics. The key to understanding these, as well as any other forecasts, is to look at the underlying assumptions. That is critical in this case. The key assumption, which may not always be apparent to the users of these forecasts, is that no further change will be made in the expenditure programs or revenue structure of the Federal government. This is plainly unrealistic. If there is anything that can be forecast with confidence, it is that over the years the Congress will pass laws increasing spending on existing programs and instituting new spending programs. Likely candidates are not hard to find—ranging from incentives to explore for new energy sources to a national health insurance program to another upturn in the military budget.

PROJECTIONS SHOW FEDERAL OPTIONS

Please do not interpret this as an attack on the projections per se. They are not intended to be forecasts of reality. Rather, they are a useful input into the policy planning process by indicating the amount of discretion that is available to increase outlays and/or cut taxes within the existing budget structure. In the future, as in the past, the public's appetite for new government services and benefits likely will outrun the willingness to pay for this largesse in the form of higher taxes. Thus, on balance, the Federal government is likely to run deficits and be a net demander of investment funds in the years ahead.

In practice, available savings will be allocated among the various categories of borrowers. Hence, no long-term credit crunch should be anticipated, but rather a period of relatively high interest rates for the decade ahead of us. Competition for funds in securities markets will be sharp, thus exerting a strong upward pressure on interest rates. This will be reinforced by the tendency for a higher average rate of inflation than in the past decade—say 4 percent. Although this level will be below the recent peak rates of price increase, it will still be a painfully high average level.

Economic trends, however, do not usually follow a straight line, at least not for any substantial period of time. There will continue to be periodic fluctuations in business activity in general and in financial markets and interest rates in particular. The rate of economic growth—and interest rates—will decline on occasion. But unless fiscal and monetary policy can follow the often unpopular but frequently necessary path of restraint, inflationary pressures will worsen from time to time. This is why so many knowledgeable analysts expect that future administrations in Washington will, from time to time, experiment with various methods of influencing private wage and price decisions, ranging from rigid controls to voluntary guidelines.

I would now like to turn to an undramatic but perhaps equally important change taking place in the public sector, at least important in terms of its impact on securities markets.

We are witnessing the development of a very special kind of financial intermediary, the government-sponsored agencies and the "agency issues" that result. It may be less than one man in a thousand who understands the operations of these Federal credit programs, but I submit that we all are affected by them. Government-sponsored enterprises—such as the Export-Import Bank, the Federal National Mortgage Association, and the Federal Land Banks—are strongly influencing and will increasingly determine which private credit needs will be met.

Let me cite just a few pertinent facts. In 1960, these Federal credit programs represented about one-tenth of the total funds advanced in credit markets in the United States. By 1970, they accounted for two-fifths. The trend shows no signs of subsiding. The last few years have seen the establishment of new ones, such as the Washington Metropolitan Area Transit Authority and the Student Loan Marketing Association (Sally Mae). Legislation also has been enacted authorizing the government to guarantee private loans for ship construction and rural development, as well as an Environmental Financing Authority.

There are constant demands for setting up still more government-sponsored credit agencies, including an Energy Research and Development Corporation, a Fanny Rae—a Federal National Railway Association—and literally an RFC, an Aerospace Reconstruction Finance Corporation. It does not take too much imagination to foresee that the continuation of present trends will result in more than one-half of the ostensibly private credit markets of this Nation thus becoming "Federalized" by the end of the decade.

Of course, there is always some justification offered for the government setting up these credit activities. Educators are aware of the financial needs of students and will not oppose the formation of a Sally Mae. Utility executives are certainly cognizant of the need to develop energy sources, and some may favor setting up an Energy Corporation. But we all must realize that this form of governmental intervention does nothing to increase the total pool of capital which is available.

CAPITAL MARKETS BEING SOCIALIZED

When the national government enters financial markets, it possesses advantages not available to private borrowers. To a very considerable extent, these governmental attributes are being transferred to the ostensibly private organizations which operate under Federal auspices. In effect, increasing portions of available investment funds are being preempted by government credit agencies and are not available to truly private borrowers. This means an increasing socialization of capital markets, which are such a basic element in the strength and durability of a private enterprise system.

Of course, it is not hard to see the reasons for the growing popularity of the governmental credit mechanisms. Most of them are not included in the budget itself; hence, they seem to be a painless way of achieving national objectives. Moreover, they develop a built-in clientele who receive benefits at the expense of the rest of society. In the fiscal year 1972 alone, the operation of Federal credit programs resulted in commitments for interest subsidies to the beneficiaries of these programs totalling $7 billion. The subsidies are in the form of interest rates below those that the borrowers would have to pay in truly private credit markets. To compound the problem, these are truly hidden subsidies. You have to dig out the special analyses that accompany the budget in order to get information on them.

What should or can be done about this situation? Let us tackle this question from two viewpoints—first, that of national policy, and second, that of the individual company. From the viewpoint of national policy, a more hardnosed attitude is required toward these various Federally-sponsored credit agencies.

These programs should be carefully examined in the government's own budget process. The costs as well as their benefits need to be analyzed. Fundamentally, limits should be set on the total volume of Federally-assisted credit being extended and on the borrowings of these agencies.

Just because most of these programs are no longer included in the Federal budget, that does not mean that they are without any cost to the nation. The amount of investment funds generated in our economy in a given period of time is limited and giving specific categories of borrowers special preference should be restricted. Every time another Federal credit program is set up outside of the constraints of the budget, some truly private borrower is nudged out of the credit markets.

SEES NEED TO REDUCE GOVERNMENTAL ROLE

The government's role as an allocator of investment funds in our economy needs to be restricted substantially. The formation of a Federal Financing Bank with real authority to limit agency lending and borrowing would be a major advance—but it would have to exercise more than the Treasury's traditional traffic cop function. We also need greater public recognition that the governmental credit device does nothing to expand the volume of capital funds available to the economy. It involves literally robbing Peter to pay Paul.

Now let us examine this question from the viewpoint of the individual corporate borrower. The long-term impact of these trends seems quite clear. During periods of tight money, it becomes more difficult for unassisted corporate borrowers to attract the capital funds that they require. Most of the agency issues, after all, are designed to get more capital to the nonbusiness borrowers, notably home-owners and farmers. By and large, agency issues—whether they bear direct government guarantees or other Federal support—will not be crowded out of the market.

Thus, the burden of tightening monetary policy is increasingly likely to fall more heavily on the business sector. As is now apparent, interest rate movements are becoming sharper during periods of credit stringency (other factors are also at work, to be sure), as the various classes of borrowers bid against each other for the limited supply of investment funds. Merely marginally profitable investment opportunities suffer during such times.

Clearly, this new type of bond market environment is a real challenge to business firms and to their investment advisers and bankers. Increased attention needs to be devoted to both designing as well as timing public offerings so that they can compete effectively in capital markets which are becoming increasingly influenced by government priorities.

More fundamentally, an economic environment needs to be created that is more conducive to private saving and investment. That will require both changes in the tax laws and greater restraint on government spending. On the tax side, the often naive advocates of closing tax "loopholes" have little understanding of or interest in the reasons for incentive provisions, such as their contribution to economic growth or to private solutions to national problems.

It is ironic that the efforts to increase capital gains taxation are far stronger in the United States than in other industrialized nations, although our tax burden on such gains already is so much higher. In France and West Germany, capital gains are entirely exempt from income taxation. In Italy, they are only subject to a 9 to 15 percent levy by local authorities. Japan only taxes capital gains if trades in a given year exceed 50 transactions or 200,000 shares.

On the expenditure side, the pressures for new government spending programs do not seem to be abating at all. The most recent candidate is the possibility of substantial Federal aid for the exploration and development of new domestic energy sources. But despite all the talk about reordering our priorities, we have not really faced the necessary but unpopular task of selecting those areas of lower priority to which lesser proportions of our resources should be devoted. Yet, we should realize that the process of establishing a new set of expenditure priorities—which in itself is necessary and desirable in a changing world—is not complete until we have eliminated the old. Sensible restraint on the total amount of Federal spending also would help both in containing inflationary pressures, and in reducing the governmental competition for investment funds.

Unless we as a nation act on both the tax and expenditure fronts—to encourage private saving and to dampen down government investment—we must seriously consider the very real possibility that this nation has entered a period in which the demand for capital tends to outrun the supply of savings to finance it, and a high level of interest rates is likely to be the resulting balancing factor.

TRIBUTE TO MOUNT CARMEL AREA HIGH SCHOOL'S FOOTBALL CHAMPIONS

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1973

Mr. YATRON. Mr. Speaker, Saturday, December 1, 1973 was a special day for the citizens of Mount Carmel, Pa. That was the day on which the Mount Carmel Area High School football team defeated a fine team from Dunmore, Pa., marking the first time in history that a team in the southern division of the Eastern Conference Class A Football League repeated as conference champion.

The victory represented not only a fine team effort but also a community accomplished. Local citizens decorated their homes for the event and the local radio station, WMIM, broadcast a "Salute to the Tornadoes" for the entire week preceding the game.

The Tornadoes showed the true spirit of competition. Trailing by 6 to 0 at the end of the third quarter, the Tornadoes showed the ability to come back and not give up. They kept driving and the score ended 15 to 6.

Moreover, these athletes showed their excellence not only on the gridiron but in the classroom as well. Fully one-half—11 of the 22 offensive and defensive starters—are honorroll students at the Mount Carmel Area High School.

The citizens of Mount Carmel can be justifiably proud of their fine football team and its accomplishments. I am happy to add my congratulations to them on this important event. It is truly a privilege and honor to represent them in the Congress of the United States.

Mr. Speaker, I insert the newspaper accounts of the game and the tributes to this fine football team from the Mount Carmel News-Item, Mount Carmel, Pa., and the Reading Eagle, Reading, Pa.

The articles follow:

[From the Reading (Pa.) Eagle, Dec. 2, 1973]

TORNADOES SWEEP PAST DUNMORE, 15 TO 6: KNEE TAPE HELPS

(By Sam Procopio)

MOUNT CARMEL.—It was the return of the old, but famous "Mount Carmel sweep," and the running of Ken Diminick, held together at the left knee with a lot of tape, that was instrumental in giving Coach Joe "Jazz" Diminick his 116th triumph in 136 games Saturday—the all-time best winning percentage of .845 for any coach at Mount Carmel or Kulpmont (now part of the Jointure).

When the 5–9, 155 pound two-way back came limping off the field in the second quarter, the concern of Coach Diminick as a father and coach was very visible.

"I can go, dad," Ken assured him at halftime.

Could he really go? He had been on crutches for several days after the Lourdes games two weeks ago! He ran well against Shamokin last weekend, but was heavily taped by Dr. Joseph Greco, team physician.

Dr. Greco noted at the outset of the Dunmore game that the tape was the only thing that was keeping Ken in the contest, adding that he will likely have to see a specialist this week to see if the ligament injury to the knee may need further medical attention.

"He took that (second half) kickoff that nearly put us on the boards . . . He played a helluva ball game," summed up his dad, who rarely lauds his own boys for public quote.

Ken, who scored 11 TDs this season, admitted: "I couldn't run at my top speed."

"If he were 100 per cent," said one Mount Carmel fan, "we would have blown them out of here."

The turning point of the game came . . . "I guess when we found their weak spot on their right side. It was a hit or miss thing," explained the 1946 Kulpmont graduate, who starred at Boston College.

Coach Diminick explained that the "Mount Carmel sweep" used during the days of Gary Diminick and Bobby Veach, four and five years ago, was tried because they appeared to have "us well scouted."

"After we found it was the soft spot, we thought we'd go with it. Of course, Kenny made a good cut (taking advantage of the tremendous blocking he received at the line)."

In explaining the return of the sweep, Diminick said that "it was one of our pet plays. We got away from it. Since they (Dunsmore) hadn't seen it, we felt we had to go with it."

Prior to the opening kickoff, both Diminick and Dunmore Coach John Henzes Jr. felt that the strong wind coming from the northern part of the field would "play a big factor" in the outcome, particularly for field position in the kicking game.

"We hadn't experienced it or anything like it this all year," said Diminick, whose punter, Vince Rawa, did an exceptional job, kicking four for a 32-yard average, while Dunmore's Rick Coyer, who was averaging between 30 and 35 yards, averaged 23 in four kicks.

Henzes said he had nothing special set up to beat Mount Carmel, pointing out "that while we must contain them and they are the best we have played against, we won't deviate from what we made a success."

Torando blasts . . . Bill Joraskie, who got off what was a sensational extra point kick, had not booted one since the fourth game of the season when he kicked four PATs against West Hazelton. Mt. Carmel went for the two pointer more. He kicked a 28-yard field goal against Minersville in the fifth game—his second of the season . . . Ken's 14 points was the most in one game by a Tornado since Vince Rawa did the same trick in the Panther Valley opener. Rawa, who had a shoulder separation that made him a questionable starter Saturday, reinjured the shoulder on his second run of the game, but he did not give up either. While on the sidelines, he was eagerly awaiting for the coach to put him in and did a good job when he went in as a decoy or runner . . .

Although Mount Carmel played with a "no-name" line this year, special attention from outsiders has pointed to Ed Shula, a tackle, and Dave Williams, a center, not to overlook two outstanding linebackers, Lou Cole and Richie Greco, Cole and Kenny Diminick have each received more than 40 college offers. . . . Many signs decorated Mount Carmel. One read: "Even with the energy crisis the Big Red Machine is ready to go." . . .

[From the Mt. Carmel (Pa.) News-Item, Dec. 2, 1973]

TORNADOES SET RECORD IN DIVISION: MOUNT CARMEL TITLE SECOND IN ROW

(By Jim George)

MOUNT CARMEL.—Mount Carmel Area High School's Red Tornadoes used a spectacular fourth period to become the first Southern Division team to ever win back-to-back Eastern Pennsylvania Football Conference championships.

The Tornadoes whipped the Bucks of Dunmore, 15–6, on the strength of two scoring runs by Kenny Diminick, senior son of Head Coach Joe "Jazz" Diminick. The Tornadoes had to come from behind for the second game in a row, showing true championship form.

For three periods the Bucks played inspired football while the Tornadoes appeared listless as linemen missed many blocks.

Then, all of a sudden, Mount Carmel Area players returned to basic football and good blocking to edge ahead 7–6 on a seven-yard touchdown run by Kenny and a placement kick by Bill Joraskie.

A little over two minutes later, the Red and White returned to the same play as Kenny raced 45 yards for another TD. On the two point bonus try, Kenny again used the same off-tackle power play to rack up his thirteenth and fourteenth points of the game and wrap up the twenty-fourth straight win for Mount Carmel Area.

More than 10,000 persons sat in perfect football weather watching the grid spectacular, probably the most colorful and pageantry filled high school football championship game played in Eastern Pennsylvania.

Through the first three periods, each team appeared to perform only in spurts, with neither able to find the right play at the right time. Many times, the Tornadoes would find themselves on a march only to become untracked by a missed block which would result in a yardage loss by a running back.

But, in the long run, the Red Tornadoes showed their mettle by pulling out the win to make the Southern Division history.

Ken Diminick, playing his final high school game, dropped the curtain in spectacular fashion. Used sparingly as a ball carrier most of the season, Ken burst forward in the last two games to establish himself as a top-notch running back, somewhat in the mold of his older brother, Gary, who holds the scoring and rushing records at Mount Carmel Area.

Ken carried 17 times for 106 yards against the Bucks, averaging 6.2 yards per carry. He was by far the leading rusher in the game and if there was an MVP award to be given, Ken would easily have won. On defense, which Ken has admitted he prefers, he accounted for at least seven tackles and intercepted a Dunmore pass in the last minute of action.

But, Ken was not the only star for the Red and White. Vince Rawa, injured nine days earlier, returned to action and was stellar in his blocking and the few times he carried the ball. His punting was a telling factor, also, putting the Bucks in poor field position a number of times.

Other individual performances were of outstanding calibre, but putting them all together produced another title for the Red and White, the fifth championship for Mount Carmel as an Area and community high school.

"THE ADVOCATES" SHOULD CONTINUE

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1973

Mr. WALDIE. Mr. Speaker, one of the most reliable and consistent forums for dissemination of information to the public has been the Public Broadcasting System which carries "The Advocates" television program. "The Advocates" is the only program presently broadcast which treats issues to public debate. Proponents of opposing viewpoints are given equal time to espouse their theories on subjects ranging from economic policy to capital punishment. I was honored to be asked to appear on the program last week as the advocate of impeachment along with an impressive list of witnesses.

Reprinted below is an article by Terrence O'Flaherty of the San Francisco Chronicle, pointing out the precarious financial position of this worthwhile and informative program. It would be a serious blow to the attempts of those who feel that the public has a "right to know" to eliminate the only television program engaging in public debate on issues of substantial import to the American people.

The article follows:

HONK FOR THE ADVOCATES

(By Terrence O'Flaherty)

For 90 gripping minutes this week the only surviving forum of public debate available to all Americans—"The Advocates"—considered the pros and cons of the proposal to impeach Richard Nixon. The debate was sobering in its implications, but perhaps even more chilling is the news that the series itself is in grave danger of being canceled.

Representative Jerome Waldie made an impressive advocate of impeachment aided by Representative Paul McCloskey, the deans of two law schools and others who saw the action as the only way to "cleanse our system of the ugliness of its present corruption and to make it clear to future Presidents and present politicians that Americans demand morality, conscience and integrity in their leaders and they do not have such in President Nixon."

The President's approval of the Huston Plan which proposed illegal surveillance and political reprisal against anti-war protesters, blacks and others, was singled out by the proponents as a major justification for impeachment on constitutional terms.

The arguments against impeachment led by William Rusher were based not upon a strong bid for presidential integrity, but upon which might be called "soap box derby" morality which asserted that other Presidents had been equally guilty and upon the argument that "what is going on here is a power struggle and if we abandon the rules by which such struggles are conducted in favor of such politically atomic weapons as impeachment we will regret it until the day America dies."

Your own vote may be registered pro or con to The Advocates; Box 1973; Boston 02134.

No argument put forth for impeachment in this week's debate was as persuasive as Mr. Nixon's determination—long before Watergate—to muzzle the freedom of speech on the Public Broadcasting Service. Although his attempt seemed unbelievable at the time, each week since then has provided the public with additional evidence why such a move would have made sense from the President's standpoint.

The most vital element of a successful democracy is an informed citizenry. In the early days of our nation the information was supplied in the "town meeting" which is now a thing of the past. Today the medium of television could be America's new town meeting hall but, to its shame, TV has only one regularly scheduled vehicle of public debate on major issues. Only one. That is "The Advocates" on PBS.

Where else on television can you hear both sides of the Arab-Israeli conflict or the Alaska Pipeline or labor disputes? It has survived the White House attempts to stifle it along with all public information programming on PBS. Today "The Advocates" is in peril of cancellation because of President Nixon's veto of a two-year funding plan which would eliminate PBS' need to crawl from one year to another.

At present the producers of "The Advocates" are $400,000 short of funds needed to continue after February. If it is canceled the democratic process in America might as well close its own coffin insofar as public debate on television is concerned.

Let's see now . . . four corporations each making a contribution of $100,000 each would just about do it. Where are John Mitchell and Maurice Stans now that we really need them?

LAKE ERIE WATER LEVELS STILL "NORMAL"—2 FEET ABOVE AVERAGE

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1973

Mr. VANIK. Mr. Speaker, the House Public Works Committee's Subcommittee on Water Resources today held another hearing on the status of the water levels of the Great Lakes. Testimony at the hearings indicates the status is largely unchanged—meaning the Great Lakes remain at or near their historic high water level marks.

Despite an apparent universal recognition of the problems and their scope, little or nothing was volunteered by the Corps of Engineers and the International Joint Commisison in the way of solutions to those problems.

The IJC American section chairman, Christian Herter, Jr., informed the subcommittee that water levels would be higher if the SO–901 regulation plan—that attempts to treat the Great Lakes more as a system, instead of on a lake-by-lake basis—had not been instituted. But Mr. Speaker, this is hardly reassuring when we realize that Lakes Michigan, Huron, St. Clair, and my own district's Lake Erie are within less than a foot of their all-time historical highs—ready and waiting for vicious storms like those of November of 1972 to cause more tens of millions of dollars of damage.

Mr. Speaker, I remain extremely upset with the situation and the progress, or better, the very lack of progress toward permanent solutions to these problems. Recognition of the problems and their cause is not enough. We must implement solutions—not just talk about the situations that require them.

Mr. Speaker, in testimony I submitted to the subcommittee, I attempted to make a case for the construction of regulatory controls on the middle lakes. Lakes Superior and Ontario, both regulated, are within several inches of their long-term averages. The unregulated lakes are still in flood stage.

I would like to include for the RECORD some excerpts from that testimony:

EXCERPTS OF TESTIMONY

Mr. Chairman, we all realize that water levels are largely a result of nature—we cannot stop periodic climate changes from occurring—and we realize that certain amounts of water level fluctuation are inevitable. But Mr. Chairman, a close look at the Great Lakes water levels indicates some interesting things. Using the monthly bulletin of Lake levels for October 1973, prepared by the National Oceanic and Atmospheric Administration (NOAA) of the Department of Commerce, these statistics emerge:

As of the end of October 1973;

Lake Superior—9 inches *over* the long term average.

Lake Michigan-Huron—20 inches *over* long term averages.

Lake St. Clair—26 inches *over* long term average.

Lake Erie—24 inches *over* long term averages.

Lake Ontario—3 inches *over* long term averages.

These figures are as revealing as they are disturbing: while most of the lakes are above or close to their historical highs, two of them, Lakes Superior and Ontario, are at levels far closer to long term averages than the other, middle Great Lakes. While Lake Erie water levels in my district are about 24 inches, *two full feet*, above the long term averages, Lake Ontario is within only 3 inches of its long term average and Lake Superior is only about 9 inches above its long term average. Lake Ontario is unique because it is currently the lake closest to what might be considered its "normal" level. It has reached that level after being more than two feet over its long term average as recently as 6 months ago. Accounting for its seasonal fluctuation, that amounts to a reduction of over 36 inches of water in half a year for it to reach its present level: something the middle lakes would dearly love to be able to accomplish.

The reasons for Lake Ontario's remarkable recovery and Lake Superior's relative consistent low water levels are apparently their ability to control outflows. Both Lake Ontario and Lake Superior are *regulated*: equipped with man made controls and devices that allow their outflow to be varied. Lakes Michigan-Huron (treated as a single unit since their connection at the Straits of Mackinac is wide enough and deep enough to permit an unimpeded flow and exchange of waters), St. Clair, and Erie are *not* regulated—the connecting channels between these bodies of water are not equipped with controls and thus outflow volume is determined only by the depth and width of the channel, the slope of its surface, and the amount of water backed up in the upstream lake.

The monthly levels graphs show that the two regulated lakes have been *closer* to their long term averages *more* of the time than the lakes that are not controlled. Mr. Chairman, this is a strong argument for installation of regulation on the other lakes—a deepening of some of their channels to accomodate a larger outflow for periods of high water, and installation of gates and barriers to hold back waters during low water supply periods. The end result would be to reduce the extremes in fluctuations that we have witnessed in the past. Perhaps the reduction would not be a great amount, but shoreline owners all around the Great Lakes can testify that a few inches can mean the difference between losing a 30 year old home and safety. Every inch the levels are lowered means a decrease in the erosion damage to the Great Lakes basin shoreline.

The cost of any regulation of the St. Clair, Detroit, and Niagara Rivers would be great. Major General Ernest Graves of the Army Corps of Engineers testified before this committee in April that "minimal regulation" of all the Great Lakes would cost in the order of $350 million. But installation of controls at the three additional points would mean that we could now control the *entire* system of the Great Lakes. For the first time we could treat each lake as a part of the *whole* of the Great Lakes system.

In view of the possible large project cost, what are the consequences of *not* installing middle lake controls?

The State of Ohio estimates that the disastrous fall storm of 1972 caused $22 million of damage and resulted in seven Ohio shoreline counties being declared disaster areas.

An equally devastating storm over the Great Lakes basin in the spring of this year caused more heavy damage. Mayor Daley testified before this committee in April that high waters, wind and wave action of the previous five months had caused $12 million damage in Chicago alone.

The second highest water levels in history were in a disastrous year that began in the spring of 1951. Damage estimates for that period amounted to $61 million according to the National Shoreline Study (Great Lakes Region Inventory, August, 1971).

In that same report the Corps of Engineers estimates that a recurrence of storms in the same Great Lakes shoreline region would cause a *minimum* of $120 million in property damage. That figure does not include consideration of the development that has occurred on the shoreline since the end of that period of enormous destruction in 1952.

Additionally, Mr. Speaker, millions of dollars of private and public money is spent on programs to halt the shoreline erosion that the exceedingly high waters bring. Your committee has heard a great deal of testimony on the need for breakwalls, revetments, coffer dams, and the like—all to prevent the fury of the lakes from reaching or affecting the shores. Private citizens often spend thousands of dollars apiece in what usually turn out to be useless attempts to save their land and homes. Railroad ties, poured concrete, truckloads of broken cement and sandbags have all proven to be at best only short term deterrents to the wrath of storm driven high water.

Lastly, Mr. Speaker, I would like to mention the status of the comprehensive Great Lakes Water Levels Study that the Canadian and United States Governments commissioned of the IJC in October of 1964. Almost 10 full years after its initiation, it is still not ready. Hopefully, its contents will hold some of the answers we seek to the high water levels dilemma, but at the rate we are going, its solutions will be outmoded. It is ridiculous, Mr. Speaker, that in the face of the suffering and destruction that high water erosion has wrought, we should have to wait this amount of time for a definitive report.

COMMONSENSE IN MEETING ENERGY DEMANDS

HON. LOUIS C. WYMAN

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1973

Mr. WYMAN. Mr. Speaker, as I indicated in general debate yesterday, I have two amendments to H.R. 11882, the National Energy Emergency Act—formerly H.R. 11450. Pursuant to rule 23, clause 6, I insert these in the Record at this point to protect my right to time in the further consideration of amendments to this bill tomorrow:

Amendment to H.R. 11882, Offered by Mr. Wyman

Page 59, after line 23, insert the following:

(1) Section 202(b) of the Clean Air Act (42 U.S.C. 1857) is amended by adding at the end thereof the following:

"(6) (a) Notwithstanding any other provision of law the authority of the Administrator to require emissions controls on automobiles is hereby suspended except for automobiles registered to residents of those areas of the United States as specified by subsection (b) of this section, until January 1, 1977 or the day on which the President declares that shortage of petroleum is at an end, whichever occurs later.

(b) Within 60 days after the date of enactment of this paragraph, and annually thereafter, the Administrator shall designate, subject to the limitations set forth herein, geographic areas of the United States in which there is significant auto emissions related air pollution. The Administrator shall not designate as such area any part of the United States outside the following Air Quality Control Regions as defined by the Administrator as of the date of enactment of this paragraph without justification to and prior approval of the Congress.

(A) Phoenix-Tucson, intrastate.

(B) Metropolitan Los Angeles, intrastate.

(C) San Francisco Bay Area.

(D) Sacramento Valley area.

(E) San Diego area.

(F) San Joaquin Valley area (California).

(G) Hartford-New Haven (Conn.-Springfield (Mass.)) area.

(H) District of Columbia, Maryland and Eastern Virginia area.

(I) Metropolitan Baltimore and abutting counties.

(J) New Jersey, downstate New York and Connecticut area.

(K) Metropolitan Philadelphia and abutting counties area.

(L) Metropolitan Chicago and abutting counties (Ill. & Ind.)

(M) Metropolitan Boston and abutting counties area.

For purposes of this paragraph, the term 'significant air pollution' means the presence of air pollutants from automobile emissions at such levels and for such durations as to cause a demonstrable and severe adverse impact upon public health."

(2) Section 202(a) of such Act is amended by adding at the end thereof the following new paragraph:

"(3) Regulations prescribed under this subsection shall not apply to motor vehicles or motor vehicle engines registered by owners who reside in geographic areas which are not designated by the Administrator under section 202(b) (6) as areas in which there is significant air pollution, for the period beginning on the date of enactment of this paragraph, and ending on January 1, 1977, or the day on which the President declares that shortage of petroleum is at an end, whichever occurs later."

(3) Section 203(a) (3) of such Act is amended to read as follows:

"(3) for any person to register, on or after 60 days after the date of enactment of this paragraph, a motor vehicle engine for which the regulations prescribed under section 202(a) (1) do not apply under section 202(a) (3) if such person resides in a geographic area designated by the Administrator to be a geographic area in which there is significant air pollution; or"

Amendment to H.R. 11852, as Reported, Offered by Mr. Wyman

Page 59, after line 23, insert the following:

(h) (1) Section 202(b) (1) (A) of the Clean Air Act is amended by striking out "reduction of at least 90 per centum from emissions of carbon monoxide and hydrocarbons allowable under the standards under this section applicable to light duty vehicles and engines manufactured in model year 1970," and inserting in lieu thereof "reduction of at least 90 per centum from the estimate of the average emissions of carbon monoxide and hydrocarbons which would have been emitted from light duty motor vehicles and engines manufactured during model year 1970 had such vehicles and engines not been subject to any Federal or State emission standard for carbon monoxide or hydrocarbons. Such estimate of the average of emissions shall be determined by the Administrator under regulations.".

NATIVITY SCENE

HON. LAWRENCE J. HOGAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1973

Mr. HOGAN. Mr. Speaker, the U.S. Court of Appeals recently ruled that the nativity scene must be dropped from the National Pageant of Peace on the Ellipse, or the Government must limit their participation in the event.

This decision has shocked millions of people at a time when our Christmas season is approaching and the feeling of love emanates from us all.

Fortunately, the American Christian Heritage Association has taken the initiative to see that Christ is put back in Christmas. I would like, at this point, to insert into the RECORD an article explaining the action planned by the American Christian Heritage Association.

The article follows:

AMERICAN CHRISTIAN HERITAGE ASSOCIATION RECEIVES PERMIT FOR NATIVITY SCENE

Recently, the U.S. Court of Appeals, citing "... excessive government entanglement with religion . . ." hit at the very heart of our Christian Heritage. It ruled that the Nativity scene must be dropped from the National Pageant of Peace on the Ellipse, or the government must limit its participation in the event. This ruling is contrary to the beliefs of millions of Americans, and not acceptable at this time.

The American Christian Heritage Association has petitioned for and received a permit to erect the Nativity scene near the Ellipse during the annual Pageant of Peace. As a private, non-profit association, we are attempting to eliminate all possible conflicts with the recent ruling. Working within the spirit of the law, under the rights given by the First Amendment to the Constitution, we feel it is appropriate and proper to display the Nativity scene as an expression of our Christian Heritage.

The federal court ruling, in its decision, severely hampers the National Park Service and their participation in the organization and programing of this annual event. We feel that the Park Service has provided the continuity necessary for the success that the Pageant of Peace enjoyed for the past 19 years, and is a necessary ingredient in future programs.

Almost two centuries of rich heritage can be found in this land which stretches from the Atlantic on the East, to the Pacific on the West, however in recent years the foundation on which the United States was built has been chipped away by liberal elements in this country.

The modernist version of Christmas conveniently forgets that this season is celebrated because of the birth of the baby Jesus almost 2000 years ago, and that the founding fathers of this great nation gave their lives to settle this foreign land for their convictions of religious freedom.

By our action, the American Christian Heritage Association is returning to the people of the United States, the opportunity to participate in the Pageant of Peace. We invite individuals and organizations to assist us in sponsoring the Nativity scene by their contributions and their prayers. Also, we invite the people of the United States to visit the Nation's Capital during the Pageant of Peace, and to view the Nativity scene which this year, and for years to come, will remain the central theme of the Christmas Season.

Contributions and inquiries may be sent to the American Christian Heritage Association, P.O. Box 347, Greenbelt, Maryland 20770.

COAL SEVERANCE TAX

HON. KEN HECHLER

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1973

Mr. HECHLER of West Virginia. Mr. Speaker, in 1972 West Virginia once again led the Nation in coal production. McDowell County in my congressional district was the leading coal producing county in West Virginia. Yet the tremendous wealth resulting from this coal production is not going to McDowell County or to West Virginians. This unjust situation can only be corrected by fairly taxing coal lands and coal production. The Sport Fishing Institute has endorsed a national severance tax on coal. I have introduced H.R. 5349 to provide for a severance tax. Following are the remarks of Carl Sullivan, the institute's able executive secretary, concerning the need for a severance tax. His speech clearly outlines the situation in McDowell County, a situation that is repeated throughout the coal fields.

Mr. Sullivan's remarks were delivered July 26, 1973, at the summer meeting of the Natural Resource Council of America.

The remarks follow:

PROPOSAL FOR A NATIONAL SEVERANCE TAX ON COAL

(Remarks by Carl R. Sullivan)

In May of 1973 the Board of Directors of the Sport Fishing Institute unanimously adopted the following resolution urging the imposition of a National Severance Tax on the production of coal.

"NATIONAL SEVERANCE TAX ON COAL

"Whereas, coal resources are America's most abundant and least costly source of energy yet, despite the national energy crisis, coal is supplying less than twenty percent of our energy demands; and

"Whereas, the President of the United States has urged that the expanded development and utilization of our coal resources should have the highest national priority; and

"Whereas, coal mining operations on America's public and private lands have had catastrophic effect on the environment, with 17,000 miles of formerly productive streams and lakes poisoned by acid mine waters and six to ten million acres of once-useful land laid waste and requiring reclamation; and

"Whereas, despite the many State-imposed coal mining regulations and pending Federal legislation, coal mining pollution problems continue to grow without realistic prospects for meaningful reclamation and without specific funds to support such reclamation;

"Now, therefore, be it resolved, that the Board of Directors of the Sport Fishing Institute, assembled in regular Annual Session on May 15, 1973, at Montreal, Quebec, do herewith declare that reclaiming and repairing the land and water areas ravaged by the coal industry is a matter of enormous national urgency; and

"Be it further resolved, that the United States Congress is herewith urged to authorize and the Administration to levy a National Severance Tax on all coal mined in or imported into the United States, with all funds thus collected being committed to the repair of environmental damage caused by past, present, and future coal mining operations."

Virtually everyone is aware of the many serious environmental, economic, and social problems that are associated with the coal mining industry. In order to better document the need for a severance tax let us examine the case history of one coal-field county. We have selected McDowell County in southern West Virginia, which has produced more coal than any other county in the United States.

McDowell County, 538 square miles of beautiful and inaccessible hill country of the state of Virginia became a county in 1858. At that time, it was almost entirely in public ownership. Virtually the entire county was covered with a virgin stand of hardwood timber. The fewer than 300 residents of the area were located in isolated log cabins and were living off the land. Even at that early date, the settlers were aware of the abundance of coal in the county; however, they made little use of it.

In 1863 McDowell County chose to join the other western Virginia counties in forming the new state of West Virginia. There were few changes in the life style of the people, however, until 1888 and the arrival of the Norfolk and Western Railroad. The "boom-and-bust" story of what has happened to McDowell County in the 85 ensuing years is one of the great tragedies of our time. It is also a prime example of what can happen when an apathetic public elects and tolerates unenlightened, timid and short-sighted governments to protect the public interest in dealings with an aggressive and exploitive natural resource industry. The responsibility for what has happened to McDowell County must be shared by the public and the government as well as by the industry.

In the past 85 years, McDowell County has produced 1,320,533,000 tons of coal. That is a staggering amount which may be easier to visualize as a line of coal-gondola rail cars reaching 10 times around the earth or from here to the moon. Placing a value on 1.3 billion tons of coal is difficult because of inflation, widely fluctuating prices and varying product quality. Our conservative estimate of 5 billion dollars would be much higher in terms of today's dollar value.

With such fantastic wealth flowing almost endlessly from its underground coal reservoir, one could easily imagine McDowell County as the twentieth century "Garden of Eden" with all of the public facilities and opportunities that money could buy and an environment to match. Nothing could be farther from the truth.

In 1971 public welfare costs in McDowell County were $3,747,104. Computed at $73.90 per county resident, that's twice the statewide average in West Virginia. It is worthy of note that the total 1971 McDowell County tax collections from all property classes amounted to $3,525,000 or roughly $225,000 less than the cost of welfare alone.

In 1970 the McDowell County per capita income was $2,763 compared to West Virginia's average of $3,034 and the U.S. average of $3,933.

The last 15-year average unemployment rate in McDowell County was 14.6% far above the West Virginia and the U.S. average figure.

McDowell County contains five sizable streams having an estimated water area of 554 acres. Fifty-seven percent of these waters are so grossly polluted that they cannot sustain a fish population. The remaining waters are affected to a lesser degree. Per capita hunting and fishing license sales in McDowell County are less than ⅓ of the statewide West Virginia average.

McDowell County's population declined 29% from 1960 to 1970 (71,359 to 50,666). This represents the sharpest decline of any of West Virginia's 55 counties. McDowell County has no commercial airports, no public golf courses, extremely poor roads, and a dearth of cultural opportunities.

(Note: SFI wishes to point out that it is not their purpose to deride McDowell County nor its friendly, energetic, and resourceful people. The County has a variety of fine institutions, a colorful history, and potentially a bright future. It does, however, have great environmental problems which are symptomatic of the entire Appalachian coal fields.)

Unfortunately, McDowell County has more than its share of streams poisoned by mine acid and black with coal washings. There is an abundance of huge, ugly slate dumps, many of which have been burning and sending off acid-forming sulfur fumes for years. Abandoned coal tipples, conveyor systems, and mine buildings are plentiful. Hillsides are permanently marked by countless strip mining scars and broken stands of timber smashed by avalanches of rocks and boulders that now fill the valleys.

How, you may ask, is it possible for an area to create such fabulous wealth and be left so devastated, destitute, and neglected in the process. It is simply because the coal industry has not been required to pay its fair share of the tax load necessary to ameliorate the environmental consequences of its activities. Profits have been huge but they have been quickly channeled out of the county and out of the state by non-resident corporations which have not been made to accept their responsibility to the land and to those who occupy it now and who will occupy it in future generations. McDowell County and the hundreds of other coal-mining counties of Appalachia can never be restored to their pristine conditions. However, it is not too late to reverse past trends and to correct much of the damage that has been wrought.

In McDowell County, the 25 largest land owners (all of whom have direct coal interests) own 70 percent of the land. Despite the fact that the West Virginia legislature has provided that land must be assessed at its true value, and despite the fact that undeveloped coal lands are sold on the open market for very large sums, the value of the known coal reserves in the ground is not considered in establishing property tax assessment levels. Much acreage in West Virginia is reportedly on the tax rolls at $1.00 or less per acre and as a consequence the coal industry pays only minimum real estate and property taxes. The industry does pay a state business and occupation tax but then so does every other business or industry and, ironically, the rate charged to the coal industry is less than for most other categories. One hundred forty five million tons of coal were extracted from West Virginia's deep mines in 1968. The value of that coal was 725 million dollars yet the industry paid only 11.6 million in direct taxes. It is interesting to note that West Virginia's taxes on liquor and cigarettes were both roughly 13 million dollars in the same period.

McDowell County's estimated recoverable coal reserves are 1,898,232,000 tons or sufficient to last about 125 years at present rate of extraction. The estimate for all of West Virginia is a staggering 58 billion tons. Coal has historically been in keen competition with oil; however, the growing national energy shortage virtually guarantees that demands for vast quantities of coal will continue for many years.

It is our opinion that a national coal severance tax should be imposed as quickly as possible. Such a tax is the only practical source of funds to repair the environmental devastation resulting from the extraction of coal. A severance tax has been proposed in West Virginia on many occasions. Each time, however, the industry has defeated the move by loudly protesting that such a tax would destroy the competitive position of coal and thus lead to the rapid decline of the industry and mass unemployment. The facts do not support the industry's contention, as is amply demonstrated by the experience of the United Mine Workers.

In 1946 the United Mine Workers, after a long and bitter contract dispute with the coal industry won coal production royalty payments of 5 cents per ton for the Union's Welfare and Retirement Fund. The industry fought the proposal with every weapon available to it. Only after the government had taken over the operation of the mines did the industry agree to the 5 cent royalty as a condition of their return. In reluctantly agreeing to the new terms, the industry forecast a dark future and gradual demise of the coal business.

In it's first year (1946) the U. M. W. Welfare and Retirement Fund earned $1,266,000 from McDowell County production alone. In 1947, when the contract royalty increased to 10 cents per ton, the U. M. W. received $2,522,000. The 1948 agreement specified 20 cents per ton and the Fund earned over 5 million dollars from McDowell County alone. The royalty payments were increased to 40 cents per ton in 1952 and remained at that figure until 1971, when they were increased to 60 cents. In May of 1974 the royalty will increase to 80 cents a ton, with the Welfare and Retirement Fund earning roughly 12 million dollars a year from the coal production in McDowell County, West Virginia, alone.

In the past 27 years, altogether, the United Mine Workers Welfare and Retirement Fund has earned about 165 million dollars from McDowell County coal production. Imagine the fabulous environmental improvements that could be funded with such a sum. The U.S. Soil Conservation Service estimates that McDowell County has 10,000 acres of unreclaimed strip mines. Based upon a $3,000-per-acre reclamation cost (as estimated in a 1973 CEQ/Senate Interior Committee report) these 10,000 acres could be reclaimed and reseeded for 30 million dollars. There is no accurate count of the total number of abandoned and active underground mining operations in McDowell County but it most certainly numbers in the thousands. Everyone of these mines has, at a very minimum, one slate dump to despoil the landscape. It is entirely feasible to remove these dumps or to level and cover them with top soil. A spokesman for the U.S. Bureau of Mines says that many of these slate dumps contain up to 35% or more of usable coal that, in many instances, may be economically feasible to recover. A modest severance tax could long ago have eliminated these dumps plus the abandoned rail and conveyor systems, unused coal tipples, and the countless other scars left by the industry. When all the reclamation work was completed, there would have been ample money left over to build public fishing lakes, golf courses, picnic areas, and the other public facilities which, we contend, a portion of the coal wealth should justifiably have provided.

The time for a national severance tax is long overdue but it is not too late. Theoretically, McDowell County could pass its own tax but, as a practical matter, this does not appear to be politically feasible. The same might be said for a state severance tax but, again, the strong local influence of the coal industry makes passage doubtful in the important coal-producing states.

A few states already have coal severance taxes but most are at relatively low rate levels. Furthermore, they occur in states having relatively little coal production. Ohio has a 4 cents per ton tax, in Arkansas the tax is 2 cents per ton, and in Idaho it is 3 cents per ton. Tennessee charges 1.5% of gross income up to a maximum of 10 cents per ton, New Mexico collects one eighth of one percent of gross income, while Utah collects 2% of gross income over $50,000 per year. Alabama receives 13.5 cents per ton and Montana an average of 27 cents per ton. In 1972 Kentucky, one of the top producing states, made a major advance by levying a severance tax of 30 cents per ton. The major producing states of West Virginia, Pennsylvania, Illinois, and Virginia, where the problems are the greatest, collect no severance taxes. The few existing state severance taxes need not complicate a national tax for it would be relatively simple to provide for appropriate deductions. In addition, a national tax would tend to discourage the coal industry from "shopping around" for states and localities with the least severance tax or with the minimum environmental safeguards.

The paradox of McDowell County's wealth-producing/poverty-stricken circumstances is almost beyond belief, yet it is very real. No possible explanation can vindicate it and the conscience of an aroused citizenry should demand that it be corrected.

A national severance tax—with the receipts specifically earmarked for environmental reclamation in coal producing areas—is, in our judgment, the best available answer. Of course, the cost of coal would go up, correspondingly, but so be it. Our energy requirements are such that we must use the coal regardless of price and, in the final analysis, the public will be paying the bill as it always does.

REPORT ON THE SAHELIAN DROUGHT—WEST AFRICA

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1973

Mr. FAUNTROY. Mr. Speaker, I would like to take this opportunity to share with my colleagues a report on my recent trip to West Africa. This report has been prepared by myself and the six black clergymen who made up the delegation responding to the invitation of President Diori Hamani of Niger. I hope that the information that we have brought back with us will help to feed the thousands of people in Western Africa suffering from starvation because of a severe drought. I hope that this report proves to be useful to my many colleagues. The report follows:

REPORT

DECEMBER 10, 1973.

To: The President of the United States; The Congress of the United States; and The American People.

From: The Reverend Walter E. Fauntroy, M.C.; Dr. L. Venchael Booth, President, Progressive National Baptist Convention; Bishop Alfred G. Dunstan, Chairman, Board of Bishops of the African Methodist Episcopal Zion Church; Mr. Richard Hightower, International Christian Leadership; Bishop Harold R. Perry, Auxiliary Bishop, The Catholic Church; Bishop H. Thomas Primm, Chairman, Board of Bishops—The African Methodist Episcopal Church; Bishop Ruben L. Speaks, African Methodist Episcopal Zion Church; and Bishop Smallwood E. Williams, Bibleway Church World Wide.

Subject: The Sahelian Drought—West Africa.

Inasmuch as ye did it not to one of the least of these my little ones, ye did it not to me.—St. Matthew 25: 45.

Moved by a common concern for "The Least of These," we have just concluded a visit to the Sahelian Region of Africa where six of the poorest nations in the world are in the grip of a 7-year-long drought that has brought hunger, disease, starvation and death to millions of livestock and tens of thousands of human beings. We made the trip at the invitation of the President of one of the beleaguered nations, President Diori Hamani of Niger.

During the course of our eight day visit (November 28–December 7, 1973), we had the opportunity to discuss the situation with President Diori and numerous members of his Cabinet, Mr. Antoine Dakoure, Minister of Agriculture in Upper Volta and Chairman of the six nation Interstate Committee on the Drought at Ouagadougou, Upper Volta, President Abdelwahab Labidi of the African Development Bank in Abidjan, Ivory Coast, and several of our U.S. Ambassadors.

We are pleased to report, first, that we were well received as American citizens throughout the Sahel, a tribute to the fact that contributions by both private American donor groups and by our U.S. Government to the drought relief effort thus far have been significant and much appreciated. We regret to report, however, that the crisis has deepened for the year 1974 and that we must do substantially much more this year to avert complete disaster and to place these nations in a position to help themselves.

1. THE DEEPENING CRISIS

What we saw in the Sahel were the effects of a seven year lack of adequate rainfall which has caused millions of acres of crops to fail, livestock to perish by the millions, and people to die by the thousands. The six nations have now exhausted all of their grain reserves and another dry year has caused the failure of 80% of their crops. The result is that a 1½ million ton shortage of grain is expected in the six Sahelian nations this year. Thus, while the 250,000 tons of grain we have pledged for 1974 is encouraging, it falls far short of what is required next year. *We call upon our Government, therefore, to convene within the next three months an international conference of the developed nations of the world* to plan how they shall meet together the emergency needs of the Sahelian nations for food, health, and medical care this year with particular attention to transportation and storage facilities problems.

II. MEDIUM TO LONG RANGE DEVELOPMENT NEEDS

If we are to avoid being faced with a continued crisis next year, the U. S. and the international community must step up immediately the medium to long term development aid required to make these countries self sufficient. It can be done, the people of the Sahel Zone want to do it. Their leaders everywhere told us, "We have the manpower, the rich soil, and the underground water resources; we know where the water is; all we need is the capital to purchase the technology to bring it up and make the dry land bloom."

We saw with our own eyes the kinds of irrigation, dam building, well digging, animal husbandry, and manpower training projects which, if sufficiently expanded, could not only put these nations on their feet but also make them a blessing to the rest of the world. Without a "Marshall Plan" type effort by the Developed Nations of the world, this can never come to pass.

Thus, while the U. S. has made a creditable effort to meet the emergency, we were embarrassed to note that our government has not contributed a cent to the multi-lateral institution formed to meet the medium to long range development needs of the Sahel, the African Development Fund of the African Development Bank.

We return, therefore, to urge our President and our government to add to its proposal for aid to the I.D.A. and the Asian Development bank, the sum of $60 million once pledged by President Johnson to the special fund of the African development bank for use in meeting the Sahel Crisis. Our discussions with President Diori of Niger, Mr. Dakoure of the Interstate Committee, and Mr. Labidi of the African Development Bank, assure us that many of these medium to long range projects are ready for funding, awaiting only the kind of leadership we in this country should give. Our failure to share in the funding of the African Development Bank is a continuing source of embarrassment to our diplomats in Africa that this crisis affords us an opportunity to eliminate.

III. RENEWED AND EXPANDED EFFORT BY PRIVATE GROUPS AND INDIVIDUALS IN AMERICA

Throughout our tour, we encountered a note of genuine appreciation for the contributions of Americans to the drought relief effort. The contributions of such groups in the private sector as Africare, the Catholic Relief Service, Church World Services, Care, Rains, The International Red Cross, Push, the United Auto Workers, American Friends Service Committee, and others have not gone unnoticed or unappreciated. The work of our government agencies: The Peace Corps; Aid (Agency for International Development); and in some instances our Air Force, have all created for us a climate of goodwill in Africa.

The deepening nature of the crisis in 1974, however, calls for a redoubling of our efforts in the private sector while we step up our government aid. *We announce, third, therefore, that it is our intention to convene with Africare a national conference on the Sahelian drought.* We shall ask the leaders of our religious bodies in America, the voluntary agencies which are at work in the Sahel, civic, fraternal, social, educational and civil rights groups that have an interest in the problem to come to Washington in the near future for a day or more of analysis of the siutation and the selection, from a number of proposals of specific projects to fund in the six Sahelian nations to alleviate the crisis.

IV. "SUBDUE THE EARTH"—TIME FOR MAN TO FIGHT

So God created man in his own image . . . and said unto them. Be fruitful, and multiply and replenish the earth and subdue it.—Genesis 1: 27–28.

In contrast to sentiments expressed by some of our American officials stationed in the Sabel, we were most impressed with the boundless hope that the African people and their leaders have in our ability to win the fight against the desert. They know from their "oral tradition" what we know from our geology, archelogy and anthropology: namely, that the Sahelian Zone like the Sahara Desert was once a flourishing forest, and that over thousands of years man has retreated before a growing desert that creeps southward at a rate of thirty miles a year today.

The courage and determination of the Sahelian people are saying to mankind, armed as we are with modern technology, Let us stand and fight. Let us reclaim the vast regions and rich land lost to nature even as we have defied gravity to reach the moon.

The population explosion and the worldwide commodity shortage demand that we as Americans join with them in this historic effort to reclaim the Good Earth.

Signed:

The Reverend Walter E. Fauntroy, Member of Congress; Dr. L. Venchael Booth; Bishop Alfred G. Dunston; Mr. Richard Hightower; Bishop Harold R. Perry; Bishop H. Thomas Primm; Bishop Ruben L. Speaks; and Bishop Smallwood E. Williams.

SENATE—*Friday, December 14, 1973*

The Senate met at 10 a.m. and was called to order by Hon. James Abourezk, a Senator from the State of South Dakota.

PRAYER

The Reverend Monsignor Patrick J. Ryan, major general, U.S. Army (retired), former Chief of Chaplains, U.S. Army, Washington, D.C., offered the following prayer:

O God, You have fulfilled our Founding Fathers' faith in Your divine providence by making and keeping us a land rich in the abundance of Your creation.

Freedom, justice, and universal brotherhood are for us our precious heritage, but, for countless men in our midst and all over the world, they are still only a dream. May we be faithful to share this heritage with the living and transmit it to a people still unborn.

This we ask through our Lord Jesus Christ, Your Son, who lives and reigns with You in the unity of the Holy Spirit, world without end. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. Eastland).

The second assistant legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, D.C., December 14, 1973.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. James Abourezk, a Senator from the State of South Dakota, to perform the duties of the Chair during my absence.

James O. Eastland,
President pro tempore.

Mr. ABOUREZK thereupon took the chair as Acting President pro tempore.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 11575) making appropriations for the Department of Defense for the fiscal year ending June 30, 1974, and for other purposes, agreed to the conference requested by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. Mahon, Mr. Sikes, Mr. Flood, Mr. Addabbo, Mr. McFall, Mr. Flynt, Mr. Giaimo, Mr. Whitten, Mr. Minshall of Ohio, Mr. Davis of Wisconsin, Mr. Wyman, Mr. Edwards of Alabama, and Mr. Cederberg were appointed managers of the conference on the part of the House.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 9142) to restore, support, and maintain modern, efficient rail service in the Northeast region of the United States; to designate a system of essential rail lines in the Northeast region; to provide financial assistance to certain rail carriers; and for other purposes, agreed to the conference requested by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. Staggers, Mr. Jarman, Mr. Dingell, Mr. Adams, Mr. Podell, Mr. Metcalfe, Mr. Harvey, Mr. Kuykendall, Mr. Skubitz, and Mr. Shoup were appointed managers of the conference on the part of the House.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 11324) to provide for daylight saving time on a year-round basis for a 2-year trial period, and to require the Federal Communications Commission to permit certain daytime broadcast stations to operate before local sunrise.

ENROLLED BILL SIGNED

The message also announced that the Speaker had affixed his signature to the following enrolled bill:

H.R. 3490. An act to amend section 40b of the Bankruptcy Act (11 U.S.C. 68(b)) to remove the restriction on change of salary of full-time referees.

The enrolled bill was subsequently signed by the Vice President.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, December 13, 1973, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the first two nominations on the Executive Calendar.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro temport. The first two nominations on the Executive Calendar will be stated.

DEPARTMENT OF DEFENSE

The second assistant legislative clerk read the nomination of James W. Plummer, of California, to be Under Secretary of the Air Force.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

SECURITIES INVESTOR PROTECTION CORPORATION

The second assistant legislative clerk read the nomination of Ralph Dwight DeNunzio, of Connecticut, to be a Director of the Securities Investor Protection Corporation.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. MANSFIELD. Mr. President, that concludes the call of the Executive Calendar. The next nomination is for the Department of Justice, WILLIAM B. SAXBE, of Ohio, to be Attorney General. To repeat, that will be taken up some time Monday afternoon.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

There being no objection, the Senate resumed the consideration of legislative business.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the calendar, beginning with No. 593, H.R. 6186.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TAXABILITY OF INSURANCE AND BANK HOLDING COMPANY DIVIDENDS

The Senate proceeded to consider the bill (H.R. 6186) to amend the District of Columbia Revenue Act of 1947 regarding taxability of dividends received by a corporation from insurance companies, banks, and other savings institutions which had been reported from the Committee on the District of Columbia with amendments: on page 1, line 8, after the word "this", strike out "article" and insert "subchapter"; on page 2, line 7, after the word "this", strike out "article" and insert "subchapter"; and on page 3, after line 2, insert a new section, as follows:

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

SEC. 3. (a) Section 7324(d)(4) of title 5, United States Code, is amended to read as follows:

"(4) the Mayor of the District of Columbia, the members of the Council of the District of Columbia, or the Chairman of the Council of the District of Columbia, as established by the District of Columbia Self Government and Governmental Reorganization Act; or".

(b) Notwithstanding any other provision of law, the provisions of section 7324(a)(2) of title 5, United States Code, shall not be applicable to the Commissioner of the District of Columbia or the members of the District of Columbia Council (including the Chairman and Vice Chairman), as established by Reorganization Plan Numbered 3 of 1967.

CREDIT ELIGIBILITY FOR PUBLIC UTILITY COOPERATIVES

The Senate proceeded to consider the bill (S. 2150) to amend Public Law 92-181 (85 Stat. 583) relating to credit eligibility for public utility cooperatives serving producers of food, fiber, and other agricultural products which had been reported from the Committee on Agriculture and Forestry with an amendment to strike out all after the enacting clause and insert:

That section 3.8(d) of Public Law 92-181 (85 Stat. 583) is amended by inserting after "80 per centum" the following: "(60 per centum in the case of public utility cooperatives)".

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended, so as to read: "A bill to amend Public Law 92-181 (85 Stat. 583) relating to credit eligibility for public utility cooperatives serving producers of food, fiber, and other agricultural products."

BILL PASSED OVER

The Senate proceeded to consider the bill (H.R. 11771) making appropriations for foreign assistance and related programs for the fiscal year ending June 30, 1974, and for other purposes was announced as next in order.

Mr. MANSFIELD. Over.

The ACTING PRESIDENT pro tempore. The bill will be passed over.

NEW ALLOY FOR PENNY

The bill (S. 2795) to authorize the Secretary of the Treasury to change the alloy and weight of the 1-cent piece, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3515 of the Revised Statutes, as amended (31 U.S.C. 317), is further amended by designating the existing section as subsection (a) and by adding a new subsection (b) to read as follows:

"(b) Whenever the Secretary of the Treasury determines that the use of copper in the 1 cent piece is no longer practicable, he may change the alloy of the 1 cent piece to not less than 96 per centum of aluminum and such other metals as he shall determine. The 1 cent piece authorized by this subsection shall have such weight as may be prescribed by the Secretary."

ASSISTANT SECRETARY FOR INDIAN AFFAIRS

The Senate proceeded to consider the bill (H.R. 620) to establish within the Department of the Interior an additional Assistant Secretary of the Interior for Indian Affairs, and for other purposes which had been reported from the Committee on Interior and Insular Affairs with an amendment to strike out all after the enacting clause and insert:

That there shall be in the Department of the Interior, in addition to the Assistant Secretary now provided for by law, one additional Assistant Secretary of the Interior for Indian Affairs, who shall be appointed by the President by and with the advice and consent of the Senate, who shall be responsible for such duties as the Secretary of the Interior shall prescribe with respect to the conduct of Indian Affairs, and who shall receive compensation at the rate now or hereafter prescribed by law for Assistant Secretaries of the Interior.

SEC. 2. Section 5315 of title 5 of the United States Code is amended by striking out "(6)" at the end of item (18) and by inserting in lieu thereof "(7)".

SEC. 3. Section 462, Revised Statutes, as amended and supplemented (25 U.S.C. 1), and paragraph (45) of section 5316 of title 5 of the United States Code, are repealed: *Provided*, That this section shall not take effect until an Assistant Secretary of the Interior for Indian Affairs has been confirmed and takes the oath of office.

SEC. 4. Subsection 7(c) of the Alaska Native Claims Settlement Act (85 Stat. 688) is hereby amended by deleting that subsection in its entirety and inserting in lieu thereof a new subsection as follows:

"(c) The Secretary shall establish a thirteenth region for the benefit of Natives who are nonresidents of Alaska who elected to be enrolled therein, and they may establish a regional corporation pursuant to this Act."

SEC. 5. The Alaska Native Claims Settlement Act (85 Stat. 688) is hereby further amended by inserting at the end thereof a new section 28 as follows:

"SEC. 28. (a) A Native who elected to be enrolled in a thirteenth region, pursuant to subsection 5(c) shall be so enrolled, notwithstanding the fact that a majority of the Natives eligible to elect enrollment in that region may not have so elected.

"(b) Notwithstanding any provision of subsection 5(a) to the contrary, the Secretary shall, on or before December 17, 1973, or pursuant to subsection (f) of this section, if applicable, certify a temporary roll of all Natives eligible for benefits under this Act, which temporary roll shall be used as a basis for initial distribution of funds pursuant to subsection 6(c). Such initial distribution shall be made immediately upon certification of the temporary roll, anything to the contrary in subsection 6(c) or any other provision of this Act notwithstanding. When the final roll is certified, the Secretary shall take such steps as may be necessary to make appropriate adjustments in the distribution of funds pursuant to this Act. The final roll shall incorporate changes in enrollment pursuant to this subsection as well as other changes made by the Secretary in accordance with the Act.

"Any Native who, on or before December 1, 1973, had filed with the Secretary or his delegate any application to amend his enrolled application regarding his election whether or not to be enrolled in the thirteenth region shall, within not less than sixty nor more than ninety days of the enactment of this section, inform the Secretary whether or not he wishes to be enrolled in the thirteenth region. Any Native who so informs the Secretary shall be enrolled according to his preference as indicated in the information so submitted to the Secretary. Any Native who fails so to inform the Secretary shall be enrolled according to the information provided in that Native's original enrollment application. The Secretary shall take such action as may be necessary to insure that every Native affected by this section is aware of his option to change his enrollment decision. Within one hundred and twenty days of the enactment of this section the Secretary shall prepare and certify a final roll which when certified shall supersede the temporary roll authorized by this subsection.

"(c) Within thirty days of the certification of the final roll pursuant to this section, any bona fide organization representing nonresident Natives shall submit to the Secretary the names of not more than five Natives who have elected to be enrolled in the thirteenth region as nominees for the positions of the five incorporators of the thirteenth regional corporation. Not less than thirty days nor more than sixty days after such certification, the Secretary shall mail to all eligible voters ballots containing the names of all nominees and their associational affiliations for the purpose of an election by mail of the five incorporators who shall serve as the initial directors of the thirteenth regional corporation. Eligible voters in the election shall be only Natives eighteen years of age or older on the date of election of incorporators pursuant to this subsection who are enrolled in the thirteenth region. Valid ballots shall be only those ballots mailed to the Secretary or his designee not later than ninety days after such certification. The five nominees for whom the most votes are cast shall be elected incorporators of the thirteenth regional corporation and shall promptly take all steps authorized by this Act for such incorporators. All rules, regulations, and information relating to the election shall be transmitted directly to all known organizations representing nonresident Natives, the twelve regional corporations representing resident Natives, and all eligible voters.

"No moneys distributed or to be distributed pursuant to this Act may be expended or obligated by any Native, Native corporation, Native organization, representative thereof, or adviser thereto, to assist in, communicate on, or otherwise influence the election.

"(d) The articles of incorporation of the thirteenth regional corporation shall be submitted to the Secretary for approval in accordance with subsection 7(c) within eighteen months of the enactment of this section.

"(e) Except as specifically provided herein, nothing in this section shall be construed to alter or amend any of the provisions of this Act.

"(f) In the event the Secretary of the Interior, prior to the enactment of this subsection, has certified a roll pursuant to subsection 5(a) of this Act, such certification shall be rescinded and a new temporary roll certified within ten days of the enactment of this subsection. Any distribution of funds pursuant to subsection 6(c) of this Act made by the Secretary or his delegate on the basis of the rescinded roll shall not be affected by this subsection.

"The Secretary shall make any necessary adjustments in future distributions to accommodate changes in the temporary roll reflected in the final roll in order to insure a final distribution of such money in accordance with the final roll. The Secretary is authorized to make payment from the Alaska Native Fund to the thirteenth regional corporation, once established, during the period prior to the next regularly scheduled distribution from the fund pursuant to this Act. Such payment shall be in the form of an advance on such corporation's adjusted share of such regularly scheduled distribution."

SEC. 6. The Alaska Native Claims Settlement Act (85 Stat. 688) is further amended by adding a new section 29, to read as follows:

"SEC. 29. Any corporation organized pursuant to this Act shall through December 31, 1976, be exempt from the provisions of the Investment Company Act of 1940 (54 Stat. 789), as amended. Nothing in this section shall, however, be construed to mean that any such corporation shall or shall not after such date be subject to the provisions of the Investment Company Act of 1940."

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. MANSFIELD subsequently said: Mr. President, the Senate earlier today passed H.R. 620. I move to reconsider the vote by which the bill was passed, together with the third reading thereof.

The motion was agreed to.

Mr. MANSFIELD. I ask unanimous consent that the bill be amended by certain technical amendments, which I send to the desk and ask unanimous consent that they be considered en bloc.

The VICE PRESIDENT. Without objection it is so ordered. The amendments will be stated.

The legislative clerk read as follows:

On page 3, line 18, strike the comma.

On page 3, line 24, strike "17" and insert in lieu thereof "31".

On page 4, line 11, strike "the Act" and insert in lieu thereof "this Act".

On page 4, line 24, strike "may be" and insert in lieu thereof "he may deem".

On page 6, line 19, strike "subsection" and insert in lieu thereof "section".

On page 6, line 22, strike "subsection" and insert in lieu thereof "section".

On page 7, line 2, insert "of funds pursuant to subsection 6(c)" between "distributions" and "to".

On page 7, line 4, strike "money" and insert in lieu thereof "funds"

On page 7, line 5, strike "payment" and insert in lieu thereof "payments".

On page 7, line 9, strike "payment" and insert in lieu thereof "payments".

On page 7, line 9, strike "an advance" and insert in lieu thereof "advances".

On page 6, line 18, strike "of the Interior".

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 620) was read the third time, and passed.

Mr. MANSFIELD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BIBLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BILL PASSED OVER

The bill (H.R. 11372) to conserve energy on the Nation's highways was announced as next in order.

Mr. MANSFIELD. Over.

The ACTING PRESIDENT pro tempore. The bill will be passed over.

CECIL M. HARDEN LAKE

The bill (S. 1561) to provide that Mansfield Lake, Ind., shall be known as "Cecil M. Harden Lake" was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Mansfield Lake, Indiana, created under authority of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved June 28, 1938 (52 Stat. 1215, as amended and supplemented) shall be known and designated hereafter as "Cecil M. Harden Lake". Any law, regulation, map, document, or record of the United States in which such lake is referred to shall be held to refer to such lake as Cecil M. Harden Lake.

W. TURNER WALLIS PUMPING STATION, FLA.

The bill (S. 2509) to name structure S–5A of the Central and Southern Florida Flood Control District, located in Palm Beach County, Fla., as the "W. Turner Wallis Pumping Station" in memory of the late W. Turner Wallis, the first secretary-treasurer and chief engineer for the Central and Southern Florida Flood Control District was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That structure S–5A of the Central and Southern Florida Flood Control District, located in Palm Beach County, Florida, shall be named the "W. Turner Wallis Pumping Station" in memory of the late W. Turner Wallis, the first secretary-treasurer and chief engineer of the Central and Southern Florida Flood Control District.

SEC. 2. Any law, rule, regulation, document, map, or record of the United States in which

reference is made to structure S-5A referred to in the first section of this Act shall be considered to be a reference to that structure by the name designated for the structure in the first section of this Act.

JAMES G. FULTON FLOOD PROTECTION PROJECT

The Senate proceeded to consider the bill (S. 2535) to designate the Chartiers Creek flood protection project in Allegheny County, Pa., as the "James G. Fulton flood protection project."

S. 2535 A TRIBUTE TO JAMES G. FULTON

Mr. JAVITS. Mr. President, I am so pleased that Congress is recognizing by this bill a fine legislator, a highly patriotic American, and a very personal friend of mine, Jim Fulton. I served with Jim Fulton in the House of Representatives from 1947 to 1954. I shared his life as he shared mine, including attendance at my wedding in 1947, and through all the political campaigns and vicissitudes of life, he had been a constant friend to me, to Mrs. Javits, and to our children. I know as well as anyone the unbelievable dedication and warm humanity he brought to his position as a representative in the Congress. He literally loved in a most personal sense the men, women and children of his district and served them with the devotion of a friend and father as well as that of a Congressman. It is good that the Congress shows by this bill that it does not forget its own.

The bill was ordered to be engrossed for a third reading, was read the third time and passed, as follows:

S. 2535

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the portion of the project for flood protection on Chartiers Creek in Allegheny County, Pennsylvania, authorized by section 204 of the Flood Control Act of 1965 (Public Law 89-298), is hereby designated as the "James G. Fulton flood protection project". Any reference to such project in any law, regulation, map, document, record, or other paper of the United States shall be held to be a reference to the James G. Fulton flood protection project.

THE H. V. EASTMAN LAKE

The bill (H.R. 655) to provide for the naming of the lake to be created by the Buchanan Dam, Chowchilla River, Calif., was considered, ordered to a third reading, the third time, and passed.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the lake to be created by the Buchanan Dam on the Chowchilla River, California, authorized by section 203 of the Flood Control Act of 1962, shall be known and designated as the "H. V. Eastman Lake". Any law, regulation, document, or record of the United States in which such lake is designated or referred to shall be held to refer to such lake as the "H. V. Eastman Lake".

Mr. MANSFIELD. That concludes the call of the calendar.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the Senator from Michigan (Mr. GRIFFIN) desire recognition?

Mr. GRIFFIN. No, Mr. President.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Texas (Mr. BENTSEN) is recognized for not to exceed 15 minutes.

THE ENERGY CRISIS

Mr. BENTSEN. Mr. President, in the last few months, many words have been spoken about the energy crisis, and some affirmative action has been taken.

Congress has passed mandatory fuel allocation legislation; the Senate has passed legislation for energy conservation and for research and development.

The President has twice addressed the Nation, and he has called for a new Federal Energy Administration to coordinate energy related programs.

All of these steps are essential. And, I have supported them.

Yet, Mr. President, we must recognize that the energy crisis will place great demands on the American people, on American private enterprise, and upon the governing institutions—both the Congress and the Executive of this country.

To emerge from the tangled thicket of the energy crisis will leave many cuts and scratches on the economic and social structure of this Nation. None of the parts will come through unscathed; there will be heated controversy at almost every turn.

And, there will be sacrifices required.

The American people in my opinion will make these sacrifices if they know that the sacrifice is fair and evenhanded—borne equitably by private citizens and private enterprises alike.

It is in the American nature to rise to the occasion when courage is demanded to solve a problem. Our people, contrary to the assertions of some, have not grown too soft to respond to a crisis.

But, the sacrifices essential to overcoming the energy crisis will not be made if the American people believe that any one sector of our economy is getting a special deal or if the government acts to favor one group or enterprise over another without adequate justification.

The American people expect their Government to be fair and their leaders to act responsibly, to propose realistic programs, and to administer those programs effectively.

They also expect their political leaders to propose new policies when old ones have failed, and they are entitled to no less than that.

Accordingly, the time has come to ask: Are the energy policies and programs of the past adequate to meet the problems of today and the demands of tomorrow?

The time has come to ask: Will the oil industry make sacrifices equal to those asked of the private American citizen in this time of trial?

And, the time has come to ask: If policy is to be changed, what changes will assure a more even sacrifice while still accomplishing our goal of greater domestic energy independence?

Today, I am making two major proposals that I believe will promote that kind of change.

First, I will introduce legislation to increase dramatically the taxpayer's share of the dollars from oil and gas produced by private oil companies from Federal lands.

Second, I will introduce legislation limiting the use of the percentage depletion allowance to oil and gas produced solely in North America—in effect limiting the depletion allowance to areas where there is less chance of interruption of deliveries.

Mr. President, the United States simply must become energy independent. It is crucial to our security and crucial to the continued well-being of our people.

Whatever the eventual outcome of the Middle East situation, it should have taught us clearly and unmistakably that we must not allow the lifeblood of the American economy to be subject to the whim of any foreign nation. We must not bend to economic blackmail.

One day, imports from the Arab countries will probably resume. In the meantime, we have been taught a lesson; now let us learn that lesson.

Mr. President, our country is blessed with the resources to attain independence. Now, we must have the wisdom to apply the tremendous private and public investment required to achieve that goal.

I believe our Federal offshore leasing policies should have major revision with three objectives in mind.

We must have a more rapid development of offshore leases than we do now. We must have more competition within the oil industry—allowing smaller producers to compete with larger companies—for those leases. And, we must assure a greater return from the oil companies to the American citizens for this right to make private profits from public lands.

I believe that these objectives are consistent with each other, fair to the oil industry and the American people, and in the best interest of our Nation.

The fact is, Mr. President, that the oil and natural gas located under Federal land belong to all the American people, and I believe that our citizens have a right to obtain the full measure of its value.

Yet, for too long, that has not been public policy.

For, in the granting of this valuable right to produce oil and gas from public lands, the American taxpayer has not come off as well as taxpayers of foreign lands—we have settled for the initial payment from the oil companies in the form of high bonuses for the right to drill while we have allowed the companies to keep too much of the revenues from the oil and gas obtained from these public lands. We should deemphasize the bonus payments and have a much larger participation in the oil production.

My proposal would result in a better deal for the American taxpayer and American consumer by assuring a greater share of the revenues for the taxpayer and assuring more petroleum for independent refineries and independent marketers.

Under present law, the Federal Government places tracts of federally owned offshore lands up for lease so that private companies can develop the oil and gas production. The oil companies bid for the right to drill. Once the bids are decided the Government awards the tracts, and the Government gets the bonus payments bid by the oil companies.

All of this takes a great deal of "front" money to pay the cost of the bonus. Often, only large companies can accumulate the capital necessary to allow a bid on these lands. Too often, the smaller producer is simply eliminated from the market.

In addition to the bonus payments, the U.S. taxpayer presently receives 16⅔ percent of the revenue derived from the sale of oil and gas produced from offshore public lands. The total royalties from all present leases add about $300 million annually to the Federal Treasury.

I propose that on all future leases, the U.S. taxpayer presently receives 16⅔ percent to 65 percent of the oil and gas produced, if and when the initial investment is recovered. And, furthermore, I believe that the percentage should be increased over the present rate even before the oil companies' costs are recovered.

Under the sharing I propose and at today's higher oil prices the Federal Government would eventually expect to receive $300 million a year in oil and gas for just the first of three lease sales scheduled next year.

The proposal is similar to the arrangements the major oil companies now have with many foreign countries.

Surely, the American taxpayers are entitled to the same share of production from the lands they own as the people of Indonesia or Nigeria or the Philippines are now receiving from American oil companies.

That is not too much to ask from the American petroleum industry. I believe it makes good energy sense and good economic sense.

Mr. President, we have every reason to believe that Federal lands on the Outer Continental Shelf contain a greater store of petroleum resources. The National Petroleum Council estimates that over 80 percent of oil and gas on these lands have yet to be discovered. The council estimates 112 billion barrels of oil and 214 trillion cubic feet of natural gas remain to be found on these federal lands. If the American citizens' share of this production were increased to the level I have suggested, the total Federal share from these lands would be increased over $100 billion. This is a conservative figure based on today's prices and the level of recovery possible under present technology. I would expect that the Federal share would exceed that amount.

Giving the taxpayer a larger share of the barrels of oil produced should result in lower initial bids for the leases. But, this in itself can be a plus because such a change would make it possible for more smaller producers to participate in these leases.

The present system, has given the major companies an advantage over smaller independent drilling companies which cannot raise the required capital for the large bid outlays.

My proposal would make it easier for more producers to enter the market. It would insure that these offshore lands would not be the private preserve of only the major oil companies.

Greater participation by smaller producers in offshore production on Federal lands will also assure more petroleum for independent refiners and independent marketers. It could mean more competition at all levels of the industry, and that is very much in the interest of the consumer.

The present leasing systems emphasis on high initial bonuses has restricted the number of lease sales. There are limits to how much capital even the major companies can raise in a lump sum. A system resulting in more of the Federal share to be paid after production is obtained will allow more frequent sales and this should result in an accelerated development of Federal lands.

In addition, Mr. President, I also believe we should require a commitment from the oil companies to drill as a condition of granting these offshore leases.

The fact is, Mr. President, many leases are granted that remain underdeveloped for too long.

Other countries uniformly require oil companies to have a firm schedule for drilling when the leases are granted. Some countries even require the posting of performance bonds in order to assure adequate development of the leased lands.

It seems to me that if we are to move our Nation toward greater energy independence, the American Government should insist on expeditious development of American offshore leases. If a reasonable commitment to drill is a condition of the lease, there will be no question of holding a lease undeveloped in the hope of higher prices.

Mr. President, I believe that substantially increasing the share of oil and gas which the American people receive from their Federal lands and requiring a drilling commitment from private companies provides a better way of developing these lands than attempting to get the Federal Government involved in the actual drilling operation as some have advocated. The oil business is a high-risk undertaking requiring a great deal of expertise. I believe we should let private industry raise the capital and take the risks as long as the American people receive a fair share of the benefits.

Mr. President, there is a second major policy change I would propose: to limit the use of the percentage depletion allowance to oil and gas production solely in North America.

Under present law our tax code allows oil companies the same depletion allowance for production in the Middle East as it does for domestic production. If our Nation is to move toward the goal of energy independence, then a depletion allowance that encourages oil exploration and production outside North America only works against that goal.

I do not believe we should have an incentive on the books for production in far corners of the world at a time when we are seeking domestic independence.

Mr. President, the proposals I have outlined in this speech, along with my legislation to create an agency for energy adjustment to aid industry in the transition from an economy based on petroleum abundance to one of petroleum scarcity, will assist our Nation in coping with the energy crisis.

I understand very well the sacrifices being requested of our people. And, I am not without sympathy to the demands and pressures placed on the oil industry, as that industry tries to do its best for the American people.

All of our institutions must be responsive to change. The American petroleum industry is no exception. It is going to have to change some of its ways of doing business and it cannot resist that decision much longer. The image of huge profit increases by major companies in the midst of an oil and gas shortage is not a healthy image to have. I sincerely hope and believe that responsible leaders of this industry will begin responding more effectively to this new challenge in the same manner they responded to the immense challenge of World War II when the Allies rode to victory on American oil.

If our country is going to be successful in overcoming the energy crisis, if we are going to become independent, if we are going to avoid major economic dislocations, job losses, and production shutdowns; then we need, indeed we must have, the cooperation of the American petroleum industry—a cooperation not just of production but a cooperation and willingness to do what is necessary for the best interest of the American people and their Nation.

Let me add that during the darkest hours of World War II, when our battleships were on the bottom of Pearl Harbor and we were retreating before dedicated enemies on two sides of the world—and when our attention was focused on getting enough supplies and manpower to just stem the tide—even with all of that, plans were being made and implemented to put us in position to go on the offensive and to win.

We need a little of that dedicated planning and leadership today. We need to be gearing up for victory over the energy crisis even as we struggle for the stopgap measures to save what we have.

I have not yet detected enough of that dedication—either in the Government or in the private sector.

I urge the Congress to move expeditiously on the measures I have proposed.

TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business not to extend beyond 10:30 a.m., with statements limited therein to 3 minutes.

Is there morning business?

PROHIBITION ON USE OF FUNDS IN DEFENSE APPROPRIATION BILL FOR SHIPMENT OF PETROLEUM PRODUCTS TO SOUTHEAST ASIA

Mr. COTTON. Mr. President, yesterday I offered an amendment to the defense appropriation bill, which was agreed to, providing that no funds in the bill could be used to furnish petroleum to Southeast Asia. I noted the comment in the newspapers that I said in connection with the amendment that I purposely left open a loophole so that the amendment would have only a certain psychological effect. I do not complain about that because my remarks on the floor were very clear.

However, so that the record will be straight, I wish to state that the Senator from New Hampshire did not purposely leave any loopholes. Under the rules, and this has been confirmed by the Parliamentarian, any amendment that would have precluded the use of other funds would be subject to a point of order and would immediately have been rejected and thrown out on a point of order. The Senator from New Hampshire went as far as he could. The only amendment not subject to a point of order was one that dealt strictly with funds in that particular appropriation bill, and we could not reach into the funds the Pentagon already has in the pipeline in foreign appropriations. Certainly, I would have attempted to reach those funds had I been able to under the rules of the Senate, because frankly I am still seething, and not so much from the fact that the Department of Defense is furnishing oil, but that they are doing it without the knowledge of Congress or its committees.

I trust these steps will be taken. Because of the financial aid we are sending and probably will continue to furnish to South Vietnam and Cambodia they will probably be able to get oil from countries that very likely will not sell to us.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. COTTON. I am glad to yield.

Mr. ROBERT C. BYRD. I wish to substantiate as best I can what the distinguished Senator has said with respect to the point of order which would lie against legislation on an appropriation bill. It is precluded by the rules, and as the Senator has so correctly said, a point of order could have been raised. That point of order would have been upheld by the Chair and it would have been a vain act to have attempted to have sought legislation on that particular vehicle.

I congratulate the Senator on the amendment he did offer. I supported it on the floor yesterday. I think it is a good amendment and certainly the Senator had no intention of leaving a loophole nor did any Senator who voted for that amendment have any idea of doing so and at the same time intentionally leaving a loophole.

Mr. COTTON. I thank the distinguished acting majority leader for his comments and for substantiating the statement I have just made.

Also I appreciate his making so clear the understanding by Members of the Senate. Perhaps we are more keenly aware of the rules than some of those connected with the news media. It was not my purpose to make any idle gesture. I went just as far as I could under the rules without having a point of order lodged.

I thank the Senator from West Virginia not only for his support of the amendment but making it so clear this morning that the point I made is well taken.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for one brief addendum?

Mr. COTTON. I am glad to yield.

Mr. ROBERT C. BYRD. The rule to which I have referred, and to which the distinguished senior Senator from New Hampshire referred, is paragraph 4 of rule XVI—entitled "Amendments to Appropriation Bills"—of the Standing Rules of the Senate.

Mr. COTTON. I thank the Senator. I hope that whatever happens to this amendment in conference, with the support it received in the Senate, it will have some impact on those downtown who are making the policies.

Again, I thank the Senator.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. Abourezk) laid before the Senate the following letters, which were referred as indicated:

Supplemental Estimates of Appropriations for Medical Care

A letter from the Deputy Director of the Office of Management and Budget reporting, pursuant to law, that the appropriation for the Veterans' Administration for Medical Care has been apportioned on a basis which indicates the necessity for supplemental estimates of appropriations for the fiscal year 1974. Referred to the Committee on Appropriations.

Supplemental Estimates of Appropriations for Readjustment Benefits

A letter from the Deputy Director of the Office of Management and Budget reporting pursuant to law, that the appropriation for the Veterans' Administration for Readjustment Benefits has been apportioned on a basis which indicates the necessity for supplemental estimates of appropriations for the fiscal year 1974. Referred to the Committee on Appropriations.

Supplemental Estimates of Appropriations for Compensation and Pensions

A letter from the Deputy Director of the Office of Management and Budget reporting, pursuant to law, that the appropriation for the Veterans' Administration for Compensation and Pensions has been apportioned on a basis which indicates the necessity for supplemental estimates of appropriations for the fiscal year 1974. Referred to the Committee on Appropriations.

Report on Contracts for Military Construction

A letter from the Secretary of the Army transmitting, pursuant to law, a report of Department of the Army contracts for military construction awarded without formal advertisement covering July 1, 1972 through June 30, 1973 (with an accompanying report). Referred to the Committee on Armed Services.

Publications of the Federal Power Commission

A letter from the Chairman of the Federal Power Commission transmitting for the information of the Senate a publication entitled "Regulations To Govern the Preservation of Records of Public Utilities and Licensees, January 1, 1972," and a publication entitled "All-Electric Homes, Annual Bills, 1972" (with accompanying publications). Referred to the Committee on Commerce.

Proposed Legislation To Amend the Foreign Service Buildings Act

A letter from the Assistant Secretary of State transmitting a draft of proposed legislation to amend the Foreign Service Buildings Act, 1926, to authorize additional appropriations (with accompanying papers). Referred to the Committee on Foreign Relations.

Proposed Increased Appropriations for the Department of State

A letter from the Assistant Secretary of State transmitting a draft of proposed legislation to increase the authorization of appropriations for "Administration of Foreign Affairs" (with accompanying papers). Referred to the Committee on Foreign Relations.

Reports of the Comptroller General

Two letters from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Effective Central Control Could Improve DOD's Ammunition Logistics," and a report entitled "How To Improve the Procurement and Supply of Drugs in the Federal Government" (with accompanying reports). Referred to the Committee on Government Operations.

Report of the Attorney General

A letter from the Acting Attorney General transmitting, pursuant to executive order, a report on identical bidding in advertised public procurement (with an accompanying report). Referred to the Committee on the Judiciary.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. Abourezk):

A concurrent resolution of the Legislature of the State of Louisiana. Referred to the Committee on Commerce:

"A concurrent resolution to urge and request the United States Congress, the President of the United States and the Federal Power Commission to make all possible efforts in providing for the allocation of adequate fuel supplies to commercial fishermen, shrimpers and oyster fishermen

"Whereas ,the shortage of fuel supply has caused an unusually acute hardship upon commercial fishermen, and

"Whereas, the shortage of fuel may result in utter economic disaster to oyster farmers and commercial fishermen in Louisiana due to the fact that these persons have already suffered severe economic loss resulting from catastrophic flooding, and

"Whereas, seafood has always been an important part of the diet of the United States citizenry, and

"Whereas, economic ruin of this industry at this time could retard the development of food supply potentials of our oceans for many decades in the future, therefore, be it

"*Resolved* by the Senate of the Legislature of Louisiana, the House of Representatives concurring herein, that the Congress of the United States, the President of the United States, and the Federal Power Commission are hereby urged and requested to take all possible action to insure that adequate supplies of fuel are allocated to commercial fishermen, shrimpers and oyster fishermen in order to prevent further economic disaster to these persons, be it further

"*Resolved* that a copy of this Resolution be forwarded forthwith to the Speaker of the United States House of Representatives, and the President Pro Tem of the United States Senate, the President of the United States, and each Commissioner of the Federal Power Commission."

A concurrent resolution of the Legislature of the State of Louisiana. Referred to the Committee on Interior and Insular Affairs:

"A concurrent resolution to urge and request that the United States Congress, the governments of the forty-nine sister states and the people of the United States make all reasonable effort to see that certain policies be adopted concerning the national energy crisis

"Whereas, the United States is presently experiencing an energy shortage of monumental proportions, and

"Whereas, Louisiana is among the leaders in production of energy creating fuels, and

"Whereas, this is reflected by virtue of the fact that about one-third of the domestic natural gas production of the nation and about one-fourth of the domestic oil production of the nation is in Louisiana, and

"Whereas, this state has for many years remained among the several leading states in exploration for minerals beginning as early as 1823, and

"Whereas, Louisiana is the home of many refineries which are among the largest in the nation and even in the entire world, and

"Whereas, the citizens of Louisiana have long anticiapted the present fuel shortage and have been studying all available means for the prevention of such a crisis, and

"Whereas, due to its close involvement with the oil industry and its problems Louisiana is in a unique position to lead in the suggestion of those policies which can result in the alleviation of the present fuel shortage, and

"Whereas, this knowledge and experience counsel that certain policies be pursued. Therefore, be it

"*Resolved* by the Senate of the Legislature of Louisiana, the House of Representatives concurring, that the Congress of the United States, the government of the forty-nine sister states and the people of the United States are hereby urged and requested to make all reasonable effort to effectuate the adoption of certain policies concerning the national energy crisis, these policies being 1) the deregulation of prices on oil and gas, 2) encouragement of the use of capital for research in the development of other sources of energy, 3) to proceed with all deliberate speed in the construction of the Alaskan Pipeline, 4) to encourage the exploration and development of potential oil and gas fields, particularly along the Atlantic Seaboard, 5) to encourage the use of coal and other alternate fuel sources, 6) to encourage research into methods for processing shale into usable and economical gas and oil products, 7) to encourage the construction and development of superports along the coastlines of the Atlantic Ocean and the Gulf of Mexico by states willing to do so, 8) to proceed on an emergency basis to formulate a program to federally fund the research and development of fuel resources including alternate fuel sources, 9) to reconsider and reevaluate the provisions of the Clean Air Act in light of the present fuel crisis, 10) to develop nuclear and fast breeder reactors to end the current dependence on fossile fuels, 11) to remove price restrictions on manufactured products needed in the oil and gas industry, and 12) to expedite offshore (California, Gulf of Mexico and Eastern seaboard) leasing with less emphasis on huge cash bonuses from oil companies so as to stimulate exploration and development, be it further

"*Resolved* that a copy of this Resolution shall be transmitted forthwith to the Speaker of the United States House of Representatives, the President Pro Tem of the United States Senate, and the Governors of the forty-nine sister states in order that the purposes of this Resolution might be given due consideration."

A resolution adopted by the California Navigation and Ocean Development Commission memorializing Congress to consider boating on an equal basis with other forms of recreation. Referred to the Committee on Commerce.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. RANDOLPH, from the Committee on Public Works, without amendment.

S. 1961. A bill to amend the Flood Control Act of 1938. (Rept. No. 93–631).

By Mr. WILLIAMS, from the Committee on Labor and Public Welfare, without amendment:

S. Res. 154. A resolution to extend through February 28, 1977, the Select Committee on Nutrition and Human Needs (Rept. No. 93–632).

By Mr. HOLLINGS, from the Committee on Commerce, with an amendment:

H.R. 8529. An act to implement the shrimp fishing agreement with Brazil (Rept. No. 93–633).

By Mr. RIBICOFF, from the Committee on Government Operations, with amendments:

S. 2776. A bill to provide for the effective and efficient management of the Nation's energy policies and programs (Rept. No. 93–634).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

By Mr. KENNEDY, from the Committee on the Judiciary:

Walter Jay Skinner, of Massachusetts, to be a United States district judge for the district of Massachusetts.

By Mr. WILLIAMS, from the Committee on Labor and Public Welfare:

John H. Powell, Jr., of Maryland, to be a member of the Equal Employment Opportunity Commission.

(The above nomination was reported with the recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. BENTSEN:

S. 2813. A bill to establish in the Department of the Treasury an Agency for Energy Adjustment to administer a guarantee program for industrial adjustment loans to enable business concerns to achieve energy efficiencies, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. MONDALE (for himself and Mr. Tunney):

S. 2814. A bill to provide for increases in the readjustment allowances paid to Peace Corps volunteers and volunteer leaders, and to provide for the handling of such allowances. Referred to the Committee on Foreign Relations.

By Mr. FONG:

S. 2815. A bill to amend title II of the Social Security Act to increase the increment in old-age benefits payable to individuals who delay their retirement beyond age 65. Referred to the Committee on Finance.

By Mr. CHILES:

S. 2816. A bill for the relief of Miss Maxima Gonzales. Referred to the Committee on the Judiciary.

By Mr. HOLLINGS:

S. 2817. A bill to amend the Federal Food, Drug, and Cosmetic Act, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. BARTLETT (for himself and Mr. Bellmon):

S. 2818. A bill to declare that certain federally owned land is held by the United States in trust for the Kiowa, Comanche, and Apache Indian Tribes of Oklahoma. Referred to the Committee on Interior and Insular Affairs.

By Mr. MANSFIELD (for himself, Mr. Hugh Scott, Mr. Robert C. Byrd, and Mr. Griffin):

S.J. Res. 180. A joint resolution relative to the convening of the second session of the 93d Congress. Considered and passed.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BENTSEN:

S. 2813. A bill to establish in the Department of the Treasury an Agency for Energy Adjustment to administer a guarantee program for industrial adjustment loans to enable business concerns to achieve energy efficiencies, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

ENERGY ADJUSTMENT ACT OF 1973

Mr. BENTSEN. Mr. President, the progress of this country to the highest standard of living in history has not been without great peril and hardship. Americans are accustomed to sacrifice and it is traditional for our Nation to rise to the occasion when courage is demanded to solve a problem. I believe this to be true of this generation of Americans just as it was true of past generations. Our people have not grown too soft to respond to crisis—but they do expect their political leaders to be in the vanguard in proposing what the responses should be. and they are entitled to no less than that.

They are entitled to an organized approach so that we can maximize our resources in overcoming the problem which faces us. They are entitled to a fair approach whereby the burden is fully shared by all of us—rich, middle income, or poor.

The size and scope of the energy crisis is slowly but surely making itself felt on the general economy of the United States. Recent statements by respected economists have noted that the energy crisis means shortages in consumer products, higher prices, critical dislocations for energy-intensive and energy-based industries such as transportation, petrochemicals, automobile manufacturing, tourism, and in some cases, basic manufacturing. The effects on employment are already being felt. Even the optimistic forecasts predict close to 6 percent unemployment by the end of next year. This will not be just teenagers and part-time workers. Six percent unemployment will include basic family providers. The married man with a family to feed and to clothe.

It is my judgment, Mr. President, that the Government of the United States bears a special responsibility to work with affected industries and employees to reduce the curtailments of production and services and to keep factories operating and our workers on the job.

Mr. President, we must take effective action immediately to provide the assistance necessary to our business and their employees so that economic effects of the energy crisis do not result in millions of employees losing positions and benefits which they have earned over many years and the closing of businesses which have taken a lifetime to build.

Mr. President, it is time for Washington to stop playing a game of first the good news and then the bad news. It is time for us to level with the American people and say that there is going to be precious little good energy news next year. But just how bad the news is going to be depends upon leadership in Washington and the sacrifices in comfort and convenience that the average citizen is willing to make.

It is time also to recognize that there is more to "human needs" than heat in the winter, air-conditioning in the summer, and gasoline to run the automobile on every trip to the store and every pleasure jaunt we might like to make.

"Human needs" also include keeping our economy moving, keeping plants open, and keeping Americans at work.

Mr. President, every American knows that ours is a complex and interrelated economy that runs on a high consumption of petroleum and petroleum products. In the next several years we will see that complex economy move from petroleum abundance to petroleum scarcity. This transition will be necessary even if the Arab oil embargo ends tomorrow. We simply cannot go on using petroleum and natural gas as if the wells will never run dry.

We must be focusing on the action necessary to protect our people's jobs and the production of our factories. This must be parallel to our efforts to increase domestic fuel supplies, find new sources, and make more efficient use of the fuels we already have.

I am today introducing legislation to aid in that transition and ask that the bill be printed at the conclusion of my remarks.

This measure would establish within the Department of Treasury an Agency for Energy Adjustment to administer a guaranteed Government loan program for adjustments necessary to convert to a petroleum-scarce economy.

Under this legislation the Federal Government would guarantee the principal and interest of loans made for three purposes:

One, installation of energy-saving production equipment;

Two, conversion from industrial usage of petroleum and natural gas to more abundant forms of energy, such as coal;

Three, conversion to other lines of products and services less dependent on high energy usage.

With respect to the installation of energy-saving equipment, I would say American industry is presently wasting a great deal of fuel. Through capital additions financed under my measure, many plants could save between 12 and 20 percent of their total energy consumed in processing without any reduction in output. These are steps which can be taken with existing technology and at reasonable levels of expenditures.

Engineering consultants, who have surveyed a hundred plants to suggest ways of saving energy in manufacturing processing, have found no plant in which energy consumption could not be reduced by as much as 7 percent and in one case they found energy consumption could be reduced 40 percent.

For instance, many plants receive natural gas into their facilities at 500 pounds per square inch and burn it at 100 pounds per square inch. Most of them waste 400 pounds per square inch of pressure through reducing valves. By simply installing a pressure turbine that extra gas pressure can be used to generate electricity for the plant.

Many plants are allowing recoverable energy to literally go up their smoke stacks because they have not installed heat exchangers to catch the heat and use it for space heating. Some plants could be fitted with these heat economizers for as little as $10,000 which could be paid for in 6 months by the energy that would be saved.

These are but two of many examples of energy saving production equipment which could be installed.

American industry has been careless with energy in the past because it was cheap and abundant. Today it is neither. We should assure that funds are available to make the transition and my bill would do this.

In the years ahead, conversion of many plants from petroleum to low-sulfur coal which can meet our air quality standards is going to be essential. These conversions will in most cases require new boilers which must be constructed on the plant site over a period of between 2 and 3 years. These boilers will cost $12 for every pound of steam per hour which they can produce. For most plants the conversion will require an expenditure of several million dollars. We must assure that capital for these expenses can be obtained. My bill would assist in this.

However, despite installation of energy saving production equipment and conversion to more abundant energy sources, an energy scarce economy will result in some product lines and services being discontinued or severely limited.

Where these activities provide substantial employment in an area, the effect upon the community will be disastrous unless steps are taken to assist these plants convert to other products or services. I believe our Government must be prepared to play some role to save jobs and businesses during this conversion and my bill so provides.

The bill also grants borrowers a priority under the Federal energy allocation programs to insure that plants are able to continue production during the conversions.

The bill provides for loan guarantees of up to one and a half billion dollars over the next 18 months.

Since the demand for loans such as these are unknown, this figure must be the subject of hearings. But whatever the amount eventually agreed upon, I believe the cost of unemployment and plant closings is greater. A 1 percent increase in unemployment reduces revenue to the Federal Treasury by over $10 billion—in addition to the human loss.

I believe that such a program as outlined in my legislation would help keep factories and plants open, production lines moving, and American workers on payrolls instead of in the unemployment compensation or welfare rolls.

The proposal will help move this Nation toward energy self-sufficiency and economic security.

Undoubtedly, other measures will have to be taken if we are to achieve these goals.

Of one thing I am certain.

We cannot delay action.

The cost of doing nothing—the cost of waiting for jobs to be lost and factories to close—is unacceptable.

I urge expeditious action on this bill.

By Mr. MONDALE (for himself and Mr. TUNNEY):

S. 2814. A bill to provide for increases in the readjustment allowances paid to Peace Corps volunteers and volunteer leaders, and to provide for the handling of such allowances. Referred to the Committee on Foreign Relations.

Mr. MONDALE. Mr. President, in 1961, the Congress of the United States passed, and the President signed into law, the Peace Corps Act. As stated in the opening section of the act, the purpose of the legislation was—

> To promote world peace and friendship through a Peace Corps, which shall make available to interested countries and areas men and women of the United States qualified for service abroad and willing to serve, under conditions of hardship if necessary, to help the peoples of such countries and areas in meeting their needs for trained manpower, and to help promote a better understanding of the American people on the part of the peoples served and a better understanding of other peoples on the part of the American people. 22 U.S.C. 2501.

Men and women who become Peace Corps volunteers are not paid a salary. Rather, the act specifies that, during their term of service to the corps, they shall only be provided with "such living travel, and leave allowances, and such housing, transportation, supplies, equipment, subsistence, and clothing as the President may determine to be necessary for their maintenance and to insure their health and their capacity to serve effectively." 22 U.S.C. 2504(b).

Because of the absence of a salary, the Peace Corps volunteer is faced with serious problems when he or she terminates affiliation with the Corps. After 2 years of Peace Corps service, the volunteer returns to the United States faced with the necessity of finding a job, finding a place to live, sometimes returning to school, and readjusting to life in this country. He often has little or no money with which to accomplish his readjustment, because he has not received a salary for a period of 2 years. Thus, the volunteer who is, according to the act's declaration of purpose, returning from "conditions of hardship" in many cases, is forced to face even greater hardships upon his return to the United States.

Recognizing this problem, the Peace Corps Act provides for a "readjustment allowance" for volunteers. Under 22 U.S.C. 2504(c), volunteers are entitled to receive an allowance at the rate of $75 for each month of satisfactory service. Volunteers who have one or more minor children at the time of entering preenrollment training receive an allowance at the rate of $125 per month for one parent. Supervisory personnel, called volunteer leaders by the act, are entitled to receive a readjustment allowance of $125 per month—22 U.S.C. 2505 (1). The allowances are payable, except under special circumstances, on the return of the volunteer to the United States.

It is this readjustment allowance—totaling only $900 per year for volunteers and only $1,500 per year for one parent of a minor child and volunteer leaders—that the returning volunteer must use to facilitate his return to American society. Not only is the allowance pitifully low, it is also subject to social security taxes, subject to Federal income taxes, subject to State income taxes. Moreover, it does not accrue interest during the time of service. In short, by the time the volunteer uses his allowance to pay life and accident insurance premiums, educational loan payments, organization dues, support for dependents in the United States, and other necessary expenses during his term of service, little if anything is left to ease his readjustment to American life.

The volunteer returns to the United States in need of a job, a place to live, and clothing. Many returning volunteers wish to return to school and must go through the lengthy admissions process. The volunteer does not receive Federal or State unemployment insurance benefits and is not entitled to veterans' benefits. At the same time the volunteer is experiencing a period of economic stress, he is frequently undergoing a "cultural shock" as well. The readjustment allowance—or what is left of it—is of little help.

In 1961, the allowance was set at $75 per month on the basis of Congress assessment of the needs of the volunteer in 1961. Commonsense tells us that the 1961 level, which has never been changed, is insufficient as a 1973 level. Since the passage of the Peace Corps Act, and the establishment of the $75 level readjustment allowance, the Consumer Price Index has risen almost 52 percent. This index serves as a useful guide to the cost of living in this Nation, and it is this index to which we should look to measure the needs of the returning Peace Corps volunteer.

The Peace Corps volunteer serves his country in an honorable way. In addition, the volunteer makes a significant contribution to world peace and understanding. His service is accomplished in what are often primitive and difficult living conditions. Yet the hardships are accepted without complaint by the volunteer. We should not, we must not, subject the returning volunteer to additional hardship. We owe the volunteer better.

Accordingly, I am today introducing legislation which would increase the Peace Corps readjustment allowance.

The legislation increases the allowance for volunteers to $150 per month; for volunteers with minor children to $250 per month for one parent; and for volunteer leaders to $250 per month.

The bill also contains several other provisions to help the returning volunteer. First, the bill provides for the deposit of the accruing readjustment allowance in a savings account of a federally insured bank or savings and loan association so that the accruing allowance may accumulate interest over the period of the volunteer's service. Second, the bill provides for the informing of volunteers of the provisions of this legislation, so that they may take advantage of their rights under it. Third, so that we might prevent time from overtaking us again, the bill provides for automatic increases in the readjustment allowance rate in conjunction with increases in the rates of basic pay of employees paid under statutory pay systems under subchapter I of chapter 53 of title 5, United States Code. Finally, the bill authorizes sufficient funds to be appropriated to carry out the purposes of this bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2814

A bill to provide for increases in the readjustment allowances paid to Peace Corps volunteers and volunteer leaders, and to provide for the handling of such allowances

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 5(c) of the Peace Corps Act is amended by striking out "$75" and inserting in lieu thereof "$150" and by striking out "$125" and inserting in lieu thereof "$250."

(b) Section 6(1) of such Act is amended by striking out "$125" and inserting in lieu thereof "$250".

SEC. 2. Section 10 of the Peace Corps Act is amended by adding at the end thereof the following new subsections:

"(h) Upon written request of a volunteer or volunteer leader, the President shall deposit on behalf of that volunteer or volunteer leader, in a savings account of a federally insured bank or savings and loan association, the amounts of the readjustment allowance which the volunteer or leader is entitled to receive for each month of satisfactory service performed by him. Each such amount shall be deposited promptly after the end of each month of satisfactory service. Interest earned on the amounts so deposited shall be paid at the same times, and to the same persons, as the amounts of such allowance are paid. Prior to the commencement of each period of service with the Peace Corps for which a volunteer or volunteer leader is entitled to receive a readjustment allowance, the volunteer or leader shall be informed with respect to the provisions of this subsection and acknowledge in writing that he has been so informed.

"(i) Each time that the rates of basic pay of employees paid under statutory pay systems are increased under subchapter I of chapter 53 of title 5, United States Code, the rate of any allowance provided under section 5 (b) or (c) or section 6(1) of this Act shall be increased by a percentage equal to that average percentage of increase, as determined by the President, as the rates of basic pay of such employees are increased. Any increase in such allowances shall be effective on the first day of the month in which the increased rates of basic pay of such employees are effective."

SEC. 3. (a) (1) The amendments made by the first section of this Act are effective on the first day of the first full calendar month commencing on or after the date of enactment of this Act.

(2) Subsection (i) of section 10 of the Peace Corps Act, as added by section 2 of this Act, shall apply with respect to any increase, effective on or after the first day of the second full calendar month commencing on or after such date of enactment, in the rates of basic pay of employees paid under statutory pay systems under subchapter I of chapter 53 of title 5, United States Code.

(b) Subsection (h) of section 10 of the Peace Corps Act, as added by section 2 of this Act, shall be effective on the first day of the first full calendar month occurring at least thirty days after the date of enactment of this Act. Any individual who is a volunteer or volunteer leader within the meaning of the Peace Corps Act on the effective date of such subsection (h), who makes a written request in accordance with the amendment made by such section, may also request (and he shall be informed that he may make such additional request) that any amount of the readjustment allowance which he is entitled to receive and which has not yet been paid shall also be deposited in a savings account.

SEC. 4. There is hereby authorized to be appropriated a sum of $10,000,000 to carry out the purposes of this Act.

By Mr. FONG:

S. 2815. A bill to amend title II of the Social Security Act to increase the increment in old-age benefits payable to individuals who delay their retirement beyond age 65. Referred to the Committee on Finance.

PROPOSALS TO PROVIDE 6 2/3 PERCENT ANNUAL PREMIUM IN SOCIAL SECURITY BENEFITS FOR PERSONS RETIRING AFTER AGE 65

Mr. FONG. Mr. President, I am introducing today a bill, S. 2815, to expand the choices open to older Americans under the social security system by providing that persons choosing to delay retirement will qualify for higher benefits on the same percentage basis as benefits are now reduced for early retirement.

My bill will provide for an increase of 6⅔ percent in benefits for each year between age 65 and 72 that an individual elects to delay his or her receipt of social security retirement benefits. For those who choose to wait until age 72, the minimum increase in benefits will be 46⅔ percent.

Since continued employment after age 65 may also raise the retiree's average monthly wage for social security benefit calculations, the actual improvement in benefits at retirement may be higher than at the 6⅔ percent annual rate. The maximum increment for retirement at 72 could be substantially above 50 percent.

The purpose of my bill is to make the social security system more flexible by giving the retiree more freedom in adapting its provisions to his or her personal problems. He or she will be able to elect the benefit approach which best suits individual need and desire. To maximize the choice the bill provides a benefit increase of five-ninths of 1 percent for each month that he or she chooses to continue employment after 65.

The proposed benefit increment is a first major step in correcting a serious inequity in social security which sharply penalizes the hundreds of thousands of persons who prefer to continue working after age 65. Together with flat dollar liberalization of the earnings test, which now reduces OASDI benefits by 50 percent of earnings over $2,100 a year—$2,400 after January 1, 1974—S. 2815 moves us toward complete freedom for the individual in his or her choice of time for retirement.

The bill would in no way interfere with or jeopardize the current right of a person to elect retirement for social security benefit purposes.

As a simple matter of equity, my bill would recognize the principle of flexibility on behalf of those who delay retirement in much the same way as the law now recognizes the right of persons who choose to retire between 62 and 65.

My decision to propose a 6⅔-percent annual benefit increment at this time was based on two considerations. The percentage is identical to the reduction for early retirement. As a matter of fiscal and legislative practicality, I believe it is probably the maximum increment percentage now acceptable.

If, instead of my proposal, the Congress were to authorize the full actuarial benefit increase which should be available if we assume full entitlement to social security benefits at age 65, I am informed the annual increment would be 12 percent. While this is a laudable objective, I do not believe we are quite ready to go that far at this time.

I decided to propose the 6⅔-percent increment because it may take a while to get acceptance of even this amount. Additionally the first year cost to the social security system will be approximately $198 million, about one-half of costs for the actuarially determined 12-percent increment.

Currently those who choose to remain in the work force after 65 are entitled to an annual increment of 1 percent. This provision, enacted in 1972, was welcome, but it does little more than recognize the social security taxes aid after 65. It falls far short of real equity. It is relatively ineffective in expanding choices open to older Americans.

It would be my ultimate hope that eventually we would amend the Social Security Act to provide fully equitable consideration for those who decide to continue work after age 65. My proposal offers a beginning, but not necessarily an end.

I have long been disturbed by the high share of social security costs which are now in fact borne by working persons past 65. The older person who works is now actually paying roughly $4 billion a year as a hidden subsidy to those drawing benefits.

It is a small wonder that older persons are increasingly unwilling to remain in the work force. This is because the actual return for continuing to work is not enough to impel him or her to continue. Not only does the full-time worker lose social security benefits, but he or she also must pay income taxes and social security taxes on earnings. When these are added to expenses incurred in going to the job, often little if any net again from employment remains for the worker's own use.

The Nation's loss of productivity resulting from waste of skills and experience among older Americans is serious. Even more important is the economic and psychological loss to the individual which comes through disinvolvement from life's mainstream. There is ample evidence that retirement often is accepted most reluctantly because there is little practical choice in terms of economic advantage.

I know that these matters have been of serious concern to others in the Congress. I hope they will join me in pressing for adoption of S. 2815 as a new major step toward real flexibility in America's retirement system.

It is time that we counterbalance present incentives in society for early retirement with comparable incentives for later retirement. Without such balance, older Americans are denied full freedom of choice.

Letters I have received from individuals and comments by such distinguished organizations of older people as the American Association of Retired Persons and the National Retired Teachers Association convince me that older Americans—both employed and retired—feel strongly that they should have the right to choose. This demands flexibility in social security along the lines that I now propose.

As a matter of fact, spokesmen for the American Association of Retired Persons and the National Retired Teachers Association at recent hearings by the Senate Special Committee on Aging were instrumental in encouraging me, through their testimony, to introduce my bill at this time.

During recent years there has been a great deal of talk about need for a new national policy in aging. Despite some progress, and every step forward is good, we have not yet really come to grips with the challenges in our new era of aging.

Millions of words have been used in thousands of articles and meetings ranging from the White House conferences of 1961 and 1971 to sessions in our smallest villages. In them all there has been a call for action to give older Americans full freedom of choice—with honor, dignity, and self-respect. And yet too often our seniors find themselves treated as second-class citizens.

In examinations of need for a new national policy in aging—whether by authorities in medicine, economics, sociology or other disciplines—one key element in our problem comes clear. There is need for a new look at retirement practices in this country. We need to reconsider obsession with the numbers game—our pursuit of retirement based solely on artificial chronological rules of age without regard for either actual abilities of older persons to participate in the Nation's productive forces, or the desire of many for continued involvement in society's mainstream.

Deliberations by the real experts on aging—older persons themselves—have been no less emphatic about the need of new approaches to the question of retirement. We need to reinstate the principle that choices should be made by the individual in the light of individual abilities and individual desires.

No one would claim that this objective can be achieved through legislation alone. Education about the tremendous productive potential and the will for involvement among older persons may, indeed, be the most important element in solving the problem.

But there are some things that Congress can do. Perhaps most important will be decisions in Federal programs, such as social security, which will offer incentives for continued life participation by older persons at least equal to current disincentives.

My bill to provide higher social security benefit increments for those who choose to delay retirement until after 65 in my judgment is an essential step toward this objective. I urge its speedy and favorable consideration by the Congress.

As you know, I have previously introduced a bill, S. 2499, to extend job protection of the Age Discrimination Act to persons over 65 as well as those between 40 and 65. It, together with liberalization of the social security earnings test on behalf of those who choose to work part time, will complement the bill I introduce today. Together they can be instrumental in reinstatement of the rights of older Americans. Among these rights, first and foremost, after life itself, is the right to freedom of choice.

By Mr. HOLLINGS:

S. 2817. A bill to amend the Federal Food, Drug, and Cosmetic Act, and for other purposes. Referred to the Committee on Labor and Public Welfare.

Mr. HOLLINGS. Mr. President, today, I am introducing a proposal to simplify the manner in which public eating places notify their patrons when they serve yellow margarine. This is a small, but, I believe, useful change in the Federal Food, Drug, and Cosmetic Act, which will benefit all parties concerned.

The present law requires that an eating place do two things to notify patrons when it is serving yellow margarine. It must post a sign on the wall or make a statement in the menu, and it must identify each serving by appropriate labeling or by a triangular shape.

I know of no other law, Federal or State, which requires such a double notification. My bill would simply require that any single one of three forms of notice must be given.

This bill is identical to S. 438 which I introduced last year. Hearings on that measure indicated the useful purpose to be served by this change in the law.

Margarine has become an established food in the American diet. Per person consumption annually of margarine is estimated by the Department of Agriculture to be 11.3 pounds; that of butter to be 5 pounds. One reason for the increasing need for and use of margarine is that butter consumption has been generally decreasing as our dairy farmers have found better markets for their milk in fluid milk, cheese, and ice cream. As of August of 1973, the average retail prices of margarine was estimated by the Bureau of Labor Statistics to have been 36.8 cents while the retail price of butter was estimated at 88.7 cents per pound.

Certainly, we all take pride in the growth of our modern dairy industry. It is one of our basic agricultural enterprises. Milk is one of the basic foods used by man, and is a vital part of our diet. My proposal will in no way burden the marketing of dairy products. I believe it is a step toward easier and, therefore, improved compliance and enforcement of the margarine notice law.

The status of margarine is vastly different now from what it was when the existing law was enacted in 1950. Margarine has become the leading table spread, used by most American families. In recent years, it has drawn the recommendation of many physicians for certain dietary purposes. At the same time, many more Americans than ever before are taking their meals out. The American restaurant business is preparing and serving a larger proportion than ever before of the meals Americans consume.

The double notice in the Federal law stems from a desire in Congress to assure that patrons would be informed as to whether they were receiving margarine or butter. Some prefer one, some the other, and the aim was to inform. However, the double notice has been difficult to enforce. Undoubtedly, many restaurant managers have been confused by it. It is an unnecessarily complicated way of achieving the object of notification. As such, it is a burden on those eating places which for one reason or another may wish to make margarine available to patrons. To the extent that it discourages eating places from making this particular food available to patrons who desire it, it is burdensome to consumers. It cannot be said that the Federal double notice has been very successful.

We are in an era of increasing awareness of consumer protection. During the past several years Congress has considered much labeling legislation and has approved important changes in our laws. Not once has any one suggested double labeling or double notice for any product. It does not make sense. On the contrary, a real objective has been to seek the greatest possible uniformity between Federal and State laws, so as to make consumer information simpler to provide and easier for consumers to use.

In this respect the double notification requirement for margarine is not uniform. It is obsolete. Most States have a legal requirement in this specific area and must be found some single form of notice sufficient. Several States in the course of making basic changes in their margarine laws after the old Federal taxes were removed in 1950, as a subordinate consideration and mainly for legislative convenience adopted the double requirement. But most States saw no reason to do so. The result is an even greater complication of one area of consumer protection law.

The enforcement agency, the Food and Drug Administration, in a hearing on August 10, 1970, by the House Interstate and Foreign Commerce Committee on a similar proposal (H.R. 12061) concurred with the single notice change. Indeed, the agency is seeking to encourage States to enforce this part of the Federal law as a part of its effort to improve enforcement generally. The result is that most States find they must enforce the Federal double requirement on top of their own single requirement.

In summary, this bill is a simple, technical change which has three objectives: First, to provide better consumer protection by making the law easier to comply with and to enforce; second, to simplify in one respect the burden of regulations on our expanding and important eating-out industry; and, third, to encourage uniformity in Federal and State regulation in this area.

I ask unanimous consent that the bill be printed at this point in the RECORD.

There being no objection the bill was ordered to be printed in the RECORD, as follows:

S. 2817

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 407(c) of the Federal Food, Drug, and Cosmetic Act, as amended (21 U.S.C. 347(c)), is amended by deleting the language thereof and substituting the following:

"(c) No person shall serve colored oleomargarine or colored margarine at a public eating place, whether or not any charge is made therefor, unless (1) a notice that oleomargarine or margarine is served is displayed prominently and conspicuously in such place and in such manner as to render it likely to be read and understood by the ordinary individual being served in such eating place, or (2) a notice that oleomargarine or margarine is served is printed or is otherwise set forth on the menu in type or lettering not smaller than that normally used to designate the serving of other food items, or (3) each separate serving bears or is accompanied by labeling identifying it as oleomargarine or margarine."

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 796

At the request of Mr. PELL, the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 796, a bill to improve museum services.

S. 2008

At the request of Mr. WILLIAMS, the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 2008, the Workers' Compensation Act.

S. 1098

At the request of Mr. BIBLE, the Senator from Iowa (Mr. CLARK) was added as a cosponsor of S. 1098, a bill to amend the Internal Revenue Code of 1954 to provide income tax simplification, reform, and relief for small business.

S. 2776

At the request of Mr. RIBICOFF, the Senator from Alabama (Mr. ALLEN), the Senator from Maine (Mr. MUSKIE), the Senator from Montana (Mr. METCALF), the Senator from Florida (Mr. CHILES), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Florida (Mr. GURNEY), the Senator from Ohio (Mr. SAXBE), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Delaware (Mr. ROTH), and the Senator from Tennessee (Mr. BROCK) were added as cosponsors of S. 2776, a bill to provide for the effective and efficient management of the Nation's energy policies and programs.

SENATE CONCURRENT RESOLUTION 61—SUBMISSION OF A CONCURRENT RESOLUTION AUTHORIZING THE PRINTING OF ADDITIONAL COPIES OF COMMITTEE PRINT ENTITLED "CONFIDENCE AND CONCERN: CITIZENS VIEW AMERICAN GOVERNMENT—A SURVEY OF PUBLIC ATTITUDES"

(Referred to the Committee on Rules and Administration.)

Mr. MUSKIE submitted the following concurrent resolution:

S. CON. RES. 61

Resolved by the Senate (the House of Representatives concurring), that there be printed for the use of the Senate Committee on Government Operations 2000 additional copies of Part I of its committee print entitled "Confidence and Concern: Citizens View American Government—A Survey of Public Attitudes," dated December 3, 1973.

SENATE RESOLUTION 218—SUBMISSION OF A RESOLUTION TO PAY TRIBUTE TO MEMBERS OF THE ARMED SERVICES MISSING IN ACTION

(Referred to the Committee on Foreign Relations.)

Mr. BARTLETT submitted the following resolution:

S. RES. 217

Whereas, the United States recognizes its responsibility as well as its gratitude to the 1,163 members of the Armed Forces who are currently listed as missing in action in Indochina; and

Whereas, the families of these missing men are entitled to an accounting of their fate; and

Whereas, the North Vietnamese have disregarded the Paris Peace Agreement which provides in Section 8b:

"The parties shall help each other to get information about those military personnel and foreign civilians of the parties missing in action, to determine the location and take care of the graves of the dead so as to facilitate exhumation and repatriation of the remains, and to take any other such measures as may be required to get information about these still considered missing in action."

Whereas, it is in the interest of basic humanity and justice for North Vietnam to allow the United States, or a neutral nation or third party such as the Red Cross to search for the location of missing in action throughout Indochina;

Be it resolved, That the United States Senate urges the President to continue to use every diplomatic avenue, including North Vietnam's allies and the United Nations to assist in obtaining the necessary cooperation and information concerning our missing men; and

That, during this Christmas season, the

grateful people of our nation give a special remembrance through our thoughts and our prayers for those brave men and their loyal families who have given so much for each of us.

FEDERAL ENERGY ADMINISTRATION ACT—AMENDMENT

AMENDMENT NO. 912

(Ordered to be printed and referred to the Committee on Government Operations.)

Mr. BUCKLEY (for himself, Mr. Baker, Mr. Cook, Mr. Domenici, Mr. Fong, Mr. Hatfield, Mr. Pearson, Mr. Taft, Mr. McClure, Mr. Dole, and Mr. Dominick) submitted an amendment intended to be proposed by them jointly to the bill (S. 2776) to provide for the effective and efficient management of the Nation's energy policies and programs.

AUTOMOBILE EMISSION STANDARDS—AMENDMENT

AMENDMENT NO. 913

(Ordered to be printed and to lie on the table.)

Mr. WILLIAM L. SCOTT submitted an amendment intended to be proposed by him to the bill (S. 2772) to amend title II of the Clean Air Act, as amended.

LEGAL SERVICES CORPORATION ACT—AMENDMENT

AMENDMENT NO. 914

(Ordered to be printed and to lie on the table.)

Mr. LONG submitted an amendment intended to be proposed by him to the bill (S. 2686) to amend the Equal Opportunity Act of 1964 to provide for the transfer of the legal services program from the Office of Economic Opportunity to a Legal Services Corporation.

AMENDMENT OF THE EXPORT ADMINISTRATION ACT OF 1969—AMENDMENT

AMENDMENT NO. 915

(Ordered to be printed and to lie on the table.)

Mr. SCHWEIKER submitted an amendment intended to be proposed by him to the bill (H.R. 8547) to amend the Export Administration Act of 1969, to protect the domestic economy from the excessive drain of scarce materials and commodities and to reduce the serious inflationary impact of abnormal foreign demand.

PRISONERS OF WAR AND MISSING IN ACTION TAX ACT—AMENDMENT

AMENDMENT NO. 916

(Ordered to be printed and to lie on the table.)

Mr. SCHWEIKER submitted an amendment intended to be proposed by him to the bill (H.R. 8214) to modify the tax treatment of members of the Armed Forces of the United States and civilian employees who are prisoners of war or missing in action, and for other purposes.

ADDITIONAL STATEMENTS

ANNOUNCEMENT OF JOINT INVESTIGATION ON WARRANTLESS WIRETAPPING AND SURVEILLANCE

Mr. KENNEDY. Mr. President, I am pleased to announce with my colleagues, the distinguished Senator from North Carolina (Mr. Ervin) and the distinguished Senator from Maine (Mr. Muskie), the undertaking of a joint investigation into warrantless wiretapping and electronic surveillance.

The joint investigation is being conducted by the Judiciary Subcommittee on Administrative Practice and Procedure, which I am privileged to chair; the Judiciary Subcommittee on Constitutional Rights, chaired by Senator Ervin, and the Foreign Relations Subcommittee on Surveillance, chaired by Senator Muskie.

Wiretapping and electronic surveillance pose a greater threat to the constitutional rights of American citizens than ever before. A recent survey of public attitudes shows that 75 percent of the American people feel that "wiretapping and spying under the excuse of national security is a serious threat to people's privacy."

It is not difficult to understand the reasons for such concern. The revelations of the past year have indicated widespread Government involvement in wiretapping, bugging, and break-ins. Under such circumstances, a vigorous congressional investigation is needed.

Because so much of this wiretapping has been done in the name of "national security," a joint undertaking of the Foreign Relations and Judiciary Subcommittees will enable the expertise of each to be utilized in examining the different aspects of the overall problem. The Foreign Relations Subcommittee will be able to evaluate the "national security" basis of this kind of Government activity, while the two Judiciary Subcommittees will bring to bear their knowledge of wiretap law and practice, and the constitutional problems that it presents. By pooling the resources and the expertise of our three subcommittees, a thorough and complete investigation will result. We hope to enlist the cooperation of officials of the Justice Department, the State Department, and other Federal agencies in this joint undertaking.

The investigation will focus on wiretapping and other electronic surveillance of American citizens conducted by the Federal Government without a court order. The areas of inquiry will include the historical background of warrantless electronic surveillance; the practices and procedures of the Department of Justice and other Federal agencies in the conduct and authorization of such surveillances; and the cases of the 17 government officials and newsmen, plus others, which have recently come to light.

The investigation is already underway, and staff work is in progress. It will be followed by joint hearings to be held early next year by the three subcommittees with a view toward the development of new legislation and of more adequate administrative guidelines.

The joint investigation is a continuation and extension of hearings on "Warrantless Wiretapping" held last year by the Subcommittee on Administrative Practice and Procedure. At these hearings, a detailed inquiry was made into the practices and procedures of the Department of Justice and other Federal agencies in the area of wiretapping and electronic eavesdropping, and present and former officials of the Justice Department were called as witnesses. At the subcommittee's request, additional information was supplied by the Department following the hearings.

The Administrative Practice and Procedure Subcommittee has played an active role in the area of electronic surveillance over the past decade. Under its previous chairman, the subcommittee held the principal hearings on wiretapping and governmental intrusion into privacy in the 1960's, having held 46 days of hearings on this subject and received testimony from over 200 witnesses. Its work on the proposed Right to Privacy Act of 1967 led in large measure to the enactment of the controls on wiretapping and electronic surveillance contained in title III of the Omnibus Crime Control and Safe Streets Act of 1968.

During the past several years, the subcommittee has engaged in extensive correspondence with the Justice Department and other Federal agencies regarding the nature, scope, and duration of warrantless national security surveillance. In 1971, I issued a report to the members of the subcommittee regarding noncourt ordered wiretapping which was cited several times in *United States* v. *United States District Court*, 407 U.S. 297 (1972). This correspondence has provided the leading source of statistical information on warrantless wiretapping, much of which I placed in the Congressional Record, volume 118, part 18, pages 22636–22640.

There is no subject that so directly affects the constitutional right of Americans to privacy as wiretapping and electronic eavesdropping. I join my colleagues in undertaking this important inquiry into an area of such great concern to all Americans.

WHO GETS TAX BENEFITS?

Mr. ABOUREZK. Mr. President, the recent exposés of the President's remarkably low income tax payments do little to inspire confidence in our tax system.

The President is not the only wealthy American who benefits from the many loopholes in our tax code.

Getting at the truth of who gets what

in the way of tax benefits is a tricky business.

Fortunately, the Tax Reform Research Group has cut through the statistical shroud to produce some alarming evidence about the gross maldistribution of the Federal income tax load.

I ask unanimous consent to have printed in the RECORD several recent newspaper articles about the Tax Reform Research Group's findings, together with the Government data on which they were based and the Reform Group's computation of who is actually getting what.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Nov. 23, 1973]

TAX PLOT CHARGED BY A NADER GROUP—PANEL SAYS NIXON AIDES AND HOUSE COMMITTEE TRY TO HIDE NEED FOR REFORM

(By Eileen Shanahan)

WASHINGTON, Nov. 22.—The Tax Reform Research Group, a Ralph Nader organization, charged today that the Nixon Administration and the House Ways and Means Committee were conspiring to keep from the public facts that would demonstrate the need for tax reform.

The facts at issue are those that show the dollars and cents benefits that individuals at different income levels realize from the various preferential provisions of the tax laws.

The tax group, which is financed by Mr. Nader's Public Citizen organization, said that the Administration kept providing the committee, and the committee kept publishing, misleading figures that "attempt to show that income tax loopholes favor middle-class taxpayers."

This is true, according to Robert Brandon, director of the Tax Reform Research Group, only when the figures on the benefits are lumped together. The tens of millions of middle-income taxpayers, when lumped together, do get more total benefits from such tax preferences as the deduction for mortgage interest than do the few thousand in the income class of over $100,000, he said.

SOME BENEFIT MORE

But when the average advantage per person is calculated, the benefits to upper-income taxpayers are much higher, he continued.

For instance, the group of taxpayers just below the exact middle income, those with incomes of $7,000 to $10,000, had total tax savings of $310-million because of the deduction for mortage interest, while those in the over $100,000 bracket had total savings of only $55-million.

However, for each of the 12.6 million taxpayers in the $7,000-to-$10,000 bracket, the saving averaged $24.59, while the 91,826 persons in the over-$100,000 bracket saved an average of $602.

If the mortgage interest deductions were eliminated completely and tax rates were cut across the board, instead of granting the deductions, a tax reduction of $46.92 could be given to everyone, according to the tax group's calculation.

"Obviously, the average taxpayer would be better off without the deduction and with lower taxes instead," Mr. Brandon said.

The disparities in the benefits from preferential sections of the tax law are considerably greater in some cases, the tax group's study showed.

The largest disparity, by far, was in the benefits realized from the preferential treatment of capital gains, which are generally taxed at half the rate at which ordinary income is taxed.

TAX SAVINGS LISTED

Individuals in the over-$100,000 income group averaged tax savings of $39,211 under this provision of the law, while those in the $7,000-to-$10,000 group averaged $15.07; those in the $10,000-to-$15,000 group averaged $23.27; those in the $15,000-to-$20,000 group averaged $52.67, and those in the $20,000-to-$50,000 group averaged $284.59.

Some tax preferences, such as the depletion allowance for oil and gas wells and other mining operations, are hardly used at all except by individuals with the highest income, the tax group's figures showed. The average tax saving, from the depletion allowance to taxpayers in the $10,000-to-$15,000 bracket, which is just about middle income, was $1.23. For the over-$100,000 group, the average benefit was $1,150.23.

Mr. Brandon said that Nixon Administration officials and Representative Wilbur D. Mills, chairman of the House Ways and Means Committee, had "tried to cover up the unfairness of the nation's tax laws."

The tax group used published Treasury Department information on 1972 tax payments but was forced to use 1971 figures on the number of taxpayers in each income class because these figures for 1972 have not yet been published. The tax group said that the use of figures from two different years would have only a small impact on the accuracy of the statistics.

Mr. Brandon concluded that the tax group's figures showed that the assertion that "average taxpayers are the major beneficiaries of our present tax loopholes are completely false."

"Those responsible for our unfair tax system are perpetrating a cruel hoax on the American people," he said.

[From the Washington Star-News, Nov. 23, 1973]

TAX DATA DISTORTED, NADER GROUP CLAIMS

A Ralph Nader-backed research group says the Nixon administration and the House Ways and Means Committee have deliberately published a misleading report to cover up tax favoritism toward the wealthy and to thwart needed tax reforms.

The Tax Reform Research Group said the report, published by the committee last June in consultation with the Treasury Department, omitted crucial statistics in reaching the false conclusion that federal tax loopholes favor middle-income taxpayers.

In a statement, the Nader group said the complete statistics actually show that wealthy taxpayers benefit from the loopholes at the expense of those with smaller incomes.

Robert Brandon, director of the group, said, "These statistics really show how much the nation needs thorough reform of its tax laws."

He said Rep. Wilbur D. Mills, D-Ark., the ways and means committee chairman, and President Nixon "should be working to end the unfairness of our tax laws instead of covering it up."

Brandon said the House committee reported that taxpayers with adjusted gross incomes between $7,000 and $10,000 a year saved $310 million in mortgage interest deductions in 1972 and those with incomes of more than $100,000 saved only $55 million.

But, he said, the report failed to mention that the $310 million savings was spread among 12 million taxpayers while only 91,286 people shared the $55 million in the higher bracket. The average taxpayer actually saved only $24.59 from the mortgage interest deduction last year, he said, while the wealthier taxpayer saved $602.50.

Brandon said this loophole saved Nixon about $66,000 on his 1970 and 1971 taxes because of interest paid for his homes in Key Biscayne, Fla., and San Clemente, Calif.

[From the New York Daily News, Nov. 23, 1973]

TAX SURVEY SLANTED DATA: NADER GROUP

WASHINGTON.—A Ralph Nader research group said tonight that the administration and the House Ways and Means Committee have deliberately published a misleading report to thwart needed tax reforms and to cover up tax favoritism toward the wealthy.

The Tax Reform Research Group said the report, published by the committee last June, in consultation with the Treasury Department, omitted crucial statistics in reaching the false conclusion that federal tax loopholes favor middle-income taxpayers.

It said complete statistics show that wealthy taxpayers benefit.

DELIBERATE DECEPTION

"The slanting of these statistics is part of a deliberate plan to deceive the American people and stymie the tax reform movement," said Robert Brandon, director of the group. "These statistics really show how much the nation needs thorough reform of its tax laws."

He said Rep. Wilbur D. Mills, (D-Ark.), the Ways and Means chairman, and President Nixon "should be working to end the unfairness of our tax laws instead of covering it up."

Brandon said the House committee reported that taxpayers with adjusted gross incomes between $7,000 and $10,000 a year saved $310 million in mortgage interest deductions in 1972 and those with incomes over $100,000 saved only $55 million.

But, he said, the report failed to mention that the $310 million savings was spread among 12 million taxpayers while only 91,286 people shared the $55 million in the higher bracket. The average taxpayer actually saved only $24.59 from the mortgage interest deduction last year, he said, while the wealthier taxpayer saved $602.50.

NIXON SAVED $66,000

Brandon said this loophole saved Nixon about $66,000 on his 1970 and 1971 taxes because of interest paid for his homes in Key Biscayne, Fla., and San Clemente, Calif.

Brandon said the committee report was also misleading on * * * income earner saved only $23.80 on medical expenses compared with $547.73 for the average taxpayer in the highest bracket.

[From the Washington Post, Nov. 23, 1973]

TAX REPORT CHALLENGED BY NADER

A Ralph Nader-backed research group says the administration and the House Ways and Means Committee have published a misleading report to cover up tax favoritism toward the wealthy and thwart needed tax reforms.

The Tax Reform Research Group said the report, published by the committee last June in consultation with the Treasury Department, omitted crucial statistics in reaching the false conclusion that federal tax loopholes favor middle-income taxpayers.

In a statement, the Nader group said the complete statistics actually show that wealthy taxpayers benefit from the loopholes at the expense of those with lesser incomes.

"The slanting of these statistics is part of a deliberate plan to deceive the American people and stymie the tax reform movement," said Robert Brandon, director of the group. "These statistics really show how much the nation needs thorough reform of its tax laws."

Brandon said the House committee reported that taxpayers with adjusted gross incomes between $7,000 and $10,000 a year saved $310 million in mortgage interest deductions in 1972 and those with incomes over $100,000 saved only $55 million.

But, he said, the report failed to mention that the $310 million savings was spread among 12 million taxpayers while only 91,238 people shared the $55 million in the higher bracket. The average taxpayer actually saved only $24.59 from the mortgage interest deduction last year, he said, while the wealthier taxpayer saved $602.50.

Brandon said this loophole saved President Nixon about $66,000 on his 1970 and 1971 taxes.

ESTIMATES OF FEDERAL TAX EXPENDITURES

TABLE 2.—ESTIMATED DISTRIBUTION OF SELECTED ITEMS OF TAX PREFERENCES OF INDIVIDUALS BY ADJUSTED GROSS INCOME CLASS, CALENDAR YEAR 1972

[In millions of dollars]

Adjusted gross income class	Exclusion of benefits and allowances to Armed Forces personnel	Exemption for certain income earned abroad by U.S. citizens	Exclusion of income earned by individuals in U.S. possessions	Deferral of income of foreign controlled subsidiaries	Farming: Expensing and capital gain treatment	Timber: Capital gain treatment for certain income	Expensing of exploration and development costs	Excess of percentage over cost depletion	Investment credit	Depreciation on buildings (other than rental housing) in excess of straight-line	Asset depreciation range	Dividend exclusion
0 to $3,000	15	(1)	(1)	(1)	15	(1)	(1)	1	(1)	1	(1)	2
$3,000 to $5,000	150	1	(1)	(1)	50	2	1	5	45	3	(1)	10
$5,000 to $7,000	180	3	1	(1)	90	2	1	4	55	5	(1)	18
$7,000 to $10,000	130	5	1	(1)	130	3	2	11	95	10	1	27
$10,000 to $15,000	115	7	2	1	170	4	9	18	125	19	1	56
$15,000 to $20,000	55	16	3	1	100	3	7	20	90	17	1	55
$20,000 to $50,000	50	17	3	6	185	9	17	75	185	58	4	109
$50,000 to $100,000	4	1	(1)	6	60	8	11	61	80	36	2	20
$100,000 and over	1	(1)	(1)	11	50	19	22	105	75	21	1	3
Total	700	50	10	25	850	50	70	300	750	170	10	300

Adjusted gross income class	Deductibility of interest on consumer credit	Deductibility of interest on mortgages on owner-occupied homes	Deductibility of property taxes on owner occupied homes	Depreciation on rental housing in excess of straight-line	Housing rehabilitation	Provisions relating to aged, blind, and disabled			Sick pay exclusion	Exclusion of unemployment insurance benefits	Exclusion of workmen's compensation benefits	Exclusion of public assistance benefits
						Disability insurance benefits	Combined cost for additional exemption, retirement income credit and exclusion of OASDHI for aged	Additional exemption for blind				
0 to $3,000	(1)	(1)	5	1	(1)	30	880	1	8	60	12	25
$3,000 to $5,000	10	15	25	4	(1)	45	820	2	16	95	26	20
$5,000 to $7,000	40	85	95	7	(1)	35	460	2	18	95	41	15
$7,000 to $10,000	145	310	240	14	(1)	35	640	2	34	160	66	5
$10,000 to $15,000	275	845	590	28	1	12	265	1	62	200	96	(1)
$15,000 to $20,000	235	835	640	25	1	7	135	1	55	60	63	(1)
$20,000 to $50,000	285	1, 160	1, 135	86	3	7	235	1	27	25	65	(1)
$50,000 to $100,000	60	195	340	53	8	3	75	(1)	4	5	5	(1)
$100,000 and over	50	55	180	32	12	1	40	(1)	1	(1)	1	(1)
Total	1, 100	3, 500	3, 250	250	25	175	3, 550	10	225	700	375	65

Adjusted gross income class	Net exclusion of pension contributions and earnings		Exclusion of other employee benefits					Exclusion of interest on life insurance savings	Deductibility of charitable contributions (other than education)	Deductibility of medical expenses	Deductibility of child and dependent care expense	Deductibility of casualty losses
	Plans for employees	Plans for self-employed	Premiums on term group life insurance	Deductibility of accident and accidental death premiums	Medical insurance of premiums and medical care	Privately financed supplementary unemployment benefits	Meals and benefits					
0 to $3,000	45	(1)	10	(1)	45	(1)	3	10	5	5	1	(1)
$3,000 to $5,000	150	(1)	40	2	180	(1)	13	35	20	60	12	5
$5,000 to $7,000	240	1	50	3	225	1	22	65	80	155	21	5
$7,000 to $10,000	580	2	95	6	430	1	33	105	195	300	36	10
$10,000 to $15,000	1, 080	5	150	10	675	2	37	175	410	460	42	25
$15,000 to $20,000	740	9	90	5	400	1	27	160	380	320	43	30
$20,000 to $50,000	885	93	95	6	420	(1)	28	400	820	435	25	40
$50,000 to $100,000	195	76	15	2	85	(1)	5	130	450	115	------------	15
$100,000 and over	85	14	5	1	40	(1)	2	120	740	50	------------	20
Total	4, 000	200	550	35	2, 500	5	170	1, 200	3, 100	1, 900	180	150

Adjusted gross income class	Excess of percentage standard deduction over minimum standard deduction	Capital gains: individuals	Parental personal exemption for student age 19 or over	Deductibility of contributions to educational institutions	Exclusion of scholarships and fellowships	Exclusion of certain veterans' benefits	Tax credit or deduction for political contributions	Exemption of interest on State and local debt	Deductibility of nonbusiness State and local taxes (other than on owner occupied homes)
0 to $3,000	0	20	(1)	(1)	4	20	(1)	5	(1)
$3,000 to $5,000	1	70	8	3	26	45	1	(1)	30
$5,000 to $7,000	12	120	39	7	32	50	2	(1)	110
$7,000 to $10,000	63	190	102	20	26	110	7	5	335
$10,000 to $15,000	609	340	207	58	19	140	21	10	785
$15,000 to $20,000	254	340	122	70	12	60	17	25	835
$20,000 to $50,000	98	1, 260	69	90	6	45	37	125	1, 770
$50,000 to $100,000	2	1, 080	72	20	(1)	9	11	375	770
$100,000 and over	1	3, 580	21	7	(1)	1	4	455	665
Total	1, 040	7, 000	640	275	125	480	100	1, 000	5, 300

[1] Less than $500,000.

WHAT WAYS AND MEANS AND TREASURY DIDN'T TELL US

WHO REALLY BENEFITS FROM TAX PREFERENCES

TAX PREFERENCE BENEFITS PER INDIVIDUAL IN EACH ADJUSTED GROSS INCOME CLASS, CALENDAR YEAR 1972

[Dollars per return]

Adjusted gross income class	Number of returns per income class [1]	Percent of returns in each income class	Exclusion of benefits and allowances to Armed Forces personnel	Exemption for certain income earned abroad by U.S. citizens	Exclusion of income earned by individuals in U.S. possessions	Farming: Expensing and capital gain treatment	Timber: Capital gain treatment for certain income	Expensing of exploration and development costs	Deferral of income of foreign controlled subsidiaries
0 to $3,000	17,180,193	23.1	0.87	*	*	0.87	*	*	*
$3,000 to $5,000	9,981,704	13.4	15.03	0.10	*	5.01	0.20	0.10	*
$5,000 to $7,000	8,839,820	11.9	20.36	.34	0.11	10.18	.23	.11	*
$7,000 to $10,000	12,606,192	16.9	10.31	.40	.08	10.31	.24	.16	*
$10,000 to $15,000	14,613,620	19.6	7.87	.48	.14	11.63	.27	.62	0.07
$15,000 to $20,000	6,455,678	8.7	8.52	2.48	.46	15.49	.46	1.08	.15
$20,000 to $50,000	4,427,371	5.9	11.29	3.84	.68	41.79	2.03	3.84	1.36
$50,000 to $100,000	405,463	.5	9.87	2.47	*	147.98	19.74	27.13	14.80
$100,000 and over	91,286	.15	10.95	*	*	574.73	208.14	241.00	120.50

Adjusted gross income class	Number of returns per income class	Percent of returns in each income class	Excess of percentage over cost depletion	Investment credit	Depreciation on buildings (other than rental housing) in excess of straight line	Asset depreciation range	Dividend exclusion	Deductibility of interest on consumer credit	Deductibility of interest on mortgages on owner occupied homes
0 to $3,000	17,180,193	23.1	0.06	*	0.06	*	0.12	*	*
$3,000 to $5,000	9,981,704	13.4	.50	4.51	.30	*	1.00	1.00	1.50
$5,000 to $7,000	8,839,820	11.9	.45	6.22	.57	*	2.04	4.51	9.62
$7,000 to $10,000	12,606,192	16.9	.87	7.54	.79	0.08	2.14	11.50	24.59
$10,000 to $ 5,000	14,613,620	19.6	1.23	8.55	1.30	.07	3.84	18.82	57.82
$15,000 o $20,000	6,455,678	8.7	3.10	13.94	2.63	.15	8.52	36.40	129.34
$20,000 to $50,000	4,427,371	5.9	16.94	41.79	13.10	.90	24.62	64.37	261.98
$50,000 to $100,000	405,463	.5	150.45	197.29	88.79	4.93	49.33	147.98	480.93
$100,000 and over	91,286	.15	1,150.23	821.59	230.05	10.95	32.86	547.73	602.50

							Provisions relating to aged, blind, and disabled	
Adjusted gross income class	Number of returns per income class [1]	Percent of returns in each income class	Deductibility of property taxes on owner-occupied homes	Depreciation on rental housing in excess of straight-line	Housing rehabilitation	Disability insurance benefits	Combined cost for additional exemption retirement income credit, and exclusion of OASDHI for aged	Additional exemption for blind
0 to $3,000	17,180,193	23.1	0.29	0.06	*	1.75	51.22	0.06
$3,000 to $5,000	9,981,704	13.4	2.50	.40	*	4.51	82.15	.20
$5,000 to $7,000	8,839,820	11.9	10.75	.79	*	3.96	52.04	.23
$7,000 to $10,000	12,606,192	16.9	19.04	1.10	*	2.78	50.77	.16
$10,000 to $15,000	14,613,620	19.6	40.37	1.92	0.07	.82	18.13	.07
$15,000 to $20,000	6,455,678	8.7	99.14	3.87	.15	1.07	20.91	.15
$20,000 to $50,000	4,427,371	5.9	256.36	19.42	.68	1.58	53.08	.23
$50,000 to $100,000	405,463	.5	838.55	130.71	19.74	7.40	184.97	*
$100,000 and over	91,286	.15	1,971.82	350.55	131.45	10.95	438.18	*

							Net exclusion of pension contributions and earnings	
Adjusted grossi ncome class	Number of returns per income class [1]	Percent of returns in each income class	"Sick pay" exclusion	Exclusion of unemployment insurance benefits	Exclusion of workmen's compensation benefits	Exclusion of public assistance benefits	Plans for employees	Plans for self-employed
0 to $3,000	17,180,193	23.1	0.47	3.49	0.70	1.46	2.62	*
$3,000 to $5,000	9,981,704	13.4	1.60	9.52	2.60	2.04	4.51	*
$5,000 to $7,000	8,839,820	11.9	2.04	10.75	4.64	1.70	27.15	0.11
$7,000 to $10,000	12,606,192	16.9	2.70	12.69	5.23	.40	46.01	.16
$10,000 to $15,000	14,613,620	19.6	4.24	13.69	6.57	*	73.90	.34
$15,000 to $20,000	6,455,678	8.7	8.52	9.29	9.76	*	114.63	1.39
$20,000 to $50,000	4,427,371	5.9	6.10	5.65	14.68	*	199.89	21.01
$50,000 to $100,000	405,463	.5	9.87	12.33	12.33	*	480.93	187.44
$100,000 and over	91,286	.15	10.95	*	10.95	*	931.14	153.37

			Exclusion of other employee benefits						
Adjusted grossi ncome class	Number of returns per income class [1]	Percent of returns in each income class	Premiums on group life insurance	Deductibility of accident and death benefits	Medical insurance premiums and medical care	Privately financed supplementary unemployment	Meals and lodging	Exclusion of interest on life insurance savings	Deductibility of charitable contributions (other than education)
0 to $3,000	17,180,193	23.1	0.58		2.62	*	0.17	0.58	0.29
$3,000 to $5,000	9,981,704	13.4	4.00	0.20	18.03	*	1.30	3.51	2.00
$5,000 to $7,000	8,839,820	11.9	5.66	.34	25.45	0.11	2.49	7.35	9.05
$7,000 to $10,000	12,606,192	16.9	7.54	.48	34.11	.08	2.62	8.33	5.471
$10,000 to $15,000	14,613,620	19.6	10.26	.68	46.19	.14	2.53	11.97	28.06
$15,000 to $20,000	6,455,678	8.7	13.94	.77	61.96	.15	4.18	25.78	58.86
$20,000 to $50,000	4,427,371	5.9	21,46	1.36	94.86	*	6.32	90.35	185.21
$50,000 to $100,000	405,463	.5	36.99	4.93	209.64	*	12.33	320.62	1,109.84
$100,000 and over	91,286	.15	54.77	10.95	438.18	*	21.91	1,314.54	8,106.39

Footnotes at end of table.

WHAT WAYS AND MEANS AND TREASURY DIDN'T TELL US—Continued

WHO REALLY BENEFITS FROM TAX PREFERENCES—Continued

TAX PREFERENCE BENEFITS PER INDIVIDUAL IN EACH ADJUSTED GROSS INCOME CLASS, CALENDAR YEAR 1972—Continued

[Dollars per return]

Adjusted gross income class	Number of returns per income class[1]	Percent of returns in each income class	Deductibility of medical expenses	Deductibility of child and dependent care expense	Deductibility of casualty losses	Excess of standard deduction over minimum	Capital gains: Individuals	Parental personal exemption for students age 19 or over
0 to $3,000	17,180,193	23.1	0.29	0.06	*	--------------	1.16	*
$3,000 to $5,000	9,981,704	13.4	6.01	1.20	0.50	0.11	7.92	0.90
$5,000 to $7,000	8,839,820	11.9	17.53	2.38	.57	.95	9.52	3.09
$7,000 to $10,000	12,606,192	16.9	23.80	2.86	.79	5.00	15.07	8.09
$10,000 to $15,000	14,613,620	19.6	31.48	2.87	1.71	41.67	23.27	14.16
$15,000 to $20,000	6,455,678	8.7	49.57	6.66	4.65	39.35	52.67	18.90
$20,000 to $50,000	4,427,371	5.9	98.25	5.65	9.03	22.14	284.59	15.58
$50,000 to $100,000	405,463	.5	283.63	--------------	36.99	4.93	2,663.62	177.57
$100,000 and over	91,286	.15	547.73	--------------	219.09	10.95	39,211.40	230.05

Adjusted gross income class	Number of returns per income class[1]	Percent of returns in each income class	Deductibility of contributions to educational institutions	Exclusion of scholarships and fellowships	Exclusion of certain veterans' benefits	Exemption of interest on State and local debt	Deductibility of nonbusiness state and local taxes (other than on owner occupied homes)	Tax credit or deduction for political contributions
0 to $3,000	17,180,193	23.1	*	0.23	1.16	0.29	*	*
$3,000 to $5,000	9,981,704	13.4	0.30	2.60	4.51	*	3.01	0.10
$5,000 to $7,000	8,839,820	11.9	.79	3.62	5.66	*	12.44	.23
$7,000 to $10,000	12,606,192	16.9	1.59	2.06	8.73	.40	26.57	.56
$10,000 to $15,000	14,613,620	19.6	3.97	1.30	9.58	1.68	53.72	1.44
$15,000 to $20,000	6,455,678	8.7	10.84	1.86	9.29	3.87	129.34	2.63
$20,000 to $50,000	4,427,371	5.9	20.33	1.36	10.16	28.23	399.79	8.36
$50,000 to $100,000	405,463	.5	49.33	*	22.20	924.87	1,899.06	27.13
$100,000 and over	91,286	.15	76.68	*	10.95	4,984.33	7,284.79	43.82

*For calendar year 1971 (1972 data not available at time of publication).

Source: Tables based on official U.S. Treasury data published by the House Ways and Mean Committee in "Estimates of Federal Tax Expenditures", June 1, 1973

JOINT INQUIRY INTO WARRANTLESS WIRETAPPING

Mr. ERVIN. Mr. President, I am pleased to have the Constitutional Rights Subcommittee join with the Administrative Practice and Procedures Subcommittee chaired by Senator KENNEDY and the Foreign Relations Subcommittee on Surveillance chaired by Senator MUSKIE to investigate electronic and other surveillance.

The main focus of these hearings will be a thorough examination of warrantless wiretapping and other electronic surveillance. During the past few years one new revelation after another, some with explosive public impact, and others equally serious but perhaps of lesser notoriety have indicated widespread governmental surveillance activities directed at American citizens. These citizens have broken no law but the unwritten and unconstitutional law that says you cannot disagree with the Government. This official notetaking on the political and personal activities of citizens has prompted increased public interest and complaints about unwarranted governmental invasions of privacy. It was with these concerns in mind that this joint undertaking was initiated.

The role of the Constitutional Rights Subcommittee in this wiretap study is part of its larger investigation into political surveillance and its impact on the individual rights of all Americans. Warrantless wiretapping and electronic surveillance is but one aspect of the mushrooming political intelligence collection activities of the Government which have overstepped permissible constitutional bounds and invaded personal privacy.

Over the years the subcommittee has been concerned with many such privacy-invading programs. Most notable recently are the subcommittee's investigations of domestic surveillance, the Government's information gathering and dissemination practices, Federal data banks and computers, and military surveillance of civilians.

Our studies show that Americans share the same concern about invasions or privacy and the same apprehensions about excesses of Government surveillance and inquiries regardless of the form they take. While recognizing that in some instances there may be a legitimate Government function involved, citizens are nonetheless concerned about what appears to be the open contempt for the Bill of Rights exhibited by some executive branch officials.

Government has always had the power to make inquiries and conduct investigations, and to detect unlawful behavior of individuals. However, when this power is exercised unrestrained, misuse and abuse is encouraged. A heavy burden is placed on the Government to maintain the proper balance between the acquisition of information and the necessity to safeguard constitutional principles. Events of the past year demonstrate that the Government has not always met that burden.

Political wiretapping, bugging, burglary, opening of mail and other illegal activities cannot be justified under any theory of expediency, not even "national security." These practices have no place in a free society.

The Constitution guarantees every American the right to think and speak as he pleases without having to fear Government interference. There can be no doubt that the effect of political surveillance and intelligence gathering aimed at the beliefs, views, opinions, or political associations and activities of Americans is to inhibit the exercise of freedom of expression and stifle opposition. There simply is no justification for Government to collect intelligence on its political opponents for the purpose of suppressing dissent.

Certainly there is no more important work which the Congress can undertake to protect privacy than to discover the complete truth about the domestic surveillance activities of the executive branch and to determine what remedial action is necessary to prevent future abuses of our constitutionally protected rights.

For this reason I am confident that the forthcoming joint study and hearings will help Congress determine how these guarantees may best be protected.

NATIONAL SECURITY WIRETAPPING

Mr. MUSKIE. Mr. President, during its consideration of the nomination of Henry A. Kissinger to be Secretary of State, the Foreign Relations Committee began an examination of wiretapping in national security areas. On September 18, the same day it recommended confirmation of Dr. Kissinger, the committee adopted by a vote of 17 to 0 a motion that the senior Senator from New York (Mr. JAVITS) and I put forward:

> Resolved, that the Foreign Relations Committee pursuant to its oversight duties undertake a full examination of the use of electronic and other means of surveillance

of American citizens in connection with alleged intelligence gathering of other activities related to foreign policy and the areas of national policy over which this Committee has legislative responsibilities, to the end that more satisfactory guidelines and opportunities for more effective congressional oversight may be developed than those set forth in the letter of the Attorney General to Senator Fulbright dated September 12, 1973.

Ten days after this motion was passed, a Subcommittee on Surveillance was created consisting of myself as chairman and Senators Pell, McGovern, Case, and Javits. And now working with Senator Kennedy's Judiciary Subcommittee on Administrative Practice and Procedure and Senator Ervin's Judiciary Subcommittee on Constitutional Rights, the subcommittee is undertaking a full investigation into the governmental practice of employing warrantless wiretaps of Government officials, newsmen, and other American citizens in the name of "national security" interests.

This issue which we are to explore is extremely sensitive, for it centers on the question of Presidential power and the efforts made to stretch that power to new extremes. All this year—in our debates on war powers, on impoundment, on executive privilege—we have been working to restore the constitutional balance that guarantees the individual liberties of all Americans against the abuse of concentrated power by any one branch of government. Our work on the question of government surveillance without court warrant continues that pattern of congressional activity.

One matter of specific concern to me is the President's authorization in May 1969, of the wiretapping of at least 17 Government officials and journalists as a device to stop leaks of sensitive information to the press. Even though former Secretary of State William Rogers has made public his disapproval of such activities, the administration continues to defend the legality and propriety of its actions, both in the courts and in official statements.

In our investigation, we will ask the administration to clarify the purpose of these wiretaps, to explain why they were judged necessary, to tell us what purposes were served and how effectively. But beyond these instances of which we know, we must try to find out how extensive such practices are and have been, and what formal procedures exist to control both the surveillance and the dissemination of information gathered by such wiretapping, and what actual benefit such surveillance has been to our security.

The problem is composed of two parts: what circumstances, if any, can justify the suspension of the Constitution's guarantees against unreasonable search and seizure and who decides that such circumstances exist. If the decision lodges exclusively with the President, there is a grave risk that Americans are forfeiting a basic liberty to the unrestrained discretion of one man or group of men. In a government of laws, such risks must be closely circumscribed, if they are to be tolerated at all.

It is clear that new guidelines and procedures must be developed which will, on the one hand, safeguard this country's legitimate national security interests and on the other hand, uphold the constitutional rights of all American citizens. It is my fervent hope that the joint Foreign Relations-Judiciary investigation will lead to the development of these guidelines and procedures.

WILLIAM B. SAXBE, ATTORNEY GENERAL NOMINEE

Mr. HOLLINGS. Mr. President, due to a long-scheduled operation on one of my eyes, I will necessarily be absent next week when the confirmation vote is taken on the nomination of the distinguished Senator from Ohio, William B. Saxbe, to be Attorney General of the United States.

I believe that the senior Senator from Ohio will be an outstanding Attorney General, and I welcomed his nomination with enthusiasm.

Since then, I have followed his confirmation hearings closely, and they confirmed what I long have known—that Bill Saxbe is eminently qualified to serve in this position of vital responsibility. He has already been an Attorney General, having served in that capacity in his native State from 1963 to 1968. He has the administrative experience to step in and get right on the job. He has the organizational ability to give direction to the Department of Justice. With Bill Saxbe taking over the job, we will not have to endure any period of trial-and-error or on-the-job training.

Mr. President, I believe that this very dedicated and very able man can help restore a sense of stability and direction to the present troubled administration. The senior Senator from Ohio will help bolster the sagging plank of "law-and-order" that was promised in the campaigns of 1968 and 1972. That promise has turned to ashes, destroyed by fires from within the Government itself. An Attorney General of the caliber of Bill Saxbe will dedicate his every effort to true law-and-order, both within the Government and through the Nation.

For 5 years, it has been my privilege and my pleasure to work alongside Bill Saxbe. I have seen in him the competence to succeed handsomely in whatever he attempts—the commitment and dedication to inspire those who work with and for him—and the wit and wisdom to see the world as it is, and the world as it can be.

Mr. President, I sincerely regret that I cannot be on hand next week to cast my vote for confirmation. No vote could make me happier. No vote could give me more confidence and satisfaction.

All of us in this Chamber are of course sad to see Bill go. We will miss seeing him and working with him at the close range in which Senators work. But we know that we are not losing a co-worker, because Bill will go on fighting for the same ideals and the same sense of justice for all that he fought for right here in the Senate. And we know that we are not losing a friend, because we will have the opportunity to work with one another and to visit with one another in the challenging times ahead.

Mr. President, it is a privilege for me to salute the nomination of William B. Saxbe. And I join in wishing him Godspeed in all his future endeavors.

NASA CONTRACTING

Mr. MOSS. Mr. President, in November, after a competition stretching over many months, the National Aeronautics and Space Administration selected Thiokol as the contractor for the initial phases of Space Shuttle solid rocket motor development. This completes NASA's selection of contractors: for the orbiter, the main engines, the external tank, and the solid rocket motors. The Shuttle can now go ahead as an integrated system development.

Each selection of a NASA contractor for a major acquisition is documented in a "Selection Statement" by the selecting officials, normally the Administrator, the Deputy Administrator, and the Associate Administrator for Organization and Management. Documentation relating to earlier selections has appeared in the printed record of hearings before the Committee on Aeronautical and Space Sciences.

To my knowledge, such documents have not previously appeared in this Record. So that my colleagues may be better informed as to NASA selection procedures in general and the deliberations in this specific selection, I ask unanimous consent that the "Selection Statement" for the Shuttle solid rocket motors be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Selection of Contractor for Space Shuttle Program Solid Rocket Motors

On November 19, 1973, Dr. Low, Mr. McCurdy and I, along with other senior officials from NASA Headquarters and the Marshall Space Flight Center, met with the Source Evaluation Board appointed to evaluate proposals for the design, development, testing, evaluation, production operation, and refurbishment of the Solid Rocket Motor (SRM).

PROCUREMENT DESCRIPTION

The Space Shuttle system consists of a reusable, delta-wing orbiter vehicle, an external oxygen/hydrogen tank and twin solid rocket boosters. The orbiter will be boosted into space through the simultaneous operation of the two solid propellant booster rockets and the three high pressure liquid oxygen/hydrogen main engines. The booster rockets will burn in parallel with the orbiter main engines during lift-off and initial flight. They will then be separated from the external tank and safely descend by parachute for water recovery and reuse. Just prior to achieving orbital velocity, the main engines are shut down, the external tank is jettisoned and impacts downrange in a remote ocean area. The orbiter then proceeds into orbit.

The main engines, external tanks and solid rocket motors are being procured separately from the orbiter. NASA has previously selected contractors, following competitive solicitations, for the design, development, and production of the orbiter, main engines, and external tank.

The Solid Rocket Motor Program presently planned consists of three increments. The first is for design, development, testing and evaluation (DDT&E) including fabrication of ground test and development flight motors. The second increment will be for an initial production effort. The third increment will be for the major portion of the production effort. It is anticipated that the third increment will be separately completed. The proposed contract will be for the first increment only with the terms of the contract expected to run through calendar year 1979.

Four firms were solicited for this procurement by issuance of a Request for Proposals (RFP). All four firms submitted proposals. These firms were:

Aerojet Solid Propulsion Company.
Lockheed Propulsion Company.
Thiokol Chemical Corporation, Wasatch Division.
United Technology Center (UTC).

MISSION SUITABILITY FACTORS

The areas evaluated by the Source Evaluation Board (SEB) consisted of Mission Suitability, Cost, and Other Factors. Prior to the receipt of proposals, the SEB established evaluation criteria and a numerical scoring system to assess Mission Suitability. The evaluation of Mission Suitability was divided into three factors: Design, Development and Verification; Manufacturing, Refurbishment and Product Support; and Management. The Design, Development and Verification factor contained a Design criterion, and a Development and Verification criterion. The Manufacturing, Refurbishment and Product Support factor contained a Manufacturing Safety and Product Assurance criterion and a Refurbishment and Product criterion. The Management factor was subdivided into a Management Approach and Organization criterion and a Key Personnel criterion. A statement describing the factors and criteria under Mission Suitability and a general indication of the relative importance of the criteria were included in the RFP.

To assist in its evaluation, the SEB established a team for each of the three factors under Mission Suitability and a cost team. Each of the four teams was subdivided into panels and subpanels. Approximately 289 people representing five NASA Centers, NASA Headquarters, U.S. Air Force, U.S. Army, and U.S. Navy participated in the evaluation.

With the assistance of the teams and panels, the SEB conducted an initial evaluation of the proposals prior to any written or oral discussions. The SEB determined that all four proposals were within the competitive range. Written questions were sent by the SEB to each of the offerors and each offeror was invited to participate in oral discussions at the Marshall Space Flight Center concerning their proposals. The invitation also established a common cut-off date for the submission of any additional information along with an offeror's best and final offer. Following the oral discussions and receipt of further information by the common cut-off date, the SEB conducted its final evaluation. The SEB considered Lockheed, Thiokol, and UTC as being virtually equal in the Mission Suitability evaluation with Lockheed having a slightly higher score than the other two. Aerojet was significantly lower in score. The following represents the substance of the SEB's evaluation of the individual firms in the Mission Suitability area.

MISSION SUITABILITY EVALUATION, LOCKHEED PROPULSION COMPANY

Lockheed presented an approach to the Space Shuttle Solid Rocket Motor Program that clearly focused on a highly reliable, low risk, conservative design, using all proven materials. Numerous trade studies were performed to optimize design and cost for the life of the program, without jeopardizing reliability. New facilities tailored to the program were proposed starting with DDT&E, with a controlled buildup to the stated 60/30 launch per year rate. Detailed plans for manufacturing, transportation, launch operations, and refurbishment exhibited the depth to which the proposer penetrated all areas throughout the proposal. The new facilities to be provided at MAF and MTF would be wholly owned by the Government at the completion of Increment II, thereby enhancing beneficial competition for Increment III; however, this advantage was offset by the high early-year funding and high total facility costs required to pursue all new facilites for the entire program. The Lockheed proposal received a slightly higher Mission Suitability score than the next two highest ranking proposers although the Board did not feel that the difference was significant. Lockheed was ranked first under the Design, Development and Verification Factor, first under the Manufacturing, Refurbishment and Product Support Factor and third under the Management Factor.

DESIGN, DEVELOPMENT, AND VERIFICATION

In general, the overall design of the SRM as proposed by Lockheed was considered by the Board to be very good and to meet all the major requirements of the RFP. The forward and aft domes of the Lockheed case design are inert (contain no propellant) and are separable. The design provides advantages in handling and transportation, because these items are not constrained by ordnance restrictions. At the launch site the SRB can be assembled and checked out in an unrestricted area. This significant feature was considered the most innovative case design item among all proposers and illustrated the thoroughness and detail that Lockheed utilized in designing for low cost during DDT&E and production. Lockheed determined that the prelaunch bending loads were the critical loads, and designed the case to be sufficient for those loads. The case design also met the requirements for water impact loads, and thus provided a well balanced design which contributed to overall performance. Lockheed was the only proposer to show the design and analysis trade-offs to optimize for all RFP load requirements. The nozzle design was simple and was made from conventional, moderate cost materials, which added to reliability and decreased program risk. Lockheed had limited experience with the propellant formulation proposed for the SRM, which contributed to technical risk, and made this item the most significant Lockheed weakness under the design criterion.

Lockheed proposed to grind ammonium perchlorate at the Mississippi Test Facility during DDT&E, and change to grinding at the vendor's plant during Increments II and III. This major change in the process was not supported by a reverification plan. For the purpose of characterizing the propellant, Lockheed proposed to proceed directly from laboratory scale tests to full scale SRM system firings with no intermediate subscale motors which increased program risk. Lockheed proposed a case hydroburst test which provided a cost effective means of verifying the structural integrity of the case for the combined pressure and thrust loading.

MANUFACTURING, REFURBISHMENT AND PRODUCT SUPPORT

Lockheed proposed a well-balanced, sound production approach to fabricating the segmented motor in the proposed new MTF facility. The production flow was designed to make effective use of a Prime Mover and multiple use pallets for handling and moving segments during in-plant processing. Lockheed minimized tooling and machining costs at the case fabricator and at the case machining subcontractor by the use of common center segments in the case design. There was a deficiency noted by the Board in production planning in processing AP during Increments II and III. Lockheed proposed to abandon an AP grinding facility used during Increment I in favor of grinding at the AP processing plant during the follow-on production which introduced an unnecessary safety hazard and increased transportation costs.

Lockheed proposed an integrated cost effective water transportation concept which took full advantage of the efficiency derived from the vertical handling and transportation of segments with the Prime Mover, and provided cost savings by combining the shipment of SRM segments with External Tanks. This same total handling concept contributed to well planned launch site operations which minimized the handling equipment and facilities as well as launch site operations. Reduction in assembly and disassembly times was provided by the clevis joint design which enhanced pin installation and removal.

MANAGEMENT

The Lockheed management approach to the SRM Program appeared straight forward and conventional for a self-contained, projectized management system. They assembled a capable team of knowledgeable people to manage the program; however, the proposal was considered to be weak in several very important areas by the Board. Lockheed's construction schedules for MTF were optimistic based on comparably sized facilities built at MTF in the past. The relocation of the SRM organization to MTF/MAF was not adequately planned or described. A well executed and timed move would be essential. There was also a very large number of new hires during startup. The net result was low confidence by the SEB in the facility construction and activation schedules, with attendant program and cost risks. The new facility approach resulted in high early year funding which is contrary to one of the key project goals.

The Program Integration and Control Office was heavily staffed and showed a tendency toward overcontrol and duplication. The relatively high rate of retention in the Engineering/Management category after DDT&E appeared to support the tendency toward overcontrol. Lockheed did not plan to have a full-time Deputy Project Director, yet they would have major activities underway at scattered locations, which would cause the Project Manager to be spread quite thin. The lack of a full-time Deputy was considered a weakness by the SEB. Lockheed proposed a good design-to-cost technique which included component target costs established by the Project Manager, design-to-cost teams and tracking of indicated *vs.* target costs by Program Integration and Control.

Lockheed proposed a team of Key Personnel who have recently worked together and demonstrated a high degree of managerial and technical capability on the Air Force SRAM program. However, the majority of the team members had no experience on a solid rocket motor program comparable in size or scope to the SRM effort. The Board considered the proposed Program Manager and Operations Manager to provide particular strength to the team, however, the Board had reservations concerning the qualifications and related experience of the proposed Logistics Manager and Chemical Program Manager.

THIOKOL CHEMICAL CORPORATION

Thiokol presented an approach to the SRM Program which clearly focused on maximum utilization of existing facilities and low early year funding. In-house production effort would be accomplished in the Wasatch Division, Utah facility. Increment III production would be accomplished by acquisition of portion of the adjacent Air Force Plant 78 as Air Force requirements phased out. AP requirements would be met by increasing the capability of existing facilities in nearby Henderson, Nevada. Use of an existing, skilled, stable work force in a low labor rate area would minimize new hires and provide low labor costs. Thiokol's decision to fabricate nozzles in-house provided cost savings and good control over this extremely critical component; however, the Board concluded that this introduced some early risk because of lack of experience in fabricating nozzles of this size. Facility location resulted in high transportation cost of the SRM's; however, these costs were more than offset by low facility investments. The Thiokol proposal received the second highest overall Mission Suitability score by the SEB, being tied with UTC. The SEB ranked Thiokol fourth under the Design, Development and Verification Factor, second under the Manufacturing, Refurbishment and Product Support Factor and first under the Management Factor.

DESIGN, DEVELOPMENT, AND VERIFICATION

The Thiokol case design met the general SRM requirements; however, the cylindrical segment was close to the upper limits of size capability of the case fabricator. The nozzle design included ablative materials not currently developed or characterized. This offered potential savings in program cost, but with attendant technical and program risk. An expanded characterization and development program would be required. The thickness of the nozzle material was insufficient to meet required safety factors and thus degraded reliability. The amount of material required to correct the deficiency was substantial and the deficiency could require a redesign of the metal portions as well as the ablative portions. The design was complex and would contribute to difficulty in manufacturing. The Thiokol motor case joints utilized dual O-rings and test ports between seals, enabling a simple leak check without pressurizing the entire motor. This innovative design feature increased reliability and decreased operations at the launch site, indicating good attention to low cost DDT&E and production. The thickness of the internal insulation in the case aft dome was marginal and created a technical risk.

Thiokol provided comprehensive test plans and development verification objectives; however, they proposed to verify propellant burning characteristics by testing four to six full scale mixes which was excessive, and could be reduced by establishing correlations with smaller mix size data during DDT&E. Also, Thiokol proposed to hydroburst two motor case assembly specimens, whereas one test would be sufficient.

MANUFACTURING, REFURBISHMENT AND PRODUCT SUPPORT

Thiokol had extensive processing experience with their proposed propellant formulation, having processed over 150 million pounds of this general type of propellant. Thiokol's major weakness in this area of evaluation was in the area of case fabrication. The segment fabricator would be unable to fabricate the case segments strengthened with stiffening rings as proposed by Thiokol for alternate water entry load as proposed by Thiokol for alternate water entry load conditions, if required. This would probably require a case and grain redesign. Thiokol's manufacturing approach provided a good mechanized method of installing insulation, coupled with an innovative method of preparing the insulation surface for the liner by peeling off a dacron cloth from the inner surface of the insulation. A minor weakness in the manufacturing approach was the decision to fabricate nozzles in-house due to Thiokol's lack of experience in fabricating nozzles of this size.

Thiokol proposed to utilize existing facilities which, with minor modifications, were totally adequate for all three increments. The one exception to this was a failure to meet Quantity Distance safety requirements between casting pits for Increment III, however, there are ways to adequately cure this problem. Thiokol maximized the refurbishment of components and the potential cost savings provided by refurbishment. Another less significant strength was the enhancement of segment assembly provided by three alignment pins thereby reducing the assembly hours on the launch pad. Thiokol failed to provide enough new cases and nozzles to meet the launch schedule. Eight additional cases and nozzles would be required to provide assurance that launch dates could be met.

MANAGEMENT

Thiokol structured the development program so that all major costs were deferred to the latest practicable date. This resulted in low early year funding, which is a key program objective. The availability of an operating plant, with ample experienced personnel and a proven organization which could be phased to the SRM effort with minimum modification added considerable maturity and confidence and proved to be cost effective. The Board considered this to be a major strength for all three increments. A strong matrix management was evident and key line organization supervisors were experienced and had worked together as a team on many successful development and production programs such as Minuteman and Poseidon. Strong management participation and visibility in variance analysis was another strong feature as was the approach to corrective actions and their effect on estimate-to-complete. Procurement Management was thorough and well planned. SRM commodity purchases would be consolidated with that of other programs at Wasatch, which should result in lower cost. The Procurement of major items was well matched to overall SRM schedule requirements. Thiokol proposed a strong Configuration Management System which included thorough identification and traceability during DDT&E, production and refurbishment. The tentative decision to make the molded and tape wrapped nozzle in-house was considered a strength in this area. It would contribute to the low cost-per-flight goal by using available resources, avoiding subcontract fees, lowering overhead rates, and taking advantage of lower cost labor. The inherent risk management aspects also were considered.

In the area of Key Personnel, the proposed Program Director was considered exceptionally strong and had successfully performed as a Project Manager on other major programs. He is widely known for his excellent performance. The proposed Deputy Program Director would also be the Chief Project Engineer. He had important and successful engineering management roles in previous major motor programs and has an excellent reputation in the trade.

Although adequately qualified for their proposed assignments, the proposed Functional Managers and their Team Members in the Project Organization did not reflect the depth of experience available in the Functional Departments of the Thiokol matrix type organization and had not previously performed as a team. This was not considered a significant weakness by the Board because of the strong experienced matrix organization at Thiokol.

UNITED TECHNOLOGY CENTER (UTC)

The UTC approach clearly focused on utilization of the management team and design and production experience from the Titan, 120 inch motor program plus maximum use of existing facilities. UTC Division management proposed to take a strong role in the SRM program. The project team proposed was headed by a strong manager and a deputy both from the Titan III Program, who together provided an exceptional combination of managerial and technical skills. The functional managers were qualified by comparable demonstrated performance on Titan III. The motor design approach, including materials, fabrication and assembly methods, and propellant formulation, was virtually identical to that of the 120 inch motor produced for Titan III. UTC proposed to use their existing facilities and processes for SRM production for Increments I and II and for the WTR deliveries for Increment III. They would require a new facility at MTF for Increment III production for ETR delivery. This portion of their proposal, wherein they departed from their existing experience base, was poorly developed. UTC was tied with Thiokol in the overall Mission Suitability evaluation. The SEB ranked UTC second under the Design, Development and Verification factor, third under the Manufacturing, Refurbishment and Product Support factor, and second under the Management factor.

DESIGN, DEVELOPMENT, AND VERIFICATION

The case proposed by UTC was a segmented design comprised of eight identical roll-shear formed segments plus forged forward and aft closures. The propellant formulation selection by UTC was fully developed and flight proven in the Titan Program. The total solids were relatively low resulting in several desirable features. Low flame temperature decreased the severity of the environment for inert components. Low viscosity facilitated processing of high quality, defect-free grains. The advantages were somewhat counteracted by a small loss in specific impulse and density, and propellant cost was slightly higher. The nozzle design included ablative materials which were not developed or characterized. This offered potential savings in program cost, but with attendant technical and program risk. The torque of the UTC nozzle was high which increased the weight and cost of the SRB thrust vector control actuators and hydraulic power supply.

UTC submitted comprehensive test plans and objectives which indicated in-depth planning and good understanding of the development and verification programs; however, the proposed specimen for the modal survey was a subscale segment, whereas a full scale specimen must be utilized to give meaningful data. Also, UTC failed to include a reverification firing of a motor from the MTF facility at the beginning of Increment III where new equipment and new personnel would be operating in a new facility.

MANUFACTURING, REFURBISHMENT, AND PRODUCT SUPPORT

UTC had excellent processing experience with the specific PBAN formulation proposed. It was essentially the same formulation successfully flown in the Titan III Program. UTC also proposed to retain many of the hardware fabrication techniques proven in the Titan III Program. UTC's weakness in this area of evaluation was in the proposed use of an unproven 20,000 pound helical blade mixer. There was a risk associated with the introduction of this mixer which required propellant processing proof not proposed by UTC.

UTC's major strength lay in the use of existing facilities, with only minor modification, for Increments I and II; however, there was inadequate definition of proposed MTF facilities for Increment III. A unique curing procedure was proposed for moving segments immediately after completion of casting. This procedure minimized the number of casting pits required. UTC failed to identify subcontractor facilities as required by the RFP.

MANAGEMENT

The Board considered that UTC proposed a very good management approach. The availability of an operating plant with ample experienced personnel and procedures which could be phased over to the SRM effort for Increments I and II added considerable maturity and confidence and was a major strength for Increment I and II. There was a degree of programmatic risk associated with a new production site for Increment III. For the production phase, UTC planned to consolidate the Launch Operations and SRM Development Departments into a single office for sustaining engineering. This forced a de-emphasis of engineering and properly placed more emphasis on operations. They proposed an excellent design-to-cost system under the direction of the Deputy Project Manager, who assigned cost goals for each component. Parallel design-to-cost and engineering cost teams would review all hardware before and during procurement. The UTC approach to risk management was strong and methodical, utilizing risk identification analysis. risk assessments and tracking.

In the evaluation of Key Personnel, the Board was of the opinion that UTC's proposed SRM Project Manager was an excellent choice. This was primarily due to his Titan III experience. The proposed Deputy SRM Project Manager has an outstanding background of academic achievement and technical experience, and would strongly complement the Project Manager. A qualified well balanced project management team was proposed with uniquely applicable Titan III development and production experience. A large portion of the team had previously worked together successfully.

AEROJET SOLID PROPULSION COMPANY

Aerojet presented an approach to the Solid Rocket Motor Program that centered on a monolithic design and utilization of their existing Florida facility. The approach utilization design and manufacturing techniques based primarily on the company's experience with the 260 inch monolithic motor and supported by technology gained from Minuteman stages, Polaris motors, 100 and 120 inch motor studies. The inherent advantages of the monolithic design in higher mass fractions, and enhanced reliability through jointless construction were clearly recognized and treated in the Aerojet proposal. The Increment I manufacturing and refurbishment capability at the fully depreciated Florida facility would, with only small modifications, exceed the DDT&E requirements and could partially support Increment II and III production. The location of these facilities provided low cost, safe SRM shipment via water. However, the necessity of starting the SRM design and engineering effort in California and then moving to the Florida production facilities created a significant rephasing and discontinuity near the peak DDT&E workload. Aerojet received the lowest overall score in the Mission Suitability evaluation. The Board ranked Aerojet third under the Design. Development and Verification factor, and last under the Manufacturing, Refurbishment and Product Support, and Management factors.

DESIGN, DEVELOPMENT, AND VERIFICATION

The monolithic case design proposed by Aerojet precluded the potential failure modes associated with joints and seals and, thus, contributed to a highly reliable design. Technical competence was exhibited by choosing a design which had the inherent advantage of high mass fraction that contributes to performance. The strength of the case was found inadequate for the prelaunch bending moment loads and was not designed with an adequate safety factor for water impact loads. An inert weight adjustment would be required to correct for the load inadequacy. Aerojet proposed ablative materials in the nozzle which were not developed or characterized. The use of these materials offered a potential saving in program cost, but with attendant technical and program development risk. The proposed thickness of the ablative materials was insufficient to meet required safety factors. The propellant formulation proposed by Aerojet was selected on the basis of data from 30-gallon mixes, which was a high technical risk. New formulations would have to be qualified in mixers of the size required in production. To obtain the necessary data regarding performance, processing, and aging characteristics, an extensive propellant development and characterization program was considered necessary by the SEB, which would add to early year funding requirements.

Aerojet proposed three subscale motor firings to confirm the selection of ablative materials used in the nozzle, whereas an extensive characterization program is required. For the modal survey test program, Aerojet proposed a half-scale specimen with a length to diameter ratio of 1.0 whereas a full scale specimen was required. A good verification of case structure would be obtained during the hydroburst test wherein thrust loads would be applied to the aft structure to simulate combined pressure and thrust loading.

MANUFACTURING, REFURBISHMENT, AND PRODUCT SUPPORT

Aerojet used many proven fabrication methods and had specific experience with proposed materials which were successfully used on the 260 inch solid motor demonstration program. Examples of this were the proposed use of the same fabricator for the maraging steel case and Aerojet's bayonet casting technique and insulating method. One deficiency noted was the inability of the aft closure fabricator to fabricate the aft closure and skirt as proposed. The SEB confirmed that the proposed skirt length could not be fabricated integrally with the aft closure. Aerojet would have to attach an additional length of skirt extension to the integral stub skirt to correct this deficiency. Aerojet proposed a cost effective tool for removing inert propellant from the ground test motors at MSFC at the conclusion of the dynamic testing of the lift-off configuration. The tool allowed the proposer to convert the motors, while on the test stand, to the maximum dynamic pressure configuration and to proceed with the remainder of the dynamic testing on the same two motors, thus eliminating two ground test motors.

Aerojet proposed to completely check out the motor and seal it prior to shipment to the launch site. This approach significantly reduced launch operations. The proposal offered an integrated, cost-effective water transportation concept which took full advantage of potential cost savings by combining the shipment of SRM's with External Tanks from MTF/MAF to WTR. Aerojet proposed siting its erection facility so close to the Vehicle Assembly Building that activities inside the VAB would be seriously disrupted. This was considered a major weakness by the Board as was the requirement for a rather extensive Integration and Checkout Facility. The proposal did not provide a sufficient number of cases and nozzles to meet the scheduled launches. Five additional new cases and nozzles were required to provide assurance that scheduled dates could be met.

MANAGEMENT

A two-stage organizational approach was proposed: one arrangement for the DDT&E phase; and a modification of that arrangement for the production phase. A weakness was noted by the Board in the proposed project organization having five deputies, four of whom were Vice Presidents with no number two man designated. Poor horizontal integration was indicated. A weakness was also noted in the planning for the move from California to Florida which was not reflected throughout the otherwise detailed logic networks. The transfer of personnel and operations to Florida was not defined adequately to permit proper evaluation. The configuration management of Class II changes was weak. Class II changes were controlled by the configuration manager (who is three tiers down in the organization) and the system appeared to be primarily a coordination and releasing function.

In the Key Personnel evaluation, the Board assessed the proposed Project Manager as having had very limited solid rocket motor experience, although his performance was adjudged to be impressive for the Air Force on the Minuteman Project. The Board was concerned with the continued availability of the proposed Project Manager due to the fact that he is also the President of Aerojet Solid Propulsion Company. The proposed Director of the SRM Division in Florida has had substantial applicable production experience as well as demonstrated capability.

Four of the five proposed functional managers were Vice Presidents with a wealth of Polaris, Minuteman, Titan and AF/NASA 260-inch development and production experience; however, except for one of the individuals, some concern existed regarding their transition back to functional managers. No recent major development activity since the AF/NASA 260-inch motor program was completed was evident in the backgrounds of the majority of the engineering managers reporting to the proposed SRM Engineering Manager. This was also considered a weakness by the Board.

COST FACTORS

All proposals contained estimated costs in "1972" dollars and in "real year" dollars for all increments of the SRM project as required by the REP. As stated in the RFP, the Board evaluated the cost factors and assessed the cost of doing business with each offeror, the possible growth in proposed costs during the course of the program, a comparison with NASA's estimates of the probable total development cost as well as the probable per-flight unit repetitive costs, the magnitude of cost differentials identified, and the credibility of cost differentials.

In analyzing the cost proposals, there was close coordination between the technical evaluators and the cost evaluators. The SEB Design Team identified design weaknesses and proposed methods of curing the weaknesses, and then referred them to the SEB Manufacturing Team. This team estimated the manhours and materials required to correct the weaknesses. This information was then provided to the SEB Cost Team for application of appropriate labor rates, material costs, overhead and escalation factors as necessary. The Cost Team then presented the information to the SEB.

In addition, there were several areas which were given special attention by the SEB. One involved the necessity to make adjustments in the nozzle area, another involved an assessment of the validity of proposed transportation rates, and another involved facilities costs.

NOZZLE ADJUSTMENT

Each of the proposers proposed nozzle designs which contained different combinations or applications of ablative materials. Six different materials were proposed, only two of which were considered by the Board to be adequately characterized for evaluation purposes. Lockheed was the only firm that proposed a design utilizing all currently standard materials, however, the Board noted that the cost proposal indicated large, unsubstantiated reductions in the cost of nozzle materials during later production which is not apparently consistent with the continued use of these materials. The Board concluded that there would be potential program risks associated with the uncharacterized materials; therefore, appropriate adjustments were made to the proposals to minimize such risks. Essentially, this resulted in the Board's providing for more conservative materials development test programs where considered necessary. In addition, the Board also adjusted material weights and costs as well as labor costs for processing new and refurbished units as required.

As a result, ablative material weight additions were made to the Thiokol and Aerojet nozzle designs. Low cost material development test programs were increased for Thiokol, UTC, and Aerojet to eliminate unacceptable development risks. Labor and other materials costs associated with processing new and refurbished nozzles were estimated for all four firms. The resulting cost adjustments increased all four cost estimates in varying degrees. The Lockheed proposal received the least nozzle cost-adjustment followed by Thiokol, Aerojet and UTC in ascending order.

TRANSPORTATION RATES

The cost proposals of two firms, Thiokol and UTC, were predicated upon the use of particular transportation rates proposed by rail carriers to the United States pursuant to Section 22 of the Interstate Commerce Act. These rates become an important cost factor in Increment III more so than in the earlier Increments. Since the quoted rates appeared to be significantly lower than those on file for shipments connected with the Air Force Titan program, and because Section 22 rates can be canceled or modified on short notice, the SEB became concerned with the credibility of the rates. The Board was also aware that various legislative proposals could affect the continued existence of Section 22 as presently constituted.

Accordingly, the Board sought advice from several sources regarding the various concerns it had in this area. Advice was sought from NASA Headquarters, the General Services Administration, the Military Traffic Management and Terminal Service, railroads, and the two affected proposers at the oral discussions. After analyzing the advice and information received from the various sources, the Board concluded as follows: although the future of Section 22 as a part of United States transportation law is uncertain, it would be speculative to conclude that it will be eliminated; however, if Section 22 is eliminated, approximately the same rates as proposed by Thiokol and UTC could be established as specific point-to-point commodity rates under other aspects of the law; the railroads are considered to be reliable in formulating and observing reasonable rate levels; and, the SRM's will have a higher car loading capacity than present Titan shipments resulting in a good revenue to the carrier. This latter conclusion is supported by information received by the Board in writing from the President of the Union Pacific Railroad which demonstrates that the quoted rates, when coupled with the car loading capacity of the SRM's results in a revenue per freight-ton-mile which is very attractive from a business standpoint.

Based on the extensive and informative data analyzed, the Board concluded that the quoted Section 22 rates are credible and could be relied upon for evaluation purposes.

FACILITIES COSTS

The Board analyzed the costs associated with the various facility plans proposed by the four firms. The amount of new or modified facilities varied considerably with the concomitant cost consequences. The Board also made adjustments to the facility cost proposals, as required, to include expenses such as Government support which would be necessary in some cases. This was essential in order ot assess the total cost impact of the various facility proposals.

Thiokol had the most favorable cost posture in the facility area due to the fact that the additional facility capability required was minimal in comparison with the other proposers. This has the effect of minimizing early year funding requirements which is one of the SRM program goals.

UTC also presented an attractive facility plan from an early year funding standpoint; however, a heavy Government outlay would be required later in the program when UTC proposed that the Government build a production plant at MTF for Increment III. In addition, UTC planned the construction of a new perchlorate plant in the same time frame. Even so, UTC had the second lowest facility cost in the Board's view. Aerojet also proposed a large facility requirement for Increment III which drove their Government financed facility costs upward in later years.

Lockheed had the highest evaluated facility costs due to the need for far more facilities than any of the other proposers. A major facility was proposed at MTF with a resulting substantial requirement for Government funds in the early years of the program. Although it was recognized that Lockheed probably had no other better alternative available, the proposed approach had the dual unfavorable impact of high total facility cost and high early year funding requirements.

The facility proposals were also evaluated by the Board with regard to their cost effectiveness under the "Other Factors" category.

COST SUMMARY

The Board's evaluation of costs included an assessment of the probable costs of each proposal in all three increments and cost per flight. Although the probable cost projections resulted in upward adjustments in all four cost proposals as originally submitted, in no case did this result in a change of relative cost position between the competitors on an adjusted cost comparison. For example, the initial cost proposals for Increment I, with C of F and Government support costs taken into account, revealed that Thiokol was the lowest followed by Aerojet, UTC and Lockheed in ascending order. After the SEB adjustments resulting in the probable cost assessment, the order remained the same.

The Board's final conclusions in the cost area were as follows:

Thiokol would be the probable lowest cost performer in all cost categories (all three Increments; total program cost, and lowest cost per flight).

Lockheed would be the probable highest cost performer in Increments I and II, and second lowest in Increment III, total program cost, and cost per flight. The reason why Lockheed's cost becomes more favorable in later years of the program is largely due to the efficiencies attributable to a large new, well-planned facility at MTF plus a favorable transportation plan which would have maximum impact in the large volume production effort contemplated in Increment III.

UTC would be third lowest for Increment I, second lowest for Increment II, and highest in Increment III, total program cost and cost per flight.

Aerojet would be second lowest in Increment I and third lowest in all other categories.

The Thiokol cost advantages were substantial and consistent throughout all areas evaluated. This is primarily attributable to a low cost facility approach plus favorable labor rates.

OTHER FACTORS

The SEB evaluation included several factors which were not scored in the Mission Suitability evaluation nor considered in the evaluation of cost. These "Other Factors" were identified in the RFP and in subsequent discussions as Financial Capability, Past Performance, Related Experience, Equal Employment Opportunity, Utilization of Small Business, Utilization of Minority Owned Business, Proposeu Contract, Proposed Fee Structure, Facilities Flexibility, and Facilities Cost Effectiveness.

Although no major discriminators were identified in the Other Factors evaluation, there was one area considered by the Board which was of particular significance. This involved consideration of the various facility proposals from the standpoint of their cost effectiveness. The evaluation technique employed by the Board was to offset probable total program transportation and facility maintenance expenses against the probable facility costs for each proposal in order to determine the most cost effective approach.

The Board concluded that high cost new facility investments would not be cost effective from the Government's standpoint. This can best be exemplified by analysis of the outer parameters of the spectrum of possibilities encountered. Simply stated, this involved a comparison of Thiokol at one end of the spectrum having a low facility investment but transportation expenses which are relatively high compared to some others, and Lockheed at the other end having a high new facility investment but favorable transportation expenses. UTC and Aerojet fell within the two extremes.

The SEB concluded, after extensive analysis, that Lockheed's favorable transportation position did not extinguish its high facility expenses over the life of the SRM program. Conversely, the Thiokol transportation plan, which is more expensive than Lockheeds, does not extinguish the Thiokol cost advantage related to its minimal facility requirements over the planned life of the SRM program.

SEB PRESENTATION SUMMARY

The results of the SEB presentation to the Source Selection officials are portrayed in the tabulation which follows. The Mission Suitability (MS) ranking reflects a descending order of total scores from the highest to the lowest (i.e., number one was awarded the highest score); the cost position represents the relative standing of the competitors from lowest to the highest (i.e., number one represents the lowest probable cost).

Mission suitability	Cost				
	Including I	Including II	Including III	Program	Per flight
(1) Lockheed[1]	4	4	2	2	2
(2) Thiokol[2]	1	1	1	1	1
(2) UTC	3	2	4	4	4
(4) Aerojet[3]	2	3	3	3	3

[1] The Lockheed mission suitability advantage over Thiokol and UTC was minimal.

[2] The Thiokol cost advantage was relatively significant in each area of consideration.

[3] The Aerojet mission suitability score was significantly below the scores of the 3 higher ranked firms.

SELECTION DECISION

At the conclusion of the SEB presentation on November 19th, we met with a small group of key NASA personnel who had heard the presentation of the Board and who carry responsibilities related to the procurement. Their views on the presentation and findings were solicited and given. Following this, the key NASA personnel withdrew.

In considering the results of the Board's evaluation, we first noted that in Mission Suitability scoring the summation resulted essentially in a stand-off amongst the top three scorers (Lockheed, Thiokol and UTC) though with a varying mix of advantages and disadvantages contributing to the total. Within this group, Lockheed's main strengths were in the technical categories of scoring, while they trailed in the management areas. Thiokol led in the management areas but trailed in the technical areas, and UTC fell generally between these two. We noted that Aerojet ranked significantly lower than the other three competitors in the Mission Suitability evaluation, and the proposal offered no cost advantages in relation to the higher ranked firms. Accordingly, we agreed that Aerojet should no longer be considered in contention for selection.

We noted that the Board's analysis of cost factors indicated that Thiokol could do a more economical job than any of the other proposers in both the development and the production phases of the program; and that, accordingly, the cost per flight to be expected from a Thiokol-built motor would be the lowest. We agreed with the Board's conclusion that this would be the case. We noted also that a choice of Thiokol would give the agency the lowest level of funding requirements for SRM work not only in an overall sense but also in the first few years of the program. We, therefore, concluded that any selection other than Thiokol would give rise to an additional cost of appreciable size.

We noted that within the project logic and the cost proposals, there was a substantial difference in basic approach caused by the varying amount of new facilities needed by the several proposers. Their situations ranged from Thiokol, who needed little new facilities investment to do the job, to Lockheed, who proposed creation of a new facility complex on the Gulf Coast to handle the program, commencing at an early date and building up to full size by the production phase. The prospect of such a major new facility raises a question regarding the basic operational economics involved, and also a question of what other important benefits or drawbacks there might be to such a plan. In regard to the economics proper, the Board's evaluation made it clear that such an investment could not at this time, under any reasonable view of the forecasted economic factors, be considered likely to pay its way as against Thiokol's existing facility. As regards other considerations, we recognized that it may well be advantageous, when the major production phase arrives, to plan to have two or more suppliers in the country capable of competing for the manufacture of SRM's in quantity; however, there is no need to embark upon the construction of a new major facility at this time in order to secure these benefits in a timely manner.

We found no other factors bearing upon the selection that ranked in weight with the foregoing.

We reviewed the Mission Suitability factors in the light of our judgment that cost favored Thiokol. We concluded that the main criticisms of the Thiokol proposal in the Mission Suitability evaluation were technical in nature, were readily correctable, and the cost to correct did not negate the sizeable Thiokol cost advantage. Accordingly, we selected Thiokol for final negotiations.

JAMES C. FLETCHER, *Administrator*.

OIL—THE CREATED CRISIS

Mr. HART. Mr. President, a national debate has developed over responsibility for the energy crisis. Confusing the debate is the absence of reliable information about the extent of petroleum reserves in this country and the steps the oil industry might have taken to prevent a shortage.

As a significant contribution to this debate, I commend a series of articles published by the Philadelphia Inquirer, entitled, "Oil—The Created Crisis." Two able investigative reporters, Donald L. Bartlett and James B. Steele, have given us important help and I ask unanimous consent that the series be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Philadelphia Inquirer]

OIL—THE CREATED CRISIS

Periodic "crises" in the oil industry have begun to remind Americans of the boy who cried "Wolf" once too often. So much so that necessary conservation controls may be difficult to impose should a genuine oil shortage ever materialize.

This summer, independent gasoline dealers were forced to close their stations, while major refining companies in many cases limited the amount of gasoline a motorist could buy.

The Philadelphia Inquirer wanted to know why.

Two outstanding investigative reporters—Donald Bartlett and James B. Steele—were assigned to uncover the answers. With The Inquirer since 1970. Bartlett and Steele won Sigma Delta Chi's Distinguished Service Award for 1971, the George Polk Memorial Award and the PNPA Public Service Award for a series of articles on misconduct in the Federal Housing Administration in Philadelphia. Their stories brought about sweeping reforms in the FHA office.

"Oil—The Created Crisis" appeared as a three-part series in The Inquirer, beginning Sunday, July 22. The series has been reprinted in this form as a public service.

(NOTE.—Charts and tables mentioned in the following articles will not appear in this reprint in the RECORD.

OIL FIRMS SELL ABROAD, UNITED STATES PAYS

(By Donald L. Bartlett and James B. Steele)

Question: If we have enough crude oil, why is there a fuel shortage?

Answer: The real problem is a shortage of refinery capacity.

Over the last decade, the five largest, multinational American oil companies have invested billions of dollars in facilities for producing, refining and marketing petroleum products in foreign countries.

The American consumer now is feeling the effect of those huge investments. This summer, it is called the gasoline shortage. It will be followed this winter by a fuel oil shortage, which in turn will be followed next summer by another gasoline shortage.

A two-month investigation by The Inquirer into the so-called energy crisis of 1973—a probe that reached from the offices of the U. S. Securities and Exchange Commission in Washington to the oil fields of Texas and Oklahoma—established that:

American oil companies some years ago made deliberate, long-term policy decisions to sharply expand operations in foreign countries to meet the spiraling demand for oil products in Europe and Asia. That expansion came at the expense of the United States.

The Nixon Administration made one blunder after another in dealing with oil policy matters, beginning with the President's failure to lift oil import restrictions after taking office in 1969 and climaxing with soothing assurances last winter that there were no oil supply problems.

At the same time American oil companies with worldwide operations are telling their customers in the United States to cut back on their consumption of oil products, the companies are urging their customers in Europe and Asia to buy more oil products.

The American taxpayer is subsidizing the sale of petroleum products across Europe and Asia through a variety of tax allowances and benefits granted to American oil companies. The cost to the American taxpayer can be measured in billions of dollars over the last 10 years.

Contrary to the claims of the oil industry and the Nixon Administration, the current gasoline shortage was not caused by an energy-guzzling American public or the unreasonable demands of environmentalists. It was created through default and administrative bungling by the oil companies and the Federal government.

Late last spring, the oil industry launched a massive advertising campaign designed to make the American consumer feel responsible for the nation's gasoline shortage.

A Standard Oil Co. (Indiana) advertisement, published in Business Week magazine on May 19, 1973, summed up the industry's position:

"America has a tremendous appetite. Not just for food, but for the natural resources that produce energy—gas and petroleum.

"And we're running short of them, because the country is growing so fast, and using up its currently available resources even faster."

President Nixon, in an energy message delivered to Congress April 18, put it this way:

"Today, with six percent of the world's population, we consume about a third of all the energy used in the world. Our energy demands have grown so rapidly that they now outstrip our available supplies."

The United States is indeed the world's largest single user of crude oil. And the demand for crude oil has indeed soared over the last 20 years. But that growth in demand has occurred in Europe and Asia—not the United States.

And American oil companies, foreseeing that growth, began concentrating their exporation and oil-drilling efforts and their refineries and sales operations overseas to capture a share of the emerging markets.

The story is told in statistics, gathered by Inquirer reporters from dozens of different sources in Washington and New York and Austin and Houston and Tulsa, from state and Federal agencies, financial institutions, Congressional committees, industry trade organizations, academic studies and the oil companies themselves.

The important statistics are those from the five largest American oil companies. Ranked in terms of sales, they are Exxon Corp., Mobil Oil Corp., Texaco, Inc., Gulf Oil Corp. and Standard Oil Co. of Calif.

Their sales in 1972 totaled $50.2 billion. Their net income after taxes was $3.7 billion. These five companies—along with two foreign-owned companies—control the world oil market.

SALES DOUBLE ABROAD

Item. For every barrel (42 gallons) of oil products sold in the United States during 1972 by the five companies, the same companies sold nearly two barrels in other countries.

Ten years ago, the sales of the five companies were about evenly divided between the United States and other countries. And 10 years before that, the bulk of their sales was made in the United States.

ITEM. Product sales of the five companies increased 46 percent in the Western Hemisphere, where the United States is the major market, from 1963 to 1972. During the same period, sales increased 119 percent in the Eastern Hemisphere—most notably in Western Europe and Japan.

Item. The number of barrels of crude oil processed by the five companies at refineries in the Western Hemisphere increased 32 percent from 1963 to 1972. In the Eastern Hemisphere, the increase was 137 percent.

Item. The percentage of crude oil refined by the five companies has steadily declined in the United States and has steadily risen in foreign countries. In 1972, the companies refined 31 percent of their oil in the United States, compared with 40 percent in 1963. The volume refined in other countries increased from 60 percent in 1963 to 69 percent last year.

ITEM. The demand for crude oil has increased 110 percent in the United States over the last 20 years. In Japan, the demand has increased 2,567 percent. In West Germany, 1,597 percent. In Italy, 1,079 percent.

Throughout the non-Communist countries of the Eastern Hemisphere, the demand for crude oil rose 674 percent from 1953 to 1972, compared with a 132 percent increase in the Western Hemisphere.

REASONS FOR INCREASE

The reasons for the sharp increase in demand overseas fall into three general areas. The devastation of Europe and Japan during World War II, the relaxation in Europe of national policies designed to protect the coal industry and the booming economies of Western Europe and Japan.

Anticipating the growth, American oil companies moved to meet the demand and—especially in the last 10 years—began promoting sales with the same zeal that made the United States the world's largest consumer of crude oil.

Now, in fact, at the same time American oil companies are offering American consumers advice on how to cut down on the use of gasoline and home heating oil, and are urging American industries to reduce their use of crude oil, they are pushing the sale of those same products in Europe and Asia.

A subsidiary of Standard Oil Co. (Indiana)—the nation's sixth largest oil company in terms of sales—placed a full-page advertisement in The Financial Times of London on May 15 that was aimed at industrial oil buyers in the United Kingdom.

The caption over a sketch of a worried businessman biting his nails read: "The exciting life and times of the industrial oil buyer."

The advertisement pointed out that the United States was emerging as a major importer of crude oil, thus reducing the availability of world oil supplies. The advertisement continued:

"Where does this leave the industrial oil buyer? It leaves him having to think very carefully about the price he pays for his oil and the reliability of his supplies. If he is sensible, he will start looking carefully at alternative sources.

"The following are just a few of the reasons why he should start looking at Amoco. Our parent company is Standard Oil Co. (Indiana), which has an enviable supply of established crude resources.

"In this country (Great Britain) we are building one of the world's most modern refineries at Milford Haven. . . . Our representatives are trained to make your operations as secure and economic as possible."

A DIFFERENT TONE

Six days after that advertisement appeared in The Financial Times of London, a two-page, Standard Oil Co. (Indiana) advertisement—with a somewhat different tone—appeared in the Washington (D.C.) Evening Star and Daily News.

That advertisement carried the caption: "Does Amoco really have to allocate gasoline?" It said:

"Recently, Amoco started allocating gasoline and other petroleum products. . . . We think the American public has the right to know the facts behind this decision.

"Primarily, the situation is this: Demand has outstripped our country's crude oil supply. . . . What's more, domestic crude supplies are short. And growing shorter. And foreign crude availability isn't up to the level this country needs right now.

"Does Amoco really have to allocate gasoline? Yes, and all of us may have to get by with a little less for a while, so there'll be enough to go around."

Oil company officials see no contradiction between their policies of pushing the sale of oil products in Europe and Asia at the same time that they are telling Americans they must cut back on gasoline and fuel oil consumption.

When asked why Texaco was not urging consumers in other countries to conserve their use of gasoline and oil, a senior vice president of the company said: "The same shortages do not exist elsewhere."

How is it, then, that American oil companies are able to supply their European and Asian markets, but are unable to meet commitments in the United States?

TWO ANSWERS

There are two answers to the question and both explain generally why the United States will have recurring shortages of gasoline and fuel oil over the next two or three years.

First, American oil companies have focused their exploration efforts overseas, drilling for oil and gas in such places as Mauritania, Mozambique, Papua, Equatorial Guinea, the Gulf of Thermaikos, the East China Sea and the Gulf of Thailand.

Second, American oil companies have concentrated on building refineries throughout Europe and Asia, rather than in the United States.

As a consequence of those two decisions—considerably aggravated by foggy government policies and ill-timed administrative actions—the production of crude oil in the United States has leveled off and there is a shortage of refinery capacity.

Because these same American oil companies searched for oil overseas, and built their refineries overseas, they now have sufficient oil to meet the demands of their overseas markets.

To understand what has happened, it may be best to begin with the production of crude oil. A single company, in this case Mobil Oil Corp., provides a typical example.

In 1963, Mobil's net production of crude oil and natural gas liquids in the United States and other countries in the Western Hemisphere was 409,000 barrels a day. By 1972, the company was producing 625,000 barrels a day—an increase of 53 percent.

But during the same period. Mobil's production in the Eastern Hemisphere went from 452,000 to 1,286,000 barrels a day—an increase of 185 percent.

SIMILAR FOR OTHERS

The statistics are similar for other multinational American companies. Although there certainly are exceptions, oil produced in the Eastern Hemisphere generally is earmarked for sale in Europe and Asia—and not in the United States.

This policy was explained by M. A. Wright, now chairman and chief executive officer of Exxon Co., U.S.A., during an appearance before the U.S. Senate Antitrust and Monopoly Subcommittee on May 22, 1969.

At the time, the committee was studying the role of the Federal government in relation to the petroleum industry. Wright told the committee:

"I think the important thing to you gentlemen is that, in a company like Jersey (at that time, Exxon was known as Standard Oil Co. of New Jersey), the foreign production that is developed is primarily for the purposes of supplying foreign markets.

"We do not develop crude on the outside of the United States primarily to supply markets inside the United States. Now, this I think is something that many people do not quite understand."

The same philosophy of foreign oil for foreign markets was indicated by Mobil Oil Corp. in its 1972 annual report.

Commenting on the company's search for oil and gas in the stormy waters of the North Sea off the coasts of Great Britain, Norway and The Netherlands, Mobil stated:

"Although severe weather makes exploration unusually difficult in the North Sea, the incentive to find hydrocarbons there is great.

"CUT IMPORT NEEDS

"The area is at the doorstep of the most heavily industrialized region of Europe, where Mobil has an important position in a big, expanding market and several large refineries in operation with another about to be built.

"Also, the countries bordering the North Sea actively encouraging exploration there to minimize their dependence on imports."

Indeed, while Mobil and other American oil companies are warning that the United States will become increasingly more dependent on imports in the coming years, the discovery of vast oil and gas deposits in the North Sea by these same companies will drastically reduce Great Britain's dependence on imports.

In fact, the British, who now import almost all of their oil, expect to meet two thirds of their needs in the 1980s with North Sea oil and gas, according to estimates made by that country's unusually conservative Department of Trade and Industry.

It should be noted that the American oil industry is not a monolithic organization that speaks with a single voice.

Its membership ranges from thousands of small, independent producers and marketers to about two dozen large, integrated companies, sometimes loosely referred to as the majors. An integrated company is one involved in all phases of the petroleum business, from production to sales.

The various groups often have conflicting interests and there are even marked differences among the so-called majors. For example, the five companies studied by The Inquirer all have extensive worldwide marketing operations.

On the other hand, the Philadelphia-based Sun Oil Co., which ranked 14th last year among oil companies in sales and is considered one of the majors, has few markets outside the United States and Canada. Last year, the two countries accounted for 96 percent of Sun's sales.

Sun, like the five multi-national companies, also is exploring for oil in other parts of the world. But unlike the other five companies, Sun's overseas exploration is designed to serve its markets in the United States.

DRILLING IN ALGERIA

As Darwin W. Ferguson, an executive vice president of Sun, explained it:

"We're now drilling in Algeria. We've been the first company in recent years invited to do that. If we find oil there, we would bring it right into Philadelphia."

Such is not the case with the multinational companies like Exxon. As Exxon's Wright told the U.S. Senate subcommittee in 1969:

"This is purely a business question and you also build up an obligation over a period of time with your customers in any place.

"And generally speaking, over the years Jersey (Exxon) has supplied the Eastern Hemisphere markets from Eastern Hemisphere crude source, and the Western Hemisphere market from Western Hemisphere crude sources. This has a great deal to do with the economics of transportation."

When asked why Exxon did not sell low-sulfur crude oil from its Libyan fields in the United States—where there is a demand for that oil because of air pollution controls—Wright replied:

"It is a question of economics. If they (buyers in the United States) want to pay enough for it, we would do it. But the normal market is Europe for Libyan crude."

EXCHANGE WITH SENATOR

Pressed further as to why Libyan crude was not sold in the United States, Wright had this exchange with Sen. Philip A. Hart (D., Mich.):

Sen. Hart—"The answer would be understandable if you can make more money selling it in Europe."

Wright—"Right. That is a very simple answer and that is the kind of answer it is. It is a question of how much people want to pay for it, if they want to pay enough for it to make the market profitable in Europe, sure, we will sell it there. We are in business."

Interestingly, the American taxpayer is subsidizing the sale of petroleum products in foreign countries by American-owned companies.

Over the last decade alone, the multi-national American oil companies have escaped payment of billions of dollars in Federal income taxes as a result of special subsidies, allowances and tax loopholes—covering oil produced and sold outside the United States.

The special allowances have contributed to some curious pricing practices in the oil industry, as was disclosed during the 1969 Senate Antitrust and Monopoly Subcommittee hearings.

Dr. John M. Blair, the committee's chief economist, noted that Exxon had sold Arabian crude oil to affiliate Japanese companies for $1.63 a barrel in early 1965, but that in 1966 the price went down to $1.57 and that by late 1968 it had dropped to $1.46.

"Are we to conclude," Blair asked of Exxon's Wright, "that at the same time that you were raising the price to the American consumer, your company was reducing the price to foreign buyers?"

Wright said, "You are working in two separate worlds when you speak about what you do in the United States compared to what you do abroad, and what you say is exactly right.

"In the foreign circuit where there has been tremendous competition, the price has gone down. I accept your figures. They sound right to me. And, of course, the crude price in the United States is a matter of record."

PRODUCT SALES BOOM

Thus, while the American taxpayer has subsidized the overseas operations of American oil companies, sales of petroleum products have soared around the world.

Listen to a few accounts from the annual reports of the companies:

Exxon (1965)—"In 1964 Japan became the free world's largest consumer of petroleum after the United States, and it continued to outstrip other areas in percentage growth during 1965. The company's sales in Japan for the year increased 18 percent (compared with 8 percent in the United States)."

Standard Oil Co. of Calif. (1968)—"In Western Europe, fastest-growing major Free World market outside Japan, Chevron Oil Europe, Inc., a subsidiary, completed its first full year of operation. In this region, which accounts for some 50 percent of free foreign petroleum consumption, Chevron Europe sales increased approximately 20 percent."

Texaco, Inc. (1970)—"Product sales in the Eastern Hemisphere increased 14.7 percent (compared with 0.2 percent in the United States). Sales of refined products in Western Europe continues to show significant growth in both volumes and revenues."

To help supply its markets in Europe, Exxon—like more than a dozen other American oil companies—has been active in exploratory drilling in the North Sea.

In reviewing its 1972 operations, Exxon stated in its annual report that the company, in partnership with Shell Oil Co., "initiated construction of the first of several large and expensive drilling production platforms . . ."

"The platform will be placed in 460 feet of water, deepest of any industry location in the North Sea. It will be built to withstand waves of up to 100 feet and winds gusting to 150 miles per hour.

FIRST BRITISH CRUDE

"The severe wave and wind conditions, combined with the water depth, necessitate the use of some 24,000 tons of steel, which is more than three times the requirement of the largest platforms in the Gulf of Mexico.

"It is expected that oil from this Exxon-Shell field will be brought ashore by shuttle tanker in 1974, possibly making it the first British crude oil delivered from the North Sea."

So it is, then, that at the same time Exxon is meeting the crude oil needs of Great Britain, the company is putting out a somewhat different story relating to its capabilities in the United States.

J. K. Jamieson, chairman of the board of Exxon Corp., told the 91st annual meeting of the company stockholders last May 17 in New York City:

"Currently, the (energy) shortages are centered in the United States, where supplies of domestic crude oil and natural gas are inadequate and where there will be inadequate refining capacity for a few years until additional refineries can be built.

"Exxon U.S.A. recently announced that it would make products available to our various customer groups in the same basic proportions that we have been supplying in the recent past.

"I should also mention that it is unlikely that Exxon will have the capability to supply potential new customers in the near future."

The Exxon chairman, of course, was talking about potential new customers in the United States—not elsewhere around the world.

Ten days after he delivered his address to Exxon stockholders in New York, the following advertisement appeared in the London Sunday Express on May 27, 1973:

"Install your Esso central heat wave now . . . pay nothing till October 1st! When all's said and done oil's cheaper to run."

YOU GET STAMPS

The advertisement, promoting the sale of home heating oil by Esso—a European subsidiary of Exxon—urged Britons to convert their home heating systems to oil because it costs less and "it's only with Esso that you get Green Shield stamps on every gallon of oil you buy at schedule price . . ."

"With Esso you're sure of your deliveries wherever you live."

That means, of course, if you live in Great Britain rather than the United States.

Following hearings held in Minnesota May 2 concerning the gasoline shortage, Sen. Hubert H. Humphrey (D., Minn.) reported to the U.S. Senate:

"For the last 20, 30 or 40 years school districts (in Minnesota) have contracted with big companies like Standard Oil for fuel.

"Now, in every instance where they have sought bids to maintain their contracts, they are unable to do so. In Minnesota, we cannot get bids on fuel oil for this winter."

The situation appears equally bleak for New England this winter. The Independent Fuel Terminal Operators Association, an organization of independents who say they supply 40 percent of New England's fuel oil needs, report that their stocks are at record low levels and that they are unable to obtain commitments for supplies this winter.

In a memorandum to former Colorado Gov. John A. Love, who is President Nixon's latest energy czar, the association said that as of July 1 its members had 1.1 million barrels of fuel oil—down 67 percent from the 3.2 million barrels on hand a year earlier.

THIRTY PERCENT OF DEMAND

Perhaps even worse, the memorandum stated that "independents have assured supplies of only 85,000 barrels a day. This represents only 30 percent of their projected demand."

So how is it that Exxon and other American oil companies selling overseas can promise to supply their customers in Europe and Asia without interruption, but cannot supply markets in the United States?

James E. Lee, president of Gulf Oil Corp., explained the situation this way in an interview with The Inquirer.

"The problem we have in the United States is not a shortage of crude oil. We can import whatever we want. What we have here is a refining capacity problem.

"Demand has outstripped capacity. This is not the situation in Europe where our refineries are running at 85 to 87 percent of capacity."

That there is a shortage of refining capacity in the United States is one of the few areas in which there is agreement among oil company officials and industry critics.

The United States used 15,980,000 barrels of crude oil every day last year, according to data compiled by the British Petroleum Co., Ltd., which publishes an annual, worldwide review of the oil industry.

At the same time, refineries in the United States were capable of processing only 13,450,000 barrels a day, acocrding to the British Petroleum Co. study.

The difference of 2,530,000 barrels a day between demand and refinery capacity was covered by imports of finished petroleum products—largely from Canada, Venezuela and the Caribbean.

From the mid-1960s until now, fewer than a half-dozen new refineries with capacities exceeding 50,000 barrels a day each were constructed in the United States.

DIFFERENT STORY

Overseas, it was a different story. The annual reports of the oil companies read like a catalog of refinery construction projects:

Standard Oil Co. of Calif.—"In the Eastern Hemisphere, the new 130,000-barrels-a-day refinery at Feluy, Belgium, began operations, materially increasing the company's ability to supply its expanding markets in northwestern Europe . . . In the Far East jointly owned Caltex and its Japanese affiliates placed a new 76,000-barrels-a-day refinery on stream at Osaka."

Exxon Corp.—"In Singapore, which has become an important refining center, a 100 percent-affiliate owned refinery went on stream with a capacity of 81,000 barrels a day . . . The company concluded arrangements to build a 72,000-barrel-a-day refinery in Okinawa, the first such facility in the Ryukyu Islands."

Texaco, Inc.—"Texaco's equity in refinery runs in the Eastern Hemisphere increased 18.8 percent to 918,000 barrels a day. Contributing to this gain were the . . . completion of the 80,000-barrel-a-day Vexin refinery in France, now 15 percent owned, and the start up of the wholly owned, 100,000-barrel-a-day Ghent refinery in Belgium."

Mobil Oil Corp.—"Projects completed in 1968 include the wholly owned 80,000-barrel-a-day refinery at Amsterdam . . . In southwest Germany, our wholly owned 70,000-barrel-a-day refinery at Woerth went on stream early in 1970 . . . Construction is scheduled to begin in 1973 on a 160,000-barrel-a-day refinery at Wilhelmshaven, Germany—the largest single refinery building project Mobil has ever undertaken overseas."

Gulf Oil Corp.—"Three new refineries were completed during the year adding 166,000 barrels a day of refining capability to the Gulf system. The refinery located near Milan, Italy, is wholly owned and the refineries at Bilbao, Spain, and on Heianza Island, Okinawa, are partially owned. . . . The year also was one in which the new refinery at Milford Haven in Wales completed its first full year of operation."

Throughout this period of rapid refinery expansion around the world by American oil companies, there was very little new construction in the United States.

This was due largely to the fact that during the early 1960s there was an excess of refinery capacity, so that American companies were in the position of being able to turn out more gasoline and fuel oil than they could sell.

AWARE OF SHORTAGE

But by 1970, oil industry officials were clearly aware of an impending shortage in refinery capacity. The Oil & Gas Journal, the authoritative trade magazine for the petroleum industry, sounded the warning more than two years ago.

In an editorial headlined "U.S. refineries are heading into a period of trouble," published March 22, 1971, the magazine stated:

"During the Seventies, domestic refiners will be forced to take on a heavier share of a burgeoning demand for energy. Those refiners who do not look beyond the new residual needs of the East Coast and arrange their plant capacity according are missing the mark. Failure to expand will invite an industry crisis of the first rank.

"Total of new plant construction is not high today. Jobs on the books are for the most part "tail-end" projects with completions due this year or early next. After that, there is nothing—not a single major construction project committed against the needs of 1973.

"If refiners generally do not cut through their many problems and close some new construction contracts this summer, they will face difficulties they haven't dreamed of. Since it takes two to three years to complete any modern refinery, a crunch on domestic petroleum products appears almost inevitable by the mid-1970s."

As everyone now well knows, all the predictions made in 1971 by the Oil & Gas Journal have come true. But perhaps even more revealing than the magazine's accurate forecasts was a story it published a year later on March 27, 1972.

In that issue, the magazine again warned of the coming crisis: "The U.S. is rapidly running out of time to avert a refining-capacity crunch for clean products—notably gasoline."

This time, the magazine put forth a theory as to why American oil companies had failed to expand existing refineries or build new ones:

"The conviction of many refiners—who point to widespread price-warring and distress gasoline—is that a lull in construction is needed to let demand catch up a bit. That sounds reasonable—if the lull doesn't last too long. At this point, it appears there's a definite danger of this."

FALSE CLAIMS

What all this means is that: The claims of oil industry spokesmen that environmentalists are to blame for the current gasoline and fuel oil shortage because they blocked refinery construction are without foundation.

The general industry tone has been set in a series of advertisements published in recent months by Mobil Oil Corp. One advertisement, which appeared in the New York Times on April 12, 1973, asked:

"Why haven't oil companies built more refiners here?" The company then offered the following answer:

"Mainly environmental and financial constraints. While the vast majority of consumers are unaware of it, legislation and litigation arising from exaggerated environmental fears have effectively prevented oil companies from obtaining satisfactory sites for new refineries. And the wholesale prices we get for gasoline and other products do not recover the increased cost of building refineries."

True, environmentalists have aggravated the current energy shortage. They have so far blocked construction of the Alaskan pipeline. They blocked construction of a proposed refinery in Delaware. But they did not create the oil shortage. The oil companies and the Federal government did that.

In the last three months, for example, several major oil companies have announced plans to substantially expand existing refineries—a step that could have been taken at any time in the past and one that involved no controversy over sites.

PROPOSALS KILLED

As for environmentalists halting the planned Delaware refinery, the major oil companies themselves—aided by the Federal government—killed proposals in the late 1960s to build two new refineries, one at Machiasport, Maine, the other at Savannah, Ga.

The Machiasport refinery, with a projected capacity of 300,000 barrels a day, was proposed in 1968 by Occidental Petroleum Corp. It would have been one of the largest refineries ever constructed in the United States.

The refinery was designed to alleviate expected home heating oil shortages in New England. At the time, Gulf Oil Corp., like other companies, argued that there had been "no real shortages" of home heating oil.

Now the oil industry generally acknowledges that there is a shortage of petroleum products, including fuel oil.

Oil industry opposition to the Machiasport refinery was so intense and so bitter that the large oil companies, headed by Exxon Corp. and the industry trade organization, the American Petroleum Institute, finally took their case to President Nixon.

The Machiasport refinery was never built.

FOREIGN MARKET LURES INDUSTRY

OIL GIANTS DEFEND EXPANSION

The five largest multi-national American oil companies see no conflict between their expansion overseas and their present inability to meet demand for petroleum products in the United States.

Asked to comment on their expansion in foreign countries, and whether that expansion was made at the expense of the United States, oil company official's made the following statements:

Standard Oil Co. of Calif.—"We expand abroad for the same reasons we have been expanding domestically. We expand where there are markets to serve and we don't feel that this expansion in one area is at the expense of another.

"In the first place, much of the money used in expanding abroad has been generated there. We have been borrowing money in Europe. If we build a refinery in Belgium to use South Arabian oil for the benefit of Eastern hemisphere customers, they are our customers too, and we owe them a continuity of supply.

"If the oil comes from the Eastern Hemisphere the funds are borrowed there and the refinery is built in their countries, we have an obligation to serve them. Their expansion has been even greater than ours.

"They are going through their car-crazy stage. Their market is expanding even faster than our market. So they are good customers. These people have rights too."

Mobil Oil Corp.—"Investments in this country by the oil industry have been discouraged by various restrictions. For example, the import control system discouraged refinery building. The proof of this is soon after controls were lifted various companies, including Mobil at our Paulsboro, N.J., plant, announced expansion plans.

"Also, environmentalists and the government delayed lease sales, the Alaska pipeline and construction of bigger ports in the United States.

"North Sea nations have given every incentive to drill and explore. We feel this is so because all of these nations want to control their own energy supply. They have lived on imports and they recognize the risks in this."

Exxon Corp.—"We have consistently followed a policy of seeking attractive opportunities whenever they exist, whether in the United States or abroad, and have invested heavily in all functions on a worldwide basis.

"From 1963 through 1972, 42 percent of the money we invested in additions to property, plant and equipment was spent in the United States, although only 31 percent of our petroleum product sales were here.

"The share of property additions dedicated to the United States market would be even higher if we were to include investments made in the Caribbean and other areas to serve the specific needs of the United States.

Texaco, Inc.—"Over a period of time, Texaco refinery construction has been about the same in the United States and overseas. In recent years, construction has not kept pace in the United States for several reasons: Uncertainty as to an assured crude oil supply source, environmentalists' objections to siting and the oil import program, which was an incentive to build offshore (Caribbean) refineries.

"The oil industry over the years has provided the capital for investment in both the United States and overseas. With declining production of crude oil in the United States, it's to the United States' best interests to have a crude supply any place in the free world."

Gulf Oil Corp.—"The United States is a completely separate market from Europe and Japan. What we have in the United States is a refinery capacity problem. The situation in Europe is different. They are not short on capacity.

"Why have we lagged behind in this country? There is no single reason. One has been the environmental problems with respect to finding a suitable site for the refinery construction; the second was the uncertainty over a supply of crude oil created by the import control program and third, an inadequate return on our investment.

"We face these problems here, but not in Europe, and this is the reason for the problem, not a favoritism of foreign markets over the United States.

"We are not sacrificing any efforts in the U.S."

WILL THE OIL SHORTAGES BOTHER YOU?

Here are some questions and answers about the current gasoline shortage and the so-called energy crisis in the United States:

Q.—Is the Federal government going to ration gasoline?

A.—There is no legitimate reason it should do so.

Q.—How serious is the gasoline shortage then?

A.—As of mid-July, not very serious. There have been, and will continue to be, spot shortages.

Q.—What does that mean?

A.—Gasoline stations are more likely to close early, or close all day on Sunday, in certain sections of the country, the Midwest, far Northwest and deep South.

Q.—What is going to happen next?

A.—There will be shortages of fuel oil this winter, especially in New England and the Midwest.

Q.—How serious will these shortages be?

A.—It depends on the weather. A prolonged, bitter cold wave could spell real trouble. If, on the other hand, it's a very mild winter, no shortages at all may develop.

Q.—What's wrong? Are we running out of crude oil?

A.—No.

Q.—But I read somewhere that we only have enough oil for 20 years.

A.—That's simply not true. There is enough crude oil on the North American continent (including offshore areas)—with modest imports—to keep the United States running well into the 21st century. We are, though, running out of oil at today's prices. In the future, we will have to pay more.

Q.—Does this mean I won't have to change my lifestyle, like the newspapers and television say I will?

A.—That's correct. But that doesn't mean you should not practice conservation or use petroleum products inefficiently.

Q.—If we have enough crude oil, why is there a shortage of gasoline and fuel oil?

A. Rather than an oil shortage, the real problem is a shortage of refinery capacity.

Q. What do you mean?

A. The United States does not have enough refineries to turn crude oil into all the gasoline and fuel oil the country needs.

Q. Why not?

A. Two reasons: The oil companies have been building their refineries overseas and government policies have discouraged refinery expansion in this country.

Q. But I read an advertisement in my newspaper that said no refineries were built because of the environmentalists.

A. That isn't true. Environmental groups certainly have aggravated the problem, but they did not create it. The oil companies and the Federal Government did that.

Q. You mean companies like Exxon and Texaco and Mobil have been building refineries in other countries but not in the United States?

A. That's right.

Q. Why?

A. Because contrary to all the stories you have been reading and hearing, the great demand for petroleum products over the last 20 years has come in Europe and Asia—not the United States. The oil companies concentrated their building overseas to fill those needs.

Q. Do the companies have enough oil to sell overseas?

A. Let's put it this way: The companies are, at the present time, running advertisements and pushing the sale of their products overseas as they did two or three years ago in the United States.

Q.—You mean the companies are doing this at the same time they are telling me I should not drive my car so much and I may have trouble getting fuel oil this winter?

A.—That's right.

Q.—How can this be?

A.—Right now there is an excess refinery capacity abroad. In other words, the companies have the ability to turn out all the products they can sell.

Q.—Why don't they just refine the crude oil over there and ship the gasoline and fuel oil here?

A.—It's not profitable and European refineries are designed different from those in the United States. The companies are, though, bringing small amounts of finished products into the country.

Q.—Is there anything else I should know about the oil companies expanding their operations in foreign countries?

A.—Yes. You are subsidizing the sale of petroleum products around the world.

Q.—In what way?

A.—Special tax benefits and allowances have enabled the oil companies to escape payment of billions of dollars in Federal income taxes on oil that was produced and sold in other countries.

Q.—You mean I'm subsidizing the sale of gasoline and fuel oil in Europe and Asia and there's a shortage of these products here?

A.—That's correct.

U.S. POLICY: RX FOR DISASTER

BLUNDERS ROUTINE IN NIXON YEARS

As late as last September, when the nation was on the eve of a winter fuel shortage and heading into a summer gasoline shortage, Nixon Administration officials were assuring Congress they did not foresee a petroleum crisis developing.

"The industry has the necessary refining capacity and the feedstocks required to insure an adequate supply of petroleum products," Gen. George A. Lincoln, director of the Office of Emergency Preparedness (OEP), told the Senate Small Business Subcommittee on September 19.

"There certainly is, or will be shortly, enough crude oil for refiners and enough refinery capacity," the general assured Ohio Sen. Robert Taft Jr. "And I have very considerable faith in the industry meeting the challenge."

As everyone knows, the industry did not meet the challenge. There was a heating oil shortage last winter. There has been a gasoline shortage this summer. The industry now predicts similar shortages in the future.

How, then, could an agency of the Federal government make such a colossal miscalculation on a matter of such vital national interest?

Quite simple: Such blunders have become routine for the Nixon Administration in dealing with the oil industry.

In fact, ever since the first commercial oil well was drilled in the United States at Titusville, Pa., in 1859 by a one-time train conductor and hotel clerk, Col. Edwin Drake, the Federal government has never developed a national policy on oil or other energy forms.

As a result, the government is consistently ill-equipped to evaluate the industry, is unable to see crises such as the present one developing and repeatedly makes the wrong move in trying to set oil policy.

A two-month investigation by the Inquirer into the causes of the gasoline shortage have established that over the years oil policies of the Federal government have served as a prescription for disaster. A few examples:

The policy: The late President Dwight D. Eisenhower signed an executive order in 1959 that clamped tight restrictions on the amount of foreign crude oil that could be brought into the country. The import controls, the President said, were needed for "national security" reasons.

The effect: The quotas actually were designed to protect small independent oil producers. They accomplished that goal but they also kept the price of oil at an artificially high level. The cost to the American taxpayer has been calculated at between $3 billion and $7 billion.

The quota system also encouraged oil industry expansion overseas and discouraged refinery building of the United States, the chief reason for the current gasoline shortage and the fuel oil shortage to come this winter.

The policy: The U.S. Internal Revenue Service issued a private ruling in 1951 for oil companies operating in the Middle East. The ruling had the practical effect of allowing the companies to write off royalties paid to Middle East shieks against Federal income taxes owed in the United States.

The Effect: The American taxpayer now is subsidizing the sale of petroleum products around the world. In 1970, the latest year for which figures are available, the oil industry claimed $1.3 billion in foreign tax credits.

The policy: On March 10, 1970, President Nixon slapped restrictions on petroleum imports from Canada at a time when there was a growing demand for those products in this country and there was a desire in Canada to expand oil exploration efforts.

The effect: Now, at a time when the U.S. needs Canadian oil, the Canadians—still smarting from the way Washington has treated them in recent years—have placed controls on oil exports into this country.

LOW GAS RATES

The policy: Over the years, the Federal Power Commission (FPC) has set unrealistically low rates covering the sale of natural gas.

The effect: Not only has natural gas exploration declined markedly, industry—because of the cheapness of the clean-burning fuel—has used large volumes of natural gas uneconomically, contributing to the drain on reserves.

The policy: The Bureau of Mines opened an experimental plant in 1926 designed to devise a process to extract oil from shale. The plant was closed less than year later. In 1945, another shale-oil plant was opened by the Bureau of Mines and a few years later, it, too, was shut down for economic reasons.

The effect: Today, half a century after the Federal government began its research, the United States still does not have the technological capability to market oil extracted from shale at a competitive price. There is enough shale oil to provide the United States' needs for decades.

The most recent failure in Federal policy—the inability to forecast oil supply and demand just three months in advance—can be traced to a lack of statistics, at least statistics gathered and independently audited by the Federal government.

Although the government can tell you the number of outdoor plumbing facilities in the country, it cannot tell you how much of the nation's refiney capacity is capable of processing high-sulfur crude oil, one of the factors in the current gasoline shortage.

In fact, all statistics relating to the oil industry are furnished to the government on a voluntary basis by the oil industry itself, and are not subject to verification.

Last year, the Nixon Administration like previous administrations, made the mistake of relying on the oil industry to supply statistics and to advise on energy problems. The result was a fuel oil and gasoline shortage.

FIRMS OPTIMISTIC

Last summer, the OEP consulted with oil companies about the fuel oil outlook for the winter of 1972–73. OEP said the companies were optimistic about meeting market demands.

". . . Humble (now Exxon) could not speak for the remainder of the industry," an OEP memo of a Sept. 25 telephone conversation with the nation's leading oil company stated, "but felt in a tight situation the industry would do its best including going beyond its contract commitments if it were capable of doing so."

The OEP remained stubbornly oblivious throughout last year to any suggestions of a fuel crisis in the U.S.

As early as April 13, 1972, Sen. Thomas J. McIntyre (D., N.H.), wrote OEP director Lincoln, to alert him about a possible fuel shortage the following winter.

Gen. Lincoln wrote back saying there was nothing to worry about: "My office has checked with the major suppliers on the availability of Number 2 heating oil for the coming winter and have assurances that, if anything, the industry capacity to produce Number 2 oil has been under-used, and that the industry can supply the heating oil needed for the coming season."

When Lincoln appeared before a Senate subcommittee of which McIntyre was chairman, in September, he tried to assure a skeptical group of senators—who kept getting reports of threatened fuel shortages for the coming winter—that no shortages would occur.

"As I say, we don't see a shortage in fuel oil," Lincoln said. "And we don't see a shortage in other products, either."

Less than a year later, the United States had experienced sporadic shortages in virtually all of its vital petroleum products—from home heating oil to aviation fuel.

Such foulups are made possible, in part, largely because of the unique position the oil industry occupies at the Federal level: No Federal agency collects independent data on the industry.

UNIQUE POSITION

"The petroleum industry," said Thomas F. Field, executive director of Tax Analysts and

Advocates, a law firm in Washington, D.C. that analyzes government tax policies, is one of the very few industries that still collects, without much governmental supervision, most of the statistics that relate to the industry."

Without this data, the Federal government and Congress are able to do little more than speculate on the state of the oil industry.

Sen. Henry Jackson (D., Wash.), chairman of the Senate Interior Committee and the Senate's leading energy expert, is equally distressed.

Jackson, in a Senate floor speech, said the U.S. needed the same kinds of statistics about the oil industry that the Bureau of Labor Statistics gathered regarding the economy. Jackson added:

"I could not agree more . . . as to the ridculous situation we find ourselves in, in which the government of the United States does not have the figures, but has to go all over the country to obtain them from private companies."

The Joint Economic Committee of the Congress said in 1971 that the Federal government was in the ironic situation of subsidizing the oil industry by "over $7 billion a year with tax and import programs," yet was dependent on the beneficiaries of the tax break to analyze the subsidy program.

"It is absolutely essential that the Federal government develop an analytical capability so we can have some kind of an early warning system about this industry," said William Van Ness, chief counsel of the Senate Interior Committee.

"We rely on the industry to provide 95 to 98 percent of the information. It is absolutely ludicrous. Their interests have nothing to do with national interests."

Not only does the government not have the ability to independently analyze the oil industry, but the industry also tenaciously fights government requests for information about its operation.

PRICE DATA SOUGHT

The Bureau of Labor Statistics (BLS) has been trying for more than a year to obtain from the companies information on wholesale gasoline prices.

The response from the oil companies, especially larger ones, has been so poor the BLS has been unable to complete the study. The BLS has even modified its request once in an effort to make it easier for the companies to comply.

A June 25 letter from Peter Brennan, Secretary of Labor, to New England Congressmen Thomas P. O'Neill Jr. and Silvio O. Conte told how the oil companies have frustrated the program:

"A considerable amount of effort has been spent trying to make this program operational. The companies have been contacted by letter, personal visit and telephone, not only to gain their co-operation, but also to help them resolve difficult reporting problems.

"Nevertheless, the response has been disappointing. Only about half of the companies selected for the sample have been able to furnish national data and a substantially smaller proportion were able to provide regional data.

"Based on this level of nonresponse, especially for important companies, the data collected by BLS are insufficient to publish reliable and representative national average prices and price indexes, much less regional data."

Perhaps the greatest failure of Federal oil policies over the last decade has been the oil import quota program.

Imposed in 1959 by President Eisenhower as a barrier against cheap Middle Eastern oil, the program restricted the flow of foreign oil into the U.S.

TO PROTECT INDUSTRY

Its aim was to protect the domestic oil industry from a flood of cheap Middle Eastern oil, encourage exploration and drilling in this country, and protect the nation's "national security" by not making the U.S. too dependent on foreign oil.

When it was abolished in April by President Nixon, the import quota program had mostly failed. There was still a large domestic oil-producing industry, but it was far from healthy.

Except for discoveries such as the Alaskan North Slope, drilling and exploration had decreased in the U.S. as more and more large U.S. oil companies stepped up exploration abroad.

In its later years, the oil companies began using the import program, which they supported, as an excuse to explain why they had not built or expanded refineries in the United States.

The import quota program's failure to promote domestic drilling and exploration was evident from the start, but the program was never revised to correct that flaw.

Contrary to making the United States less dependent on oil, which was its purpose, the program made the United States much more dependent on foreign oil in the 14-year period it was in force.

The United States imported about 1 percent of its oil in 1958, the year before the program began. By the end of 1972, the figure had increased to 30 percent.

Not only did the country's need for foreign oil grow, but the import program tended to make the East Coast less secure, because it became overly dependent on imported oil during the life of the program.

In a statement to the Senate Interior Committee this year, Richard Mancke of the University of Michigan said that continuation of the present program guarantees that the East Coast's oil demand will soon be satisfied almost entirely from insecure non-Canadian foreign sources."

ANOTHER FAILING

Another failing, according to S. David Freeman, then a University of Pittsburgh professor and now head of a Ford Foundation energy study, was that the program did not assure Americans of a future supply of oil.

"The quotas keep Arab oil out," Freeman told a Senate Committee early in 1972, "but they don't assure that the energy gap will be filled."

In a roundabout way, that's exactly what happened in 1972, which led to some gasoline and fuel oil shortages.

The oil import program was too cumbersome a mechanism to react to mounting shortages of domestic crude oil last year. The import program was supposed to be able to make up the difference between domestic oil production and domestic demand. But in the last year it failed to take up the slack for many companies, and forced them to run, temporarily anyway, at less than capacity.

As for the oil industry, as late as Feb. 22 of this year, an Exxon official was still talking as if this import quota program were indispensable to America.

"The oil imports control program has been an important part of U.S. energy policies in the past and should be retained with the overall level set as needed to fill the gap between domestic production and demand," said Randall Meyer, president of Exxon U.S.A. at a Senate Interior Committee hearing.

But the import program was coming apart so rapidly that another major oil company could no longer restrain its disenchantment with the program which had deprived the company of several hundred thousand barrels of crude oil it needed to serve its customers.

"In Texaco's view, said Annon Card, senior vice president of Texaco, before the same committee that day, "the present oil imports program and the administration of the program have contributed substantially to the current shortages."

AGAINST DROPPING IT

Over the White House that week, John D. Ehrlichman, the President's former domestic affairs adviser, and other Nixon aides were trying to throw water on ideas about junking the program.

"The administration has consistently supported the concept that some program was necessary to insure adequate domestic production," Ehrlichman wrote in a letter to the Independent Petroleum Association of America.

"Although the mandatory oil-import program has always been under some criticism, we are not aware of any proposal by any responsible officials to allow unlimited crude oil and products."

Less than two months later, President Nixon did just what Erhlichman said he had no intention of doing, he abolished the oil import quota program.

By the time it was scrapped however, the Nixon Administration had managed to alienate Canada, the most secure and accessible foreign source of petroleum for the growing U.S. market in part by its clumsy administration of the import program.

Throughout the 1960s, the informal controls existed between the Canadian and U.S. governments restricting the flow of Canadian oil into the U.S. They were imposed by pressure from the U.S. oil industry.

But as demand continued to grow in the U.S. in the late 1960s, the controls began breaking down, and more and more Canadian oil began coming into the United States.

In 1969, when a task force headed by Labor Secretary George Shultz began its study of import controls, the Canadian government delivered a note to Washington stressing the importance of Canada remaining free of import restrictions and said Canada looked forward to selling more oil in the United States.

Canada asked for unrestricted access to the U.S. market for its oil, stressing that the two nations are interdependent with one another and have a natural partnership in continental defense.

INFLUENCED BY EXPORTS

"Canada's capacity to provide a growing market for U.S. goods and services is inevitably influenced by the level of its exports to the U.S.," the Canadian note said.

It emphasized that the development of Canada's vast petroleum resources was dependent almost entirely on the ability to import the oil into the United States.

"Exploration on the scale necessary to supplement U.S. supplies adequately requires the incentives of progressive growth and assured stability of market access," the note said.

The note was the culmination of an aggressive Canadian sales campaign that year to sell more oil in this country. A New York Times story of May 17, 1969, summed it up this way:

"Throughout Canada, government and industry are talking about a 'continental approach' by the two countries (U.S. and Canada).

"In essence, this means an end to border restrictions as such on the delivery of Canadian oil and natural gas to the United States, and acceptance by Washington of the view that Canada's oil reserves are as much a part of the United States strategic resources as Texas and Louisiana."

This year, U.S. officials were talking the same language as the Times was in 1969. "I share with you," Interior Secretary Rogers B. Morton told the Senate Interior Committee in January, "the idea that we must pursue a North American energy policy."

But Canadians were no longer interested. What happened to dampen their enthusiasm? Simply that the Nixon Administration slapped restrictions on the amount of Canadian oil that could be imported into the U.S. in 1970.

The President's act caused "suspicion, annoyance and puzzlement in Canada and probably will complicate the increasingly delicate economic relations between Canada and the United States," the Times said on March 11.

SOFTENING UP CANADA

"The common interpretation," the Times continued, "was that Washington was flexing America's economic muscles to soften up Canada for negotiations over long-term access to Canadian fuels."

If that indeed was what the Administration intended, the move was a spectacular failure because Canada, angered by America's arrogant attitude on the oil question, has refused to listen to U.S. proposals for a common energy policy ever since.

A Senate Interior Committee report this year described the shortsightedness of the Administrations restriction on Canadian oil.

Saying that the quotas "dampened petroleum incentives" and "retarded leasing," the report noted: "A clear policy on this question would remove the kind of uncertainty generated by U.S. actions that has tended to retard petroleum exploration and development in Canada."

Canadian nationalism and a desire to preserve its own resources have now risen to complicate joint energy policy talks. But the Administration clearly missed a chance in its first year to work out a policy with our closest neighbor that could have eased this year's sporadic shortages.

"If we can't get along with our brethren to the north, with a border 4,000 miles long, that is undefended, (if) we can't work out economic arrangements with them, how are we going to work out arrangement elsewhere?" asked Sen. Jackson in January.

Indeed, the senator's comments point up the United State's current difficulties in interesting Japanese and European allies in developing a common front to deal with the Middle Eastern countries over oil.

If the U.S. State Department has been unable to work out a satisfactory arrangement with its closest neighbor and ally, Canada, on matters of such joint interest, how then, can it hope to succeed in developing similar energy alliances with nations whose interests and needs are often at cross purposes with our own?

Yet that is exactly what the State Department is now trying to do.

"We have raised with the Europeans and Japanese the possibility of co-operation in the energy field," said James E. Akins, director of the Office of Fuels and Energy for the State Department.

AGAINST ARABS

The phrase "co-operation in the energy field" is State Department language for a common front against the Arabs.

But even the State Department and Akins admit the results are disappointing. Neither the Europeans nor the Japanese are interested in joining this new American initiative, a reluctance that Akins decries.

Apparently the only one who has been surprised by the attitude of the Europeans and Japanese is the State Department.

For, as The London Economist recently pointed out, Europe and Japan would have little to gain from such an alliance with the United States because if the Arabs cut off oil shipments they "would probably not deny oil to everyone, only to America."

The Nixon Administration's inability to come to grips with oil issues is by no means unusual with the Presidency.

In fact, not much has changed since a 1947 Senate Committee reported that in the past and "even in more recent days, it could hardly be claimed that there was conscious or comprehensive national petroleum policy."

Each administration usually finds overlapping and conflicting forces in the bureaucracy trying to deal with energy matters. Virtually every branch of government has an office dealing with energy in one form or another.

Although the White House or Interior Department officials may talk of the need for a North American energy policy, it is up to the State Department to try to negotiate it.

In the Kennedy Administration, oil policy matters were decided in the White House. Lyndon Johnson, because he was from oil-producing Texas, delegated oil to the Interior Department.

AT WHITE HOUSE

Now oil policy is once again decided at the White House, although the chairman of the influential Oil Policy Committee is William Simon, deputy treasury secretary.

In 1969, President Nixon appointed then Labor Secretary Shultz to a task force to study imports. When he disagreed with the group's findings, he appointed another task force excluding Shultz.

Nothing better illustrates the inconsistency of Federal policy on oil matters than sporadic government-backed attempts to extract oil from the vast shale oil deposits in the western United States.

U.S. agencies have been talking about these deposits, estimated to contain 1.8 trillion barrels of oil, for years. A 1928 report of a Federal board referred to shale as a "future supply of oil in case there is a shortage of petroleum."

Oil has been economically produced from shale on a small scale in several countries, most notably Scotland, for more than a century. But the U.S. government has never developed a consistent national policy leading to development of those resources.

Instead, ever since the 1920s, the Federal government periodically opens and closes demonstration shale oil plants at a cost of millions of dollars.

In 1926, for example, the Bureau of Mines opened an experimental plant on naval oil shale reserves in western Colorado but was forced to close it less than a year later when Congress refused to appropriate more money.

In 1945, the Federal government opened another experimental plant in western Colorado. Nine years and $17 million in public funds later, the Federal government cut off funds and the plant was closed.

Is there any reason to believe now, given the extent of the gasoline and fuel oil crisis the past year, that the Federal government may finally be prepared to adopt a national energy policy?

So far, some of the solutions coming out of Congress and the executive branch are not promising.

CUT SPEED LIMIT

Sen. Jennings Randolph of West Virginia, in a move to meet gasoline consumption head-on, has introduced legislation to lower the speed limit on Federal highways.

"A speed reduction from 70 to 50 increases efficiency by about 2 miles per gallon," Randolph said. "Small cars will benefit by an even greater savings."

Randolph did not neglect to point to the side benefits of such a move: "Tire use would drop and, since synthetic rubber is a petrochemical product, oil use for this purpose would be lower."

Interior Secretary Morton voluntarily reduced his gasoline consumption. He turned in his limousine, which used to squire him around Washington, and exchanged it for a standard-sized sedan, which uses less gasoline.

The Secretary's gesture did not go unnoticed in Congress. Rep. John R. Rarick of Louisiana said if Morton sincerely wanted to set an example, he should have followed the lead of Scottsdale, Ariz., which rented bicycles for use by city employees.

"Mr. Morton will surely have more success pedaling a bicycle," Rarick said, "than pedaling his ideas for a technological halt as an answer to the energy crisis."

RULING COST TAXPAYERS BILLIONS

A private ruling issued by the U.S. Internal Revenue Service (IRS) for the benefit of American oil companies operating in the Middle East helped spur expansion of the overseas petroleum industry—at a cost of billions of dollars to the American taxpayer.

The IRS ruling, handed down in 1951, enabled the Arabian American Oil Co. (Aramco) to convert royalties paid to Saudi Arabia into foreign taxes. Aramco is jointly owned by Exxon Corp., Texaco, Inc., Mobil Oil Corp. and Standard Oil Co. of Calif.

For tax purposes, a royalty is handled as a business expense. But the IRS decision allowed the oil companies to treat their royalties as foreign taxes. And foreign taxes may be written off against United States income taxes, dollar for dollar.

"What the foreign tax credit enables you to do," says Thomas F. Field, executive director of Tax Analysts and Advocates, a public-interest law firm in Washington, D.C., that analyzes government tax policies, "is to substantially escape all United States taxes on foreign operations.

"We've almost totally forgiven the oil companies their taxes when they go overseas and certainly that has made it a lot easier for them to go overseas and produce overseas."

In addition to the foreign tax credit, American oil companies operating abroad receive the same special tax benefits granted to companies in the United States, including the 22 percent depletion allowance and the rapid write off of intangible drilling costs.

Through those tax benefits and the foreign tax credit, the American taxpayer is subsidizing the sale of petroleum products around the world—at a time when American oil companies say they are unable to meet the demand for those same products in the United States.

In 1970, the latest year for which figures are available, the IRS reported that oil companies claimed $1.3 billion in foreign tax credits.

It is worth noting that the Federal government says it has no figures on how much American oil companies have claimed over the years in depletion allowances and intangible drilling costs covering oil products and sold outside the United States.

But it would not be unreasonable to say that the loss to the United States treasury—through percentage depletion, intangible drilling costs and the foreign tax credit—can be measured in the tens of billions of dollars since 1951.

Field, who formerly worked as an attorney-adviser in the U.S. Treasury Department's Office of Tax Legislative Counsel, explains the advantage of the IRS ruling and the foreign tax credit this way:

"If an oil company pays a dollar royalty to farmer Jones in the state of Texas, for the privilege of having gone on farmer Jones' land to drill for and find oil, that is a deduction when computing the company's taxable income.

"And since the company's nominal tax rate is roughly 48 percent, every additional dollar of deduction reduces the tax bill by 48 cents.

"In contrast, if the company pays the sheik of Kuwait an additional dollar in royalty type tax, that dollar of tax reduces the company's United States tax bill by one dollar instead of 48 cents.

"So the ability to convert royalties into taxes, which the Internal Revenue Service has permitted, is a definite subsidy in favor of foreign exploration and probation.

"The net effect has been to relieve United States firms that produce oil in foreign countries of one of their major costs (income taxes) of doing business in the United States.

The IRS ruling and the foreign tax credit also have contributed to the rising cost of crude oil. Unlike other industries, where production costs are a major factor in determining price, the cost of producing oil has very little to do with the price for which it is sold.

When, for example, an automobile company determines the price of a car, it considers the cost of materials and labor and adds to that what it believes to be a reasonable profit.

But the actual cost to produce oil in the Middle East is about 20 cents a barrel—or less than half a cent a gallon. Yet the selling price of a barrel of typical Middle East oil is about $2.90.

Much of the difference between the 20-cent production cost and the $2.90 selling price can be attributed to increases in royalty taxes paid to Middle East countries by the oil companies. And, because of the tax advantage the royalties provide, the companies have had little reason to object to the increases.

Before the IRS ruling, says Field, "if a sheik wanted to collect an extra dollar in royalty, roughly 50 cents came out of the pocket of the oil company and the other 50 cents came out of the United States treasury. So the oil company had a strong incentive to resist increases in royalties.

"After the IRS ruling, when the royalty tax, as it became, went up a dollar, that dollar came out of the United States treasury and there was little or no effect on the company."

Field and other economists believe that if the IRS had not issued its ruling, the oil companies would have acted much more forcefully to resist royalty increases.

He offers this analogy:

"Let's assume you have an expense account where you work. If you take somebody out to lunch and pick up the bill, you pass that whole bill on to your employer. What that means is that you probably have a pretty good lunch in a pretty nice restaurant.

"But suppose that half of every business lunch came out of your pocket. Wouldn't you, under those circumstances, be a little more cautious about what restaurant you went to and how many you invited along in the party, and a little more cautious about whether you ordered filet mignon?

"It's the same way with the oil companies. For 20 years we have given the companies no incentive to resist the sheiks' demands."

OIL SHORTAGE MYTH—PAST, PRESENT

Police cars in two Detroit precincts run out of gasoline and the commissioner warns that police vehicles throughout the city will be out of fuel in 24 hours because of a gasoline shortage.

A prestigious New York brokerage firm reports on the precarious position of the U.S. oil industry, showing that reserves will last only 13 years at the present rate of consumption.

A national magazine blames the gasoline shortage on America's sprawling use of the automobile.

The Secretary of Commerce calls leading oilmen to his office and urges them to go after foreign reserves "because domestic sources of petroleum will last only a generation."

So this, then, is the picture of the great gasoline shortage of 1973. No, it's not. This was the picture of the great gasoline shortages of 1947, 1935, 1923 and 1921, respectively.

Although some of the incidents might sound like last week's news, they actually date back half a century during one of the United States' earlier oil scares, when the country feared, like now, that oil was running short.

Indeed, ever since automobiles rolled onto the American scene and up to the first gas pump, Americans have experienced an almost pathological fear of running out of oil, a fear fed periodically by the oil companies, politicians and the press.

An investigation by The Inquirer of the current gasoline shortage has disclosed that during all those previous oil scares, the crisis was remarkably similar to today's.

During each crisis oil companies complain of a shortage of crude oil and a lack of "incentives" to find more. Independent gasoline marketers and refiners say the major oil companies are trying to squeeze them out of business. Congressmen call for investigations and promise to break up monopolistic practices in the oil industry.

The American consumer is portrayed as having an insatiable appetite for oil. The same solutions are proped over and over again to solve the oil problem. And, finally, the impression is left in the public's mind that the United States is rapidly running out of its most precious fuel.

None of that has changed much in 50 years or recurring oil crises. And, ironically, each time the crisis is resurrected, crude oil reserves in both the United States and the world usually stand all-time highs.

Still, the myth is perpetuated with each generation that the United States is about to run out of oil and that Americans—the world's leading oil users—will have to change their life-styles. This year's torrent of news stories, books, government warnings and oil company reports are no exception.

GETTING THE MESSAGE

A Washington Post editorial of July 1 said the American people were finally getting the message that "there will not be enough fuel to support us in the manner to which we are accustomed."

The Philadelphia Evening Bulletin of June 3 said flatly that "the oil shortage—a new harassment for Americans—could have long range economic, diplomatic and military consequences for the world."

A Gulf Oil Corp. statement this year said a "growing national demand for energy has moved the United States towards the unenviable position of Western Europe and Japan in becoming a have-not nation in terms of oil."

A new book entitled "The Energy Crisis," written by two Long Island University professors, Lawrence Rocks and Richard P. Runyon, goes even further by saying "our oil repositories are headed for exhaustion in two decades."

Now contrast those grim prophecies with an article that appeared 50 years ago in the Saturday Evening Post of May 23, 1923, during an earlier oil scare:

"Whether we have ten, twenty or thirty years to go—and these are the variously estimated periods . . . the fundamental fact to be borne in mind . . . is that the oil reserves of the United States are more nearly exhausted in their relation to demand than any other mineral.

"Many eminent government geologists maintain that the supply of oil in the United States subsoil does not exceed 7 billion barrels. (Current estimates of recoverable oil range anywhere from 200 to 400 billion barrels.)

"You have only to take a passing glance at the statistics to realize why a foreign oil supply is essential to our industrial well-being . . . Prodigal in our expenditure of this precious but dwindling possession, we now reach the point where we must conserve or tap new areas."

Such dire warnings have become commonplace in the lexicon of oil shortage phobia. Goodbody & Co., New York brokers, concluded in 1935 that major oil companies had only 10 to 20 years before oil supplies would be depleted and said most major oil pools in the U.S. were "long since spotted."

RUN OUT BY 1955

Goodbody's figures showed that Standard Oil of New Jersey, now the Exxon Corp., had 3.6 billion barrels in oil reserves and would run out of oil by 1955.

As everyone knows, Exxon did not run out of oil in 1955, and at the beginning of this year had reported worldwide oil reserves of 33 billion barrels—nine times the 1935 figures.

Government agencies have been willing partners in fomenting oil fear. A prediction by the U.S. Geological Survey in 1920 that domestic oil production would possibly peak in three years and then "fall off" sounds much like a prediction of the National Petroleum Council (NPC) in 1971.

"Domestic production of conventional crude oil, excluding the Alaskan North Slope," the NPC report said, "was projected to increase slightly in the next 1 to 3 years, but to decline thereafter."

Not only is the same rhetoric revived each time, but so are the alleged causes of the "shortages." The appetite of Americans for oil has been a favorite cause.

"Demand has got to come down," a Gulf Oil spokesman told the Associated Press in Philadelphia in July, citing the need for smaller cars, among other things.

"The increase in motor equipment is bound to go on while the oil supply, with the prodigal drain in it, will not," said the Saturday Evening Post in May 1923.

Talk of energy conservation is not quite the new idea it might seem.

"There is a growing drive to get Americans to cut down on fuel consumption," said U.S. News & World Report on Feb. 19, 1973.

"The Federal Oil Conservation Board recently directed a questionnaire to the General Motors Corp. requesting available data relating to improvements in engine design that call for less demand for motor fuel," read a press release of the board on Jan. 24, 1927.

DECLINE IN WELLS

A decline in oil wells drilled is an old symbol of an industry in trouble.

"Drilling rates have declined steadily since the mid-1950's. Now slightly more than half as many wells are drilled each year as were drilled in 1956," stated a Senate Interior Committee report in 1972.

"Discoveries of new fields in the United States during the past ten years have been decreasing in size and importance," warned a Senate Committee investigating the oil industry in 1947.

A world struggle over oil is another frequent fear conjured up during oil scares.

"The U.S. has had to come out onto the world market to buy where the Europeans are already well-established and have their supplies sewed up," a British oilman told the Associated Press in London in a June 30, 1973, dispatch.

"The story of oil now unfolding on the international horizon is a political and economic drama of the first magnitude. It is a drama of peace and war and progress that may affect the future of civilization even more profoundly than it has in the past," said a 1947 Senate Committee report.

Although the scenario of the present oil shortage has changed little from previous ones the most crucial part of the worldwide energy picture that has changed dramatically in recent years has been ignored by the oil companies in their energy crisis rhetoric.

Oil consumption in Western Europe and Japan has risen at a far greater rate than in the United States, although the United States is still the leading consumer of oil.

As The Inquirer disclosed on Sunday, consumption of petroleum products jumped 284 percent in Japan and 142 percent in Western Europe from 1963 to 1972. That compares with a 51 percent increase in oil consumption in the United States during the same period.

NEW FACILITIES BUILT

To meet that huge demand for oil products in Europe and Asia, the major, multi-national American oil companies poured billions of dollars into the construction of facilities for producing, refining and selling their goods around the world.

But at the same time the companies were building refineries in such places as Singapore, Amsterdam and Ghent, they were not building refineries in the United States—a policy decision that has contributed to the energy crisis of 1973.

The Inquirer reported Monday that Federal policies—including special multi-billion-dollar tax benefits—also encouraged the oil companies to expand abroad and discouraged investment in the United States.

All of that has helped lead the country to this summer's gasoline shortage, and the fuel oil shortage that will come this winter.

And all of that has contributed to the enormous credibility problem that both the oil industry and the Federal Government have developed over the last half century in dealing with the public on oil matters.

On no point is credibility more strained than on the question of the United States' oil resources. Today, as in the past, the United States is in no danger of running out of oil.

However, reading newspapers and magazines this year—which have been publicizing figures on U.S. oil reserves that have been supplied by the oil industry—might lead the average American to conclude that a shortage does exist. An article in the June 3 Philadelphia Evening Bulletin is typical.

Accompanying a story about the "oil shortage," was a four-column map showing the countries of the world and their oil reserves. The United States was listed as having 36.8 billion barrels; Canada as having 10.2 billion barrels and the Middle East as having a whopping 355.9 billion barrels.

But the figures listed on the map represented only the so-called "proved" reserves of those countries. And proved reserves, as the oil industry knows but rarely explains to the public, have nothing to do with the amount of oil in the ground.

PROVED RESERVES

Proved reserves refer only to the amount of oil that can be "extracted profitably with existing technology and under present economic conditions," according to the U.S. Geological Survey. In other words, reserves mean essentially the amount of oil that can be pumped from the ground at today's prices. Even academicians have done little to make this point clear as the new book, "The Energy Crisis," illustrates.

The book uses the figure of 100 billion barrels of oil "as our reserve of oil that is recoverable under present technological practices."

"The 1970 consumption rate was 5.4 billion barrels," the authors continue. "At this rate, our oil reserves would be depleted in about 20 years."

In reality, there is considerable disagreement among geologists as to how much oil may be ultimately recoverable from U.S. soil. But the figure of 100 billion barrels is, at best, conservative. Most studies place the figure at several hundred billion barrels, excluding shale oil.

"The (Geological) Survey now estimates 450 billion barrels of oil and 2,100 trillion cubic feet of natural gas to be recoverable by discovery of the potential resource base," Thomas B. Medders Jr., president of the Independent Petroleum Association of America, told a Senate Committee last year.

"These recoverable resources are in the order of 100 years' supply at present rates of U.S. consumption of both oil and gas."

A 1969 study by the geological consulting firm of DeGolyer and MacNaughton placed additional recoverable reserves of crude oil in the United States, including Alaska, at nearly 200 billion barrels.

A Senate Interior Committee report last year, after reviewing many projections, said estimates of recoverable oil ranged from 575 billion to 2,400 billion barrels of oil.

LOW ESTIMATES

Historically, the amount of recoverable oil has always been underestimated and there is no reason to believe that many of today's figures are not conservative as well.

T. H. McCulloh, writing for the U.S. Geological Survey, said estimates of oil reserves were "no doubt subject to further evolutionary change as economic incentives enlarge, as competition pressures force improvements in conservative efficiency, and as technologic advances permit involved and expanded explorations."

Thus, proved oil reserves have more to do with current crude oil process than with the amount of oil in the ground. An increase in the price of crude always means an increase in proved reserves, even though not one well is drilled.

Oil scares such as the present one, whatever their stimuli, always have the net effect of increasing the price of crude oil, which in turn expands reserves.

And of course most estimates exclude possible oil recovery from the vast oil shale deposits in the western United States. Other countries, notably Scotland, have been economically extracting oil from shale for decades.

The Green River formation of Colorado, Utah and Wyoming is the world's largest known shale oil deposit and contains an estimated 1.8 trillion barrels of oil, according to the Geological Survey.

As in the case of conventional oil resources, estimates vary on how much of this valuable petroleum deposit could be recovered for commercial use. A 1967 Geological Survey report identified one deposit of 160 billion barrels as potentially recoverable.

And of that figure, the report said 80 billion barrels could be mined under existing technology. At the time, the figure was nearly three times the proved reserves of the United States.

None of these estimates includes possible future development in Canada, which has far more oil than its current proved reserves of 10.2 billion barrels. In fact, many geologists believe Canada has as much or more oil than has ever been found in the United States.

WRONG PREDICTIONS

On other oil matters, the oil industry has consistently been wrong or off target in its predictions or has simply reversed its position on crucial policies when it became expedient to do so. The oil import quota program is a good example.

In 1959, President Eisenhower clamped mandatory controls on foreign oil imports. The reason was to avoid a flood of cheap Middle Eastern oil into U.S. markets that might supplant the U.S. producing industry.

Ostensibly, the program was to protect the country's "security" and to prevent the U.S. from becoming too dependent on foreign oil.

As the program increasingly came under attack in the 1960s for maintaining artificially high oil prices in the United States, the oil industry sought to defend it. The industry's most spirited defense was in 1969, when a cabinet-level task force headed by now Treasury Secretary George Shultz recommended junking the import quotas in favor of a tariff system.

In a series of statements filed with the task force, the oil companies all predicted disaster for the United States if the import program was scraped. Without exception, they strongly recommended that it be continued, adding that the control program would encourage domestic exploration.

"If the present incentives are continued," a confident Standard Oil of New Jersey (now Exxon) predicted, "it is our judgment that the domestic industry can find and develop increasing quantities of oil reserves over the next decade."

In a move that pleased the oil industry, President Nixon declined to scrap the program, even though his own task force said it should be abolished. But now, four years later, oil industry leaders are telling a different story about U.S. energy resources and are trying to give the impression they have warned of a crisis all along.

"For approximately the last four years," M. A. Wright, chairman and chief executive of Exxon USA, said recently in Los Angeles, "my associates and I in Exxon USA have been predicting the possibility that the nation could encounter serious energy problems."

UNDERMINE INDUSTRY

Texaco, in a statement typical of the industry's position, warned in 1969 that elimination of the oil import program "would undermine the structure of the domestic oil industry."

"Oil import policy has been a major factor in the growth of domestic supply during the past 10 to 15 years and it will be even more significant in the future," Texaco said.

But by 1973, Texaco officials were admitting that the domestic industry was experiencing a decline anyway, even though the import program had been retained—as they recommended.

"Domestic production has already peaked," said Kerryn King, Texaco senior vice president, in March. "Indeed, our nation's oil production in 1971 and 1972 actually declined from the all-time high of 1970."

The companies said eliminating the import program would lead to higher prices in foreign crude oil. Standard Oil of New Jersey said that by keeping the program "there will be no marked change in the prices of foreign oil at the exporting points over the coming decade."

Again, the oil companies were wrong. Foreign crude oil prices have steadily increased since 1969 and today much of the foreign crude oil that comes into the United States costs as much as domestically-produced oil.

But even more of an industry about-face, in light of cries of a refinery shortage today, is a Mobil Oil statement to the 1969 task force that saw additional refinery construction as more of a threat than a boon to the industry.

"Removal of the (import) controls would result in a fairly rapid construction of additional East Coast refining capacity," Mobil said. "Gulf Coast refining capacity would not be expected to show any growth in future years and some capacity might be idle.

"Much of the East Coast tanker fleet would become surplus and Gulf Coast terminals for crude shipments to the East Coast would become largely inoperative."

POSITIONS CHANGE

By this year, the oil companies were blaming the import program they had so staunchly defended over the years as being one of the reasons for the shortage in refining capacity.

"Foreign oil import quotas, for over a decade, were allotted to refineries in a most inequitable manner, deterring refinery construction because of uncertainties in crude supply," said O. N. Miller, board chairman of Standard Oil of California.

In summary, virtually everything the oil industry warned would happen if the import program was scrapped happened anyway while the program remained in force. Foreign oil prices soared, the United States became more dependent on imported oil and the domestic oil industry declined. And the program cost the American consumer billions of dollars in higher prices.

Then, in April of this year, in the most adroit policy reversal of all on the import question, the big oil companies backed President Nixon's decision to remove quotas on all imported foreign oil, a move they had said four years earlier would destroy the American oil industry.

What happened in those intervening four years was quite simple: Once-cheap foreign oil rose in price to equal oil produced domestically.

The industry's reversal on the import question is typical of its flexibility. It has little trouble reversing its position or working both sides of the street on oil policy matters.

For years, oil companies have promoted gasoline consumption by giving away with gasoline purchases everything from drinking glasses to rubber dinosaurs.

As recent as the spring of 1970, the Oil and Gas Journal quoted industry sources on the outlook for that summer's gasoline market and concluded "prospects look good for a healthy motor-gasoline season this summer."

The only factor that might interfere with the rosy prediction was a general economic malaise, the magazine said. But one industry source dismissed such pessimism and looked to older cars to boost gasoline sales.

BURN MORE GASOLINE

"On the other hand," the magazine said, "one source notes the dip in new cars wouldn't necessarily mean less demand. 'Older cars might burn more gasoline than new ones,' he said. 'And the growing use of credit cards can tide people over.' "

Now, of course, the industry is blaming the new cars for excessive gasoline consumption because of anti-pollution devices.

"These vehicles consume more, not less fuel, and get less, not more, mileage per gallon—yet another burden on the energy system," declared King of Texaco, in June.

On another environmental matter, oil companies have repeatedly blamed the switch from coal to low-sulfur fuel oil by utility companies—as required by new air pollution control standards—as being a partial cause of soaring fuel oil consumption.

Exxon, for example, in its latest annual report, put part of the blame for last winter's fuel oil shortages on the switch from coal. "Use of coal from traditional sources has been restricted by environmental regulations," Exxon said.

But two years earlier in its 1970 report, Exxon took note of how the shift from coal to fuel oil was boosting the corporation's sales all over Europe:

"Fuel oil sales were particularly strong in the United Kingdom, Esso's largest European market for this product, because of the growth in demand for electric power and the short-fall of other fuels.

"Utilities' coal supplies were reduced by strikes, and power from nuclear plants was restricted by technical difficulties. Distillate sales in West Germany, the largest Esso heating oil market in the world, as well as in France, benefitted from the continuing shift from coal."

INCREASED PROFITS

So although the industry says the switch from coal to oil in the United States has agravated the energy crisis, the transition from coal to oil in Europe has increased oil company profits.

Concerning tax breaks for their overseas operations, the oil companies have always maintained seemingly contradictory positions.

"Continued foreign exploration and development by U.S. companies is also necessary to meet U.S. energy requirements," Emillio G. Collado, executive vice president of Exxon told a House committee earlier this year.

But a former executive of the same corporation, Dr. Richard J. Gonzales, told a Senate Committee a few months before that "there is no question that most of the foreign oil being developed (by U.S. companies) is being developed for use abroad, not in the United States."

Amid each crisis in the industry, the government has always remained about as much in the dark as the public. Being unable to separate fact from fiction and falling victim to false scares and ill-founded predictions.

"There are vast areas of the globe which apparently are without petroleum deposits," said a 1947 Senate committee report.

"Most of Africa and Australia offer little prospect to the driller," the report went on, echoing prevailing theories of the oil industry. "China, Japan, eastern Siberia, a large part of Russia in Europe, the Scandinavian peninsula, France, Spain, Italy and the British Isles are virtually without local sources . . . of oil supply."

Time has disproved those theories. Africa, which is still in a state of oil exploration, already has . . . three times the proved reserves of the United States (90 percent of the crude oil refined in Gulf's refinery in South Philadelphia is from Nigeria).

The Soviet Union has vast oil deposits. And huge oil and gas reserves discovered in the North Sea off the British Isles now mean that Britain, long dependent on the Middle East for oil, will become largely self-sufficient by the 1980s.

DIFFERENT IN FUTURE?

Is there any reason to believe now, given this background of periodic oil scares and strained oil industry and government credibility on the oil question, that the future might be different?

Will the United States be able to get more oil out of the ground? Will the Federal government collect the needed statistics to determine an oil policy? Will the monopolistic practices of the oil industry be eliminated?

Consider what is happening today.

The way to increase U.S. oil reserves, according to Dr. Gonzalez, the former Exxon official and now an oil industry consultant, would be to increase the amount of oil taken from existing reservoirs.

By increasing the yield from "30 percent under current conditions to 60 percent with adequate incentives," Dr. Gonzalez told a Senate committee last year, the U.S. would triple its proved reserves.

Of course, the industry was saying the same thing in 1935, offered this explanation as to why seasoned oilmen were not worried about an oil shortage:

"Science may develop methods for removing more than the small proportion (about 30 percent) of petroleum now taken from oilbearing sands."

The way to get the Federal government involved, according to Sen. Henry Jackson (D., Wash.), is to start gathering statistics about the oil industry.

"We are considering legislation now," he told the Senate June 4, "and I hope we will have something introduced shortly, probably giving this authority to collect the data to the General Accounting Office, to marshal all the facts and the information so that we can get it on the basis of sound data, of objective facts."

Of course, a Senate committee headed by Robert M. LaFollette in 1923 could not have agreed more. That committee's report—50 years old in March—suggested this remedy:

"A compulsory system of reports to a government bureau every month showing the operations of each oil company engaged in interstate commerce, and particularly the quantities of crude oil and its products in storage or transportation, and this data should, by such government bureau, be assembled and arranged so that any time the exact condition of the industry can be ascertained either by concerns engaged in the oil business, by officials or the public generally."

The way to limit the power of the big oil companies, according to oil industry critics today, is to take away their control over oil pipelines, a power that now enables them to put the squeeze on independent refiners and oilmen.

The Federal Trade Commission, as a followup to its just-released report on the oil industry, is considering recommending a "concerted antitrust attack on the biggest companies' control over pipelines, refining operations and marketing," according to the Associated Press.

Of course, the LaFollette committee of 1923 reached essentially the same conclusion—that big companies dominate the oil industry. And the report recommended in part:

"Pipe lines must be made real common carriers. Delivery stations must be established wherever reasonable demand for them can be shown to exist, so that pipelines shall no longer serve simply the great companies, but shall serve on an equal basis every transporter of petroleum."

INVENTOR TO USE "PIG POWER"

CAR DEVICE EXTRACTS GAS FROM MANURE

Harold Bate isn't worried about the energy crisis.

No indeed. Mr. Bate, an enterprising British inventor, has perfected a device that will enable him to drive "as far as he likes in a car powered by pigs." Or so says the London Daily Express.

In a story headlined "Harold's Pig Power Car Invention Gives the Green Light to Road Hogs," the Express recently said Bate ran his 1955 Hillman Minx on a "powerful gas extracted from pig manure."

What makes this possible is an auto-gas converter that Bate invented and patented and which he claims, can be fitted to any car, enabling it to run on the odorless gas.

Well, if pig power is not for you, then how about straw power, or corn cob power or sugar beet power? Why not put a potato in your tank?

Amusing as Bate's pig power car might seem, the U.S. government was serious in the 1920s when it asked scientists and engineers from around the country about the possibility of using potatoes, corn cobs, straw, beets and assorted farm products and vegetables to run automobiles.

That was back in 1927 when the Federal government feared that the United States would soon run out of oil.

The idea was to take vegetables and waste products such as straw or grain dust off the farm and convert them into alcohol or gas to run the internal combustion engine. Such a process was technically feasible, the government learned, but there were drawbacks.

"Alcohol could possibly be made from potatoes and other vegetables profitably," a California chemist answered, "but this would tie up an enormous acreage of good producing land."

"If corn were to furnish the only substitute for the gasoline we now use," a Federal oil conservation board report concluded, "two-thirds of the total tilled acreage of the farms of the United States would be required for this purpose alone, and the remaining third would be insufficient to grow the corn needed for all other uses."

Another engineer pointed out that crop failures could then lead to fuel shortages if agricultural products were used to run cars.

Not only would huge amounts of land be needed to feed the growing appetite of the motor car for vegetables and other products, the government wisely foresaw another difficulty that stood in the way of its scheme:

"To find the additional farm labor required to cultivate these raw materials might be an even more puzzling problem."

Such alternatives die slowly, however, and only this month, in a white paper, Sen. Mike Gravel (D., Alaska) referred to more recent government efforts to safeguard the American right to fuel.

"Another governmental study reported in 1970, that domestic animals—produce enough waste every year to make two billion barrels of low sulfur oil—or nearly 40 percent of our present consumption," Sen. Gravel's paper calculated.

WHAT IS U.S. GOVERNMENT DOING?

INTERIOR SECRETARY REPLACES LIMOUSINE WITH SEDAN

Here are some questions and answers about the current gasoline shortage and the so-called energy crisis in the United States:

Q.—What is the Federal government doing to ease the gasoline shortage?

A.—Well, Rogers C. B. Morton, Secretary of the U.S. Interior Department, has exchanged his government-issued Cadillac limousine for a Plymouth Fury sedan "to accommodate his official transportation needs."

Q.—What else?

A.—U. S. Sen. Dewey Bartlett (R., Okla.) introduced a resolution in the Senate asking the President to promote nationwide carpooling because it "would provide the cheapest form of mass transit."

Q.—Anything else?

A.—Yes, the President plans to direct the Federal Housing Administration to update its insulation standards for homes and to consider extending those standards to cover mobile homes.

Q.—Isn't the conservation of energy important?

A.—Of course it is. So is obtaining the most economical use of fuels. But the nation's energy crisis will not be resolved through conservation alone.

Q.—What else are Congress and the President doing about the oil shortage?

A.—Not much. And that's the problem. More than 100 years have gone by since the first oil well was drilled and the United States still does not have a national energy policy.

Q.—Why do we need a national energy policy?

A.—For one thing, it might help preclude the kinds of disastrous mistakes that one Washington administration after another has made in dealing with oil matters.

Q.—Can you give me an example?

A.—In the late 1960s, the Canadian government wanted to negotiate a North American energy policy, encourage exploration in Canada and ship more oil into the United States.

Q.—That sounds like a good idea.

A.—It was. But the United States wasn't interested. In fact, in 1970, President Nixon even slapped restrictions on oil imports from Canada, our most secure source of foreign oil.

Q.—What happened?

A.—Now, when the United States could use more Canadian oil, the Canadians are playing the same game. They have clamped restriction on oil exports to this country.

Q. What other mistakes has the government made?

A. Last September the Office of Emergency Preparedness told the Senate: "We don't see a shortage in fuel oil, and we don't see a shortage in other products either."

Q.—you mean the Federal agency in charge of emergency planning couldn't predict a fuel oil shortage three months in advance?

A.—That's right.

Q. Why?

A.—The Federal government gets a lot of advice from the oil industry and the industry assured the government there would be no problem.

Q.—Doesn't the government keep statistics about how much crude oil we have and how much we need?

A.—Yes, but only those statistics the oil industry wants to provide. There is no verification of the data, no independent audit by the government.

Q.—You mean there's a law that says I have to complete a census form, but there's no law that says the oil companies have to give information to the government?

A.—That's correct. In fact, the Bureau of Labor Statistics has been unable to complete a gas pricing survey because the companies refuse to cooperate.

Q.—If the government doesn't keep the statistics it should, is it at least doing research on some energy problems?

A.—Oh, yes.

Q.—What kind or research?

A. Back in the 1920s, the Federal government began looking into the possibility of extracting oil from shale, trying to find a process that would be economically competitive with regular crude oil.

Q.—What happened?

A.—The government is still looking into the possibility.

THE ENERGY CRISIS

Mr. STEVENSON. Mr. President, an excellent 3-part series on the causes of the energy crisis recently appeared in Chicago Today. Written by Brit Hume, a free-lance reporter, the articles provided some startling insights and answers in regard to the question of why we are where we are. In particular, the articles examined the role of the oil industry itself, looking in general at the anticompetitive nature of the industry and then focusing on such specific issues as why no new refineries were begun in the United States between 1969 and 1973.

I highly recommend these articles—which appeared in the December 5, 6, and 7 issues of Chicago Today—to my colleagues, and for the purpose of making the articles available I ask unanimous consent that they be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From Chicago Today, Dec. 5, 1973]

INSIDE LOOK AT OIL INDUSTRY: WHO'S TO BLAME FOR FUEL CRISIS?

(By Brit Hume)

WASHINGTON.—In September, 1972, supplies of home heating oil in the United States were dangerously low and stocks of crude oil, from which heating oil is refined, had fallen to their lowest level since World War II. A serious fuel shortage seemed inevitable as winter approached.

President Nixon authorized the petroleum industry to import more foreign crude oil. It was the second time in five months he had increased the allowable imports of foreign oil, which had been under tight government restriction since 1959.

A few weeks later, in a speech to the National Petroleum Council, Gen. George Lincoln, head of the White House Office of Emergency Preparedness, which had charge of oil imports, strongly urged industry leaders to crank up their refineries to full capacity to head off a heating-fuel crisis. Simultaneously, the Interior Department sent telegrams to the major oil refineries urging them to do the same.

The response of the major oil companies was to import only one-third of the additional crude oil the President had authorized and to run most of their refineries below capacity for the rest of the year.

Oil men say government indecision over oil import policy, coupled with price controls and antipollution regulations, were the main causes of fuel scarcity.

Regardless of the government's role, the major companies' own reports show that their conduct before the spot shortage of last winter is consistent with their behavior over the last three years.

The present decade began on a note of uncertainty for the larger American oil companies, despite growing energy needs which made demand for their products greater than ever.

The environmental movement was gathering momentum and promised to become an important political force in the country for years to come. Already, offshore oil drilling, such as that which had caused the disastrous spill in the Santa Barbara [Cal.] Channel, the burning of high-sulfur oil, and the construction of the trans-Alaska oil pipeline, were facing stiff environmental resistance.

In the aftermath of the 1967 Middle East war, the Arab states were taking a much more nationalistic attitude toward their massive oil reserves.

At home, Congress reduced from 27½ per cent to 22 per cent the oil depletion allowance, which allows the industry to write off for tax purposes a sizable chunk of its receipts from crude-oil production.

Moreover, the major oil firms found themselves losing an ever-larger share of the domestic market to smaller, so-called "independent" firms—particularly in the gasoline line—which were attracting business by doing something the majors rarely did: Competing over price. Costs were rising rapidly, but competition from the independents were helping to hold prices down. The balance sheets of the major oil firms showed record sales, but declining profits.

In addition, there were strong indications that domestic oil production, which had always been more than enough to cover the nation's needs, was at last peaking and would soon be outstripped by consumption. The Cabinet Task Force on Oil Imports Controls sent the President a report recommending abolition of the existing quota program and substitution of a more liberal tariff plan.

The industry was bitterly opposed. It had always contended vehemently that the tight import retrictions were vital to national security. Unrestricted imports, it was argued, would discourage domestic exploration and allow the country to become dependent on foreign oil which, however cheap and plentiful, could be instantly shut off.

The task force's advice was ultimately rejected by Nixon, but the administration did announce it would allow a small increase in the allowable imports of foreign crude oil in 1970.

The petroleum industry in the U.S. is dominated by 18 large firms which are, in the language of economists, "vertically integrated." This means that they operate in all phases of the oil business—exploration and production, transportation, refining, distribution and marketing.

These 18 generally are known as the "Majors," altho the term is used more and more often to refer to the top 10 oil companies. The majors produce about 70 per cent of the domestic crude oil, control about 30 per cent of the refinery capacity and market about 72 per cent of the gasoline sold in this country.

The largest of the majors also dominate the production of natural gas in the U.S. and have made heavy investments in the coal industry in recent years.

Despite this heavy concentration of a relatively small number of companies in all phases of domestic fossil-fuel production, the major oil companies vigorously resist any suggestions that they are not fully competitive. Nevertheless, they cooperate rather than compete in several ways.

It is common for several oil companies, for example, to submit joint bids on multimillion-dollar leases of government-owned oil reserves and to pool resources for joint exploration ventures seeking crude deposits.

Most of the huge pipelines which are the principal form of transportation in the oil business are jointly owned by several companies. Major firms often engage in exchange agreements under which one will supply the other's markets—for gasoline, for example—in one area where it lacks facilities in exchange for a similar favor in a different region. Reciprocal processing agreements among major firms are also frequent [one company will refine another's crude oil in one place in exchange for having its own crude processed in another].

[From Chicago Today, Dec. 6, 1973]

Poor Refinery Planning a Key to Oil Squeeze

(By Brit Hume)

Perhaps the most obvious clue to the state of competition in the oil industry is its national advertising.

The majors spend heavily to gain recognition for their brand names, promote product ingredients, and advertise giveaways. Instead of bargains on gas and oil, the consumer hears about Tony the Tiger, Platformate, free drinking glasses and National Football League trading cards.

In contrast, the independents advertise little. Their stations are typically low-overhead, self-service operations which offer almost none of the mechanical services and auto supplies available at the majors' outlets. They stick to high-volume sales of gas and oil at prices below those at major stations.

Altho their share of the market was growing rapidly in the early part of this decade, the independents were still at a disadvantage: They are not vertically integrated.

Independent refineries have had to rely on the majors for a large part of their crude oil. And independent marketers must turn to other independents or to the majors to obtain refined products. What's more, the oil depletion allowance has encouraged the majors to push all their profits into crude-oil production where a large portion could be deducted. To do this, the majors kept crude prices as high as they could and cut profit margins on their refining and marketing operations to the minimum.

For them, this generally involved only bookkeeping transactions since they were selling their crude to their own refineries and their refined products to their own marketers, or engaging in reciprocal arrangements with other majors to achieve the same results. But for the independent refiner, high crude-oil prices usually represented a real additional cost.

Altho there could be no doubt that demand for oil products would continue to boom in the early Seventies, the majors decided not to increase their refinery capacity significantly.

An efficient refinery costs about $250 million to build and this has generally meant that only the majors have been able to afford new ones in the last 20 years. The majors' spokesmen have insisted that uncertainty about government policy on oil imports and environmentalist objections to new plant construction were the main reasons behind their reluctance to expand refinery capacity.

By early 1971, Oil and Gas Journal, the most authoritative of the industry's trade publications, reported that the nation might be on the way toward a shortage of refinery capacity. The American Petroleum Institute, the industry's voice in Washington, predicted that the shortage would come before 1975. The Interior Department's Office of Oil and Gas published a study containing a similar forecast and declaring that existing refineries would have to be run full tilt to keep up with demand.

In August, 1971, President Nixon imposed wage and price controls. Gasoline prices were frozen at seasonal highs and heating-oil prices at off-season lows. Gasoline was always more profitable to produce, but the freeze made it more so and created a strong barrier to the production of heating oil.

The freeze was lifted in November, but oil prices were still controlled. In February, 1972, the Cost of Living Council refused to grant the industry a price increase for either crude oil or gasoline and heating oil. For the first six months of 1972, profits fell almost 5 per cent, altho sales were up by an even greater amount.

In early 1972, industry journals were reporting that crude-oil production in both Texas and Louisiana, the two biggest oil states, was declining. While this was apparently true, it is difficult to know whether it was caused by an actual decline in reserves or by the industry's failure to produce as much as it could. There are at least some indications the larger companies might have been deliberately slowing production.

The Texas Railroad Commission requires the oil companies which do business in the state—which includes nearly all the larger firms—to report "desired" levels of crude-oil stocks.

The Commission's records show that the 10 largest of the oil companies reporting [all of them majors] "desired" smaller stocks of crude oil to feed most of their refineries in 1972 than they had had in 1971, even tho demand for petroleum products had risen almost 7 per cent. Their actual crude-oil stocks were also less than they had been the year before.

The commission's records show that the drop in "desired" levels was reported only by those top 10 oil companies, with the next 15 reporting increases in their desired levels. But since the top 10 account for about three-quarters of the oil production among the top 25 that report to the Texas commission, it averaged out to an overall drop in the "desired" stock of crude.

Besides indicating a desire for smaller crude oil stocks last year, the major petroleum firms also kept the bulk of their refinery capacity below maximum output for most of the year. In the first four months of 1972, according to their reports to the Texas Railroad Commission, the top 10 firms actually kept their refineries running below the level of the same period of 1971.

As a result, supplies of gasoline and heating oil dropped below their levels of a year before. Refinery runs were sharply increased in the next five months, largely to head off a summer gasoline shortage. But this meant that heating fuel was scarce by fall.

When the crunch came, they accelerated refinery operations to take up the heating oil slack but this got them behind in gasoline production and shortages of gasoline in the summer of 1973 became inevitable.

[From Chicago Today, Dec. 7, 1973]

Oil Shortage—Big Firms Guilty of Monopoly?

(By Brit Hume)

A number of the major oil companies have continued the process, begun some years ago, of shutting down marketing units in certain areas, apparently to withdraw from their least profitable operation.

Industry spokesmen insist the shutdowns were merely to liquidate "uneconomic" operations. But to some students of the oily business, it looked suspiciously as if the big oil companies were carving up the domestic market to share among themselves.

A Federal Trade Commission report on the industry completed last summer explained it this way:

"All the majors can increase their regional market concentration simultaneously by pulling out of markets where their share is lower than their national average and selling their operations to those majors who remain.

"This strategy will work, however, only if the majors can retain or expand their regional market shares. To do so, they must prevent the further entry and expansion of independent marketers. Ultimately, the only way to contain or reduce the independents' market shares is thru monopoly power at the refining or crude pipeline stages."

In fact, since the onset of the shortages, the majors have increasingly been telling independent refiners and marketers they could not supply them with either crude oil or refined products because they needed all they had for their own operations. Independent refiners have been forced to operate well below their normal capacity.

The impact on independent marketers has been devastating. Hundreds of independent gasoline stations have shut down because of a lack of supply. Many that stayed open were forced to raise prices, wiping out their competitive edge. And the majors increasingly opened up so-called, "fighting brand" stations which emulate the high-volume, low-overhead, discount approach pioneered by the independents.

For the most part, Nixon administration officials have agreed with the oil companies that price controls coupled with increased demand were the principal immediate causes of the shortages of last winter and spring. Last November, the Interior Department's Office of Oil and Gas concluded in a draft report that the best approach to licking the heating-fuel problem was to raise the price, providing the industry with an incentive to increase supply.

In mid-December in a memorandum to Nixon, Gen. George Lincoln of the Office of Emergency Preparedness said the shortage was due "in large part to the pressures on refinery capacity, coupled with the price control situation which has made gasoline production preferable to production of heating oil."

Nevertheless, the Cost of Living Council has refused to permit across-the-board increases. It concluded last winter, according to Lincoln, that "the oil industry can make a profit on current prices of [heating oil] and they know it."

So the industry's giants have failed to get the price increases they have longed for. But they have accomplished a number of other objectives. The Alaska pipeline has been cleared for construction by Congress. Environmental roadblocks—to offshore drilling, for example—seem about to fall. The pesky independent companies have been gravely weakened. And the majors' sagging profit picture of the late '60s and early '70s has taken a dramatic turn for the better.

Exxon, the nation's leading energy company, has seen its profits increase more than 80 per cent in the third quarter of this year from the same period a year ago. None of the top five oil companies has reported third-quarter profit increases of less than 50 per cent from last year. Gulf, the third-leading oil producer, says its profits are up 91 per cent from the third quarter of last year.

There are some who believe the major oil companies conspired to bring about these results. Indeed, the FTC has filed a huge antitrust case against the top eight oil companies accusing them of collusion to monopolize the industry.

The FTC's central allegation is that the eight oil majors have "maintained and reinforced a noncompetitive market structure in the refining of crude oil into petroleum products." They have done this, the FTC charges, by—among other things—"pursuing a common cause of action to abuse and exploit the means of gathering and transporting crude oil to refineries . . . participating in restrictive or exclusionary transfers of ownership of crude oil among themselves and with other petroleum companies . . . using their vertical integration to keep profits at the crude level artificially high and profits at the refining level artificially low . . . accommodating the needs and goals of each other in the production, supply, and transportation of crude oil to the exclusion or detriment of independent refiners."

The commission also charges that similar practices have given the eight firms "monopoly power" over the marketing of petroleum products. The industry has vigorously denied the charges. The case will take years to litigate.

AN INCOMPLETE REPORT ON SECRET CAMBODIA BOMBING

Mr. HUGHES. Mr. President, on several occasions this year, I have addressed the Senate regarding various aspects of the Armed Services Committee's investigation into secret bombing in Cambodia and other hitherto secret operations by our armed forces in Southeast Asia.

Although we still do not have adequate information to reach final judgments, I want to take this opportunity, before the Congress adjourns, to review what we have learned and what we still need to know.

On July 23, I gave the Senate a "preliminary report" on our investigations until that time. On that occasion I noted that I suspected that "there are uncharted depths, perhaps more frightening than what has yet been disclosed, to be brought to light."

In the course of 4 additional days of hearings by the Armed Services Committee, we learned of several incidents in which hospitals had been bombed, cross-border ground operations involving more than 100 soldiers, and false reporting of tactical air strikes deep inside Cambodia during and after the American ground invasion.

These hearings, well reported by the news media at the time, have not yet been published by the Armed Services Committee because of the failure of the Defense Department to supply all of the requested, relevant information.

Let me express my gratitude to the committee, and particularly to the acting chairman during this investigation, the distinguished Senator from Missouri (Mr. SYMINGTON). They recognized the seriousness of the charges which had been raised and the urgency in getting at the truth.

Senator SYMINGTON has continued to prod a recalcitrant Pentagon to provide us the requested information, and I deeply appreciate his assistance and counsel.

On August 2, I told the Senate of my conclusion that the falsification of records was so routine and pervasive in U.S. combat air operations in Southeast Asia that it had become a way of military life, in which truth and accuracy were subordinated to service loyalty and obedience to orders. At that time I also announced my determination to give close examination to general and flag officers nominated for promotion.

When the Defense Department released its so-called white paper on these secret operations on September 10, I inserted that report in the RECORD but noted that it was incomplete and unacceptable in many important respects. Subsequently the distinguished acting chairman of the committee, Senator SYMINGTON, wrote to the Defense Department, pointing out some 20 instances in which requested information was not supplied or was incomplete.

Today, more than 4 months after those hearings and 3 months after the committee's first renewed demand for complete information, the record is still incomplete.

My staff has identified 11 instances in which information requested from and promised by the Defense Department still has not been furnished to the committee.

Several of these failures by the Pentagon are relatively minor—a report on reconnaissance activities and copies of documents cited or quoted in testimony but not provided in full to the committee.

But other requests go to the heart of the issue—how and why the President decided to begin the secret bombing without fully informing the Congress or the American people.

Although the chairman of the Joint Chiefs of Staff at the time, Gen. Earle Wheeler, remembered attending several meetings on the initiation of the bombing, and Gen. Creighton Abrams remembered sending requests for such bombing, we have not been provided any of the relevant documents. The only decision document provided was one dated from November 20, 1969—more than 8 months after the first strikes.

The official excuse now is that "Department of Defense records do not include any memorandum from the Chairman, Joint Chiefs of Staff, to the Secretary of Defense for the first menu operation which corresponds to the November 20 memorandum already provided to the committee."

Mr. President, that statement is evasive and unresponsive. The committee wanted to see the documents that started this secret war, regardless of whether or not they took the form of the one document which was provided.

I cannot believe—I do not want to believe—that there are now gaps or missing documents in this Government's records of this secret war.

We know that there were such documents at one time, and that our military machine required written orders approved by responsible officials before widening the war.

Where are those documents now? What do they say? The events of recent months only reinforce one's suspicions that missing documents are missing for a reason, and not because of innocent or inadvertent error.

I believe that the Armed Services Committee should act to subpena these documents, from the President, if necessary, so that it can evaluate whether the existing laws governing civil-military relations and the conduct of war are adequate to situations of clandestine operations.

The Senate cannot fulfill its role and the Armed Services Committee cannot perform its job if crucial information is withheld for any reason—and no credible reason has even been offered in this case.

Not only are the basic decision documents missing, but the committee still has no explanation of the details of how Members of Congress were informed about these operations. All the evidence is hearsay, and none of it is precise as to how and when selected Members of Congress were told.

This should be particularly disturbing to Senators because of the double standard followed—treating some Senators as more privileged than others. Nor did the administration pay any respect to our leadership institutions. In neither body was the majority leader informed, nor even the ranking minority member of the Armed Services Committees.

There was also a double standard in terms of secrecy which resulted in a perversion of our constitutional responsibilities to appropriate funds. Under the Johnson administration, the Appropriations Committees were apparently informed of the costs of the secret cross-border ground operations—and no breach of security classification was ever claimed. But in the Nixon administration the much more costly air operations were not disclosed.

Also missing at this time are the high-level orders permitting a U.S. ground invasion of Laos in 1969, within a few days of President Nixon's inauguration. Moreover, the official testimony that no American combat troops entered Laos after the December 1969 law prohibiting such operations was passed has been contradicted by witnesses who were involved in such activities after that time.

In addition, the Defense Department has failed to report on allegations of hospital bombings except in one case. Yet the committee record contains statements from four other men about such incidents.

In these circumstances, we cannot close the books on this investigation. Nor should we rest easy until we know all the facts and know how to prevent any future situation in which military men are in any way uncertain as to the legality of the orders which they have been given.

This is one of the most frightening discoveries in these hearings. Witness after witness told of receiving orders to report information in a special, distorted way. When General Wheeler was asked what would happen to a soldier who questioned an order, he responded that it would depend on whether he was right.

How is a man to know whether he is right? The Uniform Code of Military Justice forbids the falsification of official reports. Both Sgt. Lonnie Franks and Maj. Hal Knight received orders to falsify their reports. In one case the Air Force claims that the orders were unauthorized, but in the other case the raids and the false reporting were deemed legal. No one ever answered the crucial question of how these men should have known the difference.

Another instance of false reporting remains unresolved. Two witnesses testified that even after the American invasion of Cambodia had occurred and the world knew that we were bombing in that nation, orders from the 7th Air Force required that strikes deep inside Cambodia be reported as if they occurred near the South Vietnamese border.

The Defense Department does not dispute this testimony, nor can it explain it, but the "white paper" says merely that a system of "attributed targets" apparently arose "in the field." The documents implementing this system cannot be located, DOD says, and thus they probably "were disposed of in the displacement of the 7th Air Force."

In order to pin down who actually originated this system or knew of it and tolerated it, I have submitted questions to each of several nominees for high-level promotions who served in Southeast Asia during the period when this false reporting occurred. Each nominee has duly responded, and in each case so far, they have denied knowledge of or involvement in this activity. Although I do not doubt the veracity of these men, and in fact voted to approve their promotions, I was disturbed by their lack of awareness of this widespread practice.

For the sake of completeness of the public record, I ask unanimous consent that the letters from these several nominees be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HUGHES. Mr. President, I shall continue to ask questions of future nominees until I am satisfied that we know what we can know about these operations.

We need to continue this investigation, Mr. President, because it goes far beyond simple matters of academic, historical interest. These secret operations were conducted without regard to the Constitution and involved procedures which raise serious questions about the integrity of the military command structure.

Until we know all the facts, we cannot be sure of finding the best legislative remedies. And until we find the remedies, we run the risk of having our military forces under uncertain control.

No group or individual within our society, however well-intentioned, should ever be permitted to make the momentous decision to wage secret war while officially deceiving the Congress and the public. History has shown that this is the way that free nations under civilian rule have forfeited their freedom.

EXHIBIT 1

DEPARTMENT OF THE AIR FORCE,
Washington, D.C., September 5, 1973.

Hon. HAROLD E. HUGHES,
Committee on Armed Services,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HUGHES: I welcome this opportunity to respond to the questions which were submitted for my action along with your letter of 19 September 1973. Specific answers, to the best of my knowledge, are provided below:

1. Q. As Vice Commander of the 7th Air Force, were you fully briefed on all operations by the 7th Air Force?

A. Yes, I believe so.

Q. Do you have any reason to believe that General Brown had any information regarding operations which you did not?

A. I am unable to relate the completeness of my information in comparison to General Brown's since his responsibilities and exposures were more extensive than my own.

2. Q. When and how did you learn of MENU strikes?

A. I do not recall specifically, but it was a gradual learning process throughout my tour of duty.

Q. What were you told regarding reporting procedures, either through SACADVON or from GCI sites?

A. I was told that operational reporting of these strikes was done by SACADVON through MACV using special communications channels.

3. Q. Were there any lengthy periods (more than three days) in which General Brown's absence left you in command of the 7th Air Force?

A. Yes. During his two plus years there and the one year of my duty, he took minimum essential respite.

Q. Can you recollect some or all of those dates?

A. I can recollect two periods of more than three days but I do not recall the dates.

Q. During such periods, did you become aware of any peculiarities in the reporting procedures for tactical air strikes in Cambodia?

A. The only tactical air strikes conducted in Cambodia during my tenure as Vice Commander, Seventh Air Force occurred in April, May, and June 1970. For the reasons stated in previous testimony, SSO channels were used for reporting the operations called PATIO. To the best of my knowledge, the other tactical air strikes were reported in normal operational reporting channels.

4. Q. To whom did FACs report on air operations in Cambodia?

A. Before 1 May 1970, when US ground forces entered Cambodia, FACs reported directly through MACSOG (PATIO operation). Subsequent to 1 May 1970 and until my departure on 7 June 1970, FAC reports for all operations other than PATIO were submitted through normal reporting channels. FACs supporting PATIO continued to report through MACSOG.

5. Q. Did you receive reports or briefings from both FAC and fighter-bomber elements regarding air strikes in Cambodia?

A. Not directly. I assume the reports were part of operational or intelligence summaries which I saw or heard.

6. Q. Were you aware of any differences in these reports, particularly in terms of where the strikes were conducted?

A. I don't recall being aware of differences.

7. The Armed Services Committee has received testimony to the effect that, on strikes deep inside Cambodia, there were written orders from 7th AF HQ instructing intelligence officers to call TACC for "reporting coordinates" which were at variance with the actual targets struck.

Q. Were you aware that this was being done?

A. No.

Q. Did you ever issue or see any orders to this effect?

A. No.

Q. Did you ever issue or see any orders that would have required only completely accurate reporting?

A. I did not issue any nor can I cite any, but accurate reporting was the agreed, prescribed principle and practice.

Q. Were there any instructions or guidance from higher authority which would have justified dual reporting procedures?

A. Although I am unable to cite such an instruction, I am positive they were authorized by valid authority during my tour.

Q. In your point of view, was there any justification for such dual reporting?

A. Yes. In my opinion the testimony to date justifies dual reporting prior to my departure.

8. The Defense Department has told the Armed Services Committee that "Instructions in the field relating to the reporting of such operations which occurred outside the designated Freedom Deal areas stipulated . . . that special security communications channels would be employed.

Q. Who "in the field" originated these instructions?

A. I do not know. This operation occurred after my departure.

Q. On what authority were these instructions issued?

A. I do not know. This operation occurred after my departure.

Q. Were you or General Brown aware of, and did you approve these instructions?

A. The directives concerning operations in areas outside FREEDOM DEAL were issued after my departure from Southeast Asia.

9. The Defense Department has also admitted that a system of "attributed targets" arose "in the field."

Q. Were you involved in any way in developing that system of reporting?

A. No.

Q. Do you have any knowledge of how that system developed or who was responsible for its creation?

A. No; but I can understand in a general sense what inevitably happens when security restrictions are imposed and subordinate commands have to meet them and still account for fuel, munitions, and other logistic data.

Q. Were you aware of any orders which could reasonably be interpreted as forbidding the development of such a system?

A. No.

Q. Were any Air Force personnel tasked with the responsibility of comparing after-action reports for completeness, accuracy, and consistency? If so, why do you believe they failed until 1971 to disclose the system of dual reporting?

A. Yes; I must assume appropriate people were tasked to check accuracy of after-action reports. As to your question regarding failure to disclose the system until 1971, I have no knowledge since the events to which you refer occurred after I departed Southeast Asia.

10. Q. Who conducted BDA and post-strike reconnaissance on strikes in Cambodia?

A. Post-strike reconnaissance missions on strikes in Cambodia were conducted by three categories of reconnaissance assets; strategic reconnaissance platforms (SR–71 and U–2), under the operational control of SAC; tactical aircraft (RF–4) assigned to Seventh Air Force; and helicopters and observation aircraft under the control of MACSOG. I do not know what agencies performed the assessments.

Q. Was the information from these missions ever available to the same people who received the reports with attributed targets?

A. I don't know how all the information from these missions was handled.

Q. If so, who were these people and why did they not notice the discrepancies?

A. Not applicable—see above.

11. Q. Who received the after-action reports which contained the attributed targets?

A. Those people in the normal reporting channels.

Q. Did any of these people ever rely on them for information such as the amount of ground fire or other matters of the threat from the ground?

A. I don't believe so.

12. Q. Although DOD investigation has thus far failed to find the source of the orders for attributed targets, can you say on your own knowledge whether such an

order existed or by whom it was probably issued or under what authority or guidance?

A. While I was Vice Commander, 7 AF, I was knowledgeable of the tasking and reporting directives received from higher headquarters. Reporting procedures complied with 7 AF understanding of these directives. As regards details of FREEDOM DEAL, I departed Southeast Asia on 7 June 1970.

13. Q. The Armed Services Committee has received conflicting testimony on the question of what limits on air operations were imposed by the President during the US operations in Cambodia in May and June of 1970.

A. I can't help the Committee because I simply don't have a recollection of these details in May of 1970. I left in the first week of June 1970.

14. Although top level US officials at the time denied that US air strikes during and for some time after the US ground operations were for purposes of giving close air support to Cambodian forces, the Committee has received testimony to the contrary from lower-ranking officers.

Q. When did the United States begin to give close air support to Cambodian forces?

A. I don't believe 7 AF provided close air support to Cambodian ground forces during my tenure as Vice Commander, 7 AF.

Q. In target planning and validation, what instructions did you have to distinguish between bombing requests which should have been classed as interdiction and those which were for support of Cambodian forces? How and when did those instructions change?

A. When I left Vietnam on 7 June 1970, there were no instructions distinguishing between interdiction and close air support for Cambodian forces because close air support for Cambodian forces was not being performed by 7th AF aircraft.

Q. What coordination procedures were there between US and Cambodian authorities to handle and verify bombing requests as being for interdiction purposes only?

A. As specified by higher headquarters mission statement directives, MACV, RVNAF, and FANK representatives in the TACC coordinated in the selection and validation of targets when air power was employed.

15. The Defense Department has said that on Menu strikes into Cambodia, "Pursuant to instructions from Seventh Air Force (issued by a personal representative's visit to the GCI site), officers on duty at those sites took no action to warn or to report the Menu missions since they had been informed that these were authorized missions.

Q. What orders, issued by whom, established this procedure?

A. I don't know.

Q. What were the standing orders for GCI sites regarding penetration of Cambodian air space?

A. GCI sites were to monitor all flights in their assigned zone and warn flights as necessary in order to prevent penetration of the Cambodian airspace by unauthorized aircraft.

Q. What were the standing reporting procedures for penetration of Cambodian air space? Were these suspended or were reports prepared differently when Menu missions occurred?

A. Unauthorized entry into Cambodian airspace was normally reported to 7th Air Force through voice channels to the TACC. I have no personal knowledge of how the procedures were amended during the Menu operation.

16. Q. From your knowledge of combat reporting procedures and your knowledge of the Strategic Air Command, would you say that SAC's post-strike report Form 15 was an official report? Were there orders or instructions requiring it to be completed? Or were there offices which collected these forms for official purposes.

A. To my knowledge, I have never seen a Form 15, nor am I familiar with the procedures for its use.

I trust that the above has explained my understanding of the circumstances which you questioned.

Sincerely,

ROBERT J. DIXON,
Lieutenant General, USAF, Deputy Chief of Staff, Personnel.

DEPARTMENT OF THE AIR FORCE,
Washington, D.C., September 5, 1973.

Hon. HAROLD E. HUGHES,
Committee on Armed Services, U.S. Senate,
Washington, D.C.

DEAR SENATOR HUGHES: I appreciate this opportunity to respond to the questions which were posed in your letter of 19 September 1973. The following answers respond to each to the best of my knowledge.

1. Q. As Commander of the 366th Tactical Fighter Wing at Danang, were you aware of any false or dual reporting on any air strikes by planes under your command?

A. No.

2. Q. Did any of your planes ever conduct strikes in North Vietnam? If so,—

A. Yes; I assume "your planes" refers to the planes under my command as Commander of the 366th TFW.

Q. Were all strikes conducted only after planes had been fired upon—that is, in protective reaction?

A. I don't believe the 366th TFW conducted strikes in North Vietnam except in support of search and rescue (SAR) efforts to recover downed aircrews.

Q. Did an unarmed reconnaissance plane fly in all missions in which there was a protective reaction strike?

A. To the best of my knowledge there were no such protective reaction strikes conducted by the 366th TFW during my tenure as Commander.

Q. Were any targets struck besides surface to air missile sites and anti-aircraft batteries? If so, what?

A. As previously mentioned, during my tenure as Wing Commander, the 366th Wing did not conduct protective reaction strikes in NVN.

Q. Were all protective reaction strikes fully and accurately reported? Was there any dual or false reporting on such strikes by anyone in your command?

A. We flew no "protective reaction" strikes.

Q. Were there ever any occasions when pilots were expected to bomb regardless of enemy reaction?

A. Not in NVN. Strikes in SVN, Laos, and Cambodia were frequently executed on the basis of intelligence information.

Q. How and when did your operating authorities change with regard to conditions under which protective reaction strikes could occur?

A. To the best of my knowledge they did not change during my tenure in command.

Q. Were there ever any instances of "trolling"—that is, flying so as to provoke an enemy response so that a protective reaction strike could be conducted?

A. Not to my knowledge.

3. Q. When you became director of TACC, how and when did you learn of MENU strikes?

A. I learned that there were some across the border strikes being conducted during a brief, informal discussion with my predecessor as Director of TACC in October of 1969.

Q. What (were) you told regarding reporting procedures, either through SACADVON or from GCI sites whose mission was to prevent and report air penetrations of Cambodia?

A. I received no information on MENU reporting procedures either through SACADVON or from GCI sites.

4. Q. On tactical air operations in Cambodia (1) before (2) during and (3) after the US ground operations in that country, how were targets selected and validated?

A. PATIO was the only tactical air operation in Cambodia prior to US ground operations in Cambodia. Targets were selected based on information provided by ground intelligence gathering teams, their supporting Forward Air Controllers, and reconnaissance. They were, as you are aware, validated and approved by higher headquarters.

During US ground operations and until I departed SEA, selection of targets in Cambodia was based on a variety of information gathered by visual and photo reconnaissance, prisoner interrogration reports, attacks by fire, ground contacts, and long range reconnaissance patrols. Targets recommended by ground force commanders were validated with FANK representatives within the TACC and coordinated with FANK Headquarters.

I am not familiar with procedures after termination of US ground operations since I departed Southeast Asia prior to that time.

5. Q. To whom did FACs report on air operations in Cambodia?

A. Prior to US ground forces entering Cambodia on 1 May 1970, FACs reported directly to MACSOG (PATIO operation). After 1 May 1970, FAC reports on TACAIR support for US and ARVN ground forces were submitted via normal reporting channels, although results of PATIO operations continued to be reported through SOG.

6. Q. Did you receive reports or briefings from both FAC and fighter-bomber elements regarding air strikes in Cambodia?

A. I received some information, but not briefings, from FACs and tactical fighter units participating in PATIO air strikes. I received routine reports on all other TACAIR units.

7. Q. Were you aware of any differences in these reports, particularly in terms of where the strikes were conducted?

A. No. I did not see the reports that were made to MACSOG nor did I see the MACSOG reports. I only saw the normal operation reports from the tactical fighter units. Although there may have been differences in the reports, under the circumstances these differences would not come to my attention.

8. Q. Were any Air Force personnel tasked with the responsibility of comparing after-action reports for completeness, accuracy, and consistency?

A. I'm certain that there were. However, I should note that the reports people were not under the TACC.

Q. If so, why do you believe they failed until 1971 to disclose the system of dual reporting?

A. Any answer I might give would be conjecture since the reports people did not work for me and I had departed Vietnam on 14 June 1970.

9. The Armed Services Committee has received testimony to the effect that, on strikes deep inside Cambodia, there were written orders from 7th AF HQ instructing intelligence officers to call TACC for "reporting coordinates" which were at variance with the actual targets struck.

Q. Were you aware that this was being done?

A. No, I was not.

10. The Defense Department has told the Armed Services Committee that "Instructions in the field relating to the reporting of such operations which occurred outside the designated Freedom Deal areas stipulated . . . that special security communications channels would be employed."

Q. Who "in the field" originated these instructions?

A. I do not know. This operation occurred after my departure.

Q. Were you aware of, and did you approve, these instructions?

A. No. As stated above, this operation occurred after my departure.

11. The Defense Department has also admitted that a system of "attributed targets" arose "in the field."

Q. Were you involved in any way in developing that system of reporting?

A. No, I was not.

Q. Do you have any knowledge of how that system developed or who was responsible for its creation?

A. I do not know how it was developed.

Q. Were you aware of any orders which could reasonably be interpreted as forbidding the development of such a system?

A. No.

12. Q. Who conducted BDA and post-strike reconnaissance on strikes in Cambodia?

A. Post-strike reconnaissance on strikes in Cambodia was conducted by RF-4s (photo recce) and the FAC aircraft (visual recce). I cannot say who performed the bomb damage assessment. I did not perform the BDA nor did anyone in the TACC.

Q. Was the information from these missions ever available to the same people who received the reports with attributed targets?

A. I do not know. Bomb damage assessment and distribution of such information was not a responsibility of the TACC.

13. Q. Who received the after-action reports which contained the attributed targets?

A. Personnel in the normal reporting channel.

Q. did any of these people ever rely on them for information such as the amount of ground fire or other matters of the threat from the ground?

A. Not to my knowledge.

14. Q. Although DOD investigation has thus far failed to find the source of the orders for attributed targets, can you say on your own knowledge whether such an order existed or by whom it was probably issued or under what authority or guidance?

A. From my own knowledge, I can say that 7AF reporting procedures were consistent with 7AF understanding of instructions received from higher headquarters.

15. The Armed Services Committee has received conflicting testimony on the question of what limits on air operations were imposed by the President during the US operations in Cambodia in May and June of 1970.

Q. What orders set limits on penetration of Cambodian air space?

A. I do not recall the specific limits. However I recall that they were changed during this period. I believe that when I departed SEA on 14 June 1970, authority existed for operations from the South Vietnamese border west to the Mekong.

Q. Were there any exceptions to the general limitation?

A. Yes, at the time when operations were restricted to 30 kilometers from the South Vietnamese border.

Q. What were they?

A. The exception of which I am aware was granted by MACV for PATIO. It involved a mission between the 30 kilometer line and the Mekong River.

16. Although top level US officials at the time denied the US airstrikes during and for some time after the US ground operations were for purposes of giving close air support to Cambodian forces, the Committee has received testimony to the contrary from lower-ranking officers.

Q. When did the United States begin to give close air support to Cambodian forces?

A. To the best of my knowledge the US did not provide close air support to Cambodian ground force operations during my tenure as Director of the TACC.

Q. In target planning and validation, what instructions did you have to distinguish between bombing requests which should have been classed as interdiction and those which were for support of Cambodian forces? How and when did those instructions change?

A. When I left Vietnam on 14 June 1970, there were no instructions distinguishing between interdiction and close air support for Cambodian forces because close air support for Cambodian forces was not being provided by 7AF.

Q. What coordination procedures were there between US and Cambodian authorities to handle and verify bombing requests as being for interdiction purposes only?

A. As specified by higher headquarters mission statement directives, MACV, RVNAF and FANK representatives in the TACC coordinated in the selection and validation of targets when air power was employed.

17. The Defense Department has said that on MENU strikes into Cambodia, "Pursuant to instructions from Seventh Air Force (issued by a personal representative's visit to the GCI sites), officers on duty at those sites took no action to warn or to report the MENU missions since they had been informed that these were authorized missions.

Q. What orders, issued by whom, established this procedure?

A. I don't know.

Q. What were the standing orders for GCI sites regarding penetration of Cambodian air space?

A. GCI sites were to monitor all flights in their assigned zone and warn flights as necessary in order to prevent penetration of the Cambodian airspace by unauthorized aircraft.

Q. What were the standing reporting procedures for penetration of Cambodian air space? Were these suspended or were reports prepared differently when MENU missions occurred?

A. Unauthorized entry into Cambodian airspace was normally reported to 7th Air Force through voice channels to the TACC. I do not know how the procedures were amended for MENU procedures.

Q. What were 7th Air Force representatives authorized to tell GCI personnel if questioned about their new orders for MENU missions?

A. I was not privy to the MENU details, nor were personnel assigned to the TACC.

18. Q. From your knowledge of combat reporting procedures would you say that SAC's post-strike report Form 15 was an official report? Were there orders or instructions requiring it to be completed? Or were there offices which collected these forms for official purposes?

A. I am not knowledgeable of the Form 15 or of the instructions pertaining to its use or disposition.

I trust that the above clarifies my understanding of the matters to which questions were submitted.

Sincerely,

JOHN W. ROBERTS,
Major General, USAF, Asst. Deputy Chief of Staff, Personnel.

DEPARTMENT OF THE AIR FORCE,
MAXWELL AIR FORCE BASE,
October 12, 1973.

Hon. HAROLD E. HUGHES,
Committee on Armed Services, U.S. Senate, Washington, D.C.

DEAR SENATOR HUGHES: I appreciate this opportunity to respond to the questions which were submitted for my action in your letter of October 5, 1973. Answers to each question, to the best of my knowledge, are provided below:

1. General Gillem, the Defense Department "White Paper on Cambodia bombing says (p. 17) that "Crew briefing and notification procedures were proposed by the Commander Third Air Division, and approved by CINCSAC and OJCS."

Q. Is it correct that you were Commander of the Third Air Division at that time?

A. Yes. I was Commander of the 3rd Air Division from June 1968 until April 1970 when it was redesignated as 8th Air Force. I commanded 8th Air Force from April–July 1970.

Q. Were you aware that this would result in dual reports to several commands? If so, what steps were taken to inform those commands and guard against confusion?

A. In my mind "crew briefing and notification procedures" have nothing to do with operational reporting. Crews reported as they routinely did for all ARC LIGHT missions. I believe that those people requiring administrative and logistical data got it and those requiring operational data were able to get what they needed by correlating the reported information with mission identifier. This was a simple system that, to the best of my knowledge, caused no confusion.

2. The White Paper says (p. 12) that air crew procedures "were virtually identical to those used for normal B-52 ARC LIGHT operations." Does this mean that normal Arc Light operations also required:

Q. Dual reports?

A. No.

Q. Countermanding orders for GCI warning sites against cross-border penetration?

A. For normal ARC LIGHT, as well as MENU missions, B-52 aircrews were told to follow the instructions of the MSQ site. I am not aware that any GCI warnings were ever countermanded.

Q. Accurate target knowledge only for the pilots and navigators?

A. The entire crew was briefed on ARC LIGHT targets, but as I recall, for MENU missions only the navigators and pilot were told that the target was in Cambodia.

Q. No formal debriefings of crew members after missions?

A. The crews were debriefed after all ARC LIGHT sorties, including MENU.

3. The White Paper says (p. 8) that the Guam Command Post submitted on OPREP-4 showing only mission identifier, number and type of aircraft, time-over-target, and the guidance system utilized.

Q. Isn't it correct that an OPREP-4 normally contains target coordinates?

A. No, not for B-52 operations.

Q. If so, what special instructions were given to debriefers so that they would not normally include coordinates provided by crews?

A. Not applicable.

Q. Were times-over-target always correctly stated on the OPREP-4?

A. Yes. as far as I know.

4. The White Paper also says (p. 14) that, under MENU procedures, the debriefing form listed target coordinates only as associated with the original mission identifier.

Q. Who prepared the debriefing form and how was it different from the form used for other Arc Light Operations?

A. Intelligence personnel prepared the debriefing form and, to my knowledge, the same form was used in all ARC LIGHT operations, including MENU.

Q. Isn't it normal practice to include a question in debriefing as to whether a mission was diverted? If so, was such a question asked of Menu crews?

A. To the best of my knowledge, standard debriefing procedures were used for *all* ARC LIGHT missions, including MENU. This procedure would have included a question by the debriefing concerning deviation from the briefed mission.

Q. What instructions were given Menu crews regarding questions about mission diverts by the MSQ radar controllers? What did the Menu reports say regarding diverts?

A. They were told to follow MSQ instructions implicitly. If the mission were not flown *as briefed*, it would have been reported.

Q. If the divert question was not asked on *Menu* or *Arc Light*, what instructions and procedures were used for cases when there was an actual divert either in South Vietnam or in another country?

A. Not applicable because, as stated above, any deviation from the briefed mission was reported.

5. The White Paper claims (p. 10) that the Form 15 submitted by the radar sites with false target information was not a "formal, official report."

Q. What instructions required the Form 15 to be completed?

A. I am personally not familiar with the Form 15.

Q. What officers or commands collected these forms and for what purposes? Are not "maintenance and quality control" legitimate official purposes?

A. I do not know to what offices these forms went, but I am reasonably confident they never came to my headquarters.

Q. Then how can the Form 15 not be considered an official report? And what guidance was given to preparers of this form to assure that they were not in violation of article 107 of the UCMJ?

A. As stated above, I am not familiar with the Form 15.

6. Q. If a similar secret operation were to be instituted again, what changes would you recommend in the reporting procedures from those followed in Menu?

A. I've reviewed in my own mind the events leading up to MENU, the conduct of the missions, and the results of this very successful operation. From a military point of view, I can't think of any other system of procedures that could have insured the fulfillment of the mission as directed by the Commander in Chief. Should similar secret operations be necessary in the future, I would presume and expect that the procedures pertaining would be tailored to the circumstances existing at the time.

I trust that the foregoing is fully responsive to your interest in this important matter.

Sincerely,

ALVAN C. GILLEM II,
Lieutenant General, Commander.

DEPARTMENT OF THE AIR FORCE,
Norton Air Force Base, Calif.

Hon. HAROLD E. HUGHES,
Committee on Armed Services, U.S. Senate, Washington, D.C.

DEAR SENATOR HUGHES: I welcome this opportunity to respond to the questions which were submitted for my action along with your letter of 25 October 1973. Specific answers to the best of my knowledge are provided below:

1. General Hardin, in your capacity as DCS/Operations, PACAF, during August 1968–March 1970,

Q. When and how did you learn of the B-52 (Menu) strikes into Cambodia?

A. I knew nothing of MENU during this time frame.

Q. To your knowledge, what reports and kinds of information on Menu planning and execution were regularly made available to PACAF?

A. To my knowledge we never got any reports on MENU strikes.

2. Q. After October 31, 1968, what responsibilities did you have relating to air strikes inside North Vietnam?

A. When I became Director of Operations of 7th Air Force in April 1970, I was responsible for the operational control of Air Force tactical air operations in Southeast Asia including North Vietnam. After I became Vice Commander of 7th Air Force in June 1970, I continued to play an active role in all aspects of Air Force tactical air activity in Southeast Asia.

3. To your knowledge, after October 31, 1968, except for the period (August 1971–March 1972) when Gen. John Lavelle commanded the 7th Air Force—

Q. Were all strikes inside North Vietnam conducted only and immediately after planes had been fired on—that is, in protective reaction?

A. This was true for all immediate protective reaction strikes conducted by Air Force aircraft escorting reconnaissance aircraft, however there were a very few limited duration protective reaction strikes directed by higher authority that were not immediate retaliation to attacks upon unarmed aircraft.

Q. Did an unarmed reconnaissance plane fly in all missions in which there was a protective reaction strike?

A. Yes, for all immediate protective reaction strikes. However, this was not true for the very few limited duration protective reaction strikes as noted above.

Q. Were any targets struck besides surface to air missile sites and anti-aircraft batteries? If so, what?

A. Yes, during limited duration protective reaction strikes there were more types of targets authorized to be struck. Additionally, during immediate protective reaction strikes, the military facility supporting the SAM sites, AAA batteries or hostile aircraft was a legitimate target.

Q. Were all protective reaction strikes fully and accurately reported? Was there any dual or false reporting on such strikes by anyone in the reporting channels to which you had access?

A. To the best of my knowledge, all protective reaction strikes were fully and accurately reported. I am confident there was no false reporting on any such strikes.

Q. Were there ever any occasions when pilots were expected to bomb regardless of enemy reaction?

A. Yes—as outlined above—during limited duration protective reaction strikes conducted in compliance with instructions from higher headquarters.

Q. How and when did the operating authorities change with regard to the conditions under which protective reaction strikes could occur?

A. There were many changes in authority for protective reaction strikes during my tenure in 7th Air Force such as actual fire, SAM radars, and AAA radar threats.

Q. Were there ever any instances of "trolling"—that is, flying so as to provoke an enemy response so that a protective reaction strike could be conducted?

A. Not to my knowledge.

4. To your knowledge, during the time that General Lavelle commanded the 7th Air Force—

Q. What operational reports on strikes in North Vietnam did you have access to?

A. I assume that I had access to the normal operational reports from these missions.

Q. Were you aware of any discrepancies in these reports, such as OpRep 4's listing SAMs or AAAs hit while other reports listed trucks?

A. No.

Q. Were you in any way suspicious of the increasing frequency of protective reaction strikes in February, 1972, such as from BDA or from the absence of reconnaissance planes on some missions?

A. No, I was not aware of any. I was Chief of Staff at PACAF at this time and thus was not directly involved in the operation.

Q. What and when were you told, formally and informally, regarding the cessation of protective reaction strikes on March 10, 1972 and the subsequent removal from command of General Lavelle?

A. My first knowledge of the Lavelle situation came from the press. I have since discussed the situation informally with many fellow officers.

5. Regarding the PATIO operations—

Q. Who devised the reporting system which had assigned cover targets in Laos in routine reports?

A. I was not aware that cover targets were used on PATIO missions.

Q. Did the same personnel who prepared the routine reports also prepare the special reports with accurate information?

A. I don't know.

Q. If so, what instructions were they given regarding the justifications for and legality of discrepant reports?

A. I do not know.

Q. What instructions and explanations were given when the PATIO reporting became accurate and identical on all reports?

A. I do not know. I cannot recall that this was ever an issue.

NOTE: The following several questions relate to Freedom Deal strikes in Camobdia.

6. Q. Did you receive reports or briefings from both FAC and fighter-bomber elements regarding air strikes in Cambodia?

A. I was familiar with 7th Air Force operations conducted in Cambodia, but I did not receive any reports directly from strike or FAC units. I am sure that data from these units was included in operational and intelligence summaries which I routinely received.

7. Q. Were you aware of any differences in these reports, particularly in terms of where the strikes were conducted?

A. I was not aware of any differences in reports from these units. I was aware that the sensitive nature of some targets required 7th Air Force Headquarters' operational reporting through special security channels.

8. The Armed Services Committee has received testimony to the effect that, on strikes deep inside Cambodia, there were written orders from 7th AF HQ instructing intelligence officers to call TACC for "reporting coordinates" which were at variance with the actual targets struck.

Q. Were you aware that this was being done?

A. No.

Q. Did you ever issue or see any orders to this effect?

A. No.

Q. Did you ever issue or see any orders that would have required only completely accurate reporting?

A. I did not issue any, nor do I recall any to this effect.

Q. Were there any instructions or guidance from higher authority which would have justified dual reporting procedures? If so, please specify.

A. I do not specifically recall any such instructions, for subordinate units below 7th Air Force. However, as noted above, I was aware of the requirement for 7th Air Force Headquarters to use special security channels in reporting to higher headquarters on certain sensitive missions.

Q. In your view, was there any justification for such dual reporting?

A. Yes. But while I believe dual reporting was justified it was not militarily essential to this particular operation.

9. The Defense Department has told the Armed Services Committee that "Instructions in the field relating to the reporting of such operations which occurred outside the designated Freedom Deal areas stipulated . . . that special security communications channels would be employed."

Q. Who "in the field" originated these instructions?

A. No one that I know of. Our reporting procedures at 7th Air Force were in strict compliance with our understanding of instructions and security requirements of higher headquarters.

Q. On what authority were these instructions issued?

A. I don't recall the specifics; however, instructions of this nature originated above 7th Air Force.

Q. Were you aware of, and did you approve, these instructions?

A. I was aware of the requirement for the 7th Air Force Headquarters to use special reporting procedures for these strikes and complied.

10. The Defense Department has also admitted that a system of "attributed targets" arose "in the field."

Q. Were you involved in any way in developing that system of reporting?

A. No, I was not.

Q. Do you have any knowledge of how that system developed or who was responsible for its creation?

A. No, I do not know how it developed.

Q. Were you aware of any orders which could reasonably be interpreted as forbidding the development of such a system?

A. No.

Q. Were any Air Force personnel tasked with the responsibility for comparing after-action reports for completeness, accuracy, and consistency? If so, why do you believe they failed until 1971 to disclose the system of dual reporting?

A. I am sure there were people who checked the reports, although I am unaware of the specific reports that they checked. I am confident that reporting from 7th Air Force Headquarters was in strict compliance with our understanding of instructions from higher authority.

11. Q. On tactical air operations in Cambodia (1) during and (2) after U.S. ground operations in that country, how were targets selected and validated?

A. During U.S. ground operations, target selection was based on information gained from intelligence sources and ground contact. Prior to being struck these targets were validated by a FANK representative attached to 6th Air Force and approved at FANK Headquarters. After ground operations ceased in that country, targets were developed based upon a variety of intelligence sources. They were approved at FANK Headquarters.

12. Q. Was the information from BDA and post-strike reconnaissance missions ever available to the same people who received the reports with attributed targets?

A. I don't know.

Q. If so, who were these people and why did they not notice the discrepancies?

A. I don't know.

13. Q. Who received the after-action reports which contained the attributed targets? Please specify the addresses in South Vietnam, Cambodia, and Thailand.

A. I do not recall any specific addressees but I am sure the information went to those who required administrative and logistic statistical data.

Q. Did any of these people ever rely on these reports with attributed targets for information such as the amount of ground fire or other matters regarding the threat from the ground?

A. I don't believe so. I am sure the people who needed this sensitive operational data got it.

14. Q. Although DOD investigation has thus far failed to find the source of the orders for attributed targets, can you say of your own knowledge whether such an order existed or by whom it was probably issued, or under what authority or guidance?

A. No, but I am positive that our reporting procedures complied with higher headquarter's directives as we understood them at 7th Air Force.

15. The Armed Services Committee has received conflicting testimony on the question of what limits on air operations were imposed by the President during the U.S. operations in Cambodia in May and June of 1970.

Q. What orders set limits on penetration of Cambodia air space?

A. There were a succession of instructions which revised the limits within which strikes were authorized. As I recall, we initially had authority to conduct operations from the Vietnamese border west to the Mekong, later this was extended.

Q. What were those limits?

A. See answer above.

Q. Were there any exceptions to the general limitation? Please specify.

A. COMUSMACV had authority to make exceptions, 7th Air Force did not.

16. Although top level U.S. officials at the time denied that U.S. air strikes during and for some time after the U.S. ground operations were for purposes of giving close air support to Cambodian forces, the Committee has received testimony to the contrary from lower-ranking officers.

Q. When did the United States begin to give close air support to Cambodian forces?

A. Although Cambodian forces may have benefited from U.S. air strikes, our primary mission in Cambodia during my tenure was interdiction. However, 7th Air Force was authorized on a case-by-case basis to conduct limited operations in situations which involved a serious threat to major Cambodian positions.

Q. In target planning and validation, what instructions did you have to distinguish between bombing requests which should have been classed as interdiction and those which were for the support of Cambodian forces? How and when did those instructions change?

A. I cannot recall any instructions which differentiated between interdiction and close support.

Q. What coordination procedures were there between U.S. and Cambodian authorities to handle and verify bombing requests as being for interdiction purposes only?

A. Coordination with FANK was designed primarily to protect cultural areas and insure that no civilian or friendly forces were attacked. U.S. authorities otherwise determined what were proper and appropriate military targets subject to approval by FANK Headquarters.

17. Q. Are you aware of any studies or discussions on the advisability or dangers of the use of CS gas munitions in conjunction with napalm?

A. I was not aware of any studies or discussions on the dangers of employing CS (a riot control agent) in conjunction with napalm. Recently, however, I have been advised that should CS and napalm be used in close proximity, it is theoretically possible that minute amounts of hydrogen cyanide gas might occur. The necessary chemical conditions are so extremely rare and transient in nature that such a consequence is on the order of a controlled laboratory phenomenon, totally beyond the realm of a planned military occurrence.

Q. To your knowledge, were any orders or guidance issued with regard to such usage of such munitions?

A. Not to my knowledge. The Air Force used CS in rescue and recovery operations under authorities granted by the JCS.

Q. Were such munitions ever used simultaneously on the same target?

A. Not to my knowledge.

18. Q. If a similar secret operation were to be instituted again, what changes would you recommend in the reporting procedures from those followed in MENU?

A. I have given this problem a lot of thought throughout my career. I am convinced that it would be more efficient from a military point of view if everyone concerned could be cleared for all details of every operation. However, the realities of national security with respect to protecting our forces and preserving our options has caused me to understand and live with special clearances, and special reporting procedures. I am unable to think of a better way to have carried out a highly sensitive operation such as MENU.

I trust that the above has clarified my understanding of circumstances to which questions were posed.

Sincerely,

ERNEST C. HARDIN, Jr.,
Major General, USAF, Deputy Inspector General for Inspection and Safety.

ABUSE OF FIREARMS

Mr. KENNEDY. Mr. President, I would like to enter in the RECORD a copy of the remarks presented by New York's Mayor, John Lindsay, concerning the abuse of firearms. In his address before the American Society of Criminology, Mayor John Lindsay spoke concerning the gun crimes in New York City involving weapons transported illegally from other States. Circumstances in most instances revealed that States and jurisdictions with lax gun laws are the primary source of weapons that wend their way on to infamy in New York City. Of some 3,000 handguns seized by the New York Police Department over a 6-month period, about 98 percent were found to have been stolen or were traced to retail sales outside of New York State.

Mayor Lindsay sees stringently enforced nationwide gun controls as the most effective way to stem the tide of lawlessness caused by these guns. I share the mayor's conviction and I am pleased to enter his remarks in the RECORD for a review by this Senate.

Mr. President, I ask unanimous consent that Mayor Lindsay's remarks be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

ADDRESS BY MAYOR JOHN V. LINDSAY

NOVEMBER 3, 1973.

I'd like to talk this morning about 6 people who were killed in a war one day last October. They were all Americans.

The war that claimed them was not in the Middle East. It did not make any headlines and will never have any winners. It ranks with the Civil War as being the most uniquely American of all wars. It has been going on for decades and intensifying every year. And it will be raging still more furiously next year—unless we do something about it.

On October 4, 1973, Police Officer Robert Marshall interrupted a hold-up in Philadelphia. He was shot and killed with a handgun.

On October 4th, Howard Lee got into an argument with some friends in his Cleveland apartment. He was shot and killed with a handgun.

On October 4th, Richard Anderson, a Denver businessman, committed suicide by shooting himself with a rifle.

On October 4th, in Seattle, 16 year old Lloyd Smith got into an argument over a narcotic transaction. He was shot and killed with a handgun.

On October 4th, Robert Seville's store in Jackson, Mississippi was held up. He was shot and killed with a shotgun.

On October 4th, in New York City Howard Schwartz's dog got into a fight with another dog. The owners of the two dogs argued. Mr. Schwartz was shot and killed with a handgun.

Though the names on this death list have been changed, nothing about it is unreal. In fact, if October 4, 1973, was just an average day in America, 57 people were killed in accidents, murders, and suicides that involved the use of what has become an American trademark—the gun.

It doesn't have to be that way. We can save many of tomorrow's 57 victims. All we have to do is treat guns not like toys, or badges of manhood, or symbols of the great American tradition—but like guns.

There are as many firearms in the United States as there are people.

This includes as many as 40 million handguns, which are now being manufactured and pumped into the civilian population at the rate of more than 2.5 million a year.

Which means that a new handgun is sold in the United States every 13 seconds. And one is used every hour of every day to murder one of our citizens.

But the legal restrictions we impose on the distribution of these weapons are almost non-existent.

In only three states and two cities is a license or identification card needed to acquire or carry a rifle or shotgun.

And in 42 states no license is required to purchase a handgun.

The only restriction on buying handguns in these 42 states is a provision in the Federal Gun Control Act of 1968 which requires that the purchaser fill out a form giving his name and declaring that he is not a minor, and has no history of alcoholism, mental disorder, or felony conviction. But this requirement is almost worthless since it mandates no verification—such as fingerprints and a police background check—to substantiate the purchaser's identity and his declarations.

And while the Act of 1968 banned the importation of cheap handguns—known as Saturday Night Specials—it allowed for the importation of their parts and their domestic assembly and distribution. And so, one million cheap handguns that can have no conceivable sporting purpose and cannot be used for anything other than killing human beings at close range were put together and sold in the United States last year—with no real controls on their distribution.

In a country that requires prescriptions for penicillin and licenses for dogs, that kind of legislative policy on firearms is incredible.

Indeed, that kind of permissiveness is suicidal.

It means that in the next two years more Americans will die at home from firearms fatalities than were killed by the enemy in the twelve years of the Vietnam War.

And nowhere are the numbers more frightening and our disregard of them more intolerable than in the category of police killings.

In 1967, there were 57 police officers killed in the United States. By 1972, the death toll reached 112, of whom 108 were killed with firearms and 74 were killed with handguns.

From 1966 through 1972, 621 policemen were killed across the United States. Ninety-five percent were killed with firearms, and seven out of ten were killed with handguns.

Indeed it is the cop on the beat who has the most to fear in the gun-crazed society. He is trained and equipped to defend himself. But there is little he can do about the bullet that greets him as he chases a suspect down an alley, interrupts a hold-up, or comes between a husband and wife in a family dispute.

That is why police leaders—including the late J. Edgar Hoover—have long supported stringent gun control. That is also why the President's consistent opposition to strong gun control makes his election campaign promise to "strengthen the peace forces against the crime forces" hard to believe.

The United States stands alone as the only supposedly civilized country in the world that does not regulate the ownership of firearms. Our per capita gun ownership rate is between five and thirty times that of any other free country. And in 1969, our murder rate was 16 times that of Finland, 120 times that of Sweden and 360 times that of Norway.

There will be more Americans killed by handguns in the next 39 hours than were killed by handguns in all of England in 1972.

It is illegal to own a handgun in Japan. And so in Tokyo, there were 217 murders in 1972, and only three of them were committed with handguns. In Detroit, with one tenth the population of Tokyo there were more than twice as many murders in 1972.

When I was in Japan last year the police told me they couldn't understand how we survived without gun controls. The answer is that many of us don't.

But we need not look overseas to see that gun control can work.

The fact is that even domestic comparisons between states or localities with weak versus strong firearms laws tell the same story.

The South, which has the highest rate of firearms ownership and generally the weakest gun control laws in the nation, also has the highest rate of homicides committed with firearms and the highest rate of accidental gun deaths.

New York City has the nation's most stringent state and local gun controls. And, so far in 1973, New York's murder rate ranks 9th among the ten largest cities.

In New York City, every gun is required to be registered and every owner licensed. To get a license, an applicant is first fingerprinted and his background is carefully checked by the Police Department, to weed out those with histories of alcoholism, mental disorder, or felony convictions. In addition, to get a license to carry a handgun in New York City, the applicant must not only go through this same background check, he must also prove to the police that he has a specific, legitimate need for the handgun.

Only 24,000 New Yorkers have these handgun licenses. And we know the system works—because only a handful of these 24,000 have ever used their weapons to commit an assault, robbery or murder.

But just as New York City shows how gun control can be effective, our experience here also demonstrates how even the best state and local controls are tragically undermined by the absence of stringent federal firearms control.

Although New York ranks 19th in crime among the largest 25 cities, the number of assaults and robberies involving firearms is rising sharply. And the City's chief Medical Examiner attributes almost the entire increase in murder in recent years to the increased availability of guns.

These are crimes that are almost always committed with illegal guns, not by our licensed owners. Crime guns almost always come from jurisdictions outside New York.

We have learned, in fact, that these guns are coming to us by the thousands through black market "gun running" networks. These operations thrive on the absence of strict federal standards which makes it possible for a gun runner to walk into a store in the South, give a false name and address on that federal form and exchange cash for several hundred handguns. In one case, for example, *one* man in South Carolina purchased 600 handguns in *one* day so that he could resell them in Northern cities.

Police Commissioner Donald F. Cawley and I have intensified efforts to put a dent in this deadly interstate traffic. We recently met with the City's District Attorneys and administrative judges to seek their cooperation in getting better information from those arrested on gun possession charges as to the origin of the gun they were carrying, and to seek stricter enforcement of New York's strong gun laws. In this way we hope to work our way back to the major profiteers in these operations.

We are also working with the Treasury Department's Alcohol, Tobacco, and Firearms Unit on a study aimed at learning more about these black market networks and quickly uncovering the most blatant of them. With AFT, we have begun tracing the approximately 3000 handguns seized by our police from persons arrested in the last six months in order to determine each handgun's last legal point of transfer.

Though the results of the survey are not yet complete, they promise to confirm our worst fears about how the absence of strict national gun control undercuts New York's tough local laws. Approximately 98% of the guns surveyed thus were either stolen or have been traced to retail sales *outside* of New York State. Two thirds of those traced outside the State came from just four states in the South: South Carolina, Georgia, Florida, and Virginia. Most alarmingly, South Carolina thus far accounts for almost one third of the total traceable guns seized.

Many of you may have read about the man who went beserk on 34th Street last week and killed two people before being gunned down himself. Of the two handguns he used, one has been traced to South Carolina and the other has been tentatively traced to Virginia.

A recent gun running operation uncovered by a joint Federal-City investigation tells us in broader terms what this interstate traffic means. The defendants in this case are alleged to have brought 200 handguns in just one shipment from South Carolina to New York—and the New York City Police Department has already seized 169 of them from persons arrested for attempted murder, assault and armed robbery.

That, very simply, is the case for federal gun control.

To put it another way, permissiveness in states such as Georgia, South Carolina, Florida, and Virginia is threatening the safety of police officers and citizens in New York City, and across this nation.

That is obviously a federal problem of the highest order.

Is Washington listening?

For seven years as a Congressman and eight as a Mayor I have pleaded for national gun control.

Specifically, this legislation would:

Require the registration of all firearms;

Ban the manufacture or sale of all cheap hand-guns not suitable for sporting purposes;

Require the licensing of all firearm owners; and

Require special licenses for handgun ownership, to be issued only after the applicant proves that he has an overriding, legitimate need for this dangerous weapon. Though the standard for such overriding need could vary among states and localities, it would surely not allow a civilian in South Carolina to buy 600 handguns at a time;

In addition, a strong federal law would mandate that firearm manufacturers, shippers, and retailers take strict safety measures to help prevent gun thefts, which now run into the tens of thousands every year, and which account for almost 20% of the guns traced in our survey so far.

Essentially, then, what we need is to treat guns the way we treat cars: they must be registered and those who use them must be licensed. That is hardly an extreme or unreasonable restriction on those tools of death.

And this must be done at the federal level—because we can't allow guns to slip through a hodgepodge of non-uniform state laws.

This kind of federal legislation has been supported for years by mayors and police chiefs across the country. And every public opinion poll has found that a large majority of American citizens support it as well.

But in Washington our voice is drowned out by the power of the National Rifle Association—an industry funded lobby whose tax exempt status is mystifying, and whose half-truths are designed to mislead thousands of hunters into burying Congress in postcards everytime someone says gun control.

And this is one of the most unregulated industries in the nation, with barely any Federal monitoring of production and sales. This, itself, is a national scandal. If these firms were also producing heroin, there would be Federal action and national outrage. But their outpouring of guns, which annually kills far more people than drug addiction, barely causes a stir in Washington.

The only hunting that gun control would stop would be the hunting Americans do against each other.

All of us here know that.

But our knowing it isn't good enough. We must shatter the myths about guns and about gun control. We must disabuse those who believe that "If guns are outlawed only outlaws will have guns." That just isn't true. Police will have guns. Licensed owners will have guns. And the odds will be much better that more criminals will not.

We must also point out one more shocking truth. Almost three fourths of all murders are actually committed not by random thugs, but by normally law abiding citizens who get into an argument with a friend or relative and reach for a gun that is all too available. Nor should we forget the thousands of suicides and accidents that are the direct consequence of too many guns in too many places.

Indeed we must lead the way in re-examining the role of guns in our society and the myth that the gun has some sacred place in the American tradition.

This country was founded on cherished ideals, not guns.

The frontier was conquered by plows and axes and hope—not gun-slinging.

The hope we have always offered ourselves and the world has been that man could be free, not that he could carry a gun.

And today, in the wake of Watergate, we know too well that freedom depends on the rule of law not the exercise of raw power.

The question of how we face our gun mania is really a question of what kind of society we want to be.

Can we expect to be a nation of peace and good will abroad and yet be a country that sells handguns like bubblegum at home?

Indeed, can we show our children the glory of guns on television and in the movies and then convince them that the law—not the gun—is the great equalizer?

No one who loves his country can hide from these questions any longer. We must face them.

We must teach our children to think of torn flesh and slabs in the morgue when they think of guns, not mythology and manhood. We must remind them that the gun-slinger is the enemy of democracy—that here in America one Presidential election has been nullified, and two have been frustrated by firepower in just the last ten years.

And we must make Washington face these same questions.

We must stiffen up the Congress in the face of a lobby that for too long has used lies and cash from the gun industry to bully this country.

The crisis in Washington today is a crisis in confidence in the rule of law. There can be no better time to get on with the business of passing gun control legislation, for that would assert the rule of law over the rule of force.

It's time we ended the war at home. It's time we made freedom under the law—not the gun—once and for all the trademark of America.

In the last eight years, I have been to more than 20 funerals of police officers killed in the line of duty by guns. Each one has left an indelible mark on my memory.

I promise you, for as long as it takes, I intend to continue the fight to honor those slain men by passing the kind of stringent gun control law that will protect their comrades and the thousands of other Americans whose lives depend on it.

I hope you will join me.

U.S. POSTAL SERVICE

Mr. CANNON. Mr. President, although all of us have experienced difficulty with the U.S. Postal Service, I have been informed of an incident in Reno, Nev., in which the local post office deserves a pat on the back.

John R. Bullis, a Reno accountant, inadvertently dropped an envelope in the mailbox containing $10 and a birthday card for his son, Craig. The envelope was not addressed and unsealed.

In true Christmas spirit, the Reno Post Office located the envelope in the mass of holiday mail, and mailed the card and money to Craig with a personal note.

Although I have criticized the Postal Service in the past, I commend and thank the Reno Post Office employees for the handling of this situation.

I ask unanimous consent that copies of letters from John R. Bullis to the Reno Post Office and from J. E. Miller, foreman, to Craig Bullis be printed in the Record.

There being no objection, the letters were ordered to be printed in the Record, as follows:

JOHN R. BULLIS,
Carson City, Nev., December 6, 1973.

POSTMASTER,
Main Office Station,
Reno, Nev.

GOOD MORNING: May I express our special "Thank You" to Your Fine Organization!

By mistake, I mailed a Birthday Card to our eleven year old son with some of my business letters. It not only was not addressed (I was to carry it home myself), but it was not sealed and it contained a Ten dollar bill.

The employees of the Reno Post Office not only treated me kindly (not laughing at my mistake), but they demonstrated their sincere desire to locate the card.

Our son recently received the card—intact with the $10.00—with a short note written by J. E. Miller, Foreman T–2. Our son Craig was very happy to receive it and we had cause to remember that the United States Post Office has many honest, friendly, competent workers.

We realize the incident came at your busiest time. Thanks Again!

Best Wishes for a Merry Christmas.

Sincerely,

JOHN BULLIS.

Mr. CRAIG BULLIS
J. E. Miller, Foreman T–2.

December 10, 1973.

You do not know me but I spoke with your father this morning and he explained that your birthday card got mailed by accident. We found it and would like to wish you a Happy Birthday also. Have a Happy Day and Happy Holidays to all.

LABOR-HEW APPROPRIATIONS BILL

Mr. RIBICOFF. Mr. President, HEW can no longer continue to run on continuing resolutions. In order to make sound planning decisions it needs a budget.

Recently Congress approved the conference report on Labor-HEW appropriations. It represents a reasonable compromise between the need to hold down spending and the need to provide adequate funding for worthwhile health, education and welfare programs.

As a former Secretary of Health, Education, and Welfare, I have joined with three other former secretaries, Marion Folsom, John Gardner, and Wilbur Cohen in requesting the President to sign the appropriations measure.

I ask unanimous consent that this letter be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

DECEMBER 7, 1973.

President RICHARD NIXON,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: As former Secretaries of Health, Education, and Welfare under three different Presidents, we respectfully and earnestly urge you to approve the Conference Report on the H.E.W. Appropriation bill (H.R. 8877) recently passed by the Congress.

While we recognize that the total appropriations in the bill are above those which you submitted to the Congress, we believe it is important to keep in mind that, as we understand it, the Congress intends to keep total appropriations for all governmental functions within the overall appropriations total you have established for the year. Therefore, we hope you will not be impelled to veto this important bill on budgetary grounds.

Our appeal to you is both bipartisan and nonpartisan. There are, of course, individual items in the H.E.W. Appropriations bill where reasonable persons can differ concerning the wisdom of the particular amounts. But, if the integrity of the Congressional review process is to be given due weight in our governmental system, we believe it is appropriate, especially in these troubled times, to accept the Congressional judgment unless some overriding national or constitutional issue is involved. We do not see either issue as a relevant one in this instance.

The very urgent needs for accelerating the biomedical research and training programs of the National Institutes of Health, the vital and innovative educational programs of the Office of Education and the National Institute of Education, and the basic humanitarian programs for the aged, blind, disabled and other disadvantaged persons—all supported by the H.E.W. Appropriation bill—deserve to be funded promptly and with the whole-hearted concurrence of both the Executive and Legislative branches. The domestic programs for the men, women, and children of our nation warrant this action.

At this very time when we need a greater sense of national unity and a community of interests, we believe it would further jeopardize attempts to resolve domestic differences if there were intense controversy and bitterness over a veto of the H.E.W. Appropriation bill.

Based upon our own extensive experiences in reconciling differences of opinion in various budgets of H.E.W., and in view of our strong support for the program objectives in the H.E.W. legislation, we urge you, as vigorously as we can in the national interest, to approve the pending H.E.W. Appropriation bill.

Sincerely,
MARION FOLSOM, 1954–56,
ABRAHAM RIBICOFF, 1961–62,
JOHN GARDNER, 1965–68,
WILBUR J. COHEN, 1968–69.

OIL SHALE

Mr. HASKELL. Mr. President, the first Federal oil shale lease sale is scheduled in January. After years of discussion, exploration, and process experimentation, it appears oil shale will fulfill its promise as a major source of America's energy for the future. To that extent, I think we all welcome this event.

But I would like to call my colleagues' attention to a problem we in Congress have largely overlooked and one we will certainly be hearing more about as the United States accelerates efforts to develop domestic energy sources: the impact upon local communities which must cope with the sudden growth this development will bring.

I am afraid our very justifiable concern about the environmental effects of such development has not been matched by concerns about the local social and economic effects. Local communities, with their limited resources, will increasingly be forced to provide facilities for boomtown growth.

Obviously, we have lost any leadtime we may have had for long, studied appraisals of such needs. There will be no slowing the development now so local entities can arrange to cope with it—not with a fuel-short America looking to the vast coal and oil shale reserves of the West.

My immediate concern is the burden facing several western Colorado counties as the Interior Department prepares to lease the first tracts of public lands for oil shale development. A recent editorial in the Grand Junction, Colo. Daily Sentinel, outlines the problem well. I ask unanimous consent that the editorial be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HASKELL. Mr. President, let me assure you that western Colorado is not complaining now that technology and rising world crude oil prices have finally combined to make oil shale processing economically feasible. This area has long staked its hopes for solid growth and prosperity upon oil shale development.

The early years of this growth, however, will be painful. And without some outside help, they could be disastrous.

The Colorado counties most directly affected by the oil shale boom will be Garfield, Mesa, and Rio Blanco. Neighboring Moffat County, already suffering problems due to coal development, will have its share of problems too. These Colorado counties will be joined by areas of Utah and Wyoming as the shale leasing program expands.

The situation for these counties, Mr. President, is this: Local governments will be called upon to provide essential services—roads, schools, water and sewer treatment plants, police and fire protection—far in excess of present levels. Obviously, this massive development will constitute a significant tax base for these counties which will one day rank among Colorado's highest. But the peak service demands will precede peak tax revenues from this industry by as much as 5 years.

The question for these localities is obvious and immediate: how to finance the service and facilities they will have to supply? For other areas in these counties, the question is just as immediate, but the ultimate answer is less certain. These are the communities which will house large numbers of people—first construction workers, later permanent employes—but which will never have the industrial tax base to offset the cost. This spillover of the shale boom could cause major problems for some Colorado communities which stand on the fringe of oil shale development.

Mr. President, a few figures will help explain the potential magnitude of the impact: The present population of Garfield, Mesa and Rio Blanco counties is 72,200. Assuming a growth rate of 3 percent and no oil shale development, these counties will house 121,900 people by 1987. That prospect offers problems enough.

But if we add the growth occasioned by shale processing plants turning out three-quarters of a million barrels of oil daily, by 1987 the population in these three Colorado counties will soar to 307,000.

Demands on the schools alone will be tremendous. Around 240 new classrooms will be required for a population such as this at a cost of between $14 and $16 million.

Keeping in mind that tax revenues will lag far behind local governmental expenditures, Mr. President, we begin to see what these counties are going to be up against. They will soon be making a major contribution to America's energy supplies. It is my view that the Federal Government has a definite responsibility to help them prepare for the sudden growth which will come as a direct result of the release of public lands to private industry which will produce that energy.

Mr. President, there is serious doubt among local officials in western Colorado that existing Federal impact aid programs will be adequate to this task. That is something we must determine. If the programs do exist, I believe we must make certain they are responsive and accessible. If they do not exist, some special help will obviously be necessary.

The first step, however, is to determine the local impact of oil shale development in western Colorado and the ability of local governments to handle it. For that reason, I am pleased to announce that the Interior and Insular Affairs Public Lands Subcommittee, which I chair, will hold hearings in Grand Junction, Colo. in January. We will invite local governmental officials, regional councils of government and planning groups to testify and hopefully give us some of the answers we seek.

While we will be examining a specific Colorado problem, I believe my colleagues, especially those from Western States, will find many similarities between this situation and those in their own States. The information we gather will be useful to them as well.

EXHIBIT 1

WE NEED HELP

That thunder we are hearing with ever more frequency upstream is oil shale development. True enough, right now it is a shower that is spreading across those mountains of shale, but soon, much sooner than we can prepare to meet it, it will become a flood of action.

Earlier announcements were a prelude to the big development, one that has been on the back burner for months, the decision to hold the first federal oil shale lease sale on Jan. 8.

Following the first lease sale in Denver, five other sales will be held in following weeks up through June 11. And from these sales, endless court action follows, will come the major oil shale program.

If all the leases are purchased, the active shale area will spread from the Mesa-Garfield-Rio Blanco section into Utah and Wyoming.

Each plant to retort oil is expected to cost from $200 million to $250 million, and with related facilities will provide a major tax foundation for those counties in which they are built.

While an active oil shale program still is years away, some plant construction probably will start in 1974, it is not too early to examine its effects and to prepare to meet them.

As we have explained before, it is likely that the growth pressure may fall on areas that will not have the advantage of the oil shale programs huge tax base.

We would anticipate that Palisade, in particular, will be among those areas facing all the problems of population growth without having any tax benefits to handle the demands for water and sewer lines, schools, streets, parks, and other services.

The De Beque and Clifton areas also could quickly find themselves with mounting demands for services without offsetting tax income.

According to Gov. John Vanderhoof, state laws dealing with oil shale revenue will assure that some money will become available to aid probem areas. Estimating that bids might total $20 million, the governor said that 37½ per cent (about $7.5 million) of that must go to Colorado roads and schools.

State law requires that $200,000 must go to the county of origin, in this case Garfield and-or Rio Blanco counties. The governor said, however, he hopes the legislature will set up a revolving fund to channel funds into the oil shale impact areas, primarily to finance water and sewage projects.

But our concern about the community impacts still remains despite the provisions for state aid, which we are certain will fall far short of needs.

We believe Senators Floyd Haskell and Peter Dominick and Fourth Dist. Rep. Jim Johnson also should be concerned with this area's problems . . . concerned enough to join in efforts to alleviate, if not solve, them.

The federal government stands to reap rich rewards from shale development, rewards that will benefit all Americans. With that in mind, we urge Haskell, Dominick and Johnson to move now in Congress to set up mechanism that will meet this coming impact with federal dollars.

It might be feasible to plow back into our impact areas a percentage of the money the feds receive from the lease sales and from the later royalty payments. Perhaps a system of federal grants earmarked for water, sewer, streets, schools, law enforcement, parks and other problem areas would be possible.

We have a deep federal concern for environmental protection but we have noticed little concern for community impact. Oil shale developments time has come, and it is incumbent upon the Congress and the federal agencies involved to do their utmost to alleviate those problems this new program is bound to generate.

NATHANIEL KEITH, HOUSING LEADER

Mr. HUMPHREY. Mr. President, I rise to pay tribute to an old and dear friend, Mr. Nathaniel Keith, whose recent death we mourn.

A leader in the housing and development field, Nat Keith was one of those rare individuals who combined wit and good humor with the tenacity and drive that it takes to go to the top.

His leadership, both personal and intellectual, will be missed by all of us who worked with him over the years to improve national housing policy.

Nat was president of the National Housing Conference from 1960 to 1972 when he became chairman of the board. Many times during those years he spoke vigorously for the public interest before congressional committees working on housing and urban development legislation.

I extend my deepest regrets and sympathies to his wife, Marjorie, his daughter, Penny Trickett, and her family, and his sister, Margaret Friend.

IMPOUNDMENT OF APPROPRIATED FUNDS

Mr. BAYH. Mr. President, one of the critical issues facing Congress at the present time is the extent of its power to develop national policy through legislation. Impoundment by the President of congressionally authorized funds effectively subverts the will of Congress as expressed through legislation. We can hardly consider Congress a coequal branch of government if the legislation it passes may be ignored by the executive branch through the procedure of impoundment.

This is not a matter of the executive's attempting to save money or avoid waste and inefficiency, Mr. President, but rather a deliberate attempt to reorder the policy direction of the Government and ignore the wishes of the Congress in setting this policy direction. In the past year, for example, funds which Congress intended for water pollution control, the Neighborhood Youth Corps, and national defense education have been impounded. Almost without exception, whenever an impoundment case has come to the courts, the courts have found against the executive branch's assertion of authority to impound. Both Houses of Congress have passed legislation which would restore the Congress power of the purse, but this legislation—S. 373—is still in conference.

Mr. President, a scholarly article on the subject of impoundment, published in the University of Colorado Law Review, has just come to my attention. This article was written by Nile Stanton, an astute observer of Congress and the Presidency. The article sets forth the historical incidents of Presidential impoundment as a background, and then analyzes the current cases, and the congressional and judicial responses, in light of the historical precedents. Mr. Niles makes a very important point:

Contrary to the administration's argument that authority for its impoundments may be found in historical precedent, in fact, prior cases of impoundment are fundamentally different. Impoundment by previous Presidents has almost always related to instances where expenditure of funds; first, would have been wasteful or inefficient because the programs involved could have been accomplished with fewer dollars than had been authorized; second, where foreign policy or defense considerations were involved; or third, to combat inflationary pressures. The impoundment actions of the current administration are basically outside these historical precedents, for they seek to reorder domestic priorities in a manner antithetical to the priorities set by the Congress in its legislation. And these impoundments cover a substantial portion of Federal spending: approximately 17 to 20 percent of controllable funds have been impounded since 1969.

While Congress is still considering anti-impoundment legislation, I commend to the Members this article which reviews the entire controversy, and concludes that there is no constitutional right to impound funds appropriated by Congress. Unless Congress gives to the President discretionary power to change policy direction through impoundment, this power rests with the Congress. As Mr. Niles concludes:

> The penumbra of presidential authority includes no strings on the purse which can be pulled or loosened, unless Congress first creates those strings.

Mr. President, I ask unanimous consent that the article "The Presidency and the Purse: Impoundment 1803–1973" by Nile Stanton be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

THE PRESIDENCY AND THE PURSE: IMPOUNDMENT 1803–1973

(By Nile Stanton) *

I. INTRODUCTION

Justice Holmes once observed that "great ordinances of the Constitution do not establish and divide fields of black and white" and that "however we may disguise it by veiling words we do not and cannot carry out the distinction between legislative and executive action with mathematical precision and divide the branches into watertight compartments. . . ."[1] This caveat on the separation of powers seems particularly applicable to the controversy concerning presidential impoundment[2] of appropriated funds. While the question as to whether the President has the power to impound funds may be a political one,[3] the corollary question, whether he has statutory or constitutional authority to do so, is answerable when the historical record[4] and recent developments are fully considered.

It would be a Procrustean task to identfy with mathematical precision the extent to which principles of the separation of powers might sanction or disallow presidential impoundment of appropriated funds. Nevertheless, it is now clear that, as a general rule, the President has only a very restricted statutory authority and even less constitutional authority to refuse to spend funds. That there exists a certain ill-defined penumbra of authority in the President to exercise discretionary power is indisputable. The historical record and recent cases, however, demonstrate that the power to impound funds is, except under limited circumstances, beyond the scope of any inherent or congressionally delegated authority which attaches to the presidency.

II. IMPOUNDMENT IN HISTORICAL PERSPECTIVE

The incident which is commonly recognized as the first recorded instance of impoundment in American history took place in 1803. In his Third Annual Message to Congress, President Jefferson announced that there remained unexpended $50,000 which Congress had appropriated for fifteen gunboats on the Mississippi River. He noted that a "favorable and peaceful turn of affairs . . . rendered . . . immediate [construction] unnecessary"[5] and that more time would be taken to develop the best boat possible. A year and a half later, ten of the boats had been built and more were in progress.[6]

The first truly significant impoundment of funds occurred in 1876, an instance which has heretofore received virtually no attention.[7] President Grant, upon signing an appropriations law for river and harbor projects.[8] sent a message to the House of Representatives in which he announced that he would not expend all of the funds.[9] The announcement sparked heated remarks in the House,[10] but President Grant refused to alter his position. Pursuant to his instructions, Secretary of War Cameron and the Chief of the Army Corps of Engineers spent only $2.3 million of the $5 million which Congress had appropriated.[11]

The House of Representatives responded to the impoundment by passing a resolution which asked the President to state the legal authority for his position.[12]

The Secretary of War replied that the President's discretion with regard to spending was not limited except by the public interest and the condition of the treasury and that, in any event, the language of the appropriations act was permissive.[13] In spite of this rather tenuous argument, the House—perhaps because some of the appropriations constituted pork-barrelling—let the matter down.

Twenty years later, in the 1890's, it was firmly established, through four formal Opinions of United States Attorneys General, that it is the intent of Congress which must control whether the expenditure of appropriated funds is permissive or mandatory in a given situation. In the first Opinion, Attorney General Harmon agreed that permissive language in an appropriate measure gave the executive branch some discretion over expenditures. However, he emphasized that there was a duty to spend funds so long as the condition which Congress wanted corrected still existed.[14] The second Opinion indicated that, despite mandatory language in the law, it was not the intent of Congress to require full expenditure if a designated project could be completed for less.[15] The third Attorney General Opinion declared that in the absence of language granting discretionary authority, the executive branch was not to consider the wisdom of congressionally approved projects and was to execute them

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to the extent that funds allowed.[16] And the final Opinion held that permissive language in appropriations laws was to be read as being mandatory when necessary to effectuate the intent of Congress.[17]

One of the most significant historical developments in the law of impoundment was the passage of the Anti-Deficiency Acts of 1905 and 1906.[18] The Acts provide a method by which excessive expenditures in one portion of a year that can require deficiency or supplemental appropriations may be avoided. Moreover, the Acts stipulate that the expenditure of funds may be waived in the event of extraordinary emergencies which could not have been foreseen when appropriations were made. In essence, the Anti-Deficiency Acts were designed to allow the executive branch to prevent waste and to budget funds over a given period of time. The Acts did not grant any general authority to impound funds.[19]

Impoundments pursuant to the Anti-Deficiency Acts were procedurally formalized during the Harding Administration soon after passage of the Budget and Accounting Act of 1921.[20] However, large-scale exercise of this procedure did not begin on a regular basis until President Roosevelt impounded funds in order to cope with the emergencies of economic depression and war.[21]

In the early 1940's Budget Director Smith ordered the impoundment of millions of dollars which had been appropriated for the surplus labor force of the Civilian Conservation Corps, civilian pilot training projects, the Surplus Marketing Corporation, and numerous civil and military efforts which the War Department could not complete because the projects did not have the requisite priority ratings to obtain scarce resources. These impoundments created a stir in Congress. The public cries and political pressures were greatest, however, when funds impounded were those which had been appropriated for a flood control reservoir at Markham Ferry, Oklahoma, and a flood control levee on the Arkansas River at Tulsa.[22]

The impoundment of funds for these Oklahoma projects precipitated a congressional reaction which, in mid-1943, culminated in the passage of a measure which prohibited any agency or official, except the Commissioner of Public Roads, from withholding funds appropriated as federal aid for the construction of certain highways.[23] Thus, Congress managed to slightly curtail the power of the Budget Bureau by diverting funds to avoid its tight-fisted Director.[24] In late 1943, however, Senator McKellar's efforts to restrict the executive branch's control of the purse failed. After it passed the Senate by voice vote,[25] a powerful anti-impoundment rider to the First Supplemental National Defense Appropriation Bill [26] was overwhelmingly defeated in the House.[27]

Pressures which mounted at the end of World War II [28] compelled Congress to accept a rider to the Omnibus Appropriations Act of 1951 [29] which amended the Anti-Deficiency Acts by adding a provision [30] which expressly allowed for reserves to be established for various reasons. Although the House of Representatives explicitly declared that the measure was not to be used to thwart congressional intent,[31] the section has subsequently been cited as a prime authority to legally justify executive impoundment of funds.[32]

Major instances of impoundment also occurred during the Truman Administration. Funds were withheld which had been appropriated for a 70-group Air Force [33] and the giant aircraft carriers U.S.S. *United States* and U.S.S. *Forrestal*.[34] President Eisenhower also impounded funds which had been appropriated for defense projects.[35] The most significant impoundments involved funds appropriated for strategic airlift aircraft and initial Nike-Zeus hardware procurements.

The major impoundment controversy during the Kennedy Administration concerned the RS–70, a long-range bomber system. Congress appropriated nearly double the amount the President had sought. Accordingly, Secretary of Defense McNamara refused to release the excess funds, emphasizing that America's missile deterrence capability combined with existing bomber strength was more than adequate. The House Armed Services Committee voted to command full expenditure of funds appropriated for the RS–70 and insisted that if the language directing expenditure "constitutes test to whether Congress has the power to so mandate, let the test be made . . ." [36] Attempting to avoid a constitutional crisis, President Kennedy wrote to Representative Vinson, Chairman of the Armed Services Committee, requesting that the language be made permissive rather than mandatory.[37] and Congress quickly honored the President's request.[38]

Thus while counsel to both President Eisenhower [39] and President Kennedy [40] strongly advised that the impoundment of funds appropriated for domestic programs was legally tenuous, both Presidents made such impoundments on occasion. President Johnson, in contrast, indubitably thought that impoundment relating to domestic projects was legally permissible and accordingly stepped up the pace by impounding agricultural appropriations, highway trust funds, certain education funds, and funds appropriated for low-cost housing and numerous other programs.[41] He was supported in his view by members of his administration. The Acting Attorney General and the Comptroller General concluded, in 1967, that the withholding of highway trust funds was a lawful practice,[42] and Budget Director Schultze argued that there existed a "general power of the President to operate for the welfare of the economy and the Nation in terms of combating inflationary pressures . . . ." [43] Director Schultze inferred that impounding some of the highway funds would help put the brakes on inflation.[44] Based on these opinions, President Johnson refused to release for obligation billions of dollars which had been appropriated as federal aid to highway construction projects.[45]

Summary. From the earliest years of the Republic through the presidency of Lyndon B. Johnson, the instances of executive impoundment of appropriated funds are generally divisible into three categories: Impoundments were made to (1) prevent the waste of funds, (2) make allowances for defense or foreign policy considerations, and (3) curb inflationary pressures.[46] For obvious pragmatic reasons, Congress did not raise its voice in opposition to impoundments which were made to prevent waste. However, the legislative branch did, without much success and with considerable vicissitude, oppose virtually every refusal to spend which was premised on other rationale. Members of Congress can, at a minimum, be said to have made timely objections. And the objections were made even though no President completely terminated any projects or attempted to reorder domestic priorities via the impoundment of funds.

This history of impoundment is of considerable importance today, for the Nixon Administration lays claim to the support of historical precedent as the touchstone justification for impoundment practices.[47] Additionally, President Nixon has maintained that there inheres in the presidency a constitutional right to refuse to spend appropriated funds.[48]

Does the President have statutory authority to refuse to spend money? Is there constitutional authority for the President to impound funds? If so, from what source is that authority derived and what limitations exist with respect to such authority? As measured against historical precedents, are the Nixon Administration impoundments justifiable? These questions are now answerable.

III. THE RECENT IMPOUNDMENT CRISIS

A. Specific instances of impoundment

The nature and scope of executive branch refusals to spend funds have dramatically changed during the Nixon Administration: [49] impoundment has been used as a tool to effectuate the reordering of domestic priorities. Approximately 17 to 20% of controllable funds has been impounded since 1969.[50] Pursuant to the requirements of the Federal Impoundment and Information Act, [51] the Office of Management and Budget reported on July 30, 1973, total funds impounded amounted to $7.7 billion.[52] In fact, however, the amount was approximately $16.7 billion,[53] a sum which far exceeded amounts impounded by any other President. And the nature of some of the impoundment efforts has taken historically novel forms, as a few illustrations will demonstrate.

1. *The Attempted Termination of REA 2% Loans*. Undoubtedly the terminations or attempted terminations of federal programs have been the most blatantly offensive recent impoundments. A vivid example is the attempted termination of the two percent loan program of the Rural Electrification Act of 1936.[54]

In the last half of 1972, Colorado alone was benefitted by well over $13.5 million in low interest loans from the REA.[55] Such loans are intended to finance the construction and operation of generating plants, distribution and transmission lines, and, in general, systems for furnishing electric energy to rural areas lacking central station service.[56] Despite the great need for such loans, the Department of Agriculture announced late in December 1972 that, effective January 1, 1973, all REA loans would be terminated.[57] After that date, loans were to be made as were guaranteed and insured loans under the Rural Development Act of 1972.[58] This abrupt "conversion" made loans available only at much higher interest rates and under more restrictive qualification standards.[59]

Congress reacted vehemently to the REA two percent loan termination.[60] The response was not surprising because allotment of funds is mandatory under the Act.[61] In addition, Congress had evidenced its clear intent that the loan program should in fact be expanded.[62] Likewise, Congress clearly did not wish to terminate REA loans when it enacted the Rural Development Act.[63] After five months of disputes and negotiations, the executive branch and Congress finally resolved the REA loan controversy with a compromise settlement in May 1973.[64]

2. *The Attempted Terminations of Department of Agriculture Programs*. On December 22, 1972, Secretary of Agriculture Butz indicated that the Rural Environmental Assistance Program (REAP) was being terminated through the impoundment of all REAP funds.[65] On January 10, 1973, the Department of Agriculture announced that the Farmers Home Administration's water and sewer grant program had been terminated effective ten days earlier,[66] *i.e.*, all funds appropriated for those grants had been impounded. On the same day, the Department also announced that its rural housing credit program, administered through the FHA, would continue, but on an unsubsidized basis.[67]

3. *The Impoundment of Water Pollution Control Act Funds*. Perhaps the most vehemently contested impoundment effectuated by the Nixon Administration was the President's refusal to allocate funds pursuant to the Federal Water Pollution Control Act Amendments of 1972.[68] In December 1972, the Environmental Protection Agency revealed that, pursuant to President Nixon's instructions, it would allocate among the states $6

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billion less than the amount designated by statute for the fiscal years 1972 and 1973, in other words, it was withholding substantial funds.[69]

The background of the passage of the Act makes clear why Congress was outraged when Nixon impounded the funds. The bill had received great support, having passed both houses of Congress without opposition. When the President subsequently vetoed the measure, Congress immediately overrode the veto by an overwhelming vote. Under these circumstances Congress would not silently tolerate executive impoundment.[70]

B. The legislative response

Congress, faced with unprecedented impoundments, has responded to the Nixon Administration's practices with unprecedented zeal. Responses in some instances have taken the form of specific and general anti-impoundment measures, while in others compromises with the executive branch have been reached.

1. *Some Specialized Anti-Impoundment Measures.* The Ninety-third Congress attempted, in its first session, to thwart executive impoundments of particular funds by either making mandatory their expenditure [71] or prohibiting their impoundment. With respect to the attempted termination of the REA two percent loan program,[72] for example, members of Congress initially reacted by introducing a bill [73] which would mandate the complete restoration of the program. However, both this bill and second attempt to mandate the expenditure of funds failed, and Congress finally acceded to a compromise measure.[74]

Soon after the Department of Agriculture announced the termination of the Farmers Home Administration's water and sewer grant program,[75] Chairman Poage of the House Agriculture Committee asked the executive branch to state te legal justification for impounding the 1972 appropriations. The Agriculture Department responded that the refusal to spend was lawful because the appropriation act was permissive in nature.[76] Accordingly, the House Agriculture Committee attempted to make the expenditure of funds mandatory.[77] The Committee's amendment to that effect overwhelmingly passed both houses of Congress.[78] President Nixon, however, vetoed the bill because, in part, the mandatory spending provisos created "grave constitutional questions" about the separation of powers.[79] The House of Representatives sustained the veto.[80]

Although Congress had little success in its attempts to affirmatively require the expenditure of specific sums, the legislative branch did make limited headway in its attempts to prohibit the impoundment of funds. During the first half of the current term, the two houses were unable to agree to any anti-impoundment measure or to any specific anti-impoundment section of any bill. However, the progress made lies in the fact that on various occasions at least one house of Congress has approved strong anti-impoundment measures, which, prior to the Nixon Administration, neither house had been able to do.

On one significant occasion the Senate attempted to attach a tough anti-impoundment rider to a bill which provided for a temporary increase in the public debt limit. The bill, H.R. 8410,[81] passed the Senate by a wide margin, 72 to 19, even with the antiimpoundment rider.[82] Senator Dominick of Colorado, whose voting record generally illustrates his concern for both preserving the integrity of Congress' control over the power to spend and maintaining a reasonable ceiling on the national debt, voted against H.R. 8410 due to the bill's self-contradictory features.[83] This self-contradictory nature of the Senate bill caused the House to refuse to change its version of H.R. 8410, despite the Senate conferees' insistence that their version be adopted. The Senate, however, agreed to delete its amendment, and the bill passed the House.[84] H.R. 8410 was signed into law the following day.[85]

Another major attempt which Congress made to restore its power of the purse pertained to the Federal-Aid Highway Act of 1973.[86] The conferees agreed on a bill, S. 502, which prohibited the impoundment of funds.[87] However, in order to assure prompt passage and to avoid presidential veto, the House and Senate conferees finally struck the much debated anti-impoundment sections before the bill was signed into law in mid-August.[88]

2. *The General Anti-Impoundment Bills.* All other efforts which Congress has made in its attempted reassertion of control [89] over public monies pale beside the general anti-impoundment measures which were passed by the Senate in May and by the House in July 1973. On January 16, 1973, Senator Ervin of North Carolina and 45 other Senators introduced S. 373,[90] a carefully drafted anti-impoundment measure which was passed by the Senate on May 10, 1973,[91] and by the House on July 25, 1973, although passage was by bill number only in the House.[92]

Although the House bill, substantially H.R. 8480,[93] and the Senate's S. 373 differ in several respects, it is singularly important that for the first time in the nation's history the vast majority of congressmen concur that the penumbra of presidential power does not include any inherent authority to refuse to spend appropriated funds. No legislator who believed that the President has such inherent authority could have logically voted for either S. 373 or H.R. 8480.[94]

The general anti-impoundment bills, which have yet to be reconciled by conferees, take different paths in achieving the same goal. Whereas S. 373 provides for the automatic cessation of any impoundment which is not approved within 60 days after its initiation, H.R. 8480 allows the continuation of impoundments which are not disapproved within a 60-day period.[95] Although both bills require that all presidential impoundment messages be transmitted to the Comptroller General, only S. 373 provides that the Comptroller General would be responsible for ascertaining whether an impoundment is within the purview of the Anti-Deficiency Acts and thus lawful. H.R. 8480 provides that an impoundment can be terminated by a simple resolution of either house, whereas S. 373 requires that impoundments be approved by concurrent resolution of both houses to last longer than 60 days. Additionally, S. 373 provides for direct and expedited floor action on impoundment resolutions, while the House bill requires that resolutions be processed through an appropriations committee.[96]

To reiterate, although the two major anti-impoundment bills have many differences, their thrust is identical. H.R. 8480 and S. 373 forcefully acknowledge that a substantial number of congressmen oppose the notion that the President has unfettered control over appropriated funds and feel that it is time to revive Congress' proper role in the impoundment decisionmaking process. However, the possibility exists that the two bills will never be reconciled. As the preceding discussion has shown, both houses of Congress have previously passed anti-impoundment measures without those measures ever being enacted into positive law. In such an event, the courts, and, in particular, the Supreme Court, will be faced with deciding a number of impoundment cases, many of which have already been introduced to the judicial process.

C. The judicial response to recent impoundments

As one can glean from the foregoing discussion, Congress has vacillated in its response to the executive branch's refusal to spend appropriated funds. The federal courts, however, have been consistent in their response to the myriad complaints [97] which the Nixon Administration impoundments have precipitated. All the federal courts which have dealt with impoundment controversies with only one exception,[98] have held against the executive branch.

1. *The Highway Trust Fund Case.* When the United States Court of Appeals for the Eighth Circuit decided *State Highway Commission v. Volpe* [99] in early April 1973, it became the nation's highest court ever to decide an impoundment case. In 1966, President Johnson initiated the practice of impounding billions of dollars of highway funds,[100] a practice which President Nixon has adopted. Because of the use of this practice, the Missouri State Highway Commission sought the restoration of approximately $22 million in contract authority for fiscal 1971.[101] The issue raised was whether the Secretary of Transportation could lawfully withhold or defer authority to obligate highway funds which had been apportioned to Missouri when the reasons for impoundment pertained to economic considerations such as inflation.[102]

Secretary Volpe insisted that, although the trust fund had sufficient money to cover the contract authority which Missouri sought, the law gave him "discretion to withhold" authority from Missouri to obligate the funds.[103] Responding to the Secretary of Transportation's arguments, the district and circuit courts found that it was the intent of Congress to proscribe the impoundment of funds for purposes unrelated to the Federal-Aid Highway Act.[104] Secretary Volpe had urged that "the sense of Congress" language was hortatory and that Congress, by not expressly enacting proscriptive language, left impoundment authority in the executive branch.[105]

In addition to finding a clear congressional intent that the funds not be withheld from obligation, the circuit court held that the Secretary of Transportation's argument to the contrary missed the fundamental issue at stake. The court noted that the Constitution gave the authority to establish roads to Congress and that, beyond the authority given to the Secretary which could be "gleaned from the language of the Act," the executive branch had no discretionary control over the funds.[106]

The Eighth Circuit properly disposed of the two other arguments, though in conclusory fashion. With respect to Secretary Volpe's allegations that appropriations measures are permissive in nature and that states have no vested rights in the highway funds, the court retorted that even if such arguments were correct it would not mean that the executive branch had any lawful basis to refuse to expend funds.[107] In essence, then, the court of appeals in *State Highway Commission* affirmed the declaratory and injunctive relief granted by the district court for one compelling reason: absent a grant of authority from Congress that is express or clearly implied by the language of the appropriation measures, the executive branch of government has no justifiable basis upon which to premise a refusal to spend appropriated funds.

2. *The Indian Education Act Case.* On May 8, 1973, the United States District Court for the District of Columbia rendered two opinions which treated the impoundment controversy. One decision was *Minnesota Chippewa Tribe v. Carlucci.*[108] This case, initiated by the Native American Rights Fund (NARF) of Boulder, Colorado, and Harvard University's Center for Law and Education, was brought to compel the implementation of the Indian Education Act of 1972.[109] In order to partially ameliorate the adverse effects of past federal Indian education policies, the Act authorized the development of compensatory education programs, provided for com-

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munity-controlled schools, and established a National Advisory Council on Indian Education (consisting of 15 Indians) to supervise a new Bureau of Indian Education within the Office of Education. President Nixon refused to appoint the National Advisory Council, and the Department of Health, Education, and Welfare refused to spend the $18 million which was appropriated to fund the Act's implementation.[110]

The Act stipulated that appointments to the National Advisory Council "shall be made by the President," [111] and Acting Commissioner of Education John Ottina testified by deposition that the Act could not be implemented without the Council.[112] Hence, it was of critical import that the court in *Minnesota Chippewa Tribe* rejected HEW's contention that the court lacked jurisdiction over the President [113] and proceeded to order him to appoint the Council.[114] Since the Indian Education Act further mandated that "funds appropriated for any fiscal year . . . shall remain available for obligation and expenditure," [115] it was consistent with the intent of Congress for the court to set a tight timetable for the processing of applications for the obligation of funds [116] and, thus, prevent their impoundment.

3. *The Federal Water Pollution Control Act* Case. On the same day it issued the order in *Minnesota Chippewa Tribe*, the United States District Court for the District of Columbia resolved the hotly contested controversy which was precipitated by the withholding of funds appropriated to effectuate the Federal Water Pollution Control, Act Amendments of 1972.[117] In *City of New York v. Ruckelshaus*,[118] a class action brought to compel the Environmental Protection Agency to allot among the states the total amounts authorized to be appropriated by the Act, the court granted summary judgment for plaintiffs.

To avoid any misinterpretation of *Ruckelshaus*, it must be emphasized that the case did *not* involve a refusal to *expend* funds. At President Nixon's direction,[119] the EPA refused to *allot* funds. Hence, the district court found it unpersuasive that the Act gave the executive branch some flexibility to control the rate of spending, for that flexibility was not at issue.[120] In *Ruckelshaus*, the court observed that the President had directed the EPA Administrator not to allot funds and that the President did not act in accordance with provisions of the Act which allowed discretion.[121] In finding that the language "shall allot" created a purely ministerial duty, the court added weight to the proposition that Congress can lawfully command at least some control over the affirmative power of the purse. Congress could not control the President's power with regard to discretionary matters.

4. *The Neighborhood Youth Corps Case*. A central feature of the Economic Opportunity Act [122] has been to develop Neighborhood Youth Corps programs.[123] These programs, which were intended to provide comprehensive work and training experiences and income as well as supportive services to the poor,[124] have been funded by the Department of Labor through the Community Action Agencies.[125]

In the First Supplemental Appropriations Act for 1973,[126] Congress appropriated nearly $830 million to the Manpower Administration of the Department of Labor. Approximately $240 million of that sum was designated for Neighborhood Youth Corps programs which were to operate throughout the nation during the summer of 1973 for the employment of 609,300 youths. On January 29, 1973, however, the President proposed a budget for fiscal 1974 which included a request for a rescission of $284 million which had already been appropriated to the Department of Labor.[127] This proposed rescission included all funds appropriated in October 1972 for the Neighborhood Youth Corps programs.[128]

When Congress refused to withdraw the appropriation which President Nixon wanted rescinded, the President impounded the funds. In *Community Action Programs Executive Directors Association v. Ash* [129] the impoundment action was defeated. The court granted plaintiffs' request for mandamus, declaratory judgment, and a permanent injunction. "[T]he unequivocal intent of Congress," the court determined, was "to make mandatory and not discretionary the obligation, release, and expenditure of the appropriation." [130] Finding that defendants had violated the Economic Opportunity Act as amended,[131] the supplemental appropriations measure, and article II, section 3 of the United States Constitution,[132] the district court gave defendants 24 hours in which to comply with its order to release and obligate $240 million.[133]

5. *The Mental Health Centers Case*. On June 28, 1973, in *National Council of Community Mental Health Centers v. Weinberger*,[134] a preliminary injunction was granted in which defendants were forbidden from allowing the reversion of approximately $51 million to the Treasury. Such an amount was impounded from use purportedly pursuant to the Community Mental Health Centers Act.[135] Injunctive relief was appropriate, the court suggested, because in 1970, Congress passed, over President Nixon's veto, a law which in pertinent part required that the funds "shall remain available for obligation and expenditure" until the end of the fiscal year for which the appropriation for the Act is made.[136]

Initial staffing grant applications for at least 78 community mental health centers had not been acted upon because defendants refused to make available for obligation funds appropriated for fiscal 1973. Adherence to the mandatory language of the statute was ordered by the district court. Neither the President of the United States nor the other defendants, it held, had any constitutional authority to do otherwise and impoundments made for reasons unrelated to the statute were wholly impermissible. Accordingly, the court commanded that the grant applications be processed and the funds released for obligation.[137]

6. *The National Defense Education Act Case*. During the last five days of July 1973, the United States District Court for the District of Columbia blasted the Nixon Administration's impoundment policies with two more decisions. In *Massachusetts v. Weinberger*[138] the court granted plaintiffs' motion for summary judgment, holding that the executive branch had no discretionary authority to withhold $50 million appropriated for Title III–A of the National Defense Education Act of 1958.[139]

The court noted that the Act stipulates that the Commissioner of Education "shall allot" [140] funds to the states and further declared that the language in the appropriations measures authorizing funds "not in excess of" certain amounts could not detract from the Congress' intent [141] to have Title III–A funded. The court was insistent that

> [T]here is no authority in either Article II of the Constitution or in the case law [for the proposition that the executive branch] may achieve this [impoundment] by refusing to comply with the terms of a statute.[142]

7. *The Farmers Home Administration Case*. In the other decision, the United States District Court for the District of Columbia ordered the Farmers Home Administration to resume a program, which had been discontinued in January 1973, that was designed to assist people with low incomes in the purchase of homes in rural areas. The Secretary of Agriculture had been authorized to set interest rates as low as 1 percent for families which could not otherwise afford rural housing.[143] The court, in *Pealo v. Farmers Home Administration*,[144] declared that:

> [d]efendants have chosen to disregard that evidence of Congressional intent and have ignored the stated goal of Congress—a goal which is tremendously important not only to those who cannot afford nonsubsidized housing, but a goal which is of importance to every citizen concerned with the welfare of our country.[145]

IV. SUMMARY AND CONCLUSION

Justice Frankfurter once stated that the imprimatur of history may be invoked to justify executive action if it is "systematic, unbroken, executive practice, long pursued to the knowledge of Congress and never before questioned." [146] With this in mind, one is thrust to the conclusion that the Nixon Administration's refusals to spend appropriated funds are sorely lacking the support of history.[147] When the executive branch has withheld funds in order to prevent waste, Congress has not voiced complaint.[148] Surely the "sharing of power" [149] must allow the branches of government enough flexibility of action to do what is reasonably within one branch's power without derogating the power of another branch. But this does not mean that the history of congressional acquiescence to impoundments for the purpose of preventing waste justifies the rash of more recent impoundments attempted for very different reasons. In fact, if we are to look to the words of Justice Frankfurter as a guide, the claim of historical justification advanced by the Nixon Administration is particularly inappropriate: where impoundments have flouted the will of Congress, they have been strenuously challenged.

It is also clear that the power to impound funds is not inherent in the executive office. There is no constitutional right to impound funds appropriated by Congress. Whenever a President withholds appropriated funds, he either curtails or prevents the implementation of a law. The framers of the Constitution discussed and expressly rejected the absolute veto power and the power to suspend an act as being incongruous with proper limitations on executive discretion.[150] Moreover, few outside the executive branch see any merit whatever in the brazen non sequitur that the duty to faithfully execute the laws [151] carries with it a corollary right to ignore the laws.[152] And it is at least of some small significance that every court in the nation which has cited, in an impoundment case, the Constitution has stated that article II, section 3 tends to forbid the refusal to spend funds, not justify such action.[153] It is true that "Congress may grant to the executive [branch] discretion to impound, but that discretion is always at the sufferance of Congress and has no independent constitutional base." [154]

Of course the President does have some limited statutory power to impound funds. The Anti-Deficiency Acts of 1905 and 1906 sanction impoundments to prevent waste and allow reserves to be maintained in order to meet obligations.[155] The Acts merely codified the sorts of practices to which Congress has always assented. The Act expressly contemplates that the only funds which may be withheld are those it is not necessary to use to implement the purposes of the laws.[156] Congress has directed, on rare occasion, that under certain circumstances the Presdent has an obligation to impound funds. [157] But, absent statutory language which directs impoundment action or expressly creates discretionary authority to impound, there is no statutory basis upon which to premise presidential control of funds. Permissive language in appropriations bills operates simply to al-

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Footnotes at end of article.

low the invocation of the Anti-Deficiency Acts. It does not create a grant of authority which the President may exercise at his pleasure.

The Constitution, the relevant statutes, the recent action in Congress, and the recently developed body of case law[158] mesh harmoniously. Congress has both the negative and affirmative power of the purse. The penumbra of presidential authority includes no strings on the purse which can be pulled or loosened, unless Congress first creates those strings.

FOOTNOTES

*Executive Director, Indianapolis Lawyers Commission. The views expressed herein are the author's and should not be construed to be those of the Lawyers Commission.

[1] Springer v. Philippine Islands, 277 U.S. 189, 209, 211 (1928) (dissenting opinion).

[2] The term "impoundment" is used in a generic sense. It can refer to delaying, freezing, reserving, sequestering, or withholding appropriated funds or deferring the allocation of funds. *Hearings on Executive Impoundment of Appropriated Funds Before the Subcomm. on Separation of Powers of the Senate Comm. on the Judiciary*, 92d Cong., 1st Sess. 1 (1971) (testimony of Senator Ervin) [hereinafter cited as *1971 Hearings*]; Fisher, *Funds Impounded by the President: The Constitutional Issue*, 38 Geo. Wash. L. Rev. 124 (1969) ("In its broadest context, impoundment occurs whenever the President spends less than Congress appropriates for a given period.").

[3] *See e.g.*, Fisher, *supra* note 2, at 136; Miller, *Presidential Power to Impound Appropriated Funds: An Exercise in Constitutional Decision-Making*, 43 N.C.L. Rev. 502, 533 (1965). *Cf.* Frankfurter, *Chief Justices I Have Known*, 39 Va. L. Rev. 883, 895, (1953):

> [B]y the very nature of our Constitution, practically every political question eventually, with us, turns into a judicial question.

[4] As one scholar has suggested,

> [Historical materials] are of crucial significance to any conceivable process of judicial review, and in one fashion or another, and to one end or another, they have been consulted throughout the recorded experience of the Supreme Court. A. Bickel, The Least Dangerous Branch 98 (1962).

[5] 13 Annals of Cong. 9, 14 (1803).

[6] Professor Cooper has demonstrated that President Jefferson neither frustrated the will of Congress nor asserted that he had any inherent right to impound funds. He simply took advantage of the fact that the boats were not immediately required in order to build better gunboats. *Hearings on S. 373 Before the Ad Hoc Subcomm. on Impoundment of Funds of the Senate Comm. on Government Operations and the Subcomm. on Separation of Powers of the Senate Comm. on the Judiciary*, 93rd Cong., 1st Sess. 676–77 (1973) [hereinfter cited as *1973 Hearings*].

[7] As part of a response to a series of questions posed by Senator Ervin, Deputy Attorney General Sneed presented some details of President Grant's impoundment of funds. *Id.* at 835–36. The only other published references to the instance are casual in nature. Comment, *Presidential Impounding of Funds: The Judicial Response*, 40 U. Chi. L. Rev. 328 n. 3 (1973); Note, *Impoundment of Funds*, 86 Harv. L. Rev. 1505, 1510 n. 20 (1973); *Hearings on Impoundment Reporting and Review Before the House Comm. on Rules*, 93rd Cong., 1st Sess., pt. 2, at 427, 483 (1973) (testimony of Professor Cooper) [hereinafter cited as *1973 Impoundment Reporting Hearings*].

[8] Act of Aug. 14, 1876, ch. 267, 19 Stat. 132.

[9] President Grant declared that certain appropriations in the Act were for "works of purely private or local interest, in no sense national." "[D]uring my term of office," he insisted, "no public money shall be expended on them," and that "[u]nder no circumstances will I allow expenditures upon works not clearly national." 4 Cong. Rec. 5628 (1876).

[10] *Id.* at 5630 (remarks of Representative Hereford). Of the few congressmen who discussed President Grant's announcement that he would impound funds, most supported the President's position on the ground that the legislation failed to carry mandatory language. *Id.* at 5630–33 (remarks of Representtatives Conger, Pierce, and Kasson). Representative Pierce noted that, "[the legislation] does not say that he *shall* spend a single dollar. . . ." *Id.* at 56.2 (emphasis in original).

[11] On December 5, 1876, President Grant acknowledged this impoundment in his last Annual Message to Congress:

> The appropriations for river and harbor improvements for the current year were $5,015,000. With my approval, the Secretary of War directed that, of this amount, $2,000,000 should be expended, and no new work should be begun and none prosecuted which were not of national importance. Subsequently this amount was increased to $2,237,600, and the works are now progressing on this basis. 5 Cong. Rec. 23 (1876).

[12] See 5 Cong. Rec. 374 (1876), where the resolution is set forth in full.

[13] *See 1973 Hearings, supra* note 6, at 835–36 (prepared statement of Deputy Attorney General Sneed).

[14] 21 Op. Att'y Gen. 391 (1896). The Attorney General called attention to the fact that at a certain point the east bank of the Mississippi River was caving in and washing away and that Congress wanted the condition remedied. *Id.* at 392. The Attorney General then, addressing Secretary of War Lamont, declared, "[I]t is made your *duty*, if that condition be found . . ., *to proceed with the expenditure authorized* . . . ." *Id.* (emphasis added).

[15] 21 Op. Att'y Gen. 414 (1896). The appropriation Act stipulated that a certain amount "shall be expended" for a specified project, but the Attorney General found that a nonmandatory construction of the statute was consistent with a congressional purpose to have the work done according to the recommendations of an advisory commission. *Id.* at 416. He concluded that the direction to expend funds was "not mandatory to the extent that you are bound to expend the full amount if the work can be done for less . . . ." *Id.* at 415.

[16] 21 Op. Att'y Gen. 420 (1896).

> The intention of Congress was, except in instances where a contrary intent is manifested . . . that you should proceed with the projects specified to the extent of the appropriations without inquiry as to their wisdom. *Id.* at 422.

[17] 22 Op. Att'y Gen. 295 (1899). Attorney General Griggs held that the words "to enable the Secretary of the Treasury to pay" were permissive in nature. *Id.* at 296. However, it was his opinion that Congress had intended to require the expenditure of funds and, accordingly, that "to enable" must be "read as mandatory whenever to do so is more in harmony with the context." *Id.* at 297.

[18] Act of Feb. 27, 1906, ch. 510, § 3, 34 Stat. 48 and Act of Mar. 3, 1905, ch. 1484, § 4, 33 Stat. 1257, *as amended*, 31 U.S.C. § 665 (1970). *See 1973 Hearings, supra* note 6, at 396–99. Material on the Anti-Deficiency Act is from a forthcoming book by Louis Fisher.

[19] *See generally* Note, *Presidential Impoundment: Constitutional Theories and Political Realities*, 61 Geo. L.J. 1295, 1301–02 (1973); Comment, *supra* note 7, at 334–38.

[20] Act of June 10, 1921, ch. 18, 42 Stat. 20. *See* Fisher, *The Politics of Impounded Funds*, 15 Ad. Sci. Q. 361, 362–63 (1970); *1971 Hearings, supra note 2, at 174–75* (testimony of Professor Cooper).

[21] *See* Williams, The Impounding of Funds by the Bureau of the Budget 7–8 (Inter-University Case Program No. 28, 1955); Church, *Impoundment of Appropriated Funds: The Decline of Congressional Control Over Executive Discretion*, 22 Stan. L. Rev. 1240, 1242 (1970). The Economy Acts of 1932 and 1933 authorized the President to reduce compensation of federal employees, make layoffs, and attempt to economize by reorganizing executive departments. Act of Mar. 3, 1933, ch. 212, § 403, 47 Stat. 1518; Act of June 20, 1932, ch. 314, § 101, 47 Stat. 399. The 1933–1934 War Appropriation Act gave the President authority to impound funds determined unneeded pursuant to a presidentially ordered economy survey. Act of Mar. 4, 1933, ch. 281, § 4, 47 Stat. 1602.

[22] *See generally* Williams, *supra* note 21.

[23] Act of July 13, 1943, ch. 236, §§ 3, 9, 57 Stat. 560.

[24] *See* 89 Cong. Rec. 6309, 6313 (1943) (colloquy among Senators McKellar, Hayden, and Vandenberg).

[25] *Id.* at 10,419 (Senate approved the rider). Objections to Senator McKellar's proposed rider were largely premised on the ground that it would interfere with the President's power as Commander-in-Chief. *Id.* at 10,362 (remarks of Senator Truman); *id.* at 10,405, 10,419 (remarks of Senator Lodge); *id.* at 10,780–81 (remarks of Representatives Cannon and Taber); Letter from Secretary of War Henry L. Stimson to Senator McKellar, Dec. 7, 1943, in *id.* at 10,360; *see* Hirabayashi v. United States, 320 U.S. 81, 93 (1943); Fisher, *supra* note 20, at 365; Note, *supra* note 19, at 1316 n. 155.

[26] H.R. 3598, 7th Cong., 1st Cess. § 305 (1943).

[27] 89 Cong. Rec. 10,781 (1943). The House rejected the rider 283 to 18. Senator McKellar's proposed rider was "the first across-the-board curtailment of the Budget's impounding procedure to be accepted by either house of Congress." Williams, *supra* note 21, at 27.

[28] For example, when military needs subsided, appropriated funds exceeded amounts needed by several billions of dollars, Fisher, *supra* note 2, at 125; *Hearings on the Supplemental Appropriation Bill for 1951 Before a Subcomm. on Department of Defense Appropriations of the House Comm. on Appropriations*, 81st Cong., 2d Sess. 47, 120, 233 (1950); *See* Fisher, *supra* note 20, at 370.

[29] Act of Sept. 6, 1950, ch. 896, 64 Stat. 595.

[30] In part, the 1950 amendment states:

> [R]eserves may be established to provide for contingencies or to effect savings whenever savings are made possible by . . . changes in requirements, greater efficiency of operations, or other developments [after an] apportionment [is] made available. 31 U.S.C. § 665(c) (2) (1970).

It is disturbing that this language is relied upon to justify impoundments for virtually any purpose, for the same section continues with the following stipulation: "Whenever it is determined . . . that any amount so reserved *will* not be required to carry out the purpose of the appropriation concerned . . . rescission of such amount [shall be recommended] for estimates of appropriations." *id.* (emphasis added). Thus, it should be clear that the amendment cannot be properly invoked to curtail or cancel projects. Rather it can be invoked only to effect savings or promote efficiency of a project which is being implemented pursuant to congressional intent. *See 1973 Hearings, supra* note 6, at 105–09 (attachment to the prepared statement of Comptroller General Staats detailing the types of impoundments which are consistent with the section).

[31] H.R. Rep. No. 1797, 81st Cong. 2d. Sess. 311 (1950):

> It is perfectly justifiable and proper for all possible economies to be effected and savings to be made, but there is no warrant or justification for the thwarting of a major policy of Congress by the impounding of funds. If this principle of thwarting the will

of Congress by the impounding of funds should be accepted as correct, then Congress would be totally incapable of carrying out its constitutional mandate and providing for the defense of the Nation. *See also* 38 Comp. Gen. 501, (1959); Staff Memorandum on S. 3578 for the Committee on Government Operations, June 23, 1958, in *1971 Hearings, supra* note 1, at 527, 528–33.

[32] *See, e.g., 1973 Hearings, supra* note 6, at 271, 284, 286, 502 (testimony of Office of Management and Budget Director-Designate Ash); Boggs, *Executive Impoundment of Congressionally Appropriaed funds,* 24 U. Fla. L. Rev. 221, 224 (1972).

[33] Letter from President Harry S Truman to Secretary of Defense Louis A. Johnson, Nov. 8, 1949, in *1971 Hearings, supra* note 2, at 525 (directing that the funds be placed in reserve). *See* 95 Cong. Rec. 14,355 (remarks of Senator Thomas); *id.* at 14,855–56 (remarks of Senators Ferguson, Saltonstall and Knowland); *Hearings on the National Military Establishment Appropriation Bill for 1950 Before the Senate Comm. on Appropriations,* 81st Cong., 1st Sess., at 330 (1949) (testimony of Secretary of the Air Force Symington).

[34] *Hearings, supra* note 33, at 161–62 (testimony of Admiral Denfeld): W. Millis, The Forrestal Diaries 392–93, 464–77 (1951); *see* Fisher, *supra* note 20, at 367–68.

[35] For example, in 1956, $46.4 million appropriated to increase Marine Corps personnel strength was impounded. In 1959, $48 million in Hound-Dog missile funds, $90 million in Minuteman program funds, $55.6 million for additional KC–135 tankers, $140 million for additional strategic airlift aircraft, and other funds were withheld. In 1960, $35 million for advance procurements of nuclear-powered carriers and $137 million in Nike-Zeus procurement funds were impounded. *1971 Hearings, supra* note 2, at 526 (Exhibit 2, presented by Senator Russell to Senator Ervin in March of 1969).

[36] H.R. Rep. No. 1406, 87th Cong., 2d Sess. 9 (1962). *See* Davis, *Congressional Power to Require Defense Expenditures,* 33 Ford. L. Rev. 39, 40–44 (1964).

[37] T. Sorenson, Kennedy 348 n. 2 (1965); Church, *supra* note 21, at 1246–47; Letter from President John F. Kennedy to Representative Carl Vinson, Mar. 20, 1962, in 108 Cong. Rec. 4694 (1962), which stated in part: I would respectfully suggest that, in place of the word "directed," the word "authorized" would be more suitable to an authorizing bill . . . and more clearly in line with the spirit of the Constitution.

Each branch of the Government has a responsibility to . . . the Constitution and the clear separation of legislative and executive powers it requires. I must, therefore, insist upon the full powers and discretion essential to the faithful execution of my responsibilities as President and Commander-in-Chief, under article II, sections 2 and 3, of the Constitution. *See also id.* at 4645 (remarks of Senator Goldwater); *id.* at 4714 (remarks of Senator Ford).

[38] 108 Cong. Rec. 4720 (1962).

[39] Counsel to President Eisenhower wrote a letter to a member of Congress in 1955 in which he made the following argument:

"Because of the President's Constitutional obligation to faithfully execute the laws, I am strongly of the view that when Congress has appropriated funds for a particular project, that President cannot set aside the will of Congress and direct that no funds be spent on that project.

"It is true that in the past Presidents have declined to spend funds appropriated . . . , but I have not found any instance of this that did not relate to funds appropriated for the national defense. . . . These national defense precedents, however, cannot, in my opinion, be used as precedents for withholding funds appropriated for a non-defense purpose." *1973 Hearings, supra* note 6, at 339.

[40] A memorandum, dated October, 1961, concluded:

"Previous Presidents, in their roles as Commander-in-Chief, have 'impounded' Defense Appropriations. Similar action in the civilian area is not customary and of doubtful legal basis." *Id.* at 333 (testimony of Senator Kennedy).

[41] *See* Fisher, *supra* note 20, at 371–72.

[42] 42 Op. Att'y Gen., No. 32 (1967); Comptroller General Decision B–160891, Feb. 24, 1967 (unreported), in *1971 Hearings, supra* note 2, at 65.

[43] *Hearings on the Budget for Fiscal Year 1968 Before the Senate Comm. on Appropriations,* 90th Cong., 1st Sess. 78 (1967).

[44] *Id.* at 111.

[45] *See* 42 Op. Att'y Gen., No. 32 (1967).

[46] *See generally* R. Waicukauski, The Impoundment Crisis: The Role of the Courts and the Constitution 6–22, June 1, 1973 (unpublished thesis in Harvard Law School Library).

[47] With reference to impoundment practices over the past thirty years, Deputy Attorney General Sneed remarked, "Such a long-continued executive practice, in which Congress has generally acquiesced, carried with it a strong presumption of legality." *1973 Hearings, supra* note 6, at 359. *See id.* at 271 (testimony of Office of Management and Budget Director-Designate Ash); 1973 *Impoundment Reporting Hearings, supra* note 7, pt. 1, at 228 (testimony of Office of Management and Budget Director-Designate Ash).

[48] At a news conference held in January, 1973, the President stated:

The constitutional right for the President of the United States to impound funds, and that is not to spend money, when the spending of money would mean either increasing prices or increasing taxes for all the people, that right is absolutely clear.

N.Y. Times, Feb. 1, 1973, at 20, col. 6 (city ed.). This bold assertion prompted one young scholar to chide, "[u]ndoubtedly, the President's penchant for seeing clarity where there is none has led him far off base. . . ." Waicukauski, *supra* note 46, at 35.

[49] *1973 Impoundment Reporting Hearings, supra* note 7, pt. 1, at 2 (testimony of Representative Madden). *But see* H.R. Rep. No. 336, 93rd Cong., 1st Sess. 15–19 (1973); 119 Cong. Rec. H6554–55 (daily ed. July 24, 1973) (remarks of Representative Latta).

[50] *Compare* figures set forth by Boggs, *supra* note 32, at 226, *with* Office of Management and Budget figures, in *1971 Hearings, supra* note 2, at 7–13.

[51] Act of Oct. 27, 1972, 86 Stat. 1325; 31 U.S.C.A. § 581c–1 (Supp. 1973).

[52] 38 Fed. Reg. 19,581 (1973). Representative Anderson of Illinois noted that this constituted only about 3.1% of the estimated total budget outlays for fiscal 1973 and further indicated that the 1973 reserves were "about half the average reserve percentage of the last 10 years." 119 Cong Rec. H6558 (daily ed. July 24, 1973).

[53] Representative Anderson neglected to point out that, like earlier reports, the July 1973 report of the Office Management and Budget was far from accurate. Approximately $9 billion in impounded funds went unreported, and $6 billion of this sum constituted funds appropriated for water sewage treatment facilities. *See id.* at H6569 (remarks of Representative Badillo); Memorandum from Allen Schick of the Congressional Research Service to Representative Leggett, Mar. 8, 1973, in *1973 Impoundment Reporting Hearings, supra* note 7, pt. 1, at 200–01.

[54] 7 U.S.C. §§ 901 *et seq.* (1970).

[55] *See Hearings on the Impoundment of Funds for Farm and Rural Areas Before the Senate Comm. on Agriculture and Forestry,* 93rd Cong., 1st Sess. (1973). Over $2.4 million went to Poudre Valley Rural Electric Association, Inc., at Fort Collins, although 10% of the loan was from the National Rural Utilities Cooperative Finance Corporation. The loan was to finance facilities which would serve 1,309 consumers, and it included funds for the proposed construction of distribution and transmission lines and four substations. *Id.* at 649. Another loan of approximately $6.2 million was made in Denver to Tri-State Generation & Transmission Association, Inc., a power supply cooperative. *Id.* The Southeast Colorado Power Association located in La Junta received a loan of $1.9 million. *Id.* at 680. In Joes, Colorado, the Plains Cooperative Telephone Association, Inc., received a $2 million REA 2% loan. *Id.* at 695. And a loan of approximately $1.2 million went to the Union Rural Electric Association, Inc. of Brighton. *Id.* at 698. *See generally* Public Service Co. v. Public Utilities Comm'n, 142 Colo. 135, 350 P.2d 543, *cert. denied,* 364 U.S. 820 (1960).

[56] H.R. Rep. No. 2219, 74th Cong., 2d Sess. 5–6 (1936). *See* Alabama Power Co. v. Alabama Elec. Coop. Inc., 249 F. Supp. 855 (N.D. Ala. 1965), *aff'd,* 394 F.2d 672 (5th Cir. 1968), *cert. denied,* 393 U.S. 1000 (1969); Missouri Power & Light Co. v. Lewis County Rural Elec. Coop. Ass'n, 235 Mo. App. 1056, 149 S.W.2d 881 (1941). Pursuant to 7 U.S.C. § 904 (1970), these loans "shall be self-liquidating within a period of not to exceed thirty-five years, and shall bear interest at the rate of 2 per centum per annum. . . ."

[57] Rural Electric and Rural Telephone Loan Programs Charge, Dep't Agriculture Press Release (Dec. 29, 1972), in H.R. Rep. No. 91, 93rd Cong., 1st Sess. 2 (1973). The announced "conversion" undoubtedly violated the Reorganization Act of 1949, 5 U.S.C. §§ 901 *et seq.* (1970). The Reorganization Act does not allow the President to terminate an agency function unless he first submits a reorganization plan to Congress, which then has 60 days to reject the plan 5 USC §§ 902(2), 903(a)(2), 906(a)(1970).

[58] 7 U.S.C.A. §§ 1921 *et seq.* (Supp. 1973).

[59] Even in view of the sudden termination of the REA loans, the Department of Agriculture refused to give special consideration to such loans which were to have been made in January 1973. *Hearings, supra* note 55, at 41 (colloquy between Senator Young and Secretary Butz). After the "conversion," the interest rate was to be 5% to cooperative and market rate to commercial electric companies. *Id.* at 714. "[A] finding of no credit elsewhere; mandatory refinancing; comment by various planning agencies and local public bodies; and review by the Secretary of Labor" were to be among the more restrictive features of eligibility for RDA loans. H.R. Rep. No. 91, 93rd Cong., 1st Sess. 5 (1973) (statement of Under Secretary Campbell).

[60] *See* notes 73 & 74 *infra* and accompanying text.

[61] "[S]ums herein made available or appropriated . . . *shall be allotted* . . ." and "such annual sums *shall be available* . . . in the several States." 7 U.S.C. §§ 903(c) & (d) (1970) (emphasis added).

[62] *See* H.R. Rep. No. 1175, 92d Cong., 2 Sess. 4, 48 (1972); S. Rep. No. 983, 92d Cong., 2d Sess. 27 (1972).

[63] *See* H.R. Rep. No. 91, 93rd Cong., 1st Sess. 3 (1973); 118 Cong. Rec. S13930 (daily ed. Aug. 18, 1972) (remarks of Senator Talmadge).

[64] *See* notes 73 & 74 *infra* and accompanying text.

[65] *See* Memorandum from Department of Agriculture General Counsel Shulman to Agricultural Stabilization and Conservation Service (ASCS) Administrator Frick, Jan. 5, 1973, in *1973 Hearings, supra* note 6, at 581. Administered by the ASCS, REAP has as its purposes the preservation and improvement of soil fertility, promotion of the economic use and conservation of land, diminution of the wasteful use of natural soil resources, protection and rivers and harbors against

the results of soil erosion, and the abatement of agricultural-related pollution. 16 U.S.C.A. § 590g (a) (Supp. 1973). *See also 1973 Hearings, supra* note 6, at 531, 540, 543, 547, 550 (testimony of Secretary Butz).

[66] Terminate FHA Water/Waste Disposal Grants, Dep't of Agriculture Press Release (Jan. 10, 1973), in H.R. Rep. No. 21, 93d Cong., 1st Sess. 4 (1973).

[67] Rural Housing Program Proceeds on Unsubsidized Basis, Dep't of Agriculture Press Release (Jan. 10, 1973), in *1973 Hearings, supra* note 6, at 583.

[68] 33 U.S.C.A. §§ 1251 *et seq.* (Sup. 1973).

[69] 37 Fed. Reg. 26,282 (1972). The Act "authorized to be appropriated" an upper limit of $5 billion for fiscal 1972, $6 billion for fiscal 1973, and $7 billion for fiscal 1974. 33 U.S.C.A. § 1287 (Supp. 1973). *See* 119 Cong. Rec., p. 1151 (remarks of Senator Nelson).

[70] With respect to the assertion that Congress did not clearly mandate that the pollution control funds were to be allocated, Senator Muskie, the Act's chief proponent, retorted:

> [W]ithin 24 hours, both the House and Senate had overridden the [President's veto]. The President got only 12 votes in the Senate and 23 votes in the House to support his veto. Now, how many times, I ask, must Congress speak before our intention is clear? The Advocates, Public Service Television, WGBH–Boston (transcript), Feb. 15, 1973, at 11.

[71] Occasionally, Congress had included mandatory language in appropriations bills before the 1970–1973 impoundment crisis. *See* Memorandum from Louis Fisher of the Congressional Research Service to Senator Stevenson, May 16, 1973, in *1973 Hearings, supra* note 6 at 861–63, 870 nn. 6–22.

[72] *See* notes 54–64 *supra* and accompanying text.

[73] H.R. 2276, 93d Cong., 1st Sess. (1973). *See* 119 Cong. Rec., p. 1638.

[74] The Department of Agriculture's strenuous objections to the poignant language of H.R. 2276 resulted in the development of H.R. 5683, 93d Cong., 1st Sess. (1973). *See* 119 Cong. Rec., p. 8036. However, the Department also opposed H.R. 5683. H.R. Rep. No. 93d Cong., 1st Sess. 6, 33–39 (1973). The measure which was ultimately enacted. Pub. L. No. 93–32 (May 11, 1973), contained no language which would compel the utilization of REA 2% loan funds and gave the REA Administrator unprecedented discretion in ascertaining whether the criteria for obtaining such loans have been met. *See generally* H.R. Rep. No. 169, 93d Cong., 1st Sess. (1973) (the Conference Committee report on S. 394. the bill which passed). The Congress and the Department of Agriculture, however, reached an agreement to the effect that "not less than" $105 million would be available in fiscal 1974 for the low-interest loans. Letter from Secretary Butz to Representative Poage, May 8, 1973, in 119 Cong. Rec., p. 14990.

[75] *See notes* 66 & 67 *supra* and accompanying text.

[76] *See* H.R. Rep. No. 21, 93d Cong., 1st Sess. 1–2 (1973).

[77] H.R. 3298, 93d Congress., 1st Sess. § 306 (a) (2) (1973), carried the words "The Secretary shall make grants" in the place of original permissive language, and other sections were also rewritten in mandatory terms. H.R. Rep. No. 21, *supra* note 76, at 8–9. *See also* 119 Cong. Rec., p. 6019 (remarks of Representative Matsunaga); *id.* at p. 6024 (remarks of Representative O'Neill); *id.* at pp. 9283–9302 (remarks of Senator McGovern); *id* at pp. 9313–14 (remarks of Senator McClellan).

[78] H.R. 3298 passed in the House by a vote of 297 to 54, 119 Cong. Rec., p. 6027. It passed the Senate by a vote of 66 to 22. *Id.* at p. 9312 (Senators Dominick and Haskell of Colorado were among those voting for passage of the mandatory expenditure bill.) *See also* S. Rep. No. 77, 93d Cong., 1st Sess. (1973).

[79] In his veto message of April 5, 1973, the President insisted that the mandate to spend "conflict[ed] with the allocation of executive power to the President made by Article II of the Constitution." 1973 U.S. Code Cong. & Ad. News 863–64. The President also suggested that the grant funds program duplicated funds available through revenue sharing projects and the Environmental Protection Agency.

[80] 119 Cong. Rec., p. 11680.

[81] 93d Cong., 1st Sess. (1973). *See* H.R. Rep. No. 267, 93d Cong., 1st Sess. (1973); S. Rep. No. 249, 93d Cong., 1st Sess. (1973).

[82] 119 Cong. Rec., p. 21708. The Senate version of H.R. 8410, in Sections 301–11, would have provided for impoundment control procedures similar to those in S. 373, 93d Cong., 1st Sess. (1973). Section 301 of H.R. 8410, as passed by the Senate, powerfully and cogently set forth in eleven paragraphs some constitutional arguments against the President's alleged authority to impound funds. *See* 119 Cong. Rec., p. 22620.

[83] Alluding to the anti-impoundment rider, Senator Dominick remarked ,"[W]e have not only extended the debt limit, but increased it, due to the acumen of this great body in accepting amendments, many of them being good amendments, but by our act we have contradicted what we are trying to do in enacting a debt ceiling." 119 Cong. Rec., p. 21707.

[84] 119 Cong. Rec., p. 22631.

[85] Pub. L. No. 93–53 (July 1, 1973).

[86] S. 502, 93d Cong., 1st Sess. (1973). *See* H.R. Rep. No. 118, 93d Cong., 1st Sess. (1973); S. Rep. No. 61, 93d Cong., 1st Sess. (1973).

[87] Section 155 of the Senate version of S. 502 and Section 302 of the House bill contain the anti-impounding features. *See* 119 Cong. Rec., p. 8240; 119 Cong. Rec., p. 13264.

[88] The anti-impoundment sections discussed in note 87 *supra* did not survive in conference. *See* Pub. L. No. 93–87 (Aug. 13, 1973). Nevertheless, the conference report on S. 502, S. Rep. No. 355, 93d Cong., 1st Sess. (1973), clearly stipulated that it was the intent of Congress that the funds not be impounded:

> The fact that this section of the Senate bill [§ 155] is not contained in the conference substitute shall not be construed to indicate anything other than complete agreement with the decision of the United States Court of Appeals for the Eighth Circuit in [the State Highway Commission case]. 1973 U.S. Code Cong. & Ad. News 2724.

[89] General anti-impoundment proposals not discussed in the text include the following: H.R. 6206, S. 2027 and S. 5193, 93d Cong., 1st Sess. (1973). In addition to the bills designed to attack the problem of executive refusals to spend appropriated funds directly, numerous efforts of a slightly indirect nature were made. *See e.g.*, S. 518, 93d Cong. 1st. Sess. (1973), which would have subjected the Director and Deputy Director of the Office of Management and Budget to Senate confirmation. The House passed its version of the bill, H.R. 3932, by a vote of 229 to 171. 119 Cong Rec., p. 13834. And the Senate passed S. 518, 73 to 19. 119 Cong. Rec., p. 14096. President Nixon asserted that the measure constituted a "grave violation of the fundamental doctrine of separation of powers" and vetoed it. 1973 U.S. Code Cong. & Ad. News 1228. The Senate overrode the veto 62 to 22. 119 Cong. Rec., p. 16506. However, the House sustained the veto by a vote of 170 to 236, 40 votes short of the needed two-thirds to override the veto. *Id.* at p. 16773.

[90] 93d Cong., 1st Sess. (1973). See 6 Ind. L. Rev. 523 (1973), a succinct commentary on impoundment and S. 373 as it was originally drafted.

[91] 119 Cong. Rec., pp. 15212–257.

[92] 119 Cong. Rec. pp. 25821–25854. Actually it was the House bill, H.R. 8480, which passed by a vote of 254 to 164. *Id.* at p. 25849. Passage was promptly vacated, however, and S. 373 was passed by voice vote in lieu of H.R. 8480, after S. 373 was amended to contain the provisions of H.R. 8480. The record on H.R. 8480 divulged that Colorado Representatives split on party lines: Democratic Representatives Schroeder and Evans voted for the anti-impoundment measures, while Republican Representatives Brotzman, Johnson, and Armstrong voted against the bill.
against the bill.

[93] 93d Cong., 1st Sess. (1973). *See* H.R. Rep. No. 336, 93d Cong., 1st Sess. (1973), the report of the House Rules Committee on H.R. 8480.

[94] It might be contended that the bills, *eo ipso,* recognize inherent authority in the President to impound funds since neither measure purports to flatly proscribe impoundments and, in fact, both allow the President to impound funds for 60 days at a minimum. However, such an argument is ill-conceived. Examination of the debates on S. 373 and H.R. 8480 suggests that legislators acknowledge that, properly exercised, inherent authority is, by its very nature, not subject to restriction. Thus, when Congress restricts presidential authority, it is limiting something other than inherent power. Any power of impoundment has been statutorily conferred if it exists at all.

[95] Similarly, S. 373 stipulates that Congress by affirmative action can allow impoundments to last more than 60 days, and H.R. 8480 provides that Congress can terminate impoundments before the 60-day period elapses.

[96] *See generally* 119 Cong. Rec. pp. 25546–25549 (remarks of Representative Bolling), where major differences between the bills are set forth in detail.

[97] *See* Note, *supra* note 19, at 1320 n. 178, where most of the complaints have been cited.

[98] *See* Housing Auth. v. HUD, 340 F. Supp. 654 N.D. Cal. 1972).

[99] 479 F.2d 1099 (8th Cir. 1973), *aff'g* 347 F. Supp. 950 (W.D. Mo. 1972). For another discussion of this case see Note, *supra* note 7, at 1524–27.

[100] *See 1971 Hearings, supra* note 1, at 59 (testimony of Federal Highway Administrator Turner); 42 Op. Att'y Gen., No. 32 (1967).

[101] At various stages of the case, the Highway Commission was notified that funds for fiscal 1971, 1972, and 1973 would be released for obligation. Accordingly, the writ of mandamus which the district court issued in ordering the release of funds, 347 F. Supp. at 953–54, was vacated as moot by the court of appeals. 479 F.2d at 1104,1118.

[102] 479 F.2d at 1103.

[103] 347 F. Supp. at 953. Secretary Volpe premised this assertion on three grounds: (1) that appropriations acts are permissive in nature and do not require the actual expenditure of sums authorized to be apportioned; (2) that language in the Federal-Aid Highway Act which expresses the desire of Congress that the funds not be withheld is precatory; and (3) that, until he approves arrangements for expenditure, no state has a vested right in the appropriated funds. 479 F.2d at 1108–09.

[104] The district court noted that Congress foresaw the "possibility of executive or administrative impoundment . . . for legally impermissible reasons [and] undertook to avoid such unauthorized action by making its intent clear and unambiguous in para-

graph (c) of § 101 of Title 23. . . ." 347 F. Supp. at 952–53; *see* 479 F.2d at 1111–14, 1116.

In pertinent part, 23 U.S.C. § 101(c) (1970) provides as follows:

> It is the sense of Congress that under existing law no part of any sums . . . shall be impounded or withheld from obligation . . . by any officer or employee in the executive branch of the Federal Government, except such specific sums as may be determined . . . necessary to be withheld from obligation for specific periods of time to assure that sufficient amounts will be available in the Highway Trust Fund to defray the expenditures which will be required to be made from such fund.

This proscriptive language was not in the original Act. Act of June 29, 1956, ch. 462, 70 Stat. 378. It was, however, added soon after Acting United States Attorney Genral Clark opined that the trust funds could be withheld from obligation. *See* 42 Op. Att'y Gen., No. 32 (1967).

[105] *See* 479 F.2d at 1111.

[106] *Id.* Taking cognizance of the fact that the Federal-Aid Highway Act allowed the Secretary of Transportation a very limited authority to withhold funds, for the purpose stated in the last clause of 23 U.S.C. § 101(c), the circuit court made this observation: "Where Congress has consistently made express its delegation of a particular power, its silence is strong evidence that it did not intend to grant the power." 479 F. 2d at 1114, *quoting* Alcoa Steamship Co. v. Federal Maritime Comm'n, 348 F. 2d 756, 758 (D.C. Cir. 1965).

[107] The court of appeals observed:

> [A]lthough a general appropriation act may be viewed as not providing a specific mandate to expend *all* of the funds appropriated, this does not *a fortiori* endow the Secretary with the authority to use unfettered discretion as to when and how the monies may be used.

479 F. 2d at 1109 (emphasis in original). *But see id.* at 1119–20 & nn. 1 & 2 (Stephenson, J., dissenting). In response to the fact that the Secretary of Transportation correctly noted that 23 U.S.C. § 106(a) stipulates that his approval is a prerequisite to the expenditure of funds, the court made this remark:

> Assuming arguendo that the states have no vested right in the funds until such time as the Secretary approves the specific projects, we fail to see that this provides a basis for finding that the Secretary has lawful discretion to *withhold his approval* of projects for reasons not contemplated within the Act.

479 F. 2d at 1109–10 (emphasis in original).

[108] No. 175–73 (D.D.C., order of May 8, 1973), *modifying* 358 F. Supp. 973 (D.D.C. 1973).

[109] 20 U.S.C. §§ 1211a *et seq.* (Supp. II, 1972).

[110] 358 F. Supp. 973, 974 (D.D.C. 1973).

[111] 20 U.S.C.A. § 1221g(a) (Supp. II, 1972).

[112] *See* Inequality in Education, No. 14, July 1973, at 48–49.

[113] 358 F. Supp. at 976. Judge Green found that plaintiffs were not attempting to compel the performance of a discretionary act and concluded that the President was "not completely immune from the judicial process for the sole reason that he is President." *Id.* at 975.

[114] No. 175–73, *supra* note 108. The President appointed the Council before the order of May 8, 1973, but the district court nonetheless made the appointment and implementation of the act mandatory.

[115] 20 U.S.C.A. § 1226 (Supp. 1973). *But cf.* Office of Management and Budget, The Budget of the United States Government—Fiscal Year 1974, at 225 (1973), where it was suggested that the $18 million appropriated for fiscal 1973 would be rescinded from the budget and no funds would be required for fiscal year 1974.

[116] *See* Inequality in Education, No. 14, July 1973, at 48–49.

[117] 33 U.S.C. §§ 1251 *et seq.* (Supp. II, 1972).

[118] 358 F. Supp. 669 (D.D.C. 1973).

[119] See 37 Fed. Reg. 26, 282, § 35.910–1(a) (1972).

[120] The EPA failed to accurately characterize the issue before the court, and, thus, was unable to detract from the validity of plaintiffs' argument that the Act made mandatory the allotment, rather than the expenditure of funds. The allotment section stipulated:

> Sums authorized to be appropriated pursuant to section 1287 of this title . . . *shall be allowed* by the Administrator not later than January 1st immediately preceding the beginning of the fiscal year for which authorized, except that the *allotment for fiscal year 1973 shall be made* no later than 30 days after October 18, 1972. *Sums shall be allotted among the States* by the Administrator . . .

33 U.S.C. § 1285(a) (Supp II, 1972) (emphasis added). On the other hand, Section 1287 of Title 33 authorized appropriations "not to exceed" certain amounts for each fiscal year, and the rate of spending. *See* 118 Cong. Rec., vol. 118, pt. 25, p. 33753 (remarks of Representative Harsha); *id.* at vol. 118, pt. 25, p. 33755 (remarks of Representative Ford). While EPA Administrator Ruckelshaus remarked to a Senate committee that it was the intent of Congress "that the President have the authority to limit the spending" of pollution control funds, he never recognized that mandatory allotment was different from mandatory expenditure. *1973 Hearings, supra* note 6, at 406. For another discussion of the *Ruckelshaus* case see Note, *supra* note 7, at 1526–27 n. 116.

[121] 358 F. Supp. 669 (D.D.C. 1973)

[122] 42 US.C. §§ 2701 *et seq.* (1970).

[123] *Id.* §§ 2737–49 (1970).

[124] *Id.* § 2740(a) (1970).

[125] *Id.* §§ 278–837 (1970). The Community Action Agencies were created by Title II of the Economic Opportunity Act.

[126] Act of Oct. 31, 1972, ch. 4, 86 Stat. 1498.

[127] *See* Office of Management and Budget, The Budget of the United States Government—Fiscal Year 1974, at 250 (1973).

[128] *See* Complaint at 10, Community Action Programs Executive Directors Ass'n v. Ash, No. 899–73 (D.N.J., June 29, 1973).

[129] No. 899–73 (D.N.J., June 29, 1973).

[130] *Id.* at 1.

[131] *See* 42 U.S.C. § 2702b (1972).

[132] Among other things, the section requires that the President "shall take care that the laws be faithfully executed."

[133] No. 899–73, at 3. After June 30, 1973, the funds would have reverted to the Treasury pursuant to requirements of the Act. On July 10, 1973, the United States Court of Appeals for the Third Circuit refused to stay the district court's order.

[134] No. 1223–73 (D.D.C., June 28, 1973).

[135] 42 U.S.C. §§ 2681 *et seq.* (1970).

[136] Act of June 30, 1970, Pub. L. No. 91–926, § 601, 84 Stat. 353. *See* S. Rep. No. 634, 91st Cong., 2d Sess. 163 (1970); H.R. Rep. No. 1167, 91st Cong., 2d Sess. 25 (1970).

[137] No. 1223–73 (D.D.C., June 28, 1973).

[138] No. 1308–73 (D.D.C., July 26, 1973).

[139] 20 U.S.C. §§ 441–45 (1970).

[140] 20 U.S.C. § 442(a) (1) (1970).

[141] *See, e.g.,* H.R. Rep. No. 20, 93d Cong., 1st Sess. 2 (1973); 119 Cong. Rec., p. 4928 (remarks of Representatives Mahon and Perkins).

[142] No. 1308–73, at 10, *citing* Youngstown Sheet & Tube Co. v. Sawyer, 343 U.S. 579 (1952); Kendall v. United States *ex rel.* Stokes, 37 U.S. (12 Pet.) 524 (1838); State Highway Comm'n v. Volpe, 479 F.2d 1099 (8th Cir. 1973).

[143] The subsidies woud assist 60,000 families at a cost of $2 billion annually in government loans. But for the impoundment, about $1.2 billion would have been loaned between January 1 and June 30, 1973. *See* N.Y. Times, Aug. 1, 1973, at 14, col. 4 (city ed.).

[144] 361 F. 2d 1320 (D.D.C. 1973).

[145] *Id.* at 1324.

[146] Youngstown Sheet & Tube Co. v. Sawyer, 343 U.S. 579, 610–11 (1952).

[147] Deputy Attorney General Sneed, it should be recalled, stated to a Senate committee: "[T]he warrant of historic practice is perhaps the strongest support for my position [with respect to impoundment]." 1973 Hearings, supra note 6, at 842.

[148] *See* note 46 *supra* and accompanying text.

[149] *See* R. Neustadt, Presidential Power 33 (1960).

[150] C. Warren, The Making of the Constitution 185–87 (1928); *see* J. Madison, Journal of the Federal Convention, 102–07, 387 (H. Scott ed. 1893). The concise argument is this:

> [I]n impounding funds the President exercises a veto power that the framers [of the Constitution] rejected. If the President refuses to spend appropriated funds, he exercises an absolute veto, since Congress possesses no effective means to override such action. This refusal is contrary to the clear intent of the framers that the President possess only a qualified veto. If the President delays spending appropriated monies, he exercises a power of suspension rejected by the Constitutional Convention. If the President selects among the provisions of an appropriation bill, he exercises an item veto, a proposal never considered.

Note, *supra* note 19, at 1299. *See also* Comment, *supra* note 7, at 330; Note, *supra* note 7, at 1528.

[151] U.S. Const. art. II, § 3. *See In re* Neagle, 135 U.S. 1 (1890); 19 Op. Att'y Gen. 686 (1890). *See also* Letter from Professor Robert A. Burt to Speaker Carl Albert, Mar. 21, 1973, in *1973 Impoundment Reporting Hearings,* pt. 2, *supra* note 7, at 379–80.

[152] Berger, *Executive Privilege v. Congressional Inquiry,* 12 U.C.L.A.L. Rev. 1044, 1114 (1965): "It is a feat of splendid illogic to wring from a duty to faithfully execute the laws a power to defy them." *See also* Waicukauski, *supra* note 46, at 35–57.

[153] See pp. 41–48 *supra.*

[154] Waicukauski, *supra* note 46, at 42.

[155] See p. 28 *supra.*

[156] See p. 28 *supra.*

[157] *E.g.,* 42 U.S.C. § 2000d—1 (1970).

[158] *See* pp. 41–48 *supra; cf.* Housing Auth. v. HUD, 340 F. Supp. 654, 656 (N.D. Cal. 1972), in which it was determined that Congress had entrusted to administrative discretion the authority to ascertain whether certain funds should be spent, and, in any event, that a refusal to expend appropriated money was a political question. *But see* Note, *supra* note 7, at 1530–32. Other impoundment cases not treated in the text of this article are in accord with the writer's conclusions: Pennsylvania v. Lynn, No. 990–73 (D.D.C., July 23, 1973) ("it is not within the discretion of the executive to refuse to execute laws passed by Congress, but with which the executive presently disagrees."); Pennsylvania v. Weinberger, No. 1125–73 (D.D.C., June 28, 1973); Minnesota v. Weinberger, 359 F. Supp. 789 (D. Minn. 1973). *See also* 119 Cong. Rec. p. 29088, where numerous impoundment cases have been collected.

CHILDREN OF VIETNAM: ORPHANS OF WAR AND NEGLECT

Mr. KENNEDY. Mr. President, one of the most tragic legacies of the Indochina conflict has been the millions of children who have forever been scarred by war—the orphans, the maimed, the homeless—

all victims of violence that continues even today.

In South Vietnam alone, there are some one million orphans or half-orphans, with perhaps as many as 30,000 now abandoned to the care of orphanages that are overcrowded, understaffed, and in need of help. An estimated 20,000 to 25,000 children in Vietnam have been fathered by Americans, some 1,000 of whom are now in orphanages and available for adoption. Uncounted more children are in need of help in the refugee camps and on the streets of Saigon, and in other areas of Indochina.

It is not surprising, Mr. President, that the plight of these children—so disadvantaged by a war which we helped to sponsor—should become a source of deep concern to the American people. What is surprising, however, is how little of this national concern has been translated into specific administrative actions by our Government to help bring relief to these children in need.

Frankly, the lack of substantive progress in this area of national concern is fast becoming a national disgrace. That so little should be done after so long, on an issue which has such obvious public support, where America bears such obvious responsibilities, and where the humanitarian needs of the children are so urgent, defies understanding.

During the debate over the conference report on the foreign assistance authorization, I very clearly stated these concerns in meetings with officials of the Agency for International Development—AID—and the Department of State. For the record, and in a letter to AID Administrator Daniel Parker, I am restating them again, as I have over the past several months on the Senate floor and in hearings of the Judiciary Subcommittee on Refugees, in the hope that the specific recommendations the subcommittee has made will now be acted upon expeditiously. Senator HUMPHREY, the floor manager of the foreign aid bill, has also joined me in expressing these concerns to AID.

Mr. President, over 7 months have passed since the refugee subcommittee held hearings on the problems of children and orphans in Indochina—hearings during which administration witnesses expressed their great concern over, and their willingness to act upon, programs and proposals for aiding these children in need. Since then, I regret to say, we have seen very little action.

This lack of progress is certainly not due to any lack of public support or concern. Literally thousands upon thousands of Americans have written to the Congress and to the executive branch expressing their concern over the plight of the orphans and children of Vietnam. My office alone has received several thousand inquiries. Voluntary agencies and church groups around the country have been flooded with requests for information and offers of support. Scores of Senators and Congressmen have themselves written to the Department of State and to the Agency for International Development urging greater efforts by our Government in this area. The CONGRESSIONAL RECORD over the past 2 years has been filled with statements in support of greater action to help orphans and children in Vietnam.

And, it is not for a lack of funds that so little progress has been made. The recent legislative history of all foreign assistance bills have reflected congressional concern and support for greater humanitarian aid to war victims generally, and to children and orphans in particular. This year's foreign aid bill, as it originally passed both the House and the Senate, and as it has been adopted, carries ear-marked funds for the children of Vietnam.

The administration has known for many months that, at a minimum, some $5 million would be available specifically to help orphans and to support child welfare programs in Vietnam next year. Moreover, under the continuing resolution, funds have been available all along for humanitarian purposes—including aid for orphans—if anyone cared to spend it. That so little of this available money has been spent for orphans and children in need, is a reflection of the administration's priorities, rather than legislative constraints. Meanwhile, the administration has freely chosen to spend our dollars for commodity imports and for military aid to Indochina.

Finally, it is not for a lack of specific proposals or programs on how our Government can best proceed in assisting the orphans of Vietnam. Specific recommendations have emerged from within AID and the U.S. mission in Saigon over the past many months. The voluntary agencies have submitted contracts and other recommendations, several of which are now idly awaiting official approval. And the study mission of the Judiciary Subcommittee on Refugees has reported a lengthy series of specific proposals for action during hearings in May and August.

So it is not, Mr. President, for any lack of concern, or funds, or an absence of public support or, for that matter, a lack of specific proposals for action, that explains our Government's paralysis in assisting the children of Vietnam.

Regrettably, there is a long history within our Government in neglecting humanitarian needs in Indochina—particularly the needs of children.

As early as 1965, witnesses came before the Subcommittee on Refugees and told us of the need for child welfare programs, for trained personnel, for a long range plan to meet the escalating needs of the children. In 1966 these needs were again cited. Token efforts were underway to help meet them—but these efforts were not enough. In 1967, at the urging of the subcommittee, an AID funded task force traveled to Vietnam to make program recommendations in the field of social welfare. The task force report outlined some immediate steps that could be taken, and some longer range plans as well. But this report, like so many others in 1970 and 1971, was quickly filed and ignored. Since then the cries of the children and the appeals of humanitarians have all but fallen on deaf ears.

It was for this reason that the Refugee Subcommittee again dispatched a study mission to Indochina to attempt, once again, to upgrade priority for humanitarian programs for refugees, civilian war casualties, and war orphans. The study mission's report, made informally in April and later in hearings on May 11th, was forwarded to the Department of State and AID. Later, in August, I met personally with then Secretary of State William Rogers, along with members of the study mission, to make another series of specific recommendations.

For the record—and to emphasize the continuing need for action—I would like to briefly review these recommendations and indicate what has happened since. The first and foremost recommendation was that "the primary bottleneck with regard to intercountry adoption at present is the lack of adequate services and staff in Vietnam." The team recommended the establishment of a consortium of voluntary agencies to be activated by AID "to facilitate and expedite intercountry adoption" by involving, perhaps on contract, the expertise and services of the voluntary agencies in this field.

To date, Mr. President, this bottleneck has yet to be broken. In July, AID convened an Interagency Vietnam Adoption Committee. This committee has had several useful conferences in Washington and New York to review the problem, and has opened important and crucial contacts with black adoption and community agencies to help develop opportunities for the placement of black-fathered American Vietnamese children in black homes. But from the beginning, this committee was seen as a first-step, not as the answer to the problem—as a coordinating mechanism for the adoption of black-fathered Vietnamese orphans, and not as the organizational vehicle for processing those adoptions.

And, from the beginning, a larger conference of all relevant voluntary agencies was to be convened as a prelude to the granting of specific contracts and the coordination of other programs for the benefit of not only orphans, but for all the children disadvantaged by the war in South Vietnam.

Today, well over 7 months later, no such general conference has been held. Although a conference is to be convened next week in New York, it has been called, not by AID, but by the voluntary agencies themselves.

However important these conferences are, Mr. President, they can hardly be expected to establish a coordinating mechanism for programs to help the children of Vietnam, if AID has not yet funded such programs, or if the U.S. mission in Saigon has failed to support them adequately. What we need now is not more conferences or more study missions, but firm decisions within AID to fund specific voluntary agency programs and proposals. We do not need to create new organizational mechanisms, but rather grant the contracts necessary to get the voluntary agencies programs going. The model for such an effort can easily be found in the U.S. Government's handling of the Cuban refugee program, or in the many other humanitarian programs which have been contracted to, and successfully administered by, the voluntary agencies for our Government.

Mr. President, the voluntary agencies can only do so much, and they can go only so far, in helping the war orphans and children of Vietnam. They can, with Government support, help to administer child welfare programs, and they can undertake the process of intercountry adoption of Vietnamese orphans. But, ultimately, only a functioning ministry of social welfare within the South Vietnamese government—and an effective program of support for it within the U.S. mission in Saigon—can provide the long-term programs necessary to help the children of Vietnam.

These are governmental responsibilities for which government programs are required. Hopefully, our officials in the field will take these responsibilities seriously. Hopefully, our Embassy and the U.S. mission will give high priority to efforts to strengthen the social welfare capabilities of the South Vietnamese Government and to expedite programs for children.

It was to these ends that the subcommittee study mission addresed its recommendations last May, and it was for these reasons that I made the following additional points with Secretary Rogers last August—which I have again emphasized in a letter to AID Administrator Daniel Parker.

First. Funds for voluntary agency programs: First, I hope that the administration will finally act to provide funds and contracts to American voluntary agencies which have submitted proposals for processing intercountry adoptions or for establishing child welfare services within South Vietnam. A number of agency proposals have come to my attention, and I hope they will be sympathetically reviewed, on a case-by-case basis, by AID and the U.S. mission.

Second. Additional personnel: Neither AID in Washington or Saigon appears to be adequately staffed to handle the urgent requirements for American support of South Vietnamese child welfare programs. The two principal social welfare officers in the U.S. mission in Saigon have departed, and in Washington the responsibility for child welfare and orphan problems is vested in an officer who is also responsible for refugees, education, administration, land reform in Vietnam, as well as five other countries.

I would hope AID would secure adequate, qualified social welfare personnel, from outside the agency if necessary, to be assigned to both Saigon and Washington. There also needs to be, at a high level, a qualified and energetic officer, assigned the sole responsibility—for at least 12 months—of child welfare and orphan programs in South Vietnam. And there should be no question among other elements and programs of the U.S. mission that this officer carries the authority of the ambassador, and the concern of our highest officials, and his position should be so designated.

Third. Diplomatic representations to the South Vietnamese Government: We should instruct our ambassador to initiate, at the highest levels, discussions with the South Vietnamese Government to persuade it to give higher priority and more staff to implement effective adoption and child welfare programs.

Child welfare concerns, and the programs of the ministry of social welfare in general, have almost no priority within the South Vietnamese Governmental structure at the present time. Until the ministry of social welfare is given a clear mandate, sufficient priority and adequate funds, there is little hope that it will be capable of effectively responding to the initiatives or support offered by either the U.S. Government or the voluntary agencies.

Mr. President, in conclusion, let me repeat for the record a comment of Dr. James Dumpson, a member of the Refugee Subcommittee study mission and dean of Fordham University's School of Social Services, which he made during hearings last May. In response to a query as to what explains the lack of progress by our Government in meeting the needs of children in Vietnam, Dean Dumpson said:

> It represents something that is missing. And that is a clear-cut policy on the part of our Government, and a commitment of the total government, not just pieces of it, or branches of it, but a commitment on the part of the American Government and its people for doing what must be done in terms of the welfare of children in Vietnam.

I believe, Mr. President, that there already exists that sense of commitment on the part of the American people. However, it has yet to be reflected in the actions of our Government—either in Washington or Saigon. This administration must stop dragging its feet on programs for Vietnamese orphans and the U.S. mission in Saigon must stop sitting on funds for their relief.

The disadvantaged children of Vietnam measure their lives in minutes and days. They deserve better than America has given, and they must finally become a central focus of our post-war relief and rehabilitation program if that effort is to be worthy of its name.

Mr. President, I ask unanimous consent that the report of the study mission of the subcommittee on refugees be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

STATEMENT OF DR. JAMES DUMPSON AND MR. WELLS KLEIN ON CHILD WELFARE PROBLEMS IN SOUTH VIETNAM BEFORE HEARINGS HELD BY THE JUDICIARY SUBCOMMITTEE ON REFUGEES, MAY 11, 1973

Mr. Chairman, my name is James R. Dumpson. I am Dean of the Graduate School of Social Services of Fordham University, immediate past President of the National Conference on Social Welfare, and for seven years I was Commissioner of Public Welfare for the City of New York. With me is my colleague, Wells C. Klein, Executive Director of the American Council for Nationalities Service, who for five years was General Director of the American Branch International Social Service, after serving as Director of the Refugee and Social Welfare Division of the AID Vietnam Bureau.

Mr. Klein and I recently visited Vietnam in our private capacities as members of the Study Mission this Subcommittee dispatched to investigate postwar humanitarian needs in Indochina. Both Mr. Klein and I have worked in or visited Vietnam on numerous occasions in the past and have observed, at first hand, the steadily deteriorating conditions of children in Vietnam over the last eight years. We come before the Subcommittee this morning, as individuals, and as Americans, deeply disturbed over the welfare of children in Vietnam and deeply disturbed by the lack of sensitivity and responsible initiative our government has shown to even the most minimal needs of these children.

Since 1965 witnesses have come before this Subcommittee to testify as to the growing needs of children in South Vietnam. I, myself, testified nearly six years ago after heading a Social Welfare Task Force to South Vietnam on behalf of the Agency of International Development. But despite this Subcommittee's concern—and the concern of others in the Congress and countless Americans—little was done to meet their needs, even as the numbers of orphans and homeless children increased.

Mr. Chairman, when we speak of the children of Vietnam we are speaking of half the total population—that half, fourteen years and younger who, by reason of their age cannot, even under normal conditions, care for themselves and secure the physical and emotion requisites for survival and growth. But as you well know, in Vietnam we are not speaking of normal conditions. These eight million children have never known a day when the smells, the sights and the sounds of war were not all about them.

The gravity of the situation of children in Vietnam should surprise no one who can put two and two together and reach four. What surpasses surprise, however, is the insensitivity of our government, with some few exceptions which we shall detail later—the insensitivity to the situation that exists in Vietnam and to public concern here at home. We would submit, Mr. Chairman, that these children do not represent a political problem to be dealt with in terms of partisan politics, nor do they represent a problem in the allocation of resources. They are simply a large number of children for whom we share a responsibility—who desperately need our help—help which is not now forthcoming. At the end of this testimony, we shall submit some specific recommendations which we hope this Subcommittee, the Congress, and the Administration will consider as immediate steps which can be taken to alleviate some of the pain and heartbreak, and damage, and begin to turn the situation around so that the children of Vietnam may have a future.

We have spoken of eight million children, but who are these children—what has happened to them—what are their needs? Wherever one observed children, one observed children deprived of their birthright to grow and develop in security with the sustained support of one or more meaningful adults in their lives. There are some 700,000 orphans or half-orphans in Vietnam. They have been torn by years of war from their families or have seen their families decimated about them. Their circumstances vary, but in most every case they lack the minimum physical and/or emotional requisites for healthy growth and development. We have heard much of the need to establish "stability" in Vietnam. By this is meant economic stability with the various supply and demand factors in some order of balance. The need for such economic stability is not disputed. But what about social stability? What is stability for 700,000 orphans? It is more than solving a balance of payments problem, it is an environment in which they can grow and mature with adequate food, clothing, shelter, physical and emotional security, and human contact.

Over 750,000 persons are crowded into approximately 128 refugee camps in South Vietnam. Half of these are children. In camp after camp, one observes children suffering from malnutrition, children with scrawny bodies, eye sores, eye cataracts, missing limbs, scarred face or limb tissue, some naked or half naked. One observes children who are hungry because of bureaucratic red tape or sheer malfeaseance. And if this were not enough, the refugees and their children face a particularly bleak future in this would be post war era—an era often referred to as that of "ceaseless fire". They are pawns in the game of who controls the most population. For most of these children there is no prospect of returning home. They are subject to the relentless pressure of de facto physical confinement in squalid unbelievably crowded conditions. Children need to play—to move—they need stimulation, and new experiences. They need physical and emotional security. The refugee children have none of this and as time passes inevitably the lethargy syndrome becomes more and more deeply entrenched and their prospects for health development become less and less possible.

Some 23,000 children are known to be in orphanages. With rare exceptions, the care of these children is deplorable. The serious, dangerous overcrowding particularly in group care for infants, is nothing short of shocking. In one institution designed for less than 100 children we found nine dedicated nuns, four of whom are practical nurses, caring for 120 infants below one year of age, 95 children between one and two, and 75 or more children over five years of age.

In another institution equipped to accommodate not more than 150 children by the most minimal standards, we observed 400 children cared for by nine nuns, 5 to 7 "men on the grounds" assisting the nuns, and a small component of female custodians. Among these children, as in other institutions, were numerous severely retarded or handicapped children who need and should have intensive care and protection on a one/two or one/three basis.

Mr. Chairman, there is another particular group of children in Vietnam deserving of our concern, the same 25,000 children of mixed parentage whose fathers abandoned them or never knew of their existence, but children who bear the indelible imprint of their heritage. These children can be seen in the streets of Saigon and Danang, in the refugee camps and resettlement sites. Some 1,000 of these children are in orphanages living under the conditions described above. Half of the American fathered children in orphanages obviously had Black American fathers. The remainder of the American fathered children, black and white, at this time, are living with their mothers and families in the general population.

For a variety of reasons, the needs of children of mixed parentage, particularly those already abandoned to orphanages and those whose fathers were unquestionably black, command a high priority in our concerns for the well-being of Vietnamese children. While the great majority of the American-fathered children have not been abandoned by their mothers—we saw much love and warmth for many of these children—as they grow into school-age and adolescence, in all probability, their physical difference will give rise to problems among their peers—for the black child, because he is black, and for the black and white because their mothers "did business with the Americans" as it was expressed by one of the children's grandmothers in a refugee camp.

Of very real concern is the black child. There is no question but that the black Vietnamese child will face serious problems of social rejection based on his physical difference. The experience and present social position of children fathered by French Senegalese troops during the 1945–54 period presents supporting evidence to this contention. Furthermore, there is no black community in Vietnam. These children will group up and live a relative social isolation as have their French-Senegalese predecessors.

Meeting the needs of these children presents a number of issues that must be recognized and utlimately resolved by the government of Vietnam, hopefully with real and substantial assistance from the government of the United States. First, recognition must be made of the fact, frequently stated by Vietnamese officials, that these are Vietnamese children and the government affirms its ultimate responsibility for all Vietnamese children. This position, in our judgment, must be supported by the government of the United States and all of the voluntary agencies concerned with child welfare in Vietnam. Any program, however well motivated, that does not accept this fact, does violence to the welfare of all the children in Vietnam.

Second, serious questions must be raised concerning the capability of the Government of Vietnam, at this time, to meet the special needs of these children. A statement of public policy is one thing; translation of that policy into meaningful reality for those for whom it is designed is quite another matter. In the foreseeable present, the needs of children of mixed parentage, particularly those whose fathers are black, and who already have been abandoned to orphanages, cannot be met. Alternative acceptable care to continued orphanage existence must be found.

Third, while high priority attention must be given to this relatively small number of disadvantaged children, it must be done within the context of the pressing needs of other disadvantaged children in Vietnam who are not racially mixed, who may or may not live in orphanages or refugee camps, and who may not be abandoned. This issue underscores the war-induced plight of the general majority of Vietnamese children. They are all war victims as are their mothers and most other adults in Vietnam. We cannot single out for special attention the unique needs of the American-fathered child and ignore that large number of other children who have a right to our concern and assistance. To do this would be unethical, and in our opinion un-American in the true sense of the term.

Mr. Chairman, before proceeding to recommendations, it may be useful to detail exactly what our government has, or has not done, in regard to needs of children in Vietnam. Until 18 months ago there was essentially no U.S. government program directed towards these children. While some assistance was available through PL–480 food distribution and through the refugee program, this was indirect assistance not primarily designed to meet child welfare needs. Also, at one time, the U.S. government gave substantial support to U.S. and international voluntary agencies working in Vietnam, some of which was directed toward children. By the spring of 1971, however, it was no longer government policy to support the voluntary agencies. This was the process of "de-escalation", and with some sort of incomprehensible logic, our government chose to de-escalate voluntary agency support and the already minimal assistance going to children as one of its first steps.

In a way, the timing of this "de-escalation" was fortuitous, for it came at the very moment when a large segment of the American public was becoming increasingly concerned for the welfare of children in Vietnam. The down-grading of voluntary agency support and humanitarian assistance to children dramatically highlighted the lack of U.S. government concern. Thus, in the summer and fall of 1971 several events occurred simultaneously which resulted in a dramatic reversal of the government policy vis-a-vis children in Vietnam. A number of separate pieces of legislation were introduced into the Congress which, in one form or another, called on the government to respond to the needs of Vietnamese children. At the same time, a group of voluntary agencies made strong representations to the government requesting priority and funding for services for these children. Finally, and perhaps most important, the media and a significant and vocal segment of the general public began to focus attention on child welfare concerns, in effect demanding action from our government.

As a result, since the fall of 1971, or some 18 months ago, it has been government policy that the United States has an obligation to help the children of Vietnam. This has meant the beginning—just the beginning—of funding and priority to implement child welfare programs. In the past 18 months the Agency for International Development has done a commendable job of initiating responsible child welfare programs and engaging the Vietnamese Ministry of Social Welfare in developmental child welfare planning.

This brings us to the present. It is important to note that we have commended the AID response in the past 18 months, but not that of the government as a whole. Quite frankly, in our opinion, AID has gone about as far as it can without support from the U.S. Embassy in Saigon and from the White House and State Department in Washington. For the present, at least, some U.S. government funds for child welfare purposes seem to be available. However, these funds cannot be utilized effectively unless the Embassy in Saigon gives the matter of children reasonable recognition in its own priorities and reasonable support to AID and to the Vietnamese Ministry of Social Welfare.

At the time of our visit, the Embassy and AID were at loggerheads, with the real danger that the Embassy might pull the rug from under much of the responsible programming AID has initiated. There is nothing useful to be gained by discussing the details of this matter, except to say that in the immediate sense, and in the long run, most of what we can do for children in Vietnam can only be accomplished through Vietnamese institutions. It is, therefore, imperative to strengthen the Vietnamese government and voluntary agencies at the same time we are addressing ourselves directly to the immediate needs of children. This must be our policy if our assistance to the children in Vietnam is to be in their interest rather than simply a short range response to political pressures on our part.

Proceeding, now, to the future, we would suggest that any child welfare programs in the immediate future must include the following ingredients:

1. Programs and measures designed to prevent the abandonment of children. Among other considerations, this involves counseling services available to mothers to help them identify what is in their best interests and the best interests of their children. Mothers and their families should be helped to identify realistic alternatives to abandonment.

2. Improved institutional care for those children who require such care.

3. Improved maternal and child care including expanded day care facilities.

4. Programs designed to reunite families with high priority assigned to children in orphanages, and to programs designed to maintain children with their families.

5. Facilitation of adoption on a case by case basis for those children for whom this is the best alternative.

These are immediate child welfare goals for children in Vietnam. To achieve these goals, the United States on its part must undertake the following:

1. Ensure reasonable priority by all elements of the U.S. Government for child welfare and translate that priority into realistic meaningful programs with assurance of adequate long-term funding.

2. Raise the issue of the welfare of children with the Vietnamese government at the highest level so that child welfare programming will receive equivalent priority on the Vietnamese side. At this point, the Vietnamese Ministry of Social Welfare is at the bottom of the government's administrative structure and receives scant support in terms of funds and personnel. It is essential that the Ministry be able to hire and train competent personnel to implement reasonable and responsible programs within a Vietnamese context.

3. Support and encourage American and international voluntary agencies to expand their programs of service to Vietnamese children in cooperation with the Ministry of Social Welfare, and under the general supervision of that Ministry.

4. Seek out multi-level mechanisms within the United Nations family and/or the international voluntary agency structure through which to channel continuing child welfare assistance in Vietnam. While the United States must continue to provide major budget support for such endeavors, our government can best discharge its responsibility by working through multi-lateral mechanisms where direct U.S. involvement is minimal.

Further, Mr. Chairman, in very specific terms, we propose the following immediate steps. These can and should be implemented within the next two or three months. To the best of our knowledge, no new policy formulations or funds are required. It is simply a matter of acting with a concerted rather than a divided effort, and with a sense of priority.

1. Invite the establishment of, and fund, a consortium of experienced professional competent voluntary agencies to facilitate and expedite inter-country adoption of Vietnamese children for whom adoption is legally possible and clearly the best plan. Particular priority should be given to the racially mixed child. The primary bottle-neck with regard to inter-country adoption at present is the lack of adequate services and staff in Vietnam. We view this recommendation as an urgent requirement, though we recognize that adoption must still be handled on a case by case basis to protect all parties concerned. The expensive services for the few at the expense of the many is unconscionable. Therefore, the consortium must equally concern itself with providing counseling services to mothers who may be considering abandoning their children, and with the immediate up-grading and improvement of child care services and institutions in Vietnam.

2. Expedite the inter-country adoption process by assigning one additional officer to the INS regional office in Hong Kong so that U.S. government formalities will not represent a bottleneck as they have, on accasion in the past. INS is planning to transfer 1,000 inspectors to the U.S. Customs Bureau in the near future. We ask that one of these be diverted to Hong Kong.

4. The U.S. government, through its Embassy in Saigon, should urge the Government of Vietnam to expedite passage, or interim implementation by decree, of sound adoptional legislation which, we understand, is presently in draft form.

5. The government of the United States should formally transmit to the Government of Vietnam a clear statement of intent of support for programs designed to assure the welfare of children in Vietnam. This recommendation will have the duel effect of indicating American commitment particularly in terms of funds on a more than a year to year basis, and of stimulating the Government of Vietnam to give its own child welfare programs and Ministry of Social Welfare reasonable support and priority. One of the persistent problems is that U.S. funding is only available on a year to year basis. The Vietnamese, understandably, are reluctant to commit themselves to long range programs with only a few months of funding in sight.

6. The U.S. government should strongly urge the Vietnamese government to lift its present restriction on hiring new personnel within the Ministry of Social Welfare. At present, the Ministry does not have adequate personnel, in terms of numbers of professional competence, to supply many of the child welfare services needed.

7. AID should be authorized to proceed with direct hire from outside its own personnel resources in order to replace departing child welfare personnel in Vietnam and expand the AID child welfare advisory and support program by several additional positions.

8. The Subcommittee on Refugees should review the various pieces of legislation addressed to the needs of children of Vietnam which have been introduced over the past two years to determine whether modification of previously proposed legislation, or new legislation, is warranted to ensure that we can and will continue to exercise our responsibilities to the children of Vietnam.

9. The appropriate Subcommittee of the Judiciary Committee should be asked to explore some modification of our present Immigration and Nationality Act in order to enable American fathered children in Vietnam to obtain American citizenship, if they so wish, upon reaching their majority.

10. Until such time as multi-lateral mechanisms can be determined and utilized, the Agency for International Development should continue to work with the government of Vietnam, particularly the Ministry of Social Welfare, in an advisory and supporting role, to assist that government in carrying out its responsibility to the children of Vietnam, responsibilities which we share. After many years of inaction, AID had initiated a well-thought out program of child welfare assistance in Vietnam. The AID continuing effort should be encouraged and supported by this Subcommittee and by the Administration.

Mr. Chairman, we have presented a review of the needs of the children in Vietnam and we have made some specific recommendations for meeting those needs. We do not suggest that our review has been comprehensive or that our recommendations are by any means all inclusive. However, we have sufficient confidence in our own experience and judgments to suggest that careful consideration of the views and recommendations presented this morning will significantly enhance our government's ability to meet our national obligation to the children of Vietnam.

GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, I urge the Senate to take up the Genocide Convention for consideration at the earliest possible time. This Convention is one of several treaties which attempts to give the force of international law to the noble ideals expressed in the United Nations Declaration of Human Rights. That Declaration and the treaties which followed it are in the finest of American traditions.

The sentiments expressed in that document bear a striking resemblance to our own Declaration of Independence. Likewise, the human rights treaties can be compared to the Bill of Rights.

It has often puzzled me, then, that the United States has not yet ratified the Geonocide Convention. It attempts to outlaw, as a principle of international law, the crime of genocide. What is genocide? The term was coined by Prof. Raphael Lemkin in 1946 and refers to the attempt to systematically eliminate a group of people. The most striking example in recent years, of course, was the attempted Nazi extermination of the Jewish population in Germany.

Certainly, no sensible person could endorse a heinous crime. However, our lengthy delay in ratifying this Convention has raised doubts in the world as to our true position. Mr. President, it is time to erase all doubts. The United States must now regain the leadership position in the field of human rights—a position we have lost by default. I can think of no better way to accomplish this than through prompt consideration and ratification of the Genocide Convention.

DEFENSE DEPARTMENT APPROPRIATIONS, 1974

Mr. FULBRIGHT. Mr. President, I voted in favor of the Department of Defense appropriations bill approved by the Senate Thursday.

I want to commend the chairman of the Committee on Appropriations (Mr. McCLELLAN) for his efforts in reducing the administration's budget request by almost $4 billion and for the very thorough consideration which his committee gave to this bill. In view of the pressures upon him he has rendered a real service to the country.

The committee made a substantial reduction, although I had hoped that a larger cut could be made, and, as I outlined to the committee in a statement I submitted earlier this year, I believe such a cut could have been made without in any way jeopardizing our national security. Nonetheless, this is a step toward a more rational allocation of our Nation's resources.

I was especially pleased at the committee's reduction of military assistance funds for South Vietnam and Laos. I also took note of the following language in the committee report:

> The committee is in agreement that the budget request for military assistance to Laos and South Vietnam should revert to the Military Assistance Program as soon as practicable. The Foreign Assistance Act of 1973 transfers assistance to Laos effective in fiscal year 1975 to the Military Assistance Program but retains South Vietnam assistance in the Department of Defense budget. The committee feels that the fiscal year 1975 budget submission should follow the provisions of the Foreign Assistance Act.

Likewise I strongly support the committee's reduction of $240 million for the Trident missile submarine program and the deletion of $151 million for the F–111 planes which had been added by the House, although the Pentagon had not requested F–111 planes. I see absolutely no justification for further funds for this scandal-ridden project, which the chairman of the Appropriations Committee investigated and brought to public attention.

I hope that the Senate conferees will

maintain their position on the F–111 and on the other reductions in aircraft procurement which the Senate bill provides. However, there are two projects on which I would urge the Senate conferees to give serious consideration to the House position.

The House bill denies $65.2 million requested for the advanced medium STOL transport. The House deleted these funds because a new medium transport plane is not essential at this time and the C–130, as now confirmed and with modifications, will suffice as a future tactical airlift transport. I find this view to be especially persuasive in view of the continued large-scale procurement of C–130 aircraft. The bill includes $180.6 million for 36 C–130H aircraft and, I might add, $37.2 million to fund prior year deficiencies in the C–5A program.

Another project on which I would hope the conferees would agree to the House position is the advanced airborne national command post. I believe this to be one of the most outlandish projects ever proposed by the Pentagon. Last year funds were approved for a test bed aircraft and two 747 planes. The Senate bill would provide $32.3 million for an additional 747 and eventually seven of these planes plus complex and costly communications equipment.

I do note that the committee recommended a $10 million reduction in research and development funds for the airborne command post, but $27.3 million would still be provided for this purpose. The committee report states:

> It has come to the attention of the committee that the Air Force has experienced increased costs in this program. To date, the service has not decided exactly what communications equipment should be placed on this aircraft.

During consideration of this legislation the chairman of the House Appropriations Committee stated:

> We recommend against funding another advanced airborne command post this year because it is not required. The program has been changed drastically since last year in that it will be less capable until the communications and electronics package is developed 2 or 3 years from now. Last year we provided funds for a test bed aircraft and two operational aircraft which is sufficient for this program at this time. The test bed aircraft was not under contract at the time we marked up this bill.

Mr. President, I asked unanimous consent to have printed in the RECORD a column by Marquis Childs from the Baltimore Sun of December 5, 1973, in which he details the folly of the airborne command post.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

U.S. DEFENSE BUDGET COULD BE DR. STRANGELOVE'S

WASHINGTON.—Although the House Appropriations Committee has cut nearly $3 billion from the defense budget of close to $75 billion, many strange and wonderful curiosities that escape most eyes are still more or less intact.

They are part of Dr. Strangelove's world of nuclear holocaust.

Take an item of $548 million for the National Airborne Command Post. Only a part of this is in the current budget and the Appropriations Committee has pared it a bit. To the distress of the triple domes who do the computer work for the Air Force it may be spread out over three or four years. And that, they say, means a period of danger when the commander-in-chief may be unable to direct the nuclear response.

The logic of the airborne command post is as follows: While the missiles rain down and millions die in the ruined cities, a command plane, flying at 35,000 feet, directs the response through a battle staff with a highly complex communications system.

Commander-in-chief Nixon may or may not be on board the command post. It will depend on where he was when the word first came that missiles in the Soviet Union had been sent off. He might well be on his way to San Clemente, Calif., and we would in that event, through the communications system on Air Force I, give instructions to the battle staff. The President and the President alone can, by an elaborate coding system, release America's nuclear arsenal.

Once the release has been given the battle staff will determine the response. They may decide it is unneccessary to wipe out all the enemy's cities. They may even find that the missile or missiles coming over were discharged accidentally.

An airborne command post was activated in the early 1960's. One is operated out of the Strategic Air Command near Omaha, the other near Washington. On the SAC station one of seven converted 707's is constantly in the air.

There are in a sense backup posts for two land-based command stations, one in the Pentagon and one at Fort Richey. The Pentagon is judged "soft" and even the post at Fort Richey, dug into the Catoctin Mountains, could be knocked out by a direct hit. Therefore, the airborne post is essential to accumulate in a place of "survivability" all information and to relay to the surviving forces battle orders.

The Department of Defense has found that the inverted 707's are no longer adequate. The need is for 747's that will take many more modes of communication that cannot be stuffed into a 707. This includes satellite communication and possibly an outsize computer, although the computer, not yet authorized by congressional committees, would mean probably an addition $10 million.

Then the battle staff must be enlarged to man the new and infinitely more complex system. You can see readily how all this conglomeration of men and machines could not be packed into a plane smaller than the 747, which is also faster and with longer flying time.

You can see readily, too, that if the President happened to be in Washington and were whisked by helicopter from the south lawn of the White House to Andrews Air Force Base, a larger plane is essential to give him a suitable command seat.

All this adds up to seven 747's with the development of new communications equipment, a giant new hangar at Andrews and training of additional battle staff total $585 million.

In the sanity of a past long vanished this must sound like the wildest kind of science fiction. To think that, while well nigh universial ruin and death rain down, the battle staff high above it all play those consoles that will mean the death of millions or hundreds of millions on the other side of the earth.

No, it is not science fiction, but the plight to which this tragic civilization has been brought.

DEVELOPMENT AND UTILIZATION OF SOYBEANS—A FOREIGN AID PROGRAM SUCCESS

Mr. HUMPHREY. Mr. President, I recently introduced legislation to establish a Sino-American Soybean Research Institute. I am hopeful that the Institute will be the catalyst needed to bring about a substantial increase in the yields of this vital source of protein.

For the past several years, soybean research has received considerable attention throughout the world, and it is upon this excellent base that the Sino-American Institute will begin its work of increasing yields per acre. One of the best and most far-reaching efforts to date has been the soybean development activities of the Agency for International Development through its contract with the University of Illinois.

The Illinois contract has included extensive studies in the fields of agronomy, entomology, and food utilization. Its field work has been impressive; 20 field trials have been conducted in 11 countries, demonstrating the adaptability of U.S. soybean varieties to tropical and subtropical environments. The result has been a widened availability of this important source of protein to the people of developing countries of the world.

Mr. President, further work remains to be done, especially on improved yields, and I am confident that the Sino-American Institute I have proposed will help find the solution to that problem. However, we must not disregard the excellent accomplishments of AID and the University of Illinois, and I think it is important that these accomplishments be recognized and understood. This is particularly true as we consider the subject of foreign aid, for it is this type of successful activity that best characterizes the people-oriented objectives of our Foreign Assistance Act.

Mr. President, AID and the University of Illinois have published an excellent report on their soybean work, entitled "Development and Food Utilization of Soybeans." I request unanimous consent that the summary of that report be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

DEVELOPMENT AND FOOD UTILIZATION OF SOYBEANS

SUMMARY

Experience with the "Green Revolution" in many developing countries has shown that the combination of available technology and adaptive research can lead to significant increases in the productivity of major cereal crops. That experience is now being applied to the development and introduction of high-yielding sources of vegetable protein.

Nutritionally and agronomically, soybeans have important advantages in attempts to alleviate critical world food shortages and to improve the diets of under- and malnourished people. Whole soybeans are an excellent source of protein—both in quantity and in quality. About 40 percent of the total dry-matter content of whole soybeans is protein and the amino-acid distribution of soybean protein is close to the distribution recommended by the Food and Agriculture

Organization of the United Nations for maximum protein utilization. Whole soybeans are also high in caloric value, containing about 20 percent fat. Thus, finding ways to use whole soybeans in human diets would also help to reduce widespread caloric shortages among people in many developing nations.

Technical assistance activities under contract AID/csd–3292 reported here had the following objectives (quoted from the contract document):

A. To demonstrate the University of Illinois process for making soybeans useable in the human diet, in two or more selected countries.

B. To establish a demonstration operation in selected countries.

C. To perfect for the LDC's a series of high-protein, highly productive soybean varieties, suitable for use as human food.

D. To conduct experiments to test the adaptability of improved strains of soybeans.

E. To provide other specified technical services and consultation, related to improvement and utilization of soybeans.

Agronomy studies under contract csd–3292 were concentrated initially on developing a field-trial linkage network, primarily in tropical developing countries. One basic objective of the trial program was to assist soybean workers in tropical and substropical countries to identify and overcome major agronomic limitations to soybean production in their countries; a second major objective was to identify the best-adapted germ plasm for use in a breeding program.

The trial program had been undertaken as part of the University of Illinois Program for International Research, Improvement and Development of Soybeans (PIRIDS) before the inception of contract AID/csd–3292. When the contract period began July 1, 1971, all of the cooperative field-trial activities, except those in India under UI/USAID University-Development contracts, were absorbed into the csd–3292 program. Since the program began, trials have been conducted at 20 locations in 11 countries: Brazil, Colombia, Ecuador, Costa Rica, Sierra Leone, Nigeria, Pakistan, India, Thailand, Vietnam and Indonesia.

The results of the U. of I. trials provide concrete evidence that high-yielding U.S. soybean varieties are adapted and can achieve high levels of production in tropical and subtropical environments. In fact, the general yield level in trials conducted at all locations except those in Thailand and Indonesia far exceeded expectations. Yields in excess of 3,000 kilograms per hectare (45 bushels per acre) were obtained in several trials. While obtained in small trial plots, these results are significant because future improvement of soybean varieties and performance level can begin from a high yield base. Moreover, there is ample evidence to indicate that such plot trials are reliable indicators of potential performance.

In the majority of the trials, U.S. varieties furnished by the International Soybean Program (INTSOY were highest yielding. Davis was the most consistently high-yielding variety and was particularly high-yielding at several equatorial-zone locations. In trials in Colombia, Nigeria and Thailand, local cooperator-selected entries produced higher yields.

Experience with the field-trial program points out, however, that careful management is essential to obtain top production with most "modern" soybean varieties. Essential management practices include adequate fertility, effective inoculation, high plant population and thorough weed control. All of the U.S.-developed varieties in the uniform set of varieties grown at each location showed a marked responsiveness to plant population. Significantly higher yields were produced with plant populations of 400,000 plants per hectare than with 100,000 plants per hectare.

Yields of plots inoculated with commercially available composite inoculums were significantly higher than yields of plots where no inoculum or nitrogen were used at three of five locations where appreciable populations of *Rhizobium japonicum* (nitrogen-fixing bacteria) were not already present in the soil. The efficiency of several inoculums, as measured by their effects on yields, nodulation of plants and seed composition, was relatively consistent across locations. Applying nitrogen at the rate of 100 kilograms per hectare produced a yield comparable to that of the most effective inoculum at only one of five locations. This indicates that nitrogen fertilization is not an effective substitute for adequate inoculation.

Another important part of University of Illinois agronomic activities under contract csd-3292 was the initiation of a computerized data bank containing information on soybean germ plasm. Initially, soybean germplasm information published in USDA-ARS manuals were coded under a modified taxonomic information retrieval system (TAXIR). Each of the 3,900 items held by the USDA-ARS Regional Soybean Laboratory was rated for about 140 variables. Computer-retrieved information on soybean germ plasma is available on request to soybean researchers throughout the world. Contract csd-3292 funds supported significant portions of this program, and will enable expansion of the system in the future to cover information derived from cooperating test sites.

Work in *entomology* was undertaken because insects are important factors in soybean production, both directly and indirectly through the transmission of viral diseases. Entomological activities under contract csd-3292 were concentrated on pest management and on developing effective and economical systems of international information exchange on soybean insects.

The two major activities undertaken under the contract were the Soybean Insect Research and Information Center (SIRIC) and the International Synoptic Collection of Soybean Arthropods. These two service-oriented units complement one another and provide a worldwide information and research for workers concerned with soybean insects. No such collection of this much-needed information existed anywhere in the world before the University of Illinois services were established. Contract csd–3292 supported processing, cataloging and computerization of the information and specimens that went into the services, as well as retrieval and distribution to interested scientists throughout the world.

SIRIC developed a literature-data base of about 9,000 references on arthropods associated with soybeans. The service is fully computerized and information can be retrieved either by subject or combination of subjects.

The International Synoptic Collection of Soybean Arthropods, in March 1973, contained about 1,000 specimens, representing 140 taxonomic families of arthropods associated with soybeans. Specimens from the 21 major soybean-producing states in the United States, as well as specimens from India, Indonesia, West Pakistan, the Philippines, Malaysia, Trinidad, Jamaica, Nicaragua, Colombia, Ecuador, Argentina and Brazil are included. A major objective of the synoptic collection and associated surveys is to determine what species occur on soybeans in what countries. The data provided allows researchers to predict what pest species and related problems can be expected in areas where soybeans are newly introduced. Up to the present, scarcity of dependable data has deterred development of effective pest-management programs to control soybean insects and related diseases.

The csd–3292-supported Soybean Insect Research and Information Center (SIRIC) and the International Synoptic Collection of Soybean Arthropods, plus the activities of eight other participants of the Illinois Soybean Entomology Research Team, form the basis of an active program for developing soybean pest-management systems.

Food-utilization studies under contract/csd–3292 were first aimed at refining and perfecting the basic "Illinois process" for using cooked whole soybeans and at developing prototype foods that could be demonstrated, introduced and tested in other countries. The basic process was developed before the inception of contract csd–3292, but must be described because it is the key to further development.

Soybeans in various forms have been used as a food staple by millions in the Far East for centuries. However, whole soybeans have not been generally accepted for human use in most other countries, including many of the developing nations, because of a characteristic flavor and odor—often identified as "painty" or "beany"—that many people find objectionable. This flavor is caused by an enzyme (lipoxygenase) that is almost instantaneous in action. Once the objectionable flavor has developed, it is practically impossible to eliminate or mask it.

The work of the University of Illinois food scientists who deveolped the "Illinois process" represents a twofold contribution. First is the development of a simple, inexpensive method to treat whole soybeans and deactivate the enzyme before it can catalyze any off-flavor development. Second is the recognition that the resulting bland whole soybeans can be used as the chief ingredient in a wide variety of food products.

The basic Illinois process consists of hydrating and blanching (by boiling water or steam) whole, undamaged soybeans before any further preparation or processing is attempted. The resulting bland, whole-bean product contains nearly all of the fats and protein originally present in whole soybeans. The nutritive value of the protein is apparently not affected by the treatment. The bland product can be used directly (with appropriate seasonings) as a "boiled-bean" dish or can become the basis for a wide variety of high-protein foods.

Five groups of prototype foods were developed from the basic bland beans prepared by the Illinois process. They are: (1) "home-cooked" or canned soybeans, (2) drum-dried powders, (3) snack foods, (4) beverages, and (5) intermediate-moisture foods or "spreads." Initial development of specific products within each prototype group began before inception of contract csd–3292. However, contract funds supported development of specific new products, as well as continued refinement of existing products.

All of the food products developed are prototypes, and were developed to demonstrate that a wide variety of foods can be prepared from soybeans. Each type of product must be tested and further modified if necessary to make it more suitable for local tastes.

Preliminary demonstrations of the basic process and its variations were conducted during the first half of 1972 in Brazil, Colombia, Ecuador, Costa Rica, India, Thailand, Malaysia, Vietnam, Indonesia, the Philippines and Taiwan by University of Illinois staff members not on contract salaries, but closely involved in contract operations. These preliminary contacts led to arrangements for more formal demonstrations and presentations in Brazil and Peru during February and March 1973.

On the 1973 trip, a contract food scientist spent three weeks in Brazil and a brief period in Peru, with the following objectives:

1. To present lectures on and demonstrate where possible the U. of I. process for preparing whole soybeans for use as human food. All such presentations will emphasize simple, home or village methods.

2. To prepare, or initiate preparation of,

local recipes using soybeans in place of local beans.

3. To arrange continuing cooperation with research groups in the areas of food science and nutrition where adequate facilities and personnel are available.

Institutions and agencies visited in Brazil include: Projecto Nacional da Soja (PNS), Ministry of Agriculture, USAID, University of Brasilia, the Armed Forces Commission on Food, and Instituto Nacional de Alimentos e Nutriciao (INAN) in Brasilia; Instituto de Pesquisa e Experimentacao Agropecuaria (IPEACO) in Sete Lagaos; Instituto Agronomico de Campinas (IAC) and Instituto de Technologia de Alimentos (ITAL) in Campinas; Centro de Tecnologia Agricola e Alimentar (CTAA) in Rio de Janeiro; Instituto de Pesquisa e Experimentacao Agropecuaria de Norte-este (IPEANE) and the Institute of Nutrition in Recife; and Instituto de Pesquisa e Experimentacao Agropecuaria (IPEAGRO) in Porto Alegre.

At these institutions and agencies, the food scientist met personnel and presented seminars and demonstrations on preparing bland soybeans by the Illinois process and using the basic bland beans in other preparations, e.g., "home-cooked" beans, roasted beans, bean salad and bread. He found that interest in soybean production and development of soybeans for human consumption is high in Brazil. An extensive, five-year program aimed at increasing soybeans production was started in September 1972 (the Projecto Nacional da Soja, PNS).

As a result of the contacts made, arrangements were subsequently developed for an exchange of personnel and an on-going demonstration activity in Brazil. Initially, the work will be concentrated at ITAL (Campinas) and an INAN installation at Belo Horizonte.

On the same trip several institutions and agencies in Peru were also visited to make initial demonstrations of soybean utilization as human food. Also visited were facilities and personnel at the University of Puerto Rico in Mayaguez and Rio Piedras.

Contract objectives, as cited above, were generally met during the effective life of the contract. Some difficulties were encountered in staffing, particularly in the Food Science group and also in Agronomy. Also, the total duration of the contract period was briefer than anticipated by Contractor (July 1, 1971–March 31, 1973). As a result, objective C (in listing above) could not be attained because insufficient time was available. Specific attainments and comments follow:

Objective A. Demonstrations of food process in two or more selected countries. This objective was attained, though quite late in the contract period. Staffing difficulties in the first contract year, and complications in selecting appropriate countries and agencies, delayed major demonstration activities until early 1973. Preliminary demonstrations and preparatory contacts in Brazil, Colombia, Ecuador and Costa Rica were carried out by a non-contract staff member early in 1972. Contacts made in Brazil prepared the way for the full-scale demonstration activity conducted in 1973. Another exploratory trip (not on contract funds) was carried out by another staff member in mid-1972, with the process being demonstrated in India, Thailand, Malaysia, Vietnam, Indonesia, the Philippines, and Taiwan. Much interest was shown by local agencies in these latter countries, and tentative plans were made for a full-scale demonstration activity in Thailand, in early 1973. However, these plans were cancelled at the request of USOM/Thailand.

Objective B. Establishment of an (on-going) demonstration operation in selected countries. The necessary contacts and preparations for such an operation were made in Brazil, late in the contract period. Subsequently, arrangements were made for Illinois staff to be stationed at ITAL (Campinas) to conduct such operations. More recently, INAN (Instituto Nacional de Alimentacao e Nutricao) has requested that a demonstration operation be conducted at its Belo Horizonte location, to be led by Illinois personnel. This operation would be concerned with the use of Illinois-process soybean foods in a school-lunch program under INAN sponsorship.

Objective C. To perfect new, high-yielding soybean varieties. This objective was not achieved, because of time limitations. As is commonly known, development of new soybean varieties requires 5 to 8 years from initial selection or hybridization, even if two generations can be grown per year. Initial efforts toward meeting this objective were concentrated on determining the most suitable existing types for use in a planned breeding program. This portion of the work is described more explicitly under D below.

It was determined that several varieties from the southern U.S., notably Davis, Improved Pelican, Hardee, and Bragg, have high-yielding potential and other valuable agronomic characteristics which would make them useful as breeding parental material. In general, "locally adapted" types furnished by cooperators did not yield well, but in some cases exhibited other valuable characteristics which would indicate their usefulness as genetic source material.

Objective D. To test adaptability of improved soybean strains

As indicated above, this was the major activity undertaken in the Agronomy portion of contract activities, since it is fundamental to both further improvement and to current possibilities for adopting soybean cultivation in new areas. In all, trials were conducted at 20 locations in 11 countries, mostly in equatorial or low latitude subtropical areas. Trials included tests of varietal performance, response to Rhizobia inoculation and plant population density.

As a general conclusion, these trials clearly indicated that modern soybean varieties, chiefly from the southern United States, can give highly satisfactory yields in most equatorial and subtropical areas studied. For such high yields to be obtained it is apparent that adequate Rhizobia inoculation, satisfactory levels of P fertilization and soil reaction, and fairly dense plant populations are necessary.

These tests indicated that in most cases, further varietal improvement would be most desirable, to fit the varieties to the specific requirements of the various agroclimatic areas. As indicated above, there is good evidence that desirable characteristics are present in available germ plasm, and therefore that even higher yield levels are possible.

Objective 5. To provide other technical services and consultation, related to soybean improvement and utilization. Personal visits were paid to cooperating trial sites in South America, Africa and Southeast Asia, by program agronomists. Extensive correspondence was conducted with USAID mission personnel and research institutions in more than 40 countries, related to soybean improvement and utilization. In effect, linkage network was developed, tying together several international centers and a large number of country agencies, with the INTSOY operation as the network nexus.

Contract activities set the stage for an expanded research and technical assistance effort in soybean development, which currently (mid-1973) is being considered for Consultative Group support.

THE NEED FOR TAX REFORM

Mr. BAYH. Mr. President, as Hobart Rowan said in a column in this morning's Washington Post, President Nixon in releasing information on the amount of taxes he has paid since being in office has made "the best case yet for tax reform." During the President's first term he became a millionaire, increasing his net worth from about $300,000 to over $1 million. At the same time, in spite of his earning $200,000 per year in salary, he paid no more in taxes then the average American worker, and in two of those years he paid considerably less.

Twice this year I along with Senators Muskie, Nelson, and Kennedy have attempted to strengthen the minimum tax provisions of the tax code which were supposedly designed to prohibit high income individuals from doing exactly what the President has done—pyramiding tax deductions and exemptions to escape tax liability altogether. In practice the existing minimum tax provisions have clearly proven inadequate. We will have one more opportunity this session to strengthen the law in this area, and I hope that the dramatic new evidence of this inadequacy will convince the Senate that this change is needed and desirable. I ask unanimous consent that Mr. Rowen's column be printed in the Record.

There being no objection, the column was ordered to be printed in the Record, as follows:

Mr. Nixon's Returns: A Case for Tax Reform

It wasn't part of his plan, to be sure, but President Nixon has just made the best case yet for tax reform. One doesn't need to know all of the intracacies of the tax law to understand that Mr. Nixon, during his presidency, has not paid his fair share of taxes.

In the four year period from 1969 through 1972, the President became a millionaire, tripled his original net worth of about $300,000, and despite a $200,000 annual salary, paid taxes no heavier than a man earning an average of $15,000.

As a matter of fact, in a couple of those years, the taxes Mr. Nixon paid Uncle Sam were no higher than those of a man in the $5,000 bracket.

This demonstrates the ineffectiveness of the "minimum tax" provisions of the 1969 Tax Reform Act, which should now be reviewed.

The principal device the President used to lower his taxes to a ridiculous token was a gift of his vice presidential papers to the American people, valued at $576,000. Nobody has yet figured out what the American people can do with them.

But under a law which was scrapped in mid-1969, that amount was deductible from Mr. Nixon's income. Lyndon Johnson, and other public officials and private citizens, have used the same loophole.

Mr. Nixon, although he had denied it just a few weeks earlier at a press conference with managing editors at Disney World, also took deductions of $271,000 for interest on loans, and failed to pay any capital gains on his resale of San Clemente land to Messrs. Rebozo and Abplanalp, even though his own auditors now say he made $117,370 on that deal.

There is considerable doubt that Mr. Nixon actually beat the deadline on the gift of his papers. Instead, it appears that the gift was "back-dated" to make it appear that the deadline had been met. Politicians here know that in the fall of 1969, presidential aide Bryce Harlow was lobbying on Capitol Hill for a change in the July 25 cut-off date, which suggests that Mr. Nixon knew that he would be skating on thin ice in making the claim.

But the real point, whether or not the President ultimately has to cough up a larger tax payment, relates to a matter of ethics. Should the President have jammed through a massive deduction for a tax gimmick so outrageous that Congress had already decided to abandon it? What sort of moral leadership does that show?

The President displayed similar insensitivity on other issues, ranging from the millions requisitioned from the U.S. Treasury to assure his comfort and communications ease in San Clemente and Key Biscayne, to accepting personal financial assistance from business acquaintances.

The picture that is drawn for us by Mr. Nixon's own tax returns is that of a man willing to take huge loans from private individuals (who also repurchased land he didn't require) in order to provide him an unusually favorable deal in buying his California home.

We see a man not embarrassed by gift of a $20,000 trust fund to the daughter of the Vice President of the United States from Elmer Bobst, then head of the Warner Lambert Pharmaceutical Corp.

We see a man not embarrassed by pocketing the unspent portion of his annual $50,000 presidential expense allotment, treating it as income instead of returning it to the Treasury.

We see a man who paid no California state taxes, relying on a District of Columbia statute designed to exempt federal officials from the burden of double taxation while temporarily domiciled here.

Incidentally, if San Clemente is not Mr. Nixon's prime residence, then the President is clearly not entitled—in the opinion of the best tax lawyers in the business—to the deferral of tax on his $150,000 capital gains on the sale of his New York apartment. That deferral was allowed because, presumably, it was invested in the San Clemente residence.

Taking it all together, what we learn this week is that Mr. Nixon was willing to play the tax laws so close to the edge of technical acceptability that the question remains whether he overstepped the bounds of legality.

But there can be no question about his faulty judgment. He is guilty of the same myopia in dealing with his personal finances that helped entrap him in Watergate. The whole affair must be a disillusionment even for Nixon die-hards.

PERIL TO DEMOCRACY IN SECRET MILITARY POLICIES

Mr. HUGHES. Mr. President, I also ask unanimous consent that an article that appeared in the August 14, 1973, Des Moines Register, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HUGHES—PERIL TO DEMOCRACY IN SECRET MILITARY POLICIES

(By Harold E. Hughes)

Now we know. For more than 14 months prior to the American invasion of Cambodia—from March, 1969, through May, 1970—U.S. B52s waged a secret war over an officially neutral country, flying more than 100 raids a day (a total of over 3,600), and dropping nearly 104,000 tons of bombs on the countryside.

Congress, empowered under the Constitution to appropriate the money spent by our government, only recently learned that this secret war, plus similar secret air bombardments over supposedly neutral territory in Laos, cost the American taxpayer $1.55 billion—not including the human and dollar cost of 222 aircraft lost.

Actually, this whole planning began just two weeks after President Nixon was inaugurated on Jan. 20, 1969. An unbelievable beginning for a man who was telling the country we were respecting the neutrality of a small nation of 7 million people.

"SECRET PEACE" OR SECRET WAR?

This planning went on at the level of the National Security Council with the full authorization of the President, which has now been completely disclosed. He ordered the bombing. The targets were selected at Military Assistance Command Vietnam (MACV) at Gen. Creighton Abrams's headquarters in Saigon and sent back to the National Security Council. The President gave the authorization on all of the raids and all of the targeting.

Could it be that the "secret peace plan" of the 1968 campaign was really a plan for secret war?

To call these massive war operations—and the previously disclosed unauthorized bombings over North Vietnam conducted by forces under Lt. Gen. John D. Lavelle—"secret wars" is perhaps a bit imprecise. The enemy knew about the bombings. Cambodian, Laotian and Vietnamese people knew about the bombings. So did Soviet and Chinese officials. But the American people and their elected representatives, including members of committees with authority over the armed services, were kept in the dark.

The disclosure of the secret Cambodian air war came about when a young man of courage and principle, Maj. Hal M. Knight, a former Air Force officer, took the initiative of writing Senator William Proxmire (Dem., Wis.) to inform Congress of secret large-scale air raids in Cambodia at a time when our officially proclaimed policy was one of strict neutrality. The letter was referred to me as a member of the Armed Services Committee.

CONSCIENTIOUS SERVICEMEN

The confirmation hearing of Gen. George S. Brown as Air Force chief of staff was coming up before the committee. Because he was 7th Air Force commander during that period of 1969–70, I requested that Major Knight be called to testify.

This is how the secret Cambodian war became known to the American people and the Congress, just as a year earlier General Lavelle's private war came to light when Sgt. Lonnie D. Franks, stationed in air intelligence in Thailand, wrote to me about clandestine raids and falsified reporting of unauthorized tactical air raids over North Vietnam.

The fact that both of these disclosures came from conscientious servicemen notifying members of Congress is particularly significant in the light of recent news reports from Germany indicating that military authorities there had launched a "counter-dissidents" program against GIs who complained to news media or members of Congress. (The Uniform Code of Military Justice states that no member of the military shall interfere with the right of a military man to communicate with his congressman.)

In his testimony before the Senate Armed Services Committee, Major Knight told of being the operations officer of one of our highly specialized radar sites that guided B–52s to their targets and timed the release of their bombs.

On 20 to 24 occasions between February and May, 1970, Major Knight said, an Air Force officer flew to his radar site and delivered a sealed envelope of targeted orders for raids in Cambodia. Using these target coordinates, his radar crew guided the B–52s to their Cambodian targets.

JUST ONE EXAMPLE

Afterward, Major Knight testified, he and his men prepared poststrike reports, inserting target coordinates for sites in South Vietnam. The written reports, containing the false target coordinates, were sent by secure mail to a Strategic Air Command unit in Saigon. Major Knight then phoned the SAC unit, reported mission accomplished, and, in accordance with orders, burned all of the computer tapes and records that contained the true information about the targets hit by B–52s.

As we now know, this procedure was just one example of falsification of official records that became so routine and pervasive in U.S. combat air operations in Southeast Asia that few dared to question orders from their superiors to falsify yet another report.

Meanwhile, from the highest levels of government and the military—where the order for secret warfare emanated—falsified official reports of these Cambodian bombing operations were passed to the Armed Services Committee.

Recently the Pentagon expressed regret over the falsification of reports. Regret is hardly enough.

When secrecy, deception and falsification of official reports become a way of life in our country's military operations, it scares the hell out of me. It should have the same effect on every other concerned American citizen.

This gets at the heart of our military command and control systems and the constitutional implementation of our national purpose. Unnecessary secrecy and pervasive falsification of official reports is not the way to national security. It is the way to insecurity for our most precious rights.

NATIONAL SECURITY

This is a subject that cuts across political administrations, party lines and positions of personal bias relating to our national security. It raises profound questions concerning the future of our country and its civilian, democratic rule as set forth in the Constitution. In this, whatever our other differences of opinion, we share common concerns.

If the miltiary and/or its civilian command obscures this clear vision of the Congress and the public, we encounter the danger of private or secret policies that are subversive of the constitutional processes.

There is the ever-present danger, when high government operations are conducted in secrecy, of confusing the nation's national security with a particular administration's political security.

Since coming to the Senate, I have consistently pressed for maximum disclosure of facts about the Indochina theater, consistent with the safety of our troops in the field and the security of delicate diplomatic negotiations. This is out of conviction that, if we are to pursue peace or prosecute war, the people and the Congress must have a clear vision of the nation's direction.

OATH TO SUPPORT CONSTITUTION

Whether in military uniform or civilian garb, no group within our society, however well-intentioned, can be permitted to make the momentous decision to wage secret warfare while officially deceiving the Congress and the public. This, as history abundantly confirms, is the way free nations under civilian governance eventually forfeit their freedom.

Major Knight summed it up best in answering a question that implied some doubt of his loyalty to his service and superiors for making his courageous disclosures.

"I didn't take an oath to support the military," he said. "I took an oath to support the Constitution."

ANNOUNCEMENT OF POSITION ON VOTES

Mr. STEVENSON. Mr. President, I was necessarily absent from the Senate on November 26 and December 6, and thereby missed four rollcall votes. Although I did position myself on these four votes on the respective days the votes were held for the permanent RECORD, my positions were not recorded in the CONGRESSIONAL RECORD for those days. In order to clarify this situation, therefore, I would like to reiterate my position on those votes.

On November 26, on the vote ratifying I would have voted "yea".

On November 26, on the vote ratifying Executive Q, a protocol to the Civil Aviation Convention International, had I been present and voting, I would have voted "yea".

On December 6, on the Bellmon amendment No. 771 to S. 1283, had I been present and voting, I would have voted "nay".

On December 6, on the Bellmon amendment No. 772 to S. 1283, had I been present and voting, I would have voted "nay".

TOWARD PEACE IN THE MIDDLE EAST

Mr. ABOUREZK. Mr. President, last month the National Conference of Catholic Bishops passed a resolution entitled "Toward Peace in the Middle East." The resolution imparts a judicious analysis of the contemporary political situation in the Middle East. It maintains that recognition of the right of Israel to exist as a sovereign state with secure boundaries is not the sole prerequisite of a comprehensive political situation in the Middle East. Recognition of the rights of the Palestinian people, including their right to participate in any negotiations, "acceptance of their right to a state and compensation for past losses to be paid not only by Israel but also by other members of the international community responsible for the 1948 partition plan" are also called for. And the resolution recognizes that any lasting political settlement in the Middle East must be based on the "stipulations set forth in the United Nations Security Council Resolution 242 of November 22, 1967."

I could not agree more that these elements are essential to peace in the Middle East. Israel's security is not incompatible with the rights of the Palestinian people, nor the rights of the Arab States to have lands returned to them which were taken in war. To the contrary, Israel's long-term security, and the interests of peace in the Middle East depend on a settlement which is based on the return of Arab lands and the recognition of Palestinian rights.

I ask unanimous consent that the resolution of the National Conference of Catholic Bishops "Toward Peace in the Middle East" be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

TOWARD PEACE IN THE MIDDLE EAST

The conflict in the Middle East is a complex fusion of political, military, economic and religious factors. As bishops of the Catholic Church in the United States, we speak to the issue as pastors concerned for the parties immediately involved, seeking to offer guidance to American Catholics on the issue, and eager to do what we can, even from this distance, to contribute to a just, peaceful and lasting resolution of this painful tragedy.

Faced with a problem which has frustrated the efforts of statemen for years, we offer our reflections with no pretensions of formulating a definitive solution. We seek instead to highlight factors which we believe point the way toward reconciliation, peace and justice in the Middle East. The problem must be viewed at a global and a regional level.

First, we are impelled to observe the grave dangers of this conflict. Because of the strategic significance of this area of the world and the relationships of major nuclear powers to the parties involved, this conflict contains the potential of wider war, even of nuclear war. Such a war must be avoided at all costs. We believe that we voice the sentiments of people everywhere when we recall Pope John's words that in such a situation, "it is hardly possible to imagine that in the atomic era war could be used as instrument of justice." (Peace on Earth, n. 127)

Second, the roots of the conflict reside in the region, these causes must be removed if the Middle East is to have peace and the world is to be secure from a greater war. The history of this region is one of claims and counterclaims which may never be perfectly adjudicated. We hope that the parties can transcend this troubled and complex past and move toward a new beginning for all the peoples of the Middle East. We believe all parties possess certain just claims, probably none of which can be perfectly fulfilled, all of which can be partially realized.

Rather than rehearse the past, we would point to the significance of the present moment: A convergence of international and regional forces has produced the situation in which all parties appear ready to make some concessions, to test alternatives and to take steps which offer hope for a reasonable settlement.

The road to such a settlement is still long, dangerous and complex; we have no illusion about the difficulties of the task ahead for all concerned. Yet we find in the history of the region and in previous attempts at a peaceful solution certain factors which we believe are essential to future progress. We wish to call attention to these elements in this resolution, making the following plea to the parties concerned.

We call for a comprehensive polilcal soluion involving the following:

1. Recognition of the right of Israel to exist as a sovereign state with secure boundaries;
2. Recognition of the rights of the Palestinian Arabs especially the refugees: this involves, in our view, inclusion of them as partners in any negotiations, acceptance of their right to a state and compensation for past losses to be paid not only by Israel but also by other members of the international community responsible for the 1948 partition plan;
3. Acceptance as the basis for negotiations by all parties to the conflict of the stipulations set forth in the United Nations Security Council Resolution 242 of 22 November 1967;
4. Recognition of the need for continued restraint and continuing responsible diplomatic involvement by the Soviet Union and the United States; we believe this can be most effectively achieved if superpower actions are mutually coordinated with U.N. activities in the region;
5. Continuing reliance on the United Nations diplomatically and through its peacekeeping machinery;
6. Given recognition of the unique status of the city of Jerusalem and its religious significance which transcends the interests of any one tradition, we believe it necessary to insure access to the city through a form of international guarantee. Moreover, the character of the city as a religiously pluralist community, with equal protection of the religious and civil rights of all citizens must be guaranteed in the name of justice.

In proposing these reflections we seek to fulfill our ministry of justice and peace. We ask men and women of good will to consider them in the spirit in which they are offered, as a contribution to reconciliation in the Middle East and peace in the world. We pray that the Prince of Peace will bless our efforts and those peoples and governments who labor as peacemakers.

THE STRUCTURE OF THE QUESTION

I wish to establish at the outset the limits of my remarks this afternoon. These limits are set by the purpose of this presentation. It is not designed to be either historical or programmatic but analytical. That is to say, I do not propose to review all the pertinent data about the Middle East conflict, nor do I propose to offer a full blown policy statement. Rather my purpose is to set forth the structure of the Middle East problem as it is presented to this religious body. The goal of this presentation is simply to set a framework or background in terms of which the proposed resolution can be discussed today.

The structure of the Middle East conflict is best indicated by distinguishing the levels of the question. There are three levels of the question pertinent to our deliberations. First, there is the superpower or strategic problem involving the United States and the Soviet Union. Second there is the regional level of the problem, involving Israel, the major Arab states, especially Egypt and Syria, and the special case presented by the Palestinians. Third, there is the ecumenical problem, involving the ties of the Roman Catholic community to Christians in the Middle East and to the Jewish community in the United States and abroad.

The proposition being argued here is that the whole issue is often seen by religious organizations only from the level of the ecumenical problem. This not only restricts our vision of the nature of the problem, it also limits the possibility of what we can say to the problem. My remarks will be devoted to elaborating the content of the three levels of the problem and analyzing the relationship among them.

I. The superpower problem: US and USSR

The essence of the superpower problem in the Middle East is constituted by the strategic significance of this area of the globe and the intense involvement of the US and USSR in the Middle East dispute. This fact must be viewed as a primary characteristic of the dispute because it reflects the basic moral and political characteristic of international politics since World War II: everything is acted out under the nuclear cloud. The Middle East continues to be intimately connected to the nuclear equation. As we deal with the problem, whether as churchmen, statesmen or citizens, none of us can forget this basic reality.

To indicate the nature and extent of the superpower involvement in the Middle East would require a full scale seminar. Perhaps the dimensions of the problem can be grasped if we understand that the political strategic structure of the Middle East today is often compared to the structure of the political problem in Europe which produced World War I. The essence of that configuration is an intense regional conflict with the local parties linked to outside major powers in such a manner that the local conflict can create a whirlpool effect which draws the major actors unexpectedly and even unwillingly into the fray. The Middle East, like central Europe, is one of the few places in the globe where this possibility still exists. In these strategically critical areas a direct line can be drawn from the local conflict to what is perceived by the superpowers as their vital interests. For most places in the globe, local conflict is contained—even if violent—by tacit agreement of the superpowers: it is not worth the risk of confrontation. The

Middle East remains one of those areas of the world where the superpowers still exist in a precarious relationship. The recent crisis has demonstrated a certain stabilization of the relationship under the influence of detente diplomacy. However, to underestimate the continuing danger would be irresponsible morally and politically. Conversely, it would be irresponsible to cencentrate only on the superpower problem since the roots of the conflict lie in the region.

II. The regional problem: Arabs, Israelis, Palestinians

The essence of the regional problem involves the conflicting claims of the Arabs, Israelis and Palestinians to territory and sovereignty. The regional problem is the heart of the issue yet it cannot be seen in isolation from the superpower problem. The uniqueness of the Middle East lies not only in the complexity of its substance but also in the scope of its implications: a mistake in the Middle East could involve the destiny of all of us. We all have a stake in a just and peaceful settlement.

To attempt a complete factual description of the regional problem would be futile because of the limits of time and the complexity of the data. I would rather call attention to the moral structure of the problem which should be of special concern to this body. In moral or ethical terms, the political problem in the Middle East can be defined as a case of conflicting justice claims. By this I mean that each party to the conflict sees its position rooted in a clear objective claim to justice which it expects the rest of the international community to recognize.

Each party believes the goals it pursues are objectives due to them in justice. This conveys a particular intensity to the problem and a certain rigidity on the part of all actors in the conflict.

Israel, for example, grounds its justice claims to statehood in at least three elements: a) theological and historical claims relating to their presence in the area and the special religious significance of the land; b) claims derived from the fact of continuous persecution culminating in The Holocaust which made it clear to Jews that a homeland is necessary for survival; c) the U.N. partition and Jewish development of the area since 1948.

The Arab peoples counter these claims with their own arguments for a right to possess the land of Palestine. The Arabs dispute the theological and historical argument, indicating that it is they who have been continuously present in the area for more than 1300 years. Moreover, they have never agreed with the idea that the right of Jews to a homeland should override their rights to self-determination, promised to them after World War I. Finally, the Arabs make the point clearly that they believe it supremely unjust for the Western nations to solve their conscience problems of anti-Semitism through the forfeiture of Arab lands.

My purpose here is not to evaluate these arguments but simply to indicate the nature of the problem they pose. The moral issue underlying the political problem in the Middle East is a conflict of justice claims no less intricate nor less difficult to solve than the classical "hard case" of Catholic moral theology when a fetus' life directly threatens the life of the mother. A solution guaranteeing total justice to all parties in this political case seems beyond the reach of mortal men.

Short of this, the regional problem is reduced to the question of how to adjudicate conflicting justice claims and thereby build a viable political solution upon a foundation which approximates what each party believes to be right in the area.

III. The ecumenical problem: Catholics and Jews

As complex as the global and regional issues are, they do not exhaust the nature of the problem presently before us. When the Middle East is under consideration, we have not only a foreign policy issue but also a religious issue. This added element distinguishes our considerations of the problem from other bodies of a purely political nature. Our ties to the parties of the conflict are more than political.

What is the nature of these ties? There are three distinct "ecumentical" relationships which bear upon our consideration of the Middle East: first, our ties with Christians in the Middle East as members of the household of the faith; second, our ties with the Jewish community to whom we are committed not only in fellowship and friendship but religiously linked as Vatican II declared; third, as we consider our response to this issue, we need to be aware of Vatican policy in the Middle East.

All of these relationships lay claims upon us; we are responsible to each of the parties I have listed. These multiple relationships constitute the ecumenical problem: it concerns how we link these particular ties to the larger elements of the foreign policy problem.

My principal concern in this presentation is to stress that as intense and important as our ecumenical ties are, they do not exhaust our responsibility for the Middle East. Hence, they should not exhaust our vision of the problem. The Middle East has progressively escalated since 1948 into a problem which touches the global community since it threatens it as few other places can threaten it. Consequently, the Church should speak to the ecumenical issues in the light of the issues of justice and peace which concern all peoples.

Too often statements from religious bodies ignore or do not deal specifically with these larger issues. The concern for the third level or ecumenical problem overshadows other elements for which we are also responsible.

I would argue that these three levels, superpower, regional and ecumenical constitute the structure of the question in the Middle East as it is presented to us. Thus far I have tried to articulate the elements involved on each level. In the concluding section of this presentation I shall try to analyze the relationships among the elements of the total problem.

IV. The superpower and regional levels

Often superpower involvement in a local conflict simply complicates and intensifies the struggle as our presence did in Vietnam. In the Middle East, however, the superpowers play an irreplaceable role. While their presence is far from totally beneficial, they can exert a kind of influence of which no other parties are capable.

The key question of the superpower/regional relationship is how to establish a framework which enhances their constructive role while containing their destructive potential. A shorthand formula for accomplishing this involves a process of *insulating* the superpowers from the conflict without *isolating* them from it. On the one hand, the superpowers must be insulated from the conflict in order to avoid having them drawn directly into the conflict thereby escalating into global proportions.

On the other hand, the superpowers should not be isolated from the conflict because they can play a unique role by restraining the local actors at critical moments and, perhaps at times, adding an incentive at key points to the negotiating postures of the various parties. If the superpowers are isolated from the conflict they cannot exert any influence on the course of events, yet if something blows up they will not stay isolated because of the crucial strategic significance of this part of the world.

The means of carrying out this proposal of insulating the superpowers without isolating them is not a topic on which there is broad agreement. Speaking in the most general terms one can say that the desirable situation is one in which some form of a buffer is inserted between the superpowers and the regional actors. Although it is not the only party capable of fulfilling this role, the United Nations seems best suited to act in this intermediary capacity through its diplomatic and peacekeeping mechanisms.

If some form of buffer is present between the superpower and regional actors, then superpower influence is to some degree filtered through the international agency. Obviously, the big powers can and do exert influence directly on the parties as we have seen in recent weeks. However, the existence of a third force is important diplomatically and even more important in fulfilling any peacekeeping or policing activity. To have such a third force directly involved in the area is qualitatively different from having a superpower presence fulfilling the same function. The third force keeps the superpowers one step removed militarily from the conflict—it is certainly a fragile barrier, but it may provide a critical margin of difference in the area.

V. The regional actors

In understanding the relationship of the regional actors in the Middle East, the perspective we take is crucially important. The region has a complex and conflicting history; it is probably impossible to right all past wrongs or to fulfill all present expectations. Yet, I offer you the proposition that the present moment in the Middle East offers some possibilities previously unavailable.

A combination of systemic forces and regional elements, stretching from the complex strategic process known as detente through the clear and concrete economic issues of oil to the psychological need of the regional parties for peace, has produced an apparent willingness among all the actors to go somewhat beyond previously held positions in search of a reasonable settlement.

I would argue that it is important to highlight this convergence of forces and the possibilities it offers. Nothing in the Middle East is either simple or clear or devoid of danger. Yet the situation is different; the question is what needs to be done to understand this opportune moment. Several factors stand out for consideration.

First, there is a need to see that all relevant parties to the problem are included in our definition of the problem. This is a question of justice with immense political significance. In a situation of conflicting justice claims, while a settlement of perfect justice is usually impossible, any settlement which leaves one party with the view that its claims have been totally denied makes that party ipso facto a revisionist element: its future goal is to overthrow the settlement.

This latter principle has special application to the Palestinians in the Middle East, as the Palestinians have special relevance for our view of the problem. The Palestinians, because of their status, is the party which has the least chance of being counted as an independent element in any Middle East settlement. Yet, it could be argued that no other party to the conflict has suffered more over the past 25 years. It is both politically sound and morally necessary that the Palestinians be accepted as an independent participant in any negotiations on the Middle East problem. They should not be simply a dependent variable in the political equation, a party whose future is totally determined by other actors. I think the Church should stand for this form of independent presence for the Palestinians because here as is in other areas of international life the weakest party becomes the forgotten party. Part of the Church's role in international affairs is to raise the forgotten factors to the level of conscious consideration, politically and ethically.

The second important element in our understanding of the present moment in the Middle East is the need to catalogue the factors of conflict, those elements which are of primary concern to each party. In synthetic form, those elements are the following:

1. For Israel it is the question of an acknowledgement of her right to existence and the reinforcement of that right through the establishment of secure boundaries.

2. For the Arab states the question of what one means by secure boundaries is critical; they are not prepared to grant Israel land conquered in 1967 and since then.

3. For Palestinian Arabs the basic question is their right to a homeland and compensation for past losses.

4. Finally, for three of the major religious communities of the world the question of Jerusalem holds a special significance. The Vatican itself has been constantly concerned about specific issues relating to Jerusalem; these issues include international protection for the Holy Places, the future of Arab Christians in Jerusalem (and elsewhere in the area) and the special status which the city of Jerusalem itself has for our faith.

5. Finally, all the regional actors would distinguish between the big powers influencing a solution and imposing a solution. The first is inevitable, the second unacceptable.

These factors do not exhaustively describe the regional problem but they highlight, I believe, the central concerns of each party.

VI. The relationship of the political and the ecumenical problems

The total problem before us as a body is how we relate the complex political problem I have schematically and inadequately outlined thus far to the ecumenical ties we have on the ecumenical level of the problem. The purpose of my remarks this afternoon has been to say that we ought to view the ecumenical problem in light of the larger political problem.

If we speak to the total problem adequately, I think we will find this the best way to respond not only to our ecumenical relationships but also to the larger responsibilities we bear toward the total human community.

AIR FORCE ENDANGERS LAST REMAINING WHOOPING CRANES

Mr. PROXMIRE. Mr. President, an article in the Texas newspaper Express & News of December 9, 1973, has highlighted the danger posed to the 43 last remaining wild whooping cranes by increased Air Force bombing practice on Matagorda Island off Corpus Christi, Tex.

It has been reported that Interior Secretary Rogers Morton has protested this bombing to the Secretary of Defense, James Schlessinger. As of yet there has been no reply from the Secretary of Defense.

The situation seems critical. First and foremost is the question of the survival of the endangered whooping crane population. At least four pair of these rare birds have been seen directly on the bombing range itself. An Air Force officer had the presence of mind to comment:

> Apparently we're not interfering with them or else we're off target.

Last year there were 51 whooping cranes but this year the number has gone down to 43. Some of this attrition may be due to the bombing near the nesting site or the hunting allowed by the Air Force on the island for high ranking officers and guest civilians.

According to a recent newspaper report on this issue, the Air Force has admitted to allowing 68 generals and 30 high ranking civilians to hunt there the past several years plus many others of lower ranks. The Air Force has established a distinguished visitors quarters, 1,255 quail shelters, 38 turkey roosts, and facilities for cleaning, storing, and freezing of game.

It may be the most exclusive hunting resort in the world—especially when the whooping cranes are considered.

Just how exclusive is indicated by the experiences of the president of a south Texas bank who went out to Matagorda Island to fish in an unrestricted area. While just beginning to rig up, the bank president and his companion were repeatedly buzzed by an Air Force plane which turned a spotlight on them and wagged its wings to chase them off. The bank president was later informed by the Air Force that this was an annual occurrence that preceded the opening of duck season so that the "big brass" could have exclusive hunting privileges. I understand he has protested directly to the Department of Defense.

Mr. President, the Air Force should be called upon to explain these unusual practices. Can they not find another target range, especially since they claim they are not using live ordinance? Why is the island equipped with extensive provisions for hunting and fishing if it is primarily a bombing range? How many men are assigned to help VIP's have a pleasurable hunting trip? What are the names of the generals and civilians visiting the island the past 3 years? Do helicopters or other aircraft overfly the nesting area? How is hunting controlled so that the whooping cranes are neither disturbed or shot? Have environmental impact statements been filed with regard to this bombing range?

I hope the Defense Department moves expeditiously to meet this situation and answer these questions.

Mr. President, I ask unanimous consent that two articles from the Sunday Express & News be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

Great Birds Battle the Odds in Fight Against Extinction

Washington.—The whooping crane is one of the most spectacular of North America's native birds.

Adults stand five feet tall and have a crimson crown and pure white, black-tipped wings that spread almost seven feet. Its legs are long and thin and the toes are webless.

A hundred years ago the whooping cranes ranged widely over much of North America, from the Arctic to central Mexico.

As man moved across the continent the habitat and the numbers of whooping cranes diminished. There are less than 80 left in the world, 21 of them in captivity and the remainder in the wild.

The birds were killed for their feathers, even after they came under the protection of the Migratory Bird Convention in 1916.

Less than two dozen whoopers existed by the 1930s. The Aransas Wildlife National Refuge was established in 1937 and it soon became the winter home of the cranes.

The first actual count was made during 1939–40. Sixteen older birds and six young had wintered there.

SOME CHICKS

Usually a few chicks hatched in the summer in Canada are spotted when the flock arrives for the winter at the Aransas refuge.

From their nesting region of the Great Slave Lake in Canada they fly 2,600 miles each Fall, across the Dakotas, Nebraska, Kansas, Oklahoma and Texas.

Their autumn flight coincides with the duck and goose season, making their flight more perilous.

Those who have studied the whoopers in detail say they mate for life and are very protective parents. They feed and guard their young for about 10 months after hatching. They keep the young birds between them when flying.

The young cranes grow rapidly and are ready for flight after about three months. They make practice flights before taking the long trip south to the Aransas refuge.

While at the refuge the cranes feed on animal and plant life including acorns, planted vegetables and grain, blue crabs, small fishes, shrimp, worms and frogs.

Of the 21 in captivity, 17 are at the Patuxent Wildlife Research Center in Maryland and the other four in zoos in San Antonio and New Orleans.

The wild cranes live as family units. Each establishes a region of several hundred acres and guards it aggressively against intrusion by other whoopers. They show little aggression against wading birds and waterfowl which also share the habitat at Aransas.

The count varies each year, ranging during the last decade between 32 and 57—the highest count ever made, which was in 1970. Both the U.S. and Canadian wildlife services share in the responsibility for management of the cranes whose survival still is fragile.

Military "Playground" Endangers Whoopers

(By Jim Wood)

Washington.—The American pull-out from Vietnam may spell new danger for the threatened whooping cranes.

That new danger also is spotlighting a hunting-recreation "playground" for military brass.

Focal point of the danger is Matagorda Island. And putting the island "on target" before the public is the nearby Air Force bombing range.

Worry about stepped up bomb practice runs sent a Department of the Interior observer to the island.

VIP HIDEOUT

That visit resulted in a report the island is more of a playground for military brass and VIPs who go there to hunt and fish.

The study found the island is replete with hunting and fishing gear, transportation vehicles and quail and turkey blinds.

Concern over the whoopers has prompted Interior Secretary Rogers Morton to ask the Department of Defense to reassess its need for the practice bombing range.

Whoopers began to move onto the marshes of Matagorda after the Air Force cut back bombing in recent years due to the war in Vietnam.

BIRDS CITED

Morton, coming down strong for the whoopers, requested the reassessment in a letter to Defense Secretary James Schlesinger, it was learned.

The situation also raises the question of whether use of the island for recreation is prudent in view of the energy crisis. Transportation to and from the island plus driving up and down it burns fuel.

NO RESPONSE

Defense hasn't yet responded to Morton. But the Air Force reassessment is likely to oppose any. A study by the Air Force last April found the island essential to the defense effort. Some 125 Air Force personnel are stationed on the island.

Interior wants the island for expansion of the refuge. If it can't have the island it would at least like bombing halted during the winter. It also would like restrictions placed on hunting on and around the island.

Concern of biologists of the Bureau of Sports Fisheries and Wildlife and the National Audubon Society prompted Morton's request for a reassessment.

Also concerned is Nathaniel Reed, assistant secretary for Fish and Wildlife and Parks.

He dispatched special assistant Andrew Sansom to the island for a first-hand look and report. Sansom's findings prompted Morton's letter.

FINDINGS

Some of Sansom's findings and observations, provided in response to a reporter's query, are:

High and low altitude bombing by B-52s and F-111s will increase rapidly since the American war in Vietnam has ended. Missions are expected to increase four fold—to 4,000 a year.

Practice bombs weighing 250 pounds and general purpose bombs up to 1,000 pounds are used. In addition, experimental practice aerial gunnery, dive bombing and rocket firms are occurring.

The Army helicopter depot at Corpus Christi uses the range for practice firing—from the air and from the ground. The Huey Cobra choppers were flying across the refuge marshes, disturbing the whoopers habitat. Up to 450 sorties are flown annually.

Hunting by military personnel and civilians is increasing on and around Matagorda. Accidental killing of a whooping crane by hunters is possible. Hunting is poorly regulated.

Range activities if allowed to continue will pose a serious threat to the flock, which is migrating onto the marshes of Matagorda. An accident involving the whoopers is bound to occur. Past mortality may have resulted from range activity.

Matagorda Island is a prime recreation area for military personnel. Facilities include deluxe quarters for distinguished visitors. The facilities include a motor pool of 50 vehicles to transport hunters to quail, deer and turkey blinds; electric-powered facilities for cleaning fish, waterfowl and deer; an array of hunting and fishing gear. There are airmen available to serve as guides and quail flushers.

CLASSES

A recent visitor to the island found himself in a class on the art of fish cleaning. A few slashes with an electric-powered knife and you have a nice redfish filet.

The April report by the Air Force told of restoration efforts. It bragged that 1,245 quail and 38 turkey shelters were rehabilitated.

A Texas Senate Interim Committee on Parks and Recreation touched earlier on the recreational aspects of the island. "The question here is a straight forward one. Is Matagorda Island going to be the people's resource or the military officers plaything?"

(That same report described the island as having a "pleasant country club atmosphere . . . and a well-liquored old barracks.")

The Senate report was later incorporated into the current recreation and outdoor plan of the Texas Parks and Wildlife Dept. Acquisition of Matagorda Island is listed as a priority project.

The plan envisions a causeway from the mainland to the island. Interior would be opposed to this because it would invite intensive public use and vehicular traffic. These are not compatible with a refuge.

NEW CONCERN

Concern over the plight of the whopping cranes increased only last week when Refuge Manager E. F. Johnson advised Interior that only 43 whoopers have been counted this year. Johnson doesn't expect any more migration this year. This makes the bird count down eight from last year. It is the lowest level since 1966.

Also, some of the whoopers have moved onto the marshes of Matagorda, possibly due to the reduction in practice bombing over the past several years.

OFF TARGET

And only two weeks ago four pairs of whoopers were spotted on one of the bombing ranges, according to Johnson.

(An Air Force spokesman commented: "Apparently we're not interfering with them or else we're off target." Actually, the Air Force has an accuracy rate of 98 per cent.).

Matagorda is a slender 51-mile long barrier island of about 51,000 acres. It is owned in about equal amounts by the federal and state governments and Toddie L. Wynne. The Air Force occupies the island through leases.

LONG GOAL

Acquisition of the publicly owned lands for expansion of the refuge is the long-range goal of Interior. In the meantime, Sansom's study recommends that:

Helicopter gunship activity and low-level bombing be halted during the winter.

All areas southwest of the main bombing range be closed to hunting. Agreements should be made to control hunting in critical areas on St. Joe, Matagorda and Lamar Peninsula, which is also nearby.

Environmental impact statements should be required on any increases and changes in weapons training.

LOTS OF "BRASS"

WASHINGTON.—The president of a South Texas bank supports the view that the Air Force base at Matagorda Island is used mainly as a hunting and fishing area for "big brass."

In fact, he has told friends he and a companion were buzzed eight times by an Air Force plane as they attempted to set out fishing lines in Pringle Lake near Matagorda.

This is not in the restricted area. But Roy Selby, president of Citizens State Bank in Ganado, complained in early November a plane made eight passes over them. He said the plane wagged its wings and turned a spotlight on him and his companion.

ANNUAL RITE

Fearful, they left.

Selby said he conducted an investigation and was informed this is an annual occurrence that precedes the opening; of duck season so that the "big brass" can have exclusive hunting privileges.

In view of the energy crunch, he considers such use of fuel as wasteful.

Word of Selby's experience has reached Washington. It is understood he has filed a formal letter of complaint.

SHORTAGE OF PLASTICS RAW MATERIALS—THE IMPACT IN RHODE ISLAND

Mr. PELL. Mr. President, for several months now, I have been receiving correspondence from a number of Rhode Island firms unable to obtain sufficient quantities of various plastic raw materials from petrochemical suppliers. Most of the firms indicate they will have to cutback operations or close for periods of time until their stocks are replenished. As of today, these shortages are affecting several dozen firms in the State, employing more than 4,000 individuals.

These firms recognize the inability of their suppliers to meet the demand for plastic raw materials due to shortages of petrochemical feedstocks. However, they raise questions over the export of available plastics as well as the continuation of domestic price controls for these products which they argue only leads to increased export of the already scarce materials.

I have examined statistics from the Commerce Department covering the export of plastics materials for 1972 and 1973, and there is a significant increase in the trade of these critical items. The dollar value for all plastics exports amounted to $506 million in 1972 and that figure jumped to $710 million in 1973. These figures include the export of a number of the critical plastics raw materials Rhode Island firms desperately need.

Mr. President, I have written to Secretary Dent regarding the concern of these Rhode Island firms urging a careful examination of this situation and that appropriate action be taken under the Export Administration Act to insure an adequate supply of these critically needed raw materials for domestic use. I want to call this serious situation to my colleagues' attention, many of whom may be faced with a similar problem, and again urge Secretary Dent to give most serious attention to this matter.

There are over 30,000 employees in the plastics field in Rhode Island, and unemployment among these workers in a State already severely affected economically by several military base closings, would be an even more serious setback to the economy of my State.

NEW IDEAS IN FEDERAL HOUSING

Mr. CRANSTON. Mr. President, can you imagine buying a house for $2? It is possible in Wilmington, Del., where they are experimenting with a program to encourage "urban homesteading."

What is more, the Senate Banking and Urban Affairs Subcommittee on Housing, of which I am a member, is considering urban homesteading provisions I have cosponsored that would apply to the whole country through the omnibus housing bill. The idea is to get families to move back into houses that have been abandoned because the previous owners defaulted on an FHA mortgage. The U.S. Department of Housing and Urban Development has ended up owning tens of thousands of abandoned city dwellings.

Under urban homesteading, new owners who agree to live in the house for a period of time and bring it up to local housing codes could purchase the house for a nominal fee—the average has been a couple of dollars in Wilmington.

This is the kind of imaginative thinking that will someday conquer the taint of slums and inadequate shelter for low income Americans.

You might think it a safe bet to buy a house from the Federal Government. But you cannot be sure.

A Washington, D.C., mother of five recently told a Senate subcommittee that her housing troubles had just begun when she bought a small frame house from the

U.S. Department of Housing and Urban Development. First there was no water and no gas. The stove could not be connected because the carpenters did not allow enough space between cabinets. When the gas was finally hooked up a major gas leak was discovered in the boy's room. Other defects included a broken furnace that took 3 weeks to fix, a basement that flooded up to 18 inches when it rained, windows and doors that wouldn't close, and evidence of rats.

Only later did she find out the house had been condemned by District of Columbia inspectors for more than a year. By then sewage had begun to back up into the house.

I introduced legislation in the last session of Congress with Senator Adlai Stevenson III, Democrat, of Illinois, that would compensate the buyer of an FHA mortgaged home if substantial defects are found after the sale. It passed the Senate, but was dropped in a joint Senate-House conference. It is now being considered as part of the Omnibus Housing Bill. If it is accepted by both Senate and House committees, and becomes law as I expect. It will make the Government stand behind the older homes sold with a Federal mortgage.

After all, if you can't trust the Government, who can you trust?

There are other important bills on the front burner. I have introduced new legislation with Senator Robert Taft, Republican of Ohio, to provide low-interest, long-term Federal loans for rehabilitating deteriorated, but basically sound, inner city housing. The bill would also encourage landlords to refinance FHA mortgages for the purposes of making necessary repairs.

But the best houses are not enough if neighborhoods and local communities are themselves declining. The Senate Banking and Urban Affairs Committee is spending most of its time these days working on the Community Development Act of 1973. The bill combines former Federal programs such as urban renewal, neighborhood development, Model Cities, open space, neighborhood facilities, water and sewer grants and pubilc facilities under a single funding umbrella. Grants for these programs would be made on the basis of greatest local need.

Unlike the Nixon administration's Better Communities Act, the Senate bill is specifically aimed at improving the living conditions, economic opportunities and neighborhoods of low- and moderate-income families.

Obviously, the pace toward providing every American with decent shelter has slackened in recent years. Just as the administration has backed away from other Great Society programs, it seems to have also abandoned the commitment to good housing and health neighborhoods for all Americans. You can see the results all about California. All you have to do is drive through the low income sections of Los Angeles, San Francisco, Oakland, San Diego, Sacramento and many smaller cities to see miles and miles of decrepit housing.

The steps I have outlined here are aimed at reinvigorating the promise of good housing. Along with food, housing is essential for human life. Our system is productive and inventive enough to provide both of these necessities.

THE ECONOMY

Mr. McGOVERN. Mr. President, Robert Lekachman, the distinguished professor of economics at Herbert H. Lehman College of the City University of N.Y., has written a thoughtful critique of the Nixon administration's handling of the Nation's economy. The article entitled: "Who's running this thing?—Nixonomics," appears in the December 2, 1973, issue of the New York Times Magazine.

Professor Lekachman contends that—

> The chances of a 1974 recession are manifestly larger because the White House is seen to have lost its grip on the Nation's economy.

I ask unanimous consent that Professor Lekachman's article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Who's Running This Thing?—Nixonomics

(By Robert Lekachman)

How does a nice country like the United States get itself into such a dreadful economic mess?

A part of the answer is predictably located in the political crisis of the Presidency. The stock market, which in November experienced its worst single week in many years, testified to an erosion of general confidence in the capacity of Richard Nixon to manage the economy. As Harvard professor and former Council of Economic Advisers member Otto Eckstein gloomily noted, "The instability at the center of national power poses a major risk to the 1974 economy. The United States is not accustomed to doubts about the durability and continuity of national authority, but other countries such as Italy have demonstrated over and over again that the economy is affected adversely."

Mess is certainly the word. Mercifully, food prices have recently dropped, but even Administration spokesmen concede that soon they will resume their rise and, with them, the cost of living in general. It is a signal of things to come, that holiday turkeys are selling 90 cents a pound. Last year, the price was a mere 39 cents. December and January threaten New Yorkers with 15 per cent higher telephone bills, 3 or 4 cents tacked onto each quart of milk, rent hikes at 7½ per cent or more and as much as a quarter extra for each subway token. And with a long-term energy crisis clearly upon us, heating-oil and gasoline prices ascend to new heights. In short, one can hope but not sensibly expect that the cost of living will behave itself in the year to come. What is far more likely is a rerun of calamitous statistics, daily proclamations of new shortages, embarrassing disarray among Washington economic officials and increasing confusion among businessmen, all of which have been commonplace in this year of political and economic turnmoil. One recalls this year's record not out of masochism but from the apprehension that we shall soon see its like. Certainly private experts have turned almost universally gloomy, especially now in the energy crisis, due partly, of course, to some bad luck, but more significanlty to bad Government management and planning. Economist Sam I. Nakagma of Kidder Peabody & Co. expresses the typical judgment that, "without a change in the oil picture, we are now tending to believe that the American economy will be pulled down into recession." The National Petroleum Council, an industry group, has predicted unemployment for 1974 of 6.2 per cent if oil shortages run at two million barrels a day, as is generally expected, and a disastrous 7.7 per cent if the gap is three million barrels daily, as is quite possible. Such apprehensions are fed by news of continued decline in residential construction and cresting of corporate profits.

In August, food prices soared 6.1 per cent which would amount to an annual rate of 73 per cent; the cost of living in general jumped 1.9 per cent, or 23 per cent annually. On this performance, George Meany, labor's durable tyrant and Mr. Nixon's onetime friend, rendered the judgment that it amounted to "complete proof of the utter incompetence of this Administration." In his gentle way, he added, "Despite the deception, distortions and outright falsehoods of White House propagandists, it is obvious that the Administration has no constructive program for combating inflation."

The August disaster was not merely a one-month phenomenon uniquely related to the end of the latest price freeze. As The New York Times then accurately editorialized, "The reality is that over the last six months, even with a price freeze in effect through two of them, the over-all index of consumer prices has gone up at an annual rate of better than 10 per cent." Better in this context can only mean worse. Until fairly recently, Administration economists were able at least to claim that wages and salaries were rising still more rapidly than the cost of living. Unhappily, recent information unsurprisingly reveals that the real income of average workers in the last 12 months has diminished more than 2 per cent.

As usual, the erosion of real income is severest among pensioners on fixed stipends, unorganized workers and families on welfare. Unfortunates in the last category have been additionally harried by penurious legislatures and, in this state, the long-running political feud between John Lindsay and Nelson A. Rockefeller.

Unfair as it is to the financially vulnerable who are unable to raise the prices of what they sell or the wages of their labor to match the prices of what they buy, inflation generally confers the boom of high employment. Not this time. During most of the last year, unemployment has stuck stubbornly close to 5 percent, and students of the labor market now appear to think that the figure will soon grow again despite an unexpected and unexplained drop in October. Women, blacks and the young will be, according to custom, the principal sufferers.

This dreary record compels the conclusion that the Administration has managed the considerable feat of presiding over a boom which has depressed general living standards, tolerated high unemployment, enlarged the normal difficulties of life for low-income families, and coincided with the acts of public meanness like the President's veto of higher minimum wages and his attempt, until overruled by the Congress, to delay cost-of-living adjustments in the pay of U.S. Government employes.

Shortages—and not only of fuel—have been another unpleasant characteristic of this boom. In the last year, consumers have witnessed (or participated in) the spectacle of spontaneous meat boycotts in the supermarkets, conscientious withholding of animals from market on the part of engaged cattle breeders and feedlot operators and sporadic service-station shutdowns in protest against Phase 4 gasoline price ceilings. Belatedly, the Department of Agriculture, whose leader, Secretary Earl Butz, can barely restrain his glee at each escalation of farm prices, has removed acreage restrictions in effect, major wars aside, since the nineteen-thirties. But farmers grumble that unless they can lay their hands on more fuel, fertilizer, feed grain and railroad boxcars, their new license to glut the universe will evoke less grain and beef than everyone hopes. Paper shortages, too, have occurred in some areas, some stores even running out of toilet tissue.

Apparently, the United States might even run out of steel. Seldom alarmist, The Wall Street Journal headlined on its front page, "A Shortage of Steel Likely in Next Boom; Price Controls Cited." The burden of the industry's tale of woe is the complaint that the price controllers had driven profits so far down that, in the words of former Nixon economic adviser Hendrik Houthakker, "It's unlikely that the steel industry as presently situated can ever be profitable enough to justify new expansion."

The steel shortage is merely potential, but the shortages of residential heating fuel are, of course, already upon us. According to Department of Interior projections, the United States, if winter temperatures are normal, must import 650,000 barrels daily of refined oil. Only 550,000 of these barrels are available. And if nature, along with the Arabs, plays dirty tricks, the shortage will be far more grave. On inspection, the difficulty is less with the Arabs or Mother Nature than with miscalculations on supplies and consumption and with still another shortage—of domestic oil-refining capacity, caused in part by the reluctance of carelessly regulated oil companies to have risked expansion in anticipation of demand. For this reason, we were compelled last year to import refined fuel from Western Europe at a 13,000-barrel daily clip. This year, the level of import is an unsustainable 168,000 barrels. Canada and Belgium have already imposed restraints on American purchases of refined petroleum products, and the Common Market may follow.

Never an especially good loser, the President has taken to poormouthing his economists in language like that of his Sept. 8 press conference: "I'm afraid I can't be any more perceptive than my economic advisers have been, and their guess with regard to—you know the numbers insofar as inflation this year have not been very good. I do not blame them, however, because as you know we had the problem of weather in the United States and abroad, an unprecedented demand abroad which was unforeseen as far as we were concerned. That gave the impetus to food prices. And there were other factors which led to the inflationary pressures which our economic advisers did not foresee." The syntax is evocative of the Eisenhower years.

For their part, the economic operators, new and old, have started airing their differences in public which in a glum time does add to the gaiety of nations. A leading case in point, the flap over tax increases. Somewhat rashly, Mr. Nixon had promised during the election campaign that he would not increase taxes if the voters saw fit to return him to the White House, Camp David, San Clemente, Key Biscayne and Grand Cay. But by September, Federal Reserve Board Chairman Arthur Burns and White House Counselor Melvin R. Laird were saying that the President was considering this very notion. Treasury Secretary George Shultz (fruitlessly negotiating in Tokyo as later in the month he was fruitlessly to negotiate in Nairobi) responded to these statements with choler. Was he not after all Mr. Nixon's anointed economic spokesman? Never noted in the past for colorful quotation, Dr. Shultz advised Mr. Laird to keep his "cotton pickin' hands" off economic policy. Just to make matters perfectly clear, two or three days later Mr. Laird promised on "Face the Nation" that there definitely would be no tax increase in 1973. The Washington Post accurately if unkindly summarized the Administration posture as follows: "Is the Nixon Administration inclined to favor a tax increase? The authoritative answer last week was: (1) Yes; (2) No; (3) Maybe; and (4) It's under consideration."

By the same token, anyone who addles his brain now trying to interpret the White House's long-term economic policy is left, for his pains, with a number of puzzles. Does or did the Administration believe in economic controls—during any phase from I through 4? Has the President given up on (a) inflation, (b) unemployment, (c) economists, (d) all three? Who if anyone is the legitimate spokesman on economic affairs? Does the White House favor higher taxes, tighter money, genuine price and wage controls, two or more or none at all?

Polled at a New York meeting of the National Association of Business Economists, 415 participants responded to the question "How would you rate monetary policy over the past year?" in this unenthusiastic fashion:

Excellent—1.4 per cent.
Good—15.2 per cent.
Fair—38.8 per cent.
Poor—41.2 per cent.
No opinion—3.4 per cent.

Tilford C. Gaines, economist and senior vice president of New York's Hanover Trust predicted "a stern, heels-dug-in [restrictive] policy for a few more months to be followed by a stern, heels-dug-in movement toward easier money in 1974." When bankers start laughing at the Federal Reserve, confidence in economic policy is at a really low ebb.

Error, sadly, has not been the monopoly of Republican economists. Kennedy and Johnson veterans, though generally opposed to White House curtailment of social programs, frequently supported the President's stabilization efforts. Among economists the August, 1971, freeze was popular and Phase 2 controls were adjudged a qualified success. And, although it is now conceded even by Administration spokesmen that relaxation of controls in the switch to Phase 3 on Jan. 11 of this year was a grave blunder, one never would have known it at the time from leading liberal economists. As the New York Times headlined a Jan. 13 story, "3 Democratic Economists Back Phase 3 Structure and Policies." The subhead noted that "Heller, Ackley and Okun are Joined by Dr. Burns Who Voices Full Support." Coming from three former chairmen of the Council of Economic Advisers in Democratic Administrations, such a position strongly suggests bipartisan disarray among the economists.

No wonder then speculation has begun to mount that 1974 will be the year, for good or ill, of new recession. Speaking for the monetarist position, Chicago's Milton Friedman has been flatly asserting that recession is necessary in order to correct the consequences of past errors and excesses of Government intervention. And Dr. William Fellner, the distinguished (and conservative) Yale economic theorist whom the President has nominated for membership on the Council of Economic Advisers, concurs. He is convinced that the United States must in 1974 risk a "mild setback." Less reconciled to the prospect, Arthur Okun, Council of Economic Advisers chairman during the Johnson era, warns that "maintaining the present level of [credit] restraint for much longer would create a serious risk of recession in 1974."

Enduring prosperity depends on the spending attitudes of businessmen and consumers. For this reason, the Administration's visible indecision has baleful implications. A President, generally perceived as unable to guide economic policy, settle internecine squabbles or, what produces the same result, having been so obsessed with possible impeachment, Watergate counterattacks, litigated tapes and indicted aides as to be able in the judgment of Business Week "to give only perfunctory attention to the pressing issues of inflation, the energy crisis, and world economic problems," is a Chief Executive all too likely to be "caught unprepared by an economic crisis that was not only predictable but inevitable if the Administration took no action to head it off." Ordinary families plunge on cars, vacations and home appliances as their estimates of their own job and income prospects fluctuate. Business investment, always a gamble on the future, is particularly sensitive to revision according to changing forecasts of the economic outlook and the astuteness of national economic policy. This is only to say that the chances of a 1974 recession are manifestly larger because the White House is seen to have lost its grip on the nation's economy.

How did we get where we are on prices, wages, unemployment? It's all been very sudden. As recently as the January economic report of the President, the Administration was boasting of the success of anti-inflation measures, clapping its hands decorously over the smooth transition from Phase II to Phase III, and averaging, in words that must haunt the Council of Economic Advisers: "By the end of 1972 the American anti-inflation policy had become the marvel of the rest of the world." The three elements of explanation are, again, bad luck, misguided policy and the politics of a Presidential election. Bad luck ignited the Middle East war when few expected it and consequently intensified the oil crisis, bad luck sharply reduced supplies of grain and meat and escalated the food component of the cost of living. Policy blunder and national politics added enormously to consumer and business buying power and facilitated inflationary pricing policies by major corporations. When supply is limited and demand is stimulated, the upshot is inevitable: a new outbreak of inflation.

The President and his helpers have naturally stressed the first item. Nature has indeed been unkind. In 1972 the anchovies which habitually swarm off the Peruvian coast mysteriously went somewhere else. Ordinarily, anchovies are converted into fish meal, an important source of cattle feed, but mutiny in the anchovy ranks compelled a hunt for substitutes of which American soybeans were a general favorite. Added to ascending domestic demand, Japanese and Western European orders sent soybean prices through the ceiling and aggravated existing demand pressures upon beef prices from Americans and the newly affluent citizens of Japan and the Common Market.

An old story in most of the rest of the world, food shortages have now emerged in luckier societies. Russian crop failure, American bad weather, Chinese shortages and rising living standards have combined to absorb the mountains of America farm products which traditionally have plagued farmers as well as urban taxpayers who finance farm subsidies. The 1972 Russian grain deal, by the admission of Secretary Shultz, "burned" American officials who caught on to the scale of Russian purchases only after it was too late. The joke, such as it was, was clearly on Department of Agriculture officials who actually subsidized the sales as though the Russians were doing us all a favor by graciously buying up our grain at bargain prices.

Currency relationships also played a role. Since mid-1971, two official and one unofficial devaluations have turned American dollars into relatively cheap currency. Holders of yen, marks, francs and other strong currencies have been able to purchase increasing American dollar equivalents and use the dollars to acquire American products. In good measure, Japanese have been buying high-quality American beef and, in company with Western Europeans, touring the United States, because of the abrupt shift of the dollar from the world's leading overvalued to its leading undervalued currency. It is a sign of the time that in New York City, Mamma Leone's Ristorante now gladly accepts foreign money on an equal basis with American dollars. When foreign goods become expensive and American goods cheap, the impact upon the balance of payments is favorable. The price paid for the improvement is the sight of the foreigners bidding up our prices and causing occasional shortages. The French have traditionally exported their best wine to foreigners rich enough to drink it. Although we have not yet matched the French situation, continued decline in the comparative value of American dollars would further deplete American stocks of timber, grain and high-quality meat.

One ought not blame the Nixon Administration for disloyal anchovies, but the President and his unmerry men do bear the responsibility for a number of erroneous economic judgments. Possibly the most notable failing has been a certain lack of seriouness in the application of any of the Nixon policies. As much as one can be certain in such matters, it is likely that if the game plan in vogue during 1969, 1970 and the first half of 1971 had been persevered in, inflation ultimately would have been tamed. Pursuing at this time a mildly monetarist policy of credit restriction and fiscal restraint, the Administration was slowly but surely purchasing with unemployment and recession respite from inflation. I hasten to add that this is not a policy which I, then and now, admire. It is, nevertheless, the traditional conservative remedy for overheated, inflationary economies.

The thunderbolts of August 15, 1971, might also have been efficacious if the Administration had truly believed in them. The New Economic Program, combining tax relief to Detroit, investment benefits, surcharges on imports and total freeze on wages and prices, was reasonably calculated to accelerate economic recovery, diminish unemployment and protect the auto industry from the harassment of the Germans and Japanese. Most important, the President's bold action was likely to restore the nation's confidence in his grip on the economy.

Unfortunately just as atheists make poor clergymen, economic controls fare poorly in the hands of those who detest them. It was never a secret that Drs. Stein and Shultz had fought hard within the White House against the President's resort to the wage-price freeze. As late as June, 1971, Shultz, then director of the Office of Management and Budget, had emerged from a Camp David economic conclave to assert with manifest gratification that the watchword was "Steady as you go." Shortly afterward John Connally (at the time Secretary of the Treasury) told the country and the world in bold Texas language that there were no Administration plans to abridge economic liberty by direct intervention in the wage and price decisions registered by free markets. In July Dr. Paul McCracken, then Council of Economic Advisers chairman, wrote a sharp Washington Post column specifically criticizing J. K. Galbraith and arguing that controls, always an inferior response to inflation, were particularly ill-advised because most of the inflation had occurred either in competitive industries or in medical and other services rather than in the concentrated industries identified by Galbraith as important culprits.

Although Phase 2, which lasted from November, 1971, to January, 1973, was comparatively successful, Nixon officials did nothing to conceal their yearnings to terminate all controls just as soon as possible. And much of the reason why the transition from Phase 2 to Phase 3, announced Jan. 11, 1973, was an unqualified disaster derives from the identity of the controllers and the ambiguities of the new phase. Early rhetoric emphasized voluntarism. However, George Shultz, by now Secretary of the Treasury, and Dr. John Dunlop, who had come from Harvard to be Executive Director of the Cost of Living Council, spoke also of big sticks in closets always available to be applied to disobedient unions and corporations. Did the 5.5 per cent wage guideline still rule? George Meany, John Dunlop and John Ehrlichman seemed to have trouble on this vital point. Corporations no longer required Price Commission approval of increases, but the Cost of Living Council might roll back excessive changes. But what was excessive? It soon became embarrassingly plain to one and all that the standards were vague, the enforcement machinery in disarray, the controllers eager to retire and the famous club fabricated of papier-mâché.

Inflation was also fed by Administration farm policy. Part of "the high price of Earl Butz," to borrow an apt phrase from the business periodical Dun's Review, was an outrageously slow reversal of outmoded crop restrictions. And the high price of turkeys now is the result of Butz's advice to turkey growers a year ago that they restrict their plans for 1973. "Our success," as Dr. Butz has unabashedy described the ascent of wheat in barely 12 months from $2.16 to $5.17 per bushel, "has brought the farmer into the mainstream of American affluence." As Butz has told cheering farm audiences, "We're gonna get farm income up and we're spending money like a drunken sailor to do it." Not until January, 1973, did Butz release farmers from all acreage restrictions. According to Dr. Houthakker, "Butz would still be pursuing that restrictive policy, if he hadn't been overruled." Willard Cochrane, a professor of agricultural economics at the University of Minnesota, judges that "they should have known that devaluation would stimulate feed-grain export, yet they did nothing to increase supplies."

The roster of blunder extends also to the Treasury's misadventures with income tax withholding. On January 1, 1972, the Internal Revenue Service began to apply new tax withholding tables which, through error, had the effect of deducting $10-billion more from 1972 paychecks than the nation's taxpayers actually owed. The bulk of that was refunded during the first part of 1973—just in time to administer still another inflationary nudge to an economy reeling from the premature lifting of Phase 2 controls, from the effects of previous fiscal and monetary stimulation and from the consequences of devaluation.

When all the tapes are played and all the memoirs written, we shall be better able to assess the comparative role of economic misjudgment and political calculation. In the meantime, there is general agreement that the President's re-election necessities unavoidably colored economic decisions. The Russian grain deal was of a piece with the Moscow and Peking television spectaculars and the détente which they signalized. The huge budget deficit fitted well into the rapid economic expansion which, after two and a half indifferent years, the Administration was able to generate in time for a November election.

After the election come the consequences. And now shortages, renewed inflation, continued unemployment, political instability, and signs of economic slowdown color the 1974 outlook. As Arthur Okun told the Joint Economic Committee, "The amount of braking action necessary to stop a boom becomes excessive once the boom halts." On top of all the other concerns, Chairman Thomas R. Bomar of the Federal Home Loan Bank Board fears that "if housing collapses next year, it could take the whole economy down the drain with it."

It is far easier to trace the history of inflation and recession than it is to mark a route from the detestable present to a more delectable future. Which is only to agree with President Nixon's opinion that we all make mistakes in life and we all have to pay for them. For next year the alternative prognoses are either continued inflation coupled with existing rates of unemployment or a combined assault upon inflation, an assault which deploys monetary, fiscal and other control weapons—and causes sharp recession.

Recession is worse than inflation because mass unemployment is humanly and socially even more destructive than the decline in value of a currency. But it is possible by the exercise of moderate ingenuity and compassion to mitigate the impact, upon the particularly vulnerable, of either economic malady.

Suppose first that along with the rest of the advanced nations we accept in 1974 and afterwards perpetual inflation as a way of life. What can be done to make it tolerable, even if it is freely conceded at the outset that perfect equity between affluent, sophisticated investors and ordinary citizens of small assets and average wits is beyond our grasp? Quite a lot can be done to mitigate gross injustice. Thus minimum-wage levels, like the contracts strong unions negotiate with major corporations, can be tied to the cost of living index, as can private pensions, veterans' benefits, welfare payments, and Medicare and Medicaid reimbursements.

Other losers during an inflation are small savers. When in a single year the consumer price index rises 6 per cent, a $100 deposit in a 5 per cent account is worth $99 twelve months later and the real rate of interest is a minus 1 per cent. The rich do better. Canny souls with a spare $100,000 can buy a certificate of deposit whose yield rises and falls with other interest rates.

In principle, the remedies are quite simple. Within the last year a Presidential commission has recommended that interest-rate ceilings be removed on deposits in thrift institutions. Once these ceilings were taken off, savings banks and savings and loan associations could compete for deposits by promising better interest earnings instead of toasters and transistor radios. The more saved, incidentally, the more benign the impact upon inflation. The Treasury could experiment with a bond whose return fluctuated with market rates of interest, and it could break down its marketable debt into $50 and $100 denominations, sold in post offices and banks. Home mortgage interest rates could be allowed to fluctuate, during the life of the mortgage, with market rates of interest.

The malign effects of recession can also be mitigated. When national policy dictates the need for economic slow-down, it is only fair that attention be paid to the innocent casualties of the policy who lose income and employment. Perfect justice is elusive. No doubt most men and women prefer to keep the jobs they now have rather than accept substitutes in the shape of either cash or specially created public employment. Nevertheless, generous income maintenance and a creative program of public employment would be far better than existing arrangements.

The duration and scale of unemployment compensation could readily be tied to general rates of unemployment or unemployment among such subgroups as women and blacks. A less repressive and more generous version of the President's Family Assistance Plan would approximate a true negative income tax, free of the unpleasant welfare regulations of the original Nixon scheme.

It is as true in 1973 as it was in 1958, when Galbraith deplored public poverty and private waste in "The Affluent Society," that the public sector is underfinanced, always with the exception of the Pentagon. A recession is an opportunity to staff hospitals adequately for a change, and the same holds true for schools, museums, libraries, parks and public protection agencies. If the recession comes in 1974, what is indicated is an emergency employment program several times the size of that enacted in 1971 by Congress as a timid, temporary response to continuing unemployment.

Neither inflation nor recession is a sensible economic ideal. On rare occasions, most recently in the 1961–1965 expansion, it has proved possible to combine high employment and relatively stable prices. One of our present tragedies of lost opportunity is the probability that between August 15, 1971 when the President dramatically proclaimed a wage-price freeze and January 11, 1973 when for all practical purposes what ought to have been a useful and important control system was allowed to disintegrate, the Nixon Administration threw away an excellent chance to subdue the inflationary demons and to set the stage for renewed economic growth and high employment without serious inflationary consequences. In the Nixon era it was not the controls that failed, it was the controllers.

There will come another time of moderate wage and price behavior, prudent public policy and noninflationary prosperity. But unless a miracle comes to pass, that time will not be in 1974. The mistakes and misfortunes of the recent past have unavoidable consequences for the year ahead. About the best to be expected is a pace of inflation somewhat slowed and just possibly a bit more Government attention paid to the human victims of the process. The worst? If the White House continues to bungle the energy crisis, the grim New Year prospect is for the most virulent inflation since the early nineteen-fifties combined with the most catastrophic unemployment since the nineteen-thirties.

MR. DAVID NEWSOM

Mr. HUMPHREY. Mr. President, during the years he has headed the African Bureau, Assistant Secretary of State David Newsom has made a significant contribution to African-American relations.

Mr. Newsom combines qualities of integrity, insight, an ability to understand and sympathize with the views of others, and intellectual sophistication that make him a truly great statesman. He has in his years as Assistant Secretary won the request and admiration of all who have worked with him, Africans and Americans, Republicans and Democrats, employees of the State Department and Members of Congress.

These have been difficult years in the U.S. relations with Africa. Our development assistance to Africa has been steadily decreasing. Our commitment to human rights and racial equality in Southern Africa has been called into question by our violation of sanctions against Rhodesia and a series of abstentions and vetoes on this issue in the United Nations. Mr. Newsom has not been afraid to criticize U.S. policy toward Africa where he felt it had to be improved; and he has not been afraid to defend it when he felt the criticism of others was unjustified.

Mr. Newsom has been sensitive to the problems of poverty in Africa and has called our attention to the contribution the United States could make to the development of that continent's vast natural resources. He has long argued that an increase in U.S. development assistance to Africa would greatly strengthen the African-American partnership in the development of resources that would improve the standard of living in both areas. He called our attention to the devastating drought in West Africa long before it received public attention. He worked tirelessly to mobilize the scientific and technical resources of this country for the economic recovery of the area. He made certain our food surpluses were used to feed those threatened by famine.

Mr. Newsom has been keenly aware of the effect our policy toward white supremacy in Southern Africa has on our relations with the African States. He has worked hard to improve that policy and make it consistent with our principles of human rights and racial equality. His contribution to our efforts to end United States violation of sanctions against Rhodesia is deeply appreciated.

Finally, I am certain that all who have worked with Mr. Newsom will agree that his fairness of mind has contributed much to African-American relations. I know that anyone who discussed a problem with him could be sure that he listened with an open mind and understood their point of view. His understanding of the complexity of the problems he was dealing with and of the various views on those problems, coupled with his integrity in defending what he felt was right, won Mr. Newson the respect of all who worked with him. We are indebted to him for his outstanding service as Assistant Secretary for African Affairs and wish him well in his new post as Ambassador to Indonesia.

SOUTH CAROLINA BICENTENNIAL

Mr. HOLLINGS. Mr. President, in light of the festivities which will be taking place to celebrate our bicentennial, I know that my colleagues would be most interested in the recent celebration in my hometown of Charleston. I would ask unanimous consent that the materials connected with this celebration be printed in the Record, including the three prize winning essays written in our high schools in connection with this celebration.

There being no objection, the material was ordered to be printed in the Record, as follows:

Bicentennial Kickoff

Charleston, South Carolina, November 1.—South Carolina will decisively demonstrate her Bicentennial leadership Dec. 3, 1973 in Charleston. Amid pomp and pageantry the General Assembly of South Carolina will commemorate its origin by reenacting a 1773 patriot protest meeting out of which grew the present governing body of the state.

No other state will have undertaken such a mammoth Bicentennial event by that date. Its magnitude may remain unsurpassed throughout the nation's Bicentennial.

The General Assembly, constitutional officers, and key staff members will be in Charleston for the dramatic Bicentennial kickoff. They will begin the three-day "spectacular" on Saturday, Dec. 1 with a ceremonial presentation to Charleston of the Bicentennial Community Flag awarded by the American Revolution Bicentennial Commission, the dedication of Ft. Moultrie as a nationally-designated Bicentennial focal point, tours of pre-Revolution homes, and a gala in Hibernian Hall.

Sunday, Dec. 2, churches, especially Charleston's many pre-Revolution houses of worship, will relate a portion of their services to Bicentennial subjects. Distinguished visitors from Columbia will attend a Sunday brunch at the Charleston Museum. The William Ranney painting of the "Battle of Cowpens" will be on display in the museum which recently observed its 200th birthday.

The Governor's Banquet in the Municipal Auditorium Sunday evening will highlight that day's activities. A black-tie event, it will present in costume prominent South Carolinians acting out the roles of their American Revolution predecessors: the four South Carolina signers of the Declaration of Independence; Generals George Washington and Lafayette who visited South Carolina in 1777; Christopher Gadsden, the prominent patriot; Gen. William Moultrie, Gen. Francis Marion, and Col. William Washington. At the banquet the winning essay on "What the Exchange Means to Me" will be presented. It was selected from those written by school children of Charleston County.

St. Michael's, the famous 1752 church at the corner of Broad and Meeting streets, will be the scene of a special service for the General Assembly at 10 a.m. From St. Michael's the General Assembly will process down Broad St. through an honor cordon of Citadel cadets to the accompaniment of martial music to the Old Exchange, built in 1767, site of the 1773 patriots' meeting.

The legendary mace and sword of the state will be carried by their bearers who will lead the processional.

Once at the Exchange, the General Assembly will formally convene inside the famous building known as South Carolina's Independence Hall. Then the legislators will move outside to participate in or observe a colorful reenactment of the 1773 meeting to which the General Assembly traces its lineage.

The public is encouraged to observe the reenactment.

Tea, Taxes, and Temerity: A Meeting at the Exchange Building December 3, 1773

(By Dr. Walter J. Fraser, Jr.)

In the autumn of 1773 seven ships dropped down the Thames to Deal and waited for favorable winds to carry them into the open sea. Stowed in their holds were more than 2,000 chests containing nearly 600,000 pounds of tea consigned by the East India Company of London to merchants in four major American ports. It was the first shipment under Parliament's new Tea Act which gave the East India Company a virtual monopoly over the tea trade in America. Although subject to a duty of three pence per pound, the East India Company tea consigned directly to a few favored importers allowed them to sell the product to consumers at a lower price than most American merchants could and still realize a profit. The duty was a tax designed to raise revenue and it was levied without the colonists' consent.

When the winds shifted northwesterly off Deal in mid-October, the seven tea-laden ships ran down-channel into the rolling swells of the Atlantic. Captains of six of the vessels set their courses for Boston, New York, and Philadelphia, while Alexander Curling, master of the *London*, steered his ship for Charleston. For years Captain Curling had been engaged in the London-Charleston trade, and he was well known and respected in the principal southern port. A contemporary described him as a "gentleman" admired for "his skill in seamanship."[1]

The bluff-bowed *London* had been bucking the green-grey swells of the Atlantic for nearly four weeks before the inhabitants of

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Footnotes at end of article.

America's fourth largest city and seat of Royal Government in South Carolina were alerted to the imminent arrival of the tea. For years a handful of Charlestonians had opposed British efforts to tax the colonists and interfere with the hard-won prerogatives of the popularly elected Commons House of South Carolina. Charleston's Sons of Liberty, Christopher Gadsden, merchant and wharf owner, and Peter Timothy, editor of the *South Carolina Gazette,* had frequently led economic boycotts and violent demonstrations against Parliamentary Acts of "tyranny."

Rumors had circulated in Charleston during the early autumn that shiploads of tea were bound from England for northern ports. However, on November 15, Charlestonians learned through Timothy's weekly that "300 chests" of tea were destined for Charleston. "Ironicus" in a letter-to-the-editor announced that even the names of the consignees of the tea, the ship, and its master were known. "But," he wrote, "I do not presume to say, that the captain will receive thanks for having obtained the freight." In the same issue Timothy reprinted a letter which had appeared in the northern press cautioning those who were to receive the tea in America that they best reject their commissions as ". . . American Freemen can never approve of it." Those who aid or abet the implementation of the Tea Act, designed "to establish Parliamentary despotism in America," are "conspirators against . . . [the] rights" and liberties of Americans.[2]

With the tea ships a week closer to their destinations Patriot propagandist Timothy himself took pen in hand to alert his readers. On November 22 he boldly asserted that "the inhabitants of this province do not seem disposed to assist in the landing, or receive cordially, the 300 Chests of Tea, said to be shipped on the *London,* Captain Curling, now hourly expected from England." In fact, Timothy concluded, the people of the province desire that Charleston merchants enter into "an immediate voluntary agreement . . . never to import a single Pound of Tea more, while the Act of the British Parliament continues in Force. . . ." In the same edition Timothy summarized recent reactions to the impending arrival of the tea in Philadelphia. There a public meeting had been held which went on record as protesting Parliament's right to levy a tax on tea without the colonists' consent. Such action tended "to render assemblies useless and to introduce arbitrary government and slavery." Therefore it was the duty of every American to oppose any attempt to land and sell the East India Company tea.[3]

Although publisher Charles Crouch through the South Carolina Gazette and Country Journal joined Timothy in reprinting denunciations of the tea plan, a third port-city weekly edited by Robert Wells, and known for its conservative leanings, reprinted a letter signed "Z" in late November which defended the tea plan. Through Timothy's paper a reader replied by denouncing the letter by "Z" as one "wherein the cloven foot is very conspicuous."[4] However, the willingness of Wells to reprint letters defending the tea scheme does demonstrate that the opposition to landing and vending the tea was not unanimous in Charleston.

Timothy's reprints of northern press denunciations of the tea scheme were so numerous and lengthy in the Gazette of November 29 that a supplement was published. One piece under the patriotic title of Hampden boldly asserted that Americans had to oppose the landing of the tea because "the baneful chests contain in them a slow poison in a political as well as a physical sense. They contain something worse than death—the bonds of Slavery."

In the same edition of that Monday, November 29, Timothy printed a letter from a planter of rice and indigo along the Ashley, "Junius Brutus." He began by warning that the day of arrival was near for tea which carried a duty imposed by a Parliament "wherein you are not represented." This act, he declared, will "establish a precedent for subjugating you to future impositions equally unjust and impolitic—to raise a revenue out of your pockets, against your consent—and to render assemblies of your representatives totally useless. The measure is clearly the assertion of a right to tax you internally." Under these circumstances, "Junius Brutus" advised the freemen of South Carolina to assemble and "enter into serious deliberation . . . and . . . resolutely determine upon the prosecution of every justifiable measure . . . to avert the enormous evil . . . which hangs . . . by a single thread, ready to burst upon your heads." He concluded by lamenting that since some Charlestonians opposed any action against the tea scheme there was all the more reason to "Unite—be firm—and prove yourselves worthy of that Liberty which is the boast of British subjects." On the same page Timothy editorialized: "A Rumor prevails that there will be a General Meeting of the inhabitants, particularly of the landholders, before the close of the present week—on account of the large importation of tea hourly expected on the ship London."[5]

Two days later, on Wednesday, December 1, nearly seven weeks out of Deal, the London appeared off Charleston and on the evening tide came over the bar and "anchored before the Town."[6] The long-rumored arrival of the tea was now a reality; it played into the hands of the few radical opponents of the tea scheme such as Timothy and Gadsden. Timothy wrote: "So great a quantity of tea arriving at once gave an universal alarm."

On Thursday morning the Patriots spread their theories to the patrons of Shepherd's, Dillon's and Ramage's Taverns along Broad Street and throughout the town that the purpose of the tea scheme was not to raise revenue "but merely to establish a precedent; to confirm the power assumed . . . by Parliament . . . to pass laws binding upon the colonies in all cases whatsoever." Acceptance of the tea would therefore give assent to Parliament's assumed power and allow Parliament a precedent by which the colonies could be taxed "for even the light of heaven. . . ," thereby rendering the local popular assembly impotent. The radicals also made sure that the citizens of Charleston knew that Captain Curling was the master of the ship lying before the town and that the tea had been consigned for sale to merchants Roger Smith, Esq. and Messrs. Leger and Greenwood.

By mid-day Thursday Patriots were circulating handbills throughout the city and posting notices in public places mainly along Broad Street inviting "all the inhabitants," but particularly the landholders, to assemble in the "Great Hall" over the Exchange Building the following day at 3:00 in the afternoon. The "sense of the people" would be determined and plans laid for "what would be absolutely necessary to be done in the present case."[7]

Early Friday afternoon, December 3, animated crowds of people moved down Broad Street afoot, on horses, or in carriages to the Exchange Building. The recently completed structure in the grand Palladian style, costing more than 40,000 pounds, dominated the foot of Broad Street. At the basement level customs business was transacted, the entrance level was an open arcade, and the upper level or "Great Hall" was used for civil meetings. Charlestonians of all classes, both Patriots and Loyalists, radicals and conservatives, crowded into this "Great Hall" by three o'clock Friday afternoon to hold their extra-legal meeting.[8]

To Peter Timothy many had come because they "thought it would be criminal tamely to give up any of [their] essential rights as British subjects and involve [their] posterity in a state little better than slavery." They thought "it high time to contend, legally, and to dispute the assumed power" of Parliament. Among those present were Christopher Gadsden[9] and Captain Curling of the ship *London.*

The meeting got underway when "a very worthy and Honorable Gentleman," probably Colonel George Gabriel Powell, was unanimously elected to take the Chair. Debate then began on what course to pursue, and no doubt the old arguments were revived against Parliamentary despotism, taxation without consent, and the consequent threat to the powers of the popularly elected Commons House. No doubt, too, some conservatives inveighed against any hasty action. However, the arguments of the radicals prevailed. As the "sense of the people" was to have all merchants engaged in the import trade sign an agreement whereby they would covenant "not to import any more teas that would pay duties laid for the *unconstitutional* purpose of raising a revenue upon us *without our consent,"* a document was drafted and signed by several of those present. The agreement read:

We the underwritten, do hereby agree, not to import, either directly or indirectly, any teas that will pay the present duty, laid by an act of the British Parliament, for the purpose of raising a revenue in America.

A proposal was then put forward and agreed upon that the consignees of the tea, Roger Smith, Esq. and Messrs. Leger and Greenwood, should be called before the assemblage and that the Chairman should convey to them the feelings of the people. When the three merchants appeared, the Chairman told them that if they received the 257 chests of tea "subject to a duty" believed to be "unconstitutionally laid" it would be "exceedingly disagreeable to their fellow citizens. . . ." In reply the merchants told the assemblage that they would not accept the tea. When Roger Smith added that he had decided weeks before "not to have any concern in a business which his countrymen conceived to have so fatal a tendency," the crowd clapped and roared its approval. However, as the cheering died the well known and liked Captain Curling arose and cautiously, even apprehensively, addressed the meeting. He expressed the feeling that he was impaled on the twin horns of a dilemma—his obligation to deliver the tea on the one side and the sentiment of the citizens present on the other. He wondered aloud how he might best resolve his situation. Members of the meeting quickly responded. Despite the esteem in which Captain Curling was held, members of the assemblage responded sharply with cries of, "keep . . . all the tea on board [your] Vessel and return . . . with it to England."[10]

A motion was then made that a committee be appointed to secure from those merchants not present their signatures to the non-importation of tea agreement. The motion passed and a group of leading Patriots distinguished by their wealth in land or commerce was appointed. Christopher Gadsden became chairman of the committee. Other members included Thomas Ferguson, Colonel Charles Pinckney, Charles Cotesworth Pinckney, Esq. and Mr. Daniel Cannon.[11] The meeting was then declared at an end and after appropriate thanks were made to the Chairman, the crowd flowed out of the Exchange Building into the fading light of the December day. Although the meeting had endorsed the sentiments of the Patriots, for one they

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Footnotes at end of article.

had not gone far enough. "Junius Brutus" urged a public bonfire of the tea and boycott of *all* imports until the tea duty was lifted.[11]

As the days went by, no one would receipt for the *London's* cargo. When the duty on the tea remained unpaid by late December, the Collector of the Customs at Charleston seized the tea and stored it in the basement of the Exchange Building. On February 6 Captain Curling set sail for England minus his cargo of tea. During the next few months Charlestonians would adopt the even more violent measures advocated by "Junius Brutus." Other cargoes of tea coming into the port-city were seized and stored, a public bonfire of tea was held, and in November of 1774, seven chests of the leaves were "dumped" into the Cooper River. In early 1776 the tea stored in the Exchange was used to finance the rebel cause in South Carolina.

The temerity of those who assembled at the Exchange Building on December 3, 1773, for an extra-legal meeting to protest British taxes and tea aroused and united even further Patriot sentiment in Charleston and South Carolina.[13] The meeting was significant also in that from it "in a sense, has lineally descended"[14] the present-day Legislature of South Carolina.

FOOTNOTES

[1] Benjamin Woods Labaree, *The Boston Tea Party* (New York, 1964), v–vi, 77–79; David Duncan Wallace, *South Carolina: A Short History, 1520–1948* (Chapel Hill, 1951), 251; Marguerite Steedman, "Charleston's Forgotten Tea Party," *The Georgia Review* XXI (Summer, 1967), 1, 4–5.

[2] *South Carolina Gazette,* November 15, 1773.

[3] *Ibid.*, November 22, 1773.

[4] *Ibid.*, November 29; *South Carolina Gazette and Country Journal,* November 23, 1773; *South Carolina General and American Gazette,* December 24, 1773.

[5] South Carolina Gazette, November 29, 1773.

[6] *Ibid.*, December 6, 1773.

[7] *Ibid.*

[8] Rev. William Way, "The Old Exchange and Custom House" (Charleston, 1921) 6, 8; W. H. J. Thomas, South Carolina's Historical Exchange Building, Charleston, n/d), 3–4

[9] Richard Walsh (ed.), The Writings of Christopher Gadsden, 1746–1805 (Columbia, 1966), 93.

[10] *South Carolina Gazette,* December 6, 1773.

[11] *Ibid.*

[12] *Ibid.*, letter-to-the-editor signed "JUNIUS BRUTUS;" Wallace, *History of South Carolina,* 251. Conservatives maintained that the actions taken at the December 3 meeting did not truly reflect sentiment in the port-city.

[13] *South Carolina Gazette,* December 27, 1773, February 6, 1774.

[14] Wallace, *History of South Carolina,* 251.

[From the News and Courier, Dec. 12, 1973.]

LETTERS TO THE EDITOR

SETTING THE TONE

TO THE NEWS AND COURIER: We, the Charleston County Bicentennial Committee, wish to thank the local and regional news media and the entire Charleston County community for helping to make the Charleston County bicentennial events of Dec. 1–3 a success.

Charleston has set the tone for the nation's bicentennial celebration with a high-quality series of kickoff events of great magnitude. This was possible only because of the splendid backing and cooperation given by all of our local governmental bodies which have embraced the spirit of the bicentennial theme and its meaning to our community.

While we are deeply grateful for the cooperation of literally thousands of area residents who took part, we are especially appreciative of the business concerns and private individuals whose financial contributions made these initial events possible. In the forefront of those who contributed most is the Charleston Innkeepers Assn., which provided accommodations for members of the General Assembly and managed the food service for the Governor's banquet.

We acknowledge the valuable service of hundreds of volunteers whose massive contributions made the weekend events possible, with particular recognition for those packaging and mailing bicentennial commemorative coins, and those who are purchasing them, since a major portion of Charleston's celebration of the nation's 200th birthday will be underwritten from coin sale profits.

The weekend was one long to be remembered. Already, out-of-town guests, national level officials, national regional news media, and local citizens are heaping on Charleston well-deserved praises for the quality of this contribution to the early phases of the bicentennial.

The committee and I pledge that we will respond to the phenomenal cooperation we have been receiving by assuring that Charleston's observance of the bicentennial will be the grandest and best managed of any in the nation.

GORDON B. STINE,
Chairman, Charleston County Bicentennial Committee.

"THE EXCHANGE BUILDING AND THE COMING OF THE AMERICAN REVOLUTION IN SOUTH CAROLINA, 1771–1783"

(By Annabeth Swanson, Fort Johnson High School)

(First place winner)

The Old Exchange Building standing at the foot of Broad Street with East Bay running parallel is a Charleston, South Carolina historic civic building. This building was constructed on the fortifications of a semi-circular fortress-like sea wall called the Half-Moon Battery. The Half-Moon Battery was erected by 1701 to prevent the Cooper River's further encroachment upon Charleston wharves as the Battery sea wall does today.[1] A two-story Watch House called "The Old Watch House" or "Guard Post" (has similar other names) was erected in 1704 on this waterfront site for the purpose of administration and sometimes used as a prison for the colonists. The lower chamber of the Watch House was used as a prison for Stede Bonnet's crew until they were hanged on November 8, 1718.[2]

The Old Watch House was torn down in 1767. On April of that year an act was passed by the Commons Assembly asking his Majesty for the sum of 60,000 pounds in building of an Exchange and Customs house on this site.[3] The building was needed for commercial and government expansion. This money was granted.[4] The builders were Peter and John Horlbeck who received 41,740 pounds as payment. They built the Exchange in the Grand Palladian manner, then a popular architecture of England, and was made largely of imported Portland stone. Throughout the years, the building has greatly altered and has lost much of its original magnificence because of earthquake damage and changes that occurred during occupancy of the federal government.[5]

This elegant, finely made structure was completed in 1771, making it our nation's oldest custom house. The entrance level was an open arcade, the upper floor was used as a chamber for colonial government meetings, and the basement was used for custom purposes.[6] To pay the cost of construction, an additional tax was levied for five years on certain imported goods such as wine, rum, and various grades of bisket.[7]

The American Revolution was well underway in the South before the construction of the Exchange Building. In October 1765, Charlestonians protested the Stamp Act that was passed earlier that year by seizing Fort Johnson where the British had stored the shipment of stamped paper for use in levying the tax. One hundred and fifty Charlestonians raised a blue flag with a silver crescent (some say three crescents) upon it in a demand to have the stamped papers returned to England. This the captain of the sloop of war, *The Speedwell,* agreed to do. In 1769 after the Townshend Acts were passed and enforced, Charleston citizens agreed to boycott all British goods except necessities in protest against these acts.[8]

The Exchange started to make history in 1773. Charleston at this time was the capital of South Carolina and a very active seaport. Josiah Quincy, a lawyer who defended the soldiers involved in the Boston Massacre, wrote during a visit to Charleston: "The number of shipping" (in the Charleston port) "far surpassed all I've seen of Boston. . . three hundred and fifty sails lay off shore of the town".[9]

The Tea Act of 1773 caused many Charleston merchants more concern with "the threat of a monopoly control of a few favored merchants than custom tax on the tea (which made tea less expensive). Meetings protesting the purchase of two hundred fifty-seven chests of taxed tea were held in the Great Hall of the Exchange. Finally on December 17, 1773 Charlestonians agreed not to buy the taxed tea. Five days later the tea was stored in the basement of the Exchange because the law required that tea not received within twenty days after arrival should be stored. The following year more shipments of tea arriving in Charleston were stored in the Exchange. John Rutledge, Governor of South Carolina, asked permission from the Continental Congress to sell the unreceived tea. On October 14, 1776, this tea was sold for the benefit of the state in the war.

Charleston had her own "Tea Party." A year after Boston, at noon, November 3, 1774 a few Charleston merchants boarded the ship *Brittance* and dumped seven chests of tea she carried aboard. On shore, Charlestonians cheered as they watched the tea go overboard. The Charleston "Tea Party" was much different from the Boston one in that the owners of the tea were the Charleston merchants and the ship's commander said that he knew nothing of the tea on board.[10]

During 1774 South Carolinians met under the arches in the Exchange to elect their delegates to the First Continental Congress. Henry Middleton, one of the delegates elected, was to serve as president of that body. A year later in 1775 after many meetings in the Exchange, South Carolina declared her independence from British rule and established one of the first independent governments in America.[11]

During the next five years, Charleston and South Carolina patriots fought hard to win independence from England. In the year of 1780, the British seized Charleston and turned the cellars of the Exchange into a foul and unwholesome dungeon. General Henry Clinton's victory over Charleston was one of the worst defeats for the American patriots.[12] The American prisoners of war either had to swear an oath of allegiance to the Crown to win parole or be imprisoned. The British assured them they would not have to serve in the King's forces as long as they did not bear arms against the crown.[13] Nevertheless the British attempted to force the prisoners on parole to serve in the British Army. Many patriots who refused were seized from homes by armed soldiers and were confined to prisons on ships and the Provost. Officers like Christopher Gadsden, a Charleston merchant and radical leader, refused to serve another

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Footnotes at end of article.

parole and were sent to St. Augustine. On an early Sunday morning August 27, 1780 General Gadsen along with Thomas Heywood, Jr., Arthur Middleton and Edward Rutledge, three signers on our Declaration of Independence were seized from their homes on suspicion of breaking parole.[14]

Thrust in to the forbidding British Provost were patriots, women of both excellent and infamous character, negroes and deserters making them all equal. Dreaded diseases among the inmates caused much suffering and many deaths in this crowded, dark place.[15] Francis Marion, "The Swamp Fox" meted out to Tories.[16]

During the British seizure of Charleston in 1780, a principal magazine (ammunition dump) behind St. Phillips' Church was nearly destroyed by a shell burst. General Moultrie wrote:

I had powder (10,000 pounds) removed to the northeast corner under the Exchange and had the doors and windows bricked up. Northwithstanding the British posession of Charleston so long, they never discovered the powder although their Provost was in the next apartment to it. After the evacuation when we came into town, we found the powder as we left it.[17]

When General Clinton defeated the City of Charleston, Isaac Hayne, a South Carolina planter and breeder of fine horses, was serving in the American militia on the outposts.[18] When the city surrendered, Hayne along with other American prisoners of war gave his oath of allegiance to the Crown and returned home to his farm where his wife and children lay ill with smallpox. However when the British tried to force his return to service in the British Army, he felt this good reason to break his parole and return to service with the Colleton militia. He was captured, and after instigating an insurrection at the rear of Lord-Rawdon-Hastings (in ill health and due to be invalided home to England) gave Colonel Balfour the order of execution and Hayne was hanged August 4, 1781.[19] Lord Rawdon-Hastings later wrote:

I had solicited the particulars of the case ascertained by a court of inquiry . . . the same form of investigation as had been used in the case of Major Andre (touche!) Major Andre was a British Officer arrested in civilian clothing carrying papers of the proof of Benedict Arnold's treason, and hanged by the Americans. This was an indiscretion on my part, but he (Hayne) was a spy in the strictest sense of the word.[20]

The British had intended to make an example of Isaac Hayne to help crush the rebellion. His hanging as a spy, however, had the effect of making him a martyr in a just cause and strengthened the rebels' determination to fight on.

The defeat of General Cornwallis lead to the withdrawal of the British in Charleston in 1782 and in 1783 the end of the American Revolution

The Exchange Building became the property of the City of Charleston by "an act of incorporation" in 1783. The building has been owned for over 50 years in trust by the Rebecca Motte, Chapter, DAR.[21]

FOOTNOTES

[1] The Wall and Fortifications from Status at large, Vol. 7, AD 1700, Act. No. 173, p. 16.

[2] Across the Cobblestones, Pub. by the Junior League of Chas., 1965, p. 21.

[3] S.C. Historic Exchange Building, W. T. J. Thomas, News & Courier, April 6, 1969, p. 7.

[4] Hamrick, Tom, Charleston Provost Dungeon, Sandlapper, Vol. 3, 1970.

[5] S.C. Historic Exchange Building, W. T. J. Thomas, News & Courier, April 6, 1969, p. 7.

[6] S.C. Historic Exchange Building, Lee, Charles E., Director, S.C. Department of Archives & History, May 1969, p. 4.

[7] S.C. Historic Exchange Building, W. T. J. Thomas, News & Courier, April 6, 1969, p. 7.

[8] Stockton, Robert P., Chas. "Tea Party" Was Significant, News and Courier.

[9] S.C. Historic Exchange Building, W.T.J. Thomas, News and Courier, April 6, 1969, p. 7.

[10] Stockton, Robert P., Chas. "Tea Party" Was Significant, News and Courier.

[11] Charlest Towne Half-Moon Battery, Provost Dungeon.

[12] Bulger, William T. (editor) "Sir Henry Clinton's Journal of the Siege of Charleston."

[13] History of American Biography, Charles Schribner's Sons, N.Y. N.Y., pp. 454–455.

[14] McCrady, Edward, History of S.C. in the Revolution (1775–1780) Vol. 3, pp. 716–717.

[15] S.C. Historic Exchange Building, Lee, Charles E., Director, S.C. Department of Archives and History, May 1969, p. 6.

[16] Stoesen, Alexander, R. S.C. Historical Magazine, The British Occupation of Chas., July 1962, p. 70.

[17] Moultries Memoirs, Moultrie's Powder Magazine, p. 85.

[18] History of American Biography, Charles Schribner's Sons, N.Y., pp. 454–455.

[19] Bulger, William T. (ed.) "Sir Henry Clinton's Journal of the Seige of Charleston."

[20] Encyclopedia of American Revolution, Mary Mayo Boatner, 1966, pp. 495 to 497.

[21] S.C. Historic Exchange Building, W.T.J. Thomas, News and Courier, April 6, 1969, p. 1.

The Exchange and Custom House

(By Lewis Bowen, St. Andrews High School)

(Second place winner)

In the late 1700's, the Exchange Building was constructed, and became one of Charleston's most versatile structures, serving as a storehouse for tea, a prison for rebels, a magazine for powder and a hall for social events. "Perhaps no other single structure in the state was so immediately a part of the important events from South Carolina's early history." [1]

When Josiah Quincy was in CharlesTown he described the city as the following, "The number of shipping far surpassed all I have seen in Boston." [2] With such a great volume of trade, it was evident that some structure should exist as a center for both the commercial aspect as well as a custom service.[3] Since no structure existed at that time for trade, one had to be constructed.

A design for the building was needed. William Rigby Naylor was chosen as architect. His plans called for a structure in grand Palladian style, then so popular in England.[4] The finished Exchange, except for the roof line, followed these plans.[5]

The agreement of construction stated:

The foundations were to be brick and mortar ninty-two feet from north to south, and sixty-five and one half feet from east to west . . .

The steps were to be made of "Solid Portland Stone, Handrail and Bannisters of Portland Stone, and under the said Steps and platforms, to be Brick Walls and Arches to support the same, the Wall to be three Bricks lengthways thick and thirty-four feet six inches high. The Piazza fifteen feet in the clear from the Stone Pavement to the ceiling, the Piazza Floor to be paved with gool Perbeck stone." [*sic*]

The agreement also specified that the parapet would be coped with stone and the "rustic work" would also be of this material. Two Venetian windows and twenty-four pilasters of the "Ionick Order" and the classic urns that formerly topped the parapet wall were specified. The roof of the cupola and the bed of the entablature to be of lead, "Hips and Ridges to be covered with Leadm as also all the Pediment and Cornices to Windows, the Lead to Hips and Ridges and also the Pediments to be five pounds weight to each square foot . . ." [*sic*]

The doors to the cellars were to be of cypress and the windows were to have iron bars and shutters. The girders to the floors were to be twelve by fourteen inches, joist to the floors were three by fourteen inches, roof girders eight by twelve inches, principle rafters eight by ten inches, common rafters three by six inches, purlins eight by eight inches, bond timbers for joist and girders to lay six by nine inches.[6]

Peter and John Horlbeck were chosen as contractors, now that the design was complete. They proposed completing the structure by 1770, for a sum of forty thousand, nine hundred and thirty pounds.[7]

Probably the reason the construction took such a great length of time was that the Portland Stone, the dull grey Perbeck, and the Welsh slate had to be brought from England.[8] The other materials, the cypress, the pine, and the bricks, were obtained locally.[9]

Perhaps the most notable features of the building no longer exist today, instead they were replaced or removed.

The original cupola, as designed by Naylor disappeared and was replaced by Charles Fraser in 1835.[10] Fraser's cupola was removed after being damaged during the earthquake of 1886. The parapet and large Portland Stone urns were also probably lost during this quake.[11]

One unique feature, the portico, was long believed to have been removed, but it apparently never existed. Somehow the plans were misinterpreted and no porch was ever constructed.[12]

The main feature of the second floor no longer remains. It was the "Large Room" where the ball for Washington was held.[13]

The Large Room was to be wainscotted fourteen feet high, with eight columns and twenty pilasters and an etablature of three feet of the Ionic order. There was a cove ceiling six feet high, two chimney pieces and pediments to every door. Frames were glazed with London glass, twelve by fourteen and one half inches, with eighteen lights to each window.[14]

"Today the Large Room is simply part of a stair well and landing. No paneling remains." [15]

The Exchange was finally completed after four years and 41,740 pounds had gone into its construction.[16] Now she was ready for her busy revolutionary life.

The Scent of Revolution was in the colonial air. Pressure was building up in every American and the time had come to release this pressure.

"When Parliament yielded to the demand for the repeal of Townshend duties, George III insisted on retaining the tax on tea." [17] This action left the colonists enraged. Although the tea was cheaper, just the thought of paying taxes kindled the spark for rebellion.[18]

Boston's "Tea Party" was tumult from start to finish.[19] "Charles Town's Tea Party, occurring at noon, with no disorders and no disguises . . . was a stately minuete in comparison." [20] Boston's tea party lasted an hour or two; Charles Town's own the endurance record, lasting for three whole days.[21]

Although the events of CharlesTown's Tea Party were calm compared to those of Boston, they were none the less interesting. On December 1, 1773, the first shipment of tea arrived. The cargo consisted of two hundred any fifty-seven chests consigned by the East India Tea Company to prominent merchants to be sold on commission.[22] This shipment was the reason landowners were invited to the Exchange for a meeting on Friday afternoon.[23] "This meeting was of great importance for from it . . . descended the government of South Carolina." [24]

On the seventeenth another meeting was held and decided, despite much opposition, "That the tea ought not to be landed, received or vended in this colony." [25] To prevent the sale, a law was devised which stated that if after twenty days no consignee received the goods, they would be confiscated.[26]

Footnotes at end of article.

Once confiscated, the tea would be stored in the Vaults of the Exchange.[27]

When the allowed time had expired, merchants removed the cases of tea from the ship and stored them beneath the Exchange in an area rented for this purpose.[28] On several other occasions, tea was confiscated and secured within the same area.[29]

The next big event took place on November 3, 1774. On this day, three merchants; Messieurs Lindsay, Kinsley, and Mackenzie; boarded the ship and made an oblation to NEPTUNE, of seven chests of tea.[30] In other words, those three merchants dumped tea, they already owned, into the Cooper River.

The last event was small yet very impressive. A radical group called Charleston's Liberty Boys also confiscated some tea, but instead of storing it or dumping it, they decided to burn it.[31]

This ended the events of the tea party, but on October 14, 1776, the tea was brought from the basement of the Exchange and sold by South Carolina for much profit.[32] So that "Charleston not only dumped and burned her tea, she drank it, too."[33]

The Exchange was not only used by the Charlestonians, but it was also used against them. During the British occupation of Charleston, the Exchange's basement was used as a dungeon, called the Provost.[34] The Provost was described by Edward McCrady as follows—

> The middle part of the cellar under the Exchange was the place chosen for the imprisonment of those arrested . . . the dampness of this unwholesome place, with out any means of warming its temperatures, caused great sickness and suffering and some deaths among those confined within its walls. . . . Not only men, but women also were indescriminately cast into this place. . . . These were crowded together with the sick laboring under contagious diseases, with negroes, disenters, and women of infamous character to the number forty-six within narrow limits.[35]

Confined within the wall of the Provost, were many prominent citizens. Some were Christopher Gadsden, Thomas Heyward, Jr., Edward McCrady, Alexander Moultrie, Edward Rutledge, and Arthur Middleton.[36]

One important prisoner was Colonel Isaac Hayne, who was executed without trial. His story is an interesting one.

Hayne was captured near Charleston and taken prisoner. He gave his word not to fight again and was paroled. The British wanted Hayne on their side because of his influence on the people, so they recalled this parole and insisted he swear allegiance to the Crown. He refused.

Finally under much pressure Hayne signed a paper swearing allegiance and returned home, assured he would not have to bear arms against the United States. Again he was threatened, this time to join the British forces. Outraged, Hayne formed a militia against the British. Soon after he was caught and placed in the Provost, only to be executed as a spy.[37]

Before the formation of the Provost, the cellar was used for another purpose, a powder magazine.

During the terrific siege of Charleston by the British, General Moultrie placed his powder magazine under the Exchange (an estimated amount of powder was one hundred thousand pounds).[38]

"This large amount of powder was stored in the North East corner of the basement of the building. The doors and windows were then bricked up. When the British finally captured the City, the apartment next to the powder magazine was used as the Provost."[39]

The uniqueness of the situation was that after the British had left, Moultrie returned to the city and to his great amusement, found the powder magazine intact.[40]

The Exchange's cellar played a very important role in the American Revolution, both for and against the colonists. Now that the war is over, the social aspects appear.

The Charlestonians always enjoyed the finer things in life. They partied, attended theatres and gambled at the race track and cock fights.[41] Perhaps the most noteworthy event of the late 18th century was the visit of President Washington to Charleston in the spring of 1791.[42] He was then rushed to the steps of the Exchange where he received the honors of the procession.[43]

On the evening of May 4, an elegant ball was given in the Large Room of the Exchange to honor the great General.[44] The ball was described as follows:

> In the evening a splendid Ball was given by the City Corporation which the President of the United States honored with his presence. There was a numerous and brilliant assembly of ladies and great number of gentlemen present. The ladies were superbly dressed and most of them wore ribbons with different inscriptions expressive of their respect and esteem for the President, such as, "Long live the President," "Health to Columbia's noblest son, Her light and Shield, great Washington."[45]

Throughout the years the Exchange Building has seen many events and played a part in most. It stands as a memorial to our great American Heritage. The Exchange saw CharlesTown become Charleston and the British Colonies become the United States of America. There is an old saying that at Charleston the Ashley and Cooper Rivers meet to form the Atlantic Ocean. With the pride and loyalty established by Charleston, the statement could be none the less true. On a birthday a person looks back over the years to remember the important events of his life, well as the bicentennial approaches one could not help but realize that "no other single structure in the state was so immediately a part of the important events from South Carolina's early history."[47]

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FOOTNOTES

[1] W.H.J. Thomas, *South Carolina's Historic Exchange Building* [n.p., no pub.], [n.d.], p. 1.

[2] William Way, *The Old Exchange and Custom House* (Charleston: Rebecca Motte Chapter, 1971), p. 10.

[3] *Ibid.*, p. 10.

[4] Thomas, *op. cit.*, p. 3.

[5] *Ibid.*, p. 3.

[6] Thomas *op. cit.*, pp. 8–9.

[7] *Ibid.*, p. 3.

[8] Thomas, *op. cit.*, *p.* 9.

[9] *Idem.*

[10] *Ibid.*, p. 10.

[11] *Idem.*

[12] *Idem.*

[13] *Ibid.*, p. 11.

[14] Thomas, *op. cit.*, p. 11.

[15] *Idem.*

[16] *Ibid.*, p. 3.

[17] David D. Wallace, *South Carolina, A Short History* (Columbia: University of South Carolina Press, 1969), p. 251.

[18] Marguerite Steedman, "Charleston's Forgotten Tea Party," *The Georgia Review* (Summer, 1967), p. 246.

[19] Robert M. Weir, *A Most Important Epocha: The Coming of the Revolution in South Carolina* (Columbia: University of South Carolina Press, 1970), p. 51.

[20] *Ibid.*, p. 246.

[21] Weir, *op. cit.*, p. 251.

[22] Wallace, *op. cit.*, p. 251.

[23] Thomas, *op. cit.*, p. 4.

[24] Wallace, *op. cit.*, p. 251.

[25] *Ibid.*, p. 252.

[26] *Idem.*

[27] Steedman, *op. cit.*, p. 248.

[28] Wallace, *op. cit.*, p. 252.

[29] *Idem.*

[30] Steedman, *op. cit.*, p. 250.

[31] *Ibid.*, p. 254.

[32] Wallace, *op. cit.*, p. 252.

[33] Steedman, *op cit.*, p. 251.

[34] William Way, *The Old Exchange and Custom House*, p. 11.

[35] *Idem.*

[36] *Ibid.*, p. 12.

[37] Robert Maeby, *Charleston: A Gracious Heritage* (New York: D. Appleton and Century Co. Inc., 1947), p. 75.

[38] Way, *op. cit.*, pp. 11–12.

[39] *Ibid.*, p. 11.

[40] *Idem.*

[41] Carl Bridensbaugh, *Myths and Realities* (Baton Rouge: Louisiana State University Press, 1952), pp. 58–118 *passium.*

[42] Thomas, *op. cit.*, p. 6.

[43] *Idem.*

[44] Way, *op. cit.*, p. 15.

[45] *Idem.*

[46] Thomas, *op. cit.*, p. 1.

OBSERVATIONS OF THOMAS SUMTER

(By John Lenartz, St. John School, third place winner)

Before the years of the Revolution Thomas Sumter was loyal to King George III. But after hearing Christopher Gadsen in 1766, Sumter changed to a fighter for independence. He fought not only with words but also with arms. His characteristics helped form a great general in the American Revolution.

Had it not been for his love for South Carolina Sumter may not have even fought in the war. Many leaders like Francis Marion, Harry Lee and Nathaniel Greene considered him only a man who fought for glory, but as I read I tend to disagree. Sumter loved his wife and son for he once grasped his family and fled with them to safety while a small force pursued him. Since he probably could have defeated the force, his men were unusually complaining bitterly for his action. He of course received no glory at that particular instance. As you read this essay you may see he risked his life for South Carolina and also risked his glory and reputation for his family.

Another factor that made him a successful general was that he gained the deep respect of his men. After hearing the news of the British firing at Lexington the Second Provincial Congress of Carolina chose officers of the state. Sumter called a local militia together and in appreciation they elected him a captain. He taught his men military tactics but he was not a disciplinarian as were Moultrie and Marion. And it was for this reason they enjoyed having him as their leader. In June 1777 Sumter came down with malaria and was hospitalized at Sunbury. With the confidence and respect of his men who had served under him, on September 19, 1778, Thomas Sumter resigned his commission. On June 15, 1780 to rescue the land he loved, Sumter again formed a local milita. During the period of his resignation Cornwallis totally had control of South Carolina and there was therefore no army or government in the state to rule or guide the patriots. A small committee elected Thomas Sumter Commander in Chief of the South Carolina troops and promoted him to a brigadier general. South Carolinians were very grateful to Sumter in this effort to allay them from the British.

A woman named Rebecca Motte showed her respect when Sumter asked if he could burn her mansion down to rid the British from the occupied house and she boldly replied "If it were a palace, it should go." The British leaders also admired and yet feared him. Cornwallis relayed a message to Tarleton giving approval to assassinate Sumter, his statement was, "I shall be very glad to hear that Sumter is in a position to give us no further trouble; he certainly has been our greatest plague in this country." Many British leaders tried a assassinate him for they feared him. The major reason these men were trepidant towards him was because he was a great strategist and well experienced general.

In July, 1780, Sumter traveled to North Carolina searching for the Gillispie brothers who were famous for making guns. The Gillispie brothers favorite sport was cock fighting. They said that Old Tuck (Gillispie's favorite cock fighter) resembled Sumter because of Sumter's cock feather and fierce fighting. An example of his courage is shown at the Battle of Hanging Rock. Sumter had a bullet ripped into his thigh but only shouting a cry of pain he continued to ride cheering and directing his men. His men inspired by this went on to defeat the British. Once he had a battle with Tarleton on the Tyger River in which he courageously risked his troops to fight the calvary of Tarleton, before Tarleton's large number of infantry and artillery approached. In the battle he bravely received five buckshots that ripped into his chest and one that entered his left shoulder and ended up at his right. For the rest of the war this pain plagued Sumter.

This dauntless fighter had a record to be proud of as the war closed. He harassed and agitated British troops which helped quicken the defeat of Cornwallis at Yorktown. He won many battles and skirmishes in South Carolina.

After the war be became a United States congressman (1789–1793), (1797–1801) and a United States senator (1801–1810). He died a natural death on June 1, 1832, at the age of ninety-eight and was the last surviving general of the American Revolution. In later years Fort Sumter and Sumter, South Carolina, were named in recognition of his service to South Carolina.

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Burnett R. Maybank, *South Carolina*, copyright 1941.

PLANT CLOSINGS

Mr. MONDALE. Mr. President, yesterday I was very pleased to introduce, together with the distinguished senior Senator from Michigan (Mr. HART), the National Employment Priorities Act of 1973.

Many of us fail to fully understand the pain and dislocation that the closing of an industrial plant may cause to employees, their families, and to their community.

We may know that those directly employed stand to lose not only jobs, but pensions and health benefits for themselves and their families—and that workers in their 40's and 50's may find themselves both unable to find comparable new work and unqualified for retirement or social security. We may know that there is often a "domino effect" on other businesses affecting the entire economy of an area. And we may know that the loss of tax revenues both from the plant closing and its broader economic impact may impair the ability of local government to respond.

But to really understand the tragedy of a plant closing, perhaps you have to see the job you have held for 20 years, the security you have tried to build for your wife and children, your future and your way of life, disappear like a cloud of smoke.

Charles Kotovich, an employee of Swedish Crucible Steel in Hamtramck, Mich., does understand. Mr. President, I ask unanimous consent that excerpts of Mr. Kotovich's statement before an ad hoc Congressional hearing, convened by the distinguished Senator from Michigan (Mr. HART) on June 16 of this year be printed in the RECORD.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

EXCERPTS FROM STATEMENT BY CHARLES KOTOVICH

Recent newspaper stories have indicated that the Swedish Crucible Steel Foundry shall be closing. Prior to the announcement of closing, there were 275 members of Local 601 who were employees of the Foundry Division. At this point in time, there are approximately 147 people. Within two weeks, in all likelihood, there will be no one working at the Swedish Crucible Steel Foundry.

Before I talk about the human disaster occurring at the Swedish Crucible Steel Foundry, I would like to tell you the story of my life. When I was 18 years old, I went to work at the Tank Plant as a Government Inspector. At 19, I joined the United States Army and fought for my country in World War II. After the war, I returned and sought to get my old job back at the Tank Plant. I was informed by my supervisors that my job would last only about six months since the war had come to an end. So, at 19 I decided I would seek another job and went to work for Midland Steel Corporation in Detroit. I worked there for eleven years. That plant closed approximately in 1957–1958. I collected 26 months of unemployment compensation during that recession, seeking a job, and then I collected 13 weeks more unemployment compensation because of the extension granted by the U.S. Government.

I then went to work for Swedish Crucible Steel and I have worked at Swedish Crucible Steel for the last 14 years. I have 16 years left before I would retire. I had no vesting rights at Midland Steel and I doubt that my pension that I have coming from Swedish Crucible would be very much when I retire 16 years from now. I, like so many others at Swedish Crucible, must start all over again.

Maybe it is hard for people who hold public office in the U.S. Senate or in Congress to understand the problems I have had or the problem I have now. Maybe it is hard for people who hold high public office or are prominent in business and industry to understand the problems the average worker has today.

During World War II I made a contribution to my country—I fought in the war. I would like you to know that I have five children. Three of my sons have enlisted in the Army. One of them fought in Korea, doing two periods of service in Korea and subsequently participated in the combat in Vietnam. My second son has participated in the combat in Vietnam. Another son is serving in the U.S. Military today in Germany—all of them making a contribution to their country.

I have a daughter 13 years old who is an honor student at Dickinson Junior High School in the City of Hamtramck. She will want to further her education beyond high school, and all of us know that that takes money.

I own a house in the City of Hamtramck. For the last 26 years I have paid taxes to the City of Hamtramck and the County of Wayne. I pay taxes to the State of Michigan. I pay taxes to the Federal Government. I have never been in trouble with the law. I have raised my family, sent my children to school. I have been a good citizen; my children have been good citizens. I vote on Election Day. I do everything that any average American citizen does and fulfill my responsibility as a citizen. I have never been on welfare—I have always worked for a living and I have worked hard. I have believed that if you work hard—if you do what is right, things will go right for you. So I got close to nothing after 11 years at Midland Steel. Now, at Swedish Crucible, I will end up with close to nothing when the plant closes in two weeks or so. There is no protection for me and there is no protection for the people that I have represented for the last four years as President of this small local union; and I know full well that the only thing that can protect people in my predicament (and there are thousands like us all over the Metropolitan Detroit Area, in the State of Michigan and throughout the country) is a Federal law that provides the protection for me and for people like me, to assure that my life is not shattered as it is being shattered by the decision of Swedish Crucible Steel.

I would like to ask you some questions: Sure there will be some small unemployment compensation, but what am I to do in two weeks? How will I make a life? Who will pay my tax bills on my property—my small house and my small lot? Who will pay my gas and electric bills? Who will make sure that my daughter can get her education if I can't find a job? Who will make sure that if and when I retire at 65, my wife and I will be able to live in dignity? Who will provide for my Blue Cross-Blue Shield to assure that if illness strikes myself or my wife or my child that the bills will be paid? Who will provide me with life insurance one month after the plant closes so that in case I happen to die, there will be enough to bury me and provide some money for my wife and my daughter? Is there anybody here who can give me those answers that will satisfy me in such a way that I can go on living my life in the modest way I have lived for the last 30 years?

Mr. MONDALE. And this is not a unique or unusual story. Every year thousands of working Americans throughout the Nation find themselves suddenly jobless, without warning and without consultation, because of the decisions of remote corporate managers.

In my own State, Minnesota, the closing of two plants by White Motor Co. last year left 500 employees without jobs, and left the pension fund underfunded by $15 million. Legal action by employee unions did lead to substantial restoration of pension benefits. But many of those who worked for White Motor for so long are still without jobs.

With the energy crisis threatening to produce a substantial slowing of our economy in the next year, it is time to begin a thorough study of the impact of Government policies on the location and relocation of employment opportunities. And it is time to explore ways to provide for fair treatment of those who have devoted their lives to jobs which have served the Nation and who have lost those jobs through no fault of their own.

There is a strong temptation for those of us in public life to write off these tragedies as none of our affair. But the Federal Government is already deeply involved in supporting the relocation of industrial plants.

Special provisions in our tax laws encourage conglomerate mergers that often lead to plant relocation. The Federal Government permits issuance of tax-free State and local industrial development bonds which can be used to subsidize relocations. The low $1.60 an hour minimum wage encourages plants to flee to low-wage havens. The investment tax credit and superaccelerated depreciation—ADR—make new investment more attractive, while the business loss deduction allows companies to write off any losses connected with moving. And companies which move plants abroad pay no U.S. taxes on the profits they keep overseas, and can subtract the full amount of foreign taxes from U.S. taxes.

So we, in Government, are already involved. And we are among the few major industrial countries continuing to ignore the social impact of plant relocation on employees and local communities. In England, Sweden and West Germany, as in many countries, government permission is required for plant location and relocation. Sweden maintains a substantial program of job training and retraining—with income support for those enrolled. In England, the so-called redundancy law requires companies to provide compensatory payments to displaced employees.

For not all the costs of industrial relocation appear on corporate balance books. When a plant closes, a terrible price is paid by the community—in lost revenues, in increased welfare costs, in human suffering.

And costs are often borne by the receiving community as well—costs of industrial pollution which can damage the quality of life and harm agriculture, costs for increased public services such as schools, hospitals, roads and public transportation. The location of a major industrial plant can dramatically change the life of a community—for better or for worse—yet often these considerations are ignored.

This bill represents a first step toward a national policy for industrial relocation.

The bill would require, wherever possible, 2-year notification of plant closings or relocations to employees and affected communities. Such notice would permit efforts to make the closing unnecessary, and bargaining over the terms upon which closing will take place. And it would permit advance planning by Federal, State, and local governments to reduce the economic and social impact.

The bill would establish a National Employment Relocation Administration to investigate and report on the economic justification for plant closings, upon request of 10 percent of employees or a collective bargaining representative; and it would provide for withdrawal of tax benefits related to unjustified plant closings for up to 10 years.

The bill would provide adjustment assistance to employees affected by plant closings, including assistance directed toward retraining or early retirement, relocation allowances, maintenance of health and pension benefits, and temporary income supports.

It would provide help through grants and loans to communities that suffer substantial unemployment as the result of plant closings, to permit the attraction of new industry.

And it would provide technical and financial assistance to businesses, to help prevent unnecessary plant closings.

Our bill is only an outline and a beginning—it is far from a finished proposal. I am hopeful that it will receive close attention from the business community, employee organizations, and State and local government. And I hope that it will be the focus for intensive hearings in the Senate.

We may find that it gives some wrong answers—but it raises the right questions. In the words of an Anniston, Ala., foundry worker:

> You are going to have to help us in this community. We have people out there . . . they're hurt. They may not find other jobs.

We are learning the difficult lesson that we must conserve our limited natural resources, and use them wisely. But we must never forget that the crucial resources of our economy are American working men and women. Their lives are invested in their jobs. They have the right to ask their Government not to subsidize those who would destroy their economic security capriciously. And they should have the right to retraining for decent employment, or to dignified retirement, if their jobs must end.

Mr. President, I ask unanimous consent that the text of S. 2809, the National Employment Priorities Act of 1973, may be printed in the Record.

There being no objection, the bill (S. 2809) was ordered to be printed in the Record, as follows:

S. 2809

A bill to amend the Manpower Development and Training Act (Public Law 84–415, as amended) to require prenotification to affected employees and communities of dislocation of business concerns, to provide assistance (including retraining) to employees who suffer employment loss through the dislocation of business concerns, to business concerns threatened with dislocation, and to affected communities, to prevent Federal support for unjustified dislocation, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the National Employment Priorities Act of 1973.

Section 1. The Manpower Development and Training Act of 1962 (Public Law 87–415, as amended) is amended by inserting immediately before title I of such Act the following chapter heading:

"Chapter I—Manpower Development and Training"

and by inserting at the end of such Act the following chapter II:

"Chapter II—National Employment Priorities"

TITLE I—GENERAL PROVISIONS

DECLARATION OF POLICY AND PURPOSE

Sec. 2101. (a) The Congress declares that—

"(1) unemployment is a major economic and social problem that causes great economic loss to individuals, communities and the Nation;

(2) arbitrary and unnecessary closings and transfers of establishments of business concerns cause irreparable social and economic harm to employees, local communities and the Nation, and too often receive financial support from the United States Government;

(3) businesses wishing to close establishments or transfer certain operations to other establishments should take into account the social and community needs of employees and citizens in the areas in which the establishments operate and the social, environmental and community needs of citizens in the area to which the transfer is proposed;

(4) it is necessary to withdraw Federal support from arbitrary and unnecessary closings or transfers of operations of establishments of business concerns, so that wasteful loss to employees, communities and the Nation can be prevented, and

(5) assistance (including retraining) for employees and affected communities is needed to reduce the economic and social impact of dislocation of employment opportunities.

(b) It is the purpose of this Act to require prenotification to affected employees and communities of dislocation of business concerns, to prevent federal support for unjustified dislocation, and to provide assistance to employees who suffer employment loss through the dislocation of business concerns, to business concerns threatened with dislocation, and to affected communities.

DEFINITIONS

Sec. 2102. For the purpose of this Act—

(1) "Administration" means the National Employment Relocation Administration established in the Department of Labor;

(2) "Administrator" means the Adminis-

trator of the National Employment Relocation Administration;

(3) "business concern" means any commercial business enterprise employing at least fifty employees, and includes parent corporations together with all subsidiaries thereof;

(4) "Council" means the National Employment Relocation Advisory Council;

(5) "employee suffering an eligible employment loss" means any employee who, in any work week, by reason of the closing or transfer of operations of any establishment of a business concern, is unemployed, or receives salary, which is less than 85 percent of the average weekly wage of that employee prior to such closing or transfer of operations as determined pursuant to regulations of the Administrator;

(6) "establishment" means any factory, plant, mine, business office, facility, or other single working place of a business concern, and, pursuant to criteria established by the Secretary, shall include any major functional subdivision of an establishment;

(7) "Secretary" means the Secretary of Labor; and

(8) "transfer of operations" means the transfer as defined by regulations of the Secretary, of an operation conducted at an establishment of a business concern, including the closing of an establishment, within three years after the cessation of such operations at the old location, to an establishment of that business concern at a new location not within reasonable commuting distance of the old location, and includes any such transfer of operations if that transfer took place within three years prior to such cessation of operations at the old location.

TITLE II—ESTABLISHMENT OF THE NATIONAL EMPLOYMENT RELOCATION ADMINISTRATION

ESTABLISHMENT OF ADMINISTRATION

SEC. 2201. (a) There is established in the Department of Labor a National Employment Relocation Administration. The Administration shall be headed by an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) There shall be a deputy administrator of the Administration who shall be appointed by the President, by and with the advice and consent of the Senate. The deputy administrator shall perform such duties as the Administrator shall prescribe.

ADMINISTRATION

SEC. 2202. The function of the Secretary—

(1) under this Act; and

(2) with respect to any manpower development and training program under the Manpower Development and Training Act of 1962, or any other similar provision of Federal law being administered by him, shall be carried out through the Administration established under this title.

FUNCTIONS OF THE ADMINISTRATION

SEC. 2203. In order to carry out the purposes of this Act, in addition to any other functions transferred to the Secretary under this title, the Secretary is authorized to—

(1) conduct, in accordance with title III of this Act, investigations and issue reports on any proposed closing or transfer of operations of an establishment of a business concern in order to determine the extent of the employment loss that would result from any such closing or transfer, the effect of such employment loss on the individuals and communities involved, and whether such closing or transfer is without adequate economic justification;

(2) provide, in accordance with title IV of this Act, adjustment assistance to employees who suffer a loss or reduction in employment because of a closing or transfer of operations of an establishment of a business concern, including cash payments to provide income maintenance, maintenance of health and pension benefits, relocation allowances, rental and mortgage supplements, retraining assistance, early retirement payments, and food stamps and surplus commodities;

(3) provide, in accordance with title V of this Act, adjustment assistance to communities which suffer a significant rise in unemployment as a result of a closing or transfer of operations of an establishment of a business concern, including grants to the community to make up for the loss in tax revenues and loans or loan guarantees to the communities or to private enterprises for the purpose of expanding existing job opportunities;

(4) provide, in accordance with title VI of this Act, technical or financial assistance, including technical advice, loans, and loan guarantees, to a business concern that planned to close or transfer operations of an establishment of that business concern if the Administrator determines that such assistance will prevent or alleviate the potential employment loss from such closing or transfer; and

(5) conduct research into the problems of business closings, transfers of operations, and unemployment.

NATIONAL EMPLOYMENT RELOCATION ADVISORY COUNCIL

SEC. 2204. (a) There is established a National Employment Relocation Advisory Council which shall consist of 13 members as follows:

(1) the Secretary of Labor;

(2) the Secretary of Commerce;

(3) the Administrator of the Environmental Protection Agency;

(4) four members representing the general public;

(5) three members representing organized labor; and

(6) three members representing management or the business community.

The members appointed pursuant to clauses (4), (5) and (6) of the preceding sentence shall be appointed by the President, by and with the advice and consent of the Senate.

(b) Each member of the Council who is not an officer of the United States shall be entitled to receive compensation at not to exceed the daily rate prescribed for GS-18 of the General Schedule under section 5332 of title 5, United States Code, during such time as he is engaged in the performance of duties as a member of the Council. Each member of the Council shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of such duties as a member of the Council. Each member of the Council shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of such duties.

(c) The Council shall meet at the call of the Chairman but not less than four times a year.

(d) The Council shall—

(1) advise and assist the Secretary and Administrator with respect to the activities of the National Employment Relocation Administration under this Act;

(2) review and evaluate the effectiveness of programs carried out under this Act;

(3) conduct surveys and establish area and industry priorities for the application of economic adjustment assistance under this Act;

(4) carry out studies and prepare projections of future areas of economic activity in which the United States can expect to be competitively disadvantaged and identify industries in which economic adjustment assistance may be necessary; and

(5) conduct research and propose new measures and programs to provide economic adjustment assistance to employees and business concerns wno may be eligible for assistance under this Act.

(e) The Secretary shall make available to the Council such professional and clerical assistance as the Council may require.

ADMINISTRATIVE PROVISIONS

SEC. 2205. In addition to any other authority vested in the Secretary by other provisions of this Act, the Secretary, in carrying out his functions under this Act, is authorized to—

(1) adopt, alter, and use a seal, which shall be judicially noticed;

(2) hold such hearings, sit and act at such times and places, and take such testimony, as he may deem advisable;

(3) request directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality information, suggestions, estimates, and statistics needed to carry out the purposes of this Act; and each department, bureau, agency, board, commission, office, establishment or instrumentality is authorized to furnish such information, suggestions, estimates, and statistics directly to the Secretary;

(4) under regulations prescribed by him, assign or sell at public or private sale, or otherwise dispose of for cash or credit, in his discretion and upon such terms and conditions and for such consideration as he shall determine to be reasonable, any evidence of debt, contract, claim, personal property, or security assigned to or held by him in connection with loans made or evidences of indebtedness assigned to or held by him in connection with such loans or evidences of indebtedness until such time as such obligations may be referred to the Attorney General for suit or collection;

(5) further extend the maturity of or renew any loan made or evidence of indebtedness purchased under this Act, beyond the period stated in such loan or evidence of indebtedness or in this Act, for additional periods not to exceed ten years, if such extension or renewal will aid in the orderly liquidation of such loan or evidence of indebtedness;

(6) deal with, complete, renovate, improve, modernize, insure, rent, or sell for cash or credit, upon such terms and conditions and for such consideration as he shall determine to be reasonable, any real or personal property conveyed to, or otherwise acquired by, him in connection with loans made or evidences of indebtedness purchased under this Act;

(7) pursue to final collection, by way of compromise or other administrative action, prior to reference to the Attorney General, all claims against third parties assigned to him in connection with loans made or evidences of indebtedness purchased under this Act, including authority to obtain deficiency judgments or otherwise in the case of mortgages assigned to the Secretary, and the power to convey and to execute deeds of conveyance, deeds of release, assignments and satisfactions of mortgages, and any other written instrument relating to real or personal property or any interest therein acquired by the Secretary pursuant to the provisions of this Act may be exercised by the Secretary or by any officer or agent appointed by him for that purpose without the execution of any expressed delegation of power or power of atorney;

(8) sue and be sued in any court of record of a State having general jurisdiction or in any United States district court, and jurisdiction is conferred upon such district court to determine such controversies without regard to the amount in controversy; but no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Secretary or his property; and nothing herein shall be construed to ex-

cept the activities under this Act from the application of section 507(b) and 2679 of title 28, United States Code, and section 367 of the Revised Statutes (5 U.S.C. 316);

(9) acquire, in any lawful manner, any property (real, personal, or mixed, tangible or intangible) whenever necessary;

(10) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this Act;

(11) obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code, at rates for individuals not to exceed the rate prescribed for GS-18 in the General Schedule under section 5332 of title 5, United States Code;

(12) accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5, United States Code;

(13) enter into contracts, grants or other arrangements, or modifications thereof to carry out the provisions of this Act, and such contracts or modifications thereof may, if necessary, be entered into without performance or other bonds, and without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5);

(14) provide for the making of such reports (including fund reports) and the filing of such applications in such form and containing such information as the Secretary may reasonably require;

(15) make advance, progress, and other payments which the Secretary deems necessary under this Act without regard to the provisions of section 3648 of the Revised Statutes, as amended (31 U.S.C. 529); and

(16) establish such rules, regulations, and procedures as the Secretary deems necessary.

COMPENSATION OF ADMINISTRATOR AND DEPUTY ADMINISTRATOR

SEC. 2206. (a) Section 5314 of title 5, United States Code, relating to level IV of the Executive Schedule, is amended by adding at the end thereof the following new item:

"(60) Administrator, National Employment Relocation Administration."

(b) Section 5315 of such title, relating to level IV of the Executive Schedule, is amended by adding at the end thereof the following new item:

"(98) Deputy Administrator, National Employment Relocation Administration."

TITLE III—NOTICE, INVESTIGATIONS, HEARINGS, AND REPORTS, IN CLOSING AN ESTABLISHMENT OR TRANSFERRING OPERATIONS

NOTICES OF INTENT TO CLOSE AN ESTABLISHMENT OR TRANSFER OPERATIONS TO ANOTHER ESTABLISHMENT

SEC. 2301. (a) Whenever—

(1) a business concern intends to close or transfer all or part of the operations of an establishment of that business concern; and

(2) at least 15 percent of the employees who are members of any labor organization or 15 percent of all the employees (including the employees who are members of any labor organization employed) in that establishment will suffer an eligible employment loss as a result of any such closing or transfer, the owner, member, or other responsible agent of the business concern shall furnish the Secretary and the employees affected written notice of the intention to close the establishment or to transfer operation not less than 2 years prior to the date of any such closing or transfer; except that,

(3) where the Secretary for good cause finds that the business concern could not reasonably predict its intention to close or transfer within the period specified in clause (2) of this paragraph, the Secretary may approve notification with all reasonable promptness.

(b) The written notice required by this section shall include—

(1) the nature of the establishment affected by the closing or transfer of operations;

(2) the reasons for the proposed closing or transfer of operations;

(3) alternatives to the proposed closing or transfer of operations including any requests for assistance made available under this Act;

(4) the extent of the potential employment loss that would result from such closing or transfer of operations;

(5) plans to alleviate the effects of this potential employment loss on the employees and communities involved;

(6) the economic circumstances of the affected establishment, including present profitability or marginality, and future investment, employment and production plans for that establishment; and

(7) the economic circumstances of the business concern (including domestic and foreign subsidiaries or parent corporations) and the opportunity for transferring affected personnel to other establishments of that business concern.

INVESTIGATION OF A PROPOSED CLOSING OR TRANSFER OF OPERATIONS

SEC. 2302. (a) Whenever—

(1) within thirty days after the receipt of the notice required by section 2301 a written request for an investigation under this section is received from a labor organization at an establishment affected by a closing or transfer of operations subject to this title or by at least 10 percent of the employees of any such establishment; or

(2) the Secretary determines that it would serve the purposes of this Act, the Secretary is authorized and directed to conduct a thorough inevstigation, including public hearings, into the subjects described in section 2303.

(b) In carrying out the provisions of this section, the Secretary is authorized to administer oaths for the purpose of taking evidence in any such hearings and issue subpoenas to compel witnesses to appear and testify and to compel the production of any documentary evidence in any such hearing. Any hearing examiner authorized by the Secretary may administer oaths or affirmations to witnesses appearing in any proceeding held pursuant to this section.

(c) (1) Subpoenas issued pursuant to subsection (a) of this section may be served by any person designated by the Secretary or the Administrator for that purpose.

(2) The provisions of section 1821 of title 28, United States Code, shall apply to witnesses summoned to appear at any such hearing. The per diem and mileage allowance of witnesses so summoned under authority conferred by this section shall be paid from funds appropriated to the Department of Labor.

(3) Any person who willfully neglects or refuses to appear or refuses to qualify as a witness or to testify, or to produce any evidence in obedience to any subpoena duly issued under authority of this section shall be fined not more than $500, or imprisoned for not more than six months, or both. Upon the certification by the Secretary of the facts concerning any such willful disobedience by any person to the United States Attorney for any judicial district in which such person resides or is found, such Attorney shall proceed by information for the prosecution of such person for such offense.

(d) (1) The Secretary shall employ hearing examiners in the conduct of proceedings under this section.

(2) The assignment, removal, and compensation of hearing examiners shall be in accordance with sections 105, 3301, 5252, and 7521 of title 5, United States Code, except that appointments shall be made without regard to section 5108 of such title.

REPORTS

SEC. 2303. (a) At the conclusion of the investigation held pursuant to this title, the Secretary is authorized and directed to prepare and publish a report. Each such report shall contain the findings of the Secretary with respect to—

(1) the economic necessity or justification for the proposed closing or transfer of operations of an establishment of a business concern subject to such investigation or hearing;

(2) the potential economic and social loss to the affected employees, including the number of employees who will suffer eligible employment loss as a result of such closing or transfer of operations;

(3) the potential economic, social and environmental loss to the affected community; and

(4) recommendations of actions to be taken, including the extent and scope of assistance authorized under this Act that would be required to eliminate or alleviate the loss attending to such closing or transfer of operations.

(b) No recommendations shall be completed for a report required under this section unless the Secretary has consulted with the appropriate business concern, any affected labor organization, and the appropriate representatives of the affected communities.

DISCRIMINATION

SEC. 2304. (a) No person shall discharge or in any manner discriminate against any employee because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this Act or has testified or is about to testify in any such proceeding or because of the exercise by such employee on behalf of himself or others of any right afforded by this Act.

(b) Any employee who believes that he has been discharged or otherwise subjected to discrimination by any person in violation of this section may, within thirty days after such violation occurs, file a complaint with the Secretary alleging such discrimination. Upon receipt of such complaint, the Secretary shall cause such investigation to be made as he deems appropriate. If upon such investigation, the Secretary determines that any person has violated the provisions of this subsection, he shall bring an action in any appropriate United States district court against such person. In any such action the United States district courts shall have jurisdiction, for cause shown to restrain violation of subsection (a) of this section and order all appropriate relief including but not limited to rehiring or reinstatement of the employee to his former position with back pay.

(c) Within ninety days of the receipt of a complaint filed under this section the Secretary shall notify the complainant of his determination under subsection (b) of this section.

TITLE IV—ASSISTANCE TO EMPLOYEES WHO SUFFER AN ELIGIBLE EMPLOYMENT LOSS

PART A—ADJUSTMENT ASSISTANCE AUTHORIZED

SEC. 2401. (a) Pursuant to guidelines and criteria established by the National Employment Relocation Advisory Council, the Secretary, after consultation with the National Employment Advisory Council, shall establish a program of adjustment assistance for employees suffering an eligible employment loss.

(b) Adjustment assistance pursuant to subsection (a) shall include, but not be limited to—

(1) income maintenance payments;

(2) maintenance of pension and health benefits;

(3) job placement and retraining benefits;

(4) relocation allowances;

(5) early retirement benefits to employees entitled to receive retirement benefits under a retirement or pension plan of a business concern subject to the provisions of this Act, or to benefits under Title II of the Social Security Act, within 3 years of suffering an eligible employment loss;

(6) emergency mortgage and rent payments; and

(7) food stamps and surplus commodities for persons suffering an eligible employment loss with incomes below the poverty level determined pursuant to criteria established by the Director of the Office of Management and Budget.

APPLICATION FOR ASSISTANCE

SEC. 2402. (a) Any employee suffering or about to suffer an eligible employment loss may file an application with the Secretary for one or more of the forms of assistance provided under this title.

(b) The Secretary shall determine whether an applicant is entitled to receive the economic adjustment assistance for which the application is made and shall furnish such assistance if the applicant is so entitled. Such determination shall be made as soon as possible after the date on which the application is filed, but in no event more than thirty days after such date.

INCOME MAINTENANCE

SEC. 2403. (a) In no event shall income maintenance payments pursuant to section 2402(a) amount to less than the lesser of the moderate living standard budget established by the Bureau of Labor Statistics of the Department of Labor adjusted regionally and for changes in the cost-of-living or 85% of the employee's prior average weekly wage, reduced by the amount of any income maintenance assistance furnished to such employee from any other source, and by 50% of any earned income.

(b) Whenever, with respect to any work week, the total amount payable to an employee suffering an eligible employment loss as remuneration for services performed during such week, as unemployment insurance, as a training payment referred to in subsection (d), and as an income maintenance payment would exceed his average weekly wage, his income maintenance payment for such week shall be reduced by the amount of such excess.

PART B—JOB PLACEMENT AND RETRAINING BENEFITS

PROGRAM AUTHORIZED

SEC. 2411. (a) To assure the speedy readjustment of an employee who is suffering an eligible employment loss, the Secretary shall make every effort to place each such employee for substantially equivalent full employment in accordance with his capacity and prospective employment opportunities. To carry out this objective every such employee who applies for assistance under part A of this title shall also apply for testing, counseling, training, and placement services as the Secretary determines to be appropriate.

(b) Insofar as possible, the Secretary shall provide assistance under subsection (a) through existing programs established by law. To the extent that assistance cannot be provided through any existing program, the Secretary is authorized to furnish such assistance through programs established by him for purposes of this part, including programs carried out through grant or contract with private agencies, institutions and organizations.

(c) To the extent practicable, before employees suffering an eligible employment loss are furnished training, the Secretary shall consult with the business concern of such employees and with the appropriate recognized union or other duly authorized employee representative and develop an employee retraining plan which provides for training such employees to meet the manpower needs of such business concern.

PAYMENTS RELATED TO TRAINING

SEC. 2412. An employee suffering an eligible employment loss receiving testing, counseling, training, or placement assistance under section 411 shall be paid allowances for reasonable and necessary expenses incurred for travel and subsistence when the testing, counseling, training, or placement assistance is provided in facilities which are not within commuting distance of his regular place of residence. The Secretary shall by regulations prescribe the amount of such allowances for various areas of the United States.

REFUSAL OF TRAINING OR PLACEMENT

SEC. 2413. (a) An employee suffering an eligible employment loss shall not be entitled to payment of any assistance under part A unless he has applied for assistance under this part.

(b) Any employee suffering an eligible employment loss who, without good cause, refuses to accept or continue, or fails to make satisfactory progress in, training or placement which has been provided for him under this part shall not thereafter be entitled to income maintenance payment until he accepts or resumes, or makes satisfactory progress in, such training or placement.

TITLE V—ASSISTANCE TO AFFECTED COMMUNITIES AND TO BUSINESSES LOCATED IN SUCH COMMUNITIES

PART A—GENERAL PROVISIONS

AUTHORIZATION

SEC. 2501. The Secretary is authorized to furnish assistance in accordance with the provisions of this title to a unit of general local government, or to an establishment located in the jurisdiction of a unit of general local government, which meets (1) the requirements of section 2502 with respect to basic eligibility, and (2) the requirements of part B or C applicable to that unit or establishment.

BASIC ELIGIBILITY

SEC. 2502. (a) A unit of local government is eligible for assistance under part B of this title upon determination by the Secretary that the closing or transfer of operations of one or more business establishments has contributed substantially to an unemployment rate within such jurisdiction exceeding 8 per centum on a seasonally adjusted basis.

(b) An establishment is eligible for assistance under part C if it is located in the same labor market as a unit of general local government which meets the basic eligibility requirements of subsection (a).

PETITIONS

SEC. 2503. (a) A petition by a unit of general local government for assistance under part B may be filed with the Secretary by the unit of general local government or its governing body or an authorized representative thereof.

(b) A petition by an establishment for assistance under part C may be filed with the Secretary by the establishment or by the business concern which owns or controls the establishment.

DETERMINATIONS BY THE SECRETARY

SEC. 2504. (a) Upon the filing of a petition under section 2503 the Secretary shall determine and certify whether the unit of general local government is eligible for assistance under part B, or whether the establishment or business concern is eligible for assistance under part C, as the case may be.

(b) Determinations and certifications by the Secretary under subsection (a) shall be made as soon as possible after the date on which a petition is filed but in any event not later than sixty days after such date.

PART B—GRANTS TO COMMUNITIES

GRANT PROGRAM AUTHORIZED

SEC. 2511. A unit of general local government certified under section 2504 as eligible for assistance under this part may receive grants in amounts determined under section 2512, if the Secretary determines, under regulations prescribed by him, that such unit has experienced a substantial revenue loss as a result of a closing or transfer.

AMOUNT OF GRANT

SEC. 2512. (a) The amount of any grant under this part may not exceed 85 percent of the eligible revenue loss, as determined in accordance with subsection (b), for the fiscal year in which the closing of an establishment or transfer of operations which resulted in certification under section 2504 occurred and for the two succeeding fiscal years.

(b) The eligible revenue loss shall be determined as the difference between—

(1) the average annual revenues of the unit of general local government derived from payroll and real and personal property taxes during the three fiscal years preceding the year in which such closing of an establishment or transfer of operations occurred; and

(2) the actual revenues of that unit of general local government derived from such sources during the fiscal year with respect to which the grant is made.

PART C—ASSISTANCE TO BUSINESSES IN DISLOCATED COMMUNITIES

PROGRAM AUTHORIZED

SEC. 2521. The Secretary may furnish assistance, in accordance with the provisions of this part and upon such terms and conditions as he may prescribe, to establishments certified under section 2504 if he determines, under such regulations as he may prescribe, that—

(1) the establishment has the capacity to expand and offer additional employment opportunities to persons residing in the jurisdiction of the unit of general local government or in the same labor market in which that unit of general local government is located;

(2) the enterprise has the potential to continue to provide such employment opportunities over a substantial period of time; and

(3) the assistance available under this part is not readily available from other sources.

TYPES OF ASSISTANCE AVAILABLE

SEC. 2522. Subject to section 2608(d) and 2609 the Secretary is authorized to—

(1)(a) make such loans to enterprises meeting the requirements of section 2521 as may be necessary to carry out the purposes of this part; and

(2) guarantee private lenders against loss of principal or interest on loans to enterprises meeting the requirements of section 2521.

TITLE VI—THREATENED WITH DISLOCATION AUTHORIZATION

SEC. 2601. The Secretary is authorized to furnish assistance in accordance with the provisions of this title to an establishment or business concern which meets the requirements of section 2602. Assistance under this title includes—

(1) interim technical or financial assistance under section 2605;

(2) technical assistance under section 2607;

(3) financial assistance under section 2608; and

(4) retraining under section 2610.

ELIGIBILITY AND QUALIFICATIONS

SEC. 2602. Except as provided in section 2605, an establishment or business concern may receive assistance under this title if the Secretary finds that (1) such establishment or business concern is planning to close an establishment or transfer operations, and (2) that—

(A) such closing or transfer of operations will result in a substantial employment loss;

(B) such closing or transfer of operations is justifiable on economic grounds;

(C) assistance under this title will, with reasonable certainty, obviate the necessity for the proposed closing or transfer of operations and enable the establishment or business concern to operate the establishment on an improved economic basis within a reasonable period of time;

(D) the establishment or business concern will make all reasonable efforts to use its own resources for economic adjustment, and such resources are inadequate in the absence of assistance under this title.

PETITIONS

SEC. 2603. A petition by an establishment or business concern for assistance under this title may be filed with the Secretary by the establishment or by the business concern which owns or controls the establishment. Any such petition shall contain an economic adjustment assistance proposal setting forth, in such detail as the Secretary may by regulation require, the proposed applications of, and projected effects of, assistance under this title.

DETERMINATION OF THE SECRETARY

SEC. 2604. (a) Upon the filing of a petition under section 2603, the Secretary shall determine and certify whether the establishment or business concern is qualified for assistance under this title.

(b) Determinations and certifications by the Secretary under subsection (a) shall be made as soon as possible after the date on which a petition is filed but in any event not later than 60 days after such date.

(c) Any certification made pursuant to this section shall remain in force only for such period as the Secretary may prescribe.

INTERIM ASSISTANCE

SEC. 2605. In order to assist an enterprise or business concern which requires such assistance in petitioning for economic adjustment assistance, the Secretary may furnish technical assistance to such firm prior to its certification.

USE OF EXISTING AGENCIES AND PROGRAMS

SEC. 2606. (a) Insofar as possible, the Secretary shall provide assistance under this title through existing programs established by law. To the extent that a certified proposal for economic adjustment cannot be carried out through any existing program, the Secretary is authorized to furnish technical assistance under section 2607 and financial assistance under section 2608 to such concern.

(b) The Secretary is authorized to cooperate with State and local governments in furnishing technical and financial assistance under this title and, in connection therewith, to furnish technical assistance to such State and local governments.

TECHNICAL ASSISTANCE

SEC. 2607. (a) The Secretary may provide, on such terms and conditions as he determines to be appropriate, such technical assistance as in his judgment will materially contribute to the economic adjustment of the establishment or business concern.

(b) Technical assistance under subsection (a) may include assistance, by means of grants or otherwise, for research and development in connection with projects which will create new employment opportunities, including the development of new production or marketing techniques.

FINANCIAL ASSISTANCE

SEC. 2608. (a) Subject to the provisions of this section and section 2609 the Secretary may provide, on such terms and conditions as he determines to be appropriate, such financial assistance in the form of guarantees of loans, loans, or interest subsidies, as in his judgment will materially contribute to the economic adjustment of the establishment or business concern. The assumption of an outstanding indebtedness of the business concerns, with or without recourse, shall be considered to be the making of a loan for purposes of this section.

(b) A guarantee or loan shall be made by the Secretary only if he determines that the interest rate of the loan is reasonable.

(c) No financial assistance shall be provided under this section unless the Secretary determines that such assistance is not otherwise available to the establishment from related or affiliated establishments or business concerns, or from private lenders, or any other sources other than the United States Government, and that there is reasonable assurance of repayment by the borrower.

(d) The Secretary shall maintain operating reserves with respect to anticipated claims under guarantees and under agreements for deferred participation made under this section and part C of title V. Such reserves shall be considered to constitute obligations for purposes of section 1311 of the Supplemental Appropriation Act, 1955 (31 U.S.C. 200).

RETRAINING

SEC. 2609. The Secretary is authorized, under the authority conferred in part D of title IV, to develop and carry out, in cooperation with interested management and employee representatives, a retraining program for employees who will be required to acquire new or additional skills as a result of the economic adjustment assistance proposal.

TITLE VII—WITHDRAWAL OF CERTAIN BENEFITS ON ACCOUNT OF UNJUSTIFIED RELOCATIONS, AND MISCELLANEOUS PROVISIONS

WITHDRAWAL OF BENEFITS

SEC. 2701. (a) Whenever the Secretary determines, after an investigation conducted under title III of this Act that—

(1) the closing or transfer of operations of an establishment or a business concern was not justified; or

(2) if such closing or transfer of operations was justified, the transfer or closing could have been avoided if the business concern had accepted assistance under this Act; or

(3) the eligible employment loss of employees of the business concern could have been avoided except for the failure of the business concern to file a notice of intent to close or transfer an operation of an establishment as required under title III or because of some other unreasonable delay, bad faith or misrepresentation on the part of the business concern; or

(4) the transfer of operations of an establishment or a business concern is to a new location outside the United States while other economically justifiable alternatives to such transfer of operations exist, then such business concern shall be ineligible for the following benefits under the Internal Revenue Code of 1954, for a period not to exceed 10 years from the beginning of the second calendar year prior to such transfer of operations with respect to the establishment from which such operations have been transferred and the establishment or establishments to which such operations have been transferred: the investment credit under section 38 of the Internal Revenue Code, the accelerated depreciation range under section 167(m) of the Internal Revenue Code, the foreign tax credit under section 903 of the Internal Revenue Code and deferral of tax on income earned outside the United States under section 911 of the Internal Revenue Code, and deductions for ordinary and necessary expenses under section 162 of the Code to the extent such expenses are related to the transfer of operations.

(b) The benefits of paragraphs (4), (5), and (6) of section 103(c) of the Internal Revenue Code (relating to industrial development bonds) shall not be applicable in any case in which the Secretary has made a determination pursuant to subsection (a).

EMPLOYEE TRANSFER

SEC. 2702. (a) Pursuant to criteria established by the Secretary, each business concern to which this Act applies shall to the extent practicable offer to employees suffering an eligible employment loss suitable employment to the extent that such employment is available at other establishments of such business concerns. This section shall in no way supersede the terms of any collective bargaining agreement.

AGREEMENTS WITH STATES

SEC. 2703. (a) The Secretary is authorized on behalf of the United States to enter into an agreement with any State, or with any State agency. Under such an agreement, the State agency (1) as agent of the United States, will receive applications for, and will provide, assistance under titles IV, V, and VI, and (2) will otherwise cooperate with the Secretary and with other State and Federal agencies in providing assistance under such titles.

ADMINISTRATION OF FINANCIAL ASSISTANCE

SEC. 2704. (a) In making and administering guarantees and loans under section 2608 or under part C of title V, the Secretary may—

(1) require security for any such guarantee or loan, and enforce, waive, or subordinate such security;

(2) assign or sell at public or private sale, or otherwise dispose of, upon such terms and conditions and for such consideration as he shall determine to be reasonable, any evidence of debt, contract, claim, personal property, or security assigned to or held by him in connection with such guarantees or loans, and collect, compromise, and obtain deficiency judgments with respect to all obligations assigned to or held by him in connection with such guarantees or loans until such time as such obligations may be referred to the Attorney General for suit or collection;

(3) renovate, improve, modernize, complete, insure, rent, sell, or otherwise deal with, upon such terms and conditions and for such consideration as he shall determine to be reasonable any real or personal property conveyed to or otherwise acquired by him in connection with such guarantees or loans;

(4) acquire, hold, transfer, release, or convey any real or personal property or any interest therein whenever deemed necessary or appropriate, and execute all legal documents for such purposes; and

(5) exercise all such other powers and take all such other acts as may be necessary or incidental to the carrying out of functions pursuant to section 2608.

(b) Any mortgage acquired as security under subsection (a) shall be recorded under applicable State law.

RECOVERY OF OVERPAYMENTS

SEC. 2705. (a) If a State agency or the Secretary, or a court of competent jurisdiction finds that any person—

(1) has made, or has caused to be made by another, a false statement or representation of a material fact knowing it to be false, or has knowingly failed or caused another to fail to disclose a material fact; and

(2) as a result of such action has received any payment of assistance under this Act to which he was not entitled, such person shall be liable to repay such amount to the State agency or the Secretary, as the case may be,

or the State agency or the Secretary may recover such amount by deductions from any payment payable to such person under this Act. Any such finding by a State agency or the Secretary may be made only after an opportunity for a fair hearing.

(b) Any amount repaid to a State agency under this section shall be deposited into the fund from which payment was made. Any amount repaid to the Secretary under this section shall be returned to the Treasury and credited to the current applicable appropriation, fund, or account from which payment was made.

PENALTIES

SEC. 2706. Whoever makes a false statement of a material fact knowing it to be false, or knowingly fails to disclose a material fact, for the purpose of obtaining or increasing for himself or for any other person any payment or assistance authorized to be furnished under this Act or pursuant to an agreement under section 2703 shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

AUTHORIZATION OF APPROPRIATIONS

SEC. 2707. There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out the provisions of this Act. Sums appropriated pursuant to this section shall remain available until expended."

DUE PROCESS FOR STATE DEPARTMENT EMPLOYEES

Mr. BAYH. Mr. President, a Federal district judge here in Washington has issued a historic ruling on the constitutional guarantee of due process.

Judge Gerhard A. Gesell, in the case of Lindsay against Kissinger, ruled that the Department of State's "selection-out" process violates the basic guarantee of due process to which all Americans are entitled. The suit was filed last June by two Foreign Service officers, Mr. Philip Lindsay and Mr. Temple Cole. Subsequently it was amended to include two U.S. Information Agency employees who were being selected out, and then was designated a class action on behalf of all Foreign Service officers facing the same involuntary retirement.

The plaintiffs stated, and Judge Gesell agreed, that the issue was not at all whether an agency of Government had a right to dismiss unwanted or unneeded employees. The issue, rather, was whether the agency—in this case the Department of State—could dismiss employees without any hearing or right of appeal or even access to the facts on which the decision was based.

Put another way, those who brought this suit asked not that they be immune from dismissal but only that they be told the reason for their dismissal and given an opportunity to rebut the allegations made against them. That does not seem to me, Mr. President, nor did it seem to Judge Gesell, to be asking a great deal on behalf of men and women who, in many instances, have given their entire adult lives to the Foreign Service.

The correctness of Judge Gesell's ruling is attested to not only by considerations of abstract justice or the implicit meaning of the due process clause but by the State Department's own abysmal record in employee dealings. As only one instance of palpable and tragic injustice, Senators will recall the case of the late Charles W. Thomas, who was denied a well-merited promotion and then selected out because a highly favorable job-rating on him had been mistakenly put into another man's file. What made this instance so particularly shocking was that, even after the mistake was discovered, the Department refused to grant Mr. Thomas a hearing. And after 2 years of lonely, unavailing efforts to win just the chance for reconsideration, in April 1971 Charles Thomas committed suicide.

That appalling tragedy shocked many of us into an awareness of the kinds of injustice that were being perpetrated on employees by the State Department in its haughty isolation. Alone of all agencies of the Federal Government, State had not—and has not—a detailed, reliable system of grievance procedures through which an injured employee might appeal for redress.

Accordingly, Mr. President, Senator John Sherman Cooper and I drafted legislation to institute a Foreign Service grievance procedure. Incorporated into the State Department Authorization Act of 1972 by the Foreign Relations Committee, it was adopted by the Senate but was lost in conference with the other body. Thereupon the committee reported it out as a separate bill and it passed the Senate in June of the same year by a better than 2-to-1 margin. The House, however, failed to take action on it before the end of the 92d Congress because of a request by Congressman WAYNE HAYS that he be allowed to hold full hearings on the issue.

Those hearings were completed earlier this year. But when, however, it began to appear that Mr. HAYS was unwilling to let the bill be considered by the House, I offered it as an amendment to this year's State Department Authorization Act. And once again the Senate adopted it by a better than 2-to-1 margin. And once again it was lost in conference owing to the obdurate hostility of the gentleman from Ohio.

We have here, then, a clear record of Senate recognition of and support for the kind of desperately needed reform in State Department grievance procedures that led to Judge Gesell's landmark decision in this one area of selecting out. It is my profound hope that the constitutional issue he so lucidly delineated in his memorandum opinion will at last persuade our colleagues in the other body of the need to end, legislatively, 27 years of State Department evasion and bad faith in the matter.

Mr. President, I ask unanimous consent that the text of Judge Gesell's memorandum opinion and order be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[U.S. District Court for the District of Columbia, Civil Action No. 1312–73]

PHILIP LINDSAY, ET AL., PLAINTIFFS, *v.* HENRY A. KISSINGER, ET AL., DEFENDANTS

ORDER

It appearing to the Court that plaintiffs, as a class, are entitled to a declaratory judgment and an injunction for reasons stated in the Court's Memorandum Opinion filed this date,

Now therefore the Court declares: That defendants' regulations and procedures now in force governing the selection out for inadequate performance of officers appointed in the Foreign Service or the United States Information Agency are constitutionally defective in that they deny all officers in the class here certified an adequate hearing comporting with the requirements of due process under the Fifth Amendment, and

It is accordingly ordered: That no officer appointed to the Foreign Service or the United States Information Agency, including the named plaintiffs, who has been notified that he is to be separated from either of such servicсs in 1973 by reason of the selection out regulations and procedures in force in such agencies shall be separated from either of such services unless and until a hearing before the Special Review Panel or Retirement Board is held, on adequate notice, and the officer facing separation has been afforded a right to appear before such Panel or Board in person at Government expense to be represented by an attorney if retained by such officer, to present relevant and material factual information through witnesses willing to appear in person or by affidavit on his behalf, and such officer has been afforded reasonable opportunity at such hearing to confront in person or by written interrogatories any person then employed by the Department of State who has submitted adverse information not previously considered in a grievance hearing where such information is relied on by the Selection Board in rating such officer; provided, however, that no hearing shall be required unless the officer shall request such a hearing, in writing, within two weeks from the date of this Order, and it is further

Ordered that judgment shall be entered in favor of the defendants with respect to all other issues raised in this proceeding; provided, however, that nothing herein shall affect the right of plaintiff Cole to challenge, by a separate action, his classification following the decision to retain him in the Foreign Service.

GERHARD A. GESELL,
U.S. District Judge.

DECEMBER 12, 1973.

[U.S. District Court for the District of Columbia, Civil Action No. 1312–73]

PHILIP LINDSAY, ET AL., PLAINTIFFS, *v.* HENRY A. KISSINGER, ET AL., DEFENDANTS

MEMORANDUM OPINION

When officers appointed to the Foreign Service or to the United States Information Agency are found to have failed to meet minimum standards of performance they may be involuntarily retired for the good of the Service pursuant to the Foreign Service Act of 1946. Plaintiffs in this class action sue on behalf of approximately ten such officers still scheduled to be so "selected out" at the end of this year. It is claimed that the procedures and regulations of the Department of State under which such officers are chosen for separation are unduly vague and violate due process. This constitutional claim comes before the Court on the merits following extensive pretrial proceedings.[1] The controlling facts are not disputed and the decision hinges on essentially legal considerations.

The principal claim advanced centers around plaintiffs' contention that officers facing separation under the selection out procedures are denied adequate notice and adequate opportunity to be heard in that they do not always receive adequate notice and may not call favorable witnesses, confront adverse witnesses or employ counsel.

Defendants have consented to the certification of plaintiffs' class for the purpose of challenging the current selection out regula-

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Footnotes at end of article.

tions. Since the Court finds that plaintiffs can adequately represent the suggested class in an action for injunctive relief and that the other requirements of Rule 23(b)(2) of the Federal Rules of Civil Procedure are satisfied, certification will be granted.

Congress, by appropriate legislation, determined some time ago that officers, once appointed, should not have permanent tenure but rather should be competitively ranked to the end that those officers failing to maintain minimum standards might be weeded out to promote the overall efficiency of the services in which they serve. Selection out procedures responsive to this legislation have been in effect for more than twenty years and have been constantly refined and improved. There is every indication that the Department has been sensitive to its obligations and has sought to proceed with care. The plaintiffs do not object to a selection out system as such, but they vigorously assert that it is administered unfairly because an officer facing separation is denied those rights to adequate notice and hearing that are guaranteed by the United States Constitution and are essential to a fair and equitable determination of his ultimate status.

A brief review of the selection out procedures currently followed in the Foreign Service will delineate the setting in which these claims are asserted. These procedures are set forth in written precepts widely publicized throughout the Service and are virtually identical to those followed for officers appointed to the United States Information Agency (USIA).[1a]

A Selection Board appointed each year annually reviews the performance of all Foreign Service Officers and ranks them. This is done to identify officers in the very bottom percentile of their classes and hence likely to be separated, as well as those in the top ranks of their grades to be considered eligible for promotion. These rankings are made on the basis of each officer's personnel file, which contains detailed periodic appraisals of his work by superiors. The Selection Board is specifically directed to designate for selection out those officers who fall within a specified low percentile in the rankings. The critical percentile varies from year-to-year, but is never greater than ten percent.

Those officers so designated are advised in writing that they are subject to forced "involuntary retirement" before the calendar year ends. This notice includes a statement of the deficiencies in performance relied on by the Selection Board as the basis for its decision. The notices vary somewhat in form and content, some being more factual and some more impressionistic than others.

An officer has complete access to his personnel file that was before the Selection Board. If he wishes to protest the decision, he may appear before a Special Review Panel, composed of a wholly different membership than the Selection Board, and offer mitigating information, including explanations and contravention of the facts specified in the selection out notice. The Special Review Panel may then recommend for or against selection out.[2]

Plaintiffs' constitutional challenge to the adequacy of this procedure revolves around four main contentions:

(1) The officer may not see all materials relating to his case that were considered by the Selection Board.

(2) The Selection Board's statement of reasons, as provided with the selection out notice, is too general and hence uninformative.

(3) The Selection Board's determination is made without adequate standards, complicating the officer's attempt to perform his job in compliance with such standards.

(4) The Special Review Panel does not allow supporting or adverse witnesses to be called and prohibits appearance of counsel.

Before discussing these objections in the light of the applicable decisions, it is pertinent to emphasize aspects of the selection out process bearing on the nature of the personnel judgments that must be exercised and the effects of the judgments made on the officers affected.

The Department has made a substantial effort to make known the qualities it desires in officers of different grades. General as these indications must be, considering the difficulty of expressing professional attributes, they are precise and clear. In short, a Foreign Service Officer well knows what is expected of him. Periodic evaluations of an officer's performance are made against these requirements. Superiors record with some considerable candor an officer's strengths and his observed deficiencies at a particular post. An officer may see the evaluation as soon as it is filed, and he may file a grievance with full rights of hearing whenever he believes an injustice has occurred. It is a fair inference from the materials in the record that although a conscientious effort is undoubtedly made to assure uniform and fair evaluations, an officer's evaluation may reflect his inability to function under an assignment inconsistent with his experience and training, or personality conflicts with an unreasonable superior, or the evaluating officer's own lack of experience and understanding of an officer's responsibilities, etc. Moreover, in the nature of things, an officer has no way of knowing or comparing his periodic performance evaluations with that of colleagues in his class functioning under different assignments, at different locations under different supervisors. The Selection Board considers evaluations over a period of years, thus minimizing these differences, but in the nature of things, all unevenness cannot be eliminated and performance ratings are uneven. Thus, an officer may not fully realize his actual circumstances until he receives his notice of selection out from the Selection Board nor can he always know with any certainty what adverse or negative aspects in his many evaluations will be singled out to support the unfavorable ranking decision then made.

Yet to be ranked for selection out is no light matter. It threatens an involuntary separation. It carries a stigma and, to use the words of Justice Frankfurter, causes a "grievous loss" to the officer's professional standing. *Joint Anti-Facist Refugee Com.* v. *McGrath*, 341 U.S. 123, 168 (1951). It is impossible to accept the Department's suggestion that it will not seriously impede transfer to civilian life.

Given these considerations, the Court is compelled to the conclusion that the limited hearing afforded before the Special Review Panel is constitutionally defective in a number of significant respects.

The Federal Courts have sought to avoid becoming involved in governmental personnel actions. The cases have placed primary emphasis upon the process by which personnel decisions are made rather than the result. Experience has shown that the greatest protection against mistake or arbitrary action is found in a hearing process that involves notice, the right to be heard and some form of confrontation with accusers. Such hearings involve time and inconvenience for busy administrators but they have come to be recognized as a constitutional necessity under circumstances such as these presented here.

It would be inappropriate for the Court to order a series of detailed rules for conduct of hearings before the Foreign Service Special Review Panel and the USIA Retirement Board. Rather, the Court will simply undertake to state certain minimum safeguards which the record indicates are essential under the circumstances of this case. It is clear that an officer is entitled to more than a general conclusory form of notice—he must, in addition, be advised of the facts on which the Selection Board's notice is based and he must, before the hearing, have full access to all materials concerning him that were considered by that Board. While no subpoena power is available, he should be given opportunity to present favorable witnesses willing to appear in person or by affidavit. He must be allowed to interrogate adverse witnesses in person or by written interrogatories approved by the Selection Board. If he can retain counsel at his own expense, such counsel must be permitted to represent him at the review hearing. Experience will dictate methods for developing a fair hearing consistent with these rights without turning the process into an unduly formal adversary trial. The Board may, of course, impose strict rules of relevance and materiality and, obviously, any fact that has been the subject of a formal grievance hearing need not be reheard.

The State Department has offered no adequate justification for denying any of these procedural safeguards.[3] It has pointed to the availability of grievance procedures, but the selection out decision itself cannot be grieved, nor are these procedures guaranteed unless a grievance is filed promptly after the submission of a particular performance report. It is also urged that adverse witnesses cannot be called back from overseas duty without disruption of the Service. But not all such witnesses will be stationed abroad at the time of the hearing, and those that are can be required to answer interrogatories. No explanation is offered for the exclusion of counsel and supporting witnesses who are willing and able to appear. The fact of the matter appears to be that the Department is so confident in its own administrative judgments that it wants to discourage any true confrontation on the selection out issue, for it will not even pay an officer's passage back to Washington if he asks for an appearance before the Special Review Panel.[4]

This minimization for forced separation is impermissible, given the standards the Supreme Court has established for discharge from government service.[5] *See Bd. of Regents* v. *Roth*, 408 U.S. 564, 576–77 (1962); *Slochower* v. *Bd. of Education*, 350 U.S. 551 (1956); *Wieman* v. *Updegraff*, 344 U.S. 183, 192 (1952). *Cf. Goldberg* v. *Kelly*, 397 U.S. 254 (1970). Of course, a full adversary hearing is not required if the circumstances of the particular case dictate otherwise, for the Court must determine the appropriate procedural safeguards by balancing inconvenience, expense and proper government objectives against the rights of the individuals affected. *Morrissey* v. *Brewer*, 408 U.S. 471, 481 (1972); *Hannah* v. *Larche*, 363 U.S. 420, 442 (1960). But in the instant case, as discussed above, the Department has failed to offer any substantial reason for refusing to provide the procedures sought by plaintiffs. Given the seriousness of the selection out sanction, the relatively few individuals involved, and the imperfect, somewhat impressionistic data on which the Selection Boards must rely, the objective of the Department in eliminating marginal officers will not be unduly impeded by providing a more adequate hearing. This will assure the essential fairness which the Constitution requires and will perhaps, in the long run, result in better informal judgments in particular cases. At the same time, the laudable and necessary procedure for weeding out marginal officers in the interests of efficient and effective competitive foreign service agencies will be preserved as Congress wisely desired.

On the other hand, the Court finds no ground for plaintiffs' effort to require a greater specificity of standards for determining who will be selected out. These have already been adequately defined. The matter cannot be reduced further to a mathematical precision. Professional competence is not susceptible to such treatment. Moreover, there is nothing in the Foreign Service

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Footnotes at end of article.

Act of 1946 or the Constitution which prevents budgetary considerations from affecting the particular selection out percentiles. Full and fair hearing is all that is required.

As to the individual cases of Lindsay, Starbuck and Foo, the file is voluminous. Each of these officers has been contesting separation out for some time. As a result of discovery in this case, new materials have been made availble to each of them and they, in turn, tendered responses bearing on the data disclosed. At no time has any of them yet had a hearing of the nature the Court has indicated above should be afforded before separation. Accordingly, none of them can be legally separated without another hearing. There is no ground for repeating submissions already made by the officers, but they should be afforded a final hearing before disposition of their cases to cover new data and to present witnesses, where appropriate. This can be accomplished rapidly. If a final administrative determination is made to separate any of them, no further remedy will be afforded them in this proceeding, which will terminate as to their claims by remand for appropriate hearings.

The foregoing shall constitute the Court's findings of fact and conclusions of law, which are set forth formally in the attached Order.

GERHARD A. GESELL,
U.S. District Judge.

December 12, 1973.

FOOTNOTES

[1] Plaintiffs moved for a preliminary injunction. Defendants countered with a motion to dismiss and for partial summary judgment. Essential documents, many of them voluminous, were admitted and the parties filed extensive affidavits and memoranda of law. Following several status conferences, the Court suggested at a full hearing on the motions that Rule 65(a) of the Federal Rules of Civil Procedure appeared to warrant a joint submission on the merits by both parties without further testimony or hearing. The parties shortly thereafter filed additional materials and advised on the record that neither side desired to submit further proofs. Thus the case was finally submitted on December 10, 1973. The Department of State has agreed to defer separation of any member of the class until December 31, 1973, on the Court's assurance that the issue will be resolved by the Court before that date.

[1a] Although Congress has provided that "Foreign Service Information Officers shall be separated and retired in accordance with [the Foreign Service Act of 1946]," 22 U.S.C. § 1228 (1970), the implementing regulations of the two agencies reveal minor differences in their selection out procedures. *See, e.g.*, notes 2 and 4 *infra*.

[2] In the USIA, this review procedure is performed by that agency's Retirement Board.

[3] Instead, it has consistently maintained that it is not constitutionally required to offer plaintiffs *any* form of hearing, citing Bd. of Regents v. Roth, 408 U.S. 564 (1972). This reliance on *Roth* is misplaced, for nonprobationary Foreign Service and USIA officers have a clear expectation of continued employment absent an official finding of inadequate performance, and would, in addition be significantly harmed by the stigma of involuntary retirement. *Compare Roth* at 573, 578.

[4] Such compensation is, however, offered to USIA officers desiring to appear before the Retirement Board. No explanation whatever is given for this distinction.

[5] This conclusion is strongly supported by a decision of the United States Court of Appeals for the District of Columbia Circuit, released shortly after the preparation of this Memorandum Opinion, in which that Court stressed the importance of an adequate hearing prior to separation from Government service. Thompson v. Washington, No. 71-2049 (D.C. Cir. Dec. 10, 1973).

AN APPEAL TO THE SENATE CONFEREES ON THE DEPARTMENT OF DEFENSE APPROPRIATIONS

Mr. HUMPHREY. Mr. President, yesterday the Senate passed H.R. 11575, a $73.2 billion appropriation for the Department of Defense for fiscal 1974.

During the Senate's consideration of the Defense Procurement Authorization Act the distinguished chairman of the Appropriations Committee, Mr. MCCLELLAN, gave me his personal assurance that his committee would cut at least $3 billion from the appropriation.

Chairman MCCLELLAN did, indeed, keep his promise and the Appropriations Committee reported a bill to the Senate which was $865 million under the sum approved by the other body and nearly $4 billion under the President's original request.

In the debate yesterday I abstained from offering a ceiling amendment to obtain further reductions in this appropriation because I was generally satisfied with the reduction efforts made by the committee. Although I felt that a greater amount could have been safely cut from the bill without endangering our national security, I recognized that the committee had done a satisfactory job in this regard.

However, I want to raise a note of caution. After consideration of the Defense Procurement Authorization Act, members of the Armed Services Committee from both bodies went to conference on the legislation. The Senate had passed a bill with funding at $20.9 billion. The House passed bill had a ceiling of $20.4 billion. The conferees then agreed on a "compromise" which raised the total funding level in the legislation to $21.3 billion.

Mr. President, I firmly believe that this so-called compromise of several weeks ago on the procurement authorization bill essentially violated the wishes of both bodies.

It will be extremely unfortunate if once again this experience is repeated in conference on the Appropriation bill for the Department of Defense.

In addition to the $73.2 billion appropriation measure approved yesterday, the Senate will soon be faced by two additional supplemental appropriations—a $2.5 billion pay supplemental and a $3 billion "readiness supplemental." Thus, an additional $5.5 billion could be added shortly to the total to be appropriated by the Congress for the Department of Defense for fiscal 1974. It is my fervent hope that the Senate members of the appropriations conference committee will not repeat the performance of the members of the Armed Services conferees and "compromise" on a spending level which will completely wipe out the savings made through the very hard work done by the chairman and members of the Senate Appropriations Committee.

I see no reason that Members of Congress should invoke "fiscal responsibility" when we consider vital domestic programs and completely forget this credo when Department of Defense authorizations and appropriations are in question.

The Congress is on a collision course with not only our own budget ceiling, but even the administration's revised ceiling of $270 billion. Thus far, we have exceeded 1974 budget requests by $3.6 billion, and several major requests are still pending. The Department of Defense revised request for funding in this bill alone—$77.25 billion—constituted 59 percent of all appropriations controllable by Congress.

From the original budget ceiling of $268.7 billion, only $75.2 billion is classified as controllable in the short run. Seventy percent of this $75 billion is national defense money. The 30 percent spent on civilian programs is composed of such items as Public Law 480, child nutrition programs, Corps of Engineers, elementary and secondary education programs, health services delivery, manpower programs, FAA operations, IRS operations, NASA, Veterans medical benefits, and highway trust fund outlays.

When we consider budget priorities, we must take into account other military spending requirements as well. Because military requests come to us in several parcels, we should guard against the impression that the present bill represents the entire military budget. This bill is only one of six military appropriations measures. We have already enacted a $2.7 billion military construction appropriation (H.R. 11459) and a $1.2 billion appropriation (H.R. 8947/Public Law 93-97) to the Atomic Energy Commission for nuclear weapons. As I noted earlier, the Department of Defense will request a $2.5 billion pay supplemental. Since these pay increases are being disbursed at the present time, the supplemental pay request should have been part of the bill now before us.

We have been informed that we must add about $3 billion to the military budget this year to meet supposed deficiencies in our military readiness demonstrated by the Middle East war. This "readiness supplemental" would be used largely to buy additional transport planes and increase stockpiles of sophisticated missiles. When this supplemental is brought to the Senate floor, we will be faced with considering a further increase in our military capability. The need for such a supplemental would indicate that the Pentagon planners in designing the request passed yesterday have not correctly judged our present military priorities.

I expected that the military budget requested for this fiscal year would have been less than the amount Congress granted last year. Our withdrawal from Vietnam hostilities has relieved the burden of approximately $25 billion we were spending annually in that tragic conflict. Our relations with the Soviet Union and the People's Republic of China have improved significantly in recent years. We have entered into an agreement with the Soviets to limit defensive and offensive weapons, and we are now negotiating with them to achieve more significant control of arms. We are participating in negotiations to withdraw forces from central Europe. Our active duty forces have been reduced. Despite all of these hopeful signs, the total military budget was increased to a level higher than any military budget during the Vietnam war. This is the first time that military spending would increase after a war.

It is apparent to me that several billions sought in military appropriations this year will be squandered on wasteful and redundant activities that do nothing to improve our security. The most flagrant abuses are well known and have been recited many times since the budget request was submitted early this year. Despite the recent Middle East war and any implications it holds for U.S. posture or preparedness, these criticisms are still valid.

EXCESS CIVILIANS

President Nixon stated a year ago that the DOD civilian work force needed a "thinning down." But this has not happened. There are now 1,000,000 civilians employed by the Department of Defense, nearly one for every two people in uniform. The DOD currently has roughly as many civilians as the combined rolls of the Departments of Agriculture, Treasury, Health, Education, and Welfare and the Postal Service. The administration has portrayed HEW as a bloated bureaucracy, yet DOD has eight times as many civilians. At an average cost of $13,500 per bureaucrat per year, a modest force reduction could yield substantial budgetary savings.

EXCESS HIGH RANKING OFFICERS

There are now more field grade and flag officers—lieutenant colonel or commander and above—for a force of 2.2 million than there were in 1945 when the military numbered 12.1 million.

A major budget cut could be achieved if the grade distribution were to be restored to the pattern of fiscal 1964—the last "peacetime year."

EXCESS SUPPORT FORCES

The efficiency of our armed forces can be increased by improving the ratio of support to combat troops. This all important "tail to teeth" ratio has doubled since 1945. It has now reached the point where nearly 85 percent of all military personnel serve in a support capacity, rather than a combat capacity. This does not connote a lean and mean force structure. Major efforts should be undertaken to reduce manpower costs by utilizing a lower support-combat troop ratio.

Cuts in combat troop levels resulting from the Vietnam withdrawals have not been carried out proportionately among support personnel. It is time to strike a better balance.

COST OVERRUNS

The General Accounting Office has reported that 45 major weapons systems have experienced cost overruns totaling $33 billion, an increase of 42 percent over original estimates. By comparison, the Labor-HEW bill amounts to only $32.9 billion.

OVERSEAS COMMITMENTS

The U.S. military role planned for Asia simply does not conform to reality. Since the termination of the U.S. combat role in Indochina on August 15, 1973, only token troop withdrawals have been announced. The significant improvement in our relations with the People's Republic of China has not been reflected in a change in U.S. forces assigned to Asian combat contingencies.

There are now about 200,000 military personnel stationed in Asia. I believe that at least 100,000 U.S. troops can be returned and deactivated with no harm either to our national security or our important interests in the area.

REDUNDANCY IN WEAPONS

Expensive and complicated new weapons are being brought into the inventory as premature replacements or as an unwarranted duplication of present systems or as far too expensive replacement systems. In many instances present systems can be improved at far less cost.

The Trident nuclear submarine is the most expensive system yet proposed to Congress. DOD estimates that the cost will be about $1.3 billion to develop and produce each Trident submarine. The Pentagon is still building nuclear aircraft carriers at $1 billion each which are very vulnerable to attack. The F–14 Navy fighter plane has become so expensive that at $25 million per copy it costs as much per ounce as pure gold.

Rather than discuss prudent military expenditures appropriate for the present day realities of national defense, the Department of Defense attempts to justify its budget in terms of percentage share of gross national product or total Federal spending. I have yet to perceive any causal connection between GNP and the needs for national security. If we accept the Pentagon's logic, we in the Congress ought to be able to determine the appropriate military budget to meet our security needs each year simply by consulting with the Department of Commerce to ascertain the forecasted GNP. If the Pentagon cannot justify its request strictly on the merits of military need, then the criticisms of waste and redundancy must have validity.

America is the No. 1 military power in the world. But we sometimes forget that military power alone cannot make our country strong or secure. The best argument for reducing the military budget in a sensible way is that these resources are needed to provide for the other true security needs of our country—to cure the sick, to house the homeless, to educate the young, to employ the jobless, to protect the environment, and to improve our lives in a hundred other ways.

But this administration has slashed or terminated many vital domestic programs. Funds have been impounded, important bills have been vetoed, and chaos reigns in many of the Federal agencies. On the other hand, the military budget is spiraling ever upward in peace as well as in war. These are not the peacetime priorities we have long expected.

Mr. President, Congress must be the final arbiter of national priorities. If we are going to play this role, the conference committee procedure which was established to insure the smooth and equitable operation of the Congress must reflect the priorities established by each body. Where there are differences there must be compromise. But the compromise must attempt to be equitable and reflect the actions of both bodies.

Although the rules of the Congress may allow a conference committee to raise the total amount of spending in a conference report above the amounts passed by each body, this is a clear violation of the coequal powers of each House.

It vitiates the principle of the legislative process in which the will of the majority should prevail.

I appeal to the Senate members of the conference committee which will soon meet on the H.R. 11575 to make every effort to maintain the cuts enacted by their distinguished committee. If there are to be compromises, let them be true compromises which reflect the will of both Houses of Congress that the regular appropriation for the Department of Defense be reduced substantially.

FUNDING FOR COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

Mr. CHILES. Mr. President, as a member of the Appropriations Committee and the Special Committee on Aging, I am very pleased that the supplemental appropriations bill, H.R. 11576, as passed by the Senate, include $40 million for the Older American Community Service Employment Act.

This program is designed to provide useful, part-time work opportunities for low-income persons who are 55 years of age and older. A major purpose is to build on and continue the work of the enormously successful Mainstream program which has already employed thousands of older Americans in community projects throughout the country.

Mainstream participants have proven themselves again and again in useful and needed public service work. In my own State of Florida, the Green Thumb pilot project of the Mainstream program has been a success not only for the participants but for the communities which have benefited from their beautification efforts. Parks and public grounds have never been so zealously tended as by the Green Thumbers.

The community service employment program is particularly needed now because inflation is eroding the limited purchasing power of retired people. In addition, the energy crisis is likely to increase unemployment markedly. Jobs for older people will become even harder to obtain as the labor market tightens.

The $40 million approved by the Senate for this program will provide 18,000 job opportunities for older Americans in social service agencies, hospitals, parks, and elsewhere. They include opportunities to work with the aged, children and people of all ages who need help—in jobs that provide not only income but self-esteem and a sense of accomplishment. And these part-time jobs are often avenues to full-time and better paying jobs as the participants learn new skills, acquire new self-confidence and become known to employers as the good workers they are.

Mr. President, I strongly urge the House conferees to accept the funding provision for the older Americans community service employment program. This measure was approved by the Senate as a part of H.R. 11576 by a vote of 90 to 0. This is a proven and essential program for thousands of older Americans and the communities which they will serve. And it deserves to be continued and expanded.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is now closed.

LEGAL SERVICES CORPORATION ACT

The PRESIDING OFFICER. The hour of 10:30 a.m. having arrived, under the previous order the Senate will proceed to the consideration of S. 2686, which the clerk will state by title.

The second assistant legislative clerk read as follows:

A bill (S. 2686) to amend the Economic Opportunity Act of 1964 to provide for the transfer of the Legal Services Program from the Office of Economic Opportunity to a Legal Services Corporation, and for other purposes.

The ACTING PRESIDENT pro tempore. The Chair will advise the Senate that the time for debate will be 1 hour, to be divided between and controlled by the Senator from North Carolina (Mr. HELMS) and the Senator from Wisconsin (Mr. NELSON).

Who yields time?

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. On whose time?

Mr. HELMS. Charged equally against both sides.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is ordered. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HELMS. Mr. President, as we consider the Legal Services Corporation issue now before us, I am deeply disturbed by the misrepresentation of the subject which has characterized most press reports of our deliberations, and I note, Mr. President, that only two members of the Fourth Estate are here this morning. How can those not here report intelligently and objectively, the opposing points of view on this legislation? The truth is, they cannot.

There has been talk of filibuster, but little talk of the fact that this bill has been little debated in the Senate, or that there have been no hearings, or that there has been no consideration of it by the Judiciary Committee.

There has been talk of filibuster, but who has done the compromising? Not Senator MONDALE, my distinguished friend. Not Senator JAVITS, who is not here this morning, also my distinguished friend. Nor Senator CRANSTON. No, sir. They have been uncompromising absolutely.

The bill some are hoping to ram through this body is full of loopholes, exceptions which negate rules, and statutory approval of the most questionable kind of activity. It is far weaker than the bill introduced by the administration last spring—it is far different from the bill passed by the House of Representatives on June 21.

Even our friends in the White House who favor its passage without debate admit it is a terrible bill, but say they hope to change it in conference. Why leave it to conference? Why do we not earn our pay in this Senate of the United States? Were we not elected to help establish national policy? If we're going to let White House staffers and Senate staffers solve our problems for us and just let us ratify their deals, we should go home now.

I have said several times on the floor that there is no urgency to pass this bill now. There are those who say the President should sign it before Christmas—but the law will be with us forever; and we should be sure we have a good bill. Legal services will continue at OEO.

There is no question about that. It is not a matter of providing legal services for the poor. The press that indicates otherwise knows better than that, and so do the Senators who are proposing this.

Legal services for the poor should be reformed, but it is in no jeopardy of discontinuation. If we shift it to the corporation intact, sanctioning and locking in all that has gone before, it will never be reformed.

Mr. President, my position is very simple. It is perfectly clear, to use the popular expression.

Let us clean up abuses in the program first, then consider a corporation. Let's have the Judiciary Committee take a look at it, then consider a corporation. Let us have time for us to look at it, then consider a corporation.

I would inquire, What do my colleagues find wrong with the Judiciary Committee? Why do others apparently not have the trust in the Judiciary Committee that the Senator from North Carolina has? Let there be time for us to look at it and then consider a worthy corporation, one that will do the job right.

Let us not simply defer to some future board of directors, however well qualified they may or may not be, the obligation to set policies which are a senatorial prerogative and a senatorial duty. Let us decide whether we want them launching massive busing suits. Let us decide whether we want them filing amicus curiae and every kind of briefs on every issue under the Sun. Let us decide whether they should be allowed to aid political groups like the National Lawyers Guild and the National Welfare Rights Organization.

That is the issue. That is the point that has been ignored in the media—and I remind this body that I come from the media. I talked to a distinguished member of the press just before I came into this Chamber and I mentioned the limited coverage, and he said he did not have space. Well, I may have used that excuse myself, Mr. President, but this is one of those times when the media ought to find some space, even if it means taking it away from the Watergate coverage, and explain this vital issue to the American people. Let us decide whether we want local grantees controlled by the ACLU and Common Cause, rather than by elected officials. Let us decide whether we want them to draft model abortion statutes or organize prisoners rights groups. Let us decide whether they should represent children without parental consent on issues like abortion and school discipline.

This is a very important bill. It is not a compromise—not a bit. It is not simply a legal services bill. It is a political action bill. But, unlike the public financing proposals, this one funds just one side—those committed to an ideological program.

Now, let me make one thing perfectly clear, again as the popular expression goes, Mr. President: We are not against legal aid to the poor—those of us who seek to have some sort of public hearings on this matter, who seek to have the Senate Judiciary Committee take a look at it. We are not against legal aid to the poor. And if I have to say it a thousand times to get that point across, I am perfectly willing to do so.

We are against public subsidy of groups and causes who are not accountable either to the Senate or to the executive branch or even to the Board of Directors of the Corporation.

There is no reason, Mr. President, why this bill must be passed today. There is great reason to prevent it.

I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. NELSON. Mr. President, I do not have anything to add to what has been said repetitiously here for the past week or to what has been said on the floor of the Senate on the many previous occasions the legal services concept has been considered.

However, since the distinguished Senator from North Carolina again repeats the charges that there have not been hearings this year, or that there has not been adequate discussion of this measure, I find it necessary to repeat what I have said previously as well. I would hope this time the Senator would look at it more closely and read the debates to which I refer, so that he might finally come to appreciate that the matters of concern to him have been continuously discussed, debated, and considered by this body in every congressional session since 1966.

The first legal services provisions were discussed and debated, and ultimately included in the Economic Opportunity Act amendments of 1966.

Then, the Economic Opportunity Act amendments of 1967 contained the legal services proposal, including the broad legislative mandate: . . . to further the cause of justice among persons living in poverty by mobilizing the assistance of lawyers and legal institutions. Those amendments were discussed and debated and dealt with by the appropriate House committee, by the House of Representatives, dealt with by the appropriate Senate committee, and by the U.S. Senate. The vagaries of such a broad, sweeping mandate were thoroughly considered, and Congress even added the requirement that legal representation be provided "in a way that assures maintenance of a lawyer-client relationship with the best standards of the legal profession."

Then again in 1969, in the Economic Opportunity Act Amendments, the matter was dealt with by the House of Representatives in the appropriate committee and was dealt with by the House of Representatives. It was dealt with by the United States committee of which I am a member, and it was dealt with on the floor of the Senate. Opportunity for further debate was provided, and further debate occurred.

Then, again—and all of this was prior to the arrival of the distinguished Senator from North Carolina in the Senate—in 1971, an independent legal services corporation was first proposed by the President's Commission on Executive Organization. And would the Chair believe it, we had hearings before the appropriate House committees. We had debate on the floor of the House. We had hearings in the appropriate committee of the Senate, the Labor and Public Welfare Committee. We had debate on the floor of the U.S. Senate. And then we passed an independent Legal Services Corporation Act which the President vetoed because of some specific provisions he was not satisfied with.

We went back again in 1972. Further discussions and markups and proposals occurred in the appropriate committee of the House of Representatives and in the House of Representatives itself. We then discussed and debated the matter in the Labor and Public Welfare Committee and on the floor of the U.S. Senate. By this time we thought we had solved everyone's problems, but we could not reach agreement on all points in conference, and the current provision remained in effect.

Finally, in 1973, we went through arduous extended negotiations with the administration. We did not have hearings because there was nothing much to have hearings about, unless someone wanted to waste the time of the Members of the Senate and the money of the people of this country. Indeed, the Members of this Senate, including the gentleman from North Carolina, were aware that the Committee on Labor and Public Welfare had jurisdiction over legal services for the poor—and yet we heard not one senatorial request for hearings, and not one administration request for hearings. We knew what all of the issues were. They had all been debated. Their details had all been discussed. A compromise with all principal participants had been reached. There were no more hearings to be had.

Very few pieces of legislation that come before the Congress have been discussed in such depth and debated before the appropriate committees and on the floor of the House of Representatives and on the floor of the U.S. Senate in such depth. Very few pieces of legislation that I have seen in my 11 years in the Senate have had the consideration that this compromise has had.

Despite what the Senator from North Carolina said, I want the record to be perfectly clear that this proposal has been amply debated and discussed on both sides of the House of Representatives and the Senate, with the administration, in the newspapers, by the bar association, and by people all over this country. How much more clear can we be? It is time that we vote on this compromise measure. If any Senators are concerned with provisions of this bill, let them in good faith offer amendments and we will vote. If they are unsatisfied, well, that is the nature of compromise. I know some liberal Senators who are also unsatisfied—but they are accepting this compromise to get a workable corporation enacted into law.

I have one more correction to make at this time. The distinguished Senator from North Carolina says that the administration "admits" this compromise is a bad bill. Let the Senator from North Carolina tell us who in the administration admits it is a bad bill.

I am told by the counsel to the President for domestic affairs, Melvin Laird, that it is a good bill, and I am told that we should get it passed in the Congress.

The President has asked for a Legal Services Corporation.

On every single major point the President and our committee are now in agreement. There are some minor points that we would like to see negotiated in the conference, points on which the Senate and House bills differ. However, there is not a single major point on which they differ.

Again I will put in the Record the letter written to me, signed by Melvin Laird, Counselor to the President for Domestic Affairs. Everyone in the Chamber has seen this letter and has heard it read before. However, there are some who still do not believe it.

The letter merely states that the administration wants this compromise bill passed by the U.S. Senate.

Mr. President, I ask unanimous consent to have this letter printed in the Record at this point.

There being no objection, the letter was ordered to be printed in the Record, as follows:

The White House,
Washington, D.C., October 4, 1973.

Hon. Gaylord Nelson,
U.S. Senate,
Washington, D.C.

Dear Gaylord: We are pleased that the Subcommittee on Employment, Poverty and Migratory Labor has completed action on legislation to create an independent National Legal Services Corporation.

While we differ with some of the specific provisions of the bill as reported, we believe it does include essential principles proposed in the Administration's bill such as independence and accountability of the Corporation, freedom of the attorney to represent his client, and maintenance of a vital program.

Therefore, we urge that final action be taken on the bill in this general form by the full Committee and by the Senate followed by an expeditious reconciliation of issues with the House passed bill so that the best possible measure may result and a National Legal Services Corporation may be implemented at the earliest opportunity.

Sincerely,
Melvin R. Laird,
Counselor to the President for Domestic Affairs.

Mr. NELSON. Mr. President, I hope that the Senator from North Carolina will read this letter again and will then stand up on the floor and tell us who in the administration thinks this compromise is a bad bill. Everyone I talked with in the administration agrees it is the best compromise obtainable.

And just 35 minutes ago the counselor to the President, Melvin Laird, called me and said: "I hope you have the votes to invoke cloture." That was 35 minutes ago, at around 10 am.. on Friday, December 14, 1973. How current is the Senator's information about administration opposition to this compromise? My information is just 35 minutes old.

I hope that the Senator will stand up and tell me who in the administration is saying behind the President's back that this is a bad compromise. Let us clarify the record here or let us not make such statements.

Mr. President, I do not have anything additional to add here. I would like to note that yesterday the distinguished Senator from Arizona (Mr. Goldwater) was once again complaining about voter registration activities and various activities that he says went on in the past and that he says continue to go on at present. Now, we have in the past shown those charges to be baseless. The OEO itself went to considerable effort to investigate them earlier this year.

But I want the record to be perfectly clear on this point, because even if a few abuses have occurred in the past, they have occurred under legislation that is not before the Senate on this occasion.

The law we are operating under today is a 1966 law. We passed legislation in 1971 and in 1972 that was increasingly clear on the questions raised by the Senator from Arizona. And we have included even stronger provisions in the 1973 compromise that meet, to the best of our competence, the problems he has raised about political activity.

I would say that each of the provisions of this compromise, involving political activities like voter registration or what have you, have been gone over very carefully by the Republicans and by the Democrats on the Labor and Public Welfare Committee. They were drafted, redrafted, and were discussed at great length among the 16 members of the committee.

Mr. President, I think that we and representatives of the administration have reached agreement on all of these provisions. And the agreement is without dissent. I remind the Senate that the bill that came out of the Labor and Public Welfare Committee came out pursuant to a bipartisan vote of 16 to 0. And that vote included the vote of every single member of the committee.

We have had agreement. We have had plenty of discussions. We ought to vote cloture and pass this bill and get it to the President so he can sign it, as he wishes to do.

Mr. President, how much time do I have remaining?

The **ACTING PRESIDENT** pro tempore. The Senator from Wisconsin has 18 minutes remaining.

Mr. HELMS. Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. The Senator from North Carolina has 22 minutes remaining.

Mr. HELMS. Mr. President, I would simply say to my distinguished colleague that I have made no charges; I have simply stated the facts, and he knows they are facts. He knows there have been no hearings this year on this bill. He knows it is new legislation. He knows that it was marked up in a closed session. He knows that short shrift was given to the Brock-Helms bill, which I submit, Mr. President, was a reasonable compromise, and certainly would provide——

Mr. NELSON. Mr. President, will the Senator yield on that one point?

Mr. HELMS. I did not interrupt the Senator while he was speaking, but I am glad to yield on his time.

Mr. NELSON. I understood the Senator to say short shrift was given to the Brock-Helms bill. Legal services has always been under the jurisdiction of the Committee on Labor and Public Welfare. The Brock-Helms bill was never before the Committee on Labor and Public Welfare.

Mr. HELMS. The Senator from North Carolina did not say it was.

Mr. NELSON. If the Brock-Helms bill was not given short shrift by the Committee on Labor and Public Welfare, who was it given short shrift by? By the Committee on the Judiciary?

Mr. HELMS. By Senator TUNNEY, who is my good friend.

Mr. NELSON. He is not the chairman of the Committee on the Judiciary. Senator EASTLAND is.

Mr. HELMS. He is chairman of the subcommittee, as the Senator well knows. Senator TUNNEY placed in the RECORD yesterday some comment relating to this matter, which is perfectly clear, in which he said he was not interested in the Brock-Helms bill. I would call that short shrift.

He is one of the Senator from Wisconsin's supporters in this matter, he is not one of mine.

But let me say again, Mr. President, that the Senator from North Carolina makes no charges. I am simply stating what are facts, demonstrable facts, indisputable facts, that there were no hearings on this bill this year; there were no opportunities for us to express ourselves until the latter inning of this ball game which we call this session of the Congress.

I know the Senators who proposed this legislation are competent, that their work is so worthy that the rest of us ought not to bother to question their judgment. I just do not happen to feel that any Senator ought to take that attitude. And I cannot understand, Mr. President, why there is such objection to recommitting this bill to the Committee on the Judiciary for just a few weeks at most, at which time I would have nothing to say if the Committee on the Judiciary reports out the bill in its present form. I would vote against it. But I do not understand the reluctance to place the matter in the hands and under the purview of the Judiciary Committee, where, after all, Mr. President, it belonged in the first place.

Mr. President, the Legal Service Corporation bill raises some fundamental issues about the nature of government, the viability of governmental institutions, the rights of the individual citizen, and the concept of liberty.

Let us dispose of the notion right away that we are talking simply about the access of poor citizens to the judicial system. That would be mere demagoguery. We are talking rather about the kinds of access, whether that access should be through governmental funds and channels, and whether the normal constraints of our democratic system of government should apply.

I happen to believe that the present system of delivering legal services to the poor needs reform badly, and I am ready to discuss the kinds of reform that are necessary to protect the poor client from being exploited by the system for ulterior motives. I believe that the abuses and shortcomings in the system ought to be satisfied by restructuring the system, rather than by patchwork.

It is for this reason that I became a cosponsor with the distinguished Senator from Tennessee, Mr. BROCK, of S. 1990, a bill to establish a Federal Legal Aid Corporation through which the Federal Government may render financial assistance to the respective States for the purpose of encouraging the provision of legal assistance to poor citizens.

We believe that this legislation offers a striking reform of the present legal services program—now in OEO—because it will result in greater freedom for the poor client to choose an attorney who will fully represent his needs, and it will make the program more accountable to the American people through the traditional checks and balances of representative government.

In the present unitary program, the Washington bureaucracy contracts with local projects and institutions to provide legal services to the poor. In most cases this has resulted in the hiring of staff attorneys to deal with client problems. The client has little or no control over the handling of the case because he is faced with a monopoly situation. Frequently such attorney dominance has resulted in the exploitation of individual cases for political reasons more related to the attorney's ideological interests than those of the client. The proposals to set up an independent, Washington-centered legal services corporation fail to solve this underlying problem.

In the past, the staff-attorney system has distorted the lawyer-client relationship through monopoly dominance. It allowed many project attorneys to concentrate on political advocacy through the courts, seeking to enlarge the law, or make new law through the judicial system. Legal services attorneys, for example, played the key role in striking down the "man in the house" rule in welfare law, in overturning the use of property taxes in California for financing schools, and in the Detroit/suburban busing cases. We believe that these are political questions which, in the American system of representative government, ought best to be solved in the legislatures.

S. 1990 would set up a small congressionally chartered corporation which acts as a funding and compliance unit. The funding unit is empowered to transfer appropriated moneys to qualified State governments. A State government qualifies by passing enabling legislation setting up at least one of the following three procedures:

First. To empower an existing or new State agency to disburse funds to attorneys representing eligible clients;

Second. To transmit funds to the bar association with overall jurisdiction in the State, if the bar association has established a method to disburse funds to attorneys representing eligible clients; for example, judicare;

Third. To establish a method of direct payment to eligible clients or their attorneys based upon a voucher system of proof.

Within this framework, the States would have full freedom to design their own program to suit local conditions, so long as clients were given the right to retain the individual attorney of their choice. The bill also contains appropriate restrictions on lobbying and political activity by attorneys while engaged in activities funded by the program.

Another significant reform proposed by the bill—and of course I am referring to the Brock-Helms bill, which never saw the light of day once it was presented in this chamber—would be the equitable geographic distribution of appropriated funds based upon the proportion of eligible clients in each State. At present there is a serious imbalance in the distribution of funds for the delivery of legal services to the poor, with certain favored projects in selected areas receiving disproportionate amounts. This means that needy people in many parts of the country are unjustly denied the legal services intended by Congress. The standard of eligibility in S. 1990 is the standard of the Medicaid formula, a standard already endorsed by Congress, State legislatures, and welfare groups.

We believe that the proposal in S. 1990 is client-oriented, restoring freedom of choice to poor people. It provides for greater and more active participation by local bar associations, involving local attorneys more intimately in the problems of the poor community. It sets up a sound basis for a stable, ethical lawyer-client relationship. Finally, it allows the people's representatives in the State legislatures to play a proper role in designing the program in each State.

I mention these facts briefly because S. 1990 contrasts so starkly with the bill now under discussion. They present a case that goes to the heart of the debate over legal services, and I want to make sure that this debate is aired fully on the Senate floor. I also want to make sure that the other side in this debate is treated fairly, and that their motives are not impugned. I will try to characterize the arguments which I have heard in the past in such a way so as to state them as objectively as possible. In this way, I think that the differences will be pointed up clearly, and we will know just exactly what our choices are.

The debate is complicated by the fact that while both sides claim to be supporting the notion of governmentally financed legal services for the poor, they

adhere to different definitions of "independence," "politicization," "accountability," and even "the poor." When the rhetoric of the debate is swept to one side, the issue seems to be whether the resources of Government should be used to set up paragovernmental institutions to effectuate social change without the usual checks and balances of representative Government. On one side it is argued that the poor are underrepresented despite their numbers because of their inability and lack of training to take advantage of the system; therefore, the contention is that this weakness must be compensated by a program of zealous advocacy to circumvent "the oppression and injustice by the democratic majority." Those who do not agree with this thesis argue that social change should come about through the willing consent of the public at large and their representatives; they argue that it is dangerous in a free society to put public funds at the disposal of any self-governing elite, no matter how altruistic the purpose.

Both sides seem to agree to the principle that there should be legal representation of the poor in civil matters of personal interest. There also appears to be a large area of agreement that the poor should be represented in individual cases of injustice suffered at the hands of an unresponsive governmental bureaucracy.

However, there is a philosophical difference over the role of law and the role of the courts in interpreting the law that is at the heart of the controversy. The two-decade-old debate over whether the courts are an appropriate instrument of social change is involved in the question of whether it is appropriate for tax funds to be used to provide access to the courts. Those who have weak faith in the legislative process and strong admiration for the activist role of the judiciary in recent years are likewise strong advocates of providing maximum access to the courts for those seeking social change.

Those who conceive the trend of the judiciary in recent years as reflecting an imbalance in constitutional cases are likewise loath to cultivate access to the courts by providing tax funds with no strings attached. They perceive it as financing and thus encouraging pressures on the courts to legislate rather than adjudicate.

The "independence" sought by the advocates of social change, according to some analysts, is really independence from the restraints of the political process; any check upon the freedom of action of the legal services attorneys is felt to be "politicization," that is to say, the state of being swept into the maelstrom of ordinary political life. These analysts conclude that the "politicization" comes about not in the usual partisan sense, but because the actual work of the legal services program, especially in the class action suits, is politics in the highest sense, that is, the process of distributing the benefits and power in the polis or State. The normal level of political activity is the process of electing representatives; those representatives then agree upon the necessary distributions. The argument is that by acting independently, thus circumventing the representative system, the legal services lawyers are eroding the true political system.

The question, then, as perceived by many on both sides, is whether or not it is desirable to support efforts to legislate outside of the legislative system. Sargent Shriver, the first director of OEO, declared in 1967 that OEO "is in the process of making new laws through test cases and legislative activity." This view is consistent with a declaration by the House Committee on Education and Labor in 1972 that one of the purposes of the program was "indirect improvement of the legal system—presumably through litigation rather than legislation—so as to make it more responsive to the needs of the poor." One of the reasons for development of the program, the committee said, was "the failure of our legal and judicial system to provide adequate legal remedies to meet the special needs of the poor."

Similarly, the distinguished senior Senator from Minnesota in introducing his version of Independent Legal Services Corporation legislation in 1971 said:

> Our goal is to insure that progressive change can be accomplished in courts and Government agencies, rather than on the streets. . . . It was not just the poor who suffered from this absence of legal representation. With the doors of the legal system closed to a broad segment of our population, many great reform measures remained an empty promise.

The Senator continued:

> This program has done more than cope with the individual problems of individual clients. Recurring patterns of problems—affecting large numbers of the poor—have been discovered and effectively addressed.
>
> Broad social reform has resulted from legal services cases which:
>
> Eliminated welfares [sic] "man-in-the-house" rule and residency requirement;
>
> Granted tenants in public and private housing substantial new rights in dealing with their housing problems;
>
> Obtained minimum justice for migrants and farmworkers by reducing illegal border crossings and requiring enforcement of minimum wage legislation;
>
> Forced the Department of Agriculture to feed hungry people as the law requires.

What the distinguished Senator from Minnesota doubtless regarded as great accomplishments, others regarded as a distortion of the democratic process. It is one thing to have a modern federally funded legal aid program to help individuals with individual programs; it is another to seek broad social reforms through court action. Instead of creating legal remedies for specific cases of injustice, we are dealing with a systematic effort to redistribute the benefits and rewards of society, the advantages and disadvantages of the social structure.

Now I accept the fact that good men can disagree on how the rewards and punishments of the social system ought to be distributed. But I submit that this distribution should take place through the efforts citizens make in the economic system, and not through political means. If we are going to redistribute the mechanisms of power, then it should be settled by democratic means under our constitutional mechanisms. Our system provides the Congress and State legislatures with their mechanisms of checks and balances to decide questions of power redistribution. These are essentially political questions, in the very deepest sense. And in a free country, politics must remain responsible to the Constitution.

The critical question is whether efforts for social action and social change ought to be financed with Government funds. By using money taken from the taxpayers to advance the cause of one section of the population over another, you are creating a system of new injustice. If, for example, a social action movement financed by taxpayers funds should through litigation win changes in the law costing the taxpayers millions of dollars additionally, then those taxpayers would be in the position of financing their own destruction. The proper forum for political questions, the proper forum for reforming the law is through the political process, that is, through the State legislatures and the Federal Government. Only the legislative bodies have the built-in checks and balances that are the very heart of our political system.

By using the judicial system and the administrative process to effect social reform, you are making an end run around the constitutional system of our country, and you destroy the popular consensus that is necessary for long-term reform. Yet this is exactly what some men, even some lawyers, seek to do. An article in the ABA Journal by William R. Klaus, boasted of this tactic. The article said:

> One would think that the evidence of its value to the poor community for the last seven years has been so overwhelming as to command complete acceptance for its continuation under its original mandate: "The use of the judicial system and the administrative process to effect changes in laws and institutions which unfairly and adversely affect the poor."

It is exactly this mandate which is suspect. For we are not dealing with an independent lawyer trying to achieve justice in an individual case. We are dealing with a group of lawyers supported by taxpayer expense who are not responsible to the normal checks and balances of the political process. Any federally funded social program must be responsible and accountable to the public. Once a lawyer goes on the public payroll, he necessarily accepts different standards of independence than if he were economically independent of Government money. Without the normal economic restraints, the federally funded poverty lawyer faces enormous temptations to raid the Federal Treasury to support the causes which he espouses.

Although the rationale of the bill which is being presented to us from the Labor and Public Welfare Committee is that the proposed Corporation must be free from political pressure, a calm analysis of the situation must necessarily call for restrictions and accountability. What the advocates of this bill presumably think of as nonpolitical activity based upon the freedom of a lawyer to perform his professional duties, its opponents view as highly political activity carried on at the taxpayers' expense.

The intrusion of public funds into the issue of representing indigent clients substantially changes the nature of the transaction.

Thus, for example, when my good friend Gov. Ronald Reagan of California exercised his prerogative under law to veto a Legal Services project in his State, it was attacked as a blatant example of political interference. I presume that the Governor considered it not interference, but an exercise of his legal right and even duty as the Governor of the State. It is indeed ominous that we are being presented with a proposal which, once established, would be beyond the reach of any elected official who has responsibility to the people.

I believe that a lawyer for the truly indigent should be well aware of the political consequences of any contemplated legal action, and he should take pains that his action is motivated only by the immediate interests of his clients, rather than by broad social considerations to which he may be sympathetic.

Legal Services attorneys should be well aware that their program can be vetoed at the next go-around by the Governor; they should be aware that if they do not voluntarily adopt a high code of ethics, that proper restrictions will be imposed upon them by the representatives of those who pay the bill; they should be very close to local officials who will monitor their activities. Only under such a system will the Legal Services program maintain its viability and integrity and conserve its resources and energy for helping the poor.

Proponents of the present legislation cannot escape from the essential political question of whether or not public resources and power should be put in the hands of any group, professional or otherwise, to make what many perceive as political decisions about social order. I know that some members of the legal profession, and I do not doubt their integrity, resent the suggestion that when the opportunity for great political power is offered to the profession they should be accountable to the representatives of the people.

It is so easy for any group, politicians included, to feel that their integrity is attacked when it is suggested that no human association should be given absolute power to do as they will even in a certain field. But anyone who has had any experience with human affairs knows that no man, or group of men, can be depended upon to be self-limiting in the use of power. It is no slur upon the dignity of the legal profession to refuse to give enormous political power restrained only by their own high code of ethics. Rather, the American political tradition has taught us that we must make sure that a countervailing force is established at the same time that political power is distributed.

Much has been said about the need for independence for the legal services program and maintaining the sanctity of the lawyer-client relationship. But we do not have a normal lawyer-client relationship proposed in this bill. Even in its present form, the program has over two thousand lawyers in 850 locations, linked together by scores of newsletters, subsidized professional associations, and project-subsidized travel. In addition, they have had over 13 so-called "backup" centers, many of them attached to universities and law schools, which provide legal research, programs, and strategies available to the lawyers in the field. Thus there is tremendous potential for an ideological attuned group to work together on social reform projects on a nationwide basis. A former high official has referred to this as "a national law firm with a national agenda for reform." Thus the legal services attorneys have developed into a powerful political force both within the law profession, and within the professional associations. Thus it is not surprising that some legal professional groups have actively supported the legislation before us on the national level, but on the State level they have been just as vociferously opposed.

The clash between the activist lawyer's concept of himself as responsible only to the ethics of his profession, and the public's view that public moneys should be publicly accounted for under political safeguards may be irresolvable in the present context. The program today—and the approach in the bill before us—relies almost exclusively on a staff-attorney-group practice approach. Yet this approach is deeply flawed:

First, the poor person seeking free legal aid is not subsidized directly; he is not permitted to choose his own attorney, but must accept whatever attorney is provided by the Legal Services program.

Second, the attorney tends to gain dominance in his relationship with the potential client, since both understand that the client does not control his fee, and has nowhere else to go for help.

Third, the staff group has in effect a monopoly status. The client is easily discarded if his problem does not fit in with what the lawyer wants to become involved with. The work priorities become oriented toward lawyer preferences, rather than client needs. Thus the client's problem may become a vehicle for advancing the national agenda.

Finally, subsidized lawyers, with a federally assured income, yet not accountable to the public, are free to spend their time on appeals which have a high potential for achieving the national goals of the legal services group and which serve as test cases, rather than on efficient representation of individual poor clients.

We can see therefore that the relationship between the legal services attorney and a poor client is significantly different from a private lawyer-client relationship.

It is for these reasons that the Brock-Helms bill would downgrade the staff-attorney approach, and pave the way for State-based systems which would allow the client to choose his own lawyer—and to choose a lawyer who is concerned with real legal practice, rather than a cause-oriented ideologue.

The Brock-Helms bill would introduce the normal political restraints of State legislatures and political processes to bring the legal aid system nearer to the people represented by our normal constitutional system.

The Brock-Helms bill would introduce self-limiting safeguards which would make it impossible for the abuses which have crept into the program in its present form from arising anew.

The Brock-Helms bill would insure that the legal aid program was morally responsible to the people and to the constitutional system.

Mr. President, let me summarize my understanding of what the proponents and opponents of the bill before us are saying.

I think both sides agree that the legal services program offers expanded opportunities for bringing about social change through the judicial process. The debate is whether this mechanism for social change ought to be subject to the normal checks and balances of representative government.

The proponents of rapid social change hold that representative government has been unresponsive to the needs of the weak and the poor, and that the accountability of this special mechanism, the legal services program, ought to be minimized in order to hasten new social developments. They seem to doubt that the ordinary legislative process with its dependence upon the will of the people at large, will never deliver the expansion of benefits to the poor that they envision, perhaps because these benefits will come at the expense of those who, rightly or wrongly, think of themselves as having earned the rewards they presently enjoy. For this reason, they believe that efforts for the expansion of legislative concepts must be pursued in the judiciary, which is less dependent upon the popular will.

The Legal Services program, with its national network of lawyers attuned to law reform and its wide opportunities for the selection of individual cases to make new law, provides an unprecedented mechanism for the systematic prosecution of the reform agenda. Proponents of this approach are convinced that the standards of the legal profession, and the oversight of the bar associations, provide sufficient restraints upon abuses, and that the influence of duly elected popular representation, whether at the Federal or State level, ought to be minimized.

On the other hand, I believe that the legislative arena is the proper forum for debating social change. I am highly suspicious of delegating this authority to a private group to pursue social change in the guise of dealing with specific problems of individuals. I believe that this is a bad precedent to set in a Government which by theory limits the power role assigned to any individual or group. The appropriation process, which appears to be the only congressional control contemplated under some plans, is too unwieldy to deal with a unitary bureaucracy which is insulated from political responsibility. I sometimes think that the resort to ethical considerations in the lawyer-client relationship, portrayed as a shield from political interference, is in reality an attempt by some elements of the bar to exert unprecedented influence on the mechanisms of social change. Indeed, political accountability is interference, but a necessary component in the resolution of what are, in essence, political questions. I believe that any plan for democracy, if it is to achieve the assent and approbation of the majority of the people, must actively involve their representatives and officials in a vigorous debate with contributions from all segments of the community. I look upon the use of public monies and institutions for the prosecution of a partial vision of justice as a short-circuit in democracy and a threat to orderly constitutional practices.

These distinctions go to the heart of the current debate and are reflected in attitudes toward the structural variations for the legal services programs offered.

This is what the Brock-Helms bill is all about, and why it contrasts so vividly with the proposal which has come from the Labor and Public Welfare Committee.

Mr. President, I reserve the remainder of my time.

Mr. MONDALE. Mr. President, how much time remains?

The ACTING PRESIDENT pro tempore. The Senator from Minnesota has 17 minutes remaining and the Senator from North Carolina has 13 minutes remaining.

Mr. MONDALE. I thank the Presiding Officer for his generous assistance.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota is most welcome.

Mr. HELMS. Mr. President, will the Senator from Minnesota yield?

Mr. MONDALE. I yield.

Mr. HELMS. Mr. President, I ask unanimous consent that a letter I received this morning from the Honorable Thomas J. Meskill, Governor of Connecticut, be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

State of Connecticut,
Hartford, Conn., December 11, 1973.

Hon. Jesse Helms,
New Senate Office Building,
Washington, D.C.

Dear Senator Helms: The Senate Labor and Public Welfare Committee has just reported out legislation establishing a legal services corporation. The Committee bill is lacking in adequate safeguards to prevent flagrant abuses that have plagued this program since its inception. It contains only weak provisions on law reform activities, political advocacy and associated political activities.

I am firmly convinced that in order to preserve the necessary function of providing legal services to indigent clients, we must have a bill containing strong and effective bans on lobbying, political activities and law reform.

I urge you to support amendments which would place strong bans on lobbying and political activities as well as law reform efforts. If initial efforts to amend the bill are unsuccessful, I urge you to support the Brock-Helms bill, S. 1990, which I expect may be offered as a substitute for the Committee bill. This bill is a constructive approach to the legal services program consistent with the needs of our citizens. It is a bill that permits flexibility from state to state, assures proper monitoring and control, and provides for public accountability.

I expect that legal services bill to be taken up soon. I hope you will vote for a strong legal services bill. Anything you can do on this issue will be greatly appreciated.

Sincerely,

Tom Meskill,
Governor.

THE LEGAL SERVICES CORPORATION—THE CASE FOR SOCIAL JUSTICE

Mr. SYMINGTON. Mr. President, for the third successive session, this Congress has before it the opportunity to voice its support for one of the most effective programs for social justice in the Nation—the Neighborhood Legal Services program. With a current budget of $71.5 million, 2,500 Neighborhood Legal Services program lawyers in 900 offices throughout our 50 States devote their energies to provide quality legal representation of the poor.

So many Americans eligible to receive these legal services live from day to day in an economic and social situation fraught with frustration and despair and have found help for their problems in the legal advice and counsel offered in this program.

The Legal Services Corporation Act, S. 2686, provides for a private nonprofit legal services corporation to administer the program on an independent basis. This bill is the result of the deliberative, concerned efforts of the Employment, Poverty and Migratory Labor Subcommittee, its chairman, Senator Nelson, and is a product as well of the advice and attention of the full Labor and Public Welfare Committee. This legislation evidences our strong conviction that "equal justice under the law" shall not be taken lightly. While containing the necessary safeguards to prevent potential abuses, including accountability to the public and its elected representatives, this bill provides the structural foundation for effective client representation. The 11-member board will be appointed by the President with the advice and consent of the Senate.

The Neighborhood Legal Services program in Kansas City, Mo., is but one example of the effective representation of the poor which would be continued under S. 2686. With 26 attorneys, 18 law students, and 8 "paralegals," the Kansas City program services a 3-county area—Jackson, Clay, and Platte—where approximately 90,000 persons are eligible for their services under OEO income guidelines.

The program in Kansas City has designated specialty units that focus on: First, housing problems, second, representation of indigents before the city's municipal court, third, domestic relations problems, fourth, the rehabilitation of young adult first offenders—financed by a Law Enforcement Assistance Administration grant, fifth, representation of indigent juveniles by court appointed counsel, and sixth, the special needs of the elderly, most specifically involving consumer complaints and social security matters.

While many unique problems and cases are handled by Kansas City's NLSP, I am advised that the backbone of their program is individual service on a day-to-day basis. Cases such as those for adoption, guardianship, eviction, unemployment compensation, welfare cases, nonsupport of children, social security disputes and divorce occupy the bulk of their caseload.

Legal Services attorneys and their supportive staff evidence their commitment to the elimination of poverty and to assure each person an opportunity to share in the country's benefits. In recognition of their past performance, and with a continuing belief that adequate legal representation of the poor is essential, I support S. 2686, the Legal Services Corporation Act.

Mr. TAFT. Mr. President, I will vote for cloture today as I believe the Senate must proceed in the expeditious consideration of the Legal Services Corporation bill S. 2686.

Opponents of invoking cloture on this measure essentially make three points:

First, that no hearings have been held by the Labor and Public Welfare Committee on this issue or S. 2686.

Second, that the Judiciary Committee has not reviewed the bill.

Third, that extensive debate has not yet been undertaken on the floor regarding this issue.

With respect to point No. 1, I am not aware of any request submitted by opponents of this bill for hearings by the Labor and Public Welfare Committee. As the ranking minority member of the subcommittee that considered this legislation, the Employment, Poverty, and Migratory Labor Subcommittee, I am not aware of any request for hearings on this legislation. If any of my colleagues had desired such hearings, I would have done everything possible to accommodate their desires, as I am sure the chairman of the subcommittee, Mr. Nelson, would. If the opponents of S. 2686 feel so strongly about hearings, let them make the motion to recommit the bill. I would oppose such a motion as I do not believe hearings are necessary at this point—but let us not hold up the business of the Senate on this point. Further, it must be emphasized that this is not a new issue before the Senate or the Congress. It has been considered at length in past Congresses. If Senators oppose sections of the bill, or the concept of a Legal Services Corporation itself, let them proceed by offering their amendments.

Second, opponents of S. 2686 argue that the Judiciary Committee has not reviewed the bill. Members of the Judiciary Committee have been briefed on this legislation and for sometime have been aware of the work of the Labor and Public Welfare Committee regarding Legal Services. It is my understanding that the chairman (Mr. Tunney) and ranking minority member (Mr. Cook) of the Subcommittee on the Judiciary that would consider this legislation, the Subcommittee on Representation of Citizen Interest, support S. 2686. My staff has been in constant contact with Senator Cook's staff on this legislation and have asked for any input or suggestions that minority members of the Judiciary Committee might have. Again, if opponents of S. 2686 wish the Judiciary Committee to review this legislation, let them make a formal motion to do so, so the Senate can expeditiously proceed on this matter.

Third, opponents of the cloture petition state that extensive debate has not yet been undertaken on the floor regarding this legislation. This is not correct, however, in that the bill has been laid before the Senate and to my knowledge no Senator has been refused an opportunity to state his views on this legislation. Further, there have been at last count, 95 to 100 amendments offered to this bill by those opposing it, including a number of nongermane amendments. The opponents of the bill have made it quite clear that it is their intent to block Senate consideration of this matter during this session. I see no other constructive alternative than a motion for cloture followed by expeditious consideration of the amendments that have been offered.

I realize that legal services legislation has been a highly controversial and emotional issue over the years. I do not disagree for a moment that there have been abuses of the legal services program under the Office of Economic Opportunity. Those past abuses, however, should not prevent Senate consideration of improvements for a delivery system for legal services for the economically disadvantaged. S. 2686 I believe represents a great improvement and refinement of past legal services programs. It has the backing of the administration, the American Bar Association, State bar associations, and was reported by the Labor and Public Welfare Committee without dissent.

James J. Kilpatrick, in his column of October 26 of this year stated as follows with regard to the compromise that the Labor and Public Welfare Committee had reached:

> The reported agreement offers less than liberals had hoped to get, but contains more than conservatives had been prepared to yield. For the foreseeable future, it is this or nothing. Those who want to see a permanent program of legal services for the poor had better settle for this.

I urge my colleagues to vote for the motion to invoke cloture.

QUORUM CALL

Mr. HELMS. Mr. President, I observe the absence of a quorum and ask unanimous consent that the time be taken out of both sides.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Nunn). Is there objection?

Mr. NELSON. Mr. President, I object——

Mr. MONDALE. Mr President, reserving the right to object——

The PRESIDING OFFICER. Is there objection?

Mr. MONDALE. Mr. President, I am reserving the right to object.

The PRESIDING OFFICER. A Senator cannot reserve the right to object. He either has to object or not object.

Mr. MONDALE. Mr. President, reserving the right to object, if I may, may I ask the Senator from North Carolina——

The PRESIDING OFFICER. Debate is not in order. Is there objection?

Mr. MONDALE. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. HELMS. Mr. President, I ask for the regular order.

The PRESIDING OFFICER. The Senator from North Carolina asks for regular order.

The clerk will call the roll.

Mr. HELMS. I hope there will be no dilatory tactics.

The legislative clerk resumed the call of the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

CLOTURE MOTION

The PRESIDING OFFICER. The time for debate having expired, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon the bill (S. 2686), a bill to amend the Economic Opportunity Act of 1964 to provide for the transfer of the legal services program from the Office of Economic Opportunity to a Legal Services Corporation, and for other purposes.

Robert Taft
Gaylord Nelson
Alan Cranston
Mike Mansfield
Bob Packwood
William D. Hathaway
Birch Bayh
Hugh Scott
Mike Gravel
George McGovern
Vance Hartke
William Proxmire
J. Glenn Beall
Robert T. Stafford
Claiborne Pell
Jacob K. Javits
Thomas J. McIntyre
Hubert H. Humphrey
Walter F. Mondale
Edward M. Kennedy

CALL OF THE ROLL

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair now directs the clerk to call the roll to ascertain the presence of a quorum.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 582 Leg.]

Abourezk
Aiken
Allen
Baker
Bartlett
Bayh
Beall
Bennett
Bentsen
Bible
Biden
Brock
Brooke
Buckley
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cook
Cranston
Curtis
Dole
Domenici
Dominick
Eagleton
Eastland
Ervin
Fannin
Fong
Fulbright
Goldwater
Griffin
Gurney
Hansen
Hart
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Hughes
Humphrey
Jackson
Javits
Kennedy
Long
Magnuson
Mansfield
McClellan
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott,
  William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Symington
Taft
Talmadge
Thurmond
Tunney
Weicker
Williams
Young

Mr. ROBERT C. BYRD. I announce that the Senator from Alaska (Mr. Gravel), the Senator from Indiana (Mr. Hartke), the Senator from Hawaii (Mr. Inouye), and the Senator from Louisiana (Mr. Johnston) are necessarily absent.

I further announce that the Senator from Idaho (Mr. Church) is absent on official business.

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. Bellmon), the Senator from Maryland (Mr. Mathias), the Senator from Ohio (Mr. Saxbe), and the Senator from Texas (Mr. Tower) are necessarily absent.

The Senator from New Hampshire (Mr. Cotton) is absent because of illness in his family.

The Senator from Idaho (Mr. McClure) is absent on official business.

The PRESIDING OFFICER (Mr. Nunn). A quorum is present.

VOTE

The PRESIDING OFFICER. The question before the Senate is, Is it the sense of the Senate that debate on S. 2686, a bill to amend the Economic Opportunity Act of 1964 to provide for the transfer of the Legal Services program from the Office of Economic Opportunity to a Legal Services Corporation, and for other purposes, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. GRIFFIN (when his name was called). The Senator from Maryland (Mr. Beall) and I have a live pair with the Senator from Texas (Mr. Tower), who is absent. If Senator Beall comes to the Chamber he will announce that if he were permitted to vote, he would vote "yea"; if I were permitted to vote, I would vote "yea"; Senator Tower, if present, would vote "nay." I withhold my vote.

Mr. BEALL (when his name was called). The Senator from Michigan (Mr. Griffin) and I have a live pair with the Senator from Texas (Mr. Tower). If the Senator from Texas were here, he would vote "nay"; if I were permitted to vote, I would vote "yea." I withhold my vote.

Mr. CANNON (when his name was called). On this vote I have a live pair with Senators Inouye of Hawaii and Gravel of Alaska. If they could vote, they would each vote "yea"; if I were permitted to vote, I would vote "nay." I withhold my vote.

Mr. FULBRIGHT (when his name was called). On this vote I have a live pair with the Senator from Maryland (Mr. Mathias) and the Senator from Ohio (Mr. Saxbe), who, if present and voting, would each vote "yea." If I were permitted to vote, I would vote "nay." I therefore withhold my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from Hawaii (Mr. INOUYE), and the Senator from Louisiana (Mr. JOHNSTON) are necessarily absent.

I further announce that the Senator from Idaho (Mr. CHURCH) is absent on official business.

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Maryland (Mr. MATHIAS), the Senator from Ohio (Mr. SAXBE), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The Senator from Idaho (Mr. MCCLURE) is absent on official business.

If present and voting, the Senator from Idaho (Mr. MCCLURE) would vote "nay."

The pair of the Senator from Texas (Mr. TOWER) has been previously announced.

The pair of the Senator from Maryland (Mr. MATHIAS) and that of the Senator from Ohio (Mr. SAXBE) has been previously announced.

The yeas and nays resulted, yeas 56, nays 29, as follows:

[No. 583 Leg.]

YEAS—56

Abourezk
Aiken
Bayh
Bentsen
Biden
Brooke
Burdick
Case
Chiles
Clark
Cook
Cranston
Domenici
Eagleton
Fong
Hart
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Hughes
Humphrey
Jackson
Javits
Kennedy
Magnuson
Mansfield
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Stafford
Stevens
Stevenson
Symington
Taft
Tunney
Weicker
Williams

NAYS—29

Allen
Baker
Bartlett
Bennett
Bible
Brock
Buckley
Byrd, Harry F., Jr.
Byrd, Robert C.
Curtis
Dole
Dominick
Eastland
Ervin
Fannin
Goldwater
Gurney
Hansen
Helms
Hruska
Long
McClellan
Nunn
Scott, William L.
Sparkman
Stennis
Talmadge
Thurmond
Young

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY PAIRED—4

Griffin, for
Beall, for
Cannon, against
Fulbright, against

NOT VOTING—11

Bellmon
Church
Cotton
Gravel
Hartke
Inouye
Johnston
Mathias
McClure
Saxbe
Tower

The PRESIDING OFFICER. On this vote there are 56 yeas and 29 nays. Two-thirds of the Senators present and voting not having voted in the affirmative, the motion is rejected.

PROHIBITION ON THE IMPORTATION OF RHODESIAN CHROME

The PRESIDING OFFICER (Mr. NUNN). The Chair lays before the Senate the unfinished business, which will be stated by title.

The second assistant legislative clerk read as follows:

A bill (S. 1868) to amend the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome and to restore the United States to its position as a law-abiding member of the international community.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EMERGENCY HIGHWAY ENERGY CONSERVATION ACT

Mr. MANSFIELD. Mr. President, for the information of the Senate, at approximately 1:30 p.m. the Senate will turn to the consideration of Calendar No. 598, H.R. 11372, an act to conserve energy on the Nation's highways, which has to do with the speed limit for trucks and cars.

WASTE FUND TREATMENT FUND ALLOCATIONS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending business be laid aside temporarily and that the Senate turn to the consideration of Calendar No. 604, S. 2812; but before the Chair rules, I wish to say that this is one of the bills which, in response to a question raised by the distinguished acting Republican leader yesterday, I stated we would try to bring up today.

The PRESIDING OFFICER. Senators will please be seated so that the Senator can be heard.

The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2812) to authorize a formula for the allocation of funds authorized for fiscal year 1975 for treatment construction grants, and for other purposes.

The Senate proceeded to consider the bill.

Mr. MUSKIE. Mr. President, I ask unanimous consent that during consideration of and voting on H.R. 11372 and S. 2812 the following staff members of the Committee on Public Works be granted the privilege of access to the floor:

Mr. Barry Meyer, John W. Yago, Philip T. Cummings, Ron Katz, Bailey Guard, Kathy Cudlipp, Harold Brayman, Rick Herod, Leon G. Billings, Sally W. Walker, James Readle, and Jacqueline Schafer.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, one of the innovative and controversial features of the 1972 clean water law was the provision for determining distribution of construction grant funds among the States.

Prior to 1972, water pollution construction funds were distributed among the States on the basis of population. Under the new law, allocation of funds was to be based on needs. Construction grant funds for 1973 and 1974 were distributed on the basis of a "needs" survey which EPA had submitted to the Congress in early 1972. Next year's funds—fiscal year 1975—were to be allocated on January 1, 1974, on the basis of a new "needs" survey which was conducted by the Environmental Protection Agency and submitted to Congress in October of this year.

The committee, after holding hearings and reviewing the "needs" survey, recognized two major problems with the recommended formula. First, as the Environmental Protection Agency recognized in their report to Congress, the survey of the States had major limitations, including the survey methodology and the types of costs which States could expect.

Second, the recommended formula, if adopted as the basis for allocation, would limit the amount of grants to several States substantially below their estimated needs—needs which EPA omitted in their survey.

While the committee believes that the "needs" approach is preferable, the limitations of the current survey required consideration of other factors in developing an allocation formula that would: First, estimate needs not covered by the "needs" survey; and second, reduce the inequities to several States created by the transition to allocation based entirely on needs. The legislation reported by the committee meets these criteria.

Mr. President, section 205(a) of the Federal Water Pollution Control Act directs the Administrator of the Environmental Protection Agency to allocate 1975 grants for construction of wastewater treatment facilities among the States. Section 207 of that act has authorized $7 billion for fiscal year 1975.

The Environmental Protection Agency, pursuant to section 516, in its "needs" survey recommended that Congress base its allocation of 1975 grant funds to the States in the same ratio that their costs in three categories bear to the total costs of these categories to all the States. The costs covered in these categories included: First, providing the facilities to meet secondary treatment required by the 1972 act; second, providing facilities for meeting State or local requirements more stringent than secondary treatment; and third, providing eligible new interceptors, force mains, and pumping stations.

The bill reported today requires the Administrator to allocate the authorized funds on a ratio developed on the following basis: 75 percent of the total funds according to the Environmental Protection Agency's recommended formula described in the 1973 "needs" survey; 25 percent in the ratio that the population of each State bears to the population of all the States.

The committee, however, has agreed to limit the use of this allocation formula to fiscal year 1975.

Because of the limitations on the survey, the legislation requires the Administrator of the Environmental Protection Agency to make another "needs" survey in 1974, which is to be initiated within 30 days, utilizing the forms approved last year. This survey is to provide Congress with new data no later than June 30, 1974, and is to serve as the basis for allocating grant funds for 1976. Unlike the 1973 survey, the new survey shall include all costs which States expect to incur to comply with the 1972 act.

The committee expects the Administrator to insist that the States submit a complete form for the entire State rather than multiple forms for communities in the State. And the committee expects the States to submit estimates of needs for all "treatment works" as defined in section 212(2) (A) and (B) and the estimate of costs for best practicable waste treatment technology defined in section 201 and required by section 301.

On a related matter, the committee bill addresses the issue of "phased funding" of needed treatment works.

Section 3 rectifies the Environmental Protection Agency's misinterpretation of section 203 of the Water Pollution Control Act. Under its present regulations, that Agency restricts complete operable works from receiving funding for separate construction segments. Furthermore, that Agency's misinterpretation of section 203 prohibits financial phasing of construction works over more than 1 fiscal year.

This section imposes no additional costs to the Federal Government nor would commitment to one phase of a project constitute an obligation on the part of the Federal Government to fund the remainder of the project. Conversely, the committee would expect EPA to obtain a commitment from any community or State utilizing phased funding, to complete the project even if future Federal funding is not assured.

Mr. President, this legislation represents a compromise—a compromise which reflects the needs for an equitable distribution of available construction grant funds and the limitations of the EPA needs survey. I think it is fair and equitable to all States. It represents the best judgment and unanimous recommendation of the Committee on Public Works.

I urge the Senate to pass the bill.

Mr. BUCKLEY. Mr. President, will the Senator yield?

Mr. MUSKIE. Yes, I yield to the Senator from New York.

Mr. BUCKLEY. Mr. President, I would like to begin by thanking the Senator from Maine for his full and active cooperation and work in resolving the difficulties that were met in applying the needs formula.

Mr. President, I agree with the distinguished Senator from Maine (Mr. MUSKIE) that S. 2812 represents a workable compromise considering the committee's declared intent to use State needs as the basis for allocating waste treatment funds, the admitted shortcomings of the EPA's recent needs survey, and the fact that many States were unable, on short notice, to adequately document their needs.

I supported the adoption of a needs based formula in Public Law 92-500, the 1972 amendments to the Federal Water Pollution Control Act. I had hoped that EPA, in cooperation with the States, would have been able to identify with precision the expected cost of construction for all municipal treatment works on a State-by-State basis. Our hearings this fall, however, pointed out a number of shortcomings on the part of EPA and the States. EPA, largely as a result of the OMB forms clearance process consumed more than 5 months of the time available for completion of the survey, leaving only 6 weeks for the States and cities to complete and forward the forms to Washington. Some States without staffing and funding adequate to the task, failed to fully identify eligible needs; other States merely bundled up the numerous municipal forms and sent them to EPA without even preparing a State total. These difficulties are typical of the results of instituting a new Federal-State process.

In view of these difficulties the committee adopted in S. 2812 a two-part formula for allocation of funds: 25 percent based on the ratio of each State's population to the population of all the States and 75 percent based on EPA's suggested formula. EPA in its report to the Congress, based on section 516 of the act, suggested that we base the allocation of fiscal 1975 grant funds on the ratio of a States needs in three categories to the total costs in these categories for all States. These three categories which EPA believed were most fully documented include, first, the cost of secondary treatment as a uniform base line for municipalities under the act; second, the need to meet requirements more stringent than secondary treatment in some areas; and third, the need for new interceptor sewers, force mains and pumping stations. We should make clear that, as EPA testified, to base all or part of the allocation formula on these three categories does not prejudice the funding of other types of treatment works which are eligible under the act—for example, collector sewers and combined storm sewers. One very beneficial aspect of this bill is the provision sponsored by Senator BAKER which reaffirms the intention expressed in the act that EPA shall fund as a project any financial or physical phase of construction which is otherwise eligible. This rectifies an error in legal interpretation by EPA, provides needed flexibility for States and municipalities to begin construction of as many needed projects as possible, and prevents the situation in which approval of a large project will prevent other projects on a States priority list from being funded.

Mr. President, I would like, if I may, to be parochial for a moment. During the hearing of the committee on the issue of an allocation formula, a very fine statement was presented to us by Mr. Dwight Metzler, deputy commissioner of the New York State Department of Environmental Conservation.

The following is his summary of the position of New York State on the application of the needs survey to the allocation of the fiscal year 1975 authorization for title II construction grants:

> (a) The authorization of seven billion dollars in Section 207 of the Act should be allocated in its entirety.
>
> (b) The allocations should be based on the unadjusted total estimates of the States as determined by the 1973 Needs Survey.
>
> (c) If it appears that inequities result from allocations made in accordance with (b) above, adjustments can be made in the allocations for fiscal year 1976, by implementing Section 206(f) of the Act which permits advanced construction funding.
>
> (d) Congress should make it clear that the program of Federal construction grant assistance will continue beyond June 30, 1975. Authorizations for subsequent years should be seven billion dollars per year or greater.
>
> (e) Congress should reiterate its intent for funding of projects on a phased approach to the construction of treatment works as urged on Page 111 of the Conference Report No. 92-1465. Although this procedure was approved for the District of Columbia's "Blue Plains" project, it has been denied elsewhere.
>
> (f) Allocation is only a part of the picture. Definite steps should be taken so allocated funding authority is obligated by prompt approval of projects.
>
> There may be some feeling that New York supports the allocation on the basis of the total costs of 65.604 billion dollars rather than the EPA proposed figure of 36.6 billion dollars because it gets the larger share that way. It is the converse that is true.
>
> New York's needs are large, and it should have a large allocation. New York is the only State in the Union that has both a Great Lakes and an ocean coastline. In the Great Lakes, New York has the responsibility for the implementation of the Nixon-Trudeau agreement on boundary waters. This is exercised through New York's membership on the International Joint Commission—United States and Canada.
>
> New York is a member of seven interstate pollution control compacts, viz:
>
> The New England Interstate Water Pollution Control Compact.
>
> The Ohio River Valley Water Sanitation Compact.
>
> The Tri-state Compact and Interstate Sanitation Commission.
>
> The Delaware River Basin Compact.
>
> The Great Lakes Basin Compact.
>
> The Champlain Basin Compact.
>
> The Susquehanna River Basin Compact.
>
> In all of these compacts, New York is the upstream member and we will not discharge polluted water to our downstream neighbors.
>
> The ocean shore of New York provides recreation facilities for the greatest concentration of population anywhere in the country and handles more shipping and receives more passengers in its port than almost anywhere else in the world.
>
> Lastly, New York is one of those several states that have advanced farthest in planning for abatement of pollution. We are seeking only our due.

I supported this position during the discussion of the appropriate formula in the Public Works Committee and I continue to endorse it. I have the assurance of my colleagues on the committee that the adoption of a formula based in part on population in no way signals a retreat from our commitment to a "needs" approach. Clearly, we must know the full costs of meeting the high water quality standards mandated by the Federal Water Pollution Control Act and we can learn this only by ascertaining actual needs, State by State.

I am hopeful that another provision of the bill, which calls for EPA and the States to begin a new needs survey within 30 days and to complete it by June 30, 1974, will mean that a year from now, we will be able to return to our first choice—an allocation formula based solely on needs which will distribute funds for fiscal year 1976 in a manner that is equitable to all the States.

I compliment the chairman of the committee, Mr. RANDOLPH; the chairman of the subcommittee, Mr. MUSKIE; the ranking minority member of the committee, Mr. BAKER; and the other Senators who participated in this decision for dealing with this very knotty problem in their typically thorough and fair manner.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. BUCKLEY. I yield.

Mr. JAVITS. I wish to associate myself with the remarks of my colleague from New York. I think he has put the situation exactly right, and I wish to express my appreciation to him for contending for principles and policies with respect to this legislation which would be equitable to the Nation and equitable to our State.

We of New York have constantly taken the position that water is a national resource and have shown it in many policies we have adopted. The Senator has referred to the policy of the State. We would certainly hope that States which are not riparian States would take the same position that the needs standard is the basis for the country.

We realize that political problems occasionally arise which may make it necessary to do less than the optimum, but I think the decision of the Senator from Maine (Mr. MUSKIE) and the Senator from West Virginia (Mr. RANDOLPH) to put it on a 1-year basis in respect of so vital a matter as the national resource of the water table is a very desirable and wise one.

One other thing which is very important to me: Often we almost see an attitude of being contrary simply because it is the major industrial States that are involved. Yet, they are the most productive in terms of population to service the Nation in war or peace, in terms of goods produced, and facilities providing a tax income raised for the benefit of all of us.

All too often there is a tendency here to look at the chart and determine the number of States that do best in the chart and they prevail, whatever may be the total national interest.

Mr. President, it is therefore refreshing to me—and I have been here a long time—when statesmanship rears its noble head and some effort is made to rearrange these aid programs in the basic need of the country.

Mr. President, I would have been deeply disappointed if the committee had gone to the 50-percent figure which was originally discussed. I think it is encouraging that it has gone to the 75-percent figure.

We in New York have been just as vigorous in spending money for others when it will do us no good but will do the Nation good, as we have done in irrigation matters, dams, flood control, to take some of the more bread-and-butter aspects of the matter here.

We have a natural resource—water. And when a conservation measure is made to apply the test to that, it is very refreshing to my mind and to the country as a whole.

Mr. BUCKLEY. Mr. President, I thank my distinguished colleague for pointing out the equities involved in the measure.

Mr. MUSKIE. Mr. President, I express my appreciation to the two Senators from New York and to the Senator from West Virginia (Mr. RANDOLPH), the chairman of the committee, and to all members of the committee.

As has been customary and traditional in the committee, the issues are discussed rather fully and with a rather full attendance. Votes tend to cross party lines.

It is encouraging that once again a matter has come from the committee in this fashion. Although we did not all agree, we will made an effort to adhere to this formula. It was worked out in that spirit.

I am most grateful for the continuing cooperation of the Senator from New York (Mr. BUCKLEY) in urging approval of the bill.

Mr. BAKER. Mr. President, I wish to state my strong support for S. 2812. This bill incorporates two essential elements to the operation of our future water pollution control grant program.

First, the bill establishes an allocation formula for the distribution of fiscal year 1975 sewage grants. While there was substantial discussion in committee over what would be the most equitable formula, I believe we reached a compromise that is fair. The formula is grounded in the demonstrated needs for pollution control funds. I anticipate that a new needs study, mandated by this bill, should enable the Congress to support fully the needs concept next year.

The bill also contains a restatement of the intent of the Congress on "phased funding" of projects, as expressed in the conference report on Public Law 92–500. In that document, the Congress said that the Environmental Protection Agency should allow any State that so wishes to apply and receive grants for portions of treatment facilities.

EPA, unfortunately, did not allow such an approach. That decision hampered the ability of many State water pollution control agencies to develop the most effective and logical control program. Often funding of a large project prevented the start of construction of other needed projects on a State's priority list.

To rectify this EPA error, I introduced S. 1594 earlier this year. I am pleased that the committee bill contains the language of S. 1594 in section 3.

While the committee report explains the phased funding intent quite clearly, I would just add this word of explanation: This section will give to the States the right and ability to seek approval—and for EPA to grant such approval—for 75 percent grants toward a portion of a treatment works, whether that portion is selected in a financial or physical basis. A community might, for example, seek initially a grant for one-fifth of the total cost of construction of a plant. It might seek funds for the primary phase of a treatment plant, or it might seek funds for the first 1,000 feet of an interceptor sewer. In future years, the applicant would come back for further grants to finish each project.

EPA must not discriminate against such applications. Rather, EPA should view them as an opportunity for flexibility quickly and thus to achieve our national goal of clean water more expeditiously.

I wish to pay my respects, as always, to the chairman of the full committee, Mr. RANDOLPH; the chairman of the Subcommittee on Air and Water Pollution, Mr. MUSKIE; and the ranking minority member of the subcommittee, Mr. BUCKLEY, for their leadership in reaching the compromise on this legislation.

Further, I would like to express my thanks to the junior Senator from Delaware (Mr. BIDEN) for his strong support for the phased-funding language. I know that phased-funding is an issue that has as great interest for the people of Delaware as it does for Tennessee. And I commend him on his leadership on this point.

WASTE TREATMENT CONSTRUCTION SHOULD PROCEED—EQUITY NEEDED

Mr. RANDOLPH. Mr. President, when the Committee on Public Works began to consider the question of how to allocate waste treatment construction grant funds for the 1975 fiscal year, we knew that it would be difficult to develop an equitable formula fair to the large majority of the States, and impossible to find an allocation formula which pleased every one.

When the Congress enacted the Federal Water Pollution Control Act Amendments of 1972, Public Law 92–500, we expected that a formula for allocation in accordance with the need in each of the States for construction of publicly owned sewage treatment works would flow naturally from the "needs" survey the Environmental Protection Agency was required to conduct under section 516(b)(2). After the publication of that survey in October of this year, however, it became apparent that the limitations of that survey required action by the Congress to produce a measure of equity in the distribution of sewage treatment funds. Those limitations are detailed in the report of the committee on S. 2812.

The committee approached its deliberations on the fund allocation in an extremely statesman-like manner. Though cognizant of the effect on their own States, the members of the committee were not bound in their consideration or in their final position by the narrow parochial view of what would be best for the States they represented. I believe that as a result of the work of the committee a formula for allocation has been developed which is fair. It improves the position of those States which would have been most severely inhibited in their water pollution abatement programs by the formula recommended by the Environmental Protection Agency, and it maintains the commitment of the Congress to allocate waste treatment funds on the basis of need for such facilities.

The committee remains firm in its desire to allocate funds for the construction of waste treatment works solely on the basis of the need. The limitations of the 1973 needs survey prevented that desire from being realized with respect to fiscal year 1975 funds.

In order to return to that approach at the earliest possible moment in the allocation of fiscal year 1976 waste treatment funds, the bill would require the

Environmental Protection Agency to conduct another needs survey assessing the complete needs for all types of treatment works mandated by the act and to submit that survey by June 30, 1974. The report of the committee provides a clear direction to the Environmental Protection Agency as to the expanded basis of this resurvey requiring the reporting of data on all eligible treatment works including the provision of the best practicable treatment technology as required for fiscal year 1975 grants under section 201(g)(2) of the act.

Mr. President, I urge the passage of this bill.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The bill (S. 2812) was passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Section (a) of section 205 of the Federal Water Pollution Control Act as amended (86 Stat. 837), is amended by inserting "(1)" after "(a)" and by adding the following new paragraph:

"(2) Sums authorized to be appropriated for the fiscal year ending June 30, 1975, shall be allotted by the Administrator among the States in the following ratio:

State	*Percentage*
"Alabama	1.064
Alaska	.358
Arizona	.550
Arkansas	.705
California	12.320
Colorado	.927
Connecticut	1.262
Delaware	.487
District of Columbia	.198
Florida	4.190
Georgia	2.183
Hawaii	1.013
Idaho	.248
Illinois	5.856
Indiana	1.757
Iowa	1.221
Kansas	.962
Kentucky	1.588
Louisiana	.966
Maine	.644
Maryland	1.696
Massachusetts	2.275
Michigan	4.115
Minnesota	1.582
Mississippi	.733
Missouri	2.191
Montana	.208
Nebraska	.475
Nevada	.491
New Hampshire	.800
New Jersey	6.362
New Mexico	.265
New York	10.872
North Carolina	2.182
North Dakota	.138
Ohio	5.113
Oklahoma	1.324
Oregon	.856
Pennsylvania	4.656
Rhode Island	.453
South Carolina	1.506
South Dakota	.164
Tennessee	1.457
Texas	2.748
Utah	.488
Vermont	.295
Virginia	2.648
Washington	1.524
West Virginia	.887
Wisconsin	1.550
Wyoming	.104
Guam	.053
Puerto Rico	1.157
Virgin Islands	.075
America Samoa	.018
Pacific Island Territory	.024"

SEC. 2. Subsection (b) of section 516 of the Federal Water Pollution Control Act, as amended (86 Stat. 895), is amended by inserting "(1)" after "(b)"; by striking "(1)", "(2)", "(3)", and "(4)" and inserting in lieu thereof "(A)", "(B)", "(C)", and "(D)", respectively; and by adding the following new paragraph:

"(2) Notwithstanding the second sentence of paragraph (1) of this subsection, the Administrator shall make a detailed estimate called for by subparagraph (B) of such paragraph and shall submit such detailed estimate to the Congress no later than June 30, 1974. The Administrator shall require each State to prepare an estimate of cost for such State, and shall utilize the survey form EPA-1, O.M.B. No. 158-R0017, prepared for the 1973 detailed estimate, except that such estimate shall include all costs of compliance with section 201(g)(2)(A) of this Act or water quality standards established pursuant to section 303 of this Act, and all costs of treatment works as defined in section 212(2), including all eligible costs of constructing sewage collection systems and correcting excessive infiltration or inflow and all eligible costs of correcting combined storm and sanitary sewer problems and treating storm water flows. The survey form shall be distributed by the Administrator to each State no later than January 31, 1974.".

SEC. 3. Subsection (a) of section 203 of the Federal Water Pollution Control Act, as amended (86 Stat. 935), is amended to add at the end thereof the following sentence: "The Administrator shall approve as a project each physical or financial phase of a treatment works which otherwise meets the requirements of this Act.".

AMENDMENT OF FEDERAL WATER POLLUTION CONTROL ACT

Mr. MUSKIE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1776.

The PRESIDING OFFICER (Mr. NUNN) laid before the Senate the amendment of the House of Representatives to the bill (S. 1776), to amend the Federal Water Pollution Control Act, as amended, which was to strike out all after the enacting clause, and insert:

That the Federal Water Pollution Control Act (86 Stat. 816; 33 U.S.C. 1251 et seq.) is amended—

(1) in section 104(u)(2), by striking out "fiscal year 1973" and inserting in lieu thereof "fiscal years 1973 and 1974";

(2) in section 206(e), by striking out "$2,000,000,000" and inserting in lieu thereof "$2,600,000,000";

(3) in section 207, by inserting "206(e)," after "sections";

(4) in section 311—

(A) by striking out "(b)(2)" wherever it appears in paragraphs (1), (2), and (3), of subsection (f), and inserting in lieu thereof "(b)(3)";

(B) by striking out "Secretary" in the last sentence of paragraph (2) of subsection (f), and inserting in lieu thereof "Administrator"; and

(C) by striking out "(b)(2)" wherever it appears in subsections (g) and (i), and inserting in lieu thereof "(b)(3)";

(5) in section 315, by redesignating subsection (g) as subsection (h), and by adding a new subsection (g) to read as follows:

"(g) In addition to authority to appoint personnel subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and to pay such personnel in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, the Commission shall have authority to enter into contracts with private or public organizations who shall furnish the Commission with such administrative and technical personnel as may be necessary to carry out the purpose of this section. Personnel furnished by such organizations under this subsection are not, and shall not be considered to be, Federal employees for any purposes, but in the performance of their duties shall be guided by the standards which apply to employees of the legislative branches under rules 41 and 43 of the Senate and House of Representatives, respectively."; and

(6) in section 509(b)(1)(C), by striking out "treatment" and inserting in lieu thereof "pretreatment".

SEC. 2. Notwithstanding the requirements of subsection (c) of section 206 of the Federal Water Pollution Control Act (86 Stat. 838), applications for assistance under section 206 may be filed with the Administrator of the Environmental Protection Agency until January 31, 1974.

SEC. 3. Funds available for reimbursement under Public Law 92-399 shall be allocated in accordance with subsection (d) of section 206 of the Federal Water Pollution Control Act (86 Stat. 838), pro rata among all projects eligible under subsection (a) of such section 206 for which applications have been submitted and approved by the Administrator pursuant to such Act. Notwithstanding the provisions of subsection (d) of such section 206, (1) the Administrator is authorized to make interim payments to each such project for which an application has been approved on the basis of estimates of maximum pro rata entitlement of all applicants under section 206(a) and (2) for the purpose of determining allocation of sums available under Public Law 92-399, the unpaid balance of reimbursement due such projects shall be computed as of January 31, 1974. Upon completion by the Administrator of his audit and approval of all projects for which an application has been filed under subsection (a) of such section 206, the Administrator shall, within the limits of appropriated funds, allocate to each such qualified project the amount remaining, if any, of its total entitlement. Amounts allocated to projects which are later determined to be in excess of entitlement shall be available for reallocation, until expended, to other qualified projects under subsection (a) of such section 206. In no event, however, shall any payments exceed the Federal share of the cost of construction incurred to the date of the voucher covering such payment plus the Federal share of the value of the materials which have been stockpiled in the vicinity of such construction in conformity to plans and specifications for the project.

Mr. MUSKIE. Mr. President, on May 10, 1973, Senator CLARK introduced S. 1776 to amend the Federal Water Pollution Control Act, as amended, to authorize a 1-year extension of the pilot operator training program for waste water treatment plants under section 104(g)(1) of Public Law 92-500. The act has authorized funds for this program only through fiscal year 1973. On June 18, the Senate passed S. 1776. Section 1 of the bill before us incorporates the original provisions of S. 1776 as passed by the Senate.

Also incorporated in this bill is the language of Senate Joint Resolution 158, as passed by the Senate on October 11, 1973. This resolution would have amended section 206 of the Federal Water Pollution Control Act, which provides for reimbursement to those agencies that initiated construction on waste treatment plants between June 30, 1966, and July 1, 1972, but did not receive the maximum authorized Federal grant. Reimbursement would be for the difference between the amount of Federal funds received, if any, and 50 percent of total cost, or 55 percent if the project was constructed in conformity with a comprehensive metropolitan plan.

Senate Joint Resolution 158 would have raised the authorization for reimbursement for the 1966 to 1972 period from $2 billion to $2.6 billion as a result of revised EPA estimates. The House-passed version of S. 1776 incorporates this provision.

Because of the delay in promulgation of final regulations and confusion among States and local governments about eligibility under this program, the Senate resolution extended the deadline for filing applications for reimbursement from October 18, 1973, to December 31, 1973. The House-passed version moves that extension to January 31, 1974.

The Senate resolution provided for preliminary disbursement of funds to projects which could be quickly approved for reimbursement on the basis of available documentation, without waiting for final processing of all projects. These advance payments would prevent disruption in community plans and facilitate an orderly cash flow in the U.S. Government. The House-passed version retains this provision.

The House, in its consideration of this legislation, added new language amending section 315 of the Federal Water Pollution Control Act. That section created the National Commission on Water Quality, composed of five Members of the Senate, five Members of the House, and five presidentially appointed members, to review and independently evaluate for Congress the economic, social and environmental implications of the regulatory aspects of that act. The Commission report must be submitted to the Congress no later than October 18, 1975.

The five Senate Members were designated on January 29, 1973; the House Members on February 5, 1973; and the public members on March 15, 1973. At the Commission's initial meeting on May 15, Governor Rockefeller was elected Chairman and Congressman JONES and myself were elected Vice Chairmen.

From the initial meeting until the present, the Commission, in response to the conference committee charge that the study must be funded, staffed, and initiated with expedition, has been searching for competent staff to expedite the necessary studies. A concerted effort was made by all members of the Commission to identify candidates for the top staff positions. Part of those efforts culminated in a determination that Lt. Gen. Frederick J. Clarke, retired, former Chief of the Corps of Engineers, was the most qualified person presently available for the position of Executive Director. Because of the 2-year life of the Commission, General Clarke was reluctant to accept employment without proper permanent arrangements. His services were then made available to the Commission under terms of a contract with the engineering firm of Tippetts-Abbett-McCarthy-Stratton.

The committee is pleased that the National Commission on Water Quality was able to obtain General Clarke's services. He has dealt with this committee many times on many issues and his record is exemplary. He has a long and distinguished record in solving complex water problems and brings this expertise to the vitally important work of the Commission. He is—by any standards—the best available person for this job. The General Accounting Office, however, advised that the contractual arrangement presents legal difficulties because it results in a non-Federal employee supervising Federal employees. The GAO then advised Governor Rockefeller—the Chairman of the National Commission on Water Quality—that an amendment to section 315 would alleviate this problem. The legislative change was recommended to the Committee on Public Works by the Chairman of the Commission.

Our intention is that the exemption provided in this legislation is to be used exclusively for the services of General Clarke as Executive Director of that Commission. General Clarke will do no work for his engineering firm for compensation. He will receive no compensation from the engineering firm other than that stipulated in the contract between the National Commission on Water Quality and Tippetts-Abbett-McCarthy-Stratton. Finally, that firm will do no work for the National Commission on Water Quality other than as provided under the current contract.

S. 1776, as amended, also includes several technical amendments to correct oversights and incorrect references and are not substantive in nature.

Mr. BENTSEN. Mr. President, I believe the compromise reached by the committee was the most equitable solution to a very complex and difficult problem. I had originally proposed, and the committee accepted, an allocation formula based 50 percent on population and 50 percent on table 1 of the "needs study" EPA submitted to the Congress in October. However, a review of the impact of this adjustment in the formula revealed that several States would be severely affected by the proposed change. The formula finally approved, which contains a 25-percent allocation based on population and 75 percent on table 1, is a temporary measure, designed to correct some of the imbalances in the straight EPA needs allocation, in the form it was submitted to the Congress.

I should stress that I do not oppose a needs formula as the basis for allocating funds for wastewater treatment facilities; however, the needs test conducted by the EPA was incomplete and created distortions in the allocations of funds among the States.

I was particularly concerned that the needs study did not place a proper emphasis on the need for advanced waste treatment. My own State, Texas, has required secondary treatment for some 40 years, because it is a water-poor State. Some of our rivers are composed in the summertime of a high percentage of return flows, or effluents. With ever-increasing population growth, secondary treatment is no longer sufficient in all cases, and my State must now turn to advanced waste treatment to keep our rivers in acceptable condition.

The EPA needs study excluded the cost of advanced waste treatment in determining a State's need unless such treatment was required by legally binding Federal, State, or local actions taken prior to the conduct of the survey. In actual practice, this required a State permit reflecting advanced treatment, a court order, or an EPA-approved water quality management plan. At the time of the survey, only a small percentage of State permits required advanced waste treatment, and no EPA-approved water quality management plans existed.

I strongly support committee actions requiring EPA to produce more acceptable criteria for determining actual State needs. This bill only changes the formula for 1 year; in the intervening year, we should have more adequate data upon which to base our judgments.

I realize that the formula gives my State approximately $35 million less than the originally approved 50–50 split between population and the EPA recommendation; however, in view of the dislocations that would occur in other States from correcting entirely the obviously unfair Texas situation, I support this compromise solution.

Mr. MUSKIE. Mr. President, I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion to concur in the House amendment. Without objection, the motion is agreed to.

Mr. MUSKIE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The VICE PRESIDENT. Without objection, it is so ordered.

DATE OF MEETING OF 2D SESSION OF THE 93D CONGRESS

Mr. MANSFIELD. Mr. President, on behalf of the joint leadership, I send to the desk a joint resolution and ask for its immediate consideration.

The VICE PRESIDENT. The joint resolution will be stated, with the names of the sponsors.

The joint resolution (S.J. Res. 180) was read the first time by title and the second time at length, as follows:

On behalf of Senators Mansfield, Hugh Scott, Robert C. Byrd, and Griffin, a joint resolution:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the second regular session of the Ninety-third Congress shall begin at noon on Monday, January 21, 1974, or at noon on the second day after their respective Members are notified to reassemble in accordance with section 2 of this resolution, whichever event first occurs.

Sec. 2. The Speaker of the House of Representatives and the President pro tempore of the Senate, or the Majority Leader of the Senate and the Majority Leader of the House of Representatives, or the Minority Leader of the Senate and the Minority Leader of the House of Representatives, shall notify the Members of the Senate and the House of Representatives, respectively, to reassemble whenever in their opinion the public interest shall warrant it.

The VICE PRESIDENT. Without objection, the Senate will proceed to the consideration of the joint resolution.

The joint resolution is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading, and was read the third time.

The VICE PRESIDENT. The joint resolution having been read the third time, the question is, Shall it pass?

The joint resolution (S.J. Res. 180) was passed.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The gentleman will state it—the Senator will state it. [Laughter.]

Mr. MANSFIELD. What is the pending business? You know, Mr. President, we are only "scoundrels" over here.

The VICE PRESIDENT. The Chair apologizes.

The pending business is S. 1868, to amend the United Nations Participation Act of 1945, to halt the importation of Rhodesian chrome and to restore the United States to its position as a law-abiding member of the international community.

Mr. MANSFIELD. I thank the Chair.

UNITED NATIONS PARTICIPATION ACT OF 1945 CLOTURE MOTION

Mr. MANSFIELD. Mr. President, I send to the desk a cloture motion and ask that it be stated.

The VICE PRESIDENT. The motion will be stated.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on S. 1868, an act to amend the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome and to restore the United States to its position as a law-abiding member of the international community.

SIGNED BY 18 SENATORS

Mr. ROBERT C. BYRD. Mr. President, may we hear the reading of the names of the 18 Senators.

The VICE PRESIDENT. The clerk will read the names.

The legislative clerk read as follows:

Hubert H. Humphrey
Gale W. McGee
Alan Cranston
Tom Eagleton
Edward Kennedy
Harold E. Hughes
Jennings Randolph
Gaylord Nelson
Clifford P. Case
James B. Pearson
John V. Tunney
Ted Stevens
Harrison Williams
Walter F. Mondale
William D. Hathaway
Frank E. Moss
Quentin Burdick
Mike Mansfield

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. STEVENSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DAYLIGHT SAVING TIME—CONFERENCE REPORT

Mr. STEVENSON. Mr. President, I submit a report of the committee of conference on H.R. 11324, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. Biden). The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 11324) to provide for daylight saving time on a year-round basis for a two-year trial period, and to require the Federal Communications Commission to permit certain daytime broadcast stations to operate before local sunrise, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the Congressional Record of December 10, 1973, at p. 40576.)

Mr. STEVENSON. Mr. President, the proposed legislation is a direct result of efforts by the Senate to solve the energy crisis facing the United States. The Senate Commerce Committee anticipated the need for year-round daylight saving time last summer. In October, I introduced S. 2602 to put the Nation on temporary year-round daylight saving time. Chairman Magnuson called immediate hearings by the Senate Commerce Committee and was instrumental in insuring quick action by the committee. November 14, 1973, the Commerce Committee reported S. 2702 to the floor of the Senate and recommended its passage. S. 2702 was a composite bill written by the entire Commerce Committee to incorporate the recommendations of my bill, S. 2602, and improvements suggested by witnesses at the Commerce Committee hearings.

The conference report on the daylight saving time proposal is commendable and fully acceptable. It allows States that will have peculiar problems due to daylight saving time the opportunity to get a Presidential exemption. And it guarantees maximum uniformity for the convenience of commerce in observance of daylight saving time across the Nation. It allows States that are split by a time zone line to exempt the eastern portion of the State, thus putting the entire State on one time. And it accepts the Senate's approach requiring thorough and complete study of all of the effects of temporary daylight saving time.

The Nation will advance its clocks the fourth Sunday after the date that the President signs the bill. The Nation will remain on advanced time until the last Sunday in April 1975. The study to be conducted during this period will give Congress adequate information to decide whether permanent winter daylight saving time is in the national interest. It will also provide the specific data required to calculate conclusively the amount of energy saving that will result from year-round daylight saving time. It is probable that daylight saving time observed year-round will reduce energy consumption by more than 1 percent and also reduce crime rates and traffic accidents and add additional daylight for the convenience of most citizens.

Mr. President, I commend all of my colleagues in the Senate for the high priority this legislation has received. This bill represents an extremely useful and constructive step toward energy conservation in the United States this winter.

Mr. DOLE. Mr. President, I am not a member of the committee that has jurisdiction of this proposal but I understand from checking with my distinguished senior colleague from Kansas that there is no objection to the conference report. I understand the matter was checked out with the staff and others.

Mr. President, during Senate floor debate on the daylight savings time bill, I offered an amendment which would guarantee that any fuel allocation program would be implemented in a manner which was fair and equitable to all users and classes of users of fuel that are covered by the allocation program.

The impetus for the amendment was provided by an administrative proposal which if implemented would have imposed an inequitable reduction in general aviation fuel allocations and resulted in undue hardship for the general aviation industry. But the amendment as drafted would have had an application far beyond the general aviation problem and established generally the requirement that reductions imposed by any fuel allocation program be absorbed equally by users having the same priority.

The general aviation problem which spurred my interest in the issue has since been solved administratively, but the concept incorporated in the amendment is still sound and should be included within any legislation which authorizes a fuel allocation program.

I appreciate the support given this amendment by the chairman of the Commerce Committee (Mr. MAGNUSON) and by Senator COTTON and BEALL who served on the conference committee. I feel that the action taken by the conferees, though they did not include the amendment in the conference report, will assure that the amendment or language of similar impact will be included in the final version of the Energy Emergency Act.

Since I first introduced the amendment I have been contacted by representatives of numerous sectors of the economy in support of the proposal. I am impressed with the general attitude expressed by these people which has been one of willingness to accept the burden of the energy shortage so long as that burden is distributed equitably. I feel this attitude is representative of the feeling held by the majority of Americans I commend those who are accepting the responsibilities and inconveniences of the energy shortage in this fashion and feel it speaks well of this country and its people.

I might also add that I am impressed with the efforts on the part of the administration in dealing with the fuel allocation problems. I have found them receptive and reasonable. They responded not only to the initial problems raised by the proposed fuel allocation for general aviation, but also to later problems which arose with regard to the regulations that were printed in the Federal Register. I feel their effort in dealing with the problem reflects a sincere interest to devise an equitable program, and this administrative approach is most important in dealing with a program in which administrative discretion, of necessity, will play a major role.

I wish to thank my colleagues for their support of the equity amendment and trust a similar provision will be included in the final version of the Energy Emergency Act which is now in the final stages of congressional consideration.

With respect to section 5 of the Senate bill, I note that it was not adopted in conference. That section pertained to equitable fuel allocations. I do believe the language and the fact that we will have a similar amendment in a bill to be passed by the House, hopefully sometime this week, and go to conference next week with the Senate, will assure that there will be fair distribution of supplies.

As far as I know there is no objection to the adoption of the conference report.

Mr. STEVENSON. As the conference report indicates, section 5 was dropped, but only after the Senate conferees were assured by the House conferees that the provision would be included in the Emergency Energy Act. Also the provision would encounter parliamentary objections in the House if retained in the daylight saving bill.

Mr. FANNIN. Mr. President, will the Senator yield?

Mr. STEVENSON. I yield.

Mr. FANNIN. As I understand it, under the language in section 3(b) a State can by proclamation of its Governor make a finding that an exemption from the operation of the act would work an undue hardship, which is in accordance with the provision that was in the Senate bill. Is that correct?

Mr. STEVENSON. That provision in the bill as reported by the conference is identical to the language that was adopted on the Senate floor.

Mr. FANNIN. That is my understanding, but has there been a change in that respect? As I recall, the Senator from Kentucky (Mr. COOK) had an amendment and at the time he discussed that amendment he mentioned that several States were involved. One of the States mentioned was Arizona.

As I read this language, it states:

> Any State that lies entirely within one time zone and is not contiguous to another State, may by law exempt the entire area of the State.

Has there been any change in that language?

Mr. STEVENSON. There was no change. The amendment offered by the Senator from Kentucky and accepted on the Senate floor was retained and accepted in its entirety in conference. It permits States which are divided by time zone line to exempt part of the State or the entire State can be on the same time. In addition, as the Senator mentioned, any State can petition the President through its Governor and seek relief.

Mr. FANNIN. What puzzles me is that I thought in the language mentioned by the Senator from Kentucky he inferred that someone other than the Governor could petition; that it could be a Senator from a State, or two Senators, or a Representative.

Mr. STEVENSON. No, I do not believe that was provided in the amendment offered by the Senator from Kentucky. The provision providing for petition by the Governor was adopted in committee and was in the bill as it passed the Senate.

I might add that the conference was assured by Representative RHODES of Arizona that the provisions in the bill now before us should protect the people of Arizona.

Mr. FANNIN. I agree. I think it would be proper that the petitions should come from the Governor, but I recall some of the discussion we had on the floor and I was not sure what was decided upon.

I thank the Senator for his explanation.

Mr. STEVENSON. I thank the Senator.

Mr. President, I move that the conference report be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. CURTIS. No.

QUORUM CALL

The PRESIDING OFFICER. What is the will of the Senate?

Mr. BEALL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BEALL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the President pro tempore (Mr. ABOUREZK) laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

Mr. BEALL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION TO FILE REPORT ON S. 2776 BY MIDNIGHT, SATURDAY, DECEMBER 15, 1973

Mr. RIBICOFF. Mr. President, I ask unanimous consent that I may have until midnight Saturday, December 15, 1973, to file the Government Operations Committee report on S. 2776, a bill to establish the Federal Energy Emergency Administration, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

EMERGENCY HIGHWAY ENERGY CONSERVATION ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 11372.

The PRESIDING OFFICER. The clerk will read the bill by title.

The legislative clerk read the bill by title, as follows:

> A bill (H.R. 11372) to conserve energy on the Nation's highways.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Public Works with amendments, on page 1, in line 3, strike out "National Maximum".

On page 1, in line 4, strike out "Speed Limit" and insert in lieu thereof "Energy Conservation Act".

On page 1, in line 5, after "Sec. 2." insert "(a)".

On page 1, in line 5, strike out "Act" and insert in lieu thereof "section".

On page 1, at the beginning of line 9, strike out "Sec. 3." and insert in lieu thereof "(b)".

On page 2, in line 2, after the word "hour" insert a period and strike out "and (2) a speed limit other than 55 miles per hour on any portion of any public highway within its jurisdiction which had a speed limit of 55 miles, or more, per hour on November 1, 1973, and (3) maximum speed limits which are not uniformly applicable to all types of motor vehicles using a highway, except that a different speed limit may be established for any vehicle operating under a special permit because of any weight or dimension of such vehicle, including any load thereon. Clauses (2) and (3) of this section shall not apply to any portion of a highway during such time that the condition of the highway, weather, an accident, or other condition creates a temporary hazard to the safety of traffic on such portion of a highway."

On page 2, at the beginning of line 16, strike out "Sec. 4. (a)" and insert in lieu thereof "(c) (1)".

On page 2, at the end of line 16, strike out "the Act" and insert in lieu thereof "this section".

On page 2, at the beginning of line 20, strike out "(b)" and insert in lieu thereof "(2)".

On page 2, beginning with line 24, insert:

(d) Notwithstanding the provisions of section 120 of title 23, United States Code, sums apportioned to any State under paragraph (1) of subsection (b) of section 104 of title 23, United States Code, shall be available to pay the entire cost of any modification of the signing of any Federal-aid highway within such State due to a reduction in speed limits to conserve fuel if such change in signing occurs or has occurred after November 7, 1973.

On page 3, at the beginning of line 7, strike out "SEC. 5." and insert in lieu thereof "(e)".

On page 3, in line 7, strike out "Act" and insert in lieu thereof "section".

On page 3, beginning with line 12, insert:

SEC. 3. Chapter I of title 23 of the United States Code is amended by adding the following new section 154:

"CARPOOL INCENTIVE PROJECTS

"SEC. 154. (a) (1) To conserve fuel, decrease traffic congestion during rush hours, improve air quality, and enhance the use of existing highways and parking facilities, the Secretary shall approve projects designed to encourage the use of carpools in urban areas throughout the country while not adversely affecting bus and other mass transportation ridership in such areas.

"(2) Proposals shall be originated by local officials and submitted by the State in accordance with the provisions of subsection (d) of section 105 of this title. The Secretary shall approve for funding those projects which offer reasonable prospects of achieving the objectives stated in subsection (a) (1).

"(3) The Secretary shall take appropriate measures to assure adequate personnel and resources assigned to carry out this section within the Department of Transportation and shall provide technical assistance to States and local governments in the development of carpool incentive projects.

"(4) A project may include, but not be limited to, such measures as systems for locating potential riders and informing them of convenient carpool opportunities; preferential carpool highway lanes or shared bus and carpool lanes; and preferential parking for carpools.

"(5) A project under this section shall be carried out in accordance with procedures of law and regulations applicable to urban area traffic operations improvement projects pursuant to section 135 of this title, except that the Federal share of the cost of such work shall be 90 per centum, and that the Federal share shall not exceed $1,000,000 for any single project.

"(b) The Secretary shall conduct a full investigation of the effectiveness of measures employed in the demonstration projects authorized by subsection (a) of this section. In addition, he shall, in cooperation with the Internal Revenue Service, the Environmental Protection Agency, and other appropriate Federal and State agencies, study other measures, including but not limited to tax and other economic incentives, which might lead to significant increases in carpool ridership in urban areas throughout the country, and shall identify any institutional or legal barriers to such measures and the costs and benefits of such measures. He shall report to the Congress not later than December 31, 1974, his findings, conclusions, and recommendations resulting from such investigation and study. Funds authorized to carry out section 307 of this title are authorized to be used to carry out the investigation and study authorized by this subsection."

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the unfinished business be temporarily laid aside and remain temporarily laid aside until the pending measure is disposed of.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RANDOLPH. Mr. President, the measure now before the Senate, the Emergency Highway Energy Conservation Act, deals with a subject that can simultaneously reduce motor fuel consumption significantly and at the same time alter the habits of millions of Americans.

This bill establishes a maximum speed limit on our country's highways that is lower than that now in effect, particularly on rural highways. It is, however, an action I believe to be essential as we move to devise a variety of reasonable responses to the energy shortage.

The reduction of speed limits is a particularly useful tool in the battle against shortage because it can be quickly implemented—as has already been demonstrated—and because the fuel savings are substantial.

The Subcommittee on Transportation of the Public Works Committee, chaired by Senator LLOYD BENTSEN, received testestimony from 15 witnesses on this subject during a hearing held on December 11. The following morning, the full committee met for a wide-ranging discussion concerning the benefits and disadvantages of the various proposals advanced during the hearing. On December 13, the full committee once again considered the problem at length before reporting this measure to the Senate by a vote of 14 to 0.

I believe the unanimous vote on this bill is particularly significant. Several witnesses and some committee members expressed serious concern about the economic consequences of setting speed limits at levels which could jeopardize the flow of goods, services, and people in our economy. In addition, we received many suggestions on what approach we should adopt—from those advocating a 50-mile-per-hour speed limit nationwide to those insisting on a speed limit of 65 miles per hour. I believe the unanimous vote signifies that committee members are convinced that the solution we reached was fairest to all concerned.

Our decision was to establish a maximum nationwide speed limit of 55 miles per hour, but provide flexibility for those States which have already set lower limits in response to the President's November 7 message to retain those lower speed limits. In addition, the bill does not preclude other States from setting lower speed limits if they wish to do so. They are only restrained from setting speed limits in excess of 55 miles per hour.

Mr. President, this was not an easy decision. The committee chose a speed limit which it believes represents a proper balance of fuel conservation and economic reality. A uniform speed limit of 55 miles per hour, according to the Secretary of Transportation, would save between 130,000 and 165,000 barrels of gasoline a day. It would also allow some of our larger vehicles, such as intercity trucks and buses, to operate with greater fuel efficiency than they would at lower speeds.

The committee considered and rejected proposals that different speed limits be set for automobiles, trucks and buses. A substantial majority of our witnesses, including representatives of the Teamsters union and the American Trucking Associations, believed that such proposals would not gain public acceptance and, more importantly, would result in serious consequences for highway safety.

The committee was impressed by evidence presented by the American Association of State Highway and Transportation Officials that large trucks operating at speed 5 miles per hour faster than automobiles would require nearly 25 seconds to pass the automobiles traveling at the lower speed. That involves a distance of some 1,800 feet. In bad weather, splash and spray from wet pavements would be thrown against the driver's side of passenger car windshields, obscuring the driver's vision and causing a considerable safety hazard.

The committee took particular note of the owner-operators of large trucks and the peculiar problems they face with lower speed limits. We are sympathetic to their plight, as, indeed, we are to all of those who face adverse economic consequences as a result of the fuel shortage.

We considered the 65-mile-per-hour speed limit request of the owner-operators, just as we reviewed the implications of authorizing a higher speed limit only at night. The evidence was strongly against either approach because of highway safety factors.

There is also the very significant question of public acceptance of conditions in which large trucks and buses use the passing lanes to move past vehicles of smaller size. To make this measure work, public acceptance is essential. The committee concluded that lower speed limits, by themselves, are difficult enough to enforce without adding the extra measure of public resistance that would result from differential speeds.

The success of our total effort to reduce consumption of fuels of all kinds relies strongly on equity. The American people have demonstrated in the past that they are willing to make adjustments in their lives for the national good, but only if all citizens are called on to make the same sacrifices. The private automobile is so widespread in this country that any action that even gives the appearance of preferential treatment could undermine all energy conservation programs.

The 55 miles per hour limit, then, was chosen because we insisted on a uniform speed limit and because we wanted to choose one which would not force severe economic disruptions on truckers and other large vehicle operators. We believe we have made the fair and equitable choice.

Mr. President, the idea of lower speed limits as an energy conservation measure is not one that was hastily devised in the last few days or even the last few weeks. More than 6 months ago I proposed that speed limits on Federal-aid highways be reduced by 10 miles per hour or to 55 miles per hour, whichever was the greater. This proposal was made at a time when we had just learned of an impending gasoline shortage during the summer months.

I offered a speed limit reduction amendment to the Federal-Aid Highway Act of 1973 which was then being considered by a Senate-House conference. This proposal was not acceptable to the conference so I subsequently proposed it as a "Sense of Congress" amendment to the fuel allocations bill (S. 1570). As a nonmandatory measure, it was made a part of this legislation on June 4. It was, however, deleted in the conference report on that measure.

Had a lower speed limit been imposed several months ago, the present fuel crisis would be less severe and the Congress would not be in the position of having to develop speed limit legislation on a crash basis.

Another provision in the bill allows States to use highway trust funds to pay the cost of changing highway speed limit signs. The committee included this provision in view of the fact that these emergency conditions may well be temporary, and we do not want the States to be forced into a position of expending their own funds in response to repeated changes in Federal policy.

The cost of changing signs should not be great. One survey reported that the State of Florida changed all of its speed limit signs for $75,000. The cost to Vermont was only $50,000, as Senator STAFFORD knows.

The committee also amended the bill by the addition of provisions to facilitate the organization and operation of car pools. These provisions are similar to those contained in S. 2589, which was introduced on October 18 by Senator DOMENICI with the cosponsorship of myself and 12 other Senators. It authorizes the expenditure of up to $1 million in Federal funds on any individual project to facilitate and encourage the use of car pools.

In addition to lower speed limits, increased use of car pools offers another readily available opportunity to reduce gasoline consumption. The Treasury Department estimates we could save 200,000 barrels of fuel daily merely by increasing from 1.4 to 2.3 the average number of persons occupying each car carrying people to work.

The car pooling section of this bill is intended to help us not only achieve but exceed such a goal. The United States has a heavy investment in highways. The expanded use of car pools, particularly during this time of fuel shortage, will permit us to increase our return from this investment.

As on past occasions, I am gratified by the attention devoted by members of the committee to this measure. Their consideration of the problems and all of its ramifications was once more reflective of the seriousness with which Senators view their membership on the Committee on Public Works.

All committee members participated in the 2 days of executive sessions. As chairman of our Subcommittee on Transportation, Senator BENTSEN occupied an important leadership position in helping us to understand the scope of the problem and the alternatives to its solution. We relied heavily on the experience of Senators MUSKIE and STAFFORD who, as former Governors, can recognize the situation from the viewpoint of the States. This legislation, dealing with a matter of almost universal public concern, has also benefited from the involvement and input of other committee members, Senators MONTOYA, GRAVEL, BURDICK, CLARK, BIDEN, BAKER, BUCKLEY, WILLIAM L. SCOTT, MCCLURE, and DOMENICI. I appreciate, particularly at this busy time of the congressional year, their efforts.

This is a busy time of the year, and we are approaching that period when we hope to leave this Chamber for a reasonable number of days. We bring this matter here believing that the Senate will give it attention, for we must consider the subject expeditiously today, including amendments; but I would certainly want to encourage a thorough discussion.

Mr. BENTSEN. Mr. President, I want to lend my support to the statement made by the distinguished chairman of the Public Works Committee concerning this national speed limit bill.

My Subcommittee on Transportation listened to a variety of witnesses on this issue—from individual truckers to the Secretary of Transportation. Some, such as the commissioner of highways for Vermont, argued that a 50-mile-per-hour speed limit was acceptable. Others, including the American Trucking Association, indicated that their members would be irreparably harmed by speed limits that low and suggested a 60-mile-per-hour speed limit.

The committee was aware that no one group would be completely satisfied, regardless of the solution we reached. The 55-mile-per-hour maximum national speed limit was chosen, because the difference in fuel economy between 50 and 55 miles per hour was not as significant as the economic dislocations which would have resulted from the adoption of the 50-mile-per-hour limit nationwide.

In addition, I cannot stress too strongly that it was necessary for us to encourage a uniform national maximum speed. Administration witnesses were virtually the only witnesses to urge two-tiered, differential speed limits with trucks and buses going more rapidly than automobiles.

The committee heard enough evidence concerning safety hazards to judge that no group—automobile users, truckers, bus owners—believed that the two-tiered system was safe. And no group believed that it would gain the kind of public acceptance necessary to make this program work as it should.

In view of this, we believe we have reached the best solution to save fuel and to avoid dislocations in the economy. Moreover, we have not completely pre-empted those States which believe it is in their interests to set lower speed limits. In fact, speed limits have traditionally been the province of the States, and we want to allow them to have flexibility, within established national standards, to police their own highways insofar as possible.

In view of the controversy surrounding this problem, the 13 to 0 committee vote should be weighed very seriously. I support the committee version of H.R. 11372.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. CANNON. Mr. President, will the Senator yield?

Mr. STAFFORD. Mr. President, I ask unanimous consent that I may yield to the Senator from Nevada without losing my right to the floor at the conclusion of his remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON. Mr. President, I thank the Senator for yielding. I have another problem, in that I must serve as chairman of the Committee on Armed Services very shortly.

I send an amendment to the desk and ask that it be reported.

The PRESIDING OFFICER. The committee amendment has not been agreed to.

Mr. CANNON. I ask unanimous consent that it be in order to offer this amendment at this time, despite the fact that the committee amendments have not been agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. CANNON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with, and I shall explain it very briefly.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON's amendment is as follows:

At page 5 after line 10 add a new section as follows:

> SEC. 4. Section 601(d) of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1421) is amended by striking subsection (d) and in place thereof inserting the following:
>
> "EMERGENCY LOCATOR TRANSMITTERS
>
> "(d) (1) Except with respect to aircraft described in paragraph (2) of this subsection, minimum standards pursuant to this section shall include a requirement that emergency locator transmitters shall be installed—
>
> "'(A) on any fixed-wing, powered civil aircraft for use in air commerce the manufacture of which is completed, or which is imported into the United States, after one year following the date of enactment of this subsection;' and
>
> "'(B) on any fixed-wing, powered civil aircraft used in air commerce after four years following such date.'
>
> "'(2) The provisions of this subsection shall not apply to:
>
> "'(A) Turbojet-powered aircraft';
>
> "'(B) Aircraft while engaged in scheduled flights by scheduled air carriers certificated by the Board';
>
> "'(C) Aircraft while engaged in local flight operations conducted entirely within a fifty-mile radius of the airport from which such local flight operations began';
>
> "'(D) Aircraft while engaged in flight operations incident to design and testing';
>
> "'(E) New aircraft while engaged in flight operations incident to their manufacture, preparation and delivery';
>
> "'(F) Aircraft while engaged in flight operations incident to the aerial application of chemicals and other substances for agricultural purposes';
>
> "'(G) Aircraft certificated by the Administrator for research and development purposes';
>
> "'(H) Aircraft while used for showing compliance with regulations, crew training, exhibition, air racing, or market surveys'; and
>
> "'(I) Aircraft equipped to carry not more than one person.'"

Mr. CANNON. Mr. President, I have discussed this amendment with the floor manager of the bill and with the manager on behalf of the minority as well as with other interested parties.

My amendment is not germane to the bill which we are now debating and I offer it only with great reluctance and with the sufferance, I hope, of the distinguished chairman of the Public Works Committee, the senior Senator from West Virginia.

Mr. President, the amendment will serve to rectify a serious, unfortunate, and inadvertent burden on the more than 120,000 private airplane owners in the United States who on December 29 of this year will be required by law to install on their aircraft "emergency locator transmitters."

This requirement was imposed by Public Law 91–596 passed on December 29, 1970, in the form of a rider to an unrelated bill. Unfortunately, the provision was never studied or considered by the Aviation Subcommittee of the Senate Commerce Committee and for that reason the law contains provisions of dubious or impractical value.

But the reason for my amendment is that on December 29 it will be physically impossible for many of the Nation's private aircraft owners to comply with the law simply because there are not and will not be adequate supplies of emergency locator transmitters so as to equip every plane in the Nation's general aviation fleet. If the law is not changed, perhaps more than 50,000 individual airplane owners will be in violation of the law through no fault of their own. In many parts of the country, there is simply not an adequate supply of ELT's, as they are called, to meet the demand created by imposition of Federal law.

Therefore, many private aircraft operators will be faced with receiving citations and fines from inspectors of the Federal Aviation Administration for noncompliance, because the FAA has advised its inspectors in the field that the law does not provide for exemptions or delays.

This is truly an unfair situation brought on by legislation which was hastily conceived and passed without proper consideration.

This amendment would delay for 1 year the effective date of present law and provide adequate time for the electronics industry to manufacture sufficient ELT's so as to equip the private aircraft fleet.

A word about ELT's for my colleagues who may not be familiar with the devices and their purpose. An ELT is a small, battery operated radio transmitter which, when activated, emits a radio signal on the international Mayday or distress frequency indicating that an aircraft has crashed or crash-landed. The ELT, activated on impact, provides a signal which can guide searchers quickly to the scene of the crash in hopes that speedy location of the accident can save lives.

In addition to allowing for a 1-year delay in implementing the provisions of the 1970 law, my amendment also corrects other technical problems created by present law. The existing law remains impractical and unduly burdensome for many areas of general aviation. My amendment retains the existing exemptions for jet-powered aircraft, aircraft used in air transportation—other than air taxis and charter aircraft—and agricultural aircraft, which have been rephrased to remove inherent ambiguities.

The existing exemption for military aircraft has been expanded to exempt all public aircraft as defined in section 101(30) of the Federal Aviation Act because I believe that aircraft used exclusively in the service—whether military or nonmilitary—of a government or political subdivision thereof, which do not carry persons or property for commercial purposes, should be exempt from ELT requirements. Moreover, a 50-nautical mile general purpose limitation would replace the existing 20-mile, training-only limitation, reflecting an awareness that many general aviation flights are conducted locally for all purposes, including training.

Additionally, the amendment creates the following new exemptions for, first, aircraft involved in flight operations incident to design and testing; second, new aircraft operated incident to their manufacture, preparation, and delivery; third, aircraft certified for research and development purposes; fourth, aircraft used for showing compliance with regulations, crew training, exhibition, closed-course air racing, or market surveys; and fifth, all single-place aircraft.

Mr. STAFFORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HELMS). Without objection, it is so ordered.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that the Senate temporarily lay aside the pending amendment. We are waiting for someone to come to the floor and the problem of time is very important here.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIBLE. Mr. President, will the Senator from West Virginia yield to me, with the understanding that the Senator from Vermont (Mr. STAFFORD) will not lose his right to the floor?

Mr. RANDOLPH. I yield.

Mr. BIBLE. I have discussed the amendment I am about to propose with both managers of the bill——

The PRESIDING OFFICER. The Chair would advise that the committee amendments have not been agreed to as yet.

Mr. BIBLE. Mr. President, I ask unanimous consent that the committee amendments be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIBLE. As I have said, Mr. President, I have discussed this amendment with both the manager of the bill and the Senator from Vermont (Mr. STAFFORD). It goes to the item on page 3 of the report which I should like to read into the RECORD, as follows:

> The bill, as reported, conditions continued approval of Federal-aid highway projects upon the establishment by a State within 60 days of its enactment of a maximum speed limit not in excess of 55 miles per hour on all public roads within such State. It is the Committee's view that action by Governors or State Transportation or Highway Departments to set a 55 mile per hour maximum speed limit is authorized by existing State laws accepting Federal highway aid. Administrative action carrying out the purposes of this measure will be accepted as compliance.

The problem this amendment addresses was called to my attention by the Governor of our State. I might say that our State legislature does not meet next year. I am advised that there are some 14, 15, possibly 16 States that likewise do not meet next year. If the pending legislation were to require a special session of the Nevada State Legislature, it would cause considerable expense. I do not know the exact amount it costs to have a special session, but it is sizable.

I believe that the report language I have read into the Record is designed to take care of that problem. It is my understanding that for purposes of this legislation administrative action by a Governor or appropriate State highway, transportation or other agency to comply with the proposed speed limit will suffice. I would ask the manager of the bill if that is true.

Mr. RANDOLPH. Yes, I say to the able Senator from Nevada (Mr. Bible), that was the intent of the report language.

During the consideration of this legislation, the committee discussed the problem of States whose legislature meet only every other year and how those States could avoid the cutoff of highway project approvals which this bill uses as an incentive for States to adopt maximum 55-mile-per-hour speed limits. Many such States, of course, may choose to call special sessions within the 60 days allowed by this bill for action on lowering speed limits. The committee recognized, however, that special sessions are expensive to the States and are often difficult to schedule.

The committee concluded that since each State has enacted legislation providing whatever authority is necessary to comply with the conditions of participation in the Federal-aid highway program, the Governor or the Department of Transportation of a similar body in each State would be able to adopt speed limits as called for by this bill without further action by the legislation. I would expect that the attorney general in each State could certify that such administrative action was legal, as necessary to comply with a condition of Federal aid. To clarify the intention of the Congress with respect to the potential cutoff of approval of highway projects under this bill, the committee report states that administrative action by the Governor or other appropriate official to reduce speed limits in accordance with this bill is sufficient and that project approvals may continue whether or not the legislature of the State has had an opportunity to act within the 60-day period.

The Senator from Vermont (Mr. Stafford) and I have discussed with the Senator from Nevada his proposed amendment, which will, in a sense, nail it down beyond the report language.

Mr. BIBLE. Yes. It is the purpose of this amendment to clarify and strengthen the bill on the point involved—to nail it down, as the Senator from West Virginia says.

Mr. President, I send the amendment to the desk and ask that it be stated. It is very brief and I will read it into the Record:

> On page 3, line 11, insert the following:
>
> "(f) Administrative action taken by the Governor or other appropriate State official or agency to comply with this section shall be deemed compliance with the requirements of this section."

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk proceeded to read the amendment.

Mr. BIBLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with since I have just read it into the Record. I move adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Nevada (Mr. Bible).

The amendment was agreed to.

Mr. BIBLE. I thank my colleagues for their attention and consideration.

Mr. STAFFORD. Mr. President, this legislation represents our best efforts to balance three major considerations.

First, to conserve gasoline and other fuels in this time of national shortages.

Second, to be as fair as possible in distributing this shortage among all Americans while still considering various personal and economic factors involved.

Third, the matter of safety on our highways during a period in our history when more than 50,000 persons die each year as a result of highway accidents under normal conditions.

To those ends, the Committee on Public Works agreed unanimously that the maximum speed limit should be set at 55 miles an hour for all vehicles at all times throughout our Nation.

Setting the speed limit at 55 for automobiles will cost us a small degree of fuel economy for those 5 miles an hour above a speed limit of 50, but that slight loss is our best effort to balance the economic loss that truckers and other commercial vehicles suffer when their speed is held below 60 or 65—and it also gives us what some witnesses have suggested will be slight fuel economy from the operations of trucks and buses.

Our committee is also concerned with the matter of fairness and nondiscrimination. As in all legislative efforts to regulate normal human behavior, we must depend primarily on voluntary cooperation on the part of the American public. We do not have enough police to do otherwise.

It is our view that the motorists who drive the 100 million automobiles in this Nation will be more willing to cooperate on a voluntary basis if trucks and buses have to obey the same speed limit of 55. Conversely, it is our view that the average automobile driver will be less likely to hold down his speed to a lower limit if his auto is passed by trucks and buses traveling at a legally higher speed.

On the final point, all witnesses that appeared before our committee—with only one or two exceptions—agreed that it would be unsafe to permit big trucks and buses to travel at higher speeds than the great mass of automobiles using the same highways. There is little dispute on that point. And, although the truckers would like a higher speed limit for all vehicles, the weight of the evidence suggested they will be able to live with the 55-miles-an-hour limit.

This bill will lead to a significant fuel savings. It will treat all Americans equally on our highways. And, it will improve highway safety.

I urge its passage.

Thank you, Mr. President.

Mr. BAKER. Mr. President, I support the speed limit bill, H.R. 11372, reported yesterday by the chairman of the Public Works Committee (Mr. Randolph). It is a necessary measure to conserve the limited supplies of gasoline. Although public response to the call for voluntary observance of lower speeds has been encouraging, it is only natural that those complying with the President's requests want to know that the inconvenience is being shared generally and that the benefits—significant only if there is general compliance—justify their sacrifice.

For safety reasons, also, it is important to have a fixed standard so that traffic moves smoothly and evenly without the hazards created by vehicles moving at widely disparate speeds.

We have engineered interstate highways to accommodate 70-miles-per-hour traffic. Many vehicles have been designed to take advantage of speeds near that limit. As the Transportation Subcommittee learned in hearings on Tuesday, there is no way to lower speed limits on these arteries without inconveniencing some travelers and creating serious problems for others—in particular, the long-haul trucking industry. The committee has attempted to balance the need to conserve fuel against action which would disrupt an important sector of the economy.

The Department estimates that there is an 11-percent fuel economy for cars traveling 50 miles per hour, compared with travel at 60 miles per hour—which indicates a saving of about 4 percent at 55 miles per hour. This is not insignificant. There is much data, however, to indicate that large trucks operate more efficiently at higher speeds, in some cases between 60 and 65 miles per hour. Also, the economic consequences to the country of holding long-haul trucking operations to a 50-miles-per-hour limit could be severe.

With these facts before us, the Public Works Committee concurred with the judgment of the House that a 55-miles-per-hour maximum is the best choice for a national standard. We did not agree with the House, however, that States should retain no discretion in the setting of limits below the national standard. And although questions of safety and public acceptanee seem to militate against a lower limit for automobiles than for trucks, the committee did not wish to foreclose this possibility where a State finds it to be workable. Two States have already enacted a so-called "two-tier" system. Thus, we dropped House provisions making 55 miles per hour mandatory and prohibiting dual speed limits.

We hope that many motorists will recognize the fuel economy advantages of 50 miles per hour and that they will drive at the lower speed when it is safe to do so.

We also believed that it is desirable that the Federal Government assist the States in implementing these changes, which will require increased expenditures. Our bill provides that 100 percent of the cost of sign changes—posting new speed-limit markers—may be paid from a State's Federal-aid primary highway apportionments, if the State so chooses.

Finally, the committee believed that this bill afforded us the most expeditious vehicle through which to enact another highway-related, fuel economy measure. This is the carpool incentive program, which the Senate passed last Monday as part of S. 2176, the fuels and energy conservation bill.

Mr. President, P.R. 11372, as reported by the Public Works Committee, is needed to cope with the energy situation we are facing. It will require all of us to share the effort to conserve fuel, without requiring undue sacrifice by any single group.

The PRESIDING OFFICER. The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

Mr. CURTIS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

At the end of the bill insert the following:

"SEC. 301. Notwithstanding any other provision of any law, rule, or regulation, any common carrier by motor vehicle, as defined in part II of the Interstate Commerce Act, authorized pursuant to such part to provide property transportation service between particular points may use a shorter route between any such points if such use does not reduce any required service to intermediate points.

"TERMINATION DATE

"SEC. 302. The provisions of this section shall remain effective until such date as the President declares the current energy emergency to be terminated."

Mr. CURTIS. Mr. President, this is a very simple amendment. If someone is granted a franchise to serve a number of cities and he happens to have a load of commodities that is going from one point to another or to two points, he is not required to make the additional point, but may go by the shortest route.

It would be my hope that the committee might accept this amendment. If so, I have no desire to consume any great amount of time.

Mr. RANDOLPH. Mr. President, it has been the privilege of the Senator from West Virginia and the Senator from Vermont to discuss the pending amendment. We feel that it will strengthen the provisions of the bill, and we are glad to accept it.

Mr. STAFFORD. That is correct.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Nebraska.

The amendment was agreed to.

Mr. CURTIS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

At the end of the bill insert the following:

"RETURN TRIP AUTHORIZATION

"SEC. 301. Notwithstanding any other provision of any law, rule, or regulation, any common carrier by motor vehicle, as defined in part II of the Interstate Commerce Act, authorized to transport property from one point to another pursuant to such part may transport any property on the return trip between such points.

"TERMINATION DATE

"SEC. 302. The provisions of this section shall remain effective until such date as the President declares the current energy emergency to be terminated."

Mr. CURTIS. Mr. President, we are in a serious fuel crisis. Our entire economy is involved. It is far different from the situation when we were rationing gasoline and fuel in World War II. Seventy percent of our energy requirements are for industry, transportation, and agriculture. In the use of our cars, if we can cut down 10 or 15 percent, it is a saving. If we cut down on the productive uses of fuel, we cut down production, we close plants, we create unemployment, we create scarcities. There are many new industries that did not exist 2 years ago—for example, the petrochemical industry. More fertilizer is being used. Our needs are going to be very great.

Mr. President, we have to save everywhere we can. This is what my amendment would do. At the present time, for example, newsprint is trucked into my State for the various newspapers. The truck goes back empty. Are we going to close businesses? Are we going to cause homes to be on the chilly side? Are we going to create all sorts of hardship and still condone the traveling across the country of empty trucks?

I can cite another illustration: Meat is transported from the packing plants in the State of Nebraska to the east coast. For the most part, those trucks travel back empty—one-half efficiency. As an emergency measure, this amendment says that they may transport any property on the return trip.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. CURTIS. I yield.

Mr. PASTORE. Mr. President, at first blush, there is no question in my mind that it might appear that the Senator's amendment has tremendous merit; but this matter has many ramifications. I am afraid that we are getting into the area of collective bargaining, that we are getting into the area of contractual obligations. I think this is an amendment that should go to the Committee on Commerce and should be given very serious consideration, because, in my humble opinion, this could raise some very serious questions.

I realize what the Senator is saying: That these trucks could be filled up once they got to their destination and could be transported loaded back to their original point. There might be an argument in that. But I think there would be a repercussion from the local truckers who have contracts with the various firms.

I do not want to say at this point that I disagree with the Senator's position, but I do think this matter is complex enough that it should be given very serious study. I hope the Senator would propose it as a bill and send it to our committee, and we ought to hold hearings on it in the early part of January. It does make sense to me, but if it is put on this bill, it might wreck the whole bill and kill off the regulation of the speed.

Mr. CURTIS. Mr. President, I appreciate what the able Senator has said. I have a very high regard for the Committee on Commerce, but I have only 5 years remaining to serve in this term; and if the Committee on Commerce waits for a favorable report from the Interstate Commerce Commission, I will not be able to finish this task. That is one of the things that worries me. That is the one agency of the Government that has not come out of the 17th century yet.

Mr. PASTORE. We are not subservient to the ICC. The Senator knows that. We have enough strength and individuality in the Committee on Commerce to do almost anything the Senator would want us to do, if he is on the right side of a subject. We can do it very quickly.

Mr. CURTIS. Mr. President, everything we do here affects contracts, affects collective bargaining agreements. There are farmers who have contracts for the delivery of certain qualities of fertilizer. It will not be delivered, because it is not available. The labor that expected to perform on that, of course, will not be performing.

A great many hardships are imposed by reducing the speed limit. When we reduce the speed limit from 75 or 70 miles an hour to 55, it takes a great many more trucks to transport the same amount of freight than would be required at the higher speed. That, too, has something to do with collective bargaining, because they will have to have additional crews if they go on. For that reason, I shall insist on a vote on my amendment.

Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. CURTIS. Mr. President, I reserve the remainder of my time.

Mr. HUGHES. Mr. President, if I understand this amendment correctly—and I should like the Senator from Nebraska to respond—the amendment would allow any trucker transporting a load one way to a point of destination to haul any commodity from that point of destination back to his original point of origin. Is that correct?

Mr. CURTIS. Not quite. It must be a common carrier. It will not permit private parties, it will not permit unlicensed carriers, it will not permit company-owned trucks to go in and take somebody else's business. Only a common carrier.

Mr. HUGHES. But a regular route common carrier or a regular contract carrier could pick up any commodity, whether or not he had been granted Interstate Commerce Commission authority to haul that commodity, and under any circumstances. Is that correct?

Mr. CURTIS. That is correct.

Mr. HUGHES. I thank the Senator from Nebraska.

Mr. President, I wish to speak to this point because this very amendment would wreck the entire motor carrier laws that have been governing the whole structure of hauling in this country on point-to-point deliveries since I have been an adult. I agree the ICC is ages late in delivering opinions.

I was in the Chamber to hear this amendment presented but I am a little amazed at it because it will not help at all to relieve the load. As a matter of fact, it will reduce the income of the contract carrier. The whole basis is that they must serve distant points that do not pay enough revenue to merit the trucks doing it. If we are to depend on trucks just happening to be at a place to get the loads to be hauled by a carrier from point to point, it is going to disrupt the whole motor carrier industry in this country.

Mr. RANDOLPH. Mr. President, will the Senator yield?

Mr. HUGHES. I yield.

Mr. RANDOLPH. We have to realize that that so-called back-haul would cut out the beginning of a haul for another contractor.

Mr. HUGHES. That is correct.

Mr. RANDOLPH. The amendment involves complex issues of economic regulation of truck transportation issues on which the Committee on Public Works has no expertise. I must ask, therefore, that this amendment be rejected.

Mr. HUGHES. We can all agree, and I agree with the Senator from Nebraska that every truck that runs empty on the road that could have a load in it is using fuel we would hope would not have to be used unless it was in a productive way. But it also means that trucks running productively will be reduced in their ability to participate unless they have those loads. In order to stay on the roads and serve those communities, they have to have those loads and they must have that service maintained.

The amendment should be studied carefully because the ramifications are extensive. Speaking from experience, I feel in my heart it would be quite destructive overall in our ability to get commodities, produce, and everything we need properly and without disruption.

I agree with the Senator from Rhode Island that we are going to be faced with massive labor difficulties as a result of the amendment if it should pass and come out of conference and be ratified.

All of this is an opinion that comes from a long background in the motor industry, without studying the hearings, but I do think it is an educated opinion and probably correct.

The Senator from Nebraska is entitled to his opinion but I strenuously disagree with it and I strongly urge the defeat of the amendment.

Mr. CURTIS. Mr. President, I think there is undue alarm and excitement by those opposed to the amendment. After all, if we are going to ask all citizens to turn down the heat to a chilly point in the house in order to save petroleum products, what is wrong with saying that a truck that starts in the South and brings newsprint to my State of Nebraska is permitted to haul something back. If they have a contract giving it to somebody else this does not give them authority to do that. It merely states that from the standpoint of law and regulation they may haul something back.

If we are going to close some industries, if we are going to cut down the production of food because there is not enough petroleum to produce the nitrogen and fertilizer that is necessary, what is wrong with permitting a truck that hauls a load from the east coast to the west coast to bring something back.

With respect to the argument about upsetting contracts, it does not say they have to do it; it says they may do it. There is nothing here that forces anyone to violate a contract to give their hauling to a certain carrier if they have a contract to do it. It is very simple.

Are we going to remove the legal barriers to permit people, if they want to, to drive on the highways and have something in the truck, rather than to have it empty?

Mr. PASTORE. Mr. President, I move to lay the amendment on the table.

Mr. CURTIS. I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Nebraska. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. Fulbright), the Senator from Alaska (Mr. Gravel), the Senator from Indiana (Mr. Hartke), the Senator from Hawaii (Mr. Inouye), the Senator from Massachusetts (Mr. Kennedy), the Senator from Washington (Mr. Magnuson), and the Senator from Illinois (Mr. Stevenson) are necessarily absent.

I further announce that the Senator from Idaho (Mr. Church) is absent on official business.

I also announce that the Senator from Missouri (Mr. Symington) is absent because of illness.

I further announce that, if present and voting, the Senator from Washington (Mr. Magnuson) and the Senator from Illinois (Mr. Stevenson) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. Bellmon), the Senator from New York (Mr. Buckley), the Senator from Ohio (Mr. Saxbe) and the Senator from Texas (Mr. Tower) are necessarily absent.

The Senator from New Hampshire (Mr. Cotton) is absent because of illness in his family.

The Senator from Idaho (Mr. McClure) is absent on official business.

The result was announced—yeas 63, nays 22, as follows:

[No. 584 Leg.]

YEAS—63

Abourezk
Aiken
Allen
Baker
Bayh
Beall
Bentsen
Bible
Biden
Brooke
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cook
Cranston
Domenici
Eagleton
Eastland
Ervin
Hart
Haskell
Hathaway
Hollings
Huddleston
Hughes
Humphrey
Jackson
Javits
Johnston
Long
Mansfield
Mathias
McClellan
McGee
McGovern
McIntyre
Mondale
Montoya
Moss
Muskie
Nelson
Nunn
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott,
William L.
Sparkman
Stafford
Stennis
Stevens
Talmadge
Tunney
Weicker
Williams
Young

NAYS—22

Bartlett
Bennett
Brock
Byrd,
Harry F., Jr.
Curtis
Dole
Dominick
Fannin
Fong
Goldwater
Griffin
Gurney
Hansen
Hatfield
Helms
Hruska
Metcalf
Packwood
Roth
Scott, Hugh
Taft
Thurmond

NOT VOTING—15

Bellmon
Buckley
Church
Cotton
Fulbright
Gravel
Hartke
Inouye
Kennedy
Magnuson
McClure
Saxbe
Stevenson
Symington
Tower

So Mr. Pastore's motion to lay the Curtis amendment on the table was agreed to.

Mr. RANDOLPH. Mr. President, I move to reconsider the vote by which the amendment was tabled.

Mr. STAFFORD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Nevada.

Mr. CANNON. Mr. President, I modify my amendment by adding in lieu of the words "four years", "three years and six months"; and in lieu of the words "local flight" by inserting the word "training."

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as modified, is as follows:

At page 5 after line 10 add a new section as follows:

"Sec. 4. Section 601(d) of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1421) is amended by striking subsection (d) and in place thereof inserting the following:

" 'EMERGENCY LOCATOR TRANSMITTERS

" '(d)(1) Except with respect to aircraft described in paragraph (2) of this subsection, minimum standards pursuant to this section shall include a requirement that emergency locator transmitters shall be installed—

" '(A) on any fixed-wing, powered civil aircraft for use in air commerce the manufacture of which is completed, or which is imported into the United States, after one year following the date of enactment of this subsection; and

" '(B) on any fixed-wing, powered civil aircraft used in air commerce after three years and six months following such date.

" '(2) The provisions of this subsection shall not apply to:

" '(A) Turbojet-powered aircraft;

" '(B) Aircraft while engaged in scheduled flights by scheduled air carriers certificated by the Board;

" '(C) Aircraft while engaged in training operations conducted entirely within a fifty-mile radius of the airport from which such local flight operations began;

" '(D) Aircraft while engaged in flight operations incident to design and testing;

" '(E) New aircraft while engaged in flight operations incident to their manufacture, preparation and delivery;

" '(F) Aircraft while engaged in flight operations incident to the aerial application of chemicals and other substances for agricultural purposes;

" '(G) Aircraft certificated by the Administrator for research and development purposes;

" '(H) Aircraft while used for showing compliance with regulations, crew training, exhibition, air racing, or market surveys; and

" '(I) Aircraft equipped to carry not more than one person.' "

Mr. DOMINICK. Mr. President, will the Senator from Nevada yield?

Mr. CANNON. I yield.

Mr. DOMINICK. Mr. President, I appreciate this. One of the things I noticed however, is that we have a 1-year deal in subsection (a). Doesn't the Senator want to change that to 6 months?

Mr. CANNON. That part does not need to be modified. That relates to aircraft manufacturers, and it is already a moot question.

Mr. DOMINICK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. DOMINICK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMINICK. Mr. President, I shall take only a few minutes to discuss the amendment. I have been working on it with the Senator from Nevada.

In 1970, as a part of the Occupational Safety and Health Act, I included a requirement that emergency locator transmitters would have to be installed in aircraft within 3 years from the date of enactment, which would mean that all privately owned aircraft with exceptions made for jet and commercial aircraft would have to have installations done by January 1, 1974.

Apparently the problem is that manufacturers of emergency locators have now found out or discovered that this is more or less a one-shot deal, so they did not go into any large production. Consequently, pilots, being the optimists they are, have postponed until the last minute trying to get equipment to put in their aircraft. For example, I did not put any in my own plane until July of this year. But I did put it in.

I have just talked with Mr. Walker, the head of the General Aviation Division in the FAA, and he tells me that they have discovered a short time ago that even now, there are a good many pilots of private aircraft who are unable to comply with the law before January 1, 1974.

All aircraft manufacturers are in good shape, because they have made their contracts—Beech, Cessna, and the rest—and as far as new aircraft are concerned, they are doing fine.

The problem is with aircraft which are already out and in the hands of individual owners. Many of these owners will not find it possible to install the equipment prior to January 1. The FAA tells us that 120 days is the minimum time in which to catch up with back orders to fulfill the 45,000 gap which exists at the present time.

I have talked with the Senator from Nevada (Mr. CANNON), who is prepared to deal with this matter, and we have changed that period to 6 months. That gives a little more time than 120 days, but still does not give an optimist the right to be a total optimist. He must do something before 6 months.

The other change that was made was to exempt aircraft while engaged in operations conducted entirely within a 50-mile radius of the area from which the flight began. Each location is different from another. Consequently, we have changed that from what the FAA was trying to do. We have changed the scope from the existing 20 miles to 50 miles, so that flight training which is being carried out more and more from the basic field wolud be taken care of. This would be done by striking out "local flights" and inserting "training operations," so that that would not make any trouble.

The other changes are perfectly legitimate, in my opinion. They clarify what had been intended from the very beginning, with the exception, possibly, of acrobatic aircraft.

So the changes that have been made—and I thank the Senator from Nevada (Mr. CANNON) and the Senator from Kansas (Mr. DOLE) for agreeing to them—are good ones, and I want to go along with the amendment. I am delighted to have it agreed to.

Mr. RANDOLPH. Mr. President, the Senator from Vermont (Mr. STAFFORD) and I had an opportunity to consider the amendment earlier offered by the Senator from Nevada (Mr. CANNON) and now modified with the agreement of the Senator from Colorado (Mr. DOMINICK).

I want the record to reflect the knowledge of both of these gentlemen on this subject. They are pilots in their own right, and they speak with a knowledge of this particular problem. We are glad to accept the amendment and take it, even though it is not germane, to the conference.

Mr. DOMINICK. I thank the Senator from West Virginia.

I might point out that just the other day I had a call from a very good friend of mine in Colorado who was flying back from California with another good friend, a good pilot. They had two transceivers in their aircraft. One of them they kept tuned in at 225, and received an ELT signal all of a sudden. They did a reverse procedure, located where they thought the signal was coming from, radioed down to a flight service station, and a search party picked up two men in Yosemite Park who were very badly injured in a crash that had just occurred. With a cold front coming in, there is little doubt that they would have been dead by the next day if they had not been picked up.

We are going to get, I think, an increasing number of lives saved and misery avoided by the use of this device, and I just did not want it to go too long without the requirement that they be installed.

I thank the Senator from Vermont and the Senator from West Virginia.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Nevada, as modified.

Mr. DOMINICK. Mr. President, I ask unanimous consent that the staff may make a technical change in the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The question is on agreeing to the amendment of the Senator from Nevada (Mr. CANNON), as modified.

The amendment, as modified, was agreed to.

Mr. STAFFORD. Mr. President, we are about to come, I hope, to a third reading of the bill, but before we do, I just want to take a minute to say that I get a good deal of satisfaction from working on the Public Works Committee and on its Transportation Subcommittee, mostly because of the forceful and dynamic leadership of its chairman, the Senator from West Virginia (Mr. RANDOLPH), and the chairman of the subcommittee, the Senator from Texas (Mr. BENTSEN), as well as the ranking Republican member (Mr. BAKER).

I think an indication of how promptly and effectively the leaders of this committee can move is the fact that we held hearings only yesterday on this very important matter of the speed limit, and here we are today getting a bill through the Senate. I think it is a tribute to the leadership of the Senator from West Virginia.

Mr. RANDOLPH. I thank the Senator.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. MUSKIE. Mr. President, I would just like to join in support of this legislation. The Senator from West Virginia (Mr. RANDOLPH) has already, I think, adequately covered its provisions. I think he has also adequately described the discussions in the full committee and the compromises that were made. I think this is a sensible compromise, and I urge the Senate to support the legislation.

Mr. BAKER. Mr. President, may I just say briefly that I want to commend the distinguished chairman of our committee and the distinguished Senator from Maine (Mr. MUSKIE), and most particularly the distinguished minority manager of the bill today, the distinguished Senator from Vermont (Mr. STAFFORD), for their handling of this matter. It was handled very quickly and efficiently, and I believe it has been handled very well.

There are no good answers to the problems that confront us in the energy crisis in this or any other fuel, but I think the committee in this instance has approached the matter in a spirit of bipartisanship, and has reached a sensible solution from several points of view. So I commend all those who have participated in it, and I urge its adoption.

NEED FOR CONTINUED STUDY ON THE EFFECTS OF SPEED LIMITS

Mr. DOMENICI. Mr. President, I reluctantly joined the majority of the Public Works Committee in reporting this bill with its main provision of a nationwide 55-mile-per-hour speed limit for all vehicles with State option to lower but not to increase that speed limit.

I am not satisfied with this bill, but I agreed because I am convinced that the urgency for resolution of the speed limit dilemma demands immediate action. Users of our highways need to know what the rules are and they need to know now. Unfortunately, we have had to take action before we have had sufficient time to obtain and evaluate all relevant information or thoroughly analyze the potential effects of various alternatives.

At best, Mr. President, the solution we have reached is a compromise with which no one will be completely happy. While it will undoubtedly save fuel compared to present conditions, it will not save as much as various other solutions. While it will be less of an imposition on some highway users than other solutions would have been, it will require more sacrifice by some users than others. That is the source, basically, of my dissatisfaction.

As I have mentioned, our information is entirely insufficient for me to comfortably arrive at any conclusion, to reach any decision on a question which has such far-reaching effects. We do know several things about the fuel economy of various classes of vehicles. For instance, evidence presented at our hearings indicates that trucks and other large vehicles utilized by the transportation industry are more efficient at speeds higher than 55 and it is for this reason that 55 was chosen rather than 50, which would have been more economical for automobiles. I hope that officials at all levels of Government will help make the public aware of that fact and that automobile drivers will voluntarily maintain the lower more efficient speed of 50 miles per hour when it is reasonable and safe to do so.

I am convinced that 60 or 65 miles per hour would be more economical for trucks and larger vehicles, and I am aware that there are many areas in the United States with wide open spaces and long stretches of interstate highways where exceptions to the 55 miles per hour speed limit could be made for those vehicles which would be more economical at higher speeds.

I hope that the executive branch will thoroughly study the benefits and problems associated with the imposition of this speed limit and will report to the Public Works Committee with recommendations on how best to increase benefits and reduce problems. I know that the committee will continue to follow this situation and will act as expeditiously as it has in this case to insure that the benefits realized are not achieved at a disproportionate cost to any class of users of the Nation's highways. That will continue to be my main focus.

I concur wholeheartedly with the Senators who have spoken regarding this matter. I would add only one thought: It would be a lot easier, in this controversial matter, to do nothing, and to sit around and say, "Someone else will make this decision for us, perhaps the President of the United States, the Commissioner of Highways of the United States of America, or perhaps individual State Governors."

But in passing this bill, we are saying we are willing to face up to the tough decisions involved in the energy crisis. This one is tough because many people will be unhappy, many administrators will be unhappy, the trucking industry may be unhappy, and the people driving their cars on the highways will probably be unhappy. But we had to decide, in the interest of the whole country, what is best.

The evidence before the committee, I think, clearly indicates that as we proceed down the line enforcing this 55 miles per hour, with Governors having authority to vary from it downward, we will have to face several changes, perhaps, required by the truckers, and we will have to consider the Western States and deal with their problems. But, as all the members of the committee have indicated, we are going to keep an open mind as to all factors, especially the wide open spaces in the West, that may require changes to be made in the future.

I commend those who say we are going to pass it, even though we know its consequences may be better for some than for others.

Mr. RANDOLPH. Mr. President, in the colloquy earlier today, several Senators have spoken of this as a committee of spirit and responsibility, which I would like to repeat in expressing my genuine appreciation to the members of the Committee on Public Works. I think it has been said many times that we have within that committee a bipartisan approach. That is certainly true, as witnessed by our ability to come here, on a crucial energy decision, in the time allotted today. The approval by 14 members of this measure is a tribute to the process by which, even though there are differences. we recognize that by discussion those differences can become our strength.

We keep in mind, as the Senator from New Mexico has well said, our responsibility to come to grips with the issue. The American people expect us to do that, and we should give them nothing less than our promise that in attempting to cope with this problem, we have presented a measure which has the solid support of the committee, which I interpret may mean solid support from the Senate itself.

Mr. President, I would remind all who are in the Chamber and Americans everywhere that there are approximately 125 million motor vehicles operating on the highways, the roads, and the city streets throughout America every 24 hours. No one can calculate the number of persons who use this form of transportation, either by passenger car, by bus, or by truck. Trucks, of course, are utilized to move the products of the farm, the factory, and the field to meet consumers' demands.

So we make today, I hope, a joint commitment as Senators to solve in part the energy crisis through the conservation of energy.

Mr. President, I ask for third reading.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 11372) was ordered to a third reading, read the third time, and passed.

Mr. RANDOLPH. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RANDOLPH. Mr. President, recent weeks have seen considerable legislative activity in the Senate. The end of a congressional session is traditionally a busy time as we complete the year's work. The level of activities this year has been increased by the need for urgent legislation to enable us to cope with the energy crisis.

The fact that we were able to bring these measures to the Senate is indicative of the strong and loyal support that Members receive from their staffs. The bill which has just been passed by the Senate is a case in point. The staff of the Committee on Public Works and the staffs of the Members were diligent in helping to accumulate the information we needed to understand the speed limit problem and to make the proper decisions. Without their assistance we could not have given proper attention to this important matter while at the same time carrying out our other responsibilities as Senators.

For their contributions to this legislation I express my personal thanks and that of the other Members to the following committee staff: M. Barry Meyer, John W. Yago, Philip T. Cummings, Ronald L. Katz, Paul Chimes, Bailey Guard, Harold H. Brayman, Jackie Schafer, Katherine Y. Cudlipp, Randolph G. Flood, Pauline B. Medlin, Patty Jacobs May, Jan L. Fox, and Veronica A. Holland. Also Mike Mueller and John Harman from Senator BENTSEN's staff, and Victor Maerki from Senator STAFFORD's staff.

PROHIBITION ON THE IMPORTATION OF RHODESIAN CHROME

The PRESIDING OFFICER. The Chair lays before the Senate the unfinished business, which the clerk will state.

The legislative clerk read as follows:

> A bill (S. 1868) to amend the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome and to restore the United States to its position as a law abiding member of the international community.

Mr. COOK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HUGHES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEAVES OF ABSENCE

Mr. HUGHES. Mr. President, I ask unanimous consent that I may be excused from attendance in the Senate on Moday next, as I will be necessarily absent in the Midwest on official business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that I may be granted leave of absence from the Senate next week due to a little operation I am going to have on my eye and I shall necessarily have to be taking it easy for a short time.

The PRESIDING OFFICER (Mr. HELMS). Without objection, it is so ordered—and good luck.

Mr. HOLLINGS. I thank the Chair very much.

QUORUM CALL

Mr. HUGHES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McGEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RETIREMENT CREDIT FOR FOREIGN SERVICE INSTITUTE LANGUAGE INSTRUCTORS

Mr. McGEE. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 603, S. 2264.

The PRESIDING OFFICER (Mr. HELMS). The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2264) to provide civil service retirement credit for certain language instructors of the Foreign Service Institute.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. McGEE. Mr. President, this bill, simply put, was introduced jointly by the majority leader and the minority leader, Senators MANSFIELD and SCOTT of Pennsylvania.

It applies to 28 foreign language teachers who were hired by the State Department in 1948 as consultants, with no Federal benefits.

In 1960, the State Department and the Civil Service Commission agreed that they had erred and that the employees should have been allowed their full fledged employee benefits rights. So the thrust of this bill is to give those 28 Federal employees their Federal rights to retirement benefits from that interval. These 28 employees would be required to pay up the equivalent differences as though they had been allowed. It was an error. This is an effort, in the judgment of the Committee on Post Office and Civil Service, on both sides of the aisle, unanimously, to correct the error in this way. That is all this bill would do.

Mr. FONG. Mr. President, I concur fully with the remarks of the distinguished Senator from Wyoming, and I ask that the bill be passed.

Mr. HOLLINGS. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

At the end of the bill insert the following:

SEC. 3. (a) Subchapter VI of chapter 53 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 5366. Police forces of Washington National Airport and Dulles International Airport

"The Secretary of Transportation shall fix the per annum rates of basic pay of positions on the police force of Washington National Airport and the police force of Dulles International Airport in accordance with the rates of basic compensation, including longevity increases, provided in section 101 and sections 201 through 506, as appropriate, of the District of Columbia Police and Firemen's Salary Act of 1958, as amended (D.C. Code, section 4-823 and sections 4-824 through 4-837), for officers and members of the Metropolitan Police force in corresponding or similar classes or subclasses.".

(b) The analysis of subchapter VI of chapter 53 of title 5, United States Code, is amended by adding at the end thereof—

"5366. Police forces of Washington National Airport and Dulles International Airport."

SEC. 4. Section 5102(c) of title 5, United States Code, is amended—

(1) by striking out the word "or" at the end of paragraph (26);

(2) by striking out the period at the end of paragraph (27) and inserting in lieu of the period a semicolon and the word "or"; and

(3) by adding immediately below paragraph (27) the following new paragraph:

"(28) officers and members of the police force of Washington National Airport and the police force of Dulles International Airport.".

SEC. 5. The amendments made by sections 3 and 4 of this Act become effective at the beginning of the first pay period which commences on or after the date of enactment of this Act.

SEC. 6. No rate of basic pay shall be reduced by reason of the amendments made by sections 3 and 4 of this Act.

Mr. HOLLINGS. Mr. President, the sum and substance of this amendment is to equalize the pay for the police force of the Federal Aviation Administration at National Capital Airport, and Dulles Airport, with the pay of police officers in the District of Columbia.

I have discussed this matter at length with both the Civil Service Commission, which puts out general objection to all these bills in variations from the basic law, and the dstinguished Senator from Hawaii, the ranking minority member on the Committee on Post Office and Civil Service.

This is what occurred: Working with the Senator from West Virginia (Mr. ROBERT C. BYRD), chairman of the Appropriations Subcommittee of FAA, we began almost a year ago to try to straighten out the chaos.

We have had a bad traffic situation; we have had some security problems; we have had police problems, and we have had parking problems. As we began to work under the distinguished leadership of the Senator from West Virginia (Mr. ROBERT C. BYRD), we began to really get some order out of chaos except for one thing. In the beginning the head of the police force there said, "Senator, like Pogo, you have met the enemy and it is you. It is the Senate itself."

At National Airport there are authorized under law some 120 positions; we presently have 52. At Dulles there are authorized 81 positions and we presently have 58.

The fundamental reason we cannot fill those positions or keep good men in those positions, and many of the good men leave, is that they have a starting GS rating of grade 5 which, at the present time, with increases in pay, comes to $8,055. In comparison to pay schedules of the other law-enforcement officials in the District of Columbia area their pay is considerably lower.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point a schedule showing area police salaries, and also a table showing the pay status comparison of other major U.S. airports.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Area police salaries

[Beginning]

Federal airport police salary (only)	$7,951
Area non-Federal police salary data:	
Arlington County*	10,605
Fairfax County*	10,000
Montgomery County	10,104
Prince Georges County*	10,275
Alexandria City*	10,081
Vienna City	10,100
Virginia State*	9,168
Maryland State*	8,980
Area Federal police salary data:	
Metropolitan Police—D.C	10,000
U.S. Park	10,000
Executive Protective Service	10,000
U.S. Capitol (after 8 weeks training)	10,300
Supreme Court (after 8 weeks)	10,300

*NOTE.—Use of car, gas, oil and maintenance valued at another $2,000 per year.

PAY STATUS COMPARISON OF OTHER MAJOR U.S. AIRPORTS SHOWS NATIONAL AND DULLES WAY UNDER NORMAL; ALSO MAJOR U.S. AIRPORT POLICE RECEIVE EQUAL OR BETTER PAY THAN METROPOLITAN POLICE OF JURISDICTION

City airport(s)	Federal police	Wage beginning	Metro police of jurisdiction	Airport police wage (approximate)	
				Begin	Equivalent
Washington, National and Dulles	Federal Airport	7,951	Washington	10,000	Below.
San Francisco	San Mateo County	10,800	County	10,800	Same.
Seattle	Port Authority	10,800	Seattle	10,800	Do.
Detroit	Wayne County	10,000	Detroit	10,000	Do.
Kansas City	Special Police	9,156	Kansas City	8,566	Above.
St. Paul/Minneapolis	Metro Commission	10,836	St. Paul/Minneapolis	10,836	Same.
San Diego	Port Authority	10,600	San Diego	10,800	Do.
Miami	Dade County	9,600	Miami	10,400	Below.

Footnotes at end of table.

PAY STATUS COMPARISON OF OTHER MAJOR U.S. AIRPORTS SHOWS NATIONAL AND DULLES WAY UNDER NORMAL; ALSO MAJOR U.S. AIRPORT POLICE RECEIVE EQUAL OR BETTER PAY THAN METROPOLITAN POLICE OF JURISDICTION—Continued

City airport(s)	Federal police	Wage beginning	Metro police of jurisdiction	Airport police wage (approximate)	
				Begin	Equivalent
Los Angeles	Special Police	10,700	Los Angeles	10,800	Same.
New York, Kennedy and LaGuardia	Port Authority	10,200	New York	10,300	Do.
Newark	do	10,000	Newark	10,000	Do.
Baltimore, Friendship	State Port Authority	8,400	Baltimore	8,600	Do.
Boston, Logan	State Troopers	10,500	Boston	11,600	Below.
Cleveland	City Police	10,742	Cleveland	10,742	Same.
Pittsburgh	do	10,800	Pittsburgh	10,800	Do.
Atlanta	do	8,400	Atlanta	8,400	Do.
Chicago	do	10,800	Chicago	10,800	Do.

Note: Congressional policy, as stated in the National Airport Act and successive legislation, makes the National Capital Airports U.S. models. Dated: July 1, 1973.

Mr. HOLLINGS. Mr. President, when one looks at those pay schedules, it will be seen that nearly all the salaries start at $10,000 and up. Commencing with the $10,000 competitive pay structure, it is quite obvious that after a fellow interested in police work has applied in the District, with the Capitol Police, down at the White House, perhaps the Secret Service, the Park Service, and elsewhere, if he cannot get a position in those areas and he is still interested in police work, and willing to take a job at lesser pay, he comes over to the FAA.

At National and Dulles, they do not have adequate pay to keep an adequate force, so there is a large turnover. The police force is substantially under what has been authorized for National and Dulles airports, so the trouble lies in the fundamental law.

My friend, the Senator from Hawaii (Mr. FONG), said he cannot go along with this exception because he has been fighting exceptions for years. I have been on his side within the committee to try to resist efforts to have a change in the Capitol force, but he and I have not been too successful.

If Senators will look at section 5101, there is a general provision about classifications so that they can be further classified to be used in all phases of personnel administration, but when one turns over it will be seen that the chapter does not apply to 27 exceptions. It will be seen that it does not apply to the Metropolitan Police, the Fire Department, the U.S. Park Police, the National Zoological Park, and finally the 27th exception is members of the Special Police Force of the Library of Congress. So, this general law has been honored in the breach, and really, the law itself made us the exception.

Mr. President, rather than asking for an exception to the general law, my amendment asks that we come into conformance with the general law under those 27 exceptions.

I would like to hear my distinguished friend with respect to this matter. I am not going to press it and perhaps ruin the bill of the Senator from Montana (Mr. MANSFIELD), because his bill is needed. I support his bill and I am afraid if we get the votes this afternoon to pass the amendment next week it would get us caught up in a snarl and cause the bill not to be agreed to on the House side because the administration has moved strongly there, and the bill could be killed there for want of an agreement.

There is a letter from Robert E. Hampton, Chairman of the U.S. Civil Service Commission to the effect that he will study the problem and report back by February. Perhaps under these circumstances we can come to some agreement and perhaps I would be disposed to withdraw the amendment.

Mr. McGEE. Mr. President, I wish to say to the Senator from South Carolina, who is a member of the committee, that he has discussed the many ramifications of his proposal very carefully with the Senator from Hawaii (Mr. FONG) and me. The problem is very real. The Senator from South Carolina is to be applauded for going directly to the point of this problem, and that is if we are serious about the security of our airport facilities in the light of the problem we are addressing ourselves to, we have to face up to the consequence that this is the Nation's Capital, that these airports are on the fringe, and we are suffering the consequences of the level of pay accorded men in similar positions in areas of security in the Capital area. This is causing a deterioration of the service and availability of personnel in the security force at the airport.

I would personally guarantee to the Senator, as we have discussed, action on this matter through the committee hearing process, and onto the floor with the committee recommendation for action, in light of what the Senator has just said.

Mr. HOLLINGS. I thank the distinguished chairman. He has been very considerate. We discussed hearings, but we really allude to the 1971 hearings on the House side. The facts have not changed. We had a hard, tough police problem in 1971, in 1972, in 1973, and we will have one in 1974. Competitively speaking, we cannot have adequate law enforcement without adequate pay to bring in an adequate force at National and Dulles Airports.

I appreciate the assurance of the cooperation of our distinguished chairman, the Senator from Wyoming, and particularly, the Senator from West Virginia, who really brought this matter to our attention as he proceeded in the past year to innovate many things that have brought more orderly arrangements to parking, security, facilitating traffic at the main building and North Terminal.

Mr. President, we have to have top personnel and we cannot attract top personnel with the pay schedule we have at present.

Mr. FONG. Mr. President, the distinguished Senator has seen the letter from Mr. Robert E. Hampton, the Chairman of the U.S. Civil Service Commission saying he has directed a review of this situation and he hopes to have that review completed by the middle of February for our perusal.

I wish to advise the distinguished Senator from South Carolina that I will be very happy to study this problem in committee and I will join the distinguished chairman to see that there is a hearing and that this matter will be brought before us early next year.

I wish to refer to my prepared remarks.

Mr. President, I strongly oppose the amendment of the Senator from South Carolina. The amendment would raise the starting rate of pay of the 80 Federal Airport Police at Washington National Airport and at Dulles International Airport by 25 percent.

It would raise the starting rate from $8,055 to $10,000 per annum, an increase of $1,945 per annum.

You may recall that it was only 2 months ago that these Federal Airport Police, along with other Federal white collar employees, received a pay increase of 4.7 percent.

If this amendment is passed, the airport police at these two Federal airports would have received within 2 months an increase in their salary of 29.7 percent.

It may be possible this increase is justified. However, not being an expert in personnel classification, I have no way of knowing except to consult those experienced in this line of work. The experts say that this is not the way to proceed.

Nothing in this amendment provides for any pay increase for the almost 5,920 other policemen currently employed by the Federal Government.

They say that this amendment would emasculate and throw in disorder the whole job classification system. It would threaten the very existence of orderly Federal job reclassification procedures.

The experts say that it would start the Congress on an endless round of Federal job reclassifications by legislation, completely destroying fair and impartial consideration of job reclassification requests in the Federal service.

The U.S. Civil Service Commission by law, is charged with the responsibility of reviewing position classifications in the Federal service. Such reviews are made to determine whether the employing agencies have placed Federal occupations at grades in conformance with the standards set by the Civil Service Commission.

When the Commission finds that a position is not placed at the proper grade level as required by the standards, the Commission has authority to direct a change in the classification of the particular job.

There are approximately 2,000 different occupations in the Federal service. The Civil Service Commission receives approximately 150 requests each year for review and reclassification of specific occupations. Each request is given thorough consideration before action is taken. This detailed study before reclassifying positions is critical to proper personnel management everywhere. To do otherwise would destroy proper job relationships and employee morale.

It is essential that experts in the field of personnel management and job classification study in detail the problem we face here. The problem is very complex and goes far beyond merely moving an occupation from one pay grade to another.

The Senate Post Office and Civil Service Committee has never held hearings on this subject. No experts have ever appeared before the committee to testify on the classification problems which will ensue if we upgrade the Federal airport police, as the amendment proposes.

We do not know how many other types of Federal police and guard positions are classified at the same level as the airport police. We do not know the relationship between the airport police positions and other similar occupations in the Federal service.

If we act on upgrading the airport police now, will we have to come back next year and upgrade other occupations, say the other 5,920 Federal policemen? Will we have to raise the starting pay of the Border Patrol, or the Immigration inspectors, or the GSA building police next year?

What does this apparently simple procedure we approve today do to the higher positions in all of the Federal police occupations? How badly do we compound the problems of pay compression that is faced by the Federal Government right now.

What do these increases in Federal service pay do to the pay rates of State and local governments?

We just do not have all of the facts before us. It is critical that we have the full picture in front of us and know what we are doing.

As I stated earlier, there are over 2,000 occupations in the Federal service now. The Civil Service Commission receives approximately 150 requests each year for upgrading of Federal positions. If we adopt this amendment now, the Congress will probably be deluged in years to come with requests from other Federal employee groups to upgrade their jobs. This will be particularly true with regard to reclassification requests which are initially turned down by the Civil Service Commission.

If we approve this amendment, how can we deny similar requests from other groups in the future? If we adopt this amendment we might just as well repeal the entire reclassification authority the Congress gave to the Civil Service Commission years ago.

The Civil Service Commission has the expertise to consider reclassification moves of Federal occupations. The Commission staff has the experience, the knowledge and the essential objectivity to deal with the problems of job reclassification. They should be allowed to continue their work without uninformed and haphazard interference from the Congress.

I have 2 letters dated November 28, 1973 and December 14, 1973 respectively from Chairman Robert E. Hampton on the subject of job reclassification for Federal airport police. I ask unanimous consent that Chairman Hampton's letters be included in the Record at this point.

Chairman Hampton advises in one letter, that he has ordered an immediate review of this problem by the Civil Service Commission and the Department of Transportation. The review will consider the question of whether the positions of the Federal airport police are properly classified under the standards for police positions generally and whether there is a need to modify or revise those standards in order to properly reflect any occupational changes that may have occurred since the standards were last prepared.

Chairman Hampton advises that the review will hopefully be completed by mid-February 1974.

In the second letter Chairman Hampton gives his reasons why this amendment should not be passed.

In view of the Commission's action and the very critical need to continue the orderly process of Federal occupation classification by the Civil Service Commission, I most strongly urge defeat of the amendment.

Mr. President, I ask unanimous consent to have printed in the Record two letters from Mr. Hampton, one dated November 28, 1973, and the letter of December 14, 1973.

There being no objection, the letters were ordered to be printed in the Record, as follows:

U.S. Civil Service Commission,
Washington, D.C., December 14, 1973.
Hon. Hiram L. Fong,
Committee on Post Office and Civil Service, Washington, D.C.

Dear Senator Fong: In response to an inquiry from Senator Hollings regarding the classification of the jobs of the FAA policemen at the Dulles and National Airports in the Washington, D.C., metropolitan area, I have today provided him with the following information.

As you know, the Civil Service Commission position on S. 610 is to oppose this legislation for the reasons expressed in our report to the Senate Post Office and Civil Service Committee of November 28, 1973. However, in order to be certain that all of the current duties and responsibilities of these positions have been given full consideration in classifying them to the appropriate grades under the Classification Act, we are undertaking an immediate review of the factual situation. This review will be made jointly with the appropriate staff of the Department of Transportation. It will give consideration to both the question of whether the positions as currently constituted are properly classified under the existing classification standards for police positions generally, and the question of whether there is a need to modify or revise those standards themselves in order to properly reflect any occupational changes that may have occurred since the standards were last prepared.

I wish to assure you that this review will be undertaken promptly and we hope to be able to complete it by mid-February 1974. I will be glad to inform you at that time of the results of this review.

Sincerely yours,
Robert E. Hampton,
Chairman.

U.S. Civil Service Commission,
Washington, D.C., November 28, 1973.
Hon. Gale W. McGee,
Chairman, Committee on Post Office and Civil Service, Washington, D.C.

Dear Mr. Chairman: This is in further response to your request for the views of the Civil Service Commission on S. 610, a bill "To revise the pay structure of the police forces of the Washington National Airport and Dulles International Airport, and for other purposes."

This bill would exempt those Federal police officers who are assigned to National and Dulles airports from the classification provisions of chapter 51 of title 5, United States Code (and consequently from the General Schedule pay structure provisions of section 5332 of title 5). It would direct the Secretary of Transportation to fix their rates of basic pay in accordance with the rates of basic pay established for the Metropolitan Police Force of the District of Columbia.

The Civil Service Commission is strongly opposed to the enactment of these provisions, and urges that they not be approved.

We have consistently opposed legislation which would establish the classification or pay of Federal employees by statute. We believe such attempts are contrary to the clear intent of Congress when it established the classification and compensation systems for general application, and delegated to the Executive Branch the authority to apply them to particular groups of employees. We believe that such attempts can undermine the Congressional mandate that there shall be "equal pay for substantially equal work," because we are convinced that that principle is best served by adherence to the position classification system embodied in title 5 rather than by attempts to depart from it.

In our view, the only justification for S. 610 would be a conviction that the duties and responsibilities of the Federal airport police are at the same level as those of the D.C. metropolitan police. Otherwise it would be impossible to propose identical pay systems without openly abandoning the statutory principle of equal pay for substantially equal work. Therefore we at the Commission must assume that the sponsors and supporters of S. 610 are convinced that the work of a policeman at National or Dulles airport is essentially the same as that of a policeman in the city of Washington.

It is this with which we must take sharp issue: we firmly believe that there are important differences in the two jobs, and that these differences are readily perceptible by the application of systematic classification techniques.

Commission staff has carefully compared the duties and responsibilities of the airport police with those of the metropolitan police private. On the basis of this occupational analysis we are convinced that there are distinct differences between the positions which warrant necessarily different pay treatment. Clearly the airport police position involves duties and responsibilities of a considerably lesser magnitude than those of the metropolitan policeman. Rather than being like the D.C. position, the airport policeman is more nearly akin to the many other police positions in the Federal service that are, and should continue to be, paid under the General Schedule.

The salary rates provided by the General Schedule are entirely adequate for compensating these positions. Further, to the extent that there are differences among police positions paid under the General Schedule, the classification system is flexible enough to provide grade and pay distinctions commensurate with the job differences. Thus, for example, if a particular airport police function, now paid at GS–5, were determined to involve higher level duties, it could be placed in a higher grade even if it meant exceeding the highest level for which a published grade level standard exists. This could happen either by an agency classification determination, or as a result of a classification appeal by any one of our airport policemen.

The Federal government currently employs almost 6,000 policemen, all of whom have been classified by reference to the same standard. There is no justification whatever for removing 80 of them from a consistent compensation system in order to pay them according to a system designed for a city police force, the duties and responsibilities of which are so clearly different.

In closing, I would point out that S. 610 would affect only about 80 employees and therefore its cost, in terms of the total Federal payroll, would be negligible. Under the circumstances, one might wonder why we feel so strongly about it. The reason is that a most important principle is involved here: the maintenance of the integrity and equity of the position classification system. Passage of S. 610 could become the "thin edge of the wedge," leading to an ever-increasing number of preferential departures from the General Schedule system for more and more special interest groups of Federal employees.

The Civil Service Commission must remain opposed to any such erosion of the system which Congress has charged us to maintain.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report.

By direction of the Commission:

Sincerely yours,

ROBERT HAMPTON,
Chairman.

Mr. HOLLINGS. Mr. President, in the letter from Mr. Hampton, it is stated that his study is to reflect any occupational changes. As a result of the record here I would admonish him to look at the law and determine what is the general law.

I do not think he is going to find any occupational changes, but, in essence, he is going to find that exceptions have become the general law, and it is the general law that is confining us to those restrictions in the pay scale that is making us the exception.

With that, Mr. President, unless there is further comment, I ask that the amendment be withdrawn.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

Mr. McGEE. Mr. President, I ask for a third reading of the bill.

The bill (S. 2264) was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8332(b) of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (8);

(2) by striking out the period at the end of paragraph (9) and inserting in lieu thereof a semicolon and the word "and";

(3) by inserting immediately below paragraph (9) the following new paragraph:

"(10) subject to making a deposit provided for under section 8334(c) of this title, service performed after June 30, 1948, but prior to July 1, 1960, as a language instructor in the Foreign Service Institute, Department of State, under a non-personal-service contract, only if he later becomes subject to this subchapter."; and

(4) by inserting immediately after the fifth sentence thereof the following new sentence: "The Commission shall accept the certification of the Secretary of State concerning service for the purpose of this subchapter of the type described in paragraph (10) of this subsection and performed by an employee."

SEC. 2. The amendments made by the first section of this Act shall apply to individuals separated from Government service prior to, on, or after the date of enactment of this Act, and their survivors; but no annuity or survivor annuity, or increase in any such annuity shall be payable by reason of such amendments for any period prior to the first day of the first month which begins after the date of the enactment of this Act.

ORDER OF BUSINESS

The PRESIDING OFFICER. What is the will of the Senate?

Mr. McGEE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McGEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McGEE. Mr. President, I move that the vote by which S. 2264 was passed be reconsidered.

Mr. FONG. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. What is the will of the Senate?

Mr. PEARSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGAL SERVICES CORPORATION ACT—AMENDMENT

Mr. LONG. Mr. President, like the great majority of the Members of this body, I am very much in favor of the Federal Government's providing services to the poor who are in need of a lawyer to defend themselves or to institute litigation because they are being victimized in one respect or another. But I am against legislation under which the Federal Government pays lawyers to sit around in ivory towers dreaming up ways to foment judicial legislation against State and local governments, to prevent the dedicated people working for those governments from fulfilling their responsibilities that the law expects of them.

In some instances, this legal service program has involved a lawyer seeking clients in order to institute suits against the State and local governments, and in some cases has involved a nationwide search for clients on whose behalf litigation could be filed, to make it difficult, if not impossible, for State, and Federal officials to do what the law expected of them.

The amendment that I am submitting today is designed to prevent the Legal Services Corporation from misusing its authority in the manner that the legal services program of the Office of Economic Opportunity has been misused in the past.

OEO, in appropriation hearings, has justified the legal services program by stating its aim to be "the use of the judicial system and the administrative process to effect changes in laws and institutions which unfairly and adversely affect the poor."

In carrying out this broad, highly subjective, and basically legislative function, certain legal services activities have been aimed directly at undermining welfare and other programs which are, of course, established by duly enacted Federal laws.

In many cases the courts ruling in suits brought by legal services lawyers have misused the purposeful broadness of the Federal statutes as an avenue for imposing by judicial action Federal requirements which, if imposed at all, should more properly be determined legislatively. I recognize, however, that a statute which is intentionally phrased so as to leave considerable discretion to those who administer it may give rise to some questions of interpretations. Accordingly, my amendment provides a mechanism whereby it would be possible to avoid the necessity of litigation which is likely to result in the courts feeling constrained to assume legislative responsibilities. The amendment would establish a prohibition against the use of Federal funds to pay directly or indirectly, the compensation or expenses of any individual who in any way participates in action relating to litigation which is designed to nullify congressional statutes or policy—or State statutes enacted pursuant thereto. However, the amendment would permit the Attorney General to waive this prohibition 60 days after he has provided the appropriate legislative committees of Congress with notice of his intent to make such a waiver.

This will give the committees time to consider the issues being raised in the proposed litigation. If the committees determine that the intent of the statute is, in fact, open to question, they would be able to put this properly legislative question before the Congress with their recommendations for its solution and thus avoid the need for further litigation. On the other hand, if the committees determine that the suit does not involve a question of legislative intent or that the statute already clearly expresses that intent, the matter could be left to the courts.

My amendment is in no way intended to affect the duties of legal services corporation lawyers in connection with legal representation that involves assisting poor individuals with day-to-day problems in such areas as support payments or arbitrary actions of local welfare departments.

Mr. President, my amendment provides for something that no one has to go to law school to understand. No one but an idiot would hire a lawyer to sue himself. Yet this is what the legal services lawyers have been doing, and this is what my amendment will prohibit the attorneys and legal services corporation from doing.

Because of various court decisions which have come about through OEO lawyers, a person by mere delay, and to no inconvenience to himself, can stay on the welfare rolls for as long as 5 months, although he was never eligible the first day to draw all of those payments. Then, if it is found he was eligible, how much money can one get back? Not a cent.

It makes no sense for Congress to fund money for attorneys who will go out and seek litigants in order to compel judicial interpretation of acts of Congress which run counter to the intent of Congress.

The California rural legal aid assistants in January of 1972 sent a memorandum to attorneys and community workers and a copy of this was sent to the Finance Committee. One of the items in this memorandum concerns child care. The memorandum states a writ has been filed to compel the States to provide new regulations to actually provide for certain child care.

It goes on to say—

> We may need plaintiffs on this. The ideal plaintiff would be a mother who has a job but cannot get anyone to take care of her kids but needs to have someone to take care of her kids. Or, we could get someone who is not on welfare but who may have to quit because there is no one to take care of her kids and she has a job or needs a job or something like that.

Imagine that. Here are these lawyers paid by the Federal Government, scanning the country to find someone to sue the State and Federal governments, and not waiting for someone to come in and complain. They are looking for a person to sue the Government. The briefs and petitions are drafted, and they are looking for some poor State to sue and for some litigant to sue it.

Another item concerns poor property regulations in the State of California. The memorandum states that two people "are going to bring a lawsuit against these regulations."

To continue, the memorandum mentions that two people—

> Are going to bring a lawsuit against these regulations and even if they lose we should be finding out how the county is valuing property and making arguments that they are doing it wrong. Again, even if this suit is not won there are a million games that can be played with regulations like these.

Imagine that. The Federal Government has been in the business of hiring these young lawyers to go play these games of suing State employees doing their best to serve the public.

All of this adds to the cost of lawyers, both the lawyers for the litigants and the lawyers for the Government plus the cost of judges, bailiffs, clerks, reporters, and jurors to the cost of keeping someone on welfare who is not entitled to be there in the first place.

It causes people to think of the welfare syndrome as something by which people can get on welfare, even though they are not eligible to be on welfare, and stay on it indefinitely without any money being paid back to the Government for the fraudulent claims that have been made.

Mr. President, I have with me a copy of a memorandum to which I have made reference. I notice that on page 1 of this memorandum there is the symbol of the Minute Man with a rifle and the lines:

> Buy United States savings bonds regularly on payroll savings plan.

That obviously indicates that this is Government stationery, involving Government-paid lawyers.

I would submit to any Senator, particularly to one who has ever had responsibility in State government, that he should picture himself in a position of responsibility while these lawyers are laying their plans to sue him on first one basis and then on the next one. They will make him spend his life in court in litigation dreamed up in legal centers at Columbia University and other universities. Those centers consist of people sitting around dreaming up how they may sue the Federal Government or sue the local government or someone else and thereby get people on the welfare rolls who do not belong there. They impede the hospitals and various other State institutions that are trying to do their job, while these imaginative young lawyers dream up even more ways to sue them on first one basis and then another.

The memorandum says they are playing games, dragging State and local officials and other dedicated Federal public employees into court on litigation that is a figment of the imagination of the lawyers who are trying to find litigants to file lawsuits against dedicated people doing their job as best they can for the Government.

Again, let me say that I am strongly in favor of the legal service program for the poor insofar as it is what it is supposed to be. Unfortunately, it is very difficut to get those involved in such a program to do what we hope to have done.

For example, one thing I would like to see them do would be to get a habeas corpus petition for some poor soul languishing in jail somewhere so that he can be a free man until he is tried.

I notice that this bill does not provide for that. That is left out. They have not found that to be so important. But they do fund lawyers to sit up in the Columbia University legal center and find ways to dream up lawsuits against any dedicated Federal official or any of the officials of the 50 States of the Union.

This is referred to as the backup center. It should be called the front-up center, because they dream up the cases before they find the litigants. Then they have to go out to find a litigant or to create a dispute where one does not exist.

That is the kind of activity they have put into this program. They think they are doing a service for the poor by loading the welfare rolls down with people who should not be on the rolls at the expense of those deserving people who ought to be getting the welfare money.

The experience in California indicates that a great deal more can be done for the deserving cases and that they can be paid far more money and be taken care of more efficiently if we are able to prevent these people who have no right to have a claim for welfare from the Government, by any stretch of the imagination, from being on the welfare rolls.

If we can prevent the people from getting welfare who do not need it and put the people on the rolls who belong there, we can move on down the road toward providing for and assuring that those who are in poverty through no fault of their own will be assured of the kind of help they deserve.

Mr. President, we are not going to achieve that so long as we have a program that makes it far more desirable to impose billions of dollars of needless costs on the local government in order to encourage and support the imaginations of some of the poverty lawyers who want to rewrite our laws through the courts.

I will urge that this matter be considered when S. 2686 is again before the Senate.

Mr. President, I ask unanimous consent that excerpts from the memorandum to which I have made reference be printed at this point in the RECORD.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

RECENT WELFARE LITIGATION

Three or four months ago I put out a memo to the attorneys and community workers on recent litigation concerning the Welfare Reform Act. About a week ago Mark and I met with a group of Legal Services attorneys in San Francisco, and discussed the most recent developments in the area of welfare litigation. The purpose of this memo is to bring you up to date on these matters.

1. *Yee Litt*—aid pending a fair hearing.

In this case, Chris May, of SFNLAF, has obtained a restraining order from the Federal District Court, ordering the State Department of Welfare to grant aid pending the fair hearing in all cases where a person has made a "timely" request for fair hearing, since September, 1971, and into the future. The theory of the case is that a person should be given aid pending the fair hearing decision when his determination in his case involves issues of fact. The argument is that just about every question which a recipient can raise involves *some* issues of fact, and for the Department to deny some people aid pending, puts a burden on the welfare recipient to simply use the proper language when he requests his fair hearing—a burden that the recipient is really not able to meet. In addition, the standards by which the Department determines when a factual issue is involved are so vague that they simply cannot be fairly applied, and violate due process of law. The court has bought these arguments and has ordered that any person who does make a timely request for a fair hearing must be given aid pending the hearing decision. There will continue to be questions, I suppose, regarding what is a timely request. So far the rules say that this must be done within 15 days of the time in which a person is notified of an adverse decision. The request for a fair hearing, by the way, may be oral as well as in writing. It also may be made directly to the local Welfare Department, as well as to the State Department in Sacramento. To be safe, however, we should always submit a written request that is correctly dated, even when the client makes an oral request.

Chris wants to know whether the counties and the State are abiding by the court's decision. Could you all try to determine what is happening in these kinds of cases.

There is also the problem of the "eclipsed" fair hearing request. Sometimes a person is notified of a change in his grant and he immediately requests a fair hearing. After the request, the Department may do something new to his grant and he may not request a fair hearing a second time. This particular issue has not been decided, but we should be prepared to argue that the situation is exactly like the situation when a person makes a premature appeal in a court of law. In those cases, even though the person appeals prematurely, his appeal is deemed to take effect at the proper time.

Fred Hiestand also has a case pending on a similar matter. His involves the requirement that fair hearings be granted within 60 days of the time they are requested. What the State seems to be doing is scheduling all fair hearings where there would be aid pending for the immediate future and delaying fair hearings in cases where a person is not getting aid pending—that is, cases where a person has applied for welfare and has been denied, and then requests a fair hearing, where he gets no aid pending because he was not receiving aid prior to his request. Fred is arguing that for the State to put all the aid pending cases first is a denial of equal protection of the laws. If you get a case where the fair hearing is not granted within the 60-day period, let me know or call Fred Hiestand.

Another issue involves the provisions in the new regulations which threaten the client with a lawsuit to recover the aid which he is given pending a fair hearing if the fair hearing decision goes against him. This is another area where the law is not settled. In one case where the County sued a client who had gotten aid pending the fair hearing, Marty Kresse, of the CRLA Santa Maria office, raised a defense saying that the recapture provisions were illegal. The State had demurred to his defense, and the court has not yet ruled on the matter. If we get a case like this, again let me know or call Marty Kresse.

* * * * *

5. *Conover v. Hall.*—$50.00 work-related expenses.

In this case the court knocked out, on December 21st, the $50.00 work-related expense business. Under the old system, a person could get his actual work-related expenses, whereas under the Welfare Reform Act it was limited to a flat $50.00 for such expenses. The court said that that was no good. The new regulations, however, make some changes in calculating work-related expenses, and we really should find out exactly how the County is interpreting the regulations, however, make some changes in calculating work-related expenses, and we really should find out exactly how the County is interpreting the regulations and what the regulations are doing to our clients—that is, if they are helping them or hurting them. For example, under the old system a person might get up to $75.00 a month for car repairs, insurance, etc., and 4c a mile for travel; under new regulations, it is just 12c a mile. There seems to be a loophole in the regulations, though, since they say 12c a mile whether or not a person has a car. Therefore, even if someone else takes him to work he should be eligible for this 12c a mile. I doubt if the Department is giving people this, but the regulations clearly say so, and we should try and get people this kind of money. What I don't know is whether the 12c a mile works out better for people than the old system. In addition, the County is allowing expenses for day care and "incidentals", up to a certain maximum. We may be able to say that all of these regulations are no good under the court ruling, and that what the court really has to do is to go back to all of the old ones. But before we bring this kind of case we need to know, first of all, whether it would help our clients to go back to the old regulations; and secondly, even if we decide that, we have to know what the County is actually doing, so we can put it in before the court. This is something that Dearl and Don, especially, should look into. Other things that seem to be eliminated by the new regulations are education, phone, some actual transportation costs, etc.

Related to this is the whole problem of the child care regulations, which say when a person can get child care expenses, according to the County's determination that the parents can't provide adequate care for the kids while working. We have to see what the County is doing on this—whether they are saying that there is no need for child care, when, for example, a 12-year-old kid takes care of a 6-year-old kid, or something like that. There are a lot of arguments we can use to knock out bad County practices, but we have to know what the County is actually doing in these cases. They may also be saying, for example, that there is no need for child care if there is a grandparent in the house, or some other non-working adult relative. Again, we have to find out what the County is doing in this whole area, and then let me know or get in touch with Ed Schaffer on this particular matter.

6. Stepfathers.

Under the Welfare Reform Act, there were new regulations saying that half of a stepfather's income would be counted against the grant. The judge ruled that this was illegal and said that you have to count what was "actually available", not a flat determination of half of what the stepfather makes. The case was then appealed, and is in the District Court of Appeals. The appeal is going to be dismissed, so that the judge can rewrite his order and make it more explicit. What the County should do is to reinstate everyone who was cut off as of October 1st under these regulations; they should issue supplements for the interim time; and they should send out questionnaires to people, to try and determine how much of this income is "actually available to the children". Again, if you have a problem in this area, let us know or contact Peter Reed.

On a related point, Mike Woods, of the Hunter's Point SFNLAF office, got a writ of mandate in the San Francisco Superior Court by suing on Carleson's letter. The case is *Maguire* v. *Borne*. What the case stands for is the proposition that when Carleson issues a letter to the Departments they have to enforce it, and if you find that they are not doing so you can go into Superior Court and get a writ of mandate from your local court, without going up to Sacramento and suing Carleson. As to what makes the letter "official", all you have to do is cite the new statute, Welfare & Institutions Code, Section 11050. Another way of handling this is to get a certified copy of the order and go in re contempt against your local director.

7. *Villa v. Carleson*—Unemployment Benefits and 30-day Work Rule.

This is the case that I joined Moe Jourdane and Dave Kirkpatrick of the Salinas office on. We argued that two new regulations—the 30-day waiting rule after a person lost his job, and the rule that a person could not be eligible for unemployment benefits and also receive welfare—were contrary to the legislative definition of "unemployed". After a good deal of hassle in the courts, we finally got a permanent injunction and declaratory judgment stating that the regulations were illegal and could not be enforced. The problem is that although the court ruled that way, it has not yet written its order. There is a hearing scheduled for Friday, January 21, at which time the court's opinion and order should be worked out. We should know by the beginning of next week how the order actually reads, and then it should be an easy matter to get the County to start enforcing it. They are already regarding the unemployment benefit regulation as illegal, since they got a letter from Carleson on this subject. The only thing that we are waiting for is the 30-day rule.

8. $1500.00 Car.

There was a new regulation issued that said that a person would be ineligible for welfare if he had a car worth $1500 or more, regardless of encumbrances. In other words, if a person's car was valued to $1600, even if he owed $1000 on the car, he wouldn't be eligible for welfare. Joel Gomberg, of the CRLA Gilroy office, got a temporary restraining order against this new regulation in the end of November. Nothing has happened since, except that Carleson has sent out a letter to the County directors saying that the regulation is not going to go into effect.

9. Providing Child Care.

Section 18.3 of the new Act provides for child care set-ups for people who need it. A writ has been filed to compel the State to adopt new regulations to actually provide for such child care. The State says that no new regulations are needed. We may need plaintiffs on this. The ideal plaintiff would be a mother who has a job, but can't get anyone to take care of her kids and needs to have a day care provision. Or we could get someone who is not on welfare, but who may have to quit because there is no one to take care of her kids, and she has a job, or needs a job, or something like that. The Counties are supposed to be drawing up their plans for providing day care under the new Act, and I am not sure whether this County has submitted a proposal or a plan to the state. We should really try and find out what is happening in the whole area of day care being provided for working mothers.

10. District Attorney Referrals.

Taylor v. *Martin* has been decided by the Supreme Court, outlawing the section of the Welfare & Institutions Code which said that a person had to see the District Attorney and file a criminal complaint against her husband in order to be eligible for welfare. That was followed by the case of *Doe* v. *Carleson*, in which the court said that you don't even have to answer questions the D.A. asks, other than the name and address of the father. If we find a person who is being asked to give the name and address, it would be an easy matter to bring the law suit which knocks out that final requirement. I don't think we are going to have any trouble on this, though, at least in Stanislaus County. I have talked to the County officials, including Quisenberry and Ben Kelley, and to County Counsel, and I think I have convinced them that it is illegal to make a woman cooperate with the District Attorney in any way, or talk to them at all about the absent father of her children as a condition of eligibility. I would like to know if the matter has not been resolved in the County, though.

11. New Property Regulations.

There is a whole new form that welfare recipients will have to fill out as of March 1, 1972. It is called the WR-2 form, and it is to determine whether a person has too much income or property, etc. The new form runs 19 pages, and I have a copy of it in case anyone wants to see it and blow his mind. There are new regulations that involve how much property a person can have as a reserve and still be eligible for welfare. It seems to say that you can have liquid assets up to $600.00, and in addition, another $1,000.00 worth of tangible property. In addition, there are new regulations that talk about a maximum of $300.00 on any single piece of equipment, like a refrigerator or color T.V., etc. There are so many questions about this that I don't know where to start. One initial question is whether the new regulations will be enforced.

So far they are not being enforced. If the Department starts to enforce them, there will be further questions on how they value these items. For example, do they go by the value when new, or the quick-sale value, or the value when the item was bought, or the value minus the encumbrances that the person has on the property. Valerie and Dan Bruener, of Long Beach, are going to bring a law suit against these new regulations, but even if they lose we should be finding out how the county is valuing property, and making arguments that they are doing it wrong. Again, even if this suit is not won, there are a million games that can be played with regulations like these. When the form asks for purchase price, the recipient can cross it out and write in "fair market value". You can have an "appraiser", who could be someone like Dearl or Don Alafa, or even Jess Willett, appraise the refrigerator for, say, $200.00; or you could splash some paint on the refrigerator and then get it appraised. Or you could send the client down to Household Finance and ask him to make an application for a $1,000.00 loan. When he applies for the loan, Household Finance will ask him to list his personal property and will place a value on it. They will probably say that all of his furniture and household goods are worth a total of fifty bucks. This can then be taken to the Welfare Department as evidence of the value of the goods.

Finally, if worse comes to worst, and you can't get the value down under any of these kinds of regulations, the recipient can always transfer all of his property to one child, have that child ineligible for welfare, and have the rest of the family still be eligible. As soon as we get some idea of what the County is going to do on these new property regulations, we should all sit down with them and try and figure out how we're going to argue cases like this, either with the workers or on fair hearings. By the way, the Welfare Department has usually used a rule of thumb in calculating the value of an automobile, which is 50 times the license fee. The statute clearly says that the value of the car is equal to the fair market value, and this 50 times the license fee is garbage. Other attorneys say that these cases have been won at fair hearings, just using the new regulations.

12. *Waites vs. Carleson*—Non-needy Caretaker Relative.

44–115.6 of the new regulations says that the AFDC family gets an 'in-kind" contribution to their housing costs when there is a non-needy relative living with the family, unless the relative can prove that there is an increase in rent due to the presence of these other people. The Alameda County Legal Aid has filed the law suit attacking this kind of thing.

A related matter is the regulation 44–115.8, which is the situation where one person is on one of the adult aid programs like Old Age or ATD, and the rest of the family is on AFDC. What happens here, too, is that the AFDC family is said to get an "in-kind" contribution on their housing. This case has not been brought yet, or at least it was not brought as of last week, but Ed Schaffer of SFNLAF is eager to bring it.

He needs plaintiffs. At one point we had one, but we lost him, and we should look for other ones. Both of these new provisions really go back to the old "as paid to a maximum" housing allowance, under which a person got a certain allowance in his grant for housing up to a maximum, but only received what was actually spent for housing up to that maximum. This is expressly prohibited by statute, and the new regulations simply do the same thing all over again.

13. Medi-Cal Co-payments.

Under the new Medi-Cal regulations, the recipient must make a co-payment along with his benefits. A suit to knock this out has been filed in the Distric Court in Washington, D.C. The government has moved for the case to be transferred to California, a motion which the District Court granted. That motion was stayed, though, by the District of Columbia Court of Appeals. The fight now is an attempt to keep the case back in Washington, D.C., on the theory that the District Court of Appeals in D.C. is better than the one out here. Anyway the case is in the courts and no one knows what is actually happening with, it.

14. Slave Labor Programs.

Under the Welfare Reform Act there are provisions for making people work and get no pay as a condition of eligibility. The State has applied for a waiver, and plans to operate the program experimentally in about 35 counties in the State. No money is allocated in the Welfare Reform Act for the supervision and "shovels" that would be needed to let people actually do this kind of work. The Department of Labor has agreed to try and make some money available for that sort of thing, possibly through the PEP Program. The people in Washington feel that this kind of thing could be stopped in Washington. Anyway, a case is going to be filed against this waiver.

15. Earnings Clearing System.

Circular Letter No. 2567 from Carleson initiates a method for validating the earnings of welfare recipients through their Social Security numbers, by sending the Social Security numbers to HRD, who would then send it back to the counties, along with people's quarterly earnings reports. People may start to get affected by this in the next month or so. Legally, there are certain easy ways of attacking this kind of thing, since HEW has always said that people can't give blanket prior consent to this kind of earnings clearance. In other words, if someone in the Department is going to release information on a welfare recipient or is going to inquire from a collateral source as to the person's earnings, the recipient must give specific consent to that particular inquiry, not some kind of blanket signature of consort which he signs when he applies for welfare. The trouble is that this is a very difficult case to bring politically. California Welfare Rights doesn't want to bring the case because the case looks like you're trying to keep a bunch of cheaters on welfare. A strategy is being worked out by California Welfare Rights people and some of the attorneys in San Francisco. What they may do is to work on the package on how to attack these kinds of income reporting provisions and try and organize some kind of a mass fair hearing campaign, where everybody would raise the issues in fair hearings rather than attacking the case in the courts. The other possibility would be that in any case where persons prosecuted for welfare fraud to use the provisions that say that this kind of information can't be traded around like this, as a kind of exclusionary rule to keep out the evidence. The relevant Federal Handbook Sections are Sections 2000, 2300, 2400, etc.

16. Social Security Cards.

Someone said that in their county welfare recipients were being told to fill out Social Security cards for all of their children and themselves if they didn't have them already, when they applied for welfare. Some people began to notice that these cards were different from the ordinary Social Security applications, and were being specially marked. I don't know if this is happening here, but it might be a good idea to have welfare recipients go down to the Social Security Office themselves and get cards for their children, rather than doing it at the Welfare Department if it is being done that way here.

17. *Vincent vs. California*—Attendant Care for ATD Recipient.

This is an extremely good decision coming out of the Second District Court of Appeals from Los Angeles. The court held that it was denial of equal protection not to provide an attendant care allowance to an ATD recipient when the person's caretaker was the spouse. This kind of caretaker allowance is allowed in the Aid to the Blind Program, and the court thought that that denied equal protection to limit it in the ATD area. Obviously, this case can be used in a whole range of other areas where special funds are given to people in one program and not in others. The reason this is important is that a whole range of cases have held that there was no denial of equal protection when the different aid programs were treated differently. We should use this case, for example, where special needs for diets are allowed in the Old-Age program but not in ATD, and that sort of thing. If you get any case at all like this, let me know.

18. *Golden Gate Welfare Rights Organization vs. Schweiger*—Food Stamp Delay.

This is another one of those cases where the government delays in giving people food stamp benefits beyond the required 30-day period. What the case says, though, is that if the government delays too long in giving you the food stamps, what they have to do is to take the bonus value of the stamps which you missed out on getting because they delayed, and knock that off of the purchase price when you start to buy the stamps the next month. Obviously, that's an excellent decision.

19. Section 11351.5 W & I C—Son of MARS.

This is the same crap as the old MARS regulations. If there is a man living in the house with an AFDC family and he is not working, the problem is this: The Department says that he is required to contribute to the family as much as it would cost him to live independently outside of that house. One set of regulations presumes that he is contributing that much money, and they knock down the welfare grant accordingly. Therefore, even if the guy isn't contributing a cent to the household, they knock down the welfare grant by $110 or so.

Obviously, this is bad, and it would be a very simple matter to knock this out, given the numerous regulations and cases which say that you only count what is actually available, not what is theoretically available to a welfare family. The problem with this, though, is that even if we won this case they would turn around and prosecute the mother for welfare fraud—or, to be more exact, misuse of welfare funds. The theory of their doing so would be that if this guy is living in the house and not contributing a cent, then some of that welfare grant must be going towards his own expenses for food and rent, etc. This would be considered a misuse of welfare funds.

So the recipient is really in a dilemma to either get the grant knocked down or face prosecution. The only possible way out of the whole situation is some kind of constitutional right that a person might have to live with someone he or she chooses to live with, but that is pretty far out since the government would simply say "Of course you can live with anyone you want, but you can't use Welfare funds to support that person." We've had a case like this in the office for quite some time, and have not really known what to do with it. Don Cates and Dave

Schwartz are working on the regulation, but even they don't have a way of solving the over-all problem, which is caused by Section 11351.5, read in conjunction with Section 11480 (living off the welfare grant).

Mr. PELL. Mr. President, the need for continuation of a strong and independent Legal Services Corporation has been the subject of much discussion in Rhode Island. I ask unanimous consent that there be printed in the Record, in support of a strong Legal Services Corporation, an editorial from the Providence Journal of June 24, 1973; a resolution adopted by both the Rhode Island Bar Association and the Board of Directors of Rhode Island Legal Services; and a letter to me from the Most Reverend Louis E. Gelineau, bishop of Providence, with an accompanying resolution passed by the Community Affairs Commission of the Diocese of Providence.

There being no objection, the material was ordered to be printed in the Record, as follows:

Chiseled into the frieze of the United States Supreme Court building is the motto "Equal Justice Under Law." It is the most noble of ideals, but for a great many of America's poor, caught up in legal complexities with scanty understanding of their rights or avenues of recourse, equal justice has long remained only a misty ideal.

Eight years ago, in a move to help the poor gain legal assistance they needed and patently could not afford, the Johnson administration won enactment of a Legal Services program to provide lawyers for the poor. It was a conscientious attempt to help secure a full measure of legal rights for the nation's disadvantaged. Since it began, Legal Services has devoted most of its effort to helping poor people wend their way through the common legal complexities of landlord-tenant relations, credit problems, and marital difficulties. Its lawyers, also, have been instrumental in several law reform efforts of which the poor, again, have been the prime benefactors.

Legal Services had managed in recent years to win acceptance from the American Bar Association and even the Nixon administration as a needed agent for promoting equal justice and for peaceful change. But last month, in acting on a bill to restructure Legal Services' ruling body, the House of Representatives sought to strip its lawyers of much scope that they now have. In a series of amendments tacked on during floor debate out of apparent spite for various local Legal Services efforts that had irked one member or another, the House crippled the bill and left it a shambles.

For example, the bill as amended by the House would bar Legal Services lawyers from seeking to influence any legislation, referendum questions, governmental orders or regulations. It would bar these lawyers from counseling the poor on elementary (and constitutional) rights such as picketing and registering to vote. It would bar them from aiding the poor in any legal proceeding involving school desegregation, abortion or the military draft.

The amended bill, moreover, would end federal support for Legal Services' "back-up centers," usually operated in conjunction with universities, that have become of incalculable worth in providing expertise and in expanding the frontiers of what is known as poverty law. The bill also would force Legal Services to pay court costs in cases that it lost. The costs of such a requirement easily could put the program out of business.

In short, the House of Representatives has punched the Legal Services bill so full of holes that it cannot stay afloat except as a hollow mockery of the original purpose: to promote an equality of justice. The head of the New York City bar association calls the House version "constitutionally suspect and morally wrong," and Robert W. Meserve, the ABA president, has also assailed the House bill and said it would be a "great catastrophe" if the Legal Services program were to die.

The Senate, in whose labor and public welfare committee the hacked-up bill now resides, has a chance to remove the harm done by backward-looking politicians in the House. The Senate must make good on this chance. Only the law, equitably applied, can help insure to America's poor the full measure of justice that is rightfully theirs. The Legal Services program is of critical importance in seeking this goal, and it must not be stifled.

July 16, 1973.

The Honorable Claiborne Pell,
U.S. Senator from Rhode Island, Old Senate Office Building, Washington, D.C.

Dear Senator Pell: A number of requests have reached me through my Vicar for Community Affairs with reference to the bill, HR–7824, which proposes to establish a Legal Services Corporation.

My information is that the legal services rendered to low income and poor persons in this area has been of a relevant and consistently high quality. A number of substantially beneficial results for poor people have been effected by Rhode Island Legal Services attorneys in the area of legislative and administrative changes in federal and state laws and regulations. It is my understanding that this and similar types of advocate activity would be restricted in this new bill.

I should like to appeal to you to actively promote the changes in this bill as indicated in the resolution passed by our Diocesan Community Affairs Commission (cf: Attachment).

With the hope that we may count on your leadership in the Committee handling this matter, I am

Sincerely yours,
Bishop of Providence.

Community Affairs Commission,
Diocese of Providence,
Providence, R.I.

Resolution

Resolved: That the Community Affairs Commission of the Diocese of Providence, in cooperation with the Vicar for Community Affairs, hereby urge members of the Rhode Island Congressional delegation to work vigorously to seek changes in HR 7824, the Legal Services Corporation Bill, which will (1) permit legal services attorneys to engage in supporting legislative and administrative changes in federal and state laws and regulations in connection with their representation of eligible clients; (2) permit Legal Services attorneys to advise clients to engage in any constitutionally protected conduct, including picketing, strikes and boycotts; (3) permit Legal Services organizations to conduct educational programs designed to advocate that the poor take advantage of their legal rights; (4) enable the proposed Legal Services Corporation to continue to fund independent groups for the purpose of providing research, technical assistance, and information dissemination and (5) require that each local Legal Services Organization be governed by a Board of Directors which is controlled by the poor and persons representing the poor.

Resolved further: That the staff of the Community Affairs Commission and the Office of the Vicar for Community Affairs take whatever steps they deem necessary to make the foregoing position known to the Rhode Island Congressional Delegation and to urge other groups to advocate a similar position.

Action taken at Community Affairs Commission meeting July 10, 1973.

Resolution

American Bar Association,
Cleveland, Ohio, Febraury 16, 1973.

Whereas: There is a continuing need for legal services for the poor.

Whereas: There are federally funded Legal Services Programs to meet this need in each of the states.

Whereas: These programs are facing an expanding demand for legal services and increased operating expenses.

Whereas: The funding for these programs has not increased since 1970 in spite of the increase in demand and operating expenses.

Whereas: This Association continues to support the need for adequate legal services to the poor and the need for vital and independent programs to provide this representation.

Now, therefore, it is resolved:

1. The United States government should increase the level of funding of Legal Services programs to enable them to provide adequate legal services to eligible clients and to prevent a serious deterioration of the quality and quantity of service because of increased expense and mounting caseloads.

2. Government at all levels and lawyers from both the public and private sectors should take every step necessary to insure that legal services lawyers remain independent from political pressures in the cause of representing clients.

3. The Congress of the United States should enact a legal service corporation of a design consistent with the foregoing principles and the need to maintain full and adequate legal services for the poor.

QUORUM CALL

Mr. HARRY F. BYRD, JR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider a nomination at the desk which was reported by the Committee on the Judiciary early in the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE JUDICIARY

The legislative clerk read the nomination of Walter Jay Skinner, of Massachusetts, to be a U.S. district judge for the district of Massachusetts.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the nomination.

The PRESIDING OFFICER. Without objection, it is so ordered. Without objection, the nomination is confirmed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR THE SECRETARY OF THE SENATE TO RECEIVE MESSAGES FROM THE HOUSE OF REPRESENTATIVES DURING THE ADJOURNMENT OF THE SENATE

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to receive messages from the House of Representatives during the adjournment of the Senate until Monday morning next.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY FOR THE VICE PRESIDENT, THE PRESIDENT PRO TEMPORE, AND THE ACTING PRESIDENT PRO TEMPORE TO SIGN DULY ENROLLED BILLS AND JOINT RESOLUTIONS DURING THE ADJOURNMENT OF THE SENATE

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Vice President, the President pro tempore, and the Acting President pro tempore be authorized to sign duly enrolled bills and joint resolutions during the adjournment of the Senate until Monday morning next.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROHIBITION ON THE IMPORTATION OF RHODESIAN CHROME

The Senate resumed the consideration of the bill (S. 1868) to amend the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome and to restore the United States to its position as a law-abiding member of the international community.

Mr. HARRY F. BYRD, JR. Mr. President, metallurgical chromite is a vital strategic material. I believe that perhaps the foremost expert in the Senate on the stockpiling of strategic materials is the distinguished chairman of the Stockpiling Subcommittee of the Committee on Armed Services, the Senator from Nevada (Mr. CANNON).

In a Senate speech on December 10, 1973, this past Monday, the Senator from Nevada brought out this important point:

> When the United States began to designate strategic materials for stockpiling and defense purposes in 1939, chromium was one of the first four commodities to be listed. The stockpile consists of metallurgical grade chromite and of several types of ferrochromium.

The able Senator from Nevada, in the same speech, brought out that in testimony before the House Armed Services Committee in June of 1972—that is, June of last year—officials of the Office of Emergency Preparedness declared that the U.S. requirements for metallurgical chrome for a 3-year wartime national emergency would total 4,315,000 tons—or 1,438,000 tons per year.

That, of course, is greater than the current peacetime usage, but we are talking about an emergency, a war, and that, of course, is the purpose of the stockpile.

Senator CANNON also brought out in the same speech that in March of 1970, the Office of Emergency Preparedness reduced the stockpile objective for metallurgical chrome to 3,100,000 tons.

Senator CANNON added:

> In trying to explain how the United States could meet its wartime needs for 4,315,000 tons of chrome from a stockpile of only 3,100,000 tons, the OEP witness told the House Armed Services Committee—
>
> "We estimate we can obtain from sources such as Rhodesia and the Republic of South Africa 923,000 tons during the next 3 years."

The Senator from Nevada then pointed out, in his address, that the members of his committee were unable to get satisfactory answers to their questions as to what would happen if Rhodesian ore were fully committed to customers elsewhere in the world or unavailable because of United Nations sanctions, and that the committee—namely, Senator CANNON's committee—did not approve the request to reduce the stockpile.

Mr. President, this points up the fact that the chief sources of chrome are Rhodesia, South Africa, and Russia. A few other countries have small quantities—Turkey, Iran, and India—but the chief sources of chrome are the three countries, Rhodesia, South Africa, and Russia.

The United Nations, 7 years ago on December 16, voted a resolution placing an embargo on all trade with Rhodesia. President Johnson unilaterally put that embargo into effect for the United States. Congress had nothing to do with it; the matter was not referred to Congress. Congress had no say. The embargo against Rhodesia was put into effect unilaterally by our President.

The situation we found ourselves in then was that for this vitally important and strategic material, we were dependent upon Soviet Russia. That condition existed until 2 years ago, when Congress enacted legislation which says that the President may not prohibit the importation of a strategic material from a free world country if such a material is being imported from a Communist-dominated country.

That means that it is now possible to import chrome from Rhodesia. The pending business, S. 1868, is to repeal that present law which permits the importation of chrome from Rhodesia.

I want to point this out, Mr. President, and to emphasize that the only three countries which have any large deposits of chrome are Rhodesia, South Africa and Russia. If the pending legislation prevails, if we are cut off from Rhodesian chrome, then if the United Nations subsequently puts an embargo on trade with South Africa, which has been proposed, if that should be approved, then we would be cut off from trade with that country, the second largest chrome-producing country in the world.

That would leave us completely at the mercy of Russia. That is the only place where any large quantities of chrome could be obtained if the other two sources were cut off.

The United Nations declared an embargo on trade with Rhodesia because it did not like her racial policies. Well, South Africa has very similar racial policies. So if it is logical to cut off trade with Rhodesia, certainly for that same reason it is logical to extend that embargo to South Africa.

I just want to suggest that the Senate yesterday passed an appropriation bill for the Department of Defense of approximately $75 billion. Were it not for the potential threat from Communist Russia, the American taxpayers would not be called upon to appropriate such a large sum as $75 billion for defense purposes.

Yet if the views of some Senators prevail and S. 1868 prevails, the United States would be cut off from its largest source of chrome and would become even more dependent than it is now on chrome from the Soviet Union. So I think it is a very dangerous position in which the United States may find itself. But since this is almost the anniversary of the United Nations sanctions which declared an embargo on Rhodesia, I thought I might mention a few facts in that regard.

In arguing the case in favor of sanctions against Rhodesia, the Ambassador to the United Nations, Arthur Goldberg, said this:

> What is happening in Rhodesia now is an effort to perpetuate control by 6 percent of the population over the other 94 percent.

I do not dispute the facts at all, but is it not a fact, I ask the Senate, that the Soviet Union, members of the Communist Party comprise about 1 percent of the population or less and, acting through a few leaders, control the other 99 percent of the people of that nation of nearly 200 million people?

Yet no effort is made to embargo trade with Russia. As a matter of fact, just the opposite. The American taxpayers have financed the disastrous wheat deal with Russia—subsidized trade with Russia, and which has proved very costly to the American taxpayer.

Is it not a fact that a handful of men control the destinies of all the people of Albania, to take another example?

Is it not a fact that Fidel Castro, almost single-handedly, operates through a small Communist cadre and controls the lives and fortunes of 7 million Cubans?

Is it not a fact also that in the world's largest nation, China, the lives of 700 million persons are controlled by a small dictatorship?

So when we say we want to embargo trade with a particular country because we do not like its government or we do not like the policies of a particular government, then it seems to me we are getting onto very dangerous ground. I would suspect that in most countries of the world there are some governmental policies with which, in one respect or another, the American people would disagree.

So if we are going to set that as criteria, where we attempt to interfere in the internal affairs of other nations, then it seems to me we are getting onto very dangerous ground.

I happen to think it was an unprincipled act on the part of our Government to have participated in the embargo on trade with Rhodesia. Rhodesia is a peaceful country. By no stretch of the imagination can it be called a threat to world peace. But the legislation which Congress enacted does not repeal the trade embargo except it does permit the United States to import a strategic material if that same strategic material is being imported from a Communist-dominated country.

To my way of thinking that is an important, sound, and necessary thing to do, unless we want to put ourselves pretty much at the mercy of a nation against which we are spending $75 billion annually to arm ourselves.

What about the legality of what the United Nations Security Council did on December 16, 1966?

One of the foremost authorities on international law in recent years was the late Dean Acheson, former Secretary of State. I think that he would be generally recognized as a foremost expert on this subject. Mr. Acheson was emphatic in his view that the only violation of law involved in the Rhodesian situation was the act of imposing sanctions in the first place.

In testimony before the Subcommittee on African Affairs of the Committee on Foreign Relations, July 7, 1971, Mr. Acheson had this to say:

> The decisions of the Security Council which members agree in the charter to carry out are to relate to threats to the peace, breaches of the peace, or acts of aggression. None have occurred. The threats have all been made and aggressions originated by others. Rhodesia has merely declared its independence, though without the acquiescence that Britain has granted to her other once connected territories. Rhodesia has threatened no one.
>
> The complaint is over Rhodesia's internal matters in which the United Nations may not intervene by article 2, section 7 of the charter. The answer to this, says the State Department, is that Great Britain has invited intervention and that Rhodesia is not a state because no other state has recognized it as such.
>
> The essence of sovereignty is the will and ability to exercise it. Britain has neither in regard to Rhodesia; and has had neither for 5 years. I venture to say that nothing could induce the British Government to take over responsibility of conducting the internal affairs of Rhodesia, which it has not had for 50 years, if ever. A state comes into being not by form—external recognition (else how did the first state come into being?)—but by taking over, exercising, and maintaining the powers of sovereignty.
>
> The sanctions resolution is a nullity. Furthermore, it is a failure; to continue to comply with it will injure our national interests; and the only way to get rid of it is to disregard it.

That is the view of Mr. Acheson, who certainly was as well qualified as is any of the proponents of the repeal of the Byrd amendment to pass judgment on questions of international law. I do not pretend to be an expert on international law. I am not a lawyer by profession. But Secretary Acheson was such an expert.

Even those who disagree with Mr. Acheson's interpretation—and I recognize that interpretations of international law may vary—should acknowledge that his view cannot be dismissed lightly. More important, it would seem to me that, in view of the varying ideas about international law, those who have the interests of this country at heart, especially those designated to represent this country in an international body, would have some hesitation about branding their own Government a law-breaker.

I point out, Mr. President, that the proposed legislation, S. 1868, which is now before the Senate, states in its preamble that its purpose is to make the United States a law-abiding Nation. I should think that any Member of Congress would find it very difficult to vote for a measure which brands the United States as having acted illegally. Why has it acted illegally? It has acted illegally, according to the proposed legislation, because the Senate passed legislation, the House passed legislation, the President signed legislation, and the courts upheld the legislation permitting our country to import a strategic commodity from another country. Of course, the United States did not act illegally; and, as I have said, that matter has been carried to the courts. A large group from the House of Representatives took this matter to the Federal courts, and the Federal courts decided the issue in favor of the action taken by Congress.

I wish to read one additional comment from the speech by Senator CANNON, the chairman of the Stockpile Subcommittee of the Committee on Armed Services. He said this:

> The United States, to put it plainly, would cut off its nose to spite its face if we refused to buy chrome produced in countries whose policies we do not agree with. We certainly do not refuse to buy it from the Soviets, in spite of their harassment of the Jews in Russia.

It seems to me that those who are so concerned about the policies of some African countries should exhibit equal concern about the persecution of the Jews in Russia. I have seen no evidence whereby any of the proponents of the pending measure have urged an embargo on all trade with Russia because of the Soviet persecution of the Jews.

Mr. McGEE. Mr. President, throughout the course of debate on the Rhodesian chrome issue, I have continually warned of the potential disastrous consequences for this nation in black Africa should the United States continue its violation of United Nations sanctions against Southern Rhodesia.

I have warned that the future economic viability of this country is inextricably tied to what our relations with black Africa and the rest of the developing world will be. I have suggested that U.S. businesses would be well-advised to assist the U.S. Congress in efforts to place us back in compliance with U.N. sanctions, because their stakes in Africa are as great as our national stakes.

I have warned that the United States needs access to the vast, rich, unexploited natural resources of black Africa and to potential export markets on that continent if we are to maintain our position as a major economic power in the world. However, I have also warned that this Nation's foreign policy has to become more sensitive to the needs and aspirations of the developing world if our own well-being is to be maintaind.

Therefore, it was with considerable interest that I read an article which appeared in the September 1973 publication of The World Today magazine. The article, entitled "Britain and Rhodesia: The Economic Background to Sanctions," pointed out how much more farsighted both the British Government and British business interests are in their approach to the question of Rhodesia. However, it is not without solid foundation.

For example, the authors of the article, two postgraduate students at Oxford University, made the following observations of British business attitudes on the Rhodesian sanctions question:

> It must be emphasized that Rhodesia is only one of a number of underdeveloped countries in the area and, with few exceptions, British companies would be willing to lose their interests there to safeguard the lusher pastures to the north. For it is in black Africa that the future must lie. Reserves of labour and resources have hardly been touched, and the larger population concentrations provide ample opportunity for local market expansion on the basis of the surplus from the mineral and agricultural sectors. In addition, the strategic importance of many of Africa's commodities and the likelihood of new large mineral deposits make it essential to maintain British interests in the area. The growing Nigerian oil industry, which now provides 10 percent of the UK's consumption (together with the possibility of large reserves elsewhere) adds a sense of urgency to this conclusion.
>
> This argument now seems to be widely accepted by British industry, at least for the long run.

The authors in their conclusion also noted the following.

> Both sections of this article have led to the same conclusion; there is no economic case for the removal of sanctions in advance of a settlement that is acceptable to African opinion. At first sight the maintenance of sanctions appears an unattractive option, but to lift them would produce few gains. British

companies would regain contact with their subsidiaries, but this is unlikely to affect the overall profitability, and the trade links lost to the sanctions-breakers will be hard to re-establish. Besides, Rhodesia's elaborate system of capital and trade controls could not be dismantled overnight. Rapid trade liberalization would damage the manufacturing sector and allow the excess liquidity in the economy to spill over into inflation. The country has a considerable outstanding debt commitment—estimated at R$221 m., plus R$99 m. interest and debt arrears—to which must be added the profits of UK firms awaiting to be remitted. Rhodesian funds in London are less than a tenth of this sum.

On the other hand, a solution labelled as a 'sell-out' by black Africa would inevitably have harmful consequences. The goodwill generated by the Pearce Report and the Government's careful overtures to Nigeria would be thrown away. It is impossible to cost the resulting retaliation, but British investors are well aware of the possibilities. There may be some nationalization, although inroads have already been made into British capital by the more radical governments and dependence on foreign skills and technology is likely to remain. More important perhaps will be the effect on new investment and trade. As a member of the EEC, Britain is now in a good position to establish an economic presence in the Associate States (of black Africa).

Crucial contacts could be denied to her at little cost to the country concerned. Trade flows could be diverted, particularly when governments are a major buyer. The stake in Rhodesia is simply not worth a loss of this order, and there would be no compensation gains elsewhere south of the Zambezi. Britain cannot afford to be squeezed out of profitable new markets.

This is a particularly important aspect of the Rhodesian sanctions question. Right now, U.S. private investment in Southern Rhodesia is estimated to be $57 million. In black Africa our private investment is estimated to be over $3 billion. The British business community readily recognizes the disparity of this economic relationship and have adjusted in order to avoid long-range disastrous consequences. This is something the U.S. business community has not recognized and, as a consequence, seriously jeopardizes both their interest and our own broader and much more vital national interests.

The authors of the article recognize that the sanctions program has had substantial leaks since its inception. I do not think that the supporters of S. 1868 will deny that. The authors demonstrate that Southern Rhodesian exports are now at nearly the same level they were prior to the unilateral Declaration of Independence some 8 years ago. However, they recognize that sanctions have had a considerable impact as evidenced by the tremendous external debt the Smith regime has incurred during the sanctions period.

There are many lessons we can learn from the manner in which both the British Government and British business community have approached the Rhodesian question. They have recognized the shifting political and economic forces in the international community today. They realize the balance of economic power is increasingly shifting to the developing world. They have adjusted to this reality, an adjustment that some of our own business leaders have not made and which many in this body have not recognized as having to be made.

As I have pointed out in previous statements, while the maintenance of the balance of military power in the world today is still an important ingredient in international stability, we are fast approaching the day where the balance will shift from military to economic power. If we do not recognize this fact of life before it is too late, it will matter little how militarily powerful we are. For as history demonstrates, military power is commensurate with economic power. If we deteriorate economically, we become a second-rate nation both militarily and industrially.

I ask unanimous consent that this article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Britain and Rhodesia: The Economic Background to Sanctions

(By Michael Williams and Michael Parsonage)

(Note.—The authors of this article are postgraduate students at Nuffield College, Oxford.)

As the eighth anniversary of Rhodesia's UDI approaches, the UK Parliament will soon be discussing yet again the value of sanctions and their imposition for another year. Over the last eighteen months, there seems to have been a growing appreciation both in Whitehall and in British industry that there is a very real economic case for the maintenance of sanctions, quite apart from the political and ethical ones that have had to take the burden of the argument in the past. In this article, we reinforce this reasoning by outlining the extent of Britain's economic interests north and south of the Zambezi. We concentrate primarily on trade and direct investment and, while this means ignoring some of the interactions with other money flows such as portfolio investment or aid, it is possible to give an idea of the balance of interests.

TRADE

Britain's trading interests in sub-Saharan Africa are heavily concentrated, both geographically (on the Commonwealth countries and South Africa) and in terms of commodity composition (with the UK exporting manufactures in exchange for foodstuffs and raw materials). This concentration reflects the legacy of an imperial past. At the beginning of the 1950s, UK trade with the former colonial territories and Dominions displayed an artificially high degree of integration and interdependence, a situation developed during the period of imperial expansion, consolidated by the elaborate apparatus of preferential trading arrangements set up at Ottawa in 1932, and further strengthened by the bulk-purchasing agreements of the war years and restrictions on trade with the dollar area. Political disengagement has been paralleled by changes in the economic environment, and intensity of trade relations with South Africa and the Commonwealth States has declined steadily, particularly in the face of growing competition from the EEC, the U.S., and Japan. But even if falling in relative terms, Britain's trade links with Africa as a whole, and with South Africa and the Commonwealth countries in particular, are much closer than those of her main trading competitors (see Table I).

TABLE 1.—AFRICAN IMPORTS FROM LEADING SUPPLIERS 1962–63 AND 1969–70

	1962–63 (percent)					1969–70				
	Total imports, £m	United Kingdom	European Economic Community	United States	Japan	Total imports, £m	United Kingdom	European Economic Community	United States	Japan
Commonwealth	596	32.1	18.5	6.6	9.4	1,078	28.4	20.5	11.1	7.4
Southern Africa	769	27.5	18.0	14.1	4.0	1,646	20.4	24.4	15.7	4.3
European Economic Community Associates	409	3.4	64.1	10.4	1.4	925	4.1	63.1	8.2	4.3
Other African States	94	8.8	32.4	22.3	7.3	135	8.5	35.6	19.3	9.9
Total	1,868	22.7	29.0	11.3	5.3	3,784	18.3	33.1	12.7	5.4

Source: IMF, Direction of Trade, 1970 and earlier issues.

Nor is there any reason to expect this situation to change dramatically in the foreseeable future. As a new member of the EEC, it is possible that the UK will be affected in her relations with the developing world by the bias of the Community towards Africa. At the least, she should enter into closer relations with the eighteen States currently associated with the Community under the Yaounde Convention. But it is unlikely that this will be at the expense of existing links with other African countries, though the outcome here may be affected by the relations formed between the enlarged EEC and the Commonwealth "associables".

On a broader front, some have talked of Britain being faced with a choice of interests in Africa but, except perhaps in the event of a major confrontation between north and south, there is no reason why she should be forced to choose among her trade partners. As a general proposition, trade flows are less sensitive than foreign investment to political change. Though it has been argued that trade between developed and developing countries under present arrangements involves a degree of exploitation, the issue does not obtrude nearly so much as with the foreign ownership of domestic resources. Political developments can have a major impact on foreign investment—witness the decline in flows to South Africa after Sharpeville—but trade patterns are normally less volatile. Where major changes do arise, these can usually be attributed to economic rather than primarily political factors and, so far as economic change can be predicted, there seems no overwhelming reason to expect any major shifts in the pattern of Anglo-African trade.

Having said that economic factors are the main determinants of trade patterns, it is ironic that we should now examine a situation where political considerations have been paramount—Britain's trade relations with Rhodesia and the effects of sanctions. We shall concentrate mainly on the trade effects of sanctions, rather than on their repercussions on the internal Rhodesian economy. Comprehensive mandatory international sanctions against Rhodesia were not introduced immediately after UDI in November 1964, but were phased in over the period up to May 1968. The consequent time lags involved played an important part in allowing Rhodesia to devise means of minimizing the full effects, as did the decision of South Africa and Portugal to continue trading with the outlawed State.

So far as their purpose was to eliminate trade between Rhodesia and the rest of the world, sanctions have largely been a failure. Rhodesia has had little difficulty in evading sanctions and, after falling quite sharply in 1966, her trade has risen consistently to the point where it is now above pre-UDI levels. Exports have been disguised as goods originating in South Africa, Mozambique, and Malawi; these goods are recorded by a recipient country as imports from the intermediary, but are not correspondingly recorded as exports by the latter, and the resultant discrepancy gives some indication of the amount of Rhodesian trade reaching the world in this indirect way—see Table 2.

TABLE 2.—RHODESIAN EXPORTS 1967–71

[In millions of U.S. dollars]

	1967	1968	1969	1970	1971
1. Rhodesian exports	238	234	297	346	379
2. To reporting countries	96	68	48	50	48
3. To South Africa	80	80	85	95	90
4. Unaccounted for (1−(2+3))	62	86	164	201	241
5. Reexports	17	12	10	8	9
6. 4 plus 5	79	98	174	209	250
7. Reported exports by South Africa, Mozambique, and Malawi	1, 419	1, 568	1, 558	1, 549	1, 824
8. Reporting countries' imports from above countries	1, 555	1, 766	1, 826	1, 859	1, 824
9. Difference (8−7)	136	198	268	310	250

Source: U.N. Security Council, 5th Report of the Security Council Committee Established in Pursuance of Resolution 253 (1968) Concerning the Question of Southern Rhodesia, Annex V (February 1973).

Note: Reexports included as importing countries identify imports without distinction between national exports and reexports. Rows 7 and 8 refer to trade between 23 major importing countries (listed in original source) and South Africa, etc. Imports adjusted for c.i.f. costs to allow comparability with exports, but some error may remain.

TABLE 3.—COMBINED ZAMBIAN AND MALAWIAN IMPORTS 1965 AND 1969

[In thousands of pounds]

Source	1965	1969	Change	Trend change	Sanctions gain/loss
World	125, 774	210, 872	+85, 098	+85, 098	
United Kingdom	26, 213	50, 728	+24, 515	+17, 746	+6, 749
South Africa	22, 084	48, 121	+26, 037	+14, 951	+11, 086
Rhodesia	42, 969	17, 923	−25, 046	+29, 090	−54, 136
EEC	9, 010	26, 368	+17, 538	+6, 100	+11, 258
United States	7, 056	18, 726	+11, 670	+4, 777	+6, 893
Japan	5, 156	14, 782	+9, 626	+3, 491	+6, 135

Note.—Trend change equals actual change in imports from a particular source that would have occurred between 1965 and 1969 if imports from that source had increased at the same rate as total imports. Sanctions gain/loss equals actual change minus trend change.

Source: Derived from figures in U.N. "Yearbook of International Trade Statistics," 1965 and 1969 editions.

Of Rhodesia's main exports, tobacco has caused the greatest difficulties in disposal. Production and trade of the main mineral products have been maintained without undue difficulty; this applies even to chrome and asbestos, whose origin is readily identifiable, suggesting that connivance at sanctions-breaking is being practised by importing countries on a fairly wide scale. Official action, however, is rarely taken. Between 1968 and 1972, 138 breaches of sanctions were reported to the UN (127 detailed by Britain) but few of these were pursued beyond the investigatory stage.

On the import side, greater commodity diversification has made it more difficult to analyse the precise effects of sanctions, but in general it seems clear that Rhodesia has had little difficulty in obtaining most goods. The major problem has not been finding sources for imports (again the main channel has been South Africa) but in finding the foreign exchange to pay for them. While not greatly reducing the volume of Rhodesia's trade, sanctions have caused a fairly sharp adverse movement in her terms of trade, which has been reflected in a shortage of foreign exchange. Policies of import substitution have been pursued from an early stage, but shortages have still been felt, especially in heavy machinery and railway supplies.

Looking now at Britain's trade interests, sanctions do not appear to have had any profound adverse effects. The main direct impact has probably been on the terms of trade. The great bulk—over 80 per cent—of imports received from Rhodesia before UDI consisted of foodstuffs and tobacco and, though there will have been some cost associated with finding new sources, especially for tobacco [1], this will not have been very great. As regards UK exports, while sanctions largely eliminated trade between Rhodesia and the UK (though some goods have continued to get through via South Africa), there is little reason to suppose that alternative markets have not been found, with only a marginal deterioration in the terms of trade. To some extent, these alternative markets were provided for the UK, as sanctions forced countries like Zambia and Malawi to reorient their import trade away from Rhodesia (though other countries have benefited as well, especially South Africa). A crude attempt to show this is given in Table 3, where we estimate that UK exports to Zambia and Malawi increased as a result of sanctions by about £7m. between 1965 and 1969 (compared with pre-UDI UK exports to Rhodesia of over £30m.).

To be set against these trade-deflecting effects is the less quantifiable gain in goodwill enjoyed by Britain with black African countries, especially Nigeria. Among Western countries, Britain has been the most scrupulous observer of sanctions and apparently a number of black African countries have actively encouraged a "buy British" policy in recognition of her stand, though the quantitative importance of this is not easily ascertainable. Moreover, goodwill may be reflected not only in increased trade, but in other ways as well, for example, greater readiness to accept investment ventures by British firms.

The future of Anglo-Rhodesian trade will obviously depend largely on developments in the political situation. But whatever the past effects of sanctions, it is unlikely that their removal would lead to any great gain. Certainly, one would not expect a simple reversion to the status quo ante. At the general level, the main effect of sanctions has been to place Rhodesia firmly within South Africa's economic orbit. South Africa has increasingly taken over Britain's trade links with Rhodesia and, except perhaps in the event of a major political shift in Salisbury, this is probably irreversible. Furthermore, to the extent that Rhodesia's trade with the world outside southern Africa might increase if sanctions were lifted, the major beneficiaries would probably be those countries that have hitherto played a part in evading sanctions; in other words, their removal would simply legalize existing trade links and, given that Britain has been the least offending country in this respect, this could only be to the advantage of others.

While there seems little to be gained by Britain from the removal of sanctions, there could be a great deal to be lost if this were achieved through a political settlement considered unacceptable by black Africa. How far this might affect UK trade is debatable, though conceivably some form of embargo could be imposed on UK goods; the effects would probably be felt more on investment. Nevertheless, the general point should be taken that British trade interests will not be served unambiguously by the removal of sanctions. If a settlement is to be achieved, much may depend on the nature of that settlement. At the least, the UK must accept that a sizeable part of the old trade connection with Rhodesia has been lost permanently.

INVESTMENT

Britain accounts for 38 per cent of all foreign investment in sub-Saharan Africa. South Africa (with British-owned assets amounting to £647m. in 1971) and Nigeria (£141m.) are particularly important to her, the other major concentrations being in Rhodesia (£99m.), Ghana (£63m.), and Kenya (£62m.)—see Table 4. If investments abroad by South African companies with British shareholdings were included, the totals would be increased—especially in Zambia where British investors hold shares in the copper mines worth over £50m. The British data also exclude investment in the petroleum sector; the book-value of Shell-BP's investment in Nigeria alone is estimated at £210–250m.

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[1] The Imperial Tobacco Group, in a private note, estimate that by the time Rhodesian stocks were liquidated, the cost to their company of finding new import sources was around £10m. in a full year, though this was not a continuing cost.

TABLE 4.—UNITED KINGDOM DIRECT INVESTMENT IN AFRICA

	Book value			Rate of return average 1969–71, percent	Net annual investment	
	1962 £m	1971 £m	Growth, p.a. percent		Average 1969–71, £m	From unremitted profits, percent
South Africa	290.0	647.1	9.3	13.3	48.4	80
Rhodesia	59.2	98.9	5.9	8.3	8.8	82
Nigeria	92.8	140.8	4.7	12.0	22.3	54
Other Commonwealth	173.3	202.9	1.7	13.7	12.8	56
Other Africa	83.1	101.7	2.3	8.9	3.6	----------
Total	698.4	1,191.4	6.1	12.2	95.9	70

Notes.—Investment by oil companies, and banking and insurance companies, is excluded. Rate of return equals annual earnings book value at the end of the same period. For other definitions see original source.

Source: Derived from Board of Trade Journal, Sept. 23, 1970 and earlier editions, and Department of Trade and Industry, Business Monitor, M4: Overseas Transactions: April 1973 and earlier editions.

New investment flows show the same pattern and although South Africa is still very important, the inclusion of the oil sector underlines the significance of Nigeria as the greatest magnet for British capital at the moment. In other developing countries the manufacturing sector is becoming increasingly important, compared with the earlier emphasis on mining and distribution.

There seems every reason to expect this general pattern to continue; investment in South Africa is expanding rapidly, but Commonwealth Africa, led by Nigeria, is more than keeping up. In spite of sanctions British-owned subsidiaries in Rhodesia also seem to have prospered on the basis of reinvested earnings. It is clearly in Britain's interests to maintain her investment in all these areas, but future political developments may not permit this simple solution, and it is worth assessing the balance of interests.

First, the often-misunderstood role of South Africa must be clarified. Britain will certainly want to safeguard her important investment there; over 500 British companies have subsidiaries in South Africa, twenty-five of them being among the top 100 in the economy. But a confrontation over Rhodesia would in no way require British investors to make the difficult choice between their investments in South Africa and those north of the Zambezi.

UDI was a political embarrassment to South Africa, as well as an economic windfall. The Government in Pretoria may have helped the regime to consolidate, but ultimately its own interest will be best served by a stable and widely acceptable government in Rhodesia—of whatever colour. South Africa is beginning to dominate the economic life of her neighbours. An expansion of the customs union with South-West Africa, Botswana, Lesotho, and Swaziland into other countries is a long-run possibility, but even without formal links, South African trade and investment are important in Angola, Mozambique, Rhodesia, Zambia, and Malawi. Indeed, sanctions have given a fillip to trade with all these countries. Those British investors with holdings in the more dynamic South African corporations clearly benefit from this expansion, although others may sense the increased competition for markets and profitable investment outlets to the north. South Africa is now a developed country and no longer part of the British imperial periphery. Indeed, South Africa herself is taking over as the metropolitan power from Britain.[2] She would clearly be unwilling to jeopardize this shift in the balance of economic power by any overt action aimed at protecting Rhodesia against political change, if this further weakened her own international position by drawing the attention of hostile outsiders. The UK's position in the South African economy is unlikely to be affected whatever the action—and reaction—over sanctions in other parts of the continent.

The relevant comparison is between British investment in Rhodesia and the countries to the north, because it is here that the clash of interests would arise. Over 150 British companies have subsidiaries in Rhodesia; the figure is probably greater if investments by banks and other financial interests are included. It has been estimated that more than one-third of the fifty largest British manufacturers have a direct interest in Rhodesia and that in 1960 two-thirds of the country's net profits accrued to foreign companies.[3] The value of Rhodesia's mineral production is now over R$100m., most of which is exported in spite of sanctions. Major British interests in the sector are held via Lonrho (copper and gold), the Anglo-American Corporation of South Africa (nickel, coal, and iron ore), the Rio Tinto-Zinc Corporation (nickel and gold), and Turner and Newall (asbestos). In the rest of the economy important foreign companies include Anglo-American, Forestal Timber and Railways, Lonrho, which has a 62.5 per cent share in the pipeline from Beira and variety of other investments, and Shell. Among the companies most affected by sanctions have been Ford and British Leyland, whose plants are now assembling French, Italian, and West German vehicles.

In spite of sanctions, most British companies have been able to continue in operation; indeed, the importance of Rhodesian minerals, coupled with the highly protected market, has kept up profitability and allowed considerable expansion on the basis of reinvested earnings. Yet it should be noted that Rhodesian operations are crucial to very few British companies and, where they are, head offices have learned to diversify and suffer the loss of direct control and remittances. Besides, most companies have investments north of the Zambezi and would be unlikely to risk their more important operations there in the event of a radical Commonwealth reaction to an 'unacceptable' settlement. Among the big three who stand to gain the most from the lifting of sanctions—Lonrho, RTZ, and Turner and Newall—Lonrho is now more committed to black Africa. Rhodesia is still important to the group's overall profitability but it has growing and important interests in no less than thirteen independent developing African States.

It must be emphasized that Rhodesia is only one of a number of underdeveloped countries in the area and, with few exceptions, British companies would be willing to lose their interests there to safeguard the lusher pastures to the north. For it is in black Africa that the future must lie. Reserves of labour and resources have hardly been touched, and the larger population concentrations provide ample opportunity for local market expansion on the basis of the surplus from the mineral and agricultural sectors. In addition, the strategic importance of many of Africa's commodities and the likelihood of large new mineral deposits make it essential to maintain British interests in the area. The growing Nigerian oil industry, which now provides 10 per cent of the UK's consumption (together with the possibility of large reserves elsewhere) adds a sense fo urgency to this conclusion.

This argument now seems to be widely accepted by British industry, at least for the long run.[4] Nevertheless it is true that new foreign investment in black Africa has been modest in recent years, except in Nigeria. Parallel to this there has been some divestment associated with nationalization by African governments. Naturally enough it is the mineral sector with its overtones of "exploitation" that has attracted the most attention. The chain that started with Union Minière in 1966 has led to participation agreements in Zambia, Sierra Leone, and recently Nigeria. Mineral assets have also been affected in Ghana, and manufacturing companies and banks in Tanzania, Uganda, and Zambia. Coupled with these developments is the general pressure for the renegotiation of contracts and the imposition of localization requirements.

Increasingly, however, British investors have accepted the principle of participation. They realize that not only is the actual proportion of total assets involved really rather small but also the great majority of nationalizations (and certainly all the large ones) have been fully compensated. The take-over is frequently only partial, typically leaving the investor with a 49 per cent shareholding, and management and sales contracts which allow him considerable leverage and the means to guard against the disruption of global operations. The fact remains that Africa is extremely short of management and technical skills and will inevitably rely on foreign expertise to develop its resources. Companies have begun to recognize the advantages of working close to government; it is often the largest customer in the economy, and not only will it shoulder some of the risk of an enterprise, but it will also be less inclined to put other obstacles in its way. As some countries (for example, Italy) and companies (for example Shell and perhaps Lonrho) have proved, the advantage lies with those that are prepared to be flexible.

SANCTIONS AND THE FUTURE

Both sections of this article have led to the same conclusions; there is no economic case for the removal of sanctions in advance of a settlement that is acceptable to African opinion. At first sight the maintenance of sanctions appears an unattractive option, but to lift them would produce few gains. British companies would regain contact with their subsidiaries, but this is unlikely to affect overall profitability, and the trade links lost to the sanctions-breakers will be hard to re-establish. Besides, Rhodesia's elaborate system of capital and trade controls could not be dismantled overnight. Rapid trade liberalization would damage the manufacturing sector and allow the excess liquidity in the economy to spill over into inflation. The country has a considerable outstanding debt commitment—estimated at R$221m., plus R$99m. interest and debt arrears[5]—to which must be added the profits of UK firms waiting to be remitted. Rhodesian funds in London are less than a tenth of this sum.

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[2] For example, British-owned subsidiaries have considerable autonomy, and new investment is largely on the basis of reinvested profits—80 per cent over the period 1969–71 (see Table 4), compared with 55 per cent in the Commonwealth countries.

[3] G. Arrighi, *The Political Economy of Rhodesia* (The Hague: Mouton, 1967), p. 49.

[4] Particularly in view of the likely falls in the rate of profit in South Africa as a result of political and economic pressure for improvement of labour conditions.

[5] Colin Legum, *Africa Contemporary Record, 1971–2* (London: Rex Collins, 1972), p. 435.

On the other hand, a solution as a 'sell-out' by black Africa would inevitably have harmful consequences. The goodwill generated by the Pearce Report and the Government's careful overtures to Nigeria would be thrown away. It is impossible to cost the resulting retaliation, but British investors are well aware of the possibilities. There may be some nationalization, although inroads have already been made into British capital by the more radical governments and dependence on foreign skills and technology is likely to remain. More important perhaps will be the effect on new investment and trade. As a member of the EEC, Britain is now in a good position to establish an economic presence in the Associate States. Crucial contracts could be denied to her at little cost to the country concerned. Trade flows could be diverted, particularly when governments are a major buyer. The stake in Rhodesia is simply not worth a loss of this order, and there would be no compensating gains elsewhere south of the Zambezi. Britain cannot afford to be squeezed out of profitable new markets, and competition from continental Europe, the US, and Japan is severe enough without additional constraints. This position is not inconsistent with the maintenance of close links with South Africa, Angola, and Mozambique, although British firms there must not appear to be helping the Rhodesian regime to consolidate.

The political wisdom and moral propriety of the argument against sanctions has always been in doubt. In the present article we have tried to strengthen the new realization that there is also no economic case for their removal. Indeed, it is being argued in some circles that sanctions should be reimposed indefinitely. This would go a long way towards establishing Britain's commitment to black Africa and to avoiding the embarrassing international consequences of the annual policy debate. Pressure for a settlement can now only come from within Rhodesia and there is some evidence to suggest that continuing economic and psychological isolation will bring a political change. In the long run, Rhodesia will be recognized for the small country she is.

AUTOMOBILE EMISSIONS STANDARDS — UNANIMOUS - CONSENT AGREEMENTS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent—and I have cleared this with the Republican leadership and Mr. Muskie; and I understand, through Mr. Muskie, that it has been cleared with other Senators on this side of the aisle—that at such time as S. 2772, a bill to amend the Clean Air Act, as amended, is called up and made the pending question before the Senate, there be a time limitation on the bill of 30 minutes, to be equally divided between Mr. Muskie and the Republican leader or his designee; that time on any amendment be limited to 30 minutes; that time on an amendment by the Senator from Virginia (Mr. William L. Scott) be limited to 1 hour; that time on any debatable motion or appeal be limited to 20 minutes; and that the agreement be in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT TO 10 A.M., MONDAY, DECEMBER 17

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10 a.m. on Monday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION ON MONDAY OF SENATORS MANSFIELD AND GRIFFIN, AND FOR CONSIDERATION OF S. 2772, THE CLEAN AIR ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday, after the two leaders or their designees have been recognized under the standing order, the distinguished majority leader, the Senator from Montana (Mr. Mansfield), be recognized for not to exceed 10 minutes; that he be followed by the distinguished Republican whip, the Senator from Michigan (Mr. Griffin), for not to exceed 10 minutes, at the conclusion of which the Senate proceed to the consideration of S. 2772, a bill to amend the Clean Air Act.

The PRESIDING OFFICER. Without objection, it is so ordered

ORDER FOR CONSIDERATION OF THE FOREIGN AID APPROPRIATION BILL ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday, upon the disposition of the Clean Air Act, the Senate proceed to the consideration of the foreign aid appropriation bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION ON MONDAY OF THE NOMINATION OF SENATOR WILLIAM B. SAXBE TO BE ATTORNEY GENERAL OF THE UNITED STATES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the foreign aid appropriation bill, H.R. 11771, on Monday, the Senate go into executive session to consider the nomination of Mr. William B. Saxbe to be Attorney General of the United States.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SOCIAL SECURITY AMENDMENTS

Mr. LONG. Mr. President, the Senator from Louisiana has been privileged to see a news release by the Representative from the Second District of Oregon, Mr. Ullman, who has been acting as chairman of the House Ways and Means Committee in the absence of the Honorable Wilbur Mills, who had had some difficulty with his back which entailed a rather painful operation keeping him away from sessions of the House for much of this session of Congress.

The Representative from Oregon (Mr. Ullman) would seek to blame the Senate, in that it has not seen fit to pass the House-passed social security amendments without Senate amendments.

Now, Mr. President, it has usually been the case that the House has given the chairman or acting chairman of the Ways and Means Committee a closed rule which precludes other Members of the House from offering amendments which, if supported by a majority of the House, would represent the will of the House.

There is no rule in the Senate which could give the chairman of the Committee on Finance any such power to limit what the Senate is to consider to those matters recommended by the Finance Committee, or to prevent the Senate from considering anything it wishes in addition to what the House sent us. I do not think the Senate favors doing business under these kinds of limitations. The other body can do business as they think they should. But I have yet to have the first Member of the Senate ask me to do business on such a basis, that the Senate would simply pass a House bill exactly as it was passed by the House, without any Senator in this body being privileged to offer an amendment.

I think it is inappropriate for a Member of the House to tell any Senator or the Senate what amendment can be placed on a bill, just as it would be inappropriate for any of us in the Senate to tell the House what bill they can or cannot pass.

So I will have to take the view, Mr. President, that the Senate made clear to the Senate managers of the bill what the Senate thought should be legislated in the area of social security with the amendments that the Senate voted; and I deem it my duty to uphold the position of the Senate.

I hope this does not result in the kind of fiasco we have seen on occasion where members of the Appropriations Committees could not agree on the room in which they were to meet and the Government was faced with the prospect of the Government coming to an end because they could not agree on what room they would meet in.

I want to make clear that I will meet with House Members at any place. I am accustomed to going to them at any place where they want to hold meetings. I will sit on the low chair and let them sit on the high chair.

All those sorts of indignities do not concern the Senator from Louisiana. But the one thing I would have to insist on is that the Senate be privileged to express its views on legislation, and that the House at least show the consideration of considering our amendments, if only long enough to say no.

There are many meritorious amendments that the Senate added to the social security bill when we legislated in that area. Some of them would cost a great amount of money. The House could say no to any one of them. But there is no doubt in my mind that, if permitted to vote, the House would agree to a considerable number of those Senate amendments, because they contain such compelling logic.

I would only urge that the acting chairman of the Ways and Means Committee in the House give House Members a chance to vote on them. I do not mean a vote on a shucking operation by saying, "All right, I agree that all Senate amendments be shucked from the bill and that the House bill go back to the Senate just the way we voted before." I mean a real vote, on the basis that each amendment be given consideration, such as it is given in the Senate, where a Senator offers an amendment, it is briefly explained, and then is voted on by Senators.

There is nothing I would like to do more than move forward on the 11-percent increase in social security voted by the House Ways and Means Committee. I will point out that the Senate voted more than that, and a great deal more for the benefit of the aged, the poor, the disabled, and the blind in this country. It would be a great injustice to the poor, the aged, the disabled, the blind, the retired people of America for the House to decline to even consider measures for which the Senate voted by an overwhelming majority.

The respect that each House has for the other, of course, is important. But far more important is the question, What is for the good of the people and in the national interest?

These matters should not be decided on the basis of who is right; they should be decided on the basis of what is right. Regardless of whether an amendment was initiated by the Senate or the House, or whether the proposal was initiated by a Republican or a Democrat, if it is right, we should do it; if it is wrong, we should decline to do it.

It is for that concept that I will contend as long as I am in this body.

This matter of letting pride of authorship cause us to do something other than what logic and conscience would dictate is something the public cannot understand, and it is something which we would all do well to cast aside.

One of our most distinguished public servants in the State government of Louisiana had a sign in his office which said:

> You can achieve almost anything provided you can avoid quarreling about who gets the credit for it.

Sometimes that base and improper consideration—who gets the credit—keeps people from doing what should be done in the national interest. Often it is a good idea that was not even generated by a Senator or a Member of the House, but was generated by some conscientious person who never has and probably never will serve here; but if the idea is good, it ought to be considered, and if it is worth appearing on the statute books somewhere, it should find its way there, regardless of whether any Member of the House or any Senator or any President offered that particular proposal.

PERSONAL STATEMENT

Mr. ERVIN. Mr. President, ever since the select committee was created to investigate the Watergate affair, those who are opposed to discovery of the truth relating to the Watergate affair have been striving to drag red herrings across the trail of those who are entrusted by the Senate with the duty of investigating that affair.

The latest, which has come to my attention as a result of many phone calls I have received from the news media, was a statement allegedly attributed to some unidentified White House aide that some questions ought to be asked about my income tax returns.

Now, in view of the fact that I have never made any statement whatsoever relating to the controversy raging about the President's income tax returns, I am somewhat surprised to hear this statement made. I have been preparing my own Federal and State tax returns for about 50 years now. When I practiced law, I did not prepare income tax returns for clients, but I did prepare many inheritance tax returns which were filed both with State and Federal taxing authorities. And it is my proud boast that every tax return I have ever filed, either on my own personal income tax or every inheritance tax return I have ever filed, has been accepted by the Federal and State taxing authorities just as I wrote them.

When they started the prepayment of income taxes on estimated income a few years ago, I adopted a policy of overpaying my taxes both to the State of North Carolina and to the Federal Government, in order that I might claim a refund and thereby get an audit made of my tax return.

I have all of my tax returns. I only have those for 1972 in Washington; the rest are in North Carolina.

I do not know who this unidentified party was who tried to do character assassination by insinuation without any basis in fact, but if he will identify himself and come down to North Carolina, I will let him memorize all of my tax returns for the last 50 years.

I am right proud of my income tax returns that have been prepared by me. They are very voluminous. I tell the Government about every penny of money I receive and every penny of money I disburse, which has any effect whatsoever upon my liability for income taxes. And when they get my income tax returns, they weigh so much that I am certain the IRS officials say, "Well, this ought to bring enough to liquidate the national debt." But when they examine those returns they find in every case I have overpaid my taxes and they have to give me a refund.

Last year, 1972, I owed $15,483.55 in Federal income taxes. However, I overpaid them, because I paid $17,735 as income tax on estimated income. So I claimed and got a refund from the Federal Government for the 1972 taxes of $2,251.45.

I also paid State and local taxes, and I paid State income taxes where my principal residence is and always has been. I paid State income taxes and local taxes aggregating $4,748.16. That is, I paid that much justly. Of that, $3,280.00 was State income tax, but I actually paid them $303.62 more than that, so I got a refund from the State of North Carolina of $303.62.

Normally, I have opposed compulsory disclosure bills because I think they erect the wrong standard for judging the actions of public officials.

I think that every public official should be judged on the basis of the wisdom or the unwisdom of his official actions. And when we pass a compulsory disclosure law, there is a tendency to erect a wrong standard of judgment and try to find some hidden motives for the action of a legislator, whether his action is wise or foolish.

Mr. President, in view of the concern expressed by this unidentified man and his suggestion that there should be some questions asked about my income tax return, I ask unanimous consent that the joint income tax return filed with the Internal Revenue Service by my wife and me for the year 1972 be printed in the RECORD.

There being no objection, the income tax return was ordered to be printed in the RECORD, as follows:

U.S. INDIVIDUAL INCOME TAX RETURN

S J JR & MARGARET BELL ERVIN

Occupation: yours—U.S. Senator; Wife's—housewife.

FILING STATUS

2. Married filing joint return (even if only one had income).

EXEMPTIONS

6. Yourself, regular/65 or over.
7. Wife (husband), regular/65 or over.
10. Total exemptions claimed, 4.

INCOME

11. Wages, salaries, tips, and other employee compensation, $46,169.16.

(See Exhibit "Income as a United States Senator).

12a. Dividends: $7,777.70; 12b. Less exclusion, $200; balance, $7,577.70.

13. Interest income: $1,639.37.

14. Income other than wages, dividends, and interest (from line 45): $8,054.27.

15. Total (add lines 11, 12c, 13 and 14): $63,440.50.

17. Subtract line 16 from line 15 (adjusted gross income), $63,440.50.

TAX, PAYMENTS AND CREDITS

18. Tax, check if from: Tax Rate Schedule X, Y, or Z, $15,020.63.

20. Income tax (subtract line 19 from line 18): $15,020.63.

21. Other taxes (from line 67): $462.92.

22. Total (add lines 20 and 21): $15,483.55.

23. Total Federal income tax withheld (at-

tach Forms W-2 or W-2P to front): $14,149.20.

24. 1972 Estimated tax payments (include amount allowed as credit from 1971 return): $3,585.80.

27. Total (add lines 23, 24): $17,735.00.

BALANCE DUE OR REFUND

29. If line 27 is larger than line 22, enter amount overpaid: $2,251.45.

30. Line 29 to be refunded to you: $2,251.45.

FOREIGN ACCOUNTS

Did you, at any time during the taxable year, have any interest in or signature or other authority over a bank, securities, or other financial account in a foreign country (except in a U.S. military banking facility operated by a U.S. financial institution)? No.

U.S. SENATE,
Washington, D.C., January 23, 1973.

In re Joint Federal Income Tax Return for 1972 of S. J. Ervin, Jr. (578–52–3300) and wife, Margaret Bell Ervin (IRS 239–76–9072), 515 Lenoir Street, Morganton, N.C. 28655.

INTERNAL REVENUE SERVICE CENTER,
Roosevelt Boulevard,
Philadelphia, Pa.

Although we are residents of North Carolina and have our permanent home at Morganton in that state as set forth above, we are sending our joint federal income tax return for 1972 to you because the tax forms supplied to us by the IRS, in substance, directed us to do so. We assume that the IRS directed us to do this because we reside in Washington, D.C., during the sessions of Congress, and receive our mail at 337 Senate Office Building, Washington, D.C. 20510.

This tax return shows a total federal income and self-employment tax for 1972 of $15,483.55.

We have made payments totaling $17,735.00 on these taxes in the following ways: (a) by withholding from the salary of S. J. Ervin, Jr., as a United States Senator, $14,149.20; (b) by an overpayment of our federal income and self-employment taxes for 1971, $2,095.40; and (c) by a check dated January 29, 1972, $1,490.40. We filed our tax return for 1971 with the Internal Revenue Service Center at Chamblee, Georgia, and made the cash payment mentioned above to the IRS at that point.

These things being true, we have overpaid our income and self-employment taxes by $2,251.45. Check for the refund of this overpayment should be forwarded to us at 337 Senate Office Building, Washington, D.C. 20510.

The information tax returns of the partnerships mentioned in this tax return are being filed with the IRS Center at Memphis, Tennessee, the Center serving the area where the partnerships are operated.

Sincerely yours,

S. J. ERVIN, Jr.

WAGE AND TAX STATEMENT

Employer's identification number, name and address above: Hon. Sam J. Ervin, Jr., U.S. Senate.

FEDERAL INCOME TAX INFORMATION

Federal income tax withheld: $14,149.20.

Wages paid subject to withholding in 1972: $42,500.00.

Employee's social security number: 578–52–3300.

PRESIDENTIAL ELECTION CAMPAIGN FUND STATEMENT

Name(s) as shown on your return: S. J., Jr. and Margaret Bell Ervin.

Your social security number 578–52–3300.

This form may be used to designate that $1 of your income tax be paid over to the 1976 Presidential Election Campaign Fund. Your wife (husband) may designate an additional $1 if you are filing a joint return. Participation will not result in any cost to you, but you may not participate unless the amount on line 21 of Form 1040A or line 20 of Form 1040 is at least as great as the $1 (or $2) designated.

If you wish $1 to be paid over to the candidates of a specific political party, check the first box and fill in the name of the political party. If you wish $1 to be paid over to a non-partisan general account for all eligible candidates, check the second box.

Your choice: Democratic Party.

Wife's choice: Democratic Party.

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35. Business income (or loss) (attach Schedule C): $6,172.20.

36. Net gain (or loss) from sale or exchange of capital assets (attach Schedule D): $1,464.25.

38. Pensions and annuities, rents and royalties, partnerships, estates or trusts, etc. (attach Schedule E): $41.29.

42. State income tax refunds (caution—see instructions on page 8) See exhibit "Miscellaneous Income"): $376.53.

45. Total (add lines 35 through 44). Enter here and on line 14: $8,054.27.

TAX COMPUTATION

51. Adjusted gross income (from line 17): $61,440.50.

52. (a) If you itemize deductions, enter total from Schedule A, line 40 and attach Schedule A: (b) If you do not itemize deductions, enter 15% of line 51, but do not enter more than $2,000. ($1,000 if line 3 is checked): $14,519.25.

53. Subtract line 52 from line 51: $48,921.25.

54. Multiply total number of exemptions claimed on line 10, by $750: $3,000.00.

55. Taxable income. Subtract line 54 from line 53: $45,921.25.

OTHER TAXES

62. Self-employment tax (attach Schedule SE): $462.92.

67. Total (add lines 62, 63, 64, 65, and 66). Enter here and on line 21: $462.92.

INCOME AS A U.S. SENATOR

The taxpayer, S. J. Ervin, Jr., received the following income as a United States Senator during 1972:

1. Salary as a United States Senator (2 U.S.C. 31) $42,500.00.

2. Mileage allowance as a United States Senator (2 U.S.C. 43) $168.00.

3. Transportation expenses as a United States Senator (2 U.S.C. 43b) $863.60.

4. Reimbursement of official expenses incurred in maintaining an office in home State (2 U.S.C. 53). Note: See Item 7 of the part of an attached statement entitled "Deductible Expenses as a United States Senator) $1,537.03.

5. Reimbursement of rent paid by taxpayer, S. J. Ervin, Jr., for office in his home State as set out in Item 6 of the part of the attached exhibit "Deductible Expenses as a United States Senator." $1,092.00.

6. Reimbursement of out of pocket expenses listed in items 4b and 4c of the Exhibit entitled "Deductible Expenses as a United States Senator", which were incurred and paid as counsel for the Senate in connection with the printing and distribution of the Senator's *amicus curiae* brief in the Mike Gravel Case in the Supreme Court, $8.53.

Total income as a United States Senator during 1972, $46,169.16.

Explanation of Item 5—From June 14, 1956, until December 1, 1972, the taxpayer, S. J. Ervin, Jr., and his brothers and sisters, Mrs. Laura Ervin Hall, Hugh T. Ervin, Miss Eunice W. Ervin, Dr. John W. Ervin and Miss Jean C. Ervin, owned the Ervin Building, a brick office building on South Sterling Street, Morganton, N.C., in equal shares as tenants in common. During this time, the taxpayer, S. J. Ervin, Jr., occupied a suite of offices in this building as his home State office. As he did not wish to receive any direct or indirect financial benefit from his Senatorial allowance for home office rent, the taxpayer, S. J. Ervin, Jr., did not charge anything whatever for the use of his one-sixth undivided interest in his home State office in the Ervin Building. He paid five-sixths of the normal and established rent of this office directly to the other five tenants in common rather than to the manager of the Ervin Building, and received reimbursement of such five-sixths of the normal and established rent directly from the Sergeant at Arms of the Senate, thereby making it certain that no part of the rent received by the other tenants in common was used to defray any of the expense of maintaining or operating the Ervin Building.

ITEMIZED DEDUCTIONS AND DIVIDEND AND INTEREST INCOME

Name(s) as shown on Form 1040: S. J., Jr. and Margaret Bell Ervin.

Your social security number: 578 52 3300.

See Exhibit entitled "Medical and Dental Expenses."

10. Total deductible medical and dental expenses (Add lines 1 and 9. Enter here and on line 33, below.): $150.

See Exhibit entitled "Taxes."

17. Total taxes (Add lines 11 through and 20. Enter here and on line 35, below: $4,748.16.

See Exhibit entitled "Contributions."

21. Total contributions (Add lines 18, 19, and 20. Enter here and on line 35, below: $1,812.50.

28. $100 limitation: $100.

See Exhibit entitled "Miscellaneous Deductions."

32. Total miscellaneous deductions (Enter here and on line 39, below.): $7,808.59.

SUMMARY OF ITEMIZED DEDUCTIONS

33. Total deductible medical and dental expenses (from line 10): $150.

34. Total taxes (from line 17): $4,748.16.

35. Total contributions (from line 21): $1,812.50.

39. Total miscellaneous deductions (from line 32): $7,808.59.

40. Total itemized deductions. (Add lines 33 through 39. Enter here and on Form 1040, line 52.): $14,519.25.

MEDICAL AND DENTAL EXPENSES

The taxpayer, S. J. Ervin, Jr., and his wife, Mrs. Margaret Bell Ervin, are entitled to deduct $150.00 for medical and dental expenses incurred and paid in 1972. This deduction is computed as follows:

1. Premiums upon medical care insurance (Government-Wide Indemnity Benefit Plan) covering both taxpayer: $388.80

2. Premiums deducted by the Social Security Administration from Social Security benefits to cover Social Security Medical Insurance under Part B of Title 18 of the Social Security Act as amended covering both taxpayers: $136.80

3. Premiums on medical care insurance (Bankers Life and Casualty Co., 4444 Lawrence Avenue, Chicago, Illinois, 60630) covering Margaret Bell Ervin only: $48.

Total premiums paid by taxpayers upon medical care insurance: $573.60

Maximum portion of medical care insurance premiums deductible by taxpayers: $150.00

TAXES

The taxpayers, S. J. Ervin, Jr., and his wife, Margaret Bell Ervin, paid the following deductible taxes during 1972:

1. Burke County, N.C., county taxes on real and personal property: $596.42.

2. North Carolina Department of Revenue, Raleigh, N.C.: State income taxes of S. J. Ervin, Jr. ($3,280.00); and State income taxes

of Mrs. Margaret Bell Ervin ($45.00): $3,325.00.

3. North Carolina Department of Revenue, Raleigh, N.C.: State tax on intangible personal property of S. J. Ervin, Jr. ($159.65); and state tax on intangible personal property of Mrs. Margaret Bell Ervin ($187.78): $347.43.

4. North Carolina and District of Columbia sales taxes (estimated): $150.00.

5. Town of Morganton, N.C., municipal and school taxes on real and personal property: $329.31.

Total deductible taxes: $4,748.16.

Contributions

The taxpayers, S. J. Ervin, Jr., and Margaret Bell Ervin, made the following deductible contributions during 1972:

1. Alumni Annual Giving, University of North Carolina at Chapel Hill, N.C	$25.00
2. Americans United for Separation of Church and State, 8120 Fenton Street, Silver Spring, Maryland 20910	25.00
3. Barium Springs Orphanage, Barium Springs, N.C., Orphanage affiliation with Southern Presbyterian Church	100.00
4. Burke County United Fund, Morganton, N.C	100.00
5. Carson House, Marion, North Carolina, historic shrine	10.00
6. Children of the American Revolution, Winston-Salem, N.C	5.00
7. Davidson College, Davidson, N.C., institution of higher learning	25.00
8. Disabled American Veterans, national organization	10.00
9. Disabled American Veterans, Department of North Carolina, 470 Harris Street, N.W., Concord, N.C	10.00
10. Eastern Paralyzed Veterans Association	1.50
11. Ella Cobb Christmas Cheer Fund, c/o Morganton News Herald, Morganton, N.C	50.00
12. Faith Baptist Tabernacle, RFD 1, Box 282, Andrews, N.C., a religious organization	10.00
13. First Citizens Bank and Trust Co., P.O. Box 1951, Raleigh, N.C., 27602, Christmas Seals for Tuberculosis Association	15.00
14. First United Methodist Church, Morganton, N.C	25.00
15. First Presbyterian Church, Morganton, N.C	935.00
16. Freedoms Foundation, Valley Forge, Pa., for Medal of Honor Memorial, through the National Sojourners, Inc	25.00
17. Gallaudet College, Washington, D.C	25.00
18. Grace Hospital, Morganton, N.C., a charitable hospital	25.00
19. Greenville Unit, Shriners Hospital for Crippled Children, Greenville, S.C	25.00
20. Hartland Church of God, Hartland, Caswell County, N.C	10.00
21. Hawfields Presbyterian Church, Haw River, N.C., RFD	25.00
22. Friendship House, Washington, D.C	10.00
23. Masonic and Eastern Star Home, Greensboro, N.C., nursing home for Masons, and Eastern Star members (through Catawba Valley Lodge No. 217, A.F. & A.M., Morganton, N.C.)	25.00
24. Mine Fork Free Will Baptist Church, Yancey County, N.C	10.00
25. North Carolina Association for the Blind, Raleigh, N.C	15.00
26. North Carolina State Moose Association, for support of Mooseheart and Moosehaven	10.00
27. Oxford Orphanage, College Street, Oxford, N.C., orphange operated by the North Carolina Grand Lodge of Masons	
28. Shaw University, Raleigh, N.C	25.00
29. Johnson C. Smith University, Charlotte, N.C	25.00
30. Society of the Cincinnati in the State of South Carolina, Charleston, S.C	50.00
31. South Mountain Institute, Nebo, N.C., Route 2, Box 326, an orphanage	50.00
32. Western Piedmont Community College, Morganton, N.C	25.00
33. Women of the Church, First Presbyterian Church, Morganton N.C	36.00
Total deductible contributions in 1972	1,812.50

Miscellaneous Deductions

The taxpayers, S. J. Ervin, Jr., and his wife, Margaret Bell Ervin, are entitled to these miscellaneous deductions for 1972:

1. Deductions of S. J. Ervin, Jr. and his wife, Margaret Bell Ervin, on account of political contributions set forth in attached paper writing entitled "Political Contributions": $100.00.

2. Deductions of S. J. Ervin, Jr. as a United States Senator as set forth in the attached paper writing entitled "Deductions as a United States Senator" and as supported in the accompanying documents entitled as follows: (a) "Deductible Expenses as a United States Senator"; (b) "Explanation of Depreciation of Household Furnishings in Washington, D.C., claimed by the taxpayer, S. J. Ervin, Jr., during 1972"; (c) "Explanation of Deductions for Living Expenses Under Section 162(a) of Title 16 of the United States Code"; (d) "Depreciation of Law Books Constituting a Part of the Law Library of S. J. Ervin, Jr., on December 31, 1972"; (e) "Law Books added to the Law Library of S. J. Ervin, Jr., during 1972"; (f) Depreciation of Non-Legal Library Used by the Taxpayer, S. J. Ervin, Jr., for Business and Official Purposes During 1972"; and (g) "Non-Legal Books Acquired in 1972": $7,708.59.

Total Miscellaneous Deductions: $7,808.59.

Political Contributions

The taxpayer, S. J. Ervin, Jr. and his wife, Margaret Bell Ervin, are entitled to deduct $100.00 as a deductible campaign contribution during 1972 on account of these political contributions made by them during the year:

1. S. J. Ervin, Jr. (a) $500.00 contributed to the North Carolina State Democratic Committee, Sir Walter Hotel, Raleigh, N.C.; (b) $250.00 contributed to the Burke County Democratic Committee, Powe Street, Morganton, N.C.; (c) $100.00 contributed to the Jefferson-Jackson Day Committee, Raleigh, N.C., which was raising campaign funds for the North Carolina State Democratic Committee; (d) $100.00 contributed to the Vance-Aycock Day Committee, Asheville, N.C., which was raising campaign funds for the North Carolina State Democratic Committee; (e) $100.00 contributed to Nick Galifianakis in his capacity as the Democratic nominee for the United States Senate from North Carolina in the General Election of 1972; (f) $100.00 contributed to Ike Andrews in his capacity as the Democratic nominee for Congress for the Fourth Congressional District of North Carolina; and (g) $100.00 contributed to Brooks Hays in his capacity as the Democratic nominee for Congress for the Fifth Congressional District of North Carolina.

2. Margaret Bell Ervin: (a) $600.00 contributed to Howell J. Hatcher, of Morganton, N.C., campaign manager in Burke County, N.C., for B. Everett Jordan, who sought renomination as the Democratic nominee for the United States Senate from North Carolina in the Democratic Primary of 1972; and (b) $200.00 contributed to William A. Creech, of Raleigh, N. C., who sought nomination as the Democratic nominee for Congress from the Fourth Congressional District of North Carolina in the Democratic Primary of 1972.

Deductions as a U.S. Senator

The taxpayer, S. J. Ervin, Jr., claims deductions as follows as a United States Senator during 1972:

1. Deductible expenses incurred and paid as a United States Senator as set forth in the paper writing hereto attached entitled, "Deductible Expenses as a United States Senator": $6,911.00.

2. Depreciation of law library ($566.014) and non-legal library ($231.578) used for business and official purposes as set forth in the paper writings hereto attached entitled (a) "Depreciation of Law Books Constituting a part of the Law Library of S. J. Ervin, Jr., on December 31, 1972"; and (b) "Depreciation of Non-legal Library used by the taxpayer, S. J. Ervin, Jr., for business and official purposes during 1972": $797.59.

Total deductions as a United States Senator during 1972: $7,708.59.

Deductible Expenses as a U.S. Senator

The taxpayer, S. J. Ervin, Jr., incurred and paid these deductible expenses as a United States Senator during 1972:

1. Expenses of traveling between home in Morganton, N. C., and Washington, D. C., in connection with attendance on Second Session of the 92nd Congress: (a) Airplane fare, $45.00; (b) Lodgings, $165.55; (c) Meals, $81.76; (d) Highway tolls, $11.25; (e) Storage of car, $4.00; and (f) Tips, $6.00: $313.56.

2. Expenses incurred and paid in conducting official duties while outside the Washington area and while absent from home in Morganton, N. C.; (a) Airplane fares, $189.00; (b) Lodgings, $12.48; (c) Highway tolls, .95¢; (d) Meals, $2.96; and (e) Tip, $1.00: $206.39.

3. Deductions for living expenses under Section 162(a) of Title 26 of the U. S. Code on account of presence in Washington, D. C. while performing official duties as a United States Senator: (a) Apartment rent, $2,604.00; (b) Care of premises by regular employee, $189.00; (c) Casual labor, $60.00; (d) Depreciation of household furnishings as set out in "Explanation of Depreciation of Household Furnishings claimed by the taxpayer, S. J. Ervin, Jr., during 1972 hereto attached, $29.00; (e) Household laundry, $109.73; (f) Meals, $857.32; and (g) Utilities, $271.59. (Note: See Explanation of Deductions for living expenses under Section 162 (a) of Title 26 of the U. S. Code hereto attached. Further Note: The sum of $4,120.64 constitutes the total of the living expenses of the taxpayer, S. J. Ervin, Jr., in Washington, D. C., during the year with the exception of some items for which no deduction is claimed in this return. The part of these expenses deductible for income tax purposes is limited by the statute cited to $3,000.00: $3,000.00.

4. Expenditures made for official purposes during the year: (a) Copyart Photographers, 165 West 46th Street, New York, N.Y., 10036, for pictures of the taxpayer, S. J. Ervin, Jr., for distribution to the news media and the public, $95.51; (b) Postage, $2.83; and (c) Taxi fares, $5.70. (Note: By resolution, the Senate designated the taxpayer, S. J. Ervin, Jr., and Senator Saxbe, of Ohio, to file an Amicus brief on behalf of the Senate in the Mike Gravel Case in the Supreme Court, and to argue that case on behalf of the Senate. Items 4b and 4c, which have been reimbursed to the taxpayer pursuant to such reso-

lution as set out in Item 6 of the Exhibit entitled 'Income As A United States Senator," were incurred by the taxpayer in connection with the printing and distributing of the Senate brief.): $104.04.

5. The taxpayer, S. J. Ervin, Jr., spent $1,029.85 for the following purposes in maintaining and operating his Chrysler New Yorker during the year: (a) Gasoline, oil, and servicing, $454.61; (b) Liability, fire, and collision insurance premiums, $159.46; (c) North Carolina State inspection fee, $2.00; (d) North Carolina license fee, $3.25; (e) North Carolina license tag and driver education fee for 1972, $14.00; (f) North Carolina Motor Club dues, $18.00; and (g) Repairs, $387.58. Ninety per cent of the use of the car during the year was for business and official purposes, and ten per cent of the use of the car during the year was for personal and political purposes. Ninety per cent of the $1,038.90 is the portion of these expenses deductible under relevant law: $935.01.

6. Rent incurred and paid by the taxpayer, S. J. Ervin, Jr., for office used by him as a Senator in his home State at Morganton, N.C., for the following periods: (a) July 1, 1971 through June 30, 1972, $720.00; and (b) July 1, 1972, through December 31, 1972, $372.00. (Note: The taxpayer was reimbursed by the Sergeant at Arms of the Senate for the outlay for the first period stated and by his home office expense allowance for the outlay for the second period stated, and returns the total amount of reimbursement for income taxation as Item 5 of the Exhibit entitled "Income As A United States Senator": $1,092.00.

7. Expense of maintaining a home office in Morganton, N.C. and subscribing for newspapers, and other periodicals for office purpose during the year: (a) Telephone service, $180.52; (b) Office lights, $11.38; (c) Office Management fee to rental agency in charge of building in which home office is located, $57.60; (d) Janitorial Service for home office, $14.91; (e) Asheville Citizen, Asheville, N.C., $43.26; (f) Charlotte, Observer, Charlotte, N.C., $52.20; (e) Greensboro Daily News, Greensboro, N.C., $50.40; (h) National Observer, Washington, D.C., $7.00; (i) News-Herald, Morganton, N.C., $21.80; (j) State Magazine, Raleigh, N.C., $6.18; (k) Washington Post, Washington, D.C., $27.30; (l) Washington Star, Washington, D.C., $45.25; (m) Congressional Quarterly Service and binders for it, Washington, D.C., $159.00; (n) National Journal, Washington, D.C., $200.00; (o) Governmental Guide, North Carolina edition, for 1972, Nashville, Tennessee, $5.00; (p) Who's Who in America, Vol. 37, $55.50; (q) Who's Who in the South and South West, Vol. 13, $33.50; (r) Chester J. Antieau, Pocket Parts for Modern Constitutional Law for 1972, $8.16; (s) Internal Revenue Act, Pamphlet for 1971, $3.65; (t) Modern Federal Practice Digest, balance on Pocket Parts for 1971, $4.63; (u) Modern 1972, $62.31; (v) Modern Federal Practice Digest, 8 bound supplements (12 of which were received in Dec. 1971), $69.53; (w) North Carolina Law Review, Chapel Hill, N.C., $8.00; (x) Austin T. Stickell, Legal Control of Business Practices, Pocket Parts for 1971, $9.20; (y) Supreme Court Review for 1971 (edited by Philip B. Kurland), $15.00; (z) United States Code, Annotated, balance on Pocket Parts for 1971, $19.57; (aa) United States Code Congressional and Administrative News for 1972, $56.65; (bb) United States Supreme Court Digest, Annotated, Pocket Parts for 1972, $26.94; and (cc) United States Supreme Court Reports, L. Ed. 2d, Pocket Parts for Later Case Service, $5.56. (Note: The Taxpayer, S. J. Ervin, Jr., was reimbursed by the Sergeant at Arms of the Senate for his outlays for home office expenses and newspapers and periodicals for the last quarter of 1971 and the first, second, and third quarters of 1972 during 1972 and returns the amounts of such reimbursement for income taxation in Item 4 of the Exhibit entitled "Income As a United States Senator." Further Note: The taxpayer, S. J. Ervin, Jr., will receive reimbursement of expense of this nature for the last quarter of 1972 totaling $369.98, from the Sergeant at Arms of the Senate in 1973, and will return the amount of it for income taxation in his return for 1972): $1,260,00.

Total deductible expenses as a United States Senator during 1972: $6,911.00.

Explanation of Depreciation of Household Furnishings in Washington, D.C., Claimed by the Taxpayer, S. J. Ervin, Jr., During 1972

The taxpayer, S. J. Ervin, Jr., claims a deduction of $29.00 as depreciation on household furnishings owned and used by him in Washington, D.C. during 1972. Such depreciation is computed as follows:

A. (1) Kind of property: Air Conditioning Unit (Fedders)., (2) Date acquired: 1969. (3) Cost or other basis: $290.00., (4) Depreciation allowed or allowable in prior years: $87.00., (5) Method of computing depreciation: Straight line., (6) Rate or life: 10 per cent per year., (7) Depreciation for this year: $29.00., (8) Adjusted basis at end of this year (1972)—$174.00.

Explanation of Deductions for Living Expenses Under Section 162(a) of Title 26 of the United States Code

Item 3 of this Exhibit conforms to the interpretation placed upon Section 162(a) of Title 26 of the United States Code by the Commissioner of Internal Revenue in a letter written to the Honorable Eugene D. Milliken, Chairman of the Senate Committee on Finance on March 20, 1953. These portions of such letter are relevant:

"It is the position of the Bureau that the term *living* expenses comprehends only that portion of traveling expenses which consists of the cost of the member's meal and lodgings, together with items incident thereto, while in the Washington area in the discharge of his official duties. The cost of meals includes the actual cost of food and expenses incident to the preparation and serving thereof. The cost of lodging includes rental, care of premises, household laundry, and utilities, together with interest, taxes, insurance, and depreciation on household furnishings owned by the member."

Depreciation of Law Books Constituting a Part of the Law Library of S. J. Ervin, Jr., on December 31, 1972

The taxpayer, S. J. Ervin, Jr., claims a deduction of $566.014 for depreciation during 1972 on law books constituting a part of his law library on December 31, 1972.

The books whereon the depreciation is claimed are listed in the following papers:

1. A 26 page Exhibit attached to the income tax return of the taxpayer, S. J. Ervin, Jr., for 1963.

2. Six 1 page Exhibits attached to the income tax returns of the taxpayer, S. J. Ervin, Jr., for 1964, 1965, 1966, 1967, 1968, 1969, 1970, and 1971, which are entitled "Law Books Added to Law Library" during such years.

3. An Exhibit attached to this return and entitled "Law Books Added to Law Library During 1972."

Such papers describe the books, set out the years of their purchase, and their cost in detail. The taxpayer has never claimed any depreciation on law books in any income return antedating his return for 1943, and does not propose to do so in this or any future return, notwithstanding the fact that the computation of the depreciation claimed in this return sets forth the depreciation which would have been allowable during years antedating 1943 had it been claimed.

All of the law books listed in the aforesaid income tax returns were still included in the law library of the taxpayer on December 31, 1972, except the following:

1. North Eastern Digest, consisting of Volumes 1 to 12, both inclusive, seven supplemental volumes, and an additional volume of citations entitled "North Eastern Blue Book," which were acquired from the West Publishing Company, St. Paul, Minnesota, for prices totalling $190.00 during the period beginning in 1924 and ending in 1936 and which were discarded in 1972 because they had become obsolete and been fully depreciated.

2. Cumulative supplements to the Code of Federal Regulations of the United States of America, consisting of 30 volumes, which were acquired from the Government Printing Office for prices totaling $95.50 during the period beginning in 1943 and ending in 1948 and which were discarded in 1972 because they had become obsolete and been fully depreciated.

In addition to the books whereon a deduction for depreciation is claimed for 1971, the law library of the taxpayer contains many other books owned by him which are not listed in this or any other income tax return made by him and on which he has never claimed any depreciation.

The taxpayer does not set forth in this return any claim for depreciation on temporary advance sheets, temporary pocket parts, temporary supplements, and other temporary legal publications which have to be renewed or replaced either annually or at other short intervals. This course is pursued by the taxpayer because he believes that the cost of such temporary items properly falls within the category of deductible expenses incurred in the usual and ordinary course of his business and official activities.

The taxpayer does not allocate any specific part of the cost of the books listed in this return for depreciation for 1972 to any supposed resale, trade-in, or salvage value. He takes this course because he is of the opinion that the adjusted basis of the part of his law library on which depreciation is claimed and the market value of the part of his law library on which depreciation is not claimed will substantially exceed at all times during the foreseeable future any possible resale, trade-in, or salvage value of the part on which depreciation is claimed.

It is estimated that the law books upon which depreciation is claimed have a useful life of 20 years from the date of acquisition and depreciated at the uniform rate of 5% per annum. For convenience of computation, it is assumed that all such books bought in any given year were purchased on the first day of the year and thus depreciated for one year during the year of acquisition.

The taxpayer has computed the depreciation claimed by him upon a part of his law library for 1972 and such computation immediately follows this statement.

1922–1952	
1. Original Cost	$13,032.27
2. Depreciation allowed or allowable in past years	13,032.27
3. Depreciation for the year	None
1953	
1. Original Cost	367.16
2. Depreciation allowed or allowable in past years	348.802
3. Depreciation for this year	18.358
1954	
1. Original Cost	400.00
2. Depreciation allowed or allowable in past years	360.00
3. Depreciation for this year	20.00
1955	
1. Original Cost	430.13
2. Depreciation allowed or allowable in past years	365.6105
3. Depreciation for this year	21.5065
1956	
1. Original Cost	287.37
2. Depreciation allowed or allowable in past years	229.896
3. Depreciation for this year	14.3685

1957	
1. Original Cost	$531.88
2. Depreciation allowed or allowable in past years	398.91
3. Depreciation for this year	26.594
1958	
1. Original Cost	388.50
2. Depreciatioh allowed or allowable in past years	271.95
3. Depreciation for this year	19.425
1959	
1. Original Cost	380.19
2. Depreciation allowed or allowable in past years	247.1235
3. Depreciation for this year	19.0095
1960	
1. Original Cost	814.00
2. Depreciation allowed or allowable in past years	488.40
3. Depreciation for this year	40.70
1961	
1. Original Cost	622.16
2. Depreciation allowed or allowable in past years	342.188
3. Depreciation for this year	31.108
1962	
1. Original Cost	264.33
2. Depreciation allowed or allowable in past years	132.165
3. Depreciation for this year	13.2165
1963	
1. Original Cost	$409.42
2. Depreciation allowed or allowable in past years	184.239
3. Depreciation for this year	20.471
1964	
1. Original Cost	484.71
2. Depreciation allowed or allowable in past years	193.8840
3. Depreciation for this year	24.2355
1965	
1. Original Cost	800.77
2. Depreciation allowed or allowable in past years	280.2695
3. Depreciation for this year	40.0385
1966	
1. Original Cost	672.62
2. Depreciation allowed or allowable in past years	201.786
3. Depreciation for this year	33.631
1967	
1. Original Cost	782.46
2. Depreciation allowed or allowable in past years	195.615
3. Depreciation for this year	39.123
1968	
1. Original Cost	664.00
2. Depreciation allowed or allowable in past years	132.80
3. Depreciation for this year	33.20
1969	
1. Original Cost	820.52
2. Depreciation allowed or allowable in past years	123.078
3. Depreciation for this year	41.026
1970	
1. Original Cost	796.42
2. Depreciation allowed or allowable in past years	79.642
3. Depreciation for this year	39.821
1971	
1. Original Cost	696.53
2. Depreciation allowed or allowable in past years	34.8265
3. Depreciation for this year	34.8265
1972	
1. Original Cost	707.11
2. Depreciation allowed or allowable in past years	None
3. Depreciation for this year	35.35555
SUMMARY	
1. Total Gost	24,352.55
2. Depreciation allowed or allowable in past years (1922–1971)	17,643.455
3. Depreciation for this year (1972)	$566.014
4. Adjusted basis at end of this year (1972)	6,143.054

LAW BOOKS ADDED TO LAW LIBRARY OF S. J. ERVIN, JR., DURING 1972

The taxpayer, S. J. Ervin, Jr., purchased the following law books for the following prices and added them to his law library during 1972:

1. American Jurisprudence, Second Series, Vols. 60, 61, 62, 63, 64, 65	$112.32
2. American Jurisprudence, Pleading and Practice, Revised Vols. 17, 18, 19, 20	75.52
3. Federal Reporter, Second Series, Vol. 408	13.50
4. Federal Supplement, Vol. 246	13.50
5. Modern Legal Forms, Vol. 5	20.00
6. North Carolina General Statutes, Replacement Vols. 2A, 2D, 3D, and Index Vols. 4B, 4C, 4D	120.94
7. South Eastern Reporter, Second Series, Vol. 80	12.00
8. United States Code, Annotated, 15 new books	193.13
9. United States Supreme Court Digest, Revised Vols. 13, 14	32.08
10. United States Supreme Court Digest, Index to Annotations	16.28
11. United States Supreme Court Reports, Lawyers' Edition, Second Series, Vols. 27, 28, 29	56.64
12. Words and Phrases, New Vols. 30, 30A	41.20
Total cost of law books added to law library in 1972	707.11

DEPRECIATION OF NONLEGAL LIBRARY USED BY THE TAXPAYER, S. J. ERVIN, JR., FOR BUSINESS AND OFFICIAL PURPOSES DURING 1972

The taxpayer, S. J. Ervin, Jr., bought the non-legal books hereinafter mentioned at the times and for the costs hereafter specified to facilitate his work as a Senator, a Writer, and a Speaker. It is estimated that the useful life of each non-legal book is ten years from the date of purchase, and the same depreciates at the uniform rate of 10% per annum. For convenience of computation, it is assumed that each non-legal book was purchased on the first day of the year of depreciation, and thus depreciated for one year during the year of purchase. A deduction of $231.578 is claimed by the taxpayer, S. J. Ervin, Jr., for depreciation of these non-legal books during 1972. Such depreciation is computed as follows:

1957–1962	
1. Original Cost	$1,035.56
2. Depreciation allowed or allowable in past years	1,035.56
3. Depreciation for this year	None
1963	
1. Original Cost	241.77
2. Depreciation allowed or allowable in past years	217.593
3. Depreciation for this year	24.177
1964	
1. Original Cost	193.39
2. Depreciation allowed or allowable in past years	154.712
3. Depreciation for this year	19.339
1965	
1. Original cost	271.19
2. Depreciation allowed or allowable in past years	189.833
3. Depreciation for this year	27.119
1966	
1. Original cost	243.63
2. Depreciation allowed or allowable in past years	146.178
3. Depreciation for this year	24.363
1967	
1. Original cost	207.27
2. Depreciation allowed or allowable in past years	$104.635
3. Depreciation for this year	20.727
1968	
1. Original cost	210.96
2. Depreciation allowed or allowable in past years	84.384
3. Depreciation for this year	21.096
1969	
1. Original cost	331.23
2. Depreciation allowed or allowable in past years	99.369
3. Depreciation for this year	33.123
1970	
1. Original cost	280.78
2. Depreciation allowed or allowable in past years	56.156
3. Depreciation for this year	28.078
1971	
1. Original Cost	$132.59
2. Depreciation allowed or allowable in past years	13.259
3. Depreciation for this year	13.259
1972	
1. Original Cost	202.97
2. Depreciation allowed or allowable in past years	None
3. Depreciation	20.297
SUMMARY	
1. Total Cost (1957–1972)	3,351.34
2. Depreciation allowed or allowable in past years (1957–1971)	2,101.679
3. Depreciation for this year	231.578
4. Adjusted basis at end of this year (1972)	1,018.083

NOTE—The books on which depreciation is claimed in this return are fully described in the income tax returns of the taxpayer, S. J. Ervin, Jr., for the calendar years 1957 through 1971 and in the Exhibit hereto attached entitled "Non-Legal Books Acquired By the Taxpayer, S. J. Ervin, Jr., during 1972."

NON-LEGAL BOOKS ACQUIRED IN 1972

The taxpayer, S. J. Ervin, Jr., acquired these non-legal books for these prices in 1972:

1. Adam Carlyle Breckenridge: "Congress Against the Court"	$6.20
2. Governor Thomas Burke: "The Poems of Governor Thomas Burke of North Carolina" (Richard Walser, Editor)	3.00
3. Zechariah Chafee, Jr.: "Free Speech in the United States"	15.00
4. Benjamin Franklin, a biography based on his own writings	13.16
5. Joan Haslip: "The Crown of Mexico"	8.52
6. Moffitt Sinclair Henderson: "Long, Long Day for November"	6.95
7. Oliver Wendell Holmes, devise, History of the United States Supreme Court. (The Macmillan Co.) Vol. 1, Vol. 6, Part 1	50.00
8. Lyndon B. Johnson: "Vantage Point"	9.61
9. Walter Lord: "The Dawn's Early Light"	7.52
10. Louis H. Manarim: "North Carolina Troops 1861–1865," Vol. 3	12.50
11. Peter Matthiessen and Eliot Porter: "The Tree Where Man Was Born—The African Experience"	10.41
12. Harold L. Nelson: "Freedom of the Press from Hamilton to Warren"	7.50
13. Mary Bennet Peterson: "The Regulated Consumer," 2 copies	16.42
14. William S. Powell, James K. Huhta, and Thomas J. Farnham: "The Regulation of North Carolina"	12.00

15. Reader's Digest Association: "Best Songs"	13.54
16. Carl Sandburg: "Abraham Lincoln" (Abridgement by Readers' Digest Association)	10.64
Total non-legal books acquired in 1972	202.97

DIVIDEND AND INTEREST INCOME

Name(s): S. J., Jr. and Margaret Bell Ervin.

Your social security number: 578–52–3300.

See Exhibit entitled "Dividends of S. J. Ervin, Jr.": $3,959.72.

See Exhibit entitled "Dividends of Margaret Bell Ervin": $3,817.98.

2. Total of line 1.: $7,777.70.

6. Dividends before exclusion (subtract line 5 from line 2). Enter here and on Form 1040, line 12a: $7,777.70.

See Exhibit entitled "Income From Interest": $1,639.37.

8. Total interest income. Enter here and on Form 1040, line 13: $1,639.37.

DIVIDENDS OF S. J. ERVIN, JR.

The taxpayer, S. J. Ervin, Jr., received the following dividends on stocks in domestic corporations during 1972:

1. Burlington Industries, Inc	$22.40
2. Cannon Mills Co. (N.C.) (common $28.84 and Class B $28.84)	57.68
3. Chase Manhattan Corporation	34.00
4. Chesapeake & Ohio Ry. Co. (W. Va. & Va.)	15.00
5. Consolidated Natural Gas Co	11.72
6. Crane Co. (Illinois)	33.20
7. Exxon Corporation (formerly Standard Oil of New Jersey)	456.00
8. Falls Mfg. Co. (N.C.)	35.00
9. General Motors Corporation (Del.)	1,014.60
10. Marcor, Inc. (Ill.)	64.00
11. R. J. Reynolds Industries, Inc. (N.J.)	878.60
12. Richardson-Merrell Co., Inc. (N.J.)	49.44
13. Safeway Stores, Inc.	40.52
14. Standard Oil Co. of California (Del.)	162.40
15. Texaco, Inc. (Del.)	99.60
16. Union Carbide Corporation (N.Y.)	36.00
17. Wachovia Corporation	949.56
Total dividends received by S. J. Ervin, Jr. on stocks in domestic corporations in 1972	3,959.72

DIVIDENDS OF MARGARET BELL ERVIN

The taxpayer, Mrs. Margaret Bell Ervin, received the following dividends on stocks in corporations during 1972:

1. Alba Waldensian Hosiery Mills, Inc., Valdese, N.C	$0
2. American Can Company (N.J.)	7.00
3. American Tel. & Tel. Co., (N.J.) (common, $418.70, and convertible preferred, $32.00)	450.70
4. Beneficial Finance (Del.) (common $10.80 and preferred $15.00)	25.80
5. Cannon Mills Co. (N.C.) (common $201.88 and Class B $181.28)	383.16
6. Champion International Corporation (common $181.44, and preferred $115.20) (formerly U.S. Plywood Champion Papers, Inc.)	296.64
7. Chrysler Corporation (Del.)	13.50
8. Dan River Mills (Va.)	0
9. EXXON Corporation (formerly Standard Oil Co. of New Jersey)	296.40
10. General Electric Co. (N.Y.)	8.40
11. General Motors Corporation (Del.)	1,201.50
12. International Nickel Co. of Canada, Ltd. (Canada)	27.00
13. Lehman Corporation (N.Y.)	6.41
14. Lone Star Industries, Inc. (Me.)	75.00
15. Marcor, Inc.	22.40
16. Phillips Petroleum Co. (Del.)	20.80
17. Public Service Electric & Gas Co. (N.J.)	72.30
18. Putnam Investors Fund, Inc	10.64
19. R. J. Reynolds Industries, Inc. (N.J.)	419.32
20. Sears, Roebuck & Co. (N.Y.)	77.50
21. Standard Oil Co. of California	162.40
22. Union Carbide Corporation (N.Y.)	68.00
23. Union Pacific Corporation Co. (Utah)	4.76
24. United States Steel Corporation (N.J.)	38.50
25. Wiscasset Mills (N.C.)	129.75
Total	3,817.98

INCOME FROM INTEREST

The taxpayers, S. J. Ervin, Jr., and his wife, Margaret Bell Ervin, received the following income from interest during 1972:

1. Interest received by S. J. Ervin, Jr., on Savings Account in Wachovia Bank and Trust Co	$1,245.74
2. Interest received by Margaret Bell Ervin on Savings Account in Wachovia Bank and Trust Co	349.87
3. Interest received by Margaret Bell Ervin on debentures issued by The American Telephone and Telegraph Co	43.37
Total income from interest	1,639.37

PROFITS (OR LOSS) FROM BUSINESS OR PROFESSION (SOLE PROPRIETORSHIP) 1972

Name(s) as shown on Form 1040: S. J., Jr. and Margaret Bell Ervin.

Social security number: 578–52–3300.

A. Principal business activity: lawyer, speaker, writer; product: personal services.

B. Business name: S. J. Ervin, Jr.

C. Employer Identification Number: none.

D. Business address (number and street): 515 Lenoir Street.

City, State and ZIP code: Morganton, North Carolina 28655.

E. Indicate method of accounting: (1) cash.

F. Were you required to file Form 1096 for 1972? (See Schedule C Instructions): No.

G. Is this business located within the boundaries of the city, town, etc., indicated? No business in strict sense—only personal services.

2. Less: Cost of goods sold and/or operations (Schedule C–1, line 8). See Exhibit entitled "Income From Personal Services Other Than Those Performed as a United States Senator": $8,035.46.

19. Other business expenses (specify): See Exhibit entitled "Business Expenses Other Than Those Incurred By S. J., Jr. as a United States Senator."

(p) Total other business expenses (add lines 19(a) through 19(o)): $1,863.26.

20. Total deductions (add lines 6 through 19): $1,863.26.

21. Net profit (or loss) (subtract line 20 from line 5). Enter here and on line 35, Form 1040. ALSO enter on Schedule SE, line 1: $6,172.20.

INCOME FROM PERSONAL SERVICES OTHER THAN THOSE PERFORMED AS A UNITED STATES SENATOR

The taxpayer, S. J. Ervin, Jr., received the following income from personal services other than those performed as a United States Senator:

	Amounts
1. Brookings Institution, 1775 Massachusetts Avenue, N.W., Washington, D.C., 20036, honorarium for discussing privacy issue at meeting in Annapolis, Md	$200.00
2. Center for the Study of the Presidency, 17 East 80th Street, New York, New York, 10021, honorarium and expense reimbursement for participating in symposium at Montauk, Long Island	250.00
3. Beatrice Cobb Estate, Morganton, N.C., 28655 fee as testamentary trustee	1,510.26
4. Cornell College, Mount Vernon, Iowa, honorarium ($1,000.00) and expense reimbursement ($175.00) for addressing student body on subject of privacy	1,175.00
5. Grolier Incorporated, 575 Lexington Avenue, New York, N.Y., 10022, for article on privacy	500.00
6. MacFadden-Bartell Corporation, 205 E. 42nd Street, New York New York, 10017, honorarium for article on basketball bill	250.00
7. National Basketball Players Association, Special Account, 15 Columbus Circle, New York, New York, 10023, for speaking at half in all-star basketball game in New York (refund of shuttle airplane ticket, Washington to New York)	52.00
8. New York Times, New York, for use of statement concerning Subversive Activities Control Board ($75.00) and for use of statement concerning Army surveillance of civilians ($150.00)	225.00
9. Proprietary Association, 1700 Pennsylvania Avenue, N.W., Washington, D.C., for addressing its annual convention at Green Briar, West Virginia, on subject of First Amendment and commercial advertising	1,500.00
10. Radio and Television News Directors Association, Washington, D.C., for application to expenses of traveling to Nassau, Bahamas, to participate in its annual convention and receive its Paul White Award for service to broadcast journalism	280.70
11. Thiel College, Greenville, Pennsylvania, 16025, honorarium ($1,000.00) and expense reimbursement ($170.00) for participating in symposium on the costs of the invasion of privacy	1,170.00
12. Time, Incorporated, New York, New York, for application to expense of traveling to Atlanta, Georgia, and participating in Panel on How to Improve the Role of Congress	122.50
13. Wachovia Bank & Trust Company, Morganton, N.C., 28655, director's fee	50.00
14. West Virginia University Foundation, Inc., Morgantown, West Virginia 26506, for addressing group on The Fear of Freedom	750.00
Total Income From Personal Services Other Than Those Performed As A United States Senator	8,035.46

BUSINESS EXPENSE OTHER THAN THOSE INCURRED BY S. J. ERVIN, JR., AS A UNITED STATES SENATOR

The taxpayer, S. J. Ervin, Jr., incurred and paid the following business expenses other than those incurred as a United States Senator during 1972:

1. Binding books and magazines in taxpayer's business and law libraries	$7.60
2. Dues to professional societies:	
(a) American Bar Association and Section	45.00
(b) American Judicature Society	20.00
(c) Burke County, N.C. Bar Association	5.00
(d) Federal Bar Association	25.00
(e) Law School Alumni Association of the University of North Carolina	2.00
(f) National Lawyers Club, D.C	12.00
(g) North Carolina Bar Association	25.00
(h) North Carolina State Bar	30.00
	164.00
3. Travel expenses (including travel fares, meals, and lodging) incurred and paid in attending the meeting of the North Carolina Bar Association	588.90
4. Fire insurance on law library	62.00
5. North Carolina Lawyers franchise or occupational tax	25.00
6. Rent of lock box in bank	15.00
7. Rent of Post Office box	14.40
8. Record book for tax records	10.00
9. Traveling expenses additional to those incurred and paid in attending meeting of North Carolina Bar Association as set out in Item 5:	
(a) Airplane fares	829.10
(b) Meals	50.91
(c) Taxi fares	29.00
(d) Transportation of baggage by air	6.30
(e) Tips	61.05
Subtotal	976.36
Total business expenses other than those incurred and paid as a U.S. Senator	1,863.26

CAPITAL GAINS AND LOSSES, 1972

Name(s) as shown on Form 1040: S. J., Jr. and Margaret Bell Ervin; Social security numbers: [redacted] and IRS [redacted].

6. Long term capital gain of S. J. Ervin, Jr. from Sale of real estate—see Exhibit entitled "Sale of Ervin Building," $2,913.92.

Long term capital gain of Margaret Bell Ervin, a stockholder of Lehman Corporation. See Exhibit entitled "Lehman Corporation", $14.58.

11. Net gain (or loss), combine lines 6 through 10, $2,928.50.

13. Net long-term gain (or loss), combine lines 11, 12(a) and 12(b), $2,928.50.

SUMMARY OF PARTS I AND II

14. Combine the amounts shown on lines 5 and 13, and enter the net gain or loss here, $2,928.50.

15. If line 14 shows a gain—(a) Enter 50% of line 13 or 50% of line 14, whichever is smaller (see Part VI for computation of alternative tax). Enter zero if there is a loss or no entry on line 13, $1,464.25.

(b) Subtract line 15(a) from line 14. Enter here and on line 36, Form 1040, $1,464.25.

SALE OF ERVIN BUILDING

On June 14, 1956, Mrs. Laura Powe Ervin, who was domiciled in Burke County, North Carolina, died testate leaving a will whereby she devised a lot on South Sterling Street, and a brick office building known as The Ervin Building standing on it, to her six children, Laura Ervin Hall, S. J. Ervin, Jr., Hugh T. Ervin, Eunice W. Ervin, Dr. John W. Ervin, and Jean Conyers Ervin, in equal shares in fee simple. The lot was then valued for Federal Estate Tax purposes at $9,200.00, and the building was then valued for such purposes at $25,000.00. From June 15, 1956, until November 30, 1972, the six tenants in common formed a partnership and rented offices in The Ervin Building through an agent, who managed it for them. On December 1, 1972, they sold the lot and building to Willie Dale and Hayes Dale for a gross sum of $45,000.00. The cost of the sale totaled $2,045.00, which costs comprised a realtor's fee of $2,000.00 for making the sale and revenue stamps of $45.00 on the deed of conveyance. During the time of the partnership the six tenants in common and partners claimed depreciation amounting to $8,728.54, such depreciation being computed on a straight line method on the theory that the building had a useful life of 50 years as of the date of their acquisition of it. Each of the six tenants in common and partners, who dissolved and terminated their partnership as of the time of sale, had a long term capital gain of $1,456.96 by virtue of the sale. Such gain is computed as follows:

Sales price	$45,000.00
Less: selling price	(2,045.00)
Balance	42,955.00
Less: Cost of property building—basis	25,000.00
Less: Depreciation claimed	8,728.54
Adjusted basis—building	16,271.46
Add: Basis of land	9,200.00
Basis of property sold	25,471.46
Long-term capital gain on property sold	17,483.54
Each person's share of long-term capital gain (1/6 of $17,483.54)	2,913.92
Less: Long-term capital gain deduction (50% of gain)	1,456.96
Long-term capital gain includible in income	1,456.96

LEHMAN CORPORATION

During 1972 the taxpayer, Margaret Bell Ervin, owned shares of stock in the Lehman Corporation, a mutual fund company. The company paid to her as ordinary dividends during 1972 the sum of $6.41 as listed in the paper writing attached to this return entitled "Dividends of Margaret Bell Ervin." In addition to this sum, the Lehman Corporation paid to this taxpayer the further sum of $14.58, and informed this taxpayer that the $14.58 represented her share of long term capital gains from the sale of assets held by the corporation for more than six months.

SCHEDULES E&R — SUPPLEMENTAL INCOME SCHEDULE AND RETIREMENT INCOME CREDIT COMPUTATION, 1972

Name(s) as shown on Form 1040: S. J., Jr. and Margaret Bell Ervin, 578 52 3300.

Income or Losses from Partnerships, Estates or Trusts, Small Business Corporations. See Exhibit entitled "Profits from Partnerships."

Total, $41.29.

Income (or loss) Total of column (d) less total of column (e), $41.29.

PROFITS FROM PARTNERSHIP

The taxpayers, S. J. Ervin, Jr., and his wife, Margaret Bell Ervin, received net profits of $41.24 from the following partnership during 1972:

1. The taxpayer, S. J. Ervin, Jr., received the sum of $246.23 as his share of the profits during 1972 of a partnership known as The Ervin Building, which consisted of Mrs. Laura Ervin Hall, S. J. Ervin, Jr., Hugh T. Ervin, Miss Eunice W. Ervin, Dr. John W. Ervin, and Miss Jean Conyers Ervin, and which engaged solely in the business of renting offices in an office building known as The Ervin Building located on Sterling Street in Morganton, N.C., which is owned by the partners as tenants in common, $246.03.

2. The taxpayer, Margaret Bell Ervin, suffered the following loss as her share of the losses suffered during 1972 by a partnership known as the Ervin Homeplace which consists of the taxpayer, Margaret Bell Ervin, and Miss Jean Conyers Ervin, and which is engaged solely in the business of renting a dwelling house located on Lenoir Street in Morganton, N.C., owned by the partners as tenants in common, $204.74.

Net profits from partnerships in 1972, $41.29.

NOTE.—Information returns are being filed by the partnerships with the Internal Revenue Service at Memphis, Tennessee, and the North Carolina Department of Revenue at Raleigh, North Carolina.

MISCELLANEOUS INCOME

The taxpayers, S. J. Ervin, Jr., and his wife, Margaret Bell Ervin, received the following miscellaneous income during 1972:

1. Refund received by S. J. Ervin, Jr., from North Carolina Department of Revenue because of his overpayment of his 1971 State income tax, $356.80.

2. Refund received by Margaret Bell Ervin from North Carolina Department of Revenue because of her overpayment of her 1971 State income tax, $19.73.

Total miscellaneous income, $376.53.

COMPUTATION OF SOCIAL SECURITY SELF-EMPLOYMENT TAX, 1972

Name of self-employed person (as shown on social security card): Samuel J. Ervin, Jr., [redacted]

Business activities subject to self-employment tax (grocery store, restaurant, farm, etc.): lawyer, speaker, writer.

Net profit (or loss) shown in Schedule C (Form 1040), line 21. (Enter combined amount if more than one business.) $6,172.20.

Net earnings (or loss) from business self-employment (Subtract line 2 from line 1, and enter here and on line 8(a), below.) $6,172.20.

Net earnings (or loss) from self-employment: From business (other than farming) from line 3, above, $6,172.20.

Total net earnings (or loss) from self-employment reported on line 8, $6,172.20.

The largest amount of combined wages and self-employment earnings subject to social security tax for 1972 is, $9,000.

Total "FICA" wages as indicated on Form W–2, $6,172.20.

Balance, $6,172.20.

Self-employment income—line 9 or 12, whichever is smaller, $6,172.20.

If line 13 is $9,000, enter $675.00; if less, multiply the amount on line 13 by .075, $462.92.

Self-employment tax (subtract line 15 from line 14). Enter here and on Form 1040, line 62, $462.92.

Mr. ERVIN. Mr. President, also, if the unidentified person who is interested in my tax return wants to do so, I have available in Washington the State of North Carolina income tax returns filed by my wife and me in 1972.

If he will come to my office and identify himself, I will let him sit there and memorize these income tax returns.

If every person had been as diligent and as truthful about filing his income tax returns as I have been, there would be no tax evasion charges against anyone. And if everyone had been as punctual in paying his income tax as I have been, there would not be a single penny owed to the Federal Government for any Federal income tax from anyone at the present time.

This is the first time in 50 years that anyone has ever questioned the accuracy of my income tax returns. And it is done by a man who does not identify himself. He has not got enough courage to identify himself. It is done in the form of attempting to drag a red herring across the trail—Mr. President, I withdraw the term "red herring," because I think this is a putrefied minnow instead of a red herring.

Mr. WEICKER. Mr. President, if the Senator will yield to me, since I, along with the Senator from North Carolina, was the subject of these unidentified remarks, I would also like to make some remarks at this point.

I would like to join with the Senator from North Carolina in, first, trying to trace the origin of these remarks; and, second, I would like to join with him in presenting my income tax return for 1972.

Mr. President, if I might, I would like to read the UPI report. It is as follows:

> WASHINGTON.—Advisers close to President Nixon, both inside and outside of the White House, have been urging Nixon to make a forceful counterattack on critics of his financial record.
>
> "The President is being urged to make a public statement insisting that his political critics make their income tax returns public and that they provide an audit showing their personal cash flow," said one source.
>
> The sources said proponents of the counterattack strategy were suggesting that Nixon single out some members of congress, including Sens. Sam J. Ervin Jr., D-N.C., and Lowell P. Weicker, R-Conn., who have questioned tax deductions Nixon took and the tax rate he has paid while in office.
>
> The sources said Nixon's challenge would ask critics to fully disclose their personal financial records to show "they aren't living in glass houses while they throw their rocks" at him, White House sources said. "The President at present is resisting the advice and I don't know exactly why," said one source, but he said Nixon was weighing the idea carefully and was expected to make a decision shortly.

I would also like to suggest to these sources, the advisers close to President Nixon, that if they want to counterattack, I think that the truth is the best way in which to do that instead of the mud slinging and the slurs that have come forth in rather a voluminous way.

I have asked my office to bring down to the floor the figures as published in the President's statement.

In 1972, the President claimed as wages and income roughly $270,000. In 1972 he paid in taxes $4,298.17.

The junior Senator from Connecticut did not earn $270,000 in 1972. I earned $67,939. And I paid $14,350 in Federal taxes.

In addition, I paid roughly about $2,200 in taxes to the State government, and over $3,000 in local taxes.

Mr. President, I submit my 1972 returns for the RECORD and ask unanimous consent that they be printed in the RECORD.

There being no objection, the income tax returns were ordered to be printed in the RECORD, as follows:

Name, Lowell P. Weicker, Jr., Social Security No., [redacted]

Marie L. Weicker, Jr., [redacted]

Home address, Round Hill Road, Greenwich, Conn. 06830.

1. Net Capital Gains, $27,117.

2. Dividends, $10,016.

3. Total Capital Gains and Dividends, $37,133.

4. Adjusted Gross Income, $67,939.

6. Percentage To Be Applied To Exemption Factor, 54.66 percent.

7. Percentage on Line 6 Multipled by $2,000, $1,093.

9. Larger of Amounts on Lines 7 or 8, $1,093.

a. Amount on Line 9 if single or if married and filing a joint Federal Return, $1,093.

11. Net Taxable Capital Gains and Dividends, $36,040.

12. TAX DUE 6% of amount on Line 11, $2,162.

14. Balance of tax due, $2,162.

17. Amount due, $2,162.

Have you filed or will you file a U.S. Internal Revenue Individual Income Tax Return for a taxable year which includes the period covered in this return? Yes.

DIVIDEND INCOME

1. Gross dividends (including capital gain distributions) and other distributions on stock. (List payers and amounts—write (H), (W), (J), for stock held by husband, wife, or jointly).

Schedule attached, 9926.

W—Garfinckel, Brooks Bros., 55.

W—Garfinckel, Brooks Bros., 11.

H—Merch & Co., 42.

W—Schering-Plough, 9.

2. Total of line, 10,043.

3. Capital gain distributions, 27. (See instructions on page 13. Enter here and on Schedule D, line 7). See note below.

4. Nontaxable distributions (see instructions on page 13).

5. Total, 27.

6. Dividends before exclusion, 10,016. (Subtract line 5 from line 2.) Enter here and on Form 1040, line 12a.

Schedule B and Schedule E,
Part I and Part III

T/U/A Lowell P. Weicker, 12–14–40, F/B/O Mary H. Paulsen, et al., No. 13–6083706, 117, 2.

T/U/A Lowell P. Weicker, 8–3–50, F/B/O Lowell P. Weicker, Jr., No. 13–6067993, 3,385.

T/U/A Lowell P. Weicker, Jr., No. 13–6083709, 2,191, 48.

T/U/A Lowell P. Weicker, T1270, F/B/O Mary H. Paulsen, et al., No. 13–6029250, 2,455, 547.

T/U/A Benjamin Joy, 3–18–54, F/B/O Marie Weicker, No. 04–6007191, 543, 326.

H. Stop-Shop, 62.

H. Florida Gas Co., 16.

H. Hewlett-Packard, 8.

H. Delta Air Lines, 3.

W. United Corp., 30.

W. Laird, Inc., nominee, 13.

H. Laird, Inc., nominee, 5.

H. Scudder Com. Stk. Fund, 73.

H. Scoville Mfg., 145.

W. Scoville Mfg., 9.

H. Century shares, 54.

H. W. Ventures, partnership, 06–6132037, 36.

W. Southland Corp., 63.

W. American Brands, 187.

H. Maryland Cup, 35.

W. American Express, 30.

H. Friendly Ice Cream Corp., 6.

W. Friendly Ice Cream Corp., 8.

W. Maryland Cup, 154.

W. Heublein Cup, 123.

W. General Signal, 100.

W. Skil Corporation, 75.

Totals, 9926 and 923.

2. Enter your share of net short-term gain (or loss) from partnerships and fiduciaries, (14).

3. Enter net gain (or loss), combine lines 1 and 2, 3.

4(a). Short-term capital loss component carryover from years beginning before 1970 (see Instruction H), 4(a).

4(b). Short-term capital loss carryover attributable to years beginning after 1969 (see Instruction H), 4(b).

5. Net short-term gain (or loss), combine lines 3, 4(a) and 4(b), (14).

6. Residence (summer), Marion, Mass., 98,000; 78,522; 19,478.

7. Capital gain distributions, 27.

8. Enter gain if applicable from line 4(a) (1), Form 4797 (see Instruction A), 34,923.

9. Enter your share of net long-term gain (or loss) from partnerships and fiduciaries, (179).

10. Enter your share of net long-term gain from small business corporations (Subchapter S), 10.

11. Net gain (or loss), combine lines 6 through 10, 54,249.

12(a). Long-term capital loss component carryover from years beginning before 1970 (see Instruction H), 12(a).

12(b). Long-term capital loss carryover attributable to years beginning after 1969 (see Instruction H), 12(b).

13. Net long-term gain (or loss), combine lines 11, 12(a) and 12(b), 54,249.

14. Combine the amounts shown on lines 5 and 13, and enter the net gain or loss here, 54,235.

15. If line 14 shows a gain—(a) Enter 50% of line 13 or 50% of line 14, whichever is smaller (see Part VI for computation of alternative tax). Enter zero if there is a loss or no entry on line 13, 27, 118.

(b) Subtract line 15(a) from line 14. Enter here and on line 36, Form 1040, 27,117.

16. If lines shows a loss—

Section B.—Sales or Exchanges of Property Used in Trade or Business and Certain Involuntary Conversions (Not Reportable in Section A) (See Instruction D).

3. Sherwood Realty Co., care of B. F. Cohen, 46 W. Putnam Ave., Greenwich, Conn., 34,923.

4. Combine the amounts on line 3, enter here and also on the appropriate lines as follows, 34,923.

1. Net Short Term Gain (or Loss), (14).

3. Line 1 Less Line 2, (14).

5. Net Short Term Gain (or Loss) Line 3 Less Line 4, (14).

6. Net Long Term Gain (or Loss), 54,249.

8. Line 6 Less Line 7, 54,249.

10. Net Long Term Gain (or Loss) Line 8 Less Line 9, 54,249.

11. Sum of Lines 5 and 10, 54,235.

12. 50% of the Smaller of Lines 10 or 11, 27,118.

13. Net Capital Gains (Line 11 Less Line 12.) If a Loss Enter Zero, 27,117.

14. Dividends, 10,016.

15. Total Taxable Capital Gains and Dividends (Add Lines 13 and 14), 37,133.

16. Adjusted Gross Income Included In Line 17 Form 1040, 67,939.

18. Line 16 Less Line 17, 67,939.

20. Modified Adjusted Gross Income (Line 18 Less Line 19), 67,939.

Lowell P. and Marie L. Weicker, Jr., [redacted] [redacted]

Address, Round Hill Road, Greenwich, Conn. 06830.

Occupation, U.S. Senator; wife's, homemaker.

Exemptions, 2.

Dependent children who lived with you Scott, Gray, Brian Bianchi (adopted), 3.

10. Total exemptions claimed, 5.

11. Wages, 42,500.

12a. Dividends, 10,016; less exclusion 200, balance 9,816.

14. Income other than wages, dividends, and interest, 29,340.

15. Total, 81,656.

16. Adjustments, 13,717.

17. Subtract line 16 from line 15 (adjusted gross income), 67,939.

18. Tax, check if from: Schedule G, 14,350.

20. Income tax, 14,350.

22. Total, 14,350.

23. Total Federal income tax withheld, 10,789.

27. Total, 10,789.

28. If line 22 is larger than line 27, enter balance due IRS, 3,561.

INCOME OTHER THAN WAGES, DIVIDENDS, AND INTEREST

36. Net gain (or loss) from sale or exchange of capital assets (attach Schedule D), $27,117.

38. Pensions and annuities, rents and royalties, partnerships, estates or trusts, etc. (attach Schedule E), ($2,377).

44. Other (state nature and source), Honoraria, $4,600.

45. Total (add lines 35 through 44). Enter here and on line 14, $29,340.

ADJUSTMENTS TO INCOME

48. Employee business expense, $13,717.

50. Total adjustments, $13,717.

TAX COMPUTATION

51. Adjusted gross income, $67,939.

52. (a) If you itemize deductions, enter total from Schedule A, line 40 and attach Schedule A, $18,644.

53. Subtract line 52 from line 51, $49,295.

54. Multiply total number of exemptions claimed on line 10, by $750, $3,750.

55. Taxable income. Subtract line 54 from line 53, $45,545.

ITEMIZED DEDUCTIONS

1. One half (but not more than $150) of insurance premiums for medical care. (Be sure to include in line 10 below), $150.

10. Total deductible medical and dental expenses, $150.

TAXES

11. Real estate, $3,010.

12. State and local gasoline, $110.

13. General sales, $547.

14. State and local income, $833.

15. Personal property, $100.

16. Other sales tax—auto, $82.

17. Total taxes, $4,682.

Contributions, schedule attached, $1,150.

18. Total cash contributions, $1,150.

21. Total contributions, $1,150.

Interest expense.

22. Home mortgage, $5,520.

24. Other (Itemize); New Bedford 5c Svg.-Mtge., $588.

State Natl Bk-Loan, $129.

Putnam Tr. Co.-Loan, $140.

25. Total interest expense, $6,377.

28. $100 limitation, $100.

Miscellaneous deductions for alimony, union dues, etc., unremibursed senatorial expenses—schedule attached, $6,096.

Investment advisory service, $189.

32. Total miscellaneous deductions, $6,285.

SUMMARY OF ITEMIZED DEDUCTIONS

33. Total deductible medical and dental expenses, $150.

34. Total taxes, $4,682.

35. Total contributions, $1,150.

35. Total interest expense, $6,377.

39. Total miscellaneous deductions, $6,285.

40. Total itemized deductions, $18,644.

Schedule of congressional reimbursement and expenses, travel allowance, $1,800.

Home office expense (includes telephone and subscriptions) $4,630.

Total, $6,430.

Less travel expense, $11,855.

Home office expense (includes telephone in connection and subscriptions), $5,292.

Cost of living—Washington, $3,000.

Total, $20,147.

Expenses in excess of reimbursement, $13,717.

Miscellaneous deductions entertainment of constituents, $4,018.

Miscellaneous office expense, $2,078.

Total, $6,096.

I hereby certify that I was in a travel status in the Washington area, away from home, in the performance of my official duties as a Member of Congress, for 230 days during the taxable year, and my deductible living expenses while in such travel status amounted to $3,000.

CONTRIBUTIONS

Mississippi State University Development Fund, 10.

Greenwich Health Assn., 50.

Tobey Hospital Bldg Fd., 300.

Marine Historical Assn., Inc.. 25.

Community Chest, 125.

Ducks Unlimited, 30.

Capitol Page School, 5.

Marion Police Assn., 150.

Mass. Eye & Ear Infirmary, 100.

Greenwich Hospital Auxiliary, 30.

American Red Cross, 25.

Round Hill Community, 300.

Total, 1150.

Schedule Attached, 9926.

W. Garfinckel, Brooks Bros., 55.

W. Garfinckel, Brooks Bros., 11.

H. Merch & Co., 42.

W. Schering Plough, 9.

2. Total of line 1, 10043.

3. Capital gain distributions, 27.

5. Total, 27.

6. Dividends before exclusion, 10016.

1. Taxable income, computation year, 1972; 45,545; 1971; 28,846; 1970; 35,573; 1969; 20,936; 1968; 25,838.

5. Adjusted taxable income or base period income, 1972, 45,545; 1971; 28,846; 1970; 35,573; 1969; 20,936; 1968; 25,838.

6. Adjusted taxable income, 45,545.

7. 30% of the sum of line 5, columns (b), (c), (d), and (e), 33,358.

8. Averageable income, 12,187.

9. Amount from line 7, 33,353.

10. 20% of line 8, 2,437.

11. Total, 35,795.

13. Total, 35,795.

14. Tax on amount on line 13, 10,254.

15. Tax on amount on line 11, 10,254.

16. Tax on amount on line 9, 9,230.

17. Difference (line 15 less line 16), 1,024.

18. Multiply the amount on line 17 by 4, 4,096.

19. Total (add lines 14 and 18), 14,350.

22. Tax (add lines 19, 20 and 21), 14,350.

Income or losses from partnerships, estates or trusts, Small Business Corporations:

Sherwood Realty Co.

Greenwich, Conn., 3,300.

Schedule attached, 923.

1. Totals, 2,377.

Mr. WEICKER. Mr. President, I had an adjusted gross income of $67,939, on which I paid $14,350 in Federal income tax. The report of the President shows that he had an income of somewhere around $270,000 and paid Federal taxes of about $4,300.

Mr. President, I am more than delighted to make these records public because of the unidentified attack from the White House. To go further, it is my intention to submit also the 1971, the 1970, and the 1969 returns so that there can be an exact comparison between the taxes paid during that time by me and the taxes paid during that time by the President.

I would like to suggest to the advisers to the President that the best counterattack would be to tell the truth.

I think it is time that the President responded to the request of the distinguished chairman of the Select Committee and the entire committee made by the committee, I think, some 5 or 6 weeks ago. The committee was willing to go to the White House at the President's convenience and not bring him here, but have a face-to-face session with him at the White House. That request was not even given the courtesy of a yes or no. That would make sense, rather than asking for income tax returns.

However, we are glad to supply them because it makes the President's returns all the more ridiculous.

Mr. ERVIN. Mr. President, I would like to say that I own real estate in the town of Morganton. I have stocks which pay dividends in the neighborhood of less than $4,000. I had outside earnings of about $8,000. However, my wife and I paid taxes last year aggregating $20,231.71.

I paid every penny of taxes that I have ever owed. I have never sought to evade any taxes. Every time that I was not sure that I was entitled to a deduction or a credit, I took up the question in writing with the tax authorities before I filed a tax return, and obtained from them a ruling which I followed.

I think it is very unfortunate when anyone, especially an identified man, identified only as a source, tries to insinuate that there is something wrong with the income tax returns of an honest man.

If this gentleman wants, Mr. President, I will take back the word "gentleman"—if this identified source wants to memorize all my income tax returns for the last 50 years, I will make them available to him.

THE TRANSACTION OF ROUTINE MORNING BUSINESS ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday there be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 3 minutes, and that the bill to amend title 2 of the Clean Air Act be laid before the Senate immediately upon the close of the morning hour.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

WALK A MILE FOR YOUR HEALTH DAY

Mr. ROBERT C. BYRD. Mr. President, it is my understanding that the joint resolution (S.J. Res. 159) has been cleared on both sides on the aisle. I therefore ask unanimous consent that the Senate proceed to the consideration of Senate Joint Resolution 159, with the understanding that there will be a time limitation thereon of not to exceed 5 minutes.

Mr. JAVITS. Mr. President, may we know what that is?

Mr. ROBERT C. BYRD. "Walk a Mile for Your Health Day."

Mr. JAVITS. Very well. I concur.

Mr. PROXMIRE. I am happy to note the presence in the Chamber of Senator JAVITS, together with several other healthy Members of the Senate who happen to be present.

The PRESIDING OFFICER. The joint resolution will be stated.

The second assistant legislative clerk read as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating the last Sunday of May each year as "Walk a Mile for Your Health Day," and calling upon the people of the United States and interested groups and organizations to rededicate themselves to obtaining physical exercise through walking and, on that day, to abandon other modes of transportation in favor of walking.

The PRESIDING OFFICER. Is there objection to the consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. PROXMIRE. Mr. President, I am delighted by the Judiciary Committee's speedy action on Senate Joint Resolution 159, proclaiming the last Sunday in May as "Walk A Mile for Your Health Day."

This is a particularly appropriate time for the consideration of such a resolution in view of the impetus given by the energy shortage to power cheap modes of transportation. Walking uses quite a few calories—it burns up excess fat. But it is just about the best way to cut down on fuel use, along with bicycling.

Even more important, walking is an extremely healthful exercise. Just about everyone can do it without physical harm. It is often prescribed for heart attack sufferers as a means of building up the heart muscle following an attack. It involves no special equipment or undue expense. It is a marvelous way to become reacquainted with the world around us.

Finally walking is a pollution-free form of transportation. It produces no hydrocarbons—no noxious fumes. And it helps to remind us of both the wonder and the fragility of our natural environment. In today's jargon, it is an "ecological" plus.

We would not be considering this resolution today without the efforts of quite a few people. First and foremost I want to commend the chairman of the Federal Charters, Holidays, and Celebrations Subcommittee, Senator HRUSKA and the ranking member of the subcommittee Senator McCLELLAN, for acting with such expedition to report this legislation. Although it is not an earth-shaking resolution, early congressional action will add considerably to the chances of making next year's walk a mile day a smashing success, and the degree of success will be a factor in the physical health and well-being of, I hope, hundreds of thousands of Americans.

I also want to congratulate another Ruska—spelled with an R, not an H. I refer to Bruce Ruska of Chatham, Mich. who first suggested such a day in a letter to me last January.

Of course President Nixon, who issued a statement in support of "Walk a Mile Day" last June, gave the concept a major boost as did his Council on Physical Fitness and Sports, which promulgated a "Walk a Mile Day" proclamation.

Among the organizations endorsing "Walk a Mile Day" and helping enormously to make it a success this year were the American Heart Association, the American Medical Association, and the American Athletic Union.

Together with a number of Senators I participated in a symbolic walk this past July which was covered by the media in fine style. Television stations around the country were quite generous in providing free public interest advertising time last summer to promote the first "Walk a Mile Day." Special thanks is due to WRC–TC for providing technical and practical advice on how to go about getting the message out.

Again my thanks to the distinguished Senator from Nebraska (Mr. HRUSKA) as well as to my esteemed colleague from Arkansas (Mr. McCLELLAN) for making early Senate consideration of this resolution possible. It is a fine Christmas present.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield to the Senator from Virginia.

Mr. HARRY F. BYRD, JR. Would the distinguished Senator from Wisconsin be inclined to accept an amendment to say "Walk 5 miles for your health"?

Mr. PROXMIRE. I am afraid not. This is a resolution to cover the old, the young, the toddlers, and both ends of the age spectrum.

I thank the Senator for his suggestion. It may be that at some later time we can consider it. Perhaps we can work up to it.

Mr. President, I shall not detain the Senate more than a few minutes on this resolution. Many people are inclined to treat a resolution of this kind lightly, but I do think it can go a long way toward helping with the development of the country.

We spend something like $80 billion a year as a country on health, and of that amount, of course, many billions are spent by the Federal Government, once people are ill, to help them regain their health. We devote very little attention and money to preventing ill health by keeping people in sound health.

That is what this joint resolution is intended to do. There is overwhelming agreement among doctors, scientists, and everyone who has studied the question that the American people simply do not exercise enough or consistently enough. The purpose of this little resolution, which has the support of the American Heart Association, the American Medical Association, and many others, is to persuade people to do just what the title indicates.

Mr. President, I call up an amendment which I have at the desk, and ask for its consideration at this time.

The PRESIDING OFFICER. The amendment would amend the preamble, and would be in order after the passage of the joint resolution.

Mr. PROXMIRE. I thought the amendment was to the body of the resolution. Perhaps I am in error.

I beg the Chair's pardon; the "whereases," I understand, are a part of the preamble.

I would like to thank the Senator from Nebraska (Mr. HRUSKA) and the Senator from Arkansas (Mr. McCLELLAN) for making the consideration of this joint resolution possible. Senator HRUSKA is the chairman of the Committee on Resolutions, and it was due to his consideration that the joint resolution is being acted on now. I am very grateful to him for making it possible.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The PRESIDING OFFICER. The preamble will be stated.

The second assistant legislative clerk read as follows:

Whereas regular moderate physical exercise is recognized scientifically as instrumental in promoting good health and in preventing heart disease;

Whereas this Nation's tradition of vigorous physical exertion stands in healthy contrast to the present trend toward the sedentary life;

Whereas walking is a pollution-free, natural, and inexpensive mode of transportation requiring no special skill or ability;

Whereas walking allows individuals to experience the beauty of their surrounding environment; and

Whereas this Nation should make a commitment to persuading all Americans to sample the joys and benefits of walking: Now, therefore, be it

The PRESIDING OFFICER. The question is on agreeing to the preamble.

Mr. PROXMIRE. Mr. President, I call up my amendment at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

Immediately after the words "in promoting good health and" in the first whereas clause insert the following: "may be of benefit."

The PRESIDING OFFICER. The question is on agreeing to the amendment to the preamble.

Mr. PROXMIRE. Mr. President, this amendment was called to the attention of the Senator from Nebraska (Mr. HRUSKA) after the joint resolution was reported by the committee, and he agrees that it makes a desirable and necessary addition to the preamble.

The PRESIDING OFFICER. Without objection, the amendment is agreed to, and the preamble, as amended, is agreed to.

The joint resolution (S.J. Res. 159), with its amended preamble, is as follows:

Whereas regular moderate physical exercise is recognized scientifically as instrumental in promoting good health and may be of benefit in preventing heart disease;

Whereas this Nation's tradition of vigorous physical exertion stands in healthy contrast to the present trend toward the sedentary life;

Whereas walking is a pollution-free, natural, and inexpensive mode of transportation requiring no special skill or ability;

Whereas walking allows individuals to experience the beauty of their surrounding environment; and

Whereas this Nation should make a commitment to persuading all Americans to sample the joys and benefits of walking: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating the last Sunday of May of each year as "Walk a Mile for Your Health Day", and calling upon the people of the United States and interested groups and organizations to rededicate themselves to obtaining physical exercise through walking and, on that day, to abandon other modes of transportation in favor of walking.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGAL SERVICES CORPORATION ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the bill S. 2686.

Mr. HELMS. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. JAVITS. Mr. President, I think the situation should be very clear to the Senate. Senators want to go home. We all know that. Senators will be inconvenienced if cloture is voted on this measure. The legal services measure came within one vote of cloture today, which shows that there is a very strong preponderance of Senators who want to consider the bill. All we want to do is to let the record be very clear that this will simply defer the whole question for the weekend and a day. In other words, if a cloture motion is filed tonight, it would be on the calendar for action on Tuesday next. If a cloture motion is filed on Monday, it would be on the calendar for Wednesday next.

I tell the Senate without any question that a cloture motion will be filed, so we want the record to be very clear that a delay, if Senators are unhappy about it, is not attributable to us. We are ready to submit our cloture motion tonight, but that cannot be done unless the bill is the pending business.

By inadvertence, though no one is at fault, inasmuch as it is being temporarily laid aside, so that it would follow on the heels of the last bill, which is before us, it was simply put back on the calendar because nothing was said about it. But that is all right; nobody is complaining. We should have insisted on it, with knowledge that we would be forced back to this bill.

So I think it is only fair to say that whatever delay is entailed in the Senate is not of our doing. What is being done is not because of any doing of ours.

Mr. TAFT. Mr. President, I simply want to back up the statement of the Senator from New York and also to indicate to the Senate that I have here, ready to file, a cloture motion signed by 19 Senators who had hoped it could be filed today, so that it could come up immediately when the Senate convened on Tuesday. Apparently, that has turned out not to be the case. But other steps can be taken. Unfortunately, this will result in a further delay of the Senate next week.

Mr. LONG. Mr. President, I had hoped I could vote for a legal services bill, but I do not want to vote for it when one is under the hammer of cloture, where theoretically the people who are managing the bill have complete control of the situation. I have seen how arrogant those who have that type of legislative power in their hands can be. I see no reason why a legal services bill cannot be considered in the orderly process.

And amendments considered on their merits, such as the one I have, for which the Senate has voted by a majority vote when it was considering H.R. 1; that is, that we are not going to subsidize barratry or champerty with this legal services.

Mr. HELMS. Amen.

Mr. LONG. These people send word around the country trying to find a litigant, to file a lawsuit, where the brief has been prepared. It is drafted, but they do not have any name on it, so that they are scanning the country to find someone to file a lawsuit against in a State or a municipality, or against the Federal Government, or to strike down laws, or acts of Congress, to make them do opposite to what was intended.

It is one thing to talk about today what a lawyer owes his client. I thought it was against the law for a lawyer to instigate litigation. If it is champerty or barratry, then it is condemned by the laws of many States, where one is out looking for someone to come up with some litigation to impede an honorable and dedicated State official and prevent him from doing his job under the law, or to load down the welfare rolls with people who have no right to be there, and keep them on for 5 months after determining that they have no right to be there.

So that if we make this law, it should be such that one is representing poor people and their problems. In that case, I am for it. I am a former poverty lawyer myself dating back to the days before the Government started paying them. But for the Government to start paying lawyers to sue it, so that they can earn more than working for clients, that has no appeal to me. So far as costing this Government tens of billions of dollars, harassing and impeding the dedicated work of Federal and State employees, doing the best they can and conscientiously trying to administer the laws, that also has no appeal to me.

I would like in due course for my amendment to be considered. I have it at the desk right now. It will be printed. I hope that Senators over the weekend will have an opportunity to read my statement today about this matter.

The legal centers are referred to as backup centers. They are not backups, they are frontups—frontup centers to initiate and draft petitions before they even know whether they can find a client, just as in the instance I have put in the RECORD where they said, "We can play a million games on this."

Think of the cost at all levels of government. Think of the cost to the courts. Think of the erroneous decisions that will be arrived at from time to time. After all, with all these people working at it in the backup centers, really the frontup centers, initiating litigation, just pity the poor, dedicated employee of the State or Federal Government trying to do a job in the public interest while he has these hordes of lawyers in the backup centers—I would call them frontup centers—dreaming up things with the words, "a million games to play with," that is, a million lawsuits to file.

Mr. TAFT. Mr. President, will the Senator from Louisiana yield?

Mr. LONG. I yield.

Mr. TAFT. I appreciate what the Senator is saying. I may well want to support the Senator's amendment but the Senator in one respect has got the shoe on the wrong foot. Those who want to bring up the bill, who want the amendments to be considered, are the ones who are filibustering, it is said. The contrary is the case. We are going to be able to get it considered, if we can get cloture voted, because we would like to give the Senator's amendment its consideration which, I might say, did not come to the committee on which I serve, but it would be considered in the conference again, if not considered on the floor; but the fact that this comes under the cloture procedure of rule XXII.1 is not the fault of the sponsors of the bill. The Senator seeks to put the plan for the procedural problem upon us, when he should put it on those why by clear tactics, with multiple amendments already on file at this point in the session, intend to talk the bill to death insofar as this session is concerned.

Mr. LONG. I think that a bill can be passed, and a good one. I, for one, would be willing, when the bill is shaped up in such fashion that it will do more good than harm, to vote for it.

In other words, I can recall the days when I was a poverty lawyer and we needed help along with our clients. I can recall the days when I was trying to help someone whose water had been cut off in his house, or a woman who was suing some errant fellow to make him pay his support payments for the children, or in defending a person against a landlord because the poor person was being evicted or because the landlord wanted to raise the rent.

I am all for helping the poor in that kind of thing. I should be. That is the background whence I came.

Frankly, it runs in the family. That is how my father got his start, as a poverty lawyer, doing what he could on behalf of poor people. I am thinking of what we call in forma pauperis where you do not advance the court costs because neither you nor the client has the money to do it with. I am for all that.

What I am against is doing the kind of thing I could not have afforded, the kind of thing that does not make much sense; that is, the constant harassment of dedicated men running hospitals, or running various welfare offices or in other areas where they are doing the best they can to serve the poor.

It is the people sitting in their ivory towers who do not understand the problems of the poor or anything about administering to the needs of the poor, who generate lawsuits after lawsuits, trying to harass those who are doing the best job they can. May I say that it is those in the ivory towers who dreamed up the lawsuits, did the research, and the drafting of the petitions and are now scouring the country trying to find clients on behalf of some cause. That is what does not appeal to me.

I feel that a poor soul trying to do a job for poor people, with particular emphasis on the poor, should not have to be confronted by hordes of Government-paid lawyers dreaming up litigation, and to use their language, "playing a million games with them," while he tries to help the poor. I say the same on behalf of the dedicated doctors trying to help people in charity hospitals, and dedicated social workers, and welfare workers who are trying to help the poor, trying to put poor people on the welfare rolls and at the same time to keep the chiselers and the cheaters, the liars off. But sometimes it costs more to keep the cheaters off the rolls than to leave them on there because the welfare agencies are dragged into endless litigation, tying up the judge and jury, the lawyers on both sides, with the Federal Government paying the lawyer for the plaintiff, the lawyer for the defendant, the judge and the jury, and the welfare people who do not belong on the rolls at all the same time—that type of thing can be a complete frustration.

In everything we have tried to do, I am all in favor of providing the lawyers to achieve the legitimate aspirations of the poor; but you are nothing but an idiot to pay money out to hire a lawyer to sue yourself, or to pay to file a lawsuit that you believe is without merit to begin with. That is the kind of thing I would hope we can avoid.

Mr. HELMS. Mr. President, will the Senator from Louisiana yield?

Mr. LONG. I yield.

Mr. HELMS. I want to associate myself with the eloquent remarks of the distinguished Senator from Louisiana. No one could have more succinctly put in perspective what we who oppose this bill are trying to do here.

The Senator from North Carolina wants to be as deferential and as courteous to his colleagues as may be possible in this matter.

But, what do we have here?

The distinguished Senator from New York sincerely proclaimed the virtues of his side of this controversy by trying to pin the tail on the donkey of those who oppose him. It will not work, Mr. President, the proponents have been filibustering their own bill. That is clear from the RECORD. So we have a proposition here where we are down to the last week of the session. I want to reiterate, Mr. President, that if we can get some sort of reasonableness on the part of the proponents of the bill we can resolve this situation that is now headed toward an impasse. Otherwise, this Senator, this freshman Senator from North Carolina, is not going to stand by without exercising every prerogative available to him to prevent this bill from being passed without some public hearings which have not as yet been held this year on this new bill.

The pretense has been made on the floor that this is the same bill that has been passed by the Senate, and so forth, and so on. We have heard that over and over again—a broken record. It is not the same bill. It is a new bill. It is a bill that has been reported by the Labor and Public Welfare Committee, without a hearing, not 1 minute of hearing, and it was marked up in closed session. I would remind the Senate that there were other proposals for legal services for the poor—proposals which have been totally ignored.

I say to the press, which apparently cannot understand it, that those of us who oppose this bill are not opposed to legal services for the poor. If I have to say it a thousand times, I will say it. I want the poor to have representation in court, just like anybody else. But insofar as the legitimate prerogatives available to the Senator from North Carolina will permit, I intend to exercise them. This Senate will stay in session through New Year's Eve, if need be, to implement whatever prerogatives I have available to me to defend what I believe to be right. All we are asking is that this bill be carried over until after the first of the year.

Meanwhile, I say to the distinguished Senator from Louisiana and the distinguished Senator from Ohio that we have a legal services program. Do we not?

Mr. LONG. Of course we do.

Mr. HELMS. It is not a problem of getting legal services for the poor. We have a program that is functioning. What we are talking about is structuring a new program that may be viable and workable, and forbid the outrages which the distinguished Senator from Louisiana has discussed so eloquently.

We are asking that this matter be carried over until after the first of the year; that it be referred to the Committee on the Judiciary. The Judiciary Committee should have received it in the first place but did not; we ask that hearings be held, and then that the bill be reported, consistent with the due processes of the Senate.

If that is doing wrong by my colleagues, I will have to stand by it; but I am saying that we who oppose this bill are going to exercise every prerogative available to us. We have 100 amendments. We will consider them carefully. If we must have a rollcall vote on each amendment, we will have it. We will do whatever else is necessary to get through the point that the Senate is not going to pass this bill, as long as we have anything to do with it, without due process accorded to those of us who wish there had been hearings, who wish it had been referred to the Judiciary Committee.

Mr. LONG. It seems to me that cloture becomes a very dangerous thing.

Mr. HELMS. The Senator is correct.

Mr. LONG. When people ram through a legislative proposal without the consideration that the matter deserves and with Senators not knowing what the arguments are, for and against.

Mr. HELMS. The Senator is eminently correct.

Mr. LONG. On the issue I raised, we had to confront the same matter when we were voting on H.R. 1 in the previous Congress, the so-called welfare reform bill. We saw an amendment brought in by about 25 or 29 cosponsors—I do not recall exactly how many—to try to strike from that bill what the Senate Finance Committee had put in, to say that you will not be suing the State or the Federal Government to strike down their laws or to keep them from implementing those laws, without the consent of the Attorney General; that the Attorney General, before he gives that consent, would at least give the congressional committees notice that he was considering given consent to sue the States and the Federal Government on behalf of these tax-paid poverty lawyers.

They came in with about 25 or more cosponsors. Presumably, those people could persuade some people to vote their way. The Senate had not heard the argument for the other side, but in the brief period of time we had to debate that matter—about a half hour or an hour—we persuaded the majority of the Senate to vote them down, and we beat them by a vote of 38 to 35. If you take the people who had an open mind, we persuaded about 90 percent who had an open mind to see it the way the committee saw it when we studied that issue.

I do not want that matter to be decided without Senators knowing what they are voting on.

When Senator Burton Wheeler, of Montana, served in this body, he used to say that in order to make the Senate understand a problem, you have to make the speech two times; that you will get one group of Senators one time and another group the next time.

All I ask in this area is that this matter be handled in sufficient, orderly process, that Senators understand what they are voting on. If Senators find that they have voted to pay, sight unseen, for a thousand lawsuits to be filed against a dedicated public servant who could be making 10 times as much money in private practice of medicine, for example, than in managing a charity hospital, and to harass such a man so much that he cannot operate and administer to the needs of the sick, they would have second thoughts about it. They would have second thoughts about people at Columbia University filing these lawsuits to keep a dedicated doctor out of the hospital and in the courts, especially if you look at what the lawsuits achieved by the time they got through with it. They ought to think about the fact that billions of dollars would be spent in a way nobody would dream the money would be spent, in proselytizing programs that were never intended, with a great deal of money spent to make legislators out of judges, to make them construe the law different from the way the Founding Fathers or Congress intended.

Everybody knows that judges are not very good legislators. Now and then they come up with a good piece of judicial legislation; but, generally speaking, they were not picked for that kind of work. They were not picked for those qualifications. They were picked for an entirely different set of qualifications, and they are supposed to remain consistent. When they make a mistake, they are under no burden to change it. In fact, the burden on a judge, having made a mistake, is to say that if it is to be changed, the legislative branch ought to change it. Theoretically, having decided a point of law, they are supposed to stay with it; whereas, we in the legislative branch, having made a mistake, are under a duty to admit it to ourselves and to change it.

So, not only are judges not picked for those qualifications—if they possess them, it is an accident—but also, having trespassed in the legislative field, they have a duty, having made a mistake, to stay with it. But those in the legislative branch, having made a mistake, have the duty to watch over it carefully, exercise oversight, and correct it.

So that on its face, this effort to subsidize judicial legislation is not a good idea. So long as it can be understood that we are not trying to subsidize and promote legislation by judges, who are not supposed to be legislating; that we are not trying to impede, harass, and prevent dedicated public employees of Federal and State governments from doing their jobs; that we are not trying to reverse the judgment of Congress in passing its laws, or even to reverse the intent of the sponsor of a bill who puts it on the statute books, then I believe we can proceed with a good poverty-lawyer bill. But as long as it is going to be what we have seen it do all too much in the past, those of us who protest and who know about those things have a duty to try to explain it to the Senate and try to see that it is good legislation, not bad legislation.

Mr. HELMS. I commend the Senator, and I associate myself again with his remarks.

Mr. President, an attempt was made here earlier this afternoon to pin the tail on the donkey. Let us pin the tail on the right donkey.

All the proponents of this bill have to do, if they want the Senate to adjourn sine die, is to agree to carry this matter over. We will discuss it after the first of the year. If they want to keep the Senate in session next week, so be it. But let the Record be clear that it is they, the proponents of this bill, who will be keeping the Senate in session, not the opponents of this bill. We who oppose the bill are perfectly willing to discuss it. We are perfectly willing to participate in public hearings on it. But the existing situation must not be allowed to prevail.

Let me say again for the Record that if the Senate is delayed next week, it will not be because of the Senator from North Carolina and those who with him oppose the proposed legislation and the way it was brought before the Senate. It will be the proponents of the bill, who have not compromised one whit from the very beginning.

Mr. TAFT. Mr. President, certain matters ought to be corrected, very briefly, for the Record. I do not intend to get into any great debate.

The distinguished Senator from Louisiana, in his usual eloquent manner, has presented, in far less than the hour he would have under the cloture procedure, such a persuasive argument that, as I indicated earlier, I might be willing to go along with his amendment; but I share with him the regret that the tactics that have been followed with regard to this legislation might put us in this position. Indeed, it is abundantly clear from what the Senator from North Carolina said that we are not going to be able to consider the bill under any circumstances, even after that. The truth is the Senator from North Carolina is against the bill.

Mr. LONG. Mr. President, will the Senator yield?

Mr. TAFT. I yield.

Mr. LONG. I am not against having a bill; I want to correct one very bad feature in it.

Mr. TAFT. I know that is the position of the Senator and I am sure the Senator could handle it easily in far less than the 1 hour he would have.

Mr. President, two-thirds of the Senate, but two of those Senators present, would prefer to go on with the regular procedure and have a discussion on the various amendments but the tactics followed have prevented us from going in that direction.

Extensive hearings were held last year. I attended many of the hearings that were held at great length. Most of these matters were discussed. Unfortunately there were differences between the administration and the proponents of the bill, which kept it from becoming law last year. We hope those differences have been resolved. We had hoped it would not be necessary to go ahead with hearings this year. We have had no request from the Senator from North Carolina or from anyone else to have new or prolonged hearings on this matter.

The Senator is trying to shift the onus on us for holding up the matter. If he wants to pursue that course he has a course open to him which does not involve delaying the Senate. He could move to commit the bill to the Committee on the Judiciary. In fact, that committee was consulted before the matter was brought out and it was found there was no objection and no desire on the part of the committee, the chairman or the ranking minority member, to have hearings on the bill in the Committee on the Judiciary. It is another case of, "Leroy does not want the ball."

The Senator is trying to give it to a committee that is not satisfied with the legislation. Actually, tactics are being followed in an attempt to defeat the legislation and prevent it from coming before the Senate in order to let the Senate express its will.

Mr. HELMS. Mr. President, I express my admiration for the Senator from Ohio, but we see the matter differently. I think his crowd is holding up the bill and he thinks our crowd is holding up the bill. We are both operating in good faith. Apparently we have an impasse, but so be it.

I have heretofore stated how I feel about it. I was not elected by the people of North Carolina to come up here and yield to things I do not think I should yield to, and I shall not. I regret we have this impasse. This bill has never had 1 minute of public hearings this year, regardless of any other hearings held on previous bills. This is a new bill on which no hearings whatever have been held. It was marked up in executive session and the Senate should have a different set of circumstances and a different atmosphere in which to consider this important piece of legislation.

WILLIAM SIMON—A COMMANDER WHO NEEDS AN ARMY

Mr. LONG. Mr. President, during this serious energy crisis, it is essential that our country have the very best leadership available in shaping its energy policies. I was, therefore, greatly pleased when President Nixon selected William E. Simon, presently the Deputy Secretary of the Treasury, to direct the Federal Energy Administration. Mr. Simon is a gifted administrator and an individual of great strength and intelligence. I have great confidence in his ability to manage the energy crisis, both now and in the future. It was the Finance Committee, on which I serve as chairman, which originally confirmed Mr. Simon as Deputy Secretary, and it is our committee which has worked within the many important areas of policy which lie within the jurisdiction of the Department of Treasury and the oversight of the Finance Committee.

Recently, I have heard it suggested that Mr. Simon should be required to resign as Deputy Secretary of Treasury before being confirmed and assuming his new position as Federal Energy Administrator. In my opinion this would be a grave mistake, and I take this opportunity to give my reasons.

During the past year, Mr. Simon has recruited and brought to the Treasury Department a staff of economists and energy specialists which many believe to be the best in the Federal Government. It would be foolish indeed if we were to deprive Mr. Simon of his authority—and more importantly—of his staff at the Treasury during a time when energy decisions and energy policy require the urgent analysis and support that only a staff of professionals can provide. A czar must have his army, and an energy administrator must have his staff. To deprive Mr. Simon of his staff at this critical time, for no good reason, would be the worst kind of folly. That was one of the reasons why John Love, our first energy czar, found himself swamped with crisis decisions and without a staff to help him organize a cohesive policy. No man could have survived that mess. To take away Bill Simon's Treasury job would put him in the same untenable position John Love was in, and I am afraid he would go back to the greener pastures of investment banking, leaving the country energy leaderless.

There are a number of committees in this body who have some jurisdiction over the energy crisis—Interior, Finance, and Commerce. We in Finance intend to carry out our responsibilities as we see them. Others are doing the same. The Finance Committee also has jurisdiction over all Treasury and we know that Mr. Simon needs the base of support and the staff at Treasury if he is to perform his functions as energy czar. Some of his other responsibilities in running the Department will have to be delegated to the Under Secretaries. But, I repeat, if anybody forces him out of his job as Deputy Secretary, he will be putting Mr. Simon in an untenable position and we will soon be looking for "Energy Czar III."

ENERGY REVENUE AND DEVELOPMENT ACT

Mr. LONG. Mr. President, at the request of Senator GRAVEL, who had to be absent today, I am submitting for the RECORD a section-by-section summary of the Energy Revenue and Development Act which he introduced yesterday, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION SUMMARY OF SENATOR MIKE GRAVEL'S "ENERGY REVENUE AND DEVELOPMENT ACT OF 1973"

Title I. Short Title—Statement of Policy and Purposes.

Section 101. Short Title: Section 101 denominates the bill—the Energy Revenue and Development Act of 1973.

Section 102. Statement of Policy and Purposes: This section contains a statement of policy and purposes. The following summarizes the points in the statement:

1. It is the policy of the U.S. to become energy independent by 1985.

2. Achievement of this goal is essential for the nation's economic growth, full employment, balance of payments equilibrium, and national security.

3 Attaining the goal requires a national energy policy, and a central authority to implement such a policy with the advice and assistance of an independent commission of energy experts.

4. The U.S. has enormous fossil fuel reserves; it is imperative that these resources be rapidly developed.

5. The public and private sectors must cooperate to develop alternative energy sources and systems—including solar, geothermal, wind, nuclear fusion and fission, coal gasification and liquefaction, conversion of organic materials and others.

6. Attaining energy self-sufficiency will require a massive investment of capital and technology.

7. Public funding of energy programs requires the imposition of taxes on energy sources with proceeds to be deposited in an energy trust fund.

8. Private funding requires that the private market be permitted to operate freely to attract the capital necessary for research and development of energy. Accordingly, price controls on fossil fuels must be phased out, and immediately terminated on articles needed in energy production. Decontrol of prices on fossil fuels should be carried out subject to safeguards to avoid excessive profits.

9. Foreign energy sources have proved to be an unreliable source of supply. However, because of relatively cheaper extraction costs abroad it will be necessary to impose variable duties on petroleum and petroleum products from all countries and quota limitations on petroleum and petroleum products sought to be imported into the U.S. from countries which have embargoed shipments of petroleum to the United States in order to assure a domestic climate conducive to capital energy investment.

10. Achieving energy self-sufficiency also requires the granting of tax incentives to stimulate domestic fossil fuel production and the removal of tax incentives which encourage foreign fossil fuel production by U.S. companies.

Title II. Energy Trust Fund—Tax on Energy Sources.

Section 201. Establishment of Trust Fund: This section creates an energy trust fund in the U.S. Treasury to be financed by the proceeds of an energy tax on sources. The trust fund would be managed by the Secretary of the Treasury in consultation with the Administrator of the Federal Energy Administration. The trust fund would be administered and invested in interest-bearing obligations of the U.S. or obligations guaranteed by the U.S., as are existing trust funds. Expenditures from the trust fund would be accomplished as provided by legislative appropriation acts.

Section 202. Tax on Energy Sources: This section imposes an excise tax on all energy sources by their British thermal unit (Btu) value including the extraction of fossil fuel within the United States, the production of electricity, using any energy source other than fossil fuels, and upon the importation of fossil fuels and their derivatives. The tax on energy sources would be imposed at rates which would vary for each year between July 1, 1974 and July 1, 1984 in order to raise revenues consistent with projected energy expenditures requirements.

Thus, the bill imposes a tax on energy sources of 4.1 cents per one million Btu for 1974 which ascends in stages to a rate of 6.5 cents by the year 1978 and thereafter declines to a rate of 2.8 cents by 1984, after which time the tax would be terminated. The tax would raise approximately $50 billion over a ten-year period, beginning in 1974 with $3.2 billion, increasing to $5.8 billion in 1978. A 5 cent per million Btu tax, which is slightly higher than the average tax in the bill, would mean an approximate increase of 29 cents for a barrel of crude oil, $1.20 a short ton of coal and 5 cents a thousand cubic feet of natural gas. The tax would be imposed on classes or grades of energy, as certified by the Federal Energy Administration.

Title III. Federal Energy Administration (FEA).

Section 301. Establishment of FEA: This section creates a Federal Energy Administration (FEA) to be directed by an Administrator and a Deputy Administrator to be nominated by the President and confirmed by the Senate.

Section 302. National Energy Program: This section charges the FEA with the responsibility for developing and carrying out a national energy program involving energy research, demonstration, development, utilization and conservation. The FEA would be charged:

1. Developing the information and technology necessary to support development of the widest range of energy policy alternatives necessary to attain energy self-sufficiency.

2. Assessing and directing Federal energy research and development to assure adequate reliable economic and environmentally acceptable energy systems.

3. Encouraging energy conservation and efficient energy production, conversion and consumption.

4. Providing solutions to immediate energy shortages.

5. Formulating and carrying out energy research and development and demonstration programs, with full consideration of the efficiency and environmental effects of conventional energy sources as well as middle and long term alternative energy sources.

Section 303. Authority of Administration: This section authorizes the FEA to promulgate rules and regulations and to fully exercise the powers vested in it by law. These powers include:

1. Entering into contracts and agreements for energy research, development and demonstration;

2. To acquire laboratories, research and testing sites;

3. To enter into contracts, leases, cooperative agreements with, and to make grants to, educational institutions, research firms, corporations, etc., to construct demonstration type or full scale commercial size facilities to produce energy from oil shale, coal gasification, solar power, tidal power or other unconventional sources of energy;

4. To provide loan guarantees to persons engaged in the prospecting, exploration, development or production of oil or natural gas pursuant to contractual agreements; and other authorities.

Section 304. Loan Guarantees: This section specifies the criteria under which loan guarantees may be made in order to raise private capital to produce energy.

Section 305. Patent Policy and Mandatory Licensing: This section provides that the technology arising from all energy projects undertaken by or under the authority of the FEA be made available at the earliest possible date to the general public. The FEA would determine in public proceedings whether patent licenses should be granted on a royalty-free basis or on a basis designed to recover part or all of the cost of federal research. Other provisions of Section 305 contain the rules and guidelines to be followed by the FEA in assuring that the technological fruits of its energy programs are immediately and properly made available to the private sector.

Section 306. Monetary Awards: This section empowers the FEA to make monetary awards, within carefully prescribed limits, to persons deemed to have made significant contributions to energy research and development.

Section 307. Technical Amendments: This section provides statutory titles of Administrator and Deputy Administrator of FEA.

Section 308. Authorization: This section authorizes that funds may be appropriated out of the trust fund to carry out the purposes of this Act.

Section 309. Annual Reports: This section requires that the FEA report to the Congress annually on its activities.

Section 310. Transfer of Functions: This section transfers to the FEA all functions previously carried out by the Atomic Energy Commission which relates to the peaceful uses of atomic energy.

Section 311. Future Transfer of Functions: This section authorizes the President, for a period of 36 months following the date of enactment, to transfer energy functions from other agencies to the FEA.

Title IV. Commission on Energy Technology Assessment (CETA).

Section 401. Establishment of Commission: This section creates an independent Commission on Energy Technology Assessment, consisting of 7 scientists, 7 engineers, and 7 economists. The Commission will be directed by a Commissioner who shall be appointed by the President with the advice and consent of the Senate. The Board members shall be appointed for a ten-year term in office staggered to assure continuity and independence.

The basic functions of the Commission will be to advise and make recommendations to the FEA regarding the qualities of research, development and demonstration undertaken under the FEA sponsorship and generally to critically evaluate national energy policy and its implementation.

Economic Models: The Commission would also construct and maintain economic models of the energy needs of the United States, and the alternative means and costs of satisfying those needs currently and during each subsequent five-year period. The information would be made available to the public.

Adversary Studies: The CETA would also perform "adversary studies", critically evaluating the merits of government-sponsored R & D efforts, and the performance of the private sector in developing energy supplies.

Independent Funds: CETA would be funded by a portion (one percent) of the trust fund monies received during the preceeding fiscal year.

The Commission will have its own staff of experts and will make periodic reports to the Congress and to the public.

Title V. Termination of Price Controls.

Section 501. Petroleum Fossil Fuels and Infrastructure: This section amends the Economic Stabilization Act to phase out price controls on prices (over a one-year period) of petroleum products, including oil, natural gas, and coal. In addition, Section 501 immediately would terminate price controls on steel pipe, drilling equipment, casing, or any other steel products certified in short supply and used in fossil fuel extraction, refining, and transportation.

Section 502. Natural Gas: This section amends the Natural Gas Act to deregulate the prices on new natural gas in interstate commerce and, as contracts expire it would dereregulate natural gas for use in interstate commerce produced in existing wells.

Title VI. Tax Enforcement Provisions (Excess Profits Tax).

Section 601. Excise Tax on Uninvested Profits from Energy Sources: This section would impose an excise tax on excess profits from energy sources to the extent that such profits are not reinvested in qualified energy projects. The tax would be 40 percent of the profits from energy sources. The profit allowance from energy sources for any person is set at 20 percent of his average net investment for the fiscal year or $100,000, whichever is greater. Profits in excess of that amount would have to be reinvested in qualified energy projects, or they would be subject to the tax.

Title VII. Imports of Petroleum, Petroleum Products, Natural Gas and Certain Drilling and Mining Equipment.

Section 701. Variable Import Duties: This section would impose variable import duties on petroleum and petroleum products imported into the U.S. The duty would be equal to the amount by which the domestic price of the commodity exceeds the price of the article sought to be imported into the United States.

Section 702. Imports From Certain Arab Countries: This section would impose a quota limitation not to exceed 5 percent of domestic consumption on petroleum and petroleum products imported into the U.S. from the Arab countries which have embargoed exports to the U.S.

Section 703. Relaxation of Import Controls on Certain Steel Drilling and Mining Equipment: This section would request the President to enter into negotiations with countries which have voluntarily limited their exports of steel products to the United States for the purpose of importing increased quantities of steel articles certified in short supply and used in fossil fuel extraction.

Section 704. Negotiations by Oil Importing Countries With Oil Exporting Countries: This section would request the President to enter into negotiations with other oil consuming nations to form a "consumers union" organization which would bargain collectively with the foreign producing nations. The Federal Energy Administrator would be the chief representative for the United States in negotiating on price and quantities of imports, and would represent the United States in all negotiations with major oil exporting nations prior and subsequent to the formation of a consuming nation organization. Consuming countries which refuse to enter into such an organization with the United States shall not be accorded most-favored-nation treatment by the United States.

Title VIII. Export Controls on Fossil Fuels, Drilling and Mining Equipment.

Sections 801–807.—These sections would impose export controls on petroleum, petroleum products, fossil fuels and certain drilling and mining equipment. The Secretary of Commerce would be directed to determine quarterly the quantities of such articles that would be available for export and would issue export licenses according to historical patterns of such exports. There is built-in flexibility in the administration of this provision.

Title IX. Tax Incentives for Increased Production of Energy Sources.

Section 901. Tax Credit, Exploratory Drilling, Secondary and Tertiary Recovery Costs: This section amends the Internal Revenue Code to create a double investment tax credit (14 percent) for domestic exploratory drilling expenses and secondary and tertiary recovery costs.

Section 902. Tax Credit, Depreciable Property Used in Extraction, etc. of Energy Sources: This section provides an additional tax credit (14 percent) for depreciable property placed in service for the exploration for, or the development, extraction, refining, storage or transportation of domestic fossil fuels, or any other energy source.

Section 903. Technical and Clerical Amendments.

Title X. Miscellaneous Tax Provisions.

Section 1001. Foreign Percentage Depletion and Intangible Drilling Expenses: This section would repeal prospectively the percentage depletion allowance and intangible drilling and development costs provisions for oil and gas wells located outside the United States.

Section 1002. Credit or Deduction for Residential Energy Conservation Expenditures: This section would permit individual taxpayers to credit against their income taxes an amount equal to 50 percent of their expenditures for residential energy conservation, such as storm windows costs, but not to exceed $1,000. In lieu of the tax credit the individual taxpayer could deduct up to $1,000 for such expenditures from their taxable income.

Title XI. Naval Petroleum Reserves: Increased Production on Federal Lands.

Section 1101. Transfer of Jurisdiction: Under this section, all jurisdiction of the Secretary of the Navy over U.S. naval petroleum and oil shale reserves would be transferred to the Secretary of the Interior, ninety days following the date of enactment.

Section. 1102. Comprehensive Plans for Land Use or Disposition: This section directs the Secretary of the Interior to report to the Congress, within 12 months, exploration, development and production of fossil fuels from the Naval petroleum and oil shale reserves by the private sector under U.S. mineral leasing laws.

Section 1103. Claims of Alaskan Natives: This section protects all rights and claims by Alaskan natives to lands comprising naval petroleum reserves in the State of Alaska.

Section 1104. Increased Production of Oil and Gas on Federal Lands: This section authorizes and directs the Secretary of the Interior to require that oil and gas fields in lands owned by the United States, including the outer Continental Shelf, be fully developed and produced at a "maximum efficiency rate," i.e. a rate that could be sustained without damage or loss to the oil and gas reservoir or the ultimate recovery of crude oil under sound conservation, economic and engineering principles.

ORDER FOR UNFINISHED BUSINESS TO BE LAID ASIDE TEMPORARILY ON MONDAY UNTIL DISPOSITION OF THE CLEAN AIR ACT AND THE FOREIGN AID APPROPRIATION BILL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday the unfinished business be laid aside temporarily and remain in a temporarily laid aside status until the disposition of the Clean Air Act and the disposition of the foreign aid appropriation bill or until the close of business on Monday, whichever is earlier.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. Mr. President, reserving the right to object, I did not hear the request.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, I withdraw my reservation to the request of the distinguished majority whip.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for Monday is as follows:

The Senate will convene at the hour of 10 a.m. After the two leaders or their designees have been recognized under the standing order, the distinguished majority leader will be recognized for not to exceed 10 minutes, after which the distinguished Republican whip will be recognized for not to exceed 15 minutes, after which there will be a period for the transaction of routine morning business of not to exceed 15 minutes.

Under the order, at the close of the morning hour, the Senate will proceed to the consideration of the Clean Air Act under a time limitation. There will be yea-and-nay votes, presumably, on amendments thereto and on passage of the bill.

On disposition of the Clean Air Act, the Senate will proceed to the consideration of the foreign aid appropriation bill. There is no time limitation thereon. Yea-and-nay votes will occur on amendments thereto and on final passage on the bill.

On disposition of the foreign aid appropriation bill, the Senate will go into executive session to consider the nomination of William B. Saxbe to be Attorney General of the United States. There will be a yea-and-nay vote on the confirmation of that nomination.

Are there any questions?

Mr. GRIFFIN. I wonder if the distinguished majority whip would include that the leadership very likely would move in the morning hour to take up the legal services bill.

Mr. ROBERT C. BYRD. I am glad the Senator mentioned that.

I have been in touch with Senator Mansfield, after having assured Mr. Javits and Mr. Taft that the leader would move on Monday, during the morning hour, to proceed to the consideration of the legal services bill. The leader understands this commitment and is fully in accord with it.

Consequently, following the transaction of routine morning business Monday, the leader will presumably first ask unanimous consent to proceed to the consideration of the legal services bill. If that consent is not granted, then the leader will move to proceed to the consideration of the legal services bill. That motion will not be debatable, it having been made following the close of routine morning business and prior to the close of the morning hour which will end at 12 o'clock noon.

Of course, a yea-and-nay vote can be demanded on the motion to take up, and a quorum call would be in order prior to the vote.

All Senators ought to be alerted, therefore, not only to the possibility but also to the likelihood of a yea-and-nay vote on the motion to proceed to the consideration of the legal services bill on Monday, which vote could occur—depending upon whether or not the two special orders run their course and whether or not the routine morning business runs its course—as early as 10:30 a.m., unless a live quorum is first demanded.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT TO MONDAY, DECEMBER 17, 1973, AT 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move in accordance with the previous order that the Senate stand in adjournment until the hour of 10 a.m. on Monday.

The motion was agreed to; and at 5:44 p.m., the Senate adjourned until Monday, December 17, 1973, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate December 14, 1973:

Department of Justice

William W. Milligan, of Ohio, to be U.S. attorney for the southern district of Ohio for the term of 4 years. (Reappointment.)

U.S. Patent Office

Curtis Marshall Dann, of Delaware, to be Commissioner of Patents, vice Robert Gottschalk, resigned.

Department of State

Thomas O. Enders, of Connecticut, a Foreign Service officer of Class 1, to be an Assistant Secretary of State.

Department of Defense

James R. Cowan, of New Jersey, to be an Assistant Secretary of Defense, vice Richard S. Wilbur, resigned.

CONFIRMATIONS

Executive nominations confirmed by the Senate December 14, 1973:

Department of Defense

James W. Plummer, of California, to be Under Secretary of the Air Force.

Securities Investor Protection Corporation

Ralph Dwight DeNunzio, of Connecticut, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1976.

(The above nominations were approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

The Judiciary

Walter Jay Skinner, of Massachusetts, to be a U.S. district judge for the district of Massachusetts.

HOUSE OF REPRESENTATIVES—*Friday, December 14, 1973*

The House met at 10 o'clock a.m.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Lift up your heads, O ye gates; even lift them up, ye everlasting doors; and the King of Glory shall come in.—Psalms 24:9.

As we lift up our heads, our Father, may we also lift up our hearts, opening all the doors of our being that Thy spirit may come and dwell in us making us equal to every experience and ready for every responsibility.

Led by Thy spirit may we lead our people beyond the boundaries of the mind which divide us and upward to the higher plane of unity and peace holding above us the banners of truth and justice and love.

"Create in us the splendor that dawns
when hearts are kind,
That knows not race nor stations as
boundaries of the mind;
That learns to value beauty, in heart,
or brain, or soul,
And longs to bind God's children into
one perfect whole."

Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate agrees to the amendment of the House to a bill of the Senate of the following title:

S. 2178. An act to name the U.S. courthouse and Federal office building under construction in New Orleans, La., as the "Hale Boggs Federal Building," and for other purposes.

The message also announced that the Senate had passed, with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 9142. An act to restore, support, and maintain modern, efficient rail service in the Northeast region of the United States; to designate a system of essential rail lines in the Northeast region; to provide financial assistance to certain rail carriers; and for other purposes, and

H.R. 11575. An act making appropriations for the Department of Defense for the fiscal year ending June 30, 1974, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 9142) entitled "An act to restore, support, and maintain modern, efficient rail service in the Northeast region of the United States; to designate a system of essential rail lines in the Northeast region; to provide financial assistance to certain rail carriers; and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Magnuson, Mr. Pastore, Mr. Hartke, Mr. Long, Mr. Griffin, Mr. Cook, and Mr. Beall to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 11575) entitled "An act making appropriations for the Department of Defense for the fiscal year ending June 30, 1974, and for other purposes, requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. McCLELLAN, Mr. STENNIS, Mr. PASTORE, Mr. MAGNUSON, Mr. MANSFIELD, Mr. SYMINGTON, Mr. YOUNG, Mr. HRUSKA, Mr. COTTON, and Mr. CASE to be the conferees on the part of the Senate.

The message also announced that Mr. INOUYE and Mr. SCHWEIKER were appointed as additional conferees on the bill (H.R. 11576) entitled "An act making supplemental appropriations for the fiscal year ending June 30, 1974, and for other purposes."

APPOINTMENT OF CONFEREES ON H.R. 11575, MAKING APPROPRIATIONS FOR THE DEPARTMENT OF DEFENSE

Mr. MAHON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 11575) making appropriations for the Department of Defense for the fiscal year ending June 30, 1974, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Texas? The Chair hears none and appoints the following conferees: Messrs. MAHON, SIKES, FLOOD, ADDABBO, McFALL, FLYNT, GIAIMO, WHITTEN, MINSHALL of Ohio, DAVIS of Wisconsin, WYMAN, EDWARDS of Alabama, and CEDERBERG.

CALL OF THE HOUSE

Mr. CHARLES H. WILSON of California. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 666]

Andrews, N.D.
Arends
Badillo
Bell
Buchanan
Burke, Calif.
Carey, N.Y.
Chappell
Chisholm
Clark
Clawson, Del
Clay
Collier
Collins, Ill.
Collins, Tex.
Conlan
Conyers
de la Garza
Delaney
Dellums
Dent
Edwards, Ala.
Erlenborn
Esch
Evins, Tenn.
Foley
Ford, William D.
Fraser
Green, Pa.
Gubser
Hanley
Hansen, Wash.
Hays
Hébert
Hogan
Hunt
Ichord
Jarman
Johnson, Calif.
Keating
Kyros
Long, Md.
McEwen
Macdonald
Mailliard
Martin, Nebr.
Matsunaga
Metcalfe
Michel
Nedzi
O'Hara
Pepper
Podell
Quie
Rarick
Reid
Rhodes
Riegle
Rooney, N.Y.
Runnels
Ryan
Sandman
Skubitz
Steele
Stokes
Sullivan
Taylor, Mo.
Teague, Calif.
Udall
Walsh
Ware
Whitten
Williams
Wright
Wyatt
Young, Ga.
Zablocki

The SPEAKER. On this rollcall 355 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair wishes to announce that the Chair will take unanimous-consent requests from Members, but not for speeches.

FURTHER ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair would again like to announce that ordinarily the Chair will take unanimous-consent requests, including speeches, at the opening of each session, but that when the House is faced with an extremely heavy schedule and a rollcall has intervened, the Chair in fairness to the program will take only unanimous-consent requests, but not for speeches.

CONFERENCE REPORT ON H.R. 11324, EMERGENCY DAYLIGHT SAVING TIME ENERGY CONSERVATION ACT OF 1973

Mr. STAGGERS. Mr. Speaker, I call up the conference report on the bill (H.R. 11324) to provide for daylight saving time on a year-round basis for a 2-year trial period, and to require the Federal Communications Commission to permit certain daylight broadcast stations to operate before local sunrise, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of December 10, 1973.)

Mr. STAGGERS (during the reading). Mr. Speaker, I ask unanimous consent that the further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

Mr. GROSS. Mr. Speaker, reserving the right to object, I do so to inquire if the gentleman from West Virginia is going to explain the conference report?

Mr. STAGGERS. Mr. Speaker, I will be very happy to explain the conference report to the gentleman from Iowa.

Mr. GROSS. I yield to the gentleman from West Virginia for that purpose.

Mr. STAGGERS. Mr. Speaker, first there were several differences between the House and Senate bills where we took the Senate version. First we took the States is in an energy crisis, and that that is the reason for the bill.

We took the Senate's effective date of the fourth Sunday after enactment rather than the third Sunday, as in the House bill.

We took the Senate provision under which the Governor of any State can issue a proclamation that an exemption from daylight savings time, or a realinement of time zones is necessary to avoid undue hardship, or to conserve fuel, and the President then could grant an exemption or realinement with respect to State.

The conference report also takes care of the problem of daytime AM radio stations to permit most of them to go on the air before local sunup in order to give the weather and other information to farmers, school closings for school children, and so forth.

The Senate version also called for two reports instead of one, which was in our bill. The conference report calls for two reports to the Congress instead of one. Those are the changes.

Mr. GROSS. It calls for two reports to do what?

Mr. STAGGERS. Just to tell us about the operation and effects of the legislation and whether it is conserving energy—what is happening to the country as a result of daylight saving time and whether it is desirable.

Mr. GROSS. Whether it is desirable or not? I assumed the House approved daylight saving time because it had been demonstrated to be desirable.

Mr. STAGGERS. It is a trial, so we ask in the trial period that they give us these two reports.

Mr. GROSS. So when the House approved the bill, it did not know whether it was desirable or not?

Mr. STAGGERS. No, sir; the results of what was happening as a result of the daylight saving time were what we wanted.

Mr. HUDNUT. Mr. Speaker, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Indiana.

Mr. HUDNUT. I thank the gentleman for yielding.

The delegation from Indiana would like to ask the distinguished Chairman of the committee what the situation is now in the conference report with regard to the State of Indiana.

Mr. STAGGERS. In the case of the State of Indiana, it is treated the same in the conference report as it was in the bill as passed by the House.

Mr. HUDNUT. In other words, it is at the option of the legislature in the State of Indiana?

Mr. STAGGERS. No, it is not. It is the same as it was when it passed the House. That portion of Indiana which is in the eastern time zone is exempted from the observance of daylight saving time under the legislation without any action being taken by the Indiana Legislature.

Mr. ROUSH. Mr. Speaker, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Indiana.

Mr. ROUSH. I thank the gentleman for yielding.

I should like to ask the chairman in accepting the provision which pertains to a finding by the Government, whether or not the Governor of a State such as the State of Indiana, finding itself in this peculiar circumstance, might find that that State could conserve more energy by remaining on daylight saving time only during the summer months, could the Governor make such a finding and then permit the State of Indiana to be on standard time during the winter months and on daylight saving time during the summer months, as a result of his finding that they might conserve more fuel?

Mr. STAGGERS. I might say to the gentleman that if the Governor makes a proclamation and finding, he must make it before the effective date of the legislation, the fourth Sunday after enactment, and then it would be up to the President to act on it.

Mr. ROUSH. But if the Governor complies with that requirement and makes the finding that the State will conserve more fuel by remaining on standard time in the winter months and going on daylight saving time in the summer months, then is that within the purview of the amendment which the conferees have accepted?

Mr. STAGGERS. I thought I had explained that.

Mr. ROUSH. I thank the gentleman.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

Mr. DENNIS. Mr. Speaker, I reserve the right to object.

The chairman, I realize, tried to answer this question a couple of times, I think, but I am still not clear what the answer was. This bill had the so-called Indiana amendment in it which provided that if we exempted ourselves under the previous law that remained in effect, that exemption, unless the legislature took additional action, that remains the same in the conference report, does it?

Mr. STAGGERS. That is still in the bill.

Mr. DENNIS. I thank the gentleman.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

Mr. GROSS. Further reserving the right to object, may I ask the gentleman are all of the amendments to this conference report germane to the bill?

Mr. STAGGERS. Yes, sir; they are. We knocked out two nongermane amendments which were adopted in the Senate.

Mr. GROSS. I ask the gentleman one final question. If this is the Lydia Pinkham to the cure of the fuel crisis, why are we dealing with the other bill, the bill that is presently before the House?

Mr. STAGGERS. This conference report is the first part, and the bill being considered by the House is another.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

Mr. BROWN of Michigan. Mr. Speaker, reserving the right to object, I should like to ask the chairman of the committee if the language dealing with an exemption such as for the State of Michigan is in the conference report as it was in the House bill?

Mr. STAGGERS. It is.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

Mr. KAZEN. Mr. Speaker, reserving the right to object, I would like to ask the chairman this question, as I am not sure that I understood the answer awhile ago.

Under the provisions of the conference report if the Governor of any State within the 30-day period decides that he can conserve energy in his State or avoid undue hardship by having the State remain on standard time in the wintertime and on daylight saving time in the summer months, that the State could be exempt from the year-round provision?

Mr. STAGGERS. If he makes this presentation to the President and the President finds that is desirable, yes.

Mr. KAZEN. I did not understand that this provision was in the House bill.

Mr. STAGGERS. It was in the Senate bill and we accepted it.

Mr. KAZEN. In other words it would be possible for the President to allow upon the presentation of a Governor of the State two different time periods for, say, central and daylight savings time, depending on what the State wants?

Mr. STAGGERS. That is right.

Mr. KAZEN. I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. STAGGERS. Mr. Speaker, the conference report on the daylight saving time legislation, H.R. 11324, is a good report. It reflects the give and take that one expects in a conference between the two bodies.

As I think everyone knows, Mr. Speaker, this legislation has been requested by the President as a part of his legislative program to meet the energy crisis which confronts this Nation. Our expectation is that year round observance of daylight saving time will result in energy conservation. For that reason, I am hopeful that the legislation can be acted upon by the two Houses of Congress and signed by the President before Sunday. If that is done the legislation by its terms would take effect on January 6.

Mr. Speaker, the Emergency Daylight Saving Time Energy Conservation Act of 1973 (H.R. 11324) is legislation which is of great general interest. Therefore, I would like to briefly outline the major provisions of what I trust will soon be the law.

CONGRESSIONAL FINDINGS

Section 2 of the legislation is a congressional finding that the United States faces severe energy shortages; that various studies indicate that year-round daylight saving time would produce an energy savings in electrical power consumption and may yield energy savings in other areas; that year-round daylight saving time could serve as an incentive for further energy conservation; that year-round daylight saving time could have other benefificial effects, such as reduction of crime and improved traffic safety; and that the emergency nature of the energy shortage requires the temporary enactment of daylight saving time.

ADVANCED TIME—EXEMPTIONS

Under section 3(a), the time of each time zone would be advanced 1 hour. However, any State which lies in more than one time zone, and any State entirely within one time zone and not contiguous to any other State, could enact a State law exempting that part of the State in one time zone from this advanced time requirement, provided that the exemption is continuous until the last Sunday in April of 1975. This provision gives the States divided by a time zone boundary the same authority granted under section 3(a) of the Uniform Time Act of 1966, which permits any State divided by a single time zone boundary to put the entire State on the same clock time.

Section 3(b) vests the President or his designee with authority to grant an exemption or realinement upon a gubernatorial finding that an exemption, or realinement of time zones is necessary to conserve fuel or prevent hardship. However, this authority is limited to those States whose Governors issue a proclamation before the effective date of the legislation.

An automatic exemption from the observance of daylight saving time under the legislation is provided for that portion of Indiana which is in the eastern time zone, Hawaii, Puerto Rico, and the Virgin Islands. These are jurisdictions which are either divided by a time zone line, or which are not contiguous to any State and lie wholly within one time zone, and which on October 27, 1973, had a law in effect providing for an exemption from observance of advanced time under the Uniform Time Act of 1966. October 27, 1973, I should note, is the date on which observance of daylight savings time under the Uniform Time Act terminated for 1973.

REPORTS

Section 4 would require the submission of two reports to the Congress on the operation and effects of the legislation. An interim report would have to be submitted on or before June 30, 1974, and a final report on or before June 30, 1975. The reports would be compiled and edited by the Secretary of Transportation, but it is intended that he draw on every Federal governmental entity having information or expertise on the operation or effects of the legislation for the content of the reports and any recommendations which are to be included therein.

DAYTIME AM RADIO STATIONS

The effect of the legislation on daytime standard (AM) radio broadcast stations has been the subject of much interest and concern. Because of the effect of the legislation on those stations section 6 of the conference report requires the Federal Communications Commission to make adjustments with respect to the hours of operation of such stations which are consistent with international obligations and the public interest in receiving interference-free broadcasts. The adjustments would of course be made with respect to the morning hours of operation and could be made by general rule, or by interim action pending issuance of general rules, and could include variances with respect to operating power and other technical operating characteristics and also could be varied for particular stations and areas because of the exigencies in each case.

PERIOD OF OPERATION

As I have already stated, Mr. Speaker, this legislation would take effect on the fourth Sunday after it is enacted. It would terminate on the last Sunday in April 1975 when the provisions of the Uniform Time Act would once again go into effect.

Mr. Speaker, I think that some comment is also in order with respect to certain provisions which were adopted in the Senate but which are not included in the conference report. One such provision would have permanently amended the Uniform Time Act so as to permit any State to enact a law placing the entire State, or all of the State lying within one time zone, on year-round daylight saving time. This provision of the Senate amendment was vigorously supported by the senior Senator from New Hampshire, NORRIS COTTON.

The House conferees were unanimous in opposing this provision because they believe it would be disruptive of interstate transportation and communications and a step away from the uniformity of time observance which was achieved under the Uniform Time Act of 1966. The House conferees pointed out that furthermore they had never considered such a provision in hearing. We did, however, agree that if after termination of this legislation one or more States wished to observe year-round daylight saving time that we would hold hearings on legislation which would have that effect. By that time we would have the reports from the Department of Transportation on the operation and effects of this legislation and be better able to determine whether such legislation would serve the public interest.

The Senate amendment also included two nongermane amendments, neither of which is in the conference report. One involved the renegotiation of Government contracts where the contractor's ability to perform in a timely manner was materially impaired by a shortage of petroleum, petroleum products, or other energy material.

The other nongermane Senate amendment related to the allocation of refined petroleum products. Many Members of the House have indicated their support for this provision to me. As indicated the statement of the managers points out section 115 of the Energy Emergency Act (H.R. 11450) has substantially the same effect.

That is where the provision belongs and the reason it is not included in the conference report.

Mr. Speaker, I urge the Members of the House to vote for the conference report.

Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM FOR TODAY AND BALANCE OF WEEK

(Mr. O'NEILL asked and was given permission to address the House for 1 minute.)

Mr. O'NEILL. Mr. Speaker, I take this time to announce the program for the day.

It is the belief of the leadership on this side—and we have talked with the leadership on the other side—that it is imperative to carry on with this legislation, that it will go forward during the course of the day. If we do not complete the legislation by a reasonable time there is a great possibility that there will be a Saturday session.

If we can complete this legislation today, then all other legislation will be postponed until Monday next. So it is the intent of the leadership to complete this bill which has been urged by the President of the United States.

When we met with the President he said he did not believe the Congress should go home until the emergency legislation had been passed and there has been agreement with the leadership on the Republican side and the leadership on the Democratic side that this legislation would be passed by the House. So we intend to stay with it until the legislation is completed.

APPOINTMENT OF CONFEREES ON H.R. 9142, RAIL PASSENGER SERVICE FOR NORTHEAST REGION OF THE UNITED STATES

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 9142) to restore, support, and maintain modern, efficient rail service in the northeast region of the United States; to designate a system of essential rail lines in the northeast region; to provide financial assistance to certain rail carriers; and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia? The Chair hears none, and appoints the following conferees: Messrs. STAGGERS, JARMAN, DINGELL, ADAMS, PODELL, METCALFE, HARVEY, KUYKENDALL, SKUBITZ, and SHOUP.

ENERGY EMERGENCY ACT

Mr. STAGGERS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 11450) to direct the President to take action to assure, through energy conservation, rationing, and other means, that the essential energy needs of the United States are met, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from West Virginia.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 11450, with Mr. BOLLING in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on yesterday there was pending the amendment in the nature of a substitute which constitutes the text of the bill H.R. 11882 offered by the gentleman from West Virginia (Mr. STAGGERS).

Mr. STAGGERS. Mr. Chairman, I move to strike the requisite number of words. I would like to have an understanding with the ranking Republican member on the Committee on Interstate and Foreign Commerce.

I yield to the gentleman from Ohio (Mr. DEVINE).

Mr. DEVINE. Mr. Chairman, we have spent approximately 20 hours on this legislation thus far. It is my understanding that currently at the Clerk's desk there are pending 68 amendments, an increase of 5 since yesterday, 25 of which are from members of the Committee on Interstate and Foreign Commerce.

We have had a rather considerable discussion on both sides here as to a possible termination of the debate on this matter and ultimate disposition.

We have no desire to cut anyone off. Since there are so many amendments pending, we have tentatively agreed, subject always to the approval of the Members of the House, to permit the time of 10 minutes for each amendment, to be divided 5 minutes to the author of the amendment and 5 minutes for the opponents.

On important amendments, if Members wish to be heard, an additional 10 minutes will be granted the persons standing at the time the request is made.

We have not suggested any final time for disposition. That will come at a later time when we see how we get along with these amendments.

I think the chairman would like to ask unanimous consent that this agreement be approved, unless there is some objection as it relates to handling of amendments.

Mr. DANIELSON. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from California.

Mr. DANIELSON. I would like to ask whose judgment we are to rely on as to what is and what is not an important amendment?

Mr. STAGGERS. I might say to the gentleman that we have to rely on every Member of the House. The proposal is to ask for unanimous consent for the additional 10 minutes of debate.

Mr. DANIELSON. Mr. Chairman, I should like to make the statement that I do not delegate that authority to anybody.

Mr. STAGGERS. The gentleman has that authority himself. We are not trying to take that authority away.

Mr. SARASIN. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Connecticut.

Mr. SARASIN. Has the gentleman considered the effect of the 10-minute rule on amendments to those Members who have protected themselves for 5 minutes by publication of their amendments in the CONGRESSIONAL RECORD.

Mr. STAGGERS. They get their 5 minutes. That is what the gentleman from Ohio said. The proponents get 5 minutes and that right would certainly be protected.

Mr. SARASIN. It is my understanding that all the proponents would have 5 minutes. The question is about the Members who have protected their rights for 5 minutes for themselves.

Mr. STAGGERS. He would have his 5 minutes, if it is set in the Record.

Mr. SARASIN. I thank the gentleman.

Mr. WYMAN. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from New Hampshire.

Mr. WYMAN. At the conclusion of the 10 minutes, which has been suggested by the gentleman from Ohio and by the chairman, how is the determination to be made as to whether or not there will be an additional 10 minutes given on a particular amendment?

Mr. STAGGERS. They would have to ask unanimous consent and I think it would be granted.

Mr. DEVINE. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Ohio.

Mr. DEVINE. In order to make myself perfectly clear, each proponent of an amendment would be entitled to 5 minutes. The opponents also would be entitled to 5 minutes.

Anyone else wishing to speak on the amendment could do so within the 10-minute period.

Mr. STAGGERS. Mr. Chairman, I would like to say this: The Chair is going to suggest to the Members of this Committee, and I do not know whether they are all here or not, and this would have to be an agreement because I know the Chairman of the full Committee of the Whole is bound by certain rules; but we would have one amendment from the Committee and one amendment from those Members who do not belong to the Committee, and the Chair will do his best to see that that procedure is followed.

Mr. STEIGER of Wisconsin. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Wisconsin.

Mr. STEIGER of Wisconsin. Mr. Chairman, I regretfully seek on the gentleman's time to state my judgment on this issue. There are some massively important amendments which will profoundly touch almost everybody in this country, as the gentleman said at the outset of debate on this bill.

If there are 60 amendments and if we as a legislative body are to attempt to make a determination on the basis of 10 minutes debate on whether or not we will have emission requirements or allocate fuel oil across the United States, I think we make a terrible mistake. If the request is sought, this one Member would respectfully say that he would object to the request.

Mr. DENNIS. Mr. Chairman, will the Chairman yield?

Mr. STAGGERS. I yield to the gentleman from Indiana.

Mr. DENNIS. Mr. Chairman, I would like some additional clarification either from the Chairman or the distinguished gentleman from Ohio (Mr. Devine) about this additional 10 minutes. I would just like to understand the proposition.

The CHAIRMAN. The time of the gentleman from West Virginia has expired.

(At the request of Mr. Dennis and by unanimous consent, Mr. Staggers was allowed to proceed for 1 additional minute.)

Mr. DENNIS. Mr. Chairman, I just want to understand this. I get the idea that the proponent gets 5 minutes, and the opponent gets 5 minutes, but how about this additional 10 minutes? If I understood the gentleman from Ohio, a Member gets that only if someone does not object; is that correct? Is that the answer? A Member gets the additional 10 minutes only if no one objects?

Mr. STAGGERS. Mr. Chairman, that was the understanding.

Mr. DENNIS. Mr. Chairman, I would not go along with that either, for whatever that may be worth.

The CHAIRMAN. There is no unanimous consent request pending.

The Chair recognizes the gentleman from Washington (Mr. Adams).

AMENDMENT OFFERED BY MR. ADAMS TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. ADAMS. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. Adams to the amendment in the nature of a substitute offered by Mr. Staggers: On page 26, beginning at line 12 strike all of section 114 down to and including line 3 on page 29 and renumber the following sections accordingly.

Mr. ADAMS. Mr. Chairman, this is the second part of the issue that the House decided early on in these proceedings involving exemption from the antitrust laws of the United States, and that is the reason why we are trying to bring it on early today, so that the House can pass on section 114.

Mr. Chairman, I am not going to make a lengthy statement about it, but instead I am going to yield to members of the Judiciary Committee.

We tried to work out an agreement or a proposal to limit the exemption to the antitrust laws that is in section 114 of the bill similar to what was done in section 120. We were not successful in doing so, and, therefore, what I have offered is a simple motion to strike.

This would strike section 114, which is a section that allows retail businesses to get together, and enter into an agreement, to restrict hours, restrict operations, and so on, in retail establishments.

I think this portion of the bill is very dangerous, because what it does is to allow major concerns in a shopping center such as major department stores or the major distributing outlets for a food chain, to get together and decide that they are going to turn all the lights off at 7 o'clock at night or at 6 o'clock at night, which will effectively put out of business the 7-11 Store, the little camera store, and the other small businesses that are in that area who depend upon that business as their lifeblood.

Mr. Chairman, we should not in this bill, grant an exemption from the antitrust laws to retail shopping centers, and I hope the Committee will strike it. This is the second part to the action that the Committee took in limiting severely section 120, which was an exemption from the antitrust laws for the oil companies.

I announced early in the debate that I would do this and now the time has arrived and I hope the Committee will support my motion to strike.

Mr. Chairman, in the interest of saving time, I am going to yield first to the gentleman from Ohio (Mr. Seiberling) from the Committee on the Judiciary, and then I will yield to Members on the other side.

Mr. SEIBERLING. Mr. Chairman, I thank the gentleman for yielding.

I must confess that I do not have the same strong sense of unease about section 114 as I did about section 120 before we revised it.

However, I do not think we should lightly enact exemptions to the antitrust laws. We should not do so unless there is a clearly demonstrated need.

Now, I personally feel that we must do everything we can to protect small grocery stores and similar retail outlets from being discriminated against under this legislation, and, in fact, I have an amendment at the desk by which I hope to make it clearer that they are not to be discriminated against.

But I do not see any great need for section 114, in the first place.

In the second place, I can see possibilities of severe injury and prejudice to small business. For example, suppose the large retail establishments in a particular community decide that they want to restrict the use of the United Parcel Service and they restrict it in such a way that it prejudices the smaller outlets rather than the big ones. What is going to be the redress that they have, that the small outfits have? The so-called voluntary agreements could include penalties against small businesses violating the agreements. So they could be used to drive out of business competitors of the larger chains.

So I think there are dangers unless the normal antitrust law protections are applied.

Third, many small retail establishments, because they are purely local and not in interstate commerce, are not subject to our national antitrust laws. State antitrust laws may affect them, but I do not really see that we have any right to supersede State antitrust laws unless there is a clearly demonstrated need. Yet that is what section 114 would do.

Finally, let me say that the Administrator himself has the power to control office hours and to control other areas of energy consumption, and it seems to me that is quite adequate. Therefore, I would recommend striking section 114 as being unnecessary, dangerous, and potentially harmful to small business.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, I thank the gentleman.

I supported the other amendment which was offered with respect to section 120, but I am going to object to deleting section 114. It seems to me that in order to get the voluntary cooperation of these literally thousands of retailers, we need to provide the kind of protection from the antitrust laws which the section provides.

As I see it, the section is limited to the purposes of carrying out this act and does not grant blanket exemption from the antitrust laws nor does it excuse violations of the antitrust laws in areas of activities unrelated to this act.

Mr. YOUNG of Illinois. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to address myself to certain points which are involved in section 114 in an attempt to show section 114 is very desirable with respect to the objective of this act, that is, to save energy.

I point out that the wording of this section refers to voluntary agreements. In other words, if the merchants in a shopping center desire to get together voluntarily and to make an agreement that they will be open only at certain times or that one store will be open to serve the public for a certain segment of hours and another store furnishing the same type of services will be open for another segment of time, then this section will permit them to do that legally without being in violation of any agreement either to divide customers or to divide markets. Therefore this section is highly desirable.

I pointed out that if there is a merchant in a shopping center who disagrees, he will not be bound by this agreement because this is a voluntary type of agreement. So, if there are other merchants in the same shopping center who object to these voluntary agreements, they just do not have to participate in them.

Mr. McCLORY. Will the gentleman yield?

Mr. YOUNG of Illinois. I yield to the gentleman.

Mr. McCLORY. I thank the gentleman for yielding, and I commend him on his statement. I know the gentleman as an authority and an experienced lawyer in the field of antitrust law.

It is my understanding, as the gentleman states, for this program to be successful, it is essential that we have the voluntary cooperation of these literally thousands of retailers. To suggest that by voluntary cooperation they could at the same time be subject to being in violation of the antitrust laws is unthinkable.

Such a risk could defeat what we are trying to accomplish here. Therefore I think it is essential to insure their cooperation and to insure that they will not be subject to violation of the antitrust laws if they enter into this type of agreement.

Mr. YOUNG of Illinois. That is correct. In the shopping centers there are many large companies such as Montgomery Ward and Sears Roebuck and various food chains who are very much subject to antitrust laws. Without this provision in this section they will not be able to cooperate and make the energy savings which will ultimately benefit the public.

Let me point out the safeguards here. The safeguards provide that any such statement which is promulgated or which would be initiated by the merchants would have to be adopted and approved by the administrator who submits copies to the Attorney General and to the Federal Trade Commission. If there are meetings held to implement it, these meetings have to be in written form and interested persons can give their views in writing on them. A written summary has to be kept and only actions in good faith and within the limits of the exception are exempted from the antitrust laws.

Mr. DENNIS. Will the gentleman yield?

Mr. YOUNG of Illinois. I yield to the gentleman from Indiana.

Mr. DENNIS. The gentleman makes the point—and I want to be clear on this—that the agreements we are talking about are purely voluntary. No one has to enter into them. Is that right?

Mr. YOUNG of Illinois. That is correct.

Mr. DENNIS. Suppose one does enter into them and later wishes to withdraw from it. What is the situation then?

Mr. YOUNG of Illinois. If they enter into a voluntary agreement, it would be my understanding that the agreement would be then enforceable if they voluntarily entered into it.

Mr. DENNIS. So that once a person gets in it is the gentleman's understanding he cannot get out of the agreement here without a penalty. Is that correct?

Mr. YOUNG of Illinois. I cannot give the gentleman a definitive answer on that. I suppose we have to await a court decision.

Mr. DENNIS. It might depend on the agreement. But what I am getting at here is does it depend on the law or does it depend on what is agreed to. In other words, the agreement might say that you cannot get out, but suppose it is silent on that.

Mr. BROWN of Ohio. Will the gentleman yield?

Mr. YOUNG of Illinois. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Throughout the provisions of this bill the term "voluntary agreement" is used. In certain interpretations a voluntary agreement is one that is freely entered into and freely gotten out of. There is a provision that is very carefully drawn in the legislation before us that provides that these agreements are monitored in their preparation and in their writing by the Attorney General and the Federal Trade Commission.

Mr. YOUNG of Illinois. That is correct.

Mr. BROWN of Ohio. It seems to me that the Attorney General and the Federal Trade Commission could not force somebody staying in an agreement that has been drawn as an exemption to the antitrust provision.

The CHAIRMAN. The time of the gentleman has expired.

Mr. STAGGERS. Mr. Chairman, I wonder if we cannot get some agreement on time to be spent on this amendment. I think the two gentlemen who have been talking, one for the amendment and one against, have explained the amendment pretty well. So I wonder if we could have an agreement that all debate on the amendment stop in 10 minutes.

The CHAIRMAN. Does the gentleman wish to make a unanimous consent request as to that?

Mr. STAGGERS. Yes, Mr. Chairman, I do.

Mr. Chairman, I ask unanimous consent that all debate on the pending amendment to the amendment in the nature of a substitute close in 10 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. BROWN of Ohio. Mr. Chairman, reserving the right to object, as the author of the pending amendment I would prefer that the gentleman from West Virginia would be willing, as the author of part of the legislation being attacked by the amendment, if the gentleman will do it, that I be permitted to take my 5 minutes on the amendment first. I would like to have my 5 minutes first on the amendment, and then apportion the balance of the time.

Mr. STAGGERS. I would be willing to ask for 5 minutes after the gentleman has spoken because the gentleman was a proponent of the amendment in the committee.

Mr. BROWN of Ohio. I would have no objection to that.

Mr. STAGGERS. Mr. Chairman, I withdraw my unanimous consent request.

Mr. Chairman, I ask unanimous consent that all debate on the pending amendment in the nature of a substitute close in 5 minutes after the gentleman from Ohio (Mr. BROWN) has spoken for 5 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The CHAIRMAN. The Chair will state that the Members who were standing at the time of the unanimous-consent request will be recognized after the gentleman from Ohio (Mr. BROWN) has spoken for 5 minutes, their time to be divided into the remaining 5 minutes.

Mr. BROWN of Ohio. Mr. Chairman, the purpose of section 114, the limited retail antitrust exemption, is simply to provide a temporary and carefully circumscribed exemption from the antitrust laws for the 1.5 million retailers around the United States to enter into agreements so that they can help conserve energy.

We have worked our will on this piece of legislation for a couple of days, and the result of what we have done is not to provide much in the way of new energy and to delimit what is in the legislation or what was in the legislation when it came out of the committee in the vehicles for conserving energy. I am not sure what the benefit of what has been done in total is going to be, but certainly we ought to have, in addition to what is in the mandatory fuel allocation legislation, the right to ration; we ought to have some method by which we can have voluntary agreements on the conservation of energy. And that is what this retail amendment was aimed at.

Two things are essential, I think, if we are to see the retailers participate in this. The first thing is that we have to have some kind of national plan that says everybody ought to cut down their hours by 20 percent, or 2 hours a day, and we have that; then it seems to me in the varying frameworks in which retailers operate around the country in small villages, big metropolitan shopping centers, big downtown centers, that there ought to be some freedom for these retailers to get together and decide what their hours will be, what the service will be that they can provide in terms of delivery, and so forth. There is no way that the retailers such as Sears, Penney's, and the little mom-and-pop haberdashery stores can agree now that they will let the Sears truck, for instance, make all the deliveries in an area.

It seems to me that that would violate the provisions of the antitrust legislation. There is no way legally that they can get together and decide on the hours that one shopping center will be open and the hours that other shopping centers would be open, which would be different, so that people would be served differently. There is literally no way that major stores could get together and say, well, because we all will be limited, we will be open in the morning for the convenience of customers in the area, and somebody else will be open in the evening, and we will limit the hours to those.

So we must have some method of agreement, and that is what this section of the bill is aimed at. The method by which we do that is to provide that they may have meetings, and, if they do, that they keep transcripts of those meetings to form plans, that those meetings may be attended by a Federal official, that the Attorney General and the Federal Trade Commission have copies of the agreements, that the public be invited in for those meetings, that prior notice of the meetings be given all to develop the plan, and once the plan has been developed, the Attorney General may disapprove it and thereby withdraw prospectively the immunity which would otherwise have been conferred.

If we are going to require extensive requirements for implementation of that plan, that would be worse than having no plan at all. Obviously, in a small community where all of the merchants get together at 10 o'clock in the morning for coffee every day, as they do in my community, one is not going to have to call up the postmaster and have him sit down and keep notes of the meeting. The implementation is left somewhat freer than the drawing of the plan, but the plan must be approved by the Federal Trade Commission and by the Attorney General. Once it has been approved, as it operates and as it is monitored by the officials of those two antitrust operations, if they feel that the plan is limiting competition, is hurting business, is putting somebody else out of business, what they can do at that point—these government officials—is step in and stop the plan forthwith.

Any action that is taken after that would mean that everybody participating in that agreement would be subject to antitrust violation or prosecution. I see nothing wrong with that in terms of trying to accomplish the purposes of this legislation. If we take this out, we merely prohibit retailers from having the opportunity to even plan how they will implement the efforts to conserve energy.

Mr. YOUNG of Illinois. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Illinois.

Mr. YOUNG of Illinois. I thank the gentleman for yielding.

Is it the understanding of the gentleman from Ohio that if the Attorney General, for example, were to approve one of these voluntary agreements, and later it came to his attention that there was something noncompetitive being developed through these agreements, the Attorney General could withdraw any such approval?

Mr. BROWN of Ohio. Absolutely, and any place in the country, whether it is a big shopping center or a small town. That is why I think that part of the legislation, when I presented this amendment in the committee, passed by an overwhelming vote, about 3 to 1, as I recall. It seems to me that to strike it from the legislation now is a very serious mistake.

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Chairman, the statement that these are purely voluntary overlooks the reality of group pressure on the small outlets. Once they get into a so-called voluntary agreement, then the language of this provision permits the agreement to be implemented, and that means it could be policed, and that means there could be all kinds of pressure brought to bear.

On December 7, Mr. Kauper, the Assistant Attorney General in charge of the Antitrust Division, wrote a letter to the chairman of our committee, Mr. STAGGERS, asking that section 114 be deleted, stating that it is unnecessary. I agree with him. It is unnecessary. It is dangerous. It should be stricken.

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentleman from Illinois (Mr. MCCLORY).

Mr. MCCLORY. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Washington (Mr. ADAMS). It seems to me that to grant extensive exemption from the antitrust laws as we have in section 120 with regard to the big producers, and to deny any exemption whatsoever to the thousands of retailers on whom we are going to depend primarily for cooperation and support in connection with the success of this program, would be an unrealistic and incomprehensible thing for us to do. This section is an essential part of the pending legislation, and I hope that the amendment will be defeated. To delete the section would threaten the success of the entire voluntary program—as proposed in this bill.

The CHAIRMAN. The Chair recognizes the gentleman from Missouri (Mr. HUNGATE).

Mr. HUNGATE. Mr. Chairman, I rise in opposition to the amendment although I supported the amendment to section 120. I think that on balance this law No. 114 as is will be fairer and more equitable to the small businessmen. I think if there are any sections of our law that need a fresh approach it is the antitrust law. I think we need to take a fresh look at the antitrust law but I believe the law as is is preferable to the proposed amendment to 114.

My subcommittee on the House Select Committee on Small Business has just completed its second set of hearings on the problems faced by small independent retail pharmacies as a result of the Justice Department's interpretation of these laws, and on the basis of these hearings, I can say that unless something is done about these laws, 30,000 pharmacists who are small businesmen could go out of business.

Five years after discussions with the major insurance companies, the large unions bargained to have the cost of prescription drugs included as part of their health care fringe benefit. This very quickly became a standard benefit until today, these programs pay for over 40 percent of the prescription drugs dispensed in this country and this percentage is expected to increase to 80 percent within the next 5 years.

The insurance company then goes to the neighborhood pharmacist and tells him that a sizable number of his clients belong to its program and unless he agrees to provide drugs under its program and at its cost, he would lose these people as clients. The offer is made on a "take it or leave it" basis and since a small businessman just cannot afford to lose 30 or 40 percent of his clientele, in effect, he has received "an offer he cannot refuse." Otherwise, he would go broke. Then he finds out he may go broke even if he joins.

The reason for this is the insurance companies established the fee he was to receive for each prescription he dispensed under their programs and they did so without consulting the pharmacist. Indeed, the companies claimed they could not discuss the fee with the pharmacist because that would be price fixing, and thus, violate the antitrust laws.

Thus, the pharmacist found himself being in the position of having to join these programs or lose almost half of his clientele. In Illinois, 90 percent of all pharmacists belong to just one program administered by Metropolitan Insurance Co. And so, if the pharmacist was not satisfied, the company told him he could withdraw. After all, what did one pharmacist mean when 90 percent belong. He could not get together with other pharmacists similarly situated because that would be a joint conspiracy to fix prices. And they could not agree that they would jointly refuse to participate because that would be a group boycott.

Let me point out that this not only endangers the continued existence of this vital sector of our small business economy but also hurts the consumer, for each participating pharmacist is paid the exact same fee for each prescription he dispenses, regardless of the additional services he provides. Thus, a pharmacist who is open 24 hours a day and who provides free delivery service and security guards and free parking and monitors drug usage to be sure that doctors do not prescribe drugs which will react adversely with one another, is paid the same fee as the pharmacist who provides none of these services. Thus, these programs discourage the improvement and expansion of pharmacy services which would benefit the consumer because these additional services increase the cost of doing business and when you are paid the same fee as someone who does none of these, and you are in danger of losing money, you are likely to stop providing these services.

So the antitrust laws are not only endangering the continued existence of the small independent retail pharmacist, but they are also retarding improved health care services for the consumer.

One might ask then who it is that the antitrust laws are protecting. In this situation they are being used to shield the large union, the large company and the large insurance company from the individual, independent retail pharmacist. Anyone who thinks that these parties have equal bargaining power and that justice requires preventing two independent pharmacists from cooperating to obtain a fee that adequately reflects their cost of doing business and equitably reimburses them for the service they provide to the community has a unique view of the proper role of law in our society.

The role of the antitrust laws in this equation in treating big business, big labor, big insurance companies, and the small independent retail pharmacy as equals in this bargain is reminiscent of the story of "what is justice?"

The answer came "Justice is the greatest good for the greatest number."

And what is the greatest number?

No. 1.

In practice the antitrust laws treat the big boys as No. 1 in these third-party prepaid prescription programs and the small independent businessman pharmacist comes in last.

I repeat, the law's application in this situation deserves reexamination.

The CHAIRMAN. The Chair recognizes the gentleman from Minnesota (Mr. FRASER).

Mr. FRASER. Mr. Chairman, I rise in opposition to the amendment. If there is any common complaint that runs through my mail on the energy crisis it is "Why do we let the large shopping centers continue their 24-hour, 7-day-a-week, retailing business when I am asked to reduce my own energy consumption?" It seems to me section 114 will give retail merchants a chance to make voluntary agreements to save energy consumption.

If we eliminate section 114, we will either deny to the retail merchants the ability to make mutual agreements without antitrust complications, or we will cloud the agreements. The bill itself would encourage merchants to reduce hours of service, consolidate services, et cetera. They can modify hours and services jointly or on a staggered basis to serve the needs of the public.

States and local governments may still want to limit retailing, and that is well and good. But we ought to give local retailers a chance to do it themselves first.

Section 114 applies the antitrust exemption only to retailers and only to energy conservation plans. Agreements must follow FEA guidelines and copies will go to the Antitrust Division of the Justice Department, and the FTC. There are plenty of safeguards.

I urge we vote down the Adams amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Massachusetts (Mr. DRINAN).

Mr. DRINAN. Mr. Chairman, I support the motion of my colleague, Mr. ADAMS, to delete section 114 from this bill.

Section 114 would permit the larger retailers to dominate the small, to the detriment of the smaller retailers. Mr. Kauper, the Assistant Attorney General in charge of the Antitrust Division has in fact written to Mr. STAGGERS, indicating that he felt that section 114 was unwise.

Section 114, in its present form, violates the spirit, if not the letter, of the antitrust laws. I believe that we should limit the exemptions that are provided within this bill from the antitrust laws in order to insure against anticompetitive practices and to enact competitive safeguards.

Section 114 is overbroad. The present language of the bill could create a unique prosecutorial burden of having to show that challenged behavior is outside the scope of immunity. This burden is properly on the party best able to produce appropriate evidence. Obviously, the burden should be on the retailers and not on the Government.

I opposed the similar language in section 120 of this bill, when I supported the distinguished chairman of the Judiciary Committee in his successful amendment to section 120.

Mr. Chairman, the "good faith" standard is an unacceptable one. Antitrust laws already provide a "rule of reason" as a judicial standard. The proposed "good faith" standard would place on the Government the burden of not only obtaining evidence as to whether or not retailers had acted in good faith, but also the burden of negating that evidence. Most areas of the law which provide a "good faith" defense provide it as an affirmative defense, and not a part of the prosecution's affirmation burden. We must be extremely cautious in creating this escape hatch for big retailers who band together and make decisions affecting small retailers and consumers.

Mr. Chairman, the present section 114 contains an unfettered immunity provision for the retail business community.

I fully recognize that during the energy emergency, voluntary agreements, such as those contemplated by section 114, may be necessary to implement conservation policies. While such agreements in and of themselves may not necessarily amount to violations of the antitrust laws, they certainly present opportunities for abuse. The protection provided by the laws for such abuses are contained in the antitrust laws, and for that reason the exemption in section 114 is particularly dangerous.

The CHAIRMAN. The Chair recognizes the gentleman from Florida (Mr. ROGERS).

(By unanimous consent, Mr. ROGERS yielded his time to Mr. STAGGERS.)

The CHAIRMAN. The Chair recognizes the gentleman from West Virginia (Mr. STAGGERS).

Mr. STAGGERS. Mr. Chairman, I would like to remark that we did amend section 120 to substantially limit its applicability. I think it is only consistent that we follow on that action and take the further step of deleting in this section. I urge the passage of the amendment.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Chairman, since this refers to the antitrust laws as they now exist, I would like to ask the chairman of the Interstate and Foreign Commerce Committee, in view of a couple of the remarks made on his side of the aisle, if anybody in this body knows what the Attorney General or Justice Department has approved. I think they have not approved of it.

Mr. STAGGERS. Mr. Chairman, I did get a personal letter from the Justice Department, the Assistant Attorney General, who definitely was against this provision and hoped the House in its wisdom would delete it.

Mr. McCLORY. Mr. Chairman, if the gentleman will yield, we did not knock out section 120, we revised it. This would knock out the antitrust provisions with respect to the small retailers. So there is that difference.

Mr. STAGGERS. I agree with the gentleman. We did amend section 120, we did not knock it out.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington (Mr. ADAMS) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The question was taken; and on a division (demanded by Mr. ADAMS) there were—ayes 51, noes 54.

RECORDED VOTE

Mr. DINGELL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 170, noes 223, not voting 39, as follows:

[Roll No. 667]

AYES—170

Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Annunzio
Ashley
Aspin
Badillo
Barrett
Bergland
Biaggi
Bingham
Blatnik
Boggs
Boland
Brasco
Breckinridge
Brinkley
Brooks
Brown, Calif.
Burke, Mass.
Burlison, Mo.
Burton
Butler
Casey, Tex.
Chappell
Chisholm
Cohen
Collins, Ill.
Collins, Tex.
Conte
Conyers
Corman
Cotter
Cronin
Culver
Daniels, Dominick V.
Danielson
Delaney
Dellums
Denholm
Derwinski
Diggs
Dingell
Donohue
Drinan
Dulski
du Pont
Eckhardt
Edwards, Calif.
Eilberg
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Flood
Flowers
Foley
Fraser
Fulton
Gaydos
Giaimo
Gibbons
Gilman
Gonzalez
Grasso
Green, Pa.
Griffiths
Gude
Hamilton
Hammerschmidt
Hanley
Hanna
Hansen, Wash.
Harrington
Hawkins
Hechler, W. Va.
Heckler, Mass.
Helstoski
Hicks
Holifield
Holt
Holtzman
Howard
Johnson, Colo.
Jones, Tenn.
Jordan
Kastenmeier
Kluczynski
Koch
Kyros
Lehman
Long, La.
Long, Md.
McCormack
McFall
McKay
Macdonald
Madden
Matsunaga
Mazzoli
Meeds
Melcher
Mezvinsky
Miller
Minish
Mink
Mitchell, Md.
Moakley
Morgan
Moss
Murphy, Ill.
Murphy, N.Y.
Natcher
Nedzi
Nix
O'Neill
Owens
Patten
Pepper
Perkins
Peyser
Podell
Price, Ill.

Rangel
Reuss
Rinaldo
Rodino
Roe
Rogers
Roncalio, Wyo.
Rosenthal
Roush
Roy
Roybal
Ryan
St Germain
Sarbanes
Schroeder
Seiberling
Shipley
Smith, Iowa
Staggers
Stanton, James V.
Stark
Stubblefield
Stuckey
Studds
Symington
Thompson, N.J.
Thornton
Tiernan
Vanik
Vigorito
Waldie
Whalen
Wiggins
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Wolff
Wright
Wylie
Yates
Yatron
Young, Ga.
Young, S.C.
Zablocki

NOES—223

Abdnor
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Archer
Arends
Armstrong
Ashbrook
Bafalis
Bauman
Beard
Bennett
Bevill
Biester
Blackburn
Bowen
Bray
Breaux
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Byron
Camp
Carney, Ohio
Carter
Cederberg
Clancy
Clausen, Don H.
Cleveland
Cochran
Conable
Conlan
Coughlin
Crane
Daniel, Dan
Daniel, Robert W., Jr.
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Dellenback
Dennis
Devine
Dickinson
Dorn
Downing
Duncan
Edwards, Ala.
Esch
Eshleman
Fisher
Flynt
Forsythe
Fountain
Frelinghuysen
Frenzel
Frey
Froehlich
Fuqua
Gettys
Ginn
Goldwater
Goodling
Green, Oreg.
Gross
Grover
Gunter
Guyer
Haley
Hanrahan
Hansen, Idaho
Harsha
Harvey
Hastings
Hébert
Heinz
Henderson
Hillis
Hinshaw
Hogan
Horton
Hosmer
Huber
Hudnut
Hungate
Hutchinson
Jarman
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Karth
Kazen
Kemp
Ketchum
King
Kuykendall
Landgrebe
Landrum
Latta
Leggett
Lent
Litton
Lott
Lujan
McClory
McCloskey
McCollister
McDade
McEwen
McKinney
McSpadden
Madigan
Mahon
Mailliard
Mallary
Mann
Maraziti
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Mayne
Michel
Milford
Mills, Ark.
Minshall, Ohio
Mitchell, N.Y.
Mizell
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Mosher
Myers
Nelsen
Nichols
Obey
O'Brien
Parris
Passman
Patman
Pettis
Pickle
Pike
Poage
Powell, Ohio
Preyer
Price, Tex.
Pritchard
Quie
Quillen
Railsback
Randall
Rarick
Rees
Regula
Rhodes
Roberts
Robinson, Va.
Robison, N.Y.
Roncallo, N.Y.
Rooney, Pa.
Rose
Rostenkowski
Rousselot
Ruppe
Ruth
Sarasin
Satterfield
Scherle
Schneebeli
Sebelius
Shoup
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, N.Y.
Snyder
Spence
Stanton, J. William
Steed
Steelman
Steiger, Ariz.
Steiger, Wis.
Stratton
Symms
Talcott
Taylor, N.C.
Teague, Calif.
Thomson, Wis.
Thone
Towell, Nev.
Treen
Ullman
Van Deerlin
Vander Jagt
Veysey
Waggonner
Wampler
White
Whitehurst
Whitten
Widnall
Winn
Wydler
Wyman
Young, Alaska
Young, Fla.
Young, Ill.
Young, Tex.
Zion
Zwach

NOT VOTING—39

Baker
Bell
Bolling
Brademas
Burke, Calif.
Carey, N.Y.
Chamberlain
Clark
Clawson, Del
Clay
Collier
Dent
Erlenborn
Ford, William D.
Gray
Gubser
Hays
Hunt
Ichord
Johnson, Calif.
Keating
Metcalfe
O'Hara
Reid
Riegle
Rooney, N.Y.
Runnels
Sandman
Steele
Stephens
Stokes
Sullivan
Taylor, Mo.
Teague, Tex.
Udall
Walsh
Ware
Williams
Wyatt

So the amendment to the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. WYMAN TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. WYMAN. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The Clerk read as follows:

Amendment offered by Mr. WYMAN to the amendment in the nature of a substitute offered by Mr. STAGGERS: On page 59, after line 23, insert the following:

(1) Section 202(b) of the Clean Air Act (42 U.S.C. 1857) is amended by adding at the end thereof the following:

"(6) (a) Notwithstanding any other provision of law, the authority of the Administrator to require emissions controls on automobiles is hereby suspended except for automobiles registered to residents of those areas of the United States as specified by subsection (b) of this section, until January 1, 1977, or the day on which the President declares that shortage of petroleum is at an end, whichever occurs later.

(b) Within 60 days after the date of enactment of this paragraph, and annually thereafter, the Administrator shall designate, subject to the limitations set forth herein, geographic areas of the United States in which there is significant auto emissions related air pollution. The Administrator shall not designate as such area any part of the United States outside the following Air Quality Control Regions as defined by the Administrator as of the date of enactment of this paragraph without justification to and prior approval of the Congress.

(A) Phoenix-Tucson, intrastate.

(B) Metropolitan Los Angeles, intrastate.

(C) San Francisco Bay area.

(D) Sacramento Valley area.

(E) San Diego area.

(F) San Joaquin Valley area (California).

(G) Hartford-New Haven (Conn.-Springfield (Mass.) area.

(H) District of Columbia, Maryland and Eastern Virginia area.

(I) Metropolitan Baltimore and abutting counties.

(J) New Jersey, downstate New York and Connecticut area.

(K) Metropolitan Philadelphia and abutting counties area.

(L) Metropolitan Chicago and abutting counties (Ill. and Ind.)

(M) Metropolitan Boston and abutting counties area.

For purposes of this paragraph, the term 'significant air pollution' means the presence of air pollutants from automobile emissions at such levels and for such durations as to cause a demonstrable and severe adverse impact upon public health."

(2) Section 202 (a) of such Act is amended by adding at the end thereof the following new paragraph:

"(3) Regulations prescribed under this subsection shall not apply to motor vehicles or motor vehicle engines registered by owners who reside in geographic areas which are not designated by the Administrator under section 202(b)(6) as areas in which there is significant air pollution, for the period beginning on the date of enactment of this paragraph, and ending on January 1, 1977, or the day on which the President declares that shortage of petroleum is at an end, whichever occurs later."

(3) Section 203(a)(3) of such Act is amended to read as follows:

"(3) for any person to register, on or after 60 days after the date of enactment of this paragraph, a motor vehicle or motor vehicle engine for which the regulations prescribed under section 202(a)(1) do not apply under section 202(a)(3) if such person resides in a geographic area designated by the Administrator to be a geographic area in which there is significant air pollution; or"

Mr. DINGELL. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN. The gentleman from Michigan (Mr. DINGELL) reserves a point of order against the amendment.

Mr. WYMAN. Mr. Chairman, make no mistake about it. The people back home are up in arms about this gas situation, and about the lack of need for automobile emissions controls in most of this country. They are angry. They are asking what kind of jackasses do we have in the Government that can impose on the people of the 95 percent of this country that has no auto emissions related air pollution, a 20-percent fuel penalty at a time of acute gasoline shortage? And for what? Those that keep on with this sort of thing will, and please mark my words, will and indeed should be retired next year.

This amendment is very simple. It takes emissions controls off cars in the white area on this map—cars registered to persons who are residents in the white areas on this map. Older cars may have theirs disconnected. New ones will not be required to have controls in these areas.

The amendment does not take emissions controls off forever, but only until January 1, 1977, or until the President declares that we do not have an acute petroleum shortage any longer.

It also provides that the Administrator of EPA may designate certain areas in which there is an automobile emission related pollution problem. The Administrator must do this within 60 days. People who live in these areas must continue emission controls on their cars.

It is extremely important that it be understood by all that this amendment does not truly present an environmental issue. This is a matter of commonsense. This ought to be done in this country, whether or not there is an energy crisis. The saving in gasoline would exceed several hundred thousands gallons per day. It would run into hundreds of millions of gallons yearly. It is impossible for me to stand here and tell Members exactly how much, because somebody having a 1972 or 1973, or a 1971 car, will have the option to take off his emission controls. I cannot guarantee that everybody would do this, but I do know that people who take off these emission controls—and some have reported to me that they have done it—get more miles per gallon than they did with a car with emission controls on it.

We are talking here about approximately three-quarters of the cars in this country. There is no question that this will save a significant amount of gasoline and hence oil on a daily basis effective immediately. The present controls are estimated to waste between 17 and 20 percent of the fuel. If we take the number of gallons per day, which is in the millions being consumed in the United States, and we take that one-fifth off as a rough saving estimate, the rest is simple mathematics. It would be a significant help in meeting our current gasoline shortage.

The Office of Science and Technology in a study on this subject has made a very interesting observation with regard to those who might suggest that because a car is registered in the white area and operated in the pink area there might be a problem. The answer to that is that the in-and-out traffic between the white area and the pink area does not exceed 5 percent. It is approximately 2.3 percent in New York City, for example, and the transient traffic will not significantly adversely affect ambient air quality in the red areas.

There is no question, Mr. Chairman, of the value to the Nation of this proposal. We owe it to this country at this time, to its economy, toward ending the gasoline shortage or at least getting it down to manageable proportions, and to our constituents and to ourselves as responsible legislators, to adopt this amendment.

Mr. Chairman, I urge its adoption by this House.

Mr. DICKINSON. Mr. Chairman, will the gentleman yield?

Mr. WYMAN. I yield to the gentleman from Alabama.

Mr. DICKINSON. Mr. Chairman, I rise in support of the amendment of my colleague from New Hampshire suspending automobile emissions requirements for those parts of the Nation lacking significant pollution levels.

I recognize that there are areas of the country where emission control devices on automobiles are necessary to insure proper air quality. However, in my district, which is primarily rural and without the numbers of cars and pollutant-producing industries found in urban areas, these devices are not necessary to maintain the air quality.

What effect would removal of emission control devices from automobiles have on fuel consumption? In testimony before the Subcommittee on Public Health and Environment on September 18, 1973, P. N. Gammelgard, senior vice president for Environmental and Public Affairs of the American Petroleum Institute, made the following observation:

> Our API task force concluded from EPA data that for a 4,000 pound car, the fuel penalty attributable to emission control, including compression ratio reductions, is about 12 percent for 1971–73 cars, compared with pre-1968 models in the same weight class. In heavier weight categories, this penalty is even more severe—16 percent in the 4,500 weight class and more than 17 percent for a 5,000 pound vehicle.

The automobile industry worked out figures at the request of the Senate Public Works Committee and the White House to determine what the fuel savings would be if emission controls on cars were removed or adjusted. It was found that if all 1970–74 cars were returned to meet the emission standards of 1969, there would be a savings of 2.7 billion gallons of gas a year or 128.6 million barrels of crude oil a year. This is about 17 percent of the 2 million barrels a day of crude oil it is estimated we will be short by the first of the year.

Admittedly, if this amendment is passed, not all the 1970–74 cars will be brought back to the 1969 emission standards, but I believe a significant number of cars can be retuned to the 1969 level without endangering the environment, and any savings at this point will be an important one.

The CHAIRMAN. Does the gentleman from Michigan withdraw his point of order?

POINT OF ORDER

Mr. DINGELL. No, Mr. Chairman.

I rise to make the point of order, Mr. Chairman, on two grounds. The first is that the amendment seeks to undo action already taken by the Committee, in that it is, in fact, an attempt to amend the Hastings amendment adopted yesterday. Whether in fact the language does so or whether it in fact does not, it is plain that the House has already spoken its will with regard to the Hastings amendment.

The language of the amendment offered by my friend in the well, the gentleman from New Hampshire (Mr. (Wyman) now seeks to undo that and to put in toto the provisions of the action taken by the House in adopting the amendment offered by my friend and colleague, the gentleman from New York (Mr. Hastings).

The second ground on which I make a point of order is that at no point in the bill before us appears an amendment to section 203 of the Clean Air Act. In fact, the gentleman's amendment deals with section 203 and not with the sections which are before us.

As the Chair will observe from the reading of the Clean Air Act, section 203 is the penalty section and relates to certifications. Section 202(b) mandates the EPA to establish emission limitations for automobiles, and it is to section 202(b) which the bill itself now does apply. The amendment goes much further than that, and it restricts the authority of automobile owners to register automobiles in States, and this matter is not spoken to otherwise or elsewhere in the legislation before us.

It is, therefore, my strong view, Mr. Chairman, that the amendment before us is not germane to the legislation in dealing with subjects not in the bill and not presently before the House.

Obviously the germaneness rules are here to protect Members from being surprised by amendments which relate to matters different than those before us. Obviously the amendment relates to sections of the Clean Air Act and to matters that are not before us. For that reason the point of order against the amendment should be sustained.

The CHAIRMAN. Does the gentleman from New Hampshire desire to be heard on the point of order?

Mr. WYMAN. Mr. Chairman, it would be a little difficult for me to believe the gentleman could be surprised by this amendment. This display has been in the Speaker's lobby for a matter of days.

But there could be no denying that this amendment prevents wastage of gasoline in this country.

As far as whether this relates to the proposal of the gentleman from New York that was adopted last night, what this amendment does is—it does not change the carbon monoxide or nitrous oxide emissions standards at all. It simply suspends by amendment the authority of the Administrator to impose this requirement for a definite period during the energy crisis.

This is so plainly in order that I submit the Chair should overrule the point of order.

The CHAIRMAN (Mr. Bolling). The Chair is ready to rule.

The gentleman from Michigan essentially makes two points of order: One, that the amendment is not in order because it seeks to affect an action already taken by the committee. The Chair overrules that point of order since in fact the amendment comes at a place subsequent to the action previously taken; in other words it is to the point immediately after the text inserted by the Hastings amendment. The Chair cannot rule on the consistency of those amendments.

The second aspect of the point of order is the question of nongermaneness in connection with the Clean Air Act. The Chair has simply looked at the Ramseyer on the bill before us and it is very clear that the Clean Air Act is comprehensively amended by the bill and by the pending amendment in the nature of a substitute. Therefore, the Chair overrules the point of order of the gentleman from Michigan.

The Chair recognizes the gentleman from Florida (Mr. Rogers) for 5 minutes in opposition to the amendment.

Mr. GUDE. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Maryland.

Mr. GUDE. Mr. Chairman, I rise in strong opposition to the amendment. On tests that have been run, Russell Train of the EPA told the House Republican Task Force on the Environment yesterday morning, that in many cases when emissions control devices were taken off the small cars, it actually forced fuel consumption up instead of down, and there is a good question whether it helps in the case of the large cars.

Under contract to EPA, the Aerospace Corporation conducted a detailed study as to the possibility of two-car regional emission control strategies, which are what are proposed under this amendment. In its final report, issued on April 30, 1973, the Urban Programs Division of Aerospace stated that even the auto industry was in opposition to the kind of "two-car" system which would be established if this amendment were to be approved. The study is quite technical in nature, and its findings are lengthy. They range from the effects this kind of system would have on air quality, to the problems it would present to the auto manufacturers, the dealers, mechanics, and to parts manufacturers and distributers. Without going into detail here, substantial problems were cited. I have a copy of this study available in my office and shall be pleased to make it available to my colleagues for their review.

In light of these facts, Mr. Chairman, I must urge very strongly the defeat of this amendment. There is no assurance it would save fuel. There is every indication it would cause numerous problems in industry. And there is the certainty it would only contribute to a deterioration of air quality.

Let us not attempt to make changes of such a technical nature. This amendment would be counterproductive in every sense of the word.

Mr. ROGERS. Mr. Chairman, I want to strongly oppose this amendment, too. It is an amendment that would completely abolish all progress we have made in obtaining clean air in this country. We already have adopted the provision that would extend for 2 years the emissions controls for 1975, through 1976 and 1977. The proposal evidently would seek what we considered and refused in 1970—an attempt to start dividing up the country. It would be most discriminatory. It would establish a problem of the question of the supply to sections of the country. What would happen where the automobiles would be restricted just to the area which they can operate in? It would be a most impossible way to operate in this country.

But more importantly, the purpose of this bill is to save fuel. The Health and Environment Subcommittee just held hearings on emissions controls and heard the testimony from EPA experts. At its Ann Arbor laboratory, EPA had its technicians take off the emissions controls as proposed in this amendment. Let me tell the Members right here that on page 51 of our hearings it says that the EPA study found that when the emissions control device was disconnected the fuel economy got worse.

So this amendment would not only be discriminatory, it would not work. The way cars are made if we try to remove what has been put on them we will bring about a worse fuel economy, which is exactly the opposite of what this bill is supposed to do.

Mr. DINGELL. Mr. Chairman, I think the map which is before this body, which our good friend has submitted to us, clearly points out the evils of his amendment. Members who represent the red areas, will find their constituents will have additional burdens in costs. The action of the committee, even before the amendment offered by Mr. HASTINGS, shows the best of all possible worlds, the best mileage and the best air pollution control. The action of the committee presented to the House at this time was acceptable to industry and represented a device which would be fully acceptable to the conservationists and to EPA.

This amendment has none of those virtues and, indeed, requires substantial retrogression, both in terms of mileage and in terms of conservation values and improvement of the air.

Mr. ROGERS. Mr. Chairman, the gentleman is exactly right. We would get the opposite results from what we want.

Mr. LATTA. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Ohio.

Mr. LATTA. Did I understand the gentleman to say if we did take these gasoline consuming gadgets off cars at this time, motorists would not get better gas mileage?

Mr. ROGERS. That is correct, because the engines themselves would also have to be changed. This is the testimony by EPA engineers.

Mr. LATTA. I thank the gentleman for yielding further and respectfully disagree with him. The gentleman had better talk to some of the motorists in his district and he will find out differently real fast.

Mr. ROGERS. I understand that the gentleman thinks that, but I have told the House the testimony we have received from the engineers.

Mr. HASTINGS. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from New York.

Mr. HASTINGS. Mr. Chairman, I strongly oppose this amendment. I do not think this body should suffer under any delusion. I know everybody in the country is complaining about poor fuel economy in their automobiles.

I, myself, have a 1973 car and understand the complaints, but do not be mistaken that the passage of this amendment will correct all that.

Mr. ROGERS last night used the word "emasculate" the Clean Air Act in relation to my amendment and I stated then that was not true. This amendment really emasculates the Clean Air Act.

I want to say, this will not allow the cars manufactured in 1972, 1973, or 1974, to have the emission devices removed. That is an engineering job that would have to be accomplished back at the factory. So it sounds very good, because we are dissatisfied with gas economy that this amendment will correct that situation, but it simply is not true. It will not work.

Mr. CARTER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, this is an extremely complex measure that we are considering today, and I want especially to deal with certain aspects of the Clean Air Act. It clearly makes good commonsense in view of the current energy crisis to more carefully examine what we are doing in our attempt to obtain the goal of clean air.

The Clean Air Act was adopted to protect the health of the public from a variety of pollutants. When we wrote the Clean Air Act Amendments of 1970, the House had a moderate measure. After the conference where the Senate amendments were accepted, we were required to meet certain automobile emissions standards in stages.

In my opinion, Mr. Chairman, we went too far too fast. As a result of pollution control devices, many of the 1972 model automobiles were not drivable.

We have listened to General Motors, Ford, and Chrysler. We have listened to Judge Russell Train, Director of EPA. What we failed to do was to listen to the consumer.

During the committee hearings, the mayor of Stillwater, Okla., who is a car dealer and a filling station owner, and also vice president of the Ford Dealers Association testified. Too many times we base our opinions upon the testimony of so-called experts, but we fail to heed the words of the people who have to drive the cars and buy increased amounts of gasoline as a result of the contraptions we placed upon them to clean the air, and in some cases to make them safer.

I quote directly from the words of Mr. Thomas:

> I served as a chairman of the subcommittee for the service managers of a large organization last year, and I listened to these men from all over the country; and one of the top problems that we had was drivability, and a part of that stems from the fact that there are certain adjustments on the carburetors and part of the timing of the automobile that are limited at this time because of emission problems that we have. . . .
>
> I own several service stations. One of them is closed now because I cannot get gasoline for it; another has gasoline about two-thirds of the time. . . .
>
> I have real concern about how I am going to furnish gasoline for the types of automobiles that you are talking about right now if you go to the '75 level at this particular time.
>
> I am getting like one-third of the number of automobiles for December that I was afforded a year ago at this time.
>
> They tell you that this is because the big car is not selling, but the truth is they cannot produce the small one in the quantities that is necessary to take care of our needs.

In response to a question about the new seat belts, I thought it was interesting what he said:

> Dr. Carter, I hate to tell you this, and perhaps you do not want to know this, but I think a few years from now if it continues the way it is, Congress will probably get credit for changing the anatomy of the woman, because the left mammary gland is going to have a real hard time surviving.
>
> Let me go a little further. I think really that this has lowered the safety standards in spite of what has been said, because so many people are disconnecting the unit, and now they no longer use the lap belt because they have this unfortunate kind of harness to try to get into.

One important thing about the 1975 standards which the automobile industry is required to reach now is that General Motors stated there would be a fuel saving over 1974—as a base year—of approximately 13 percent. Chrysler stated that there would be no saving. Ford stated that there would be a saving of possibly 2 or 3 percent.

If any company wanted to go to the standards, it certainly was General Motors, and I realy feel that they would have preferred to keep the 1974 standards.

In this important area of concern, however, I continue to maintain that we should not attempt to go too far too fast, as we have done in the past. I believe that we should set reasonable standards and proceed in a determined fashion to support them.

On the basis of savings over the 1974 model, I will support the 1975 standards, which will necessitate the installation of catalytic converters. This bill extends the standards through the 1977 model.

I hope the House will closely examine this important issue and determine to proceed in a reasonable manner.

AUTO EMISSION STANDARDS (GRAMS PER MILE) AND PERCENT REDUCTION FROM BASE YEAR

HYDROCARBONS AND CARBON MONOXIDES

Years	Hydrocarbon	Percent reduction from base year	Carbon monoxide	Percent reduction from base year
Base year:				
1970–71	4.1		34.0	
1972–74	3.0	37	28.0	18
National interim: 1975	1.5	63	15.0	56
California interim:				
1975	.9	78	9.0	74
Statutory: 1976	.4	90	3.4	90

NITROGEN OXIDES

Years	Nitrogen oxides	Percent reduction from base year
Base year 1971:		
No control	3.5	
1973–75	3.1	11
California interim: 1975	2.0	43
National interim: 1976	2.0	43
Statutory: 1977	.41	90

Mr. RANDALL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am grateful for the most welcome opportunity to express myself for these few minutes. I have risen again and again seeking recognition only to see all time granted those Members of the Interstate and Foreign Commerce Committee to the exclusion of those of us not on the committee.

Mr. Chairman, I rise in support of the amendment of the gentleman from New Hampshire (Mr. WYMAN). I support his amendment because of an experience of mine during the Thanksgiving holidays. There was a teacher of a vocational and industrial school who assembled a class of about 25 students in his school to demonstrate some slight modification of emission devices. Those before the class sat in a 1973 or 1974 car. He had one of those expensive Sun testers which cost several thousand dollars that test engine efficiency.

He stood there with a screwdriver and made just two minor adjustments. There were two readings on the Sun tester, one of which indicated the revolutions per minute and the other gage read in inches of mercury, showed the compression of the engine to which the tester was attached.

The teacher bent over the car to do an adjustment on what I later learned was the intake manifold. With his screwdriver he made about three turns. Then he pointed to the gage. The revolutions per minute went up from about 1,000 to about 1,500, and the inches of mercury rose from 7 to 10 or 12 inches.

Then the teacher reached over to the other side of the car with his screwdriver he had two or three turns on what I later learned to be the exhaust gas recirculating valve. We looked at the two gages. The rpm gage had jumped to 2,000 and the inches of mercury doubled from the original 7 inches up to 14 or nearly 15 inches which indicated the state of engine compression which is another word for engine efficiency.

The teacher was so sincere about these modifications he said he was willing to stake his reputation that mileage would be increased 4 or 5 miles per gallon and the overall efficiency of the engine increased substantially.

The name of the teacher was Scotty—he happens to be a Scotchman. His name is Scotty McHenry and the demonstration was made in Harrisonville, Mo. He told me the entire adjustment could be made for about $15.

He went on to cite the other advantages, then he said to me "Think of it—$15 to keep people from going out to buy these foreign made cars and thus to protect our own American automobile industry."

Later I received from Mr. McHenry a more detailed outline of the simple alterations or modifications he had demonstrated for my benefit. I read now the outline of his proposed modifications.

First. Remove exhaust gas recirculation valve and replace with a steel plate and gasket. This will increase fuel savings significantly. Oxides of nitrogen would increase due to greater engine efficiency which would cause higher combustion temperatures. A mandatory 60 mph speed limit would result in lower combustion temperatures and a reasonable compromise of fuel economy and emission control.

Second. Another change which would reduce carbon monoxide and unburned hydrocarbons would be accomplished by connecting the distributor vacuum spark advance directly to the intake manifold vacuum. This emission change would increase low speed fuel economy. With no increase in undesired exhaust emissions. Carburetors need not be changed or modified if they are well designed and very well calibrated for economical use of fuel.

I was impressed by the demonstration of Mr. McHenry because—listen to this—he did not touch the throttle; he did not increase the volume of gasoline with the carburetor at all. I believe all of you would have been equally impressed to see what a drag these devices put on an engine, and to see how rpm and engine compression jumps with just two small modifications.

Mr. McHenry said to me:

> Furthermore, you are not touching any of the other emission devices down at the tail end of the car. You are not doing anything about the exhaust system. But you could if you would just be willing to put up with a little bit more noise from the exhaust—get even better gas mileage.

Mr. LATTA. Mr. Chairman, will the gentleman yield?

Mr. RANDALL. I yield to the gentleman from Ohio

Mr. LATTA. Mr. Chairman, I thank the gentleman for yielding.

I would like to associate myself with the gentleman's remarks. I think that this House has been led down the primrose path too often with some of these programs, and the people back home are right. If we have been reading our mail, we know that they believe in this amendment. They want it.

I do not think we will want to go back home and face our people if we oppose this amendment.

Mr. RANDALL. Mr. Chairman, we had better go South or somewhere other than home if we pass this bill today without the amendment under discussion. In other words for those Members who go home with a record of opposition to increasing mileage per gallon of gasoline are not going to enjoy the holidays.

Mr. MILFORD. Mr. Chairman, will the gentleman yield.

Mr. RANDALL. I yield to the gentleman from Texas.

Mr. MILFORD. Mr. Chairman, I thank the gentleman for yielding.

I heartily support this amendment.

Prior to coming to this Congress, I was a professional meteorologist. I have been actively involved in the professional study of air pollution problems, beginning in 1953 and ending in 1971. There is not a single Member of this House more concerned about air pollution problems than I. However, I think we must get our facts right.

To begin with, the gentleman from New Hampshire (Mr. WYMAN) is absolutely correct when he states that 95 percent of the United States does not have an auto emission problem. Second, there have been statements made to the effect that the removal of pollution abatement equipment from automobiles would not increase gasoline mileage. Statements have also been made to the effect that major reengineering of the automobile engine would be necessary to remove pollution equipment.

Earlier this year, at my own expense, I traveled to Detroit and spent the day at the General Motors research labs. I observed, first hand, the various test cells conducting experiments on all types of engines and all types of pollution devices. All known automobile engines from both this Nation and all other nations were being tested there.

I can assure my colleagues that the removal of pollution abatement equipment will definitely increase engine efficiency of all automobiles by a minimum factor of 7 percent and a maximum factor of 19 percent.

Since the Wyman amendment would remove these devices, only in areas of the Nation that have no auto emission problems, I cannot possibly see why there would be objections to the amendment.

There is another fact that Members are not recognizing. We are facing a shortage of fuel of at least 25 percent. That means that all auto travel will be reduced by 25 percent. It also means that all auto emission pollution will be reduced by 25 percent. Therefore, even if we removed these devices from all cars in the Nation, we would not have an increase in pollution.

I urge my colleagues to support the Wyman amendment.

Mr. RANDALL. Mr. Chairman, before I conclude my remarks let me tell you the superintendent of schools, Mr. Burens, arrived on the scene of the demonstration. Superintendent Burens has always been known in the community in which he lives as a crusader for cleaner environment in this city of Harrisonville which is the County Seat of Cass County, Mo.

After a while the superintendent said to me:

> I've watched the demonstration of these modifications and I've become convinced these modifications will not make any substantial difference in air pollution.

Mr. MYERS. Mr. Chairman, will the gentleman yield?

Mr. RANDALL. I yield to the gentleman from Indiana.

Mr. MYERS. Mr. Chairman, something was said a moment ago about engineering tests made relative to taking emission controls off the 1974 vehicles and the 1975 vehicles and that would not reduce significantly the mileage per gallon.

I am not an engineer, I am not even a mechanic. However, we did have a test conducted in Indiana. We had the devices taken off a large Chrysler New Yorker, and the car was driven a hundred miles. The mileage increase with that device taken off amounted to 2 miles per gallon. We took the device off a small economy car, and the mileage per gallon without the device or the emission control increased 3½ miles per gallon.

So here again, I do not know the credibility of the witnesses here, but certainly there can be a significant difference and a change in the mileage per gallon by just taking these controls off.

Mr. HENDERSON. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I wholeheartedly support the amendment offered by the gentleman from New Hampshire.

You can argue with some logic that if we should completely abolish the requirement for emission control devices on automobiles already manufactured, we would quickly create unacceptable levels of pollution in our major population areas where smog and low air quality is already a serious problem.

But it certainly makes sense to discontinue temporarily the requirement for such devices in the less populous areas of our country where pollution is not a problem.

This action will save millions of gallons of gas. I doubt if anyone currently has completely reliable evidence to prove exactly how much would be saved, but it is obvious to us all that substantial amounts would be saved. It would also be a great boon to the automobile industry which is in trouble from used car lots to new car production lines with larger, heavier cars now less attractive to a public faced with a gasoline shortage. It is these models which would save the most fuel by disconnecting the emission control devices.

This amendment is a reasonable approach and should be adopted.

Mr. STAGGERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not intend to speak for 5 minutes, but I do rise in order to see if we may not get a time limitation.

This is a very emotional subject, and all the Members want to have their say on it.

I would suggest that we could get general leave for revision and extension for all Members, and they could get their remarks in the Record, and I would suggest we limit it to 15 minutes.

Mr. Chairman, I ask unanimous consent that all debate on this amendment to the amendment in the nature of a substitute be terminated within 15 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. McEWEN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. STAGGERS. Mr. Chairman, I will amend that to 20 minutes.

Mr. Chairman, I ask unanimous consent that all debate on this amendment to the amendment in the nature of a substitute terminate within 20 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. FLYNT. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. STAGGERS. Mr. Chairman, I will amend that to 25 minutes.

Mr. Chairman, I ask unanimous consent that all debate on this to the amendment in the nature of a substitute amendment terminate within 25 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. FLYNT. I object.

The CHAIRMAN. Objection is heard.

Mr. WYMAN. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I will be very happy to yield to the gentleman from New Hampshire.

Mr. WYMAN. Mr. Chairman, there have been some very serious inaccuracies in the statements made here that need to be explained before the House can pass its judgment on this amendment, and it is going to take a little time to go into all of these areas.

Therefore, I feel the time the gentleman suggests is a little too short.

Mr. STAGGERS. Mr. Chairman, let me amend that as follows:

Mr. Chairman, I ask unanimous consent that all debate on this amendment to the amendment in the nature of a substitute terminate by 12:30. That would be 32 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. McEWEN. I object.

The CHAIRMAN. Objection is heard.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I will be glad to yield to the gentleman from Iowa.

Mr. GROSS. Mr. Chairman, the gentleman says this is an emotional issue.

Mr. STAGGERS. Yes, sir.

Mr. GROSS. Well, it is an economic issue.

Mr. STAGGERS. It is that.

Mr. GROSS. Yes. And a commonsense issue.

Mr. STAGGERS. That is right.

Mr. GROSS. May I ask the gentleman this question: When the debate started did not the gentleman say he could not speak for the committee but that he would not try severely to limit debate on this bill or limit debate?

Mr. STAGGERS. No, sir.

Mr. GROSS. Well, I will have to go back to the Record, I guess, and find the gentleman's remarks if they are still in the Record.

Mr. STAGGERS. In essence when we were talking about it at the start of the consideration of this bill I said that all Members would have a fair opportunity to speak, and I would sure insist on that today. I think that they can express their views within the time limit I mentioned.

Mr. Chairman, I renew my unanimous-consent request and make it 35 minutes, because I think we ought to have a time limitation.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. SCHERLE. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. STAGGERS. Then, Mr. Chairman, I would move that all debate on this amendment to the amendment in the nature of a substitute close in 40 minutes.

The CHAIRMAN. The question is on the motion offered by the gentleman from West Virginia (Mr. Staggers) that all debate on the pending amendment to the amendment in the nature of a substitute close in 40 minutes.

The question was taken, and the Chairman announced that the ayes appeared to have it.

Mr. FLYNT. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the motion was agreed to.

The CHAIRMAN. The Chair will recognize the Members who were standing at the time the motion was made for somewhat less than 1 minute.

(By unanimous consent, Mr. Fraser and Mr. Eckhardt yielded their time to Mr. Rogers.)

(By unanimous consent, Messrs. Frey, McCollister, Dennis, Scherle, Dickinson, and McEwen yielded their time to Mr. Wyman.)

(By unanimous consent, Mr. Winn and Mr. Abdnor yielded their time to Mr. Price of Texas.)

(By unanimous consent, Mr. Peyser and Mr. Frenzel yielded their time to Mr. Hastings.)

(By unanimous consent, Mr. Davis of South Carolina yielded his time to Mr. Satterfield.)

(By unanimous consent, Mr. Thornton and Mr. Mathis of Georgia yielded their time to Mr. Flynt.)

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. Michel).

Mr. MICHEL. Mr. Chairman, I rise in support of the amendment, and I use as justification for it part of the text of a hearing in the Appropriations Subcommittee several weeks ago on the supplemental appropriation request of EPA for an additional $10 million. At that time there was a discussion about automobile fuel consumption, and I made the same point on the floor of the House here right after that hearing, as follows:

> Mr. Michel. Mr. Train, let me just very briefly take up where Mr. Andrews left off, on the example of the automobiles.
>
> We have two automobiles, a 1972 and 1973. We drove them to Florida, same speed, same weight, and every time we stopped for gas the 1973 was the one that wanted to stop first and each time we filled up it took four gallons more than the 1972.
>
> Are there any calculations, estimates that would show us in total how many more gal-

> lons of fuel we are using in 1973 models over 1972 models, all told throughout the country?
>
> Mr. Brogan. We have published a report just recently dated October 1973, based on the testing conducted at the Ann Arbor, Mich., laboratory, based on the testing on engine dynamometers of precontrol cars, all the way through model year 1973, showing the impact of the controls before and after, starting with the 1968 model year.
>
> Based on these data, the overall average is about 7 to 8 percent.
>
> Mr. Michel. You mean if we are talking about barrels or whatever standard of measurement, we are saying 7 to 8 percent more fuel is required for 1973 models than for comparable number of 1972's?
>
> Mr. Brogan. In particular, the tests are conducted over a driving cycle which is representative of the commuter run of a morning to the heart of the city. We have found from other tests conducted by contractors throughout the United States that this is fairly representative of the way people drive throughout most of the United States.
>
> So on that basis, since it is intended to simulate that driving cycle, that is pretty much the case.

Mr. Chairman, here is an opportunity to make some substantial savings in gasoline consumption that of itself would do more than all the speed limits, Sunday closings and what have you. I urge the adoption of the amendment.

The CHAIRMAN. The gentleman from Texas (Mr. Price).

Mr. PRICE of Texas. Mr. Chairman, this amendment could have a tremendous impact on fuel savings in a large majority of the United States. According to the 1970 census, 72.2 percent of the population lives in areas where the population is less than 100,000 and 55.2 percent live in communities of less than 25,000. Areas of this size would probably be similar to those which lack significant air pollution.

A factor of primary concern in the current shortage is the phenomenal increase in the demand for gasoline. This legislation would decrease that demand. Since 1962, the demand for gasoline has increased over 54 percent, and the Office of Emergency Preparedness—OEP—has reported that the demand for gasoline in the first quarter of 1973 was 5.5 percent higher than during the same period only 1 year ago. Several factors have contributed to the increase demand for gasoline, but of these factors, the single most important one—according to a study prepared by the Congressional Research Service at the request of the Senate Interior and Insular Affairs Committee—appears to be the gasoline penalty imposed by antipollution devices. Figures indicate that the new emission control devices on cars decreases mileage by 7 percent or more. OEP estimates that these devices have increased annual gasoline consumption by more than 300,000 barrels a day.

These devices have a greater impact than the number of new cars on the road first indicates. New cars are driven further than older ones each year; for example, a 1-year-old car is driven on the average of 13,200 miles a year in comparison to a 6-year-old car which is driven 8,700 miles a year. The percentage of emission-controlled cars increases daily, and the Chase Manhattan Bank has estimated that one-half of the expected growth in gasoline demand will be the result of emission control devices on late model automobiles.

A recent report printed in the April 1973 issue of the Oil and Gas Journal cited the following results of a study:

> One private set of fleet tests indicated the mileage loss of 1971 models over 1970 at 7%, 1972, at 6%, and the 1973 over 1972 at 8%. This represented a cumulated mileage loss of 19%; but two direct comparative tests of 1973 models against 1970 models showed a loss ranging from 11% to 17% depending on the number of miles the 1970 models had been driven prior to testing.
>
> These data showed much greater mileage declines than governmental tests made for the Environmental Protection Agency which reported losses of only about 7%.

This issue of Oil and Gas Journal also included a chart, which I have included here, with regard to gas mileage which will be helpful in seeing how stricter controls have reduced gas mileage which in turn has resulted in increased cost for automobile operation. Soon, these controls will bring us to the level of 6.8 miles per gallon which EPA recently released as the gasoline mileage of the 1974 Oldsmobile Toronado. The people in my district, which is one of the larger districts in terms of area, cannot feasibly live with cars which perform at such a gas-guzzling rate especially with rumors that gas will go up to a dollar a gallon.

A LOOK AT LATE MODEL AUTOS

	1970	1971	1972	1973
Horsepower [1]	268	253	168	165
Compression ratio	9.5	8.6	8.5	8.4
Axle ratio	2.74	2.74	2.74	2.77
Weight (pounds)	4,362	4,403	4,505	4,653
Acceleration (seconds):				
0–60 m/h	10.7	12.0	12.8	13.0
25–60 m/h	7.8	8.5	9.6	9.5
Miles per gallon	14.1	13.1	12.4	11.6

[1] 1970–71 data are gross horsepower, 1972–73 are net horsepower. All data are based on fleet tests of autos representing range of models produced by GM, Ford, Chrysler and are not averages for all U.S. autos.

Source: The Oil and Gas Journal, Apr. 16, 1973, p. 56.

The initial cost of this pollution control device on automobiles is an unnecessary waste of money for those in rural areas. The cost of this device is estimated to add $100 to $200 to the sticker price of a car to meet the 1975 interim standards. In a time when the buying power of our citizens has already been eroded—by increasing taxes—and income is decreasing, why should we force the people in areas where pollution is not a problem to purchase such devices. They should have the option to buy them just as they would any other accessory.

I urge my colleagues, representing both urban and rural districts, to support this legislation which would contribute greatly to energy savings—a goal which we all support.

The CHAIRMAN. The Chair recognizes the gentleman from Georgia (Mr. Flynt).

Mr. FLYNT. Mr. Chairman, I strongly support the amendment offered by the gentleman from New Hampshire (Mr. Wyman).

Mr. Chairman, I very seldom trespass on the time of this body. I have sat through these debate hearings continuously these 3 days, since the House took up consideration of this bill. This is the first time that I have spoken on the bill except to vote. This bill is supposed to be an energy conservation measure, and the amendment offered by the gentleman from New Hampshire if adopted will conserve more energy, save more energy fuel, and help alleviate the energy crisis more than all the rest of this bill put together.

There have been statements made in opposition to this amendment that the emission control devices do not increase the consumption of gasoline.

Mr. Chairman, every engineer, every mechanic, every automobile dealer, and almost every motor vehicle operator with whom I have talked estimates the added energy consumption caused by unnecessary emission control devices at anywhere from 7 to 30 percent.

One of my sons, who is an engineer and a pretty good mechanic, told me of an experiment he conducted with two almost identical standard automobiles—substantially the same size, weight, and specifications but of different year models. When the two cars stopped to fill both tanks, the newer car required 19 gallons and the older model of the same car required only 14½ gallons. The newer car with current emission control device standards consumed 24 percent more fuel under the same driving conditions.

Information furnished to me by the gentleman from New Hampshire indicates that over a 10-year period the adoption of his amendment would save in excess of $63 billion, an average of $6.3 billion a year in gasoline consumption costs alone. After that 10-year period the saving is estimated to be $3.8 billion a year. It is a matter of simple arithmetic to convert those figures to dollar volume and to gallonage and barrel volume.

Mr. Chairman, the extremes to which the Environmental Protection Agency has gone in this particular field of requiring the same emissions control standards for the desert wastelands as are required for the heavily populated metropolitan areas of this country are ridiculous in the extreme.

If this amendment is adopted, I would hope that it would be followed by another amendment to permit any metro area not specified to be included upon request of the Representative and two Senators who represent such area desiring to be included.

Mr. Chairman, I urge the adoption of the Wyman amendment as a common sense approach to combatting our fuel and energy shortages which in no way compromises our national commitment to preserve the public health and environment.

In 90 percent of this country, fifteen-sixteenths of the geographical United States, there is no significant air pollution related to automobile emissions. The complete removal of all auto air pollution devices will not cause an increase in present levels of pollution in that 90 percent of our country. Yet, at this time, the extreme emission requirements of the Clean Air Act impose on all residents of the United States the same standards, which standards are needed in only 10 percent of the country. The amendment offered by Mr. Wyman does not relax our commitment to environmental protection; rather it restores reasonableness to our environmental protection program.

The amendment offered by Mr. WYMAN will result in a substantial saving of gasoline. A significant study of the fuel penalty due to emissions controls reported that—

First. A 1973 car uses 9.4 percent more gas than a 1970 car, after allowances for weight differences.

Second. The 1973 cars burn 17 percent more gas than uncontrolled pre-1968 cars, after allowance for weight differences.

Third. The 1975—now 1976—auto emissions standards are expected to produce a fuel penalty of 24 percent, as compared to pre-1968—no controls—cars.

Fourth. The 1976—now 1977—NOX standards are estimated to increase the fuel penalty to 42 percent, compared to pre-1968 cars.

With the implementation of the Wyman amendment we would immediately conserve 17 to 20 percent of the millions of gallons of gasoline our cars consume.

In September 1973, the Yale University Medical School issued a report on its study of automobile emissions. Among its findings were:

First. While certain particulates can be a threat to health in the general population, it is already known that the three controlled automobile emissions are not in this category.

Second. The costs of controlling automobile emissions to the degree required by the law as now written far outweigh any expected benefits.

The final report of the Committee on the Cumulative Regulatory Effects on the costs of automobile transportation made to the Office of Science and Technology in 1972 showed that over a 10-year period the costs of emissions controls would exceed the benefits by $60 billion.

The facts prove that present standards are wrong and wasteful. I urge adoption of the Wyman amendment as an effective and positive step by the House of Representatives to correct ineffective regulations that promote a wasteful national gasoline consumption policy.

I have today been informed that approximately 80 percent of the provisions contained in the bill reported by the Interstate and Foreign Commerce Committee are in existing law and where funds are required they are already funded by current appropriations. I have not personally verified this, but I trust the source of my information.

The Federal Energy Administration which will be created to administer this bill if enacted into law in its present form and substance will be an administrative nightmare, and the problems that we will face as a result of the administration of these provisions will be worse than those we have already encountered in the administration of the Economic Stabilization Act by the Cost of Living Council.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. REES).

Mr. REES. Mr. Chairman, I am strongly opposed to this amendment. Air pollution is a killler.

I would like to know why the American automobile industry cannot make a pollution-free car. The Japanese have now qualified three cars to 1975 air pollution standards and they have efficient motors, whether it be a Wankel or whether it is a stratified charge motor, but Detroit cannot. They come here begging and claiming they cannot give us a clean motor, and the Japanese have three.

We are ripping apart the whole environmental fabric of this country so that Detroit can keep turning out more and more air pollution spewing big, big cars which give 9 miles to the gallon.

I wish to insert in the RECORD the consent decree of the big automobile companies with the Department of Justice when they more or less were found guilty of conspiring over a 16-year period to delay research and testing and development and installation of effective air pollution control and equipment on motor vehicles. This consent decree is dated September 11, 1969.

The decree is as follows:

CONSENT DECREE

The Department of Justice filed today a proposed antitrust consent decree prohibiting the four major auto manufacturers and the Automobile Manufacturers Association from conspiring to delay and obstruct the development and installation of pollution control devices for motor vehicles.

The decree also requires them to make available to any and all applicants royalty-free patent licenses on air pollution control devices and to make available technological information about these devices.

Attorney General John M. Mitchell said the decree, filed with the United States District Court in Los Angeles, would be submitted to the court for final approval in 30 days. Its provisions would become effective immediately thereafter.

The proposed decree, signed by General Motors Corporation, Ford Motor Company, Chrysler Corporation, American Motors Corporation, and the Association, would conclude a civil antitrust suit filed by the Department on January 10, 1969.

Mr. Mitchell said that the proposed decree "represents strong federal action to encourage widespread competitive research and marketing of more effective auto anti-pollution devices."

Mr. Mitchell said that a continuation of the suit—which may have taken years in court litigation—would have delayed Justice Department efforts to end the alleged conspiracy and its efforts to encourage immediate action by the automobile companies.

The Attorney General said that the consent decree should spur aggressive competitive research and development efforts by each auto company and by other companies, and therefore should prove to be a substantial benefit to the health and welfare of all metropolitan area residents—especially those in the Los Angeles Basin which has the most serious smog problem in the nation.

The Attorney General also said that the judgment is in line with the massive anti-smog program announced two weeks ago by Dr. Lee A. DuBridge, President Nixon's science advisor, at a meeting of the President's Environmental Quality Council.

Dr. DuBridge said, "Nowhere is there a greater need for urgency than in the field of air pollution, which affects directly the health and comfort of our people. I think speedy resolution of this case will promote competitive research and development in the design and installation of smog control devices and represents an important step forward in the fight against pollution."

The Department of Health, Education, and Welfare, which administers the Clean Air Act, and representatives of the Air Resources Board of the State of California, have expressed satisfaction with terms of the proposed consent decree.

Assistant Attorney General Richard W. McLaren, head of the Department's Antitrust Division, said the judgment represented a successful conclusion to a suit filed only eight months ago. He pointed out that the Government had achieved all significant relief sought in the complaint and all that could have been obtained after a full trial. In addition, he said, the Government had obtained certain relief pertaining to auto safety.

Moreover, Mr. McLaren noted that the public benefits of the decree will be realized immediately, instead of after protracted and uncertain litigation.

Main provisions of the proposed judgment are:

The auto manufacturers and the Association are prohibited from restraining in any way the individual decisions of each auto company as to the date when it will install emission control devices, and from restricting publicity about research and development in this field.

They are prohibited from agreeing not to file individual statements with governmental agencies concerned with auto emission and safety standards, and from filing joint statements on such standards unless the governmental agency involved expressly authorizes them to do so.

They are required to withdraw from a 1955 cross-licensing agreement and to grant royalty-free licenses on auto emission control devices under patents subject to the 1955 agreement to all who may request them. The Association is also required to make available all technical reports exchanged by the four auto producers in the past two years under the 1955 agreement.

They are prohibited from agreeing to exchange their companies' confidential information relating to emission control devices or to exchange patent rights covering future inventions in this area.

They are ordered to discontinue their joint assessment of patents on auto emission control devices offered to any of them by outside parties as well as their practice of requiring outside parties to license all of them on equal terms.

The original suit, charging violation of the Sherman Act, said the defendants and others delayed the manufacture and installation of auto emission control devices by agreeing to suppress competition among themselves in the research and development of such devices.

To this end, the suit asserted, they agreed that all industry efforts in this field should be undertaken on a noncompetitive basis; that each would install such devices only simultaneously with the others; and that they would restrict publicity about research efforts in the auto air pollution field.

The complaint charged that on at least three separate occasions the defendants agreed to try to delay the installation of auto emission control devices.

The suit also charged the defendants with having agreed not to compete with each other in the purchase of patent rights covering such devices from outside parties. The suit asserted that the defendants and others had agreed in 1955 to share their patents in this field with each other on a royalty-free basis. In addition, the suit said, they agreed to appraise jointly any patent for an emission control device offered to any one of them by an outside party, and each agreed not to accept a patent license from any outside party without insisting on equal treatment for the others.

Named as co-conspirators in the suit, but not as defendants, were Checker Motor Corporation, Diamond T Motor Car Company, International Harvester Company, Studebaker Corporation, White Motor Corporation, Kaiser Jeep Corporation, and Mack Trucks, Inc.

Mr. Chairman, this decree prohibits Detroit from doing what they had been doing since 1955 because they did not and would not recognize the need for air pollution control devices.

Mr. Chairman, I would also like to enter into the Record at this point a press release dated October 10, 1969, by 46 Members of Congress demonstrating their resentment over what they felt the consent decree did not do. We wanted tougher action.

Mr. Chairman, I think it is a terrible thing that in the greatest industrial country in the world we have an industry that has done so little about air pollution, who cares so little about the health of our citizens.

The press release is as follows:

Auto Smog Conspiracy Case: 46 Congressmen Join in Bipartisan Legal Action To Oppose Out-of-Court Consent Decree Settlement, and Demand Open Trial of Auto Smog Conspiracy Suit

Washington, D.C. October 10, 1969.—46 Members of Congress, representing more than 20,000,000 citizens across the country, have filed suit in U.S. District Court in Los Angeles in opposition to the federal government's proposed consent agreement, and are asking instead for a public trial of the civil anti-trust conspiracy case now pending against the Big-4 automakers and the domestic Automobile Manufacturers Association.

The suit accuses the major carmakers, and their politically-powerful Washington lobby, of conspiring over a 16-year period to delay research, testing, development, and installation of effective air pollution control equipment on motor vehicles.

The legal petition to enter the historic auto-smog case, was initiated by a bi-partisan group of Congressmen, including Representatives Daniel Button (R–NY), Jerry Pettis (R–Calif.), Edward Roybal (D–Calif.), and William Ryan (DL–NY), who denounced the Justice Department's decision of September 11 to seek an out-of-court consent decree settlement as clearly contrary to the public interest.

"Because of the overriding national significance of this landmark clean air protection case, it is essential that this behind-the-scenes offer to settle be summarily rejected by the Court, as not being in the best interest of the American consumer, and that we proceed without delay to an open trial of the vital issues involved," the Congressmen declared.

"From a nationwide public health standpoint, we know that deadly car exhaust fumes cause more than 50% of America's total air pollution, and medical evidence has associated these toxic substances with higher rates of serious illness and mortality from asthma, emphysema, lung cancer, chronic bronchitis and heart disease," the lawmakers asserted.

"In addition, federal authorities estimate that nationwide property damage caused by corrosive pollutants contaminating the atmosphere amounts to some $13 billion a year.

"The offer to settle out-of-court, and avoid an open trial, threatens to forfeit the public's right-to-know and be fully informed of the true facts about this alleged conspiracy," they charged.

"It also severely weakens the deterrent effect of the anti-trust laws, which would flow from a full trial of the basic legal questions at issue.

"Moreover, by denying the injured parties the right to use the evidence compiled by the Federal Grand Jury during its intensive 18-month investigation, the consent agreement would also virtually eliminate any possibility of future health or economic damage recovery actions by local municipal or state governments, business firms, or private citizens (contrary to the successful experience with the recent precedent-setting antibiotic drug price-fixing case).

"For instance," the legislators pointed out, "Los Angeles County and the City of New York have already filed claims for substantial auto smog damages, and have petitioned the Court to allow them to intervene as parties to the case in order to protect the vital interests of their citizens in an open public trial on the merits—as well as to be able to utilize all available Federal Grand Jury evidence to establish the facts of the anti-trust conspiracy."

Officials in Chicago have also filed a similar taxpayers' suit asking $3 billion in health and property damages, claimed to have been suffered by Chicago area residents over the past 16 years, due to air pollution resulting from the auto manufacturers' alleged smog equipment conspiracy.

"If the government's proposed consent decree settlement is approved, however, the New York, Chicago, and Los Angeles claims, along with all other such efforts, will undoubtedly be lost," the Congressmen said.

"For that reason, we feel it is important that public officials and individual citizens, alike, take this opportunity to indicate to the Federal District Court that an open trial is imperative, if the cause of justice and the public interest is to be served.

"We believe this case could well become a legal watershed toward our national goal of promoting effective consumer protection for all Americans," they concluded.

The list of signers of the Congressional anti-smog petition includes: Representatives Joseph Addabbo—NY, Glenn Anderson—Cal, Mario Biaggi—NY, Jonathan Bingham—NY, John Blatnik—Minn, John Brademas—Ind, George Brown—Cal, Phillip Burton—Cal, Daniel Button—NY, Shirley Chisholm—NY, William Clay—Mo, Jeffery Cohelan—Cal, John Conyers—Mich, James Corman—Cal, Don Edwards—Cal, Leonard Farbstein—NY, Jacob Gilbert—NY, William Green—Pa, Augustus Hawkins—Cal, Richard Hanna—Cal, Chet Holifield—Cal, Andrew Jacobs—Ind, Harold Johnson—Cal, Joseph Karth—Minn, Edward Koch—NY, Robert Leggett—Cal, John McFall—Cal, George Miller—Cal, William Moorhead—Pa, John Moss—Cal, Thomas O'Neill—Mass, Richard Ottinger—NY, Jerry Pettis—Cal, Bertram Podell—NY, Adam Powell—NY, Thomas Rees—Cal, Fred Rooney—Pa, Benjamin Rosenthal—NY, Edward Roybal—Cal, William Ryan—NY, James Scheuer—NY, B. F. Sisk—Cal, John Tunney—Cal, Lionel Van Deerlin—Cal, Jerome Waldie—Cal, and Charles Wilson—Cal.

The CHAIRMAN. The Chair recognizes the gentleman from Maine (Mr. Kyros).

Mr. KYROS. Mr. Chairman, I rise in opposition to the amendment only because I think it would destroy a very carefully drawn scheme to provide clean air for this country. Although this amendment superficially sounds like an attractive measure to conserve gasoline, in reality it would save nothing, because the ultimate plans to put clean air into effect would not be realized and stationary sources, such as factories and powerplants, would have to be curtailed or completely shut down to achieve the clean air standards which would be affected throughout the Nation by this measure. For these reasons alone, I believe this amendment would fail in conservation of fuel and cause further degradation of our environment.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. O'Brien).

Mr. O'BRIEN. Mr. Chairman, I support the Wyman amendment. I would like to comment that the impact of the gasoline shortage has been felt in my neighborhood, most recently with respect to our Community Action program. Just as recently as yesterday, the director of our Community Action program, Mrs. Doris Dalton called, her program is about to be curtailed for lack of gasoline. That program is an extremely well administered one. We operate 10 or 11 minibuses, taking care of Headstart, Meals on Wheels, Foster Grandparents, and other worthwhile projects.

Thanks to the understanding and help from the Hauck Oil Co. officials, I was able to obtain gasoline so that the program might continue. If that program were cut back 25 percent, it would have a serious impact on our community.

I would make one modification, however. I would restrict the effective period of the bill to 1975, instead of extending it to include 1976 as well, at this early date.

The CHAIRMAN. The Chair recognizes the gentleman from Massachusetts (Mr. Conte).

Mr. CONTE. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The Chair recognizes the gentleman from Virginia (Mr. Satterfield) for about 2 minutes.

Mr. SATTERFIELD. Mr. Chairman, I rise to make a point which has not yet been mentioned during this debate. There is something more involved here than mileage in an automobile, that is the impact of what we have done and what we are going to do in this bill to the total fuel available.

The bill before us as presently perfected will require the installation of catalytic devices on automobiles, devices of dubious value in terms of durability, in terms of health and in terms of effectiveness. In order for these devices to operate effectively they must use gasoline without lead additives. It is a fact that we can get more gallons of gasoline with lead added from a barrel of crude oil than we can of gasoline without lead additives. Moreover, by permitting the use of leaded gasoline, by not requiring catalytic devices we would enable manufacturers of new automobiles to increase the compression ratios of their engines which because of increased efficiency would increase motor vehicle mileage per gallon. We would at the same time erase the penalty of decreasing the amount of gasoline per barrel which results from producing nonleaded motor vehicle fuel.

I think we should recognize that the automobile industry is set up now to produce vehicles designed to operate on 91 octane gasoline. To produce 91 octane, lead free gasoline and to bring up the pool which averages 88.5 octane to 91 octane will require the utilization of additional aromatics in each barrel.

The net result is not just less gasoline but it will result also in an additional 6 percent shortage in feed stock of petrochemicals. So what we are talking about here is not just gasoline consumption in the automobile, but the effects of the bill we are considering on all the products that are produced from a barrel of crude oil.

It is extremely important to recall the shortages which have already occurred in the petrochemical industry and to be aware of the fact that if we proceed as we are in this bill, we are going to suffer shortages in gasoline and other byproducts of crude oil, especially in petrochemicals.

The CHAIRMAN. The Chair recognizes the gentleman from Indiana (Mr. Zion).

Mr. ZION. Mr. Chairman, most people speaking on this amendment find it all good or all bad. I think the truth is somewhere in between.

I have just been talking with the people from General Motors, who told me, yes, it is possible to easily disconnect some of these parts associated with the emission control devices.

But, that probably special kits and specially trained people will be required to completely dismantle them at a cost of somewhere in the neighborhood of $35. That is on the bad side.

On the good side though, is an investigation which suggests that if the 1970–71 models were re-tuned according to the provisions of this amendment, we would save in the neighborhood of 2.7 billion gallons of gasoline per year. So, it is both good and bad. On balance, I think it is good, and I intend to support the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania (Mr. Heinz).

Mr. HEINZ. Mr. Chairman, I rise in opposition to the Wyman amendment.

While the amendment has the good intention of improving fuel economy of automobiles during the energy crisis, I oppose the amendment. I do so precisely because I do not believe that it will help this Nation's energy situation either this year or next. The simple reason is that Detroit will not, and physically cannot, produce one new vehicle without pollution control equipment until at least mid-1975, perhaps later. This is so because the engineering and tooling lead-times necessary to make engine compression ratio and other changes to increase gas mileage cannot be accomplished overnight. Such modifications would require 14 to 20 months and could be accomplished only after considerable trouble and expense to those who must eventually pay the bill—the American consumer. And that cost would be much more expensive than might be expected since automobile manufacturers would be forced to turn out two completely different lines of cars—those to be sold in areas of significant auto-related air pollution and those to be sold in areas without significant pollution.

In the meantime, while we await these changes by the manufacturers, the 1975 automobiles and perhaps some 1976's would be turned out with the 1974 engines. Of course, this would mean that the worst gas-guzzling automobile engines, the same engine that gives us the worst performance—I refer to the 1974 engines—would be with us at least until 1976.

Such a turn of events, Mr. Chairman, would be ridiculous for it would mean that American drivers would be compelled to endure 2 more years of poor performance gasoline mileage from their automobiles. What would be even more ridiculous is that they would be doing so in the name of saving fuel—which is exactly opposite of what would result.

Mr. Chairman, in its consideration of this bill, the Committee and its Health and Environment Subcommittee, of which I am a proud member, took matters into consideration. We knew that better mileage and better performance are needed if we are to cope with this Nation's energy crisis. The committee and the subcommittee, therefore, retained the 1975 auto pollution standards for 1976, because the 1975 automobile air pollution equipment will include new catalytic converters, allowing the new cars to be returned for better gas mileage along with better performance. General Motors testifies that these 1975—and now their 1976 and 1977—cars, which will be on the market next September will get an average improvement of 13 percent in gas mileage over their 1973 models.

Therefore, Mr. Chairman, Mr. Wyman's amendment would not save us fuel. Nor would it allow improvement in vehicle performance. Rather, it would result in the same poor mileage, the same poor driveability and, I might add, the same dirty emissions for nearly 2 years.

If we accept the committee changes in the Clean Air Act, then starting in just 8 short months we will have new cars with better mileage, better performance, and cleaner exhaust.

The committee modifications are responsible and reasonable. They mean gasoline will go further during this energy crisis. They mean American automobiles will perform better. They mean cleaner air. I urge the Members of this House to vote "No" on this amendment.

The CHAIRMAN. The Chair recognizes the gentlewoman from New York (Ms. Abzug).

Ms. ABZUG. Mr. Chairman, I rise in opposition to this amendment. It would seriously weaken the Clean Air Act and the progress the Nation has made to date relative to air pollution.

The amendment itself is puzzling. It treats automobiles as regional commodities and presupposes that only in metropolitan areas is there an air pollution danger. Implicitly, it assumes that pollution within metropolitan areas remains in metropolitan areas having little or no effect upon the hinterlands. Such assumptions are patently false.

Furthermore, the amendment treats emissions from mobile sources as being distinct and unrelated to emissions from stationary sources. The fact is that many of the pollutants produced by both sources are the same and they produce air quality which is dangerous to the public health and the environment. Essentially, I am saying that the pollutants emanating from automobiles without emission control devices will combine with pollutants emanating from stationary sources to create hazardous health and environmental conditions.

The provisions of the amendment exempting from emission control requirements the automobiles of those who reside outside of major metropolitan areas will be difficult to enforce and assumes that those cars will not enter areas with significant air pollution.

If a person lives outside of a metropolitan area, but purchases his auto from a dealer within such area, is that car to be equipped with emission controls devices or not? And what if a person from a metropolitan area was to purchase a car from a dealer in the country?

If a city dweller owns a home in the country, might the country home be used as a means of escaping the emission control requirements?

Since most people live in or near metropolitan areas, it can safely be reasoned that their automobiles will find their way into those areas. It would be blatantly inequitable for such cars to traverse such areas, when autos registered within them would have to be equipped with pollution control devices.

I urge my colleagues to oppose this amendment.

Mr. MOSS. Mr. Chairman, would the gentlewoman yield?

Ms. ABZUG. Mr. Chairman, I yield to the gentleman from California.

Mr. MOSS. Mr. Chairman, I would just like to raise two points. I wonder if the enumerated metropolitan areas would have the right to bar from those areas automobiles coming from the other portions of the country not properly equipped to meet the standards in those areas? I would ask the gentlewoman from New York if she would yield to the gentleman from New Hampshire in order that he might respond.

Ms. ABZUG. Mr. Chairman, I yield to the gentleman from New Hampshire.

Mr. WYMAN. Mr. Chairman, the answer is "No." As I have stated, studies have shown that the itinerant in-and-out traffic would not adversely impact on the ambient air quality of these areas. In short, there just is not enough of it to endanger health or warrant exclusion of these vehicles from such areas.

The CHAIRMAN. The Chair recognizes the gentleman from Missouri (Mr. Randall).

Mr. RANDALL. Mr. Chairman, for those who would argue that the amendment of the gentleman from New Hampshire emasculates the Clean Air Act have only to look at the map which he has prepared. Ninety-five percent of the areas of the United States have no significant air pollution problems. All his amendment does is suspend the automation requirement for cars registered to those residents of the United States that presently have no pollution problems.

Mr. Chairman, I am most grateful to get just a few remarks in on this limited time. Honestly, it has been very frustrating for the last 3 days to get up again and again seeking recognition only to have a member of the Interstate and Foreign Commerce Committee recognized in every instance and have to step aside. It should be the privilege of every Member to participate in debate.

Mr. Chairman, I think it should be obvious that motor fuel can be conserved if we can modify some of the emission devices now on later model cars. What has not been either mentioned or emphasized is that while removal of these devices would save gas at ordinary speeds of 60 or 65 miles per hour, there would be even a greater saving at speeds of 50 or 55 miles per hour because modern motor cars were not designed to be driven efficiently at these reduced speeds. But the efficiency of modern cars will be increased if we modify or remove one or two emission devices.

Another item that I want to crowd in, in my limited time, is a quotation from the Yale Medical School out of a report it issued in September 1973 after its study of automobile emission devices—"While carbon particulates can be a threat to health in the general population, it is already known that the three" —and there are only three—"pollutants which are presently controlled by automotive emission devices are not in this category that will be a threat to the health of the general population."

Maybe most of our Members did not attend Yale University, but even if not, we can believe a report on a long study from such a prestigious institution as Yale.

Mr. Chairman, the gentleman from New Hampshire has been good enough to point the way to a sensible approach in trying to conserve some motor fuels. All he does by his amendment is suspend auto emission requirements for cars registered to residents of those parts of the United States having no significant air pollution for the duration of the energy crisis. Then he proceeds to define those areas that have significant air pollution problems, and these are excluded from the terms of his amendment.

Note well that the gentleman from New Hampshire suggests no permanent abandonment of the worthwhile goals of the Clean Air Act. Rather, he simply says that it should be suspended until January 1, 1977, or the date on which the President declares the shortage of petroleum is at an end. What could be more sensible and more logical if we are really interested in conserving motor fuel?

The gentleman's amendment quite properly provides that it does not apply to those persons that reside in geographic areas now designated by the Administrator of the Environmental Protection Agency as having significant air pollution.

I would not attempt to challenge his estimate of the saving of oil as inaccurate, because I have confidence in the gentleman's reputation for truthfulness and veracity. Therefore I believed him when he told us awhile ago that if emission devices were modified or removed, there would be a saving of 300,000 barrels of oil per day. If my memory serves me correctly, there are 40 plus gallons per barrel. Think of the saving that can be accomplished.

Well, the worthwhile objective of this amendment is simply to conserve motor fuel. When the time comes there may be a record vote on this issue. I would hope that only those who represent the Amish area in nearby Pennsylvania where there are very few motor cars would vote against the amendment. Those from other parts of the country who vote against this amendment would demonstrate that they may not have as strong and abiding interest in the conservation of gasoline as present conditions demand of the rest of us.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. HASTINGS).

Mr. HEINZ. Mr. Chairman, will the gentleman yield?

Mr. HASTINGS. I yield to the gentleman from Pennsylvania.

Mr. HEINZ. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I wish to reiterate for the RECORD: I oppose the amendment. I do not support the Wyman amendment. In fact, I strongly oppose it for the reasons I indicated earlier, and I urge my colleagues to defeat the amendment.

Mr. HASTINGS. Mr. Chairman, I am somewhat disturbed about what is taking place. I share the concern that the gentleman from New Hampshire does. Of course, every Member in this House does.

However, if we are going to do what we seem to be doing with this amendment by approving it, why do we not just get rid of the Clean Air Act and throw it out? Because that is what we are going to do if we do approve this amendment.

If we want to do that, I think that is what we ought to consider in a separate action.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. HASTINGS. Just briefly.

Mr. ROUSSELOT. I thank the gentleman for yielding. Mr. Chairman, I suggest that is an unfair statement. The gentleman from New Hampshire is not trying to get rid of the Clean Air Act. He supports it. All he is trying to do is modify the terms and arrange a national adjustment.

Mr. HASTINGS. Mr. Chairman, I appreciate the gentleman's comment.

I want to say that when we look at this amendment, it says that it suspends the standards until 1977 or until such time as the emergency is over, whichever is later.

The cars that are going to be on the road in 1977 are going to be those engineered in 1974 and they are going to have certification tests made in 1975, and if then the suspension will terminate in 1977, what kind of a device are they going to have on them, since then the suspension of the Clean Air Act will allow existing or future standards to be in effect?

Then we will be in great big trouble.

Sometimes I think we forget that this House wrote the Clean Air Act. It did not come down to the Congress by heavenly mandate; we wrote the Clean Air Act and set into motion everything that has been done in the automotive business today to meet the standards that this Congress gave authority to the Administrator of the EPA to promulgate.

Now, we would like to suggest that somebody else took this action, and that, in fact, we are going to try to correct that action taken by somebody else out there.

Well, we did it. We started everything into motion that is in motion today in regard to automobile emission and the limiting factors therein, and now in the middle of the stream we are going to make some switches.

We did that in suspending the standards of 1975, and last night my amendment kept it in effect for 2 years. That is a compromise approach.

Mr. Chairman, I strongly urge that the House defeat this amendment.

The CHAIRMAN. The Chair recognizes the gentleman from North Carolina (Mr. MIZELL).

Mr. MIZELL. Mr. Chairman, I rise in support of this amendment, because I think it is obvious what we are trying to do here is to find a means for conserving energy in this country.

Statements in debate indicate that by suspending emissions control devices on automobiles where it has been proven that there is no adverse effect on the environment or health will significantly save large amounts of needed gasoline. In fact, the savings of gasoline will probably amount to more than all of the emergency standards that we have imposed up to this point.

So we are dealing with an emergency, and, therefore, this requires emergency action.

I compliment the gentlemen for introducing this amendment, and urge all my colleagues to support it.

The CHAIRMAN. The Chair recognizes the gentleman from Minnesota (Mr. NELSEN).

Mr. NELSEN. Mr. Chairman, I think my colleague, the gentleman from New York (Mr. HASTINGS) made a very, very important point.

Our committee and the subcommittee that I serve on as ranking Member on our side wrote the clean air bill, brought it to the floor, and it was passed in the House; then it went to conference.

I am frank to say that I am one of those on the committee who is a mechanic, and I was of the opinion early that we were making demands and asking for standards which were much too severe and that could not be met in the time we set out in the bill.

However, we are on the road now, and we are moving ahead with engineering devices that are now coming up in the automotive industry. The industry is moving in the direction that we hoped they would in implementing it.

There are some changes that are being made, and I am informed by the manufacturers that they are moving as we want them to move, and I believe we are going to find some of the things which we do not like corrected in the very near future.

Mr. Chairman, I oppose the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Indiana (Mr. MYERS).

Mr. MYERS. Mr. Chairman, I rise in strong support of this amendment.

We must recognize we passed in this Congress a Clean Air Act because we were concerned about the environment. That goal has not changed. We are still concerned about the environmental conditions. But today we have another problem that we did not have then, namely, a shortage of petroleum products.

We have the opportunity in this amendment to correct part of the shortage problem by adopting this amendment. We can also live with the Clean Air Act standards where they are most needed. This amendment accommodates them because it provides that in the areas most severely affected we will continue to use auto emission controls. It will provide for research to be developed in the near future so that we can satisfy the auto problems of today and the other problems about getting increased mileage. Through the use of better equipment we can come back to present standards sometime in the future. Mechanics tell me that there are other things you can do on existing automobiles, such as setting back the temperature, adjusting the timing, changing the compression, and so forth, minor changes which can bring about great increases in mileage.

I see no reason why we should continue to penalize every driver in the country, because we do have a few local areas with air quality problems.

The CHAIRMAN. The Chair recognizes the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Chairman, I rise not to argue the merits of the amendment but to point out technical defects in the drafting of it.

I think my colleagues ought to understand, with all due respect for my good friend, the gentleman from New Hampshire, the author of the amendment, that he has either offered an amendment which is grossly mischievous or which is very poorly drafted.

The function of the amendment is to say that there will be no more requirement for the connecting up of air pollution abatement devices in any area outside of the red area on the map. Even in times of intense air pollution alerts and crises without prior action by the Congress the Administrator of the EPA cannot require those connections nor, in fact, may the local air pollution authorities nor, in fact, may the State air pollution authorities.

I think all of us ought to know, for example—and my good friend, the gentleman from Indiana (Mr. MYERS), spoke about this—there have been air pollution alerts in his area, in Miami and Dallas, Birmingham, Ala., New Orleans, and various other cities.

The CHAIRMAN. The Chair recognizes the gentleman from New Hampshire (Mr. WYMAN).

Mr. McEWEN. Will the gentleman yield?

Mr. WYMAN. I yield to the gentleman.

Mr. McEWEN. Mr. Chairman, I rise in support of the amendment offered by the gentleman from New Hampshire.

If we adopt this amendment, Congress will not repeat the mistakes we have made in the recent past. This amendment will provide us with an opportunity to avoid what appears to be a costly and damaging overreaction in the 1970 amendments to the Clean Air Act.

Now that we have been living with these auto emission controls for a number of years, there has been an opportunity to gather some data and evaluate the standards set down by the 1970 amendments. There are questions being raised about these very strict standards and whether they are necessary to meet the goal of the 1970 amendments which was to avoid a substantial threat to public health.

I am sure there have been many studies done in this area, but one has come to my attention recently which may shed some light on this question. It was published by Du Pont's petroleum laboratory in September 1973 and is entitled "Relationship Between Automotive Emissions and Ambient Air Quality Levels". This study is principally concerned with carbon monoxide, one of the five pollutants for which ambient air standards have been published. The study concludes that ambient air quality standards can be achieved in even the most polluted urban areas with vehicle emission rates averaging 29 grams per mile.

The Environmental Protection Agency is currently enforcing a standard of 39 grams per mile. The 1974 interim standards will require 15 grams per mile and if the 1975 statutory standards come into effect, they will reduce the figure to 3.4 grams per mile. I am not a scientist and do not pretend to be an expert in this incredibly complex area, nor do I deny the fact that Du Pont may well have a bias since they are one of the leading producers of the lead that is added to gasoline to increase octane levels.

However, Mr. Chairman, the Du Pont Corp. has a multimillion-dollar research and development operation and a longstanding valuable corporate reputation to uphold. I do not believe this study is a fabrication, and if it is only half right; that is, if 15 grams per mile would achieve the ambient air standards, the EPA is asking for a standard that is more than three times as strict as what is required. In these times of serious petroleum deficiencies, we cannot afford to overshoot the mark. It is important that we achieve a healthy environment in those areas where the air is unsafe, but there is not enough petroleum to achieve a higher standard than that.

This situation is unfortunately reminiscent of miscalculations that have been made by regulatory agencies in the past. A subcommittee of the House Appropriations Committee last summer heard some shocking examples of how easily a reasonable finding can get carried to a ridiculous extreme. The immensely powerful regulatory agencies, which exert control over almost every phase of our daily lives, have overacted to scientific findings all too often. For example, the Appropriations Committee translated the dosage of various ingredients that caused cancer in laboratory animals into equivalent amounts in men and found that in order to get an amount of oil of calamus comparable to that which caused effects in rats, a person would have to drink 250 quarts of vermouth a day. A more familiar example is cyclamates. A 12-ounce bottle of soft drink may have contained from one-quarter to 1 gram of sodium cyclamate. An adult would have had to drink from 138 to 152 12-ounce bottles of soft drink a day to get an amount comparable to that causing effects in mice and rats.

I understand that the Committee on Public Works of the other body has commissioned a study by the National Academy of Sciences which will review the health effects of those air pollutants for which national ambient air quality standards have been published. I commend this action and urge all Members to take the only reasonable position possible in light of the obvious need for that study and others like it. That is, to roll back these standards to a reasonable level until we have more reliable information upon which to base the standards.

Mr. YOUNG of South Carolina. Mr. Chairman, will the gentleman yield?

Mr. WYMAN. I yield to the gentleman.

Mr. YOUNG of South Carolina. I appreciate the gentleman's statements on this. I live so far out in the country that the birds do not fly there, and I wonder why we have to have emission controls out there.

Mr. WYMAN. I thank the gentleman.

I realize that some have commented that this is an emotional subject. I will try to avoid being emotional, but I would like to straighten out a few misstatements that have been made in the course of debate.

I agree the language of the amendment may not be in the most perfect form but its intent is crystal clear. There would be no difficulty following its mandate. I do not agree with the statements just made by my colleague, the gentleman from Michigan (Mr. DINGELL) that the administrator would not know how or where to designate auto emissions caused air pollution areas that "significantly and severely" impact on public health.

It is clear that he can designate areas which are listed in the amendment. Areas abutting those areas have been included. But he must find they are significantly adversely impacted by air pollution from automobile emissions.

The point and thrust of this amendment is that there is no sense in burdening the entire United States, 95 percent of its geographical area, for the 5 percent of the United States which has emission related air pollution problems. There is no sense in imposing an enormous capital cost running at billions annually, and an enormous energy loss to the Nation by requiring emissions controls for the entire Nation. You do not emasculate the Clean Air Act one whit by taking off the emission controls on cars in those parts of this country that have no significant air pollution from automobiles. This is 95 percent of the United States of America.

To suggest in some manner, as has been done by the gentleman from New York, that people cannot take the emission controls off their cars under my amendment is to disregard the plain language of the first provision of the amendment. The power of the Administrator to impose any requirement in America on emission controls until January 1977 on cars registered to persons who live in the white portions of this map is suspended. This is crystal clear.

Now, this will save fuel in significant amounts. You can argue weight, you can argue all manner of things, but there is no question about the fact that to take off these emission controls will save fuel. And anyone can prove this with his own car.

The automobile industry has been severely maligned here today. The automobile industry in American is doing everything it can to try to produce clean cars, trying to develop either a stratified charge or any other form of internal combustion that will reduce what comes out of that exhaust pipe in the interest of public health.

I fully expect that the automobile industry in this country will come up with an efficient smaller engine, which will meet pollution standards, and will meet them soon. As a matter of fact many of the cars in this country made prior to 1968 meet the present air emissions requirements. Their combustion systems were a different breed of cat.

Mr. WHITTEN. Mr. Chairman, will the gentleman yield?

Mr. WYMAN. I yield to the gentleman from Mississippi.

Mr. WHITTEN. Mr. Chairman, I thank the gentleman for yielding, and may I say, Mr. Chairman, that our committee which has had hearings on the EPA for the last 3 or 4 years, developed the fact that in 40 instances Congress has set specific dates for certain actions without regard to whether such deadline could be met. Evidence in many cases indicated that such deadlines could not be met without new discoveries or inventions. The Congress this year approved $5 million to get the National Academy of Sciences to make a study of the actions of the environmental Protection Agency and to report to us the facts. The matter of automobile emissions, including gasoline consumption, ranks high on the list of needed studies. Apparently the facts do not justify the additions on automobiles.

Mr. WYMAN. I thank the gentleman from Mississippi for his comments.

Mr. Chairman, let me briefly point out to the environmental enthusiasts, of which I am one, that there is no health problem caused, required, or proposed by this amendment.

The Clean Air Act deals with other emission sources, stationary and other. The Environmental Protection Agency has depicted such areas in this country and I hold a map now before the House that shows the extent of this. It is much broader than the areas with auto emissions problems. We did not reproduce it with an overlay because we did not have time. It shows that the parts of this country that have pollution problems do not relate to automobiles, and there are many of them, and they will be covered and protected by the Clean Air Act.

But in all commonsense let us not, because of the stubbornness of one man in the other body, continue that which has been wastefully and excessively imposed on this Nation at a cost running into billions of dollars every year. These excessive standards also require a tremendous loss of energy, which is utterly unacceptable in this time of energy crisis.

As I said earlier, people in this country do not understand this, and they think that we must be some kind of fools if we do not correct this. I urge the adoption of this amendment.

Mr. ARENDS. Mr. Chairman, will the gentleman yield?

Mr. WYMAN. I yield to the distinguished minority whip, the gentleman from Illinois (Mr. ARENDS).

Mr. ARENDS. Mr. Chairman, I thank the gentleman from New Hampshire for yielding to me, and I wish to compliment him on the fine presentation he has made. I agree with the position the gentleman takes and I will support his amendment, and I trust that a majority of the House will do likewise.

The CHAIRMAN. The Chair recognizes the gentleman from Florida (Mr. ROGERS).

Mr. ROGERS. Mr. Chairman, I strongly oppose this amendment, and I too, as the gentleman from Minnesota (Mr. NELSEN) does, and as the gentleman from New York (Mr. HASTINGS) does, and as other members of the committee who have studied this matter over the years do, feel that this would be a disastrous step to take for the Nation. As the Members know, the health needs of this Nation brought about the Clean Air Act. About 40 to 60 percent of the air pollution problems of this Nation come from automobiles.

Now, one can say this amendment does not have any effect on health but if you look at the facts, it does.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Kentucky (Mr. CARTER) who is a distinguished member of the Committee on Interstate and Foreign Commerce.

Mr. CARTER. Mr. Chairman, I thank the distinguished gentleman from Florida (Mr. ROGERS) for yielding to me.

I want to state, Mr. Chairman, that I certainly oppose the amendment for many reasons, one of which is we will have improved gasoline mileage in 1975 by the use of the catalytic converter.

Second, engine efficiency can be improved with the catalytic converter, and I think that we are on our course and we must maintain it. We cannot stop.

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentleman from West Virginia (Mr. STAGGERS) to close the debate.

Mr. STAGGERS. Mr. Chairman, I yield to the gentleman from North Carolina (Mr. PREYER), a member of the committee.

Mr. PREYER. Mr. Chairman, I rise in opposition to the Wyman amendment.

Mr. Chairman, this seems to be open season on the Clean Air Act. The man in the street seems to believe that the Clean Air Act is the sole reason that his new car burns more gas than his old car, and he is encouraged in this by some of the automobile companies and dealers. Some people even claim that the Clean Air Act has brought on the energy crisis.

This is nonsense. There are a number of reasons why this year's car burns more gas than last year's model, and the antipollution devices required by the Clean Air Act is one of the least offenders. The principal causes of the fuel penalty on today's cars are: one, increased weight—this year's models average 500 pounds heavier than last year's, and weight is the greatest fuel consumer in cars. Second, air conditioners—which may impose a fuel penalty as large as 20 percent in urban stop-and-go driving. Third, automatic transmissions. Fourth, power brakes, power steering, power windows. Antipollution devices make a relatively modest contribution to the increased use of gas by automobiles. Yet the only suggestion we hear to improve gas mileage on our cars is to remove the antipollution devices from cars. Why not remove the air conditioners; or the automatic transmission; or the power appliances; or reduce the weight of the car? None of these methods of increasing mileage pollute the air, unlike removing the pollution control devices. Why do we put all the burden on dirtying the air as the answer for getting better gas mileage, rather than giving up a few of our luxuries?

The Clean Air Act is a creature of this body. We passed it, and we should be proud of that fact.

Last year, for the first time in the history of this country, the air was cleaner than it was the year before. That is progress. Our water still gets more polluted each year; our solid waste problem gets worse. But the air is getting cleaner. And this can be largely attributed to the Clean Air Act. It would be tragic to take a backward step, now that we have turned it around and for the first time our air is getting cleaner, day by day. We must maintain the momentum of the Clean Air Act.

Of course, we must be practical, too.

And extending the 1975 interim auto emission standards for 1 year, or even 2, recognizes the practicalities of the situation, and is the best we can do under the circumstances.

But there is no reason of practicality,

or any other reason, to excuse adopting the Wyman amendment. It would do serious damage to the Clean Air Act, and our program to clean up the air under that act. In fact, it would be disastrous. It would totally destroy the momentum we have achieved under the Clean Air Act. The effect of it will be more cars dirtying the air as a solution to saving gas. This is the wrong way to save gas.

Here are some of the specific reasons the Wyman bill is bad:

For one thing, it will be impossible, as a practical matter, to prevent residents of the 13 covered areas from going outside their "forbidden area" to purchase cars in an area that is free of Clean Air Act controls. Since the costs of such cars will be about $200 less than those cars for sale in his "forbidden" residence, there will be a great temptation to fraud. Even if some sort of sticker system is developed to distinguish cars from certain areas, it is hard to see how there can be any effective enforcement. It would be very discriminatory against car dealers in those 13 areas under the Clean Air Act and a windfall to those who aren't.

More important is what the Wyman amendment will do to the way the Clean Air Act works. The Clean Air Act sets primary air quality standards that must be met. These standards can be met in a number of different ways: By restricting emissions from stationary sources; by restricting auto emissions; or by transportation controls—which involve parking restrictions, and the "rationing" of autos by limiting the number of vehicle miles traveled in a particular area.

There are 36 areas in the country that EPA says will require the use of transportation controls, in addition to restricting emissions from autos and stationary sources, in order to meet the ambient air standards in those areas. Since the Wyman amendment only covers 13 of these areas, at least 23 areas will be required to take far more drastic measures by the use of transportation controls—by forbidding more autos in an area—in order to meet the ambient air quality standards, since they are forbidden to restrict auto emissions as the major way to satisfy the standards. The effect might well be to shut down the economies of some areas of the country.

There is another practical problem with the Wyman amendment. The 1975 auto emission standards already adopted in this bill require the use of unleaded gasoline. If the Wyman amendment is adopted, unleaded gasoline will not be required outside of his 13 designated areas which means none will be for sale there. But the cars in these 13 designated areas will require catalytic converters which will be ruined if gasoline with lead is used in them. As a result, a car from one of the 13 areas will not be able to get unleaded gas outside the area, and will not be able to drive there without destroying the antipollution system of the car.

There are some other practical considerations. Taking off existing pollution devices from cars may result in a mileage loss, according to some recent evidence. Removing them will certainly be costly—at least $35, and Ford Motor Co. has estimated a cost of $250 to $400 to eliminate the devices.

If we support the Clean Air Act, as modified in this bill and without the Wyman amendment, we know that gas mileage will improve on next year's cars—by as much as 15 percent; and even more important, we know our air will be getting cleaner.

Mr. STAGGERS. Mr. Chairman, I oppose the amendment.

Mr. ROBISON of New York. Mr. Chairman, the amendment offered by the gentleman from New Hampshire (Mr. WYMAN) apparently offers an appealing alternative to gasoline rationing, of some sort. It has a certain surface plausibility, too, and projects—or seems to project—the basic, good, commonsense its author has come to be known for in that, one has to ask, what need does a motor car in, say, a rural area of North Dakota, or Kansas, or for that matter in the Adirondack portion of New York have for an air-pollution control device? Spread out as motor cars and people are in such areas, where such air pollution as may exist is no health hazard, why exact the 10 percent or more fuel penalty today's emsision-control devices require of those motorists? Why not let them, if they wish, remove such devices from their cars and spread the resulting gas savings around the Nation so that, maybe, with other conservation measures being taken everywhere, we can avoid the headache of gasoline rationing?

The answers to such questions do not come easily for—as I have said—this does seem like an attractive, and immediate if partial, solution to our problem.

In my judgment, however, it is a solution we should reject.

Why?

Well, let me begin by saying I have no difficulty with the other provisions, already in this complex bill, which would at least temporarily suspend certain "clean air" limits as previously set or contemplated for stationary air pollution sources, encourage the reconversion to coal of certain power plants, defer for 1 year the planned further reduction in automobile emissions of hydrocarbons and carbon monoxide, and the like. Given our present dilemma in trying to manage a shortfall estimated at 17.3 percent between petroleum supply and demand, these actions are, at a minimum, along with greater conservation measures, both reasonable and necessary.

But, is it also reasonable and necessary to now turn back the clock, so to speak, on the progress we have made—however painfully—in reducing the contribution made by America's 110 million motor cars to "dirty" air, nationwide? Is it reasonable and necessary to make a determination—as the amendment in effect does—that there is no such thing as "ambient" air, or air that moves around, whose quality can be affected by its use or abuse virtually anywhere along its natural course?

Mr. Chairman, in responding "no" to these, and similar questions, I know full well that I will be disappointing many of my constituents—including some of the best friends I have back home who have always looked with a jaundiced eye at the effects of the Clean Air Act on their automobiles, and who argue that, in a political overreaction to the pleas of the environmentalists, Congress has tried to move too far, too fast, in reducing motor vehicle emissions. In so arguing, they ignore—although I am sure it is an unintentional oversight—the fact that vehicle weight is the single, largest factor involved in excess fuel consumption, along with such latter-day refinements as I plead guilty to having in the car I drive as air conditioning, power brakes and power steering.

Do we remove, then, our automobile air conditioners—or the pollution control devices?

Which choice, in the long run, would be the wisest?

Mr. Chairman, I got along without an air-conditioned car for a good many years. If need be, I can do so again—and, when I can afford it, I can and will trade down to a smaller car. But none of this means, by any token, that the auto-industry is "done"—an industry that provides jobs for one out of every six able-bodied Americans, who work in auto plants or repair cars, or fill gas tanks, or advertise, or sell autos. The auto industry will survive. Its capacity to adjust will be demonstrated, for its technological capacity is by no means frozen—as witness General Motors' progress toward its catalytic converter which should meet emission standards while improving gas mileage. If the industry needs more time to make such adjustments, I acted to help give them such time by supporting the 2-year extension amendment yesterday the gentleman from New York (Mr. HASTINGS) offered relative to more stringent emission standards.

It might help, here, to recall the history of America's first "energy crisis," in the 1860's, when a scarcity of whales whose oil was the major source of artificial light produced, for a time, near panic conditions. But we turned, then, not to breeding farms for whales but to the ongoing process of discovery and technological innovation, with the result being the coming of the petroleum age and, eventually, of electricity.

In the same way, I think, we have to now reexamine our dependence on motor cars as we have known them. There may be no traffic congestion in Idaho, or Wyoming, but there are almost 4 million cars in the Los Angeles area, burning some 8 million gallons of gasoline daily—more than in all France—and discharging more than 12,000 tons of hydrocarbons, nitric acid, and carbon monoxide, enough to form a constant, choking smog unless the wind blows it in the direction of Idaho or Wyoming. The pending amendment seeks to address itself to those uncongested areas but, Mr. Chairman, this is one Nation—indeed, this is but one world—and, unless we learn to strike a balance between our energy concerns and our environmental concerns, it will not be a very happy world for our children to inhabit.

Let us understand that those two concerns are on converging tracks—and not on a collision course.

And, let us be responsible—and keep them that way.

Mr. CONTE. Mr. Chairman, I rise in opposition to the amendment offered by my distinguished colleague from New Hampshire because it is administratively unworkable.

The first amendment, to reduce the ultimate required automobile emissions controls levels from their present 96 percent to 90 percent, would present the Environmental Protection Agency with a regulation-writer's nightmare. The amendment provides that auto emission controls levels will be 90 percent over a 1970 auto that had no controls. The problem is that 1970 cars did have controls, and so this amendment would be establishing a standard based upon a hypothetical engine supposedly found in 1970.

This amendment would undoubtedly lead to protracted court litigation between the EPA and the major auto makers about what standards should be set for the hypothetical 1970 engine.

That is the first problem.

The second problem is found in the second amendment offered by the gentleman from New Hampshire.

This amendment would suspend auto emission requirements for those parts of the Nation that lack significant pollution levels. Thirteen such areas are designated. However, the EPA designates 38 areas of significant air pollution.

Furthermore, there is the administrative problem of how to segregate uncontrolled cars from the air pollution districts. Would that mean that people from my district in the Berkshires could no longer drive to the Boston area?

I do not really believe that some kind of sticker system would cure the problem.

Furthermore, the effect of this amendment, according to EPA, might be to make some emissions standards tougher than the present law provides. Before this amendment is rushed through, it should get thorough study first in the appropriate committee.

Because of the administrative problems found in this amendment, I ask my colleagues to vote against it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Hampshire (Mr. WYMAN) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. WYMAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 180, noes 210, answered "present" 1, not voting 41, as follows:

[Roll No. 668]

AYES—180

Abdnor
Alexander
Andrews, N.C.
Andrews, N. Dak.
Archer
Arends
Armstrong
Ashbrook
Baker
Bauman
Beard
Bergland
Bevill
Blackburn
Bowen
Bray
Breaux
Brinkley
Brooks
Broomfield
Broyhill, N.C.
Broyhill, Va.
Burgener
Burleson, Tex.
Butler
Byron
Camp
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clancy
Cleveland
Cochran
Collier
Collins, Tex.
Conable
Cotter
Crane
Daniel, Dan
Daniel, Robert W., Jr.
Davis, S.C.
Davis, Wis.
de la Garza
Denholm
Dennis
Devine
Dickinson
Dorn
Downing
Duncan
Edwards, Ala.
Esch
Eshleman
Evins, Tenn.
Findley
Fisher
Flynt
Fountain
Frelinghuysen
Froehlich
Giaimo
Ginn
Gonzalez
Goodling
Gross
Guyer
Haley
Hammerschmidt
Hanrahan
Harsha
Harvey
Hébert
Henderson
Hicks
Hogan
Holt
Hosmer
Huber
Hudnut
Hungate
Hutchinson
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Jordan
Kazen
Ketchum
King
Kuykendall
Landgrebe
Landrum
Latta
Lehman
Litton
Lott
McClory
McCollister
McCormack
McEwen
McKay
McSpadden
Macdonald
Madigan
Mahon
Mann
Martin, Nebr.
Mathis, Ga.
Michel
Milford
Miller
Minshall, Ohio
Mitchell, N.Y.
Mizell
Mollohan
Montgomery
Moorhead, Calif.
Myers
Nichols
O'Brien
O'Hara
Owens
Passman
Patman
Pickle
Poage
Powell, Ohio
Price, Tex.
Quillen
Railsback
Randall
Rarick
Roberts
Robinson, Va.
Rose
Rostenkowski
Rousselot
Ruppe
Ruth
Ryan
Sarasin
Satterfield
Scherle
Schneebeli
Sebelius
Shipley
Shriver
Shuster
Sikes
Skubitz
Slack
Snyder
Spence
Steed
Steiger, Ariz.
Stratton
Stubblefield
Stuckey
Symms
Talcott
Thornton
Towell, Nev.
Treen
Ullman
Vander Jagt
Waggonner
Wampler
White
Whitehurst
Whitten
Widnall
Wilson, Charles, Tex.
Wylie
Wyman
Young, Alaska
Young, S.C.
Young, Tex.
Zion

NOES—210

Abzug
Adams
Addabbo
Anderson, Calif.
Anderson, Ill.
Annunzio
Ashley
Aspin
Badillo
Bafalis
Barrett
Bennett
Biaggi
Biester
Bingham
Blatnik
Boggs
Boland
Brasco
Breckinridge
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Buchanan
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton
Carey, N.Y.
Carney, Ohio
Carter
Chisholm
Clausen, Don H.
Cohen
Collins, Ill.
Conlan
Conte
Conyers
Corman
Coughlin
Cronin
Culver
Daniels, Dominick V.
Danielson
Davis, Ga.
Delaney
Dellenback
Dellums
Derwinski
Dingell
Donohue
Drinan
du Pont
Eckhardt
Eilberg
Evans, Colo.
Fascell
Fish
Flood
Flowers
Foley
Ford, William D.
Forsythe
Fraser
Frenzel
Frey
Fulton
Fuqua
Gaydos
Gibbons
Gilman
Goldwater
Grasso
Gray
Green, Oreg.
Green, Pa.
Griffiths
Grover
Gude
Gunter
Hamilton
Hanley
Hansen, Idaho
Harrington
Hastings
Hawkins
Hechler, W. Va
Heckler, Mass.
Heinz
Helstoski
Hillis
Hinshaw
Holifield
Holtzman
Horton
Howard
Jarman
Jones, Okla.
Karth
Kastenmeier
Kemp
Kluczynski
Koch
Kyros
Leggett
Lent
Long, La.
Long, Md.
Lujan
McCloskey
McDade
McFall
McKinney
Madden
Mailliard
Mallary
Maraziti
Martin, N.C.
Mathias, Calif.
Matsunaga
Mayne
Mazzoli
Meeds
Mezvinsky
Mills, Ark.
Minish
Mink
Mitchell, Md.
Moakley
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Natcher
Nedzi
Nelsen
Nix
Obey
O'Neill
Patten
Pepper
Perkins
Pettis
Peyser
Pike
Podell
Preyer
Price, Ill.
Pritchard
Quie
Rangel
Rees
Regula
Reuss
Rhodes
Rinaldo
Robison, N.Y.
Rodino
Roe
Rogers
Roncalio, Wyo.
Rooney, Pa.
Rosenthal
Roush
Roy
Roybal
St Germain
Sarbanes
Schroeder
Seiberling
Shoup
Sisk
Smith, Iowa
Smith, N.Y.
Staggers
Stanton, J. William
Stanton, James V.
Steelman
Steiger, Wis.
Studds
Symington
Taylor, N.C.
Teague, Calif.
Thompson, N.J.
Thomson, Wis.
Thone
Tiernan
Van Deerlin
Vanik
Veysey
Vigorito
Waldie
Whalen
Wiggins
Wilson, Bob
Wilson, Charles H., Calif.
Winn
Wolff
Wright
Wydler
Yates
Yatron
Young, Fla.
Young, Ga.
Young, Ill.
Zablocki
Zwach

ANSWERED "PRESENT"—1

Parris

NOT VOTING—41

Bell
Bolling
Brademas
Burke, Calif.
Clark
Clawson, Del
Clay
Dent
Diggs
Dulski
Edwards, Calif.
Erlenborn
Gettys
Gubser
Hanna
Hansen, Wash.
Hays
Hunt
Ichord
Johnson, Calif.
Keating
Melcher
Metcalfe
Reid
Riegle
Roncallo, N.Y.
Rooney, N.Y.
Runnels
Sandman
Stark
Steele
Stephens
Stokes
Sullivan
Taylor, Mo.
Teague, Tex.
Udall
Walsh
Ware
Williams
Wyatt

So the amendment to the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. ECKHARDT TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. ECKHARDT. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The Clerk read as follows:

Amendment offered by Mr. ECKHARDT to the amendment in the nature of a substitute offered by Mr. STAGGERS: On page 7, line 21, add the following language:

"(1) Nothing in this subsection shall prohibit allocation of refined petroleum products for student transportation within an area in which students are required or directed to be transported as the result of lawful action by the appropriate school board or school authority."

Mr. DINGELL. Mr Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from Michigan (Mr. DINGELL) reserves a point of order on the amendment.

Mr. ECKHARDT. Mr. Chairman, all this amendment does is provide that the lawful action by an appropriate school board or school authority shall be respected by the Administrator. For example, if the school board is, for instance, authorizing voluntary movement of students across school attendance lines, it can still get gasoline for the purposes of operating its school buses in connection with this purpose.

Now, in my district there is a school district called the Goose Creek School District. In that district there is a school called the Harlem School.

Five years ago, the Harlem School which is in a black community, was 100 percent black. Today, beause the Goose Creek School District is permitted voluntary majority-to-minority transfer, white children from all over the Goose Creek School District have gone past other schools to attend the Harlem School, and this has thus reduced the school's black population to about 70 percent only because of this movement which is accomplished largely by transporting students in school buses.

Is it permitted that the Harlem School continue as a neighborhood school? If we do not provide that that kind of activity upon the part of a school district will not deprive the school district of gasoline, we would force the school district to abandon such programs.

The result would be that Harlem and a nearby school, Highlands, which has a predominantly white attendance, would have to be paired or some similar scheme devised. The result is that the white children from the Highlands district would have to be bused to the Harlem School, and vice versa.

Now, what the amendment says is simply this: that the Administrator should give the same priorities for gasoline to a school district which is doing that which it is lawfully ordered to do as to any district.

Now, I know that if I go back to Goose Creek, if I go back to my district and I tell them, "Look, folks, I have done you a big favor," they will then say, "What is your favor?" I will say, "What I have done is this: You are under the authority of the Federal district court, and you are under the authority of a Federal agency, the HEW, and now I have placed you under the authority of the Federal Energy Administrator, and you have got to please all three."

They are going to tell me, "Well, that is not a very great favor."

My amendment merely avoids placing the school district under that additional Federal authority.

It says that school district can put into effect its lawful provisions for assigning school children without that action being condemned under this bill.

Without this, since the Dingell amendment would require that students not be transported past the nearest school in the attendance district if the school district is to get its share of gasoline, I would be in a very, very difficult position to explain to my people at home why they cannot do what they have always done to maintain their neighborhood schools, because we have passed something up here that makes them subject to an energy czar.

Mr. PICKLE. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Texas.

Mr. PICKLE. Mr. Chairman, I thank the gentleman for yielding.

The gentleman will recall that my city of Austin, Texas, was one of the first major cities in the Nation to come under a court-ordered busing plan, and they are busing now some 9,000 students within the city by virtue of the court decision. They closed down one of the schools in the east part of the city because of the busing order, and they have had to bus them now to Johnson and one other school, Austin High.

Now, if we leave the amendment as it was yesterday—and I supported that amendment—it would seem to me that schools which are forced by court order to bus are going to have to bus anyway under the court order, and we might wish to say, "Well, the court now will change its policy."

However, we do not have any assurance of that. We have no assurance the courts will not require any more busing.

Does the gentleman's amendment take care of that situation?

The CHAIRMAN. The time of the gentleman from Texas (Mr. ECKHARDT), has expired.

(On request of Mr. PICKLE and by unanimous consent, Mr. ECKHARDT was allowed to proceed for 1 additional minute.)

Mr. PICKLE. Mr. Chairman, will the gentleman yield further?

Mr. ECKHARDT. I yield to the gentleman from Texas.

Mr. PICKLE. Mr. Chairman, will the gentleman's amendment take care of the situation in my city where we are under a court busing order, and we are making it work as best we can now, so that the school district, if forced to bus, would at least have the same allocation priority as other institutions?

Mr. ECKHARDT. That is correct; if it is all in the same school district.

I do not think it would do anything in a case where students are sought to be transported across school district lines, but it would let the school district control operations within that school district.

Mr. PICKLE. It seems like it might be a fair approach and a reasonable solution to this vexing problem—if the school is being forced to bus by court order.

Mr. ANDERSON of Illinois. Will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman.

Mr. ANDERSON of Illinois. My own home community is faced with a problem in the area of schoolbusing as the desegregation problem moves northward. They are currently trying to work out a plan that would, as I understand it, in some instances involve busing children other than to the nearest school, but there is an effort to work out a voluntary plan for the community that will satisfy the Federal district court for that area.

As I understand the gentleman's amendment, it would make it possible for my community to work out that kind of a voluntary desegregation plan and still not be denied an allocation of fuel, as it would be if the amendment of the gentleman from Michigan were in effect.

Mr. ECKHARDT. That is correct.

The CHAIRMAN. Does the gentleman from Michigan insist on his point of order?

POINT OF ORDER

Mr. DINGELL. I do, Mr. Chairman.

Let me point out first that the amendment seeks not to amend the bill itself but, rather, to amend the amendment offered by me yesterday and adopted by the House. The amendment is offered to page 7, line 21.

The amendment further amends a section of the bill already amended, again violating the rules of the House.

So I do insist on my point of order.

Mr. ECKHARDT. May I be heard on the point of order?

The CHAIRMAN. The Chair recognizes the gentleman from Texas.

Mr. ECKHARDT. Briefly, Mr. Chairman, the amendment does not touch any language in the Dingell amendment but adds a new subparagraph (1) to the bill which takes care of the specific matter the gentleman from Texas was speaking about in the well.

The CHAIRMAN pro tempore (Mr. MCFALL). The Chair is prepared to rule.

The Chair has examined the amendment and the text of the bill and desires to state that it does not amend the language of the previous amendment but amends the bill at a further point.

The Chair would refer to a ruling by Mr. PRICE of Illinois in 1967 which stated that while the Committee of the Whole may strike out an amendment previously agreed to, it may adopt a subsequent amendment which has the effect of negating a proposition previously amended, and in response to the parliamentary inquiry at that time the Chair stated the Committee of the Whole may, if it desires to do so, adopt inconsistent amendments, but the Chair does not rule on the consistency of the amendments.

The Chair also examined the amendment and feels it does not amend language that has been previously amended and therefore overrules the point of order.

Mr. KUYKENDALL. Mr. Chairman, I rise in opposition to the amendment.

Yesterday on at least two occasions this amendment or similar ones were ruled in order because they were fuel conservation amendments.

Let me beg all of my fellow Members to realize that if you suddenly separate voluntary agreements on schoolbusing and court-ordered agreements on schoolbusing, you have absolutely removed yourself from the area of fuel conservation and gotten into the forbidden area of school integration.

If the spirit of this bill, which is the conservation of fuel is to be abided by in this body, it does not make any difference whether the travel is voluntary or court ordered. It is still a waste of gasoline, and that is the only legitimate basis on which we can approach it.

If you start saying you are going to tell the courts they cannot have any fuel but any time the school board wants to agree to it they can have it, then you have contradicted yourself in the most flagrant manner.

I happen to approve of the position of the gentleman from Texas with regard to voluntary agreements of any kind they want to make.

But I cannot approve at this time of the waste of fuel, voluntary or otherwise.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. ECKHARDT) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. ECKHARDT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 185, noes 202, not voting 45, as follows:

[Roll No. 669]

AYES—185

Abzug
Adams
Addabbo
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Ashley
Aspin
Badillo
Barrett
Bergland
Biaggi
Biester
Bingham
Blatnik
Boggs
Boland
Brasco
Breckinridge
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Burke, Mass.
Burton
Carey, N.Y.
Carney, Ohio
Chisholm
Cohen
Collins, Ill.
Conable
Conte
Conyers
Corman
Coughlin
Cronin
Culver
Daniels, Dominick V.
Danielson
Delaney
Dellenback
Dellums
Denholm
Dennis
Donohue
Dorn
Drinan
Dulski
Eckhardt
Evans, Colo.
Fascell
Findley
Fish
Flood
Foley
Forsythe
Fraser
Frelinghuysen
Frenzel
Gilman
Gonzalez
Grasso
Gray
Green, Pa.
Griffiths
Gude
Guyer
Hamilton
Hanley
Hansen, Idaho
Harrington
Hastings
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Hicks
Holifield
Holtzman
Horton
Howard
Johnson, Colo.
Jordan
Karth
Kastenmeier
Kluczynski
Koch
Kyros
Leggett
Lehman
McClory
McCloskey
McCormack
McEwen
McFall
McKinney
Macdonald
Madden
Madigan
Mallary
Mann
Maraziti
Matsunaga
Mayne
Mazzoli
Meeds
Mezvinsky
Minish
Mink
Mitchell, Md.
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Nelsen
Nix
Obey
O'Neill
Owens
Patten
Pepper
Perkins
Peyser
Pickle
Pike
Podell
Preyer
Price, Ill.
Pritchard
Quie
Railsback
Rangel
Rees
Reuss
Rhodes
Rinaldo
Robison, N.Y.
Rodino
Roe
Roncalio, Wyo.
Rosenthal
Rostenkowski
Roush
Roy
Roybal
Ruppe
St Germain
Sarbanes
Schroeder
Seiberling
Shriver
Sisk
Skubitz
Smith, Iowa
Smith, N.Y.
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steiger, Wis.
Stratton
Studds
Symington
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Tiernan
Ullman
Van Deerlin
Vanik
Waldie
Whalen
Widnall
Wiggins
Wilson, Charles H., Calif.
Wolff
Wright
Wydler
Yates
Young, Ga.
Zwach

NOES—202

Abdnor
Alexander
Andrews, N.C.
Archer
Arends
Armstrong
Ashbrook
Bafalis
Baker
Bauman
Beard
Bennett
Bevill
Blackburn
Bowen
Bray
Breaux
Brinkley
Brooks
Broomfield
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Camp
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clancy
Clausen, Don H.
Cleveland
Cochran
Collier
Collins, Tex.
Conlan
Cotter
Crane
Daniel, Dan
Daniel, Robert W., Jr.
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Derwinski
Devine
Dickinson
Dingell
Downing
Duncan
du Pont
Edwards, Ala.
Eilberg
Esch
Eshleman
Evins, Tenn.
Fisher
Flowers
Flynt
Ford, William D.
Fountain
Frey
Froehlich
Fulton
Fuqua
Gaydos
Gibbons
Ginn
Goldwater
Goodling
Green, Oreg.
Gross
Grover
Gunter
Haley
Hammerschmidt
Hanrahan
Harsha
Henderson
Hillis
Hinshaw
Hogan
Holt
Hosmer
Huber
Hudnut
Hungate
Hutchinson
Jarman
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kemp
Ketchum
King
Kuykendall
Landgrebe
Landrum
Latta
Lent
Litton
Long, La.
Long, Md.
Lott
Lujan
McCollister
McDade
McKay
McSpadden
Mahon
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Michel
Milford
Miller
Mills, Ark.
Minshall, Ohio
Mitchell, N.Y.
Mizell
Moakley
Mollohan
Montgomery
Moorhead, Calif.
Myers
Natcher
Nedzi
Nichols
O'Brien
O'Hara
Parris
Passman
Patman
Pettis
Poage
Powell, Ohio
Price, Tex.
Quillen
Randall
Rarick
Regula
Roberts
Robinson, Va.
Rogers
Rooney, Pa.
Rose
Rousselot
Ruth
Ryan
Sarasin
Satterfield
Scherle
Schneebeli
Sebelius
Shipley
Shoup
Shuster
Sikes
Slack
Snyder
Spence
Steed
Steelman
Steiger, Ariz.
Stubblefield
Symms
Talcott
Taylor, N.C.
Teague, Calif.
Teague, Tex.
Towell, Nev.
Treen
Vander Jagt
Veysey
Vigorito
Waggonner
Wampler
White
Whitehurst
Whitten
Wilson, Bob
Wilson, Charles, Tex.
Winn
Wylie
Wyman
Yatron
Young, Alaska
Young, Fla.
Young, Ill.
Young, S.C.
Young, Tex.
Zion

NOT VOTING—45

Bell
Bolling
Brademas
Burke, Calif.
Clark
Clawson, Del
Clay
Dent
Diggs
Edwards, Calif.
Erlenborn
Gettys
Giaimo
Gubser
Hanna
Hansen, Wash.
Harvey
Hawkins
Hays
Hébert
Hunt
Ichord
Johnson, Calif.
Keating
Mailliard
Melcher
Metcalfe
Reid
Riegle
Roncallo, N.Y.
Rooney, N.Y.
Runnels
Sandman
Steele
Stephens
Stokes
Stuckey
Sullivan
Taylor, Mo.
Udall
Walsh
Ware
Williams
Wyatt
Zablocki

So the amendment to the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. KUYKENDALL TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. KUYKENDALL. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The Clerk read as follows:

Amendment offered by Mr. KUYKENDALL to the amendment in the nature of a substitute offered by Mr. STAGGERS: Page 16, lines 11 and 12, strike out "is authorized by the Commission to provide service" and insert in lieu thereof "has regularly performed service under authority issued by the Commission.".

Mr. KUYKENDALL. Mr. Chairman, I wish to have a colloquy on this very short amendment with the gentleman from Michigan (Mr. DINGELL).

An amendment was offered in the committee in order to effect considerable savings in the trucking industry by allowing them on a temporary basis to take a direct route between two points when their previous practice of traveling through gateways or certificates had required them to take a circuitous route to arrive at a point.

The gentleman from Michigan (Mr. DINGELL) successfully introduced an amendment to correct this situation.

However, the industry has pointed out that one perfecting amendment would be necessary to accomplish exactly what we wish to accomplish without disruption of the industry. So, my amendment simply says that a truckline which has been regularly hauling freight from one point to another by a circuitous route may take the direct route to save fuel, but only if it has been regularly giving this service.

Mr. Chairman, I would like to ask the gentleman from Michigan (Mr. DINGELL) to comment on the perfecting amendment.

Mr. DINGELL. Mr. Chairman, would the gentleman yield?

Mr. KUYKENDALL. Mr. Chairman, I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I would like to observe that the amendment offered by the gentleman from Tennessee is, in my view, a perfecting amendment which would implement the intention of myself as the drafter of the amendment to the committee bill. It also would carry out, I believe, the intention of the committee and it meets the intention of the circumstances and is most helpful.

Mr. Chairman, I would endorse the amendment and hope it would be adopted by this body.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Tennessee (Mr. KUYKENDALL) to the amendment in the nature of the substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. DINGELL TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. DINGELL. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS):

The Clerk read as follows:

Amendment offered by Mr. DINGELL to the amendment in the nature of a substitute offered by Mr. STAGGERS: On page 45, after line 22 insert the following new section:

"SEC. 125. REPORTS ON NATIONAL ENERGY RESOURCES.

"(a) For the purpose of providing to the Administrator, Congress, the States, and the public, to the maximum extent possible, reliable data on reserves, production, distribution, and use of petroleum products, natural gas, and coal, the Administrator shall promptly publish for public comment a regulation requiring that persons doing business in the United States, who, on the effective date of this Act, are engaged in exploring, developing, processing, refining, or transporting by pipeline any petroleum product, natural gas, or coal, shall provide detailed reports to the Administrator every sixty calendar days. Such reports shall show for the preceding sixty calendar days such person's (1) reserves of crude oil, natural gas, and coal; (2) production and destination of any petroleum product, natural gas, and coal; (3) refinery runs by product; and (4) other data required by the Administrator for such purpose. Such regulation shall also require that such persons provide to the Administrator such reports for the period from January 1, 1970, to the date of such person's first sixty day report. Such regulation shall be promulgated 30 days after such publication. The Administrator shall publish quarterly in the Federal Register a meaningful summary analysis of the data provided by such reports

"(b) The reporting requirements of this section shall not apply to the retail operations of persons required to file such reports. Where a person shows that all or part of the data required by this section is being reported by such person to another Federal agency, the Administrator may exempt such person from reporting all or part of such data directly to him, and upon such exemption, such agency shall, notwithstanding any other provision of law, provide such data to the Administrator. The district courts of the United States are authorized, upon application of the Administrator, to require enforcement of such reporting requirements.

"(c) Upon a showing satisfactory to the Administrator by any person that any report or part thereof obtained under this section from such person or from a Federal agency would, if made public, divulge methods or processes entitled to protection as trade secrets or other proprietary information of such person, such report, or portion thereof, shall be confidential in accordance with the purposes of section 1905 of Title 18 of the United States Code, except that such report or part thereof shall not be deemed confidential for purposes of disclosure to (1) any delegate of the Federal Energy Administration for the purpose of carrying out this Act, (2) the Attorney General, the Secretary of the Interior, the Federal Trade Commission, the Federal Power Commission, or the General Accounting Office when necessary to carry out those agencies' duties and responsibilities under this and other statutes, and (3) the Congress or any Committee of Congress upon request of the Chairman. The provisions of this section shall expire on May 15, 1975."

Mr. PICKLE. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from Texas (Mr. PICKLE) reserves a point of order on the amendment.

Mr. PICKLE. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield briefly to my friend, the gentleman from Texas.

Mr. PICKLE. Mr. Chairman, the purpose for my reserving the point of order on the amendment is that we had an amendment similar to this before the committee which the committee voted down and which I thought, perhaps, should have been voted down.

I have just now been able to see this amendment, and I did not know it was going to be offered.

I wish to ask the gentleman, in what respect is this amendment different from the one which was defeated in committee?

Mr. DINGELL. If the gentleman will allow me to proceed with my explanation, I will try to tell him what the amendment does. I will explain to the Members what the amendment provides.

Mr. PICKLE. Mr. Chairman, I wish to reserve my point of order.

Mr. DINGELL. I understand. I will yield further to the gentleman at a later time.

Mr. Chairman, this is a very simple amendment. It says that after enactment of this legislation the Administrator will publish a regulation inviting comments of all interested persons regarding a system which he will establish pursuant to this amendment for the reporting of reserves of persons who hold oil, natural gas, and coal, and regarding production and destinations of petroleum products, natural gas, and coal, as well as refinery runs and products.

The amendment vests this authority in the Administrator, as opposed to the Federal Trade Commission, as it was in the amendment offered in the committee.

The amendment affords the Administrator the duty and the discretion to exclude the unimportant producers, and it does not permit him to collect data which is available from any other governmental agency.

The amendment further would allow the Administrator to make information available to other governmental agencies, and the amendment has a very specific restriction in it with regard to the protection of trade secrets or proprietary information, so as to see to it that the interests of the oil companies and the producers will not be jeopardized as to their holdings or reserves in such fashion as to hurt their competitive positions.

The reasons for the amendment, I think, are important. We know more at this time about Russian energy reserves than we know about our own. Indeed, we know more about the reserves of the Russians that we know about the energy resources of our own public lands.

The reason for that is that the oil companies are extremely careful to permit no divulgence of any information regarding energy resources on their oil and gas reserves.

Now we are reportedly in the midst of a serious energy shortage, and it was reported just recently that this was going to reach a certain daily shortage figure. Yet just a few days ago it came out that because of larger production, larger reserves, and greater availability of petroleum resources on the market, the shortage would probably be on the order of a million barrels less than had been previously anticipated.

This amendment says that the Administrator of this agency which we are setting up to handle the emergency allocation of fuel and to do the other things required will, for the first time, have the capacity to procure the information upon which he will make judgments.

It also assures the public at large will have available to it information and procedures that will enable them to gage how well their Government is acting.

I want to make it plain that this amendment protects and preserves the proprietary information and that we have preserved and protected trade secrets so as not to jeopardize the competitive position of the oil companies.

For the benefit of my good friend from Texas, let me say the amendment differs from that offered in the committee in that it procures no information not necessary for the carrying out of the functions of the administrator and it does not deal with taxes or profits and, in fact, vests authority in the administrator, who has no capacity absent the amendment before us to procure the information, rather than vesting it in the Federal Trade Commission, which has said it has certain capacity to procure this kind of information.

Mr. McCOLLISTER. Will the gentleman yield?

Mr. DINGELL. I yield to my friend.

Mr. McCOLLISTER. Is it the gentleman's idea that the information that is necessary would exclude wholesale and retail distribution of petroleum products and refined products?

Mr. DINGELL. I would point out to my friend, first of all, that retail sales are not subject to this requirement. Secondly, the administrator may exclude those producers and those sources and those actions which do not have a significant impact upon the national interest.

The CHAIRMAN. Does the gentleman from Texas insist on his point of order?

Mr. PICKLE. Mr. Chairman, I withdraw my point of order.

Mr. BROYHILL of North Carolina. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time for the purpose of asking the gentleman from Michigan if he will answer some questions about this amendment.

One, who will be covered by this amendment? As I see it here, it is confined to those engaged in exploring and developing and refining and transporting by pipeline any of these petroleum products, such as natural gas, oil, or coal. Does this cover the retail operator?

Mr. DINGELL. The answer is emphatically no. There is a specific prohibition to reporting in the retail area under (b) four lines up from the bottom of the amendment.

Mr. BROYHILL of North Carolina. Does it cover the oil jobber or distributor?

Mr. DINGELL. It could but probably will not because of the other exclusionary provisions which permit the exclusion of persons who do not have a significant impact upon the economy.

Mr. BROYHILL of North Carolina. Is

there an expiration of authority in this proposal?

Mr. DINGELL. Yes. I say to my good friend the provisions of this section will expire in the last line of the amendment on May 15, 1975, which is in accordance with the other expiration dates in the legislation before us.

Mr. BROYHILL of North Carolina. My last question is this: I note in your amendment you say the administrator shall promptly publish for public comment a regulation. In other words, there will be a rulemaking procedure. How will that procedure go?

Mr. DINGELL. The gentleman is correct. The rulemaking procedure which will take place following the publication which the administrator would make would be pursuant to the Administrative Procedure Act.

Mr. BROYHILL of North Carolina. You are talking about the actual information required on some questionnaire or some form?

Mr. DINGELL. No. What would happen would be that upon the enactment of the legislation or within a brief period the administrator would publish a regulation requiring public comment. I am sure this regulation would attract wide public comment, and under the Administrative Procedure Act the administrator would then be compelled—and we are writing, I say to my friend, legislative history here—to hold a public hearing to receive public comments, testimony, and so forth on the regulation which he had promulgated. Subsequent to that time he would then comply with the Administrative Procedure Act with regard to the actual adoption of the regulation and his actions would be subject to judicial review.

Mr. BROYHILL of North Carolina. That is my next question. Is the gentleman saying that the judicial review sections of the Administrative Procedures Act would apply to any regulations promulgated pursuant to this amendment?

Mr. DINGELL. The answer to that question is an emphatic "yes." The Administrative Procedures Act insofar as its regulations with regard to rulemaking and in regard to judicial review would clearly and concisely apply.

Mr. BROYHILL of North Carolina. When the gentleman says the regulation shall be promulgated 30 days after publication, what does the gentleman mean by that?

Mr. DINGELL. It means that the Administrator would publish the regulation in the Federal Register, inviting appropriate public comment, which would then trigger the mechanism within the Administrative Procedures Act for appropriation public hearings.

Mr. BROYHILL of North Carolina. Would such public hearings be held on the writing of regulations which would carry out the purposes of this amendment?

Mr. DINGELL. The answer to that question is "Yes." It would clearly expect that he would hold hearings on a matter of this complexity. One of the difficulties and one of the problems we have had recently, as the gentleman from North Carolina will recall, in instances of this kind, and one of those instances was the Cost of Living Council, among others, that there have been no public hearings. There has been no publication. That is the reason I have chosen to follow the regular rulemaking procedure, to have a more orderly process, so as to have everybody involved, the public, producer, and so forth, have an opportunity to be heard.

Mr. BROYHILL of North Carolina. The gentleman is saying that the administrator could not act in an arbitrary or capricious way in promulgating the regulations which are required by this amendment?

Mr. DINGELL. The answer to that question is "Yes." He would have to follow fully the requirements of the Administrative Procedures Act with regard to the promulgation of regulations, the holding of hearings, and subject himself to later judicial review.

Mr. PICKLE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, first I want to say that the amendment offered by the gentleman from Michigan (Mr. DINGELL) is a much better amendment than the gentleman offered in the committee. That is why the committee had voted it down, because the original amendment talked in terms of gross receipts before taxes, it dealt in the area of prices, and particularly in the area of reserves.

Mr. Chairman, I agree with the intent of the gentlemen from Michigan in offering his amendment. I happen to be one who believes that our major oil and gas companies ought to give to the proper authorities basic information on reserves and matters related to reserves and production that have been requested. But it is not as simple as just stating that.

I would request the indulgence of the House for just a moment, if I might, to read a letter which I received from the Federal Trade Commission in answer to an inquiry that I made about the original amendment that the gentleman from Michigan (Mr. DINGELL) offered.

So, although the letter does pertain to the original amendment more specifically than this one, it does make the point that I think is appropriate. The letter is as follows:

FEDERAL TRADE COMMISSION,
Washington, D.C., December 10, 1973.

Hon. J. J. PICKLE,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN PICKLE: This is in response to your request to the Federal Trade Commission regarding the amendment offered by Congressman Dingell to add a new section 113 to H.R. 11450.

This amendment would authorize the Federal Trade Commission to collect various types of financial information and reserve data from certain energy producing industries with the objective of making this information available to Congress and the public. Some of the financial information involved is already made public by publicly held companies. For example, the Securities and Exchange Commission requires that certain information be made available in annual reports, in connection with the issues of securities, and in other situations.

Other information that the FTC could collect and publish pursuant to this amendment is not presently available to the public. The companies involved regard this information as confidential. They could be expected to object to its public dissemination.

At the present time, the Federal Trade Commission already has authority to obtain the types of information covered by Congressman Dingell's amendment. Our authority resides in Sections 6(b) and 9 of the Federal Trade Commission Act. In this connection, we would point out that the Commission's proposed annual line-of-business reporting program would require much of this information to be submitted by the companies for statistical reporting purposes.

Implementation of this program has been rendered more immediate by recent enactment of the Trans-Alaska Pipeline Act, including the amendments contained therein to the Federal Reports Act of 1942.

However, the Commission does not now make such information available to the public in all cases. First, the Commission has discretion under the Freedom of Information Act to withhold "trade secrets and commercial or financial information obtained from a person and privileged or confidential." 5 U.S.C. § 552(b) (4). Second, the Commission, pursuant to the provisions of Section 6(f) of the Federal Trade Commission Act, may not make public trade secrets and names of customers.

Thus, in light of the Commission's existing authority, we do not believe that the authority conferred by Congressman Dingell's amendment is needed to carry out our law-enforcement responsibilities.

To the extent that the information involved is confidential, mandatory public disclosure could have one or more undesirable consequences. First, it could adversely affect competition within the relevant industries. *Cf. U.S.* v. *Container Corp.*, 393 U.S. 333 (1969). Second, it could put American companies at a disadvantage with foreign competitors who, presumably would not have to reveal the same information.

You also requested information as to the status of the Commission's investigation of the natural gas producing industry. That investigation is currently active and the staff is engaged in collecting and analyzing available information. The investigation has been delayed during the past few months by the refusal of seven major gas producers to provide information in response to Commission subpoenas issued on June 6, 1973. The Commission is currently attempting to enforce compliance with these subpoenas in an action filed in the U.S. District Court for the District of Columbia, and a hearing is now scheduled on the Commission's petition for December 13, 1973.

By direction of the Commission.

CHARLES A. TOBIN,
Secretary.

Under the amendment which is pending, the gentleman still talks in terms of reserves of crude oil. Reserves? Reserves in itself is just one word, but there are all kinds of reserves. If he means commercially recoverable reserves, that would be one thing, if he is talking about proven reserves that is another thing. But he is asking for a lot of information that is going to be hard to define, and to secure legally, at least that is why the companies are in a lawsuit now. We may pass this amendment—and I imagine the House will—even though this matter to this moment is in the court today. It must be settled over a period of time, and what we do here is not going to settle anything, really, except set up a new administration rather than funnel it through the Federal Trade Commission or some appropriate agency.

I do not think this bill ought to be used as a vehicle for that.

I agree with the objectives, and I am not going to prolong the debate, but I think probably it ought to belong to the Federal Trade Commission or Federal Power Commission to work out these questions, and these companies ought to cooperate.

Here we are setting up a new agency, a new Administrator, and we are trying to operate under normal rules of procedures or administrative procedure act.

That would be like posting these notices on the courthouse door and that would suffice. It is much more technical, much more realistic than that, to say nothing of some of the loopholes that I believe are in there such as the wholesalers are not exempted under the act. I think what the gentleman is really doing is setting up an agency, the duties of which probably should be given to the Federal Trade Commission. I want to assure the gentleman that I agree that if the companies expect to get added profits or if they want the confidence of the American people, they must come out and give us more information about their reserves and similar information.

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentleman from California (Mr. Moss).

Mr. MOSS. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I think that the impression given—and I am quite confident inadvertently—by my colleague, the gentleman from Texas (Mr. Pickle), that this information is available should be corrected. This information is not available. I have here before me a letter dated December 12, 1973, signed by the Secretary of the Federal Trade Commission in response to my letter to him of December 11, and in discussing the availability of information sought under the Dingell amendment, he said:

> We recognize, of course, that this and other important information is not now publicly available in any meaningful level of detail.

The letter goes on and states:

> This raises the question whether sufficient data is now available to the government to effectively scrutinize the country's energy-producing industries. We believe not.

Now if we are to effectively undertake our role of legislating in an area of admitted crisis then we should at least have a meaningful inventory of supplies so that we know the limits of the precise situation with which we are dealing. I think it is of the utmost importance that the amendment offered by the gentleman from Michigan be adopted and that this power be made clear. It is a very limited grant but it is an essential one.

Mr. STAGGERS. Mr. Chairman, I move to strike the requisite number of words.

Mr Chairman, I do this only to see if we can arrive at a limit of time on the amendment because I believe almost everybody understands the amendment.

Mr. Chairman, I ask unanimous consent that all debate on this amendment to the amendment in the nature of a substitute close in 5 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The CHAIRMAN. The Chair will recognize Members for approximately three-quarters of a minute.

The Chair recognizes the gentleman from Minnesota (Mr. Frenzel).

Mr. FRENZEL. Mr. Chairman, I rise in strong support of the Dingell amendment. No sensible energy policy can be determined or executed without information on hydrocarbon inventories, from reserves to end products, and their use. Information is simply not available now. Without this amendment, it is not likely to become available.

In October, with 30 cosponsors, I introduced H.R. 10670, a bill to authorize the Secretary of the Interior to compile similar information, and data on other nonhydrocarbon energy resources on public lands. The passage of the Dingell amendment will make it unnecessary for me to press for my own bill. I am pleased to support the amendment of the gentleman from Michigan.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. Fish).

Mr. FISH. Mr. Chairman, I rise in support of the amendment offered by the distinguished gentleman from Michigan. It results in adding a new section 125 to H.R. 11882. It provides the new Federal Energy Administration, the Congress, the States and the American public with badly needed information on available oil, gas, and coal supplies.

The debate over the past 3 days not only demonstrates the urgency and seriousness of the energy crisis. It also indicates that there is frequent confusion about which direction we ought to be taking. Mr. Chairman, the lights are going out all over this Nation and we are making our energy policies in the dark.

The problem of obtaining reliable statistics and data on energy resources is an incredibly serious one. The lack of adequate information was pointed out when the Congress acted on the Mandatory Fuel Allocation Act earlier this year.

What is needed is accurate, reliable data regarding available energy resources and this amendment represents an important start in this direction. It would establish a regular reporting procedure on the part of those doing business in the United States, who are engaged in exploring, developing, processing, refining, or transporting any petroleum product, natural gas, or coal. These reports would be made available to the Administrator of the Federal Energy Administration, the Congress, and the public.

Just last week, Senators Nelson and Jackson introduced similar legislation which aims at dealing with this energy information gap. Their bill is called the "Energy Information Act" (S. 2782). It would authorize a Federal Bureau of Energy Information which would compile energy resource data. Their partial aim is to reduce our total dependence on the producers for this kind of data.

Both the Dingell amendment and the Nelson-Jackson bill demonstrate a congressional recognition that an information shortage is a significant part of the energy problem. I applaud these efforts, which hold out the hope that this information void will soon be filled.

The CHAIRMAN. The Chair recognizes the gentleman from Indiana (Mr. Dennis).

Mr. DENNIS. Mr. Chairman, I wanted to ask the chairman or somebody a question. As I read this, information which qualifies as a trade secret it is still disclosed on request to the Attorney General or any chairman of any congressional committee for any purpose they may desire to carry out their responsibilities in this connection. It seems a pretty broad thing. Is that a general provision of law or peculiar to this act here?

Mr. DINGELL. Mr. Chairman, if the gentleman will yield, it is true it is broad, but the information becomes confidential and may not then be disclosed by the Administrator. This is in conformity with the rest of the Federal practices regarding trade secrets.

Mr. DENNIS. It reads that way to me, that he could go to court proceedings with it.

Mr. DINGELL. The answer is he probably could use it in court proceedings but could probably not introduce it in evidence without authorization of other statutes, to which this amendment does not address itself. In any event, before he could get that kind of information, he would have to go to court and use the usual process of the court. The court would consider the regular practice in cases of this sort.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. Pickle).

Mr. PICKLE. Mr. Chairman, the gentleman from California (Mr. Moss) made reference to a letter of December 12. I have received a copy of the same letter. I want to assure the gentleman that what I was reading was from a letter of December 10 from the Federal Trade Commission. I think both letters are not in question because they pertain in the one instance to the original amendment by the gentleman from Michigan (Mr. Dingell) and in the other letter to additional points now pending, similar to the one we have under discussion.

The main complaint that the Federal Trade Commission had was that under the original amendment they would be forced to convey information that would be confidential and related to trade secrets. Obviously this has been deleted from this amendment. I would still state I think, there is a better way to handle this—not under an allocation bill.

The CHAIRMAN. The Chair recognizes the gentleman from Florida (Mr. Rogers).

Mr. ROGERS. Mr. Chairman, I strongly support this amendment. I do not know how any Administrator could begin to do what this bill tells him to do to help this Nation in a fuel shortage, unless he knows what the reserves are and what the production in this country is. It is simply an impossible task. He is dealing in the clouds otherwise.

We have heard a variety of figures given as to our petroleum shortage. And almost weekly we have seen the percentages predicted bob like a yo-yo. We do not really know if we have a shortfall of 15 or 17 or 30 or 35 percent.

And this is because we do not have an inventory of our petroleum. All our information comes from the petroleum industry itself. And this has resulted in rollercoaster estimates of barrels and gallons of available petroleum.

The entire Nation is now searching for an answer. I submit that we cannot reach a solution to the problem if we do not have the figures which will properly define just where we are so far as our petroleum resources are concerned.

And so I urge passage of this amendment which will, I feel, bring order from a Babel of facts and figures on our petroleum resources. Certainly this is one of the most important factors in truly facing the problem.

I would urge this is a first step to even begin to meet the energy problem. We must know what we produce. We must know what we can count on in the future.

The CHAIRMAN. The Chair recognizes the gentleman from West Virginia (Mr. Staggers).

Mr. STAGGERS. Mr. Chairman, I agree with the objectives of the amendment and urge its adoption.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. Dingell) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. M'COLLISTER TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. McCOLLISTER. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. McCollister to the amendment in the nature of a substitute offered by Mr. Staggers: On page 54, insert after line 8, the following new subsection:

"(i) (1) In order to conserve available supplies of liquid and gaseous fuels, each coal-fired steam electric generating station which is eligible for such an exemption as provided in paragraph (2) is hereby exempted from all applicable stationary source fuel or emission limitations, unless the Administrator determines that the cost of compliance with any such limitation is reasonable in light of the projected useful life of the station, the availability of rate base increases to pay for such costs, and the risk to public health and the environment which may be associated with exemption from such limitation.

"(2) The exemption provided for in paragraph (i) shall only apply to coal-fired steam electric generating stations (A) which are to be taken out of service permanently by December 31, 1980, due to the age and condition of the station, according to the power supply plan (in existence on the date of enactment of the Energy Emergency Act) of the utility operating such station, (B) for which a certification to that effect has been annually filed with the Environmental Protection Agency and the Federal Power Commission, and (C) for which the FPC has determined that the certification has been made in good faith and the plan to cease operations by December 31, 1980, is likely to be carried out as planned in light of existing and prospective power supply requirements.

"(3) The Administrator of EPA shall be authorized to prescribe interim requirements for any source exempted from any stationary source fuel or emission limitation under this subsection so long as such requirements impose only reasonable costs in light of the criteria prescribed in paragraph (i).

Mr. McCOLLISTER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

Mr. McCOLLISTER. Mr. Chairman, there are powerplants around this country that are bordering on being obsolete, which if necessary to comply with all the requirements of the EPA will be put out of service very promptly. They have a few years of remaining life.

This amendment describes a procedure by which they may make annual petition that the requirements be exempted.

I discussed the amendment with the gentlemen on both sides of the committee. Committee counsel had drafted the amendment.

I yield to the gentleman from West Virginia.

Mr. STAGGERS. Mr. Chairman, I do agree with the objectives of the amendment. I think that there are sufficient protections in the amendment that the gentleman has offered.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Nebraska (Mr. McCollister) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. ANDERSON OF ILLINOIS TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. ANDERSON of Illinois. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. Anderson of Illinois to the amendment in the nature of a substitute offered by Mr. Staggers:

Page 64, line 9, insert "(a)" before "The";

Page 65, insert after line 20 the following:

"(b) Within 90 days of the date of enactment of this Act, the Secretary of Transportation, after consultation with the Federal Energy Administrator, shall submit to the Congress for appropriate action an "Emergency Mass Transportation Assistance Plan" for the purpose of conserving energy by expanding and improving public mass transportation systems and encouraging increased ridership as alternatives to automobile travel.

"(c) Such plan shall include, but shall not be limited to—

(1) recommendations for emergency temporary grants to assist States and local public bodies and agencies thereof in the payment of operating expenses incurred in connection with the provision of expanded mass transportation service in urban areas;

(2) recommendations for additional emergency assistance for the purchase of buses and rolling stock for fixed rail, including the feasibility of accelerating the timetable for such assistance under section 142(a) (2) of title 23, United States Code (the "Federal Aid Highway Act of 1973"), for the purpose of providing additional capacity for and encouraging increased use of public mass transportation systems;

(3) recommendations for a program of demonstration projects to determine the feasibility of fare-free and low-fare urban mass transportation systems, including reduced rates for elderly and handicapped persons during nonpeak hours of transportation;

(4) recommendations for additional emergency assistance for the construction of fringe and transportation corridor parking facilities to serve bus and other mass transportation passengers;

(5) recommendations on the feasibility of providing tax incentives for persons who use public mass transportation systems."

"(d) In consultation with the Federal Energy Administrator, the Secretary of Transportation shall make an investigation and study for the purpose of conserving energy and assuring that the essential fuel needs of the United States will be met by developing a high-speed ground transportation system between the cities of Tijuana in the State of Baja California, Mexico, and Vancouver in the Province of British Columbia, Canada, by way of the cities of Seattle in the State of Washington, Portland in the State of Oregon, and Sacramento, San Francisco, Fresno, Los Angeles and San Diego in the State of California. In carrying out such investigation and study the Secretary shall consider, but shall not be limited to—

(1) the efficiency of energy utilization and impact on energy resources of such a system, including the future impact of existing transportation systems on energy resources if such a system is not established;

(2) coordination with other studies undertaken on the State and local level; and

(3) such other matters as he deems appropriate.

The Secretary of Transportation shall report the results of the study and investigation pursuant to this Act, together with his recommendations, to the Congress and the President no later than December 31, 1974."

Mr. ANDERSON of Illinois [during the reading]. Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with, that it be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. BROYHILL of North Carolina. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from North Carolina reserves a point of order on the amendment.

Mr. ANDERSON of Illinois. Mr. Chairman, the amendment which I am offering to section 206 of the substitute bill would essentially do two things. First, it would require that within 90 days after the date of enactment, the Secretary of Transportation, after consultation with the Administrator of the Federal Energy Administration, submit to the Congress for appropriate action an emergency mass transportation assistance plan for the purpose of conserving energy by expanding and improving mass transportation services as alternatives to automobile travel. Second, my amendment would require that within the first 12 months of next year, the Secretary of Transportation, in consultation with the Administrator, shall submit to the Congress and the President the results of a study into the feasibility of developing a high-speed ground transportation system along the west coast of the United States. The second part of my amendment has been drafted by Mr. ANDERSON and Mrs. BURKE of California.

Mr. Chairman, let me point out at the outset that my amendment in no way duplicates either section 105 or the existing language of section 206 of the substitute. Section 105 requires the Administrator to submit to the Congress within 30 days, energy conservation plans. The transportation energy conservation plan called for by that section is defined as plans for transportation controls—including highway speed limits, and plans for maximizing car pooling arrangements in all communities and businesses where applicable. While this stick approach of controls will obviously be needed to see us through this energy crisis, controls alone will not solve the problem, and indeed, in some cases will create new problems, particularly in the area of reduced automobile travel.

The new fuel allocation regulations are obviously going to impact the hardest on automobile users. President Nixon has stated that our goal in the first quarter of 1974 will be a 24-percent reduction in automobile use, including a 50-percent reduction in pleasure driving. It is readily apparent that these controls will result in great hardship and inconvenience for millions of American motorists, and for that reason, I think we must address ourselves in this legislation today to providing emergency alternative modes of transportation, particularly in the area of expanded mass transportation services.

To accomplish this, my amendment is aimed at the carrot approach of incentives and assistance for expanded mass transportation services and increased ridership. Under my amendment, the Secretary of Transportation would submit to the Congress within 3 months of enactment a comprehensive strategy for providing emergency mass transportation assistance. The Secretary's plan would include recommendations for emergency capital and operating assistance for mass transportation systems, recommendations for fare-free and low-fare mass transportation demonstration programs, recommendations for additional emergency assistance for the construction of fringe parking facilities for mass transit passengers, and recommendations on providing tax incentives for mass transit users—proposal made by my colleague from Illinois, Mr. DERWINSKI. I would emphasize that the Secretary would not be required to make an affirmative recommendation on each of these items, but he would have to make a recommendation one way or another on each.

I would also emphasize that my amendment in no way duplicates the existing language of section 206 which requires the Administrator to make an energy conservation study and submit his findings to Congress within 6 months. That study would include federally sponsored incentives for the use of public transit, including authority to require additional production of buses or other means of public transit, and Federal subsidies for the duration of the energy emergency for reduced fares and additional expenses incurred because of increased service. The study would also address itself to the costs and benefits of electrifying rail lines in the United States with a high density of traffic.

While such a study will be useful to us in our future deliberations, and while it does touch on some of the items referred to in my own amendment, I would point out that a 6-month study will not address itself to the immediate needs of our public mass transportation systems and the needs of those who will be forced to abandon their automobiles and find other ways to get to and from their places of business. My amendment goes beyond a mere study in calling for an emergency action strategy for assisting mass transportation systems now as they attempt to cope with increased ridership.

In this regard, I was encouraged to read in this morning's Washington Post that the administration has decided to propose a separate urban transportation fund which could be used for both highway and mass transit programs, including operating assistance. While I have not had the opportunity to verify this report, this proposal would certainly be within the scope of the "emergency mass transportation assistance plan" which my amendment calls for.

Mr. Chairman, the time for such a national emergency mass transportation strategy is now. The indications are already coming in that after a 30-year decline of mass transportation systems, the trend is beginning to reverse itself, mainly due to fuel shortages and the resulting curtailment of gasoline sales for automobiles and the cancellation of airline flights. Whereas city transit ridership plummeted from a peak of 23 billion passengers in 1945 to 6.5 billion in 1972, these systems are now beginning to show a slight gain in ridership, only the second such gain since 1950. The Chicago Transit Authority, for instance, in my own State of Illinois, reports that revenue passengers were up 1.2 percent, that is 457,000 fares, for the first 3 weeks in November, over the same 3 weeks in 1972. The overall ridership on the CTA during the first 11 months of this year declined only 0.3 of 1 percent which is the smallest decrease since the second World War.

Two Chicago commuter railroads, the Burlington and Northern, show ridership gains of 7 and 9 percent respectively this October over last year. By the same token, Amtrak shows a ridership gain of 25 percent this year over last year; and the Greyhound bus lines posted a 10-percent increase in ridership over the Thanksgiving holidays over the seasonal norm.

And yet, despite the recent upswing in mass transit users, the deficit problem of mass transit continues. As the Christian Science Monitor reported on December 6, the reason these systems are not making more money with increased ridership is because most of the increase comes during peak-use hours when most equipment is already in use. This means adding more equipment and more drivers, thus forcing operating costs up. And few carriers have the necessary additional equipment to handle this load.

Mr. Chairman, all these facts clearly argue for emergency mass transportation assistance now. I am encouraged that the Government has already designated mass transit as a priority user for diesel fuel. The amendment which I am offering today will help to insure that we will have an adequate mass transportation system to carry the increase in passengers due to the energy crisis. I urge its adoption.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Chairman, I am most impressed with the gentleman's amendment. I think what he says is true, that if we are going to do anything about reducing automobile travel, we are going to have to move to mass transit.

Mr. Chairman, I would support the gentleman's amendment.

Mr. ANDERSON of Illinois. Mr. Chairman, I thank the gentleman for his remarks.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of Illinois. Mr. Chairman, I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Chairman, would the gentleman's amendment go to the point of a study to provide for incentives for the use of public transportation and Federal subsidies to maintain or reduce existing fares and additional expenses incurred because of increased service?

Mr. ANDERSON of Illinois. Mr. Chairman, I think it would clearly. Under subparagraph C–1, recommendations for emergency temporary grants to assist cities and local bodies and agencies thereof in the payment of operating expenses incurred in connection with the provision of mass transportation services in urban areas, I think clearly within the purview of that subsection there would be the authority to recommend to Congress what ought to be done about some problems in that area.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of Illinois. Mr. Chairman, I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, I thank the gentleman for yielding to me. I think his amendment is a very constructive one and fills a gap in this legislation.

Mr. DON H. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of Illinois. Mr. Chairman, I yield to the gentleman from California.

Mr. DON H. CLAUSEN. Mr. Chairman, is this basically a study provision?

Mr. ANDERSON of Illinois. Basically, that is exactly what it is. I want to point out also, which will be I think of particular interest to the gentleman from California, that in paragraph 5(d), we also provide for a study of the possibility for the purposes of conserving energy of developing a high speed ground transportation system between the cities of Tijuana, Mexico, and Vancouver in the province of British Columbia.

That section was drafted by my colleagues on this side of the aisle, Mr. ANDERSON of California, and Mrs. BURKE of California as an addition to the overall purpose of the amendment. I gratefully acknowledge their help and participation in advancing the cause of improved mass transportation in the United States.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(At the request of Mr. DENNIS and by unanimous consent, Mr. ANDERSON of Illinois was allowed to proceed for 1 additional minute.)

Mr. DENNIS. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Indiana.

Mr. DENNIS. Mr. Chairman, what will the gentleman's amendment do that is not included in section 206, subsection 2, on page 64 of the bill?

Mr. ANDERSON of Illinois. Mr. Chairman, I thank the gentleman for asking that question. I did not have time to point out earlier that this amendment, in my opinion, does not duplicate the existing language of section 206, because that in essence requires the Administrator simply to make an energy conservation study and submit his findings to Congress within 6 months.

While it is true that that study could include federally sponsored incentives for the use of mass transit, including the authority to require the additional production of buses and Federal subsidies for the duration of the emergency, I think that it does not touch on all of the items that are referred to in my amendment.

Mr. Chairman, I would point out further that a 6-month study, as called for in section 206 of the committee substitute, would not address itself to the immediate needs of our public mass transit systems and the needs of those who are going to be forced to abandon their automobiles during this energy crisis.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. ANDERSON) has expired.

(On request of Mr. DELLENBACK and by unanimous consent, Mr. ANDERSON of Illinois was allowed to proceed for 1 additional minute.)

Mr. DELLENBACK. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Oregon.

Mr. DELLENBACK. Mr. Chairman, I thank the gentleman for yielding.

May I just say a strong word of support for the amendment.

I was particularly pleased, understandably, concerning the comment which the gentleman in the well made about the study to consider mass transportation up and down the west coast. This is a badly needed study.

We were prepared to offer that as a separate amendment.

Mr. Chairman, I am pleased to support the gentleman's amendment. I commend the gentleman and I hope that his amendment will be adopted.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from New York.

Mr. KEMP. Mr. Chairman, I rise in support of the amendment offered by my distinguished colleague, the gentleman from Illinois (Mr. ANDERSON) to amend section 206 of the substitute bill. It has my enthusiastic and unqualified support. I commend the gentleman for his leadership.

Mr. ANDERSON's proposal, which would require the Secretary of Transportation to submit to the Congress a comprehensive plan for providing emergency mass transportation systems, is not only timely and creative in the environment of the energy shortage but is additionally responsive to the requirements for a more balanced U.S. transportation system in both the immediate and following years ahead.

Rapid rail transportation, within urban areas and intercity, is a necessity not only for the development of our communities, including western New York, but for relief of America's congested roads and restoration of our environment.

The speed-up of the Buffalo to Amherst rapid rail system, presently in the engineering and environmental study stage, is a critical concern in our community. This priority project, more urgent than ever because of fuel shortages, is receiving the fullest possible attention through our cooperative, local, Federal, congressional efforts, including planned meetings here in Washington in the near future to help expedite Federal approval of grants and hasten ongoing work on the project. But more needs to be done.

There must be an even greater Federal commitment to mass transportation. I will fight for that commitment for my community and for our country.

The existing fuel shortage would certainly be alleviated by an accelerated expansion of service on Amtrak and other intercity and commuter passenger service. Such an expansion, I believe, should include the resumption of rail passenger service west from Buffalo to Chicago through Cleveland and to connecting links with other regions of our Nation.

Many of us in this body and in the Senate have repeatedly exerted efforts to restore this rail passenger service, all the way from New York City to Chicago, since I first came to the Congress in 1971. Last month, 14 of my colleagues from New York State, joined Mr. DULSKI and myself in an appeal to Mr. Roger Lewis, the President of Amtrak, to extend the New York City to Buffalo route to Chicago. Similar appeals have been sent to Mr. Lewis from our colleagues in Ohio, Pennsylvania, and other affected States.

Mr. Chairman, the energy shortage emphatically underscores the need for not only restoration of this particular service but for vastly expanded rail service in all urban corridors of our Nation.

During the Thanksgiving holiday, Amtrak and other rail passenger carriers were flooded with reservation requests far beyond anticipated patronage. Even as we meet here today, Amtrak is preparing to put additional equipment into service in an attempt to meet needs of travelers during the Christmas holidays.

The Associated Press yesterday reported that—

> Before the energy crisis started hitting home, Amtrak estimated its annual growth rate was about 11 percent. It now is over 25 percent.

Increasing demand for rail passenger service certainly would not be limited to holidays in weeks, months, and years ahead, especially when we confront cutbacks in the schedules of airlines, limits on supplies of gasoline for private vehicles and other effects of the fuel shortage.

Equally as critical as efficient and environmentally sound intercity mass transportation is a speeded up and expanded program for rapid rail mass transit within America's cities.

The ability to commute to jobs, schools, and other necessary destinations should not be left to private transportation, no matter how efficient our technical capability may make this mode of transportation at some future date.

The Buffalo Courier-Express, in recent days, astutely pointed out in an editorial that the Buffalo to Amherst rapid rail transit system "surely qualifies for priority treatment."

I wholeheartedly concur. I hasten to add that similar systems, throughout our country, qualify for the same "priority treatment" when, as the editorial points out, the energy crisis is certain to be with us for some years.

At this point, Mr. Chairman, I insert the editorial with my remarks:

DISHEARTENING RAPID TRANSIT FORECAST

The latest prediction is that construction of the proposed Buffalo-Amherst rapid-transit line will begin in 1976. From the point of view of the Niagara Frontier Transportation Authority, which should be accustomed to seeing public-works projects delayed—witness the area jetport project—the prospect of a transit-line start in 1976 may not cause a ruffle. The public, however, can only view such a forecast as disheartening.

After having been assured that the recent defeat of the state's transportation bond issue would not impede construction of the $239-million rail line, it certainly seemed reasonable to hope for a start before 1976. Now, given the history of NFTA prophecies, we can be excused for doubting that even the 1976 forecast—made by William E. Miller, NFTA chairman—will be met. (The NFTA transit study issued in September, 1971, foresaw con-

> struction starting between the spring of 1973 and mid-1974.)
>
> On the other hand, it could be that the NFTA sees this much-needed transit line as a suitable undertaking to mark the nation's bicentennial year. It would, indeed, though we hope there will be no holding back just to make the two coincide. With the energy crisis certain to be with us for some years, the rapid transit line surely qualifies for priority treatment.

Another aspect of the energy shortage, related to mass transit and Congressman Anderson's proposal, has been addressed by an editorial, carried December 8, in the Buffalo Evening News.

As the Evening News says, Mr. Chairman:

> We have the chance now to snatch from short-range adversities the long-range benefits that can make America a stronger and better Nation.

I fully share this optimistic view.

I do not believe that a plethoric series of stopgap measures, by Federal edict or congressional enactment, will effectively address themselves to our long-range energy and transportation problems.

I do believe, as the Evening News has stated, that we must "stop dawdling over mass transit and an eroded rail system crying for retrieval."

I do believe we can help to create a climate to develop the technologies and resources to make our country self-sufficient for the energy requirements of an even greater Nation.

Mr. ANDERSON's amendment is addressed toward such a course.

I urge overwhelming support for its passage.

And I add the Evening News' editorial to my remarks:

Shift Jobs to Mass Transit

> As a people facing the grim hardships and dislocations of a prolonged energy shortage, we have the chance now to snatch from short-range adversities the long-range benefits that can make America a stronger and better nation.
>
> This will take the will power and leadership to channel our resources in sensible ways. More specifically, it requires that we see, and then make a creative connection, between the economic impact of energy shortages on the one hand, and the urgent need for versatile mass transit systems and improved rail networks on the other.
>
> The importance of this is underscored by two simultaneous developments.
>
> One is the harsh economic impact the gasoline and oil shortage is having on the stock market and in the actuality and anticipation of sharp declines in employment and production in the bellwether auto industry and other large oil-using industries.
>
> But the other is the immediate and inescapable need for providing vastly expanded public transportation alternatives to the private auto. We should have begun years ago the conversion from a highway- and petroleum-based overdependence on the private autos to a network of fast, efficient and attractive intra-city mass transit systems.
>
> Having delayed that enterprise, however, we ought to be doing everything possible to spur it now—to the point where it becomes one of the major fields for captial investment and employment to take up some of the economic slack resulting from cutbacks elsewhere.
>
> The Arab oil-producing countries have perhaps done us a favor by alerting us to the necessity for finding alternative sources of energy. But the flip side of that coin, of course, is the glaring need for a long-run conservation of energy in a country that has been increasing its petroleum consumption 7 per cent annually and burning nearly 55 per cent of the world's gasoline production.
>
> Fuel shortages and the economic distress they signal can have hidden benefits, in short, if we have the good sense to reorder our priorities for long-run reforms.
>
> Why, for example, can't the tax revenue or excess profits gained from measures to limit current gasoline consumption be used, not merely to search out new energy resources, but to greatly accelerate construction of mass transit facilities and to expedite the shifting of auto assembly line from production of big gas-guzzling cars to buses as well as compact cars?
>
> These are just some obvious examples of the rechanneling of money and productive resources that the times demand—to staunch an energy hemorrhage, to insure a transportation alternative for the millions of suburban car-commuters, and to provide productive labor for worried workers facing layoffs.
>
> So let's stop dawdling over mass transit and an eroded rail system crying for retrieval. Surely America has enough inventive genius to deal constructively with an energy and economic crisis if we but link the two in a sensible crash effort to rebuild our public transportation systems.

The CHAIRMAN. The gentleman from North Carolina (Mr. BROYHILL) has reserved a point of order on the amendment.

Does the gentleman insist upon his point of order?

Mr. BROYHILL of North Carolina. Mr. Chairman, I withdraw my point of order.

Mrs. GREEN of Oregon. Mr. Chairman, I move to strike the requisite number of words.

Mrs. GREEN of Oregon. Mr. Chairman, I rise in strong support of the entire amendment offered by the gentleman from Illinois.

I would direct my comments primarily to section (d) which essentially would direct the Secretary of Transportation to conduct a feasibility study of a high-speed ground transportation system on the west coast. This would link the major cities from Mexico to Vancouver, British Columbia, with service to Seattle, Portland, Sacramento, San Francisco, Fresno, Los Angeles, and San Diego. Most important in considering this emergency energy legislation is the study of the amount of energy that could be saved and the impact on energy resources, including the future impact of existing transportation systems, if a high-speed ground transportation system is established.

Almost identical legislation to section (d) was introduced in the Senate, had the unanimous support of the Commerce Committee, and passed the other body over 5 months ago.

Mr. Chairman, the major transportation vehicles linking the urban areas on the west coast have for many years, now, been the automobile and the airplane—the two costliest modes of transportation in terms of fuel consumption. With projected fuel shortages as high as 25 percent for the upcoming year, it is essential that we immediately look to the development of an integrated transportation system which will insure real fuel savings. An efficient transportation system on the west coast is inextricably tied to this Nation's economy. If transportation comes to a standstill due to a lack of fuel supplies, repercussions will be sorely felt throughout the country, not just the west coast.

Mr. Chairman, the leadtime for the development of a high-speed ground transportation network—if a feasibility study substantiates the case for it—will be great. Meanwhile, the number of interurban travelers each year increases. The projected rate of population growth between 1970 and 1990 for the States of Oregon and Washington alone is 31 percent. In addition, each year in many areas the automobile is adding a greater burden to the resolution of highway congestion problems, pollution problems, and so forth. It seems to me that now is the time to begin moving toward the development of a more efficient system.

I urge my colleagues to consider the benefits of the northeast corridor program. Most of us will recall the study authorized by Congress in the late 1960's of the ground transportation requirements in the Washington-Boston area. Since that time the Metroliner-TurboTrain operation has proven very successful, and projections for this network as a truly energy-efficient alternative to the car and plane in my mind argue for at least a study of the benefits a similar high-speed ground transportation system could have for the west coast.

And so, I ask my colleagues to support this amendment. As I have stated previously section (d) merely requires a feasibility study. There is no commitment to subsequent Federal action pending a report back to this Chamber.

Mr. BROWN of California. Mr. Chairman, will the gentlewoman yield?

Mrs. GREEN of Oregon. I yield to the gentleman from California.

Mr. BROWN of California. Mr. Chairman, I thank the gentlewoman for yielding.

I rise in support of this amendment. It goes a good deal of the way in the direction of the comments I made yesterday in expressing my hope that out of this bill will evolve some truly significant thrusts in the direction of solving some of our energy problems on a long-term basis.

Mr. Chairman, I believe this amendment will help to do that.

Mr. ANDERSON of California. Mr. Chairman, will the gentlewoman yield?

Mrs. GREEN of Oregon. I yield to the gentleman from California.

Mr. ANDERSON of California. Mr. Chairman, I thank the gentlewoman for yielding.

I rise in strong support of this amendment and urge an aye vote on it.

Mr. Chairman, subparagraph (d) of this amendment directs the Secretary of Transportation, in consultation with the Federal Energy Administrator, to make an investigation and study of the feasibility of a high-speed ground transportation system linking the major cities of the west coast.

Specifically, this part of the amendment would require a study of the most practical and energy efficient method of transportation in the corridor leading from San Diego, Calif., to Vancouver, on the Canadian border—a study that was adopted unanimously in the Senate and should not cost more than $8 million.

Many of the Members here are not familiar with some of the problems we have on the west coast. And one of those problems is intercity travel—travel between San Diego, Los Angeles, San Francisco, and other great cities. In fact, the Nation's most heavily traveled air corridor by 3 to 1 is the route between Los Angeles and San Francisco.

Furthermore, the traffic forecast indicates that by 1985, the growth factor alone in this west coast route will amount to several times more than the traffic which now exists in the next densest air short-haul route—Boston to New York.

By automobile, we presently have 6 million trips a year between Los Angeles and San Francisco. This is about equivalent to the auto trips in a year between New York and Boston.

Today, with our energy crisis, we must be examining alternatives to both the automobile and the airplane to permit people access to travel for business and pleasure. Obviously, one way of gaining the most benefit from our precious energy resources is to provide a ground system—similar to the Metroliner—which gets the maximum passenger miles per gallon.

If travel within the west coast were ever curtailed, because of a lack of an adequate transportation system, serious harm would be done to the economy of the region, as well as the country as a whole.

But presently, we do not even have a plan.

This amendment would direct the Secretary of Transportation—with the Federal Energy Administration, to undertake a study considering such factors as the cost, the alternatives, the efficiency of energy utilization, the prospects for commercial success of such a system, and other factors dealing with a high-speed ground transportation system on the west coast.

This report would be presented to the Congress no later than December 31, 1974, along with any recommendations the Secretary may have.

Mr. Chairman, the real force behind this amendment, and the person who has taken the lead in the effort to obtain this study is, unfortunately, in Los Angeles. She is there taking care of her new daughter—Autumn Roxanne—but were YVONNE BURKE here, I am sure that she could present the very real need for this proposal much better than I.

Thus, I ask for an affirmative vote on Mr. ANDERSON and Mrs. BURKE's amendment to authorize a mass transit study and a west coast high-speed ground transportation study so that we may have the information necessary to conserve energy.

Mr. BUCHANAN. Mr. Chairman, will the gentlewoman yield?

Mrs. GREEN of Oregon. I yield to the gentleman from Alabama.

Mr. BUCHANAN. Mr. Chairman, I rise in support of the amendment.

Ms. ABZUG. Mr. Chairman, will the gentlewoman yield?

Mrs. GREEN of Oregon. I yield to the gentlewoman from New York.

Ms. ABZUG. Mr. Chairman, I rise in support of the direction which the amendment takes. I recognize that the intent of the amendment of the gentleman from Illinois is to develop plans to encourage the use of mass transportation—and so to get people out of their cars and conserve our energy supplies.

There is a strong relationship between mass transportation and energy. In order to cope with our dwindling supply of fuel oil, every method of energy conservation must be fully exploited. It is now clear that the promotion of mass transportation is critical to achieving our national goal of fuel conservation through the reduction of vehicular traffic.

Now is the time, in the legislation before us, to make full recognition of mass transportation as a significant energy conserving modality. We have here an opportunity to take positive action toward encouraging people to leave their cars at home and to switch to their local, public or private transit systems.

The gentleman's amendment addresses the question of the relationship between mass transit and energy and should be supported. However, it does not go far enough. The House should take positive action. If we really are concerned about conserving our energy supplies we must act as quickly as possible to make mass transit more attractive.

One significant way in which the goal might be accomplished is to prohibit increases in, or reduce, the fares of any public or private mass transit system throughout the Nation for the duration of the energy emergency. Funds ought to be provided to cover the costs incurred due to the fare increase prohibition or reduction and also due to increased services provided by those systems. Therefore, while I support this amendment, I will strongly support the amendment of the gentleman from New York (Mr. MURPHY), to be offered for the New York City delegation, which would provide for maintenance of, or reduction in mass transit fares during this emergency. In fact, in answer to a question from the gentleman from New York, the gentleman from Illinois responded that the concept of such a program as I have just described could be promulgated under his amendment.

A fare freeze, or reduction now, coupled with the implementation of the plans developed under the gentleman's amendment would serve to check automobile use, conserve energy supplies and have the added benefit of protecting the environment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. ANDERSON) to the amendment in the nature of a substitute, offered by the gentleman from West Virginia (Mr. STAGGERS).

The amendment to the amendment in the nature of a substitute was agreed to.

Mr. STAGGERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise at this time in order to see if we can reach some accommodation on the time limit for debate on the remainder of the bill and all amendments thereto.

We are proceeding pretty rapidly right now, and we have gotten to that point where we have disposed of most of the controversial issues.

I wonder if we could come to an accommodation of time, say, 10 minutes for each amendment which is now at the desk?

Mr. BROYHILL of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from North Carolina.

Mr. BROYHILL of North Carolina. Mr. Chairman, I thank the gentleman for yielding.

I rise in support of the gentleman's effort. I think that the arrangement which he has suggested is in the interest of the bill.

If I understand what the gentleman is proposing to do, it is to have 5 minutes allowed for the proponents of an amendment and 5 minutes allowed for the opponents of an amendment; is that correct?

Mr. STAGGERS. The gentleman is correct. I have tried to do that to see that the amendments offered by the committee and by other Members will be alternated as between the committee members and the noncommittee members, and I shall do as much as I can on this side, and I assume that the gentleman will on his side, to see that each Member will have an opportunity to present his amendment, as well as the members of the committee.

Mr. Chairman, I ask unanimous consent that each amendment to the amendment in the nature of a substitute offered be considered for not more than 5 minutes on each side.

Mr. BROYHILL of North Carolina. Will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman.

Mr. BROYHILL of North Carolina. There will be differences of opinion on this. Some Members want to finish the bill up and others do not. But it seems to me that this is a fair arrangement. Some of these amendments that are pending are not in order to the bill. I could not make that judgment for the Chair, but that is my opinion at least. I think we can finish this bill up under the arrangement suggested by the chairman.

Mr. STAGGERS. I think there are several that are not germane. In looking them over, many of them are not. There are several that we can accept. I have heard at least six Members say they have amendments that they are not going to offer, and I am sure there are many more that will not be offered. I would like to arrive at some kind of an understanding, if we could, on this matter.

The CHAIRMAN. The gentleman from West Virginia (Mr. STAGGERS) asks unanimous consent that each amendment to the amendment in the nature of a substitute offered be considered for not more than 5 minutes on each side.

Is there objection to the request of the gentleman from West Virginia?

Mr. CRANE. Mr. Chairman, reserving the right to object, I know there are a number of amendments offered by Members of this body who are not members of the Committee on Interstate and Foreign Commerce. We are today on our third day, but we know that was a 3-day markup session by the Committee on Interstate and Foreign Commerce, and the rest of us have sat around here as spectators, and frankly I have a profound feeling of resentment that the committee should put us into this kind of a situation. We are Members of the House, but we are not privileged to be members of the committee, and I do not think that in view of the long period of discussion allowed to members of the committee the rest of us should be limited to 10 minutes on each amendment that we have to offer.

It is apparent on the face of what has gone on here that this bill should never have been brought to the floor.

Mr. STAGGERS. Mr. Chairman, I would like to respond to the gentleman.

I said in my motion that we would allow sufficient time. We have been yielding sufficient time for everyone to speak. We have taken up at least four amendments that the committee itself did not bring out. I will say that for every amendment the committee brings up from now on we will allow one for Members who are not members of the committee to bring up.

Mr. CRANE. With all due respect, it seems to me that the committee, with the exception of those four amendments that the chairman of the committee has referred to, has dominated the time for 2½ days. Equal time should surely dictate the other 400 Members of this body body might have an equivalent period of time.

Mr. STAGGERS. Two and a half days? I would say to the gentleman, not to be frivilous in any way, that if at the end of 10 minutes an additional length of time is required, I would certainly be willing to see if that time could be secured.

Mr. CRANE. Mr. Chairman, I object to the limitation of 10 minutes for discussion.

The CHAIRMAN (Mr. BOLLING). The Chair cannot entertain a motion on this matter. Is objection heard?

Mr. PRICE of Texas. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

PARLIAMENTARY INQUIRIES

Mr. WILLIAMS. Mr. Chairman, a parliamentary inquiry.

Why cannot the Chair accept a motion from the chairman of the committee to limit debate on each amendment to 10 minutes?

The CHAIRMAN. A motion to control debate can neither divide the time nor allocate or reserve the time. A unanimous-consent request, if agreed to, can do that, but a motion to allocate and break up time is not entertainable.

Mr. WILLIAMS. Would a motion to limit debate on each amendment to 10 minutes be in order?

The CHAIRMAN. That would be in order.

Mr. WILLIAMS. Then, in that case, I would like to say to my esteemed colleague——

The CHAIRMAN. On individual amendments. A motion to limit debate on individual amendments to 10 minutes with no allocation of the 10 minutes would be in order.

Mr. WILLIAMS. But it has to be made on each individual amendment?

The CHAIRMAN. It has to be offered to each individual amendment after each amendment is offered.

Mr. O'NEILL. A parliamentary inquiry, Mr. Chairman.

A motion would be in order to end all debate on all amendments pending at 7 o'clock?

The CHAIRMAN. Such a motion to end all debate on the Staggers amendment and all amendments thereto at an hour certain would be in order.

Mr. O'NEILL. I thank the Chairman.

Mr. STAGGERS. Mr. Chairman, if I still have the time under the 5-minute rule I would like just to enter into a colloquy if I could with the ranking minority member.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. STAGGERS was allowed to proceed for 2 additional minutes.)

Mr. STAGGERS. Mr. Chairman, if I might engage in a colloquy with the ranking minority member on the committee, the gentleman from Ohio (Mr. DEVINE) and the gentleman from North Carolina (Mr. BROYHILL), who is handling the bill, I would ask them what would be their consensus as to finding a time to end this debate on this bill and all amendments thereto.

Mr. DEVINE. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Ohio.

Mr. DEVINE. Mr. Chairman, I would say it depends on what each individual Member feels as to what his interest may be in the bill. I think the only way we can make that determination is to try several motions until perhaps one passes.

Mr. STAGGERS. Mr. Chairman, I will now yield to the gentleman from North Carolina (Mr. BROYHILL) in order to receive his views.

Mr. BROYHILL of North Carolina. Mr. Chairman, I thank the gentleman for yielding, and will the gentleman yield for the purpose of asking a parliamentary inquiry?

Mr. STAGGERS. I do.

PARLIAMENTARY INQUIRY

Mr. BROYHILL of North Carolina. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. BROYHILL of North Carolina. Mr. Chairman, my parliamentary inquiry is this: If the time is limited, would only those Members who are presently standing and would be listed—would they be the only Members who could be recognized either to propose an amendment or to oppose an amendment?

The CHAIRMAN. The Chair will state any motion that the Chair can conceive of would involve enough time so that the Chair would feel that he could reserve that right to recognize Members under the 5-minute rule.

The Chair will explain that if needed.

The gentleman is talking about limiting debate on the amendment in the nature of a substitute, and all amendments thereto?

Mr. BROYHILL of North Carolina. That is correct, Mr. Chairman.

The CHAIRMAN. The Chairman would presume that there will be a substantial block of amendments, and the Chair would feel that the Chair should not fail to protect the Members who are not in the Chamber at the moment who might have amendments that they sought to offer.

Mr. BROYHILL of North Carolina. I thank the Chairman.

Mr. DEVINE. Mr. Chairman, will the gentleman from West Virginia yield further?

The CHAIRMAN. The time of the gentleman has expired.

Mr. DEVINE. Mr. Chairman, I move to strike the last word.

PARLIAMENTARY INQUIRY

Mr. DEVINE. Mr. Chairman, a parliamentary inquiry

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. DEVINE. Mr. Chairman, my parliamentary inquiry is this: Is a motion now in order to say that the House will vote on the bill and all amendments thereto by a time certain?

The CHAIRMAN. The Chair will state that a motion to limit debate on the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS) and all amendments thereto, to a time certain, would be in order.

Mr. DEVINE Mr. Chairman, I therefore will make that motion.

Mr. Chairman, I move that all debate on the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS) and all amendments thereto, close at 5:30 p.m. today.

Mr. DENNIS. Mr Chairman, will the gentleman yield?

I do not have any amendments, but——

The CHAIRMAN. The Chair will state that the gentleman from Ohio (Mr. DEVINE) has made a motion.

PARLIAMENTARY INQUIRY

Mr. GROSS. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN The gentleman will state his parliamentary inquiry.

Mr. GROSS. Mr. Chairman, my parliamentary inquiry is this: Must that motion be in writing?

The CHAIRMAN. The Chair will state that the motion must be in writing if the gentleman insists upon it.

Mr. GROSS. Mr. Chairman, I do so insist.

PREFERENTIAL MOTION OFFERED BY MR. LANDRUM

Mr. LANDRUM. Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

> Mr. LANDRUM moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken.

The CHAIRMAN. The gentleman from Georgia (Mr. LANDRUM) is recognized for 5 minutes in support of his preferential motion.

Mr. LANDRUM. Mr. Chairman, during the entire 21 years that I have had the pleasure of serving in this body, this is the first time that I have ever offered such a motion. But now it is obvious, despite the tremendous efforts of the distinguished chairman and the ranking minority member of the Committee on Interstate and Foreign Commerce, that the committee has not been able to write a bill in its own committee, that it comes in to the Committee of the Whole and after 2½ days, has failed to write what the membership desires. Therefore, we ought to send this back to the Interstate Committee.

It is now obvious that if we stay here long enough to finish this bill—I do not know how long it would be—that the bill would not be recognizable and that it would be impossible of enforcement, and that no one in the country would know what was in it, what he had to do or when to do it.

Mr. Chairman, I insist upon a vote on the motion.

Mr. STAGGERS. Mr. Chairman, I oppose the motion. I respect the motive of the gentleman from Georgia, but I might say to him that never has a bill been worked on so hard and so diligently by a committee as our committee, the Committee on Interstate and Foreign Commerce. I would pit those 42 men against any 42 men in the House as to their capabilities, their qualifications, their diligence, and their intelligence. They have worked, and they have worked into the night several nights, trying to complete the bill. They came up with the very finest bill they could.

The President of the United States took to television and informed the American people that this is one of the bills that he must have before this Congress goes home. I dare say that if we do not vote on this bill, either vote it up or down, the President will say that we have not done our jobs.

I think we ought to stay here until we have perfected the bill and done the very best that we can. There has been no bill brought to this floor that was perfect. And there has never been one perfect bill come out of this House.

The gentleman from Georgia mentions the fact of taking so long here. I would say that bills that come out of the Committee on Ways and Means and other committees where there are closed rules, and Members not on those committees cannot offer amendments there are so many important aspects of this bill. We have in here authority to expediate the procedures for bringing in power from Canada, which they are willing to give to us, but which under the present circumstances we cannot get, which would help alleviate our energy shortage right away.

There are many other factors of the bill that are so important to America. I say that this is one of the most important bills that the House will consider this year. I said that when it came to the floor, that it is one of the most important bills that has ever been brought to the floor. I say that again, because it affects the lives of every American. It tries to give equitable treatment to all individuals, and not let just one segment run wild making great profits, and allowing those who are at their mercy to be forced to pay the bill and to take what they can get, which would let the favored few of America just ride herd over the rest of us.

I would not want to go back home to my constituents and say that I had not done my job. I do not think there is a man in this House who wants to do that. This is what we were elected to do, to do our job, and I think every man has the moral courage to do it, to perfect the bill, and then go back home and say, "We have done our best."

I say, if we do not, and if we quit, we do not have moral courage. I think the time has come for the representatives of the American people to stay here if it takes from now until after Christmas to complete this work.

I say it can be done tonight, and the time is right now. That is the reason I oppose the proposition offered by the gentleman from Georgia.

The CHAIRMAN. The question is on the preferential motion offered by the gentleman from Georgia (Mr. LANDRUM).

The preferential motion was rejected.

PARLIAMENTARY INQUIRY

Mr. DEVINE. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman from Ohio will state it.

Mr. DEVINE. At the time the gentleman from Georgia made his preferential motion, I had already made a motion before the House, and it was requested that that be put in writing. That was done, and it is currently at the Clerk's desk. I wonder what the status of that motion is that was pending at the time the preferential motion was made.

The CHAIRMAN. The preferential motion takes precedence. The preferential motion was rejected.

MOTION OFFERED BY MR. DEVINE

Mr. DEVINE. Mr. Chairman, I offer a motion.

The Clerk read as follows:

> Mr. DEVINE moves that all debate on the amendment in the nature of a substitute, H.R. 11882, and all amendments thereto be concluded by 6:30 p.m.

PARLIAMENTARY INQUIRY

Mr. LANDRUM. Mr. Chairman, a parliamentary inquiry. The Chair has not ruled on the preferential motion.

The CHAIRMAN. The Chair had ruled that the preferential motion had been defeated.

Mr. LANDRUM. The Chairman had ruled?

The CHAIRMAN. Yes, the Chair announced the result of the vote and had recognized the gentleman from Ohio.

PARLIAMENTARY INQUIRY

Mr. SYMMS. Mr. Chairman, a parliamentary inquiry. I was on my feet at the time.

The CHAIRMAN. The gentleman may have been on his feet but he did not address the Chair.

The Chair has attempted very hard to be fair and he did not hear the gentleman.

Mr. SYMMS. I thank the Chairman, but I was on my feet.

The CHAIRMAN. The question is on the motion offered by the gentleman from Ohio (Mr. DEVINE).

PARLIAMENTARY INQUIRY

Mr. GROSS. Mr. Chairman, a parliamentary inquiry. Is this motion subject to debate?

The CHAIRMAN. It is not subject to debate.

The question is on the motion offered by the gentleman from Ohio (Mr. DEVINE).

The question was taken; and on a division (demanded by Mr. STAGGERS) there were—ayes 84, noes 71.

RECORDED VOTE

Mr. SYMMS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 197, noes 196, not voting 40, as follows:

[Roll No. 670]

AYES—197

Adams
Addabbo
Albert
Alexander
Andrews, N.C.
Andrews, N. Dak.
Arends
Ashley
Aspin
Bafalis
Barrett
Bevill
Boland
Bowen
Brasco
Bray
Breckinridge
Brooks
Brown, Calif.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Burgener
Burke, Mass.
Burton
Butler
Byron
Carey, N.Y.
Carney, Ohio
Carter
Cederberg
Chappell
Chisholm
Clancy
Clausen, Don H.
Cleveland
Collier
Collins, Tex.
Conlan
Corman
Cotter
Davis, Ga.
de la Garza
Delaney
Dellums
Devine
Donohue
Downing
Dulski
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Eshleman
Evins, Tenn.
Fascell
Findley
Fisher
Flowers
Foley
Forsythe
Fountain
Fulton
Gaydos
Gettys
Ginn
Gonzalez
Grasso
Gray
Griffiths
Grover
Gunter
Haley
Hanley
Hanrahan
Hansen, Wash.
Harrington
Harsha
Harvey
Hawkins
Henderson
Hicks
Holifield
Holt
Hosmer
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Karth
Kastenmeier
Kazen
King
Koch
Landrum
Latta
Leggett
Lent
Litton
Long, La.
Lott
Lujan
McCloskey

McCormack
McFall
McSpadden
Madden
Mailliard
Martin, Nebr.
Mathias, Calif.
Mathis, Ga.
Meeds
Michel
Mills, Ark.
Minshall, Ohio
Mizell
Mollohan
Moorhead, Pa.
Morgan
Moss
Murphy, N.Y.
Natcher
Nedzi
Nelsen
Nichols
Nix
Obey
O'Neill
Owens
Passman
Patman
Patten
Pepper
Peyser
Pickle
Podell
Preyer
Price, Ill.
Quillen
Rangel
Reuss
Rhodes
Roberts
Rogers
Roncalio, Wyo.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roybal
Ryan
St Germain
Sebelius
Shipley
Shoup
Sikes
Sisk
Slack
Smith, N.Y.
Snyder
Staggers
Stanton, J. William
Stark
Steed
Steiger, Ariz.
Stephens
Stratton
Stubblefield
Stuckey
Symington
Taylor, N.C.
Teague, Calif.
Teague, Tex.
Thompson, N.J.
Thomson, Wis.
Thornton
Tiernan
Ullman
Vanik
Veysey
Vigorito
Waldie
Whalen
White
Whitehurst
Widnall
Wiggins
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Wright
Wydler
Wylie
Yatron
Young, Ga.
Zion

NOES—196

Abdnor
Abzug
Anderson, Calif.
Anderson, Ill.
Annunzio
Archer
Armstrong
Ashbrook
Badillo
Baker
Bauman
Beard
Bennett
Bergland
Biaggi
Biester
Bingham
Blackburn
Blatnik
Brinkley
Broomfield
Brotzman
Brown, Mich.
Buchanan
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Camp
Casey, Tex.
Chamberlain
Cochran
Cohen
Collins, Ill.
Conable
Conte
Conyers
Coughlin
Crane
Cronin
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Danielson
Davis, S.C.
Davis, Wis.
Dellenback
Denholm
Dennis
Derwinski
Dickinson
Dingell
Dorn
Drinan
Duncan
du Pont
Esch
Evans, Colo.
Fish
Flood
Flynt
Ford, William D.
Fraser
Frelinghuysen
Frenzel
Frey
Froehlich
Fuqua
Giaimo
Gibbons
Gilman
Goldwater
Goodling
Green, Oreg.
Green, Pa.
Gross
Gude
Guyer
Hamilton
Hammerschmidt
Hansen, Idaho
Hastings
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Hillis
Hinshaw
Hogan
Holtzman
Horton
Howard
Huber
Hudnut
Hungate
Hutchinson
Jarman
Johnson, Colo.
Jones, Tenn.
Jordan
Kemp
Ketchum
Kluczynski
Kyros
Landgrebe
Lehman
Long, Md.
McClory
McCollister
McDade
McEwen
McKay
McKinney
Macdonald
Madigan
Mahon
Mallary
Mann
Maraziti
Martin, N.C.
Matsunaga
Mayne
Mazzoli
Mezvinsky
Milford
Miller
Minish
Mink
Mitchell, N.Y.
Moakley
Moorhead, Calif.
Mosher
Murphy, Ill.
Myers
O'Brien
O'Hara
Parris
Perkins
Pettis
Pike
Poage
Powell, Ohio
Price, Tex.
Pritchard
Quie
Railsback
Randall
Rarick
Rees
Regula
Rinaldo
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Roush
Rousselot
Roy
Ruppe
Ruth
Sarasin
Sarbanes
Satterfield
Scherle
Schneebeli
Schroeder
Seiberling
Shriver
Shuster
Skubitz
Smith, Iowa
Spence
Stanton, James V.
Steelman
Steiger, Wis.
Studds
Symms
Talcott
Thone
Towell, Nev.
Treen
Van Deerlin
Vander Jagt
Waggonner
Wampler
Whitten
Winn
Wyman
Yates
Young, Alaska
Young, Fla.
Young, Ill.
Young, S.C.
Young, Tex.
Zablocki
Zwach

NOT VOTING—40

Bell
Boggs
Bolling
Brademas
Breaux
Burke, Calif.
Clark
Clawson, Del
Clay
Dent
Diggs
Erlenborn
Gubser
Hanna
Hays
Hébert
Hunt
Ichord
Johnson, Calif.
Keating
Kuykendall
Melcher
Metcalfe
Mitchell, Md.
Montgomery
Reid
Riegle
Roncallo, N.Y.
Rooney, N.Y.
Runnels
Sandman
Steele
Stokes
Sullivan
Taylor, Mo.
Udall
Walsh
Ware
Wolff
Wyatt

So the motion was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Committee will rise informally in order that the House may receive a message.

FURTHER MESSAGE FROM THE SENATE

The SPEAKER resumed the chair.

The SPEAKER. The Chair will receive a message.

A further message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed a joint resolution of the following title, in which the concurrence of the House is requested:

S.J. Res. 180. Joint resolution relative to the convening of the second session of the 93d Congress.

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 620. An act to establish within the Department of the Interior an additional Assistant Secretary of the Interior for Indian Affairs, and for other purposes.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 11324) entitled "An act to provide for daylight saving time on a year-round basis for a 2 year trial period, and to require the Federal Communications Commission to permit certain daytime broadcast stations to operate before local sunrise."

The SPEAKER. The Committee will resume its sitting.

ENERGY EMERGENCY ACT

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. Moss).

AMENDMENT OFFERED BY MR. MOSS TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. MOSS. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by Mr. Staggers.

The Clerk read as follows:

Amendment offered by Mr. Moss to the amendment in the nature of a substitute offered by Mr. Staggers: Page 47, line 10, insert "prior to such deadline result in, or contribute to, air pollutants which present a significant risk to public health and will not" after the word "not".

Page 47, line 18, insert "and with requirements of an applicable State plan to implement such standards" before the word "as", before the word "by".

Page 47, line 23, insert "or to assure continuing compliance with any requirements of an applicable State plan to implement such standards" before the phrase "a date".

Page 13, line 20, at the end of line 20 insert the word "all".

Mr. MOSS. Mr. Chairman, I yield for the purpose of discussion, to the gentleman from Missouri (Mr. Symington).

Mr. MURPHY of New York. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from Missouri reserves a point of order on the amendment.

Mr. SYMINGTON. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, the purpose and effect of this amendment which has been offered on behalf of the gentleman from California (Mr. Moss), myself, the gentleman from New York (Mr. Hastings), and the gentleman from Pennsylvania (Mr. Heinz) is so as to reconcile the provisions of the bill before us not only with the original intent of the committee, but with the spirit of the Clean Air Act, that once proud legislation. In the words of the biblical plea:

> Take not the spirit from us.

Mr. Chairman, this amendment does not affect emergency initiatives. It does not stand in the way of coal conversion. Nor does it prevent the granting of variances or suspensions permitting the burning of dirtier fuels this winter. What it does do is distinguish between short- and long-term suspensions by prohibiting the latter when they produce air pollutants that present a significant risk to public health.

Mr. Chairman, certain legendary heroines did take poison to avoid other forms of inconvenience. As applied to our situation, I doubt the device makes up in nobility what it lacks in resourcefulness. If we would but remember it was our mindless addiction to the cheapest available combustibles that led first to a cloud over America's health, then coughing, bronchial statistics, books, articles, hearings, and finally the Clean Air Act. If we would bear that in mind we would not surrender now to the impulses that took us down that dreary road—to be numbered among those who cannot remember history and are, therefore, doomed to repeat it.

This amendment seeks to preserve national primary ambient air standards, so welcome to the breathing American, by far the majority, in such teeming concentrations of humanity as New York, Chicago, Los Angeles, Birmingham, Atlanta, Cincinnati, Philadelphia, and even St. Louis.

This amendment also recognizes the continuing responsibility of State governments and the legitimacy of State implemented plans. Should this day's work stand as a confession of error in that concept, or a lack of confidence in the know-how to perfect it?

We can do it. We can do it without question, and without injury.

Mr. HASTINGS. Mr. Chairman, will the gentleman yield?

Mr. MOSS. I yield to the gentleman from New York.

Mr. HASTINGS. Mr. Chairman, I rise in strong support of this measure. I must say that this amendment accomplishes what was the intent when it was first introduced by the gentleman from Missouri (Mr. Symington) in the full committee, as amended by myself.

This will allow for individual stationary polluters suspension of air quality standards, but at the same time, guarantees that the health of the public will be protected. I think it is a compromise between each position as to suspension of standards and protection of public health.

Mr. Chairman, I strongly urge support for this amendment.

Mr. NELSEN. Mr. Chairman, will the gentleman yield?

Mr. MOSS. I yield to the gentleman from Minnesota (Mr. Nelsen).

Mr. NELSEN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I notice in the language as reported that it refers to short term and long term. One of the things I have been struggling with is what do we do with the long term? Do we just leave them hanging there? Is there any assurance something is going to be done for the long term? I agree with what the author of the amendment has suggested as well as the gentleman from Missouri (Mr. Symington). But I am trying to get some clarification, and I have been trying for some days to get some clarification. Is the long term provided for where that is so vitally needed?

Mr. MOSS. Mr. Chairman, I yield to the gentleman from Missouri to reply to the gentleman from Minnesota.

Mr. SYMINGTON. Mr. Chairman, I thank the gentleman for yielding to me.

May I say that the gentleman from Minnesota is correct that both short term and long term are included in the amendment, but really the amendment permits a suspension for the short term, whatever is needed to meet the crisis.

If there is to be a long-term suspension, it has to be dependent upon a finding of the Administrator that there is no significant risk to health.

Mr. NELSEN. I thank the gentleman.

Mr. HEINZ. Mr. Chairman, will the gentleman yield?

Mr. MOSS. I yield to the gentleman from Pennsylvania.

Mr. HEINZ. I thank the gentleman.

Mr. Chairman, I should like to commend the gentleman from Missouri on his amendment, and I support the amendment very strongly. I also would like to associate myself with the remarks of the gentleman from New York (Mr. Hastings).

Mr. MOSS. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The gentleman from New York has reserved a point of order.

POINT OF ORDER

Mr. MURPHY of New York. Mr. Chairman, the very first amendment adopted by the Committee of the Whole on this legislation is in total conflict with this amendment, which amends an amendment already adopted. That is the point of the point of order.

The CHAIRMAN. Does the gentleman from California wish to be heard on the point of order?

Mr. MOSS. Mr. Chairman, I should like to yield to the gentleman from Missouri (Mr. Symington).

Mr. SYMINGTON. Mr. Chairman, there is nothing in the amendment which we have proposed which changes a single word in the gentleman's amendment. There are no deletions. We have amended the same section, but I do not think there is anything in the rules that would prevent that.

The CHAIRMAN (Mr. Bolling). The Chair has had an opportunity to examine the amendments. The amendment offered by the gentleman from New York (Mr. Murphy). The fact that it may be inconsistent is not a matter for the Chair to rule on. The Chair overrules the point of order.

Mr. MURPHY of New York. Mr. Chairman, I move to strike the last word.

Mr. JONES of Alabama. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from Alabama.

Mr. JONES of Alabama. Mr. Chairman, it is my opinion that if this amendment were to succeed, it would defeat the total purpose of the bill, which is to provide the necessary fuel requirements for the production of electric energy. Approval of the amendment would mean that the producers of electric power are going to be confronted with a physical proposition that they cannot satisfy. The amendment will cause very imprudent use of both public and private moneys.

I hope that the Committee will not accept the amendment.

Mr. MURPHY of New York. Mr. Chairman, the two amendments say in one specific aspect that we want to maintain the national ambient air quality standards in every air shed, particularly in the air sheds over our cities where air in the past has been very poor. The difference in the amendments is this: We have State plans, and we have some States who will not change their air quality plans. We have an Administrator created under this act, and the Administrator may require certain specific types of control on powerplants.

We also have an Administrator of EPA who might be making recommendations as to the type of controls on stationary fuel sources.

My amendment does this. It permits the Administrator to authorize noncontinuous emission standards—and when I say continuous emission standards, these are the heavy scrubbers that will be on these machines for 40 years that cost from $40 to hundreds of millions of dollars. They say we will permit intermittent or alternate types of mechanisms on our powerplants but at the same time that we must preserve ambient air quality.

The fact is that for the limited period of this legislation—we hope this energy shortage is short-lived—the Symington amendment makes no ability to change the State plans. In effect, it will mandate heavy scrubbers, and extraordinary expenditures, particularly in the areas where we can put them at this time, and I would urge the defeat of the Symington language.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Moss) to the amendment in the nature of a substitute offered by the gentleman from West Virgina (Mr. Staggers).

The amendment to the amendment in the nature of a substitute was rejected.

The CHAIRMAN. Before the Chair recognizes any other Member, with the indulgence of the Committee, the Chair would like to state the situation that confronts the Committee and its members. The Committee has limited all time on the pending amendment and all amendments thereto to 6:30 p.m. That leaves us in a situation where we have many amendments pending. There may well be at 6:30 a large number of amendments which have not been offered, because the Chair feels he must proceed in the normal fashion.

Those amendments which have not been offered will still be in order to be offered, but there will be no debate on them, unless the author of the amendments as printed in the Record under the rule has an amendment, in which event he is entitled to 5 minutes.

The Chair does not believe in a chairman speaking from the chair except to assist the Committee and even then briefly. The Chair would like to suggest to the Committee and its members that it will require a very great deal of very understanding cooperation and self-discipline on the part of the members of the Committee for us to have an orderly procedure and the Chair would beg the cooperation of the members of the Committee on Interstate and Foreign Commerce and all other Members to attempt to give all Members a chance to be heard on their amendments.

Mr. STAGGERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do this to try to find some accommodation so that every person who has an amendment will be able to speak on it if possible. I would like to suggest to the Members that we find out how many amendments there are at the desk and divide the time between now and 6:30 so that every person who has an amendment will have an equal time for his amendment. If this can be done I would like to make an additional suggestion, that the committee alternate with those outside the committee to offer amendments, so we would take them one at a time, one from the committee members and one from outside the committee in order to be fair. I do not know how this can be done.

The CHAIRMAN. The Chair would have to say to the gentleman from West Virginia, whose intentions he knows are the best, that if we would do that we would not be taking into account whatever time was taken up in voting on whatever additional amendments might be offered.

The Chair is constrained to hope that the gentleman will not insist on that procedure.

Mr. STAGGERS. Mr. Chairman, in lieu of that I would say to every man who speaks on an amendment that I suggest he limit his time to 2 minutes and that would give everybody a chance to speak on his amendment.

The CHAIRMAN. That is in line with the hope the Chairman was expressing in a rather unusual way a little earlier.

Mr. STAGGERS. That is what I would suggest and if it gets out of hand then a little later I would ask unanimous consent or move to limit time. I would like to go on for 45 minutes and have everybody get his amendments spoken to, and if it is not going that way then I would ask for a limitation of time so that every Member would have some opportunity to speak.

PARLIAMENTARY INQUIRY

Mr. O'NEILL. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. O'NEILL. How many amendments have been printed in the Record?

The CHAIRMAN. The Chair is not absolutely sure, but he thinks approximately five.

Mr. O'NEILL. Then, Mr. Chairman, because so many Members have been inquiring about the time, each one of these people is entitled to his 5 minutes, and debate is to be completed at 6:30, and then there is a great possibility that on amendments already passed, rollcall votes may be asked on them, plus the fact that there will be an opportunity to recommit, and then final passage, so despite the fact that all debate will end at 6:30, it appears the Congress will be continuing on this matter until, I would say, between 8:30 and 9 o'clock this evening.

I merely state this for the information of the Members.

The CHAIRMAN. The Chair would like to add, also, that on any amendment placed in the Record, he was in error, that there would be not 5 minutes, but 10 minutes, 5 minutes for the author and 5 for someone to speak against the amendment, so that would be 10 minutes.

Mr. MATSUNAGA. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. Mr. Chairman, I yield to the gentleman from Hawaii.

Mr. MATSUNAGA. Mr. Chairman, I wish at the outset to congratulate the gentleman from West Virginia and members of his committee for their herculean efforts in trying to enact appropriate legislation to cope with our Nation's energy crisis.

For the purpose of establishing legislative history, I ask the distinguished chairman of the committee (Mr. Staggers) for his attention.

The distinguished chairman, Mr. Staggers, will recall that I raised a question about the intended impact on the visitor industry during floor consideration of the emergency fuel allocation bill, now enacted into law, and that he responded that all vehicles, public or private, which serve the visitor industry were to be considered part of the so-called public services which were to be maintained at the highest priority under any allocation program.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. Matsunaga was allowed to proceed for an additional 2 minutes.)

Mr. MATSUNAGA. Mr. Chairman, in section 103 of the bill under consideration, it is provided in part as follows:

> A top priority in such ordering shall be the maintenance of vital services (including, but not limited to new housing construction, education, health care, hospitals, public safety, energy production, agriculture, and transportation services, which are necessary to the preservation of health, safety, and the public welfare).

And in the committee report accompanying H.R. 11450, on page 27, it is stated:

> . . . there must be a realization by those in authority that the public good is not served by denying allocations of fuel for certain uses which have the appearance of being nonessential (such as recreational activities or various aspects of general aviation), if to do so would result in significant unemployment. There are, of course, many areas in this Nation where recreation and tourism provide the base of the local economy.

My question to the gentleman is this: Am I correct in my understanding that by the provisions of section 103 and that part of the committee report which I have just quoted, it is legislatively intended that the term "vital services" shall include transportation services, both public and private, which are necessary to maintain the tourist industry in areas where tourism is a vital part of the local economy, as in Hawaii?

Mr. STAGGERS. Mr. Chairman, I think we have answered that question before. It is answered in the report and the answer is "Yes."

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. Brown) for 5 minutes.

Mr. BROWN of Ohio. Mr. Chairman, I take this moment to ask the attention of the chairman of the committee for the purpose of legislative history. I wish to clarify a point. The proposal now before us, in part, amends the priorities section of the Emergency Petroleum Allocation Act.[1] That act provides that the tions—and services directly related thereto" should be among the priority "Maintenance of agricultural opera- users of fuel.[2]

Precedent in previous fuel allocation programs[3] has established that among the priority agricultural-related users of fuel are essential food supply activities such as the manufacture and transportation of cans, bottles, wraps and other food containers and other activities.

Such a priority, to me, only makes sense since the fuel allocated to produce and process food would be totally wasted if there are no containers in which to package the product. For the purpose of legisative history, then, I wish to establish that it is the intent of Congress that activities essential to the maintenance of an adequate and reliable food supply are indeed considered part of the agricultural-related allocation priorities.

Mr. STAGGERS. That is the intention of the Committee.

Mr. BROWN of Ohio. Mr. Chairman, I thank the gentleman.

Mr. HEINZ. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. Mr. Chairman, I yield to the gentleman from Pennsylvania.

Mr. HEINZ. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Chair will state that one Member cannot yield to another Member to offer an amendment.

Mr. BROWN of Ohio. Mr. Chairman, I yield back the balance of my time.

AMENDMENT OFFERED BY MR. HEINZ TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. HEINZ. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

POINT OF ORDER

Mr. PRICE of Texas. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. PRICE of Texas. Mr. Chairman, I thought the agreement was to alternate amendments between members of the Committee and members who are not on the Committee. This is another example of what we have here today.

Mr. HEINZ. Mr. Chairman, I would be happy to withdraw my amendment.

The CHAIRMAN. Permit the Chair to say in respect to the point of order, that the procedure mentioned by the gentleman from Texas was discussed but not agreed to. The Chair had hoped that procedure would be followed.

The Clerk will report the amendment.

The Clerk read as follows:

> Amendment offered by Mr. Heinz to the amendment in the nature of a substitute offered by Mr. Staggers. Page 8, after line 18, insert the following new subsection: (e) Section 4 of the Emergency Petroleum Allocation Act of 1973 is amended by inserting at the end thereof the following new subsections:
>
> "(l) (1) The President shall transmit any rule (other than any technical or clerical amendments) which amends the regulation (promulgated pursuant to subsection (a) of this section) with respect to end-use allocation authorized under subsection (h) of this section.
>
> "(2) Any such rule with respect to end-use allocation shall, for purposes of subsections (m) and (n) of this section, be treated as an energy action and shall take effect only if such actions are not disapproved by either House of Congress as provided in subsections (m) and (n) of this section.
>
> "(m) Disapproval of Congress.—
>
> "(1) For purposes of this subsection, the term 'energy action' means any rule under subsection (l) or repeal of such rule.
>
> "(2) The President shall transmit any energy action (bearing an identification number) to the Congress. The President shall have such action delivered to both Houses

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[1] PL 93–159

[2] Sec. 4(b) (1) (C).

[3] The fuel allocation program of World War II accorded the food industry an A–1 priority which was assignable to their suppliers; under such a program an essential food supply activity, whether it be cans or conveyer belts or transportation, received priority allocation in order to keep the food supply system functioning.

on the same day and to each House while it is in session.

"(3) Except as otherwise provided in paragraph (4) of this subsection, an energy action shall take effect at the end of the first period of 15 calendar days of continuous session of Congress after the date on which the plan is transmitted to it unless, between the date of transmittal and the end of the 15-day period, either House passes a resolution stating in substance that that House not favor the energy action.

"(4) For the purpose of subsection (1) of this section—

"(A) continuity of session is broken only by an adjournment of Congress sine die; and

"(B) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 15-day period.

"(5) Under provisions contained in an energy action, a provision of the plan may be effective at a time later than the date on which the action otherwise is effective.

"(6) An energy action which is effective shall be printed in the Federal Register.

"(n) DISAPPROVAL PROCEDURE.—

"(1) This subsection is enacted by Congress—

"(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by paragraph (2) of this subsection; and they supersede other rules only to the extent that they are inconsistent therewith; and

"(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

"(2) For the purpose of this subsection, 'resolution' means only a resolution of either House of Congress, the matter after the resolving clause of which is as follows: 'That the — does not favor the energy action numbered —— transmitted to Congress by the President on , 19 ', the first blank space therein being filled with the name of the resolving House and the other blank spaces therein being appropriately filled; but does not include a resolution which specifies more than one energy action.

"(3) A resolution with respect to an energy action shall be referred to a committee (and all resolutions with respect to the same plan shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives as the case may be.

"(4)(A) If the committee to which a resolution with respect to an energy action has been referred has not reported it at the end of 5 calendar days after its introduction, it is in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution with respect to the energy action which has been referred to the committee.

"(B) A motion to discharge may be made only by an individual favoring the resolution, is highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same energy action), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same energy action.

"(5)(A) When the committee has reported, or has been discharged from further consideration of, a resolution with respect to an energy action, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(B) Debate on the resolution shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

"(6)(A) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resoltuion with respect to an energy action, and motions to proceed to the consideration of other business, shall be decided without debate.

"(B) Appeals from decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to an energy action shall be decided without debate."

Mr. HEINZ (during the reading). Mr. Chairman, I ask unanimous consent that the reading of the amendment be dispensed with and that it be printed in the RECORD.

Mr. ECKHARDT. Mr. Chairman, I reserve a point of order.

Mr. ADAMS. Mr. Chairman, I reserve a point of order.

The CHAIRMAN. The gentleman from Pennsylvania asks unanimous consent that the amendment be considered as read?

Mr. HEINZ. I do, Mr. Chairman.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

Mr. ECKHARDT. Mr. Chairman, reserving the right to object, and if this will not waive my reservation I shall not object——

The CHAIRMAN. It just dispenses with the reading. It does not waive the gentleman's reservation.

Mr. GROSS. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk will continue to read the amendment.

The Clerk continued to read the amendment.

Mr. HEINZ (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

Mr. ECKHARDT. Mr. Chairman, reserving the right to object, is the amendment at this desk?

Mr. HEINZ. Yes, Mr. Chairman, the amendment was made available to that desk 3 days ago.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

Mr. YATES. I object, Mr. Chairman. I believe the House should know what the amendment says.

The CHAIRMAN. Objection is heard. The Clerk will continue to read.

The Clerk continued to read the amendment.

Mr. HEINZ (during the reading). Mr. Chairman, it is not my desire to prevent any Member in the House from finding out what is in this 6-page amendment, but I am seeking a method of permitting the Members to understand the amendment and yet not be forced to go through the reading of the entire amendment.

Is there a procedure, Mr. Chairman, under which I might explain the amendment?

The CHAIRMAN. The Chair will inform the gentleman that the Clerk must complete the reporting of the amendment unless unanimous consent is given to suspend the reading.

Mr. HENIZ. Mr. Chairman, under the condition that I would like the chance to explain the amendment, I will again repeat my unanimous-consent request.

Mr. Chairman, I ask unanimous consent that the amendment may be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

Mr. YATES. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk will continue the reading of the amendment.

The Clerk continued to read the amendment.

PARLIAMENTARY INQUIRY

Mr. ECKHARDT (during the reading). Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. ECKHARDT. Mr. Chairman, would it be in order for me to press my point of order at this time?

The CHAIRMAN. Did the Chair understand the gentleman to say, to press his point of order?

Mr. ECKHARDT. Yes, Mr. Chairman. Would it be in order for me to urge my point of order at this time?

The CHAIRMAN. The Chair feels that the reading of the amendment should be concluded.

Mr. ECKHARDT. I thank the Chairman.

The CHAIRMAN. The Clerk will continue to read the amendment.

The Clerk continued to read the amendment.

Mr. BROYHILL of North Carolina (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed at this point in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina.

Mr. GROSS. Mr. Chairman, I object.

POINT OF ORDER

Mr. ECKHARDT. Mr. Chairman, I insist on my point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. ECKHARDT. Mr. Chairman, my point of order is that the amendment is not germane to the amendment in the nature of a substitute. Further, the amendment is not germane to the material of the bill.

I should further like to argue on the point of order if I may be heard at this time.

The CHAIRMAN. The gentleman will proceed.

Mr. ECKHARDT. Mr. Chairman, what the amendment purports to do is create additional machinery with respect to the allocation section of the bill which is covered in section 103 of that bill so as to provide that the powers which are to be exercised in allocation, including end use allocation, shall be subject to presentation to the Congress during a 15 day period in which, if they are not vetoed by one or the other House, such provisions may be canceled by having been denied by the two Houses.

There is nothing in the original bill or in the amendment that provides for any procedure by which the matter shall be resubmitted to the Congress. There is nothing in the amendment in the nature of a substitute that has any such procedure in it.

The amendment offered here provides an extensive amendment of the procedures of both the House and Senate with respect to the manner in which this is accomplished.

I should like to point out to the Chair that this is not a small change in policy or in law but an extremely large one. What it purports to do, in effect, is to change the role of the Presidency and that of the Congress and to afford a special procedure by which this bill reserves to the Congress the administrative position, a position in which as a condition subsequent to the passage of this bill this bill may require a second look at the entire question and a determination on the question of policy by the Congress.

The major thrust of my point of order does not go to any question of constitutionality.

It indicates too the fact that the matter contained herein so sweepingly alters the procedures of the House, and the work to accommodate itself to this peculiar and unusual problem, that it is far beyond the scope of any provision in the bill. It does not in a minor manner change the bill, but it changes it in an extremely substantial manner because it calls upon the House to make a deep and complete policy determination with respect to the question of allocation at a time subsequent to the passage of the bill, and give that policy determination the effect of law as a condition subsequent to its particular enactment.

The CHAIRMAN. Does the gentleman from Pennsylvania (Mr. Heinz) desire to be heard on the point of order?

Mr. HEINZ. I do, Mr. Chairman.

Mr. Chairman, the gentleman from Texas contends on the one hand that my amendment is not constitutional, and on the other that it is not germane to the bill.

On the first point I would like to indicate, Mr. Chairman, that there are already on the statute books two laws, the War Powers Act, and the Procedure for Approving Executive Reorganizations. They use the same procedure for the two items I mentioned. Therefore I do not feel that the point of constitutionality can stand the test.

Second, the gentleman from Texas argues that my amendment and the disapproval portion thereof is not germane to the bill. Were this the case it would seem to me inconsistent, Mr. Chairman, because we would not have had, as we did 2 days ago, a vote on the Broyhill amendment which included the exact same procedures as exist in my amendment.

Admittedly, section 105 is not section 103 but, nonetheless, both amendments were offered to the amendment in the nature of a substitute, H.R. 11882. I do not believe, therefore, Mr. Chairman, that the point of order has merit.

Mr. ECKHARDT. Mr. Chairman, I should like to urge one other point aside from the germaneness question, and that is that the amendment is out of order because it seeks to amend the Rules of the House.

Mr. HEINZ. Mr. Chairman, if I may be heard further, I just do not think that the gentleman from Texas is correct. What is in this amendment is simply no different from writing into the bill, which we could do at any time, for any section, a provision which might say "notwithstanding anything in Section 103 or any other section, the Executive Branch has to come back to the Congress for enactment or approval or determination, or anything."

The CHAIRMAN (Mr. Bolling). The Chair is prepared to rule.

The gentleman from Texas (Mr. Eckhardt) makes a very interesting and strong argument. The Chair in its ruling is persuaded that the question is a narrow question. The Chair does not rule on the constitutional questions raised in this argument; but there are two aspects of the matter that the Chair takes into consideration in its decision. One, which the Chair believes to be the lesser one, is the fact that in the original bill there is a similar provision which in turn was offered as an amendment to the amendment in the nature of a substitute. But the Chair relies primarily on the fact that the amendment offered by the gentleman from Pennsylvania (Mr. Heinz) is in fact an amendment to section 4 of Public Law 93–159, the Emergency Petroleum Allocation Act which, in a different manner, does provide for a procedure whereby the President shall make submissions to the Congress. And whereby either House may disapprove of such submissions.

Therefore the Chair overrules the point of order.

The Chair recognizes the gentleman from Pennsylvania.

Mr. HEINZ. Mr. Chairman, I am offering this amendment to section 103, which is the section that is a series of amendments to the Emergency Petroleum Allocation Act, because of the tremendously high degree of concern that I have regarding the fact that we are granting to the executive branch, under section 103 as it now stands, an enormous and possibly unprecedented grant of authority. Whether we define "end-use allocation to individual consumers" as end-use allocation, or rationing, each to his own, this bill, in my view, gives the President of the United States the totally unrestricted power to ration gasoline.

What my amendment seeks to do is to give the Congress a chance to say "no" to a rationing proposal that we do not want.

The other day when the gentleman from North Carolina (Mr. Broyhill) offered his amendment, the shoe was essentially on the other foot. The Broyhill amendment attempted to grant additional power to the executive branch, where none existed under the original section 105, using essentially the same procedure as I propose in this amendment.

The difference is that section 103, as it stands, confers nearly limitless powers to the White House, and what I am attempting to do here today is to restrain the grant of authority in section 103.

I would like to recall, Mr. Chairman, that when we debated the Broyhill amendment, it was pointed out that there were entire industries being put out of business under the Emergency Petroleum Allocation Act as it now stands. Recreation, aircraft, boats, travel were some of the things that were mentioned. Section 103, if unchanged, grants the Executive even more opportunity to make unfair unilateral decisions that could affect the economy of any of our congressional districts.

It also seems to me that the way the bill is drawn, we tend to rely solely on the rationing authority and, therefore, on rationing as a means of meeting this Nation's energy crisis. We have made it relatively difficult to take action for conservation purposes the way we have treated other sections of the bill. Whether or not we are for rationing in principle, it makes no sense to rely on rationing as our sole weapon in dealing with the energy crisis. But if ration we must, let us have the chance to say whether we think the plan is satisfactory. This is what my amendment is all about.

Mr. DENNIS. Mr. Chairman, will the gentleman yield?

Mr. HEINZ. I yield to the gentleman from Indiana?

Mr. DENNIS. I thank the gentleman for yielding.

Mr. Chairman, do I understand that the thrust of the amendment offered by the gentleman in the well is to state that before gasoline rationing can become effective, we must have something to say about it here, and that any such plan that may be submitted by the Executive will be subject to our veto? Is that correct?

Mr. HEINZ. The gentleman is entirely correct.

Mr. DENNIS. Mr. Chairman, I am certainly in support of the gentleman's effort, and I want to commend him for it. The only thing is it should go a little further and say it cannot happen unless we affirmatively do it in the first place; but it is a great improvement over the weasel words and the back-door approach taken in the committee bill.

Mr. HEINZ. I thank the gentleman.

Mr. LATTA. Mr. Chairman, will the gentleman yield?

Mr. HEINZ. I yield to the gentleman from Ohio.

Mr. LATTA. I thank the gentleman for yielding.

I take this time to ask the gentleman to explain a little bit further how this would operate. I am in favor of control on the power to ration. I mentioned when I was handling the rule that I would offer a similar amendment. I would say before they could implement a rationing plan, it must first be approved by the Congress. What the gentleman is saying, will we have an opportunity to veto it? I realize, and the gentleman well realizes, that a resolution to veto could be kept in the committee and never come out so we would have an opportunity to vote on it.

Mr. HEINZ. May I respond to the gentleman from Ohio by saying as long as there is one person in the entire Congress who is opposed to the rationing plan submitted the natural of the highly privileged motion that is authorized under my amendment would make it mandatory at the very least that the House vote on whether or not they will consider the disapproval motion, because it is a highly privileged motion to discharge a committee. Immediately after a discharge motion has carried, if it is carried, it is then in order to consider whether or not we will disapprove the end-use allocation procedure.

Mr. LATTA. I want to thank the gentleman for his explanation. I think it is most important that any Member have the right to force a vote.

Mr. HEINZ. Just one Member of the House can bring it to the floor for disapproval.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. HEINZ. I yield to the gentleman from Iowa.

Mr. GROSS. I thank the gentleman for yielding. Is a vote required?

Mr. HEINZ. The gentleman asks if a vote is required. A vote is required only if one Member of the House seeks his right under this procedure to bring it up for a vote, and he may do so.

Mr. WYMAN. Mr. Chairman, will the gentleman yield?

Mr. HEINZ. I yield to the gentleman from New Hampshire.

Mr. WYMAN. Mr. Chairman, I should like to compliment the gentleman on his amendment and express my support for it. I think it is necessary that Congress should have a look at any rationing system. I am one of the Members here who hopes that we never have rationing in this country.

Mr. STAGGERS. Mr. Chairman, I move to strike the requisite number of words. I do this, Mr. Chairman, in order to get a time limit. I would ask unanimous consent that all debate on this amendment cease in 5 minutes.

Mr. KETCHUM. Mr. Chairman, I reserve the right to object.

Mr. LATTA. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. ECKHARDT. Mr. Chairman, I rise to speak against the amendment.

Mr. Chairman, the power to ration will exist under three acts if this act is passed: First, the Economic Stabilization Act; second, the Defense Production Act; and third, this Energy Act itself. So the purpose that the gentleman proposes here is not actually accomplished unless he should include in his amendment a requirement that that power be closed off in all three acts. I suggest that he has not closed the extensive authority of the Presidency in any way.

Mr. HEINZ. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. The gentleman had not yielded to me and my time is very short but I will yield to the gentleman very briefly.

Mr. HEINZ. I apologize for not yielding to the gentleman but there were so many who were asking me to yield. I thank the gentleman for yielding.

Mr. Chairman, I just want to say the gentleman is correct and I do not amend the Economic Stabilization Act nor the Defense Production Act because I do not think that would have been germane.

Mr. ECKHARDT. I see. So the only action that is in fact limited is the one in which we most carefully protect the interests of the public with respect to limitation on any power to restrict any end use allocation. In this bill we provide for an agency which exercises the authority—not the President. We provide that the head of that agency be approved by the Senate. We provide that the agency head be removable only for cause. We provide for administrative procedure and judicial review. This amendment says that the agency must present its end use allocation plan to Congress for disapproval. If Congress fails to disapprove in 15 days, the end use allocation plan goes into effect.

If the gentleman really wants to reserve the power to this body he should remove from the act altogether rationing authority. All this does is provide a buck-passing procedure. This is an amendment by which Executive power is exercised, a short period of perusal is given to both Houses; and, in the event that the action is not disapproved by one House of Congress, it becomes final and determinative—and how can we take considered action in 15 days? Look at the difficulty we have had in drawing up this bill in about that period of time.

The gentleman is calling for a procedure which is nothing in the world but buck passing. The executive branch would place the blame on Congress for not having reversed rationing. We have no power to amend. We have no time for hearing. We have no opportunity to adjust. We are called upon to ratify a decision concerning which we have not the authority nor the time nor the machinery to determine the merits of the issues involved.

Mr. HEINZ. I would like to speak to those points the gentleman has made because I know the gentleman is a serious student of the Constitution. I would like to point out to the Members that first of all his amendment requires transmittal; second, it permits for study by the committee that has appropriate legislative jurisdiction; and third, it provides for special study or action by the committee not being forthcoming, then a highly preferential motion to the floor on which there is 1 hour of debate whether to discharge the committee.

And fourth, if I may finish my last point, it provides in the event the discharge motion carries for up to 10 hours of debate, which granted we have exceeded here in this bill on the floor of the House.

Mr. ECKHARDT. I agree the bill provides for all these things, but the bill does not provide for an orderly operation of this body through which we determine legislative policy for the people of the United States. If we have not completed our action within the 15-day period provided in the bill the failure to have completed it gives absolute legislative authority to the administrative agency.

Mr. HEINZ. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I do not yield further. The gentleman has taken nearly half my time.

The thing I am pointing out here is this reversal of roles by which the administrative body legislates and the legislation goes into effect unless vetoed by Congress. This is a process that if not used in extremely limited ways can destroy the traditional position of Congress, its authority and processes, to a greater extent than any other device that has ever been invented.

I point out to the body that where we have used this device, we have used it for one of two types of processes. We have used it in the Reorganization Act for the purpose of internal housekeeping to require that the decision come back to this House so that we may determine whether it is provident and viable with respect to our own internal operations.

The other application of this so-called legislative veto is in the case where we merely preserve to ourselves in the War Powers Act the right to state by concurrent resolution that we have not given congressional authority to the President to make war.

Mr. LATTA. Mr. Chairman, I rise in support of this amendment, even though I would have preferred the direct approach that I indicated that I would propose to the House when we were debating the rule. I would prefer a very simple amendment to subsection 6, which read as follows:

> *Provided, however,* any plan formulated under this subsection must first be submitted to and approved by the Congress before implementation.

Not being a member of the committee, and under the parliamentary situation, the gentleman from Pennsylvania was recognized before I could offer my amendment.

I appreciate what the gentleman is attempting. As indicated by our earlier colloquy, the end result, I believe, would be the same. The gentleman indicated that one Member of the House could force a vote on any rationing plan. It would not have to go back to the committee. If one Member of the House objected to the plan brought forth by the administration, we could have an opportunity to vote on it.

As an alternative to my approach, I accept it. I think the American people will be watching what this body does in this area, particularly since it will affect everyone that drives an automobile or rides in an automobile.

Certainly I cannot accept the statements just made by the gentleman from Texas that the procedure of the gentleman from Pennsylvania is buck passing. Buck passing is what the committee bill does as it now stands. The bill requires that all other energy plans come back to Congress for approval. Why not the matter of gasoline rationing? The rationing in the bill refers to something like "end use allocation of gasoline." We know this means rationing. This is real buck passing, if you please, and I am opposed to it as well as gasoline rationing.

I think we ought to do as the gentleman suggests, give the Congress of the United States, the people's representatives, an opportunity to veto any rationing plan proposed by the bureaucrats.

Voluntary rationing is working. I do not believe that we need these involuntary methods at this time. I have in my hand the UPI story of yesterday where Mr. Simon said:

> The nation in the 3 weeks ending November 30th was able to cut its use of crude oil by 1.1 million barrels a day.

I say, this is a good track record for the American people. They understand this crisis and they are responding. We, as the representatives of the people, ought to give them a chance to respond further. By adopting the gentleman's amendment we will be doing exactly that by heading off gasoline rationing brought about by bureaucratic urging.

Mr. WYMAN. Mr. Chairman, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from New Hampshire.

Mr. WYMAN. Mr. Chairman, does not something also depend on what kind of rationing system they come up with? I know the rationing system in World War II just did not work at all. We do not want to have any black markets in this country in peacetime in gasoline supplies, and it is going to happen if they do not come up with the right kind of system which should be first approved by this Congress.

Mr. LATTA. Mr. Chairman, I could not agree more with the gentleman. I do not think we ought to turn this over to some bureaucrat or czar downtown without having an opportunity to vote on it.

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Texas.

Mr. KAZEN. Mr. Chairman, on the other hand, all that this Congress could do is either approve of or disapprove of the entire plan. If there was something in the plan we wanted to change, we could not do that under the procedure provided in this amendment, could we?

Mr. LATTA. Mr. Chairman, I welcome the opportunity to vote rationing down in toto at any time.

If I disagree with 90 percent of a rationing plan and agree with 10 percent of it, I will take the 90 percent and vote accordingly.

Mr. HEINZ. Mr. Chairman, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Pennsylvania.

Mr. HEINZ. Mr. Chairman, the way the bill is written, in section 103 we will not have anything to say about anything. The President or Administrator can promulgate a regulation and we will not be able to do a single thing about it except to go through the complete legislative process to reverse the rule making.

At least, with the amendment, we have a chance to say "No" to something that will not work or is a bad idea.

Mr. WYMAN. Mr. Chairman, will the gentleman yield further?

Mr. LATTA. I yield to the gentleman from New Hampshire.

Mr. WYMAN. Mr. Chairman, there is too much power being given to the Executive under this bill anyway. If we have the gentleman's amendment adopted, we can trade out with the executive branch, if we need to, in seeing that a kind of rationing system which is more advisable is fully implemented. Personally I hope this country undertakes a rationing system only as a last resort. It is bound to be a can of worms whatever may be proposed.

Mr. STAGGERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would again like to try to find out if we could not come to some agreement on the time. I think most Members know what the amendment is about and how they are going to vote on it. In any event, they can revise and extend their remarks.

Mr. Chairman, I ask unanimous consent that all debate on this amendment close in 5 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The CHAIRMAN. Members standing at the time the unanimous consent request was made will be recognized for three-quarters of a minute each.

The Chair recognizes the gentleman from West Virginia (Mr. HECHLER).

Mr. HECHLER of West Virginia. Mr. Chairman, as one who believes very strongly in rationing as a fair system of allocation of gasoline, I feel that this amendment is an unfortunate amendment. It does not mandate rationing; it delegates responsibility to the Administrator with the proviso that Congress can come in at the last minute to veto rationing. Also, the provisions of the bill as it now stands give far too much power to an Administrator like William Simon, who has publicly announced that rationing will only come as a last resort. Both Mr. Simon, the President, Secretary Shultz and other officials are on record against rationing. They feel that the consumer should be socked with higher taxes on gasoline and higher prices.

I feel very strongly that rationing is far preferable to the raising of the price of gasoline, which will bear the hardest on the average man and woman in this Nation. The rich can afford high gasoline prices, but the poor and middle class must reduce their expenditures for food, clothing, and medical care in order to get the essential gasoline they need to go to and from work. I feel it is very unfortunate that we are faced with this alternative, and I propose to vote against the amendment because I do not believe that this approach solves the problem which this committee faces. We ought to have the courage to mandate rationing by a vote in Congress, in order to protect the average working man and woman.

The CHAIRMAN. The Chair recognizes the gentleman from South Carolina (Mr. YOUNG).

(By unanimous consent, Mr. YOUNG of South Carolina yielded his time to Mr. KETCHUM.)

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. KETCHUM).

Mr. KETCHUM. Mr. Chairman, I rise in support of this amendment.

It is unfortunate that when we come to this point, we get the least amount of time for debate on what is perhaps the most important amendment of this bill.

I have heard for 3 days now the word "courage" on this floor, emanating from both sides of the aisle—Members saying that we must have courage.

If we do not vote for this amendment, it certainly is a demonstration on the part of this House that we lack the guts to make a determination and we are willing to relegate that to an Administrator who is not subject to any constituency.

I would remind the Members in this Chamber of the remarks made by the gentleman from Texas yesterday relative to the mandatory allocation program regarding the middle distillate program. I would suggest to any of the Members who have not had problems with that middle distillate program that someone picked a magic day on which to start and did not even have the forms so people could apply, that it would be in order to contact the members of the California delegation and the members of the Texas delegation to find out how their people are faring under an allocation program that some bureaucrat dreamed up.

Mr. Chairman, it seems to me that if we really are interested in an allocation program that is fair, we should vote for this amendment.

The CHAIRMAN. The Chair recognizes the gentleman from North Carolina (Mr. BROYHILL).

Mr. HEINZ. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL of North Carolina. I yield to the gentleman from Pennsylvania.

Mr. HEINZ. Mr. Chairman, I would just like to make one point in order to answer the gentleman from West Virginia (Mr. HECHLER).

I do not think the question that we are voting on is whether we are for or against rationing. The question we are voting on, in my view, is what kind of rationing we want to have.

Now, at the present time, the administration could devise a rationing system based on the number of people in a family, the number of automobiles in a family, the number of drivers' licenses in a family, or even on family income.

Mr. Chairman, I think the gentleman from West Virginia would like to have a chance to say "no" to some of those alternatives.

Mr. HECHLER of West Virginia. Mr. Chairman, in order for me to direct a question to the gentleman from Pennsylvania (Mr. Heinz), will the gentleman from North Carolina yield?

Mr. BROYHILL of North Carolina. I yield to the gentleman from West Virginia.

Mr. HECHLER of West Virginia. Mr. Chairman, does the gentleman from Pennsylvania really, honestly believe that, to protect the consumers of this Nation, Mr. Simon and the new Energy Administration will ever come to the point of recommending rationing?

Mr. HEINZ. Mr. Chairman, I would say this to the gentleman: There is nothing in my amendment that prohibits, restrains, or discourages Mr. Simon or the new Energy Administration from so doing.

Since my amendment does nothing to inhibit executive branch action on rationing, I do not understand the gentleman's objection.

The CHAIRMAN. The Chair recognizes the gentleman from West Virginia (Mr. Staggers) to close debate.

Mr. STAGGERS. Mr. Chairman, I simply wish to state that I oppose the amendment offered by the gentleman from Pennsylvania (Mr. Heinz).

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. Heinz) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The amendment to the amendment in the nature of a substitute was agreed to.

PREFERENTIAL MOTION OFFERED BY MR. GROSS

Mr. GROSS. Mr. Chairman, I offer a preferential motion.

Mr. SCHERLE. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

One hundred twelve Members are present, a quorum.

The Clerk will report the preferential motion.

The Clerk read as follows:

> Mr. Gross moves that the committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

Mr. GROSS. Mr. Chairman, on Wednesday, December 12, when the outrageous rule was before the House making this badly prepared bill in order, there was considerable discussion by the Members with respect to procedure for debate and other consideration.

Earlier this afternoon I sought to remind the gentleman from West Virginia (Mr. Staggers) of his assurances on that day with respect to the consideration of the bill.

I take this time before 6:30 deadline to read into the Record what was said on that day as recorded at page 11180 of the Congressional Record. Mr. Anderson of Illinois was in charge of the rule on the minority side. He yielded to Mr. Myers of Indiana who said:

> . . . has there been any agreement that there will not be any limitation of time thereby prohibiting Members from having the opportunity to discuss and thoroughly understand the bill and all amendments that will be offered?
>
> Mr. Anderson of Illinois. Mr. Speaker, the gentleman from Indiana raises an important question, and I would be glad to yield at this point to the distinguished chairman of the House Committee on Interstate and Foreign Commerce, the gentleman from West Virginia (Mr. Staggers) to give this House assurances that adequate time will be permitted to debate the bill and all amendments thereto.
>
> Mr. Staggers. Mr. Speaker, I thank the gentleman from Illinois for yielding to me. I must say that I cannot speak for all members of my committee, nor can I speak for all of the Members of this House, but I would say I would welcome—and I think there should be—complete and full discussion on all of the issues, and that I would try to proceed toward that end.

Yet the distinguished chairman of the House Committee on Interstate and Foreign Commerce only a few moments ago, when there were 65 amendments at the desk, voted to cut off all debate at 6:30 this evening.

I simply want the record to show what has taken place with respect to the outrageous consideration of this legislative monstrosity.

Mr. STAGGERS. Mr. Chairman, I move to strike the requisite number of words.

I would like to say to the gentleman from Iowa that the situation has certainly changed after 3 days.

I did not offer the motion that was accepted. It was offered on this side of the aisle. I thought the time had come when perhaps the House was getting tired of a lot of arguments going on and the time had come to vote on the bill.

The CHAIRMAN. The question is on the preferential motion offered by the gentleman from Iowa (Mr. Gross).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. ROUSSELOT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 56, noes 335, not voting 41, as follows:

[Roll No. 671]

AYES—56

Abzug
Armstrong
Bauman
Beard
Blackburn
Burleson, Tex.
Conlan
Conyers
Crane
Davis, S.C.
Dennis
Dorn
Duncan
Evins, Tenn.
Goldwater
Griffiths
Gross
Hanna
Harrington
Hechler, W. Va.
Holt
Howard
Hutchinson
Jarman
Johnson, Colo.
Jones, Okla.
Ketchum
King
Kuykendall
Landrum
Lott
Lujan
Mink
Moorhead, Calif.
Myers
Parris
Powell, Ohio
Price, Tex.
Rangel
Rarick
Rousselot
Ryan
Scherle
Shuster
Spence
Steelman
Steiger, Ariz.
Symms
Teague, Tex.
Towell, Nev.
Treen
Waggonner
Wolff
Young, Alaska
Young, Fla.
Young, S.C.

NOES—335

Abdnor
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Arends
Ashbrook
Ashley
Aspin
Badillo
Bafalis
Baker
Barrett
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blatnik
Boggs
Boland
Bowen
Brasco
Bray
Breckinridge
Brinkley
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton
Butler
Byron
Camp
Carey, N.Y.
Carney, Ohio
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Chisholm
Clancy
Clausen, Don H.
Cleveland
Cochran
Cohen
Collier
Collins, Ill.
Collins, Tex.
Conable
Conte
Corman
Cotter
Coughlin
Cronin
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Danielson
Davis, Ga.
Davis, Wis.
de la Garza
Delaney
Dellenback
Dellums
Denholm
Derwinski
Devine
Dickinson
Dingell
Donohue
Downing
Drinan
Dulski
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Esch
Eshleman
Evans, Colo.
Fascell
Findley
Fish
Fisher
Flood
Flowers
Flynt
Foley
Ford, William D.
Forsythe
Fountain
Fraser
Frelinghuysen
Frenzel
Frey
Froehlich
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Gilman
Ginn
Gonzalez
Goodling
Grasso
Green, Oreg.
Green, Pa.
Grover
Gude
Gunter
Guyer
Haley
Hamilton
Hammerschmidt
Hanley
Hanrahan
Hansen, Idaho
Hansen, Wash.
Harvey
Hastings
Hawkins
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks
Hillis
Hinshaw
Hogan
Holifield
Holtzman
Horton
Hosmer
Huber
Hudnut
Hungate
Johnson, Pa.
Jones, N.C.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Kemp
Kluczynski
Koch
Kyros
Landgrebe
Latta
Leggett
Lehman
Lent
Litton
Long, La.
Long, Md.
McClory
McCloskey
McCollister
McCormack
McDade
McEwen
McFall
McKay
McKinney
McSpadden
Macdonald
Madden
Madigan
Mahon
Mailliard
Mallary
Mann
Maraziti
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mayne
Mazzoli
Meeds
Mezvinsky
Michel
Milford
Miller
Minish
Minshall, Ohio
Mitchell, Md.
Mitchell, N.Y.
Mizell
Moakley
Mollohan
Montgomery
Moorhead, Pa.
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Natcher
Nedzi
Nelsen
Nichols
Nix
Obey
O'Brien
O'Hara
O'Neill
Owens
Passman
Patman
Patten
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Podell
Preyer
Price, Ill.
Pritchard
Quie
Quillen
Railsback
Randall
Rees
Regula
Reuss
Rhodes
Rinaldo
Roberts
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Roncalio, Wyo.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Roy
Roybal
Ruppe
Ruth
St Germain
Sarasin
Sarbanes
Satterfield
Schneebeli
Schroeder
Sebelius
Seiberling
Shipley
Shoup
Shriver
Sikes
Sisk

Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Snyder
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steiger, Wis.
Stephens
Stratton
Stubblefield
Stuckey
Studds
Symington
Talcott
Taylor, N.C.
Teague, Calif.
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Tiernan
Ullman
Van Deerlin
Vander Jagt
Vanik
Vigorito
Waldie
Wampler
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Winn
Wright
Wydler
Wylie
Wyman
Yates
Yatron
Young, Ga.
Young, Ill.
Young, Tex.
Zablocki
Zion
Zwach

NOT VOTING—41

Bell
Bolling
Brademas
Breaux
Burke, Calif.
Clark
Clawson, Del
Clay
Dent
Diggs
Erlenborn
Gray
Gubser
Harsha
Hays
Hébert
Hunt
Ichord
Johnson, Calif.
Jones, Ala.
Keating
Melcher
Metcalfe
Mills, Ark.
Morgan
Reid
Riegle
Roncallo, N.Y.
Rooney, N.Y.
Runnels
Sandman
Steele
Stokes
Sullivan
Taylor, Mo.
Udall
Veysey
Walsh
Ware
Whalen
Wyatt

So the preferential motion was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. ANDERSON OF CALIFORNIA TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. ANDERSON of California. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The Clerk read as follows:

Amendment offered by Mr. ANDERSON of California to the amendment in the nature of a substitute offered by Mr. STAGGERS: On page 31, line 21, strike out the period and insert the following: ", *Provided*, That the aggregate number of fuel inefficient passenger motor vehicles purchased by all executive agencies in fiscal year 1975 may not exceed 30 per centum of the aggregate number of passenger motor vehicles purchased by all executive agencies in such year; and the aggregate number of fuel inefficient passenger motor vehicles purchased by all executive agencies in fiscal year 1976 may not exceed 10 per centum of the aggregate number of passenger motor vehicles purchased by all executive agencies in such year. For purposes of this subsection, the term 'fuel inefficient passenger motor vehicle' for fiscal year 1975 means an automobile which does not achieve at least seventeen miles per gallon as certified by the Department of Transportation; for fiscal year 1976, and thereafter, the term 'fuel inefficient passenger motor vehicle' means an automobile which does not achieve at least twenty miles per gallon, as certified by the Department of Transportation."

Mr. BROYHILL of North Carolina. Mr. Chairman, I reserve a point of order on this amendment.

Mr. ANDERSON of California. Mr. Chairman, I am offering an amendment which would require that the executive agencies of the Federal Government purchase small automobiles rather than the gas-guzzling, heavyweight automobiles that it now purchases. Specifically, my amendment would require that the aggregate number of fuel inefficient automobiles purchased by all executive agencies in fiscal year 1975 may not exceed 30 percent of all automobiles purchased, and in fiscal year 1976, the number could not exceed 10 percent of cars purchased.

What my amendment proposes to do is quite simply to require that our Federal Government set a good example by replacing its worn-out automobiles with economy models.

Naturally I do not need to point out to this body the vital necessity of conserving our Nation's supply of gasoline wherever possible. Nor is it necessary to remind ourselves that much of the pinch of the gasoline shortage is being felt by the average American taxpayer.

However, what may be helpful is to point out one area in which our Federal Government is gluttonously gulping down this precious fuel.

While the Federal Government owns 89,038 sedans or station wagons, it is shocking to me that up to a couple of months ago the Federal Government did not own even one domestic economy-model motor vehicle in its fleet of motor vehicles.

Recently, the Federal Government did contract to purchase 4,518 new compact cars. However, this represents only 22 percent of the new automobiles it will purchase this year. While this is a step in the right direction, it is far too small to have any significant impact on this energy crisis. The Federal Government annually replaces 19,829 sedans. I urge that you join with me today in supporting this amendment to require that 70 percent of the future Federal agency sedans be economy models.

If the cars owned by the Federal Government increased gasoline mileage to an average of 20 miles per gallon—a 33-percent increase—then we would save nearly 12.5 million gallons annually. This alone would be enough to heat all American households for 1 day.

Mr. KUYKENDALL. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of California. I yield.

Mr. KUYKENDALL. Mr. Chairman, will the gentleman be so kind as to furnish for the RECORD a list of any and all American made automobiles of any size that will get 20 miles to the gallon?

Mr. ANDERSON of California. Mr. Chairman, yes, I would be pleased to. We drive one in California, the Pinto, that gets 24 miles. The Pinto, the Vega, the Gremlin; there are several, but the gentleman says 20 miles per gallon; my amendment says 17 miles for fiscal year 1975, which is a half a year from now, and 20 miles per gallon for fiscal year 1976.

Mr. KUYKENDALL. Will the gentleman be willing to accept an amendment to his amendment requiring that these be American made automobiles?

Mr. ANDERSON of California. Yes, that is my intent.

Mr. CARNEY of Ohio. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of California. I yield to the gentleman from Ohio.

Mr. CARNEY of Ohio. Mr. Chairman, I would like to tell the gentleman that in mileage tests of the GM Vega, which is made in my district, the Vega equipped with a gear shift, a standard gear shift, gave 24 miles per gallon, and those with automatics gave 20 miles per gallon.

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of California. I yield to the gentleman from New York.

Mr. STRATTON. Mr. Chairman, does the gentleman refer in his amendment to compact station wagons?

Mr. ANDERSON of California. Mr. Chairman, at the suggestion of counsel in drawing the amendment, it is a fuel efficient passenger motor vehicle we are talking about. It means an automobile designed to carry five or less passengers.

Mr. STRATTON. The gentleman referred to compact station wagons. There are compacts made to look like station wagons, but if a person really needs a station wagon, he is not going to be able to get it in that size.

Mr. ANDERSON of California. In the amendment, we are referring to passenger motor vehicles.

Mr. STRATTON. Mr. Chairman, I would support that part of the amendment.

Mr. MILLER. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of California. I yield to the gentleman from Ohio.

Mr. MILLER. Mr. Chairman, does this include automobiles for the legislative and judicial branches as well as the administrative branch?

Mr. ANDERSON of California. No, this amendment is directed to the executive agencies.

Mr. MILLER. The gentleman is exempting the legislative and judicial branches?

Mr. ANDERSON of California. I am just extending the provisions of the present bill. It is the executive branch that buys the most automobiles. They have a fleet of 89,000 automobiles. I was shocked when I found that at one time none of them, up until a couple of months ago, were what we would call an economy-type car.

Mr. O'HARA. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of California. Mr. Chairman, I yield to the gentleman from Michigan.

Mr. O'HARA. Mr. Chairman, I hope the gentleman will make legislative history that nothing in his amendment would prevent the executive branch from making greater use of, let us say, 9- and 12-passenger vans and station wagons which might be more economical of gasoline consumption for the number of passengers.

POINT OF ORDER

The CHAIRMAN. The gentleman from North Carolina (Mr. BROYHILL) has reserved a point of order against the amendment.

Does the gentleman desire to insist upon his point of order?

Mr. BROYHILL of North Carolina. I do, Mr. Chairman.

Mr. Chairman, I make a point of order against this amendment, inasmuch as it deals with the specifications of certain equipment on American-made automobiles, and it is not under the jurisdiction of this committee, nor under the jurisdiction of any committee of the House.

The CHAIRMAN. Does the gentleman from California (Mr. Anderson) desire to be heard on the point of order?

Mr. ANDERSON of California. I do, Mr. Chairman.

Mr. Chairman, I would just like to read a portion of the present bill. All we are doing is extending the provisions of the bill.

The present bill provides as follows:

> As an example to the rest of our Nation's automobile users, the President of the United States shall take such action as is necessary to require all agencies of government, where practical, to use economy model motor vehicles.

Mr. Chairman, we are simply amending and extending the same provision.

The CHAIRMAN (Mr. Bolling). The Chair is prepared to rule.

The Chair points out that taken as an isolated point, the argument made by the gentleman from North Carolina (Mr. Broyhill) might have some validity, but the answer made by the gentleman from California (Mr. Anderson) is in direct response to the point. The subject is in the bill.

The Chair, therefore, overrules the point of order.

Mr. BROYHILL of North Carolina. Mr. Chairman, I rise in opposition to the amendment.

Frankly, I have been studying this amendment, and I really do not know what the force and effect of this amendment is.

We have no idea whether the automobiles referred to will be available in this country, whether they will be purchased as American automobiles or whether they will have to be foreign automobiles.

This is an amendment which says that the Federal Government has to purchase certain percentages of automobiles that apparently achieve certain mileages per gallon as certified by the Department of Transportation.

We already have in the bill language that says that the President shall initiate programs of purchasing automobiles for the Federal Government, where necessary, "to require all agencies of Government, where practical, to use economy model motor vehicles."

In my opinion, this amendment is probably restrictive and perhaps may not even be able to be achieved, under normal circumstances.

Mr. Chairman, I urge that the amendment be rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Anderson) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. ANDERSON of California. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 299, noes 89, answered "present" 1, not voting 43, as follows:

[Roll No. 672]

AYES—299

Abdnor
Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashley
Aspin
Badillo
Bafalis
Baker
Bauman
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blatnik
Boggs
Boland
Bowen
Brademas
Brasco
Bray
Breckinridge
Brinkley
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton
Byron
Carey, N.Y.
Carney, Ohio
Casey, Tex.
Chisholm
Clancy
Clausen, Don H.
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conlan
Conte
Cotter
Coughlin
Crane
Cronin
Culver
Daniels, Dominick V.
Danielson
Davis, Ga.
Davis, S.C.
de la Garza
Delaney
Dellenback
Dellums
Denholm
Donohue
Dorn
Downing
Drinan
Dulski
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Eshleman
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Fisher
Flood
Flowers
Flynt
Fountain
Fraser
Frenzel
Frey
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Grasso
Green, Oreg.
Green, Pa.
Grover
Gude
Gunter
Guyer
Haley
Hamilton
Hanley
Hanna
Hanrahan
Harrington
Hawkins
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks
Hillis
Hinshaw
Hogan
Holifield
Holt
Holtzman
Horton
Howard
Hudnut
Hungate
Jarman
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Kemp
Ketchum
King
Kluczynski
Koch
Kyros
Landrum
Latta
Leggett
Lehman
Lent
Litton
Long, La.
Long, Md.
Lott
Lujan
McCloskey
McCollister
McCormack
McDade
McKay
McKinney
McSpadden
Madden
Madigan
Mahon
Mailliard
Mann
Maraziti
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Mazzoli
Meeds
Mezvinsky
Milford
Miller
Minish
Mink
Minshall, Ohio
Mitchell, Md.
Mitchell, N.Y.
Mizell
Moakley
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Mosher
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nelsen
Nichols
Obey
O'Brien
O'Neill
Owens
Patman
Patten
Pepper
Perkins
Pettis
Pike
Poage
Podell
Powell, Ohio
Preyer
Price, Ill.
Pritchard
Quie
Railsback
Randall
Rangel
Rarick
Rees
Regula
Reuss
Rinaldo
Roberts
Robison, N.Y.
Rodino
Roe
Rogers
Roncalio, Wyo.
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roy
Roybal
Ruth
Ryan
St Germain
Sarasin
Sarbanes
Scherle
Schroeder
Seiberling
Shipley
Shoup
Shuster
Sisk
Slack
Smith, Iowa
Smith, N.Y.
Snyder
Stanton, James V.
Stark
Steelman
Stephens
Stratton
Stubblefield
Stuckey
Studds
Symington
Symms
Talcott
Taylor, N.C.
Teague, Calif.
Thompson, N.J.
Thone
Thornton
Towell, Nev.
Treen
Ullman
Van Deerlin
Vander Jagt
Vanik
Vigorito
Waldie
White
Whitehurst
Whitten
Widnall
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Winn
Wolff
Wright
Wyman
Yates
Yatron
Young, Ga.
Young, Ill.
Young, Tex.
Zablocki
Zion
Zwach

NOES—89

Arends
Ashbrook
Barrett
Blackburn
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Burleson, Tex.
Butler
Camp
Carter
Cederberg
Chamberlain
Chappell
Collier
Conable
Daniel, Dan
Daniel, Robert W., Jr.
Davis, Wis.
Dennis
Derwinski
Devine
Dickinson
Dingell
Duncan
Esch
Foley
Ford, William D.
Forsythe
Frelinghuysen
Froehlich
Goodling
Griffiths
Gross
Hammerschmidt
Hansen, Idaho
Hansen, Wash.
Harvey
Hastings
Hosmer
Huber
Hutchinson
Kuykendall
Landgrebe
McClory
McEwen
McFall
Macdonald
Mallary
Martin, Nebr.
Matsunaga
Mayne
Michel
Mollohan
Moss
Nedzi
O'Hara
Parris
Passman
Peyser
Pickle
Price, Tex.
Quillen
Rhodes
Robinson, Va.
Rooney, Pa.
Ruppe
Satterfield
Schneebeli
Sebelius
Shriver
Sikes
Skubitz
Spence
Staggers
Stanton, J. William
Steed
Steiger, Ariz.
Steiger, Wis.
Thomson, Wis.
Tiernan
Waggonner
Wampler
Wiggins
Wydler
Wylie
Young, Alaska
Young, Fla.
Young, S.C.

ANSWERED "PRESENT"—1

Beard

NOT VOTING—43

Bell
Bolling
Breaux
Burke, Calif.
Clark
Clawson, Del
Clay
Conyers
Corman
Dent
Diggs
Erlenborn
Gray
Gubser
Harsha
Hays
Hébert
Hunt
Ichord
Johnson, Calif.
Keating
Melcher
Metcalfe
Mills, Ark.
Morgan
Nix
Reid
Riegle
Roncallo, N.Y.
Rooney, N.Y.
Runnels
Sandman
Steele
Stokes
Sullivan
Taylor, Mo.
Teague, Tex.
Udall
Veysey
Walsh
Ware
Whalen
Wyatt

So the amendment to the amendment in the nature of a substitute was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Chair understood the committee was going to allow a noncommittee member on this side, the gentleman from Texas, to offer his amendment. The Chair would like to recognize the gentleman from Texas (Mr. Price).

AMENDMENT OFFERED BY MR. PRICE OF TEXAS TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. PRICE of Texas. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

> Amendment offered by Mr. Price of Texas to the amendment in the nature of a substitute offered by Mr. Staggers:
>
> Page 37, line 5 is amended to read as follows:
>
> Sec. 118. Deregulation of the Price of Natural Gas and Importation of Liquefied Natural Gas.
>
> Page 37, line 6, insert "(a) before "The Emergency".
>
> Page 37, after line 18, insert the following new subsection:
>
> "(b) (1) Section 2(6) of the Natural Gas Act is amended by inserting before the period at the end thereof the following: ", except that such term does not include a person engaged in the production or gathering and sale of natural gas whether or not such person is affiliated with any person engaged in the transmission of natural gas to consumer markets or the distribution of natural gas to the ultimate consumer".

(2) Section 4(a) is amended by inserting before the period at the end thereof the following: ": Provided, however, That the Commission shall have no power to deny, in whole or in part, that portion of the rates and charges made, demanded, or received by any natural-gas company for or in connection with the purchase of natural gas from a person exempt under section 2(6)".

(3) Section 5(a) is amended by inserting before the period at the end thereof the following:

": *Provided further, however,* that the Commission shall have no power to deny, in whole or in part, that portion of the rates and charges made, demanded, or received by any natural-gas company for or in connection with the purchase of natural gas from a person exempt under section 2(6)".

Page 2, the item in the table of contents dealing with Sec. 118 is amended to read as follows:

SEC. 118. DEREGULATION OF THE PRICE OF NATURAL GAS AND IMPORTATION OF LIQUIFIED NATURAL GAS.

Mr. STAGGERS. Mr. Chairman, I reserve a point of order against the amendment.

I will reserve it until the gentleman makes his statement.

Mr. PRICE of Texas. Mr. Chairman, I thank the chairman of the committee for reserving his point of order and I want to compliment him and the members of his committee for their untiring efforts in behalf of this bill. I do not want to be obstinate in my persistence in trying to put my amendment in here, but the time has already passed for the Congress and the United States to face up to its responsibility to assure an adequate supply of natural gas for the consumers of the United States.

Before I continue with my remarks, in case I am shut off by the 5-minute rule, I want to say that the current average price of natural gas under regulation at the wellhead in the United States is about 0.20 cents per mcf. We are importing liquefied natural gas into this country at a cost of $1.30. I want to repeat that. The current average price of natural gas under regulation at the wellhead in this country is about 0.20 cents per mcf and it is regulated by the Federal Power Commission in this country. That gas is there. If the Members want to put it in the gas tanks of this country it is there.

This regulation was passed in 1938 and by court order in 1954 was sustained. We are importing liquefied gas for the homes of our customers at $1.30 and I suggest the Members try to go home and explain this. The gas is here if we want to give it to our people.

Mr. Chairman, natural gas, the cleanest burning, cheapest fuel we have in this country has been discriminated against by repressive legislation. Our other primary fuels—coal and oil—are regulated by the laws of supply and demand, subject only to national security considerations. Gas is regulated by the Congress through delegation to the Federal Power Commission.

In the last 4 years, the FPC has recognized the repressive nature of the decisions of the 1960's, which resulted in lower and lower prices at the wellhead until exploration and development of new reserves was dangerously discouraged—discouraged not only by the prices set, but, more important, discouraged by the absolute uncertainty that faces a person who sells gas in interstate commerce. In only three areas of the country—Permean and Hugoton-Anadarko, and Appalachian, Ill., does that person know how much of his contract price he can keep, and, even then, the FPC can lower his price for the future. In the other areas of the country—vital areas of production like southern Louisiana, including the Federal domain, Texas gulf coast, other Southwest, and Rocky Mountain, the producer has no assurance as to what price he is selling his gas, because the FPC or the courts can order refunds of past moneys collected and reduce the price for the future. FPC rate cases sometimes take 12 years to process—and the clock is still running on court review. How Congress, with its plenary power over interstate commerce, can permit a system which requires a person to deliver a commodity without knowing what he will be paid for delivering it for years and years which have come and gone and which are yet to come, is a mystery, and is probably the result of the lack of a crisis. We have a crisis now, as many of us have predicted, which commands the attention of the Congress. More than a dozen major interstate natural gas pipelines are curtailing service to consumers this winter.

Curtailing service is a nice way of saying that consumers are being cut off from gas supplies because there is not enough gas to meet current requirements, much less to add new customers. As factories and schools are closed down, as crops are rotting for lack of process gas, as homeowners are being turned away from coast to coast, we, the Congress, cannot stand idly by and say that the policies of the Natural Gas Act, adopted in 1938 and first applied judicially to producers in 1954, are adequate. Congress must recognize its own failures and those of its chosen instrument, the FPC, and remove the cloud over the sale of natural gas in interstate commerce. Earlier this year, I introduced legislation, H.R. 3299, that would take the FPC out of the business of regulating the sale of natural gas in interstate commerce—directly, or as Federal agencies sometimes do, indirectly. Market forces would control the sale of gas by producers—both independent producers and affiliates of pipelines who, in desperation, are competing for leases so new supplies can be attached for use by consumers. For gas now being sold in interstate commerce the existing contracts could, for the first time, be honored as the parties negotiated them in the first place, but which have been overridden by the FPC. Gas sold in the future would be regulated by the contracts not by the FPC's judgment as to what a contract should contain. Thus, the disincentives of regulation would be removed, and there would be no regulatory impediment to exploration and development of reserves. The consumer would benefit in expanded gas supplies from assured domestic sources and at a price far cheaper than the exotic alternatives of freezing gas in Algeria or Russia and transporting it by tanker to our shores at a cost of $1.30 an mcf up as compared to the current average price under regulation of about 0.20 per mcf. The FPC has already approved a base load project of Algerian LNG for our east coast, and that is not all. Also at a cost of $1.30 an mcf and up, pipelines are turning to manufacturing synthetic gas from naphtha and natural gas liquids, thereby threatening to increase the shortages of vital feedstocks for manufacturing. How the FPC can hold the wellhead price on an area rate basis to 26 cents in south Louisiana and, at the same time permit gas to be sold at $1.30 an mcf from a plant is explained by the way the Natural Gas Act has been construed, but the result is intolerable to the American consumer. I urge the Congress to join me in enacting this amendment which will do no more than allow natural gas to compete on equal terms with oil and coal in the interstate market. By turning our free enterprise system loose, private industry will solve this problem quicker than all of the Government regulations we can pass into legislation.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. PRICE of Texas. I yield to the gentleman from New York.

Mr. KEMP. Mr. Chairman, I appreciate the gentleman yielding.

I rise in support of the gentleman's amendment. I have addressed this Chamber on several occasions during the past weeks and days on what I believe to be a matter of crucial importance in the effective resolution of the energy crisis—the need for substantial increases in production through which would then come the necessary increase in supplies of fuels.

Instead of trying to live with inadequate resources, I think a more appropriate course of action for the Nation, and the Congress which represents its people, would be an increase in supplies with which to meet reasonable demands. The answer is production, not allocation or rationing. And increases in production—marked increases—are possible, if we remove disincentives to production.

Such disincentives as artificial pricing schemes, which have discouraged additional explorations, recoveries, processing, and marketing; as tax policies which make it more advantageous to live with existing quantities, rather than risking losses with new wells which do not produce; as tax policies which leave the investor with inadequate capital with which to reinvest in additional explorations; as price controls which do not permit sufficient returns on investments with which to buy new mineral rights or equipment—all of these things, in varying degrees, have discouraged production.

Natural gas is one of the principal fuel sources of the Nation. It ought to have been put in greater usage during the past several years, but Government policies discouraged the increase in it. Only when the principles embodied in the

Natural Gas Supply Act, which I support, are enacted—through which prices will be allowed to attain a more natural market level, by the free play of supply and demand—will there be, once again, sufficient return on investments for companies to again explore, drill, recover, and sell natural gas adequate to meet the Nation's needs. To increase production alone, deregulation of natural gas should be supported.

Mr. PRICE of Texas. Mr. Chairman, in further reference to some of the remarks on profits made by the major companies, primarily the companies are owned by the stockholders. The consumers in the country are the ones paying the taxes in these oil companies.

The investors own 90 percent to 100 percent of the stock in these major companies.

I would also like to point out the fact that 80 percent of the wells drilled in this country are by independent producers, not the major companies of this country.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from West Virginia press his point of order?

Mr. STAGGERS. Yes, I do, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. STAGGERS. The amendment in the nature of a substitute does not contain provisions governing price regulation of natural gas. The gentleman's amendment proposes a direct amendment to provisions of the Natural Gas Act.

It is, therefore, not germane and out of order, because this pricing authority is assigned to the Federal Power Commission under that act and we do not deal with it in any way in our bill.

Mr. PRICE of Texas. Mr. Chairman, in the report on page 5, section 106, coal conversion and allocation, it deals with the provision that is a primary energy source:

> The burning of natural gas or petroleum products by any major fuel-burning installation (including any existing electric powerplant) which, on the date of enactment of this Act, has the capability and necessary plant equipment to burn coal. Any installation to which such an order applies shall be permitted to continue to use coal as provided in subsection (b) of this section until January 1, 1980. To the extent coal supplies are limited to less than the aggregate amount of coal supplies which may be necessary to satisfy the requirements of those installations which can be expected to use coal (including installations to which orders may apply under this subsection), the Administrator shall prohibit the use of natural gas and petroleum products for those installations where the use of coal will have the least adverse environmental impact. A prohibition on use of natural gas and petroleum products under this subsection shall be contingent upon the availability of coal.

It is further mentioned in section 118, importation of liquefied natural gas. Section 9 says:

> Sec. 9. Notwithstanding the provisions of section 3 of the Natural Gas Act (or any other provisions of law) the President may by order, on a finding that such action would be consistent to the public interest, authorize on a shipment-by-shipment basis the importation of liquified natural gas from a foreign country: *Provided, however,* That the authority to act under this section shall not permit the importation of liquified natural gas which had not been authorized prior to the date of expiration of this Act and which is in transit on such date.

Mr. MACDONALD. Mr. Chairman, I desire to be heard on the point of order.

Mr. Chairman, I would like to point out to the gentleman that most of what he said is true. It is unfortunate that the cost of liquefied natural gas has reached the heights it has.

If the gentleman understands the business, and I am sure he probably does, he also knows that this is the fault of the natural gas people themselves. They have capped wells throughout the southwest. They have capped them in Louisiana; they have capped them in Arizona; they have capped them in many places here in the United States. When they came and asked to have new gas deregulated——

The CHAIRMAN. The gentleman will proceed in order.

Mr. MACDONALD. Mr. Chairman, will the Chairman translate that for me?

The CHAIRMAN. Is the gentleman addressing himself to the point of order?

Mr. MACDONALD. Yes. In addition, I will say that in addition to the arguments I was about to give, it has nothing to do with the bill that is before us today. It may be before us in another bill at another time. It does not belong before this bill, and I urge that the Chair rule that this amendment is out of order.

Mr. DINGELL. Mr. Chairman, I wish to be heard on the point of order, very briefly.

Mr. Chairman, the requirements of the rule of germaneness are that the amendment be germane, first to the bill and second to the language of the section to which it is offered.

There is nothing in the bill dealing with deregulation of natural gas. Therefore, the amendment fails with regard to that point. Second, there is nothing in the section to which the amendment alludes which deals with deregulation of natural gas.

The amendment purports to amend section 118 and it changes the title, deregulation of the price of natural gas and importation of liquefied natural gas. The section to which it alludes, section 118, is a section relating to the importation of natural gas.

By no distortion of the rules of the House or common logic or the English language may it be construed that deregulation of natural gas and importation are one and the same thing, or indeed are even germane to each other.

For those two reasons, Mr. Chairman, the amendment fails to be violative of the rule of germaneness.

Mr. PICKLE. Mr. Chairman, I wish to be heard on the point of order.

Mr. Chairman, I ask at this time, before the ruling is made by the Chair, to state first that I hope that the amendment would be considered as germane because this vital supply of energy is needed.

This question did come before the committee, and the chairman of the committee during our discussion ruled that natural gas was not a part of this bill, and it is not included in the definition. But, I take this time to ask the chairman, assuming the Chair were to rule that it was not germane, when the chairman would expect to take up this subject about the deregulation of natural gas.

The CHAIRMAN. The gentleman is not speaking to the point of order.

Does the gentleman from Texas (Mr. Price) desire to be heard further?

Mr. PRICE of Texas. I do, Mr. Chairman, for just a moment.

In response to the gentleman's statement a minute ago, I would like to say that in section 118 it says as follows:

> The President may by order, on a finding that such action would be consistent to the public interest * * *

Mr. Chairman, I say to the Members that I think the price of gas at the wellhead of 23 cents versus the importation of gas to our consumers at $1.63 is certainly in the interest of the American consumer.

Mr. KEMP. Mr. Chairman, may I be heard on the point of order?

The CHAIRMAN. The Chair will be glad to hear the gentleman from New York (Mr. Kemp) on the point of order.

Mr. KEMP. I thank the Chairman.

Mr. Chairman, the title of the bill is as follows:

> To assure * * * that the essential energy needs of the United States are met * * *

I would suggest and submit that that certainly makes this amendment in order, as well as the section the gentleman in the well has alluded to in his remarks.

The CHAIRMAN. The Chair is ready to rule.

For the reasons essentially given by the gentleman from Michigan, which the Chair will repeat at least in part, very briefly, the amendment is not germane.

Those reasons are that the amendment which the committee is considering does not amend the Natural Gas Act. It should also be noted that the section deals with a single subject, and under the germaness rule an individual proposition is not germane to another individual proposition.

Therefore, the Chair sustains the point of order.

AMENDMENT OFFERED BY MR. ROY TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. ROY. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

> Amendment offered by Mr. Roy to the amendment in the nature of a substitute offered by Mr. Staggers: Page 36, line 23, strike out the quotation marks.
>
> Page 36, insert after line 23 the following:
>
> "(9) (A) This subsection shall not apply to the first sale of crude oil or petroleum condensates produced from any lease within the

United States by a seller (i) who produced such oil or condensate, (ii) who (together with all persons who control, are controlled by or who are under common control with, such seller), produces in the aggregate less than 25,000 barrels per day of crude oil and petroleum condensates, averaged annually, and (iii) who is not a refiner or marketer or distributor of refined petroleum products (or a person who controls, is controlled by, or is under common control with such a refiner, marketer, or distributor).

"(B) For purposes of subparagraph (A)—

"(i) a person produces crude oil or petroleum condensates only if he has an interest in the production thereof which permits him to take his production (or share thereof) in kind, and

"(ii) the term 'control' means control by ownership."

Mr. ROY. Mr. Chairman, I offer this amendment in cooperation with the gentleman from Kansas (Mr. SKUBITZ) who is from my own State, and I wish to express the concern of the gentleman and of myself, as well as that of other Members, that we protect the independent oil producer.

Mr. Chairman, the intent of section 117, restrictions on windfall profits, is in my opinion to address our concern about the windfall profits of the major oil companies, those companies that are vertically integrated and most of which also have substantial foreign operations.

This section was not intended to and should not be allowed to reverse what we have seen recently as the encouraging trend toward dramatic increases in drilling and exploratory efforts here in the United States.

Mr. STAGGERS. Mr. Chairman, will the gentleman yield?

Mr. ROY. Yes, I yield to the distinguished chairman of the committee.

Mr. STAGGERS. Mr. Chairman, I have been reading the amendment.

I would be inclined to accept the amendment on this side.

Mr. ROY. Mr. Chairman, in spite of an overall decline in exploratory wells drilled in the past decade, the independents were still responsible for over 70 percent of these wells. Based on this fact and this accomplishment, and realizing that the independent explorer-producer concentrates overwhelmingly on domestic exploration, we can rely on the historical inclination of these independents to return their profits to more exploratory efforts in the United States.

The small businessmen in American oil exploration and production have faced the giant, vertically integrated major oil companies, and in spite of severe competitive economic disadvantage and a disproportionately small voice at the highest levels of government, the independent oil-explorer-producer has nevertheless drilled more exploratory wells and found more onshore domestic crude and reserves than their disproportionately advantaged major competitors.

I construe my responsibility to protect the small businessman to include a concern for the small businessman who is drilling for and finding the American oil reserves we so urgently need.

If we are truly concerned about the potential negative impact of overcontrol of the petroleum industry by a handful of super-sized giants, we must encourage the independent sector of the petroleum industry which by its very existence maintains the spark of competition in domestic exploration.

Lastly, we must be on our guard that we do not place time period contraints on the independent sector of the oil business—contraints which tie the discovery of reserves to a period of time in which unfavorable economics resulted in inadequate reserves being discovered in the United States. That is clearly the opposite of what we must do to increase our supplies.

Therefore, Mr. Speaker, I offer the independent oil producer this amendment to section 117. This would protect the small businessman, retain an economic incentive to encourage the discovery of new domestic reserves, but would not alter the principal intent of section 117 of this bill which is to prevent the gouging of the public by the major, refining and marketing oriented companies.

Mr. ECKHARDT. Will the gentleman yield?

Mr. ROY. I yield to the gentleman.

Mr. ECKHARDT. I would merely say to the gentleman that if we can exclude all those in the coal industry, then certainly we should be able to exclude the smaller elements in the oil industry.

Mr. ROY. The gentleman is correct. This is the equivalent of the coal amendment which we adopted yesterday.

Mr. JONES of Oklahoma. Will the gentleman yield?

Mr. ROY. I yield to the gentleman.

Mr. JONES of Oklahoma. I wish to commend the gentleman on this much-needed amendment and state that I intend to support it.

Mr. MONTGOMERY. Will the gentleman yield?

Mr. ROY. I yield to the gentleman.

Mr. MONTGOMERY. I also rise in support of the amendment.

Mr. BROYHILL of North Carolina. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to ask if the gentleman from Kansas would answer some questions?

Yesterday I tried to strike this whole section from the bill on the grounds that, first it was a completely unworkable arrangement and, second, that it attempted to do too much and included all of the oil dealers, jobbers, gasoline dealers, all across the country.

I am not sure what this amendment really does. As I understand what the gentleman is trying to do, it is to exempt certain persons from the effect of the windfall profits section. What I would like to ask the gentleman is who will be exempted from the provisions of section 117, the so-called windfall profits section?

As I understand what the amendment says, it is, it will not apply to the first sale of crude oil or petroleum condensates produced from any lease within the United States.

What does that mean? Does this mean that the oil jobber in my district and the gentleman's district, are they going to be included in this section?

Mr. ROY. Mr. Chairman, if the gentleman will yield, there are two conditions: that the individual produces crude oil in the amount of less than 25,000 barrels a day, and the second condition is that he is not also a refiner and marketer, that is virtually integrated.

Mr. BROYHILL of North Carolina. The gentleman is saying that a person who is not a refiner and if he is not a marketer that he is subject to the provisions of this section? I am not clear on what the gentleman means.

Mr. ROY. I will repeat that there are two conditions for a crude oil producer to be exempted. The first condition is that he produce less than 25,000 barrels a day. And I might add that that is the historical division between large producers and small producers.

Mr. BROYHILL of North Carolina. Those under 25,000 barrels a day would be permitted the windfall profit?

Mr. ROY. They are exempted from section 117.

Mr. BROYHILL of North Carolina. What about the oil jobber and distributor who are distributing gasoline and petroleum products in the gentleman's district, and in my district?

Mr. ROY. This amendment does not exempt them.

Mr. BROYHILL of North Carolina. It does not exempt them?

Mr. ROY. That is correct.

Mr. PRICE of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Kansas (Mr. ROY).

I would like to say to those who are opposed to this amendment that these are the objections that caused, as I spoke about it a while ago, the 20 cents being paid at the wellhead for gas in this country.

If you would rather pay $1.30 for liquefied gas out of Algeria and Russia, then I would say we ought to turn this amendment down. But I say to the Members of this body that 80 percent of the wells drilled in this country are by the people whom the gentleman from Kansas (Mr. ROY) in his amendment is trying to protect so as to produce the energy that we need.

It seems every time we turn around we are trying to stifle the people that are trying to help us get the energy that we need.

So, Mr. Chairman, I urge this body to support the amendment offered by the gentleman from Kansas (Mr. ROY).

Mr. SKUBITZ. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the amendment. I had prepared another amendment because I felt the provisions of the windfall proviso would eliminate the stripper well operators of this country. This amendment is somewhat broader than the amendment I intended to offer and I support it.

Mr. BROYHILL of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. SKUBITZ. I yield to the gentleman from North Carolina.

Mr. BROYHILL of North Carolina. I thank the gentleman. I can understand that the gentleman from Kansas is trying, perhaps, to amend this section in some way. I think that it ought to be stricken altogether and rewritten completely. I do not think that this amendment really does the job, and I would ask that it be voted down.

Mr. PICKLE. Mr. Chairman, will the gentleman yield?

Mr. SKUBITZ. I yield to the gentleman from Texas.

Mr. PICKLE. I thank the gentleman. I want to rise in support of the gentleman's amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kansas (Mr. Roy) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. ROY. Mr. Chairman, I demand a recorded vote.

Mr. Chairman, I ask unanimous consent to withdraw my demand for a recorded vote.

The CHAIRMAN. Is there objection to the request of the gentleman from Kansas?

There was no objection.

RECORDED VOTE

Mr. PRICE of Texas. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 189, noes 194, not voting 49, as follows:

[Roll No. 673]

AYES—189

Alexander
Archer
Armstrong
Baker
Barrett
Bauman
Beard
Boggs
Bowen
Breckinridge
Brinkley
Brooks
Brotzman
Brown, Mich.
Broyhill, Va.
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Butler
Byron
Camp
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clancy
Clausen, Don H.
Cochran
Collins, Tex.
Conlan
Crane
Daniel, Dan
Daniel, Robert W., Jr.
Davis, Ga.
Davis, S.C.
de la Garza
Denholm
Dennis
Dickinson
Donohue
Downing
Duncan
Eckhardt
Edwards, Ala.
Eilberg
Evans, Colo.
Fisher
Flowers
Flynt
Forsythe
Fountain
Fulton
Fuqua
Gaydos
Gettys
Ginn
Goldwater
Gonzalez
Gray
Green, Oreg.
Gross
Haley
Hammerschmidt
Hanna
Hansen, Wash.
Hastings
Henderson
Hicks
Hogan
Holt
Horton
Hosmer
Huber
Hudnut
Hutchinson
Jarman
Johnson, Colo.
Johnson, Pa.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kazen
Kemp
Ketchum
Kuykendall
Landgrebe
Landrum
Litton
Long, La.
Long, Md.
Lott
Lujan
McClory
McCloskey
McKay
McSpadden
Mahon
Mailliard
Mann
Maraziti
Mathias, Calif.
Mathis, Ga.
Mayne
Michel
Milford
Minshall, Ohio
Mollohan
Montgomery
Moorhead, Calif.
Moss
Natcher
Nichols
O'Brien
Owens
Passman
Pepper
Perkins
Pettis
Pickle
Poage
Podell
Powell, Ohio
Preyer
Price, Tex.
Pritchard
Rarick
Rees
Regula
Roberts
Robinson, Va.
Rogers
Roncalio, Wyo.
Rooney, Pa.
Rose
Rousselot
Roy
Ruth
Ryan
Satterfield
Scherle
Schneebeli
Sebelius
Shipley
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Spence
Staggers
Stanton, J. William
Steed
Steelman
Steiger, Ariz.
Stephens
Stubblefield
Stuckey
Symington
Symms
Taylor, N.C.
Thomson, Wis.
Thornton
Towell, Nev.
Treen
Ullman
Van Deerlin
Vander Jagt
Waggonner
Wampler
White
Whitehurst
Whitten
Wiggins
Williams
Wilson, Bob
Wilson, Charles, Tex.
Winn
Wright
Yatron
Young, Alaska
Young, Ga.
Young, S.C.
Young, Tex.
Zablocki
Zion

NOES—194

Abdnor
Abzug
Adams
Addabbo
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Arends
Ashbrook
Ashley
Aspin
Badillo
Bafalis
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blackburn
Blatnik
Boland
Brademas
Brasco
Bray
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill, N.C.
Burke, Mass.
Burlison, Mo.
Burton
Carey, N.Y.
Carney, Ohio
Chisholm
Cleveland
Cohen
Collier
Collins, Ill.
Conable
Conte
Corman
Cotter
Coughlin
Cronin
Culver
Daniels, Dominick V.
Danielson
Davis, Wis.
Delaney
Dellenback
Dellums
Derwinski
Devine
Dingell
Drinan
Dulski
du Pont
Edwards, Calif.
Esch
Eshleman
Evins, Tenn.
Fascell
Findley
Fish
Foley
Ford, William D.
Fraser
Frelinghuysen
Frenzel
Frey
Froehlich
Giaimo
Gibbons
Gilman
Goodling
Grasso
Green, Pa.
Griffiths
Grover
Gude
Gunter
Guyer
Hamilton
Hanley
Hanrahan
Hansen, Idaho
Harrington
Hawkins
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Hillis
Hinshaw
Holifield
Holtzman
Howard
Hungate
Jones, Ala.
Jones, N.C.
Kastenmeier
King
Koch
Kyros
Latta
Leggett
Lehman
Lent
McCollister
McCormack
McDade
McEwen
McFall
McKinney
Macdonald
Madden
Madigan
Mallary
Martin, Nebr.
Martin, N.C.
Matsunaga
Mazzoli
Mezvinsky
Miller
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Mizell
Moakley
Moorhead, Pa.
Mosher
Murphy, Ill.
Murphy, N.Y.
Myers
Nedzi
Nelsen
Obey
O'Hara
O'Neill
Patten
Peyser
Pike
Price, Ill.
Quie
Quillen
Railsback
Randall
Rangel
Reuss
Rhodes
Rinaldo
Robison, N.Y.
Rodino
Roe
Rosenthal
Rostenkowski
Roush
Roybal
Ruppe
St Germain
Sarasin
Sarbanes
Schroeder
Seiberling
Shoup
Smith, Iowa
Smith, N.Y.
Snyder
Stanton, James V.
Stark
Steiger, Wis.
Stratton
Studds
Talcott
Teague, Calif.
Thompson, N.J.
Thone
Tiernan
Vanik
Vigorito
Waldie
Widnall
Wilson, Charles H., Calif.
Wolff
Wydler
Wylie
Wyman
Yates
Young, Fla.
Young, Ill.

NOT VOTING—49

Bell
Bolling
Breaux
Burke, Calif.
Clark
Clawson, Del
Clay
Conyers
Dent
Diggs
Dorn
Erlenborn
Flood
Gubser
Harsha
Harvey
Hays
Hébert
Hunt
Ichord
Johnson, Calif.
Keating
Kluczynski
Meeds
Melcher
Metcalfe
Mills, Ark.
Morgan
Nix
Parris
Patman
Reid
Riegle
Roncallo, N.Y.
Rooney, N.Y.
Runnels
Sandman
Steele
Stokes
Sullivan
Taylor, Mo.
Teague, Tex.
Udall
Veysey
Walsh
Ware
Whalen
Wyatt
Zwach

So the amendment to the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. GOLDWATER TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. GOLDWATER. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. Goldwater to the amendment in the nature of a substitute offered by Mr. Staggers: Page 55, after line 11, insert:

"(g) (1) The Administrator shall, upon application by the Governor for any air quality control region for which transportation controls have been imposed in order to attain and maintain the national primary ambient air quality standards by June 1, 1977, extend for two years the date required by any applicable implementation plan for attainment and maintenance of such standards, if the transportation controls for such region require a 20 percent (or greater) reduction in vehicle miles traveled by June 1, 1977, or if he otherwise finds that such controls are impracticable within such time.

(2) The Administrator may, upon application by the Governor for any such region, further extend the date for attainment and maintenance of such standard if he finds that imposition of additional transportation control requirements is impracticable within such time. In no event, however, shall the Administrator permit any extension (A) which allows for attainment of the primary standard less expeditiously than practicable, or (B) which allows a less than 10 percent annual improvement in air quality toward the achievement of such standard, so that protection of the public health may be assured by January 1, 1985."

Mr. DINGELL. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from Michigan (Mr. Dingell) reserves a point of order on the amendment.

Mr. GOLDWATER. Mr. Chairman, I offer this amendment in behalf of my colleague, the gentleman from California (Mr. Rees) and myself and other Members.

Approximately 40 metropolitan areas throughout this country have been hit with transportation control plans that work a severe economic hardship on the affected areas and in many instances work at cross-purposes with other Federal programs, such as highway construction.

Now, it seems obvious by the amendments that have been offered, revising and refining various environmental laws that we have enacted throughout the past years, that there is some disenchantment with these environmental laws. It seems that in those days we were moving into new areas, unknown to many, in essence jumping off into space, not knowing where we were to come down.

Now we have experience

Now we have seen what the Environmental Protection Agency is doing with the laws that were adopted by this Congress, it appears obvious that some refinement needs to be put into effect. To make these laws conform with reality, the social and economic conditions that prevail.

It would also appear to me that if we do not refine some of these laws to make them reasonable, perhaps we run the risk of the total demise of EPA and all our efforts in the area of trying to clean up our environment.

Mr. Chairman, this amendment basically allows, upon request of a Governor of a State, a 2-year delay of implementation of a State's transportation control plan.

This also allows for a further delay but assures at least a 10-percent annual improvement during this additional delay.

The amendment also requires compliance with all health standards, as far as is practical. Now, this amendment I am offering on behalf of myself and my colleague is a reasonable approach to a very unique and difficult problem.

It would not emasculate the intent and purpose of the Clean Air Act. It does not call for the relaxation of the standards.

If adopted, it would avoid severe economic dislocations by assuring that the air quality region affected, must realize a 10-percent annual improvement in air quality each year, with a 100-percent compliance.

I am firmly convinced that in time, an area like Los Angeles can work out its environmental problems. I think that the people of the Los Angeles basin are willing to take every step to get a viable rapid transit system underway. But the people can do nothing, if the heavy hand of the EPA is allowed to destroy their economic livelihood. It is absolutely impossible for a city like Los Angeles, which is almost totally dependent upon the automobile for its transportation, to achieve the standards that it has been ordered to achieve. However, this amendment will make it possible for the people of this area, and other similarly affected air quality regions, to comply within a reasonable time.

The CHAIRMAN. Does the gentleman from Michigan insist upon his point of order?

Mr. DINGELL. Mr. Chairman, I do not insist upon the point of order.

Mr. REES. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this amendment does not just affect Los Angeles, but it affects all areas where the EPA has developed a strategy to lower the amount of vehicle miles traveled in that specific jurisdiction.

What this amendment does is to say that if by 1977 when all jurisdictions must comply with the act, if a jurisdiction is forced to lower the vehicle miles traveled by more than 20 percent, the Governor of that State shall, upon application to the EPA, get a 2-year extension for that jurisdiction.

Let me give you just an example. From the figures of the EPA as they affect the Los Angeles basin, if we did everything we are supposed to do in terms of tailpipe emissions and in terms of the things that have already been banned in this bill, like parking surcharges and regulating construction of parking lots and everything else, it would mean we would still be over 50 percent away from fulfilling the national clean air standards by 1977. It would mean in the Los Angeles basin, of 12 million people, that we would probably have to ban all passenger automobiles for approximately 60 percent of the time during any given year. That is because we would have to lower the vehicle miles traveled.

The agency is well aware of this. The agency sent me this letter which I received yesterday. They stated that the EPA believes that for these communities some kind of legislative relief is in order. They recognize that there has to be some form of relief.

We are certainly not trying to do away with higher standards of air purity, because what the amendment further states is no matter what there has to be at least a 10-percent increase per year in the quality of the air, so that under this bill a city like Los Angeles could have until 1985 to make sure they could adhere the required clean air standards without a complete economic and social breakdown because our present total dependency on the passenger automobile. We would, under this amendment have no time necessary to develop a practical alternative to the passenger automobile.

I think this is a very logical approach. I discussed this approach with the type of EPA.

They felt that this is the type of approach that they might well be recommending next year. I am a little worried about next year, and I think it best to adopt this amendment now to make sure that a community has a better ability to plan ahead in terms of the EPA regulations. Remember, again, this amendment would be triggered only where a community could not comply with the 1977 standards even after decreasing the vehicle miles traveled by 20 percent. I think it is a good amendment. I commend the gentleman from California (Mr. GOLDWATER) in introducing it, and I would ask for an "aye" vote.

Mr. BOLAND. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I urge support of the amendment sponsored by the gentleman from California (Mr. GOLDWATER and Mr. REES). I believe that it is a logical and commonsense approach to a very difficult problem facing a number of communities in the country that face the imposition of traffic control systems forced upon them by the Environmental Protection Agency.

The EPA plan promulgated for my home city of Springfield, Mass., will create economic havoc for a downtown area that has been completely rebuilt and modernized at a cost of millions of dollars in private and public investment.

The drastic plans for Springfield would close off main street and some 15 side streets to traffic, impose a surcharge on off-street parking, and ban on-street parking within a large periphery of the center city area.

The effects will be to strangle the economy of downtown Springfield. Downtown business firms now contribute a very high ratio of taxes for the city budget.

Mayor William C. Sullivan, the Springfield Chamber of Commerce, and other business organizations all expressed opposition to these EPA proposals and have pleaded for time to study alternative approaches to achieve clean air.

Mr. Chairman, I am pleased that this bill prevents EPA from imposing or requiring the imposition of any surcharges on parking spaces, and requires the Administrator to make a new study and report back to Congress in 6 months, on the merits and demerits of measures to reduce air pollution.

I agree with the position of the gentleman from California (Mr. MOSS) in his amendment yesterday, that Congress should take a new look at the EPA clean air recommendations when they are sent to us. Then, and only then, should a legislative decision be made by Congress on the criteria for clean air standards.

It was not the intent of Congress, when it passed the Clean Air Act of 1970, to empower a Federal agency, the EPA, to impose parking taxes or surcharges. Congress did not intend to give EPA tax power. No hearings were held by the House Ways and Means Committee on such taxes when the clean air legislation was debated in Congress in 1970.

Mr. Chairman, for these reasons I supported the amendment of the gentleman from California (Mr. LEGGETT) on November 30, 1973, to the fiscal year 1974 supplemental appropriations bill.

Finally, Mr. Chairman, I realize that under provisions of the Clean Air Act certain requirements to clean up the air have to be made for the public health and welfare of our citizens. But, in some areas, such as national ambient air quality standards, I think that the measures may be excessive.

Consequently, I joined with many of my colleagues earlier this year in a request to the National Academy of Sciences to provide the Congress with an objective analysis and evaluation of health-related ambient air quality standards for those pollutants associated with auto emissions.

I think that Chairman STAGGERS and members of the House Interstate and Foreign Commerce Committee, and subcommittee Chairman PAUL ROGERS and members of his Public Health and Environment Subcommittee should have opportunities to make exhaustive reviews of the National Academy of Science study and the new EPA study, before Congress gives final legislative approval to the specifics on how EPA should administer the Clean Air Act of 1970.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. GOLDWATER) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. MURPHY OF NEW YORK TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. MURPHY of New York. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The Clerk read as follows:

Amendment offered by Mr. MURPHY of New York to the amendment in the nature of a substitute offered by Mr. STAGGERS: Page 11 after line 11, section 105, after subsection (c) add the following new subsection:

"(d) Energy conservation plans submitted pursuant to this section shall include proposal to provide for Federally sponsored incentives for the use of public transportation and Federal subsidies to maintain or reduce existing fares and additional expenses incurred because of increased service."

Mr. MURPHY of New York. Mr. Chairman, this amendment clarifies further some language that the gentleman from Illinois offered earlier today that was agreed to by the Committee. It very simply calls for federally sponsored incentives for the use of public transportation. This is to the planning section, and requires the submission of a plan to meet the needs of mass transit there is not an appropriation or an authorization implicit in this amendment.

Those Federal subsidies which may be ultimately authorized should go to maintain existing fares, and not to have fares raised throughout the country, on mass transit facilities, or to reduce existing fares and additional expenses incurred because of increased services. These services could support the added costs of extra trains, cars, buses, and parking areas.

I urge support of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. MURPHY) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The question was taken; and on a division (demanded by Mr. MURPHY of New York) there were—ayes 45, noes 34.

RECORDED VOTE

Mr. KUYKENDALL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 197, noes 184, not voting 51, as follows:

[Roll No. 674]

AYES—197

Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Annunzio
Ashley
Aspin
Badillo
Barrett
Bergland
Biaggi
Biester
Bingham
Blackburn
Blatnik
Boggs
Boland
Brademas
Brasco
Breckinridge
Brinkley
Brotzman
Brown, Calif.
Buchanan
Burke, Mass.
Burton
Carey, N.Y.
Carney, Ohio
Chisholm
Cohen
Corman
Cotter
Coughlin
Cronin
Culver
Daniels, Dominick V.
Danielson
Davis, Ga.
Davis, S.C.
Delaney
Dellums
Denholm
Diggs
Donohue
Drinan
Dulski
Eckhardt
Edwards, Calif.
Eilberg
Esch
Fascell
Fish
Flood
Foley
Ford, William D.
Fraser
Frelinghuysen
Fulton
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Gonzalez
Grasso
Gray
Green, Oreg.
Green, Pa.
Griffiths
Grover
Gude
Gunter
Hamilton
Hanley
Hanna
Hanrahan
Hansen, Wash.
Harrington
Hawkins
Hechler, W. Va.
Heckler, Mass.
Helstoski
Hicks
Holifield
Holtzman
Horton
Howard
Johnson, Colo.
Jones, Ala.
Jones, Okla.
Jordan
Karth
Kastenmeier
Kazen
Kemp
Koch
Kyros
Leggett
Lehman
Lent
Litton
Long, La.
Long, Md.
McClory
McCloskey
McCormack
McDade
McFall
McKinney
Macdonald
Mailliard
Maraziti
Matsunaga
Mazzoli
Mezvinsky
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Moorhead, Pa.
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Nedzi
Obey
O'Brien
O'Hara
O'Neill
Owens
Perkins
Peyser
Pickle
Pike
Podell
Preyer
Price, Ill.
Pritchard
Randall
Rangel
Rees
Reuss
Rinaldo
Robison, N.Y.
Rodino
Roe
Rogers
Roncalio, Wyo.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Ryan
St Germain
Sarasin
Sarbanes
Schroeder
Seiberling
Sisk
Smith, Iowa
Smith, N.Y.
Staggers
Stanton, James V.
Stark
Steelman
Stephens
Stratton
Stuckey
Studds
Symington
Thompson, N.J.
Thornton
Tiernan
Udall
Van Deerlin
Vanik
Vigorito
Waldie
White
Wilson, Charles, Tex.
Wolff
Wright
Wydler
Yates
Yatron
Young, Alaska
Young, Ga.
Young, Ill.
Young, Tex.
Zablocki

NOES—184

Abdnor
Andrews, N. Dak.
Archer
Arends
Ashbrook
Bafalis
Baker
Bauman
Beard
Bennett
Bevill
Bowen
Bray
Brooks
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Burgener
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Camp
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clancy
Clausen, Don H.
Cleveland
Cochran
Collier
Collins, Tex.
Conable
Conlan
Conte
Crane
Daniel, Dan
Daniel, Robert W., Jr.
Davis, Wis.
de la Garza
Dellenback
Dennis
Derwinski
Devine
Dickinson
Dingell
Downing
Duncan
du Pont
Edwards, Ala.
Eshleman
Evans, Colo.
Evins, Tenn.
Findley
Fisher
Flowers
Flynt
Fountain
Frenzel
Frey
Froehlich
Gettys
Ginn
Goldwater
Goodling
Gross
Guyer
Haley
Hammerschmidt
Hansen, Idaho
Hastings
Heinz
Henderson
Hillis
Hinshaw
Hogan
Holt
Hosmer
Huber
Hudnut
Hungate
Hutchinson
Jarman
Johnson, Pa.
Jones, N.C.
Jones, Tenn.
Ketchum
King
Kuykendall
Landgrebe
Landrum
Latta
Lott
Lujan
McCollister
McEwen
McKay
McSpadden
Madigan
Mahon
Mallary
Mann
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Mayne
Michel
Milford
Miller
Minshall, Ohio
Mizell
Montgomery
Moorhead, Calif.
Myers
Natcher
Nelsen
Nichols
Passman
Patten
Pettis
Poage
Powell, Ohio
Price, Tex.
Quie
Quillen
Railsback
Rarick
Regula
Rhodes
Roberts
Robinson, Va.
Rousselot
Roy
Ruppe
Ruth
Satterfield
Scherle
Schneebeli
Sebelius
Shipley
Shoup
Shriver
Shuster
Sikes
Skubitz
Slack
Snyder
Spence
Stanton, J. William
Steiger, Ariz.
Steiger, Wis.
Stubblefield
Symms
Talcott
Taylor, N.C.
Teague, Calif.
Thomson, Wis.
Thone
Towell, Nev.
Treen
Ullman
Vander Jagt
Waggonner
Wampler
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Winn
Wylie
Wyman
Young, Fla.
Young, S.C.
Zion
Zwach

NOT VOTING—51

Armstrong
Bell
Bolling
Breaux
Burke, Calif.
Clark
Clawson, Del
Clay
Collins, Ill.
Conyers
Dent
Dorn
Erlenborn
Forsythe
Gubser
Harsha
Harvey
Hays
Hébert
Hunt
Ichord
Johnson, Calif.
Keating
Kluczynski
Madden
Meeds
Melcher
Metcalfe
Mills, Ark.
Morgan
Nix
Parris
Patman
Pepper
Reid
Riegle
Roncallo, N.Y.
Rooney, N.Y.
Runnels
Sandman
Steed
Steele
Stokes
Sullivan
Taylor, Mo.
Teague, Tex.
Veysey
Walsh
Ware
Whalen
Wyatt

So the amendment to the amendment in the nature of a substitute was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. SKUBITZ TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. SKUBITZ. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The Clerk read as follows:

Amendment offered by Mr. SKUBITZ to the amendment in the nature of a substitute offered by Mr. STAGGERS: Page 36, line 23, strike out the quotation marks.

Page 36, insert after line 23 the following:

"(9) This subsection shall not apply to the first sale of crude oil described in subsection (e)(2) of this section (relating to stripper wells)."

Mr. SKUBITZ. Mr. Chairman, I submit this amendment for myself and my colleagues from Kansas (Messrs. SHRIVER, WINN, SEBELIUS, and ROY). This amendment is submitted to clarify the real intent of this bill as it applies to stripper wells that were fogged up by the provisions of the "windfall" proviso in this bill. On two occasions this Congress has enacted legislation which exempted stripper well operations from price and allocation controls; once in the passage of the mandatory Emergency Petroleum Act, and second, in the passage of the Alaska pipeline bill.

Let me tell the Members what I mean by a "stripper well." I am not talking about a well that produces 25,000 barrels a day. I am talking about a well that produces 10 barrels or less.

When the regulations were first announced by the executive department, they established a ceiling price on used oil at $3. The net result was that these little operations could not operate and pay the expenses.

So, under the Emergency Petroleum Act, we exempted these small operations from price and allocation control. When we passed the Alaska pipeline bill, we again exempted the stripper well operations. As a result, hundreds and hundreds of small producers began using pressure methods to pump oil out of the ground. We began getting more oil into the market place.

This bill as a result of the windfall proviso will close down all of the stripper operations.

Mr. Chairman, all this amendment does is to clarify the bill so that the small operators can stay in business and keep producing the oil that we need.

Mr. STAGGERS. Mr. Chairman, will the gentleman yield to me?

Mr. SKUBITZ. I yield to the distinguished chairman of the commtitee.

Mr. STAGGERS. Mr. Chairman, I would like to say that I certainly agree with the objectives of the amendment which the gentleman from Kansas has offered, and we will accept it on this side.

Mr. BROYHILL of North Carolina. Mr. Chairman, will the gentleman yield to me?

Mr. SKUBITZ. I yield to the gentleman from North Carolina.

Mr. BROYHILL of North Carolina. Mr. Chairman, a short time ago we defeated an amendment which would have exempted producers with a production of 25,000 barrels a day.

As I understand it, the gentleman's amendment only applies to those small wells producing 10 barrels a day?

Mr. SKUBITZ. Ten barrels or less.

Mr. BROYHILL of North Carolina. Ten barrels or less a day

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kansas (Mr. SKUBITZ) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. SATTERFIELD TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. SATTERFIELD. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The Clerk read as follows:

Amendment offered by Mr. SATTERFIELD to the amendment in the nature of a substitute offered by Mr. STAGGERS: On page 13, line 9, after "subsection (a)," insert the words "or which has voluntarily begun conversion to the use of coal during the period 90 days prior to the effective date of this Act and complete such conversion by May 15, 1975."

Mr. SATTERFIELD. Mr. Chairman, this is a simple amendment, and I do not intend to take my full 5 minutes to explain it.

Section 106 of the bill as now drafted gives to the Administrator the authority to prohibit major fuel-burning installations from the burning of natural gas and petroleum and to direct that they convert to coal.

Paragraph (b) of this section provides that no electric powerplant shall be prohibited by the Administrator from burning coal, once it has been ordered to convert until January 1, 1980, subject to certain conditions, those conditions are that the Administrator after notice and hearing approves a plan for that plant, and finds that it will make use of control technology, that it meets the schedule set forth in section 119 of the Clean Air Act, and that it complies with interim regulations prescribed by the Administrator to insure that it does not contribute a significant risk to public health.

Mr. Chairman, my amendment to this section would extend its coverage to those electric powerplants which have voluntarily begun this conversion within the 90-day period prior to the effective date of this act.

I think it is eminently fair to place those electric powerplants which had the foresight and the initiative to begin this conversion on their own in the same circumstance as powerplants ordered to do as by the Administrator.

Mr. Chairman, I urge the Members to approve my amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. SATTERFIELD) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The amendment to the amendment in the nature of a substitute was agreed to.

The CHAIRMAN. For what purpose does the gentleman from Texas (Mr. ECKHARDT), a member of the committee, rise?

Mr. ECKHARDT. Mr. Chairman, I have an amendment at the desk. It is the amendment to page 46, after line 20.

PARLIAMENTARY INQUIRY

Mr. SARASIN. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. SARASIN. Mr. Chairman, is there before the House an understanding that there would be a shifting back and forth between members of the committee and Members who are not members of the Committee on Interstate and Foreign Commerce, as far as the offering of amendments is concerned, or is that not actually a rule?

The CHAIRMAN. The Chair will inform the gentleman from Connecticut that the gentleman from Missouri tried to implement such an understanding, and he did not have very much success.

The gentleman from Missouri would have to say that he had less success on this side than he did on that side, but even there he ran into problems.

The Chair felt that he needed to recognize the gentleman from Texas (Mr. ECKHARDT) at this time because at one point in time perhaps he should have recognized him instead of another Member who is not a member of the committee.

PARLIAMENTARY INQUIRY

Mr. GROSS. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. GROSS. Mr. Chairman, how many amendments remain at the desk?

The CHAIRMAN. An inaccurate count, but the best we can do, is approximately 78.

AMENDMENT OFFERED BY MR. ECKHARDT TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. ECKHARDT. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The Clerk read as follows:

Amendment offered by Mr. ECKHARDT to the amendment in the nature of a substitute offered by Mr. STAGGERS: On page 36, insert after line 20 the following new paragraph:

"(8) This subsection shall apply to sales of coal in the same manner as this subsection applies to sales of crude oil, residual fuel oil and refined petroleum products, except that the term "windfall profits" with respect to coal means that profit in excess of the highest average profit, as determined by the Board, obtained by all sellers of coal during any calendar year beginning January 1, 1967 and ending December 31, 1971.

On page 36, line 21, strike out "(8)" and insert in lieu thereof "(9)".

Mr. ECKHARDT. Mr. Chairman, all this does is what was discussed in connection with the striking out of coal in the colloquy between myself and the gentleman from Pennsylvania (Mr. DENT). It provides in the case of coal the standard period of time is the highest of the 5 years. In the case of coal the highest profit of the 5 years as a percentage of sales is 7.5 percent and as a percentage of investment is 14 percent. With respect to oil, the percentage of sales profit for the average of the 5 years is 7.7 percent. The percentage of investment is 10.6 percent. Therefore, under this amendment, coal would be at about the same level as oil, because we are taking the highest of the 5 years for coal and the average of 5 years for oil. Only .2 percent difference.

On the whole, coal would have the advantage, because on the basis of percentage of investment, coal's earnings would have been at 14 percent and oil only 10.6 percent. All this does is make the two comparable by giving coal the highest year among the 5 years.

Mr. SEIBERLING. Will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman.

Mr. SEIBERLING. Mr. Chairman, since I will not have time to offer an amendment before the boom lowers, I would like to ask unanimous consent to extend my remarks at this point in the RECORD with respect thereto, and then it may be accepted by both sides, and I have copies I will be glad to distribute.

Mr. STAGGERS. Will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman.

Mr. STAGGERS. Mr. Chairman, we have already acted in the committee on this amendment. I believe, if I had realized what it was, a point of order would have lain against the amendment, but I did not because we acted on it and coal was taken out after it had been argued for some 20, 30, 40, or 50 minutes. This is just to put it back in.

For all the reasons given now, it should be stricken. We are asking for coal to be substituted now in all the plants of this land wherever we can get it. It takes millions of dollars to open up mines. If we are going to sacrifice——

Mr. ECKHARDT. If the Chairman will yield back the last 15 seconds to me, I would say that we did not give any benefit to small oil, and it seems to me large coal should be covered in this very favorable way.

Mr. CARTER. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. The Chair will state that the gentleman from Kentucky will be recognized for the time that remains.

Mr. CARTER. Mr. Chairman, the future energy needs of this country lie in coal. It is very necessary that we devote efforts, and strong efforts, toward development in this direction so that our energy needs can be satisfied and we can remain a strong country.

I strongly oppose the amendment offered by the gentleman from Texas (Mr. Eckhardt).

The CHAIRMAN. The time of the gentleman has expired. All time has expired.

The question is on the amendment offered by the gentleman from Texas (Mr. Eckhardt) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The amendment was rejected.

PARLIAMENTARY INQUIRIES

Mr. McCLORY. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. McCLORY. Mr. Chairman, I assume that the procedure will be to read each of the amendments that remain at the Clerk's desk?

The CHAIRMAN. The Chair will state to the gentleman from Illinois that the Member having the amendment to offer would have to rise and offer the amendment before it could be read by the Clerk.

Mr. McCLORY. Mr. Chairman, a further parliamentary inquiry.

The CHAIRMAN. The gentleman will state his further parliamentary inquiry.

Mr. McCLORY. Mr. Chairman, would it be in order for the Member offering the amendment to revise and extend his remarks in connection with the offering of his amendment?

The CHAIRMAN. All the Chair can say is that he would seek to entertain that.

Mr. McCLORY. A further parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. McCLORY. Mr. Chairman, would it be in order at this time to ask unanimous consent that all Members who rise to offer their amendments, that in the interest of their amendment they may have the right to revise and extend their remarks?

The CHAIRMAN. The Chair will state that that would be in order only in the House.

Mr. BUCHANAN. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. BUCHANAN. Mr. Chairman, should a motion be offered that the committee do now rise, and that motion would be accepted by the Committee, would it be possible then in the House for time to be extended or for the earlier motion limiting time to be rescinded?

The CHAIRMAN. The Chair will state to the gentleman from Alabama that the gentleman is asking the Chairman of the Committee of the Whole to rule on a matter that would come before the Speaker of the House of Representatives.

Mr. BUCHANAN. The Chairman cannot answer that according to the rules of the House?

The CHAIRMAN. The Chair will state that the Chair is not in a position to answer for the Speaker.

MOTION OFFERED BY MR. BUCHANAN

Mr. BUCHANAN. Mr. Chairman, I move that the Committee do now rise.

The CHAIRMAN. The question is on the motion offered by the gentleman from Alabama (Mr. Buchanan).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BUCHANAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 104, noes 280, answered "present" 1, not voting 47, as follows:

[Roll No. 675]

AYES—104

Abdnor
Anderson, Calif.
Anderson, Ill.
Baker
Bauman
Bennett
Bingham
Blackburn
Brooks
Broomfield
Brown, Mich.
Broyhill, Va.
Buchanan
Burgener
Burleson, Tex.
Camp
Cederberg
Chamberlain
Conable
Conlan
Coughlin
Crane
Daniel, Dan
Daniel, Robert W., Jr.
Davis, S.C.
Davis, Wis.
de la Garza
Dennis
Derwinski
Dickinson
Duncan
Evins, Tenn.
Flynt
Fountain
Frenzel
Giaimo
Goodling
Grasso
Gross
Gude
Haley
Hammerschmidt
Hanna
Hanrahan
Hansen, Idaho
Hastings
Hogan
Holt
Holtzman
Howard
Hutchinson
Jarman
Jones, Tenn.
King
Lujan
McClory
McEwen
McKinney
McSpadden
Mailliard
Mallary
Mann
Martin, Nebr.
Mathis, Ga.
Mayne
Michel
Mink
Moorhead, Calif.
Myers
Pike
Poage
Powell, Ohio
Price, Tex.
Rangel
Rarick
Roberts
Robinson, Va.
Robison, N.Y.
Rousselot
Roybal
Ryan
Satterfield
Scherle
Schneebeli
Shipley
Shoup
Spence
Steelman
Steiger, Ariz.
Steiger, Wis.
Studds
Symms
Teague, Tex.
Thompson, N.J.
Towell, Nev.
Vander Jagt
Waggonner
Whitten
Young, Alaska
Young, Ill.
Young, S.C.
Young, Tex.
Zion
Zwach

NOES—280

Abzug
Adams
Addabbo
Alexander
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Arends
Armstrong
Ashbrook
Ashley
Aspin
Badillo
Bafalis
Barrett
Beard
Bergland
Bevill
Biaggi
Biester
Blatnik
Boggs
Boland
Bowen
Brademas
Brasco
Bray
Breckinridge
Brinkley
Brotzman
Brown, Calif.
Brown, Ohio
Broyhill, N.C.
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton
Butler
Byron
Carey, N.Y.
Carney, Ohio
Carter
Casey, Tex.
Chappell
Chisholm
Clancy
Clausen, Don H.
Cleveland
Cohen
Collier
Collins, Ill.
Collins, Tex.
Conte
Corman
Cotter
Cronin
Culver
Daniels, Dominick V.
Danielson
Davis, Ga.
Delaney
Dellenback
Dellums
Denholm
Devine
Diggs
Dingell
Donohue
Downing
Drinan
Dulski
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Esch
Eshleman
Evans, Colo.
Fascell
Findley
Fish
Fisher
Flood
Flowers
Foley
Ford, William D.
Fraser
Frelinghuysen
Frey
Froehlich
Fulton
Fuqua
Gaydos
Gettys
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Gray
Green, Oreg.
Green, Pa.
Griffiths
Grover
Gunter
Guyer
Hamilton
Hanley
Hansen, Wash.
Harrington
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks
Hillis
Hinshaw
Holifield
Horton
Hosmer
Huber
Hudnut
Hungate
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jordan
Karth
Kastenmeier
Kazen
Kemp
Ketchum
Koch
Kuykendall
Kyros
Landgrebe
Landrum
Latta
Leggett
Lehman
Lent
Litton
Long, La.
Long, Md.
Lott
McCloskey
McCollister
McCormack
McDade
McFall
McKay
Macdonald
Madigan
Mahon
Maraziti
Martin, N.C.
Mathias, Calif.
Matsunaga
Mazzoli
Mezvinsky
Milford
Miller
Minish
Minshall, Ohio
Mitchell, Md.
Mitchell, N.Y.
Mizell
Moakley
Mollohan
Montgomery
Moorhead, Pa.
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Natcher
Nedzi
Nelsen
Nichols
Obey
O'Brien
O'Hara
O'Neill
Owens
Passman
Patten
Pepper
Perkins
Pettis
Peyser
Pickle
Podell
Preyer
Price, Ill.
Pritchard
Quie
Quillen
Railsback
Randall
Rees
Regula
Reuss
Rhodes
Rinaldo
Rodino
Roe
Rogers
Roncalio, Wyo.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Roy
Ruppe
Ruth
St Germain
Sarasin
Sarbanes
Schroeder
Sebelius
Seiberling
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Snyder
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Stephens
Stratton
Stubblefield
Stuckey
Symington
Talcott
Taylor, N.C.
Teague, Calif.
Thomson, Wis.
Thone
Thornton
Tiernan
Treen
Udall
Ullman
Van Deerlin
Vanik
Vigorito
Waldie
Wampler
White
Whitehurst
Widnall
Wiggins
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Winn
Wolff
Wright
Wydler
Wylie
Wyman
Yates
Yatron
Young, Fla.
Young, Ga.
Zablocki

ANSWERED "PRESENT"—1

Cochran

NOT VOTING—47

Bell
Bolling
Breaux
Burke, Calif.
Clark
Clawson, Del
Clay
Conyers
Dent
Dorn
Erlenborn
Forsythe

Gubser
Harsha
Harvey
Hawkins
Hays
Hébert
Hunt
Ichord
Johnson, Calif.
Keating
Kluczynski
Madden
Meeds
Melcher
Metcalfe
Mills, Ark.
Morgan
Nix
Parris
Patman
Reid
Riegle
Roncallo, N.Y.
Rooney, N.Y.
Runnels
Sandman
Steele
Stokes
Sullivan
Taylor, Mo.
Veysey
Walsh
Ware
Whalen
Wyatt

So the motion was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. SARASIN TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. SARASIN. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The Clerk read as follows:

Amendment offered by Mr. SARASIN to the amendment in the nature of a substitute offered by Mr. STAGGERS: Page 44, after line 12, insert the following:

(b) The President is authorized and directed to make grants to States to provide to any individual unemployed, if such unemployment resulted from the administration and enforcement of this Act and was in no way due to the fault of such individual, such assistance as the President deems appropriate while such individual is unemployed. Such assistance as a State shall provide under such a grant shall be available to individuals not otherwise eligible for unemployment compensation and individuals who have otherwise exhausted their eligibility for such unemployment compensation, and shall continue as long as unemployment in the area caused by such administration and enforcement continues (but not less than six months) or until the individual is reemployed in a suitable position, but not longer than two years after the individual becomes eligible for such assistance. Such assistance shall not exceed the maximum weekly amount under the unemployment compensation program of the State in which the employment loss occurred.

(c) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

Page 44, line 13, strike out "(b)" and insert "(d)".

POINT OF ORDER

Mr. DINGELL. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. DINGELL. Mr. Chairman, I make a point of order against the amendment, that the amendment is not germane to the bill.

I make a point of order that the amendment is not germane to the section.

The CHAIRMAN. Does the gentleman from Connecticut desire to be heard on the point of order?

Mr. SARASIN. I do, Mr. Chairman.

Mr. Chairman, as I understand the amendment that I have offered to section 122 of the bill, to which it applies, I believe it is germane and fundamental to the purposes of the bill. It is not a new subject by way of the amendment, and I believe it is germane to the paragraph.

This bill before us, of course, is here with an open rule. I think it is perfectly proper in the amendment I have offered, because of the inconveniences caused by the administration of this act, and I think that it is certainly within the proper place in the amendment in the nature of a substitute as offered by the gentleman from West Virginia (Mr. STAGGERS) and within my amendment.

Mr. GIBBONS. Mr. Chairman, I would like to be heard on the point of order.

The CHAIRMAN. The Chair will hear the gentleman on the point of order.

Mr. GIBBONS. Mr. Chairman, my point in supporting the point of order raised by the gentleman from Michigan is that the Unemployment Compensation Act is not being amended in any place in this act. The gentleman in the well is attempting to amend the Unemployment Compensation Act.

I happen to be rather familiar with it; it is one of the acts that is within the jurisdiction of the Committee on Ways and Means, and I am sure it is not within the scope of this act at all.

The CHAIRMAN. Does the gentleman from Michigan desire to be heard further?

Mr. DINGELL. I do, Mr. Chairman.

As the Chair will note, the bill in subsection (a) of section 122, which is amended, provides for the President taking certain actions to minimize the impact of the adverse effect of the act. In the second part, the President is directed to perform a study.

As the Chair will note, the amendment offered by my good friend from Connecticut—and I commend him for offering it; it is an amendment that appears to have a great deal of merit—but I would point out it is not an amendment which is germane, because the amendment directs the President and the States to provide for individual unemployed and to make payments for unemployment.

It relates to the eligibility of unemployed for compensation and Federal grants which in turn support the unemployment compensation, and also authorizes appropriations, which is not authorized in the act before us.

It is for those reasons, since some of the provisions are carried elsewhere in the bill or in the section before us, it is obvious the amendment is not germane.

The CHAIRMAN. Does the gentleman from Connecticut desire to be heard further?

Mr. SARASIN. I do, Mr. Chairman.

On line 7, page 44, the first section of paragraph A, it says:

Carrying out his responsibilities under this Act, the President shall take into consideration and shall minimize, to the fullest extent practicable, any adverse impact of actions taken pursuant to this Act upon employment.

It is the responsibility of various agencies. I do not see that this amendment I have offered to authorize the President to make grants to States providing assistance to any individual unemployed, if such unemployment is resulting from the administration and enforcement of this act, is nongermane.

It would seem to me that it certainly is a logical extension of what is in here within section 122 as it now stands.

The CHAIRMAN (Mr. BOLLING). The Chair is ready to rule.

The Chair will state that the section sought to be amended by the amendment offered by the gentleman from Connecticut (Mr. SARASIN) as he has just read it, directs the President, in carrying out his responsibilities under this act, that he shall take into consideration and shall minimize, to the fullest extent practicable, any adverse impact of actions taken pursuant to this act upon unemployment.

The amendment does not amend another act. It seeks to provide an authorization for a specific approach for the carrying out of the broad authority bestowed upon the President to "minimize" adverse impact of actions taken under the act.

Therefore, the Chair overrules the point of order, and, under clause 6 of rule XXIII, recognizes the gentleman for 5 minutes.

Mr. SARASIN. I thank the Chairman.

Mr. Chairman, I will say to the Members of this body that because of the colloquy we have just gone through, referring to the point of order and the reading by the Clerk, we have a better understanding of what this amendment actually does.

It is an attempt to provide some assistance for the people who are going to be affected to the greatest extent by the energy shortage. These are the people who need our help; these are the people who will lose their jobs because of the energy shortage and the provisions of this act.

Mr. Chairman, I think it goes without saying that the name of the game, as far as the people of this country are concerned, is jobs. As we look at the situation now, it seems to me that we must realize many people are already unemployed because of shortages in various areas.

For example, in the petrochemical industry alone people are now being laid off. This is one of the industries we have talked about on this floor. The projection is made that with a mere 15 percent reduction in industry's ability to obtain petrochemicals in this country, it will result in a nationwide unemployment figure of 1.6 to 1.8 million jobs.

In the automobile industry jobs have been reduced, and in automobile-related industries jobs have been reduced. Over 5,000 service stations have been closed, and that means laying off 25,000 full-time workers and approximately 5,000 parttime workers.

Mr. Chairman, at this time we are all hoping that we will arrive at the point where we will be going back to our home districts during the Christmas season. I suggest that if we try to book an airline flight and check on the schedules, we will find that the airlines have reduced their flights.

We know that flight attendants have been laid off, and we know that pilots have lost their jobs as a result of the energy shortage.

This is one bill that will not cost any money frankly, if there is no shortage. It is a cushion; it is protection against the inevitable economic dislocations which will result from enforcement and administration of this act.

What we are doing is giving the States

the ability to continue to pay unemployment benefits. This Congress has, in prior years, enacted the Emergency Unemployment Act. With this amendment we are extending emergency benefits beyond the period of time set by the States, and beyond the limited resources of the States. We know that the States in this country cannot continue and will not be able to continue financially to take care of all the people who are adversely affected by the energy shortage and this act.

Mr. Chairman, in my district alone, in my State alone, there is one projection that indicates some 35,000 jobs will be lost as a result of the energy shortage. The Connecticut Business & Industry Association has projected 100,000 jobs lost if the fuel shortage reaches only to the extent of 30 percent.

I think my amendment is necessary, in line with many of the other provisions of this bill. With this bill we are trying to solve serious problems as best we can and spread the shortages as thinly as possible, and we are trying to do everything we can do to enforce and administer this act as equitably as possible.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. SARASIN. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, I rise in support of the amendment offered by my colleague from Connecticut (Mr. SARASIN).

Mr. Chairman, it appears that many of my constituents—including airline pilots and other personnel may lose their jobs—because of consolidation of airline schedules, and the elimination of many scheduled flights of commercial aircraft.

Mr. Chairman, this amendment should help—in a very modest way—to relieve the hardship which these jobless pilots and other airline employees may experience. I urge adoption of the gentleman's amendment.

Mr. FLYNT. Mr. Chairman, will the gentleman yield?

Mr. SARASIN. I yield to the gentleman from Georgia.

Mr. FLYNT. Mr. Chairman, I support the amendment offered by the gentleman from Connecticut.

Today in the State of Georgia the Governor of our State is quoted as saying that unless measures are taken to alleviate the present energy fuel shortage, unemployment in our State of Georgia will increase by an estimated 60-percent increase over what it is now.

Mr. Chairman, I support the amendment, and I hope that it will be adopted.

Mr. STUDDS. Mr. Chairman, will the gentleman yield?

Mr. SARASIN. I yield to the gentleman from Massachusetts.

Mr. STUDDS. Mr. Chairman, I support the amendment.

Mr. Chairman, I commend the gentleman for his amendment. I will inform the gentleman that, at the appropriately chaotic time, I intend to offer an amendment to restrict the exportation of petroleum, coal, and petrochemicals, which is precisely the point the gentleman made.

Mr. HECHLER of West Virginia. Mr. Chairman, I support the amendment of the gentleman from Massachusetts (Mr. STUDDS) which strengthens the limitation on exports of coal. As I testified before the Committee on Interstate and Foreign Commerce, almost 10 percent of the coal produced domestically is now exported. Out of a total production of less than 600 million tons of coal in 1972, 56 million tons were exported. This is high-grade, low-ash, low-sulfur coal which is largely "metallurgical" coal used in the manufacture of steel. While we are exporting these vast tonnages of coal—86 percent of which comes from underground mines—the pressure is on from the coal industry to strip mine additional coal which is raping and ravaging our soil, forests, and land while polluting our streams.

Mr. Chairman, because we are exporting coal to Canada where it is used to generate electricity, and importing oil from Canada, the bill provides that we take into account these "historical trading relations." I am pleased to support the additional limitation on coal exports provided in the pending amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Connecticut (Mr. SARASIN) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The question was taken, and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. FLYNT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 311, noes 73, not voting 48, as follows:

[Roll No. 676]

AYES—311

Abdnor
Abzug
Adams
Addabbo
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Arends
Armstrong
Ashley
Aspin
Badillo
Baker
Barrett
Bauman
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blackburn
Blatnik
Boggs
Boland
Bowen
Brademas
Brasco
Breckinridge
Brinkley
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Ohio
Broyhill, Va.
Buchanan
Burlison, Mo.
Burke, Mass.
Burton
Byron
Carney, Ohio
Carter
Chisholm
Clancy
Clausen, Don H.
Cleveland
Cochran
Cohen
Collier
Collins, Ill.
Conlan
Conte
Cotter
Coughlin
Crane
Cronin
Culver
Daniel, Dan
Daniels, Dominick V.
Davis, Ga.
Davis, S.C.
de la Garza
Delaney
Dellenback
Dellums
Denholm
Derwinski
Diggs
Donohue
Downing
Drinan
Dulski
Duncan
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Flood
Flowers
Flynt
Foley
Ford, William D.
Forsythe
Fraser
Frelinghuysen
Frenzel
Frey
Froehlich
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Gilman
Ginn
Grasso
Gray
Green, Oreg.
Green, Pa.
Grover
Gude
Gunter
Guyer
Hamilton
Hammerschmidt
Hanley
Hanna
Hanrahan
Hansen, Wash.
Harrington
Hawkins
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Hicks
Hillis
Hinshaw
Hogan
Holifield
Holt
Holtzman
Horton
Hosmer
Howard
Huber
Hudnut
Hungate
Jarman
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kemp
Ketchum
Koch
Kuykendall
Kyros
Landrum
Latta
Leggett
Lehman
Lent
Litton
Long, La.
Long, Md.
McClory
McCloskey
McCollister
McCormack
McDade
McFall
McKay
McKinney
McSpadden
Macdonald
Madigan
Mailliard
Mallary
Maraziti
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mazzoli
Mezvinsky
Milford
Miller
Minish
Mink
Minshall, Ohio
Mitchell, Md.
Mitchell, N.Y.
Mizell
Moakley
Mollohan
Moorhead, Pa.
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nelsen
Nichols
Obey
O'Brien
O'Hara
O'Neill
Owens
Passman
Patten
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Podell
Powell, Ohio
Preyer
Price, Ill.
Price, Tex.
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rarick
Rees
Regula
Reid
Reuss
Rhodes
Rinaldo
Roberts
Robison, N.Y.
Rodino
Roe
Rogers
Roncalio, Wyo.
Rooney, Pa.
Rosenthal
Rostenkowski
Roush
Roy
Roybal
Ryan
St Germain
Sarasin
Sarbanes
Scherle
Schroeder
Seiberling
Shipley
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steelman
Steiger, Wis.
Stephens
Stubblefield
Stuckey
Studds
Symington
Talcott
Teague, Calif.
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Tiernan
Towell, Nev.
Treen
Udall
Van Deerlin
Vanik
Vigorito
Waldie
Wampler
White
Whitehurst
Whitten
Widnall
Wiggins
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Winn
Wolff
Wright
Wydler
Wyman
Yates
Yatron
Young, Alaska
Young, Ga.
Young, Ill.
Young, S.C.
Young, Tex.
Zablocki
Zion
Zwach

NOES—73

Alexander
Andrews, N.C.
Archer
Ashbrook
Bafalis
Beard
Bray
Brown, Mich.
Broyhill, N.C.
Burke, Fla.
Burleson, Tex.
Butler
Camp
Casey, Tex.
Cederberg
Chamberlain
Chappell
Collins, Tex.
Conable
Corman
Daniel, Robert W., Jr.
Danielson
Davis, Wis.
Dennis
Devine
Dickinson
Dingell
Fisher
Fountain
Goldwater
Gonzalez
Goodling
Gross
Haley
Hansen, Idaho
Hastings
Henderson
Hutchinson
Jones, N.C.
Kazen
King
Landgrebe
Lott
Lujan
McEwen
Mahon
Mann
Martin, Nebr.
Mayne
Michel
Montgomery
Moorhead, Calif.
Robinson, Va.
Rose
Rousselot
Ruppe
Ruth
Satterfield
Schneebeli
Sebelius
Shoup
Snyder
Spence
Steiger, Ariz.
Stratton
Symms
Taylor, N.C.
Teague, Tex.
Ullman
Vander Jagt
Waggonner
Wylie
Young, Fla.

NOT VOTING—48

Bell
Bolling
Breaux
Burgener
Burke, Calif.
Carey, N.Y.
Clark
Clawson, Del
Clay
Conyers
Dent
Dorn
Erlenborn
Griffiths
Gubser
Harsha
Harvey
Hays
Hébert
Hunt
Ichord
Johnson, Calif.
Keating
Kluczynski
Madden
Meeds
Melcher
Metcalfe
Mills, Ark.
Morgan
Nix
Parris
Patman
Riegle
Roncallo, N.Y.

Rooney, N.Y.
Runnels
Sandman
Steele
Stokes
Sullivan
Taylor, Mo.
Veysey
Walsh
Ware
Whalen
Williams
Wyatt

So the amendment to the amendment in the nature of a substitute was agreed to.

The vote was announced as above recorded.

AMENDMENT OFFERED BY MR. SEIBERLING TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. SEIBERLING. Mr. Chairman, I offered an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The Clerk read as follows:

Amendment offered by Mr. SEIBERLING to the amendment in the nature of a substitute offered by Mr. STAGGERS: Section 105(c), page 11, line 11, following "thereof" strike the period and insert the following: "and shall give due consideration to the needs of commercial, retails, and service establishments whose normal function is to supply groceries or goods and services of a convenience nature during times of day other than conventional daytime working hours."

Mr. SEIBERLING. Mr. Chairman, the purpose of this amendment is to prevent discrimination against businesses which operate at hours other than 9 a.m. to 5 p.m. Monday through Friday. Any plan under the act which would set specified hours for businesses could put many of these establishments out of business entirely. Many types of businesses derive a significant portion of their sales from 5 p.m. to midnight, or on weekends. Delicatessens and small grocery stores fall into the group of businesses which would be immediately threatened by a requirement to close at a set time such as 6 p.m. All these businesses are willing to bear a fair share of the burdens of the energy shortage. If the Administrator of the FEA, determines that all businesses should work fewer hours, then the individual establishments should be given the opportunity to decide what hours they will operate. The retail establishments which depend largely on after-normal hour trade should not be discriminated against by any action or plan under this act. They should be treated equitably, and not have to suffer undue hardships because of their hours of business.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. SEIBERLING) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The question was taken; and on a division (demanded by Mr. SEIBERLING) there were—ayes 55, noes 69.

RECORDED VOTE

Mr. DERWINSKI. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 301, noes 60, answered "present" 21, not voting 50, as follows:

[Roll No. 677]

AYES—301

Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Ashbrook
Ashley
Aspin
Badillo
Baker
Barrett
Bauman
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blackburn
Blatnik
Boggs
Boland
Bowen
Brademas
Brasco
Breckinridge
Brinkley
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Broyhill, Va.
Buchanan
Burke, Fla.
Burke, Mass.
Burton
Byron
Camp
Carey, N.Y.
Carney, Ohio
Carter
Chappell
Chisholm
Clancy
Clausen, Don H.
Cleveland
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conte
Corman
Cotter
Coughlin
Cronin
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Danielson
Davis, Ga.
Davis, S.C.
de la Garza
Delaney
Dellenback
Dellums
Denholm
Dennis
Diggs
Dingell
Donohue
Downing
Drinan
Dulski
Eckhardt
Edwards, Calif.
Eilberg
Eshleman
Evins, Tenn.
Fascell
Fish
Fisher
Flood
Flowers
Flynt
Foley
Ford, William D.
Fountain
Fraser
Frey
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Gilman
Ginn
Gonzalez
Grasso
Gray
Green, Oreg.
Green, Pa.
Gross
Grover
Gunter
Guyer
Haley
Hamilton
Hammerschmidt
Hanley
Hanna
Hanrahan
Hansen, Wash.
Harrington
Hastings
Hawkins
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Hicks
Hillis
Hinshaw
Hogan
Holifield
Holt
Holtzman
Horton
Hosmer
Howard
Hudnut
Hungate
Jarman
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Kemp
Koch
Kyros
Landgrebe
Landrum
Leggett
Lehman
Lent
Litton
Long, La.
Long, Md.
McClory
McCloskey
McCollister
McCormack
McDade
McFall
McKay
McKinney
McSpadden
Madden
Madigan
Mahon
Mailliard
Mallary
Mann
Maraziti
Mathias, Calif.
Matsunaga
Mezvinsky
Milford
Minish
Mitchell, Md.
Mitchell, N.Y.
Mizell
Moakley
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nichols
Obey
O'Brien
O'Hara
O'Neill
Owens
Passman
Pepper
Perkins
Peyser
Pickle
Pike
Poage
Podell
Powell, Ohio
Preyer
Price, Ill.
Price, Tex.
Pritchard
Quie
Randall
Rangel
Rarick
Rees
Regula
Reid
Reuss
Rinaldo
Roberts
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Roncalio, Wyo.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Roy
Roybal
Ryan
St Germain
Sarasin
Sarbanes
Satterfield
Scherle
Schroeder
Seiberling
Shipley
Shriver
Shuster
Sisk
Skubitz
Slack
Smith, Iowa
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steelman
Steiger, Ariz.
Stephens
Stratton
Stubblefield
Stuckey
Studds
Symington
Symms
Taylor, N.C.
Teague, Tex.
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Tiernan
Towell, Nev.
Udall
Ullman
Vander Jagt
Vanik
Vigorito
Waggonner
Waldie
Wampler
White
Whitehurst
Whitten
Widnall
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Winn
Wolff
Wright
Wylie
Wyman
Yates
Yatron
Young, Fla.
Young, Ga.
Young, Ill.
Young, Tex.
Zablocki
Zion

NOES—60

Abdnor
Arends
Bafalis
Bray
Brown, Ohio
Broyhill, N.C.
Burleson, Tex.
Burlison, Mo.
Butler
Casey, Tex.
Cederberg
Chamberlain
Cochran
Collier
Davis, Wis.
Devine
Dickinson
Duncan
Edwards, Ala.
Esch
Evans, Colo.
Findley
Forsythe
Frelinghuysen
Frenzel
Goodling
Gude
Hansen, Idaho
Henderson
Jones, Ala.
Ketchum
King
Kuykendall
Latta
Lujan
Macdonald
Martin, Nebr.
Martin, N.C.
Mayne
Mazzoli
Michel
Miller
Minshall, Ohio
Nelsen
Patten
Quillen
Rhodes
Schneebeli
Shoup
Smith, N.Y.
Snyder
Spence
Steiger, Wis.
Talcott
Teague, Calif.
Treen
Wydler
Young, Alaska
Young, S.C.
Zwach

ANSWERED "PRESENT"—21

Armstrong
Beard
Conlan
Crane
Derwinski
du Pont
Froehlich
Huber
Hutchinson
Lott
McEwen
Mathis, Ga.
Mink
Moss
Pettis
Rousselot
Ruppe
Ruth
Sebelius
Van Deerlin
Wiggins

NOT VOTING—50

Bell
Bolling
Breaux
Burgener
Burke, Calif.
Clark
Clawson, Del
Clay
Conyers
Dent
Dorn
Erlenborn
Goldwater
Griffiths
Gubser
Harsha
Harvey
Hays
Hébert
Hunt
Ichord
Johnson, Calif.
Keating
Kluczynski
Meeds
Melcher
Metcalfe
Mills, Ark.
Morgan
Mosher
Nix
Parris
Patman
Railsback
Riegle
Roncalio, N.Y.
Rooney, N.Y.
Runnels
Sandman
Sikes
Steele
Stokes
Sullivan
Taylor, Mo.
Veysey
Walsh
Ware
Whalen
Williams
Wyatt

So the amendment to the amendment in the nature of a substitute was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. TREEN TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. TREEN. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The Clerk read as follows:

Amendment offered by Mr. TREEN to the amendment in the nature of a substitute offered by Mr. STAGGERS: Page 4, line 11, strike the word "agriculture," and in lieu thereof insert the words "agricultural operations as defined in paragraph (1)(C) of subsection (b) of this section,"

Page 10, line 25, strike the word "agriculture," and in lieu thereof insert the words "agricultural operations as defined in paragraph (1)(C) of subsection (b) of section 4 of the Emergency Petroleum Allocation Act of 1973,".

PARLIAMENTARY INQUIRY

Mr. BAUMAN. Mr. Chairman, is this the amendment which includes fishermen in the definition of agriculture in this bill?

The CHAIRMAN. That is not a parliamentary inquiry.

The question is on the amendment offered by the gentleman from Louisiana (Mr. TREEN) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The question was taken, and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DERWINSKI. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 332, noes 19, present 29, not voting 52, as follows:

[Roll No. 678]

AYES—332

Abdnor
Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Arends
Armstrong
Ashbrook
Ashley
Aspin
Badillo
Bafalis
Bauman
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blatnik
Boggs
Boland
Bowen
Brademas
Brasco
Bray
Breckinridge
Brinkley
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton
Butler
Byron
Camp
Carney, Ohio
Carter
Casey, Tex.
Cederberg
Chappell
Chisholm
Clancy
Clausen, Don H.
Cleveland
Cochran
Cohen
Collier
Collins, Ill.
Collins, Tex.
Conlan
Conte
Corman
Cotter
Coughlin
Crane
Cronin
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Dellenback
Dellums
Denholm
Dennis
Derwinski
Devine
Dickinson
Diggs
Dingell
Donohue
Downing
Drinan
Dulski
Duncan
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Esch
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Fisher
Flood
Flowers
Flynt
Foley
Ford, William D.
Forsythe
Fountain
Fraser
Frelinghuysen
Frey
Froehlich
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Gilman
Ginn
Gonzalez
Goodling
Grasso
Green, Oreg.
Green, Pa.
Gross
Grover
Gude
Gunter
Guyer
Haley
Hamilton
Hammerschmidt
Hanley
Hanrahan
Hansen, Idaho
Hansen, Wash.
Harrington
Hastings
Hawkins
Hechler, W. Va.
Heckler, Mass.
Heinz
Henderson
Hicks
Hillis
Hinshaw
Hogan
Holifield
Holt
Horton
Howard
Hudnut
Hungate
Jarman
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Kemp
Ketchum
Koch
Kuykendall
Kyros
Landgrebe
Landrum
Latta
Leggett
Lehman
Litton
Long, La.
Long, Md.
Lott
Lujan
McClory
McCloskey
McCollister
McCormack
McDade
McFall
McKay
McSpadden
Madden
Madigan
Mahon
Mann
Maraziti
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Matsunaga
Mayne
Mezvinsky
Minish
Mitchell, N.Y.
Mizell
Moakley
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Mosher
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nelsen
Obey
O'Brien
O'Hara
O'Neill
Owens
Parris
Passman
Pepper
Perkins
Peyser
Pickle
Pike
Poage
Podell
Powell, Ohio
Preyer
Price, Ill.
Price, Tex.
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rarick
Rees
Regula
Reid
Rhodes
Rinaldo
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Roncalio, Wyo.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roy
Ruppe
Ryan
St Germain
Sarasin
Sarbanes
Satterfield
Scherle
Schroeder
Sebelius
Seiberling
Shipley
Shoup
Shriver
Shuster
Sisk
Slack
Smith, Iowa
Snyder
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stratton
Stubblefield
Stuckey
Studds
Symington
Symms
Talcott
Taylor, N.C.
Teague, Calif.
Teague, Tex.
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Tiernan
Towell, Nev. •
Treen
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vigorito
Waggonner
Waldie
Wampler
White
Whitehurst
Whitten
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Winn
Wolff
Wright
Wylie
Wyman
Yatron
Young, Alaska
Young, Fla.
Young, Ill.
Young, S.C.
Young, Tex.
Zablocki
Zion
Zwach

NOES—19

Barrett
Brown, Ohio
Burleson, Tex.
Danielson
Helstoski
Hosmer
Jones, Ala.
Macdonald
Mallary
Mazzoli
Miller
Minshall, Ohio
Mollohan
Patten
Reuss
Roberts
Wydler
Yates
Young, Ga.

ANSWERED "PRESENT"—29

Baker
Beard
Blackburn
Carey, N.Y.
Chamberlain
Conable
Delaney
Eshleman
Frenzel
Hanna
Holtzman
Huber
Hutchinson
Lent
McEwen
McKinney
Mailliard
Mathis, Ga.
Milford
Mink
Mitchell, Md.
Moss
Pettis
Roybal
Ruth
Schneebeli
Skubitz
Smith, N.Y.
Wiggins

NOT VOTING—52

Bell
Bolling
Breaux
Burgener
Burke, Calif.
Clark
Clawson, Del
Clay
Conyers
Dent
Dorn
Erlenborn
Goldwater
Gray
Griffiths
Gubser
Harsha
Harvey
Hays
Hébert
Hunt
Ichord
Johnson, Calif.
Keating
King
Kluczynski
Meeds
Melcher
Metcalfe
Michel
Mills, Ark.
Morgan
Nichols
Nix
Patman
Riegle
Roncallo, N.Y.
Rooney, N.Y.
Runnels
Sandman
Sikes
Steele
Stokes
Sullivan
Taylor, Mo.
Veysey
Walsh
Ware
Whalen
Widnall
Williams
Wyatt

So the amendment to the amendment in the nature of a substitute was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. STUDDS TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. STUDDS. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The Clerk read as follows:

Amendment offered by Mr. STUDDS to the amendment in the nature of a substitute offered by Mr. STAGGERS: On page 45, line 2, strike the period and insert in lieu thereof: "; provided, that the Administrator shall restrict exports of coal, petroleum products, or petrochemical feedstocks if either the Secretary of Commerce or the Secretary of Labor certifies that such exports would contribute to unemployment in the United States."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. STUDDS) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. MATHIS of Georgia. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 327, noes 27, answered "present" 25, not voting 53, as follows:

[Roll No. 679]

AYES—327

Abdnor
Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Arends
Ashbrook
Aspin
Badillo
Bafalis
Baker
Barrett
Bauman
Beard
Bennett
Bergland
Biaggi
Biester
Bingham
Blatnik
Boggs
Boland
Bowen
Brademas
Brasco
Bray
Breckinridge
Brinkley
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Camp
Carey, N.Y.
Carney, Ohio
Carter
Cederberg
Chamberlain
Chappell
Chisholm
Clancy
Clausen, Don H.
Cleveland
Cochran
Cohen
Collier
Collins, Ill.
Collins, Tex.
Conable
Conlan
Conte
Cotter
Coughlin
Cronin
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Delaney
Dellums
Denholm
Dennis
Devine
Dickinson
Diggs
Donohue
Downing
Drinan
Dulski
Duncan
du Pont
Eilberg
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fascell
Fish
Fisher
Flood
Flowers
Flynt
Foley
Ford, William D.
Forsythe
Fountain
Frelinghuysen
Frey
Froehlich
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gilman
Ginn
Gonzalez
Goodling
Grasso
Gray
Green, Oreg.
Green, Pa.
Gross
Grover
Gunter
Guyer
Haley
Hamilton
Hammerschmidt
Hanley
Hanrahan
Harrington
Hastings
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks
Hinshaw
Hogan
Holifield
Holt
Holtzman
Horton
Howard
Huber
Hudnut
Hungate
Hutchinson
Jarman
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jordan
Karth
Kastenmeier
Kazen
Kemp
Ketchum
Koch
Kuykendall
Kyros
Landgrebe
Landrum
Latta
Leggett
Lehman
Lent
Litton
Long, La.
Lott
Lujan
McClory
McCloskey
McCollister
McCormack
McDade
McFall
McKay
McKinney
McSpadden
Macdonald
Madden
Madigan
Mahon
Mallary
Mann
Maraziti
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mazzoli
Mezvinsky
Michel
Miller
Minish
Minshall, Ohio
Mitchell, Md.
Mitchell, N.Y.
Mizell
Moakley
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Mosher
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nichols
Obey
O'Brien
O'Hara
O'Neill
Owens
Parris
Patten
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Podell
Powell, Ohio
Preyer
Price, Ill.
Price, Tex.
Pritchard
Quillen
Railsback
Randall
Rangel
Rarick

Regula
Reid
Rhodes
Rinaldo
Roberts
Robinson, Va.
Rodino
Roe
Rogers
Roncalio, Wyo.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roy
Ruppe
Ryan
St Germain
Sarasin
Sarbanes
Satterfield
Scherle
Schroeder
Sebelius
Seiberling
Shipley
Shoup
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, N.Y.
Snyder
Spence
Staggers
Stanton,
  J. William
Stanton,
  James V.
Stark
Steed
Steiger, Ariz.
Steiger, Wis.
Stephens
Stratton
Stubblefield
Stuckey
Studds
Symington
Talcott
Taylor, N.C.
Teague, Tex.
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Tiernan
Towell, Nev.
Treen
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vigorito
Waggonner
Waldie
Wampler
White
Whitehurst
Whitten
Wilson,
  Charles, Tex.
Winn
Wolff
Wright
Wydler
Wylie
Wyman
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Ill.
Young, Tex.
Zablocki
Zion

NOES—27

Armstrong
Ashley
Bevill
Brown, Ohio
Burton
Dellenback
Dingell
Eckhardt
Findley
Fraser
Frenzel
Gude
Hansen, Idaho
Hosmer
Jones, Ala.
Jones, Tenn.
Mayne
Nelsen
Passman
Poage
Quie
Rees
Reuss
Smith, Iowa
Steelman
Young, S.C.
Zwach

ANSWERED "PRESENT"—25

Blackburn
Casey, Tex.
Corman
Crane
Danielson
Derwinski
Edwards, Ala.
Edwards, Calif.
Hanna
Hillis
Mailliard
Mathis, Ga.
Matsunaga
Milford
Mink
Moss
Robison, N.Y.
Roybal
Ruth
Schneebeli
Symms
Teague, Calif.
Wiggins
Wilson, Bob
Wilson,
  Charles H.,
  Calif.

NOT VOTING—53

Bell
Bolling
Breaux
Brooks
Burke, Calif.
Clark
Clawson, Del
Clay
Conyers
Dent
Dorn
Erlenborn
Gibbons
Goldwater
Griffiths
Gubser
Hansen, Wash.
Harsha
Harvey
Hawkins
Hays
Hébert
Hunt
Ichord
Johnson, Calif.
Keating
King
Kluczynski
Long, Md.
McEwen
Meeds
Melcher
Metcalfe
Mills, Ark.
Morgan
Nix
Patman
Riegle
Roncallo, N.Y.
Rooney, N.Y.
Runnels
Sandman
Steele
Stokes
Sullivan
Taylor, Mo.
Veysey
Walsh
Ware
Whalen
Widnall
Williams
Wyatt

So the amendment to the amendment in the nature of a substitute was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. COHEN TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. COHEN. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The Clerk read as follows:

Amendment offered by Mr. COHEN to the amendment in the nature of a substitute offered by Mr. STAGGERS:

The text of the amendments follows:

SEC. 125. HOMEOWNERS' ENERGY CONSERVATION LOAN PROGRAM.

(a) AUTHORIZATION OF LOANS.—

(1) In order to carry out the purpose of this section the Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary") is authorized to make loans as provided in this section to individuals and families owning and occupying one- to four-family residential structures, and to other owners of residential structures of any type, to assist them in purchasing and installing qualified insulative materials and/or qualified heating equipment (as defined in section 4) in such structures.

(2) A loan made under this subsection with respect to any residential structure shall—

(A) be in such amount as may be necessary to meet the maximum desirable insulation standards for controlling heat loss, cooling loss, and infiltration and/or to reach the maximum desirable heating efficiency in the case of structures of the size and type involved, taking into account the climatic, meteorological, and related conditions prevailing in the region where the structure is located, as established by the Secretary in regulations prescribed by him and in effect at the time of the loan;

(B) bear interest at the rate of 5 per centum per annum on the outstanding principal balance;

(C) have a maturity not exceeding ten years; and

(D) be subject to such additional terms, conditions, and provisions as the Secretary may impose in order to assure that the purpose of this Act is effectively carried out.

(3) Each application for a loan under this subsection shall be accompanied by detailed plans for the purchase and installation of specified insulative materials and an estimate of the costs involved. No such application shall be approved unless the Secretary finds that the proposed insulation is reasonable and will be effective, that the costs will not be excessive, and that the insulation will not be of elaborate or extravagant design or materials.

(B) DEFINITIONS

(1) QUALIFIED INSULATIVE MATERIALS.—For purposes of this section, the term "qualified insulative materials" means any material or item which, as determined by the Secretary after consultation with the National Bureau of Standards, is capable of achieving a significant reduction in heat loss, cooling loss, or infiltration when properly installed in a residential structure under the prevailing climatic, meteorological, and related conditions. Such term includes (without being limited to) glass and plastic storm windows and doors, flexible and fill insulation, blown insulation, and any other material or item which is approved by the secretary as being useful and effective for the insulation of ceilings, floors, walls, windows, or doors.

(2) QUALIFIED HEATING EQUIPMENT.—For purposes of this section, the term "qualified heating equipment" means any item, fixture, or equipment which, as determined by the Secretary after consultation with the National Bureau of Standards, is capable of and designed for improving the operating efficiency of a heating plant in a residential structure. Such term includes (without being limited to) heat exchangers, ducting, and any other item, fixture, or equipment which is approved by the Secretary as being useful and effective for improving the operating efficiency of a heating plant in a residential structure.

(C) DISSEMINATION OF INFORMATION

The Secretary shall provide to any person upon his or its request (without regard to whether or not such person is making or proposes to make application for a loan under section 3) full, complete, and current information concerning recommended standards and types of insulative materials and heating equipment appropriate for use in residential structures of varying sizes and types and in various regions of the country.

(d) In the performance of, and with respect to, the functions, powers, and duties vested in him by this Act, the Secretary shall (in addition to any authority otherwise vested in him) have the functions, powers, and duties set forth in section 402 (except subsection (a) and (c)(2)) of the Housing Act of 1950.

(E) APPROPRIATIONS; REVOLVING FUND

There is authorized to be appropriated the sum of $10,000,000 to provide an initial amount for the program under this Act, and such additional sums thereafter as may be necessary to carry out such program. Amounts appropriated pursuant to this section shall be placed in and constitute a revolving fund which shall be available to the Secretary for use in carrying out this Act.

Mr. COHEN (during the reading). Mr. Chairman, I ask unanimous consent that the further reading of the amendment be dispensed with, and that it be printed in the RECORD. I will then explain the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Maine?

Mr. SYMMS. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk continued to read the amendment.

Mr. COHEN (during the reading). Mr. Chairman, I renew my unanimous-consent request that the further reading of the amendment be dispensed with, and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Maine?

Mr. SCHERLE. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk continued to read the amendment.

The CHAIRMAN. Under rule XXIII, clause 6, the gentleman from Maine will be recognized for 5 minutes.

Mr. DINGELL. Mr. Chairman, I reserve a point of order.

Mr. BROYHILL of North Carolina. Mr. Chairman, I am going to reserve a point of order also.

Mr. COHEN. Mr. Chairman, this amendment, briefly, establishes a direct low-interest loan program for homeowners to make necessary improvements to their heating units and to make purchases for other energy conservation items such as storm doors, windows, and insulation materials.

The rationale for this amendment—and I might note that I do not intend to offer an additional amendment which would provide for tax deductions as I am satisfied that it would not be germane to this bill—the rationale for this amendment is that heating our residential buildings now accounts for 11 to 12 percent of our national energy consumption. It has been estimated that because of inadequate construction and poor heating plant performance, up to 40 percent of the energy we consume is being wasted. The vast majority of our homes are literal heat sieves where quantities of heat laboriously manufactured in the home furnace promptly escape through the walls, windows, doors, and roofs.

An uninsulated house of average size can waste up to 700 gallons of fuel a year, and a partially insulated house, 200 gallons a year. The average home furnace today is supposedly designed to operate at 70 to 75 percent efficiency; in actual operation it has dropped to 35 to 50 percent.

I submit, Mr. Chairman, in return for saving nearly 4 to 5 percent on our national energy consumption, the Federal costs would be minimal. In the loan program, the cost would only be the difference between the subsidized and market rates of interest.

I also point out that a similar provision appears in the Senate version of the energy bill. I submit that this is a very expansive, far-reaching energy bill that we are considering today. As the Chair has previously noted in Mr. SARASIN's amendment, it should be broadly defined and broadly construed.

I would hope, in anticipation of the gentleman from Michigan's point of order on the point of germaneness, that the acuity and generosity demonstrated by the Chair in ruling on the amendment of the gentleman from Connecticut (Mr. SARASIN) would be repeated.

Mr. HOGAN. Mr. Chairman, will the gentleman yield?

Mr. COHEN. I yield to the gentleman from Maryland.

Mr. HOGAN. I thank the gentleman for yielding.

I rise in support of the gentleman's amendment.

Mr. Chairman, it is estimated that 12 percent of all U.S. energy is used for heating homes. Of this 12 percent approximately 40 percent is lost due to poor insulation. It seems only logical that with our dwindling energy supplies, all efforts should be made to insulate homes more efficiently. However, the cost involved might be too much for some citizens to bear.

Many homes in this country were constructed over 30 years ago and have not sufficiently updated their insulation and heating equipment. Greenbelt Homes, Inc.—or GHI—is a conversion type cooperative housing community in my district that was originally constructed by the Federal Government in 1936. In 1952, GHI purchased the 1,579 dwelling units, together with ancillary facilities and land from the Federal Government.

All the homes that were purchased from the Federal Government were built to be heated by the burning of coal. The heating units were converted to burn oil before the property was sold by the Government. Each of the 579 brick masonry homes is heated by circulating hot water through radiators. In addition, the 1,000 frame units are heated by four large boiler plants.

With the current oil shortage, GHI commissioned a consulting firm to make a study of its dwelling units. This study was completed in April 1972, and it recommended a major renovation of the homes and a new heating system. The installation of these recommendations could save an estimated 19 percent in the amount of energy used by GHI. However, it would require more than $1 million to purchase and install the necessary equipment.

We cannot be unrealistic and expect the people of this cooperative community, many of whom live on retirement income, or other similar situations, to buy and install expensive materials for the purpose of conserving fuel.

What can be done, however, is to provide an incentive and make the funds available for the purchasing of this equipment.

My colleague from Maine (Mr. COHEN) has introduced two bills which would achieve this purpose.

The first proposal, H.R. 11615, amends the Internal Revenue Code to permit the owner of a residence to deduct from his taxable income expenditures made to improve the efficiency of heating his home and to reduce heating losses. Such improvements might include adding storm windows and doors or placing more insulation in unfinished attics. These measures alone can save an estimated 10 to 20 percent in heating loss.

The second proposal, H.R. 11660, establishes a direct low-interest loan program. This program would be especially valuable for the homeowners who find that bringing their residences to an acceptable level of heating efficiency will involve substantial expenditures. The Greenbelt Homes, Inc., is a case in point.

Mr. Chairman, substantial evidence exists that these proposals could save a significant amount of energy with a minimal cost to the Federal Government.

In the loan program, the cost would only be the difference between the subsidized and market rates of interest. In the tax program it would be the amount of revenue lost because of the fractional reduction in taxable income.

For weeks the American people have been urged to take voluntary steps to help conserve on energy. I firmly believe that the time has come for our constituents to receive some type of incentive for fuel conservation. I believe that these two measures are viable solutions and I urge the quick consideration of these measures.

I enthusiastically support the amendment offered by the gentleman from Maine (Mr. COHEN) and commend him for offering it.

Mr. MARTIN of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. COHEN. I yield to the gentleman from North Carolina.

Mr. MARTIN of North Carolina. I thank the gentleman.

Mr. Chairman, I, too, want to support the gentleman's amendment, and I commend him for his excellent research and documentation, and hope it will be adopted.

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman yield?

Mr. COHEN. I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. I thank the gentleman for yielding.

Mr. Chairman, I join those who have congratulated the gentleman for such a good amendment. I think it goes to the very heart of the purpose of this bill.

In the title we are told that it is to assure, through energy conservation, among other things, that the essential energy needs of the United States are met. Section 105 deals with energy conservation plans. The gentleman has presented a very cogent argument, I think, for the kind of congressional initiative that would encourage the people of this country, the taxpayers of this country, to embark on proper programs of insulating their homes and improving their homes in such a way as to equalize all heat to minimize the loss that now occurs because of faulty and inadequate construction.

I hope very much that those who have urged the points of order against the gentleman's amendment will see the wisdom of withdrawing those points of order, because, I would repeat, it goes to the very heart of the bill and would promote what we are trying to accomplish in this particular Emergency Energy Act.

Mr. COHEN. I thank the gentleman from Illinois for his comments.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. COHEN. I yield to the gentleman from Kentucky.

Mr. CARTER. I thank the gentleman for yielding. I want to say that I, too, support the gentleman's amendment. It is worthy, and it would be extremely helpful.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. COHEN. I yield to the gentleman from California.

Mr. BROWN of California. I thank the gentleman for yielding. I also want to commend the gentleman for his amendment. It is an excellent amendment, and if enough amendments of this sort were included in the bill, it might be possible for me to vote for what otherwise is a very unsatisfactory bill.

Mr. Chairman, in 9 years of service in the House of Representatives, rarely have I seen as dismal a performance on any piece of legislation as I have witnessed by the Members on the Energy Emergency Act now before this body. For a measure affecting such a vital subject—the energy crisis—it is amazing that a bill that was imperfect enough in the form reported by the committee to which it was assigned could be made even worse. From efforts to overturn the Supreme Court's antisegregation decisions to attempts to enrich the oil corporations at the expense of the public, every imaginable thing has been offered for inclusion in this bill under the guise of solving the energy crisis even if its connection with energy is ludicrously tenuous.

Only because the oil companies have fallen so much into disfavor with the American public was it possible to defeat an attempt to permit them windfall profits stemming from the fuel shortages. Even then the vote for the oil companies had the support of 46 percent of the Members of this body. Unfortunately, this was not the case with the coal companies. Away from the public spotlight for many years, their spokesmen were successful in rounding up 256 votes, more than enough to pass an amendment to permit them to get away with windfall profits during the energy crisis. This will harm the consumer more and more as utilities and industries switch from scarce oil supplies to the more plentiful coal.

Lest anyone think that the oil companies have completely lost out when it comes to gouging the public, one should note the extent to which the oil industry has moved into coal. If they cannot make windfall profits directly, then many of them will be able to do it indirectly. The authoritative Standard and Poor's Corporation Records reveals the following: Continental Oil owns Consolidated Coal Co., one of the largest of the coal companies; Gulf Oil owns Pittsburgh and Midway Coal Mining Co.; Occidental Petroleum owns Island Creek Coal Co.; Standard Oil of Ohio owns Old Ben Coal Corp., which in turn has additional coal company subsidiaries; Ashland Oil Corp. has a 45-percent interest in Arch Minerals Corp. and a 30-percent interest in Southwestern Illinois Coal Corp.; and one of Exxon's subsidiaries, Carter Oil Co., has interests in Montery Coal Co.

Again, under the guise of helping solve the fuel shortage, those industries that have not wanted to go to the expense or effort of ending the pollution for which they are responsible have succeeded in having a series of provisions inserted in this bill, first at the committee stage and now by amendments on the floor of the House. Taken together, these provisions would demolish most of the gains made in clean air since 1970.

In an attempt to partially restore our strong environmental protection laws I had prepared four amendments which I had planned to offer to the bill. These would have offset the worst of the damage done by the committee to which the bill was referred. But because of the way in which matters have been proceeding in this body it has become apparent that this is a hopeless effort. Too many Members have been stampeded needlessly by the energy issue into abandoning all concern for clean air.

A perfect illustration of this point was section 203 of the bill which would have permitted suspension for 1 year of the standards for reduction of hydrocarbon, carbon monoxide, and nitrogen oxide emissions. My amendment would have stricken this part of the bill in order to restore the deadline for these standards to go into effect. The section of the bill would have made no contribution to helping solve the energy crisis and, like many of the other sections of the bill, did not even belong in an Energy Emergency Act. Nevertheless, not only was my amendment barred by a parliamentary device, but another amendment was adopted which postpones improved emission standards for yet another year.

The bitter irony of all this is that the action taken delaying the more rigorous emission standards in the name of fuel economy will have the reverse effect. The standards of the current law would have forced the automakers to use better technology which, combined with the recalibration of engines for improved efficiency, would have significantly improved fuel economy. EPA estimates that extension of 1975 emission standards will cause us to forego a 5- to 6-percent net fuel gain.

The parliamentary procedures being used to push through this bill has made consideration of my other amendments hopeless. These amendments would have restored to the States their rights to enact more rigorous antipollution laws, would have restored to the individual citizen his right to sue to force compliance with provisions of the Clean Air Act, and would have prevented use of the "intermittent control" method proposed in the bill whereby factories, utilities, and other stationary sources of pollutants could pollute without restriction until conditions became so bad that the installations either had to shut down or switch to a clean fuel. For those choking on the pollutants, that would be a little late.

The last 3 days during which this body has been considering the Energy Emergency Act have been a sad time for the millions of people who have been seeking to live in a clean environment, and particularly for those of us in southern California.

The worsening crisis has been used as an excuse to shove through every imaginable measure no matter how remote or even non-existent its contribution to solving the problem.

We have had a quarter of a century to prepare for this fuel shortage and to avoid it. Now, as the gas stations close, as the manufacturers despair of obtaining fuel and petroleum based materials, and as the homeowners and hospitals begin to wonder if they will have fuel for the winter it is a little late finally to be trying to come to terms with the warning former President Harry S. Truman gave us in his state of the Union message on January 10, 1949:

> This country must face squarely the fact that a major portion of its rapidly increasing energy requirements is being met by oil and gas, which constitute only a small portion of our energy reserves. The prospects are that we shall become increasingly dependent on foreign sources of oil unless appropriate action is taken.

Mr. ROY. Mr. Chairman, will the gentleman yield?

Mr. COHEN. I yield to the gentleman from Kansas.

Mr. ROY. Mr. Chairman, I also support the amendment and point out to the committee that in a study done in the Office of the President, published in October of 1972, there were 21 conservation and energy methods recommended, and the first among these was adequate insulation and air tightening of our homes.

I think it is commendable that the gentleman from Maine brings this measure now to the floor of the House, albeit 14 long, important months after this method of conserving energy was recommended to the President.

Mr. MARTIN of Nebraska. Mr. Chairman, will the gentleman yield?

Mr. COHEN. I yield to the gentleman from Nebraska.

Mr. MARTIN of Nebraska. Mr. Chairman, I think this is the most ridiculous amendment offered this evening. I happen to be in the retail lumber business and I sell insulation and storm doors and storm windows and so forth. For taxpayers to have to foot the bill for you and for me or for anybody else to buy insulation for his home is utterly ridiculous.

The CHAIRMAN. Does the gentleman from Michigan insist on his point of order?

PARLIAMENTARY INQUIRY

Mr. HOSMER. Mr. Chairman, a parliamentary inquiry.

It is my understanding that when a point of order is made that the rules require that the ruling be made thereon, and that when a Member reserves the point of order it is in the nature only of a unanimous-consent request and, therefore, when that request is objected to, that thereafter he can no longer pursue the point of order which he has reserved.

Mr. DINGELL. Mr. Chairman, the Chair has already ruled on this.

The CHAIRMAN. The Chair needs no assistance in this matter.

The gentleman is in error. It is entirely at the discretion of the Chair as to whether the point of order will be reserved unless another Member demands the regular order. A reservation of a point of order is not in the nature of a unanimous-consent request.

Regular order was not demanded. Therefore it is in order for the gentleman to persist in his point of order.

The Chair recognizes the gentleman from Michigan.

POINT OF ORDER

Mr. DINGELL. Mr. Chairman, I make a point of order as to the germaneness of the amendment offered by my friend, the gentleman from Maine. It may well be that the amendment has great merit and it appears certainly to call upon the sympathy of many of us. The fact of the matter is it does a number of things not in the bill.

First of all, were this to be a free-standing bill, a free-standing piece of legislation, were the amendment to be a free-standing piece of legislation, it would be referred to the Committee on Banking and Currency.

Second of all, the amendment, as the Chair will note, sets up a loan program of great dimensions and extent for a large number of actions including insulation of homes, purchasing of cooling and heating equipment, dissemination of cooling and heating equipment, dissemination of information, and sets up a very large loan fund and a revolving fund. It sets up conditions for the Secretary of Health, Education, and Welfare, whose name appears nowhere else in the bill, who is directed to make loans and undertake a whole series of other actions.

So regrettably, although I am in sympathy with the purposes of the gentleman and certainly I think this should be studied by another committee, I have to insist that the amendment is not germane to the matter before us.

The CHAIRMAN. Does the gentleman from Maine desire to be heard on the point of order?

Mr. COHEN. Only, Mr. Chairman, to urge the Chair once again to consider that this is a national energy proposal and it is as broad as ranging from carpools to hydroelectric projects. I certainly think the purpose of this is to conserve our energy resources and I cannot think of a more appropriate means to do this. I point out it is included in the Senate version along with another amendment I would like to offer at a later time and I believe it is germane to the bill.

Mr. ANDERSON of Illinois. Mr. Chairman, if I may be heard on the point of order, it was suggested that this is incompatible with the purposes of this bill. I would invite the attention of Members of the House to section 105, where in connection with energy conservation plans to be promulgated and administered by the Federal Energy Administration it says that shall be done "with actions taken and proposed to be taken under other authority"—and I underscore the word "other"—"of this or other acts to result in a reduction of energy consumption".

Can there be anything clearer than that the gentleman seeks to provide with this amendment the other authority that would lead to a reduction of energy consumption? This is clearly the kind of action contemplated under his amendment. I think it is entirely germane to the purposes of this bill.

The CHAIRMAN (Mr. Bolling). The Chair is ready to rule. The amendment offered by the gentleman from Maine (Mr. Cohen) clearly comes really in the jurisdiction not of the Committee on Interstate and Foreign Commerce, but in the jurisdiction of the Committee on Banking and Currency. It has the effect of substantially broadening the bill and introduces a subject not before the committee.

Therefore, the Chair rules that the point of order is well taken and sustains the point of order.

The Chair recognizes the gentleman from New York (Mr. Pike).

AMENDMENT OFFERED BY MR. PIKE TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. PIKE. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. Pike to the amendment in the nature of a substitute offered by Mr. Staggers: Page 7, line 13, insert a new paragraph "(j)" as follows:

"Nothing contained in this Act shall affect the Naval Petroleum Reserves or any other Federal land under the jurisdiction of the Department of Defense".

And reletter the following paragraph.

POINT OF ORDER

Mr. STAGGERS. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. STAGGERS. I make a point of order against the amendment.

Mr. HOSMER. Mr. Chairman, regular order.

Mr. STAGGERS. Mr. Chairman, I say that the amendment is not germane to the bill.

Mr. PIKE. Mr. Chairman, may I be heard on the point of order.

The CHAIRMAN. Certainly. The gentleman is recognized.

Mr. PIKE. I think that the amendment certainly is germane to the bill and to the language of the bill and to the purposes of the bill.

On page 6 of the bill it says that the President may, by order, require the production of crude oil at the producer level at the maximum efficient rate of production.

Later on on that page it describes the maximum efficient rate of production with respect to any oil field on Federal land as being determined by the Department of the Interior.

I would submit that any oil field on Federal land includes the Naval Petroleum Reserves. I am simply seeking to take the level of petroleum reserves out of this language and reserving jurisdiction over it for the Department of Defense.

I think it is wholly germane.

Mr. STAGGERS. Mr. Chairman, in light of the statement of the gentleman from New York, I would say I withdraw my objection and state that I am in favor of the amendment and I urge its passage.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. Pike) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The question was taken; and the chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SCHERLE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 174, noes 202, answered "present" 4, not voting 52, as follows:

[Roll No. 680]

AYES—174

Addabbo
Alexander
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Arends
Ashbrook
Ashley
Aspin
Barrett
Beard
Bennett
Bevill
Biaggi
Blackburn
Blatnik
Boggs
Brasco
Bray
Breckinridge
Brinkley
Brooks
Brotzman
Brown, Ohio
Burleson, Tex.
Burton
Byron
Carey, N.Y.
Carney, Ohio
Casey, Tex.
Chappell
Chisholm
Clancy
Cleveland
Collins, Ill.
Collins, Tex.
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Danielson
Davis, Ga.
Davis, S.C.
de la Garza
Delaney
Dennis
Dickinson
Dingell
Downing
Dulski
Eilberg
Evans, Colo.
Evins, Tenn.
Fascell
Fisher
Flood
Flynt
Ford, William D.
Forsythe
Fountain
Frelinghuysen
Fulton
Fuqua
Gettys
Giaimo
Gibbons
Ginn
Gonzalez
Grasso
Gray
Green, Oreg.
Green, Pa.
Gross
Gunter
Hanley
Hansen, Idaho
Henderson
Hicks
Hillis
Holifield
Holt
Hosmer
Hudnut
Jarman
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jordan
Kazen
Kemp
Kyros
Landgrebe
Landrum
Lehman
Lent
Long, La.
Long, Md.
Lott
McFall
McKay
Macdonald
Mahon
Mathis, Ga.
Matsunaga
Milford
Mink
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nichols
Obey
O'Brien
O'Hara
O'Neill
Pepper
Perkins
Pickle
Pike
Podell
Powell, Ohio
Price, Ill.
Price, Tex.
Railsback
Randall
Rarick
Roberts
Robinson, Va.
Rodino
Rostenkowski
Roybal
Ruth
Ryan
Sarasin
Satterfield
Shipley
Shriver
Sikes
Slack
Smith, N.Y.
Spence
Staggers
Stephens
Stratton
Stubblefield
Stuckey
Symington
Taylor, N.C.
Teague, Tex.
Thompson, N.J.
Treen
Vander Jagt
Vanik
Vigorito
Waggonner
White
Whitehurst
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Winn
Wolff
Wright
Wyman
Yates
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zion

NOES—202

Abdnor
Abzug
Adams
Anderson, Calif.
Anderson, Ill.
Archer
Armstrong
Badillo
Bafalis
Baker
Bauman
Bergland
Biester
Bingham
Boland
Bowen
Brademas
Brown, Calif.
Brown, Mich.
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Butler
Camp
Carter
Cederberg
Chamberlain
Clausen, Don H.
Cochran
Cohen
Collier
Conable
Conlan
Conte
Corman
Cotter
Coughlin
Crane
Cronin
Culver
Davis, Wis.
Dellenback
Dellums
Denholm
Derwinski
Devine
Donohue
Drinan
Duncan
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Esch
Eshleman
Findley
Fish
Flowers
Foley
Fraser
Frenzel
Froehlich
Gaydos
Gilman
Goodling
Grover
Gude
Guyer
Haley
Hamilton
Hammerschmidt
Hanna
Hanrahan
Harrington
Hastings
Hawkins
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Hinshaw
Hogan
Horton
Howard
Hungate
Hutchinson
Johnson, Colo.
Johnson, Pa.
Jones, Tenn.
Karth
Kastenmeier
Ketchum
Koch
Kuykendall
Latta
Litton
Lujan
McClory
McCloskey
McCollister
McCormack
McDade
McEwen
McSpadden
Madden
Madigan
Mailliard
Mallary
Mann
Maraziti
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mayne
Mazzoli
Mezvinsky
Michel
Miller
Minish
Minshall, Ohio
Mitchell, Md.
Mizell
Moorhead, Calif.
Moorhead, Pa.
Mosher
Nelsen
Owens
Parris
Passman
Patten
Pettis
Peyser
Poage
Preyer
Pritchard
Quie
Quillen
Rangel
Rees
Regula
Reid
Reuss
Rhodes
Rinaldo
Robison, N.Y.
Roe
Rogers
Roncalio, Wyo.
Rooney, Pa.
Rose
Rosenthal
Roush
Rousselot
Roy
Ruppe
St Germain
Sarbanes
Scherle
Schneebeli
Schroeder
Sebelius
Seiberling
Shoup
Shuster
Sisk
Skubitz
Smith, Iowa
Snyder
Stanton, J. William
Stanton, James V.
Stark
Steed
Steelman
Steiger, Ariz.
Steiger, Wis.
Studds
Symms
Talcott
Teague, Calif.
Thomson, Wis.
Thone
Thornton
Tiernan
Towell, Nev.
Udall
Ullman
Van Deerlin
Waldie
Wampler
Whitten
Wiggins
Wydler
Wylie
Yatron
Young, Alaska
Young, Ill.
Young, S.C.
Zwach

ANSWERED "PRESENT"—4

Frey
Holtzman
Huber
McKinney

NOT VOTING—52

Bell
Bolling
Breaux
Broomfield
Burke, Calif.
Clark
Clawson, Del
Clay
Conyers

Dent
Diggs
Dorn
Erlenborn
Goldwater
Griffiths
Gubser
Hansen, Wash.
Harsha
Harvey
Hays
Hébert
Hunt
Ichord
Johnson, Calif.
Keating
King
Kluczynski
Leggett
Meeds
Melcher
Metcalfe
Mills, Ark.
Morgan
Moss
Nix
Patman
Riegle
Roncallo, N.Y.
Rooney, N.Y.
Runnels
Sandman
Steele
Stokes
Sullivan
Taylor, Mo.
Veysey
Walsh
Ware
Whalen
Widnall
Williams
Wyatt

So the amendment to the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. PRICE OF TEXAS TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. PRICE of Texas. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The Clerk read as follows:

Amendment offered by Mr. PRICE of Texas to the amendment in the nature of a substitute offered by Mr. STAGGERS: Page 36, line 23, strike out the quotation marks.

Page 36, insert after line 23 the following:

"(9) (A) This subsection shall not apply to the first sale of crude oil or petroleum condensates produced from any lease within the United States by a seller (i) who produced such oil or condensate, (ii) who (together with all persons who control, are controlled by or who are under common control with, such seller), produces in the aggregate less than 5,000 barrels per day of crude oil and petroleum condensates, averaged annually, and (iii) who is not a refiner or marketer or distributor of refined petroleum products (or a person who controls, is controlled by, or is under common control with such a refiner, marketer, or distributor).

POINT OF ORDER

Mr. CONTE. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. CONTE. Mr. Chairman, my point of order is that we have already considered the amendment before today. It was the Roy amendment, and therefore a point of order should lie against it.

Mr. DINGELL. Mr. Chairman, I would like to be heard also on the point of order.

The CHAIRMAN. The Chair will state that as the Chair understands the amendment the figure has been changed, therefore it is not the same amendment since the figure has been changed.

Mr. DINGELL. May I be heard on the point of order?

Mr. ECKHARDT. Mr. Chairman, I would like to speak against the point of order.

The CHAIRMAN. May the Chair suggest that the Clerk complete the reading of the amendment, and then I will recognize the gentleman on his point of order.

The Clerk read the remainder of the amendment, as follows:

"(B) For purposes of subparagraph (A)—

"(i) a person produces crude oil or petroleum condensates only if he has an interest in the production thereof which permits him to take his production (or share thereof) in kind, and

"(ii) the term 'control' means control by ownership."

The CHAIRMAN. The gentleman from Massachusetts will be heard on his point of order.

Mr. CONTE. Mr. Chairman, I insist on the point of order even though the amendment changes the figures. The amendment is now in the third degree, and therefore the point of order should be upheld.

Mr. DINGELL. Mr. Chairman, I make a point of order on the grounds that this is again bringing before the Committee a portion of the bill which has already been amended. As the Chair recalls, we adopted the Skubitz amendment, which dealt with the same subject matter, and at the same place, and I submit, regardless of the point of order raised by the gentleman from Massachusetts (Mr. CONTE) that this is a violation of the Rules of the House as an attempt to redo action earlier taken by the Committee with regard to the Skubitz amendment, which was likewise dealing with the limitation on the coverage of the particular section to include coverage of people who operate stripper wells.

Mr. ECKHARDT. Mr. Chairman, I speak against the point of order. The Skubitz amendment dealt in an entirely different subject matter. The Skubitz amendment dealt with oil produced by well, not oil produced by producer, and provided that in those cases of wells producing less than, as I recall, 10 barrels per day, these should be exempted.

The amendment here is not dealing with stripper wells. It has nothing to do with wells. It has to do with the size of the producers. Therefore, this subject matter has not been previously covered. This does not change the Skubitz amendment at all, and it deals with a different subject.

Of course, the point of order with respect to the proposition that this is in the third degree is frivolous, because this is introduced as an additional amendment, and the amendment is different materially from the 25,000 barrels.

Mr. DINGELL. Mr. Chairman, I again note, with the assistance of the Chair, that the Skubitz amendment and the amendment now before us appear at precisely the same place in the bill.

The CHAIRMAN (Mr. BOLLINGS). For the reasons stated by the gentleman from Texas (Mr. ECKHARDT) because the Chair does not rule on the inconsistency of amendments, and the fact that the number of barrels involved in this amendment is different from that in the former amendment, the Chair overrules the points of order, and the amendment will be voted on.

The question is on the amendment offered by the gentleman from Texas (Mr. PRICE) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. PRICE of Texas. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 140, noes 226, present 15, not voting 51, as follows:

[Roll No. 681]

AYES—140

Alexander
Archer
Bauman
Blackburn
Boggs
Bowen
Breckinridge
Brinkley
Brooks
Brotzman
Brown, Mich.
Broyhill, Va.
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Butler
Byron
Camp
Casey, Tex.
Cederberg
Chamberlain
Clausen, Don H.
Cochran
Collins, Tex.
Conlan
Crane
Daniel, Dan
Daniel, Robert W., Jr.
Davis, S.C.
de la Garza
Denholm
Dennis
Dickinson
Eckhardt
Edwards, Ala.
Evans, Colo.
Fisher
Flowers
Flynt
Forsythe
Fuqua
Ginn
Gonzalez
Haley
Hammerschmidt
Hanrahan
Hansen, Wash.
Hastings
Henderson
Hicks
Horton
Hosmer
Hungate
Jarman
Johnson, Colo.
Johnson, Pa.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kazen
Kemp
Ketchum
Kuykendall
Kyros
Landgrebe
Landrum
Litton
Long, La.
Long, Md.
Lott
Lujan
McClory
McKay
McSpadden
Mahon
Mathis, Ga.
Michel
Milford
Montgomery
Moorhead, Calif.
Mosher
Natcher
O'Brien
Owens
Parris
Passman
Pickle
Poage
Powell, Ohio
Preyer
Price, Tex.
Rarick
Rees
Rhodes
Roberts
Robinson, Va.
Rogers
Roncalio, Wyo.
Roy
Ruth
Schneebeli
Sebelius
Seiberling
Shipley
Shriver
Sisk
Skubitz
Spence
Staggers
Stanton, J. William
Steed
Steelman
Steiger, Ariz.
Stubblefield
Stuckey
Symington
Symms
Taylor, N.C.
Teague, Calif.
Teague, Tex.
Thompson, N.J.
Thornton
Towell, Nev.
Treen
Ullman
Vander Jagt
Waggonner
White
Whitehurst
Whitten
Wilson, Charles, Tex.
Winn
Wright
Young, Alaska
Young, Ga.
Young, S.C.
Young, Tex.
Zion

NOES—226

Abdnor
Abzug
Adams
Addabbo
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Arends
Armstrong
Ashbrook
Ashley
Aspin
Badillo
Bafalis
Baker
Barrett
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blatnik
Boland
Brademas
Brasco
Bray
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill, N.C.
Burke, Mass.
Burlison, Mo.
Burton
Carey, N.Y.
Carney, Ohio
Carter
Chappell
Chisholm
Clancy
Cleveland
Cohen
Collins, Ill.
Conte
Corman
Cotter
Coughlin
Cronin
Culver
Daniels, Dominick V.
Danielson
Davis, Ga.
Davis, Wis.
Delaney
Dellenback
Dellums
Devine
Dingell
Donohue
Downing
Drinan
Dulski
Duncan
du Pont
Edwards, Calif.
Eilberg
Esch
Evins, Tenn.
Fascell
Findley
Fish
Flood
Foley
Ford, William D.
Fountain
Fraser
Frelinghuysen
Frenzel
Frey
Froehlich
Fulton
Gaydos
Gettys
Giaimo
Gibbons
Gilman
Goodling
Grasso
Green, Oreg.
Green, Pa.
Gross
Grover
Gude
Gunter
Guyer
Hamilton
Hanley
Hanna
Hansen, Idaho
Harrington
Hawkins
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Hillis
Hinshaw
Hogan
Holifield
Holt
Holtzman
Howard
Hudnut
Hutchinson
Jones, Ala.
Jones, N.C.
Kastenmeier
Koch
Latta
Leggett
Lehman
Lent
McCollister
McDade
McFall
Macdonald

Madden
Madigan
Mailliard
Mallary
Mann
Maraziti
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Matsunaga
Mayne
Mazzoli
Mezvinsky
Miller
Minish
Mink
Minshall, Ohio
Mitchell, Md.
Mitchell, N.Y.
Mizell
Moakley
Mollohan
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Myers
Nedzi
Nelsen
Nichols
Obey
O'Hara
O'Neill
Patten
Pepper
Perkins
Peyser
Pike
Podell
Price, Ill.
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Regula
Reid
Reuss
Rinaldo
Rodino
Roe
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Ruppe
Ryan
St Germain
Sarasin
Sarbanes
Satterfield
Scherle
Schroeder
Shoup
Shuster
Sikes
Slack
Smith, Iowa
Snyder
Stanton, James V.
Stark
Steiger, Wis.
Stephens
Stratton
Studds
Talcott
Thomson, Wis.
Thone
Tiernan
Udall
Van Deerlin
Vanik
Vigorito
Waldie
Wampler
Widnall
Wilson, Charles H., Calif.
Wolff
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Ill.
Zablocki
Zwach

ANSWERED "PRESENT"—15

Beard
Collier
Conable
Derwinski
Eshleman
Huber
McCloskey
McEwen
Pettis
Robison, N.Y.
Rousselot
Smith, N.Y.
Wiggins
Wilson, Bob
Wyman

NOT VOTING—51

Bell
Bolling
Breaux
Burke, Calif.
Clark
Clawson, Del
Clay
Conyers
Dent
Diggs
Dorn
Erlenborn
Goldwater
Gray
Griffiths
Gubser
Harsha
Harvey
Hays
Hébert
Hunt
Ichord
Johnson, Calif.
Keating
King
Kluczynski
McCormack
McKinney
Meeds
Melcher
Metcalfe
Mills, Ark.
Morgan
Moss
Nix
Patman
Riegle
Roncallo, N.Y.
Rooney, N.Y.
Runnels
Sandman
Steele
Stokes
Sullivan
Taylor, Mo.
Veysey
Walsh
Ware
Whalen
Williams
Wyatt

So the amendment to the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. BINGHAM TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. BINGHAM. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The Clerk read as follows:

Amendment offered by Mr. BINGHAM to the amendment in the nature of a substitute offered by Mr. STAGGERS: Amend section 107 on page 16 at line 14 after "common carrier.", by adding a new subsection:

"(c) The Interstate Commerce Commission shall by expedited proceedings adopt appropriate rules under the Interstate Commerce Act which will contribute to conserving energy by eliminating discrimination against the shipment of recycled materials in rate structures and other Commission practices."

And redesignate the present subsection (c) as subsection "(d)".

PARLIAMENTARY INQUIRY

Mr. BINGHAM. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. BINGHAM. Mr. Chairman, is there any way a Member can advise the Committee that both managers are agreeable to this amendment?

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. BINGHAM) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. CRANE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 349, noes 8, answered "present" 17, not voting 58, as follows:

[Roll No. 682]

AYES—349

Abdnor
Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Arends
Armstrong
Ashbrook
Ashley
Aspin
Badillo
Bafalis
Baker
Barrett
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blackburn
Blatnik
Boggs
Boland
Bowen
Brademas
Brasco
Bray
Brinkley
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton
Butler
Byron
Camp
Carey, N.Y.
Carney, Ohio
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Chisholm
Clancy
Clausen, Don H.
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conlan
Conte
Corman
Cotter
Coughlin
Crane
Cronin
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Danielson
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Delaney
Dellenback
Dellums
Denholm
Derwinski
Devine
Dickinson
Dingell
Donohue
Downing
Drinan
Dulski
Duncan
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Esch
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Fisher
Flood
Flowers
Flynt
Foley
Ford, William D.
Forsythe
Fountain
Fraser
Frelinghuysen
Frenzel
Frey
Froehlich
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Gilman
Ginn
Gonzalez
Grasso
Green, Oreg.
Green, Pa.
Gude
Gunter
Guyer
Haley
Hamilton
Hammerschmidt
Hanley
Hansen, Idaho
Hansen, Wash.
Harrington
Hastings
Hawkins
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks
Hillis
Hinshaw
Hogan
Holifield
Holtzman
Horton
Hosmer
Howard
Hudnut
Hungate
Jarman
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Kemp
Ketchum
Koch
Kuykendall
Kyros
Landrum
Latta
Leggett
Lehman
Lent
Litton
Long, La.
Long, Md.
Lott
Lujan
McClory
McCloskey
McCollister
McDade
McFall
McKay
McSpadden
Madden
Madigan
Mahon
Mallary
Mann
Maraziti
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mayne
Mazzoli
Mezvinsky
Michel
Milford
Miller
Minish
Minshall, Ohio
Mitchell, Md.
Mitchell, N.Y.
Mizell
Moakley
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Mosher
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nelsen
Nichols
Obey
O'Brien
O'Hara
O'Neill
Owens
Parris
Passman
Patten
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Podell
Powell, Ohio
Preyer
Price, Ill.
Price, Tex.
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rarick
Rees
Regula
Reid
Reuss
Rhodes
Rinaldo
Roberts
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Roncalio, Wyo.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roy
Roybal
Ruppe
Ryan
St Germain
Sarasin
Sarbanes
Satterfield
Scherle
Schneebeli
Schroeder
Seiberling
Shipley
Shoup
Shriver
Shuster
Sikes
Sisk
Slack
Smith, Iowa
Snyder
Spence
Staggers
Stanton, J. William
Stanton, James V.
Steed
Steelman
Steiger, Ariz.
Steiger, Wis.
Stratton
Stubblefield
Stuckey
Studds
Symington
Symms
Talcott
Taylor, N.C.
Teague, Calif.
Teague, Tex.
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Tiernan
Towell, Nev.
Treen
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vigorito
Waggonner
Waldie
Wampler
White
Whitehurst
Whitten
Widnall
Wiggins
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Winn
Wolff
Wydler
Wylie
Wyman
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Ill.
Young, S.C.
Young, Tex.
Zablocki
Zion
Zwach

NOES—8

Bauman
Brown, Ohio
Dennis
Holt
Jones, Ala.
Landgrebe
Macdonald
Stephens

ANSWERED "PRESENT"—17

Beard
Collier
Conable
Eshleman
Goodling
Gross
Grover
Hanna
Huber
Hutchinson
Johnson, Colo.
McEwen
Mink
Ruth
Sebelius
Skubitz
Wilson, Bob

NOT VOTING—58

Bell
Bolling
Breaux
Breckinridge
Burke, Calif.
Clark
Clawson, Del
Clay
Conyers
Dent
Diggs
Dorn
Erlenborn
Goldwater
Gray
Griffiths
Gubser
Hanrahan
Harsha
Harvey
Hays
Hébert
Hunt
Ichord
Johnson, Calif.
Keating
King
Kluczynski
McCormack
McKinney
Mailliard
Meeds
Melcher
Metcalfe
Mills, Ark.
Morgan
Moss
Nix
Patman
Riegle
Roncallo, N.Y.
Rooney, N.Y.
Runnels
Sandman
Smith, N.Y.
Stark
Steele
Stokes
Sullivan
Taylor, Mo.
Veysey
Walsh
Ware
Whalen
Williams
Wright
Wyatt
Yates

So the amendment to the amendment in the nature of a substitute was agreed to.

The result of the vote was announced as above recorded.

PREFERENTIAL MOTION OFFERED BY MR. M'COLLISTER

Mr. McCOLLISTER. Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. McCOLLISTER moves that the Committee do now rise.

The CHAIRMAN. The question is on the preferential motion offered by the gentleman from Nebraska (Mr. McCollister).

The question was taken; and the Chairman announced that the "noes" appeared to have it.

RECORDED VOTE

Mr. SCHERLE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 86, noes 290, answered "present" 2, not voting 54, as follows:

[Roll No. 683]

AYES—86

Bauman
Bevill
Blackburn
Bowen
Brinkley
Brooks
Broomfield
Brown, Mich.
Broyhill, Va.
Buchanan
Burgener
Burleson, Tex.
Chamberlain
Chappell
Conable
Conlan
Coughlin
Daniel, Dan
Daniel, Robert W., Jr.
Davis, S.C.
Dennis
Dickinson
Eshleman
Flynt
Frelinghuysen
Froehlich
Gonzalez
Gross
Gude
Haley
Hanna
Hastings
Hillis
Hogan
Hutchinson
Jarman
Johnson, Pa.
Kemp
Kuykendall
Landgrebe
Lent
Lott
Lujan
McClory
McCloskey
McCollister
McEwen
McKinney
McSpadden
Mallary
Mathis, Ga.
Mink
Minshall, Ohio
Montgomery
Moorhead, Calif.
Myers
Pike
Poage
Powell, Ohio
Price, Tex.
Rangel
Robinson, Va.
Robison, N.Y.
Rousselot
Ryan
Scherle
Schneebeli
Shoup
Shriver
Shuster
Spence
Steelman
Steiger, Wis.
Studds
Teague, Tex.
Towell, Nev.
Whitehurst
Whitten
Wyman
Yates
Young, Alaska
Young, Fla.
Young, S.C.
Young, Tex.
Zion
Zwach

NOES—290

Abdnor
Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Arends
Armstrong
Ashbrook
Ashley
Aspin
Badillo
Bafalis
Baker
Barrett
Bennett
Bergland
Biaggi
Biester
Bingham
Blatnik
Boggs
Boland
Brademas
Brasco
Bray
Breckinridge
Brotzman
Brown, Calif.
Brown, Ohio
Broyhill, N.C.
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton
Butler
Byron
Camp
Carney, Ohio
Carter
Casey, Tex.
Chisholm
Clancy
Clausen, Don H.
Cleveland
Cohen
Collier
Collins, Ill.
Collins, Tex.
Conte
Corman
Cotter
Crane
Cronin
Culver
Daniels, Dominick V.
Danielson
Davis, Ga.
Davis, Wis.
de la Garza
Delaney
Dellenback
Dellums
Denholm
Derwinski
Devine
Dingell
Donohue
Downing
Drinan
Dulski
Duncan
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Esch
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Fisher
Flood
Flowers
Foley
Ford, William D.
Forsythe
Fountain
Fraser
Frenzel
Frey
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Gilman
Ginn
Goodling
Grasso
Gray
Green, Oreg.
Green, Pa.
Grover
Gunter
Guyer
Hamilton
Hammerschmidt
Hanley
Hansen, Idaho
Hansen, Wash.
Harrington
Hawkins
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks
Hinshaw
Holifield
Holt
Holtzman
Horton
Hosmer
Howard
Huber
Hudnut
Hungate
Johnson, Colo.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Ketchum
Koch
Kyros
Landrum
Latta
Leggett
Lehman
Litton
Long, La.
Long, Md.
McCormack
McDade
McFall
McKay
Macdonald
Madden
Madigan
Mahon
Mann
Maraziti
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Matsunaga
Mayne
Mazzoli
Mezvinsky
Michel
Milford
Miller
Minish
Mitchell, Md.
Mitchell, N.Y.
Mizell
Moakley
Mollohan
Moorhead, Pa.
Mosher
Murphy, Ill.
Murphy, N.Y.
Natcher
Nedzi
Nelsen
Nichols
Obey
O'Brien
O'Hara
O'Neill
Owens
Parris
Passman
Patten
Pepper
Perkins
Pettis
Peyser
Pickle
Podell
Preyer
Price, Ill.
Pritchard
Quie
Quillen
Railsback
Randall
Rarick
Rees
Regula
Reid
Reuss
Rhodes
Rinaldo
Roberts
Rodino
Roe
Rogers
Roncalio, Wyo.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Roy
Roybal
Ruppe
Ruth
St Germain
Sarasin
Sarbanes
Satterfield
Schroeder
Sebelius
Seiberling
Shipley
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Snyder
Staggers
Stanton, J. William
Stanton, James V.
Steed
Steiger, Ariz.
Stephens
Stratton
Stubblefield
Stuckey
Symington
Symms
Talcott
Taylor, N.C.
Teague, Calif.
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Tiernan
Treen
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vigorito
Waggonner
Waldie
Wampler
White
Widnall
Wiggins
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Winn
Wolff
Wydler
Wylie
Yatron
Young, Ga.
Young, Ill.
Zablocki

ANSWERED "PRESENT"—2

Beard
Cochran

NOT VOTING—54

Bell
Bolling
Breaux
Burke, Calif.
Carey, N.Y.
Cederberg
Clark
Clawson, Del
Clay
Conyers
Dent
Diggs
Dorn
Erlenborn
Goldwater
Griffiths
Gubser
Hanrahan
Harsha
Harvey
Hays
Hébert
Hunt
Ichord
Johnson, Calif.
Keating
King
Kluczynski
Mailliard
Meeds
Melcher
Metcalfe
Mills, Ark.
Morgan
Moss
Nix
Patman
Riegle
Roncallo, N.Y.
Rooney, N.Y.
Runnels
Sandman
Stark
Steele
Stokes
Sullivan
Taylor, Mo.
Veysey
Walsh
Ware
Whalen
Williams
Wright
Wyatt

So the preferential motion was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. LONG OF LOUISIANA TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. LONG of Louisiana. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. Long of Louisiana to the amendment in the nature of a substitute offered by Mr. Staggers: Page 55, line 12, after "and perferential bus/car pool lane regulations" insert "and indirect source regulations."

Page 55, line 23, after "and preferential bus/car pool lane regulations" insert "and indirect source regulations."

Page 56, line 10, after "and preferential bus/car pool lane regulations" insert "and indirect source regulations."

Page 56, line 13, after "and preferential bus/car pool lane regulations" insert "and indirect source regulations."

Page 56, line 16, after "and preferential bus/car pool lane regulations" insert "and indirect source regulations."

Page 56, line 20, after "and preferential bus/car pool lane regulations" insert "and indirect source regulations."

Page 56, line 25, at the end of subsection (C) insert the following:

"The term 'indirect source' shall mean a source that causes or may cause mobile source activity. The provisions of this paragraph shall in no way diminish the Administrator's power to regulate stationary sources of air pollution.

POINT OF ORDER

Mr. STAGGERS. Mr. Chairman, I make a point of order against the amendment.

The CHAIRMAN. The gentleman from West Virginia (Mr. Staggers) makes a point of order against the amendment.

The gentleman will state his point of order.

Mr. STAGGERS. Mr. Chairman, the amendment seems to amend a section that has already been amended, and I would like, if I could, to have the sponsor of the amendment tell me in his language what is in it and why the point of order should not lie.

Mr. LONG of Louisiana. No, Mr. Chairman.

Mr. STAGGERS. Mr. Chairman, I will say this: I will try to explain what the bill does.

The CHAIRMAN. The Chair will hear the gentleman from West Virginia on the point of order.

Mr. STAGGERS. I thank the Chairman.

The point of order, as I gather the point of order, would lie on the fact that the amendment is not germane, because of the fact that it amends the part that has already been amended on the car pool. We took this up earlier on the parking restrictions, and this amendment goes further.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. Yes, I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, what the amendment does is, it substitutes indirect language for "car pools" and for "parking surcharge."

In other words, it goes rather more broadly than the original language. It sets up an entirely new group.

Mr. STAGGERS. Mr. Chairman, I withdraw my point of order.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana (Mr. Long) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. SCHERLE. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment to the amendment in the nature of a substitute was rejected.

PARLIAMENTARY INQUIRY

Mr. DERWINSKI. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. DERWINSKI. Mr. Chairman, my parliamentary inquiry is this:

In view of the ruling of the Chair on the point of order made against the amendment that was just rejected and the nature of the handling of the objection by the Chair, do we now believe that the Chair will be consistently understanding in permitting points of order to become explanations of some of these complex amendments?

The CHAIRMAN. The Chair will abide by the rules of the House, and when a Member makes a point of order, the Chair will hear the Member on the point of order.

Mr. DERWINSKI. Then, Mr. Chairman, one further parliamentary inquiry:

Would it be in order for me at this time to ask unanimous consent that all debate on the amendment in the nature of a substitute and all amendments thereto be open until midnight?

The CHAIRMAN. Will the gentleman restate his proposed unanimous-consent request?

Mr. DERWINSKI. Mr. Chairman, I ask unanimous consent that all debate on the amendment in the nature of a substitute and all amendments thereto be open until midnight.

The CHAIRMAN. If the Chair understands the gentleman, the gentleman is proposing by unanimous consent that the Committee of the Whole rescind its previous agreement?

Mr. DERWINSKI. That is exactly right, Mr. Chairman.

The CHAIRMAN. And the gentleman is proposing that the Committee of the Whole enter into a new agreement which would provide for no further debate at midnight?

Mr. DERWINSKI. Well, Mr. Chairman, the real intent is to provide that we vote on amendments after some explanation of their content so we are not voting in the blind. This is not a proper parliamentary statement, but it is a statement of the facts before us.

The CHAIRMAN. The Chair will try to state the unanimous-consent request which I understand the gentleman is seeking to make.

The gentleman from Illinois (Mr. DERWINSKI) seeks unanimous consent to rescind the agreement heretofore entered into by the Committee of the Whole and to provide that all debate on the Staggers amendment and all amendments thereto close at midnight tonight.

Is there objection to the request of the gentleman from Illinois?

Mr. HOWARD. Mr. Chairman, reserving the right to object, I would like to ask the gentleman from Illinois will the thrust of his unanimous consent request, should it be granted, be that there will be a vote on this bill at midnight tonight or that from midnight on there will be no further debate on any amendment at the desk?

Mr. DERWINSKI. The thrust of the unanimous consent request is that the situation in the House on this bill would be greatly improved if there be explanations available by the gentlemen who offer amendments so that the House could more effectively and quickly dispatch these amendments. It would be the thrust that in so doing we would greatly facilitate disposing of many of these amendments before midnight.

Mr. HOWARD. Further reserving the right to object, I yield to the gentleman from West Virginia.

Mr. STAGGERS. I would like to ask the gentleman from Illinois this question: If this request is granted by the House—and I am asking if—and we vote on this amendment and all amendments thereto at midnight tonight we will give all of the amendments at the desk equal time?

Mr. DERWINSKI. No. I cannot agree to that.

Mr. WOLFF. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

AMENDMENT OFFERED BY MR. HEINZ TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. HEINZ. Mr. Chairman, I offer an amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The Clerk read as follows:

Amendment offered by Mr. HEINZ to the amendment in the nature of a substitute offered by Mr. STAGGERS:

Page 8, line 18, insert in lieu thereof the following:

(e) Section 4(d) of the Emergency Petroleum Allocation Act of 1973 is amended to read as follows:

"(d) Consistent with the objectives of subsection (b) and the objective that crude oil, residual fuel oil, and refined petroleum products which are produced or refined within the United States be totally allocated for use by ultimate users within the United States, no crude oil, residual fuel oil, or refined petroleum product may be exported unless the President, by order, after considering evidence submitted by the person desiring to export such oil or product approves such export upon a finding that such export will in no way contribute to any shortages of any such oil or product within the United States. For purposes of this section, and subsection (a) insofar as it applies to this subsection, the term 'refined petroleum product' includes all petrochemical feed stocks."

POINT OF ORDER

Mr. DINGELL. Mr. Chairman, I make a point of order against the amendment.

The CHAIRMAN. The gentleman will state it.

Mr. DINGELL. Mr. Chairman, the rules of the House require that the amendment be germane first to the bill and second to the section to which it is addressed.

Mr. Chairman, I would point out that while the amendment is desirable in controlling exports, the language of the bill at page 44, line 22, deals with the subject of exports. That is the place at which an amendment relating to a prohibition on exports should be addressed.

As the Chair will note, the amendment appears at page 8, line 18, at a section relating to the Emergency Petroleum Allocation Act. And while the statute has within its four corners controls and prohibitions on exports, it would appear quite plain that the language of the amendment would not be germane in the light of the fact that the language elsewhere in the Emergency Petroleum Allocation Act deals with this and the amendment directs itself to setting up a new section there.

It also should be clear that the language of the bill itself at page 44, line 22, and following, has a prohibition on exports of petroleum, petroleum feed stocks, and so forth. Therefore the amendment, although it is offered in the best intention by an able Member of this body, is not germane.

The CHAIRMAN. Does the gentleman from Pennsylvania desire to be heard on the point of order?

Mr. HEINZ. I do, Mr. Chairman.

Mr. Chairman, the first point I would like to make is that the Emergency Petroleum Allocation Act, which section 103 amends, does deal with export and it does have certain controls placed on exports. My amendment, although it is an amendment to section 103 of the bill, is in effect an amendment to the Emergency Petroleum Allocation Act, and therefore is germane on those grounds.

Second, I would like to point out that the amendment that I offer is different from any other amendments that have been offered. In fact, the gentleman from Massachusetts (Mr. STUDDS), earlier offered an amendment to section 123 on exports, which was accepted by this body and which, I might point out, does make in section 123 specific reference to the Emergency Petroleum Allocation Act of 1973.

Finally, Mr. Chairman, I would suggest that the amendment is drawn in such a way as to avoid, and I have had, I might say, lengthy consultations with legislative counsel, an ungermane approach to the question of requiring that any refined petroleum products, including petrochemical feed stock, which are both covered by this bill, be subject to prior authorization by the President of the United States before they may be exported.

The CHAIRMAN (Mr. BOLLING). The Chair is ready to rule.

Section 103 does deal with allocations, and the first portion of the amendment offered by the gentleman from Pennsylvania (Mr. HEINZ), refers to total allocation within the United States and to the relation between those allocations and exports. The remainder of the amendment is germane to the section of the bill to which offered. Therefore the Chair overrules the point of order.

The question is on the amendment offered by the gentleman from Pennsylvania to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. HEINZ. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 152, noes 205, answered "present" 22, not voting **53, as** follows:

[Roll No. 684]

AYES—152

Abdnor
Addabbo
Alexander
Anderson, Ill.
Andrews, N. Dak.
Aspin
Badillo
Bafalis
Baker
Bauman
Bennett
Bergland
Bevill
Biester
Bingham
Blatnik
Boland
Bowen
Brasco
Bray
Brinkley
Brown, Mich.
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Mass.
Burlison, Mo.
Byron
Camp
Clausen, Don H.
Cochran
Cohen
Collins, Tex.
Conte
Cotter
Cronin
Davis, Ga.
Denholm
Dennis
Derwinski
Donohue
Drinan
Duncan
du Pont
Eshleman
Flood
Flowers
Flynt
Foley
Forsythe
Froehlich
Fuqua
Gaydos
Gettys
Gilman
Ginn
Grasso
Gray
Gunter
Guyer
Hamilton
Hanrahan
Harrington
Hawkins
Hechler, W. Va.
Heckler, Mass.
Heinz
Hicks
Hogan
Holt
Horton
Hudnut
Jarman
Kastenmeier
Ketchum
Koch
Kuykendall
Landgrebe
Landrum
Latta
Lehman
Lent
Lott
Lujan
McCollister
McDade
Madigan
Mann
Maraziti
Mathis, Ga.
Mayne
Mazzoli
Mezvinsky
Michel
Miller
Minish
Mink
Minshall, Ohio
Mollohan
Montgomery
Mosher
Myers
Nichols
O'Brien
Owens
Parris
Pike
Price, Tex.
Pritchard
Quillen
Randall
Rinaldo
Rogers
Roush
Roy
Ruth
St Germain
Sarasin
Sarbanes
Shipley
Shriver
Sikes
Snyder
Spence
Staggers
Stanton, J. William
Stanton, James V.
Steiger, Ariz.
Stephens
Stratton
Stuckey
Studds
Talcott
Taylor, N.C.
Teague, Calif.
Teague, Tex.
Thone
Tiernan
Towell, Nev.
Vanik
White
Whitten
Wilson, Charles, Tex.
Winn
Wolff
Wydler
Wylie
Wyman
Yatron
Young, Fla.
Young, S.C.

NOES—205

Abzug
Adams
Anderson, Calif.
Andrews, N.C.
Annunzio
Archer
Arends
Armstrong
Ashbrook
Ashley
Barrett
Biaggi
Brademas
Breckinridge
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Ohio
Burke, Fla.
Burleson, Tex.
Burton
Butler
Carey, N.Y.
Carney, Ohio
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clancy
Cleveland
Collier
Collins, Ill.
Conlan
Corman
Crane
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Danielson
Davis, S.C.
Davis, Wis.
de la Garza
Delaney
Dellenback
Dellums
Devine
Dickinson
Dingell
Downing
Dulski
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Esch
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Fisher
Ford, William D.
Fountain
Fraser
Frelinghuysen
Frenzel
Fulton
Giaimo
Gibbons
Gonzalez
Green, Oreg.
Green, Pa.
Gude
Haley
Hammerschmidt
Hanley
Hansen, Idaho
Hansen, Wash.
Hastings
Helstoski
Henderson
Hillis
Hinshaw
Holifield
Holtzman
Hosmer
Howard
Hungate
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kazen
Kemp
Kyros
Leggett
Litton
Long, La.
Long, Md.
McClory
McCormack
McFall
McKay
McSpadden
Macdonald
Madden
Mahon
Mallary
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Matsunaga
Milford
Mitchell, Md.
Mitchell, N.Y.
Mizell
Moakley
Moorhead, Calif.
Moorhead, Pa.
Moss
Murphy, Ill.
Murphy, N.Y.
Natcher
Nedzi
Nelsen
Obey
O'Hara
O'Neill
Passman
Patten
Pepper
Perkins
Peyser
Pickle
Poage
Podell
Powell, Ohio
Preyer
Price, Ill.
Quie
Railsback
Rangel
Rarick
Rees
Reid
Reuss
Rhodes
Roberts
Robinson, Va.
Rodino
Roe
Roncalio, Wyo.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roybal
Ruppe
Ryan
Satterfield
Scherle
Schroeder
Seiberling
Shoup
Shuster
Sisk
Slack
Smith, Iowa
Stark
Steed
Steelman
Steiger, Wis.
Stubblefield
Symington
Symms
Thompson, N.J.
Thomson, Wis.
Thornton
Treen
Udall
Ullman
Van Deerlin
Vigorito
Waggonner
Waldie
Wampler
Whitehurst
Widnall
Wiggins
Wilson, Charles H., Calif.
Yates
Young, Alaska
Young, Ga.
Young, Ill.
Young, Tex.
Zablocki
Zion
Zwach

ANSWERED "PRESENT"—22

Beard
Blackburn
Conable
Frey
Goodling
Gross
Grover
Hanna
Huber
Hutchinson
McCloskey
McEwen
McKinney
Pettis
Regula
Rousselot
Schneebeli
Sebelius
Skubitz
Smith, N.Y.
Vander Jagt
Wilson, Bob

NOT VOTING—53

Bell
Boggs
Bolling
Breaux
Burke, Calif.
Chisholm
Clark
Clawson, Del
Clay
Conyers
Coughlin
Dent
Diggs
Dorn
Erlenborn
Goldwater
Griffiths
Gubser
Harsha
Harvey
Hays
Hébert
Hunt
Ichord
Johnson, Calif.
Keating
King
Kluczynski
Mailliard
Meeds
Melcher
Metcalfe
Mills, Ark.
Morgan
Nix
Patman
Riegle
Robison, N.Y.
Roncallo, N.Y.
Rooney, N.Y.
Runnels
Sandman
Steele
Stokes
Sullivan
Taylor, Mo.
Veysey
Walsh
Ware
Whalen
Williams
Wright
Wyatt

So the amendment to the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. WYMAN TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. WYMAN. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The Clerk read as follows:

Amendment offered by Mr. WYMAN to the amendment in the nature of a substitute offered by Mr. STAGGERS: Page 59, after line 23, insert the following:

(1) Section 202(b) of the Clean Air Act (42 U.S.C. 1857) is amended by adding at the end thereof the following:

"(6)(a) Notwithstanding any other provision of law the authority of the Administrator to require emissions controls on automobiles is hereby suspended except for automobiles registered to residents of those areas of the United States as specified by subsection (b) of this section, until January 1, 1976 or the day on which the President declares that shortage of petroleum is at an end, whichever occurs later.

(b) Within 60 days after the date of enactment of this paragraph, and annually thereafter, the Administrator shall designate, subject to the limitations set forth herein, geographic areas of the United States in which there is significant auto emissions related air pollution. The Administrator shall not designate as such area any part of the United States outside the following Air Quality Control Regions as defined by the Administrator as of the date of enactment of this paragraph without justification to and prior approval of the Congress.

(A) Phoenix-Tucson, intrastate.
(B) Metropolitan Los Angeles, intrastate.
(C) San Francisco Bay area.
(D) Sacramento Valley area.
(E) San Diego area.
(F) San Joaquin Valley area (California).
(G) Hartford-New Haven (Conn.)-Springfield (Mass.) area.
(H) District of Columbia, Maryland, and Eastern Virginia area.
(I) Metropolitan Baltimore and abutting counties.
(J) New Jersey, downstate New York, and Connecticut area.
(K) Metropolitan Philadelphia and abutting counties area.
(L) Metropolitan Chicago and abutting counties (Ill. & Ind.)
(M) Metropolitan Boston and abutting counties area.

For purposes of this paragraph, the term 'significant air pollution' means the presence of air pollutants from automobile emissions at such levels and for such durations as to cause a demonstrable and severe adverse impact upon public health."

(2) Section 202(a) of such Act is amended by adding at the end thereof the following new paragraph:

"(3) Regulations prescribed under this subsection shall not apply to motor vehicles or motor vehicle engines registered by owners who reside in geographic areas which are not designated by the Administrator under section 202(b)(6) as areas in which there is significant air pollution, for the period beginning on the date of enactment of this paragraph, and ending on January 1, 1977, or the day on which the President declares that shortage of petroleum is at an end, whichever occurs later."

POINT OF ORDER

Mr. STAGGERS. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. STAGGERS. Mr. Chairman, I rise to the point of order that the gentleman's amendment has already been considered in the committee and rejected.

Mr. DINGELL. Mr. Chairman, I make a point of order against the amendment.

The CHAIRMAN. Does the gentleman from New Hampshire wish to be heard?

Mr. WYMAN. I do, Mr. Chairman.

Mr. Chairman, I checked with the Parliamentarian before offering this amendment. The date has been changed in the amendment. It is now January 1, 1976, and I offer it at this time pursuant to request.

The Chair has already ruled on the point of order.

Mr. DINGELL. Mr. Chairman, may I be heard on the point of order?

The CHAIRMAN. The gentleman from Michigan will be heard on the point of order.

Mr. DINGELL. Mr. Chairman, the author of the amendment has already pointed out to the House that he is again offering precisely the same amendment with the date changed.

In other words, what he is telling us is there is no substantive change in the amendment, and that the changes are cosmetic in character and do not change the quality or the effect of the amendment, except insofar as dealing with the effective date.

I would point out, in my view at least, that this is not a substantive change. This is a matter which was already rejected by the House and, as such, is violative of the rules, and is going back to redo actions already taken by the House.

The CHAIRMAN. Does the gentleman from New Hampshire (Mr. Wyman) desire to be heard further on the point of order?

Mr. WYMAN. Very briefly, Mr. Chairman.

Mr. Chairman, there is a whole year's difference between these two amendments, and I am informed that that is significant.

The CHAIRMAN (Mr. Bolling). The Chair is prepared to rule.

The Chair is reading from Volume 8 of Cannon's Precedents, page 438, section 2840, the heading of which is:

> Similarity of an amendment to one previously rejected will not render it inadmissible if sufficiently different in form to present another proposition.

Following the heading, farther down in the discussion, there appears this language:

> Mr. Speaker Clark on one occasion ruled that the change of one word in the language of a second amendment caused a deviation making that second amendment in order.

Because the change in this case appears to be substantive, the Chair overrules the point of order.

The question is on the amendment offered by the gentleman from New Hampshire (Mr. Wyman) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The question was taken; and the chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. MOSS. Mr. Chairman, on that I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 170, noes 205, answered "present" 3, not voting 54, as follows:

[Roll No. 685]

AYES—170

Abdnor
Alexander
Andrews, N.C.
Andrews, N. Dak.
Archer
Arends
Ashbrook
Baker
Bauman
Bergland
Bevill
Blackburn
Bowen
Bray
Brinkley
Brooks
Broomfield
Broyhill, N.C.
Broyhill, Va.
Burgener
Burleson, Tex.
Butler
Byron
Camp
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clancy
Cleveland
Cochran
Collier
Collins, Tex.
Conable
Cotter
Crane
Daniel, Dan
Daniel, Robert W., Jr.
Davis, S.C.
Davis, Wis.
de la Garza
Denholm
Dennis
Devine
Dickinson
Duncan
Edwards, Ala.
Esch
Eshleman
Fisher
Flowers
Flynt
Fountain
Froehlich
Gettys
Giaimo
Ginn
Gonzalez
Goodling
Gray
Gross
Guyer
Haley
Hammerschmidt
Hanrahan
Henderson
Hicks
Hogan
Holt
Hosmer
Huber
Hudnut
Hutchinson
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Tenn.
Jordan
Kazen
Ketchum
Kuykendall
Landgrebe
Landrum
Latta
Litton
Lott
McClory
McCollister
McCormack
McEwen
McKay
McSpadden
Macdonald
Madigan
Mahon
Mann
Martin, Nebr.
Mathis, Ga.
Mayne
Michel
Milford
Miller
Minshall, Ohio
Mitchell, N.Y.
Mizell
Mollohan
Montgomery
Myers
Nichols
O'Brien
O'Hara
Owens
Passman
Pepper
Pickle
Poage
Powell, Ohio
Price, Tex.
Quillen
Railsback
Randall
Rarick
Roberts
Robinson, Va.
Rose
Rostenkowski
Rousselot
Ruppe
Ruth
Ryan
Sarasin
Satterfield
Scherle
Schneebeli
Sebelius
Shipley
Shriver
Shuster
Skubitz
Slack
Snyder
Spence
Steed
Steiger, Ariz.
Stephens
Stratton
Stubblefield
Stuckey
Symms
Talcott
Teague, Tex.
Thornton
Towell, Nev.
Treen
Ullman
Waggonner
Wampler
White
Whitehurst
Whitten
Widnall
Wilson, Bob
Wilson, Charles, Tex.
Wylie
Wyman
Yatron
Young, Alaska
Young, S.C.
Young, Tex.
Zion

NOES—205

Abzug
Adams
Addabbo
Anderson, Calif.
Anderson, Ill.
Annunzio
Armstrong
Ashley
Aspin
Badillo
Bafalis
Barrett
Bennett
Biaggi
Biester
Bingham
Blatnik
Boland
Brademas
Brasco
Breckinridge
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Buchanan
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton
Carney, Ohio
Carter
Clausen, Don H.
Cohen
Collins, Ill.
Conlan
Conte
Corman
Cronin
Culver
Daniels, Dominick V.
Danielson
Davis, Ga.
Delaney
Dellenback
Dellums
Derwinski
Dingell
Donohue
Downing
Drinan
Dulski
du Pont
Eckhardt
Edwards, Calif.
Eilberg
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Flood
Foley
Ford, William D.
Forsythe
Fraser
Frelinghuysen
Frenzel
Frey
Fulton
Fuqua
Gaydos
Gibbons
Gilman
Grasso
Green, Oreg.
Green, Pa.
Grover
Gude
Gunter
Hamilton
Hanley
Hansen, Idaho
Hansen, Wash.
Harrington
Hastings
Hawkins
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Hillis
Hinshaw
Holifield
Holtzman
Horton
Howard
Hungate
Jarman
Jones, Ala.
Jones, Okla.
Karth
Kastenmeier
Kemp
Koch
Kyros
Leggett
Lehman
Lent
Long, La.
Long, Md.
Lujan
McCloskey
McDade
McFall
McKinney
Madden
Mallary
Maraziti
Martin, N.C.
Mathias, Calif.
Matsunaga
Mazzoli
Mezvinsky
Minish
Mink
Mitchell, Md.
Moakley
Moorhead, Calif.
Moorhead, Pa.
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Natcher
Nedzi
Nelsen
Obey
O'Neill
Patten
Perkins
Pettis
Peyser
Pike
Podell
Preyer
Price, Ill.
Pritchard
Quie
Rangel
Rees
Regula
Reid
Reuss
Rhodes
Rinaldo
Rodino
Roe
Rogers
Roncalio, Wyo.
Rooney, Pa.
Rosenthal
Roush
Roy
Roybal
St Germain
Sarbanes
Schroeder
Seiberling
Shoup
Sikes
Sisk
Smith, Iowa
Smith, N.Y.
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steelman
Steiger, Wis.
Studds
Symington
Taylor, N.C.
Teague, Calif.
Thompson, N.J.
Thomson, Wis.
Thone
Tiernan
Udall
Van Deerlin
Vander Jagt
Vanik
Vigorito
Waldie
Wiggins
Wilson, Charles H., Calif.
Winn
Wolff
Wydler
Yates
Young, Fla.
Young, Ga.
Young, Ill.
Zablocki
Zwach

ANSWERED "PRESENT"—3

Beard
Hanna
Parris

NOT VOTING—54

Bell
Boggs
Bolling
Breaux
Burke, Calif.
Carey, N.Y.
Chisholm
Clark
Clawson, Del
Clay
Conyers
Coughlin
Dent
Diggs
Dorn
Erlenborn
Goldwater
Griffiths
Gubser
Harsha
Harvey
Hays
Hébert
Hunt
Ichord
Johnson, Calif.
Keating
King
Kluczynski
Mailliard
Meeds
Melcher
Metcalfe
Mills, Ark.
Morgan
Nix
Patman
Riegle
Robison, N.Y.
Roncallo, N.Y.
Rooney, N.Y.
Runnels
Sandman
Steele
Stokes
Sullivan
Taylor, Mo.
Veysey
Walsh
Ware
Whalen
Williams
Wright
Wyatt

So the amendment to the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. DE LA GARZA TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. de la GARZA. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

> Amendment offered by Mr. de la Garza to the amendment in the nature of a substitute offered by Mr. Staggers:
>
> Sec. 215. Notwithstanding any other provision of law or regulation, any project or enterprise authorized by law or regulations of the Federal Government, regardless of time initiated shall be allowed the necessary fund for all its operations under any rules promulgated for such purposes."

Mr. de la GARZA. Mr. Chairman, this amendment is a clarifying amendment to the bill and the part dealing with agriculture. We have situations and one unfortunately in my area where the Congress has authorized a project by law or by regulation that of necessity, because of the imposition of regulations as far as fuel allocations, have no base period on which to judge their criteria for allowing fuel. This amendment says that any project which has been authorized by the Congress or through regulation of the Federal Government would be given an allocation even though it did not have any base. The project in my area, Mr. Chairman, is a new sugar mill, whose allocation of mainland sugar quota has been granted by the U.S. Department of Agriculture. It is intended by this amendment that notwithstanding their not having a base period, they shall nonetheless be given an allocation as needed for all their operations.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. de la Garza) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. YOUNG OF ILLINOIS TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. YOUNG of Illinois. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. Young of Illinois to the amendment in the nature of a substitute offered by Mr. Staggers: Add an additional subsection (9) on page 37, after line 4 of the bill as follows:

"(9) Any action or proceeding under subsections (3) (A) and (B) of this section to determine windfall profits or to recover windfall profits under this Act must be brought within one year after the expiration of this "Emergency Energy Act" or any extension thereof. Further, it is expressly provided that windfall profits as defined in this section refer only to profits earned during the period beginning with the enactment of this Act and ending on the date of the expiration of this Act, or any extension thereof."

Mr. YOUNG of Illinois. Mr. Chairman, I ask unanimous consent to speak for 1 minute to explain this amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. YOUNG of Illinois. Mr. Chairman, this amendment does two things. It clarifies the fact that the earnings which would be subject to the windfall projects section are determined from the beginning of the enactment of the act until the expiration of the act or any extension thereof. I think it is only explanatory of what the law would be anyway but it clarifies it.

The second thing the amendment does is to put a statute of limitations within which an action under the section to recover a windfall profit must be brought.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. Young) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. HANLEY TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. HANLEY. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. Hanley to the amendment in the nature of a substitute offered by Mr. Staggers: On page 4, line 11, and page 10, line 25, strike out "and" after "agriculture," and insert "collection, transportation and delivery of mail by the United States Postal Service, its lessors, contractors and carriers, and" before "transportation services".

Mr. HANLEY. Mr. Chairman, I ask unanimous consent to proceed for 1 minute to explain the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. HANLEY. Mr. Chairman, at this time I wish to offer an amendment to sections 103(a) and 105(b) of H.R. 11450, the Energy Emergency Act. My amendment would include the "collection, transportation, and delivery of the mail by the U.S. Postal Service, its lessors, contractors, and carriers" within the enumerated "vital services" of proposed new section (h)(1) of the Emergency Petroleum Allocation Act of 1973 as provided in section 103(a) of H.R. 11450. In addition, it would amend the same language in subsection (b) of section 105, which is entitled Energy Conservation Plans.

The purpose of these amendments is to make it clear that mail service is to have a high priority in the allocation of fuel. In my position as chairman of the Subcommittee on Postal Service of the Committee on Post Office and Civil Service I have become aware of the necessity for the Postal Service and its contractors to receive the fuel they need to deliver the mail in a prompt and efficient manner. It is essential for the well-being of the Nation that we adopt this amendment.

Postal Service highway vehicles range from passenger type units to large, long-haul, double bottom trailers. They include: First, the postal owned and operated fleet of 102,000 vehicles which travel approximately 615-million miles a year; second, approximately 82,000 vehicles utilized by city and rural carriers under contract or leased for collection or delivery services—these vehicles travel approximately 845-million miles a year; and third 40,000 vehicles under contract to transport mail which travel approximately 700-million miles a year. A total of 224,000 motor units traveling approximately 2.2-billion miles per year are involved in the collection, transportation, and delivery of the U.S. mail.

In addition, contract air service is provided by air taxi operators over 175 different routes. These aircraft travel approximately 24 million miles a year.

The Postal Service utilizes both certified air and rail carriers for the transportation of mail. Most domestic and international U.S. flag carrier flights are used to transport mail. By rail, approximately 450 piggyback units a day are dispatched along with 21 Amtrak trains—each having 1 to 3 cars of mail—and 11 unit mail trains which carry a portion of the piggybacks which I mentioned before.

To keep their highway vehicles and air taxis moving the Postal Service and its contractors use approximately 350 million gallons of fuel a year: 120 million gallons of diesel; 226 million gallons of gasoline; 8 million gallons of aviation gas; and 4 million gallons of turbine aviation fuel. This is exclusive of the quantity of fuel utilized by rail and certified air carriers.

This fuel is obtained from both bulk and retail outlets depending upon the size and location of the operation. A great many of the operations include small vehicles obtaining fuel from local retail outlets.

The Postal Service has attempted to conserve available fuel supplies. Due to the forecasts of shortages of gasoline for the summer of 1973, the Postmaster General issued instructions to postal field units in May 1973, which limit postal vehicle speeds to 50 miles per hour; establish high quality maintenance programs; and require operators to accelerate slowly and shut off engines during stops.

The shortages of gasoline which we experienced last summer has now developed into a shortage of all petroleum fuels. Scheduled flights of certified air carriers have been substantially reduced in the past few months. About 300 scheduled flights were canceled in November and approximately 250 scheduled flights will be canceled this month with an additional 1,000 to be canceled by January 7, 1974. The Postal Service will be required to divert mail to other means of transportation.

However, compounding the difficulty in this regard is a recent Federal Register Notice stating that the airlines are no longer required to give the Postal Service 10 days notice before canceling a flight. In addition, the Postal Service's request for diesel fuel allocation for the month of December was cut by 11 percent—or 1 million gallons—by the Office of Petroleum Allocation. These actions can only result in delayed mail service.

The Postal Service has implemented a number of fuel conservation programs in an effort to reduce its fuel requirements. The instructions issued in May 1973 by the Postmaster General have been reemphasized. In addition, the Postal Service is shifting from highway transport to piggyback rail service wherever practicable. This action should result in a yearly net savings of approximately 4.6 million gallons of diesel fuel or 4.6 percent of the total usage.

The Postal Service is also consolidating more highway trips, improving loading to reduce trip frequency, consolidating mail and fast freight trains, reducing air taxi mileages and adjusting collection, delivery and local cartage services of postal vehicle operations. In addition, the reduction of speed limits on limited access highways to 55 miles per hour, which will affect postal contract tractor-trailers, will result in a 5-percent reduction in diesel fuel usage—a savings of 5 million gallons a year.

The Postal Service can only do so much on its own to continue to provide prompt, reliable, and efficient mail service to our constituents. Congress must assist them in this task. For this reason I ask my colleagues to join me in supporting these amendments to clarify the position of mail service as one of the vital services to receive top priority in any ordering of priorities among users of crude oil, residual fuel oil, or any refined petroleum product.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. Hanley) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. M'CLORY TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. McCLORY. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. McClory to the amendment in the nature of a substitute offered by Mr. Staggers: on Page 16 following line 14, add the following new paragraph and renumbering the ensuing paragraphs accordingly:

"(c) The revision of regular airline schedules, including the elimination of scheduled flights shall be permitted only pursuant to authority granted by the Civil Aeronautics Board. In exercising this authority, the Civil Aeronautics Board shall report to both Houses of the Congress within 30 days following such approved revision of plane schedules or elimination of regularly scheduled plane flights. The Civil Aeronautics Board shall be empowered to reinstate any such revised plane schedules or elimination of commercial air flights as to which both Houses of Congress shall by affirmative vote overrule any such orders of the Civil Aeronautics Board, and with respect to which the Congress shall find that such joint Congressional action shall not jeopardize the energy control purposes of this legislation."

Mr. McCLORY. Mr. Chairman, I ask unanimous consent to proceed for 1 minute and to revise and extend my remarks.

Mr. HOSMER. Mr. Chairman, I object.

Mr. DINGELL. Mr. Chairman, I do not object, but I do rise on a point of order.

The CHAIRMAN. The gentleman from Illinois asked unanimous consent to proceed for 1 minute.

The Chair recognizes the gentleman from Michigan.

POINT OF ORDER

Mr. DINGELL. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. DINGELL. Mr. Chairman, I regretfully make my point of order.

Mr. Chairman, the amendment offered by the gentleman substitutes an entirely new procedure and requires a proceedings essentially similar to or identical to that required by the Reorganization Act on reorganization in connection with actions to be taken by a Federal regulatory agency. Nowhere else in the bill which is now before us is any language imposing that kind of a procedure or process of congressional approval over the Federal regulatory agencies.

For that reason, Mr. Chairman, the amendment is not germane and falls as violative of the rule of germaneness. Since we are not engaging in an action or after an authority to the regulatory agency involved, but rather to set up an entirely new procedure involving congressional action, congressional approval of agency actions through a device which is totally different than that found anywhere else in the bill.

Mr. McCLORY. Mr. Chairman, may I be heard on the point of order?

The CHAIRMAN. The gentleman from Illinois may be heard.

Mr. McCLORY. This merely provides that in connection with reporting to the Congress by the Civil Aeronautics Board, the reports are already provided for in this bill; should they report any discontinuance of service of any airlines or consolidation of service which would jeopardize the jobs of pilots and other airline personnel in addition to this section, because it really augments the section with regard to reports.

I understand this essential or basic point is in the Senate version of this bill. I would like to have it in the House bill so it will be there when the measure goes to conference.

The CHAIRMAN. Does the gentleman from Texas desire to be heard on the point of order?

Mr. ECKHARDT. Mr. Chairman, I should like to be heard on the point of order.

Mr. Chairman, although the last question that escaped the point of order was that it seems marginally acceptable, this goes way beyond it. In that case sections of the bill directed precisely to the question of allocation were submitted to a recheck by Congress. In this section, the only thing that the bill has done is provided an emergency process by which a regulatory agency may exercise additional authority.

What is sought to be done here is to subject the processes of that agency with respect to doing its normal duties to a recheck by Congress, and it is a wholly new procedure not envisaged in the original acts creating and authorizing those agencies, thus calling for a second judgment on a question of policy by Congress.

Mr. Chairman, I submit that the matter is not germane.

The CHAIRMAN (Mr. Bolling). The Chair will rule.

The Chair has had an opportunity to examine the language appearing on page 15, section 107. It appears to the Chair that insofar as the amendment is concerned, it represents a restriction in the exercise of the power outlined in section 107(a), so the Chair feels that the amendment is germane to the matter and overrules the point of order.

Mr. McCLORY. Mr. Chairman, I ask unanimous consent to proceed for 1 minute, and to revise and extend my remarks.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. HOSMER. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. McCLORY. Mr. Chairman, I ask unanimous consent to extend and revise my remarks.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. McCLORY. Mr. Chairman, this measure appears to be deficient in protecting public and employee rights and interests in connection with the rescheduling or elimination of flights of commercial aircraft.

Mr. Chairman, there should be definite protection against any curtailment of air service—or layoffs of air personnel under the guise of a conservation of jet fuel or other petroleum products or energy sources—unless it is established that such conservation actions are required in carrying out the purposes of this act.

Mr. Chairman, it does not seem to me that air carriers either individually or in combination with other carriers should be permitted to curtail services without first receiving the approval of the Civil Aeronautics Board. Indeed, it would be preferable to have the Congress review orders of the Civil Aeronautics Board rendered in relation to any such curtailments of service.

Mr. Chairman, this legislation should not be a vehicle to relieve air carriers of essential regulation—as required under existing law. Furthermore, it should not be interpreted as a means for discontinuing essential or convenient service to the public. Above all, this measure should not make it possible for air carriers to reap excessive or windfall profits at the expense of their employees—and the public.

Mr. Chairman, I am offering an amendment to section 107 of the substitute bill—H.R. 11882—intended to correct the defects in this legislation which I have outlined. I hope that my amendment will be adopted.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. McClory) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The amendment to the amendment in the nature of a substitute was rejected.

AMENDMENT OFFERED BY MR. ROGERS TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. ROGERS. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. Rogers to the amendment in the nature of a substitute offered by Mr. Staggers: Page 67, after line 26, add the following:

"(3) For the purpose of this section, the term "motor vehicle" means any self-propelled vehicle weighing 6,000 pounds or less designed for transporting persons or property on a street or highway, except for police, fire, ambulance, and other emergency vehicles.

"(b) (1) Subject to paragraph (2) and (3), not later than 30 days after submission of the results of the study under subsection (a), the Administrator shall submit to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Public Works of the Senate proposed legislation which would establish a 25 per centum fuel economy improvement standard applicable to 1980 and later model new motor vehicles. Such improvement shall be calculated from a baseline of the fuel economy performance of each manufacturer's entire annual production of 1974 model year new motor vehicles (as measured over the 1974 certification test cycle prescribed pursuant to section 206(a)).

"(2) If the Administrator determines that establishing a fuel economy improvement standard of 25 per centum for 1980 and later model new motor vehicles—

(A) is technologically or economically unfeasible,

(B) cannot be complied with safely and without interferring with applicable emission requirements, or

(C) will have unreasonably disruptive impact on employment or the economy,

he shall propose legislation establishing such lesser fuel economy improvement standard which he determines is as close to 25 per centum as possible without having any of the effects described in subparagraphs (A), (B), or (C).

"(3) The legislation proposed by the Administrator may propose the establishment of a less than 25 per centum fuel economy improvement standard for any manufacturer whose entire 1974 annual production of new motor vehicles meets or exceeds fifteen miles per gallon of gasoline (or other fuel). Any lesser standard under this paragraph shall be as close to 25 per centum as possible for that manufacturer without having any of the effects described in (A), (B), or (C) of paragraph (2) of this subsection.

POINT OF ORDER

Mr. BROYHILL of North Carolina. Mr. Chairman, I reserve a point of order on this amendment.

The CHAIRMAN. The gentleman will state his point of order.

Mr. BROYHILL of North Carolina. Mr. Chairman, I make the point of order that this amendment is not germane, that we have no other subject matter such as this in the bill, and, furthermore, that the House of Representatives or the Congress in prior action has authorized another Department of the Federal Government to undertake the same study, and thus this amendment is not in order.

Mr. ROGERS. Mr. Chairman, may I be heard on the point of order?

The CHAIRMAN. The gentleman from Florida may be heard on the point of order.

Mr. ROGERS. Mr. Chairman, actually this simply carries out part of the provision in the law which provides for a study on how this can be accomplished.

All this amendment does, in connection with that study, is to say the following: Where that study says, "He shall report to the Congress," this simply says or sets forth the manner in which he shall do that, by proposing specific legislative proposals that we ourselves would rule on, as the result of a study. And then he proposes how we can save fuel mileage.

That is all it is doing. It is set at 1980, and it simply carries out what we are trying to do in that study by having him report to the Congress.

It simply tells him how he shall make his report to the Congress, that it is proper and economically feasible.

Mr. HASTINGS. Mr. Chairman, I desire to be heard on the point of order.

The CHAIRMAN. The gentleman from New York may be heard on the point of order.

Mr. HASTINGS. Mr. Chairman, in the 1974 appropriation bill, this Congress by the votes of over 400 Members appropriated $2,400,000 to the Department of Transportation to conduct a study to achieve a 40-percent reduction in fuel consumption by automobiles.

Now, we go to the Environmental Protection Agency to give it the same authority and, therefore, we have two separate agencies of the Federal Government spending money on the very same studies.

Mr. ROGERS. Mr. Chairman, if I may be heard further on the point of order, it is not the same as the other. Rather, it is specifically different, because that is simply for a demonstration project to be done in that one instance. This is to propose legislation on how to bring some fuel economy to the American people.

The CHAIRMAN (Mr. BOLLING). For the reasons stated by the gentleman from Florida (Mr. ROGERS), the Chair overrules the point of order.

The question is on the amendment offered by the gentleman from Florida (Mr. ROGERS) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The amendment to the amendment in the nature of a substitute was rejected.

AMENDMENT OFFERED BY MR. BAKER TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. BAKER. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The Clerk read as follows:

Amendment offered by Mr. BAKER to the amendment in the nature of a substitute offered by Mr. STAGGERS: On page 15, strike lines 13 and 14 and insert in lieu thereof the following:

"(d) COAL PRODUCTION AUTHORITY.—The Administrator may take such actions as are necessary to assure an adequate supply of coal to attain the objectives of this section, including, but not limited to, the granting of exemptions from provisions of the Economic Stabilization Act which inhibit the ability of coal producers to obtain the necessary equipment and personnel for production and distribution of coal; and the granting of exemptions, on a case-by-case basis, from provisions of the Federal Coal Mine Health and Safety Act, in such cases as mines located above the water table or in which methane has not been detected as prescribed in section 303(h) of such Act, where it has been determined (1) that such provisions substantially reduce the ability of the producer to provide neccssary supplies of coal in an economical manner, and (2) that the exemption will not materially affect the health and safety of employees of that producer."

"(e) EXPIRATION.—The authority under this section (other than subsections (b) and (d) shall expire on May 15, 1975."

POINT OF ORDER

Mr. ECKHARDT. Mr. Chairman, I raise a point of order against the amendment on these grounds. The amendment is not germane in that it deals with the subject matter of another committee, the Committee on Education and Labor; in that it purports to amend the Federal Coal Mine Health and Safety Act under the exclusive jurisdiction of that committee; and it proposes to assign to the Administrator the ability to grant exemptions under that act, which is in no wise amended or altered by this provision.

Mr. BAKER. Mr. Chairman, may I be heard on the point of order?

The CHAIRMAN. The Chair will hear the gentleman.

Mr. BAKER. Mr. Chairman, on page 5 of the bill under consideration, line 22, the President is urged to take such action consistent with the provisions of this act and is authorized to take under this act and any other act action to encourage full production by the domestic energy industry at levels which make possible the expansion of facilities required to insure against a protraction in any such increased levels of unemployment. The amendment would increase employment in its implementation.

On page 7, line 22, and on to page 8, the act calls for the production and extraction of minerals essential to the requirements of the United States. This would further enhance employment in the Nation.

Then on page 14 it says nothing in the paragraph should be interpreted as requiring such source to use a particular grade of coal of any particular type, grade, or pollution characteristic if such coal is available to such source. Many of the small mines here would come under the provisions of this amendment.

I ask that the point or order be overruled.

The CHAIRMAN (Mr. BOLLING). The Chair is prepared to rule.

The language that appears on page 7, beginning at line 22, cited by the gentleman from Tennessee, says:

(b) Section 4(b)(1)(G) of the Emergency Petroleum Allocation Act of 1973 is amended to read as follows:

"(G) allocation of residual fuel oil and refined petroleum products in such amounts and in such manner as may be necessary for the maintenance of exploration for, and production or extraction of—

"(1) fuels, and

"(2) minerals essential to the requirements of the United States,

and for required transportation related thereto;".

The Chair believes that that language, together with the language cited on page 5 urging full production by the domestic energy industry, justifies the offering of this amendment which deals with coal production despite the point made by the gentleman from Texas with regard to the narrow construction of the section to which it is offered and, therefore, overrules the point of order.

The gentleman from Tennessee is recognized for 5 minutes in support of his amendment under clause 6 of rule XXIII.

Mr. BAKER. Mr. Chairman, this amendment addresses itself to the production of sufficient coal to satisfy current demands.

A considerable segment of our coal-producing areas include many small mines which are not now in operation. Much of this is occasioned by the application of the provisions of the Federal Coal Mine Health and Safety Act where actual need does not exist. The determinations of application of this law are simply made on too broad a basis.

There are many jobs available in the coalfields if we can make the deep hole mine operations profitable. I will tell you there is no better example of the free enterprise system in America than that expressed in the group of independent mine operators in the hills of this Nation.

If the Economic Stabilization Act and the Federal Coal Mine Health and Safety Act, in the opinion of the Administrator, hinders the pursuuit of the best interests of the Nation and its citizens, then this amendment would allow relief to the extent to which it is practicable.

I know of no operator who is not deeply concerned about safety and health. All of these operators come from the mines themselves and take a full responsibility for the miners and their families.

This is no broadside attack on the Economic Stabilization Act which expires in April next year and Mine Safety Act.

It is a vehicle to make the production of coal more attractive, to make coal available for public need, and to provide some jobs where others are being eliminated. Every exception which might be made will be accomplished on a case-by-case basis.

This amendment does not direct the Administrator to do anything. It allows him to take action to accommodate the requirements sufficient to encourage mine operators to make many small mines in this Nation productive.

I urge the adoption of this amendment.

Mr. STAGGERS. Mr. Chairman, I rise to oppose the amendment offered by the gentleman from Tennessee (Mr. BAKER) and I do so with reluctance because I know the good intentions of the gentleman.

Mr. Chairman, I request that I be recognized under the rule to speak in opposition to the amendment.

The CHAIRMAN. The gentleman is recognized to speak under the same rule.

Mr. STAGGERS. Mr. Chairman, this amendment would abrogate certain provisions of the Federal Coal Mine Health and Safety Act to allow a general exemption from that act. We do not know the full ramifications of it. There have been no hearings held on it. We do not know what it will do. I would not want to take the life of any man who works in the coal mines. I have seen too many men who went out to work in the morning, and who did not return in the evening. I just do not want to risk the health of those men.

I am not doubting the good intentions of the gentleman from Tennessee on this, because I know they are the best of intentions in offering his amendment. But I believe we should vote this amendment down. If necessary, we could have some hearings on it, and see where we would want to go on this.

As I say, we held no hearings in our committee on this. I am certain the regular committee has not held any hearings on this. I believe if this were before the regular committee that is entitled to look at this matter that they probably would vote it down.

I do not know what our committee could do on it, but I am pretty certain that they would vote it down.

As I say, I have seen too many men go to work in the morning and never come back in the evening, and I would not want that to happen to any man in America. So I would urge that this amendment be defeated.

Mr. FREY. I thank the Chairman for yielding.

Another part of the amendment in the way it is drawn has the expiration date of the entire language of this bill expiring on May 15, 1975. As I read the amendment, the authority for these two sections would not expire whatsoever. It would cause a tremendous conflict within the bill as written, and I think, although I certainly commend the gentleman for what he is trying to do, that this is not the way to do it.

Mr. HECHLER of West Virginia. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from West Virginia.

Mr. HECHLER of West Virginia. I thank the chairman for yielding.

Mr. Chairman, I have just returned from the convention of the United Mine Workers of America in Pittsburgh. The spirit of those coal miners has never been so high under their reform leadership and international president, Arnold Miller. The coal miners of this Nation are ready, willing, and eager to perform their patriotic duty by mining the coal necessary to meet the energy crisis. The demand for coal will require the employment of thousands of additional miners. It is absolutely essential that all miners be protected and that the energy crisis not be used as an excuse to weaken the protection of the Mine Safety Act. This is no time to weaken the Federal Coal Mine Health and Safety Act of 1969 which this Congress worked so hard to pass.

The number of deaths and injuries in the coal mines are still far too high in this most hazardous occupation in the Nation. Under the leadership of the safety division of the United Mine Workers of America great progress is being made. Now is not the time to turn the clock back and put the emphasis on production instead of protection. I think that for the sake of the energy crisis this would be a terrible time for the Nation to weaken the 1969 Federal Coal Mine Health and Safety Act.

Mr. STAGGERS. I thank the gentleman.

Mr. BAKER. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Tennessee.

Mr. BAKER. I thank the gentleman for yielding.

I want to assure the gentlemen in this Chamber that there is no indication and no idea in my mind of weakening the Health and Safety Act among the miners. I have many of them in my district. I just want the unreasonable provisions recognized in the Mine and Safety Act, and somebody in authority ought to take recognition of the fact that the mine operators, the little mine operators, should not spend unnecessary money or put themselves out of business when they could be mining safely, if we were to recognize the true conditions that exist.

Mr. STAGGERS. I recognize the integrity of the gentleman and his intentions, but I do not believe this is the place to do it. I believe it should be done in regular order, so I urge that the amendment be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Tennessee (Mr. BAKER) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. BAKER. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment to the amendment in the nature of a substitute was rejected.

AMENDMENT OFFERED BY MR. FRASER TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. FRASER. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The Clerk read as follows:

Amendment offered by Mr. FRASER to the amendment in the nature of a substitute offered by Mr. STAGGERS: Page 31, after line 17, insert the following new subsection:

(g) For purposes of this section, the terms "local governments" and "local units of government" include any metropolitan transportation organization designated as being responsible for carrying out section 134 of title 23, United States Code.

Redesignate the succeeding subsections of section 116 accordingly.

The CHAIRMAN. The Chair recognizes the gentleman from Minnesota under clause 6 of rule XXIII for 5 minutes.

Mr. FRASER. Mr. Chairman, I do not believe I will need the 5 minutes. I have checked this with both sides, the managers of the bill, and I hope they find it acceptable.

The purpose of my amendment is to make regional transportation planning agencies eligible for carpool funding under section 116 of this bill.

Since 1962, regional planning agencies, operating under section 134 of the Federal-Aid Highway Act, have attempted to identify their region's long-range transportation needs and outline alternative ways of dealing with current transportation deficiencies.

In most of the larger metropolitan areas, the section 134 agency, recognized by the Department of Transportation, is the areawide planning and coordination agency charged with the responsibility for undertaking comprehensive physical, social and economic planning for its metropolitan region.

Often these regional agencies span State lines. In the case of the Washington Metropolitan Area Council of Governments, parts of two States and the District of Columbia are covered. The Washington COG is currently operating a computerized carpool matching program. My amendment would enable the Washington COG to receive direct funding for its carpool system, provided that it continues to serve as the regional transportation planning agency under the terms of the Federal-Aid Highway Act.

The areawide comprehensive planning agencies are usually composed of elected officials representing local governments within the metropolitan area. My district, Minneapolis, happens to be part of a metropolitan region, whose areawide agency is organized somewhat differently. Our metropolitan council is an independent unit of government operating under State law. Its 15 members are appointed by the Governor of Minnesota. Transportation planning is only one of the council's wide ranging responsibilities.

Mr. Chairman, the new section 116 car

pool matching program represents a hopeful new effort to conserve energy and improve regional transportation systems at the same time. To be effective, any systematic car pool matching program should cover an entire metropolitan area. Obviously, we cannot expect each municipality within a metropolitan region to provide a car pool matching service for its residents.

It makes sense, then, to link the new section 116 program with ongoing efforts to develop more effective regional transportation programs. My amendment seeks to do this by making the one agency that knows the most about its area's transportation needs, the section 134 transportation planning agency, eligible for funding under section 116 of the Energy Emergency Act.

Mr. BROYHILL of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. FRASER. I yield to the gentleman from North Carolina.

Mr. BROYHILL of North Carolina. I thank the gentleman.

Mr. Chairman, I agree that the urban transportation planning organizations that operate beyond city lines should certainly be recognized in the bill.

I have only one question and that is: What is section 134 of title XXIII, United States Code?

Mr. FRASER. That is the section of the Highway Act that states that there shall be formulated a comprehensive transportation plan in urban areas of over 50,000 and under an amendment in 1973 each State is required to designate an agency to carry on that planning.

Mr. BROYHILL of North Carolina. That was my understanding. I just wanted to get that definition in the RECORD.

Mr. GUDE. Mr. Chairman, will the gentleman yield?

Mr. FRASER. I yield to the gentleman from Maryland.

Mr. GUDE. Mr. Chairman, I rise in support of the amendment.

I want to add my strong endorsement to the amendment offered by my colleague, the gentleman from Minnesota. There are more than 30 urban areas in the United States that cut across State boundaries. Often the only effective way to achieve a coordinated urban transportation policy in these areas is through regional planning agencies which include representatives from all the constituent governments in the area. In this area such an agency is the Metropolitan Washington Council of Governments which has already begun a computerized car pool matching program for the entire metropolitan area, including portions of Maryland, Virginia, and the District of Columbia. These jurisdictions working individually could not hope to create effective plans for the entire region. This amendment would permit regional groups such as COG to perform a valuable service in developing efficient car pool systems.

Without question car pooling has been shown to be one of the most effective ways of reducing motor vehicle traffic and thereby, gasoline consumption, all at considerable savings to the commuter. One study has shown the cost of a 10-mile commuter trip in a large urban area by one person in an auto to be $2.64. Various modes of rail transit ranged between $1.66 and $2.52 per ride, while a bus trip was estimated at $0.86. However, car pooling would reduce the per person cost to $0.88 if there were three riders, and only $0.66 if there were four riders. Moreover, if everyone joining a car pool stopped driving on his own, then every four-man pool represents a 75-percent savings on gasoline consumption. It makes good sense to encourage car pools, and it is only practical that we make available funds to all those agencies which can create effective car pools, as this amendment proposes.

Mr. STAGGERS. Mr. Chairman, I support the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. FRASER) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. MARTIN OF NORTH CAROLINA TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. MARTIN of North Carolina. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The Clerk read as follows:

Amendment offered by Mr. MARTIN of North Carolina to the amendment in the nature of a substitute offered by Mr. STAGGERS: On page 6, at line 6, strike the period, and add: "; *Provided, however,* That any proposal by the President for the rationing of fuel for personal automobiles and recreational vehicles should, in addition to the basic non-discriminatory ration, include provisions under which the individual consumer may qualify for additional allocations of fuel upon payment of a fee or user charge on a per unit basis to the Federal Energy Administration."

POINT OF ORDER

Mr. STAGGERS. Mr. Chairman, I make a point of order against the amendment on the ground that it is not germane.

The CHAIRMAN. Does the gentleman from North Carolina desire to be heard on the point of order?

Mr. MARTIN of North Carolina. Mr. Chairman, I certainly would.

Mr. STAGGERS. Mr. Chairman, I make the point of order on the amendment on the ground that it authorizes a user's fee in the nature of a tax and that is not supposed to come within the jurisdiction of our committee. That authority is delegated to the Ways and Means Committee.

Mr. MARTIN of North Carolina. Mr. Chairman, I believe that the amendment is germane and pertinent to the section dealing with gasoline rationing. Far be it from me to test my experience against the experience of the chairman and for the most part I throw myself on the parliamentary wisdom and fairness of the Chair.

I will make one telling point. This amendment does not propose a tax as such and so does not run afoul of the prerogatives of the honorable Committee on Ways and Means. Instead it proposes an administrative fee to be charged, much as fees are charged by the National Park Service under the Golden Eagle plan for use of our park resources. This fee as I propose it would be charged for preferential use of any extra limited fuel resources.

The CHAIRMAN. The Chair is constrained to sustain the point of order on the ground that this amendment in effect would result in a tax not directly related to the rationing authority conferred by the amendment in the nature of a substitute.

AMENDMENT OFFERED BY MR. MARTIN OF NORTH CAROLINA TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. MARTIN of North Carolina. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The Clerk read as follows:

Amendment offered by Mr. MARTIN of North Carolina to the amendment in the nature of a substitute offered by Mr. STAGGERS: On page 6, at line 6, strike the period, and add: "; *Provided, however,* That any proposal by the President for the rationing of fuel for personal automobiles and recreational vehicles should, in addition to the basic nondiscriminatory ration, include provisions under which the individual consumer may qualify for additional allocations of fuel."

Mr. MARTIN of North Carolina. Mr. Chairman, under the rule may I be heard in support of my amendment?

The CHAIRMAN. The gentleman can ask unanimous consent for time.

Mr. MARTIN of North Carolina. Mr. Chairman, I would ask unanimous consent first to explain that my second amendment is but a truncated amendment.

The CHAIRMAN. How much time does the gentleman desire to ask unanimous consent for?

Mr. MARTIN of North Carolina. Mr. Chairman, I ask unanimous consent to proceed for 3 minutes.

Mr. HOSMER. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. MARTIN of North Carolina. Mr. Chairman, I ask unanimous consent to proceed for 1 minute.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from North Carolina (Mr. MARTIN) for 1 minute.

Mr. MARTIN of North Carolina. Mr. Chairman, my amendment proposes that in the event this Nation has to go to rationing of gasoline, as authorized by this bill, that we only do so on an equitable and fair basis; without having to have a cumbersome administrative apparatus to decide how much, if any, extra to allocate. We have all heard the appeals of traveling salesmen, hobbyists, tourists, sportsmen, large car owners, or the worker who lives a distance from his job.

My amendment provides that for personal automobiles or recreational vehicles, each consumer would get a basic ration—with no governmental favoritism for the hundreds of cases that will be brought asking for special treatment. No administrator will then have to decide whether one customer or one class of customers is entitled to a little more gasoline at the expense of somebody else. It provides instead that some extra share or ration can be obtained by any citizen exercising his or her own decision. The extra coupons, if that device is used, could be purchased from the administrator at a higher net price, or by meeting whatever other nondiscriminatory condition might be imposed. The decision would then be made on the basis of an economic consideration of need or value—rather than on administrative consideration.

A very important issue is at stake here. This bill before us already authorizes the President to establish gasoline rationing—or "end use allocation to individual consumers"—subject to legislative veto. It gives no direction as to the principles to be followed in any rationing system.

We need to give some direction. If on the one hand, we want rationing to be complete, with elaborate and ponderous administrative machinery for deciding which appeals for extra rationing are justified and which are not, which consumer has an essential case and which does not, if this is what we want, then we should amend the bill accordingly. I do not want this, because it would be chaotic and would lead to blackmarket profiteering.

If, on the other hand, we want rationing to be nondiscriminatory, with no preferential treatment of some consumers or classes for their personal automobiles or recreation, then we should amend the bill accordingly. And this is the objective of my amendment. It will indicate that we want a minimum of new bureaucracy; that we want special treatment only for vital areas of public safety, health, agriculture, and so forth, listed on page 4, line 9 of H.R. 11882 as reported; that we want any available reserve of gasoline, over and above that needed for these vital services and for the basic ration, to be offered to the public at a higher net price, for a fee payable to the Office of the Administrator.

This is what my amendment seeks to do, to preserve as much as possible of market and economic considerations instead of letting all decisions on distribution be made by the Government.

These are two different choices, but it may be that we do not want to give any direction, so that when the buck is passed we will just "duck the buck." In that case we should vote down all amendments on rationing, and just sit back and let somebody else lead this country.

Mr. Chairman, I hope the members of the committee will favor my amendment. It runs counter to the idea that Government is omniscient and can establish a complete set of priorities for the use of scarce fuels. It is not so much an ideological amendment as it is a pragmatic one.

It does not freeze out the poor, for they would be entitled to the same basic ration as anyone else, without having to qualify for it or buy it. They would be no worse off than they are now, perhaps better. It does not favor the rich any more than the vast majority—middle income consumers—who have their own job requirements for extra gasoline, their own hobbies, their own sporting interests. Under my amendment, if rationing comes, they would decide for themselves how to balance their needs—and wants—against economic considerations. Each could decide whether to pay the higher price or to ride the city bus, or join a car pool, or use a telephone more, or otherwise reduce consumption as an alternative to going above the basic ration.

Such a system would be equitable in sharing the shortage. It could be set up quickly and would minimize the bureaucracy. And it would let economic considerations comparable to the free market determine any extra allocations, and would tend to reduce demand.

I hope it will be adopted.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina (Mr. MARTIN) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The question was taken; and on a division (demanded by Mr. MARTIN of North Carolina) there were—ayes 53, noes 91.

So the amendment to the amendment in the nature of a substitute was rejected.

AMENDMENT OFFERED BY MR. ULLMAN TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. ULLMAN. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The Clerk read as follows:

Amendment offered by Mr. ULLMAN to the amendment in the nature of a substitute offered by Mr. STAGGERS: Page 11, insert after line 11 the following:

(d) Nothing in this section or any other provision of this Act or of the Emergency Petroleum Allocation Act of 1973 shall be construed as authorizing the imposition of any tax.

(By unanimous consent, Mr. ULLMAN was allowed to proceed for 1 minute.)

Mr. ULLMAN. Mr. Chairman, this is a very simple amendment which merely makes it crystal clear that nothing in this act portends to or does grant away any of the taxing power of the Congress.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oregon (Mr. ULLMAN) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. EDWARDS OF ALABAMA TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. EDWARDS of Alabama. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The Clerk read as follows:

Amendment offered by Mr. EDWARDS of Alabama to the amendment in the nature of a substitute offered by Mr. STAGGERS:

On page 46, line 16, delete the word "paragraph" and insert the word "section."

On page 47, line 1, add a new section 119(a)(2) as follows:

"The Administrator shall, for any period beginning on or after the date of enactment of this section, temporarily suspend any stationary source fuel or emission limitation or other environmental protection requirement as it applies to any energy producing facility or refinery, if the Administrator finds that such facility or refinery will be unable to comply with such limitation during such period because of the unavailability of plant equipment or materials needed to construct an emission reduction system or other antipollution system and that such facility or refinery has entered into a contractual obligation to obtain the plant equipment or materials needed for such a system. A suspension granted under this paragraph shall be granted only for the period during which the facility or refinery to which it applies can reasonably be expected to be unable to obtain the plant equipment or materials needed to construct an emission reduction system or other antipollution system necessary to permit compliance with the stationary source fuel or emission limitation or other requirement which it suspends," and renumber the succeeding sections accordingly.

On page 52, line 7, delete subsection (e) of section 119 and add a new subparagraph (e) as follows: "No State or political subdivision may require any person, energy producing facility or refinery, to whom a suspension has been granted under subsection (a) to use any fuel the unavailability of which is the basis of such person's suspension or to meet any requirement the compliance with which is prevented by the unavailability of plant equipment or materials needed to construct an emission reduction or other antipollution system (except that this preemption shall not apply to requirements identical to Federal interim requirements under subsection (b) or a compliance schedule under subsection (a)(2)(A)(iii) including any requirement under subsection (a)(2)(B)(i). No State or political subdivision may require any person to use an emission reduction system for which priorities have been established under subsection (c) except in accordance with such priorities."

POINT OF ORDER

Mr. ROGERS. Mr. Chairman, I make a point of order against the amendment.

The CHAIRMAN. The gentleman will state his point of order.

Mr. ROGERS. Mr. Chairman, I must be constrained to make a point of order against this amendment. In checking the amendment, if one examines it carefully, it would amend the Federal Water Pollution Control Act, the Occupational Health and Safety Act, the Ocean Dumping Act; the Public Works Committee would be infringed upon; the Committee on Education and Labor would be infringed upon; the Committee on Merchant Marine and Fisheries would be infringed upon.

It is not germane. It also would amend the Solid Waste Disposal Act and the Coal Mine Health and Safety Act. It is not limited in time, nor constrained by any relationship to fuel shortage.

For all these reasons, a careful examination, I would think, would show that it is not germane and, furthermore, these matters have been already handled in the bill.

The CHAIRMAN. Will the gentleman from Florida cite the specific language? The Chair is concerned, because he has reference to page 46 of the committee amendment in the nature of a substitute, title II, and the language appearing on that page and thereafter.

Mr. ROGERS. Mr. Chairman, I think if the Chair would direct its attention to about the sixth line of the amendment, where it says, "Or other environmental protection requirement," which violates all of these other laws that this does not apply to at all, "To any energy producing facility or refinery."

The Chair can also direct its attention on the bottom, about four lines up, where it begins, "To meet any requirement the compliance with which is prevented by the unavailability of plant equipment or materials needed to construct an emission reduction or other antipollution system," so the language here is so broad it goes far beyond this act. It is an infringement on all of these other laws and on all the jurisdiction of these other committees.

The CHAIRMAN. Does the gentleman from Alabama (Mr. EDWARDS) desire to be heard on the point of order?

Mr. EDWARDS of Alabama. I would like to be heard, Mr. Chairman.

Mr. Chairman, first of all, let me say that I am impressed that I have been able to amend this many different acts and infringe upon this many different committees without realizing it.

This comes under the section called Suspension Authority, and in that section the Administrator is empowered to suspend the type of fuel an industry is required to use if it is not available.

By the same token, my amendment is limited to energy producing facilities or refineries which we desperately need now. And all it simply says is that if, in an effort to comply with EPA requirements, the Administrator finds that the material is not available, the Administrator has the right to suspend the requirement until the material is available if, in fact, the industry has made a good faith effort and a contract to obtain this equipment.

Mr. Chairman, to me this is a vital part of this particular legislation, trying to find ways to conserve fuel under the Emergency Energy Act. I think it is right on all fours with what this section is designed to do.

The CHAIRMAN (Mr. BOLLING). The Chair is prepared to rule.

While the language in the bill is broad, suspending certain procedural requirements of law, the Chair, in the absence of specific knowledge as to all of the other environmental protection requirements that are involved in the language of the amendment, feels constrained to sustain the point of order.

The Chair believes he will sustain the point of order on the ground that this language is simply so broad as to suspend virtually every requirement of law, and the Chair out of caution sustains it for fear of further broadening a bill which is already very broad.

AMENDMENT OFFERED BY MR. JONES OF OKLAHOMA TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. JONES of Oklahoma. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The Clerk read as follows:

Amendment offered by Mr. JONES of Oklahoma to the amendment in the nature of a substitute offered by Mr. STAGGERS:

On page 9, after line 22, section 104 is amended by inserting the following new subsection after subsection (c), and redesignating the subsequent subsections:

SEC. 2. Price Control and Shortages. The President and the Administrator shall conduct a review of all rulings and regulations issued pursuant to the Economic Stabilization Act to determine if such rulings and regulations are contributing to the shortage of petroleum products, coal, natural gas, and petrochemical feedstocks, and of materials associated with the production of energy supplies, and equipment necessary to maintain and increase the exploration and production of coal, crude oil, natural gas, and other fuels. The results of this review shall be submitted to the Congress within thirty days of the date of enactment of this Act.

Mr. DINGELL. Mr. Chairman, I reserve a point of order.

Mr. HOSMER. Regular order, Mr. Chairman.

The CHAIRMAN. Regular order is ordered.

POINT OF ORDER

Mr. DINGELL. Mr. Chairman, I regretfully make a point of order against the amendment.

The CHAIRMAN. The gentleman will state his point of order.

Mr. DINGELL. Mr. Chairman, I would like to have given my good friend, the gentleman from Oklahoma, an opportunity to be heard.

Mr. Chairman, as the Chair will note, the amendment before us imposes the duty upon the President to perform a study related to the effectiveness and the effects of another statute, namely, the Economic Stabilization Act. As the Chair notes, the Economic Stabilization Act and studies under the Economic Stabilization Act lie in the jurisdiction of another committee, namely the Committee on Banking and Currency.

I am sure the Chair is also aware that nowhere else in this statute appears the Economic Stabilization Act.

While I recognize the merits of the amendment offered by the gentleman from Oklahoma and salute him for an awareness of a problem of considerable importance, nevertheless the rules of this House do not permit this committee to amend the Economic Stabilization Act, referring to the Committee on Interstate and Foreign Commerce, and indeed the Economic Stabilization Act is not mentioned anywhere else in the bill.

Of course, it follows the committee of which we are now a part may not direct studies relating to the effect of that under the guise of amending the bill H.R. 11882, because it deals with different matters.

I make a point of order against the amendment on the grounds of germaneness.

The CHAIRMAN. The gentleman from Oklahoma will be heard on the point of order.

Mr. JONES of Oklahoma. I think the amendment is germane to this bill, because in the first place it does fit into the overall concept of the bill in trying to ease our energy problems and fits in with the title of the bill.

Second, it does not amend the Economic Stabilization Act in any way but merely calls for a study to give to this Congress information that will be necessary in case an amendment to that act is necessary in the future.

So I believe it is germane to this bill, because it does fit into the overall objective.

The CHAIRMAN (Mr. BOLLING). The Chair is prepared to rule.

The amendment offered by the gentleman from Oklahoma (Mr. JONES) only provides for a study of certain effects of actions taken under the Economic Stabilization Act. The amendment in the nature of a substitute in its present form is replete with various studies.

Therefore the Chair overrules the point of order.

(By unanimous consent Mr. JONES of Oklahoma was allowed to proceed for 1 minute.)

Mr. JONES of Oklahoma. Very briefly, the purpose of this amendment is to direct the President and Administrator to conduct a study to discover if there is any relationship between the price control regulations and rulings and the present energy shortage, particularly as it affects new sources of energy and the equipment needed to produce those new sources of energy.

Known facts show that we have a decline in our domestic production and a shortage in equipment. Independent producers in my State are willing to go out and drill wells, but cannot get the equipment to do so. The reasons for this are that blame is laid on the price control rulings. Congress may be called on to rectify that, but we should not do it in a vacuum. We should have the studies conducted and the results back to us in 30 days so that we can take that action in a responsible manner.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma (Mr. JONES) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. GILMAN TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. GILMAN. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The Clerk read as follows:

Amendment offered by Mr. GILMAN to the amendment in the nature of a substitute offered by Mr. STAGGERS: On page 45, add a new section 125:

SEC. 125. DEVELOPMENT OF PROCESSES FOR THE CONVERSION OF COAL TO CRUDE OIL AND OTHER LIQUID AND GASEOUS HYDROCARBONS.

The President shall prepare and submit to Congress not later than 90 days after the date of enactment of this Act a plan for encouraging the conversion of coal to crude oil and other liquid and gaseous hydrocarbons.

(By unanimous consent Mr. GILMAN

was allowed to proceed for 1 minute and revise and extend his remarks.)

Mr. GILMAN. Mr. Chairman, my proposed amendment calls for the preparation and submission by the President to Congress within 90 days, a plan for developing a process for the conversion of coal to crude oil and other liquid and gaseous hydrocarbons.

Section 106 of this measure requires major fuel burning installations to convert to coal, in place of oil or natural gas, provided that these plants have the capability to do so and where the use of coal will have the least adverse environmental impact. While this is a necessary step, with coal being our most abundant natural resource, we cannot ignore the environmental concerns.

Coal can be effectively and safety converted to environmentally sound methods of usage. Research on the governmental level and in private industry has made some real breakthroughs in the conversion process. But our research has been helter-skelter and we are not fully apprised of the present status of coal conversion efforts.

What we need is an extensive, comprehensive plan, stepping up our research on coal conversion so that we can safely avail ourselves of the 390 billion tons of known recoverable coal.

Upon receiving this report from the President, as proposed by my amendment, we would be able to then determine where and how we should proceed in further efforts for converting coal to a safer burning fuel.

Our purpose in considering this legislation today is two-fold. We are dealing with the immediate energy shortages and at the same time taking a longer range look at the road ahead, making certain that we do not find ourselves the victims of recurring energy crunches.

As we look to the future, we are hopeful that we will be able to tap some of the more exotic energy sources: solar energy, geothermal energy and hydroelectric power. But as a more immediate solution to our energy problems we should certainly look to our most available resource—coal—which comprises 88 percent of all our known recoverable fuel reserves.

Accordingly, I urge my colleagues to adopt this amendment so that we might make use of our abundant coal reserves, safely and without any environmental hazards.

Mr. MOSS. Mr. Chairman, will the gentleman yield?

Mr. GILMAN. I yield to the gentleman from California.

Mr. MOSS. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I wonder if the gentleman from New York (Mr. GILMAN), would join in a unanimous consent request that his designation of the President would be changed to the Administrator, in order that it conform to the basic format of the substitute as it was reported and agreed upon in the Committee on Interstate and Foreign Commerce?

Mr. GILMAN. Mr. Chairman, I would have no objection to that.

Mr. MOSS. Mr. Chairman, I make that unanimous consent request to change the designation from the President to the Administrator.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. GILMAN), to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MS. HOLTZMAN TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Ms. HOLTZMAN. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The Clerk read as follows:

Amendment offered by Ms. HOLTZMAN to the amendment in the nature of a substitute offered by Mr. STAGGERS: Page 45, insert after line 9:

"SEC. 124. PROHIBITION OF PETROLEUM EXPORTS FOR MILITARY OPERATIONS IN INDOCHINA.

"In the exercise of his jurisdiction under the preceding section, and in order to conserve petroleum products for use in the United States, the Administrator shall prohibit the exportation of petroleum products for use, directly or indirectly, in military operations in South Vietnam, Cambodia or Laos."

Page 45, line 9A, strike out "SEC. 124" and insert in lieu thereof "SEC. 125."

POINT OF ORDER

Mr. BROYHILL of North Carolina. Mr. Chairman, I make a point of order against the amendment.

The CHAIRMAN. The gentleman will state his point of order.

Mr. BROYHILL of North Carolina. Mr. Chairman, I make the point of order that this amendment is not germane to the bill since it deals with a subject matter that is under the jurisdiction of other committees of the House of Representatives, the Committee on Armed Services and the Committee on Foreign Affairs, as an example.

The CHAIRMAN. Does the gentlewoman from New York desire to be heard on the point of order?

Ms. HOLTZMAN. Mr. Chairman, I do desire to be heard on the point of order.

Mr. Chairman, certainly the subject of petroleum products seems to be within the jurisdiction of this committee since we have been debating this matter for at least 3 days. So I would urge that this subject is germane, and that my amendment is germane to the bill.

The CHAIRMAN (Mr. BOLLING). The Chair is prepared to rule.

The language of the amendment in the nature of a substitute which appears at the bottom of page 44 reads in part as follows:

> To the extent necessary to carry out the purpose of this Act, the Administrator may under authority of this Act, by rule, restrict exports of coal, petroleum products, . . .

et cetera, et cetera.

The amendment offered by the gentlewoman from New York (Ms. HOLTZMAN) is a further delineation of that type of authority. Therefore the Chair overrules the point of order made by the gentleman from North Carolina (Mr. BROYHILL).

(By unanimous consent, Ms. HOLTZMAN was allowed to proceed for 1 minute.)

Ms. HOLTZMAN. Mr. Chairman, the purpose of this amendment is to deal with the problem that came to our attention in the last few days. We are apparently supplying about 23,590 barrels of oil per day to South Vietnam and Cambodia. In view of the extraordinary shortages here at home, it seems to be unnecessary to supply oil for military operations to Vietnam and Cambodia when we are taking it from the consumers and other users here at home.

I should also like to point out that South Vietnam and Cambodia may purchase oil from the Middle East, since they have not been boycotted by the Arabs, so that this amendment will not prevent their ability to obtain fuel from non-American sources.

I urge support of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New York (Ms. HOLTZMAN) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Ms. HOLTZMAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 201, noes 172, answered "present" 1, not voting 58, as follows:

[Roll No. 686]

AYES—201

Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Aspin
Badillo
Barrett
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blatnik
Boland
Brademas
Brasco
Broomfield
Brown, Calif.
Brown, Mich.
Broyhill, Va.
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton
Byron
Carney, Ohio
Carter
Cohen
Collins, Ill.
Conte
Corman
Cotter
Coughlin
Cronin
Culver
Daniels, Dominick V.
Danielson
de la Garza
Delaney
Dellums
Denholm
Donohue
Drinan
Dulski
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Esch
Evans, Colo.
Evins, Tenn.
Fascell
Fish
Flynt
Foley
Ford, William D.
Fountain
Fraser
Frenzel
Froehlich
Fulton
Fuqua
Gaydos
Gibbons
Ginn
Gonzalez
Grasso
Gray
Green, Pa.
Gross
Grover
Gude
Gunter
Guyer
Haley
Hamilton
Hanley
Hanna
Hanrahan
Hansen, Wash.
Harrington
Hawkins
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Hicks
Holifield
Holtzman
Horton
Howard
Hungate
Hutchinson
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Koch
Kyros
Landrum
Leggett
Lehman
Litton
Long, La.
Lujan
McCloskey
McCormack
McDade
Madden
Madigan
Matsunaga
Mazzoli
Mezvinsky
Milford
Miller

Minish
Mink
Minshall, Ohio
Mitchell, Md.
Moakley
Moorhead, Pa.
Mosher
Moss
Murphy, Ill.
Natcher
Nedzi
Nichols
Obey
O'Neill
Owens
Parris
Patten
Pepper
Pickle
Pike
Podell
Price, Ill.
Pritchard
Railsback
Randall
Rangel
Rarick
Rees
Regula
Reid
Reuss
Rinaldo
Robison, N.Y.
Rodino
Roe
Roncalio, Wyo.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Roy
Roybal
Ryan
St Germain
Sarasin
Sarbanes
Schroeder
Seiberling
Shriver
Shuster
Smith, Iowa
Snyder
Stanton, James V.
Stark
Steelman
Stuckey
Studds
Symington
Thompson, N.J.
Thomson, Wis.
Thone
Tiernan
Udall
Van Deerlin
Vander Jagt
Vanik
Vigorito
Waldie
White
Whitten
Wolff
Wylie
Yates
Yatron
Young, Ga.

NOES—172

Abdnor
Archer
Arends
Armstrong
Ashbrook
Ashley
Bafalis
Baker
Bauman
Blackburn
Bray
Breckinridge
Brinkley
Brooks
Brotzman
Brown, Ohio
Broyhill, N.C.
Buchanan
Burgener
Burleson, Tex.
Butler
Camp
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clancy
Clausen, Don H.
Cleveland
Cochran
Collier
Collins, Tex.
Conable
Conlan
Crane
Daniel, Dan
Daniel, Robert W., Jr.
Davis, Ga.
Davis, S.C.
Davis, Wis.
Dellenback
Dennis
Derwinski
Devine
Dickinson
Downing
Duncan
Eshleman
Findley
Fisher
Flood
Flowers
Forsythe
Frelinghuysen
Frey
Gettys
Giaimo
Gilman
Goldwater
Goodling
Hammerschmidt
Hansen, Idaho
Hastings
Henderson
Hillis
Hinshaw
Hogan
Holt
Hosmer
Huber
Hudnut
Jarman
Johnson, Pa.
Jones, Ala.
Jones, Okla.
Kemp
Ketchum
Kuykendall
Landgrebe
Latta
Lent
Long, Md.
Lott
McClory
McCollister
McEwen
McFall
McKay
McKinney
McSpadden
Mahon
Mallary
Mann
Maraziti
Martin, Nebr.
Mathias, Calif.
Mathis, Ga.
Mayne
Michel
Mitchell, N.Y.
Mizell
Mollohan
Montgomery
Moorhead, Calif.
Murphy, N.Y.
Myers
Nelsen
O'Brien
O'Hara
Passman
Perkins
Pettis
Peyser
Poage
Powell, Ohio
Preyer
Price, Tex.
Quie
Quillen
Rhodes
Roberts
Robinson, Va.
Rogers
Rousselot
Ruppe
Ruth
Satterfield
Scherle
Schneebeli
Sebelius
Shipley
Shoup
Sikes
Sisk
Skubitz
Slack
Smith, N.Y.
Spence
Staggers
Stanton, J. William
Steed
Steiger, Ariz.
Steiger, Wis.
Stephens
Stratton
Stubblefield
Symms
Talcott
Taylor, N.C.
Teague, Calif.
Teague, Tex.
Towell, Nev.
Treen
Ullman
Waggonner
Wampler
Whitehurst
Widnall
Wiggins
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Winn
Wydler
Wyman
Young, Alaska
Young, Fla.
Young, Ill.
Young, S.C.
Young, Tex.
Zablocki
Zion

ANSWERED "PRESENT"—1

Beard

NOT VOTING—58

Bell
Boggs
Bolling
Bowen
Breaux
Burke, Calif.
Carey, N.Y.
Chisholm
Clark
Clawson, Del
Clay
Conyers
Dent
Diggs
Dingell
Dorn
Erlenborn
Green, Oreg.
Griffiths
Gubser
Harsha
Harvey
Hays
Hébert
Hunt
Ichord
Johnson, Calif.
Keating
King
Kluczynski
Macdonald
Mailliard
Martin, N.C.
Meeds
Melcher
Metcalfe
Mills, Ark.
Morgan
Nix
Patman
Riegle
Roncallo, N.Y.
Rooney, N.Y.
Runnels
Sandman
Steele
Stokes
Sullivan
Taylor, Mo.
Thornton
Veysey
Walsh
Ware
Whalen
Williams
Wright
Wyatt
Zwach

So the amendment to the amendment in the nature of a substitute was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. GROSS TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. GROSS. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The Clerk read as follows:

Amendment offered by Mr. GROSS to the amendment in the nature of a substitute offered by Mr. STAGGERS: Page 45, insert after line 9:

"SEC. 124. PROHIBITION OF PETROLEUM EXPORTS FOR MILITARY OPERATIONS IN INDOCHINA.

"In the exercise of his jurisdiction under the preceding section, and in order to conserve petroleum products for use in the United States, the Administrator shall prohibit the exportation of petroleum products for use, directly or indirectly, in military operations in Israel.

Page 45, line 9A, strike out "Sec. 124" and insert in lieu thereof "Sec. 125."

(By unanimous consent, Mr. GROSS was allowed to proceed for 1 minute.)

Mr. GROSS. Mr. Chairman, there is no better time than 5 minutes after midnight, heralding this new day, to spread the good things of life as far around the world as it is possible to do so.

I ask for the adoption of my amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. GROSS) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. LONG of Maryland. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 50, noes 320, answered "present" 1, not voting 61, as follows:

[Roll No. 687]

AYES—50

Bevill
Brown, Mich.
Burlison, Mo.
Byron
du Pont
Edwards, Ala.
Esch
Flynt
Fuqua
Ginn
Goodling
Gross
Guyer
Hanna
Hanrahan
Hansen, Wash.
Hechler, W. Va.
Hicks
Hungate
Johnson, Colo.
Johnson, Pa.
Kazen
Landgrebe
Landrum
Litton
McSpadden
Martin, Nebr.
Matsunaga
Mazzoli
Milford
Miller
Mink
Minshall, Ohio
Mosher
Nedzi
Nichols
Powell, Ohio
Railsback
Randall
Rarick
Regula
Rose
Scherle
Shuster
Snyder
Stanton, J. William
Steelman
Stuckey
Vander Jagt
Wylie

NOES—320

Abdnor
Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Arends
Armstrong
Ashbrook
Ashley
Aspin
Badillo
Bafalis
Baker
Barrett
Bauman
Bennett
Bergland
Biaggi
Biester
Bingham
Blackburn
Blatnik
Boland
Brademas
Brasco
Bray
Breckinridge
Brinkley
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burton
Butler
Camp
Carney, Ohio
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clancy
Clausen, Don H.
Cleveland
Cochran
Cohen
Collier
Collins, Ill.
Collins, Tex.
Conable
Conlan
Conte
Corman
Cotter
Coughlin
Crane
Cronin
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Danielson
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Delaney
Dellenback
Dellums
Denholm
Dennis
Derwinski
Devine
Dickinson
Dingell
Donohue
Downing
Drinan
Dulski
Duncan
Eckhardt
Edwards, Calif.
Eilberg
Eshleman
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Fisher
Flood
Flowers
Foley
Ford, William D.
Forsythe
Fountain
Fraser
Frelinghuysen
Frenzel
Froehlich
Fulton
Gaydos
Gettys
Giaimo
Gibbons
Gilman
Goldwater
Gonzalez
Grasso
Gray
Green, Oreg.
Green, Pa.
Grover
Gude
Gunter
Haley
Hamilton
Hammerschmidt
Hanley
Hansen, Idaho
Harrington
Hawkins
Heckler, Mass.
Heinz
Helstoski
Henderson
Hillis
Hinshaw
Hogan
Holifield
Holt
Holtzman
Horton
Hosmer
Howard
Huber
Hudnut
Jarman
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kemp
Ketchum
Koch
Kuykendall
Kyros
Latta
Leggett
Lehman
Lent
Long, La.
Long, Md.
Lott
Lujan
McClory
McCloskey
McCollister
McCormack
McDade
McEwen
McFall
McKay
McKinney
Madden
Madigan
Mahon
Mallary
Mann
Maraziti
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Mezvinsky
Michel
Minish
Mitchell, Md.
Mitchell, N.Y.
Mizell
Moakley
Mollohan
Montgomery
Moorhead, Calif.
Moss
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nelsen
Obey
O'Brien
O'Hara
O'Neill
Owens
Parris
Passman
Patten
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Podell
Preyer
Price, Ill.
Price, Tex.
Pritchard
Quie
Quillen
Rangel
Rees
Reid
Reuss
Rhodes
Rinaldo
Roberts
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Roncalio, Wyo.
Rooney, Pa.
Rostenkowski
Roush
Rousselot
Roy
Roybal
Ruppe
Ruth
Ryan
St Germain
Sarasin
Sarbanes
Satterfield
Schneebeli
Schroeder
Sebelius
Seiberling
Shipley
Shoup
Shriver
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Spence
Staggers
Stark
Steed
Steiger, Ariz.
Steiger, Wis.
Stephens
Stratton
Stubblefield
Studds
Symington
Symms
Talcott
Taylor, N.C.
Teague, Calif.
Teague, Tex.
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Tiernan
Towell, Nev.
Treen
Udall
Ullman
Van Deerlin
Vanik
Vigorito
Waggonner
Waldie
Wampler
White
Whitehurst
Whitten
Widnall
Wiggins
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Winn
Wolff
Wydler
Wyman
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Ill.
Young, S.C.
Young, Tex.
Zablocki
Zion

ANSWERED "PRESENT"—1

Beard

NOT VOTING—61

Bell
Boggs
Bolling
Bowen
Breaux
Burke, Calif.
Carey, N.Y.
Chisholm
Clark
Clawson, Del
Clay
Conyers
Dent
Diggs
Dorn
Erlenborn
Frey
Griffiths
Gubser
Harsha
Harvey
Hastings
Hays
Hébert
Hunt
Hutchinson
Ichord
Johnson, Calif.
Keating
King
Kluczynski
Macdonald
Mailliard
Mayne
Meeds
Melcher
Metcalfe
Mills, Ark.
Moorhead, Pa.
Morgan
Nix
Patman
Riegle
Roncallo, N.Y.
Rooney, N.Y.
Rosenthal
Runnels
Sandman
Stanton, James V.
Steele
Stokes
Sullivan
Taylor, Mo.
Veysey
Walsh
Ware
Whalen
Williams
Wright
Wyatt
Zwach

So the amendment to the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. VIGORITO TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. VIGORITO. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. Vigorito to the amendment in the nature of a substitute offered by Mr. Staggers: At the end of the bill, add a new title as follows:

TITLE III—NONRETURNABLE BEVERAGE CONTAINER PROHIBITION ACT

Sec. 301. To reduce energy waste which is caused by the production of nonreturnable containers used for the packaging of soft drinks caused by the production of nonreturnable containers used for the packaging of soft drinks and beer, and to assure energy conservation, so that the essential needs of the United States are met, by banning such containers when they are sold in interstate commerce on a no-deposit, no-return basis.

(a) The Congress finds that the utilization of returnable beverage containers would result in substantial energy savings.

(b) It is the purpose of this Act to assist in the solving of this energy situation by preventing the use and circulation of the offending types of nonreturnable containers by banning their shipment and sale in interstate commerce.

Sec. 303. Definitions:

(1) Returnable beverage container means a beverage container which

(a) has a refund value

(b) is not a metal container with a detachable opening in the container

(2) "beverage" means any variety of liquid intended for human consumption

(3) "container" means a bottle, jar, can or carton of glass, plastic or metal or any combination thereof, for use in packaging a beverage.

Sec. 304. (a) No person shall manufacture for sale, sell, offer for sale, or introduce or deliver for introduction in interstate commerce any non-returnable container with respect to which no refundable money deposit is required from the consumer.

(b) Whoever violates subsection (a) of this section shall be fined not more than $1,000 or imprisoned for not more than six months or both.

(c) The President or Chairman of the Interstate Commerce Commission shall establish such regulations as are necessary for the purpose of this Act.

The CHAIRMAN. Will the gentleman from Pennsylvania advise the Chair if the amendment is printed in the Record.

Mr. VIGORITO. Yes, it is.

POINT OF ORDER

Mr. ROGERS. Mr. Chairman, I make a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. ROGERS. Mr. Chairman, I make the point of order that this amendment is not germane because obviously it creates a whole new title. It does not amend any existing section of the bill.

Second, it refers to nonreturnable beverage containers. This is not mentioned in the existing substitute.

Third, in effect it constitutes an amendment to the Solid Waste Disposal Act but with regulatory effect, affecting none of the operative provisions of the amendment and any reference to energy conservation; and, finally, the amendment regulates economic relationship between the purchaser and seller of consumer goods. This is not done anywhere in H.R. 11882, except maybe one could argue the windfall profits section might affect that, which this does not purport to amend.

For these reasons, Mr. Chairman, I am constrained to object and say it is not germane.

The CHAIRMAN. Does the gentleman from Pennsylvania desire to be heard on the point of order?

Mr. VIGORITO. Yes, Mr. Chairman. I think this is appropriate at this time because we are trying to save energy, and we definitely will save energy here, because we are using one-way containers, about 60 or 70 billion of them every year, and increasing at the rate of 70 billion every year. One returnable container can be used 20 times.

The CHAIRMAN. The gentleman from Pennsylvania will address himself to the point of order.

Mr. VIGORITO. Mr. Chairman, I leave it to the Chairman.

The CHAIRMAN. The Chair is prepared to rule.

For all the reasons outlined by the gentleman from Florida the amendment is clearly not germane to this bill and the Chair sustains the point of order.

AMENDMENT OFFERED BY MR. FLYNT TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. FLYNT. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. Flynt to the amendment in the nature of a substitute offered by Mr. Staggers: Page 31, line 21 strike out the period, and insert a semi-colon and the following: "and, *provided further*, That the aggregate number of fuel inefficient passenger motor vehicles purchased by or for the legislative and judicial branches of the Federal Government and for all Departments in the executive branch may not exceed 30 per centum of the aggregate number of passenger motor vehicles purchased by each such branch in such year; and the aggregate number of fuel inefficient passenger motor vehicles purchased by each such branch in fiscal year 1976 may not exceed 10 per centum of the aggregate number of passenger motor vehicles by each such branch in each such year. For purposes of this subsection the term, fuel inefficient passenger motor vehicle for fiscal year 1975 means an automobile which does not achieve at least seventeen miles per gallon as certified by the Department of Transportation; for fiscal year 1976, and thereafter, the term fuel inefficient passenger motor vehicle means an automobile which does not achieve at least twenty miles per gallon, as certified by the Department of Transportation.

POINT OF ORDER

Mr. BROYHILL of North Carolina. Mr. Chairman, I make the point of order that this is an amendment or the language of an amendment which has already been considered, an amendment offered by the gentleman from California (Mr. Anderson).

The CHAIRMAN. Does the gentleman from Georgia desire to be heard?

Mr. FLYNT. Mr. Chairman, I am surprised that the gentleman from North Carolina would make a point of order against this amendment because this is the example setting section of the bill. We have asked everybody under creation to set an example by trying to conserve fuel and energy. This goes beyond the scope of the amendment offered by the gentleman from California. I have talked with the gentleman from California and I talked with him at the time he offered his amendment and he said if he had thought about it he would have included this too.

The CHAIRMAN. The Chair is prepared to rule.

The amendment offered by the gentleman from Georgia does not amend the Anderson of California amendment. The Chair therefore overrules the point of order.

Mr. FLYNT. I thank the Chairman.

(By unanimous consent Mr. Flynt was allowed to proceed for 1 minute.)

Mr. FLYNT. Mr. Chairman, actually in speaking in opposition to the point of order, which the Chairman in his wisdom saw fit to overrule, I think I made my point. I just want to read this section of this bill that I am seeking to amend. It says:

> (g) As an example to the rest of our Nation's automobile users, the President of the United States shall take such action as is necessary to require all agencies of Government, where practical, to use economy model motor vehicles.

Economy begins here and it should begin with us. I simply ask the Committee to try to conserve fuel by example as well as by precept.

This is the example selling section of the bill and I want to strengthen it.

This is a good amendment and by adopting it we can say that we want to conserve fuel as well as tell other people to conserve.

We can not expect Mr. Average Citizen to save on gas and energy fuel unless we ourselves are willing to do the same thing.

I urge the adoption of my amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. Flynt) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. CONTE TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. CONTE. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The Clerk read as follows:

Amendment offered by Mr. CONTE to the amendment in the nature of a substitute offered by Mr. STAGGERS: On page 44, immediately below line 21, insert the following:

(c) In order to assist the effective implementation of the purposes of this Act by the Federal Government in the area of Federal employment, the President, through such authority or authorities in the executive branch as he considers appropriate, shall prepare and submit to the Congress within ninety days after the date of enactment of this act a detailed and comprehensive plan for the establishment and institution, to the extent practicable, of a new basic administrative workweek of forty hours for Federal civilian employees in the executive branch generally, with the requirements that the hours of work in such workweek be performed within a period of not more than four of any seven consecutive days, that the workweek occur in the period of Monday through Friday where possible, and that the basic nonovertime workday not exceed ten hours. Such plan shall make such new basic administrative workweek effective not later than the close of the sixth calendar month beginning after the date of enactment of this Act and contain such exemptions as may be necessary in the interests of the national security, the public welfare generally, the preservation of law and order, and the effective and efficient conduct of Federal activities and duties. In addition, the President shall submit to the Congress along with such detailed and comprehensive plan for a new basic administrative workweek such comprehensive draft or drafts of additional legislation as he considers necessary to fully implement such plan.

Mr. CONTE. Mr. Chairman, I ask unanimous consent to proceed for 1 minute to explain my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. CONTE. Mr. Chairman, I was pleased to learn the news that the President had declared December 24 and 31 holidays for Federal employees.

On this past November 26, I introduced House Resolution 716, urging the President to set aside these days for the purpose of saving energy and also to change the standard workweek for Federal employees to 4 days a week. This Monday through Thursday week would continue for as long as the President determined necessary. I also wrote to the President, prior to the filing of this measure, telling him of the necessity of conserving fuel supplies in every manner possible.

My amendment here today again calls for the establishment of this revised workweek.

It is not the intention of this action to overwork civil service employees. They would still work a total of 40 hours per week under this plan. This is an efficiency measure which would make better use of those 40 hours for all parties concerned and conserve energy as well. Overtime laws, presently in effect, would, of course, have to be changed to reflect the new status of the 4-day workweek in the scheme of governmental operations.

There exists at the present time an overriding need to conserve fuel supplies. The curtailment of energy supplies in the lighting, heating, and use of office machinery within the Federal buildings and offices would serve this end. The prompt action and example of the executive branch of our Government in implementing a 4-day work-week would bring about that curtailment.

By way of illustration, let me point out that Federal offices use about 891 trillion Btu's of energy each year. Under this proposal, one-half million barrels of fuel could be saved for each day that Federal offices were closed. This would amount to enough energy to heat 10,000 homes for the entire winter. This measure, then, can be predicted to be an effective means of easing our energy problems.

Transportation costs to the Federal employees would be reduced as much as 20 percent a week under this plan, and a significant reduction in pollution and commuter traffic would be a fringe benefit.

With fewer startups, coffee breaks, and lunch hours, the Federal Government would be the beneficiary of increased efficiency. We can expect a lower turnover in absenteeism. The increased leisure time of the long weekend would give a competitive advantage to the Government in recruiting skilled personnel and improved employee morale would be likely to spread.

The Federal Government must set the example. There is a total Federal work force of about 2.3 million, the greatest concentration of whom are settled in the Washington metropolitan area. Fully two-thirds of these people could be included under this proposal. It would be hoped that we could take the lead in proving the worth of the 4-day week so that State, city, and municipal governments would fall in line. What we need, in other words, is a domino effect which would stretch into the business community as the country as a whole mobilizes for the crunch that is already upon us.

I urge your support for this measure.

POINT OF ORDER

Mr. DINGELL. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. DINGELL. Mr. Chairman, I make a point of order that the amendment offered by my good friend from Massachusetts is not germane. The reasons, I think, are apparent to the Chair.

The amendment offered by my good friend would setup a 4-day workweek. I would be, I think, as surprised as the Chair if he were to find elsewhere in the bill and, indeed, on the basis referred to any reference to a 4-day, 40-hour workweek.

Obviously this matter is not within the jurisdiction of the Committee on Interstate and Foreign Commerce, but rather in the rules of Congress under the hands of the Committee on Post Office and Civil Service, if that committee has not voted away that power. I am not sure they did that some time back.

In any event, the amendment seeks to go far beyond the purpose and scope of the bill and deals with a whole new question, the workweek of Federal employees lying within the jurisdiction of a totally different committee.

For that reason, Mr. Chairman, I insist on the point of order as not being germane.

The CHAIRMAN. Does the gentleman from Massachusetts desire to be heard on the point of order?

Mr. CONTE. Yes, I do, Mr. Chairman.

The CHAIRMAN. The gentleman from Massachusetts is recognized.

Mr. CONTE. Mr. Chairman, before I proceed, it would be appropriate to announce to the House that we had 16 rollcalls for yeas and nays as a record in the House, and we have broken that record tonight with 21 so far.

Mr. Chairman, I think that the amendment is germane. If we look at section 122, which is the Employment Impact and Worker Assistance section, the first point of that section, (a) says that carrying out his responsibilities under this act, the President shall take into consideration and shall minimize, to the fullest extent practicable, any adverse impact of actions taken pursuant to this act upon employment.

I certainly feel this is germane. It takes that into consideration. It provides for a 40-hour workweek, 10 hours a day, keeping in mind the Civil Service laws and the overtime laws. If it does not go into effect and there is a shortage of energy, it is very, very possible, that a lot of Federal employees will be out of work much less than 40 hours a week.

Therefore, I hope the Chair will rule in my favor.

The CHAIRMAN. The Chair is prepared to rule. Despite the eloquent argument of the gentleman from Massachusetts, the fact of the matter is that the amendment goes well beyond the purposes of the section of the bill and the bill itself and the matter contained in the amendment surely comes within the jurisdiction of the Committee on Post Office and Civil Service.

Therefore, the point of order of the gentleman from Michigan is sustained.

AMENDMENT OFFERED BY MR. CARNEY OF OHIO TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. CARNEY of Ohio. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The Clerk read as follows:

Amendment offered by Mr. CARNEY of Ohio to the amendment in the nature of a substitute offered by Mr. STAGGERS: Page 32, strike out line 9, and insert in lieu thereof the following:

SEC. 117. PROHIBITION ON PRICE GOUGING

Page 32, line 12, insert "to prevent price gouging with respect to sales of crude oil, residual fuel oil, refined petroleum products, and coal, including sales of diesel fuel to motor common carriers" immediately after "amended".

Mr. CARNEY of Ohio. Mr. Chairman, I ask unanimous consent to proceed for 1 minute in order to explain my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. CARNEY of Ohio. Mr. Chairman, we have seen and read a lot, although we have not had much time this week, but when we do get time to see the newspaper, we see that there is much distress among all truck drivers in the country basically on two things: First, they cannot get sufficient gasoline, only 15 gallons in places which can carry them only about 70 miles; second, they are being charged too much for fuel in some cases.

The committee, in its wisdom, has language in the bill which it adopted in the committee to take care of the first item. This amendment is an attempt to give some relief to truck drivers who are being gouged. Although we cannot condone every action they have taken, this amendment would show that we do recognize that there is a problem of price gouging and that Congress intends to give them some relief.

Mr. Chairman, I would urge the Members in their superior wisdom to adopt this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. CARNEY), to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. MATSUNAGA TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. MATSUNAGA. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The Clerk read as follows:

Amendment offered by Mr. MATSUNAGA to the amendment in the nature of a substitute offered by Mr. STAGGERS: On page 4, line 13, after "safety," insert "employment"

Mr. MATSUNAGA. Mr. Chairman, I ask unanimous consent that I may proceed for 1 minute in explanation of my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Hawaii?

There was no objection.

Mr. MATSUNAGA. Mr. Chairman, the amendment which I offer is a simple clarifying amendment. It merely inserts one word into section 103 of the bill, H.R. 11882, which is being considered as an amendment in the nature of a substitute. The word is "employment," and it is proposed that it be added to line 13 of page 4 after the word "safety," so that line 13 would then read "health, safety, employment and the public welfare."

The amendment is fully in keeping with the purpose of the bill as laid out in section 101, calling for such actions as will meet the essential fuel needs of our Nation in such manner as will "minimize any adverse impact on employment."

My amendment is necessary because some doubt has been entertained as to whether or not the generic term "public welfare" as used in section 103 includes employment. Legal experts disagree on this point. Some say it does; others say it does not. My amendment would make it crystal clear, that in the ordering of priorities the impact on employment in vital services must be considered as a factor.

Certainly, Mr. Chairman, no reasonable man is going to oppose this amendment, and I urge its adoption.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Hawaii (Mr. MATSUNAGA) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The question was taken; and on a division (demanded by Mr. MATSUNAGA) there were—ayes 112; noes 22.

So the amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. HECHLER OF WEST VIRGINIA TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. HECHLER of West Virginia. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The Clerk read as follows:

Amendment offered by Mr. HECHLER of West Virginia to the amendment in the nature of a substitute offered by Mr. STAGGERS: On Page 31, Line 14, Strike out "$25,000,000" and insert "$1,000,000".

Mr. HECHLER of West Virginia. Mr. Chairman, I ask unanimous consent to address the House for 1 minute in order to explain my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. DU PONT. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. HECHLER of West Virginia. Mr. Chairman, I ask unanimous consent to address the House for 30 seconds in order to explain my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. DU PONT. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. HECHLER of West Virginia. Mr. Chairman, I ask unanimous consent to address the House for 15 seconds in order to explain my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. DU PONT. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. HECHLER of West Virginia. Mr. Chairman, under our liberal rules which allow Members to revise and extend their remarks, I feel I owe the committee and the House an explanation of this amendment even though I am not actually speaking these words on the floor. My good friend and colleague from Delaware (Mr. DU PONT), for whom I have great affection and regard, was fully within his rights in objecting to my request for time to explain my amendment. He was courteous and good humored in informing me in advance that he would object, because I have objected to the consideration of resolutions like National High Blood Pressure Week, and National Check Your Vehicle Emissions Month which I personally feel should not be dignified as part of the legislative process. I respect my friend from Delaware for his position, and trust that he may reciprocally appreciate that my objections are not frivolous but are a sincere expression that the House of Representatives must devote its energies to more important problems facing the Nation.

With respect to my amendment, which reduces from $25 million to $1 million the authorization for the Office of Carpool Promotion in the Department of Transportation, I would like to observe that one of the prime ways to save gasoline is through carpooling, which I heartily endorse. However, I feel that the formation of carpools must be done at the grassroots, and not through the dictation of a new Federal bureaucracy freshly established. Nor is it necessary to dispense $25 million of Federal largesse for this purpose. The use of the express bus lanes of Shirley Highway by carpools containing at least four passengers in each car has been working very well, thank you, without any Federal handout. The carpools established during gas shortages in World War II were organized without Federal subsidies. It seems to me that action by every local community, civic group, and family will better be inspired and stimulated at the local level rather than calling the shots from Washington.

Finally, a clue to the nature of this new office is in its title and the language of the bill itself. This is an "Office of Carpool Promotion." It will be noted that on page 30, subsections (2), (3), (4), and (5) commence with the words "promoting, encouraging and promoting," "promoting," and "promoting." I believe one of the evils of this administration has been that it is so filled with promoters that they tend to lose sight of substance and truth in their excessive zeal to "promote" everything under the sun. I would rather trust the local initiatives at the local level than all this high-powered promotion dictated from Washington. The people of this Nation are bombarded day and night already with the fast-gushing propaganda of full-page ads, radio and television commercials, billboards, and other "mass media" efforts by the oil corporations; let us not spend any more taxpayers' money on what we ought to be doing better ourselves without all this "hifalutin" promotion.

This is why I feel that a $1 million ceiling is better than $25 million, and I hope they do not even have to spend that much.

The question is on the amendment offered by the gentleman from West Virginia (Mr. HECHLER) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. RANDALL TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STAGGERS

Mr. RANDALL. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The Clerk read as follows:

Amendment offered by Mr. RANDALL to the amendment in the nature of a substitute offered by Mr. STAGGERS: Page 7, line 17, after the word "for" the following: "Production, harvesting and transporting farm products and."

(By unanimous consent, Mr. RANDALL was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RANDALL. Mr. Chairman, it has been suggested by the minority and certain members of the staff of the majority that this subject may be covered at page 4. However, the listing of priorities is given there, and agriculture is listed as No. 7.

When we get over to the other listing, agriculture is omitted altogether and we talk about such things as displacement of persons due to unemployment, we talk about travel for educational opportunities and for other good and sufficient reasons, and there is nothing mentioned concerning agriculture, production, harvesting, and transportation of farm products.

Mr. MOSS. Mr. Chairman, will the gentleman yield?

Mr. RANDALL. Yes, I yield to the gentleman from California.

Mr. MOSS. Mr. Chairman, the matter is covered, and it is covered in the earlier amendments to the Emergency Petroleum Allocation Act of 1973, and it is incorporated by a reference, which, under section 4(c), says, "Maintenance or agricultural relations."

Mr. RANDALL. Mr. Chairman, I only have a minute. I will not yield further.

Mr. MOSS. Well, Mr. Chairman, I am telling the gentleman what is covered.

Mr. RANDALL. Mr. Chairman, may I proceed?

The CHAIRMAN. The time of the gentleman from Missouri (Mr. RANDALL) has expired.

Mr. BROYHILL of North Carolina. Mr. Chairman, I ask unanimous consent to proceed for 1 minute in opposition to the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

Mr. RANDALL. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. MOSS. Mr. Chairman, I ask unanimous consent to proceed for 15 seconds for the purpose of clarification.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. RANDALL. Mr. Chairman, reserving the right to object, may I be granted the time?

Mr. HOSMER. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The question is on the amendment offered by the gentleman from Missouri (Mr. RANDALL) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. STAGGERS).

The amendment to the amendment in the nature of a substitute was rejected.

Mr. HAMMERSCHMIDT. Mr. Chairman, I rise in support of two amendments offered by my distinguished colleague from New Hampshire, LOUIS WYMAN. They would reduce the ultimate required automobile emissions control levels from the 96 percent mandated under the Clean Air Act of 1970 to a ceiling of 90 percent and suspend for the duration of the energy crisis, the automobile emissions requirements of the Clean Air Act of 1970 for those parts of the Nation determined by EPA to lack a significant air pollution level.

In my judgment, these amendments offer great potential relief from the pressures on our domestic gasoline supplies. Especially in light of the current circumstances, Congress now should approach our clean air problem with temperance and a good measure of commonsense. It would otherwise, I fear, result in great economic harm to our Nation and physical suffering of many innocent people.

I understand that a reduction to 90 percent of the automobile emissions controls level would result in a national fuel savings of at least 15 percent. It would also eliminate the need for costly and controversial catalytic converters on 1975 and 1976 model cars. These converters would add about $150 per car, a factor which would contribute to inflation.

The converter requires unleaded gasoline, for which 4 to 5 percent more crude oil is required to refine than leaded gasoline. As a result of efforts to curb exhaust emissions already, fuel mileage has slowly declined 7 to 10 percent since 1967.

The demand for gasoline in the first quarter of 1973 was 5.5 percent higher than during the same period only 1 year ago. According to a study prepared by the Congressional Research Service at the request of the Interior and Insular Affairs Committee, the single most important factor contributing to this increase appears to be the gasoline penalty imposed by present antipollution devices. It has been estimated that new emissions control devices have increased annual consumption by more than 300,000 barrels a day. This is about all we can be expected to save by reducing our speeds, carpooling to work, and reducing our pleasure driving.

A recent report printed in the April 1973 issue of the Oil and Gas Journal cited the following results of a study:

> One private set of fleet tests indicated the mileage loss of 1971 models over 1970 at 7%, 1972, at 6%, and the 1973 over 1972 at 8%. This represented a cumulated mileage loss of 19%; but two direct comparative tests of 1973 models against 1970 models showed a loss ranging from 11% to 17% depending on the number of miles the 1970 models had been driven prior to testing.
>
> These data showed much greater mileage declines than governmental tests made for the Environmental Protection Agency which reported losses of only about 7 percent.

The amendment to suspend automobile emissions requirements for those parts of the Nation determined by the EPA to lack a significant air pollution level and providing that vehicles lacking emission controls may not be operated other than in such areas represents a responsible reaction to the energy crisis. Many parts of our country do not have a demonstrated air pollution problem and I would not see the justification in requiring people who live in such areas to waste barrels and barrels of precious fuel. My constituents in northwest Arkansas should not be required, especially in the face of rationing or a surtax, to operate an automobile equipped to combat air pollution in Los Angeles. If we run out of fuel in Arkansas, people will lose their jobs and air quality standards goals will start to be a high-flown theory that fails to put the interest of the people first.

According to the 1970 census, 72.7 percent of the population lives in areas where there are less than 100,000 people and 55.2 percent live in communities of less than 25,000. In Arkansas, discounting urban fringe communities, 50 percent of the population lives in a rural area with a population under 2,500, with 38.5 percent residing in communities of less than 1,000. I have over half a million constituents and they do not want to be required to drive automobiles designed to cope with Gary, Ind., conditions.

While I do not want to overreact to the energy situation, the outlook for the immediate future appears grim. We have made many commendable gains in our goals to protect the environment. However, our current fuel status warrants relief from generalized air standards which penalize many wide-open sections of the country where there is not an air problem. We must remember that nature itself is capable of accommodating a certain amount of air impurities, and in those places where nature is overburdened, it is possible to control operation of vehicles which are not properly equipped.

I strongly urge the support of my colleagues for the two Wyman amendments.

Mr. BAUMAN. Mr. Chairman, no one can deny that the Nation is confronted with an energy crisis of unprecedented proportions. It is only natural that the Congress should look for a way of minimizing or solving the problem, and thus, we have had before us for 3 days something entitled the "Energy Emergency Act." This bill, as we all know, has been hastily drafted, amended and reamended countless times and rushed to the floor even before printed copies were available. After 3 days of an orgy of amendments literally no one knows what is in this bill, but it does not take long at all to discover that it represents a formula for economic disaster.

This bill is, above all, the first step toward a fuel rationing plan. While it contains other provisions, many of which would plant the seeds of destruction of our petroleum sources, it is the rationing mandate which remains the key provision. This is not obvious, of course. Actually, rationing is not mentioned directly anywhere in the bill. Now, we have discovered a new euphemism for rationing, "end-use allocation." But a stinkweed by any other name still smells the same.

And while this bill appears on the surface to allow the President a variety of options in dealing with the energy shortage, it makes inevitable only one; rationing. Nearly every other course of action, except for those specifically required in this bill, such as oil-to-coal conversion or suspension of air quality regulations, would have to be approved by Congress before taking effect. Approval of such proposals by this body could take weeks or months, leaving the President only one effective option: rationing.

This, of course, is by design, not by accident. Proponents of rationing want to make sure that it does become a reality, and this bill is the ideal vehicle.

But in this headlong plunge toward rationing, let us keep several things in mind. First, our experience so far with fuel allocation has been less than reassuring. The mandatory allocation program which the Congress approved several months ago specified that agriculture, including fishing, would be one of the high-priority areas receiving fuel allocations. In practice, this has meant untold amounts of redtape and resultant delays. Farmers, fishermen, and citizens in general in my district have had numerous delays without any word from the allocation bureaucracy concerning their requests for fuel. Delays of this sort can have disastrous results in terms of total food production and work real hardship on the farmer, the waterman, and all citizens.

If inefficiency of this sort is the hallmark of the existing Federal fuel allocation program, young as it is, what can we expect of a system of nationwide rationing? Besides being an administrative nightmare, it will inevitably mean delays, additional shortages, and real hardship for many.

I represent a district which is largely rural, as a great many of us do. Countless citizens must travel long distances to reach their jobs in such areas, oftentimes adding up to 60 or 70 miles of travel each day. How are they expected to reach their jobs if they are held, say, to 10 or 15 gallons of gas a week? Persons living in urban areas may have access to mass transit facilities, and might just pull through on 10 gallons. But in my district there are a great many people who commute many miles to Baltimore, Wilmington, or Washington where little or no suburban mass transit is available. In rural areas, of course, mass transit is nonexistent. A system of fuel rationing will undoubtedly deprive people there of their jobs. I know that no one wants higher prices for gasoline. But I also know that if there is a choice between paying more for gas and keeping a job, or paying less for gas but losing a job, the choice is obvious.

Other flaws in this bill abound. The section prohibiting windfall profits is another collection of verbage designed to present a political appeal, but it can only spell disaster for consumers depending on the petroleum industry. To begin with, windfall profit is never defined in this bill. It will mean whatever some bureaucrat at the renegotiation board wants it to mean. Second, the standard against which oil industry profits are to be judged is the worst 5-year period for profits in the history of the U.S. petroleum industry. At a time when the only long-range solution to the fuel shortage is greatly increased exploration and development including removal of price controls, this bill would deprive the industry of the necessary additional capital for reinvestment in exploring and developing new fields.

Mr. Chairman, the American people have been asked to endure many sufferings in the name of solving various crises which have faced this Nation. Often the solution has compounded the problem and the bill before us is certainly of that type. Americans have suffered big taxes to the point that they now work nearly a quarter of each year to pay for local, State, and Federal Government. They are burdened with all sorts of governmental regulations and the insolence of bureaucrats who ignore the fact that they are public servants—servants of the people.

And today we are being asked by the proponents of this bill to subject our people to the possibility of not only fuel and gasoline shortages, but the vast and oppressive weights of a massive Federal bureaucracy which inevitably will bungle the job and compound the problem.

There is barely an ounce of economic good sense contained in the pages of this bill. After the parliamentary nightmare we have endured here, few here today understand its provisions and even fewer are able to explain the ramifications it will have on our national economy and the millions of souls who must suffer if we make the mistake of enacting this legislation. As a responsible representative of my people, I must vote against this legislative monstrosity.

Mr. HOGAN. Mr. Chairman, it was my original intent to offer an amendment to H.R. 11450, the National Emergency Energy Act, prohibiting discriminatory limitations upon individuals who observe in the exercise of their religion, a Sabbath day other than Sunday. However, due to the ruling by the Rules Committee, I am unable to present a nongermane amendment to this bill.

In spite of the ruling, I feel my colleagues should be aware of the effects this legislation will have on certain religious organizations.

It is important to note under section 105, subsection (a), dealing with the energy conservation plans, the bill provides that the President shall have the power to restrict the energy consumption of businesses. If I understand this wording in the right context, it could mean the President will have the power to restrict the working hours of a business, which could include a complete shutdown of all businesses on Sundays.

I am informed that 25 percent of our fuel allocation is consumed on weekends, and the President has asked that all gas stations close down on Sundays to help alleviate the overflow of weekend traveling which is one of the main factors in fuel consumption.

When the President requested this ban on Sunday gasoline sales, I became very concerned over the possibility of discrimination against those who worship God on a day other than Sunday.

I am particularly concerned for the Seventh-day Adventists, whose world headquarters, located in Takoma Park, Md., I have the honor to represent. The SDA church has designated Saturday as its day of worship and according to deep religious convictions, the members of this church engage in personal business on Sunday and worship in their respective churches throughout the country on the seventh day of the week, Saturday. They feel as I do that every individual has the right to worship God according to his or her personal convictions.

Due to the enactment and enforcement of Sunday blue laws, Seventh-day Adventists have been forced by Government order to curtail public business activities, and they believe that every citizen of this land should be free to carry out his business activities and his religious activities according to the dictates of his conscience as regards religious matters.

Now that our Nation is faced with an energy crisis. Seventh-day Adventists believe that every effort should be made to cooperate with the Government in the conservation and allocation of energy supplies. It is noted that a proposed plan will call for the closing of gasoline stations from 9 o'clock Saturday evening to 12 o'clock Sunday night. I feel it would be unfortunate that Seventh-day Adventist service station operators will be deprived of 2 days of business because of their religious convictions; that is, they will be closed as usual on Saturday, due to their religious convictions, and if the Federal law makes it absolutely mandatory for them to be closed also on Sunday, it will mean a hardship to them in their business because of their religion.

I am confident that the Adventist communities and Adventist businessmen, especially in the gas station business, will try in every way to cooperate even though this may mean a certain hardship to them. They do not feel that religious discrimination is being intended through regulations of the energy crisis, and they do appreciate every effort of the Government to respect religious convictions.

There has been talk of the revival of the blue laws which are religious laws giving religious significance to Sunday and the mandatory closing of business establishments on this day. When it comes to this issue, Seventh-day Adventists feel that their voice in opposition should be heard. They feel, and the church feels, that people should be allowed to worship on any day they wish to worship, but that there should be no Government encouragement or legislation which would make it seem to be Government supported for people to attend worship on Sunday and to refrain from buying gas, or other commodities, on this day because of it being a religious holiday. Seventh-day Adventists do not in any way want to interfere with those who worship God on Sunday. However, they would like to have the Government also grant them the right to worship God on Saturday in harmony with what they believe is the commandment of God, to work 6 days and rest on the seventh.

When the Senator from Washington (Mr. JACKSON) stated that perhaps the Sunday blue laws might have to be revived and reestablished to make it mandatory for people to refrain from business activities, the Seventh-day Adventists felt that there was justified reason for concern.

Mr. Chairman, our colleagues should be aware, that under section 105, subsection (c) of the bill before us provides that—

> Proposed restrictions on the use of energy shall be designed to be carried out in such

> a manner so as to be fair and to create a reasonable distribution of the burden of such restrictions on all sectors of the economy, without imposing an unreasonably disproportionate share of such burden on any specific industry, business or commercial enterprise, or on any individual segment thereof.

I cannot help but feel, because of this section, in relation to subsection (a) and its provisions to give the President the power to close down businesses on Sundays, that special provisions should be made to prohibit any limitations on the operation of businesses open on Sunday, if they have been previously closed on Saturday due to religious convictions.

Mr. Chairman, I strongly urge my colleagues to take this provision under serious consideration. Since the ruling by the Rules Committee prevents me from introducing an amendment to make this provision, I hope efforts will be made in the next Congress to uphold the religious liberties of the first amendment by prohibiting any legislation which might discriminate or force undue hardships upon those who worship on a day other than Sunday.

Mr. KYROS. Mr. Chairman, I would like to take this opportunity to call attention to section 206, energy conservation study in H.R. 11882. Recently I have come across some significant data which clearly confirms the wisdom of this section. In particular, under subsection (3), I believe that retreading is a good example of industrial recycling and resource recovery in order to reduce energy demand. It is my understanding that the retreading industry could increase its production capacity by some 25 million passenger retread units in a period of 15 to 18 months. This would result in increased employment opportunities for some 22,000 more employees and a potential savings of crude oil from the use of retreads rather than new tires of 125 million gallons per week. If the industry could convert, for example, 1 million new truck tires to retread truck tires, an additional 21 million gallons of crude oil could be saved per year. In addition, if 60 percent of the spare tires available for 1974 cars were retreads, an additional saving of 24,300,000 gallons of crude oil could be secured. Thus, retreading offers a potential saving of 170 million gallons of crude oil, and this is a reasonable estimate; retreading offers an employment opportunity of some 22,000 people at the local level. This further offers an opportunity of utilizing some millions more old tires in a recycling process which, of course, is another major benefit. I would hope that the energy conservation study include retreaded tires. This is certainly an area which offers substantial crude oil savings as well as potential job opportunities and reduced expenditures for the consumer.

Mr. McDADE. Mr. Chairman, the legislation before us attempting to alleviate the current energy crisis is among the most complicated and difficult matters we have ever faced. We have given the administration the authority to deal equitably and swiftly with the crisis and we have provided the mechanism for congressional scrutiny of their decisions as well.

Because there are significant changes in both House and Senate versions of the bill, the conferees will have an important task ahead. Of particular concern to me was the action of the Senate for including language in S. 2589, the Senate version of the bill providing a 25-percent reduction in the fuel allocation to tourist industry described as "a nonessential use." The House bill recognizes that these industries in many areas of the Nation provide the base of the local economy. In Pennsylvania, tourism is the second largest industry. The House version of the bill wisely recognizes that access to available fuel supplies should be made to all commercial industries assuring that there will be no discrimination against any segment of the economy. I urge the House conferees to stand firm on including section 115 in the final version of the bill.

Mr. Chairman, the circumstances which have led Congress to alter its agenda and devote the past several weeks to a crash program to meet our energy needs are a sad commentary on our present energy dilemma. Our response to the energy situation for the past several years has been no response—to pretend it did not exist. Each time a warning was sounded it was ignored. For a number of years the Appropriations Committee has called for a national energy and coal policy without success. The Select Committee on Small Business has repeatedly warned of the harmful effects of failing to conserve our Nation's resources to no avail.

Because these early warnings were not heeded, we are today working frantically to produce an energy bill.

What is our energy policy? That is the heart of the present dilemma. Yet the legislation being debated in the Congress this week is occurring precisely because there is no answer to that question.

For how many years, how many decades, have we wasted our energy? America is currently using 55 percent of the entire world's resources, although it has only 6 percent of its people. In the 7 years from 1960–67, the world consumed as much petroleum as it had in the previous 70 years. During the next 3 years we consumed that much again. Soon that consumption demand will be on an annual basis. In this doubtful economic climate, we are anticipating doubling our number of passenger cars by 1985. The growth has continued unabated even when we know fossil fuels like oil took millions of years to form, and once gone, are irreplaceable.

What is our policy? This administration has had no policy; nor has any previous administration.

Frankly, it is disquieting to see the "energy czars" come and go; to hear fumbling and contradictory answers to my question at a congressional hearing; and to know that we must "break the budget" because we have never been requested to appropriate the money to supply the minimum number of personnel required to establish an Energy Office. Perhaps most frightening is the realization that our legion of "experts" were isolated and failed to recognize the complexity of the web of economic survival and the interrelationship of energy problems.

In the long run, we must look at our potential resources—and make them our usable reserves. It is estimated that our country may have coal resources to last us 300 years, and existing oil and oil shale resources to last us 500 years.

But potential resources are transformed into reserves, not by moving rock, but by expanding the artificial boundaries of geological knowledge and economic availability that separates the two. The potential of our resources can only be realized as a result of applied research. Major development of new technologies will be the key to this.

The energy crisis of today is not an umitigated tragedy. We have been thrown back, largely, upon our own resources, and we have found these resources wanting. But in discovering this, we have also begun to discover the action, the lack of action, and the lack of planning of the past which have led us into an uncomfortable present. We have before us today, therefore, the clear responsibility of living the future with greater wisdom.

We must develop a new ethic in America that faces the fact that our resources are finite. We have little choice but to set out with new sensitivity on a program of restrained use of our nonrenewable resources. We have treated petroleum in the past with almost the same lack of restraint with which we treated water. We have about the same quantity of water on earth today which was present when the pyramids were built; but we have drastically reduced the quantity of petroleum on earth in just the 20th century, knowing as we did so that it took millions of millions of years for nature to produce that petroleum.

We are facing today the same challenge in the matter of countless other products of nature, principally our minerals, which we have taken from the earth as though we were plunderers, not as though we were the transient passengers on this space ship Earth with a responsibility to give that ship to our children as spaceworthy as she was when we came abroad.

We have lacked a policy in petroleum. Now we must create that policy overnight. We have lacked a policy in the whole energy field. Now we must create that whole energy policy overnight.

We have time today to set our policies in order in our other nonrenewable resources. We have the most comprehensive survey of those minerals, their use, their quantity, their location, prepared by the Office of Geological Survey in this year 1973. We have a very simple choice. We can take that book today and begin the planning that will husband those resources intelligently as we move through the future years with all the new resources which we will need and will discover to replace them, and if we do so, the future will bless us. Or we can blindly plunder the earth of her riches, and some day in the future, and in the not-too-distant future, the Congress will sit here in this same chamber again debating an emergency mineral resources bill; and if we walk this second path, the men who debate that bill then will wonder at the lack of wisdom of the men who sit in this House and in this administration today.

I hope, and I trust, and I expect, that an immediate and vigorous program will be instituted to set a wise and clear policy for the use of our resources, all of our resources, in the future. Certainly, this is the least lesson we can learn today.

Mr. SPENCE. Mr. Chairman, the bill before us today is a bitter pill. For many of us, this legislation represents another intrusion into the free market system which has made ours a trillion dollar economy. Others point out that the executive branch is being granted too much power.

Unfortunately, in the course of these last three days, we have taken a bill which had already been variously described as "tangled and confusing," "ill-conceived," and an "accounting and legal nightmare," and made it even worse by trying to rewrite it on the floor. We have created a bill the size of a book, and I would venture to say that no more than a handful of us really know what the final version is.

Perhaps at this point a brief summary of what we face would be in order. The total projected petroleum demand for the winter season was 18 million barrels per day. It now appears that we may miss that mark by as much as 20 percent. This includes two very vital areas: Fuel oil—shortage of 700,000 barrels per day—and gasoline—over 1 million barrels per day short. These shortages cannot be blamed entirely on the Arab oil embargo, though of course, this has not helped a bit. Rather, we are experiencing the effects of a combination of factors which could have produced no other result.

For example, a few years ago, there was every reason to expect that an additional 3 to 4 million barrels of oil would be available from Alaska, and offshore areas including the Santa Barbara channel. As we all know, a myriad of legal and environmental problems have stymied the development of these sources.

It appears that the political, economical and environmental angles to the energy crisis will ensure at least periodic shortages for a number of years, so it is clear that immediate conservation measures have to be taken.

Several of the President's proposals in response, along with the approximate savings in barrels per day are as follows: National 50 mph speed limit—225,000; various public and private conservation measures, including reducing home thermostats to 65 degrees in winter—900,000 total; year-round daylight savings time—30,000; requiring existing electric utilities to switch to coal—400,000; reduce airline flights by 10 percent—170,000; and, increased production on certain oil fields—100,000.

Mr. Chairman, everyone has his own theory about how we arrived at this point. Some blame the present administration, though this crisis has been developing through many administrations, and the record is replete with instances of warnings by this President coupled with positive suggestions. Just as often, the oil industry is blamed. It is said that either they should have known how bad things would be at this point, or that they actually engaged in a giant conspiracy to bring it about. Many unforeseen events have entered the picture and have made their contribution to the situation as we find it today. Who could have predicted, for example, that 10 billion gallons of oil would still be under the ground in Alaska, with the pipeline not even begun by 1973?

We, as individual Americans, must share the blame—with only 6 percent of the world's population, we burn one-third of the world's energy. Our consumption of energy has been steadily increasing at a pace faster than production.

The point is, Mr. Chairman, there is no one factor that can be blamed for our current problems; and, at the same time, none of the groups I have mentioned can totally escape blame. There is plenty for them, and for others, to go around. In any event, it serves no useful purpose at this point to dwell on assessing blame—we must now pull together to bring ourselves out of this crisis. The American people have shown that they will cooperate in such efforts when they feel that they are being treated fairly, and when everyone is asked to share equally in the burdens of sacrifice.

The problem now has been compounded since this body, after having loaded down this bill with many amendments and with anywhere from 60 to 75 amendments still pending, has voted to shut off all debate and vote on the remaining amendments without the opportunity for debate. This matter is too important to this Nation, and our people, to be handled in this manner. I am prepared to remain here all night long if necessary to consider what is the best way to solve the overall problem confronting us.

This bill should be recommitted to the committee, or voted down, so that it can be considered in a sober manner by that body and reported back to us in a form which can be understood by the overall membership of this body. We need legislation to deal with the energy crisis in the best possible way. We do not need to complicate the problem, or even contribute to it, by hasty and ill-considered legislation.

If this bill is passed today, however, we must remain vigilant in the aftermath. We must keep a close watch on the rules and regulations which are promulgated under the authority of this bill, and insure that no segment of our economy is either favored or asked to bear a disproportionate share of the load.

Mr. ANNUNZIO. Mr. Chairman, I rise in support of the bill and recognize that it is an honest effort to deal with the energy needs of this country.

The problem is clear: The country is faced with crippling shortages and the consumer will, as usual, have to bear the burden of the shortages and pay ever-increasing higher prices in the process. Hopefully, this bill will lessen that burden, keep the prices down to some reasonable level, and assure that vital energy needs are met, and it is in this hope that I support the bill.

This bill, unfortunately, has many shortcomings. Several of my colleagues have called this bill "a can of worms," and nothing could be closer to the truth. Several of the bill's provisions range across the jurisdiction of several committees of the House and deal with matters that simply ought to be dealt with elsewhere. Most importantly, however, the bill gives enormous power to the President and that should give us all pause for concern because the President has a demonstrated record of excessively allowing companies to gouge consumers with excess profits. Why anyone would think this leopard would change his spots is beyond me. But then this is an emergency situation and the Congress cannot at this time afford for the sake of the American people to delay any measure which might alleviate the crisis.

But simply because this is an emergency does not mean that the Congress should pass this bill and in effect, ship the problem downtown to the Executive because that will only further complicate the problem. The Congress needs to exercise continuing authority over the energy crisis and construct long-term solutions to the problem. Committees, specifically the Banking Committee of which I am a member, should exercise their authority in those areas where they have jurisdiction so that the public, not just the special interests, are served. I for one, am going to do all within my power to urge my committee to exert all its influence to see that the shortages are stopped and that the people can get the energy they need at prices they can afford.

As everyone knows, the House Committee on Banking and Currency more than 8 months ago urged the President to institute an allocation program to assure that scarce petroleum products would be distributed so those that need energy would be able to obtain it. The President and administration lobbied hard against that provision. From that, I think it is fair to say that the administration simply did not care whether there was a fair distribution of needed oil supplies.

It was only after the problem had reached the crisis stage that the administration took action and because of that delay we are now forced to legislate without knowing all the facts. The fact that the administration has acted at such a late date, and the fact that the administration has demonstrated an unwillingness to deal with the problem simply reinforces the need for the Congress to exercise its legislative powers on a continuing basis.

Just because we pass this bill does not mean that we should not attempt to formulate additional legislation in the second session of the 93d Congress. The problem of energy shortages will be with us for a long time, and the problem of the administration's ability and desire to execute a fair allocation program, especially to consumers will also be with us for some time.

For these reasons, I will use all my power and influence to have the House Banking Committee conduct close studies of the administration of all these energy programs. Hearings should be heard so that consumers will have an opportunity to explain on a continuing basis problems caused by oil prices and no gasoline and no heating oil, and I expect that early in the next session we will have further legislation dealing with this problem.

Mr. SYMMS. Mr. Chairman, I rise in

opposition to this bill, the procedure here today, and the Government bungling of the energy needs of this country.

The old adage is so true, "anytime a political solution is sought for an economic problem the end result is massive amounts of taxpayers' money is spent only to compound the problem."

Mr. Chairman, the whole country is now painfully aware that we are in the middle of a severe shortage of energy—a shortage which not only threatens to cut into our conveniences and comforts, but into our livelihoods as well.

It is time that we all began to face facts. The most important fact today, Mr. Chairman, is that this shortage of fuel was largely caused by Government. The second most important fact is that Government, having gotten us into this mess in the first place, is at this very moment threatening to get us in still deeper.

Various Government officials whose policies caused our present crisis are right now searching frantically for scapegoats. Scapegoat No. 1 is to be the Arabs. The fact is, however, that every informed person knew at least a year ago, long before the Arab boycott started, that the United States would face a critical shortage of fuel this winter. The most important cause of this shortage is not the Arabs, but: First, our lack of refining capacity to turn out gasoline and other fuels and second, the sharp reduction in our energy production caused by the excessive environmentalist craze which has for the past several years put the interests of ecology before the needs of the people. Both these causes of our energy crisis are in turn due to misplaced and misguided Government regulations and interventionism.

Many Government bureaucrats now even have the gall to offer us a second scapegoat—the American people. We are now told that Americans are "energy pigs" because we have 6 percent of the world's population and use about a third of the world's energy. What these bureaucrats, who are now mainly interested in covering up their own mistakes and saving their own skins, fail to mention is that the American people also produce over a quarter of the world's goods and services. The Arabs, to name just one group of people, would find themselves hard pressed without American medical supplies and American technology. What would the Russians do without capitalist produced food?

The American people have no reason to be ashamed because we have automobiles and central heating. We have these things because we have worked for them and earned them.

Let me just review briefly, Mr. Chairman, exactly how Government has brought on this crisis.

First, Government put a ceiling price on natural gas. Such ceiling prices increase use and discourage exploration and the development of new sources of gas.

Second. Government has treated coal in much the same way. Banning the use of coal with high sulfur content, restricting strip mining, and, of course, freezing the price all combine to restrict supplies by reducing production. Higher production costs are forbidden to be offset with higher sales prices and so investment and new sources are once again discouraged.

Third. Atomic power, which next to coal represents our best hope for putting the country on its own two feet again, has been hamstrung and delayed by Government intervention piled upon intervention. Construction of nuclear powerplants has been delayed for years by confusing and uncertain licensing requirements. Operation at full power has been delayed even after construction and the construction of many new plants has been delayed by environmentalist lawsuits.

Fourth. With natural gas, coal, and nuclear power handicapped by the deadweight of thousands of bureaucrats, petroleum experienced the most intensive treatment of all. First of all, and most important, our refining capacity has been crippled by environmental legal tactics to restrict refining sites, by onerous Government regulations, and by the freezing of prices of oil products, thereby keeping oil companies from obtaining the needed capital for necessary expansion.

Even the pro-Government Harvard economist, John Kenneth Galbraith, agrees that—

> In the United States the scarcity of gasoline and home heating oil is due primarily to a shortage of American refining capacity, which is not expected to be made up before 1977. So long as capacity is inadequate, and there is little slack elsewhere in the world, product will be short even if crude oil is available without limit.

Not content with insuring that we would have less oil than we need, at least until 1977—not just until 1974 as a highly placed optimist has recently promised—newly enacted Government regulations have required gas-guzzling emission control devices on all new cars. This one law alone has had the effect of eating up at least 20 percent of our gasoline supply.

In addition, over the past few years, Government has banned the use of oil containing a certain percentage of sulfur with obvious effects, delayed the use of much-needed Alaskan oil by interminable arguments over the ecological effect of the pipeline, and it has stopped or slowed down the drilling for new sources of offshore oil.

For good measure, the Government has been holding down the price of gasoline to a point lower than market demands, thereby insuring increased use and the inevitable market dislocations.

Not content with all this, Mr. Chairman, the same people who gave us this totally unnecessary energy shortage are now gearing up to present us with a full-scale depression. The country must realize that we are now in very serious danger of an unemployment rate ranging from 8 to 14 percent by next spring and that is nothing less than a depression.

Let me just review once again, Mr. Chairman, some of the specific half-baked schemes now being readied by the wonderful wizards of Washington.

First. The Federal Energy Administration—which through no fault of its own was born yesterday—is now seriously discussing plans to hire 2,500 bureaucrats and, as soon as they can man their desks, they will begin to implement policies which may well put over 10 million productive Americans out of work.

Second. The proposed cuts in the general aviation industry alone—40-percent cut in business general aviation—will throw at least 100,000 workers onto the unemployment rolls. This bright idea if put into effect will simply destroy an industry which the country may well need at some point in the future. My own State of Idaho, and most of the Western States, are greatly dependent upon the general aviation industry to keep our economies going. The indirect loss of jobs, needless to say, will be far greater than the 100,000 directly affected. The situation is no different in the reaction industry and will have an immediate economic impact in Idaho running into millions of dollars.

Third. The proposed sharp cuts in energy allocation for agriculture will inevitably result in food shortages and then higher food prices. The American people cannot eat oil anymore than the Arabs can; without food we cannot expect to do much else.

Fourth. There are plans for 4-day weeks. In the case of the Federal Government this might not be too bad; that way we may be able to inflict 20-percent less damage upon the rest of us. But more seriously, what we must do is work more, not less, in order to dig ourselves out of the pit the bureaucrats have pushed us into. We all must work harder to pay for the increased costs of the energy that we have become accustomed to using.

Fifth. Cutting down on speed on the highways, voluntarily saving gasoline, and turning down thermostats are certainly helpful at this time. We must not let the Government fool us, however, by talking about these relatively small savings. The real issue, I cannot stress too often, is misplaced Government controls and interventionism. Once we get the Government off the backs of the energy producers and other hard-working Americans the problem will be solved.

Sixth. Daylight saving time, in my view, is more of this same action for action's sake which makes little difference. Setting a clock back or ahead an hour is simply like cutting the bottom off a blanket and sewing it on the top. Such brilliant ideas are always popular with bureaucrats since it means a few more jobs for people who like doing that sort of thing.

Seventh. Perhaps the very worst disaster that is waiting for us is gasoline rationing. While rationing worked to a fair degree during World War II—when we had about one-third of the cars we have now—the economy then was geared to an all-out war effort and there was a good deal of patriotic cooperation. Peacetime rationing is quite another matter. Justice does not require treating everyone alike, but treating like cases alike. It would require hundreds, perhaps thousands, of local "gasoline boards" to try to be fair to millions of Americans all of whom have different energy needs. What is fair to a city-dweller who has public transportation available is obviously unfair to a farmer in Idaho who is wholly dependent upon his car. If we are to have rationing, we had better import several battalions of Soviet bureaucrats who have had 56 years' experience in allocating materials and only foul up about half the time. The inevitable result of rationing would be a widespread black market in which disrespect for the law would grow like a cancer across the country. A market already distorted would be distorted still more. Instead of solving the energy crisis, rationing would prolong it, in fact institutionalize it. Gasoline rationing inspector would become a recognized career for young people.

Eighth. An additional tax on gasoline will not solve any problems. It would merely line Uncle Sam's pockets with taxpayer dollars without adding one drop of fuel to the supply at hand. If prices must rise, let them rise in a free market as an incentive to industry to develop new energy sources and increase refining capacity. As in all supply-demand equations, as free enterprise acts to increase supplies to take advantage of higher prices, this larger supply will force prices back into perspective. This simple rule has been infallible since man first began to barter. I am constantly amazed at bureaucratic arrogance and its belief that history can be ignored or rewritten at will.

Mr. Chairman, I cannot overemphasize the dangers which the country is now facing. I believe we have reached a point where we could do well to pay attention to the words of Herman Goering when he was a prisoner in 1945. Speaking to Henry J. Taylor, the well-known journalist, the former reichsmarshal and czar of the economy of the Third Reich said:

> Your America is doing many things in the economic fields which we found out caused so much trouble. You are trying to control people's wages and prices—people's work. If you do that, you must control people's lives. And no country can do that part way. I tried it and failed. Nor can any country do it all the way either. I tried that too and it failed. You are no better planners than we. I should think your economists would read what happened here. . . Will it be as it always has been that countries will not learn from the mistakes of others and will continue to make the mistakes of others all over again and again?

If Herman Goering finally learned this lesson, is it too much to hope for the present planners in Washington to read a little history and finally learn their lesson also?

What should be done? What can we do now to get ourselves out of the mess our Government have pushed us into? As I have been saying for the past year I have been a Member of this House, Mr. Chairman, the Government should get the hell out of the way and let American workers, farmers, and businessmen get on with the job.

First. First of all, we should repeal all the crippling ecology legislation which has grown up in the past decade. Our environment is certainly important, but Americans should be told the true cost of each of these laws. That is, they should be allowed to decide if they want to preserve a number of square miles of Alaskan wilderness and pay $2 a gallon for their gasoline. Or, would they prefer to have a pipeline cut through Alaska and pay 50 cents a gallon? The American people have a right to the facts and the right to make their own decision.

Second. We should remove the price controls on gasoline, in fact we should remove all price and wage controls and let the free market operate. The price of gasoline will certainly rise for a while, but, with increased profits the oil companies will be able to develop new sources of oil from coal, tar sands, oil shale, and conventional wells. With increased production supply will rise to meet demand. When that happens prices will fall. This process recently happened in the case of beef. A higher price for gasoline will be superior to rationing since it will insure that those who need gasoline the most will be willing to pay for it: if a low-paid worker needs gasoline to get to his job, his employer will increase his wages to meet this new need. As a matter of fact, the real price of gasoline—1973 dollars compared with 1963 dollars—has actually fallen by 8 percent in the last 10 years. So a price rise has been overdue for some time now in any event. This situation, of course, has contributed greatly to our present shortage.

In a free market, when the price of a good starts to rise three forces immediately go to work. First, people start to use the good to the extent that they really need it; second, producers and consumers begin the search for new sources or a cheaper substitute or both; and third, producers attempt to expand production by employing technology more effectively to meet the demand. It is this free market process that has always supplied our needs in the past; we will run short of energy only if we frustrate that process and hamper the free and creative efforts of our people with the dead hand of bureaucracy.

Third. We must also encourage by every means the so-called exotic sources of energy as my colleague from Arizona, Hon. JOHN B. CONLAN has recently pointed out on the floor of this House. Atomic energy, solar energy, coal gasification and liquification, geothermal energy, tidal and wind power, and magnetohydrodynamics all offer promise of eventually making America self-sufficient in energy.

Fourth. We must not, as I have emphasized before, allow ourselves to be diverted from these permanent solutions by the sugar-coated public relations gimmicks of panicky Federal planners. Lower thermostats and slowed speeds on our highways will help carry us through this immediate situation. Attention to our export situation is needed, but let us not lose our perspective.

We are talking about 68,000 barrels a day, a great deal of which returns again to this country after foreign refinement. A good deal more of these exports leave the country from close to the Mexican and Canadian borders as a matter of geographic necessity. Pipeline is not available to retain it in the United States. Again, there is merit in all of these considerations, but they pose no long-term answers.

We must bear in mind that we are now going through America's second energy crisis. The first occurred in the middle of the 19th century when whale oil was the chief means of lighting our lamps. As our population grew, naturally more and more whale oil was required. As demand exceeded supply, the price, of course, rose. With rising prices there was pressure—and incentive—to develop a substitute. In 1859 petroleum was discovered in Pennsylvania and in 1867 kerosene broke the whale oil market. Whale oil prices fell and cheap kerosene was available to meet the increased demand. This process holds obvious lessons for us all; America's first energy crisis was solved without the use of Government controls by making use of the free market. If we had controls and rationing of whale oil in 1850, I would not like to speculate on where the country would find itself today.

A lot of my constituents are genuinely puzzled about how such a crisis could have hit us full in the face without some advance warning. I ran across an interesting quotation from the September 1960 meeting in Los Angeles of the American Association of Petroleum Geologists, in which Michel Halbouty said:

> I can safely predict that between now and 1975 we will have an energy crisis in this country. Then the people will say—"The industry is to blame. Why weren't we told?"—Well, I'm telling them now.

And there is a great deal more documentation during the period from 1940 to the present in which the crisis was forecasted. None is more distressing to me than a Senate Interior Committee forecast prepared in 1947. This detailed analysis of American energy proved to be remarkably accurate through 1972. Today, eight men who participated in that study still serve in this Congress—AIKEN, EASTLAND, MCCLELLAN, MAGNUSON, FULBRIGHT, YOUNG, SPARKMAN, and STENNIS. Why were not each and every one of these men on their feet and screaming when their colleague, Senator MANSFIELD, moved to virtually eliminate all coal mining on public lands right in the midst of a full-blown, critical shortage of domestic energy supplies predicted more than 25 years before?

I think I have made it clear, Mr. Chairman, where the responsibility for our present crisis lies. If we want to be self-sufficient in energy by 1980 we know where to begin. Let liberty vis-a-vis free enterprise work instead of trying to make total control vis-a-vis socialism work.

Mr. Chairman, if we here in the policy-making board do not use statesmanship and foresight today to get the Government out of the way of solving this problem, we have no future. Stop Government remedies that kill the patient. Repeal. You do not offer another length of rope to a man who is already strangling. When history is written, the blame will clearly and fairly be given to the governmentality of the politicians and constituencies of 20th century Americans.

Mr. GRAY. Mr. Chairman, I rise in

support of H.R. 11450 as amended. I recognize that this has been a difficult problem to resolve all the various and sundry views on such a critical problem as an energy crisis. In fact, there are no easy or quick solutions to the energy crisis. We in southern Illinois hold the key to the long-range solution to the oil and gas shortage. We have a 1,000-year supply of coal. Yes, Mr. Chairman, 150 billion tons of black gold that can be converted to liquid gasoline, crude oil, and natural gas. I urge the President and the administration to join the oil and gas industry by locating several conversion plants in the lower counties of Illinois. We have the water, coal, and manpower plus great communities to support an all-out effort to get such plants in operation very quickly.

Mr. Chairman, I think we should recognize that Congress did not cause the fuel crisis. I would like to list the five main reasons why we are now in this serious dilemma:

Impounding millions of dollars in funds appropriated by Congress for energy research and development—while simultaneously criticizing the Congress for not doing enough to solve the energy crisis.

Maintaining an oil import control program which kept foreign oil out of the United States during recent years while America's fuel reserves were falling to dangerously low levels.

Refusing to implement the mandatory fuel allocation authority granted by Congress until it was too late to make much impact on the distribution of fuel supplies and then, at this late date, implementing the program ineffectively.

Failing to draw up contingency plans and to stockpile adequate fuel reserves in the face of obvious political instability in the Middle East.

Mishandling the price control program by freezing gasoline prices at seasonal peaks and home heating oil at seasonal lows, thus forcing refiners to convert crude oil to gasoline instead of to heating oil in preparation for the winter months.

Mr. Chairman, let us now turn from the mistakes of the past and get on with some action. Research, development, and construction of coal to gas plants will be a great start. Then add the Alaska pipeline and hopefully the Mideast oil as additional sources plus more drilling and shale oil and we will take care of our needs now and in the future. I cannot agree with some of the provisions in this bill but it is a beginning and I hope that the other body will help clean up the legislation so the President and his administration can have additional tools they say they need to bring back the economy from this threat that is now hanging over us. Mr. Chairman, I would not want to sit down without commending my good friend the distinguished chairman of the Committee on Interstate and Foreign Commerce, Mr. STAGGERS and the entire committee for their diligent efforts in trying to solve a very serious problem. Thank you.

Mr. JOHNSON of California. Mr. Chairman, first may I take this opportunity to commend the chairman of the Committee on Interstate and Foreign Commerce, the gentleman from West Virginia, and the fellow members of his committee for bringing to the floor of the House of Representatives what I believe is an excellent piece of legislation meant to solve a desperate problem. The committee accomplished this really in an extremely short time especially when you consider the complexities of the issues.

I would like to address myself to one specific section of this legislation—namely, those provisions which are designed to safeguard against unreasonable discrimination and unequitable treatment in the distribution of the energy resources of the Nation.

It is, of course, recognized that in the present energy crisis there is not enough fuel to go around and the question therefore resolves itself to how do we allocate those supplies which we have without creating a crisis of equal importance to that which we face today.

Some suggestions relative to allocation of our fuel and other energy resources would, I fear, create problems of equal or greater significance to the Nation. For instance if a rationing program were devised with the sole purpose of forcing people to use mass transit it would be extremely discriminatory against those areas where there is no mass transit. We must provide means by which our people in the less populated areas can get to work. In other words geographically any solution to our energy emergency must be fair to all regions. To fail to achieve this goal would create massive pockets of unemployment; disrupt the delivery of raw materials, food and fiber to our urban areas. The same can be said of other segments of our economy. I do not believe that we can single out any specific industry or business to say that you must go bankrupt because there is no fuel. You must fire all of your employees because there is no fuel.

The Second Congressional District, which I represent, is a large area covering approximately one-fourth of the State of California, and offering some prime recreation areas. If we were to follow the advice of some, including the other body, and set aside recreation as a nonessential use the unemployment levels in this and other similar areas of our Nation would be astronomical. It is therefore with great feeling that I support the language of the committee which in its discussion of discrimination and inequitable treatment concluded:

> No user or class of users should be called upon during this shortage period to carry an unreasonably disproportionate share of the burden. This is fundamental to the traditional notion of fairness and equal protection. The Committee expects the President and the Administrator of the Federal Energy Administration created under this Act to assiduously observe these requirements in the conduct of their functions.

As the committee says, actions have already been taken which have brought dislocation and distortions in the competitive market which have created unusual problems relative to individual groups of competitors offering similar service.

In part, this has been the unavoidable result of attempting to cope with a crisis situation without having first developed a decisionmaking structure which affords government an opportunity to appreciate the full ramifications of its actions. For example, there must be a realization by those in authority that the public good is not served by denying allocations of fuel for certain uses which have the appearance of being nonessential, such as recreational activities or various aspects of general aviation, if to do so would result in significant unemployment. There are, of course, many areas in this Nation where recreation and tourism provide the base of the local economy. Moreover, Government must equip itself so as to be able to look beyond the immediately affected industry to discover the ripple effects of its action on other supportive and relative industry groupings.

Access to adequate supplies of fuels is basic to the survival of virtually every commercial enterprise and, accordingly, Government must act with great care to assure that its actions are equitable and do not unreasonably discriminate among users.

In conclusion, Mr. Chairman, I urge my colleagues in the House of Representatives to preserve the spirit of equity which I believe we all seek in trying to solve this immediate problem.

Mr. MINISH. Mr. Chairman, I rise in strong support of the amendment offered by the gentleman from New York (Mr. MURPHY), a member of the committee.

Passage of this amendment will represent one more vote by the Congress in favor of Federal mass transit operating assistance. Back on October 3, we passed the Urban Mass Transportation Act of 1973, which I sponsored to provide $800 million in Federal operating subsidies to the Nation's mass transit systems over the next 2 fiscal years. We are currently in conference with the Senate on that legislation and we earnestly hope to reach a final agreement shortly.

When we do conclude our conference, we will have an excellent program of operating aid to present to the President for his signature. An affirmative vote here today on the Murphy amendment will strengthen our position and the position of all who believe an essential element in overcoming the energy crisis is the development of quality urban mass transportation in the United States.

Mr. DERWINSKI. Mr. Chairman, because of the shocking procedure which was tolerated in the passage of this bill, I find it very difficult to vote "yes." On the other hand, I recognize the seriousness of the energy problem and I believe that some bill must be passed. However, in casting my vote for the bill, I must, nevertheless, protest against the parliamentary procedure as well as the great number of uncertainties that exist in this measure.

Specifically, this bill will more directly affect the lives of all citizens in our country than any other piece of legislation we will work on in the 2 years of this Congress. Yet, we have cut off debate, we have voted on amendments which were not debated, the original rule prevented normal substitutes and amendments procedures, so that what we have been laboring under is a form of gag rule. Frankly, this is as bad an example of legislative railroading as I have witnessed in my 15 years in Congress.

At the time debate was cut off, there were 77 amendments waiting at the desk. Members had no opportunity to legitimately study the merits of these amendments, and then to compound the problem, when the bill comes back from conference late next week we will be under the gun of the Christmas adjournment rush. I am fearful that the conference version will then be railroaded through. Months later when Members are flooded with complaints from their constituents over the procedures being applied under the authority of this act, what explanation can those who voted to gag the House and prevent full discussion and consideration given to their irate constituents.

This bill is so important that it should have had additional time in committee and additional time on floor debate, and it could have been passed in a much better form before we adjourn next week.

Mrs. HECKLER of Massachusetts. Mr. Chairman, all of us have seen reports that petroleum products are being exported from this country, despite the shortages now existing, and the threats of industry shutdowns. Of particular note are the continued exports of petrochemical feedstocks, which are the vital raw material for a number of specialized industries.

Realistically, we cannot expect the big oil companies to voluntarily pass up the opportunity for bigger profits by exporting their products abroad. Each would merely wait for the other to act first, fearing that the competitor would gain a competitive advantage by continuing to sell overseas.

In fairness, the prohibition must apply to all companies across the board.

This will require Government action, and so far this administration has shown little inclination to force the big oil companies to make any sacrifices in the national interest.

Since 1969, the executive branch has had authority to control the export of critical materials, under the Export Administration Act. This authority has been little used, and never in the case of petroleum exports.

Again, several weeks ago, we passed and sent to the President the Emergency Allocation Act, Public Law 93-159, which contained in section 4 language which strongly indicated that Congress wanted the termination of exports during this crisis. Unfortunately, that language left much to the discretion of the executive branch, the effect of which has been that nothing has been done to control exports.

So it seems that nothing will be done to keep petroleum products in this country until there is a direct congressional mandate to do so.

My preference would be to go to the heart of this problem, and to do so without disrupting several export programs which are still beneficial to the United States.

Exceptions to this prohibition should include—

Our reciprocal arrangements with Canada and Mexico, and the Netherlands;

Those exports which are for resale back to the United States.

I am only interested in prohibiting those exports which are for sale of the product overseas. I recognize, as I am sure do others in this chamber, that American companies are now exporting crude oil to foreign refineries, the product of which is then imported back into this country. This allows the companies to get around the problem of limited domestic refinery capacity.

Mr. VANIK. Mr. Chairman, I rise in support of the amendment offered by the gentleman from California (Mr. ANDERSON) to require the Federal Government to use more energy efficient automobiles in its future car purchases.

The automobile has become an important American institution. Direct gasoline consumption by cars represents 13 percent of our total energy budget. In 1970 more than 95 percent of urban passenger traffic and 85 percent of inter-city traffic was carried by the automobile. The auto has become the major cause of the congestion which chokes our cities. At the same time it is responsible for almost one-half of the emissions by weight which pollute our air. Between 1950 and 1970 automobile travel increased threefold to 900 billion vehicle miles. During the same period per capita auto travel increased by 85 percent.

Unfortunately, while we have become more and more dependent on the automobile, we have failed to develop a more efficient type of auto. Our streets are clogged with gas guzzlers that are nearly obsolete in today's energy short world.

Due in large part to its voracious appetite for energy, our country is facing the likelihood of significant trade imbalances from our energy needs. The net foreign exchange burden may be as high as $10 billion by 1980. We owe it to ourselves—to our national security—to eliminate wasteful consumption of precious petroleum. If America's 92.7 million passenger cars could increase in efficiency from 12 miles per gallon to 18 miles per gallon, the Nation could save over 25 billion gallons of gasoline per year—a significant savings in view of our present over-reliance on foreign petroleum supplies.

The amendment now before the House seeks to encourage the market for and development of more efficient automobiles. By writing in this requirement, the Federal Government can help lead the way in using more efficient forms of transportation.

I urge the adoption of the amendment.

Mr. DORN. Mr. Chairman, yesterday I believe I made a mistake in supporting the so-called antibusing amendment to this act. This was the amendment which would deny fuel to certain school districts for transportation purposes. During the debate on that amendment we were holding hearings in our Public Works Economic Development Subcommittee on the problems of revitalizing our rural areas. When I supported the so-called busing amendment I did so as it was represented to me as being primarily a question of fuel.

I support the Eckhardt amendment today because it would go a long way toward rectifying the mistake the House made yesterday. The Eckhardt amendment would make it clear that nothing adopted yesterday would deny fuel for student transportation within an area in which students are required to be transported as a result of lawful action by school authorities.

After studying the debate on the so-called antibusing amendment adopted yesterday I am now convinced it was a resurrection of the old antibusing amendments which I have consistently opposed. These are simply attempts to get Detroit, Denver and some other urban areas off the hook. When we in South Carolina have bused voluntarily, or under Court order or HEW decree it is most unfair to us to be penalized for upholding the law.

Since we have abided by the law then I feel that the Federal Government should help us provide safer, more and better buses for our schoolchildren. It is completely unfair to deny us use of our local and State funds to carry out court orders, HEW decrees and yes, voluntary plans. The amendment approved yesterday would only penalize those who have complied with the law, and those who devised voluntary plans for busing to improved and consolidated schools.

Mr. Chairman, I do not believe that the so-called antibusing amendment has a chance of remaining in the final version of this bill. The amendment had no business in this legislation. I made a mistake in supporting it and my vote was inconsistent with all my past votes against amendments designed to get Detroit off the hook and which would penalize States like South Carolina.

Mr. Chairman, should this unwise and unfair amendment remain in the House bill I will use every opportunity to have it stricken. Should this provision remain in the final version of the bill it would give the administration arbitrary power to cut off fuel supplies for education transportation at a time when fuel is already in critically short supply. This power should not be given to any agency, any department, or even to the Chief Executive. If this so-called antibusing amendment is in the energy bill after final passage I will urge the House-Senate conferees to delete it entirely.

Mr. RANDALL. Mr. Chairman, I oppose H.R. 11882 as amended so repeatedly in the Committee of the Whole, for reasons I shall outline.

Out in the Middle West there is a saying, "You can load a wagon down so heavily it cannot move." That, in my judgment, is what we have done to H.R. 11882. There have been times during this long debate of the past 3 days that I felt if certain amendments were adopted I might be able to stomach some of the objectionable portions of the Committee effort. But when the Committee of the Whole defeated the very reasonable amendment to temporarily modify the emission devices on late model cars as an important means to conserve large quantities of motor fuel, it is impossible to support what is left.

My remarks are contained elsewhere in the RECORD today in relation to the proposal that emission requirements for cars registered to a resident of those parts of the United States having no significant air pollution should be suspended for the duration of the energy crisis.

There are over 30 major provisions of this Emergency Energy Act, but the bill is drawn in a confusing and disorderly manner. Perhaps this is because of the extreme time pressure under which it was written. The report which accompanies the bill is superficial in both its explanations and definitions.

Mr. Chairman, one colleague said to me that all we are doing with this bill is fooling the public. From the viewpoint of an individual Member that thought could be translated to the proposition that all we are doing is fooling our constituents. Everything that is provided in this bill has already been enacted into law. There are a series of statutes in the nature of emergency powers that have never been repealed. Last April we extended the Economic Stabilization Act which I supported. This summer we passed the Mandatory Allocation Act which I supported and which was signed by the President within the recent past.

Yes, everything was covered by the two bills passed by Congress earlier this year save and except the rationing of petroleum products. The chairman of the committee which managed the bill on the floor was heard to say that the word rationing was not mentioned in the bill and that he was opposed to rationing. Yet, during the debate, it was acknowledged that "in-use" allocation was one and the same as rationing, exactly that and nothing more. The time may come in the future when rationing may be a last resort. But we have not reached that point yet because the Federal Energy Administrator 2 days ago announced the country has already accomplished a 15-percent drop in gas consumption in the 3-week period just passed.

Americans are responding. They should be thanked for their efforts. For that reason I do not intend to burden them with rationing with all its hardships and all of its evil consequences that inevitably result from such a course.

We should all bear in mind that H.R. 11882 cannot increase the total quantity of fuel. It will do nothing except to limit use in the short run. We would have done better to spend our time on an energy research bill which would have increased the total quantity of energy.

But, Mr. Chairman, there are so many other things wrong with this bill. The House refused removal of emission devices that would save fuel. Then there was not a single reference in this entire bill that provides for any local voice in the administration of gasoline rationing; there was no single reference to any consultation or delegation of any authority to any Governor, or mayor or county official. Surely the recollection of some of the problems that occurred during the time of rationing during World War II should have been enough to avoid the mistakes we make in this bill of too much centralized authority and decisionmaking here in Washington.

One of my very strong objections to this bill is the listing of the vital services which must be provided for and which amount to nothing more or less than a listing of priorities in the event that rationing does come. I was amazed to note that agriculture is rated seventh.

Now we all know that public services including fire, police and ambulance service and the hospitals as well as the production of energy itself should be listed as a first priority but to put agriculture way down to the low priority that it has been assigned in this bill neglects and the importance of the production and transporting of farm products that are so vital to the life of our country.

There are some good provisions in H.R. 11882 but they are very few in relation to the objectionable features. I oppose this bill because if I were to support it it would imply that I believed it would alleviate the energy crisis. As I said before, it proposes no actions that cannot already be taken by bills passed except perhaps the deceptive "in-use allocation."

I have no idea how long it will take to decipher this bill because it contains confusing and overlapping provisions which have produced a confused piece of legislation. It would have been better if we were to work on a bill providing new sources of energy, as well as let up on emission standards until the emergency is lessened.

Finally, perhaps the best description of the objectives are found in the remarks of one of our colleagues who says that this bill can create a top-heavy bureaucracy and do precious little about the problem of energy supply. Rationing can only result in a maze of bureaucratic entanglements that can confuse the public particularly those in the moderate to low income bracket.

Finally in opposing this legislation I am voting to deny the President a domestic "Gulf of Tonkin Resolution."

The CHAIRMAN. Are there further amendments to the amendment in the nature of a substitute? If not the question is on the amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. BOLLING, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 11450) to direct the President to take action to assure, through energy conservation, rationing, and other means, that the essential energy needs of the United States are met, and for other purposes, pursuant to House Resolution 744, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT

Mr. SHOUP. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. SHOUP. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. SHOUP moves to recommit the bill H.R. 11450 to the Committee on Interstate and Foreign Commerce.

Mr. STAGGERS. Mr. Speaker, I move the previous question on the motion to recommit.

The previous question was ordered.

The SPEAKER. The question is on the motion to recommit.

RECORDED VOTE

Mr. SHOUP. Mr. Speaker, on that I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 173, noes 205, not voting 54, as follows:

[Roll No. 688]

AYES—173

Abdnor
Abzug
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Badillo
Baker
Bauman
Beard
Bevill
Biaggi
Bingham
Blackburn
Brasco
Bray
Brinkley
Brooks
Brown, Calif.
Brown, Mich.
Burgener
Burke, Fla.
Burleson, Tex.
Camp
Casey, Tex.
Cederberg
Chappell
Clancy
Collier
Collins, Ill.
Collins, Tex.
Conlan
Corman
Crane
Daniel, Dan
Daniel, Robert W., Jr.
Davis, S.C.
Davis, Wis.
de la Garza
Dellenback
Dellums
Denholm
Dennis
Devine
Dickinson
Dorn
Downing
Duncan
Edwards, Calif.
Eilberg
Evins, Tenn.
Fisher
Flowers
Fraser
Frey
Fulton
Fuqua
Gettys
Goldwater
Goodling
Gross
Grover
Gunter
Guyer
Hammerschmidt
Hanna
Hanrahan
Hansen, Idaho
Harrington
Hawkins
Hechler, W. Va.
Helstoski
Hicks
Hinshaw
Holt
Holtzman
Howard
Hungate
Jarman
Johnson, Colo.
Johnson, Pa.
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Kemp
Ketchum
Koch
Kuykendall
Landgrebe
Latta
Lent
Lott
Lujan
McCollister
McEwen
McKinney
McSpadden
Madigan
Martin, Nebr.
Martin, N.C.
Mathis, Ga.
Mayne
Mazzoli
Michel
Milford
Miller
Minish
Mink
Mitchell, Md.
Moorhead, Calif.
Myers
Natcher
Nichols
Obey
O'Brien
Parris
Pike
Powell, Ohio
Price, Tex.
Quie
Quillen
Randall
Rangel
Rarick
Regula
Roberts
Robinson, Va.
Rodino
Roe
Rousselot
Roybal
Ruth
Ryan
Satterfield
Scherle
Schneebeli
Sebelius
Shipley
Shoup
Shuster
Sikes
Slack
Snyder
Spence
Stark
Steed
Steelman
Steiger, Ariz.
Steiger, Wis.
Stubblefield
Studds
Symms
Teague, Tex.
Thompson, N.J.
Thomson, Wis.
Thone

Towell, Nev.
Treen
Vander Jagt
Waggonner
Waldie
Wiggins
Williams
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Wolff
Wyman
Young, Alaska
Young, Fla.
Young, S.C.
Young, Tex.

NOES—205

Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Annunzio
Arends
Ashley
Aspin
Bafalis
Barrett
Bennett
Bergland
Biester
Blatnik
Boland
Bolling
Bowen
Brademas
Breckinridge
Broomfield
Brotzman
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burke, Mass.
Burlison, Mo.
Burton
Butler
Byron
Carney, Ohio
Carter
Chamberlain
Clausen, Don H.
Cleveland
Cochran
Cohen
Conable
Conte
Cotter
Coughlin
Cronin
Culver
Daniels, Dominick V.
Danielson
Davis, Ga.
Delaney
Derwinski
Dingell
Donohue
Drinan
Dulski
du Pont
Eckhardt
Edwards, Ala.
Esch
Eshleman
Evans, Colo.
Fascell
Findley
Fish
Flood
Flynt
Foley
Ford, William D.
Forsythe
Fountain
Frelinghuysen
Frenzel
Froehlich
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Gonzalez
Grasso
Green, Oreg.
Green, Pa.
Gude
Haley
Hamilton
Hanley
Hansen, Wash.
Hastings
Heckler, Mass.
Heinz
Henderson
Hillis
Hogan
Holifield
Horton
Hosmer
Huber
Hudnut
Jones, Ala.
Jones, N.C.
Karth
Kyros
Landrum
Leggett
Lehman
Litton
Long, La.
Long, Md.
McClory
McCloskey
McCormack
McDade
McFall
McKay
Madden
Mahon
Mallary
Mann
Maraziti
Mathias, Calif.
Matsunaga
Mezvinsky
Minshall, Ohio
Mitchell, N.Y.
Mizell
Moakley
Mollohan
Montgomery
Moorhead, Pa.
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Nedzi
Nelsen
O'Hara
O'Neill
Owens
Passman
Patten
Pepper
Perkins
Pettis
Peyser
Pickle
Poage
Podell
Preyer
Price, Ill.
Pritchard
Railsback
Rees
Reid
Reuss
Rhodes
Rinaldo
Robison, N.Y.
Rogers
Roncalio, Wyo.
Rooney, Pa.
Rose
Rostenkowski
Roush
Roy
Ruppe
St Germain
Sarasin
Sarbanes
Schroeder
Seiberling
Shriver
Sisk
Skubitz
Smith, Iowa
Smith, N.Y.
Staggers
Stanton, J. William
Stanton, James V.
Stephens
Stratton
Stuckey
Symington
Taylor, N.C.
Teague, Calif.
Thornton
Tiernan
Udall
Ullman
Van Deerlin
Vanik
Vigorito
Wampler
White
Whitehurst
Whitten
Widnall
Wilson, Bob
Winn
Wydler
Wylie
Yates
Yatron
Young, Ga.
Young, Ill.
Zablocki
Zion

NOT VOTING—54

Bell
Boggs
Breaux
Burke, Calif.
Carey, N.Y.
Chisholm
Clark
Clawson, Del
Clay
Conyers
Dent
Diggs
Erlenborn
Gray
Griffiths
Gubser
Harsha
Harvey
Hays
Hébert
Hunt
Hutchinson
Ichord
Johnson, Calif.
Keating
King
Kluczynski
Macdonald
Mailliard
Meeds
Melcher
Metcalfe
Mills, Ark.
Morgan
Nix
Patman
Riegle
Roncallo, N.Y.
Rooney, N.Y.
Rosenthal
Runnels
Sandman
Steele
Stokes
Sullivan
Talcott
Taylor, Mo.
Veysey
Walsh
Ware
Whalen
Wright
Wyatt
Zwach

So the motion to recommit was rejected.

The Clerk announced the following pairs:

On this vote:

Mr. Hays for, with Mr. Rooney of New York against.

Mr. Runnels for, with Mr. Dent against.

Mr. Clark for, with Mrs. Boggs against.

Mr. Clay for, with Mr. Johnson of California against.

Mr. Stokes for, with Mr. Hébert against.

Mrs. Chisholm for, with Mr. Riegle against.

Mrs. Griffiths for, with Mr. Morgan against.

Mr. Melcher for, with Mr. Kluczynski against.

Mr. Ichord for, with Mr. Breaux against.

Mr. Nix for, with Mr. Mills of Arkansas against.

Mr. Conyers for, with Mr. Carey of New York against.

Mr. Diggs for, with Mr. Gray against.

Mr. Metcalfe for, with Mr. Meeds against.

Mr. Taylor of Missouri for, with Mr. Hunt against.

Mr. King for, with Mr. Sandman against.

Mr. Roncallo of New York for, with Mr. Wright against.

Until further notice:

Mr. Patman with Mr. Zwach.

Mrs. Burke of California with Mr. Keating.

Mr. Macdonald with Mr. Steele.

Mr. Rosenthal with Mr. Bell.

Mrs. Sullivan with Mr. Del Clawson.

Mr. Ware with Mr. Wyatt.

Mr. Erlenborn with Mr. Gubser.

Mr. Hutchinson with Mr. Mailliard.

Mr. Walsh with Mr. Talcott.

Mr. Harvey with Mr. Whalen.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the passage of the bill.

Mr. SCHERLE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered. The vote was taken by electronic device; and there were—yeas 265, nays 112, answered "present" 3, not voting 52, as follows:

[Roll No. 689]

YEAS—265

Abdnor
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Arends
Ashley
Aspin
Bafalis
Bennett
Bergland
Biaggi
Biester
Bingham
Blatnik
Boland
Bolling
Bowen
Brademas
Brasco
Bray
Breckinridge
Brinkley
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Mass.
Burlison, Mo.
Butler
Byron
Carey, N.Y.
Carney, Ohio
Carter
Cederberg
Chamberlain
Chappell
Clancy
Clausen, Don H.
Cleveland
Cochran
Cohen
Collier
Collins, Tex.
Conable
Conte
Cotter
Coughlin
Cronin
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Danielson
Davis, Ga.
Davis, Wis.
Delaney
Derwinski
Devine
Dingell
Donohue
Downing
Drinan
du Pont
Eckhardt
Edwards, Ala.
Eilberg
Esch
Eshleman
Evans, Colo.
Fascell
Findley
Fish
Fisher
Flood
Flowers
Flynt
Foley
Ford, William D.
Forsythe
Fountain
Frenzel
Frey
Froehlich
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Gilman
Ginn
Grasso
Gray
Green, Oreg.
Green, Pa.
Gude
Gunter
Haley
Hamilton
Hanley
Hanrahan
Hansen, Wash.
Hastings
Heckler, Mass.
Heinz
Helstoski
Henderson
Hillis
Hinshaw
Hogan
Holifield
Holt
Horton
Hosmer
Howard
Huber
Hudnut
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Karth
Koch
Kuykendall
Kyros
Landrum
Lehman
Litton
Long, La.
Long, Md.
Lott
McClory
McCloskey
McCollister
McCormack
McDade
McFall
McKay
McKinney
Madden
Mallary
Mann
Maraziti
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mayne
Mezvinsky
Milford
Minish
Mink
Minshall, Ohio
Mitchell, N.Y.
Mizell
Moakley
Mollohan
Montgomery
Moorhead, Pa.
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Natcher
Nedzi
Nelsen
Nichols
Obey
O'Brien
O'Hara
O'Neill
Owens
Passman
Patten
Pepper
Perkins
Pettis
Peyser
Pickle
Podell
Preyer
Price, Ill.
Pritchard
Quie
Quillen
Railsback
Rees
Reid
Reuss
Rhodes
Rinaldo
Robinson, Va.
Robison, N.Y.
Roe
Rogers
Roncalio, Wyo.
Rooney, Pa.
Rose
Rostenkowski
Roush
Roy
Ruppe
Ruth
St Germain
Sarasin
Sarbanes
Satterfield
Scherle
Schroeder
Seiberling
Shriver
Sikes
Sisk
Skubitz
Smith, Iowa
Smith, N.Y.
Snyder
Staggers
Stanton, J. William
Stanton, James V.
Steiger, Wis.
Stephens
Stratton
Stubblefield
Stuckey
Symington
Taylor, N.C.
Teague, Calif.
Thomson, Wis.
Thone
Tiernan
Treen
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vigorito
Wampler
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Winn
Wolff
Wydler
Wylie
Wyman
Yates
Yatron
Young, Ga.
Young, Ill.
Young, Tex.
Zablocki
Zion

NAYS—112

Abzug
Archer
Armstrong
Ashbrook
Badillo
Baker
Barrett
Bauman
Beard
Bevill
Blackburn
Brooks
Brown, Calif.
Burke, Fla.
Burleson, Tex.
Burton
Camp
Casey, Tex.
Collins, Ill.
Conlan
Corman
Crane
Davis, S.C.
de la Garza
Dellenback
Dellums
Denholm
Dennis
Dickinson
Dorn
Dulski
Duncan
Edwards, Calif.
Evins, Tenn.
Fraser
Fulton
Goldwater
Gonzalez
Goodling
Gross
Grover
Guyer
Hammerschmidt
Hanna
Hansen, Idaho
Harrington
Hawkins
Hechler, W. Va.
Holtzman
Hungate
Jarman
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Kemp
Ketchum
Landgrebe
Latta
Lent
Lujan
McEwen
McSpadden
Madigan
Mahon
Martin, Nebr.
Mazzoli
Michel
Miller
Mitchell, Md.
Moorhead, Calif.
Myers
Parris
Pike
Poage
Powell, Ohio
Price, Tex.
Randall
Rangel
Rarick
Regula
Roberts
Rodino
Rousselot
Roybal
Ryan
Schneebeli
Sebelius
Shipley
Shoup
Shuster
Slack
Spence
Stark
Steed
Steelman
Steiger, Ariz.
Studds
Symms
Teague, Tex.
Thompson, N.J.
Thornton
Towell, Nev.
Waggonner
Waldie
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Young, Alaska
Young, Fla.
Young, S.C.

ANSWERED "PRESENT"—3

Frelinghuysen
Hicks
Leggett

NOT VOTING—52

Bell
Boggs
Breaux
Burke, Calif.
Chisholm
Clark
Clawson, Del
Clay
Conyers
Dent
Diggs
Erlenborn
Griffiths
Gubser
Harsha
Harvey
Hays
Hébert
Hunt
Hutchinson
Ichord
Johnson, Calif.
Keating
King
Kluczynski
Macdonald
Mailliard
Meeds
Melcher
Metcalfe
Mills, Ark.
Morgan
Nix
Patman
Riegle
Roncallo, N.Y.
Rooney, N.Y.
Rosenthal
Runnels

Sandman
Steele
Stokes
Sullivan
Talcott
Taylor, Mo.
Veysey
Walsh
Ware
Whalen
Wright
Wyatt
Zwach

So the bill was passed.

The Clerk announced the following pairs:

On this vote:

Mr. Leggett for, with Mr. Hays against.

Mr. Meeds for, with Mr. Hicks against.

Mr. Hébert for, with Mr. Clark against.

Mr. Rooney of New York for, with Mrs. Griffiths against.

Mr. Kluczynski for, with Mrs. Chisholm against.

Mrs. Boggs for, with Mr. Melcher against.

Mr. Breaux for, with Mr. Nix against.

Mr. Mills of Arkansas for, with Mr. Diggs against.

Mr. Dent for, with Mr. Conyers against.

Mr. Morgan for, with Mr. Metcalfe against.

Mr. Riegle for, with Mr. Clay against.

Mr. Johnson of California for, with Mr. Runnels against.

Mr. Wright for, with Mr. Ichord against.

Mr. Hunt for, with Mr. Stokes against.

Mr. Sandman for, with Mr. Rosenthal against.

Mr. Steele for, with Mr. King against.

Mr. Ware for, with Mr. Taylor of Missouri against.

Mr. Whalen for, with Mr. Roncallo of New York against.

Until further notice:

Mrs. Burke of California with Mr. Keating.

Mr. Macdonald with Mr. Mailliard.

Mr. Patman with Mr. Gubser.

Mrs. Sullivan with Mr. Harvey.

Mr. Bell with Mr. Zwach.

Mr. Erlenborn with Mr. Hutchinson.

Mr. Walsh with Mr. Talcott.

Mr. Wyatt with Mr. Del Clawson.

Mr. HICKS. Mr. Speaker, I have a live pair with the gentleman from Washington (Mr. MEEDS). If he had been present he would have voted, "yea." I voted "nay." I withdraw my vote and vote "present."

Mr. LEGGETT. Mr. Speaker, I have a live pair with the gentleman from Ohio (Mr. HAYS). If he had been present he would have voted "nay." I voted "yea." I withdraw my vote and vote "present."

The result of the vote was announced as above recorded.

The title was amended so as to read:

A bill to assure, through energy conservation, end-use allocation of fuels, and other means, that the essential energy needs of the United States are met, and for other purposes.

A motion to reconsider was laid on the table.

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2589) to declare by congressional action a nationwide energy emergency; to authorize the President to immediately undertake specific actions to conserve scarce fuels and increase supply; to invite the development of local, State, National, and international contingency plans; to assure the continuation of vital public services; and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

MOTION OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. STAGGERS moves to strike out all after the enacting clause of the Senate bill S. 2589 and to insert in lieu thereof the provisions contained in H.R. 11450 as passed by the House, as follows:

That this act, including the following table of contents, may be cited as the "Energy Emergency Act".

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TITLE I—ENERGY EMERGENCY AUTHORITIES

SEC. 101. PURPOSE.

The purpose of this act is to call for proposals for energy emergency conservation measures and to authorize specific temporary emergency actions to be exercised to assure that the essential needs of the United States for fuels will be met in a manner which, to the fullest extent practicable, (1) is consistent with existing national commitments to protect and improve the environment, (2) minimizes any adverse impact on employment, (3) provides for equitable treatment of all sectors of the economy, and (4) maintains vital services necessary to health, safety, and public welfare, and (5) insures against anticompetitive practices and effects, and preserves, enhances, and facilitates competition in the development, production, transportation, distribution, and marketing of energy resources.

SEC. 102. DEFINITIONS.

For purposes of this Act:

(1) The term "State" means a State, the District of Columbia, Puerto Rico, or any territory or possession of the United States.

(2) The term "petroleum product" means crude oil, residual fuel oil, or any refined petroleum product (as defined in the Emergency Petroleum Allocation Act of 1973).

(3) The term "United States" when used in the geographical sense means the States, the District of Columbia, Puerto Rico, and the territories and possesions of the United States.

(4) The term "Administrator" means the Administrator of the Federal Energy Administration.

SEC. 103. AMENDMENTS TO THE EMERGENCY PETROLEUM ALLOCATION ACT OF 1973.

(a) Section 4 of the Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new subsections:

"(h)(1) If the President finds that, without such action, the objectives of subsection (b) cannot be attained, he may promulgate a rule which shall be deemed a part of the regulation under subsection (a) and which shall provide, consistent with the objectives of subsection (b), an ordering of priorities among users of crude oil, residual fuel oil, or any refined petroleum product, and for the assignment to such users of rights entitling them to obtain any such oil or product in precedence to other users not similarly entitled. A top priority in such ordering shall be the maintenance of vital services (including, but not limited to new housing construction, education, health care, hospitals, public safety, energy production, agricultural operations as defined in paragraph (1)(C) of subsection (b) of this section, collection, transportation and delivery of mail by the United States Postal Service, its lessors, contractors and carriers, and transportation services, which are necessary to the preservation of health, safety, employment, and the public welfare).

"(2) The President shall by order, in furtherance of the rule authorized pursuant to paragraph (1) of this subsection and consistent with the attainment of the objectives in subsection (b) of this section, cause such adjustments in the allocations made pursuant to the regulation under subsection (a) as may be necessary to provide for the allocation of crude oil, residual fuel oil, or any refined petroleum product in such manner and in such amounts to permit such users to obtain any such oil or product based upon such entitlements.

"(3) The President shall provide for procedures by which any user of such oil or product for which priorities and entitlements are established under paragraphs (1) and (2) of this section may petition for review and reclassification or modification of any determination made under such paragraphs with respect to his priority or entitlement. Such procedures may include procedures with respect to local boards as may be established pursuant to section 109(c) of the Energy Emergency Act.

"(4) The President may, by order or rule (which rule shall be deemed a part of the regulation under subsection (a)), require adjustments in the processing operations of any refinery in the United States with respect to the proportions of residual fuel oil or any refined petroleum products produced through such operations if he finds that such adjustments are necessary to assure the production of residual fuel oil or any refined petroleum product in such proportions necessary to attain the objectives of subsection (b) of this section.

"(5) The President shall consult with the Department of Labor, and if there is an increase in the level of unemployment from the level of unemployment in 1973 based upon the average 1973 figures and such increase reasonably results from energy shortages, then the President is urged to take such actions consistent with the provisions of this Act, and he is authorized to take under this Act and any other Acts to encourage full production by the domestic energy industry at levels of investment return which make possible the expansion of facilities required to assure against a protraction in any such increased levels of unemployment.

"(6) For purposes of this subsection, the term 'allocation' shall not be construed to exclude the end-use allocation of gasoline to individual consumers.

"(i) (1) The President may, by order, require the production of crude oil at the producer level at the maximum efficient rate of production.

"(2) The President shall consult with the Department of the Interior and with appropriate State governments in order to determine which producers should be reasonably required to produce crude oil at the rates specified in paragraph (1) of this subsection.

"(3) For purposes of this subsection, maximum efficient rate with respect to any oilfield other than oilfields on Federal lands shall be such rate as is determined by the State in which such oilfield is located, and with respect to any oilfield on Federal land shall be such rate as is determined by the Department of the Interior, except that the President may establish after consultation with such State (or with the Department of the Interior, in the case of any oilfield on Federal lands) a maximum efficient rate higher than the rate established by the State or by the Department of the Interior if he determines that such higher maximum efficent rate will not unreasonably impair the ultimate recovery of crude oil or natural gas from any such oilfield under sound engineering and economic principles.

"(4) The President shall direct the appropriate Federal agency to require that all existing and future development plans for oilfields involving Federal leases, permits or other arrangements for production of crude oil on Federal lands shall include or be amended to include effective provisions for the secondary recovery of crude oil, and, to the greatest extent technologically possible consistent with sound engineering and economic principles, for the tertiary recovery of crude oil, before the well is abandoned.

"(j) Notwithstanding any other provision of this Act, or any provision of State or local law with respect to the allocation of gasoline or diesel fuel, there shall be provision for adequate supplies of gasoline, diesel fuel related products for essential and purposeful mobility of persons in the armed services of the United States on military orders, for household moves related to employment or displacement due to unemployment, and for moves due to health, educational opportunities, or other good and sufficient reasons.

"(k) (1) Except as provided in paragraph (3) of this subsection, no provision of the regulation under subsection (a) (including a regulation under subsection (h)) may provide for allocation of any refined petroleum product to any person (including a State or political subdivision thereof, or State or local educational agency) if the product so allocated will be used for the transportation of any public school student to a school farther than the public school closest to his home offering educational courses for the grade level and course of study of the student within the boundaries of the school attendance district wherein the student resides.

"(2) Any energy conservation plan proposed under section 105 of the Energy Emergency Act and any regulation under this section for allocation of petroleum products for transportation of public school students shall have as its purpose conserving refined petroleum products by reducing to the minimum the distance traveled by such students to and from the schools within the school attendance district in which the student resides. Such plans shall be formulated in consultation with the affected State and local educational agencies.

"(3) Nothing in this subsection shall prohibit allocation of refined petroleum products for student transportation to relieve conditions of overcrowding; to meet the needs of special education; or where the transportation is within the regularly established neighborhood school attendance areas.

"(4) This subsection shall not take effect until August 1, 1974.

"(l) If any provision of the regulation under subsection (a) provides that any allocation of residual fuel oil or refined petroleum products to be based on use of such a product or amounts of such product supplied during a historical period, the regulation shall contain provisions designed to assure that the historical period can be adjusted (or other adjustments in allocations can be made) in order to reflect regional disparities in use, or unusual factors influencing use, of the product in the historical period. This subsection shall take effect 30 days after the date of enactment of the Energy Emergency Act."

(b) Section 4(b) (1) (G) of the Emergency Petroleum Allocation Act of 1973 as amended to read as follows:

"(G) allocation of residual fuel oil and refined petroleum products in such amounts and in such manner as may be necessary for the maintenance of exploration for, and production of extraction of—

"(1) fuels, and

"(2) minerals essential to the requirements of the United States,

and for required transportation related thereto;".

(c) Section 4(c) (3) of the Emergency Petroleum Allocation Act of 1973 is amended by striking out "or" immediately before "(B)" and by inserting immediately before the period at the end thereof the following: ", or (C) to take into account lessened use of crude oil, residual fuel oil, and refined petroleum products prior to the date of enactment of this Act as a result of unusual regional climatic variations within the United States".

(d) Section 4(g) (1) of the Emergency Petroleum Allocation Act of 1973 is amended by striking out "February 28, 1975" in each case the term appears and inserting in each case "May 15, 1975".

(e) Section 4 of the Emergency Petroleum Allocation Act of 1973 is amended by inserting at the end thereof the following new subsections:

"(l) (1) The President shall transmit any rule (other than any technical or clerical amendments) which amends the regulation (promulgated pursuant to subsection (a) of this section) with respect to end-use allocation authorized under subsection (h) of this section.

"(2) Any such rule with respect to end-use allocation shall, for purposes of subsections (m) and (n) of this section, be treated as an energy action and shall take effect only if such actions are not disapproved by either House of Congress as provided in subsections (m) and (n) of this section.

"(m) Disapproval of Congress.—

"(1) For purposes of this section, the term 'energy action' means any rule under subsection (l) or repeal of such rule.

"(2) The President shall transmit any energy action (bearing an identification number) to the Congress. The President shall have such action delivered to both Houses on the same day and to each House while it is in session.

"(3) Except as otherwise provided in paragraph (4) of this section, an energy action shall take effect at the end of the first period of 15 calendar days of continuous session of Congress after the date on which the plan is transmitted to it unless, between the date of transmittal and the end of the 15-day period, either House passes a resolution stating in substance that that House does not favor the energy action.

"(4) For the purpose of subsection (1) of this section—

"(A) continuity of session is broken only by an adjournment of Congress sine die; and

"(B) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 15-day period.

"(5) Under provisions contained in an energy action, a provision of the plan may be effective at a time later than the date on which the action otherwise is effective.

"(6) An energy action which is effective shall be printed in the Federal Register.

"(n) DISAPPROVAL PROCEDURE.—

"(1) This subsection is enacted by Congress—

"(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by paragraph (2) of this subsection; and they supersede other rules only to the extent that they are inconsistent therewith; and

"(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

"(2) For the purpose of this subsection, 'resolution' means only a resolution of either House of Congress, the matter after the resolving clause of which is as follows: 'That the   does not favor the energy action numbered   transmitted to Congress by the President on   , 19 .', the first blank space therein being filed with the name of the resolving House and the other blank spaces therein being appropriately filled; but does not include a resolution which specifies more than one energy action.

"(3) A resolution with respect to an energy action shall be referred to a committee (and all resolutions with respect to the same plan shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives as the case may be.

"(4) (A) If the committee to which a resolution with respect to an energy action has been referred has not reported it at the end of 5 calendar days after its introduction, it is in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution with respect to the energy action which has been referred to the committee.

"(B) A motion to discharge may be made only by an individual favoring the resolution, is highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same energy action), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same energy action.

"(5)(A) When the committee has reported, or has been discharged from further consideration of, a resolution with respect to an energy action, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(B) Debate on the resolution shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

"(6)(A) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution with respect to an energy action, and motions to proceed to the consideration of other business, shall be decided without debate.

"(B) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to an energy action shall be decided without debate."

SEC. 104. FEDERAL ENERGY ADMINISTRATION

(a) There is hereby established a Federal Energy Administration, to be headed by a Federal Energy Administrator, who shall be appointed by the President by and with the advice and consent of the Senate. The Administrator may be removed by the President for cause. The Administrator shall serve for a term ending on May 15, 1975. Vacancies in the office of Administrator shall be filled for the remainder of the term of the original Administrator, in the same manner as the original appointment.

(b) The Administrator shall be compensated at the rate provided for level II of the Executive Schedule. Subject to the Civil Service and Classification provisions of title 5, United States Code, the Administrator may employ such personnel as he deems necessary to carry out his functions.

(c) Effective on the date on which the Administrator first takes office (or, if later, on January 1, 1974), all functions, powers, and duties of the President under sections 4, 5, 6, and 9 of the Emergency Petroleum Allocation Act of 1973 (as amended by sections 103, 117, and 118 of this Act), and of any officer, department, agency, or State (or officer thereof) under such sections (other than functions vested by section 6 of such Act in the Federal Trade Commission, the Attorney General, or the Antitrust Division of the Department of Justice), are transferred to the Administrator. All personnel, property, records, obligations, and commitments used primarily with respect to functions transferred under the preceding sentence shall be transferred to the Administrator.

(d) Price Control and Shortages. The President and the Administrator shall conduct a review of all rulings and regulations issued pursuant to the Economic Stabilization Act to determine if such rulings and regulations are contributing to the shortage of petroleum products, coal, natural gas, and petrochemical feedstocks, and of materials associated with the production of energy supplies, and equipment necessary to maintain and increase the exploration and production of coal, crude oil, natural gas, and other fuels. The results of this review shall be submitted to the Congress within thirty days of the date of enactment of this Act.

(e) Section 27(k) of the Consumer Product Safety Act shall apply to the Administrator. The Federal Energy Administration shall be considered an independent regulatory agency for purposes of chapter 33 of title 44, United States Code.

SEC. 105. ENERGY CONSERVATION PLANS.

(a) Within 30 days of the date of enactment of this Act and from time to time thereafter, the Administrator shall propose one or more energy conservation plans which shall be designed to supplement and be coordinated with actions taken and proposed to be taken under other authority of this or other Acts to result in a reduction of energy consumption to a level which can be supplied by available energy resources. For purposes of this section the term "energy conservation plans" means proposed plans for transportation controls (including highway speed limits, and plans for maximizing car pooling arrangements in all communities and business where applicable), priority allocation plans for energy conserving recyclable raw materials for use within the United States, or such other restrictions on the public or private use of energy (including limitations on energy consumption of businesses) which are necessary to reduce energy consumption. The Administrator shall submit such plans to the Congress for appropriate action.

(b) Energy conservation plans shall provide for the maintenance of vital services (including new housing construction, education, health care, hospitals, public safety, energy production, agricultural operations as defined in paragraph (1)(C) of subsection (b) of section 4 of the Emergency Petroleum Allocation Act of 1973, collection, transportation and delivery of mail by the United States Postal Service, its lessors, contractors and carriers, and transportation services, which are necessary to the preservation of health, safety, and the public welfare).

(c) Plans submitted by the Administrator pursuant to subsection (a) of this section shall provide that, to the maximum extent practicable, proposed restrictions on the use of energy shall be designed to be carried out in such manner so as to be fair and to create a reasonable distribution of the burden of such restrictions on all sectors of the economy, without imposing an unreasonably disproportionate share of such burden on any specific industry, business or commercial enterprise, or on any individual segment thereof and shall give due consideration to the needs of commercial, retail, and service establishments whose normal function is to supply groceries or goods and services of a convenience nature during times of day other than conventional daytime working hours.

(d) Energy conservation plans submitted pursuant to this section shall include proposals to provide for Federally sponsored incentives for the use of public transportation and Federal subsidies to maintain or reduce existing fares and additional expenses incurred because of increased service.

(e) Nothing in this section or any other provision of this Act or of the Emergency Petroleum Allocation Act of 1973 shall be construed as authorizing the imposition of any tax.

SEC. 106. COAL CONVERSION AND ALLOCATION.

(a) PROHIBITION OF USE OF NATURAL GAS AND PETROLEUM PRODUCTS BY CERTAIN USERS.—The Administrator shall, to the extent practicable and consistent with the objectives of this Act, by order, after balancing on a plant-by-plant basis the environmental effects of use of coal against the need to fulfill the purposes of this Act, prohibit, as its primary energy source, the burning of natural gas or petroleum products by any major fuel-burning installation (including any existing electric powerplant) which, on the date of enactment of this Act, has the capability and necessary plant equipment to burn coal. Any installation to which such an order applies shall be permitted to continue to use coal as provided in subsection (b) of this section until January 1, 1980. To the extent coal supplies are limited to less than the aggregate amount of coal supplies which may be necessary to satisfy the requirements of those installations which can be expected to use coal (including installations to which orders may apply under this subsection), the Administrator shall prohibit the use of natural gas and petroleum products for those installations where the use of coal will have the least adverse environmental impact.

A prohibition on use of natural gas and petroleum products under this subsection shall be contingent upon the availability of coal, coal transportation facilities, and the maintenance of reliability of service in a given service area. The Administrator may require that fossil-fuel-fired electric powerplants in the early planning process, other than combustion gas turbine and combined cycle units, be designed and constructed so as to be capable of using coal as a primary energy source instead of or in addition to other fossil fuels. No fossil-fuel-fired electric powerplant may be required under this section to be so designed and constructed, if (1) to do so would be unreasonable or would result in an impairment of reliability or adequacy of service, or (2) if an adequate and reliable supply of coal is not available and is not expected to be available. In considering whether a conversion requirement under this subsection is unreasonable, the Administrator shall consider the existence and effects of any contractual commitment for the construction of such facilities and the availability of compensation or tax relief for any capital loss incurred through such conversion requirement.

(b) USE OF COAL.—

(1) Except as provided in paragraph (2), any electric powerplant (A) which is prohibited from using petroleum products or natural gas by reason of an order issued under subsection (a), or which has voluntarily begun conversion to the use of coal during the period 90 days prior to the effective date of this Act and (B) which converts to the use of coal, shall not, until January 1, 1980, be prohibited from burning coal which is available to such source by any fuel or emission limitation, if the Administrator of the Environmental Protection Agency approves, after notice to interested persons and opportunity for presentation of views (including oral presentation), a plan submitted by the person who operates such plant. A plan submitted under the preceding sentence shall be approved only if it provides (A) that such plant shall make such use of control technology as may be necessary to enable such plant to come into compliance with national ambient air quality standards to which the suspension applied, as expeditiously as practicable; (B) for a schedule described in section 119(a)(2)(A)(iii) of the Clean Air Act (excluding section 119(a)(2)(B)(i)); and (C) that such plan will, during the period beginning on the effective date of the approval of the plan and ending at the time such plant complies with such stationary source of fuel or emission limitation, comply with interim requirements which the Administrator of the Environmental Protection Agency shall prescribe to assure that such source will not materially contribute to a significant risk to public health. Such Administrator shall approve any such plan before May 15, 1974, or if later 60 days after such plan is submitted.

(2) Nothing in paragraph (1) shall pro-

hibit the Administrator of the Environmental Protection Agency or a State or local agency, to the extent practicable after notice to interested persons and opportunity for presentation of views (including oral presentations), (A) from prohibiting the use of coal by such a source to which paragraph (1) applies if such Administrator or any such agency determines that the use of coal by such source is likely to materially contribute to a significant risk to public health; or (B) from requiring such source to use a particular grade of coal of any particular type, grade, or pollution characteristic, if such coal is available to such source.

(3) For purposes of this subsection, the term "fuel or emission limitation" means any emission limitation, schedule, or timeable for compliance, or other requirement, which is prescribed under any Federal, State, or local law or regulation (including the Clean Air Act) and which is designed to limit stationary source emissions resulting from combustion of fuels (including a restriction on the use or content of fuels).

(c) COAL ALLOCATION AUTHORITY.—The Administrator may be rule prescribe a system for allocation of coal to users thereof in order to attain the objectives specified in section 4(b) of the Emergency Petroleum Allocation Act of 1973 and of section 205 of this Act. Any rule prescribed under this subsection shall be deemed to be part of the regulation.

(d) EXPIRATION.—The authority under this section (other than subsection (b)) shall expire on May 15, 1975.

SEC. 107. REGULATED CARRIERS.

(a) AGENCY AUTHORITY.—The Interstate Commerce Commission (with respect to common or contract carriers subject to economic regulation under the Interstate Commerce Act), the Civil Aeronautics Board, and the Federal Maritime Commission shall, for the duration of the period beginning on the date of enactment of this Act and ending on May 15, 1975, have authority to take any action for the purpose of conserving energy consumption in a manner found by such Commission or Board to be consistent with the objectives and purposes of the Acts administered by such Commission or Board on its own motion or on the petition of the Administrator which existing law permits such Commission or Board to take upon the motion or petition of any regulated common or contract carrier or other person.

(b) The Interstate Commerce Commission shall, by expedited proceedings, adopt appropriate rules under the Interstate Commerce Act which eliminate restrictions on the operating authority of any motor common carrier of property which require excessive travel between points with respect to which such motor common carrier has regularly performed service under authority issued by the Commission. Such rules shall assure continuation of essential service to communities served by any such motor common carrier.

(c) The Interstate Commerce Commission shall by expedited proceedings adopt appropriate rules under the Interstate Commerce Act which will contribute to conserving energy by eliminating discrimination against the shipment of recyclable materials in rate structures and other Commission practices.

(d) REPORTS.—Within sixty days after the date of enactment of this Act, the Civil Aeronautics Board, the Federal Maritime Commission, and the Interstate Commerce Commission shall report separately to the appropriate committees of the Congress on the need for additional regulatory authority in order to conserve fuel during the period beginning on the date of enactment of this Act and ending on May 15, 1975 while continuing to provide for the public convenience and necessity. Each such report shall identify with specificity—

(1) the type of regulatory authority needed;

(2) the reasons why such authority is needed;

(3) the probable impact on fuel conservation of such authority;

(4) the probable effect on the public convenience and necessity of such authority; and

(5) the competitive impact, if any, of such authority.

Each such report shall further make recommendations with respect to changes in any existing fuel allocation programs which are deemed necessary to provide for the public convenience and necessity during such period.

SEC. 108. DELEGATION OF AUTHORITY.

The Administrator may delegate all or any of his functions under this Act or the Emergency Petroleum Allocation Act of 1973 to any officer or employee of the Federal Energy Administration as he deems appropriate. The Administrator may delegate any of his functions relative to implementation of regulations and energy conservation plans under this Act or the Emergency Petroleum Allocation Act of 1973 to officers of a State, or to State or local boards of balanced composition reflecting the makeup of the community as a whole. Section 5(b) of the Emergency Petroleum Allocation Act of 1973 is repealed, effective on the effective date of transfer of functions under such Act to the Administrator.

SEC. 109. ADMINISTRATION.

(a) ADMINISTRATIVE PROCEDURE.—

(1) Subject to paragraphs (2), (3), and (4) of this subsection, the provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply to any rule or order (including a rule or order issued by a State or officer thereof) under this title except with respect to any rule or order pursuant to section 107 of this Act, section 205 (a), (b), (c), and (d) of this Act, or section 4(h) or 4(i) of the Emergency Petroleum Allocation Act of 1973, or under the authority of any energy conservation plan.

(2) Notice of any proposed rule or order described in paragraph (1) shall be given by publication of such proposed rule or order in the Federal Register. In each case, a minimum of ten days following such publication shall be provided for opportunity to comment; except that the requirements of this paragraph as to time of notice and opportunity to comment may be waived where strict compliance is found to cause serious impairment to the operation of the program to which such rule or order relates and such findings are set out in detail in such rule or order.

(3) In addition to the requirements of paragraph (2), if any rule or order described in paragraph (1) is likely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses, an opportunity for oral presentation of views, data, and arguments shall be afforded. To the maximum extent practicable, such opportunity shall be afforded prior to the implementation of such rule or order, but in all cases such opportunity shall be afforded no later than 45 days after the implementation of any such rule or order. A transcript shall be kept of any oral presentation.

(4) Any officer or agency authorized to issue rules or orders described in paragraph (1) shall provide for the making of such adjustments, consistent with the other purposes of this Act or the Emergency Petroleum Allocation Act of 1973 (as the case may be), as may be necessary to prevent special hardships, inequity, or an unfair distribution of burdens and shall in rules prescribed by it establish procedures which are available to any person for the purpose of seeking an interpretation, modification, or rescission of, or an exception to or exemption from, such rules and orders. If such person is aggrieved or adversely affected by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the officer or agency and may obtain judicial review in accordance with subsection (b) when such denial becomes final. The officer or agency shall, in rules prescribed by it, establish appropriate procedures, including a hearing where deemed advisable, for considering such requests for action under this paragraph.

(b) JUDICIAL REVIEW.—Any interested person (including a State or political subdivision thereof) may obtain judicial review of any rule or order described in subsection (a)(1) of this section in accordance with chapter 7 of title 5, United States Code. Review of a rule may be obtained in the Temporary Emergency Court of Appeals. Review of a rule or order shall be pursuant to the procedures of section 211 of the Economic Stabilization Act of 1970.

(c) LOCAL BOARDS.—

(1) The Administrator may by rule prescribe procedures for State or local boards which carry out functions under this Act or the Emergency Petroleum Allocation Act of 1973. Such procedures shall apply to such boards in lieu of subsection (a), and shall require that prior to taking any action, such boards shall take steps reasonably calculated to provide notice to persons who may be affected by the action, and shall afford an opportunity for presentation of views (including oral presentation of views where practicable) at least 10 days before taking the action. Such boards shall be of balanced composition reflecting the makeup of the community as a whole.

SEC. 110. PROHIBITED ACTS.

It shall be unlawful—

(1) for any person, who is engaged in the business of marketing or distributing diesel fuel to trucks on bona fide cargo runs, to deny to such trucks full fill-ups of fuel, unless—

(A) there is in effect under this Act, the Emergency Petroleum Allocation Act of 1973, or any other Act an end-use allocation regulation which restricts such full fill-ups by such person to such trucks, or

(B) such person has no such fuel available for sale;

(2) to violate any order under section 106;

(3) to violate any rule under the first sentence of section 123; or

(4) to violate any order of the Renegotiation Board issued pursuant to its authority under section 117 of this Act.

SEC. 111. ENFORCEMENT.

(a) CRIMINAL PENALTY.—Whoever willfully violates any provision of section 110 shall be fined not more than $5,000 for each violation.

(b) CIVIL PENALTY.—Whoever violates any provision of section 110 shall be subject to a civil penalty of not more than $2,500 for each violation.

(c) INJUNCTIVE AND OTHER RELIEF.—Whenever it appears to any person authorized by the Administrator to exercise authority under this Act that any individual or organization has engaged, is engaged, or is about to engage in acts or practices constituting a violation of any provision of section 110, such person may request the Attorney General to bring an action in the appropriate district court of the United States to enjoin such acts or practices, and upon a proper showing a temporary restraining order or a preliminary or permanent injunction shall be granted without bond. Any such court may also issue mandatory injunctions commanding any person to comply with such provision of section 110.

(d) PRIVATE RELIEF.—Any person suffering legal wrong because of any act or practice arising out of any violation of section 110 may bring an action in a district court of the United States, without regard to the amount in controversy, for appropriate relief, including an action for a declaratory judgment or writ of injunction. Nothing in this subsection shall authorize any person to recover damages.

Sec. 112. Grants to States

There are authorized to be appropriated such sums as may be necessary for the purpose of making grants to States to which the Federal Energy Administrator has delegated authority under section 109 of this Act. The Administrator shall make grants upon such terms and conditions as he may prescribe.

Sec. 113. Fair Marketing of Petroleum Products

The Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new section:

"FAIR MARKETING OF REFINED PETROLEUM PRODUCTS

"Sec. 8. (a) As used in this section:

"(1) The term 'commerce' means commerce between a State and a point outside such State.

"(2) The term 'marketing agreement' means that portion of an agreement or contract between a refiner and a branded independent marketer (A) which authorizes such marketer to market or distribute refined petroleum products using a trademark, trade name, service mark, or other identifying symbol or name owned by such refiner, or (B) which authorizes such marketer to occupy premises owned, leased, or in any way controlled by a refiner, for the purposes of marketing or distributing refined petroleum products, or (C) which authorizes both.

"(3) The term 'person' means an individual or a corporation, partnership, joint-stock company, business trust, association, or any organized group of individuals whether or not incorporated.

"(4) The term 'refiner' includes any person (other than a branded independent marketer) who controls, is controlled by, or under common control with, a refiner. For purposes of the preceding sentence, the term 'control' does not include control solely by means of a supply contract.

"(5) The term 'State' means any State, the District of Columbia, the Commonwealth of Puerto Rico, and any organized territory or possession of the United States.

"(6) The term 'to terminate' includes to cancel or to fail to renew.

"(b) The following conduct is prohibited:

"(1) A refiner shall not terminate a marketing agreement unless he furnishes prior notification pursuant to this paragraph to each branded independent marketer to which such termination applies. Such notification shall be in writing and shall be accomplished by certified mail to each such marketer; shall be furnished not less than ninety days prior to the date on which such agreement will be terminated; and shall contain a statement of intention to terminate together with the reasons therefor, the date on which such termination shall take effect, and a statement of any remedy or remedies available to such marketer under this section, together with a summary of the provisions of this section.

"(2) A refiner shall not terminate a marketing agreement unless the branded independent marketer to which such termination applies failed to comply substantially with one or more essential and reasonable requirements of such marketing agreement or failed to act in good faith in carrying out the terms of such agreement; except that such refiner may terminate such agreement if he does not, during the 3-year period which begins on the date of such termination, engage in the sale of any refined petroleum product in commerce for sale other than for resale in any relevant market within such branded independent marketer operated.

"(c)(1) A branded independent marketer may maintain a suit under this section against a refiner who engages in conduct prohibited by subsection (b), whose actions affect commerce, and whose products he sells or has sold, directly or indirectly, under a marketing agreement.

"(2) The court may award to any branded independent marketer actual damages resulting from the termination of a marketing agreement together with such equitable relief (including interim equitable relief and punitive damages) as may be appropriate, including declaratory judgments and mandatory or prohibitive injunctive relief. The court may, unless such suit is frivolous, direct that costs, including a reasonable attorney's fee, be paid by the defendant.

"(d) A suit under this section may be brought in the district court of the United States for any district in which the plaintiff resides, is found, or is doing business, without regard to the amount in controversy. No suit shall be maintained under this section unless commenced within four years after the date of the termination of such marketing agreement.".

Sec. 114. Voluntary Energy Conservation Agreements

(a) Within fifteen days of the date of enactment of this Act, the Administrator, in consultation with the Attorney General and the Federal Trade Commission, shall promulgate, by rule, standards and procedures by which retail or service establishments may develop and implement voluntary agreements to promote energy conservation by limiting the operating hours of such retail or service establishments, adjusting retail store delivery schedules, and by taking such other actions as the Administrator, after consultation with the Attorney General and the Federal Trade Commission, by rule determines to be necessary and appropriate to accomplish the objectives of this Act.

(b) The standards and procedures under subsection (a) shall be promulgated pursuant to section 553 of title 5, United States Code. They shall provide, among other things, that—

(i) A written copy of any agreement under this section shall be submitted to the Attorney General and the Federal Trade Commission and be available for public inspection;

(ii) Meetings held to develop and implement an agreement under this section shall permit attendance by interested persons and shall be preceded by timely notice to the Attorney General, the Federal Trade Commission, and to the public in the affected community;

(iii) Interested persons shall be afforded an opportunity to present, in writing and orally, data, views, and arguments at such meetings; and

(iv) A written summary of the proceedings of any such meeting together with copies of any written data, views, and arguments presented by interested persons shall be submitted to the Attorney General and the Federal Trade Commission and be available for public inspection.

(c) Actions taken in good faith, in accordance with this section and rules promulgated hereunder, to develop and implement a voluntary energy conservation agreement shall not be construed to be within the prohibitions of the antitrust laws of the United States, the Federal Trade Commission Act, or similar State statutes.

(d) Any voluntary agreement entered into pursuant to this section shall be submitted in writing to the Attorney General 10 days before being implemented. The Attorney General, at any time, on his motion or upon the request of any interested person, may disapprove any such voluntary agreement and hereby withdraw prospectively the immunity conferred by subsection (c).

(e) As used in this section—

(i) The term "voluntary agreement" shall not pertain to, or govern the conduct of, activities relating to the marketing and distribution of any petroleum product.

(ii) The term "retail or service establishment" shall mean an establishment 75 per centum of whose annual dollar volume of sales of goods or services (or both) is not for resale and is recognized as retail sales or services in the particular industry, as determined by the Attorney General.

(f) The Attorney General and the Federal Trade Commission shall each submit to the Congress and to the President at least once every six months a report on the impact on competition and on small business of the voluntary agreements authorized by this section.

(g) The authority granted by this section (including any immunity under subsection (c)) shall terminate on May 15, 1975.

Sec. 115. Prohibitions on Unreasonable Allocation Regulations.

Action taken under authority of this Act, the Emergency Petroleum Allocation Act of 1973, or other Federal law resulting in the allocation of refined petroleum products and electrical energy among users or resulting in restrictions on use of refined petroleum products and electrical energy, shall be equitable, shall not be arbitrary or capricious, and shall not unreasonably discriminate among users: *Provided*, That, with respect to allocation of petroleum products applicable to the foreign trade and commerce of the United States, no foreign corporation or entity shall receive more favorable treatment in the allocation of petroleum products than that which is accorded by its home country to United States citizens engaged in the same line of commerce, and allocations shall contain provisions designed to foster reciprocal and non-discriminatory treatment by foreign countries of United States citizens engaged in foreign commerce.

Sec. 116. Use of Carpools.

(a) The Secretary of Transportation shall encourage the creation and expansion of the use of carpools as a viable component of our nationwide transportation system. It is the intent of this section to maximize the level of carpool participation in the United States.

(b) The Secretary of Transportation is directed to establish within the Department of Transportation an "Office of Carpool Promotion" whose purpose and responsibilities shall include—

(1) responding to any and all requests for information and technical assistance on carpooling and carpooling systems from units of State and local governments and private groups and employees;

(2) promoting greater participation in carpooling through public information and the preparation of such materials for use by State and local governments;

(3) encouraging and promoting private organizations to organize and operate carpool systems for employees;

(4) promoting the cooperation and sharing of responsibilities between separate, yet proximately close, units of government in coordinating the operations of carpool systems; and

(5) promoting other such measures that the Secretary determines appropriate to achieve the goal of this subsection.

(c) The Secretary of Transportation shall encourage and promote the use of incentives such as special parking privileges, special roadway lanes, toll adjustments, and other incentives as may be found beneficial and administratively feasible to the furtherance of carpool ridership, and consistent with the obligations of the State and local agencies which provide transportation services.

(d) The Secretary of Transportation shall allocate the funds appropriated pursuant to the authorization of subsection (f) according to the following distribution between the Federal and State or local units of government:

(1) The initial planning process—up to 100 percent Federal.

(2) The systems design process—up to 100 percent Federal.

(3) The initial startup and operation of a given system—60 percent Federal and 40 percent State or local with the Federal portion not to exceed 1 year.

(e) Within 12 months of the date of enactment of this Act, the Secretary of Transportation shall make a report to Congress of all his activities and expenditures pursuant to this section. Such report shall include any recommendations as to future legislation concerning carpooling.

(f) The sum of $1,000,000 is authorized to be appropriated for the conduct of programs designed to achieve the goals of this section, such authorization to remain available for 2 years.

(g) For purposes of this section, the terms "local governments" and "local units of government" include any metropolitan transportation organization designated as being responsible for carrying out section 134 of title 23, United States Code.

(h) As an example to the rest of our Nation's automobile users, the President of the United States shall take such action as is necessary to require all agencies of Government, where practical, to use economy model motor vehicles: *Provided:* That, the aggregate number of fuel inefficient passenger motor vehicles purchased by all executive agencies in fiscal year 1975 may not exceed 30 per centum of the aggregate number of passenger motor vehicles purchased by all executive agencies in such year; and the aggregate number of fuel inefficient passenger motor vehicles purchased by all executive agencies in fiscal year 1976 may not exceed 10 per centum of the aggregate number of passenger motor vehicles purchased by all executive agencies in such year. For purposes of this subsection, the term "fuel inefficient passenger motor vehicle" for fiscal year 1975 means an automobile which does not achieve at least seventeen miles per gallon as certified by the Department of Transportation; for fiscal year 1976, and thereafter, the term "fuel inefficient passenger motor vehicle" means an automobile which does not achieve at least twenty miles per gallon, as certified by the Department of Transportation. *And provided further,* That, the aggregate number of fuel inefficient passenger motor vehicles purchased by or for the Legislative and Judicial Branches of the Federal Government and for all Departments in the Executive Branch may not exceed 30 per centum of the aggregate number of passenger motor vehicles purchased by each such Branch in such year; and the aggregate number of fuel inefficient passenger motor vehicles purchased by each such Branch in fiscal year 1976 may not exceed 10 per centum of the aggregate number of passenger motor vehicles by each such Branch in each such year. For purposes of this subsection the term, fuel inefficient passenger motor vehicle for fiscal year 1975 means an automobile which does not achieve at least seventeen miles per gallon as certified by the Department of Transportation; for fiscal year 1976, and thereafter, the term fuel inefficient passenger motor vehicle means an automobile which does not achieve at least twenty miles per gallon, as certified by the Department of Transportation.

(i) (1) The President shall take action to require that no Federal official or employee in the executive branch below the level of Cabinet officer be furnished a limousine for individual use. The provisions of this subsection shall not apply to limousines furnished for use by officers or employees of the Federal Bureau of Investigation, or to those persons whose assignments necessitate transportation by limousines, because of diplomatic assignment by the Secretary of State.

(2) For purposes of this subsection, the term "limousine" means a type 6 vehicle as defined in the Interim Federal Specifications issued by the General Services Administration, December 1, 1973.

SEC. 117. PROHIBITION ON PRICE GOUGING.

(a) Section 4 of the Emergency Petroleum Allocation Act of 1973 (as amended by section 103 of this Act) is further amended to prevent price gouging with respect to sales of crude oil, residual fuel oil, refined petroleum products, and coal, including sales of diesel fuel to motor common carriers by adding at the end thereof the following new subsection:

"(m) (1) The President shall exercise his authority under this Act and under the Economic Stabilization Act of 1970 so as to specify prices for sales of crude oil, refined petroleum products, residual fuel oil, produced in or imported into the United States, which avoid windfall profits by sellers.

"(2) Any interested person, who has reason to believe that any price (specified under any of the authorities referred to in paragraph (1) of this subsection) of crude oil, refined petroleum products, residual fuel oil, permits a seller thereof any windfall profits, may petition the Renegotiation Board (created by section 107(a) of the Renegotiation Act of 1951 and hereinafter in this subsection referred to as the 'Board') for a determination under subparagraph (A) or (B) or paragraph (3).

"(3) (A) Upon petition of any interested person, the Board may by rule determine, after opportunity for oral presentation of views, data, and arguments, whether the price (specified under any of the authorities referred to in paragraph (1)) of crude oil, any refined petroleum product, residual fuel oil, or coal, permits sellers thereof to receive windfall profits. Upon a final determination of the Board that such price permits windfall profits to be so received, it shall specify a price for the sales of such item which will not permit such profits to be received by such sellers. After such a final determination, no higher price may be specified for sales of such item (under any of the authorities specified in paragraph (1)) except with the approval of the Board.

"(B) Upon petition of any interested person and notwithstanding any proceeding or determination under subparagraph (A), the Board may determine whether the price charged by a particular seller of crude oil, any refined petroleum product, residual fuel oil, permitted such seller to receive windfall profits. If, on the basis of such petition, the Board has reason to believe that such price has permitted such seller to receive windfall profits, it may order such seller to take such actions (including the escrowing of funds) as it may deem appropriate to assure that sufficient funds will be available for the refund of windfall profits in the event there is a final determination by the Board under this subparagraph that such seller has received windfall profits. Prior to a final determination under this subparagraph, such seller shall be afforded a hearing in accordance with the procedures required by section 554 of title 5, United States Code. Upon a final determination of the Board that such price permitted such seller to receive windfall profits, the Board shall order such seller to refund an amount equal to such windfall profits to the persons who have purchased from such seller the items the price of which resulted in such windfall profits. If such persons are not reasonably ascertainable, the Board shall order, for the purpose of refunding such profits, the seller to reduce the price for future sales of the item the price of which resulted in windfall profits, to create a fund against which previous purchases of such item may file a claim under rules which shall be prescribed by the Board, or to take such other action as the Board may deem appropriate.

"(C) Notwithstanding section 108 of the Renegotiation Act of 1951 and section 211 of the Economic Stabilization Act of 1970, any final determination under subparagraph (A) or (B) shall be subject to judicial review in accordance with sections 701 through 706 of title 5, United States Code.

"(4) (A) The Board may provide, in its discretion under regulations prescribed by the Board, for such consolidation as may be necessary or appropriate to carry out the purposes of this subsection.

"(B) The Board may make such rules, regulations, and orders as it deems necessary or appropriate to carry out its functions under this subsection.

"(5) The determination and approval authority of the Board under this paragraph may not be delegated or redelegated pursuant to section 107(d) of the Renegotiation Act of 1951 to any agency of the Government other than an agency established by the Board.

"(6) For the purposes of subparagraph (B) of paragraph (3), the term 'windfall profits' means that profit (during an appropriate accounting period as determined by the Board) derived from the sale of crude oil, any refined petroleum product, or residual fuel oil, determined by the Board to be in excess of the lesser of—

"(A) a reasonable profit with respect to the particular seller as determined by the Board upon consideration of—

(i) the reasonableness of its costs and profits with particular regard to volume of production;

(ii) the net worth, with particular regard to the amount and source of capital employed;

"(iii) the extent of risk assumed;

"(iv) the efficiency and productivity, particularly with regard to cost reduction techniques and economies of operation; and

"(v) other factors the consideration of which the public interest and fair and equitable dealing may require which may be established and published by the Board; or

"(B) the greater of—

"(i) the average profit obtained by all sellers for the particular item during the calendar years 1967 through 1971; or

"(ii) the average profit obtained by the particular seller for the particular item during such calendar years.

"(7) Except as provided in paragraph (4), for the purposes of this subsection, the term 'windfall profits' means profit in excess of the average profit obtained by all sellers for the particular item during the calendar years 1967 through 1971.

"(8) For the purposes of this subsection, the term 'interested person' includes the United States, any State, and the District of Columbia.

"(9) This subsection shall not apply to the first sale of crude oil described in subsection (e) (2) of this section (relating to stripper wells)."

(b) Notwithstanding any other provision of law, administrative proceedings before the Board under section of the Emergency Petroleum Allocation Act of 1973 shall be governed by subchapter II of chapter 5 of title 5, United States Code, and such proceeding shall be reviewed in accordance with chapter 7 of such title.

"(9) Any action or proceeding under subsections (3) (A) and (B) of this section to determine windfall profits or to recover windfall profits under this Act must be brought within one year after the expiration of this "Emergency Energy Act" or any extension thereof. Further, it is expressly provided that windfall profits as defined in this section refer only to profits earned during the period beginning with the enactment of this Act and ending on the date of the expiration of this Act, or any extension thereof."

SEC. 118. IMPORTATION OF LIQUIFIED NATURAL GAS.

The Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new section:

"SEC. 9. Notwithstanding the provisions of section 3 of the Natural Gas Act (or any other provisions of law) the President may by order, on a finding that such action would be consistent to the public interest, authorize on a shipment-by-shipment basis the importation of liquified natural gas from a foreign country: *Provided, however,* That the authority to act under this section shall not permit the importation of liquified natural gas which had not been authorized prior to the date of expiration of this Act and which is in transit on such date."

SEC. 119. DEVELOPMENT OF ADDITIONAL ELECTRIC POWER RESOURCES.

Not later than ninety days after the date of enactment for this Act, the President shall prepare and submit to Congress a plan for the development of the hydroelectric power, solar energy, and geothermal resources of the United States by Federal and non-Federal interests. Such a plan shall provide for the expeditious completion of projects already authorized by Congress and for the planning of other projects designed to utilize available hydroelectric power, solar energy, and geothermal resources, including tidal power and pumped storage.

SEC. 120. ANTITRUST PROVISION.

(a) Except as specifically provided in subsection (i), no provision of this Act shall be deemed to convey to any person subject to this Act any immunity from civil or criminal liability, or to create defenses to actions, under the antitrust laws.

"(b) As used in this section, the term 'antitrust laws' means—

"(1) the Act entitled 'An Act to protect trade and commerce against unlawful restraints and monopolies', approved July 2, 1890 (15 U.S.C. 1 et seq.), as amended;

"(2) the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes', approved October 15, 1914 (15 U.S.C. 12 et seq.), as amended;

"(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.), as amended;

"(4) sections 73 and 74 of the Act entitled 'An Act to reduce taxation, to provide revenue for the Government, and for other purposes', approved August 27, 1894 (15 U.S.C. 8 and 9), as amended; and

"(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

"(c)(1) To achieve the purposes of this Act, the Administrator may provide for the establishment of such advisory committees as he determines are necessary. Any such advisory committees shall be subject to the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C. App. I), whether or not such Act or any of its provisions expires or terminates during the term of this Act or of such committees, and in all cases shall be chaired by a regular fulltime Federal employe and shall include representatives of the public. The meetings of such committees shall be open to the public.

"(2) A representative of the Federal Government shall be in attendance at all meetings of any advisory committee established pursuant to this section. The Attorney General and the Federal Trade Commission shall have adequate advance notice of any meeting and may have an official representative attend and participate in any such meeting.

"(3) A full and complete verbatim transcript shall be kept of all advisory committee meetings, and shall be taken and deposited, together with any agreement resulting therefrom, with the Attorney General and the Federal Trade Commission. Such transcript and agreement shall be made available for public inspection and copying, subject to the provisions of sections 552(b)(1) and (b)(3) of Title 5, United States Code.

"(d) The Administrator, subject to the approval of the Attorney General and the Federal Trade Commission, shall promulgate, by rule, standards and procedures by which persons engaged in the business of producing, refining, marketing, or distributing crude oil, residual fuel oil or any refined petroleum product may develop and implement voluntary agreements and plans of action to carry out such agreements which the Administrator determines are necessary to accomplish the objectives stated in section 4(b) of the Emergency Petroleum Allocation Act of 1973.

"(e) The standards and procedures under subsection (d) shall be promulgated pursuant to section 553 of Title 5, United States Code. They shall provide, among other things, that—

"(1) Such agreements and plans of action shall be developed by meetings of committees, councils, or other groups which include representatives of the public, of interested segments of the petroleum industry and of industrial, municipal and private consumers, and shall in all cases be chaired by a regular fulltime Federal employee.

"(2) Meetings held to develop a voluntary agreement or a plan of action under this subsection shall permit attendance by interested persons and shall be preceded by timely and adequate notice with identification of the agenda of such meeting to the Attorney General, the Federal Trade Commission and to the public in the affected community;

"(3) Interested persons shall be afforded an opportunity to present, in writing and orally, data, views and arguments at such meetings;

"(4) A full and complete verbatim transcript shall be kept of any meeting, conference or communication held to develop, implement, or carry out a voluntary agreement or a plan of action under this subsection and shall be taken and deposited, together with any agreement resulting therefrom, with the Attorney General and the Federal Trade Commission. Such transcript and agreement shall be available for public inspection and copying, subject to provisions of section 552 (b)(1) and (b)(3) of title 5, United States Code.

"(f) The Federal Trade Commission may exempt types or classes of meetings, conferences, or communications from the requirements of subsections (c)(3) and (e)(4) provided such meetings, conferences, or communications are ministerial in nature and are for the sole purpose of implementing or carrying out a voluntary agreement or plan of action authorized pursuant to this section. Such ministerial meeting, conference, or communication may take place in accordance with such requirements as the Federal Trade Commission may prescribe by rule. Such persons participating in such meeting, conference, or communication shall cause a record to be made specifying the date such meeting, conference, or communication took place and the persons involved, and summarizing the subject matter discussed. Such record shall be filed with the Federal Trade Commission and the Attorney General, where it shall be made available for public inspection and copying.

"(g)(1) The Attorney General and the Federal Trade Commission shall participate from the beginning in the development, implementation, and carrying out voluntary agreements and plans of action authorized under this section. Each may propose any alternative which would avoid or overcome, to the greatest extent practicable, possible anticompetitive effects while achieving substantially the purposes of this Act. Each shall have the right to review, amend, modify, disapprove, or prospectively revoke, on its own motion or upon the request of any interested person, any plan of action or voluntary agreement at any time, and, if revoked, thereby withdraw prospectively the immunity conferred by subsection (i) of this section.

"(2) Any voluntary agreement or plan of action entered into pursuant to this section shall be submitted in writing to the Attorney General and the Federal Trade Commission 20 days before being implemented, where it shall be made available for public inspection and copying.

"(h)(1) The Attorney General and the Federal Trade Commission shall monitor the development, implementation and carrying out of plans of action and voluntary agreements authorized under this section to assure the protection and fostering of competition and the prevention of anticompetitive practices and effects.

"(2) The Attorney General and the Federal Trade Commission shall promulgate joint regulations concerning the maintenance of necessary and appropriate documents, minutes, transcripts and other records related to the development, implementation or carrying out of plans of action or voluntary agreements authorized pursuant to this Act.

"(3) Persons developing, implementing or carrying out plans of action or voluntary agreements authorized pursuant to this Act shall maintain those records required by such joint regulations. The Attorney General and the Federal Trade Commission shall have access to and the right to copy such records at reasonable times and upon reasonable notice.

"(4) The Federal Trade Commission and the Attorney General may each prescribe such rules and regulations as may be necessary or appropriate to carry out their responsibilities under this Act. They may both utilize for such purposes and for purposes of enforcement, any and all powers conferred upon the Federal Trade Commission or the Department of Justice, or both, by any other provision of law, including the antitrust laws; and wherever such provision of law refers to 'the purposes of this Act' or like terms, the reference shall be understood to be this Act.

"(i) There shall be available as a defense to any civil or criminal action brought under the antitrust laws in respect of actions taken in good faith to develop and implement a voluntary agreement or plan of action to carry out a voluntary agreement by persons engaged in the business of producing, refining, marketing, or distributing crude oil, residual fuel oil, or any refined petroleum product that—

"(1) Such action was—

"(A) authorized and approved pursuant to this section, and

"(B) undertaken and carried out solely to achieve the purposes of this section and in compliance with the terms and conditions of this section, and the rules promulgated hereunder; and

"(2) Such persons fully complied with the requirements of this section and the rules and regulations promulgated hereunder.

"(j) No provision of this Act shall be construed as granting immunity for, nor as limiting or in any way affecting any remedy or penalty which may result from any legal action or proceeding arising from, any acts or practices which occurred (1) prior to the enactment of this Act, (2) outside the scope and purpose or not in compliance with the terms and conditions of this Act and this section, or (3) subsequent to its expiration or repeal.

"(k) Effective on the date of enactment of this Act, this section shall apply in lieu of section 6(c) of the Emergency Petroleum Allocation Act of 1973. All actions taken and any authority or immunity granted under such section 6(c) shall be hereafter taken or granted, as the case may be, pursuant to this section.

"(l) The provisions of section 708 of the Defense Production Act of 1950, as amended, shall not apply to any action authorized to be taken under this Act or the Emergency Petroleum Allocation Act of 1973.

"(m) The Attorney General and the Federal Trade Commission shall each submit to the Congress and to the President, at least once every six months, a report on the impact on competition and on small business of actions authorized by this section.

"(n) The authority granted by this section (including any immunity under subsection (i)) shall terminate on December 31, 1974.

"(o) The exercise of the authority provided in section 107 shall not have as a principal purpose or effect the substantial lessening of competition among carriers affected. Actions taken pursuant to that subsection shall be taken only after providing from the beginning an adequate opportunity for participation by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division who shall propose any alternative which would avoid or overcome, to the greatest extent practicable, any anticompetitive effects while achieving the purposes of this Act."

Sec. 121. Comprehensive Review of Export and Foreign Investment Policies.

The Secretary of the Interior and the Secretary of Commerce are directed to prepare a comprehensive report of (1) United States exports of petroleum products and other energy sources, and (2) foreign investment in production of petroleum products and other energy sources to determine the consistency or lack thereof of the Nation's trade policy and foreign investment policy with domestic energy conservation efforts. Such report shall include recommendations for legislation and shall be submitted to Congress within ninety days after the date of enactment of this Act."

Sec. 122. Employment Impact and Worker Assistance.

(a) Carrying out his responsibilities under this Act, the President shall take into consideration and shall minimize, to the fullest extent practicable, any adverse impact of actions taken pursuant to this Act upon employment. All agencies of government shall cooperate fully under their existing statutory authority to minimize any such adverse impact.

(b) The President is authorized and directed to make grants to States to provide to any individual unemployed, if such employment resulted from the administration and enforcement of this Act and was in no way due to the fault of such individual, such assistance as the President deems appropriate while such individual is unemployed. Such assistance as a State shall provide under such a grant shall be available to individuals not otherwise eligible for unemployment compensation and individuals who have otherwise exhausted their eligibility for such unemployment compensation, and shall continue as long as unemployment in the area caused by such administration and enforcement continues (but not less than six months) or until the individual is reemployed in a suitable position, but not longer than two years after the individual becomes eligible for such assistance. Such assistance shall not exceed the maximum weekly amount under the unemployment compensation program of the State in which the employment loss occurred.

(c) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

(d) On or before the sixtieth day following the date of enactment of this Act, the President shall report to the Congress concerning the present and prospective impact of energy shortages upon employment. Such report shall contain an assessment of the adequacy of existing programs in meeting the needs of adversely affected workers and shall include legislative recommendations which the President deems appropriate to meet such needs, including revisions in the unemployment insurance laws.

Sec. 123. Exports.

To the extent necessary to carry out the purpose of this Act, the Administrator may under authority of this Act, by rule, restrict exports of coal, petroleum products, and petrochemical feedstocks, under such terms as he deems appropriate: *Provided*, That, the Administrator shall restrict exports of coal, petroleum products, or petrochemical feedstocks if either the Secretary of Commerce or the Secretary of Labor certifies that such exports would contribute to unemployment in the United States. In the administration of such restrictions, the Administrator may use existing statutory authorities and regulations including, but not limited to, the Export Administration Act of 1969. Rules under this section shall take into account the historical trading relations of the United States with Canada and Mexico and shall not be inconsistent with subsections (b) and (d) of section 4 of the Emergency Petroleum Allocation Act of 1973.

Sec. 124. Prohibition of Petroleum Exports for Military Operations in Indochina.

In the exercise of his jurisdiction under the preceding section, and in order to conserve petroleum products for use in the United States, the Administrator shall prohibit the exportation of petroleum products for use, directly or indirectly, in military operations in South Vietnam, Cambodia, or Laos.

Sec. 125. Report and Termination Date.

(a) No later than September 1, 1974, the President shall submit to Congress an interim report on the implementation of this Act, together with such recommendations as he deems necessary for amending or extending the authorities granted in this Act or in the Emergency Petroleum Allocation Act of 1973.

(b) Notwithstanding any other provisions of title I of this Act or of the Emergency Petroleum Allocation Act of 1973, any authorities granted in title I of this Act or by the Emergency Petroleum Allocation Act of 1973 which, but for this section would expire on December 31, 1974, one year after the date of enactment of this Act, or on February 28, 1975, shall expire on May 15, 1975.

Sec. 126. Reports on National Energy Resources.

(a) For the purpose of providing to the Administrator, Congress, the States, and the public, to the maximum extent possible, reliable data on reserves, production, distribution, and use of petroleum products, natural gas, and coal, the Administrator shall promptly publish for public comment a regulation requiring that persons doing business in the United States, who, on the effective date of this Act, are engaged in exploring, developing, processing, refining, or transporting by pipeline, any petroleum product, natural gas, or coal, shall provide detailed reports to the Administrator every sixty calendar days. Such reports shall show for the preceding sixty calendar days such person's (1) reserves of crude oil, natural gas, and coal; (2) production and destination of any petroleum product, natural gas, and coal; (3) refinery runs by product; and (4) other data required by the Administrator for such purpose. Such regulation shall also require that such persons provide to the Administrator such reports for the period from January 1, 1970, to the date of such person's first sixty day report. Such regulation shall be promulgated 30 days after such publication. The Administrator shall publish quarterly in the Federal Register a meaningful summary analysis of the data provided by such reports.

(b) The reporting requirements of this section shall not apply to the retail operations of persons required to file such reports. Where a person shows that all or part of the data required by this section is being reported by such person to another Federal agency, the Administrator may exempt such person from reporting all or part of such data directly to him, and upon such exemption, such agency shall, notwithstanding any other provision of law, provide such data to the Administrator. The district courts of the United States are authorized, upon application of the Administrator, to require enforcement of such reporting requirements.

(c) Upon a showing satisfactory to the Administrator by any person that any report or part thereof obtained under this section from such person or from a Federal agency would, if made public, divulge methods or processes entitled to protection as trade secrets or other proprietary information of such person, such report, or portion thereof, shall be confidential in accordance with the purposes of section 1905 of Title 18 of the United States Code, except that such report or part thereof shall not be deemed confidential for purposes of disclosure to (1) any delegate of the Federal Energy Administration for the purpose of carrying out this Act, (2) the Attorney General, the Secretary of the Interior, the Federal Trade Commission, the Federal Power Commission, or the General Accounting Office when necessary to carry out those agencies' duties and responsibilities under this and other statutes, and (3) the Congress or any Committee of Congress upon request of the Chairman. The provisions of this section shall expire on May 15, 1975.

Sec. 127. Development of Processes for the Conversion of Coal to Crude Oil and Other Liquid and Gaseous Hydrocarbons.

The Administrator shall prepare and submit to Congress not later than 90 days after the date of enactment of this Act a plan for encouraging the conversion of coal to crude oil and other liquid and gaseous hydrocarbons.

TITLE II—COORDINATION WITH ENVIRONMENTAL PROTECTION REQUIREMENTS

Sec. 201. Suspension Authority.

Title I of the Clean Air Act (42 U.S.C. 1857 et seq.) is amended by adding at the end thereof the following new section:

"TEMPORARY AUTHORITY TO SUSPEND CERTAIN STATIONARY SOURCE EMISSION AND FUEL LIMITATIONS

"Sec. 119. (a) (1) The Administrator may, for any period beginning on or after the date of enactment of this section and ending on or before May 15, 1974, temporarily suspend any stationary source fuel or emission limitation as it applies to any person, if the Administrator finds that such person will be unable to comply with such limitation during such period solely because of unavailability of types or amounts of fuels. Any suspension under this paragraph and any interim requirement on which such suspension is conditioned under subsection (b) shall be exempted from any procedural requirements set forth in this Act or in any other provision of local, State, or Federal law. The granting or denial of such suspension and the imposition of an interim requirement shall be subject to judicial review only on the grounds specified in paragraphs (2)(B) and (2)(C) of section 706 of title 5, United States Code, and shall not be subject to any proceeding under section 304(a)(2) of this Act.

"(2)(A) After public notice and public hearing, the Administrator may, for any period beginning after May 15, 1974, and ending not later than June 30, 1979, temporarily suspend any stationary source fuel or emission limitation as it applies to any person if the Administrator finds—

"(i) that such person will be unable to comply with such limitation solely because of the unavailability of types and amounts of fuels,

"(ii) that such suspension (in conjunction with interim requirements under subsection (b)) will not, after the applicable implementation plan deadline, result in or contribute to a level of air pollutants which is greater than that specified in a national primary ambient air quality standard, and

"(iii) that such person has been placed on a schedule which provides for the use of methods which the Administrator determines will assure continuing compliance with a national primary ambient air quality standard as soon as practicable (but no later than June 30, 1979), which schedule shall include increments of progress toward compliance with such standard by such date.

"(B) (i) Any schedule under subparagraph (A) (iii) shall include, if necessary to meet a national primary air quality standard, a date by which a contractual obligation shall be entered into for an emission reduction system which has been determined by the Administrator to be adequately demonstrated (except that in the case of a person wishing to construct and install such system himself as soon as practicable, but not later than June 30, 1979, the Administrator may approve detailed plans and specifications and increments of progress for construction and installation of such a system). Before the earliest date on which a person is required to take any action under the preceding sentence (but not later than May 15, 1977) any source may elect to have the preceding sentence not apply to it; but if such election is made, no suspension under this section may apply to such source after May 15, 1977.

"(ii) For purposes of subparagraph (A) (ii) and of subsection (b), the term 'applicable implementation plan deadline' means the date on which (as of the date of enactment of the Energy Emergency Act) a national primary ambient air quality standard is required by an applicable implementation plan to be attained in an air quality control region.

"(C) Any person may obtain judicial review of a grant or denial of a suspension under this paragraph and of any interim requirement on which such suspension is conditioned under subsection (b) by filing a petition with the United States district court for any judicial district in which is located any stationary source to which the action of the Administrator applies. The second and third sentences of clause (ii), and clauses (iii) and (iv) of section 206(b) (2) (B) of this Act shall apply to judicial review under this paragraph. No proceeding under section 304(a) (2) may be commenced with respect to any action or failure to act under this paragraph.

"(3) In issuing any suspension under this subsection, the Administrator is authorized to act on his own motion without application by any source or State.

"(b) Any suspension under subsection (a) shall be conditioned upon compliance with such interim requirements as the Administrator determines necessary for minimizing the threat to public health which may exist prior to the applicable implementation plan deadline and for assuring maintenance of the national primary ambient air quality standards during any portion of such suspension which may be authorized after the applicable implementation plan deadline. Such interim requirements and section 110 shall not be construed to preclude use of alternative or intermittent control measures which the Administrator determines are reliable and enforceable and which he determines will permit attainment and maintenance of the national primary ambient air quality standards during the period of the suspension. Such interim requirements shall include, but not be limited to, (A) a requirement that the source receiving the suspension comply with such monitoring and reporting requirements as the Administrator determines may be necessary to determine the effect on health or air quality of such suspension, (B) such measures as the Administrator determines are necessary to avoid an imminent and substantial endangerment to health of persons, and (C) requirements that the suspension shall be inapplicable during any period during which fuels or emission reduction systems which would enable compliance with the suspended fuel or emission limitations are in fact available to that person (as determined by the Administrator). Such fuel shall not be required to be used if the Administrator determines that the costs of changes necessary to use such fuel during such period are unreasonable.

"(c) The Administration may by rule establish priorities under which manufacturers of emission reduction systems shall provide such systems to users thereof, if he finds that priorities must be imposed in order to assure that such systems are first provided to users in air quality control regions with the most severe air pollution.

"(d) The Administrator shall study, and report to Congress not later than March 31, 1974, with respect to—

"(1) the present and projected impact on the program under this Act of fuel shortages and allocation and end-use allocation programs;

"(2) availability of scrubber technology (including projections respecting the time, cost, and number of units available) and the effects that scrubbers would have on the total environment and on supplies of fuel and electricity;

"(3) number of sources and locations which must use such technology based on projected fuel availability data;

"(4) priority schedule for implementation of scrubber technology, based on public health or air quality;

"(5) evaluation of availability of technology to burn municipal solid waste in these sources; including time schedules, priorities, analysis of unregulated pollutants which will be emitted and balancing of health benefits and detriments from burning solid waste and of economic costs;

"(6) projections of air quality impact of fuel shortages and allocations;

"(7) evaluation of alternative control strategies for the attainment and maintenance of national ambient air quality standards for sulfur oxides within the time frames prescribed in the Act, including associated considerations of cost, time frames, feasibility, and effectiveness of such alternative control strategies as compared to stationary source fuel and emission regulations;

"(8) proposed allocations of scrubber technology for nonsolid waste producing systems to sources which are least able to handle solid waste byproduct, technologically, economically, and without hazard to public health, safety, and welfare; and

"(9) plans for monitoring or requiring variance-receiving sources to monitor impact of variances on concentration of sulfur dioxide in the ambient air.

"(e) No State or political subdivision may require any person to whom a suspension has been granted under subsection (a) to use any fuel the unavailability of which is the basis of such person's suspension (except that this preemption shall not apply to requirements identical to Federal interim requirements under subsection (b) or a compliance schedule under subsection (a) (2) (A) (iii), including any requirement under subsection (a) (2) (B) (i)). No State or political subdivision may require any person to use an emission reduction system for which priorities have been established under subsection (c) except in accordance with such priorities.

"(f) (1) It shall be unlawful for any person to whom a suspension has been granted under subsection (a) to violate any requirement of which the suspension is conditioned pursuant to subsection (b).

"(2) It shall be unlawful for any person to violate any rule under subsection (c).

"(3) It shall be unlawful for any person to fail to comply with a schedule of compliance under subsection (a) (2) (A) (iii), including any requirement under subsection (a) (2) (B) (i).

"(g) For purposes of this section:

"(1) The term 'stationary source' fuel or 'emission limitation' means any emission limitation, schedule, or timetable for compliance, or other requirement, which is prescribed under this Act (other than section 303 111(b), or 112) or contained in an applicable implementation plan and which is designed to limit stationary source emissions resulting from combustion of fuels, including a prohibition on or specification of the use of any fuel or any type or grade or pollution characteristic.

"(2) the term 'stationary source' has the same meaning as such term has under section 111(a) (3).

"(h) Beginning 60 days after the enactment of this section, the Administrator shall publish at no less than 180-day intervals, in the Federal Register the following:

"(1) Up-to-date findings on the emission reduction systems determined to be adequately demonstrated for the purposes of subsection (a) (2) (B).

"(2) A concise summary of progress reports which are required to be filed by any person operating under a suspension pursuant to subsection (a) (2). Such progress reports shall report on the status of compliance with all requirements which have been imposed by the Administrator as a condition for receiving the suspension.

"(3) Up-to-date findings on the impact of the suspensions granted upon—

"(A) applicable implementation plans, and

"(B) ambient air quality in areas where any person has received a suspension under subsection (a) (2) of this section.

"(i) (1) In order to conserve available supplies of liquid and gaseous fuels, each coal-fired steam electric generating station which is eligible for such an exemption as provided in paragraph (2) is hereby exempted from all applicable stationary source fuel or emission limitations, unless the Administrator determines that the cost of compliance with any such limitation is reasonable in light of the projected useful life of the station, the availability of rate base increases to pay for such costs, and the risk to public health and the environment which may be associated with exemption from such limitation.

"(2) The exemption provided for in paragraph (1) shall only apply to coal-fired steam electric generating stations (A) which are to be taken out of service permanently by December 31, 1980, due to the age and condition of the station, according to the power supply plan (in existence on the date of enactment of the Energy Emergency Act) of the utility operating such station, (B) for which a certification to that effect has been annually filed with the Environmental Protection Agency and the Federal Power Commission, and (C) for which the FPC has determined that the certification has been made in good faith and the plan to cease operations by December 31, 1980, is likely to be carried out as planned in light of existing and prospective power supply requirements.

"(3) The Administrator of EPA shall be authorized to prescribe interim requirements for any source exempted from any stationary source fuel or emission limitation under this subsection so long as such requirements impose only reasonable costs in light of the criteria precribed in paragraph (i))."

SEC. 202. IMPLEMENTATION PLAN REVISIONS.

(a) REVISIONS TO REFLECT SUSPENSIONS.—Section 110(a) of the Clean Air Act is amended—

(1) in paragraph (2)(B) by inserting before the semicolon at the end thereof ", and provision for energy conservation measures"; and

(2) in paragraph (3), by inserting "(A)" after "(3)" and by adding at the end thereof the following new subparagraph:

"(B) The Administrator shall review each applicable implementation plan and no later than May 1, 1974, determine for each State whether its plan must be revised in order to achieve the national primary or secondary standard which the plan implements within the deadlines established under paragraph (2)(A) of this subsection. In making such determination the Administrator shall consider any current or anticipated suspensions under section 119, any action under section 106(b), and any projected shortages of fuels or emission reduction systems. Plan revisions for any State for which the Administrator determines its plan is inadequate shall be submitted not later than July 1, 1974, and shall be approved or disapproved by the Administrator, after public notice and opportunity for hearing, but not later than September 1, 1974. If a plan revision (or portion thereof) is disapproved (or if a State fails to submit a plan revision), the Administrator shall, after public notice and opportunity for a hearing, promulgate a revised plan (or portion thereof) not later than November 1, 1974.".

(b) AMBIENT AIR STANDARDS.—Section 110 of the Clean Air Act, as amended (41 U.S.C. 1857(h) (1) and (2)), is amended to read as follows:

"(h) (1) The Administrator shall, upon application by the Governor for any air quality control region for which transportation controls have been imposed in order to attain and maintain the national primary ambient air quality standards by June 1, 1977, extend for two years the date required by any applicable implementation plan for attainment and maintenance of such standards, if the transportation controls for such region require a 20 percent (or greater) reduction in vehicle miles traveled by June 1, 1977, or if he otherwise finds that such controls are impracticable within such time.

(2) The Administrator may, upon application by the Governor for any such region, further extend the date for attainment and maintenance of such standard if he finds that imposition of additional transportation control requirements is impracticable within such time. In no event, however, shall the Administrator permit any extension (A) which allows for attainment of the primary standard less expeditiously than practicable, or (B) which allows a less than 10 percent annual improvement in air quality toward the achievement of such standard, so that protection of the public health may be assured by January 1, 1985."

(c) LIMITATION ON PARKING SURCHARGES, MANAGEMENT OF PARKING SUPPLY, AND PREFERENTIAL BUS/CARPOOL LANE REGULATIONS.—Subsection (c) of section 110 of the Clean Air Act, as amended (42 U.S.C. 1857 C–5) is amended by inserting "(1)" after "(c)"; by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively; and by adding the following new paragraph:

"(2)(A) The Administrator shall conduct a study and shall submit a report to the Committee on Interstate and Foreign Commerce of the United States House of Representatives and the Committee on Public Works of the United States Senate within 6 months after the enactment of this paragraph on the necessity of parking surcharge, management of parking supply, and preferential bus/carpool lane regulations in order to achieve national primary ambient air quality standards. The study shall include an assessment of the economic impact of such regulations, consideration of alternative means of reducing total vehicle miles traveled, and an assessment of the impact of such regulations on other Federal and State programs dealing with transportation. In the course of such study, the Administrator shall consult with other Federal officials including, but not limited to, the Secretary of Transportation, the Administrator of the Federal Energy Administration, and the Chairman of the Council on Environmental Quality.

"(B) No parking surcharge of parking supply, or preferential bus/carpool lane regulation may be promulgated by the Administrator under paragraph (1) of this subsection as a part of an implementation plan. All parking surcharge, management of parking supply, and preferential bus/carpool lane regulations previously promulgated by the Administrator shall be null and void upon the date of enactment of this subsection. This subparagraph shall not prevent the Administrator from approving parking surcharges, management of parking supply regulations, and preferential bus/carpool lanes if they are adopted and submitted by a State as part of an implementation plan. The Administrator may not condition approval of any implementation plan submitted by a State on such plan's including a parking surcharge, management of parking supply, or preferential bus/carpool lane regulation.

"(C) For purposes of this paragraph, the terms 'parking surcharge regulation' means a regulation imposing or requiring the imposition of any tax, surcharge, fee, or other charge on parking spaces, or any other area used for the temporary storage of motor vehicles. The term 'management of parking supply' and the term 'preferential bus/carpool lane' shall include those general activities covered by but not limited to regulations numbered 52.251 and 52.261 through 52.264 as set forth in vol. 38 of the Federal Register Number 217."

SEC. 203. MOTOR VEHICLE EMISSIONS.

(a) Revision of Standards.—

(1) Section 202(b)(1) of the Clean Air Act is amended—

(A) by striking out in subparagraph (a) "1975" and inserting in lieu thereof "1978";

(B) by striking out "during or after model year "1976" and all that follows in subparagraph (b) and inserting in lieu thereof "during model year 1976 shall contain standards which limit emissions to a maximum of 3.1 grams per vehicle mile of oxides of nitrogen. The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light duty vehicles and engines manufactured during or after model year 1977 shall contain standards which limit emissions to a maximum of 2.0 grams per vehicle mile of oxides of nitrogen.", and

(C) by adding at the end of such paragraph the following new subparagraph:

"(C) Compliance with the regulations prescribed pursuant to this section for model years 1975, 1976, and 1977, shall be measured by certification test procedures prescribed by the Administrator for model year 1975. The regulation for model years 1975, 1976, and 1977 prescribed pursuant to subsection (a) (for carbon monoxide and hydrocarbons) shall impose the same emission standards as are in effect as of December 1, 1973, for model year 1975."

(2) Section 202(b)(5) of the Clean Air Act is repealed.

(b) Extension of Implementation Plan Deadlines.—Section 110 of the Clean Air Act is amended by adding at the end thereof the following new subsection:

"(g) Notwithstanding any other provision of this Act, the Administrator may, within the period by which (under subsection (a)(2) (A) (i)) an applicable implementation plan must provide for the attainment in a State of a national primary ambient air quality standard (as such period may be extended under subsection (e)), extend such period for not more than two additional years if he determines that such primary standard cannot be attained in such State within such period solely by reason of the amendments made by section 203(a) of the National Energy Emergency Act."

SEC. 204. CONFORMING AMENDMENTS.

(a)(1) Section 113(a)(3) of the Clean Air Act is amended by striking out "or" before "112(c)", by inserting a comma in lieu thereof, and by inserting after "hazardous emissions)" the following: ", or 119(f) (relating to certain requirements during suspensions and priorities)."

(2) Section 113(b)(3) of such Act is amended by striking out "or 112(c)" and inserting in lieu thereof ", 112(c), or 119(f)".

(3) Section 113(c)(1)(C) of such Act is amended by striking out "or section 112(c)" and inserting in lieu thereof ", section 112 (c), or section 119(f)".

(4) Section 113 of such Act is amended by inserting at the end thereof the following new subsection:

"(d) For the purpose of this section, the violation of any provision of an approved plan under section 106(b) of the Energy Emergency Act shall be deemed a violation of a 'requirement of an applicable implementation plan during any period of federally assumed enforcement'."

(5) Section 114(a) of such Act is amended by inserting "119 or" before "303".

(b) Section 116 of the Clean Air Act is amended by inserting "119(f)" before "209".

SEC. 205. PROTECTION OF PUBLIC HEALTH AND ENVIRONMENT.

(a) Any allocation program provided for in title I of this Act or in the Emergency Petroleum Allocation Act of 1973, shall, to the maximum extent practicable, include measures to assure that available low sulfur fuel will be distributed on a priority basis to those areas of the country designated by the Administrator of the Environmental Protection Agency as requiring low sulfur fuel to avoid or minimize adverse impact on public health.

(b)(1) For the period beginning May 15, 1974, the Administrator of the Environmental Protection Agency may, after public notice and opportunity for presentation of views in accordance with section 553 of title 5, United States Code, and consultation with the Federal Energy Administrator, issue exchange orders to any person or persons requiring the exchange of any fuel subject to any allocation program under title I of this Act or such Act of 1973. The purpose of such exchange orders shall be to avoid or minimize the adverse impact of any such allocation program on public health in those areas of the country designated by the Administrator of the Environmental Protection Agency under subsection (a). Such Administrator may issue an order under this subsection only if he finds that (A) substantial emission reductions will be afforded for one or more emission sources in areas designated under subsection (a), and (B) the costs and fuel availability impact of such order will not be excessive.

(2) Violation of any exchange order issued under paragraph (1) of this subsection shall be a prohibited act and shall be subject to enforcement action and sanctions in the same extent as a violation of any requirement of an energy conservation and rationing program under title I of this Act.

(c) In order to determine the health effects of emissions of sulfur oxides to the air resulting from any conversions to burning coal pursuant to section 106, the Department of Health, Education, and Welfare shall, in cooperation with the Environmental Protection Agency, conduct a study of acute and chronic effects among exposed populations. The sum of $2,000,000 is authorized to be appropriated for such a study.

(d) No action taken under this Act shall, for a period of 1 year after initiation of such action, be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (83 Stat. 856). However, before any action under this Act that has a significant impact on the environment is taken, if practicable, or in any event within 60 days after such action is taken, an environmental evaluation with analysis equivalent to that required under section 102(2)(C) of the National Environmental Policy Act, to the greatest extent practicable within this time constraint, shall be prepared and circulated to appropriate Federal, State, and local government agencies and to the public for a 30-day comment period after which a public hearing shall be held upon request to review outstanding environmental issues. Such an evaluation shall not be required where the action in question has been preceded by compliance with the National Environmental Policy Act by the appropriate Federal agency. Any action take under this Act which will be in effect for more than a 6-month period (other than action taken pursuant to subsection (e) of this section), or any action to extend an action taken under this Act to a total period of more than 1 year shall be subject to the full provisions of the National Environmental Policy Act notwithstanding any other provision of this Act.

(e) Notwithstanding subsection (d) of this section, in order to expedite the prompt construction of facilities for the importation of hydroelectric energy thereby helping to reduce the shortage of petroleum products in the United States, the Federal Power Commission is hereby authorized and directed to issue a Presidential permit pursuant to Executive Order 10485 of September 3, 1953, for the construction, operation, maintenance, and connection of facilities for the transmission of electric energy at the borders of the United States without preparing an environmental impact statement pursuant to section 102 of the National Environmental Policy Act of 1969 (83 Stat. 856) for facilities for the transmission of electric energy between Canada and the United States in the vicinity of Fort Covington, New York, and for any other facilities for the transmission of electric energy between a foreign country and the United States which the Federal Power Commission finds will be subject to adequate environmental review conducted by a State agency pursuant to State law.

SEC. 206. ENERGY CONSERVATION STUDY.

(a) The Administrator of the Federal Energy Administration shall conduct a study on potential methods of energy conservation and, not later than 6 months after the date of enactment of this Act, shall submit to Congress a report on the results of such study. The study shall include, but not be limited to, the following:

(1) the energy conservation potential of restricting exports of fuels or energy-intensive products or goods, including an analysis of balance of payments and foreign relations implications of any such restrictions;

(2) federally sponsored incentives for the use of public transit, including the need for authority to require additional production of buses or other means of public transit and Federal subsidies for the duration of the energy emergency for reduced fares and additional expenses incurred because of increased service;

(3) alternative requirements, incentives, or disincentives for increasing industrial recycling and resource recovery in order to reduce energy demand, including the economic costs and fuel consumption trade-off which may be associated with such recycling and resource recovery in lieu of transportation and use of virgin materials;

(4) the costs and benefits of electrifying rail lines in the United States with a high density of traffic; including (A) the capital costs of such electrification, the oil fuel economies derived from such electrification, the ability of existing power facilities to supply the additional power load, and the amount of coal or other fossil fuels required to generate the power required for railroad electrification, and (B) the advantages to the environment of electrification of railroads in terms of reduced fuel consumption and air pollution and disadvantages to the environment from increased use of fossil fuel such as coal; and

(5) means for incentives or disincentives to increase efficiency of industrial use of energy.

(b) Within 90 days of the date of enactment of this Act, the Secretary of Transportation, after consultation with the Federal Energy Administrator, shall submit to the Congress for appropriate action an "Emergency Mass Transportation Assistance Plan" for the purpose of conserving energy by expanding and improving public mass transportation systems and encouraging increased ridership as alternatives to automobile travel.

(c) Such plan shall include, but shall not be limited to—

(1) recommendations for emergency temporary grants to assist States and local public bodies and agencies thereof in the payment of operating expenses incurred in connection with the provision of expanded mass transportation service in urban areas;

(2) recommendations for additional emergency assistance for the purchase of buses and rolling stock for fixed rail, including the feasibility of accelerating the timetable for such assistance under section 142(a)(2) of title 23, United States Code (the "Federal Aid Highway Act of 1973"), for the purpose of providing additional capacity for and encouraging increased use of public mass transportation systems;

(3) recommendations for a program of demonstration projects to determine the feasibility of fare-free and low-fare urban mass transportation systesm, including reduced rates for elderly and handicapped persons during nonpeak hours of transportation;

(4) recommendations for additional emergency assistance for the construction of fringe and transportation corridor parking facilities to serve bus and other mass transportation passengers;

(5) recommendations on the feasibility of providing tax incentives for persons who use public mass transportation systems."

"(d) In consultation with the Federal Energy Administrator, the Secretary of Transportation shall make an investigation and study for the purpose of conserving energy and assuring that the essential fuel needs of the United States will be met by developing a high-speed ground transportation system between the cities of Tijuana in the State of Baja California, Mexico, and Vancouver in the Province of British Columbia, Canada, by way of the cities of Seattle in the State of Washington, Portland in the State of Oregon, and Sacramento, San Francisco, Fresno, Los Angeles and San Diego in the State of California. In carrying out such investigation and study the Secretray shall consider, but shall not be limited to—

(1) the efficiency of energy utilization and impact on energy resources of such a system, including the future impact of existing transportation systems on energy resources if such a system is not established;

(2) coordination with other studies undertaken on the State and local level; and

(3) such other matters as he deems appropriate.

The Secretary of Transportation shall report the results of the study and investigation pursuant to this Act, together with his recommendations, to the Congress and the President no later than December 31, 1974.

SEC. 207. REPORTS.

The Administrator of the Environmental Protection Agency shall report to Congress not later than January 31, 1975, on the implementation of sections 201 through 205 of this title.

SEC. 208. RECOMMENDATIONS FOR SITING OF ENERGY FACILITIES.

The President shall, within 90 days after the date of enactment of this Act, recommend to the Congress actions to be taken by the executive branch and the Congress regarding the problem of the siting of all types of energy producing facilities.

SEC. 209. FUEL ECONOMY STUDY.

Title II of the Clean Air Act is amended by redesignating section 213 as section 214 and by adding the following new section:

"FUEL ECONOMY IMPROVEMENT FROM NEW MOTOR VEHICLES

"SEC. 213. (a) The Administrator shall conduct a study, and shall report to the Committee on Interstate and Foreign Commerce of the United States House of Representatives and the Committee on Public Works of the United States Senate within 120 days following the date of enactment of this section, concerning the practicability of establishing a fuel economy improvement standard of 20 percent for new motor vehicles manufactured during and after model year 1980. Such study and report shall include, but not be limited to, the technological problems of meeting any such standard, including the leadtime involved; the test procedures required to determine compliance; the economic costs associated with such standard, including any beneficial economic impact; the various means of enforcing such standard; the effect on consumption of natural resources, including energy consumed; and the impact of applicable safety and emission standards. In the course of performing such study, the Administrator shall consult with the Secretary of Transportation, the Administrator of the Federal Energy Administration, the Chairman of the Council on Environmental Quality, and the Secretary of the Treasury. The Office of Management and Budget may review such report before its submission to Congress but the Office may not revise the report or delay its submission beyond the date prescribed for its submission, and may submit to Congress its comments respecting such report. In connection with such study, the Administrator may utilize the authority provided in section 307(a) of this Act to obtain necessary information.

"(2) For the purpose of this section, the term 'fuel economy improvement standard' means a requirement of a percentage increase in the number of miles of transportation provided by a manufacturer's entire annual production of new motor vehicles per unit of fuel consumed, as determined by the Administrator for each manufacturer. Such term shall not include any requirement for any design standard or any other requirement specifying or otherwise limiting the manufacturer's discretion in deciding how to comply with the fuel economy improvement standard by any lawful means.".

SEC. 210. FUEL ALLOCATIONS.

Notwithstanding any other provision of law or regulation, any project or enterprise authorized by law or regulations of the Federal Government, regardless of time initiated shall be allowed the necessary fuel for all its operations under any rules formulated for such purposes.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to assure, through energy conservation, end-use allocation of fuels, and other means, that the essential energy needs of the United States are met, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 11450) was laid on the table.

APPOINTMENT OF CONFEREES ON S. 2589, ENERGY EMERGENCY ACT

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that the House insist upon its amendment to the bill S. 2589 and request a conference with the Senate.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia? The Chair hears none and appoints the following conferees: Messrs. STAGGERS, MACDONALD, MOSS, ROGERS, BROYHILL of North Carolina, BROWN of Ohio, and HASTINGS.

GENERAL LEAVE

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

CONVENING OF 2D SESSION OF 93D CONGRESS

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table Senate Joint Resolution 180 and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

Mr. GROSS. Mr. Speaker, reserving the right to object, may we have an explanation of this rather unusual language?

Mr. O'NEILL. Will the gentleman yield?

Mr. GROSS. I am glad to yield.

Mr. O'NEILL. There is nothing unusual about it. It is exactly the same type of resolution as was passed for the August vacation.

As you know, the Speaker of the House and the President pro tem of the Senate may call the Congress back into session and the majority leader of the Senate and majority leader of the House and the minority leader of the House and the minority leader of the Senate may call the Congress back into session if these people feel there is an emergency.

It is exactly the same resolution as we passed on the August vacation.

We anticipate we will be adjourning for a recess Thursday or Friday or whenever our work is completed. We anticipate the work will be completed this weekend, so this is the same resolution as we passed before.

Mr. GROSS. Mr. Speaker, I would respectfully submit to the gentleman from Massachusetts that while I realize these were the terms and conditions of the August recess resolution, I am not aware of previous adjournment resolutions of this nature. This is a sine die resolution. So I think it is unusual, despite what the gentleman from Massachusetts has said.

Mr. O'NEILL. Mr. Speaker, I would say to the gentleman from Iowa that we have consulted the leadership on both sides of the aisle, and in both the House and the Senate, and they have concurred with this. I believe the Senate is going to come in with a variation that theirs will be the date of January 28 instead of January 21. But the leadership of the House felt that this was fair for the House in view of the fact that we have been working so hard and long. Here it is almost on the eve of Christmas, and the Members are entitled to go back to their areas, to their districts, to the grassroots to find out how the people feel, and to also get some vacation for themselves, and we felt that this was the fair thing to do.

Mr. GROSS. I only hope we can get back.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

Mr. DELLENBACK. Mr. Speaker, reserving the right to object, may I ask the distinguished majority leader, the gentleman from Massachusetts (Mr. O'NEILL), whether we understand correctly that under this action of the House and the Senate that we are about to take that not only can the Speaker and the President pro tempore of the Senate call the Congress back into session, and not only can the majority leader of the House and the majority leader of the Senate call the Congress back into session, but that the minority leader of the House and the minority leader of the Senate, acting together, can call the Congress back into session if there is in their opinion an emergency situation?

Mr. O'NEILL. That is correct.

Mr. DELLENBACK. Mr. Speaker, further reserving the right to object, may I ask the distinguished majority leader a further question?

The gentleman from Massachusetts said something in his explanation earlier, that any two of these people could call the Congress back into session. Would this mean the majority leaders and the minority leaders of each House could call them back?

Mr. O'NEILL. Mr. Speaker, if the gentleman will yield, the interpretation of the gentleman from Oregon is correct, in just the way the gentleman asked the question.

Mr. DELLENBACK. Then, in each instance, there is a representative in each body, although it could be the minority side, who could call the Congress back into session?

Mr. O'NEILL. The gentleman is correct.

Mr. DELLENBACK. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

Mr. SEIBERLING. Reserving the right to object, Mr. Speaker, the distinguished majority leader, the gentleman from Massachusetts (Mr. O'NEILL) has told us that this is the usual resolution, but these are not usual times.

I would just like to ask the gentleman whether consideration has been given to the reaction of the people of this country and the circumstances they are going to be going through in the next month during which the Congress will have chosen to be in recess?

Mr. O'NEILL. Mr. Speaker, I would say that that is a matter of each individual's opinion. My own personal opinion is that this would be for the best interests of the Nation, when the Congress has been working as diligently and as hard as this Congress has, I think it would be in the best interests of the Nation for them to get home, acquaint themselves with the people at home and get some rest, and then come back here ready, willing, and able to continue the work that they are elected for.

I think the people expect us back in our districts. I think, in fairness to the Members themselves, that they should be able to get back to their districts and make trips around their districts, and find out how the feelings of the people are back home, and particularly to get some rest.

I would say that with the long hours that we have been working during this session, and as hard as we have been, that there are often times that there is bitterness of feeling, and that is something that would never happen if we had not been here for hours on end, and for weeks on end.

Therefore I hope that there will be no objection.

Mr. SEIBERLING. I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

Mr. DERWINSKI. Mr. Speaker, reserving the right to object, may I say that I concur with the distinguished majority leader, the gentleman from Massachusetts (Mr. O'NEILL) in that there is some practical reason for getting back to the grassroots and understanding the views of the people back home. But I just want to clarify one thing. The gentleman from Oregon (Mr. DELLENBACK) raised the point also. I would ask the gentleman from Massacusetts, do I understand correctly that the minority leader of the Senate and the minority leader of the House, acting jointly, could call us back into session?

Mr. O'NEILL. If the gentleman would yield, the gentleman is correct.

Mr. DERWINSKI. That worries me just a little bit, because we have a new leader on this side, and he is still in his honeymoon period. This is such an awesome responsibility to place on a young man who has just accepted this great assignment. I have complete confidence in him.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

Mr. STEIGER of Wisconsin. Mr. Speaker, further reserving the right to object, may I inquire of the majority leader if any objections were lodged this evening, when next might the Members of the House hope that this resolution would be presented to us?

Mr. O'NEILL. I have a program scheduled for Monday, tentative 3 and tentative 4. I intend to announce tentative 3 when asked by the minority leader. In the event there is an objection to my unanimous-consent request, then I would read tentative 4, which will put this matter under suspension.

Mr. STEIGER of Wisconsin. Further reserving the right to object, Mr. Speaker, the gentleman's unanimous-consent request is that the resolution be immediately considered; am I correct?

Mr. O'NEILL. The gentleman is correct.

Mr. STEIGER of Wisconsin. If that were the case, would a vote then be eligible on the resolution?

Mr. O'NEILL. A vote would be eligible. Yes, a vote would be had.

Mr. STEIGER of Wisconsin. Mr. Speaker, I shall object.

The SPEAKER. Objection is heard.

PERMISSION FOR COMMITTEE ON EDUCATION AND LABOR TO HAVE UNTIL MIDNIGHT SATURDAY, DECEMBER 15, 1973, TO FILE A CONFERENCE REPORT ON S. 1559

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that the Committee on Education and Labor may have until midnight tomorrow to file a conference report on the manpower bill, S. 1559.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

LEGISLATIVE PROGRAM FOR THE WEEK OF DECEMBER 17, 1973

(Mr. RHODES asked and was given permission to address the House for 1 minute.)

Mr. RHODES. Mr. Speaker, I ask for this time in order to ask the distinguished majority leader as to the program for the rest of the day, which I hope will consist of zero and also the program for the balance of the week, and, I hope, for the balance of the session.

Mr. O'NEILL. Will the distinguished minority leader yield?

Mr. RHODES. I yield to the distinguished gentleman from Massachusetts, our distinguished majority leader.

Mr. O'NEILL. We have concluded the business for the day and the business for the week. I will offer a motion to adjourn until 12 o'clock on Monday next.

The program for the week of December 17, 1973, for the House of Representatives is as follows:

Monday and the balance of the week:

On Monday we have the Consent Calendar.

Then we will consider S. 1435, District of Columbia self-government, conference report.

Next will be H.R. 3180, franking privilege, conference report.

There will be 25 suspensions, the first suspension being:

Senate Joint Resolution 180, convening of the second session of the 93d Congress;

The remainder of the other 24 suspensions are as follows:

S. 2482, Small Business Administration ceiling authority;

S. 513, FHA loans for fire equipment in nursing homes;

H.R. 11137, Senate confirmation of OMB Director;

H.R. 11793, Federal Energy Administration;

S. 1945, grapefruit marketing orders;

H.R. 11273, protection against importation of noxious weeds;

S. 1529, American Falls Dam, Idaho;

S. 1038, allowances for service members;

House Concurrent Resolution 386, U.S.S. *Carl Vinson*;

S. 2714, pay for certain service members;

H.R. 3418, uniform enlistment qualifications;

H.R. 5621, U.S. flags for deceased National Guard and Selected Reserve members;

S. 2166, disposal of opium from the national stockpile;

S. 2316, disposal of copper from the national stockpile;

S. 2413, disposal of aluminum from the national stockpile;

S. 2493, disposal of silicon carbide from the national stockpile;

S. 2498, disposal of zinc from the national stockpile;

S. 2551, disposal of molybdenum from the national stockpile;

S. 1773, sale of vessels stricken from the naval vessel register;

House Joint Resolution 858, L. B. J. Memorial grove;

H.R. 11763, National Visitors Center Act amendment;

H.R. 10044, customs and immigration border facilities;

H.R. 11714, energy conservation in buildings; and

H.R. 11928, Water Pollution Act amendment.

The following will then be considered:

House Resolution 746, authorization to suspend the rules; and

H.R. 11510, Energy Research and Development Administration, under an open rule, with 2 hours of debate.

Conference reports may be brought up not necessarily in this order and not necessarily limited to this list:

H.R. 11576, supplemental appropriations, fiscal year 1974;

H.R. 11575, Defense Department appropriations, fiscal year 1974;

H.R. 11771, Foreign Assistance appropriations, fiscal year 1974;

S. 2589, National Emergency Energy Act;

H.R. 9142, Northeast Railroad Assistance Act;

H.R. 11088, Emergency Security Assistance for Israel;

S. 14, Health Maintenace Organizations;

H.R. 5874, Federal Financing Bank;

S. 1559, Comprehensive Manpower Act; and

H.R. 9256, Federal Health Benefits.

And there could possibly be further conference reports called up which will be announced later.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, was there an omission of the Private Calendar which would ordinarily be called on Tuesday? It is not listed on the schedule.

Mr. O'NEILL. Mr. Speaker, if the gentleman will yield, the Private Calendar will be called on Tuesday.

Mr. GROSS. I thank the gentleman.

Mr. RHODES. Mr. Speaker, could the distinguished majority leader conjecture with the House as to what date we could possibly adjourn sine die?

Mr. O'NEILL. We have been speculating as to the hour and day and time we will adjourn, but we believe that the bill we have spent the last 3 days on is the key to the entire problem. We will have to bring it back after conference. It is my understanding the conference committee is scheduled to meet on Monday and they have high hopes it will be back on Thursday of next week. I would hope we would be able to get out of here Thursday or Friday at the latest.

Mr. RHODES. I thank the gentleman.

ADJOURNMENT TO MONDAY, DECEMBER 17

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that when the House adjorns today it adjourn to meet on Monday next.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday of next week.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

PERSONAL EXPLANATION

Mr. MARTIN of North Carolina. Mr. Speaker, at 11:51 p.m. the House voted on the amendment offered by the gentlewoman from New York (Ms. HOLTZMAN). I was absent in order to take my two children home. Had I been present here I would have voted "no" against that ill-considered amendment.

PERSONAL EXPLANATION

Mr. THOMSON of Wisconsin. Mr. Speaker, on rollcall No. 663 I am recorded as not voting. I was present and voted "yea" by electronic device.

GENERAL LEAVE

Mrs. HECKLER of Massachusetts. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today.

The SPEAKER. Is there objection to the request of the gentlewoman from Massachusetts (Mrs. HECKLER)?

There was no objection.

THE ELK HILLS NAVAL PETROLEUM RESERVE

(Mr. KETCHUM asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. KETCHUM. Mr. Speaker, I have for the past several weeks risen frequently to urge the opening of the Elk Hills Naval Petroleum Reserve. Over 100 members have cosponsored my resolution to accomplish this. Only the apparent opposition of the Joint Chiefs of Staff precluded its early consideration. I now enter into the RECORD a letter dated December 11, 1973 to me from the Joint Chiefs of Staff in directing their support for the resolution. Nothing now appears to halt the consideration and passage of the resolution except the vacillation of the House Armed Services Committee. I urge you, Mr. Speaker, to demand this resolution be heard. Barring your early action, I have no other recourse but to file a discharge petition.

THE JOINT CHIEFS OF STAFF,
Washington, D.C., December 11, 1973.

Hon. WILLIAM M. KETCHUM.

DEAR MR. KETCHUM: This is in reply to your letter to Admiral Moorer regarding Joint Chiefs of Staff support for H.J. Resolution 832. Prior to leaving for Europe last week, Admiral Moorer requested that I reply to your letter as soon as the JCS position on H.J. Resolution 832 was established.

On 5 November 1973, the Joint Chiefs of Staff stated that only a national defense emergency should result in a significant increase in production from the naval petroleum reserves, and further that, in their opinion, the national oil situation, while extremely serious, had not reached the level of a national defense emergency. It was recognized, at that time, that if no other alternate source of oil could be found, a one-time limited authorization to produce from Elk Hills might be required.

The JCS continued to review the need for Elk Hills production. On 7 December 1973, the JCS reassessed the situation in the context of H.J. Resolution 832 and agreed that the impact of the continued embargo of petroleum from the Middle East, together with other critical aspects of the national and international petroleum situation, has now reached a level which warrants emergency measures, as contemplated in H.J. Resolution 832. However, the JCS recommended that the proposed legislation should insure that the funds generated are used expeditiously to explore and develop Naval Petroleum Reserve Number 4 (Alaska). Further, the legislation should specify that this limited one-time authorization to produce from Elk Hills does not constitute a precedent for using the reserves for other than national defense requirements created by major international military conflict.

The Joint Chiefs of Staff therefore recommend that the following amendments to the Joint Resolution be sought.

a. Add the following to the end of Section 3:

"Such exploration, prospecting, conservation, and development shall give priority to Naval Petroleum Reserve Number 4, and such exploration and prospecting shall commence within 30 days after production commences under this authorization from Naval Petroleum Reserve Number 1. Development shall be completed as soon thereafter as reasonably possible."

b. At the end of the resolution, add a new fourth section, as follows:

"The use of the naval petroleum reserves for these purposes is considered a one-time response to a special emergency and is not a precedent for future uses of these reserves except as required for major international military conflict."

Subject to incorporation of the above amendments, the Joint Chiefs of Staff support the enactment of H.J. Resolution 832.

Sincerely,

ROBERT M. LUCY,
Colonel, USMC, Legal Adviser & Legislative Assistant to the Chairman, JCS.

A WEIGHTED SOCIAL SECURITY EARNINGS LIMITATION

The SPEAKER pro tempore (Mr. MCFALL). Under a previous order of the House, the gentleman from New Hampshire (Mr. WYMAN) is recognized for 15 minutes.

Mr. WYMAN. Mr. Speaker, the burdens of the unbroken inflation of the past decade have fallen most heavily—and unfairly—upon those individuals who can least afford them: The more than 30 million who are retired and living on fixed incomes. Nor is the cost of living expected to decrease, especially in light of the energy shortage.

This burden is made even heavier by the restriction imposed on earnings by the Social Security Act. The present earnings limitation is scheduled to be increased to $2,400 effective January 1, 1974. The average social security beneficiary receives slightly less than $2,000 per year, and the minimum benefits are approximately $1,000. Allowing an additional $2,400 in outside earnings would bring the average yearly income to $4,400 and the minimum to $3,400. Maximum social security benefits are presently $3,200, allowing an annual income of $5,600.

Clearly, the earnings limitation should be raised to allow retirees to adequately supplement their social security benefits. It is also evident that the need is greatest at the lower end of the benefit scale.

Accordingly, I am today introducing legislation which would increase the basic earnings limitation and add a sliding scale formula to allow those whose need is the greatest to earn more.

Mr. Speaker, at this point I would like to include a detailed description of my proposal, as well as a letter of endorsement by the American Association of Retired Persons and National Retired Teachers Association.

FACT SHEET

EXISTING LAW

Under present law, a social security retiree may earn up to $2,100 without any loss of social security benefits. For every $2.00 of earnings above this $2,100 amount the retiree loses $1.00 of social security benefits. The $2,100 amount is scheduled to be increased to $2,400 effective January 1974.

THE FORMULA

Under the Wyman proposal, each social security retiree would be allowed to earn an amount equal to the difference between—

(1) the sum of:

(a) $3,000;

(b) the maximum primary insurance amount for the calendar year (presently $3,200); and

(2) the total of the monthly insurance benefits to which such retiree is entitled under section 202.

Expressed in a different manner, the formula would allow a recipient of old age insurance benefits to earn during the year an amount equal to the sum of:

(a) $3,000, and

(b) the difference between the maximum primary insurance amount and the actual amount of the recipient's benefits.

FURTHER LIBERALIZATION TO $3,000

The proposal would have the effect of increasing, for every recipient of old age insurance benefits, the amount which may be earned without any reduction of those benefits from the present $2,100 to *at least* $3,000. For those who are receiving less than the maximum primary insurance amount, earnings in excess of $3,000 would be allowed.

THE EFFECTS OF THE SLIDING SCALE FORMULA

The amount of earnings in excess of $3,000 which may be earned without loss of benefits would be directly related to the amount of the recipient's old age insurance benefits. The greater the difference between the maximum primary insurance amount for a given year and the recipient's actual amount of benefits, the greater would be the amount of earnings allowed without loss of benefits. The Wyman proposal, therefore, would not only liberalize further the present retirement test, it would, by substituting for the present test—which treats everyone exactly the same without regard to the amount of their old age insurance benefits or their need for supplemental income—a sliding scale test, treat with relatively more favor those with lower old age insurance benefits and with greater need for supplemental earnings.

EXAMPLES OF THE FORMULA—EXAMPLE 1

Assuming that the maximum primary insurance amount is $3,200 for the given year, and the retiree is receiving $3,200 in old age insurance benefits, then he would be allowed to earn ($3,000.00) without any loss of benefits ($3,000+$3,200−$3,000=the amount to earn $3,000.00 without any loss of benefits). With respect to earnings in excess of $3,000.00, the usual rules would apply with the result that for every additional $2 of earnings, he would lose $1 of benefits.

EXAMPLE 2

Making the same assumptions as in Example 1 with the exception that the retiree actually receives only $2,100 in old age insurance benefits during the year, the retiree would be allowed to earn $4,170.00 without any loss of benefits ($3,000+$3,200—$2,100= the amount which may be earned without loss of benefits). For every $2 of earnings in excess of $4,100.00, $1 in benefits would be lost.

NOVELTY OF THE PROPOSAL

The unique feature of the proposal is that it would channel social security trust fund resources to those persons who have greater need therefor and in a manner that is not wasteful compared to the past practice of simply raising the earnings ceiling of the retirement test, benefitting thereby many persons who are financially secure.

While the Wyman proposal would increase the amount earned without loss of benefits for everyone, it would allow the individual with lower social security benefits to earn an even higher amount.

AMERICAN ASSOCIATION OF RETIRED PERSONS—NATIONAL RETIRED TEACHERS ASSOCIATION,
Washington, D.C., December 7, 1973.
Hon. LOUIS C. WYMAN,
Cannon House Office Building,
Washington, D.C.

DEAR CONGRESSMAN WYMAN: On behalf of the nearly 6 million members of the National Retired Teachers Association and the American Association of Retired Persons, I would like to express our enthusiastic support for your bill to amend the social security retirement test to increase the amount of outside earnings permitted each year without reduction of benefits and to revise the method for computing that amount.

In the past, our organizations have supported a variety of alternatives to reform and liberalize the retirement test—including its complete abolishment. At the present time, we favor the further liberalization of the retirement test to $3,600. Since your proposal would have the effect of increasing, for every recipient of Old Age Insurance benefits, the amount which may be earned without reduction from the present $2,100 to $3,000 and since the liberalization of the test which would be effected thereby, falls within the scope of our present position, we find it desirable.

However, the factor which distinguishes your proposal from the many other retirement test proposals that have been introduced during the current session and the factor which we find so innovative and on which our enthusiasm is predicated is the sliding-scale aspect of the retirement formula under which those recipients of Old Age Insurance benefits who receive less than the maximum primary insurance amount would be able to earn the sum of $3,000 plus the difference between the maximum primary insurance amount and their actual amount of benefits. By substituting a sliding-scale test for the existing retirement test, which treats every social security recipient exactly the same without regard to the amount of his or her benefits or his or her need for supplemental income, your proposal will tend to treat more favorably those with lower Old Age Insurance benefits and, consequently, greater need for supplemental earnings.

Our organizations appreciate fully the arguments in support of the retirement test. Proponents argue that the Old Age Insurance system is designed to protect against a specific risk—the loss of earnings due to retirement; the elimination of the test would transform the program from one of social insurance to one in the nature of an annuity payable at a fixed age.

Those who defend the test also point out that a great majority of older persons who are eligible for Old Age Insurance would not be helped by the elimination of the test, either because they cannot work, they earn less than $2,100 a year or they are age 72 or older. The elimination of the test would, therefore, pay a premium to people who are fortunate enough to be able to continue in employment after reaching retirement age, as opposed to those who are forced to retire because of health or other compelling reasons. Moreover, much of the additional benefits which would be paid out as a result of further liberalization of the test would be paid, not to persons who receive low social security benefits and who worked in covered employment at low wages, but rather to retired executives, professionals, and other similar persons having little or no need for supplemental earnings.

Finally, it is agreed that repeal of the retirement test without reduction of other benefits, would add a substantial cost element to the Old Age Insurance program.

Our organizations recognize that further liberalization of the retirement test is not merely a philosophical, equitable or economic issue, it is also an emotional one. This was clearly demonstrated at the 1971 White House Conference on Aging and continues to be reflected in correspondence from our members.

Communications from our members remind us that the older American feels abused by the retirement test. He argues that he should not be deprived of his Old Age Insurance benefits because he engages in paid employment, particularly in the light of the fact that his non-working neighbor, with substantial income from stocks and bonds, receives his full benefits. To the older American, this is discrimination in favor of the well-to-do and a reward for idle living. Since the test penalizes productive labor, the older person considers it a violation of the work ethic. No amount of logical argument as to cost or the need to make way for younger workers is likely to dissipate this feeling.

Your proposal would not abolish the retirement test and cannot, therefore, be opposed on the grounds that it effects a change in the basic nature of the Old Age Insurance program. Moreover, since it would allow persons with lower Old Age Insurance benefits to earn more than persons with higher benefits, it would be less costly to the social security system than, for example, would be a liberalization of the test to $4,000 for everyone. By channelling social security trust fund resources to those persons who have greater need therefor and in a manner that is not wasteful in comparison to the past practice of simply raising the ceiling of the test and thereby benefiting many financially secure persons, much of the increased benefits which would be paid out would be paid to persons who receive low social security benefits and who worked in covered employment at low wages.

Sincerely,

CYRIL F. BRICKFIELD,
Legislative Counsel.

DECORUM IN DEBATE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. BAUMAN) is recognized for 5 minutes.

Mr. BAUMAN. Mr. Speaker, yesterday during debate on the Emergency Energy Act, there occurred an exchange between myself and the gentlelady from New York (Ms. ABZUG). The result was a ruling by the Speaker that certain words used by the gentlelady from New York were to be stricken from the RECORD.

I returned to my office last evening to find a telegram from Clarence Mitchell, director of the Washington Bureau of the National Association for the Advancement of Colored People, in which he said in essence that I had attacked the gentlelady from New York and that my objection to her words was "wholly unfair" and "gave comfort to those who are the enemies of civil rights."

In response to Mr. Mitchell, I have today sent him the following letter which I would like to share with the Members:

CONGRESS OF THE UNITED STATES,
Washington, D.C., December 14, 1973.
Mr. CLARENCE MITCHELL,
Director, Washington Bureau, National Association for the Advancement of Colored People, Washington, D.C.

DEAR MR. MITCHELL: I have received a copy of your telegram to Congresswoman Abzug together with your comment regarding my so-called "attack" on her.

Apparently, you do not know that the rules of the House of Representatives require that no Member impugn the motive of another during debate. There is no restriction on discussion of an issue on its intrinsic merit, but to pass from that level to a discussion of the personal character or motivation of another Member is forbidden. The point of order that I made was upheld yesterday by a ruling of the Speaker of the House when he struck the offending words of Congresswoman Abzug from the Record.

Passing along to the merits of your remarks, I must confess that what amounts to your attack on me is "wholly unfair," to borrow you phrase. I am not an enemy of civil rights, and I happen to believe that one of those civil rights is the right of parents to have their children educated at their neighborhood schools. At least 221 other Members of the House share this position based on yesterday's vote. In my own District black parents and white parents alike have rejected long distance hauling of their children in the name of some mythical good.

I had the pleasure of serving in the Maryland State Senate for three years with your son, State Senator Clarence Mitchell, whom I count as a friend. If you will consult with him, you will find that my reputation is one of fairness in debate and a high degree of tolerance for other people's views. In fact, earlier this year, as a State Senator, I repeatedly voted with your son against efforts to limit debate in the Maryland Senate on an anti-busing resolution. Although I favored the resolution, I also respected the right of Senator Mitchell and others who opposed it to speak at length. I do, however, believe that freedom of speech requires a degree of responsibility which must be exercised by those of us in Congress if we are to achieve any lasting good for the people of our country.

I look forward to working with you in what I am sure are our common goals.

Faithfully yours,

ROBERT E. BAUMAN,
Member of Congress.

I again restate my firm belief that the conduct of debate in this House can be kept on a level consistent with civilized discourse and that to do so will produce a far better end product when the laws of this Nation are written.

THE FAILURE OF CONGRESS TO DEAL WITH THE ASSAULT ON PRIVACY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Massachusetts (Mrs. HECKLER) is recognized for 60 minutes.

Mrs. HECKLER of Massachusetts. Mr. Speaker, I have taken this Special Order today to discuss some of the issues which most observers find are connected to the issue of privacy. That opening sentence is purposely somewhat vague, for no one could possibly discuss in an informed manner all the incredibly wide range of problems about which privacy questions have been raised, nor has anyone formed a truly inclusive definition of privacy.

And, Mr. Speaker, the major burden of my remarks today will show that the Congress of the United States has not met its clear responsibilities to deal with this most essential part of civilized living. Indeed, our response puts some new meaning in the shopworn line: "If you are not part of the solution, you are part of the problem."

We truly are part of the problem for, rather than mitigating, controlling, or even understanding the sophisticated new technology creating invasions of privacy, we have allowed massive invasions of everyone's privacy. As an attempt to correct the dismal record, I have introduced House Resolution 633 along with 20 cosponsors to create a Select Committee on Privacy and I have taken this Special Order today to attempt to lay out on the public record at least a portion of what so truly troubles so many of our fellow citizens.

Nothing more clearly shows that we are not an anticipatory body here in Congress than the current energy crisis. There have been many warnings through the years that we have been profligate with our natural resources and the suddenness with which the moment of truth has arrived highlights our shortsightedness.

I believe that the privacy guarantees contained in the Bill of Rights, particularly in the fourth amendment, assuring that no searches or seizures will take place without a warrant obtained on probable cause, are what provide the flow of energy within the rest of the Constitution. A lack of privacy is just as disastrous to a free democracy as a lack of energy is to an industrial society.

Everyone has his own favorite quotation defining privacy, and here are some which say far better than I why privacy is regarded as so important. Perhaps Yale Law School Prof. Charles Fried captures the human aspects the best:

> Privacy is the necessary context for relationships we would hardly be human if we had to do without—the relationships of love, friendship and trust. Intimacy is the sharing of information about one's actions, beliefs, or emotions which one does not share with all and which one has the right not to share with anyone. By conferring this right, privacy creates the moral capital which we spend in friendship and love.

Princeton's renowned Cromwell Professor of Law, William Beaney counteracts the often heard thought that people who care for privacy really want to flee from modern life:

> It should be made clear that the privacy to which all persons may lay claim is not a sterile or outmoded individual assertion. It is not a claim restricted to an aristocratic class, or to a few eccentrics who might prefer to resign from the human race . . . A freedom to determine the extent to which others may share in one's spiritual nature, and the ability to protect one's beliefs, thoughts, emotions, and sensations from unreasonable intrusions are of the very essence of life in a free society.

I do not want to turn my speech today into a collection of the great quotations but the most important danger to those of us in this Chamber and to all of us in government who do not take forceful action to protect our citizen's privacy is suggested by a stanza of King Gama in Gilbert and Sullivan's "Princess Ida":

> I know everybody's income and what everybody earns.
> And I carefully compare it with the income tax returns.
>
> To everybody's prejudice I know a thing or two.
> I can tell a woman's age in half a minute—and I do!
>
> Yet everybody says I am a disagreeable man!
> And I can't think why!

Invaders of privacy in positions of authority are loathed with quite good reason, as Gilbert writes. I believe that the failure of the Congress to address itself to the problem has caused some of the disenchantment with Government that is now so widespread in America today. And it began long before the gross, stupid and un-American act of breaking into a political party's headquarters to install wiretapping equipment and it continues today almost unnoticed among the bombshells of Watergate-related horrors.

Although a number of the following examples admittedly appear Orwellian, they are issues that concern many in the Congress and in the field of privacy and I feel we know far too little about them. To be an anticipatory body these issues should be raised in a public forum such as the Select Committee on Privacy that we are proposing, where the future implications for our society can be thoroughly discussed, understood and safeguards against abuse can be built in before they reach the crisis stage.

BEHAVIOR MODIFICATION DRUGS TO CHILDREN

I believe that a Select Committee on Privacy could take action, for example, on the appalling fact that 600,000 American grammar school children are now receiving dangerous chemicals, most often the amphetamines or Ritalin, to alter their behavior. These chemicals are often given under dubious control and with only cursory examination of the child in order to correct what is known as minimal brain dysfunction. The children which exhibit the behavior so labeled are restless, inattentive, uncomfortable with discipline; in short, all too often they exhibit just about every sign a normal, healthy child displays. But some are separated out for behavior modification therapy and are drugged for their own good.

Or is it for their own good? Might it better be described as being for the good of the overburdened schoolteacher, for the harassed parent, and for the school administrator who wants education to be delivered efficiently and economically? This problem was first brought to public attention when it was discovered that black children were receiving the drugs and has produced predictions that perhaps one-third of all ghetto children would someday be given amphetamines and Ritalin. An article in the authoritative "Journal of Learning Disabilities" puts it bluntly: "Disadvantaged children function similarly to advantaged children with learning disabilities."

But it was only after our now defunct Right to Privacy Subcommittee of the House Government Operations Committee held pioneering hearings that specific doubts began to emerge. Just recently it has been shown that food additives are linked to hyperactive behavior. On June 27, 1973, the prize winning science reporter of the Washington Star-News, Judith Randal, commented on this finding and Morton Mintz also reported on the study in the Washington Post of October 29, 1973.

This is highly significant because ghetto children unfortunately do not have the same good nutrition that most children with more advantages have, and so logically more of them will exhibit this sort of behavior. In addition, another study has demonstrated that hyperactive children seem to have a higher concentration of lead in their blood and many of us are aware of the controversy over poor children eating the peelings from lead-based paints.

And so it may be possible that the "experts" who predicted the zoom in the use of amphetamines and Ritalin were counteracting the effects of one chemical with another.

This, of course, is not to say that the use of drugs on carefully screened children should be stopped. However, I am not convinced that many parents and physicans are adequately alerted to the emerging doubts about this therapy. I understand that a major network will shortly have a special on the subject of drugs to kids and will report that as high as 80 percent of the use of this therapy in some areas of the country is unjustified. I would argue that a Select Committee on Privacy would be an excellent forum to air this controversy.

PSYCHOSURGERY

On March 2, 1972, Judith Randal of the Washington Star-News asks a question which, while advanced in the context of psychosurgery, is a question asked with growing alarm by many in America:

> Is there any length to which society will not go to suppress behavior it considers deviant?

She was responding to the publication of the first information about the return of psychosurgery and lobotomy, a massive article by Dr. Peter Breggin which can be found in the Congressional Record of February 24, 1972, and which, together with another article by Dr. Breggin, "Psychosurgery for the Control of Violence," in the Record of March 30, 1972, began the current debate over the irreversible mutilation of healthy brain tissue in order to deal with psychological problems. Five hundred to 600 such operations were performed last year, according to the most respected estimate, and those targeted are mostly old people, women, and most incredibly children allegedly suffering from minimal brain dysfunction. In one case in Mississippi, a boy of 9 has had several such operations.

Certainly a Select Committee on Privacy would correct the present Congressional Record on consideration—a part of one morning's hearing in the Senate—particularly in view of the obvious threat such a surgical technique has to inmates in prisons or mental hospitals. Dr. Robert Neville of the Institute of Society, Ethics and the Life Sciences, among the many outside groups studying the ramifications of psychosurgery, puts the threat well:

> It can be the cheapest and easiest treatment to adopt for controlling patients and therefore potentially dangerous, especially because it can be used improperly to subdue aggressive dissidents on the theory that they're diseased.

William Buckley on "Firing Line" the other evening raised some serious doubts about the safeguards surrounding this procedure.

A Select Committee on Privacy could constantly monitor new developments in psychosurgery to, at the very least, limit its application to carefully selected individual cases if, indeed, it is a valid technique in any case.

BIG BROTHER AND PSYCHOTECHNOLOGY

That is the title of a most interesting article in the October 1973 issue of Psychology Today by Dr. Stephen L. Chorover of Massachusetts Institute of Technology. I will insert this article into the RECORD at the conclusion of my remarks today because he surveys the entire scene of behavior modification in a provocative manner, although I do find his analysis of the Pentagon Papers case somewhat overdrawn and I am not sure his discussion of the heroin problem will find many sympathetic ears in this Chamber. But, unfortunately, I do agree with a most damning remark he makes in his conclusion:

> For too long the "experts" and the politicians have been allowed to carry on a mutually self-servicing dialogue. They assert that there are certain "basic issues" in every important policy matter that are either too complicated or too sensitive for the average citizens to deal with. This position can never be justified in a society that claims to be democratic.

I suggest, Mr. Speaker, that Dr. Chorover is correct not because of a basically evil design on the part of politicians, but rather because we have not equipped ourselves with the tools, here in the Congress, to understand, assess, and hopefully influence the activities of those who modify the behavior of Americans. A Select Committee on Privacy would allow us the opportunity to create a formal body in the House, with adequate staff assistance, to speak to the "experts" on their own terms and bring fundamental human concerns to bear on this aspect of the "technology of behavior," in B. F. Skinner's particularly repugnant phrase. After all, since $283,000 of the tax dollars of Americans were granted by the National Institute of Mental Health to Dr. Skinner, giving him time to write his best-selling book, "Beyond Freedom and Dignity," should we not spend a few thousand dollars here in the Congress to defend freedom and dignity and make them real for more of our citizens?

THE COMPUTER

Upon seeing the word "computer," some of my colleagues will immediately contend that the problems associated with electronic data processing are already being addressed by the House and, therefore, a Select Committee on Privacy is redundant. I am aware that certain aspects of computer technology are under discussion, particularly proposed legislation to control dissemination of arrest records by a subcommittee of our Judiciary Committee and the access of individuals to their own computerized records by a subcommittee of our Government Operations Committee. I applaud Chairman DON EDWARDS for his continuing hearings on the "Security and Privacy of Criminal Arrest Records" and Chairman WILLIAM MOORHEAD for his ongoing hearings on "Records Maintained by Government Agencies," as well as my colleagues—and, incidentally, cosponsors of House Resolution 633—Congressman ED KOCH, BARRY GOLDWATER, JR., and others who are trying to deal with these complex and immediate problems created by computerization. MIKE HARRINGTON will have excellent remarks on this subject later in the debate today.

Interestingly, the computer industry is in the forefront of those looking to the Congress to provide ground rules for the way their machines are used. Mr. Robert P. Henderson, vice president, of the Honeywell Corporation in Boston, and a constituent of mine, in testimony before Senator ERVIN on Federal data banks, computers and the bill of rights observed:

> I feel that the phenomenal speed and efficiency of the computer has raised the processes of data collection, storage, retrieval, and dissemination to the point where it will be easier to invade the privacy of our citizenry. To prevent that, I believe that we must make personal information a property right, with all the protections and guarantees of due process that our laws provide for property.

As vital as these steps are, however, they deal only with the most obvious, albeit the most damaging to personal privacy, aspects of the problems posed to America by computerized data banks. But there are other, almost unknown applications of computer technology which present subtle threats to the very fabric of our society. When a Select Committee on Privacy is established, I would expect one of its first actions would be to hold a strictly informative series of hearings to publicize exactly what the state of the art is in the following areas and to determine whether they are truly in the public interest.

1. THE COMPUTER AS CRYSTAL BALL

Last week in Atlanta, the National Council of Juvenile Court Judges, recipient of Law Enforcement Assistance Administration funds, held a 3-day National Symposium on Computer Applications in the Juvenile Justice System. Three investigators from the University of Pennsylvania's College of Human Development, who have received LEAA funds, presented a paper entitled "A Computer Assisted Evaluation and Prescriptive System for Juvenile Delinquents." I will include that speech in the RECORD, not because it is any more threatening or because the system it describes is any more advanced than others, but only because it is the most recent example I have which discusses the use of the computer to predict individual behavior. As I understand the system, "an automated process for generating recommendations" will help "the probation worker to develop meaningful recommendations." The worker dealing with the juvenile fills out a check list rather than writing a report, the list is fed into a computer, and the probation officer acts on the individual's case in accordance with what the computer recommends. According to the paper, "experimental implementation in select probation departments has become a reality" and thus the system already has contributed "to the accurate identification of a youth's developmental needs and problems and to determining the most appropriate dispositions for fulfilling those needs."

Let us not forget that our children are individuals and that they do not deserve to be saddled with predictive behavior all their lives as a result of some tests and a computer when they were 6 years old.

Although I do not wish to hold this proposal up to special criticism, for it is indicative of a national trend, however, I cannot resist from wondering what a College of Human Development is doing prescribing future behavior for juvenile delinquents with law enforcement funds.

I am offended by yet another of those acrid acronyms which afflict our scene. The project is called the Computer-Assisted Regional Evaluation System and I presume that all doubts are to be laid to rest because the acronym is CARES. Could anyone criticize a computer who cares?

CARES is another LEAA funded project now in its third year. All around the country, the computer is being used to score psychological tests and, because of its speed and accuracy, it is being used to identify potential drug users, truants, and delinquents. In 1965, hearings were held in the House and in the Senate on psychological testing, but at that time, few people understood that scoring and evaluating those tests would soon be inexpensive and would not depend solely on highly trained individuals. Since psychological tests are used to label children and thus alter, in either subtle or obvious ways, what is expected of them, these specific computer applications can make the discredited plan of Dr. Arnold Hutschnecker a reality. In 1970, he proposed to give every 6- to 8-year-old child in the country a test which would predict whether that child would swing toward violence in later life. A massive public outcry followed the unearthing of Dr. Hutschnecker's proposal and it was discarded. But we might note that the first phase of lobotomies in this country, which mutilated the brains of some 50,000 citizens, was stopped because of the development of shock treatment and drug therapy. A question I would propose for the Select Committee on Privacy would be whether Dr. Hutschnecker's plan, killed in the sunlight of publicity, may not be going forward in the shadowy bowels of projects like the Computer Assisted Regional Evaluation System. Right now, all we in the Congress are saying is who CARES?

2. THE COMPUTER AS EAVESDROPPER

Electronic eavesdropping is often considered to be a wasteful tool of law enforcement because of the expense in monitoring and transcribing conversations. Now, a technology is in the development process which will allow voice-prints to weed out of a babble of voices the single individual who is of interest to the eavesdroppers. This technology may well make all current debate over electronic surveillance outmoded. A Select Committee on Privacy could discover exactly how listening is being done, if not who is doing the listening.

3. THE COMPUTER AS A POLLSTER

The ability of the computer to analyze massive amounts of information about individuals may contain an ultimate threat which goes far beyond the invasion of personal privacy. Computer programs are being devised to determine what motivates the individual and what his most basic drives are. Governmental agencies and private firms are then able to predict the behavior of the citizen and to know what his response will be to specific stimuli.

In July of 1971, Victor Zorza, the famed expert on Soviet affairs, wrote an article which puts the most ominous threat in stark terms. He describes plans for a national computer network in Russia and how thought control is its basic purpose. Mr. Zorza writes:

> But the main purpose of any such system would be to prevent any disloyal ideas from even taking shape in the heads of Soviet citizens . . . the full record of his psychological characteristics and actions would be used to devise an approach that would quickly persuade him . . . that his best interests require him to conform to the political guidance of his spiritual advisor at the KGB.

CONCLUSION

The potential of the computer to induce conformity is, I feel, at the basis of many of the 1984 and brave new world fears about the computer. Only a Select Committee on Privacy could possibly raise this issue, and many others I have discussed, because only a Select Committee on Privacy would be free from specific areas of jurisdiction or oversight of ongoing programs and would have the capability to ask the experts: Where are you taking us? And once that question was answered, then the question could intelligently be raised: Is that where we, as a Nation, want to go?

As I believe I have demonstrated, the power of the computer coupled with behavior modifying drugs and techniques provide an overwhelming new tool for invading the sacred privacy of individual Americans and our entire society. This is no longer a theory, it is now an industry.

But, Mr. Speaker, when these ideas and proposals for House action have been discussed in the past—as they have on far too few occasions—they have been dismissed with the thought that these concerns are like the doom and gloom prophecies of Cassandra. But we forget a very fundamental truth about that old myth: Cassandra was always right. However, now that so many of the most grim projections have come to pass in modern America, I believe the time has arrived when we in the House of Representatives must seize our responsibility to participate actively in the shaping of governmental policy in an area which affects the basic human rights of each of our constituents. Privacy is not an issue which separates liberal from conservative, black from white, rich from poor, or Republican from Democrat. There is nothing partisan or ideological in protecting human rights.

Rather, privacy is an issue which unites us all as Americans, and as human beings concerned about our future, the future of our country, and, most important, the future of our children.

Mr. Speaker, I would like to insert the following relevant materials, however, due to limits on length of extraneous material, I can only insert the first items and will submit the other material next week:

LIST OF MATERIAL TO BE ENTERED IN RECORD

First, "A Computer Assisted Evaluation and Prescriptive System for Juvenile Delinquents," by Fred W. Vondracek, Ph. D., Hugh B. Urban, Ph. D., William H. Parsonage, M.A. of the College of Human Development of Pennsylvania State University presented at the National Symposium of Computer Applications in the Juvenile Justice System, Atlanta, Ga., December 6–8, 1973;

Second, "The Psyche and the Surgeon," by Lee Edson of the New York Times Magazine, September 30, 1973;

Third, "Drugging and Schooling," Trans-Action, July/August 1971, by Charles Witter;

Fourth, "In Defense of Privacy," New York Times, December 11, 1973, by Tom Wicker;

Fifth, "Study Links Food Additives to Hyperactivity in Children," Washington Post, October 29, 1973, by Morton Mintz;

Sixth, "Additives Blamed in Child Ills," Washington Star-News, June 27, 1973, by Judith Randal; and

Seventh, "Big Brother and Psychotechnology," Psychology Today, October 1973, by Stephan L. Chorover.

I include the following:

A COMPUTER ASSISTED EVALUATION AND PRESCRIPTIVE SYSTEM FOR JUVENILE DELINQUENTS

(By Fred W. Vondracek, Ph.D., Hugh B Urban, Ph.D., Wm. H. Parsonage, M.A., College of Human Development, the Pennsylvania State University)

Over the course of years the juvenile court systems of this country have been assigned a variety of tasks and responsibilities. However, although multiple and varied, they have generally been considered to be subsidiary to one principal objective, *viz.* the rehabilitation of troubled youths and their return to the community context as useful and productive citizens. In pursuit of this objective, the courts have been provided with considerable flexibility; a variety of options and alternative courses of action have been built into the system in order to maximize the capabilities of the courts for: (1) accurately identifying a youth's developmental needs and problems; (2) determining the most appropriate dispositions for fulfilling those needs; and (3) ensuring the satisfactory implementation of the dispositions chosen. The presumption has been that, given such latitude of operation, the courts would either have, or could develop, the necessary skills and procedures. Clearly, the extent to which juvenile courts have the capabilities for identifying problems, prescribing remedies, and implementing solutions, determines the degree to which they can be successful in fulfilling their mission.

This three-step process, i.e., determining whether (and to what extent a youth is struggling with problems in his development, what sort of remedial actions might be most appropriate, and what might be required in order to actuate suggested solutions, can be seen to constitute a succession of decisions about the youth and his life circumstance. Decisions are judgments made by people, and the exercise of judgment requires three principal ingredients: 1) a set of *standards* or criteria in terms of which the judgments will be made; 2) a collection of *information* relevant to the criteria employed; and 3) a *set of rules* governing the manner in which the information will be weighed or evaluated in relation to the standard(s). In any human organizational system, decisions will be found to vary widely (if not wildly) whenever multiple individuals collect varied and heterogeneous information and apply it in an unregularized fashion to judgmental criteria which vary from one person in the system to the next. Such is often the case within juvenile justice systems where a variety of people are involved, each one looking at the youth from his own vantage point, often with differing information about the youth at hand. making judgments according to differing sets of principles, and frequently with conflicting objectives in mind.

A significant contribution to the improvement of juvenile court systems operation would be the development of an information processing system which could provide relevant, comprehensive, and maximally. objective information pertinent to the decisions or judgments which need to be successively made. Such a system would apply a set of evaluative rules or procedures to the information in systematic and regularized fashion, and it would utilize standardized criteria in order to produce reliability of judgments from one instance to the next. The overall effect of developing and implementing such an information processing system would be to replace the heterogeneous and typically incomplete informational base of the multiple human processors in the system with a single, integrated information and evaluation base.

Successfully constructed, such a system would provide an array of considered judgments, constitutiing recommendations to those persons in the system who are explicitly charged with the responsibility for emerging with conclusive decisional judgments concerning the youths in question. It is through the utilization of computers that information processing systems can be developed which to facilitate the formulation of effective decisions at the critical decision points within the system.

Figure 1 represents a flow-chart depicting the overall process of juvenile justice as defined by recent legislation in the Commonwealth of Pennsylvania. It is reasonably proximate to the operational sequences governing juvenile courts in other states as well. Inspection of this flow-chart will identify the major steps to be followed in the handling of juveniles brought within the purview of the system. A number of options are associated with the steps.

The sequence of operations is therefore reducible to a succession of decision-points; these critical decision junctures are identified by groupings of various options listed at the top of Fig. 1.

The first decision point, *viz.* (1) the decision to refer or not refer the juvenile to the juvenile court, can take place outside the system, although it is a decision which is often made in consultation with representatives of the system as well. All other decisions are made essentially "within" the system, including: (2) whether to establish jurisdiction; (3) whether to file for court action or to seek an alternative instead; (4) whether to arrange for an adjudicatory hearing or to take some other formal court action; (5) whether to adjudicate the youth as delinquent, or to dismiss; and (6) whether to implement remedial procedures in relation to the kinds of problems the youth represents and the treatment resources which are available.

Effective decisions at each of these junctures are essential if the system is to accomplish what it is designed to accomplish, i.e., if it is to successfully do its work. An integrated information processing system for the juvenile court would go a long way toward facilitating the formulation of effective decisions at each of these decision-points.

There is one decision point, however, which in the eyes of many encompasses the single most critical set of judgments which court systems endeavor to make. These are the decisions which follow after the court has chosen to exercise jurisdiction and to proceed with adjudicatory action with respect to a particular juvenile. It is the point at which the court system attempts to decide what is amiss and what therefore needs to be done. It is the final decision point in the figure above, pertaining to the court's dispositional decision.

Information which is the basis for the dispositional decisions is collected, summarized and evaluated in what can be referred to as a *bio-psycho-social investigation;* in more typical parlance it is referred to as a pre-sentence investigation. It is on the basis of judgments made in relation to the information gathered in such an investigation that decisions are reached which have far-reaching and significant consequences not only for the youth and his family, but also for the efficacy and the credibility of the system as a whole. Consequently, the informational requirements for this phase of the juvenile court procedures may be viewed as constituting the heart of the entire decisional system.

THE CARES PROJECT

The Computer-Assisted Regional Evaluation System (CARES) project has addressed itself to the development of a comprehensive information-processing system for the juvenile court. The focus of these research and development efforts, now in their third year, has been on providing sophisticated information summaries and evaluations regarding a youth's developmental status, designed to serve as the basis for optimal decision-making within the juvenile court system. From the outset it was recognized that utilization of traditional methods and technologies would prove to be insufficient for accomplishing this objective. The task of ordering, synthesizing, and processing the very large amounts of information necessary for good decision-making, would strain the intellective capabilities of even the most highly trained professional. Moreover, the cost of employing the necessary numbers of such highly trained professionals would be staggering. Fortunately, the emergence of readily available on-line computer systems appears to provide a vehicle for accomplishing the task in an efficient and economical manner.

The use of computers in the Administration of Justice System is not new, particularly in the areas of simple information storage and retrieval. Most computer specialists, however, will observe that computers used for data storage and retrieval purposes only are grossly under-used. A computerized information system, properly developed and fully utilized, should make use of the computer's capability for carrying out highly complex manipulations, including decision-making. It is in this capacity as decision-making aide that the computer can ultimately provide its most important service to the juvenile justice system. The CARES project is firmly based on that assumption.

INFORMATIONAL INPUTS OF THE SYSTEM

The ultimate success of utilizing the computer as an aid in decision-making depends to a large extent upon the quality of the data submitted to the computer. Even the most sophisticated manipulation of the data by the computer cannot produce an acceptable output if the data input is initially unsatisfactory. Consequently, automation of the predisposition investigation requires careful refinement of a data collection procedure which satisfies not only the requirements of the system's users, but also the special requirements of the computer system itself.

The processing of sophisticated information from the juvenile investigation through the computer necessitates a certain amount of structure in the investigation itself; it also requires a prestructured means of recording the data that is collected in the process. The basic aim is to facilitate recording of the data and its transmission to the computer with translation held to a minimum, i.e., the data that is recorded can be submitted to the computer "as is," or without converting it to another form. The use of checklist formats has been shown to be quite suitable for achieving these objectives without restricting the interviewer unduly. The present authors feel that a number of improvements in the juvenile investigation can be realized from the use of such computer-compatible-checklist formats, provided they are embedded in a training program for their use. The improvements can be summarized as follows:

1. The organization of the data recording forms creates a pre-organization or structure for the interviewer, thus facilitating an orderly sequence of data collection and comprehensiveness of coverage.
2. Objectivity in recording the data is enhanced due to the fact that responses are marked immediately on available forms, thus preventing selective forgetting or "interference" from other cases seen between the interview and the summarization or evaluation of the data.
3. Uniformity of the basic data is achieved, since the data is collected and recorded according to a standardized format, thus permitting comparisons across cases as well as summary statistical analyses.

In an effort to asure comprehensiveness as well as maximum reliability and validity of the data collected, the CARES procedure specifies collection of data from five specific sources: 1) the youth; 2) his mother or parents; 3) his teacher or teachers; 4) the school system in which the juvenile is or has been enrolled; and 5) the interviewer or data collector himself. Detailed data-collection forms, as well as a manual for their use, have been developed to ensure the most comprehensive and precise information possible.

Figure 2, Flow Chart for Computer Assisted Regional Evaluation System, depicts the flow of information from the initial transmission of the basic data to the computer to the final output of the system.

Inspection of this figure also suggests very clearly that the quality of the data submitted to the computer is crucial since it bears directly upon the nature and quality of all the outputs of the system listed at the bottom of the flow chart. It should be noted in this connection that the CARES procedure makes provision for the collection of a second set of data once the computer has evaluated the adequacy of the initial data input. This is based on the assumption that the initial data input is insufficient for an adequate case summary and for scanning the entire range of developmental problems likely to be found in a juvenile population, but that the in-depth evaluation of certain problems may require the collection and input of more specialized information regarding ·problems tentatively identified in the evaluation of the initial informational input.

In light of the varied and complex outputs required of the evaluation system, it is understandable that the data input requirements are substantial. Consequently, the entire data collection procedure for the CARES system has been designed so as to be: 1) *comprehensive,* in the sense that it would survey the youth's status with respect to all significant aspects of his development (physical, intellective, emotional, educational, social, etc.); 2) *selective,* and pointed toward the collection of data from various domains of the person's life which can be considered to be both essential and pertinent; 3) *developmentally oriented,* featuring not only an historical analysis and an assessment of his current status, but also an analysis of his circumstance in relation to his aspirations, goals and estimates of his future prospects; 4) *contextual,* in that the occurence of his behavior is studied in relationship to the situational conditions under which he is functioning; 5) *integrative,* in providing a common conceptual and language frame within which a wide range of observational reports concerning the youth become synthesized into a coherent summarization of his situation; and 6) *standardized,* so that systematic data becomes collected which is uniform across subjects; variations in response are then the result of the youths themselves rather than a function of the methods of data collection employed. The comparability of data collected in such a standardized fashion makes valid camparative analysis possible.

SUMMARY OUTPUTS OF THE SYSTEM

In Figure 2 are listed five primary outputs which represent the current products of the CARES system.

Case Summary. The first product, namely an automated natural language case summary, represents an attempt to lighten the burden of the probation worker by eliminating the tedious task of report writing. The logic by which the computer derives a natural language case summary is relatively simple. The first requirement is a file which contains a natural language equivalent for each possible answer on the juvenile investigation data collection forms. The second requirement is a file containing the actual answers submitted to the computer for any given case. Upon command the computer compares the two files and retrieves only those natural language statements which apply to any given case. The entire process of compiling the natural language case summary takes only minutes and in the final analysis permits the probation worker to spend more time attending to the needs of his clients.

Syndrome Analysis and Problem Summary

Although the natural language case summary will be of unquestionable help to the probation worker, it is the syndrome analysis and problem summary which may be considered the heart of the CARES system. In simple terms the syndrome analysis and problem summary attempt to provide the probation worker with a sophisticated and comprehensive analysis and summarization of the most pertinent problem areas contained in the raw data submitted about any given case. The typical probation worker will not have been trained to discover behavioral patterns indicative of the range of developmental disorders which can occur; the syndrome analysis is designed to assist in that task. It is also unlikely that the probation worker could recognize and adequately summarize all potential problems indicated in the raw data; the problem summary will serve this purpose as well. Fortunately, the computer memory can capitalize on the input of the best trained individuals in various specialties. The syndrome analysis and problem summary can be of such quality and sophistication as would be impossible if either the probation worker had to compile it on his own or even if he had the assistance of local professionals from various specialities.

The process of developing a computer program for the recognition of syndromes or patterns of deviant behavior is a complex task. The approach utilized in the CARES project capitalizes upon findings reported in a wide range of professional literature (e.g., corrections and probation and parole, criminology and delinquency, sociology, clinical psychology, and neuropsychiatry and medicine) instead of attempting anew to generate patterns from the collection of raw empirical data—which has been a more characteristic approach, and in the opinion of the investigators, a very wasteful strategy.

In terms of procedure, the development of each syndrome is a research project in its own right. First, the literature and research pertaining to any given syndrome is reviewed thoroughly, and descriptive statements are generated which are concrete, denotative, and explicit indicants of a particular pattern of behavior. Statements are used which in each case represent a consensus of observers. The statements finally are placed within a classificatory framework so that each syndrome description which emerges is a systematic and ordered representation of all those specific behavioral characteristics which observers agree to reliably recur together.

Secondly, items corresponding to substantiated research findings are identified in each of the nine modules of the CARES data collection procedures. Thirdly, the computer is instructed to recognize all items pertaining to a given syndrome and to assign differential weights to each item depending upon its significance as an indicant of the syndrome. Finally, depending on the degree of certainty with which a certain syndrome pattern is identified in any given case, the computer prints a syndrome summary or a request for further data pertaining to a given syndrome. These syndromes, for the most part, comprise those which are presumed to occur with some frequency in a typical juvenile population. They include such syndromes as: amphetamine users, chronic marijuana users, primary sociopath, gang member, the alienation syndrome, the compulsive syndrome, and many others. In order to provide a comprehensive coverage of the behavioral problems encountered by juveniles, it is anticipated that in addition to those syndromes developed as part of the CARES Project, others will have to be added eventually.

Although the syndrome analysis can be viewed in actuality as a process of identification, the CARES system also incorporates a more direct problem identification process. This process is designed to identify more straightforward and direct problems which do not require a complex pattern analysis as is the case with the syndrome analysis. Such straightforward problems could be obvious indications of dental problems, other illnesses, and clearly defined crises which are reported by individuals. Those kinds of problems clearly do not require a complex analysis for their identification. It is important, however, that they are called to the attention of the probation worker as soon as possible and, therefore, the CARES system requires that problem statements are presented in summary fashion along with the syndrome analyses performed on any given set of case data.

Recommendations and Resources Data Bank. The syndrome analysis and problem summary statement will be of great assistance to the probation worker in developing an understanding, the probation worker is asked to develop recommendations for the treatment and/or disposition of juvenile. The resource data bank which has been incorporated into the CARES system will be useful in helping the probation worker to develop meaningful recommendations. Probation workers often have difficulty in formulating remedial suggestions because they are not always aware of all potential resources available, not only within their own country but within a surrounding region. Furthermore, since a knowledge of the discrete problems of a juvenile is not sufficient for the development of good treatment recommmndations, the CARES system has an an automated process for generating recommendations based on the syndrome analysis and the problem summary. Such recommendations can be based on the most recent information concerning alternate methods of treating juveniles with various kinds of problems and problem-combinations. Some recommendations generated by the computer may not be feasible in a given situation, and therefore the computer program will generate a hierarchy of preferred recommendations for each individual based upon his individual syndrome analysis and problem summary. The probation worker will be able to choose from among the array of suggestions, those which he finds most useful in making his own final recommendations in the case.

The resource data bank is a critical component in the task of assisting each probation worker to reach his final recommendations. In essence, the resource data bank is a compilation of all the different services available, not only in the probation officer's county, but in the entire region as a whole. Based on this information the computer is programmed to accomplish a match/mismatch process to determine the most appropriate resource available for implementing the preferred recommendations in each case. Automation of this process will save considerable time for probation workers who otherwise would have to effect a time-consuming search for potential treatment resources.

CONCLUSION

The development of the CARES procedure has been underway for almost three years. Nevertheless, the task is far from completed. The design and operationalization of a complex system such as CARES is a multi-year undertaking requiring substantial resources, and many and diverse talents. Nevertheless, the system has developed to the point where experimental implementation in selected probation departments has become a reality. The primary purpose of experimental implementation has been to develop a means for systematic evaluation and feedback from those who use the system. Such feedback is then used by the research and development staff to continually refine and further develop the system. The participation of various professionals "on the front line" has been a distinguishing feature throughout the development of the CARES procedure. This policy has brought substantial benefits to the participating probation workers who have felt that they have learned much from their participation, and to the research and development staff who have found the constructive input from the probation workers an essential component of the overall system development effort.

In the view of the present investigators the CARES procedure holds considerable promise for assisting the courts to realize at least two of the three capabilities cited earlier as essential to the ultimate success of the entire juvenile court system. The CARES procedure can contribute to the accurate identification of a youth's developmental needs and problems, and to determining the most appropriate dispositions for fulfilling those needs. The third capability, namely that of ensuring the satisfactory implementation of the disposition(s) chosen, is something that the probation and court personnel can pursue with increased vigor and commitment due to the fact that a system such as CARES can indeed save substantial amounts of time and effort traditionally spent in pursuing the predisposition evaluation.

Mr. HARRINGTON. Mr. Speaker, technology has allowed us to gather, store, and disseminate vast amounts of information with great efficiency. Although we recognize the benefits that are derived, nevertheless, such technology has the potential of being used against the common good. I am referring to the invasion of individual privacy.

My colleague from Massachusetts (Mrs. HECKLER) has introduced House Resolution 633, of which I am a cosponsor, to create a Select Committee on Privacy. Such a committee, it seems to me, would provide a coherent forum which would enable Congress to conduct a thorough investigation of technology and its overall implications regarding the rights of citizens. I, therefore, commend the Congresswoman and join her in support of such an effort.

Too often we find ourselves without the ability to adequately analyze problems thoroughly, but instead only react relatively blindly to crisis. I imagine each of my colleagues will appreciate this as we move through the final weeks of the first session of the 93d Congress. Mrs. HECKLER's proposal would allow us to avoid this kind of uninformed response in the important area of personal privacy.

No government on Earth collects, records, and disseminates as much individualized criminal information as the United States. This collection and dissemination by Federal, State, and local government, if allowed to go unchecked, creates two fundamental problems. First, information from a personal data file may be disclosed to an unauthorized person. Second, such information may be false, incomplete, or disclosed in a misleading way, so that its recipient receives a mistaken impression of the individual in question.

An individual's ability to obtain employment can be severely affected by the mishandling of arrest records. In New York City alone, 75 percent of the employment agencies will not recommend an individual for employment if the person has been arrested, regardless of whether that arrest was followed by a conviction. This disadvantage is compounded by the fact that a large number of people are arrested, found not guilty and then released without charges being filed. The record states, however, that an arrest was made, but includes no follow-up information. This often leads to seriously mistaken assumptions about the nature of the arrest and works particular hardship on minority groups.

As Mr. Arthur P. Miller points out:

> It has been estimated that an extremely high percentage of black males in an urban ghetto have an arrest record by the time they are 18 or 21. In many cases, the records result from dragnet arrests, street cleaning operations, or a large number of innocent people are taken into custody. If their record simply shows arrests, we are, in effect, putting a cross on their backs in terms of getting them into the job and education market.

Problems can arise even if the record is complete. Let's take the example of the man whose record states that he was arrested, tried, and convicted under a law which has subsequently been struck down by the Supreme Court. He still has a conviction record.

The laws of privacy which have been developed deal mainly with misinformation which is revealed in the mass media. But if an individual's arrest record contains false information unknown to him, certainly we must provide that individual with forms of recourse.

The problem was not as acute years ago, because information collected was not as extensive or as accessible to various institutions. Technology has brought us to a point where the information goes from one agency to a university, to a corporation, to the States and cities without giving the individual the right of access to that file or the right to challenge its accuracy. In fact, he will seldom know it exists, and if he does, he will not know about its distribution to various public and private agencies and institutions. These problems grow more serious as the Federal data bank ties in with more and more State data banks.

These issues are exemplified by the relationship which has developed between Massachusetts and the Federal Government. In 1972, Massachusetts enacted the Criminal History Systems Act which created a statewide data bank and established strict regulations for the handling of that information. The system has been designed to tie into the FBI's national crime information computerized system, but, as I have pointed out, the Federal regulations do not provide adequate internal and external safeguards against potential abuse.

While the National Crime Information Center—NCIC—policy paper claims that "each record; for all practical purposes remains the possession of the entering agency," the claim is patently false. Once a State enters its records to the NCIC file, it loses control over the uses to which those records will be put by persons outside its jurisdiction. Once the information reaches the Federal level Massachusetts would have no assurance that this information would not be given to groups prohibited from receiving this information under Massachusetts law. Consequently, Governor Sargent has refused to allow Massachusetts to tie into the Federal bank until he receives assurances that the information will be handled in compliance with Massachusetts regulations.

I was pleased to hear that Mr. Clarence Kelly, FBI Director, recently stated that he would "welcome" legislation to place tight controls over the crime data bank in order to protect individual privacy. I would like to note that such legislation, including a bill I introduced, is already before the Congress. Although such legislation would deal with the major possible abuses, it would be difficult to enact legislation to cover every possible injustice which could arise without putting serious constraints on the criminal justice system. Further, many of the problems that arise from a crime data network are inherent in other areas as well, such as records gathered by other government departments and agencies.

I, therefore, believe that a Select Committee on Privacy would enable us to consider the problems as they relate to all areas and allow us to put them in the proper perspective. It seems to me that it would also provide a tool to help us strike a proper balance between the need to gather, store, and disseminate information, and the need to protect privacy. I, therefore, urge all my colleagues to give support to House Resolution 633.

Mr. DUNCAN. Mr. Speaker, privacy is something like the weather; everybody talks about it but nobody does anything about it. And those who are actively doing something about personal privacy, that is, invading it, are not doing any public talking.

That is why I believe very strongly in the Select Committee on Privacy embodied in House Resolution 633 and why I commend the gentlewoman from Massachusetts for taking this special order today. I believe we in the House ignore at our peril developments in the new technologies, techniques and attitudes to change, predict or manipulate the behavior of Americans. A cursory examination of the record we have made here in the Congress discloses that our response to ongoing programs that sound as if they had come from "Brave New World" may be described by saying "Let's wait until 1984 before we do anything."

Certainly the sudden energy crisis shows that the Congress is not an anticipatory body, but in the area of an understanding of the new technology if surveillance and manipulation of Americans, we have not even been a participatory body. We have let all the developments proceed, developments which outside observers and far too few within the Congress feel may change the daily lives and the most cherished beliefs of our citizens, without our concern.

I believe a Select Committee on Privacy could, at the very least, hold a series of strictly informative hearings to disclose where we are in these areas and then could ask an informed question: Is that where we want to go? At the very least, I see two problems which it would be negligent of the House of Representatives not to consider.

First, Mr. Speaker, is the computer. I have been impressed by the fact that computer industry spokesmen themselves have asked the Congress to become involved in the decisionmaking about what uses the miracle of electronic data processing will be put. For they recognize that theirs is a future-oriented business, and they look to the people's elected representatives to lay out certain ground rules under which they can retain and expand their remarkable record of growth. For it is not the machine itself which invades privacy; rather, it is the insensitive and threatening uses to which it is put.

By assembling huge computerized data banks about the lawful actions of American citizens, by weaving every action into an inescapable web, the independence and vigor which has given our society so much of its strength and prosperity may be in the process of being blunted. This is a more basic and more dangerous point than those which are now being addressed by committees here in the House, because, in my opinion and in the opinion of many informed observers, a sense of constant surveillance by total recordkeeping which is created by computerization, creates at least some of the disenchantment with the workings of Government and industry.

When every school record, for example, is forever embedded in a computer and may always be immediately available to a snooper, the obvious fact that many students take longer than others to develop their capacity and interests—the so-called late bloomer—can be used to deny deserved opportunity when the individual makes his own commitment to his own future. Law-enforcement records in computerized systems, even if they show the complete disposition of a case, are seen by many to be in the process of changing this Nation from its traditional role as the home of the second chance into a one-chance society.

And so, Mr. Speaker, informative hearings by a new Select Committee on Privacy which would not be limited by their focus on one specific problem defined by a piece of proposed legislation, could allow us to understand the computer and perhaps devise sensible solutions which would ease the minds both of the makers of the machines and those who now feel threatened by them.

The second crucial area is in the technology of behavior where by using surgical procedures, mood-changing drugs, or intricately conceived systems of reward and punishment, Americans are being convinced to change the way they live. After all, anyone who sets out to modify behavior must be modifying that behavior toward some standard he likes and away from some standard he dislikes. Whether this is what should go on in a democracy and whether massive amounts of Federal tax dollars should support it, are questions yet to be addressed coherently here in the Congress. Much is known about drugging grammar school children with dangerous chemicals to correct the syndrome known as minimal brain dysfunction which causes the child to be restless, bored, and inattentive; much has been written about psychosurgery which destroys healthy brain tissue in order to "solve" problems which seems to be psychological; and Harvard Prof. B. F. Skinner's book "Beyond Freedom and Dignity" was a best-seller last year. So we know what this industry is up to but we do not seem to ask its proponents any searching questions in the forum where such important issues are generally debated—hearings of a congressional committee. A Select Committee on Privacy would be the ideal vehicle to bring the doubts which so many Americans have about the technology of behavior to the attention of our colleagues and we could then have solid information on which to decide whether the public interest is really being served.

There are hundreds of other areas, Mr. Speaker, which demand prompt and sophisticated scrutiny and which the standing committees who have jurisdiction do not seem willing or simply do not have the time to explore in the depth which is demanded. For example, should we allow the social security number to become a universal identifier for every transaction engaged in by Americans? Are there really new devices, as has frequently been written, which can overhear any conversation and can identify any individual by his voice-print and, if so, do these new technologies of surveillance make our current laws about electronic eavesdropping outmoded? Is it really true that sophisticated computer analysis of massive amounts of personal data can devise accurate predictions of an individual's future actions? Is there really a lie detector, the psychological stress evaluator; which can accurately and inexpensively determine the truth of a statement at the time it is being spoken and, unlike the older polygraph, can this determination take place unknown to the speaker?

The answers to these and many other questions are unknown to the Congress, Mr. Speaker, and only a Select Committee on Privacy could investigate these matters and could bring to the Congress and the American people the kind of information which is so obviously necessary if we are to survive as a free society. I commend the lady from Massachusetts for taking this special order today and I am very pleased to cosponsor her resolution for a Select Committee on Privacy. The areas designed to study, including those I have spoken of in this speech and many other problems which will burst upon us in tomorrow's headlines, demand the concerned scrutiny of the Congress. If we let these problems slide by, if we drift toward what has been called post-constitutional America, we in this Chamber will find the most important decisions in American society being made without our understanding, control, or even influence. It is time to equip ourselves to take action.

Mr. THONE. Mr. Speaker, the right to privacy is one that is increasingly being violated in America.

Our freedom to mind our own business—and not have others mind it for us—is being threatened by both Government and business.

Earlier this year, we in Congress did succeed in repelling a threat to turn all tax returns of farmers over to the U.S. Department of Agriculture's Statistical Reporting Service. The agency said it wanted the individual tax returns only to make it easier to define those who raise various types of livestock and cultivate various crops. As I pointed out when the issue was first raised, most farmers would be glad to do without the information provided by the Statistical Reporting Service in order to keep USDA bureaucrats from snooping through their private confidential Federal income tax returns.

It was a good thing for America that we won this fight to protect farmers' tax returns. It was the first time that any Federal agency had ever asked for access to the returns of all those engaged in one occupation. If it had been carried through, it would have set a dangerous precedent.

Currently, I am cosponsoring a bill to safeguard the privacy of all tax returns. Present law states that an individual's tax return is a "public record." The bill I am cosponsoring would state that an income tax record is a "confidential and private record." This proposed legislation would take away from a President the power to open up tax returns by Executive order. The bill would lay down strict conditions for inspection of returns, largely only for tax administration and law enforcement.

In the field of Government, we must also move to protect the privacy of social security records from uses other than programs under the Social Security Administration.

In the area of business, Congress must move to protect employees from wiretapping by employers and to control the wholesale distribution of confidential information by data banks, credit and medical histories, insurance systems, and other forms of commercial reporting.

We are now just about 10 years away from 1984. We must make certain that the conditions predicted by George Orwell in the book, "1984"—where a citizen could not make a move without being watched over by Big Brother government—does not come true in America.

Mr. OBEY. Mr. Speaker, I wish to commend the gentlewoman from Massachusetts (Mrs. Heckler) for reserving this special order to discuss privacy. I think she put the subject in perfect perspective in saying that privacy "is neither partisan nor ideological in nature; rather, because it cuts across so many attitudes and viewpoints, it is truly at the core of freedom."

Privacy covers a lot. Sometimes it means our right under the fourth amendment to the Constitution to be secure in our persons, houses, papers, and effects against unreasonable searches and seizures. Sometimes, in the words of the television character, "The Prisoner," conceived and portrayed by Patrick McGoohan, it means, "I will not be pushed, filed, stamped, indexed, briefed, debriefed, or numbered." And other times it means, quite simply, the chance to enjoy solitude.

Today I am concerned with what Government and industry are doing to compromise our personal privacy: To intrude upon it and to excerpt our identities in the form of marketable, retrievable numbers and symbols. In my view, Government and industry have made great inroads upon our privacy, and I believe that we should be at some pains to see that these practices stop.

My purpose is to highlight as many of these intrusive practices as I can, in hopes that we can join forces to oppose them.

SAFEGUARDING CRIMINAL INFORMATION SYSTEMS

New Federal Bureau of Investigation rules allow a person to obtain a copy of his FBI "rap sheet," and the fact that this step should be regarded as progress shows how far we have to go to establish the right of privacy in criminal information systems.

The new rules allow a person the chance to change, correct, or update the information in his rap sheet, but leave him no way of knowing whether the revisions will ever reach all those who have used or seen the original record. On the surface the rules change looks welcome, but in reality it puts the burden on the individual to see that his record is current and accurate, rather than on the FBI and other law enforcement agencies.

Rules the FBI published November 28 allow a person to get a copy of his own rap sheet by submitting satisfactory proof of identity—name, date, and place of birth—and "a set of rolled-ink fingerprint impressions" taken on cards or forms that law enforcement agencies commonly use for this purpose. They also specify that payment of $5 be made in the form of a certified check or money order.

Between the fingerprint and payment requirements, it sounds harder for a person to obtain his own record than it is for some distant State agency that licenses barbers or plumbers. Furthermore, if a person finds his identification record is wrong or out of date, he cannot go back to the FBI to make the necessary changes. He has to apply to the agency that supplied the material in the first place.

A rap sheet is a listing of fingerprints submitted to the FBI in connection with arrests or, in some cases, in connection with employment, naturalization, or military service. The FBI has fingerprint files on more than 61 million persons.

All rap sheet information, including arrest charges and disposition, is obtained from Federal, State, and local agencies. The name of the contributing agency is noted on the record.

Mr. Speaker, at this point I should like to insert a copy of the rules as they were published in the Federal Register, along with an article headed "Effort Grows To Assist Job Hunters Haunted by Criminal Records," from the Wall Street Journal of November 13, and another, headed "Kelley Urges Law To Tighten Controls Over Criminal Data," from the Washington Post of November 20:

[Order 556–73]

Part 16—Production or Disclosure of Material or Information; Subpart C—Production of FBI Identification Records in Response To Written Requests by Subjects Thereof

By order dated September 24, 1973, the Attorney General of the United States directed that the Federal Bureau of Investigation, hereinafter referred to as the FBI, publish rules for the dissemination of arrest and conviction records to the subjects of such records upon request. This order resulted from a determination that 28 U.S.C. 534 does not prohibit the subjects of arrest and conviction records from having access to those records. In accordance with the Attorney General's order, the FBI will release to the subjects of identification records copies of such records upon submission of a written request, satisfactory proof of identity of the person whose identification record is requested and a processing fee of five dollars.

Since the FBI Identification Division is not the source of the data appearing in identification records, and obtains all data thereon from fingerprint cards or related identification forms submitted to the FBI by local, state, and Federal agencies, the responsibility for authentication and correction of such data rests upon the contributing agencies. Therefore, the rules set forth for changing, correcting or updating such data require that the subject of an identification record make application to the original contributing agency in order to correct the deficiency complained of.

The relevant provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rule making, opportunity for public participation and delay in effective date are inapplicable because the material contained herein relates to the interpretation of 28 U.S.C. 534 as allowing the granting of an exemption to subjects identification records and relief of prior administrative restrictions on dissemination of such records to them. Furthermore, it is deemed in the public interest that there be no delay in effective date of availability of identification records to the subjects thereof.

By virtue of the order of the Attorney General, dated September 24, 1973, and pursuant to the authority delegated to the Director, FBI by 28 CFR 0.85(b), Part 16 of 28 CFR Chapter I, is amended by adding the following new Subpart C:

§ 16.30 Purpose and scope.

This subpart contains the regulations of the Federal Bureau of Investigation, hereafter referred to as the FBI, concerning procedures to be followed when the subject of an identification record requests production thereof. It also contains the procedures for obtaining any change, correction or updating of such record.

§ 16.31 Definition of identification record.

An FBI identification record, often referred to as a "rap sheet," is a listing of fingerprints submitted to and retained by the FBI in connection with arrests and, in certain instances, fingerprints submitted in connection with employment, naturalization or military service. The identification record includes the name of the agency or institution which submitted the fingerprints to the FBI. If the fingerprints submitted to the FBI concern a criminal offense, the identification record includes the date arrested or received, arrest charge information and disposition data concerning the arrest if known to the FBI. All such data included in an identification record are obtained from the contributing local, State and Federal agencies. The FBI Identification Division is not the source of such data reflected on an identification record.

§ 16.32 Procedure to obtain an identification record.

The subject of an identification record may obtain a copy thereof by submitting a written request via the United States mails directly to the FBI, Identification Division, Washington, D.C. 20537, or may present his written request in person during regular business hours to the FBI Identification Division, Second and D Streets SW., Washington, D.C. Such request must be accompanied by satisfactory proof of identity, which shall consist of name, date and place of birth and a set of rolled-linked fingerprint impressions taken upon fingerprint cards or forms commonly utilized for applicant or law enforcement purposes by law enforcement agencies.

§ 16.33 Fee for provision of identification record.

Each written request for production of an identification record must be accompanied by a fee of five dollars ($5.00) in the form of a certified check or money order, payable to the Treasurer of the United States. This fee is established pursuant to the provisions of 31 U.S.C. 483a and is based upon the clerical time beyond the first quarter hour to be spent in searching, identifying and reproducing each identification record requested, at the rate of $1.25 per quarter hour, as specified in § 16.9. Any request for waiver of fee shall accompany the original request for the identification record and shall include a claim and proof of indigency. Consideration will be given to waiving the fee in such cases.

§ 16.34 Procedure to obtain change, correction or updating of identification records.

If, after reviewing his identification record, the subject thereof believes that it is incorrect or incomplete in any respect and wishes changes, correction or updating of the alleged deficiency, he must make application directly to the contributor of the questioned information. Upon the receipt of an official communication directly from the agency which contributed the original information the FBI Identification Division will make any changes necessary in accordance with the information supplied by the agency.

CLARENCE M. KELLEY,
Director,
Federal Bureau of Investigation.

NOVEMBER 21, 1973.

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EFFORT GROWS TO ASSIST JOB HUNTERS HAUNTED BY CRIMINAL RECORDS

(By Richard A. Shaffer)

A Vietnam veteran in his early 20s, long out of work, applied for a job a few months ago as a letter carrier with the New York post office. He scored high on the qualifying test. Nevertheless he was turned down because he had once been arrested, for possession of marijuana. He hadn't been convicted of the crime.

In Georgia last year, Unice Harbor, an experienced driver, was denied a job by Bowman Transportation Co., a Decatur trucking firm, because he had once been convicted of a felony: More than 10 years earlier he had pleaded guilty of robbery and been put on probation for a year.

Such frustrating experiences aren't news to anyone ever convicted of a crime or even charged with one. Law-enforcement records are readily available from local authorities and are widely used by employers. Millions of otherwise qualified workers find themselves last in line for decent jobs—or not in line at all.

As a result of campaigns against this sort of treatment, most states have passed laws sealing or annulling the records of some categories of criminals, such as first offenders who were granted probation. But because the records aren't actually destroyed, employers have routinely uncovered them anyway.

A NEW APPROACH

Now a new approach is emerging that promises to be more effective. A number of courts, state legislatures and government agencies are insisting that employers disregard criminal records unless they are clearly relevant to the job. While no one is advocating that banks be required to hire convicted embezzlers as tellers, plenty of people are advocating that a former drug addict, say, shouldn't be denied a job as a welder.

The new approach stems partly from a desire to improve job opportunities for members of minority groups. When Litton Systems Inc., a subsidiary of Litton Industries, refused to hire a black sheet-metal mechanic because he had a record of 14 arrests, a federal court ruled that to disqualify job applicants on the basis of arrest records was racially discriminatory because blacks were more commonly arrested than whites. This particular job applicant had never been convicted of any criminal offense.

In the wake of the Litton case—and of similar decisions by the federal Equal Employment Opportunity Commission—New York's Commission on Human Rights and the State of Illinois have recently declared it an unfair labor practice to turn down a job applicant merely because of an arrest record, unless state law makes a specific exception.

OPENING DOORS

Some observers believe that the new leniency will eventually open many doors that now are closed to the rehabilitated and the unjustly accused.

The Federal Bureau of Investigation says that at least two million of the 8.7 million Americans arrested annually for nontraffic offenses are never convicted. Legally they are presumed innocent, but most employers spurn them. The job-seeker with a mere arrest record is excluded by nearly a fifth of the several hundred state and local government agencies surveyed last year by Georgetown University's Institute of Criminal Law and Procedure. Such job-seekers are even more unwelcome in private industry, according to a 1962 study by sociologists at Yale University Law School who believe that the study is still valid.

Even bleaker are the job prospects of those actually convicted. For them, government agencies are among the worst places to go job hunting. Over half the states bar public employment to anyone with a criminal record, and while the federal government encourages others to hire former criminals, it often hesitates to do so itself. Few private companies ban such hiring, but experts believe that a widespread reluctance to hire ex-convicts has the same result as a ban.

OTHER BARRIERS

In addition to these barriers, myriad licensing requirements in various states bar ex-convicts from more than 350 different occupations ranging from fortune teller, barber and junk dealer to electrician, mortician and bartender, according to a study published this year by the American Bar Association's National Clearinghouse on Offender Employment Restrictions. (In the last two years, nine states have barred denial of such licenses solely because of a criminal record.)

These barriers undoubtedly contribute to the 15% unemployment rate among ex-convicts. It is largely because of this trouble finding jobs, penologists say, that one out of three ex-convicts soon returns to crime.

Probably few understand these frustrations better than Melvin Rivers, a director of the Fortune Society, an organization of ex-convicts. As a teen-ager, Mr. Rivers was convicted of assault and robbery. "When I got out, the one thing I wanted to do was go straight, get a job and settle down," he recalls. But that was far from easy to do.

Mr. Rivers found construction work closed off because, with a record, he couldn't get into the union. He could no longer sing with a group as he used to do because he couldn't get a cabaret license to sing anywhere that alcoholic beverages were sold. Most ironically, he couldn't even get a license to practice the one trade he had learned in prison, barbering.

At last, by lying about his past, he got a job scrubbing pots in a hospital. Five weeks later the truth was discovered. He was fired.

Mr. Rivers might have an easier time of it today because of the softening attitude. The softening, says E. Preston Sharp, general secretary of the American Correctional Society, is "no panacea, but it's an important step in the right direction."

KELLEY URGES LAW TO TIGHTEN CONTROLS OVER CRIMINAL DATA

(By Susanna McBee)

FBI Director Clarence M. Kelley said yesterday he would "welcome" legislation to place tight controls on criminal information systems in order to protect individual privacy.

In an interview Kelley, who has been the bureau's leader since July, said federal and state legislation to restrict the use of such systems would be "most acceptable."

He added, "I do not believe that we should have a carelessly administered system whereby there are possible leaks and possible inroads into what we have established as a secure system."

The issue has become important in police and civil liberty circles as more and more police departments are computerizing information about arrests, prosecutions, and sentences of crimes.

The FBI operates, the National Crime Information Center (NCIC) here, which contains computerized information on persons wanted for crimes, stolen vehicles, and criminal history files on individuals.

Civil libertarians contend that the criminal history segment which now accounts for only about 8 percent of all NCIC data, has inherent dangers because dispositions of cases are not always included and because unauthorized persons can gain access to the files. So far only six states have joined the national criminal history system.

Kelley conceded that there "could be a situation where the disposition of not guilty is not shown" on a person's criminal history file, and he insisted that the FBI is trying to correct the problem.

He said the FBI wants to build a system "so that dispositions come through immediately." He also agreed with a recent study of the National Advisory Commission on Criminal Standards and Goals, which says credit rating services and the media should not have access to criminal history data.

An FBI spokesman said later, however,

that Kelley favors the practice of bank officials checking FBI fingerprint files on prospective employees and that of state licensing agencies checking arrest records through local police departments. But the spokesman said Kelley does not approve of such information going to other private firms.

A 1971 decision in U.S. District Court here said the FBI had no statutory authority to hand out fingerprint files and arrest records to private employers, but since then Congress has passed riders to Justice Department appropriation bills giving the bureau some authority to continue the practice.

Kelley also discussed a Justice Department study of basic issues concerning the FBI—whether its intelligence gathering functions should be separated from its ordinary criminal investigations, how long the director should serve, whether additional guidelines for wiretapping should be established, and whether its investigative techniques should be revised.

The study was initiated by former Attorney General Elliot L. Richardson and former Deputy Attorney General William D. Ruckelshaus.

Kelley said the bureau has provided answers to about half the questions raised in the study, which has been slowed but not stopped by the departures of Richardson and Ruckelshaus.

The FBI director said he does not feel the bureau's intelligence gathering functions should be separated from its regular law enforcement work because, he said, "informants in a criminal field can and do turn up information valuable in a security investigation."

He said legislation dealing with intelligence gathering or surveillance would create "difficult" problems, but he disclosed that the bureau is considering changes in its investigative techniques.

Kelley said a task force is studying investigative operations in the bureau's New York office and hopes to apply its findings to other field offices.

He said he is not thinking of changing the FBI's use of informants, but he stressed that they should not become "provocateurs" or "violators of civil rights." As for charges that the FBI has engaged in burglaries in past surveillance activities, Kelley said, "I can assure you it's not going on now."

PRIVACY IN CREDIT INFORMATION

In an article in the Credit World for November 1973, Dr. Stanley L. Mularz acknowledges that the privacy issue is "still alive and kicking," then comments:

> Most of this concern is fantasy and it can be safely stated that no social crisis exists and that there is a lack of evidence to indicate that invasions of privacy are so widespread as to cause alarm.

His statement is sheer unsupported bravado. He gives no grounds for "safely" stating that no social crisis exists—only his own conclusion. He gives no hint of what, if anything, he would count as an invasion of privacy, but does suggest the invasions have to be "widespread" before he would become alarmed.

I also ask to include my weekly newsletter of last March 14 on the consumer's right to privacy:

Consumer's Right to Privacy

There is indeed such a thing as the consumer's right to privacy, according to the Federal Trade Commission, and the people who grant credit will have to respect it.

That's the gist of FTC thinking in ruling that credit guides may not be used for credit, insurance or employment fishing trips.

Credit guides are generally published by credit bureaus and leased on an annual basis to people who grant credit.

These "guides" are alphabetical listings of certain information, usually in code, rating each consumer as to how he pays his bills.

For example, a business dealing with a consumer rates the individual on a scale from 0 to 9 depending on the type of account, 9 being the most favorable rating a person may receive.

This information is assembled in a book called a "credit guide" which is distributed, for a fee, to all bureau members wishing to make use of the information.

When the FTC a year ago issued a proposed interpretation of the Fair Credit Reporting Act that would limit the use of these guides, it was deluged with protests from credit grantors who said they just couldn't get along without these bill-payer scorebooks.

Because of the outcry, the FTC withdrew its interpretation and held public hearings to give everyone a chance to speak his piece. And now the FTC has spoken.

These guides are nothing less than consumer reports, says the FTC, and while a recipient of the guide may well have a legitimate purpose in obtaining credit information on one or more of the consumers whose names are contained in it, no recipient "could conceivably ever have a transaction with every individual whose name is contained" in the guide.

Further, the permissible purpose for furnishing the consumer report must exist at the time the request for that report is made. It will not do to obtain the report merely on the chance that it might be needed later.

Existing guides must be recalled by Aug. 23, says the FTC, unless they have been modified to insure consumer anonymity—for example, by being number coded so that the consumer's identity is not disclosed.

The FTC explains that the history of the Fair Credit Reporting Act "reveals a concern for the consumer's privacy and the accuracy of information stored at credit bureaus, and demonstrates a sensitivity as to the balance between the free flow of credit information for legitimate business purposes and the right of the consumer to keep his affairs private."

In its handling of credit guides, I think the FTC succeeds in tipping that balance toward consumer privacy.

RESTRICTING THE USE OF SOCIAL SECURITY NUMBERS

On September 24, I introduced legislation (H.R. 10474) to prevent the Federal Government from using social security numbers as a cornerstone for building computerized dossiers on individual American citizens.

The bill establishes a citizen's right not to disclose his social security number to anyone unless expressly required to by Federal law, and prevents Government agencies and the business world from trafficking in these numbers if already on file.

It is my attempt to implement recommendations in the report, "Records, Computers, and the Rights of Citizens," submitted in July by the HEW Secretary's Advisory Committee on Automated Personal Data Systems, and to stop the number from being used, intentionally or unintentionally, as a standard universal identifier.

Mr. Speaker, I should like to include at this point a memorandum prepared for me by the Library of Congress on laws authorizing use of social security numbers as a form of identification and a portion of six different Federal forms, showing that each requests an applicant for some Federal benefit or honor to furnish his social security number:

[Form DSP-11, 3-72]

Department of State—Passport Application

(Before completing this application, read and detach Information for Passport Applications on pages 3 and 4) (Use supplemental sheets when the space provided is not adequate)

(To be completed by all applicants)

First name.
Middle name.
Last name.

I, ____________, a citizen of the United States, do hereby apply to the Department of State for a passport.

Mail passport to:
In care of (if applicable).
Street.
City, State, ZIP Code.
Phone Nos., Area Code, Home: Business:
Date of birth: Month, day, year.
Place of birth (City, State or Province, County).
Height: Ft. and in.
Color of hair (spell out).
Color of eyes (spell out).
Approximate date of departure.
Visible distinguishing marks.
Occupation.
Social Security No.
County of residence.
My permanent residence (Street address, City, State, ZIP Code) (if Mailing address, Write "same").

The White House Fellows Application

(In the following questions, indicate your answer or answers by circling the appropriate number or numbers at the right or by filling in the blanks provided)

1. Name (Last, First, Middle, Maiden).
   Mr.
   Mrs.
   Miss
   Ms.
2. Address (Number, Street, City, State, Zip Code).
3. Home phone (include area code).
4. Office phone (include area code).
5. Employer, job title, and total annual income.
6. Height without shoes: feet and inches.
7. Weight.
8. Birthplace (City and State, or foreign country).
9. Birth date (Month, day, year) Age.
10. Social Security Number.

Veterans Administration—Application for Medical Benefits

(Type of benefit applied for: 1, hospital treatment; 2, domiciliary care; 3, outpatient medical; 4, outpatient dental.)

1. Last name, first name, middle name.
2. Claim No.: C–
3. Social Security No.
4. Sex: 1, M; 2, F.
5. Name served under in military (If different from Item 1).
6. Religion.
7. Date and place of birth.

[VA Form 21-526 May 1973]

Veterans' Administration—Veteran's Application for Compensation or Pension

(Important: Read attached General and Specific Instructions before filling in this form. Typewrite, print or write plainly)

1A. First name, middle name, last name of veteran.
1B. Telephone No.
2. Mailing address of veteran (number and street or rural route, city or P.O., State and ZIP Code)
3. Social Security No.
4. Date of birth.
5. Place of birth.
6. Sex.
7. Railroad Retirement No.

8. Have you ever filed a claim for compensation from the U.S. Bureau of Employees Compensation? (Formerly the U.S. Employees Compensation Commission.) Yes; no.

9A. Have you previously filed a claim for any benefit with the Veterans Administration?

None.
Hospitalization or medical care.
Waiver of NSLI premiums.
Disability compensation of pension.
Vocational rehabilitation (Chapter 31).
Veterans educational assistance (Chapter 33 or 34).
War orphans or dependents educational assist (Chap. 35).
Dental or outpatient treatment.
Other (Specify).

9B. File number.

9C. VA office having your records (If known).

[VA Form 26–1880, Feb. 1973]

Veterans' Administration—Request for Determination of Eligibility and Available Loan Guaranty Entitlement

(Note: Please read instructions on reverse before completing this form)

To Veterans Administration. Attn: Loan Guaranty Division.

1. Last, first, middle name of veteran.

2. Address of veteran (No., street or rural route, city or P.O. State and ZIP Code).

3A. Date of birth.

3B. Social security number.

[VA Form 21–534, Nov. 1972]

Veterans' Administration—Application for Dependency and Indemnity Compensation or Death Pension by Widow or Child

(Including accrued benefits and death compensation where applicable)

(Important.—Read instructions before filling in form. Answer all items fully. Detach and retain only the instruction sheet. If more space is required, attach additional sheets and identify each answer by item number.)

1. Last name, first name, middle name of deceased veteran (Type or print).

2A. First name, middle name, last name of claimant (Type of print).

2B. Telephone No.

2C. Mailing address of claimant (Number and street or rural route, city or P.O., State and ZIP Code).

2D. Relationship to veteran (Check one); Widow; child.

3. If veteran previously applied to the Veterans Administration for any benefit insert claim number, if known.

4. Social security number of veteran.

5. Railroad Retirement No.

6. Veterans Administration Claim No.: XC–

Mr. STARK. Mr. Speaker, as a cosponsor of Mrs. Heckler's resolution to create a House Select Committee on Privacy, I would like to add to the discussion of invasions of privacy.

As a former banker, I was closely involved with the controversy over unlimited access to financial institutions. And as a Member of this Body, I am increasingly concerned that there is a need to take a profound look at the volume of personal data collected and held by various agencies of the Government.

The Secretary's Advisory Committee on Automated Personal Data Systems, HEW, recently published a study entitled "Records, Computers, and the Rights of Citizens." In his introduction Caspar Weinberger quite aptly noted that:

> Innovations now being discussed throughout government and private industry recognize that the computer-based record keeping system, if properly used, can be a powerful management tool.

However, he also cautioned that:

> It is important to be aware, as we embrace this new technology, that the computer, like the automobile, the skyscraper and the jet airplane, may have some consequence for American society that we would prefer not to have thrust upon us without warning. Not the least of these is the danger that some recordkeeping applications of computers will appear in retrospect to have been oversimplified solutions to complex problems and that their victims will be some of our most disadvantaged citizens.

It is to this point that I believe the Members of this body ought to address themselves. It is the very real potential for abuse of confidence that we must recognize. I firmly believe that the most effective mechanism available to us in studying this question is the select committee, and hope that my colleagues will concur in recognizing the need for such a group.

For the interest of my colleagues, I would like to include in the Record some excerpts from a statement I made earlier this year on my own experiences with abuses of confidence and privacy of financial records. I introduced legislation this session, with more than 100 of my colleagues, to strictly limit access to this information held by financial institutions. I hope that this bill will come to the House floor early next session. The Supreme Court will also hear the case that I brought in California on this issue early next January. It appears, then, that this particular area of invasion of privacy will be carefully deliberated. But computer-stored data, as a threat to privacy, is of infinite proportions. I sincerely urge my colleagues to support House Resolution 633 and urge the appointment of a Select Committee on Privacy.

The following explains briefly the history of my involvement with the issue of financial privacy:

Excerpts From a Statement Made by Congressman Stark

Under the Bank Secrecy Act of 1970, all financial institutions were required to keep complete records of all transactions. The Secretary of the Treasury was delegated authority to require complete records of any such institutions's customers. The financial institution might also be required, upon request of the Treasury Department, to submit the entire financial history of a particular customer to the Treasury.

The intent of Congress in passing the act was to provide to law enforcement authorities a sufficiently broad framework for criminal investigation. The practical question of access to this information, however, was never squarely addressed. The right of the individual to privacy was presumed to be implicit, and therefore not a point of contention in passing the legislation. It was generally understood that there must not be easy access to these records, but the act did not require the issuance of a subpena to obtain the information.

The bill I have introduced, H.R. 9424, resolves all the ambiguities in existing law relating to an individual's financial records. It clearly safeguards the individual's right to privacy with respect to his financial transactions and history. Specifically, the Right to Financial Privacy Act establishes four means of access to private records held by financial institutions: customer consent, administrative subpenas and summonses, search warrants, and judicial subpenas. Correspondingly, the act places an obligation on the financial institutions not to disclose information from customer records unless one of the above requirements has been met. In addition, it is stipulated that the information obtained by the Government must be used only for those purposes for which it was originally solicited.

The need for this act, while not resulting directly from the Bank Secrecy Act, stems from subsequent controversy over the precise interpretation of an individual's fourth amendment rights. At Senate hearings held last year on legislation to amend the recordkeeping laws, the Secretary of the Treasury admitted that subpenas are not required for the release of financial information. He suggested that as the 1970 act had not specifically addressed the matter of access to records, the Treasury could not take arbitrary administrative action to do so. It was therefore up to a bank to determine whether or not a subpena was necessary before records would be provided without the consent of the customer. The Treasury would take no position to supersede the bank's judgment.

In this situation, the privacy of a customer's financial records is dependent on the whim of his bank. Without his knowledge or consent, his entire financial history may be divulged. As he is unaware of official scrutiny, he cannot possibly challenge the dissemination of the information. There are no safeguards to protect this confidentiality.

In June 1972. I filed suit with the northern California ACLU and the California Bankers Association to test the constitutionality of this reporting system. The suit, asking for an injunction of the Bank Secrecy Act on the grounds that it authorized illegal search and seizure, was later joined by the Wells Fargo Bank. Bank of America representative Robert Fabian publicly voiced his own similar objections to the dangers inherent in the reporting provisions of the Act. He declared that "the regulations could undermine people's confidence in the banking system and the Government."

A Federal judge in San Francisco issued a temporary restraining order to prevent the act from taking effect. Subsequent to an appeals court decision, the Supreme Court is now deciding whether or not to hear the case.

This bill that I have introduced is not inconsistent with the esssence of the Bank Secrecy Act. It recognizes the critical need for a thorough system of record-keeping and reporting and upholds the requirements for reporting of information, subject to the previously mentioned limitations. Finally, the bill explicitly limits to two situations the Secretary of the Treasury's ability to require an institution to transmit reports or to keep records on customers. Such reports must either be required by the Internal Revenue Code, or by a supervisory agency. This, then, effectively repeals contrary provisions of titles I and II of the Bank Secrecy Act. However, I do not believe that their deletion in any way weakens the Bank Secrecy Act, or undermines its intent. Instead I believe it can only strengthen it, by removing any lingering doubt over possible or potential unconstitutional applications of its provisions.

This bill has already stimulated discussion. In particular, two areas of doubt have been raised, and I would like to attempt to answer them at this time. The first is criticism raised by certain members of the law enforcement sector—that the limits placed on the Secretary's right to obtain reports will inhibit important crminal investigation. I believe that the legal processes still open to any law enforcement officer under this Act are sufficient. This act simply guarantees that customers be notified and have an opportunity to respond to any attempt to gain access to their records except where the standard of probable cause has been met. Within the bounds of the fourth amendment rights, that is all that is constitutionally possible.

Others have objected to consideration of this act at this time on the grounds that airing of the issue may bias the upcoming decision of the Supreme Court to review the appeals case. It must be remembered, however, that legislative action will take precedence over court action in such a way as to render that appeal inoperative. If passed, this act answers all the charges filed in the original Californian suit.

Mr. WON PAT. Mr. Speaker, as a cosponsor of House Resolution 633, I join with my colleagues here today who have also given their support to this measure to urge that the House authorize the formation of a Select Committee on Privacy in the near future.

During the past decade, tremendous strides have been made in the field of computers. And today these electronic marvels contribute to making our lives easier by removing the drudgery of bookkeeping and other related work. In the process, however, the machines which were made to serve us have also compiled a frightening mass of information on almost every aspect of our daily lives. At a touch of a button, a stranger can now set a computer on a search that may reveal the most intimate details of our financial and personal lives. Nothing is considered too sacred to be fed into the computers in the name of efficiency: our financial statements, our tax records, our bank balances, our bills, and even comments concerning our personal lives made by our neighbors, coworkers, employers and businesses we frequent.

To Americans raised in the belief that our personal lives are nobody's business but our own, the ready availability of such information to almost anyone willing to pay for it is truly a matter of great concern, and well it might. For all too often we have found that this information can be used by individuals, corporations or even governments in their relentless drive for power.

In recent years a number of examples of the way in which data banks can be abused have come to light. The FBI, for instance, is known to have compiled a massive amount of information on the lives of many top Government officials, including Members of Congress. Other agencies are also known to have extensive files on thousands of individuals, many of whom have committed no crime other than to write an angry letter to some Government official.

Private industry has also gotten into the act. Numerous corporations, many involved in credit operations, maintain indepth files on citizens. The information contained in these files often is the sole arbiter of whether credit shall be extended to an individual. Prospective employers have also used credit files to ascertain the "character" of a potential employee. And jobs have been lost or won solely on the basis of what an impersonal file, compiled without our knowledge or permission, may have to say about us—regardless of whether this information is true or false.

The list of ways to invade our privacy could go on and on. I know that many of my colleagues will add to this awesome list.

What is important, however, is not so much how our privacy is being invaded, but what we are doing to stop this insidious encroachment of our freedom to live our lives without the ever-present threat of interference.

Congress must act to put a brake on those who would relentlessly snoop into our private lives. We must let those who deem it their right to snoop know that the American people will not condone their actions any longer.

I believe that the American people have a right to live their lives without fearing "Big Brother." Restrictions have to be placed on the type of information that can be compiled. And, equally important, restrictions must be placed on who can legally and morally have access to such information. Until such action is taken, the private affairs of Americans from Guam to New York will not be secure.

Our fellow Americans look to Congress to resolve this problem. I trust that my colleagues will join with the cosponsors of House Resolution 633 to support the prompt creation of a Select Committee on Privacy—a step which will ultimately lead to remedial legislation and one which will restore the public's faith in Congress' ability to take decisive action on a most crucial issue affecting each of us.

Mr. CRANE. Mr. Speaker, more and more Americans have become concerned in recent years over the many threats to their privacy from what they are increasingly coming to view as the Big Brother government in Washington.

These threats to privacy have expressed themselves in a variety of ways, such as the detailed census form which they are compelled to fill out under threat of prosecution. Initially, the census was devised as a means by which we might discover how large our population was and where it was living. The reason was simple: to apportion properly the Congress. Now, the census asks us a myriad of irrelevant and prying questions and coerces us into answering them. This is an invasion of privacy.

There was a time when civil rights legislation forbade discrimination on the basis of race, creed, sex, or national origin. Now, we have embarked upon a far different policy, that of enforcing artificial racial and sexual quotas upon employment. Rather than having a law which is "color blind" we are moving toward an ever-prying government which uses Federal aid as a basis for dictating to employers exactly how many employees he must have in each possible human category, whether sexual or racial. The Government requirement to keep records by race, sex, and national origin is clearly an invasion of privacy of both employers and potential employees.

The Department of Health, Education, and Welfare has used the medicare and medicaid legislation as the basis for invading the privacy of the traditional doctor-patient relationship. One interesting example of this abuse of power may be found in the story of St. Joseph Hospital in Thibodaux, La.

St. Joseph Hospital refused to provide Louisiana Blue Cross with what the hospital considered to be private and confidential medical records of patients who applied for medicare benefits. As a result, the General Counsel of the Department of Health, Education, and Welfare has ruled that unless "any records required are examined personally and first-hand by authorized personnel—whatever services are involved will be treated as unverified and refunds will be obtained." The HEW official states that:

> This includes the entire medical record.

The Government requirement in this case clearly violates traditional ethical medical procedures. The Health Insurance Council, which represents 89 percent of all private health insurers in the country, has stated that:

> As a general rule, certain information is not available from the hospital record for release to third parties. This includes such data as detailed psychiatric examination information, personal history of patient or family, etc.

The Council declared that:

> The information acquired in a doctor-patient relationship is generally considered to be confidential or privileged communication.

In its June 1971 issue, Privatê Practice, the journal of the Congress of County Medical Societies, reports the details which would be included in the information called for by HEW. One sample case history included the following:

> Crying, pessimism, bleak future, tension, headaches, nervousness—indefinite period actually, but inclined to date everything from the accident—lied to me at first, saying she hadn't been told a psychiatrist was called in, then inadvertently admitting it. Psychomotor retardation apparent. Unable to discuss more personal and intimate problems at this interview—She has taken an ovedose of pills on one occasion and I think she needs psychiatric assistance.

Does the Government, in order to fulfill medicare payment in the case of this patient, who was hospitalized for fainting at work, need to know the most intimate details of this individual's life, details obtained by a doctor in a confidential doctor-patient relationship? How many patients would tell their doctors any personal and intimate problems if they suspected that such information would one day find its way into the hands of Government bureaucrats intent upon keeping in Government files complete dossiers on the lives of all participants in Government programs? This policy is clearly an invasion of privacy.

Now, the medical profession and, with it, every American who becomes a patient, faces an even more dramatic invasion of privacy by government in the form of the Professional Standards Review Organizations—PSRO's—which begin in January 1974.

This law, initially presented as legislation which would save public funds, institutes local organizations—PSRO's—which will have the responsibility to see to it that doctors practice according to norms approved by a national council, which will include representatives of consumer groups and other nondoctors. A PSRO examiner will be in the position of challenging a doctor's professional judgment in a case. That examiner will not himself be required to have medical training.

Under this training, the principle of the confidentiality of the doctor-patient relationship will be seriously challenged. The doctor will be forced to reveal his records to PSRO inspectors, and if he is to be paid for the services he performs, he will have to abide by HEW guidelines. The doctor will, in effect, be little more than a Government bureaucrat—and his files will be open to public inspection. The PSRO legislation is clearly an invasion of privacy.

Federal aid to education has also fostered a variety of programs which clearly invade the privacy of students and their parents.

Writing in the November 4, 1972, issue of Human Events, Solveig Eggerz reports a mother in Wheaton, Md., who complained that her fourth grade child was asked in a social studies class such questions as:

> How is your mother? How is your father? Do you like having lots of boys in the family? Do you like your brothers like you like your boyfriends? Do you have fights at home? Do you wish you were the only child? Do your mommy and daddy fight? Do you and your parents love each other? How can you tell? How much does your father make at his job?

In another school an instructor is reported to have led a small group discussion called Contact. He probed into students' feelings about themselves, their families and friends in an aggressive manner. He pointed to one girl and addressed another asking, "What don't you like about her?" The first girl remained silent throughout the denunciation that followed. A parent who listened in was assured that "all personal things will remain confidential." These programs, often federally funded, are an invasion of privacy and are of mounting concern to parents throughout the country.

How much data which Government collects, often through coercive legislation, really remains secret and "classified?" Prof. Arthur Miller, in his book, "The Assault On Privacy," reports that MIT students in a project MAC—Machine Aided Cognition—were able to tap into computers handling classified Strategic Air Command data. If they can do this, any time-sharing user can tap into a computer data bank. Despite claims of confidentiality, there is presently no way in which computer personnel can guarantee their control over access. They cannot even guarantee that they can prevent rewriting of the information in the computer by outsiders.

The entire question of privacy in the modern, technological age is one which is becoming of increasing concern to Americans. It is the fourth amendment, ratified in 1791, that is considered the constitutional basis for the protection of the right to privacy.

It reads:

> The right of people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

This right has been traced to Roman Law. There are references to it in the Justinian Code and, earlier, in the writings of Cicero. Its actual origins go back to the Bible itself.

In an article concerning the relationship of the fourth amendment with ancient Biblical law, Rabbi Norman Lamm notes that—

> At the very beginning of the Biblical account of man, we are informed of the association of the feeling of shame, the reaction to the violation of privacy, with man's moral nature. Adam and Eve ate of the fruit of the tree of knowledge of good and evil, and after which "the eyes of both were opened, and they knew that they were naked; and they sewed fig leaves together, and made themselves girdles." The need to decide between good and evil gave man self-consciousness and a sense of privacy which was affronted by his exposure.

It is essential that Congress carefully review governmental invasions of privacy of our citizens and do everything possible to prevent such abuses of power. We must make certain that we, in the Congress, do not provide nonelected bureaucrats with such broad power that they are able to interpret their mandate as one calling for the invasion of privacy of individual citizens. If the right to privacy is open to question, all of our other rights will be equally vulnerable. This is the time to make clear that we will not tolerate any infringement of that right.

Mr. CHARLES H. WILSON of California. Mr. Speaker, I rise in support of House Resolution 633 to establish a Select Committee on Privacy. I agree that Congress needs a committee to fully evaluate the effects of technology on the operations of government, on the democratic institutions and processes basic to the United States, and on the basic human rights of all our citizens. While technology is advancing at an unparalleled rate and influencing every aspect of American life, I feel the Congress has not taken the time to first understand and then to possibly set legislative guidelines controlling such applications of technology.

A resolution similar in terms to House Resolution 633 was debated at length in the previous Congress. In addition to the general disinclination to create select committees of the House, sentiment was strongly expressed then that the subject matter of the resolution was within the jurisdiction of the Judiciary Committee. Without going into the merits of the jurisdictional issue at this time, may it not be argued that the Judiciary Committee is already sufficiently burdened, and that this problem cries out for the special attention to it that only a select committee can muster in the way of specialized member-interest, full-time staff, and expert witnesses? Do not a number of events associated with the Watergate investigation strengthen the case of the proponents of such a committee?

Intensive study of this complex and serious problem and well-thought-out recommendations by a select committee of the House are necessary conditions precedent to the consideration and eventual enactment of effective remedial legislation by the House of Representatives. Attempting to deal with these matters is too important a task to be left in abeyance any longer.

During the previous Congress, I had the honor to chair the Census and Statistics Subcommittee of the House Post Office and Civil Service Committee. Our subcommittee explored in great detail the methods and procedures used by the Census Bureau in taking the 1970 census. We were particularly concerned about the plethora of detailed questionnaires from the Census Bureau and other departments and agencies of the Federal Government which our citizens are required to answer. While I recognize the real need by the Government to obtain this data which will help to justify, continue, and support programs that benefit the entire community, it is doubly important to ensure that people's privacy is protected so that they do not rebel against the information gathering process and refuse to cooperate in future censuses and questionnaires.

I have therefore introduced H.R. 7762, which would amend title 13, U.S. Code, to assure confidentiality of information furnished in response to questionnaires and inquiries by the Census Bureau. This bill was reported out of the House Post Office and Civil Service Committee on June 4, and has been placed on the Union Calendar. The bill would also extend the responsibilities for confidentiality to all officers and employees of the Federal Government. H.R. 7762 is identical to a bill I introduced in the 92d Congress, and during the hearings which I chaired, it was shown time and time again by hundreds of concerned and sometimes irate citizens who communicated with us that they were anxious indeed about the preservation and protection of their personal privacy. But they were only a small sample of a much larger number of Americans who are similarly situated and similarly motivated. Recent surveys had demonstrated to the satisfaction of the subcommittee that an overwhelming number of U.S. citizens feared the regulation of their lives by computers and ancillary electronic hardware.

I believe that there is a profound need for all-encompassing review and recommendations for control of Federal prying and snooping into the private lives of American citizens.

Mr. Speaker, the time has come to enact this legislation to establish a Select Committee on Privacy. For as perhaps the most astute of the framers of our Constitution, James Madison, warned us:

> I believe there are more instances of the abridgement of the freedom of the people by gradual and silent encroachment of those in power than by violent and sudden usurpations.

Mr. HORTON. Mr. Speaker, I would like to briefly speak on the importance of House Resolution 633, which I am sponsoring with Congresswoman HECKLER, to create a Select Committee on Privacy. Although the select committee will have no legislative jurisdiction, it would be a forum staffed by experts and responsible to the House, to explore the impact of technology upon human dignity, freedom, and privacy.

One of the select committee's tasks would be to investigate the role of the computer in our public and private lives. Behavior technology is now predicting our thoughts and actions. Huge data banks in the private sector have extensive information concerning countless Americans, yet lie beyond the reach of the Fair Credit Reporting Act. Our 1966 Government Operations Subcommittee inquiry on privacy drew attention to the threatening proposal to join all Federal computer files in a national data bank. Despite the concern voiced at that time, the guidelines have yet to be established to prevent this from happening.

It is interesting to note that it is projected that the computer will be our Nation's largest industry by 1980, and the industry is looking to the Congress to provide an intelligent framework for its anticipated growth.

Apart from computers, a number of other areas need to be investigated by a Select Committee on Privacy. Our inquiry in 1970 revealed that behavior modification drugs had been used on at least a quarter of a million children. Pyschosurgery is being used with increasing frequency to control the behavior of those citizens who show only minor deviations from supposedly acceptable behavior. The establishment of fertility banks portends to be the first step in the development of eugenics in our society. All these techniques, and thousands more, are being encouraged by a naive philosophy which often places social engineering above personal liberty.

There are, of course, immense benefits to be gained from the wonders of modern science and behavior research, and it would not be the role of the select committee to blindly oppose change. What it could do, however, is restore some of the balance to the decisionmaking process and preserve the relevancy of the House of Representatives. While we authorize billions of dollars to find short-term solutions to immediate problems, we are not equipped to examine the possibility of antidemocratic results, and many people believe that we are ignoring, or even creating, long term problems. We are expected to be knowledgeable in the field of human privacy, but aside from occasional investigations on isolated proposals, the House still has no forum to weigh the effect of behavior modification.

I believe the modest amount we would spend to establish a select committee would allow us at least to understand the issues confronting us and permit us to ask the salient questions. It could have a major effect in preserving the confidence our citizens must have in their leaders if our system of government is to work. The select committee would do much to preserve the role of the Congress, the viability of our Constitution, and the freedom of our citizens. I urge my colleagues to support the establishment of this committee.

Mr. ROSENTHAL. Mr. Speaker, from 1965 until March 13, 1971, I was a member of a group within the Committee on Government Operations that was formally called at various stages of its existence the Special Inquiry on Privacy, the Special Subcommittee on Invasion of Privacy and which finally expired under the name of the Right to Privacy Inquiry of the Special Studies Subcommittee. According to published reports, this group received in its approximately 7 years a total of $75,000 from our Committee on Government Operations. There were periods of time when it had no staff aide, there were incidents when prospective witnesses could not attend hearings because of a refusal to provide for their expenses, and the atmosphere created was, to put it mildly, not conducive to the privacy work and not supportive of this group's activities. This group, under the leadership of our former colleague Cornelius E. Gallagher, suffered almost exactly the same kind of trouble within the committee as did my special consumer inquiry, which was also abolished on March 31, 1971.

In spite of these difficulties, however, the privacy group was able to hold pioneering hearings on psychological testing, the computer and invasion of privacy, credit bureaus and credit reporting agencies, and the administration of behavior modification drugs to grammar school children. Each of these hearings, and many other actions, brought forward information which a Select Committee on Privacy needs to follow up on, so that the opinions expressed at the time and which have been repeatedly confirmed since then can be fed into the formal decisionmaking process in the Congress.

I mention this background as an introduction to my remarks under Mrs. HECKLER's special order on privacy because I have a better reason to know than most of my colleagues just how insufficient and irrelevant privacy matters have been considered here in the House. For that reason, I am a very strong supporter of the proposal to create a Select Committee on Privacy which can bring a formal, well financed and well staffed congressional focus to bear on problems hitherto virtually ignored.

Mr. Speaker, privacy had been traditionally honored in many a public speech but in private or deep within the bureaucracy, it has been honored in the breach. I believe it is reasonable to suggest that the string of White House horrors which peaked at Watergate and which subsequently caused a fog of disrespect to settle over the entire executive branch stemmed, in part, from the clear message sent by the House of Representatives that we simply did not care enough about preserving the individual's right to privacy. Not only did we hold a pathetically small number of hearings on invasion of privacy but we passed such laws as the District of Columbia Crime Bill and the Omnibus Crime Control Act which legalized such invasions of privacy as no knock entry—if it was legal to break down the doors of a citizen's home in the dead of night, certain people may have thought that it was legal to break into the headquarters of a rival political party in the dead of night—preventive detention, wiretapping and other forms of electronic surveillance, and these laws' provisions which subtly shifted more and more power to the Federal Government and took more and more power away from the people.

In the New Yorker of March 25, 1972, Richard Harris concludes a brilliant description of unconstitutional, illegal and gross actions of the Nixon administration with these words:

> No one can say that the President has willfully set out to undermine the Constitution that he swore to uphold. But how would the results be different if he had?

On June 17, 1972, Mr. Harris' word "willfully" was given a whole new immediacy and the events since Watergate have created an informed reanalysis of exactly what Candidate Nixon meant in 1968 when he rode to power by cunning conceived lipservice to "law and order."

I recognize, Mr. Speaker, that the constitutional basis of privacy is embodied in the Bill of Rights and that, through the years and on specific issues, every range of political opinion in the United States has condemned invasion of privacy. Liberal and conservative, black and white, rich and poor, powerful and powerless, Republican and Democrat have all agreed that the concepts involved in a defense of the right to privacy was grounded both in their own self-interests and in the overriding interest of the preservation of a constitutional democracy. But unless those deeply felt beliefs have an institution within the Federal Government to give them voice, it is far too easy to ignore human rights in the pursuit of efficiency and economy or unbridled power.

I have long contended that institutions create policy, and who can say "at this point in time" that those who created and carried out the continuing series of Watergate horrors, did not know "at that point in time" that the House of Representatives had neither the structure nor the will to protect personal privacy? And now, the one formal organization which continues to exist and which could bring forward sound legislation, Senator SAM ERVIN's Subcommittee on Constitutional Rights, has been uncharacteristically quiet due to other important activities of its chairman.

And so, Mr. Speaker, House Resolution 633, to create a Select Committee on Privacy here in the House, is given an impetus which, in my view, is far greater than ever before. We simply must have a body within this Chamber which will demonstrate to our citizens that we have learned something and we cannot be diverted by other crises, such as the energy crisis, from accepting the responsibilities of our own oath of office.

Mr. Speaker, I commend the gentlewoman from Massachusetts for taking leadership in this area, especially for the insight she shows when she says,

> A lack of privacy is just as disastrous to a free democracy as a lack of energy is to an industrial society.

In his superb article, Richard Harris makes this comment with respect to governmental officials involved in the "law and order" crusade headed by Richard Nixon, John Mitchell and John Dean:

> None of these officials has acted or spoken in any way which would demonstrate an understanding of just how fragile a system our democracy is. If they do in fact understand that, then their official actions—in pressing for laws that can now be used to crush civil liberties, in prosecuting leaders of the anti-war movement to still dissent, in harassing the press to end criticism, in invading the privacy of tens of thousands of citizens to catch a handful of crooks, in illegally suppressing protest to show firm-

ness—must be taken as signs that they see the system's weakness as an opportunity, not a peril.

This particular group of officials has been exposed, Mr. Speaker, but the system's fragility remains. I believe the most important argument that can be advanced in favor of a Select Committee on Privacy is that that act will show to the next group of officials who are deluded by power that the system has been strengthened and that they will not succeed if they "willfully set out to undermine the Constitution."

ENERGY: CRISIS, CHALLENGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. FORSYTHE) is recognized for 10 minutes.

Mr. FORSYTHE. Mr. Speaker, over the years, Americans and American industry have developed a ravenous appetite for energy that has resulted in a glaring disparity between our available supply and the energy demand. Americans, who comprise 6 percent of the earth's population, last year consumed 40 percent of all the energy used in the world. In fact, the average American uses as much energy in just a few days as half of the world's population on an individual basis consumes in 1 year.

The origins of the energy crisis are numerous. The solutions are not easy. Americans have met crises before and we will meet this one also. Yet, the unanswered and nagging question is—why did not someone see the problem coming?

While the air is thick with accusations and countercharges, I believe that no one can escape some share of the responsiblity. In 1971 a special congressional task force studied the growth of energy demand and took a detailed look at ways to meet that demand. Unfortunately, their findings and recommendations went largely unheeded.

The President has consistently impounded funds appropriated by Congress for the research and development of new energy forms. Last year alone, the President impounded $54 million.

The public has grown accustomed to a cheap and abundant supply of energy and has become wasteful. Only until recently, the oil and power industries seemed to spend more time merchandising their products than in wise management and conservation. Still, the fact is, the United States is confronted by an energy crunch, and it makes no difference whether one praises the energy industry, the public, the Congress or the administration, for their foresight and accomplishments; or damns them for their sins. The problem exists and must be met.

The "solution" to the energy crisis lies in finding ways to conserve our existing supplies and to increase them. I would like now to examine both elements of that equation and place our options in focus.

A recent study estimated that through energy conservation consumption could be reduced by as much as 306.1 million gallons per day in 1980. This estimate is to be compared with projected 1980 oil imports of 386.4 to 487.2 million gallons per day.

The most significant energy conservation measures are the installation of improved insulation in both new and old homes and the use of more efficient air conditioners; a shift of intercity freight from trucks to rail, intercity passengers from air to rail and bus, and urban passengers from automobile to mass transit; and the introduction of more efficient industrial processes and equipment.

That a concerted energy conservation program can have a significant impact is demonstrated by the fact that the energy required for space heating in residential buildings—12 percent of our national consumption—could be cut in half if the efficiency of home heating units were improved and if homes were properly insulated. It has been estimated that the efficiency of most heating equipment now in use ranges from 35 percent to 50 percent.

In view of these facts, I have introduced legislation to provide individual homeowners with a greater incentive and ability to make energy saving home improvements to their residences. My bill establishes a low-interest loan program for the large scale expenditures often involved in improving the heating equipment or fully insulating a house. The loan would be provided at a 5 percent annual interest rate and would extend for 10 years, by which time the expenditures should pay for themselves through reduced fuel costs.

Significant energy savings can also be realized by reducing unnecessary automobile travel and by driving at a lower speed. With respect to the latter suggestion, I am pleased to note that the House of Representatives has recently approved legislation providing for a national speed limit of 55 miles per hour. This measure when finally enacted will save approximately 4.4 million gallons of gas per day. However, I do not believe that this measure goes far enough. If a 50-mile-per-hour speed limit were set an additional 6.8 million gallons a day could be saved.

During the debate on this legislation it was suggested that a different speed limit should be established for cars and trucks since truck engines are constructed to operate more efficiently at higher speeds. However, it remains my position that the relatively small savings in gas that would be realized by a differential speed limit do not justify the additional and serious hazards presented by trucks bearing down on slower moving automobiles, particularly in view of the fact that a truck, by virtue of its bulk, requires more distance to stop than a car.

The other part of this gasoline saving formula calls for the reduction of unnecessary automobile traffic. To achieve this goal the administration has been considering imposing a surtax of up to 30 cents per gallon of gasoline or rationing existing supplies.

In my view, an additional gas tax is not the way to go. Immediately upon learning that individuals within the administration were giving serious consideration to rationing gas through increased prices, I protested to Gov. John Love, who was then Director of Energy Policy at the White House. In my letter, I objected to the tax approach for the following reasons:

First. Increasing the price of gasoline for the purpose of rationing would only artificially add to an already serious inflationary situation, worsened by unemployment caused by a fuel shortage.

Second. Such increases would unconscionably discriminate against the poor, causing them to lose jobs because they could not afford to drive to work.

Third. It would only delay the decision to equitably ration fuel, but prices would be at far higher levels. And I said:

> It would be far better to put some bureaucrats to a little trouble to resolve this problem than to take the easy way out and drive another nail into the coffin of the poor.

While I recognize that rationing may become necessary, I do not welcome this eventuality as it will surely be an administrative nightmare. Nevertheless, I believe that rationing, at a later time, if necessary, is a better alternative than a gasoline surtax now.

If a rationing system is indeed needed it will be essential that the system be so structured as to recognize the needs of people who like many of my constituents depend upon their car for transportation to and from work and who do not live in an area adequately served by mass transit. These people have no real alternative to automobile travel. It is for this reason that I have consistently supported legislation to expand this Nation's mass transit system.

Carpooling is a reasonable alternative in the absence of adequate mass transit facilities. Every effort must be made to encourage carpooling. However, many people who reside in New Jersey for example find themselves confronted with a problem. These commuters are being discouraged from carpooling because of the Delaware River Port Authority—DRPA—refusal to alter the procedure by which it collects commuter bridge tokens. The present procedure restricts token use to specific vehicles and makes it impossible for members of carpools to share tokens and use different vehicles. I have proposed a feasible way to permit a more flexible usage of tokens and thus encourage carpooling. However, the DRPA has not yet taken action on my proposal.

Another energy conservation measure which I supported in the House provides for year-round daylight saving time. Significant savings can be realized from this simple change in time. Even after subtracting an increased morning usage of lighting caused by later sunrises, enactment of this bill will result in a daily energy savings of up to 18.9 million gallons of oil.

In assessing the potential for energy conservation, it is also important to address the question of institutional disincentives to energy conservation. I believe it is essential that the Congress reexamine our laws to see if they inadvertently discourage energy savings.

One such area is title II of the National Housing Act under the Federal Housing Administration. As the law now reads, the ceiling on FHA mortgages, $33,000 in the case of a single family dwelling, frequently dissuades homebuyers from installing energy conserving devices because of the higher initial costs of these devices. The long term effect of the limited ceiling discourages sales of energy saving devices and also discourages research into what companies see as a dead end market.

In order to conserve and allocate existing fuel resources the President has proposed cutting back on the volume of fuel certain sectors of the economy will receive. In determining how these resources are to be allocated our goal must be the equality of sacrifice, not the sacrifice of equality and I am deeply disturbed that the President's recent actions may result in the sacrifice of equality.

Recently, I wrote the President expressing my concern in this regard. In my letter I stated that:

> Americans are willing to sacrifice in the cause of America. But, most of us believe that the burden should be equally shared; that no individual or group should be exempt or treated with special favor. In my view, and in the view of many of my constituents who have written to me, this applies not only to automotive travel, and to our homes and offices, but to other forms of transportation and uses of fuel as well. As a matter of fact, many constituents are wondering about the necessity for Presidential trips to Key Biscayne and San Clemente, at a time when they are being asked to sacrifice.

I can point to many sectors which I do not believe are receiving fair and equal treatment. This situation must be rectified. The channels that are available for reviewing all allocation decisions must be used and must remain open. I do not believe that tactics such as those used by certain truckers to block traffic for hours are constructive.

If energy conservation has become a national goal, as it should and as it must, then why is the United States still exporting oil to other nations? Before racing to join the bandwagon of those public officials clamoring for an immediate end to all oil exports, I began an investigation regarding the destination and purpose of these exports.

The results of my study indicate that U.S. exports of nonfuel petroleum products amounted in 1972 to about 67 percent of our total foreign petroleum sales. Petroleum coke lubricants, petrochemical feedstocks, and special naphthas, not heating oil and gasoline, constitute the bulk of what we sell to foreigners. Further, these nonfuel items are derived from refining wastes and thus their production has no impact on the availability of crude oil that will be made into fuel oil.

When a comparison is made between U.S. exports of petroleum products used for fuel and the total American consumption of petroleum fuels we find that we are exporting the equivalent of about three-tenths of 1 percent of the national total. Within this framework, U.S. heating oil exports in 1972 amounted to fractions in the hundredths of 1 percent of all heating oil consumed in the United States.

With respect to the destination of these fuel oil exports, fully one-half go to U.S. Pacific Trust Territories. Another one-quarter, goes to Venezuela and the Netherlands. The Venezuelan exports are to provide a lighter oil, not available in Venezuela, that is required to thin down heavy Venezuelan crude. The blended oils are then shipped back to the Northeastern United States.

Fuel oil exports to the Netherlands are being used for blending with a high sulphur crude to reduce the sulphur levels to those required to meet U.S. environmental standards. The blended oil is then sent back to the United States. The remaining petroleum fuel that is exported is sent to the United Kingdom, Mexico, Denmark, and Japan.

The point is that if the United States cut off all petroleum exports without differentiating between fuel and nonfuel items our already serious balance-of-payments situation would be adversely affected. If, on the other hand, only fuel oil exports are curtailed, the United States will be unable to import oil drilled in Venezuela or refined in the Netherlands. The United States would be losing significantly more oil supplies than it would be saving. The purported advantages of embargoing oil exports does not, after careful analysis, appear as attractive as it does at first blush.

It has also been suggested that the United States use its general export as a weapon and cease all exports to those oil producing states which have embargoed oil shipments to this Nation. Such a proposal would have substantial merit if the volume or composition of U.S. exports to the Arab nations were significant enough to give this Nation an effective lever and trading point.

Recently the Department of State and the House Foreign Affairs Committee studied this question and determined that U.S. exports to the oil producing countries of the Middle East represent an extremely small part of their needs. If the United States banned all exports to the Arab nations, these countries could all too easily replace our manufactured products and foodstuffs with European or Russian supplies. Both the State Department and the Foreign Affairs Committee concluded that the United States had no effective leverage and that an export embargo would only further anger the oil-producing states.

It has also been suggested that the Congress and the Environmental Protection Agency relax certain environmental standards so as to permit the burning of dirtier fuels and reduce the need for the installation of energy consuming environmental protection devices. The problem is one of clashing national priorities. The decisions which will be made may affect the basic structure of our society and the quality of life in America for many years to come. These decisions must not be made in haste. They must be carefully weighed to achieve the optimal balance of national needs and priorities.

While energy conservation is the first part of the solution to the energy crisis, developing additional supplies is the other element. I was pleased to see the Congress approve the construction of the trans-Alaskan pipeline as this will enable the United States to take advantage of the rich reserves of the North Slope of Alaska. However, because of my deep concern for our Nation's environmental quality, I gave this issue a great deal of study. There was little doubt about the need for this project in terms of energy resources. Nevertheless, there was a significant debate over where an Alaskan route or a trans-Canadian route was environmentally superior.

There were several key issues which I considered, dealing with permafrost, seismically active land areas, base of spill cleanups, and caribou trails that would be crossed. I concluded that the Alaskan route, while not environmentally perfect, was the better choice.

Despite the tapping of this resource, the United States will still need to import oil. The problem is that most of the oil is being transported in supertankers of 200,000 deadweight tons or greater. These tankers require channel and harbor depths of 80 to 100 feet. Yet, existing North Atlantic harbors are only 40 to 50 feet deep and can receive ships no larger than 40,000 to 70,000 deadweight tons. These harbors have been dredged to the maximum possible depths already, and to reconcile the difference between our harbor size and the harbor size required by these supertankers, the President has recommended the passage of legislation authorizing the construction of deepwater ports.

There is universal agreement among energy experts that even if no deepwater ports were constructed, the volume of oil imported into the United States, particularly through the Delaware Bay route, will increase dramatically. This does depend to a large extent, however, on our negotiations in the Middle East.

If the oil must be brought ashore, are deepwater ports safer than mooring a supertanker in the outer reaches of a harbor and bringing the oil ashore in small ships—a process called lightering.

The Coast Guard believes that as smaller vessel traffic increases, so will the probability of oil spills. The Council on Environmental Quality estimates that based on the same volume of oil being delivered, a lightering operation would result in the spillage of 90 percent more oil than a deepwater port.

These facts are important in evaluating such a facility and were a central consideration when the House Merchant Marine and Fisheries Committee, of which I am a member, debated legislation regulating the construction of deepwater ports. The bill, which was favorably reported by the committee, was amended several times during the committee meetings. Without the acceptance of these amendments, I could not have supported the bill.

One amendment enables States adjacent to any proposed site to exercise an absolute veto over any proposal for a deepwater port facility. The committee bill, as originally introduced, required that the impact on the marine environment be a major consideration before any license for port construction was issued. However, the landside impacts of deepwater port facilities are of equal concern to me, and the committee accepted my amendment, which the committee accepted to also require consideration of the landside impact of these reports ashore.

Similarly, the legislation as originally introduced failed to require that public hearings be held before issuance of a construction license. Neither did it offer any protections for innocent third parties damaged by oil spills resulting from port operations. Nor did the original bill recognize the pressing need to improve existing oil spill cleanup technology.

Therefore, I sponsored a series of amendments to rectify these glaring deficiencies and to provide additional protection to the residents of coastal States. My amendments, which were all accepted:

Provided for the first time in maritime law a no-fault insurance fund to cover damage caused by oil spills. The fund, financed by a 2-cent per barrel fee charged to the owner of the oil, would cover damages up to $100 million per claim;

Authorized $10 million for each of 3 years for research and development to improve oil spill cleanup techniques; and

Required mandatory public hearings on all deepwater port applications. The original bill did not require such hearings.

However, the United States must no longer rely so heavily on drilled oil as an energy source. There is no shortage of power sources except in the case of drilled oil. What does exist is a serious shortage of research efforts that will enable this Nation to utilize these alternative sources.

The Department of Interior estimates, for example, that there could be as much as 7 trillion barrels of oil—42 gallons to a barrel—trapped in shale in the Northern Rockies—enough to make the United States self-sufficient for hundreds of years. Yet the technology for effectively extracting this oil and disposing of the substantial waste materials is not yet available.

Coal is our most abundant fuel resource, however. The potential resource base is on the order of 800 billion tons, an amount sufficient to last 1,500 years at the current rate of use. Not all of that coal is accessible with existing technology. But with existing technology, about one-quarter could be extracted, enough to last well over 300 years. Coal, unfortunately, is an environmentally dirty fuel and lost many of its markets to less expensive fuel oils and natural gas. However, coal can be converted into clean burning gas through coal gasification. Several major research efforts are underway to determine practical methods to accomplish this. To date, none of this research has come to fruition.

Solar energy would, of course, be an almost infinite source of power that has not been adequately researched and developed. Similarly scientists are now experimenting with a nuclear fusion process that if perfected represents an energy source of staggering proportions. The basis of the process is the hydrogen atoms found in water and the waste product is pure oxygen. Utilizing 1 percent of the world's water resources, the energy released by this process would amount to about 500,000 times the energy of the world's initial supply of fossil fuels.

Geothermal energy is electric power generated by steam released from naturally hot areas on the Earth or by the piping of briny hot water to vaporize a secondary "working fluid" which in turn drives a turbine generator unit. The United States is rich in geothermal energy resources, yet here again, no effort has been made to develop this resource.

As I said earlier, energy resources are not lacking. What is lacking is the technology to harness them effectively. Since coming to Congress I have consistently supported an expansion of this Nation's energy research and development effort. I have voted for expanded appropriations in this field just as consistently as the President has impounded them. In the 93d Congress, I have sponsored several energy research and development bills that I believe will provide the necessary funds and administrative machinery to increase the Nation's energy research effort to a meaningful level.

Mr. Speaker, there can be no doubt about the gravity of the crisis confronting our Nation. However, with proper energy conservation measures and intensified exploration of new energy sources I believe this is a crisis the American people can and will conquer.

IMPEACHMENT ISSUE: FISH OR CUT BAIT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Hampshire (Mr. Cleveland) is recognized for 5 minutes.

Mr. CLEVELAND. Mr. Speaker, on December 6, the gentleman from California (Mr. McCloskey) announced his intention to schedule a special order for discussion on December 11 of the need to dispose swiftly of the impeachment question. This has been postponed, understandably, in view of the crush of legislative business this week which includes virtual round-the-clock debate on the emergency energy act.

Yet I consider the question of such import as to merit my taking this means of sharing with my colleagues the thoughts I had hoped to express verbally on the floor this week.

I thank Pete McCloskey for his interest and leadership in this matter. As I understand it, his proposal is simply this: That the House fish or cut bait on the issue of impeachment. Another way of putting it—and here I allude to another expression of the New England point of view—we should either proceed promptly with an investigation of impeachment or get off the President's back.

Pete McCloskey deserves a word of praise for focusing on expediting consideration of the issue. Although there are those who are disposed to impugn his motives, I maintain allegiance to the American approach—outmoded, I fear, in the view of too many—of extending the benefit of the dobut.

I might say, Mr. Speaker, that this concern for rapid disposition of allegations against the President is shared by the dean of Senate Republicans, Mr. Aiken of Vermont, and Vice President Ford.

On one hand, the Committee on the Judiciary is to be commended for refraining to act in ill-considered haste. Certainly a commitment to due deliberation is warranted and appears to reflect my view that the case for impeachment has by no means been made. I, for one, will be most anxious to consider the committee's findings as a basis for my own judgment.

But on the other, undue delay would not serve the national interest or the cause of fairness to the President or the country. One month ago, we voted the Judiciary Committee ample funds—a million dollars. There is no reason why it should not report to us by February 15.

Mr. McCloskey's letter of December 6, 1973, follows:

House of Representatives,
Washington, D.C., December 6, 1973.

Dear Republican Colleague: It seems to me that the House of Representatives should move with all deliberate speed on the impeachment issue. Our duty to proceed with an investigation of impeachment is paralleled by our duty to assure due process of law to the President. As a potential criminal defendant, he cannot help but be under immense pressure and, correspondingly, of lessened ability to govern so long as the issue is unresolved. Therefore I suggest that we ask the Judiciary Committee to set a date certain to report back to the House a recommendation either for or against a bill of impeachment.

With the Committee serving as prosecutor and the full House in a grand jury capacity, 60 days should be adequate for any competent prosecutor's office to sift the evidence and analyze applicable law.

With all due respect for the serious issues which the Committee has had to deliberate before today, I think we should now ask them to return their recommendations to the House no later than February 15, 1974. I propose to take a special order to ask Chairman Rodino for a discussion of these matters following the close of business on Tuesday, December 11, and would invite you to participate in a colloquy with the Chairman and any other members of the Judiciary Committee who wish to discuss the matter at that time.

I enclose for your review some previous thoughts I have offered on the gravity of our special constitutional power and responsibility of impeachment.

Best regards,
Pete
Paul N. McCloskey, Jr.

A POOR PERFORMANCE IN THE HOUSE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. Frenzel) is recognized for 5 minutes.

Mr. FRENZEL. Mr. Speaker, the House's performance tonight is surely not one of which we can be proud. Tonight we have been compared to the Senate or to a zoo, and either, or both, is probably an apt comparison.

Our first mistake was to bring up this bill before any of us had copies of it. It is too important a bill to pull that kind of shuffle.

Our next mistake was the substitute amendment which greatly inhibited amendments. A rule with points of order waived and a substitute is about as restrictive as a closed rule.

The next mistake was the committee chairman's statement that he would try to see that all Members would have a chance to be heard. They did not have a chance.

The next mistake was the motion to limit debate to a few hours with nearly 80 amendments pending. It passed by one vote and effectively prevented dozens of Members from speaking in behalf of their amendments, after committee members had monopolized the previous 2 days of debate.

The last straw was the ludicrous performance of having this House cast repeated recorded votes on amendments with no debate and little idea of the issues. The constant demand for record votes made us look a little silly, and it reflected a great need to review our rules. But compared to the "gag-rule" motion it was protesting, the call for recorded votes was a minor outrage.

The House has performed well in difficult circumstances this year, but tonight, and this week, we could have used some leadership.

CONGRESSMAN DRINAN SPEAKS OUT ON PROPOSED REGULATIONS AFFECTING THE PETROCHEMICAL INDUSTRY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 20 minutes.

Mr. DRINAN. Mr. Speaker, out of the vast amount of confusion surrounding the future of our domestic industries in the face of the present energy shortages, a small bit of good news is available for the petrochemical industry.

On Wednesday, December 12, the Federal Energy Office issued the proposed mandatory petroleum allocation regulations pursuant to the Emergency Petroleum Allocation Act of 1973. These regulations assure resin manufacturers a continued supply of petrochemical feedstocks, with shortages spread out equally among all. They are at a great step ahead of the propane regulations which have been in effect this past fall, and which did not recognize the petrochemical industry as a priority user.

SUBSECTION D OF PROPOSED REGULATIONS

Two sections of the proposed regulations provide petrochemical feedstocks for the manufacturers of those resins, such as polyvinyl chloride and styrene monomer, which are so vital to the plastic fabricators of our country. The first of these is subsection D of the proposed mandatory petroleum allocation regulations. Subsection D governs the allocation of propane, butane, and propane-butane mixes to resin manufacturers. The "allocation fraction" to which these resin manufacturers will be entitled is determined by the total amount of their needs divided into the total of available supply. That is, if, as is the case, the petrochemical industry is entitled to 90 percent of what they received in the 1972 base year on a priority basis, and the availability of petrochemical feedstocks overall is 90 percent of what it was in the base year, then the petrochemical industry will be sure of receiving 81 percent of their feedstocks on priority basis. Petrochemical processors and resin manufacturers are declared priority users of propane, butane and propane-butane mixes. Under the regulations, they must be supplied for their priority requirements in accordance with the "allocation fraction." This will insure a steady flow of petrochemical feedstocks to this industry, with shortages within the industry spread about equitably.

SUBSECTION I OF PROPOSED REGULATIONS

Subsection I regulates the "other products" which make up approximately 50 percent of the petrochemical feedstocks used by manufacturers. The propane, butane and propane-butane mixes covered in subsection D make up the other approximately 50 percent. The allocation level of "other products" to resin manufacturers under subsection I is 100 percent to 120 percent of the amount used during the corresponding month of 1972. The regulations provide that each resin manufacturer will certify to his supplier the amount of petrochemical feedstocks necessary for him to meet his supply requirements to his customers, and that thereafter the resin manufacturers must be furnished 100 percent of the allocation level—or a pro rata share thereof of the shortage. Moreover, petrochemical feedstocks must be supplied up to 120 percent of the amount purchased during the corresponding month of 1972, and even more than that when the need is validated as provided by the regulations.

HELP FOR THE PLASTICS FABRICATORS

While the new regulations do not make direct allocations to plastics fabricators and other users of resins and petrochemicals, they do recognize the resin manufacturers as priority users, assuring them equitable and continued supplies of petrochemical feedstocks. I am hopeful that the continued supply of petrochemical feedstocks and the resins which are manufactured from them will be available for the plastics fabricators. Many resin manufacturers have kept faith with plastic fabricators since the shortages began, by not increasing exports of resins. Still others have indicated that they will not divert needed raw materials received under new allocation systems from fabricator customers.

The legislation which is before the House today, the Emergency Energy Act, contains an important section authorizing the new Federal Energy Administrator to restrict exports of petrochemicals. I offered my vigorous support to that section, and will continue to urge Administrator Simon to stop the export of petrochemicals. I also gave my wholehearted support to an amendment providing that the Administrator restrict the export of petrochemicals if the Secretary of Commerce or Labor certifies that such exports would increase unemployment.

I have previously written to Mr. William Simon, the Federal energy "czar" pointing out the urgent reasons why the petrochemical industry in America should receive the highest possible allocation of petroleum feedstocks. I have urged particularly that every possible consideration be given to the many newer companies in the petrochemical industry, where the average annual growth has been 7.3 percent for the past 5 years.

COMMENTS ON REGULATIONS

The regulations which have been printed in the Federal Register call for comments to be sent as follows: on subsection D, propane and butane, to William E. Simon, Administrator, care of Box 12, Federal Energy Office, 1016 16th Street NW., Washington, D.C. 20036; and on subsection I, other products, to William E. Simon, Administrator, care of Box 17, Federal Energy Office, 1016 16th Street NW., Washington, D.C. 20036. These comments must be received by December 20, 1973. I urge all interested parties to send their comments by that date.

These regulations are slated to become effective on December 27, 1973.

HISTORY OF PETROCHEMICAL INDUSTRY

I am hopeful that the regulations discussed about will provide relief for the seriously endangered petrochemical and plastics industry. There are 1,900 plants across the country where 300,000 people make their living by transforming petroleum raw materials into plastics, fibers, synthetic rubber, and a thousand other very useful everyday products.

The petrochemical industry consumes only 5 to 6 percent of the U.S. supply of natural gas and petroleum products. They utilize this petroleum feedstock not for fuel but for the basic raw materials from which they manufacture products which in 1973 will have sales of approximately $60 billion.

The importance of the priority classification given to the petrochemical industry is underscored by a recent study prepared by the Arthur D. Little Co. which projected that a 15-percent cutback in petrochemical feedstocks could result in the loss of jobs totaling between 1.4 and 1.6 million workers.

Mr. Speaker, the petrochemical industry needs its fair share of the 5 percent of the total petroleum sold in the United States each year. Petrochemical industry in the United States has no other source of its raw material except those feedstocks governed by these regulations. President Nixon has stated that the Federal Government in its allocation programs must make the preservation of jobs take priority over the convenience of consumers.

AID TO SMALL BUSINESS

Mr. Speaker, I think it is also essential that the Congress provide in the immediate future every possible remedy for small business enterprises that will be confronting severe strains because of the energy shortage. I have the hope that the House will subscribe to the language in S. 2589. The Senate passed version of the Emergency Energy Act, where in section 208(b) it is stated that:

> It is the sense of the Congress that small business enterprises should cooperate to the maximum extent possible in achieving the purpose of this act and that they should have their needs considered by all levels of gov-

ernment in the implementation of the programs provided for.

S. 2589 also provides that the Small Business Administration shall provide full information concerning the provisions of the bill to any small business concern that might be affected. The bill also stipulates that Federal Energy Administrator shall "seek the views of small business in connection with adopting rules and regulations."

In the petrochemical and plastics industry there is a special need of such provisions since this burgeoning field has seen many enterprising and creative individuals establish a very large number of smaller corporations.

Mr. Speaker, I hope also that the House will implement the objectives of title 5 of the Senate passed bill (S. 2589) wherein reemployment assistance is mandated, as well as loans to small businesses which may be adversely affected by the President's actions undertaken to conserve scarce fuels and to assure the continuation of vital public services. The norm used for the granting of loans to small business is the finding by the SBA that such a loan is required "to remain successfully in operation or at previous levels of employment."

Mr. Speaker, small businesses account for an estimated 50 percent of the Nation's jobs and almost 40 percent of America's gross national product. In the plastics and petrochemical industries I feel quite certain that these figures are substantially higher. The energy shortage is the first major national problem that has ever confronted the plastics industry. The phenomenal growth of plastics since the end of World War II—an annual average rate of 11.5 percent—indicates the unprecedented expansion which plastics have enjoyed in numerous and diverse areas of our economy. The allocations of petroleum discussed above will prevent closings of many plants with catastrophic effects spilling over into almost every industry in America.

SOCIAL SECURITY LAWS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. HOLTZMAN) is recognized for 5 minutes.

Ms. HOLTZMAN. Mr. Speaker, the present social security laws discriminate against those senior citizens 62 and older who must work to supplement their income. If they earn over $2,100 in a year, they are penalized by a reduction in their social security benefits. In addition, the law discriminates against working people by treating salary income differently than investment income.

I am today introducing legislation to correct these inequities. My bill would substantially increase the amount that senior citizens could earn without suffering any loss in their social security benefits. It would also end unfair discrimination against working senior citizens by treating income from all sources on the same basis.

For many of our elderly, the opportunity to earn additional income above the meager social security retirement level is discouraged by the so-called "retirement test," which reduces the individual's benefits if his earnings are in excess of $2,100. Although this figure will increase to $2,400 on January 1, I believe it still constitutes too harsh a penalty on those who are willing and able to remain in the labor force. Since this "test" applies only to earned income, it penalizes those lower- and middle-income citizens who work for extra income. For example, a person who gets $100,000 a year in dividends suffers no loss in social security benefits, but a person whose salary is more than $2,100 suffers a penalty. In short, the present system is geared to discriminate against those who need to supplement their income the most.

My legislation would raise to $4,000 the amount a social security recipient can earn without suffering a reduction in benefits. Beyond that level, $1 of benefits would be deducted for every $2 of income. In addition, my bill would take an important step in making the system more equitable by including all income under the retirement test, so that income from stocks and investments would be treated the same as income from salary.

I am not convinced that an earnings limitation is fair or at all necessary. However, it is clear that the present limit is unduly restrictive and an increase to $4,000 will enable many senior citizens to rise above the poverty level of income.

Although Congress has made several important changes that will provide increased resources to senior citizens to cope with the rising cost of living, there is far more that needs to be done. As of this year, a shocking 18.6 percent of our senior citizens live on incomes that fall below the poverty level. Many of my elderly constituents have told me that they come to know despair and fear in inflation that they never knew during the hardest days of the depression. Many feel betrayed by a system that promised "golden years" of security and dignity, only to offer hardships and inequities.

I believe these reforms merit a high position among our national priorities.

The text of my bill follows:

H.R. 11968

A bill to amend title II of the Social Security Act to increase to $4,000 the amount of outside income which (subject to further increases under the automatic adjustment provisions) is permitted each year without any deductions from benefits thereunder, but with a requirement that income of all types and from all sources be included in determining the amount of an individual's income for this purpose

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 203(f)(3) of the Social Security Act is amended by striking out "his earnings for such year in excess of the product of $175" and inserting in lieu thereof "his income for such year in excess of the product of $333.33⅓".

(b) Subsections (f)(1), (f)(4)(B), and (h)(1)(A) of such section 203 are each amended by striking out "$175" and inserting in lieu thereof "$333.33⅓".

(c) Section 202 of Public Law 93–66 is repealed; and the amendments made by such section shall be of no force or effect.

Sec. 2. (a) Section 203(f)(5) of the Social Security Act is amended to read as follows:

"(5) An individual's 'income' for any taxable year shall be the total of his gross income for such year for income tax purposes, as defined in section 61 of the Internal Revenue Code of 1954 and determined in accordance with parts II and III of subchapter B of chapter 1 of such Code; except that any amounts derived from or attributable to noncovered remunerative activity outside the United States (within the meaning of subsection (k)) shall be excluded."

(b)(1) Subsections (b), (f)(1), (f)(2), (f)(3), and (f)(7) of section 203 of the Social Security Act are each amended by striking out "excess earnings" wherever it appears and inserting in lieu thereof "excess income".

(2) The heading of section 203(b) of such Act is amended by striking out "Work" and inserting in lieu thereof "Excess Income".

(3) The second sentence of section 203(b) of such Act is amended by striking out "are less than such total" and inserting in lieu thereof "is less than such total".

(4) The heading of section 203(f) of such Act is amended by striking out "Earnings Are" and inserting in lieu thereof "Income Is".

(5) The first sentence of section 203(f)(1) of such Act is amended by striking out "are less than such sum" and inserting in lieu thereof "is less than such sum".

(6) The second sentence of section 203 (f)(1) of such Act is amended by striking out "are charged to months" and inserting in lieu thereof "is charged to months".

(7) The last sentence of section 203(f)(1) of such Act is amended by inserting "or" before "(D)", and by striking out ", or (E)" and all that follows and inserting in lieu thereof a period.

(8) Section 203(f)(2) of such Act is amended by striking out "(D), or (E)" and inserting in lieu thereof "or (D)".

(9) The first sentence of section 203(f)(3) of such Act is amended—

(A) by striking out "any earnings of such individual for the month" and inserting in lieu thereof "any income of such individual attributable to the month"; and

(B) by striking out "with any net earnings or net loss from self-employment in such year" and inserting in lieu thereof "with the income of such individual for such year".

(10) Section 203(f)(4) of such Act is repealed.

(11) Section 203(f)(6) of such Act is repealed.

(12) Section 203(f)(7) of such Act is amended—

(A) by striking out "are charged to a month" and inserting in lieu thereof "is charged to a month"; and

(B) by striking out "are less than the total" and inserting in lieu thereof "is less than the total".

(13) The heading of section 203(h) of such Act is amended by striking out "Earnings" and inserting in lieu thereof "Income".

(14) The first sentence of section 203(h) (1)(A) of such Act is amended—

(A) by striking out "earnings or wages as computed pursuant to paragraph (5) of subsection (F)" and inserting in lieu thereof "income (as defined in subsection (f)(5))"; and

(B) by striking out "earnings (or wages)" and inserting in lieu thereof "income".

(15) Paragraphs (2) and (3) of section 203(h) of such Act, and the last sentence of paragraph (1)(A) of such section, are each amended by striking out "earnings" wherever it appears and inserting in lieu thereof "income".

(16) The fourth sentence of section 203(h) (3) of such Act is amended by striking out "(as computed pursuant to paragraph (5) of subsection (f))" and inserting in lieu thereof "(as defined in subsection (f)(5))".

(17) Section 208(a)(3) of such Act is amended by striking out "earnings" and inserting in lieu thereof "income".

(18) Section 5(i)(1) of the Railroad Retirement Act of 1937 is amended by striking out "excess earnings" wherever it appears and inserting in lieu thereof "excess income".

SEC. 3. The amendments made by this Act shall apply with respect to taxable years beginning after the date of the enactment of this Act.

ADDRESS OF CONGRESSMAN JOHN BRADEMAS, ANNUAL MEETING, NEW ENGLAND ASSOCIATION OF SCHOOLS AND COLLEGES, BOSTON, MASS.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. O'HARA) is recognized for 5 minutes.

Mr. O'HARA. Mr. Speaker, I take this opportunity to insert in the RECORD the text of a thoughtful address delivered this week by our distinguished colleague, Congressman JOHN BRADEMAS of Indiana, at the annual meeting of the New England Association of Schools and Colleges in Boston, Mass.

In his remarks, Congressman BRADEMAS discussed the Higher Education Amendments of 1972, of which he was a principal author, and the ways in which the Nixon administration has failed to comply with the intent of Congress in implementing this legislation.

Mr. BRADEMAS also discussed the work of the National Commission on the Financing of Postsecondary Education, of which he is a member.

The text of Mr. BRADEMAS' address follows:

ADDRESS OF CONGRESSMAN JOHN BRADEMAS

I am delighted to be with you this afternoon and to have the chance to talk to such a significant group of educators. I say "significant" because I realize that much that is best in American education was born and continues to be born in the schools and colleges of New England.

I want to applaud the subject of your annual meeting, "new priorities and new emphases" in education.

That so many persons from such different sectors of education come together to look at education is, I think, one of the most constructive contributions the New England Association makes and I wish only that your example were followed elsewhere in the country.

We meet at an extraordinary time in the life of this country, with shattering events tumbling down upon us, first, one after another, and then, seemingly, all at once—Watergate, the disintegration of a presidency, war in the Middle East, the energy crisis.

Some there are who look upon all these events with unrelieved despair, and I certainly am not one who greets them with joy.

But I suggest to you too, for there is some of the Calvinism of New England in my soul, that all these trials can mean—if we respond appropriately to them—a newer, better, more just and humane society.

And to shape such a society, we need, surely, systems of education—at every level—that are strong and resilient and effective.

Today I want to address myself to one level of education in particular—our institutions of higher learning.

That I do so in no way suggests that I lack a deep concern with other sectors of the educational enterprise.

For I have been among those on the House Committee on Education and Labor who this year have been wrestling long and hard with legislation to extend the Elementary and Secondary Education Act of 1965 and to forge it into a still more effective instrument for serving our schools.

And during this last year, my subcommittee has produced legislation in the areas of environmental education, drug abuse education, education of the handicapped, child abuse prevention, vocational rehabilitation, arts and humanities, and older Americans.

And next year my subcommittee agenda includes measures affecting early childhood development, museums, handicapped children's education, and libraries.

HIGHER EDUCATION AMENDMENTS OF 1972

But today, in keeping with your conference theme of new priorities and new emphases, I want to talk to you for a time about the most recent major Federal legislation to affect you, the Higher Education Amendments of 1972, and about the work of a group established by that act, the National Commission on the Financing of Postsecondary Education.

Last year, after many months of hearings and following a House-Senate conference that went on for eleven weeks, the final session lasting fourteen hours, weary Senators and Congressmen signed their names to a bill, later passed and enacted into law, that I have elsewhere described as the most significant legislation to help higher education since President Lincoln signed the Land Grant College Act over a century ago.

Let me recall for you the major provisions of the Act, then discuss with you the importance of some of them, and suggest why we are having so much trouble getting the legislation implemented as Congress intended.

STUDENT ASSISTANCE

Here is what the Act provided with respect to student assistance:

The law extended all existing programs, including college work study, National Direct Student Loans, Supplemental Educational Opportunity Grants, and the Guaranteed Student Loan program, for three more years.

We created a new program of Basic Educational Opportunity Grants under which each student would be entitled to $1,400 per year, less his expected family contribution.

We also created a new National Student Loan Marketing Association to buy, sell, and warehouse Guaranteed Student Loans in order to stimulate new loan capital.

Beyond the establishment of the new program of Basic Opportunity Grants, I believe the most significant new feature of the law was, of course, the program of direct, general institutional aid.

Under this provision, 90% of the funds an institution receives follows the Federal student assistance flowing to that campus while 10% of the money is based on the number of graduate students enrolled there.

In addition, the law authorized, at a level of $275 million over three years, start up and expansion grants for community colleges.

And we approved Veterans Cost of Instruction grants to institutions in the amount of $300 for each veteran enrolled, with an additional $150 for each veteran in a special or remedial program.

Of, I am sure, particular interest to many of you was the creation of the Fund for the Improvement of Postsecondary Education—a program of institutional grants with the aim of stimulating reform and innovation in postsecondary institutions.

BASIC OPPORTUNITY GRANTS

Now let me discuss with you the new BOG program and where we are on it right now.

Recall, if you will, that last year, as Congress was working on the Higher Education Bill, the Administration was pushing very hard for limiting Federal assistance grants solely to low-income students while letting all other students rely on loans from their friendly neighborhood banker.

Congress, under the leadership in the Senate of your own Claiborne Pell of Rhode Island, rejected this attempt and instead insisted that grants go to students of whatever income group, provided that they were in need of the money.

For surely it must by now be obvious that many students from families which we might all agree are in the middle income category are nonetheless, for a variety of reasons—several students in the same family in college at the same time, unusual family medical expenses, and others—in need of assistance.

The BOGs were therefore intended by Congress to help both low and moderate income students by providing them a grant of $1,400 annually minus the amount their families could reasonably be expected to contribute.

Despite the clear intent of Congress in creating the BOGs, the Nixon Administration—in still another manifestation of the Watergate mentality, that is, contempt for the law of the land—is trying to evade Congressional intent and, through regulations and guidelines, restrict eligibility for BOGs to low income families.

One instrument the Office of Education is using in this attempt is a family contribution formula which demands unrealistically high contributions from family income.

Another OE device to circumvent the spirit of the law is an unrealistic ruling with respect to low income families with large nonliquid assets, like farm equipment and small businesses.

By mandating unreasonable contributions from such assets, the guidelines would effectively lock many students out of the program.

So let me reiterate that in creating the BOGs program, Congress intended that *need*, not income, be the factor in determining the size of the student's grant.

That the Office of Education has still not made perfectly clear its intention to comply with Congressional intent explains why we on the subcommittee chaired by Congressman James G. O'Hara of Michigan are even now fighting with OE on the BOGs family contribution schedule.

Another feature of the 1972 act affected the Guaranteed Student Loan Program, which Congress sought to liberalize by removing, as a condition of eligibility, the $15,000 family income ceiling.

In order to prevent possible abuses by high income students, we required a needs test of them. But, again in defiance of Congressional intent, the Office of Education misapplied the test by applying it to all students, under and over $15,000.

The result, as you know, has been to make it more rather than less difficult for students in the $10,000-$15,000 category to obtain a private loan. The number of loans dropped an estimated 30% during the first ten months of 1973 compared with the same period last year.

NIXON CUTS BUDGET FOR HIGHER EDUCATION

But it has not been solely through rules, regulations and guidelines that the Nixon Administration has subverted Congressional intent in the 1972 Higher Education Amendments.

The presidential budget has also been a major weapon with which Mr. Nixon has sought to undermine Congressional efforts on behalf of students and the institutions at which they study.

The Nixon budget this past year called for zero funding of the Supplementary Opportunity Grants, for elimination of Direct Undergraduate Loans and the reduction of Work Study funds.

And I must here add that Congress specifically mandated that before the new BOG program could be put into effect, the existing student aid programs had to be funded at certain levels.

The same point I have been making with respect to student aid—Congress passes a law and the Nixon Administration evades it—can be made of another key provision in the '72 act.

For the first time ever, Congress, with strong support from both Democrats and Republicans and with the support of the Administration approved a program of general aid to institutions, that is to say unearmarked money, funds that could be spent as the institution saw fit.

And here, I must in fairness point out I along with the Administration favored a cost of education allowance rather than a per capita formula as the appropriate basis for the aid.

Let me here also observe, by the way, that one of the reasons Congress rejected the per capita avenue to institutional aid, that is, $100 per lower division student, $150 per upper division student and $200 per graduate student is that the major higher education associations in Washington, chief proponents of it, were unable to give Congress any objective justification or rationale for providing all institutions, no matter their economic condition, the same amount of institutional aid money per student.

Congress could understand, however, why it was sound public policy to provide general aid to institutions on the basis of the Federal assistance to students on that campus, for, clearly, students do not bring enough money with them to pay the full cost of their education.

And if their presence on campus is at least in part occasioned by Federal aid, the Federal government has a corresponding obligation to help the institution make up the difference.

That was an argument that made some sense in public policy terms and, moreover, did not require an analysis of the economic status of each institution, an analysis for which American higher education is not, apparently, intellectually yet equipped.

But here, too, the Nixon Administration has said no, in this case, abandoning a program it once proudly supported for the President's Fiscal '74 budget carried not one dime for institutional aid.

Nor did the budget ask a penny for the new Veteran's Cost of Instruction Program.

And to compound the injury, Mr. Nixon asked Congress either to eliminate totally or drastically reduce funds for existing categorical programs of aid to institutions, such as language and area studies, community services, college libraries and basic research programs.

CONGRESS SUPPORTS HIGHER EDUCATION

As I trust you also by now know, Congress has rejected this reversal of priorities, and in the Labor-HEW Appropriations Bill just enacted into law, most of the programs were funded at near last year's level although, unhappily, Mr. Nixon was given authority to cut spending on each by as much as 5%.

It must be clear then, I think you will agree, that although Congress took a giant step forward for American higher education last year, we have, in terms of effective implementation of the new legislation, miles to go before any of us can sleep.

What this means is that we in Congress must continue vigorously to do battle with an Administration hostile to education generally and still, despite the events of Watergate, contemptuous of Congressional intent.

We who wrote the law must keep fighting to insure that those charged with executing it faithfully do so.

And, may I here add, we on the Hill need your help from back home . . . in the information and analyses you can supply to us about how or, indeed whether, the new law is working at your institutions as well as in your expressions of concern to your own Congressmen and Senators that the new priorities and emphases of the 1972 Act be followed.

NATIONAL COMMISSION ON THE FINANCING OF POSTSECONDARY EDUCATION

Now there is another new priority, a new emphasis, in the Higher Education Amendments that I have not yet discussed but of which I think it is essential that I here speak briefly.

Tomorrow morning at 8:00 and again on Sunday morning the members of the National Commission on the Financing of Postsecondary Education will begin their final two sessions of work.

The NCFPSE was established by the 1972 Act as a 17 member group: 13 appointed by the President, 4 from Congress, 2 Senators and 2 Representatives, one of each party . . . I am the Democratic Congressman . . . and by the way, my Harvard classmate, Senator William Hathaway of Maine, is the Democratic Senator on the Commission.

I have spoken earlier of the frustration that many of us who shaped the Higher Education Amendments felt last year in failing to obtain from the higher education community thoughtful, reasoned analyses to enable us more effectively to deal with the issues with which we were wrestling, especially the institutional aid question.

The sad state of such knowledge is one of the reasons Congress, as part of the Higher Education Amendments, established the National Commission on the Financing of Postsecondary Education. For we were mightily distressed by the failure of the American education community to pay serious intellectual attention to the economics of higher education.

You will all recall, for example, the several reports of recent years contending that many of our colleges and universities were in deep financial distress. But when our committee attempted to find a definition of "financial distress" or even "financial need" our inquiries fell on stony ground.

For there are no commonly accepted standards of economics in higher education. Yet, in my view, the continued absence of more systematic attention to such problems on the part of the higher education community poses real dangers to the future financing of higher education, especially public financing.

Those of us who sit on the National Commission on the Financing of Postsecondary Education have, accordingly, been working hard to fashion by the end of the year not a laundry list of legislation Congress should pass to help postsecondary education.

AN ANALYTICAL FRAMEWORK

Rather we have set for ourselves a far more formidable but, in my opinion, more constructive path, that of developing an analytical framework within which, hopefully, those who make decisions about postsecondary education—Congressmen, Governors, state legislators, administrators—can more soundly, more rationally, if you will, decide . . .

We have in short attempted to build an intellectual construct for looking at postsecondary education and to do so from first principles.

COMMISSION'S OBJECTIVES

So our first Commission task was to evolve a definition of postsecondary education.

Then, after much deliberation, we agreed on a set of eight objectives for postsecondary education. Here, in rapid summary, they are: student access, student choice, student opportunity, educational diversity and flexibility, institutional excellence, institutional independence, institutional accountability, and adequate financial support.

Our next step was to describe the operation of current patterns of financing postsecondary education and then to assess their impact on achieving the objectives we had earlier stipulated.

And because Congress specifically mandated an analysis of the incidence of financial distress among postsecondary institutions, we devote a chapter to this subject.

The heart of our report, however, as I have earlier suggested, will be our effort to delineate a framework for analyzing policies for financing postsecondary education.

And here we shall seek to link ten major elements. Again, I list them for you briefly: objectives; criteria to measure the achievement of objectives; a set of general policies to accomplish the objectives; financing mechanisms to carry out the policies: specific financing programs; an extensive data base for postsecondary education; a series of assumptions about the society and the institutions of postsecondary education; a method for estimating student and institutional responses to changes in financing; a set of measurements to describe the achievement of the objectives; and, finally, a judgmental review of the financing mechanisms and programs in relation to the objectives.

Obviously, we on the Commission set ourselves a huge and difficult assignment but we felt, to repeat, that those who make policies for financing postsecondary education very much needed a comprehensive analytical framework to assist them.

Ours will be no prescription, I hasten to say, for some kind of new "national" system of postsecondary education.

Nor were we unaware of the pitfalls attempting to quantify many factors which we realize are not easily, if at all, susceptible of quantification.

The Commission has proceeded rather on the assumption that, with respect to shaping policies to support the institutions that symbolize reason in our society, we require a more systematic, more rational, if you will, effort to apply reason.

I hope that the report of our Commission, which should be available in a few weeks, will stimulate the most searching dialogue across the country on the part of all those concerned with postsecondary education and, of course, particularly on the part of educators.

For while the case for adequate support of our schools and colleges and universities may be self-evident to you and to me, I think you will agree, to put the point as gently as possible, that not everyone shares that faith.

NEED BETTER RESEARCH ON EDUCATION

We need, if we are to justify increased expenditures on education, at every level, the most thoughtful, reasoned, honest analysis and the most telling arguments and evidence about education we can muster.

And then I believe we can prevail.

That conviction on my part is one of the reasons I became the most vigorous champion in Congress of the National Institute of Education, to support more and better research on education.

That conviction is why I felt an obligation to serve as a member of the National Commission on the Financing of Postsecondary Education.

That conviction is why I continue to champion the effective implementation by the Executive Branch of the programs Congress authorized in the Higher Education Amendments of 1972.

And that conviction—that reasoned understanding is the best way to make the case for supporting education—is why I am pleased today to be with the members of the New England Association of Schools and Colleges.

SAFE SCHOOLS STUDY ACT

(Mr. BINGHAM asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. BINGHAM. Mr. Speaker, I am today introducing, for myself and Mr. Bell, a bill, the Safe Schools Study Act, which would require HEW to conduct a full and complete study to determine the extent of the problem of crime in our Nation's schools, and evaluate the most practicable and effective solutions to school crime. The study would also measure the dollars lost and the psychological detriment that such crime is causing in the country's public schools. In addition, we believe this study will reveal the best methods for local school officials to handle this problem in their school district.

Serious crime in public schools against students, staff, and facilities is steadily increasing and is seriously disrupting the educational environment. Recent research has revealed that as much as $500 million a year in equipment, supplies, and facilities are lost by the Nation's schools through vandalism alone. That estimate does not include the dollar value of resulting losses in teaching and learning time and efficiency. Schools have become the third most popular target for bombers in the Nation, and school fires, 60 percent of which originate as arson or during an act of vandalism, cost $50 million in 1973.

There is no nationally uniform system for computing the statistics on school crime. This makes analyzing the extent of the problem and developing effective solutions quite difficult.

The Safe Schools Study Act is a necessary piece of legislation.

The major provisions of this legislation include a statistical analysis of the incidence of crime and violence in schools, the geographic location of such crime, and the costs directly related to that criminal activity; an analysis of existing school security programs and their effectiveness; an analysis of innovative and compensatory educational programs and how they relate to the reduction of crime in schools; and an analysis of the causes of crime and violence in schools in larger urban areas.

Expressions of support for this concept have been voiced by school districts in over 10 States, including those of Los Angeles, Calif., New York City, Milwaukee, Wis., Seattle, Wash., St. Louis, Mo., Fort Lauderdale, Fla., Boston, Mass., Memphis, Tenn., Cleveland, Ohio, Detroit, Mich., Flint, Mich., and Chicago, Ill., and the number is increasing daily.

A mandate for a study by Congress such as Mr. BELL and myself propose would provide tangible evidence of the extent of the school safety problem. In addition, it would enable HEW and Congress to understand and evaluate various innovative security, community action, and educational programs, and choose the best available methods for dealing with the threat that crime and violence is posing to the value and function of the public schools in this country.

I am inserting at this point in the RECORD a copy of the bill.

H.R. 11962

A bill to provide for a full and complete investigation and study by the Secretary of Health, Education, and Welfare of crime and violence in elementary and secondary schools, to determine the efficacy of school security programs, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Safe Schools Study Act".

SEC. 2. The Secretary of Health, Education, and Welfare (hereinafter referred to as the "Secretary") shall make a full and complete investigation and study to determine—

(1) the incidence of crime and violence in elementary and secondary schools including trends and projections over the five year period ended June 31, 1974. For the purposes of this paragraph "crime and violence" means such serious criminal, violent, or disruptive behavior as the Secretary shall determine.

(2) the number and geographic location of schools, by school district and by state, affected by crime, and the rate of offenses per student population in such school districts by categories as provided in paragraph (a).

(3) the costs associated with the incidence of such crime and violence as defined by the Secretary including repair and replacement of property, expenses for the prevention of crime and violence, and the loss of staff and student time in schools.

(4) the effect of school security programs on the prevention and deterrence of such crimes and violence, and the effects such programs have upon learning and the relationship of the school to the community. For the purpose of this paragraph, school security programs include the use of guards, identification cards, and technical devices.

(5) the effect of innovative and compensatory educational programs on the prevention and deterrence of such crimes and violence. For the purposes of this paragraph, innovative and compensatory programs are programs to aid students in overcoming educational disadvantages including those authorized by the Elementary and Secondary Education Act of 1965, as amended, and similar Federal, State, and local programs.

(6) the relationships between school crime and violence in the larger urban areas selected by the Secretary and—

(A) the presence of unauthorized persons in such schools.

(B) the presence of youth gangs in or around such schools.

(C) the incidence of crime and violence in the general geographic area of such schools.

(D) other sociological or psychological factors which may be causes of school crime and violence.

SEC. 3. Within 30 days after the date of the enactment of this Act, the Secretary shall request each state education department to take the steps necessary to establish and maintain appropriate records to facilitate the compilation of information under Section 2, and to submit such information to him no later than 7 months after the date of enactment of this Act. In conducting this study, the Secretary may utilize data and other information available as a result of any other studies which are relevant to the purposes of this Act. Not later than 13 months after the date of the enactment of this Act, the Secretary shall make a report to the Congress on the study required by Section 2, together with such recommendations as he may deem appropriate. In such report, all information required under each paragraph of Section 2 shall be stated separately and be appropriately labeled, and shall be separately stated for elementary and secondary schools, as defined in sections 801 (c) and (d) of the Elementary and Secondary Education Act of 1965. The Secretary may reimburse each state education department for the amount of expenses incurred by it in meeting the requests of the Secretary under this section.

SEC. 4. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

ENERGY EMERGENCY ACT AMENDMENT

(Mr. BINGHAM asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BINGHAM. Mr. Speaker, at the appropriate time I intend to offer an amendment to the Energy Emergency Act which would eliminate Interstate Commerce Commission discrimination against recyclable commodities.

The ICC has for many years imposed discriminatory rates on the movement of recyclable commodities. Railroads, for example, are allowed to charge $1.50 more per gross ton for scrap iron than for iron ore. Though this country now suffers from severe commodity shortages, such as in paper, the ICC in the Western portion of the United States, requires the railroads to charge $315 per carload for recyclable waste paper while competing pulpwood costs only $172 per carload. Virgin aluminum generates freight revenue of $669 per carload while scrap aluminum, from discarded beer and soda cans, must withstand a burdensome rate of $1,374 per carload.

If recyclable resource materials were used in place of virgin materials, substantial energy savings would result. In the steel industry, for example, energy savings would approach 75 percent if scrap iron were used instead of iron ore. Utilization of recycled aluminum in the aluminum industry is, and this is a truly remarkable savings in terms of energy expended, 95 percent less energy-intense than the virgin resource.

The ICC's long-established policy of promoting the exploitation of the Nation's virgin resources is misguided in light of the exploding energy crisis. The ICC has had many months to see the error of their ways, yet, the crustacean bureaucracy continues plodding along as if nothing had happened. By failing to change its policies the ICC has exacerbated the commodity shortages consumers and manufacturers alike are facing. It is all too obvious that the ICC is unable or unwilling to upset its cozy relationship with the transportation industry to act forthrightly in dealing with the energy crisis.

The ICC's discriminatory policies make it economically unsound to attempt to reclaim resource materials as an alternative to virgin materials. The growing shortages of domestic supplies of essential raw materials, and the obvious energy savings that would result from utilizing recyclable resources, makes congressional action to rectify the ICC's inept management imperative.

My amendment would force the ICC to eliminate its archaic, discriminatory and possibly dangerous policies toward recyclable commodities during this time of national crisis.

The text of my amendment to the committee amendment in the nature of a substitute follows:

Amend Section 107 on page 16 at line 14 after "common carrier.", by adding a new subsection:

"(c) The Interstate Commerce Commission shall by expedited proceedings adopt appropriate rules under the Interstate Commerce Act which will contribute to conserving energy by eliminating discrimination against the shipment of recyclable materials in rate structures and other Commission practices," and redesignate the present subsection (c) as subsection "(d)."

AMERICAN WORLD TRADEMARK SHOULD BE HUMAN RIGHTS CRUSADE

(Mr. LEGGETT asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. LEGGETT. Mr. Speaker, this week is Human Rights Week in the United States, so named to commemorate the proclamation of two documents, historic in the annals of human freedom, whose anniversaries and spirits lie close together. The first is our own American Bill of Rights, the guarantee of fundamental freedoms to all Americans, which became effective on December 15, 1791. The second is the Universal Declaration of Human Rights, proclaimed by a unanimous United Nations General Assembly on December 10, 1948, which set acknowledged standards of human liberties for all nations of the world to strive toward.

It is a sad commentary, Mr. Speaker, that these few days rededicated to mankind's highest aspirations have gone virtually unremarked and uncelebrated. It is hard not to conclude that this annual exercise has taken on the hollow sound of words without conviction, of rote acknowledgement meant to stand in place of real action.

This is particularly sad to see for this year marks the 25th anniversary of the Declaration of Human Rights. I regret that over this quarter of a century since that grand design to inscribe a new bill of rights for all mankind, little progress has been made in meeting its high goals. It is about the present state of our own commitment to these ideals that I wish to say a word today.

I want to speak mainly about our foreign affairs rather than our actions at home. Not that I feel we have solved our own problems. Far from it. Much needs to be done here in the United States to provide real, effective equality of opportunity and treatment before the law for all Americans. But I am not one of those who finds only failures in our efforts. Great progress has been made in the last 25 years in the United States in civil rights, education, aid for the disadvantaged, legal reform, and more. When we compare the United States of today with that of 1948 we can only feel that a revolution of grand proportions has been launched and is well underway.

I am confident that the Congress will maintain the momentum of progress at home despite the return to privilege and venality we have seen in the White House and regularly find lying across the road of change. Every cloud has its sunny side. The rainstorm of illegal actions against our most precious freedoms which has blown from the White House, has aroused the Congress and American people as never before. We have already begun to move to correct the situation. I am confident we will build a more durable umbrella to protect our liberties than we have ever had before.

I wish I could speak with equal satisfaction and confidence of the scene abroad. The fact is, the mammoth changes which have taken place around the world since the Second World War have achieved relatively little in terms of human rights. While we have witnessed and welcomed vast and important transformations like the eclipse of colonialism, the rise of a new community of independent States, unprecedented expansion in trade and other relations between States, a gradual decline in armed conflict, we still find unabated gross political, economic and social inequalities and grotesque political oppression of all kinds—arbitrary arrest and detention, control of speech, thought, association, religion, movement, even torture as policy. In short, candor requires us to admit that despite the changes of the last 25 years, the whole rogues' gallery of degrading and violent oppressions against man's higher nature remains a common practice of governments abroad.

These violations, which no right-thinking man would condone, have proved so endemic and enduring that I fear many of us have come not to think of them at all. I am afraid we have come rather to think of repression, like need, as a common curse, restricted to no one form of government or political system, so distracting and difficult to deal with that we put it aside in order to get on with the business of the day. In our relations with the Communist countries we have seen oppression to be their steadfast companion. We rarely find it worthy of special mention and apparently not important enough to be allowed to complicate the quest for détente. We also find oppression as the troubled offspring of most governments of developing countries. Apparently hoping it will mellow as it ages, we do not mention it in any effort to reform but only when we want to embarrass. And it has become the bastard child of some of our most constant friends, an issue whose existence we prefer not to acknowledge at all, apparently because we have been so long in bed together with these friends that our own paternity may be in question.

Mr. Speaker, no list is necessary to remind each of us how deep and wide this silent current of abuse runs, or to show how reluctant we have been to make any waves in support of right and justice. Simply to mention Greece, South Vietnam, Portugal, and Spain, and the bulk of South America, as an example, is to remind us all of how we have closed our eyes for years to persistent patterns of political oppression in the so-called interest of our own security.

Mr. Speaker, the persistence of human rights violations cannot be an excuse for continued inaction. It should instead compel us to action.

The world has changed over the past two decades. None but the most inflexible still believes that a monstrous and massive Communist monolith is now actively threatening our very freedom. Perhaps the feeling we once had that a gun was at our head can be said to have justified our earlier disregard for more basic values in years past. No such excuse exists today. Particularly now that we are no longer consumed in our own great transgression in Southeast Asia, we can, should, and must mark a new beginning in foreign affairs where human rights and decency are given the priority we accord them at home.

I recognize that translating this laudable goal into effective action is no simple equation. I do not, for example, advocate that we should maintain diplomatic and commercial relations only with countries whose systems of government we approve. A break in relations rarely achieves constructive results. Inevitably it destroys communication and often the only avenues of influence we may have. I do not urge either that we attempt to export our own brand of democracy, worthy as that may sound. We have come to learn since our first naive ventures into the third world that there can be no one blueprint for good and responsive government and that political democracy as we know it may be meaningless with no tradition of popular participation and without the economic and social development on which free choice must be founded. Nor do I believe that our Government can appropriately or with any hope of achievement interfere directly in the internal affairs of other states. The failures of our past misadventures down this blind alley speak for themselves.

But if there are steps we should not take, many avenues remain open. I would like to think that they could be explored and followed by the Congress and President together as the Constitution intended. The sorry record of the White House in violating basic rights at home and in paying them little heed abroad makes clear, however, that the Congress will have to take the lead once again while the Executive remains paralyzed by its own infirmities.

The record of this Congress in human rights is already good. We can justly applaud our continuing oversight in Southeast Asia and such recent acts as:

The Vanik amendment to the trade reform bill to restore humane considerations to the push for détente;

Provisions in the Foreign Assistance Act to end aid for police training and with it one direct U.S. contribution to political repression; and

The renewed effort, which I am confident will succeed, to end the U.S. violation of U.N. sanctions against Rhodesia.

In contrast, the action yesterday to deny petroleum supplies for schoolbusing is lamentable. Such measures as these have been valuable and necessary, but the time has come when we must move beyond essentially ad hoc approaches in a broader effort to raise the priority we give to human relations in our foreign policy and to strengthen the institutions of our Government and of international organizations concerned with human rights. A number of possible measures suggest themselves which would seem feasible and effective:

The Congress should advise and consent to the principal international human rights conventions. Our failure to do so has seriously impaired our ability to speak for human rights elsewhere;

The Congress should insure that U.S. economic and military aid does not strengthen and support oppressive governments and in fact is employed in ways which favor and encourage respect for human rights;

We should see that our Government takes the lead in encouraging greater efforts by international organizations to investigate and take action in the realm of human rights, providing enhanced financial support for these efforts as appropriate;

We should revise the organization and precepts of our own Government agencies involved in foreign affairs to see that human rights are given priority as a matter of policy and that the human rights impact of every policy is adequately considered; and

We should require the executive branch to keep the Congress fully and currently informed of its progress in promoting fundamental freedoms and of the actions of foreign governments affecting human rights, particularly where U.S. assistance is in contemplation.

Mr. Speaker, these are but some of the steps which are long overdue. I am advised that the Subcommittee on International Organizations and Movements of the Foreign Affairs Committee, under the distinguished chairmanship of my colleague from Minnesota (Mr. FRASER) has recently completed hearings on human rights which were the most extensive in the history of the Congress. I understand that the report of these hearings is now in preparation, and the subcommittee hopes to recommend significant legislation to strengthen our effort to promote fundamental freedoms. I commend my colleague and his fellow subcommittee members for their initiative in this important undertaking. I look forward with anticipation to the day, hopefully not long after we convene in January, when the House as a whole may consider these measures.

Mr. Speaker, regretfully in most countries of the world today Watergate has become the watermark of what America stands for. The Congress helped lay the foundation for this misunderstanding by acquiescing in years of neglect of the fundamental freedoms in our foreign policy. We may have gained some temporary advantage by this expediency but I fear we have earned a deeper alienation which could undermine our international role for years to come. We face a future in which American economic and military supremacy and security can no longer be blandly assumed. If we are to maintain a secure claim to continued world leadership that claim must be founded again on right and not on might—on a return to the commitment to human values which is our unique heritage and which until recent years was the hallmark of the United States around the world.

Some years ago William Allen White pointed out that liberty is the one thing you cannot keep unless you are willing to give it to others. I hope we will all have this lesson in mind as we complete the business of the 93d Congress in the year ahead.

ADEQUACY OF FUNDING FOR PROPOSED ENERGY RESEARCH AND DEVELOPMENT

(Mr. PRICE of Illinois asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PRICE of Illinois. Mr. Speaker, on December 11, the Joint Committee on Atomic Energy held hearings on the December 1 report of the Chairman of the AEC providing recommendations for a $10 billion, 5-year energy research and development program. This session was very useful in terms of helping the committee members to better understand the specifics of the proposal. One of the questions which I raised at the hearing was the adequacy of the $10 billion amount to do the job—particularly in terms of funding demonstration plants and "first-of-a-kind" production plants. It is my position—as well as others' in the Congress and elsewhere—that $10 billion for 5 years is far short of the needs—particularly considering that only about $4 billion of this represented new money beyond that previously planned.

On December 13, the Washington Post carried a story that the President had indicated that he was willing "to spend whatever amounts may be needed to develop new sources of energy to make this country independent of foreign fuel sources." The story went on to suggest that the administration was now thinking about spending $10 billion over 3 years instead of 5. I am pleased that there apparently is a recognition that we are going to have to establish a high level of funding. On the other hand, I have heard other comments to the effect that the OMB would be cutting back from the $10 billion, 5-year program. The proof of the pudding will, of course, be evident when the administration sends forward its budget proposal for fiscal year 1975 next month.

I request permission to put in the RECORD at this time a copy of the Washington Post article.

SPENDING FOR ENERGY ACCEPTABLE TO NIXON

Republican congressional leaders reported yesterday that President Nixon is willing to spend whatever amounts may be needed to develop new sources of energy to make this country independent of foreign fuel sources.

They said after a meeting with the President that they had discussed the possibility of spending $10 billion on research and development in three years instead of the five years the President first proposed.

Senate Minority Leader Hugh Scott (R-Pa.) and House Minority Leader John Rhodes (R-Ariz.) said the President agreed that a speed-up may be desirable.

The increased spending may result in a budget deficit, Scott said, but he added that it is more important to make the U.S. self-sufficient in energy than to avoid deficit spending.

"The important thing is to be self-sufficient and be free from blackmail," Scott said.

The two leaders met with the President and Vice President Ford for 70 minutes to consider pending legislation and to discuss plans for the next session of Congress.

Mr. Nixon promised to direct all federal agencies to expedite their research and development activities affecting energy, Scott said.

Rhodes said the Atomic Energy Commission could profitably spend more money to develop the fast breeder reactor and fusion technology.

The two leaders predicted that the new Vice President would play an active role in the development of administration domestic policy, but they said they had not heard the President say he wanted Ford to be his chief domestic aide.

Ford attended a meeting yesterday of the energy emergency action group which the President chairs and will attend the next meeting of the Quadriad, the top economic advisory group, deputy press secretary Gerald L. Warren announced.

PROPOSED CLASS-ACTION SUIT AGAINST AIRLINE PILOTS' ASSOCIATION

(Mr. DAN DANIEL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DAN DANIEL. Mr. Speaker, word came to me this morning that if the airline pilots engage in a strike over the Christmas holidays, a class-action suit will be brought against the pilots individually and the Airline Pilots' Association for damages. The suit will be brought by those who hold confirmed reservations, in the conviction that there is no justification for the strike; fuel has been provided for such flights.

SOLAR ENERGY IS THE ONLY ANSWER

(Mr. ALBERT asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ALBERT. Mr. Speaker, under leave to extend my remarks, I am including a guest editorial entitled "Solar Energy Is the Only Answer," which was published in the December 11, 1973, edition of the Seminole Producer of Seminole, Okla. The editorial was written by a noted Oklahoma journalist, James T. Jackson, a constituent of mine who now lives in Pauls Valley, Okla. For many years Mr. Jackson was publisher of the Seminole Producer. The paper grew up in that community with one of the most spectacular oil booms in the history of this country. Mr. Jackson probably appreciates as much as any newspaperman in America the importance of fossil fuels, particularly petroleum and petroleum products. He saw in his years in Seminole the development and depletion of one of the great fossil fuel deposits in America. He has had an unusual interest in sources of energy. He now envisions the development and use of the vast energy resources of the Sun as the answer for the future. I commend his editorial to my colleagues:

SOLAR ENERGY IS THE ONLY ANSWER

(By James T. Jackson)

There can be only one permanent and certain answer to the energy shortage. It is the simplest answer of all—merely harness the vast energy of the sun.

Individuals, at small cost, have harnessed this energy to heat their homes. Most of the experimentation has been on a small scale by individuals. The federal government has raised the money available for research in this field several times over, but it is still a piddling sum, as federal appropriations go.

Atomic power is not the answer. No one wants a nuclear power plant anywhere near him, and the nuclear wastes are an insurmountable problem. The world's supplies of fossil fuels are diminishing and should be saved for more valuable services than heating and transportation.

My access to the results of the use of solar energy are limited. I do know that the first solar furnace was built in Germany in 1921. I also know that heat as high as 7,000 degrees centigrade has been achieved in an installation built by the French government. Heat of that intensity will burn a 16-inch hole in a one-half inch steel plate in a few seconds.

Enough experimentation has been done to prove that the wide use of solar power for a number of purposes is practical. The initial cost is high, but how about the initial cost and continuing cost of the space program?

If the United States would devote one-tenth the money and effort to the development of solar power that has been spent on the space program, solar power could be providing a great deal of our energy needs within a decade.

One of our troubles is that we think of energy in terms of fossil fuels. We are frantically hunting new sources of oil and gas. The second "power czar" appointed by the president will ask 250 executives of oil companies to help him. Some would be so cruel as to say that's like putting the fox to guard the hen house.

The fossil fuels we have left beneath the earth's surface are too valuable to the petrochemical industry to even allow their use for heating or powering cars, buses or trucks. Many of the new "miracle drugs" are derived partially or wholly from fossil fuels. The synthetic fabric industry, the plastic industry must depend on fossil fuels.

I'm an old man. I can't hope to live long enough to see this world converted to a solar energy world. But there are youngsters living who will live to see it. And I hope a few of them may remember this essay.

If the world continues to depend on fossil fuels, civilization must, inevitably grind to a deadening halt. There just isn't enough such fuel left on this tired old planet to do the job.

There is an inexhaustible supply of energy that falls upon this earth every day. We don't know how many million years it has been there, but we can be assured it will still be here when the fossil fuels are too valuable to be thrown away as we have wasted them in the past.

DELUXE MAILMEN

(**Mr. GROSS** asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. GROSS. Mr. Speaker, several months ago, as the mail service continued to decline, I was intrigued to learn of the lavish surroundings which the Postmaster General and other top officials of the Postal Service ordered for themselves in their new headquarters offices in Washington.

The General Accounting Office has now provided me with a breakdown of the cost of this to the American taxpayers and I know that they will be interested to learn that it cost them $48,500 to furnish the Postmaster General's office and another $130,600 for the reception area, the so-called press conference room, and a room for the Board of Governors.

The Postmaster General's secretary sits at a $1,400 desk and the boss himself is equipped with a telephone table that cost $127.50. He has a sofa priced at $821.08 and a convertible couch that cost $1,043.

He did use the Postmaster General's desk from the old headquarters building, and his secretary is established behind a desk that is about $500 cheaper than the receptionist's $1,400 number.

The Postmaster General has an $800 marble countertop lavatory and the office floor is covered with carpeting that cost $11,666, including installation. When you enter the office it is through two sets of walnut doors, one with the Postal Service seal, the other without. The four doors cost $3,671.

The draperies in the office came to $5,999.50 and the place is equipped with a pantry that cost $5,280.

The other rooms, including a $45,000 kitchen, contain a $1,685 drum table, a $1,528 sofa, a $1,900 sideboard, a $1,325 conference table, a $1,177 credenza, and a $3,718 chandelier. There is $12,000 worth of carpeting on the floor and $4,700 worth of draperies.

With such luxury provided by the taxpayers it might be expected that the Postmaster General would spend most of his time in these fancy surroundings, but the GAO tells me he spent $12,900 for travel outside Washington, D.C., in fiscal year 1973.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Adams, for December 17, on account of business.

Mr. Hudnut, for Monday and Tuesday, December 17 and 18, on account of illness in family.

Mr. Mailliard, for next week, on account of official business.

Mr. Roncallo of New York (at the request of Mr. Rhodes), for after 12 o'clock noon and the balance of the day, on account of illness in family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Young of South Carolina) and to revise and extend their remarks and include extraneous matter:)

Mr. Wyman, for 15 minutes today.

Mr. Bauman, for 5 minutes today.

Mrs. Heckler of Massachusetts, for 60 minutes, today.

Mr. Forsythe, for 10 minutes, today.

Mr. Cleveland, for 5 minutes, today.

Mr. Frenzel, for 5 minutes, today.

(The following Members (at the request of Mr. Jones of Oklahoma) and to include extraneous matter:)

Mr. Gonzalez, for 5 minutes, tolay.

Mr. Drinan, for 5 minutes, today.

Miss Holtzman, for 5 minutes, today.

Mr. O'Hara, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Henderson to revise and extend his remarks immediately after Mr. Randall on the Wyman amendment in the Committee of the Whole today.

Mr. Robison of New York to extend his remarks prior to the vote earlier this afternoon on the Wyman amendment.

Mr. Conte, during the debate on the Wyman amendment in the Committee of the Whole today.

Mr. Conte to extend his remarks and insert his statement on his own amendment in the Committee of the Whole today.

Mr. Hechler of West Virginia to revise and extend his remarks on the Baker amendment.

Mr. Hechler of West Virginia to revise and extend his remarks on the Sarasin amendment following remarks of Mr. Studds.

Mr. Hechler of West Virginia to revise and extend his remarks on his amendment considered on the afternoon of December 14.

(The following Members (at the request of Mr. Young of South Carolina) and to include extraneous material:)

Mr. Wyman in two instances.

Mrs. Holt.

Mr. Wiggins in two instances.

Mr. Blackburn.

Mr. Hillis.

Mr. Steiger of Wisconsin.

Mr. Bauman.

Mr. Hansen of Idaho.

Mr. Railsback.

Mr. Frey.

Mr. Bell.

Mr. Winn.

Mr. Vander Jagt.

Mr. Hosmer in two instances.

Mr. Conte.

Mr. Price of Texas in two instances.

Mr. Carter in four instances.

Mr. Hanrahan.

Mr. Forsythe.

Mr. Ashbrook in three instances.

Mr. Derwinski in three instances.

Mr. Hudnut.

Mr. Armstrong.

Mr. Cleveland.

Mr. Parris in five instances.

Mr. Kemp in two instances.

Mr. Carter in four instances.

Mr. Burgener.

Mr. Snyder in two instances.

Mr. Treen.

Mr. Regula.

Mr. Dellenback.

Mr. Bray in three instances.

(The following Members (at the request of Mr. Jones of Oklahoma) and to include extraneous matter:)

Mr. Harrington in three instances.

Mr. Howard.

Mr. Johnson of California.

Mr. Teague of Texas in six instances.

Mr. O'Neill.

Mr. Kastenmeier.

Mr. Gonzalez in three instances.

Mr. Rarick in three instances.

Mr. Obey in four instances.

Mr. Hungate.

Mr. Riegle in three instances.

Mr. Fisher in three instances.

Mr. Vanik in two instances.

ENROLLED BILL SIGNED

Mr. HAYS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 11324. An act to provide for daylight saving time on a year-round basis for a 2-year trial period, and to require the Federal

Communications Commission to permit certain daytime broadcast stations to operate before local sunrise.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 2178. An act to name the U.S. courthouse and Federal office building under construction in New Orleans, Louisiana, as the "Hale Boggs Federal Building", and for other purposes.

ADJOURNMENT

Mr. JONES of Oklahoma. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 47 minutes a.m.) under its previous order, the House adjourned until Monday, December 17, 1973, at 12 o'clock noon.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BLATNIK: Committee on Public Works. House Joint Resolution 858. Joint resolution to provide for the establishment of the Lyndon Baines Johnson Memorial Grove on the Potomac. (Rept. No. 93–731) Referred to the House Calendar.

Mr. BLATNIK: Committee on Public Works. H.R. 11714. A bill to provide for the development of improved design, lighting, insulation, and architectural standards to promote efficient energy use in residential, commercial, and industrial buildings; with amendment (Rept. No. 93–732). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLATNIK: Committee on Public Works. H.R. 10044. A bill to increase the amount authorized to be expended to provide facilities along the border for the enforcement of the customs and immigration laws (Rept. No. 93–733). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLATNIK: Committee on Public Works. H.R. 11763. A bill to amend the National Visitor Center Facilities Act of 1968, as amended, to facilitate the construction of an intercity bus terminal, and for other purposes (Rept. No. 93–734). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLATNIK: Committee on Public Works. H.R. 11928. A bill to amend the Federal Water Pollution Control Act to establish the ratio for allocation of treatment works construction grant funds, to insure that grants may be given for other than operable units, and to clarify the requirements for development of priorities; with amendment (Rept. No. 93–735). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BINGHAM (for himself and Mr. BELL):

H.R. 11962. A bill to provide for a full and complete investigation and study by the Secretary of Health, Education, and Welfare of crime and violence in elementary and secondary schools, to determine the efficacy of school security programs, and for other purposes; to the Committee on Education and Labor.

By Mr. BURTON:

H.R. 11963. A bill for the relief of certain natives of the Philippines who served in the U.S. Armed Forces during World War II; to the Committee on the Judiciary.

H.R. 11964. A bill to amend title XVIII of the Social Security Act to broaden the coverage of home health services and post-hospital home health services under the medicare program; to the Committee on Ways and Means.

By Mr. FRASER:

H.R. 11965. A bill to amend the Public Health Service Act to provide for the making of grants to assist in the establishment and initial operation of agencies and expanding the services available in existing agencies which will provide home health services, and to provide grants to public and private agencies to train professional and paraprofessional personnel to provide home health services; to the Committee on Interstate and Foreign Commerce.

H.R. 11966. A bill to amend title XVIII of the Social Security Act to liberalize the conditions under which post-hospital home health services may be provided under part A thereof, and home health services may be provided under part B thereof; to the Committee on Ways and Means.

By Mr. GUNTER (for himself, Mr. MOSS, Mr. LEHMAN, Mr. PEPPER, and Mr. STUDDS):

H.R. 11967. A bill to reform the conduct and financing of Federal election campaigns; to the Committee on House Administration.

By Ms. HOLTZMAN:

H.R. 11968. A bill to amend title II of the Social Security Act to increase to $4,000 the amount of outside income which (subject to further increases under the automatic adjustment provisions) is permitted each year without any deductions from benefits thereunder, but with a requirement that income of all types and from all sources be included in determining the amount of an individual's income for this purpose; to the Committee on Ways and Means.

By Mr. McDADE:

H.R. 11969. A bill to authorize the Secretary of the Navy to conduct programs of exploration for oil and gas on Naval Petroleum Reserve No. 4, in the State of Alaska; to the Committee on Armed Services.

By Mr. MITCHELL of New York:

H.R. 11970. A bill to amend chapter 67 (relating to retired pay for nonregular service), title 10, United States Code, to authorize payment of retired pay actuarially computed to persons, otherwise eligible, at age 50, and for other purposes; to the Committee on Armed Services.

By Mr. MITCHELL of New York:

H.R. 11971. A bill to amend chapter 13 of title 44, United States Code, to provide that certain proceedings of the Italian American War Veterans of the United States, Inc., shall be printed as a House document, and for other purposes; to the Committee on House Administration.

H.R. 11972. A bill to grant a Federal charter to the Italian American War Veterans of the United States; to the Committee on the Judiciary.

H.R. 11973. A bill to provide for improved labor-management relations in the Federal service, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 11974. A bill to amend chapter 59 of title 38, United States Code, to provide for the recognition of representatives of the Italian American War Veterans of the United States, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. ROE:

H.R. 11975. A bill to amend the Public Health Service Act to assure an adequate supply of chlorine and certain other chemicals and substances which are necessary for safe drinking water and for wastewater treatment; to the Committee on Interstate and Foreign Commerce.

H.R. 11976. A bill to provide that service charges paid by property owners to independent sewerage authorities shall be tax deductible as part of the real property tax paid on said properties; to the Committee on Ways and Means.

H.R. 11977. A bill to amend the Internal Revenue Code of 1954 to permit an exemption of the first $7,500 of income received by a taxpayer who is 65 years of age or older; to the Committee on Ways and Means.

By Mr. WALSH:

H.R. 11978. A bill to declare by congressional acton a nationwide energy emergency; to create a national energy policy; to conserve our national energy resources and increase the supply of scarce fuels; and for other purposes; to the Committee on Ways and Means.

By Mr. WON PAT:

H.R. 11979. A bill to amend title 5, United States Code, to include as creditable service for purposes of the civil service retirement system certain periods of service by persons hired pursuant to a contract between the Department of the Navy and a private business organization to perform work in and around naval vessel repair facilities on Guam, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. WYMAN:

H.R. 11980. A bill to amend title II of the Social Security Act to increase the amount of outside earnings which (subject to further increases under the automatic adjustment provisions) is permitted each year without any deductions from benefits thereunder, and to revise the method for determining such amount; to the Committee on Ways and Means.

By Mr. YOUNG of Illinois:

H.R. 11981. A bill to amend the Controlled Substances Act to require probation in cases of certain marihuana offenders and to remove in certain cases the age restrictions on the expunging of certain official records; to the Committee on Interstate and Foreign Commerce.

By Mr. BRADEMAS:

H.R. 11982. A bill to amend the Teacher Corps provisions of the Education Professions Development Act to provide for retraining of experienced teachers, and for other purposes; to the Committee on Education and Labor.

By Mr. GILMAN:

H.R. 11983. A bill to impose an excess-profits tax on the income of corporations engaged in the production of oil and oil products for a limited period in order to establish a fund for the research, development, and exploration of new energy resources; to the Committee on Ways and Means.

By Mr. SARASIN (for himself, Mr. MCKINNEY, and Mr. STEELE):

H.R. 11984. A bill to impose an embargo on the export of petrochemicals until price controls on petrochemicals are removed; to the Committee on Banking and Currency.

By Mr. WIGGINS (for himself, Mr. SCHERLE, Mr. FISH, and Mr. GILMAN):

H.J. Res. 865. Joint resolution authorizing the President to proclaim March 29, 1974 as "Vietnam Veterans Day"; to the Committee on the Judiciary.

By Mr. FREY:

H. Con. Res. 401. Concurrent resolution expressing the sense of Congress with respect to the Government of the Democratic Republic of Vietnam; to the Committee on Foreign Affairs.

By Mr. GUNTER (for himself and Mr. LEHMAN):

H. Res. 747. Resolution creating a select committee to conduct an investigation and study of the role of the oil and gas industry in contributing to the current energy crisis; to the Committee on Rules.

EXTENSIONS OF REMARKS

EVENTS OF THE YEAR

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1973

Mr. CONTE. Mr. Speaker, each year at this time, I make a point of reporting to my constituents on the events of the year drawing to a close. I highlight the major legislative action of the year and comment on topics of current interest to the residents of the First Congressional District.

At this time, I submit a copy of this newsletter for the RECORD:

WASHINGTON NEWSLINE BY CONGRESSMAN SILVIO O. CONTE

DECEMBER 1973.

DEAR FRIEND: The holiday season has always been a time of joy and spiritual regeneration. It is a time when we pause to reflect on the events of the past year and chart our course for the new year which lies ahead.

The beginning of 1973 held great promise for Americans. It was ushered in by circumstances which promised to make the world a safer place in which to live. The door to China was opened, relations with the Soviet Union were improving, and the end of our involvement in Vietnam was at hand.

But now, nearing the end of the year, we find ourselves facing threats to the American political and economic systems that are almost unprecedented in scope. Watergate, an extravaganza of official malfeasance, is still an unresolved disgrace. The explosive situation in the Middle East remains unsettled. And the fuel shortage, which I long predicted, is now upon us. We are in for a winter which will try all of our resolve and ingenuity.

In government, education, industry and all of our activities and enterprises, our energies and spirits have been drained. The occasion of Christmas will be, for me, a chance to seek a spiritual renewal in the observance of this sacred time with my family and friends. Americans are a people of diverse faiths, but all faiths center on the profound experience of life's source and the universal love that springs from it.

The Christmas season is a time when our greatest resource, our children, delight us. With their imaginations they transform the harsh winter landscape into the wonderland of delight that we all remember from our childhoods. Watching them believe and love all of the images surrounding these holidays should cause us to lay our cares aside even in our own discouragement and rejoice at the power of the heritage we are passing on.

I hope that these holidays will serve to renew you personally and that you will not hesitate in the coming year to contact me whenever you wish to be heard. With these thoughts, and all of my warmest wishes, I am,

Cordially,

SILVIO O. CONTE,
Member of Congress.

MAJOR LEGISLATIVE ACTION TO DATE

Agriculture and Consumer Protection Act—reforms farm program by providing for the end of subsidies for not growing crops; price support subsidies are limited to $20,000; order maximum production. Enacted.

District of Columbia Charter Act—provides limited home rule for the District of Columbia, including the right to an elected Mayor and City Council. Passed by both Houses.

War Powers—limits the power of the President to commit troops to combat abroad without Congressional approval. Enacted over Presidential veto.

Federal Aid Highway Act—opens up the Highway Trust Fund for use in urban mass transit systems. Enacted.

Emergency Medical Services Systems Act—expands and greatly increases federal support for emergency medical services. Original legislation vetoed, revised bill enacted.

Northeast Regional Rail Services Act—creates a Federal National Railway Association to consolidate and maintain the services of six major bankrupt northeast railroads. Passed by the House.

Anti-Impoundment Bill—requires congressional approval for the impoundment of appropriated funds. Passed by both Houses.

Social security benefits increase—provides 7 percent increase in March, additional 4 percent increase in June 1974. Passed by the House.

Economic Stabilization Act Amendments—extends the power of the President to control wages and prices. Enacted.

Drug Abuse Education Act—includes under its provisions alcohol abuse. Passed by the House.

Emergency Petroleum Allocation Act—directs the President to take energy conservation measures, including mandatory fuel allocations, to insure fair distribution of limited supplies. Enacted.

Year-round daylight savings time—authorizes year-round daylight savings time as an energy conservation measure. Passed by the House.

AN ABUNDANCE OF SHORTAGES

If the word "abundance" has symbolized the mid-1900's, the word "shortage" may characterize the last quarter of the century.

Like the man in the cartoon, news of the present and promised shortages has our heads spinning. We can all begin to cutdown and conserve materials wherever possible. We must do more with less.

Congress has backed the recycling movement by extending the Resource Recovery Act and providing for continued federal funding for Solid Waste Management programs.

In addition, we must find ways to maximize use of more plentiful raw materials for production, and develop alternative sources of energy.

I have introduced legislation designed to stimulate the generation of electricity from geothermal sources, and develop the technology necessary to harness solar energy for the heating and cooling of buildings.

I have also sponsored the National Energy Policy Act of 1973. This bill is aimed at energy self-sufficiency within ten years, through a national program researching and developing alternate energy sources, including their discovery, production, and distribution. I am presently rounding up co-sponsors for this legislation.

I would like to emphasize that their development will not take place overnight, simply because it has been called for. Until these proposals are implemented, our only relief lies in mutual sacrifice, and cooperative action.

America has grown to where it can no longer conceive of the land as the cornucopia it was for our forefathers. We have matured, and our consumption must become judicious.

DR. RICHARD L. HOPPING

HON. JOHN V. TUNNEY

OF CALIFORNIA

IN THE SENATE OF THE UNITED STATES

Friday, December 14, 1973

Mr. TUNNEY. Mr. President, a fine California school, Southern California College of Optometry, on December 7 inaugurated its sixth president, Dr. Richard L. Hopping. The SCCO campus itself was dedicated this past June. It continues its history of excellence since its founding in 1904 as Los Angeles College of Optometry.

This new $3½ million campus demonstrates SCCO's commitment to the future. The school will continue its tradition of serving the community with its specialized clinics. In addition, SCCO will serve as an educational center for the bulk of southern California's optometrists, the majority residing in easy proximity to the campus.

Dr. Hopping has demonstrated his commitment to his profession and to his community. He has served as president of the Ohio Optometric Association and the American Optometric Association. He directed the public health department of AOA, the education department of both AOA and OOA, and chaired the AOA urban optometry study.

For these efforts the new SCCO president was honored as Ohio's optometrist of the year in 1962.

Responding to community needs, since 1957 Dr. Hopping has participated in the subnormal vision clinic run by Goodwill Industries of Dayton, Ohio. He served on the medical advisory comittee of the Ohio State Department of Public Welfare. He has been a board member of the United Health Foundation of Dayton, Dayton Museum of Natural History, Montgomery County United Cerebral Palsy, Sinclair Community College Foundation. Dr. Hopping has participated on city committees and commissions. He has aided the United Appeal, the Boy Scouts, his church.

In 1960 he was named one of the 10 outstanding young men of Ohio.

This happy combination of leadership and service, coupled with the SCCO dedication to academic excellence and community service, augurs well for the continued growth and responsibilities of Southern California College of Optometry. As a Californian I am immensely proud of the contributions which the school has already made to the health care in my State. And I applaud all its efforts in aiding the overall health of the Nation. As we become more and more aware of the needs for comprehensive health care for all Americans, the vital importance of vision care becomes clear to us all.

DONALD BENN—GENTLEMAN AND SCHOLAR—RETIRES

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1973

Mr. EILBERG. Mr. Speaker—

How does the poet speak
To men, with power, but by
Being still more a man than they?
—THOMAS CARLYLE.

With deep regret I bid farewell to Donald Benn, associate counsel of the Subcommittee on Immigration, Citizenship, and International Law. As the subcommittee chairman, I have had the opportunity to work and travel with Don and his charming, lovely wife, Jo. Don epitomizes the meaning of a gentleman and scholar. His expertise will indeed be missed and unfortunately the immigration field is losing a man with long and solid experience. It is because of his background in the immigration area that Don has consistently offered creative, constructive, and equitable solutions to the numerous immigration and other matters dealt with by my subcommittee.

Donald Benn joined the staff of the Judiciary Committee of the House of Representatives in 1963 as an associate counsel. He brought to the staff a variety of professional experiences. He was a professor of political science and dean at St. Petersberg Junior College; lieutenant in the U.S. Navy; a contract officer and trial attorney for the Veterans' Administration; the director of Philippine Sequestration Claims, the director of Balkan Claims, assistant general counsel for Plans and Procedures and the assistant general counsel for Polish Claims. Don received his B.A. from Maryland College, Tenn.; an M.A. in economics from the University of Iowa; an LL.B. from Woodrow Wilson College of Law, Georgia, and he is a member of the Virginia, Georgia, Federal, and American Bar Associations. His civic activities include the American Society of International Law, the Rotary Club, and the Presbyterian Church.

The great law of culture is: Let each become all that he was created capable of being.—THOMAS CARLYLE.

Don Benn has obviously given his utmost to being the best possible attorney, public servant, and human being. With a sparkling sense of humor and a reassuring smile, he has discharged his duties within the framework of his philosophy and values and always with deep personal and political integrity. Regardless of political party affiliation, both Members and staff have through the years grown to respect and admire him.

In one decade of service, Don has played an instrumental role in helping to formulate many significant immigration laws. His staff work on the landmark 1965 amendment to the Immigration and Nationality Act greatly enhanced the succesful outcome of that legislation. His keen insight into perfecting statutory language greatly assisted in producing clear and concise legislation. He has consistently approached all immigration issues in a bipartisan manner and his willingness to assist Members of both parties concerning legislative issues has been remarkable.

Don Benn was also instrumental in assisting Members in their consideration of the 1970 amendment to the immigration law which established a new category of nonimmigrants for intracompany transferees and which liberalized the waiver of the 2-year foreign residence for exchange visitors. This legislation resulted in the enactment of Public Law 91–225.

Most recently his service was extremely valuable in the passage of H.R. 981, which applies the same preference system to the Western Hemisphere as exists for the Eastern Hemisphere, and H.R. 982, which deals with the illegal alien problem.

On behalf of the Members, staff, and friends, I wish you health and happiness in the years ahead.

SHIMER COLLEGE

HON. TOM RAILSBACK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1973

Mr. RAILSBACK. Mr. Speaker, recently I stated on the House floor that I was concerned about the increasing number of colleges facing financial difficulties. In particular, I pointed out the plight of Shimer College in my congressional district in Illinois which was to close its doors at the end of this month.

The December 13 Chicago Tribune carried a story which explained, "Shimer clings to life." The students and faculty have collected sufficient funds to keep the college open.

I can think of no more spectacular example of citizen concern and involvement that the efforts to keep Shimer College alive. As the article states, we need more Shimers, not fewer.

For the review of my colleagues, I insert the attached article in the CONGRESSIONAL RECORD immediately following my remarks:

[From the Chicago Tribune, Dec. 13, 1973]

SHIMER CLINGS TO LIFE

Shimer College, which has graced the little town of Mount Carroll, 125 miles west of Chicago, for 120 years, will not die at the end of this month after all. Enough money has been raised to keep its doors open at least thru the spring.

The unique and heart-warming thing about this reprieve is that it was not won by the usual high-powered fund-raising committee making stereotyped appeals to canned lists of potential donors. Indeed the management of the school, having struggled to keep it going during the last few years, had decided to give up. Six weeks ago they announced its forthcoming demise.

It was the faculty and students of the college who banded together, appealing largely to their families and to the townspeople of Mount Carroll, and raised the $75,000 which will enable a new chairman and a new president to keep Shimer open.

Given Shimer's background, this dedication on the part of most of Shimer's 35 faculty members and 220 students isn't surprising. Thanks partly to its small size, Shimer has been a pioneer in educational techniques. It has strived for small classes and an intimate relationship between faculty and students. It has experimented with flexibility of curriculum and early admission of qualified high school students, and it has rejected the "publish-or-perish" theory.

Shimer's innovations have not always proved successful, and they obviously haven't made it rich. But its willingness to experiment and to be different reflects one of the great advantages of our private college system. It has given Shimer a creditable academic standing and has forged a closeness between faculty and students which is all too rare on campuses today. These are achievements to be proud of, and it would be a shame for them to be recognized only on a tombstone. The country needs more Shimers, not fewer.

MIA IN VIETNAM

HON. LOUIS FREY, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1973

Mr. FREY. Mr. Speaker, the Vietnam war may be over in the minds of most Americans but it remains a daily nightmare of uncertainty, fear and anguish for friends and family members of those still classified as missing in action—MIA.

In researching the MIA problem I came to the conclusion that the U.S. Government is seemingly powerless in its efforts to erase the apprehension surrounding the fate of these 1,200 Americans.

Of even greater concern to me is the nagging doubt that our Government has the desire to continue the search.

When 53 MIA relatives went to Laos 2 months ago they talked with Viet Cong representatives and learned nothing.

The Viet Cong representative asked these relatives:

> Why are you so upset? Even your own country is saying these men are dead. There is no issue. Your own country is closing it out.

I fear, Mr. Speaker, that the return of our living prisoners of war has diminished the significance of MIA accountability in the public consciousness and apparently in terms of national interest.

The issue has apparently become just an unwelcome reminder of a tragic war in Southeast Asia.

It is for those reasons, Mr. Speaker, that I today call upon Congress to declare it to be the sense of Congress that our Ambassador to the United Nations persuade the General Assembly to bring pressure on the Democratic Republic of Vietnam to provide information about those missing in action.

Basically, Mr. Speaker, this resolution would call upon the Democratic Republic of Vietnam to honor the humanitarian obligations of the January 27, 1973, Paris Peace Agreement.

There is clear evidence that the North Vietnamese have no intention of complying with the repatriation agreement signed on January 27 because there are more than 1,200 Americans still missing in action almost 11 months after the signing of that agreement.

Again and again I hear the only leverage we have left is world opinion. This is but one way that we should attempt to spark world opinion.

The International Red Cross at its 22d annual conference in Iran on November 14 adopted a resolution calling for the cooperation of all involved parties in the accounting of the missing and dead persons involved in armed conflicts.

That action is comforting but that action is not enough.

It is time, Mr. Speaker, that we, in Congress, take the initiative to end this nightmare.

CONGRESSMAN ANDREW HINSHAW ANSWERS HIS CONSTITUENTS

HON. DAVID C. TREEN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1973

Mr. TREEN. Mr. Speaker, my distinguished colleague from California (Mr. Andrew Hinshaw) received several hundred letters and telegrams from his district—the 39th District—demanding impeachment of President Nixon. Congressman Hinshaw responded to those constituents by letter dated November 28. The gentleman from California has already distinguished himself by demonstrating on the floor of the House a keen sense of fairness and a unique perceptiveness. I thought the approach taken by Congressman Hinshaw in his November 28 letter to be masterful and praiseworthy. For that reason I wanted to share it with my colleagues and with all who receive the Congressional Record. The letter is as follows:

November 28, 1973.

Dear Friend: Thank you for communicating your views with me about President Nixon. Several thousand other constituents have also been in touch with me. Some urge me to join in the clamor to impeach the President; others that I support the President.

Many, like you, have written me out of a sense of deep personal concern, and spontaneously. I have also been on the receiving end of the letter-writing campaigns sponsored by the American Civil Liberties Union and the AFL–CIO.

In reading all of these letters, postcards, telegrams, and petitions, I have come to feel the inexcusable Watergate affair has caused many fine Americans to forget our traditional concept of justice. I, for one, still believe *any* person must be presumed innocent until proven guilty. On the basis of the present unsubstantiated allegations, I will not, and could not, support those advocating the impeachment of President Nixon.

I think you will be interested in the analysis of 890 letters, telegrams, and postcards demanding impeachment of President Nixon *immediately*, which came in during a two-week period. All of those persons writing me claimed to have voted for me in 1972. The majority stated they had voted for me in the June primary as well as general election. They said if I didn't vote to impeach the President they'd vote for someone else in 1974.

We decided to go beyond the name signed to the communication. We checked these 890 names with the records of the Orange County Registrar of Voters. The tabulation was as follows:

442 were Democrats; 123 were Republicans; 60 were independents; 9 were miscellaneous minor parties; and 256 *were not registered to vote!*

The significant statistic, to me, was not the registration by party but the fact that almost 28 percent of those demanding President Nixon's scalp were not sufficiently interested in our political process to exercise their voting franchise—if, indeed, they were *actual* persons.

If removal of office were just a way of expressing disapproval of his handling of Watergate, and *if* President Nixon were the only sufferer, then Mr. Nixon's political enemies may feel they have a case for his removal.

The President's enemies—and he does have more than his fair share—have been extremely vocal, even at the height of his political success and standings in the polls. Now, because of Watergate, the political anger against him raises on many fronts.

If Mr. Nixon were a Prime Minister in a parliamentary form of government, he might have been long gone by now. Under that system, political anger alone is sufficient. No crimes or misdemeanors need to be alleged. It's sufficient that the people, or their representatives, no longer "like" the Prime Minister, or his policies, or the way he governs.

Fortunately, ours is not that kind of government. Ours was designed with admirable wisdom so that the President of the moment would not be at the mercy of momentary political anger. Unlike the Prime Minister *our* Presidents are elected directly by the people. Our method of removal was made deliberately cumbersome by our founders to restrain both public haste and the impetuosity of adversary legislators.

We have never had a President resign his office. Nor has one ever been superseded for disability in office. Only once have we tried impeachment. That was in the case of Andrew Johnson. There, too, at the last moment the Nation rejected removal. Even as it was, the Johnson impeachment trial added to the bitterness and division of the country for more than 25 years. The removal of a President is no trivial matter. It should not turn on the greed for power by his political enemies. Nor should it be sought out of anger over the acts of some of his subordinates. It is a step to be taken soberly and advisedly—if, indeed, it is taken at all.

We have been deluged in Washington with the daily fare of "news" and comment, of rumors and allegations, of a President cornered and desperate who must resign, now or later, to save the Nation the ordeal of his removal by impeachment.

Is this real? No, it is not. Many of us have learned—and *know*—the reality. That reality is known to Congressman Carl Albert, the Democratic leader and Speaker of the House. He stands in direct line for the Presidency. He spoke his views to his home-state newspaper just the other day.

Congressman Albert is no Nixon partisan. He said he has been getting a lot of "wild mail" but he refuses to give in to that kind of pressure. "I am not going to create another crisis, or show cowardice by doing anything except what I think is right." By that, the Speaker means on the basis of present evidence a vote in favor of impeachment is *not* justified.

The Speaker said, "The President has not been the wisest in selecting subordinates, but who in public office always knows how his subordinates will turn out? . . . I can't equate that with criminal conduct."

While we do not always agree, particularly on those subjects of partisan concern, the Speaker and I are in complete accord with his perception of the reality—there is no reason for President Nixon's resignation or impeachment on the basis of present evidence. Bills of impeachment originate only in the House of Representatives. No amount of editorializing can, or will, change that.

That, then, is my position. I thank you for writing me. I'm sure you will understand that for me to individually answer each of the thousands of communications on this subject I have received, would overburden my limited staff and our available time for many weeks. Therefore, this form letter is being sent to you in the interest of making sure you receive a timely respone to your communication.

Sincerely,

Andrew J. Hinshaw,
Member of Congress.

VICE PRESIDENT FORD

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1973

Mr. BAUMAN. Mr. Speaker, at a time when a great many Americans are questioning the political leadership of both parties, the confirmation and swearing-in of the Honorable Gerald R. Ford as Vice President is a welcome event.

I am sure that many citizens share the view expressed by the Baltimore News American in an editorial which I insert at this point in the Record:

Vice President Ford

The swearing in of Gerald R. Ford last Thursday evening as the nation's 40th vice president lit at least one major beacon in the fogswept, uncertain tides swirling from Watergate. Anyone who watched the historic event on television could sense that the warm accolade he received from virtually all of official Washington was more than a personal tribute.

It was much more, in fact. However unspoken, the atmosphere conveyed deep satisfaction and relief that a missing element of stability had been restored to our government. A trusted, exceptionally experienced, unflappable first mate was finally on deck to take over the Ship of State should it become necessary.

Stability is a hunger which has been tormenting America's millions as much as their elected officials ever since the Watergate dam burst.

Thus, on Thursday evening, it was a feast of sorts to watch a good, solid, sensible, reliable man stand in the presence of his beautiful family and swear to give his country the best of his abilities in his new and potentially tremendous responsibilities.

Mr. Ford, certainly as well as anybody, is aware of the seeming shortcomings for which he has been criticized. "I am a Ford, not a Lincoln," he said—and he may or may not be right. It is only under extreme pressure that a man's best qualities prove themselves. That was true of Lincoln himself, and of Harry Truman, for example.

The lack of intellectual brilliance and innovative leadership for which Mr. Ford has been criticized are not necessarily deciding factors in his destiny. It was character and devotion to duty, not mental sophistry, which made Lincoln and Truman great leaders.

Mr. Ford has spent 25 years of his life as a faithful servant of Michigan in the House of Representatives. Since 1965 he has been the Republican leader of that body, a post neither given nor held lightly. If, perchance, he should become President of the United States, the people will at least be assured of utter integrity.

No candidate for the vice presidency—or for the presidency either—has ever been subjected to the personal probes which Mr. Ford has undergone in the past two months. It is good to have his homespun solidity, convictions and ideals available for stand-by use in today's murky emergency situation.

THE NEED FOR A VOUCHER SYSTEM

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1973

Mr. CRANE. Mr. Speaker, early in October the Illinois Supreme Court declared unconstitutional most of the State's $30 million program for aid to private and parochial schools. The court struck down the State measure providing $20.5 million for State purchase of secular textbooks and auxiliary services for nonpublic schoolchildren and also held invalid a companion proposal for $4.5 million to aid low-income families who wish to send children to private or parochial schools.

This decision comes at a time when disenchantment with the public schools is greater than ever before. One indication of this disenchantment is the refusal of taxpayers to support bond issues for public education. In its issue of September 3, 1973, U.S. News & World Report points out that in 1965 almost 80 percent of school bond referendums for elementary and secondary public schools won approval. By 1972 the figure had dropped to only 47 percent.

Public education is not fulfilling the promise held for it. In its issue of March 12, 1973, the Washington Post featured an article entitled, "Functional Illiterates Forced To Grope in Society." This article includes interviews with men and women in their twenties, who went as far as junior high school, yet are unable to read well enough to fill out job applications.

In fact, in a recent court case Peter W. Doe—not his real name—a 10-year-old boy from a middle-class family in San Francisco, sued the San Francisco Unified School District and State officials for $1 million in damages, because he was permitted to graduate from high school without having learned to read.

Throughout his school years he attended class regularly, caused no disciplinary problems and received his high school diploma on schedule. Nevertheless, he was unable to read at a level beyond the fifth grade. He could not understand applications and was afraid to take a salesman's job, because of the paperwork involved.

Statistics indicate that 19 million Americans over the age of 16 are, like Peter, unable to comprehend job applications, drivers license manuals, or bank loan questionnaires. Experts estimate that thousands of young men and women receive high school diplomas each year—even though it is clear that they have not mastered high school work.

The time has come to end the monopoly which Government has over education for all, but the small minority who can afford private schools. One way to do this is the voucher plan, developed by Prof. Milton Friedman of the University of Chicago. This plan would institute freedom of choice and a spirit of competition in the field of education.

Discussing the voucher plan, radio station WGN in Chicago declared that—

> It works this way: Each child is given a voucher at the start of the school year, a voucher for the amount spent on a per-pupil basis in his school district, community, or state. The parents select the school, public or private. At registration time, the voucher is turned over to the school, which cashes it, like a check, using the money to pay for that child's education.

Under the voucher plan, WGN states:

> Each child has a free choice in education, as long as the school meets state certification standards. Each school is encouraged to offer the highest quality of education possible, to attract more students, and more vouchers.

The voucher system is one idea whose time seems to have arrived. In fact, a free market in education is favored by a wide spectrum of concerned experts in this field. Marxist school reformer, Johnathan Kozol, for example, argues that a system such as advocated by Professor Friedman is the only means available for improving the quality of education. He speaks of the failure of teachers, and particularly of those who lead the Nation's increasingly aggressive teachers' unions, to teach those in the innercity what he calls the "survival skills."

The voucher plan is opposed by those who have a vested interest in maintaining the governmental monopoly on education, such as bureaucrats and teachers' unions. In Washington, D.C., for example, the Teachers Union vigorously opposed the plan devised by black psychologist, Dr. Kenneth Clark, to make teachers accountable for their work. Instead, they prefer a system in which students move from one grade to another regardless of whether they have learned to read, write, or do arithmetic.

I wish to share the editorial, "Aid to Private Education," which was presented on WGN on October 6, 1973, and insert it into the RECORD at this time:

> AID TO PRIVATE EDUCATION
>
> The Illinois Supreme Court has once more found unconstitutional a plan for providing financial aid for private education at the elementary and secondary levels. In striking down one provision of the legislative package, the Court said the measure did not treat all of the children of the state equally.
>
> There IS a way to treat all of the children of the state equally. It's called the Voucher plan. While it needs a great deal of scrutiny, and while its mechanics are too complex to provide immediate help, it IS a concept which could provide funds for private as well as public schools, both religious and secular, and at the same time motivate a general improvement in the quality of education.
>
> An experiment in the voucher system of education went into operation in San Jose, California a year ago. It should provide some of the basic information needed to determine whether the system will work, what pit-falls to avoid, and so on.
>
> In simple terms, it works this way: Each child is given a voucher at the start of the school year, a voucher for the amount spent on a per-pupil basis in his school district, community or state. The parents select the school, public or private. At registration time, the voucher is turned over to the school, which cashes it. like a check, using the money to pay for that child's education.
>
> Each child is treated equally. Each child has a free choice in education, as long as the school meets state certification standards. Each school is encouraged to offer the highest quality of education possible, to attract more students, and more vouchers.
>
> There ARE arguments on the other side. Primarily, they concern the possible erosion of the public school system through the erosion of its economic base.
>
> We don't propose the Voucher Plan as a cure-all for every educational woe that exists. We DO suggest it be given the most careful study as a method of addressing several major problems for the customers of our schools—children and their parents.

SOVIET-ISRAELI DIPLOMATIC TIES MUST BE REESTABLISHED

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1973

Mr. ROSENTHAL. Mr. Speaker, if the Soviet Union expects to have any substantive role in achieving a Mideast peace at the negotiations scheduled to begin next Tuesday in Geneva, then the U.S.S.R. must reestablish diplomatic relations with Israel.

The Soviets already have let it be known they want their own troops included in any peace-keeping force in that area, and a few dozen of their "observers" plus some 800 Polish troops are already there as part of the present U.N. contingent.

Unless the Soviets reopen their ties to Israel, the United States will be the only superpower talking with both sides in the Middle East.

The reestablishment of diplomatic relations would give the Soviet Union a direct channel to Israel, which it does not now have. Israel, for her part, should be able to deal with both superpowers, especially in these days of big power diplomacy.

The Soviet Union broke diplomatic relations with Israel following the Six Day War in 1967. It was one of the first nations to recognize Israel when the Jewish state came into being in 1948.

Unlike the Soviet Union, the United States has maintained friendly relations with both sides in the Arab-Israeli dispute, although not with all Arab States at all times. Ties have been close between the United States and Lebanon, Jordan and Saudi Arabia. The relationship with Egypt is improving and the two countries are expected to reestablish diplomatic ties in the near future. The same is true regarding Algeria.

The Soviets, as a cohost of the Geneva conference, have a very real stake in the outcome of the negotiations and should attempt to balance their policy, as the United States is trying to do.

Secretary Kissinger has opened a dialog with the Arabs, which is more than the Soviets have even attempted with Israel. If the Soviet Union is to be a guarantor of any settlement, she cannot expect any trust or status if she continues to refuse to maintain normal diplomatic relations with Israel.

TRIBUTE TO ADMIRAL RICKOVER

HON. ORVAL HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1973

Mr. HANSEN of Idaho. Mr. Speaker, I was deeply gratified at the news of the recent promotion of Adm. Hyman Rickover to four-star rank. It is a recognition which is long overdue.

It has been my pleasure and privilege to work closely with the admiral in matters of atomic energy, and he has been most helpful in his numerous appearances to testify before the Joint Committee on Atomic Energy, on which I serve.

Admiral Rickover pioneered our nuclear submarine program. In earlier days his role was, indeed, a lonely one. Had it not been for his tenacity and persistence there is little doubt that the entire program would have faltered and mayhap even foundered for lack of attention and support.

The admiral is no stranger to my own State of Idaho. He has made several visits to our nuclear reactor testing site, which leads the Nation in its program for the peaceful uses of atomic energy. The admiral has been a leader in focusing attention and action on the need for development of nuclear powerplants to meet our increasingly critical energy needs.

Admiral Rickover is not a man to waste words. I always find his comments well worth heeding, and with that in mind I would like to share with you his remarks following his commission of appointment at the White House on December 3.

STATEMENT BY ADMIRAL RICKOVER

ADMIRAL RICKOVER. Thank you, Mr. President.

I have always felt that in honoring a person we must remember that all human achievement flows not only from individual effort, but from associative effort as well. We, the living, are heirs to all the ideas and accomplishments of every human being who has ever lived.

In promoting me, I know that Congress and the President have done so on behalf of the dedicated men and women at headquarters, in the laboratories, the factories, and the shipyards that build our ships, as well as the brave men who serve in the ships. All work long and hard to make it possible for the United States to have an effective and ready nuclear Navy.

Mr. President, I have served in the Navy for over half a century. I have seen this Nation pass through perilous times. We have survived these dangers and emerged from them stronger. We are stronger because all of us, as citizens, faced each crisis with a deep feeling of responsibility. This is an inherent and inescapable part of the legacy left to us by the Founding Fathers and the Constitution. This is the "sacred fire of liberty" of which Washington spoke.

Once again the times are perilous. Statesmen, the press, and the citizenry who advocate their own beliefs on specific issues cannot free themselves from all responsibility for the overall outcome of national affairs as did John C. Calhoun. He considered that his convictions on the slavery issue freed him from all responsibility for the national catastrophe he knew would follow. In his last speech to the Senate on March 4, 1850, a few days before his death, he said: "I have exerted myself . . . with the intention of saving the Union if it could be done; and if it could not, to save the section where it has pleased Providence to cast my lot, and which I sincerely believe has justice and the Constitution on its side. Having faithfully done my duty to the best of my ability, both to the Union and my section . . . I shall have the consolation, let what will come, that I am free from all responsibility."

Today we are faced with grave issues, foreign and domestic. We do not need excited change. All of virtue and justice are not embodied in one party and none in the other. We must all accept responsibility and work for the restoration to the country of quiet and harmony without which these issues cannot be resolved.

Thank you again, Mr. President.

A CANADIAN DEFENDS UNITED STATES

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1973

Mr. MICHEL. Mr. Speaker, I do not have to remind Members of this body that it has long been a favorite international pastime for some to criticize and even ridicule the United States and its policies. Therefore, it was refreshing indeed to read an editorial in the Galesburg Register Mail, December 6, 1973, reporting the efforts of a Canadian radio and television reporter, Mr. Gordon Sinclair, who was considerate enough to remind his Toronto listeners of programs such as the Marshall plan which poured billions of dollars into war-torn Europe, without return. The editorial goes on to list other arguments that Mr. Sinclair made in defense of our country, and I am pleased to insert the editorial in the RECORD at this point.

"LET'S HEAR IT!"

A Canadian radio and television commentator had some stinging words not too long ago for foreign countries who are quick to criticize the American people. His words have been widely repeated and reprinted in this country ever since.

Gordon Sinclair refreshed the memory of his Toronto listeners with a bit of history about the Marshall Plan and the Truman policies which poured billions of dollars into war-torn Europe, without return.

He told them the American people have always been the first with economic and social aid when disaster strikes foreign lands, but that there is seldom a whisper of help when chaos hits the United States.

And in return for U.S. dollars without strings attached, the Americans are called imperialists and warmongers.

Mr. Sinclair reminded his audience of the benefits the entire world has reaped from the American economy and the American technology.

Foreign countries are gloating over the erosion of the U.S. dollar, he said, but they still aren't building their own airplanes. Japanese technocracy gives us radios, and German technocracy gives us automobiles, while the United States is sending men to the moon.

The United States rebuilt railways in France, Germany and India, but where were those countries when the Pennsylvania Railroad and the New York Central went broke? he asked. Nobody loaned us as much as an old caboose.

"I can name you 5,000 times when the Americans raced to the help of other people in trouble. Can yon name me even one time when someone else raced to the Americans in trouble?

"I don't think there was outside help even during the San Francisco earthquake," he said.

"Our neighbors have faced it alone, and I'm one Canadian who is damned tired of hearing them kicked around.

"They will come out of this thing with their flag high. And when they do, they are entitled to thumb their nose at the lands that are gloating over their present troubles.

"I hope Canada is not one of these."

Mr. Sinclair echoes the thoughts of the Americans who are beginning to believe U.S. attempts to assume the role of international leader have made us an international patsy. We have tried to be the world's police force; we have tried to be a paternalistic partner to our foreign friends, and we have tried to be a miracle-working philanthropist when others have faced crisis or disaster.

Now we are in trouble.

We have serious economic problems and we have serious political problems. Our homeland is disillusioned and depressed. If we cannot get foreign aid in the material sense, we would settle for a little moral support from our foreign friends.

"Come on," Mr. Sinclair prods, "let's hear it!"

SKIING AND NATIONAL FORESTS: IN NEW HAMPSHIRE AND THE NATION

HON. JAMES C. CLEVELAND

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1973

Mr. CLEVELAND. Mr. Speaker, since many of my New England colleagues are joining me in efforts to prevent discrimination against the recreation industry in fuel allocation, I wish today to share with Members at large an assessment of the skiing industry nationwide.

This Nation must conserve energy, and in a way that shares the sacrifices in at least a rough measure of equality. Since many communities are dependent for their livelihood upon recreation as an industry—indeed with some of that dependence encouraged by Federal economic development programs—the situation argues for a proportionate reduction in energy consumption. Not only is recreation of the participant at stake, but thousands of jobs.

This has long been a concern to my district, where the White Mountain National Forest represents a great scenic, economic, and recreational asset. But the nationwide growth of just one sport—skiing—which makes use of the national forests should be of direct interest to Members whose constituents either participate in or provide supporting services.

DEMAND PRESSURES RISE

Aside from the energy question, the need for expansion of some of our forests, because of tremendous growth in recreational demand—often creating conflicting claims on the same areas—has prompted me to press for an addition to the White Mountain National Forest. The same pressures relate directly to proposals to set aside large areas within the national forest system as wilderness, with use by the public severely restricted.

Thus many Members may be interested in an assessment prepared by Sno-engineering, a New Hampshire consulting firm specialized in planning of mountain recreation facilities.

ASSESSMENT OF THE SKIING INDUSTRY

There are now approximately 5 million skiers in the United States.

Average annual growth rate of the ski population has been holding at roughly 15 percent since first documented by Sno-engineering in 1961 for the Area Redevelopment Administration. This means a doubling in size every 5 years. This was corroborated by updated studies by many interested groups and organizations, including the U.S. Forest Service.

The ski industry—including equipment and clothing sales—generated about $1.5 billion last year.

There are approximately 182 million acres in the national forests, of which only approximately 23,500 acres have been cleared for downhill ski trails—or only about one-eightieth of 1 percent of all forest lands.

Based on U.S. Forest Service data from Washington and assembled by Sno-engineering in January 1972, the growth in demand on winter sports sites has been greater than the growth in demand on campgrounds or the growth in demand on the national forests as a whole.

The 12-house "visitor day" upon which the Forest Service bases its usage and demand figures understates the ski recreation industry since in New England, at least, most ski trips are less than 8 hours in duration. Sno-engineering suggests that a weighted value be assigned to day skier visits on a 7 to 12-hour ratio. This would put skiing ahead of camping in terms of total demand.

Winter sports, with a growth rate of more than seven times that of camping and picnicking, have had a smaller increase in acreage dedicated to its use.

Skiing, which is the fastest growing recreational activity in our national forests, has been afforded comparatively little assistance in terms of developments of facilities. Little in the way of public funds for development of recreational facilities on national forest lands has gone into ski facilities. Most of the development has been financed from private sources.

Sno-engineering has derived the following selected tables from U.S. Forest Service recreation information management data:

TABLE I.—PERCENT OF TOTAL USAGE OF NATIONAL FORESTS

Year	Winter sports sites	Skiing
1966	3.2	2.7
1967	3.4	2.7
1968	3.6	2.7
1969	3.5	2.9
1970	3.8	3.1

TABLE II.—GROWTH OF DEVELOPED SITES

	Percent growth in visitor days	Percent increase in acres	Percent increase in capacity (people at one time)
Winter sports	3.8	1.2	3.6
Camp and picnic grounds	.5	1.3	2.3

James R. Branch, president of Sno-engineering, contends that ski areas, if properly planned, designed and operated, provide a highly efficient method of meeting increasing demand for recreational man-days. Access routes and times are known and controllable. The automobile, although a nuisance, is controlled. Water consumption and effluent disposal can be planned for. Trash disposal is closely contained geographically and can be controlled. Crowds and pedestrians circulate in a controlled base area; skiers circulate up lifts and down controlled trails. In essence, the ski area produced recreational man-days under more highly manageable circumstances and with less environmental disruption than almost any other form of participant outdoor recreation activity.

SUITABLE SITES SCARCE

He also points out that only about 5 percent of the mountains in the no-snowbelt are truly developable for skiing at an economically viable level. And few of those have true resort potential with the proper combination of available base lands, adequate water, easy access, and so forth. Thus he argues that the very small percentage of mountains perhaps 1 percent—which can provide a truly enjoyable outdoor recreational experience, answer a burgeoning demand, and provide significant economic and employment benefits to a region, should not be locked up for use by but a very few.

Mr. Speaker, in concern over the environmental impact of many decisions in the economic sphere, I have often had occasion to argue for examination of the economic consequences of environmental actions. Certainly this is a valid concern regarding the use of our national forests. In this connection, Sno-engineering has recommended that qualified professionals conduct studies of forest-related proposals to establish:

First. The identifiable demands for uses of various kinds, the magnitude of these demands, and the growth rates of these demands.

Second. Identifiable sources of supply—public and private lands—magnitude or capacity of these sources, qualitative characteristics of these sources, growth, and expansion potentials.

Third. Environmental aspects of balancing demand and supply; establish comfortable capacities for all sources and uses; potential for reducing conflict of use while still guaranteeing multiple use and preservation of the natural resources.

Fourth. Economic, social, cultural, and psychological implications of nondevelopment or use versus controlled and intensely managed use by the public.

In conclusion I wish to point out that there have been several wilderness proposals made involving the White Mountain National Forest and others in the national forest system which could well benefit from such scrutiny by professionals in the field, whether by private experts like Sno-engineering or the Forest Service with its wealth of talent.

And the data on skiing demand and the size of the industry it represents is equally relevant to our determination of wise policies for allocating energy in such ways as to minimize economic dislocation.

DR. RICHARD L. HOPPING

HON. CHARLES E. WIGGINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1973

Mr. WIGGINS. Mr. Speaker, December 7 marked a significant day for education and for the Nation's health as the Southern California College of Optometry inaugurated Richard L. Hopping, O.D., as its sixth president. The campus itself is a new one, located in Fullerton, Calif. Dedicated this past June, SCCO continues its history as a fine learning institution, founded in 1904 as Los Angeles College of Optometry.

Dr. Hopping has amassed an impressive record as an optometrist and as a citizen. His involvement in optometry, in addition to his excellent and extensive practice in Dayton, Ohio, includes presidency of the national American Optometric Association in 1971–72. He also directed the public health department of AOA, the education department of AOA and GOA, and chaired the AOA urban optometry study.

A graduate of Southern College of Optometry, Dr. Hopping has, since 1957, participated in the subnormal vision clinic run by Goodwill Industries of Dayton. He has served on the Medical Advisory Committee of the Ohio State Department of Public Welfare. He is a fellow of the American Academy of Optometry and a fellow of the American Public Health Association.

In diverse ways, the new SCCO president has demonstrated his concern for his fellow man. He has been a board member of the United Health Foundation of Dayton, Dayton Museum of Natural History, Montgomery County United Cerebral Palsy, Sinclair Community College Foundation. He has chaired and served on city committees and commissions—city income tax, city redevelopment, juvenile issues. He has aided the United Appeal, the Boy Scouts, his own church, Westminster Presbyterian.

In recognition of his many services, the Ohio Optometric Association named him as 1962 Optometrist of the Year. In 1960 he was honored as one of the 10 outstanding young men in Ohio.

With its new $3½ million facility, SCCO has embarked upon a progressive course for the future. The school's dedication to education concerned and well-trained optometrists is well-known. It continues its history of clinical service to the community, including a specialized low-vision clinic. With 78 percent of southern California's practicing optometrists within a 50-mile radius of the campus, SCCO will also serve as a point of continuing education for them all.

I personally am honored to have been involved in the inauguration ceremonies in receiving an honorary degree from this esteemed school. Southern California College of Optometry has served California and the Nation well. As we all become more aware of the importance of vision as part of the total health picture, we appreciate even more the contributions of this school. I am pleased to salute the excellence of the facility. Under the leadership of its new president, SCCO can only build upon its tradition of excellence.

PROFITS OF PETROLEUM COMPANIES

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1973

Mr. LEHMAN. Mr. Speaker, recent corporate reports indicate that third-quarter profits of big oil have reached an all-time high. About 1,200 independent service station owners have been forced out of business due to a lack of supplies, during the same period there was a 500-percent profit increase by British Petroleum. American families face sharp reductions in home heating oil, yet Exxon's profit is more than $1.5 billion so far this year.

The oil companies are well aware that gasoline consumption has increased a whooping 60 percent over the past 15 years, yet they have not, since 1950, constructed a single major refining installation in this country.

This country had long depended on the soundness and credibility of its oil companies, that have now become more multinational, global enterprises than truly American companies—are they really run from Wall Street and Houston, or from Zurich and Kuwait? American consumers can no longer assume that our big oil companies will take care of them. Big oil takes care of itself, and very well—so well that a proper investigation may find an oilgate horror to replace the Watergate horror.

With dismay we now learn that the President's latest energy Administrator, despite obvious conflicts of interests, is planning to recruit oil company executives to advise the Federal Government on policy matters. The administration is hiring the fox to guard the henhouse.

The Federal Government must not allow those who have controlled and managed big oil, either in the private sector or now in public office, to ignore the interests of America's consumers. The Government must begin to question the considerations such as special tax incentives given these companies. For example, is the oil depletion allowance actually encouraging the industry to drill for oil?

Because much higher oil prices abroad have produced a 500-percent increase in our exports of fuel oil, it becomes imperative for our country to control these shipments of petroleum and petroleum products by American-based oil companies. The Federal Government must get a handle on oil company operations and subject them to the same level of Government regulation as airlines, security trading, and broadcasting.

The new Federal Energy Administration must be given the mission and the authority to develop independent expertise to conduct necessary regulatory and oversight functions for the protection and well-being of all our citizens.

We must now begin to look at the long-range problem of energy. Solar energy may provide the best answer.

I have introduced the first bill in Congress that increases dollar for dollar the mortgage insurance ceiling under the Federal Housing Act for the additional expense of installing solar energy cooling and heating systems in homes.

I have cosponsored legislation to establish an energy development and supply trust fund; and have joined in sponsoring legislation to provide for the early commercial demonstration of solar heating technology by the National Aeronautics and Space Administration.

We can no longer depend on conventional sources of energy. Solar energy, particularly for Florida, is an alternative source of energy that needs to be explored further.

REMARKS OF CHARLES E. WIGGINS UPON INTRODUCTION OF "VIETNAM VETERANS DAY" RESOLUTION

HON. CHARLES E. WIGGINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1973

Mr. WIGGINS. Mr. Speaker, no nation in history has worked harder or sacrificed more in the service of peace in the world than the United States. Yet, in spite of our devotion to peace, and frequently because of it, we have seen our young men and women in almost every generation called to bear the burdens of military conflict. Always in the past, Amercia has united behind those she sent to war in her behalf, and always those who have served have done so firm in the knowledge that the American people were appreciative of the love and devotion which her young men and women have given so selflessly.

Yet, in the Vietnam conflict—America's longest and most difficult war—those who put their lives on the line for our people, did so knowing that there was disagreement and deep division over the value of their service. Many went to the dangers and hardships of Vietnam knowing that they did so with less than full support back home.

Today, no American soldier, sailor, or airman is engaged in hostile action anywhere in the world. With patience and wisdom and courage, President Nixon is building a structure of peace in the world. He is able to do so because the leadership in foreign capitals, whether friends or adversaries, have understood the lesson of Vietnam, and the men who fought there: that the American Nation can still call upon young men and women who love her and liberty more than life.

The faith of our forebearers in the future of liberty has been carried forth in the gallant actions of those who now share the honor of being called veterans of Vietnam. But it is a silent honor. America has been relieved to be rid of war, and satisfied to shut out any reminders of the war. In doing so, we have shut out our young veterans. They came home to little or no welcome. They asked nothing of us, and indeed, they have received precious little. But if we hold their service in such small esteem, and if we see no value in their sacrifices, when shall America again be able to call upon such young men to defend her?

Before time dims the memory of the pressures which the veterans of Vietnam withstood in serving their country, let special recognition be given those who served America and peace in Southeast Asia.

I have today introduced a joint resolution on behalf of all Americans who share my gratitude and admiration for our Vietnam veterans, in substantially the following form:

RESOLUTION

Whereas, the American nation did call upon its young men and women to serve in the armed forces of the United States in Indochina; and,

Whereas, those who faithfully executed the policies of three Administrations frequently bore the brunt of public objections to those policies; and,

Whereas, the gratitude of the American people for the services and sacrifices of the men and women of our armed services cannot fairly be extended or withheld according to the shifting winds of public opinion; and,

Whereas, every generation of American veterans has rightfully been made cognizant of the public esteem in which they were held by their fellow citizen: Now, therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled that the President is authorized and requested to issue a proclamation designating as Vietnam Veterans Day the 29th day of March, 1974, the first anniversary of the day the last American troops were withdrawn from Vietnam, calling upon the people of the United States to commemorate the sacrifices and dedication of these veterans by appropriate ceremony.

MR. AND MRS. BERNARD MARTIN HONORED

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1973

Mr. WOLFF. Mr. Speaker, the Great Neck Synagogue's board of trustees honored Mr. and Mrs. Bernard Martin at its annual journal dinner-dance on Sunday, December 9. I was given the honor of presenting the couple with an award at this important occasion.

Both Martins have been very active in civic and religious affairs in the Great Neck area. He is a trustee of the Denver Home for Asthmatic Children and of the synagogue. He is now on the board of the Children's Medical Center, and he was instrumental in the formation of the North Shore Community Youth Center. In addition, he is a trustee of the Long Island Jewish-Hillside Medical Center.

Muriel Martin is a member of the New York board of the Denver Home for Asthmatic Children. She has worked for the March of Dimes, Cancer Care, the Anti-Defamation League and Hadassah. She was also a very active president of the North Towns chapter of the Children's Medical Center fund.

It is indeed appropriate that the Great Neck Synagogue should honor these two extraordinary people. They have contributed tirelessly and unselfishly to every good cause in the community, and this has earned them the love and admiration of hundreds of people in the community. The following words with which they were honored best sum up what the Martins stand for: "Bernie and Muriel represent living proof that given the opportunity—people with intelligence, ability, courage, and staying power can rise to the heights of leadership."

PETE McCLOSKEY SUPPORTED JERRY FORD

HON. DONALD W. RIEGLE, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1973

Mr. RIEGLE. Mr. Speaker, our colleague from California, PETE McCLOSKEY recently testified in support of JERRY FORD before the Senate Rules Committee. I think his comments worthy of note and insert them at this point in the RECORD:

TESTIMONY OF CONGRESSMAN PAUL N. McCLOSKEY, JR., BEFORE THE SENATE RULES COMMITTEE

MR. CHAIRMAN: I testify before you today from perhaps a different standpoint than the other friends and colleagues of Jerry Ford who have appeared before the Committee.

First, in the nearly six years I have been privileged to serve in the Congress, I have found myself quite often in disagreement with the positions and views Congressman Ford has expressed. This has been true particularly during the past three years, when Jerry, as Minority Leader, in view of his own concept of the responsibilities of a Minority Leader, has been required to advance the President's cause in a substantial number of cases where the check-and-balance responsibilities of the Congress have been in direct conflict with White House positions.

We have had vigorous disagreement and debate on issues as fundamental as the Vietnam War, the ABM, the SST, the criteria for impeachment, both of Justice Douglas and the President, and of congressional responsibility to ascertain the truth from the executive branch.

It is precisely because of Jerry Ford's conduct in these disagreements, however, that I feel he is perhaps as qualified as any individual I know to be Vice President of the United States. Should fate or the constitutional process of impeachment so require, I believe Jerry Ford would be an able President of the United States, and perhaps the best kind of President we could have at this stage in our history.

In this connection, I would like to suggest that the key criteria of leadership essential to the nation today are integrity, calm judgment, humility and the ability to draw people together without rancor despite their different views. This last quality is a unique aspect of Jerry Ford, one which I have never seen excelled by any of the able leaders I have observed, whether in business, in political life or in combat.

There is a basic trust which Jerry Ford inspires in those who work with him, a trust which is rare in an individual who is in constant confrontation with shifting political coalitions and with individuals of deeply-held views on serious issues.

I have puzzled over just exactly what it is in Congressman Ford which has occasioned my own faith and trust in his leadership. With some hesitancy, I would like to suggest the thought that it stems from an absolute and almost painful honesty on his part, an honesty which goes to the very best of our tradition and root in the history of the American midwest.

You as Senators, and I as a Member of the House, are trained to be skeptical of the fluent phrase and the well-articulated argument. We know how easy it is to be less than precise—to seek to be politic and satisfy all viewpoints with a comment which displeases no one yet says nothing of substance. Time and again, in difficult floor debates, or in personal conversations with colleagues, I have seen Jerry resist the soothing, less-than-exact words which might have won the battle of the hour, but left resentment in retrospect on the part of those he has asked to follow his leadership.

An example of Jerry's service in this regard occurred in the historic House debate on June 29 of this year when the House voted to end the Vietnam War by a vote of 204 to 204.

In the debate on the floor, appears the following question and answer:

MR. McCLOSKEY. "Mr. Chairman, do I understand correctly that under this bill which would authorize bombing to be continued up to August 15 the White House is committed when this bill is enacted and signed into law that all bombing would cease on August 15, that all military activity in and over Laos, Cambodia, and North and South Vietnam would cease unless the President came back to the Congress and asked for and obtained authority to commence military activity?"

MR. GERALD R. FORD. "That is my understanding."

A lawyer will immediately perceive the lack of clarity or commitment in the phrase "That is my understanding."

Later in the debate, just prior to the vote, Jerry spoke again:

"Mr. Chairman, I just finished talking with the President himself for approximately 10 minutes, and he assured me personally that everything I said on the floor of the House is a commitment by him."

I have seen him fight hard fights, with the ultimate decision resting on a handful of votes of those of us who, in Jerry's mind, were standing in the way of a crucial victory on a major issue. Never once have I seen him threaten, offer promise of reward, or in any way act in less than the manner all of us would hope a great statesman would act in the best of our national traditions.

This is real leadership in its own right, a leadership which could perhaps do more to restore the faith of our people in these difficult times than any brilliance, political skill or charisma which might be the attributes of other able leaders who might be nominated for the Office of Vice President.

A further quality I would like to mention is the inherent humility of Jerry Ford, his capacity to admit mistakes and to accept blame.

For too long, I think, have we sought to defy our national leaders. A President is a man, not a god. His task is to see that the laws are faithfully executed, not to rule as some sort of emperor with divine guidance. A little humility in the White House could be a refreshing thing.

I would like to comment on one other matter of which I have had personal experience, the comments of Robert Winter-Berger in his book, *The Washington Pay-off*.

In April, 1971, I came back from a trip to Vietnam and Laos, dedicated to challenging the Administration's Vietnam policy in the Republican primaries in the event no better qualified Republican came forward to do so. I felt strongly about our Vietnam policy and was likewise concerned by what seemed to be an increasing pattern of untruthfulness and corruption on the part of the Nixon Administration.

At the San Francisco Airport, I happened to buy one of the first copies of Mr. Winter-Berger's book, detailing a series of experiences Mr. Winter-Berger had had while serving as a Washington lobbyist. I was particularly interested in the specific examples Mr. Winter-Berger described relating to Republican practices, practices in which Congressman Ford's office was prominently mentioned.

I called Mr. Winter-Berger and he met with me for more than an hour in my office in the Longworth Building. We went over, in some detail, his experiences with Jerry Ford, with my attention and questions seeking to probe for any conduct on Ford's part which would justify citation as examples of political corruption of the type I was claiming as typical of Richard Nixon's past political history, items such as the 1956 Hughes loan, the 1962 California gubernatorial campaign misrepresentation and the like.

At the conclusion of the interview, I had reached the opinion that even accepting the *facts* Mr. Winter-Berger related as being true, I could not conclude from those facts that there was a single instance of wrongdoing on Jerry Ford's part. I had no reason to disbelieve any of Mr. Winter-Berger's allegations and placed reliance on what he said; nevertheless, I did not feel his *conclusions* from those facts could be construed as supportive of any allegation of misconduct.

In conclusion, I have said before that I have puzzled sometimes over exactly what it is about Jerry Ford that causes me to like him so well and respect him so much. Whatever his qualities are, they have inspired my own complete trust, faith and respect.

I believe those qualities will possibly also go a long way in restoring the public's faith in our system of government, a faith which, in my judgment, is our most priceless asset as a nation. Thank you.

THE DEATH OF EVERT E. MORRISON

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1973

Mrs. HOLT. Mr. Speaker, it is with a feeling of sadness that I recognize today the untimely death of Evert E. Morrison, a member of the U.S. Capitol Police Force for the past 7 years.

Officer Morrison served with distinction in the U.S. Navy and the Coast Guard for over 20 years before he joined the police force here on Capitol Hill. He was known to his fellow workers as a man dedicated to his profession, and this dedication to his career was, in a sense, responsible for his tragic accident. He was killed en route to his post on Capitol Hill.

Officer Morrison was a splendid example of the loyalty and devotion to duty displayed by all the members of the Capitol Hill Police Force as they so ably carry out their assigned duties, and expend extra efforts which could go well beyond their perimeters of responsibility.

His death is a tragic loss to his family and colleagues. He was a considerate and capable man, and he will be sadly missed by all of us who knew him.

SERVICEMEN CALL FOR ABOLITION OF NONJUDICIAL PUNISHMENT

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1973

Mr. DELLUMS. Mr. Speaker, last month I accepted a petition addressed to Congress signed by over 1,000 servicemen. These men are asking Congress to abolish the military's use of nonjudicial punishment authorized by article 15 of the Uniform Code of Military Justice. I was very pleased to accept these petitions which express the deep commitment of enlisted men to fighting the injustices within the military system.

Many civilians are not aware of the extent of the penalties associated with article 15 punishment, or of the lack of respect for due process and the defendant's rights when it is administered. The penalties included up to 30 days confinement, reduction of pay grade, and direct forfeiture of pay. These are only immediate punishments, but the consequences of article 15 decisions follow a serviceman throughout his military career and even into civilian life, through the type of discharge he receives.

These penalties, then, are as severe as one man can give another outside a courtroom. Only recently has there been any attempt to introduce the slightest commitment to due process to all of this. At bottom, the aim of the system is not justice—equal punishment for equal offense—but the preservation of discipline, or, to put the matter in operational terms, saving face for officers. Therefore there is a basic arbitrariness in the way penalties are handed out.

This inherently unfair system is compounded by the way it is conducted. Due process is violated in letter and in spirit. I cannot do better than to quote the servicemen's petition on this point:

> We firmly believe that punishment by Article 15 (non-judicial punishment) violates the Fourth, Fifth, Sixth, and Eighth Amendments to the United States Constitution. Article 15 permits the military to impose arbitrary punishments on servicemen and servicewomen without the right to a hearing, without the right to be free from self-incrimination (the C.O. makes you explain the story), without the right to prevent the use of illegally seized evidence, and without the real right to cross-examine witnesses or the real right to present witnesses on one's behalf. Article 15 is also used discriminatorily against minority groups, thus violating equal protection guarantees.

Another mistake made by civilians is the assumption that this kind of arbitrariness is necessary for a disciplined, effective Armed Forces. A look at military history shows this to be an error. It was only in the late 1800's that Congress for the first time granted military commanders certain powers of summary punishment—but within very strict limitations. By 1950, article 15 penalties only stretched to 2 weeks. It was not until the 1950's and 1960's that really severe penalties were given to the discretion of officers under article 15. Thus the only major conflict fought with these supposedly necessary disciplinary powers was the Indochina war, a war not noted for the effectiveness of the military's discipline.

Another reality we have to deal with is that the minorities in the Armed Forces—the brown, yellow, and black soldiers—are predominantly enlisted men, and the officer corps is predominantly white. It does not need much sophistication to realize that if this situation can be handled at all, it can only be done with a maximum of fairness in the use of the extraordinary powers given to officers. But on the contrary, article 15 is used to harass and discriminate against minority servicemen, as the record plainly shows. I have become convinced that article 15 is one of the basic instruments of the repression and racism that pose such a challenge to the military today.

The real question boils down to whether we regard servicemen as mercenaries doing a dirty job or as U.S. citizens defending their country. I strongly believe that GI's do not abandon their constitutional rights at the gate of boot camp, along with their other civilian gear. Civil liberties are not just for civilians—a soldier is still a U.S. citizen with his full rights under the Constitution and under the law.

We need to come up with new ways of approaching the whole problem of military justice. England, Sweden, and West Germany, for example, have carried out basic reforms of the military justice systems, based on the clear realization that only emergencies and military necessity during hostilities can justify infringements on anybody's rights. I believe there is no reason why the United States should not civilianize its military justice system to the fullest extent possible.

On the specific question of article 15, the most pressing necessity is to take exclusive power away from the officers corps, and to create a jury system that will actually try a person by his peers, that is, by men and women of his own rank. This will remove the basic cause of arbitrariness and injustice.

I believe Congress should take this petition with the utmost seriousness. It calls attention to a basic fact of military life that civilians ignore at their peril—and I mean that literally. If we seriously address ourselves to this reform, it will be a long step toward an effective and united Armed Forces.

The petition follows:

> We the people hereby petition the United States Congress to abolish Article 15 of the Uniform Code of Military Justice (Captain's Mast and Office Hours).
>
> We firmly believe that punishment by Article 15 (non-judicial punishment) violates the Fourth, Fifth, Sixth and Eighth Amendments to the United States Constitution. Article 15 permits the military to impose arbitrary punishments on servicemen and servicewomen without the right to a hearing, without the right to be free from self-incrimination (the C.O. makes you explain the story), without the right to prevent the use of illegally seized evidence, and without the real right to cross-examine witnesses of the real rights to present witnesses on one's behalf. Article 15 is also used discriminatorily against minority groups, thus violating equal protection guarantees.
>
> We know that Article 15 is used by the military to intimidate, harass, and frighten servicemen and servicewomen. As an alternative, this power should be transferred to civilians, or power to impose Article 15 should be by a board of three enlisted persons of equal rank to the person subject to Article 15.
>
> We all stand united in the common cause to abolish punishment by Article 15 (Captain's Mast and Office Hours).

THINKING THINGS OVER

HON. ROBIN L. BEARD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1973

Mr. BEARD. Mr. Speaker, in recent days we have concerned ourselves with the serious problem of the shortage of fuel.

It was only 4 months ago that the lack of beef—not oil—was a major concern. Freezers rather than gas tanks were near empty.

There was a price freeze, Government controls, and there was no beef. As Vermont Royster said in the Wall Street Journal on December 12, 1973:

> The bare shelves of summer were created not by the butchers but by some gentlemenly agronomists on the Cost of Living Council. As soon as these gentlemen in their wisdom lifted the price ceilings on beef, the shortages vanished.

Before we rush headlong into authorizing more unworkable controls, I think we should reflect on the beef shortage, such as it was, and see the obvious merits of the free enterprise system.

In this vein, I strongly recommend Mr. Royster's column to my colleagues, and ask that it be printed in the RECORD:

THINKING THINGS OVER

(By Vermont Royster)

BEEFING ABOUT SHORTAGES

Putting one little word after another, whatever happened to the beef shortage?

So many things have happened so fast this year that last summer is almost ancient history. The past gets obliterated in memory not by decades but by months. Sitting in the chill before the TV set it's hard to recall the heat of summer and the dramatic pictures on the evening news of those bare counters in the supermarket meat department.

But for a time back there the TV pictures were also of empty corrals down at the old stockyards, and at our house hamburger was as rare as pheasant under glass. Posses of housewives were ready to hang the butcher and Congressmen from urban districts were muttering dire things about greedy cattlemen, sounding for all the world like sheepherders in one of those range wars right out of "Gunsmoke."

Meanwhile sophisticated commentators were telling us that the beef shortage was permanent and we were just going to have to learn to get our protein from soybean concoctions. A few even viewed this as a good thing, since it would break our horrible habit of munching on burgers and frenchfries.

So a recent visit to the local supermarket in the interests of journalistic enterprise was something of a surprise. The meat counter was obviously beefed up—ground beef, rump roast, eye round, all-beef frankfurters, even steaks from varying parts of the beast, all spread out in tempting array.

To be sure, the prices were beefed up too. Plain old ground beef was 99 cents a pound, the rump roast was $1.38, the eye round roast was $1.88, while the price of sirloin was reserved for J. Paul Getty.

Higher prices, yes. Shortages, no. The bare shelves of summer were created not by the butchers but by some gentlemanly agronomists on the Cost of Living Council. As soon as these gentlemen in their wisdom lifted the price ceilings on beef, the shortages vanished.

For there is a relentless correlation between the two, between the price of a commodity and its availability in the market place. Which is something worth pondering now that we begin to shiver through the winter, industries begin to cut back production and the unemployment lines lengthen.

The choice is between higher prices for energy or a cold, cold winter for everybody. Worse, between higher prices for energy or a cold, cold decade. It's an unhappy choice, true enough, and it would be marvelous if some bureaucrat could issue an order and save us from it. But no rationing program, no matter how elaborate, will produce another barrel of oil, another cubic foot of gas, another BTU of energy from any source. Rationing and price controls can only assure that the shortage will last as long as the programs do.

The problem here—as in the beef shortage or any other shortage—is three-fold. To reduce demand, to allocate the present supply in the most efficient manner and to increase the supply.

Artificially depressed prices and rationing don't decrease demand they merely shift the pressure from the open market to the black market or the political arena where it's decided who gets what at the artificially cheap price. They don't allocate the supply on an economic but on a political basis. They encourage no new production.

A freely operating market price will do all three. Right now the price of energy would rise, all right, just as did the price of beef. But with the price rise every user, industrial or home consumer, would take a hard look at his energy use.

There's nothing like a pocketbook pinch, whether on the household budget or a company profit-and-loss sheet, to cut out waste and promote the economic use of any resource. As between users, particularly heavy industrial users, price allocates usage on some rational economic basis rather than by the whim of some government bureaucrat.

Meanwhile, of course, the rising price would encourage all sorts of people to dig more oil wells, tap more gas pools, research new energy sources in areas not economic at the present price levels.

To all this there are objections. One is that rising prices fall heaviest upon those who can least afford them. This is true of all prices, whether of beef or gasoline, but the choice is always between a price to put goods on the market or no goods. And in this case with the shortage resulting in unemployment and other assorted ills the real choice for many will be between letting prices rise or no jobs—and no money to buy at any price.

Another objection is that rising prices will benefit producers, all those oil and gas companies. Let us hope so. Looking at the stock market right now, who is going to put up capital to dig new wells or lay new pipelines? Is the objective to restrict the "profits" of cattlemen or wildcatters, or to get more beef and more oil? To refuse to reward those who will get more of what we need is, in the old adage, to cut off one's nose to spite one's face.

No consumer, and I am one, likes high prices. But when nature is unkind or politicians foolish we are sure to get them. With energy, nature is unkind in that the sources remaining are expensive to get at. The politicians have foolishly compounded the problem by, first of all, plaguing us with an inflation that forces up the prices of everything necessary to produce energy, from the steel to make drills, to the labor to do the drilling.

Then the politicians penalized capital formations, refused to let pipelines get laid, discouraged the opening of new gas heads, restricted the uses of coal, delayed the construction of nuclear plants—and now act stunned that a shortage is aggravated into a crisis.

There's no use pretending there's an easy way out. We're in for a cruel time, no matter what. But whatever else is done, in the real world we're going to have to pay the real cost of energy or do without—that is, have a permanent crisis The real price of energy will surely be higher, though not as high as a black-market price. On the other hand, the price of not paying it is a shortage not only of energy but of chemicals, paper, medicines, electricity, food and everything else that requires energy.

So maybe the oil controllers in Washington ought to wander over and have a chat with the beef controllers.

TWENTY-FIFTH ANNIVERSARY OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS

HON. HENRY HELSTOSKI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1973

Mr. HELSTOSKI. Mr. Speaker, one of the principal objectives in the formulation of the United Nations was indicated in the recognition and protection of human rights and fundamental freedoms.

The Assembly of Captive European Nations has taken note of this objective of the United Nations and has issued a statement on the 25th anniversary of this declaration, pointing out some of the violations of these rights and freedoms in the captive countries of East Central Europe.

Mr. Speaker, in order that my colleagues in this honorable body may be acquainted with the position of the Assembly of Captive European Nations regarding these violations, I include, as part of my remarks, the statement of ACEN concerning the denial of human rights which cause tension and endanger international peace and security.

The statement follows:

STATEMENT OF THE ASSEMBLY OF CAPTIVE EUROPEAN NATIONS, INC.

The nations of the world, stunned by the atrocities committed by totalitarian governments in the course of the Second World War and its aftermath, realized that the protection of individual freedoms could no longer be left to the sole discretion of States.

A new concept emerged within the international conscience, that the inalienable rights of the individual are derived not only from his status as a citizen of a certain state but also from his membership in the human family. War became a crusade against tyranny, a crusade for Human Rights.

When Dumbarton Oak's proposals for the establishment of the United Nations were formulated in 1944, they indicated in Chapter 9 among the purposes of the Organization to "promote respect for Human Rights and Fundamental Freedoms."

Finally the idea of recognition and protection of Human Rights found its expression in the United Nations Charter as one of the principal objectives of the Organization.

Specific provisions are to be found in the Preamble and in five articles of the Charter. The Preamble states:

"We the peoples of the United Nations, determined ... to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small ... have resolved to combine our efforts to accomplish these aims."

Then, among the purposes of the United Nations set out in Article 1, is "to co-operate . . . in promoting respect for human rights and fundamental freedoms for all." Article 55 provides that the United Nations shall promote, inter alia, "universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion"; while in Article 56 "all Members pledge themselves to take joint and separate action in co-operation with the Organization for the achievement of the purposes set forth in Article 55." Article 68, requires the Council to set up Commissions in the economic and social fields and for the promotion of human rights, and Article 76, lists the promotion of human rights and fundamental freedoms among the basic objectives of the trusteeship system.

At the San Francisco Conference, which drafted the Charter, President Truman in his closing speech to the conference stated that:

"The Charter is dedicated to the achievement and observance of Human Rights and Fundamental Freedoms. Unless we can attain those objectives for all men and women everywhere without regard to race, language or religion—we cannot have permanent peace and security."

The Human Rights Commission, created in 1946 by the Economic and Social Council in compliance with Art. 68 of the Charter, prepared, under the chairmanship of Mrs. Eleanor Roosevelt, the text of the Universal Declaration of Human Rights, adopted by the General Assembly in Paris, on December 10, 1948. The vote was 48 to 0 with the Soviet Bloc, Saudi Arabia and South Africa abstaining.

The Universal Declaration was adopted by Resolution 217 (111) of the General Assembly. The operative part of the resolution read as follows:

"Now, therefore, the General Assembly proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of member states themselves and among the peoples of territories under their jurisdiction."

With all its admitted limitation in legal force, the Declaration has beamed into the world a new message of hope and belief in human dignity. The European countries emerging from the sweat and tears of a World War were inspired by that document hoping that it will guarantee the effective protection of fundamental freedoms. It reflected and defined the inalienable and basic rights of man, the foundation of which rests on the dual principle of individual freedom and of inviolability of the human person.

At 1968 conferences convened in celebration of the International Year of Human Rights, the Declaration was hailed on the occasion of its Twentieth Anniversary. The final statement of the Assembly for Human Rights which met in Montreal, Canada, in March 1968, declared that "the Universal Declaration of Human Rights constitutes an interpretation of the Charter of the highest order and has over the years become a part of customary international law."

One month later, the United Nations Conference on Human Rights at Teheran closed with the adoption of the Proclamation of Teheran which stated in part:

"2. The Universal Declaration Human Rights states a common understanding of the peoples of the world concerning the inalienable and inviolable rights of all members of the human family and constitutes an obligation for the members of the international community."

However, from among the entire membership of the United Nations only the seventeen member countries of the Council of Europe had taken the declarations of principle proclaiming the fifteen separate rights from the Universal Declaration and transformed them into legal obligations binding on member states. In 1959 they established a new international organ, the Court of Human Rights—after 8 states had recognized its jurisdiction as compulsory—with responsibility for ensuring that these obligations are effectively observed.

On the other hand, the United Nations hardly ever moved beyond those noble declarations, lofty statements and unfulfilled projects, like the 1966 Covenant on Civil and Political Rights. Their activities during the past 25 years were marked by neglect of their obligations arising from the provisions of the Universal Declaration and of the Charter which directed the United Nations to promote respect for Human Rights and Fundamental Freedoms. This neglect was specially harmful in respect of the captive nations of East-Central Europe. We have witnessed its most glaring example during the Hungarian Revolution of October 1956, and the Soviet invasion of Czechoslovakia in August 1968.

The peoples of Albania, Bulgaria, Czechoslovakia, Estonia, Hungary, Latvia, Lithuania, Poland and Rumania, subjected to great sufferings caused by the continued denial of Human Rights and Fundamental Freedoms by the totalitarian governments which usurped power against the will of the peoples concerned, looked in vain to the United Nations for help and justice. They are deprived of freedom of speech, press, assembly and association, while freedom of opinion, expression and information is severely restricted. Censorship is all permeating, freedom of movement is curtailed and in many cases completely denied. Freedom of conscience and religion is denied, and the Uniate Church in Rumania, with two million believers, was brutally suppressed. In the Baltic States of Estonia, Latvia and Lithuania, forcibly incorporated into the Soviet Union, practicing of religion leads to a dismissal from job and often to a mock court trial and a prison sentence and a similar situation exists under the present Soviet-imposed regime in Czechoslovakia. The elections are held with a single government list and no opposition to the government is tolerated. The trade unions are state-controlled and there is no right to strike under heavy penalties. The police is omnipotent and the citizen has no regress against government high-handedness. Obviously the Communist governments in East-Central Europe are unwilling to fulfill their obligations in respect of Human Rights and Fundamental Freedoms.

The Assembly of Captive European Nations has always considered the implementation and further realization of Human Rights and Fundamental Freedoms as one of the principal objectives of the United Nations. We see in the denial by the ruling Communist regimes of Human Rights to the nations of East-Central Europe one of the causes of tension which endangers international peace and security.

On this, the Twenty-fifth Anniversary of the Universal Declaration of Human Rights, the Assembly of Captive European Nations:

Stating that the primary and most serious denial of Human Rights in the captive nations stems from the suppression of their independence and sovereignty,

Appeals to the United Nations:

(a) to set up a thorough and impartial specific investigation of the application of civil and political rights in Albania, Bulgaria, Czechoslovakia, Estonia, Hungary, Latvia, Lithuania, Poland and Rumania;

(b) to create machinery capable of implementation of the principles and rights contained in the Universal Declaration and in the United Nations Covenant on Civil and Political Rights, including the creation of the position of a High Commissioner for Human Rights with full powers for the performance of his duties:

Appeals to the Governments of the free nations participating in the European Conference on Security and Cooperation:

(a) to raise before the Conference, currently in session in Geneva, the problem of the violation of Human Rights and Fundamental Freedoms in Albania, Bulgaria, Czechoslovakia, Estonia, Hungary, Latvia, Lithuania, Poland and Rumania;

(b) to press for the removal of the Communist-raised barriers separating these nations from common cultural European heritage of individual freedom, political liberty and rule of law.

"OLD IRONSIDES" AND THE BOSTON NAVAL SHIPYARD

HON. THOMAS P. O'NEILL, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1973

Mr. O'NEILL. Mr. Speaker, today I would like to bring to the attention of the American people the skill and dedication of the employees of the Boston Naval Shipyard. As we all know, the U.S.S. *Constitution*, "Old Ironsides," is permanently homeported in Boston by Public Law 83–523. "Old Ironsides" is currently in drydock at the Boston Naval Shipyard undergoing an extensive overhaul.

As it is noted in the caption under a picture in the News of the last remaining shipyard customer, indications are that she will come out of drydock No. 1 next April despite devastating losses of skilled workers. This is due to the spirit at the Boston Naval Shipyard. It stems from the pride of each shipyarder, the feeling of teamwork, the deep awareness of how for over 150 years shipyarders at Boston have dedicated themselves to giving the U.S. fleet distinguished service, an inner sense of fulfillment, the personal demands that the next job be done better than the last. Truthfully speaking the "Boston Spirit" eludes definition, it is intangible, it expresses itself in jobs traditionally "well done." The Boston spirit is anybody's guarantee that a job done at the Boston Naval Shipyard simply cannot be surpassed.

The following article from the Boston Naval Shipyard News illustrates the continuing skill and dedication of the Workers at the Boston Naval Shipyard.

Constitution Drydock Now Hub of Shipyard Activity as "Old Ironsides" Becomes Boston's Last Customer

With the imminent depature of USS Talbot (DEG–4)—probably a week from today—the Shipyard's piers will soon be bare of customers, with the exception of an occassional visitor or a Reserve training ship between cruises. Only one section of the waterfront teams with activity now, and that is Drydock One, also known, and very appropriately, as Constitution Drydock.

For nine months now, USS Constitution (better known as "Old Ironsides") has been the famous tenant in the Drydock named in her honor. She is undergoing an overhaul of vast proportions which features the renewal of her wooden hull. This period in Drydock, scheduled to end next April, is just the first phase of the old ship's restoration. The work will end in time for her to take some role—not yet specifically defined—in her country's 200th birthday celebration.

Since April 17, 1973 (a day notorious as the one on which the Shipyard's closing was announced, even as "Old Ironsides" was nosing into Drydock One), expert Shipyarders from the Woodworking and Rigging Shops have swarmed all over Constitution, poking and prying and searching for trouble spots. All over the hull, they have taken core borings to determine what sections of planking must be replaced.

Their first discovery was that the underwater body is "sound as a nut" and showed no signs of decay. This excellent condition is credited to the beneficial effects of the salt water in which "Old Ironsides" lives. Indeed it is at the waterline, which is sometimes wet and sometimes dry and more exposed to the sun, that signs of decay have been found and are being remedied.

SALT WATER VITAL

So important is salt water to Constitution's health that even now, while she sits high and dry on her keel blocks, she is regularly wet down, sprayed with salt water by Shipyarders or members of her crew. At her usual home at Pier One, Constitution draws up water like a wick and it permeates her hull; the wetting-down in the dock attempts to substitute for that.

Prefabrication has been a major feature of this overhaul. Behind the waterfront—in Building 114 or in special facilities built for the purpose near Drydock One—the raw lumber is milled rough, the pieces of the proper length are selected and the planking is fashioned out, dipped in preservative and if necessary stamped and bent to shape.

One Shop 64 crew does that part of the job; others from that Shop install the planking to the hull, fasten it into place, caulk the seams and eventually cover the underwater body portion with a layer of felt and then a layer of copper.

SAME PRINCIPLE

In principle the work being done today does not differ much from the way it was done during the late 1920s as it was described by Rear Admiral L. M. Nulton, USN, Commandant, in a Research Memorandum dated November 27, 1961:

"Great care was taken in the selection of the outside planking as it required excessive bending, especially aft in the tuck of the ship and under the counters which were full-lined to prevent squatting of ship when running full before or on the wind.

"To meet the unusual bending requirements of planking in these locations, the outside planking was saturated with boiled linseed oil prior to its being put in the steam box where it was steamed for 1¼ to 1½ hours. By this use of steam and linseed oil the planking became quite flexible and the counter and tuck successfully planked up without injury to the planking."

STEAMED AND BENT

Today, most of that steaming is done in a newly erected facility on Pier One, built to accommodate 40-foot timbers if necessary. After steaming for the appropriate time, generally all day or all night, the softened wood is placed in the bending press, generally overnight. Hard bends, those that will take several days, are still being done in Building 114.

With the restoration of "Old Ironsides" coinciding with the closing of the Shipyard, Building 114 is being phased out. Machinery and equipment used specifically for Constitution work—including the four-sided planer, saws of various types, shapers, the laminating press and the drill press—will soon be moved to Building 24, the present "home office" of the Service Group.

FOUNDATION PITS

In Building 24, preparations to receive this equipment are well underway. Three foundation pits are being dug for the largest pieces of machinery, and excavation of the second of these is near completion. Additional power will be required, so Public Works is installing entrance cables and panel and Shop 06 is installing feeder cables and circuit breakers.

An exhaust system to get rid of the dust which all this woodworking equipment is bound to create is also being installed. And high overhead there will be a monorail, a bridge crane system which will make it easier to lift and move heavy timbers from one machine or operation to another.

LAY-DOWN AREA

This section will be pretty crowded with machinery, so the "annex" to Building 24—the section nearest to Drydock Two—is being converted to a lay-down area for Constitution work. There, planking, beams and knees will be fashioned out to support other phases of this prefab work. Upstairs in Building 24 is the Rigging Loft and a saw-filing support facility will be added to that.

Back on board, the side planking and the waterline planking are complete. The next scheduled milestones are the completion of the berth deck beam repairs by December 24 and the completion of the orlop deck repairs by January 25th; indications are that both these dates will be met.

Replacement of felt and copper over the underwater body planks is more than one-third complete; replacement of the copper behind the bilge blocks has been completed on the starboard side. Satisfactory progress has also been reported on other controlling jobs, both external and internal.

EARLY RESTORATION

In the late 1920s, the restoration of the Constitution extended over a period of 38 months including 23 months in drylock. According to Admiral Nulton's memo, the work took longer than was anticipated for several reasons, including "complete lack of drawings and data . . . delays in the receipt of materials" and because "when the funds were running low, before Congress made an appropriation, the force was reduced in order to avoid having to stop work completely."

That appropriation amounted to $300,000, but that covered less than a third of the total cost to restore and equip the ship. Total cost of the restoration was $921,108.49. That included labor ($459,857.96), indirect costs ($241,990.63) and material ($219,259.90).

"The remark has been made," the Admiral noted, "that a new ship of the type could have been built as cheaply, which might be true. Tremendous expense was incurred in shoring and hold the ship together while its members were being taken out and replaced one by one. That great care was exercised is obvious when it is noted that not a single fatal accident occurred during these dangerous operations, nor in fact during the whole restoration.

NOT EXCESSIVE

"Considering the relative pay and hours of labor, and the cost of material, the difference between the original cost of the vessel and the renewal of 85 percent of it is not excessive.

What, one wonders, would the Admiral think of today's prices for labor and materials? Still, considering the enormous historical importance of "Old Ironsides" and the affection in which she is held by millions, even these costs are not excessive.

Much more remains to be said about the current restoration. Stay tuned to this station.

AMERICANS

HON. ELWOOD HILLIS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1973

Mr. HILLIS. Mr. Speaker, just what is right with America? Anything? In recent years we have heard both here and abroad comments which would lead us to believe that everything is wrong with America. I have been distressed on many occasions and felt that these dissenters needed to be set on the right path.

I have heard many attempts to do so, but none as effective and meaningful as an editorial by Gordon Sinclair, a Canadian radio and television commentator. And more impressive—here is someone who is not even an American, but sees fit to defend her. Mr. Sinclair's commentary comes at a most appropriate time and I believe it to be excellent reading for everyone.

While Mr. Sinclair's throughts have previously been inserted into the CONGRESSIONAL RECORD by another colleague, I want today to again share this commentary. It is indeed heartening to know that there are individuals like Gordon Sinclair. I salute him.

The editorial follows:

AMERICANS

The United States dollar took another pounding on German, French and British exchanges this morning, hitting the lowest point ever known in West Germany. It has declined there by 41% since 1971 and this Canadian thinks it is time to speak up for the Americans as the most generous and possibly the least-appreciated people in all the earth.

As long as sixty years ago, when I first started to read newspapers, I read of floods on the Yellow River and the Yangtze. Who rushed in with men and money to help? The Americans did.

They have helped control floods on the Nile, the Amazon, the Ganges and the Niger. Today, the rich bottomland of the Mississippi is under water and no foreign land has sent a dollar to help. Germany, Japan and, to a lesser extent, Britain and Italy, were lifted out of the debris of war by the Americans who poured in billions of dollars and forgave other billions in debts. None of those countries is today paying even the interest on its remaining debts to the United States.

When the franc was in danger of collapsing in 1956, it was the Americans who propped it up and their reward was to be insulted and swindled on the streets of Paris. I was there. I saw it.

When distant cities are hit by earthquake, it is the United States that hurries in to help . . . Managua Nicaragua is one of the most recent examples. So far this spring, 59 American communities have been flattened by tornadoes. Nobody has helped.

The Marshall Plan . . . the Truman Policy . . . all pumped billions upon billions of dollars into discouraged countries. Now newspapers in those countries are writing about the decadent war-mongering Americans.

I'd like to see just one of those countries that is gloating over the erosion of the United States dollar build its own airplanes.

Come on . . . let's hear it! Does any other country in the world have a plane to equal the Boeing Jumbo Jet, the Lockheed Tristar or the Douglas 10? If so, why don't they fly them? Why do all international lines except Russia fly American planes? Why does not other land on earth even *consider* putting a man or woman on the moon?

You talk about Japanese technocracy and you get radios. You talk about German technocracy and you get automobiles. You talk about American technocracy and you find men on the moon, not once, but several times . . . and safely home again. You talk about scandals and the Americans put theirs right in the store window for everybody to look at. Even the draft dodgers are not pursued and hounded. They are here on our streets, most of them . . . unless they are breaking Canadian laws . . . are getting American dollars from Ma and Pa at home to spend here.

When the Americans get out of this bind . . . as they will . . . who could blame them if they said "the Hell with the rest of the world." Let someone *else* buy the Israel bonds. Let someone else build or repair foreign dams or design foreign buildings that won't shake apart in earthquakes.

When the railways of France, Germany and India were breaking down through age, it was the Americans who rebuilt them. When the Pennsylvania Railroad and the New York Central went broke, nobody loaned them an old caboose. Both are *still* broke. I can name to you 5,000 times when the Americans raced to the help of other people in trouble.

Can you name me even *one* time when someone else raced to the Americans in trouble? I don't think there was outside help even during the San Francisco earthquarke.

Our neighbours have faced it alone and I'm one Canadian who is damned tired of hearing them kicked around. They will come out of this thing with their flag high. And when they do, they are entitled to thumb their nose at the lands that are gloating over their present troubles.

I hope Canada is not one of these. But there are many smug, self-righteous Canadians. And finally, the American Red Cross was told at its 48th Annual Meeting in New Orleans this morning that it was broke.

This year's disasters . . . with the year less than half over . . . has taken it all and nobody . . . but nobody . . . has helped.

EULOGY TO DAVID DESSAU

HON. ALPHONZO BELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1973

Mr. BELL. Mr. Speaker, an extraordinary man, a close friend, and a leading Los Angeles citizen died early Wednesday morning and his funeral will be held today in Hermosa Beach.

At the time of his death David Dessau was publisher of the Hermosa Beach Review, the El Segundo Herald, the Florence Messenger, the South End Bee and the Compton "Westside" Bee.

Dave climbed the ladder to publishing after a long career in journalism which included service as a reporter on the Washington Post and a period as a war correspondent during World War II when he was based in Hawaii.

He was born in Washington, D.C., in 1913 but grew up in southern California and graduated from Hollywood High School.

He and his newspapers, organized as the South Bay Publishing Co., exerted a major influence in the south bay and throughout California.

He was respected and admired and his friendship was enjoyed by an amazing range of people from all walks of life and at every level of prominence.

He was wise, generous, kind, thoughtful and always constructive. And he will be greatly missed by all of us who had the great good fortune to know him.

REFLECTIONS ON THE DISORDER OF OUR TIMES

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1973

Mr. KEMP. Mr. Speaker, it takes no sage or oracle to bring to our attention what ought to be the obvious—that our Nation is substantially overburdening its institutions, reducing their capacities for resolving the myriad of crisis now upon us. It does, however, take a man of wisdom and insight to ascertain clearly the root causes of this critical stress on our institutions.

The eminent professor at New York University, Dr. Sidney Hook, recently addressed the fifth annual meeting of the Open Court Editorial Advisory Board on the disorder of our times. This excellent and insightful address has been reprinted in the current issue of the Alternative. Excerpts therefrom follow:

EXCERPTS FROM REFLECTIONS ON THE DISORDER OF OUR TIMES

(By Dr. Sidney Hook)

The times, as I have known them, have always been in a state of disorder. Disorder and disorganization are perennially popular themes. A few years ago, the basic course in "Social Organization" at a prestigious university drew a mere handful of students. But just as soon as the title of the course was changed to "Social Disorganization," without any change in content, students flocked to it in such numbers that it had to be given in several sections. In part, the attractiveness of the theme flows from the same reasons that explain why we never gossip about our neighbor's virtues, but only about their vices.

The very meaning of disorder presupposes a value or set of values from whose standpoint we assess the state of affairs we regard as disorderly.

* * * * *

Until recently, there seemed to be a rough consensus on these values and ideals in American life even when we differed on the program, parties, and means of achieving them. That consensus was expressed as a commitment to the democratic process, and to the mechanisms of registering freely-given consent, a consent freely given because it included the right to dissent. It was a commitment to the rights of individuals, and where rights conflict, as they always do in moral situations, to their resolution in the light of the common good. It was a commitment to the pursuit of desirable freedoms by the arts of intelligence.

* * * * *

The disorder that we should all deplore in our time is largely the consequence of the erosion of these values and ideals, and the resulting abandonment of rational processes of debate, the resort to means that subvert the moral and legal ends of a free society, and the emergence not only of cults of violence but of attitudes that encourage resort to violence and to threats of violence.

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It is not so much public events that concern me here, as certain trends in the cultural and educational atmosphere that seem to contribute to the intellectual, social, and ultimately moral disorder of our times. These trends are more dangerous because of their seeming respectability and legitimacy.

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I mention first the growth of anti-intellectualism and irrationalism, which takes many bizarre forms and centers around cults, doctrines, and charismatic figures from the intellectual underworld.

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Anti-intellectualism and irrationalism are not restricted to popular thinking about scientific and natural affairs. They are even more in evidence in popular thought about the world of human affairs. Here they express themselves in the forms of absolutism and fanaticism which are almost invariably the consequence of an absence of *historical* perspective.

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At any given time, there is always a disparity between worthy moral and social ideals and the status quo, between our goals and our achievements—particularly if we have raised our sights in the course of our struggle towards them. If we take an unhistorical approach to the present, and focus only on the ideal, we become fixated on how far we have fallen short, and disregard the progress made and the distance we have come.

Those without historical perspective think in terms of either-or rather than in terms of more-or-less. The all-important direction of the process of change is ignored. Impatience with the gap between ideal and reality leads to an abandonment of the process that has hitherto narrowed it, to a tendency to resort to shortcuts and sometimes to violence that far from diminishing the distance between fact and ideal, provokes the backlash and reaction that increase it.

With respect to every major area and institution in American life—be it civil rights, standards of living and welfare, race relations access to education—an historical approach will show that incremental reforms have carried us closer to the ideals to which this nation was originally dedicated than has been the case in the vaunted revolutionary Communist regimes anywhere in the world, whose fanatical partisans have held them up to us as models. We have no justification, of course, for complacency. Grave problems and difficulties still abound. But it is this failure to take an intelligent historical approach that seduces persons of good will from being critics within a democratic culture into adversaries dedicated to its overthrow, and converts them, by virtue of the means they use, into hardened immoralists without compassion. The purity of spirit of the unhistorical Utopian absolutist, frustrated by a reality it does not comprehend, becomes transmuted into nihilistic rage. The best results are corrupted into the worst.

This unhistorical perspective and its absolutist pronouncements on the shortcomings of American culture are accentuated by a double standard of morality in the making of comparative political judgments. The achievements of Communist dictatorships in Russia and China are lauded in the light of their past—history is relevant here!—but the far more impressive achievements of the democratic regimes in Europe and Asia, like West Germany and Japan, in which dissent has not been crushed, are ignored. There is something disheartening about the recent reports of travellers to mainland China who broadcast glowing reports of alleged material gains without any reference to the total suppression of freedom within its borders. It is reminiscent of those who brought back glowing reports of material gains made by Italians under Mussolini and by German workers under Hitler as if the costs in human freedom and degradation counted for nothing.

Not all who invoke the historical approach in politics do so in a rational or scientific spirit. Only too often history is rewritten for purposes of special pleading or to further a partisan cause or interest. Today in some academic quarters, and in all of the writings of the so-called counterculture, there is an impassioned attack on the whole concept of objectivity and objective truth—especially in history—as if in the last analysis there is no difference between historical fiction and fact. Logically the position is self-defeating and incoherent, but that hasn't prevented the uncritical-minded from being infected, first with a wholesale skepticism about the possibility of historical truth, and finally with an irresponsible and inconsistent dogmatism.

The attack on objectivity proceeds from the truism that no one can legitimately claim to possess the *whole* truth or the *absolute* truth about anything, to the absurdity that there are no degrees of truth or that all views about history are equally probable. The incoherence of the position should be apparent. These historians not only impugn the concept of objectivity and historical truth, they accuse other historians of errors, distortions, and sometimes outright lies. But if there was no such thing as truth or objectivity, the very words "error," "distortation" "lie" would be meaningless, for their meaning or use depends upon the implicit claim of the person who utters them that he knows the truth. Furthermore, if there were no concept of objectivity, we would not distinguish between "guilt" or "innocence" upon which so much of civilized society depends.

Sometimes the disregard for objectivity is explained in terms of a definition of the intellectual as one who seeks power by means of the dissemination of his views. According to this approach, ideas function as weapons in the clash of opinions that grow out of conflicting interests of nations, parties, and personalities. The difficulties of this explanation are many. First of all, the term power is being used in such a broad sense that it has no intelligible opposite. Everyone would be seeking "power" in some way or other. But in ordinary discourse we make a sharp distinction between inducing the consent of others by force, propaganda, and other nonrational pressures, and inducing their consent by the force of evidence and persuasion. The difference in the two situations is reflected in the attitude of the subjects compelled by the force of the fist (or fraud) as distinct from the compulsion of argument to which one yields. In the first case we resent the exercise of power as invading our autonomy; in the second, we are conscious of no invasion of autonomy. In the case of an inquiry in which several conflicting claims are being negotiated by experiment and analysis, when one reaches a common conclusion with others in consequence of the outcome of the process of inquiry, one feels not a submission to another person's will but to an objective state of affairs which all who are sincerely in quest of the truth must acknowledge.

For these reasons it seems to me altogether implausible to interpret all attempts at communication as attempts to dominate others, and completely unjustifiable to present the scientific method of resolving doubt and fixing belief as comparable in any significant way with the familiar modes of exercising power over others by the gun, by money, by status, or by brass

> bands and other forms of blandishment. If thought and its expression were primarily an effort to exercise power over others the very concept of "objectivity" would become unintelligible. Thought would then be judged in terms of its success rather than its accuracy, and prevailing lies would be thought more legitimate than suppressed truths.
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> I am not so naive as to think that the disorder of our times can be cured merely by building dikes against irrationalism. We need creative intelligence to devise specific policies to modify our institutional practices. But until better thinking prevails in the order and connection of our ideas about social order, as well as about social disorder, the less likely is it that we shall devise the policies required to realize the great promise of American life.

In an address to this House on November 1, I had stressed the critical nature of the effects—the results—of the overburdening of our institutions, the causes of which Dr. Hook has so well brought to our attention:

> Our institutions serve as the backbone of the "body politick." They are the mechanisms through which a culture transmits its values and establishes the norms of human interaction and conduct. They are the lengthened shadows of man, bringing cohesion of process and purpose to the extensions of time, serving as the threads which weave together the fabric of society. Upon their collective continuity rests the continuity of society and government and of the foundation stones upon which common consent rests. Institutions may be practices, or relationships, or processes, or organizations, or structures, but the common denominator of all is that they serve as the dispassionate devices through which people and groups, in agreement or in disagreement, act and react with one another.
>
> Institutions do not arise simply and solely from the genius of man. They are, through the ceaseless learning processes of a people and a nation, hammered out upon the anvil of human experience. They are tried. They are tested. They are proved. And through all of this, adjustments are made, carefully here, prudently there. But in the long run, they provide the procedural mechanisms through which human conduct can be self-regulating by common agreement and perception, and, when necessary, by force of law.
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> It takes no specialist in institutional dynamics to conclude with a reasonable degree of certainty that we, as a nation, are placing ever greater burdens upon our institutions. It is not demagoguery to question the ability of our institutions to meet adequate the demands now being placed upon them.
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> We are, in my opinion, overloading our institutions with demands that exceed our human capacity to perform, and this gap between expectation and performance widens daily. Unless this trend is reversed, our institutions may be destroyed, our leaders overwhelmed, and our free society radically altered.
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> In the sophisticated world of modern technology, our scientists and engineers have developed early warning devices—little red lights flashng or buzzers sounding—to warn of overloads and pending malfunctions, allowing immediate action to save the whole of the system and to avert a larger crisis.
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> If we were able to devise a system of giving us early warning on pending overloads of our political, economic, and social systems, we would have lights flashing and buzzers sounding all about us today. Fuel shortages. Food shortages. Inflation. Watergate. Confiscatory taxation. Huge deficits. Welfare abuses. Work quality. Corruption. Crime. Promises exceeding deliveries. Centralization of power. Special interests. Uncontrolled spending.
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> But, these are the results of our crisis, not its causes.
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> Each in its own way is a warning to us, as a result of the overloading of our institutions with demands which exceed their capabilities for performance.

Mr. Speaker, Dr. Hook has captured an essential part of the debate over the role of man in relationship to his government and to his fellow man—he has captured a large share of that most important ingredient in debate—he has captured truth, and he has harnessed and expressed it for our benefit as we strive daily in this Chamber to help resolve those crucial issues affecting the health and well-being of our Nation and its people when those issues are appropriate for government action.

I commend this article to all those who share a mutual concern for tomorrow.

ARTS COUNCIL ENCOURAGES MAKING CULTURAL ACTIVITIES ACCESSIBLE TO THE HANDICAPPED

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1973

Mr. BRADEMAS. Mr. Speaker, I want to bring to the attention of my colleagues a most significant development to all those concerned for the well-being of the handicapped in our land and the vitality of the arts in America.

I refer, Mr. Speaker, to a resolution, unanimously adopted by the National Council on the Arts, expressing its desire that the National Endowment for the Arts devote increased attention to encouraging institutions to make cultural activities accessible to the physically handicapped.

The resolution was passed unanimously by the National Council on the Arts upon consideration of a motion made by Council member James Wyeth and seconded by Council member, Maurice Abravanel, on September 15, 1973.

Says the resolution:

> The arts are a right, not a privilege. They are central to what our society is and what it can be.

And, continues the resolution:

> The National Council on the Arts believes very strongly that no citizen should be deprived of the beauty and the insights into the human experience that only the arts can impart.

Mr. Speaker, I commend the National Council on the Arts, and the very capable chairman of the arts endowment, Nancy Hanks, for this responsible contribution toward bettering the lives of our handicapped fellow citizens, and I insert the arts council's resolution at this point in the RECORD:

> RESOLUTION ON ACCESSIBILITY TO THE ARTS FOR THE HANDICAPPED
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> One of the main goals of the National Endowment for the Arts is to assist in making the arts available to all Americans. The arts are a right, not a privilege. They are central to what our society is and what it can be. The National Council on the Arts believes very strongly that no citizen should be deprived of the beauty and the insights into the human experience that only the arts can impart.
>
> The National Council on the Arts believes that cultural institutions and individual artists could make a significant contribution to the lives of citizens who are physically handicapped. It therefore urges the National Endowment for the Arts to take a leadership role in advocating special provision for the handicapped in cultural facilities and programs.
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> The Council notes that the Congress of the United States passed in 1968 (P.L. 90–480) legislation that would require all public buildings constructed, leased or financed in whole or in part by the Federal Government to be accessible to handicapped persons. The Council strongly endorses the intent of this legislation and urges private interests and governments at the State and local levels to take the intent of this legislation into account when building or renovating cultural facilities.
>
> The Council further requests that the National Endowment for the Arts and all of the program areas within the Endowment be mindful of the intent and purposes of this legislation as they formulate their own guidelines and as they review proposals from the field. The Council urges the Endowment to give consideration to all the ways in which the agency can further promote and implement the goal of making cultural facilities and activities accessible to Americans who are physically handicapped.

TRAGEDY STRIKES AGAIN

HON. HENRY HELSTOSKI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1973

Mr. HELSTOSKI. Mr. Speaker, two veteran Cliffside Park, N.J., firemen died November 4 working a hose in the flooded basement of a burning bar and restaurant. Philip Ferraro, 36, and Michael Chormanski, 26, both were pronounced dead at Englewood Hospital of smoke inhalation and carbon monoxide poisoning. The two men died when their air tanks ran out causing them to be trapped in the basement.

Fireman Ferraro lived at 439 Gorge Road, Cliffside Park, with his wife Helene; and three children, Michael, age 7; Philip, 6; and Diane, 10 months. Fireman Ferraro had been a member of the paid Cliffside Park Fire Department for 7 years.

Fireman Chormanski also lived at 439 Gorge Road, with his mother, a widow of 3 years, and four younger brothers. He was a member of the Cliffside Park Volunteer Fire Department for about 3 years.

This is a tragedy not only for the families of these two dedicated men, but for the people of Cliffside Park as well. The citizens of that community have lost two good friends who were dedicated to protecting their lives and their welfare. Unfortunately, the daily heroics of our firefighters are often overlooked; not until the flames of tragedy strike do we find ourselves stopping to express our appreciation. To his credit, Robert L. Boyle, president and publisher of the Dispatch, a leading Hudson County newspaper, immediately launched an appreciation fund drive to help the families of the dead firemen.

However, Mr. Speaker, today I must stress that we, in Congress, also have a way of showing our appreciation to the firefighters in the communities of our respective districts. That way of course is through legislation. We can dedicate ourselves to working conscientiously to see that our firemen are provided with the best equipment and training possible. In addition, we can resolve to do everything in our power, to insure that the families of our firefighters are able to lead secure, meaningful lives if tragedy should strike.

Presently, I am sponsoring a series of bills designed to provide expanded training and benefits for our firemen and their families. Firemen throughout the country have sent me letters in support of this legislation.

These bills include H.R. 194 to 199 and H.R. 1529, 1530, 1533, and 1536. H.R. 194 is designed to help in the purchase of fire suits; 195 would establish a National Fire Data and Information Clearinghouse; 196 would create a National Fire Academy; 197 would provide grants to local communities for fire training costs; 198 would provide aid for equipment purchase, and 199 would provide aid for fire science programs. Presently, these proposals are pending before the Science, Research, and Development Subcommittee of the Committee on Science and Astronautics.

In addition, H.R. 1529 and H.R. 1530 would help provide benefits for survivors; H.R. 1533 would extend Federal firefighter benefits to local firefighters; and 1536 would provide Federal benefits for volunteer firefighters. These bills are presently pending before a subcommittee of the Committee on the Judiciary.

Mr. Speaker, I firmly believe there is a need for additional legislation to help our firefighters and their families. I urge my colleagues to support such proposals to help say thanks to these gallant public servants. In addition, I would like to share an editorial with my colleagues which appeared in the November 6 edition of the Dispatch. Entitled "Tragedy Strikes Again," I believe the editorial further underscores the importance of our obligation:

TRAGEDY STRIKES AGAIN

Once again, tragedy, with all of its grimness, has struck firefighters in Cliffside Park. Six years ago five Ridgefield volunteers were killed battling a blaze in the borough. On Sunday, two Cliffside firemen died in the basement of a blazing tavern.

In the case of the Ridgefield men, they were killed as a wall fell. In Sunday's tragedy, the two firemen died as they were working a hose line in the Paliside av. structure, succumbing to smoke inhalation and carbon monoxide poisoning.

The Dispatch, as it has done for 56 years, has set up a Public Appreciation Fund for the wife and three children of Fireman Philip Ferraro, a member of the paid Cliffside department, and the widowed mother of Volunteer Fireman Michael Chormanski.

As with the last fund, which closed only last month, for the two Jersey City police officers, the money realized from The Dispatch's readers and friends will be equally divided. The sacrifice was the same, the heartbreak the same in both cases.

It is ironic that this fund, the 29th established by this newspaper, involves East Bergen. A little more than a week ago we had told members of the area's Policemen's Benevolent Assn. that The Dispatch would always be behind the "men in blue" in these tragedies and aid their loved ones.

People forget the dangers that face both policemen and firemen in their jobs. There is always the character with the warped mind ready to take a shot "at a cop" and there is always the unexpected death at a blaze.

But these men, the paid policemen and firemen and the volunteer firefighters, feel that it is their duty to protect the public and so they do—and die. The public, in return, should show appreciation for their heroism, for the way they sacrifice for all of us.

Won't you aid in the Cliffside Park Firemen's Public Appreciation Fund? Our readers have always done so in the past, and we're confident they will do it once again. It is one of the few ways in which we can say "thank you" to the "men in blue."

GILMAN PROPOSES LIMITING OIL COMPANY WINDFALL PROFITS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1973

Mr. GILMAN. Mr. Speaker, I am today introducing legislation imposing an excess profits tax on the incomes of corporations producing oil and oil products. Revenue from this tax willl go into a fund to promote research, development, and domestic exploration for new energy sources.

Unquestionably, today's petroleum shortages have created a seller's market for the oil companies. We are confronted with an international scramble for every available drop of oil and gasoline. Based on the present rate of consumption, the experts have forecast an oil shortage of between 2.6 million and 3.4 million barrels per day. It is shocking to me and to many of my constituents that as the shortage of crude oil grows even more critical, oil prices and profits are skyrocketing.

In this time of crisis, it is reprehensible to permit any windfall profits to be derived from the hardships of the shortage confronting our Nation. The rapid rise in third quarter profits as reported by the major oil companies is alarming. The following comparison of profits of the third quarter of 1973 with the third quarter of 1972 emphasizes the need for this type of regulation:

[Profits in millions of dollars]

	1972	1973
Atlantic Richfield	51.6	59.8
British Petroleum	35.0	135.0
Exxon	357.0	638.0
Gulf	110.0	210.0
Mobil	140.9	231.2
Phillips Petroleum	37.6	53.9
Royal Dutch Shell	110.5	413.7
Standard Oil of California	150.0	226.0
Standard Oil of Indiana	107.3	147.3
Texaco	207.4	307.4

These statistics reveal that oil company profits have doubled from last year's levels. I firmly believe it is our responsibility in these distressing times to protect the consumer from being gouged as he sacrifices more and more simply providing for the necessities of life.

Accordingly my proposed legislation imposes a tax on the excess profits of oil companies. By establishing a base period of 1970–72, the average profits during that period can readily be computed. Excess profits over that amount would be directed into a special fund solely for the purpose of furthering the research, development, and exploration of new energy sources under the direction of the Federal Energy Administrator.

Another provision would allow the oil companies to offset against the computed excess profits any funds invested in research for new energy sources and for the development of domestic resources. In this manner, oil companies will be encouraged to expand their search for new energy sources. At the same time, we will be discouraging excessive price increases and profits.

Mr. Speaker, legislation of this type is long overdue and I invite my colleagues to join with me in supporting this proposal. I request that the full text of my bill be printed in the RECORD.

H.R. 11983

A bill to impose an excess profits tax on the income of corporations engaged in the production of oil and oil products for a limited period in order to establish a fund for the research, development, and exploration of new energy resources

Be it enacted by the Senate and House of Representatives of the United States of American in Congress assembled, That subtitle A of the Internal Revenue Code of 1954 (relating to income taxes) is amended by adding at the end thereof the following new chapter:

CHAPTER 7

SECTION 1571. Imposition of tax.

(a) GENERAL RULE. In addition to the other taxes imposed in this subtitle, there is hereby imposed on the income of every corporation engaged in the production of oil and oil products, for each taxable year which ends or begins during the emergency period, a tax equal to 37 percent of the excess profits taxable income for such taxable year. Revenues from the tax imposed by this section shall be segregated and shall be appropriated only for programs to advance the research, development and exploration of new energy sources as promulgated and directed by the Director of the Federal Energy Office.

(b) TAXABLE YEARS PARTLY IN THE EMERGENCY PERIOD.—In the case of a taxable year which begins before the emergency period or ends after the emergency period, the tax imposed by subsection (a) shall be an amount equal to 37 percent of the excess profits taxable income for the taxable year multiplied by a fraction the numerator of which is the number of days within the emergency period and the denominator of which is the total number of days in the taxable year.

SECTION 1572. Definitions.

(a) EMERGENCY PERIOD.—For the purposes of this chapter, the term "emergency period" means the two years following the enactment of this chapter. The "emergency period" may be extended at any time before its expiration for a two year term.

(b) BASE PERIOD.—For the purposes of this chapter, the term "base period" means the period beginning January 1, 1970 and ending on December 31, 1972.

(c) OIL AND OIL PRODUCTS.—For the purposes of this chapter, the term "oil and oil products" means any crude oil, gasoline, kerosene, fuel oil or home heating oil extracted or produced by any corporation doing business in any of the fifty states.

SECTION 1573. Adjustments to income for years in the emergency period.

(a) GENERAL RULE.—For the purposes of this chapter, in determining the taxable income of a corporation for a taxable year ending or beginning in the emergency period, the following adjustments shall be made:

(1) DIVIDENDS RECEIVED.—The deduction for dividends received shall apply, without limitation, to all dividends on stock of all corporations, except that no deduction for dividends received shall be allowed with respect to dividends on stock of foreign personal holding companies or dividends on stock which is not a capital asset.

(2) GAINS AND LOSSES FROM SALES OR EXCHANGES OF CAPITAL ASSETS.—There shall be excluded gains and losses from sales or exchanges of capital assets.

(3) INCOME FROM RETIREMENT OR DISCHARGE OF BONDS, ETC.—There shall be excluded income derived from the retirement or discharge by the taxpayer of any bond, debenture, note, or certificate or other evidence of indebtedness, if the obligation of the taxpayer has been outstanding for more than 6 months, including in the case the issuance was at a premium, the amount includable in gross income for such year solely because of such retirement or discharge.

(4) DEDUCTIONS ON ACCOUNT OF RETIREMENT OR DISCHARGE OF BONDS, ETC.—If during the taxable year the taxpayer retires or discharges any bond, debenture, note, or certificate or other evidence of indebtedness, if the obligation of the taxpayer has been outstanding for more than 6 months, the following deductions for such taxable year shall not be allowed:

(a) The deduction allowable under section 162 for expenses paid or incurred in connection with such retirement or discharge;

(b) The deduction for losses allowable by reason of such discharge or retirement; or

(c) In case the issuance was at a discount, the amount deductible for such year solely because of such retirement or discharge.

(5) RECOVERY OF BAD DEBTS.—There shall be excluded income attributable to the recovery of a bad debt if the deduction of such debt was allowable from gross income for any taxable year ending before the effective date of this Act or if such debt was properly charged to a reserve for bad debts during any such taxable year.

SEC. 1574. Excess profits deduction.

(a) COMPUTATION.—The excess profits deduction for a taxable year shall be the greater of the following:

(1) 100 percent of the average base period taxable income, or

(2) an amount equal to the total of the following amounts:

10 percent of the first $10 million of invested capital,

9 percent of the next $9 million of invested capital, and

8 percent of invested capital exceeding $20 million.

(b) The average base period taxable income shall be determined as follows:

(1) By computing the base period taxable income for each month in the base period, the highest and lowest aggregate of 6 months taxable income shall be dropped and the remaining sum of twenty-four months shall be divided by two to obtain a base year figure for the purposes of this chapter.

(c) Notwithstanding any other provision of this chapter, there shall be a deduction from the gross excess profits taxable income for any capital expenditures made for research and development of new domestic energy sources and for expansion of domestic exploration.

(d) The provisions of this chapter shall apply to all corporations as defined in section 1571 of this chapter that were in existence during the entire or any part of the base period or the emergency period as defined in this chapter.

THE CASE FOR CONGRESSIONAL GOVERNMENT

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1973

Mr. KEMP. Mr. Speaker, there is much debate today—in the halls and antechambers of this Capital City, in the press and on the air, in the academy—on the respective and balancing roles between the legislative and executive branches in the formulation of national policies and priorities. That debate has been manifested through recent congressional reassertion in the area of budget reform and fiscal control.

This debate appears to have stratified on two levels: First, the debate on the institutional powers granted by the Constitution and the exercise of the powers during the past two centuries—principally an accretion of power to the Executive; and, second, and perhaps the reason for its current intensity, a debate arising from the incumbent President being of one party and philosophy of government and the majority within the Congress being of another party and distinct set of long-term priorities.

Mr. Speaker, I support a reassertion of the institutional powers granted to the Congress by our Constitution. This body, over many decades, has surrendered too much power over the lives of the people we represent to the institution of the Presidency and the varied bureaucracy which carries out the execution of the laws under his ultimate direction.

A valuable contribution to understanding the reasons why some public figures are opposing a reassertion of congressional prerogatives appeared recently. Excerpts of this article follow:

THE CASE FOR CONGRESSIONAL GOVERNMENT

(By L. Francis Bouchey)

* * * * *

It (1969–73) was a curious and new situation, reversal of traditional roles, with liberals attacking and conservatives defending a strong, aggressive presidency. The reversal was easily explicable in terms of the advantage gained by President Nixon and his partisans in his landslide election victory, and it may even have seemed somewhat amusing to historically-minded political observers. Actually, the new alignment was fraught with danger for it at least intimated a major conservative concession to liberals of a goal long sought by them. From the time Professor Woodrow Wilson published *Congressional Government*, a work indicting Congressional power and advocating Executive supremacy, on through Franklin Roosevelt and Lyndon Johnson, liberals always found the call to greatness, to America's *historic imperative*, emanating from the Executive Branch. With rare exceptions, such as the landslide Congresses elected in 1936 and 1964, it was, in their view, the narrow-visioned, backward-looking Legislative Branch which roadblocked and stymied progress toward attainment of that elusive promise (as expressed in the Declaration of Independence) that all men are equal.

* * * * *

On the other hand, the liberals' new-found enthusiasm for Congress . . . was straightforward and practical. Congress had become the only governmental means for advancing their political ends and for thwarting conservative advances by the White House. Like all ideologues, liberals have a quite specific program and know what is to be done. For them politics is not a question of what, but rather of how. Given clear, absolutist, ideological commitment to ends—egalitarianism, secularism, peace (at any cost), freedom of expression (ending in license), etc.—and calculated indifference to means, the liberals' conception of politics reduces to selecting technically appropriate (i.e. effective) means for accomplishing those ends, regardless of "unenlightened" opposition, or even widespread, popular, majority opposition.

* * * * *

President Nixon, grand strategist and strict constructionist, may have expected from Hill conservatives, indeed, may even have counted on, a serious, more far-reaching opposition to his domestic budgetary assertiveness than was forthcoming. But regardless of presidential calculations, once the gauntlet was cast down, a student of recent Congressional history would not have expected a moderate Democrat like Representative Al Ullman of Oregon to emerge as the principal champion of a tight overall budget ceiling and stricter accountability on Congressional expenditure.

Where were the conservatives on this kind of issue? Thrilled at seeing their liberal adversaries smitten, they offered the President nearly unqualified support, standing behind him right or wrong. In the process they conceded to liberals the fundamental principle around which the American conception of self-government was organized.

An alert member of Congress, unwilling to concede the totally republican and thoroughly Whiggish character of the American system and mindful of the Framers' intention that the President be but an administrator doing the bidding of Congress, ought to have delivered himself of something like the following:

"I surely appreciate my distinguished liberal colleagues' new-found enthusiasm for this Congress' prerogatives and authority within our constitutional system. I am equally pleased by their new eagerness to assert Congress' authority to determine expenditure priorities among competing federal programs. The wariness these liberals display towards the President's request for discretionary authority to withhold spending appropriated funds in order to keep total federal spending within reason is also commendable. But in candor, I must say that in light of their previous passion for conceding sweeping discretionary power to the Executive and its faceless bureaucracy I find this sudden reversal somewhat incredible."

"If we grant the President's request, establishing an expenditure ceiling for the current fiscal year and empowering them to determine what appropriated funds should not be spent in order to not exceed the mandated ceiling, the President (and by implication the GOP) will bear clear responsibility for whatever spending cuts are in fact made. On principle, however, I oppose granting Mr. Nixon or any president such broad, selective authority to impound funds or to alter authorized spending. My own inclination is to oppose presidential impoundment of monies we here in Congress have appropriated."

"Taxation and determination of federal spending are the foremost, indispensible powers the Constitution grants to Congress. To grant even a share of that authority to a president is a stark admission of the Legislative Branch's incapacity to legislate prudently. However, rampant inflation, a chronic imbalance of international trade and the position of the dollar abroad evidence how imprudent we legislators have been; and unless a majority of this Congress begins at once to pursue a course of fiscal responsibility I shall be left no alternative but to support the President's request. In sum, I find my liberal colleagues' concern for Congress' budgetary authority disingenuous. What concerns them is not granting a president discretionary impoundment power, but granting that power to this president. They fear for their favorite programs. If they are indeeded serious, if they are truly interested in restoring and reasserting the Congress' constitutionally intended position of dominance over the Republic's affairs, revision of our appropriations procedure is the first item of business before both chambers."

"Conservative support is assured for appropriation reform that will establish an over-all expenditure ceiling at the beginning of each fiscal year on the basis of anticipated revenue and realistic economic policies—perhaps Milton Friedman's notion of full-employment budgeting. Most importantly, the reform must include a budget-busting provision requiring that legislation which calls for expenditure above the ceiling must include the name of the sponsor, and new taxation to cover the proposed ceiling overrun."

Despite argument to the contrary from spokesmen for both the left and right, the American framers understood themselves to be establishing a majority-rule republic, albeit a unique majority-rule system suited, perhaps exclusively, to the particular people and particular situation found in the proposed American republic.

What they did not intend, as critics so different as MacGregor Burns and the late David Lawrence are quick to remind us, is plebiscitary, majority-mandate democracy along the lines that later developed in Western European parliamentary democracies. They did not intend majority mandate democracy because (a) no one had ever then heard of such a political species; and (b) if they had they would have dismissed it as unsuited to good governance of the proposed republic given its diverseness and extension.

In majority-mandate democracy periodic elections are viewed as plebiscites or national referendums on the current platform of legislative proposals announced by contending political parties, and, of course, on a party's past performance record. Under that system ideological issues are sharply drawn; votes are not cast for individual law makers but for party pawns committed in advance to a specific program which will be enacted if his party secures a majority and their leader becomes prime minister.

The Federalist majority does not envision an advance decision on government policy issuing out of an election. The election of representatives to either federal chamber is by that standard, an essentially local affair intended to produce a heterogeneous Congress of fair-minded men (not back bench pawns) who can "arrive at policy decisions through a process of deliberation (with other) virtuous men representing potentially conflicting and in any case different values and interests."

As Madison makes abundantly clear, the authors of the Constitution were not preoccupied with elections as policy decision forums, but as a means for selecting out from the community individuals who in wisdom and virtue are personally or corporately representative of the community. For them self-government means more than simply mobilizing 50.1% of a population behind a set of proposals; it is grounded in something called the "deliberate sense of the community" which is formed as problems arise and get deliberated about in the Congress and out over America. As a self-governing people, our deliberation is not limited to the span of an election campaign. It is a dynamic, continuing relationship between wise, fair minded and virtuous representatives and their constituents.

What really bothers people in search of ideological mandates, particularly people who try to milk a mandate from each and every Presidential election, is that the American system is not designed to reflect what is going on in their heads but rather what is going on in the heads of We the People. Indeed because locally elected representatives express this real-majority, Congress, especially the House of Representatives which pays folks back home the closest attention, is usually found coming down on the conservative side of most issues.

Mr. Speaker, I commend this article, and the insight it reflects, to the attention of all who are engaged in the current debate. I think it argues well for a reestablishment of the proper role of the Congress in the making of laws.

YOU THINK AMERICA HAS TROUBLES?

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1973

Mr. CARTER. Mr. Speaker, we have much to be thankful for in America today, and I hope that we never lose sight of this fact. The following article provides an interesting commentary on this matter:

YOU THINK AMERICA HAS TROUBLES?—WHAT IS NIGHTMARE TO US WOULD BE UTOPIA TO THE WORLD

In much-envied Japan, the best beef costs $35 a pound; pollution is so bad in Tokyo that traffic policemen take an "oxygen break" every hour—3 minutes of breathing bottled oxygen; their factories produce ten times the industrial waste per square mile that our factories do and 70% fail to process their waste; school children pass out after playing in the smog.

Britain, France, Spain, Italy, Denmark and Finland have worse inflation rates than we do, and controls have failed. (Gasoline in one country costs $1.03 a gallon).

In Brazil less than half the cities have high schools.

In Rio de Janeiro as many as 6 companies have to share one telephone.

In Cuba per capita income is down to $357 per year.

In the Congo prices have risen 90% since the late 60's and wages have risen only 40%.

In mainland China workers live in huge apartments where 6 to 12 families share one kitchen.

Calcutta has a population explosion (9 million; it was 2 million just ten years ago) because people crowd in to get factory jobs at 34 cents a day—twice the Indian national scale.

We have only 6% of the world's population but we produce and consume 30% of the world's goods and services, making us better fed, better housed, better educated, with better medical care than virtually any other people on earth.

Complacent? We'd better not be! We'd better learn how to get back to being the *productive* people we once were, when we were *safe*, and genuinely prosperous—and reasonably happy.

THE EDUCATIONAL NEEDS OF OUR VETERANS

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1973

Mr. BINGHAM. Mr. Speaker, the Veterans' Administration's failure to treat veterans seeking educational benefits as high-priority clients is a matter of great concern to me. All too often the Veterans' Administration is satisfied to follow the rules of the past instead of embarking on constructive and innovative reforms. The severity of this problem was recently underlined by correspondence from both the president of Bronx Community College, Dr. James A. Colston, and the Office of Veterans' Affairs of the City College of New York. The problems cited by Dr. Colston and the Veterans' Affairs Office would be solved by the passage of legislation reported to the House Veterans' Affairs Committee by the Subcommittee on Education and Training. This proposal would increase educational benefits by 13.6 percent, extend the period in which a veteran could take advantage of educational benefits from 8 to 10 years after separation from the service, and improve communication between the Veterans' Administration and those it seeks to serve.

These proposals, which I join with many educators and veterans from New York in endorsing, deserve speedy and favorable consideration by the Veterans' Affairs Committee and the Congress. I have urged the chairman of that committee to take up the subcommittee's draft bill as soon as possible, and I include the text of my letter and attachments at this point:

HOUSE OF REPRESENTATIVES,
Washington, D.C., December 4, 1973.

HON. WM. JENNINGS BRYAN DORN,
Chairman, Committee on Veterans' Affairs, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: The enclosed copies of communications from the Office of Veterans' Affairs of the City College of New York to the Veterans Administration Regional Office in New York City dramatize the need for increased and direct lines of communication between the Veterans Administration and those it seeks to help. This need can be amply filled by the passage of the draft bill now pending before your Committee submitted by the Subcommittee on Education and Training. Specifically, I commend to you Congresswoman Heckler's proposal for the establishment of a Vietnam Era Veterans Communication Center in each regional office of the Veterans Administration. At no cost to the Veterans Administration these centers will increase communication, help make VA programs more relevant to the needs of Vietnam veterans, and provide a crucial link to aid Vietnam veterans in getting fair and equitable educational benefits.

The complaints recorded by the Office of Veterans' Affairs of C.C.N.Y. are not isolated.

Both my Washington and District offices receive numerous complaints from veterans concerning the inadequate handling and processing of claims for benefits to which they are rightfully entitled. While the Veterans Administration employs a great number of capable and devoted individuals, its bureaucratic stagnation is to blame for the depressed state of veterans' affairs. More open lines of communication are necessary to revive it.

I wholeheartedly support the legislation reported by the Subcommittee on Education and Training, and I am hopeful that it will receive early and favorable action before the full Veterans' Affairs Committee. It contains several provisions similar to legislation I have introduced, H.R. 11008 and H.R. 11009, which would extend the time that veterans would be able to use the educational allotment of the GI bill to 10 years, provide an immediate increase in the GI bill education assistance allowance to a base of $250 a month, and provide additional direct tuition payments of up to $1,000 for each veteran. Although the latter provision was not accepted by the subcommittee, I look forward to early hearings on this proposal. The enclosed copy of a letter I received from the President and Veterans' Affairs Officers of Bronx Community College, the major college in my District, attests to the support for such legislation. Enactment of these reforms would be a tribute to all veterans from a grateful nation.

With best wishes,
Sincerely,
JONATHAN B. BINGHAM.

NOVEMBER, 26, 1973.

Hon. JONATHAN B. BINGHAM,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN BINGHAM: Bronx Community College, the Veterans Association, the Office of Veteran Affairs, faculty, and students support pending legislation HR 10870 to extend the eligibility period for veterans' educational benefits beyond the eight years presently provided by law. We also support legislation H.R. 10818–9 for 13.6% across-the-board increase in benefits.

We believe veterans should remain eligible beyond the eight years presently provided. We base our opinion on extensive experience with veterans: our present enrollment includes over 1200 veterans, many of whom have serious educational handicaps and deficiencies which must be corrected. Many are required to take non-credit remedial courses or are forced to take reduced credit loads, thus lengthening their stay at the College. In addition, many veterans require a period of time in which to become adjusted to civilian life and consequently delay application for educational benefits to which they are entitled. Many must search for employment in order to support their families. Many are unable to pursue a college education and to support their families on the educational allowance provided.

Statistics from our college illuminate this problem. Of the 1200 veterans enrolled almost 600 are unable to carry a full-time course load, carrying, on the average, only six credits per semester. Proceeding at this pace, approximately ten years would be required for the completion of a bachelor's degree. An additional period of time would be required should a veteran require a period of adjustment following his release from service.

I hope you will be able to use this information concerning our experience with the educational needs of veterans in your support of HR 10870 and HR 10818–9.

Sincerely yours,
JAMES A. COLSTON,
President, Bronx Community College.
WILLIAM WEBB,
Coordinator of Veterans Affairs.
JOE VIVERRETTA,
President of Veterans Association.

THE CITY COLLEGE
OF THE CITY UNIVERSITY
OF NEW YORK,
New York, N.Y., November 8, 1973.

VETERANS' ADMINISTRATION,
Regional Office,
New York, N.Y.

DEAR MR. NUGENT: I would like to begin this letter by briefly explaining the purpose and goals of this office. This college has recently expanded its services to veterans by establishing, through this office, a number of programs geared to help veterans on and off campus. We have recently established programs related to: housing, job placement, outreach, recruitment, discharge review, and of course, counseling. This office also certifies our student veterans to receive educational benefits as well as counseling pertaining to V.A. benefits.

Recently we have had quite a hard time running these above projects. The reason for this difficulty is due to the many students who have not received their educational assistance checks. Most of our time is spent trying to solve the errors made by the V.A. I understand that the V.A. services hundreds of thousands of veterans and due to such volume there will always exist "bureaucratic mishaps". It should be noted that the following is not reflectible of the occasional mistake which is made on behalf of almost any large organization but rather a discussion concerning criminal neglect regarding errors made by your office, relating to the basic welfare of the clients you serve. Rather than enter upon a discussion concerning general criticisms I would like to bring to your attention some specific situations which I feel you should look into personally. The following cases below represent, with no exaggeration, criminal neglect on behalf of the Regional Office. It should be noted that in each case at least three inquiries were made by this office to the V.A., both in writing and by phone. No inquiries were answered.

Clifford Moy 28 628 263:

On 8/10/73, a 1999 form was sent requesting advanced payment. At the time of registration no check arrived. During the first two weeks of September the V.A. was called approximately 6 times (620–6091). We were told after every call that the "matter is being looked into". On 10/25/73, a letter was sent to you from Jon Saul. We then received a call from Mr. Schmidt whereby it was stated that personal attention will be given to Mr. Moy regarding his claim. On 10/31/73, Mr. Moy received a letter from your office (Form 21–8332a–2) 21/24 stating that "education assistance allowance has been discontinued effective September 9, 1973". This letter further states that the action was taken because no confirmation of attendance was sent by this school. At present Mr. Moy has received no payment. At the beginning of this school year Mr. Moy signed a deferred tuition form from the registrar's office explaining that the payment of his college fees may be postponed until 11/15/73. The school felt that this would give ample time for the V.A. to mail Mr. Moy's check. Put simply, Mr. Moy must pay his fees by 11/15/73 or he will be disbarred from class. If Mr. Moy does not receive payment by 11/15/73 and is disbarred, I will hold you personally responsible.

Andrew Zigouras C# 29 153 617:

Mr. Zigouras was certified for advanced payment on 8/8/73. At the time of registration his check had not arrived. After many inquiries were made by phone the check finally arrived approximately 6 weeks late. The amount of the check however was $40.00 instead of $370.00. Further inquiries were made by phone and letter; letter sent 11/2/73 to Mr. Leo.

On 10/1/73, Mr. Zigouras received a letter from your office explaining that his award will be $40.00 a month. Upon calling the V.A. once again I was told that Mr. Zigouras had been inadvertently switched to a correspondence training course. I was told that the situation would be cleared up by the 11/73 check. I was recently informed by Mr. Zigouras that he received his 11/73 check—it was in the amount of $40.00. In other words, unlike other problems, the cause of the problem is known, the solution is known, yet to this date the error has not been corrected. Mr. Zigouras has received a total of $80.00 for attending this school full time since 9/10/73. I am afraid to ask him how much longer he plans to attend this school under the current situation. If Mr. Zigouras does not receive prompt retroactive payment and is forced to drop out of school I will hold you personally responsible.

James Moragianis C 26 467 398:

Mr. Moragianis has not received any V.A. payment since last February. On April 26, 1973 the student took a leave of absence for the remaining spring semester. The student notified the V.A. by phone.

On 9/11/73 a 1999 form was sent verifying that Mr. Moragianis is attending full time. He later came into our office explaining that he received a letter explaining that he must verify that he attended the Spring '73 semester.

After several telephone inquiries we wrote to Mr. Moragianis 10/24/73, no response. On 10/29/73, we wrote again to Mr. Schmidt, no response.

Part of the problem may be the fact that the student did not sign the card verifying attendance. I would like to mention however that verification from the school, as well as from the student, concerning his attendance dates was given approximately 10 times to your office. On 9/10/73 he received a notice explaining he will no longer receive payment. If Mr. Moragianis does not receive payment promptly I will hold you personally responsible for forcing him to drop out of school.

The following list represents students who applied for advanced payment and have not to this date received any payment whatsoever.

Linda Ann Trippiedi XC4 209 760.
Michael Jay Miller XC 09 263 763.
Peter Plagianos, C 6 815 922.
Judith Paula Herz C 075 46 1794.
Kenneth John Holmstrom, C 49 79 333
Stephine Gray Perine C 29 362 851.
Richard H. MyCue C 252 57277.
Albert Menefee C 26854843.
Christopher L. Lascoutx C 25 531 464.
William A. Hill Jr. U88 26170—received check 11/28/73.
Alan P. Granville 268 611.
Philip J. Tue 2838722200A.
Harvyn E. Smith 4518473000.
Stanley J. Sugrue 27227643.
Emil J. Schau 22804286.
Terrance J. Sughrue 23477246.
Roy Tabita 4690532.
Wendy S. Garf, XC 7445646.

At least three inquiries were sent previously for each student on this list. On 10/25/73 we sent a letter to you, Mr. Burke, and Mr. Schmidt concerning these students. During the week of 10/31–11/2 Mr. Schmidt called us and said he would look into the matter personally. To this date no student on the list has received any payment. If payment is not made soon I will hold you responsible.

As mentioned earlier, this office, after long debate with the administration, finally received approval to set up a policy for veterans allowing them to waive their responsibility for payment of tuition until 11/15/73. This was done to enable our veterans to receive their V.A. checks before paying college costs. This office recently received a list from the bursars office giving the names and amounts due by all the veterans which have not as yet paid. The total amount due is $25,554.00.

We have been notified by the bursars office that disbarrment notices will be mailed out to any veteran who does not pay by 11/15/73; six days from now. This office has not as yet determined if the list we have represents veterans who have not received their checks, yet I am sure there are many names on the list that have not. Not only am I afraid of many veterans being suspended but I am fearful that the school will "dump" this program because of the delay in payment.

If there are any students who are suspended from class because of nonpayment due to V.A. inaction, I will hold you personally responsible. I would like to request that you furnish our office with a letter addressed to the bursar explaining that in many cases veterans have not received prompt payment of V.A. education money. Hopefully this letter sent by you will be taken under consideration for our veteran population and save the deferred payment system we all worked very hard for.

In conclusion, I would like to add that we see approximately twenty to twenty-five students daily who have received no payments. This letter only includes the most unusual cases.

I understand that this letter is quite strong; it represents, in part, my frustration and inability to help the many veterans I see who want to know why they have not been paid. What can I tell a veteran who has received an eviction notice? What advice can I give a student who comes by with his "drop card" for me to sign because he must quit school to find a job in a jobless market? With regard to our "recruitment" program, how can I honestly tell a veteran that he can be paid for going to school; especially if he has a family. How do you think I feel when the V.A. owes a veteran $700.00 in back payment and I say "I'll send an EAI" when they are never answered?

I hope, due to this dire situation I will hear from you soon. I hope I will not be forced to publicize this letter or send copies of it to other individuals who may have the power to investigate the matter. I am sure you understand, as I do, that we must both do whatever possible to make sure the veteran receives what is required by law and by common decency.

With respect,

Ralph Stavitz,
Veteran Advisor.

BAN THE HANDGUN—XI

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1973

Mr. BINGHAM. Mr. Speaker, as an article from the December 17 edition of Newsweek indicates, the incidence of felonious homicides have reached truly staggering proportions in Detroit. Detroiters have armed themselves with an astonishing total of some 500,000 handguns, one for every third man, woman and child in the city.

The time for strict Federal controls on the possession of handguns is long overdue. Must every man, woman and child own a handgun before we act?

The article follows:

A Bloody Record for "Kill City"

Over the years, Detroiters have dubbed their own "Kill City" and "The Murder Capital of the Nation," and for the most part, they seemed to accept the city's staggering homicide rate as tragic but inevitable. This year, however, even the most nonchalant Detroiters have been shocked by an unprecedented tidal wave of murder. Last week the Motor City topped its 1972 total of 693 killings, and experts predicted that this year's toll would eventually hit at least 750. That would mean one murder for every 1,800 city residents—compared to ratios of one to 3,864 for Chicago, one to 4,779 for Houston and one to 4,820 for New York. And Detroit's prospects for next year are even worse. Police officials estimate that Detroiters have armed themselves with an astonishing total of some 500,000 handguns—one for every third man, woman and child in the murderous city.

Annual murder rates per 100,000 population as of June 1973

Detroit	[1] 49.4
Cleveland	36.8
Washington	36.5
St. Louis	36.3
New Orleans	33.7
Baltimore	28.0
Memphis	26.8
Chicago	25.9
Dallas	24.9
Philadelphia	21.3
Houston	20.9
New York City	20.7

[1] Annual rate as of Dec. 1, 1973.

IMPERILED BIOMEDICAL RESEARCH

HON. ELIZABETH HOLTZMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1973

Ms. HOLTZMAN. Mr. Speaker, I would like to call to the attention of my colleagues a letter to the New York Times written by Dr. Ernst R. Jaffe, acting dean of the Albert Einstein College of Medicine.

Dr. Jaffe points out the potentially chaotic situation that may result from the Department of Health, Education, and Welfare administrative procedures dealing with biomedical research and education in the United States. As Dean Jaffe suggests, these procedures, undertaken in the name of saving money may result in the inestimable damage to American health care systems.

I commend Dr. Jaffe's letter to the attention of my colleagues:

[From the New York Times, Oct. 18, 1973]

Imperiled Biomedical Research

To the Editor: With the nation's attention diverted by the Watergate affair and the Agnew agony, little has been heard about the serious potential health hazards that still exist.

The leadership in Washington is using two very effective administrative techniques for saving money. One rule is, "Thou giveth with one hand and taketh away with the other." Secretary Caspar Weinberger "gave" $30-million for a new biomedical research fellowship training program, but the funds will come from the research-grant kitty. How, then, can new discoveries be made to improve the well-being of mankind?

The second principle is to obfuscate the public so that it cannot respond in time. For example, these training-grant funds would permit assistance for about 6,500 postdoctoral trainees for three years, with only 2,100 appointments possible on July 1, 1974.

Secretary Weinberger has stated that the policy governing the program, its central management and the determination of total research manpower needs will come from the Office of the Director of the National Institutes of Health. The guidelines and forms for application will not be available before Nov. 15.

The completed applications must be examined in detail by appropriate review groups, which will make recommendations on their scientific merit during meetings next January. Advisory councils will consider these recommendations in March to make the final selections on the basis of the predetermined priority of needs and the quality of the applications. Information about who will be awarded a fellowship will not be available before April or May of 1974 and conceivably not before June. Who can make plans for a career and for next year's investigative effort with such short notice?

Chaos will develop, and Mr. Weinberger can then say that he gave $30-million that the National Institutes of Health and its advisory groups could not handle expeditiously. Biomedical research fellows will not receive their training, the future of American science and health-care improvement will be irreparably damaged, and he will have attained his objective—saving a little money.

Unless Congress and the courts are successful in altering this course, biomedical education and research will have been struck a serious, perhaps mortal, blow. The same techniques are being used on programs for direct health-care delivery and other facets of societal need. Although the Administration has not been quite as successful in these latter areas, significant victories have been won. The score on overriding Presidential vetoes now is six to nothing.

Ernst R. Jaffe, M.D.,
Acting Dean, Albert Einstein College of Medicine.

Bronx, *October 8, 1973.*

JOSEPH E. HELFERT, 1894–1973

HON. ROBERT W. KASTENMEIER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1973

Mr. KASTENMEIER. Mr. Speaker, I was saddened to learn of the death of an old friend, Joseph E. Helfert, former editor of my hometown newspaper, the Beaver Dam, Wis., Daily Citizen.

Mr. Helfert was an exceptionally active member of the Beaver Dam community, and he participated in many civic causes. He was particularly interested in the welfare of young people, and, in 1929, he founded the Open Eye Club, a safety program that became the forerunner of numerous youth safety organizations. In recognition of his contributions over the years to youth safety programs, and to youth groups in general, Joe Helfert was honored by many local, State, and national organizations.

Mr. Speaker, I wish to extend my condolences to his widow and family. I also would like to insert the following obituary from the Beaver Dam Daily Citizen eulogizing the late Joe Helfert:

Joseph E. Helfert

Joseph E. Helfert, newspaper editor and civic leader in Beaver Dam for nearly a half a century, passed away at Beaver Dam Community Hospitals, Hillside Unit, late Wednesday afternoon, after being stricken with cancer several months ago.

Funeral services will be held on Saturday, December 1, 1:30 p.m. at the Murray Funeral Home, and 2 p.m. at St. Peter's Catholic Church. Rev. Joseph Stier will officiate at the services and burial will be in the parish cemetery.

The late Mr. Helfert was born on July 19, 1894, at Olmitz, Kansas, the son of Mr. and Mrs. Alois Helfert. On September 26, 1921, he was married to Loretta Gavigan who preceded in death in January, 1937. He was married to Beryl L. Carlson on June 25, 1938.

Surviving are his widow, Beryl; three daughters, Mrs. Arthur (Jeanne) Sommers of Kohler, Mrs. D. R. (Carol) Macdonald of Rhinelander, and Mrs. Frank (Mary Jo) O'Hara of Madison; two sons, Charles J. Helfert of Dallas, Texas, and Thomas L. Helfert of Horicon; 20 grandchildren; and one brother, Edward Helfert of Hoisington, Kansas.

Also preceding in death were his parents; and two sisters, Mrs. Otto Trechter and Mrs. Roy Cornelius, both of Hoisington, Kansas.

Friends may call at the Murray Funeral Home after 3:00 p.m. on Friday and until the hour of services on Saturday afternoon. There will be a Knights of Columbus vigil on Friday evening at 7:30, and a parish vigil at eight o'clock.

Memorials will be accepted for the Joseph E. Helfert Memorial Fund.

The Beaver Dam Safety Committee, both present and former members, will serve as honorary pallbearers. Committee members are advised to contact 885-4292 for further information.

IT WAS A BUSY LIFE!

Joe Helfert's busy life spanned a wide range of professional, business, community, youth, church, safety, country and family service. Highlights of his career include:

FORMAL EDUCATION

Elementary education and high school, 1913 graduate, Hoisington, Kansas; received teacher's certificate from Great Bend Normal School and taught school one year in a Russian community in Barton County, Kansas; attended Pittsburg (Kan.) Normal Training School, and taught two years at Kingston School.

In September, 1916, enrolled at Marquette University School of Journalism, and returned to school after World War I. He served on the Marquette University Athletic Board from 1952-55.

PROFESSIONAL CAREER

Before coming to Beaver Dam to become editor of the Daily Citizen in August 1926, he worked for short times on the Sheboygan Press, Racine Journal and Milwaukee Journal. However, it was as a cub reporter for the Milwaukee Sentinel before World War I that he got his first start as a newspaperman. He later went with United Press and in 1920 was named bureau manager at Milwaukee.

While associated with Marquette University he was editor of the Marquette Tribune and associate editor of the Marquette Hilltop. He was a member of Phi Rho Epsilon journalism fraternity and was one of the founders of the Sigma Delta Chi journalism fraternity.

Professional awards include the Alpha Sigma Tau honorary key and the Marquette University By-Line Award in June, 1946, being included with the first group to receive this honor.

He went into semi-retirement in 1970, but continued to write his Open Eye Column daily.

BUSINESS CAREER

He was a partner in the Citizen Publishing Co. until his retirement, and then served on the company's board of directors.

He was a member of the Beaver Dam Chamber of Commerce's board of directors for 10 years, and served as chamber president for two years, 1944-45.

SAFETY ACTIVITIES

One of the first and early promoters of safety campaigns, he organized a Radio Club shortly after coming to Beaver Dam, and in 1929 he founded the Open Eye Club, a safety program directed at children, but which included highway safety for adults too. On the 25th anniversary of the club he was honored with a special citation from Governor Kohler, and Beaver Dam city officials. He received many youth safety awards from the VFW, American Legion, Eagles, Rotary Club, Kiwanis Club, Knights of Columbus, the Wisconsin Council of Safety and many others, on local, state and national levels.

He served as a member of the Wisconsin Safety Committee, appointed to the post in 1954 by Governor Kohler, and was named to the Beaver Dam Safety Committee in 1952 by Mayor Alvin Beers. He served as chairman of this committee up until the time of his death.

His Open Eye Club membership cards have been distributed throughout the nation, and have been forerunners to many other local youth safety organizations.

RELIGIOUS AND CHURCH ACTIVITIES

He was a member of St. Peter's Catholic Church and the Holy Name Society. Throughout the years he was active in the Knights of Columbus, having held offices in the Beaver Dam council, including grand knight. He was named by the council as "The Outstanding Catholic Layman" of 1965, a state-wide award, when the council observed its Golden Jubilee. He served as a member of the state K.C. Bowling Committee for 11 years.

He was state deputy of the Wisconsin Knights of Columbus from 1946-48. He helped organize the Columbian Squires of Beaver Dam in 1933, and was Square Committee chairman for the state council for 11 years.

He helped organize the St. Peter's Credit Association and served as its president for two years.

SERVICE TO COUNTRY

While a student at Marquette University he enlisted in the U.S. Army in July 1918. After training in the United States he served in Italy during the war at Vicenza and Castle Franca, and returned home in May, 1919.

He was a member of the Beaver Dam American Legion Post, and served as its athletic officer for many years. He was also a member of the Beaver Dam Barracks, an organization of World War I veterans.

During World War II he corresponded with many Beaver Dam servicemen and wrote an open letter to all servicemen entitled "Dear Tony".

YOUTH ACTIVITIES

He was one of the early organizers of Boys Baseball and served as manager of the Yankees for many years. He was honored by the boys, managers and parents at a "Joe Helfert" day.

His activity also included work with Boy Scouts on all levels of adult participation. For his over 30-years of scouting he has received the Boy Scout Statuette and the St. George Medal, the highest Catholic adult honor.

He was one of the organizers of the Do-Dads of Beaver Dam, which built the Juliette Low Girl Scout House.

Many farm organizations have honored him with awards. He became the first honorary state farmer in 1954, an award from the Future Farmers of America and was "Mr. FFA." He has also been honored by the Beaver Dam FFA and in 1962 received a "meritorious Service" award from the 4-H clubs.

Mr. Helfert was a director of the Wisconsin Youth Symphony, and a member of the Citizens Advisory Committee of the University of Wisconsin, Oshkosh, 1961-71. He was an honorary member of the Beaver Dam Senior High Band.

Throughout the years he also worked with other juvenile programs in the city and county.

COMMUNITY ACTIVITIES

Served as a member of the Beaver Dam Plan Commission, 1951-58; was one of the organizers of the Beaver Dam United Fund and served on its board of directors for three years; served on the Dodge County Community Concert's board of directors; and for many years was involved in Red Cross programs, for which he received special recognition.

For his years of community service he received the "Distinguished Leadership Award" from Marquette University in 1968-69, and the Independent Insurance Agents of Wisconsin presented him with their "Man of Action" award in 1968.

EDUCATIONAL OPPORTUNITY FOR ALL

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1973

Mr. LEHMAN. Mr. Speaker, on December 1, at the conclusion of its deliberations, the Assembly of the American Association of Community and Junior Colleges issued an important statement on the development of staff resources in the 1,200 institutions which that organization represents.

The statement is titled "Educational Opportunity for All: New Staff for New Students." It addresses the fact that the 150,000 persons who serve in faculty and administrative positions in community and junior colleges, as well as the many other persons who serve as part-time instructors and as support staff, represent the institutions' greatest resource. It calls on the colleges, professional associations, governmental bodies, and on the staff members themselves to work for development of staff skills so that the communities where community and junior colleges exist may be better served.

Included in the 100 assembly participants were students, faculty, administrators, trustees, university professors, government officials, and representatives of the general public. It is significant that they called for cooperative endeavors among the groups they represented.

But, most significant is the fact that the assembly called on each community and junior college to clearly assess the needs of its community and to define its mission in terms of filling those real needs. And it calls on each staff member to work with the college to design a personal developmental plan appropriate for that staff member and for the institution in light of its declared mission. It also calls on the college to order its priorities in such a way that such staff development plans are given clear institutional commitment.

Mr. Speaker, Congress has assisted in such efforts in the past through the Education Professions Development Act and other such legislation. In fact, the assembly based its deliberations on a study commissioned earlier by the National Advisory Council on Education Professions Development, titled "People for the People's Colleges." I am sure we will be continuing to give attention to the ways in which Congress should assist community and junior colleges to achieve their purposes in the future. Therefore, I insert the assembly statement in the RECORD:

Educational Opportunity for All: New Staff for New Students

(Participants in the 1973 AACJC Assembly met November 29—December 1 at Airlie House, Warrenton, Virginia. At the final session of the Assembly they reviewed and adopted this statement)

Our concept of staff development reflects more than the obvious need to enhance the professional skills of our teachers and administrators and to provide for the necessary orientation and knowing cooperation of those who help to keep the daily business of our institutions running smoothly—the custodians and secretaries, the paraprofessionals and food managers, the security guards and the telephone operators.

"Staff," in our view, is all those who in their varied capacities help to create and maintain an environment in which our students—whoever they are and whatever their needs may be—can learn what they need to know to increase their skills and to manage their own lives more effectively.

The development of this staff reflects the central commitments of our colleges:

That we affirm equal educational opportunity for all who come to us;

That a "people's college" demonstrates its commitment to growth in competence and personal satisfactions for its students;

That what we affirm as democratic values—respect for the person and his needs; equal treatment for those from diverse backgrounds and cultural expectations; sensitive response to the communities which support us in the expectation that we will truly serve them—are at the heart of our recommendations for the preparation and continuing renewal of those who are responsible for our student's growth.

The staff of a college is its single greatest resource. In economic terms, the staff is the college's most significant and largest capital investment. In these terms alone, we affirm that it is only good sense that the investment should be helped to appreciate in value and not be allowed to wear itself out or slide into obsoluescence by inattention or neglect.

But in a more crucial sense, a college's staff is the expression of its purposes, the collective manager of its missions. As the college's purposes change and adapt to the social needs of its community, its staff deserves—*must have*—opportunities to adapt and change, too.

The Assembly recognizes the accelerated and even headlong rush of change in our society. We recognize that community and junior colleges, perhaps more than any other segment of the educational community, are obliged to respond to the iron imperatives of a period in which our whole society must learn to manage change and increasing scarcity with imagination, ingenuity, and—we hope—with some modicum of grace. Such management of change in our colleges must begin with our staffs who, by their skill and their example, may help our students learn what is needful for them as they, in turn, use their own lives what we have helped them to learn.

These are noble generalities—indeed, almost unarguable hopes. *How* they are to be made realistic; how they can be translated into appropriate and workable staff development programs; *how* they can be made a normal and *expected* part of the operations of our colleges, is the trust of the statements and recommendations of this Assembly.

We emphasize, too, that staff development, in every sense that our recommendations may deflect, is not something that can be postponed to an easier "someday." These developments needs are urgent, they are *now*, they are what we *must* be doing to respond to what our constituents tell us loud and clear is our current obligation. No other response would be realistic, no other action would be appropriate to the challenges that have been given to us.

We owe more than response. We need to rise to leadership. We need even more than ever to know what our committees want and need, as well as what we are doing in and for and with the communities which support us and which we serve. We need to communicate with unmistakable clarity with these communities what we are doing and should be doing and why. And we need to work with others—staff, students, and the wider society—so that what we are doing is indeed responsive to their needs here and now, and that it is anticipatory of their needs in the future. Such response and such anticipation is in fact what leadership is.

The theme of this Assembly, "New Staff for New Students," is not merely a slogan. It is a recognition that the students in our colleges—indeed in higher education in general—have grown up in a society which in the past decade has endured wrenching changes and moral and social dislocations that have been severe and long-lasting. It is recognition that our schools, which in many respects are the custodians of our society's hopes for itself, *must*, like our society, rethink their priorities, husband and allocate increasingly scarce resources, and provide for thoughtful self-renewal.

Our student clientele no longer fits the "collegiate" stereotype, if indeed it ever has. Increasingly, the new students reflect the diverse cultural, ethnic, economic, and social diversity of the total community. "New" staff for these students means among other things special opportunities for skilled and hardworking incumbent staff to develop special sensitivity to the changed needs of students and new skills to assist their learning. It means recruitment of new staff for all levels in the college from those segments of the population increasingly represented in our student groups; Blacks, Native Americans, Chicanos, women and those who in one fashion or another have been historically disadvantaged in our culture. Such new staff is especially needed in leadership positions.

This Assembly affirms that community and junior colleges need to consider as part of staff development the deliberate cultivation of a wide range of partnerships: with universities, to increase the professional help that the senior institutions can give us, and equally, the help that we can give to them; with the community, so as to make fullest use of the enormous and often untapped resources available there to develop and enrich our programs and our staff; with business and industry which provides the major source of qualified teachers for many skill-centered, nonbaccalaureate programs; with professional organizations whose collaboration can be especially valuable in staff development. We emphasize that these and many other collaborations are two-way. We consider that part of staff development is learning what we have to give to, as well as what we need to take from, these educational partnerships.

This Assembly urges in the most vigorous terms that community and junior colleges accept staff development as a first-rank priority and give to it the same total institutional commitment that is accorded to its other programs and curriculums. We affirm as basic premises that staff development programs should be ongoing and functionally related to the missions and the social mix of each institution; that such programs should not be imposed, but rather should develop from the collaborative efforts of all staff elements; that such development activity should be considered a major vehicle for institutional renewal. We further urge that staff of community and junior colleges reaffirm their commitment to continued self-development as a part of their professional responsibility, and the professional organizations be enrouraged to state this responsibility.

Staff development is, of course, not a new concern. But the Assembly wishes to emphasize that the need for action is now.

We consider that there are two major aspects to staff development: pre-service and in-service. Pre-service is the formal education and the work experience of a prospective staff member. In-service is the opportunity for incumbent staff for professional and personal renewal on their own campuses or through the agency of the college which employs them.

PRE-SERVICE

Recommendation: Community and junior colleges should take the initiative in helping four-year colleges and universities with specific directions concerning the training of potential staff.

Recommendation: Recognizing that some minorities and women are grossly under-represented in positions of leadership in community and junior colleges, the Assembly encourages universities to make special efforts to recruit members of these groups to their programs. It is particularly important that those who teach community college programs in the senior institutions should themselves have had extensive and recent experience in community colleges.

To the extent possible, community and junior colleges must help to design appropriate pre-service educational experiences for potential staff, and work out strategies for encouraging senior institutions to provide such experiences.

Recommendation: Pre-service education or work experience should be based on, and evaluated by, competency standards, rather than on those academic credentials that are traditional. It is the responsibility of community and junior colleges to spell out in full detail the nature and application of such competency standards.

Recommendation: When competency standards have been thoroughly worked out, accrediting agencies and certification agencies should be persuaded to accept these on an equal basis with their present academic criteria.

Recommendation: We urge that community and junior colleges take the initiative in offering internships, practicums, staff supervision, research opportunities, facilities and staff resources for university courses as part of their commitment to pre-service education.

Recommendation: Qualified community colleges should design and test programs to prepare paraprofessional staff to work in the community college. Universities should be encouraged to develop appropriate capstone programs to allow for transfer of those who wish to earn professional degrees.

IN-SERVICE

With rapidly changing developments in curriculum, instructional technology, organizational patterns, facilities and equipment, teaching-learning styles of both teachers and students, it is imperative that all staff have continued opportunities to learn about and adopt these innovations to their colleges.

Recommendation: We ask the American Association of Community and Junior Colleges to assist in the following:

1. Identify, compile, and widely disseminate a list of those persons who are knowledgeable about staff development and who have had experience in setting up or helping to set up staff development programs.

2. Endorse the expansion of Native American programs in community and junior colleges; and make a commitment to seek additional funds to expand the staff of the office of American Programs in AACJC. A similar commitment should be made to all minority groups, recognizing that there are differing needs for each group.

3. Identify, compile and provide descriptive write-ups of state and institutional models of staff development (such as the one in Florida, for example), including where possible guidelines for the implementation of such models; and see that these descriptions are nationally distributed.

4. Through a staff committee in cooperation with the Association of Community College Trustees, design strategies to involve trustees actively in the commitment to staff development.

5. In all appropriate ways, take a leadership role in informing federal, state, and regional agencies of the commitment of community and junior colleges to staff development; to the needs of the colleges for support funding for such programs. The AACJC is also the appropriate agency to assist foundations in identifying strong, workable, innovative staff development programs at individual institutions; or to identify consortiums of community colleges which may be attempting to develop coordinated staff development programs.

6. The Association should marshal all possible resources to increase the development of culturally and linguistically diverse staff by:

a. Working to increase the funding level for fellowship programs of the Education Professions Development Act;

b. Urging universities that prepare community junior college administrators to recruit minorities into their programs;

c. Urging the universities through the AACJC Council of Universities and Colleges to develop programs to prepare culturally and linguistically diverse staff;

d. Encouraging its membership to use minority students to help other minority students as peer counselors, peer tutors and teachers; and give assistance to colleges in designing programs to help both students and faculty in this effort;

e. Work to increase the funding level for the institutes and short-term training programs of the Education Professions Development Act;

f. And especially support legislation to support bilingual/bi-cultural education through at least the community junior college level. This includes programs for development of bilingual/bi-cultural staff.

7. With the cooperation of a representative committee from member colleges, the Association should attempt to devise a system (and guidelines) for collecting and reporting data concerning recurring and nationwide common needs in the staff development area. Such data would be of great value to local, regional, and national agencies both for long-range planning and for decisions about funding for staff development.

8. Accreditation agencies should be encouraged to give increased emphasis to staff development programs as one indicator of institutional vitality.

Most of the recommendations from the Assembly are directed to the community and junior colleges themselves. Again and again in its discussions, the Assembly recognized that before significant funding support can be sought from any agencies—federal, state, and local—each college must identify its own staff development needs in the light of its own missions, its own clientele, and its obligations to the immediate community which it serves. A further repeated theme in Assembly discussions was that the college must give active support, rather than passive attention to, staff development, and that it must demonstrate its commitment to this activity by re-ordering its priorities and allocating from its own resources the necessary means for staff renewal. Such a commitment would be in itself persuasive to funding agencies that the college considers staff development integral to its operation and functionally necessary in its ongoing response to the needs of its students.

Recommendation: Staff development programs should involve and be designed for *all* staff elements in the college: faculty, administrators, support personnel, trustees, students, personnel in state agencies responsible for community college administration, and where appropriate, members of the community. Said in another way: all of those who in any fashion touch the lives of the students are, in fact, educators who teach by their example, by their contacts with students, by their awareness of the goals of their college as they understand how their work contributes to these goals.

Therefore, staff development programs should be created from within, as varied staff identify their professional or career needs and work out the particular ways and means of responding to those needs in in-service programs. These should include intergroup programs which emphasize the collaborative nature of the college enterprise.

State agencies, which, in America, are frequently the legal foundation for public education, should encourage, fund, and to the extent practical, provide state leadership for in-service development programs.

Recommendation: Colleges should devise specific programs to train minority administrators, counselors, teachers, librarians, and paraprofessionals. They should provide opportunities for cultural awareness training for all staff, including members of governing boards. Such awareness training should be designed to reduce (or hopefully eliminate) racism and prejudice as far as possible in the whole college environment.

Recommendation: The commitment of the president of the college is crucial to the success of any staff development program, and supportive encouragement for all aspects of the program is needed. In addition, where it is possible and functional, colleges might identify a staff development officer responsible for overall planning and coordination of in-service efforts.

Recommendation: Each college should make an analysis and ongoing evaluation of its present staff development activities (use of consultants, conduct of workshops, conferences, professional travel, sabbaticals, and the like) to determine which are most productive and which might be changed or eliminated so that staff development dollars will be most effectively committed.

Recommendation: Each college should have an ongoing assessment of its recognition and reward practices (added pay, released time, incentive awards, promotion policies, and the like) to determine how these can be adapted to include recognition and encouragement for participation of in-service programs. Each college should have an ongoing assessment of its personnel policies to determine how these can be adapted to include incentives for participation.

Recommendation: Where collective negotiation exists, every effort should be made by all sides, including students, to agree on the nature and scope of the college's commitment to staff development.

Recommendation: As a central part of each college's long-range planning, systematic efforts should be made to project changes in enrollment patterns, and changing student and community needs so that incumbent staff may be given opportunities for retraining to respond effectively to such needs.

Recommendation: Every college should consider establishing a community advisory board to help design staff development programs.

Recommendation: In any staff development program, each college is especially urged to include *part-time* staff. Such persons tend to be neglected in institution-wide programs; yet their actual and potential value to the college is often great and could be increased by including them in renewal activities.

The Assembly recognizes that a primary need is to develop strategies, techniques, approaches, and methods for implementing the commitment to staff development. How to do it? That is a question with multiple answers—answers as varied as the institutions which ask the question. The need is to develop ways and means, to experiment with them and test them and refine them—and above all to *share* workable models, processes, schemes, and programs as widely as can be done.

We affirm that such experimenting, such risk-taking, such sharing, is long overdue. Now it is an imperative.

Much has been asked of our burgeoning, almost explosively growing community and junior colleges in the last ten years. Far more will be asked of us in the decade to come.

It is our proud claim that we are "people's colleges." If in fact we are, then our values will be demonstrated by the way we nurture not only those whom we educate, but also those who do the educating. If we see people as autonomous, capable of self-renewal, worthy of respect not only for what they are but for what they can become, then we will—increasingly—provide opportunities for their becoming.

In some ways, America is a deeply shaken country, distracted and frustrated by a cascade of events over which we seem to have little control. By all signs, we are faced with a radical change in our national direction. It is clear that now, and for an indefinite future, we will have to learn to cope with scarcity, with constrictions in our lives in many ways still unknown and unguessed at. We have turned an historical corner, and ahead of us is the road not taken.

But this Assembly affirms that for us in education, and particularly for our colleges, this historical turn is a matchless opportunity. This nation was founded on the premise that the basic measure of value in our society is the individual human person. In the last analysis, that *person* is the touchstone, the measure, against which we scale all other social values. In our colleges, the *person* is our business. His competence is our business. His chance to learn to manage his own life with dignity is our business. If we are imaginative and ingenious and tough-minded in trying once again to shape our institutions so that they measure up to the basic value which we espouse, this may well be our contribution to the map of the unknown road ahead of us.

A TRAGIC LOSS

HON. LARRY WINN, JR.

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1973

Mr. WINN. Mr. Speaker, on November 30, 1973, Kansas City, Kans., lost an outstanding servant. The sudden and untimely death of Kansas City's Postmaster, Bob Roberts came as a blow to all who knew him, and I wish to join his many friends in extending my heartfelt sympathy and respect to his family.

With his passing, Kansas City has lost a truly great and dedicated public servant. Bob's contributions to many civic activities covered a wide range of interests and will long be remembered.

Bob Roberts served Kansas City, Kans., as postmaster for 14 years, but he was more than a postmaster and distinguished civic leader. He was a personal friend and his death must be viewed as a great personal loss.

As a tribute to the outstanding record he compiled, I feel a memorial for this man is in order. Members of the American Postal Workers Union of Kansas City, Kans., have suggested that a fitting tribute would be to name the soon-to-be constructed northwest station branch of the Kansas City Post Office in his memory. I would like to add my endorsement to this suggestion, and I have written to Postmaster General Klassen in this regard.

I insert in the RECORD at this point an editorial from the Kansas City Times which I feel sums up the feelings of the many people who knew Bob Roberts.

The editorial follows:

TRAGIC LOSS OF ROBERT L. ROBERTS

The murder of Robert L. Roberts, the U.S. postmaster in Kansas City, Kansas, is, as Sen. Bob Dole has summed it up: "One of those senseless tragedies that takes a good man from the scene." Bob Roberts was indeed a good man who served his country outstandingly both in and out of uniform and whose selfless work in many positions of responsibility had made him one of the most valuable leaders in his community.

Long-time associates of Mr. Roberts were impressed by the quiet, unobtrusive way he went about getting a job done. He was not particularly interested in the exercise of authority other than for the results to be accomplished. This quality was evident in his performance as Wyandotte County chairman of the 1972 United Way campaign, in his various high-level assignments as an officer of the National Guard and the Army Reserve, and in dozens of civic jobs he took on over the years. Bob Roberts always had time for one more worth-while undertaking.

Born in Fort Worth, Tex., he had been a resident of Kansas City, Kansas, since he was 3 years old. He loved his city and state and once said that he was "just a 100 per cent Kansan" and planned to remain so. His only lengthy absences from the state were for World War II service and for National Guard callup in 1968–69 that eventually took him to Vietnam.

In a 1965 interview Mr. Roberts recalled that he had worked since he began as a 9-year-old delivery boy for a drugstore. He continued to handle part-time jobs but never felt deprived of boyhood joys. His habit of industriousness became well rooted. After World War II he completed college while working days at the city hall in Kansas City, Kansas.

As postmaster since 1959, Bob Roberts had long been one of the best known and most respected citizens of Kansas City, Kansas. At the age of 51 he should have had many more constructive years of living ahead of him. That prospect has been destroyed but the lifetime record remains for Mr. Roberts of having done his best and doing it extremely well.

THE U.S. OIL REFINERY GAP

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1973

Mr. PICKLE. Mr. Speaker, one of the problems involved in the energy crisis is the insufficient refining capacity to process crude oil into the gasoline and the home heating fuels that we so desperately need.

An article in the New York Times by Robert A. Wright on December 9, 1973, illustrates how far short our refining capacity is compared to demand and the problems faced in building refineries.

I insert that article in the RECORD at this time:

THE U.S. OIL REFINERY GAP

(By Robert A. Wright)

LOS ANGELES.—Insufficient refining capacity is a bottleneck that will leave the nation short of gasoline, home heating fuel and other petroleum products, even if the Arab oil embargo is lifted.

That is the consensus of oil company executives and observers of the industry. And there is no quick way to remedy the shortage.

Even before the Yom Kippur war in the Middle East and the Arabs' embargo of crude oil shipments to the United States, an energy crisis was in the making for this nation because of insufficient refining capacity. It began to show up with those spot shortages of heating oil last winter and empty service station pumps in some areas last summer.

Refinery construction in the United States has lagged far behind demand. In the five years ended last Dec. 31, there were 1.9 million barrels a day added to domestic refining capacity, according to the American Petroleum Institute, the industry's trade association. In the same period, demand for petroleum products climbed 3 million barrels a day.

The A.P.I. estimates that the nation will need the equivalent of 60 new refineries with a total capacity of 9 million barrels a day by 1985 to meet projected demand. That timetable is unlikely to be met.

Not one new refinery is being built in the United States today. And some companies that had decided to increase refining capacity are now reconsidering their plans.

The dearth of refinery construction has been attributed by the oil companies to import restrictions on crude oil in the face of declining domestic production and growing American dependence on foreign petroleum supplies. Low prices for petroleum products and environmental restrictions also inhibited construction, industry spokesmen have said.

Last May President Nixon relaxed import quotas, and a spate of companies announced plans to increase refining capacity. And prices began to rise. Just as suddenly, many of these companies began having second thoughts when the Arabs cut off crude oil from the Middle East.

A refinery is a costly undertaking. More than $200-million may be needed to build one capable of handling 150,000 barrels of crude oil a day. Without assured long-term supplies of crude oil, no company is likely to build one.

Texaco, Inc., announced plans in July to add 200,000 barrels a day at its Convent, La., plant, with construction to start early next year. Preliminary site preparation, engineering and environmental impact studies were continuing last week, but no construction contracts had been let.

Asked if the company might be considering cutting back in view of the Arab embargo, a Texaco spokesman would say only that the expansion depended "at least in part" on foreign crude oil.

The Exxon Corporation says it is continuing to move ahead with a $400-million expansion, intended to add 350,000 barrels a day, "while evaluating this project in light of current uncertainties."

At least one major company is building new refining capacity despite the questionable supply situation. C. W. Kitto, vice president in charge of refining at the Standard Oil Company of California (which has most of its reserves in the Middle East) says his company is continuing with its $450-million expansion, announced before the import relaxation. But the project has encountered an obstacle in the form of zoning restrictions in Perth Amboy, N.J., where part of the expansion is planned.

What about supplies of crude? Mr. Kitto says the company "has to make the assumption" that crude will be available by late 1975, when construction is scheduled to be completed.

Plans to add a total of some 4.5 million barrels a day have been announced by domestic oil companies since the change in import regulations was made. Even if all these new facilities are eventually built, however, they will not help heat homes this winter—or even next winter. It takes about three years from drawing board to completion of a major refinery.

Present United States refining capacity stands at 13.6 million barrels a day, compared with consumption of 17 million barrels a day, with imported refined products making up the difference. In the first 10 months of this year, American refining plants ran virtually at capacity.

Since late October, however, refinery runs have dropped steadily each week, from 99 per cent of capacity to about 95 per cent in the week ended Nov. 23, because of tightening crude supplies.

The Arab embargo is just beginning to have its impact, oil men say. Suddenly, there is excess refining capacity.

The Mobil Oil Corporation's 150,000-barrel-a-day plant at Joliet, Ill., is the newest refinery in the United States, having started operations early this year.

Mobil announced a week ago that it would put an older plant at East Chicago, Ind., in mothballs. This refinery has a capacity of 47,000 barrels a day. It had been processing crude for other companies but, with the Arab cut-off, lost most of its customers.

"Even under the best of circumstances," says John H. Lichtblau, executive director of the Petroleum Industry Research Foundation, "it will be 1978 before the refining gap starts to narrow. There will be almost no new refining capacity ready before 1976."

In addition to the refining shortfall, supplies of crude oil are likely to be tight worldwide for years unless new reserves are discovered. Saudi Arabia, with the world's largest reserves, has indicated that it will not supply as much crude as it had been expected to, even after a lifting of the embargo.

The kingdom, which wants to get an industrialization program under way before it exhausts its sole resource, has said it will not continue to increase production and may even slow it.

Saudi Arabia increased output 30 percent in the first nine months of this year from the 1972 level. Before the embargo, Saudi Arabia was being counted on to raise output another 15 per cent next year.

With an eye to winter shortages of home heating oil, critics of the industry have charged that the oil companies are to blame because they have geared refining production to the more profitable gasoline at the expense of heating fuel. The companies assert that they merely designed their plants in line with demand for various products, with gasoline topping the list in the United States.

Refineries are highly technical complexes, covering scores of acres and employing thousands of people. Refineries are capable of turning out a wide variety of products from gasoline through paint and detergents of plastics and asphalt, among others. But there is a limit to a refinery's flexibility.

Mr. Kitto of California Standard says: "You may build a refinery to process 100,000 barrels of California heavy crude, then have only Alaskan crude. That could cut capacity as much as 75 per cent."

He points out that "some Texas crudes yield 5 per cent fuel oil, but some San Joaquin Valley [Calif.] crudes give you 100 per cent fuel oil." The basic mineralization of a crude oil can be modified to change product yields, but only with costly additional equipment.

Cost aside, however, there is considerable flexibility, according to Mr. Lichtblau of the Petroleum Industry Research Foundation.

"If you ignore cost," he says, "you could go as high as 28 per cent heating oil yield—maybe 30 per cent. But then the price would have to go up too. In principle, it can be done. European refineries produce 33 to 35 per cent heating oils and only 12 to 15 per cent gasoline."

Still, Mr. Lichtblau says: "The situation is not desperate. One can live with it." He pins the nation's intermediate energy hopes on conservation.

There is a structural change in demand for petroleum products, he says.

"When people buy small cars, they are cutting consumption on a long-term basis," he observes. "The assumption that domestic consumption will continue to increase at 5 to 6 per cent a year is now being revised. It could well be half of that."

Much fuel could be conserved by reducing the nation's massive waste without hurting the economy, Mr. Lichtblau insists. "We may all be surprised."

THE PLIGHT OF THE SOVIET JEWS

HON. EDWIN B. FORSYTHE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1973

Mr. FORSYTHE. Mr. Speaker, I rise in support of the Vanik amendment. I note that the Committee on Ways and Means has accepted the first part of the original Vanik amendment, which I was proud to cosponsor, denying most-favored-nation trade status to those nations which denied free emigration rights to their citizens. However, I deeply regret the fact that the committee did not accept the second part of the original amendment which denied loans, credits, and guarantees to these nations.

After years of allowing only a few hundred of its Jewish citizens to emigrate each year, the Soviet Union, in late 1971, liberalized its emigration policies. Americans welcomed this change in policy which has allowed over 50,000 Soviet Jews to leave for Israel.

This progress, however, makes no less objectionable and reprehensible several elements of the Soviet Government's policies toward its Jewish minority of 2.64 million citizens.

Notwithstanding any changes in Soviet policy, there are many Jews in jail whose only crime has been the desire to leave the Soviet Union and its oppressive regime.

Despite Soviet claims that in 1972, 95 percent of the Jews who applied to leave were allowed to do so, there are still perhaps 100,000 Jews waiting and praying daily for exit visas that only seem to be forthcoming on a slow, erratic timetable, subject to the whims of particular, and often petty, Soviet authorities throughout the state bureaucracy.

Further, Soviet policies toward the emigration of its citizens have, in the recent past, involved outrageous fees that some Jews must pay in order to secure the necessary emigration papers. In late 1972 the Soviets discovered yet another tax, the so-called education tax which could amount to $13,200.

Mr. Speaker, it is against this history that we must judge our actions today. It is axiomatic that we rarely truly appreciate something of value until we are without it. As a corollary, it can be said that we tend too easily to take our material wealth, and our liberty for granted.

However, if our concern about human rights and the type of nations we trade with is real, then we must adopt the amendment before us. This amendment will show our new and potential trading partners that we will require some basic consideration of human rights—that some system of regular and equitable emigration policy is expected—a nondiscriminatory, humane system free from terror and impossible conditions—a system that reflects respect for the United Nations Declaration of Human Rights.

This amendment is not an interference in the internal affairs of other nations. Since when does a condition on granting credits and most-favored-nation status supported by the taxpayers of the United States constitute an interference in another nation's affairs. We have no duty or obligation to extend lower tariff rates or billion of dollars in loans—these are not the rights of foreign nations. They are gifts that can be offered by the American people under conditions set by the American people. The granting of these privileges is an internal affair of our Nation.

It is also argued that we have human rights problems of our own. I support this amendment in the full humility that we are not perfect—and with the conviction that if we abandon this cause, we would be less worthy. This amendment is in the American tradition. It is similar to the 1911 abrogation of our commercial treaty with czarist Russia over that regime's massacres of its Jewish citizens.

It is said that quiet diplomacy will make passage of this amendment unnecessary. Yet, I hasten to point out that is the same thing that was said in the 1930's about the plight of the German minorities.

In spite of all the dangers involved for them, the people relying on this amendment have begged us not to give up this issue. This week, our newspapers reported a letter from 188 persons from 10 Soviet cities to the United Nations protesting restrictions against Jews in the Soviet Union. Our newspapers also tell us that courageous Andrei Sakharov and his wife were both admitted to a hospital. In traditional Soviet fashion, the reasons were never explained.

Mr. Speaker, the United States must now honor its commitment to the freedom of all peoples. I strongly urge my colleagues to pass this amendment.

LEGISLATION TO IMPROVE MANAGEMENT OF THE GREAT LAKES

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1973

Mr. VANIK. Mr. Speaker, in an attempt to help improve the international management of the Great Lakes I introduced H.R. 9858 on August 2. I am happy to be able to say that companion legislation, slightly different than my bill, has just been introduced in the other Chamber by Senators NELSON, HART, and HATHAWAY. I hope that this recent action will mean the quick consideration and passage of this measure by the Congress.

Very simply, H.R. 9858 provides for the Senate confirmation of Presidentially appointed nominees to the American section of the International Joint Commission—IJC. The Senate version, S. 2797, requires Senate confirmation and also provides for staggered terms for the three Commissioners and for bipartisan membership.

Mr. Speaker, through these bills, we could help to achieve a new vitality and purpose in the role of the International Joint Commission. The IJC has large responsibilities which continue to gain importance as the value of the Great Lakes Basin is realized.

Established in 1909 in the boundary waters agreement with great Britain, the IJC is charged with the responsibility of preventing "disputes regarding the use of boundary waters and to settle all questions which are now pending between the United States and the Dominion of Canada involving the rights, obligations, or interests of either in relation to the other"

Obviously, the six decades since the treaty was formed have seen a great evolution in the importance of the Canadian-American boundary areas, particularly the Great Lakes. Management of the problems of the Great Lakes is an important issue now. If done poorly, it can affect the lives of millions of people in many ways.

I am particularly concerned with the troubles Great Lakes shoreline residents have encountered with the enormous fluctuations of the lakes' water levels. The high waters of the last 2 years have caused tens of millions of dollars of damage to public and private property and untold amounts of anguish to people who have found that storm-driven high water knows no restraints.

But despite this long-term experience of high water levels, the IJC has accomplished little in prevention or solution of these problems.

Mr. Speaker, Senate confirmation of the three American members of the IJC could aid the Commission in several ways. It can make the Congress, the American public, and the administration aware of the purpose of the IJC. It can impress on the IJC itself the importance of its job and the international constituency it must serve. And, it can help the IJC work better by assuring its members are fully qualified for the complex and technical tasks that it must take on.

I hope that all my colleagues will be able to support this legislation to require Senate confirmation of IJC Commissioners.

GOVERNOR SHAPP SPEAKS ON FOOD POLICY FOR THE WORLD

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1973

Mr. EILBERG. Mr. Speaker, in about 1 year's time, the world population will grow to 4 billion and by 1985 the world demand for food will rise to 80 percent over that of 1962.

In order to forestall a future food crisis by 1985, we must look ahead realistically at our supply and demand and develop innovative programs to guarantee adequate supplies of food for the peoples of this world. If we repeatedly ignore such statistics, we may be faced with another catastrophe such as today's energy crisis but instead of not having enough gasoline to drive, we will not have enough food for survival. These are the alarming facts Gov. Milton Shapp of Pennsylvania prognosticated to the National Conference on Food Policy.

At this time I enter into the RECORD the speech given by Governor Shapp at the conference.

ADDRESS BY GOV. MILTON J. SHAPP AT THE NATIONAL CONFERENCE ON FOOD POLICY, HERSHEY HOTEL, DECEMBER 6, 1973

I want to extend a warm welcome to everyone here at the Conference on Food Policy. I especially welcome the distinguished representatives of other countries, the distinguished members of the United States Congress and visitors from our sister states.

Why are we here?

I believe each of us has come to this Conference because we recognize the need for a food policy—a food policy for this country, for other countries. Yes, in fact, a worldwide policy.

Some people would argue that none is needed. There may be some occasional shortages of certain items on the shelves of the neighborhood grocery store, but there is plenty of food.

Regrettably, that is not true in many countries of the world where need is real and hunger is real. And it may not be true in many other countries in the short years ahead unless there is adequate planning.

And, realistically, it might not long be true in the United States. In point of fact, although we pride ourselves in this nation for the economic achievements we have made, a good number of our people live below the poverty level and exist on substandard levels of nutrition.

Last year at this time we didn't have an energy crisis. But two years ago—three years ago—and even before some of us were predicting shortages, but there was no "crisis" since no one in this country was then running out of heating oil for his home or gasoline for his car. Hence, the federal government did nothing.

This year the predictable crunch came. And it affects all of us. Yes, suddenly, we have an energy crisis.

Four years ago, there was no rail crisis in this nation. The Pennsylvania Railroad and the New York Central had merged into one of the world's largest corporations. The trains were not visibly improved. They still ran late. But there was no "crisis." The trains ran. Then in the Spring of 1970 the crunch came. The Penn Central stunned the world by declaring bankruptcy and filing for reorganization in the courts. I had the dubious honor of predicting that one. I fought the merger all the way to the Supreme Court of the United States as a private citizen in the sixties.

The fail crisis launched in 1970 is still with us and will be with us for years to come.

I'm not going to predict a food crisis here today. I hope we're here to try to prevent one. But I think it's clear to all of us that only immediate and innovative planning can avert very serious food shortages in this nation and the world in the next 10 to 20 years.

The energy crisis and the rail crisis have one thing in common—bad judgment and poor planning by officials in our national government.

Hopefully, no one will try to make it three in a row.

I ran a successful business of reasonably major proportions for many years. Among the things a successful businessman must do are anticipate trends and predict needs. Without that talent in its executive branch, any business will go under. This applies to government and nations as well.

So, let's look at the facts. The commodity and service shortages we are experiencing (and have faced in the past) are inter-related.

The population of the world has grown rapidly. More people are able to spend more income on food than at anytime in history. As a result, the dramatically increased demand has driven food prices up worldwide and adequate supplies of food are no longer taken for granted.

Suddenly, we are faced with the reality that our ability to produce food is limited, that minerals and land are indeed finite an that the depletion "mark" is now visible.

We must now as public officials, governments and nations examine the inter-relationships of our problems of supply and demand. A process we should have started years ago, but can no longer be delayed.

We are, indeed, Spaceship Earth. And we must learn to live with ourselves and our limited environment.

The food problem is directly intertwined with the energy crisis and the transportation crisis. To grow food we must have energy. To ship food we need modern, efficient transportation systems.

Farm machinery needs fuel. Our crops use nitrogen fertilizer, which, in turn, needs natural gas in its creation. Fresh water is in short supply in many areas and power is needed for irrigation systems. But water must be free of pollution.

During the previous administration in Pennsylvania, an event occurred which had an air of foreboding about it. Acid mine drainage from a Western County polluted the West Branch of the Susquehanna River and a huge fish kill resulted. The Susquehanna is certainly not a prime source of food for Pennsylvania. It used to be, and it still might be. Food from our rivers and lakes and oceans is becoming increasingly important.

But polluted water reduces or destroys this source of food production.

I mention this to emphasize the importance of protecting our environment as we consider the question of a food policy. Yes, environment, transportation and energy are inter-related with food production.

But I know you are going to discuss all of this at this Conference, so I won't belabor the point.

The Green Revolution on the farms of this country now enables each farm worker today to indirectly feed 48 other persons. In 1930, each farm worker could feed just ten others.

But we are racing on a treadmill.

Just think. In a little over a year, the world population will be four billion.

By 1985, the world demand for food will be up 80 percent over that of 1962. We have a problem. And if we don't act now, it may well become "The Food Crisis" in 1985 or before.

My hope is that this conference will result in concrete action for increased food production not only for the Commonwealth, but for the nation and for other countries as well. The titles of your workshops indicate the wide range of problem areas. The workshops are the nuts and bolts of this Conference.

We can't expect answers to all our problems. But, hopefully, direction indicators will be raised pointing the way to the best methods of handling our problems.

This Conference is intended to work on practical solutions for what appears to be a a major problem of the future. If we apply our talents to the problem now, we can avert a crisis in the future.

In conclusion, let me tell this simple story. An elderly couple last spring visited Longwood Gardens which is the estate of the DuPont's near Wilmington, Delaware. In May, these gardens are simply magnificent—beautiful flowers, trees, plants, shrubs cover several acres.

At the gate they were met by a guide who showed them all of the exquisite grounds.

The couple spent several hours just "oohing and ahing" their way through these gardens.

Finally, the couple got back to the gate. The man turned to the guide and thanked him very much for showing him and his wife the exquisite sights. He also asked the guide to thank Mr. DuPont for opening up these gardens to the public.

Then, he turned to his wife and said, "Mary, just think what God could do throughout the world if he only had the capital."

Well, we do have the capital, and man also has the talent and ability to solve his problems and create a better world for all mankind—a world devoid of hunger and poverty.

All we have to do is make up our minds to do so, and the job can be done.

I hope this Conference takes a major stride in this direction.

SPACE TECHNOLOGY AND CONTEMPORARY CIVILIZATION

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1973

Mr. TEAGUE of Texas. Mr. Speaker, it is important at times to stand back and look at a distance at what our Nation has done and is doing. Mr. Ram Sinha in the November 1, 1973 edition of Indian & Foreign Review does just this with respect to the U.S. space program. He provides a most interesting insight into the significant accomplishments and importance of our national space program and discusses the opportunities that lie ahead for the utilization of space for the benefit of our Nation and the world.

SPACE TECHNOLOGY AND CONTEMPORARY CIVILIZATION

(By Ram Sinha)

No doubt, space technology has led us to land men on moon, photograph the martian surface in detail, and survey the planet, venus, from a close range. Instrumented probes have landed on moon, mars, and venus and sent us valuable data about their surface characteristics and atmospheres. Explorer satellites have gone in orbits high above the earth's surface and relayed us important information about various elements in the universe such as quasars, galaxies, supernovae, neutron stars and "black holes in space."

Certainly we have enhanced our knowledge and understanding of the universe manifold within the last 25 years than ever in the past because of the advances made in space technology. But we also have paid a huge price for all this. We have spent large sums of money in building powerful rockets, developing high energy fuels, designing sophosticated instruments, calculating trajectories in space using computers, producing highly accurate guidance and control systems and doing concentrated research to continuously improve the state-of-the-art.

EMPLOYMENT AND UTILITY

The total money spent around the world on space effort so far must be over U.S. $100 billion. Therefore, it is only reasonable to ask if the money was well spent, if our society really benefited from it, and if it will help us enjoy our life better in future.

One would certainly ask if we really gained anything in our daily life by spending so much money in developing space technology and if we have any hopes from it for our civilization of tomorrow.

At first look, it does seem that huge sums of money have been wasted just for the glory of putting men on moon, landing unmanned crafts on mars and venus, throwing instrumented satellites in orbits around the sun and the earth. There are many who question the judgment of various governments around the world who have committed billions of dollars for space research when the same money could well be used to improve the lots of ordinary people everywhere right here on earth. No one can justify fully the expenditures on space effort when there are hundreds of millions of people sleeping hungry every night today.

But if one takes a searching look it becomes immediately obvious that the money has not all been wasted and the space programme has been fruitful to us in many ways. Today, over ten million people around the world are working on jobs directly or indirectly related to the space effort.

This simply means that the space programme opened up over 10 million jobs supporting the livelihood of over 40 million people (assuming an average of four persons in a wage earner's family). New roads and rail lines have been built to transport men, materials, and equipments from one point to another in space effort but these are also being used by the general public.

Besides, the sophisticated technology developed by the scientists and engineers within the space programme is being put to use increasingly in every phase of our daily life. Today, communication satellites relay the world news and messages from one corner to another within seconds. Weather satellites provide us accurate weather data from any part of the world within hours. Many lives have been saved because of advance warning of cyclones, tornadoes, tidal waves, snow storms and heavy rainfalls, by these satellites.

The satellites are also being used to photograph islands, countries, continents, uncharted mountains, lakes, rivers and seas for a better, more accurate map of the world. This may help in defining international boundaries correctly and precisely.

Apart from this, it will make the tasks of navigation easy around the world. Satellites are being used to detect forest fires and erupting volcanoes. Within a few years, educational satellites will be used to educate the illiterate and backward population in developing nations. It will especially be used to provide information to villagers about family planning, birth control programmes, child care, sickness and diseases, cleanliness, ways to control epidemics, economical living, modern farming techniques and agricultural progress in other parts of the world.

ROCKETS AND ROBOTS

Many aircraft are now able to take-off from and land on small runways with the aid of rockets. Rocket assisted take-off and landing have especially been recommended for big and heavy aircraft when longer runways are not available as at airports in old, crowded cities. Various high energy fuels developed for rocket propulsion are already in commercial use by many industries for a wide range of purposes. There are even toys for little children which work on the principle of rocket propulsion.

The multi-legged highly stable robots, which performed manual work so successfully on the moon, have found their use on uneven, mountainous terrain on the earth. The lunar rovers have led to the manufacture of transportation vehicles that run smoothly on desert roads. The efficient solar battery developed to convert the sun's energy into electrical energy in space is also being used for many purposes right here. The guidance system perfected to keep spacecraft right on course during their flights to moon, mars, and venus is now guiding the aircraft and supersonic jets and keeps them on their flight paths with pinpoint accuracy.

The seismograph that records the minutest rumble on moon created by even a small falling rock has led us to employ similar instruments on the earth to get advance and accurate warning of earthquakes and volcano eruptions.

MEDICAL TECHNOLOGY

Space programme has also made a big impact on medical technology. Astronaut monitoring has led to a system for "radioing" a patient's electrocardiogram to doctors while he is being rushed to hospital in an ambulance. In this way, doctors can keep a close tab on hospital-bound heart-attack victims and advise ambulance crew on emergency treatment. In many hospitals, especially in the USA and the USSR, patients' conditions, such as heart beat, blood pressure, pulse rate, temperature, etc., are monitored continuously in a central room, and doctors can keep a watch on all their patients from one central location, instead of visiting them separately. In many cases, patients are even being examined and treated by doctors via remote control circuits. In this case, patients never see their doctors.

Many instruments and helping devices developed for astronauts are also being used for the general public today as, for example, the electrode helmet that picks up brain waves and the sight switch that enables a wheelchair patient to steer just by shifting his eyes. Moreover, the highly nutritious compact foods developed for the spacemen are being suggested these days to people with weak digestive systems and can be bought in the open market.

An important contribution of the space programme has been in the area of management. New techniques able to control both engineering and finance to a degree never before achieved in complex, large-scale programmes have emerged; and new procedures to obtain high degrees of reliability and quality control have surfaced. This knowledge is now being applied in the management and operation of various industries and government agencies.

The space programme has also resulted in a new, potentially more beneficial relationship between government and industry. This has helped many industries to expand and many new ones to get started with all the help from the government. No doubt, the general public has gained tremendously from it all. A better management means less operational cost for industry, resulting in lower prices for products to the buyer. More industries mean more jobs for the people and more industrial products in the open market, perhaps at even lower prices because of competition. Thus, while we are much better off today than ever before because of technological advances made in the course of our space effort so far, it has a still better promise for tomorrow.

MOON FACTORIES

Very soon telecommunication satellites will be beaming down entertainment and educational programmes in every corner of the world. High energy fuels being developed to further improve rocket propulsion will also become available to industries in the long run, which will reduce their operational cost and result in lower prices of their products to the buyer. In a few decades, rocket planes will be carrying businessmen from New York to New Delhi within hours.

In the distant future, nutritious compact foods, such as those developed for astronauts, may become a way of life solving our food problem here on earth; patients with heart ailments may be sent to the moon to recuperate because their hearts will not have to exert much in the lower gravitational attraction there; and solar energy may be used directly to operate power plants for factories in space.

Factories on moon will require less power because of smaller gravitational field there. Moreover, the sun's heat can be used on the bright side of the moon to generate steam for power plants, while the dark side of moon can be used for refrigeration. This is possible because the surface temperature on the sunlit side of moon is about 250°F and that on the dark side about —250°F. Industries needing vacuum to manufacture their products will also flourish in space, where there is already a perfect vacuum, because power required to produce vacuum will not be needed there, resulting in much lower operational costs for them.

Finally, if the space effort is continued, our future generation might some day come across super-civilised, super-intelligent, and technically super-advanced beings from other worlds in the universe, from whom they could gain tremendous medical and technical knowledge which could advance their standards by thousands of years in a short time. In the meantime, space observatories set up in orbits around the earth, on the moon, and at many other locations in the extraterrestrial space will continue to send us accurate and valuable data about quasars, galaxies, stars, planets and their satellites to increase our astronomical and astrophysical knowledge of the universe as a whole.

CONGRESSIONAL HELP FOR OUR MIA'S AND POW'S IN INDOCHINA

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1973

Mr. EILBERG. Mr. Speaker, with public and congressional interest riveted on domestic issues such as 1972 political campaign activities and our present energy crisis, the situation concerning Americans still missing in action in Indochina seems to have receded into the background. Along with many of my colleagues in the House and the Senate, I feel strong that the plight of our MIA's must not be allowed to fade into oblivion. With the termination of American combat activities in Southeast Asia, we joyously welcomed home more than 500 returning prisoners of war. But the exhilaration of that event will become tainted if we do not remember those who served but who remain today unaccounted for.

As of December 1, 1,163 American servicemen were listed as missing in action in Indochina. During the past weeks and months, a number of death determinations have been made by the various military services. However, very few bodies of MIA's have been located and positively identified. The American-operated Joint Casualty Resolution Center is continuing to seek information on the MIA's; yet their efforts have been severely obstructed by the North Vietnamese Government. Although the JCRC possesses detailed descriptions of the circumstances surrounding many of the missing men, it has been denied access to Communist-controlled sections of South Vietnam, Laos, and North Vietnam. Hanoi has even implied that a full accounting of American MIA's would be contingent upon the release of political prisoners held in South Vietnam. Recently, a group of Americans representing the National League of Families of POW's/MIA's returned from Laos after attempting to obtain details on some of the missing men. Although politely treated by government officials, they were not given specific information which might serve to ease their uncertainty.

With these facts in mind, I have cosponsored two resolutions concerning our MIA's in Indochina. House Concurrent Resolution 291 would declare that it shall be the policy of the U.S. Government to cease all consideration of aid, trade, diplomatic recognition, or any other form of communication, travel, or accommodation with the North Vietnamese or the Vietcong until such time that these two parties comply fully with article 8, paragraph B of the Vietnam Peace Agreement of January 27, 1973. In addition, House Joint Resolution 830 would declare that Congress fully supports the President in his demands for full cooperation from the North Vietnamese and the Vietcong in searching for the MIA's.

Further, this resolution would declare that the United States shall request the aid and cooperation of all other governments in demanding that the North Vietnamese and the Vietcong comply fully with the aforementioned article and paragraph of the agreement. It is my shared belief that the people of the United States will not, in any form, support any effort toward providing aid or other amenities to those parties who have not abided by their earlier commitment to cooperate in searching for MIA personnel. As such, I enthusiastically endorse and support all provisions of these resolutions and it is my desire that this subcommittee will give its full consideration to the merits of each.

The responsible Federal agencies and Congress should jointly assume the responsibility of finding out more about our missing men. We in the Congress must take the lead, if necessary. Previously, a House resolution was introduced that called for a thorough and complete investigation by the House Foreign Affairs Committee and the Senate Foreign Relations Committee of ways in which to obtain more information on the MIA's. However, if such an investigation cannot be undertaken, Congress may wish to appoint a factfinding mission to travel to Southeast Asia in a new attempt to learn of the whereabouts and status of each missing man.

The position and prestige of selected Members of the House and Senate might aid in securing cooperation from the Communist officials in this regard. Earlier this year, the members of the National League of Families of POW's/MIA's required their board of directors to ask all Representatives and Senators to take a public position on the MIA issue by the use of mailings, newsletters, and local newspaper columns and to use all other means at every opportunity to speak out emphatically on the subject. These are positive steps that each Member of Congress may wish to consider.

The issue of the MIA's must be resolved even if it takes longer than we may like. The families of those men missing in action surely deserve and expect a complete accounting by their Government of the status of each missing man. However, today, many families and friends of the MIA's are in doubt about the Government's response to their plight. Some families have become adjusted to the unpleasant fact that their loved ones may not be alive, but their real mental anguish lies in not knowing for certain. Each day can be just 1 more day of doubt and despair. Individual families, national organizations, and State and local governments have petitioned the U.S. Government to do more in determining the fate of the MIA's. Some families and groups have openly expressed deep disappointment at the Government's response to date. Individually and collectively they want forceful and concrete action. Should they ask for less?

Clearly, the time has come for Congress as well as the administration to act constructively in this matter by displaying unity and determination. The Nation owes a special debt to those 1,163 Americans still missing in action in the mountains and jungles of Southeast Asia. It is a debt that can be repaid only by pursuing vigorously the whereabouts and fate of each one.

NASA KNOW-HOW FOR ERDA

HON. RALPH S. REGULA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1973

Mr. REGULA. Mr. Speaker, legislation to establish an Energy Research and Development Administration will be reaching the floor of the House of Representatives next week. I am a strong supporter of the Energy Reorganization Act and believe that this bill provides the legislative direction necessary for long-term research and development. Moreover, a congressional anchor—the authorization-appropriation process—will insure that Congress will direct the future course of energy development for this country.

While I do not intend to offer an amendment to this bill, it seems to me that one reservoir of talent and energy has been overlooked. As you know, over the last 2 or 3 years the NASA budget has been cut resulting the release of numerous well-trained staff and the phaseout of facilities. These facilities and this staff can be well used by the Energy Research and Development Administration. Accordingly, I have written to the Director of the Office of Management and Budget, Mr. Roy Ash, asking whether it will be possible and desirable to transfer some of the NASA personnel and laboratories to the new Energy Research and Development Administration. Mr. Ash's response is as follows:

EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, D.C., December 12, 1973.
Hon. RALPH S. REGULA,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. REGULA: This is in response to your letter of December 10, 1973, in which you noted that some of NASA's facilities were being closed and that well-trained and very capable staff were being released. You asked whether, in establishing the proposed Energy Research and Development Administration it would be possible or desirable to transfer some of these NASA personnel and facilities to ERDA in order to avoid losing these skills and resources.

I wish to thank you for this excellent suggestion, particularly because I have been concerned for some time about the possible loss from government service of these valuable skills and resources, a loss that seemed unavoidable because of NASA's post-Apollo scaling down.

Let us assure you that immediately upon the establishment of ERDA, OMB will urge the ERDA Administrator to undertake on a priority basis and in consultation with the NASA Administrator a thorough review of all NASA personnel and facilities that might otherwise be released or closed down. At the same time, I do not wish to raise false hopes for the talented people involved. As you can appreciate, such a review should be made in the context of meeting ERDA's scientific and technical requirements and decisions relating to any transfers must be made by ERDA and worked out with NASA. My personal view, however, is that the review will prove fruitful and worthwhile.

Again, thank you for this suggestion and let me express my earnest hope that the House will act favorably and without delay on H.R. 11510 so that we may get on with the urgent business of advancing the state of energy R&D technology to meet the Nation's energy needs.

Sincerely,

ROY L. ASH,
Director.

THE LONG FIGHT TO SAVE A BIG LAKE

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1973

Mr. VANDER JAGT. Mr. Speaker, I am pleased to bring to my colleagues' attention the following report from Limnos magazine on the daily disposal of 67,000 tons of taconite tailings in the waters of Lake Superior by the Reserve Mining Co. The results of the case now being considered in the U.S. district court in Duluth will determine the nature of water quality in the largest of the Great Lakes for decades to come. This article provides valuable background information which will be helpful to anyone who shares my interest in the current litigation:

BLUE WATER, GREEN WATER

THE LONG FIGHT TO SAVE A BIG LAKE

Part I

April 22, 1970 marked the twenty-second anniversary of a Federal permit granting Reserve Mining Company permission to dump iron ore processing wastes into Lake Superior. April 22, 1970 was also the first Earth Day.

Since 1948, the original U.S. Army Corps of Engineers permit has been extended twice and, in 1960, extended indefinitely. Under this permit Reserve Mining dumps 67,000 tons of taconite tailings into the largest—and cleanest—of the Great Lakes every day.

This is not a case of an industry's being founded 60 or 70 or more years ago during an age of ecological ignorance. Taconite beneficiation is a relatively new process which is performed elsewhere at minimal environmental expense.

Reserve Mining Company's E. W. Davis Works at Silver Bay, Minnesota went into production less than 20 years ago despite many unanswered questions and local concern over the company's exclusive use of Lake Superior as its private dumping area.

Taconite processing came as a boon to northeastern Minnesota as it did to other economically depressed areas in the Upper Midwest. As high grade ores became depleted, beneficiation, a process of concentration and enrichment of low grade ore, was perfected during the 1940's. Taconite in its natural state contains 25 to 30 percent iron. Through a process of grinding, magnetizing and heating the principal components of taconite, iron and silica, are separated to produce pellets containing 65 percent iron.

Water is an indispensable element in taconite beneficiation. Up to 10,000 gallons of water are required to produce one ton of taconite. For that same ton of concentrated pellets, two tons of low grade ore must be processed. The resultant waste—taconite tailings—is then discarded in a slurry with the water.

In most taconite plants the slurry is pumped into large settling basins and the water recycled within a closed system. Reserve Mining Company, however, by its location on the shore of the world's largest freshwater lake, enjoys the dual advantage of an inexhaustible supply of water and an unlimited disposal basin for its waste tailings.

It would seem logical, to even the least environmentally educated, that 67,000 tons of anything dumped into Lake Superior every day could not be good for the lake. But some people are satisfied with Reserve Mining's position that the tailings do no harm. Reserve has always maintained that its tailings are "harmless sand" and that they sink rapidly into the deepest part of Lake Superior, remaining inert within a 9 square mile area.

Fortunately, a growing number of people, from commercial fishermen who originally opposed construction of the Silver Bay plant, to environmental groups who have consistently fought for on land disposal of the tailings, to the Federal Environmental Protection Agency who last year brought suit against Reserve, are becoming aware that Lake Superior is being grossly and inexcusably polluted.

Were taconite tailings "harmless sand" that remained within a limited area on the lake bottom, the question of their disposal might be merely academic. But, as impartial tests have shown, the tailings contain quantities of 7 metals as well as significant amounts of phosphorus. Taconite tailings are biologically active and are, in all probability, accelerating eutrophication of the lake.

That the tailings settle to the lake's bottom and remain within the permitted 9 square mile dumping area has also been disproved. Tailings have been found in the municipal water supplies of Beaver Bay (near the plant) Two Harbors and Duluth, some 60 miles southwest of the Reserve plant.

The nature of the beneficiation process requires that the taconite be ground to a dust finer than flour to facilitate magnetic separation. It is these "fines" that remain in suspension, perhaps indefinitely, and circulate with the lake currents. Taconite tailings have been traced in the Lake Superior waters of both Wisconsin and Michigan.

The real tragedy of the Reserve story is that environmental damage could have been avoided. Even before the plant was constructed there was evidence that tailings disposal in the lake would prove detrimental to aquatic life. Reserve's contention that the tailings would settle to the lake bottom could not be substantiated at the time as very little was then known about currents in western Lake Superior.

Prior to issuance of the original Corps of Engineers permit, Reserve was required to obtain two permits from the State of Minnesota. During 1947 the Department of Conservation and the Water Pollution Control Commission held nine joint public hearings on Reserve's application to appropriate water from Lake Superior for use in the beneficiation process and to return water containing tailings to the lake (It is interesting to note here that the Dept. of Conservation issued a separate permit to Reserve for construction of docks and placement of fill at the proposed plant site—*before* all the water appropriation hearings had been completed.)

Much testimony was given at these hearings by consultants hired by Reserve concerning the settling of the tailings on the lake bottom and the physical content of the tailings. Little testimony was offered concerning lake currents and the effects of taconite tailings on aquatic organisms.

Reserve's initial proposal was for one plant with an annual production of 2.5 million tons. However, the plant was to be enlarged to a 10 million ton capacity as demand for ore increased. This fact was made clear at the permit hearings but most of the testimony offered applied only to the smaller plant.

Based on the initial plant's production, Dr. John Moyle, aquatic biologist with the Minnesota Dept. of Conservation, testified that "*. . . as far as permanent effect of the real fine silt in this operation on Lake Superior as a whole would have no more effect than the St. Louis River has had, and that is not very much.*" The plant presently in operation deposits more sediment in Lake Superior in one day than all Minnesota streams contribute in one year.

Another State employee, Dr. E. W. Davis of the Mines Experiment Station gave considerable testimony at the 1947 permit hearings. This is quite understandable since he is credited with having developed the taconite beneficiation process. The Reserve project was, in fact, one of his prime interests. Dr. Davis took a leave of absence from the University from 1950 until 1955 to work on the project. (After 1955 he was employed as a full-time consultant to Reserve Mining Co. The Silver Bay plant is named in his honor.)

Dr. Davis testified that disposal of taconite tailings in the lake would *"not affect the chemical analysis of the water,"* Recent studies have shown this to be false.

However, Dr. Davis also said, in another context, *"There is no necessity for putting tailings in the lake. It is simply a matter of economics."* Nothing could be truer.

Economics has been the prime governing force throughout the Reserve Mining story. It must be noted that northeastern Minnesota, and in particular the state's North Shore region, were economically depressed areas before the advent of taconite processing. The prospect of a multimillion dollar plant being opened; an industry that might keep the region's sons and daughters from moving away, tended to overshadow any anxiety for the environment.

Reserve Mining was very much aware of this situation and used it to full advantage during the 1947 permit hearings even as it does today. In an effort to expedite the hearings, Reserve's attorney, W. L. Montague stated during the fifth hearing, *"Now we feel that there has been ample opportunity for everyone to be heard on this question . . . I certainly feel that adjournment as requested for further hearings is just another way of killing the project, because a decision has to be made quite soon or the project cannot go ahead."*

Apparently this type of economic pressure tactic was effective because Commissioner of Conservation Wilson, at the eighth public hearing, stated, *"Now I say that if those tests (on the effects of tailings on fish life) would prove anything we would certainly carry them out, but we members of this Commission and the Conservation Commission are not experts on fish life and I have consulted the best experts available to us in Minnesota and Wisconsin and they both advise me that these tests would be of no value."*

Reserve had also consulted an expert on this question. The company retained Dr. Samuel Eddy, who is now Professor Emeritus in Zoology at the University of Minnesota, to study possible effects of the tailings on aquatic life. It was understood that he would then testify at the hearings. Dr. Eddy submitted a written report but was never called upon by Reserve to testify.

This is perhaps understandable since Dr. Eddy found that depositing taconite tailings into Lake Superior would greatly reduce spawning beds and upset the balance of fish populations with a 10 to 15 mile area in the vicinity of the plant. He further estimated that this would, in turn, cost commercial fishermen some $20,000 annually.

Reserve was successful in expediting the hearings and the two state agencies granted the required permits in December of 1947. However, permission to dump tailings into Lake Superior was granted subject to certain conditions. The tailings were not to: include matter soluble in water; cloud or discolor water outside the 9 square mile zone; have adverse effects on fish; contain any oil; have adverse effects on public water supplies; result in any nuisance outside the dumping zone; cause any material unlawful pollution of Lake Superior.

In 1955, Reserve Mining Company, E. W. Davis Works, Silver Bay, Minnesota went into production and began the dumping of taconite tailings into Lake Supreior and what environmentalists feel is violation of all of the above conditions.

In 1956, the Commissioner of Conservation granted an amended permit to increase the appropriation of water from 130,000 gpm to 260,000 gpm to facilitate Reserve's increase in production. This was done without a hearing. The Water Pollution Control Commission required a hearing before granting an increase in allowable discharge. At this hearing Dr. Davis testified that the tailings contained. *"No organic matter, no oils, tars or chemicals of any kind; absolutely nothing . . . except the ground up taconite from which the good iron has been removed."* Later studies have shown this to be incorrect.

In 1960 Reserve was again granted amended state permits, this time to increase water volume to 502,000 gpm. (It is interesting to note that between 1947 and 1960, no new evidence was presented by Reserve nor was any required by the Conservation Commission or the Water Polution Control Commission concerning the matter of disposal of the tailings.) It was also at this time that the U.S. Army Corps of Engineers granted Reserve Mining an indefinite extension of the Federal permit.

The Rivers and Harbors Act of 1899 (sec. 10) requires that the Corps of Engineers authorize any construction, excavation or fill in navigable waters. Thus, it can be seen that the Federal permit is concerned only with obstruction to navigation which has, historically, been the Corps' sole consideration.

Section 13 of the Rivers and Harbors Act, usually called the Refuse Act, clearly states: *"It shall not be lawful to throw, discharge or deposit . . . from the shore . . . manufacturing establishment or mill of any kind, any refuse matter of any kind or description whatever other than that flowing from streets and sewers and passing therefrom in a liquid state, into any navigable water of the United States, or into any tributary of any navigable water . . ."*

However, Corps regulations, until 1968, stated that "*. . . action under sec. 13 has . . . been directed by the Department principally against the discharge of those materials that are obstructive or injurious to navigation.*"

Executive Order No. 11288, issued in 1966 by President Johnson, had a profound impact on historic attitudes of many Federal agencies; not the least of which to be effected was the Corps of Engineers. The Order was issued to further the purpose and policy of the Federal Water Pollution Act which is "*. . . to enhance the quality and value of our water resources and to establish a national policy for the prevention, control and abatement of water pollution.*" This Order was also to have a profound impact on Reserve Mining Company.

Under provisions of this Order, a Memorandum of Understanding between Interior Secretary Udall and Secretary of the Army Resor was drawn up. The Memorandum recognized the interrelationship of responsibilities between the two agencies to "*. . . improve water quality through the prevention, control and abatement of water pollution from Federal and federally licensed* (*Sic*) *activities.*"

The Memorandum called for "full coordination and cooperation . . . at all organizational levels" including "resolution of differing views . . . at the earliest practicable time. . . ." Specifically, coordination was ordered between the Corps' District Engineers and the Regional Directors of the Interior Department concerning: "pollution problems associated with dredging, filling and excavation operations to be conducted under permits issued under the 1899 Act."

The Memorandum further charged Regional Directors of Interior to make "*. . . such studies and investigations as they deem necessary or desirable . . . and advise the District Engineers whether the work proposed by the permit applicant, including the deposit of any material in or near the navigable waters of the United States, will reduce the quality of such waters in violation of applicable water quality standards or unreasonably impair the natural resources or the related environment.*"

This was the turning point in the taconite affair. Up until this time, the few environmental voices that had been crying out for the magnificent wilderness of northeastern Minnesota were muffled by the sound of economic progress.

Under the leadership of Regional Coordinator, Charles Stoddard, a task force from five Interior agencies took the whole question of the Reserve Mining permit under study. The task force called itself the Taconite Study Group and during 1968 is consolidated previous studies by the various agencies, coordinated studies in the field and gathered and analyzed data concerning the content and effects of taconite tailings in Lake Superior.

When the findings of the Taconite Study Group's Summary Report (generally referred to as the Stoddard Report) became known, the results—and effects—were astounding.

Following are the conclusions of the Stoddard Report:

1. Total discharge of solids by Reserve Mining Company plant in 12 days equals the sediment contribution to the lake by all United States tributaries for one year.

2. Slightly less than half of the tailings deposited on the delta above the deep trough waste discharged between 1956 and 1967 was in Lake Superior; evidence indicates that some of the remainder moves downshore with lake currents.

3. Turbidity is commonly 3 to 5 times greater in the area near and southwest of the plant than northeast of the plant and directly offshore from the discharge where offshore water moves toward the delta due to the density current. Turbidity values in bottom water over the tailings deposit are then 60 times greater than at the surface.

4. Tailings suspended in the water cause "green water" for distances at least 18 miles southwest from the point of discharge.

5. Tailings are dispersed on the lake bottom at least 10 miles offshore and 18 miles southwest of the plant.

6. Net lake current velocities are sufficient to keep micron-size particles in suspension for long periods and carry them long distances and to carry such particles across state boundaries.

7. Federal-State water quality standards for iron, lead and copper are violated as a result of tailings discharge. (Note: One day's discharge has been shown to contain 3 tons of lead, 2 tons of copper, 3 tons of chromium, 1 ton of zinc, 1 ton of nickel, 310 tons of manganese plus silica, arsenic and iron.)

8. One requirement of the Minnesota Pollution Control Agency (formerly Water Pollution Control Commission) permit . . . is violated in that there is "material clouding or discoloration of water at the surface" outside the prescribed permit area.

9. The water quality criteria recommended by the National Technical Committee for zinc and cadmium for aquatic life production are exceeded.

10. The widely accepted criteria of 0.01 mg/1 of phosphorus to limit algal growth is exceeded. (Note: One day's discharge also contains 25 tons of phosphorus.)

11. Bottom fauna, especially one species important as a fish food, show progressive reduction in numbers southwest of the plant. Beyond the limits of bottom fauna collection (15.5 miles southwest of the plant), there are no data to establish how much farther effects continue before recovery begins.

12. In laboratory tests, tailings less than 0.45 microns stimulated additional algal growth in Lake Superior waters.

13. Taconite tailings discharged from effluent launders diluted to one-fourth and one-tenth of the original concentration were found to be lethal to rainbow trout sac fry in a few days.

14. Even moderate changes in commercial fish catch due to tailings discharge would be masked by much larger changes due to lamprey and overfishing.

15. Alternate disposal methods are available.

As submitted to the District Engineer initially, the Stoddard Report carried the following summary:

"The Department of the Interior concludes from the evidence contained in this report that:

1. Pollution is occurring as a result of taconite tailings being deposited in Lake Superior by Reserve Mining Company.

2. The kind, extent, quantity, degree and nature of pollution from this source have been set forth in the main body of the report and in the conclusions.

3. The environmental effect of such pollution is to increase the turbidity of this once clear lake, accelerate eutrophication by enrichment of its water, raise certain chemical constituents to levels beyond established limits, and to decrease available fish food and habitat through deposition of sediment.

4. Improvement of the lake environment cannot be expected until the taconite tailings waste can be disposed of elsewhere.

Therefore, the Department of the Interior recommends that the permit of the U.S. Army Corps of Engineers to the Reserve Mining Company be extended conditionally for a period of three (3) years, sufficient to investigate and construct alternate on-land disposal facilities, including recycling of used water, in order to comply with Federal State water quality standards and to restore Lake Superior waters to their original high quality."

But what is perhaps even more astounding than the conclusions of the Stoddard Report (which have since been substantiated in three subsequent studies) is the fact that the report was suppressed, was disowned by Interior, was called "unofficial", "full of error" and was otherwise discredited and attacked from all sides.

The hasty, almost panicky, attempts to discredit the Stoddard Report became almost an indictment of the relationship between bureaucracy and business. As *The New York Times* said of the affair on May 11, 1969, *"One of the harsh realities of the struggle against air and water pollution is that companies which are big polluters also meet big payrolls and have political punch."*

What Happens to Lake Superior?

Each day Reserve Mining dumps 67,000 tons of finely ground iron ore wastes, known as taconite tailings, into Lake Superior. In terms of volume, that is roughly equivalent to dumping 50,000 junk cars each day into the world's largest fresh water lake!

In 1971, responding to repeated complaints by Governors and Members of Congress representing Great Lakes states, the Environmental Protection Agency served a 180-day notice upon the Reserve Mining Company. This notice was a necessary procedural step before Court action could be initiated.

Since then, the Department of Justice has filed a law suit in Federal District Court--a case which is now being heard.

As part of the pleadings in the case, the Justice Department prepared and recently filed a document entitled "specification of scientific charges" against Reserve Mining Company. Some of the facts alleged are particularly shocking. For example:

The Justice Department says that the taconite tailings being dumped by Reserve Mining into Lake Superior contain 35 chemical materials, including arsenic, beryllium, cadmium, chromium, cobalt, copper, lead, mercury, nickel, selenium, and thallium—*all* toxic materials;

In addition to the taconite tailings, Reserve also dumps approximately 750 million gallons of fluid each day, which adds an average of more than 60,000 pounds of dissolved solids to the lake. This discharge of dissolved solids contains 39 chemical elements, many of them also toxic.

Because of its taconite waste discharges, Reserve Mining has reduced the clarity of the Lake Superior water by 25 percent or more over an area greater than 600 square miles, according to the Justice Department. In addition, its pollutants are spread over several thousand square miles of Lake Superior, at all depths, and have even spread into lakes other than Superior.

What's Wrong With Taconite Tailings?

The United States of America, State of Michigan, State of Minnesota, State of Wisconsin and private environmental groups charge that the discharge of taconite tailings by Reserve Mining Company has the following physical, chemical and biological characteristics and effect upon Lake Superior.

Reserve Mining discharges taconite tailings into Lake Superior at an approximate rate of 67,000 tons daily on a continuous basis. The constituents of this material are primarily quartz and iron-magnesium silicates and more specifically are:

Aluminum, arsenic, barium, beryllium, boron, cadmium, calcium, carbon, chromium, cobalt, copper, cummingtonite, hydrogen, iron, lead, magnetite, magnesium, manganese, mercury, molybdenum, nickel, oxygen, phosphorous, potassium, selenium, silica, sodium, sulfur, suspended solids, thallium, tin, titanium, turbidity, vanadium and zinc.

In addition to the discharge of taconite tailings into Lake Superior, Reserve discharges approximately 750 million gallons of water each day which adds an average of more than 60,000 pounds of dissolved solids to the lake at point of discharge daily. The nature of these substances are:

Alkalinity, ammonia, arsenic, bacteria, fecal streptoccocci, bacteria, fecal coliform, barium, beryllium, boron, BOD, cadmium, calcium, chloride, chromium, cobalt, copper, COD, dissolved solids, iron, kjeldahl nitrogen, lead, magnesium, manganese, mercury, molybdenum, nickel, nitrate-N, nitrite-N, pH increase, phosphorous, potassium, selenium, silica, sodium, sulfate, thallium, tin, titanium, zinc and hydrocarbons.

Total dissolved solids exceeding 100,000 pounds daily are released from the tailings after discharge into Lake Superior. These substances include, but are not limited to, the following:

Silica, calcium, copper, magnesium, manganese, mercury, potassium and sodium.

And Then There's the Asbestos Question

As this issue of LIMNOS goes to press, Reserve Mining Company is very much in the news. Reserve's tailings disposal is alleged to be the source of asbestos-related fibers recently found in the Lake Superior water supplies of Duluth and three other Minnesota communities. This material, a variety of asbestos known as amosite, has been proven to cause a high incidence of cancer when inhaled. Its effect on the body when ingested, however, is not known.

On June 15, the Environmental Protection Agency advised residents of Duluth and other North Shore towns to find "an alternative source of drinking water . . . for very young children" due to the discovery of high concentrations of asbestos fibers in the lake.

The EPA warning came on the heels of a document filed in federal court by the Justice Dept. which showed at least 12 other toxic elements are present in Reserve's tailings discharge.

While the EPA said there "is no conclusive evidence" that the fibers make the water "unfit for human consumption", it does believe that "prudence dictates that an alternative source of drinking water be found for very young children."

Dr. Irving J. Selikoff, a cancer research specialist with the Environmental Sciences Laboratory at Mount Sinai School of Medicine in New York City, conducted the initial research on Duluth's water. Dr. Selikoff said that the levels of amosite fibers in the municipal water supply "were 1,000 times higher than found in any other sample so far studied" by the laboratory.

Following the June 15 warning, the EPA contracted with Dr. Selinkoff to determine within 60 days the accumulation of fibers in the tissues of area residents. Four types of tissue samples have been sent to the New York laboratory.

(LIMNOS has just learned of controlled laboratory experiments currently being conducted by two Canadian researchers on the effects of asbestos fibers on rats. Large doses of fibers were injected into the rats' stomachs and after two to four days the fibers were found in the blood, heart, spleen and brain of the animals.)

EPA research in Duluth includes field sampling of water supplies, water supply treatment technology, alternative water supply evaluation and field sampling of air in the area.

An *erdaltor*, a water purification device, has been flown to Duluth and installed at the EPA's National Water Quality Laboratory there. The device, used by military forces in Viet Nam, is on loan from the U.S. Army Corps of Engineers. It uses flocculants and diatomic filters to remove suspended solids from the water. The fibers, less than five microns long, are difficult to filter out.

Reserve has been named as the source of these fibers because of the presence of cummingtonite in the tailings discharge. Cummingtonite contains many of the elements that make up varieties of asbestos. The crushing of this mineral during taconite production is thought to produce the fibers found in the lake. Cummingtonite is present only at Reserve's mine near Babbit, Minnesota. It is found in no other mines on the Iron Range.

The presence of this asbestiform material in Reserve's ore body and, theoretically, the obvious potential for introduction into Lake Superior through tailings disposal, were known as early as 1956. (Dumping began in 1955) At that time a doctorial thesis was published that substantiated the fact that cummingtonite is unique to Reserve's mine.

National Water Quality Lab Director, Dr. Donald I. Mount reported that his lab knew of the presence of the amosite in the lake water since 1969 but that the significance of the material was not then realized. Recently researchers at the Water Quality Lab noticed a similarity between the fibers in the lake water and those fibers which can cause cancer when inhaled.

On another front, the Minnesota Pollution Control Agency (PCA) has recently completed its own study of the asbestos problem. Essential results of the study are:

(1) The ore . . . of Reserve Mining Co. contains asbestiform amphiboles in large percentage, 20 percent or more.

(2) These minerals persist in the milling process and are discharged into both the water and air at Silver Bay.

(3) They are . . . identical to the amphibole minerals amosite and actinolite which are mined elsewhere for the production of asbestos.

Bottled water is now on sale at most food stores in the effected area and public sentiment ranges from disgust to anger on both sides. Reserve employees have charged that the release of the EPA warning was timed as a "political ploy to scuttle the trial," referring to the EPA suit against Reserve. On the other side, petitions to halt Reserve's discharge are being circulated by concerned citizens. At least two congressmen, Robert Griffin, R-Mich. and David Obey, D-Wisc. have asked the U.S. Justice Dept. to seek immediate injunctions to stop Reserve's discharge.

As Limnos goes to press, however, Reserve Mining Co. continues to go to Lake Superior, with 67,000 tons of waste, day after day.

WHY NOT A BILL OF RIGHTS FOR DEVELOPERS?

HON. BEN B. BLACKBURN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1973

Mr. BLACKBURN. Mr. Speaker, today, I am inserting in the Record for the benefit of my colleagues a statement developed by Mr. H. McKinley Conway, Jr., president of Conway Research, Inc., Atlanta, Ga., regarding the basic rights for persons engaged in development activities.

At a time when our economy faces serious challenge because of the energy crisis, we should not allow the mechanism of government to contribute to the decline of the normal expansion of economic activity. Developers are responsible for the orderly growth of our communities by providing new housing, shopping centers, and industrial parks.

While I do not intend this insertion to be a complete endorsement of this article, I think that many valid points are made which are worthy of consideration by all Members of Congress.

The article follows:

Why Not A Bill of Rights for Developers?

(Never before in history have those who serve the public interest by building homes and places of business found themselves so harassed and impeded by government policies and regulations. On all sides and at every level new bureaucracy is mushrooming. Rules set ostensibly to protect the public interest are becoming so onerous that good projects are delayed, costs are inflated, and many units are never built—thus frustrating the public purpose.)

To most Americans, a developer is a fellow like the one who planned and built the subdivision in which they live. They think of him vaguely as an entrepreneur who bought a pasture, put in some streets and utilities and sold lots or homes to the retail housing market.

Many business executives are aware of another type of developer—the company which plans and builds office parks, industrial parks and other such "subdivisions" for business firms. The process is more-or-less the same—the developer bought raw land, improved it and sold it.

Today, many developers fit both images. The trend is toward larger, more complicated ventures, with mixed land uses. A great many developers are building new communities and even new cities. In these cases the process may be similar to that of the simple subdivision, but it is much more involved. And it takes a whopping amount of money and several years of lead time.

To a considerable degree, the quality of life for future Americans lies in the hands of these developers. They are the men with the creative ability, financial resources, technical knowledge and risk-taking courage necessary to build new cities and rebuild old ones. If they cannot or will not create the new places to live and the new facilities for commerce for the future, who will?

We submit that the developers, big and small, are absolutely essential to our future and that conditions *must* be favorable to their performance of a vital task. Having said that, we must quickly add that many people, including some high public officials, apparently do not agree.

Within the past five years, more regulations have been imposed on developers than in all previous history. With environmental improvement and consumer protection as justification, developers have been saddled with an outrageous burden of rules and procedures, many of which do the consumer more harm than good. Instead of rewarding the developer who does a good job, many of the new programs penalize all, regardless of their performance. Thousands of new jobs have been created for regulatory officials and lawyers. Ultimately, the consumer will get less brick-and-mortar and more paperwork for his money.

Today, the attempt to cope with the bureaucracy is a life-and-death struggle for many developers. In many localities, developers are being treated like second-class citizens, their rights are being abused, and their economic existence is threatened by petty bureaucrats acting under vaguely-defined authority. Only a few of the persecuted developers are willing to speak out, because of their knowledge that regulators can strike back swiftly in a variety of ways. For example, an unscheduled delay of 30 to 60 days, which most bureaucrats regard as the flicker of an eyelash, can be fatal to some projects financed under current interest rates.

To present a summary of the laws applicable to development around the nation, we have published several hundred pages during the past year. Unhappily, this does not by any means give a complete picture. We have accepted the challenge, however, and will continue the effort.

Meanwhile, we have a serious proposal to make to the U.S. Congress, to state legislatures and to local law-making bodies. We invite and urge that at every level, lawmakers proclaim equal rights for developers in their dealings with the growing bureaucracy. Here are some points to cover:

REQUIRE PUBLISHED PROCEDURES

A typical problem is that a legislative body passes a piece of legislation which provides in general terms for a regulatory process. The act appears relatively easy for the developer to understand and comply with. Then a team of bureaucrats writes a set of regulations "pursuant to the act" which no one can understand and which pose a huge compliance problem for the developer. Frequently, the legislators who voted for the measure are astonished by the stringency of the procedures set. The solution is to have the rules written *before* the act is passed, so that bureaucrats are not given a blank check.

A related problem in this area is encountered when agencies begin a regulatory function *before* the procedures are set! This is somewhat like telling the public that a speed limit has been set on a certain street but that the exact figure is not yet available. The next thing the unsuspecting motorist knows, he has been arrested and told that his speed has been found to be in violation of the not-yet announced limit.

2. REQUIRE COORDINATION

The developer is required by regulators to coordinate his activities. For example, if the developer is planning a new town, he must compile voluminous data from an army of specialists—architects, engineers, economists, surveyors, etc.—and present a cohesive project. Why not require the controlling government to do a similar job of coordination? Instead of sending the developer chasing from office to office and agency to agency, why not require by law that all regulations pertaining to a particular type of project be handled *through a single point of contact?* This would make for better control, more efficient development and reduced costs to the consumer.

3. REQUIRE PROMPT ACTION

In many ways, the regulations set deadlines for developers. Why is it not reasonable to require by law that bureaucrats do their work within a prescribed time (even if they have to work overtime!). For example, action might be required within 30 days on a simple zoning matter. Approval of a nuclear generating station obviously would require longer (but not years as is now the case). The law might also say that if the regulatory body does not act within the alloted time, approval is automatic.

4. FORBID MID-PROJECT RULE CHANGES

Developers are generally required to file plans in advance of building a project, and woe to the developer who does not stick to his plans. On the other hand, agencies frequently enact new procedures affecting a project already underway and cause developers much grief and expense. If it is fair and reasonable for the bureaucrats to require the developer to stick to his plans, is it not equally fair and reasonable to require regulators to adhere to their decisions? In the case of large projects, developers should be able to proceed for several years without basic changes once they have received initial approval. Mid-project changes should be required only when mutually agreeable.

5. MINIMIZE DISCRETIONARY POWERS

One of the greatest hazards for the developer and the public in new regulatory programs is the growing tendency to authorize regulation by review. Instead of setting specific, measurable standards understandable by all, regulation is being handed over to boards or committees which make decisions on the basis of opinion. In effect, a new set of standards is set every time the board meets. To the developer, the design criteria are thus whatever the board will approve Not only does this make it difficult to adhere to high professional standards, it also opens the door for decisions that are emotional, political or dishonest.

It is the last possibility which is truly frightening. Probably no new government programs of recent times have opened up such a ripe field for corruption in government as have the new controls on development. Great amounts of money are involved in new projects, and, in many cases, obscure political appointees have been handed the authority to make life-or-death economic decisions. A far safer approach would appear to be minimizing discretionary powers by setting specific standards in the law. This will be difficult in some areas, requiring new research, but it can be done.

6. PROVIDE CHANGE OF VENUE

Under the American system of government, almost every legal and quasi-legal procedure sets up mechanisms for guaranteeing that a citizen subject to trial or regulation be given a fair hearing by a disinterested jury or other hearing body. Yet, the poor developer may find that the biggest and most important business decision of his life is going to be made by a zoning board whose membership includes a competitor who doesn't want any more such projects in town, a personal enemy or, perhaps, the owner of an adjacent site. His chances for a fair and impartial hearing by such people are nil. Under such circumstances, it would seem reasonable to give the developer the right to be heard before another body where his basic rights would be protected. What we do for accused felons we ought to do for tax-paying developers who are trying to build our new homes and offices.

We could go on. There are many other things which need to be done to smooth the way for law-abiding builders of our future communities. It all adds up to creating a good climate for development—one which protects the public interest by regulating *intelligently*.

Because there is such a crying need for action in this area, we predict that this will become a matter of lively competition between the states and among cities eager to develop soundly. Those areas which can spell out their regulations clearly, process applications promptly and fairly and enforce the regulations honestly will attract the investors and developers who are more astute, and they will do a better job. Chief beneficiary will be the consumers in that area.

RETROACTIVE GUILT NOT NEEDED

HON. ROBERT H. MICHEL

OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES
Friday, December 14, 1973

Mr. MICHEL. Mr. Speaker, while there is no doubt that the current energy situation will cause some temporary dislocation and adjustments in our life style, I have been concerned by a tendency on the part of some spokesmen to point the finger and try to lay all of the blame for this situation on particular individuals or groups in our society. In that connection I noted an editorial in the Galesburg Register-Mail under date of December 7, 1973, entitled "Retroactive Guilt Not Needed" and especially call attention to one sentence in the editorial, "little will be accomplished by attempting to promote a sense of guilt among Americans, especially retroactively."

In addition another editorial appearing in the Peoria Journal Star, Friday, December 7, 1973, issue with the rather provocative title "Quit Bitching and Help," discusses the energy problem in a candid and straightforward fashion, and I include both editorials in the Record at this point:

Retroactive Guilt Not Needed

The sins of our fathers are now being visited upon us—specifically, their penchant for inventing automobiles, electric lights and such without giving a thought to the possibility that we might some day run short of fossil fuels.

A University of Chicago psychiatrist, Dr. Jarl Dyrud, relates the current energy crisis to "one of our strongest myths, the myth of progress, the myth of an ever-expanding economy."

Supreme Court Justice William O. Douglas charges that the crisis has been caused by powerful corporate lobbies and a tax system "designed to protect those out to destroy our natural resources."

We have a fuel monopoly, but no monopoly on solar energy and hydrogen fusion he said. "That is why they are not being promoted."

Maurice F. Strong, a former Canadian oil developer and now executive director of the United Nations Environmental Program, declares that the energy shortage requires the adoption of a new "low-energy life-style."

"Two-hundred million Americans," he says, "use more energy for air-conditioning alone than China's population of 700 million uses for all purposes."

It is also probably true that 200 million Americans use more energy to power their electric toothbrushes than several million Chinese use for all purposes.

This is not to minimize the very real urgency of the energy crisis, nor the need for Americans to take a hard look at the way they use, and misuse, the world's resources, of which they command a disproportionate share.

But little will be accomplished by attempting to promote a sense of guilt among Americans, especially retroactively.

Suppose a less myth-minded Rockefeller had decided not to dig so many oil wells, or a more far-seeing Ford had had second thoughts about flooding the country with flivvers, or an omniscient government had held down industrial expansion?

We would not have an oil shortage today or so much concrete and asphalt covering the landscape. But neither would Americans have a standard of living remotely resembling the one they have become accustomed to.

Most importantly, we would not possess the technology, the industrial base nor the wealth to pursue the exotic energy sources Douglas speaks of.

An underdeveloped, preindustrial America might feel less guilty, but it would hardly be in a position to lead the world toward a brighter tomorrow.

SAVING ENERGY: QUIT BITCHING AND HELP

We are a funny people.

We can handle big problems. It's the little ones that knock us for a loop.

The only war we really pooped out in was a left-handed, part-time tussle with a fourth-rate power in Southeast Asia.

We have a president who has cooled off a generation of world crises and bitter animosity with Soviet Russia and "Red China," closed out the bankrupt war in which we could never really get going, brought the first ray of even a possibility of a peace formula to the Middle East, made the first real breakthrough in 30 years on our welfare systems (the national rolls turned down instead of up for the first time)—and yet he has got himself into a helluva mess over four or five guys sneaking into Democratic headquarters to bug a telephone and sneak a look at the files!

So how do we cope with an energy shortage in small ways?

A lot of us look for a scapegoat and an excuse to pretend it doesn't exist, while seeming determined to "use it all up and then blame the results" on Nixon, or the "oil companies," or whatever.

The fact is that we have to change our way of living.

The enviromentalists told us that years ago. The President tried to tell us two years ago, and again seven months ago.

Some of the people screaming at him today as acting "too little and too late" amaze us, because we don't hear them sounding that trumpet of desperate urgency and doom until after the President acted.

If they knew the situation was desperate, why didn't they say so and call upon him earlier to act? Why didn't they push emergency legislation through Congress earlier—instead of later, themselves?

We'd just rather point the finger and complain than cope with the situation in too many cases—and hence we may fail to cope with it.

What bugs us is the individual who looks around to find instances of people who don't play the game or instances of what he can from his special prejudiced position insist is "unfair" to give himself a reason, conscience free, to waste "energy."

That cop-out won't wash.

What each of us has, in fact, is a simple choice, of whether we join the cheaters in our conduct in this crisis, or whether we join the responsibles.

It doesn't much matter what excuses we give for the action, the choice we make is what counts.

That's what we are, once we make it.

As for blaming the "oil companies," that is an emotional game that hasn't much real foundation. A very few years ago, we didn't need any Arab oil at all, and industry management was planning and investing ahead for the needed expansion.

Those plans were interrupted, artificially, by government action, public pressure, and class action suits. Offshore drilling was sharply curtailed, and the Alaskan pipeline delayed for years, as major examples. This was done to the oil companies, not by them. In precisely the years of interrupted expansion, we had to buy Arab oil as a result.

Having played the game of cussing "big business" and put them behind schedule, the folks who are hung-up on "big business" simply turn around and attack them again for the problem that was thus caused.

We aren't going to solve our problems with this kind of stupid prejudice and persistent ignoring of reality.

The only real end of that game is a form of socialism—and yet we all know very well at bottom that if the oil industry was entirely run by government bureaucracy, the price would be higher, the delivery system more fouled up, and the shortage greater than it is now. And no hope in sight.

And don't blame the environmentalists.

The plain fact is that whatever we do, the 30-year-era of cheerful waste and the more stuff you burn up the merrier, is coming to an end regardless. We do not have unlimited supplies, and we have long acted as if we did.

We do have to learn the "old fashioned middle class values" of an intense prejudice against waste—and its twin, an end to pollution.

If some environmentalists got over-enthusiastic, in the American tradition, and contributed to disjointing the rate of progress of the oil industry and the power industry, that was just a slip in timing.

The fundamental premise is absolutely on the money. We have to learn to use things without waste and without pollution.

And the sooner we start learning instead of bickering, complaining, and passing the buck, the better off we will be.

C. L. DANCEY.

PAUL SAMUELSON SPEAKS OUT ON THE ENERGY CRISIS

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1973

Mr. HARRINGTON. Mr. Speaker, the energy crisis is upon us. The problems we face are vast and the solutions are few and far between. Noted economist Paul Samuelson states:

> I think we should realize that the bell has tolled for us. We should listen to it. I hear the tolling for the rest of the century.

Mr. Samuelson speaks with wisdom and from experience. For the information of my colleagues, I am inserting Mr. Samuelson's article as it appeared in the Boston Herald-American of December 2, 1973:

SAMUELSON ON THE ENERGY CRISIS

(By Jim Morse)

There is likely to be a recession in 1974, but not entirely because of the energy crisis.

The economic slowdown, or recession, bad as it might be, is not expected to degenerate into an all-out depression.

Food prices will not increase in the months ahead.

While our way of life may not be undergoing permanent change, it may be altered until the end of the century.

The energy crisis is serious, much more serious than many people believe. Perhaps the U.S. should begin to act on the assumption that this nation will never again depend on oil from the Arab nations.

Unemployment will undoubtedly increase in '74.

These are among the beliefs of Paul Samuelson, the Massachusetts Institute of Technology's Nobel Prize-winning economist, expressed in an exclusive, far-ranging interview with the Sunday Herald Advertiser.

Samuelson, an adviser to Presidents John F. Kennedy and Lyndon B. Johnson, is critical of the confusion in the White House, indecision on the part of the Nixon Administration, and the view that the U.S. should retaliate by refusing to sell wheat to the Arab bloc.

The world-renowned economist also believes it will be necessary to ration gasoline and fuel oil.

This newspaper's questions about the energy crisis and the economic outlook and Samuelson's comments follow:

Q—Talk of the energy crisis appears to be terrifying many businessmen, and perhaps causing them to over-react and to start exaggerated emergency plans. What will this do to our economy?

A—Well, first of all, I don't know whether people are over-reacting. The stock market has gone down more than 100 points, but sometimes the market is scared of its own shadow. This may be a rational, not a paranoid concern, because we don't know how long the Arab oil boycott is going to last. We don't know what the magnitude is going to be.

Are we talking about something that is going to last three months and then be terminated, or, as Secretary of the Treasury George Shultz has suggested, should we begin to act on the assumption that we're never going to get any oil from the Arab nations, the Persian Gulf nations?

Q—In your judgment, is there a serious energy shortage?

A—I would think it is serious. It is particularly heavy in its impact on certain parts of the country. Alas, New England is hit very hard. The New York area, the Midwest and the Northwest are also hard hit. Other sections of the country are sitting prettier.

I was amused that Louisiana and Texas would like to chop off the other states and hold on to their plenty. After the war between the states, I doubt that they'll be permitted to do that.

Q—Has the government ben neglectful in preparing for the present situation? Did President Nixon wait too long, and has he done enough?

A—I think President Nixon has been preoccupied—understandably—with some other matters. Watergate has taken its toll.

He also has a division of opinion among his advisors. On one hand, his Secretary of the Interior Rogers Morton wants to ration, while on the other hand Treasury Secretary Shultz wants to rely on pricing.

The distance between them is as big as the 850 miles between Washington and Chicago. Some of us hope they meet half way, maybe in Cincinnati, and get something going.

Q—How much are the Arab nations to blame for our energy crisis?

A—In the aftermath of the October Middle East war, we've attempted to pursue an oil diplomacy. In the old days we used to have a gunboat diplomacy, where we'd send a destroyer off the coast of some banana republic. Well, today we have an oil diplomacy, make no mistake about it.

The impact of the Arab boycott is much more severe on Europe and Japan than it is the United States. Japan is really at the mercy of Persian Gulf Oil.

Part of our trouble stems from the lack of oil refineries. This would have given us a situation of distress last year if we had not had a mild winter.

There's also a background factor that other countries are becoming industrialized and using up more energy.

And, of course, there's the factor that we've been underpricing energy. It's ridiculous that we should coax New England home owners to use natural gas piped up all this distance. Those who have it are sitting pretty at the moment, but we're burning up our most valuable fuel—fuel that could be used to run New York's taxicabs at some future date or to heat the atmosphere.

This is only true because natural gas has been underpriced by regulations. This goes back before the Nixon Administration, but the sins and crimes of regulations have been continued in this administration.

So all of these things are there in the background. They would have created a problem even without the Arab boycott. I would say it will be several years—until the end of this decade—before adequate sources become available.

But let's make no mistake about it, somebody has us over a barrel—and it's over a barrel of oil.

Q—Should the U.S. retaliate against the Arab countries holding back oil shipments?

A—My personal view is that you can't fight fire with fire if by that question you mean if they refuse us oil, okay, we'll refuse them wheat.

First, there's the problem of the morality of such an act. You don't have to linger on it. Second, we don't have a monopoly on world wheat. They (the Arabs) have got so much money they can buy gold. Who is to say they can't buy wheat?

Besides, what about the Russians? Not only did Russia have a good wheat crop this year, but we gave the Russians a lot of our wheat.

I believe there are other things which can be done. To fight a monopoly, there should be an organization of consuming nations. That's why I think it's sad that we've let Japan and Holland, which are in worse shape than we are, be picked off one by one.

We have a community of interests, and I think we should be developing in that direction.

I fault our multinational oil companies and I fault our State Department for being so timid while the oil monopoly was forming. It was apparent that oil was going to become scarcer to us.

No, I'm not in favor of cutting off wheat to the Arab nations. Idle threats are worse than counter-productive. There are other things we can do.

We should be making fuel more expensive. Let's act the way Secretary Shultz suggested and that's on the basis that we're never going to get oil from the Middle East.

We must figure out how to fairly raise the price of gas by 20 or 30 cents so that impact isn't on the poor fellow who needs his car for commuting.

I think we've either got to have a tax, or I suggest rationing. But rationing tickets should be saleable in the white market so that you and I realize it costs us 90 cents a gallon to jump in our car and drive down to the corner drug store for a pack of cigarets, because that's what we could get for a rationing ticket in the white market.

Otherwise, there should be a stiff tax, which is probably what the Shultz wing of the administration wants.

If there is such a tax, we should use some of the proceeds for a crash research program to find alternative sources of supply.

That's what will make sense to our European and Japanese allies, and what will be respected by the Persian Gulf monopoly countries.

Q. What do you see for the economy in the months ahead—that is, after the holidays and the start of 1974? Will we experience a recession? Or worse, a depression?

A. Before the October war and its aftermath, I had to go along with the popular theory that we were not headed for an old-fashioned depression, nor an old-fashioned recession. But because of the changed energy situation, that forecast is no longer worth the paper it's written on.

However, I don't go along with those who say this might create a great depression. Sen. Henry Jackson has shown an early concern, which I respect, that such a thing might happen. Perhaps he feels he must over-sell in order to sell. But that goes over the line of rational evaluation.

Nor do I agree with former Secretary of the Interior Stewart Udall who has said that for a decade or two decades we'll have to undergo a real tightening of our belts. The situation doesn't seem to me to be that bad.

But it does seem to me that, at the least, I have to go along with a new forecast that we probably will show no economic growth, or negative growth, in the four quarters of 1974.

So maybe it's going to be a bleak winter, not only back on the ranch but also on the production line. Some industries have already started laying off employes.

But it will be a recession more than a depression. And so far, it would still look to be a bare recession.

But this forecast is based on the assumption that Washington handles the situation well, and there is little reason to believe it will be handled all that well. Right now everything is being handled grudgingly. If it comes to rationing, it will probably be long after the case for rationing has been made.

Q. Is the stock market the barometer of our economic future?

A. It is hard to explain the stock market in advance, and only too easy to explain it afterward. But I guess I'd have to say the recent drop of more than 100 points isn't necessarily a sign of paranoia. Apprehension is something quite different.

We've learned about something seriously (the energy crisis) we didn't know about before, and the market has reacted.

Q—Are we headed for an increase in unemployment if industry begins to cut back?

A—Yes, I would think so. If the more dire of these projections are correct, we should expect a zero percent growth as against two percent.

We should take a fast fond look at the 4.5 unemployment figure because it is probably the last we will see it for a long time. We may come to 6 percent or 6.5 percent. We'll get there by way of 5 and 5.5 percent, and I'd rather see that happen before making more alarmist predictions.

New England has been hit hard before the national unemployment figures went down. We're on the firing line of oil diplomacy.

Q—Should clean air standards be relaxed to help the economy?

A—They have been, and they have to be. But what we can't do is lose in one afternoon all the environmental gains we've made over 10 years. We've got to really study the problem.

Q—You've suggested rationing, but is that really the answer?

A—Ah, I shall be surprised if we can avoid rationing.

Q—Is President Nixon's credibility such that we have no chance of recovering economically in the next three years?

A—No, I wouldn't say that. However, it's sad, because a lot of people won't believe there is a fuel shortage. They say it's just something trumped up to get the critics off his back. I wish it were only that.

As I said earlier, Watergate has taken its toll. But that's not a well informed reaction to the fuel shortage. I think that reaction is beginning to ebb away.

Q—Will food prices increase in 1974?

A—The best guess is no. By the way, we're getting a worldwide recession. One of the reasons that caused food prices to zoom was a worldwide boom. That's point number one.

Point number two is that we had a good harvest. Unlike last year, the sun has been shining on the crops. We've been getting a bit of good luck. Some meat and poultry prices may go down.

The good news on food prices has gone out the window with the bad news on energy.

Q—What about consumer income and spending in 1974?

A—I would think that if we have an energy-induced slowdown, it will spread. If take-home pays are less, people will spend less and be optimistic.

You know, you can't give away big cars right now. The market for them is flat. This will result in shutdowns and unemployment.

Q—Does this whole question of forecasting the economic future depend heavily on the unknown intentions of the Arab leaders?

A—This is something that will be fed into every computer. It's something every bank, university and government forecasting agency will attempt to decide.

Q—Would there have been a recession or slowdown even without the oil embargo?

A—There would have been a growth recession, which wouldn't have been such a bad thing. In retrospect, it would have been rather rosy. We've been overdoing it. Everything was done to keep the economy overheated for 1972's presidential election.

Q—The fuel shortage is expected to have an especially tough impact on New England. Will this result in a tough impact on New England's economy?

A—I think it will have an effect on both. How is the fuel going to get to New England? President Nixon has given no hint. Will he offer a carrot or a stick to the oil companies?

We'll depend upon what the tanker situation is, and upon what the pipeline situation is. We should give hard looks to Washington for the answers.

If Washington doesn't act, what looks like a manageable 17 percent national shortage could work out to a 40 percent regional shortage, and you know where you and I are sitting.

Q—Should there be a profit ceiling imposed on the energy companies, such as gasoline, oil and natural gas?

A—Well, I would let the price go up some. We do want to give them an incentive. But I think it would be wrong to let the price of gas rise to $1.20 a gallon, creating short-term profits which would be windfalls while not adding anything to the short-run problem.

I wouldn't want to do it the way the 1845–49 potato famine in Ireland was handled. That was handled the capitalistic way. Potatoes were gone, so let the price of wheat rise. That worked. But the way it worked created tremendous profits for a few while several million people literally died.

We're going to have to use price resistance, taxes and rationing if the situation lasts.

Q—Finally, Mr. Samuelson, is our way of life going to be permanently changed, or is this a temporary crisis?

A—I think we should recognize that a bell has tolled to us. We should listen to it. I hear the tolling of that bell for the rest of the century.

We've squandered energy. We've got to stop building skyscrapers with glass and go back to the Cape Code-style, or veritable igloos, to conserve fuel.

It may become cheaper when alternate sources of energy are discovered here at MIT or elsewhere, but that period is ahead.

Meanwhile, we're over the barrel—an oil barrel.

THE INTERNATIONAL EXECUTIVE BOARD OF THE NEWSPAPER GUILD CALLS FOR THE IMPEACHMENT OF PRESIDENT NIXON

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1973

Mr. RANGEL. Mr. Speaker, over 1 month ago, Elliot Richardson and William Ruckelshaus resigned because of their refusal to fire Watergate Special Prosecutor Cox. Archibald Cox is now long gone and Leon Jaworski has taken his place. After all that has happened, after the national outrage at his actions, President Nixon still continues to cover up his involvement in the Watergate crimes.

It is very hard to believe that President Nixon's personal secretary, Rose Mary Woods, accidentally pushed a wrong button and stepped on a foot pedal to allow 18½ minutes of a key taped conversation to be erased—18½ minutes is a very long accident especially for such an important tape.

President Nixon fought bitterly the

court order asking for the nine tapes. He almost disobeyed Judge Sirica's order for them, complying only at the last minute. Now only six tapes and a portion of a seventh exist of the original nine tapes.

In light of these unbelievable tales spun by the White House, I submit the following resolution passed on November 15, 1973, by the Newspaper Guild calling for the impeachment of President Nixon:

Resolution on the Impeachment of President Nixon Adopted by the International Executive Board of The Newspaper Guild

The United States' single most important and most powerful executive position, the Presidency, must have its effectiveness, vitality, and credibility restored.

It has become increasingly clear that this will not happen so long as the Presidency is held by the incumbent, Richard M. Nixon, whose term of office will not expire for another three years. The nation and the world cannot wait that long.

Three weeks ago at the Tenth Constitutional Convention of the AFL–CIO, The Newspaper Guild's delegates joined their colleagues in unanimously calling upon President Nixon to resign, in the interest of preserving the mutual trust essential to our democratic system, restoring the effectiveness of our federal government and safeguarding our national security, and in calling upon the House of Representatives to initiate impeachment proceedings against the President should he not resign.

"We believe the American people have had enough," the AFL–CIO resolution said. "More than enough."

The International Executive Board of The Newspaper Guild herewith concurs in the judgment and vote rendered by the Guild's delegates to the AFL–CIO Convention.

Last week President Nixon, in response to this and widespread other demands that he step down in the public interest, gave the American people his answer: He had, he said in a nationwide television address, no intention of resigning.

The President leaves us no alternative. The documented record of what John Mitchell himself called the "White House Horrors" and of related disclosures of improper, unconstitutional and illegal conduct involving both the President and his closest associates—and the President's continued failure to explain these actions to the satisfaction of the American public—compel us to join the AFL–CIO and other organizations, publishers and Members of Congress in now calling for the immediate initiation of impeachment proceedings.

We recognize that our action today may be seized upon by President Nixon's apologists, and perhaps by the President himself, as supporting the accusations of biased and distorted reporting he has chosen as his last line of defense against a frank and open public accounting of his actions. But we have obligations to our country as well as our craft, and, in any event, we are confident the public will not be deceived.

For, in fact, it is not the press that has "distorted" the facts but the White House and the President himself. It was not the press, but the White House, that had to withdraw its versions of what happened as "inoperative." And Mr. Nixon's problem is not, as the White House would have the public believe, that the press has failed to put matters in "perspective", but that it in fact has put them in all too clear and accurate perspective, for all to read and hear.

In short, had it not been for the working press, the full dimensions of the Watergate scandals as we know them today might never have been revealed. The public will be forever in its debt, and nothing the President can say or do now can obscure that fact.

As elected officers of the largest organization of working newspaper men and women in the United States, we are, of course, concerned about President Nixon's continued intrusions upon the constitutional freedoms of the First Amendment and the Bill of Rights, but we act today not as partisans of the press but as citizens concerned about the general welfare of our nation.

Faced with increasing demands for his resignation or impeachment, President Nixon once again has promised to demonstrate to the American people that he has not violated their trust.

But promises are no longer enough.

The Constitution provides the appropriate procedure and forum for judging President Nixon, and the House of Representatives of the Congress should initiate impeachment proceedings without further delay.

We urge Guild locals to join us in calling for immediate initiation of impeachment proceedings and urge Guild members to express their support for such action in letters to their congressional representatives and to Chairman Peter Rodino of the House Judiciary Committee.

As Mr. Nixon himself said when he was so confidently seeking the office he now fights so desperately to retain:

"America is in trouble today not because the people have failed, but because her leaders have failed. What America needs are leaders to match the greatness of her people."

UNITED STATES ACTING TO GIVE OIL SHALE LANDS TO STATE OF UTAH

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1973

Mr. VANIK. Mr. Speaker, the prototype oil shale leasing program announced by Secretary of the Interior Morton 2 weeks ago has proven to be very controversial. The program will lease, beginning in January, six tracts of land of approximately 5,000 acres apiece, two each in Colorado, Utah, and Wyoming.

The implied intent of the program is to develop and test commercial techniques to recover shale oil, locked in the shale rock in a solid. Despite the 20-year duration of the land leases, Secretary Morton called the program "a prototype operation, a small scale operation," in his lease announcement speech.

The private oil shale leasing program, first initiated in 1971, has been the target of a great amount of criticism. The final environmental impact statement is an essentially unchanged version of the draft EIS which received a flood of critical reviews. The land lease contract, according to citizen interest groups, private individuals, and knowledgeable scientists, is laced with inadequacies.

Mr. Speaker, another angle in the Western Slope oil shale lands controversy has just now come to light. An article by George C. Wilson in the Washington Post of December 13 reveals that, because of longstanding Federal land debts to the State of Utah, over 150,000 acres of publicly owned oil shale lands may be turned over to Utah. This, Mr. Speaker, could allow a State oil shale leasing program to proceed completely independent of the supposed "prototype" Federal plan.

Mr. Speaker, the Department of the Interior has apparently been aware of this situation for 10 years and has made plans for the transfer of the oil shale lands for some time. If that is the case, why was not the public better informed of it—157,000 acres of good quality oil shale land, worth up to $50 billion, is hard to overlook.

The grant of this enormous Federal treasure to a single State raises the most serious questions. What will the reclamation laws of the State of Utah be in regard to the heretofore unexperienced problems of revegetating the sterile processed shale? Is this a way for the oil companies to "end run" the environmental requirements imposed in the Federal oil shale leasing program? What will the tax requirements be for a State-run oil shale program? Will the companies that lease lands from the State for commercial development be able to credit the Utah corporate income tax against their Federal income tax obligations? The results could be a windfall for the giant oil companies.

Research into this new situation has revealed these facts: The Utah Statehood Act of 1890 designated 4 sections of each township—of 36 sections—as State land. Because most sections remained unsurveyed until relatively recently, the exact status of public lands in Utah was unknown. In 1958, Federal legislation (43 U.S.C. 851) authorized in-lieu transfer of public lands to Utah in block transfers.

A large failing of the Federal-State transfer authority is its lack of consideration for the relative values of the transferred lands. Apparently the only provision for land transfer equivalency is in section (a)(1) of 43 U.S.C. 852:

> No lands mineral in character may be selected by a State except to the extent that the selection is being made as indemnity for mineral lands lost to the State because of appropriation before title could pass on to the State;

This section apparently means that for each acre bearing any type and any value of minerals, a Federal acre with any type and any value of minerals is transferable to the State upon their selection.

Mr. Speaker, this provision obviously creates the potential for an enormously inequitable land exchange. The officials of the Interior Department's Office of Oil Shale, and the Bureau of Land Management, both hastened to assure a member of my staff that this potential transfer, amounting to a total of 225,000 acres of land due to the State of Utah, has been conducted openly and publicly—with no attempts at secrecy.

I believe their claims of openness, Mr. Speaker, but what I cannot understand or explain is why the Department of the Interior, given the knowledge that a transfer of Federal land was necessary and imminent, did not act long ago to create fair and reasonable equivalency requirements.

Mr. Speaker, I am afraid that this land transfer by the Department of the Interior could be the first in what we will find to be a long series of abuses and misuses of our publicly owned Western Slope oil shale lands. We must give consideration to a revocation of the lease program and alternative methods of oil shale development, such as a TVA-style Government corporation.

The article by Mr. Wilson follows:

United States Acting To Give Oil Shale To Utah

(By George C. Wilson)

In a transaction far beyond the scope of the government's announced program of developing oil shale, the Interior Department is quietly preparing the way for Utah to take over a big tract of public land so the state can get at $50 billion worth of shale.

If the deal goes through, Utah would take title to 157,000 acres of land now owned by the federal government and lease it to oil companies for the shale.

That amount of oil shale land is 15 times larger than the two 5,000-acre tracts that Interior Secretary Rogers C. B. Morton said would be mined in the state on an experimental basis until the environmental damage was assessed.

The Colorado Open Space Council, an environmental group, charged that announcing a comparatively small prototype oil shale program at the same time the Interior Department is clearing the way for a much bigger mining project amounts to "duplicity."

Carolyn R. Johnson, speaking for the Colorado council, said: "Utah intends to proceed rapidly with full-scale development of the oil shale lands when the transfer is completed late next spring. Clearly, this puts an entirely new light on the prototype program."

Morton at a press conference on Nov. 28 said he had decided to give oil shale a try on the tracts in Utah, two others about the same size in Wyoming and a 5,000-acre parcel in Colorado—all owned by the federal government.

"The department is committed to withhold further leasing of public oil shale lands until the environmental effects of these prototype leases are better known," he said at the time.

Documents obtained by The Washington Post show that Interior's Bureau of Land Management was working in October on an environmental statement that would help clear the way for Utah to take title to the 157,000 acres rich in oil shale—including the 10,000 acres Morton said would be leased as part of the federal experiment.

The same documents indicate that Interior Department officials wanted to hold back public announcement of the oil shale aspects of the Utah land transfer until the paperwork was in order.

A factor in the timing of the federal shale land transfer to Utah, the papers added, was next year's elections.

Curt Berklund, director of the Land Management Bureau, told The Post yesterday that an environmental impact statement was indeed being prepared by the bureau's Salt Lake City office as part of the effort to deed the 157,000 acres to Utah. He said the bureau's proposed transfer has not been submitted to Morton yet.

"I didn't think there was any deep dark secret about it," he said. Berklund added that Utah, under existing legislation covering statehood arrangements, has the right to select the oil shale land as part of the territory the federal government owes the state.

"I feel personally guilty that we have not acted earlier on this state selection," Berklund said. He added that in his own view, Utah is entitled to select federal land more valuable than the state land it gave up.

Berklund said if all goes well, the land could be deeded over to Utah "by mid-year (1974) at the earliest."

The 157,000 acres Utah wants are in the northeast corner of the state, taking in the Bookcliffs Mountain area of Uintah County. This is what the Bureau of Land Management said in 1969 about 120,000 acres of the tract:

"There is an average thickness of 65 feet of shale with an average oil content of 25 gallons per ton. The total indicated reserves are nearly 14 billion barrels of crude oil, having a gross value of nearly $50 billion."

The same analysis said opposition could develop over transferring such valuable federal land to Utah in exchange for state territory given up which was worth far less.

STOCKHOLDER NOT PLEASED WITH COMPANY'S CONTRIBUTION

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1973

Mr. HUNGATE. Mr. Speaker, a stockholder in the Ashland Oil Co., recently sent me a copy of a letter he wrote to the chairman of Ashland, and I would like to share it with my colleagues:

Des Moines, Iowa,
November 16, 1973.

Mr. Orin E. Atkins,
Chairman, Ashland Oil, Inc.,
Ashland, Ky.

Dear Mr. Atkins: In yesterday's mail I received a news release in which you told of Ashland's 1973 earnings being up 28 per cent over 1972. As a stockholder I was very pleased with this, as I am sure you are, too.

By coincidence, in my newspaper of the same day I read of your having surreptitiously contributed $100,000 of Ashland money to President Nixon's 1972 re-election campaign. (Clipping enclosed.)

With this I definitely am not pleased, as I doubt if you are either, now.

I should think that a man skilled, strong, and trusted enough to head up a billion-dollar corporation would have the fortitude and integrity to resist the shakedown efforts of a few cheap political racketeers.

Do you feel, Mr. Atkins, that you still merit the confidence of the Ashland directors and stockholders?

Respectfully,

Edgar M. Young.

[From the Des Moines Register, Nov. 15, 1973]

A $100,000 Nixon Gift Quota Told

Washington, D.C.—A senior Gulf Oil Corp. executive told the Senate Watergate committee Wednesday that President Nixon's re-election campaign set a $100,000 minimum quota for donations from the nation's largest corporations.

Claude C. Wild, jr., Gulf's chief Washington lobbyist, and Orin E. Atkins, chairman and chief executive officer of the Ashland Oil Co., testified that their corporations each illegally donated $100,000 in cash, which was raised discreetly from corporate sources overseas.

The two men said they felt under considerable pressure to make the contributions to the Nixon campaign but claimed they did not do so in return for any specific government favors.

In both cases, the executive said, great efforts were made by Nixon fund-raisers to assure the money was received before the Apr. 6, 1972, expiration date of a campaign-financing law which allowed contributions to be made anonymously.

Both companies were fined $5,000 and both executives received $1,000 fines in separate federal court actions Tuesday.

Wild, who is Gulf's vice-president for public relations, said the negotiations which led to Gulf's contribution involved both Commerce Secretary Maurice H. Stans, later to become chairman of Mr. Nixon's campaign finance committee, and Atty. Gen. John N. Mitchell, who later became the re-election committee's first director.

"I certainly considered it pressure when two cabinet officers asked me for funds," Wild said. "It's different than someone collecting for the Boy Scouts . . . I thought I got a message."

Wild said a $10,000 donation from Gulf was first mentioned in early 1971 by Lee Nunn a fund-raiser for the Nixon reelection committee. Wild said he checked out Nunn's credentials in a face-to-face meeting with Mitchell.

"After thinking the matter over—and hindsight tells me it was a mistake—I gave them $50,000," Wild said.

He said he got the money from the comptroller of Bahamas Exploration Ltd., one of Gulf's 400 subsidiary companies.

He said that Nunn returned the next year and asked for another $50,000 which he said he raised from the same overseas source.

"The implication was that this was the kind of a quota they were expecting from a large corporation," Wild said. He said he made the donation after a personal meeting with Stans.

"Mr. Stans indicated he was hopeful of obtaining $100,000 from the large American corporations—ours being one of the top 10—and he said he hoped we would participate," Wild said.

Wild said he also used corporate funds illegally to make a $15,000 contribution to the presidential campaign of Representative Wilbur B. Mills (Dem., Ark.), and gave $10,000 to the presidential effort of Senator Henry M. Jackson (Dem., Wash.).

Both Wild and Atkins said that last July Stans and Kenneth Wells Parkinson, a lawyer for the re-election committee, suggested the contribution be listed as a personal gift coming from the executives and their wives or from corporation employes.

Both men said they rejected that course, asked for and got the refund of their money and made voluntary disclosures to the special Watergate prosecutor.

The Watergate hearings are in their final phase of an investigation of campaign financing, and Chairman Sam J. Ervin (Dem., N.C.) said he hopes to finish by Dec. 7.

No hearings are scheduled for next week, but are slated to resume from Nov. 27 through Nov. 30 and from Dec. 3 through Dec. 7.

I would suggest that other stockholders wishing to halt this practice follow Mr. Young's example and let the board members know their views.

STUDENT TESTING STIRS DEBATE

HON. ROBERT P. HANRAHAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1973

Mr. HANRAHAN. Mr. Speaker, in view of the continual debate in the House of Representatives concerning the busing issue, I would like to submit, for my colleagues, perusal, the following article from the Thursday, December 13, Washington Post:

[From the Washington Post, Dec. 13, 1973]

Student Testing Stirs Debate

(By Bart Barnes)

Cambridge, Mass.—What accounts for learning in children?

Meeting at the Harvard Graduate School of Education last week, educators and scholars from around the world probed data from a massive battery of tests in an effort to answer that question. The tests, in six subject areas, were given to 258,000 children in 22 countries.

What the educators found was that there is still a great deal they don't know on the subject and deep divisions over the validity of the clues to learning that were offered by the tests.

While some researchers argued it is possible from the tests to determine an exact percentage of the effect of, say, family background on learning, others contended the tests don't measure anything but the ability to take tests.

The tests, the result of more than nine years of planning and research by more than 300 scholars, were given in 9,700 schools in 1971 and 1972 by the International Association for the Evaluation of Education (IEA), an outgrowth of a United Nations agency now funded by governments and foundations. At a cost of more than $6 million, children were tested in science, reading comprehension, French or English as a foreign language, literature and civic education.

Participation in the testing was open to any nation that wanted in, IEA spokesmen said. Participating were Australia, French and Flemish-speaking Belgium, Chile, England, Germany, Finland, France, Hungary, India, Iran, Ireland, Israel, Italy, Japan, Netherlands, New Zealand, Poland, Rumania, Scotland, Sweden, Thailand, and the United States.

In every country and in every subject area, according to Chicago University Professor James S. Coleman, family background including socio-economic status, parents' education and the number of books in the home, was more closely related to educational achievement than what happens in school.

That finding closely parallels a major report on race and education in the United States done by Coleman himself for the U.S. Office of Education in 1966. The central thrust of the Coleman Report was that home is more important than school in affecting children's ability to read. Children from middle-class and upper-class backgrounds read better than children from lower-class backgrounds, and this fact was not changed by racial integration or increased spending.

The Coleman findings have since been reaffirmed in a re-analysis by two Harvard Graduate School professors, Frederick Mosteller and Daniel P. Moynihan, now U.S. Ambassador to India.

And a year ago, Harvard professor Christopher S. Jencks published a study arguing that even if education could be reformed so that all schools were equal, inequality between children would remain. The most important element in determining children's capabilities when they leave school, Jencks said, is the capabilities they bring to school from home.

From these studies has developed a general pessimism about schooling and the growth of a "schools don't matter" philosophy.

Coleman and others argue that the IEA data tends to refute the "schools don't matter" movement.

Noting that the previous studies measured only reading comprehension, Coleman told the conference that the data indicates the influence of home background is reduced when scores in literature and science are examined.

Data in the IEA study, Coleman told the researchers and educators, was considerably broader than that included in his own 1966 study in that it did examine reading. In those areas, like other subject areas besides literature, science and foreign language, indications are that the influence of what happens in school is greater than it is in the area of reading comprehension: hence the conclusion that school does, in fact, matter.

For example, in science, 14-year-olds in Japan tested at a more advanced level than 17- and 18-year-olds in the United States. This was explained by the fact that Japanese schools stress science more heavily than schools in the United States and students there are pushed harder.

Benjamin S. Bloom of the University of Chicago said in observing Japanese students in their classrooms that "90 to 95 per cent of the time, they were actively engaged in a learning activity."

In the United States, Bloom said, students in classrooms are engaged in learning activities about 50 per cent of the time.

The science tests also demonstrated that in almost every nation and at every level boys tested better than girls and that the gap between boys and girls widened as they grew older. Worst performance of the girls came on questions designed to test the understanding of scientific principles and concepts.

In discussing reasons for this, a group of physicists suggested that one possibility might be that scientific principles are often explained in terms that relate more to boys' activities than to girls'. For example, they said, principles of physics are often explained in terms of throwing objects, more frequently a boys' activity.

But it was also in the area of science testing, that the tests were denounced as inadequate measures of achievement.

M.I.T. physicist and educator Jerrold Zacharias, for example, argued that as far as testing and achievement are concerned "it is almost impossible to do anything on an international basis . . . all the nuances of the language get in the way."

In advancing this argument, Zacharias noted that there was a tremendous variance between nations as to which questions on the science test were the most difficult.

Zacharias was among those who argued that testing in general was an inadequate measure of achievement. "I regard examinations and tests as the Gestapo of the educational system," he said. "It forces students to do what is improper."

While others tended to disagree and accept the tests as valid measuring instruments, it was held generally that they failed to identify much of what it is that is responsible for children's learning. There was no real way, for example, to measure teacher effectiveness. And, despite curriculum guidelines, there is little data on whether the guidelines are really applied in a classroom.

"Curriculum," said one conference participant, "is what happens in the classroom after the teacher closes the door."

Much of the debate reflected national controversy over the validity of standardized testing. Harvard's Marshall Smith said the tests failed to say anything about the effect of schools on learning. There is no way they ever could, he said, unless a control group of children who are not in school is tested and the two results compared.

Only students in school were tested in the IEA study with the tests limited to 10-year-olds, 14-year-olds and 17 and 18-year-olds.

In the area of reading comprehension, the testers found little teaching devoted to reading skills by the time students had reached the age of 10 and almost none after the age of 14.

Not surprisingly, the tests found reading levels in less developed nations, such as Iran and India, to be substantially below those in developed industrialized nations like the countries of Western Europe and the United States.

In the area of reading comprehension, as measured by tests given 14-year-olds, New Zealand scored the highest among the nations tested, followed by Italy, and with the United States, Scotland, Finland, and French-speaking Belgium all tied for third place.

However, the researchers said, the scores can be misleading as far as New Zealand and Italy are concerned since both have a lower percentage of 14-year-olds in schools than does the United States.

In the various subject areas, 14-year-olds in the United States did worst in the foreign language area. Of the six nations where French was tested as a foreign language—not all nations participated in all tests—the United States finished last behind Rumania, the Netherlands, Scotland, New Zealand and England.

In literature, the United States was tied for first place with Finland, in science it was behind Japan, Hungary, Australia, Germany, New Zealand and Sweden, and in civic education finished behind the Netherlands, Israel and Germany.

The studies also indicated that the United States, with 75 per cent of its 17 and 18-year-olds still in school has the highest school retention in the world.

Contrary to one widely held principle of education, the researchers found no relation between pupil-teacher ratio and academic achievement although it was suggested that such a relationship might develop if class sizes got down as low as 5 or 10. In most nations, student-teacher ratios ranged between 20 and 30, with a high of 74 to one for 10-year-olds in Iran to a low of 14 to one for 17 and 18-year-olds in Belgium and Israel.

In one other area, that of civics, the researchers found a negative relationship between the degree of patriotic ritual in the classroom and knowledge of affairs of government. The more patriotic ritual, the researchers found, the less the students knew.

RULE OR RUIN

HON. EARL F. LANDGREBE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1973

Mr. LANDGREBE. Mr. Speaker, since the consideration of the home rule conference report has been delayed at least until Monday, December 17, I take this opportunity to bring to the attention of my colleagues an excellent editorial from the Indianapolis News of December 11. I, of course, agree that the home rule bill can best be described as an unconstitutional power grab that would impose a poorly structured local government on our Nation's Capital at great expense to the American taxpayer. I ask my colleagues to consider the argument raised in this editorial as they prepare for the upcoming floor consideration on the conference report.

The editorial is printed in its entirety herein below.

[From the Indianapolis News, Dec. 11, 1973]

RULE OR RUIN

Rep. Earl Landgrebe of Indiana's 2nd District is fighting a valiant battle in Washington against another misguided move by Congress.

Landgrebe opposes the current effort to establish so-called "home rule" for the District of Columbia, which is being promoted, as is usual in such cases, as a piece of humanitarian and enlightened legislation. The Hoosier solon points out that the results of this move could well turn out to be the opposite of enlightened—and that American taxpayers and the U.S. government could be the losers.

The "home rule" drive receives its support from the normal and proper impulse of most Americans in favor of self-government. But close examination of what is being suggested for our nation's capital shows that authentic self-government is not at stake here. What appears to be developing instead is a situation in which U.S. taxpayers across the land will be pumping out millions and ultimately billions of dollars over which they have no control.

As Landgrebe observes, true self-government implies financial independence, but the city government of Washington, D.C. is dependent on the Federal treasury to the tune of $200 million and more a year. Under the so-called "home rule" bill, this ante will go up to $300 million, and we may be certain the costs will continue to rise in months to come. This is money forked over by Congress, but under "home rule" it would be largely exempt from congressional control.

If in fact Washington is to govern itself as "home rule" advocates suggest, then it should also pay for itself. This means its municipal expenses and normal costs of government operation should be paid by the people who live there, and not by taxpayers in Indianapolis or Omaha or Los Angeles. If on the other hand that government is to be sustained by $300 million of U.S. money, then Congress had better exercise surveillance over how it is spent.

The issue is complicated, of course, by the fact that Washington is a national city, created under the Constitution, and as such is the city of all Americans. It is the seat of government and of numerous Federal installations, and many of its inhabitants are themselves paid by Federal tax dollars. As such, Washington is in a very real sense a responsibility of the national legislature, and should remain so.

Landgrebe notes that a legitimate change in Washington's status would require a constitutional amendment, and further notes that the bill presently under consideration would amend the Hatch Act to permit office-holding in Washington's city government by Federal payrollers. These added points make it clear that the so-called "home rule" bill is an ill-conceived piece of legislation and should be defeated.

THE ENERGY CRISIS

HON. SHIRLEY CHISHOLM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1973

Mrs. CHISHOLM. Mr. Speaker, the American people are looking for leadership that not only can take them through the current hardships of the energy crisis, but can also conduct long-range planning for future energy needs and coordinate them with available and potential resources.

Congress and the administration do not seem able to provide that leadership. We are locked into governance by crisis, without the motivation or capability to design for the future. The result is massive confusion and a proliferation of ad hoc remedies. We do not really know how severe the energy shortage is, nor what the long-range effects of the Mideast oil boycott will be.

Various factors are blamed for the problems that face us: the refusal of oil companies to increase or even to maintain production levels in order to help meet annually increasing energy demands; Government indecision over oil import policies; the oil boycott by the Arab nations; resistance by the environmental movement to offshore drilling and other ecologically unsound moves. But even the experts do not agree on all the factors.

We hear talk of side effects of the energy crisis—of not being able to get to ski resorts for the weekend, airline scheduling cutbacks, complaints about large-car consumption of gasoline, standup train rides, Nixon's less frequent trips to San Clemente and Key Biscayne, and extinguished Christmas decorations.

But who speaks for the small children who will be sick in cold rooms or the elderly who are at home all day in unheated apartments? Who will provide day care services for the children of working mothers who are forced to stay out of closed-up schools for extended vacations?

More suffering will be experienced by workers in industries most drastically affected by the energy shortage. The airlines' flight reductions alone will result in a layoff of 25,000 persons. Manpower experts are predicting unemployment rates as high as 15 percent nationally by the middle of next year. Of course, there are areas where 15-percent unemployment is the norm. In these areas one can expect a rise as high as 40 percent.

And yet, in the House-passed manpower bill now in conference, funds authorized for the public service employment program are only 20 percent of current levels. What kind of leadership is this?

The Congress has at the last minute created emergency energy legislation that makes large giveaways to the oil companies, potentially eliminates the gains made in environmental protection over the past 5 years, and hands over to the President the major authority and responsibility for imposing regulations and controls on energy consumption that come very close to regulating the daily lives of all Americans.

Not only that, but the legislation was drafted and reported so quickly that when the floor debate began in the House, even the chairman of the committee that was responsible for it was not sure what the bill provided. Because of governance by crisis, Congress has forced itself to hold marathon meetings at the end of a session, when congressional minds are on returning home, in order to get a rough, inadequate, environmentally regressive piece of legislation passed.

The extent of the oil companies' contribution to the oil shortage can never be positively calculated, for there are virtually no independent statistics on the industry's activities. State and Federal agencies rely on data furnished by the oil companies themselves. But we do know that the major oil companies report dramatic profit rises.

According to an article in the New York Times of December 9, that I will insert following these remarks, Exxon, the No. 1 oil company in the United States, has shown a profit increase of more than 80 percent in the third quarter of this year over the same period in 1972. Third-quarter profit increases for the five leading companies—Exxon, Texaco, Gulf, Mobil, and Standard of California—have been 50 percent or more over last year.

It is said that the major cause of the energy crisis is the monopolization of energy sources. The results of monopoly are higher profits for a few large corporations and higher prices and hardships for consumers. Could this be true?

The above-mentioned article follows:

[From the New York Times, Dec. 9, 1973]

THE CASE AGAINST BIG OIL

(By Brit Hume)

In September, 1972, supplies of home heating oil in the United States were dangerously low and stocks of crude oil, from which heating oil is refined, had fallen to their lowest level since World War II. A serious fuel shortage seemed inevitable as winter approached. President Nixon authorized the petroleum industry to import more foreign crude oil. It was the second time in five months he had increased the allowable imports of foreign oil, which had been under tight Government restriction since 1959. A few weeks later, in a speech to the National Petroleum Council, Gen. George Lincoln, head of the White House Office of Emergency Preparedness, which had charge of oil imports, strongly urged industry leaders to crank up their refineries to full capacity to head off a heating-fuel crisis. Simultaneously, the Interior Department sent telegrams to the major oil refineries urging them to do the same.

The response of the major oil companies, which control most of the nation's fuel production from the wellhead to the retail dealer, was to import only one-third of the additional crude oil the President had authorized and to run most of their refineries below capacity for the rest of the year. "This," concluded a staff study made for the Senate Permanent Investigations Subcommittee, "was the beginning of the first peacetime petroleum shortage in the United States."

In light of the present national fuel emergency, it might seem inconceivable that a major American industry would willfully contribute to the shortages which left this country vulnerable to the Arab oil embargo. Indeed, industry spokesmen cite steadily rising production figures as proof that the companies were actually doing their best. "Any implication that the industry was not concerned and aware of the problem is greatly unfair," says Frank Ikard, president of the American Petroleum Institute. Other oil men say Government indecision over oil import policy coupled with price controls and anti-pollution regulations were principal causes of fuel scarcity. But regardless of the Government's role, the major companies' own reports show that their conduct prior to the spot shortages of last winter is consistent with their behavior over the past three years.

The present decade began on a note of uncertainty for the larger American oil companies, despite burgeoning energy needs which made demand for their products greater than ever. The environmental movement was gathering momentum and promised to become an important political force in the country for years to come. Already, offshore oil drilling, such as that which had caused the disastrous spill in the Santa Barbara channel, the burning of high-sulphur oil and the construction of the trans-Alaska oil pipeline were facing stiff environmental resistance. In the aftermath of the 1967 Middle East war, the Arab states were taking a much more nationalistic attitude toward their massive oil reserves. In the past, the sheiks had been content simply to collect huge royalties on the oil and let the multinational petroleum companies control its production and export. Now, though, they were threatening to use oil as a political weapon. For the first time it seemed possible that the five giant American oil companies that for so long had dominated the world petroleum market might lose their grip on the richest oil fields on earth.

At home, Congress reduced from 27½ per cent to 22 per cent the oil depletion allowance, which allows the industry to write off for tax purposes a sizable chunk of its receipts from crude-oil production. Moreover, the major oil firms found themselves losing an ever-larger share of the domestic market to smaller, so-called "independent" firms—particularly in the gasoline line—which were attracting business by doing something the majors rarely did; competing over price. Costs were rising rapidly, but competition from the independents was helping to hold prices down. The balance sheets of the major oil firms showed record sales, but declining profits.

In addition, there were strong indications that domestic oil production, which had always been more than enough to cover the nation's needs, was at last peaking and would soon be outstripped by consumption. The Cabinet Task Force on Oil Import Controls sent the President a report recommending abolition of the existing quota program and substitution of a more liberal tariff plan. The industry was bitterly opposed. It had always contended vehemently that the tight import restrictions were vital to national security. Unrestricted imports, it was argued, would discourage domestic exploration and allow the country to become dependent on foreign oil that, however cheap and plentiful could be instantly shut off.

Oilmen also invoked national security in support of the numerous tax breaks and production restrictions which they have wangled from the Government over the years. The fact that these measures have also kept the domestic crude-oil price well above the world price, increased profits and cut the companies' tax bills to the bone has been given less emphasis in the industry's arguments. The task force's advice was ultimately rejected by President Nixon, but the Administration did announce it would allow a small increase in the allowable imports of foreign crude oil in 1970.

The petroleum industry in the United States is dominated by 18 large firms which are, in the language of economists, "vertically integrated." This means that they operate in all phases of the oil business—exploration and production, transportation, refining, distribution and marketing. These 18 generally are known as the "majors," although the term is used more and more often to refer to the top 10 oil companies. The majors produce about 70 per cent of the domestic crude oil, control some 80 per cent of the refinery capacity and market about 72 per cent of the gasoline sold in this country.

The largest of the majors also dominate the production of natural gas in the United States and have made heavy investments in the coal industry in recent years. Despite this heavy concentration of a relatively small number of companies in all phases of domestic fossil-fuel production, the major oil companies vigorously resist any suggestions that they are not fully competitive. Nevertheless, they cooperate rather than compete in a wide variety of ways. It is common for several oil companies, for example, to submit joint bids on multimillion-dollar leases of Government-owned oil reserves and to pool resources for joint exploration ventures seeking crude deposits. Most of the huge pipelines, which are the principal form of transportation in the oil business, are jointly owned by several companies. Major firms often engage in exchange agreements where one will supply the other's markets—for gasoline, for example—in one area where it lacks facilities in exchange for a similar favor in a different region. Reciprocal processing agreements among major firms are also frequent (one company will refine another's crude oil in one place in exchange for having its own crude processed in another).

Perhaps the most obvious clue to the state of competition in the oil industry is its national advertising. The majors spend heavily to gain recognition for their brand names, promote product ingredients and advertise giveaways. Instead of bargains on gas and oil, the consumer hears about Tony the Tiger, Platformate, free drinking glasses and National Football League trading cards, Sunoco station owners who "can be very friendly" and Texaco stations where "you can trust your car to the man who wears the star." In contrast, the independents advertise little. Their stations are typically low-overhead, self-service operations which offer almost none of the mechanical services and auto supplies, such as tires and batteries, available at the majors' outlets. They stick to high-volume sales of gas and oil at prices below those at major stations. And although their share of the market was growing rapidly in the early part of this decade, the independents were still at a disadvantage.

A principal reason: They are not vertically integrated. Independent refineries have had to rely on the majors for a large part of their crude oil. And independent marketers must turn to other independents or to the majors to obtain refined products. What's more, the oil depletion allowance has encouraged the majors to push all their profits into crude-oil production where a large portion could be deducted.

To do this, the majors kept crude prices as high as they could and cut profit margins on their refining and marketing operations to the minimum. For them, this generally involved only bookkeeping transactions since they were selling their crude to their own refineries and their refined products to their own marketers, or engaging in reciprocal arrangements with other majors to achieve the same results. But for the independent refiner, high crude-oil prices usually represented a real additional cost. And since it was necessary for independent refineries to show a profit on refining, prices for their finished products tended to be pushed upward still more. This left the independent marketer in an even more difficult position. Nevertheless, the independents were resourceful and innovative and they found ways to cut costs and prices and gain ground on the majors steadily through 1970. After that, though, things began to change rapidly.

Although there could be no doubt that demand for oil products would continue to boom in the early nineteen-seventies, the majors decided not to increase their refinery capacity significantly. An efficient refinery costs about $250-million to build and this has generally meant that only the majors have been able to afford new ones in the past 20 years. The majors' spokesmen have insisted that uncertainty about Government policy on oil imports and environmentalist objections to new plant construction were the main reasons behind the failure to expand refinery capacity. Whatever the reason, there was no uncertainty about the result it would have. By early 1971, Oil and Gas Journal, the most authoritative of the industry's trade publications, reported that the nation might be on the way toward a shortage of refinery capacity. The American Petroleum Institute, the industry's voice in Washington, predicted that the shortage would come before 1975. The Interior Department's Office of Oil and Gas published a study containing a similar forecast and declaring that existing refineries would have to be run full tilt to keep up with demand.

In August, 1971, President Nixon imposed wage and price controls. Gasoline prices were frozen at seasonal highs and heating-oil prices at off-season lows. Gasoline was always more profitable to produce, but the freeze made it more so and created a strong disincentive to the production of heating oil. The freeze was lifted in November, but oil prices were not decontrolled. In February, 1972, the Cost of Living Council refused to grant the industry a price increase for either crude oil or gasoline and heating oil. For the first six months of 1972, profits fell almost 5 per cent, although sales were up by an even greater amount.

In early 1972, industry journals were reporting that crude-oil production in both Texas and Louisiana, the two biggest oil states, was declining. While this was apparently true, it is difficult to know whether it was caused by an actual decline in reserves or by the industry's failure to produce as much as it could. There are at least some indications the larger companies might have been deliberately slowing production. The Texas Railroad Commission requires the oil companies that do business in the state, which includes nearly all the larger firms, to report "desired" levels of crude-oil stocks nationwide.

The commission's records show that the 10 largest of the oil companies reporting (all of them majors) "desired" smaller stocks of crude oil to feed most of their refineries in 1972 than they had had in 1971, even though demand for petroleum products had risen about 7 per cent. Their actual crude-oil stocks were also less than they had been the year before. The commission's records show that the drop in "desired" levels was reported only by those top 10 oil companies, with the next 15 reporting increases in their desired levels. But since the top 10 account for about three-quarters of the oil production among the top 25 that report to the Texas commission, it averaged out to an over-all drop in the "desired" stocks of crude.

Moreover, an investigation by the Federal Trade Commission has turned up evidence that the natural-gas reserves reported by the nation's oil and gas companies are smaller than the actual reserves. "From the documents received," James Halverson, chief of the F.T.C.'s Competition Bureau, told a Senate subcommittee, "it appears that there has been serious under-reporting of proved natural-gas reserves." The natural-gas situation is important for two reasons. One is that the major oil companies are also the major gas producing companies. The other is that a shortage—or a seeming shortage—of one kind of fuel places added pressure on the others.

Besides indicating a desire for smaller crude oil stocks last year, the major petroleum firms also kept the bulk of their refinery capacity below maximum output for most of the year. In the first four months of 1972, according to their reports to the Texas Railroad Commission, the top 10 firms actually kept their refineries running below the level of the same period of 1971. As a result, supplies of gasoline and heating oil dropped below their levels of a year before. Refinery runs were sharply increased in the next five months, largely to head off a summer gasoline shortage. But this meant that heating fuel was scarce by fall. And, as was mentioned earlier, when the Government appealed for full use of increased import allowances and maximum refinery output to avoid a winter heating oil crisis, the major companies did not comply.

When the crunch came, they accelerated refinery operations to take up the heating oil slack, but this, naturally, got them behind in gasoline production, so that shortages of gasoline in the summer of 1973 became inevitable. Industry spokesmen point out that, despite less than maximum refinery operations for much of last year, over-all fuel production increased over the previous two years. But, as both industry and Government projections had indicated, demand was increasing too fast for anything but maximum output to fill the need.

Meanwhile, a number of the majors were continuing the process, begun some years before, of shutting down marketing units in certain areas, apparently to withdraw from their least profitable operation. Industry spokesmen insist they were merely liquidating "uneconomic" operations. But to some students of the oil business, it looked suspiciously as if the big oil companies were carving up the dometic market to share among themselves. A Federal Trade Commission report on the industry completed last summer explained it this way: "All the majors can increase their regional market concentration simultaneously by pulling out of markets where their share is lower than their national average and selling their operations to those majors who remain. This strategy will work, however, only if the majors can retain or expand their regional market shares. To do so, they must prevent the further entry and expansion of independent marketers. Ultimately the only way to contain or reduce the independents' market shares is through monopoly power at the refining or crude pipeline stages."

In fact, since the onset of the shortages, the majors have increasingly been telling independent refiners and marketers they could not supply them with either crude oil or refined products because they needed all they had for their own operations. Independent refiners have been forced to operate well below their normal capacity. The impact on independent marketers has been devastating. Hundreds of independent gasoline stations have shut down because of a lack of supply.

Many that stayed open were forced to raise prices, wiping out their competitive edge. And the majors increasingly opened up so-called "fighting brand" stations which emulate the high-volume, low-overhead, discount approach pioneered by the independents.

For the most part, Administration officials have agreed with the oil companies that price controls coupled with increased demand were the principal immediate causes of the shortages of last winter and spring. Last November, the Interior Department's Office of Oil and Gas concluded in a draft report that the best approach to licking the heating-fuel problem was to raise the price, providing the industry with an incentive to increase supply. In mid-December in a memorandum to President Nixon, General Lincoln of the Office of Emergency Preparedness said the shortage was due "in large part to the pressures on refinery capacity coupled with the price control situation which has made gasoline production preferable to production of heating oil." Earlier that month, Rawleigh Warner Jr., chairman of Mobil, and Maurice Granville, chairman of Texaco, had complained separately to Lincoln about what they both called the "economic penalty" their companies were paying to accelerate production of heating fuel over gasoline. Nevertheless, the Cost of Living Council has refused to permit across-the-board increases. The C.L.C. concluded last winter, according to General Lincoln, that "the oil industry can make a profit on current prices of [heating oil] and they know it."

So the industry's giants have failed to get the price increases they have longed for. But they have accomplished a number of other objectives. The Alaska pipeline has been cleared for construction by Congress and environmental roadblocks—to offshore drilling, for example—seem about to fall. The pesky independent companies have been gravely weakened. And the majors' sagging profit picture of the late nineteen-sixties and early seventies has taken a dramatic turn for the better.

Exxon, the nation's leading energy company, has seen its profits rise more than 80 per cent in the third quarter of this year over the same period in 1972, the worst of the industry's recent lean years. None of the top five oil companies has reported third-quarter profit increases of less than 50 per cent over last year. Gulf, the third-leading oil producer, says its profits are up 91 per cent from the third quarter of last year.

There are some who believe the major oil companies conspired to bring about these results. Indeed, the Federal Trade Commission, as a result of the previously mentioned study of the industry finished last summer, has filed a huge antitrust case against the top eight oil companies accusing them of collusion to monopolize the industry.

The F.T.C.'s central allegation is that the eight oil majors have "maintained and reinforced a noncompetitive market structure in the refining of crude oil into petroleum products." They have done this, the F.T.C. charges, by—among other things—"pursuing a common cause of action to abuse and exploit the means of gathering and transporting crude oil to refineries . . . participating in restrictive or exclusionary transfers of ownership of crude oil among themselves and with other petroleum companies . . . using their vertical integration to keep profits at the crude level artificially high and profits at the refining level artificially low . . . accommodating the needs and goals of each other in the production, supply and transportation of crude oil to the exclusion or detriment of independent refiners." The commission also charges that similar practices have given the eight firms "monopoly power" over the marketing of petroleum products. The industry has vigorously denied the charges. The case will take years to litigate.

WILLIAM SIMON: NEW ENERGY CZAR

HON. JAMES J. HOWARD

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1973

Mr. HOWARD. Mr. Speaker, the name of the new U.S. energy czar, Bill Simon, has become a household name overnight.

Almost everyone seems to recognize the name of the man who has been assigned one of the more difficult tasks ever assigned to a Government official.

Bill Simon and I went to St. Rose High School together in Belmar, N.J., 31 years ago. People will learn that Bill Simon is a driving, no-nonsense guy who gets things done.

You might not always like what you hear from Bill Simon, but you will always know how he feels. He is as frank a person as you will ever meet.

As chairman of the Subcommittee on Energy of the House Committee on Public Works, I met recently with Bill Simon in my Washington office. There is no doubt in my mind that there will be instances when Bill Simon and I will strongly disagree on certain matters. However, I know that, like the rest of the Nation, I will at least know how this thorough, capable decisionmaker feels about everything and what he proposes to do.

There are a lot of things Bill Simon will be saying that, I am sure, the Nation will want to hear. And I am equally certain there are a lot of things Bill Simon will be saying that the Nation will not want to hear, or will not agree with.

That is the nature of Bill Simon. He has a job to do. And he is not going to spend any time walking on egg shells in order to get it done.

Mr. Speaker, on December 7, 1973, the Wall Street Journal carried an in-depth article on Bill Simon. I think it is an excellent article and commend it to my colleagues. We already have heard a lot about the new energy czar. We are going to be hearing a lot more. The article follows:

Man of Energy—William Simon Works Hard, Decides Fast and Expects Results

(By Burt Schorr and James Gannon)

WASHINGTON.—The era of cheap and abundant oil was already ending as the White House Oil Policy Committee gathered that day last February. Yet the roomful of bureaucrats sputtered along inconclusively, shying away from a decision that seemed obvious: It was time to scrap U.S. oil-import quotas as an almost meaningless anachronism.

One man in the room could scarcely contain his impatience: the committee's new chairman, Treasury Deputy Secretary William E. Simon. "The Oil Policy Committee," he muttered to an aide, "has just met for the last time." And, for all intents and purposes, it had. For when President Nixon later scrapped the quotas, his decision was largely shaped by Mr. Simon and a small "kitchen cabinet" at the Treasury Department.

The incident suggests what the nation can expect from Mr. Nixon's new generalissimo of energy conservation. This time Mr. Simon's task, as he described it the other day, is nothing less than persuading "a nation of wastrels" to change its way of life. But if the issues are more complex, the Simon technique promises to remain unchanged: cut through the tangle and to hell with the niceties.

The new U.S. energy chief is a rarity in government. He drives his subordinates relentlessly but often inspires ferocious loyalty. He handles serious problems without losing his sense of humor. He measures success by results rather than rhetoric. And he manages to get along famously with such opposites as Alexander Haig, the White House chief of staff, and liberal Democrats in Congress.

AN AMBITIOUS MAN OF ACTION

Above all else, Bill Simon is a man of action—and ambition—who makes up his mind in a hurry and demands that his decisions be carried out without delay. "You're going to see things happen now that he has taken over the energy policy area," a Treasury associate predicts.

Given Bill Simon's distaste for cumbersome bureaucracies and his natural inclination to rely upon the unrestricted workings of the marketplace as much as possible, those things promise to include:

An attempt to avoid outright gasoline rationing by sharply cutting back the supply available at filling stations. The new energy chief plans a mandatory gasoline-allocation program that, come January, will reduce retail supplies, by as much as 30% from a year ago.

—Trying to stimulate domestic oil production, while discouraging consumption of gasoline and other fuels, through a decision that would mean higher prices for all of them. This would be to relax or possibly remove federal price ceilings on "old" crude oil—that is, oil produced from already-developed fields.

—Streamlining complicated federal formulas, proposed just last month, for allocating fuel oil so that suppliers and dealers will be able to parcel out supplies on a more informal basis.

—Alleviating a fast-worsening fuel-oil shortage to U.S. cargo ships by allocating to them some of the oil also needed by industry and electric power plants.

FOR THE MOMENT, GUSTO

Even an administrative superman, of course, could be brought to his knees by the sheer complexity of the national energy shortage—particularly if President Nixon is too preoccupied with Watergate to offer him much help. Both factors figured in the downfall and embittered departure of Mr. Simon's predecessor, John Love. But for the moment, Bill Simon seems to be tackling his new job with his customary gusto while positioning himself to pursue what some see as his ultimate ambition.

Associates believe that ambition is to be Treasury Secretary, although his wife doubts he wants the job all that much. They say he turned down the job eventually offered Mr. Love last summer because he didn't want to lose his No. 2 job at the department. Now, however, he has the best of both worlds. He retains his Treasury post in addition to the new energy assignment—and with it a strong possibility of becoming No. 1 should boss George Shultz ever step down.

Those who have worked with Mr. Simon in his cavernous third-floor Treasury office talk of a stimulating, exhausting atmosphere of "perpetual crisis" and of a man who comes across like a combination whirlwind, computer and slave driver. "He's the Vince Lombardi of the financial world," one says.

Besides energy matters, Mr. Simon has been heavily involved in designing administration recommendations for overhauling the nation's banking laws, in wage-price controls, in administration policy on railroad reorganization, and in launching a major Treasury study of U.S. financial-market operations.

Meetings of his kitchen cabinet typically begin at 8:30 sharp Monday mornings and end precisely 30 minutes later. "An hour is way too long for Simon," one member of the inner circle observes. "You're either able to complete your business in five minutes, or you're not organized. If you're not organized, you'd better reorganize."

The Simon workday normally begins at 6:45 a.m., when he climbs into the chauffeur-driven Chevrolet he recently swapped for a gas-guzzling official Cadillac limousine. On good days he makes it back to his six-bedroom white stucco house by 7:30 that night. At home the day's business is firmly put aside for time with his wife, Carol, and four of the seven Simon children living at home. For diversion, Bill may watch an early movie on television or pick up a book like "The Godfather." By Carol Simon's definition of an intellectual—someone "totally involved in unmeaningful things"—her husband "definitely" isn't one. "Bill is much more basic than that," she says.

Bad days, however, bring a rush of "meaningful things" that pin Mr. Simon to his desk until 10 p.m. or later. They also mean desk-top suppers of what underlings call positively "horrible" pizza or cheeseburgers, fetched by the chauffeur.

When Mr. Simon works late alone, associates still are no more than a telephone call —or two, or three, or four—away. Simon phone calls, however, are the essence of brevity, says a subordinate, who recounts one 11 p.m. conversation in its entirety:

Simon (skipping the "hello"): What is LOIP?

Subordinate: Guess you mean MOIP.

Simon: Yeah.

Subordinate: Mandatory oil-import program.

Simon: Oh (click).

If this style would appear very much adapted to a Wall Street securities firm, that was where Bill Simon employed it before coming to the Treasury. When the Nixon recruiter tapped him a year ago, he was making it big as a senior partner in charge of the municipal- and government-bonds department at Salomon Brothers. That meant a six-figure salary, profit sharing worth some $3 million in one fat year for bond markets and a 64-arce estate in Northern New Jersey (which the Simons still own.)

Wealth, Wall Street and high federal office were remote thoughts for Bill and Carol Simon back in the fall of 1950. They arrived home in Spring Hill, N.J., after a Georgia honeymoon with 15 cents between them. Bill was a junior at Lafayette College, majoring in pre-law and very much dependent upon the GI bill (earned as an Army private in Japan) and odd jobs like window washing to get him through.

Carol recalls him as a C student who made "a couple of Bs." And even in a fraternity house (Delta Kappa Epsilon) that often resembled the fourth day of an American Legion convention, fraternity brothers remember Bill for his skillful all-night poker playing—and the time he threw the cigaret machine down the stairs.

A couple of pranksters put the machine in his bed, then waited for the usual late-night rumble of Bill heavily tromping up the stairs to his third-floor room. Bill's bedroom door banged open and there followed a long moment of silence; then laughter, beginning slowly and building to great peals; and finally there was the sound of the six-foot-high machine being wrestled across the floor and crashing down the stairs.

At the time, Bill Simon weighed a robust 250 pounds; these days he is holding steady at a trim 165. And when one of the pranksters—A. Victor Pisani, currently a National Broadcasting lawyer—encountered him in a New York restaurant a couple of years back, Mr. Pisanti decided that his old buddy had changed in other ways as well. He rather sadly concluded that Bill Simon had "gone straight."

Straight perhaps but far from rigid—another reason Mr. Simon stands out in a rather humorless administration. After Treasury Secretary George Shultz told Nixon adviser Mel Laird to "keep his cotton-picking hands off economic policy," it was Mr. Simon who helped defuse the situation by presenting Mr. Laird with a pair of white gloves. And recently Mr. Shultz, a decided straight arrow, had to chuckle at the Simon-clipped newspaper cartoon he found at his place at the regular morning Treasury staff meeting. It pictured an old man wearily dragging himself into bed with his disdainful wife saying, "Talk about an energy crisis!"

While at Salomon Brothers, Mr. Simon helped advise the Treasury on managing the federal debt, but he didn't know George Shultz before coming to Washington. Their association, however, has made them "like two brothers," Mr. Simon says. The Shultz family visited with the Simons on Thanksgiving Day, and the Simons have stayed at Mr. Shultz's Berkshire farm in Massachusetts.

Even more valuable to the administration is the bipartisan fellowship Mr. Simon stimulates on Capitol Hill. Whenever a Congressman had a problem, the Treasury deputy secretary would come to see him rather than the other way around. Mr. Simon also makes a point of posting key lawmakers on administration policy decisions before they are announced rather than after. Last weekend, for example, during the Simon-led crash effort to complete energy-reorganization plans, Mr. Simon personally telephoned some 30 Congressmen and Senators.

During the late 1950s, Mr. Simon headed the Essex County, N.J., Young Republicans. He also gave $15,000 to the 1972 Nixon campaign. But he seems little interested in party labels today. This helps explain why Sen. Arbaham Ribicoff, the liberal Democrat from Connecticut, can call Mr. Simon "the uncommonist bureaucrat I've ever met. He's the only man in government you could call up on the telephone and get an answer immediately."

A STEP FORWARD IN PURSUIT OF FAIR TREATMENT FOR FOREIGN SERVICE OFFICERS

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1973

Mr. ASHBROOK. Mr. Speaker, on December 12 U.S. District Judge Gerhard A. Gesell handed down a ruling regarding the "selection-out" process in which officers of the U.S. Foreign Service are separated from the service for too long a time in grade or for being rated in the bottom percentile of their class. Stated Judge Gesell in part:

> The court is compelled to the conclusion that the limited hearing afforded before the Special Review Panel is constitutionally defective in a number of significant respects.

Although much remains to be done to secure fair treatment for Foreign Service officers, the Gesell decision is a giant step forward in at least identifying the problem.

I was especially gratified by this decision because it was as far back as April 1968 that I introduced H.R. 16408 which called for an appeals mechanism whereby the final decision would be made by a panel outside the Department of State. This bill would have guaranteed Foreign Service officers the same due process and fairness in any grievance procedure that elsewhere is considered to be a basic right. I have introduced the same proposal in succeeding Congresses and am hopeful that eventually it will be enacted into law.

It was not until the tragic suicide of Charles William Thomas, a selected-out Foreign Service officer who for 2 years vainly tried to secure employment, that the problem was further brought to public attention.

The class-action suit before Judge Gesell was financed by the Charles William Thomas Memorial Legal Defense Fund and sponsored by the American Federation of Government Employees-AFL–CIO.

My attention was first directed to the lack of due process for Foreign Service officers by Stephen A. Koczak, presently director of research for AFGE and himself a victim of the unconstitutional selection-out process. A Foreign Service officer for nearly 20 years, Mr. Koczak had served in crisis posts in Budapest, Tel Aviv, and Berlin. As a member of the board of the Thomas fund, Mr. Koczak has been one of the prime movers seeking to reform the Foreign Service personnel system to assure that FSO's are not dismissed or penalized because of irresponsible allegations, including security and suitability issues, made against them either within the Government or by private persons.

Although Mr. Koczak has made many appearances before congressional committees on both the House and Senate sides, on behalf of the rights and benefits of Federal employees, he felt compelled in the national interest to testify on October 1 in opposition to the nomination of a former colleague, Helmut Sonnenfeldt, who he alleged transmitted highly classified information to a foreign power. That nomination, for the Under Secretary of Treasury, was finally withdrawn after considerable opposition developed but Mr. Sonnenfeldt's name has been resubmitted to the Foreign Relations Committee for the post of Counselor of the State Department. It is hoped that Mr. Koczak will be invited to appear before the Foreign Relations Committee to explore some serious security aspects of this controversial case.

The text of Judge Gesell's memorandum opinion follows:

[Civil Action No. 1312–73]

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

Philip Lindsay, et al., Plaintiffs, against Henry A. Kissinger, et al., Defendants.

MEMORANDUM OPINION

When officers appointed to the Foreign Service or to the United States Information Agency are found to have failed to meet minimum standards of performance they may be involuntarily retired for the good of the Service pursuant to the Foreign Service Act of 1946. Plaintiffs in this class action sue on behalf of approximately ten such officers still scheduled to be so "selected out" at the end of this year. It is claimed that the procedures and regulations of the Department of State under which such officers are chosen for separation are unduly vague and violate due process. This constitutional claim comes before the Court on the merits following extensive pretrial proceedings.[1] The controlling facts are not disputed and the decision hinges on essentially legal considerations.

The principal claim advanced centers around plaintiffs' contention that officers facing separation under the selection out procedures are denied adequate notice and adequate opportunity to be heard in that they do not always receive adequate notice and may not call favorable witnesses, confront adverse witnesses or employ counsel.

Defendants have consented to the certification of plaintiffs' class for the purpose of challenging the current selection out regulations. Since the Court finds that plaintiffs can adequately represent the suggested class in an action for injunctive relief and that the other requirements of Rule 23(b)(2) of the Federal Rules of Civil Procedures are satisfied, certification will be granted.

Congress, by appropriate legislation, determined some time ago that officers, once appointed, should not have permanent tenure but rather should be competitively ranked to the end that those officers failing to maintain minimum standards might be weeded out to promote the overall efficiency of the services in which they serve. Selection out procedures responsive to this legislation have been in effect for more than twenty years and have been constantly refined and improved. There is every indication that the Department has been sensitive to its obligations and has sought to proceed with care. The plaintiffs do not object to a selection out system as such, but they vigorously assert that it is administered unfairly because an officer facing separation is denied those rights to adequate notice and hearing that are guaranteed by the United States Constitution and are essential to a fair and equitable determination of his ultimate status.

A brief review of the selection out procedures currently followed in the Foreign Service will delineate the setting in which these claims are asserted. These procedures are set forth in written precepts widely publicized throughout the Service and are virtually identical to those followed for officers appointed to the United States Information Agency (USIA).[2]

A Selection Board appointed each year annually reviews the performance of all Foreign Service Officers and ranks them. This is done to identify officers in the very bottom percentile of their classes and hence likely to be separated, as well as those in the top ranks of their grades to be considered eligible for promotion. These rankings are made on the basis of each officer's personnel file, which contains detailed periodic appraisals of his work by superiors. The Selection Board is specifically directed to designate for selection out those officers who fall within a specified low percentile in the rankings. The critical percentile varies from year-to-year, but is never greater than ten percent.

Those officers so designated are advised in writing that they are subject to forced "involuntary retirement" before the calendar year ends. This notice includes a statement of the deficiencies in performance relied on by the Selection Board as the basis for its decision. The notices vary somewhat in form and content, some being more factual and some more impressionistic than others.

An officer has complete access to his personnel file that was before the Selection Board. If he wishes to protest the decision, he may appear before a Special Review Panel, composed of a wholly different membership than the Selection Board, and offer mitigating information, including explanations and contravention of the facts specified in the selection out notice. The Special Review Panel may then recommend for or against selection out.[3]

Plaintiffs' constitutional challenge to the adequacy of this procedure revolves around four main contentions:

(1) The officer may not see all materials relating to his case that were considered by the Selection Board.

(2) The Selection Board's statement of reasons, as provided with the selection out notice, is too general and hence uninformative.

(3) The Selection Board's determination is made without adequate standards, complicating the officer's attempt to perform his job in compliance with such standards.

(4) The Special Review Panel does not allow supporting or adverse witnesses to be called and prohibits appearance of counsel.

Before discussing these objections in the light of the applicable decisions, it is pertinent to emphasize aspects of the selection out process bearing on the nature of the personnel judgments that must be exercised and the effects of the judgments made on the officers affected.

The Department has made a substantial effort to make known the qualities it desires in officers of different grades. General as these indications must be, considering the difficulty of expressing professional attributes, they are precise and clear. In short, a Foreign Service Officer well knows what is expected of him. Periodic evaluations of an officer's performance are made against these requirements. Superiors record with some considerable candor an officer's strengths and his observed deficiencies at a particular post. An officer may see the evaluation as soon as it is filed, and he may file a grievance with full rights of hearing whenever he believes an injustice has occurred. It is a fair inference from the materials in the record that although a conscientious effort is undoubtedly made to assure uniform and fair evaluations, an officer's evaluation may reflect his inability to function under an assignment inconsistent with his experience and training, or personality conflicts with an unreasonable superior, or the evaluating officer's own lack of experience and understanding of an officer's responsibilities, etc. Moreover, in the nature of things, an officer has no way of knowing or comparing his periodic performance evaluations with that of colleagues in his class functioning under different assignments, at different locations under different supervisors. The Selection Board considers evaluations over a period of years, thus minimizing these differences, but in the nature of things, all unevenness cannot be eliminated and performance ratings are uneven. Thus, an officer may not fully realize his actual circumstances until he receives his notice of selection out from the Selection Board nor can he always know with any certainty what adverse or negative aspects in his many evaluations will be singled out to support the unfavorable ranking decision then made.

Yet to be ranked for selection out is no light matter. It threatens an involuntary separation. It carries a stigma and, to use the words of Justice Frankfurter, causes a "grievous loss" to the officer's professional standing. *Joint Anti-Fascist Refugee Com.* v. *McGrath*, 341 U.S. 123, 168 (1951). It is impossible to accept the Department's suggestion that it will not seriously impede transfer to civilian life.

Given these considerations, the Court is compelled to the conclusion that the limited hearing afforded before the Special Review Panel is constitutionally defective in a number of significant respects.

The Federal Courts have sought to avoid becoming involved in governmental personnel actions. The cases have placed primary emphasis upon the process by which personnel decisions are made rather than the result. Experience has shown that the greatest protection against mistake or arbitrary action is found in a hearing process that involves notice, the right to be heard and some form of confrontation with accusers. Such hearings involve time and inconvenience for busy administrators but they have come to be recognized as a constitutional necessity under circumstances such as these presented here.

It would be inappropriate for the Court to order a series of detailed rules for conduct of hearings before the Foreign Service Special Review Panel and the USIA Retirement Board. Rather, the Court will simply undertake to state certain minimum safeguards which the record indicates are essential under the circumstances of this case. It is clear that an officer is entitled to more than a general conclusory form of notice—he must, in addition, be advised of the facts on which the Selection Board's notice is based and he must, before the hearing, have full access to all materials concerning him that were considered by that Board. While no subpoena power is available, he should be given opportunity to present favorable witnesses willing to appear in person or by affidavit. He must be allowed to interrogate adverse witnesses in person or by written interrogatories approved by the Selection Board. If he can retain counsel at his own expense, such counsel must be permitted to represent him at the review hearing. Experience will dictate methods for developing a fair hearing consistent with these rights without turning the process into an unduly formal adversary trial. The Board may, of course, impose strict rules of relevance and materiality and, obviously, any fact that has been the subject of a formal grievance hearing need not be reheard.

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[1] Plaintiffs moved for a preliminary injunction. Defendants countered with a motion to dismiss and for partial summary judgment. Essential documents, many of them voluminous, were admitted and the parties filed extensive affidavits and memoranda of law. Following several status conferences, the Court suggested at a full hearing on the motions that Rule 65(a) of the Federal Rules of Civil Procedure appeared to warrant a joint submission on the merits by both parties without further testimony or hearing. The parties shortly thereafter filed additional materials and advised on the record that neither side desired to submit further proofs. Thus the case was finally submitted on December 10, 1973. The Department of State has agreed to defer separation of any member of the class until December 31, 1973, on the Court's assurance that the issue will be resolved by the Court before that date.

[2] Although Congress has provided that "Foreign Service Information Officers shall be separated and retired in accordance with [the Foreign Service Act of 1946]," 22 U.S.C. § 1228 (1970), the implementing regulations of the two agencies reveal minor differences in their selection out procedures.

[3] In the USIA, this review procedure is performed by that agency's Retirement Board.

The State Department has offered no adequate justification for denying any of these procedural safeguards.[4] It has pointed to the availability of grievance procedures, but the selection out decision itself cannot be grieved, nor are these procedures guaranteed unless a grievance is filed promptly after the submission of a particular performance report. It is also urged that adverse witnesses cannot be called back from overseas duty without disruption of the Service. But not all such witnesses will be stationed abroad at the time of the hearing, and those that are can be required to answer interrogatories. No explanation is offered for the exclusion of counsel and supporting witnesses who are willing and able to appear. The fact of the matter appears to be that the Department is so confident in its own administrative judgments that it wants to discourage any true confrontation on the selection out issue, for it will not even pay an officer's passage back to Washington if he asks for an appearance before the Special Review Panel.[5]

This minimization of forced separation is impermissible, given the standards the Supreme Court has established for discharge from government service.[6] *See Bd. of Regents* v. *Roth*, 408 U.S. 564, 576–77 (1972); *Slochower* v. *Bd. of Education*, 350 U.S. 551 (1966); *Wieman* v. *Updegraff*, 344 U.S. 183, 192 (1952). *Cf. Goldberg* v. *Kelly*, 397 U.S. 254 (1970). Of course, a full adversary hearing is not required if the circumstances of the particular case dictate otherwise, for the Court must determine the appropriate procedural safeguards by balancing inconvenience, expense and proper government objectives against the rights of the individuals affected. *Morrissey* v. *Brewer*, 408 U.S. 471, 481 (1972); *Hannah* v. *Larche*, 363 U.S. 420, 442 (1960). But in the instant case, as discussed above, the Department has failed to offer any substantial reason for refusing to provide the procedures sought by plaintiffs. Given the seriousness of the selection out sanction, the relatively few individuals involved, and the imperfect, somewhat impressionistic data on which the Selection Boards must rely, the objective of the Department in eliminating marginal officers will not be unduly impeded by providing a more adequate hearing. This will assure the essentail fairness which the Constitution requires and will perhaps, in the long run, result in better informal judgments in particular cases. At the same time, the laudable and necessary procedure for weeding out marginal officers in the interests of efficient and effective competitive foreign service agencies will be preserved as Congress wisely desired.

On the other hand, the Court finds no ground for plaintiff's effort to require a greater specificity of standards for determining who will be selected out. These have already been adequately defined. The matter cannot be reduced further to a mathematical precision. Professional competence is not susceptible to such treatment. Moreover, there is nothing in the Foreign Service Act of 1946 or the Constitution which prevents budgetary considerations from affecting the particular selection out percentiles. Full and fair hearing is all that is required.

As to the individual cases of Lindsay, Starbuck and Poo, the file is voluminous. Each of these officers has been contesting separation out for some time. As a result of discovery in this case, new materials have been made available to each of them and they in turn, tendered responses bearing on the data disclosed. At no time has any of them yet had a hearing of the nature the Court has indicated above should be afforded before separation. Accordingly, none of them can be legally separated without another hearing. There is no ground for repeating submissions already made by the officers, but they should be afforded a final hearing before disposition of their cases to cover new data and to present witnesses, where appropriate. This can be accomplished rapidly. If a final administrative determination is made to separate any of them, no further remedy will be afforded them in this proceeding, which will terminate as to their claims by remand for appropriate hearings.

The foregoing shall constitute the Court's findings of fact and conclusions of law, which are set forth formally in the attached Order.

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

[Civil Action No. 1312–73]

Philip Lindsay, et al., Plaintiffs, against Henry A. Kissinger, et al., Defendants.

ORDER

It appearing to the Court that plaintiffs, as a class, are entitled to a declaratory judgment and an injunction for reasons stated in the Court's Memorandum Opinion filed this date,

Now therefore the court declares: That defendants' regulations and procedures now in force governing the selection out for inadequate performance of officers appointed in the Foreign Service or the United States Information Agency are constitutionally defective in that they deny all officers in the class here certified an adequate hearing comporting with the requirements of due process under the Fifth Amendment, and

It is accordingly ordered: That no officer appointed to the Foreign Service or the United States Information Agency, including the named plaintiffs, who has been notified that he is to be separated from either of such services in 1973 by reason of the selection out regulations and procedures in force in such agencies shall be separated from either of such services unless and until a hearing before the Special Review Panel or Retirement Board is held, on adequate notice, and the officer facing separation has been afforded a right to appear before such Panel or Board in person at Government expense, to be represented by an attorney if retained by such officer, to present relevant and material factual information through witnesses willing to appear in person or by affidavit on his behalf, and such officer has been afforded reasonable opportunity at such hearing to confront in person or by written interrogatories any person then employed by the Department of State who has submitted adverse information not previously considered in a grievance hearing where such information is relied on by the Selection Board in rating such officer; provided, however, that no hearing shall be required unless the officer shall request such a hearing, in writing, within two weeks from the date of this Order, and it is further

Ordered that judgment shall be entered in favor of the defendants with respect to all other issues raised in this proceeding; provided, however, that nothing herein shall affect the right of plaintiff Cole to challenge, by a separate action, his classification following the decision to retain him in the Foreign Service.

RECREATION IS ESSENTIAL

HON. WILLIAM H. HUDNUT III

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1973

Mr. HUDNUT. Mr. Speaker, many of my constituents have been deeply concerned that the Senate, in its haste to pass S. 2589 dealing with the energy crisis, included at least one objectionable feature of major significance when it was determined and stated that "recreational activities" are nonessential. In my opinion, recreation is a very essential part of everyone's life and certainly of a healthy community.

In common parlance, to be sure, the term "recreation" is associated with leisure time activities that are fun, but not essential. Entertainment, taking time off from work, enjoying pleasurable pursuits, having good times—all these activities could be deemed "nonessential" if by "essential" we mean activities contributing to support of life.

Even so, there are legitimate reasons for not discriminating against "recreational activities." First of all, the American people in my opinion want an equitable treatment of all segments of the economy. Many persons have written me expressing their feelings that things like the boating industry and general aviation, to cite but a couple of examples, should be treated fairly in any allocation program. The House version of the National Energy Emergency Act incorporates suitable language to assure such equitable treatment, and is, therefore, stronger than the Senate version.

But more important yet, think about

---

[4] Instead, it has consistently maintained that it is not constitutionally required to offer plaintiffs *any* form of hearing, citing Bd. of Regents v. Roth, 408 U.S. 564 (1972). This reliance on *Roth* is misplaced, for nonprobationary Foreign Service and USIA officers have a clear expectation of continued employment absent an official finding of inadequate performance, and would, in addition, be significantly harmed by the stigma of involuntary retirement. *Compare Roth* at 573, 578.

[5] Such compensation is, however, offered to USIA officers desiring to appear before the Retirement Board. No explanation whatever is given for this distinction.

[6] This conclusion is strongly supported by a decision of the United States Court of Appeals for the District of Columbia Circuit, released shortly after the preparation of this Memorandum Opinion, in which that Court stressed the importance of an adequate hearing prior to separation from Government service, Thompson v. Washington, No. 71–2049 (D.C. Cir. Dec. 10, 1973).

the meaning of the word "recreation" and ask if it is "nonessential." Recreation means "re-creation." The health of any person—and any community—depends upon a reasonable balance between work and play, involvement and disengagement, activity and relaxation. Recreation means filling one's leisure time with worthwhile pursuits—it is not dead time or meaningless time. Recreation means restoration to health, refreshment of spirit, renewal of strength, recharging of batteries. Recreational activities give new life, they bring rebirth, they refurbish the temple of the inner spirit, they restore strength to tired bodies. And as such, they are essential.

Then too, think about this matter in terms of recreation in community life. Certainly it is a lot more than "fun and games," much, much more than simply playing games and entertaining people. In Indianapolis we have a wonderful program of "lighted schoolhouses" to provide meaningful recreational and educational opportunities to youngsters who do not enjoy the luxury of summer homes in the country, helpful senior citizens programs, and so forth.

In spite of its connotation, recreation—in the context of urban American—really means—and I am quoting from Franz Arthur Strong, superintendent of recreation for the board of parks and recreation in the city of Indianapolis):

> 1. A deterrent to crime—getting some of our most troubled youths off the street and teaching them self-respect, physical well-being, companionship, trust and fair dealing with others.
>
> 2. The feeling of belonging for the oldsters. It helps overcome the loneliness of being older—helps bridge a gap between the work life of earlier years and the years of idleness which can cause many problems, i.e., sickness, depression, self-pity and a feeling of uselessness.
>
> 3. Helping adults learn to motivate their minds and bodies—hold a better retirement attitude—give them an understanding of their changing role in life as they mature and age.

Public recreation programs and facilities should not be exempted from emergency conservation measures, but neither should they be discriminated against or treated unfairly, because they constitute a legitimate public service. How else can we explain the fact that "recreation" is included in general revenue-sharing as one of eight eligible spending categories? In short, recreation is a very large word, and to be termed "nonessential" is a gross misnomer. It is a very essential part of everyone's life, and of any community, and will become even more so as people's free time increases and as people, perhaps to save fuel, cut down on the amount of traveling that they do and stay closer to home. I feel that in the House bill, H.R. 11450, which we are debating now in the Congress, we have recognized the importance of "recreational activities" and I sincerely hope that we will insist on keeping this conviction in the wording of the energy emergency legislation when we go to conference with the Senate.

NO TIME FOR PATIENTS?

HON. CLAIR W. BURGENER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1973

Mr. BURGENER. Mr. Speaker, a most timely editorial appeared in the Wall Street Journal recently on the very controversial subject of Professional Standards Review Organizations—PSRO. I believe every physician and indeed every patient has a deep interest in this subject. The Congress, I believe, will be obliged to deal with this matter during 1974 and I urge my colleagues in this House to take cognizance of this editorial.

The editorial follows:

> #### No Time for Patients?
>
> We would never argue that any group should be exempt from accountability to the larger society, but we can understand why many doctors at an American Medical Association convention in Anaheim this week are up in arms over a new federal law purportedly designed to monitor the way doctors deal with federally insured patients.
>
> The law, described elsewhere on this page today by Dr. Winsten, requires the establishment of "Professional Standards Review Organizations" all around the country starting Jan. 1. These PSROs, which will be comprised mainly of doctors, will have the task of second-guessing decisions made by other doctors in treating patients under Medicare, Medicaid and maternal and child health programs.
>
> Their findings will be used by a HEW bureaucracy to establish certain "norms" that doctors would be expected to follow in treating federally insured patients. Such questions as whether some doctors overprescribe or require unnecessary hospitalization will enter into the review and norm-setting process.
>
> While we favor a businesslike administration of federal social programs, the PSRO legislation raises some questions which didn't get adequately asked or answered by Congress. It was attached, by Senator Bennett (R., Utah), as a rider onto last fall's big and controversial Social Security bill and somehow rode through with almost no public attention. The House did not even hold public hearings on the PSROs.
>
> And yet the law empowers the government, through PSROs, to examine medical records in doctors' offices, not only of federally insured patients but private patients as well. The Association of American Physicians and Surgeons thinks this is an unconstitutional invasion of a private relationship.
>
> Further, it can be doubted that Congress gave sufficient thought to the cost of all this monitoring and normsetting. There is no clear picture of how many PSROs there will be but a minimum of 150, and probably considerably more, is likely. The man-hours of doctors who serve on them will be that many fewer man-hours devoted to practicing medicine, not to mention the man-hours that will have to be devoted in doctors' offices to meeting demands for information or justifying decisions.
>
> It might be noted that some 50 million patients and 10 million hospital admissions are potentially subject to monitoring and that the proposed norms cover some 350 procedures. It makes you wonder if doctors will have any time left to treat patients.
>
> Finally, the law seems to ignore that a great deal of peer review already goes on in medicine, by state and local medical societies and hospital boards that review decisions to operate and the like. While peer review has been criticized as ineffective a lot of the criticism remains unproved. In Louisiana last December, it was the state medical society that blew the whistle on a HEW-financed private birth control scheme that now is under criminal investigation, which suggests that the public interest may fare at least as well under private peer review as through the good offices of HEW.
>
> Many doctors claim that the PSRO sleeper actually was designed to open the medical profession up for full federal insurance, or, as the AMA once would have termed it, "socialized medicine." Interestingly, the AMA had a hand in the original conception of PSROs, apparently with some notion of displaying flexibility—thus avoiding the kind of pitched battle it lost over Medicare—and at the same time keeping PSROs in the hands of physicians. But a good many physicians are making it clear that they think that was a bad tactic.
>
> It would seem that they have a point. Medicare and Medicaid were a product of the mid-1960s and there is no denying the public support that then existed. But this is 1973 and Americans have seen quite a lot they don't like about federal social programs. There is no certainty they are yet ready for national health insurance and they certainly aren't ready for sneaky approaches to that end through innocent-looking riders to complex bills in Congress. As to monitoring Medicare and Medicaid, HEW might do well, or so the Louisiana case would suggest, to get better control of its existing auditing system.
>
> Rep. Rarick (D., La.) has introduced a bill to repeal PSROs. It may well be that the public has a bigger stake in repeal than it realizes. At any rate, the issue deserves a better hearing than it got when PSROs were so nimbly written into law last year.

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION BILL AMENDMENTS

HON. JOHN DELLENBACK

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1973

Mr. DELLENBACK. Mr. Speaker, in the very near future we are scheduled to be considering H.R. 11510, a bill to establish an Energy Research and Development Administration. Reorganization in the energy field is very much needed and I am pleased that the Congress is moving in this direction. The fragmented approach heretofore taken has made it extremely difficult, if not impossible, to progress rapidly in the very important field of energy research and development, and I feel this bill will provide some remedy for this situation by consolidating the energy-related R. & D. functions of the Atomic Energy Commission, the Department of the Interior, the National Science Foundation, and the Environmental Protection Agency.

While this bill provides some much-needed reorganization, I feel that it could and should be strengthened and I intend to offer amendments to do just that. One of my amendments would seek to establish priorities to help guide the Administrator in his decisionmaking process. The bill as it stands gives little policy direction to the Administrator. It is important that we in Congress spell out what we feel some of the priorities should be, and one amendment I propose to introduce will do exactly that.

Another amendment I plan to introduce would direct ERDA to make a study and report on how best to reduce the growth rate of the Nation's energy demands without jeopardizing the economy. We must strive to reduce the energy demand growth rate, and ERDA would be the agency most suited to look into this.

Still another amendment I plan to offer would direct the CEQ to carry out a continuing environmental evaluation of the actions and technological developments of ERDA. In our rush to solve the energy crisis we must not overlook the importance of taking into consideration the effects of our actions on the environment. We in Congress would be derelict were we to override all of the work we have previously done to protect the environment.

The texts of the three amendments I plan to offer are as follows:

AMENDMENT TO H.R. 11510

(Offered by Mr. DELLENBACK—No. 1)

Page 32, line 2, insert "(a)" before "(1)".

Page 34, line 11, insert a new section 104 (b) to read as follows:

"(b) In making research and development decisions pursuant to this Act, the Administrator shall assign priority to those undertakings in which:

"(1) the urgency of the public need for the potential results of the research, development, or demonstration effort is high and there is little likelihood that similar results would be achieved in a timely manner in the absence of Federal assistance;

"(2) efficient use and conservation of energy are promoted, domestic renewable energy resources are utilized, and adverse social and environmental impacts are minimized;

"(3) the potential opportunities for non-Federal interests to recapture the investment in the undertaking through normal commercial development appear inadequate to encourage timely results;

"(4) the extent of the problems treated and the objectives sought by the research and development are national or regional in scope as opposed to being of importance to localities or individual industries;

"(5) there are limited opportunities for regulatory actions and incentives other than direct Federal research and development assistance;

"(6) the degree of risk of loss of investment inherent in the research and development is high and availability of risk capital to the non-Federal entities which might otherwise engage in the field is limited; and

"(7) the magnitude of the investment appears to exceed the financial capability of potential non-Federal participants in the research to support effective efforts."

AMENDMENT TO H.R. 11510

(Offered by Mr. DELLENBACK—No. 2)

Page 34, line 10, after the word energy, delete the period and insert the following: "which includes undertaking a study to determine how best to slow or reverse the growth trend of the Nation's energy demands without jeopardizing the soundness of the Nation's economy. Within two years of enactment of this Act, the Administrator shall report to Congress on the findings of this study, which report shall include any recommendations for action which the Administrator may have."

AMENDMENT TO H.R. 11510

(Offer by Mr. DELLENBACK—No. 3)

Page 55, line 8, insert a new section 308 to read as follows:

"SEC. 308. (a) The Council on Environmental Quality is authorized and directed to carry out a continuing analysis of the conduct of research and development of energy technologies to evaluate—

"(1) the adequacy of attention to energy conservation methods,

"(2) the adequacy of attention to the probable environmental effects of the application of energy technology, and

"(3) the adequacy of attention to environmental protection in connection with energy processes.

"(b) The Council on Environmental Quality, in carrying out the provisions of this section, may employ consultants or contractors and may by fund transfer employ the services of other Federal agencies for the conduct of studies and investigations.

"(c) The Council on Environmental Quality shall hold annual public hearings on the conduct of energy research and development and the probable environmental consequences of trends in the application of energy technology, and the transcript of the hearings shall be published and made available to the public.

"(d) The Council on Environmental Quality shall make such reports to the President, the Administrator, and the Congress as it deems appropriate concerning the conduct of energy research and development, and the President as a part of the annual Environmental Policy Report shall set forth the findings of the Council on Environmental Quality concerning the conduct of energy research and development and the probable environmental consequences of trends in the application of energy technology."

EMERGENCY ENERGY ACT A RECKLESS AND ILL-CONSIDERED PROPOSAL

HON. WILLIAM L. ARMSTRONG

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1973

Mr. ARMSTRONG. Mr. Speaker, I shall vote against H.R. 11450.

I am reluctant to do so. This Nation faces a severe energy shortage. And the people of America have every right to expect Congress to act decisively and responsibly to meet the emergency.

But this legislation—the so-called Emergency Energy Act—is neither decisive nor responsible. On the contrary, it is an indecisive, vague, buckpassing bill that represents just about the most irresponsible possible course of action.

In April, and again in July, I appealed to Members of the House to give serious consideration to the emerging shortage. Unfortunately, however, at that time only a few Members of Congress realized how serious the shortage would soon become.

Now, after months of delay, the House is about to be stampeded into adopting this reckless and ill-considered legislation, which has been brought to the floor in haste without proper study by committee, without decent consideration of amendments—I am told only 3 minutes was allocated to consideration of each amendment by the committee—without even having the bill available in its final proposed form until 8 p.m. the night before debate began, without a committee report until the very day it came before the House, and in a form which would clearly violate the rules of the House were it not for the extraordinary dispensation granted by the Rules Committee.

Undoubtedly, some will argue that the extreme urgency of the situation justifies haste. As one who has been chaffing over the hemming and hawing of congressional action on the energy problem, I can well understand this point of view.

But after months of stalling, there is no justification for acting in such a reckless manner on a matter of such vital importance to the future of this Nation.

This bill is a monstrosity. It is tempting to catalog all of the shortcomings of this legislation. But instead of doing so, I would like to focus on one particular aspect of this legislation which seems to me not only unwise but ominous.

This bill gives the President unprecedented power—including authority to institute gasoline rationing at the wholesale, retail, and consumer level—without providing any congressional direction or standards for implementing such rationing.

The President already possesses near dictatorial powers—granted by the Economic Stabilization Act, the Emergency Petroleum Allocation Act and other legislation. But this bill will literally give him the power of economic life or death over every job and business enterprise in this Nation.

Such a delegation of power is inconsistent with the ideals of a self-governing people and unworthy of the Congress of the United States.

I personally hope rationing can be avoided. Rationing is only a way of sharing the shortage. It does nothing to increase production or supply; rationing will require creation of a huge and costly bureaucracy; rationing will foster economic dislocations that will further distort our already battered economy; rationing is inherently unjust.

For all of these reasons, I regard rationing as a last resort.

But if rationing becomes inevitable, then Congress should set the standards and establish the necessary safeguards to assure that all segments of the economy—consumers, producers, public enterprises and others—are given proper consideration and that the system is as fair as the mind of man can make it.

This bill does exactly the opposite: it not only thrusts this decisionmaking power on the President, it virtually assures rationing will be implemented since it fails to provide other and more promising solutions to the energy crisis.

Seldom in the history of this Nation has any proposed legislation so richly deserved to be defeated. Although it has some redeeming features, this is a bad, bad bill. I shall vote against it.

However, whether this legislation passes or not, I intend to continue fighting for the measures that I believe to be essential to deal responsibly with the energy crisis.

I recommend:

A NEW NATIONAL ENERGY POLICY

Fostering abundant and cheap energy has been the official policy of the U.S.

Government for decades. And properly so.

But times and the needs of the Nation have changed. Congress must now reconsider this policy and direct that conservation of energy, as well as natural resources, be given equal consideration by Federal policymakers and regulatory agencies. In doing so, Congress should enact a National Energy Policy Act. Energy policy is now scattered throughout statutory enactments, Presidential proclamations and regulatory decisions. By pulling together the fragments into a comprehensive act, Congress can sharpen the focus of issues and provide a framework for rational decisions.

DEEP WATER PORTS

Although recovering a greater degree of energy self-sufficiency must be a prime goal of national policy, achieving this objective will require several years. In order to facilitate importation of foreign petroleum in the meantime, licensing of deep water ports should be authorized by this session of Congress.

ACCELERATED DEVELOPMENT OF OFFSHORE OIL

The Atlantic Outer Continental Shelf is estimated to contain oil reserves of 46 billion barrels; Alaskan waters, an additional 56 billion barrels.

The President has announced plans for the Council of Environmental Quality to begin necessary environmental impact studies in preparation for oil exploration and development. But this is expected to take at least a year; other studies and approvals may take 5 years or more, under present timetables.

I believe this schedule can and should be improved.

At the same time, however, I want to be sure adequate funding is available for research to prevent ecological disasters such as the one which occurred in the Santa Barbara Channel.

TAX INCENTIVES

I concur with the President's recommendations for tax incentives to spur research, exploration, and development of energy sources.

In addition, I recommend consideration be given to tax incentives to encourage conservation of energy; for example, allowing homeowners to deduct the cost of upgrading home insulation. This improvement could save each homeowner 40 percent of annual fuel consumption.

INCREASED PRODUCTION OF NATURAL GAS

The rapidly growing demand for natural gas cannot be met unless production is dramatically increased. In the last 6 years, natural gas consumption has increased 37 percent. Proven reserves of gas have decreased 21 percent.

Moreover, the drilling rate and the finding rate—the volume of oil and gas found per unit of drilling effort—are declining. As the most accessible reserves have been depleted, it has become necessary to drill to deeper levels for gas. So the cost is rising.

The Government decreed wellhead price ceilings have discouraged new exploration and development to provide new supplies. At the same time, artificially low prices have encouraged many industrial firms and utilities to consume large quantities of gas when these users might better use other fuels. For these reasons, I support the deregulation of "new" natural gas.

It is important for consumers to understand, however, that wellhead increases will not have a corresponding effect on the cost of natural gas used in homes. Since the cost of producing gas at the wellhead amounts to only about 16 percent of the cost paid by consumers—transportation and other costs make up the balance—homeowners would scarcely feel even the largest projected increase in wellhead prices.

I also commend the creative new approach to financing a greatly expanded gas search effort by companies such as Colorado Interstate Corp.

CIC has been spending $2 to $3 million annually on exploration. But if FPC approval is obtained, and the company is optimistic it will be, this firm will undertake a 5-year, $60 million exploration and development program to add new gas supplies to meet customer needs. Congress and regulatory agencies should encourage efforts of this kind which are essential to meet national energy needs.

EXPANDED RESEARCH AND DEVELOPMENT

The President has proposed a new 5-year $10 billion energy research and development program. Over 85 percent of this sum—$733 million—is devoted to nuclear power research and coal gasification-liquification programs. Such research is worthwhile.

However, I continue to believe oil shale is also a potential energy source of immense importance. So I recommend greater emphasis be given to research and development of this resource.

If we proceed at a measured pace now shale can be turned into oil on a basis consistent with environmental standards. But if we neglect oil shale development, there is real danger we may be pushed into panic development at some later time. If that happens, environmental concerns could be left in the lurch.

Although I am less optimistic about prospects for solar energy and geothermal power sources, both are technically feasible. To the extent they afford a sound alternative, these sources of energy should also be encouraged.

In order to stimulate research, Congress should consider an antitrust exemption for energy companies which create joint ventures for research and development. The cost of coal gasification and oil shale are so huge that such joint efforts may be necessary. A narrowly defined, and carefully regulated, antitrust exemption may be required.

MODERN TRUCK SIZE-WEIGHT LIMITS

Impressive fuel savings may be possible by adopting increased limits for the size and weight of trucks operating on the Interstate Highway System. Present Federal and State restrictions inhibit use of larger vehicles which could save as much as 31 percent in fuel consumed to provide a given volume of transportation service, I am advised.

An increase can be justified without adverse safety or highway maintenance consequences, a move endorsed by the American Association of State Highway Officials and the Federal Highway Administration.

CONSERVATION OF ELECTRIC ENERGY

I commend efforts utility companies are making to level peak load requirements for greater efficiency.

I also approve the reevaluation of electric rate discounts given to big users. I am pleased the utilities and State utility commissions are studying these discounts to assure that large users are not unintentionally being subsidized by other electric consumers.

RETURN TO FREE MARKET PRICING

Artificially low prices encourage the wasteful, and sometimes frivolous, use of energy. Current price ceilings and proposals for price rollbacks are contrary to sound energy policy. These measures encourage consumption and discourage production—the opposite of our goal.

I urge a return to free market pricing at the earliest possible date.

VOLUNTARY EFFORTS

I also want to point out the growing need for voluntary conservation efforts. Voluntary measures are important, particularly in the immediate future.

I commend those who are taking part in car pools, reducing their speeds on the highways, making more prudent use of fuel-consuming accessories and appliances. They are making a very real contribution to solving this national problem.

REORGANIZING TO MEET THE ENERGY CRISIS

In conclusion, I would like to comment briefly on the need to develop a coordinated approach to energy policy. Energy policymaking is now diffused throughout the executive branch; and in Congress at least 94 committees and subcommittees have jurisdiction over energy legislation. The delays, confusion, and counterproductive efforts which result can no longer be tolerated.

It is time to reorganize. But reorganization is not a panacea. If reorganization facilitates substantive improvement, as I believe it will, then such reorganization is worthwhile. But it is not an objective, only a means to the end.

The energy shortage is growing more serious each day. Most proposed courses of action have a long leadtime. We cannot solve this problem overnight. But with energy consumption continuing to rise we cannot afford further delay in getting started.

SENATE—*Monday, December 17, 1973*

The Senate met at 10 a.m. and was called to order by Hon. GEORGE McGOVERN, a Senator from the State of South Dakota.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O God, our Father, as we lift our hearts to Thee in prayer, we thank Thee for the mood and spirit of the Advent season. We thank Thee for the song in the air and the star in the sky penetrating the darkness of sin and suffering and sorrow. Help us to make ready for the coming again of Him who brought the life of God into the life of man.

May the humility and tenderness of Bethlehem strip us of all selfishness and pride and touch our lives with the purity and trustfulness of childhood. May the spirit of the Christ Child brood over us and move amongst us in the corridors of power, so that His kingdom of righteousness and justice may be advanced in the world. And finally may we join the celestial choirs singing "He shall reign forever and forever." Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The second assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., December 17, 1973.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. GEORGE McGOVERN, a Senator from the State of South Dakota, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. McGOVERN thereupon took the chair as Acting President pro tempore.

MESSAGE FROM THE HOUSE RECEIVED DURING THE ADJOURNMENT OF THE SENATE

Under authority of the order of the Senate of December 14, 1973, the Secretary of the Senate, on December 15, 1973, received the following message from the House of Representatives:

That the Speaker had affixed his signature to the following enrolled bills:

H.R. 11324. An act to provide for daylight saving time on a year-round basis for a 2-year trial period, and to require the Federal Communications Commission to permit certain daytime broadcast stations to operate before local sunrise; and

S. 2178. An act to name the U.S. courthouse and Federal office building under construction in New Orleans, La., as the "Hale Boggs Federal Building," and for other purposes.

The Vice President, on December 15, 1973, signed the enrolled bill (H.R. 11324), to provide for daylight saving time on a year-round basis for a 2-year trial period, and to require the Federal Communications Commission to permit certain daytime broadcast stations to operate before local sunrise.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, December 14, 1973, be dispensed with.

Mr. HELMS. Mr. President, reserving the right to object—and I shall not object—the Senator from North Carolina at this point simply wants to illustrate to his good friend from Montana that the Senator from North Carolina wants to be as reasonable as he can in the exercise of all prerogatives available to him in connection with an issue of major concern to both the Senator from Montana and the Senator from North Carolina.

Of course, it consumes time to read the Journal of the proceedings of Friday, December 14, 1973. Indeed, any Senator can, if he desires, request that those proceedings be read; but, Mr. President, I shall not object to the distinguished Senator's unanimous-consent request.

Mr. MANSFIELD. The Senator from North Carolina is correct in what he has just said. Of course, he has all these rights which I have anticipated he would exercise.

The ACTING PRESIDENT pro tempore. Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

WAIVER OF THE CALL OF THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the call of the legislative calendar, under rule VIII, be dispensed with.

Mr. ALLEN. Mr. President, reserving the right to object, as the Senator from Alabama understands what the request is, that we not call the calendar under rule VIII, the Senator from Alabama feels that this might be the only opportunity we will get to have some of these matters brought before the Senate. So he would like to have the rule followed, the rule being that on Mondays, we have a different procedure from what we have on other days and on Monday we do call the calendar. So the Senator from Alabama will object and merely ask that the rule be followed.

The ACTING PRESIDENT pro tempore. Objection is heard.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I do not seek recognition at this time.

The ACTING PRESIDENT pro tempore. Does the distinguished minority leader desire to be recognized at this time?

Mr. HUGH SCOTT. Mr. President, I yield back my time.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Montana is recognized for not to exceed 10 minutes.

Mr. MANSFIELD. Mr. President, I have nothing to say at the moment, so I yield back my time.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Michigan (Mr. GRIFFIN) is recognized for not to exceed 10 minutes.

Mr. HELMS. Mr. President, the distinguished Senator from Michigan is in a meeting downtown. However, he has just arrived in the Chamber, so he will speak for himself.

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum, with the time to be charged against my special order.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk called the roll, and the following Senators answered to their names:

[No. 585 Leg.]

Allen
Baker
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Griffin
Helms
Mansfield
Mathias
McClellan
McGovern
Ribicoff
Scott, Hugh
Young

The ACTING PRESIDENT pro tempore. A quorum is not present.

Mr. MANSFIELD. Mr. President, I move that the Sergeant at Arms be directed to request the presence of absent Senators.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to.

The ACTING PRESIDENT pro tempore. The Sergeant at Arms will execute the order of the Senate.

After some delay, the following Senators entered the Chamber and answered to their names:

Abourezk
Aiken
Bartlett
Beall
Bible
Biden
Brock
Brooke
Buckley
Burdick
Clark
Curtis
Dole
Domenici
Dominick
Eagleton
Eastland
Ervin
Fannin
Fong
Fulbright
Gurney
Hansen
Haskell
Hatfield
Hruska
Jackson
Johnston
Kennedy
Magnuson
McClure
McGee
McIntyre
Mondale
Moss
Muskie
Nelson
Nunn
Packwood
Pearson
Pell
Percy
Proxmire
Randolph
Roth
Saxbe
Schweiker
Scott,
  William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Symington
Taft
Tower
Weicker
Williams

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Nevada (Mr. CANNON), the Senator from Florida (Mr. CHILES), the Senator from Idaho (Mr. CHURCH), the Senator from California (Mr. CRANSTON), the Senator from Alaska (Mr. GRAVEL), the Senator from Michigan (Mr. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Maine (Mr. HATHAWAY), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Montana (Mr. METCALF), the Senator from New Mexico (Mr. MONTOYA), the Senator from Rhode Island (Mr. PASTORE), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I also announce that the Senator from Louisiana (Mr. LONG), and the Senator from Georgia (Mr. TALMADGE) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Utah (Mr. BENNETT), the Senator from New Jersey (Mr. CASE), the Senator from Kentucky (Mr. COOK), the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. JAVITS), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

The Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The ACTING PRESIDENT pro tempore. A quorum is present.

TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 15 minutes with statements made therein limited to 3 minutes.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. MCGOVERN) laid before the Senate the following letters, which were referred as indicated:

PROPOSED SUPPLEMENTAL APPROPRIATIONS FOR THE FISCAL YEAR 1974 (S. DOC. NO. 93–53)

A communication from the President of the United States requesting the Congress to consider proposed supplemental appropriations for the fiscal year 1974 in the amount of $126,350,000 in budget authority (with accompanying papers). Referred to the Committee on Appropriations, and ordered to be printed.

PROPOSED LEGISLATION TO MODIFY THE 1-CENT PIECE

A letter from the Secretary of the Treasury transmitting a draft of proposed legislation to authorize the Secretary of the Treasury to change the alloy and weight of the 1-cent piece (with accompanying papers). Referred to the Committee on Banking, Housing and Urban Affairs.

REPORT OF THE ATTORNEY GENERAL

A letter from the Attorney General transmitting, pursuant to law, a report on the administration of the Foreign Agents Registration Act (with an accompanying report). Referred to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CANNON, from the Committee on Armed Services, with amendments:

S.J. Res. 176. A joint resolution to authorize the production of petroleum from Naval Petroleum Reserve Numbered 1 (Rept. No. 93–635).

Mr. CANNON. Mr. President, I report favorably from the Committee on the Armed Services Senate Joint Resolution No. 76.

The purpose of this resolution is to authorize the production from and development of Naval Petroleum Reserve No. 1—also known as the Elk Hills Naval Petroleum Reserve—for national defense purposes, and the exploration of reserves Nos. 1 and 4, the latter being on the Arctic North Slope of Alaska.

Under existing law the operation and use of naval petroleum reserves, including Elk Hills is limited to: First, the protection, conservation, maintenance, and testing of those reserves; or second, the production of petroleum whenever and to the extent that the Secretary of the Navy, with the approval of the President, finds that it is needed for national defense, and the production is authorized by a joint resolution of Congress.

It is under the latter provision that the Secretary of the Navy has made a determination that production of Naval Petroleum Reserve No. 1 is needed for national defense. This determination has been approved by the President with the requisite that the joint resolution be approved by the Congress at the earliest possible time.

Mr. President, the Committee on Armed Services looked into the matter quite thoroughly. After complete hearings and thorough discussion it developed that certain provisions of the administration proposal gave cause for concern. Assuming the committee submits an amendment in the nature of a substitute which corrects the defects noted.

First, the original proposal set no definite limit on the amount of production other than the "maximum efficient rate." This term is subject to question since this reserve is relatively unexplored. The committee amendment sets a production rate of 160,000 barrels per day for a period of 1 year. This rate of production can be reached in 60 days.

Second, in the original proposal a closed-cycle funding arrangement was proposed which would limit funding for the reserves to receipts from production therefrom. The proposed resolution contrived no appropriations authorization for exploration, development, or production other than from the fund. This not only could result in a delay in the commencement of the operation, but effectively relinquished congressional control of the appropriation process. The committee amendment corrects this situation and authorizes the appropriation of $72 million for the start of operation, production, and exploration.

Mr. President, the committee proposal has everything the administration proposal would do, but incorporates certain safeguards and provides immediate funding.

As to the need for this proposal, I might state that on an austere basis, the Department of Defense consumes about 625,000 barrels of petroleum per day. Until the recent Arab embargo, about half of this, or 300,000 barrels, came from overseas sources. Eighty percent of this offshore procurement came either directly or indirectly from the Arab countries. This must now come from the civilian economy. The production of Elk Hills will help materially to relieve this added strain on domestic supplies.

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following executive reports were submitted:

NOMINATIONS

By Mr. EASTLAND, from the Committee on the Judiciary:

Anthony E. Rozman, of Michigan, to be U.S. marshal for the eastern district of Michigan.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. FULBRIGHT, from the Committee on Foreign Relations:

L. Dean Brown, of the District of Columbia, to be Deputy Under Secretary of State;

Robert Stephen Ingersoll, of Illinois, to be an Assistant Secretary of State;

William B. Buffum, of New York, to be an Assistant Secretary of State;

Stuart Nash Scott, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Portugal;

Harry G. Barnes, Jr., of Maryland, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Romania;

Heyward Isham, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Haiti;

Joseph J. Java, of Florida, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Mexico;

Ralph J. McGuire, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Mali;

Anthony D. Marshall, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Kenya;

Francis E. Meloy, Jr., of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Guatemala;

Francis T. Underhill, Jr., of New Jersey, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Malaysia;

David H. Popper, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Chile;

David D. Newsom, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Indonesia;

Viron P. Vaky, of Texas, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Colombia;

Francis L. Dale, of Ohio, to be the representative of the United States of America to the European office of the United Nations, with the rank of Ambassador;

Dr. S. Paul Ehrlich, Jr., of Virginia, to be the representative of the United States of America on the Executive Board of the World Health Organization; and

David Gregg III, of New York, to be Executive Vice President of the Overseas Private Investment Corporation.

(The above nominations were reported with the recommendation that they be confirmed subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. FULBRIGHT. Mr. President, as in executive session, I also report favorably sundry nominations in the Diplomatic and Foreign Service which have previously appeared in the Congressional Record, and, to save the expense of printing them on the Executive Calendar, I ask unanimous consent that they lie on the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the Record on November 2, 1973.)

Mr. THURMOND. Mr. President, as in executive session, from the Committee on Armed Services, I report favorably the nominations of 650 in the Army in the grade of colonel and below; in the Navy, 1,351 for promotion in the grade of captain and below; in the Marine Corps, 169 in the grade of colonel and below; and in the Air Force, 3,455 in the grade of colonel and below.

Since these names have already appeared in the Congressional Record, and to save the expense of printing on the Executive Calendar, I ask unanimous consent that they be placed on the Secretary's desk for the information of any Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the Congressional Record of November 28, 1973, November 30, 1973, and December 3, 1973.)

TREATY

By Mr. FULBRIGHT, from the Committee on Foreign Relations, without reservation:

Executive P, 93d Congress, 1st session. Customs Convention on the International Transit of Goods (ITI Convention) opened for signature at Vienna June 7, 1971 (Executive Rept. 93–27).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. HUMPHREY:

S. 2819. A bill to establish within the Atomic Energy Commission an Office of Solar Energy Research to carry on a vigorous program of research and development to assure the utilization of solar energy as a major source for our national energy needs. Referred to the Joint Committee on Atomic Energy.

By Mr. NELSON (for himself, Mr. Gravel, Mr. Hatfield, Mr. Humphrey, Mr. Mondale, Mr. Stevenson, and Mr. Percy):

S. 2820. A bill to establish administrative and governmental practices and procedures for certain kinds of surveillance activities engaged in by the administrative agencies and departments of the Government when executing their investigative, law enforcement, and other functions, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. JAVITS (for himself, Mr. Percy, Mr. Hugh Scott, Mr. Goldwater, and Mr. Fannin):

S. 2821. A bill to extend the authorization of appropriations for the Cabinet Committee on Opportunities for Spanish-Speaking People. Referred to the Committee on Government Operations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HUMPHREY:

S. 2819. A bill to establish within the Atomic Energy Commission an "Office of Solar Energy Research" to carry on a vigorous program of research and development to assure the utilization of solar energy as a major source for our national energy needs. Referred to the Joint Committee on Atomic Energy.

SOLAR ENERGY RESEARCH ACT OF 1973

Mr. HUMPHREY. Mr. President, today I am introducing the Solar Energy Research Act of 1973. It would authorize a 5-year $600 million research and development effort to harness the tremendous energy potential of the sun for the service of mankind. This legislation calls for a much greater public and private effort to utilize this cleanest and most abundant of all energy sources.

Before describing the provisions of this legislation, I would like to discuss my reasons for offering it.

For many years I have been deeply concerned over our inability to tap the tremendous energy potential of the sun. In fact, in the early 1960's I authored legislation to establish an Office of Solar Energy within the Department of Interior. On February 12, 1962, when I introduced this measure, I made a statement that remains essentially as true today as it was then, almost 12 years ago:

> The Federal Government has played an active and effective role in the development of hydroelectric power and, more recently, atomic energy.
>
> But in this relatively new but exciting field of solar energy, the Government needs to coordinate and step up its activities for development of solar energy devices and techniques.

Regrettably, the Congress did not enact that program and I must continue to plead the same basic case in the Senate today. However, I must admit that with every increase in the price of gas and every thermostat degree reduction, the job of selling the Nation on a major investment in solar energy research and development will become easier.

Mr. President, in looking at solutions to both the long-term and short-term energy crisis, I am convinced that we must not overlook and fail to fully capture the potential of solar energy.

But if we are to realize its great potential for cooling and heating of space and water in the next few years and for the generation of electricity in decades to come, we must substantially increase the focus of this effort and the public and private investment in this potentially tremendous source of power.

Many experts are now saying that no source of energy now available will meet our ever growing demand for clean energy during the next century and beyond—except the Sun.

The energy generating potential of the sun is awesome. As Mr. V. W. Bearinger of the Honeywell Corp. points out:

> If 1% of the solar energy falling on the Sahara Desert in the year 2000 were converted to electrical power, it would supply all of the world's needs for electrical power for that year, or put another way, the annual amount of solar energy falling on the state of New York is double the energy obtained annually from the entire world's production of coal and oil.

Yet, while many of us have recognized the potential of this greatest and cleanest of all sources of energy, and for years some of us have called for stepped-up efforts to tap its tremendous potential, the total Federal effort specifically directed toward solar energy research and development has been and remains totally inadequate. This is particularly true in view of the urgency of our Nation's "energy crisis" and the important researchable projects that are available for funding.

During the current fiscal year, expenditures by the Federal Government for all types of solar energy research are estimated at approximately $13.2 million. While this is well above the level in any prior year, it still amounts to less than 1.5 percent of the $900 million Federal energy research and development budget and a mere seven one-hundredths of 1 percent of our total R. & D. budget. Certainly, the nature of the "energy crisis" demands and the potential for practical uses of solar energy requires much greater support from the Federal Government.

The following table provides data on alternative solar energy programs that have been suggested.

First, it outlines the Atomic Energy Commission's request for funding of solar energy, as announced on December 4 by the AEC. Of course, by the time this request goes through the "pennywise" fingers of our friends at the OMB, the "actual" request to Congress may be even less. Second, the "minimum viable" and "accelerated orderly" solar energy research and development programs reportedly recommended to the AEC by the interagency team of solar energy experts called the Solar Energy Panel. Third, the level of funding which I am recommending in this legislation today.

TABLE I.—SOLAR ENERGY R. & D. BUDGET PROPOSALS

[In millions of dollars]

Fiscal year	AEC (Dec. 4 1973)	Solar energy panel		HHH proposal (Dec. 6, 1973)
		"Minimum viable"	"Accelerated orderly"	
1975	$32.5	$50.5	$106.4	$56
1976	39.9	67.5	188.9	94
1977	41.4	89.7	237.2	150
1978	42.2	104.8	264.4	150
1979	44.0	97.4	259.8	150
5-year progress	200.0	409.9	1,056.7	600

In regard to proposed funding levels it is also important to note the conclusion of the staff report on solar energy research prepared by the Committee on Science and Astronautics of the House of Representatives in December of 1972. Based on reports from NASA, the NSF, the NBS and the CRS, they concluded:

> It appears that all the reporting groups concur generally in a future level of funding for solar energy research on the order of $100 million over the next three years and of about $150 million a year thereafter—reaching a total of about $3 billion over the next 15 years.

As is obvious from the above table, my proposal follows very closely on the advice of the technical experts and responsible Federal solar research and development organizations. However, despite the fanfare with which they were announced, the AEC budget proposal reflects the concern of the budget balancers and not of those responsible for bringing the energy crisis to a permanent end. I find their proposed funding level baffling in light of Project Independence and the President's promise to move ahead vigorously to make our Nation self-sufficient in energy.

Mr. President, the bill I am offering today, the Solar Energy Research Act of 1973, would establish an Office of Solar Energy Research within the Atomic Energy Commission. This Office would provide the forward thrust for the expanded solar energy research, private and public, that is desperately needed in our Nation. This effort can be expected to dramatically reduce the period of time needed for the full advantages of solar energy to become available to the American people.

It has been estimated by the NSF/NASA Solar Energy Panel, the principal body of solar energy expertise within and outside the U.S. Government, that beginning in the early years of the next century, at the latest, solar energy could economically provide as much as 35 percent of our total building heating and cooking requirements, 30 percent of the Nation's gaseous fuel needs, 10 percent of the demand for liquid fuels, and over 20 percent of the country's total electrical energy requirements.

As far as the near future is concerned, these and other experts agree that, if solar energy development and economic incentives programs are vigorously pursued, building heating from this source could reach substantial segments of the public within 1 or 2 years, building cooling in 5 to 9 years, synthetic fuels in 4 to 7 years, and electric power production in 9 to 14 years.

In other words, beginning now and well into the next century, major solar energy potentials can be realized, if a strongly directed, supported and administered solar energy research and development program is mounted within the Federal Government.

The Office of Solar Energy Research is placed within the AEC on the assumption that it will be providing the basic administrative structure and central policy focus for the entire energy research and development effort of our Government.

A Solar Energy Research Council is established to coordinate solar R. & D. among the several agencies involved and to assure the broadest possible spectrum of views and talents for the formulation of solar energy policy.

This, I hope, will result in an open solar energy growth policy based on objective scientific and economic review.

A key feature of this legislation is its aggressive program for seeing to it that the results of our solar energy research programs are available for use by the general public, as quickly as possible. The core of this effort will be a broad range of solar energy utilization incentives.

The authorizations provided in this bill, which have previously been described, are quite close to what the experts cite as the "minimum requirements" for a sound solar energy R. & D. program and well below what could be done under what the experts call an "accelerated orderly" program. However, they are three times the totally inadequate level of the recently announced AEC solar energy research and development funding requests, which totals exactly $200 million for the next 5 years.

If we have not learned the danger of overreliance on a limited number of energy sources from the current energy crisis, and do not act to spread our energy requirements across as wide a spectrum of energy sources as we can, we may be destined to experience an even more serious energy crisis in the decades ahead.

Mr. President, if we are going to seriously attempt to assure sufficient supplies of fuel at reasonable prices to all of our people, every potential source of energy supply must be thoroughly investigated. I am convinced that this is not happening in the solar energy area. The purpose of this bill is to push this effort along.

It does not seem unreasonable to me to ask the administration to put a mere 5 percent of its $11 billion energy research and development funds into work on solar energy, particularly when one considers its fantastic potential and the recommendations of the experts.

Mr. President, I ask unanimous consent that a series of articles on solar energy research and development be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

A FOCUS FOR SOLAR ENERGY

(Remarks by Hon. GEORGE P. MILLER in the House of Representatives, May 31, 1972)

Mr. Speaker, at the risk of seeming a bit quixotic, I suspect that the time has come for civilized man to stop taking the sun for granted.

This is not to imply that one need worry about the sun not rising tomorrow or exploding into a super-nova next year or collapsing into a white dwarf in a few centuries. What I do assert is the spiraling need for the human race to tap the sun's enormous energy and put it to work as a major power supply—soon.

A lot of people have become involved lately in energy problems—including myself. The record abounds with reports and studies about the so-called energy crisis—and, in my opinion, there *is* such a crisis. There is nothing phony about it.

What I want to emphasize is this. Crisis is a relative word; usually its essence is immediacy—short range or short term—something we must handle right away. On the other hand, what is "immediate?" That depends on what you are and what your environment is. If you are a guppy being chased by a predator in a fish tank, it is one thing. If you are Queen Elizabeth it is something else. And if you are a member of Congress faced with making decisions which will affect not only your country but global civilizations as yet unborn, it is still another thing.

The point is that our energy crisis is both short-term and long-term. It is a continuum. We know we must find substantial new sources of energy to keep us going just for the balance of this century. We are also beginning to suspect that there is nothing now available to us which will serve our needs for clean energy during the next century or the one beyond that—except the sun.

In such context is this not the "immediately?"

The lifetime of our nation is only 183 years—almost exactly the length of time that passed from the founding of Jamestown until the Constitutional Convention in Philadelphia. Does that period seem long today? Not very. Let me shrink it a little more. The time of real need for solar power may well be only half a century or less away. This is about the same span elapsing between the inauguration of George Washington as President and the death of Davy Crockett at the Alamo. That does not seem very long either.

Observed on this scale perhaps it is not so hard to see why, if we are to be assured of abundant energy in 2020 and beyond, we must get on with adequate and appropriate research *as of now*.

For the short-term crisis, the signs are that we are waking up and moving—toward fossil fuel exploration, nuclear power development, chemical conversion research, geothermal experimentation and the like. We have quite a way to go there, but we are started.

For the longer-term crisis—toward significant solar power—we are basically still asleep.

NEEDS AND POSSIBILITIES

Projected figures on American and world energy needs are readily avaliable and can be set forth in massive detail. Many of them are inconsistent. Some are frightening. All are revealing. None is reassuring.

It is not my purpose to document a case for energy research. That has been done many times over. But I *do* want to specify a few facts which seem particularly meaningful here.

(1) *Future Energy Needs.*—One can find almost any kind of estimate on this matter except an estimate that trends downward. All are up. The most reliable, based on an averaging of more than 50 different forecasts, indicates that U.S. total energy needs will double in 25 years, and that electrical energy needs are doubling every 13 years which means an increase of over 400 percent before the year 2000. At the same time, our Committee on Science and Astronautics has testimony from the Interior Department which indicates the possibility of much higher energy demands depending on the accuracy of certain economic growth forecasts.

When we consider that the nation is consuming electric energy close to its present peak capability right now, that is a sobering thing to contemplate.

(2) *Energy Research Now Underway.*—Such research is presently underway in many fields including the fossil fuels, coal, oil and gas; nuclear fuels involving processes of fission, fusion and plasmas; hydraulic, geothermal, solar, wind, chemical, biological and a number of other exotic types.

Reports our committee has issued show

that about 4,400 energy research projects are now in the mill in the United States and probably about $1 billion is going to support them. There are 1,162 projects on which we have detailed funding information, with about $441 million supporting them.

This is commendable.

But let me point out that a large part of this research is devoted simply to locating new sources of fuel, such as oil, gas and uranium, and developing new ways of getting at it.

In any case, only about 70 of the 4,400 research projects have any relation to solar energy, and they have available—so far as we can gauge—considerably less than 1 percent of the total funds going into energy research. Moreover, much of the effort that *is* going into solar energy research—probably half or better—is not being devoted to terrestrial use, but for use in space.

(3) *Supplies of Energy.*—Describing the world's supply of energy is very complex. It depends on many things. However, the engineers who have studied this problem tell us that "fosil fuel reserves are barely equivalent to twice the cumulative demand for energy between 1960 and 2000." (U.S. supplies are less than a fourth of the world total.) They go on to say that even nuclear fuels, using present reactors, can provide a margin only a little more than twice the capacity of fossil fuels—but that breeder reactors could boost total nuclear capacity about 100 times. (U.S. reserves of nuclear fuels are estimated at 10 percent of the world supply.)

All such supplies are "depletable."

Sources categorized as "continuous" are solar radiation, wood fuel, farm waste, photosynthesis, hydro-power, wind power, tidal, and geothermal. All of these combined, *excluding solar radiation,* are estimated to provide maximum annual energy amounting to about 1.5 percent of the total world supply of fossil fuel energy, about .6 percent of total nuclear energy available using present methods, and about .006 percent of total breeder-reactor energy.

Solar radiation energy falling annually on the world's land surface, however, is estimated at about 28 times the world's total supply of fossil fuel energy, about 9 times the total supply of conventional nuclear energy, and about 11 percent of the total supply of breeder-reactor energy.

(4) *Outlook for Various Energy Systems.*—Again, it is difficult to describe the energy outlook in terms of utilization of the various kinds of fuels. This is mainly because new technologies may provide us with more efficient ways of recovering and using these fuels.

With present technology we have no practical way of recovering a very large part of the world's remaining supplies of oil, coal and gas. And we are even hampered in using present methods in many cases due to public outcries against such methods as stripmining, offshore drilling, surface pipelines, jumbo tankers and the like.

Present nuclear power methods seem to have made reasonable progress with their problem of thermal pollution but very little with long-term radioactive waste disposal. No one in this country has yet succeeded in producing a reliable commercial prototype of breeder-reactor; nor does anyone seem to have a practical solution for handling the small (in quantity) but exceedingly "hot" (radioactively) waste from such plants—a kind of waste which remains highly dangerous for thousands of years. With both types of reactors, there exist wide divergences of opinion with regard to fuel availability, hazards, and the economics of plant construction and operation.

With regard to power from nuclear fusion and plasmas, scientific feasibility has not been demonstrated, and we are lacking in our materials research, among other things. As yet we have no processes or materials to withstand the enormous temperatures and radiation levels which such methods demand.

DECISIONS TO BE MADE

By reciting these circumstances. I do not mean to be negative. I have great faith in our scientists and engineers, and I have no doubt that developing technology will help us find various options to follow in alleviating the energy dilemma.

Nonetheless, in view of the foregoing evidence—and I believe that I have been reasonably conservative in my presentation of it—it seems to me that at least two firm conclusions are in order.

First.—We must make a decision, probably during the '70's, on what we want to do with some of the most valuable—but finite—resources on this planet. That is, coal, oil, natural gas, uranium and several other heavy elements.

Do we want to "burn" them? Use them all up for fuel?

Obviously we are going to be forced to do this for a while. There is no alternative. But, as I have tried to point out earlier, a "while" is a relative thing which, if we are complacent, may quickly devour all the time we have left to develop options. Even assuming that we manage to evolve new adequate energy systems by then, what do we use in place of these precious materials which we have so inefficiently consumed?

It took billions of years for Earth to make her fossil fuel material. We cannot manufacture more of it. Yet we have hundreds of needs for it other than energy. The bulk of the petrochemical industry, which is so vital to our wellbeing, will—for example—be lost. Such loss factors may be extended by orders of magnitude in other fields—for it is clear that important uses of these materials which are undreamed of today will exist tomorrow.

Meanwhile, at present rates of consumption, that priceless product—oil—which we first found in this country in Pennsylvania in 1825—will be gone worldwide by 2125 if not before. An interesting commentary on mankind, is it not? Particularly so in light of some of our efforts to eradicate the effects of burning oil—such as smog-control devices adapted to the internal combustion engine, which thus far, while achieving some progress toward that goal, have also succeeded in increasing auto gasoline consumption by about 20 percent when employed.

To me, the answer to the question of the *indefinite* use of fossil and nuclear materials for energy is clear. Let us look elsewhere.

Second.—If we conclude that we must look elsewhere for major energy sources, where can we turn except to solar radiation?

I am not aware of another likely candidate—at least one with sufficient potential to provide very large amounts of undiminished power over large geographical areas for long periods of time.

Undoubtedly there will be, as there are now, many possible ways and many technologies for transmitting, converting, storing and using solar energy. Each will be important in its contribution to the total energy panorama. But I am convinced that at least one key to the problem lies in some joint space-terrestrial method of generating electric power.

If this is correct, it is going to require a lot of research, development and demonstration beyond contemporary efforts.

NATURE OF PRESENT RESEARCH

So what are these efforts?

At present, those being undertaken privately are mainly concentrated in the short-term payoff area—exploration for sources, extraction techniques, nuclear engineering, coal gasification and the like. Research on solar energy is largely ignored.

What about the Federal effort?

Government-wide, budget requests for energy research for fiscal year 1973 come to about $700 million—which is by no means hay but which is around 4 percent of the total Federal R&D budget. The amount contemplated for solar energy research is something like $13 million, or less than 2 percent of the *energy* R&D budget. Almost all of this is funded by the National Aeronautics and Space Administration and the National Science Foundation and not all of it will be obligated.

Let's take the solar energy R&D budget a step further.

Only about $4 or $5 million of it is devoted to research which has terrestrial applications. The rest, including a small amount of Air Force money, is aimed toward applications in space—which I strongly support; it is vital to the total understanding of solar energy potential as well as our space-oriented missions. The point I am making is that our real government financial commitment to solar energy research for terrestrial purposes at present comes to about .0003 or 3/100ths of 1 percent—of our total Federal R&D budget.

To understate the case—this is not much of a commitment.

If the argument I have been making is at all valid, then something is wrong with our priorities.

Last June the President sent a special message to Congress on U.S. energy needs, which has helped create an encouraging environment for energy research. The Federal Council on Science and Technology has set up a Committee on Energy R&D Goals—which includes a Solar Energy Panel co-chaired by officials from NASA and NSF. That Panel has 5 sub-panels devoted to varying systems and about 40 expert consultants involved. An important function of the Panel is to investigate the large-scale use of terrestrial solar energy and recommend to the Energy Committee what research programs are needed. The report is due by July 1, 1972—though when it may be made generally available, if at all, I do not know. Nor does anyone seem to know what happens to the Panel after that.

This is fine as far as it goes.

But is doesn't go very far and, unless somebody really pushes the throttle, it is going to be not merely too little but too late. Moreover, there seems to be no central point of responsibility for making the required effort.

In my view, we are going to need an effort comparable in spirit and commitment to the one we put into the space program in the 60's in order to achieve our solar energy needs. Except this new effort is likely to be more difficult and complex than our space program has been up to now and will cover a longer period. It is not going to be easy.

Perhaps it will take a disaster or a real scare to produce the effort, but when that effort comes it will have to be: (1) Focused; (2) Integrated; (3) Intense, and (4) Continuing.

Nothing else will suffice.

I know there are many who think the whole concept of solar energy is too "far out" and, by current engineering standards, too inefficient. But I would remind my colleagues that today we depend for our existence on many technologies which were completely unknown 25 years ago.

I am sure it is going to cost us more, but this should not be a deterrent. I believe we must accept the fact that in the future our utilities—among the most crucial commodities in our entire scheme of living—are likely to cost what they are worth. For 100 years we in this country have been taking them for granted and paying almost nothing for them. Meditate on that. We think nothing of paying $5 or $6 for a bottle of gin or $2.50 for a lipstick or $1.25 for a can of deodorant spray, yet we gripe if our water bill goes up to 50 cents for 1,000 gallons. Try doing without water for a while—or heat or electricity—and then decide what it is worth.

This is what we are going to have to do.

UNIQUE ROLE OF SCIENCE COMMITTEE

Mr. Speaker, I bring this matter to the attention of the Congress because, as Chairman of the Committee on Science and Astronautics, I believe I have a special and unique responsibility to do so.

Many Congressional committees have a strong and deep involvement with energy matters. However, our committee has a particular duty in the oversight of energy *research* and, whether by chance or otherwise, it turns out that the three executive agencies which fall under our jurisdiction appear to be the best qualified to take the lead in supporting serious R&D on solar energy. These three are the National Aeronautics and Space Administration and the National Science Foundation—which, as I have already mentioned, jointly manage the activities of the Federal Council's panel on solar energy—and the National Bureau of Standards. To give added potential to this triumvirate, it should be noted that NSF and the Bureau share between them responsibility for the Administration's new "technological innovations" programs.

That program is expected to be funded in fiscal '73 at about $40 million. I do not know how it will be used, nor is it may job to dictate that use. But, assuredly, it is my hope that serious consideration will be given to providing some additional solar energy R&D support through these programs.

Furthermore, I deem it most appropriate to point out that, in addition to its immediate programs on solar energy research, NASA's space shuttle system could have incalculable value for ultimate solar energy use. This system may well be the only one which could assemble and maintain solar energy stations capable of employing microwave transmission to earth to overcome weather interference. I hope that those critics who have long down-graded the U.S. manned spaceflight programs will give this some unbiased thought.

There is a fourth organization which also has a particular contribution to make to our Committee regarding the solar energy endeavor. This is the Congressional Research Service (CRS) of the Library of Congress. Late last year, at the insistance of Rep. John Davis of Georgia, chairman of our Subcommittee on Science, Research and Development, the Science Policy Research Division of CRS began an extensive review of the materials research and materials needs of the U.S. Their study is extensive and will take time—but it is critical, I believe, to the success of many of our research ventures, including solar energy research.

Many of our scientific and technological research personnel are aware of this fact. A number of government and non-government councils with the task of promoting materials research already exist. They are operating on the premise that some of the most urgent public needs facing the nation demand new technologies which can be developed only with the advent of materials possessing properties not yet known to man.

CONTACT WITH EXECUTIVE AGENCIES

Mr. Speaker, my interest in solar energy research—and that of our Committee as a whole—has stemmed in considerable part from the excellent work done over the past 9 months by our Energy Research Task Group.

This group, headed by Rep. Mike McCormack of Washington, as a special unit of Rep. Davis' subcommittee, has been given comprehensive briefings almost weekly. Each meeting has been held in a frank and informal manner with experts from all appropriate energy R&D fields—following extensive planning and consultation with the Congressional Research Service. The briefings culminated this month in two weeks of what I consider to be highly sophisticated hearings by the Davis subcommittee on our national energy research prognosis.

My comments today have been sparked by that work.

Also, as a result, I have recently been in direct contact with the heads of each of the agencies here identified as important contributors to solar energy R&D: Dr. James Fletcher of NASA, Dr. Guy Stever of NSF, Dr. Lawrence Kushner of NBS, and Dr. Lester Jayson of CRS.

Each has agreed to participate with the Committee on Science and Astronautics in considering the formulation of multidisciplinary, integrated programs of solar energy research. Toward this end we will begin exploratory meetings between appropriate personnel of the several agencies and of the Committee within a few weeks.

In addition, it is my plan to request that each of the specified agencies report to the Committee within four months on:

(1) The particular contributions, existing and potential, which the agency involved is capable of giving to solar energy R&D;

(2) The level of effort which the agency feels is best suited to it under present conditions:

(3) The level of effort which is possible under accelerated conditions;

(4) The level of commitment which the agency is willing to recommend to the Administration over the next decade, insofar as this is feasible;

(5) The identification and relative capabilities of other government and non-government organizations or institutions in solar energy research.

NEW TASK FORCE AND POLICY FORMULATION

What do we expect from this beginning?

Eventually, of course, we hope for the creation of an *effective* program of solar energy research. I use the term "effective" here as synonymous with "successful."

As for immediate expectations, we are looking for three things:

First.—The formation of what is perhaps the first task force of its kind—a joint Executive-Legislative-Industry task force which will cross not only the boundaries of executive departments but boundaries of the main branches of government as well.

If executive agencies or legislative offices or committees other than those I have discussed wish to take part, they will be welcomed. In addition, expert representatives from industry should obviously be included if they are willing.

The chief mission of such an integrated task force will be to provide the mechanism for assuring a *consistent, coherent* and *intensive* assault on the enormous research problems inherent in the production and use of solar energy. If any of those three characteristics fails, the effort will fail.

Second.—The promulgation of a statement of solar energy policy (perhaps involving energy generally). Hopefully, such a statement can be put in the form of a Joint Resolution and eventually given the force of public law. In my view, this will be especially important during those interim periods when we have made progress with the more conventional modes of energy and things begin to relax—for the moment. It is human nature then to say "why bother—why keep up the fuss over this solar bit?"

At such times, a national policy faithfully pursued may keep us from succumbing to that deceiving, and possibly fatal, technological lullaby.

Third.—The concentration of attention on the possibilities of solar energy—and the ultimate essential requirements for it—on an international basis. No part of the energy dilemma is the peculiar province of the United States. While we may be the first and the most seriously affected by energy shortages, the problem itself is global. We are all in this thing together, and very likely solutions will have to come from many quarters, domestic and foreign.

One thing is apparent to me. If we do not get on with this job, such matters as the war in Viet Nam, unemployment, crime, overcrowding, trade balances, education and all the other things which preoccupy so many nations today—will not make much difference. If the energy crisis becomes an energy catastrophe, we will find out, rather painfully, how relatively insignificant such contemporary issues have been.

ESTABLISHMENT OF AN OFFICE OF SOLAR ENERGY

Mr. HUMPHREY. Madam President, today I introduce, for appropriate reference, a bill which would authorize the establishment of an Office of Solar Energy within the Department of the Interior.

Representative Victor L. Anfuso is introducing similar proposed legislation in the House today.

The new developments and the unmeasurable potential of solar energy are matters of great interest to me. Many private firms have pioneered with research and development projects in this field in the past few years, producing limited numbers of devices which transform the heat and energy of the sun into controlled electricity.

The Federal Government has played an active and effective role in the development of hydroelectric power and, more recently, atomic energy.

But in this relatively new but exciting field of solar energy, the Government needs to coordinate and to step up its activities for development of solar energy devices and techniques.

With stepped-up research and development, we can utilize solar energy for a vast array of positive purposes. Power for communications, hospitals and agricultural equipment, to name a few purposes, can be placed in isolated areas of the Nation—and the world—where no power exists now.

Man has long hoped to harness the sun's energy for practical purposes, but only in recent years have specific devices been developed.

I add that in our missile program, particularly in respect to the Mercury project, the solar energy batteries will be used, which indicates the possibilities for this type of energy.

Two methods are now under study and limited utilization. One is to store the sun's heat energy for conversion later to power. The other is to channel the light energy of the sun through particular metals for immediate conversion to electrical power.

Several agencies of our Government are presently interested in the potential of solar energy. The Department of Defense is experimenting on the use of solar energy for communication devices, and has already utilized solar cells to power electronic devices in our satellites.

The Department of Commerce has considered the possibility of ocean buoys, remote weather stations and auxiliary generators on ships powered by solar energy.

The U.S. Forest Service has considered utilizing solar energy for some of its more remote stations.

No one agency or office of the Government, however, has an overall responsibility or total interest in solar energy research and development. The Department of Interior, with its great interest and experience in the development of power and energy sources, would have much to offer.

My bill would authorize the Secretary of Interior to conduct solar energy research and development projects and would direct him to work closely with other departments with potential uses for solar energy power.

This bill also would direct the Secretary of Interior to establish a Solar Energy Advisory Board, composed of five scientists, to work with him on a consulting basis.

The PRESIDING OFFICER. (Mrs. NEUBERGER in the chair.) The bill will be received and appropriately referred.

The bill (S. 2849) to provide for research into and development of practical means for the utilization of solar energy, and for other purposes, introduced by Mr. HUMPHREY, was received, read twice by its title, and referred to the Committee on Aeronautical and Space Sciences.

Solar Power Prospects

Honeywell scientists, appearing before a U.S. House subcommittee recently, urged that the federal government assume a leadership role in solar energy, commit the nation to development of solar-generated electric power and "support that commitment with appropriate funding." We agree.

The basic technology to generate electric power from solar energy is available today. Honeywell said. "No scientific breakthroughs are necessary,' which is not the case with, say, nuclear fusion. Nor does solar energy face the kind of "technological risks" that faced the early developers of nuclear fission when they did not know whether their device could be controlled.

The problems that do exist, Honeywell said, "arise out of concern for economic feasibility and not out of concern for technological feasibility." An experimental solar steam power system can be operated yet this decade and "can be matured during the ensuing decade to the point where the American power industry will begin to consider it as a technically and economically practical alternative for supplemental applications."

Honeywell views solar power as a supplement to, rather than a substitute for, other means of generating electricity. But each comparatively pollution-free solar plant would mean one fossil-fueled or nuclear plant that would not have to be built.

Solar energy research has not been well funded by the federal government—$12 million in the fiscal 1974 budget. The figure should rise to $50 to $100 million in the 1975–77 span in order to bring solar steam systems to commercial practicality in the late 1980s, Honeywell said. That could be accelerated as much as six years by tripling the funding. Honeywell contended.

This is beyond the capability of either industry or universities to undertake, Honeywell said. The federal government must do it.

Energy: The Sun Breaks Through As An Energy Source—First for Heating and Cooling Buildings—Later for Electric Power

Freeman A. Ford gets impatient when people talk wistfully about harnessing the bountiful energy of the sun. "There's been a great deal said about solar energy, but very little action," he says. So, last year, Ford set up Fafco, Inc., in Atherton, Calif., to sell sun-powered heating systems for swimming pools. Since then, some 40 pool owners in California and Florida have shelled out anywhere from $200 to $2,000 for his black plastic panels that take the chill out of pools for nothing but the cost of pumping the water through them, Beams Ford: "We've identified a need, and we've filled it."

Experts have long predicted wide use of solar energy as a source of electric power in the 21st Century. But the looming energy crisis has promoted researchers and businessmen alike to take a closer look at the sun's potential. Their startling conclusion: Solar energy may blossom into a significant commercial market in as litle as three years.

Although systems that convert sunlight to electricity are not likely to reach the commercial stage for some time, the experts expect solar energy to start assuming a substantial share of the nation's heating and cooling load, which accounts for about 20% of total energy consumption. "What's going on right now is rather skimpy," says James A. Eibling, Battelle Memorial Institute's director of solar energy work, "but you'll be overwhelmed with how much will be going on a year from now."

A new industry. As if to underscore this prediction, Arthur D. Little, Inc., the Cambridge (Mass.) research and consulting company, last week announced a major program to cultivate "a solar climate-control industry." ADL has signed up 18 companies already, including such giants as Corning Glass, Du Pont, Ashland Oil, and Honeywell, who are paying $15,000 each to support a study of short-range markets. "This is no research project," insists ADL Vice-President Peter E. Glaser, "but a program to develop a new industry." Glaser hopes for a total of 40 clients before he begins a hardware-evaluation phase next year.

Several years ago, Glaser attracted worldwide attention when he came up with an intriguing Space Age approach to solar power. Instead of depending on sprawling "solar farms" that could be blanketed by rain and haze, he proposed huge power-generating satellites that would convert sunlight to electricity in orbit and relay the power to earth over microwave beams. However, like other schemes for central power stations fueled by the sun, Glaser's satellite system is decades away, at best. Today, even earthbound solar stations are prohibitively expensive, mainly because solar cells or other devices needed for the conversion step are so inefficient.

Using solar heat directly is another matter. For years, the Japanese have warmed their bath water with solar heaters. Rooftop solar water heaters are also common in Latin America, India, and the Middle East. In Australia, they are found on schools, hospitals, and banks as well as private homes.

A few companies make solar water heaters even in the U.S. Before natural gas became widely available in Florida, for instance, Solar Water Heater Co. in Miami sold more than 60,000 units. "There's still a good market," says President Walter Morrow. "I get a dozen or so requests each day. If the people want to make their own, I sell them plans and materials." Across the continent, California Institute of Technology, under contract to Southern California Gas Co., is developing advanced solar water heaters that could supplement conventional gas and electric units.

Pressing need. Why, then, has it taken so long for Americans to take solar energy seriously? One reason is that the benefits have always seemed to be marginal. "Energy has been so inexpensive to us," Battelle's Eibling points out. Arthur D. Little's Glaser notes, too, the problem of breaking into the fragmented and tradition-bound housing industry. Erich Farber, director of the University of Florida's solar energy laboratory, puts it more bluntly: "Ignorance is the major reason solar heating systems aren't on the market. Most manufacturers don't know it can be done."

But now, says Farber, the squeeze on oil and natural gas will force manufacturers, builders and homebuyers to consider solar water heaters. Rising fuel costs are also beginning to make solar energy feasible for space heating. Already it is cheaper than electric heating in many areas (map). Farber admits that installation cost may run eight times as high as for electric systems and about twice as much as for gas, but, he says, "it pays for itself in seven or eight years."

A joint panel of solar energy experts, formed by the National Science Foundation and the National Aeronautics and Space Administration, recently concluded that solar climate-control systems might be included in 10% of all new buildings by 1985. Arthur D. Little says that by then the solar equipment market should reach $1 billion a year.

Already working. Today, a score of homes in the U.S. get at least part of their heat from do-it-yourself solar systems. George Lof, a civil engineering professor at Colorado State University, says that the sun has supplied at least 25% of the heat for his Denver home during the past 15 years. On the roof of his house are two rows of solar panels propped up to catch the sun. The panels are nothing more than shallow glass boxes, with several layers of transparent glass covering a black-coated one. As in a greenhouse, the clear glass traps most of the sun's heat-bearing waves; the black surface absorbs them, raising its own temperature to well over 200 F.

All day long, air flows through the panels to pick up this heat. If the heat is needed immediately, the air travels through conventional forced-air ducts and returns to the panels. Otherwise it circulates around the base of two gravel-filled cylinders that rise like miniature silos from the basement to the roof of the two-story house. The gravel stores enough heat to warm the house during the evening hours. After that, Lof depends on his gas furnace, as he also must do during extended periods of cloudiness. Still, Lof figures that his jury-rigged solar "furnace" shaves $150 a year from his heating bill.

Lof has worked with Richard A. Tybout, an economics professor at Ohio State University, on an extensive cost analysis of solar climate control in eight U.S. cities. His conclusions: "Heating *and* cooling is the way to get an early solar payoff." That is because the same equipment could be used all year long at very little extra cost. In the summer, solar heat could power an absorption cooling system like the kind found in gas refrigerators. Lof hopes to land an NSF grant to build a house at Colorado State with both solar heating and cooling. He plans to use a hot water system instead of a hot air system such as the one in his home. Hot water tanks, rather than gravel-filled cylinders will store the heat.

Lof stresses that solar systems would only compliment, not replace, conventional heating and cooling units. A backup system is needed anyway for bad weather, so it makes little economic sense to design a solar system big enough to handle the entire load if it is to be used for only a few days of the year.

Commercial buildings. Office buildings are especially suited for solar heating and cooling because peak occupancy is usually during daylight hours. Gershon Meckler, a Washington (D.C.) engineering consultant, has developed and patented several solar energy systems and is working on 10 different designs for apartment and office buildings. One of his projects, a small office building in Denver designed for Financial Programs, Inc., is in its fifth year of operation.

This building has banks of skylights that let in sunshine to reduce the need for electric lighting. The skylights are also equipped with heat-exchanger louvers containing circulating water that carries away the heat generated by the sun's rays. Photocells control the movement of the louvers, keeping them pointed toward the sun. In winter, the hot water collected by the louvers circulates through the building's radiators. In summer, Meckler says, the heat exchanger also cuts the building's air-conditioning needs in half.

More advanced systems are on the way. Frederick Dubin, a New York architect, is designing solar heating systems for two office buildings that the federal government will put up in Saginaw, Mich., and Manchester, N.H. One private demonstration project is already at the construction stage: the three-story Massachusetts Audubon Society building in Lincoln, Mass., which is scheduled for occupancy by 1976. Solar collectors on its roof will produce hot water for heating and cooling, and the system may handle as much as 75% of the total load. "This building will be a demonstration of solar energy technology here and now," says Alan H. Morgan, executive vice-president of the society.

Solar cells next. Eventually, if the price of photovoltaic cells drops far enough, thermal systems based on solar energy may have to make way for electric systems. Central power stations based on solar cells may be a long way off, but researchers are hopeful that solar-cell-powered buildings will be appearing in the 1980s.

The first house with solar cells on its roof will soon be ready for experiments at the University of Delaware. Next month, Karl Boer, director of the school's Institute of Energy Conversion, will throw a switch to activate lights and appliances, all powered by the sun. For a year or so, a computer will turn equipment on and off to simulate family use.

Boer says that none of the solar equipment is based on new technology. The cadmium sulfide solar cells, for example, were first developed by the government for the space program. The two-bedroom house will have three power systems: the rooftop solar cells, an array of thermal collectors mounted beneath the cells to trap the sun's heat for climate control, and a conventional hookup to a power grid. Batteries will store excess power from the solar cells, and special salts that are formulated to retain large amounts of heat in a small space will store the thermal energy from the collectors.

The economics. While the technology may not be innovative, the financing arrangements definitely are. If the electric utilities get a piece of the action, Boer seriously believes that every new dwelling could be equipped with solar cells by the end of this decade. So he brought in Delmarva Power & Light Co., which is paying for 30% of the $125,000 project. Every Friday, Boer's architects, sociologists, and engineers report to a Delmarva official. The utility is studying the feasibility of supplying solar panels to customers just as phone companies supply telephones to their subscribers. Delmarva would then sell electricity for peak demand and for backup systems.

Pettinaro Construction Co. of Wilmington, Del., is building the house. Project manager Richard Butler asserts that a four-bedroom solar house of similar design could be built right now for $50,000 to $70,000, roughly 40% more than comparable homes cost in the area. Boer is even more optimistic. Solar power would add no more than 15% to cost, he says, and mass production would cut that amount in half. The amortized cost, he insists, would be about $1.50 per million Btu and 2.7c per kilowatt-hour. "It compares favorably with the average price of energy in Delaware," he says.

Not all experts agree with Boer's sunny outlook for solar cells. But just about everyone working in the field is pleased that his sort of experimentation is finally here. "The sun is an energy source that we are just beginning to think about in the right terms," says ADL's Glaser. "Anyone can tap it. We will no longer be competing for limited resources. And it will mean dollars to those who are the most clever in gadgeteering."

[From the Congressional Record, July 17, 1973]

The Threshold of the Sun Age

Mr. Humphrey. Mr. President, the "energy crisis" that we face in this Nation has both a "short-term" and a "long-term" dimension. Most of the action taken by Congress to date has been aimed at easing the crisis today and for the remainder of this century. However, many experts are now voicing the opinion that no source of energy now available will meet our needs for clean energy during the next century and beyond—except the Sun.

Many have recognized the potential of this greatest and cleanest of all sources of energy and I, for one, have called for stepped-up efforts to tap this tremendous potential for many years. The total Federal effort specifically directed toward solar energy research and development has been totally inadequate, given the energy needs of our Nation and the important researchable projects available.

Expenditures in the 1973 fiscal year for all types of solar energy research and development by all Federal agencies totaled only about $13 million. This amounts to less than 2 percent of the $700 million Federal energy research and development budget and a mere three-one-hundredths of 1 percent of our total Federal R. & D. budget. Certainly the nature of the "energy crisis" demands and the potential for practical uses of solar energy require much greater support from the Federal Government.

The experts generally agree that the need for solar energy exists today and will grow rapidly in the future. They also agree that the present grace period, which permits reliance on traditional fuels, is so short that a much accelerated effort in solar energy research and development is required.

Recently, 600 scientists from around the world met, under UNESCO auspices, to consider the future of solar energy. The conclusions of those discussions were reported by Claire Sterling in a most informative article entitled, "The Threshold of the 'Sun Age'," which appeared yesterday in the Washington Post. This is an important article highlighting what "could be" accomplished if solar energy research and development were adequately supported.

I ask unanimous consent that this article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

The Threshold of the Sun Age

(By Claire Sterling)

Paris.—Six hundred scientists from all over the world gathered under UNESCO's roof here made it clear, in a recent week-long conference, that man is moving into the Sun Age.

Just five years from now, solar heating could be in commercial use around the globe. In less than 10 years, one out of every 10 new homes built in the United States will probably be both heated and cooled by solar rays. In less than 15 years, these rays could be producing commercial electric power. In 20 years, we may well have a 25-million-pound prototype satellite in synchronous orbit 22,300 miles above us in space, beaming power to the planet by microwave. In 50 years, whether by this or other processes, harnessed solar rays could be covering at least 20 percent of all the United States' energy needs—nearly the total consumed altogether in 1970 by the world's most spendthrift nation.

This is not the familiar wishful thinking of solar energy enthusiasts, or cranks, as most of us used to call them. Apart from the prototype satellite—by no means a pipe-dream either—all the above projections were presented to the conference by hardnosed American experts reporting conclusions reached by a NASA-National Science Foundation panel last December. They reflect a dramatic rise in governmental interest, backed for the first time by the promise of big money for research and development. With the latter, in particular, solar energy is moving from the narrow realms of gadgeteering to the big-time.

No great scientific breakthrough was reported here to warrant what looks unmistakably like the take-off. All the so-called "large-power" schemes for harnessing the sun, whether in space or on earth, by solar cell or thermal conversion, are still beset by tormenting difficulties, and certainly offer nothing like a quick fix. Furthermore, practically all the "small-power" devices that might soon become commonplace have been known for centuries; a solar furnace on display in Stockholm Museum, made by somebody in quest of the Philosopher's stone in 1612, differs hardly at all in principle from the spectacular one of 1,000-kilowatt capacity presently operating in the French Bas-Pyrenees.

Apart from the French installation, at Odeillo, an infinite variety of solar installations have been functioning the world over for years. Among them are some 2,000,000 solar water-heaters in Japan and 8,0000,000 elsewhere around the globe; solar stills too purify and desalinate water, one turning out 10,000 gallons a day on the Greek island of Patmos; "small-power" solar pumps, seven of which are working smoothly in West Africa; and a solar furnace successfully drying industrial timber in Australia.

But scientists might have been puttering around indefinitely with such projects on a cottage-industry level if not for a sudden and extraordinary change in thinking at high government levels in many parts of the world. What has made the difference is that the big energy-using countries did not really believe they had to harness the sun before, and do now.

The difference has been increasingly apparent since President Nixon first spoke of the sun as an "inexhaustible source" of energy in June 1971. His message reflected a growing realization not only that all other energy sources were indeed exhaustible and more or less rapidly approaching exhaustion because of an exponential growth in their use, but that critical shortages might soon create intolerable economic, environmental and, internationally political strains.

Since then, the energy crisis has become a household word for Americans, and hardly less so for highly industrialized nations everywhere. As William H. Wetmore of the National Science Foundation pointed out to delegates here, the United States now estimates that its deficit in oil supplies alone will reach from 10,000,000 to 16,000,000 barrels a day by 1990, causing a trade imbalance for this one product of about $15 billion a year. It is hardly surprising, then, that the United States should be taking an exponentially rising interest now in the possibilities of tapping an energy source at once eternally renewable, limitless and pollution-free.

Since 1971, accordingly, the National Science Foundation's budget for solar energy research has risen from nearly zero to $13 million for the next fiscal year. While that may be chicken-feed, the NSF-NASA panel has recommended a U.S. government investment of $3 billion in solar research and development over the next 15 years.

Compared to the $21 billion spent on the American space program in 10 years, that may still look like chicken feed. But it has evidently helped awaken American industrialists to what one speaks of as the "staggering possibilities" of a new market in solar heating and cooling that could easily run to a billion dollars or more in barely seven years.

The market, known now as "solar climate control," is already being explored by 26 top-ranking American companies, including Du Pont, Corning Glass, Kennecott Copper and Spectrolab division of Textron. The initiative in forming this imposing group was taken last April by Dr. Pete Glaser, a vice president of Arthur D. Little, Inc., and moving spirit behind the proposed satellite solar power station—under study in his laboratory for several years.

Perhaps more than any single factor at this conference, the willingness of these big American companies to actually put money into solar research and development has brought about a stunning change in thinking. From an essentially "do-good" movement of scientists hoping to help the poor countries of this world with cheap solar cookers, there has suddenly emerged a rich-state research and development movement on a supremely sophisticated technological level. If there is no doubt that success in this endeavor is going to cost many billion dollars in the end, there is no longer much doubt that, in the end, many billion dollars will bring success.

Though the 600 scientists at the conference may disagree violently about almost everything else, they are unanimous in saying that money—an enormous amount of it—is the problem remaining in tapping the energy of the sun. There is essentially nothing left to be solved in a physics laboratory: what remains to be solved is simply a matter of costs.

Where mere costs are concerned, or so the scientists say, there is practically nothing that money could not do. A crash program backed by billions of dollars might eventually bring down the literally astronomic cost of the crucial solar-cell which, whether of silicon or cadmium sulphide, generates electricity directly from the sun—at a price a thousand times higher than the competitive level. Both the National Science Foundation spokesmen and those of Textron's Spectrolab have maintained here that this cost can be reduced to acceptable levels in anywhere from 10 to 20 years, provided enough money goes into the effort.

If that assertion has been heatedly challenged by other delegates here, most have been fairly optimistic about bringing costs down for small power thermal conversion through devices such as flat-plate collectors. Here in particular, they are encouraged (rather perversely) by the fact that while they try to get these costs down, the costs of conventional fuels are going up. Sooner or later, the lines must cross over on the charts, they feel—and in four sizable regions of the United States, where small-powered heating and cooling of buildings can now be done as cheaply by solar devices as by oil, the lines have crossed already.

Time and again during the week of debate, however, the point was made that the question of actually matching cost per kilowatt hour, cent for cent, is not altogether relevant. There are large areas of the world where fuel-free, maintenance-free power would be welcome even at four or five times the price of conventional fuels: In vast rural areas of Soviet Russia, for instance, or in the drought-stricken West Africa, where millions of cattle are dying—and humans are starting to die as well—for lack of water lying underground, which might be brought up by solar pumps far more easily than by diesels requiring maintenance and fuel transported over perhaps 500 miles of desert.

How much West Africa's poverty-stricken Sahelian states might stand to benefit from a crash solar-energy program is another question, however. With the shift of emphasis now to the needs of highly industrialized nations, the take-off will inevitably be in the direction of mass commercial use for relatively rich consumers. Almost certainly the poor states will have to wait 10 or 20 years, or however long it takes, for the spin-off.

[From Science, Sept. 22, 1972]

Solar Energy: The Largest Resource

(By Allen L. Hammond)

SOLAR HEAT

To reap the sun's enormous energy, Professor Aden B. Meinel and his wife, Marjorie, would cover areas of the Southwest with louverlike solar collectors. The land beneath them could still be used for grazing cattle or farming. In the diagram at right, ridged lenses (1), tilted toward the sun, train rays (2) down through a slot (3) into a glass pipe (4). Its mirrored inside surface reflects the heat onto a coated inner steel tube (5) that circulates gaseous nitrogen. Reaching temperatures of 1,000° F., the gas flows to tanks of molten salts capable of storing the heat for nighttime use. Steam heated by the salts drives turbines. The Meinels estimate a square mile of solar farm could supply power for a city of 60,000.

ENERGY

Not long ago, proposals for using the sun's energy were apt to be received with considerable skepticism. Within a few agencies of the federal government and at an increasing number of university and industrial laboratories, that is no longer the case. Indeed, perhaps the most impressive testimony to the prospects for this type of energy is the score of prestigious scientists and engineers who have begun working on methods for converting the sun's radiation into forms more useful to man—heat, electricity, or chemical fuels.

Within 5 years, many of these scientists believe, solar-powered systems for heating and cooling homes could be commercially available at prices competitive with gas or oil furnaces and electric air conditioners. Still more significant, but farther in the future, may be means of using heat from the sun to generate electricity; experimental solar-thermal units have been constructed in several countries, and several groups in the United States are designing systems to take advantage of improved materials and manufacturing techniques. Eventually the direct conversion of solar radiation to electricity by means of photovoltaic cells or its bioconversion to wood, methane, or other fuels on a large scale may become economically feasible.

Solar radiation is the most abundant form of energy available to man, and is so plentiful that the energy arriving on 0.5 percent of the land area of the United States is more than the total energy needs of the country projected to the year 2000. Sunlight is diffuse and intermittent, however, and its use on earth requires large areas to collect sufficient amounts of energy and, for most applications, the means to store energy. Despite its abundance, solar energy has not been exploited except in a limited way in water heaters, furnaces, and space applications; nor are the technologies that would allow widespread use commercially available. Systems for heating and cooling houses or for generating electricity with sunlight could be built now, but they would cost more than comparable systems that burn fossil fuels. For some applications, however, the disparity in cost may rapidly disappear as solar technology improves and as the costs of fossil fuels rise.

Whether or not solar energy becomes generally available in the near future, there is growing agreement that this source of energy will be important in the long run. That being the case, proponents believe that it is the most underfunded area of research in the energy field, accounting for less than 1 percent of federal research expenditures related to energy.

Of the proposed uses of solar energy, heating and cooling for homes and low-rise commercial buildings are the most developed and will almost certainly constitute the first significant use of solar energy in this country. Solar water heaters are already in commercial use in Florida and in several countries overseas. Experimental houses have been equipped with solar heating systems and preliminary development of cooling systems has begun.

SOLAR HEATING IN THE HOME

For space heating, the solar collector is typically a black metal surface that readily absorbs sunlight and is covered with one to three panes of glass to reduce the heat loss. The glass is transparent to the incoming sunlight, but absorbs the longer wavelength radiation emitted by the hot metal, so that a "greenhouse" effect is created and the effectiveness of the collector is increased. The heat is collected in water or air that is circulated through the collector during the day, and part of it is stored for release at night or in bad weather. Hot water, hot rock, and chemical (change of phase) storage systems have been experimentally tested, depending on the type of heating system envisioned.

For air conditioning, most investigators believe, refrigeration systems that depend on absorption of the coolant fluid appear to offer the best choice. Experimental cooling units are being developed by several university and industrial research groups. At the University of Delaware, for example, a group headed by K. W. Boer is designing complete household energy systems that would utilize heat pumps for space conditioning. In other prototype systems, such as that developed by Erich Farber at the University of Florida, heat from the sun is used to drive ammonia from an ammonia-water solution, and the ammonia is collected and condensed. When cooling is needed, the liquid ammonia is allowed to evaporate and expand as in a conventional cooling system, and the spent vapor is reabsorbed in water.

For absorption refrigerating systems to work smoothly, temperatures around 120°C or higher will be needed, and thus solar collectors that are more efficient than those for heating purposes alone will be required. One possibility may be surface coatings of the type developed in recent years for space applications, which emit very little of the solar radiation that they absorb and which consequently attain higher temperatures than uncoated metal collectors. If such coatings can be produced on a large scale, their use might help to reduce the cost of solar heating and cooling, since collectors are the most expensive item of a solar energy system. Combined cooling and heating systems, which have not yet been built, are also expected to improve the economic prospects for both because of the joint use of the collector.

Substantial technical problems remain to be solved in the design of cooling systems, in the manufacture of surface coatings for improved solar collectors, and in the optimization of combined solar heating and cooling systems. In most regions of the country backup systems based on conventional fuels will be needed for extended periods of bad weather. Nonetheless, one estimate indicates that if systems were commercially available now, solar heating would be cheaper than electric heating in nearly all of the United States and would be competitive with gas and oil heating when these fuels double in cost (2). Proponents believe that solar heating and cooling systems could ultimately supply as much as half of the nearly 20 percent of total U.S. energy consumption that is now used for residential and commercial space conditioning and could reduce the peak use of electricity in summer.

For implementation of this technology, however, some means to overcome what are essentially social problems is likely to be necessary. As Jerry Weingart of the California Institute of Technology put it, "developing the technology is not enough," because the fragmented building industry is traditionally slow to adopt new techniques. Solar heating systems, despite their lower fuel costs, will entail higher initial costs, thus discouraging consumer acceptance; some observers have suggested that governmental encouragement in the form of tax incentives or energy performance construction codes should be part of a national energy policy. The slow rate of replacement of housing, in any case, guarantees that several decades will pass before a new heating system could have a significant impact on total energy use. Given the growing shortage of fossil fuels, however, it seems clearly advantageous to move in that direction.

The generation of electricity with heat from solar energy is a more difficult challenge, and there are conflicting ideas about the best approach to the problem. Some engineers believe that small generating units located where the electricity is to be consumed are the ideal way to utilize a resource that is inherently diffused and well distributed. This group favors the use of power turbines that would operate at temperatures considerably lower than those common in nuclear or fossil-fuel power plants, despite the low thermal efficiency, between 10 and 15 percent, that these units would have. Others have proposed large solar-thermal facilities modeled on existing central power stations. The two concepts differ both philosophically and technically.

Small vapor turbines that used heat from solar collectors to generate electricity were demonstrated by Harry Tabor of Israel's National Physical Laboratory in Jerusalem at the United Nations conference on new sources of energy, held in Italy in 1961. A miniature solar power plant in Senegal is already in operation, and experimental solar engines have been developed by several investigators in the United States. Typically, these units operate at temperatures below 200°C. Their economic advantages relative to other sources of electricity have not been demonstrated, and the concept has attracted only limited interest, in part because of the difficulty of decentralizing the present electrical generation and distribution system.

Preliminary efforts to develop large central power plants are under way. This concept has attracted considerable interest, although substantial problems remain to be solved before such plants could be economically competitive. Still higher temperatures, between 300° and 600°C, are required to operate modern steam turbines, complicating both collection of solar radiation and the storage of thermal energy. To capture enough energy at these temperatures, mirrors or lenses larger than any yet built will in all probability be needed to concentrate sunlight. Because large areas will be required—in most designs, about 30 square kilometers for a 1000-megawatt power station—the transfer of heat from the far-flung solar collectors to the generating facility is also a complicated process. The cost and endurance of the collecting apparatus under operating conditions is a critical but undetermined factor.

CENTRAL POWER STATION

One design proposed by a group that is headed by Aden Meinel of the University of Arizona would use Fresnel lenses to focus sunlight onto a stainless steel or glass ceramic pipe, thus concentrating the solar flux ten times above its normal value. The pipe is covered with one of several types of selective coatings that emit only a small proportion, between 5 and 10 percent, of the energy they absorb and is enclosed in an evacuated glass chamber to reduce conductive and convective heat losses. Nitrogen gas is pumped through the pipe at velocities of about 4 meters per second to transfer the heat from the collectors to a central storage unit. The Arizona team plans to use a eutectic mixture of salts, mostly sodium nitrate as a heat storage medium; the heat would be used to produce steam for a turbine as needed. Liquid metal or the molten salt mixture itself, despite the greater difficulty in handling these substances, might also be used to transport heat from the collectors to the storage unit.

A second group, headed by Ernst Eckert of the University of Minnesota and Roger Schmidt of Minneapolis-Honeywell, Inc., has also begun work on the central power station. Their design includes a self-contained, decentralized system for collecting and storing solar heat. A parabolic reflector would concentrate sunlight onto a heat pipe, a device that can transport heat along its length efficiently by convective processes and that does not require a fluid to be pumped through it. The pipe's outer surface would be a selective coating, and the pipe would be enclosed in an evacuated chamber. A small heat storage tank attached to each heat pipe and reflector would complete the unit; no centralized heat storage facility would be used. Underground pipes would bring water to each storage tank and return it as steam directly to a turbine—thus reducing the pumping costs, the Minnesota team claims, compared to the nitrogen system. In addition, they believe, the self-contained system would be easier to construct and maintain.

The effectiveness of the selective coating with which the collecting surface is covered largely controls the temperatures that can be achieved. Two types of selective surfaces are known, both of which absorb much of the incoming radiation—in the visible region of the spectrum—but which emit only a small portion of the infrared heat radiation. Surfaces such as one developed by Minneapolis-Honeywell for the Air Force rely on optical interference between two reflective layers separated by a transparent layer of the correct thickness; thin films of this type have been routinely produced by vacuum coating techniques in the commercial manufacture of tinted glass for the exteriors of new office buildings. A second type of surface, developed by B. Seraphin at Arizona, is composed of silicon or similar materials that naturally have selective properties. Layers of silicon and nonreflecting materials are laid down on a highly reflective substrate by chemical vapor deposition techniques; the silicon absorbs sunlight, but transmits infrared radiation, so that the composite surface has a high reflectance—and hence a low emittance—in the infrared.

These selective coatings are particularly important for solar collectors that are built without mirrors or lenses. Simple planar collectors have several advantages over the concentrating system in that the concentrating collector must focus sunlight on the absorber and hence must follow the sun's motion in the sky; machinery to allow daily tracking complicates the collector design. In addition, focusing collectors operate only on direct sunlight, whereas planar collectors can utilize diffuse sunlight as well—and thus can function in cloudy or hazy weather. Because the performance of some of the most selective coatings decreases markedly at high temperatures, however, power plants using them would have to operate at temperatures below 350° C, with correspondingly reduced efficiency in the steam turbines. Improved selective coatings may allow planar collectors—which Meinel and his co-workers believe, in principle, to be the most effective in areas of the United States other than the cloudless Southwest—to be used. But most initial designs are based on the assumption that concentration of the sunlight will be necessary, and in these systems the fabrication, cost, and durability of the concentrators are the major concern.

The trade-offs between different types of collectors are not the only feature of the design of solar thermal plants still open to debate. Even with concentrating collectors, it may prove advantageous to operate the system at a reduced temperature, according to the Minnesota team. Their analysis shows increasing efficiency of the collectors, but decreasing efficiency of the thermodynamic cycle of the turbines as the operating temperatures are reduced, with the optimum temperature dependent on detailed design of the system and on the heat storage medium chosen. Heat pipes of the size envisioned have never been built, and other hardware details remain to be considered.

Both groups of investigators believe that the cost of solar-thermal plants will be not more than two or three times what fossil-fueled or nuclear-generating plants cost now, and that rising fuel costs will eventually tip the balance in favor of solar-thermal plants whose fuel is "free." Before accurate estimates of costs can be made, they agree, more detailed engineering studies and some additional research are necessary. But Meinel, at least, believes that full-scale solar-thermal power plants could be built as early as 1985 with an adequate research effort. Other estimates are somewhat less optimistic, but a group of western utility companies is considering the development of a small solar-powered facility that could serve as a prototype for peak load applications.

Although solar energy has probably the fewest potential environmental problems associated with its use of any of the major sources of energy, some problems, none of which appear to be insuperable, do exist. Collecting surfaces absorb more sunlight than the earth does, and while this is not likely to alter the local thermal balance in household or other small-scale use, the larger expanse of collecting surface in a central power plant might. Thermal pollution will also be a problem if water-cooled turbines are used—indeed, more so than with nuclear power plants because solar installations are expected to have even lower thermal efficiencies.

If waste heat is returned to the atmosphere, it could help to restore the local thermal balance. The effects of small changes in the thermal balance would depend on the local meteorological conditions, but are expected to be small. The lack of particulate emissions or radiation hazards might allow solar-thermal power plants to be built close enough to towns or industrial sites so that their waste heat could be put to use. Finally, like other industrial facilities, large-scale plants would also carry some risk of accidents, with the attendant possibility of leaking heat transfer or storage media into the environment.

Yet another option for generating electricity with sunlight is direct conversion by means of photovoltaic cells. But the cells available now—which were developed for space applications—are relatively inefficient and very expensive to manufacture. As a long-term prospect, however, both cadmium sulfide and silicon cells are attracting considerable attention. This option, and the bioconversion of sunlight to fuels, will be discussed in future articles.

Space heating and cooling with solar energy are not available today. Solar-thermal power plants have yet to be built on any but the smallest scale, and key elements of the necessary technology have not been adequately demonstrated. But both options appear to be close enough to practical tests of their economic feasibility to warrant increased efforts. The ancient dream of power from the sun may not, after all, turn out to be impossible.

[From the Washington Post, July 18, 1973]

SOLAR ENERGY

U.S. scientists, according to report by Claire Sterling which was published on this page the other day, told a recent UNESCO conference in Paris that harnessing sunshine to reduce man's dependence on scarce and polluting fuels is no longer a matter of wishful thinking of solar energy enthusiasts. Ten years from now, representatives of a NASA-National Foundation panel reported, one out of every 10 new homes built in this country could be heated and cooled by solar rays. In less than 15 years, sun rays could produce commercial electric power. In 20 years a satellite could be in synchronous orbit beaming power down to earth by microwave. In 50 years, solar energy could supply at least 20 per cent of all the United States' energy needs. And there is no limit to where technology might advance from there if you consider the abundance of solar radiation: it is so plentiful that the energy arriving on 0.5 per cent of the land area of the United States is more than the total energy needs of this country projected for the year 2000.

Harnessing this energy, however, will require "an effort comparable in spirit and commitment to the one we put into the space program in the 1960s," according to former Rep. George P. Miller (D-Calif.), past chairman of the House Science and Astronautics Committee. So far, we have only made a hesitant beginning. The federal government, to be sure, has now at last recognized the potentials of solar energy and organized the NASA-National Science Foundation task force to explore it. Congress has appropriated $12 million for the purpose in the current fiscal year, an amount most experts consider totally insufficient. It is less than two per cent of the total amount of government research and development funds spent on conventional energy resources such as converting coal into gas and nuclear engineering.

What is needed, according to the NSF–NASA panel, is a federal investment of $3 billion in solar research and development over the next 15 years. And what is needed, most of all, as Mr. Miller has said, is a federal commitment that must be 1) focused, 2) integrated, 3) intense and 4) continuing. In other words, laboratory research grants and small scale experimentation are not sufficient to launch the "sun age." Before solar energy becomes a substantial source of clean energy, industrial ingenuity and productive know-how must be mobilized to produce the hardware and services necessary to make the conversion devices economical. Most companies look for short term projects for new enterprises that promise a return on their investment in two or three years. Long range projects present great risk and investment capital is scare unless there is confidence that the government is really serious about it and ready to provide the direction and incentives. A firm assertion of a national priority for solar energy "R and D" is also needed to engender the public confidence essential to assure industry of public acceptance and a market.

There is little time to lose. Nuclear generating plants are as yet producing less than one per cent of our total energy needs and public apprehension about them seems to be mounting. Planning and construction of additional nuclear plants is years behind schedule. Uranium is in short supply. Liquid metal fast breeder reactors will not make a significant contribution for at least a decade. Fusion reactors seem even further off. Experts say that the first demonstration fusion reactor will probably not be built before the year 2000. Energy consumption and energy cost, meanwhile, keep increasing rapidly. In 1970, school districts across the nation, for instance, spent an average of $26.70 per pupil per year for energy. The projections of the U.S. Interior Department, which may be conservative, indicate a tripling of energy cost by 1985 and a quadrupling by 1992. In the year 2000, then, we can expect to pay $106.80 per pupil per year.

Compared to such cost, the $3 billion required to advance solar energy energetically is a bargain. It would be folly to wait for a real scare to produce the crash program that clearly has become necessary.

By Mr. NELSON (for himself, Mr. Gravel, Mr. Hatfield, Mr. Humphrey, Mr. Mondale, Mr. Stevenson, and Mr. Percy):

S. 2820. A bill to establish administrative and governmental practices and procedures for certain kinds of surveillance activities engaged in by the administrative agencies and departments of the Government when executing their investigative, law enforcement, and other functions, and for other purposes. Referred to the Committee on the Judiciary.

WARRANTLESS WIRETAPS AND THE NATIONAL SECURITY

Mr. NELSON. Mr. President, in 1972, the U.S. Supreme Court decided the case of the United States against the United States District Court. In this case, commonly referred to as the Keith case, the Court held by a unanimous 8-to-0 vote that the fourth amendment to the U.S. Constitution precludes the Government from wiretapping the phones of domestic organizations without first obtaining a judicial warrant based on probable cause. The decision, which was based on a careful reading of constitutional history and legal precedent, was simply an action to protect the right of privacy guaranteed to each citizen by the fourth amendment.

The Keith decision did not consider whether the Government could lawfully conduct warrantless taps on domestic organizations or private citizens who have a "significant connection with a foreign power, its agents, or agencies." There is thus the possibility that the Government may continue to conduct warrantless taps against private citizens or domestic organizations if the Government believes that they have a "significant connection" with a foreign power or its agents. Indeed, testimony before congressional committees, as well as other evidence, indicates that the Government does conduct warrantless taps against domestic organizations or citizens when it believes that that connection exists.

This practice, in my view, runs afoul of the fourth amendment. There are virtually no means for the Congress, the courts, or the public at large, to determine whether that power to conduct warrantless taps has been or will be abused. The exercise of executive discretion in these cases goes largely unexamined. However, benign the Government's motives, the danger persists that unjustified warrantless taps will be installed against domestic organizations and private citizens. In short, the Government's wiretapping practices still pose a serious threat to the individual's constitutional right of privacy.

This situation should not be tolerated. Fourth amendment freedoms are among our most cherished liberties. They are a bulwark against an arbitrary government eager to violate the sanctity of an individual's privacy. Without the protection of these and other freedoms in the Bill of Rights, we assume the risk of a government with unrestrained power over the individual. And unrestrained government power is the very definition of tyranny.

Accordingly, I am introducing legislation today which will make clear the limitations which the fourth amendment imposes on the Government's wiretapping practices. Specifically, this legislation would require that no wiretaps can be installed in national security cases without prior court authorization. There would be only two basic exceptions to this rule of law.

First, the law would recognize the President's inherent constitutional power to take any measures, including the installation of wiretaps without court authorization, to protect the United States against the activities of foreign powers or their agents. Second, the law would recognize the Government's right to wiretap without prior court authorization in carefully defined emergency situations when there is insufficient time to obtain such authorization.

The need for this legislation should be beyond question. Today there is much confusion among the public and certain Government officials as to the Government's authority to wiretap without court authorization. This legislation would eliminate that confusion. In so doing, it would make clear that the fourth amendment guarantees of individual privacy have not been eroded by the advent of sophisticated surveillance devices. It would also do much to reaffirm the constitutional ideal articulated by Thomas Jefferson that—

> The opinions of men are not the object of civil government, nor under its jurisdiction.

I. THE USE OF WARRANTLESS TAPS

The Government's use of warrantless wiretaps did not originate with the present administration. From the early 20th century, the Government has employed warrantless taps to obtain information relating to national security and other matters.

The practice first became widespread on the eve of World War II. At that time, President Franklin D. Roosevelt ordered his Attorney General to initiate a campaign of surveillance, including the use of warrantless wiretaps, to protect the Nation against the "fifth column danger" posed by the Nazis and other foreign subversion. The practice continued under the Truman, Eisenhower, Kennedy, and Johnson administrations, although in many cases warrantless taps were also used to obtain information unrelated to national security.

Because warrantless taps are not reviewed by a court or otherwise reported publicly, there is little public information which details the precise scope of the practice. In 1971, then Assistant Attorney General Robert Mardian indicated that 97 warrantless taps were conducted in 1970. There is virtually no means available to verify the accuracy of this figure or to determine whether the number has increased or decreased since then.

But there is no doubt that the practice continues today. In a September 1973 letter to Senator William Fulbright, chairman of the Senate Foreign Relations Committee, then Attorney General Elliot Richardson stated that the current administration would continue to use warrantless taps to obtain information related to national security matters. Mr. Richardson justified this practice on two basic arguments.

First, Mr. Richardson argued that the Keith decision permitted such taps. In his opinion, that decision, as well as other judicial decisions, supported the Government's contention that—

> . . . a judicial warrant is not a necessary requirement for the Government's use of electronic surveillance to obtain foreign intelligence or foreign policy information necessary for the protection of national security.

Second, Mr. Richardson argued that title III of the 1968 Crime Control and Safe Streets Act seemed to recognize the President's inherent constitutional power to conduct warrantless taps related to national security matters.

Under either argument, according to Mr. Richardson, the Government may install warrantless wiretaps against private citizens and domestic organizations if the Government believes their activities affect national security matters. Mr. Richardson made clear, moreover, that the discretion to determine when warrantless taps were jnutified would be the sole province of the executive branch. There would be no opportunity for the Congress, a court, or any other public body to examine the exercise of that discretion in order to insure that it was not abused.

The Government's unreviewed power to install wiretaps against private citizens and domestic organizations creates a situation which is dangerous and, in my view, unconstitutional.

II. THE DANGER OF WARRANTLESS TAPS

The danger here lies in the staggering potential for abuse. Various congressional hearings, as well as other events, have exposed how the cloak of national security has been manipulated by certain Government officials as a convenient excuse for warrantless taps and other questionable surveillance activities. Examples proliferate:

On December 5, 1973, Eugene LaRoque, a retired rear admiral in the U.S. Navy, revealed that the Pentagon currently has a unit which is authorized to engage in the same kind of surveillance activities conducted by the "Plumbers Unit" in the White House. The purported basis of these activities is a need to protect "national security." Rear Adm. LaRoque emphasized that there is currently no procedure for Congress, the courts, or the public to determine the scope—or lawfulness— of the Pentagon unit's surveillance activities.

In a report issued in October 1973, a House subcommittee found that certain White House officials invoked national security considerations to make the CIA their "unwitting dope" in the burglary of Daniel Ellsberg's psychiatrist's offices and in other unlawful surveillance activities.

Recently it was learned that in 1969 the administration installed warrantless taps on 13 government officials and 4 newsmen for the purported reason that these individuals were leaking or publishing sensitive foreign intelligence information. In virtually all the cases there was little or no concrete evidence to justify the taps. In many cases the evidence shows that the individual tapped did not even have access to such information. Indeed, in at least two cases the taps were continued after the individual had left Government service and had joined the Presidential campaign staff of Senator MUSKIE.

In 1969 the White House authorized the burglary of the home of newspaper columnist Joseph Kraft so that a warrantless tap could be installed. The alleged basis for this action was again national security. But there was and is no concrete evidence to establish that Mr. Kraft was acquiring or reporting any information which compromised our national security.

Testimony before the Senate Watergate Committee revealed that the White House authorized warrantless wiretaps "from time to time" when it was conducting an independent investigation of the publication of the "Pentagon papers" in 1971. The taps were placed on numerous citizens, including aides of Members of Congress, whose only connection with the "Pentagon papers" was a personal relationship with some of the reporters involved. Again, the taps were justified on national security grounds and, again, there was and is no concrete evidence to support the need for the taps.

In 1970, the White House conceived and drafted a broad plan which proposed warrantless wiretapping, burglary, and other insidious surveillance practices. The staff assistant responsible for the plan stated in a memorandum to the President that certain aspects were "clearly illegal." Nonetheless, the plan was approved on the basis of national security, only to be scrapped shortly afterward when FBI Director J. Edgar Hoover objected.

As noted earlier, administrations other than the current one have invoked national security to justify warrantless wiretaps and other questionable surveillance practices. Under the Kennedy administration, for instance, warrantless wiretaps were installed against Dr. Martin Luther King, Jr., and others in the Civil Rights Movement because certain Government officials suspected that they were Communist sympathizers or dupes. Needless to say, subsequent revelations have demonstrated that the basis for these taps was virtually nonexistent.

These few examples make clear that warrantless wiretaps, even when justified on national security grounds, are often nothing more than an effort to pry into a citizen's private affairs. And often the intrusion is as indiscriminate as it is unjustified. Any individual, regardless of his or her station in life, may suddenly find that he or she is the subject of a wiretap merely to satisfy the whim of a government official.

Recent exposures of warrantless taps maintained by the Government have rightly resulted in public outrage. Opinion polls in the past few months underscore the public's concern with the Government's ability and willingness to invade an individual's privacy. In October 1973, for example, Louis Harris found that 77 percent of the public now favors legislation which would make illegal wiretapping a major offense and that 73 percent of the public now favors legislation which would make political spying a major offense.

Equally significant is a very recent poll which Mr. Harris conducted for the Senate Subcommittee on Intergovernmental Relations. Mr. Harris found that "integrity in government"—after the economy—is the public's major concern. This fact probably explains why, according to the Harris poll, if given an opportunity to talk with the President, 74 percent of the public would first want to discuss matters relating to Government secrecy and integrity in Government generally. On the basis of these and other findings, Mr. Harris drew the following conclusions:

> Fundamentally, the American people in this survey are trying to articulate two profoundly-held sentiments:
>
> 1. That government secrecy no longer can be excused as an operational necessity, since it can exclude the participation of the people in their own government, *and, indeed, can be used as a screen for subverting their freedom;* and
>
> 2. That the key to any kind of successful future leadership must be ironbound integrity. *This matter of honesty and straight-dealing is one that has the public deeply alarmed.* It cannot be underestimated. *The American people simply will not rest easy until it feels that integrity in government at all levels is secured.*
>
> "Confidence and Concern: Citizens View American Government, A Survey of Public Attitudes," Senate Subcomm. on Intergovernmental Relations, U.S. Senate, Part I, pp. 49, 59–60 153–54 (Dec. 3, 1973) (Emphasis added).

These public surveys not only reveal the public's deep fear that Government wiretapping and other practices are undermining the individual's freedoms; these surveys also explain the steady decline of public confidence in all governmental institutions—the Congress included.

III. THE UNCONSTITUTIONALITY OF WARRANTLESS TAPS

These developments alone underscore the need for Congress to act to establish broad restrictions on Government use of warrantless taps. The need for congressional action is made even more necessary since warrantless taps violate the individual freedoms which are the foundation of our constitutional system.

From the beginning, the Founding Fathers appreciated the serious dangers of a government which could violate the sanctity of an individual's privacy at will. The citizens of the American colonies suffered under British rule when the King's officers entered and searched their homes, armed with nothing more than a general warrant and a desire to suppress political dissent.

In response to these hated abuses, the Framers of our Constitution proposed the fourth amendment. That amendment provides that—

> The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

One need not be a historian or a lawyer to understand the basic purpose of this amendment. It is designed to protect each citizen from unreasonable invasions of his privacy by the Government.

Nor need one be a historian or a lawyer to recognize that the fourth amendment's protection is essential to our concept of democratic self-government. That protection enables each individual to think, speak, and write freely without fear of Government suppression.

Without the guarantees of the fourth amendment, the ability of the people to participate in and guide their Government is undermined. As Justice Robert Jackson declared in his dissent in the 1949 case of Brinegar versus the United States:

> Among deprivations of rights, none is so effective in cowing a population, crushing the spirit of the individual and putting terror in every heart. Uncontrolled search and seizure is one of the first and most effective weapons in the arsenal of every arbitrary government. And one need only briefly to have dwelt and worked among a people possessed of many admirable qualities but deprived of these rights to know that the human personality deteriorates and dignity and self-reliance disappear where homes, persons, and possessions are subject at any hour to unheralded search and seizure by the police.

In short, the fourth amendment was intended to assure that individual liberty, rather than unrestrained government power, be the hallmark of our political system.

The fourth amendment, of course, is not self-enforcing. Its implementation requires that the Government adhere to certain procedures in conducting any lawful searches and seizures. Foremost among these procedures is the requirement that the Government obtain a judicial warrant prior to any search and seizure. As the Supreme Court stated in the 1967 case of Katz versus the United States, which concerned a warrantless wiretap designed to obtain information about a crime:

> Searches conducted outside the judicial process, without prior approval by judge or magistrate, are *per se* unreasonable under the fourth amendment.

This rule of law was reaffirmed most recently by the Supreme Court's decision in the 1971 case of Coolidge versus New Hampshire and in the Keith case.

As a matter of constitutional law, then, a prior judicial warrant is necessary in almost every situation in which the Government desires to physically enter the premises of a citizen's home. According to recent Supreme Court decisions, the rule applies with equal force when the invasion is accomplished by a telephone tap instead of by a physical entry. For the invasion of privacy is no less real when the Government intrudes its ear into a citizen's phone than when a Government official enters his home to rummage through his papers and personal effects.

The critical determinant, then, is not where or how the Government intrudes into a citizen's private affairs; instead, the principal question is simply whether the citizen's sphere of privacy has been violated. As the Supreme Court made clear in the Katz case:

> The fourth amendment protects people, not places.

Neither Congress nor the Court have ever limited the reach of the fourth amendment's protection for American citizens merely because a government's contemplated search was justified on national security grounds. Indeed, quite the contrary.

In adopting title III of the 1968 Omnibus Crime Control and Safe Streets Act, the Congress established certain procedures which, in effect, required the Government to obtain court authorizaton prior to the installation of wiretaps. In section 2511(3) of that title, Congress also stated that its action was not intended to affect the President's constitutional power to take whatever measures he thought necessary to protect the Nation against foreign attack or subversion. But this section does not recognize or define any specific constitutional power of the President to authorize warrantless taps or take any other measures; the section merely states that if the President has certain constitutional powers, title III does not disturb those powers.

The legislative history of title III in fact documents the Congress' intention that adoption of the bill not affect, one way or another, the President's constitutional powers. In the floor debate on section 2511(3), for example, Senator HOLLAND stated that by adopting that section Congress was "—not affirmatively conferring any power upon the President." Senator HART added that—

> . . . nothing in Section 2511(3) even attempts to define the limits of the President's national security power under present law, which I have always found extremely vague. . . . Section 2511 (3) merely says that if the President has such a power, than its exercise is in no way affected by title III.

Relying on this legislative history, the Supreme Court in the Keith case concluded that

> . . . nothing in § 2511(3) was intended to *expand* or to *contract* or to *define* whatever presidential surveillance powers existed in matters affecting the national security.

The Court in the Keith case was concerned with Government surveillance of citizens and domestic organizations who had no "significant connections" with foreign powers or their agents. The Court held that the President had no power, constitutional or otherwise, to ignore fourth amendment limitations when spying on such citizens or organizations.

In reaching this conclusion, however, the Court did not imply that the President has authority to ignore the fourth amendment to spy on citizens or groups who do have a "significant connection" with foreign powers or their agents. The Court stated quite explicitly that—

> . . . this case involves only the domestic aspects of national security. We have not addressed, and express no opinion as to, the issues which may be involved with respect to activities of foreign powers or their agents.

Thus, the Court here did not sanction warrantless taps justified on national security grounds. It simply lift the law where it found it.

For two basic reasons, though, it seems abundantly clear that, except in a few carefully defined situations, the law should require prior court authorization before the Government can install wiretaps against any individual or group in the United States—even when the Government's action is prompted by a concern for national security.

First, the history and language of the fourth amendment itself contemplates that the Government cannot invade an individual's privacy unless a neutral magistrate has determined that the invasion is reasonable. As noted above, the fourth amendment was designed to protect each citizen from arbitrary invasions of privacy by the Government.

The amendment was borne from the American colonies' experience with British agents who flagrantly intruded into a citizen's private affairs at will. By adopting the fourth amendment, the Founding Fathers intended to secure the individual freedoms essential to any democratic self-government. The importance of these freedoms in our scheme of government was made clear by Justice Louis Brandeis in his dissent in the 1928 case of Olmstead against the United States:

> The makers of our Constitution undertook to secure conditions favorabe to the pursuit of happiness. They recognized the significance of man's spiritual nature, of his feelings and of his intellect. They knew that only a part of the pain, pleasure and satisfaction of life are to be found in material things. They sought to protect Americans in their beliefs, their thought, their emotions, and their sensations. They conferred, as against the Government, the right to be let alone—the most comprehensive of rights and the right most valued by civilized men. To protect that right, every unjustfiable intrusion by the Government upon the privacy of the individual, whatever the means employed, must be deemed a violation of the fourth amendment.

There is nothing in the history or language of the fourth amendment, however, which suggests that this protection was to be suspended when the Government was motivated by a concern for national security. Nor can this fact be attributed to an oversight by the Founding Fathers.

Our country was only 11 years old when the fourth amendment was drafted. The American citizens had only recently concluded a war with England to assure their newly declared independence. The threat of foreign attack or subversion remained intact. In spite of these conditions, the fourth amendment was adopted without any exception to its application. The unmistakable conclusion, therefore, is that the absence of any exception was intended.

There is a second reason why the fourth amendment's protections should not be suspended merely because the Government's action is motivated by a concern for national security: it is in times of perceived danger that the Government's powers are more likely to be abused and individual rights violated. In the Keith case, for example, the Government argued strenuously that the fourth amendment's limitations should be waived when the Government acts to protect "domestic security." Justice Powell, speaking for a unanimous Court, rejected this argument, stating that:

> History abundantly documents the tendency of Government—however benevolent and benign its motives—to view with suspicion those who most fervently dispute its politics. Fourth Amendment protections become the more necessary when the targets of official surveillance may be those suspected of unorthodoxy in their political beliefs. The danger to political dissent is acute where the Government attempts to act under so vague a concept as the power to protect 'domestic security.' Given the difficulty of defining the domestic security interest, the danger of abuse in acting to protect that interest becomes apparent.

These same considerations apply with equal force when "national security" is the source of the Government's concern. "National security" is a vague concept which defies precise definition. The scope of its meaning often resides in the eyes of the beholder. This fact has been amply demonstrated by the incidents described earlier where "national security" was invoked to justify activities whose relation to national security was remote or nonexistent.

For this reason, invocation of "national security" considerations should not be sufficient to justify warrantless taps. Otherwise we accept the grave risk that "national security" will become a pretext to spy on those whose only "crime" is to criticize the Government's foreign policies.

The danger of this risk is compounded

since there would be little or no opportunity for the Congress, the courts, or any other public body to expose the abuse.

In short, warrantless taps—regardless of whether they are justified on national security considerations or some other grounds—empower the Government to be as arbitrary as it pleases. This is the very result which our Constitution seeks to prevent through the fourth amendment and other limitations in the Bill of Rights

Nor can it be argued that the foreign perils confronting the Nation today are greater than those which faced the Founding Fathers and that, therefore, the fourth amendment's protections should yield to the dangers of the moment. Those who drafted our Constitution intended that it be a document whose purposes and protections could find expression in any time or circumstance. The Constitution would have little meaning if its provisions could be suspended by a Government which found them inconvenient or unnecessary.

Moreover, as noted earlier, it is in times of great peril—when the Government's desire to serve the people's interest is unquestioned—that respect for the Constitution's protections is most needed. For it is in such circumstances that the Government is most likely—and most willing—to forget that individual liberty is the foundation of our political system. As the Supreme Court declared in the 1971 case of Coolidge versus New Hampshire:

> In times of unrest, whether caused by crime or racial conflict or fear of internal subversion, [the Fourth Amendment] and values that it represents may appear unrealistic or 'extravagent' to some. But the values were those of the authors of our fundamental constitutional concepts. In times not altogether unlike our own they won . . . a right of personal security against arbitrary intrusions . . . If times have changed, reducing every man's scope to do as he pleases in an urban and industrial world, the changes have made the value served by the Fourth Amendment more, not less, important.

Thus, in adopting measures to protect the security of our Nation, the Government cannot and should not be free to trample on those individual liberties which provide the foundation of our political system.

IV. LEGISLATION TO ENFORCE THE FOURTH AMENDMENT

The foregoing analysis makes clear that warrantless wiretaps—regardless of their rationale—pose serious danger to constitutional rights. This is not to suggest, however, the Government should be precluded from installing wiretaps to obtain information deemed necessary to protect our country against foreign attack or foreign subversion. Wiretaps and other forms of electronic surveillance often do prove to be a valuable resource in protecting national security.

Rather, constitutional history and recent events demonstrate that a proper balance must be struck between the Government's need to wiretap and the need to preserve those individual freedoms guaranteed by the fourth amendment and the other provisions of the Bill of Rights. Otherwise we assume that the risk that order and efficiency will be achieved at the expense of individual liberty.

The legislation I am introducing today offers a procedure to reconcile these competing interests. In essence, this bill would require the Government in cases of national security to obtain court authorization before installing wiretaps in the phones of individuals or groups within the United States. In order to obtain this authorization, the Government would have to demonstrate to a court in an ex parte proceeding that there is probable cause to believe that the tap will furnish information necessary to protect national security. Initial judicial orders would permit wiretaps for 15 days. Extensions of 10 days could be granted if the Government provides the court with good cause to continue the tap.

The procedures outlined in this bill are not novel. In fact, they merely mirror procedures which already apply to situations in which the Government seeks to install wiretaps in order to obtain information relating to domestic crimes.

There would be two basic exceptions to the application of the bill's provisions.

First, the bill recognizes the authority of the President to install warrantless taps against foreign powers or their agents. This exception is simply an acknowledgement of the President's inherent constitutional power to protect the Nation against foreign attack and foreign subversion. It is a power which has already received judicial recognition. (*United States* v. *Clay*, 430 F. 2d 165, 171 (5th Cir. 1970), *rev'd on other grounds*, 403 U.S. 698 (1971); *United States* v. *Butenko*, 318 F. Supp. 66, 70–73 (D.N.J. 1970). See "Developments in the Law: The National Security Interest and Civil Liberties," 85 *Harv. L. Rev.* 1130, 1255–57, 1266–68 (1972). To minimize the possibility of abuse, the bill would provide that every warrantless tap on a foreign power or agent must be authorized in writing by the President.

Second, the bill would waive the procedural requirements in an emergency. An emergency would be broadly defined as a situation in which the Government has an immediate and reasonable need to use a wiretap but does not have sufficient time to obtain prior court authorization. In these emergency situations, the Government could install and continue a wiretap for 48 hours. This should provide sufficient time to obtain the necessary judicial warrant.

V. CONCLUSION

Supreme Court Justice Oliver Wendell Holmes once referred to warrantless wiretapes as "dirty business." They still are. Warrantless wiretaps—whatever their rationale—provide the Government with an unreviewed power to spy on law-abiding citizens. Such taps undermine the liberties guaranteed to every citizen by the Bill of Rights. And they emasculate the ability of Congress to exercise its constitutional right to check Presidential power.

Congress cannot and should not tolerate a continuation of warrantless taps. Congress must act to protect individual liberties as well as its own constitutional prerogatives. I therefore hope that the Congress will act favorably on this legislation and thereby assure every citizen that the rule of law still prevails in our country.

Mr. President, I ask unanimous consent to have the bill I offer today printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2820

Be it enacted, by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Surveillance Practices and Procedures Act of 1973."

SEC. 2. The Congress hereby finds and declares that—

(a) Recent events have uncovered abuses by certain administrative agencies, departments, and other units of the Government, when engaging in certain surveillance practices, including the use of wiretaps, for investigative, law enforcement, and other purposes.

(b) Those abuses referred to in subsection (a) have undermined and/or threatened to undermine the individual's right to privacy and other constitutional rights and liberties.

(c) The public has expressed deep concern that abusive practices and procedures by governmental agencies, departments, and/or other units of the Government when engaging in surveillance activities for investigative, law enforcement, and other purposes, may continue to undermine and/or threaten to undermine the individual's right to privacy and other constitutional rights and liberties.

(d) There is a need for the administrative agencies and departments of the Government to engage in certain surveillance practices and procedures in order to properly and satisfactorily execute their lawful investigative, law enforcement, and other functions.

(e) Congress should establish practices and procedures to be followed by the administrative agencies, departments, and other units of the Government when engaging in certain surveillance activities so as to reconcile the interest of the Government in properly and satisfactorily executing its investigative, law enforcement, and other functions with the interest of the Congress and the public in protecting the integrity of the individual's right to privacy and other constitutional rights and liberties.

(f) The need for the practices and procedures described in subsection (e) is particularly acute in cases involving the use of warrantless wiretaps and other electronic surveillance by the administrative agencies, departments and other units of the Government when executing their investigative, law enforcement and other functions.

SEC. 3. (a) Section 2510(10) of title 18, United States Code, is amended by deleting after "Code;" the following: "and".

(b) Section 2510(11) of title 18, United States Code, is amended by adding after "directed" the following: "; and".

(c) Section 2510 of title 18, United States Code is amended by adding immediately after subsection (11) the following: "(12) "foreign agent" means any person who is not an American citizen or in the process of becoming an American citizen and whose first allegiance is to a foreign power and whose activities are designed to serve the interest of that foreign power."

SEC. 4. (a) the first sentence of section 2511(3) of title 18, United States Code, is amended by inserting immediately after "measures" the following: "against foreign powers and foreign agents".

(b) The second sentence of section 2511(3) of title 18, United States Code, is amended by inserting immediately after "measures" the following: "against foreign powers and foreign agents".

(c) Section 2511 (3) of title 18, United States Code, is amended by adding at the end thereof the following sentence: "Notwithstanding the foregoing provisions of this subsection, no officer or employee of any agency, department or unit of the United States shall engage in the exercise of any of such powers by means involving the interception of wire or oral communications unless such officer or employee is first specifically authorized, in writing, by the President. Any such officer or employee so acting without having first been so authorized shall be subject to the penalties prescribed in section 2511 of this chapter."

Sec. 5. (a) Chapter 119 of title 18, United States Code, is amended by adding immediately after section 2516 thereof the following new section:

"§ 2516A. Authorization for interception of wire or oral communication in national security cases.

"(1) The Attorney General, or any Assistant Attorney General specially designated by the Attorney General, may authorize an application to a Federal judge of competent jurisdiction for, and such judge may grant in conformity with section 2518A of this chapter, an order authorizing or approving the interception of wire or oral communications by the Federal Bureau of Investigation, or any Federal administrative agency, department or other unit having lawful responsibility for the gathering of intelligence involving the national security, when such interception may probably provide or has provided intelligence information necessary to protect the Nation against actual or potential attack or other hostile acts of a foreign power, to obtain foreign intelligence information that is essential to the security of the United States, and to protect vital national security information against foreign intelligence activities."

(b) Chapter 119 of title 18, United States Code, is amended by adding immediately after section 2518 thereof the following new section:

"§ 2518A. Procedure for interception of wire or oral communications relating to national security.

"(1) Each application for an order authorizing or approving the interception of a wire or oral communication under section 2516A of this chapter shall be made in writing upon oath or affirmation to a judge of competent jurisdiction and shall state the applicant's authority to make such application. Each application shall include the following information:

"(a) the identity of the investigative or law enforcement officer making the application, and the officer authorizing the application;

"(b) A full and complete statement of the facts and circumstances relied upon by the applicant, to justify his belief that an order should be issued, including (i) a description of the nature and location of the facilities from which or the place where the communication is to be intercepted, (ii) a description of the type of communications sought to be intercepted, (iii) the identity of the person, if known, whose communications are to be intercepted;

"(c) A statement as to whether or not investigative procedures have been tried and failed or why they reasonably appear to be unlikely to succeed if tried or to be too dangerous;

"(d) A statement of the period of time for which the interception is required to be maintained. If the nature of the investigation is such that the authorization for interception should not automatically terminate when the described type of communication has been first obtained, a description of facts establishing probable cause to believe that additional communications of the same type will occur thereafter;

"(e) A full and complete statement of the facts concerning all previous applications known to the individual authorizing and making the application, made to any judge for authorization to intercept, or for approval of interceptions of, wire or oral communications involving any of the same persons, facilities or places specified in the application, and the action taken by the judge on each such application; and

"(f) Where the application is for the extension of an order, a statement setting forth the results thus far obtained from the interception, or a reasonable explanation of the failure to obtain such results.

"(2) The judge may require the applicant to furnish additional testimony or documentary evidence in support of the application. But in no event may authorization or approval of any wire or oral communication be granted unless the applicant furnishes evidence, independent of his and others conclusory opinion, that such interception shall serve one of the purposes set forth in section 2516A above.

"(3) Upon such application the judge may enter an ex parte order, as requested or as modified, authorizing or approving interception of wire or oral communications within the territorial jurisdiction of the court in which the judge is sitting, if the judge determines on the basis of the facts submitted by the applicant that—

"(a) there is probable cause for belief that the interception is necessary in order to gain information serving one of the purposes set forth in § 2516A;

"(b) there is probable cause for belief that particular communications concerning one of the purposes set forth in § 2516A will be obtained through such interceptions;

"(c) normal investigative procedures have been tried and have failed or reasonably appear to be unlikely to succeed if tried or to be too dangerous;

"(d) there is probable cause for belief that the facilities from which, or the place where, the wire or oral communications are to be intercepted are being used, or are about to be used, in connection with matters involving the national security, or are leased to, listed in the name of, or commonly used by such person.

"(4) Each order authorizing or approving the interception of any wire or oral communication shall specify—

"(a) The identity of the person, if known, whose communications are to be intercepted;

"(b) the nature and location of the communications facilities as to which, or the place where, authority to intercept is granted;

"(c) a description of the type of the communication sought to be intercepted;

"(d) the identity of the agency authorized to intercept the communications, and of the person authorizing the application; and

"(e) the period of time during which such interception is authorized, including a statement as to whether or not the interception shall automatically terminate when the described communication has been first obtained.

"(5) No order entered under this section may authorize or approve the interception of any wire or oral communication for any period longer than is necessary to achieve the objective of the authorization, nor in any event longer than fifteen days. Extensions of an order may be granted, but only upon application for an extension made in accordance with subsection (1) of this section and the court making the findings required by subsection (3) of this section. The period of extension shall be no longer than the authorizing judge deems necessary to achieve the purposes for which it was granted and in no event for longer than ten days. Every order and extension thereof shall contain a provision that the authorization to intercept shall be executed as soon as practicable, shall be conducted in such a way as to minimize the interception of communication not otherwise subject to interception under this chapter and must terminate upon attainment of the authorized objective, or in any event in fifteen days.

"(6) Whenever an order authorizing interception is entered pursuant to this chapter, the order shall require reports to be made to the judge who issued the order showing what progress has been made toward achievement of the authorized objective and the need for continued interception. Such report shall be made at such intervals as the judge may require.

"(7) Notwithstanding any other provision of this chapter, any investigative or law enforcement officer, specially designated by the Attorney General, who reasonably determines that—

"(a) an emergency situation exists with respect to activities threatening the national security interest, and

"(b) there are grounds upon which an order could be entered under this section to authorize such interception, may intercept such wire or oral communication if an application for an order approving the interception is made in accordance with this section within forty-eight hours after the interception has occurred, or begins to occur. In the absence of an order, such interception shall immediately terminate when the communication sought is obtained or when the application for the order is denied, whichever is earlier. In the event such application for approval is denied, or in any other case where the interception is terminated without an order having been issued, the contents of any wire or oral communication intercepted shall be treated as having been obtained in violation of this chapter.

"(8) Any order under this section authorizing the interception of a wire or oral communication shall, upon request of the applicant, direct that a communication common carrier, landlord, custodian, or other person shall furnish the applicant forthwith all information, facilities, and technical assistance necessary to accomplish the interception unobtrusively and with a minimum of interference with the services that such carrier, landlord, custodian, or person is according the person whose communications are to be intercepted. Such carrier, landlord, custodian, or person furnishing such facilities or services shall be compensated therefor by the applicant at the prevailing rates.".

Sec. 6. The first sentence of section 2518(8)(a) of title 18, United States Code, is amended by inserting immediately after "chapter" a comma and the following: "other than pursuant to section 2518A,".

Sec. 7. (a) The analysis of chapter 119 of title 18, United States Code, is amended by inserting immediately after the item "2516. Authorization for interception of wire or oral communications.", the following new item:

"2516A. Authorization for interception of wire or oral communications in national security cases.".

(b) Such analysis is further amended by inserting immediately after the item "2518. Procedure for interception of wire or oral communications.", the following new item: "2518A. Procedure for interception of wire or oral communications relating to national security.".

Sec. 8. Section 2519(1) is amended by inserting immediately after "2518," the following: "or section 2518A,".

By Mr. JAVITS (for himself, Mr. Percy, Mr. Hugh Scott, Mr. Goldwater, and Mr. Fannin):

S. 2821. A bill to extend the authorization of appropriations for the Cabinet Committee on Opportunities for Spanish-Speaking People. Referred to the Committee on Foreign Relations.

CABINET COMMITTEE ON OPPORTUNITIES FOR SPANISH-SPEAKING PEOPLE

Mr. JAVITS. Mr. President, I send to the desk a bill to extend the authorization of the appropriations for the Cabinet Committee on Opportunities for Spanish-Speaking People.

Section 10 of the act to establish the Cabinet Committee on Opportunities for Spanish-Speaking People and for other purposes (83 Stat. 840, Public Law 91-181), as amended, authorizes the appropriation of such sums as may be necessary to carry out the provisions of this act during fiscal years 1970, 1971, 1972, and 1973.

Conforming to the provisions of section 12, fixing the expiration date of this act 5 years after it became effective on December 30, 1969, the proposed draft bill would amend Public Law 92-122 by striking out "and 1973" and inserting in lieu thereof "1973 and 1974" for the purpose of authorizing during such fiscal years the appropriations of such sums as may be necessary to carry out the Cabinet Committee's legislative mandate to assure that Federal programs are reaching all Spanish-speaking Americans and providing the assistance they need, and to seek out new programs that may be necessary to handle problems that are unique to such persons.

Mr. President, I ask unanimous consent that the text of the bill appear in the Record at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2821

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 10 of the Act entitled "An Act to establish the Cabinet Committee on Opportunities for Spanish Speaking People, and for other purposes," approved December 30, 1969 (83 Stat. 840, Public Law 91-181), as amended (85 Stat. 342; Public Law 92-122), is amended by striking out "and 1973," and inserting in lieu thereof "1973 and 1974."

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 2506

At the request of Mr. Magnuson, the Senator from California (Mr. Tunney) was added as a cosponsor of S. 2506, a bill to amend the Natural Gas Act to secure adequate and reliable supplies of natural gas and oil while at the lowest reasonable cost to the consumer and for other purposes.

S. 2676

At the request of Mr. Biden, the Senator from Kentucky (Mr. Cook) and the Senator from Massachusetts (Mr. Kennedy) were added as cosponsors of S. 2676, the National Homestead Assistance Act.

S. 2793

At the request of Mr. Curtis, the Senator from Nebraska (Mr. Hruska) was added as a cosponsor of S. 2793, a bill to amend the Clean Air Act in order to provide that no grant shall be made under such act for a State vehicle emission device testing program if such program provides a penalty for the removal or rendering inoperative of such device by or at the request of the purchaser of the vehicle.

S. 2794

At the request of Mr. Hartke, the Senator from Georgia (Mr. Talmadge), the Senator from West Virginia (Mr. Randolph), the Senator from Iowa (Mr. Hughes), the Senator from California (Mr. Cranston), the Senator from Wyoming (Mr. Hansen), the Senator from South Carolina (Mr. Thurmond), the Senator from Vermont (Mr. Stafford), the Senator from Idaho (Mr. McClure), the Senator from Minnesota (Mr. Mondale), the Senator from Indiana (Mr. Bayh), the Senator from Minnesota (Mr. Humphrey), and the Senator from Iowa (Mr. Clark), were added as cosponsors of S. 2794, a bill to amend chapter 36 of title 38, United States Code, to authorize the Administrator of Veterans' Affairs to continue making educational assistance and subsistence allowance payments to eligible veterans and eligible persons during periods that the educational institutions in which they are enrolled are temporarily closed pursuant to a policy proclaimed by the President or because of emergency conditions.

WATER RESOURCES DEVELOPMENT AND RIVER BASIN MONETARY AUTHORIZATIONS ACT OF 1973—AMENDMENT

AMENDMENT NO. 917

(Ordered to be printed and to lie on the table.)

Mr. STEVENSON submitted an amendment intended to be proposed by him to the bill (S. 2798) authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes.

OIL AND GAS REGULATORY REFORM ACT OR 1973—AMENDMENT

AMENDMENT NO. 918

(Ordered to be printed and referred to the Committee on Commerce.)

REFINERY AMENDMENTS

Mr. HART. Mr. President, even with the myriad of bills dealing with the energy crisis which have been introduced in the last few weeks, two major problems yet remain to be dealt with: The critical shortage of refinery capacity in this country and the dependence of the independents on the major integrated oil companies for supply.

Today, I introduce—in the form of an amendment to S. 2506, Senator Stevenson's proposal for establishing a Federal Oil and Gas Corporation—a proposal which could put quite a dent in both of these problems.

This amendment would put the Government in the refinery business—but only long enough to oversee the construction of at least seven full-scale refineries. Individual corporations would be established to run each refinery and they very quickly would go public—through the sale of shares of stock in a manner to encourage broad-based ownership.

These refineries, under the language I propose today, would be granted first call on the oil discovered and pumped by the Federal Oil and Gas Corporation. Thus, the country would ge a boost in its refinery capacity and the industry would get a good shot of competition—by making these new corporations truly independent.

My amendment would go further in increasing competition in these industries by guaranteeing that the second priority customers for the Federal Oil and Gas Corporation's crude oil would be other independent refiners.

Mr. President, we are all well aware of the fate of independent refiners and retailers in this industry in the past year. Once shortages began to develop, it was the independents who were cut off by their suppliers—the major integrated oil companies. It was this problem which Congress dealt with in the Emergency Petroleum Allocation Act of 1973 which was enacted a few weeks back. Allocation was a good idea—in the short run—as a way of guaranteeing that the independents could stay alive and continue to offer their special brand of competition to this industry. But, if we are to be assured the benefits that competition can bring, then the independents need to be untied from the major oil companies. Those ties, commonsense tells us, must dull the competition that independents supply. For you do not bite the hand that supplies you—at least not too hard.

Establishing the new refineries will add to competition also by making it possible for new and independent retailers to start serving the market. These retailers will be independent businessmen—with no obligation to parent companies as to the manner in which they conduct their business. They will not be franchees and will be free of all the restraints and compulsions of which the Senate Antitrust and Monopoly Subcommittee has heard branded dealers complain for many, many years.

The ultimate benefactor of all this will be consumers—for they can look forward to being served in an innovative manner which is the result of true competition.

The other argument for building the refineries is the argument of numbers. While we are all well aware of the Arab shutoff to crude oil, many may not be aware that even if we had the crude we would no doubt have an energy crisis—for we do not have the refineries to refine the oil. Recent figures show that we are capable of producing 13.9 million barrels a day of product, but the demand is running at about 17½ million barrels a day.

If my proposal is enacted into law and the President should decide to build only the minimum seven refineries required, they would fill about one-third of that gap. Of course, the proposal gives the President the discretion of building more refineries if he thinks that the industry cannot supply them.

Mr. President, I ask unanimous consent that the text of the amendments be printed at this point in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 918

On page 15, beginning with "it" on line 13, strike out all through line 15 and insert in lieu thereof the following: "surplus crude oil remains after the crude oil requirements of the refinery corporations established under section 703 of title VII are met. Any refinery facilities the Corporation shall build, lease, or purchase will be operated in a manner which will promote competition among suppliers of natural gas or oil."

On page 16, line 5, after the word "supply" strike all through line 7 and insert in lieu thereof the following: "and delivery priority to those refining corporations established under section 703 of title VII. To the extent natural gas or oil is available after the needs of such refining corporations are met, then preference shall be given to independent refiners, cooperatives, States, and political subdivisions of States".

On page 20, after line 5, insert the following new title:

TITLE VII—ESTABLISHMENT OF PETROLEUM CORPORATION

DEFINITIONS

SEC. 701. For purposes of this title, and unless the context otherwise requires, the term—

(1) "company" means a corporation, a partnership, an association, a joint-stock company, a trust, a fund, or any organized group of persons whether incorporated or not; or any receiver, trustee in bankruptcy or official, or any liquidating agent for any for the foregoing, in his capacity as such;

(2) "control" means the power to exercise a controlling influence over the management or policies of a company, unless such power is solely the result of an official position with such company;

(3) "affiliated person" or "another person" means any person directly or indirectly owning, controlling, or holding with power to vote, 5 per centum or more of the outstanding voting securities of such other person; any person 5 per centum or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by such other person; any person directly or indirectly controlling, controlled by, or under common control with, such other person; any officer, director, partner, copartner, or employee of such other person;

(4) "affiliated company" means a company which is an affiliated person;

(5) "oil company" means any company or other entity domestic or foreign engaged in the production refining transmission or retailing of petroleum products or products refined therefrom whose gross assets exceed $5,000,000;

(6) "security" means any note, stock, treasury stock, bond, debenture, evidence or indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security, fractional undivided interest in oil, gas, or other mineral rights, or, in general, any interest or instrument commonly known as a "security", or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing and

(7) "independent marketer" means a person who is engaged in the marketing of distributing or refined petroleum products, but who is not a refiner or a person (A) who controls, is controlled by, is under common control with, or is affiliated with a refiner (other than by means of a supply contract), or (B) who does not have any agreement with a refiner (i) to use a trademark, tradename, service mark, or other identifying symbol or name owned by a refiner (or any such person), or (ii) to occupy premises, and, list, or in any way controlled by a refiner (or person who controls, is controlled by, or is under common control of a refiner).

ACQUISITION OF FACILITIES

SEC. 702. (a)(1) The President is authorized and directed to take such action as may be necessary, including the acquisition of lands and interests therein, to cause to be designed and constructed a minimum of seven full-scale optimum commercial-size facilities for the refining of petroleum products, of which at least one such facility shall be located within each of the five Petroleum Administration for Defense Districts (PAD Districts).

(2) The location and construction of the refining facilities shall be carried out consistent with environmental impact considerations.

(3) The location and specifications for the refineries shall be determined within one year after the effective date of this Act, and the refining facilities are to be fully operational by January 1, 1977.

(b) The President shall transfer, subject to the provisions of subsection (c) of this section, to each of the corporations established pursuant to section 703 of this title all land and interests therein owned or acquired for such refining facilities, together with any improvements, from time to time, within two years of the establishment of each such corporation for which such assets are designated or at such earlier dates as determined by the board of directors of each such corporation.

(c)(1) The President shall take the necessary actions to transfer the assets referred to in subsection (b) to such corporations at a price equal to the cost or fair market value of such assets, whichever amount is lower. Cost and fair market value of such assets shall be determined by the Administrator of the General Accounting Office.

(2) All proceeds from the transfer of assets or from the repayment of notes shall be deposited in the Treasury as miscellaneous receipts. The purchase price shall be paid from available funds of each corporation at the time of transfer of assets, to the extent feasible, in cash, with any balance to be represented by notes maturing not later than five years from the date of issuance. Such notes shall bear interest at 5 percent per annum and may not be subordinated to any other debt incurred by any such corporation. Such notes shall be paid, to the extent feasible, by each such corporation immediately upon receipt of the proceeds from the sale of securities.

(3) The President shall make available, to each such corporation, such funds as may be necessary to complete and operate the refining facilities, including working capital. Funds made available to the corporations shall be represented by notes issued under the same terms and condition as specified for notes to be held by the Treasury under paragraph (2) of this subsection.

(4) Any notes issued by any such corporation pursuant to this section may be prepaid at any time without premium or penalty.

ESTABLISHMENT OF CORPORATION

SEC. 703. There shall be established, within one year after the date on which this Act becomes effective, for each refining facility authorized under section 702(a), one corporation for profit which will not be an agency or establishment of the United States Government. Each such corporation shall be subject to the provisions of this Act and, to the extent consistent with this Act, to the District of Columbia Business Corporation Act.

ORGANIZATION OF CORPORATION

SEC. 704. (a) The President of the United States shall appoint nine incorporators for each corporation, established under section 703, by and with the advice and consent of the Senate, who shall serve as the initial board of directors for each such corporation until the first annual meeting of public stockholders, which meeting shall be held within 90 days after the date on which the corporation's voting securities are sold to the public. Such incorporators shall arrange for the sale to the public at competitive bidding of the corporation's securities, exclusive short-term debt securities, which shall be accomplished not later than three years after the refining facility is operational, and take whatever other actions are necessary to establish each such corporation, including the filing of articles of incorporation.

(b) The directors serving prior to the date of the public sale of voting securities in each such corporation to the public, shall receive compensation at the rate of $400 for each board meeting attended, plus travel expenses and per diem.

DIRECTORS AND OFFICERS

SEC. 705. (a) Each corporation shall have a board of directors consisting of nine individuals who are citizens of the United States, of whom one shall be elected annually by the board to serve as chairman. Not more than three members, or their successors, of each initial board of directors may be recommended to the stockholders for election to the board of directors at the first public shareholder meeting. No member of the board of directors or any other corporation established under section 703 is eligible for election to the board of directors of such corporation. No member of the board of directors nor any member of his immediate family may own beneficially, or of record, any interest directly or indirectly, in any other oil company. No member of the board of directors shall be a director, officer, or employee of any other oil company.

(b) Subject to the foregoing limitations, the articles of incorporation for each such corporation shall provide for cumulative voting under section 27(d) of the District of Columbia Business Corporation Act (D.C. Code, sec. 29–911 (d)). The articles of incorporation of each such corporation, notwithstanding any subsequent amendment of such Act, may be amended, altered, changed, or repealed only by a vote of not less than 66⅔ per centum of the outstanding shares of the voting capital stock of such corporation, if such vote complies with all other requirements of this Act and of the articles of incorporation of the corporation with respect to the amendment, alteration, change, or repeal of such articles.

(c) Each corporation shall have a president, and such other officers as may be named and appointed by the board, at rates of compensation fixed by the board, and serving at the pleasure of the board. No individual may be an officer of any such corporation if he or any member of his immediate family owns beneficially, or of record, any interest directly or indirectly, in any other oil company. No officer of any such corporation nor any member of his immediate family shall receive any salary or fees from any other oil company during the period of his employment by the corporation.

FINANCING OF CORPORATION

SEC. 706. (a) Each such corporation is authorized to issue, sell, and have outstanding equity and debt securities in such amounts and at such times as it shall determine. The shares of capital stock, which shall be without par value, shall carry voting rights and be eligible for dividends. The shares of such stock initially offered shall be sold at a price not in excess of $50 for each share and in a manner to encourage the widest distribution to the American public. Subject to the provisions of this section, the shares of capital stock offered and sold under this section may be owned by any person. Dividends may not be declared or paid until one year after the voting securities of the corporation are publicly held.

(b)(1) All securities issued under this section shall include the identity and address of the beneficial owner of such security and that owner shall have the exclusive right to exercise the voting rights of such security.

(2) No person shall own the capital stock of more than two corporations established under section 703.

(3) Notwithstanding any other provision of law, no person who owns one per centum or more of the voting securities of any other oil company shall be permitted to own, directly or indirectly, voting securities or any securities convertible into voting securities of any corporation established under section 703.

(4) No stockholder or affiliated person of such stockholder when considered together may own, beneficially or of record, or both, more than five per centum of the outstanding voting securities of any corporation established under section 703. In determining the percentage of outstanding voting securities, any security which is owned and which is convertible into capital stock, or any option to purchase either such a security or such capital stock, shall be taken into account.

(c) The requirement of section 45 (b) of the District of Columbia Business Corporation Act (D.C. Code, sec. 29-920 (b)) as to the percentage of stock which a stockholder must hold in order to have the rights of inspection and copying set forth in that subsection shall not be applicable in the case of holders of securities in a corporation established under section 703, and such holder may exercise such rights without regard to the percentage of stock held.

POWERS OF CORPORATION

SEC. 707. In order to achieve the objectives and to carry out the purposes of this title, each corporation established under section 703 is authorized to—

(1) acquire, own, manage, operate, and maintain a facility for the refining of petroleum products (including equipment in connection therewith);

(2) acquire such additional physical facilities, equipment, and devices as it determines necessary to its operations; and

(3) enter into contracts, leases, and other agreements as it determines necessary to carry out the purposes of this title.

SALE OF PRODUCTS

SEC. 708. Each corporation established under section 703 shall, from time to time, offer to sell on a priority and first choice basis the products of its refinery to independent marketers who hold no substantial beneficial interest in or ownership of any oil producing lands, refineries, or petroleum, or oil transmission or gathering pipelines.

REPORTS TO CONGRESS

SEC. 709. (a) Each corporation established under section 703 shall transmit to Congress annual and other periodic reports of the type and in the form and at such times as would be required to be filed with the Securities and Exchange Commission if the securities of such corporations were registered pursuant to section 12 of the Securities Exchange Act of 1934. The reporting requirements of this section shall terminate upon such date as such reports are transmitted to the Securities and Exchange Commission pursant to its requirements.

(b) Each corporation established pursuant to section 703 shall transmit to the Congress in January of each year in which such corporation has no public shareholders any recommendations for additional legislative or other action necessary to achieve the objectives of this Act.

PENALTY

SEC. 710. Any corporation established under section 703 of this title or any other person who—

(1) willfully violates any provision of this title shall be fined not more than $10,000 or imprisoned for not more than five years, or both; or

(2) realizes, or could at his election realize, a profit as a result of acquiring voting securities of any such corporation in violation of section 705 or 706 of this title shall be fined an amount equal to the amount of such profit.

AUTHORIZATION OF APPROPRIATIONS

SEC. 711. (a) Except as provided in subsection (b), there are authorized to be appropriated such sums as may be necessary to carry out the purpose of this title.

(b) For the purpose of carrying out the provisions of section 702 of this title, relating to the construction of refining facilities, including land acquisition, there is authorized to be appropriated, without fiscal year limitation, the sum of $3,000,000,000. In addition to the amount authorized to be appropriated under this subsection, there are authorized to be appropriated such additional sums as may be necessary as a result of ordinary fluctuations in construction costs as determined by engineering cost indices applicable to such construction.

FEDERAL ENERGY ADMINISTRATION ACT—AMENDMENT

AMENDMENT NO. 919

(Ordered to be printed and to lie on the table.)

ANTIHOARDING AMENDMENT

Mr. HARTKE. Mr. President, on Thursday, December 13, the Senate Government Operations Committee reported S. 2776, the Federal Energy Emergency Administration Act. Title I of this bill would establish an administration to develop the policies and direct the programs needed to manage the energy emergency. Title II creates a Council on Energy Policy to advise the President on energy matters and prepare a long-range comprehensive energy plan to provide guidance to all Federal agencies and the private sector. The bill may reach the Senate floor by Tuesday, December 18.

Although existing conservation programs are resulting in major energy savings, the worst shortages are yet to come. Some regions of the Nation face the prospect of up to 40 percent energy shortages if weather turns severe and alternative supplies are not found. Already consumers are suffering serious hardships as a result of shortages, price increases, and restrictions on the availability of petroleum product. Shortages and hardships will be made much more severe if individuals and corporations stockpile energy supplies and hoard them to detriment of other consumers.

Accordingly this amendment would require monthly reporting of fuel inventories held by major users. It would prohibit stockpiling of energy supplies beyond ordinary and necessary requirements. Violation of antihoarding regulations would subject any person to civil penalties of up to $25,000 for each violation.

AMENDMENT NO. 923

(Ordered to be printed and to lie on the table.)

Mr. MONDALE. Mr. President, I introduce for printing an amendment, on behalf of myself, the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PASTORE), the Senator from Vermont (Mr. STAFFORD), and the Senator from Massachusetts (Mr. KENNEDY), to S. 2776, the Federal Energy Emergency Administration Act.

I ask unanimous consent that the text of the amendment be printed in the RECORD at this point.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 923

On page 22, strike all on lines 4 through 17, and redesignate succeeding paragraphs accordingly.

On page 19, between lines 19 and 20, insert the following new subsections and redesignate succeeding subsections accordingly:

(c) The provisions of the Economic Stabilization Act of 1970, as amended, insofar as they are applicable with respect to the functions transferred by subsection (b) of this section, are hereby continued in effect for the duration of this Title.

(d) As used in this section, a "fuel in short supply" includes crude petroleum or any refined petroleum derivative thereof, for which the Administrator has in effect, on the date of enactment of this Act, allocation, rationing, or other mandatory controls on distribution or consumption.

(e) In the pricing of any fuel in short supply, the Administrator shall allow (except as provided in subsection (f) of this section):

(1) for crude petroleum, no more than a passthrough of cost increases actually incurred in domestic or foreign operations, except that the Administrator may implement exceptions to such rules for the sole purpose of providing increases in the price of new supplies to encourage increased domestic exploration and production of crude petroleum: *Provided*, that any such exception shall state in detail the means by which any price increases which are greater than a passthrough of costs can be expected to be effectively utilized to increase investment in new domestic exploration and production; and

(2) for refined petroleum products, no more than a cost passthrough at any level of supply or distribution for refined petroleum products, except that the Administrator may implement exceptions to such rules, to the extent that declining sales volumes necessitate such exceptions, for branded and nonbranded independent marketers, as defined by Public Law 93-159 (the Emergency Petroleum Allocation Act of 1973).

(f) The Administrator may implement interim pricing policies which permit increases greater than those pursuant to subsection (e) of this section. No such interim pricing policy which permits such increases shall be effective for more than sixty days unless within fifteen days after it is implemented, the Administrator holds a public hearing thereon, on the record, after at least ten days prior notice thereof. Based on such hearing and prior to the elapse of the aforesaid sixty day period, the Administrator shall announce his final decision on such pricing policy.

(g) The Administrator shall publish in the Federal Register no more than thirty days after enactment of this Act, rules and regulations to implement the fuel pricing provisions of this section, including procedures to insure compliance therewith.

(h) Pursuant to section 118 of this Act, the Comptroller General of the United States is authorized and directed to monitor price increases granted pursuant to this section. He shall report not less than quarterly to the Congress with his comments on the fuel pricing decisions of the Administrator pursuant to this section.

AMENDMENT NO. 924

(Ordered to be printed and to lie on the table.)

Mr. STEVENSON submitted an amendment intended to be proposed by him to amendment No. 912, intended to be proposed by Mr. BUCKLEY to the bill (S. 2776) to provide for the effective and efficient management of the Nation's energy policies and programs.

AMENDMENT NO. 925

(Ordered to be printed and to lie on the table.)

Mr. STEVENSON. Mr. President, the issue of natural gas deregulation is complex and controversial, and it is an issue which the Senate Commerce Committee is currently holding extensive hearings on. The committee considers this subject a high priority matter and will soon report legislation to the floor. It is entirely inappropriate to take action at this time on this subject. However, if the Senate is to consider natural gas amendments as a rider to the pending energy organization legislation, a broader range of options should be examined. I am prepared to offer an amendment which is designed to prevent the oil companies from further exploiting the energy crisis.

My amendment calls for the establishment of an excess profit tax. Although there are fuel shortages throughout the Nation, the profits of the oil companies are at record levels. Such profits are occurring at a time when the Nation's consumers are suffering a serious hardship as a result of shortages, price increases, and restrictions on the availability on petroleum products. The oil industry's record profits are in part windfalls that do not benefit American consumers. If the Nation is to benefit from personal sacrifices, it should benefit from some corporate sacrifices, too. The revenues from excess profits taxation would flow to the people of the United States rather than into the private coffers of the oil industry. And the oil companies would receive an incentive to decrease profits by investing in greater productivity.

The consumer expects Congress to take a positive step to increase supplies without causing massive inflation and billions in windfall profits. This proposal is designed to help achieve that goal.

Mr. President, if the Senator from New York agrees to withdraw his amendment, I will not call up my amendment.

AMENDMENT NO. 926

(Ordered to be printed and to lie on the table.)

Mr. STEVENSON. Mr. President, last week the Senator from New York (Mr. BUCKLEY) introduced amendment No. 912 to S. 2776, a bill to provide for the effective and efficient management of the Nation's energy policies and programs.

This amendment would have the effect of deregulating new natural gas prices. In my view a view which is shared by the chairman of the Commerce Committee (Mr. MAGNUSON) it is inappropriate for the Senate to consider such a complex and controversial matter without the benefit of the recommendation of the committee having jurisdiction over the matter. A natural gas amendment is particularly inappropriate on the floor at this time in light of the fact that the Commerce Committee is intensively engaged in developing a permanent solution which will provide adequate stimulation for exploration and development of untapped gas reserves without imposing enormous and unjust economic burdens on the American consumer.

The committee has examined this subject intensively over the years as part of its Federal Power Commission oversight responsibilities. In addition the committee has already completed 6 days of hearings and is holding 2 additional days of hearings this week. The record of this hearing exceeds 2,100 pages and more than 70 witnesses have testified or submitted statements. Therefore I feel it would be most appropriate if amendment No. 912 and any other amendments dealing with natural gas regulation be tabled and considered just as soon as the Commerce Committee makes its recommendation to the Senate.

However, if the Senate should decide to consider this matter tomorrow, I am submitting an amendment which proposes an alternative and improved solution to the Nation's natural gas shortages.

My amendment is similar to title I of S. 2506, a bill to amend the Natural Gas Act to secure adequate and reliable supplies of natural gas and oil at the lowest reasonable cost to the consumer. The amendment I am submitting today would substantially increase the amount of natural gas available to consumers and, in the event of shortages, assure that supplies are fairly allocated among the regions of the Nation and classes of customers.

It would save the public billions of dollars by foreclosing massive windfall profits to the major petroleum companies, and improve the competitive structure of the oil industry by affording independent companies the opportunity to successfully compete in the marketplace. This proposal directs the FTC to conduct its own review of natural gas reserves so that for the first time the nation will not be dependent solely on the industry's estimates.

Again, it is my hope that all amendments dealing with natural gas regulation will be withdrawn when the Senate considers S. 2776. But if gas policy must be considered, I would urge the Senate adopt the regulatory reform amendment which I am now proposing.

PRISONER OF WAR AND MISSING IN ACTION TAX ACT OF 1973—AMENDMENT

AMENDMENT NO. 920

(Ordered to be printed and to lie on the table.)

MINIMUM TAX AMENDMENT

Mr. KENNEDY. Mr. President, on behalf of Senators BAYH, MUSKIE, and myself, I send to the desk an amendment to H.R. 8214, and I ask that it may lie on the table and be printed. I ask unanimous consent that the text of my amendment may be printed in the RECORD, and that a joint statement by Senators BAYH and MUSKIE and myself and accompanying materials explaining the amendment may be printed in the RECORD.

There being no objection, the statement and amendment were ordered to be printed in the RECORD, as follows:

JOINT STATEMENT—DECEMBER 14, 1973

Senators Edward M. Kennedy, Birch Bayh, and Edmund S. Muskie announced today that they intend to offer an amendment to close the existing tax loopholes used by President Nixon to avoid payment of the so-called "minimum tax," the measure enacted by Congress in 1969 to insure that wealthy individuals do not escape tax altogether on the large amounts of tax preference income they receive.

The President filed the required IRS forms for the minimum tax for the past three years (1970–1972) indicating many thousands of dollars in tax preference income. But in two of those years (1971 and 1972), he used the loopholes in existing law to reduce his minimum tax to zero, and in the third year (1970), he used the loopholes to reduce his minimum tax to only $792.81.

The amendment to be offered would affect two parts of the minimum tax. First, it would eliminate the "deduction for taxes paid," the provision under which wealthy individuals are allowed to deduct, from their tax preference income, the regular taxes they pay before the minimum tax is levied. This provision enables high-salaried individuals to use the taxes they pay on their salaries to shelter large amounts of income derived from tax preferences. Although this provision was not directly involved in the President's tax returns, it might come into play for the 1970 return, for example, if the deduction for Presidential papers is disallowed and a regular tax is assessed for that year.

The same Senators had offered a proposal earlier this year to delete the deduction for taxes paid, and it had been narrowly defeated on two occasions. The Senators blamed the earlier defeats on cries of "Wolf" from wealthy individuals and corporations affected by the change, and said they felt prospects for success were greater now because of the President's disclosures.

The second part of the amendment would affect the existing provision that exempts the first $30,000 of tax loophole income from the minimum tax. This provision was apparently used by the President to reduce his minimum tax to zero in 1971 and 1972 and to near-zero in 1970. The three Senators said the current level of the exemption was excessively high, and their proposal would reduce it to $10,000.

The amendment proposed by the Senators will be offered to the so-called "Christmas Tree" tax bill now on the Senate calendar, which the Senators said contains a number of controversial provisions to benefit certain special interests.

In commenting on their amendment, the Senators said, "It is highly appropriate that a bill containing new tax breaks for the special interests should become the vehicle for the modest tax reform measure we propose. We urge Congress to recognize the new urgency given to the public's perennial plea for tax reform as a result of the President's tax disclosures. The amendment we propose is a first down-payment on tax reform, a forerunner of comprehensive reform to come.

"How can Congress defend a tax system, that contains such flagrant inequities? How can we have a Revenue Code that gives a free ride to the wealthiest citizens in the nation, but demands heavy taxes from the average working man and woman? What do we tell the ordinary taxpayer, who wants to know why he has to pay so much in taxes, when the President pays virtually no taxes on his $200,000 a year income and $50,000 a year expense account?"

The Senators predicted that the new disclosures by the President would generate widespread pressure on Congress for comprehensive tax reform in 1974, and would make tax reform a major election issue in Senate and House elections next year if Congress fails to act. They also said that the recent disclosures could well have an impact comparable to Secretary of the Treasury Joseph Barr's dramatic disclosure in 1969 that large numbers of wealthy individuals were using tax loopholes to escape all taxes. Mr. Barr's disclosure is widely regarded as the trigger for the Tax Reform Act of 1969.

KENNEDY-BAYH-MUSKIE MINIMUM TAX AMENDMENT—AMENDMENT TO H.R. 8214

PURPOSE

Repeal the step in the calculation of the minimum tax which currently allows a deduction for other taxes paid, and reduce the current $30,000 exemption from the minimum tax to $10,000.

EXPLANATION

The minimum tax was enacted by Congress as part of the Tax Reform Act of 1969, in an effort to guarantee that persons with substantial amounts of untaxed income would pay at least a modest tax on that income. As reported by the Finance Committee in 1969, a 5% tax would be paid on income from tax preferences. A floor amendment to the bill raised the rate to 10% and added a deduction for regular taxes paid. A 1970 Senate floor amendment allowed a seven-year carry over of the deduction. Under the minimum tax in present law, a person is taxed at the rate of 10% on the sum of his income from tax preferences, less a $30,000 exemption and less the amount of regular income tax owed, including the carry over.

The proposed amendment has two parts. The first part would eliminate the deduction and carry-over for taxes paid. These provision have allowed large numbers of taxpayers to avoid the minimum tax completely, even though they have large amounts of income from tax loopholes. In practice, the current deduction is an "Executive Suite" loophole, since one of its principal effects is to allow high salaried executives to use the large amount of regular taxes they pay as an offset against income they receive from tax loopholes. The following two examples illustrate the point:

	A	B
Loophole income	$100,000	$100,000
Regular tax on salary	100,000	0
Base for minimum tax	0	100,000
Minimum tax	0	10,000

Individual A, who has $100,000 in income from tax preferences and pays $100,000 in regular taxes on his salary, owes no minimum tax. Individual B, who has $100,000 in income from the same tax preferences, but who pays no regular taxes, owes a minimum tax of $10,000. The minimum tax should operate equally on individuals A and B, yet the deduction for taxes paid gives A an unfair benefit over B. The proposed amendment would equalize the two cases by insuring that A pays a minimum tax on his loophole income. In effect, the amendment requires equal treatment of the rich. In the case of individuals, ninety percent of the revenue gain from this change would come from persons with adjusted gross income of $100,000 or more.

The second part of the amendment would reduce the existing $30,000 exemption to $10,000. The present level was set far too high by the 1969 Act. It enables wealthy taxpayers to enjoy their first $30,000 in tax loophole income, completely free of the minimum tax. By reducing the level to $10,000, substantial amounts of income that are currently tax-free would become subject to the minimum tax. At the same time, the $10,000 level would remain high enough to prevent any substantial deleterious impact on middle-income taxpayers with modest tax-preference income, such as a capital gain on the sale of a residence. In addition, the $10,000 level would avoid any unnecessary inconvenience in the administration of the minimum tax, since it would not require the forms to be filed or the tax to be paid on modest amounts of tax preference income.

CURRENT OPERATION AND YIELD OF MINIMUM TAX

Individuals—In 1971, 24,000 individuals paid $163 million in minimum tax on loophole income of $3.9 billion, for an effective tax rate of 4.1%. But, 74,000 other individuals paid no minimum tax at all on loophole income of $2.2 billion. Thus, the overall effective rate of the minimum tax on individuals is 2.6%, compared to the statutory rate of 10%.

Corporations—(less precise data available)—In 1970, 6,000 corporations paid $280 million in minimum tax on loophole income of $4.1 billion, for an effective rate of 6.7%. But, 75,000 corporations paid no minimum tax at all on loophole income of $1.6 billion. Thus, the overall effective rate of the minimum tax on corporations is about 4.8%.

REVENUE GAIN FROM PROPOSED AMENDMENT (1972 INCOME LEVELS)

[In millions]

1. Current law:	
Individuals	$192
Corporations	300
Total	492
2. Elimination of deduction for taxes paid:	
Individuals	$330
Corporations	250
Total	580
3. Reduction of exemption to $10,000:	
Individuals	$131
Corporations	20
Total	151
4. Elimination of deduction for taxes paid and reduction of exemption to $10,000 because the provisions interact, the revenue gain from the two provisions combined is greater than the sum of the revenue gains from the provisions taken separately):	
Individuals	$585
Corporations	275
Total	860

DISTRIBUTION OF GAIN FROM INDIVIDUALS (1972 INCOME LEVELS)

Adjusted gross income	Number of returns affected	Minimum tax
1. Current law:		
0 to $3,000	1,000	$11,000,000
$3,000 to $5,000		
$5,000 to $7,000		
$7,000 to $10,000		
$10,000 to $15,000		
$15,000 to $20,000		
$20,000 to $50,000	6,000	7,000,000
$50,000 to $100,000	8,000	18,000,000
$100,000 and over	17,000	154,000,000
Total	32,000	192,000,000
	Number of returns affected	Additional minimum tax
2. Elimination of deduction for taxes paid (note: 90 percent of the revenue gain from this provision would come from individuals with adjusted gross income of $100,000 or more):		
0 to $3,000	1,000	
$3,000 to $5,000		
$5,000 to $7,000		
$7,000 to $10,000		
$10,000 to $15,000		
$15,000 to $20,000		
$20,000 to $50,000	11,000	4,000,000
$50,000 to $100,000	22,000	23,000,000
$100,000 and over	30,000	299,000,000
Total	65,000	330,000,000
	Number of Returns Affected	Additional Tax
3. Deduction of exemption to $10,000:		
0 to $3,000	3,000	4,000,000
$3,000 to $5,000	1,000	1,000,000
$5,000 to $7,000		
$7,000 to $10,000	17,000	4,000,000
$10,000 to $15,000	5,000	3,000,000
$15,000 to $20,000	9,000	4,000,000
$20,000 to $50,000	61,000	49,000,000
$50,000 to $100,000	25,000	29,000,000
$100,000 and over	21,000	38,000,000
Total	143,000	131,000,000
	Number of returns	Additional minimum tax
4. Elimination of deduction for taxes paid and reduction of exemption to $10,000 (because the provisions interact, the effect of the two provisions combined is greater than the sum of the effect of the provisions taken separately):		
0 to $3,000	3,000	4,000,000
$3,000 to $5,000	1,000	1,000,000
$5,000 to $7,000		
$7,000 to $10,000	17,000	4,000,000
$10,000 to $15,000	19,000	5,000,000
$15,000 to $20,000	39,000	11,000,00
$20,000 to $50,000	98,000	92,000,000
$50,000 to $100,000	56,000	100,000,000
$100,000 and over	40,000	368,000,000
Total	273,000	585,000,000

MAJOR TAX PREFERENCES SUBJECT TO MINIMUM TAX

Accelerated depreciation on real property accelerated depreciation on personal property subject to a net lease, amortization of certified pollution control facilities, amortization of railroad rolling stock, stock options, reserves for losses on bad debts of financial institutions, depletion, capital gains, and amortization of on-the-job training and child care facilities.

MAJOR TAX PREFERENCES NOT SUBJECT TO MINIMUM TAX

Interest on state and local government bonds, intangible drilling and development expenses, interest and taxes during construction period of real estate, investment credit, gain on property transferred at death, gain on appreciated property given to charity.

NOTE

The proposed amendment makes no change in the tax preferences subject to the minimum tax, and no change in the current 10% rate of the minimum tax. It affects only the deduction for taxes paid and the $30,000 exemption, the most flagrant and least justifiable loopholes in the minimum tax.

Also, contrary to arguments raised in the past against the provision to repeal the deduction for taxes paid, this change would have only a marginal impact on capital gains or on the percentage depletion allowance. The effect of the change would be to increase the maximum effective tax rate on capital gains for individuals from its present level of 36.5% to 40% (but the 40% rate would apply only to that portion of gains for any year over $460,000), and it would reduce the depletion allowance from its present "effective" level of approximately 18% by less than a single percentage point. In the Tax Reform Act of 1969, the maximum effective tax rate on capital gains was increased from 25% to 36.5%, with no measurable overall effect on the flow of capital in the nation. And the same Act reduced the effective rate of the oil depletion allowance from 27½% to 18%, with no measurable overall effect on oil company profits. Obviously, if Wall Street and the oil industry could take these far more substantial reforms in stride in 1969, they can easily do the same with respect to the reform now proposed in the minimum tax.

AMENDMENT No. 920

At the appropriate place in the bill insert the following new section:

SEC. —.(a) Section 56 of the Internal Revenue Code of 1954 (relating to imposition of minimum tax for tax preferences) is amended—

(1) by striking out subsection (c);

(2) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) IN GENERAL.—In addition to the other taxes imposed by this chapter, there is hereby imposed for each taxable year, with respect to the income of every person, a tax equal to 10 percent of the amount (if any) by which the sum of the items of tax preference exceeds the excludable amount.";

(3) by striking out "$30,000" in subsection (b)(1)(B) and inserting in lieu thereof "$10,000"; and

(4) by inserting a new subsection (c) as follows: "(c) For the purpose of subsection (a) of this subsection, the excludable amount shall be $10,000."

(b) The amendments made by this section shall apply to taxable years beginning after December 31, 1973.

AMENDMENT OF THE EXPORT ADMINISTRATION ACT OF 1969—AMENDMENTS

AMENDMENTS NOS. 921 AND 922

(Ordered to be printed and to lie on the table.)

Mr. HATHAWAY submitted two amendments intended to be proposed by him to the bill (H.R. 8547) to amend the Export Administration Act of 1969, to protect the domestic economy from the excessive drain of scarce materials and commodities and to reduce the serious inflationary impact of abnormal foreign demand.

PROHIBITION ON THE IMPORTATION OF RHODESIAN CHROME—AMENDMENT

AMENDMENT NO. 927

(Ordered to be printed and to lie on the table.)

Mr. HARRY F. BYRD, JR., submitted an amendment intended to be proposed by him to the bill (S. 1868) to amend the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome and to restore the United States to its position as a law abiding member of the international community.

NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nominations have been referred to and are now pending before the Committee on the Judiciary:

Leonard E. Alderson, of Wisconsin, to be U.S. marshal for the western district of Wisconsin for the term of 4 years. (Reappointment.)

Harry Connolly, of Oklahoma, to be U.S. marshal for the northern district of Oklahoma for the term of 4 years. (Reappointment.)

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Monday, December 24, 1973, any representations or objections they may wish to present concerning the above nominations, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

NOTICE ON ANTIBUSING HEARINGS

Mr. ERVIN. Mr. President, because of the public's awareness of the critical shortage of gasoline, more Americans than ever before are expressing opposition to the senseless, massive busing of schoolchildren in order to achieve "racial balance" in the public schools. While the waste of gasoline to run the thousands of school buses engaged in this ridiculous activity is of little consequence compared with the injustices and hazards imposed on innocent little children who have been made the victims of judicial and bureaucratic tyranny, it does underscore the financial and economic burden which forced busing is imposing on our country.

From the day I took my oath of office as a U.S. Senator from North Carolina, I have opposed efforts of the Federal Government to interfere with and control this country's public school systems. Unfortunately, those of us in Congress who believe in constitutional government and in the right of every child to attend his neighborhood school have not been sufficiently strong in number to put an end to such practices as forced busing. Time and time again we have introduced legislation to restore sanity to our public school systems only to be defeated by indifference on the part of those whose communities have not been subjected to the arbitrary, cold-hearted edicts of Federal courts and agencies.

Mr. President, I sincerely believe that this indifference is coming to an end. Recent court orders and agency decrees have affected school systems in parts of the Nation heretofore untouched by Federal tyranny. Parents of schoolchildren in Michigan, Indiana, Maryland, and California are beginning to understand why parents of schoolchildren in North Carolina have been so distressed over this matter. And, most recently, the tragic shortage of petroleum and petroleum products has awakened many more Americans to the personal injustices and financial costs of continued forced busing of schoolchildren.

Mr. President, I believe the time is ripe to give serious consideration again to legislation which would put an end to forced busing and to the judicial and bureaucratic tyranny which fosters it. Therefore, as chairman of the Senate Subcommittee on Constitutional Rights, I have scheduled hearings for February 19, 20, 21, 1974—as soon as practicable after the reconvening of the 93d Congress—to study legislative proposals designed to accomplish this purpose.

One of the bills which the subcommittee will focus attention on is S. 1737, a bill I introduced with Senator JAMES ALLEN, of Alabama, to provide for freedom of choice in student assignments in public schools. This legislation severely restricts the authority of Federal departments, agencies, and officials and the jurisdiction of Federal courts with respect to the policies of our public school systems. It expressly prohibits any Federal court from issuing any order "requiring any school board to transport any students from one public school or from one place to another place or from one school district to another school district in order to effect a change in the racial composition of the student body or any school or place or in any school district."

Mr. President, I am confident that these hearings will underline the urgency of congressional action to put an end to forced busing. I will provide the Senate with more information about these hearings when the subcommittee is in a position to make more detailed arrangements.

ADDITIONAL STATEMENTS

THE ENERGY CRISIS

Mr. HARRY F. BYRD, JR. Mr. President, the hard facts of the energy crisis now are with us.

As the effects of shortages of energy make themselves felt, the people are asking a lot of questions—and rightly so. The people want to know how this problem was allowed to become so critical, and they want to know what is being done about it.

How did the energy crisis come about? I think the basic explanation is quite simple.

Today the United States has a trillion-dollar economy. That means that the gross national product—the sum of all our goods and services—is valued at more than a thousand billion dollars a year.

We first reached a trillion-dollar economy in 1971.

Just 10 years earlier—in 1961—the gross national product was a half-trillion dollars.

Think what that means: it took 185 years of American history to reach the half-trillion-dollar level, but it took only 10 years to get the other half-trillion.

When you consider that fact, it is small wonder that we have placed a strain on our energy resources.

We have compressed 185 years of economic growth into 1 decade.

What has happened to our energy resources during these years of phenomenal growth? Naturally, they have been seriously depleted.

Let us be frank about this rapid depletion of national energy resources: neither Washington nor the private sector has been very farsighted about this situation. There has been a lot of wishful thinking about the extent and availability of resources, and not much planning or action.

It is not that we were without prophetic voices of warning. Back in 1959—14 years ago—Senator Jennings Randolph, of West Virginia, introduced a resolution to establish a Joint Committee on a National Fuels Policy. And there have been numerous, more recent warnings of problems lying ahead in the energy field.

But action was long in coming. I gave early support to construction of the Alaska pipeline, and I find it astonishing that as late as last July this legislation—so important to development of domestic resources—passed the Senate by just one vote.

Nothing will be accomplished, however, by looking backward. We must take constructive action.

In the short run, the emphasis must be on conservation and allocation of resources.

Everyone regrets the necessity for the conservation and allocation programs. Long experience with Government programs of this kind indicates that despite the best efforts of all concerned, the regulations may not be fair to everyone.

I believe one of the most important single provisions in the emergency energy legislation recently passed by the Senate is the directive to the President to minimize the damage or dislocation to our economy, including employment and industrial capacity. It is absolutely essential that everything possible be done to keep Americans on the job and keep American goods flowing to market.

Of course that means there is going to be a pinch in fuel availability for many kinds of activities. But those administering the emergency programs must guard against any tendency to force any single sector of the economy to bear the whole burden of the energy crisis—and that includes such sectors as travel. There is bound to be some reduction in travel, but it is important to remember that a man or woman out of work in the travel industry is just as much unemployed as a factory worker who is laid off.

The day-to-day decisions about how to implement and carry out the emergency program must be made in the executive branch. I do not believe Congress should simply write blank checks of authority for the President—and I do not believe that is what we are doing—but it just would not be practical for the Congress to legislate such things as prices and gallonage allocations. This must be handled on a week-to-week administrative basis.

I want to emphasize, though, that this emphatically does not include tax proposals. There has been some suggestion that an increase in the gasoline tax might be recommended by the administration as a measure to cut consumption. I am not inclined to favor such a proposal, and of course the Congress would have to take a hard look at any such recommendation from the President.

Another area in which the Congress is required to act is modification of certain environmental protection rules. I favor easing of the automobile emission standards in the Clean Air Act, in order to give time for development of better technology as well as to conserve fuel in the short run.

Further steps in the environmental area seem advisable to me. The administration already has urged relaxation of overly stringent sulfur emission standards in the burning of coal, and I would add that if we are to get the most from our coal resources, we ought not to put on the lawbooks the unrealistic restrictions on surface mining approved by the Senate earlier this year.

None of this represents an abandonment of the goal of cleaner water and air. It is simply a recognition that technology has not yet caught up with the demand for pollution control equipment and measures that will improve the environment without imposing unacceptable penalties in energy consumption.

Another point which I feel must be kept in mind in dealing with the energy crisis is the need for Government to set an example. Wasteful consumption of energy by the Government, in these difficult times, cannot be tolerated.

I might note that I joined in sponsoring legislation to require a reduction in fuel consumption by the Department of Defense, the biggest user in the Government, and that I voted in favor of a provision to ban shipments of critically short petroleum supplies to Southeast Asia.

Because of the embargo imposed by the Arab nations on shipments of oil to the United States, the energy situation affects—and is affected by—developments in the field of foreign policy and diplomacy.

The situation in the Middle East is explosive. I believe it is imperative that the United States proceed with maximum caution in dealing with this situation, and I have made my views on this score known to the State Department.

It seems to me that as time goes by, both sides in the Middle East must be willing to yield on some points. Continued intransigence will only mean continued tension—and probably, further bloodshed.

The best interests of the United States will be served by a lasting settlement, and I think that our representatives should cooperate with the parties in working toward that end.

It has been suggested in some quarters that the United States should embargo all shipments of goods, or nearly all shipments, to the Arab countries. I see the appeal of such a recommendation: striking back is a natural thing to do. But I do not believe it would be effective. The Arabs would be able to obtain nearly everything we might deny them from other sources, especially from the Soviet Union.

The United States, I feel, should use its leverage as an exporting nation in dealing with other countries—especially, I might say, with the Soviet Union—but I do not believe, in the case of exports to the Arabs, that the United States has sufficient leverage to accomplish the objective. Such a boycott could, in fact, be harmful rather than helpful.

In one sense, the oil embargo imposed by the Arabs will have a beneficial effect in the United States. I mentioned earlier that action to cope with energy shortages was long in coming—but the Arab embargo has proved to be the catalyst needed to produce such action.

Of all the actions we have taken and will be taking in the near future, I think the most important are the ones aimed at achieving self-sufficiency in energy, or at least the greatest possible degree of independence of unreliable foreign countries.

I list among such actions the approval of the Alaska pipeline.

Another important step toward energy independence was the Senate's approval of legislation to foster research and development in the energy field.

In many respects, coal may prove to be the key to the future. It is our most abundant fuel, and I think it is vital that we move ahead with efforts to mine it and burn it in ways that are safer and cleaner than those now available. I hope there will be major efforts in the field of coal liquefaction and coal gasification.

In the long run, I think one of the most attractive possibilities is solar energy. I understand that it is not yet practical, at least for large-scale usage, but I believe that a maximum effort should be made to develop ways to harness and store the power of the Sun. Alone among energy sources, it is limitless and without adverse environmental effects.

Nuclear energy is being thoroughly explored. It may well be that nuclear power will "bridge the gap," so to speak, between our reliance on fossil fuels and the energy sources of the future—such as solar and geothermal energy.

I think we must insist, however, that major efforts be devoted to making nuclear energy safe—and that includes dealing realistically with the problem of radioactive wastes. The larger the scale on which we are obliged to use nuclear energy, the greater the problems that will be associated with its use.

A whole host of other possible resources—from oil in shale and tar sands all the way to harnessing the power of the tides—must be given consideration and study.

We will find the answers to our energy problems only if we explore every avenue.

ROBERT MOSES: MASTER BUILDER

Mr. BUCKLEY. Mr. President, today marks the 85th birthday of one of the most remarkable men of our century. I refer to Robert Moses, the master builder, whose contributions to New York and to the Nation are incalculable.

It has been said of Robert Moses that he "accomplished six lifetimes worth of building in two generations" and that he is "truly part and parcel of urban American history."

In more than 50 years of public service, he has been engaged in the planning and building of parks and playgrounds, highways and parkways, beaches and outdoor recreational facilities in New York City and New York State, and the gigantic St. Lawrence and Niagara power projects. In recognition of these achievements, he has received honorary degrees from numerous colleges and universities, in addition to hundreds of medals, honors, and awards. He has served as a consultant to many major cities, both in this country and abroad.

He was chairman of the Power Authority of the State of New York from 1954 to 1963, during which time he directed the financing and construction of the $720 million Niagara power project and the $650 million St. Lawrence power project.

As president of the New York World's Fair—attended by 52 million people—he completed Fushing Meadows Park, which received over $100 million in permanent improvements as a result of the fair.

He has served on scores of committees and commissions, was coordinator of construction for the United Nations headquarters and was a founder of the Lincoln Center.

Robert Moses, on his 85th birthday, can look back in pride today to the great work he has accomplished. Our century has seen so very much destruction and unreason that the career of Robert Moses, devoted to building and reason, is one that should properly be applauded by all those who believe, as he does, that human beings, working together in cooperation, can build and prosper. To this great master builder on his 85th birthday I offer my warmest congratulations and thanks not only for what he has given us through his talent, but equally important for what he has taught us through his example.

THE LAND USE CONTROVERSY

Mr. McGOVERN. Mr. President, a great deal of misinformation and distortion is being spread in parts of my State about the bill which Senator Jackson sponsored and which the Senate passed earlier this year, S. 268, the Land Use Policy and Planning Assistance Act.

It is apparent that the gross distortions of the intent and purpose of this bill are the result not of citizen research and study, but of a massive campaign of misinformation spread by the powerful vested interests who hope to reap the windfall of continuing our present do-nothing policy on land use.

Mr. Leonard Downie, Jr., a deputy metropolitan editor of the Washington Post, has written a timely and thorough article entitled "National Land Use: A Move To Save What Is Left," which appears in the December 17 issue of the Nation magazine. I ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

National Land Use—A Move To Save What Is Left

(By Leonard Downie, Jr.)

Washington.—An important battle that has attracted too little national attention is being fought in Congress over the future use of this country's remaining undeveloped land. Lobbyists for land developers, the National Association of Realtors and the U.S. Chamber of Commerce are working hard in the House of Representatives to kill or cripple a Senate-passed bill that would push the fifty states to take over regulation of major land uses within their borders. Opposing these lobbyists are a number of environmental groups, led by the Environmental Policy Center; they have been the legislation's chief public supporters, other than its author, Sen. Henry M. Jackson (D., Wash.), the chairman of the Senate Interior Committee.

As it passed the Senate in June, the Jackson bill contained a $1 billion package of federal grants for states that set up effective machinery for statewide planning of land use and the strict regulation at the state level of large-scale new development—from private suburban housing subdivisions and rural recreation operations to public airports and interstate highway interchanges. To qualify for the new federal money, each state would have to show that its land-use controls conformed to national guidelines that have been written into Senator Jackson's bill.

Jackson tried in the Senate to add to this $1 billion federal carrot a legislative stick that would threaten non-complying states with loss of some of the federal grants they already receive for construction of highways, airports and sewer and water projects. He was unsuccessful, but even without that provision, the bill is regarded by real estate and business interests as threatening to usurp the zoning authority of local governments and to restrict by unconstitutional means the development rights of landowners. In a policy statement adopted at its mid-November national convention here, the National Association of Realtors characterized such legislation as a "counter-productive attack on private property ownership." And in a special national newsletter condemning the bill, the Chamber of Commerce called it "sweeping federal intervention into a traditionally state and local matter."

The Chamber of Commerce, the realtors' group and the right-wing Liberty Lobby also recently mobilized their memberships to produce a mail campaign against the legislation that has put considerable pressure on members of the House Interior Committee, which has spent several months rewriting the House version of the Jackson bill. The committee has already watered down several of its key provisions, and still more compromises are expected by apprehensive environmental lobbyists.

"We've had to go along with these changes just so we can get some kind of bill reported out of the committee," explained David Calfee of the Environmental Policy Center. The Jackson bill had previously passed the Senate in 1972, only to be bottled up by the House Interior Committee for the rest of that session of Congress. Calfee hopes to see the new legislation reach the House floor for a vote sometime early next year.

The present Jackson bill would allow local governments to retain control over zoning for small-scale land uses, but it would force states seeking federal funds to regulate five kinds of land uses, defined in the bill as being of "more than local concern":

Any use of areas of "critical" environmental importance, such as beaches, wetlands, significant wildlife habitats and historic sites.

Large-scale urban development, including suburban subdivisions, shopping centers and industrial parks.

Equally large second-home and recreation-lot subdivisions of rural land.

Regional public utilities like waste disposal plants that have a major effect on land used.

Other key public projects like airports, major highway interchanges and recreational facilities.

In order to qualify, a state land-use control program would be expected, for instance, to insure that new developments did not encroach on public beaches, threaten historic buildings, overload water and sewage systems, erode soil, or overburden local and state government services. Failure to meet such criteria would result in loss of the state's share of the bill's federal planning grants. If Jackson's sanction provision had been added, a state failing to set up an acceptable land-use control program within five years of the bill's enactment would lose first 7 per cent, then 14 per cent and eventually 21 per cent of its normal allotted federal grants for highways, airports and sewer and water projects.

This sanction provision became a lightning rod for Senatorial opposition to the bill. Senators opposing the legislation as a whole were joined in the fight against the sanction by Senators who sit on the committees that dole out highway and airport grants. However, once the sanction amendment was defeated, many members who had voted against it eased their consciences by supporting the rest of Jackson's bill, and it passed easily—also in part because at that point the real estate lobby was not out in force.

The House version of the land-use bill, introduced by Rep. Morris K. Udall (D., Ariz.), at first included most of the important provisions of the Jackson bill. But the real estate lobbyists suddenly materialized and began to whittle away, once they realized that the bill had a good chance of making it to the House floor (its most bitter opponent on the House Interior Committee in 1972, Rep. Wayne Aspinall [D., Colo.], had since lost his seat).

The first item to go in closed Interior Committee deliberations last fall was Udall's version of Jackson's grant-cutting sanction. Next, in response to pressure from realtors, the bill's definition of a suburban subdivision large enough to come under state scrutiny was changed from one with fifty or more units to one "having more than local impact." Then the legislation's requirement that states make certain that these subdivisions not harm the environment or overload local services was so changed that the bill now only suggests criteria, which the states may or may not follow.

While the Jackson-Udall legislation is being weakened still further in committee, the Chamber of Commerce has written a substitute bill that contains no binding federal guidelines, directives or review at all. In effect, it will offer federal money to the states for merely drawing up land-use master plans, and will not require that they be enforced or that new development be regulated in any way. The Chamber of Commerce hopes to win House Interior Committee approval of the substitute.

This kind of legislation would, of course, leave things much as they are now—with largely uncontrolled development chewing up too much land, fouling the air and water, cutting off the public from beaches, lakes and mountaintops and destroying wildlife. Plenty of cities, counties and some states already have land-use master plans of varying kinds. But in most cases they are rarely enforced or are regularly amended to accommodate some new development rather than being used as instruments to channel and shape development according to public needs and environmental considerations.

Local zoning officials, in particular, have been notoriously susceptible, for financial and other reasons, to the designs of developers. The Chamber of Commerce pleads in its attack on the Jackson bill that people deserve as much attention as the environment, but who can seriously argue that the helter-skelter development now doing irreversible damage to our environment is nevertheless producing splendid communities for the American people?

Jackson, when he drew up his land-use bill, tried to address himself to the goal of producing better communities with less waste of land or harm to the environment. Yet there is serious question whether this legislation—even before members of the House Interior Committee began working it over—could really have accomplished that purpose. The original bill gave the states five years to set up land-use control machinery—a disturbingly long delay for public action, when private developers would be rushing ahead with their own plans. The bill would have forced states to adopt and enforce master plans drawn according to federal guidelines, but the manner of enforcement would be left entirely to state officials (both the politics of getting a bill through Congress and, most likely, legal tradition in the courts, would reserve that discretion for the states). Thus, big developers and their powerful financial backers would be free to apply on state officials—in a convenient centralization of the process—the same corrupting pressures they have in the past so successfully put on local zoning authorities scattered throughout each state.

Some supporters of the Jackson bill point as an example of what the states could do to a proposed land-use plan for California being promoted by a nonprofit conservation group, California Tomorrow. Its plan suggests dividing California's 100 million acres of land into four principal use zones: agricultural, conservation, urban and regional reserve. The land designated for each zone would, of course, comprise many unconnected parcels scattered throughout the state.

Land placed by California Tomorrow in the agricultural zone would be forever restricted to farming and some rural residential use. The conservation zones of mountains, foothills, forests, river and stream valleys, seashore and other important natural areas would similarly be placed forever off limits to new devleopment, except for some carefully controlled recreational uses. The urban zones, which would comprise both present urbanized areas and other sites designated as suitable for new growth, would be open to development within guidelines to be laid down by regional authorities which would be created throughout the state. These authorities would also decide whether land set aside in the fourth category, the regional reserve zone, should eventually be designated for urbanization, public recreational uses, agricultural land, or protection as additional open space.

Despite wide promotion of the California Tomorrow plan in meetings of state conservation, business, civic and government leaders, there has been no indication that the state will ever adopt anything like it, even if the Jackson land-use bill were to be approved by Congress. California voters recently did approve a state referendum creating an immediate moratorium on new Pacific shoreline development and setting up regional authorities to study what should be done in the future with coastal land, but any plans drawn by these authorites must be approved by the state legislature and the voters, and it is likely that real estate interests will work hard to defeat any proposals that seriously restrict large-scale coastal development.

The California Tomorrow plan also contains assurances of the integrity of the regional authorities that would be created to administer land use within each of the four proposed statewide zones. What is to stop real estate interests from continuing to do what they please in the urban and regional reserve zones, or to greatly abuse the exceptions envisioned for the otherwise no-growth agricultural and conservation zones?

More important, both the California Tomorrow proposal and the land-use control process envisioned in the original Jackson bill constitute largely negative influences on community development in the United States. At worst, each state's program could be used by short-sighted environmental interests and protectionist suburbanites to stop growth altogether, even in those many places where some kind of carefully planned development is needed to provide more and better homes for the tens of millions of families needing them now and in the near future.

At best, creative application of state controls could force real estate development into those areas where it would be most desirable and insure that more trees would be saved from bulldozers and more streams protected from choking siltation. But the Jackson bill's detailed national guidelines hold no positive promise that such development, once it is properly located and made compatible with the natural environment, would automatically be a better place in which to live. And it is difficult to imagine how such guidelines could have been added to the bill. It takes much more than land-use controls to create new communities free of the continuing, perplexing problems of transportation, housing quality, social adjustment, segregation and exorbitant costs.

These shortcomings are not arguments for the defeat of the Jackson bill. Its enactment in the form in which it passed the Senate could be the first small step toward more intelligent land use and environmental protection in states whose officials have sufficient integrity and imagination to make the best use of such a law's new authority and federal financial assistance. But it could hardly be expected to produce, in Senator Jackson's words, "the kind of blueprint which will spell quality life, good environment and sound economic growth."

Experiments in these areas have been tried in Europe where, surprisingly, land-use planning and controls of the kind contained in the Jackson bill are rare. Instead, the national and regional governments of European countries and their metropolitan areas plunge much more deeply into land use and development themselves.

The national government of Great Britain is directly financing and controlling through loans to public development corporations the building of some thirty new towns on the edges of its big cities.

France has begun the similar public development of a number of new towns around Paris and other cities. In Sweden the city of Stockholm has itself bought up most of the surrounding suburban land and is leasing it at relatively low cost to private developers, who build communities according to strict specifications set by the city.

Out of these land-use programs by European governments have come any number of successful experiments: the first post-World War II pedestrian-only shopping malls and the community-wide foot and bicycle pathways in the new towns of Britain; suburban neighborhoods in Sweden clustered around stores, social services and recreational facilities, and connected one to the other by subway lines from downtown Stockholm; giant French strides in factory-built housing, and a recently developed community trash incineration system used to heat one French new town's homes and offices; and the land-saving clustering of homes around public open spaces in new communities throughout Europe.

Americans find some of this strictly planned and government-backed European development somewhat sterile; in other places, the rational order, the greenery and the convenience of all the components of a community are attractive. Many of the residents of these European communities find their primary satisfaction is to live in decent, comparatively inexpensive homes, because it is the working class for whom these heavily subsidized communities have been built.

On balance, the particular kind of experimentation that has been tried in Europe is not what should be of greatest importance to Americans concerned about the quality of their new development. Rather, we should be learning from the fact that Europeans *are* boldly experimenting, while we muddle along repeating the same mistakes—such as heavily investing government funds and loan guarantees in a so-called federal "new town" program that has thus far produced only bigger and slightly more attractive privately developed suburbs (see Downie: "The 'New-Town' Mirage," *The Nation*, May 15, 1972).

Bold experimentation cannot, of course, be expected from a federal land-use bill that, if the U.S. Chamber of Commerce has its way, would merely funnel more open-ended federal grants to the states—much as the largely ineffectual and much abused Law Enforcement Assistance grant program does now. Neither should really significant change be expected if the strongest possible bill, as drafted by Senator Jackson, is passed by Congress. It could stop the states from allowing the worst uses to be made of the underdeveloped land remaining within their borders, but it would do little to insure that they make drastically better use of it.

INDEPENDENT SPECIAL PROSECUTOR LEGISLATION: A POSTSCRIPT

Mr. HRUSKA. Mr. President, it was to my keen regret that I was unable to be present in the Chamber this past Wednesday to participate in the colloquy dealing with the fate of the two competing legislative proposals to establish the Office of an Independent Special Prosecutor. At the time, however, the Committee on the Judiciary on which I serve was engaged in hearings on the nomination of the senior Senator from Ohio (Mr. SAXBE) to be Attorney General of the United States.

I take this opportunity to salute the joint leadership for their concern over the disruptive effect which S. 2611, the Hart-Bayh proposal, might have had on the investigation and prosecution of Watergate-related offenses. This, of course has been my primary concern with the Hart-Bayh bill since the time of its introduction. Indeed, it was this same concern which led me to cosponsor S. 2642, a bill introduced by the junior Senator from Ohio (Mr. TAFT) to create a strong legislative Office of Special Prosecutor, but with little or no potential for disruption of ongoing investigations and prosecutions.

The notion of the appointment of a Special Prosecutor within the judicial branch of our Government arose with such a bang this past October that it precipitated a stampede in Congress. However, it ended, hopefully forever, on this past Wednesday with only a whimper.

My friend, the junior Senator from Ohio (Mr. TAFT) is not a member of the Judiciary Committee. However, by sheer force of intellect he did play a very substantial role in the deliberations and actions of the committee which gave rise to a responsible alternative to the Hart-Bayh bill. His role in this regard was, in my opinion, public service of the highest order. I commend him for his work.

I ask unanimous consent that the following documents be printed in the RECORD:

First. Independent Special Prosecutor legislation: The alternatives in a nutshell.

Second. Washington Post editorial, November 16, 1973, and December 11, 1973, and article of December 11, 1973.

Third. Acting Attorney General Bork's letter of December 7, 1973, on S. 2734.

Fourth. Excerpts from report on S.

2642, Independent Special Prosecutor Act of 1973.

Fifth. Judge Gesell's opinion in case challenging legality of discharge of Mr. Archibald Cox, the last two paragraphs of which pertain to the court's grave misgivings as to a court-appointed Special Prosecutor.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

INDEPENDENT SPECIAL PROSECUTOR LEGISLATION: THE ALTERNATIVES IN A NUTSHELL

Legislative Alternatives: There are three measures before the Senate: (1) S. 2611, as amended, (reported by the Judiciary Committee), the Hart-Bayh bill; (2) S. 2642, as amended, (reported by the Judiciary Committee), the Hruska-Taft bill; and (3) S. 2734, the Percy-Baker bill (floor amendment).

Committee Action: The Judiciary Committee, deadlocked on this issue, ordered reported without recommendation for further action by the Senate both the Hart-Bayh bill and the Hruska-Taft bill. The Percy-Baker bill was not reported.

General Purpose: All three measures are captioned the "Independent Special Prosecutor Act of 1673" and, although other relatively minor differences exist between them, they are generally parallel in all essential regards, save their respective appointment and removal provisions. Thus, all three bills establish the office of Special Prosecutor with broad jurisdiction over "Watergate" related offenses and limit removal to situations of aggravated cricumstance.

APPOINTMENT AND REMOVAL

1. S. 2611, the Hart-Bayh bill, provides for appointment and removal of the Special Prosecutor by a panel of three D.C. District Court Judges, thus placing the office squarely in the Judicial Branch.

2. S. 2642, the Hruska-Taft bill, provides the appointment by the Attorney General, and declares that, pursuant to assurances made by the Acting Attorney General, the Senate will have the right to disapprove any candidate for appointment. With respect to removal, the bill provides:

(a) that in the event cause for dismissal were deemed to exist, the Attorney General at the outset would only be empowered to suspend the Special Prosecutor for 30 days;

(b) that, upon suspension, the Attorney General would be required to notify both Houses of Congress of his action and to set forth the reasons for the suspension;

(c) that, upon suspension, the Special Prosecutor would be authorized to bring suit immediately for reinstatement under a specific grant of jurisdiction to the U.S. District Courts and action would receive expedited treatment; and

(d) that the D.C. District Court would be empowered to appoint an interim Special Prosecutor in the event of a suspension or other disability or temporary vacancy in the office.

3. S. 2734, the Percy-Baker bill, provides for appointment by the President, by and with the advice and consent of the Senate. With respect to removal, the bill tracks S. 2642 completely but again substitutes the President for the Attorney General.

CONSTITUTIONAL ISSUES INHERENT IN APPOINTMENT AND REMOVAL PROVISIONS

1. S. 2611, the Hart-Bayh bill, is considered to be unconstitutional with respect to both its appointment and removal provisions by former Attorney General Richardson, Dean Cramton of the Cornell Law School, Acting Attorney General Bork and others, as being violative of the fundamental Separation of Powers Doctrine in attempting to transfer a core Executive function, *viz.* the prosecution of offenses, to the Judicial Branch. However, on the other hand, the measure is considered to be constitutional by a number of distinguished legal academicians and the American Bar Association. The primary sponsor of the bill (Senator Hart) has indicated that ". . . reasonable men disagree as to the certainty of the constitutional questions that are raised."

2. S. 2642, the Hruska-Taft bill, has raised no constitutional issue.

3. S. 2734, the Percy-Baker bill, is considered to be unconstitutional with respect to its removal provisions by the same people opposed to the Hart-Bayh bill and for the same fundamental reason, i.e., Separation of Powers. Correspondingly, it is generally considered to be constitutional in this respect by the supporters of the Hart-Bayh bill.

PRACTICAL CONSIDERATION

1. S. 2611, the Hart-Bayh bill, if enacted, would definitely invite judicial challenge. While provision for expedited review is contained in the measure, a final judicial disposition of the constitutional issue would likely take at least several months, during which period of time the Special Prosecutor would be unable to pursue his responsibilities. A judicial determination that the bill is unconstitutional would have even more severe consequences with the likelihood being that indictments would be quashed, prosecutions jeopardized and individual rights threatened.

2. S. 2642, the Hruska-Taft bill which suffers no arguable consittutional infirmities, would raise no practical problems of the nature just discussed with respect to the Hart-Bayh bill.

3. S. 2734, the Percy-Baker bill, by virtue of its removal provisions, raises the same fundamental constitutional issue posed by the Hart-Bayh bill. It is completely plausible to expect, therefore, that, upon enactment, the authority of the Special Prosecutor would come under judicial attack and thereby raise all of those concomitant problems discussed with respect to the Hart-Bayh bill.

POSITION OF D. C. DISTRICT COURT JUDGES

S. 2611, the Hart-Bayh bill, requires that the Special Prosecutor be appointed by a panel of three members of the U. S. District Court for the District of Columbia. However, Chief Judge John Sirica and a majority of the members of that bench, including Judge Gesell, have publicly indicated that they disapprove of this proposed procedure. Thus, there is a very distinct possibility that the district court judges for the District of Columbia may refuse to appoint a Special Prosecutor, paving the way for further delay, confusion and uncertainty.

THE "INDEPENDENCE" ISSUE

1. S. 2611, the Hart-Bayh bill, is obviously very risky medicine for the ills it seeks to cure. However, proponents urge that we must risk its likely adverse side effects in order to ensure the "independence" of the Special Prosecutor and to avoid any "appearance of evil" which would otherwise exist in the mind of the public were the Special Prosecutor to be lodged in the Executive Branch. The opponents of the Hart-Bayh bill urge that real independence is found, not in gross hyperbole and slogans, but in strong guarantees against the unwarranted dismissal of a Special Prosecutor.

2. S. 2642, the Hruska-Taft bill, provides the strongest possible guarantees against unwarranted dismissal. The Special Prosecutor would have the benefit of a 30-day "cooling off" period before he could be removed and then could only be removed for a showing of malfeasance, neglect of duty or violation of law. During this 30-day period, the Special Prosecutor could invoke judicial process to block his pending removal or take his case to Congress. Finally, the D. C. District Court would have the power to appoint an interim prosecutor if a vacancy did occur.

S. 2734, the Percy-Baker bill, if found to be unconstitutional with respect to its removal provisions, would provide no guarantees of unwarranted dismissal. However, even assuming it were constitutional, it is nothing more than the operational equivalent of the Hruska-Taft bill.

CONCLUSION

S. 2642, the Hruska-Taft bill, raises no unnecessary constitutional difficulties with the problems that rise in their wake and is completely responsive to the problems at hand.

[From the Washington Post, Nov. 16, 1973]

PROTECTING THE SPECIAL PROSECUTOR

"Although these are times of stress, they call for caution as well as decisive action. The suggestion that the Judiciary be given responsibility for the appointment and supervision of a new Watergate Special Prosecutor, for example, is most unfortunate. Congress has it within its own power to enact appropriate and legally enforceable protections against any effort to thwart the Watergate inquiry. The Courts must remain neutral. Their duties are not prosecutorial. If Congress feels that laws should be enacted to prevent Executive interference with the Watergate Special Prosecutor, the solution lies in legislation enhancing and protecting that office as it is now established and not by following a course that places incompatible duties upon this particular Court."

The quotation comes from U.S. District Judge Gerhard A. Gesell's memorandum explaining his decision in an important Watergate-related case the other day. Judge Gesell made his observation in the course of declaring that Acting Attorney General Robert H. Bork had acted illegally in firing Special Watergate Prosecutor Archibald Cox on October 20. Taken together, Judge Gesell's admonitions concerning the proper role of the courts and his interpretation of the law as it concerns the Special Prosecutor's tenure seem to us to argue forcefully against legislation now pending that would authorize the appointment of a Special Prosecutor by the U.S. District Court. The question is whether such legislation is either necessary or desirable, and we believe the answer on each count is, no.

The purpose of the congressmen and senators who are supporting the creation of a court-appointed prosecutor is admirable: it is to guarantee an independent, impartial, pressure-free prosecutor's office, one that is not subject to the will, whim or threat of those under investigation. And, not incidentally, it is to assure that the appearance of all this will be equal to the reality, so that people will be able to have confidence in the integrity of the prosecutor's office. However, we believe that this purpose would best be satisfied by other means—specifically by the enactment of legislation requiring Senate confirmation of the administration-appointed Special Prosecutor and also giving even firmer statutory basis to the office of the Special Prosecutor.

Judge Gesell's reading of the law is relevant here. He did not find that Acting Attorney General Bork had acted illegally in firing Mr. Cox by reason of any breach of the commitments given the Senate by Elliot Richardson concerning Mr. Cox's position. Those commitments, Judge Gesell said—whatever the "moral or political" implications of abandoning them—"had no legal effect." Rather, he found the illegality to reside in Mr. Bork's violation of a Justice Department regulation authorized by statute and setting forth the conditions governing the Special Prosecutor's job. Those conditions, as Judge Gesell observed, included the following: "He was to remain in office until a date mutually agreed upon between the Attorney General and himself, and it was provided that 'The Special Prosecutor will not be removed from his duties except for extraordinary improprieties on his part.' "

What is particularly interesting and apt about this judgment is that the Justice Department regulation, which Judge Gesell sees as having had "the force and effect of law" and which he also sees as preventing the President himself from dismissing a Special Prosecutor, is back in effect. In other words, its terms extend to and protect Leon Jaworski the new Special Prosecutor who has just been named to the job by Acting Attorney General Bork. It seems to us that an administration-appointed Special Prosecutor whose views and purposes had been examined by the Senate in confirmation hearings, whose subsequent confirmation made him in some appreciable degree answerable to Congress and whose job security had been enhanced by strengthening of the statutory basis of his office would be as free of administration pressure and dictation as could be guaranteed by any process—including the process of having him appointed by and answerable to the U.S. District Court.

We would argue that such a prosecutor would have another special advantage: it is the likelihood that any findings he made or charges he brought against the President of the United States would be credited by the public. Here we find ourselves taking an entirely opposite view from those who hold that a court-appointed prosecutor would enjoy more public confidence than anyone—Mr. Jaworski included—who owed his appointment to the Nixon administration. On the contrary, it seems to us that his appointment by the administration would at once oblige him to demonstrate his prosecutorial independence and give particular force to his position, especially as he pursued investigations of those intimately connected with the administration. It is important now that people believe in the integrity of the Special Prosecutor. But it is not nearly as important as it will be if and when the Prosecutor comes into direct conflict with Mr. Nixon, as Mr. Cox did, or actually implicates him in criminal activities.

These are essentially political considerations, and it seems to us that they weigh equally in the scale when you are thinking about the Special Prosecutor's freedom to pursue the work Mr. Cox began. High among those considerations we would list a new political restraint on Mr. Nixon; at what cost could he repeat his performance of the weekend of October 20? The President is only now recovering—and just barely—from the repercussions of that event and to the extent that he is recovering at all, he owes everything to a hasty retreat from his position on releasing the subpoenaed tapes and on abolishing Mr. Cox's office along with Mr. Cox's appointment.

What with the Ervin Committee, the House Judiciary Committee and the Special Prosecutor's office already in existence, it seems to us that the addition of a court-appointed prosecutor would only dissipate energy and promote confusion in the task of bringing the Watergate offenses to light and the Watergate offenders to justice. There is, in fact, too much confusion, distraction and overlap now. We think the center of action should be the Special Prosecutor's office. And we think the tools are at hand for Congress * * *.

[From the Washington Post, Dec. 11, 1973]

CONGRESS AND MR. JAWORSKI

The shock and dismay that attended President Nixon's firing of Archibald Cox on October 20, quite naturally—and admirably—led many members of Congress to consider ways in which they might guarantee the independence and professional longevity of whoever succeeded him as Special Watergate Prosecutor. It is worth recalling that those were the days before Leon Jaworski had come upon the scene and before it was evident that the Special Watergate Prosecution Force was not destined to go the way of the dodo bird. So, in the aftermath of the October 20 "massacre," as it was known, a certain number of bills were introduced in the House and Senate seeking to create a pressure and intimidation-free prosecutor's office. Now they are coming to a vote in each chamber and the question is whether intervening events have not rendered them at best obsolete and at worst positively harmful to the prospects of Mr. Jaworski's success. We think the answer is that this legislation has in fact been made both unnecessary and undesirable by what has occurred in the past several weeks.

In an article elsewhere on this page, Rep. Williams Cohen, a Republican from Maine, argue the case against what is apparently the most popular of these bills: a measure authorizing the U.S. District Court to name a Special Watergate Prosecutor who is wholly insulated from Executive Branch manipulation and answerable only to itself. We think Mr. Cohen is right. From the point of view of those who are genuinely committed to the vitality and effectiveness of the Special Watergate Prosecutor's office, it is probable that the best thing that could happen to this legislation—if it is passed—is that it be vetoed. That is because it has such an enormous potential for mischief, deliberate and inadvertent.

At a minimum, and in the best and most innocent of worlds, the mere creation of a wholly new prosecutor's office would be bound to delay and complicate the present prosecutor's job, to generate obstructive legal challenges and otherwise to dissipate the momentum Mr. Jaworski has gathered. In a less innocent world, which seems to be the one we live in, enactment of such legislation could be taken by the White House as a pretext to get rid of Mr. Jaworski, or at least to hamper and undermine his work. A President so inclined would not veto the legislation—he would welcome it.

Mr. Jaworski's record in his brief time in office is a crucial element in this calculation. He has by all accounts demonstrated himself to be determined, independent and, generally speaking, equal to the job. The White House has already begun to put out stories concerning its dissatisfaction with some of his activities. In the House, an alternative measure to the court-appointed prosecutor bill which is known as the "Dennis substitute" and would merely strengthen Mr. Jaworski's tenure and independence is being supported by Representative Cohen and others. While this approach sounds preferable to us, it is our general view that the best result would be enactment of no legislation at all at this time—including legislation which we have previously supported making the prosecutor's appointment subject to Senate confirmation and strengthening the statutory basis of his independence.

We think Mr. Jaworski is doing just fine. We think the enactment of legislation affecting his office, even that mandating relatively modest changes in his charter, puts his continuance in office and his effectiveness at risk. And we think that very large body of congressmen and senators who have committed themselves to the creation of a court-appointed prosecutor, along with those who are committed to the passage of less drastic measures, should be seeking ways to leave these votes in abeyance for the moment. Traditionally, after all, Congress is known for a certain skill at putting off and putting over what it does not wish to bring to a final vote. Finding ways to do just that in this matter should not strain its inventiveness.

[From the Washington Post, Dec. 11, 1973]

ENDANGERING THE SPECIAL PROSECUTOR

(By William S. Cohen)

Justice Holmes once wrote that a "catchword can hold analysis in fetters for 50 years." It is a noteworthy observation, for as Congress prepares to debate and deliberate on the subject of a special prosecutor, it is in danger of being mesmerized by the popular call for an "independent" prosecutor. The need for a special prosecutor whose independance cannot be summarily intruded upon by the body that is the subject of investigation can no longer be a matter of legitimate debate. The question is, how can the objective of establishing the office of special prosecutor be achieved most expeditiously and in a manner that will survive constitutional attack?

The House Judiciary Committee has reported favorably on a bill that would require a panel of U.S. District Court judges to appoint the special prosecutor. Though the bill has several commendable features designed to strengthen it against challenges that are certain to follow, most proponents of the bill, including Archibald Cox, have conceded that it is not free from Constitutional doubt.

It is argued, however, with a familiar ring of pain reliever commercials, that three out of four experts agree that the bill is Constitutional. When further delay in taking action on Watergate-related criminal activities can only contribute to the disingetration of public confidence in our institutions, one must ask what public interest is being served in adopting a bill that has a quarter-moon chance of being invalidated?

In addition, the U.S. District Court in Washington, in a unique unsolicited "advisory" opinion, stated that the proposal would be unwise, unwelcomed and (impliedly) unconstitutional. Proponents of the bill dismiss the admonition as not rising to the dignity of judicial *dicta*. It is interesting to speculate what reception the Court's opinion would have received had it endorsed the Judiciary Committee's proposal.

But all of this misses the mark. The question really is not one of independence. Mr. Cox was independent and Leon Jaworski, to the great despair of some, is demonstrating daily that he too is independent. Congress can draw statutory prohibitions against arbitrary orders emanating from the White House concerning the prosecutor's tenure. The problem has been and is the lack of access to presidential documents, memoranda and recordings. Congress, through a confirmation process by the Senate could insist upon a commitment that is tantamount to a waiver of that vague and seemingly all-purpose doctrine of executive privilege as a condition precedent to its approval of a special prosecutor nominated by the President. Mr. Nixon has said in private that the "special prosecutor should have everything and when he asks for it, he shall get it." Vice President Ford has testified that in his opinion executive privilege should not be invoked in any claims involving alleged criminal conduct. This proposal would simply commit broad promises into the semi-permanence of statutory ink.

Congress, however, dazzled by the glitter of obtaining a special prosecutor who could never be fired by the President for any reason—legitimate or not—appears unwilling to adopt any alternative course of action. Moreover, many proponents of the court-appointed prosecutor privately suggest that whether or not the committee bill proves to be constitutional is of little consequence, since the question soon will be moot.

These members envision the following sequence of events: The bill for a court-appointed special prosecutor will pass the House and Senate. The President will veto the bill and the veto will be sustained. Mr. Jaworski, in the meantime, will continue his efforts in securing indictments against all wrongdoers. If he succeeds, he will be praised by all; should he fail, the proponents of the bill can maintain that they stood tall in the pursuit of justice while the President and his votaries (anyone who opposed their bill) achieved their goal of frustrating and defeating the search for truth.

But assume a different scenario. Assume that certain White House advisers, unhappy with Mr. Jaworski's independence, were to suggest to the President that while they believed the bill to be unconstitutional, the President should not veto it and allows the courts to make the determination. The immediate result would be weeks and perhaps months of delay, confusion and confrontation. Mr. Jaworski would not be able to continue his efforts because congressional action would have superseded his appointment. The President would be under no obligation to "fully cooperate" with a court-appointed prosecutor whose office would almost certainly be challenged, if not by the White House, then surely by prospective defendants. Thus the quest for truth would be delayed and perhaps even derailed.

While it is not the most desirable arrangement, what is best for the country "at this point in time" is to allow Mr. Jaworski to continue in office, with his integrity and demonstrated independence buttressed by strong statutory protection. The greatest safeguard against his dismissal by the President is public opinion. President Nixon crossed that Rubicon on October 20, 1973. He is not in a position to cross it a second time.

Office of the Attorney General,
Washington, D.C., December 7, 1973.
Hon. Birch Bayh,
U.S. Senate,
Washington, D.C.

Dear Senator: This is in response to your request for views on S. 2734, a bill "To establish an independent Special Prosecution office, as an independent agency of the United States, and for other purposes."

S. 2734 would provide for the creation of an Independent Special Prosecution Office, with the Special Prosecutor to be appointed by the President, by and with the advice and consent of the Senate. The Special Prosecutor could be removed by the President only for neglect of duty, malfeasance in office, or violation of the Act creating the office. A notice of dismissal would have to be delivered to both Houses of Congress, and the dismissal would become effective at the end of the first period of thirty calendar days of continuous session of Congress after the date on which notice is delivered to it. The bill would give the district courts original jurisdiction of an action brought by the Special Prosecutor with respect to his removal or attempted removal from office.

By providing for a presidential advice and consent appointment, S. 2734 avoids the constitutional problems inherent in the proposals providing for a court-appointed Special Prosecutor. However, by providing such an appointment, the bill creates an officer in the Executive Branch whose removal is subject, in my opinion, to the constraints discussed in the case of *Myers* v. *United States*, 272 U.S. 52 (1926), which held that restrictions could not constitutionally be placed on the removal power of the President in the case of postmasters who were appointed by the President by and with the advice and consent of the Senate. S. 2734 attempts to avoid the problem posed by the *Myers* case by making the Special Prosecution Office "independent." That office, however, would not be independent in the same sense as the various independent agencies which perform quasi-judicial and quasi-legislative functions are independent, since the Special Prosecution Office would be performing a function which is essentially an Executive Branch function, the prosecution of criminal cases. For this reason, the holding of *Humphrey's Executor* v. *United States*, 295 U.S. 602 (1934), that Congress could place restrictions on the President's firing of a presidential appointee to the Federal Trade Commission, does not resolve the issue whether such restrictions can be placed on the firing of the Special Prosecutor if he is appointed by the President by and with the advice and consent of the Senate.

In conclusion, I believe the *Myers* case casts great doubt on the constitutionality of the removal provisions in S. 2734. This doubt is not removed by *Humphrey's Executor*. Under the circumstances it would be preferable to create the Special Prosecutor as an "inferior Officer" appointed by the Attorney General with appropriate restrictions on the power of the Attorney General to remove him from office.

Sincerely,

Robert H. Bork,
Acting Attorney General.

Excerpts From Report on S. 2642, Independent Special Prosecutor Act of 1973

GENERAL STATEMENT

In the aftermath of the explosive events of October 20, 1973, the Committee on the Judiciary began an extensive series of hearings in order to examine the events which precipitated the firing of former Special Prosecutor Archibald Cox and the resignations of former Attorney General Elliot Richardson and former Deputy Attorney General William Ruckelshaus.[1] In addition, the Committee quickly came to focus upon a number of legislative proposals designed to ensure the unfettered continuation of the work begun by Archibald Cox.[2]

At the conclusion of hearings, it seemed abundantly clear that there was virtual unanimity within both the Committee and the Congress as a whole with respect to the need for legislation creating the Office of an Independent Special Prosecutor with jurisdiction over "Watergate"-related offenses. However, serious questions still exist with respect to the form which legislative guarantees of independence should take.

Meeting in Executive Session on November 21, 1973, your Committee unanimously agreed to order reported two competing legislative items—S. 2611, as amended, and S. 2642, as amended by the Hruska-Taft amendment in the nature of a substitute. Both measures are captioned the "Independent Special Prosecutor Act of 1973" and, although other differences exist which are discussed *infra*, they are generally parallel in all essential regards, save their respective appointment and removal provisions.

S. 2611, as reported, provides for the appointment of a Special Prosecutor by a panel of three members of the United States District Court for the District of Columbia.[3] Correspondingly, the panel also has the sole and exclusive power to dismiss the Special Prosecutor,[4] and only for such aggravated circumstances as set forth in the bill.[5]

On the other hand, S. 2642, as reported, provides for appointment by the Attorney General,[6] and declares that, pursuant to assurances made by the Acting Attorney General, the Senate will have the right to disapprove any candidate for appointment.[7]

With respect to removal, S. 2642 provides that the Special Prosecutor would be subject to removal by the Attorney General only for certain aggravated circumstances as set forth in the bill.[8] In the event such cause for removal were deemed to exist, the Attorney General at the outset would only be empowered to suspend temporarily the Special Prosecutor.[9] Moreover, upon suspension, the Attorney General would be required to notify both Houses of Congress of his action and to set forth the reasons for the suspension.[10]

The suspension were to occur, the Special Prosecutor would be authorized to bring suit immediately for reinstatement under a specific grant of jurisdiction to the United States District Courts and such action would receive expedited treatment.[11]

Finally, under S. 2642, the United States District Court for the District of Columbia would be empowered to appoint an interim Special Prosecutor to serve in the event an original appointment were never made under Section 4 of the bill or in the event of a suspension or other disability or temporary vacancy in the office.[12]

The proponents of S. 2642 would readily concede that S. 2611 is arguably constitutional in its treatment of the appointment and removal provisions.[13] However, we would expect that the proponents of S. 2611 would also readily recognize that these same provisions are *arguably unconstitutional* as being violative of the fundamental Separation of Powers Doctrine in attempting to transfer a core Executive function, *viz.* the prosecution of offenses against the United States, to the Judicial Branch.[14]

By virtue of this basic constitutional issue which is raised by S. 2611, but not by S. 2642, the operations of a Special Prosecutor appointed in accordance with the former bill could be severely disrupted, indictments quashed, prosecutions inexcusably jeopardized and individual rights severely threatened as the issues were pursued through various stages of litigation. Regardless of the ultimate disposition of the constitutional issue before the Supreme Court, the interests of the public would be substantially compromised for no real or apparent reason.

THE CONSTITUTIONAL ISSUE

1. General

The framers in Article II, as elsewhere in the Constitution, painted with a broad brush, and it has been left to nearly 200 years of interpretation by each of the three coordinate branches of the Republic, to define the scope of their respective powers. Yet, despite disputes over the powers granted to the Executive branch in other areas, it has been consistently conceded that the function of prosecuting offenses against the United States belongs exclusively to the Executive.

Article II of the Constitution vests all executive power in the President and further commands him to "take Care that the Laws be faithfully executed." In *Springer* v. *Philippine Islands*, 277 U.S. 189, 202 (1922), the Supreme Court, in general discussion of the separation of powers principle, observed, "[l]egislative power, as distinguished from executive power, is the authority to make laws, but not to enforce them or appoint the agents charged with the duty of such enforcement. The latter are executive functions."

Applying this principle, the Fifth Circuit in *United States* v. *Cox*, 342 F.2. 167, *cert. denied*, 381 U.S. 935 (1965) ruled that the judiciary could not encroach upon this purely executive function. There, a federal grand jury had returned an indictment for perjury against blacks who testified in a civil rights case and the presiding judge ordered the United States Attorney to sign the indictment. At the direction of Attorney General Katzenbach, however, the United States Attorney refused the order. Upon appeal, the contempt citation issued against the U.S Attorney was reversed.

Sitting *en banc*, the Court of Appeals held that the Attorney General is the hand of the President in taking care that the laws of the United States in the prosecution of offenses are faithfully executed. Although it recognized that as a member of the bar, the attorney for the United States is an officer of the court, the court ruled that nevertheless he is "an executive official of the Government, and it is as an officer of the executive department that he exercises a discretion as to whether or not there shall be a prosecution in a particular case. It follows," said the court, that "as an incident of the constitutional separation of powers . . . the courts are not to interfere with the free exercise of the discretionary powers of the attorneys of the United States in their control over criminal prosecutions." Judge Wisdom, concurring specially, noted: "The prosecution of offenses against the United States is an executive function within the exclusive prerogative of the Attorney General."[15] He further ob-

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Footnotes at end of article.

served that "the functions of prosecutor and judge are incompatible."[16] The Supreme Court declined to review the *Cox* decision.

The principle that the Executive alone has the duty and the power to enforce the laws through prosecution before the courts has been restated on many occasions.[17]

Very recently, in a case most apposite, District Judge Richey of the United States District Court for the District of Columbia denied an application for the appointment of an independent special prosecutor to investigate the Watergate incident. Judge Richey viewed such action as both an unwarranted interference with the prosecutorial discretion of the Executive and a violation of the Doctrine of Separation of Powers.[18]

These cases indicate that the responsibility in conducting the prosecution of offenses against the United States lies with the Executive and only with the Executive. And where the responsibility lies, so must lie the power to discharge effectively that responsibility. As Judge (now Chief Justice Burger), speaking for the court in *Newman* v. *United States,* 382 F. 2d 479 (U.S. App. D.C. 1967) said, "[t]he Constitution places on the Executive the duty to see that the laws are faithfully executed and the responsibility must reside with that power."

In the face of these formidable precedents, S. 2611 would divest the Executive of the power to prosecute "Watergate"-related offenses by vesting the powers to appoint and to remove the Special Prosecutor in the courts. In short, prosecutorial powers would be lodged outside the Executive in apparent derogation of Article II which directs the Executive "to take care that the Laws be faithfully executed." Such an effort shoulders a heavy burden in attempting to justify a departure from the deeply embedded understanding of the Constitution. As Mr. Justice Frankfurter said in his concurring opinion in *Youngstown Sheet & Tube Co.* v. *Sawyer,* 343 U.S. 579, 610 (1952), "the Constitution is a framework for government. Therefore, the way the framework is consistently operated fairly establishes that it has operated according to its true nature." In this light, let us examine some of the theories which purport to permit a departure from this framework.

2. *Article II, section 2, clause 2*

Article II, Section 2 grants wide powers to the President with respect to a number of matters, including the nomination of certain officials by and with the advice and consent of the Senate and then as an exception to the nomination and confirmation procedure states:

"But the Congress may by law vest the Appointment of such inferior officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments."

Proponents of S. 2611 rely on this provision in arguing that appointment of a Special Prosecutor (an "inferior" federal officer) may be placed in the hands of a court of law. As a corollary, it is argued that the removal power, with its effective ability to supervise and ultimately control the operations of a Special Prosecutor, accompanies the power of appointment.

Ex Parte Siebold, 100 U.S. 371 (1879) is cited as the leading case. There the Supreme Court upheld a statute which authorized the federal courts to supervise certain elections of candidates for the House of Representatives. Observing that it is ". . . usual and proper to vest the appointment of interior officers in that department of the government, executive or judicial, or in that particular executive department to which the duties of such officers pertain . . .," the Court reasoned that the Constitution did not requie such a result because, if it did, there would be difficulty "in many cases to determine to which department an office properly belonged."[19]

Notably, the example given by the Court of an executive officer whose appointment Congress might vest in someone other than the President was a marshal which the Court characterized as ". . . preeminently the officer of the courts." And as Dean Cramton pointed out in his testimony before the Committee, the officer in question in *Siebold* performed functions "akin to those in which courts have traditionally appointed masters. Moreover, Congress has the power to investigate the qualifications of its own members and the blending of powers involved in the functions of the appointed officials did not involve criminal law enforcement."[20] Thus under the *Siebold* case, a court may appoint an officer who performs functions which characteristically derive from several departments, or in other words, functions which blend the power such as those performed by a marshal or election supervisor. The case goes no further. On the basis of its facts and reasoning, therefore, the *Siebold* case does not speak to a situation such as the present one where the officer to be appointed performs purely executive functions.[21]

A reading of *Siebold* that would permit judicial appointment, and as an incident removal, of important executive officials would be entirely inconsistent with our scheme of government. Such a reading would allow Congress to insulate the Chief Executive from his subordinates, including Under Secretaries, Assistant Secretaries and advisers who serve in the Executive Office of the President by vesting the appointment and removal power in the courts. "The encroachment on the independence and responsibility of the Executive branch," Dean Cramton has testified, "would be impaired intolerably by legislation of this character.[22]

The decision in *Myers* v. *United States,* 272 U.S. 52 (1926), confirms this conclusion. There, the Supreme Court held that a statute attempting to limit the President's power to remove postmasters was unconstitutional. In concluding that a finding that limited the President's power of removing officers of the United States whom he had appointed with the advice and consent of the Senate would make it impossible for the President to discharge his constitutional responsibility to execute the law, the Court reasoned:

"A reference of the whole power of removal to general legislation by Congress is quite out of keeping with the plan of government devised by the framers of the Constitution. It could never have been intended to leave to Congress unlimited discretion to vary fundamentally the operation of the great independent executive branch of government and thus most seriously to weaken it. It would be a delegation by the Convention to Congress of the function of defining the primary boundaries of another of the three great divisions of government."[23]

While some of the broad language in *Myers* was limited by the Supreme Court's subsequent decision in *Humphrey's Executor* v. *United States,* 295 U.S. 602 (1935), the *ratio decidendi* of *Myers,* namely, that the responsibility of the Executive with respect to executive officers cannot be divested, was reaffirmed in *Humphrey's Executor.*[24]

Siebold does not support the appointment of a Special Prosecutor by the courts for a second reason. In ruling on the appointment of the election supervisor, the Court considered whether there was any incongruity in the judicial appointment and observed:

"[T]he duty to appoint inferior officers, when required thereto by law, is a constitutional duty of the courts; and in the present case there is no such incongruity in the duty required as to excuse the courts from its performance, or to render their acts void. It cannot be affirmed that the appointment of the officers in question could, with any greater propriety, and certainly not with equal regard to convenience, have been assigned to any other depository of official power capable of exercising it.[25]"

The judicial appointment of a Special Prosecutor, and the supervision which would be required if the appointing judges were to fulfill their responsibility effectively to review the conduct of the prosecution in determining whether to remove the prosecutor for gross impropriety or gross dereliction as S. 2611 contemplates, appear incongruous with the judicial function. As Judge Wisdom said in *United States* v. *Cox,* discussed earlier, "the functions of prosecutor and judge are incompatible."[26]

More recently, Judge Gessell in *Nader* v. *Bork,*[27] observing that legislation such as S. 2611 would be incompatible with the judicial role, stated:

"The suggestion that the Judiciary be given responsibility for the appointment and supervision on a new Watergate Special Prosecutor, for example, is most unfortunate. Congress has it within its own power to enact appropriate and legally enforceable protections against any effort to thwart the Watergate inquiry. The Courts must remain neutral. Their duties are not prosecutorial. If Congress feels that laws should be enacted to prevent Executive interference with the Watergate Special Prosecutor, the solution lies in legislation enhancing and protecting that office as it is now established and not by following a course that places incompatible duties upon this particular Court. As Judge Learned Hand warned in *United States* v. *Marzano,* 149 F. 2d 923, 926 (1945): Prosecution and judgment are two quite separate functions in the administration of justice; they must not merge."[28] [Emphasis added.]

Added force was given to this observation by the communication of Chief Judge Sirica of the D.C. District Court to the Chairman of the Committee which, in pertinent part, notes:

"I am in full agreement with Judge Gesell's statement * * * I might (also mention that * * * eight of our judges * * * remarked that they disapprove of a procedure that would require this court to appoint a special prosecutor."[29]

Thus, because *Siebold* can be read only to permit the judicial appointment, and as an incident removal, of those officers not performing pure and essentially executive functions and because the appointment of a special prosecutor would be incongruous with judicial duties, it cannot support S. 2611.

Two other cases are cited to support the proposition that under Article II, Section 2, clause 2, the Congress can delegate to the judiciary power to appoint a Special Prosectuor—***United States* v. *Solomon,*** 216 F. Supp. 835 (S.D. N.Y. 1936) and ***Hobson* v. *Hansen,*** 265 F. Supp. 902 (D.D.C. 1967), appeal dismissed 393 U.S. 801 (1968).

In *Solomon,* a federal district court upheld the constitutionality of a statute vesting in federal district courts the power to appoint United States Attorneys to fill vacancies for a temporary period. In finding that the statutory procedure did not violate the Doctrine of Separation of Powers the court stressed that the appointment of the attorney was temporary and that it did not derogate the powers, indeed the responsibility, of the Executive. The President retained the power to remove a court-appointed U.S. Attorney, to replace him with his own appointment, and through the Attorney General to direct his actions in the same way he may any other U.S. Attorney. This, of course, is not the case presented by S. 2611, for under that bill only the judiciary can appoint or remove the Special Prosecutor.

In ***Hobson* v. *Hansen,*** a three-judge court in a 2–1 decision upheld the constitutionality of a statute granting United States district

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Footnotes at end of article.

judges in the District of Columbia the power to appoint members of the Board of Education of the District. The majority opinion rested upon two alternate bases. First, the Court found authority for the challenged statute under Article I, Section 8, clause 17, giving Congress exclusive power to legislate for the District. The majority also concluded that the appointment power was authorized under Article II, Section 2, clause 2, giving Congress the authority to vest in courts the power to appoint inferior officers, and explicitly found that the "incongruity standard" referred to in *Siebold, supra,* did not prohibit the court to exercise such an appointment function, noting also that the United States District Court for the District of Columbia exercises dual judicial-legislative powers with respect to the District. Thus, *Hobson* is not a precedent for the procedure proposed by S. 2611 because the court-appointed board of education members, who were local officials and not federal officers, did not exercise any constitutionally-mandated executive powers of the President under Article II of the Constitution.

While it is true that the Separation of Powers principle does not require three watertight compartments, each branch of the government has core functions, the performance of which cannot be transferred to other branches. To hold otherwise would be to permit one branch to swallow up the functions and thereby the independence of and checks by another branch. The prosecution of offenses against the United States is such a core function. Indeed, it is a function that was placed in one of the four original executive departments. S. 2611, because it vests the appointment and removal of an executive officer exercising a core Executive function in the hands of a panel of federal judges appears to be in derogation of Article II of the Constitution.

3. The necessary and proper clause

It has also been suggested that the traditional understanding of the Constitution which places the prosecutorial power solely in the Executive branch may be circumvented by exercising power granted to Congress by the "necessary and proper" clause. Article I, section 8, clause 18 of the Constitution provides that Congress shall have power "[t]o make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof." This clause is not a "delegation of a new and independent Power." *Kansas* v. *Colorado,* 206 U.S. 46, 88 (1907). Instead, it grants to Congress the power to select any means reasonably adapted "for carrying into Execution" the expressed powers. By its terms, it is thus a clause of implementation. It empowers Congress not to abrogate the powers expressly vested in the Government "or in any Department or officer thereof" but to implement those powers.

In interpreting the necessary and proper clause, Chief Justice Marshall, in his classic opinion in *McCulloch* v. *Maryland,* 4 Wheat. 316, 420 (1819), reiterated the general principle that constitutionally-granted powers must be read in the light of other powers conferred by the Constitution and with reference to the overall intention of the Framers:

"Let the end be legitimate, let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the Constitution, are constitutional."

A reading of the Necessary and Proper clause that empowered Congress to transfer crucial executive functions to other branches of the government would run afoul of the Doctrine of Separation of Powers, for it would transform our govenment of checks and balances into a paliamentary system where the legislature would control the acts of Executive officials, and through them, the acts of the President. The power to create a Special Prosecutor outside the Executive branch cannot be found among the enumerated powers. As Acting Attorney General Bork testified before your Committee:

"* * * [t]he theory, therefore must be that the power to make laws necessary and proper for the enforcement of the laws includes the power to remove law enforcement from the Executive Branch. If the Necessary and Proper Clause were read in that fashion it would be a power lodged in Congress that swallows up much of the rest of the Constitution. Under this theory, for example there could have been no doubt of the constitutionality of the plan to pack the Supreme Court in the 1930's. In fact, if a recalcitrant Supreme Court frustrated Congress wishes by applying the Constitution, the Congess could declare it necessary and proper that the Congress rather than the court decide constitutional cases. No one has ever suspected before that the Necessary and Proper Clause was a power to amend the Constitution that makes wholly unnecessay the specific procedures for amendment provided by Article V. The Necessary and Proper clause must be read as a means of making the exercise of powers by the various branches effective, not as a means of shifting powers between the branches of government. Thus Congress may create or abolish various positions within the Department of Justice. It may provide or take away jurisdiction. It may pass or repeal substantive laws. It may appropriate funds or not as it sees fit. But all of this does not add up to a theory that can keep the laws but forbid the Executive Branch to enforce them and transfer the enforcement function to itself or to the courts."

4. Extraordinary circumstances theory

A theory that has gained currency in some quarters is that extraordinary circumstances presented by the current situation in which a special prosecutor would be investigating individuals who were, or are, high executive officials, permit a departure from the established, constitutional framework. Stated categorically, this contention cannot withstand analysis.

Under our Constitution, extraordinary circumstances or emergency situations have never been a source of power. If the separation of powers principle means anything it means that the framework of our government cannot be disregarded in order to accomplish a result that at the moment appears expedient. In short, extraordinary circumstances do not excuse actions that would be otherwise unconstitutional in ordinary times. As the Supreme Court said in *Ex Parte Milligan,* 4 Wall. 2 (1866), an "emergency may not create power."

Our judgment concerning the constitutionality of proposed legislation must not be influenced by the exigencies of the moment. Current passions, as Mr Justice Holmes stated, should not be allowed to "exercise a kind of hydraulic pressure which makes what previously was clear seem doubtful, and before which even well settled principles of law will bend."[30]

S. 2611: RISKY MEDICINE

The stated purpose of S. 2611 is to shield the special prosecutor from executive interference and to provide him with maximum independence in the performance of his duties. While all would agree with the goal of the bill, indeed S. 2642 seeks to serve the same purpose, we must consider the risks which are inherent in the procedures contemplated by S. 2611 by virtue of its tenuous constitutional footing.

The constitutionality of S. 2611 has already been attacked and doubtlessly will invite judicial challenge should it be enacted. As the earlier discussion of S. 2611 pointed out, the proposal rests on an arguably unconstitutional footing. To be sure, S. 2611 does provide for an expedited review procedure. Nevertheless, a constitutional challenge cannot be filed, even under that procedure, until after defendants have been arrested and arraigned, evidence presented to the grand jury and indictments returned, and defense motions filed. Even if the bill was held constitutional, the litigation would cause delay and engender uncertainty. It is important to remember, in this respect, that some of the incidents apparently within the jurisdiction of the special prosecutor date from 1969, and under the normal five-year statute of limitations, opportunity to prosecute will expire next year.

A judicial determination that the bill is unconstitutional would have even more severe consequences. It would cause an immediate adverse impact on all prosecutions arising out of the new special prosecutor's activities.

Consider some of the possible consequences of the S. 2611 procedure:

First. Any action taken by the new special prosecutor such as the signing of indictments and informations, would be null and void. Accordingly, indictments would be dismissed and convictions overturned. The special prosecutor could not be deemed a *de facto* officer, thus rendering his acts valid, because the entire establishment of the Office of Special Prosecutor would likely to be held unconstitutional on the ground that prosecutorial powers would be lodged outside the executive branch. Under *Norton* v. *Shelby County,* 118 U.S. 425 (1886), the Supreme Court ruled that the acts of local commissioners in signing local bond issues had no validity in law because the act that created their office was unconstitutional. The Court reasoned that there could be no *de facto* officers when the office they attempted to fill was a legal nullity.[31]

Second. The secrecy of the grand jury proceedings may be breached by the presence of a prosecutor who lacked authority to appear before the grand jury. In *United States* v. *Heinz,* 177 F. 770 (1910), the court granted a motion to quash an indictment because of the presence in a grand jury room of a special assistance improperly appointed by the Attorney General.

Third. There is the very real possibility that the delay incurred would let the statute of limitations run on some offenses. During the intervening time, evidence also may be lost, witnesses become unavailable and memories fade. Accordingly, unnecessary delay can only work to weaken the Government's case.

Fourth. Publicity generated by the first, invalid trial may deny defendants due process and an impartial jury as required by the Fifth and Sixth Amendments, respectively, and as a result may bar any future retrials.

Fifth. Persons otherwise properly convicted may go free because of the possible denial of the right to a speedy trial guaranteed by the Sixth Amendment.

Sixth. Defendants would continue to be exposed to embarrassment, anxiety, expense, and restrictions on their liberty in contravention of the policies which underpin both the double jeopardy and speedy trial provisions of the Constitution.

In sum, the proponents of S. 2611 ask the Congress to sail hazardous seas. The risks are indeed intolerable. Accordingly, Senators should be particularly circumspect in their consideration of S. 2611. The bill has the potential for immunizing future Watergate defendants from prosecution, and care should be exercised to avoid the result, to paraphrase Justice Cardozo, that "the criminal should go free because the *Congress* has blundered."

Footnotes at end of article.

S. 2611: OTHER DEFECTS

Apart from the probable constitutional defects in S. 2611 and the hazardous ramifications that flow therefrom, the bill seems unwise for several other practical reasons:

First, because the broad jurisdiction of the Special Prosecutor is made exclusive, the Special Prosecutor will be forced either to invest considerable amounts of time in investigating and prosecuting offenses that have little or no relation to the alleged offenses that gave rise to the authorizing legislation or such offenses would go unpunished. The jurisdiction which is created for the Special Prosecutor is, by necessity, overly broad. In practice, he will not wish to explore every avenue open to him. However, under S. 2611 if a postmaster appointed years ago in some obsecure village was allegedly involved in a crime, only the Special Prosecutor would have the jurisdiction to prosecute and this jurisdiction could not be transferred. Thus, the United States Attorneys or the Criminal Division would be barred from prosecuting the offense.

The Special Prosecutor has exclusive jurisdiction over allegations involving Presidential appointees. However, he might wish to forego pursuit of such a mundane case but for the fact that the offender would go free because no other federal officer would have the jurisdiction to prosecute.

Under S. 2642, however, the Special Prosecutor is granted primary but not exclusive jurisdiction. Accordingly, the Special Prosecutor can ensure that any matters truly falling within his bailiwick will be vigorously investigated while matters on the periphery can be left to the Department of Justice.

Second, S. 2642, by authorizing the Special Prosecutor to demand the services of any officer of the Department of Justice or any other federal department or agency, fails to recognize the disruptive effect on the statutory responsibility of agencies that such an open charter could wreak. Under such a provision, agency officials would be required to assist the Special Prosecutor to the detriment of other agency functions no matter how compelling or important they be. Indeed, even the Attorney General or Secretary of State would be subject to the will or whim of the appointee. Surely, if any other officer in the Executive branch were granted such power, cries of tyranny would be raised. The exigencies of the moment should not cause us to be any less circumspect with respect to a Special Prosecutor.

Third, the establishment of a new Special Prosecutor outside the Executive branch jeopardizes the continuity of the ongoing investigation and prosecution. It is by no means clear that the staff of the Special Prosecution force would remain intact should a new office be established and a new Special Prosecutor appointed by the courts.

Fourth, involvement of the courts in the hiring, supervising and possible firing of a Special Prosecutor is certain to interfere with their judicial duties and embroil them in political controversy.[32] Chief Justice Stone, in a letter refusing President Roosevelt's request asking the Chief Justice to sit on a commission to settle a wartime synthetic rubber problem, explained that the exercise of extrajudicial duties would impair the integrity of the judicial office:

"A judge, and especially the Chief Justice, cannot engage in political debate or make a public defense of his acts. When his action is judicial he may always rely upon the support of the defined record upon which his action is based and of the opinion in which he and his associates unite as stating the ground of the decision. But when he participates in the action of the executive or legislative departments of government he is without those supports. He exposes himself to attack and indeed invites it, which because of his peculiar situation inevitably impairs his value as a judge and the appropriate influence of his office. Mason, *Extra-Judicial Work for Judges: The Views of Chief Justice Stone*, 67 Harv. L. Rev. 193 (1953)".

Judge Wright of the District of Columbia Circuit has expressed similar views:

"Attention to extrajudicial activities is an unwanted diversion from what ought to be the judge's exclusive focus and commitment: decided cases * * *. Since [nonjudicial] duties involve democratic choice, it is politically illegitimate to assign them to the federal judiciary, which is neither responsive nor responsible to the public will * * *. Most critically, public confidence in the judiciary is * * * placed in risk whenever judges step outside the courtroom into the vortex of political activity. Judges should be saved 'from the entanglements, at times the partisan suspicions, so often the result of other and conflicting duties.' *Hobson* v. *Hansen*, 265 F. Supp. 902, 915–16 (D.D.C. 1967) dissenting opinion)".

These arguments have special force with respect to S. 2611 which would thrust a panel of three district judges into the highly inflamed and political vortex produced by the Watergate incident. Apparently, Chief Judge John Sirica of the United States District Court for the District of Columbia agrees. He has stated, in a letter included in the appendix of this Report, that the vesting of the appointment and removal power in a panel of three district judges would be inappropriate. According to the Chief Judge, eight of his colleagues on the 14 judge district court agree with him.

This fact indicates that there is a very distinct possibility that the district court judges for the District of Columbia may refuse to appoint a special prosecutor pursuant to S. 2611. Considerable delay, confusion, uncertainty, and perhaps protracted litigation would result to the detriment of the investigation and prosecution of Watergate related offenses.

S. 2642: A RESPONSIBLE ALTERNATIVE

S. 2642, like S. 2611, seeks to ensure the independence of a special prosecutor's office so that in appearance and in fact "Watergate"-related offenses are thoroughly and vigorously investigated and prosecuted. Unlike S. 2611 however, S. 2642 rests on firm constitutional grounds. This conclusion has been confirmed by Acting Attorney General Bork:

"Of the two bills, S. 2642, the Taft bill as amended, is preferable because, in my opinion, it presents no constitutional difficulties that might cast doubt on the legitimacy of the Special Prosecutor's future actions. The other proposal could result in protracted litigation, causing delay and uncertainty." [33]

Under S. 2642, the Attorney General would appoint a Special Prosecutor with the independent understanding that the Senate will play a prominent *de facto* role in the appointment process. Acting Attorney General Bork has given his assurance that he will consult with the Senate leaders prior to making any appointment to the office of Special Prosecutor and that he will not appoint anyone whom the Senate disapproves by resolution.[34]

In the event of a vacancy in the office of Special Prosecutor, S. 2642 provides that the United States District Court for the District of Columbia may appoint an interim Special Prosecutor until the vacancy is filled. This provision is in accord with the established practice with respect to United States Attorneys.[35]

Finally, section 11(a) of S. 2642 which restricts the power of removal of the special prosecutor by the Attorney General to cause—neglect of duty, malfeasance in office, or violation of the act—is grounded on *United States* v. *Perkins*, 116 U.S. 483 (1885). In unholding a federal statute that vested the appointment of cadet-engineers in the Secretary of the Navy but limited his power of removal, the Supreme Court said:

"We have no doubt that when Congress, by law, vests the appointment of inferior officers in the heads of the Departments it may limit and restrict the power of removal as it deems best for the public interest. The constitutional authority in Congress to thus vest the appointment implies authority to limit, restrict, and regulate the removal by such laws as Congress may enact in relation to the officers so appointed.[36]"

THE "INDEPENDENCE" ISSUE

Proponents of S. 2611 urge that we must risk the likely adverse consequences which rise in the wake of the fundamental constitutional issue posed by their bill in order to assure the "independence" of the Special Prosecutor, both in fact and in terms of public perception. They contend that the Executive cannot be entrusted to investigate itself. However, it is submitted that this simplistic approach to the problem at hand does not hold up under detailed scrutiny. The "independence" issue raised as a point of departure with respect to S. 2611 and S. 2642 is a false one.

The litmus test for determining the presence or absence of adequate guarantees of Prosecutor lies not in slogan but in ensuring: (1) that a capable man of integrity is in charge of the task; (2) that the Special Prosecutor is empowered to conduct the operation free of all restraints; and (3) that strong safeguards exist to prevent his unwarranted dismissal.

The central question then is whether S. 2611 provides sufficiently greater guarantees with respect to satisfying these three indicia of independence as to warrant its adoption in the face of the obvious constitutional and concomitant difficulties the bill brings with it.

With respect to the first indicium of independence, both bills are largely inapposite. Hopefully, either the District Court for the District of Columbia or the Attorney General, with the approval of the Senate called for by Acting Attorney General Bork, would seek to appoint Leon Jaworski as the logical choice for the statutory position of Special Prosecutor or, in the event Mr. Jaworski were unavailable, another candidate who possessed the same level of unquestionable ability and integrity would be chosen.

With respect to the second indicium, S. 2611 and S. 2642 are generally parallel in their treatment of the powers and authority of the Special Prosecutor.

With respect to the final indicium of independence, *i.e.*, assuring that the Special Prosecutor will not be subject to unwarranted dismissal, it is submitted that S. 2642 establishes the strongest tier of safeguards possible. In this regard, as discussed *supra*, the Special Prosecutor would have the benefit of a 30-day "cooling-off" period before he could be removed and then could only be removed for a showing of malfeasance in office, neglect of duty or violation of law. During this 30-day period, the Special Prosecutor could invoke judicial process to block his pending removal if appropriate. Finally, the District Court for the District of Columbia would have the power to appoint an interim Special Prosecutor if a vacancy did occur.

S. 2611 provides that the Special Prosecutor may be dismissed only for a gross impropriety, gross dereliction of duty, or physical or mental disability preventing discharge of his abilities as determined by the panel of judges who appointed him in the first instance. Thus it provides no more than S. 2642 in the way of a meaningful response to the problem of unwarranted attempts at removal.

It can be assumed, we believe, that the public perception of the indicia of independence as set forth in S. 2611 will correspond with the analysis set forth above. Stated another way, if no real threat to "independence" is contained within S. 2642, none will be perceived. In this particular respect, the notion of any "appearance of evil" as a separate rationale for rejecting S. 2642 would seem to be extremely ephemeral at best.

FOOTNOTES

[1] "Special Prosecutor," Hearings before the Committee on the Judiciary, U.S. Senate, Oct. 29 through Nov. 20, 1973 (two vols.) (92d Cong., 1st sess.). Hereinafter cited as *Hearings*.

[2] S. 2600, introduced on October 23, 1973, by Senator Chiles; S. 2603, introduced on October 23, 1973, by Senator Stevenson; S. 2611, introduced on October 26, 1973, by Senator Bayh, Hart, *et al.*; S. 2616, introduced on October 30, 1973, by Senators Percy, Baker and Cook; S. 2631, introduced on October 30, 1973, by Senators Baker and Brock; S. 2642, introduced on November 20, 1973, by Senators Percy, Baker, *et al.*

[3] S. 2611, sec. 3.

[4] S. 2611, sec. 10.

[5] *Ibid.*

[6] S. 2642, sec. 4.

[7] S. 2642, sec. 2(g) and letter dated November 26, 1973, from Acting Attorney General Bork (Appendix, *infra*).

[8] S. 2642, sec. 11(a).

[9] S. 2642, sec. 11(b).

[10] *Ibid.*

[11] S. 2642, sec. 11(c).

[12] S. 2642. sec. 11(e)—It should also be noted that the removal provisions of S. 2642 are intended to supplement, rather than supplant, the present assurances given by President Nixon to Acting Attorney General Bork with respect to Special Prosecutor Leon Jaworski, i.e., Mr. Jaworski will not be dismissed absent a consensus favoring dismissal from among the leadership and chairmen and ranking Republicans of the Judiciary Committees in both the Senate and House of Representatives. See Department of Justice, Order No. 551–73, 28 C.F.R. O. 37 (November 2, 1973).

[13] See testimony of Archibald Cox, Senators Stevenson and Chiles; Professor Phillip Kurland, William Kenan, Jr., Paul Freund and Dean Monard Paulsen, along with Statements of Law School Deans, and American Bar Association. *Hearings* at pp. 1–143, 143–78. 223–26, 319–41, 341–48, 226–37 (additional references unavailable at the time of the filing of this Report).

[14] See testimony of Senator Taft, former Attorney General Elliot Richardson, Dean Roger Cramton and Acting Attorney General Bork. *Hearings* at pp. 178–223, 237–318 (additional page references unavailable). See also the letter from Chief Judge John Sirica to Chairman Eastland at Appendix, *infra*.

[15] 342 F.2d at 190.

[16] 342 F.2d at 192.

[17] See, *e.g.*, *Ponzi* v. *Fessenden*, 258 U.S. 254, 262 (1922); *Weisberg* v. *Department of Justice*, No. 71–1026, decided on rehearing *en banc* October 24, 1973 ("Functions in this area [prosecutorial discretion] belong to the Executive under the Constitution, Article II, Sections 1 and 3 * * *"); *Parker* v. *Kennedy*, 212 F. Supp. 594, 595 (1963) (Determinations whether prosecutions should be commenced are within the ambit of the Attorney General's executive discretionary power); *Pugach* v. *Klein*, 193 F. Supp. 630 (D.D.C. 1961) ("The prerogative of enforcing the criminal law was vested by the Constitution, not in the Courts, nor in private citizens, but squarely in the executive arm of the government"). See also *Nader* v. *Kleindienst*, Civ. No. 243–772 (D.D.C. 1973); and *Moses* v. *Kennedy*, 219 F. Supp. 762 (D.D.C. 1963).

[18] Findings of Fact and Order 7 at 2, *O'Brien* v. *Finance Committee To Re-Elect the President*, Civ. No. 1233–72 (D.D.C., decided Sept. 25. 1972)

[19] 100 U.S. at 397–98.

[20] *Hearings*, at p. — (page reference unavailable).

[21] See, *e.g.*, *Ponzi* v. *Fessenden*,, and *Cox* v. *United States*, *supra*.

[22] *Hearings*, at p. — (page reference unavailable).

[23] 272 U.S. at 127.

[24] See 295 U.S. at 627–28.

[25] 100 U.S. at 397–98.

[26] 342 F.2d at 192.

[27] Civ. No. 1954–73 (D.D.C. Nov. 14, 1973).

[28] *Id.* at 10–11.

[29] See Appendix.

[30] *Northern Securities Co.* v. *United States*, 193 U.S. 197, 400–01 (1904) (dissenting opinion).

[31] 118 U.S. at 441.

[32] Supervision of the conduct of the prosecution by the Special Prosecutor would be required in order to ensure that he is not guilty of gross improprieties or gross dereliction of his duties warranting his removal.

[33] See letter dated November 20, 1973, Appendix, *infra*.

[34] A *de jure* advice and consent role in an appointment by a department head could raise a constitutional issue. Article II, Section 2, Clause 2 provides that the President may nominate certain officials, by and with the advice and consent of the Senate. The next part of the clause, however, provides that "the Congress may by law vest the Appointment * * * in the Heads of Departments" but make no provision for Senatorial advice and consent on such an appointment. The inference could be drawn from the text, therefore, that an appointment by a department head may not be subject to advice and consent by the Senate. In any event, such an appointment procedure would clearly produce a constitutional oddity.

[35] See 28 U.S.C. 546; *Solomon* v. *United States*, *supra*.

[36] 116 U.S., at 485. The question of whether Congress can restrict the power of removal of those officers appointed by the President, by and with the advice and consent of the Senate—a question which the *Perkins* Court expressly declined to consider—was decided forty-one years later in *Myers* v. *United States*, 272 U.S. 52 (1926). There the Supreme Court held that the President has the exclusive power of removing executive officers of the United States whom he has appointed with the advice and consent of the Senate.

Accordingly, a bill which would place the power of appointment of a special prosecutor in the President with the advice and consent of the Senate and restricts his power of removal would run afoul of the *Myers* decision as reaffirmed in *Humphrey's Executor* v. *United States*, 295 U.S. 602, 627–28 (1935).

[In the U.S. District Court for the District of Columbia]

MEMORANDUM

Ralph Nader, Senator Frank E. Moss, Representative Bella S. Abzug, and Representative Jerome R. Waldie, Plaintiffs, v. Robert H. Bork, Acting Attorney General of the United States, Defendant. Civil Action No. 1954–73.

This is a declaratory judgment and injunction action arising out of the discharge of Archibald Cox from the office of Watergate Special Prosecutor. Defendant Robert H. Bork was the Acting Attorney General who discharged Mr. Cox. Plaintiffs named in the Amended Complaint are as listed above.

Some issues have already been decided. The matter first came before the Court on plaintiff's motion for preliminary injunction and a request that the trial of the action on the merits be consolidated with the preliminary injunction pursuant to Rule 65(a) of the Federal Rules of Civil Procedure. Defendant filed opposition papers, and a hearing was held on the detailed affidavits and briefs filed by the parties. The Court determined that the case was in proper posture for a determination on the merits at that time.

All injunctive relief requested in the proposed preliminary injunction tendered at the hearing and in the Amended Complaint was denied from the bench. The effect of the injunctions sought would have been to reinstate Mr. Cox as Watergate Special Prosecutor and to halt the Watergate investigation until he had reassumed control. It appeared to the Court that Mr. Cox's participation in this case was required before such relief could be granted. *See* Rule 19(a) of the Federal Rules of Civil Procedure. Yet Mr. Cox has not entered into this litigation, nor has he otherwise sought to be reinstated as Special Prosecutor. On the contrary, his return to prior duties at Harvard has been publicly announced. Moreover, a new Watergate Special Prosecutor was sworn in on November 5, 1973, and the Court felt that the public interest would not be served by placing any restrictions upon his on-going investigation of Watergate-related matters.

Plaintiffs continue to press for a declaratory judgment on the only remaining issue to be resolved: the legality of the discharge of Mr. Cox and of the temporary abolition of the Office of Watergate Special Prosecutor. To this end, it must initially be determined whether plaintiffs have standing and whether a justiciable controversy still exists.

Defendant Bork contends that the congressional plaintiffs lack standing[1] and that the controversy is moot. This position is without merit. The discharge of Mr. Cox precipitated a widespread concern, if not lack of confidence, in the administration of justice. Numerous bills are pending in the Senate and House of Representatives which attempt to insulate the Watergate inquiries and prosecutions from Executive interference, and impeachment of the President because of his alleged role in the Watergate matter—including the firing of Mr. Cox—is under active consideration.[2] Given these unusual circumstances, the standing of the three congressional plaintiffs to pursue their effort to obtain a judicial determination as to the legality of the Cox discharge falls squarely within the recent holding of the United States Court of Appeals for the District of Columbia Circuit in *Mitchell* v. *Laird*, No. 71–1510 (D.C. Cir. March 20, 1973). Faced with a challenge by a group of congressmen to the legality of the Indo-China War, the Court recognized standing in the following forceful terms:

> "If we, for the moment, assume that defendants' actions in continuing the hostilities in Indo-China were or are beyond the authority conferred upon them by the Constitution, a declaration to that effect would bear upon the duties of plaintiffs to consider whether to impeach defendants, and upon plaintiffs' quite distinct and different duties to make appropriations to support the hostilities, such as raising an army or enacting other civil or criminal legislation. In our view, these considerations are sufficient to give plaintiffs a standing to make their complaint. . . ."

Id. at 4.

Unable to distinguish this holding, defendant Bork suggests that the instant case has been mooted by subsequent events and that the Court as a discretionary matter should refuse to rule on the legality of the Cox discharge. This view of the matter is more academic than realistic, and fails to recognize the insistent demand for some degree of certainty with regard to these distressing events which have engendered considerable public distrust of government. There is a pressing need to declare a rule of law that will give guidance for future conduct with regard to the Watergate inquiry.

While it is perfectly true that the importance of the question presented cannot alone save a case from mootness, *Marchand* v. *Director, United States Probation Office*, 421 F.2d 331, 333 (1st Cir. 1970), the congressional plaintiffs before the Court have a substantial and continuing interest in this litigation. It is an undisputed fact that pending legislation may be affected by the outcome of this dispute and that the challenged conduct of the defendant could be repeated with regard to the new Watergate Special Prosecutor if he presses too hard,[3] an event which would undoubtedly prompt further congressional action. This situation not only saves the case from mootness, *see United States* v. *Concentrated Phosphate Export Assoc.,* 393 U.S. 199, 203–04 (1968); *Friend* v. *United States,* 388 F.2d 579 (D.C. Cir. 1967), but forces decision. The Court has before it an issue that is far from speculative and a strong showing has been made that judicial determination of that issue is required by the public interest. Under these circumstances, it would be an abuse of discretion not to act.

Turning then to the merits, the facts are not in dispute and must be briefly stated to place the legal discussion in the proper context.

The duties and responsibilities of the Office of Watergate Special Prosecutor were set forth in a formal Department of Justice regulation,[4] as authorized by statute.[5] This regulation gave the Watergate Special Prosecutor very broad power to investigate and prosecute offenses arising out of the Watergate break-in, the 1972 Presidential election, and allegations involving the President, members of the White House staff or presidential appointees. Specifically, he was charged with responsibility to conduct court proceedings and to determine whether or not to contest assertions of Executive privilege. He was to remain in office until a date mutually agreed upon between the Attorney General and himself, and it was provided that "The Special Prosecutor will not be removed from his duties except for extraordinary improprieties on his part."

On the same day this regulaion was promulgated, Archibald Cox was designated as Watergate Special Prosecutor.[6] Less than four months later, Mr. Cox was fired by defendant Bork. It is freely admitted that he was not discharged for an extraordinary impropriety.[7] Instead, Mr. Cox was discharged on the order of the President because he was insisting upon White House compliance with a Court Order which was no longer subject to further judicial review. After the Attorney General had resigned rather than fire Mr. Cox on this ground and the Deputy Attorney General had been discharged for refusing to do so, defendant Bork formally dismissed Mr. Cox on October 20, 1973, sending him the following letter: [8]

"DEAR MR. COX: As provided by Title 28, Section 508(b) of the United States Code and Title 28, Section 0.132(a) of the Code of Federal Regulations, I have today assumed the duties of Acting Attorney General.

"In that capacity I am, as instructed by the President, discharging you, effective at once, from your position as Special Prosecutor, Watergate Special Prosecution Force.

"Very truly yours,

"ROBERT H. BORK,
"Acting Attorney General."

Thereafter, on October 23, Mr. Bork rescinded the underlying Watergate Special Prosecutor regulation, retroactively, effective as of October 21.[9]

The issues presented for declaratory judgment are whether Mr. Cox was lawfully discharged by defendant on October 20, while the regulation was still in existence, and, if not, whether the subsequent cancellation of the regulation lawfully accomplished his discharge. Both suppositions will be considered.

It should first be noted that Mr. Cox was not nominated by the President and did not serve at the President's pleasure. As an appointee of the Attorney General,[10] Mr. Cox served subject to congressional rather than Presidential control. *See Myers* v. *United States,* 272 U.S. 52 (1926). The Attorney General derived his authority to hire Mr. Cox and to fix his term of service from various Acts of Congress.[11] Congress therefore had the power directly to limit the circumstances under which Mr. Cox could be discharged, *see United States* v. *Perkins,* 116 U.S. 483 (1886), and to delegate that power to the Attorney General, *see Service* v. *Dulles,* 354 U.S. 363 (1957). Had no such limitations been issued, the Attorney General would have had the authority to fire Mr. Cox at any time and for any reason. However, he chose to limit his own authority in this regard by promulgating the Watergate Special Prosecutor regulation previously described. It is settled beyond dispute that under such circumstances an agency regulation has the force and effect of law, and is binding upon the body that issues it. *Accardi* v. *Shaughnessy,* 347 U.S. 260 (1954) (*"Accardi I"*); *Bonita* v. *Wirtz,* 369 F.2d 203 (D.C. Cir. 1966); *American Broadcasting Co.* v. *F.T.C.,* 179 F.2d 437 (D.C. Cir. 1949); *United States* v. *Chapman,* 179 F. Supp. 447 (E.D. N.Y. 1959). As the Ninth Circuit observed in *United States* v. *Short,* 240 F.2d 292, 298 (9th Cir. 1956) :;

Footnotes at end of article.

"An administrative regulation promulgated within the authority granted by statute has the force of law and will be given full effect by the courts."

Even more directly on point, the Supreme Court has twice held that an Executive department may not discharge one of its officers in a manner inconsistent with its own regulations concerning such discharge. *See Vitarelli* v. *Seaton,* 359 U.S. 535 (1959); *Service* v. *Dulles, supra.* The firing of Archibald Cox in the absence of a finding of extraordinary impropriety was in clear violation of an existing Justice Department regulation having the force of law and was therefore illegal.

Defendant suggests that, even if Mr. Cox's discharge had been unlawful on October 20, the subsequent abolition of the Office of Watergate Special Prosecutor was legal and effectively discharged Mr. Cox at that time. This contention is also without merit. It is true that an agency has wide discretion in amending or revoking its regulations. *United States* v. *O'Brien,* 391 U.S. 367, 380 (1968). However, we are once again confronted with a situation in which the Attorney General voluntarily limited his otherwise broad authority. The instant regulation contains within its own terms a provision that the Watergate Special Prosecutor (as opposed to any particular occupant of that office) will continue to carry out his responsibilities until he consents to the termination of that assignment.[12] This clause can only be read as a bar to the total abolition of the Office of Watergate Special Prosecutor without the Special Prosecutor's consent, and the Court sees no reason why the Attorney General cannot by regulation impose such a limitation upon himself and his successors.

Even if the Court were to hold otherwise, however, it could not conclude that the defendant's Order of October 23 revoking the regulation was legal. An agency's power to revoke its regulations is not unlimited—such action must be neither arbitrary nor unreasonable. *Kelly* v. *United States Dept. of Interior,* 339 F. Supp. 1095, 1100 (E.D. Cal 1972). *Cf. Grain Elevator, Flour and Feed Mill Workers* v. *N.L.R.B.,* 376 F. 2d 774 (D.C. Cir.), *cert. denied,* 389 U.S. 932 (1967); *Morrison Mill Co.* v. *Freeman,* 365 F. 2d 525 (D.C. Cir. 1966), *cert. denied,* 385 U.S. 1024 (1967). In the instant case, the defendant abolished the Office of Watergate Special Prosecutor on October 23, and reinstated it less than three weeks later under a virtually identical regulation.[13] It is clear that this turnabout was simply a ruse to permit the discharge of Mr. Cox without otherwise affecting the Office of the Special Prosecutor—a result which could not legally have been accomplished while the regulation was in effect under the circumstances presented in this case. Defendant's Order revoking the original regulation was therefore arbitrary and unreasonable, and must be held to have been without force or effect.

These conclusions do not necessarily indicate that defendant's recent actions in appointing a new Watergate Special Prosecutor are themselves illegal, since Mr. Cox's evident decision not to seek reinstatement necessitated the prompt appointment of a successor to carry on the important work in which Mr. Cox had been engaged. But that fact does not cure past illegalities, for nothing in Mr. Cox's behavior as of October 23 amounted to an extraordinary impropriety, constituted consent to the abolition of his office, or provided defendant with a reasonable basis for such abolition.

Plaintiffs have emphasized that over and beyond these authorities the Acting Attorney General was prevented from fixing Mr. Cox by the explicit and detailed commitments given to the Senate, at the time of Mr. Richardson's confirmation, when the precise terms of the regulation designed to assure Mr. Cox's independence were hammered out. Whatever may be the moral or political implications of the President's decision to disregard those commitments, they do not alter the fact that the commitments had no legal effect. Mr. Cox's position was not made subject to Senate confirmation, nor did Congress legislate to prevent illegal or arbitrary action affecting the independence of the Watergate Special Prosecutor.

The Court recognizes that this case emanates in part from congressional concern as to how best to prevent future Executive interference with the Watergate investigation. Although these are times of stress, they call for caution as well as decisive action. The suggestion that the Judiciary be given responsibility for the appointment and supervision of a new Watergate Special Prosecutor, for example, is most unfortunate. Congress has it within its own power to enact appropriate and legally enforceable protections against any effort to thwart the Watergate inquiry. The Courts must remain neutral. Their duties are not prosecutorial. If Congress feels that laws should be enacted to prevent Executive interference with the Watergate Special Prosecutor, the solution lies in legislation enhancing and protecting that office as it is now established and not by following a course that places incompatible duties upon this particular Court. As Judge Learned Hand warned in *United States* v. *Marzano,* 149 F.2d 923, 926 (1945):

"Prosecution and judgment are two quite separate functions in the administration of justice; they must not merge."

This Memorandum contains the Courts' findings of fact and conclusions of law. The rulings made are set out in the attached Final Order and Declaratory Judgment.

GERHARD A. GESELL,
U.S. District Judge.

NOVEMBER 14, 1973.

FOOTNOTES

[1] At the injunction hearing, the Court dismissed Mr. Nader as a plaintiff from the bench, it being abundantly clear that he had no legal right to pursue these claims. *Flast* v. *Cohen,* 392 U.S. 83, 102 (1968).

[2] Referring to various bills pending in the Senate, Senator Moss stated, "I am severely hampered in my ability to discharge my duties because of uncertainty which exists with respect to the legality of Special Prosecutor Cox's dismissal and the abolition of his office." Affidavit of Senator Frank E. Moss, dated October 29, 1973. Congressman Waldie is a member of the House Judiciary Committee and both he and Congresswoman Abzug have introduced resolutions calling for the impeachment of the President because of the Cox dismissal and other matters.

[3] The regulation from which the present Watergate Special Prosecutor, Mr. Leon Jaworski, derives his authority and his independence from the Executive branch is virtually identical to the original regulation at issue in this case. *See* note 13 *infra.* It is therefore particularly desirable to enunciate the rule of law applicable if attempts are made to discharge him.

[4] 38 F.R. 14688 (June 4, 1973). The terms of this regulation were developed after negotiations with the Senate Judiciary Committee and were submitted to the Committee during its hearings on the nomination of Elliot Richardson for Attorney General. Hearings Before the Senate Comm. on the Judiciary, 93rd Con., 1st Sess. 144–46 (1973).

[5] * * * U.S.C. § 301.

[6] Justice Department Internal Order 518–73 (May 31, 1973).

[7] *See* Defendant's Brief in Opposition to Plaintiffs' Motion for Preliminary Injuction, at 13.

[8] Exhibit 12 to the Affidavit of W. Thomas Jacks.

[9] 38 F.R. 29466 (Oct. 23, 1973).

[10] *See* 38 F.R. 14688 (June 4, 1973).

[11] 5 U.S.C. § 301; 28 U.S.C. §§ 509–10.

[12] *See* 38 F.R. 14688 (June 4, 1973): "The Special Prosecutor will carry out these responsibilities with the full support of the Department of Justice, until such time as, in his judgment, he has completed them or until a date mutually agreed upon between the Attorney General and himself."

[13] The two regulations are identical, except for a single addition to the new regulation which provides that the Special Prosecutor may not even be discharged for extraordinary improprieties unless the President determines that it is the "consensus" of certain specific congressional leaders that discharge is appropriate. *Compare* 38 F.R. 30738 (Nov. 9, 1973) *with* 38 F.R. 14688 (June 4, 1973).

[In the U.S. District Court for the District of Columbia]

FINAL ORDER AND DECLARATORY JUDGMENT

Ralph Nader, Senator Frank E. Moss, Representative Bella S. Abzug and Representative Jerome R. Waldie, Plaintiffs, v. Robert H. Bork, Acting Attorney General of the United States, Defendant. Civil Action No. 1954–73.

On the basis of findings of fact and conclusions of law set forth in an accompanying Memorandum filed this day, it is hereby

Ordered and decreed that:

(1) Plaintiff's motion for leave to file an Amended Complaint and add additional plaintiffs is granted.

(2) Plaintiff's motion for preliminary injunction is denied, and the trial of the action on the merits is advanced and consolidated with the hearing on said motion.

(3) Mr. Ralph Nader is dismissed as plaintiff for lack of standing.

(4) All injunctions prayed for in the Amended Complaint are denied.

(5) The Court declares that Archibald Cox, appointed Watergate Special Prosecutor pursuant to 28 C.F.R. § 0.37 (1973), was illegally discharged from that office.

GERHARD A. GESELL,
U.S. District Judge.

NOVEMBER 14, 1973.

TRIALS AGAINST SOVIET JEWS TRYING TO EMIGRATE

Mr. TUNNEY. Mr. President, 3 days ago, the House overwhelmingly passed the Mills-Vanik provision withholding U.S. credits and MFN status from countries which deny their citizens the right or opportunity to emigrate. The companion measure, the Jackson amendment, sponsored by 77 Senators, will be considered in the Senate over the next few months. Soviet authorities stimulate congressional support for such legislation by continuing to persecute and intimidate Soviet citizens who apply to emigrate.

Just recently such repression has increased. A wave of trials has been unleashed against Soviet Jews trying to emigrate. The trials serve as a means of intimidating others who might consider applying for exit visas.

In the last month, two Soviet Jews have been tried on spurious charges and sentenced to 5 and 3½ years imprisonment respectively. A third trial is scheduled for December 17. Other trials are in preparation. Each trial is held against a Jew residing in a different city, so that the other Jewish residents of that locality will be warned of the fate which may befall them if they too apply to emigrate. In each case the real "crime" of the accused is his application and efforts to emigrate from the Soviet Union.

Aleksandr Feldman, of Kiev, who applied to emigrate 2 years ago, was the victim of a contrived KGB—secret police—plot. Feldman was followed home one day by two KGB agents and a woman. The woman started to scream. The two KGB agents arrested Feldman in the presence of the deputy head of the local KGB who conveniently happened to be there. They told him he could plead guilty to having either beaten or raped the woman; Feldman refused both pleas. He was tried on November 23 and found guilty of "malicious hooliganism." Feldman's appeal is to be heard imminently. If the appeal fails, he will spend the next 3½ years in a labor camp.

Leonid Zabelishensky, an electrical engineer from Sverdlovsk, is scheduled to be brought to trial December 17. After applying in November 1971, to emigrate to Israel, he was immediately dismissed from his job. He has been kept by the Soviet authorities from working in his profession ever since, although he has obtained menial jobs. He is being brought to trial on the charge of "parasitism" since he has been unemployed for several months—albeit his wife works and earns a substantial income.

I have sent telegrams to Ambassador Anatoly Dobrynin; to the prosecutor and judge in the Zabelishensky case; and to the appropriate judge and Ukrainian Communist Party head on behalf of Aleksandr Feldman. I have urged each of these officials to dismiss the charges against these two men, whose only crime is their desire to emigrate, and to allow them to join their families in Israel.

WORLD FOOD PROBLEMS

Mr. McGOVERN. Mr. President, it was my pleasure to address a conference on national food policy sponsored by Gov. Milton Shapp, of Pennsylvania, on December 6. At that conference, one of the outstanding speeches was delivered by Tony T. Dechant, president of the National Farmers Union.

Because Mr. Dechant speaks as a recognized leader of an important sector of the agricultural community, and because his views reflect a true national interest and a humanitarian interest, I ask unanimous consent that his address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS BY TONY DECHANT

This conference is timely. Our country desperately needs a national food policy.

This is a time of multiple crises for our country.

The energy crisis confronts every citizen with transportation bottlenecks and exposure to the winter's cold.

Our national economic crisis of rising unemployment and rampant inflation threatens every family.

Our crisis in foreign relations, springing from the deterioration in the confidence of our traditional friends and allies, is undermining the patterns of international cooperation that were so carefully nurtured, with American leadership, since World War II, and threatens to plunge the world into the chaos of bi-lateral "big deals" and narrow nationalistic self-seeking that brought first worldwide depression and then World War in the 1930's.

No less grave than any of these is our national food crisis.

The United States today is dangerously short of food.

What is worse, we are dangerously short even of farmers. We are dangerously short of farming capacity—of machinery and breeding stock and production supplies. We are dangerously short, above all, of morale among our farm people. All this portends that our danger will grow worse unless we correct its cause.

Today's food crisis is a direct consequence of the agricultural policies of the Nixon-Butz regime.

I hope consumers and their representatives will pay close attention to this conference. Surely the interest of consumers in food policy should be no less than that of producers—although I am afraid the farmers in America have done their jobs so well throughout most of the past generation that consumers have come to take their abundant food supply for granted. If the complacency of consumers is now at last overcome, then the national food crisis that confronts us today will have started to create one of the indispensable conditions for resolving it.

"FARM PROGRAMS" ARE FOOD PROGRAMS

Consumers need, first of all, to recognize that farm programs are FOOD Programs.

In just a few short years, the regime of President Nixon and Secretary of Agriculture Butz has wrecked our national farm programs, which were built with bi-partisan support and leadership during the past forty years. This heedless and irresponsible wrecking operation has brought the nation, and farmers and consumers together, to the food crisis of today.

The first major blow was enactment of the 1970 Farm Act, after a bitter fight in Congress. This legislation was engineered by the Nixon White House with ruthless use of the veto threat. It has been praised to the skies by both Nixon and Butz. It empowered the Nixon Administration to further erode farm prices, and to complete the wrecking of two indispensable features of an adequate farm program:

1. It wrecked the "ever-normal granary" machinery for building and managing reserves of basic farm commodities, by forcing commodity loan rates far below the level of viable returns to producers, and by "dumping" the last remaining CCC-owned stocks onto the market in a ruthless effort to break farm prices.

2. It wrecked the government's capability to manage supplies of storable commodities, so as to keep reserves at reasonable levels, at costs that would be reasonable and acceptable.

The next step was the recruitment by President Nixon of Earl Butz, a long-time agri-business politician, as Secretary of Agriculture.

Butz set out with flamboyant vigor to exploit the programs of the Department of Agriculture to further the Nixon election campaign. He boasted that he would "spend money like a drunken sailor" and he did. It would have been a lot better for the country—and for both farmers and consumers—if he had stayed sober. The country will be a long time getting over the hang-over.

RECORD SPENDING BY BUTZ

It is fair to wonder what a long-time enemy of farm programs, as Mr. Butz has been, would find to do during an election year that would be helpful to the Administration's cause among farmers who overwhelmingly believe in farm programs. But Earl Butz showed that he is not a man to be swayed by principle when he has a political motive to satisfy.

In the 1972 election year, Secretary Butz spent more money than any Secretary of Agriculture in history to pay farmers to idle the biggest acreage of land ever kept out of production under government programs. How's that for a long-time critic of farm programs?

More than $3½ billion was paid out to farmers in 1972, to keep 63 million acres out of production.

That's about two times as much as the annual expenditures on comparable programs throughout the Kennedy-Johnson Administration.

The American cropland that was kept idle in 1972 totals more than all the cropland in the entire United Kingdom. It amounts to about one acre out of five of all the cropland in the USA.

It would have cost less for the government to buy the entire production from that land, if it had been cropped instead of held idle, and either stored it for a food reserve, or shipped it overseas under the Food for Peace program.

TODAY'S FOOD CRISIS WAS RESULT

This "drunken sailor" binge, and the Watergate activities, and unprecedented campaign spending, and lots of other things worked together to win the election for Richard Nixon in 1972.

But among other consequences, it ran the USA—and the world—straight into the worst food shortage emergency since World War II.

The extent of today's food shortage is being understated and covered-up by the U.S. Department of Agriculture.

The U.S. Department of Agriculture continues in public to uphold its estimate of 250 million bushels as the total amount of wheat that will be left over at the end of this marketing year next July 1.

This would be the smallest reserve since the world food emergency at the end of World War II. But then America's and the world's populations were far smaller. More than a billion people have been added to the human population since then, and the requirements for domestic consumption and for export have gone up even more.

SHORTAGE WORSE THAN OFFICIALS ADMIT

But the finer print in USDA's own reports reveals a far more desperate situation even than this.

A careful search and review of the government's own reports on wheat production, wheat stocks, domestic consumption estimates, shipments already made overseas, and reports of overseas sales, shows that the total wheat supply in the United States will be down to the vanishing point by the end of this marketing year.

Indeed, these detailed reports show that the entire U.S. supply of three of the five major types of wheat have already been oversold—and this includes our main bread-wheat type.

The total carry-over that is indicated by these government figures is around fifty million bushels. This would be by far the smallest ever recorded in the United States. It is less than the practical minimum, beyond the point at which the trade and processors' "pipe lines" can really be cleaned out.

What does this mean to consumers? What does this mean to our country? What does it mean to the world?

It means simply this:

A short crop in 1974 would catch America with no wheat reserve to fall back on.

A short grain crop anywhere on earth—or a natural disaster anywhere on earth—or an international military crisis anywhere on earth—would catch America short of one of its most valuable resources.

A world grain crop like that of 1972 would doom millions to starvation.

And even if the best we can hope should happen, today's food shortage is making short-run and long-term trouble for both consumers and farmers, and for our national interest.

It is stimulating competing production. It has greatly encouraged our export customers to seek self-sufficiency in food. It has created costly and wasteful inefficiencies and dislocations in other agricultural and food industries.

NIXON THREATENS TO END FARM PROGRAMS

So much for the Butz Binge of '72, and the headaches that have followed. Let's look now at the third Nixon blow to wreck our bi-partisan national farm and food programs.

The blow fell very early on "the morning after" the Butz Binge of 1972. Shortly after Inauguration Day, in February 1973, Nixon called for all farm price and income support programs to be eliminated within three years.

Remember, this was when Nixon was riding high. This was at the time he was impounding funds appropriated by Congress, thereby imperiously abolishing legally-constituted government activities. This was when Nixon was nullifying laws that had been passed by Congress and signed by the President himself shortly before the election, and daring Congress to try to impeach him if they didn't like it. This was at the time the Attorney General was dispatched to serve notice on Congress that Nixon claimed the power to authorize any employee of the Federal Government to refuse to testify before any Congressional committee on any subject.

Nixon's declaration that all farm price and income support programs should be eliminated within three years was the high-tide mark of the Nixon-Butz enmity against farm programs

It is that enmity against the very principle of public farm programs that is the source of today's food crisis. It is a prejudiced point of view that has learned nothing from 40 years of conscientious bi-partisan effort in our country to build the strong and productive agricultural system and the abundance of food that to this moment has been the envy of the world.

It has forgotten nothing, nor forsaken anything, of the dogmatic, fanatical, hysterical obstruction that was mounted down through four decades against governmental programs to promote soil conservation, and rural electrification, and farm price stability, and commodity supply adjustment, and an "ever-normal granary" to protect the American people and our export customers against the variations in crop yields that every sane man and woman knows will continue to vex mankind.

It is the same old enmity that plagued the efforts for a strong American agriculture made by Franklin Roosevelt and Henry Wallace and Charlie Brannan and Harry Truman.

It has no kinship with the Republican tradition of Charles McNary and Clifford Hope and George Aiken—all of whom, with many others, were sincere co-partners in developing the national farm and food policy that the Nixon Administration has now reduced to wreckage.

It is a relic of the troglodytic forces which resisted the New Deal in everything it did, and which to this day objects to the reality of the Twentieth Century.

That, my friends, is the root from which our national food crisis has sprung.

And that is what still stands in the way today of overcoming the nation's food crisis.

FARMERS FEAR PRICE COLLAPSE

Most of the time Nixon and Butz have managed to mask their basic hostility to the very principle of public farm programs. Here as in other things, the advice of Nixon's one-time chief mentor in governmental and political business, John Mitchell, is apropos:

"Judge us by what we do, not what we say," said Mr. Mitchell.

So too is the theory of one observer that Nixon systematically follows a tactic of "Victory through Failure"—of wrecking a program he secretly despises by pretending to embrace it, then mismanaging it so badly that the whole idea loses public support.

From the viewpoints either of farmers or consumers, the enmity of the Nixon Administration toward public programs to stabilize food supplies and farm prices seems senseless. But it does make a kind of sense to the giant multinational agri-business corporations which dominate the world's grain trade and processing.

They profiteer on the consumers in the times of boom. They profiteer on the farmers in the times of bust.

These are the constituents of Mr. Butz; and they are the political allies of Mr. Nixon.

And that's precisely what's scaring American farmers today. That's what's holding them back from the all-out attack upon the world's food shortage that our nation needs and farmers themselves would want to make.

The farmers of the United States are simply scared to death that the Nixon-Butz agricultural policies are heading straight into a mammoth bust in farm prices.

The agricultural law enacted in 1973 is some protection—but it is not enough.

In the first place, Nixon and Butz fought tooth and toe-nail with their veto threat to keep the bill's low target prices down. They succeeded all too well.

They succeeded too well also in killing a meaningful provision to adjust target prices to keep pace with increases in costs of production.

In the second place, farmers do not trust the Nixon Administration to keep faith with the intent and spirit of Congress as expressed in the 1973 farm law. This mistrust is held with good reason, after the impoundments of funds and the nullification of lawful programs that were experienced only a few months ago.

And in the third place, Nixon's erratic, violent, and unpredictable use of price controls, export embargoes, increases in imports, and other economic powers, leaves farmers scared to death that still-unimagined new dangers might be sprung on them tomorrow.

CONFIDENCE NEEDED TO BOOST FOOD

Farmers are patriotic. Farmers recognize that *the nation's interest* as well as their own requires abundant production. We must have agricultural products for export in order to maintain our country's economic, political, and military credibility in the world. We must at all costs provide enough to eat for our own people.

But *abundant farm production* takes a lot of doing. It *takes a lot of doing* just to maintain normal production. It *takes much more doing* to get the increased production that is now needed.

Farming an extra acre along with every four that was cropped in 1972 won't just happen. It will take a lot more labor, a lot more machines, a lot more fuel, a lot more fertilizer, a lot more of borrowed money at high interest rates. Remember—this additional land represents more acreage than *all the cropland in the United Kingdom*, or in any other country in the world except for a handful of the very biggest.

Some of the added cropland can be farmed, and it will be farmed, some of it by "overtime" work without much added machines or workers.

But for the most part, farming resources are already stretched about as thin as they can go. Farmers have to look ahead before they open up new acreage. They will have to pay back the money they borrow to buy new machines, with interest—and that won't be done in a single year, nor in two or three or four. They will have to pay higher wages to get the farm boys who have gone for city jobs to come back to farming. And they'll have to pay more for fuel and fertilizer and everything else they need.

And when farmers today look ahead under Nixon and Butz, they're simply scared out.

What they see is a national Administration that is publicly committed to the ideal of collapsing farm prices "to clear the market" in times of surplus.

What they fear is the near certainty, so long as the Nixon-Butz policies prevail, of a calamitous worldwide farm price crash, possibly as soon as 1974, almost surely by 1975 or 1976.

The government's own reports show the results of the farmers' colossal lack of confidence in the Nixon-Butz policies:

Milk production has fallen every month for a year and is now 5 percent below a year ago;

Meat production is far behind last year and despite a recent brief recovery is still 2 percent below a year ago;

Placements of cattle in feedlots—which foretells the beef supply six months from now—are running far below a year ago.

Even the production of grains on the additional land that was "freed" by the Department of Agriculture for production this year did not actually increase output as much as was expected. And it is far from assured as yet that production of grains will be increased substantially in 1974, despite all the new acreage that has been released. How can we turn this around?

How can we surmount today's food crisis, and then move on to achieve long-range assurance of enough to eat for all of us, at prices that are fair both to consumers and to farmers?

Both the short-run and the long-run solutions should start at the same place.

We must have a responsible, workable, equitable, and positive new national food policy to replace the wrong and dangerous policies of the Nixon Administration.

This new policy must be understood and supported by the public, by consumers as well as farmers, and it must be executed faithfully and effectively by our government.

FOOD RESERVES NEEDED

Fortunately, we don't need to start from scratch to invent suitable implements for making such a national food policy work.

A caution is in order against yielding to fadism in seeking solutions to our problems. Even the most ancient of lessons is not invalidated just because some have ignored, or forgotten, or still refuse to learn it. The Old Testament, in the story of Joseph of Egypt, provides the best lesson yet for dealing with year-to-year variations in agricultural yields. There's no need to hunt for some shiny new gimmick. We need simply to store the surplus of the fat years to use during the shortage of the lean years. And that brings me to the first point in what I suggest is an appropriate national food policy for the United States:

1. The government should be made responsible and be empowered to maintain a modern, fully-adequate "ever-normal granary" to provide ample reserves of basic foodstuffs for use in times of emergencies and shortage.

NEED PRICE, SUPPLY STABILIZATION

In resolving the problems and correcting the damage from violent fluctuations in agricultural prices, which spring straight from the organic nature of agricultural production, the best mechanism yet designed is also an old and familiar one—the non-recourse commodity loan.

The non-recourse commodity loan is one of the main means whereby farmers' prices for basic storable commodities have been supported and stabilized under the farm programs of the past forty years. Briefly, the government announces that it will advance a stated amount per bushel or per pound to the farmer, with his commodity to be pledged as collateral. If the market price is favorable, the farmer may pass up the government's offer and market his produce. Or he may take out a loan, wait until the market price rises after the harvest-season glut, then pay off the loan and market his product at the better price. Or if the market fails to rise, he may simply surrender the collateral to the government when the loan comes due, with no further recourse by the government against him.

Beware of the slanders against this essential element of a sound farm and food program that have been spread abroad for a whole generation by those whose self-interest lies in the jungle economy of boom and bust!

A commodity loan program can readily be operated so as to maintain a general range of prices around the desired standard for the commodity, with full freedom for differentials reflecting quality, location, and other factors to be set in the market place.

And as for long-term allocations of farming resources between this commodity or that, this too can be accomplished much more smoothly and efficiently in conjunction with a well-administered commodity loan and "ever-normal granary" program than by the real market-place of violent booms and busts, as distinguished from the illusory "unseen-hand" ideal of the free-market romanticists.

Another virtue of the commodity loan system is that it helps to stabilize agricultural price levels generally by providing stability in the price and supply of major feedstuffs for livestock and poultry, and by establishing a stabilized level of alternate returns to producers of other crops which compete with the basic crops for the use of land.

This, then, is the second point that I propose for a national food policy for farmers and consumers:

2. Non-recourse commodity loans should be offered to farmers for basic storable farm commodities as a primary means of supporting and stabilizing agricultural and food prices.

Another ancient goal of civilized mankind is equity. For farmers, "equity" is spelled PARITY.

Here again, the cynics of the boom and bust persuasion have used ridicule and distortion to kill the commitment to equity that resides in the heart of every religion and every good man's conscience.

FARMERS' NEED AND DESERVE "PARITY"

The concept of parity for farmers—the idea that farmers should be entitled to returns for their labor, their managerial efforts, and their investments, on a par with the returns enjoyed by their fellow citizens for comparable efforts and resources, is an ancient one. It is among the very oldest that Congress has sought to define in law.

The "parity index" is the ancestor of the cost-of-living index, which is incorporated in one way or another in countless labor wage contracts and other economic instruments—including those affecting the salaries and pensions of bureaucrats and Congressmen. The parity index is as up-to-date as the cost-of-living index or any other statistical measure in common use—notwithstanding the misleading jeers from the farmers' detractors about its venerable beginnings.

And as much as any other, the parity index can be kept fully up-to-date and relevant to the realities of farmers' costs.

The real issue is whether farmers should be accorded equity in our economy. And here the modern verdict of our modern society must be affirmative, more surely today than ever before.

The third point, then, in our national food policy should be:

3. The government of the United States should reaffirm its commitment to the goal of parity prices and parity of incomes for farmers, and that commitment should be implemented at last by positive action, by supporting and stabilizing farm prices at 100 percent of parity.

Provisions for adjusting supplies to needs have been another target of propaganda attacks against farm programs. Copious tears are shed in the name of farmers "victimized by government regimentation." But their true source is the eyes of the crocodile, who hopes to find his treasure in the "bust" of unmanageable farm surpluses. Farmers themselves usually vote for farm program acreage allotments and marketing quotas in officially-conducted referenda by margins above nine-to-one.

EFFECTIVE "SUPPLY MANAGEMENT" NEEDED

"Supply management" both of products output, and of labor input, is a routine function in virtually every major industry. Supply management is no more nor less than essential industrial discipline, a primary obligation of sound business management. If there is an issue of principle, it is whether a large number of independent farmers may use the means of a government program to discipline the output of their product according to publicly approved standards, or must be destroyed in the chaos of boom-and-bust until a few giant successors gain the power to do it privately.

Here again, the small inefficiencies that accompany measures to adjust farm production to needs are far out-weighed by the short-run and the long-run advantages to farmers and the public. And this is the fourth point in a national food policy:

4. Farmers should be empowered, through acreage allotments and marketing quotas or other suitable means, to adjust their production when necessary to avoid the accumulation of unwanted surpluses and to avoid waste and excessive program costs.

Our nation's agricultural interests and food needs are interdependent with those of other countries. Our farmers must compete with the farmers of other countries for both foreign and domestic markets. Our consumers must compete too, with consumers in other countries for many major foodstuffs.

NEED WORLD FOOD POLICY TOO

For all the reasons that the United States needs a *national* food policy, the people of America need also *a world food policy*.

Every modern country has its national food and agricultural policies. The needed next stage in formation of a world food policy is to harmonize the national food policies and programs of the major trading nations.

Fortunately, this next step need not be as difficult as it is significant.

We have had more successful experience with internation cooperation in food production, food distribution, and food marketing, than in any other industry. As long ago as the aftermath of World War I, Herbert Hoover administered for the government of the United States the largest food aid programs the world had seen up to that time. In World War II, we co-operated intimately with our allies to make American food power count to the maximum in helping to win the war. Again in the aftermath of the second world war, American food saved millions in Europe from starvation, sparked devastated economies onto the road to recovery, and prevented political and social collapse. And through our Food for Peace program since 1954, our government has cooperated closely with a hundred countries to supply and distribute food aid and to stimulate economic and market development.

In all those activities, the role of the United States has been something in the nature of "chief benefactor" in mainly bilateral country-by-country relationships with other governments.

But we have had considerable and successful experience also with international commodity agreements, under which several countries deal with us and each other more or less as equals.

Basically, an international commodity agreement is a bargain between a group of buyers and a group of sellers. The goal is to agree on prices and other terms that are considered fair both to importing countries and to exporting countries, and then to insure that they are carried out.

The enemies of farm price support programs are enemies also of international commodity agreements—and for the same reasons.

The international grain and food and feed traders know no nationality. They have no compunctions about breaking the price for farmers in one country with cheap surplus products from some place else. Nor do they hesitate to short one country's consumers of food in order to turn a bigger profit some place else.

Above all, they want the marekts to stay "free". Free to "bust" most of the time, as it usually turns out. But free to "boom" too, when a natural disaster or other calamity occurs. For they are best able to play the angles and to profiteer from wild swings in prices.

International wheat agreements have been negotiated and operated during most of the past twenty-five years. Grain trade critics—echoed by the Nixon Administration—charge that the wheat agreements work "only when they're not needed".

That is flatly untrue. Exporting countries have sold hundreds of millions of bushels of wheat at prices below the world market in keeping with their guaranteed maximum prices when supplies became scarce. And on the other hand, more than a billion bushels of wheat at a time were held in storage in the United States and Canada and out of the world market to keep the prices well above the agreed minimum price when supplies outran demand.

The only genuine failure of an international agreement on wheat occurred in 1969, within a few months after the Nixon Administration took office. The Nixon Administration deliberately paid subsidies to exporters of 30 cents per bushel, thereby breaking the minimum price floor and wrecking the agreement.

It is true that a new international grains agreement, covering wheat and feed grains, will need to be improved to deal with changed world trade conditions. Provision for equitable sharing of the costs of maintaining reserves is most important.

But ambitious as it is, an international grains agreement is a practical and realistic goal. Every country that's needed for an international grains agreement to be workable is in favor of it—with the solitary exception of the USA. And there are signs that the Nixon Administration's hold-out position may be weakening, however grudgingly.

This brings me to the fifth point that I consider essential in a national food policy:

5. Participation by the United States in negotiating and operating an international grains agreement under which importing and exporting countries agree to support trade in grains within an agreed range of prices, and to cooperate in regulating the flow of grains into world trade, bearing the costs and responsibility for maintaining reserves, and sharing in food aid to needy people in disaster areas and in the poor countries.

Now there's just one more vital point. Indeed, it is the vital point—vital not only for food, but for survival.

NEED REVIVAL OF COOPERATION AMONG NATIONS

The period of history that began during World War II has been notable for many things. One that we too easily forget is the remarkable degree of international cooperation that has been developed under American leadership in the world. We have had troubles and disappointments and there is yet much sorrow and suffering in the world.

But this time has brought to us, and to the peoples of our allies and our former enemies in Europe and Asia, an unprecedented era of prosperity, of deepening social and economic interrelationships, and of the spread of the rule of law and civility in transactions between us.

Today this pattern of international cooperation is strained as never before. Much of the fault may be others'. But in any case, the leader and the preeminent national power among our friends, we bear the large responsibility for setting the example and giving direction to our common cause.

Today more than ever before, we need to cooperate, particularly with the nations of Europe and Asia that are our traditional allies. We need to bring the USSR and China firmly into our system of international cooperation, and resist their natural temptation to try to play one off against the others. And we need to draw in also the poor countries with their huge numbers of hungry people.

The world energy crisis surely brings to the fore a lively sense of the danger to us all if we should return to the pre-War country-by-country maneuvering and dealing for narrow advantage that degenerated into worldwide depression and then to war.

We and our economic and cultural and political allies literally must cooperate or die—die out at least, as modern, prosperous, progressive societies. The closest parallel to our present danger is the worldwide depression of the 1930's.

A severe economic depression of such a scale obviously would affect massively the supply and demand for food. It would overwhelm anything else that might be done to affect farm prices and food consumption.

BEST WAY TO BETTER FOOD SITUATION

What we stand to gain from revitalized international cooperation is every bit as dramatically appealing as the dangers, if it fails, are disheartening.

Better diets and better nutrition for hundreds of millions of people have been in the forefront of the advances secured within our community of international trading partners since the end of World War II.

It is often charged, for example, that the Kennedy Round of trade negotiations accomplished little benefit to American agriculture. But this is a myopic and narrow minded disportion. It takes account only of the advantage that might be gained by farmers of one country in their competition with other farmers. It overlooks the truly significant value to agriculture of expanding trade—the enormous increase in total demand for food that is generated by rising employment and higher incomes. Indeed, the real results of the Kennedy Round in gains for agricultural trade have exceeded the wildest expectations.

An immediate next priority must be to expand effective demand for food among the nearly-half of mankind who are still malnourished and underfed. The way to do it is simply to do more—and better—and more widely—of what we have done so successfully for a generation among our closest allies.

Most of the attention given to food supply in consideration of food problems is simply misplaced and futile. It is the ability to demand food in the marketplace—"purchasing power"—that usually decides whether one may eat or not. Farmers of every country have learned all too well the familiar paradox of hunger in the shadow of unmarketable surpluses. Correction of inadequate demand will work automatically to correct inadequacy of supplies. When the farmers know the customers can pay, they will soon enough find ways to produce. But surplus supplies don't automatically—or even easily—assure increased consumption. Even in the United States, we had perhaps the greatest number of malnourished people in our history in 1960 at the same time we had-time record "surpluses" of food.

The most useful and urgent measure that is needed to improve food supply and nutrition for the world's hungry is to create employment for the breadwinners.

The forthcoming trade negotiations should shift their primary emphasis to expanding the opportunities for the less-developed countries to increase their exports to the markets of the rich.

This, then, should be the sixth and final point in a sound national food policy:

6. The United States should reassert its leading role among the non-communist countries of the world, and should seek their renewed commitment to the principles and practice of international cooperation with special immediate emphasis upon expanding trade with the underdeveloped countries.

What I've had to say on the subject of "national food policy" will seem to range over nearly the full scope of public affairs. That should not be surprising. Food, after all is even more vital to human activity than petroleum, when you get down to it. Food seems a routine matter only when there's plenty of it. Gasoline and fuel oil seemed routine affairs too, only a few weeks ago.

But new realities are making themselves felt in the world these days. One of them is that food—and farmers—may no longer be taken for granted, not even in the USDA.

CLEARCUTTING

Mr. NELSON. Mr. President, traditionally, we have viewed the land and its resources as commodities to be exploited at will, with little concern for values other than that of immediate economic yield.

The pollution crisis, the damage to the landscape from coast to coast, and now, the energy crisis, ought to be lesson enough that we must become wise stewards of the land, the water, the air, of all the resources on which life and civilization depend.

No writer in America today has more persistently and effectively argued for the need for a national ethic of environmental stewardship than Michael Frome, conservation editor of Field & Stream.

In a recent article for Business & Society Review/Innovation, Mr. Frome addresses the issue of forest "clearcutting," another example of stripping the land for maximum short-term economic benefit with minimum long-range ecological concern.

Mr. Frome eloquently argues for tight curbs on the growing practice of clearcutting, confining this method to experimental uses until it can be determined whether it represents meaningful progress from any point of view.

Mr. President, I ask unanimous consent that Mr. Frome's thoughtful article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

Only God Can Make a Tree, But Any Corporation Can Clearcut a Forest

(By Michael Frome)

The practice of clearcutting timber on public and private forests has become the subject of heated debate, both nationally and in various regions of the country—as well it should, considering the high stakes in economics, ecology, and esthetics. Controversies have arisen over the management of the California redwoods, the Douglas fir forests of the Pacific Northwest, spruce forests of southeast Alaska, lodgepole and ponderosa pine forests of the Rocky Mountains, the hardwood forests of the Northeast, and the mixed hardwood-pine forests of Appalachia and the South. Within the past three years, hearings on clearcutting have been conducted before committees of both houses of Congress. Reports and studies have been made by the Council on Environmental Quality, the United States Forest Service, deans of forestry schools, and concerned citizen groups. Yet there is still no resolution of the debate.

What is clearcutting? In an editorial appearing in its April 1972 issue, the magazine *Field & Stream* presented this blunt appraisal of the practice:

"It is a method of harvesting trees which causes complete devastation. It is more harmful than a forest fire. The land is churned up over vast areas by big machinery. Every tree is cut down and most of the surface plants are killed. Until grasses and shrubs can get started again, the land is wide open to extreme erosion. Timber companies prefer this method of harvest because it is cheaper than cutting selected mature trees and leaving the remainder unharmed and because having once destroyed a mixture of kinds of trees on a certain tract they can plant one type of tree, which they prefer. These trees are planted in neat little rows, all standing the same height and all reaching maturity at the same time for another cutting. But it is no longer a forest any more than an orchard is a forest. There are no open grassy glens, no bushes, no aspen or alders. Everything is crowded and shaded out by the trees, and for the major part of the growth years of the trees there is little food for animals or birds. It is a sterile sort of forest designed by a computer."

Quite different descriptions of clearcutting are offered by its advocates, who include, in addition to most of the forestry profession, large corporations holding investments in timber lands or in mills.

"It is efficient, economic, and in general produces forest products and resources useful to man," declared Dr. Kenneth P. Davis of Yale University, president of the Society of American Foresters, while testifying before a Senate committee in 1970. The immediate consideration was a proposed moratorium on clearcutting in the national forests, as urged by citizen conservationists. To halt clearcutting, he warned, "would place an unwarranted and disruptive restriction on using a proper and, in many situations, necessary method of managing forest lands."

Edward P. Cliff, Chief of the Forest Service, addressing the National Council of State Garden Clubs in May 1965, declared that the practice "is something like an urban renewal project, a necessary violent prelude to a new housing development. When we harvest overmature, defective timber that would otherwise be wasted, there is bound to be a temporary loss of natural beauty. But there is also the promise of what is to come: a thrifty new forest replacing the old. The point is that there often must be a drastic, even violent upheaval to create new forests. It can come naturally—and wastefully—without rhyme or reason as it has in the past, through fires, hurricanes, insects, and other destructive agents. Or it can take place on a planned, purposeful, and productive basis."

Mr. Cliff served as Chief Forester from 1962 to 1972. Under his aegis clearcutting came of age; he defended and promoted it with fervor. "For the young, 'citified,' articulate part of our citizenry," he declared before the Pacific Logging Congress of 1966, "it is especially easy and natural to get stirred up about outdoor beauty, recreation, wilderness, vanishing wildlife species and environmental pollution. It is not likely that very many know or even particularly care much about how timber is grown, harvested, and used to meet their needs." The Chief likened accelerated timber cutting through modern technology to gardening, or farming of field crops. "Wild old stands have pristine beauty which is instantly felt and appreciated," he wrote in the 1967 *Yearbook of Agriculture*. "But a newer forest, man-planned and managed and coming up sturdily where century-old giants formerly stood, also has its brand of beauty—similar in its way to the terraced contours and the orderly vegetative growth upon well-managed farmlands."

The clearcutting concept, as enunciated by Dr. Davis and Mr. Cliff, plainly emphasizes the anthropocentric—the design of nature for the use of man; it rejects the notion that resource managers must "think in ecosystems"—that they must relate every decision and every action to the entire complex picture rather than to an isolated component of the ecosystem, let alone to considerations of expediency or short-term economic returns. It denies the principles evoked by Aldo Leopold, forester of another generation and yet a pioneer of today's ecological movement, who wrote: "The land is one organism. Its parts, like our own parts, compete with each other and cooperate with each other. The competitions are "as much a part of the inner workings as the cooperations."

YELLOW JOURNALISM

Clearcutting's bias toward commodity production in the short run, rather than toward protection of the resource in all its aspects for the long run, is often the main basis of attack in the media. Strong criticisms along these lines in *Field & Stream* and other publications (notably the *New York Times, Reader's Digest, Atlantic Monthly, Des Moines Register and Tribune and Montana Daily Missoulian*) have been summarily dismissed by spokesmen for the timber industry, the forestry profession, and the Forest Service with such epithets as "sensationalism," "hit-and-run reporting," and "yellow journalism." In a speech on "The Nature of Public Reaction to Clearcutting," delivered in February 1972, an official of the Forest Service, John R. Castles, declared: "Probably the most frustrating and insidious form of pressure is that generated by irresponsible or ill-informed news media people who seize on unsubstantiated reports, half-truth rumors, misinformation, or outright distortions without checking them further."

But the evidence, even from timber-forestry witnesses, appears to substantiate charges that clearcutting is environmentally pollutive and ecologically disruptive, as well as designed principally for immediate profit. In an article in the February 1972 issue of the *Journal of Forestry*, for instance, Dr. David M. Smith, professor of silviculture at Yale, described the emergence of the new synthetic forest: "Combinations of herbicides, prescribed burning, and powerful site-preparation machinery made it possible, almost for the first time, to start new stands entirely free of the competition of preestablished vegetation. In some localities, it has become possible to contemplate deliberate efforts to eliminate natural populations and replace them with the planted products of conscious genetic selections. . . . It takes no great wit to see that within this frame of reference, the optimum cutting practice will be that which removes nearly everyhing that will pay its way out of the woods. The future benefits which might be derived from growth on reserved merchantable trees are quite intangible from this point of view."

Professor Smith went further, joining the critics in their concern over damage done by heavy machinery used in logging and site preparation. "The vegetation can be swiftly repaired," he wrote, "but it may take centuries or millenia to repair the kind of damage to the soil that result from deep gouging or scraping action. It is time there was more concern for adapting the machinery to the silviculture and less resignation to the idea that soil damage is an inevitable consequence of practical forest operation."

John McGuire, who succeeded Mr. Cliff as Chief of the Forest Service, also conceded in an interview published in *American Forests* magazine of October 1972, that: "Roads have been cut where they shouldn't have been permitted. Erosions have followed that make it impossible to get a forest of quality, or even any forest, in that area again." But instead of talking about eliminating roads in order to regain protection of the natural resource, he proposed construction of an additional 100,000 to 150,000 miles of highway in the national forests, thus tending to give credence to charges that the Forest Service is the handmaiden of special economic interests. Or, as Justice William O. Douglas declared in his dissent in the *Mineral King* case (Sierra Club v. Morton), issued April 19, 1972: "The Forest Service—one of the federal agencies behind the scheme to despoil Mineral King—has been notorious for its alignment with lumber companies, although its mandate from Congress directs it to consider the various aspects of multiple use in its supervision of the national forests." In the same message, Justice Douglas likened clearcutting to strip mining.

The most dangerous kinds of chemical poisons, poured into the soil and seeping into streams, are implicit tools of clearcutting. Entomologists warn that a pure stand of timber forms an ideal situation for damage from insects and disease; infection is rapid from tree to tree, and if one species is destroyed, there is nothing left. A monoculturally managed forest, therefore, creates the need for pesticides and herbicides. Ultimately these chemicals do more harm than good, for the biotic diversity is destroyed. Nevertheless, the Forest Service has poisoned millions of acres of public land, encouraged the use of ecologically crude poisons on millions of additional acres, and ignored pleas and protests.

The general fear among environmentalists is that more wood is being cut than grown on both public and private forests. The timber industry called for increased logging of the national forests—even though three-quarters of commercial forest land is in private hands—and the Forest Service responded by trebling its cutting of timber in the period from 1950 to 1970. Still, the industry wants the Forest Service to increase production by accelerated cutting of old-growth forests and by ecologically questionable programs of thinning and fertilizing. It fought enactment of the Wilderness Act of 1964 and now opposes establishment of additional inviolate wilderness, although such areas stabilize soil and watersheds, provide habitat for a variety of wildlife species, and are cherished for recreational pursuits.

BALANCE OF WILDLIFE ENDANGERED

Justification of clearcutting is repeatedly attemped on grounds that it produces more game. "Actually, this is the strongest argument for clearcutting, because artificial openings in the forest are a boon to wildlife," wrote William E. Towell, executive vice-president of the American Forestry Association.

It is true that clearcuts produce quail habitat, often where nonexistent before, and that an abundance of deer browse is produced on many clearcut areas. Biologists note that these benefits are temporary, however; before many years, quail habitat and deer browse decline. Within ten years following planting the pine canopy can be expected to close; until thinning, this clearcut is of use only as cover to wildlife. With increasingly short cutting rotations, it is difficult to anticipate how "mast" (foods such as berries and nuts) will be provided in the future for turkeys, squirrels, and deer. Removal of mast trees and cover is now destroying prime squirrel and turkey habitat, and lack of mast may reduce the carrying capacity for deer after a relatively few years. In the sequence of events, the clearing and conversion to pine in natural pine-hardwood areas, or hardwood areas with high deer populations, sometimes induces destruction of planted pines by deer, with the accompanying demand for hunters to "bring the deer population into balance."

Even though logging may improve deer habitat, serious disturbance eliminates such species as spotted owls and pine martens, which require old growth conifers for survival. Birds actually furnish the cost efficient and least costly form of insect control in the forest. It is their definitive function in providing, balance to the ecosystem. A single woodpecker, for example, has been estimated to be able to consume the larvae of 13,675 highly destructive wood-boring beetles per year. It is fair to generalize that the more numerous and varied the bird population of a forest, the broader the spectrum of natural insect control. John Small, executive director of the Point Reyes Bird Observatory, a California research organization focusing on the ecology of nongame species, has reported on an analysis of nine breeding-bird censuses in coniferous forests in California, Colorado, and South Dakota. The analysis showed that 25 percent of the total number of birds using these forests are of species that nest in holes. These hole-nesters require older trees with some decayed portions in order to breed successfully (and feed large broods of young on destructive insects), although they forage on trees of various ages. "Any forestry practice producing solid stands of trees of the same age reduces the diversity of bird species able to breed, and this in turn severely reduces possible insect control," according to Mr. Small. "Clearcutting is the most drastic example."

The South is perhaps being hit harder by clearcutting than any other section of the country. Vast areas that once supported mixed forests have been reduced to even-aged stands of pine, as like as apple orchards or orange groves. The sole purpose in transforming forests into farm lots is to provide pulp and paper for an affluent, throwaway society. "For a paper company, the obvious objective of pine management is to produce the largest volume of usable wood fibre per acre," wrote Henry Clepper in the August 1971 issue of *American Forests*, in describing the operations of International Paper Co., a timberland giant which owns 8 million acres in the United States and Canada—including 5 million acres in the South—and controls an additional 15 million acres under long-term lease from the Canadian government. "To attain this goal, foresters must control the site, which is to say the forest environment."

The *Louisiana Conservationist* in 1971 described how this is achieved. Under a headline, "Flourishing Forests Threaten Wildlife," this state publication noted: "When the stand reaches the desired stage of maturity the entire timber crop will be cut and the whole process repeated. To complete this cycle anywhere from 15 to 80 years may be required, depending upon the wood products desired. Already thousands of acres in blocks, ranging from 160 to well over 1,000 acres, have been stripped of existing timber, bulldozed, chopped, or burned clean, and then seeded or planted with pine. The small stream bottoms which have historically supported hardwoods are now the main targets. They provide a last and most critical retreat for game within the great sea of pine."

The industry's design to transform the rural South into a man-dominated forest, or massive pine factory, is embodied in a highly publicized campaign called "The Third Forest." According to the industry's report, titled *The South's Third Forest—How It Can Meet Future Needs*, there are now 24 billion cubic feet of "cull' trees—unwanted hardwoods—which take space needed for "better" trees. The removal of cull trees in order to provide for future growing stock would constitute the bulk of timber stand improvement on no less than 90 million acres. Dr. George Cornwell, professor of wildlife ecology at the University of Florida, commented on this proposal as follows:

"As wildlife habitat, cull trees usually mean food (mast) and housing (den and nest). In terms of natural beauty, most culls would be more highly valued by the forest recreationist than the 'better' trees planted in their places. Imagine my disappointment on learning that, after several decades of wildlife managers' pleading with forest managers to retain these den, nest, and mast producing trees for wildlife use, a major Southern forest policy plan would call for their removal throughout the Third Forest. This approach to the cull tree is symptomatic of the recommended silvicultural practices in the South's Third Forest and would appear to reflect a nearly total contempt for non-timber values."

Until the upsurge of recent years, clearcutting had been accepted as a silvicultural practice only in certain short-lived forest types which reproduce easily, such as aspen, jack pine, lodgepole pine, and some southern pines. But it always had been applied in small patches, so that surrounding trees deterred hot, dry winds from desiccating the forest soil, and were close enough to supply the openings with seed for regeneration while providing shade cover for young seedlings. The more prevalent system of silviculture was selective logging, or "selection-cutting." Essentially, this system is designed to follow and fit into nature's pattern of growth, maturity, and decline by selecting individual trees, or very small groups of trees, in order to favor species tolerant of shade, or larger groups up to quarter-acre clearings to favor species intolerant of shade.

With the advent of large machinery, however, clearcutting became a habit. It bagan in the Pacific Northwest, on the basis of assertions that Douglas fir, the most profitable—and hence most desirable—species, reproduces only in full sunlight. Since then clearcutting has spread to cover nearly all forest types.

ECONOMICS AND ECOLOGY IN BALANCE

What alternatives are there to clearcutting? Dr. Leon Minckler, professor of forestry at Syracuse University, who spent twenty years on research for the Forest Service, insists that clearcutting is not the way to go, that Eastern hardwood trees do regenerate better through other techniques. Other forest technicians, are now challenging the idea that Douglas fir must be cut in large blocks, In an article in the *Journal of Forestry* for January 1972 Dr. Minckler wrote:

"For integrated uses (such as timber, wildlife, watershed, recreation, and esthetics), management should aim toward maximum diversity and minimum damage to the environment. This can be accomplished by single tree selection, group selection, small patch cutting of a few acres, or a combination of these. Clearcutting, on the other hand, tends to minimize diversity and makes it almost impossible to avoid damage to the site, to streams, and to esthetic qualities. Most of all, it eliminates the forested character of a particular area for a long time. Ecologically it is a major disturbance. When harvesting mature stands, clearcutting is a cheap and effective way of extracting timber, but the sacrifice of other values may be a poor trade-off for cheap timber harvesting. In immature or partially matured stands, clearcutting may not even be the cheapest way of harvesting timber."

According to Gordon Robinson, a veteran California forester and consultant to the Sierra Club, good forestry consists of growing timber on long rotations, generally from 100 to 200 years, depending on the species and quality of the soil, but invariably allowing trees to reach full maturity before being cut. "It is not enough to have orderly fields of young trees varying in age from patch to patch," he declares. "In looking at a well-managed forest one will observe that the land is growing all the timber it can and that most of the growth consists of high-quality, highly valuable material in the lower portions of large older trees. It will be evident that no erosion is taking place."

In short, while the corporate forester or timberman may insist that trees can be harvested and cultivated like any farm crop. in a genuine balanced-use forest immediate values must be integrated with long-range protection of soil, water, wildlife, wilderness, and scenery, and with assurances that harvested areas will grow more trees for future timber needs.

Business has a natural and understandable tendency to stress economics rather than ecology when thinking about resources. But land is an integral part of all life, and its resources remain part of the environment. In dealing with them, business needs to blend ecology and economics in its thinking. No landowner, large or small, should be able to control land use entirely for his own benefit without regard for what his actions do to others. Ownership is a trust which must be exercised in the interest of all—and one of the prime ingredients of that interest is the quality of the environment.

Dealing as we do with a complex earth mechanism which we only partially understand, we should be as cautious as possible in tampering with natural forces. Clearcutting has been subject to so many challenges and criticisms, and may do such serious long-range damage to soils and streams of the nation, that it needs to be curbed at once and restricted to experimental uses only, until answers are fully known.

Certainly any system of conservation based solely on commodity production or economic self-interest is hopelessly lopsided. It tends to ignore, and thus to eliminate, elements in the life-community of the land that lack commercial value, but which are essential to its well-being; if the land mechanism as a whole is good, then every part is good, whether we understand it or not. Perhaps the first rule to guide those who use and administer the land should be that economic parts of the biotic clock will not function without the uneconomic parts. Once that rule is learned and applied, then and only then can we sustain healthy, productive forests for the long-term future.

GIFTS OF PRESIDENTIAL LETTERS AND DOCUMENTS

Mr. CURTIS. Mr. President, in recent weeks we have heard a great deal about the practice of giving away papers and documents to the U.S. Government. Questions have been raised and it is important that we have all the information available.

Equality before the law is a principle that needs no defense. If we are to draw any conclusions in reference to the tax treatment of a taxpayer by reason of the gifts of paper and documents we should look at the whole picture. We should ascertain how all others in a similar circumstance are treated. One way to judge accuracy of appraisals and evaluation of gifts is to examine all similar gifts. I hope this will be done.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter that I have received from the National Archives and a letter from the same agency to our former colleague, Mr. John Williams, of Delaware, and some attached material.

There being no objection, the letters was ordered to be printed in the RECORD, as follows:

NATIONAL ARCHIVES AND
RECORDS SERVICE,
Washington, D.C., December 17, 1973.

Hon. CARL T. CURTIS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CURTIS: Enclosed is a copy of our letter to former Senator John J. Williams, dated December 7, 1973, together with the lists which accompanied that letter.

If we can be of further service, please do not hesitate to call on us.

Sincerely,

JAMES E. O'NEILL,
Deputy Archivist of the United States.

DECEMBER 7, 1973.

Hon. JOHN J. WILLIAMS,
Hillsboro, Del.

DEAR SENATOR WILLIAMS: Thank you for your letter of November 21, 1973, asking about personal papers that have been donated to the United States Government during the past ten years.

The National Archives is authorized to accept gifts of personal papers as are some other Government agencies or depositories, among them, the Library of Congress, the Department of State, the Office of Naval History, the U.S. Military Academy, and the U.S. Army Military History Research Collection, Carlisle Barracks, Pennsylvania. However, the National Archives has no records of personal papers donated to such other institutions.

The bulk of personal papers donated to the National Archives and Records Service are those donated by a President, his friends, and associates and preserved in a Presidential library. The General Services Administration now administers six Presidential libraries with combined holdings of over 100 million manuscript pages. In order to give you the information you request, we have asked the individual libraries to list the collections of papers given or bequeathed to them over the past ten years. Their lists are enclosed.

Papers donated to Presidential libraries are opened for research as soon as possible. Restrictions relating to national security may be removed only in accordance with law or Executive order. Restrictions imposed in writing by the donor, according to the law governing such donations (44 USC 2108), must be respected for the period stated, or until revoked or terminated by the donor or a person legally qualified to act in his behalf. In spite of these factors, significant portions of papers in Presidential libraries have been made available for research within six years after the acquisition of the papers. This is in marked contrast to the rate of access afforded the papers of many earlier Presidents. The Adams papers, now in the Massachusetts Historical Society, were closed to the public until 1955. The papers of Abraham Lincoln, as stipulated by Robert Todd Lincoln when he deposited them in the Library of Congress, were closed to research until 1947.

While it is impossible to specify the exact restrictions on donated papers except with reference to each individual deed of gift, it is possible to generalize about the categories of materials that typically are closed. A list of these is enclosed.

The National Archives is not authorized by law to place a monetary evaluation on papers in private hands and does not do so. Appraisals of the documents, if donors have such appraisals made, are not reported to the National Archives.

We hope the information we have given will be of help to you in evaluating the effect of the amendment you sponsored to the Tax Reform Act of 1969.

Sincerely,

JAMES E. O'NEILL,
Acting Archivist of the United States.

[November 1963–November 1973]

DONATIONS OF PERSONAL PAPERS TO PRESIDENTIAL LIBRARIES

HERBERT HOOVER LIBRARY

Year of gift or bequest and collection

1963.

1964.

1965—Akerson, George Edward, Jr.; Belgian American Educational Foundation, Inc.; Durand, Edward Dana; and Tansill, Charles Callan.

1966 Adair, Fred Lyman; Milbank, Katharine; and Stratton, Maud (Mrs. Charles).

1967—MacNider, Hanford; Mollenhoff, Clark; Morley, Felix M.; Nye, Gerald Prentice; Rickard, Edgar; Trohan, Walter; and Tuck, William Hallam.

1968—Grady, Paul Franklin; MacChesney, Nathan William; MacLafferty, James H.; Shafroth, John Franklin; and Wilson, Hugh Robert.

May 28, 1969—Nash, Bradley DeLamater.

1970—Castle, William Richards, Jr., and Richey, Lawrence.

1971—Marshall, Verne and Wallace, Lawrence Wilkerson.

1972—Croxton, Frederick C.; Davis, Roy Tasco; Hastings, George A.; and MacNeil, Neil.

1973—Sorely, Colonel Lewis and Wood, Robert E.

FRANKLIN D. ROOSEVELT LIBRARY

Year of gift or bequest and collection

1963—Field, Henry; Roosevelt, Anna Eleanor; and Smith, Hilda.

1964—Tugwell, Rexford G.; Olds, Leland; Lubin, Isador; Hackett, John & Henry T.; and Delano, Frederic A.

1965—Brubaker, Howard; Fahy, Charles; Gaston, Herbert; and Mauhs, Sharon J.

1966—O'Connor, Basil; Davis, Jerome; Brant, Irving; Blum, John Morton; and Carmody, John M.

1967—Wiley, John Cooper; Spingarn, Stephen J.; Shepardson, Whitney Hart; Delano family; and Cox, Oscar.

1968—Odegard, Peter H.; and Rosenman, Samuel I.

July 7, 1969—Early, Stephen T.

Dec. 20, 1969—Fahey, John H.

1970—Jackson, Gardner.

1971—Corrigan, Francis; Dimock, Marshall E.; Morgenthau, Henry M., Jr.; and Thomas, Elbert D.

1972.

1973.

HARRY S. TRUMAN LIBRARY

Year of gift or bequest and collection

1963—Webb, James E.; Lloyd, David D.; and Mitchell, Stephen A.

1964—Wolfshon, Joel D.; Rigdon, William M.; Webb, James E.; Springarn, Stephen J.; Heslep, Charter; Block, Ralph; Calvin, Michael J.; Kenney, W. John; Vaughan, Harry H.; Knudson, James K., Koehler, John T.; Helsep, Charter; and Campbell, Wallace J.

1965—Snyder, John W.; Clayton, William L.; Garwood, Ellen Clayton; Webb, James E.; Wolfsohn, Joel D.; Evans, Tom L.; Blaisdell, Thomas C., Jr.; and Adams, Lina D.

1966—Minton, Sherman; Enarson, Harold L.; Colm, Gerhard; Rice, Stuart A.; Hassett, William D.; Matthews, Francis P.; Brophy, William A.; and Webb, James E.

1967—Wear, Sam M.; Nourse, Edwin G.; Cowen, Myron M.; Dixon, Stephen J.; Keeley, Mary Paxton; Smith, Harold D.; Baldridge, Holmes; Clifford, Clark M.; Neustadt, Richard E.; Halverson, H. H.; Brophy, William A.; and Mason, Lowell B.

1968—Vanech, A. Devitt; Easley, Harry; Johnson, Herschel V.; Murphy, Charles S.; Hildreth, Melvin D.; Matthews, Francis P.; Arnold, Edwin G.; Aylward, James P.; Roberts, Willa Mae; and Webb, James E.

Feb. 27, 1969—Lamont, Lansing.

Mar. 16, 1969—Evans, Tom L.

Apr. 1, 1969—Webb, James E.

June 1, 1969— Dunlap, John B.; Anslinger, Harry J.; and Rosenman, Samuel L.

July 3, 1969—Miller, Edward G., Jr.

July 16, 1969—Tate, Jack B.

July 21, 1969—Maher, Sister Patrick Ellen.

July 23, 1969—Turner, Robert C.

Sept. 27, 1969—Edminster, Lynn R.

Nov. 15 ,1969—Kaiser, Philip M.

1970—Snyder, John W.; Wolfsohn, Joel D.; Nash, Philleo; Noland, Mary Ethel; Goodwin, Robert; Boyle, William M., Jr.; Waring, Frank A.; and Salant, Walter S.

1971—Daniels, Jonathan; Grady, Henry F.; Snyder, John W.; and Kimball, Dan A.

1972—Alison, John R.; Mitchell, Stephen A.; Messall, Victor R.; Dennison, Robert L.; Walsh, Jerome A.; Snyder, John W.; Decker, Clarence R.; Snyder, John W.; Harl, Maple T.; Belsley, G. Lyle; Bennett, Henry G.; Allen, George V.; Maxwell, Robert W.; Finletter, Thomas K.; Katz, Milton; McGuire, Charles H.; Fahy, Charles H.; Robinson, Harold G.; Andrews, Mark; and Truman, Harry S.

1973—Radius, Walter A.; Bellows, Everett H.; Doty, Dale E.; Gladieus, Bernard L.; McGohey, John F. X.; Long, Westray Battle; Frantz, Henry W.; Bunce, W. Kenneth; Brooks, Philip C.; Taylor, George W.; Flynt, Rudolph C. M.; McCahill, William P.; Erskine, Graves P.; McKee, John L.; Laughlin, Anne; Webb, James E.; Horne, Roman L.; Will, Ralph R.; O'Gara, John E.; Acheson, Dean; Fox, Abijah V.; Iverson, Kenneth R.; Reiff, Henry; Hovde, Bryan J.; and Mara, Cornelius J.

DWIGHT D. EISENHOWER LIBRARY

Year of gift or bequest and collection

1964—Bragdon, John Stewart; McElroy, Neil H.; and Rogers, William P.

1965—Burns, Arthur F. and Finucane, Charles C.

1966—Eisenhower, Mamie Doud.

1967—Lovelace, Delos W.

1968—Morrow, E. Frederic and Morrow, E. Frederic.

March 10, 1969—Schaefer, J. Earl.

April 30, 1969—Aurand, Henry S.

June 9, 1969—Clark, A. Dayton.

June 18, 1969—Paul, Willard S.

June 23, 1969—Bacon, Edward A.

June 27, 1969—Dwight D. Eisenhower.

July 9, 1969—Mueller, Frederick H.

July 31, 1969—Burcher, Harry C.

Aug. 11, 1969—Else, John Hubert.

Aug. 12, 1969—Outerbirdge, William W.

Aug. 14, 1969—Hobbs, Leland.

Aug. 15, 1969—Davis, Thomas Jefferson.

Aug. 21, 1969—Mitchell, James P.

Aug. 25, 1969—Buenning, Arvel E.

Sept., 1969—Parks, Floyd L.

Sept. 19, 1969—Bennett, Elmer F.

Oct. 4, 1969—Newbury, Frank D.

Oct. 14, 1969—Larkin, Thomas B.

Oct. 20, 1969—Schulz, Robert L.

Oct. 29, 1969—Waugh, Samuel C.

Nov. 1, 1969—Huebner, Clarence R.

Nov. 5, 1969—Adkins, Bertha S.

Nov. 26, 1969—Hobby, Oveta Culp.

Dec. 16, 1969—Hodges, Courtney Hicks.

1970—Anderson, Jack Z.; Areeda, Phillip E.; Beach, Edward L.; Benedict, Stephen: Brereton, Lewis H.; Bulkeley, John D.; Burgess, W. Randolph; Dulles, Eleanor Lansing; Finer, Leonard V.; Hamlin, John; Hazeltine, Charles B.; Hodgson, Paul A.; Lee, William Lecel; Parker, Edlow G.; Pusey, Merlo J.; Quesada, Elwood R.; Reinhardt, Emil F.;

Walsh, John J.; Wheaton, Anne Williams; Fox, Frederic E. Furnas, Clifford C. Glennan, T. Keith; and Hagerty, James C.
1971—Hughes, Rowland R.; Baughman, Urbanus E.; Brainard, Charles L.; Jackson, C. D.; Baughman, Urbanus E.; McKeough, Pearlie and Michael J.; Quarles, Donald A.; Robinson, William E.; Saylor, Henry B.; Snyder, Howard McCrum; and Young, Howard.
1972—Berg, Aaron; Bortman, Mark; Ginder, Philip De Witt; Hibbs, Ben; McDuff, Robert J.; Moaney, John A., Jr.; Summerfield, Arthur E.; and Lord, Mary Pillsbury.
1973—Hall, Leonard W.; Lambie, James M., Jr.; McCardle, Carl W.; and Woodruff, Roscoe B.

JOHN F. KENNEDY LIBRARY

Year of gift or request and collection

1963.
1964—Freeman, Orville L.; Hays, Brooks; Hilsman, Roger; Wiesner, Jerome B.; and M. Schlesinger, Arthur, Jr.
1965—Dillon, Douglas; Schlesinger, Arthur M., Jr.; White, Theodore H.; and Kennedy, John F.
1966—White, Theodore H. and Galbraith, John K.
1967.
1968—Schlesinger, Arthur M., Jr. and Sorensen, Theodore C.
1969, Jan. 28—Fowler, Henry H.
1969, Mar. 26—Thomson, James C.
1969, Apr. 7—Batt, William L.
1969, May 19—Henderson, Douglas.
1969, Dec. 10—White, Theodore H.
1969, Dec. 18—Schlesinger, Arthur M., Jr.
1969, Dec. 23—Sorensen, Theodore C.
1970.
1971—Marshall, Burke, Poulada, Leon B., Gilpatric, Roswell.
1972—Sprecher, Drexel, Warburg, James P., Gwirtzman, Milton & Vanden Heuvel, William J., Fay, Paul B., Jr., Smith, Frank E., Johnston, Thomas, Bennett, James V.
1973—McShane, James P.; Knapp, Daniel; Key, Mrs. V. O.; Tucker, William H.; Munden, Kenneth W.; Heller, Walter W.; Fay, Paul B., Jr.; Perlman, Robert; and Gifford, K. Dun.

LYNDON BAINES JOHNSON LIBRARY

Year of gift or bequest and collection

1965—Johnson, Lyndon Baines.
1966—Johnson, Lyndon Baines.
1967—Johnson, Lyndon Baines.
1968—Anthony, Robert N.; Baker, John Austin; Brooks, Robert A.; Enthoven, Alain C.; Freeman, Orville L.; Halperin, Samuel; Kelly, James F.; McMillan, William M.; Moore, J. Cordell; Nicholson, Ralph W.; Packer, Leo S.; Pickle, J. J.; Roberts, Ray; Simpson, Donald F.; Turner, Donald F.; Wattenberg, Ben J.; Welsh, Edward C.; Williams, Franklin H.; and Johnson, Lyndon Baines.
Jan. 3, 1969—Brownstein, Philip N.
Jan. 8, 1969—Nielsen, Thomas H.
Jan. 17, 1969—Sanders, Harold Barefoot, Jr.
Jan. 18, 1969—Marks, Leonard H.
Jan. 21, 1969—Hornig, Donald F.
Jan. 24, 1969—Murphy, Richard J.
Jan. 26, 1969—Oliver, Covey T.
Jan. 27, 1969—Harding, Bertrand M.
Jan. 28, 1969—Fowler, Henry H.
Feb. 12, 1969—Beebe, Leo C.
Feb. 24, 1969—Flax, Alexander H.
Feb. 27, 1969—Roth, William M.
Mar. 13, 1969—Bowsher, Charles A.
Mar. 28, 1969—McLean, William Hunter
Apr. 25, 1969—Nixon, L.A.
May 20, 1969—Cain, Dr. James C.
June 24, 1969—Rowley, James J.
July 15, 1969—Davis, Ross D.
July 22, 1969—Ryan, Robert J.
Aug. 4, 1969—McNamara, Robert S.
Aug. 6, 1969—Davis, Ross D., and Fitt, Alfred B.
Sept. 19, 1969—Hutchinson, Everett
Oct. 31, 1969—Christoper, Warren
Dec. 22, 1969—Poats, Rutherford M.
Dec. 22, 1969—Rusk, Dean
Mar. 14, 1969—Skinner, Elliott P.
Jan. 13, 1969—Solomon, Anthony M.
1970—Johnson, Lyndon Baines; Marks, Leonard, Jr.; O'Marra, John L.; Perry, Arthur C.; Re, Edward D.; Roth, C. Fenner; Rusk, Dean; Skelton, Byron; and Stewart, William H.
1971—Marsh, Charles E.
1972.
1973—Clark, Ramsey and Johnson, Lyndon Baines.

RICHARD M. NIXON LIBRARY

Year of gift and collection

1968—Nixon, Richard M.
March 27, 1969—Nixon, Richard M.
1972—Chotiner, Murray.
1973—Sanchez, Phillip Y.; Marrs, Theodore C.; and Parry, Thomas L.

PRESIDENTIAL LIBRARIES—TYPICAL CATEGORIES OF CLOSED MATERIALS

1. Material relating to the personal, family, and confidential business affairs of the donor or of persons who have had correspondence with him.
2. Material relating to investigations of individuals and organizations, to proposed appointments to office, or to other personnel matters.
3. Material containing statements made by or to the Donor in confidence, unless in the judgment of the Archivist of the United States the reason for the confidentiality no longer exists.
4. All other material which contains information or statements that might be used to embarrass, damage, injure, or harass any living person.
5. Material containing statements or information the divulgence of which might prejudice the conduct of foreign relations of the United States of America.
6. Materials which are security-classified pursuant to law or Executive order, or which contain information the public release of which would adversely affect the security of the United States of America.

FEDERAL PRISONS

Mr. BURDICK. Mr. President, some of the recent efforts of the U.S. Bureau of Prisons to implement its statutory authorization to provide for the care, custody, and treatment of Federal prisoners have been questioned by interested citizens. This is an area of human behavior which is full of unknowns, and we must move with considerable care in implementing steps which seek to solve the riddle which crime presents to our society.

The Subcommittee on National Penitentiaries has a deep interest in these matters. It is simply not acceptable to only warehouse offenders; we must be concerned about their future behavior. If treatment programs, however, are attacked without presentation of practical alternatives, the problem becomes more difficult.

I was gratified to see a series of articles in the Washington Post concerning two such efforts, Project Start at Springfield, Mo., and the new institution under construction at Butner, N.C. By reading these two articles, one can see not only the criticisms which have been leveled by some, but also the realities of these programs in the words of both staff and inmates. The reporter, Mr. William Claiborne, has a knowledge of some of the problems which prisons face today.

I believe they are worthy of your attention, and ask unanimous consent that they be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Washington Post, Dec. 16, 1973]

BATTLE OF WILLS IN U.S. PRISON

(By William Claiborne)

Springfield, Mo.—In a solitary confinement cell behind two locked corridor grills in a remote wing of the Medical Center for Federal Prisoners here, Forest G. is engaged in a desperate struggle of wills with the U.S. Bureau of Prisons.

For Forest G., a 34-year-old convicted bank robber serving 15 years, solitary confinement has become a way of life. He has been sitting alone in what amounts to a walk-in closet for more than eight months, and in all likelihood he will remain there at least until next February.

From Forest's point of view, what is at stake in the struggle is his pride and his right to control his own behavior, even if it is regarded by others as belligerent and recalcitrant.

From the prison authorities' point of view, what is at stake is the right of the state to promote change in the behavior of the most hardened inmate, even if the only alternative is to let the inmate vegetate indefinitely in a maximum security incarceration.

The struggle will ultimately be resolved in a U.S. District Court in Kansas City, but for now the drama is being painfully acted out at the massive 40-year-old prison hospital here, which is incongruously located on Sunshine Street, on the outskirts of town.

At issue in the court test brought by a group of inmates and supported by the American Civil Liberties Union is a year-old behavior modification program called Start, an acronym for special treatment and rehabilitative training.

The controversy over Start has spread beyond Forest and the eight other prisoners currently enrolled in the experimental program, reaching out to many of the federal prison system's 22,500 inmates and beyond to the hundreds of penal reform groups around the country.

It has generated more bitterness and misunderstanding, some prison officials say, than any other rehabilitative program the U.S. Bureau of Prisons has undertaken. Whether or not the program will be dismantled by court order, as the inmates are seeking, will likely influence any new ventures in behavior modification the bureau may take.

Start is based on a deceptively simple system of programmed rewards in which a prisoner begins a fixed term at the most severe level of incarceration and then "earns" some freedom of movement and a few privileges by adapting to various rules of behavior.

During a minimum of 7½ months and a maximum of a year, the inmate can move through eight different levels of confinement, depending on his willingness to adapt to rules.

The first level is round-the-clock "deadlock in which the inmate is allowed out of his cell two hours a week for exercise and twice for showers. The rest of the day he sits in a tile-walled room approximately 6-by-10 feet behind a steel door with a small window.

If the inmate goes 20 days with out a "bad day," he moves to the second level, at which he is allowed to work three hours a day, eat meals out of his cell and have 1½ hours of recreation a day.

Gradually, the inmate is allowed more privileges, is allowed to earn money in an adjacent factory six hours daily and begins to have sentence time off for good behavior restored.

In 7½ months, he is "graduated" from the program and is returned to the general population of the penitentiary that referred him to Start in the first place.

If the inmate rebels, refuses to follow rules or becomes verbally abusive to staff members, he is returned to the solitary confinement level for a designated period. If he refuses to participate, he remains in solitary for a year, and is then returned to a segregation unit of his home institution.

Forest G. was in the "hole" (segregation unit) at the Levenworth Penitentiary for two years when he was notified that he was to be sent to Springfield's START program.

Forest said he had heard stories about "brainwashing" techniques used at Springfield, and even rumors about psychosurgery experiments and massive use of tranquilizing drugs.

"I told the warden that if he sent me, I wouldn't participate in any behavior modification," Forest G. said in an interview. "He said that if I didn't participate, they'd just send me back in a year, and so I said, 'Well, why bother sending me.'"

Forest did briefly participate in the program, earning points to good behavior. Then, *he said, he saw several other inmates being beaten by guards during a disurbance in the tier opposite his cell, and he decided to lay down and finish his year in solitary.*

"After you look at it a while, all this is a hole with a factory, and somebody calling it behavior modification. There's nobody here who's going to modify me," said Forest.

Asked if he had considered faking a change in his behavior long enough to earn privileges and graduate from the program, Forest replied, "It wouldn't be no act, it would be for real. They're trying to get a program going smoothly by bribing guys. If you are playing a game on them, you are playing it on yourself, because they want you modified, and they don't care what makes you do it.

"They're treating me like a kid, like they're saying, 'If you don't cut the grass, you can't go to the movie,'" Forest said. "I'm refusing to let them impose their will on me. It's a matter of pride and principle, when you know that the guy you are dealing with is not fair."

According to Dr. Pasquale Ciccone, director of the Medical Center, the 22 inmates who have been admitted to the Start program since September, 1972, are representative of 1 percent of the total prison population.

They are, according to Ciccone, aggressive, manipulative of others and suffer "characteriological disorders." "They have tough guy reputations. They are known throughout the system, and they have reputations they want to keep," said Ciccone.

To Ciccone and Dr. Albert F. Scheckenbach, a young psychologist who is professional consultant to the program, Start is a "prerehabilitation" program, and does not pretend to make an inmate ready for society.

"All we're concerned about is getting a man back into the general prison population so he can start to avail himself of rehabilitation," said Ciccone.

The first 20 inmates admitted to Start spent an average of 49 per cent of their institutional time in segregation status, had an average of five institutional transfers and an average of 21 disciplinary reports and all had been physically and verbally abusive toward guards, according to bureau officials.

Scheckenback bristles at allegations by penal reform groups that brainwashing techniques and massive drug doses were being used in Start, saying that only once an injection of Thorazine, a tranquilizer, was used to sedate a highly disturbed inmate.

"If it's brainwashing we're doing, it's as much as they do in schools every day. We're saying, 'If you respond like a man, we'll treat you like a man. If you act like a child, we'll treat you like one,'" said Scheckenbach.

Jesse B., 29, who is doing nearly 30 years for kidnaping, and Herman V., 29, who is serving 20 years for bank robbery are participating in the Start program, but they are not looking forward to graduating to the general prison population.

Each of them thinks he will be singled out for retribution by other inmates just because of the stigma of having been associated with a program that is rated and feared throughout the prison system.

Jesse said he faces the prospect of being assaulted, or even murdered, if he attempts to explain his participation in the program. Even if he sat out his year in the first level and successfully "bucked" behavior modification, Jesse said, he would be looked upon with suspicion by his fellow inmates at the federal prison in Atlanta.

"They don't know whether or not you've got a string of dead people from here to Texas or not. They think you're a collaborator. I'm going to go back to Atlanta and go to the hole to avoid being stuck by someone.

"Convicts think if you work here, you are collaborating. This is the way convicts think. The cops have created a monster here, and I'm going to pay for it," Jesse added.

The penultimate irony of Start is that the fear of retaliation expressed by Jesse, Herman and several other inmates interviewed is based on widespread hatred for the program that was generated originally from the Start cellblock itself.

The Start inmates sent out a stream of correspondence to prison reformers on the outside, and what followed, according to the inmates, was a distorted view of the program in which participants necessarily must yield to insidious brainwashing, and therefore are "lackeys" of the authorities.

Scheckenbach feels the apprehension may stem more from the transition from long periods of isolation to the general population than from a real danger.

"I'm not going to say there is no danger, but a guy who has been locked up in a single room for several years, he's got to be apprehensive. It's a strange world to them. It's like a brand new admission to a federal prison," Sheckenbach said.

Of the 22 admissions to Start so far, only two have graduated to open population, and neither has been harmed, he said.

Of the remainder, two were adjudged psychotic and sent to a mental ward, two finished their sentence and were released, and four were removed from the program early either because they were too disruptive or because they needed protective custody for having turned state's evidence.

Scheckenbach said he opposed allowing inmates to return to segregated status after graduation from Start because it would defeat the purpose of the program. "If we started doing that, we might as well fold up," he said.

Robert Y., a 24-year-old former Golden Gloves boxing champion from Knoxville, Tenn., serving 15 years for kidnaping, was one of the first Start inmates, and he resisted the system as much as anyone.

He swore at guards, refused to shave and went on a food strike, largely, he said, because of the involuntary nature of the program. Now he is a graduate of the program and in the open population at Springfield.

"Start's got a reputation," Robert said. "I've read a lot of things about it, and I even contributed to those articles and I blew things out of proportion and exaggerated the faults.

"But Start's got a lot of merit to it . . . I see it like a church or a book, and if a guy wants to refer to it as a mechanism for change, he should. Either consciously or unconsciously, he is going to change if he goes to Start and he is sincere," Robert said.

"I established a new image of myself since Start. I want out of this rat race because I'm sick and tired of it," said Robert, who is nearing parole eligibility.

"This means more to me than tearing up a damn cell. The way I used to act, it was a strategy, and it didn't work, so I decided to do somethnig with my life," he added. "Maybe I'm wrong. Maybe years from now I'll realize I used the wrong tactic, and I've been supporting the system, but I don't think so."

Robert said that if he is paroled, he wants to return to Knoxville and work with young offenders and, later, go to college.

The morning after Robert Y. was interviewed, two inmates in Start approached a reporter and said they had heard about the interview.

"Don't use anything he told you," said one. "He's a liar for the administration, and you can't believe anything he said."

For his part, Scheckenbach believes that the $18 per day cost of keeping one inmate in Start is worth the expense, even if only a small number of the admissions succeed.

"We've sent two guys to open population, and three more are headed there. Within six months, possibly, six more people will graduate," he said. Then, referring to Robert Y., Scheckenbach added, "It's worth it just getting him out of doing dead time in segregation."

[From the Washington Post, Dec. 17, 1973]

NEW PRISON STIRS EXPERIMENT FEARS

Remember the names of such federal torturers as Commandant Norman Carlson and Martin Groder . . . A gruesome picture begins to emerge of a federal prison bureaucracy carefully and insanely putting together a program . . . for the sake of experimenting on human guinea pigs, searching for a method to crush the spirit of people."—Prisoners' Digest International, April, 1973.

(By William Claiborne)

Perhaps no issue in the 43-year history of the U.S. Bureau of Prisons has been as emotionally charged as the controversy over the half-completed behavioral research center that is rising out of a mudflats in Butner, N.C.

More than half a year before its scheduled opening date, the U.S. government's newest prison has already been condemned by many of the nation's 22,500 federal inmates. Activists have vowed to kill the project, either by sit-down or hunger strikes or, if necessary, by violent rebellion.

Outside the walls, penal reform groups are waging a lobbying campaign, hoping to convince Congress that it made a $13.5 million mistake by authorizing the Butner experiment.

Alluding darkly to Orwellian brainwashing techniques and forced lobotomies, the United Church of Christ's commission for racial justice has warned that "Prisoners will be chosen and shipped from around the country to Butner, N.C., to be experimented on—many will never be heard from again."

In a mass-mailing letter, Dr. Charles E. Cobb, the commission's executive director, predicted, "The use of drugs, brainwashing and hypnosis as evidenced in the movie 'Clockwork Orange' will be used on uncontrollable prisoners to develop methods to control other uncontrollables—inmates and non-inmates."

According to the grapevine at the federal penitentiary at Marion, Ill., two prisoners there committed suicide after being notified that they were to be sent to Butner.

"They chose death rather than to suffer the horror that was being perpetuated against them," a Marion inmate wrote in a letter to a newspaper.

The object of all this hyperbole is the new Federal Center for Correctional Research, a

43-acre campus like facility that will open its doors sometime next summer as a proving ground for new rehabilitation programs. It will be a medium-security prison featuring a double fence and underground perimeter sensing devices to thwart escapes.

Eighteen months ago, the center's name was changed from the U.S. Behavioral Research Center—a superficial alteration that may have been made too late to spare the Butner facility a troubled beginning.

According to Dr. Martin Groder, the 34-year-old psychiatrist who has been named warden of the Butner prison, the prototype designation may have helped to conjure the most extreme fears of behavior modification—psychosurgery, electroshock, massive drug doses, adversive conditioning and sensory deprivation.

Some of these techniques were dramatized in "Clockwork Orange," the Anthony Burgess novel about a youth who delighted in violence and sexual perversion and was subjected to extreme behavior modification to the point where he was conditioned to vomit whenever he thought about deviate behavior.

Similar treatment is being used in a volunteer program at the Connecticut State Prison at Somers, where child molesters lie on a couch and view slides of nude children and adult females. Every slide of a nude child is accompanied by a painful electric shock to the inmate's groin, but there are no shocks when slides of nude women appear.

Dr. Dominic Morino, chief of mental hygiene, said the therapy produces feelings of anxiety whenever the inmate thinks of a child as a sexual object. Twelve of the 70 convicted child molesters at Somers have gone through the program, which began six months ago, Morino said.

"It gets very tiresome saying that we aren't going to do that kind of thing," Gorder said in an interview.

The rumors about Butner, Groder asserted, have been stoked by "some people who know better and some who don't know any better." Many of the most vituperative attacks on Butner, he said, are simply "flat out lies calculated for shock value."

As for the Marion penitentiary suicides, Groder denied they were connected with Butner. He said that his staff is not anywhere near ready to begin selecting inmates. In any case, he said, Butner will draw prisoners only from the bureau's eastern region, which leaves out Marion, Ill., and any other federal prison not within one day's drive of central North Carolina.

The same sort of perturbed response to the rumors was expressed by Groder's boss, Norman A. Carlson, director of the U.S. Bureau of Prisons.

FAR FROM TRUTH

"This kind of statement conjures up visions of Nazi concentration camps where humans were experimented upon and later exterminated. Nothing could be further from the truth," Carlson said in response to the United Church of Christ's allegations.

According to Groder, the purpose of Butner will be to test ideas for improving prison rehabilitation programs, some new and some which have been tried in a haphazard way at a number of federal and state institutions but never checked out in a controlled scientific way.

The facility will include the behavioral research section, which will house 200 inmates under medium security conditions, and a 140-bed mental hospital section, which will provide traditional psychiatric treatment to severely disturbed prisoners taken from the already overcrowded hospital wards of various U.S. prisons, Groder said.

The research section, which has attracted the suspicions of penal reformers, will test four rehabilitation programs simultaneously, each running for about two years before a new concept is substituted, Groder said.

Groder said he had tentatively decided to include in the four experiments a program he developed at Marion, called the "Asklepieion Society." It is a self-help program based on transactional analysis and the kind of group therapy (sometimes called "attack therapy) popularized by Synanon, the California drug rehabilitation program.

He also plans to include a more traditional "human resources development program" that emphasizes one-to-one instruction in educational skills, interpersonal relationships and physical fitness.

The remaining two test programs have not been chosen, Groder said, but in "shopping around" he was impressed with proposals stressing psycho-drama and training programs that capitalize on the kind of personality changes that occur when students of professional schools start to become deeply committed to their future professions.

The four experimental units, Groder said, will not include the START program that has become so controversial at the federal penitentiary at Springfield, Mo.

SYSTEM OF REWARDS

START (an acronym for special treatment and rehabilitative training) is a behavioral modification program for unmanageable inmates and is based on a system of rewards. Prisoners begin the program in solitary confinement.

Groder said that as many as 5,000 federal prisoners may be eligible for Butner, but that only those who are "invited" and give their written consent will be selected.

All will be males between 18 and 50 years and will be eligible for parole within 1½ to 3 years (to assure adequate follow-up studies). The program will exclude "special offenders" (members of organized crime and convicts with particular notoriety), inmates with previous major psychiatric illness and inmates with a low rating of expected recidivism.

Groder pledged that Butner will operate under a set of ethical guidelines, which he is now writing. They will include the "informed, written consent" criteria, plus some ethical standards adopted by the American Psychiatric Association.

Groder concedes that because of the pervasive fear of Butner that already exists in the federal prison system there "may be some recruiting problems."

But he said he expects many inmates will view Butner as an opportunity to break out of the continuous cycle of crime and punishment and "learn to become honest, productive citizens, which corrections is supposed to be all about."

The critics of Butner remain unconvinced by the vague assurances that have emanated from the headquarters of the U.S. Bureau of Prisons here.

The Prisoners' Coalition at Marion sent to the United Nations a treatise alleging that Groder's Asklepieion techniques is based on brainwashing methods adopted by the Chinese and North Koreans for use on American prisoners of war.

SECRET PLANS

In her best-selling book, "Kind and Usual Punishment," Jessica Mitford charged that secret plans drafted for Butner are, in effect, an extension of the chemotheropy and psychosurgery program that was carried out at Vacaville, the California prison hospital, before former inmates exposed what was going on.

The disclosure of psychosurgery at Vacaville was made last year during an investigation into a proposal by the California Corrections Department for an expanded program of brain surgery for inmates with abnormally aggressive behavior. The operations involved the mutilation of the amygdala—the section of the brain that controls social behavior.

Three inmates with a history of uncontrollable violence, apparently caused by brain damage, had portions of their brains destroyed by a relatively new and sophisticated technique known as stereotaxic surgery.

The technique was so unusual that part of the operating equipment, a metal head-holding device, had to be built by prison craftsmen.

"I don't know what was going on out at Vacaville, but we're not thinking in terms of anything remotely like that," said Groder, complaining that neither he nor his staff was ever questioned by Miss Mitford before publication of the book.

If Butner is a genuinely voluntary program, as Groder has pledged, then the ultimate arbiter of what goes on inside will be the prisoners themselves.

THE AUTOMOBILE EMISSION PROBLEM

Mr. TUNNEY. Mr. President, I have never been satisfied that the catalyst is the ultimate answer to our automobile emission problem; and the recent controversy that has surrounded this technology has increased my doubts about the safety of this device.

I have long advocated an immediate, intensive research and development program to develop an alternative to the internal combustion engine. It was to this end that I introduced the Automotive Research and Development Act which passed the Senate last week. This program authorizes grants of up to $140 million and Federal loan guarantees of up to $200 million to develop within 4 years an alternative engine that is clean, quiet, economical, energy-efficient, and safe. This is the only real hope for an adequate solution to our clean air and energy problems.

But, in the next 2 years, the catalyst is the only means Detroit has provided us with to clean up our air. There is no adequate alternative and it is for that reason I am voting for S. 2772 today.

However, I am deeply concerned that California, which will utilize the catalyst more extensively than any other area of the country, is not being adequately protected from possible adverse health effects.

The potential dangers of sulfate and noble metal emissions have been recognized. They must be fully determined without further delay; and every possible precaution must be taken to safeguard the public health. I urge the Congress to join me in demanding that EPA take strong action. I have received evidence that the Agency and other departments of the administration have been dragging their feet in acting to insure the adequate performance of emission control devices and the protection of the public health.

I have written to EPA Administrator, Russell Train, to ask what specific steps are being taken to institute protective measures and I ask unanimous consent that the text of my letter, together with the EPA internal memorandum which leads me to believe there have been unnecessary delays, to be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., December 14, 1973.
Hon. RUSSELL E. TRAIN,
Administrator, Environmental Protection Agency, Washington, D.C.

DEAR MR. TRAIN: The enclosed E.P.A. Internal memorandum has increased my concern about the danger of installing catalysts on our automobiles without first fully determining the effects of emissions of acid aerosols, suspended sulfates and noble metals. Earlier this year, Dr. Stanley Greenfield, E.P.A.'s Assistant Administrator for Research and Development, warned that their use might cause cancer and aggravate respiratory diseases. Then, in November, in testimony before the Senate Public Works Committee, you stated that "our scientists have concluded that * * * more than one model year of cars equipped with catalysts could result in ambient levels of sulfates reaching levels at which recent studies suggest there will be adverse health effects."

Since in endorsing the catalyst E.P.A. also recognized the need for further study of sulfate emissions, I feel it is incumbent upon the Agency to protect the public by minimizing the possible adverse health effects. You testified that one possible control measure might be to take the sulfur out of gasoline; and your assured the Senate Public Works Committee that E.P.A. would not only begin soliciting information on measures for controlling the sulfur content of gasoline, but would also encourage the petroleum industry voluntary to make available low sulfur fuels for 1975 model vehicles. So far as I have been able to ascertain, no action has yet been taken to commence this study of the desulfurization of gasoline.

And now the enclosed memorandum indicates that the use of certain fuel additives might present other dangers. I understand that there is serious concern within the scientific community that some additives could, due to their high sulfur and heavy metal content, increase the emission problems in catalyst-equipped cars. And, in addition, I have been informed by E.P.A. scientists that it is possible that high concentrations of sulfur or metallic components could cause premature deterioration of the catalyst, resulting in a reduction of emission control to pre-1970 levels and the imposition of yet another financial burden on the consumer who would be required to replace the device.

Under the Clean Air Act, E.P.A. was given the authority to require testing and registration of fuels and fuel additives in order to insure the adequate performance of emission control devices and the protection of the public health. Yet, after over two years of stalling by E.P.A. and other government agencies, the proposals for the Fuel and Fuel Additive Registration Regulations have still to be published. I find this delay inexplicable, irresponsible and inexcusable, especially in light of the serious questions that have been raised about the catalyst.

Obviously, immediate action is crucial and I would like to know: a) what specific steps are being taken to expedite the testing and registration of fuel and fuel additives; b) the progress of the fuel desulfurization program; and c) what additional testing of unregulated emissions is planned to assess the effects on the public health and welfare.

Sincerely,

JOHN V. TUNNEY,
U.S. Senator.

ENVIRONMENTAL PROTECTION AGENCY,
Research Triangle Park, N.C.,
November 8, 1973.

Reply to Attn. of: Dr. F. Gordon Hueter, Director, Special Studies Staff.
Subject: Fuel and Fuel Additive Registration Regulations—No Room for Delay.
To: Director, NERC–RTP.

The proposed Fuel and Fuel Additive Registration regulations, pursuant to Section 211 of the 1970 Clean Air Act Amendments, were initially prepared by the Office of Fuel and Fuel Additive Registration, NERC–RTP, in the summer of 1971. The proposed regulations have been reviewed, rewritten, and reapproved within EPA a number of times since then. In May 1973, the Congress expressed concern that these proposed regulations had not been published as a notice of intended rulemaking. At that time, Mr. Fri, the then acting Administrator, assured Congressional leaders that the proposed regulations would be published "in the near future."

The attachment reflects the events since May 1973 regarding these proposed regulations. The proposal package went to OMB in mid-October. No action has been forthcoming from OMB regarding the status of the regulations even though the "Quality of Life Review" had been conducted with other affected Federal agencies prior to submission to OMB. The submission to OMB discusses all issues raised in the interagency review process, in detail, and reflects changes within the proposed regulations based upon these comments.

On November 6, 1973, Mr. Russell Train, the EPA Administrator, presented testimony to the Senate Public Works Committee regarding sulfate emissions from catalytic converters intended for use on most domestic 1975 and all 1976 domestic U.S. light-duty motor vehicles. Mr. Train's decision to permit the planned use of such catalysts was predicated upon the consideration that substantial reductions in sulfur levels in fuels for these vehicles may be required to assure the public health. Inherent in that decision is the need for EPA to insure that no fuel component or fuel additive be permitted in the fuel required for these devices that may have an adverse effect upon the performance of the devices in the hands of the consuming public.

Indeed, this is one of the specific intents of Section 211. Without registration regulations pursuant to this section, EPA will not be able to assure the adequate performance of catalytic devices and, thus, the protection to public health intended by the Act.

Vehicles equipped with catalytic devices will be sold in September 1974. Consistent with the time required to 1) publish the notice of intended rulemaking, 2) receive comments, 3) promulgate regulations, 4) receive and review registrations, and 5) require such testing as may be required before registration is permitted, there is simply no more room for delay.

REPLY TO CONGRESSMAN STAGGERS LETTER OF JUNE 22, 1973

The following outlines actions taken regarding proposed regulations pursuant to Section 211 of the '70 Amendments, Fuel and Fuel Additive Registration:

May 3, 1973—Mr. Fri and staff members met with Mr. Staggers and Mr. Rogers. Mr. Fri indicated that these regulations would be forthcoming in the near future.

May 4, 1973—Proposed regulations package, including briefing memo, were delivered to Headquarters by NERC–RTP. Briefing memo signed by Dr. Greenfield; package forwarded to Mr. Fri's office.

May 7–8, 1973—Proposed regulations reviewed by all Assistant Administrators. Comments returned to Dr. Greenfield.

May 18, 1973—NERC–RTP attended meeting with Dr. Greenfield and others from OAWP, OGC, and OPE. Revised briefing memo reviewed. Revisions based upon May 7–8 comments. Group required further revision in briefing memo.

May 24, 1973—Re-revised proposed regulations signed by Dr. Greenfield; forwarded to Mr. Fri's office.

June 4–8, 1972—OGC sought preamble rewrite necessitated by Federal Register requirements. Found in Marshall Miller's office. Unaccountably held for 2–3 weeks there.

June 19, 1973—Regulation package arrived at OPE.

June 20, 1973—OPE sent package to Mr. Sanson; OAWP for sign-off.

June 21, 1975—OPE received signed package back from OAWP.

July 5, 1973—OPE holding proposed regulation package awaiting receipt of additional copies from NERC–RTP (mailed 6-29-73).

The following are planned by OPE in the immediate future:

1. Send copies of proposed regulations to other affected agencies (DOT, HEW, etc.)
2. Send copy of proposed regulations to OMB.
3. Steps 1 and 2 will require a minimum of one month.
4. Obtain Administrator's sign-off after steps 1 and 2 are completed.
5. Forward to Federal Register.

It is reasonable to assume that the proposed regulations will be published in the Federal Register as a notice of proposed rulemaking no earlier than mid-September 1973. I would estimate the probable date to be November 1973.

GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, it has been 25 years since the United States led the international community in the drafting of the Genocide Convention. In the intervening years over 70 nations have ratified the treaty, including all our major allies. It remains a paradox, therefore, that we still have not ratified this treaty.

This treaty was one of a series of human rights documents of the last quarter century. These treaties seek to give the force of international law to several of the lofty ideals that were contained in the U.N. Universal Declaration on Human Rights.

This treaty in particular seeks to outlaw the crime of genocide. The term was coined in 1946, in the aftermath of World War II, as the world stood in revulsion at the near extermination of the Jewish population in Germany. Today, the concept refers to any attempt by physical or mental means to eliminate a particular national, ethnic, racial or religious group.

Any attempt to outlaw such a heinous action deserves our unreserved support. I urge my colleagues to join me in seeking ratification of this important human rights document during the next session.

ENERGY AND THE ENVIRONMENT

Mr. NELSON. Mr. President, many resource experts and environmentalists have been warning for many years that this Nation would face an energy crisis unless we began to rethink the ways that we use energy.

Presently, a large number of organizations that are partially responsible for the energy crisis are now trying to persuade the Congress to weaken many of the positive measures that we have passed during the last 3 years.

Last Friday's editorial in the Christian Science Monitor correctly points out that any panicked retreat, in the face of the current energy hysteria, from the environment in favor of energy for energy's sake would be shortsighted in the extreme.

It is critically important to note that the present energy emergency has and should continue to serve as a powerful impetus to develop alternatives both in power sources but also in consumption patterns.

We must maintain a careful balance between the needs of a highly technological society and the status of our environment.

Mr. President, I ask unanimous consent that the Christian Science Monitor editorial of December 14, 1973, be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Christian Science Monitor, Dec. 14, 1973]

ENERGY AND ENVIRONMENT

Fortunately the American environmental movement had made significant progress before the energy shortage struck. The suddenly dramatized need for new supplies of energy cannot override ratified environmental standards without legal process. The environment should benefit from the reduced consumption of energy which environmentalists were calling for well before it became an urgent matter of supply and demand.

So much for what's good. What's bad is a tendency to find soft spots—or create them—in the protection of the environment, for the sake of quick energy. One example is the alacrity with which Congress passed the Alaskan pipeline bill, as if all the previous environmental agonizing were not as important as it was. The pipeline's time had precipitously come, but construction and operation must be carried out with maximum environmental vigilance. The amount of oil to be gained would not be worth the kind of years-long, lingering destruction of coastal sealife that can be caused by oil spills, as a recent New Yorker magazine account devastatingly shows.

Now the impulse arises to relax environmental controls on strip-mining, shale-oil operations, offshore drilling, higher-sulfur coal and oil, and even water pollution. It is proposed that tighter auto-emissions standards be postponed—even while some motorists are said to be hiring "bootleg" mechanics to remove or disable the present emission devices. There is a temptation to move ahead on nuclear energy with lessened regard for the deep doubts about safety and environmental effects.

The public should insist that progress in improving radiation standards not be set back—though critics predict it will be—by President Nixon's recently reported decision to delimit the authority of the Environmental Protection Agency in favor of the Atomic Energy Commission.

Any panicked retreat from the environment in favor of energy would be shortsighted in the extreme. The energy crisis should rather be taken as an occasion for developing new enlightenment about the relationships between consumption and conservation, between using the earth's riches and preserving the earth itself. In such a "creative interplay between man and nature," to use a phrase from a recent Keep the Earth Beautiful meeting, the necessary "tradeoffs" can be carefully adjusted between obtaining energy and maintaining a world worth living in.

More than ever the policies of government and industry need the citizen's input. The best policy would be the cumulative effect of all citizens achieving a rational energy-environment outlook in their own lives.

WORLD FOOD CONCERNS

Mr. McGOVERN. Mr. President, the Food and Agriculture Organization of the United Nations recently concluded its 17th biannual conference. Delegates from the 130-member nations directed their attention to many important and timely issues of concern to the peoples of the world. Among the topics considered were world food security, agricultural adjustment, and the 1974 World Food Conference.

I would like to take this opportunity to bring to the attention of my colleagues a few of the documents which were discussed by the delegates in Rome that I believe to be of particular importance to us in the United States.

Included in the compilation I am presenting today is the resolution of the conference addressed to the Director-General's "Draft International Undertaking on World Food Security." In it the member nations of the FAO affirm that the entire international community has a common responsibility to insure the availability at all times of adequate world supplies of basic foodstuffs and primary cereals, so as to sustain a steady expansion of consumption and to offset fluctuations in production and prices. The resolution also endorses the principles and objectives of international action on world food security contained in the "Undertaking on World Food Security," and commends it to the attention of all nations.

Mr. President, I too, would like to commend the FAO world food security proposal, which calls upon all the member nations to undertake national stock policies which in combination would provide a minimum safe level of basic food stocks for the world. I would also like to bring to the attention of the Senate Resolution 157 which calls upon how the administration intends to fulfill its responsibility under the FAO resolution.

I ask unanimous consent that the documents be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FAO, 17TH SESSION

PROPOSAL BY THE DIRECTOR-GENERAL ON A WORLD FOOD SECURITY POLICY [1]

1. The Conference had before it a proposal of the Director-General for a world food security policy, which had been prepared for its consideration at the request of the Council. Some aspects of this proposal had received preliminary consideration in the CCP, in some other FAO bodies, in the Intergovernmental Committee of the WFP, the International Wheat Council, and in the Economic and Social Council of the United Nations.

2. The Conference agreed that the Director-General's proposal was a timely initiative in view of the widespread concern over the depletion of world food stocks. It recognized that the problem of world security against food shortages had become increasingly serious because of important changes in the world cereal situation. Following unfavourable crops in several regions, cereal stocks had been drawn down to levels which gave no assurance of adequate supplies to meet world demand in the event of further crop failures or natural disasters. As the Council had noted, there was at present no international concept of a minimum safe level of basic food stocks for the world as a whole.

3. The Conference considered that world food security had many facets. Adequate food stocks in producing and consuming countries were an essential, but not the only element. World food security also involved international aid to promote food production in developing countries, as well as the provision of food aid. More generally, it was necessary that the world's farmers were assured of reasonable and adequate returns so as to bring supplies into better balance with demand. Long-term bilateral trade agreements, and forward contracting commitments between exporting and importing countries, could also contribute, under certain conditions, to world food security. Other approaches could include commodity agreements which could contain, inter alia, stockholding provisions.

4. The key to the basic food security problem in many developing countries was the expansion of the food productive capability to levels which would be sufficient not only to meet the growing consumption requirements, but also to build up adequate national stocks from domestic resources. National stock policies, which were often important in efforts to promote production by stabilizing farm prices and income at reasonable levels, had an essential role to play in offsetting variations in output and in providing a regular flow of supplies to consumers. The link between food security and food aid was also stressed, especially in view of the problems of financing the food purchases of developing countries in periods of crop failure, and of maintaining continuity of food aid programmes even in times of severe world shortages.

5. The Conferences agreed that it was a common responsibility of the entire international community to ensure the availability at all times of adequate world supplies of basic foodstuffs so as to sustain a steady expansion in consumption and offset fluctuations in production and prices. It noted that the Director-General's proposal aimed at achieving a minimum level of world food security through an undertaking by all countries to follow appropriate national stock policies which, while adapted to the circumstances of each country, would contribute

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[1] C 73-17, C 73-17-Sup. 1, C 73-LIM-35, C 73-LIM-45, C 73-I-PV-7, C 73-I-PV-8, C 73-I-PV-9.

toward the common objective of securing a safe level of global stocks. This emphasis on national, rather than international stocks, combined with a system of consultations and improved information, as explained below, was supported by the Conference.

6. In view of the important role played by national stocks in achieving world food security, the Conference agreed on the usefulness of regular intergovernmental consultations to keep the adequacy of world food stocks under continuing review, and to advise governments on action considered necessary to deal with any difficulties which arose in safeguarding world food security.

7. Within the context of the draft undertaking to be submitted to governments, the Conferences also agreed on the value of developing voluntary guidelines for national food stock policies, it being understood as a framework within which each country would develop its own policies according to its circumstances. Bearing in mind the serious problems which had arisen in the past owing to the accumulation and disposal of agricultural surpluses, it was recommended that adequate safeguards should be adapted to avoid the implementation of food stock policies having adverse repercussions on the structure of production and trade of all countries concerned, but paying particular attention to the interests of developing countries heavily dependent on food exports.

8. The Conference agreed on the need to strengthen the system of assembling and analysing timely information on food crop production, demand and stocks as well as to improve methods of forecasting the market outlook as a prerequisite for timely remedial action, and it was considered that the FAO Early Warning System for Food Shortages should be extended to cover all countries having a significant impact on the world food situation.

9. The Conference felt that it was necessary to associate the International Wheat Council with the consultants and the information system, especially bearing in mind the need to avoid duplication. The Executive Secretary of the International Wheat Council (IWC) informed the Conference that the IWC was ready to cooperate closely in all aspects where it could make a contribution.

10. The Conference strongly supported the need for additional international assistance, as envisaged in the Director-General's proposal, so as to enable developing countries to participate effectively in a world food security policy, in accord with their national priorities. Some delegates stressed that any significant transfer of the financial burden of stockholding from developed to developing countries might affect the resources available for direct investment in development programmes, and that, therefore, this should be taken into account in formulating their food security policies.

11. Delegates of several countries pointed out that their governments were providing food aid as well as economic and technical aid in grain storage and production, and some were willing to extend such aid further in future. The Conference welcomed this, as well as the general readiness of international and regional development agencies to assist developing countries in implementing their food security policies, as indicated at an inter-agency meeting convened by the Director-General.[2] It urged the Director-General to continue to foster an inter-agency approach in this field. A variety of resources would be required, including finance, food aid, technical assistance, as well as the provision of essential inputs. In this connexion it was stressed that such aid should be provided on very favourable terms, in view of the already heavy burden of debt-servicing and that assistance to stock programmes should not unduly curtail direct investment in food production.

12. Attention was also drawn to the serious resource constraints on the World Food Programme, and a number of delegates considered that it would be contradictory to support the aims of world food security without assuring sufficient resources to maintain the continuity of WFP's programme. The Conference agreed that the WFP had an important role to play and that governments should, therefore, consider making additional pledges to WFP to enable it to play a more significant role in assisting developing countries to achieve food security in general and for emergency relief operations in particular.

13. The basic objectives and principles of the proposed international action on world food security proposed by the Director-General were endorsed by the Conference. A number of questions on the practical implementation of the proposal were raised which, it was felt, should be clarified, including issues relating to the source of finance and distribution of costs, the distinction between the emergency relief and price stabilization purposes of stocks, ways of insulating emergency reserve stocks from normal commercial trade, possible criteria to govern the release of stocks, the safeguards against market disruption referred to in paragraph 6, the location of stocks, methods of measuring the adequacy of stocks, and a clear definition of the international aid that might be involved.

14. A number of delegates described the action their governments were already taking to establish or strengthen national stock policies in the light of the changed world food position. Attention was drawn to the possibility of financial economies through maintaining regional food reserves, or cost sharing arrangements between neighbouring countries, and it was suggested that further study should be made of the feasibility of regionally-organised reserve stocks. Some delegates considered there was also a need for national efforts to be supplemented by an international food reserve for use in emergencies and in helping to stabilize prices.

15. As regards commodity coverage, for practical reasons it was recognized that there would be advantages in limiting consideration to cereals in formulating a world food security policy, and the importance of rice to the food security of developing countries was stressed. Some delegates felt that it would be useful to consider eventually extending the coverage of the system to other basic food products such as legumes and milk products. Some delegates indicated that they were prepared to consider holding stocks of closely related protein rich foods, including legumes and milk products, as a contribution to a World Food Security Policy.

16. The Conference recommended that the draft international undertaking proposed by the Director-General should be thoroughly examined by government representatives with a view to preparing an agreed text for adoption by governments at the earliest possible date. In this connexion, it stressed the importance of the active participation by all major cereal producing and consuming countries, including non-member nations of FAO, in the consideration and implementation of a world food security policy.

17. The Conference *adopted* the following Resolution:

RESOLUTION—WORLD FOOD SECURITY

The Conference, *Expressing* serious concern over the depletion of world food stocks in 1972/73, the dangers this would pose to consumption levels in the event of further large-scale crop failures, and the inadequacy of present international arrangements for reviewing and assuring the security of the world's food supplies which this situation has brought to light,

Welcoming the timely initiative of the Director-General in drawing up proposals for a world food security policy,

Affirming that the entire international community has a common responsibility to ensure the availability at all times of adequate world supplies of basic foodstuffs, primarily cereals, so as to sustain a steady expansion of consumption and to offset fluctuations in production and prices,

Recognizing that food security needs to be tackled from many sides, including national and international action to strengthen the food production base of developing countries, food aid programmes, and appropriate national stock policies,

Noting the positive role which can be played by other international and regional development agencies and appreciating their readiness to contribute actively to achieving the objectives of world food security as expressed by the Executive Heads of these agencies,

1. *Endorses* the basic principles and objectives of international action on world food security as outlined in the attached Annex, and commends it to the serious attention of all nations.

2. *Requests* the Director-General to convene a working party open to all governments having a substantial interest in the production, consumption, and trade of cereals to review the attached draft undertaking with a view to preparing a revised text for consideration by the Forty-Nine CCP session, and adoption by governments at the earliest possible date, and *authorizes* the Director-General to invite interested non-member nations which are members of the United Nations to attend the Forty-Ninth Session of the CCP and to participate in its consideration of the revised text.

3. *Requests* the Director-General (a) to transmit the text as adopted by the CCP to all Member Nations and Associate Members inviting them to signify their readiness to it, (b) to non-Member Nations of FAO with a substantial interest in world cereals production, consumption and trade, drawing attention to the importance of universal participation, and requesting their cooperation in promoting its aims, and (c) to inform the World Food Conference, if convened by the General Assembly, or the Eighteenth session of the FAO Conference, of the progress made in this direction and of the nations which have accepted it.

4. *Requests* the Council, in keeping with its special responsibilities relating to world food problems and programmes, to review the situation as reported by governments regarding their national stock policies; to advise on further action considered necessary; and to initiate, with the assistance of the CCP, the Intergovernmental Groups on Grains and Rice and the International Wheat Council, regular evaluations of the current and prospective world cereals stock position in the light of the objectives of world food security.

5. *Invites* all interested countries to give additional assistance to developing countries in strengthening their food production capabilities, and in establishing national food reserves as appropriate, according to their priorities and their resources

6. *Invites* the Executive Heads of other international and regional agencies to pay special attention to the objectives of world food security in their respective fields of operation and to cooperate with FAO to the fullest extent possible in this regard.

7. *Requests* the Director-General, in cooperation with other interested international and regional development agencies, to assist interested developing countries in formulating appropriate food security policies and in identifying and mobilizing the resources required.

8. *Further requests* the Director-General to establish a comprehensive food information system, through a strengthening of the

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[2] CCP; 73-17-Sup. 1

present arrangements, for assembling, analysing and disseminating information on the current world cereals situation and outlook, and on national stocks and stock policies, drawing upon the work already under way in the International Wheat Council. (Adopted . . . November 1973.)

Draft International Undertaking on World Food Security

I. COMMON PURPOSE AND RESPONSIBILITY

1. Recognizing that the assurance of a minimum level of world food security is a common responsibility of the international community, member governments undertake to cooperate in ensuring the availability at all times of adequate cereal supplies in the world so as to avoid acute food shortages in the event of widespread crop failures or natural disasters.

2. To this end, member governments undertake:

(a) To follow national stock policies which, in combination, maintain at least a minimum safe level of basic food stocks for the world as a whole;

(b) To review or establish national stock targets or objectives with the aim of maintaining national stocks[1] at least at the levels

(c) To take measures to ensure national stocks are replenished whenever they have been drawn down below such minimum levels to meet food shortages.

3. Governments of countries where there are no publicly-owned food stocks undertake to ensure that private stock-holdings perform the functions required by the community in accord with the objectives of minimum world food security.

II. NATIONAL STOCK GUIDELINES

4. In reviewing current national stock policies and desirable minimum stock levels, and in establishing or adjusting such policies, account should be taken of the following considerations:

(a) Vulnerability to crop failure owing to drought, floods or other natural hazards, and extent of resulting shortfalls in national cereals output.

(b) The size of and trend in normal annual requirements for domestic consumption and, where applicable, for export including commitments under long term bilateral contracts.

(c) The degree of dependence on imports of cereals in normal conditions and the scale of possible emergency import requirements in relation to the average level of world trade of the product concerned.

(d) The period of time required for imports to be arranged and delivered to the country in periods of emergency or sudden domestic shortage, and for internal transportation to centres of consumption.

(e) The period of time likely to be required to expand cereal production sufficiently to replenish stocks if these are drawn down to meet food shortages.

(f) The proportion of national supplies entering commercial market channels.

(g) The requirements of any government distribution programs of foodgrains.

(h) The desirability of locating stocks in a manner and place which ensure that the cereals are available for delivery when and where they are most likely to be required.

(1) Pledges to WFP and other international food aid programes and allocations for bilateral food aid programes.

(j) Maintaining a regular flow of supplies to meet foreseeable variations and likely trend in demand from importing countries.

(k) The possibility of an interruption in the flow of imported supplies by events outside the government's control (e.g. dock strike in exporting country, shipping difficulties).

(1) The special position of developing countries, as set out in V, below.

5. The special difficulties of a number of developing countries in maintaining national stocks at desirable minimum levels place an added responsibility on the rest of the international community for ensuring world food security. Governments should take this into account in fixing their stock targets or objectives, and should where possible earmark stocks or funds for meeting international emergency requirements.

III. INTERGOVERNMENTAL CONSULTATIONS

6. The adequacy of world cereal stocks to meet minimum needs should be kept under continuing review, so that timely action can be taken to maintain a minimum level of world food security. For this purpose, the Council, in keeping with its responsibilities for reviewing the world food position, shall:

(a) Make periodic evaluations of the adequacy of current and prospective stock levels, in aggregate in exporting and importing countries, for assuring a regular flow of supplies of cereals to meet requirements in domestic and world markets, including food aid requirements, in times of short crops and serious crop failure; account should be taken of the considerations set out in the guidelines.

(b) Advise governments on such short term policy action as considered necessary to remedy any difficulty foreseen in assuring adequate cereal supplies for minimum world food security.

(c) Provide a mechanism for contingency planning in periods of severe world shortage, so as to be in a position to advise on whether any special joint action is necessary to arrange an orderly allocation of food supplies. In such situations, the Council may institute arrangements designed to ensure that priority is given to the urgent import requirements of developing countries for current human consumption.

7. To assist it in performing these functions, the Council should make full use of the expertise of existing specialized bodies and especially the Committee on Commodity Problems, the Intergovernmental Group on Grains. and the Intergovernmental Group on Rice. Close cooperative arrangements should be sought with the International Wheat Council and, if appropriate, joint consultative machinery should be established.

IV. INFORMATION SYSTEM

8. The effective functioning of the world food security system will depend greatly on the availability of timely and adequate information. Member nations should furnish on a regular basis all the information required and in particular on national stock levels, government stock-holding programmes and policies, current and prospective export availabilities and import requirements for cereals, and relevant aspects of the supply and demand situation.

9. To keep all member nations directly informed of current developments in the international cereals position during periods when world supplies are scarce the Director General should prepare, on a quarterly basis or more frequently, concise factual appraisals of the situation and outlook which should be circulated promptly to governments.

10. In the assembly and analysis of information and statistics, the secretariat should seek the assistance of the International Wheat Council and other international organizations concerned.

V. SPECIAL ASSISTANCE TO DEVELOPING COUNTRIES

11. Although there is a special need for stock-holding in developing countries because they are highly vulnerable to crop fluctuations and food scarcities, most of such countries have to give priority in the allocation of their scarce foreign exchange and domestic capital resources to investment in agricultural production. Before deciding to strengthen existing stock-holding through the establishment of minimum food reserves, therefore, it is desirable for such countries to review their overall food policies and the various alternative courses they might follow within the context of national development priorities, and international assistance programmes. It is also recognized that some of the major exporting countries of grains and especially rice are developing countries which lack the capital resources required to maintain stocks beyond current requirements.

12. Continued reliance would therefore need to be placed on bilateral food aid programmes and the World Food Programme for meeting unforeseen shortages and emergency situations.

13. International assistance has an important role in providing financing and food aid, in research on the development of storage facilities suited to conditions in developing countries, and in furnishing advice on stock and related policies within the context of national development programmes. Interested countries, and especially developed countries, as well as the international and regional development agencies concerned, are invited to give additional assistance in identifying and mobilizing the resources required by developing countries for their food storage programmes.

14. As regards the WFP in particular, the degree to which it can assist developing countries by providing food aid for national reserves is severely restricted by its resource position. Where possible, therefore, governments should make additional resources available to the WFP or special pledges for this purpose, so as to permit it to play a more significant role in efforts to maintain world food security.

VI. NECESSARY SAFEGUARDS

15. Bearing in mind the serious problems which have arisen in the past owing to the accumulation and disposal of large agricultural surpluses, full consideration should be given by governments to the possible repercussions on the structure of production and trade which might arise from implementing the world food security policy. The agreed international strategy of the Second Development Decade should be borne in mind. In particular, the world food security policy should be seen as an element of international agricultural adjustment and must not be allowed to overshadow the importance of price adjustments, of policies of full employment and of economic development, of less restrictive trade policies and of the discouragement of uneconomic production as basic means of dealing with the problem of surpluses.[1]

16. To this end:

(a) All countries should endeavour to arrange their national food stock policies in ways which avoid adverse effects on the structure of production or international trade, paying particular attention to the interests of developing countries heavily dependent on food exports.

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[1] The term "stocks" means the supply of cereals carried over in stock at the end of the marketing year of the country concerned. regarded as necessary for ensuring continuity of supplies to meet domestic and where appropriate export requirements, including a security margin for contingencies or emergency needs in case of crop failure or natural disaster;

[1] Cf. "Guiding Lines for Dealing with Agricultural Surpluses", item (e), CCP, Twenty-Third Session.

(b) If special governmental action is required to raise production in order to replenish stocks to desirable levels, appropriate production adjustment measures or effective action to regulate economic incentives to production should be taken to avoid an over-accumulation of stocks.

(c) Food aid provided for national reserve projects should be granted in accordance with the FAO Principles of Surplus Disposal and the procedures for consultations and reporting recommended by the Council.

DRAFT REPORT OF COMMISSION I—PART 5

WATER PROBLEMS AFFECTING AGRICULTURAL DEVELOPMENT[1]

1. The Conference discussed Document C 73/14 regarding water and expressed agreement with the principles outlined in it. Some concern was indicated that FAO should not allow its work in water to decline but to accelerate and broaden its programme in the future. A large number of delegates suggested programmes that FAO should pursue.

2. The need for and the importance of training and education of those engaged in water development and management in developing countries at all levels was stressed by a number of delegates. It was pointed out that training should not be limited to engineering and technical personnel and that further emphasis should be placed on training those directly concerned with farmers, and on farmers themselves. Such training programmes would encourage group action of farmers towards the rational use and conservation of water. Delegates stressed that FAO should step up training activities in the field of water development and use through organizing seminars and training courses. Delegates drew the attention of FAO to the fact that training activities through pilot/demonstration schemes should be strengthened.

3. The more efficient use of water in relation to crop production was repeatedly stressed. This applied equally to better use and conservation of rain water, to the optimum management of available surface and groundwater resources, and improved water utilization at the farmer's field. FAO was asked to place major emphasis on these aspects and to provide Member Countries with the necessary technical guidance and to develop the necessary criteria for use in project design and operation for multiple use.

4. The Conference expressed concern on the increasing demands for the use of finite resources of water and accordingly stressed the need for water resources conservation, not negatively but to make the maximum amounts and qualities available for use. Proper management of such resources to maintain their ability to meet increasing demands was stressed. In particular it was felt that the allocation of water to agriculture should not be reduced in quantity or quality due to competition from other users.

5. Delegates pointed out that, although irrigation water losses during conveyance and on the farm should be reduced as much as possible, it would not be possible to prevent them altogether. It was recognized that inefficient use of water caused widespread environmental deterioration through waterlogging and soil salinity. The need was stressed to introduce drainage systems to restore and maintain favourable soil water and salinity conditions. Most delegates urged FAO to use its global experience and expertise in studying and planning drainage schemes to reclaim lands and overcome salinity and in removing excess rain water.

6. The importance of proper institutions to deal with efficient administration of water development and proper operation and maintenance of water facilities was cited by a number of delegations. It was stressed that coordination and integration of different authorities responsible for water and agriculture is the key to the successful implementation and the realization of benefits of water development schemes. It was urged that FAO should increase its activities in helping its Member Countries develop appropriate institutions placing special emphasis on the organization of farmers who are the ultimate beneficiaries of water development schemes. It was also stressed that currently prevailing low irrigation efficiency could be substantially increased through proper operation and maintenance of irrigation systems by setting up or strengthening institutions thoroughly responsible for the subject. In this connexion a number of delegations urged that FAO should conduct particular studies on irrigation system management and operation as well as legal and technical functions of irrigation organizations.

7. The Conference stressed that more attention should be devoted to the determination and development of surface and underground water resources in relation to agricultural uses and needs. In this connexion, there must be a close interconnexion between the utilization of soil resources and water resources, so that the two were combined to provide the basis for improved agricultural and increased food production.

8. It was stressed that timely development of irrigation and flood control schemes greatly depended on the availability of adequate funds at the right time. Concern was also expressed as to the shortage of local currency as well as food for labourers engaged in projects and it was urged that FAO should encourage financing agencies and WFP to cope with the situation. In connexion with the rising cost of irrigation development, it was pointed out that efficient use of expensive water in conjunction with other agricultural inputs and practices should receive increasing attention by FAO and Member Countries. The Conference felt that increasing attention should be placed by FAO and other development agencies on simple and low cost irrigation development, particularly at the farm level, which could be dealt with by farmers without involving massive capital investment. This was especially important in cases of transmigration in settlement schemes.

9. The attention of the Conference was drawn to the incidence and effects of both floods and drought, and to the huge losses of food which these caused. It was pointed out that floods and droughts often occured in semi-arid regions, afflicted either by too much or too little water at any one time. It was hoped that FAO in cooperation with other concerned organizations would work toward a better understanding of the occurrence of floods and droughts, and in particular of the management of river basins in regions liable to floods and droughts; this would help to reduce the losses and enable the waters to be kept under control and used beneficially.

10. With reference to the important role which FAO had to play as the focal point for international activities on water in relation to agriculture, it was felt that the Organization should take the initiative to coordinate its work with the other UN agencies and to actively seek the cooperation of non-governmental organizations concerned with water such as the International Commission on Irrigation and Drainage (ICID).

11. In many instances water development programmes for agriculture were dependent on the availability of foreign aid for investment. It was, therefore, suggested that collaboration between FAO and bilateral aid agencies be strengthened and expanded in order to make use of experience and information which have been accumulated by FAO in the water sector.

12. The Conference stressed the close relationship which existed between the effective use of water and soil resources. Surveys of both these resources were essential for sound planning of agricultural development. The Soil Map of the World was commended as a global appraisal of the major soils of the world and it was stressed that a similar compilation of data be made with regard to water.

13. Although a certain discretion was advocated in expansion of basic research activities, several delegates stressed the importance of applied research to test available proven techniques under local conditions. The pertinence of regional cooperation was mentioned; in regional applied research programmes priorities are to be established with care to avoid duplication and the expense involved. It was stressed that FAO should play a major role in promoting such programmes.

14. The Conference agreed that the importance of water as a basic natural resource for agriculture could not be over-emphasized. Agriculture would become more and more dependent on the wise development and use of this resource and its conservation. It was also recognized that agriculture and the related activities of forestry had a dominating and increasing influence on the availability and quality of water as a whole. Therefore, agriculture, as the main user, should occupy the focal point for a comprehensive integration of all water resources development and use activities. In this connexion, reference was made to the planned UN conference on water in 1977 and it was stressed that FAO should participate in the conference.

15. The Conference agreed that FAO's work in the field of water should receive high priority and should be strengthened considerably. It was felt that a subject of such importance to member countries as water should regularly be discussed and reviewed by the FAO Conference. Furthermore, it suggested that the analysis of water problems which was presented in document C 73/14 should be followed up by the Secretariat with a detailed survey of water problems to be submitted to the Committee on Agriculture which would present the results of its discussions to the Council for decision on necessary action.

16. The Conference also heard a statement by the representative of WMO on the successful cooperation of FAO and WMO in the field of agro-meteorology.

17. In replying to questions raised by delegates it was explained that FAO was actively participating in the work of the ACC Sub-Committee on Water Resources Development, the focal point of UN inter-agency coordination in the water field. It was further explained that FAO had established working agreements with Unesco and WMO. Close and fruitful collaboration had existed with ICID for many years and working relations had been established with other NGO's concerned with water such as IAHS (International Association of Hydrological Sciences) and COWAR (Scientific Committee on Water Research).

International agricultural adjustment[1]

18. The Conference recalled that two years ago when it chose International Agricultural Adjustment as one of the major themes for the present session the world agricultural background was one of surpluses which exerted pressures on international markets as compared with effective demand. The intervening period, however, had been characterized by fluctuations, falling stocks and, at

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[1] C 73-14, C 73-I-PV-11

[1] C 73-15, C 73-15-Corr. 1, C 73-16, C 73-LIM-1, C 73-LIM-2, C 73-LIM-3, C 73-LIM-4, C 73-LIM-6, C 73-LIM-7, C 73-LIM-8, C 73-LIM-10, C 73-LIM-11, C 73-LIM-46, C 73-LIM-48, C 73-I-PV-12, C 73-I-PV-13, C 73-I-PV-14.

least temporarily, shortages. Production had lagged in developing countries. To some delegates, these events suggested that international agricultural adjustment was not at the moment a high priority. Many delegates, however, emphasized that international agricultural adjustment should be interpreted in a broader sense as a framework for ensuring supplies to meet the requirements of all countries. The Conference therefore agreed that the present shortages should not lead to the postponement of the development of an approach to international adjustment because adjustment was a long-term and evolutionary process.

19. The Conference recognized that agricultural adjustment had for long been under way in all countries. However, these actions were undertaken primarily within a national context, with lesser consideration being given to the possible harmful effect on the agricultural production and trade of other countries. The Conference agreed that an international approach is useful and must rest upon the political will of all countries to work towards a certain degree of harmonization of national policies bearing on agriculture, taking account of international as well as national objectives.

20. The Conference based its discussion of this subject on the report that had been circulated by the Director-General.[2] Account was also taken of the report on Agricultural Adjustment in Developed Countries[3] which had been prepared by the Director-General under Resolution 1/69 of the Fifteenth Conference Session. The Conference took note that a series of supporting case studies on various aspects of the subject had been tabled,[4] and that two more were being completed. The Conference appreciated that additional analyses were available in these case studies, which should be examined by governments for the further work.

21. Adjustment in the agricultural sector was a continuing process consisting of interdependent changes at the farm level and at national and international levels. A number of delegates felt that the trade aspects of adjustment had been over-emphasized in the Secretariat report. While trade raised important adjustment issues, the structure of production and national policies influencing production were the more fundamental, and were the main determinants of the levels of trade.

22. There was general agreement that international adjustment was the task of bringing and keeping the supply and demand for agricultural products, as well as the factors of production, into a more satisfactory relationship with each other both within and between countries. In doing so, account should be taken of other objectives accepted by governments, particularly those of DD2. The Conference reaffirmed its view that international agricultural adjustment should have as a primary objective the adoption of measures which meet the special requirements of developing countries.

23. The Conference noted the conclusions of the Eighth Regional Conference for Europe, and in particular endorsed the need for the development of a world-wide framework within which governments could work together towards greater consistency in their national and regional adjustment policies. The Conference also expressed appreciation of the conclusion of the same Regional Conference that the agricultural and trade policies of developed countries generally should pay attention, inter alia, to enlarging the agricultural export opportunities, particularly for developing countries.

24. The Conference drew particular attention to the need for a faster growth of food production developing countries. This should be their primary adjustment objective and agriculture should therefore receive a high priority in their national development plans and in international aid programmes. Several delegates stated that developing countries should in many cases pay greater attention than in the past to production and distribution of food for the satisfaction of their own domestic needs. In this connection, it was particularly important that adequate production inputs were available at prices which farmers in developing countries could afford. The Conference therefore stressed its view that adequate supplies of fertilizers and raw materials at reasonable prices are essential for food production in developing countries, and strongly urged Member Nations to take all measures necessary to overcome the present critical supply situation, particularly in the developing countries.

25. The Conference recognized that the achievement of a faster growth in food production in developing countries would provide a better base from which they could expend their agricultural exports, which was also a necessary component of international adjustment. The Conference considered the assurance of a stable and adequate supply of agricultural products of acceptable quality to be an essential element of IAA. For many countries, this assurance was a prerequisite to participation in an international approach to agricultural adjustment.

26. The Conference emphasized the interdependence of the agricultural adjustment process in different countries. The major link was trade since adjustment action in any one country usually affected its exports and thus, in turn, the agricultural sectors of other countries. It was stressed that the expansion of exports from developing countries would require some adjustments within the agricultural and processing sectors of developed countries and the improvement of trading conditions, including better access to markets. Greater stability in prices and volumes of agricultural trade also required joint action by countries. The transfer of technology was another link. Moreover, developing countries could succeed in their adjustments if aid and technical assistance was appropriately related to their adjustment objectives. A corollary of interdependence was a shared responsibility of all countries for adjustment mechanisms and results.

27. The Conference recognized that, in view of this interdependence of national adjustments, the greater harmonization of policies called for a framework of consultations within which governments could formulate progress towards agreed objectives in terms of more balanced world agricultural development. Periodic reviews and appraisals of key development in world agriculture, in the light of the objectives, would facilitate such consultations and, when imbalances or shortfalls were foreseen, would enable corrective action to be taken sooner and more effectively. The Conference considered that such reviews and consultations should be carried out within the structure of FAO bodies, and should enable the Organization to make a contribution of value in the work of other Agencies.

28. The Conference noted the intention of the Director-General to continue the study of selected adjustment issues and experiences in the next biennium. Such studies might include several more country case studies, including centrally planned and developing countries; one or two in-depth commodity adjustment studies, possibly grains, exploring alternative patterns of adjustment; and possibly further work on agricultural protection and developments in self-sufficiency. The Conference felt that such studies would help to base the evolution of the concept of international adjustment on real situations.

29. In order to provide a framework for considering the conciliation of national actions and policies, Conference agreed to initiate the preparation of a proposed international strategy for IAA along the lines suggested by the Director-General in his report C 73/15. As the first stage, the Conference established broad objectives as set out in Resolution. . . .

30. The Director-General was requested to translate these general objectives into more specific draft guidelines and indicators of progress, taking account of the discussions at the present session and at the 48th session of CCP. The various case studies tabled at Conference would also be helpful. It was understood that the Director-General also had in mind to call a meeting of government experts to assist him. The draft materials should be submitted for comment to FAO Regional Conferences and to the next session of CCP. The contributions of FAO intergovernmental commodity groups and of interested international organizations should also be sought. As full as possible a draft statement of a proposed strategy of International Agricultural Adjustment should be examined by CCP and Council in 1975 in readiness for submission to Conference in that year. This draft strategy should include: objectives, guidelines, indicators of progress, arrangements for periodic review and appraisal designed to assist parallel or subsequent intergovernmental consultations in various fora, and suggestions for possible solutions to major current adjustment issues. The Director-General should take full account of the conclusions of the proposed World Food Conference in preparing the draft strategy.

31. The Conference *adopted* the following resolution:

RESOLUTION—INTERNATIONAL AGRICULTURAL ADJUSTMENT

Presented by the Delegations of Indonesia, Pakistan, Uruguay and Yugoslavia.

The conference, *Emphasizing the* fundamental role of agricultural production and trade in the pursuance of the goals of DD2 and the need for a dynamic strategy for world agricultural development in the current and the next decade;

Recognizing that national agricultural policies and conditions of production chiefly determine what happens to international trade in farm products, and that interrelated adjustments in agriculture must take place at farm, national, regional and global levels;

Reaffirming the recommendation of the Sixteenth Conference Session that the concept of agricultural adjustment was broader than trade and that international agricultural adjustment should have as a primary objective the adoption of measures which would meet the special requirements of the developing countries;

Noting with appreciation that the Eighth Regional Conference for Europe had concluded that the agricultural and trade policies of developed countries generally should pay attention to enlarging the agricultural export opportunities, particularly for developing countries in all regions;

Considering that the serious imbalances and fluctuations in the world food and agriculture economy in 1972 and 1973, from which both developed and developing countries have suffered, dramatically illustrate the need for new international approaches;

Affirming that in view of the increasing interdependence of the economies of individual countries a global concept of agricultural adjustment is essential to ensure that national agricultural adjustment policies can be so designed as to promote a balanced global expansion of agricultural production and trade;

Taking note of studies on international agricultural adjustment submitted by the Director-General to its Seventeenth Session:

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[2] C 73–15

[3] C 73–16

[4] C 73–LIM–1 to 4, C 73–LIM–6 to 8 and C 73–LIM–10 to 11

1. *Agrees* that to ensure the closer cooperation amongst countries required for this challenging task to be carried out more effectively than in the past, there is need for a world-wide framework to be developed within which governments could work together towards greater consistency in their national and regional policies bearing on agricultural adjustment.

2. *Agrees* further that close international cooperation would be necessary in order to permit or to facilitate the attainment of the following objectives of international agricultural adjustment:

(a) a faster and more stable rate of growth in world agricultural production, especially in developing countries where demand is expanding most rapidly, taking advantage of varying resource endowment of countries;

(b) a better balance between world supply and demand of agricultural products with more orderly expansion of food production and consumption and greater security in the availability of food;

(c) an orderly acceleration of trade in agricultural products, with greater stability in prices and markets;

(d) a rising share for developing countries in a general expansion of agricultural trade.

3. *Resolves* that the Organization should evolve a proposed strategy of international agricultural adjustment based on these objectives.

4. *Requests* the Director-General to prepare a draft of such a proposed strategy of international agricultural adjustment including guidelines, indicators and arrangements for periodic review and appraisal of progress. The views of the FAO Regional Conferences and of other competent agencies should be drawn upon, in particular UNCTAD and the GATT with respect to trade matters.

5. *Requests* the Council to review the draft strategy at its 1975 summer session in the light of the comments of the CCP for submission to the 18th session of the Conference, and after taking into account any views that the Committee on Agriculture may offer on this subject at its session in Spring 1974. (Adopted . . . November 1973).

WORLD FOOD PROGRAMME [1]

32. The Conference had before it a proposed Resolution submitted by the Sixty-First Council Session concerning the establishment of a pledging target of $440 million for the World Food Programme (WFP) during the period 1975–76. The Conference noted that a similar resolution had been approved by the ECOSOC and submitted to the United Nations General Assembly.

33. The Conference heard a statement from the Executive Director setting forth the reasons why the pledging target had been established at that minimal level. He said that at the end of June the price of cereals—the Programme's main commodity—had begun to rise rapidly. By mid-August, when prices had more than doubled, it became obvious that the Programme's projections for the current biennium until the end of 1974 must be revised. New calculations showed that the Programme would be able to obtain little more than half of the 1.2 million tons of commodities, mostly cereals, needed for ongoing and new projects at the end of 1974. He outlined various measures, including priorities, which the Intergovernmental Committee (IGC) had approved on his recommendation, to reduce commitments. Most of the savings had been effected by postponing the signing of an estimated $100 million worth of projects previously approved by himself and by the IGC in April 1973 and October 1972. In this connexion the Executive Director referred to some "important and economically viable" projects in India, Nigeria and Pakistan.

34. The Executive Director said that a recent indication by the EEC of a pledge of 55,000 tons of dried skimmed milk, butter and butter oil had given some hope that the Programme may be able to initiate some of the approved projects which were now suspended, thus avoiding total stagnation during the rest of the biennium. He said that although the Programme must expect periods of ups and downs, there must be a minimum assurance that resources would be forthcoming in spite of fluctuations on world markets and other contingencies.

35. He stated that because of the price rises he had outlined, projections showed that about $650 million would now be required to finance the Programme's activities as planned last April, when the target was first proposed. In view of this the $440 million target figure should be regarded as a minimum. He hoped that at the Pledging Conference in New York on 4 February 1974 Member Nations would surpass the target figure. He urged donors to come forward with supplementary pledges as the world food supply situation improved.

36. He indicated that WFP supported any measures or actions taken to improve food production and distribution in the world. He hoped the Programme would be given the opportunity of full participation in the proposed World Food Conference in 1974.

37. In the discussion that followed, delegates expressed appreciation for the development and humanitarian roles WFP has played during the first ten years of its existence. There was general endorsement of the Programme's activities: the delegates expressed a desire for its expansion in order to fulfill its important role. The Conference recognized the difficulties confronting the Executive Director by reason of the current shortages in the Programme's resources and appreciated the able manner in which he was handling the situation. One delegate announced an additional pledge in respect of the 1973–74 biennium, while two others indicated additional resources in support of emergency food operations in two developing countries.

38. Delegates said that the Programme could not continue to live on occasional surpluses. The Conference *requested* the IGC to study practical ways and means of insulating WFP from the fluctuations of the world commodity market, and to inform the next FAO Council as to the success of its task.

39. The Conference felt that if, in the context of the plan for World Food Security stocks, international or regional food reserves were established, WFP should be the international executing agency: it should also play a key role in helping governments to establish food reserves in the developing countries.

40. The Conference expressed the view that the Programme should play an important role in the proposed World Food Conference 1974, as well as in the implementation of the results of the Conference.

41. Some delegates recommended the inclusion of non-food items such as fertilizers and pesticides in the Programme resources or as project inputs from complementary sources. In this connexion the Executive Director indicated the Programme had already established a mechanism for dealing with this subject in relation to WFP-assisted projects.

42. Some delegates said that WFP should increase its efforts to speed up preparation of projects and the delivery of the commodities promised to them.

43. The system by which portions of pledges lapse at the end of a given pledging period tended to have a deleterious effect on the implementation of economic and social development food aid projects which, by their very nature, required a lengthy period of time in order to have an adequate impact. The Conference agreed that the IGC at one of its Sessions should discuss this matter.

44. The Conference took note of the priorities suggested by the Executive Director and approved by the IGC at its 24th Session; in particular, those relating to the least developed countries, the most vulnerable groups, and agricultural production. It urged the IGC to keep the matter of priorities under review.

45. As regards the cash component of pledges, the Conference urged all Member Nations to comply with that part of the WFP Basic Texts which requires an aggregate total of one-third of cash contributions. This would enable the Programme to provide increased financial assistance to the least developed countries to assist them in meeting their local transportation, storage and handling costs, as well as purchase additional commodities, particularly from developing exporting countries, and to meet increased freight costs.

46. The Conference *approved* the pledging target of $440 million, although many delegates emphasized that this figure was too low to meet the Programme's commitments and needs. They encouraged an expansion in a number of the contributing countries and urged donors to increase their pledges so that the target would be surpassed. Some delegates urged the Conference to appeal to donor countries to give additional resources during the current biennium (1973–74) to make up for the shortage in commodities.

47. The Conference then *adopted* the following resolution:

RESOLUTION—TARGET FOR WFP PLEDGES FOR THE PERIOD 1975–76

The Conference, *Recalling* the provisions of resolution 4/65 that the World Food Programme is to be reviewed before each pledging conference,

Recalling the provisions of operative paragraph 4 of its Resolution 2/71 of 24 November 1971 that, subject to the review mentioned above, the next pledging conference should be convened at the latest early in 1974, at which time governments should be invited to pledge contributions for 1975 and 1976, with a view to reaching such a target as may be then recommended by the General Assembly and the Conference of the Food and Agriculture Organization of the United Nations,

Noting that the review of the Programme was undertaken by the Intergovernmental Committee of the World Food Programme at its Twenty-third Session and by the FAO Council at its Sixtieth Session,

Having considered Resolution 3/61 of the FAO Council as well as the recommendations of the Intergovernmental Committee,

Recognizing the value of multilateral food aid as implemented by WFP since its inception and the necessity for continuing its action both as a form of capital investment and for meeting emergency food needs,

1. *Establishes* for the two years 1975 and 1976 a target for voluntary contributions of $440 million, of which no less than one third should be in cash and/or services, and expresses the hope that such resources will be augmented by substantial additional contributions from other sources in recognition of the prospective volume of sound project requests and the capacity of the Programme to operate at a higher level.

2. *Urges* States Members of the United Nations and Members and Associate Members and Associate Members of the Food and Agriculture Organization of the United Nations to make every effort to ensure the Full attainment of the target.

3. *Requests* the Secretary-General, in cooperation with the Director-General of FAO,

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[1] C 73–LIM–32, CL 61–REP paras. 101–103, C 73–I–PV–14, C 73–I–PV–15.

to convene a pledging conference for this purpose at United Nations Headquarters early in 1974.

4. *Decides* that, subject to the review provided for in resolution 4/65, the following pledging conference at which governments should be invited to pledge contributions for 1977 and 1978 with a view to reaching such a target as may be then recommended by the General Assembly and the Conference of the Food and Agriculture Organization, should be convened *at the latest early in 1976.* (Adopted . . . November 1973).

International Agricultural Adjustment: Case Study of the United States

I. INTRODUCTION

1. This report constitutes one part of a more comprehensive world study, initiated in response to Resolution 1/69 of the 15th Session of the FAO Conference, which will be presented by the Director-General to the 17th Session of the Conference in November 1973. This Resolution recommended, inter alia, that the implications of the agricultural problems in the developed countries for the expansion and trade of the developing countries be identified.

2. The Director-General wishes to express his sincere appreciation to all of the many individuals from the U.S. Government, particularly from the Department of Agriculture, universities and private organizations for their valuable contributions to this study. It is to be emphasized, however, that selection of the material included and the interpretations, judgements and comments contained in the report are entirely the responsibility of the Director-General.

3. The United States has been included among the countries for which special case studies have been prepared primarily because of its dominant position in world trade in agricultural products, of which it is the largest exporter and second only to the enlarged European Economic Community as an importer. Therefore, the present study examines, against a background of the U.S. agricultural adjustment experience, the possibility and the feasibility of further U.S. Government actions to assist developing countries to increase their exports of agricultural commodities. The report does not, however, undertake to present a comprehensive analysis of U.S. agricultural policies and programmes or a review of the U.S. agricultural adjustment experience, as such are already available in other sources.

4. The approach is based on the recognition that in terms of agricultural resources and in export potential United States agriculture remains a major contributor to the food needs of the world. While the world's grain reserves have recently dropped sharply, much of the remaining export stocks lie in North America, particularly in the United States, which also possesses a substantial potential for augmenting world supplies. The present and future food supply for the United States consumer, who has become accustomed to a widely varied diet and a high level of nutrition at relatively low cost, is a further basic consideration. Within its trade policy, the United States shares some of its domestic market with competing import products, as in the case of meat, sugar and some fruits and vegetables, for which foreign suppliers enjoy the relatively high prices that usually prevail in the U.S. market. The almost free access to this market which is granted to imports of non-competing products, particularly those from the tropics, is also of great benefit to developing countries.

5. Notwithstanding the improvement already evident in the earnings of agricultural exporting countries in the U.S. market, further adjustments in resources use may be in order to safeguard gains already made and to increase exporters' earnings further. The main thrust of this report is to indicate what such adjustments might mean in terms of policy decisions and imply in terms of economic and social costs for the U.S. economy. The hope and objective are to add to the materials relevant for effective consideration of agricultural adjustments in a global framework.

6. A summary of the main conclusions of the study is contained in Section II, followed by a description of U.S. agriculture in Section III and of the market situation and aggregate prospects for U.S. agriculture in Section IV. The latter includes a look at U.S. Department of Agriculture projections to 1985 of farm production and trade, against which alternative programme possibilities are considered, commodity-by-commodity, in Section V. Finally the policy issues and feasibility of U.S. adjustments for the benefit of developing countries are considered in Section VI.

II. SUMMARY OF CONCLUSIONS

7. U.S. agriculture is endowed with a very favourable natural resource base and has developed institutional structures to provide highly effective technological backstopping. The result has been a productive sector which not only provides the farm production needed to maintain exceptionally high domestic consumption levels but also serves to supply relatively large volumes of farm products for export.

8. This evolution has involved a continuous process of adjustment, with profound and far-reaching changes in the volume and composition of resources engaged in farm production and in the manner in which the resources are organized and used for this purpose, as well as in the volume and composition of the farm output. This number of farming units has dropped from the peak of 6.8 million in 1935 to 2.8 million in 1972. The agricultural labour force has been halved in the last 20 years and comprises less than 4 percent of the total labour force. Although increasing in absolute terms, gross farm product has become a smaller part of total gross national product, about 3 percent in 1972. During recent years, about half of the net income of U.S. farm families has been obtained from off-farm employment and other non-farm sources.

9. As in other developed countries technological and other changes tend to favour continuously larger production units; however modest-size units strengthened increasingly by off-farm income will continue to be more numerous and to supply a substantial part of production. Small non-viable units are decreasing in number. These developments allow support and adjustment measures to focus more on economic trends and balance of supply and demand rather than income and other social goals (which can be met increasingly under non-farm programes).

10. The size of U.S. agriculture and its weight in world trade inevitably mean that its agricultural policies and adjustment measures have a significant impact on other countries, including developing countries whose economies and export earnings are predominantly agricultural. Current events on international markets indicate that U.S. agriculture's recent role as the mainstay of world food export reserves may no longer be presumed, either in terms of policy or actual market position. Thus, additional arrangements, of an international or multinational nature, are needed to meet temporary shortfalls in world production if reasonable stability is to be maintained on world markets.

11. The fact that U.S. agricultural policy has become increasingly market-oriented portends both good and perhaps not so good news for developing countries. If, at the world level there should emerge a large measure of generalized free trade, there would potentially be room for more imports by the United States, part of which might be supplied by developing countries. On the other hand, the United States appears to have competitive advantages in production of several major commodities, some of which developing countries themselves must export.

12. Basic trends in U.S. agriculture and trade which seem likely to persist include a continuing emphasis on those types of feed/livestock enterprises in which the United States has strong competitive advantages. Total agricultural imports have grown steadily in recent years, including larger quantities of commodities grown in the United States but not in sufficient quantities. These competing items, which are expected to arrive in even larger quantities include beef, some dairy products, fruits, vegetables, wines, sugar and timber products. Non-competing commodities, largely tropical, are also needed in increasing quantities, but their import will rise more slowly in line with growth in incomes and population.

13. The current orientation of policy, as represented by the provisions relating to wheat, corn and cotton in the Agriculture and consumer Protection Act of 1973, is to let market forces guide agriculture but to protect producer returns through deficiency payments when market prices fall below specified levels and to keep supply controls on hand for use when needed. At the same time, production and trade continue to be influenced by other legislation such as Public Law 480, the Sugar Act, the Wool Act, Sections 22 and 32 of the Agricultural Adjustment Act of 1933 (as amended), the Agricultural Marketing Agreement Act of 1938 (as amended), the Meat Import Act, etc.

14. It seems likely that any future measures which the United States might undertake to assist in improving agricultural export earnings of the developing Countries would need to be part of an international approach, including the provision of assistance to assure the larger supplies from developing countries. What could be done and the manner in which it might be done would depend partly on the way in which world agricultural trade evolved. One alternative, which by and large is supported by the United States, would be free trade or a large measure of free trade in which market prices guided production and trade. If such generalized free trade came about, analysis indicates that the United States would shift more resources to the food grains and livestock feed sectors and thus leave room for more imports of other products, part of which would come from developing countries.

15. If world trade evolves rather in the direction of a more organized and selective expansion of trade, a U.S. approach to assist developing countries could be built around "tailored" attention to individual commodities.

16. The following possibilities may be noted among the commodities treated in the study:

Wheat, feed grains and soybeans: Production of these commodities in the United States is highly efficient and competitive in world markets. The greater concentration of U.S. resources in the production of food and feed grains and soybeans could improve the trade possibility of developing countries for other products, such as sugar, vegetables, and specialized livestock products.

Meat: The main forms of U.S. help to developing countries could be assurances of long-term market access at reasonable prices, including the improvement of meat quality and the expansion of efficient processing capacity for export.

Rice, peanuts and tobacco: Production of these commodities has been subject to rigid production and marketing controls for a long time, and there are consequently conflicting views as to potential export gains that might accrue to developing countries if U.S. protection of these commodities were to be modified. In the case of rice, selective control of production and elimination of export assistance could be expected to leave more of the world market open to developing countries. For tobacco, the elimination of import barriers would increase imports into the United States to some degree but the quantities involved (largely oriental type) would not be large. If support to peanuts were to be limited to production for direct food use, a large reduction in output could be expected, at least initially. The results would include a sharp reduction of U.S. exports of peanut oil or peanuts for crushing, and possibly some imports of peanut oil.

Sugar: The U.S. sugar programme is designed to protect domestic producers and processors and to assure ample supplies of sugar to consumers. It also provides, at a relatively favorable price, an assured and continuing share of the domestic market for foreign suppliers, including a large majority of developing countries. With the continuation of this arrangement, the most direct approach to expand sugar export earnings of developing countries would be to reallocate quotas to provide them with a greater market share (particularly of future consumption increases) and to eliminate the modest duty on quota imports.

Processed products: The basic approach would be to reduce or eliminate tariffs or, where they were maintained, to give preferences to developing countries, and to channel aid for the establishment or expansion of processing plants in developing countries. This might be particularly helpful to cotton textiles, other natural fibres, fruits, vegetables, wood and fishery products.

Timber and wood products: Prices have risen rapidly recently and a long term trend toward reduced U.S. self-sufficiency appears to exist. Elimination of import tariffs on processed forms of forest products would make a substantial contribution to developing countries' plywood and other processed wood industries.

17. The report indicates that means for giving effect to these changes might include, in addition to removal or reduction of both tariff and non-tariff barriers and export subsidies, preferences to developing countries and assistance to them for increasing their export supplies and marketing them more efficiently. Recent policy statements also suggest that in certain circumstances the United States might view favorable more participation in commodity agreements or arrangements. Precedents and power exist in the United States to undertake such action although these are not assembled in any single piece of legislation.

18. The report notes that to increase imports from developing countries and in some cases to reduce the export competition offered by the United States to developing countries there would need to be some adjustments within the agricultural sector. However, in terms of the totality of resources devoted to farming, adjustment for this purpose would not be likely to have a very great impact on the sector as a whole, i.e. the problem is essentially one of modest adjustments at the margin and in most cases, technical and economic scope exists for the switch of displaced resources to other uses. In particular instances, however, the difficulties of adjustment could be substantial, especially for small producers, thus emphasizing the need for assured adjustment assistance to the farmers and others concerned.

VI. POLICY ISSUES AND U.S. ADJUSTMENTS

177. In recent years the overall thrust of agricultural policy in the United States has been toward increased market orientation, first through a reduction in support levels and second through shifts from specific acreage allotments and marketing quotas on major crops to a set-aside approach in supply management. Programmes for retirement of whole farms on a long-term basis have been abandoned and production limitations have been sought exclusively through the idling of crop land on an annual basis. The introduction of the multi-crop set-aside approach has increased farmers' freedom of choice in production. Programme changes also have emphasized the international role of U.S. agriculture and the importance of exports of farm products as a source of foreign exchange and as a source of income for U.S. farmers. Protection, however, continues on a number of import commodities that are also produced domestically.

A. Recent directions in farm policy

178. Until the passage of the Agriculture and Consumer Protection Act of 1973 (Public Law 93–86) on 10 August 1973, the direction of future U.S. farm policy was uncertain, although it was clear that some of the principles which have guided recent changes, for example, not instituting measures that would interfere with the competitive position of farm products on international markets, would continue.

179. On 15 February 1973 the President in his State of the Union Message on Natural Resources and Environment pointed out that "The Agricultural Act of 1970 expires with the 1973 crop" and said that "the Administration fundamental approach to farm policy was to build on the forward course set by the 1970 Act". The following principles were suggested as guidelines in enacting new farm legislation:

Government influence in the farm commodity market must be reduced.

Farmers must be allowed the opportunity to produce for expanding domestic demand and to continue vigorous competition in export markets.

Farmers' dependence on government payments should be reduced through increased returns from sales of farm products at home and abroad.

A farm programme should be developed that will put the United States in a good posture for forthcoming trade negotiations.

180. The Act of 1973 adopts a deficiency payments approach inherent in the "target prices" concept for the major commodities. For the next four years, starting with the 1974 crop, the following target prices are established: wheat, $2.05 bushel; corn, $1.38 per bushel, and cotton, $0.38 per pound. These prices are to be adjusted for the 1976 and 1977 crops according to the changes in the index of prices paid by farmers and modified for changes in yield per acre. There will be a determination of national average prices received by farmers for these crops during the first five months of each marketing year. If prices fall short of the target price, the difference will be paid by the Government, based on normal yields on allotment acreages. If the market price is above the target price, no payments will be made.

181. Loans will be made available to all farmers who participate in the programme at the minimum national average levels: for wheat, $1.37 per bushel; for corn, $1.10 per bushel; and for cotton, $0.25 per pound. Loans could be higher under specified conditions, at the discretion of the Secretary of Agriculture, and cotton could be lower if the world price for U.S. cotton is below $0.25 per pound.

182. At the option of the Secretary of Agriculture, farmers who wish to receive the benefits of the programme may be required to set aside a certain acreage (for the 1974 crops of wheat, feed grains and cotton there is no limitation on planting). There will be a limitation of $20,000 per individual farmer on payments made under the programmes.

183. According to the U.S. Department of Agriculture,[21] the new farm act has moved U.S. agriculture toward full competitiveness in world markets. Parity is no longer a policy goal and the principle of limitation on income supplements to individual farmers has now been clearly established. There are several issues which might arise should market prices fall below target levels. Now that a technique (deficiency payments) is at hand which could be used for any product (not only for storable commodities), are guaranteed prices likely to be extended, in future legislation, to meat animals, poultry, milk, fruit, vegetables, etc.? If prices for these other products were to fall below levels comparable to those presently guaranteed for wheat, feed grains and cotton, demands for extension of the system of guaranteed prices and deficiency payments to other commodities would appear likely.

184. Another issue is whether the costs under the new Act will become excessive and if so whether an urban-minded Congress would continue to vote farm commodity programmes. The third issue is how the United States could meet the argument in international trade negotiations that it was subsidizing exports; the deficiency payments apply both to the exported and domestically-consumed part of the crop (the 1970 Act limited payments to the latter). If deficiency payments become large, the United States might well be charged with subsidizing its agriculture.

185. It should be noted finally that the new Act provides that stocks of the specified commodities could be built up in the course of price support operations but does not contain any overall policy as to reserve stocks. If events should develop under the 1973 Act so that the Government did not accumulate stocks, among the questions that will arise are whether or not stocks should be carried, who should carry sufficient supplies, and what should be done about Public Law 480.

B. Proposed trade legislation

186. An area of great uncertainty in American policy at the present time is in trade matters. Since the Kennedy round, legislation has not existed for United States participation in major new trade negotiations. Under continuing legislation, policy largely has reacted to external pressures as reflected in balance of payments and the international position of the dollar and to internal pressures most of which have been aimed at achieving relief from external competition by individual industry groups. However, efforts have been instituted to promulgate major new legislation that will provide the basis for formulation of trade policy for the next five-year period. On 10 April 1973 the President proposed and sent to Congress the Trade Reform Act of 1973.

187. This proposal clearly seeks to increase significantly the flexibility and authority that the President has to manage U.S. international commercial relations. It seeks a two-pronged approach including both concessions and the threat of increased restrictions in handling commercial policy. Clearly, managing trade relations in the broad framework stated in the Act would require a delicate weighing of any given action in terms of its effect on other countries, its effect on specific groups within the United States, and its effect on the general national interest. In this context, several issues are of particular importance to developing countries.

188. One of these is the more liberal criterion to be applied for granting relief to U.S. business and industries for hardships

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[21] Address by Don Paarlberg, Director of Agricultural Economics, U.S. Department of Agriculture, at the National Public Policy Conference, Brainerd, Minnesota, 20 September 1973.

caused by foreign competition. In some cases temporary import restrictions combined with adjustment assistance for workers would apparently be an appropriate course to follow. In other cases, relief from imports could become a permanent basis for protection of U.S. industry. To the extent that this is based on competition from developing countries, trade liberalization for their benefit might not occur.

189. Another important issue is that adjustment assistance is limited to assistance for retraining and relocating labour. There is a question as to how farmers would fit into this programme. Farming is the only major industry producing commodities that enter international trade where business and labour are largely one and the same; yet this is one of the important areas where concessions might be made to developing countries. It is not clear that adjustment assistance would be available to farmer if concessions were granted and thus the role that adjusment assistance could play in this important area of relationship with developing countries is uncertain, unless it could be assumed explicitly that the general provisions of the Act apply to agriculture.

190. Another element of the Act of special interest to developing countries is that which provides authority for special preferences. As proposed, the General Scheme of Preferences (GSP) excludes a great portion of developing country exports to the U.S. Secondly, the GSP does not apply to products where there have already been voluntarily negotiated trade restraining agreements. Thirdly, the GSP does not apply to "politically sensitive" products. The discretion to determine what is or is not "politically sensitive" is given to the President under the proposed Act.

191. A further set of exclusions are in the "competitive need" category. Any export to the U.S. by a developing country which exceeds $25 million is automatically excluded. If an export from a developing country exceeds 50 per cent of U.S. imports of that product classification it is also excluded. The specifications of the products, i.e. the specific product classes, used in both of these criteria can have considerable influence on how restricting or nonrestricting they will be. The objective of this provision of the law is to foster new exports from developing countries and to give advantage to those countries just getting into the market as compared to those who have achieved some degree of sophistication in production. Once any product for any country is excluded, the exclusion continues to apply.

192. The bill further extends to the Administration almost total discretion as regards the countries which will be affected. It is expected that any country offering reverse preferences to other developed countries will be excluded. One estimate of the value of trade affected by the proposed legislation after various exclusions is that total developing country export to the U.S. might be increased by $400–450 million.[22]

C. Opportunities and constraints that will influence U.S. trade with developing countries

193. Three questions arise in assessing potential adjustments in the United States that will have an impact on the export potential of developing countries. These are:

How will U.S. imports from developing countries change over time in response to economic trends and market growth?

How might U.S. policies be changed to increase imports from developing countries, and

How will U.S. policy moves fit the needs for world agricultural adjustment?

These are interrelated questions and answers to them are difficult.

1. U.S. imports in response to economic trends:

194. Population and income growth have resulted in a gradual expansion of import needs over a wide range of commodities. Of a total increase in agricultural imports of approximately $2.0 billion from 1967 to 1972, about $1.2 billion was from developing countries (Table 14). If this trend continues, the further expansion in U.S. imports of agricultural products from developing countries through 1980 would be approximately $1.9 billion. Much of the expansion in demand will again center on competing commodities. The rapidly increasing demand for beef could result in a substantial acceleration in the trend if developing countries can expand output of qualities acceptable in the U.S., a development in turn dependent on some assurance of markets.

195. New attitudes and new proposals concerning production and trade may, during the next decade, add significantly to the import needs of the U.S. consumer. If the move toward specialization in areas of comparative advantage were to be pursued, a recent tendency to shift toward foreign suppliers of several agricultural commodities may well continue.

196. Tropical specialities should benefit from the demand arising from income and population growth of the United States and the smaller items such as spices and essential oils, as well as major items such as coffee, have an assured future. The place of developing countries in non-competing products may be improved by more direct purchasing from developing countries and by the possibility of more processing in those countries. The relatively high income elasticity products, such as meat, wines, cheeses and sugar, are likely to find markets in expanding quantities. Recent increases for both fresh and canned vegetables point to further gains as these labour intensive items become more costly to produce in the United States.

2. U.S. policy changes to increase imports:

197. The issue of concern here, however, is whether this growth can be augmented through policy changes that would encourage a larger part of the future U.S. requirements of competing products to be supplied by developing countries. The answer that has emerged from the previous analysis is that, with the possible exception of beef, little opportunity exists for developing countries to displace future U.S. domestic supplies in the broad spectrum of the cereal, livestock and oil-seed sector of U.S. agriculture. Grains and oil-seeds production are highly mechanized-low labour enterprises and the United States has and should continue to have an advantage in production. Further, dairy products from most developing countries would not likely be competitive with those from developed countries, even if dairy import restrictions were reduced, unless preferences were to be accorded to the developing countires.

198. Import displacment[23] of benefit to developing countries would most likely occur in a number of products that are minor in relation to the total of U.S. agricultural production, i.e. sugar, peanuts, wool, etc. There would also appear to be some potential for cotton, and more important for cotton textiles. In the longer term an acceleration of wood products imports into the United States could occur but this will depend more on the ability of developing countries to expand competitive forest and processing capacity than on shifts in U.S. policy. The extent to which export earnings by developing countries could benefit through greater liberalization of restrictions on other processed products (leather products, processed tropical beverages, fruits and vegetables, etc.) is not assessed in this paper but increases could certainly be expected by this means, particularly in the longer run.

199. The internal impact of changes in U.S. agricultural programmes to expand imports from developing countries can be assessed on two bases. Either it can be assumed that these changes would result from unilateral action by the United States to reduce barriers to imports of products of specific interest to developing countries or it can be assumed that the U.S. action is part of an international approach participated in by other developed countries. Unilateral action by the United States would result in some resource displacement without simultaneously creating alternatives for use of the displaced resources. The extent to which displacement would occur is difficult to quantify though in total it would not represent a major proportion of total U.S. agricultural resources.

200. A recent assessment has shed some light on this question.[24] If complete displacement of sugar and peanuts and elimination of import restrictions on dairy products and cotton were assured, the study estimates that there would be total loss in employment and resource use for the four commodity groups of about 7 per cent of farm labour and 8 per cent of farm land. The potential resources displacement if all protection for agriculture were eliminated, though not a large proportion of total U.S. agricultural resources, would be important at the margin and would have a major impact in some localities.

201. If, on the other hand, the changes in U.S. programmes were to be part of an international approach for the expansion of trade in agricultural products, a faster growth in export markets for products for which U.S. producers have a comparative advantage could be expected and resources displaced by greater imports could be diverted to the additional production required for the larger exports. Johnson suggests that the increase in use of land for expanded exports with generally free trade could easily reach about 20 million acres. This would in fact result in the use of more cropland and improved pasture than is currently the case. Expansion in labour use would be less since U.S. comparative advantage exists largely in low labour utilizing enterprises.

202. This aggregate analysis does not take into account regional shifts and the quality of land and other resources needed in shifting forms of production. For the major acreages involved, however, cereal crops, soybeans and/or cotton are interchangeable and the need to abandon acreage would be minimal in the aggregate. Further, resources used for dairy production in most areas could be converted to beef production and in these major areas net resources loss or displacement would also be minimal.

203. In general it is also true that the adjustments required would be consistent with long term structural changes and shifts in the pattern of resources used in U.S. agriculture. Production costs for labour intensive commodities have increased relative to those

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[22] Report of a Workshop at Michigan State University, "Issues in Trade and Development Outlook and Research Needs for the 1970's" 14–15 May 1973.

[23] "Import displacement" could take two forms; imports from developing countries might replace U.S. domestic production or they might replace imports from other developed countries. Furthermore, displacement may refer to a change in sources of current supplies or—which is more important in the long-term adjustment context—to a larger share of the future increment of demand in the United States (and other developed countries) being met by developing countries.

[24] D. Gale Johnson, *Farm Commodity Programs—An Opportunity for Change*, American Enterprise Institute for Public Policy Research, Washington, D.C. 1973, Chapter VI.

where labour is used extensively and the overall result would be to improve productivity in agriculture. In general U.S. agriculture has the flexibility to absorb changes of this magnitude and adjust with reasonable rapidity.

204. Adjustment would be most difficult in cotton and the minor commodities some of which are produced by large numbers of very small producers and in some cases concentated within regionally limited production areas. Small scale cotton producers in the Southeast would find it more difficult to adjust than would large scale producers in Texas and California where extensive land holdings could be converted to other uses. Also, small dairy farmers would find it more difficult to develop profitable alternative enterprises than large producers with substantial land and capital resources and flexibility to convert to crop or beef farming. The general problem of adjustment would thus largely be one of easing the burden on small producers and emphasizes the need for an adjustment assistance programme that provides for retraining, reinvestment and in some cases relocation for employment in non-farm activities or retirement.

205. Another issue that must be raised in assessing the likely impact of either generalized trade liberalization or unilateral action by the United States is the extent to which developing countries could respond to market opportunities and expand their export earnings. Currently the world beef market presents opportunity for expansion but major potential capacity in the developing countries requires lengthy capital investment and technical improvements. The extent to which Central American, Caribbean and northern-tier South American countries could expand fruit and vegetable production if opportunities arose in North America would need to be considered. Timber production requires a very long-term gestation period and planning beyond the time horizon which most developing countries have been able to deal with so far. Processing of agricultural and forestry products requires investment and the development of quality standards and assured production processes that have not been developed in many countries. External change in itself, thus, is not likely to represent a complete answer to expansion of exports by developing countries. A long-term approach for internal development planning that integrates trade sector planning with general development planning would clearly seem to be indicated in association with direct steps by industrialized countries to encourage more imports from developing countries.

3. U.S. policy and world agricultural adjustment:

206. The main objectives of the present paper are to consider implications for the United States of an assumed policy decision to take action to improve the agricultural trade of developing countries. An assessment of the directions which U.S. policy will actually take would go much beyond the scope of the document. Nevertheless, a few concluding remarks can be made concerning influences on future U.S. policy in relation to the need for world agricultural adjustment. Although recently enacted legislation has confirmed the overall direction of its agricultural policy, comparable decisions with respect to U.S. trade policy are still pending. The proposed trade legislation carried no special provisions that apply to agriculture. It appears to be assumed that the general provisions of the Act will apply to agriculture as well as to other commodities. The new farm legislation continues to provide support for agriculture, although there is recognition for the need to avoid programs that will directly conflict with the sector's export role.

207. With the adequate world supplies and surpluses in some developing countries during the late 1960's and early 1970's the United States and some other advanced country exporters maintained policies that may have inhibited production and exports by developing countries. However, the United States was one of the countries where meaningful policies of supply control were implemented to reduce total supply. Further the United States for many years maintained major stocks of food grains and strategic reserves including some agricultural products which, while a problem to the market position of export competitors, were also a basis for filling unforeseen needs due to crop shortages in other countries. The critical importance of this latter effect of U.S. food grain programs was amply demonstrated in the mid-1960's and again in 1972/73.

208. The likelihood for reduction of U.S. trade barriers will however be greater if the general world food situation continues to be such that the capacity of U.S. agriculture is fully utilized. In this case there would be more incentive for land and other resources currently being used to produce commodities, such as more effectively produced elsewhere to be shifted into commodities, such as livestock for domestic use and grains and soybeans for export. Also in the United States, as in other countries, increasing awareness of the interests of domestic consumers appears likely to have an influence favorable to legislative changes to reduce U.S. import trade barriers.

209. A further major issue is that of agriculture's role in earning foreign exchange. As U.S. energy and other import requirements increase, greater emphasis will be placed on expanding production for export, and programs that encourage utilization of resources for high cost production which can be replaced by lower cost imports are likely to meet stronger resistance. These issues have become increasingly important criteria in weighing U.S. agricultural and trade policy, and it is not impossible that in the future their application could well provide additional benefit to the agricultural export trade of developing countries.

INTEGRATED APPROACH FOR FOOD, NUTRITION, POPULATION, AND ECONOMIC GROWTH

(By Saburo Okita)

I realize that it is a great honor and privilege to be a lecturer on the occasion of the McDougall Memorial Lecture of FOA. I am not very sure if I should have accepted the invitation to lecture at this time, when the world food policy has come to a crossroad of a very fundamental nature. However, I venture to present some ideas in the hope that they will serve, at least in a small way, to clarify the major world issues we are facing today.

The most fundamental issue now, it seems to me, is whether we should anticipate a "surplus" or a "shortage" in the future world food supply. I am aware, of course, that the key issues in this session of the FAO Conference are, one, international agricultural adjustment, and two, world food security policy. These two issues, however, contain some contradicting elements. In case we assume, basically, a surplus of food in the future world market, adjustment problems based on the rational international division of labour should deserve added attention. On the other hand, in case we assume, basically, a food shortage in the world—that is, the second issue—food security policy should receive priority.

When I read the McDougall memoranda this time I was deeply impressed by his foresight and his humanistic motivation in looking at the world food problems some 30 to 40 years ago. His major concern was, as I interpret it, to bring the food and nutrition problems together and by pursuing a policy of better nutrition for the poor and undernourished people, a solution would also be found for the problem of a world surplus of food, with an expanding demand for these commodities. At the same time, if Governments followed freer trade policies and reduced protection for domestic agriculture, cheaper food would become available and it would make it easier for low income people to purchase better food and improve their nutritional standard.

During the 40 years since the McDougall memorandum of 1935, the world food situation has undergone substantial changes. Better nutrition for poorer people in rich countries has been accomplished to a considerable degree together with a more equitable distribution of income, and the consumption of food, in particularly high quality food such as meat and dairy products, has greatly increased. The trouble is, however, that such a process of improvement of nutrition seldom has gone beyond national boundaries and a sharp contrast between the nutritional levels in rich and poor countries has persisted. International trade in agricultural commodities has partially been liberalized but we are still far from having free trade for those commodities. Moreover, as a result of the worldwide food shortage of the very recent past, advocates of greater protection for agriculture have been encouraged to strengthen their position on the grounds of national security.

The world is now facing dual issues of adjusting domestic agriculture for better efficiency and of increasing domestic production, sometimes regardless of cost, in preparation for a possible food supply shortage in global terms. From McDougall's time until very recently, excluding the war-time shortages, the world food market has generally experienced a surplus. Though there was a basic shortage of food in poor countries from the nutritional point of view, this could not appear as effective demand because of the lack of purchasing power of these countries.

Here let me illustrate some aspects of postwar experience in food and nutrition problems in Japan. Food imports of Japan were greatly increased in the course of the last two decades thanks to the ready availability of food in the world market and Japan's increased earnings of foreign exchange by expanding export trade particularly of industrial products. Although the domestic production of rice which is the main staple cereal for the Japanese has been maintained at self-sufficiency level, production of wheat, barley, soya beans, etc. were substantially reduced and they were replaced by imports.[1] Imports of animal food grains such as maize and sorghum expanded from almost nil in the mid-1950s to nearly 10 million tons in 1972. This was necessary to meet a sharply increasing domestic demand for meat, eggs, milk and other high-quality food products.

Because of the uninterrupted supply of foodstuffs from abroad until very recently, few Japanese felt insecurity in depending heavily in imports. Now, after experiencing a worldwide food shortage, many people have started arguing for higher self sufficiency in food supply. However, experts are pointing out that, in order to attain self sufficiency in food at the present level of consumption, nearly twice as much land must be added to the presently cultivated area in Japan and this is physically impossible even if cost aspects are disregarded.

Agriculture in Japan has thus undergone a very far-reaching change in the course of the last two decades. The labour force in agriculture declined from 36.9 percent of the total in 1950 to 14.3 percent in 1971. Agriculture's share in the net domestic product declined from 19.8 percent to 4.7 percent during the same period. Adjustment of agriculture to such a rapid and extensive change was a tremendous task. Rapid expansion of manufacturing industries and services, increase of the share of non-farm income of farm households, improvement of transport systems connecting rural areas to urban centres, and other factors external to agriculture helped the process of adjustment to a large extent. With the rising per capita national income, which rose from 250 US dollars in 1956 to 1,518 dollars in 1970 (1,740 and 2,284 dollars in 1971 and 1972 respectively), the nutritional standards of the people have steadily improved. Intake of animal protein increased from 22.6 grams per person per day in 1956 to 34.2 grams in 1970. Intake of fat and oil increased from 21.8 grams to 46.5 grams during the same period. Diseases such as tuberculosis and beriberi as well as infant mortality declined sharply as nutritional standards improved. According to Dr. Toshio Ohiso, Director of the National Institute of Nutrition, malnutrition practically disappeared in the late 1950s when per capita national income rose to around 300 US dollars. He also mentions as follows: "The Japanese nutritional experience has potential value for other countries. It illustrates a high level of nutritional state and national health attainable with a largely vegetarian diet, high in carbohydrate, low in fat, and using fish and animal food as complementary sources of protein. This is significant for developing countries that must select specific goals for adequate national nutrition and for advanced countries that have the freedom to change their diets."[2]

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[1] Wheat production declined from 1,531,000 tons in 1960 to 440,000 tons in 1971 and barley production from 1,206,000 tons to 364,000 tons during the same period.

According to a recent announcement of Japan's Ministry of Welfare, average life expectancy reached 70.49 for males and 75.92 for females respectively in 1972 and those are about 25 years longer than the life expectancy of Japanese 40 years ago. Also instrumental in the remarkable improvement in health and nutritional condition in post-war Japan were vigorous promotional efforts for dissemination and demonstration of nutritional requirements, especially during the earlier post-war years when the food and nutritional situation was at a critical stage. The Government passed a Dieticians Law and a Nutrition Improvement Law, and measures such as training of dieticians, employment of dieticians for mass-feeding programmes, initiations of a national school lunch programme, conducting a national nutrition survey every year, setting a recommended national nutritional standard, promoting so-called "Kitchen Car" Activities for demonstration purposes, etc. were adopted. In addition, promotional activities for better nutrition have benefited from the dissemination of knowledge about family planning and contraception and this has been effective as it reduces psychological obstacles for housewives to participate in such activities.

I am afraid I have dwelt for too long on Japan's recent experiences. It was not because I wanted to boast about our accomplishment but because I am searching for some hints for the solution of world wide problems by an integrated approach to nutrition, health, population, food and income.

We find very often in developing countries a vicious circle of malnutrition and poverty. Food is like fuel for engines. Without a sufficient amount and adequate quality of fuel, engines will not work. Moreover in the case of the human body there is a minimum requirement of calories just for keeping the body alive. Intake of calories over and above such minimum can only be converted into work. If food is insufficient people cannot work efficiently. Moreover, insufficient food both in terms of quantity and quality during childhood affects the health conditions of the next generation. Malnutrition also makes the human body susceptible to many kinds of diseases thus reducing the efficiency of work by individuals and by their society.

There is also a vicious circle of high birth rate and poverty. If a mother suffers from malnutrition infant mortality is high. Mothers want to bear a large number of children to insure against early death of their babies. If a society is very poor there will not be a sufficient number of hospitals or clinics. Communication and transportation will be inferior. Little electricity will be supplied to villages and the darkness of night halts or hampers many social and economic activities. Illiteracy will stay high because of the malnutrition of children and financial difficulties in maintaining schools. Most people will stay in agriculture in which the incentive for having a small family is not as strong as in cities. Thus in a society where income is very low, the "infrastructure" for the implementation of an effective population policy does not exist. When the average income keeps on rising and reaches a certain level, there seems to be a threshold where the birth rate starts a sharp decline. In view of the records of demographic changes in East Asian countries including Japan this threshold is likely to be the range of per capita national income of 200 to 300 US dollars. In the case of Latin American countries this threshold level seems to be higher than East Asia. In China, judging from what I saw and heard in Peking when I visited there in April 1972, the birth rate seems to be declining sharply although their per capita national income is estimated by foreign observers at around 100 US dollars. We observe in China that efforts to limit the family size are being made through various policy instruments. I venture to guess that for the effective lowering of the birth rate, a combination of the following four factors is important: first, determined effort by the Government in implementing population policy; second, spread of primary education; third, an adequate level of nutrition; and fourth, an adequate level of income.

Next year will be the United Nations Population Year and the World Population Conference is to be held in Bucharest, in August. I hope very much the Conference will make an integrated approach, especially in close cooperation with FAO, to population problems. Personally, I have a strong sense of urgency for introducing effective measures in reducing the rate of increase of world population. As pointed out by several FAO studies in the past there will be little hope for improved nutrition and food intake for many of the developing countries if the population keeps on increasing at the current rate. Here the time element is very crucial and if human society fails to introduce effective measures in controlling the growth of population, possibly during this decade, the question of food and population may become an almost insoluble issue.

Although there may be short-term fluctuations between surplus and shortage in world food supply, it seems to me that the long-term trend is toward shortage. If that is the case, we will have to build our food policy on that basis, as I mentioned in the earlier part of this lecture. Vigorous effort to increase food production as well as to reduce birth rates will be required. In addition, measures to prevent wasteful consumption of foodstuffs, better ways to preserve and store food, rational distribution of food based on nutritional requirements, and so forth, will become necessary.

Let me illustrate some of the policy measures to be derived from the above considerations.

First of all there must be an adequate arrangement for providing emergency food resources. Dr. Boerma of FAO has already made a concrete proposal in this regard and I hope personally at least that his proposal will receive world-wide support. In view of the depletion of world food stocks, especially the diminishing surplus food stocks of the United States, there must be some arrangement, internationally agreed, to prepare for possible food shortages in the future. This is of vital importance for food-deficit countries which depend on external supply for their survival. It is particularly important for low-income countries because the margin of subsistence is very thin in those countries and they are affected most adversely by the world food shortages. Because of the limited availability of foreign exchange in these countries they simply cannot buy high-priced foods.

Introduction of an effective food ration system will be necessary especially for low-income, food-deficient countries. This rationing system should be based on nutritional requirements and it should prevent waste of food in upper income groups at the expense of malnutrition in lower income groups. A similar idea may have to be introduced internationally. In rich countries intake of excess calories, protein and fats are observable and such an excess intake often causes diseases. In future, rich countries may have to introduce policy measures for preventing wasteful consumption of foodstuffs.

Strategy for development assistance should also be reviewed from the above considerations. As I stated earlier, at least in the case of Japan, per capita national income of about three hundred US dollars was a level at which malnutrition was practically eliminated. If a strict rationing system is introduced this may be realized even at somewhat lower levels of income. The purpose of development assistance may have to be geared to the elimination of serious malnutrition all over the world by guaranteeing minimum nutritional and health standards for all people. This may require modifications in the underlying philosophy of the Pearson Commission Report for which I myself was partially responsible as one of the Commission members. The Report, published as "Partners in Development" in 1969, emphasized the efficiency principle of aid in the sense that the aid-recipient countries should make the best use of aid for attaining higher rates of economic growth, larger domestic savings and expanding export trade. The Report emphasized the importance of self-help efforts of aid-recipient countries and expected those countries, in due course, to "graduate" one by one from the status of aid recipient.

Although the above idea will stand valid in substance it may not be a sufficient condition for eliminating mass poverty from the entire world. If the efficiency principle of aid is applied too strictly and the developing countries with better economic performance in utilizing aid are given priority, there will be a widening gap in the level of incomes among developing countries. In the case of Japan, and possibly in many other countries, there is a system of equalization subsidy to local governments. This system guarantees that poorer local governments will automatically receive subsidies from the central government in order to meet the minimum requirements for local administration such as primary and secondary education, health measures, social security, etc. Extension of a similar idea transcending national boundaries may some day become a reality although it seems rather remote given the prevailing attitude of the national governments today.

If the world cannot expect in the near future a large-scale food aid program based on the global welfare concept the countries will have to find alternative possibilities. One such possibility is an adjustment of industrial structure both in developing and developed countries. Because of rising wages, highly industrialized countries are losing their comparative advantages in many branches of industry, in particular, those in labour-intensive industries such as textiles. Moreover, social disincentives for physical production are increasing as people tend to consume more services than goods and work discipline generally weakens as a social approaches affluence. On the other hand, in many of the developing countries, supply of labour is still abundant and wages are still low. People are more work-oriented and the work efficiency is improving as general education spreads among people. Such a tendency will enable presently poor countries to start expanding their exports of manufactured goods in exchange for food imports. Several delegations attending the recent GATT Ministerial Conference held in Tokyo recommended a policy of increased exports of manufactured goods from developing countries and demanded the opening of the domestic market of developed countries for such exports. This will require structural adjustments of industries in developed countries but it will help to reduce rates of domestic inflation by substituting cheaper imported goods for high-cost domestic products. More important is that such a policy will enable developing countries to purchase necessary food from abroad.

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[2] Diet and Nutritional Status of Japan: The American Journal of Clinical Nutrition, July 1968.

Coming back to the nutritional aspects, in low-income countries, efforts must be made to increase the intake of protein from cheaper sources such as pulses and fish. Soya bean has been, and still is, a major component of the Japanese diet as exemplified by the recent "soya bean shock" felt by the Japanese people when the United States Government announced a temporary embargo of soya bean. Higher priority must be given to pulses as an important source of protein. Another relatively inexpensive source of protein is fish meat. Mr. T. Hisamune, President of the Japan Marine Fishery Resources Research Centre, who made an opening address at the Eighth Session of the FAO Committee on Fisheries last April, emphasized the importance of coastal and inland water fishery as an important source of obtaining animal protein in low-income countries. This type of fishery is usually operated by small-sized or family-based management. Until recently Japanese fishery was broadly based on such small-scale fishing, and in view of the widespread under-utilization of fishery resources in coastal or inland water grounds, and of the serious shortage of animal protein in many of the developing countries, due attention should be paid to the potentiality of developing this type of fishing.

Lastly, there are the population problems. Most of the industrialized countries are gradually approaching zero population growth due to the steady decline in their birth rates. It would be desirable, however, to accelerate this process and reach a static population as early as possible in those countries in view of the high per capita consumption of energy and other natural resources and the effect of this consumption on the environment. Developing countries are also expected to reduce the rate of population increase although they will reach zero growth at a somewhat later stage than the developed countries in view of their present high rate of population growth. The question is how to shorten the transition period from a stage of high birth and high death rates to that of low birth and low death rates. Here an integrated attack on the problem will be needed, as mentioned earlier in this lecture.

World food problems are now facing a cross-road. Shortages of food will be more serious than surpluses. If there is a danger of shortage, rather than surplus, apart from short-term fluctuations, we must realize that what we are doing now will have a far-reaching effect on the coming generations. We should be aware of the possible consequences of the conduct of our current generation on posterity.

FRANCHISING IN NEW MEXICO

Mr. HARTKE. Mr. President, the director of the Consumer Protection Division of the Office of the Attorney General, Department of Justice, State of New Mexico was kind enough to review my bill on franchising (S. 2467). I ask unanimous consent that the letter from Charmaine Crown be printed in the RECORD following my remarks.

be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARTKE. Mr. President, I bring these materials to the attention of my colleagues to point out the necessity for hearings on the matter of franchises at the earliest possible convenience. Three areas of our economy which plague New Mexico, Indiana, and the United States are oil marketing schemes, automotive parts, and women's wear.

I believe the comment of Ms. Crown regarding section 7, paragraph 25 of my bill, to be well taken, and when the Commerce Committee considers S. 2467, they should clarify the language of section 7 making the disclosure of the number of franchises in an area mandatory.

STATE OF NEW MEXICO,
OFFICE OF THE ATTORNEY GENERAL,
Santa Fe, N. Mex., November 5, 1973.

Senator VANCE HARTKE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: Enclosed please find a copy of the New Mexico Pyramid or Multi-level Sales Act. This is the only type of franchise legislation currently in our state. We have had problems with other types of franchises, especially on the East side of New Mexico. These have included oil marketing schemes automotive parts and women's wear. Of course, like most states, we are experiencing problems with pyramid sales groups, and the Pyramid or Multi-level Sales Act is our way to control this aspect of the marketing industry.

With regard to Senate bill 2467, that you have introduced, I have one comment. In section 7, paragraph 25, the bill asks that in the disclosure a statement should be included as to the exclusiveness of the area or territory. I would like to suggest that if an area or territory is not to be an exclusive area of territory, the number of franchises that the company is going to allow in the area should be included in the disclosure. Too many times an area is sold to an individual, only to be subsequently flooded with other franchises, making it impossible for anyone to be successful in their business. This number should be regulated by the Commission according to population of an area, by using a ratio that could be affixed by the FTC.

I appreciate and thank-you for the opportunity to comment on your proposed legislation. I hope that the information contained herein will be helpful and wish your bill every success.

Sincerely,

CHARMAINE CROWN,
Director, Consumer Protection Division.

RHODESIAN CHROME

Mr. DOMINICK. Mr. President, in 1971 Congress passed the Byrd amendment to waive sanctions on items of strategic importance to the United States and thus provided American industry access to Rhodesian chrome. By this act, we eliminated American dependence on the Soviet Union for chrome ore and the necessity to buy chrome ore at the inflated prices the Soviets were charging.

We have before us now a proposal to restore U.S. sanctions against Rhodesia and thus deny our economy access to Rhodesian chrome ore.

In passing, we should note that the continued survival of an independent Rhodesia, the consistent violations of the sanctions by many other countries, and the questionable philosophy of interference in the internal policies of other countries to repress an independence movement have discredited many of the arguments for sanctions in any case.

DISPELLING MYTHS ABOUT THE IMPACT OF THE BYRD AMENDMENT

The proponents of the restoration of sanctions argue that the elimination of sanctions has not aided American business. They argue that Rhodesian chrome imports have in fact proved small and that the Soviet Union remains our primary chrome ore source. They contend further that the surge in imports of ferrochrome from Rhodesia has been responsible for closing down of American ferrochrome factories.

It is true that ferrochrome has replaced chrome in our Rhodesian trade. Indeed, statistics presented during the committee hearings indicate that in the first 6 months of 1973, 48 percent of U.S. high carbon ferrochrome imports have come from Rhodesia, with an additional 29 percent coming from South Africa, which uses Rhodesian chrome to enrich its own low quality ore. During the same period, the U.S. imported only 3 percent of its chrome ore from Rhodesia, while importing 51 percent from the Soviet Union.

However, to argue that the Byrd amendment has therefore failed in its objective to diversify U.S. sources of chrome because the Soviets remain our prime chrome ore supplier is to overlook an important facet of the issue. Had Rhodesian ferrochrome been imported in raw ore form, in the first 6 months of 1973 chrome imports from Rhodesia would in fact have been higher than those from the Soviet Union. Clearly, under the Byrd amendment we have moved out of a position of sole dependence on the Soviet Union for a critical and strategic material.

Furthermore, Mr. President, the argument that it is the importation of Rhodesian ferrochrome which is primarily responsible for the closing of part of our ferrochrome industry cannot be convincingly substantiated. The plants which have closed were small, old, outdated, and absolete. The absence of U.S. chrome ore, the high cost of fuel, the estimated cost of installing required air pollution controls, the 1971 drop in the stainless steel market and increases in stainless steel imports foreshadowed their closure before the impact of Rhodesian ferrochrome was felt.

In terms of this bill, one of the industry's key weaknesses derived from the sanctions themselves. These companies had to pay a high price for chrome ore while we observed sanctions; since 1971 they have been unable to rely upon a regular source of chrome ore because of the constant threat of repeal of the Byrd amendment. Faced with these uncertainties, and with a Rhodesian ferrochrome capacity which sanctions had assisted to develop by accelerating Rhodesia's desire to establish its own industry to treat its own ore, there was little incentive for these factories to modernize to continue to compete.

Other arguments put forth by the proponents of this current bill are also questionable.

To argue that waiving sanctions as Congress did in 1971 by passing the Byrd amendment is illegal is to ignore the subsequent Court of Appeals decision that in voting as it did Congress was well within its rights.

Mr. President, although proponents try to dismiss the price drop in chrome ore that occurred after the end of sanctions as due to "general market conditions," they cannot deny that the price for chrome did drop, despite general international inflation.

Some argue that congressional action in waiving and maintaining the waiver of sanctions adversely affects negotiations between the United Kingdom and the Smith regime. We have heard this song ever since Rhodesia's Unilateral Declaration of Independence in 1965; there is no concrete evidence to suggest that congressional action or inaction has at any time had the slightest impact on these contacts.

Finally, only a small proportion of the cost of ferrochrome production is for labor, undercutting any assertion that the United States is exploiting oppressed African workers. The lack of required pollution controls, the immediate proximity of the raw ore and low-cost electric power, modern plant facilities and low transport costs are the prime reasons for the price advantage of Rhodesian ferrochrome, not labor cost.

THE IMPACT OF REPEAL

Mr. President, let us focus on what this current proposal to repeal the Byrd amendment will do.

Repeal will wipe out directly the current source of almost half our ferrochrome imports—Rhodesia. We have to recognize that because of the acknowledged Rhodesian content of much of South African ferrochrome, our obligations under sanctions will presumably oblige us also to stop importing much South African ferrochrome as well, which now represents roughly another third of our imports.

With over two-thirds of our current imports to be barred, the blow to our stainless steel and other specialty steel industries will be devastating.

The importance of these industries to our economy and national defense is recognized by all. Given current world market conditions, to obtain sufficient ferrochrome at any price for our industries will be a major problem. Even if we succeed in finding sources to replace Rhodesian and South African ferrochrome, the accompanying market disruption and subsequent drastic price rises will spread throughout the steel industry and our whole economy.

Reimposition of sanctions could also give foreign producers of stainless steel a cost advantage over American companies, opening up the possibility of the increased entry of foreign stainless and specialty steel into the U.S. market. Just as our ferrochrome industry was damaged, perhaps irreparably, by the embargo on Rhodesian chrome, our stainless steel industry would now be damaged, perhaps irreparably, by denying it access to Rhodesian and South African ferrochrome.

Mr. President, to argue that releases of excess chrome from GSA stockpiles will offer the ferrochrome or stainless steel industries relief is to ignore the low quality of the stockpiled ore and national security requirements. More importantly, these supplies, even if available, would provide only a temporary expedient and would not give the industries the reliable source which they need to make their plans for production and for development of their capacity.

No chrome has been mined in the United States since 1961. With Rhodesian and much of South African ferrochrome unavailable to American industry, the United States would return to primary dependence upon the Soviet Union for chrome, either directly for chrome ore or indirectly by requiring us to import ferrochrome, if we could buy it, from other countries who process Soviet ore.

While the Smith regime may abridge the civil rights of many Rhodesian citizens, we should not forget that the Soviets show a frightening lack of concern for the civil rights of their own citizens. It seems to me that given these undesirable choices for sources of chrome and ferrochrome, it would be absurd for us to return to primary dependence on the Soviets, who despite détente, continue to pose the greatest military threat to this Nation or any nation in the world. Soviet actions during the recent Middle East crisis give us little reason to feel secure on this score.

Mr. President, for both national security and economic reasons, and on the basis of commonsense in looking at where reliance upon a single source for a critical material—oil—has brought the United States today, this proposal should be defeated.

NEED FOR FORT McCLELLAN IN ALABAMA AS HEADQUARTERS OF WAC CENTER

Mr. ALLEN. Mr. President, on November 3, 1973, at the annual meeting of the board of directors of the Women's Army Corps Foundation, resolutions were approved strongly supporting the retention of the corps' special status within the structure of the U.S. Army and the continued active use of Fort McClellan in Alabama as the Headquarters of the U.S. Women's Army Corps Center and School.

These resolutions were sent under cover of letters to Senator JOHN STENNIS, chairman of the Senate Armed Services Committee, and to Representative F. EDWARD HÉBERT, chairman of the Committee on Armed Services of the U.S. House of Representatives.

Mr. President, these resolutions represent the interests of thousands upon thousands of American women who have served or who are serving in the U.S. Women's Army Corps. They also represent the views of a large number of patriotic and dedicated American citizens who are interested in working for the best interests of their country.

Mr. President, I ask unanimous consent that the letter to the chairmen and the resolutions be printed in the RECORD.

There being no objection, the letter and resolutions were ordered to be printed in the RECORD, as follows:

WOMEN'S ARMY CORPS FOUNDATION,
U.S. WOMEN'S ARMY CENTER AND SCHOOL,
Fort McClellan, Ala., December 12, 1973.

The Honorable F. EDWARD HÉBERT,
Chairman, Committee on Armed Services,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: In recent months articles have appeared in the military service journals forecasting elimination of the Women's Army Corps and the closure of Fort McClellan, Alabama. These matters gravely concern us as citizens, veterans, and as members of a private, non-profit corporation devoted to promoting, protecting and preserving the history of the Women's Army Corps.

At the Annual Meeting of our Board of Directors on November 3, 1973, active duty members abstaining to preclude any evidence of bias, it was voted to forward the enclosed Resolutions to you on these vital subjects. It is our fervent hope that your Committee will reaffirm its farsightedness in establishing the Women's Army Corps as a special Corps of the United States Army and in appropriating funds to construct a permanent training facility for the Women's Army Corps at Fort McClellan.

We find it disturbing that consideration would be given to abandoning the organizational status of the Women's Army Corps at such a critical time. Though significant progress has been made in the past several years in eliminating discriminatory practices against women in the Army, the effort to eradicate discrimination is still in its fledgling stage. The Women's Army Corps possesses the structure, experience, and personnel needed to insure progress toward equal rights for women in the Army. It is difficult to understand how these goals can be professed and advanced if the organization which has brought them so far and which has contributed so much to realization of an all-volunteer Army is peremptorily abandoned.

In concert with the above, the members of our Board believe that the millions of dollars spent to construct a permanent training facility for women at Fort McClellan will be flagrantly wasted if this post is closed. The current, exciting recruiting momentum of the Women's Army Corps is dependent upon the efficient and skillful operation of the basic training process. For Army women, this training has been conducted solely at Fort McClellan for almost twenty years. The barracks, the academic buildings, the furnishings were intended to be used by women. Unlike basic training facilities for men, the training center for women cannot be moved to a different post without a drastic loss in the momentum that has been successfully built up at Fort McClellan.

Mr. Chairman, we respectfully ask you and the members of your Committee to consider the reasons in our Resolutions for retention of the Women's Army Corps as a special Corps and retention of Fort McClellan, Alabama, as an active post of the United States Army and that you join us in supporting these issues of significance to the sustainment of an all-volunteer Army and the advancement of equal rights for women.

Sincerely,

BETTIE J. MORDEN,
President, Women's Army Corps Foundation.

[Women's Army Corps Foundation, U.S. Women's Army Corps Center and School, Fort McClellan, Ala.]

RESOLUTION

Whereas, it has been publicized that the Department of Defense is considering the closure of Fort McClellan, Alabama; by majority vote, the members of the Board of Directors of the Women's Army Corps Foundation do hereby vow and declare their strong opposition to such action and urge all who bear witness to this statement to support their position, AND

Whereas, the United States Women's Army Corps Center and School, Fort McClellan, Alabama, as the major basic training base for members of the Women's Army Corps, is currently operating at full capacity, training approximately 12,000 women volunteers annually, the closure of this base would destroy and disrupt the most successful training and recruitment momentum created in recent years by the United States Army, AND

Whereas, the creation of an all-volunteer Army has been established as a National goal and the enlistment of thousands of women is critical to the successful achievement of this goal, it is deemed unsound and illogical to close the ONE military post where the initial training of women is conducted with economy, competence, and skill, AND

Whereas, funds were appropriated by Congress in 1953 for the construction of a permanent training base for women at Fort McClellan, Alabama, closure of this post would contradict the purpose and intent of this expenditure which was to guarantee a permanent "military home" and historical base for women—a guarantee upon which women could rely and which reflected the good faith of the American people toward the thousands of women who have voluntarily devoted their lives, their careers and their fortunes to the United States Army, AND

Whereas, Fort McClellan, Alabama, is internationally known as the "home of the Womens' Army Corps," and is the ONE site upon which the hostorical heritage and tradition of the modern Women's Army Corps is based, it possesses an intrinsic and intangible value to women and to the American people which is beyond physical measure, AND

Whereas, it has been publicly announced that the United States Army Military Police School will be relocated to Fort McClellan, and retracting that announcement and closing the post will have an adverse impact on the Army's credibility, Therefore be it

Resolved: That the Women's Army Corps Foundation, its Board of Directors, members and friends support the continuance of Fort McClellan, Alabama, as an active post of the United States Army, as an essential element in achieving an all-volunteer Army and to show good faith in the commitment made by Congress to insure a permanent place for members of the Women's Army Corps, past and present, in the history and heritage of the United States Army and in the hearts of the American people, to whom they have dedicated their lives and their careers unselfishly.

[Women's Army Corps Foundation, U.S. Women's Army Corps Center and School, Fort McClellan, Ala.]

RESOLUTION

Whereas, it has been publicized that legislation will be proposed to the Congress that the Women's Army Corps be eliminated as a special corps of the United States Army, by majority vote the Board of Directors of the Women's Army Corps Foundation, do hereby vow and declare their strong opposition to enactment of such legislation and urge all who bear witness to this statement to support their position, AND

Whereas, the Army's success in achieving an all-volunteer force is highly dependent upon recruiting greater numbers of women to fill noncombatant jobs, AND

Whereas, the Women's Army Corps has, as a special corps for over thirty years, been the successful conduit for recruiting, training, administering, and assimilating women into the United States Army, the elimination of this branch would be patently counterproductive to the achievement of our National goal of an all-volunteer Army, AND.

Whereas, the Women's Army Corps has, since inception of the Army's all-volunteer program on 1 July 1972, attracted more volunteers percentage wise than its counterparts, dissolution of this branch would end the timely success of enlistments which are keyed to the distinctive standards, title, and history of the Women's Army Corps, AND

Whereas, there is no law which precludes women from being ordered to serve in Army combat units, the very existence of the Women's Army Corps serves as evidence that the Congress does not intend that women be utilized in combat duties, AND

Whereas, the existence of the Women's Army Corps as a special corps has, since 1942, assured the American public that the United States Army stands as a pillar of responsibility in adhering to civilian custom and tradition, elimination of this corps status would seriously impair the ability of the Congress and the Army to guarantee the basic rights of men and women to privacy in the conduct of their daily personal lives, AND

Whereas, the provision of a distinctive corps and insignia has greatly enhanced the morale and esprit de corps of women in the Army; has provided an enduring symbol of their acceptance and integration within the Army; has given concrete evidence of the Army's reliance upon women in the accomplishment of its missions, and has provided an appropriate means of recording and honoring the significant part women have played in serving the interests of our beloved country, AND

Whereas, the progress that has been made by women in gaining equal opportunity in the Army is viewed as resulting largely from the presence of a Women's Army Corps and the structure to address women's special needs and problems, AND

Whereas, discriminatory attitudes still exist within the Army, and changing a statute or policy will not of itself guarantee women equal opportunity, elimination of the organization which monitors progress in affording equal opportunity will have an adverse, not a favorable, impact, Therefore, be it

Resolved: That the Board of Directors of the Women's Army Corps Foundation supports the retention of the special corps status of the Women's Army Corps and that this status be recognized as the successful conduit for recruiting, administering, identifying and honoring the many women who have, and who are, voluntarily serving their country in uniform, and that a spokeswoman be retained for Women's Army Corps personnel.

CARMINE BELLINO, CHIEF INVESTIGATOR OF THE SELECT COMMITTEE ON PRESIDENTIAL CAMPAIGN ACTIVITIES

Mr. ERVIN. Mr. President, acting through a subcommittee composed of Senator TALMADGE as chairman, and Senators INOUYE and GURNEY as members, the select committee investigated charges that Carmine Bellino, Chief Investigator of the Select Committee on Presidential Campaign Activities, had been guilty of some complicity in the electronic bugging of some Republican campaign officials during the general election of 1960 when John F. Kennedy and Richard M. Nixon were the candidates of the two major parties for the Office of President.

After this subcommittee had conducted an investigation and received all available testimony, a majority of the committee, Senators TALMADGE and INOUYE, made a report to the select committee that there was no competent or credible evidence to sustain the charges. Senator GURNEY filed minority views on this matter.

Sometime ago, I had the report of the majority and the minority views of Senator GURNEY inserted in the CONGRESSIONAL RECORD. Since that time, Senators TALMADGE and INOUYE filed with the committee certain additional views in response to the minority views expressed by Senator GURNEY.

Having studied the affidavits on which the charges were based, I am compelled to say that if the charges had been presented in a court of law, the court would have dismissed the charges on the ground that there was no evidence to sustain them. In my judgment, Carmine Bellino is a faithful and law-abiding public servant.

I ask unanimous consent that the additional views of Senators TALMADGE and INOUYE be printed in the body of the RECORD.

There being no objection, the additional individual views of Senators TALMADGE and INOUYE were ordered printed in the RECORD as follows:

INDIVIDUAL VIEWS OF SUBSCRIBING SENATORS IN RESPONSE TO INDIVIDUAL VIEWS OF SENATOR GURNEY

Certain points have been raised as individual views in connection with the investigation that require additional comment. As will be recalled, the letter signed by the Senators requesting an investigation cited "three sworn affidavits making serious charges against Mr. Carmen (sic) Bellino, Chief Investigator of the Select Committee on Presidential Campaign Activities" and stated that "among other things, the affidavits allege that Mr. Bellino was deeply involved in illegal bugging of the Presidential Campaign of President Nixon in 1960." The allegation that "Mr. Bellino was deeply involved in illegal bugging" was the only one singled out.

It has been unanimously agreed by the members of the Subcommittee that there is no direct evidence—whether in the affidavits submitted or elsewhere—connecting Mr. Bellino with any planned or executed electronic surveillance in connection with the 1960 Presidential campaign. Nor does it appear to be claimed that there is any direct evidence that anyone actually engaged in illegal electronic eavesdropping in connection with the 1960 campaign. In the investigation conducted by the Subcommittee, there was only hearsay involving Mr. Bellino and some of that perhaps double or triple hearsay. Nevertheless, the position is apparently being taken that there is "credible evidence" to sustain some of the allegations against Carmine Bellino. The fact that all the alleged participants in the supposed planning and execution of electronic eavesdropping unequivocally denied wrongdoing should have put to rest the allegation against a person with decades of distinguished service to the government. However, it did not.

In concentrating on direct evidence concerning alleged electronic eavesdropping, the Subcommittee Majority did not find it necessary to delve into highly speculative questions of motivations as well as peripheral issues of fact. However, it now appears that a few additional comments are necessary to place in context the other individual views. For example, in certain of the instances cited of supposed contradictions between Oliver W. Angelone and other witnesses, the ultimate source of the hearsay statements is totally unclear or reverts back to the same persons, such as John Leon, that formed the basis of the allegations in the first place, thus providing little if any guidance and piling hearsay on hearsay. Some of the instances actually provide indications why the persons making the charges might have fabricated testimony. For example, Leon's complaint—repeated to many of his former employees—that Angelone profited from work on the 1960 campaign (denied by Angelone and Bellino and without any evident factual basis) might have motivated him to make false statements concerning Angelone and involve him in the investigation. It hardly supports the position that Angelone was not truthful.

"Corroboration" is found in earlier remarks of Leon to other individuals, yet all that has been said about Leon's remarks is that "he made similar statements *concerning Jones* . . ." in prior years. (Emphasis added.) At best, Leon's earlier statement *concerning Bellino* are sketchy or ambiguous.[1]

On the subject of Jones' credibility, a lie detector examination of Jones is referred to. Although the reliability of such an examination is hardly free from doubt, it does support the position that Jones was telling the truth when he denied knowledge of electronic eavesdropping on Republican officials in the 1960 campaign. As to the failure to confront Jones with questions concerning the ministers, it should be remembered that the test was administered by experts retained by Jerris Leonard and John Buckley, who conducted the investigation for Chairman Bush, and Jones could have been asked questions on this matter if Messrs. Leonard and Buckley had desired.[2]

If an attempt is made to measure the motivations and credibility of the sources of the hearsay allegations, additional facts become highly relevant. Two affiants are relied upon by Chairman Bush and both have criminal convictions, Leon for unlawful electronic surveillance (Criminal Case 206–64,. U.S. District Court for the District of Columbia) and Shimon for unauthorized radio transmission and attempt to procure another to commit perjury (Criminal Case 398–64, U.S. District Court for the District of Columbia). It should also be noted that these cases were brought while the late Robert F. Kennedy was Attorney General. Mr. Kennedy's name was brought into the matter by both Leon and Shimon and Bellino was identified by them as an aide to Kennedy. In fact, Shimon quotes Leon as being bitter toward Kennedy because of his criminal prosecution, a case in which Angelone was given immunity from prosecution.[3] On the other hand, both Angelone and Jones are Government employees with many years of service.

On the subject of physical (non-electric) surveillance, although Bellino disputes one of the alleged instances, he acknowledges participation in two other instances of physical surveillance and there has never been any doubt or dispute that the Democratic campaign effort engaged in physical surveillance, namely, the following or attempted following of certain individuals on a few occasions, in an effort to uncover the source of anti-Catholic literature. However, such conduct appears not at all exceptional in the context in which it occurred and no evidence has been found which indicates any illegal or improper acts on the part of Bellino or anyone else in connection with physical surveillance. While apparently no evidence was developed to connect the Republican campaign to the manufacture or distribution of this literature, the opposing campaign can hardly be faulted for conducting a full investigation utilizing all legal means available into all allegations concerning the source of the scurulous materials.

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[1] There is no mention of Bellino at all in Leon's detailed letter of October 5, 1967 to his attorney, although Jones, Angelone, Frank and others were discussed. Furthermore, in an interview with the Wall Street Journal on July 6, 1973, printed on September 18, 1973, Leon repeated many of his allegations—plus certain and rather bizarre ones not made public by Chairman Bush—but again made no reference to Bellino.

[2] One of the alleged contradictions involving Angelone is that Buckley has stated that Angelone told him that Bellino told Angelone that eavesdropping devices had been placed on ministers in the Wardman Park Hotel. Angelone denies making this statement. It cannot be claimed, however, that Buckley was an impartial investigator whose credibility is beyond doubt in view of his now well publicized surreptitious role in the 1972 campaign in behalf of the Committee to Re-elect the President. Furthermore, Buckley concedes that he did not ask Angelone to make an affidavit of this alleged remark about Bellino, something a competent investigator who was anxious to bring forth all information, hearsay included, would in all likelihood have done if the statement attributed to Angelone had, indeed, been made.

Although Chairman Bush emphasized in his news release that there were three affidavits that gave "substance to the allegations," one affidavit is completely exculpatory of Bellino, the one executed by Edward Murry Jones.

[3] Leon's affidavit notes the indictment of Frank, Angelone, and Leon, but not the fact that Leon and Frank were convicted while Angelone was given immunity. See United States v. Frank, 225 F. Supp. 573 (D.D.C. 1964), aff'd, in part rev'd in part 347 F. 2d 486 (D.C. Cir. 1965), cert, dismissed, 382 U.S. 923 (1966). The conviction of Shimon was not disclosed in the documents released by Chairman Bush.

FIRST AIRPLANE FLIGHT 70 YEARS AGO TODAY—WRIGHT BROTHERS' ACHIEVEMENT CHANGED WORLD'S HISTORY—SENATOR RANDOLPH RECOUNTS EARLIER ACTIONS

Mr. RANDOLPH. Mr. President, even in this time of fuel shortage, America continues to be a highly mobile country. It is more difficult than normally, but our people are on the go day and night, to and from all parts of the world.

There are thousands of people traveling by air today who are unaware of the significance of this date in history. It was 70 years ago, on December 17, 1903, that the Wright brothers made man's first successful powered airplane flight.

Mr. President, their success was the culmination of the dreams of men for centuries. Leonardo di Vinci, from his vantage point in the distinct past, looked ahead and recognized the possibility of flight by humans.

Alfred Lord Tennyson, in his poem "A Vision, speculated on man soaring into the heavens:

> For I dipped into the future far as human eyes could see, saw the vision of the world and all the wonder that would be;
>
> Saw the heavens filled with commerce, argosies of magic sails, pilots of the purple twilight dropping down with costly bales.

In our own history as a country, people have looked to conquering the skies with both enthusiasm and skepticism. Thomas Jefferson, one of our greatest visionaries, discussed the possibility of manned flight but without much hope of success. He set forth his thinking on the subject in a letter to a Mr. D. B. Lee in 1822.

Several decades later, the first bill was introduced offering a prize for the development of powered flight. This was in 1893.

Mr. President, I ask unanimous consent that Jefferson's letter and the first flight bill, introduced in the Senate in 1893, be printed in the RECORD.

There being no objection, the letter and bill were ordered to be printed in the RECORD, as follows:

MONTICELLO. *April 27—22.*

WM. D. B. LEE.

SIR: Your letter of the 15th is received, but Age has long since obliged me to withhold my mind from Speculations of the difficulty of those of your letter, that therein are means of artificial buoyancy by which man may be supported in the air, the Balloon has proved, and that means of directing it may be discovered is against no law of nature and is therefore possible as in the case of Birds, but to do this by macanacal means alone in a medium so rare and unresisting as air must have the aid of some principal not yet generally known, however I can realy give no oppinion understandingly on the subject and with more good will than Confidence wish you success.

TH. JEFFERSON.

S. 1344

A bill to secure aerial navigation

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is hereby authorized and directed to pay the sum of one hundred thousand dollars to any inventor, from whatever part of the world, who shall, at any time prior to the first day of January, nineteen hundred, construct a vessel that will, on the verified report of three engineers appointed by the Secretary of War, demonstrate, within or near the city of Washington, the practicability of safely navigating the air at a speed of not less than thirty miles an hour, and capable of carrying passengers and freight weighing a total of at least five tons.

Mr. RANDOLPH. Mr. President, the events of that day on a windswept North Carolina beach in 1903 revolutionized travel and had a tremendous impact on the world's history in the seven decades that have followed. Orville Wright's 57-second flight in a flimsy craft was the beginning of tremendous achievements in flight, culminating—for the moment—in the travel of men to the Moon.

The Wright brothers' accomplishment, like so many others of great historical importance, went virtually unnoticed at the time. Immediately after the flight the brothers sent this telegram to their home in Dayton, Ohio:

Success four flights Thursday morning all against 21-mile wind started from level with engine power alone average speed through air 31 miles longest 57 seconds inform press home Christmas.

This message, equal in impact to Alexander Graham Bell's first telephone conversation, was received with general indifference by the press and public. Few newspapers devoted more than a few lines to this remarkable achievement that had been the dream of men for centuries.

The obscurity of the Wright brothers and the delayed recognition they received is recounted in the current issue of National Aeronautics magazine with this explanation:

> Part of the problem could be laid on the Wrights themselves—their naivete plus their refusal for the next five years to make public any details of their "Flyer."
>
> Also, the historic first successful airplane never flew again; after their fourth flight on that memorable day, a gust of wind all but demolished it. The Brothers packed it up without reassembling the aircraft and deposited it in a shed at Dayton where it languished for years. Neither Orville nor Wilbur bothered to fly again for nearly three years.

The Wright plane is now housed in the temporary museum of the Smithsonian Institution. In the near future it will be moved, along with other parts of our aeronautical heritage, into the National Air and Space Museum which is now being constructed in Washington. The beautiful building on the mall is under authority granted by legislation I introduced in the House of Representatives in 1946, and a few years ago was amended to add the word "Space" to the official name. I was first approached by Air Force Gen. Henry H. "Hap" Arnold with the idea of the air museum for military aircraft, and from our discussions came the legislation to create this permanent home for this important part of our national history. It was my belief that civil aircraft be included in the bill I drafted. This was done.

If recognition of the Wright brothers' work has been belated, it is now replete with honors due these modest brothers. In 1933 the Federal Government dedicated a monument to them at Kitty Hawk, N.C. Six years later, I joined with Representative CLAUDE PEPPER, then a Member of the Senate, in the sponsorship of legislation declaring Orville Wright's birthday as National Aviation Day.

Mr. President, I do not make a gratuitous compliment when I say that the Wright brothers and their success with powered flight altered the course of human events. But without them and the vision that led them to success, man's achievements with flight might have come much later and at a much greater cost.

As Members of the Congress complete their legislative work for the year and travel to their homes for the Christmas holidays, many will go by commercial airliner. I hope that in our journeys we will remember that today's jet flights, whether they be short ones to our State of West Virginia or across the continent to California, are the direct descendants of the brief flight 70 years ago today.

The ACTING PRESIDENT pro tempore. Is there further morning business? If there be no further morning business, morning business is concluded.

THE CALENDAR

The ACTING PRESIDENT pro tempore. The Senate will now proceed to the call of the calendar.

MEASURES PASSED OVER

The bill (S. 22) to establish a system of wild areas within the lands of the national forest system was announced as first in order.

Mr. MANSFIELD. Over.

The ACTING PRESIDENT pro tempore. The bill will be passed over.

The bill (S. 1033) to amend the Exportation Act of 1969 (50 App. U.S.C. 2401–2413) as amended, to control the export of timber from the United States was announced as next in order.

Mr. MANSFIELD. Mr. President, I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

The bill (S. 1739) to amend the Federal Aviation Act of 1958, to provide a definition for inclusive tour charters, and for other purposes was announced as next in order.

Mr. MANSFIELD. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

The joint resolution (S.J. Res. 161) proposing an amendment to the Constitution of the United States relative to the assignment of students to public schools was announced as next in order.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. MANSFIELD. I object.

Mr. ALLEN. Mr. President, under rule VIII, I move that the Senate proceed to the consideration of this joint resolution, submitting a constitutional amendment to the States prohibiting the busing of schoolchildren for the purpose of creating racial imbalance. I ask for the yeas and nays.

Mr. MANSFIELD. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. MANSFIELD. Mr. President, how many bills on the calendar has the clerk announced?

The ACTING PRESIDENT pro tempore. The Chair would first like to announce that the measure under consideration is the Rhodesian chrome ore bill.

Mr. ALLEN. Mr. President, I understood it to be Senate Joint Resolution 161.

The ACTING PRESIDENT pro tempore. Is there objection to the immediate consideration of Calendar No. 388, the Rhodesian chrome bill?

Mr. HARRY F. BYRD, JR. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

PROHIBITION ON THE IMPORTATION OF RHODESIAN CHROME

Mr. MANSFIELD. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 388.

Mr. ALLEN. Mr. President, reserving the right to object——

Mr. MANSFIELD. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 388.

The ACTING PRESIDENT pro tempore. The clerk will state the bill by title.

The legislative clerk read as follows:

> Calendar No. 388 (S. 1868) a bill to amend the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome and to restore the United States to its position as a law abiding member of the international community.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Montana that the Senate proceed to the consideration of the bill (putting the question).

Mr. GRIFFIN. Mr. President, I ask for the yeas and nays.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second (putting the question)? There is a sufficient second.

The yeas and nays were ordered.

Mr. MANSFIELD. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. MANSFIELD. Mr. President, how did the Chair rule on the vote?

The ACTING PRESIDENT pro tempore. The Chair ruled that there is a sufficient second and the yeas and nays are in order. The clerk will now call the roll on the motion to proceed to the consideration of the bill.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Nevada (Mr. CANNON), the Senator from Florida (Mr. CHILES), the Senator from Idaho (Mr. CHURCH), the Senator from California (Mr. CRANSTON), the Senator from Alaska (Mr. GRAVEL), the Senator from Michigan (Mr. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Maine (Mr. HATHAWAY), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Montana (Mr. METCALF), the Senator from New Mexico (Mr. MONTOYA), the Senator from Rhode Island (Mr. PASTORE), the Senator from California (Mr. TUNNEY), and the Senator from Kentucky (Mr. HUDDLESTON) are necessarily absent.

I also announce that the Senator from Louisiana (Mr. LONG) and the Senator from Georgia (Mr. TALMADGE) are absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PASTORE) and the Senator from Minnesota (Mr. HUMPHREY) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Utah (Mr. BENNETT), the Senator from New Jersey (Mr. CASE), the Senator from Kentucky (Mr. COOK), the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. JAVITS), and the Senator from South

Carolina (Mr. THURMOND) are necessarily absent.

The Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

If present and voting, the Senator from New York (Mr. JAVITS) and the Senator from South Carolina (Mr. THURMOND) would each vote "nay."

The result was announced—yeas 46, nays 25, as follows:

[No. 586 Leg.]

YEAS—46

Abourezk
Aiken
Baker
Biden
Brooke
Burdick
Byrd, Robert C.
Clark
Dole
Eagleton
Fong
Fulbright
Griffin
Haskell
Hatfield
Jackson
Johnston
Kennedy
Magnuson
Mansfield
Mathias
McGee
McGovern
McIntyre
Mondale
Moss
Muskie
Nelson
Packwood
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Saxbe
Schweiker
Scott, Hugh
Stafford
Stevens
Stevenson
Symington
Taft
Weicker
Williams

NAYS—25

Allen
Bartlett
Beall
Bible
Brock
Buckley
Byrd, Harry F., Jr.
Curtis
Domenici
Dominick
Eastland
Ervin
Fannin
Gurney
Hansen
Helms
Hruska
McClellan
McClure
Nunn
Scott, William L.
Sparkman
Stennis
Tower
Young

NOT VOTING—29

Bayh
Bellmon
Bennett
Bentsen
Cannon
Case
Chiles
Church
Cook
Cotton
Cranston
Goldwater
Gravel
Hart
Hartke
Hathaway
Hollings
Huddleston
Hughes
Humphrey
Inouye
Javits
Long
Metcalf
Montoya
Pastore
Talmadge
Thurmond
Tunney

So the motion was agreed to, and the Senate proceeded to consider the bill.

Mr. McGEE. Mr. President, may I ask, what is the parliamentary situation in light of the vote?

The ACTING PRESIDENT pro tempore. S. 1868 is now before the Senate and is open to amendment.

Mr. McGEE. May I ask. What is the bill S. 1868?

The ACTING PRESIDENT pro tempore. A bill to amend the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome.

Mr. MANSFIELD. Mr. President, will the Senator from Wyoming yield briefly?

Mr. McGEE. I yield.

Mr. MANSFIELD. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator from Montana will state it.

Mr. MANSFIELD. What will happen when the hour of 12 o'clock arrives?

The ACTING PRESIDENT pro tempore. This bill will remain the unfinished business but, under the previous order, at 12 o'clock today, the Senate will proceed to consider the clean air bill until that is disposed of.

Mr. HUGH SCOTT. That will clear the air at that time. [Laughter.]

Mr. MANSFIELD. Mr. President, a further parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator from Montana will state it.

Mr. MANSFIELD. When this bill becomes the unfinished business at 12 o'clock, it will occupy the position then which it had occupied previously?

The ACTING PRESIDENT pro tempore. The Senator from Montana is correct.

Mr. MANSFIELD. Then it will be automatic for the Clean Air Act to be laid before the Senate at that time?

The ACTING PRESIDENT pro tempore. Under the previous unanimous-consent agreement, yes, the Senator is correct.

Mr. MANSFIELD. Then the Senate is to follow the Clean Air Act with the foreign aid appropriation next; is that correct?

The ACTING PRESIDENT pro tempore. The Senator from Montana is correct.

Mr. MANSFIELD. Following that, the Senate will then turn to the consideration of the nomination of our colleague, Senator SAXBE, which I hope can be disposed of today.

For the information of the Senate, on the basis of the previous conversations held with the distinguished Republican leader, it is anticipated that if we can, as we hope we can, we will lay before the Senate the FEA bill, the Federal Energy Agency bill, which makes Mr. Simon a czar, as the pending business for tomorrow—and I use the word "czar" in the sense of an energy czar.

Mr. HUGH SCOTT. If the distinguished majority leader will yield, I think in this town, no one really is a czarist as that title would imply. Therefore, he is a qualified czar.

Mr. MANSFIELD. I was just using what has come to be called a colloquialism. Perhaps a czaret?

Mr. McGEE. Could we not modify that to a commissar? [Laughter.]

Mr. HUGH SCOTT. I really do not want to go that far, in spite of détente.

Mr. ERVIN. Might I suggest czarina? That is a good word.

Mr. GRIFFIN. This must be the silly season.

Mr. McGEE. Mr. President, in view of the pending business, as we know, the supporters of this measure have been ready since October 1 to have a vote on the bill. So I am wondering whether my distinguished friend from Virginia (Mr. HARRY F. BYRD, JR.), in light of the fact that 62 Senators in this body voted as they did last Thursday, might be willing to expedite the affairs of the Senate in the spirit of the season by going ahead with a straight vote on this pending measure, with his usual, yuletide forgiveness, and his magnanimous approach to humanitarian problems during the Christmas season?

Would the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.) be willing to do that?

Mr. HARRY F. BYRD, JR. Mr. President, I think that——

Mr. WILLIAM L. SCOTT. Mr. President, will my colleague from Virginia yield briefly?

Mr. HARRY F. BYRD, JR. I yield to my colleague from Virginia.

Mr. WILLIAM L. SCOTT. There are a few words I should like to say on this matter, so I would hope my colleague would not agree to a vote until I can get my few words in.

Mr. HARRY F. BYRD, JR. I certainly want to comply with the wishes of my distinguished colleague, and I use those words as a reply to my good friend from Wyoming (Mr. McGEE).

Mr. McGEE. I appreciate the forthrightness of that answer. In light of that, we will proceed to a third reading just as soon as the distinguished junior Senator from Virginia (Mr. WILLIAM L. SCOTT) has made his remarks; and I gather that is the implication of the senior Senator from Virginia's (Mr. HARRY F. BYRD, JR.) response.

Mr. HARRY F. BYRD, JR. I have had requests and suggestions from other Senators that they also want to make some comments on this matter. I am sure that the Senator from Wyoming would like to accommodate them, too.

Mr. McGEE. Ever since October 1, I have been very much concerned that no one be denied the opportunity to express himself on this matter. In view of the fullness of the discussion, despite the 2 months and 2 weeks which have transpired, I think a little more time is still required this morning. I hope that the Senator from Virginia (Mr. HARRY F. BYRD, JR.) will succeed in finding another thought or two that might be aired after the junior Senator from Virginia (Mr. WILLIAM L. SCOTT) has discussed this matter.

Mr. HARRY F. BYRD, JR. I hope that the Senator from Wyoming will be in the Chamber, and I also hope that the Senator from Minnesota (Mr. HUMPHREY) will be here, because there are some questions I should like to address to each Senator.

Mr. McGEE. I am sure the questions are very much in order and have never been raised before and have not been discussed in this body in the past 2 months and 2 weeks. Therefore, we should air them on this very special day with the beautiful covering of white on the Earth outside, so fitting to the spirit of Christmas.

Mr. BIBLE. Mr. President, will the Senator from Wyoming yield?

Mr. McGEE. I yield.

Mr. BIBLE. My colleague from Nevada (Mr. CANNON), who has made considerable comment on this bill, and has considerable interest in it, is unavoidably detained this morning.

I ask unanimous consent that John Cevette of his staff, who is handling this particular problem of the chrome question, be given the privilege of the floor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. McGEE. I am sure that will clear the air. I am willing to sit here so that my colleagues may have the opportunity to raise the new questions on this issue.

I yield the floor.

Mr. WILLIAM L. SCOTT. Mr. President, my remarks will be quite brief. I rise in opposition to S. 1868. In effect, it would repeal an amendment proposed by my colleague, the senior Senator from Virginia (Mr. HARRY F. BYRD, JR.). His amendment was to the military procurement bill of 1971, which the Senate adopted, and it was later adopted in the House of Representatives by a vote of 253 to 140. Let me add that I voted in favor of the Byrd amendment in the House of Representatives in 1971, as did all Virginia Congressmen. Should the Senate pass the present bill, I believe that its fate would be very questionable in the House in view of the margin by which the Byrd amendment was passed in that body.

Senators will recall that in 1971 when the Byrd amendment was adopted, it was alleged that we were obtaining a major share of our chrome from Russia which had purchased its chrome from Rhodesia. In effect, we were indirectly buying Rhodesian chrome at higher prices from Russia when we could have purchased the same material directly from Rhodesia had the United Nation's sanctions not been in effect. In my opinion, Mr. President, these sanctions were an effort to interfere with the internal affairs of a sovereign government and should not have been imposed in the first place.

According to the committee report, a number of representatives of American industry have testified against this proposal. I believe that Congress only 2 years ago indicated its opposition when it adopted the Byrd amendment. It would appear unwise at this time for us to reverse the decision previously made by Congress. In reviewing the report of the Committee on Foreign Relations, I note a number of areas other than those previously mentioned which raise serious questions regarding the wisdom of the measure before us.

First, the Security Council never made an adequate finding that a threat to peace exists, as required by the U.N. Charter. Second, this resolution results in U.N. intervention into the domestic jurisdiction of the Rhodesian state. Finally, the Security Council violated its own rules—article 32—by failing to accord Rhodesia fundamental due process.

So far as the economic effect of the Byrd amendment permitting the purchase of Rhodesian chrome is concerned, it is interesting to note that before the Byrd amendment, the price of Russian chrome, in the period between 1967–71, was steadily increasing; and as a result, the United States, as a large importer of Russian chrome ore—45 percent of our chrome ore imports—was forced to pay top price to the Soviets in a period when our balance of payments was becoming worse. This price increase was documented in the U.S. Bureau of Mines Yearbook for 1970 which laid the blame for the increase on the Rhodesian embargo. With the passage of the Byrd amendment in 1972, the price of chrome ore dropped sharply. It can be expected that if this bill is passed, the price of chrome ore will increase by at least 20 percent, according to testimony before the Foreign Relations Committee—Mr. O'Mara, page 66.

The Byrd amendment has resulted in lower U.S. cost for chrome ore, and this has made U.S. products made with chrome more price competitive in world markets. The maintenance of a competitive pricing structure is especially important in light of the current announcement that the United States is finally running a favorable balance of payments of $1.5 billion in the official settlement balance register during the second quarter of 1973.

It appears to me that the price and competitive availability of chrome ore are of critical importance to the stainless and specialty steel industry of this country. According to the statement of Mr. Frederick B. O'Mara, executive vice president, Union Carbide Corp., stainless steel has a chrome content of 18 percent and some special steels have even greater chrome content. Thus, the price of chrome is a large factor in the final production cost of these steels. Therefore, one can easily see that repeal of the Byrd amendment by this bill will have three results: an increase in the cost of chrome ore, an increase in market price for U.S. stainless and specialty steel products, with result that our own manufactured stainless steel products will be priced not only out of the world market, but probably also out of the U.S. market. Thus, upon enactment of this bill, it can be expected that Rhodesian chrome will reach the United States not as a low cost raw material but as a low cost stainless steel import having an impact upon our specialty steel industry.

Mr. E. F. Andrews, vice president, materials and services, Allegheny Ludlum Industries, Inc., representing the stainless steel industry, testified before the Foreign Relations Committee—Public Law 91—that the American ferrochrome industry relies almost entirely upon imported chrome, and that the reinstallation of U.N. sanctions will certainly result in a loss of jobs for the U.S. stainless steel industry, if not at once, certainly in the near future. Mr. Andrews based his prediction upon the rapid increase in the ferrochrome industry production in Rhodesia from almost zero tons in 1967 to almost 300,000 tons in 1972, the equivalent of the U.S. capacity. This introduction of a ferrochrome industry into Rhodesia was as a result of the U.N. sanctions, and this additional world capacity competing with the U.S. plants resulted in a loss of U.S. jobs in a very important industry. It is reasonable to assume that restoring the U.N. restrictions will result in additional growth in the Rhodesian stainless steel industry, and that when the restrictions are finally lifted, as they certainly will be, the impact upon the American stainless steel industry will be predictable and harsh, looking back at past experience.

Mr. President, Congress has already expressed itself on this matter, both bodies voting contrary to the thrust of this bill; and the House by such an overwhelming margin, that regardless of what action the Senate may take, the prospects are very dim that this proposal will ever become law. Therefore, I would hope, Mr. President, that the measure will not be adopted by the Senate and that we will retain the right of our Government to purchase strategic materials from Rhodesia or any other nations when it is in the Nation's best interest.

Mr. HARRY F. BYRD, JR. Mr. President, I commend my colleague and friend from Virginia for the statement he has made this morning. I think that he has given a spendid summary of the importance of maintaining the right to import strategic material from a free world market.

I noticed that the distinguished Senator from Virginia mentioned and emphasized the cost factor, and what he brought out is of much importance to the consumers of our Nation. If the consumers of our Nation are faced with a high cost of living, and many of the products, if not most of the products, which they need are being increased in price, then, if S. 1868 is enacted, it will mean that we can feel reasonably sure of additional increased costs.

In that connection, the distinguished Senator from Nevada (Mr. CANNON), chairman of the Subcommittee on Stockpiling of the Committee on Armed Services, spoke in the Senate on December 10, and he, too, went into the matter of costs.

I want to read into the RECORD several paragraphs of his able address. The Senator from Nevada (Mr. CANNON) said:

> The prohibition against importation of chrome from Rhodesia in the 1967–71 period produced a market increase in the price of Russian chrome. The U.S. Bureau of Mines Mineral Yearbook for 1970 states:
>
> Metallurgical grade chromite prices rose for the fourth successive year, continuing the trend initiated in 1967, primarily as a result of continued United Nations economic sanctions against Southern Rhodesia.
>
> The price of Russian chrome dropped sharply after the enactment of the Byrd amendment in 1972.

That is a point brought out by my distinguished colleague from Virginia.

The Senator from Nevada went on to state:

> Its repeal is likely to result in a substantial increase. When repeal of the Byrd amendment was under consideration in 1972, suppliers of chrome forecast an immediate 20 percent price increase if imports from Rhodesia were banned again. If history repeats itself, repeal of the Byrd amendments in 1973 would also result in a 20-percent increase in the price of Russian and Turkish chrome ore.

Mr. President, I have read from the RECORD of December 10, 1973, and the remarks that were made by the Senator from Nevada at that time appear on page 40387.

I think it is clear, just as the Senator from Virginia brought out, and as the Senator from Nevada brought out, that repeal of the Byrd amendment by the enactment of S. 1868 would result in a higher price for this very important and strategic commodity.

We must realize that there are only three major chrome producing nations in the world: Rhodesia, South Africa, and

Russia. A small amount is produced in Turkey, a small amount is produced in Iran, and Italy is a small producer; but really only three countries have any substantial quantity of this very important material.

If we eliminate one of those countries, namely, Rhodesia, where the largest deposits lie, then we become more dependent on the others, particularly on the Soviet Union. It seems to me very unusual that we would appropriate, as we did last week, $75 billion for national defense, $75 billion of tax funds for national defense, and those appropriations are necessary because of the potential threat to the United States by the Soviet Union.

Mr. McGEE. Mr. President, will the Senator yield for a question?

Mr. HARRY F. BYRD, JR. Yet we come along and we want to eliminate the opportunity to buy this vital, critical, strategic material from a free world country and thus make ourselves more dependent on the very country we are arming ourselves against.

Mr. McGEE. Mr. President, will the Senator yield for a question?

Mr. HARRY F. BYRD, JR. I am glad to yield to the Senator from Wyoming.

Mr. McGEE. I just wanted to inquire as to the Senator's intent with respect to the procedure this morning. I understand we are to hold the floor until 12 o'clock, when this matter is to be set aside and other business will take over. Does the Senator envisage any division of that time so that the Senator from Wyoming might say a few things about the pending measure and some of the things said here this morning? What would be the Senator's pleasure?

Mr. HARRY F. BYRD, JR. I have no particular feeling on it. I would be glad to yield the floor or yield time to the Senator, whichever he wishes.

Mr. McGEE. I do not want to interrupt the Senator's thoughts or his colloquy with his colleague from Virginia, but I wondered if there might be a time when I could make a few remarks. I could go ahead and prepare remarks and have them printed in the RECORD. It probably would have the same effect, since there are not many Senators in the Chamber.

Mr. HARRY F. BYRD, JR. No, I do want to ask a few questions of my colleague from Virginia, and after that if the Senator would like the remainder of the time it is satisfactory with me. I do have many questions I would like to address to the Senator from Minnesota when he gets here; and I have questions I would like to ask the Senator from Wyoming; but I will reserve those questions and yield in just a moment to the Senator from Wyoming.

Mr. WILLIAM L. SCOTT. Mr. President, will the Senator yield?

Mr. HARRY F. BYRD, JR. I am glad to yield.

Mr. WILLIAM L. SCOTT. Would the Senator agree that the question here is: What is in the interest of this country? Is it in the interest of this country to be purchasing chrome through Russia? That situation existed before the amendment of the distinguished Senator was agreed to in the Senate. Then the measure went over to the House where it was adopted by a very wide margin.

Second, would it not be the view of the senior Senator from Virginia that regardless of what we do in the Senate, the House is not going to adopt this measure? The margin by which the Byrd amendment was adopted in 1971 was overwhelming in the House. As one who was a Member of that body at that time, I am of the opinion that the House is not going to pass this bill regardless of what the Senate does in this matter, which requires the concurrence of both bodies. I wonder if the Senator would respond to that.

Mr. HARRY F. BYRD, JR. I assume the appraisal of the Senator from Virginia is correct. He would have a better feel for what the House is likely to do than I would because he served there at the time this legislation was enacted. But the Senator so well pointed out the margin in the House, which was very great, much greater than it was in the Senate. In the Senate we always had very close votes; it always has been a margin of three, four, or five votes. But in the House the votes were much stronger in favor of the position adhered to by both Senators from Virginia.

I might say that my feeling is that on this issue and the same is true on the issue of compulsory busing, the House is in greater tune with the sentiments of the people of our country than is the Senate. I just do not believe that the American people have much enthusiasm for seeing that we must be cut off from a strategic material needed for our defense purposes, as well as for our domestic needs, as many of our colleagues propose; cut off from buying that material from a free world country, Rhodesia, and become more dependent on another nation, Communist Russia.

I do want to yield to the Senator from Wyoming, but before doing that may I ask the Senator from Wyoming just one or two questions?

The Senator from Wyoming is or has been chairman of the Subcommittee on African Affairs of the Committee on Foreign Relations.

Mr. McGEE. The Senator is correct. I was, until this year. I am still the ranking member of the Subcommittee on African Affairs of the Committee on Foreign Relations.

Mr. HARRY F. BYRD, JR. I judge from the comments the Senator has made in the RECORD in recent years and months that the Senator favors an embargo on trade with Rhodesia.

Mr. McGEE. The Senator from Wyoming favors the United States going back under the United Nations' action which the amendment of the distinguished Senator from Virginia to a military procurement act took us out of unilaterally. The issue for this Senator is honoring our commitments under the United Nations. That is the issue.

Mr. HARRY F. BYRD, JR. I want to get this clear. The Senator does favor sanctions against Rhodesia.

Mr. McGEE. The Senator from Wyoming favors the United States going back into the U.N. I repeat, the issue here is not sanctions against Rhodesia. The Government of the United States itself joined in the sanctions the United Nations imposed against Rhodesia, and I do not believe, once we do that, that we can unilaterally take ourselves out of it. We have to go back to the U.N. and change the policy of the U.N. That is what international commitments are all about. We have done violence to our own international commitments. We have done violence to the principles of the U.N. by doing violence to this commitment which we had a hand in fashioning in the U.N. That is the only issue at stake.

Mr. HARRY F. BYRD, JR. At the appropriate time I would like to have the opportunity to debate that issue with the Senator from Wyoming, but right now I would like to get clear whether the Senator from Wyoming does or does not favor sanctions against Rhodesia. I have not gotten a clear answer.

Mr. McGEE. We are debating the repeal of the Byrd amendment, as I understand it, and it is the position of the Senator from Wyoming that he favors repeal of the Byrd amendment in order to restore the United States to the integrity of its commitments to the United Nations.

Mr. HARRY F. BYRD, JR. But the Senator does not favor those sanctions?

Mr. McGEE. I am not saying that. I am only saying the issue here is this other question, and I only wish to keep the debate relevant to the issue pending.

Mr. HARRY F. BYRD, JR. I think this is very relevant to the issue pending. The United Nations' sanctions were imposed against Rhodesia and put on, so far as our country is concerned, unilaterally by the then President of the United States without reference to the Congress, without the Congress having any say whatsoever in that matter, and the two reasons given in the United Nations were, one, the racial policies of Rhodesia, and the other reason was that Rhodesia did what the United States did in 1776, namely, declared their independence from Great Britain.

In regard to the first matter, the matter of racial policies of Rhodesia, those policies are not viewed sympathetically by a majority of the American people or a majority of the Members of Congress—and in none of my comments on this matter have I ever sought to justify the policies that Rhodesia may have in that regard. I think that is an internal matter with that nation, but those policies are more liberal than are the policies of South Africa in that particular regard. As the Senator from Wyoming knows so well, an effort was made in the United Nations Security Council to impose sanctions on South Africa. Undoubtedly, other efforts will be made.

I am wondering whether the Senator from Wyoming will indicate what his position is in that regard.

Mr. McGEE. By the same inference, I would have to wonder, in the light of the Senator's declaration just now, whether he favors sanctions against the nation of South Africa because its policies are not as liberal as those of Rhodesia.

Mr. HARRY F. BYRD, JR. I do not favor sanctions against Rhodesia or South Africa. It is a matter they must decide.

Could I ask the Senator whether he would favor or oppose sanctions against South Africa? I would oppose them.

Mr. McGEE. The issue is not unilateral imposition of sanctions against Rhodesia or South Africa. Therefore, that is not the pending question. The pending question is whether we honor our commitments to the United Nations.

If the Senator will recall how it happened we became involved in it, he may remember Rhodesia was seeking to achieve independence from the British Empire. The British and the Rhodesians reached an impasse that became so emotional it appeared to be approaching a violent confrontation, and it was at that desperate, eleventh hour that, through the U.N., the United States was petitioned by the litigants involved and those near the area to intervene as an honest broker to find some other time-stalling mechanism that could permit a less violent solution to the problem.

As it culminated, the move was to propose this resolution to the United Nations with the feeling that it would divert the direction of events from a bloodbath which seemed to be building at that time between the British Government and the government of Rhodesia. The upshot of it was the U.N. resolution.

All kinds of people voted for different reasons on that kind of resolution, but it was a United Nations action with which our Government was in accord; and if we disapproved the action then, we should have killed it in the United Nations. But we approved it.

You cannot win them all, but if you change your mind on something like that, then you go back to the body in which you were legislating such a resolution and seek to change it. But there has been no effort or no interest expressed through two administrations to attempt to do that. They still believe it is important to adhere to our commitments internationally. And I might add that, as far as any official action is concerned, no other members of the United Nations have flouted their commitment to that body through this method—not even Portugal or the Union of South Africa, to which the Senator has just referred.

They are members of the U.N., and they could have taken themselves out of that because they feel very strongly about it, but they placed their integrity to their commitment to the U.N. first. And that is why I insist the United States, one of the principal architects of the U.N., one of the leaders of the so-called free world, one of the great powers on the Earth, whatever else, must honor its commitments to the U.N.

That is what the issue is. Strip out all this other balderdash and that is what the issue is right now. This action is an assault on the United Nations and the role of our own country in the U.N., and there is no use in gilding the lily in some other way.

Mr. HARRY F. BYRD, JR. I gather the Senator from Wyoming is not willing to say what his position is with regard to sanctions?

Mr. McGEE. Why does not the Senator ask me about abortion or birth control or some other totally irrelevant subject? We are talking about the repeal of the Byrd amendment. I want to make sure we do not divert ourselves into other byways. The issue involved in repealing the Byrd amendment is putting the United States back under the integrity of its commitments to the U.N. It is as elementary as that. We will talk about these other questions when they become the pending questions. If the Senator wants to introduce a resolution urging the United States to impose sanctions against Rhodesia, I will be glad to join him in that issue.

Mr. HARRY F. BYRD, JR. Of course, I am opposed to sanctions against Rhodesia. I am opposed to sanctions against South Africa or any of those countries just because some groups might object to their internal policies.

I think most of us have some objections to almost any policy of any nation in the world today. I am suggesting the complete hypocrisy of both the United Nations Security Council and the Government of the United States—I repeat, and the Government of the United States—in declaring economic sanctions against Rhodesia and vetoing, as our Ambassador to the United Nations did just recently, sanctions against South Africa. He was right in what he did. However, it dramatizes the hypocrisy of this whole problem.

The matter that the Senator from Wyoming has just addressed himself to is a matter on which, of course, we have completely different views. The action which the Senator from Wyoming objects to, and which he says is not law abiding, is action which was taken by the Senate, by the House of Representatives, signed by the President, and upheld by the courts of the United States.

Congress did not abrogate its responsibilities when it participated in the United Nations Participation Act. Even if it wanted to do so, the Congress of 1945 could not bind the Congress of 1973.

I say again that the sanctions were put on unilaterally by the President without reference to the elected representatives of the people. I think that the position which Congress took in 1971 and which the President of the United States took in signing that legislation and which the courts took in upholding that legislation was completely proper.

Mr. President, I yield the floor to the distinguished Senator from Wyoming as I promised to do so that he might have the remainder of the time if he wishes.

Mr. McGEE. Mr. President, I thank the Senator from Virginia for yielding the floor.

Mr. President, in order to keep the record straight on the action President Nixon took on this question, I want to point out the President signed that bill only because it was an amendment that was attached to a military bill. It was not a bill that stood in its own right. It was attached to another bill that the President regarded to be of utmost importance to the national interest. That is the reason that the bill was signed. The President had no opportunity to affix his signature or not affix his signature to this amendment.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield?

Mr. McGEE. Mr. President, let me make my statement before the time runs out at 12 o'clock, if the Senator from Virginia does not mind.

The point of it is the President of the United States was on the record as against the Byrd amendment in his annual report on foreign policy which was submitted in February of 1972.

The Secretary of State also is on record as being opposed to it.

The Senator will recall that the President of the United States was not given a chance in the interest of clearing up this issue.

I would suggest that the Senator from Virginia should introduce this as a separate and independent measure in its own right and let it carry its own weight instead of being put on a measure that the President of the United States has to sign.

The junior Senator from Virginia is now absent. He had said that he wanted to hear more about the question.

It is not without some point. If one examines the rollcall on which there was some objection to making the question the pending business this morning, he will notice that the very ones who said they wanted some more time to say some things about the repeal of the Byrd amendment are the ones who voted no on the majority leader's motion to make this the pending business.

It is this kind of juxtaposition and rhetoric that exposes, I think, what is going on in this body.

We are only urging that the Senate of the United States have a chance to vote this question up or down. Sixty-two Senators last Thursday did so vote. And they are still not being given the opportunity because of the cloture rule to express themselves on a straight out vote on the measure.

I want to take this opportunity to turn to what, I think, is the key to this question. It was the point made by the junior Senator from Virginia (Mr. WILLIAM L. SCOTT) when he said that what we ought to decide here is what is in the best interests of the United States.

The President has tried to ascertain what is in the best interests of the United States. After all, he is in charge of the executive branch.

The Secretary of State has tried to assess what is in the best interests of the United States.

The Senate of the United States would like an opportunity to assess what is in the best interests of the United States. And we should be given that chance. It is being denied to this body. The House would like a chance to determine what is in the best interest of the United States.

The Senate and the House voted otherwise when the measure was before Congress before. The junior Senator from Virginia and the senior Senator from Virginia agreed that was the feeling of the legislative branch of our Government.

Mr. President, times change, and whatever else we say about this legislative Chamber, we are capable of change if the facts and the priorities change. And that is what has happened. What has happened is that the Byrd amendment has not achieved what was asserted to be its purpose.

Its purpose was said to be that we should cut down on any kind of dependence on the Soviet Union for chrome imports. In fact, since the passage of the Byrd amendment, the imports of chrome from the Soviet Union have increased.

Mr. President, the fact is that the good Lord is the only one that is perfect. However, he made a mistake and put the best chrome on Earth, we are told by our mineral experts, in the Soviet Union. He should not have done that. However, he did put it there.

Free enterprise determines the price. And with all due respect to the Byrd amendment, I submit that the Byrd amendment had much less to do with the price of chrome than the world supply of chrome which found its own level, as indeed it should, and demand as the Senator from Virginia has often advocated in his theory of economics.

What is in the best interest of the United States? Mr. President, according to the many experts of our country, it is in the best interest of the United States to repeal the Byrd amendment.

Secretary of State Kissinger has said in his testimony "repeal the Byrd amendment." Dr. Kissinger very clearly explains how and why the Byrd amendment impedes the foreign policy of the United States, especially in Africa, where we are seeking votes in the United Nations; where we are seeking understanding, and where we are seeking new business.

I do not know how often the Senator from Virginia may have thought of this matter. However, while we have very small business involvement in Rhodesia, we have a very considerable amount of U.S. private business investment in other parts of Africa, all over Africa.

Those business investments clearly stand in jeopardy because of the hostility triggered by this little bit of business that sought protection, and got it, with the Byrd amendment.

A second reason that the national interest requires the repeal of the Byrd amendment derives from the fact that American labor, the working man, has discovered that he is losing his job because of it. The ferrochrome industry made it clear that they had to close down because they could not compete with the low cost of the ferrochrome imported into the United States from Southern Africa and Rhodesia that followed directly in the wake of the passage of the Byrd amendment. American labor is losing its jobs.

Ohio Ferroalloys likewise closed its doors—a ferrochrome industry—because it was being outsold, out-competed, and out-produced with cheaper labor. This has been the consequence of the Byrd amendment, the shifting from the import of chrome to the import of ferrochrome alloys, and American labor is screaming for help by repealing the Byrd amendment.

Finally, Mr. President, we have discovered the price that we have already had to pay in the international community of nations for the shortsightedness of our early decision to adopt the Byrd amendment. In the United Nations, government after government after government has asked us again, "Why are you willing to pay such a high price for the Byrd amendment, for such a complicated consequence that has injured, impeded, and dragged down the efforts of the United States to strengthen its position in the international community?"

I must say, Mr. President, I do not have an answer to that. And no reasonable man can come up with an answer that will explain in rational terms why we, the United States, the advocates of international understanding, the advocates of seeking a commitment through treaties, through the United Nations, and then living up to it, should take such a position.

Oh, I know that this body is a supreme body. We can do whatever we darn please. But one can say the same thing with respect to the Constitution of the United States. The Constitution is what we try to say it is from time to time, and when it gets in our way, we try to do something about it.

But that is not what builds international understanding. We like to say in the same breath, Mr. President, that we believe in law and order. Well, that includes international law and international order. For surely we have learned, at great cost in our treasure and the blood of ours sons, the folly of trying to go it alone, the folly of trying to pretend that international agreements do not matter.

Mr. President, what really is at stake in this bill is the integrity of the word of the United States of America, given in the United Nations, given outside of the United Nations, given in bilateral agreements, in regional pacts, and in military alliances. It is all being laid on the line.

The Members of this body and the Members of the House of Representatives are likewise required to reexamine their earlier vote for a fourth reason. The fourth reason is that no longer can it be demonstrated that the national security of the United States, speaking of that in literal terms, is affected by this issue. The chrome we are buying, or bidding for, does not go to the defense industry. Deputy Secretary of Defense, Mr. Clements, has testified that of the chrome we already have stockpiled, only 2.3 percent of it would be required in the event of war.

Mr. President, that is not saying 2.3 percent of all the chrome in the world. It is not saying 2.3 percent of the chrome we get from the Soviet Union. It is not saying 2.3 percent of the chrome we might get from Rhodesia. It is 2.3 percent of the chrome that we already have stacked up in our country in a stockpile reserve in the national interest. As a matter of fact, we have been trying to move a lot of that stockpile back into commercial channels. No one wants to buy it, because the need is not there.

That is why time has been stripping away all the folderol on this issue. There is no national interest, or any other interest except on the part of Union Carbide and on the part of some of the laboring men, who protest as they see their jobs going down one by one, because they have seen, since the passage of the Byrd amendment, the closing down of the ferrochrome industry, and that means jobs. And they see in it likewise something else that looms very large, and that is our word, the word of our Government.

So let us not argue any longer about how the Senate voted. If the Senator is so confident that his position represents the public opinion of America, if he is so confident that the House of Representatives is going to overwhelming kill the measure, then I say, "Why in God's name do you not let us vote in the Senate, and send it to the House, so they can kill it?"

Of course, the answer is obvious, Mr. President: They are scared to death the House of Representatives will approve it, because the Congressmen have changed their minds. That is what it is all about.

It is time, therefore, Mr. President, that we address ourselves to that issue which cuts across all of the other factors here. That issue is whether we are still going to use the United Nations as one of the lines of American national interest, of American foreign policy.

There is no one that I know of in his right mind who says the U.N. can do everything. Of course not. But it does many things. And we need it. Therefore, if we are to keep open all of our options with NATO, with the Southeast Asia Pact, with the OAS, and with all the other kinds of international commitments that we have undertaken, we indeed, Mr. President, also need and depend upon the integrity of the United Nations. It is that which cries out now for the restoration of the integrity of the United States under the U.N. Charter. It is the repeal of the Byrd amendment to enable us achieve the reestablishment of the integrity of our word as a nation.

Mr. President, we have plenty of problems in the world. We have frightening responsibilities around the world, and I would not be one to pick a fuss and say, "We can do them all this way," or "We can do all that way."

I would rather insist, Mr. President, that we have to have as many strings to our bow as we can keep intact and taut, if we are to achieve that which we seek, namely a more stable world; namely a better chance for a world with less violence; and it is that which rides on this issue.

I would close these informal remarks by once again petitioning my colleagues who stand in opposition to this pending repeal proposal, "Let us show the American people that we are not afraid to let the Senate, as big boys, vote."

Just let them vote; that is all the Senate asks. We have had lots of time to talk. We have had plenty of efforts taken not to talk. Everything has been said too many times already, and the Senate cries out for the right to express itself.

Mr. President, with all due respect to my colleague from Virginia, with the deepest regard for his own sincerity and integrity in this matter, I would think that he could understand, in a reciprocal way, in that same context, that Senators in this body with integrity, Senators in this body with independence of judgment, Senators in this body who also are proud in their own responsibility of expressing themselves, are simply saying to the Senator from Virginia, "Sir, we believe that the record of the Senate of the United States should entitle us to stand up and be counted on the pending measure of repealing the Byrd amendment." It is as simple as that.

The Senate is a wise body. If it thinks otherwise, it will vote down the repeal. If it disagrees with the Senator from Virginia, he is a gentleman and he knows that people have different points of view, and he will abide by the decision of this body to disagree.

AUTOMOBILE EMISSION STANDARDS

The PRESIDING OFFICER (Mr. HATHAWAY). Under the previous order, the hour of 12 o'clock having arrived, the Senate will now proceed to the consideration of S. 2772 which the clerk will state.

The second assistant legislative clerk read as follows:

> S. 2772, to amend title 2 of the Clean Air Act, as amended.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. Debate on this bill is limited to 30 minutes, to be equally divided and controlled by the Senator from Maine (Mr. MUSKIE) and the minority leader or his designee; with 30 minutes on any amendment, except one to be offered by the Senator from Virginia (Mr. WILLIAM L. SCOTT) on which there shall be 1 hour; and with 20 minutes on any debatable motion or appeal.

Mr. MANSFIELD. Mr. President, will the Senator from Maine yield, without having any of his time applied to my request?

Mr. MUSKIE. I yield.

Mr. MANSFIELD. Earlier today, Mr. President, I indicated that we would very likely lay before the Senate the FEA bill, so-called, as reported from the Committee on Government Operations, at the conclusion of business today, so that it would be the pending business tomorrow.

I am about to change that because I indicated last week that the Flood Control Insurance Act would be taken up on Tuesday, and it may have precedence over the FEA bill.

I make this statement now for the Record in order to let the Senate know that a commitment has been made which will be kept unless a way can be found to avoid it.

Mr. MUSKIE. Mr. President, during consideration of and voting on S. 2772, I ask unanimous consent that the privilege of the floor be granted to the following staff members of the Committee on Public Works: M. Barry Meyer, John W. Yago, Phillip T. Cummings, Leon Billings, Karl Braithwaite, Sally Walker, Charlene Sturbitts, Bailey Guard, Richard Helman, Katherine Cudlipp, Richard Herod and Harold Brayman.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, I ask unanimous consent that the Scott amendment be the first amendment in order when we get to that point in the discussion.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Maine is recognized for 5 minutes.

Mr. MUSKIE. Mr. President, this legislation is the result of 18 days of hearings and 8 executive sessions devoted to the review of the implications of auto emission standards required as result of Clean Air Amendments of 1970. While the language of the bill is simple, its implications are important and complex.

The legislation extends for an additional year the interim emission requirements which the auto industry must meet for the 1975 model year. The effect of this amendment is to postpone for an additional year, the statutory standards established in 1970 for hydrocarbons and carbon monoxide. This amendment also vacates the 1976 interim NOX standard.

The Committee on Public Works is not unaware of the implications of this proposed legislation. Much controversy has surrounded the technology which the auto industry selected to meet statutory emission control requirements. While the catalyst controversy alone raises sufficient questions to urge moderation on the part of the Senate and the Congress, there are other issues regarding emission control requirements.

The committee was concerned with the questions raised about public health-related air quality requirements, fuel economy, oxides of nitrogen emission controls, nitrogen dioxide air quality standards, and transportation control strategies.

This bill would mean something less than a total, national commitment to catalysts—as few as 25 percent and as many as 50 percent of vehicles could meet these standards without catalysts and without fuel economy loss—because noncatalyst cars are small cars.

This bill would vacate 1976 standards which are more stringent than the 1975 interim standards but less stringent than the 1977 standards. Two years' experience with these interim standards will provide ample opportunity to evaluate catalyst issues; evaluate fuel economy questions related to stricter standards; and provide the auto industry with an opportunity to gear their technical efforts and resources to 1977 rather than the present moving target of different standards in 1975, 1976, and 1977.

This bill is a logical outgrowth of the procedure established in the 1970 act; that is, when administrative remedies were exhausted, the Congress would evaluate industry progress and ramifications of the statutory standards. This is the first result of that evaluation. After the NAS studies the committee will have additional recommendations.

The Senate, through the Committee on Public Works, is paying $500,000 to the NAS to evaluate the need for current auto standards from a public health point of view and an evaluation of the cost effectiveness of alternative strategies to deal with auto emission. This bill will place a hold on auto standards for a sufficient period to evaluate the results of those studies. Any more would prejudge those results—any less would foreclose NAS input.

I would like to discuss the history of the issues with which this legislation deals and the basis for committee proposal.

The 1970 Clean Air Amendments (P.L. 91-604) required that all 1975 model cars achieve a reduction in emissions of hydrocarbons and carbon monoxide of 90 percent over the emissions from 1970 model cars. In section 202(b)(5) of the act, the Administrator of the Environmental Protection Agency is authorized to extend the date for compliance with that statutory standard for 1 year, upon a determination that:

> (i) such suspension is essential to the public interest or the public health and welfare of the United States; (ii) all good faith efforts have been made to meet the standards established by this subsection; (iii) the applicant has established that effective control technology, processes, operating methods, or other alternatives are not available or have not been available for a sufficient period of time to achieve compliance prior to the effective date of such standards, and (iv) the study and investigation of the National Academy of Sciences conducted pursuant to subsection (c) and other information available to him has not indicated that technology, processes, or other alternatives are available to meet such standards.

The Administrator made such a determination in April of this year. In accordance with the statute, at that time an interim emission requirement for 1975 model year cars was established. Test procedures for the certification of emission controls on light duty vehicles and engines for model year 1975 have also been established. This legislation provides that the certification procedure for 1976 model cars shall be the same as that for 1975 model cars.

This legislation extends the Environmental Protection Agency interim emission requirements and the implementing test procedures for 1 more year and extends the final date for compliance with the statutory 90-percent reduction of hydrocarbons and carbon monoxide to model year 1977. The statutory standard for oxides of nitrogen will also become effective in model year 1977.

And, this legislation preserves the separate standard established by the administrator for California for model year 1976 as well as model year 1975. The statutory authority for a waiver at the request of the State of California for stricter emission controls in model year 1976 remains in effect.

The available evidence indicates the need to continue efforts to reduce air pollution emissions from automobiles. This finding is confirmed in a preliminary report to the committee from the National Academy of Sciences which concludes regarding present public health-related standards of air quality:

> Present knowledge of health effects appears to afford no compelling basis for suggestions to either raise or lower the currently mandated primary air quality standards at this time.

The available evidence from the Environmental Protection Agency, the National Academy of Sciences and from other independent sources indicates that public health-related air quality standards are no more stringent than needed to protect the health of sensitive groups in our population from the adverse impact of air pollution.

The committee intends to continue its investigation of the validity of health standards which are the basis for the control requirements of the act. A final report from the National Academy of Sciences on the validity of present standards will be available in August, 1974.

This report and associated reports from the Academy on the feasibility of technology to control oxides of nitrogen emissions and on the costs and benefits of alternative strategies to achieve air quality standards will provide the committee with a basis for an evaluation of a number of aspects of the Clean Air Act, including statutory auto emission standards and transportation control strategy requirements.

Conflicting evidence was presented to the committee on the potential impact of unregulated emissions from catalyst-equipped vehicles.

One serious question relates to emissions of sulfates and sulfuric acid from catalyst-equipped vehicles. While there is considerable disagreement as to the validity and implications of available data, the Environmental Protection Agency scientists and contractors have found significant emissions of sulfates and sulfuric acid in tests on catalyst-equipped vehicles. Projections made by agency researchers from this data indicate a potential for roadside concentrations of sulfates and sulfuric acid in excess of those levels required to assure protection of public health.

Information provided the committee indicates that the projections were based on insufficient evidence and did not justify action by the committee which would delay the introduction of catalysts.

Present marketing trends in the industry show that smaller cars will have a large portion of the market by 1975 and 1976. Thus catalyst-equipped vehicles will have a significant on-the-road test without a total national or industry commitment to the technology.

Also, the Environmental Protection Agency is committed to a major field test of the unregulated emissions and other effects of catalyst control systems in California in late 1974 and early 1975. Reports of this full field investigation should be made available to the Congress by April 1975.

Another issue is emission of potentially toxic noble metal compounds. While no substantiated data was submitted as to emissions of such compounds, the committee expects the Environmental Protection Agency, the auto and catalyst manufacturers to direct adequate resources to monitoring the evaluation of this question to ascertain whether pollutants such as platinum compounds are released from catalyst-equipped vehicles in actual use.

The committee underscores the need to continue the development of alternative pollution control strategies and alternative engine systems which have inherently low emissions. Should the concerns expressed regarding unregulated emissions be borne out in field tests and should other alternatives such as desulfurization of oil prove impractical, the Congress will want options available which would permit immediate abandonment of catalyst technology on the model years subsequent to 1976..

Much controversy exists regarding fuel economy or diseconomy associated with auto emission standards required for 1975 and subsequent model year vehicles.

There are two issues involved: the first is the extent to which there will be a significant penalty in crude oil requirements associated with the manufacture of lead-free gasoline. The second is the extent of the penalty or savings associated with catalyst-equipped vehicles.

The committee is satisfied that the fuel penalty associated with production of lead-free gasoline, if any, is not a sufficient justification for abandoning our clean car efforts.

On the other hand, there is little controversy as to the fuel economy relationship between 1975 and 1974 cars. Virtually all testimony received by the Subcommittee on Air and Water Pollution and the Senate Committee on Public Works this year indicates that the poorest fuel economy was achieved with 1973-74 vehicles, in part as a result of exhaust gas recirculation required to reduce oxides of nitrogen levels in intermediate and large cars.

The auto industry testified that the catalyst would permit an increase in engine efficiency and thus a decrease in fuel use. The auto companies agreed that the use of catalysts could permit up to a 5 percent to 6 percent increase in fuel economy depending on the efficiency of the postcombustion emission control system and the extent to which the engine is "detuned" from an emission point of view to maximize fuel economy and performance. General Motors and the Environmental Protection Agency have placed this fuel economy improvement at anywhere from 13 to 18 percent.

The committee believes on the basis of the evidence cited that implementation of the 1975 interim standards would result in improvement of both emission control and fuel economy.

Mr. President, I reserve the remainder of my time.

Mr. BUCKLEY. Mr. President, I yield to the Senator from Tennessee (Mr. BAKER) such time as he may require.

Mr. BAKER. Mr. President, may I begin these remarks by extending my compliments and congratulations to the distinguished chairman of the Subcommittee on Air and Water Pollution and the distinguished ranking minority member—the Senator from Maine and the Senator from New York. They have dealt in detail and carefully with this complex and sometimes emotional question. I believe that in a very responsible and effective way, they guided the subcommittee and, finally, the full committee to a synthesis of viewpoints and ideas that represents an accommodation of practical requirements at this time, together with dedication to our continuing drive for clean air.

I believe that the hallmark of the bill reported by the committee is realism. I believe it is a realistic approach in these difficult times, when energy is a matter of extraordinary importance to us all. I hope, therefore, to support S. 2772, the bill that the Committee on Public Works has reported to amend the Clean Air Act.

As I stated in a speech on the floor of the Senate on December 10, 1973, the proposed legislation, which would continue for one additional year the 1975 interim standards for emissions of hydrocarbons and carbon monoxide from automobiles, is a workable and fair compromise between the continuing need for clean and healthful air and the need to improve the gas mileage of cars.

Great progress has been made since the enactment of the Clean Air Act Amendments of 1970 in reducing harmful automotive emission of pollutants. The largest percentage reductions in major automotive pollutants will not occur until 1975, however, when the use of the catalyst and other systems will provide improved fuel economy and better driveability as well as clean air. In view of these developments, the burden should be upon those who are urging us to go slow in cleaning up emissions to prove that some overriding public purpose will be served by such delay. The Environmental Protection Agency is not convinced that this burden of proof has been carried and so is recommending that no change in automotive standards be made until next spring at the earliest. Similarly, the Committee on Public Works, after extensive hearings and several markup sessions, determined that only a limited 1 year delay could be justified—mainly to allow an orderly phasein of new emission control systems, to permit all segments of the industry to keep pace, to allow continued development of automotive emission control systems other than catalyst systems, and to optimize fuel economy in the process.

Mr. President, I urge each of my Senate colleagues, before they consider any more radical surgery on the provisions of the Clean Air Act, to review the mass of data which the committee has weighed in arriving at S. 2772. None of the other options considered by the committee offered sufficient advantages to justify the risks and costs that would be entailed, in our judgment. For example, continuation of the 1973-1974 emission standards would have the effect of locking the industry into the lowest point on the fuel efficiency and driveability curves and would block progress toward the first significant levels of emission control. Continuation of the 1975 interim standards for more than 1 year or adjustment of the statutory standard for NOX control—now scheduled to take effect in 1977—at this time would have prejudged issues on which the committee will have far better information by next year. There has been some consideration of a two-car strategy in which cars in areas with severe air pollution problems would have to meet a more severe standard than those in areas with cleaner ambient air; no one has been able to provide a workable administrative mechanism for such a strategy. Without indicating in any way what the committee is likely to do, I think it is fair to say that the continuing reexamination of the Clean Air Act likely will mean a continuing series of adjustments to the act to reflect the latest state of our knowledge and to minimize the economic and social effects of our progress toward a cleaner environment.

Mr. President, this is the third response of the committee to its pledge to reexamine the Clean Air Act during this Congress. We have engaged the National Academy of Sciences-National Academy of Engineering to review the basis of the health standards under the act by midyear 1974. We also have provided for short term variances and longer term changes in implementation plans to permit burning of higher sulfur fuels in powerplants and other stationary sources, with appropriate safeguards to insure installation of pollution control equipment.

Early in the next session, the committee will review the entire question of the nitrogen oxide automotive emission standard, the development of technology to control such emissions, and the relationship of NOX emissions from automobiles to those from stationary sources. After hearings and examination of all available evidence on the NOX question, the committee should bring to the Senate the information necessary for responsible action.

In addition to the preamble remarks with respect to the distinguished chairman of the subcommittee and the ranking member, I wish to extend my congratulations and my thanks for his typical cooperation to the chairman of the full committee, Senator RANDOLPH, and to express my appreciation to our colleagues on the committee, on both sides of the aisle, at hearings and in markup, for their excellent cooperation and probing search for a solution to the complex dilemma which presents itself.

It is my understanding that the distinguished Senator from Virginia (Mr. WILLIAM L. SCOTT) will offer an amendment to this bill and that, under the terms and provisions of the unanimous-consent order, time has been allocated to that amendment.

I may say that the approach that Senator SCOTT utilizes, as I understand his amendment, is very similar to the approach of this bill. There are substantial distinctions which I am sure he will explain.

The fact that there is an amendment to this bill in no way discourages me from paying respect and expressing my satisfaction at the substantial unanimity of the approach of the committee; because, in terms of the bill as reported and in terms of the amendment which will be offered by the distinguished Senator from Virginia, we are doing the same thing, in my judgment: We are pursuing in a realistic way our search for a cleaner environment. We are trying to accommodate the agencies of the moment. We are trying to avoid throwing the baby out with the bathwater.

So may I close by extending, once again, my congratulations to the chairman, the chairman of the subcommittee, the ranking member, and all members of the committee for their cooperation in bringing this matter to the floor of the Senate in this legislative form, and/to express my desire that we have an early disposition of the matters before us.

Mr. WILLIAM L. SCOTT. Mr. President, I am prepared to bring up my amendment, but I yield to the Senator from New York, who is carrying the burden on our side.

Mr. BUCKLEY. Mr. President, I appreciate the courtesy of the Senator from Virginia. I shall keep my remarks brief.

In the first instance, I wish to echo the remarks of the Senator from Tennessee as to the deliberate and fair manner in which this committee and the subcommittee has conducted this important work. This is due in great measure to the attitudes and sense of responsibility of the Senator from Maine and the Senator from West Virginia (Mr. RANDOLPH).

Mr. President, I rise to urge my colleagues to accept the action of the Committee on Public Works regarding emission standards for model year 1975 and 1976 automobiles. On balance, I believe this policy will contribute significantly to progress toward the goal of clean air and, at the same time, result in a net savings of petroleum over the continuation of the 1974 standards. I realize this decision was a very controversial one; it was also a most difficult decision. I believe, however, that the committee's action represents a reasonable resolution of often competing national objectives.

This is a complex matter. The committee has worked conscientiously in an attempt to evaluate all the facts. It has resisted the great pressures of the energy crisis in trying to hack away in a wholesale manner some of the great measures we have enacted in order to make sure we are moving ahead with all due speed, with a balanced approach to all of our national objectives.

The recent decision by the committee regarding automobile emissions standards presented me with one of the most difficult choices I have had to make since entering the U.S. Senate. It required making judgments as to a variety of technological, economic, manufacturing, and health issues, often on the basis of conflicting testimony—judgments which are by and large beyond the technical competence of this committee. Our responsibility is to make pollution control policy; we do not make automobiles. Granted that substantial technical testimony was presented to the committee at hearings, and that much information was made available to individual members and our staffs. This information, with few exceptions, was provided by interested parties: the automobile manufacturers—who were divided—and the oil companies—who were not. EPA, which may have come closest to being disinterested, appeared to subordinate scientific advice with respect to technology to policy advice with respect to air quality standards. "Environmental" witnesses tended to understate the social and economic costs of achieving clean air while overstating the costs of any postponement of statutory targets.

The balancing judgment faced by the committee is a responsibility which, in the normal exercise of government regulatory policy, Congress typically vests in the executive branch. Indeed, less than 8 months ago, the Administrator of the Environmental Protection Agency was faced with an almost identical decision. On April 11 Administrator Ruckelshaus opened his "Summary of Decision" with the statement:

> As I view this decision, the issue before me is essentially the most reasonable method by which necessary technology will be installed on automobiles to meet the statutory standards.

What this committee faced was essentially an appeal of the Administrator's judgment with respect to the application of emission technology. In a few short months, the evidence on which he acted had sufficiently changed to warrant another review of the reasonableness of Federal standards for 1975 model automobiles.

The new factors were twofold: First, meeting the interim standards now appears to require a nearly total reliance on the new catalyst technology, as to which some manufacturers have serious reservations; and two, the country is in the grips of an "energy crisis."

With the announcement by EPA Administrator Train on November 6 that he would adhere to the interim standards established for model year 1975, the administrative "string" had run out. Any change in the standards would now have to be made by Congress. Only two choices were available: to proceed to the interim 1975 standards, or to retain the standards applicable to 1973–74 model cars. The first choice necessitates the application of the catalyst technology to a substantial proportion of 1975 model production.

I voted to proceed to the interim 1975 standards because, on balance, I believe this policy, one, will contribute significantly to progress towards the goal of clean air and, two, will result in a net savings of petroleum fuel over the continuation of the 1974 standards.

The legislative "package" offered for the consideration of the Committee included two main features: one, fixing the interim 1975 standards for two model years (1975 and 1976), and two, setting a new statutory standard for oxides of nitrogen at 2.0 grams/mile beginning in model year 1977—the present statutory NOX standard is set at 0.4 g/m beginning in 1977—but providing for administrative discretion to tighten that standard in subsequent years based on a reassessment of the impact of nitrogen oxides on health.

For the purposes of voting, the committee divided this proposal into its two component parts. I voted in favor of both features. The 2-year freeze of the 1975 interim standards succeeded; the establishment of a new statutory NOX standard failed.

I favor the continuation of the 1975 standards for one extra year because I believe it important to provide corporate planners with a degree of stability that is necessary to perfect the technology for automobile emission control. I also believe that manufacturers should know at this time what the standards will be for model year 1976 automobiles in order to design emission controls for nitrogen oxides that are technically compatible with the controls that will be in place for hydrocarbons and carbon monoxide in model 1975 cars. As Mr. Cole of General Motors testified on November 5:

> By August 1974, we will be in production on 1975 models and we simply cannot wait until August 1974 or later to make final commitments on our 1976 control system.

I favored setting the statutory standard for oxides of nitrogen at 2.0 grams/mile, rather than retaining the 0.4 grams/mile standard for model year 1977 for two reasons. One was, again, to signal a degree of stability for planning purposes. Based on my understanding of the testimony before the committee, a level of 2.0 grams/mile for NOX is the one which appears to encourage the pursuit of the broadest range of technological options for achieving emission controls, including alternatives to the catalyst. Manufacturers claim that they do not see how the catalyst system, at this point in its development, can succeed in meeting 0.4 grams/mile NOX in each and every vehicle. Furthermore, while the diesel engine can meet low HC and CO standards with relative ease, testimony before the committee indicates it is very difficult to achieve a NOX standard of less than 2.0 grams/mile. With regard to the Mercedes diesel, Mr. van Winsen of Daimler-Benz told us: "In the long run, it seems to me we could achieve 1.5 grams/mile NOX."

The need to aim at about 2.0 grams/mile standard for NOX in order to pursue the stratified charge technology was repeatedly emphasized at our recent hearings by Mr. Misch of Ford Motor, who stated:

> . . . if by the end of the year or thereabouts Congress would see it appropriate to establish a NOX level of about two grams, then we can pursue an alternate engine program.

On the other side of the coin, the emerging evidence regarding the contribution of NOX emissions from automobiles suggests that relaxing the statutory NOX standard would not have a measurable adverse effect on the level of NOX in the ambient air and would not thereby increase the adverse health hazard from that pollutant.

This is the tentative conclusion of the Environmental Protection Agency upon reexamination of measurement techniques which now indicate that the extent of NOX pollution as a public health problem had been previously overstated. On November 26, EPA Administrator Train tentatively recommended to the committee that EPA rescind the statutory NOX standard and retain the 2.0 grams/mile standard for NOX.

Despite these compelling reasons, the committee failed, by a tie vote, to adopt a standard of 2.0 grams/mile for oxides of nitrogen. All members of the committee recognize, however, that the NOX issues must be reviewed in the near future, and hearings are expected to commence early in the next session of Congress.

To complement the "package" which is described above, I offered an amendment to be regarded as part of the entire proposal. During the recent hearings, many witnesses expressed sincere and deep misgivings about the practical success of the catalyst technology which will be applied, for the first time in everyday use, on most of the 1975 model year production. In view of the fears expressed, and in spite of the enthusiasm of General Motors for its catalyst technology, my amendment, which would have permitted the option of retaining the 1974 emission standards upon payment of a penalty of $75 per car—equivalent to the estimated cost of the catalyst device alone—seemed to be a prudent response to the possibility of failure of the catalyst in practical use. The penalty would be far preferable to the "nuclear deterrent" of foreclosing the sale of all automobiles which failed to meet the 1975 standards.

It would also have offered a significant inducement to the development of alternative ways of attaining the 1975 interim standards.

Given the confidence expressed by General Motors in the performance of its own catalyst technology to improve fuel economy and driveability, it is anticipated that GM would still have chosen to use the catalyst while Chrysler and Ford would be free to continue producing cars which meet the 1974 standards for those heavier models which would otherwise require catalysts. One effect of the $75 penalty would be to moderate the competitive disadvantage between those manufacturers which were clearly capable of meeting the 1975 interim standards and those who maintained serious reservations as to the performance of the catalyst in daily use.

At this point I would like to voice my own reservations about the long-term viability of the catalyst technology in controlling emissions. The catalyst is essentially an add-on device which permits the engine to operate in a "dirty" mode. Except for the catalyst, at least in GM cars, the engine is essentially "uncontrolled" with respect to emissions. Therefore, it is the catalyst and not the engine which bears the full weight of emission control. To maintain the catalyst in peak working order will require a substantial cost to the Government and to the carowner in inspection and maintenance routines. Furthermore, the catalyst's successful performance is dependent on the widespread availability of no-lead gasoline.

Other technologies, which are achievable in the very short run, such as diesel engines or stratified charge engines, "want" to run with low emissions. It is the normal mode for those engines. Furthermore, greater fuel economy is associated with each of these alternatives. Both of these factors—low emissions and fuel economy—can be attributed to the simple fact that they burn the fuel more efficiency and, hence, waste less. I venture that it can be demonstrated that in the long run the present standards can be met more efficiently with alternative engines.

I am also troubled by the emerging evidence that the catalyst may contribute to the formation of sulfates and sulfuric acid mists, due to the sulfur in the gasoline. The Environmental Protection Agency admits a potential problem exists after 2 model years with catalysts. Technical experts from the oil industry seem agreed that the relevant atmospheric chemistry, and the contribution of the catalyst, is clouded in mystery at this time. Some suggest that gasoline could and should be desulfurized if the sulfate problem proves serious. This would, however, substantially add to the total cost of adopting the catalyst technology over some alternative which would not pose the sulfates problem.

During our deliberation, this committee was faced with vexing technical problems and with conflicting testimony with regard to the energy benefits and penalties associated with the need to refine unleaded gasoline.

It is clear, however, that the penalties are more than offset by the greater fuel efficiencies in the 1975 interim standard cars, made possible by catalytic converters.

It is my hope that some of the inconsistencies in testimony will be resolved for us by the studies which the committee has contracted to the National Academy of Sciences for completion in August 1974. The committee recognized that the work being undertaken would not be available for the decision which we have just made. Nevertheless, we expect that the analyses of the costs and benefits of various strategies for air pollution control will be of great value in any future policy decisions by this committee.

I was not a Member of the Congress when the Clean Air Act of 1970 was enacted. With the obvious benefit of hindsight, the experience associated with meeting the deadlines of the act confirms my natural inclination that Congress ought to give serious consideration to alternative tools to implement pollution control policy. I have in mind emission charges or penalties, directly related to the amount of pollutant discharged by the offending source. This approach to the problem of what economists call externalities may be preferable to the brinksmanship which has been the demonstrable result of the combined effect of statutory deadlines and statutory emission standards as applied to the automobile industry.

I am fully cognizant of the costs which we are asking the consumer to assume in moving to the interim 1975 standards. I believe that, given the available options, it was the best of the available choices. However, I am sufficiently unsettled by this recent decision to want seriously to examine policy alternatives, should our judgment ultimately prove incorrect.

Mr. MUSKIE. Mr. President, I yield 5 minutes to the Senator from West Virginia.

Mr. RANDOLPH. Mr. President, the decisions of the Committee on Public Works necessary to bring this bill to the Senate were among the most difficult we have been called on to make.

When the Clean Air Act of 1970 was adopted, this country embarked on a bold new program intended to halt the increasing pollution of the air we breathe. We recognized then that some substantial adjustments would be required to accommodate the new procedures mandated by the Act.

We knew there would be agitation for changes in this statute. Members of the committee knew that if we compromised the commitment inherent in the Clean Air Act by making unwarranted modifications in its provisions, then the total effort would be weakened and its success impaired.

Therefore, we approached the question of automobile emission standards with a determination to examine all aspects of the issue in detail. Beginning last spring, the committee conducted hearings, participated in a number of meetings on both formal and informal bases, and directed its staff to make the additional inquiries necessary to accumulating the data on which to base a reasoned and workable decision.

The legislation now before the Senate represents the sum total of this effort. It takes into account many diverse factors about which there is often less than universal agreement.

The catalytic converter and its effect on fuel consumption has been a matter of dispute. The necessity for maintaining an ongoing pollution control program, as I indicated earlier, is vital.

There are new and better power sources, perhaps, that can be brought into use for motor vehicles. We hope so. We are concerned also with the health of the American people. That is one aspect we must continually consider in connection with motor vehicle emissions.

Mr. President, I think we will consider carefully—I know that I will—the amendment of the distinguished Senator from Virginia (Mr. WILLIAM L. SCOTT), who is a valued member of the committee.

In the 3 years it has been in effect, the Clean Air Act has had a noticeable impact on the quality of the air in this country. The program it initiated, however, was a new one on a scale never before attempted. Under such circumstances, there was need for almost continual congressional review of the act's requirements and the way in which they were implemented.

With respect to automobile emission standards, there were enough questions raised that the committee felt obliged to give this aspect of the air pollution program a searching examination. There were numerous proposals and recommendations that modifications be made. There were those who urged us to refrain from any action that would compromise the cause of cleaner air.

On November 28, the committee—after 2 days of hearings that month and after extensive discussion—approved legislation extending the interim standards for model year 1975 vehicles through 1976. The full implementation of the act in 1977 was left unchanged.

Mr. President, that action, reflected in the bill now before the Senate, is not a retreat. I consider it merely a stretching out of the time for arriving at the statutory standards.

Congress did not require the automobile manufacturers to install catalytic converters on 1975 cars to achieve the interim standards for that year. The choice of technology was made by the companies. There are a number of questions, however, about converter technology that should be answered. The extra year provided in this bill will allow time to improve catalytic converters and to extend research on other types of engines that are both low in emissions and high in fuel economy.

We could not explore the question of pollution control without being acutely cognizant of the current energy supply situation. There has been considerable discussion of the effect of pollution control systems on fuel requirements. Controls installed on cars in the past 2 years have increased their gasoline consumption.

The committee considered this problem carefully and concluded that maintaining the present schedule of compliance with the 1975 interim standards would not materially increase fuel demand. In fact, there was testimony at our hearings that use of catalytic converters would result in increased fuel economy. Although there is some dispute on this point, General Motors—our largest car maker—insists that its 1975 cars equipped with converters will increase mileage per gallon by about 13 percent over this year's models.

We could not, therefore, justify retaining the 1974 standards, as had been urged by some people. The technology is available to provide significant improvement in air quality, and it can be done at little or no cost to fuel usage.

Mr. President, this bill does not represent the final judgment of the Committee on Public Works on this issue. At the same time, it does not necessarily mean that we will recommend further changes in automobile emission standards next year.

We are continuing to exercise our oversight responsibilities and, in this context, have commissioned the National Academy of Science to conduct two exhaustive studies. The reports of these inquiries will be made to the Congress next summer and will provide us with updated information on both the health effects of automobile emissions and the monetary costs of meeting the act's requirements.

Next month our Subcommittee on Air and Water Pollution, under the able chairmanship of the Senator from Maine (Mr. MUSKIE) will conduct hearings on issues relating to the requirements for lowering emissions of oxides of nitrogen. This is one of the most troublesome parts of the automobile pollution effort and one on which there is considerable disagreement. We intend to explore in detail the technology for reducing oxides of nitrogen emissions and the validity of the existing statutory standards for this pollutant. These hearings, scheduled for the week of January 28, also will be concerned with lead phase-down regulations.

Mr. President, automobiles are America's favorite form of transportation. That is why millions of our citizens are concerned with the effects of automobile pollution control legislation. The Congress, therefore, must act responsibly to reduce pollution from cars but without unnecessarily impairing the mobility that we are dependent on to sustain our country.

This bill was one of a series of major legislative measures to be developed by the Committee on Public Works in recent months. The versatility of the collective membership of the committee has been shown on frequent occasions. Great concern with the issues of this legislation was demonstrated by each member as we deliberated the content of the bill. Senator MUSKIE's experience in the pollution field helped to guide our discussions. Senator BAKER, the ranking minority member of the committee, and Senator BUCKLEY, the ranking minority member of the Subcommittee on Air and Water Pollution, made valuable contributions. Major involvement by the other committee members enabled us to report this legislation expeditiously. Senators MONTOYA, GRAVEL, BENTSEN, BURDICK, CLARK, BIDEN, STAFFORD, WILLIAM L. SCOTT, MCCLURE, and DOMENICI all gave concentrated attention to the bill. As chairman of the committee, I am grateful for their dedication and participation.

Mr. BAKER. Mr. President, will the distinguished Senator from Virginia yield 30 seconds to me, to make a unanimous consent request?

Mr. WILLIAM L. SCOTT. Certainly.

Mr. BAKER. Mr. President, I ask unanimous consent that David Clanton, of the staff of the distinguished Republican leader may be entitled to the privileges of the floor during the debate on this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAM L. SCOTT. Mr. President, I call up my amendment which is at the desk and I ask that it be read.

The PRESIDENT pro tempore. Is this the amendment on which there is a time limitation of 1 hour?

Mr. WILLIAM L. SCOTT. Yes, it is, Mr. President.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That (a) section 202(b)(1) of the Clean Air Act is amended—

(1) by striking out in subparagraph (A) "1975" and inserting in lieu thereof "1978";

(2) by striking out "during or after model year 1976" and all that follows in subparagraph (B) and inserting in lieu thereof "during model year 1976 shall contain standards which limit emissions to a maximum of 3.1 grams per vehicle mile of oxides of nitrogen. The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light duty vehicles and engines manufactured during or after model year 1977 shall contain standards which limit emissions to a maximum of 2.0 grams per vehicle mile of oxides of nitrogen."; and

(3) by adding at the end of such paragraph the following new subparagraph:

"(C) Compliance with the regulations prescribed pursuant to this section for model years 1975, 1976, and 1977, shall be measured by certification test procedures prescribed by the Administrator for model year 1975. The regulation for model years 1975, 1976, and 1977 prescribed pursuant to subsection (a) (for carbon monoxide and hydrocarbons) shall impose the same emission standards as are in effect as of December 1, 1973, for model year 1975."

(b) Section 202(b)(5) of the Clean Air Act is repealed.

Mr. WILLIAM L. SCOTT. Mr. President, let me first express my appreciation to the distinguished chairman of our full committee and to the ranking Republican member of the committee for their kind remarks.

In the legislative process, as I see it, reasonable people can have different opinions. I favor the bill before us but doubt that it goes far enough. My amendment would extend the 1975 interim standards for an additional 2 years. An automobile manufacturer would have until the model year 1978 to reduce carbon monoxide and hyrocarbons by 90 percent from the 1970 standards. It would give him a 2-year extension rather than the 1 year provided in this bill. In my opinion, a 1-year extension is not sufficient time to permit the automobile industry to have a choice of methods for reducing air pollution.

This amendment is identical with a provision the other body added to the National Emergency Energy Act last week. It is similar to a bill I introduced in October with a number of cosponsors. That measure provides for a 2-year extension with an option in the administrator of the environmental protection agency to extend it for 1 additional year. However, the House language is used in the present amendment because it has already been agreed to in the other body.

I understand that it also has the support of the administration. In fact, I am told that it has the wholehearted support of the administration.

I would read to the Senate a statement that was made December 5 by the Deputy Director of the Federal Energy Office, John C. Sawhill, just his concluding remarks:

> I fully recognize that we must balance our energy and our environmental objectives. Based upon the presentations and analysis available to me at this time, I conclude that the extension of the 1975 interim standards to model year 1976 and 1977 epitomizes the balance between the objectives of reducing energy consumption and reducing atmospheric pollution. Additional studies should be made of the possibility of freezing the 1973–74 standards.

Mr. President, we all want to reduce air pollution, all of us want a clean environment, but it must be coupled with a realistic view of our present energy situation and the present state of our economy. In my opinion, the automobile industry should have a sufficient leadtime to develop a cleaner and more efficient motor rather than to be compelled to use a dirty motor and to clean up the exhaust by add-on devices.

I believe that is really the crux of the matter—giving the industry time to plan, and not have periodic interruptions in this planning by changes in the law made in the Congress. I feel that this amendment does give time for them to make decisions that must be made.

During hearings last month before our full Committee on Public Works, the spokesmen for the three leading automobile manufacturers were in disagreement as to the wisdom of using a catalytic converter. Under the amendment, there will also be sufficient time to evaluate a report from the National Academy of Sciences and to determine the extent of health damage, if any, of emissions of sulphates and sulphuric acid from catalyst equipped vehicles. At present there appears to be substantial disagreement on that point by the experts. However, to the layman, it appears preferable to strive for a clean motor, burning the fuel as completely as possible for the energy it provides, than to have the pollutant reduced by an add-on device after it has left the engine.

As you know, Mr. President, present law provides that by 1976 there shall also be a 90 percent reduction from the 1971 level of nitrogen oxides emissions. This is discussed in some detail by the knowledgeable Senator from New York (Mr. BUCKLEY) in his supplement to the committee report. I had urged a 2-year extension of this requirement in the committee, plus authorization for the administrator of the Environmental Protection Agency to extend the period for an additional year, but the House language which is adopted as this amendment provides that during or after the 1977 model year, the automobile emission standards shall be no more than two grams of oxides of nitrogen per vehicle mile. I understand the Environmental Protection Agency has recommended this standard as high enough for health protection in ambient air and obtainable without adverse problems within the automobile or petroleum industries.

Mr. President, I believe there are three major matters that must be weighed in the various energy measures coming before the Congress. One, of course, is the effect any legislation or action we take has on the environment. Second, what effect will it have on the energy crisis with which we are confronted? And, third, what effect will it have on the economy? This amendment will not do violence to any of the three. It should tend to prevent further erosion in gasoline mileage and, in fact, give the industry time to perfect a more efficient motor. The identical language has been adopted in another bill by the House. It does have administration support. I urge its approval and ask for the yeas and nays.

The yeas and nays were ordered.

Mr. WILLIAM L. SCOTT. Mr. President, I reserve the remainder of my time, but do want to comment further before the vote on the amendment.

Mr. MUSKIE. Mr. President, I yield myself 5 minutes.

First of all, I think I ought to comment on the administration's alleged position on the amendment of the distinguished Senator from Virginia. He spoke of the administration's wholehearted support for this amendment. He read from a communication presumably from Mr. Simon, who is the new energy administrator.

I think the source of the testimony is significant, Mr. President. There is an inclination, in the name of the energy crisis, to throw overboard values in the environmental field that it has taken us long years to fix as a part of our public policy. Mr. Simon has no responsibilities in that field. His recommendations in the field, I think, therefore, ought to be put in proper perspective.

Unless Mr. Russell Train, Administrator of EPA, does not speak for the administration, it is inaccurate to describe the administration's position as wholehearted support for the pending amendment.

I ask unanimous consent that there be included in the RECORD a letter to the editor dated November 27, 1973, by Mr. Russell Train, Administrator of EPA.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CLEAN AIR BACKFIRE

SIR: I read with interest your editorial entitled, "Clean Air Backfire." After reviewing the information presented, I have concluded that many of the assumptions underlying your statements concerning catalysts are in error. This is especially true in regard to fuel penalties associated with catalysts.

The use of a catalytic control device to meet emission-control standards will definitely save gasoline as compared to the fuel penalties associated with current emission-control systems. For example, it is conservatively estimated that use of catalysts on the majority of the 1975-through-1977-model vehicles to meet the federal emission-control standards will save 151,000 barrels of gasoline per day. This figure includes the penalties associated with the use of lead-free gasoline. In addition, it goes without saying that the use of the catalyst provides for meeting more stringent emission standards and substantially reducing emissions beyond the levels emitted from 1973 and 1974 automobiles.

EFFECTS OF DELAY

If we postpone the implementation of the 1976 nationwide emission standards (95 percent in exhaust emissions reduction), Detroit may attempt to achieve interim 1975 standards (83 percent exhaust emissions reduction) without using the catalyst. Automobile manufacturers have always been more concerned with the sticker price of their vehicles, choosing to ignore improvements which would lower the operating cost. Since the catalyst cost is added to the purchase price, Detroit might choose to achieve the standards without the catalyst, which would reduce fuel economy to 1973 levels. If we adopt a standard which requires the use of catalysts we will substantially reduce emissions and enhance the likelihood of better fuel economy.

Backing off to the interim 1975 California standard (90 percent exhaust emissions reduction) is an option and would require the use of catalysts. While there is some evidence that adopting the California standard nationwide would make possible slight fuel savings, 1–3 percent, when compared with imposing the 1976 statutory requirement (95 percent exhaust emissions reduction) we have good evidence that Detroit could achieve fuel savings in this range using technology which is available now and still achieve the 1976 statutory requirement. We believe that before sacrificing our hard fought air quality goal we should explore alternative ways of improving fuel economy, particularly when you consider that fuel economy will be better in 1977 than in 1973 and our air will be substantially cleaner.

D.C. TRAVEL CUT

To illustrate this point, the Clean Air Act requires that we achieve the primary health standards by 1977. If the 1975 interim standards (83 percent reduction) were implemented in place of the statutory standards (95 percent reduction) on 1976 and 1977 automobiles, Washington, D.C., would have to achieve an additional 11 percent reduction in vehicle miles traveled to meet the health standards by 1977. Since a 13 percent reduction in vehicle miles is already required for the area, accomplishment of the additional reductions is unlikely by 1977. Consequently, the people of the National Capital could be exposed to hazardous levels of pollution for an additional two to three years.

On your point regarding the use of the Honda stratified charge engine, current testing which is being conducted by General Motors shows that the stratified charge system could bring us back to pre-controlled fuel economy levels. This is essentially the level which General Motors believes they can achieve using the catalyst. If the emissions timetable is pushed back, the fuel savings from the catalyst will be lost.

POLLUTION FROM CATALYSTS

Your editorial also mentioned the problem of sulfuric acid mist or sulfate emissions from catalysts and referred to EPA scientists urging a delay in catalyst usage due to this potential problem. EPA has recently completed a preliminary evaluation of this possibility and determined that if high sulfate emissions accompany catalyst usage, a resulting air-quality problem is unlikely to develop for several years. Accordingly, time is available to further evaluate the potential for sulfate emissions from catalysts and to determine the extent to which this will be a problem. If a sulfate emission problem does exist, EPA has several courses of action available to solve the problem and still permit the use of catalysts. These include reducing the sulfur-content levels of lead-free gasoline and modifying the catalytic process to prevent excessive sulfate formation.

In view of the significant reduction in emissions provided by the catalysts, the energy savings associated with its use and our ability to prevent any sulfur-emissions problem which may develop from endangering the public health, EPA believes the emissions standards should be implemented as scheduled.

RUSSELL E. TRAIN,
Administrator, Environmental Protection Agency.

Mr. MUSKIE. Mr. President, a reading of that letter makes clear to anyone that Mr. Train is opposed not only to the amendment offered by the Senator from Virginia but also to the pending bill which has been reported by the committee. Let me read his concluding paragraph. He says:

> In view of the significant reduction in emissions provided by the catalysts, the energy savings associated with its use and our ability to prevent any sulfur-emissions problem which may develop from endangering the public health, EPA believes the emissions standards should be implemented as scheduled.

By that Mr. Train means the 1975 interim standards, the 1976 standards, the 1977 standards, without change—not that Mr. Train is not sensitive to new information or to new understanding that we may develop in the continuing search for data and judgment on these important questions. No; he is simply reflecting the voice of current evaluation of all the questions that have been raised.

The fact is that the 1975 standards which the committee bill would extend for another year represent a fuel economy for all operators of motor vehicles in this country.

Moreover, the 2 years that the committee bill would now give to the industry gives the industry ample time to meet those standards and to move on to the standards which are now fixed in the law for the years beyond 1976.

For example, Senator SCOTT's amendment would freeze in the law until 1978 the 1975 interim standard on hydrocarbons, which is 1.5 grams per mile.

It would freeze into law the interim standard on carbon monoxide which is 15. And it would freeze into law until 1978 the NOX standard of 3.1.

The committee bill, on the other hand, would still retain as the target for 1977 the 0.41 standard for hydrocarbons—and the industry has indicated no great doubt that it can achieve that standard. The standard is 3.4 for carbon monoxide, and again industry has demonstrated its ability to meet that standard.

The NOX standard is the one standard that causes the industry to raise doubts about its own ability to develop adequate technology.

In the committee bill we have frozen the NOX standard at 3.1 for 1975 and 1976. We think that it would be premature to do more than that at this point.

Mr. President, let me emphasize that when we consider the standards of the Clean Air Act of 1970, what we are considering is health-related standards. These were not arbitrary standards picked out of the air to create technological problems for the industry or to create problems for those who operate the vehicles manufactured by the automobile industry. Rather, we sought to identify the performances at which public health would be damaged by given levels of air pollutants transmitted into the atmosphere from motor vehicles.

EPA has maintained those standards since the 1970 Act was enacted into law.

The Senate has authorized a study by the National Academy of Sciences and has appropriated half a million dollars for that purpose. It also had testimony as to the validity of the standard.

The National Academy study was designed to be performed in two stages. First there was to be an interim study which was made available to us this fall. Second, there was to be a more comprehensive study, which we expect to get next summer.

Now, with respect to the interim study, which the National Academy sent to us this fall, I read as follows:

> Present knowledge of health effects appears to afford no compelling basis for suggestions to either raise or lower the currently mandated primary air quality standards at this time.

Mr. President, we have appropriated half a million dollars to test that question. That study is underway, and the industry does not need a study at this point with respect to developing its technology beyond 1976.

There is absolutely no health justification and no technological justification for taking the step which the Senator's amendment would cause us to take today.

The committee has already committed itself to conducting hearings early next year. We expect that they will be conducted in the latter part of January on this whole issue.

EPA submitted its own conclusions on the NOX question the day before the committee reported the pending bill out of committee. There have been no hearings on that EPA report. There is evidence from the Japanese that the NOX problem may be even more serious from a health standpoint than reflected by our own law. The Japanese requirements are even more stringent than ours.

In addition, a week or two ago in California, the subcommittee held hearings at Riverside on the latest available evidence of the damage to the environment from NOX. There was recent evidence of widespread damage to the lettuce crops of California attributable to previously unidentified effects of NOX pollutant.

There is no reason to take a step of this kind unless one just simply panics in the heat of the energy crisis and throws overboard values that have been established after long years of study and careful deliberation to establish a proper balance between doing what is possible and what the health of the country requires.

The Senator's amendment would extend for 1 further year the HC and the carbon monoxide standards which the committee bill would extend for 1 year only. The committee action is all the industry needs.

Mr. President, as a matter of fact, I think one of the companies indicated a willingness to accept a freeze at the level of the California interim standards. And the California interim standard is not the 1.5 covered by the committee amendment or the Senator's amendment, but a 0.9 for hydrocarbons. It is not 15 percent for the carbon monoxides, as provided in the Senator's amendment, but is 9.0. And with respect to NOX, it is 2.0 and not 3.1, as covered by the Senator's amendment.

So, on these counts, Mr. President, the Senator from Virginia may well be able to make the argument he is making today when we do have more evidence. However, we do not have that evidence now. It could be premature to take this step at this time. And its effect would be to freeze the NOX standards at 2.0, not until 1978, but permanently thereafter.

We think the effect may well have a predictable impact on public health which we would regret. There is no reason to take the step now, in terms of the energy crisis and in terms of what we now know are the effects of the pollutants on our environment.

Mr. President, I reserve the remainder of my time.

Mr. BUCKLEY. Mr. President, would the Senator from Maine yield to me?

Mr. MUSKIE. Mr. President, I yield such time as he may require to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. BUCKLEY. Mr. President, I really think I should be asking that my time be allocated 45 percent and 55 percent between the proponents of the amendment and the distinguished chairman of the committee. I say this because, while I think the issues that are involved are extremely difficult, we have received a volume of compelling evidence on this matter.

I have enormous sympathy with the objectives of the Senator from Virginia. And I know that he, too, has sought to balance the compelling objectives in the most prudent way, taking into consideration not only health requirements, but also the other imperatives which we now face.

In point of fact, I voted with him for an amendment that would have frozen the NOX standards to 2.0 for a 2-year period. And this, of course, is an important part of the amendment he has offered.

I would believe, as he does believe, that this would have created a degree of certainty that would have been helpful to the industry in coming up with the most effective design, even though we now have assurances that the committee will consider this particular recommendation shortly after the first of the year.

I will not be able to support the Senator from Virginia for two reasons. First, I am willing to abide by the judgment of the committee on the nitrous oxide standard for the reason that we will be, in fact, having hearings upon the recommendations of EPA. I do believe, knowing this committee and subcommittee as I do, that we will see fast action. We will also be informed by some of the information which the National Academy of Sciences will be marshaling.

So, I believe that what we face here is a deferral rather than a longtime, indefinite postponement of consideration of the advisability of adopting a 2.0 NOX standard.

With respect to the proposal that we extend the 1975 interim standard for 2 years, this may well be something that becomes desirable, but I see no necessity to do so at this time. We are giving the automobile industry here and abroad a comfortable target within which the engineers can work in seeking the most efficient and effective way of meeting those standards, keeping in mind the next stage.

I believe, too, that the public move toward smaller cars, toward cars that are inherently more efficient in their consumption of energy, will have the effect of rendering unnecessary the experimentation with alternatives. I think this is something we will see develop within the next 2 years.

Finally, the experience of this committee has been that breakthroughs have occurred that 6 months earlier had not been predicted by anyone in the industry. We saw this in terms of the utilization and distribution of the catalyst. General Motors, a year or so ago, or even more recently, was testifying that this was not the answer. Now they are wholeheartedly in favor.

I, therefore, do not feel that there is a need at this time to create so large a target, and thereby reduce some of the incentive to the industry to develop more effective ways and alternative ways of achieving our health goals.

For all of those reasons, Mr. President, and with a great deal of reluctance, I shall vote against the amendment offered by the Senator from Virginia, but I do pledge to him that I will continue to work with him in the examination of the NOX standard and a determination as to whether we should enact new legislation to that effect, and I shall continue to keep as open a mind as I can toward the evidence that will be brought to the floor as we move into actual experience with 1975 model cars.

Mr. RANDOLPH. Mr. President, will the Senator yield?

Mr. BUCKLEY. Gladly.

Mr. RANDOLPH. In connection with the comment on the situation that we call the NOX problem, I want to reinforce what the Senator has said, but from the standpoint of the committee itself. We will have hearings very early in the coming session on this subject in the subcommittee. The results of those hearings will, of course, be brought to the full committee, and it will be the desire and the determination of the chairman, of course, working with the members, to bring this matter from the full committee to the Senate itself.

I think that is an assurance which the Senator has given as an individual member, and which I want to reinforce as the chairman of the committee.

I think the able Senator from Virginia must know, and I am sure he does know, that this is a pledge which will be kept from the standpoint of prompt attention to the problem to which his amendment is directed.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House insists upon its amendments to the bill (S. 2589) to declare by congressional action a nationwide energy emergency; to authorize the President to immediately undertake specific actions to conserve scarce fuels and increase supply; to invite the development of local, State, National, and international contingency plans to assure the continuation of vital public services; and for other purposes, requests a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. STAGGERS, Mr. MACDONALD, Mr. MOSS, Mr. ROGERS, Mr. BROYHILL of North Carolina, Mr. BROWN of Ohio, and Mr. HASTINGS were appointed managers of the conference on the part of the House.

The message also announced that the House had disagreed to the amendment of the Senate to the bill (H.R. 7352) to amend section 4082(c) of title 18, United States Code, to extend the limits of confinement of Federal prisoners.

The message further announced that the Speaker had appointed Mr. FREY as a conferee in the conference on the bill (H.R. 9142) to restore, support, and maintain modern, efficient rail service in the Northeast region of the United States; to designate a system of essential rail lines in the Northeast region; to provide financial assistance to certain rail carriers; and for other purposes, vice Mr. HARVEY, resigned.

NATIONAL ENERGY EMERGENCY ACT—MESSAGE FROM THE HOUSE

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2589.

The PRESIDING OFFICER (Mr. HATHAWAY) laid before the Senate the amendments of the House of Representatives to (S. 2589) to declare by congressional action a nationwide energy emergency; to authorize the President to immediately undertake specific actions to conserve scarce fuels and increase supply; to invite the development of local, State, National, and international contingency plans; to assure the continuation of vital public services; and for other purposes, which were to strike out all after the enacting clause, and insert:

That this Act, including the following table of contents, may be cited as the "Energy Emergency Act".

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TITLE I—ENERGY EMERGENCY AUTHORITIES

SEC. 101. PURPOSE.

The purpose of this Act is to call for proposals for energy emergency conservation measures and to authorize specific temporary emergency actions to be exercised to assure that the essential needs of the United States for fuels will be met in a manner which, to the fullest extent practicable, (1) is consistent with existing national commitments to protect and improve the environment, (2) minimizes any adverse impact on employment, (3) provides for equitable treatment of all sectors of the economy, (4) maintains vital services necessary to health, safety, and public welfare, and (5) insures against anticompetitive practices and effects, and preserves, enhances, and facilitates competition in the development, production, transportation, distribution, and marketing of energy resources.

SEC. 102. DEFINITIONS.

For purposes of this Act:

(1) The term "State' means a State, the District of Columbia, Puerto Rico, or any territory or possession of the United States.

(2) The term "petroleum product" means crude oil, residual fuel oil, or any refined petroleum product (as defined in the Emergency Petroleum Allocation Act of 1973).

(3) The term "United States" when used in the geographical sense means the States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States.

(4) The term "Administrator" means the Administrator of the Federal Energy Administration.

SEC. 103. AMENDMENTS TO THE EMERGENCY PETROLEUM ALLOCATION ACT OF 1973.

(a) Section 4 of the Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new subsections:

"(h)(1) If the President finds that, without such action, the objectives of subsection (b) cannot be attained, he may promulgate a rule which shall be deemed a part of the regulation under subsection (a) and which shall provide, consistent with the objectives of subsection (b) an ordering of priorities among users of crude oil, residual fuel oil, or any refined petroleum product, and for the assignment to such users of rights entitling them to obtain any such oil or product in precedence to other users not similarly entitled. A top priority in such ordering shall be the maintenance of vital services (including, but not limited to new housing construction, education, health care, hospitals, public safety, energy production, agricultural operations as defined in paragraph (1)(C) of subsection (b) of this section, collection, transportation and delivery of mail by the United States Postal Service, its lessors, contractors and carriers, and transportation services, which are necessary to the preservation of health, safety, employment, and the public welfare).

"(2) The President shall, by order, in furtherance of the rule authorized pursuant to paragraph (1) of this subsection and consistent with the attainment of the objectives in subsection (b) of this section, cause such adjustments in the allocations made pursuant to the regulation under subsection (a) as may be necessary to provide for the allocation of crude oil, residual fuel oil, or any refined petroleum product in such manner and in such amounts to permit such users to obtain any such oil or product based upon such entitlements.

"(3) The President shall provide for procedures by which any user of such oil or product for which priorities and entitlements are established under paragraphs (1) and (2) of this subsection may petition for review and reclassification or modification of any determination made under such paragraphs with respect to his priority or entitlement. Such procedures may include procedures with respect to local boards as may be established pursuant to section 109(c) of the Energy Emergency Act.

"(4) The President may, by order or rule (which rule shall be deemed a part of the regulation under subsection (a)) require adjustments in the processing operations of any refinery in the United States with respect to the proportions of residual fuel oil or any refined petroleum products produced through such operations if he finds that such adjustments are necessary to assure the production of residual fuel oil or any refined petroleum product in such proportions necessary to attain the objectives of subsection (b) of this section.

"(5) The President shall consult with the Department of Labor, and if there is an increase in the level of unemployment from the level of unemployment in 1973 based upon the average 1973 figures and such increase reasonably results from energy shortages, then the President is urged to take such actions consistent with the provisions of this Act, as he is authorized to take under this Act and any other Acts to encourage full production by the domestic energy industry at levels of investment return which make possible the expansion of facilities required to assure against a protraction in any such increased levels of unemployment.

"(6) For purposes of this subsection, the term 'allocation' shall not be construed to exclude the end-use allocation of gasoline to individual consumers.

"(i)(1) The President may, by order, require the production of crude oil at the producer level at the maximum efficient rate of production.

"(2) The President shall consult the Department of the Interior and with appropriate State governments in order to determine which producers should be reasonably required to produce crude oil at the rates specified in paragraph (1) of this subsection.

"(3) For purposes of this subsection, maximum efficient rate with respect to any oilfield other than oilfields on Federal lands shall be such rate as is determined by the State in which such oilfield is located, and with respect to any oilfield on Federal land shall be such rate as is determined by the Department of the Interior, except that the President may establish after consultation with such State (or with the Department of the Interior, in the case of any oilfield on Federal lands) a maximum efficient rate higher than the rate established by the State or by the Department of the Interior if he determines that such higher maximum efficient rate will not unreasonably impair the ultimate recovery of crude oil or natural gas from any such oilfield under sound engineering and economic principles.

"(4) The President shall direct the appropriate Federal agency to require that all existing and future development plans for oilfields involving Federal leases, permits or other arrangements for production of crude oil on Federal lands shall include or be amended to include effective provisions for the secondary recovery of crude oil, and, to the greatest extent technologically possible consistent with sound engineering and economic principles, for the tertiary recovery of crude oil, before the well is abandoned.

"(j) Notwithstanding any other provision of this Act, or any provision of State or local law with respect to the allocation of gasoline or diesel fuel, there shall be provision for adequate supplies of gasoline, diesel fuel related products for essential and purposeful mobility of persons in the armed services of the United States on military orders, for household moves related to employment or displacement due to unemployment, and for moves due to health, educational opportunities, or other good and sufficient reasons.

"(k)(1) Except as provided in paragraph (3) of this subsection, no provision of the regulation under subsection (a) (including a regulation under subsection (h)) may provide for allocation of any refined petroleum product to any person (including a State or political subdivision thereof, or State or local educational agency) if the product so allocated will be used for the transportation of any public school student to a school farther than the public school closest to his home offering educational courses for the grade level and course of study of the student within the boundaries of the school attendance district wherein the student resides.

"(2) Any energy conservation plan proposed under section 105 of the Energy Emergency Act and any regulation under this section for allocation of petroleum products for transportation of public school students shall have as its purpose conserving refined petroleum products by reducing to the minimum the distance traveled by such students to and from the schools within the school attendance district in which the student resides. Such plans shall be formulated in consultation with the affected State and local education agencies.

"(3) Nothing in this subsection shall prohibit allocation of refined petroleum products for student transportation to relieve conditions of overcrowding; to meet the needs of special education; or where the transportation is within the regularly established neighborhood school attendance areas.

"(4) This subsection shall not take effect until August 1, 1974.

"(l) If any provision of the regulation under subsection (a) provides that any allocation of residual fuel oil or refined petroleum products is to be based on use of such a product or amounts of such product supplied during a historical period, the regulation shall contain provisions designed to assure that the historical period can be adjusted (or other adjustments in allocations can be made) in order to reflect regional disparities in use, or unusual factors influencing use, of the product in the historical period. This subsection shall take effect 30 days after the date of enactment of the Energy Emergency Act."

(b) Section 4(b)(1)(G) of the Emergency Petroleum Allocation Act of 1973 is amended to read as follows:

"(G) allocation of residual fuel oil and refined petroleum products in such amounts and in such manner as may be necessary for the maintenance of exploration for, and production or extraction of—

"(1) fuels, and

"(2) minerals essential to the requirements of the United States, and for required transportation related thereto;".

(c) Section 4(c)(3) of the Emergency Petroleum Allocation Act of 1973 is amended by striking out "or" immediately before "(B)" and by inserting immediately before the period at the end thereof the following: ", or (C) to take into account lessened use of crude oil, residual fuel oil, and refined petroleum products prior to the date of enactment of this Act as a result of unusual regional climatic variations within the United States".

(d) Section 4(g)(1) of the Emergency Petroleum Allocation Act of 1973 is amended by striking out "February 28, 1975" in each case the term appears and inserting in each case "May 15, 1975".

(e) Section 4 of the Emergency Petroleum Allocation Act of 1973 is amended by inserting at the end thereof the following new subsections:

"(l)(1) The President shall transmit any rule (other than any technical or clerical amendments) which amends the regulation (promulgated pursuant to subsection (a) of this section) with respect to end-use allocation authorized under subsection (h) of this section.

"(2) Any such rule with respect to end-use allocation shall, for purposes of subsections (m) and (n) of this section, be treated as an energy action and shall take effect only if such actions are not disapproved by either House of Congress as provided in subsections (m) and (n) of this section.

"(m) DISAPPROVAL OF CONGRESS.—

"(1) For purposes of this subsection, the term 'energy action' means any rule under subsection (l) or repeal of such rule.

"(2) The President shall transmit any energy action (bearing an identification number) to the Congress. The President shall have such action delivered to both Houses on the same day and to each House while it is in session.

"(3) Except as otherwise provided in paragraph (4) of this subsection, an energy action shall take effect at the end of the first period of 15 calendar days of continuous session of Congress after the date on which the plan is transmitted to it unless, between the date of transmittal and the end of the 15-day period, either House passes a resolution stating in substance that that House does not favor the energy action.

"(4) For the purpose of subsection (1) of this section—

"(A) continuity of session is broken only by an adjournment of Congress sine die; and

"(B) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 15-day period.

"(5) Under provisions contained in an energy action, a provision of the plan may be effective at a time later than the date on which the action otherwise is effective.

"(6) An energy action which is effective shall be printed in the Federal Register.

"(n) DISAPPROVAL PROCEDURE.—

"(1) This subsection is enacted by Congress—

"(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by paragraph (2) of this subsection; and they supersede other rules only to the extent that they are inconsistent therewith; and

"(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

"(2) For the purpose of this subsection, 'resolution' means only a resolution of either House of Congress, the matter after the resolving clause of which is as follows: 'That the does not favor the energy action numbered transmitted to Congress by the President on , 19 .', the first blank space therein being filled with the name of the resolving House and the other blank spaces therein being appropriately filled; but does not include a resolution which specifies more than one energy action.

"(3) A resolution with respect to an energy action shall be referred to a committee (and all resolutions with respect to the same plan shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives as the case may be.

"(4)(A) If the committee to which a resolution with respect to an energy action has been referred has not reported it at the end of 5 calendar days after its introduction, it is in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution with respect to the energy action which has been referred to the committee.

"(B) A motion to discharge may be made only by an individual favoring the resolution, is highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same energy action), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same energy action.

"(5)(A) When the committee has reported, or has been discharged from further consideration of, a resolution with respect to an energy action, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(B) Debate on the resolution shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

"(6)(A) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution with respect to an energy action, and motions to proceed to the consideration of other business, shall be decided without debate.

"(B) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to an energy action shall be decided without debate."

SEC. 104. FEDERAL ENERGY ADMINISTRATION.

(a) There is hereby established a Federal Energy Administration, to be headed by a Federal Energy Administrator, who shall be appointed by the President by and with the advice and consent of the Senate. The Administrator may be removed by the President for cause. The Administrator shall serve for a term ending on May 15, 1975. Vacancies in the office of Administrator shall be filled for the remainder of the term of the original Administrator, in the same manner as the original appointment.

(b) The Administrator shall be compensated at the rate provided for level II of the Executive Schedule. Subject to the Civil Service and Classification provisions of title 5, United States Code, the Administrator may employ such personnel as he deems necessary to carry out his functions.

(c) Effective on the date on which the Administrator first takes office (or, if later, on January 1, 1974), all functions, powers, and duties of the President under sections 4, 5, 6, and 9 of the Emergency Petroleum Allocation Act of 1973 (as amended by sections 103, 117, and 118 of this Act), and of any officer, department, agency, or State (or officer thereof) under such sections (other than functions vested by section 6 of such Act in the Federal Trade Commission, the Attorney General, or the Antitrust Division of the Department of Justice), are transferred to the Administrator. All personnel, property, records, obligations, and commitments used primarily with respect to functions transferred under the preceding sentence shall be transferred to the Administrator.

(d) PRICE CONTROL AND SHORTAGES.—The President and the Administrator shall conduct a review of all rulings and regulations issued pursuant to the Economic Stabilization Act to determine if such rulings and regulations are contributing to the shortage of petroleum products, coal, natural gas, and petrochemical feedstocks, and of materials associated with the production of energy supplies, and equipment necessary to maintain and increase the exploration and production of coal, crude oil, natural gas, and other fuels. The results of this review shall be submitted to the Congress within thirty days of the date of enactment of this Act.

(e) Section 27(k) of the Consumer Product Safety Act shall apply to the Administrator. The Federal Energy Administration shall be considered an independent regulatory agency for purposes of chapter 35 of title 44, United States Code.

SEC. 105. ENERGY CONSERVATION PLANS.

(a) Within 30 days of the date of enactment of this Act and from time to time thereafter, the Administrator shall propose one or more energy conservation plans which shall be designed to supplement and be coordinated with actions taken and proposed to be taken under other authority of this or other Acts to result in a reduction of energy consumption to a level which can be supplied by available energy resources. For purposes of this section the term "energy conservation plan" means proposed plans for transportation controls (including highway speed limits, and plans for maximizing car pooling arrangements in all communities and business where applicable), priority allocation plans for energy conserving recyclable raw materials for use within the United States, or other such restrictions on the public or private use of energy (including limitations on energy consumption of businesses) which are necessary to reduce energy consumption. The Administrator shall submit such plans to the Congress for appropriate action.

(b) Energy conservation plans shall provide for the maintenance of vital services (including new housing construction, education, health care, hospitals, public safety, energy production, agricultural operation as defined in paragraph (1)(C) of subsection (b) of section 4 of the Emergency Petroleum Allocation Act of 1973, collection, transportation and delivery of mail by the United States Postal Service, its lessors, contractors and carriers, and transportation services, which are necessary to the preservation of health, safety, and the public welfare).

(c) Plans submitted by the Administrator pursuant to subsection (a) of this section shall provide that, to the maximum extent practicable, proposed restrictions on the use of energy shall be designed to be carried out in such manner so as to be fair and to create a reasonable distribution of the burden of such restrictions on all sectors of the economy, without imposing an unreasonably disproportionate share of such burden on any specific industry, business or commercial enterprise, or on any individual segment thereof and shall give due consideration to the needs of commercial, retail, and service establishments whose normal function is to supply groceries or goods and services of a convenience nature during times of day other than conventional daytime working hours.

(d) Energy conservation plans submitted pursuant to this section shall include proposals to provide for Federally sponsored incentives for the use of public transportation and Federal subsidies to maintain or reduce existing fares and additional expenses incurred because of increased service.

(e) Nothing in this section or any other provision of this Act or of the Emergency Petroleum Allocation Act of 1973 shall be construed as authorizing the imposition of any tax.

SEC. 106. COAL CONVERSION AND ALLOCATION.

(a) PROHIBITION OF USE OF NATURAL GAS AND PETROLEUM PRODUCTS BY CERTAIN USERS.—The Administrator shall, to the extent practicable and consistent with the objectives of this Act, by order, after balancing on a plant-by-plant basis the environmental effects of use of coal against the need to fulfill the purposes of this Act, prohibit, as its primary energy source, the burning of natural gas or petroleum products by any major fuel-burning installation (including any existing electric powerplant) which, on the date enactment of this Act, has the capability and necessary plant equipment to burn coal. Any installation to which such an order applies shall be permitted to continue to use coal as provided in subsection (b) of this section until January 1, 1980. To the extent coal supplies are limited to less than the aggregate amount of coal supplies which may be necessary to satisfy the requirements of those installations which can be expected to use coal (including installations to which orders may apply under this subsection), the Administrator shall prohibit the use of natural gas and petroleum products for those installations where the use of coal will have the least adverse environmental impact.

A prohibition on use of natural gas and petroleum products under this subsection shall be contingent upon the availability of coal, coal transportation facilities, and the maintenance of reliability of service in a given service area. The Administrator may require that fossil-fuel-fired electric powerplants in the early planning process, other than combustion gas turbine and combined cycle units, be designed and constructed so as to be capable of using coal as a primary energy source instead of or in addition to other fossil fuels. No fossil-fuel-fired electric powerplant may be required under this section to be so designed and constructed, if (1) to do so would be unreasonable or would result in an impairment of reliability or adequacy of service, or (2) if an adequate and reliable supply of coal is not available and is not expected to be available. In considering whether a conversion requirement under this subsecton is unreasonable, the Administrator shall consider the existence and effects of any contractual commitment for the construction of such facilities and the availability of compensation or tax relief for any capital loss incurred through such conversion requirement.

(b) USE OF COAL.—

(1) Except as provided in paragraph (2), any electric powerplant (A) which is prohibited from using petroleum products or natural gas by reason of an order issued under subsection (a), or which has voluntarily begun conversion to the use of coal during the period 90 days prior to the effective date of this Act and (B) which converts to the use of coal, shall not, until January 1, 1980, be prohibited from burning coal which is available to such source by any fuel or emission limitation, if the Administrator of the Environmental Protection Agency approves, after notice to interested persons and opportunity for presentation of views (including oral presentation), a plan submitted by the person who operates such plant. A plan submitted under the preceding sentence shall be approved only if it provides (A) that such plant shall make such use of control technology as may be necessary to enable such plant to come into compliance with national ambient air quality standards to which the suspension applied, as expeditiously as practicable; (B) for a schedule described in section 119(a)(2)(A)(iii) of the Clean Air Act (excluding section 119(a)(2)(B)(i)); and (C) that such plan will, during the period beginning on the effective date of the approval of the plan and ending at the time such plant complies with such stationary source of fuel or emission limitation, comply with interim requirements which the Administrator of the Environmental Protection Agency shall prescribe to assure that such source will not materially contribute to a significant risk to public health. Such Administrator shall approve any such plan before May 14, 1974, or if later, 60 days after such plan is submitted.

(2) Nothing in paragraph (1) shall prohibit the Administrator of the Environmental Protection Agency or a State or local agency, to the extent practicable after notice to interested persons and opportunity for presentation of views (including oral presentations), (A) from prohibiting the use of coal by such a source to which paragraph (1) applies if such Administrator or any such agency determines that the use of coal by such source is likely to materially contribute to a significant risk to public health; or (B) from requiring such source to use a particular grade of coal of any particular type, grade, or pollution characteristic, if such coal is available to such source.

(3) For purposes of this subsection, the term "fuel or emission limitation" means any emission limitation, schedule, or timetable for compliance, or other requirement, which is prescribed under any Federal, State, or local law or regulation (including the Clean Air Act) and which is designed to limit stationary source emissions resulting from combustion of fuels (including a restriction on the use or content of fuels).

(c) COAL ALLOCATION AUTHORITY.—The Administrator may by rule prescribe a system for allocation of coal to users thereof in order to attain the objectives specified in section 4(b) of the Emergency Petroleum Allocation Act of 1973 and of section 205 of this Act. Any rule prescribed under this subsection shall be deemed to be part of the regulation.

(d) EXPIRATION.—The authority under this section (other than subsection (b)) shall expire on May 15, 1975.

SEC. 107. REGULATED CARRIERS.

(a) AGENCY AUTHORITY.—The Interstate Commerce Commission (with respect to common or contract carriers subject to economic regulation under the Interstate Commerce Act), the Civil Aeronautics Board, and the Federal Maritime Commission shall, for the duration of the period beginning on the date of enactment of this Act and ending on May 15, 1975, have authority to take any action for the purpose of conserving energy consumption in a manner found by such Commission or Board to be consistent with the objectives and purposes of the Acts administered by such Commission or Board on its own motion or on the petition of the Administrator which existing law permits such Commission or Board to take upon the motion or petition of any regulated common or contract carrier or other person.

(b) The Interstate Commerce Commission shall, by expedited proceedings, adopt appropriate rules under the Interstate Commerce Act which eliminate restrictions on the operating authority of any motor common carrier of property which require excessive travel between points with respect to which such motor common carrier has regularly performed service under authority issued by the Commission. Such rules shall assure continuation of essential service to communities served by any motor common carrier.

(c) The Interstate Commerce Commission shall by expedited proceedings adopt appropriate rules under the Interstate Commerce Act which will contribute to conserving energy by eliminating discrimination against the shipment of recyclable materials in rate structures and other Commission practices.

(d) REPORTS.—Within sixty days after the date of enactment of this Act, the Civil Aeronautics Board, the Federal Maritime Commission, and the Interstate Commerce Commission shall report separately to the appropriate committees of the Congress on the need for additional regulatory authority in order to conserve fuel during the period beginning on the date of enactment of this Act and ending on May 15, 1975, while continuing to provide for the public convenience and necessity. Each such report shall identify with specificity—

(1) the type of regulatory authority needed;

(2) the reasons why such authority is needed;

(3) the probable impact on fuel conservation of such authority;

(4) the probable effect on the public convenience and necessity of such authority; and

(5) the competitive impact, if any, of such authority.

Each such report shall further make recommendations with respect to changes in any existing fuel allocation programs which are deemed necessary to provide for the public convenience and necessity during such period.

SEC. 108. DELEGATION OF AUTHORITY.

The Administrator may delegate all or any of his functions under this Act or the Emergency Petroleum Allocation Act of 1973 to any officer or employee of the Federal Energy Administration as he deems appropriate. The Administrator may delegate any of his functions relative to implementation of regulations and energy conservation plans under this Act or the Emergency Petroleum Allocation Act of 1973 to officers of a State, or to State or local boards of balanced composition reflecting the makeup of the community as a whole. Section 5(b) of the Emergency Petroleum Allocation Act of 1973 is repealed, effective on the effective date of transfer of functions under such Act to the Administrator.

SEC. 109. ADMINISTRATION.

(a) ADMINISTRATIVE PROCEDURE.—

(1) Subject to paragraphs (2), (3), and (4) of this subsection the provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply to any rule or order (including a rule or order issued by a State or officer thereof) under this title except with respect to any rule or order pursuant to section 107 of this Act, section 205 (a), (b), (c), and (d) of this Act, or section 4(h) or

4(i) of the Emergency Petroleum Allocation Act of 1973, or under the authority of any energy conservation plan.

(2) Notice of any proposed rule or order described in paragraph (1) shall be given by publication of such proposed rule or order in the Federal Register. In each case, a minimum of ten days following such publication shall be provided for opportunity to comment; except that the requirements of this paragraph as to time of notice and opportunity to comment may be waived where strict compliance is found to cause serious impairment to the operation of the program to which such rule or order relates and such findings are set out in detail in such rule or order.

(3) In addition to the requirements of paragraph (2), if any rule or order described in paragraph (1) is likely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses, an opportunity for oral presentation of views, data, and arguments shall be afforded. To the maximum extent practicable, such opportunity shall be afforded prior to the implementation of such rule or order, but in all cases such opportunity shall be afforded no later than 45 days after the implementation of any such rule or order. A transcript shall be kept of any oral presentation.

(4) Any officer or agency authorized to issue rules or orders described in paragraph (1) shall provide for the making of such adjustments, consistent with the other purposes of this Act or the Emergency Petroleum Allocation Act of 1973 (as the case may be), as may be necessary to prevent special hardships, inequity, or an unfair distribution of burdens and shall in rules prescribed by it establish procedures which are available to any person for the purpose of seeking an interpretation, modification, or rescission of, or an exception to or exemption from, such rules and orders. If such person is aggrieved or adversely affected by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the officer or agency and may obtain judicial review in accordance with subsection (b) when such denial becomes final. The officer or agency shall, in rules prescribed by it, establish appropriate procedures, including a hearing where deemed advisable, for considering such requests for action under this paragraph.

(b) Judicial Review.—Any interested person (including a State or political subdivision thereof) may obtain judicial review of any rule or order described in subsection (a)(1) of this section in accordance with chapter 7 of title 5, United States Code. Review of a rule may be obtained in the Temporary Emergency Court of Appeals. Review of a rule or order shall be pursuant to the procedures of section 211 of the Economic Stabilization Act of 1970.

(c) Local Boards.—

(1) The Administrator may by rule prescribe procedures for State or local boards which carry out functions under this Act or the Emergency Petroleum Allocation Act of 1973. Such procedures shall apply to such boards in lieu of subsection (a), and shall require that prior to taking any action, such boards shall take steps reasonably calculated to provide notice to persons who may be affected by the action, and shall afford an opportunity for presentation of views (including oral presentation of views where practicable) at least 10 days before taking the action. Such boards shall be of balanced composition reflecting the makeup of the community as a whole.

Sec. 110. Prohibited Acts.

It shall be unlawful—

(1) for any person, who is engaged in the business of marketing or distributing diesel fuel to trucks on bona fide cargo runs, to deny to such trucks full fill-ups of fuel, unless—

(A) there is in effect under this Act, the Emergency Petroleum Allocation Act of 1973, or any other Act an end-use allocation regulation which restricts such full fill-ups by such person to such trucks, or

(B) such person has no such fuel available for sale;

(2) to violate any order under section 106;

(3) to violate any rule under the first sentence of section 123; or

(4) to violate any order of the Renegotiation Board issued pursuant to its authority under section 117 of this Act.

Sec. 111. Enforcement.

(a) Criminal Penalty.—Whoever willfully violates any provision of section 110 shall be fined not more than $5,000 for each violation.

(b) Civil Penalty.—Whoever violates any provision of section 110 shall be subject to a civil penalty of not more than $2,500 for each violation.

(c) Injunctive and Other Relief.—Whenever it appears to any person authorized by the Administrator to exercise authority under this Act that any individual or organization has engaged, is engaged, or is about to engage in acts or practices constituting a violation of any provision of section 110, such person may request the Attorney General to bring an action in the appropriate district court of the United States to enjoin such acts or practices, and upon a proper showing a temporary restraining order or a preliminary or permanent injunction shall be granted without bond. Any such court may also issue mandatory injunctions commanding any person to comply with such provision of section 110.

(d) Private Relief.—Any person suffering legal wrong because of any act or practice arising out of any violation of section 110 may bring an action in a district court of the United States, without regard to the amount in controversy, for appropriate relief, including an action for a declaratory judgment or writ of injunction. Nothing in this subsection shall authorize any person to recover damages.

Sec. 112. Grants to States.

There are authorized to be appropriated such sums as may be necessary for the purpose of making grants to States to which the Federal Energy Administrator has delegated authority under section 109 of this Act. The Administrator shall make such grants upon such terms and conditions as he may prescribe.

Sec. 113. Fair Marketing of Petroleum Products.

The Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new section:

"FAIR MARKETING OF REFINED PETROLEUM PRODUCTS

"Sec. 8. (a) As used in this section:

"(1) The term 'commerce' means commerce between a State and a point outside such State.

"(2) The term 'marketing agreement' means that portion of an agreement or contract between a refiner and a branded independent marketer (A) which authorizes such marketer to market or distribute refined petroleum products using a trademark, trade name, service mark, or other identifying symbol or name owned by such refiner, or (B) which authorizes such marketers to occupy premises owned, leased, or in any way controlled by a refiner, for the purposes of marketing or distributing refined petroleum products, or (C) which authorizes both.

"(3) The term 'person' means an individual or a corporation, partnership, joint-stock company, business trust, association, or any organized group of individuals whether or not incorporated.

"(4) The term 'refiner' includes any person (other than a branded independent marketer) who controls, is controlled by, or under common control with, a refiner. For purposes of the preceding sentence, the term 'control' does not include control solely by means of a supply contract.

"(5) The term 'State' means any State, the District of Columbia, the Commonwealth of Puerto Rico, and any organized territory or possession of the United States.

"(6) The term 'to terminate' includes to cancel or to fail to renew.

"(b) The following conduct is prohibited:

"(1) A refiner shall not terminate a marketing agreement unless he furnishes prior notification pursuant to this paragraph to each branded independent marketer to which such termination applies. Such notification shall be in writing and shall be accomplished by certified mail to each such marketer; shall be furnished not less than ninety days prior to the date on which such agreement will be terminated; and shall contain a statement of intention to terminate together with the reasons therefor, the date on which such termination shall take effect, and a statement of any remedy or remedies available to such marketer under this section, together with a summary of the provisions of this section.

"(2) A refiner shall not terminate a marketing agreement unless the branded independent marketer to which such termination applies failed to comply substantially with one or more essential and reasonable requirements of such marketing agreement or failed to act in good faith in carrying out the terms of such agreement; except that such refiner may terminate such agreement if he does not, during the 3-year period which begins on the date of such termination, engage in the sale of any refined petroleum product in commerce for sale other than for resale in any relevant market within such branded independent marketer operated.

"(c)(1) A branded independent marketer may maintain a suit under this section against a refiner who engages in conduct prohibited by subsection (b), whose actions affect commerce, and whose products he sells or has sold, directly or indirectly, under a marketing agreement.

"(2) The court may award to any branded independent marketer actual damages resulting from the termination of a marketing agreement together with such equitable relief (including interim equitable relief and punitive damages) as may be appropriate, including declaratory judgments and mandatory or prohibitive injunctive relief. The court may, unless such suit is frivolous, direct that costs, including a reasonable attorney's fee, be paid by the defendant.

"(d) A suit under this section may be brought in the district court of the United States for any district in which the plaintiff resides, is found, or is doing business, without regard to the amount in controversy. No suit shall be maintained under this section unless commenced within four years after the date of the termination of such marketing agreement.".

Sec. 114. Voluntary Energy Conservation Agreements.

(a) Within fifteen days of the date of enactment of this Act, the Administrator, in consultation with the Attorney General and the Federal Trade Commission, shall promulgate, by rule, standards and procedures by which retail or service establishments may develop and implement voluntary agreements to promote energy conservation by limiting the operating hours of such retail or service establishments, adjusting retail store delivery schedules, and by taking such other actions as the Administrator, after consultation with the Attorney General and the Federal Trade Commission, by rule determines to be necessary and appropriate to accomplish the objectives of this Act.

(b) The standards and procedures under subsection (a) shall be promulgated pursuant to section 553 of title 5, United States Code. They shall provide, among other things, that—

(i) A written copy of any agreement under this section shall be submitted to the Attorney General and the Federal Trade Commission and be available for public inspection;

(ii) Meetings held to develop and implement an agreement under this section shall permit attendance by interested persons and shall be preceded by timely notice to the Attorney General, the Federal Trade Commission, and to the public in the affected community;

(iii) Interested persons shall be afforded an opportunity to present, in writing and orally, data, views, and arguments at such meetings; and

(iv) A written summary of the proceedings of any such meeting together with copies of any written data, views, and arguments presented by interested persons shall be submitted to the Attorney General and the Federal Trade Commission and be available for public inspection.

(c) Actions taken in good faith, in accordance with this section and rules promulgated hereunder, to develop and implement a voluntary energy conservation agreement shall not be construed to be within the prohibitions of the antitrust laws of the United States, the Federal Trade Commission Act, or similar State statutes.

(d) Any voluntary agreement entered into pursuant to this section shall be submitted in writing to the Attorney General ten days before being implemented. The Attorney General, at any time, on his motion or upon the request of any interested person, may disapprove any such voluntary agreement and thereby withdraw prospectively the immunity conferred by subsection (c).

(e) As used in this section—

(i) The term "voluntary agreement" shall not pertain to, or govern the conduct of, activities relating to the marketing and distribution of any petroleum product.

(ii) The term "retail or service establishment" shall mean an establishment 75 per centum of whose annual dollar volume of sales of goods or services (or both) is not for resale and is recognized as retail sales or services in the particular industry, as determined by the Attorney General.

(f) The Attorney General and the Federal Trade Commission shall each submit to the Congress and to the President at least once every six months a report on the impact on competition and on small business of the voluntary agreements authorized by this section.

(g) The authority granted by this section (including any immunity under subsection (c)) shall terminate on May 15, 1975.

SEC. 115. PROHIBITIONS ON UNREASONABLE ALLOCATION REGULATIONS.

Action taken under authority of this Act, the Emergency Petroleum Allocation Act of 1973, or other Federal law resulting in the allocation of refined petroleum products and electrical energy among users or resulting in restrictions on use of refined petroleum products and electrical energy, shall be equitable, shall not be arbitrary or capricious, and shall not unreasonably discriminate among users: *Provided*, That, with respect to allocations of petroleum products applicable to the foreign trade and commerce of the United States, no foreign corporation or entity shall receive more favorable treatment in the allocation of petroleum products than that which is accorded by its home country to United States citizens engaged in the same line of commerce, and allocations shall contain provisions designed to foster reciprocal and nondiscriminatory treatment by foreign countries of United States citizens engaged in foreign commerce.

SEC. 116. USE OF CARPOOLS.

(a) The Secretary of Transportation shall encourage the creation and expansion of the use of carpools as a viable component of our nationwide transportation system. It is the intent of this section to maximize the level of carpool participation in the United States.

(b) The Secretary of Transportation is directed to establish within the Department of Transportation an "Office of Carpool Promotion" whose purpose and responsibilities shall include—

(1) responding to any and all requests for information and technical assistance on carpooling and carpooling systems from units of State and local governments and private groups and employees;

(2) promoting greater participation in carpooling through public information and the preparation of such materials for use by State and local governments;

(3) encouraging and promoting private organizations to organize and operate carpool systems for employees;

(4) promoting the cooperation and sharing of responsibilities between separate, yet proximately close, units of government in coordinating the operations of carpool systems; and

(5) promoting other such measures that the Secretary determines appropriate to achieve the goal of this subsection.

(c) The Secretary of Transportation shall encourage and promote the use of incentives such as special parking privileges, special roadway lanes, toll adjustments, and other incentives as may be found beneficial and administratively feasible to the furtherance of carpool ridership, and consistent with the obligations of the State and local agencies which provide transportation services.

(d) The Secretary of Transportation shall allocate the funds appropriated pursuant to the authorization of subsection (f) according to the following distribution between the Federal and State or local units of government:

(1) The initial planning process—up to 100 percent Federal.

(2) The systems design process—up to 100 percent Federal.

(3) The initial startup and operation of a given system—60 percent Federal and 40 percent State or local with the Federal portion not to exceed 1 year.

(e) Within 12 months of the date of enactment of this Act, the Secretary of Transportation shall make a report to Congress of all his activities and expenditures pursuant to this section. Such report shall include any recommendations as to future legislation concerning carpooling.

(f) The sum of $1,000,000 is authorized to be appropriated for the conduct of programs designed to achieve the goals of this section, such authorization to remain available for 2 years.

(g) For purposes of this section, the terms "local governments" and "local units of government" include any metropolitan transportation organization designated as being responsible for carrying out section 134 of title 23, United States Code.

(h) As an example to the rest of our Nation's automobile users, the President of the United States shall take such action as is necessary to require all agencies of Government, where practical, to use economy model motor vehicles: *Provided*, That, the aggregate number of fuel inefficient passenger motor vehicles purchased by all executive agencies in fiscal year 1975 may not exceed 30 per centum of the aggregate number of passenger motor vehicles purchased by all executive agencies in such year; and the aggregate number of fuel inefficient passenger motor vehicles purchased by all executive agencies in fiscal year 1976 may not exceed 10 per centum of the aggregate number of passenger motor vehicles purchased by all executive agencies in such year. For purposes of this subsection, the term "fuel inefficient passenger motor vehicle" for fiscal year 1975 means an automobile which does not achieve at least seventeen miles per gallon as certified by the Department of Transportation; for fiscal year 1976, and thereafter, the term "fuel inefficient passenger motor vehicle" means an automobile which does not achieve at least twenty miles per gallon, as certified by the Department of Transportation: *Provided further*, That, the aggregate number of fuel inefficient passenger motor vehicles purchased by or for the Legislative and Judicial Branches of the Federal Government and for all Departments in the Executive Branch may not exceed 30 per centum of the aggregate number of passenger motor vehicles purchased by each such Branch in such year; and the aggregate number of fuel inefficient passenger motor vehicles purchased by each such Branch in fiscal year 1976 may not exceed 10 per centum of the aggregate number of passenger motor vehicles by each such Branch in each such year. For purposes of this subsection the term, fuel inefficient passenger motor vehicle for fiscal year 1975 means an automobile which does not achieve at least seventeen miles per gallon as certified by the Department of Transportation; for fiscal year 1976, and thereafter, the term fuel inefficient passenger motor vehicle means an automobile which does not achieve at least twenty miles per gallon, as certified by the Department of Transportation.

(i)(1) The President shall take action to require that no Federal official or employee in the executive branch below the level of Cabinet officer be furnished a limousine for individual use. The provisions of this subsection shall not apply to limousines furnished for use by officers or employees of the Federal Bureau of Investigation, or to those persons whose assignments necessitate transportation by limousines because of diplomatic assignment by the Secretary of State.

(2) For purposes of this subsection, the term "limousine" means a type 6 vehicle as defined in the Interim Federal Specifications issued by the General Services Administration, December 1, 1973.

SEC. 117. PROHIBITION ON PRICE GOUGING.

(a) Section 4 of the Emergency Petroleum Allocation Act of 1973 (as amended by section 193 of this Act) is further amended to prevent price gouging with respect to sales of crude oil, residual fuel oil, refined petroleum products, and coal, including sales of diesel fuel to motor common carriers by adding at the end thereof the following new subsection:

"(m)(1) The President shall exercise his authority under this Act and under the Economic Stabilization Act of 1970 so as to specify prices for sales of crude oil, refined petroleum products, residual fuel oil, produced in or imported into the United States, which avoid windfall profits by sellers.

"(2) Any interested person, who has reason to believe that any price (specified under any of the authorities referred to in paragraph (1) of this subsection) of crude oil, refined petroleum products, residual fuel oil, permits a seller thereof any windfall profits, may petition the Renegotiation Board (created by section 107(a) of the Renegotiation Act of 1951 and hereinafter in this subsection referred to as the 'Board') for a determination under subparagraph (A) or (B) or paragraph (3).

"(3)(A) Upon petition of any interested person, the Board may by rule determine, after opportunity for oral presentation of views, data, and arguments, whether the price (specified under any of the authorities referred to in paragraph (1)) of crude oil, any refined petroleum product, residual fuel oil, or coal, permits sellers thereof to receive windfall profits. Upon a final determination of the Board that such price permits windfall profits to be so received, it shall specify a price for the sales of such item which will not permit such profits to be received by such sellers. After such a final determination, no higher price may be specified for sales of such item (under any of the authorities specified in paragraph (1)) except with the approval of the Board.

"(B) Upon petition of any interested person and notwithstanding any proceeding or determination under subparagraph (A), the Board may determine whether the price charged by a particular seller of crude oil, any refined petroleum product, residual fuel oil, permitted such seller to receive windfall profits. If, on the basis of such petition, the Board has reason to believe that such price has permitted such seller to receive windfall profits, it may order such seller to take such actions (including the escrowing of funds) as it may deem appropriate to assure that sufficient funds will be available for the refund of windfall profits in the event there is a final determination by the Board under this subparagraph that such seller has received windfall profits. Prior to a final determination under this subparagraph, such seller shall be afforded a hearing in accordance with the procedures required by section 554 of title 5, United States Code. Upon a final determination of the Board that such price permitted such seller to receive windfall profits, the Board shall order such seller to refund an amount equal to such windfall profits to the persons who have purchased from such seller the items the price of which resulted in such windfall profits. If such persons are not reasonably ascertainable, the Board shall order, for the purpose of refunding such profits, the seller to reduce the price for future sales of the item the price of which resulted in windfall profits, to create a fund against which previous purchases of such item may file a claim under rules which shall be prescribed by the Board, or to take such other action as the Board may deem appropriate.

"(C) Notwithstanding section 108 of the Renegotiation Act of 1951 and section 211 of the Economic Stabilization Act of 1970, any final determination under subparagraph (A) or (B) shall be subject to judicial review in accordance with sections 701 through 706 of title 5, United States Code.

"(4) (A) The Board may provide, in its discretion under regulations prescribed by the Board, for such consolidations as may be necessary or appropriate to carry out the purposes of this subsection.

"(B) The Board may make such rules, regulations, and orders as it deems necessary or appropriate to carry out its functions under this subsection.

"(5) The determination and approval authority of the Board under this paragraph may not be delegated or redelegated pursuant to section 107(d) of the Renegotiation Act of 1951 to any agency of the Government other than an agency established by the Board.

"(6) For the purposes of subparagraph (B) of paragraph (3), the term 'windfall profits' means that profit (during an appropriate accounting period as determined by the Board) derived from the sale of crude oil, any refined petroleum product, residual fuel oil, determined by the Board to be in excess, of the lesser of—

"(A) a reasonable profit with respect to the particular seller as determined by the Board upon consideration of—

"(i) the reasonableness of its costs and profits with particular regard to volume of production;

"(ii) the net worth, with particular regard to the amount and source of capital employed;

"(iii) the extent of risk assumed;

"(iv) the efficiency and productivity, particularly with regard to cost reduction techniques and economies of operation; and

"(v) other factors the consideration of which the public interest and fair and equitable dealing may require which may be established and published by the Board; or

"(B) the greater of—

"(i) the average profit obtained by all sellers for the particular item during the calendar years 1967 through 1971; or

"(ii) the average profit obtained by the particular seller for the particular item during such calendar years.

"(7) Except as provided in paragraph (4), for the purposes of this subsection, the term 'windfall profits' means profit in excess of the average profit obtained by all sellers for the particular item during the calendar years 1967 through 1971.

"(8) For the purposes of this subsection, the term 'interested person' includes the United States, any State, and the District of Columbia.

"(9) This subsection shall not apply to the first sale of crude oil described in subsection (e) (2) of this section (relating to stripper wells)."

"(b) Notwithstanding any other provision of law, administrative proceedings before the Board under section ( ) of the Emergency Petroleum Allocation Act of 1973 shall be governed by subchapter II of chapter 5 of title 5, United States Code, and such proceeding shall be reviewed in accordance with chapter 7 of such title.

"(10) Any action or proceeding under subsections (3) (A) and (B) of this section to determine windfall profits or to recover windfall profits under this Act must be brought within one year after the expiration of this 'Emergency Energy Act' or any extension thereof. Further, it is expressly provided that windfall profits as defined in this section refer only to profits earned during the period beginning with the enactment of this Act and ending on the date of the expiration of this Act, or any extension thereof."

SEC. 118. IMPORTATION OF LIQUEFIED NATURAL GAS.

The Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new section:

"SEC. 9. Notwithstanding the provisions of section 3 of the Natural Gas Act (or any other provisions of law) the President may by order, on a finding that such action would be consistent to the public interest, authorize on a shipment-by-shipment basis the importation of liquefied natural gas from a foreign country: *Provided, however*, That the authority to act under this section shall not permit the importation of liquefied natural gas which had not been authorized prior to the date of expiration of this Act and which is in transit on such date."

SEC. 119. DEVELOPMENT OF ADDITIONAL ELECTRIC POWER RESOURCES

Not later than ninety days after the date of enactment for this Act, the President shall prepare and submit to Congress a plan for the development of the hydroelectric power solar energy, and geothermal resources of the United States by Federal and non-Federal interests. Such a plan shall provide for the expeditious completion of projects already authorized by Congress and for the planning of other projects designed to utilize available hydroelectric power, solar energy, and geothermal resources, including tidal power and pumped storage.

SEC. 120. ANTITRUST PROVISIONS.

(a) Except as specifically provided in subsection (i), no provision of this Act shall be deemed to convey to any person subject to this Act any immunity from civil and criminal liability or to create defenses to actions, under the antitrust laws.

(b) As used in this section, the term "antitrust laws" means—

(1) the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 (15 U.S.C. 1 et seq.), as amended;

(2) the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 12 et seq.), as amended;

(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.) as amended;

(4) sections 73 and 74 of the Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes", approved August 27, 1894 (15 U.S.C. 8 and 9), as amended; and

(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

(c) (1) To achieve the purposes of this Act, the Administrator may provide for the establishment of such advisory committees shall be subject to the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C. App. I), whether or not such Act or any of its provisions expires or terminates during the term of this Act or of such committees, and in all cases shall be chaired by a regular full-time Federal employee and shall include representatives of the public. The meetings of such committees shall be open to the public.

(2) A representative of the Federal Government shall be in attendance at all meetings of any advisory committee established pursuant to this section. The Attorney General and the Federal Trade Commission shall have adequate advance notice of any meeting and may have an official representative attend and participate in any such meeting.

(3) A full and complete verbatim transcript shall be kept of all advisory committee meetings, and shall be taken and deposited, together with any agreement resulting therefrom, with the Attorney General and the Federal Trade Commission. Such transcript and agreement shall be made available for public inspection and copying, subject to the provisions of sections 552(b) (1) and (b) (3) of title 5, United States Code.

(d) The Administrator, subject to the approval of the Attorney General and the Federal Trade Commission, shall promulgate, by rule, standards and procedures by which persons engaged in the business of producing, refining, marketing, or distributing crude oil, residual fuel oil or any refined petroleum product may develop and implement voluntary agreements and plans of actions to carry out such agreements which the Administrator determines are necessary to accomplish the objectives stated in section 4(b) of the Emergency Petroleum Allocation Act of 1973.

(e) The standards and procedures under subsection (d) shall be promulgated pursuant to section 553 of title 5, United States Code. They shall provide, among other things, that—

(1) Such agreements and plans of action shall be developed by meetings of committees, councils, or other groups which include representatives of the public, of interested segments of the petroleum industry and of industrial, municipal and private consumers, and shall in all cases be chaired by a regular fulltime Federal employee.

(2) Meetings held to develop a voluntary agreement or a plan of action under this subsection shall permit attendance by interested persons and shall be preceded by timely and adequate notice with identification of the agenda of such meeting to the Attorney General, the Federal Trade Commission and to the public in the affected community;

(3) Interested persons shall be afforded an opportunity to present, in writing and orally, data, views and arguments at such meetings;

(4) A full and complete verbatim transcript shall be kept of any meeting, conference or communication held to develop, implement or carry out a voluntary agreement or a plan of action under this subsection and shall be taken and deposited, together with any agreement resulting therefrom, with the Attorney General and the Federal Trade Commission. Such transcript and agreement shall be available for public inspection and copying, subject to provisions of section 552 (b)(1) and (b)(3) of title 5, United States Code.

(f) The Federal Trade Commission may exempt types or classes of meetings, conferences or communications from the requirements of subsection (c)(3) and (e)(4) provided such meetings, conferences, or communications are ministerial in nature and are for the sole purpose of implementing or carrying out a voluntary agreement or plan of action authorized pursuant to this section Such ministerial meeting, conference or communication may take place in accordance with such requirements as the Federal Trade Commission may prescribe by rule. Such persons participating in such meeting, conference or communication shall cause a record to be made specifying the date such meeting, conference, or communication took place and the persons involved, and summarizing the subject matter discussed. Such record shall be filed wtih the Federal Trade Commission and the Attorney General, where it shall be made available for public inspection and copying.

(g)(1) The Attorney General and the Federal Trade Commission shall participate from the beginning in the development, implementation and carrying out of voluntary agreements and plans of action authorized under this section. Each may propose any alternative which would avoid or overcome, to the greatest extent practicable, possible anticompetitive effects while achieving substantially the purposes of this Act. Each shall have the right to review, amend, modify, disapprove, or prospectively revoke, on its own motion or upon the request of any interested person, any plan of action or voluntary agreement at any time, and, if revoked, thereby withdraw prospectively the immunity conferred by subsection (i) of this section.

(2) Any voluntary agreement or plan of action entered into pursuant to this section shall be submitted in writing to the Attorney General and the Federal Trade Commission 20 days before being implemented, where it shall be made available for public inspection and copying.

(h)(1) The Attorney General and the Federal Trade Commission shall monitor the development, implementation and carrying out of plans of action and voluntary agreements authorized under this section to assure the protection and fostering of competition and the prevention of anticompetitive practices and effects.

(2) The Attorney General and the Federal Trade Commission shall promulgate joint regulations concerning the maintenance of necessary and appropriate documents, minutes, transcripts and other records related to the development, implementation or carrying out of plans of action or voluntary agreements authorized pursuant to this Act.

(3) Persons developing, implementing or carrying out plans of action or voluntary agreements authorized pursuant to this Act shall maintain those records required by such joint regulations. The Attorney General and the Federal Trade Commission shall have access to and the right to copy such records at reasonable times and upon reasonable notice.

(4) The Federal Trade Commission and the Attorney General may each prescribe such rules and regulations as may be necessary or appropriate to carry out their responsibilities under this Act. They may both utilize for such purposes and for purposes of enforcement, any and all powers conferred upon the Federal Trade Commission or the Department of Justice, or both, by any other provision of law, including the antitrust laws; and wherever such provision of law refers to "the purposes of this Act" or like terms, the reference shall be understood to be this Act.

(i) There shall be available as a defense to any civil or criminal action brought under the antitrust laws in respect of actions taken in good faith to develop and implement a voluntary agreement or plan of action to carry out a voluntary agreement by persons engaged in the business of producing, refining, marketing or distributing crude oil, residual fuel oil, or any refined petroleum product that—

(1) Such action was

(A) authorized and approved pursuant to this section, and

(B) undertaken and carried out solely to achieve the purposes of this section and in compliance with the terms and conditions of this section, and the rules promulgated hereunder; and

(2) Such persons fully complied with the requirements of this section and the rules and regulations promulgated hereunder.

(j) No provision of this Act shall be construed as granting immunity for, nor as limiting or in any way affecting any remedy or penalty which may result from any legal action or proceeding arising from, any acts of practices which occurred: (1) prior to the enactment of this Act, (2) outside the scope and purpose or not in compliance with the terms and conditions of this Act and this section, or (3) subsequent to its expiration or repeal.

(k) Effective on the date of enactment of this Act, this section shall apply in lieu of section 6(c) of the Emergency Petroleum Allocation Act of 1973. All actions taken and any authority or immunity granted under such section 6(c) shall be hereafter taken or granted, as the case may be, pursuant to this section.

(l) The provisions of section 708 of the Defense Production Act of 1950, as amended, shall not apply to any action authorized to be taken under this Act or the Emergency Petroleum Allocation Act of 1973.

(m) The Attorney General and the Federal Trade Commission shall each submit to the Congress and to the President, at least once every six months, a report on the impact on competition and on small business of actions authorized by this section.

(n) The authority granted by this section (including any immunity under subsection (i)) shall terminate on December 31, 1974.

(o) The exercise of the authority provided in section 107 shall not have as a principal purpose or effect of the substantial lessening of competition among carriers affected. Actions taken pursuant to that subsection shall be taken only after providing from the beginning an adequate opportunity for participation by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division, who shall propose any alternative which would avoid or overcome, to the greatest extent practicable, any anticompetitive effects while achieving the purposes of this Act.

Sec. 121. Comprehensive Review of Export and Foreign Investment Policies.

The Secretary of the Interior and the Secretary of Commerce are directed to prepare a comprehensive report of (1) United States exports of petroleum products and other energy sources, and (2) foreign investment in production of petroleum products and other energy sources to determine the consistency or lack thereof of the Nation's trade policy and foreign investment policy with domestic energy conservation efforts. Such report shall include recommendations for legislation and shall be submitted to Congress within ninety days after the date of enactment of this Act.

Sec. 122. Employment Impact and Worker Assistance.

(a) Carrying out his responsibilities under this Act, the President shall take into consideration and shall minimize, to the fullest extent practicable, any adverse impact of actions taken pursuant to this Act upon employment. All agencies of government shall cooperate fully under their existing statutory authority to minimize any such adverse impact.

(b) The President is authorized and directed to make grants to States to provide to any individual unemployed, if such unemployment resulted from the administration and enforcement of this Act and was in no way due to the fault of such individual, such assistance as the President deems appropriate while such individual is unemployed. Such assistance as a State shall provide under such a grant shall be available to individuals not otherwise eligible for unemployment compensation and individuals who have otherwise exhausted their eligibility for such unemployment compensation, and shall continue as long as unemployment in the area caused by such administration and enforcement continues (but not less than six months) or until the individual is reemployed in a suitable position, but not longer than two years after the individual becomes eligible for such assistance. Such assistance shall not exceed the maximum weekly amount under the unemployment compensation program of the State in which the employment loss occurred.

(c) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

(d) On or before the sixtieth day following the date of enactment of this Act, the President shall report to the Congress concerning the present and prospective impact of energy shortages upon employment. Such report shall contain an assessment of the adequacy of existing programs in meeting the needs of adversely affected workers and shall include legislative recommendations which the President deems appropriate to meet such needs, including revisions in the unemployment insurance laws.

Sec. 123. Exports.

To the extent necessary to carry out the purpose of this Act, the Administrator may under authority of this Act, by rule, restrict exports of coal, petroleum products, and petrochemical feedstocks, under such terms as he deems appropriate: *Provided*, That the Administrator shall restrict exports of coal, petroleum products, or petrochemical feedstocks if either the Secretary of Commerce or the Secretary of Labor certifies that such exports would contribute to unemployment in the United States. In the administration of such restrictions, the Administrator may use existing statutory authority and regulations including, but not limited to, the Export Administration Act of 1969. Rules under this section shall take into account the historical trading relations of the United States with Canada and Mexico and shall not be inconsistent with subsections (b) and (d) of section 4 of the Emergency Petroleum Allocation Act of 1973.

Sec. 124. Prohibition of Petroleum Exports for Military Operations in Indochina.

In the exercise of his jurisdiction under the preceding section, and in order to conserve petroleum products for use in the United States, the Administrator shall prohibit the exportation of petroleum products for use, directly or indirectly, in military operations in South Vietnam, Cambodia, or Laos.

Sec. 125. Report and Termination Date.

(a) No later than September 1, 1974, the President shall submit to Congress an interim report on the implementation of this Act, together with such recommendations as he deems necessary for amending or extending the authorities granted in this Act or in the Emergency Petroleum Allocation Act of 1973.

(b) Notwithstanding any other provisions of title I of this Act or of the Emergency Petroleum Allocation Act of 1973, any authorities granted in title I of this Act or by the Emergency Petroleum Allocation Act of 1973 which, but for this section would expire on December 31, 1974, one year after the date of enactment of this Act, or on February 28, 1975, shall expire on May 15, 1975.

Sec. 126. Reports on National Energy Resources.

(a) For the purpose of providing to the Administrator, Congress, the States, and the public, to the maximum extent possible, reliable data on reserves, production, distribution, and use of petroleum products, natural gas, and coal, the Administrator shall promptly publish for public comment a regulation requiring that persons doing business in the United States, who, on the effective date of this Act, are engaged in exploring, developing, processing, refining, or transporting by pipeline, any petroleum product, natural gas, or coal, shall provide detailed reports to the Administrator every sixty calendar days. Such reports shall show for the preceding sixty calendar days such person's (1) reserves of crude oil, natural gas, and coal; (2) production and destination of any petroleum product, natural gas, and coal; (3) refinery runs by product; and (4) other data required by the Administrator for such purpose. Such regulation shall also require that such persons provide to the Administrator such reports for the period from January 1, 1970, to the date of such person's first sixty-day report. Such regulation shall be promulgated 30 days after such publication. The Administrator shall publish quarterly in the Federal Register a meaningful summary analysis of the data provided by such reports.

(b) The reporting requirements of this section shall not apply to the retail operations of persons required to file such reports. Where a person shows that all or part of the data required by this section is being reported by such person to another Federal agency, the Administrator may exempt such person from reporting all or part of such data directly to him, and upon such exemption, such agency shall, notwithstanding any other provision of law, provide such data to the Administrator. The district courts of the United States are authorized, upon application of the Administrator, to require enforcement of such reporting requirements.

(c) Upon a showing satisfactory to the Administrator by any person that any report or part thereof obtained under this section from such person or from a Federal agency would, if made public, divulge methods or processes entitled to protection as trade secrets or other proprietary information of such person, such report, or portion thereof, shall be confidential in accordance with the purposes of section 1905 of title 18 of the United States Code, except that such report or part thereof shall not be deemed confidential for purposes of disclosure to (1) any delegate of the Federal Energy Administration for the purpose of carrying out this Act, (2) the Attorney General, the Secretary of the Interior, the Federal Trade Commission, the Federal Power Commission, or the General Accounting Office when necessary to carry out those agencies' duties and responsibilities under this and other statutes, and (3) the Congress or any committee of Congress upon request of the chairman. The provisions of this section shall expire on May 15, 1975.

Sec. 127. Development of Processes for the Conversion of Coal to Crude Oil and Other Liquid and Gaseous Hydrocarbons.

The Administrator shall prepare and submit to Congress not later than 90 days after the date of enactment of this Act a plan for encouraging the conversion of coal to crude oil and other liquid and gaseous hydrocarbons.

TITLE II—COORDINATION WITH ENVIRONMENTAL PROTECTION REQUIREMENTS

Sec. 201. Suspension Authority.

Title I of the Clean Air Act (42 U.S.C. 1857 et seq.) is amended by adding at the end thereof the following new section:

"TEMPORARY AUTHORITY TO SUSPEND CERTAIN STATIONARY SOURCE EMISSION AND FUEL LIMITATIONS

"Sec. 119. (a) (1) The Administrator may, for any period beginning on or after the date of enactment of this section and ending on or before May 15, 1974, temporarily suspend any stationary source fuel or emission limitation as it applies to any person, if the Administrator finds that such person will be unable to comply with such limitation during such period solely because of unavailability of types or amounts of fuels. Any suspension under this paragraph and any interim requirement on which such suspension is conditioned under subsection (b) shall be exempted from any procedural requirements set forth in this Act or in any other provision of local, State, or Federal law. The granting or denial of such suspension and the imposition of an interim requirement shall be subject to judicial review only on the grounds specified in paragraphs (2) (B) and (2) (C) of section 706 of title 5, United States Code, and shall not be subject to any proceeding under section 304(a) (2) of this Act.

"(2) (A) After public notice and public hearing, the Administrator may, for any period beginning after May 15, 1974, and ending not later than June 30, 1979, temporarily suspend any stationary source fuel or emission limitation as it applies to any person if the Administrator finds—

"(i) that such person will be unable to comply with such limitation solely because of the unavailability of types and amounts of fuels,

"(ii) that such suspension (in conjunction with interim requirements under subsection (b)) will not, after the applicable implementation plan deadline, result in or contribute to a level of air pollutants which is greater than that specified in a national primary ambient air quality standard, and

"(iii) that such person has been placed on a schedule which provides for the use of methods which the Administrator determines will assure continuing compliance with a national primary ambient air quality standard as soon as practicable (but no later than June 30, 1979), which schedule shall include increments of progress toward compliance with such standard by such date.

"(B) (i) Any schedule under subparagraph (A) (iii) shall include, if necessary to meet a national primary ambient air quality standard, a date by which a contractual obligation shall be entered into for an emission reduction system which has been determined by the Administrator to be adequately demonstrated (except that in the case of a person wishing to construct and install such system himself as soon as practicable, but not later than June 30, 1979, the Administrator may approve detailed plans and specifications and increments of progress for construction and installation of such a system). Before the earliest date on which a person is required to take any action under the preceding sentence (but not later than May 15, 1977) any source may elect to have the preceding sentence not apply to it; but if such election is made, no suspension under this section may apply to such source after May 15, 1977.

"(ii) For purposes of subparagraph (A) (ii) and of subsection (b), the term 'applicable implementation plan deadline' means the date on which (as of the date of enactment of the Energy Emergency Act) a national primary ambient air quality standard is required by an applicable implementation plan to be attained in an air quality control region.

"(C) Any person may obtain judicial review of a grant or denial of a suspension under this paragraph and of any interim requirement on which such suspension is conditioned under subsection (b) by filing a petition with the United States district court for any judicial district in which is located any stationary source to which the action of the Administrator applies. The second and third sentences of clause (ii), and clauses (iii) and (iv) of section 206(b) (2) (B) of this Act shall apply to judicial review under this paragraph. No proceeding under section 304(a) (2) may be commenced with respect to any action or failure to act under this paragraph.

"(3) In issuing any suspension under this subsection, the Administrator is authorized to act on his own motion without application by any source or State.

"(b) Any suspension under subsection (a) shall be conditioned upon compliance with such interim requirements as the Administrator determines necessary for minimizing the threat to public health which may exist prior to the applicable implementation plan deadline and for assuring maintenance of the national primary ambient air quality standards during any portion of such suspension which may be authorized after the applicable implementation plan deadline. Such interim requirements and section 110 shall not be construed to preclude use of alternative or intermittent control measures which the Administrator determines are reliable and enforceable and which he determines will permit attainment and maintenance of the national primary ambient air quality standards during the period of the suspension. Such interim requirements shall include, but not be limited to, (A) a requirement that the source receiving the suspension comply with such monitoring and reporting requirements as the Administrator determines may be necessary to determine the effect on health or air quality of such suspension, (B) such measures as the Administrator determines are necessary to avoid an imminent and substantial endangerment to health of persons, and (C) requirements that the suspension shall be inapplicable during any period during which fuels or emission reduction systems which would enable compliance with the suspended fuel or emission limitations are in fact available to that person (as determined by the Administrator). Such fuel shall not be required to be used if the Administrator determines that the cost of changes necessary to use such fuel during such period are unreasonable.

(c) The Administrator may by rule establish priorities under which manufacturers of emission reduction systems shall provide such systems to users thereof, if he finds that priorities must be imposed in order to assure that such systems are first provided to users in air quality control regions with the most severe air pollution.

"d) The adminitrator shall study, and report to Congress not later than March 31, 1974, with respect to—

"(1) the present and projected impact on the program under this Act of fuel shortages and of allocation and end-use allocation programs;

"(2) availability of scrubber technology (including projections respecting the time, cost, and number of units available) and the effects that scrubbers would have on the total environment and on supplies of fuel and electricity;

"(3) number of sources and localities which must use such technology based on projected fuel availability data;

"(4) priority schedule for implementation of scrubber technology, based on public health or air quality;

"(5) evaluation of availability of technology to burn municipal solid waste in these sources; including time schedules, priorities, analysis of unregulated pollutants which will be emitted and balancing of health benefits and detriments from burning solid waste and of economic costs;

"(6) projections of air quality impact of fuel shortages and allocations;

"(7) evaluation of alternative control strategies for the attainment and maintenance of national ambient air quality standards for sulfur oxides within the time frames prescribed in the Act, including associated considerations of cost, time frames, feasibility, and effectiveness of such alternative control strategies as compared to stationary source fuel and emission regulations;

"(8) proposed allocations of scrubber technology for nonsolid waste producing systems to sources which are least able to handle solid waste byproduct, technologically, economically, and without hazard to public health, safety, and welfare; and

"(9) plans for monitoring or requiring variance-receiving sources to monitor impact of variances on concentration of sulfur dioxide in the ambient air.

"(e) No State or political subdivision may require any person to whom a suspension has been granted under subsection (a) to use any fuel the unavailability of which is the basis of such person's suspension (except that this preemption shall not apply to requirements identical to Federal interim requirements under subsection (b) or a compliance schedule under subsection (a) (2) (A) (iii), including any requirement under subsection (a) (2) (B) (i)). No State or political subdivision may require any person to use an emission reduction system for which priorities have been established under subsection (c) except in accordance with such priorities.

"(f) (1) It shall be unlawful for any person to whom a suspension has been granted under subsection (a) to violate any requirement on which the suspension is conditioned pursuant to subsection (b).

"(2) It shall be unlawful for any person to violate any rule under subsection (c).

"(3) It shall be unlawful for any person to fail to comply with a schedule of compliance under subsection (a) (2) (A) (iii), including any requirement under subsection (a) (2) (B) (i).

"(g) For purposes of this section:

"(1) The term 'stationary source fuel or emission limitation' means any emission limitation, schedule, or timetable for compliance, or other requirement, which is prescribed under this Act (other than section 303 111(b), or 112) or contained in an applicable implementation plan and which is designed to limit stationary source emissions resulting from combustion of fuels, including a prohibition on or specification of the use of any fuel of any type or grade or pollution characteristic.

"(2) the term 'stationary source' has the same meaning as such term has under section 111(a) (3).

"(h) Beginning 60 days after the enactment of this section, the Administrator shall publish at no less than 180-day intervals, in the Federal Register the following:

"(1) Up-to-date findings on the emission reduction systems determined to be adequately demonstrated for the purposes of subsection (a) (2) (B).

"(2) A concise summary of progress reports which are required to be filed by any person operating under a suspension pursuant to subsection (a) (2). Such progress reports shall report on the status of compliance with all requirements which have been imposed by the Administrator as a condition for receiving the suspension.

"(3) Up-to-date findings on the impact of the suspensions granted upon—

"(A) applicable implementation plans, and

"(B) ambient air quality in areas where any person has received a suspension under subsection (a) (2) of this section.

"(i) (1) In order to conserve available supplies of liquid and gaseous fuels, each coal-fired steam electric generating station which is eligible for such an exemption as provided in paragraph (2) is hereby exempted from all applicable stationary source fuel or emission limitations, unless the Administrator determines that the cost of compliance with any such limitation is reasonable in light of the projected useful life of the station, the availability of rate base increases to pay for such costs, and the risk to public health and the environment which may be associated with exemption from such limitation.

"(2) The exemption provided for in paragraph (1) shall only apply to coal-fired steam electric generating stations (A) which are to be taken out of service permanently by December 31, 1980, due to the age and condition of the station, according to the power supply plan (in existence on the date of enactment of the Energy Emergency Act) of the utility operating such station, (B) for which a certification to that effect has been annually filed with the Environmental Protection Agency and the Federal Power Commission, and (C) for which the FPC has determined that the certification has been made in good faith and the plan to cease operations by December 31, 1980, is likely to be carried out as planned in light of existing and prospective power supply requirements.

"(3) The Administrator of EPA shall be authorized to prescribe interim requirements for any source exempted from any stationary source fuel or emission limitation under this subsection so long as such requirements impose only reasonable costs in light of the criteria prescribed in paragraph (1)."

Sec. 202. Implementation Plan Revisions.

(a) Revisions To Reflect Suspensions.—Section 110(a) of the Clean Air Act is amended—

(1) in paragraph (2) (B) by inserting before the semicolon at the end thereof ", and provision for energy conservation measures"; and

(2) in paragraph (3), by inserting "(A)" after "(3)" and by adding at the end thereof the following new subparagraph:

"(B) The Administrator shall review each applicable implementation plan and no later than May 1, 1974, determine for each State whether its plan must be revised in order to achieve the national primary or secondary standard which the plan implements within the deadlines established under paragraph (2) (A) of this subsection. In making such determination the Administrator shall consider any current or anticipated suspensions under section 119, any action under section 106(b), and any projected shortages of fuels or emission reduction systems. Plan revisions for any State for which the Administrator determines its plan is inadequate shall be submitted not later than July 1, 1974, and shall be approved or disapproved by the Administrator, after public notice and opportunity for hearing, but not later than September 1, 1974. If a plan revision (or portion thereof) is disapproved (or if a State fails to submit a plan revision), the Administrator shall, after public notice and opportunity for a hearing, promulgate a revised plan (or portion thereof) not later than November 1, 1974.".

(b) Ambient Air Standards.—Section 110 of the Clean Air Act, as amended (42 U.S.C. 1857(h) (1) and (2)), is amended to read as follows:

"(h) (1) The Administrator shall, upon application by the Governor for any air quality control region for which transportation controls have been imposed in order to attain and maintain the national primary ambient air quality standards by July 1, 1977, extend for two years the date required by any applicable implementation plan for attainment and maintenance of such standards, if the transportation controls for such region require a 20 percent (or greater) reduction in vehicle miles traveled by June 1, 1977, or if he otherwise finds that such controls are impracticable within such time.

"(2) The Administrator may, upon application by the Governor for any such region, further extend the date for attainment and maintenance of such standard if he finds that imposition of additional transportation control requirements is impracticable within such time. In no event, however, shall the Administrator permit any extension (A) which allows for attainment of the primary standard less expeditiously than practicable, or (B) which allows a less than 10 percent annual improvement in air quality toward achievement of such standard, so that protection of the public health may be assured by January 1, 1985."

(c) Limitation on Parking Surcharges, Management of Parking Supply, and Preferential Bus/Carpool Lane Regulations.—Subsection (c) of section 110 of the Clean Air Act, as amended (42 U.S.C. 1857 C–5) is amended by inserting "(1)" after "(c)"; by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively; and by adding the following new paragraph:

"(2) (A) The Administrator shall conduct a study and shall submit a report to the Committee on Interstate and Foreign Commerce of the United States House of Representatives and the Committee on Public Works of the United States Senate within 6 months after the enactment of this paragraph on the necessity of parking surcharge, management of parking supply, and preferential bus/carpool lane regulations in order to achieve national primary ambient air quality standards. The study shall include an assessment of the economic impact of such regulations, consideration of alternative means of reducing total vehicle miles traveled, and an assessment of the impact of such regulations on other Federal and State programs dealing with transportation. In the course of such study, the Administrator shall consult with other Federal officials including, but not limited to, the Secretary of Transportation, the Administrator of the Federal Energy Administration, and the Chairman of the Council on Environmental Quality.

"(B) No parking surcharge, management of parking supply, or preferential bus/carpool lane regulation may be promulgated by the Administrator under paragraph (1) of this subsection as a part of an implementation plan. All parking surcharge, management of parking supply and preferential bus/carpool lane regulations previously promulgated by the Administrator shall be null and void upon the date of enactment of this subsection. This subparagraph shall not prevent the Administrator from approving parking surcharges, management of parking supply regulations, and preferential bus/carpool lanes if they are adopted and submitted by a State as part of an implementation plan. The Administrator may not condition approval of any implementation plan submitted by a State on such plan's including a parking surcharge, management of parking supply, or preferential bus/carpool lane regulation.

"(C) For purposes of this paragraph, the terms 'parking surcharge regulation' means a regulation imposing or requiring the imposition of any tax, surcharge, fee, or other charge on parking spaces, or any other area used for the temporary storage of motor vehicles. The term 'management of parking supply' and the term 'preferential bus/carpool lane' shall include those general activities covered by but not limited to regulations numbered 52.251 and 52.261 through 52.264 as set forth in VOL. 38 of the Federal Register number 217."

SEC. 203. MOTOR VEHICLE EMISSIONS.

(a) REVISION OF STANDARDS.—

(1) Section 202(b)(1) of the Clean Air Act is amended—

(A) by striking out in subparagraph (a) "1975" and inserting in lieu thereof "1978";

(B) by striking out "during or after model year 1976" and all that follows in subparagraph (b) and inserting in lieu thereof "during model year 1976 shall contain standards which limit emissions to a maximum of 3.1 grams per vehicle mile of oxides of nitrogen. The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light duty vehicles and engines manufactured during or after model year 1977 shall contain standards which limit emissions to a maximum of 2.0 grams per vehicle mile of oxides of nitrogen."; and

(C) by adding at the end of such paragraph the following new subparagraph:

"(C) Compliance with the regulations prescribed pursuant to this section for model years 1975, 1976, and 1977, shall be measured by certification test procedures prescribed by the Administrator for model year 1975. The regulation for model years 1975, 1976, and 1977 prescribed pursuant to subsection (a) (for carbon monoxide and hydrocarbons) shall impose the same emissions standards as are in effect as of December 1, 1973, for model year 1975."

(2) Section 202(b)(5) of the Clean Air Act is repealed.

(b) EXTENSION OF IMPLEMENTATION PLAN DEADLINES.—Section 110 of the Clean Air Act is amended by adding at the end thereof the following new subsection:

"(g) Notwithstanding any other provision of this Act, the Administrator may, within the period by which (under subsection (a) (2)(A)(i)) an applicable implementation plan must provide for the attainment in a State of a national primary ambient air quality standard (as such period may be extended under subsection (e)), extend such period for not more than two additional years if he determines that such primary standard cannot be attained in such State within such period solely by reason of the amendments made by section 203(a) of the National Energy Emergency Act."

SEC. 204. CONFORMING AMENDMENTS.

(a)(1) Section 113(a)(3) of the Clean Air Act is amended by striking out "or" before "112(c)", by inserting a comma in lieu thereof, and by inserting after "hazardous emissions)" the following: ", or 119(f) (relating to certain requirements during suspensions and priorities)."

(2) Section 113(b)(3) of such Act is amended by striking out "or 112(c)" and inserting in lieu thereof ", 112(c), or 119(f)".

(3) Section 113(c)(1)(C) of such Act is amended by striking out "or section 112(c)" and inserting lieu thereof ", section 112(c), or section 119(f)".

(4) Section 113 of such Act is amended by inserting at the end thereof the following new subsection:

"(d) For the purpose of this section, the violation of any provision of an approved plan under section 106(b) of the Energy Emergency Act shall be deemed a violation of a 'requirement of an applicable implementation plan during any period of federally assumed enforcement'."

(5) Section 114(a) of such Act is amended by inserting "119 or" before "303".

(b) Section 116 of the Clean Air Act is amended by inserting "119(f)" before "209".

SEC. 205. PROTECTION OF PUBLIC HEALTH AND ENVIRONMENT.

(a) Any allocation program provided for in title I of this Act or in the Emergency Petroleum Allocation Act of 1973, shall, to the maximum extent practicable, include measures to assure that available low sulfur fuel will be distributed on a priority basis to those areas of the country designated by the Administrator of the Environmental Protection Agency as requiring low sulfur fuel to avoid or minimize adverse impact on public health.

(b) (1) For the period beginning May 15, 1974, the Administrator of the Environmental Protection Agency may, after public notice and opportunity for presentation of views in accordance with section 553 of title 5, United States Code, and consultation with the Federal Energy Administrator, issue exchange orders to any person or persons requiring the exchange of any fuel subject to any allocation program under title I of this Act or such Act of 1973. The purpose of such exchange orders shall be to avoid or minimize the adverse impact of any such allocation program on public health in those areas of the country designated by the Administrator of the Environmental Protection Agency under subsection (a). Such Administrator may issue an order under this subsection only if he finds that (A) substantial emission reductions will be afforded for one or more emission sources in areas designated under subsection (a), and (B) the cost and fuel availability impact of such order will not be excessive.

(2) Violation of any exchange order issued under paragraph (1) of this subsection shall be a prohibited act and shall be subject to enforcement action and sanctions in the same manner and to the same extent as a violation of any requirement of an energy conservation and rationing program under title I of this Act.

(c) In order to determine the health effects of emissions of sulfur oxides to the air resulting from any conversions to burning coal pursuant to section 106, the Department of Health, Education, and Welfare shall, in cooperation with the Environmental Protection Agency, conduct a study of acute and chronic effects among exposed populations. The sum of $2,000,000 is authorized to be appropriated for such a study.

(d) No action taken under this Act shall, for a period of 1 year after initiation of such action, be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (83 Stat. 856). However, before any action under this Act that has a significant impact on the environment is taken, if practicable, or in any event within 60 days after such action is taken, an environmental evaluation with analysis equivalent to that required under section 102(2)(C) of the National Environmental Policy Act, to the greatest extent practicable within this time constraint, shall be prepared and circulated to appropriate Federal, State, and local government agencies and to the public for a 30-day comment period after which a public hearing shall be held upon request to review outstanding environmental issues. Such an evaluation shall not be required where the action in question has been preceded by compliance with the National Environmental Policy Act by the appropriate Federal agency. Any action taken under this Act which will be in effect for more than a 6-month period (other than action taken pursuant to subsection (e) of this section), or any action to extend an action taken under this Act to a total period of more than 1 year shall be subject to the full provisions of the National Environmental Policy Act notwithstanding any other provision of this Act.

(e) Notwithstanding subsection (d) of this section, in order to expedite the prompt construction of facilities for the importation of hydroelectric energy thereby helping to reduce the shortage of petroleum products in the United States, the Federal Power Commission is hereby authorized and directed to issue a Presidential permit pursuant to Executive Order 10485 of September 3, 1953, for the construction, operation, maintenance, and connection of facilities for the transmission of electric energy at the borders of the United States without preparing an environmental impact statement pursuant to section 102 of the National Environmental Policy Act of 1969 (83 Stat. 856) for facilities for the transmission of electric energy between Canada and the United States in the vicinity of Fort Covington, New York, and for any other facilities for the transmission of electric energy between a foreign country and the United States which the Federal Power Commission finds will be subject to adequate environmental review conducted by a State agency pursuant to State law.

SEC. 206. ENERGY CONSERVATION STUDY

(a) The Administrator of the Federal Energy Administration shall conduct a study on potential methods of energy conservation and, not later than 6 months after the date of enactment of this Act, shall submit to Congress a report on the results of such study. The study shall include, but not be limited to, the following:

(1) the energy conservation potential of restricting exports of fuels or energy-intensive products or goods, including an analysis of balance of payments and foreign relations implications of any such restrictions;

(2) federally sponsored incentives for the use of public transit, including the need for authority to require additional production of buses or other means of public transit and Federal subsidies for the duration of the energy emergency for reduced fares and additional expenses incurred because of increased service;

(3) alternative requirements, incentives, or disincentives for increasing industrial recycling and resource recovery in order to reduce energy demand, including the economic costs and fuel consumption trade-off which may be associated with such recycling and resource recovery in lieu of transportation and use of virgin materials;

(4) the costs and benefits of electrifying rail lines in the United States with a high density of traffic; including (A) the capital costs of such electrification, the oil fuel economies derived from such electrification, the ability of existing power facilities to supply the additional power load, and the amount of coal or other fossil fuels required to generate the power required for railroad electrification, and (B) the advantages to the environment of electrification of railroads in terms of reduced fuel consumption and air pollution and disadvantages to the environment from increased use of fossil fuel such as coal; and

(5) means for incentives or disincentives to increase efficiency of industrial use of energy.

(b) Within 90 days of the date of enactment of this Act, the Secretary of Transportation, after consultation with the Federal Energy Administrator, shall submit to the Congress for appropriate action an "Emergency Mass Transportation Assistance Plan" for the purpose of conserving energy by expanding and improving public mass transportation systems and encouraging increased ridership as alternatives to automobile travel.

(c) Such plan shall include, but shall not be limited to—

(1) recommendations for emergency temporary grants to assist States and local public bodies and agencies thereof in the payment of operating expenses incurred in connection with the provision of expanded mass transportation service in urban areas;

(2) recommendations for additional emergency assistance for the purchase of buses and rolling stock for fixed rail, including the feasibility of accelerating the timetable for such assistance under section 142(a)(2) of title 23, United States Code (the "Federal Aid Highway Act of 1973"), for the purpose of providing additional capacity for and encouraging increased use of public mass transportation systems;

(3) recommendations for a program of demonstration projects to determine the feasibility of fare-free and low-fare urban mass transportation systems, including reduced rates for elderly and handicapped persons during nonpeak hours of transportation;

(4) recommendations for additional emergency assistance for the construction of fringe and transportation corridor parking facilities to serve bus and other mass transportation passengers;

(5) recommendations on the feasibility of providing tax incentives for persons who use public mass transportation systems.

(d) In consultation with the Federal Energy Administrator, the Secretary of Transportation shall make an investigation and study for the purpose of conserving energy and assuring that the essential fuel needs of the United States will be met by developing a high-speed ground transportation system between the cities of Tijuana in the State of Baja California, Mexico, and Vancouver in the Province of British Columbia, Canada, by way of the cities of Seattle in the State of Washington, Portland in the State of Oregon, and Sacramento, San Francisco, Fresno, Los Angeles and San Diego in the State of California. In carrying out such investigation and study the Secretary shall consider, but shall not be limited to—

(1) the efficiency of energy utilization and impact on energy resources of such a system, including the future impact of existing transportation systems on energy resources if such a system is not established;

(2) coordination with other studies undertaken on the State and local level; and

(3) such other matters as he deems appropriate.

The Secretary of Transportation shall report the results of the study and investigation pursuant to this Act, together with his recommendations, to the Congress and the not later than January 31, 1975, on the im-President no later than December 31, 1974.

The Administrator of the Environmental Protection Agency shall report to Congress

SEC. 207. REPORTS.

plementation of sections 201 through 205 of this title.

SEC. 208. RECOMMENDATIONS FOR SITING OF ENERGY FACILITIES.

The President shall, within 90 days after the date of enactment of this Act, recommend to the Congress actions to be taken by the executive branch and the Congress regarding the problem of the siting of all types of energy producing facilities.

SEC. 209. FUEL ECONOMY STUDY.

Title II of the Clean Air Act is amended by redesignating section 213 as section 214 and by adding the following new section:

"FUEL ECONOMY IMPROVEMENT FROM NEW MOTOR VEHICLES

"SEC. 213. (a)(1) The Administrator shall conduct a study, and shall report to the Committee on Interstate and Foreign Commerce of the United States House of Representatives and the Committee on Public Works of the United States Senate within 120 days following the date of enactment of this section, concerning the practicability of establishing a fuel economy improvement standard of 20 percent for new motor vehicles manufactured during and after model year 1980. Such study and report shall include, but not be limited to, the technological problems of meeting any such standard, including the leadtime involved; the test procedures required to determine compliance; the economic costs associated with such standard, including any beneficial economic impact; the various means of enforcing such standard; the effect on consumption of natural resources, including energy consumed; and the impact of applicable safety and emission standards. In the course of performing such study, the Administrator shall consult with the Secretary of Transportation, the Administrator of the Federal Energy Administration, the Chairman of the Council on Environmental Quality, and the Secretary of the Treasury. The Office of Management and Budget may review such report before its submission to Congress but the Office may not revise the report or delay its submission beyond the date prescribed for its submission, and may submit to Congress its comments respecting such report. In connection with such study, the Administrator may utilize the authority provided in section 307(a) of this Act to obtain necessary information.

"(2) For the purpose of this section, the term 'fuel economy improvement standard' means a requirement of a percentage increase in the number of miles of transportation provided by a manufacturer's entire annual production of new motor vehicles per unit of fuel consumed, as determined by the Administrator for each manufacturer. Such term shall not include any requirement for any design standard or any other requirement specifying or otherwise limiting the manufacturer's discretion in deciding how to comply with the fuel economy improvement standard by any lawful means.".

SEC. 210. FUEL ALLOCATIONS.

Notwithstanding any other provision of law or regulation, any project or enterprise authorized by law or regulations of the Federal Government, regardless of time initiated shall be allowed the necessary fuel for all its operations under any rules formulated for such purposes.

And to amend the title so as to read: "An Act to assure, through energy conservation, end-use allocation of fuels, and other means, that the essential energy needs of the United States are met, and for other purposes."

Mr. MANSFIELD. Mr. President, I move that the Senate disagree to the amendments of the House of Representatives and agree to the request of the House for a conference on the disagreeing votes of the two Houses; and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer appointed Mr. JACKSON, Mr. BIBLE, Mr. METCALF, Mr. FANNIN, Mr. HANSEN, Mr. RANDOLPH, Mr. MUSKIE, Mr. BAKER, Mr. HOLLINGS, Mr. STEVENSON, and Mr. STEVENS conferees on the part of the Senate.

AUTOMOBILE EMISSION STANDARDS

The Senate continued with the consideration of the bill (S. 2772) to amend title II of the Clean Air Act, as amended.

Mr. BUCKLEY. Mr. President, I have no further remarks at this time.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, will the Senator yield me 5 minutes?

Mr. MUSKIE. I yield 5 minutes to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, let me say that I, too, support wholeheartedly the remarks of the Senator from New York regarding this matter, and I regret that I cannot support the amendment proposed by the distinguished Senator from Virginia.

I, however, state to him that indeed he was among the early proponents of the need for some change in this area, and I compliment him in that regard.

However, let me address myself to the reasons why we are here today. If we are here talking about the energy crisis, I submit that the committee recommendation is far better than that proposed by the distinguished Senator from Virginia. If we are here on health matters, it appears to me that we should wait for the report of the National Academy.

Let me discuss very briefly my views as to why, in the interest of the energy crisis, we should proceed as we have recommended.

First of all, there is absolutely no evidence that we could not do better in terms of saving energy by moving away from the 1975 interim standards in the year 1977. We have said we will stay there for 1975 and 1976. There is ample evidence before the committee that during that 2 years, and indeed to this point in our history, we might have achieved greater energy conservation, with yet cleaner exhausts, in the year 1977 by using a standard different than the 1975 interim.

So it would appear to me that the only possible reason to freeze for 3 years instead of 2 on HC and CO would be that the alternative approaches to new engines and new methods to clean up the exhaust have dictated such a freeze, and in that regard, that is not true either. There was no evidence before the committee other than the problem with NOX, which I shall address myself to shortly, that we must move ahead that quickly in order to obtain alternate engine sources or alternate ways to clean the exhausts. The only thing they have been saying to us, and saying with some degree of consistency, is that if you clean up the HC and CO, you have a problem with NOX.

I think we all agree that we will have to have some changes in the NOX standards, not only so that the health of our citizens is not in jeopardy, but so as to maximize the issue of the inducement to clean up the environment.

For that reason, I propose that we freeze the NOX for 1977 at 2, but only for 1 additional year, and not in accordance with the recommendations of the Senator from Virginia that that be an indefinite or permanent standard.

The reason I have opposed it is that there is ample evidence that it is questionable from the health point of view, and it would open the door for more research and development by the companies of America, but I am convinced that before the committee made the commitment found in the report—and it is twofold, that EPA will report to us, a detailed examination and report will be forthcoming on January 15 as to the Japanese findings and the findings of

EPA itself with reference to NOX, and the second part of the commitment is that we will then begin public hearings in that regard—I think it is implicit in holding public hearings, that if the committee finds there is a need at that point in time to freeze at 2, we will, indeed, make such a recommendation.

I remember Senator MUSKIE's saying:

> We will have the hearings, and let the hearings speak for themselves.

That is how I view it. If the evidence indicates the 1977 NOX standards must be changed and frozen at 2, we will come to the floor with them.

So I do not see where freezing them now will add anything to the ability of American industry to comply with the 1975 interims for 2 years, as far as cleaning up the HC and the CO is concerned. If we say we want to give them 3 years instead of 2, so that they can experiment with alternative engines and technology, it does not really bear much on that issue. Without the NOX change, it seems to me that to stick with the 1975's clear through the 1977's, so far as HC and CO are concerned, will accomplish little or nothing. February or March is soon enough to make the adjustment on NOX. That is what the evidence says. I think we will make the adjustments in a timely fashion.

I conclude with two remarks about the administration. First, I honestly do not think that Mr. Sawhill, at this point in time, knows any more about this problem, as complex as it is, than the members of the committee or the committee staff. I compliment him for wanting to arrive at a decision, but I just do not believe his approach would save energy for the American people.

As to Mr. Train, no one really has said he is recommending what the distinguished Senator from Virginia (Mr. WILLIAM L. SCOTT) is recommending in his amendment. I know that would be very inconsistent with what he had been recommending heretofore. I have tried to find out and I am convinced that he is not recommending the 1975 interims for 3 years or pressing for an immediate change in the NOX standard for 1977.

For those reasons I cannot support the amendment of the Senator from Virginia (Mr. WILLIAM L. SCOTT), although in many respects it is very close to what we have been discussing and what we will hope to accomplish today.

I thank the distinguished Senator from Maine.

Mr. GRIFFIN. Mr. President, will the distinguished Senator from Virginia yield me 5 minutes?

Mr. WILLIAM L. SCOTT. I yield 5 minutes to the Senator from Michigan.

The VICE PRESIDENT. The Senator from Michigan is recognized for 5 minutes.

Mr. GRIFFIN. Mr. President, at the outset, let me say that if the amendment of the distinguished Senator from Virginia should not prevail, of course, I shall favor and vote for the bill that has been reported by the committee. A 1-year extension as provided in the bill will at least be an improvement over the situation confronting us now.

Nevertheless, I believe there is a great merit in the proposal advanced by the distinguished Senator from Virginia, and I rise to wholeheartedly support it.

As I understand it, his amendment is similar to an amendment adopted in the other body last week. I also call attention to the fact that the administration, speaking through Mr. Sawhill, deputy to Mr. Simon, has registered its support before a House committee for a 3-year freeze in the auto emission standards.

When Congress enacted the Clean Air Act in 1970, there was little reason, if any, to believe that we were not required to provide, as we are doing today, relief from the auto emission standards that were written then into the law—standards enacted even though the technology to achieve them did not exist and could not be reasonably anticipated.

Not surprisingly, the time has now arrived when we must change and push ahead the date on which compliance with those standards would be required.

The bill now before the Senate would suspend the 1976 statutory standards for 1 year pending completion of a study by the National Academy of Sciences with regard to health effects. If the standards are extended for only 1 year, it means that Congress will be forced to act again at the last minute next year if and when the National Academy of Sciences determines as a result of its study that the standards are still unnecessarily high. The study will not be completed until late next summer, probably in August, we will be required, unless the Scott amendment is adopted, to try then to get action again by Congress on another extension. That is not a happy prospect, considering the fact that next year is an election year when other considerations have a way of becoming confused with the merits of legislation.

Mr. President, the automobile industry and millions of workers who depend upon that industry for their jobs are being held hostage in a sense in this situation. By extending the timetable for only a year, the industry will have very little time to engage in research looking toward development of an alternative to the catalyst as a means of meeting clean air standards. Few of us, I regret to say, really appreciate the difficulties of the leadtime involved in the building of an automobile. I am told that 18 months is a minimum leadtime even when no substantial engineering changes are contemplated.

But when substantial engineering changes are to be made in an automobile, then the necessary leadtime may be as long as 3 years.

As I understand it, enactment of the committee bill—rather than the Scott amendment—will almost lock the automobile industry into adoption of the catalyst as the only way to meet emission standards. Unfortunately, Congress will be taking that action without adequate consideration of the cost or the consequences for the Nation as a whole.

I know of course, that one of the major automobile companies—has invested heavily in development of catalysts. And that action has been taken in a good faith effort to meet the timetable set by Congress.

We should also keep in mind that use of catalysts will add at least $150 to the purchase price of each new automobile, in addition to whatever maintenance is involved. Furthermore, by mandating the use of catalysts, we would also be mandating the purchase of large amounts of scarce chrome and platinum—ironically at a time when an effort is also underway to make it impossible by legislation to purchase chrome from one of the leading suppliers in the world. This approach—requiring the use of catalysts—will require conversion of refineries so they can produce nonleaded gasoline. As I understand it, at a time when we should be investing in the construction of new refineries—we will instead be required to invest $4 billion to convert existing refineries to the production of nonleaded gasoline.

These are important facts to take into account at a time when our most pressing problem is the energy shortage which, in turn, results partly from a shortage of refinery capacity.

At the same time, in order to produce nonleaded gas, it will involve an increase in crude oil by some 4 to 5 percent to produce the same quantity of gasoline.

Mr. MUSKIE. Mr. President, will the Senator yield on that point?

Mr. GRIFFIN. I yield.

Mr. MUSKIE. Exxon's testimony in our hearings is directly to the point that the 1975–76 standards would involve no crude oil penalty. I understand, of course, that the automobile companies, through PPG, have run full-page advertisements arguing that those standards would involve a crude oil penalty of a million barrels of crude oil a day. That is contrary to the evidence. The assumption is that they are talking about 94–98 octane gasoline. What we are talking about in 1975–76 does not involve that kind of high-octane gasoline.

The evidence is that no crude oil penalty is involved for the standards that are represented by the committee bill, that will be represented by the 1975 interim standards—no crude oil penalty at all—and there is no evidence in the hearings to the contrary.

Mr. GRIFFIN. I hope that the Senator from Maine is correct.

Mr. MUSKIE. May I say to the Senator that I can only rely on testimony, not on newspaper advertisements; and this line of advertisements we have been getting is directed at creating an emotional climate against these standards.

So, when I get evidence from testimony in my hearings, I think it is appropriate for me to call the Senate's attention to it on the floor of the Senate.

Mr. GRIFFIN. I thank the distinguished chairman for his contribution.

A member of my staff has called my attention to Business Week for December 15. In an article on page 54, a question is addressed to Russell Train, as follows:

> But won't the need for unleaded fuel in catalyst-equipped cars require extra crude oil in the refining process?

Mr. Train's response, as printed in that article, is as follows:

> There is a crude oil penalty. Our computations show a penalty of 50,000 bbl. per day in the first year and perhaps as low as 25,000 bbl. While there is some argument over the figures, there appears to be a net energy benefit in the 1975 standards. Beyond 1975, it's more uncertain.

Mr. WILLIAM L. SCOTT. Mr. President, might I interrupt very briefly to ask how much time I have remaining?

The VICE PRESIDENT. The Senator has 12 minutes remaining.

Mr. WILLIAM L. SCOTT. Mr. President, I would yield further, of course, to the distiguished Senator from Michigan, but would ask that the Senator from Maine pose the questions on his own time, because I do want to make some more remarks myself.

I yield to the Senator.

Mr. MUSKIE. I am ready to yield. I am only interested in presenting the facts.

Mr. GRIFFIN. Mr. President, according to Mr. Train, then, there is a penalty so far as the use of crude oil is concerned. I anticipate, of course, that the Senator from Maine will direct my attention to the last sentence of his statement, which goes, not to the crude oil penalty, but to the overall question involved.

There is, of course, a dispute as to whether or not the use of the catalyst device will reduce fuel consumption by 10 percent, as some spokesmen have claimed. Other industry spokesmen have put the figure at 5 percent, while still others say there would be no fuel economy at all.

Mr. President, at a time when the Nation is very concerned about the shortage of energy, at a time when there is no clear answer as to what auto emission standards should be, and at a time when the National Academy of Sciences still is studying the whole matter, I believe adoption of the Scott amendment makes a great deal of sense. Accordingly I urge Senators to support the pending amendment.

I thank the Senator from Virginia for yielding.

Mr. WILLIAM L. SCOTT. Mr. President, the senior Senator from Maine read a letter from the Administrator of the Environmental Protection Agency. I, too, saw the letter to the editor, as I recall, in the Washington Star, but it was some weeks ago. Our outlook on this whole question is changing, in view of the energy crunch we are in.

I say to the distinguished Senator and to the other Members of this body that on the way over here, after the Senate took up consideration of this bill, a member of the White House staff indicated to me that this amendment has the full support of the administration.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. WILLIAM L. SCOTT. I am glad to yield.

Mr. MUSKIE. Is the Senator telling us that Mr. Train and the Environmental Protection Agency now support this position?

Mr. WILLIAM L. SCOTT. No. I am saying that the letter that the distinguished Senator read is a November letter. This is December. I do not know what is in the mind of the Administrator of the Environmental Protection Agency at this time. I think the Senator would admit that over the recent days and weeks, our outlook, or the outlook of the American people generally, has changed.

Mr. MUSKIE. I am asking whether or not, to the Senator's knowledge, EPA has changed its position. I am not talking about the outlook of citizens generally. I am talking about the outlook of an agency that has concern not only with the energy crisis, but also with the health values of the Clean Air Act.

The relationship between EPA and this committee is such that any such change in its position would be no secret on the floor of the Senate today. So that if EPA now endorses Mr. Simon's position, that ought to be a matter of record and not speculation.

Mr. WILLIAM L. SCOTT. I am saying to the Senator that the letter he read is a November letter.

Mr. MUSKIE. And that still represents the view of EPA, so far as we know.

Mr. WILLIAM L. SCOTT. I have no knowledge of whether it represents it or not, but I do know that in the White House we have the Chief Executive of this country; and one of his representatives in congressional liaison told me on the way over here, after the Senate took up consideration of this bill, that this amendment does have the full support of the administration.

Mr. MUSKIE. May I say to the Senator that I happened to hear Mr. Train on the evening news, when he was questioned on whether or not the position which the Senator has stated had been cleared with him and with EPA. He said it had not been, and he was not aware of any attempt on the part of Mr. Sawhill or Mr. Simon to clear this position with him.

So that, so far as I am concerned, whatever the rest of the administration may feel about this proposition, it does not represent the position of Mr. Train; but, rather, his position of November 27 is still current.

Mr. WILLIAM L. SCOTT. I say to the distinguished Senator that I have not communicated with Mr. Train. I have no knowledge other than that the letter the Senator read is an old letter. I do not doubt the statement of the Senator if he has more advance information.

Mr. MUSKIE. I do not consider a letter dated November 27 an old letter.

Mr. WILLIAM L. SCOTT. If the Senator would permit me to continue, I would say that Mr. Train is only one of several officials we have within the Federal Government who are concerned about the matter under consideration today. When a representative of the White House tells me that this has full administration support, I assume that it does have full administration support. Now, whether that coincides with what Mr. Train's feeling is, I do not know.

Mr. MUSKIE. Is the Senator concluding that it has Mr. Train's support?

Mr. WILLIAM L. SCOTT. I am saying that the letter that the distinguished Senator read is an old letter.

Mr. MUSKIE. It is no older than the testimony upon which the Senator bases his argument. That testimony was presented at about the same time as this letter was published on November 27. If one is old, the other is ancient, too.

Mr. WILLIAM L. SCOTT. Mr. President, I would ask that I be permitted to continue with my remarks.

I reiterate that after 12 o'clock today, I was told that this amendment does have the full support of the administration. As I see it, the greatest problem we face is how to spur Detroit into new engine technologies and away from costly add-on devices, like the catalytic muffler.

Frankly, I have come away from sessions of our Committee on Public Works when we have been considering emissions control with the belief that we must do all we can to foster technological innovations in pollution control. My amendment, I believe, would foster that innovation.

Detroit has testified—and I believe them—that they need a period of stability in order to unleash their scientists in an allout drive toward a better technology. When the standard keeps changing every year or 2, the auto companies simply do not have the time to develop something innovative.

If we do not pause, who will lose? Not Detroit—they will continue to sell cars. It is the American people who will lose. They will lose, because their cars will cost more. The economy will lose, because it will have less zip. And we really do not know what kind of dangerous pollutants we may produce if we require complete reliance on the catalytic muffler.

I am willing to accept use of catalysts on some models for 3 model years. But I want—and I am sure the American people want—something better by the latter part of the 1970s. The American people want new, low-polluting engines, possibly like the stratified charge engine.

To encourage this innovative flexibility among auto scientists, we must also give them a reasonable and definitive target for nitrogen oxide emissions. I am convinced that my proposal of 2.0 grams per mile of NOX is a reasonable target. That level is the one that was recommended by the EPA on November 27. And it is the level from which the industry can pursue the broadest range of technological options. A Ford Motor Co. executive told us in testimony:

> If by the end of the year or thereabouts Congress could see it appropriate to establish a NOX level of about 2 grams, then we can pursue an alternate engine program.

Mr. President, if we do not give them that option, the American people will be the losers.

Nor do I think we have the luxury to say "wait till next year." Detroit will begin running tests on its 1977 model cars in less than 2 years. Detroit will have to make its tool orders before that. So in not much over a year from now, Detroit will begin to commit itself to its 1977 model cars. If we really intend to give Detroit a "plateau for progress," let us provide a meaningful period of time within which the auto companies can work in innovative solutions.

I am interested in clean, healthy air.

But I am also interested in our economy and the maintenance of our standard of living. I am interested in jobs: more jobs and better jobs.

For that reason, I want clean cars, but I want ones that are reasonably priced and efficient. I do not want Rube Goldberg contraptions. I want Detroit to go back to the drawing boards and develop an engine that is efficient, low on pollutants, and economical to buy and operate.

I believe they can do it. But they can only do it if they obtain stability in the target at which they are shooting. If they face uncertainty, they will take the surest, not the most innovative, path. Frankly, I want to spur innovation. I want Detroit to come up with something better than the catalyst. My amendment, I am convinced, would produce that result. Mr. President, I urge the adoption of the Amendment.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. JOHNSTON). The Senator from Maine has 2 minutes remaining. The Chair recognizes the Senator from Maine.

Mr. MUSKIE. Mr. President, in the 2 minutes I have remaining I would like to read the testimony of Mr. Train on December 3, which was given on the House side. I ask for the attention of my good friend from Virginia. Mr. Train said:

> No decision on model year 1976 need be made until late next spring since certification will not begin until next fall.

That statement is in opposition to the committee bill.

He said further at the end of that testimony on December 3:

> Accordingly, I strongly recommend that no changes be made in the automotive emission standards at this time.

Mr. President, I wish to make these points in the time remaining. Since the 1970 act was written into law there has been no serious challenge of any of the health standards on which those requirements were based. The automobile industry has not seriously challenged it and every finding that EPA made has justified those health standards.

Second, if and when we change these requirements for automobiles the effect will be to impose burdens on mayors and city councils that will then have to find other ways to reduce emissions by controlling movements of automobiles in cities.

For example, in Washington if the statute were left untouched, achieving air standards in Washington would require a 13 percent reduction in vehicle miles traveled, and at the 1974 level there would be required a 32 percent reduction in vehicle miles traveled to achieve the same standards.

The PRESIDING OFFICER. All time of the Senator from Maine has expired. The Senator from Virginia has 1 minute remaining.

Mr. WILLIAM L. SCOTT. Mr. President, I wish to use the minute remaining to say that I feel that the automobile industry does need sufficient time to plan and develop a clean, economical engine and have a proper balance between the reduction of pollution and at the same time developing an efficient motor.

I urge the adoption of my amendment and yield back the remainder of my time.

Mr. MUSKIE. Mr. President, I use the 1 minute I have remaining on the bill.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mr. MUSKIE. Mr. President, the automobile industry did not move until this legislation was adopted in 1970. The technological achievement it has developed has been under the prod of that legislation.

What the Senator from Virginia would now do would be to pull off the pressure and let the industry move at its own pace. History tells us that is not good enough for the health of the people of this country.

I urge the amendment be rejected.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the amendment of the Senator from Virginia. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Idaho (Mr. CHURCH), the Senator from California (Mr. CRANSTON), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Iowa (Mr. HUGHES.), the Senator from Louisiana (Mr. LONG), the Senator from New Mexico (Mr. MONTOYA), and the Senator from Rhode Island (Mr. PASTORE) are necessarily absent.

I further announce that the Senator from Louisiana (Mr. LONG) and the Senator from Georgia (Mr. TALMADGE) are absent on official business.

I further announce that if present and voting, the Senator from Rhode Island (Mr. PASTORE) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Utah (Mr. BENNETT), and the Senator from New York (Mr. JAVITS) are necessarily absent.

The Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

If present and voting (Mr. JAVITS) would vote "nay."

The result was announced—yeas 19, nays 67, as follows:

[No. 587 Leg.]

YEAS—19

Bartlett
Brock
Byrd, Harry F., Jr.
Curtis
Eastland
Fannin
Griffin
Hansen
Helms
Hruska
Johnston
McClellan
Saxbe
Scott, William L.
Stennis
Stevens
Taft
Thurmond
Tower

NAYS—67

Abourezk
Aiken
Allen
Baker
Bayh
Beall
Bible
Biden
Brooke
Buckley
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cook
Dole
Domenici
Dominick
Eagleton
Ervin
Fong
Fulbright
Goldwater
Gurney
Hart
Hartke
Haskell
Hatfield
Hathaway
Huddleston
Humphrey
Inouye
Jackson
Kennedy
Magnuson
Mansfield
Mathias
McClure
McGee
McGovern
McIntyre
Metcalf
Mondale
Moss
Muskie
Nelson
Nunn
Packwood
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevenson
Symington
Tunney
Weicker
Williams
Young

NOT VOTING—14

Bellmon
Bennett
Bentsen
Church
Cotton
Cranston
Gravel
Hollings
Hughes
Javits
Long
Montoya
Pastore
Talmadge

So Mr. WILLIAM L. SCOTT's amendment was rejected.

Mr. MUSKIE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. MOSS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CLARK. Mr. President, the Clean Air Act is a tribute to the foresight and thoughtfulness of the U.S. Senate and the Senate Public Works Committee.

Recently, that act has come under fire. The energy crisis has given impetus to the growing opposition to some of its provisions.

Today we are considering extension of the 1975 interim standards for automobile emissions. The Public Works Committee has held numerous hearings on automobile emissions, and varying proposals for changes or delays in the standards have been discussed.

I do not want to see any changes in the current schedule for implementing the standards. The testimony given to the committee did not convince me that there is real justification for delaying the standards, but I am convinced that there is very strong feeling in the Congress for delaying the standards—and to keep that delay at the very minimum I support the amendment to the Clean Air Act that is before the Senate today.

One of the justifications for the current proposal is that the automobile companies need more time to perfect the cleanup equipment they will be putting on the 1975 cars. Another reason is that it will give them more time to move into the alternative technologies which will probably be preferable to the catalytic converters being put on many of next year's cars.

Another rationale for changing the current schedule for implementing the standards is that the emissions controls deserve the blame for the poor gasoline mileage our cars are getting. It is true that the present controls have lessened fuel efficiency, but so have automatic transmissions and air-conditioners. Emission controls cut down on air pollution, and obviously are more in the public interest than either automatic transmissions or air-conditioners. While it is vital that we take steps to conserve energy, it is also vital that we remember that other goals are important—and that clean air is not in unlimited supply any more than energy is.

Actually, the catalytic converters which will be required in many cars if the present proposal goes into effect will improve gasoline mileage—by at least 5 to 6 percent. So, moving ahead on clean-air goals will improve, not decrease fuel efficiency.

And we must continue to move ahead with clean-air goals. Dirty air is already a health problem in some areas of this country, but it need not be a health hazard for every area. The United States has the technology to cut automobile emissions. It should be used, and, if the only way we can be assured of cleaning up the air is through stringent standards required on a strict schedule, then it is vital that the standards and the schedule be maintained.

Mr. MUSKIE. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second [putting the question]. There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. MUSKIE. Mr. President, I yield back my time.

Mr. BUCKLEY. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The bill having been read the third time, the question is, Shall the bill pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Idaho (Mr. CHURCH), the Senator from California (Mr. CRANSTON), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Iowa (Mr. HUGHES), the Senator from New Mexico (Mr. MONTOYA), the Senator from Rhode Island (Mr. PASTORE), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that the Senator from Louisiana (Mr. LONG) and the Senator from Georgia (Mr. TALMADGE) are absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PASTORE), and the Senator from Georgia (Mr. TALMADGE) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Utah (Mr. BENNETT) and the Senator from New York (Mr. JAVITS) are necessarily absent.

The Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

If present and voting, the Senator from New York (Mr. JAVITS) would vote "yea."

The result was announced—yeas 85, nays 0, as follows:

[No. 588 Leg.]

YEAS—85

Abourezk
Aiken
Allen
Baker
Bartlett
Bayh
Beall
Bible
Biden
Brock
Brooke
Buckley
Burdick
Byrd,
Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cook
Curtis
Dole
Domenici
Dominick
Eagleton
Eastland
Ervin
Fannin
Fong
Fulbright
Goldwater
Griffin
Gurney
Hansen
Hart
Hartke
Haskell
Hatfield
Hathaway
Helms
Hruska
Huddleston
Humphrey
Inouye
Jackson
Johnston
Kennedy
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
McIntyre
Metcalf
Mondale
Moss
Muskie
Nelson
Nunn
Packwood
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Saxbe
Schweiker
Scott, Hugh
Scott,
William L.
Stafford
Stennis
Stevens
Stevenson
Symington
Taft
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—0

NOT VOTING—15

Bellmon
Bennett
Bentsen
Church
Cotton
Cranston
Gravel
Hollings
Hughes
Javits
Long
Montoya
Pastore
Sparkman
Talmadge

So the bill (S. 2772) was passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (b) of section 202 of the Clean Air Act, as amended (84 Stat. 1690), is amended to add the following new paragraph:

"(6) Notwithstanding the requirements of paragraph (1) of this subsection or the authority granted under paragraph (5)(B) of this subsection, the standards and test procedures applicable to emissions of carbon monoxide, hydrocarbons, and oxides of nitrogen from light duty vehicles and engines manufactured during model year 1976 shall be the standards and test procedures prescribed by the Administrator for light duty vehicles and engines manufactured during model year 1975 pursuant to paragraph (5)(A) of this subsection and section 209 of this Act in his action of April 11, 1973.".

ENROLLED BILL SIGNED

The enrolled bill (S. 2178) to name the U.S. courthouse and Federal office building under construction in New Orleans, La., as the "Hale Boggs Federal Building," and for other purposes, having been signed on December 15, 1973, by the Speaker of the House of Representatives, was signed today by the Vice President.

FOREIGN ASSISTANCE APPROPRIATIONS, 1974

The PRESIDING OFFICER (Mr. HELMS). Under the previous order, the Senate will now proceed to the consideration of H.R. 11771 which the clerk will state.

The second assistant legislative clerk read as follows:

A bill (H.R. 11771) making appropriations for foreign assistance and related programs for the fiscal year ending June 30, 1974, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations with amendments.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, on behalf of the Appropriations Committee I report to the Senate today an appropriation bill for foreign assistance and related programs (H.R. 11771) in the total amount of $5,475,068,000. This amount is $1,821,367,000 above the fiscal year 1973 appropriation. However, $2,450,000,000 is attributable to emergency disaster and military assistance. If this amount is excluded, the 1974 recommendation is $628,633,000 below the fiscal year 1973 appropriation—the grand total is $1,391,499,000 less than the amended budget estimate submitted by the President. I might add that this reduction not only meets the subcommittee's ambitious target of $1,202,583,000 adopted early this year at the request of Chairman MCCLELLAN, but exceeds it by $188,916,000.

I strongly believe the bill, as reported, reflects not only the considered judgment of the Appropriations Committee, but the vast majority of the Senate as well. I am certain that this is true with its three major thrusts—

First, the overall reduction of the traditional foreign aid program;

Second, the shift in emphasis from military and security related assistance to humanitarian assistance;

Third, by moving to insure that Congress knows of changes in these programs justified through what the Agency for International Development and the Department of Defense describe as illustrative presentation but which has been tantamount to selling Congress a "pig in a poke."

The Appropriations Subcommittee on Foreign Operations, which I have the honor to chair, began its hearings on March 19 and ended them on November 5, having sat in hearings for 41 hours and 28 minutes in one of the most detailed and exhaustive reviews ever made of our far-flung, much abused, and frequently misunderstood foreign assistance program.

The subcommittee began the year when with four other members of the full committee it made an exhaustive 21,000-mile trip to inspect our foreign assistance program in Southeast Asia.

The 228-page report made by this

delegation was classified at the request of the Department of State and Defense. However, it is available to any member and through him to appropriate staff personnel.

In addition, we have before the Senate today:

The two-volume set of regular hearings, including for the second year detailed tables on the total U.S. foreign assistance program for fiscal years 1972, 1973 and 1974—from whatever source—by country;

The special hearing held April 11 by the Subcommittee on Cambodian Assistance. This hearing was also classified but is available to members and appropriate personnel and a declassified version is available before you today;

A special report by Senator BROOKE on reconstruction assistance to Southeast Asia.

The special hearing held on March 19 concerning dollar devaluation and its effect, particularly on the U.S. contribution to the international development banks;

The special hearing held on November 5 relative to emergency military assistance for Israel and Cambodia and emergency disaster assistance for the Sahel, Nicaragua and Pakistan;

Last, before the Senate is a most comprehensive and detailed report summing up our conclusions after a year's work and containing our final recommendations.

To be more specific, I would like to sum up the major provisions of the bill before the Senate.

As Senators are aware, the Foreign Assistance Authorization Act of 1973 eliminated the old appropriation accounts for development loans, technical assistance and population growth with what is now referred to as functional accounts:

Food and nutrition;

Population planning and health;

Education and human resources development;

Selected development problems; and

Selected countries and organizations.

For the first three, the committee recommends the full amount authorized and has removed the House limitation of $100 million on population planning. The committee recommends reducing the last two categories—both referred to as "selected"—with the request that justifications under these categories be made in the future on a line item basis, as we do our own domestic projects. If activities, organizations, and countries are to be "selected," Congress ought to make the final judgments.

For the total of these five functional categories, the committee recommends $590 million—$10 million more than the House and a better break, $40 million more, in grants than loans, the latter at the specific request of the Agency for International Development.

The full amount authorized for international organizations and programs is recommended, including earmarking of $14,300,000 for UNRWA—Arab refugees—and $18 million for UNICEF—the latter, a $3 million increase over the House allowance. This recommendation also includes full funding for the United Nations Development Program.

For the sometimes controversial American schools and hospitals abroad appropriation, the committee recommends the full budget estimate but an amount of $9 million less than that authorized and approved by the House. Also included to bring about better geographical balance is a provision limiting each country to four participating institutions.

The full budget estimate for the United Nations Environment Fund is recommended as is a special $2 million for intensified vocational training for Palestine refugees. Also included at the full budget estimate are funds for international narcotics control and the full authorization of $1 million, funds for the renowned Albert Schweitzer Hospital in Gabon. Also, $25 million authorized for the tragic drought in the Sahel or Sub-Sahara Africa—another $50 million for the Sahel is funded under the emergency disaster section of the bill.

The committee report on page 71 outlines what it believes to have been a questionable use of the President's Contingency Fund and has, therefore, eliminated it in its entirety. We will promptly consider any emergency request that cannot be funded from the regular program.

No additional reserves are recommended for the Overseas Private Investment Corporation—OPIC—in view of the size of its current reserves and the fact that any proven losses are backed by the full faith and credit of the U.S. Government.

The item identified as "administrative expenses" was established to cover personnel costs, travel, overhead, and other expenses necessary to carry out AID's assistance program. Last year, however, a detailed analysis of these costs indicated that many of AID's operating expenses had gradually been transferred over and were being commingled with appropriations for grants and loans. In its 1973 report, the committee brought this matter to the attention of the Agency and the authorizing committees but nothing was done about it. Therefore, the committee, upon learning that this year's operating costs were $191 million rather than the $45 million authorized for administrative expenses, elected to further encourage correction of this policy by reducing administrative expenses to $24 million. This is the amount authorized by the Senate version of the authorization bill.

The committee feels that our foreign military assistance program, through both the grant and sales programs, adds little to the free world's defense posture and is perhaps as often a disservice as a service to recipient nations.

One might expect that most of these countries could better use our resources and their own in improving the lot of their people. In this regard, it might be noted that a respected international organization reviewing international military expenditures estimates that some $26 billion a year is so spent by the nations of South America, Africa and Asia, excluding Communist China, the Soviet Bloc, and NATO countries.

Those interested in the subject matter ponder the discussion of military sales presented on page 41 of the committee's report and highlighted with a graph on page 100. This unusual presentation shows that total U.S. involvement in the arms traffic is not the $325 million appropriated in this bill but, rather, an astonishing $5 billion estimated for the current fiscal year.

The committee recommends $300 million for the military grant program and $325 million for military credit sales. The latter will support a total program of up to $730 million and of this amount $300 million is earmarked for Israel.

For a reduced supporting assistance program, $100 million is recommended, and for Indochina postwar reconstruction, $400 million would be concentrated on humanitarian relief, refugees, and especially children, rather than direct support of the governments concerned.

Slight reductions were made in the Department of State's refugee program and its proposed new programs for Cuban refugees and its South African project are specifically denied. Small reductions are also proposed for Department of State's administrative expenses, Peace Corps and the regular Cuban refugee program which will begin its proposed phaseout on July 1, 1974.

No funds are recommended for Soviet Jewish refugees. No budget request was received for this item and no funds were justified to the committee.

For the international development banks, the committee provided $100 million for the Asian Development Bank with the understanding that the entire amount will be spent in the United States; $418 million for the Inter-American Development Bank—the same amount as the House but distributed differently as between the Bank's accounts; and $320 million for the International Development Association.

The full amount of $2.2 billion is recommended for emergency military assistance to Israel, with the same provision as included in the House passed bill—not to exceed $1 billion in grants and for the Congress to be notified 10 days prior to the last $500 million which will be further justified in detail at that time.

For Cambodia, the committee recommends $100 million. This is in addition to the $173 million for Cambodia proposed in the regular military assistance program. The committee bill would close the door to an additional availability of $250 million through drawdown authority of Department of Defense stocks—the channel recommended by the legislative committees although such stocks would presumably be replaced through next year's MAP appropriations—an end run of the appropriations process, and congressional control over appropriations if there ever was one.

The full amount of the request for Emergency Disaster Relief Assistance is approved and broken down—$50 million for the Sahel; $85 million for Pakistan; and $15 million for Nicaragua.

In addition, the committee recommends bill language disassociating the

United States from Vietnam's public safety program once and for all;

Requiring excess foreign currency to be used for local costs of the foreign assistance program to the extent to which it is available; requiring the Agency for International Development to justify to the committee any activities not justified in its annual presentation or in excess of amounts justified.

On page 11 of the committee reports we detail certain personnel practices indicating that better utilization is needed and that AID is still overstaffed and top-heavy even though certain reductions have been made. For instance, we wrote that almost 5 percent of AID's personnel costs are for 314 auditors—perhaps the highest ratio of any organizations, public or private, and one that cannot be continued.

Mr. President, I believe this bill is a well balanced and fiscally responsible approach to America's concerns for its less fortunate neighbors abroad. I commend it to you for adoption.

Mr. President, I ask unanimous consent that the committee amendments be considered and agreed to en bloc, and that the bill as thus amended be regarded for purpose of amendment as original text, provided that no point of order shall be considered to have been waived by reason of agreement to this order.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendments, agreed to en bloc, are as follows:

On page 2, at the beginning of line 7, strike out "$277,000,000" and insert in lieu thereof "$291,000,000".

On page 2, in line 11, after "expended" strike out the colon and the following language:

> *Provided further*, That no grants made available to carry out the purposes of this paragraph shall be used to initiate any project or activity which has not been justified to the Congress.

On page 2, in line 17, strike out "$125,000,000" and insert in lieu thereof "$145,000,000".

On page 2, in line 21, after "expended" strike out the colon and the following language:

> *Provided further*, That no grants made available to carry out the purposes of this paragraph shall be used to initiate any project or activity, except those under title X, which has not been justified to the Congress: *Provided further*, That not more than $100,000,000 appropriated or made available under this Act snall be used for the purposes of section 291 during the current fiscal year.

On page 3, in line 6, strike out "$88,000,000" and insert in lieu thereof "$90,000,000".

On page 3, in line 11, strike out the colon and the following language:

> *Provided further*, That no grants made available to carry out the purposes of this paragraph shall be used to initiate any project or activity which has not been justified to the Congress.

On page 3, in line 17, strike out "$52,000,000" and insert in lieu thereof "$29,000,000".

On page 3, at the end of line 21, strike out the colon and the following language:

> *Provided further*, That no grants made available to carry out the purposes of this paragraph shall be used to initiate any project or activity has not been justified to the Congress.

On page 4, in line 3, strike out $38,000,000" and insert $35,000,000".

On page 4, at the end of line 7, strike out the colon and the following language:

> *Provided further*, That no grants made available to carry out the purposes of this paragraph shall be used to initiate any project or activity which has not been justified to the Congress.

On page 4, in line 15, strike out $300,000,000" and insert in lieu thereof $340,000,000".

On page 4, at the beginning of line 18, strike out $105,000,000" and insert in lieu thereof "$127,822,000".

On page 4, in line 18, strike out "$15,000,000" and insert in lieu thereof "$18,000,000".

On page 4, in line 20, after "Fund" insert "and of which $14,300,000 shall be available only for the United Nations Relief and Works Agency".

On page 4, at the end of line 21, strike out the colon and the following language:

> *Provided*, That no part of this appropriation shall be used to initiate any project or activity which has not been justified to the Congress: *Provided further*, That none of the funds appropriated or made available pursuant to this Act shall be used to supplement the funds provided to the United Nations Development Program in fiscal year 1973.

On page 5, in line 6, strike out "$5,000,000" and insert in lieu thereof "$10,000,000".

On page 5, line 9, strike out "$19,000,000" and insert

> $10,000,000: *Provided*, That the amount appropriated under this paragraph shall not be used to furnish assistance to more than four institutions in the same country.

On page 6, beginning with line 9, insert

> Albert Schweitzer Hospital: For necessary expenses to carry out section 33 of the Foreign Assistance Act of 1973, $1,000,000.

On page 6, beginning with line 12, strike out

> Contingency fund: For necessary expenses, $30,000,000, to be used for the purposes set forth in section 451.

On page 6, in line 20, strike out "$5,000,000" and insert in lieu thereof "$24,000,000".

On page 6, in line 26, strike out "$5,432,000" and insert in lieu thereof "$4,800,000".

On page 8, in line 9, strike out "$500,000,000" and insert in lieu thereof "$300,000,000".

On page 8, in line 16, strike out "$500,000,000" and insert in lieu thereof "$400,000,000".

On page 8, in line 21, strike out "$125,000,000" and insert in lieu thereof "$100,000,000".

On page 8, in line 22, after "*Provided,*" strike out

> That no part of this appropriation shall be used to initiate any project or activity which has not been justified to the Congress: *Provided further*,

On page 9, beginning with line 1, strike out

> OVERSEAS PRIVATE INVESTMENT CORPORATION
>
> The Overseas Private Investment Corporation is authorized to make such expenditures within the limits of funds available to it and in accordance with law (including not to exceed $10,000 for entertainment allowances), and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 849), as may be necessary in carrying out the program set forth in the budget for the current fiscal year.
>
> Overseas Private Investment Corporation, reserves: For expenses authorized by section 235(f), $50,000,000, to remain available until expended.

On page 9, in line 22, strike out "$7,500,000" and insert in lieu thereof "$12,500,000".

On page 12, in line 14, strike out "amendment" and insert in lieu thereof "section".

On page 13, beginning with line 3, strike out

> Sec. 111. No part of any appropriations contained in this Act may be used to provide assistance to Ecuador, unless the President determines that the furnishing of such assistance is important to the national interest of the United States.
>
> Sec. 112. The funds appropriated or made available pursuant to this Act shall be available notwithstanding the provisions of section 10 of Public Law 91–672 and notwithstanding the provisions of section 655(c) of the Foreign Assistance Act of 1961, as amended.

On page 13, at the beginning of line 13, strike out "113" and insert in lieu thereof "111".

On page 13, beginning with line 17, strike out

> Sec. 114. None of the funds appropriated or made available pursuant to this Act may be used to provide assistance to South Vietnam unless the President receives assurances satisfactory to him and that no assistance furnished under this Act, and no local currencies generated as a result of assistance furnished under this Act, will be used for support of police, or prison construction and administration within South Vietnam.

On page 13, beginning with line 25, insert

> Sec. 112. None of the funds appropriated or made available pursuant to this Act, and no local currencies generated as a result of assistance furnished under this Act, may be used for the support of police, or prison construction and administration within South Vietnam, for training, including computer training, of South Vietnamese with respect to police, criminal, or prison matters, or for computers or computer parts for use for South Vietnam with respect to police, criminal, or prison matters.
>
> Sec. 113. It is the sense of the Congress that excess foreign currencies on deposit with the United States Treasury, having been acquired without the payment of dollars, should be used to underwrite local costs of United States foreign assistance programs to the extent to which they are available Therefore, none of the funds appropriated by this title shall be used to acquire, directly or indirectly, currencies or credits of a foreign country from non-United States Treas-

ury sources when there is on deposit in the United States Treasury excess currencies of that country having been acquired without payment of dollars.

SEC. 114. None of the funds made available under this Act for "Food and Nutrition, Development Assistance," "Population Planning and Health, Development Assistance," "Education and Human Resources Development, Development Assistance," "Selected Development Problems," Development Assistance," "Selected Countries and Organizations, Development Assistance," "International Organizations and Programs," "American Schools and Hospitals Abroad," "International Narcotics Control," "Contingency Fund," "Indochina postwar reconstruction assistance," "Security supporting assistance," "Military assistance," or "Migration and refugee assistance" shall be available for obligation for activities, programs, projects, countries, or other operations not justified or in excess of the amount justified to the Committees on Appropriations of the Senate and House of Representatives for funding under any of these specific headings for fiscal year 1974.

On page 16, in line 24, strike out "$9,100,000" and insert in lieu thereof "$8,566,000'.

On page 17, beginning with line 7, strike out

ASSISTANCE TO REFUGEES FROM THE SOVIET UNION

For necessary expenses to carry out the provisions of section 101(b) of the Foreign Relations Authorization Act of 1972, $36,500,000.

On page 17, in line 17, strike out "$25,000,000" and insert in lieu thereof "$100,000,000".

On page 17, in line 22, strike out "to (1) paid in capital stock; (2) callable capital stock and (3)" and insert in lieu thereof "(1) to paid-in capital stock, $25,000,000; (2) to callable capital stock $43,380,00; and (3) for the".

On page 18, in line 3, strike out "$418,380,000" and insert in lieu thereof "$350,000,000".

On page 18, in line 16, after the comma, insert the following

That the funds appropriated in this paragraph shall be available only upon enactment into law of authorizing legislation: *Provided further,*

On page 19, at the end of line 7, strike out "$150,000,000" and insert in lieu thereof "$100,000,000".

On page 19, after "amended" insert a colon and the following language:

Provided further, That the President shall not exercise his special authority during fiscal year 1974 under section 506 of the Foreign Assistance Act of 1961.

On page 19, at the beginning of line 18, strike out "$100,000,000" and insert

$150,000,000, of which sum $85,000,000 shall be available only in Pakistan, $50,000,000 shall be avaliable only in the Sahel region of Africa, and $15,000,000 shall be available only in Nicaragua: *Provided,* That the funds appropriated in this paragraph shall be available only upon enactment into law of authorizing legislation.

Mr. BROOKE. Mr. President, consideration of this bill by the Senate represents the culmination of a long and arduous task. Particular credit should be given to the very diligent and hardworking chairman of the Foreign Operations Subcommittee, Senator INOUYE. However, and I am sure my chairman would be the first to agree, this bill is not the total responsibility of any one man or any small group of men. Instead, the bill is a result of the combined best efforts and best endeavors of many individuals. I would like to note the tireless efforts of the members of the Appropriations Committee staff in bringing this measure to fruition. Special thanks is due Bill Jordan, Bill Kennedy, and Burkett Van Kirk.

Naturally, with a bill of this magnitude I am not in total agreement with each and every item. I would have preferred to have provided larger sums for education and human resources development. Although our committee recommended a figure of $2 million above that allowed by the House, the Agency for International Development testified that—

> Developing countries have doubled the size of their school assistance in the past 10 years, but it is likely that more children are out of school today than there were 10 years ago.

Thus, Mr. President, the need for additional funds for education is there, and clear for all to see.

Another area, and, one of many where more funds are urgently needed, is in the Sahel area of Africa. During our hearings we found that—

> Because of the effects of a prolonged period of insufficient rain and inadequate harvests in six countries in West Africa, among them some of the poorest nations in the world, people were suffering excessively from severe draught, and malnutrition as well.

Very shortly our U.S. assistance will shift focus from emergency relief operations to recovery and rehabilitation programs. No one can dispute the urgency and necessity for the prompt appropriation of these funds.

Another area in this bill of which I am particularly proud is our contribution to the Albert Schweitzer Hospital in Gabon. Although $1 million was authorized for this institution. I was disturbed to discover that the House made no allowance whatsoever for this most necessary facility. Our committee recommends $1 million for this item. The remainder of the funds necessary for the hospital will come from contributions by other governments and private sources.

Mr. President, this measure represents months of careful consideration and the spirit of responsible compromise. I commend this measure to Senators and hope that we shall expeditiously act on it.

Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. BROOKE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

On page 9, line 1, insert the following:

OVERSEAS PRIVATE INVESTMENT CORPORATION

The Overseas Private Investment Corporation is authorized to make such expenditures within the limits of funds available to it and in accordance with law (including not to exceed $10,000 for entertainment allowances), and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 849), as may be necessary in carrying out the program set forth in the budget for the current fiscal year.

Mr. BROOKE. Mr. President, this is a technical amendment and it does not involve a money matter at all. It merely involves striking out language on page 9. I offer the amendment as a technical amendment.

Mr. INOUYE. The committee is very pleased to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. FONG was recognized.

Mr. INOUYE. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. FONG. I yield.

Mr. INOUYE. Mr. President, I ask unanimous consent that Richard McCall, of the staff of the Senator from Wyoming (Mr. McGEE), be permitted on the floor during the debate on this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, will the Senator yield for a unanimous-consent agreement?

Mr. FONG. I yield.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a time limitation of 20 minutes on the two amendments to be offered by the Senator from Hawaii (Mr. FONG) and a 20-minute limitation on the amendment to be offered by the distinguished Senator from Arkansas (Mr. McCLELLAN), the time to be equally divided between the sponsors of the amendment and the manager of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FONG. Mr. President, I send to the desk an amendment.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

On page 16, line 25, strike out "$8,566,000" and insert in lieu thereof "$9,504,000".

Mr. FONG. Mr. President, today I received a letter from Frank L. Kellogg, Special Assistant to the Secretary for Refugees and Migration Affairs, Department of State, reading:

DECEMBER 17, 1973.

DEAR SENATOR FONG: I am addressing you in your capacity as ranking minority member of the Subcommittee on Refugees and Escapees, to call your attention to a damaging reduction in funds for the operations of my office, and to request your assistance in having the money restored to us. The amount is not large in terms of the total under the Foreign Assistance and Related Programs Appropriation Bill, 1974 (H.R. 11771), but its unavailability will reduce the effectiveness of refugee assistance programs worldwide. It is of particular concern that this reduction will set an example for other nations in their contributions and thus, at a time when refugees problems are proliferating, inhibit the operations of the international organizations which have been doing extremely effective work in this field.

Our original budget estimate and also the authorization for Migration and Refugee Assistance conducted by my office on a regular basis was $9.504 million, roughly the amount of our 1973 expenditure with an allowance for the effects of devaluation. The House of Representatives allowed $9.1 million. And this has been followed by a recommendation from the Senate Committee on Appropriations for a further reduction—subject of this letter—of $534,000, bringing our total down to $8.566 million.

The Appropriations Committee report contains the assertion that my Office of Refugee and Migration Affairs directs its primary assistance efforts toward European problems with some attention to Africa. In actuality, although we continue to support European operations, extensive refugee problems have been developing elsewhere. As an example, one of the major international organizations supported under this appropriation—the Office of the U.N. High Commissioner for Refugees (UNHCR)—devotes over half of its material assistance budget to Africa, and the Intergovernmental Committee for European Migration—(ICEM)—has important current programs in South Asia, the Far East and Latin America.

The Appropriation Committee reports that the committee's intention, in making the reduction, is that no new programs or activities be undertaken in fiscal year 1974 that were not carried on in fiscal year 1973. I find this incomprehensible. It is the very nature of refugee problems in today's world that they occur unexpectedly and in unanticipated places. A prohibition of this kind, had it existed previously, presuambly would have enjoined, for example, U.S. support of international programs to assist Asians recently expelled from Uganda, Bengalis and non-Bengalis being repatriated between Bangladesh and Pakistan, and alien refugees in Chile requiring protection and assistance. If it should be approved by the Congress, it would prevent us from assisting any new refugees who might be generated this year.

The United States for many years has played a role of leadership and example in humanitarian programs. Our non-response to assistance programs for refugees could drastically inhibit the participation of other nations. Our budget request, even before the reductions, permitted U.S. contributions of lesser magnitude, on the basis of comparable wealth, than those of several other humanitarian nations.

I have prided myself, in operations of this office, on efficiency and maximum benefit from funds provided to us. Current refugee problems and programs supported or conducted by my office will have to be curtailed, if the reduction stands, in Europe, the Far East, Africa, South Asia and Latin America—and for that matter in the United States, so far as transport of refugee immigrants to this country is concerned.

I most urgently ask you to do what you can to bring this appropriation up to strength.

Sincerely,

FRANK L. KELLOGG,
Special Assistant to the Secretary for Refugee and Migration Affairs.

As the ranking minority member of the Subcommittee on Refugees and Escapees of the Judiciary Committee and as a member of the Appropriations Committee, I have sent to the desk an amendment on behalf of Senator KENNEDY, chairman of the Subcommittee on Refugees and Escapees, Senator PELL, and myself. This is an amendment to the Foreign Assistance and Related Programs Appropriations Act, 1974. This amendment is of vital concern to refugees and escapees.

For fiscal year 1973, the appropriation for migration and refugee assistance amounted to a total of $9,100,000. Of this, $600,000 was provided in the Second Supplemental Appropriations Act of 1973 (Public Law 93–50) and $534,000 was transferred to salaries and expenses appropriation for Pay Act increases.

It is true that when the Department of State first sent up its fiscal year 1974 request for appropriations, it did request only $8,800,000 for these programs.

But, when Frank L. Kellogg, Special Assistant to the Secretary for Refugee and Migration Affairs, Department of State, testified before the Foreign Assistance Subcommittee of the Appropriations Committee on May 10, 1973, in support of the Department's budget request, he did indicate at page 383 of the transcript of the hearings that—

> A budget amendment for FY 1974 is being prepared by the Department and may be released by the President in the near future.

In its budget amendments for fiscal year 1974, the Department of State asked that the figure for refugee and migration assistance be increased from $8,800,000 to $9,504,000 due to the devaluation of the dollar by $704,000.

I ask unanimous consent that an excerpt from this budget amendment, House Document 93–104, showing the justification and proposed use of these increased funds be printed in the RECORD at this point, as well as an excerpt from page 109 of Senate Report 93–620 showing the use to be made of the $9,504,000.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MIGRATION AND REFUGEE ASSISTANCE

Increased costs resulting from devaluation of the dollar

Request pending	$8,800,000
Budget amendment for devaluation of dollar	704,000
Revised request	9,504,000

GENERAL STATEMENT

On February 12, 1973, the United States announced the devaluation of the dollar by 10 percent. Preceding this announcement, the purchasing power of the dollar in relation to other currencies had been weakening in overseas markets, especially in Western Europe and Japan. Since the effect of the devaluation is not reflected in the fiscal year 1974 budget, this budget amendment seeks to provide the necessary funds to meet these unforeseen increases in our operations overseas. The reasons for the devaluation are both complex and varied; but the effect on the United States will be to improve our international balance of payments by increasing the financial attractiveness of our exports and decreasing imports of foreign goods because of their higher costs. Notwithstanding these and other long and short-term advantages to the American economy, the devaluation has had a significant adverse effect on the overseas activities of the Department.

The overseas operations of our posts are primarily paid for in local currencies and the decrease in the value of the dollar has automatically caused our costs to increase sharply. The increases in our costs overseas as a result of the February 12 devaluation are primarily those arising from the changes in the value of the Swiss Franc. This currency revaluation exceeded 22 percent. The major increases in cost cover activities performed by the International Committee for European Migration, the United States Refugee Program, and administrative operations in Geneva, Switzerland and Hong Kong. The funds are requested to pay local salaries, rent, utilities, and air charter costs which have increased as a direct result of the devaluation.

The Department requests an additional $704,000 to offset the effect of devaluation on the cost of overseas operations funded by this appropriation.

DEPARTMENT OF STATE

MIGRATION AND REFUGEE ASSISTANCE—INCREASED COSTS DUE TO DEVALUATION OF THE DOLLAR

Country and organization	Fiscal year 1974 costs affected by devaluation	Percentage increase in 1974	Increased costs due to the devaluation
Switzerland:			
Contribution to Intergovernmental Committee for European migration	$877,400	22.68	$199,000
Refugees from European countries	1,899,500	22.68	430,800
Administration	300,000	22.68	68,000
Hong Kong: Administration	49,000	12.55	6,200
Total	3,125,900	22.52	704,000

Note: These funds are on a calendar year basis.

Increased costs resulting from devaluation of the dollar—Object class summary

Object classification	
11.1 Permanent positions	$18,500
11.3 Positions other than permanent	-------
11.5 Other personal compensation	-------
Total personnel compensation	18,500
12 Personal benefits	8,600
Total personnel compensation and benefits	27,100
Other obligations	
21 Travel and transportation of persons	3,500
22 Transportation of things	500
23 Rent, communications, and utilities	2,300
25 Other services	467,100
26 Supplies and materials	500
41 Grants, subsidies, and contributions	203,000
Total other obligations	676,900
Total obligations	704,000

MIGRATION AND REFUGEE ASSISTANCE—PROPOSED ANNUAL PROGRAM

Appropriation	1972 (actual)	1973 (estimated)	1974 (estimated
1. Contribution to Intergovernmental Committee for European Migration	$3,150,000	$3,325,000	$3,449,000
2. Contribution to United Nations High Commissioner for Refugees	1,050,000	1,275,000	1,100,000
3. Refugees from European Communist countries	3,045,000	2,307,000	2,831,000

Appropriation	1972 (actual)	1973 (estimated)	1974 (estimated)
4. Refugees from Communist China	$500,000	$500,000	$500,000
5. Contribution to International Committee of the Red Cross	50,000	50,000	50,000
6. African refugees	225,000		300,000
7. Administration	1,011,000	1,091,000	1,274,000
Total obligations	9,031,000	8,548,000	9,504,000
Transfer to salaries and expenses appropriation for Pay Act increases		534,000	
Unobligated balance		18,000	
Appropriation	9,031,000	9,100,000	9,504,000
Presidential determination orders	8,850,000	4,000.000	

Mr. FONG. Then, on May 16, 1973, nondepartmental witnesses were heard by the subcommittee in support of migration and refugee assistance. Rev. John W. Schauer and other vice chairmen of the Committee on Migration and Refugee Affairs of the American Council of Voluntary Agencies, representing 26 voluntary agencies, testified in support of the then $8,800,000 budget request as—

> The minimum amount . . . to insure programs not only of an ongoing nature but to meet new problems as they may emanate from East Europe, Africa, Asia, Near and Far East and Latin America . . . (Pages 544 and 548 of the transcript of the Hearing.)

And at page 548, Reverend Schauer stated:

> It is recommended that the Appropriations Committee . . . consider an increase in the above figures, if possible, to meet new contingencies.

The chairman of the subcommittee, the junior Senator from Hawaii, while indicating that cuts would be made in the foreign assistance program, at page 551 of the transcript of the hearing, reassured the representatives of the voluntary agencies that this would not, and I repeat not, happen to activities involving migration and refugee assistance, stating:

> We have no intention to cut back activities such as yours; we hope to increase them. I just wanted to say this in case you see headlines that the committee is making 30-percent cuts, it is not aimed at you.

Then, after the Department had submitted its request for a budget of $9,504,000 for migration and refugee assistance for fiscal year 1974, and on December 13, 1973, the Appropriations Committee recommended this appropriation be cut to $8,566,000, stating, at page 108 of its report, Report No. 93–620:

> It is the intention of the Committee in making this reduction that no new programs or activities be undertaken in fiscal year 1974 that were not carried on in fiscal year 1973.

We fail to provide for the devaluation of the dollar so that our present level of assistance be maintained and then we go further and invite catastrophe upon all new kinds of migrants and refugees who need assistance.

We refuse to recognize that on October 25, 1973, the Attorney General under his parole authority, authorized the parole into the United States of the approximately 20,000 Cuban refugees now in Spain over the period of the next 2 years.

This is a new program—are we now to drop these people in the midst of their revived hopes?

I have just received a batch of clippings from the Hong Kong Standard and the South China Morning Post. Apparently, the People's Republic of China has begun to issue exit permits to its overseas Chinese, who returned to China in the 1950's and 1960's from Indonesia, Cambodia, South Vietnam, Malaysia, the Philippines, and other countries of Indochina. Over 48,000 such "overseas Chinese" had arrived in Hong Kong by mid-November 1973. They apparently will not be accepted for return by these countries. Their plight in already overcrowded Hong Kong is sad.

It is contemplated that assistance be given these unfortunate people to keep them alive until they can be resettled by the international organizations in their native country or possibly in South America.

None of these "legal overseas Chinese," it is expected, will be resettled in the United States.

I ask unanimous consent that a copy of a letter dated November 7, 1973, from Lilli Neugebaeur, director, World Council of Churches, Hong Kong office to Mrs. Ingrid Walter, Lutheran Council in the United States of America, and the clippings referred to therein, as well as two excerpts from the South China Morning Post, dated November 8, 1973, be printed in the Record at the conclusion of my remarks on this amendment as exhibit A.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit A.)

Mr. FONG. Are these people to be abandoned to die of starvation and dispair once they have legally reached Hong Kong, because assistance to them would be an undertaking of "new programs or activities—in fiscal year 1974 that were not carried on in fiscal year 1973" and thus would be prohibited under the Senate mandate of Senate Report 93–620—even though some international assistance to them will be forthcoming.

Let us hope not.

We are a compassionate nation. Even with our inflation, our energy shortage, and our other problems, we cannot afford morally to abandon the needy of the world.

Today it is the Cuban refugee in Spain, or the overseas Chinese migrant in Hong Kong—tomorrow it may be any part of the world. We cannot, and I trust will not, shut our eyes, our hearts, or our pocketbooks to alleviate such suffering.

The dismay of the voluntary agencies is well expressed in a telegram I received today. It reads:

Hiram L. Fong,
Washington, D.C.:

Officers of Migration and Refugee Committee American Council of Voluntary Agency for Foreign Service, expressed dismay and shock regarding funding cut for Department of State Office of Migration and Refugee Affairs. We urge restoration of funds to requested figure of $9,504,000 with deep conviction ORM program is crucial in expressing American humanitarian concern for the homeless and persecuted throughout the world, and in the belief that the need for these most essential services will be increased in the coming year.

Jan Papanek,
American Fund for Czechoslovak Refugees.
John Schauer,
Church World Service.
Charles Sternberg,
International Rescue Committee.
Donald Anderson,
Lutheran Immigration and Refugee Service.
Edmund Cummings,
Migration and Refugee Services, USCC.
Tatiana Schaufuss,
Tolstoy Foundation.
Gaynor I. Jacobson,
United HIAS Service.

I ask the adoption of this amendment to increase the appropriation for Migration and Refugee Assistance to $9,504,000 as requested by John M. Thomas, Acting Deputy Under Secretary for Management, Department of State, in a letter to the Honorable Daniel K. Inouye, dated December 13, 1973, a copy of which letter I ask be printed in the Record at the conclusion of my remarks on this amendment as exhibit B.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit B.)

Exhibit A

World Council of Churches,
Hong Kong, November 7, 1973.

Mrs. Ingrid Walter,
Lutheran Council in the United States of America, New York, N.Y.

Dear Mrs. Walter: Enclosed please find for your interest the following Newspaper cuttings:

S.C.M. Post—"HK headache as Chinese flock here", Nov. 3, '73.

Hong Kong Standard—"China's legal migrants speak," Nov. 4, '73; "Immigrants from China," Nov. 5, '73; "Massive influx of migrants," Nov. 6, '73.

S.C.M. Post—"Another big surge in China exodus," Nov. 6, '73.

As you will see, people from China are entering this tiny Colony at an alarming rate, building up a situation which we are sure will involve all of us much more deeply.

There is, besides trying to help these people secure travel documents etc., also the social side—their personal problems which are brought to us, such as a child being knocked over by a car and being hospitalized, schooling, language barriers, unemployment, health, financial difficulties—they want to talk, they want advice, and they need help.

Yours sincerely,
Lilli Neugebauer,
Director.

[From the South China Morning Post, Nov. 3, 1973]

Hong Kong Headache as Chinese Flock Here

China is permitting an increasing number of overseas Chinese to leave the country—and Hongkong is being stuck with the problem of absorbing them.

So far this year, 46,000 people have been allowed to leave China.

In October alone, about 7,000 arrived across the border bridge at Lowu.

Virtually all of them have stayed in Hongkong—and the flood of legal arrivals from China is posing the Government a big headache that threatens to get a lot worse before it gets better.

It is believed the Government has contacted authorities in Kwangtung and has expressed concern over the increasing number of people arriving from China.

But Government officials refused to confirm this. The only official comment they had was that the matter was still under consideration and no statement could be made "at this time."

However, it is known that the big increase in the number of those permitted to leave China has been the subject of an exchange of cables between Hongkong and Whitehall.

The Foreign and Commonwealth Office has been kept informed of the situation and has obviously treated the matter as one of considerable concern.

A large percentage of those permitted to leave China are overseas Chinese, many of them from Indonesia. Others returned to China in the 1960s from Cambodia. South Vietnam and Malaysia following a call from Peking for overseas Chinese to return to help rebuild the motherland.

Now they are disillusioned and wish to leave China—and, for reasons which nobody can fully explain, China is agreeing to allow them to depart.

They are issued with exit visas which allow them to leave China—but once they walk over the Lowu bridge, the documents are worthless.

They are out of China with nowhere to go. Their former homelands do not want them back and no other country will accept them—so Hongkong must absorb them.

The large number of people lining up at the immigration counters at Lowu is a comparatively recent development.

For years, there has been an informal understanding between the Colony and Canton authorities that Hongkong would accept up to 50 legal arrivals a day.

These people were almost invariably Cantonese.

In 1971, the number of people who legally arrived in the Colony averaged about 30 to 45 a month.

Last year, they averaged about 800 a month, still well under the 50-a-day limit.

It was not until June this year that the quota started to be regularly exceeded—but last month's flood of 7,000 arrivals was by far the largest number.

About a third of the arrivals are Cantonese it is believed. Another third are overseas Chinese and the remainder are from provinces other than Kwangtung.

Many of the "legal refugees" are middle-aged or elderly and have no relatives in Hongkong.

Part of the concern being felt in the Government is based on the surmise that the trend will accelerate, and that the Colony will have to house, feed and employ even larger numbers in the future, at an obvious cost to the community.

As well as the "legal refugees," the Colony also has to absorb a continuing flow of illegal immigrants. Last month, 614 young refugees, most of them freedom swimmers, successfully made it to Hongkong and were arrested by police.

But about three times this number are believed to have arrived and melted into the community without being arrested.

[From the Hong Kong Standard, Nov. 4, 1973]

CHINA'S LEGAL MIGRANTS SPEAK: "I CAN SEE NO FUTURE FOR US HERE"

(By Bill Wong)

Every day between 50 and 80 Indonesian-Chinese are pouring into Hongkong from China to swell the number of a new breed of refugee.

There are now about 40,000 of them pining to return to their homeland—but Indonesia no longer recognises or wants them.

As their numbers rise day-by-day, so does the social problem of absorbing them.

Over the last few days, I have interviewed several of the newcomers to find out exactly who and what they are.

Mr. Chan was sitting on a stool with his back leaning against the wall. Opposite him sat his two room-mates on the lower bed of bunk which took up half the dimly-lit, windowless 10-foot by 10-foot cubicle in a flat in a multi-story building in Kuntong. The only other furniture was a stool and a folding table which served as both a dining table and writing desk. Several cases, containing their best clothes and a few valuables, lay loosely on the floor beneath the bunk.

"We are not satisfied with life here . . . but we are nevertheless happy to be here," Mr. Chan murmured.

He is an Indonesian-Chinese who fled the Southeast Asian country to further his studies in China in the late 1950s but eventually came to Hongkong a few months ago. His views reflect the thinking of most of the tens of thousands of overseas Chinese who are stranded in Hongkong after leaving China with official permission during the last 18 months.

There is no official estimate of how many of these people are now in Hongkong.

But a conservative estimate suggested the number is as high as 30,000 to 40,000 with Indonesian topping the list. The others are from Malaysia, Singapore, Philippines, Burma and South Vietnam. Since all these governments have refused to take them back, they have to make their "home" here.

Because of their different educational and social backgrounds, they have formed themselves into national groups with an invisible barrier between them and other residents of Kuntong, Tsuehwan and North Point where most of them now live.

It is not difficult to understand this self-imposed "isolation".

The reasons seem to be:

The lack of understanding of Hongkong society: They have been staying in China since either the late 1950s or early 1960s and the newcomers are naturally afraid of all the "mysteries" which they have not encountered in the last 10 to 15 years.

The lack of communication with local residents: Although some of them speak Cantonese, find themselves unable to talk with their neighbours because of the different terms used and different interest. Most only speak Mandarin and find themselves "deaf and dumb" here.

The lack of social recognition: Despite the fact that many of the newcomers were teachers, interpreters, doctors or engineers in China, very few can find themselves jobs in similar lines but have had to switch to odd-jobs in plasticware, metalware and garment factories or in construction sites.

The difference in hobby and interests: The newcomers' hobbies are much less worldly than their local friends. They enjoy sports, reading and philosophical discussions.

Financial hardships: Most of them are facing difficulties because of unsteady employment—often being dismissed by employers for not working hard enough or because of language problems. They feel unhappy with the long working hours and poor working conditions. Many send money to support their wife and children in China.

Mr Chan came to Hongkong last summer from Tientsin, where he worked as a doctor in a leading hospital. Because he has "settled down" in Kuntong for nearly 16 months, he is regarded as a guardian by those who came to Hongkong afterwards.

"Hongkong is not as good as most of us thought. But still we are happy to be here," he said.

But Mr Chan admitted that the opportunities for people like him in Hongkong are very slim.

"Unless we get support from our parents in Indonesia, it is difficult for us to compete with local people," he said, adding that even that was difficult because of tight financial controls by the Indonesian government there.

Another Surubaja-born Chinese living in Tsuenwan, who declined to reveal his surname, painted an even greyer picture of the future for his fellow newcomers.

"I simply see no future for us here unless we can go back to our families," he said.

A significant point in all the interviews is that they refused to answer any question on political issues in China or their countries of birth.

A former pharmaceutical plant technician made this point: "We have no grudge towards any of these countries and we are tired of talking politics."

[From the Hong Kong Standard, Nov. 5, 1973]

IMMIGRANTS FROM CHINA

It looks now as if the alarming figure of 60,000 legal immigrants from China, forecast in August by Hongkong officials, may have been far too conservative an estimate. If the current trend continues, the Colony may find itself facing the problem of caring for far more.

Although officials were unusually tight-lipped on the subject, reliable reports have it that an unusually heavy influx of migrants poured over the Lowu border late last week, a flow which—if it keeps up—could swell our population by some 20,000 to 30,000 people over the next two months alone.

Population problems are nothing new to the Colony. In the 120-odd years of its existence, Hongkong has become inured to dealing with sudden, unexpected floods of people from China. This latest influx, however, comes at a time when the Colony's administration is in the decisive stages of planning sufficient housing, education and other social amenities long needed here, and has laid careful plans on the basis of Hongkong's existing population and meticulous projections for the next decade or so. A large, unexpected addition to the population could play havoc with these badly-needed projects.

The sudden increase in migrants presents the Government with a new set of frustrations, the biggest of which is that there is really very little that Hongkong can do to stem the flood.

All those who come across the Lowu border have valid exit permits from Peking, and there is apparently no way short of closing the frontier of refusing them entry. The so-called "quota" of 50 Cantonese-speaking Chinese permitted to enter the Colony daily does not really exist, since this was arbitrarily set up by Hongkong and is not the subject of a formal Sino-British agreement. Thus, without Peking's co-operation, the flow will continue.

Once in Hongkong, the arrivals have no choice but to stay. Most of the new migrants, although ethnically Chinese, are stateless. The majority are Indonesian and Malaysian Chinese who, in the mid-1950s and the first flush of overseas. Chinese chauvinistic fervour, left their homes to help build the new China. Since then, homesick and unable to adapt to life on the mainland, they have been seeking ways to leave. For reasons which have yet to be understood, Peking, this year apparently changed its mind and is now allowing them free passage out of the country.

They arrive in Hongkong only to find that the countries of their birth refuse to allow them back in. Deportation from the Colony is virtually impossible. Stranded in a Hongkong already bursting at the seams with people, these immigrants are daily forming clannish, unhappy communities.

It is not difficult to imagine that these refugees, and there are an estimated 40,000 of them here already, could present Hongkong with entirely new headaches if solutions are not worked out soon. Presumably, China is permitting them to leave because it wants to be rid of a frustrated, dissatisfied minority—many of whom are well-educated but unable to adapt to the regimens of a disciplined communist society. The last thing the Colony needs today is a frustrated, dissatisfied group of once-idealistic men and women.

It is believed that Hongkong has already made quiet representations to Peking, probably through London, for the flow to be curbed somehow. It is to be hoped that China will be sympathetic to the problem.

[From the Hong Kong Standard, Nov. 12, 1973]

The Largest Number To Cross Into Hong Kong Since Mao Took Over in 1949—Massive Influx of Migrants

(By Vincent Ho)

Hong Kong Government's fears that the Colony will be swamped by Chinese immigrants took a turn for the worse last week with the biggest influx and daily totals since the Communists came into power in 1949.

On Sunday 622 Chinese immigrants flocked across the border in the largest single intake of refugees ever.

The heavy new increases started on Wednesday when 604 immigrants crossed the border. On Thursday there were 434. On Friday the figure dropped slightly to 276 and then rocketed again on Saturday to 484, continuing the climb into Sunday which represented a third of the entire total of immigrants for 1971.

Records show that since January this year more than 40,000 Chinese have been allowed to settle in Hong Kong.

This compares with 1971 when the Chinese government put a squeeze on and only allowed 2,369 people to leave the country.

This year's immigrant total so far more than doubles last year's total of 5,847.

More than one third of the Chinese coming into Hong Kong from China were originally overseas Chinese who renounced the citizenship they held to return to China during the early 1960s.

Most of them were originally from Indonesia and they make up four fifths of the total of the immigrants. The others come from Singapore, Malaysia and Cambodia.

Having renounced their citizenship and lost their passports, they have nowhere to go and will have to stay in Hong Kong until an alternative is arranged for them.

Many wish to go to the United States or Canada where they have relatives.

Social Service officials, who have dealt with the immigrants have said that the majority of the Indonesian-Chinese are skilled workers or professionals with doctors, electrical engineers and technicians among their numbers.

China gave them a heroes welcome when they flocked to pledge allegiance to their ancestral land. But the gilt soon wore off the gingerbread.

They were provided with a classical Chinese education, a privilege which most native-born Chinese did not get.

But this education was discontinued arousing concern among them as they were worried about the future of their children, sources said.

Dissatisfaction set in and they began to leave China.

Unlike the Indonesian-Chinese, the native-born Chinese who are allowed to migrate to Hongkong are either unskilled or underprivileged because of the political or social background of their parents.

Sources said that they are not allowed to enter universities and they find it extremely difficult to find employment.

Most of these people are under 30 years of age and have been living on cash allowances sent to them by relatives who live in Hongkong.

Typical of the plight of the refugees who flee their motherland was a 33-year-old Indonesian-Chinese who arrived in Kowloon by train yesterday.

The man, a Mr. Tang, said he left Java for China with his grandmother when he was eight years old.

"We first went to Amoy in Fukien where my grandmother was born," he said.

"I was able to go to school and eventually went to the Shanghai University where I studied electrical engineering. After graduation I found a good job."

Mr. Tang said that as his job was stable he felt secure and married a Shanghainese girl who he has had to leave behind him.

"Two years after I was married, I lost my job," he said. "I don't know why. They just fired me."

"Since then I have been unable to find employment in any sphere and I have had to live on money my father has sent me from Java."

It took Mr. Tang 18 months to get permission from the Chinese to leave the country.

The concern of the Hongkong Government over the influx of immigrants has been passed on to the British Government who are believed to be holding talks in Peking trying to convince the Chinese that some sort of curbs are needed.

A senior Government official said yesterday: "The matter is still under consideration and there is no comment to be made at this time."

[From the South China Morning Post, Nov. 6, 1973]

Another Big Surge in China Exodus

The flood of people being allowed to leave China and enter Hongkong—already running at the highest rate since 1949—has soared again in recent days.

Working from the numbers who have arrived in the past six days, the "legal refugees" are now coming across the Lowu border bridge at the rate of 14,000 a month.

Last month, there were 7,000.

The exodus from China is causing grave concern among Government officials, particularly those involved in housing, social welfare and health.

As reported in the S.C.M. Post on Saturday, the Government is believed to have been in touch with the authorities in Kwangtung about the increasing number of people who are being allowed to leave China.

They depart with travel documents and visas which allow them to enter Hongkong—but can then travel no further.

In the six days up to yesterday, the following numbers of arrivals from China entered the Colony:

October 31—604.
November 1—433.
November 2—276.
November 3—484.
November 4—622.
November 5—376.

Up to 1970, fewer people were allowed to leave China every year than those who now arrive daily in the Colony.

Many of them are Overseas Chinese. Others are from Kwangtung, while about a third are from other provinces.

Asked for comment yesterday about the flood of arrivals from China, a Government spokesman said: "The matter is still under consideration and no comment can be made at this stage."

Hongkong and Whitehall has been in close touch about the increased flow of arrivals, it is believed.

[From the South China Morning Post, Nov. 8, 1973]

Human Floatsam—The Refugee Flood

(By Kenneth Ko)

Two lonely old women were the centre of a human drama at Tsimshatsui railway station yesterday afternoon.

They had just arrived from Canton—and no relatives were at the station to meet them.

Clutching their few precious possessions—ragged clothing, preserved vegetables and clay pots—the old women wandered round for two hours looking for their relatives—but in vain.

People—station staff, lookers-on and pak pai drivers—gathered round with offers of help.

But all overtures were rejected. The old women's wrinkled faces showed nothing but stubborn distrust of everyone who approached.

Any goodwill gesture was brushed aside. Canteen fokis who tried to help were told: "Our relatives are coming—and we have no money to give you."

The two women, both in their seventies, were among an estimated 500 "legal refugees" who crossed into Hongkong from China yesterday.

Both said they were expecting relatives to pick them up—but for two hours they waited in vain.

One of the women, Mrs. Leung Mui—who came from a village in Shui Tau, Nam Hoi county—claimed she had a relative living in Lei Muk Shu estate, Tsun Wan. Rejecting one man's offer to drive her there, she told him: "I have no money, I will walk."

Fokis offered her free meals at the station canteen; but she refused . . . "I have to stay here to look after my luggage."

Her travelling companion, a farmwoman from Canton, took even less interest in the offers of help. She simply ignored them.

And, after waiting for two hours, the lonely old women simply picked up their bundles and wandered out into crowded streets of Tsimshatsui.

Another refugee who found himself "lost" yesterday was a middle-aged man who said he came from Canton. He was still waiting for a relative to "claim him" long after the two old women had wandered away.

So far this year, 46,000 people have been allowed to leave China—and most of them have stayed in Hongkong.

Many had gone back to China from Overseas Chinese communities, and were now leaving China with the intention of going back to their homelands in the Philippines, Indonesia and other Southeast Asian countries.

But an Indonesian Consulate spokesman said yesterday no applications for visas had been received from people in China.

And it would be "very hard indeed" to grant a visa.

"We have a law which says that when one gives up his citizenship he will be regarded as a foreigner—and it is very hard for them to be accepted again," he said.

A spokesman for the Philippines Consulate also said no applications for visas had been received from China.

"And the application is not a simple procedure—we very carefully study whether the applicant is one of us before we make a decision," he added.

Palsy Victim Abandoned

A 10-year-old cerebral palsy victim, one of the China's unwanted, is now lying in a Hong Kong hospital, abandoned not only by his country, but by his mother.

The child, an example of the social burden the recent influx from China is placing on Hongkong's social services, came over the border with his mother three weeks ago, the police believe.

The boy, known as Chan Lok-ming, was found abandoned at the entrance to Kwong Wah Hospital, Kowloon, shortly before 1 pm on Monday.

A letter was found in his pocket, purportedly written by his mother, claiming she could no longer carry out her responsibilities and requesting that the child be made a ward of court.

The mother, known as Cheung Lai-fong,

about 33 years old, is believed to have arrived in Hongkong with the boy last month.

The child, who was admitted to the Kai Chi Children Centre, on November 5, is suspected to be "mentally retarded, requiring total care in eating, dressing and in everything", a source said.

Any person with any information which may assist in locating the mother of the boy is asked to contact the police.

EXHIBIT B

Hon. DANIEL K. INOUYE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR INOUYE: It is respectfully requested that the Senate Committee on Appropriations consider an Amendment to the Migration and Refugee Assistance appropriation to the Department of State contained in Title III of the Foreign Assistance and Related Programs Appropriation Bill, 1974, H.R. 11771, as passed by the House of Representatives on December 11, 1973.

H.R. 11771 as passed by the House appropriates $9,100,000 for regular continuing Migration and Refugee Assistance programs. This action represents a reduction of $404,000 below the $9,504,000 requested in the President's amended budget. The reduction was not applied specifically to any of the several items which are funded under the appropriation request.

The House reduction comes at a time when program costs are increasing rapidly. The cost of Cuban refugee movements from Spain under the expanded Parola Program which the Attorney General approved on October 26, 1973, could be covered under the $9,504,000 requested by the President, as we had earlier informed members of the Committee staff, but if the House reduction is maintained this cost could be funded only by sacrificing other essential programs. Moreover, the cost for the air charters arranged by the Intergovernmental Committee for European Migration are rising as a result of the increased cost of fuel to the air carriers.

Therefore I earnestly solicit your support of this request for restoration of the $404,000 for Migration and Refugee Assistance.

Enclosed is a table showing our 1974 budget estimate, the House action and the restoration amendment requested.

Department representatives will be available to discuss this request at the convenience of your committee.

Sincerely,

JOHN M. THOMAS,
Acting Deputy Under Secretary for Management.

Mr. FONG. Mr. President, I discussed this amendment with the distinguished chairman of the committee and I think he is willing to accept it. Is that correct?

Mr. INOUYE. Yes, with the understanding the sums will not be used for Cuban refugees or the South African project, which we have specifically denied in the committee report. This is for contributions to the refugee fund. Is that correct?

Mr. FONG. That is correct.

Mr. INOUYE. With that understanding, the committee is pleased to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Hawaii.

The amendment was agreed to.

Mr. FONG. Mr. President, I send to the desk another amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

On page 17 lines 7–10 insert the following: "Assistance to migrants from the Soviet Union. For necessary expenses to carry out the provisions of section 101(b) of the Foreign Relations Authorization Act of 1972, $36,500,000."

Mr. FONG. Mr. President, I believe there has been a misunderstanding by respect to the testimony that was presented before his committee, Mr. Kellogg said he still had the $50 million. But as of today, and I have been notified just a few minutes ago, $37,232,858.50 of the $50 million was actually paid out by October 1973, and there is no more money available from the $50 million for this program. All has been allocated.

With an understanding that these are the facts today—and I am going to have sent up to me a written report substantiating these facts—with that change in the situation, I was wondering if the chairman of the committee would be willing to accept this amendment.

Mr. INOUYE. Mr. President, as chairman of the subcommittee, I find it extremely difficult to accept this amendment because, as far as the chairman is concerned, the record is precise and very clear. As of this moment, the administration has not at any time made any official request or budget request for the sum of $36,500,000 to assist Soviet Jews in their transportation and resettlement in Israel.

At the hearings, not only in the Senate but also in the House, when asked specifically on this issue, administration witnesses in both cases answered without reservation, without condition, that moneys were sufficient; that moneys were available.

If moneys had been paid out in October—this is December—I am certain the administration knows the address of the junior Senator from Hawaii, chairman of the Subcommittee on Foreign Operations, and the address of the illustrious chairman of the full committee.

We have been discussing the matter now for weeks. We have had markups in the subcommittee. We have had markups in the full committee. Purposely we let this bill lie over the weekend so that everyone could study it. Now I find my distinguished colleague from Hawaii coming forth with the report—and I do not doubt the veracity of the report—but, as chairman of the subcommittee, this is not the way I would like to do business.

We found out in the hearing on this matter—the only hearing we had—the question was, "Do you need money?" And the answer was, "No; we have money."

On pages 110 and 111, it will be found that the testimony of the witness for the administration in the House and in the Senate on both occasions made it very clear that this administration does not desire any further appropriation for this program.

So I find it very difficult to accept this amendment.

Mr. FONG. Mr. President, in response to the distinguished Senator from Hawaii that the administration did not ask for any money for this program, I want to reply that the administration has never asked for any money for this program.

It is interesting to note that the Department of State, neither in its fiscal 1973 nor in its fiscal 1974 budget, asked for any money to assist the migrants from the Soviet Union. These funds were provided on the initiative of the Congress. We saw the need and we acted, and properly so.

Mr. President, this program which we seek to support is for assistance in the resettlement of migrants from the Soviet Union, covering costs from the time they are granted exit permits to final resettlement, mainly in Israel.

When Mr. Kellogg appeared before the committee he was asked whether he still had the $50 million. His answer was "Yes." That was as of March, the early part of this year, but as of today, as I stated, over $37 million have already been paid out of the $50 million and all the money has been allocated.

In the continuing resolution for fiscal 1973, $50 million was voted by Congress to help migrants leave the Soviet Union and provide care for them in the facilities of Vienna and transportation to and resettlement costs in Israel.

The March 1973, factsheet was provided the subcommittee on May 10, 1973, when Mr. Frank Kellogg's position was stated as appears on page 376 of the hearing record:

> This program has just started, Mr. Chairman. I am leaving next week to observe it in its earliest stages.

I ask unanimous consent that the March 9, 1973, factsheet, as it appears on pages 377 and 378 of the hearing record be printed in the RECORD at the conclusion of my remarks as exhibit 1.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. FONG. Mr. President, as I stated, it is interesting to note that the Department of State, neither in its fiscal 1973 nor in its fiscal 1974 budget request, asked for any money to assist these migrant-refugees from the Soviet Union. These funds were provided on the initiative of Congress.—We saw the need and acted, and properly so.

In fiscal 1972, Mr. President, 31,500 Soviet Jews entered Israel. There refugees needed and received our assistance from the $50 million fund.

In calendar year 1973 the Department of State estimated the number of refugees who would be going to Israel would be 30,000. The $50 million was to cover all the assistance, of whatever nature, required by these refugees from the Soviet Union to Israel in calendar years 1973 and 1974.

Through November 30, 1973, 31,700 Jews had been resettled in Israel—more than in all of 1972. And, in addition, about 1,700 people of various religious affiliations—I understand many Baptists were included in this number—were resettled in the United States.

It is now hoped that well over 35,000 will be allowed to leave the Soviet Union this year, and there is no money for this program. They will need our assistance despite the optimistic views of the Department of State.

During the House hearings, Mr. Kellogg, in answer to an inquiry, listed the expenditures planned for calendar 1973.

It was planned to expend $33,500,000 for calendar year 1973's needs.

I ask unanimous consent that the itemized information as to the then contemplated expenditures be printed in the Record at the end of my remarks as exhibit 2.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FONG. As I have stated, the entire $50 million has been allocated and $37,232,858.50 of this sum was actually paid out by October 1, 1973.

No more money is available from the $50 million for this program.

Although Mr. Kellogg, on behalf of the Department of State, asked for no additional funds over the unexpended remainder of the $50 million supplemental appropriation, which, as I indicated, the State Department had also not requested, the House added an appropriation of $36,500,000 to carry out the much needed assistance to migrants from the Soviet Union, so that Israel will be able to resettle these people.

Especially at this time, when Israel is feeling the drain on its meager resources as a result of the Yom Kippur war, we in the Senate can be at least as compassionate as our colleagues in the House.

Accordingly I ask the adoption of this amendment to page 17, lines 7 to 10 of H.R. 11771 to add the provision:

> Assistance to migrants from the Soviet union for necessary expenses to carry out the provisions of section 101(b) of the Foreign Relations Authorization Act of 1972, $36,500,000.

Exhibit 1

Program To Assist Migrants From the U.S.S.R.

The Department of State initiated preliminary planning on programs to help emigrants from the USSR when Congress appropriated $50 million for this purpose. After extensive discussions with officials of U.S. voluntary agencies and members of the Israeli Embassy, an officer of the Department's Office of Refugee and Migration Affairs visited Israel, Vienna (the Western European transit center for these migrants) and Geneva to complete discussions with officials of the Israeli Government, the Jewish Agency for Israel (JAI), the Intergovernmental Committee for European Migration (ICEM) and the Refugee, Migration and Red Cross section of the U.S. Mission to the U.S., Geneva. In the meantime, the Department of State assisted these refugees by providing from its regular refugee budget through the U.S. Refugee Program (USRP) $40 per capita for maintenance while in Vienna and $95 per capita toward loans for travel from Vienna to Israel.

As a result of these discussions, the Department decided to contract with the United Israel Appeal (UIA), a U.S. voluntary agency for the bulk of the operation of the assistance programs. Negotiations on specific projects are currently going on but it has been agreed that these funds will be used to assist in the following general areas:

I. FOR SOVIET JEWS ENROUTE TO ISRAEL

A. Enlargement of transit facilities in Vienna.

B. Continuation of care and maintenance for refugees in transit.

C. Loans for transportation and shipment of effects between Vienna and Israel.

D. Construction of new reception hostels in Israel.

E. Construction of new absorption centers in Israel.

F. Training, retraining and education scholarships.

G. Small business loans.

H. Youth care.

I. Permanent housing for refugees.

The UIA is now preparing specific requests and cost factors on these projects. First priority will be given to A through H and the remainder will be used for the last area, housing. Based on the 31,500 Soviet Jews who entered Israel in 1972, these projects will be predicated on the movement of 30,000 migrants in CY 1973. Funds for the care and maintenance and transportation of an additional 30,000 in CY 1974 will also be committed. In addition, the Department will increase its contribution to ICEM so that organization can continue its portion of the transportation loans.

Finally, provisions will be made to provide similar assistance for 1,000 Soviet refugees a year who will leave the USSR in CY 1973 and 1974 for other countries, primarily to the United States.

Exhibit 2

Proposed 1973 Expenditures for Assistance To Soviet Refugees

(Excerpt from House Report (pages 62 and 63) as quoted at page 111 of S. Rept. 93–620:)

I. Agreement with United Israel Appeal (UIA):	
1. En route care and maintenance costs in Vienna, Jan. 1, 1973 to Dec. 31, 1973, for 30,000 refugees	$1,200,000
2. Construction or enlargement of transit center in Vienna	500,000
3. Construction of new absorption center and hostels	4,000,000
4. Construction of hospital wing	2,000,000
5. Construction and procurement of apartments and/or mobile homes	15,000,000
6. University scholarships	1,000,000
7. Training and retraining for artisans and technicians	1,000,000
8. Maintenance costs for on-the-job trainees	1,250,000
9. Maintenance costs at Ulpanim, absorption centers and hostels	4,250,000
Subtotal	31,000,000
II. Travel assistance through ICEM loan fund	2,000,000
III. Agreements with other voluntary agencies for movement of refugees to countries other than Israel	475,000
IV. Administrative expenses	25,000
Total	33,500,000

Mr. Kellogg. Discussions are now in progress on programs for fiscal year 1974. Transportation, maintenance while in transit, housing and education assistance will definitely continue.

Mr. President, I understand that the Senator from Maine (Mr. Muskie) is here, and he would also like to cosponsor the amendment.

I yield to the Senator from Maine.

Mr. MUSKIE. Mr. President, I am delighted to associate myself with the Senator's amendment. I would like to do so in behalf of myself and the following Senators: Messrs. Stevenson, Williams, Jackson, Javits, Ribicoff, McGovern, Packwood, Humphrey, Pell, and Schweiker.

Mr. FONG. Mr. President, I ask unanimous consent that those names be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, how much time does the Senator from Hawaii have?

The PRESIDING OFFICER (Mr. Helms). The Senator from Hawaii has 3 minutes remaining.

Mr. FONG. Mr. President, I yield my 3 minutes remaining to the Senator from Maine.

The PRESIDING OFFICER. The Senator from Maine is recognized for 3 additional minutes.

Mr. MUSKIE. Mr. President, this amendment to the bill before us, the 1974 foreign assistance appropriation bill (H.R. 11771), would appropriate the full $36.5 million contained in the authorization—an amount which has already been included in the appropriation bill as passed by the House—for resettlement assistance to Soviet Jewish refugees.

Last year, Mr. President, I introduced a bill with Senators Ribicoff, Javits, and Schweiker as principal cosponsors, to authorize $85 million for such assistance, This legislation, which was cosponsored by over 40 Senators, was approved by the Congress and was followed by an appropriation of $50 million.

I have been gratified by the results of this program thus far. After the initial appropriation last year, the Department of State which administers the program carried out a careful investigation into the best means of using the funds appropriated by Congress. After extensive discussions with officials of U.S. voluntary agencies and members of the Israeli Embassy, an officer of the Department's Office of Refugee and Migration Affairs visited Israel, Vienna—the Western European transit center for these migrants—and Geneva to complete discussions with officials of the Israeli Government, the Jewish Agency for Israel—JAI—the Intergovernmental Committee for European Migration—ICEM—and the Refugee, Migration and Red Cross section of the U.S. Mission to the U.N., Geneva. As a result of these discussions, the Department decided to contract with the United Israel Appeal—UIA—a U.S. voluntary agency for the bulk of the operation of the assistance programs.

The first agreement between the State Department and the United Israel Appeal was signed on April 6 of this year in a ceremony I was pleased to attend. That agreement provided a grant of $31 million to be used for the following purposes:

First. En route care and maintenance costs for 30,000 Refugees, January 1 to December 31, 1973—$1,200,000;

Two. Construction or enlargement of transit center in Vienna, Austria—$500,000;

Third. Construction or acquisition of new absorption centers and hostels—$4,000,000;

Fourth. Construction or acquisition of hospital wing—$2,000,000;

Fifth. Construction or acquisition of apartments and/or mobile homes—$15,700,000;

Sixth. University scholarships—$1,100,000;

Seventh. Training and retraining for artisans and technicians—$1,000,000;

Eighth. Maintenance costs for on-the-job trainees—$1,250,000; and

Ninth. Maintenance costs at Ulpanim, absorption centers and hostels—$4,250,000.

This agreement was supplemented on June 27 of this year with another grant of $13 million for these same programs. Mr. President, I ask unanimous consent that the text of these agreements be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REFUGEE RESETTLEMENT GRANT AGREEMENT

This agreement, dated April 6, 1973, is between the Government of the United States of America, acting through the Department of State (the "Department"), and the United Israel Appeal, Inc., a voluntary, nonprofit agency organized and existing under the Membership Corporation Law of the State of New York, with principal offices at 515 Park Avenue, New York, New York 10022 (the "Grantee").

ARTICLE I. THE GRANT

Section 1.1. *The Grant.* Pursuant to section 101(b) of the United States Foreign Relations Authorization Act of 1972 and related appropriation legislation, and subject to the terms and conditions of this agreement, the Department hereby grants to the Grantee an amount not exceeding thirty-one million United States dollars ($31,000,000) to furnish assistance for the resettlement in Israel of Jewish or other similar refugees from the Union of Soviet Socialist Republics ("Refugees").

Section 1.2 *Use of Funds.* (a) The proceeds of this grant shall be used for (i) care and maintenance of, and construction or enlargement of a transit center for, Refugees in Vienna, Austria enroute to Israel, (ii) education, training and retraining of Refugees, and (iii) construction and procurement of new housing, a hospital wing, and absorption centers and hostels for Refugees. Grant proceeds shall be allocated to and among the programs specified in section 1.2 (b), below, and described more fully in Article II (the "Programs").

(b) The Programs and the maximum amount of this grant to be allocated to each shall be as follows:

Program	*Amount*
(i) Enroute care and maintenance costs for 30,000 Refugees, Jan. 1 to Dec. 31, 1973	$1, 200, 000
(ii) Construction or enlargement of transit center in Vienna, Austria	500, 000
(iii) Construction or acquisition of new absorption centers and hostels	4, 000, 000
(iv) Construction or acquisition of hospital wing	2, 000, 000
(v) Construction or acquisition of apartments and/or mobile homes	15, 700, 000
(vi) University scholarships	1, 100, 000
(vii) Training and retraining for artisans and technicians	1, 000, 000
(viii) Maintenance costs for on-the-job trainees	1, 250, 000
(ix) Maintenance costs at Ulpanim, absorption centers and hostels	4, 250, 000
Total	31, 000, 000

Section 1.3 *Reallocations.* Funds may be adjusted between Programs listed in section 1.2(b) provided (a) prior written approval therefor shall have been received by the Grantee from the Department, (b) each increase in the amount allocated to a Program shall be offset by an equal reduction in the amount allocated to one or more other Programs, and (c) the aggregate of such increases shall not exceed $3,100,000.

ARTICLE II. THE PROGRAMS

Section 2.1 *Enroute Care and Maintenance.* Grantee will provide $40 to the agency or organization administering the transit center in Vienna, Austria for each Refugee received there between January 1 and December 31, 1973, inclusive. Such funds shall be used solely and directly for the care and maintenance of Refugees enroute to Israel and for other operating expenses of the center directly related to the care and maintenance of Refugees.

Section 2.2 *Transit Center.* The Grantee shall construct a new facility or remodel and/or enlarge the present transit center outside Vienna, Austria for use by Refugees enroute to Israel. The Grantee shall contribute not less than $500,000 toward this Program from sources other than this grant. The Program shall begin on or before June 15, 1973 and be completed by June 30, 1975 .

Section 2.3 *Absorption Centers and Hostels.* The Grantee shall acquire or construct new facilities for housing (a) Refugee families newly arrived in Israel, one or more members of which are receiving language or other training for a limited period prior to more permanent settlement and (b) individual Refugees similarly receiving language or other training for a limited period. Such housing is referred to in this agreement as "absorption centers" and "hostels", respectively, and is not intended for permanent occupancy by Refugees or other persons. Formal commitment or expenditure of funds for these purposes by the Grantee after January 1, 1973 shall be considered as a commitment or expenditure for purposes of this grant.

Section 2.4 *Hospital Wing.* The Grantee shall acquire or construct new hospital facilities so located and equipped as to meet the medical requirements of Refugees. Such facilities shall be constructed and equipped in accordance with the most modern standards applied under similar circumstances in Israel. Formal commitment or expenditure of funds by the Grantee for these purposes after January 1, 1973 shall be considered as a commitment or expenditure for purposes of this grant.

Section 2.5 *Permanent Housing.* The Grantee shall acquire or construct new apartment buildings and, if deemed feasible and desirable by it, new mobile homes, to be used for housing in the settlement of Refugees. Such housing shall be designed and constructed in accordance with good architectural and engineering standards and in any case in accordance with standards at least equal to those generally applied in surrounding locations. Formal commitment or expenditure of funds by the Grantee for these purposes after January 1, 1973 shall be considered as a commitment or expenditure for purposes of this grant.

Section 2.6 *Scholarships, Training and Retraining.* The Grantee will make available to appropriate agencies and institutions in Israel the amounts specified in section 1.2(b) (vi) and (vii), above, to provide (a) university education for qualified student Refugees and (b) training and retraining as artisans and technicians for Refugees with appropriate skills and aptitudes. Funds provided by the Grantee pursuant to this section 2.6 shall be used solely and directly for educational and training services and shall not be employed to assist in the maintenance or care of Refugees or for any other purpose. Formal commitment or expenditure of funds by the Grantee for these purposes after November 1, 1972 shall be considered as a commitment or expenditure for purposes of this grant.

Section 2.7 *Maintenance Costs in Israel.* (a) The amount provided for in section 1.2(b) (viii) shall be employed to supplement the incomes of Refugees receiving on-the-job training whose incomes are lower than those of persons similarly employed in Israel on a full-time basis. Such payments shall not be made available to Refugees receiving maintenance costs under section 2.7(b), below, and shall be administered in accordance with the principles and standards of similar programs presently existing in Israel.

(b) The amount provided for in section 1.2(b) (ix) shall be employed for the maintenance and care of Refugees resident at Ulpanim (as the term is generally employed in Israel at the date hereof) and at absorption centers and hostels (as described in section 2.3, above).

(c) Maintenance costs may be made available through one or more agencies or organizations responsible for the administration of the Programs or facilities referred to in this section 2.7, but such amounts shall be employed solely and directly for income supplements for or the care and maintenance of Refugees and shall not be employed in any other manner including, but not by way of limitation, for general administrative or overhead expenses of administering agencies and organizations. Formal commitment or expenditure of funds by the Grantee for purposes specified in section 1.2(b) (viii) and (ix) after November 1, 1972 shall be considered as a commitment or expenditure for purposes of this grant.

ARTICLE III. DISBURSEMENT

Section 3.1 *Disbursements.* (a) Not later than 15 days after the date of this agreement, the Department will deliver to a representative of the Grantee designated in accordance with section 3.2(b) (i), below, at the Department's offices in Geneva, Switzerland its check or checks in the amount of ten million United States dollars ($10,000,000) payable to the "United Israel Appeal, Inc."

(b) Subsequent disbursements will be made in the same manner at the same place as follows:

(i) On May 15, 1973—$10,000,000.

(ii) On June 15, 1973—$11,000,000.

Section 3.2 *Conditions Precedent.* (a) Except as the Department may otherwise agree in writing, each disbursement under section 3.1 shall be subject to fulfillment of the representations, warranties and covenants of the Grantee hereunder as of the disbursement date and to receipt by the Department of a certificate executed as of such date for and on behalf of the Grantee by an officer or other duly authorized representative thereof as follows:

"Pursuant to section 3.2(a) of the Refugee Resettlement Grant Agreement dated April 6, 1973 (the "Agreement") between the United States of America, acting through the Department of State (the "Department"), and the United Israel Appeal, Inc., a voluntary, non-profit agency organized and existing under the Membership Corporation Law of the State of New York (the "Grantee"), the undersigned hereby certifies that he is an officer or other representative of the Grantee duly authorized to execute this certificate, and that to his actual knowledge and belief, based upon a reasonable investigation of the relevant facts and circumstances, there have been fulfilled as of the date hereof all representations, warranties and covenants of the Grantee required by the Agreement to be fulfilled at such date. This certificate is executed for and on behalf of the Grantee with the understanding that the Department will rely on the statements contained herein for purposes of section 3.2(a) of the Agreement.

"UNITED ISRAEL APPEAL, INC.
"Date ——— By ——————————
"(print name and title or office)"

(b) In addition, the disbursement provided for in section 3.1(a) shall be subject to the prior delivery by the Grantee to the Department, in form and substance satisfactory to the Department, of the following:

(i) A statement certified by an officer of the Grantee setting forth the name of its representative authorized to receive disbursements in accordance with section 3.1 together with evidence of such representative's authority and a specimen of his signature certified as to its authenticity; and

(ii) An opinion of counsel satisfactory to the Department that this agreement has been duly authorized or ratified by, and duly executed on behalf of, the Grantee and constitutes the valid and legally binding obligation of the Grantee enforceable in accordance with its terms.

Section 3.3 *Proceeds*. (a) The proceeds of the initial and of each subsequent disbursement shall be maintained by the Grantee in an interest-bearing account established in its name solely for the purpose. Grantee shall have full control of such account and shall draw thereon to make distributions in connection with the Programs, but all interest earned shall be the property of the Department and shall be transferred to the Department immediately upon receipt by the Grantee.

(b) The Grantee may convert the proceeds of this grant at any time into any other currency at the market rate of exchange prevailing at the place and on the date of conversion. The Department will not make any adjustments or additional disbursements in respect to any change in the rates of conversion among national currencies, whether occuring before or after any disbursement date.

ARTICLE IV. REPRESENTATIONS, WARRANTIES AND ADDITIONAL COVENANTS OF GRANTEE

Section 4.1. *Use by Refugees*. In order to qualify for receipt of this grant, the Grantee hereby represents and warrants to the Department that (a) amounts provided for in sections 2.1, 2.6 and 2.7 will be expended solely for the benefit of Refugees, (b) that facilities acquired or constructed pursuant to sections 2.2 and 2.5 will be used initially for the benefit of Refugees only, and (c) that there is a reasonable expectation that buildings and facilities acquired or constructed pursuant to sections 2.2, 2.3, 2.4 and 2.5 will be used primarily for the benefit of Refugees for a substantial number of years.

Section 4.2 *Commissions*. Grantee represents and warrants to the Department that in connection with obtaining this grant and with the implementation of this agreement it has not and will not pay, and to the best of its knowledge there has not been and will not be paid by any other person or entity, any commission, fee or other such payment of any kind whatsoever, except as regular compensation to the Grantee's full time officers and employees or as compensation for bona fide professional, technical or other comparable services at the rate prevailing at the time and place such services were or are rendered.

Section 4.3 *Plaques*. Upon completion of the transit center Program referred to in section 2.2, and upon acquisition or completion of each absorption center and hostel referred to in section 2.3, the hospital facility referred to in section 2.4 and each apartment building referred to in section 2.5, the Grantee shall cause to be affixed adjacent to the principal entrance of the respective building or facility a durable metal plaque or other suitable marker recognizing the contribution made by the American people in connection therewith. Not less than 90 days prior to completion of the transit center Program and of each building and facility constructed pursuant to sections 2.3, 2.4 and 2.5, and immediately upon acquisition of any such building or facility, the Grantee shall submit for the prior approval of the Department the form, wording and proposed location of the plaque or other marker called for in this section 4.3.

Section 4.4 *Location of Facilities and Activities*. (a) Grantee covenants that: (1) each building and facility acquired or constructed pursuant to sections 2.3, 2.4 and 2.5 shall be located in territory subject to the administration of the State of Israel prior to June, 1967; (ii) scholarships and training financed pursuant to section 2.6 shall be solely at universities and training schools located in such territory or in the United States of America, and (iii) maintenance costs shall be provided under section 2.7 solely to Refugees living and working or receiving training in such territory or in the United States of America.

(b) No part of this grant shall be used to acquire or construct buildings or facilities pursuant to sections 2.3, 2.4 or 2.5 without the prior written consent of the Department in respect to the geographic location thereof. Such consent shall not be denied without reasonable cause, and requests for such consent shall be acted upon promptly by the Department.

Section 4.5 *Ownership of Facilities*. The Grantee shall have and retain legal and effective ownership of all buildings and facilities acquired or constructed pursuant to sections 2.3, 2.4 or 2.5, except that such ownership may be transferred with the prior written approval of the Department, (a) without consideration, to a private, non-profit organization or (b) by sale at market price to Refugees, the proceeds of which sale may be used by the Grantee for the acquisition or construction of additional buildings or facilities similar to that sold, subject in each case to all the terms and conditions of this agreement applicable to such Programs in the first instance, and further subject to prior notification to the Department and its right, hereby reserved, to require the refund of such proceeds to the United States Government.

Section 4.6 *Direct Expenditures*. The proceeds of this grant shall be used solely and directly for the Programs as described in this agreement. The Grantee covenants that no part of any distribution made hereunder shall be allocated to or used for the payment of (a) any general, administrative or overhead expense of the Grantee, computed in accordance with accounting principles generally accepted in the United States, nor (b) any such expense, as so computed, of any agency or organization administering Programs unless incurred wholly in connection with such Programs.

Section 4.7 *Reasonable Expenditures*. Each of the Programs funded by this grant shall be planned and administered by the Grantee in accordance with business standards and practices at least equal to those which would be applied to similar projects undertaken in the same geographical area by reputable and experienced commercial organizations. All property, goods and services acquired by the Grantee or any agent of the Grantee with the proceeds of this grant, whether by purchase, lease or otherwise, shall be acquired at prices not greater than those generally prevailing for similar property, goods and services at the time and place so acquired. Scholarship, training and maintenance Programs shall be administered with full regard for the desirability of meeting the needs of the greatest possible number of Refugees; thus, the amount of expenditure made for each Refugee shall be limited to that actually required to fulfill the purposes of such Programs.

ARTICLE V. REPORTS, RECORDS AND INSPECTIONS

Section 5.1 *Reports*. (a) On or before 30 days after the last business day of each calendar month, the Grantee shall deliver to the Department a certified statement listing the name and place of origin of each Refugee for which amounts have been expended under section 2.1 during the preceding reporting period, the dates of arrival at and departure from the Vienna transit center, and such other information as the Department may reasonably request.

(b) Within 30 days from the end of each calendar quarter, the Grantee shall submit to the Department a report showing the status of each Program under this agreement as of the end of such quarter. The quarterly reports shall include, for each Program, a statement of total expenditures during the quarter, the purposes for which expenditures were made, and the amount of grant commitment outstanding. The reports shall also include such additional information as the Department may reasonably request. The first quarterly report shall cover the period April 1 through June 30, 1973, and the final report in respect to each Program shall be filed for the quarter during which such Program is completed.

Section 5.2 *Annual Financial Statement*. Within 120 days after each of the Grantee's fiscal years during which any Program remains incomplete, the Grantee shall submit to the Department three copies of its annual financial statement prepared in accordance with accounting principles generally accepted in the United States and approved by a certified public accountant acceptable to the Department.

Section 5.3 *Records; Inspection*. (a) The Grantee shall maintain at its principal offices in New York City full and complete records and books of accounts in accordance with accounting principles generally accepted in the United States covering financial details applicable to each Program, whether or not actually administered by the Grantee itself. Grantee's records shall include copies of all solicitations made for bids or quotations for commodities and services procured under this grant; negotiated agreements; all quotations or bids received; suppliers' commercial invoices; bills of lading or other evidence of shipment for commodities procured in the United States; and, as applicable, such other pertinent documents related to procurement as sales and service contracts and Grantee's substantiation for procurement at other than the lowest price or for proprietary procurement. Such records and, where necessary, additional records shall be maintained in a manner that will permit verification of the Grantee's compliance with its representations, warranties and obligations contained in this agreement, including in particular, but not by way of limitation, its obligations under section 4.7, above.

(b) The Department and the Comptroller General of the United States, and any of their authorized representatives, shall have the right to examine, audit and copy, at all reasonable times, all such records and books of account referred to in section 5.3(a) and all other documents or reports pertaining to this grant or the Programs. All such books and records shall be maintained and available for inspection for at least six years after the date of the last disbursement by the Department.

(c) Additional records shall be maintained by the Grantee at its principal offices in New York City, and shall be made available for inspection under the terms set forth in section 5.3(b), as follows:

(i) Upon the acquisition or completion of permanent housing pursuant to section 2.5, a listing of the name and place of origin of each head of family (or sole occupant) occupying the quarters, the number of family members living with each head of the family, and such other information as the Department may reasonably require, such listing to be maintained and available for inspection for a period of three years following such acquisition or completion.

(ii) In respect to scholarship and training Programs, a listing of the name and place of origin of each person benefitting therefrom, the place and type of education or training, and such other information as the Department shall reasonably require, such listing to be maintained and available for inspection so long as such Programs shall be financed under this grant.

(iii) In respect to maintenance costs under section 2.7, a listing of the name and place of origin of each person receiving or benefitting from such maintenance, the type of training being received, and such other information as the Department shall reasonably require, such listing to be maintained and available for inspection so long as such maintenance is provided under this grant.

ARTICLE VI MISCELLANEOUS

Section 6.1 *Termination of Disbursements.* In addition to its rights under section 3.2, the Department may, at its discretion, decline to make disbursements under this agreement if it shall determine that (a) any disbursement would be in violation of any provision of the laws of the United States or (b) an event has occurred which in the Department's judgment makes it improbable that the purposes of this grant will be attained or that the Grantee will be able to perform its obligations hereunder.

Section 6.2 *Refunds.* (a) If the Department determines that any disbursement made to the Grantee hereunder is in violation of United States law or has been applied by the Grantee other than for Programs in accordance with this agreement, the Department shall so notify the Grantee in writing. The Grantee shall be allowed 30 days from the date of such notice to correct the violation or default, and shall notify the Department in writing of the corrective action taken by it. If corrective action satisfactory to the Department is not taken within the 30 day period, the Grantee shall take appropriate action to minimize all expenditures from such disbursement and shall cancel outstanding obligations financed thereby. After payment of expenditures which cannot be eliminated and obligations which cannot be cancelled, and in any case not more than 90 days after the date of the Department's notice, Grantee shall refund to the Department the unexpended portion of such disbursements determined to have been made in violation of United States law or to have been applied to expenditures in violation of this agreement.

(b) Without limiting any other rights the Department or the Government of the United States may have under this agreement, the Grantee agrees to compensate the Government of the United States for any costs or damages incurred by it as a result of any failure of the Grantee to comply with the provisions of section 5.3.

Section 6.3 *Use of Representatives.* (a) All actions required or permitted to be performed or taken by the Grantee may be performed by one or more duly authorized agents of the Grantee acceptable to the Department. By an agreement originally executed October 25, 1960 between The Jewish Agency for Israel Inc., New York and The Jewish Agency for Israel, Jerusalem ("JAI"), presently in force between the Grantee and The Jewish Agency for Israel, Jerusalem (copies of the original agreement and related subsequent documentation being attached hereto as Exhibit 1), the JAI is designated by the Grantee as its exclusive Operating Agent in all matters concerned with, *inter alia*, "rendering aid and assistance to Jewish men, women and children to immigrate into Israel [and] their absorption, rehabilitation and resettlement therein" (Exhibit 1, Article I, paragraph a). Accordingly, the Department approves the JAI as the agent of the Grantee for purposes of this section 6.3(a).

(b) The designation or employment by the Grantee of one or more agents, including the JAI, in accordance with section 6.3(a), above, shall not relieve the Grantee of any obligation under this agreement and shall not have the effect on substituting such agent in place of the Grantee as a party to this agreement for any purpose.

Section 6.4 *Sovereign Immunity; Non-Liability.* (a) This grant is made as a public and sovereign act by the Government of the United States of America, and no waiver of the sovereign immunity of the Government of the United States is intended by it or shall be claimed against it in connection with any matter arising under or out of this agreement.

(b) Without in any manner limiting or derogating from the provisions of section 6.4(a), above, the Grantee hereby indemnifies and agrees to hold harmless the Government of the United States of America, the departments and agencies thereof, and its officials and agents acting in their official capacities, for any and all liability arising under this agreement or in connection with any matter provided for herein.

Section 6.5 *Officials Not to Benefit.* No member or delegate of the United States Congress, nor any official of or other person employed by the United States Government, shall receive, directly or indirectly, any part of the proceeds of this grant or any benefit derived therefrom.

Section 6.6 *Governing Law.* This agreement shall be governed by and construed in accordance with the law of the State of New York.

Section 6.7 *Entire Agreement.* This agreement constitutes the entire agreement of the parties hereto concerning this grant, and it replaces and renders void any other agreement or understanding, whether written or oral, existing between the parties concerning the subject matter of this agreement or any aspect thereof.

Section 6.8 *Communications.* Except as otherwise provided herein, any document and any notice, request or other communication given, made or delivered by the Department or the Grantee pursuant to this agreement shall be in writing and shall be deemed to have been duly given, made or delivered to the party to which it is addressed when actually delivered by hand, mail, telegram, cable or radiogram as follows:

(a) To the Department in Washington, D.C. Special Assistant to the Secretary for Refugee and Migration Affairs, Room 7430, United States Department of State, Washington, D.C. 20520, The United States of America.

(b) To the Department in Geneva—Counselor, Refugee, Migration and Red Cross Unit, United States Mission to the European Office of the United Nations and Other International Organizations, 80 Rue du Lusanne, Geneva, Switzerland.

(c) To the Grantee—Executive Vice-Chairman, United Israel Appeal, Inc. 515 Park Avenue, New York, New York 10022, The United States of America.

or such other address as either of the parties shall have designated by notice given as herein required.

In witness whereof, The Department and the Grantee, acting through their duly authorized representatives, have caused this agreement to be executed on their behalf and delivered as of the date first written above.

THE UNITED STATES OF AMERICA,
FRANK L. KELLOGG,
Special Assistant to the Secretary for Refugee and Migration Affairs, Department of State.
UNITED ISRAEL APPEAL, INC.,
MELVIN DUBINSKY,
National Chairman and President.
GOTTLIEB HAMMER,
Executive Vice-Chairman.

SUPPLEMENT NO. 1 TO REFUGEE RESETTLEMENT GRANT AGREEMENT

This agreement, dated June 27, 1973, is between the Government of the United States of America, acting through the Department of State (the "Department"), and the United Israel Appeal, Inc., a voluntary, non-profit agency organized and existing under the Membership Corporation Law of the State of New York, with principal offices at 515 Park Avenue, New York, New York 10022 (the "Grantee").

Section 1 *The Supplemental Grant.* (a) The purpose of this agreement is to supplement the grant made by the Department in the Refugee Resettlement Grant Agreement between the Department and the Grantee dated April 6, 1973 (the "Grant Agreement").

(b) Pursuant to section 101(b) of the United States Foreign Relations Authorization Act of 1972 and related appropriation legislation, and subject to the terms and conditions of this Supplement No. 1, the Department hereby grants to the Grantee an amount not exceeding thirteen million United States dollars ($13,000,000) to furnish assistance for the resettlement in Israel of Jewish or other similar refugees from the Union of Soviet Socialist Republics ("Refugees").

Section 2 *Use of Funds.* The Programs and the maximum amount of this supplemental grant to be allocated to each shall be as follows:

Program	*Amount*
Enroute care and maintenance costs for 30,000 Refugees, Jan. 1 to Dec. 31, 1974	$1,200,000
Construction or enlargement of transit center in Vienna, Austria	----
Construction or acquisition of new absorption centers and hostels	3,500,000
Construction or acquisition of hospital wing	----
Construction or acquisition of apartments and/or mobile homes	250,000
University scholarships	1,000,000
Training and retraining for artisans and technicians	500,000
Maintenance costs for on-the-job trainees	500,000
Maintenance costs at Ulpanim, absorption centers and hostels	4,250,000
Advanced level education in the arts and sciences	1,800,000
Total	13,000,000

Section 3 *Reallocations.* Funds provided under this Supplement No. 1 may be adjusted between Programs for which funds are allocated in section 2, above, provided (a) prior written approval therefor shall have been received by the Grantee from the Department, (b) each increase in the amount allocated to a Program shall be offset by an equal reduction in the amount allocated to one or more other Programs, and (c) the aggregate of such increases shall not exceed $1,300,000.

Section 4 *The Programs.* The Programs for which this supplemental grant shall be used shall be the Programs described in Article II of the Grant Agreement except as follows:

(a) Funds provided under section 2(i), above, for enroute care and maintenance shall be provided in accordance with section 2.1 of the Grant Agreement except that funds hereunder are provided in respect to Refugees received at the transit center in Vienna, Austria during the period January 1 to December 31, 1974, inclusive.

(b) No funds are provided hereunder for the Programs described in sections 2.2 and 2.4 of the Grant Agreement.

(c) The last sentence of sections 2.3, 2.5, 2.6 and 2.7(c) of the Grant Agreement shall not apply to funds provided under this supplemental grant.

(d) The Program for which funds are granted in section 2(x), above, shall be deemed included within section 2.6 of the Grant Agreement. The Grantee will submit program plans for expenditure of the amount specified in section 2(x), above, for advance approval by the Department.

(e) In order to insure that the Programs for which funds are provided in section 1.2 (b)(vi) of the Grant Agreement and in sections (vi) and (x), above, have a clear United States identity, the beneficiaries of such funds will be informed in writing of their origin, and, in coordination with the United States Embassy in Tel Aviv and the Department, the Grantee will provide publicity in Israel concerning those Programs.

Section 5 *Disbursements.* (a) The Department shall make disbursement of the funds provided for in this supplemental grant by transfer to the account of the Grantee at a bank designated in writing by the Grantee and acceptable to the Department as follows:

On or about September 17, 1973	$4,000,000
On or about December 17, 1973	4,000,000
On or about March 15, 1974	5,000,000

(b) Each disbursement provided for in section 5(a), above, shall be subject to the conditions precedent contained in section 3.2(a) of the Grant Agreement, except that the certificate required by that section shall be amended to read as indicated in Exhibit 1 hereto.

(c) In addition, the disbursement provided for in section 5(a)(i), above, shall be subject to the prior delivery by the Grantee to the Department of an opinion of counsel, in form and substance satisfactory to the Department, that this agreement has been duly authorized or ratified by, and duly executed on behalf of, the Grantee and constitutes the valid and legally binding obligation of the Grantee enforceable in accordance with its terms. The certification provided for in section 3.2(b)(i) of the Grant Agreement shall not be required in the case of this supplemental grant.

Section 6 *Inspection.* This section 6 shall apply only in the case of contracts and subcontracts the total value of which exceeds $50,000, or the equivalent thereof calculated at official rates of exchange, and to which only private or commercial entities are party. The Grantee undertakes and agrees that all construction and similar contracts and subcontracts entered into after the date hereof by the Grantee, and by all agents, contractors and subcontractors of the Grantee, for the purpose of implementing any provision hereof or of the Grant Agreement shall contain appropriate provisions which:

(a) legally bind such agents, contractors and subcontractors to the record keeping obligations undertaken by the Grantee in section 5.3(a) of the Grant Agreement, except the records of such agents, contractors and subcontractors may be maintained in Israel and in accordance with accounting principles generally accepted in Israel;

(b) accord to the Department, the Comptroller General of the United States and their authorized representatives the legally enforceable right to examine, audit and copy, at all reasonable times, all records, books of account and other documents in the possession of such agents, contractors and subcontractors and pertaining to any Program or other activity funded by this agreement or the Grant Agreement; and

(c) legally bind such agents, contractors and subcontractors, to maintain the documents referred to in section 6(b), above, available for inspection for at least three years after final payment is made under such contract of subcontract.

Section 7 *Application of the Grant Agreement.* All of the terms and conditions of the Grant Agreement shall remain in effect in respect to the funds granted thereunder. In addition, except where otherwise expressly provided herein, all of the terms and conditions contained in the Grant Agreement are incorporated herein by this reference and shall apply to this agreement, the funds granted hereunder and all matters arising in connection herewith to the same extent as if the funds granted hereunder has been made available to the Grantee in the Grant Agreement.

In witness whereof, The Department and the Grantee, acting through their duly authorized representatives, have caused this agreement to be executed on their behalf and delivered as of the date first written above.

UNITED ISRAEL APPEAL, INC.,
GOTTLIEB HAMMER,
Executive Vice-Chairman.
THE UNITED STATES OF AMERICA,
FRANK L. KELLOGG,
Special Assistant to the Secretary for Refugee and Migration Affairs, Department of State.

EXHIBIT 1

CERTIFICATE PURSUANT TO SECTION 5(b) OF SUPPLEMENT NO. 1 TO REFUGEE RESETTLEMENT GRANT AGREEMENT

Pursuant to section 5(b) of Supplement No. 1 to Refugee Resettlement Grant Agreement dated June 20, 1973 (the "Agreement") between the United States of America, acting through the Department of State (the "Department"), and the United Israel Appeal, Inc., a voluntary, non-profit agency organized and existing under the Membership Corporation Law of the State of New York (the "Grantee"), the undersigned hereby certifies that he is an officer or other representative of the Grantee duly authorized to execute this certificate, and that to his actual knowledge and belief, based upon a reasonable investigation of the relevant facts and circumstances, there have been fulfilled as of the date hereof all representations, warranties and covenants of the Grantee required by the Agreement to be fulfilled at such date. This certificate is executed for and on behalf of the Grantee with the understanding that the Department will rely on the statements contained herein for purposes of making distributions under the Agreement.

UNITED ISRAEL APPEAL, INC.
Date——— By————————
(print name and title or office)

Mr. MUSKIE. Mr. President, this year in testimony before the House and Senate, the administration stated that the $50 million already appropriated for resettlement assistance would be sufficient not only for fiscal year 1973 but for fiscal year 1974 as well. I completely disagree with this assessment.

According to State Department figures, 31,652 Russian immigrants settled in Israel in 1972. Over 31,000 more Russian immigrants have come to Israel thus far in 1973. Moreover, in the last 3 months of this year, the rate of immigration has increased substantially.

All of us are aware of the extraordinary economic burden which has been placed on Israel by her defense requirements and by the most recent war in the Middle East. Israel's defense expenditures even before the war ran close to half of her annual budget, and the Israel taxpayer has been supporting this with one of the highest taxation rates in the world. The financial pinch is aggravated by a sharply rising external debt and growing deficit in foreign exchange reserves. For more than a decade, Israel has had the highest per capita foreign currency debt in the world, and this adverse situation has greatly worsened because of the recent war.

In these economic circumstances, the absorption of over 30,000 new Soviet Jewish refugees per year has imposed an extreme financial burden on Israel. The government of Israel has estimated a total annual cost of $252 million for purposes of resettling 35,000 new immigrants from the Soviet Union. Mr. President, I ask unanimous consent that a breakdown of this cost estimate be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[In millions of dollars]

ESTIMATED ANNUAL COSTS OF IMMIGRATION AND INITIAL ABSORPTION OF 35,000 PERSONS FROM THE U.S.S.R.

Transportation of immigrants and care en route	$19,000
Initial care and absorption (Equipment, furniture and financial aid	6,000
Maintenance in hostels and absorption centers	17,000
Construction of new hostels	3,300
Housing (Construction of apartment dwellings for 10,000 families at $17,500 per apartment)	175,000
Health (Hospitalization, medical services, health insurance)	7,500
Education (Scholarships in secondary schools, special services for professional persons—on the job training—prekindergartens)	5,700
Higher Education (University scholarships and fellowships)	7,000
Welfare (Homes for aged, training and retraining of artisans and handicapped, old age grants, sheltered workshops)	1,500
Total	242,000

Source: Government of Israel.

Mr. MUSKIE. Mr. President, I believe that this appropriation of $36.5 million, which has already been approved by the House, is a modest contribution in view of Israel's urgent need and in view of our own generous refugee assistance in the past. It is well to remember that since World War II, the United States has contributed more than $2.8 billion to refugee assistance, directly and through intergovernmental organizations. We spent close to $600 million to assist Cuban refugees. From 1947 to 1951, we contributed $237 million to the International Refugee Organization. In the early

1950's, we contributed almost $85 million to aid Korean refugees. And for Arab refugees, we have contributed more than $500 million. We have never forgotten that we were founded and populated by the refugees of an earlier world. Our commitment to this cause is inscribed on the base of the Statue of Liberty.

Moreover, Mr. President, there is the long history of our concern with persecution on account of religion, and in the last half century, particularly with the persecution of Jews. Beginning in the early 1900's, our national leaders have fought for the freedom and dignity of the world's Jewish community. We played a major role in the creation of Israel; we have been its firm defender ever since.

Finally—and beyond humanitarian concerns—there is our clear self-interest in the health and well-being of Israel. War is not the only danger to a healthy Israel. Economic disaster can accomplish what war could not, if we let it. A country the size of Israel, with its heavy defense burdens, cannot afford the several hundred million dollars that will be required for the anticipated influx of Soviet Jews over and above Israel's normal budget for immigrants—and Israel has already spent enormous sums receiving and integrating hundreds of thousands of Jewish refugees from Middle Eastern countries. For all these reasons, therefore, I believe we must be prepared to help Israel cope with the continuing flow of new immigrants from the Soviet Union.

Mr. President, on behalf of myself and cosponsoring Senators STEVENSON, WILLIAMS, JACKSON, JAVITS, RIBICOFF, McGOVERN, PACKWOOD, HUMPHREY, PELL, and SCHWEIKER, I urge the Senate to adopt this amendment.

Mr. INOUYE. Mr. President, I supported the program when it was first proposed in the U.S. Senate. However, as chairman of the subcommittee faced with this matter, I find it is extremely difficult for me to accept the amendment. I have before me no documentation whatsoever indicating this further need.

Mr. President, I read from page 379 of the Senate committee hearings, my questions of Mr. Kellogg, a special assistant to the Secretary for Refugee and Migration Affairs, and his answers:

> Senator INOUYE. How many refugees are involved?
>
> Mr. KELLOGG. The annual flow at the present time is approximately 30,000 refugees from the Soviet Union.
>
> Senator INOUYE. Do I understand that this appropriation we are talking about, $50 million, will cover assistance to both the 30,000 who expect to immigrate to Israel in calendar year 1973, and an additional 30,000 expected in calendar year 1974?
>
> Mr. KELLOGG. That is correct; yes, sir.

Mr. President, I was speaking of the calendar years. Furthermore, in the House hearings, the following proceedings were had, and this is from pages 62 and 63, questions by Representative PASSMAN, the chairman of the House subcommittee:

> Mr. PASSMAN. As you know, last year we provided $50 million for assistance to refugees from the Soviet Union, but I know that this year you are not requesting any funds for this purpose. Do you feel that the appropriation made in fiscal year 1973 is sufficient to carry you through the fiscal year 1974?
>
> Mr. KELLOGG. Yes. Our discussions with the United Israel Appeal, the voluntary agency conducting the major part of the programs financed with these funds, resulted in agreements on projects for both fiscal year 1973 and fiscal year 1974.
>
> Mr. PASSMAN. Do you feel that any additional funds will be needed in fiscal year 1974 for this purpose?
>
> Mr. KELLOGG. At this time, we do not anticipate the need for further funds for these programs in fiscal year 1974.

This is the official statement of the Government of the United States as it relates to this assistance program. If I had any other statement whatever before this subcommittee, I would be very much pleased to accept the amendment, but I have none.

Mr. FONG. Mr. President, I now have before me a telecopy message from the State Department, stating what has happened to the money. I shall hand it to the chairman.

Mr. INOUYE. Just for the record, it is a message to Mrs. Dorothy Parker of Senator FONG's office from the State Department Office of Refugee and Migration Affairs. It states:

> As of June 30, 1973, the full $50 million for assistance to refugees from the Soviet Union has been obligated. As of October 31, expenditures of these funds totaled $37,232,858.50.

Mr. President, if this information is correct, there is still $13 million left.

Mr. FONG. That has been obligated already.

Mr. INOUYE. But the fiscal year is not over as yet. We are nearly at the end of the fiscal year.

I have no doubt about the veracity of Janet Barker, but I doubt whether this is the way the administration should communicate with Members of the Senate. I cannot take this as an official communication. Perhaps the leader will.

Mr. MANSFIELD. No, I will not. What position does this woman hold?

Mr. INOUYE. It is from the State Department, Office of Refugee and Migration Affairs, Janet Barker.

Mr. MANSFIELD. What is her position?

Mr. INOUYE. I have no idea, sir.

Mr. MANSFIELD. Who appeared before the committee?

Mr. INOUYE. The only witness who has appeared before the committee is Mr. Kellogg, special assistant to the Secretary for Refugee and Migration Affairs.

Mr. MANSFIELD. Has the chairman heard from anyone in addition to Mr. Kellogg?

Mr. INOUYE. Not at all. The State Department has had a copy of the committee report since Friday morning.

Mr. BROOKE. Mr. President, I certainly would concur with my distinguished chairman. This is certainly no way for the State Department to act. I do not think there is anyone on the subcommittee who is not interested in providing sufficient aid to migrants who want to emigrate from the Soviet Union to the State of Israel.

We had a very lengthy discussion of this matter. The chairman read the testimony we had received from Mr. Kellogg, on one occasion before the Senate subcommittee and on another occasion before the House subcommittee. In both instances it was said that they had sufficient money and did not anticipate the need for any further money.

If we had had that testimony before us, we certainly would have given it favorable consideration. I am sure that $36 million would have been voted by the subcommittee. I do not think there is any question about it. But not until this day and in this Chamber has the State Department given us some information or some indication that they had spent the money or that they needed additional funds.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. INOUYE. I yield.

Mr. MANSFIELD. This is the most unusual experience I have listened to. I have never heard of a communication addressed to an attaché of a Senator's office or an attaché of a committee, and from a person whom no one has ever heard of and who has not been in contact with the chairman of the subcommittee or the ranking Republican member. It is most unusual because the communication was not addressed to Senator Fong nor was it from somebody who had appeared before the committeee.

I would hope that we would be a little more careful and recognize that we are a body of 100 Senators. We can be addressed by officials in the Government downtown, just as we address government officials downtown. This is a most unusual procedure—most unusual.

Mr. BROOKE. Mr. President, I have stated my dismay at the procedural operations of the State Department on this matter. However——

The PRESIDING OFFICER (Mr. HELMS). All time having expired, the question is on agreeing to the amendment of the Senator from Hawaii.

Mr. FONG. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. BROOKE. Mr. President, I ask unanimous consent that we be allowed 3 minutes on the bill. I think this is an important matter.

The PRESIDING OFFICER. Without objection, the Senator may proceed.

Mr. BROOKE. I do not think that the merits of the case should rise and fall on the procedural matter. I would like the distinguished Senator from Hawaii—obviously, we will have a vote on the matter—to give us all the information he has relative to the necessity for the $36 million. That is all the subcommittee wanted in the first instance.

Mr. FONG. I have already given my statement which contains it.

Mr. BROOKE. That statement was put in the RECORD. We did not hear it.

Mr. FONG. No; I read it on the floor. For the clarification of the Senator, I want to say that in calendar 1973, the

Department of State estimated the flow to Israel would be 30,000 refugees.

Through November 30, 1973, 31,700 refugees have been received and resettled in Israel, more than in all 1972, and in all about 1,700 people of various religious affiliations were settled in the United States. It is now hoped that some 35,000 people will be allowed to leave the Soviet Union this year.

Mr. BROOKE. Is the Senator talking about fiscal year 1974 now?

Mr. FONG. We are talking about the calendar year, now.

Mr. BROOKE. Does the Senator have any estimate of the number of refugees that will be leaving the Soviet Union in calendar year 1974?

Mr. FONG. It is expected to be about the same.

Mr. BROOKE. It is expected to be the same?

Mr. FONG. Yes; about the same—about 35,000 people.

Mr. BROOKE. What is the estimated money needed for 1974?

Mr. FONG. Actually, they have need for over $240,000,000 to absorb 35,000 persons from the U.S.S.R., but the House put in $36.5 million, and I have stuck with that figure.

Mr. BROOKE. So the $36.5 million the Senator is asking for in his amendment——

Mr. FONG. Is in the House bill.

Mr. BROOKE. Is based upon the House appropriation?

Mr. FONG. Yes.

Mr. President, I ask unanimous consent that the communication to which I have referred be printed in the Record.

There being no objection, the communication was ordered to be printed in the Record, as follows:

Received from State Department, via telecopier, Monday, December 17, 1973.

To: Mrs. Dorothy Parker, Senator Fong's office.

From: State Department, Office of Refugee and Migration Affairs, Janet Barker.

As of June 30, 1973, the full $50 million for assistance to refugees from the Soviet Union had been obligated.

As of October 31, expenditures of these funds totaled $37,232,858.50.

Mr. INOUYE. Mr. President, may I have 2 minutes on the bill?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, I had intended to assure the Senate that I would give this matter the most serious consideration in conference, with the understanding that the State Department or the administration would forward to the subcommittee and to the full committee the formal communication setting forth in some detail the justification for any appropriation.

To this point, we have no idea as to how much is needed, or whether $36 million is sufficient—maybe that is not enough—or whether $20 million is sufficient. The only thing we have in the record is that they do not need anything. But now we are to have a rollcall, and much as I support this program, the chairman of the subcommittee will vote against the amendment.

The PRESIDING OFFICER (Mr. Helms). The question is on agreeing to the amendment of the Senator from Hawaii (Mr. Fong). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. Bentsen), the Senator from Idaho (Mr. Church), the Senator from California (Mr. Cranston), the Senator from Alaska (Mr. Gravel), the Senator from South Carolina (Mr. Hollings), the Senator from Iowa (Mr. Hughes), the Senator from New Mexico (Mr. Montoya), and the Senator from Rhode Island (Mr. Pastore) are necessarily absent.

I further announce that the Senator from Louisiana (Mr. Long) and the Senator from Georgia (Mr. Talmadge) are absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. Pastore) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. Bellmon) and the Senator from Utah (Mr. Bennett) are necessarily absent.

The Senator from New Hampshire (Mr. Cotton) is absent because of illness in his family.

The result was announced—yeas 62, nays 25, as follows:

[No. 589 Leg.]

YEAS—62

Allen
Baker
Bayh
Beall
Bible
Brock
Brooke
Buckley
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cook
Curtis
Dole
Domenici
Dominick
Eagleton
Fong
Goldwater
Griffin
Gurney
Hart
Hartke
Hathaway
Helms
Hruska
Humphrey
Jackson
Javits
Johnston
Kennedy
Magnuson
Mathias
McGee
McGovern
Mondale
Moss
Muskie
Nelson
Nunn
Packwood
Pearson
Pell
Percy
Proxmire
Ribicoff
Roth
Schweiker
Scott, Hugh
Sparkman
Stevens
Stevenson
Symington
Taft
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—25

Abourezk
Aiken
Bartlett
Biden
Burdick
Byrd,
Harry F., Jr.
Eastland
Ervin
Fannin
Fulbright
Hansen
Haskell
Hatfield
Huddleston
Inouye
Mansfield
McClellan
McClure
McIntyre
Metcalf
Randolph
Saxbe
Scott,
William L.
Stafford
Stennis

NOT VOTING—13

Bellmon
Bennett
Bentsen
Church
Cotton
Cranston
Gravel
Hollings
Hughes
Long
Montoya
Pastore
Talmadge

So Mr. Fong's amendment No. 789 was agreed to.

Mr. FONG. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCLELLAN obtained the floor.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. McCLELLAN. I yield.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had passed without amendment the following bill and joint resolution:

S. 12714. An act to amend section 291(b) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, relating to cost-of-living increases, and to increase the pay and allowances of certain officers of the Armed Forces whose pay and allowances are not subject to adjustment to reflect changes in the Consumer Price Index; and

S.J. Res. 180. A joint resolution relative to the convening of the second session of the Ninety-third Congress.

The message further announced that the House had agreed to the amendments of the Senate to the bill (H.R. 10717) to repeal the act terminating Federal supervision over the property and members of the Menominee Indian Tribe of Wisconsin as a federally recognized, sovereign Indian tribe; and to restore to the Menominee Tribe of Wisconsin those Federal services furnished to American Indians because of their status as American Indians; and for other purposes.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3180) to amend title 39, United States Code, to clarify the proper use of the franking privilege by Members of Congress and for other purposes.

ENROLLED BILLS SIGNED

The message further announced that the Speaker had affixed his signature to the following enrolled bills:

H.R. 3180. An act to amend title 39, United States Code, to clarify the proper use of the franking privilege by Members of Congress, and for other purposes; and

S. 1776. An act to amend the Federal Water Control Act, as amended.

The enrolled bills were subsequently signed by the President pro tempore.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that today, December 17, 1973, he presented to the President of the United States the enrolled bill (S. 2178) to name the U.S. courthouse and Federal office building under construction in New Orleans, La., as the "Hale Boggs Federal Building," and for other purposes.

POSTPONEMENT OF CONSIDERATION OF LEGAL SERVICES CORPORATION ACT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that calendar

No. 471, S. 2686, a bill to amend the Economic Opportunity Act of 1964 to provide for the transfer of the Legal Services program from the Office of Economic Opportunity to a Legal Services Corporation, and for other purposes, remain on the calendar, but that it be laid before the Senate and made the pending business on Monday, January 28, 1974.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. Mr. President, reserving the right to object—and I shall not object—I think this is a happy solution which will speed up our adjournment. I am glad that this compromise has been worked out so that it will not be necessary to have a cloture vote, and yet the Senate will have an opportunity to return to the consideration of this important matter early next session.

I withdraw my reservation.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. JAVITS. I wish to make a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. If this unanimous-consent request is granted, will it mean that the bill will be before the Senate without the need for an intervening action to consider the measure?

The PRESIDING OFFICER. That is the situation as it exists now, subject to subsequent developments in the Senate.

Mr. JAVITS. The Senator does not understand that, Mr. President. I will repeat my parliamentary inquiry.

If this unanimous-consent request is agreed to, will not this measure be the pending business on the 28th of January, without the need for a motion to consider it?

The PRESIDING OFFICER. Absolutely, unless there is some subsequent action to the contrary.

Mr. JAVITS. In that case, Mr. President, I wish to state, with the Senator from Montana and the Senator from Michigan, that I believe it is the best that can be done under the circumstances.

Many people, including the Bar Association of the United States, are deeply interested in this legislation. I think it should be made clear that we have done our very best to have it considered now. It cannot be. But at least in the time intervening, roughly a month and a half, we will at least have gotten beyond the first step, and the matter can then be at issue.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

CHANGE OF CONFEREE ON SUPPLEMENTAL APPROPRIATION BILL

Mr. McCLELLAN. Mr. President, I ask unanimous consent that Senator THOMAS F. EAGLETON be appointed a conferee on the supplemental appropriation bill, in lieu of Senator ERNEST HOLLINGS.

The PRESIDING OFFICER. Without objection, it is so ordered.

FOREIGN ASSISTANCE APPROPRIATIONS, 1974

The Senate continued with the consideration of the bill (H.R. 11771) making appropriations for foreign assistance and related programs for the fiscal year ending June 30, 1974, and for other purposes.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that on the amendment to be offered by the distinguished Senator from Maine (Mr. MUSKIE) there be a time limitation of 30 minutes, the time to be equally divided between the Senator from Maine and the Senator from Hawaii, the manager of the bill.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. Mr. President, I make the same request with respect to an amendment to be offered by the Senator from New Hampshire, on the same basis.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLELLAN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 22, after line 16, insert the following:

TITLE VII—RAIL SERVICES ACT OF 1973

DEPARTMENT OF TRANSPORTATION—OFFICE OF THE SECRETARY

Emergency Rail Services Assistance

For necessary expenses of carrying out the provisions of section 213 of the Rail Services Act of 1973, $60,000,000, to remain available until expended: *Provided*, That this appropriation shall become effective only upon enactment into law by the 93rd Congress of S. 2767 or similar legislation.

Salaries and Expenses

For an additional amount for "salaries and expenses," $7,000,000, to remain available until expended; *Provided*, That this appropriation shall become effective only upon enactment into law by the 93rd Congress of S. 2767 or similar legislation.

GOVERNMENT NATIONAL RAILWAY ASSOCIATION

Administrative Expenses

For necessary administrative expenses of carrying out the provisions of titles II and III of the Rail Services Act of 1973, $13,000,000, to remain available until expended; *Provided*, That this appropriation shall become effective only upon enactment into law by the 93rd Congress of S. 2767 or similar legislation.

Mr. McCLELLAN. I yield myself 3 minutes.

Mr. President, on December 14, the President of the United States sent to the Senate a supplemental budget request for $126,350,000 for the Department of Transportation, to initiate proceedings in connection with the National Railway Association and the Rail Services Act, anticipating that it would be passed at this session of Congress. I ask unanimous consent that the letter from the President, together with the accompanying papers, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, D.C., December 14, 1973.

THE PRESIDENT OF THE SENATE,

SIR: I ask the Congress to consider proposed supplemental appropriations for the fiscal year 1974 in the amount of $126,350,000 in budget authority.

The details of these proposals are set forth in the enclosed letter from the Director of the Office of Management and Budget, with whose comments and observations I concur.

Respectfully,

RICHARD NIXON.

OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., DECEMBER 13, 1973.

The PRESIDENT,
The White House

SIR: I have the honor to submit for your consideration supplemental appropriations for fiscal year 1974 in the following amounts:

[Budget authority in thousands]

Department of Transportation	$100,350
Government National Railway Association	26,000
Total	126,350

The details on these proposed supplemental appropriations are contained in the enclosure to this letter. I have carefully reviewed the proposals for appropriations contained in this document and am satisfied that they are necessary at this time. I recommend, therefore, that these proposals be transmitted to the Congress.

Respectfully,

ROY L. ASH, *Director*.

DEPARTMENT OF TRANSPORTATION—OFFICE OF THE SECRETARY

EMERGENCY RAIL SERVICES ASSISTANCE

For necessary expenses of carrying out the provisions of Section 213 of the Rail Services Act of 1973, $85,000,000, to remain available until expended; *Provided*, That this appropriation shall become effective only upon enactment into law by the 93rd Congress of S. 2767 or similar legislation.

This proposed supplemental appropriation will provide for payments to the trustees of railroads in reorganization so that they may continue to provide essential transportation services.

Salaries and expenses

For an additional amount for "salaries and expenses," $15,350,000, to remain available until expended; *Provided*, That this appropriation shall become effective only upon enactment into law by the 93rd Congress of S. 2767 or similar legislation.

This proposed supplemental appropriation will provide for additional expenses necessary to carry out the Secretary's planning, report preparation, and other functions under this new railroad restructuring legislation.

GOVERNMENT NATIONAL RAILWAY ASSOCIATION

Administrative expenses

For necessary administrative expenses of carrying out the provisions of Titles II and III of the Rail Services Act of 1973, $26,000,000, to remain available until expended; *Provided*, That this appropriation shall become effective only upon enactment into law by the 93rd Congress of S. 2767 or similar legislation.

This proposed supplemental appropriation would provide for the establishment and the administrative expenses of the Association. The Association would engage in the preparation and implementation of the final Midwest and Northeast rail system plan.

Mr. McCLELLAN. In that request, the President requested $126,350,000. The Committee on Appropriations considered the matter this morning and, instead of $126,350,000, has recommended $80 million, as set forth in the amendment that is now at the desk.

Mr. President, this appropriation is contingent upon the Railway Services Act being agreed to in conference and enacted into law. These appropriations would not take effect unless and until such authorization is enacted.

In November, the House passed what it called the Regional Rail Reorganization Act of 1973, H.R. 9142. Last Tuesday, December 11, the Senate passed the Rail Services Act of 1973, S. 2767. These two bills, in the nature of one bill—one is substituted for the other—are now in conference. They deal with the reorganization of the railroad system and the establishment of a new railroad system in the eastern section of the Nation and the midwestern section of the Nation.

Unless this money is appropriated, assuming the legislative authorization is agreed to, no money will be available to start this new program until Congress returns in the new session and has an opportunity to consider it. So I asked the Appropriations Committee, in view of this request from the President, in view of this being the last opportunity for us to make any appropriation to have the program initiated and to get it started, to consider this matter. The committee did so, with the result that it reduced the amount of $126,250,000 to $80,000,000, which will be adequate to take care of this matter until the end of this fiscal year. The $126,250,000 would have taken care of it, it was anticipated, through fiscal 1975.

I yield to the distinguished Senator from North Dakota (Mr. YOUNG), and then I will yield the remainder of my time to the distinguished Senator from Indiana (Mr. HARTKE), who will manage the rail authorization bill on the floor of the Senate.

Mr. YOUNG. Mr. President, I do not profess to be an authority on this subject, but it is my understanding that unless this money is appropriated, it is entirely possible that the Penn Central and perhaps some other railroads might stop their service before Congress convenes again.

If these important railroads have to shut down, it will directly affect the entire Northeastern part of the United States and will indirectly seriously affect all the other States of the Union. I do not believe we have any alternative but to appropriate this money.

Mr. HARTKE. Mr. President, very briefly, we have two issues involved here. One deals with emergency money to keep the railroads going during the interim period. There is no question about it; everyone agrees. Even though the Department of Transportation did at first disagree, everyone now agrees that that money will be needed in a sum we will appropriate today, if not more.

The second part deals with going ahead and eliminating the difficulty we have with the railroads by providing a new organization and operating group. Unless this action is taken here, both of those items will be seriously affected. One of them might cause us to reconvene in the middle of the adjournment, in order to keep the Penn Central going. The other is planning, for which we will have to appropriate later.

I hope the Senate will approve the amendment. If there are any questions, I will try to answer them at this time.

The PRESIDING OFFICER. Who yields time?

Mr. INOUYE. Mr. President, I am ready to accept the amendment.

Mr. McCLELLAN. We yield back all time on the amendment.

Mr. INOUYE. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. MUSKIE. Mr. President, I send to the desk an amendment on behalf of myself and Senators BAKER, HATHAWAY, Moss, PELL, and NELSON.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> On page 5, between lines 18 and 19, insert the following:
>
> National Association of the Partners of the Alliance, Inc.: For necessary expenses to carry out the provisions of section 252(b), $934,000.

Mr. MUSKIE. Mr. President, my amendment would provide direct funding of $934,000 for one of the most successful and promising of our foreign aid programs—the Partners of the Americas.

Partners of the Americas is a people-to-people aid program within the Western Hemisphere. It is carried out by local partnership organizations in 41 of our States, each of which deals directly with a counterpart city or region in 18 Latin American countries. Local programs provide, on an ongoing basis to their Latin American partners, direct technical assistance through visits of skilled U.S. volunteers, as well as assistance in the form of funds and material supplies for specific projects. Federal funding for Partners—spent for the small administrative staff in Washington, and for a portion of the travel cost of Partners volunteers—is in fact seed money, generating private contributions totaling at least 15 times the Federal contribution.

Unless a direct appropriation for Partners of the Americas is included in this foreign aid appropriations bill, Federal support of the program will be slashed, and the future of the program will be threatened. My amendment would not only insure continued Federal support, but allow Partners to establish new local programs in five States and expand its private fundraising efforts. This valuable people-to-people program deserves that Federal support.

Formally, Partners of the Americas is administered by the National Association of the Partners of the Alliance, Inc.—NAPA—a private, nonprofit corporation. Through its staff of 10, NAPA services the projects of local partnership committees here in the United States and in Latin American nations.

It is these local partnership committees that make the Partners program work. Each committee is composed of private citizens and, in some cases, State and local government officials—including 34 State Governors with active involvement, a majority serving as honorary chairmen. I will ask that a list of the 41 State partnerships, and the Governors, be inserted as exhibit No. 1 after my remarks. The committees work with other local voluntary and service organizations, such as the Lions Clubs and the Jaycees, and with local institutions, especially with local universities, to develop a program of assistance to their partners in Latin America. All committee members and program participants serve as volunteers.

In their ongoing planning processes, partnership committees in the United States engage in free exchanges with the similarly composed Latin American partnership committees. They evaluate what problems need attention, and what resources are available. For instance, a partnership may begin with a visit of agricultural experts to help conquer local crop disease; it might be followed with a cooperative effort to build a school, with local labor and U.S. financial aid; and continue with a program of health personnel training. The function of the NAPA staff—and the seed money they provide—is to coordinate, stimulate, and service those volunteer programs.

The continuing nature of the Partners program encourages a continued program of development to show long-term results. For the past 3 years a team of volunteer veterinarians and experts in animal husbandry from Florida A. & M. University in Tallahassee have conducted a short course in livestock and poultry management for 110 middle-level government agricultural technicians at the University of Cordoba in Monteria, Colombia. NAPA invested $3,500 in travel funds for the veterinary team from Florida A. & M.—and generated at least 13 times that amount in hospitality expenses provided to the team by the university, in translation services, travel costs, and services provided by the Colombian state agricultural agencies on the Atlantic coast.

Often, partnership programs find that the U.S. partner has access to highly technical skills needed to solve a highly technical local Latin American problem. One recent example comes from the partnership between Louisiana and El Salvador. In March 1973, a volunteer team of 16 leading orthopedic surgeons, physical therapists, and prosthetic specialists from Louisiana, conducted a 1-week seminar in El Salvador for 150 Salvadorean surgeons and specialists, joined by colleagues from Costa Rica, Guatemala, and Colombia. They performed demonstration operations and surgical procedures which were carried both on closed circuit and on nationwide television, showing the Salvadoreans how to fit artificial limbs to the patients so that they could be walking within 24 hours after the operation, a process that has normally taken 8 months to 1 year with techniques previously used in El Salvador. The contacts between the U.S. volunteers and the El Salvadorean doctors and patients are continuing today. And the team of doctors brought along about $3,000 worth of equipment, performed over $33,000 worth of services before and during the seminar, and were given $3,000 in hospitality and transportation expenses by the Salvadoreans. NAPA's total support was $1,200 for partial travel—and resulted in $39,000 in benefits, a cost-benefit ratio of $1 to $33.

Many partnerships find that they can solve less esoteric problems in imaginative ways, using the special resources of the U.S. partner. For instance, the Maine partners have twice sent the training ship *State of Maine* from the Maine Maritime Academy on a good will cruise to Latin America—and carried as cargo 100 tons of contributed educational, medical, and hospital equipment and supplies. The cargo came from eight partner States in the United States, and was delivered to their partner areas in Colombia and northeastern Brazil. The total NAPA investment was $1,800 for travel of one technician from Rio Grande do Norte, Brazil, to Maine and one technician from Maine to Rio Grande do Norte to make necessary arrangements and agreements for the shipment. The total yield in shipment and supplies was worth $408,000, a cost-benefit ratio of $1 to $226.

I might add that the Maine partners program with Rio Grande do Norte, Brazil, includes not only our maritime academy, but also the University of Maine, providing long-range technical assistance, including an agricultural experimental station, to the School of Agriculture in Mossoro, Brazil; Bates College, with artist in residence program; the Portland Symphony Orchestra, whose string quartet performed concerts and conducted workshops in Natal this past year; the Maine public school system, which now uses to teach in the elementary grades a text on the people, language, culture, customs, and economy of Rio Grande do Norte; Maine Diocese, which has sent a social worker and three nurses/teachers to the interior of Rio Grande do Norte; and a high school student exchange program of 40 to 50 students each year.

And partnerships give help on an emergency basis. When tragedy struck Nicaragua in the form of a devastating earthquake last year, the U.S. partners in Wisconsin responded immediately. With the help of NAPA, they collected needed supplies, and raised more than $600,000 in cash. Two years earlier, when a disastrous earthquake hit Peru, its partners in Texas responded similarly. In the case of Nicaragua, the NAPA investment was $16,200, and yielded $2 million in supplies and services, for a cost/benefit ratio of $1 to $123. The Wisconsin partners are still assisting in the reconstruction in Nicaragua, and just last month Governor Lucey inaugurated the first reconstructed school built with funds donated by the people of Wisconsin.

The impressive individual partners case histories add up to make impressive totals as well. In the last fiscal year, 3,444 volunteers traveled to their partner areas to conduct projects in agricultural development, medical health, disaster relief, education, special education and rehabilitation, community development, trade and investment, and sports and cultural exchanges. NAPA sponsored the travel of 370 of those volunteers at a cost of $234,515. The other 3,074 travelers—over 9 out of 10—sponsored their own travel to participate in partners projects, at a cost of $2,280,045.

And the value of projects conducted by the entire partners program during the past fiscal year, in addition to the shipment of 589 tons of equipment to Latin America, was over $6 million—with a total U.S. Government investment of $450,000. I will ask that additional statistics on the partners program be printed in the Record as exhibit No. 2.

Mr. President, with this record before us, we must today decide the future direction of Federal support for the partners program. Since 1968, NAPA has been funded by steadily diminishing grants from AID. For calendar year 1973, the grant totaled $450,000, including $400,000 from AID's fiscal year 1973 appropriations and $50,000 unexpended from prior years. AID plans to reduce its grants to $350,000 for 1974 from this appropriation, $250,000 for 1975, and nothing thereafter.

Private fundraising has been only partially successful, but prospects are improving. If the effort to enhance private funding is to succeed then the partners must have breathing room and an enhanced staff for vigorously pursuing private money. In addition, Partners is in a position now to expand its program.

In considering the foreign aid authorization, we approved a line item authorization of $934,000 for the partners program. A full appropriation of this amount would continue the NAPA program of administrative support and travel funds for volunteer technicians, and could allow expanded fundraising and the necessary funds to assist in establishing additional partnerships which have been requested by five States—Montana, Nebraska, South Dakota, South Carolina, and Arizona—and additional areas in California and New York. My amendment would provide that full funding.

Mr. President, I urge the Senate to adopt this amendment to provide a needed Federal boost to a proven people-to-people assistance program.

I ask unanimous consent that there be printed in the Record as exhibit No. 1 the lists of State partnerships and Governors, and as exhibit No. 2 statistics on the 1972–73 partner program, and that they be followed by a series of articles concerning the partners, including:

First. "Jaycee/Partners of the Americas Program Brings Action, Impressive Results"—from Future magazine, February 1972, the official publication of the U.S. Jaycees;

Second. "From Maine to Brazil, With Love"—from the Lion, the official publication of the Lions International;

Third. "OAS Expands Efforts to Rehabilitate the Handicapped" from the Americas magazine, the official publication of the Organization of American States—volume 25—June, July, 1973; and

Fourth. "People Getting Together Are Called Partners" from the magazine War on Hunger published by the Agency for International Development, April 1973.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXHIBIT NO. 1

PARTNERS OF THE AMERICAS,
Washington, D.C.

THE PARTNERSHIPS

Alabama—Guatemala.
Arkansas—Santa Cruz, Bolivia.
California—Baja California, Sinaloa, Morelos, Nayarit and Puebla, Mexico.
Colorado—Minas Gerais, Brazil.
Connecticut—Paraiba, Brazil.
Delaware—Panama.
District of Columbia—Brasilia, Brazil.
Florida—Northern Colombia.
Georgia—Pernambuco, Brazil.
Idaho—Mountain Region, Ecuador.
Illinois—Sao Paulo, Brazil.
Indiana—Rio Grande do Sul, Brazil.
Iowa—Yucatan Peninsula, Mexico.
Kansas—Paraguay.
Kentucky—Highlands, Ecuador.
Louisiana—El Salvador.
Maine—Rio Grande do Norte, Brazil.
Maryland—Rio de Janeiro (state), Brazil.
Massachusetts—Antioquia, Colombia.
Michigan—British Honduras (Belize) and Dominican Republic.
Minnesota—Uruguay.
Missouri—Para, Brazil.
New Hampshire—Ceara, Brazil.
New Jersey—Alagoas, Brazil.
New Mexico—Tabasco and Chiapas, Mexico.
New York (Buffalo-Niagara)—Jamaica.
North Carolina—Cochabamba, Bolivia.
Ohio—Parana, Brazil.
Oklahoma—Chihuahua, Coahuila, Colima, Sonora and Tlaxcala, Mexico.
Oregon—Costa Rica.
Pennsylvania—Bahia, Brazil.
Rhode Island—Sergipe, Brazil.
Tennessee—Amazonas, Brazil and Venezuela.
Texas—Peru.
Utah—La Paz and Altiplano, Bolivia.
Vermont—Honduras.
Virginia—Santa Catarina, Brazil.
Washington State—Guayas and Los Rios, Ecuador.
West Virginia—Espirito Santo, Brazil.
Wisconsin—Nicaragua.
Wyoming—Goias, Brazil.

PARTNERS OF THE AMERICA,
Washington, D.C.

GOVERNORS CURRENTLY INVOLVED IN THE PARTNERS PROGRAM

The following states receive active support of their Governors in committee activities. In the majority of these states, the Governor serves as Honorary Chairman.

Arkansas—Gov. Dale Bumpers.
Colorado—Gov. John D. Vanderhoof.
Connecticut—Gov. Thomas J. Meskill.
Delaware—Gov. Sherman W. Tribbitt.
Florida—Lt. Gov. Tom Adams.
Georgia—Gov. Jimmy Carter.
Idaho—Gov. Cecil D. Andrus.
Illinois—Gov. Dan Walker.
Iowa—Gov. Robert D. Ray.
Kansas—Gov. Robert Docking.
Kentucky—Gov. Wendell H. Ford.
Louisiana—Gov. Edwin Edwards.
Maine—Gov. Kenneth M. Curtis.
Maryland—Gov. Marvin Mandel.
Massachusetts—Gov. Francis W. Sargent.
Michigan—Gov. William G. Milliken.
Minnesota—Gov. Wendell R. Anderson.
New Hampshire—Gov. Meldrim Thomson, Jr.
New Jersey—Gov. William T. Cahill.
New Mexico—Gov. Bruce King.
North Carolina—Gov. James E. Holshouser, Jr.

Ohio—Gov. John J. Gilligan.
Oklahoma—Gov. David Hall.
Oregon—Gov. Tom McCall.
Pennsylvania—Gov. Milton J. Shapp.
Rhode Island—Gov. Philip W. Noel.
Tennessee—Gov. Winfield Dunn.
Utah—Gov. Calvin L. Rampton.
Vermont—Gov. Thomas P. Salmon.
Virginia—Gov. Linwood Holton.
Washington—Gov. Daniel J. Evans.
Wisconsin—Gov. Patrick J. Lucey.
Wyoming—Gov. Stanley K. Hathaway.

EXHIBIT NO. 2

PARTNERS OF THE AMERICAS,
Washington, D.C.

STATISTICS ON 1972–1973 PARTNERS PROGRAM

The Partners have just completed their greatest year. The attached pages of statistics show these growth highlights for the 1972–1973 year:

The 43 partnerships conducted 557 projects totalling $6,447,227 in value, exchanging 3,444 people and shipping 589 tons of equipment and supplies to Latin America;

Total project values increased over the previous year by 88%, self-financed travel by 66%, donated equipment by 111%, the number of people exchanged by 44%, and other cash contributions by 108%;

Projects conducted by the partnerships accounted for 96% of the $6.7 million Partners Program this year, while NAPA's administrative expenses accounted for 4%;

Health services and medical training remained the largest single area of project activity for the Partners, accounting for 27% of total project values;

Nine out of ten Partner travelers paid their own travel this year, while the partnerships utilized travel funds available from NAPA to support the technical services provided by 370 key volunteers.

NAPA's contributions to volunteer technician travel increased this year by 32% while its administrative expenses increased by only 4%;

Through cost-sharing with the partnerships, NAPA was able to support travel by 52% more technicians this year than during the previous year, keeping its net cost per traveler ($634) over $100 lower than the average cost incurred by people who paid their own way ($742);

For every AID dollar invested this year in the Partners program, the partnerships and NAPA jointly produced $13 in self-financed travel, donated equipment and supplies, scholarships, hospitality costs, disaster relief and other cash contributions;

Contributions to NAPA from new sources other than AID increased by 1,619% this year to $71,573. Seventeen percent of NAPA's income in FY 1973 came from new sources, as compared to 1% in FY 1972.

PARTNERS OF THE AMERICAS 1972–73 PROJECTS, BY CATEGORY

Project category	Number of States participating	Number of projects conducted	Number of people exchanged	Number of tons equipment, supplies shipped	Value of partners shipments	Other project costs	Total project values	Category percent of total
Agriculture	16	32	55	13	$60, 610	$256, 240	$316, 850	
Community development	15	28	130			234, 222	234, 222	4
Cultural exchanges [1]	35	101	2, 202			1, 161, 277	1, 161, 277	18
Disaster relief	1	1	31	180	338, 000	857, 700	1, 195, 700	18
Education	37	100	208	110	319, 411	682, 266	1, 001, 677	16
Public health	30	92	143	286	1, 624, 882	114, 531	1, 739, 413	27
Special education, rehabilitation	26	65	128			348, 532	348, 532	5
Sports	25	29	174			133, 386	133, 386	2
Trade and investment	13	19	85			63, 195	63, 195	1
Other projects [2]	34	90	288			252, 975	252, 975	4
Total	41	557	3, 444	589	2, 342, 903	[3] 4, 104, 324	6, 447, 227	100

[1] Includes university and high school student exchanges and tourism.

[2] Includes other technical exchanges, plus visits by partner committee officers, governmental officials.

[3] Includes $2,514,560 in travel costs and $1,589,764 in hospitality, scholarships, and other cash contributions.

PARTNERS OF THE AMERICAS, TRAVEL BREAKDOWN FISCAL YEAR 1973

Category of travelers	Number of States participating	Total travel		Self-financed travel			NAPA-sponsored travel		Percent total NAPA travel dollars
		Number of travelers	Dollar value of travel	Percent of total travelers	Number of travelers	Dollar value	Number of travelers	Dollar value	
Agricultural technicians	16	55	$40, 157	40	22	$19, 241	33	$20, 916	9
Educators	30	208	151, 866	78	163	123, 344	45	28, 522	12
Rehabilitation specialists	24	128	93, 456	30	39	37, 046	[1] 89	56, 410	24
Medical personnel	20	143	104, 408	74	106	80, 956	37	23, 452	10
Community workers	14	130	94, 917	89	116	86, 043	14	8, 874	4
Business, civic leaders	13	85	62, 061	80	68	51, 286	17	10, 775	5
Cultural artists, technicians	20	543	396, 459	93	505	372, 374	38	24, 085	10
Sports coaches, athletes	25	174	127, 042	83	145	108, 661	[2] 29	18, 381	8
Government officials	26	94	68, 632	100	94	68, 632			
Partner committee officers	30	167	121, 932	63	106	83, 269	61	38, 663	16
College/university students	32	495	361, 414	100	495	361, 414			
High school students	25	389	284, 019	100	389	284, 019			
Tourists	22	775	565, 849	100	775	565, 849			
Other technicians	15	58	42, 348	88	51	37, 911	7	4, 437	2
Total	41	3, 444	2, 514, 560	89	3, 074	2, 280, 045	370	234, 515	100

[1] Of these, 45 specialists were supported by sources other than AID.

[2] Of these, 13 coaches were supported by sources other than AID.

[From Future, Official Publication of the U.S. Jaycees, February 1972]

INTERNATIONAL INVOLVEMENT—JAYCEE/PARTNERS OF THE AMERICAS PROGRAM BRINGS ACTION, IMPRESSIVE RESULTS

(By Gary McNaught)

The U.S. Jaycees/Partners of the Americas Program is moving ahead at a constructive pace, and for the first time many Jaycee organizations are contributing to the success of statewide international projects while fostering friendship with other members of Junior Chamber International.

Every state organization of The U.S. Jaycees has a partner for international involvement. Most partners are states or countries located in Latin America with the remainder in Europe, Canada and Asia. For example: Texas-Peru, Maine-Rio Grande do Norte, Brazil, Wisconsin-Nicaragua, Hawaii-Taiwan and South Dakota-Ontario, Canada.

The value of having a partner for development is in the nature of international programming. Unlike domestic projects, international activities take longer and require specialized communication, transportation and development funds. These items are sometimes difficult in acquiring and in some cases, undependable even after authorization is secured. Thus, long-range development is necessary.

Also, because your Jaycees are creating new relationships with people from another country, those relationships cannot be severed by a mere change of Jaycee administration. The Jaycees in your partner country look at your friendship and project commitments as a permanent bond of activity and projects completed are viewed by community citizens of that country as one of the most important developments in their lives.

Most partner projects require long-range planning, together with short-range project successes. Most of this activity is in selected fields: health, education, vocational training, student exchanges, community recreation and sports, agriculture, small business development and special education. The projects require specialized material, equipment, funds and a transfer of technology by Jaycees having professional experience in these fields.

Some exciting projects are underway, or have been completed with the assistance of the Partners of the Americas in Washington, D.C. John Benjamin, former U.S. Jaycees staff officer responsible for International Involvement, is now an Associate Director of the Partners of the Americas. President Ron Au appointed Benjamin as International Consultant and he has spent a large percentage of his time meeting with Jaycee leaders to assist with project planning and implementation.

The following projects are examples of

"what is happening" with The U.S. Jaycees/ Partners Program:

The Colorado Jaycees are supporting a rehabilitation program which includes annual, intensive training of visiting Minas Gerais, Brazil teachers of the physically handicapped and mentally retarded.

The Connecticut Jaycees are building a 12-room school house in Paraiba, Brazil. Steve Jacoby, Project Chairman, traveled to Paraiba in September to develop details of the project and to start work in organizing a Jaycee chapter. The school will contain: science laboratories, lecture rooms, dining rooms, kitchen, dormitories for boarding students, library, study rooms, offices and auditorium.

The Coral Gables, Florida Jaycees delivered $150,000 worth of medical equipment, clothes and toys to a hospital and orphanage in Cartagena, Colombia. Also, the Florida Jaycees will be participating in a dental seminar at the University of Cartagena Dental School. They are also involved in shipping to the Cartagena Municipal Orchestra band instruments to replace ones destroyed by a recent fire.

The Indiana Jaycees recently finished collecting needed technical books for Rio Grande do Sul, Brazil libraries. They will also be hosting an Olympic swimmer from Rio Grande do Sul during his studies at the University of Indiana. Jaycees Chic Lantz and Gary Loveless will be departing with the Governor of Indiana for a development trip to Indiana's partner state.

The Minnesota Jaycees are conducting a school-to-school program with their partner country, Uruguay. They are likewise collecting school equipment and a bus to support educational needs in rural areas. The school-to-school program is operating with the cooperation of the Uruguay Jaycees. Recently, the Minnesota Jaycees received a contribution of a fully equipped ambulance which will be shipped to Uruguay.

North Carolina Jaycee Carlos Rios recently returned from a two week development trip to Cochabamba, Bolivia. The North Carolina Jaycees will be building rural schools and supporting many of the medical needs of rural hospitals in the Cochabamba area. Likewise, they are organizing a student exchange program between North Carolina and Cochabamba high school students.

The Jaycees in Rhode Island are active in projects with their partner state of Sergipe, Brazil. Walter Krauss, Jr., International Director, reports project development in the following areas: Rhode Island Jaycees are adopting a foster child in Sergipe, setting up a children's cultural art exchange involving 3,000 to 4,000 children, collecting and shipping children's books for a Sergipe orphanage, collecting materials to build a new water system at a girl's orphanage and conducting international night activities consisting of events that depict a Brazilian festival. Also, they plan to build a new school house and recently collected 30 school desks for this project.

The Virginia Jaycees completed the first phase of a project with Santa Catarina, Brazil. At their fall board meeting 30,000 pounds of agricultural equipment was collected and made ready for shipment to Brusque, Santa Catarina. The equipment included a new Ford 3000 Series Diesel Tractor and related equipment, an Oliver tractor and plow, 10,000 hand tools and 10,000 pounds of seeds. As a follow-up, the Virginia Jaycees will send a team of Jaycee agriculture experts to Santa Catarina to conduct a two week educational seminar on agricultural techniques. Jaycee State Chairman Hobart Whitaker traveled to Santa Catarina in December to develop administrative operation of the cooperative.

The Wisconsin Jaycees are developing projects that will assist the hurricane stricken Rio Coco area in their partner country of Nicaragua. Governor Patrick Lucey called upon Jaycee President Ron Foster to help in the area of medical and relief supplies. The Wisconsin Air National Guard transport goods and materials for the Jaycees. Also, volunteer Jaycee technicians are offering medical services to the people in this stricken area.

At the World Congress in Honolulu, Hawaii last November, the U.S. Jaycees received special recognition from JCI regarding the activities and successes of the Partners program. JCI President Royce Pepin indicated by letter that The U.S. Jaycees/Partners Program would be given special consideration for development and assistance offered by the JCI Secretariat in encouraging JCI participation.

There are many more examples of project activity underway or on the "drawing board" that could be related, many of which offer opportunities for personal involvement by Jaycee members. An important aspect of working with a partner is in the area of continuous visibility of accomplishment. All of the efforts of Jaycee members will be personally appreciated by partner counterparts due to the communication and personal contact in completing projects. To the Jaycees this is important. To the JCI member, it is a way to learn, grow, and offer his community development advantages that in many cases would not be available in this country.

[From the Lion, official publication of Lions International, September 1973]

From Maine to Brazil With Love

(By Ted J. Rakstis)

When the summer is over, 23-year-old Bernadette Bezerra will say goodbye to the family of Lion Charles Harriman and return to her native Brazil to complete a college education that began two years ago in Portland, Maine. But even though her home in the state of Rio Grande do Norte is nearly 4000 miles from the rocky coast of Maine, Bernadette will be coming back to a land whose future has become interlinked with that of the New England vacation mecca.

Maine and Rio Grande do Norte are partner states matched through Partners of the Americas, a unique volunteer effort that is supported by Lions in Maine, New Jersey and Kansas. From its beginning 10 years ago, Partners has grown to 43 committees operating between 41 states in the United States and 18 Latin American countries.

Partners is an organization of individual citizens that emphasizes private initiative as the basic tool by which the United States and Latin America can work together for economic and social self-help," explains John Benjamin, Partners associate director. "Lions are playing an ever-increasing role in the development of several partnerships."

In Kansas, Lions have provided glasses for a Partners sight conservation project in Paraguay, and New Jersey Lions have helped to send hospital and school equipment to Alagoas, Brazil. But nowhere have Lions been more active than in Maine. Under the Maine-Rio Grande do Norte partnership, students like Bernadette Bezerra and visiting teachers and performing artists bring an infusion of Brazilian culture to Maine. In return, the New Englanders provide badly-needed medical and educational equipment, technical personnel and a sample of their own distinctive life style.

Charles Harriman, Bernadette's "foster father" for the past two years, is a Portland stock broker who has been active in Lionism as a president of the Falmouth club, deputy district governor and now vice-chairman of the Maine Partners program. (The chairman is Ernest Bracy, a former Lion from Readfield.) Says Harriman: "It's not enough for the U.S. Government to send money to developing nations. What we need is more people-to-people contact."

Maine Governor Kenneth Curtis, one of some 30 U.S. governors actively supporting Partners of the Americas, was largely responsible for initiating the Maine program. Rio Grande do Norte was chosen because, like Maine, it is a northeasternmost state in its nation and relies principally upon a fishing and farming economy. Yet, unlike its thriving Yankee partner state, Rio Grande do Norte is far from affluent. Its people earn only about $400 a year, 40 percent are unemployed and the illiteracy rate is high.

Shortly after the Maine Partners were organized in 1968, the Lions of Maine moved to participate on a statewide basis. Harriman was chosen to go to Natal, the capital of Rio Grande do Norte, to establish liaison with Lions leaders there. At that time the governor of Rio Grande do Norte was Msgr. Walfredo Gurgel, a prominent Lion. Harriman spoke to 10 Lions clubs in and around Natal and pledged the full support of Maine Lions.

Plans were developed for Maine to provide supplies and technicians in exchange for Brazilian students and university professors. When Harriman returned home, he began a speaking tour that eventually brought him before 25 Maine Lions clubs and 100 other civic groups. Through his efforts, the Maine Lions raised money toward the purchase of a $2500 electroencephalograph for a hospital in Natal, but this was merely the first step in the Lions' mission.

"The Lions in Brazil are one of the nation's major social action groups," Harriman points out. "They have built schools and medical clinics but have had trouble getting the equipment to furnish them. To help meet their needs, we contacted schools and hospitals in Maine and were able to get about 150 hospital beds and 500 school desks."

The Maine Lions collected other medical supplies—a respirator, sterilizer, x-ray machines and dental chairs. Herbert Olsen and Don Olen, two Falmouth Lions who work for a medical supply house, volunteered to recondition much of the equipment. Simultaneously, other Main Partners joined the Lions in gathering goods for shipment to Brazil.

Partners workers rounded up hand tools, playground equipment, school blackboards, office machines and numerous other items. The home builders of Maine donated a prefabricated house, which later was named *Casa do Maine* and erected in Natal as a community education center. The Maine Truck Owners Association offered to transport equipment to a central shipping point and the Jaycees, who have since adopted Partners.

* * * * *

She has just completed her sophomore year at Westbrook College in Portland and soon will return to Natal to finish studies that she hopes will lead to a job as a reporter for a Brazilian newspaper.

"I have had a great experience in a great country," Bernadette says. "The people in Maine are much like those in my native land—warm and friendly. Though I may be thousands of miles from Portland, I will never forget my home and 'family' here."

Last winter, Bernadette organized a Portuguese language course for a small group of Falmouth Lions and their wives. The class met each week in the home of Tom Randall, a grocer whose family earlier had been the hosts of another Brazilian girl. Last spring (1973), Randall and his wife, Muriel, went to Rio Grande do Norte. As a result of Bernadette's tutoring, Randall was able to deliver his Lions Club talks in Portuguese.

There have been many tearful scenes at the Portland Jetport when the Brazilian youngsters leave for their real homes, and they never forget to write "mom and dad" in Maine. And when they do return to Rio Grande do Norte, they take with them an insight into modern life that will enable them to become the future leaders of their communities.

As a means of building bridges between nations, it is doubtful that anyone ever has devised a program as effective as Partners of the Americas. Variations of the Maine-Rio Grande do Norte story are being accomplished by other states working with Guatamala, Nicaragua, Bolivia, Ecuador, Mexico, Colombia, Peru and other Latin nations. With the proper planning, the program could become global, and Lions may play a key role in shaping its future.

Henry Steinfeld, a past Lions International Director and an attorney in Portland, has been working to have an expanded version of Partners accepted as a world-wide Lions project. "The efforts of Partners in the United States and Latin America could be just the beginning," Steinfeld believes. "The same thing might be done by the Lions of Europe, Japan and Australia with the emerging countries of Africa and Asia. People who have must help those who have not, and it can be done by Lions involvement on the most meaningful level of all—people to people."

[From Americas magazine, volume 25, June-July 1973]

OAS Expands Efforts To Rehabilitate the Handicapped

At the annual conference in Washington, D.C. of the President's Committee on the Employment of the Handicapped, in May, Secretary General Galo Plaza spoke of the relation of the problems of rehabilitation to the problems of underdevelopment and of current OAS efforts to expand cooperative programs with nongovernmental organizations in rehabilitating the handicapped:

In Latin America the problem of rehabilitation is intimately related to the problems of underdevelopment. The analogy of the vicious circle, which is sometimes used, is an oversimplification. What we have in effect is a tangled web of interrelated variables; extreme poverty, limited effective demand for goods and services, unemployment, malnutrition, disease, birth defects, retardation, learning disabilities, and illiteracy, to name only the factors that come immediately to mind.

Where does one begin to disentangle this web and correct these conditions? Of course there is no single answer, applicable to all countries. The strategy will vary, but perhaps the most critical need throughout the developing world is in the area of training for employment. . . .

I believe that vastly expanded educational and training opportunities of all types for those with mental, physical, or social handicaps are needed if rapid progress is to be made toward the improvement of the well-being of all the peoples of the developing world.

I am not implying that all of the rest of the pieces of the development puzzle will fall into place if this is accomplished. Training for employment must be accompanied by integrated national policies that vigorously promote the opening up of new job opportunities of all types. A viable strategy requires simultaneous action on both fronts—job training and job creation.

The dimensions of the task are enormous. that is why it is so important that governments and private organizations work hand in hand to accomplish it. Neither can do it alone. The People-to-People Program's Committee for the Handicapped provides rehabilitation services all over the world, thereby strengthening interrelationships between men and nations. . . .

I am pleased to recognize the valuable contribution that the Partners Rehabilitation and Education Program is making in seventeen Latin American countries, and in their twenty-five partner states in the United States, by providing treatment, training, and services for the handicapped, and promoting contacts and exchange of information and resources among rehabilitation and special education specialists. No other volunteer program is having a greater impact on the lives of so many people in so many countries at so small a cost. . . .

The Organization of American States was pleased to be able to join the Partners Rehabilitation and Education Program in co-sponsoring a research survey on special education and rehabilitation throughout Central America and Panama. The survey was directed by John Jordan, Director of the Partners Rehabilitation program and professor at Michigan State University. It has compiled full data, much of it previously unavailable, on the number of the handicapped in the region and the nature of their disability, and on the number of rehabilitation personnel and their level of training. The findings of the survey are already being used in the planning and development of national and international programs to meet specific rehabilitation problems in Central America and Panama. The survey revealed a need for more specialized training for teachers of the handicapped and administrators of rehabilitation institutions. This joint OAS-Partners survey has already more than $120,000 worth of training opportunities among the six partnerships.

The regional approach that has been followed in this instance might commend itself for application in other parts of Latin America and elsewhere in the world. Pilot projects certainly have their place, but the resources of the individual countries and the international organizations would go further if they are carried out on a regional basis so that people of more than one country may benefit from them.

The Central American survey I have mentioned illustrates another important point: in this field, as in so many others, cooperation between intergovernmental organizations and private agencies can be a fruitful way of stretching resources to provide greater impact and avoid duplication of effort.

The Organization of American States is seeking to expand its cooperative relations with nongovernmental organizations for the carrying out of programs of mutual interest.

People Getting Together Are Called Partners

(By Stephen G. Sonner)

Fires were still burning through the earthquake ruins in Nicaragua's capital city of Managua when Wisconsin Governor Patrick J. Lucey called members of the press to his office in Madison. "On this Christmas Day, I am officially announcing the beginning of an aid mission to Nicaragua," the Governor said.

For the second time in less than two years, Governor Lucev was calling on the people of Wisconsin to help victims of a natural disaster in the Central American republic of Nicaragua, 3,000 miles away. In September 1971, after Hurricane Edith battered and drenched Nicaragua's Atlantic coast, the people of Wisconsin had responded with two planeloads of relief supplies.

The inspiration for these two emergency relief operations in Nicaragua had its origins in a program that began in the Agency for International Development almost 10 years ago. Wisconsin and Nicaragua belong to Partners of the Americas. They represent one of 43 partnerships between states in the United States and states, regions or countries in Latin America.

Partners of the Americas. originally called Partners of the Alliance, was created in 1964 by AID as the people-to-people component of the Alliance for Progress. AID ran Partners of the Americas until 1970, when the program became a private nonprofit organization. Grants from AID continue to support administrative services and volunteer technician travel.

In the weeks since the earthquake in Managua, the Wisconsin Partners, working with the U.S. Jaycees, have received over $275,000 in cash contributions, and have shipped seven planeloads of food and other emergency supplies to victims of the earthquake. Included among the supplies airlifted to Nicaragua was a shipment of 18,000 pounds of canned luncheon meat, ready for immediate consumption and ideal for distribution to earthquake refugees. Oscar Mayer & Company, a meat processing firm with headquarters in Madison, donated the canned meat after a disaster survey team from the Wisconsin Partners of the Americas reported a critical need for food in Nicaragua.

Although emergency relief is provided when needed, most of the work of Partners of the Americas focuses on self-help projects of economics, social and cultural development. Under the partnership arrangement between the United States and Latin America, people on both sides of the border work together on projects in agriculture, public health, community development, education, cultural exchanges and rehabilitation.

The partnership between Utah and Bolivia, for example, has resulted in the building of 40 rural elementary schools in the Bolivian Altiplano, an area that bears a striking resemblance to Utah's high desert. People in Utah, mostly school children and their families, have contributed the funds to construct the schools, with Bolivians providing the land and labor. The Utah-Bolivia committee, which is sponsoring the project, is planning to build 200 schools during the next 10 years.

Ten years ago, people in British Honduras tried unsuccessfully to establish a 4-H program for young people from rural areas. Three years ago, government officials in British Honduras requested assistance from their partner state of Michigan. The result has been a successful coopeartive effort between the Michigan-British Honduras partnership, with 4-H volunteers from Michigan training youth organizers from British Honduras to establish 4-H clubs throughout the country.

"The emphasis is on the 'partnership' concept," says Alan A. Rubin, President of the Partners of the Americas National Association, located in Washington, D.C. "We rely on the Latins to tell us what they want, and then we try to get it for them."

Recently the Panamanian Ministry of Health started a nutrition project in 200 rural villages in Panama. To help get the project going, the AID mission in Panama contacted Brian Bosworth, a former official with AID now living in Delaware, Panama's partner state. Bosworth, in turn, got in touch with the Kent and Sussex Rabbit Association, which agreed to donate 38 pair of selected breeding rabbits to Panama.

Because of their classic ability to reproduce and their high protein value, rabbits offer an ideal source of meat to Panamanian families. Milford Petitt, President of the Kent and Sussex Rabbit Association followed the rabbits to their new home to help the Panamanians learn to raise their new sources of protein.

Another agricultural project has been going on for several years between the partner states of Iowa and Yucatan, Mexico. Working through the Iowa-Yucatan Partners, Iowa agronomists are providing continuing technical assistance to an experimental farm in Yokat, Yucatan. One of the results of this project is a new strain of corn seed adaptable to the arid climate and soil of the Yucatan Peninsula.

In addition, the Iowa-Yucatan Partners of the Americas are developing alternative uses for henequen, a native plant used to make rope and twine. Worldwide demand for henequen has declined because of the increasing use of synthetic fibers. Bagazo, the residue from henequen processing, may be salvageable as a source of cattle feed, instead of being left to rot. Currently, farmers in Yucatan cannot raise much livestock because of a shortage of feed.

As a result of their hurricane relief efforts in 1971, the Wisconsin Partners of the Americas set up a continuing program in Nicaragua for senior medical students from the University of Wisconsin. Selected medical students, working under the supervision of the Nicaraguan Ministry of Health, are serving for three months in the Rio Coco area of eastern Nicaragua, treating patients under actual field conditions and learning about tropical diseases.

Another university—Florida A & M in Tallahassee—each year sends a team of professors to Florida's partner country of Colombia, where they conduct a short course in agriculture for government technicians at the University of Monteria.

Brazil, largest country in South America, has 18 partnerships with states in the United States. A $900 trailer van that transported hospital equipment from New Jersey to the state of Alagoas, Brazil, has been recycled by the Brazilians into a $93,000 mobile laboratory for the Alagoas Sugar Cane Experiment Station. Today the van is traveling the Brazilian countryside to analyze the sucrose content of sugar cane, enabling farmers to sell their crops by quality rather than by the traditional weight method.

Specialists from the Wyoming Department of Agriculture are helping ranchers in the Brazilian state of Goias control the berne fly, which causes heavy losses among cattle. A professor of entomology from the University of New Hampshire is studying ways to control the sauva ant, a leaf-eating insect that plagues farmers in New Hampshire's partner state of Ceara, Brazil.

Individual projects range from the very small to the very large. In the latter category, rehabilitation specialists from six states worked with their counterparts in six Central American countries to survey the needs of handicapped persons in Central America and Panama. This research survey, sponsored jointly by Partners of the Americas and the Organization of American States, has resulted in more than $100,000 in technical services and training opportunities for handicapped persons in Guatemala, Honduras, British Honduras, El Salvador, Nicaragua and Panama, as well as in the United States. The survey was conducted under the auspices of the Partners Rehabilitation and Education Program (PREP), a cooperative venture between Latin America and the United States to improve the lives of the physically and mentally handicapped.

George Lambert, owner of a company in Louisiana that produces artificial limbs, and himself the wearer of two artificial legs, is conducting a seminar for 150 prosthetic specialists in El Salvador, Louisiana's partner country. Lambert has recruited a team of surgeons who will help fit patients with artificial legs and have them walking within three weeks of an amputation. Until now, this rehabilitation process has taken one year.

In education, 900 students each year participate in exchanges between partner states in the United States and Latin America. Elementary school teachers from Vermont are teaching English to students in Honduras. Each year, Bates College, Lewiston, Maine, plays host to an artist in residence from Rio Grande do Norte, Brazil, Maine's partner state.

The Partners of the Americas program is manned almost entirely by volunteers. "Our investment is in people and in their projects," says Partners President Alan Rubin. Last year Partners of the Americas generated almost $9 in project activity for each dollar spent on the program.

Partners of the Americas receives 90 percent of its support from private source. A grant from AID provides funds for U.S. volunteer technicians to travel to Latin America and supports the work of the National Association of the Partners of the Americas, which assists state partner committees as a servicing and advisory agency.

More than 30 governors, including Governor Lucey of Wisconsin, actively support the partnership program in their states. President Nixon serves as Honorary Chairman of Partners of the Americas.

During 1972, 1,500 volunteer specialists, ranging from agronomists to zoologist, visited Latin American partner states to provide direct project assistance.

"One of the main advantages of our program," says Rubin, "is that it's open to people from all walks of life. All that's needed is someone with a skill to offer, a project idea, and the drive to get it moving."

Last year, for example, the Illinois Federation of Women's Clubs, in cooperation with the Illinois Jaycees, conducted a drug-abuse education program in Sao Paulo, Brazil, the largest industrial city in South America. In an effort to discourage the use of halluceno-genic drugs among high school students, this project demonstrated the effects of various drugs on rats.

"We are trying very hard to build a constituency for foreign assistance this country," says Rubin. "We believe the way to do it is to get people involved, personally, in some kind of foreign assistance, as an important adjunct to government-to-government programs.

"Partners of the Americas offers private citizens a chance to get involved first-hand, and to see the results of their efforts," Rubin explains. "Also there's the people-to-people angle. When someone in Pennsylvania donates seeds to farmers in Brazil, the farmer in Brazil will send him pictures of the plants, and then of the harvest. Patterns of the Americas offers continuity and a specific geographic focus, something the average person doesn't get from most foreign assistance programs."

As U.S. foreign aid programs re-emphasize the people-to-people approach in development programs like Partners of the Americas that involve private citizens in self-help projects can be expected to play an increasingly important part in foreign assistance and hemispheric development.

Mr. MOSS. Mr. President, will the Senator yield?

Mr. MUSKIE. I yield.

Mr. MOSS. Mr. President, I am very pleased to join with the Senator from Maine and others in sponsoring this amendment.

I am sorry that when the foreign assistance bill (H.R. 11771) was considered in Appropriations Committee, the committee eliminated the funds for a Federal contribution to the Partners of the Americas program. Apparently, the committee was not fully informed concerning the success of this unique experiment in bringing the people of the United States closer to our neighbors to the South.

President John F. Kennedy was the originator of Partners of the Americas. His idea was to set up a foreign aid program that would bypass the usual bureaucratic entanglements and that instead would be based on direct involvement between the people of the United States and the people of Latin America.

Let me say that this idea worked remarkably well. People in 41 States have helped to initiate a wide range of projects in Central and South American countries, and in turn, a large number of people in these countries have become involved in the projects to carry out their side of the partnership.

The State of Utah and its partner, Bolivia, provide an excellent example of the way the program has been working. Some 50,000 Utah students have become involved in helping the Bolivians build schools. In the past several years, these students have held raffles, run car washes, initiated paper drives, and through these ventures, have raised more than $50,000 to go toward the building of schools in Bolivia.

The Bolivians have responded by providing labor, materials, and land. As a result, the Utah-Bolivia project can now be credited with 58 new schools.

The Utah-Bolivia partnership has also brought improvements to the agricultural program at the College of Campesinos, has provided a number of first aid programs for schools, and has raised money for cultural exchange programs.

Mr. President, if it is necessary for us to make cuts in the funds for foreign assistance, the Partners of the America is not the place where the cuts should be made. I can think of no better investment than the $934,000 Federal grant that goes to the Partners. The return on this particular investment is extremely high, since the Federal money simply provides the groundwork on which contributions by the people of the States and the people of Latin America can be built. It has been estimated that the benefit-cost ratio runs as high as $75 for each dollar that goes into a Partners' project.

At a time when there are serious questions about the basic worth of many of our foreign assistance programs, Partners of America obviously is one that is worth every penny we spend on it. In fact, the worth of this program is probably even greater than any price tag that can be put upon it because it involves cooperation among people at a basic, humane level.

Mr. President, I am pleased to join Senator MUSKIE and others in cosponsoring the amendment to restore Federal funds for this worthwhile and successful program.

Mr. MUSKIE. I thank the Senator.

Mr. AIKEN. Mr. President, will the Senator yield?

Mr. MUSKIE. I yield to the Senator from Vermont.

Mr. AIKEN. Mr. President, I support the amendment offered by the Senator from Maine. It is astonishing and somewhat humiliating to realize what a very small percentage of our total expenditures to help people of other countries is devoted to helping the smaller countries of the Western Hemisphere.

As I understand it, the Senator from Maine is asking for one-fifth of 1 percent of the total amount in this bill. This is a good way to help our neighbors and friends to the south of us. We probably appropriate more than this amount for each of 50 different countries that most of us have never been in. I refer to countries that get over $1 million in aid funding.

I just cannot believe we are going to

reject this request to help neighboring countries in South America and Central America.

Mr. MUSKIE. I appreciate the Senator's remarks.

Mr. AIKEN. I might add that in the State of Vermont private citizens have spent a great deal of time in contributing to the assistance and the development of the country of Honduras.

Mr. MUSKIE. I thank the Senator. Mr. President, one of the shortcomings of our present foreign aid program is the lack of a Latin American policy. This program does not rely upon any major expenditure of Government funds; instead it solicits the contributions of private citizens. At present 34 Governors are actively involved; 41 States are actively represented, not nominally but enthusiastically, with thousands of volunteers. Almost 3,500 volunteers travel in the program and they give of themselves; most pay their own fares to Latin America to build goodwill.

To cut this program is to be pennywise and pound foolish.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. MUSKIE. I yield.

Mr. JAVITS. I wish the Senator would add my name as a sponsor of the amendment.

Mr. MUSKIE. Mr. President, I ask unanimous consent that the Senator from New York as well as the Senator from Minnesota (Mr. Humphrey) be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. I feel we should support this amendment because Latin America feels very overlooked right now with our concentration in Europe and the Middle East succeeding our concentration in Asia, as I think they are our closest ally in every way—security, trade, culture, and really the unity of the Americas is the most important single alliance we have. I think this is a very decent way in which to express the fact that we are a member of the American alliance, that we intend to stay there, and that we wish to encourage it.

Mr. MUSKIE. I thank the Senator.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. MUSKIE. I yield.

Mr. HUMPHREY. One of the points I know will be made here is that the administration did not come in with very much to support the effort called Partners of the Americas program. That fact does not detract from the program; it merely reflects the fact that the administration did not understand the importance of this direct contact between the peoples of the United States and the peoples of Latin America.

The State of Minnesota has a partnership program working with the Republic of Uruguay which means a great deal to them. As a matter of fact, the effort in itself started at the community hall in Montevideo, Minn. It has taken on tremendous good will and spirit in our State.

I want to support fully what the Senator from Maine is advocating here, because this amendment, I really believe, gets at what I call the spirit of a foreign aid program; namely, making it more people-oriented and involving the peoples of the respective hemispheres in a mutual relationship which is very productive. I am happy to be permitted to join as a cosponsor.

Mr. MUSKIE. I thank the distinguished Senator from Minnesota.

Mr. President, I ask unanimous consent that the distinguished Senator from West Virginia (Mr. Randolph) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, I reserve the remainder of my time.

Mr. INOUYE. Mr. President, I concur with every word spoken in support of the National Association of the Partners of the Alliance. However, as chairman of the subcommittee, I owe it to the Senate to share with its Members some of the information we have received.

From the beginning the Government was to supply only seed money which was to be gradually reduced to nothing by 1976.

Some 500 organizations and major contractors received supportive funds from this bill. All would like to have their funds almost tripled through a line item appropriation but only this one insists on this special treatment.

The Partners did not even bother to come before the committee although hearings were held from March to November.

Mr. MUSKIE. Mr. President, will the Senator yield on that point? Because I asked the same question myself about this program?

Mr. INOUYE. I yield.

Mr. MUSKIE. To put the matter in perspective, I think it has to be understood that the Partners has been operated in the past on grants from AID. It is not a sophisticated program. It has not been exposed to the legislative process. It is made up of volunteers who have been associated with the program over the years, dealing directly with it. This is not one of AID's favorite programs. They do not like a program that goes off on its own with its own initiative. So AID has undertaken to discourage it.

These gentlemen will become more sophisticated legislatively, but they understand now they made a mistake in not making a presentation to the Senator's subcommittee. The Senator is absolutely right in chiding them for not doing so, but I do not think the program or they should be punished for failing to demonstrate legislative sophistication. Their case is not one which has had the support of AID. But every one of those 41 States—and we have heard from some here on the floor—have enthusiasm for this program. They would all say to you, through me, "The case is clear; we wish it had been made more effectively before your subcommittee, but let us make it now and give us the support we need."

Mr. INOUYE. As the distinguished Senator is well aware, in the contract the following language appears:

> A.I.D. recognizes that attainment of the objectives outlined above contemplates continuing A.I.D. financial support for a period of three to five years. Various factors (among them: availability of funds, the performance of NAPA in meeting its objectives under this grant and the degree of progress made toward the Grantee becoming self-sufficient) will determine whether and for how long A.I.D. will continue its assistance.

And a very important provision has been the fund-raising activities by NAPA to cover costs.

Mr. MUSKIE. Mr. President, let me make this point. May I say to the distinguished Senator, first of all, that the language he quotes was in an agreement between AID and Partners. AID was not enthusiastic about Partners. So they had no choice but to accept that language or get nothing. But they have, in any case, endeavored to raise funds privately.

I think the distinguished Senator from Vermont (Mr. Aiken) also has some comment on this.

Mr. AIKEN. Mr. President, the foreign aid program for which we are now appropriating is, I believe, the best one we have had for many years, because for the future it concentrates on multilateral cooperation among the nations. Also it stresses cooperation between people in our own country and private citizens elsewhere who are willing to contribute their own time and money.

The item which the Senator from Maine seeks to restore is an excellent example of cooperation of private citizens. I know many of them who have been into these Latin American countries, contributing their time, their knowledge, and their efforts to help these countries attain better living standards and a better place in world affairs.

If we vote down the amendment offered by the Senator from Maine, we are going voting against one of the principal objectives of the foreign aid legislation which was recently authorized by the Congress.

Mr. MUSKIE. Mr. President, may I offer the Senator—on his time, I understand—some other information that bears on a question that concerns me, and that is on the question of the money that is devoted to the administrative expenses of this program? I think this information should be put into the Record and should be useful to the Senate.

The administrative side of the Partners program directly assists volunteers in the 41 States involved in the program. The term means more than staff, office rental, telephone, and postage, as administrative support is usually defined. Administrative support as required by the Partners may be defined as follows:

First. Training of volunteers;

Second. Program workshops. How to do it;

Third. Fundraising—national and State basis;

Fourth. Disaster relief coordination;

Fifth. Assistance to volunteers in development and implementation of projects;

Sixth. Publicity and promotion of the model projects and ideas developed by the partnerships;

Seventh. Shipping liaison—freight;

Eighth. Recruitment of volunteers;

Ninth. Liaison with other international organizations in developing programs of mutual interest in Latin America; and

Tenth. Publication of newsletters and brochures.

The actual staff for the administration in Washington is very small. The tabulation of staff includes only 10 people. Most of the money spent for administration is spent for program-oriented activities. Their meaning is more substantive than the term "administrative expenses" might suggest.

I thought that might be helpful.

Mr. INOUYE. Mr. President, I have the same statistics here:

National Association of the Partners of the Alliance—Budget calendar year 1973

Administration:	
Salaries	$176, 900
Consultants	40, 200
Travel and transportation	20, 400
Fringe benefits	14, 880
Equipment (rental and repairs)	6, 084
Other direct costs	61, 642
Total	320, 106
Volunteer travel and transportation total	129, 894
Grand total	450, 000

Incidentally, Mr. President, the top man of this organization is presently receiving $39,600, which makes him second only to the Director of AID.

Mr. President, I have submitted for the consideration of the Senator, an amendment. Has the Senator studied the amendment?

Mr. MUSKIE. Mr. President, the difficulty with the distinguished Senator's proposal, may I say, in light of the purposes for which the funds are used, is that in effect it would undercut the program. The volunteer programs of 41 States would not operate in a coherent and integrated way with a staff support of 10 people in Washington. If we further cut that 10, what is going to be the administrative glue to hold them together? The administrative people there have no desire to build an administrative empire, and they have not built one.

I have given the Senator an example of the Maine program. This demonstrates that for $1 of public funds expended, there was $226 worth of benefits generated from the private sector. Those ratios are repeated over and over again.

I am fearful that if we were to agree to the proposal of my distinguished colleague we would eliminate the minimal administration that is necessary to have the program work.

Mr. President, I always want to cooperate. However, I cannot be honest with myself and cooperate with that kind of restriction.

Mr. INOUYE. Mr. President, I agree that the amount involved is infinitesimal as compared to the $5 billion in the pending bill. However, in view of the fact that we have not received any formal testimony from the organization, if the Senator could call upon the Administrator or the President and have in my hands, say by tomorrow morning, some information that would indicate the need for this amendment—which, incidentally, is three times the amount that AID proposed—or some justification as to how they propose to do this and present an up-to-date report as to the failure or success of the fundraising efforts, I would be very pleased to take the amendment. However, the House has no provision for this.

Mr. MUSKIE. Mr. President, I think that is a reasonable request. I will do my best to have it fulfilled by tomorrow morning.

Mr. INOUYE. Mr. President, I yield back the remainder of my time.

Mr. MUSKIE. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maine. (Putting the question.)

The amendment was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. HUMPHREY. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

On page 18, line 24, insert the following: Delete "$1,000,000,000" and insert "$1,500,000,000".

Mr. HUMPHREY. Mr. President, I will be very brief on this amendment. I would hope that this amendment could be taken to conference to give some flexibility to the House and Senate if they receive from the administration more detailed information as to how these funds are to be used and the detailed outline of the requirements under this amount of money.

I have talked with the distinguished chairman of the subcommittee, and I am hopeful that he will accept the amendment with the understanding that I have just stated.

The war cost Israel about $6 billion, more than her entire national budget.

Israel's repayment is already $800 million a year, the highest per capita in the world. And Israel, unlike other nations, pays back her loans. However, she is unable to pay any more loans. And until last year, when we provided economic support and assistance, Israel paid cash.

This is a large sum of money. However, I do believe, if the chairman is willing to cooperate on this matter, we can get the information needed for the conference between the House and the Senate upon this item.

Mr. INOUYE. Mr. President, the amendment offered by my distinguished friend, the Senator from Minnesota, would raise the amount by a half billion, advancing it to $1.5 billion. The Senate provision is identical to that of the House. It calls for grants not to exceed $1 billion.

To be very candid with the Members of the Senate, the chairman of the subcommittee must tell the Senate that we are not absoluately certain at this point what the division line should be, whether $1 billion, $800 million, or $2 billion.

It might be of interest to the U.S. Senate to hear the response of the State Department. In a letter I directed to the Secretary of State, I asked the specific question:

How should the amounts provided be allocated as between grants and military credit sales?

That refers to $2.2 billion.

This is the official response to the U.S. Senate:

The ultimate division between grants and credits of the emergency military assistance provided to Israel will of course relate to Israel's economic and financial condition. Attached is a brief summary of Israel's economic and financial status. As that memorandum makes clear, Israel came through the war in reasonably good condition. Its economic infrastructure was not damaged, although its production (especially of export goods) was interrupted. However, it is too early to tell whether it can fully bear (through long-term credits) the high cost of this war. Just as in the question of rearming, there are uncertainties on the economic side that cannot be resolved at this time. Twenty-five percent of Israel's labor force remains mobilized. The cost of this is felt in lost production (particularly for export markets) and in increased military expenditures. While this could be borne for a few weeks without major economic repercussions, if it goes on much longer it will cause economic dislocations that cannot be easily or quickly repaired. One of the important areas that could be affected is the export trade, which is vital to Israel's ability to service external debts. Apart from the effects of mobilization, however, Arab pressure on Western Europe (Israel's principal export market) could have a profound long-term effect on Israel's export trade. A general worldwide inflation in the prices of manufactured goods or an economic slow-down in Israel's major export markets could also have an important adverse effect, particularly if the Arab oil embargo continues for very long. Finally, there is of course a possibility of renewed fighting with its attendant high economic and human costs.

For the reasons stated in the preceding paragraph, we find it impossible to make a definitive judgment at this time on what the ultimate division between grant and credit should be. As Deputy Secretary Rush has testified, it is our intention initially to supply everything under Foreign Military Sales credits and make the judgment as to how much should be converted to grants (by releasing Israel from its contractual liability under Section 4 of the bill) later in the fiscal year when hopefully most of the uncertainties mentioned above will have been resolved. As Deputy Secretary Rush also testified before your Committee, the Executive Branch will consult fully with the Congress as we move toward a decision on this issue.

Therefore, with the understanding that an official communication will be sent to the Secretary of State for his most current assessment of the situation and for some guidance as to where the division line should be drawn, I shall be pleased to accept the amendment, take it to conference, and discuss this matter with our colleagues in the House of Representatives.

Mr. HUMPHREY. I thank the Senator. With that understanding, I will not take time to discuss the amendment further.

Mr. FULBRIGHT. Mr. President, is there a time limitation on this amendment?

The PRESIDING OFFICER. There is not a time limitation.

Mr. HUMPHREY. I withdraw the withdrawal.

Mr. FULBRIGHT. Mr. President, I had thought the amendment by the Senator from New Hampshire was coming next. I had not anticipated this amendment being offered at this time. But some of the comments I have to make regarding this bill might well be made here.

This amendment has the effect of raising by $500 million, as I understand, the grant authority in the bill.

Mr. INOUYE. Is the Senator talking about the $2.2 billion?

Mr. FULBRIGHT. Yes.

Mr. INOUYE. Under the provision of $2.2 billion contained in the bill, $1 billion would be in grants and the remainder in credit sales.

Mr. FULBRIGHT. The Senator's purpose would be to raise it to $1.5 billion for grants?

Mr. INOUYE. Yes.

Mr. HUMPHREY. Well, Mr. President, the purpose——

Mr. FULBRIGHT. I have the floor, I believe, Mr. President.

The PRESIDING OFFICER. The Senator from Arkansas has the floor.

Mr. FULBRIGHT. Mr. President, before I proceed with my prepared comments, I wish to note that it is quite interesting that the chairman of the subcommittee of the House committee (Mr. HAMILTON) had this to say with regard to this item—this is from the CONGRESSIONAL RECORD of December 11:

> My major problem with this bill is the gap between a $2.2 billion request and the administration's justification of that large figure.
>
> Consider the following facts which the administration witnesses gave the House Foreign Affairs Committee in testimony:
>
> First, the military balance which existed on October 5, before the war, has already been restored by our resupply effort, which cost about $1 billion.

I believe on this point there is no conflict of views.

> Second, the additional $1.2 billion above the already committed $1 billion was justified on political grounds for "imponderables."
>
> Third, although the tonnage of our resupply effort to Israel and the tonnage of the Soviet resupply effort in Iraq, Syria and Egypt are roughly equal, the heavy equipment losses in the recent war, that is, planes and tanks, were roughly four to one in Israel's favor. . . .
>
> When justification for the additional $1.2 billion could not be made on military grounds alone, testimony was given that having made a $2.2 billion request, it would be detrimental politically to the United States to cut the figure.

And then later on, in the same statement, he added:

> The $2.2 billion request is so large, so poorly justified, so militantly defended by some that it frankly makes it very difficult to vote for the request even if Members, like myself, want to support Israel and assure its deterrent strength.

I wish to say a word myself about this subject of the timing of this item of $2.2 billion.

As the Senate knows, this has not yet been authorized. We have held hearings on this subject in the Committee on Foreign Relations, and we have a meeting set for tomorrow morning to vote on it in the committee; so there has been no delay on it, and I have no reason to believe that the matter will not be decided by tomorrow noon, by the end of the meeting in the morning.

Mr. President, this subject is of very great political significance, far beyond the amount. The coming talks in Geneva, in my view, must succeed if we are to prevent a worldwide recession, a renewal of the Arab-Israel war, and a breakdown of the détente with the Soviet Union.

Approval of this amendment in this bill to give $2.2 billion in military aid to Israel will undermine the talks before they begin. The conference has already been delayed 3 days—from Tuesday until Friday. Whether it will actually take place on Friday, I do not know. I very much hope that it will. I think that the Secretary of State is doing all that he possibly can to bring it about at that time.

This item is ill-timed and ill-advised. It should be set aside for further consideration next session after there has been an opportunity to weigh the progress made in the negotiations. The primary importance of this bill is not the money but the policy involved. And that policy is a short-sighted and imprudent one—promoting the military interests of Israel—when the circumstances require a policy furthering a peaceful settlement. Regardless of all the rhetoric about "restoring a military balance," passage of this bill will be seen by the world as a major policy declaration on the most difficult and dangerous problem confronting our country. This bill contemplates a military solution to a problem requiring diplomacy and negotiations, negotiations which I hope will begin next Friday the 21st of December.

To Israel it is a means to further intransigence. And to the Arabs it will be seen a reaffirmation of the inability of the United States to pursue an evenhanded policy. Instead of advancing our national interests in the Middle East, it threatens to set them back.

The United States has three fundamental interests in the Middle East: a secure and peaceful Israel; friendship with the Arab States and a reliable source of oil; and the avoidance of conflict with the Soviet Union. The great strength of our position is the fundamental compatibility of these three basic interests.

All can be advanced by an equitable Arab-Israeli settlement. The time to press for that settlement is now, before hostilities flare anew in the Middle East, as almost certainly they will if there is not early, substantial progress toward peace. The precise terms and exact boundaries of a settlement must await negotiations in the peace conference, but the basic principles of an equitable peace are clear. The peace must be based upon the Security Council Resolution of November 1967, which requires Israeli withdrawal from occupied territories and which emphasizes the "inadmissibility of the acquisition of territories by war." In accordance with that resolution, the peace must also make explicit and detailed provisions to assure the territorial integrity and political independence of Israel and all other Middle East States.

The chances for achieving a stable and equitable peace in the Middle East are greater than at any time since the founding of Israel in 1948. On the other hand, if there is not a settlement, there is every likelihood of still another war, and that more likely within months rather than years. What now seems out of the question is a return to the status quo which prevailed between the wars of 1967 and 1973.

Like the Balkans before 1914, the Middle East has become the potential flash point of world conflict. It threatens the great powers—and the world—with repeated trips to the brink of nuclear confrontation. For this reason alone, the United States and the Soviet Union have not only the right but the responsibility to intercede for a compromise peace. If the two great powers were willing to leave the Arabs and Israel to work out, or fight out, their differences regardless of the outcome, the issue might then be regarded as regional and autonomous.

The Russians are not going to abandon the Arabs, and the United States is most certainly not going to leave Israel to her fate. But leaving Israel to her fate and encouraging her to show a spirit of compromise are quite different matters.

Our moral and political commitment to Israel, as experience has shown, is about as solid and unalterable as any we have in the world. We are not, however, committed to current Israeli policy or to the retention by Israel of occupied lands. Insofar as the retention of these lands threatens endless war from which we cannot remain aloof, we have the right and the responsibility to intercede for a compromise peace based upon the principles of the Security Council resolution of November 1967. And we have a duty to refrain from actions which may stiffen Israeli opposition to implementation of that resolution.

Such a peace is to the advantage of all concerned, not the least to Israel herself. This fourth Arab-Israel war has confronted Israel with the grim specter of endless conflicts, not easy and successful conflicts like the war of 1967, but grinding attrition in which the Arabs would have a steadily increasing advantage deriving from their vastly greater numbers, which are 40 to 1, growing military and technological capacity, and the enormous financial resources of the oil-producing states of the Arabian world.

The Arab States, including those which are now conservative, are likely to be radicalized as their grievances fester. Israel, already a garrison state, faces the prospect of mounting terrorism and recurrent war, of a national existence with no semblance of security. However confident they may be of their own military prowess, the Israelis can hardly relish this prospect.

The Israelis must give up the chimera of absolute military security through the occupation of territory, recognizing that the absolute military security of one nation means absolute insecurity for its neighbors. Israel is going to have to reconcile itself to compromise, and time is no longer on her side. Whatever else the recent war has shown, it has shown that Israel's military supremacy is a diminishing asset. As Israel's first Prime Minister, the late David Ben-Gurion, recognized some time ago—

> Real peace with our Arab neighbors—mutual trust and friendship—that is the only true security.

Israel has won its long sought political goal: recognition by the Arab world of Israel's right to exist. Guarantees of its security can now be arrived at in the Geneva Conference. Israel has bravely accepted the risks of war. Now she must be willing to accept the risks of peace. Those unknown risks are certainly far less dangerous than the risks of a fifth round of fighting. Israel, therefore, has everything to gain from a peace based on the Security Council Resolution of November 1967, a peace which would allow Israel to become, at long last, an integral, accepted part of the Middle East.

In this critical period a special responsibility falls on those Americans whose efforts have been bent so long and so assiduously to assure the survival of the State of Israel. Israel can no longer hope to base its security on military strength alone. If Israel is to be secure, a guaranteed peace is required, and such a peace will require great concessions by Israel as well as by her adversaries. Israel's American friends can do her no greater service than to commend this necessity to her. There has been no better opportunity for Israel to strike a bargain with her enemies. This is the time for compromise and magnanimity, not for belligerence and intransigence.

The second basis for the outside world's concern for a stable peace in the Middle East—hardly less compelling than the danger of a nuclear war between the United States and the Soviet Union—is the burgeoning energy crisis, which now threatens the economies of much of the industrial world. If it continues the energy crisis will grow to frightening dimensions. The world's economy, especially that of the United States, is uniquely dependent on one commodity—petroleum. We have taken oil for granted so long, we cannot quite imagine the consequences of being without it. The industrial world is now learning the hard way.

With 6 percent of the world's population, the United States consumes one-third of the world's energy. Nearly half the energy we consume comes from oil, and a third from natural gas. Less than two-thirds of the oil we consume comes from domestic production. Because of the Arab oil cutoff, our supplies may be as much as 20 percent short of meeting current requirements.

The impact on Western Europe and Japan, which are far more dependent than we are on Middle East oil, will be nothing short of catastrophic unless a solution is found to the Arab-Israeli conflict. Their economic collapse will inevitably bring down our own economy, just as the depression of the 1930's had its origin beyond our shores. The world's economy is more interdependent than ever before, as is our own economy. Although the domino theory has been shown to be dubious in international politics, it has unusual validity in international economics.

The Arab Middle East possesses at least 300 billion of the 500 billion barrels of proven world oil reserves. With no spare productive capacity of its own, the United States—like other industrial nations—is increasingly dependent on Middle Eastern oil, and consequently in need of good relations with the producing countries. These countries, it is well to remember, have no direct quarrel with the United States and have never done anything to harm the United States prior to the present controversy. Our dependence on their oil is a matter of national interest, no more so perhaps than our emotional bond to Israel, but surely no less so either.

In the long run, it is true, we are going to have to develop alternate sources of energy, if only because the world's supply of fossil fuels is limited. Regardless of long-term needs, however, and regardless of any crash programs we may now undertake, there is no way—absolutely no way—to avoid reliance on Middle East oil for at least the next several years. It is generally agreed by petroleum experts that it is going to take some 3 to 5 years substantially to increase U.S. production of oil fuels and a great deal longer to develop solar, thermal, nuclear and then fusion sources of energy.

The energy crisis clearly is going to be with us for some years to come, but whether it will bring economic collapse or be manageable will depend upon restoring good relations with the major oil-producing states of the Middle East. The key to restoring the good relations we enjoyed before the war is to use our influence to bring about an agreement at Geneva. Passage of this bill with the $2.2 billion item included will lessen the chances of reaching a settlement, thus prolonging the oil boycott, increasing the dangers of a serious recession—and, possibly, bringing on a worldwide depression.

Aside from the danger this item poses to the negotiations, there are other serious objections Congress should not act in unseemly haste on such a vast grant of authority. No justification has been made for $1.2 billion of the amount requested, and ample authority exists to provide Israel with additional arms, if the war breaks out again.

Israel has already been provided with $1 billion in arms, more than restoring the losses she suffered during the fighting. An additional $300 million in credit sales has been authorized in the foreign aid bill, bringing the total military assistance for Israel in this bill to $2.5 billion. There is another $50 million in economic aid in the bill.

The Israeli Defense Minister, Moshe Dayan, was quoted in the press recently as saying:

> We in Israel never were as strong as we are now. Never.

Administration witnesses, nevertheless, have tried to justify the additional $1.2 billion on the basis of "imponderables." The total military aid available to Israel should be limited to the $1 billion already provided and it should be on a credit basis, so as to lighten the ultimate burden on the American taxpayer. If the war resumes, Israel could be supplied under the same 120-day authority used for the recent resupply effort during the war. Congress should not give the President a $1.2 billion contingency fund, certainly not without requiring that Israel engage in good-faith negotiations for a settlement based on Resolution 242.

This bill, together with the pending authorization bill, constitute a vast grant of discretionary power to the President, reversing a healthy trend in recent years for Congress to reassert its authority in foreign policy.

Congress is preparing to give the President carte blanche authority to dole out $2.2 billion to one country as he sees fit and without any policy guidelines. The plea, "Don't tie the President's hands," has a familiar ring. Large grants of authority and money to the President should be as objectionable in the case of Israel as with Vietnam. The potential dangers are, in fact, greater.

Mr. President, this bill is vastly more important than the giving away of $2.2 billion of the taxpayers' money. Our national interests as well as those of Israel, the Arabs, and the world are tied to a successful conference in Geneva. We must not do anything to undermine that conference. It is an opportunity which we cannot afford to miss. It offers the best hope for real peace in the region since the founding of Israel. A stalemate will assure a fifth round of fighting, great danger to Israel's existence, and a return to the cold war, if we can avoid involvement in a hot one.

A failure at Geneva will also assure worldwide economic chaos. The prospect of the world's industrial machine and transportation systems sitting idle for lack of oil is not pleasant. But unless progress is made in the negotiations within the next several months, we are in for economic difficulties of a magnitude which, at this point, are unimaginable.

I support the President and Secretary of State Kissinger's basic policy in the Middle East, to seek a settlement based on Resolution 242. That objective is in the interest of all mankind. I want to strengthen Secretary Kissinger's hand in exerting U.S. influence to bring about a compromise agreement. This is why I oppose passage of this bill. The domestic political pressures which have resulted in such hasty action in Congress on the authorization and appropriation bills will now shift to the White House and the Department of State. Whether those pressures can be resisted and the additional $1.2 billion withheld from Israel remains to be seen.

But the real damage will have been done; the signal will have gone out to the world that the United States does not intend to pursue a more evenhanded policy in the Middle East. As the only country in a position to talk to all parties involved, maintenance of U.S. credibility is most important. Our deeds must match our words. This bill speaks not of peace but of war.

The passage of this bill at this critical juncture, may have serious consequences for the peace negotiations. There is too much at stake for the United States, Israel, and the world to run such a risk.

Mr. President, I hope the Senate will not accept the amendment offered by the Senator from Minnesota.

I wish to offer for the Record some estimates which are based upon the best available information we have, prepared by the professional staff of the Committee on Foreign Relations. The first table shows estimated foreign assistance calculated both for fiscal 1973 and 1974. It might interest Senators, because it gives the totals in the categories.

Military assistance has gone up from $5,064,391,000 to $5,181,133,000. Bilateral economic assistance is reduced—partly due to the committee's action, I believe—from $3,119,000,000 to $2,862,000,000.

Then we have the items of contribution to international financial institutions and miscellaneous. This is a grand total of assistance of one kind or another, in fiscal 1973, of $9,004,000,000; for 1974, $9,244,000,000.

I ask unanimous consent that the table be printed in the Record.

There being no objection, the table was ordered to be printed in the Record, as follows:

ESTIMATED FOREIGN ASSISTANCE, FISCAL YEAR 1973 AND FISCAL YEAR 1974

[In thousands]

	Fiscal year 1973	Fiscal year 1974
I. Military assistance:		
1. Military assistance grants	$589,100	$642,000
2 Military assistance to South Vietnam and Laos	2,735,000	1,126,000
3. Military assistance to Israel		2,200,000
4. Additional assistance to Cambodia		200,000
5. Excess defense articles	185,000	150,000
6. Ship transfers	121,000	6,500
7. Real property transfers	721,091	244,553
8. Public Law 480 defense grants	157,900	162,080
9. Foreign military credit sales	400,000	325,000
10. Supporting assistance (outside Indochina)	155,300	125,000
Total military assistance	5,064,391	5,181,133
II. Bilateral economic assistance:		
1. Indochina economic aid	444,700	504,000
2. AID development assistance—general	974,300	837,500
3. South Asian relief	101,100	
4. American schools and hospitals abroad	25,532	19,000
5. International organizations	127,472	155,022
6. Contingency fund	23,998	30,000
7. Administrative expenses	61,579	50,100
8. Narcotics control program	20,500	42,500
9. Peace Corps	80,560	77,100
10. Public Law 480 assistance	1,260,100	1,146,800
Total bilateral economic assistance	3,119,841	2,862,022
III. U.S. contributions to international financial institutions:		
1. International Development Association	320,000	320,000
2. Inter-American Development Bank	418,000	693,000
3. Asian Development Bank		100,000
Total U.S. contributions to international financial institutions	738,000	1,113,000
IV. Miscellaneous:		
1. Migration and refugee programs	$8,500	$8,800
2. Assistance for Soviet refugees	50,000	36,500
3. Inter-American Foundation	3,473	13,285
4. Latin American Highway	20,000	30,000
Total miscellaneous	81,973	88,585
Total foreign assistance	9,004,205	9,244,740

Mr. FULBRIGHT. Congress is certainly not being niggardly with military assistance to Israel. The military assistance in this bill, including the military sales credits which I mentioned, came to $2.5 billion.

In addition, the economic assistance to be provided to Israel is an additional $149,365,000, making a total to Israel, for fiscal year 1974, of $2,649,365,000.

In addition, there is an estimated $50 million in guarantees that may be issued under the housing investment guarantee program, if they so desire.

I ask unanimous consent that this table be printed in the Record.

There being no objection, the table was ordered to be printed in the Record, as follows:

ESTIMATED ASSISTANCE TO ISRAEL—FISCAL YEAR 1974

[In thousands]

Military Assistance:	
Emergency military assistance	$2,200,000
Military credit sales authorized in the Foreign Assistance Act	300,000
Total military	2,500,000
Economic Assistance: [1]	
Supporting assistance	50,000
Aid for Soviet immigrants	36,500
P.L. 480 food aid	58,865
Aid to Israel educational institutions	4,000
Total economic	149,365
Total assistance	2,649,365

[1] In addition, an estimated $50,000,000 in guaranties may be issued under the housing investment guaranty program.

Mr. FULBRIGHT. Also, we have the estimated private flows to Israel. This is from data supplied to the committee by the Department of State, indicating the worldwide fund raising goal announced after the war this fall—$1.9 billion.

The funds to be raised in the United States, is estimated at $1,237,500,000.

If we put those figures together with the amount in the aid bill, it comes to a very substantial sum, indeed. I do not think that anyone could say with any justification that this country and private citizens and Congress are not very generous to the state of Israel.

I ask unanimous consent that the table be printed in the Record.

There being no objection, the table was ordered to be printed in the Record, as follows:

Estimated private flows to Israel as a result of the war [1]

I. Worldwide fund raising goal set after outbreak of the war	$1,900,000,000
1. United Jewish Appeal	(1,250,000,000)
2. Government of Israel bonds	(650,000,000)
II. Funds to be raised in the United States:	
1. United Jewish Appeal	750,000,000
2. Government of Israel bonds [2]	487,500,000
Total to be raised in U.S.	1,237,500,000

[1] Data from Department of State

[2] Estimated at 75% of worldwide total.

Mr. McCLURE. Mr. President, I rise in support of the statement that was just made by the Senator from Arkansas, the chairman of the Committee on Foreign Relations. I commend him for his statement, and I wish to associate myself with his remarks.

I rise, too, in opposition to this amendment for much the same reasons that I expressed in testimony to the Committee on Foreign Relations in regard to the general measure for assistance under the act of $2.2 billion for arms to Israel.

Mr. President, title IV of the measure before the Senate contains the seeds of U.S. military involvement in the Middle East. Having only recently withdrawn American troops from Southeast Asia, I cannot understand the desire of many of my colleagues for laying the groundwork of another military campaign.

Regardless of statements by the administration to the contrary, the existence of Israel will not be secured by this $2.2 billion. Instead, this money sends two dangerous messages—messages which increase the danger of renewed warfare in the Middle East. To Israel, this appropriation says:

> Do not withdraw from occupied Arab lands. We will give you what you need to keep military control of these lands and the Arab citizens living there.

To the Arabs, this title IV says:

> We will continue to support Israel's occupation of your lands, regardless of the cost to our people.

Mr. President, Arab leaders have declared their willingness to recognize Israel as a sovereign nation, within her pre-1967 borders, within the framework of U.N. Resolution 242.

The future security of Israel depends on her willingness to secure peace with her neighbors. The political situation within Israel, however, makes it extremely difficult for any Israeli leader to even discuss withdrawal from Arab lands occupied during the 1967 war. A refusal by the U.S. Senate to approve this $2.2 billion would give Israeli leaders a face-saver, allowing them to begin serious negotiations, leading to return of captured Arab lands and recognition of Israel as a sovereign nation. Israel, and the rest of the world, knows of our total commitment to protecting Israel's right to existence within secure, guaranteed borders. It is now time to show Israel and the rest of the world that that commitment does not extend to lands obtained by miliary force.

I believe that a review of U.N. Resolution 242 would be of value, so that we can see exactly what the Arabs are asking for. I ask unanimous consent that it be printed in the Record.

There being no objection, the resolution was ordered to be printed in the Record, as follows:

United Nations Security Council Resolution 242, November 22, 1967

The Security Council:

Expressing its continuing concern with the grave situation in the Middle East.

Emphasizing the inadmissibility of the acquisition of territory by war and the need to work for a just and lasting peace in which every State in the area can live in security.

Emphasizing further that all Member States in their acceptance of the Charter of the United Nations have undertaken a commitment to act in accordance with Article 2 of the Charter,

1. *Affirms* that the fulfillment of Charter principles requires the establishment of a just and lasting peace in the Middle East which should include the application of both the following principles:

(i) Withdrawal of Israel armed forces from territories occupied in the recent conflict;

(ii) Termination of all claims or states of belligerency and respect for and acknowledgement of the sovereignty, territorial integrity and political independence of every State in the area and their right to live in peace within secure and recognized boundaries free from threats or acts of force;

2. *Affirms further* the necessity

(a) For guaranteeing freedom of navigation through international waterways in the area;

(b) *For achieving a just settlement of the refugee problem;*

(c) For guaranteeing the territorial inviolability and political independence of every State in the area, through measures including the establishment of demilitarized zones;

3. *Requests* the Secretary-General to designate a Special Representative to proceeed to the Middle East to establish and maintain contacts with the States concerned in order to promote agreement and assist efforts to achieve a peaceful and accepted settlement in accordance with the provisions and principles in this resolution;

4. *Requests* the Secretary-General to rereport to the Security Council on the progress of the efforts of the Special Representative as soon as possible.

Mr. McCLURE. Mr. President, I believe that a review of the terms of that resolution which was passed in 1967, and supported by the United States will be of value so that we can see exactly what is being asked for in the present situation.

At this time I would like to read my testimony before the Committee on Foreign Relations on the authorization for the $2.2 billion which is now being considered in the appropriations measure in advance of authorization. I do that only because there were very few people present at the time of the hearing before the Committee on Foreign Relations and because there has been very little time for the rest of the Senate to read the record of that hearing to determine what the facts are and what the arguments may be.

My testimony before the Committee on Foreign Relations was as follows:

Mr. Chairman, I appreciate this opportunity to come before your Committee and to raise some questions about the vast amount of military assistance the bill before you provides for Israel. I feel I arrived here by the back door, for my interests over the years lay more with the growing energy shortage than with foreign policy. But today, the two are bitterly entwined, and I find that I can no more talk about oil without mentioning the Middle East than I could talk about the Mideast and ignore oil.

Many of my colleagues in the Senate—very sincerely and with great justification—fear for the safety of the brave people of Israel. I share that concern, but frequently I worry about the logic of their solution.

In recent weeks, I have talked to dozens of Arab leaders here and in the Middle East. I have exchanged views with many Americans, who, through industry or government, have a very real knowledge of the problems of the Middle East. Each in his own way responds to the incendiary situation there in political terms. I don't criticize that. It is understandable.

But today, you and I should be thinking more about where our responsibility as Senators may lie, and where you as members of this Committee might find the right answer to the troublesome questions the Middle East poses for us.

It seems to me that our first responsibility is to pursue policies which are in the best interests of our own country. Perhaps that is so self-evident that it should not need stating. Yet, I think we often let ourselves get so involved in the problems of others that we tend to forget that our role is to promote the welfare of the people of the United States of America. This is true whether it is Southeast Asia or the Middle East.

For six years, we have officially supported the provisions of U. N. Resolution 242. But "supporting it" and "carrying it out" were two different things. We were frustrated by the fact that many in the Arab nations were unwilling to recognize the existence of Israel. And Israel, for her part, found her security only in military force and defensive position and was equally unwilling to withdraw from occupied Arab territories.

Time and events have a way of changing things. And we find today that Arab leaders no longer call for pushing Israel into the sea. They are willing to recognize that Israel exists—but there is a condition: Israel must withdraw from Arab lands occupied during the 1967 war, a basic premise of the U. N. resolution.

Political boundaries won't create security by themselves. Only a secure peace provides real security. So, it would seem that our efforts here should be bent toward devising those policies which have some hope of achieving a just and stable peace. That's where the bill before you comes in. It sends the wrong signals to both parties.

To Israel it says: "You don't have to make concessions. Right or wrong, the United States is behind you. So, stand your ground. We'll underwrite anything you do."

How will the Arabs see it? To them this bill says, "The U.S. isn't changing one bit. We will continue our policy of siding with Israel in every dispute. It makes no difference what you do or what they do."

Inevitably, this bill will encourage Israel to grow bolder and the Arab boycott to become more stringent.

What we ought to be saying to Israel is this: "The situation has changed. The Arabs will recognize you if you pull back to the pre-67 borders, and we are willing to guarantee that kind of agreement in keeping with the spirit of the U.N. resolution.

Mr. FULBRIGHT. Does the Senator wish to yield for a question or does he wish to complete his remarks?

Mr. McCLURE. I am happy to yield to the Senator.

Mr. FULBRIGHT. The Senator mentioned a guarantee. It is said that some high officials in the Israeli Government have no confidence in a guarantee even if the United States is behind it. I fail to understand why, in view of the actions of this country over the past several years, from the figures I just gave. I fail to understand why they would have no confidence in a guarantee that we would protect them. It is a situation that is beyond my comprehension. I do not quite understand it at all.

Would the Senator try to give his view on that. He has recently been in the Mideast. What is there about that lack of confidence, between the United Nations, the United States and, hopefully, the Soviet Union?

Mr. McCLURE. I would say to the Senator that certainly the fear of Israel is very real for their own security. I understand that. I understand that the events of the last 25 years have told them that in order to remain free they must remain strong. They have found from bitter experience that there is danger to their citizens or their boundaries, but I think the situation impels them and certainly should impel us to recognize there can be no security in the present situation. There is no security in the force of arms and there is no security in the occupation of territory that can begin to match the security of an honorable peace negotiated by the parties.

In direct response as to why they should not expect the United States would honor its guarantee and the guarantee of the United Nations, all I can say is it must grow out of their fear and their experience over the last 25 years, but certainly whatever risks there are involved in that security arrangement are not due to the good will and good faith of the United States, but our ability to enforce such an agreement. It would appear to me that they should be prepared to accept whatever risks there are in that guarantee as they do the risk of the present situation.

Mr. FULBRIGHT. Does not the Senator believe there will be continued despair in Israel if there is no change?

Mr. McCLURE. There could be no guarantee in the present situation except the guarantee of prolonged confrontation and the series of incidents we have seen in the last several years, and the kind of incidents of October 1966.

Mr. FULBRIGHT. Mr. President, I thank the Senator. I think he has made a very perceptive statement on this subject. I hope our colleagues take it seriously.

Mr. McCLURE. I thank the Senator for his comments.

Mr. President, I continue with my statement before the committee:

Israel should now recognize that they have won the legitimate goal—that the Arab nations are now willing to recognize Israel's presence and real guarantees of security can be forged. Israel has bravely confronted the risks of war. She must now just as resolutely accept the risks of peace—if for no other reason than the fact that these risks are now less grave than the risk of prolonged military confrontations.

Now let's take a look at what this bill says to the Soviet Union. It says we are willing to risk the premise of detente in order to support Israel unilaterally.

Such policies inevitably lead to progressive polarization. They can only serve to play into the hands of the Soviet militarists. It doesn't take a great deal of imagination to see where all this is leading us. Today, many Senators—quite sincerely, I'm sure—say we can give Israel anything she wants, but we will not send manpower. That's a fine statement, but next year there will be another war, and the year after that, still another. Then one day Israel will find it cannot hold out forever against Arab attacks to reclaim lost lands, and she will request manpower.

Meanwhile, polarization of the situation will have continued. The energy crisis and their sense of their own national interests will have forced our allies in Europe and Japan to move, one by one, to the side of the Arabs. And we will be left, standing alone with Israel. And for what? To defend her right to occupy captured Arab lands?

Even though today the Arab nations bordering Israel are willing to recognize her right to existence, would that same feeling prevail after more years of bitter warfare—and with the tide of military successes shifting? Would not new Arab leaders arise, who would settle for nothing less than the total destruction of Israel?

There are those who call the oil embargo blackmail. I don't understand why it is somehow less honorable to use a natural resource as a foreign policy tool than to occupy captured enemy territory. How can you argue with an Arab who asks, "Isn't it better to hold oil than to spill blood?"

Not only have we ourselves used threats of trade policy against nations with which we disagree, the Congress debates two such issues even now. But more importantly, whatever their motives may be, it is *our* responsibility to make decisions based upon what is best for America. Our policy should be based on our own self-interest.

How can we answer the kind of logic I heard two weeks ago, "Why should we continue to supply American industry with Arab oil, so that it can make the bombs, bullets, and tanks which will be used to kill Arabs?"

Our role as the leader of the free world—to say nothing of our own honored traditions—demand that we take positions which are moral and just and consistent. We cannot have one set of standards for the Arabs and another for the Israelis. The United States holds the key to peace in the Middle East, and the world knows it. We should help Israel defend her pre-1967 borders against aggression, but we should not do more.

This is not the time to spend $2 billion for military aid for Israel. The hopes of the world for peace in the Middle East are focused on the talks which we hope will begin next week in Geneva. But let's not just hope, let's act affirmatively to enhance the chance for the success of those talks. At best, these negotiations will be difficult and delicate. Why should we now jeopardize them by placing this bomb on the table. If the talks are not productive, or if new blood is shed to mingle with the old on the battlefield, we can then look to the necessities of that situation.

But for now, let us put this idea aside. Instead, let us lead the warring parties toward a resolution of their problems. Let us address our efforts toward the reconciliation of people rather than the building of a hollow fortress.

The knowledge that there exists in this world something called the United Nations has never been a great comfort to me. But just as I have often pointed out its weaknesses, let me also point to one of its occasional strengths. In U.N. Resolution 242, there lies the germ of peace.

It is just as much in Israel's interests as the Arabs to seek the return of occupied lands.

It is just as much in the Arab's interest as Israel's to find a just solution for the Palestinians.

It is just as much in Israel's interests as the Arabs to limit military assistance to that which will defend a nation's borders but not subsidize its expansion.

It is just as much in the Arab's interests as ours to stabilize the distribution of oil throughout the world.

Most important of all, these things are very much in our own best interests. It is incredible that at the very moment when we sit on the threshold of all-out war, the opportunity for peace has never been brighter. For whatever reason, all parties (including USSR) now finds a peaceful settlement of the Middle East situation in their own national interests.

I sincerely hope that this opportunity will not be lost on you and your colleagues, Mr. Chairman. You will find that you are not acting alone. In my two weeks in the Middle East I found no one—not one single person, whether native to that area or foreign—who feels our present actions are right. Someone has to take the first step. It might as well be here.

Mr. President, I will conclude my remarks by asking a series of questions, some of which perhaps will be answered; if not, I will leave them as open questions in the RECORD.

First. I think we might ask ourselves, from what inventory of supplies were the machines and materials of war taken or supplied to Israel in the October war?

Second. Were they taken from our active defense forces, and if so, in what posture does that leave our active defense forces?

Third. Not only the $1 billion of materials that has already been given but the additional $1.2 billion that is asked in this measure must come from existing inventories. Not only does that have an impact on our present defense posture, but it also will cost more in replacement than current values. So we are not really talking about $2.2 billion; if I am correct, we are talking about a bill of $3 billion or more in its ultimate impact upon the taxpayers of the United States.

Fourth. Assuming that this aid succeeds in stabilizing the present situation, what prevents another outbreak tomorrow, and another $2.2 billion drain on the U.S. taxpayers?

Fifth. Why is it, as we consider the delegation of unlimited and arbitrary authority to the Executive, that some of the people who are most critical of that delegation of authority are now here demanding another unlimited and discretionary grant of authority to the President of the United States without any justification to the Congress or without any showing of how that will be done by the administration in granting aid, not only in terms of whether or not the aid shall be granted, but whether it shall be a grant or a loan?

Sixth. We are concerned about the impact of the energy crisis on our balance of payments, and many times in earlier times when the price of oil was much lower than it now is, it was pointed out that we would have as much as $20 billion a year flowing from the United States for the purchase of foreign oil. With the increase in the price of oil that figure is much larger. But as worried as we were about it then, we have perhaps one of two alternatives facing us now. One is that the oil will be denied to us and will be sold somewhere else and the revenues from that oil sale will be used to purchase military equipment and we will be asked to balance those expenditures by military aid, and so we will pay for the oil but we will not get it. Or perhaps, in the alternative, we will be given the opportunity to purchase that oil and will pay for it not once but twice. We will pay for it first when we buy the oil, and we will pay for it the second time when we balance the military expenditures that are financed from the purchase of that oil.

It seems to me those questions are serious; that they demand answers; and from the record that is before us concerning the justification for the request, I suspect the answers are not forthcoming.

For those reasons, I not only oppose the amendment offered by the Senator from Minnesota, but I would respectfully request that the Members of the Senate seriously consider rejecting the entire question of aid at this particular time.

The VICE PRESIDENT. The Senator from New York is recognized.

Mr. JAVITS. Mr. President, I wish to reply on behalf of the Senator from Arkansas and the Senator from Idaho that they might take a little time. The Senator from Vermont also wishes to make a recommendation.

Mr. HUMPHREY. Mr. President, will the Senator from New York yield?

Mr. JAVITS. Mr President, I yield to the Senator from Minnesota and ask unanimous consent that I do not lose my right to the floor.

The VICE PRESIDENT. Without objection, it is so ordered. The Senator from Minnesota is recognized.

Mr. HUMPHREY. Mr. President, the amendment that the Senator from Minnesota offered was not related to the substantive question of economic and military assistance to Israel, but rather to the issue as to whether or not there should be not more than $1 billion in the form of a grant or $1.5 billion out of the total of $2.2 billion.

The arguments that have been made here today are essentially against the whole proposition of assistance to Israel in the amount of $2.2 billion.

Mr. President, that is an argument that I think will be well met in the debate here and one that we will be able to overcome.

The proposal that the Senator from Minnesota makes is merely to give at this time as we legislate to the President and the Secretary of State, who are engaged in very important negotiations, and hopefully negotiations that will culminate in a settlement in the Middle East, the officers of our Government, some greater leeway and flexibility in terms of grant moneys to deal with Israel's needs economically and militarily.

Might I say for the moment that as I have listened to the argument that this would be tantamount to strengthening the position of resistance on the part of Israel to any peace agreement. I think it gives the Secretary of State, who is doing a fine job—and he has my support in his efforts—additional help in the negotiations to bring about successful negotiations.

The House acted on the basis of $1 billion. The Senate committee came to the Senate with the same figure. It seemed to me that if we provide $1.5 billion it gives us an opportunity to once again ask the administration for more specific information.

It gives the administration an opportunity to have a more flexible figure with which to deal when they talk to the Israelis about their needs.

It faces up to the simple fact that the state of Israel is heavily indebted, that she cannot afford to go into more debt on loans of any consequence or in much larger amounts than she presently has.

It also faces up to the fact that the Soviet Union has already supplied the Arab States with not only weaponry equal to what they had before the October war, but also with a greater amount of weapons and newer weapons.

I do not want to get into the argument about what is going to happen at the peace conference. I hope that the peace conference in Geneva will be a success. And I feel the urgent necessity to do everything we can to bring it to a successful conclusion.

I am hopeful that there can be an arms embargo in the Middle East, that the Soviet Union, the United States, and other countries will agree that this business of shipping armament to the Middle East is counterproductive and that there has to be an agreement. It cannot be one-sided.

The amendment of the Senator from Minnesota does one thing above all else. It permits the chairman of the subcommittee and the conferees of the Senate when they sit down with the House conferees to ask of the administration more specific information as to what they have in mind in terms of grant assistance.

The amendment says, "not more than $1.5 billion." It does not require $1.5 billion.

It may be $1 billion or $500 million. This merely puts the figure up to $1.5 billion. And out of the conference there will be some adjustment.

Mr. ABOUREZK. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. ABOUREZK. Mr. President, I hear that the roads are getting awfully icy. I wonder if the leadership would agree to put this matter over until tomorrow after the Saxbe nomination.

Mr. HUMPHREY. Mr. President, that is not a matter for me to decide. I am prepared to vote on the amendment now.

The chairman of the subcommittee said that he was prepared to accept the amendment. If the chairman is willing to accept it on that basis, and we do not have too much protest, we can move along.

Mr. President, might we have some action on this particular item of $1.5 billion?

Mr. BROOKE. Mr. President, we discussed this matter in the subcommittee very thoroughly. There was some suggestion that the $2.2 billion would be available for grants. Some wanted $1 billion. Some wanted $1.5 billion.

As I understand it, the amendment of the Senator from Minnesota merely provides that we can spend as high as $1.5 billion for grants.

Mr. HUMPHREY. Not more than.

Mr. BROOKE. It provides that not more than $1.5 billion may be spent for grants. It puts a limit on the amount that we can spend up to $1.5 billion. I would be willing to accept the amendment if it is agreeable to the chairman of the subcommittee.

Mr. JAVITS. Mr. President, I shall take not more than 2 or 3 minutes.

I think it is very important that if Members are going to vote upon this amendment, one thing be made very clear.

I gathered from the arguments made by the Senator from Arkansas and the distinguished Senator from Idaho that they thought it would weaken the hand of the United States if we were to make this provision so as to bring Israel up to some kind of parity with the armed forces in the fields of the Arab States.

That defies the fact that we have been asked for this provision by the President and by the Secretary of State. Quite the contrary, the Secretary of State and the President seek to strengthen the hands of the United States so as to bring about peace at the earlier possible moment.

Mr. President, we deeply feel that we cannot agree with the arguments which they have made. They say that their hands will be strengthened and not weakened and that, therefore, if we want peace, a negotiated peace, their hands should be strengthened.

Finally, we are asked to take the word of the Arab States, nations which have just perpetrated a very cruel and barbaric invasion of Israel and killed off the equivalent of 300,000, if we were to compare the Israeli population to ours. That refers to dead, not wounded. We are asked to take their word that they want Israel to exist as a state. If Israel is not able to handle herself, we would leave them vulnerable.

We are not asked to take the word of Israel that she is willing to negotiate every single subject and to do it now. She is not intransigent or belligerent. She said that she wants a treaty and is ready to negotiate.

Our colleagues do not ask us to take the word of the United States that this is the time for peace. We are asked to turn our backs on this and assume that we will strengthen Israel by our action here.

What do we expect the Israelis to feel if they are left naked at the hands of her neighbors? Do we expect them to have peace or are they really cornered with nothing else to do except to fight?

So, if we really want peace, the Appropriations Committee, the Foreign Affairs Committee of the House, and I hope tomorrow the Foreign Relations Committee have shown us the way to attain it, by keeping this parity and by leaving neither party naked.

The Russians have been more than adequate in resupplying the needs of the Arabs. However, we are asked not to fulfill every aspiration of ours and of the Israelis, but to take the Arab State's word for it.

On the record, Mr. President, it just makes no sense. So I hope very much that the authority will be given, because it is essential to the quest for peace, and that is the basis of it, except that I happen to differ 180 degrees from those who argue that the way to attain peace is to make one of the parties weak. I do not believe that is the way to attain peace in the Middle East, and I hope very much that the Senate will feel the same.

Mr. President, one other thing before I leave the floor. I heard with the greatest interest—let us be realistic about what is going on here, Mr. President: This bill says, on page 18, lines 16 to 18, inclusive, in an amendment of the Appropriations Committee, the following:

> *Provided*, That the funds appropriated in this paragraph shall be available only upon enactment into law of authorizing legislation.

That means that the Foreign Relations Committee, in the Senate, because the House has passed its bill, will have the last word on the authorization, even after this measure is passed.

Mr. President, these words could be stricken from the bill on a point of order. But, Mr. President, I have enormous respect for the Committee on Foreign Relations, on which I serve, and enormous respect for the processes of the Senate. Therefore, in view of the intensity of feeling—I do not say that in any emotional sense but with reference to conviction—which our chairman has on this score, I must say I derive great satisfaction from the fact that the chairman, without prompting by anyone, has assured the Senate that, if he has a quorum tomorrow, he certainly will not stand in the way of an authorizing bill being reported out. He may be opposed to it; he may oppose any amendments. That is his privilege. I am deeply gratified by that, and I wish to call that fact to his attention.

Mr. FULBRIGHT. Mr. President, as the Senator says, I have called the meeting and I assure the Senate if we have a quorum there will be a vote, as the Senator says, as to some amendments which we have already considered, but as to amendments which we have not considered, I have no reason to believe there will not be a vote.

Mr. JAVITS. I thank the Senator very much. Mr. President, I yield the floor.

Mr. INOUYE. Mr. President, I have discussed this matter with the Senator from Massachusetts (Mr. BROOKE), and we stand ready to accept the amendment.

The VICE PRESIDENT. The question is on agreeing to the amendment of the Senator from Minnesota.

The amendment was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMINICK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The VICE PRESIDENT. The Senator from Arkansas is recognized.

Mr. FULBRIGHT. Mr. President, I send to the desk an amendment and ask for its immediate consideration. I have consulted with the manager of the bill, and I believe it is acceptable to him.

The VICE PRESIDENT. The amendment will be stated.

The second assistant legislative clerk read as follows:

> On page 19, line 14, after "1961" insert a colon and "*Provided further*, That the funds appropriated in this paragraph shall be available only upon enactment into law of authorizing legislation".

Mr. INOUYE. Mr. President, we stand ready to accept the amendment.

The VICE PRESIDENT. The question is on agreeing to the amendment of the Senator from Arkansas.

The amendment was agreed to.

Mr. ABOUREZK. Mr. President, I call up an amendment which I have at the desk, and ask for its immediate consideration.

The VICE PRESIDENT. The amendment will be stated.

The second assistant legislative clerk read as follows:

> On page 4, line 20, strike out $14,300,000 and insert in lieu thereof $36,500,000.

Mr. ABOUREZK. Mr. President, this is an amendment which increases the amount of money appropriated for the United Nations Relief and Works Agency, which is primarily for the benefit of Palestinian refugees, to $36.5 million.

Mr. INOUYE. Mr. President, will the Senator yield?

Mr. ABOUREZK. I yield.

Mr. INOUYE. As the Senator knows, we have discussed this matter, and the committee stands ready to accept the amendment.

The VICE PRESIDENT. The question is on agreeing to the amendment of the Senator from South Dakota.

The amendment was agreed to.

Mr. ABOUREZK. I move to reconsider the vote by which the amendment was agreed to.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McINTYRE. Mr. President, I call up an amendment which I have at the desk, and ask for its immediate consideration.

The VICE PRESIDENT. The amendment will be stated.

The second assistant legislative clerk read as follows:

> On page 22, line —, insert the following new section:
>
> "Section 604. "None of the funds appropriated in this bill shall be used to supply petroleum products for Southeast Asia, when the result of the use of such funds would be to reduce either directly or indirectly the supply of petroleum products available to the United States civilian sector of the economy."

Mr. KENNEDY. Mr. President, I ask unanimous consent that Mr. Mark Schneider of my staff be accorded the privilege of the floor during the consideration of this matter.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. McINTYRE. Mr. President, without relinquishing my right to the floor, I yield to the distinguished majority leader.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had passed without amendment the following Senate bills:

> S. 513. An act to amend section 232 of the National Housing Act to authorize insured loans to provide fire safety equipment for nursing homes and intermediate care facilities; and
>
> S. 1038. An act to amend title 37, United States Code, to authorize travel and transportation allowances to certain members of the uniformed services in connection with leave.

ENROLLED JOINT RESOLUTION SIGNED

The message also announced that the Speaker had affixed his signature to the enrolled joint resolution (S.J. Res. 180) relative to the convening of the 2d session of the 93d Congress.

The enrolled joint resolution was subsequently signed by the Vice President.

ORDER FOR ADJOURNMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until 10 o'clock tomorrow morning.

The VICE PRESIDENT. Without objection, it is so ordered.

(Later in the day this order was changed to provide for the Senate to convene at 11 a.m. tomorrow.)

EXECUTIVE PROGRAM

Mr. MANSFIELD. Mr. President, for the information of the Senate, I am endeavoring at this time to work out an agreement to see if we cannot consider the Saxbe nomination within a period of 1 hour. I do so because I am getting worried about the condition of the roads, and I would like to get Senators home at a reasonable hour. No agreement has yet been reached, but we are working on it.

FOREIGN ASSISTANCE APPROPRIATIONS, 1974

The Senate continued with the consideration of the bill (H.R. 11771) making appropriations for foreign assistance and related programs for the fiscal year ending June 30, 1974, and for other purposes.

Mr. McINTYRE. Mr. President, this amendment is a follow-on to the amendment my distinguished colleague (Mr. COTTON) introduced to the Defense Department Appropriation bill on last Thursday. His amendment was adopted by a vote of 60 to 33.

I will not make a long speech on this amendment because I believe my colleagues are aware of its purpose.

In these times of severe energy shortages here at home and on a day when we need only to look outside and see the heavy snow and sleet and below freezing temperatures, it is difficult to understand how we can be endorsing legislation that will provide petroleum products to Southeast Asia.

The storm battering us here in Washington at this moment is moving to the Northeast promising heavy snows and bitter temperatures for that part of the Nation which is, at the same time, suffering the most severe energy shortages.

It is my understanding that as much as $80 million of petroleum products may be provided in the pending legislation for Southeast Asia. Even if the figures is less than that, it is difficult to justify large expenditures for petroleum products, when we are asking our citizens to pay increasing amounts for home heating oil, for gasoline at the filling stations and for the products made of petroleum.

Mr. President, I would like to quote my distinguished senior colleague when he said last Thursday:

> I speak as a Senator who steadfastly supported our effort in South Vietnam through those long, weary years when the President of the United States, and I honor him for it, was trying to extricate us, as he expressed it, with honor. But there is a time when we owe something to our own people, and I offer this amendment conscientiously because I do not think we are going to do any good, in the long run, by sending oil over there, to be destroyed by the enemy.

I think these same words fit the amendment I have offered now for myself and my colleague (Mr. COTTON).

Mr. President, I move the adoption of the amendment. It is my understanding that the leadership on the bill is willing to accept the amendment.

Mr. INOUYE. Mr. President, Senator BROOKE and I have discussed this amendment with the Senator from New Hampshire, and we agree to accept the amendment.

The VICE PRESIDENT. The question is on agreeing to the amendment of the Senator from New Hampshire.

The amendment was agreed to.

Mr. KENNEDY. Mr President, I send an amendment to the desk and ask for its immediate consideration.

The VICE PRESIDENT. The amendment will be stated.

The second assistant legislative clerk proceeded to read the amendment.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. KENNEDY's amendment is as follows:

> On page 22, between lines 16 and 17, insert the following:
>
> SEC. 604. None of the funds made available under this Act for "Military Assistance", "Security Supporting Assistance", and "Foreign Military Credit Sales" may be used to provide assistance to Chile.

Mr. MANSFIELD. Mr. President, will the Senator yield

Mr. KENNEDY. I yield.

Mr. MANSFIELD. Would the Senator

consider a time limitation on this amendment?

Mr. KENNEDY. Ten minutes.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a time limitation of 10 minutes on the pending amendment, to be equally divided between the manager of the bill and the sponsor of the amendment.

Mr. HARRY F. BYRD, JR. Mr. President, reserving the right to object, is the Senator speaking of this particular amendment only?

Mr. MANSFIELD. Oh, yes.

Mr. HARRY F. BYRD, JR. No objection.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, this amendment is very simple. It would strike from the bill those particular provisions that deal with military grants, foreign military sales, and security supporting assistance to the country of Chile. That will amount to $1 million in grants and $10 million in military sales credits. It will in no way affect the other programs of narcotics assistance, selected developmental aid and education, or United Nations resource funds, which come to about $300,000.

It seems to me, Mr. President, that the whole world has been shocked by the use of military equipment in Chile. It has been used against civilians. It has been used against foreign refugees. This has been military equipment supplied by the United States to the Government of Chile. It seems to me that until that country is prepared to return to the orderly processes of democratic institutions and democratic government, it does not behoove the United States to be extending military aid, assistance, and grants to Chile.

I think there are a number of different, delicate negotiations going on in the international community, with the High Commissioner on Refugees, the International Red Cross, who have been down to Chile trying to insure the protection of human rights and human liberties. Their reports and their stories are distressing to all who have concern for human rights and democratic institutions.

I do not think this is an appropriate time for the United States to be embarking on a military supply system for the country of Chile. I would therefore hope that this amendment, to strike those provisions, would be agreed to.

Mr. INOUYE. Mr. President, this matter has been discussed with the Senator from Massachusetts (Mr. KENNEDY) and we stand ready to accept the amendment.

Mr. KENNEDY. I am very grateful to the Senator from Hawaii.

Mr. President, I would urge that Senators ask themselves how these weapons are to be used.

The military junta in power in Santiago is not threatened by its neighbors. It is not threatened by Peru, or Argentina, or Bolivia. Its weapons are all trained against its own citizens.

In the foreign aid authorization bill, I introduced an amendment cosponsored by several other Members. That amendment was adopted unanimously. Its key portion read:

It is the sense of the Congress that (1) the President should deny Chile any economic or military assistance, other than humanitarian assistance, until he finds that the Government of Chile is protecting the human rights of all individuals, Chilean and foreign. . . .

Although the conference committee rejected portions of the amendment, it did retain language urging the President to request the government of Chile "to protect the human rights of all individuals. . . ." In addition, the final bill contains a provision requiring the denial of aid to any government that maintains political prisoners or which practices torture.

I ask unanimous consent that these provisions be printed in the RECORD.

There being no objection, the provisions are ordered to be printed in the RECORD, as follows:

POLITICAL PRISONERS

SEC. 32. It is the sense of Congress that the President should deny any economic or military assistance to the government of any foreign country which practices the internment or imprisonment of that country's citizens for political purposes.

RIGHTS IN CHILE

SEC. 35. It is the sense of the Congress that (1) the President should request the Government of Chile to protect the human rights of all individuals, Chilean and foreign, as provided in the Universal Declaration of Human Rights, the Convention and Protocol Relating the Status of Refugees, and other relevant international legal instruments guaranteeing the granting of asylum, safe conduct, and the humane treatment or release of prisoners; (2) the President should support international humanitarian initiatives by the United Nations High Commissioner for Refugees and the International Committee of the Red Cross to insure the protection and safe conduct and resettlement of political refugees, the humane treatment of political prisoners, and the full inspection of detention facilities under international auspices; (3) the President should support and facilitate efforts by voluntary agencies to meet emergency relief needs; and (4) the President should request of the Inter-American Commission on Human Rights to undertake an immediate inquiry into recent events occurring in Chile.

Mr. KENNEDY. On both counts, I believe Chile should be denied military aid. We have not received any indication that the President has made any formal requests on the Government of Chile since passage of the foreign aid bill. Nor has the State Department responded to questions I submitted on October 18 concerning the protection of human rights in Chile, questions raised during a hearing of the Subcommittee on Refugees.

What I do know of the attitude of our Government is even more disturbing. Despite an international presence in Chile—despite the extraordinary efforts and initiatives of the United Nations High Commissioner for Refugees—UNHCR—and the International Committee of the Red Cross—ICRC—to protect human rights in Chile—efforts and initiatives which deserve our full support—the Department of State apparently continues to see the issue of human rights as purely an internal affair of Chile. And, inevitably, this affects the measure of support we give to the initiatives of these international humanitarian agencies.

How else can we interpret recent cable traffic suggesting that human rights violations "fall within the Government of Chile's domestic jurisdiction"—and that ICRC initiatives regarding the humane sentencing of political prisoners and the stay of executions should not be given the support of our Government?

I do not feel we should extend military aid to a government which has come to power through a violent, bloody coup, which remains in power without any constitutional authority, and which continues a policy of repression. Only the most overwhelming justification in terms of our national security could justify extending military aid to such a government. That justification does not exist with regard to the present rulers of Chile.

Let me emphasize that support for this amendment does not imply any attitude whatsoever with regard to the previous government. I personally would have objected to several of the policies adopted by that government. But it was a government chosen by the people of Chile in a democratic election and on that basis it had the right to attempt to develop its program within the bounds of the Chilean political process.

The tragedy for Chile and for Latin America is that the process was cut short and the question of peaceful change within the democratic political system left unanswered.

What we seem to have, Mr. President, is an attitude on the part of this administration that constitutes complicity in the denial of human rights which is going on in Chile today. It is complicity both by silence with regard to supporting international humanitarian initiatives and protesting the continued violation of human rights—and complicity by action with regard to our willingness to extend bilateral aid to the junta.

By extending military assistance, we no longer can maintain the pretext of seeking to assist the people of Chile—rather than the government—through wheat loans. We would be openly and blatantly declaring our willingness to be identified with the government-imposed repression of the junta, with its illegitimate accession to power and its unconstitutional preservation in power.

I do not believe the Congress should support an administration policy which has been designed to provide strong evidence of U.S. support for the military junta—from the initial silence when the coup occurred to the extension of commodity credit loans in 2 months which are 20 times the amount extended in 3 years to the Allende government.

I would emphasize that this amendment is not proposed on ideological grounds—unless concern for human rights is defined as such. I do not believe that it is in the interests of this Nation to provide the weapons that are used to maintain a system of repression and to maintain this dictatorship in power.

Let me cite recent news reports which depict the character of the junta:

On November 25, the Swedish Ambassador and for other Embassy officials were beaten and kicked by uniformed carabineros and plainclothes security men while attempting to prevent the arrest of a Uruguayan woman who had been granted asylum under Swedish diplomatic protection.

Press censorship continues and several newspapers and radio stations have been closed entirely.

Political parties all remain prohibited from any activity and several have been banned entirely.

The Chilean Congress remains closed.

Universities and colleges remain under military rule.

Some 750 prisoners, according to the government, none of whom has had the opportunity for a civil trial, have been transferred to a prison camp deep in a northern desert.

Congressmen and former government ministers remain imprisoned on Dawson's Island—still not formally charged and still prohibited from contact with the outside world and still living under brutal conditions.

Letters I continue to receive from inside Chile contain allegations of torture and deaths of individual prisoners.

Chileans and foreign refugees continue to remain within foreign embassies unable to secure either a guarantee for their safety within Chile or permission to leave the country. They include the former Minister of Agriculture Jacques Chonchol, a recognized expert on agriculture in developing countries, who also held a high government post under former President Frei. Although no formal charge has been filed against him, he allegedly is accused of being responsible for a downturn in agricultural performance, charges that would presumably threaten Secretary Butz if they were to be made the criteria between freedom and imprisonment.

I do not believe that the long-run interests of the United States for peaceful and constructive relationships with the nations of Latin America, relations which I consider important and valuable to this Nation, will be fostered by linking ourselves, through the extension of military aid, to the military dictatorship which aborted the political and judicial process, which seized the reins of power through violence and which remains in power today through force and repression.

I urge that this amendment be adopted.

The VICE PRESIDENT. The question is on agreeing to the amendment of the Senator from Massachusetts (Mr. KENNEDY).

The amendment was agreed to.

Mr. JAVITS. Mr. President, I should like to address a question to the distinguished manager of the bill which relates to an item dealing with American schools and hospitals abroad. I notice the fact that the figure has been cut almost 50 percent.

The traditional approach to this matter has been that we have generally provided about $20 million. Also, I note that there is a limitation of not more than four institutions in the same country who may be benefited.

I might tell the Senator that this limitation to strike probably goes more strongly to what has happened in Israel to the various institutions there.

I would therefore greatly appreciate it if the chairman would give us the rationale for the cut and the limitation.

Mr. INOUYE. Mr. President, the budget request of the State Department called for $10 million. We decided to go along with that budget estimate. Second, it was suggested by several on the committee that as much as possible of this program should be spread throughout the world and not predominantly in one sector of the world. Right now, as the Senator knows, most of the funds go to the Middle East.

The House provision calls for $19 million with no restrictions on the number of recipients per country. So that this matter will have to be discussed and taken to conference.

Mr. JAVITS. I just have two points to make. One, I agree that funds should not be confined, but I think the limitation by institution, if we are going to have a limitation, might be better accomplished by a percentage of the region.

The other point which I think is very important is that the State Department is not inclined to jump up and down about these various voluntary organizations. It will be remembered that a good deal of this goes to Roberts College, one of the great institutions, and not in Israel. The Senator said the Middle East, so there should be no misconception about that.

However, I am reassured by the Senator's statement. He will be the principal conferee and I shall therefore leave it up to him at the conference. I know his disposition in the matter.

The VICE PRESIDENT. The bill is open to further amendment.

Mr. DOMINICK. Mr. President, I wonder if the Senator from Hawaii would have a colloquy and answer some questions that I think are relatively important in the whole debate. Before doing so, I want to say that I think an amendment which we just adopted with respect to Chile was extremely shortsighted. In the interest of getting the bill through and into conference, I did not ask for more detailed discussion or make more objection to it.

It seems to me, considering there was a Marxist government in Chile, a government which had proceeded to decimate the economy of the country and expropriate the property of our country without any compensation whatever, that we were not dealing with an ordinary military dictatorship; we were dealing with a group that was trying to put the country back on the road. For us to take punitive action at this time is, I think very shortsighted.

Having said that for the record, I should like to ask a couple of questions. It is my understanding that the bill is some $2.18 billion over the total appropriations for last year. That is reported on page 1 of the committee report. Does it, in fact, include more items than last year? Is that the reason for the difference?

Mr. INOUYE. It is more than last year's amount because it includes an increase of $2.2 billion for military assistance to Israel.

Mr. DOMINICK. I understand that; but that, of course, is contingent upon the authorizing legislation.

Mr. INOUYE. That is correct.

Mr. DOMINICK. On page 7 of the report, the committee refers to the fact that Congress has already passed a kind of general rule that a fair share of our obligations—international obligations—should be "20 to 30 percent of the worldwide total." Going over to the next page, page 8, I find contributions that are 70 percent, 40 percent, 45, percent, 55 percent, and so on, but I do not find any action by the Committee on Appropriations in trying to cut those amounts down to 25 or 30 percent, as represented by Congress before this time. Can the Senator give me any explanation for that?

Mr. INOUYE. This subcommittee has endeavored to retain the fair-share concept. I think we have been successful to some degree, especially on the larger accounts in the banks.

The subcommittee purposely included these tables and statistics so that all Senators and Members of Congress could be made aware that we have not reached the goal as of this moment. I share the Senator's concern.

Mr. DOMINICK. Would there be any prospect of a cutback in those shares we are talking about? If we go along on the ground that there is very little we can do about it because of the nature of the organization, we will never get down to the 25 or 30 percent category.

Mr. INOUYE. I believe these operations or these programs must be taken individually. For example, the Senator will note in the U.N. fund for drug abuse that it was felt by our Ambassador that the country that will benefit the most should be the United States. Some of the other members of the United Nations were not too enthusiastic about this.

So considering the effects of drug abuse in the United States—the effects of narcotics—it was decided that 35 percent appears to be correct.

Mr. DOMINICK. That may be true as to drug abuse, because we are at least better, based on 100 percent, than we were 2 years ago.

Mr. INOUYE. This matter was negotiated about 8 years ago. At that time the United States, as one of the super economic powers decided that it would be in the interest of our Nation and the world to make this proportionate contribution. This is part of the contract, so at this stage there is not much we can do.

Mr. DOMINICK. Is this a contractual obligation?

Mr. INOUYE. It was an agreement reached some 8 years ago, and will be completed in about 2 years.

Mr. DOMINICK. The contractual obligation that I heard about—perhaps this is another one—was the one between the Indus Valley Power and Water Association and the World Bank, not any contractual obligation with our State Department on direct grants, which I understand this to be.

Mr. INOUYE. I am glad the Senator

is bringing up this matter, because it touches upon something that has been of grave concern to most of us on the subcommittee. Most if not all of these percentage participations were reached through agreement by the administration—not this administration but prior administrations. It is subject to appropriations. However, in each case, whether it was 8 years ago or a year ago or 3 months ago, the Appropriations Committee—and, more specifically in this case, the Subcommittee on Foreign Operations—has been presented with what is contended is a fait accompli. The members of the administration negotiating team would appear before us and say, "We have already promised this amount, and our reputation is at stake; our good name is at stake," thereby attempting relegating the Appropriations Committee to a mere rubber stamp.

This subcommittee has tried its best to express its independence in some small way. The Senator will notice that here and there we have indicated our concern, and I have refused to go along with some of the agreements that have been reached by the administration.

Mr. DOMINICK. I am sure that the Senator from Hawaii has done an excellent job here. I just become a little impatient, as I think many other people do, upon continually finding that we have obligations we have to pay out, even though the time for doing so may have passed.

On page 33 of the report is a heading "AID Loans with Potential for Deobligation as of March 31, 1973." Frankly, I do not know what that means, and I wonder whether the Senator from Hawaii could explain it to me.

Mr. INOUYE. As the Senator knows, I have held this position now for slightly less than 2 years. We have suggested—at least, the chairman of this subcommittee has suggested on two occasions—that these longstanding obligations be restudied and be deobligated.

As the chart shows, we have in existence loans that have been in existence for more than 25 months, that do not seem to be moving. We are hoping that the administration will voluntarily take it upon themselves to deobligate themselves over some of these activities which are now lying dormant.

Mr. DOMINICK. Do I correctly understand the Senator to say that in his view there was $422 million which should have been deobligated—the chances are that none of it has been, but that you say it should be?

Mr. INOUYE. Possibly not all of the $422 million; but I would think that those for example, that many which have been in existence and lying dormant for more than 25 months could be deobligated.

Mr. DOMINICK. Which comprises some 26, as I read it.

Mr. INOUYE. Yes.

Mr. DOMINICK. It does not say to what countries.

I understand also from the report, and I do not have the exact page——

Mr. INOUYE. For example, I do not have the specifics here, but several years ago, in 1961, the United States entered into an agreement with Argentina for $10 million in loans, with an interest rate of only one-half of 1 percent. Since then, things have changed; and I insisted that the administration get together with the officials of Argentina to change this. They have refused. Therefore against the will of the committee it was decided to succeed after the loan had lain dormant for more than 10 years, to proceed with this loan of $10 million to Argentina at an interest rate of one-half of 1 percent.

Mr. DOMINICK. I congratulate the Senator for getting that done.

One of the things I take credit for being able to accomplish has been to get a more reasonable interest rate on our so-called economic loans, which were nothing but grants originally and were one-quarter of 1 percent, as I recall. I finally managed to move that up.

I wonder whether the Senator can tell me if I am correct that in addition to the $5,475,068,000 in the Senate bill, there is now $3 billion to $4 billion of aid money which is in the pipeline.

Mr. INOUYE. It depends on what the Senator means by foreign assistance. If he is talking about much of the military assistance we are providing for many countries, which does not appear in this bill, one could argue that the foreign assistance program exceeds $20 billion.

Mr. DOMINICK. Somewhere in here is a statement on the pipeline, which I understood was $3 billion to $4 billion.

Mr. INOUYE. It is $4,424,600 for the Foreign Assistance Act and military credit sales.

Mr. DOMINICK. That is in addition to what is in this bill. So, in fact, what we are saying to the American people is that we are going to give $10 billion, in round figures, or $9 billion, in round figures, of their tax money to other countries because we think the other countries are in tough shape.

Mr. INOUYE. These were sums appropriated prior to this time.

Mr. DOMINICK. I understand that, and it is in the pipeline now.

So, on the basis of the $2 billion, which is what we were doing before, it is my understanding that on the pipeline alone, we could go for 2 years and nobody would know that we had cut off foreign aid.

Mr. INOUYE. The Senator is correct.

Mr. DOMINICK. I yield to the Senator from Pennsylvania.

Mr. HUGH SCOTT. Mr. President, I would simply like to comment also on the amendment which was adopted a few moments ago, without much debate, striking out any appropriation to be made available to provide assistance to Chile.

I rise only because I think we have a tendency in this body to separate countries according to whether we conceive them to be leftwing countries or rightwing countries. I have consistently supported assistance to countries of both the leftwing and the rightwing or opposed them, according to what I believed to be in the interests of the United States.

But I do note that if assistance is proposed, for example, to Yugoslavia, it appears to be all right. If it is proposed to Greece, it is all wrong. If it is proposed to India, it is all right. If it is proposed to Chile, it is all wrong.

I think this is the wrong way to legislate. I do not believe we should legislate on our concept of the ideology which governs the government but on the concept of what is best for the United States in the circumstances.

For that reason, I hope the conferees will consider this amendment carefully. It may be a proper amendment. I am not questioning the merits of it at this point. But I am questioning the way in which we tend to divide governments and make judgments on them according to what we conceive to be their ideology.

Mr. AIKEN. Mr. President, will the Senator yield?

Mr. HUGH SCOTT. I yield.

Mr. AIKEN. With respect to Chile, does the Senator think it would be a great help in getting favorable settlements for all the American investments that have been made in Chile, rather than have them grab everything that is there and keep it?

Mr. HUGH SCOTT. This move to strike out any possibility of assistance to Chile is an invitation for them to refuse to compensate American companies on their investments. It is an invitation thereby to deprive this country of the revenue we have received from the tax sources, and it is an interference in the internal affairs of the country involved. I do not know a thing about whether the government is good or bad, but if it is a leftwing government, it goes through flying, and if it is a rightwing government, it should be knocked out. I do not think that is the right approach. We should judge this more on the question of what is in the American interest, and I do not think we should judge it on whether or not American interests abroad would make more or less money or simply slap a country in the face on the basis of a brief debate on the floor.

Mr. DOMINICK. I thank the Senator from Vermont and the Senator from Pennsylvania. I am glad to find that the three of us are in agreement on that point. I thank the Senator from Hawaii for having been so kind as to answer my questions.

I must say for the RECORD that even with $2.2 billion in the bill for Israel, which I think properly is necessary, I, for one, cannot understand giving away over $8 billion from our economy for the benefit of other countries.

Mr. AIKEN. Achieving satisfactory settlement in Chile could have a future impact on the life of OPIC.

Mr. HARRY F. BYRD, JR. Mr. President, I compliment the Senator from Hawaii and the Committee on Appropriations for this comprehensive report. I think there is more detailed information in regard to foreign assistance contained in this report than in any other report I can remember.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. HARRY F. BYRD, JR. I yield.

Mr. MANSFIELD. I agree with the distinguished Senator from Virginia. I think there is a great deal of detail here which never has been available to the country, or which the country has had any knowledge of. I suggest that this report be gone into carefully because it gives a pretty good idea of personnel costs and utilization, the amount of military aid, and transfer of resources to foreign nations. The details are worthwhile and I, too, compliment the Senator from Hawaii, the distinguished chairman of the subcommittee, and the distinguished Senator from Massachusetts for a very good job. I hope Members read all of this report.

Mr. HARRY F. BYRD, JR. Mr. President, I concur in the statement of the distinguished majority leader.

This bill is for $5.5 billion. It is only a part of the total foreign assistance program of the United States. There are parts of the bill I favor.

I think the appropriation to help Israel under the difficult situation which exists in the Middle East is necessary. We must give full consideration to the problems and to the fact that we must maintain a balance. We must be aware of the tremendous amount that the Soviet Union has done in arming the Arab nations. So that aspect of the bill—some help for Israel—does not give me cause for great concern.

What does give me concern is the rest of the bill, and that is the larger part of the total figure. The bill totals $5.5 billion.

I am most interested in the table which appears on page 6 which shows that if Export-Import Bank funds are included then the total transfer of U.S. resources to foreign nations for fiscal 1974 will be a minimum of $16 billion. I say "minimum" because that figure does not reflect certain items that are included in footnote No. 1 on that page.

I would like to vote for parts of the bill, but obviously I must vote for or against it as an entity. That being the case I shall vote against the total package of $5.5 billion.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. HARRY F. BYRD, JR. I yield.

Mr. MANSFIELD. I think it is most interesting to read in the first paragraph on page 5:

> Recognition of the Totality of United States Foreign Assistance
>
> With the end of World War II the United States began a vast program of international assistance which has directly benefited most of the nations of the world at a cost to the American taxpayer in excess of $183,000,000,000, not including interest or the cost of United States forces serving overseas. For fiscal year 1974 the Administration proposes an additional $8.6 billion in foreign assistance.

Where is it going to end? Where is this money coming from?

Mr. HARRY F. BYRD, JR. The question asked by the distinguished majority leader is a question I have been asking also, just as he has, for a long time.

There must be a brake on the amount of funds and money we are spending for foreign assistance and on the resources we are transferring to foreign nations. This report shows that for this 1 year, if one includes the Import-Export Bank, the total will be $16 billion. In fact it will be $18 billion if certain other already appropriated funds are included.

A while ago the Senator from Hawaii, if I heard him correctly, said it is possible if one includes certain items, it would go up to $20 billion.

We must call a halt to this tremendous outpouring of U.S. resources.

Mr. ERVIN. Mr. President, will the Senator yield?

Mr. HARRY F. BYRD, JR. I yield.

Mr. ERVIN. I wish to commend the Senator for his statement. The Senator expresses my views in respect to the bill entirely. I would like to vote for this aid to Israel under existing circumstances but in order to do that I have to swallow several billion dollars of other aid that I think are absolutely unjustified.

I thank the Senator for stating my position in this matter much better than I could state it myself.

Mr. HARRY F. BYRD, JR. I thank the Senator from North Carolina.

Mr. President, when one realizes, as the majority leader just pointed out, that since the end of World War II the international assistance provided by the United States to other nations is in excess of $183 billion, not including interest, I think it should give one pause as to whether we should be passing today a bill as large as this; namely, $5.5 billion.

Like the Senator from North Carolina, I, too, were it handled as a separate item, would support assistance to Israel. I understand an authorization bill covering that matter will be reported by the Committee on Foreign Relations tomorrow and if it is not weighed down with other items I shall vote for it.

Mr. President, I have just one question I would like to ask the Senator from Hawaii. On page 17 of the bill, under contributions to the consolidated special funds of the Asian Development Bank, I notice the committee eliminated the figure that was in the bill of $25 million and inserted $100,000. Could the Senator comment on that,

Mr. INOUYE. Two years ago the administration assured the Asian Development Bank of our contribution of $100 million toward a special fund operation. The chairman of the subcommittee resisted this recommendation for 2 years, simply upon the ground that I felt that in all these years in our participation in the Asian Development Bank, although our contributions were rather substantial, our participation, as far as selling goods and services were concerned, were minimal.

So, after several months of discussions and during all that time in representing my subcommittee, I was insistent that no appropriation would be made unless assurances are given that 100 percent of the $100 million appropriated will be spent to purchase American goods and services; and with that understanding, the subcommittee recommended this figure.

Incidentally, in the total contributions to the Asian Development Bank of this $100 million, our percentage is less than 10 percent. In the case of other banks, for example the Inter-American Development Bank, our contribution was 74 percent. In most of the United Nations' activities our contribution is at least 30 percent. So this is our smallest participation.

Mr. HARRY F. BYRD, JR. This is only one item in the contributions which the United States is making to the international financial institutions.

Mr. INOUYE. Oh, there are several others, yes.

Mr. HARRY F. BYRD, JR. There are a number of others. I wonder if the Senator has handy the total being appropriated to international financial institutions.

Mr. INOUYE. Up to fiscal year 1973 the United States has contributed $12,019,168,000 to the following institutions: International Bank for Reconstruction and Development, International Finance Corporation, International Development Association, Inter-American Development Bank, Asian Development Bank, African Development Bank.

Mr. HARRY F. BYRD, JR. That is for what period of time?

Mr. INOUYE. From the date of the beginning of the institutions. There are differing degrees.

Mr. HARRY F. BYRD, JR. The total is, roughly, $13 billion?

Mr. INOUYE. $12,019,000,000.

Mr. HARRY F. BYRD, JR. May I get the view of the distinguished chairman of it by saying I am not clear in my own mind whether the figure for the Export-Import Bank should be included as a part of foreign assistance.

Mr. INOUYE. We have always felt that it should not be made a part of the Foreign Operations Subcommittee, although, as the Senator is well aware, the activities do involve foreign activities in aiding American business people in exporting their goods and services abroad.

Mr. HARRY F. BYRD, JR. It is an ambiguous position.

Mr. INOUYE. Very much so.

Mr. HARRY F. BYRD, JR. It is foreign assistance in one way and it is assistance to American companies in another, but it does send our resources to foreign nations.

Mr. INOUYE. With the understanding that it is coming back.

Mr. HARRY F. BYRD, JR. I thank the Senator.

Mr. JAVITS. Mr. President, will the Senator yield for one moment?

Mr. INOUYE. I yield.

Mr. JAVITS. Mr. President, I think it would be unfair to allow the point to pass without some comment that the committee has made a very humanitarian commitment for the so-called Sahel countries.

In August I had the opportunity of visiting, for this country, the Upper Volta, which is a typical example of that group of countries, and the degree of starvation and desperation in those countries was something simply unbelievable to all of us.

I would like to express what I know would be the appreciation of millions of our own people in providing for them through two provisions in this bill, one for $50 million and one for $25 million. I have every belief, from what I have seen, that it will be administered well, sparingly, and intelligently, with a view to alleviating famine and also toward taking some important steps in providing a better agricultural system and some recovery.

Mr. INOUYE. Mr. President, on behalf of the subcommittee, I thank the Senator for his kind remarks.

Mr. PELL. Mr. President, I have cosponsored amendments to restore cuts in funds for the refugee program, including assistance for Soviet Jewish emigrants, because I believe that the unsettled circumstances of the world today do not justify less but probably more of an American effort in this humanitarian field. Events in Greece, Chile, Indochina, Middle East, the U.S.S.R., all point to continuing need of U.S. assistance to relieve the distress of refugees and other victims of international tensions and domestic policies that violate human rights. I urge, therefore, that the Senate support action to provide funds required to meet as generously as possible the needs of these distressed people.

Mr. GRIFFIN. Mr. President, I shall support this appropriation bill. However, I do wish to point out that the amounts appropriated are far below those considered necessary by the administration. This bill cuts appropriations for grant military assistance 56 percent below the amount requested by the administration. The bill also reduces new money requested for foreign military sales credits by 38 percent.

In voting for this appropriation, therefore, I do so with the expectation that the conferees will adjust funding levels to amounts adequate to do the job that needs to be done. In that connection I call attention to the fact that only 2 weeks ago the Senate passed authorization legislation to provide the funds that are required.

INDOCHINA AID

Mr. KENNEDY. Mr. President, I wish to commend the Appropriations Committee, and the distinguished chairman of its Subcommittee on Foreign Operations, Senator INOUYE, for the provisions in the bill regarding our future assistance to Indochina.

The language in the Appropriations Committee's report fully supports that carried in the foreign assistance authorization, which indicates that humanitarian aid should receive the highest priority in our assistance programs in Indochina. I commend the Appropriations Committee for this very clear-cut language in the report—quoting from page 89:

> The committee is strongly committed to meeting the humanitarian needs of the people in this war-torn area. Therefore, the committee fully intends that a maximum usage of these funds for humanitarian assistance be made available. These needs must be given the highest priority in our assistance program to Indochina.

Mr. President, this is a crucial point to be emphasized again in our consideration of foreign assistance to Indochina. For I believe this emphasis by the Committee on Humanitarian Assistance is also the very clear consensus of most Americans and many in Congress—that our only obligation remaining in Indochina is to the people of the area, especially to those refugees, civilian war casualties, orphans, and others disadvantaged by the war which we funded for so long.

If what the administration now calls its postwar relief and reconstruction program is to be worthy of its name, meeting these humanitarian needs must surely become the central focus of our assistance effort.

Yet, without this congressional mandate written into the language of the foreign assistance legislation, I doubt, Mr. President, that these priorities would have been as clearly reflected in our programs in the field. For despite the administration's greater verbal emphasis on humanitarian concerns and assistance—a fact, that in itself, stands in sharp contrast to previous justifications of our aid to Indochina—the administration's budget presentation to Congress does not fully carry out this stated humanitarian commitment. Too many of the old pacification, war-related aid programs remain in the program, even as the labels changed. And those projects most directly related to humanitarian relief of refugees and civilan war victims have been cut far more than comparable cuts in the commercial import program and other projects.

Hopefully, Senate action today will support the Appropriations Committee's effort to turn around our aid priorities in Indochina—from fueling war and involving ourselves further in the remaining political conflicts in the area, to truly helping heal the wounds of war.

I believe the $400 million appropriated by the committee is fully adequate to meet these humanitarian needs, and represents a wise reduction from the amount originally requested by the administration. In fact, the committee's action coincides with the amounts contained in amendments I introduced last June 22 to the foreign aid authorization bill. In applying the tests of humanitarian and basic support objectives to the administration's proposed allocations for Indochina, I strongly felt then, as I do now, that a number of projects recommended by AID should be totally eliminated and others drastically reduced. Some, because they encouraged and continued our direct involvement in the area—such as public safety and many old pacification projects—and others I cut because conditions of continuing violence prevent their successful implementation—such as some large scale construction and developmental projects.

Again, I commend the Appropriations Committee and fully support its conclusion that—

> In appropriating $400 million for Indochina reconstruction, the committee has made available funds necessary for meeting the basic human needs of the people of Indochina, and for supporting the economies of their countries. It has deferred other programs until a durable peace can be achieved.

In meeting the immediate humanitarian needs of war victims in Indochina, I also hope the administration will view the $107 million specifically earmarked by the committee as a minimum, rather than as the maximum to be spent on direct humanitarian programs. For if this $107 million is combined with the $30.5 million loosely specified for "reconstruction and rehabilitation" purposes, the total still represents less than a quarter of the funds appropriated for Indochina assistance. Surely, to spend any less than a quarter on humanitarian and reconstruction programs, can hardly be considered giving first priority to such programs. Therefore, I hope the administration will abide by the priorities established by the committee, even as I know that the Congress must be vigilant to see that the actual programs in the field reflect them.

Finally, Mr. President, I would again comment that one of the most glaring shortcomings in the adinistration's current approach to Indochina aid is the absence of any new initiatives or new programs to encourage greater international participation in the relief effort. Except for a general reference to the future possibility of multilateral approaches, the administration's budget proposal is silent. Regrettably, the thinking of a wartime bureaucracy, preoccupied with how to maximize American influence and presence, still dominates our policy and programs in Indochina—even under today's new conditions.

If we are ever to begin the transition from direct bilateral involvement to multilateral participation in aid programs to Indochina—if we are ever to end our mast-client relationships with the Governments of South Vietnam, Laos, and Cambodia—then our aid effort must now begin to encourage, and tangibly support, greater international participation.

The record is clear that a number of governments and international organizations are now prepared to contribute to humanitarian programs in Indochina if they are carried out under international auspices. A primary example is the Indochina Operations Group—(IOG)—of the International Red Cross. Another is UNICEF, and other specialized agencies of the United Nations. But the record is also clear that not much word of encouragement or support—and few offers of cooperative funding—have been made by our Government.

To date, we have offered the Red Cross IOG $2 million. But it is also clear that if we offered more, other nations would likely follow, and the constraints on the IOG's current level of operations would be eliminated. And, stated simply, they could do far more with less from us. Therefore, I would hope we would immediately offer greater support to the IOG program, both as a symbol as well as tangible evidence of what can be done for the people of Indochina through international humanitarian programs.

Over the coming year we must see some greater measure of concern within the administration in this area if we are ever to begin the process of transition—ending once and for all our client relationships with the governments of Indochina.

Again, Mr. President, I commend the Appropriations Committee for its fine report on Indochina aid, and for the humanitarian priorities so firmly established in the appropriations bill.

Mr. HATFIELD. Mr. President, it has been my privilege to serve as a member of the Subcommittee on Foreign Operations of the Senate Appropriations

Committee. Let me commend the chairman of the committee, the Senator from Hawaii (Mr. Inouye) for the very thorough and thoughtful leadership which he has exercised. He has devoted a painstaking inquiry into our foreign operations budget, along with the other members of the subcommittee. Further, he has been totally cooperative toward the minority members of the subcommittee. Partisan viewpoints and loyalties have been transcended as the subcommittee has reached a consensus on appropriations for our foreign assistance programs.

I must acknowledge that I am not a supporter of the overall thrust and priorities of our foreign assistance programs. Our foreign aid programs have been excessively dominated by funds for military and military-related purposes in other nations. Further, our programs of economic assistance have reflected, far too often, goals which are essentially political rather than humanitarian. Its effects frequently have been to support status quo regimes rather than to meet the pressing human needs of the poorest and most destitute members of the human family.

The actions taken by the subcommittee in the bill before us, however, include very important initiatives that are beginning steps to alter some of the deficiencies of our foreign assistance programs, in my judgment. In this regard, I would especially draw the Senate's attention to the subcommittee's reduction in our military assistance program, and to the language of the report justifying this action.

Likewise, I believe that the committee acted wisely concerning the proposed program of "Postwar Reconstruction for Indochina." By reducing the overall amount and stressing the priority of humanitarian assistance, the committee took the proper course of action in view of the fact that peace has yet to become a reality for the people of Indochina. Postwar reconstruction cannot be undertaken in a serious way until such a peace has actually been achieved.

In restoring funds cut by the House for United Nations programs, in increasing assistance to the victims of the Sahel famine, and in restoring in general funds for humanitarian programs, the committee demonstrated wise and compassionate judgments.

Let me draw specific attention to certain actions of the subcommittee and the full committee.

Mr. President, section 32 of the Foreign Assistance Act of 1973 states:

> It is the sense of Congress that the President should deny any economic or military assistance to the government of any foreign country which practices the internment or imprisonment of that country's citizens for political purposes.

The committee has made reference to this provision in the report, both in the section dealing on assistance to police and prisons in South Vietnam, and in the section dealing with assistance to Haiti.

Our programs of foreign assistance are frequently criticized because, it is alleged, we support corrupt and repressive governments with the funds that we give. Even though we may have the best intentions in mind, if those funds must be given to governments that are not truly committed to meeting the needs of their citizens, but rather to their own political survival, then those funds serve no useful purpose.

It is my conviction that this is the case for many countries that are receiving our assistance.

Haiti is but one illustrative example.

I was pleased with the action taken by my colleagues on the Foreign Operations Subcommittee with regard to assistance to Haiti. The language of the committee report reflects appropriately our concern.

In my judgment, the $8.9 million of economic assistance proposed for Haiti in this bill should be eliminated. I proposed this course of action in the subcommittee. Although there was not consensus on this point, there is deep concern over the merits of our assistance program to Haiti, and the subcommittee has made a firm pledge to investigate further the effects of this assistance program, and the political conditions that exist there.

I ask unanimous consent that the committee's language with respect to Haiti appear in the Record at this point.

There being no objection, the language was ordered to be printed in the Record, as follows:

ASSISTANCE TO HAITI

The Committee has taken note of the discussion by Congress concerning our provision of assistance to countries whose governments appear clearly to be in violation of basic political and human rights of their citizens by blatantly imprisoning dissidents for political purposes. This Congressional sentiment resulted in Section 32 of the Foreign Assistance Act of 1973, which reads as follows:

> It is the sense of the Congress that the President should deny any economic or military assistance to the government of any foreign country which practices the internment or imprisonment of that country's citizens for political purposes.

There is deep concern by the Committee that our foreign assistance, frequently justified in the name of protecting democracy and freedom, is furnished to certain regimes whose actions clearly violate these principles.

Also, the restructuring of the Foreign Assistance Act has stressed that our economic aid should be rendered according to its ability to directly meet the basic human needs of people rather than being used as a political tool for supporting the recipient government. The clear implication is that if a regime seems incapable of addressing itself forthrightly to the fundamental needs of its people, then our assistance to it, regardless of how well intended it may be, cannot be justified. Indeed, in such cases our economic and military aid can be perceived by the people of that particular country and by much of the world as undergirding a repressive and unresponsive government.

The Committee intends, therefore, to evaluate proposed future foreign assistance at least in part on conditions within the prispective recipient countries, including the governments' commitment to basic human rights and its demonstrated dedication to serving the humanitarian needs of its poorest and most deserving people.

As an illustrative case in point, the Committee has considered the $8.9 million in proposed economic assistance to Haiti that would be appropriated by this bill.

Haiti is the poorest country in the Western Hemisphere, with a per capita income of about $70.00 per year. From 80% to 90% of her population is illiterate. About nine out of ten Haitians live in desperate poverty in rural areas, earning $25 to $35 each year and facing a life expectancy of about 33 years. Only a small urbanized elite enjoy any opportunities for education or employment. Yet an estimated 50% of the 200,000 to 300,000 work force living in urban areas are unemployed. Thus, the needs of the 4.8 million Haitian people are painfully obvious.

The question remains, however, as to whether those needs are being adequately addressed by the present regime.

With the death of Francois Duvalier in April of 1971, his 20 year old son, Jean Claude, succeeded him as "President for Life." While there is some evidence to indicate that the grim visible terror of Francois Duvalier's regime may have subsided, it seems that autocratic rule characterized by an unflinching willingness to suppress people has not.

The Human Rights Commission of the Organization of American States has issued statements and findings concerning the repression of human rights in Haiti.

In March of this year, Amnesty International, recognized as an international source on political prisoners, wrote to President Duvalier stating that:

"Haiti's prisons are still filled with people who have spent many years in detention without ever being charged or brought to trial. Amnesty Internataional remains seriously concerned at the continued repression of dissent in Haiti and the denial of human and legal rights."

When the Duvalier government announced last year that it had "amnestied" 130 prisoners, it was revealed that many of those named were not in prison at all, but were living abroad. Many hundreds of Haitians continue to suffer as political prisoners, to say nothing of those who have fled their homeland to escape persecution.

The Inter-American Press Association, at the end of 1972, made the following observation in their report:

"There is no freedom of the press (in Haiti). . . . The press continues to be unconditionally subjected to the whim of duvalierian dictatorship."

In addition, there are serious questions as to whether the Haitian government has demonstrated capability and dedication in acting to meet the pressing social and humanitarian needs within their country.

The current national budget of Haiti is $33.3 million. The government intends to spend a full $8 million on the Ministry of Internal Security and National Defense, 25% of her budget. That leaves only 13% ($4.3 million) for the Ministry of Health, 12% ($3.9 million) for National Education, and 8% ($2.6 million) for agriculture, despite the fact that agriculture accounts for 80% of the nation's economic activity and is the only source of livelihood for the nearly 90% of Haitians who are rural peasants.

Further, a memorial for Francois Duvalier is being built at the reported cost of $1 million, and the stadium at Port-au-Prince has recently been expanded at the approximate cost of $1.5 million, part of a $5 million governmental investment this year to host World Cup soccer elimination games.

In recent years, the Haitian government has been aggressive in attempting to attract outside business investment. The principal types of investments, however, have been for luxious tourist facilities and for assembly factories which take advantage of extremely low Haitian wages. Such factories, however, have created only about 1,000 new jobs per year on the average, which hardly makes a dent in the estimated 100,000 or more unemployed in the urban areas, or in the estimated 12,000 who leave the country each year in search of work. Moreover, while the parent American company having a product assembled in Haiti will pay the Haitian contractor approximately $1.70 per hour for each employee, the salary actually received by the workers averages about $.16 to $.20 per hour. It should be noted that the prospect of such investment ever "trickling down" to relieve the plight of the urban unemployed, or to have any effect on the abject suffering of Haiti's millions of destitute rural poor is remote if not impossible.

United States foreign assistance was suspended in 1963, and has been only gradually resumed since, until the past two years. The Committee notes that the proposed level of assistance to Haiti in AID's illustrative budget has almost tripled since FY 1972, to the current level of $8.9 million, not including an additional $2.1 million under P.L. 480. AID projects a continued increase in such assistance during the next two years. Further, the Committee notes with some concern that in August and October of this year weapons and ammunition worth about $275,000 were sold by our government to Haiti under the Foreign Military Sales program. (Also, last year and the year before licences were granted for the private purchase of military equipment from United States sources.)

These amounts of assistance are relatively small. Yet, they represent a decision to begin a significant program of assistance to the Haitian government. Even now, the projected flow of U.S. resources to Haiti in FY 1974—$11.0 million—is equal to one third of Haiti's national budget.

For the reasons stated, the Committee questions the decision to resume and expand assistance to Haiti. It is Committee's opinion that despite the desperate need of the Haitian people, the conditions may not exist within the Haitian government which would enable our resources to be put to beneficial use. A primary effect of such aid, in the Committee's judgment, could be to make a regime whose violation of human rights seems to be flagrant and whose dedication to meeting the humanitarian needs of its people is dubious, dependent upon and undergirded by United States resources.

For these reasons, the Committee intends to hold a special hearing immediately next year to examine our assistance program to Haiti.

We will be investigating and closely watching developments within that country to determine whether our program of assistance is justifiable.

The Committee realizes that similar cases may be made against our giving of aid to other countries. The Committee intends to give critical examination to our assistance programs, particularly in those cases where governments are cahracterized by a denial of human rights and seem insufficiently committed to meeting the basic humanitarian needs of their citizens.

Regardless of how critical the need, the United States cannot do for the peoples of other countries what their own governments seem unwilling to do. Our foreign assistance must never subsidize the corruption, lack of commitment, unresponsiveness, or tyranny by other governments toward their own people. The Committee believes these perspectives are responsive to the intent of the Foreign Assistance Act of 1973.

Mr. HATFIELD. Mr. President, I would draw the special attention of my colleagues to the last paragraph of this section of the report, and particularly the sentence—

> Our foreign assistance must never subsidize the corruption, lack of commitment, unresponsiveness, or tyranny by other governments toward their own people.

Mr. President, this is also the intent of section 32 of the Foreign Assistance Act of 1973.

As a member of the Foreign Operations Subcommittee of the Appropriations Committee, I believe that we should take the initiative in determining the conditions within countries which are receiving our assistance, particularly with respect to their treatment of those in opposition to their government. There is no reason for our Government to ever subsidize tyranny abroad.

With this in mind, I requested that the Congressional Reference Service of the Library of Congress survey, from the resources available to it, the conditions of political and religious liberty in several countries that are recipients of our foreign assistance. These reports are most illuminating, and I recommend them to my colleagues. Further, since under the terms of the Foreign Assistance Act, the President is to terminate any military or economic aid to a government which imprisons its citizens for political purposes, I also recommend these reports to the administration as it conducts its review of our foreign assistance programs with this provision of law in mind.

I ask unanimous consent that these reports, prepared by the Congressional Reference Service of the Library of Congress, regarding political and religious liberty in several countries receiving our foreign assistance, be printed in the RECORD at this point.

There being no objection, the reports were ordered to be printed in the RECORD, as follows:

THE STATUS OF POLITICAL AND RELIGIOUS LIBERTIES IN AID-RECIPIENT COUNTRIES: ARGENTINA*

AID SUMMARY[1]

Total Official U.S. Development Assistance FY 1946–1972—$197.6 million.

Total Official U.S. Development Assistance FY 1972—$0.

Total U.S. Military Programs FY 1953–1972—$162.4 million.

Total U.S. Military Programs FY 1972—$20.3 million.

Proposed total of all U.S. Resources Transferred FY 1974—$24,854 million.

The following paper is a summary account of the status of political and religious liberties in Argentina and is not intended to serve as a comprehensive analysis.

For the majority of the past 18 years, since the ouster of General Juan Peron in 1955, Argentina has been under the rule of the military, the major source of power in the nation. There have been only intermittent periods of government led by elected civilian presidents. General Peron, originally a member of a military group which took over the Government in 1943, was elected to office in 1946 and established a "highly authoritarian and nationalistic dictatorship,"[2] accompanied by the suppression of Argentine civil rights.[3] In the interim years before General Peron again came to power in 1973, Argentine political life has been characterized by a continual conflict between the military and the large following of Juan Peron, which he directed from exile in Spain, and which, despite repeated exclusions from participation in the political process, remained the principal political opposition in the nation.

The military government that ruled after the fall of Peron withdrew after 3 years in favor of elections in 1958. The military intervened again to oust the elected government of President Arturo Frondizi in 1962, substantial electoral gains by the Peronistas being a major factor. Following election in 1963, Argentinians enjoyed a brief period of political freedom under the elected government of Arturo Illia, but his term was interrupted by a military coup in 1966 [again major electoral gains by the Peronistas servin gas a key factor], bringing to power Lt. Gen. Juan Ongania and the institutionalization of authoritarian military rule in Argentina. Ruling by decree and repeated imposition of states of seige which suspended all constitutional guarantees, Gen. Ongania concentrated executive and legislative power in his hands. The national and provincial legislatures were dissolved, all political parties and political activity was outlawed, the supreme court justices, the elected provincial governors, and all other elected officials were dismissed and replaced by loyal Ongania backers responsible to the Executive. Police controls were tightened and the judiciary put under heavy pressure to uphold Government policies; strict press censorship was imposed prohibiting any criticism of the Government and its leaders. The universities were temporarily closed, many professors were ousted, and student political activity prohibited.[4]

General Ongania's increasingly repressive policies, which provoked widespread unrest particularly within the labor movement[5] and among the students, and generated increased terrorist activity, led to demands by elements of the military that he restore constitutional government and democracy. His refusal brought about another military coup in June 1970, placing Brig. Gen. Roberto Marcelo Levingston in power with a promise to "return to democratic normalcy."[6] Political parties remained outlawed, however, and elections were not scheduled [the Levingston government announced that four or five years were necessary to stabilize the country in preparation for elections].

Argentina's continuing political and economic crisis led to Gen. Levingston's replacement in March 1971, in another move by the military, by Gen. Alejandro Lanusse, who pledged "the full reestablishment of democratic institutions in a climate of liberty, progress and justice."[7] The Lanusse government instituted the Gran Acuerdo Nacional [Great National Agreement] designed to open dialog among the nation's major political forces to effect an accord on a means to political stability. All political parties were legalized and the first general elections since 1966 were scheduled for March 1973. Lanusse's agreement contemplated a conciliation between the military and the Peronistas, including Gen. Juan Perono Peron returned briefly from exile in November 1972 and refused his party's presidential nomination. [He was legally barred from running as a presidential candidate because he returned later than the Argentine residency deadline set by the military for all potential candidates.] The Peronista coalition presidential candidate, Dr. Hector J. Campora [candidate of Peron's Justicialista Movement and numerous smaller parties] was elected from a field of nine candidates. Immediate actions by his government and the newly elected National Congress included the declaration of a general pardon of all political prisoners and the repeal of legislation considered repressive. In July 1973, obviously according to a pre-arranged plan, Dr. Campora resigned his office in favor of an interim president, staging the way for Juan Peron, who returned to Argentina in June so he could run as a candidate in the special election of September 1973. Peron won the election with 62 percent of the vote in a field of four candidates, and was inaugurated on October 12.

President Peron's platform called for peace, unity and national reconciliation, although thus far his government has not announced a general program. Although it is too soon to determine the course of the Peron government, according to analysts, many Argentines view Peron as the only real hope of averting political and economic chaos, although he left Argentina in severe political and economic difficulties in 1955.[8] There is speculation among analysts that Peron will reestablish a highly personalistic government.[9] Indications cited by some observers include a reported crackdown by top Peron government officials in the form of unofficial purges of what has been termed "Marxist elements" in the nation through increased police action and unofficially sanctioned violence,[10] and the imposition of some restrictions on the press.

As concerns political prisoners in Argentina, as previously stated, the elected government of Dr. Hector Campora, in May 1973, promulgated a law of general amnesty with the resultant release of all political prisoners [some 1200]. Further, the law negated all convictions for crimes committed for reasons connected with political, social, labor, or student activities, and abolished the special "anti-subversive" courts previously established by the military government.

Prior to that time, frequent political arrests were made by the military governments under an anti-Communist, anti-subversion law [Law 17401], and other arbitrary detentions carried out at the discretion of the Executive power during the intermittently declared states of siege. Political prisoners were placed under military jurisdiction; trials and convictions took place under a special tribunal created by the military government. In its 1972–73 report, Amnesty International cited "many allegations of torture of prisoners during the interrogation period," which the organization had on several occasions brought to the attention of the military governments. Government officials maintained that there were no political prisoners in Argentina.[11]

Under the Ongania government, the influence of the Argentine press was greatly reduced. At that time, restrictions were imposed banning publications which criticized public officials, an act that largely eliminated media.[12] Although press freedom was largely political reporting in the press and other restored under Ongania's successor, General Levingston,[13] a new press law incorporated in the penal code in 1972, imposed during the Lanusse government, prohibited the media from publication of communiques or news emanating from groups considered terrorist or "subversive," and established sentences for violations.[14] The 1972 annual report of the Inter-American Press Association's Freedom of the Press Committee stated that, "in general terms, the press has been able to inform and comment with absolute freedom," although there were isolated instances of temporary censorship and closing of publications by Executive authority.[15]

The Peronist interim government, which assumed control after Dr. Campora's resignation, instituted a new press decree forbidding foreign news agencies from supplying Argentine newspapers with national news, thereby increasing reliance on the Government news agency by all but the largest papers which could afford to employ correspondents around the nation. The law imposed certain other restrictions on the media as to percentage of content of subjects—50 percent of the news printed must be about Argentina, with second preference to other Latin American countries, and finally world news.[16]

In Argentina, all religious creeds enjoy freedom of worship, although by constitutional provision the President must be of the Catholic faith, and protestant services may not be broadcast.[17]

FOOTNOTES

[*] This report was written by Virginia Hagen, Analyst in Latin American Affairs.

[1] U.S. Agency for International Development. U.S. Overseas Loans and Grants and Assistance from International Organizations: Obligations and Loan Authorizations, July 1, 1945–June 30, 1972. Washington, May 1973, p. 35.

[2] The Europa Year Book 1973: A World Survey. Vol. II. London, Europa Publications Ltd., 1973, p. 29.

[3] Kantor, Harry. Patterns of Politics and Political Systems of Latin America. Chicago, Rand McNally & Company [1969] p. 588.

[4] The Europa Year Book 1973, op. cit., p. 29; Political Handbook and Atlas of the World, 1970. New York, published for the Council on Foreign Relations by Simon and Schuster, 1970, p. 12 and its 1971 Supplement: The World This Year, p. 5–6; Worldmark Encyclopedia of the Nations, Vol. 3: Americas. New York, Harper and Row, 1971, p. 6; The American University, Foreign Area Studies Division. Area Handbook for Argentina. Washington, U.S. Govt. Print. Off. [1969] p. 44, 187–210.

[5] Despite attempts by succeeding military governments alternately to win labor support and emasculate the political power of Argentina's labor movement, it remains one of the best organized and most militant in Latin America. [Reed, Irving B., Jaime Suchlicki and Dodd L. Harvey. The Latin American Scene of the Seventies: A Basic Fact Book. Miami, University of Miami Center for Advanced International Studies, 1972, p. 2.] It has maintained an active and powerful role in the political processes of the nation since its original strengthening as a power base by Peron. During the repeated periods of military rule, especially under President Ongania, government decrees placed strict controls on labor, prohibiting political activity of any kind, limiting strikes, and providing for government supervision. Labor, however, continued to function as the primary base of opposition to military rule, and the last two military governments (that of Gen. Levingston and Gen. Lanusse) sought conciliation with the labor movement in an effort to stabilize the nation.

[6] Fernandez, Julio A. Crisis in Argentina. Current History, v. 64, no. 378, February 1973: 51.

[7] Ibid.

[8] U.S. News and World Report, October 8, 1973: 70.

[9] Cox, Robert. Argentina: Unification Through Cultism. New York Times, September 30, 1973: 14.

[10] Rosenbaum, Mort. Peron's Return Fails to Ease Tensions. Washington Post, November 11, 1973: 2.

[11] Amnesty International. Annual Report 1972–73. London, Amnesty International Publications, September 1973, p. 44–45, 72–73.

[12] Political Handbook and Atlas of the World, op. cit., p. 13.

[13] The World This Year, 1971, op. cit., p. 6.

[14] The Inter-American Press Association. Freedom of the Press Committee. Report to the XXVIII Annual Meeting, Santiago, Chile, October 1972.

[15] Ibid.

[16] Kandell, Jonathan. Argentina Cubs Local News by Foreign Press Services. New York Times, August 22, 1973: 7.

[17] Worldmark Encyclopedia of the Nations, op. cit., p. 4.

The Status of Political and Religious Liberties in Aid-Recipient Countries: Bolivia[*]

The following paper is a summary account of the status of political and religious liberties in Bolivia and is not intended to serve as a comprehensive analysis.

AID SUMMARY[1]

Total Official U.S. Development Assistance FY 1946–1972—$547.2 million.

Total Official U.S. Development Assistance FY 1972—$60 million.

Total U.S. Military Programs FY 1953—72 —$31.7 million.

Total U.S. Military Programs FY 1972—$4.8 million.

Proposed total of all U.S. Resources transferred FY 1974—$42,624 million.

On August 22, 1971, a military coup led by Colonel Hugo Banzer Suarez, with the support of Bolivia's rightist party, the *Falange Socialista Boliviana*, and segments of the left-oriented *Movimiento Nacionalista Revolucionario*, overthrew the leftist-oriented military government of General Juan Jose Torres (in power since October 1970). According to political leaders of both parties, the overthrow of the Government was necessary "to keep the country from falling into the hands of Communism."[2]

The Banzer government has allowed political activity by most of Bolivia's political parties, although several parties, Communist and extreme leftwing, are proscribed. (All political party activity had been suspended under the government of General Alfredo Ovando Candia, 1969–1970, and the suspension had continued under President Torres.) No elections have been held since 1966, and the National Congress has not met since September 1969, when it was suspended.

The Banzer government declared a state of sieze in November 1972 in response to increasing labor unrest, which resulted from new economic measures including a 66 percent devaluation of the Bolivian peso earlier ordered by President Banzer, and to a protest strike in La Paz, which the Government termed an outbreak of "open conspiracy against the government."[3] Under the state of siege, which remained in effect through April 1973, large political gatherings were prohibited, constitutional guarantees relating to individual rights were suspended, and entry of homes and detention without warrant was permitted. The files of the U.S. Catholic Conference indicate that during the state of siege, opposition political activists from the political and governmental, educational and intellectual, press, labor, and liberal church sectors of society suffered persecution and arrest. It has been further alleged by the same source that army search parties and unofficial "death squads" seized and assassinated citizens considered to be "subversive", without hindrance by the Bolivian Government.[4] It is reported that instances of mass arrest and political assassinations of members of leftwing groups and other individual accused of complicity with guerrillas have increased as a result of political tensions in early 1973.[5] In November 1971, the death penalty was reinstituted. It is estimated that 5,000 people have left the country as a result of political persecution, and that the Government has deported 350 political prisoners.[6]

Bolivia's eight autonomous universities were closed for a five-month period beginning in September 1972, after which academic authorities and professors were dismissed, some student leaders were arrested, and activities of academic and teachers' organizations were halted. When the universities reopened in February 1973, Government supervisors had been placed in all educational institutions and the universities had been reorganized, according to the Bolivian Government, in order to realign them "in the reality of the country, in harmony with the objectives of the present national state.[7]

After coming to power, President Banzer broke up the Bolivian trade unions. More recently, it is reported that he has allowed the revival of these unions under new leadership which is closer to the common laborer.[8]

Since President Banzer came to power in 1971, an estimated 2,000 political prisoners have passed through Bolivian prisons and detention camps. Amnesty International reports that although the majority of those detained in the first months of the Banzer Government have been released,[9] and several amnesties were decreed in the latter part of

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Footnotes at end of article.

1972 and the beginning of 1973, more than 300 "prisoners of conscience" remain as of September 1973, and others have died as a result of torture in prison. In December 1972, a general amnesty decreed by the Government was cancelled owing to an alleged plot against President Banzer.[10] In May 1973, the Minister of the Interior announced that 81 political prisoners had been turned over to Ordinary Justice for trial, but judicial action has not yet been taken.[11] It is reported that no political prisoners have been brought to trial in Bolivia since August 1971. The Bolivian Government maintains that "no non-violent political prisoners remain in detention" at this time.[12]

The Banzer government has been criticized by prominent organizations which allege that it practices repressive and authoritarian methods. An organization within the Bolivian Catholic Church, the Bolivian Committee for Justice and Peace, has appealed to the President for amnesty for imprisoned political dissidents and an end to extralegal practices such as arrest on mere suspicion without trial, political assassination, and torture, and has sought support from human rights organization abroad.[13]

On July 20, 1973, the Division for Justice and Peace of the United States Catholic Conference issued a "Statement of Solidarity on Human Rights in Bolivia" to the President of the Bolivian Justice and Peace Commission in La Paz citing "the systematic, long-standing and violent repression of human rights" in Bolivia, the "documented atrocities" that have occurred in Bolivia during the past two years, and the "reign of terror . . . directed . . . quite indiscriminately against anyone engaged in social action program." [14]

Concerning freedom of the press in Bolivia, it is reported that some politically and/or socially activist religious publications and media programs have been subject to censorship.[15] According to the 1972 annual report of the Inter-American Press Association:

"In Bolivia newspapers that support the government, and independent newspapers, are published freely. Due to political upheavals suffered by Bolivia during the last few years, there are journalists in prison in that country, although no information is available on the real reason for which they have been deprived of their liberty. Numerous other journalists are in exile. . . ." [16]

Religious freedom is not restricted in Bolivia except in the case of previously discussed political activity by religious leaders.

FOOTNOTES

[*] This report was written by Virginia Hagen, Analyst in Latin American Affairs.

[1] U.S. Agency for International Development. U.S. Overseas Loans and Grants and Assistance from International Organizations: Obligations and Loan Authorizations, July 1, 1945—June 30, 1972. Washington, May 1973. p. 39.

[2] Rebellion Erupts Against Leftist Bolivian Government. New York Times, August 20, 1971: 3.

[3] Bolivia Declares a State of Siege in Protest Strike. New York Times, November 24, 1972: 1, Bolivian Crisis. Washington Post, November 1, 1972.

[4] Files of the U.S. Catholic Conference, Latin America Bureau, Washington, D.C.

[5] Amnesty International. Annual Report 1972–73. London, Amnesty International Publications, September 1973, p. 44, 46.

[6] Report of the Bolivian Committee for Justice and Peace, May 1973. (The Committee is made up of liberal and conservative elements of the Bolivian Catholic Church)

[7] Deadline Data, 1972, p. 75.

[8] Neilson, James. Rightist Bolivian Government Moves to Center. Washington Post, July 1, 1973: H3.

[9] Amnesty International. Special Publicity Appeal for Bolivian Prisoners, August 1973.

[10] Amnesty International, Annual Report . . . , p. 45, 46.

[11] Amnesty International, Special Publicity Appeal . . .

[12] Amnesty International, Annual Report, p. 46.

[13] Bolivian Committee for Justice and Peace.

[14] United States Catholic Conference. Division for Justice and Peace, Washington, D.C. Statement of Solidarity on Human Rights in Bolivia, July 20, 1973.

[15] Files of the United States Catholic Conference, Latin America Bureau, Washington, D.C.

[16] Inter-American Press Association. Freedom of the Press Committee. Report to the XXVIII Annual Meeting, Santiago, Chile, October 1972.

The Status of Political and Religious Liberties in Aid-Recipient Countries: Brazil[*]

AID SUMMARY[1]

Total Official U.S. Development Assistance FY 1946–72—$2,377.3 million.

Total Official U.S. Development Assistance FY 1972—$21.0 million.

Total U.S. Military Programs FY 1953–1972—$413.6 million.

Total U.S. Military Programs FY 1972—$20.8 million.

Proposed total of all U.S. Resources Transferred FY 1974—$76,916 million.

The following paper is a summary account of the status of political and religious liberties in Brazil, and is not intended to serve as an in-depth or comprehensive analysis.

Governing through three successive presidents, the Brazilian military have been in power since a coup d'etat on March 31–April 1, 1964 toppled the leftist-oriented government of Joao Goulart. In their desire to achieve the Brazilian "economic miracle," and in implementing their conservative political model, the governments of Presidents Castelo Branco, Costa e Silva, and Garrastazu Medici, all from the senior ranks of the armed forces, have concentrated great power in the executive branch of government and have taken strong measures in the name of national security. Some of these measures, undertaken in the quest for the stability the military feel is necessary to accomplish the economic and political goals, have led to worldwide censure and criticism by prominent organizations that have charged that the Brazilian governments have been authoritative and repressive.

In the first week after the coup, the Government arrested over 7,000 people in order to secure firm control of the country. During the Castelo Administration, the political party system was reorganized so that only two parties were permitted to function: the Government-sponsored National Renovating Alliance (ARENA) and the legal opposition, the Brazilian Democratic Movement (MDB). Decree laws were passed which gave military courts jurisdiction over crimes related to national security and a new constitution empowered the President to issue decree laws and declare states of siege without prior approval of Congress. Under the National Security Act, Decree 314 of March 14, 1967, various violations of the law, such as those governing the press, were considered political crimes, as were strikes.[2]

Opposition protests, which began to develop during the Castelo government, became more widespread under the Costa e Silva Administration and the military countered. Bloody clashes, which occurred in March-April 1968 between students and soldiers, led to official protests from national church leaders. Clergy at the Brazilian National Conference of Catholic Bishops in July 1968 warned of further violence if the situation continued.[3] Many liberal and conservative churchmen were brought into confrontation with the authorities as the military arrested many members of the clergy on charges of aiding the Communist conspiracy; the Archbishop of Belo Horizonte charged that the Church was being persecuted.[4]

During Costa's rule, right and left wing terrorist groups became active and in Rio de Janeiro and Sao Paulo right wing vigilantes, known as the Death Squad, for the most part comprised of off-duty policemen, began an assassination campaign against alleged criminals. Various incidents including the killing of a U.S. Army captain in Sao Paulo, soldier-student clashes, Congress' refusal to void the congressional immunity of a severe critic of the military, a Supreme Court order releasing student leaders arrested for attempting to hold a national convention of the outlawed National Union of Students, and pressure on Costa e Silva by hardline military elements to respond to such challenges to their authority,[5] led to the promulgation of Institutional Act No. 5, which was signed on December 13, 1968.

Under Institutional Act No. 5, Congress was suspended and many citizens, including some opposition politicians and three state governors, were arrested on charges of subversion. It is estimated that in the period from the promulgation of the Act until October 1969, 521 persons lost their political rights, included among them were many Members of Congress and members of state legislatures; a number of state legislatures were suspended. In January 1969, three justices of the Supreme Court were removed and the Chief Justice resigned in protest.[6] In February 1969, the Government banned student and faculty protests and in April it ordered the retirement of 68 prominent professors, many of whom were not politically active and some of whom were well-known conservatives.[7]

The Costa e Silva Administration continued to act against dissidents through a series of decrees and institutional acts such as Decree Law 898 of September 1969 which reintroduced the death penalty for political crimes.[8]

Just prior to the time when it was speculated that Costa e Silva was going to announce the reconvening of Congress, the President suffered a stroke on August 31, 1969. Bypassing civilian Vice President Pedro Aleixo, the three armed forces ministers took over the Government for 60 days. After capitulating to the demands of revolutionaries who kidnapped U.S. Ambassador Elbrick by releasing 15 political prisoners in early September, the ruling triumvirate promulgated institutional acts which set the death penalty for psychological, subversive, or revolutionary warfare, established banishment as a penalty, and canceled municipal elections scheduled in nine states.[9]

When it was determined that Costa e Silva's incapacitation was permanent, the military High Command nominated General Emilio Garrastazu Medici to serve out the remainder of the term and to serve the full term ending in March 1974. On October 25, 1969, Medici was elected by the reconvened Congress and Admiral Augusto Rademaker, Minister of the Navy, was elected Vice President. Medici expressed his hopes to restore democracy before the end of his Administration.[10] The new constitution, promulgated on October 17, 1969, was a codification of many of the powers that the military had assumed since the declaration of Institutional Act No. 5. The constitution restricts the powers of Congress and no longer provides for congressional immunity from criminal prosecution.[11]

President Medici, basically, has followed the policies of the previous governments, overseeing Brazil's substantial economic growth and concentrating more power in the executive. He signed a decree in November

1971 which gave the President the power to promulgate secret decrees relating to any subject dealing with national security. The following month, he signed a new human rights law which stated that the meetings of Brazil's major human rights body, the Council for the Defense of the Rights of Man, as well as the decisions taken at its meetings, will be secret.[12]

Allegations of torture of political prisoners increased after the military's cession to the demands of leftist revolutionaries for the release of their colleagues in return for Ambassador Elbrick in September 1969. The National Conference of Brazilian Bishops that month expressed concern over the conflicts in Brazilian society and condemned "jailings and prison tortures."[13] A dossier containing broad charges of murder and torture by Brazilian authorities was endorsed by 61 prominent European Roman Catholics and presented to the Pontifical Commission of Justice and Peace at the Vatican in December 1969. A report from the Papal Nuncio in Brazil sent to the Pope charged that suspected terrorists and political prisoners have been subjected to electric shocks and other forms of torture. The Brazilian Government generally was regarded as the object of Pope Paul's mention of torture in his Easter Week message in March 1970.[14] In 1970, the International Commission of Jurists condemned torture in Brazil.[15]

The Organization of American States' Inter-American Commission on Human Rights, passed a resolution in May 1972 stating that "the evidence collected . . . leads to the persuasive assumption that in Brazil serious cases of torture, abuse and maltreatment have occurred to persons of both sexes while they were deprived of their liberty."[16]

The Brazilian Government, thus far, has refused to permit onsite investigations by the OAS or any other body.

After a three-year study of allegations of torture of political prisoners, Amnesty International released a report in September 1972 which charged that over 1,000 Brazilians had been tortured and stated that Amnesty had the names of over 400 Brazilians who were directly responsible, as well as the names of the Brazilian law enforcement bodies involved.[17]

In a report critical of the Brazilian economic "miracle," issued in May 1973, 14 Brazilian bishops and archbishops charged that the Government had used repressive measures in order to guarantee its economic system.[18]

The Brazilian Government's response to allegations of torture generally has been quiet in nature. Its response on May 8, 1970, however, was direct.[19] The Government contended that charges of torture are "prompted by international agents of subversion and harbored by a morbid and sensationalist sector of the foreign press." It further stated—

"There is no torture in our prisons, nor do we have people confined merely because of their political beliefs. In Brazil, no one is deprived of liberty simply for diverging from the democratic orientation defended by the Government."

The statement continued that those in prison "are terrorists, detained while undergoing regular trial for crimes they committed assaulting defenseless persons, holding up banks and individuals, and kidnapping diplomats to negotiate exchange of prisoners."

As proof that prisoners are not tortured, the Government cited the fact that "following the exchange of the diplomats for the delinquents, none of the latter, who had been expressly indicated by the terrorists, were found to bear any signs of violence or torture whatsoever."

In December 1970, then Minister of Education Jarbas Passarinho made the first official acknowledgement that excesses were being engaged in by law enforcement agencies in Brazil when he publicly denounced torture and blamed overzealous police officers who went beyond official policy.[20] In August 1973, the Brazilian Embassy in Washington reiterated that torture of political prisoners is not the policy of the Government nor is it condoned when it might occur.[21]

Press censorship under the military government has become more severe since August 1972. Prohibited from publication are news items concerning censorship, tensions between the Church and the Government, and discussions of democracy in Brazil.[22] In its annual report for 1972, the Committee on the Freedom of the Press of the Inter-American Press Association described recent Brazilian censorship regulations as "the strictest since the military seized power in 1964." The report attributed Government attempts to squash rumors of President Medici's successor as one of the prime reasons for tighter control even though it seemed as if everyone knew that General Ernesto Geisel was the front runner.[23] Several newspapers have attempted to fight censorship through the Brazilian courts but the military's final word is that the Government is empowered to declare censorship under Institutional Act No. 5.[24]

Religious freedom in Brazil is not restricted but there is tension between national church leaders and the military government. Sectors of the Catholic Church have become the only effective vehicles of dissent and have expressed openly their charges of torture and repression as discussed above.

In June 1973, the military hierarchy made its selection for the next President of Brazil, General Ernesto Geisel, head of Petrobras, the Government oil monopoly, and brother-in-law of the Minister of War. He will be elected on January 15 at an electoral college. He has proven himself an able administrator but at this point it is mere speculation to discuss the direction his government will take.

FOOTNOTES

*This report was written by Barry Sklar, Analyst in Latin American Affairs.

[1] U.S. Agency for International Development. U.S. Overseas Loans and Grants and Assistance from International Organizations: Obligations and Loan Authorizations, July 1, 1945–June 30, 1972. Washington, May 1973. p. 40.

[2] International Documentation on the Church (IDOC). Report on Allegations of Torture in Brazil—Amnesty International No. 48, November 1972, p. 10. (Hereafter cited as IDOC)

[3] Congressional Research Service (CRS), Library of Congress. Repression of Civil Liberties and Human Rights in Brazil since the Revolution of 1964. CRS multilith prepared by Rieck B. Hannifin, June 26, 1970, p. 27 (Hereafter cited as CRS)

[4] Ibid., p. 28.

[5] Schneider, Ronald. The Political System of Brazil. New York, Columbia University Press, 1971, p. 273.

[6] CRS, p. 33.

[7] Goodsell, James. Ouster of Professors Saps Brazilian Talent. Christian Science Monitor, May 9, 1969.

[8] IDOC, p. 10. The death sentence had been abolished in 1822 when Brazil became an independent nation. Thus far the death penalty has not been carried out.

[9] CRS, p. 45.

[10] Deadline Data.

[11] CRS, p. 46.

[12] IDOC, p. 12.

[13] National Catholic News Service. Brazilian Bishops Support Torture Investigations, March 12, 1970.

[14] CRS, p. 49.

[15] Washington Post, July 23, 1970.

[16] OAS. Inter-American Commission on Human Rights. Resolutions on Case 1684 (Brazil), approved at the 3rd meeting of the 28th session, May 3, 1972.

[17] IDOC.

[18] Washington Post, May 27, 1973.

[19] Embassy of Brazil. News from Brazil.

[20] New York Times, December 4, 1970.

[21] Conversation with Embassy staff, August 1973.

[22] New York Times, February 17, 1973.

[23] Inter-American Press Association. Committee on the Freedom of the Press. Report to the General Assembly of the IAPA, Santiago, Chile, October 1972, p. 9.

[24] Inter-American Press Association News, June–July 1973.

STATUS CF POLITICAL AND RELIGIOUS LIBERTIES IN AID-RECIPIENT COUNTRIES: THE KHMER REPUBLIC (CAMBODIA) *

AID SUMMARY [1]

Total U.S. Official Development Assistance, FY 1955–1972: $388.4 million.

Total U.S. Official Development Assistance, FY 1972: $57.6 million.

Total U.S. Military Programs, FY 1955–1972: $475.0 million.

Total U.S. Military Programs, FY 1972: $186.9 million.

Proposed total of all U.S. Resources Transferred FY 1974 at least $287,648 million.

The following paper is merely a summary account of the status of political and religious liberties in the Khmer Republic and is not intended to serve as an in-depth or comprehensive analysis.

The Khmer Republic has been in existence since the overthrow of Prince Sihanouk in March 1970; a republic was officially proclaimed in October 1970. Since that time, the Cambodian Government has been at war with Cambodian Communist insurgents and North Vietnamese forces, who have occupied large portions of the country.

The Khmer Republic has had several forms of government since 1970. The leadership originally consisted of Lon Nol as Prime Minister, Sirik Matak as Deputy Prime Minister, Cheng Heng as Chief of State, and In Tam as First Vice President. In 1971 the Lon Nol government came under criticism from student groups and the National Assembly; the Assembly particularly wanted the right to consider acts by the Government.[2] Lon Nol acted in September and October 1971 by firing In Tam and Douc Rasy, editor of the Government magazine Realites Cambodgiennes; Rasy had been critical of the Government. Lon Nol allowed the National Assembly session to expire on October 18 rather than extend its term; and the Government decreed that the Assembly would henceforth act only as a constituent assembly to write a new constitution. The Government also announced that it would govern by decree under a "state of emergency."[3]

In February and March 1972, in a period of demonstrations by Buddhists and students, Lon Nol made several changes in the Government which extended his own powers. He took over the post of Chief of State from Cheng Heng and dismissed Sirik Matak (against whom many of the demonstrations were directed). He also dissolved the constituent assembly[4] and selected a committee to draft a new constitution. Submitted to a referendum on April 30, 1972, 90 percent of the voters approved it, according to official figures.[5]

The new constitution provides for a President and Vice President elected by direct universal suffrage every five years. A two-chambered Parliament, the National Assembly, elected by direct universal suffrage and the Senate, chosen through indirect elections and appointments, votes on Government bills, the budget, and declarations of war and of national emergencies. A Supreme Court determines the constitutionality

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Footnotes at end of article.

of bills presented to Parliament. The constitution provides for freedom of conscience, worship (Buddhism is made the state religion),[6] expression, and association. It guarantees the right of every citizen to criticize the Government, providing this is done without recourse to violence and in law-abiding manner. Habeas corpus is guaranteed.[7]

In the June 1972 presidential election, Lon Nol won with 55 percent of the vote, defeating In Tam and Keo An, an academic. Less than one million people voted. Both In Tam and Keo An charged election irregularities; In Tam alleged that the names of as many as 100,000 of his supporters had been removed from the registration lists. The Government denied the charges. During the campaign, Government agencies and the armed forces actively supported Lon Nol, who received most of the votes of the military (estimated at somewhere near 200,000 men).[8] In Tam and Keo An were allowed to campaign openly, but they were denied air time on the Government-owned radio and television stations.[9]

In elections for Parliament held in September 1972, the Democratic and Republican parties, led respectively by In Tam and Sirik Matak, boycotted the vote, charging that it was rigged in favor of Lon Nol's Social Republicans. Supporters of the Government charged, in turn, that the opposition withdrew because it knew it could not win.[10] As a result, Lon Nol supporters won nearly all the seats with 96.19 percent of the vote.[11]

In April 1973, Lon Nol opened up his government to include some of his rivals. A four-man council, composed of Lon Nol, Cheng Heng, In Tam, and Sirik Matak was established as a basic decisionmaking body. In Tam also became Premier.

Until March 1973, groups such as students and teachers were allowed to protest and demonstrate against Government policies, and there were significant protests during the October 1971-March 1973 period. The most prominent were the student strikes in March 1972 against Sirik Matak, strikes of Government workers in mid-1972 for higher wages, and a strike of 20,000 teachers in February-March 1973 over economic issues.[12]

Throughout this period, too, the press was allowed to criticize the Government,[13] although after the June 1972 election, the Government closed down four Phnom Penh newspapers, which had supported the opposition.[14]

Following the March 18, 1973 attack on the Presidential palace by a single plane flown by a dissident pilot, Lon Nol declared a state of national emergency, suspended the publication of all newspapers and periodicals except those published by the Government, ordered an end to the teachers' strike, and arrested numerous persons (press estimates range from 100 to 500), charging them with being pro-Sihanouk subversives.[15] Among those arrested were 16 members of the former royal family, Keo An, and Sirik Matak (who was put under house arrest briefly before becoming a member of the four-man council), and reportedly some teachers, newspaper editors, and students.[16] According to the U.S. Department of State Cambodia Desk, some of the prisoners were released in April, when the four-man council was established. The remainder were set free in June on In Tam's orders.[17]

FOOTNOTES

[*] This report was written by Larry Niksch, Analyst in Asian Affairs.

[1] U.S. Agency for International Development, U.S. Overseas Loans and Grants and Assistant from International Organizations: Obligations and Loan Authorizations July 1, 1945–June 30, 1972. p. 69.

[2] Poole, Peter A. Cambodia: the Cost of Survival. Asian Survey, v. 12, February 1972; 151. Lon Nol's Cambodian Regime Wrestles With Rising Dissent. Washington Star, September 24, 1971.

[3] Far Eastern Economic Review 1972 Yearbook: 120–121. Lon Nol Calls Democracy "Sterile Game". Washington Post, October 21, 1972. Kamm, Henry. A Cambodia Chief Sees a Vote Soon. New York Times, October 28, 1971.

[4] Lon Nol Assumes Complete Control of Government. Washington Post, February 11, 1972.

[5] The Far East and Australasia. London, Europa Publications Ltd. [1973], p. 475.

[6] An estimated 90 percent of the population are Buddhists. There is no evidence of religious conflict or restrictions on religious groups in the Khmer Republic.

[7] The Far East and Australasia, p. 475.

[8] Southerland, Daniel. Presidential Victory No Surprise. Christian Science Monitor, June 7, 1972. Bradsher, Henry S. A Cloudy Cambodia. Washington Star, June 6, 1972.

[9] Baczynskyj, Boris. Cambodia: Actively Neutral. Far Eastern Economic Review, v. 76, June 3, 1972: 11.

[10] Poole, Peter A. Cambodia: Will Vietnam Truce Halt Drift to Civil War? Asian Survey, v. 13, January 1973: 80. Lippman, Thomas W. National Election Arouses Little Interest in Cambodia. Washington Post, September 3, 1972.

[11] Leslie, Jacques. Hope Yields to Disillusion in Cambodia. Los Angeles Times, September 24, 1972.

[12] For accounts of these, see Poole, Peter A. Cambodia: Will Vietnam Truce Halt Drift to Civil War? Asian Survey, v. 13, January 1973: 79, and the following newspaper articles: Jay, Peter A. Cambodia Bearing Up Well. Washington Post, November 1, 1971. Onos, Peter. Erratic Politics, War, Corruption Erode Support for Lon Nol Regime. Washington Post, March 31, 1972. Whitney, Craig R. Cambodia Seems Adrift After 2 Years as Republic. New York Times, June 6, 1972. Kirk, Donald. Mounting Discontent in Cambodia Focusing for 1st Time on Lon Nol. Chicago Tribune, March 18, 1973. Southerland, Daniel. Cambodian Mood: Discontent Grows. Christian Science Monitor, March 10, 1973.

[13] For accounts of press criticism, see Baczynskyj, Boris. Lon Nol's Private War. Far Eastern Economic Review, v. 77, July 1, 1972: 24. Bradsher, Henry S. Cambodia Morale Dips to Low Ebb. Washington Star-News, September 24, 1972. Leslie Jacques. Hope Yields to Disillusion in Cambodia. Kirk, Donald, Mounting Discontent in Cambodia Focusing for 1st Time on Lon Nol, Chicago Tribune, March 18, 1973. Southerland, Daniel. Cambodian Mood: Discontent Grows. Christian Science Monitor, March 10, 1973.

[14] Cambodia Closes Opposition Daily. Washington Post, June 14, 1972. Baczynskyj, Boris. Lon Nol's Private War. Far Eastern Economic Review, v. 77, July 1, 1972: 23.

[15] Cambodia Jails More Suspects. New York Times, March 21, 1973. Greenway, H. D. Arrests Quell Dissent in Cambodia. Washington Post, March 26, 1973. Arbuckle, Tammy. Lon Nol Opens Regime, Bows to U.S. Pressure. Washington Star-News, April 25, 1973. Kamm, Henry. Cambodia Seizes Many as "Subversives." New York Times, March 20, 1973. Backer, Elizabeth. The Mosquito Catchers. Far Eastern Economic Review, v. 80, April 9, 1973: 12.

[16] Greenway, H. D. Arrests Quell Dissent in Cambodia. Washington Post, March 26, 1973. Cambodia Jails More Suspects. New York Times, March 21, 1973. Kamm, Henry. Cambodia Regime Seizes Opportunity to Tighten Its Grip and Curb Its Foes. New York Times, March 27, 1973. Backer, Elizabeth. The Mosquito Catchers. Far Eastern Economic Review, v. 80, April 9, 1973: 12.

[17] Information provided in telephone conversation with the State Department. Cambodia Desk Officer, October 25, 1973.

THE STATUS OF POLITICAL AND RELIGIOUS LIBERTIES IN AID-RECIPIENT COUNTRIES: CHAD

AID SUMMARY[1]

Total Official U.S. Development Assistance FY 1961–FY 1972 equals $10.2 million.

Total Official U.S. Development Assistance FY 1972 equals $500,000.

Proposed Total of all U.S. Resources Transferred FY 1974 equals $608,000.

1. Election/political parties

Political parties were banned in 1962, except for the Parti Progressiste Tchadien, the current party in power. An opposition political organization, the National Liberation Front (Frolinat), has been engaged in a civil war with the Government since 1966.

2. Martial law

Because of the civil war with Frolinat and a rebellion in the north by the anti-Government Toubou people, a de facto state of emergency exists in Chad, although formal martial law has not been declared.

3. Freedom of the press

The 1968 press law guaranteed freedom of the press so long as nothing was published which would jeopardize the security of the State, the moral health of the people, or public safety as interpreted by the Government.[2] There is one daily news summary published by the Agence Tchadienne de Presse and one weekly newsletter published by the Chadian Chamber of Commerce,[3] both apparently subjected to close Government scrutiny.[4] Since the literacy rate in Chad is between 5 and 10%, the Government-owned radio is more important as a news source than the press.

4. Religious freedom

Of Chad's 3.8 million people, approximately 52% are Muslim, 43% are animist, 3% are Protestant, and 2% are Roman Catholic. Muslims claim that the predominantly Christian Government of President Tombalbaya discriminates against them by denying Muslims a role in the Government, by not allowing religious education, and by depriving them of economic development.[5]

5. Minorities

There are some 35 identifiable cultural, tribal, racial, or linguistic groups in Chad, who may be classified further according to their occupational mobility (nomadic, semi-sedentary, sedentary), or their geographical location (arid Saharan north, semi-arid Sahel grasslands in the south-central, southern savanna grasslands).[6] Generally, the southern, sedentary, Bantu people predominate in government, military, business, and education, while the northern, nomadic, Arabized Nilotic-Sudanic peoples are the least involved in affairs of state. The southern Sara, a mixed Bantu people, comprise about 25% of the population and are the "majority" in a land of minorities.[7] The Arabs of the central region comprise about 15% of the total but for the most part are not involved in Government. The most prominent of the smaller minorities, although not the smallest, are the Toubou (4%), a nomadic Berber-Tuareg people of the far north who reject any Government control and who have been involved in a continuing war with the Government of Chad.

6. Organized movements

A Government-controlled association of trade unions was formed in 1965.[8]

7. Political prisoners

Many political leaders were arrested and imprisoned during the 1962–1965 period because they opposed President Tombalbaya's attempts to centralize all authority.[9] In 1971, many of the political prisoners were released,[10] although leaders of the Frolinat rebellion are still detained. It has been reported that after an attempted coup in 1972, political leaders who had opposed Government policies were arrested and detained.[11]

8. *Legal procedures*

Among the significant legal anomalies in Chad are: (1) the internal conflict between the Arabized north and the Sara-dominated Government which has disrupted normal legal proceedings; (2) the corruption, bribery, nepotism, fraud, and incompetence which reportedly plagued Chad's early years and which is now being reformed;[12] (3) the creation of a legal system which would accommodate the tribal, customary, and religious law followed by many of Chad's people;[13] and (4) the institution of extreme measures to rectify certain legal problems, such as the death penalty for tax evaders.[14]

FOOTNOTES

[1] U.S. Agency for International Development. U.S. Overseas Loans and Grants and Assistance from International Organizations: Obligations and Loan Authorizations, July 1, 1945–June 30, 1972. Washington, May 1973, p. 90.

[2] American University. Foreign Area Studies. Area Handbook for Chad. Washington, U.S. Gov't. Print. Off., 1972. p. 97. (DA Pam 550–159).

[3] Ibid.

[4] Decraene, Philippe. Chad Rebellion: Talking to the Toubous. Le Monde (weekly), January 6, 1971 : 8.

[5] Pledge, Robert. France at War in Africa. Africa Report, v. 15, June 1970: 17.

[6] Area Handbook for Chad, p. 47.

[7] Most recent available figures are 1964; see the Area Handbook for Chad, p. 44.

[8] Africa South of the Sahara. London, Europa Publications Ltd., 1973, p. 248 (hereafter cited as Europa).

[9] Watriss, Wendy V. A Tug-of-War in Chad. Christian Science Monitor, September 10, 1970: 10.

[10] Europa, p. 249. Potemkin, Y. Chad: Difficult Years. New Times, no. 22, May, 1972: 30. (New Times is a Soviet weekly on world affairs)

[11] Europa, p. 249.

[12] Watriss, op. cit. Potemkin, op. cit. The reform movement has been attributed to French influence following the 1969–1970 French assistance to the Chad Government in the civil war.

[13] Potemkin, op. cit., p. 31.

[14] Chad Tax Evaders Risk Death Penalty, New York Times, February 8, 1970: 40.

STATUS OF POLITICAL AND RELIGIOUS LIBERTIES IN AID-RECIPIENT COUNTRIES: REPUBLIC OF CHINA (TAIWAN) *

AID SUMMARY[1]

Total U.S. Official Development Assistance, FY 1949-FY 1972—$1,757.8 million.

Total U.S. Official Development Assistance, FY 1972—$0.0 million.

Total U.S. Military Programs, FY 1949-FY 1972—$3,163.8 million.

Total U.S. Military Programs, FY 1972—$88.2 million.

Proposed Total of All U.S. Resources Transferred FY 1974—$69,076 million.

The following paper is a summary account of the status of political and religious liberties in the Republic of China and is not intended to serve as a comprehensive analysis.

The Republic of China's Constitution of 1947 provides for a National Assembly elected by universal suffrage, which in turn elects the President of the Republic. The President governs through five yuan (branches): executive, legislative, judicial, examination, and control. Members of the legislative and control yuan are directly elected by universal suffrage; the others are appointed by the President with the consent of the legislative yuan. President Chiang Kai-shek was reelected unopposed for a fifth successive presidential term of six years in March 1972. Chiang Kai-shek's ruling Kuomintang Party (KMT) maintains effective control of all branches of the Government.[2] Neither of the two official minority parties, the Youth Party and the Democratic Socialist Party, exercises any important influence within the Government; and neither minor party has had Cabinet representation since 1951.[3] Under martial law, which has prevailed in Taiwan since 1949, the establishment of new political parties is prohibited.

In an apparent effort to broaden the Government's domestic support after Taiwan was expelled from the United Nations in 1971, the Chiang Administration called for new elections which would encourage Taiwan-born representation in the Government.[4] The constitution was revised in early 1972 to make possible the election of additional members of the legislative yuan and the National Assembly, and elections were held on December 23, 1972. Thirty-six members of the 461-seat Legislative Yuan and 53 members of the 1,428-seat National Assembly were elected for three- and six-year terms respectively. Of the 89 persons elected, all but ten were natives of Taiwan,[5] and their average age was considerably lower than that of the incumbent officeholders. The incumbent members of both bodies will continue to serve indefinite terms. The KMT won 80 percent of the national-level positions and 80 percent of the seats in the Taiwan Provincial Assembly; all of its candidates in the 20 mayoral and county executive races were elected.[6]

During the election campaign, candidates were prohibited from direct criticism of the Government or of its anti-Communist policy. Candidates were allowed to speak only at Government-sponsored forums for limited time periods. Campaign speeches were monitored by the Government, which also reviewed any pamphlets issued by the candidates.[7] A number of candidates received warnings from the Election Inspection Office, which operated under the Ministry of Justice, but no one was disqualified. Two independent candidates who were extremely critical of the Government won their contests.[8]

In recent months, independent members of the national legislature, who are known as the "no-party" group because they are unable to adopt a party label under the martial law restrictions, have voiced criticism of the mainlander-dominated bureaucracy and the life-tenure of the mainlander representation in the legislature.[9]

In May 1972, the 85-year old Chiang Kai-shek, whose health is poor, appointed his elder son Chiang Ching-kuo Premier, with the power to head the Executive Yuan. Immediately upon taking office on June 1, 1972, Premier Chiang initiated reforms to reduce Government corruption and bureaucratic favoritism. The KMT opposition believes that Premier Chiang Ching-kuo's reform program will not change KMT control of the Government. Some political analysts have stated that the new Premier has improved the efficiency of Taiwan's government and has made possible the major personnel changes within the Government branches which show consideration for youth, the Taiwan-born, and women.[10]

Taiwan's high literacy rate (85 percent) makes the dissemination of information very important. The Government established the Government Information Office within the Executive Yuan to handle and coordinate information activities on a national scale. Government-owned press services, radio and television stations, movie studios and theaters, and publishing houses play the major role on the national scene, but independent information enterprises also exist.[11] News media are not directly censored, but some publishers occasionally have been ordered to close or suspend operations.[12]

Under Taiwan's martial law, civilians charged with political crimes are tried by the military system. Substantial information about political cases is usually impossible to obtain.[13] Amnesty International reports that in September 1973, there were more than 100 cases of political imprisonment on Taiwan.[14] Among them reportedly are journalists and members of the Taiwan independence movement.[15]

Freedom of religious belief is guaranteed by the constitution and proclaimed by the Government.[16] There is no evidence of religious conflict or of special governmental policies toward particular religious groups.

FOOTNOTES

*This report was written by Marjorie Niehaus, Analyst in International Relations.

[1] U.S. Agency for International Development. U.S. Overseas Loans and Grants and Assistance from International Organizations: Obligations and Loan Authorizations, July 1, 1945–June 30, 1972. Washington, May 1973, p. 70.

[2] Harner, Stephen W. Chiang's Son Seeks Improved Image With Reforms in Taiwan. Washington Post, September 5, 1973.

[3] Jacobs, J. Bruce. Taiwan 1972: Political Season. Asian Survey, v. 13, January 1973: 105.

[4] Nationalists Win in Taiwan Voting. New York Times, December 24, 1972.

[5] Harner, Stephen W., op. cit.

[6] Taiwan: Beating the System. Far Eastern Economic Review, v. 79, January 8, 1973: 13.

[7] Taiwan Warns Candidates on "Mudslinging". New York Times, December 20, 1972.

[8] Nationalists Win in Taiwan Voting.

[9] Harner, Stephen W., op. cit.

[10] Jacobs, J. Bruce, op. cit.

[11] Foreign Area Studies, The American University. Area Handbook for Republic of China. Washington, D.C., U.S. Government Printing Office [1969] p. 220.

[12] Stebbins, Richard P., ed. Political Handbook and Atlas of the World. New York, Simon and Shuster [1970] p. 66.

[13] Taiwan: Abroad-Minded Bench. Far Eastern Economic Review, v. 76, April 29, 1972: 15.

[14] Amnesty International Annual Report: 1973. London, Amnesty International, 1973: 53.

[15] Taiwan: Abroad-Minded Bench.

[16] Foreign Area Studies, op. cit., p. 144.

THE STATUS OF RELIGIOUS AND POLITICAL LIBERTIES IN AID-RECIPIENT COUNTRIES: ETHIOPIA *

AID SUMMARY[1]

Total U.S. Official Development Assistance FY 1962–1972: $217.2 million.

Total U.S. Official Development Assistance FY 1972: $33.0 million.

Total U.S. Military Assistance FY 1962–1972: $132.5 million.

Total U.S. Military Assistance FY 1962: $10.9 million.

Proposed Total of all U.S. Resources Transferred FY 1974: $35,062 million.

The following paper is a summary account of the status of political and religious liberties in Ethiopia and is not intended to serve as an in-depth or comprehensive analysis.

The Government of Ethiopia is a centralized, unitary monarchy.[2] Virtually all powers of government are vested in the Emperor, currently Haile Selassie, by constitutional authority. The Council of Ministers directs day-to-day operations but defers all major decisions to the Emperor; and the bicameral Parliament's actual powers are limited to examining and amending Government bills. The formal and actual political systems have been described by one observer as a dual system of government, the traditional system carried on behind a facade of modern institutions.[3] Even after the stronger delineation of ministerial responsibility in 1966 and the

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Footnotes at end of article.

accession of men with Western educations to most administrative positions, at least in the capital, traditional influences both on the individual and on the system remain so strong that primary political decision-making continues to operate through personal connections at the court more than through any formal structure.

Ethiopia held the first election in its 2,500 year history in 1957; and elections for the lower house of Parliament, the Chamber of Deputies, were held in 1961, 1965, and 1969. Despite considerable effort on the part of the Government to encourage voting, only about 30 percent of the eligible voters had registered by 1969.[4] However, although voter interest was low, candidate interest was very high with an average of eight contestants for each of the 250 seats. As no political parties are allowed, candidates for office are nearly all self-chosen and individually supported; and no efforts to form parties are known to have been made by deputies or senators.[5]

There are two opposition groups with separatist aims which operate clandestinely: the Eritrean Liberation Front (ELF), whose avowed intention is to separate Eritrea Province from the Empire, and the West Somali Front, whose secessionist aims are directed toward securing portions of eastern Hararge Province inhabited by Somali ethnic groups. Both dissident organizations have engaged, in varying degrees, in open military conflict with Ethiopian security forces, although the ELF represents a greater security problem.[6]

The ethnic and religious diversity of Ethiopia is a source of political friction as attempts by the dominant Amhara-Tigre to enforce the use of their language to unify the nation and discourage ethnic cultural identity among the various groups has created some ethnic resentment. However, in the 1970s, the chief opposition to the Government is channeled through three main sources: the two previously mentioned ethnic minorities, a growing number of dissatisfied young intellectuals and students, and members of the prominent elite who stand to the right of the regime and the military.

Student protests first erupted into violence at Haile Selassie University during the late 1960s with demands for an end to the American military presence in Ethiopia and for changes in the academic and political systems.[7] The Government's retaliation included the dismissal of many students and the sentencing of riot leaders to jail terms of up to 7½ years. A large number of these were pardoned or reinstated by the Emperor, however. The students' and intellectuals' criticism was muted both by Government pressure and by their own awareness of their numerical and political weakness in Ethiopian society.[8] The Government has not acceded to all student demands, but it has taken some steps toward a number of reforms in which students are interested.[9]

The original court system and legal codes of Ethiopia date from antiquity; but modern codes, based on Western models are now used. Protection of rule by law is provided by a Bill of Rights in the Constitution and an established judiciary. All judges are appointed and can be removed by the Emperor. Special tribunals deal with matters of personal status for Muslims with an appeal court in the capital city. There is also a separate judicial system in Eritrea.[10] However, on the lowest local level, justice is actually in the hands of traditional leaders: landowners in Amhara regions, religious judges in Muslim areas, and tribal elders or village chiefs elsewhere in the empire.[11]

To counter threats to internal security, the Government maintains several active intelligence services supported by a number of laws that assist in the control of dissidents. The Public Security Proclamation of 1942 and later amendments provide for "the arrest and detention of persons indulging in activities of a nature calculated to disturb public security." It empowers the commissioner of police to order the arrest without a warrant and the detainment of any person who, in his opinion, constitutes a danger to public security if left at large. Arrests under this proclamation generally involve persons engaged in political activities, espionage, propaganda and suspected subversive actions.[12]

Article 41 of the revised Constitution of 1955 states that "freedom of speech and the press is guaranteed throughout the Empire in accordance with the law." [13] This constitutional guarantee, however, did not supersede the proclamation of 1942, which placed all printing presses under the jurisdiction of the Ministry of the Pen. The proclamation, still in effect, makes it mandatory that persons wishing to establish printing presses must first obtain the permission of the Ministry of the Pen and that all printed matter must bear the name of the press on which it is printed. The constitutional provision is interpreted as applying equally to the press, radio and television.[14] The Government views the modern mass media as an educational device; and six daily newspapers are published in Addis Ababa or Asmara. Most are owned, operated and subsidized by the Government.[15] The Penal Code prohibits publication by press, radio or television of matters that insult, abuse, defame, or slander the Emperor, the imperial family or the court and its members. False rumors or stories that would alarm the public, foment dissension, arouse hatred, or stir up violence may not be published. The actions, deliberations, or decisions by governmental authorities often are suppressed from publication on the grounds that they might disturb public order. However, in Ethiopia, informal dissemination of information remains the most important channel because of the population's low rate of literacy, somewhat mitigating the effects of censorship.[16]

Article 126 of the Constitution states that the Ethiopian Orthodox Church, founded in the fourth century, is the established Church of the Empire and is, as such, supported by the state.[17] Today the Ethiopian Orthodox Church is a major basis for the ethnic and cultural identity among the politically and culturally dominant Amhara-Tigre, and its adherents number eleven to fourteen million. Islam is practiced by about five to ten million; and despite a long history of conflict between Christians and Muslims in Ethiopia, the two groups live more or less peaceably today. The ruling group has come to recognize that Ethiopia can never be wholly Christian and that there is a need for some sort of accommodation with Islam. Article 40 of the 1955 Constitution recognizes the right of all religions to exist in Ethiopia, provided "that such rites be not utilized for political purposes or be not prejudicial to public order or morality." The effects of the attempt to unify the country by impressing on it the stamp of the Amhara-Tigre culture, particularly the use of the Amharic language, have been the gradual taking over of the Muslim schools and the decline in the teaching of Arabic.

This attempt has caused some resentment, particularly in the province of Harar. Groups practicing their own tribal religions are estimated at four-five million. A decree issued in 1944 by Hailie Selassie regulates missionary activity and states that missionaries should not direct their activities toward converting Ethiopians from their own form of Christianity but should concentrate on non-Christian elements of the population." In addition, the missionaries are not allowed to do anything that might promote the use of local languages and thus possibly encourage the development of nationalist sentiment. The largest non-Ethiopian Christian denomination is Roman Catholic with 130,000 members, and there are 227,000 Protestants of various denominations. Recently, the New York Times reported that the adherents of a pentacostal movement, the Full Gospel Believers, which has been opposed by the Ethiopian Orthodox Church and the police, suffered the closing last year of more than 50 churches.[18] According to the report, in August 1972 some 480 members were arrested on charges of belonging to an illegal organization.

The Orthodox Church and the police claimed that the sect was false, immoral and harmful to the nation. Currently the pentacostal movement has gone underground in the wage of mass arrests, although a Government spokesman insisted that the movement was no longer illegal.

FOOTNOTES

*This report was written by Susan M. Mowle, Analyst in International Relations.

[1] U.S. Agency for International Development. U.S. Overseas Loans and Grants and Assistance for International Organizations: Obligations and Loan Authorizations, July 1, 1945–June 30, 1972. Washington, May 1973: 93.

[2] American University. Foreign Area Studies. Area Handbook for Ethiopia. Washington, D.C. U.S. Govt. Print. Off. (1971) p. vii. (Hereafter cited as Area Handbook for Ethiopia).

[3] Hess, Robert. Ethiopia: The Modernization of Autocracy. Ithaca. Cornell University Press. 1970. p. 125.

[4] Area Handbook for Ethiopia, p. 296.

[5] Ibid.

[6] Africa South of the Sahara: 1973. London. Europa Publications Ltd. 1973: 329.

[7] Area Handbook for Ethiopia, p. 302–304.

[8] Ibid.

[9] Ibid., p. 475.

[10] Worldmark Encyclopedia of the Nations: Africa. New York. Worldmark Press, 1971: 79.

[11] Hess, op. cit., p. 130.

[12] Area Handbook for Ethiopia, p. 476–477.

[13] Area Handbook for Ethiopia, p. 322.

[14] Ibid.

[15] Hess, op. cit., p. 100–105.

[16] Ibid.

[17] This discussion of religion in Ethiopia is derived from the Area Handbook for Ethiopia, p. 229–256, and Hess, op. cit., p. 108–112.

[18] Johnson, Thomas. Ethiopian Fundamentalists, Under Fire, Pray in Secret. New York Times, June 7, 1973.

STATUS OF POLITICAL AND RELIGIOUS LIBERTIES IN AID-RECIPIENT COUNTRIES: GREECE

The following paper is merely a summary account of the status of political and religious liberties in Greece, and is not intended to serve as an in-depth or comprehensive analysis.

AID SUMMARY [1]

Total U.S. Official Development Assistance FY 1962–1972: $154.6 million.

Total U.S. Official Development Assistance FY 1972: —.

Total U.S. Military Assistance FY 1962–1972: $895.2 million.

Proposed total of all U.S. resources transferred FY 1974: $66,820 million.

Acting several weeks ahead of a scheduled election, a Greek military junta executed a coup d'etat on April 21, 1967, apparently in the belief that an anticipated victory by former Prime Minister George Papandreou, leader of the moderate Center Union would be a personal defeat for the King and would open the doors to Communist influence. (Papandreou had clashed with the King over the control of the army.)

Since the time of the coup d'etat, the Greek Government has held two referenda: one in September 1968, on the draft constitution, and the other on July 29, 1973, over the proposed amendments to that constitution. However, according to newspaper accounts, the two referenda have not been considered an adequate testing of Greek public opinion; the first referendum was held under martial law, and the second, under partial martial law, and charges of widespread pressure on the voters and rigging of the results have been made.[2]

The new constitution, adopted through the referenda, provides (in an article not yet in effect) that political parties may be founded freely but must be based on national and democratic principles and may be dissolved if their activities are inconsistent with the existing form of government and social system or with the interests of the nation.

Up to the present the Greek Government since the coup d'etat has discouraged political activity. The Communist-front party (EDA) has been officially disbanded and other parties have been inactive. However, recently the Government has promised fair parliamentary elections in 1974. Parliament is to consist of 200 members, 180 of them elected in general elections, and 20 of them appointed by the President. A constitutional court, whose membership is to be designated by the Cabinet, will screen prospective political candidates.

Martial law which was imposed in Greece when the military junta took power in April 1967, has been gradually relaxed. First abandoned in the countryside in January 1972, it was subsequently lifted in the urban center of Salonica in January 1973 and in the Athens-Piraeus area in August 1973. In theory, the elimination of martial law involves the abolition of special military courts. Provisions of martial law have been incorporated into comparable provisions in ordinary legislation.

In May 1969, several decrees were published concerning the status of workers and trade unions, containing restriction of the right to strike.

On April 9, 1969, the Government announced the enactment of three articles of the constitution concerning human rights and fundamental freedoms: Article 13, concerning the inviolability of the home, Article 18, on the freedom of assembly, and Article 19, concerning freedom of association. Up to the present the laws required for the implementation of these articles have not been promulgated.

When the junta seized power, more than 6,000 people were arrested, including most political leaders, known Communists, and suspected Communist sympathizers. Recently there has been a decline in the number of political prisoners detained in detention camps, jails, or in "administrative exile" in remote villages. The exact number of political prisoners has always been difficult to determine; as many were released, others were arrested, and were often held incommunicado or detained without charge for great lengths of time before being brought to trial.

At the time of the announcement of a general amnesty in August 1973, the number of political prisoners detained by the junta was estimated at approximately 350. According to the announcement, the amnesty covers "political crimes" involving all those convicted since the 1967 coup for violating the penal code, martial law, and laws on sedition and the press. It does not cover "disciplinary offenses" by members of the armed services and civil servants. Nor does it include Greeks living abroad, deprived of their citizenship, or black-listed by the Government. News reports dated August 23rd and 24th announced the completion of the release of most of the 350 remaining prisoners.

The treatment of political prisoners has been a source of major attention to those concerned with human rights. Rumors concerning police brutality and torture began to spread shortly after the coup. Although allegations of torture have been staunchly denied by the junta and are difficult to substantiate, individual journalists and international organizations began their own investigations into these charges. The European Commission of Human Rights, after examining over 200 complaints of torture, concluded that the Greek leaders had "officially" tolerated the torture and ill-treatment of prisoners.[3] An observation on the treatment of prisoners in Greece was made in a staff study issued by the Senate Foreign Relations Committee early in 1971:

"The general feeling among Western observers is that there is less torture today than there was before, and perhaps even none at all now, although there were reports during the time of our visit that some of the students recently arrested who were still being held incommunicado were being tortured. Most observers believe it likely, nevertheless, that prisoners are still being mishandled and even brutally treated in police stations."[4]

An agreement existed between the Greek Government and the International Red Cross, from November 1969 to November 1970, whereby the latter was allowed to check on the condition and treatment of prisoners. Although the Red Cross did not make its findings public, reporting them only to the Greek Government, it is generally thought that the agreement benefited the prisoners. (The agreement was not renewed on the ground that it impinged on the sovereignty of the Greek Government.)

Complete religious freedom is recognized by the Constitution of 1968, but proselytizing from, and interference with, the Greek Orthodox Church is forbidden.[5]

Censorship of the press was formally abolished at the end of 1969, but new laws promulgated in 1970 and 1971 restricted freedom of the press and imposed penalties for infringement of these laws. They provide for State supervision of the press and the compulsory registration of persons of all grades working for the press. Removal of a name from the official register implies withdrawal of the right to work as a journalist in Greece. Newspapers wishing to employ journalists are required to apply to the Ministry of Information for staff who are selected from the register of approved journalists. Those guilty of violation of the press laws are liable to prosecution, and publications can likewise be seized, confiscated or suspended. Offenses listed in the press laws include breach of professional secrecy, inaccurate or concealed news, exploitation of news for personal belief, omission to publish "certain information," lack of faith and devotion to the country and the "national ideals," and "attempting to overthrow the existing form of state or social order."[6]

One measure which has raised the hopes of political circles in Athens for a genuine liberalization of the regime was the recent announcement on August 31 of the appointment of Spyros Markenzinis, a former politician and economist as Prime Minister in October. He will be charged with setting up an all-civilian cabinet and preparing for next year's elections.

FOOTNOTES

[1] U.S. Agency for International Development. U.S. Overseas Loans and Grants and Assistance for International Organizations: Obligations and Loan Authorizations, July 1, 1945–June 30, 1972. Washington, May 1973. P. 15.

[2] New York Times, July 31, 1973. Washington Post, July 28 and 31, 1973.

[3] Council of Europe. European Commission of Human Rights, The Greek Case. Report of the Commission. Strasbourg, France, April 1969. Vols. I & II.

[4] U.S. Congress. Senate. Committee on Foreign Relations. Greece: February 1971. Staff report. 92nd Congress, 1st session. Washington, U.S. Govt. Print. Off., 1971. P. 6.

[5] Paxton, John. The Statesman's Year-Book, 1972–1973. London. Macmillan, 1972. P. 1002.

[6] The Europa Year Book 1973: A World Survey, Vol. I. London, Europa Publications, 1973. P. 886.

The Status of Political and Religious Liberties in Aid-Recipient Countries: Indonesia *

AID SUMMARY [1]

Total Official U.S. Development Assistance, FY 1972: $245.6 million.

Total Official U.S. Development Assistance, FY 1949–1972: $1,482.7 million.

Total U.S. Military Program, FY 1972: $22.9 million.

Total U.S. Military Programs, FY 1949–1972: $140.6 million.

Proposed Total of all U.S. Resources Transferred, FY 1974: $251,228 million.

The following paper is a summary account of the status of political and religious liberties in Indonesia and is not intended to serve as a comprehensive analysis.

Since the attempted Communist coup in 1965 which resulted in the ouster of President Sukarno and the March 1967 accession to power of President Suharto, political developments in Indonesia can be viewed in light of the articulated goals of the Suharto Government. According to Foreign Minister Adam Malik, the two major goals are to restore Indonesia's economic position and to stabilize Indonesia's internal situation.[2]

The Constitution of 1945, described by a U.S. congressional observer as "ambiguous and unprecise,"[3] provides for a Republic with a President as chief executive officer. Parliament, to which the President is not directly responsible, enjoys limited legislative powers which, however, have been increasing under President Suharto. The two legislative bodies are a House of Representatives (DPR) and a People's Consultative Assembly (MPR), which consists of the DPR and additional regional and functional representatives. Prior to 1971, all of these persons had been appointed by Presidents Sukarno and Suharto. In July of that year, Indonesia held its first national election in 16 years to choose members of the DPR and the local councils. The election was portrayed by the Government as a "controlled first step" in which political stability might be attained.[4]

Ten political parties ran candidates in the 1971 elections, which were overwhelmingly dominated by the Government-sponsored Sekber Golkar—a collection of functional or occupational groups. The other parties, organized chiefly along racial and religious lines, alleged that the Golkar campaign had involved force and intimidation, in that civil servants not joining Golkar had suffered loss of jobs or privileges, persons had been forced at gunpoint to join Golkar, and opposition leaders had been arrested and charged with complicity in the 1965 events.[5] Golkar won 236 seats in the DPR, and the other parties won a total of 124. The President, in addition, appointed 100 members to the DPR, including 75 members of the armed forces.

* * * * *

Members of Parliament have been instructed to operate on the principle of *mujaswarah* (consensus), and in that spirit they re-elected President Suharto to another 5-year term in March 1973. These moves are seen as part of the President's plan to simplify and restructure Indonesian politics. Observers report, however, that factionalism operates even within the new consolidations, and various elements within Golkar itself may be attempting to build ties with constituencies (such as students) outside Golkar.[6] That some Muslims are dissatisfied with their decreased power status was indicated by criticism in the newspaper Abadi, which pointed out that armed forces appointees and Golkar members make up 93% of the MPR and asserted that the amalgamation of parties was ordered "to purge those individuals of independent mind who are still left among that seven percent."[7] There are, however, no reports of Government persecution or discrimination against Muslims, who make up about 90 percent of the population, or against other religious groups. In the 1971 election, the government attracted the support of numerous Muslim groups.[8] Freedom of religion is guaranteed by the constitution.

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* Footnotes at end of article.

Critical articles such as are found in Abadi and in other publications, including sardonic commentaries on the stringent security precautions taken in March 1973 when the Parliament convened, indicate that freedom of the press is existent in some measure. Self-censorship is exercised, however, and certain subjects are considered taboo: the office of the presidency and the first family, pursuance by armed forces of civilian business activities, and high-level corruption in government or military circles. Despite these restrictions, the quality of the press reportedly is improving.[9] A new press law promulgated in 1973 requires all foreign news agencies to deal through an official Indonesian agency. Press circulation is kept down by the inability to obtain newsprint.

Beginning in 1965 and continuing into 1973, large numbers of individuals have been arrested on the grounds of involvement, or suspicion of involvement, or alleged association with the abortive coup attempt by the now-outlawed Indonesian Communist Party (PKI). Most of the prisoners taken since 1965 have not been formally charged or tried and are held in some 300 prisons and camps throughout Java and Sumatra. Ten thousand prisoners, including many prominent artists and intellectuals, reportedly are held on the island of Buru in an agricultural labor colony.[10]

Estimates of total numbers of political prisoners vary widely, and the government itself does not claim to have definitive figures.[11] In 1970, Amnesty International estimated a total of 116,000.[12] In March 1973, a documented report by that organization set the figure at over 55,000 of whom only 300 had been tried.[13] More recently, that figure was said to be an underestimate in view of the "large numbers" who are theoretically free but remain in camps or perform compulsory labor, and in view of the "sharp" rise in arrests during the security crackdown preceding the President's re-election in March.[14] The hardships faced by the prisoners are shared by their families, who are socially ostracized and often are unable to find employment. To obtain a job, housing and education, it is necessary to obtain a certificate of "non-involvement" in the 1965 coup. According to some observers, there is no indication that non-Communist dissenters and the political opposition are branded as Communists "to any significant degree."[15]

Given the continued anti-Communist vigilance which still characterizes the Government, it is difficult to assess the actual extent of significant Communist activities. Since 1968, when army units destroyed a number of Communist bases which had been re-established following the massacres resulting from the 1965 coup attempt, there have been no "major" Communist operations. Isolated instances of sabotage and subversion occur, but official statements on the security picture are contradictory. Some minimize the Communist threat while others exaggerate it, in order to justify various stringent measures and political restriction imposed by the government.[16]

The military traditionally have been involved in Indonesia's economy and appear to be in rather close alliance with the Chinese *cukongs* or businessmen who have a large *share* (in proportion to the 3% Chinese population) of the nation's entrepreneurial skills and capital. Thus, both these groups play an important role in the modernization of the economy.[17] The relatively advantageous position of the Chinese businessmen, however, has caused a good deal of resentment and anti-Chinese feeling among indigenous Indonesians (of Malay stock). The resentment is based on the fact, confirmed by a parliamentary study mission, that regional credit bodies give preferential treatment to the Chinese. The Indonesian Importers' and Exporters' Association reported that 40% of the economy is in Chinese hands.[18] In addition, it appears that Chinese businessmen tend to choose foreign companies rather than local ones for partnership purposes. This preference tends in turn to strengthen their economic position, since Government policy is geared toward maximum encouragement of foreign investment in Indonesia. Anti-Chinese feelings were high among the population in the course of two major rice shortages within the past year, and this erupted into violence in Bandung in August 1973. The Indonesian press commented that the riot there must be seen as symptomatic of tensions generated when economic progress has not directly benefitted the Indonesian masses.[19] President Suharto has been encouraging Chinese businessmen to sell 50–60% of their business interests to the Government, which would then resell to indigenous businessmen and provide 75% of the required capital at 1% interest. Even on such generous terms, not many Indonesians have been able to raise the required sums for purchase.

Attempts to increase foreign investment and to boost local businesses have had minimal impact on the large numbers of extremely poor peasants who have traditionally migrated to the cities to seek economic relief. In the past 3 years, Jakarta's military governor has declared his city "closed" to further such migration. By introducing such measures as issuing identity cards and work permits, outlawing peasant immigrant occupations such as pedicab driving and street vending, carrying out police sweeps, burning and razing squatters' settlements, the annual inflow has been reduced to 16,000 per year (from an average of 200,000 per year). At the same time, employment for 30–40% of the city's poor population has been eliminated.[20]

FOOTNOTES

[*] This report was written by Dagnija Sterste, Analysts in Foreign Affairs.

[1] U.S. Agency for International Development. U.S. Overseas Loans and Grants and Assistance from International Organizations Obligations and Loan Authorizations July 1, 1945–June 30, 1972. Washington, May 1973, p. 73.

[2] Hayward, Henry S. Suharto Now Strong in His Own Right. Christian Science Monitor, August 8, 1973: 5.

[3] U.S. Congress. Senate. Committee on Foreign Relations. Indonesia; Sick Man on the Mend. Report of the Committee on Foreign Relations, United States Senate, by Senator Joseph S. Clark, on a Study Mission to Indonesia. (Committee print). Washington, U.S. Govt. Print. Off., 1968. p. 3.

[4] Sterba, James P. Someone is Doing Something Right. New York Times, July 18, 1971: E5.

[5] Sterba, James B. In a Jaba Villiage, Political Unease. New York Times, June 6, 1971: 6. See also Hindley, Donald. Indonesia 1971: Pantjasila Democracy and the Second Parliamentary Elections. Asian Survey, v. 12, January 1972: 56–58.

[6] Singh, Pakir. The Friendliest Parliament, Far Eastern Economic Review, v. 79, February 19, 1973: 26.

[7] Goldstone, Anthony. Suharto Wins Easily in Indonesia. Guardian, April 11, 1973: 15.

[8] Hindley, Indonesia 1971 . . ., p. 60.

[9] Hayward, Henry S. Indonesia's Maturing Press. Christian Science Monitor, August 3, 1973: 4.

[10] Living conditions on Buru are described in Moraes, Dom. The Prisoners of Buru. The Asia Magazine, v. 12, March 5, 1972: 6–7, 10–11, 14–15, 17.

[11] Attorney General Sugih Arto said: "It is not always compulsory to report such security arrests." Emler, Ronald. 55,000 Skeletons in Indonesia's Cupboard. The London Times, May 14, 1973: 12. The Government has, however, intermittently released figures on prisoners and on numbers released or scheduled to be released. In November 1971, officials said that 50,000 persons had been released during the year, leaving 35,000 imprisoned. Sterba, James P. Jakarta Opening Political Prisons. New York Times, November 10, 1971: 8. In August 1970, however, there had been reported to be only 45,000 prisoners. Soeharjono II. Indonesian Prisoner Release. Washington Post, February 20, 1972: N1. Amnesty International takes the official figures into account in its computations.

[12] Amnesty International, British Section. The Face of Persecution 1970. London, n.d. p. 14.

[13] Amnesty International, Dutch Section and International Secretariat. Indonesia Special. London, March 1973. p. 6.

[14] Amnesty International. Annual Report 1972–73. London, September 1973. pp. 56–57.

[15] Davis, Saville R. Army Rule Considered "Relaxed" in Indonesia. Christian Science Monitor, June 11, 1973; 4.

[16] Roeder, O. G. Shadows Across the Land. Far Eastern Economic Review, v. 79, January 8, 1973: 22. PKI efforts to reconstitute itself and areas where incidents have occurred are outlined in Capizzi, Elaine. Indonesia: New Wave of Revolt. Guardian, July 19, 1972: 12.

[17] The army's role in modernization is discussed in Crouch, Harold. Military Politics Under Indonesia's New Order. Pacific affairs, v. 45, Summer 1972: 206–219.

[18] Singh, Pakir. A Candle Glows. Far Eastern Economic Review, v. 79, January 22, 1973: 22–23.

[19] Division of Wealth, Far Eastern Economic Review, v. 81, August 20, 1973: 15, 17.

[20] Sin City Is a Pressure Cooker. The Economist, v. 247, May 26, 1973: 47–48; Critchfield, Richard. Indonesia: The Poor Amid Riches. Christian Science Monitor, September 12, 1973: 11.

THE STATUS OF POLITICAL AND RELIGIOUS LIBERTIES IN AID-RECIPIENT COUNTRIES: KENYA

AID SUMMARY

Total Official U.S. Development Assistance FY 1954–FY 1972=$83.8 million.

Total Official U.S. Development Assistance FY 1972=$4.4 million.[1]

No military assistance from the United States.

Proposed total of all U.S. resources transferred FY 1974, $12.856 million.

1. ELECTIONS/POLITICAL PARTIES

The President and the National Assembly are elected in free, open elections, although all candidates from the Kenyan African National Party (KANU), Kenya's only legal political party. In 1961, KANU and the Kenyan African Democratic Union (KADU) formed a coalition to press for independence from Britain. KANU's membership was predominantly Kikuyu tribesmen while KADU had been non-Kikuyu and therfore formed an opposition to Kikuyu dominance. In 1966, the Kenyan People's Union (KPU) was formed by Luo tribesmen to oppose the Kikuyu-controlled KANU. KPU was banned in 1969 after the assassination of Tom Mboya (a leader of KANU despite his Luo origins), and a series of incidents in which the Luos demonstrated their displeasure with President Kenyatta and KANU.[2]

2. MARTIAL LAW

There have been four instances of what might be called martial law in Kenya. The British supressed the Mau Mau uprising in the early 1950s. The British assisted the newly independent Government of Kenya in stopping an army mutiny in 1964. The Kenyan army and national police force fought the "Shifta" bandits (Somali irredentists) in the north-east region in the 1960s. The army and police instituted curfews and martial law in the western Luo area after the 1969 disturbances. In each case, the restrictions were localized.

3. FREEDOM OF THE PRESS

Within certain limitations, Kenya has a free and independent press. One illustration of a limitation was the "treasonous" reporting of a University of Nairobi student newspaper editor who was expelled in 1972 because she quoted Mao Tse-tung in an article on student unrest.[3]

4. RELIGIOUS FREEDOM

There is no recent evidence of persecution or discrimination based solely on religious beliefs in Kenya. There were incidents, during the British colonial period, of suppression of religious-oriented or cult groups because of their propensity for violence. Suppression of the Mau Mau or the banning of the Dini ya Masambwa in 1945 after a clash with police during an anti-Christian missionary demonstration are some examples.[4]

5. MINORITIES

Kenya's people may be divided into four groups: Cushitic, Bantu, Nilotic, and non-Africans such as Arabs (remnants of centuries-old trading colonies) and recent arrivals such as Asians and Europeans. Of the three African groups, the Cushitic tribes are located in the north and are for the most part uninvolved in Kenyan affairs. The Bantu Kikuyu dominate Kenyan political life with their Bantu allies the Kamba. The Nilotic Luo are the most prominent of the minorities challenging the Kikuyu preeminence and have apparently suffered some discrimination for the opposition.[5] Press reports allege that there has been discrimination against the Asian community. Of the total 140,000 Asians in Kenya, about 40,000 are not citizens and are being given "quit-notices" to leave the country as part of the "Kenyanization" program to keep the ownership of Kenya's land and business property in the hands of citizens.[6]

6. ORGANIZED MOVEMENTS

Most of Kenya's labor unions are associated with the Government-controlled Central Organization for Trade Unions, although independent unions continue to operate legally.[7] The Central Organization, despite its Government affiliation, is predominantly Luo and maintains an independent vitality.[8] Kenya's students are politically active and have opposed Government actions, particularly after the political disturbances of 1969.[9] In January 1973, the Government banned the University of Nairobi student government because of disturbances following an election contest between pro-Government Kikuyu and non-Kikuyu leftists.[10]

7. POLITICAL PRISONERS

In 1969, Oginga Odinga, a Luo and former Vice President of Kenya, and about 20 of his followers were arrested and detained without trial for inciting the political riots that followed Mboya's death. Odinga's political party, the KPU, was banned at the same time. Of those detained, Odinga was held the longest, finally being released on March 27, 1971.[11]

8. LEGAL PROCEDURES

The arrest and detention of political dissidents in 1969 was extra-legal since the accused were never brought to trial. There have been other examples of extra-legal, although less serious actions, which have caused public concern in Kenya, such as the Government move to bar "hippie" tourists or Kenyatta's threat to ban the wearing of miniskirts.[12]

FOOTNOTES

[1] U.S. Agency for International Development. U.S. Overseas Loans and Grants and Assistance from International Organizations, Obligations and Loan Authorizations July 1, 1945–June 30, 1972. Washington, May 1973. 99 p.

[2] For a discussion of the Kenyan elections and the disruptions of 1969, see: Hakes, Jay E. Election Year Pclitics in Kenya. Current History, v. 58, March 1970: 154–177, and Miller, Norman N. Assassination and Political Unity: Kenya. American University's Field Staff Reports, East Africa Series, v. VIII, no 5 (Kenya), 1969.

[3] Hunter, Frederic. Kenya Throttles Dissent. Christian Science Monitor, November 4, 1972: 15.

[4] American University Foreign Area Studies. Area Handbook for Kenya. Washington, U.S. Govt. Print. Off., 1967. 275–278 p. (DA Pam No. 550–56).

[5] Hakes, op. cit., 155–157 p. Hakes describes what he calls the "ethnic issue" and the resentment of some tribes over Kikuyu control.

[6] After independence in 1963, all residents of Kenya were given two years in which to apply for citizenship. Many Asians retained their British passports. Hunter, Frederic. Kenya's Asians Get Notice to Close Shop. Christian Science Monitor, January 13, 1973: 1. Nervous Asians Remember They are Living on Borrowed Time. The Times (London), December 20, 1972: 6. Kenya Tells 400 Asians to Close Businesses and Leave. New York Times, January 11, 1973: 3.

[7] Africa South of the Sahara, London, Europa Publications Ltd., 1972:415–16.

[8] Hunter, Frederic. Tribal Maneuvering for Power in Kenya. Christian Science Monitor, August 5, 1972: 16.

[9] Hunter, Frederic. Kenya Throttles Dissent.

[10] Hoagland, Jim. Kenya's Crucial Issue: Who Will Succeed Kenyatta? Washington Post, January 9, 1973. A 12.

[11] Hoagland, Jim. Kenyatta Frees Opponent. Washington Post, March 28, 1971: A 25.

[12] Kenya Plans to Bar Hippies. Chicago Tribune, May 18, 1972, section 1; 13. Clothes Crackdown. Washington Post, June 11, 1972: K 18.

THE STATUS OF POLITICAL AND RELIGIOUS LIBERTIES IN AID-RECIPIENT COUNTRIES: THE REPUBLIC OF KOREA[*]

AID SUMMARY[1]

Total official U.S. development assistance fiscal year 1972, $252.2 million; fiscal years 1946–72, $5,368.9 million.

Total U.S. military programs, fiscal year 1972, $561.4 million; fiscal years 1946–72, $5,743.5 million.

Proposed total of all U.S. resources transferred, fiscal year 1974, $498.449 million.

This paper is a summary account of political and religious liberties in the Republic of Korea and is not intended to serve as a comprehensive analysis.

The actions of the Park Chung Hee government since 1971 have greatly restricted political and civil liberties in South Korea. Until late 1971, political opposition was active and generally tolerated by the Government. In the national elections of April 1971, Kim Dae Jung of the opposition New Democratic party received 46 percent of the vote for president. Also, the ruling party lost its two-thirds majority control of the National Assembly, which had previously enabled it to modify the constitution over the protests of opposition legislators.

Citing concern over the rapidly changing international situation, internal unrest, and a vulnerable economy,[2] President Park declared a state of national emergency in December 1971, and the legislature adopted a National Emergency Measures Law which gave Park the power to rule by decree in emergency situations.[3] The following October, President Park declared martial law and then proposed changes to the constitution which further centralized power indefinitely in the office of the president. These changes were approved by a national referendum which was held in November 1972 without allowing public debate. Martial law was lifted in December 1972; the National Conference for Unification, which was established and elected under the provisions of the new Constitution, met and reelected President Park.

Opposition political parties are still allowed to exist, but the activities of their members are closely watched.[4] In August 1973 Kim Dae Jung, the 1971 opposition presidential candidate, was kidnaped while in self-imposed exile in Japan. He appeared a few days later at his home in Seoul where he was held in house arrest through October. An investigation of the kidnaping conducted by the Japanese indicated that members of the Korean Embassy in Tokyo, and possibly members are closely watched.[4] In August 1973 volved in the incident.[5] It is reported that the Korean National Police and the Korean CIA are frequently used by the Government to keep visible public dissent at a minimum. Numerous student demonstrators, outspoken politicians, clergymen, and scholars who have criticized Government policies have been arrested.[6]

The structure of the National Assembly under the new Constitution hampers the chances of the opposition parties' being an effectvie legislative force. The President appoints one-third of the Assembly, and in the past, the ruling party has been able to fill half the body through elections. The fact that the President is now elected by the National Conference for Unification, rather than by universal direct suffrage, appears to make the election of an opposition presidential candidate less likely than ever.

Although political activities of all organized groups in Korea are tightly controlled, labor unions are active in Korean society, and there has been relatively little conflict between them and the Government. Students and intellectuals are closely watched by Korean internal security forces—the student uprising in 1960 brought the downfall of the Rhee government. President Park has closed universities and high schools on several occasions because of student disruptions, and many students and several professors have been charged with violating national security laws. In early October 1973, Seoul college students staged a demonstration, for the first time since 1971, calling for reforms to guarantee basic liberties for Korean citizens and demanding a true accounting of the abduction of Kim Dae Jung.[7] During October, and especially in November, there were more instances of students boycotting classes, staging sit-ins, and conducting demonstration marches. The students demanded a restoration of democracy and denounced the "one-man dictatorship."[8]

In late November journalists of the major newspapers conducted a strike in protest of Government press controls and on December 2, the National Assembly adopted a resolution calling for democratic reforms to eliminate corruption, to establish a "free and disciplined society," to find a solution to the student unrest, and to form a democratic and productive Parliament.[9] The Park government responded to the demonstration with the use of police, tear gas, and court trials. However, on December 3, Park replaced 10 of the 20 members of his cabinet, including Lee Hu Rak, the head of the Korean CIA. Journalists and other analysts are linking the cabinet shuffle to the student

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Footnotes at end of article.

demonstrations, the controversy with Japan over the kidnaping incident, and pressures by the North Korean Government that Lee Hu Rak be replaced as the South Korean representative before North-South negotiations resume.[10]

There is apparently no religious persecution per se in South Korea. As long as religious leaders and laymen refrain from promoting political or social disruption, they are allowed to practice their religion without interference. Many Christian denominations and Asian religions thrive in South Korea. However, Reverend Park Hyong Kyu, a well-known Korean pastor, was recently arrested, apparently because of his efforts to reorganize and improve the conditions of the Seoul slum dwellers and his public appeals for a renewal of democracy in Korea.[11]

Korea has a very homogeneous ethnic makeup, and there is no significant persecution of minorities.

Press censorship has been practiced in South Korea for many years. The Korean Central Intelligence Agency (CIA) reportedly provides guidelines to newspaper and magazine editors for the treatment of political subjects. Those who violate these guidelines reportedly may be jailed or beaten, the offensive copies typically are confiscated and destroyed, and the publication may be discontinued. Foreign publications entering Korea are also censored, and occasionally articles are cut out of newspapers or magazines before they are distributed.[12]

President Park is using the legal system to assist in a national program of austerity, to attempt to control the consumption of natural resources, and to instill discipline and a sense of national pride. Laws have recently been promulgated that limit the costs of weddings and funerals, restrict the collection and use of firewood and food grain, and make punishable by 29 days' imprisonment the throwing of cigarettes or chewing gum onto the streets, cutting into waiting lines, wearing long "hippie-style" hair, and spreading rumors.[13]

FOOTNOTES

*This report was written by Robert Shuey, Analyst in Asian Affairs.

[1] U.S. Agency for International Development. U.S. Overseas Loans and Grants and Assistance from International Organizations, Obligations and Loan Authorizations, July 1, 1945–June 30, 1972. Washington, May 1973. p. 74.

[2] Washington Post, December 6, 1971. Washington Star-News, January 23, 1972.

[3] U.S. Congress. Senate. Committee on Foreign Relations. Korea and the Philippines, November 1972. (Committee Print). 92d Congress, 2d Session. Washington, U.S. Govt. Print. Off., 1972. p. 11.

[4] Ibid., p. 7.

[5] Christian Science Monitor, November 13, 1973.

[6] U.S. Congress. Senate, Committee on Foreign Relations. Korea and the Philippines. p. 7.

[7] Christian Science Monitor, October 3, 1973.

[8] New York Times, November 29, 1973.

[9] New York Times, December 4, 1973.

[10] Ibid. Washington Post, December 3 and 4, 1973.

[11] Washington Post, July 23, 1973.

[12] U.S. Congress. Senate. Committee on Foreign Relations. Korea and the Philippines, p. 7.

[13] Washington Post, March 31 and July 23, 1973. New York Times, August 14, 1973.

Status of Political and Religious Liberties in Aid-Recipient Countries: Laos*

AID SUMMARY[1]

Total U.S. Official Development Assistance, FY 1955–FY 1972, $792.6 million.

Total U.S. Official Development Assistance, FY 1972, $52.2 million.

Total U.S. Military Programs, FY 1955–FY 1972, $963.4 million.

Total U.S. Military Programs, FY 1972, $219.3 million.

Proposed Total of all U.S. Resources Transferred FY 1974, $375.807 million.

The following paper is a summary account of the status of political and religious liberties in Laos and is not intended to serve as a comprehensive analysis.

According to the Constitution of 1947 and its subsequent amendments, Laos is a constitutional monarchy with the King as head of State, a Prime Minister who is appointed by the King as head of government (assisted by the Council of Ministers), a bicameral legislature made up of a National Assembly, elected by universal suffrage, an appointed 12-member King's Council, and an independent judiciary.

Shortly after Laos's acquisition of full independence from French rule in 1953, civil warfare erupted between the opposing forces of the Royal Lao Government and the Communist-dominated Lao Patriotic Front (Nao Lao Hak Sat—NLHS). Two major international conferences (Geneva Conferences of 1954 and 1962) have attempted to restore domestic peace to the country. The result of the 1962 Geneva Conference was a 13-nation guarantee of Laotian neutrality and the formation of a coalition Provisional Government of National Union. The new Government was headed by neutralist Prince Souvanna Phouma, with rightist General Phoumi Nosavan and Prince Souphanouvong, head of the NLHS, as deputy prime ministers.

Fighting broke out anew between the neutralists and the Pathet Lao (military forces of the NLHS which also have been known since 1965 as the Lao People's Liberation Army). In 1964 a one-day, rightist-backed military coup resulted in the ouster of Souvanna Phouma, but he was immediately restored with the aid of other rightist elements. Subsequently, the NLHS claimed that Souvanna's prime ministership was illegal. The domestic political situation was further complicated by an unsuccessful rightwing attempt at the takeover of the Government in 1965, which resulted in the flight of the main rightwing leaders into exile.[2]

From the mid-1960s until early 1973, the increased tempo of warfare in neighboring Vietnam brought increased use of Laotian territory by North Vietnam and the United States. North Vietnam introduced larger numbers of its troops into Laos and furnished supplies to the NLHS forces. The United States provided massive materiel and air support to the Royal Lao Government forces and also carried out intensive bombing of the Plain of Jars in northern Laos and the Ho Chi Minh trail network in southern Laos to interdict the flow of North Vietnamese materiel and manpower into South Vietnam.

On February 21, 1973, a cease-fire agreement was signed by the Royal Lao Government and the NHLS. The Pathet Lao controls 80 percent of the country's 9,100 square miles; but two-thirds of the Laotian population of three million, including refugees, are living in Royal Government areas.[3]

On September 14, 1973, the Pathet Lao and the government of Souvanna Phouma formally signed protocols to create a new Government of National Union which is to be headed by neutralist Premier Souvanna Phouma. The terms of the protocol include withdrawal of all foreign troops within 60 days of the formation of coalition. Both the Pathet Lao and the Royal Government are to hold five ministries each. Two other portfolios will go to qualified non-political persons. Each minister will have a deputy from the opposition, and the Government must act on important matters only in unanimity. A National Consultative Council composed of 16 Pathet Lao, 16 Royal Government members, and 10 non-aligned members will enjoy equal status with the Government and advise it on policy.[4] The Council will prepare for eventual national elections, the date of which has not been set.[5]

A two-party joint commission, whose decisions must also be unanimous, will oversee day-to-day functioning of the peace pact, the exchange of prisoners, the removal of foreign troops, and the neutralization of both Vientiane, the administrative capital, and Luang Prabang, the royal capital.[6] The security of Vientiane is to be provided by 1,000 Pathet Lao policemen and 1,000 Government policemen, together with one battalion—400 to 500 men—of regular forces from each side. In Luang Prabang there are to be 500 policemen plus two companies of troops—about 300 men—from each side.[7]

At this writing the formation of the new Lao coalition Government has been stalled because of disagreement over details in the September protocol.[8]

Efforts to politicize the masses by the Royal Government and by the NLHS have been hindered through the years by the high rate of illiteracy (75 percent), traditional tensions between the hill tribes and the dominant lowland Lao, inadequate trnsportation and communication systems, mountainous topography, and the generally underdeveloped socioeconomic infrastructure. Consequently, the politics of mass participation, as the term is commonly understood in the West, has yet to take root. There are no well-defined political parties in Laos. Instead, politicians identify themselves with the country's traditionally accepted and politically important families and economic interests.[9]

The Laotian Constitution recognizes as fundamental principles the rights of the people to equality before the law, legal protection of their means of livelihood, freedom of conscience, and other domestic liberties as defined by law.[10] Many Laotians, however, have little knowledge of the rights and duties of citizenship. Few people in the countryside and the hills are acquainted with regions of the country other than the one in which they live.[11]

Theravada Buddhism, the official religion of Laos, is the belief of approximately half the population. Hill tribes subscribe to a variety of animistic and ancestor worship cults. The Laotian Communists do not object to Buddhism's being extolled as the state religion.[12]

The news media are under strong Government influence; broadcasting is Government-controlled. Lao newspapers, most of which are Government-controlled or operated by persons associated wtih the Government, are of limited circulation and scope. There is no television in Laos.[13]

FOOTNOTES

*This report was written by Marjorie Niehaus, Analyst in International Relations.

[1] U.S. Agency for International Development. U.S. Overseas Loans and Grants and Assistance from International Organizations: Obligations and Loan Authorizations, July 1, 1945–June 30, 1972. Washington, May 1973. p. 75.

[2] Foreign Area Studies, the American University. Area Handbook for Laos. Washington, D.C., U.S. Govt. Print. Off., [1972]. p. 4–5.

[3] Laos Pact Initialed, Signing Friday, Washington Post, September 13, 1973.

[4] Although the protocols read that the two will be of equal authority, Government sources say it has been agreed behind the scenes that the Royal Government will be the superior body. Burgess, John. Coalition Agreement Signed in Laos. Washington Post, September 14, 1973.

[5] Neeld, Dennis, Laos Pact Brings Layers of Leaders. Washington Star, September 16, 1973.

[6] Greenway, H.D.S. Laos Peace Hinges on Thailand, North Vietnam. Washington Post, September 28, 1973.

[7] Browne, Malcolm W. Communists Enter Laos Capitals Today Under Truce Pact. New York Times, October 12, 1973.

[8] Arbuckle, Tammy, Lao Quarrels Stall Coalition Plans. Washington Star, October 26, 1973.

[9] Foreign Area Studies, the American University, p. 173.

[10] Peaslee, Amos J. Constitutions of Nations. Volume II—Asia, Australia and Oceania. The Hague, Netherlands: Martinus Nijhoff [1966] p. 624.

[11] Foreign Area Studies, the American University, p. 163.

[12] Ibid.

[13] Stebbins, Richard P., ed. Political Handbook and Atlas of the World. New York, Simon and Schuster [1970] p. 196.

THE STATUS OF POLITICAL AND RELIGIOUS LIBERTIES IN AID-RECIPIENT COUNTRIES: MALAYSIA*

AID SUMMARY (IN MILLIONS OF DOLLARS)[1]

Total official development assistance:

Total military programs:

Fiscal year 1972, $3.0; Fiscal year 1954–72, $65.9

Fiscal year 1972, $10.6

Fiscal year 1954–72, $29.6

Proposed total of all U.S. resources transferred, fiscal year 1974, $22.123 million.

The following paper is a summary account of the status of political and religious liberties in Malaysia and is not intended to serve as a comprehensive analysis.

Malaysia is a constitutional monarchy, nominally headed by a Paramount Ruler who is chosen for a five-year term from among the Sultans of nine of the Malaysian states. (The heads of the four other Malaysian states are not eligible for the royal position.) The Paramount Ruler also serves as the leader of the Islamic religion for Malaysia. The Government actually is led by the Prime Minister, Tun Abdul Razak, who is selected from among the members of Parliament. Of the 58 members of the upper house of Parliament, 32 are appointed by the Paramount Ruler, and the remainder (26 members) and all the members of the lower house (144) are elected by universal suffrage.[2]

For generations there has been a great deal of political and economic rivalry and discrimination between ethnic/racial groups in Malaysia and previously in the colonies from which the nation was formed. Some areas of discrimination are sanctioned by the national constitution, but in other areas the Government policy is to reduce unequal conditions among ethnic groups.

Malays constitute the largest ethnic group, about 45 percent of the population, have primarily remained in rural areas, and are mostly employed in agriculture. They are nearly all Moslems. They received preferential treatment from the British when Malaya was a colony, whereas Chinese and Indian immigrants were treated as temporary visitors without many of the normal citizen's rights.[3]

Patterns of settlement and occupation have further contributed to separation of ethnic groups. The Malays dominate positions of authority in the Government, and they are given special rights and benefits by the Malaysian Constitution and other national laws. For example, Malay is the official national language; Islam is the national religion; the Paramount Ruler must be a Malay;[4] and quotas for Malays are maintained for government jobs, business licenses, and scholarships.[5] Despite Malay political preeminence, however, the Malays control only a small portion of the national income and wealth. They have made efforts through the Government to protect their special rights and to increase their share of the nation's wealth.[6]

About 35 percent of the Malaysian population is of Chinese ancestry. By virtue of their occupations in trade, business, and finance, the Chinese possess most of the economic power in Malaysia.[7] They dominate not only commercial activities but industrial jobs; and they live in distinct communities, primarily in urban areas. Traditionally, it has been more difficult for Chinese and other non-Malays to obtain Malaysian citizenship than it has been for Malays, although the restrictions have recently been reduced. Occasionally, the Chinese have expressed a desire for greater political representation and more equal treatment by the Government. They also have balked at the suggestion that wealth and economic power should be more evenly distributed at their expense.[8]

Approximately nine percent of the Malaysian population trace their origins to India and Pakistan. These people have considerably less governmental influence than the Malays and much less economic power than the Chinese. The same lack of power is true of the indigenous tribal groups in sparsely populated East Malaysia (the states of Sarawak and Sabah in northern Borneo).[9]

Racial disorder erupted in 1969 after elections had been held in West Malaysia, and the disappointed Chinese leaders refused to accept appointed positions in the new government. The parliamentary form of government was temporarily suspended, and Malaysia was ruled by a National Operations Council from May 1969 to February 1971, when parliamentary government was restored.[10]

In recent years the Government and leading political parties have attempted to ameliorate the stress between ethnic/racial groups. The Government has taken more conciliatory policies toward citizenship for non-Malays and toward distinct cultural and educational institutions.[11] Its New Economic Plan's stated goal is to eradicate poverty without regard for race and to eliminate social and economic compartmentalization.[12]

An amendment to Malaysian law was made in 1971 making it a seditious offense to question publicly (even in discussions in Parliament) the constitutional provisions which grant special rights to Malays, establish Malay as the official language, set forth the rules of sovereignty of Malay Sultans, and describe the citizenship rights of non-Malays.[13] The Malaysian legislators reportedly felt that public debate of these sensitive issues had tended to inflame racial hatred.[14]

The dominant political force in Malaysia is the Alliance Party, which is an association of the major parties representing Malays, Chinese, and Indians. It maintains a substantial majority in Parliament; and its stated policy is to conciliate competing ethnic goals. Numerous opposition parties exist and are subject only to the same restrictions that control the Alliance Party.

An issue that has fanned racial strife is Communist terrorist activity near the Thai border on the Malay Peninsula and in Sarawak. The insurgents, who are mostly Chinese, try to create dissension between the people and the Government and promote Sarawakian separatism.[15] The Malaysian Government conducts military and police operations against the insurgents and has made numerous arrests in recent years. According to Amnesty International, in August 1972, the Deputy Prime Minister reported that 1,657 people were being detained under the Internal Security Act.[16]

The Malaysian Government operates the nation's electronic mass media and news service and conducts an informal censorship of privately owned newspapers and publishing houses. Publishers reportedly cooperate with government guidance, but, if necessary, they can be forced to comply by threats that their license to publish may be revoked or suspended.[17]

The Malaysian legal system is based on English common law, and the Federal Court has original jurisdiction in constitutional matters. Judges for the Federal Court and the High Court are appointed by the Paramount Ruler upon advice of the Prime Minister.[18]

Although the national religion is Islam and the Paramount Ruler leads that faith in Malaysia, everyone in the country has the right to practice a religion of his own choosing.[19]

FOOTNOTES

*This report was written by Robert Shuey, Analyst in Asian Affairs.

[1] U.S. Agency for International Development. U.S. Overseas Loans and Grants and Assistance from International Organizations, Obligations and Loan Authorizations, July 1, 1945–June 30, 1972. p. 76.

[2] U.S. Dept. of State. Background Notes: Malaysia, September 1971: 3.

[3] Patitucci, Jean B. Malaysia: A situation Report. Legislative Reference Service, January 16, 1970. p. 11.

[4] U.S. Dept. of State. Background Notes: Malaysia, September 1973: 3.

[5] Patitucci, op. cit. p. 7.

[6] The Far East and Australasia, 1973. London, Europa Publications Limited, 1973. p. 502.

[7] U.S. Dept. of State. Background Notes: Malaysia, September 1971: 1.

[8] The Far East and Australasia, p. 502.

[9] Thompson, Kenneth. Malaysia. Focus, by the American Geographical Society, v. 22, April 1972: 2, 4.

[10] U.S. Dept. of State. Background Notes: Malaysia. September 1973: 4.

[11] Thompson, op. cit., p. 7.

[12] Chee, Stephen. Malaysia and Singapore: Separate Identities, Different Priorities. Asian Survey, v. 13, February 1973: 151.

[13] Ibid.

[14] New York Times, March 4, 1971.

[15] Morgan, James. Battle for Sarawak. Far Eastern Economic Review, February 5, 1972: 23. New York Times, March 7, 1972 and May 27, 1973.

[16] Annual Report 1972–73. London, Amnesty International, 1973. p. 58.

[17] Telephone conversation with State Department Malaysia Desk Officer, October 19, 1973.

[18] U.S. Dept. of State. Background Notes: Malaysia, September 1971: 3.

[19] The Far East and Australasia, p. 528.

THE STATUS OF POLITICAL AND RELIGIOUS LIBERTIES IN AID-RECIPIENT COUNTRIES: MALI

AID SUMMARY[1]

Total Official U.S. Development Assistance, FY 1972: $1.8 million.

Total Military Programs, FY 1972: $.5 million.

Total Official U.S. Development Assistance, FY 1962–1972: $23.8 million.

Total Military Programs, FY 1962–1972: $3.2 million.

Proposed total of all U.S. Resources Transferred, FY 1974, $1.194 million.

1. ELECTIONS/POLITICAL PARTIES

The November 1968 Fundamental Law, promulgated by the new military government, guaranteed freedom of political activity within the law, but since that time no details of any active political parties have been available.[2] At the time of independence (1960), the Union Soudanaise party held all Assembly seats and the presidency. In 1962 two opposition party leaders were arrested, and they died in captivity. During the 1964 elections, no opposition candidates were permitted to run.[3]

Footnotes at end of article.

2. MARTIAL LAW

A November 1968 coup resulted in the overthrow by the military of the government of President Modibo Keita. A 14-member Military Committee of National Liberation (CMLN), headed by Moussa Traore, took power. Under the Fundamental Law which replaced the 1960 constitution, the president and the CMLN rule by decree (the National Assembly having been abolished). Although an advisory council is ostensibly preparing a return to civilian rule and Colonel Traore announced in November 1972 that there would be a referendum on a new constitution the likelihood of the CMLN's relinquishing power seems remote, in the view of some observers.[4]

3. FREEDOM OF THE PRESS

Newspapers are published by two government agencies, the National Information Agency and the Military Committee for National Liberation; two of the three dailies in mimeographed form.[5] Literacy is low, and an intensive adult literacy campaign is being pursued. The one radio station is Government-operated and is heard nationally via some 60,000 radio receiving sets.[6]

4. RELIGIOUS FREEDOM

Of the population of 5 million, 60–65% adhere to the faith of Islam, 30–40% are Animists, and perhaps 30,000 are Christians, including 20,000 Catholics.[7] Despite the preponderance of Muslims, Islam is not the official religion of the state. Foreign Christian missionaries have not been pressured to leave, as they have in many Muslim Arab states to the north.[8]

5. MINORITIES

Like many other African countries, Mali is a nation of minorities. The largest ethnic group (nearly 30% of the population) is the Mawlingo, which includes the Bambara, Dioula, and Malinke tribes. Other negroid groups are the Marka (6%), Songhai (6%), and Dogon (3%). Non-negroid groups comprise about 15% of the population and include the Tuareg, Awlis, and Moors. There are no available reports of official discrimination or other problems regarding treatment of any group.

One result of the current drought situation has been the virtual destruction of the traditional master-slave relationship between the Tuareg and Bela people in Mali. Both groups have been forced to migrate southward into Upper Volta in order to survive, and the economic and social links which supported their respective positions have been severed, probably permanently.[9]

6. ORGANIZED MOVEMENTS

Trade unions are grouped under the Union Nationale des Travailleurs Maliens (UNTM). In November 1968 the national bureau of the UNTM was dissolved, but union activities were not completely curtailed. During 1969 and 1970, congresses of the trade unions were almost unanimously critical of the Government: demands were made that President Keita's socialist policies be reinstated, that normal constitutional life be resumed, and that certain liberties be guaranteed (such as freedom to strike, freedom to assemble, freedom of the press, and freedom of action for union leaders). The Builders' and Mineworkers' union and the Teachers' union especially were critical of Government policy, and their members reportedly suffered harassment as a result.[10] The Government accused the unions of becoming "politicized." The provisional consultative committee of the UNTM, meeting in the fall of 1970, claimed that while the UNTM was apolitical, it reserved "the right to support any political organization or public body that represents the interests of the workers."[11] Asserting that the UNTM had set itself up as a political party, the Government in October 1970 dissolved the provisional consultative committee and took over the UNTM's property.[12]

7. POLITICAL PRISONERS

Estimates of total numbers of political prisoners are unavailable. Ex-president Keita as well as several of his ministers and a number of students, teachers, trade unionists and soldiers were arrested following the 1968 coup, and were still detained as of 1973. Seven members of the teachers' union were imprisoned after an April 1969 strike.[13] After dissolution of the UNTM committee in January 1971, most of its numbers reportedly were arrested.[14] Some 50 people were arrested in July 1972 in connection with an alleged plot originating within the CMLN.[15]

8. LEGAL PROCEDURES

Since the constitution has been suspended and rule is by decree of the CMLN, it can be expected that legal formalities are not currently being emphasized. However, there have been no press reports of extraordinary procedures such as executions. Because Mali is one of the countries currently in the throes of the Sahelian drought, with its concomitant population movements, starvation, and disease, the country can be said to be in a state of severe crisis; this situation could affect the state of the country's legal procedures.

FOOTNOTES

[1] U.S. Agency for International Development. U.S. Overseas Loans and Grants and Assistance from International Organizations, Obligations and Loan Authorizations, July 1, 1945–June 30, 1972. Washington, May 1973. 105 p.

[2] Africa South of the Sahara 1973. London, Europa Publications, 1973. 546 p.

[3] Ibid., 537–538 p.

[4] Africa '73. London, Africa Journal. 1973. 107 p.

[5] Africa South of the Sahara 1973, 547 p.

[6] Ibid.

[7] Africa Annual Review 1972. London, 1972. 144–145 p. Figures are very rough estimates and vary from source to source.

[8] Ottaway, David B. Missionary in Mali: "It Takes Faith." Washington Post, August 19, 1973.

[9] Edinger, Bernard. Drought is Ending Tribe's Bondage. Washington Post, August 10, 1973.

[10] Africa Contemporary Record 1970–1971. London, Rex Collins, 1971. B393–B394 p.

[11] Ibid., B394.

[12] Statement issued by the CMLN and read on Bamako home service on 19 October 1970; in Africa Contemporary Record, C159–160, p. It should be noted that in 1967 there were an estimated 25,000 wage earners in Mali; and union membership, figures for which are unavailable, was probably considerably smaller than that number. Ninety percent of the population is engaged in agriculture.

[13] Ibid., 393 p.

[14] Africa South of the Sahara 1973, 548 p.

[15] Africa 73, 107 p.

STATUS OF POLITICAL LIBERTIES IN AID-RECIPIENT COUNTRIES: MOROCCO*

AID SUMMARY [1]

Total Official U.S. Development Assistance, FY 1972: $38.4 million.

Total U.S. Military Programs, FY 9172: $15.9 million.

Total Official U.S. Development Assistance, FY 1962–1972: $495.8 million.

Total U.S. Military Programs, FY1962–1972: $100.3 million.

Proposed total of all U.S. Resources Transferred FY 1974, $45,462 million.

The following paper is a summary account of the status of political and religious liberties in Morocco and is not intended to serve as a comprehensive analysis.

It is generally acknowledged that besides King Hassan II, the main potential actors in the Moroccan political scene are the army and the opposition parties. Compared to the King's considerable power, however, their actual role, if any, is very small. The latest ruler in a 1,000-year-old dynasty, the King is seen as a direct descendent of the Prophet. In a tradition-bound, officially Muslim state, this lineage gives him considerable stature and authority.

Within a year of his ascension to the throne in January 1962, King Hassan announced a new constitution, approved in a December 1962 referendum. That document provided for a democratic constitutional monarchy with universal suffrage and guarantees an independent judiciary, of the freedoms of speech and movement, and of the right to join political and labor organizations. Elections for the House of Representatives and the House of Councillors were held in May and October 1963, respectively. The largest number of seats was won by the pro-Government F.D.I.C. (Front for the Safeguarding of Constitutional Institutions). Also represented were the leftwing U.N.F.P. (National Union of Popular Forces) and the conservative Istiqlal.

On June 7, 1965, in response to rioting the previous March by students, laborers, and the urban poor, King Hassan declared a "state of exception." Invoking Article 35 of the Constitution, he assumed all powers himself.[2]

The "state of exception" lasted for five years, but in its course the King permitted gradual controlled resumption of political party and union activity (1967–68) and, in October 1969, Morocco held the first local elections in six years. Boycotted partially by the Istiqlal and completely by the UNFP, the elections officially turned 83 percent of the seats over to "neutral" candidates. Opposition party leaders and their union and student allies claimed that these were in fact Government appointees and that the elections themselves had been fixed.[3]

In July 1970, King Hassan announced the end of the emergency period and again presented a new draft constitution. Later that month, a referendum approved the document by 98.7 percent of the vote, even though both the U.N.F.P. and the Istiqlal had campaigned against it. Reportedly, there was a "widespread belief" that the referendum had been fixed.[4] The U.N.F.P. and Istiqlal then formed an anti-Government united front with the avowed aims of democratization of national life through agrarian reform and economic nationalization. This alliance, the Kutlah al Watania, boycotted the elections for the unicameral legislature in August 1970.

In July 1971, a coup d'etat was attempted at the Skhirat Palace near Rabat by a group of "apolitical or conservative" senior army personnel.[5] King Hassan undertook a considerable purge of the army in response to the coup attempt. Meanwhile, by the end of 1971, a number of the "independent elite" (high-ranking officials and businessmen) had been charged with corruption and discredited via a series of public scandals. In light of the weakening of these two major sources of support, the King opened negotiations with leaders of the Istiqlal, the U.N.F.P., and the Union Marocaine de Travail (UMT). These latter insisted that prior to their participation in Hassan's government, a number of policies would have to be implemented: new elections, economic nationalization, agrarian reform, industrialization, and others. Unable to accept such broad demands, the King ended negotiations in February and announced that a new constitutional referendum would be held in March 1972. The new document, formulated without Opposition participation, extended to two-thirds (from one-third) the proportion of National Assembly members to be directly elected and more clearly defined the structure by which specific powers may be delegated to the executive. However, the traditional role of the King as both secular and religious head of state and the wide scope of his powers remained.

In 1972, 48 students and intellectuals were detained at Casablanca without trial and remained there as of well into 1973; allegations of torture and other harsh conditions were made.[6] The leftwing newspaper Maghreb-Informations had been allowed to resume publication in January 1972 after a two-year Government-ordered shutdown; but issues of opposition papers were "often" seized by officials. In April, the staff of L'Opinion went on strike to protest such seizures.[7]

Attempts were made to mollify the students and trade unions, allied with the opposition parties, when the King granted student amnesties in May and made a speech to trade union leaders calling on them to show interest in political affairs. He also announced that a revision of the electoral rolls would be necessary to include more than two million additional people eligible to vote.[8]

In August 1972, members of the military made another unsuccessful assassination attempt, attacking the King's plane as it was returning from Europe. Seizures of newspapers multiplied after the August events, and for two weeks all French newspapers were banned. Circulation of Le Monde was prohibited for even longer; and in October the correspondent of Le Figaro was expelled from the country.[9]

In November 1972, 220 air force officers were placed on trial for the August plot. Of those 177 were acquitted, 32 were given prison terms ranging from 3 to 20 years, and 11 were executed in January 1973.[10] Also in November, the King once again reshuffled his Cabinet after having encouraged opposition politicians to accept seats and help plan the parliamentary elections scheduled for 1973. Opposition leaders had claimed that any overtures made toward them regarding participation had not been sincere and had been directed at the French press," and they declined to take part in the new Cabinet.

The internal situation faced by the new Government became rife with problems: students organized numerous demonstrations and strikes, with the resultant arrest of some of their leaders; thousands of railway workers went on strike; after execution of the 11 officers, letter bombs were sent to leftist party leaders; the forty-eight political prisoners in Casablanca continued a two-month-old hunger strike throughout January.[12]

In March, apparently timed to coincide with the 12th anniversary of King Hassan's accession to the throne, outbreaks of terrorism in the cities and guerrilla activity in the mountains took place. Allegedly instigated by Libya and carried out by Moroccan leftists, the subversion was rapidly neutralized, as the spontaneous popular uprising upon which it had been predicated failed to materialize.[13]

In April 1973, The Government outlawed the U.N.F.P., and arrested "several hundred" of its members, accusing them of taking part in the March insurrection.[14] A new code of civil liberties was promulgated, restricting officially the rights of assembly and association as well as freedom of the press.[15] During the summer 157 persons, many of them U.N.F.P. members, were tried by a military court in Kenitra for plotting to overthrow the Government. The prosecution asked for the death penalty for 25 and long prison terms for the rest. In Casablanca, 80 others—25 in absentia—were on trial in a military court facing similar charges. Many of these persons claimed to have been kidnapped, held for months without any legal safeguards, and tortured.[16]

Active opposition to the King is largely urban and middle-class based, and the majority of passive support comes from the highly traditional rural population. The Government has undertaken to reinvigorate this support by announcing a program of land takeover involving some 500,000 acres from formerly French- and Spanish-owned farms. Although the peasantry has yet to receive this land, the move has reportedly increased the King's popularity.[17] Another move to counter his domestic and foreign critics was the supplying of military equipment and troops to Syria. This act improved the King's image as a militant Arab and helped to silence Libyan charges that he is a tool of the Zionists because of his protective role toward the Moroccan Jewish community.[18]

FOOTNOTES

* This report written by Dagnija Sterste, Foreign Affairs Analyst.

[1] U.S. Agency for International Development. U.S. Overseas Loans and Grants and Assistance from International Organizations; Obligations and Loan Authorizations July 1, 1945-June 30, 1972. Washington, May 1973. p. 108.

[2] Morrison, Godfrey. King Hassan of Morocco: Odd Man Out. New Middle East, No. 45, June 1972: 8.

[3] Ibid.

[4] Ibid., p. 9.

[5] Area Handbook for Morocco. p. 157.

[6] Amnesty International. Annual Report 1972–73. London, Amnesty International publications, September 1973. p. 34.

[7] International Press Institute. IPI Report, v. 22, January 1973: 8.

[8] Morrison, *op. cit.*, p. 10.

[9] International Press Institute, *op. cit.*, p. 8.

[10] Morocco Executes 11 for Role in Plot to Assassinate Hassan. New York Times, January 14, 1973: 24.

[11] Cooley, John K. Morocco Suspended on Brink. Christian Science Monitor, September 1, 1972: 14.

[12] Cooley, John K. Executions Jar Moroccan Rule. Christian Science Monitor, January 15, 1973: 2.

[13] Out of Africa. Africa Report, v. 18, May-June 1973: 3.

[14] Morocco Bans Leftist Party and Bans Many Members. New York Times, April 3, 1973: 33. Amnesty International estimates that over 2,000 were ultimately arrested. Annual Report 1972–73, p. 34.

[15] Amnesty International. op. cit., p. 34.

[16] Cooley, John K. Morocco Appears Drifting into Absolutist Rule. Christian Science Monitor, August 23, 1973: 6.

[17] Giniger, Henry. Hassan is Keeping Opposition at Bay. New York Times, September 17, 1973: 7.

[18] The Jewish population has dwindled from nearly 250,000 in 1948 to 35,000 in 1972, for a number of reasons including the accessibility of Israel, poor economic conditions in Morocco, and insecurity in light of the Government's Arabization/Moroccanization policies in the economy. The resultant loss to the nation has been substantial, since the small Jewish population has contained a large proportion of the country's skilled and professional persons. The Government attempted to restrict Jewish emigration by closing down emigration agencies between 1957 and 1961 but has since acted to prevent instances of overt discrimination or reprisals against Jews. Area Handbook for Morocco, p. 77–79.

The Status of Political and Religious Liberties in Aid-Recipient Countries: Nicaragua*

AID SUMMARY [1]

Total Official U.S. Development Assistance FY 1946–FY 1972—$164 million.

Total Official U.S. Development Assistance FY 1972—$4.7 million.

Total U.S. Military Programs FY 1953–FY 1972—$15.1 million.

Total U.S. Military Programs FY 1972—$.9 million.

Proposed Total of All U.S. Resources Transferred FY 1974—$23,746 million.

The following paper is a summary account of the status of political and religious liberties in Nicaragua, and is not intended to serve as an in-depth or comprehensive analysis.

The Nicaraguan governmental system has been characterized as "America's only hereditary dictatorship," [2] and a "dictatorship masquerading as a constitutional republic." [3] For the past 36 years, the Somoza family has monopolized Nicaraguan political life, and, through its vast business empire, Nicaraguan economic life as well. The first in the line of Somozas, Gen. Anastasio "Tacho," the commander of the Nicaraguan National Guard, came to power in 1936 after forcing his uncle, President Sacasa, to resign, and engineering his own victory in an election. Since that time, the Somoza family—Gen. Anastasio and his two sons, Luis and Anastasio "Tachito"—have controlled the nation's government and exercised a "big brother" role over all elements of national political life. They have done this either directly as President [Anastasio, Sr.: 1936–1947, 1950–1956; Luis: 1956–1963; Anastasio, Jr.: 1967–1972] through repeated constitutional changes relating to term of office, or by serving as the real power behind hand-picked presidents. The latter were elected in contests either boycotted or labelled fraudulent by the opposition. Throughout the period, the Somozas guaranteed their political strength by retaining leadership of Nicaraguan military power, the Guardia Nacional (National Guard), which forms the basis of political power in the nation.[4]

On May 1, 1972, according to the terms of a political pact between the two major parties, the governing Partido Liberal Nacional [PLN] and the opposition Partido Conservador Tradicional [PCT], President Anastasio Somoza, who constitutionally cannot hold a successive term, turned over his office to the National Governing Council, a three-man executive body composed of two members of the PLN and one opposition PCT representative. The National Congress voted to dissolve itself in August 1971 and was replaced by an elected constituent assembly, charged with drafting major reform for the 1950 Constitution in time for a new presidential election, scheduled for September 1974. Anastasio Somoza is expected to run for president at that time and, according to most analysts, is expected to win re-election.

In the interim, Antasio Somoza maintains his political power as president of the majority PLN party, supreme chief of the National Guard, and the head of the National Emergency Committee, made up of the Cabinet ministers, formed after the December 1972 Nicaraguan earthquake and empowered to take all necessary measures to organize the relief and rehabilitation of Managua.

The reputation of the first Somoza, who was assassinated while president in 1956, as a severe and brutal dictator is well-established. Concerning the extent of Executive control which he created, one noted analyst has observed:

"He [Somoza] juggled the constitution until he had a document that enabled him to be a dictator legally. . . . The purpose of all the changes was to create a legal framework under which he could do whatever he wanted to do. Under his personally dictated constitution he was the commander in chief of the armed forces, and he could issue decree-laws when Congress was not in session (and Congress met for only sixty days each year), oversee the official conduct of the courts, supervise the spending of the government's money, confer military ranks up to brigadier general, appoint and remove all government employees including all local government officials, suspend or restrict constitutional guarantees, and do just about anything else that occurred to him without any check from anyone. He controlled the press and radio, ran managed "elections" and

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Footnotes at end of article.

exiled or jailed anyone who opposed him vigorously." [5]

The two Somoza sons inherited a smoothly functioning political, economic, and military machine that has enabled them to remain in power without recourse to its more brutal aspects.[6] In the opinion of some analysts, Anastasio Somoza has governed and continues to govern Nicaragua with real respect for constitution liberties, an absence of brutal repression, and concern for social and economic development. However, the point is made that although the Somozas have never tried to operate as rigid a dictatorship as many other Latin American strong men, they have never hesitated to use enough force to keep themselves in power; [7] and analysts generally concede that Anastasio Somoza too, should his position become threatened, would not hesitate to take whatever measures were necessary to keep himself in power. For example, one source cites the fact that certain civil liberties guaranteed by the constitution can be, and in practice have been, suspended:

"The President, through Articles 196 and 197, is empowered to detain a person without recourse to his procedural or personal rights and to suspend all constitution guarantees when the 'public tranquility' is threatened. During the elections of 1967, the Somoza dynasty invoked this provision liberally and to the disadvantage of the opposition movement." [8]

As previously mentioned, the Somoza family's political power is derived in large part from its control of the Guardia Nacional. The Guard combines the function of armed forces and police, also serving as the Somoza family's private guard. Many generals or high-ranking officers occupy Cabinet posts or key positions in the Government bureaucracy, and its loyalty to the Somoza family is unquestioned.[9]

There are two major political parties, the majority Partido Liberal Nacional, which Anastasio Somoza heads, and the opposition Partido Conservador Tradicional. Membership in the PLN is practically a prerequisite for Government employees, and all candidates for office are nominated by the party leadership.[10] Communist, Socialist and all internationally-based parties are illegal. Nicaraguan opposition elements are active. A recent Wall Street Journal article quoted an outside observer as saying, "Somoza-genuinely believes in having a viable opposition, but it shouldn't be too viable, because it would keep General Somoza from running the country singlehandedly." [11] Some opposition party leaders are in exile,[12] and political activists sometimes are jailed, but, according to one source, "after a trial . . . they actually get out when their terms are finished. Nobody is in jail because of his opinions, and physical violence for political reasons pretty much ended before the Somoza took power." [13]

Candidates for the legislature are chosen by the party leadership and do not represent a geographical district. Although the constitution contains extensive procedure governing the composition of Congress, the enactment of legislation, and the powers of the two houses, under the Somozas, it has played a minor role in government and most laws originate with the Executive.[14]

Nicaragua is divided into 16 administrative departments, each governed by a "political chief" appointed by the President. Lesser municipalities within the departments are governed by an elected council.

Concerning Nicaragua's judicial system, judges are elected either by the Congress or the Supreme Court, but the constitution gives the President the power to "oversee the official conduct of the members of the Judicial Power." According to one analyst, "during the Somoza era the courts have always been subservient to the executive power." [15]

Nicaragua's labor movement is small—2 percent of all workers are unionized.[16] Under Somoza rule, organized labor has remained weak and factionally divided, and exercises very little role in determining public policy.[17]

Up to this time, press criticism of the Government has been tolerated. However, strict Government supervision is exercised over the radio and television media, and considering Nicaragua's low literacy rate,[18] the radio (for television for those who own one) is a more important vehicle for public commentary. Opposition newspapers have remained relatively uncensored; minority parties and splinter groups sometimes establish separate newspapers to popularize their ideas—a pro-Communist weekly has existed.[19] A five-year old law authorizes the Government to suspend the publication of newspapers if the contents are judged subversive, but it has never been enforced.[20] However, a new press law passed in October 1973, the impact of which has not yet been made clear, enables public figures to sue the press much more easily for calumnious accusations.[21]

There is complete freedom of religion in Nicaragua. The Church has begun to evidence more concern for social welfare, which has led it by implication to oppose some Government policies, but no confrontation between Church and state is currently anticipated.[22]

FOONOTES

* This report was written by Virginia Hagen, Analyst in Latin American Affairs.

[1] U.S. Agency for International Development. U.S. Overseas Loans and Grants and Assistance from International Organizations: Obligations and Loan Authorizations, July 1, 1945–June 30, 1972. Washington, May 1973. p. 55.

[2] Kantor, Harry. Patterns of Politics and Political Systems in Latin America. Chicago, Rand McNally and Company, 1969. p. 159.

[3] Ibid., p. 182.

[4] Johnson, Kenneth F. and Phillip L. Paris. Nicaragua, in, Burnett, Ben G. and Kenneth F. Johnson. Political Forces in Latin America; Dimensions of the Quest for Stability. 2d Edition. Belmont, California, Wadsworth Publishing Company, Inc., 170. p. 121–123.

[5] Kantor, op. cit., p. 166.

[6] State Department, Nicaragua Desk.

[7] Kantor, Harry. op. cit., p. 177.

[8] Johnson, Kenneth F. and Phillip L. Paris, op. cit., p. 127.

[9] Simons, Marlise. Quake Tightens Somoza's Grip on Nicaragua. Washington Post, January 10, 1973: A20.

[10] Kantor, op. cit., p. 173.

[11] Morgenthaler, Eric. Somoza Combines Politics, Business, Military to Rule Nicaragua as Undisputed Strongman. Wall Street Journal, October 22, 1973: A22.

[12] Kantor, op. cit., p. 173.

[13] Moreau, John Adam. Nicaragua Government Control; Still a Family Affair. Chicago Tribune, October 26, 1972: 16.

[14] Kantor, op. cit., p. 178.

[15] Ibid., p. 181.

[16] State Department, Nicaragua Desk.

[17] Kantor, op. cit., p. 176.

[18] In 1969, the literacy rate was 50 percent; however, in 1964 86 percent of all Nacaraguans who had been to school had progressed no further than the second grade [Barron, Louis (ed.) Worldmark Encyclopedia of the Nations, v. 3: Americas. New York, Harper and Rowe, [Worldmark Press], 4th edition, 1971, p. 205].

[19] Worldmark Encyclopedia of the Nations, op. cit., p. 205.

[20] Inter-American Press Association. Freedom of the Press Committee. Report to the XXVIII Annual Meeting, Santiago, Chile, October 1972.

[21] State Department, Nicargua Desk.

[22] Ibid.

Status of Political and Religious Liberties in Aid-Recipient Countries: Nigeria*

AID SUMMARY [1]

Total U.S. Official Development Assistance, FY 1962–FY 1972—$417.3 million.

Total U.S. Official Development Assistance, FY 1972—$25.1 million.

Total U.S. Military Programs, FY 1962–FY 1972—$1.7 million.

Total U.S. Military Programs, FY 1972—$0.1 million.

Proposed total of all U.S. Resources Transferred FY 1974—$8,189 million.

The following paper is a summary account of the status of political and religious liberties in Nigeria and is not intended to serve as an in-depth or comprehensive analysis.

The Federal Military Government (FMG) has ruled Nigeria since 1966. The top policy-making body is a 19-member Supreme Military Council composed of military and police officers and a single civilian administrator for East Central State (formerly Biafra). The administrative body is a 16-member Federal Executive Council, functioning as a Cabinet. Major General Yakubu Gowon, chairman of both councils, is chief of state and commander in chief of the armed forces. Some constitutional principles from the 1963 Constitution remain in effect, but the FMG governs by decree. Legislative functions are vested in the Supreme Military Council.[2]

From the outset of independence, when the nation was divided into three regional governments—the Western State dominated by the Yoruba, the Eastern State dominated by the Ibo, and the Northern State dominated by the Hausa-Nigeria has been faced with ethnic and regional tensions, as basic mistrust grew between the slowly developing north and the more advanced south.[3] Northerners came to fear that the Ibo were attempting to dominate the country through control of the civil service and the federal government. In this climate, two coups d' etat occurred in 1966 within the space of six months. The first coup brought military government to Nigeria and was followed by an attempt to force national unity by abolishing the three-state system which had been in effect since independence. The objective, however, was feared or misunderstood by the various ethnic and religious interests, and further violence led to a second coup in which General Gowon was chosen to lead the FMG. In an attempt to preserve the federation, Gowon abandoned the former military government's unification approach and proposed a constitutional revision to settle Ibo fears of northern domination and preserve the union. On May 27, 1967, General Gowon organized the three regions into twelve states in an attempt to balance various areas and ethnic groups. This move was designed to weaken the power held by the northern Hausa-Fulani and the Ibo over the smaller ethnic groups in their respective regions and to create a new basis for Nigerian political institutions—one free from the old ethnic and regional alignments. The efforts failed, however, and on May 30, 1967, the Eastern region proclaimed independence as the Republic of Biafra, plunging the country into a bloody civil war which was not settled until Biafran forces surrendered to the FMG in January 1970.

Immediately after the war, the Ibo and other easterners were accepted back into the federation, and wide amnesty was granted to the former supporters of secession.[4] The FMG's program of reconciliation, enunciated by General Gowon, claims to recognize the need for solutions to the political, economic and social problems that led to the war. However, in its efforts to resolve these problems, the Government remains concerned over Ni-

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Footnotes at end of article.

geria's history of ethnic and regional antagonisms. The FMG believes that the goal of continued national unity is dependent on economic and social developments, but that these factors are conditional on the maintenance of public order and acceptance of governmental decisions by the Nigerian people.[5]

In October 1970, on the tenth anniversary of Nigerian independence, General Gowon outlined a nine-point program for returning the country to civilian rule in 1976. Among the essential steps he proposed are a new census and a new constitution; implementation of the economic, political and social goals of the Second National Development Plan; final settlement of the question of the number of states Nigeria should have; reorganization of the large military establishment; and the eradication of corruption from all national institutions and from society in general.[6] Some critics of the FMG's timetable for the return to civil government feel that the nine-point program cannot be accomplished in five years, and that this fact will provide the military with an excuse to remain in power for a longer period of time. Other Nigerians feel that Gowon will keep his promise, although some have suggested that a civilian-military coalition is more likely.[7]

General Gowon's 1972 Independence Day Speech contained no direct reference to the return of Nigeria to civilian rule or to constitutional processes, such as the organization of national political parties, which is to take place before a transfer of power occurs. Nevertheless, according to some observers, the prolonged public silence on these questions seems to have ended, and national figures currently freely debate such issues as the role of Government in the economy, oil revenues, war property compensation and trade union questions.[5] However, while political debate continues, political activity is still formally proscribed.[9]

None of the three major ethnic groups now has a dominant voice in the direction of Government affairs in the FMG or at the state level. The new system has enhanced the stature of the smaller ethnic groups that were formerly dominated by the Hausa, Yoruba and Ibo.

Throughout Nigeria traditional governing authority has had a religious foundation which reinforced the ethnic and regional rivalries. Thus, it is more useful to view the traditional Muslim (44 percent)—Christian (22 percent) rivalry in Nigeria as a part of the overall ethnic struggle for political power, than as a strictly religious question.[10] Religious freedom is guaranteed by the 1963 Constitution.

Nigeria has one of the most highly developed systems for the spread of information to the public of any country in tropical Africa. This achievement had resulted largely from the rapid growth of political parties before national independence until the advent of military government and the banning of political parties in 1966. Since 1966 the continued expansion and improvement of the information media has been encouraged by the FMB.[11]

The 1963 Constitution specified that "every person shall be entitled to freedom of expression, including to hold opinions and to receive and impart ideas and information without interference." These rights, however, were subject to limitation by laws specifying the interest of defense, public order and safety, public morality and public health. Despite changes in the constitution, the FMG continues to recognize the general principles that the document applied to public information. The media, however reflect an awareness that the Government will not tolerate what it regards as "destructive criticism.[12] According to the International Press Institute, the Nigerian press finds self-censorship the best formula for keeping out of trouble under the FMG and attributes its present status to the long tradition of press freedom in Nigeria.[13] There are sometimes arrests of less than careful reporters, but at least one paper has protested in its editorial columns without repercussions.[14] In May 1973, apparently angered by critical foreign press reports, the Nigerian Government ordered its embassies to report on the 'attitude' of journalists applying for visas and their newspapers when forwarding the applications to Lagos for approval.[15]

The Nigeria legal system is based on inherited British common law, parliamentary enactments, the 1963 Constitution and FMG decrees.[16] Despite changes in the Constitution, the judicial structure has been retained by the FMG. The Federal Supreme Court at Lagos is the court of final appeal and has original jurisdiction in interstate and federal-state disputes and cases involving constitutionally guaranteed fundamental rights, although it cannot rule on FMG decrees.[17] The 1963 Constitution contained a lengthy chapter specifying the human and civil rights guaranteed to all citizens; and despite the FMG decrees, changes in the entrenched clauses of the 1963 Constitution requires the concurrence of the state military governors. A separate Court of Appeals in the north considers cases under Islamic customary law.

As regards the labor movement, it seems to be the view of most leaders that labor relations should be Government-controlled.[18] General Gowon has pledged a continuation of the policy of promoting the real interests of the working classes, but he also has said that it is essential that there should be industrial peace in the country. Accordingly, Nigeria's anti-strike law was extended in February 1973. It prohibits organization or participation in a strike. However, the arbitration procedures set up under the FMG decrees recently have been openly criticized by members of the Supreme Military Council.[19]

In the post war period, Nigeria has been seeking to stabilize public order through federalization and reform of the institutions responsible for internal security. A rising incidence of armed robbery has been attributed to a proliferation of weapons left over from the war and to rising unemployment. In 1970 the FMG decreed the creation of robbery and firearms tribunals, which heard cases involving armed robbery, and mandatory death sentences in cases of conviction cannot be appealed to the regular courts. This action seems to have Nigerian popular support, although the procedure has come under criticism by Nigerian lawyers.[20]

FOOTNOTES

[*] This report was written by Susan M. Mowle, Analyst in International Relations.

[1] U.S. Agency for International Development. U.S. Overseas Loans and Grants and Assistance from International Organizations: Obligations and loan Authorizations, July 1, 1945–June 30, 1972. Washington, May 1973. p. 110.

[2] American University. Foreign Area Studies. Area Handbook for Nigeria. Washington. U.S. Govt. Print. Off. [1972] p. viii. (Hereafter cited as Area Handbook for Nigeria).

[3] For a variety of interpretations of the events leading up to the Nigerian Civil War, see Okpaku, Joseph, ed. Nigeria: Dilemma of Nationhood. New York, Third Press, 1972.

[4] Area Handbook for Nigeria, p. 237.

[5] Ibid., p. 9.

[6] Ibid., p. 238.

[7] Hopkirk, Peter. Finding the Nine Stepping Stones Back to Civilian Rule. The Times (London) October 1, 1973.

[8] Herskovits, Jean. One Nigeria. Foreign Affairs, v. 51, January 1973: 403.

[9] Area Handbook for Nigeria, p. 236–238.

[10] Ekeh, Peter. Citizenship and Political Conflict: A Sociological Interpretation of the Nigerian Crisis in Okpaku, Joseph, ed. Nigeria: Dilemma of Nationhood, op. cit., p. 88.

[11] Area Handbook for Nigeria, p. 198–199.

[12] Area Handbook for Nigeria, p. 198–199.

[13] IPI Report: Monthly Bulletin of the International Press Institute, v. 22, January 23, 1973: 8.

[14] Cronje, Suzanne. Press Politics are Lively Despite Official Ban. The Times (London) October 1, 1973.

[15] Nigeria Will Check on Journalists. Washington Post, May 4, 1973.

[16] Area Handbook for Nigeria, p. vii, and p. 239–248.

[17] Ibid., p. 247–248.

[18] Africa Confidential. v. 14, February 16, 1973: 4.

[19] Africa Confidential, v. 14, February 16, 1973: 4.

[20] Nigerian Firing Squads Shoot Armed Robbers. Washington Post, July 30, 1972.

Status of Political and Religious Liberties in Aid-Recipient Countries: Pakistan [*]

AID SUMMARY [1]

Total U.S. Development Assistance, FY 1948–1972—$4,038.4 million.

Total U.S. Development Assistance, FY 1972—$165.1 million.

Total U.S. Military Programs, FY 1953-1972—$695.7 million.

Total U.S. Military Programs, FY 1972—$0.1 million.

Proposed total of all U.S. resources transferred FY 1974—$123,932 million.

The following paper is a summary account of the status of political and religious liberties in Pakistan and is not intended to serve as an in-depth or comprehensive analysis.

For nearly two years, Pakistan has faced the task of establishing a new system of government following fourteen years of military-dominated rule. This is being undertaken in the wake of the disastrous war with India in December 1971, which resulted in the loss of East Pakistan (now Bangladesh). Zulfikar Ali Bhutto, whom the military chose in December 1971 to be interim President, has directed the country's affairs since that time; he became Prime Minister in August 1973 under a new constitution. His major political problems have been the writing of the new constitution, dealing with the demands of the opposition parties, and central Government relations with two of Pakisan's four provinces: Baluchistan and Northwest Frontier.

The rewriting of the constitution began with an interim constitution in April 1972, followed by a permanent constitution ratified by the National Assembly in April 1973 and put into effect in August. The permanent constitution provides for a federal parliamentary system of government headed by a Prime Minister chosen by the lower house of Parliament. The Parliament is composed of a Senate of 60 members—14 elected by each provincial assembly and two each from tribal areas and the capital of Islamabad—and a 200-member National Assembly, elected by universal suffrage. The constitution gives the Prime Minister the power to dissolve the National Assembly at will. Another provision prohibits a vote of no confidence against the Prime Minister unless the resolution gives the name of a successor. A vote of no confidence has to be approved by two-thirds of the total membership in the Assembly; this two-thirds provisions will remain in force for 15 years.[2] As a whole, these provisions greatly strengthen Mr. Bhutto's position as Prime Minister and make extremely difficult any move in Parliament to remove him from power.

The new constitution divides powers between the central Government and the pro-

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Footnotes at end of article.

vinces, with the central Government retaining major powers in the important areas of taxation and trade.[3] It makes Islam the official state religion and forbids the Government from enacting any law in violation of Islamic principles. A statutory Islamic Advisory Council will interpret the laws in relations to the canons of Islam.[4]

Of the 58 million people estimated to live in Pakistan in 1970 (the figure represents only West Pakistan in 1970), the great majority were Muslims. There was about 800,000 Christians and 600,000 Hindus in the country.[5] Christians have been especially prominent in the field of education, and many of the country's most prestigious schools are run by Christian institutions.[6] However, the Bhutto's government's general policy of nationalizing private education facilities reportedly has resulted in the taking of more than half of the Christian schools and colleges.[7]

The process of drawing up the new constitution has been permeated by conflict between Bhutto and his Pakistan Peoples Party (PPP) on the one hand, and the opposition on the other hand, principally the National Awami Party (NAP). The conflict has focused on the constitution (especially Bhutto's powers) and the provincial governments of Baluchistan and Northwest Frontier. In the elections of 1970, the opposition won a majority of the seats in the provincial legislatures of the two provinces; and shortly after assuming power, Bhutto appointed two NAP provincial chairmen to the posts of governor in the provinces to head coalition governments of the NAP and Jamaat-i-Islami parties.[8] In October 1972, Bhutto and NAP leaders agreed on the basic principles of the new constitution.[9] This accord, however, broke down in January 1973 when the NAP denounced the final draft of the constitution, and tribal supporters of the NAP in Baluchistan took up arms.[10] Bhutto sent troops into Baluchistan; and immediately after the discovery of a large cache of Soviet-made arms in the Iraqi Embassy, Bhutto dismissed the two NAP governors and appointed his own supporters in their place. The Government charged that the arms were to be delivered to the NAP, and Bhutto accused the NAP of failing to quell the disturbances in Baluchistan.[11]

The opposition parties responded to these moves by boycotting the National Assembly debate on the constitution, but in April they agreed to the new charter after Bhutto accepted several of their proposed amendments. So far, however, these concessions have not included restoration of the NAP-led coalition governments in Baluchistan and Northwest Frontier. The "loyalist" governments there reportedly have remained in power through the jailing of some opposition members and the bribing of others.[12] Bhutto also has begun several programs to modernize the provinces, including new schools, roads, hospitals, and jobs—one aim being to make the central Government more acceptable to the population.[13]

In dealing with the opposition and other critics, Bhutto has utilized a state of emergency which has been in force since the December 1971 war; this gives the Government the power to arrest persons for up to six months without trial. The Government has stated that fundamental rights guaranteed in both the interim and permanent constitutions will remain suspended while the emergency is in force.[14] While the Government has used the state of emergency to restrict the activities of the press, opposition parties, and other critics, it has not gone so far as to completely suppress and control these elements to the extent that they were controlled under the military's martial law regime from 1958 to 1970.

There are no reliable estimates on the number of people currently incarcerated under the state of emergency. The September 1973 report of Amnesty International stated that "a number of politicians, well-known journalists and students have been arrested for shorter periods [than six months], and then rearrested after their release."[15] Le Monde in March 1973 asserted that "dozens of prominent people are in detention . . .".[16] The London Times reported in July 1973 that, "Diplomatic circles in Islamabad estimate the number of people arrested on charges of alleged subversion in thousands rather than hundreds."[17] Among those arrested since the beginning of 1971 include Altaf Gauhar, editor-in-chief of Dawn, Pakistan's leading newspaper; over 30 NAP members from Baluchistan (arrested in April 1973) and Ghaus Baksh Bizenjo, the ousted governor of Baluchistan who was arrested in August 1973 on charges of murder and sedition.[18]

There have been repeated reports in the Western press that Government-organized gangs frequently break up meetings of the opposition parties.[19] Toward labor, the Government has begun several programs to improve the wages, education, and medical care of workers and their families, but the Government also has prohibited strikes.[20]

Under the state of emergency, the Government has taken several steps to influence or restrict the press. These include the arrest of Gauhar and reportedly other editors, journalists, and publishers; the closing down of several newspapers; and the withholding of newsprint from opposition newspapers.[21]

FOOTNOTES

* This report was written by Larry A. Niksch, Analyst in Asian Affairs.

[1] U.S. Agency for International Development. U.S. Overseas Loans and Grants and Assistance from International Organizations: Obligations and Loan Authorizations. July 1, 1945–June 30, 1972. Washington, May 1973. p. 24.

[2] Lapore, Robert Jr. Pakistan in 1972: Picking up the Pieces. Asian Survey, v. 13, February 1973: 192. Viratelle, Gerald. Pakistan: Reforms Instead of Miracles. Le Monde (in the Guardian), February 3, 1973. Pakistan Assembly Approves a New Constitution. New York Times, April 11, 1973. Simons, Lewis M. Pakistan Approves New Constitution. Washington Post, April 11, 1973.

[3] LaPorte, Pakistan in 1972: Picking Up the Pieces, p. 192. Ali, Salamat. Bhutto's Triumph. Far Eastern Economic Review, v. 78, October 28, 1972: 17.

[4] Aziz, Qutubuddin. Bhutto Rules Gains in Pakistan. Christian Science Monitor, July 18, 1973.

[5] American University, Foreign Area Studies. Area Handbook for Pakistan. Washington, U.S. Govt. Print. Off. [1971] p. 204, 212.

[6] Ibid, p. 213.

[7] Viratelle, Pakistan: Reforms Instead of Miracles, p. 18.

[8] Sterba, James P. Pakistan, After Defeat, Is Regaining Vitality. New York Times, May 15, 1972.

[9] Ali, Bhutto's Triumph, p. 17.

[10] Ariz, Qutubuddin. Pakistan Opposition Parties Plan Anti-Bhutto Campaigns. Christian Science Monitor, January 17, 1973; and Bhutto Battles Political Foes at Home. Christian Science Monitor, February 26, 1973.

[11] Aziz, Bhutto Battles Political Foes at Home. See also: Bhutto Discharges 20 Opposition Chiefs as Province Chiefs. New York Times, February 16, 1973. 2 Pakistan Governors Are Ousted by Bhutto, Washington Post, February 16, 1973.

[12] Ali, Salamat. A Cure for that Familiar Feeling. Far Eastern Economic Review, v. 81, September 3, 1973: 11.

[13] A Man Riding Four Wild Horses. Economist, v. 248, August 18, 1973: 34.

[14] Opposition Chiefs Assail Bhutto for Keeping Emergency Rule. New York Times, April 26, 1972. Bradsher, Henry S. Pakistan Muzzles Opponents. Washington Star-News, October 28, 1973.

[15] Amnesty International. Annual Report 1972–73. London, September 1973: 60.

[16] Schwarz, Walter, Bhutto Plays an End Game. Le Monde (in the Guardian), March 3, 1973.

[17] Hornsby, Michael. Mr. Bhutto: the Man to Teach Pakistan the New Facts of Life. London Times, July 17, 1973.

[18] Around the World: Baluchistan. Washington Post, August 17, 1973. Pakistan Arrests 18 Foes of Bhutto. New York Times, April 28, 1973. Aziz, Bhutto Battles Political Foes at Home.

[19] For reports of these activities, see: Bradsher, Pakistan Muzzles Opponents. Economist, A Man Riding Four Wild Horses. Hornsby, Mr. Bhutto: the Man to Teach Pakistan the New Facts of Life. Ali, A Cure for that Familiar Feeling.

[20] Viratelle, Pakistan: Reforms Instead of Miracles.

[21] For information on treatment of the press see: Browne, Malcolm. Newsmen Protest Continued Pakistani Press Curbs. New York Times, February 29, 1972; and Accord in Pakistan Averts Danger of Pathan Uprising. New York Times, March 7, 1972. Weinraub, Bernard. Bhutto Facing Pakistan's Worst Crisis Since War. New York Times, March 29, 1972. Ali, A Cure for that Familiar Feeling. Bradsher, Pakistan Muzzles Opponents. See also: International Press Institute, IPC Report, v. 22, January 1973: 9.

THE STATUS OF POLITICAL AND RELIGIOUS LIBERTIES IN AID-RECIPIENT COUNTRIES: PARAGUAY *

AID SUMMARY [1]

Total Official U.S. Development Assistance FY 1946–FY 1972—$136.7 million.

Total Official U.S. Development Assistance FY 1972—$4.9 million.

Total U.S. Military Programs FY 1953–FY 1972—$15.5 million.

Total U.S. Military Programs FY 1972—$.9 million.

Proposed total of all U.S. Resources Transferred FY 1974 $12,119 million.

The following paper is merely a summary account of the status of political and religious liberties in Paraguay, and is not intended to serve as an in-depth or comprehensive analysis.

Since coming to power through a coup in 1954, General Alfredo Stroessner has maintained control over the country through successive reelections to the presidency: in 1958 he was the sole candidate; in 1963 he was elected although there was a no reelection provision in the 1940 Constitution; in 1967, under a new constitution, he was reelected amidst charges that the opposition Liberal Party was restricted during the campaign; in the 1973 election the opposition charged fraud.

From the beginning, President Stroessner has ruled through a state of siege, in effect in Asuncion and other areas of the country and regularly extended, which affords him wide-ranging powers under the authority of the 1940 and 1967 constitutions. The state of siege was imposed, in his words, "to protect our democratic institutions against invasion by Communist-infiltrated expeditionaries."[2]

The state of siege permits the banning of all public demonstrations and meetings, and abrogates certain civil rights and constitutional guarantees (authorizing arbitrary arrest and banishment, search and seizure in private homes, and detention without warrant.)[3]

In addition to the powers granted by the state of siege, the Law for the Defense of Public Peace and Liberty of Persons, which entered into force in September 1970, outlines punishable acts and provides for sen-

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Footnotes at end of article.

tences, including prison terms and the death penalty, for any activity classified as subversive or contrary to the prevailing order.[4]

President Stroessner has remained in power with strong support from the military and a paramilitary security force. He exercises strict control over political activity, setting the conditions for legal participation by political parties, whose activities are closely monitored by the military and security forces.[5] The Colorado Party has been institutionalized as the party of the Government, with obligatory membership for all public employees. There are restrictions on freedom of expression by political forces not legally recognized.[6]

Since 1959, labor unions have been tightly controlled;[7] labor organizations are presided over by a Government-appointed executive committee. Some labor organizations have been denied legal status. Prior to 1958 strike activity was repressed by the Stroessner government, and there have been no strikes since that time.[8]

Every village in Paraguay is under a three-pronged structure—the police chief, the local leader of the Colorado Party, the mayor—all appointed directly by the central government in Asuncion. In addition, a military presence is maintained in every village.[9]

The Paraguayan Government maintains that "political prisoners do not exist in Paraguay."[10] According to reports by Amnesty International, there have been at least 150 cases of political imprisonment, some for more than 10 years.[11] The random arrest, torture and subsequent release of Paraguayan citizens according to Amnesty, continues to be almost a daily occurrence.[12]

Amnesty International has published reports citing violations of civil liberties by the Paraguayan Government in 1966 and 1971, and has urged President Stroessner to release political prisoners. In April 1962, the Inter-American Commission on Human Rights of the Organization of American States requested permission from the Paraguayan Government to send a commission to investigate accusations of infringement of human rights; permission was denied.[13]

Religious freedom in Paraguay is not restricted except in the case of political activity by religious leaders. Since the end of 1968 the Catholic Church has presented a united opposition to the Stroessner government and has effectively become the only Paraguayan institution in which political and social opposition is publicly expressed.[14] In 1972, the Paraguayan National Bishops Conference convened an emergency session to denounce the Stroessner government for its "systematic persecution of the Church," and "continuing interference and oppression against the Church's freedom."[15]

Concerning the status of press freedom in Paraguay, nominally independent newspapers refrain from political comment, and most opposition papers have been closed down. The widely-read Catholic Church weekly periodical *Comunidad*, which represented the strongest voice of opposition to the Stroessner government, was closed down by the Government in October 1969.[16] According to the 1972 Report of the Inter-American Press Association:

> "There is no freedom of the press [in Paraguay]. The Executive maintains in force a decree that empowers it, during the existence of the state of siege, since July 2, 1969, to suspend or close down any publication through administrative action and without legal sentence. The state of siege has been in force for over eighteen years in Asuncion, where the principal news media are published. . . . There is prior censorship . . . by reading the newspapers in general, one can detect a rigid self censorship. It must likewise be added that in order to publish a newspaper, it is necessary to obtain governmental authorization, which is only granted at the will of the authorities themselves."[17]

FOOTNOTES

[*] This report was written by Virginia Hagen, Analyst in Latin American Affairs.

[1] U.S. Agency for International Development. U.S. Overseas Loans and Grants and Assistance from International Organizations: Obligations and Loan Authorizations, July 1, 1945–June 30, 1972. Washington, May 1973. p. 57.

[2] American University. Foreign Area Studies. Area Handbook for Paraguay. Washington, U.S. Gov't Print. Off., 1972, p. 141. [DA Pam 550–156]

[3] Amnesty International. Paraguay in the 1970's: A Background paper, October 1971, p. 4.

[4] Ibid., p. 11.

[5] American University, op. cit., p. 139, 140.

[6] Amnesty International, op. cit., p. 4.

[7] American University, op. cit., p. 140.

[8] Amnesty International, op. cit., p. 8.

[9] Ibid., p. 9.

[10] Amnesty International. Paraguay in the 1970's, p. 11.

[11] Miami Herald, August 14, 1973.

[12] Amnesty International. Annual Report, 1971–1972. London, Amnesty International Publications, p. 47.

[13] Amnesty International. Paraguay in the 1970's, p. 11.

[14] Ibid, p. 7.

[15] National Catholic News Service Release, May 24, 1972.

[16] Amnesty International. Paraguay in the 1970's., p. 9.

[17] Inter-American Press Association. Freedom of the Press Committee. Report to the XXVIII Annual Meeting, Santiago, Chile, October 1972.

THE STATUS OF POLITICAL AND RELIGIOUS LIBERTIES IN AID-RECIPIENT COUNTRIES: THE PHILIPPINES

AID SUMMARY

[In millions of dollars][1]

Total official U.S. development assistance:	
Fiscal year 1972	69.9
Fiscal years 1946–72	1,459.4
Total military programs:	
Fiscal year 1972	18.4
Fiscal years 1946–72	672.6

Proposed total of all U.S. Resources Transferred, fiscal year 1974, $101,402 million.

This paper is a summary account of political and religious liberties in the Philippines and is not inteuded to serve as a comprehensive analysis.

On September 23, 1972, President Marcos declared martial law, which is still in effect. Events which led up to the declaration included bombings and attempted assassinations in Manilla, guerrilla operations of the Communist New People's Army, violent disorder among Muslim groups and between Muslim and Christians, a high crime rate, a devastating typhoon and flood that ruined a large portion of the country's crops and killed hundreds of Filipinos, and a stagnating and inflated economy. President Marcos has explained that the primary problem to be resolved during the period of emergency controls is social reform rather than communist insurgency.[2] Lawyers for President Marcos have told the Philippine Supreme Court that the Government could not allow its efforts to "safeguard the state from the danger of rebellion" to be impaired by the civil rights of individual citizens.[3]

When President Marcos declared martial law, he suspended the National Assembly and prohibited activity by political parties. The Constitutional Convention quickly finished its work on a new charter which was approved at local level meetings throughout the Philippines and proclaimed by President Marcos in January 1973. The new Constitution provides for a parliamentary form of government; an interim National Assembly was established to legislate until the Parliament was elected. However, national elections have been indefinitely postponed, and the interim National Assembly was suspended also. Prior to 1972 and the proclamation of martial law, there reportedly was a great deal of corruption in the Philippine political system, and the election campaigns of the ruling Nacionalista Party were said to be heavily financed with government funds.[4]

With the declaration of martial law, 14 of the 15 daily newspapers were temporarily closed, as were most of the major radio and television stations. Several newspaper publishers, editors, columnists, radio commentators, and magazine editors were arrested.[5] Censorship was imposed and controlled by the Secretaries of Defense and Information. Since the early months of martial law, press censorship has been relaxed somewhat. However, before martial law was put into effect, the press emphasized controversial political issues, massacres, assassination, crime and guerrilla raid, whereas now the Philippine periodicals praise the Government and exude optimism regarding the state of affairs under Marcos.[6] The freedom to discuss political issues publicly also has been curtailed.

Although there is a serious confrontation between the Muslim and Christian populations in the southern Philippines, the basic issue apparently is not religion, but land. The influx of Christian Filipinos into areas traditionally occupied by Muslims has brought conflict over land ownership and "the political control over the allocation of land via the enforcement of land titles."[7] Religious persecution per se is apparently not a problem in the Philippines. President Marcos has recently met with Muslim leaders and pledged economic development of the southern islands where the Muslims are concentrated.[8]

Approximately 400 families, or about four percent of the Philippine population known as the oligarchy, control about 90 percent of the country's wealth and traditionally have controlled the political and social systems. Numerous tribal and ethnic groups are at the other end of the economic, social, and political spectrum. President Marcos hopes to partially redress these imbalances through land reform and the expansion of the middle class.[9]

Under martial law the activities of all organized non-government groups have been restricted or curtailed.

Also upon declaration of martial law, several members of opposition political parties were arrested, and several are still imprisoned. Those apprehended included 11 members of the constitutional convention, three senators (Benigno Aquino, Jr., Jose Diokno, and Raymond Mitra), four congressmen (Jose Alberto, Jose Lingad, Roque Ablan, and Carlos Imperial), three governors, and 36 mayors. It is estimated that more than 8,000 people were arrested though many were released quickly.[10]

President Marcos has declared that his martial law government rather than the Judiciary would rule on all "crimes against public order," which includes nearly all violations of Philippine law. Marcos also has acted to purge the civil service. The legality of his dissolving the National Assembly and rewriting the constitution has been questioned by some Filipinos outside government circles.[11]

FOOTNOTES

[1] U.S. Agency for International Development. U.S. Overseas Loans and Grants and assistance from International Organizations, Obligations, and Loan Authorizations, July 1, 1945–June 30, 1972. Washington, May 1973. p. 77.

[2] Marcos Tells Why He Chose Martial Law, Interview with the President of the Philippines. U.S. News and World Report, v. 63, October 16, 1972: 36.

[3] Marcos's Lawyers Put Martial Law Before Civil Rights. New York Times, June 15, 1973.

[4] Tilman, Robert O. Student Unrest in the Philippines. Asian Survey, v. 10, October 1970: 909. Manglapus, Raul S. Philippine Martial Law: the Truth and the Fiction. Freedom at Issue, no. 20, July–August 1973: 20–21.

[5] Adkins, John H. Philippines 1972: We'll Wait and See. Asian Survey, v. 13, February 1973: 147–148.

[6] Ronquillo, Bernardino. Cloud over the 'Sunshine Press.' Far Eastern Economic Review, v. 80, April 16, 1973: 15.

[7] Adkins, op. cit., p. 142.

[8] New York Times, December 6, 1973.

[9] Marcos Tells Why He Chose Martial Law, p. 37.

[10] Adkins, op. cit., p. 147. Washington Post, September 22, 1973.

[11] Report of the National Committee for the Restoration of Civil Liberties in the Philippines to the U.S. Senate Foreign Relations Committee on Martial Law in the Philippines and U.S. Relations with the Marcos Administration. Entered in the Congressional Record by Senator Alan Cranston, v. 119, April 12, 1973: S7309, 7310, 7317.

The Status of Political and Religious Liberties in Aid-Recipient Countries: Thailand*

AID SUMMARY

[In million of dollars] [1]

Total official development assistance:	
Fiscal year 1972	$34.0
Fiscal years 1946–72	610.9
Total military programs:	
Fiscal year 1972	55.0
Fiscal years 1946–72	1,073.3

Proposed total of all U.S. resources transferred FY 1974—$120,292 million.

This paper is a summary account of political and religious liberties in Thailand and is not intended to serve as a comprehensive analysis.

Sanya Thammasak, dean of the Thammasat University in Bangkok, was appointed as the new premier on October 14, 1973, in the wake of student riots. He publicly pledged that he would form a new government as soon as possible and would try to complete a new constitution within six months and hold general elections.[2]

For the last 40 years Thailand had been ruled almost continuously by the military under a monarchical form of government. For a brief period from March 1969 to November 1971, the constitutional monarchy of Thailand had an elected civilian government. That government was ended in a bloodless coup led by Premier Thanom Kittikachorn.[3] His predominantly military group, which called itself the Revolutionary Party, dissolved the National Assembly and Cabinet, abrogated the constitution and declared martial law. Shortly, thereafter, it dissolved all other political parties, banned the formation of new parties, and established the National Executive Council which ruled the country for 13 months under the leadership of Thanom and General Praphat Charusathien. As reasons for declaring martial law, the Revolutionary Party cited Communist subversion in Thai border areas, a threatening world situation, student demonstrations, labor union strikes, parliamentary inefficiency, independent efforts by some legislators to develop new relations with China, and the hampering effect of constitutional restraints on police operations against criminals and insurgents.[4]

In December, 1972 a new interim constitution was announced, and members of a new Cabinet and National Assembly were appointed. The Cabinet, again headed by Thanom Kittikachorn, was assigned the responsibility of drafting a new permanent constitution.[5] Political parties and activities were still prohibited, but Thanom promised elections and a new constitution in about three years.[6]

During the second week of October 1973, students began demonstrating against the Government's arrest of 13 university students and lecturers on charges of plotting a coup. It was reported that their specific offense had been the distribution of leaflets calling for a new constitution. After massive student demonstrations on October 13, 1973, the Government promised to release the 13 prisoners and to promulgate a new constitution within a year. However, violence broke out shortly before noon of October 14, and during the day an estimated 200 persons were killed in skirmishes between students and troops or police. Thanom Kittikachorn resigned as premier and the King appointed Sanya Thammasak.[7] Thanom, Praphat, and their families left the country. On October 15, the new Government reportedly withdrew the police and troops from the confrontation.[8]

Political dissenters in Thailand have been frequently subjected to interrogation and warnings, although in many cases they have escaped Government reprisals and been faced only with ostracism in social and business circles.[9] Some opposition politicians have been jailed; according to Amnesty International, Thanom disclosed in March 1973 that his government was holding more than 100 political prisoners.[10] During the period of martial law, three former legislators brought suit against the National Executive Council on charges of "treason, illegal usurpation of power, and actions contrary to the constitution.[11] The former legislators were arrested and convicted, without trial or appeal, of subversive activities inimical to the state.[12]

In recent months, Thai students, laborers, and farmers have demonstrated against Government policies, and their actions have generally been tolerated. When some university students published a criticism of recently exposed Government corruption, Thai officials initially reacted by confiscating the publication and expelling nine students. But this action brought thousands of student demonstrators into the streets, and the Government readmitted the expelled students. The Thai press, which is periodically censored by the Government, was tolerated in its support of the student demonstrations.[13]

A 29-day illegal strike by Thai steel workers was also tolerated by the Government and ended only when the strikers ran out of funds to support the protest. Farmers have conducted local boycotts and protests with little Government reaction.[14]

Overseas Chinese are a significant minority group in Thailand, and they have a substantial amount of control of the national economy through their business activity. The government reportedly is trying to reduce their economic power. Some Chinese have been accused of subversive activities by the Government and have been prosecuted.[15] There are several other ethnic minority groups living along the northern border and on the Thai portion of the Malay Peninsula who conduct insurgent operations periodically against Thai troops and officials in their areas.

The vast majority of Thais are Buddhists of one form or another, and the Thai monarch and all Government employees are required to be Buddhists. Thai Moslems, numbering about one million, and the relatively small numbers of Hindus and Christians, are excluded from Government service.[16]

FOOTNOTES

*This report was written by Robert Shuey, Analyst in Asian Affairs.

[1] U.S. Agency for International Development. U.S. Overseas Loans and Grants and Assistance from International Organizations, Obligations and Loan Authorizations, July 1, 1945-June 30, 1972. p. 80.

[2] Washington Post, October 15, 1973.

[3] Browne, Malcolm W. Unrest and Dissent, Novelty in Thailand, Upset Leaders. New York Times, August 8, 1973.

[4] Peterson, Iver. The Trouble with Democracy. New York Times, November 21, 1971.

[5] Morell, David. Thailand: " . . . If you would know how the villagers really feel, abandon intimidation." Asian Survey, v. 13, February 1973: 176.

[6] Critchfield, Richard. Thais Struggle with Pandora's Box. Christian Science Monitor, July 21, 1973.

[7] Washington Post, October 15, 1973.

[8] Washington Post, October 16, 1973.

[9] Morell, op. cit., p. 176.

[10] Annual Report, 1972–1973. Amnesty International. London, 1973.

[11] Morell, op. cit., p. 168.

[12] Ibid.

[13] Browne, op. cit.

[14] Ibid.

[15] Critchfield, op. cit.

[16] Worldmark Encyclopedia of the Nations, v. 4, Asia and Australasia. New York, Worldmark Press, Harper and Row, 1971. p. 336. American University. Foreign Area Studies. Area Handbook for Thailand. Washington, U.S. Govt. Print. Off., 1968. p. 215, 216.

The Status of Political and Religious Liberties in Aid-Recipient Countries: Uruguay*

The following paper is a summary account of the status of political and religious liberties in Uruguay, and is not intended to serve as an in-depth or comprehensive analysis.

AID SUMMARY [1]

Total Official U.S. Development Assistance FY1946–FY1972—$139.9 million.

Total Official U.S. Development Assistance FY 1972—$10.1 million.

Total U.S. Military Programs FY 1953—FY 1972—$58.7 million.

Total U.S. Military Programs FY 1972—$4.2 million.

Proposed total of all U.S. resources transferred FY 1974, $13,012 million.

Despite Uruguay's longstanding tradition of political stability and parliamentary rule, the nation has for the past decade experienced political unrest. This has been due, in some part, to disruptive action by the left-wing Tupamaro urban guerrilla movement. In response to Tupamaro activity, as well as to various forms of increasing economic and social unrest, the government has taken a number of steps which have the effect of increasingly restricting certain civil liberties and individual guarantees.[2] Beginning in December 1967 under the government of President Jorge Pacheco Areco, various "security measures" proposed by the Executive were implemented, after congressional approval. These measures, which were continued and enlarged under the present government of President Juan Maria Bordaberry, have limited individual rights and freedoms guaranteed by the constitution. A state of emergency in which all individual rights are suspended has been decreed (with congressional approval) periodically since June 1968 to enable increased Government action against the Tupamaros. As a result of the security measures and state of emergency conditions, it has been charged that, in various degrees, freedom of the press and speech have been restricted, those suspected of subversive activities have been subjected to arbitrary arrest and imprisonment without trial, family members of leftist political opponents of the Government have been subjected to illegal searches and detention, armed attacks and other provocations have been made on the universities, and other individual rights have been violated through torture, harassment by unofficial para-police

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Footnotes at end of article.

groups, and unrestrained terrorism by pro-Government rightwing groups engaged in kidnapping and execution of leftist.[3]

In April 1972, President Bordaberry declared a "state of internal war" (stil in effect) giving expanded powers to the Executive and permitting suspension of civil rights, censorship and arbitrary arrests, and conferring special powers on security forces.[4] In early June 1973, the President decreed a further extension of the security measures without Congressional support.[5]

In February 1973, a political conflict between the Uruguayan Army and Air Force, and the Bordaberry government, largely involving Army disapproval of an opposition Senator accused by the military of aiding the Tupamaros, and the military's rejection of the President's newly-appointed Minister of Defense, resulted in major concessions by the President to the military establishment.

These included Government acceptance of a 19-point political and economic reform program authored by the military, the establishment of a National Security Council composal of the commanders of the armed forces and certain Cabinet ministers which is to function as an organ of control over the administration (it was established on February 23, 1973), and Government acceptance of other military terms which effectively provided for a primary role by the military in Uruguayan governmental process.[6]

On June 27, 1973, reportedly in response to increasing military pressure, the President decreed the dissolution of the National Congress. The action followed a series of confrontations between the military and civilian politicians. In the dissolution decree, the Government charged that the nation's institutions were being undermined by a "conspiracy . . . aided by the complacency of political groups without national spirit."[7] Congress was replaced by a Government-appointed 20-member Council of State charged with drafting a plan for constitutional reform, eventually to be submitted to the electorate as a referendum. President Bordaberry announced that in the meantime, he would continue to rule by decree.

The same decree imposed further restrictions on the press, gave additional special national security powers to the military, and closed all schools and universities until July 20. Subsequently, Uruguay's 19 elected municipal councils and local governing bodies were dissolved and replaced by Government-appointed boards.[8] The judicial system remains an independent institution in Uruguay, although, since April 1972, those arrested and accused of political offenses have been tried before military courts *in camera*.[9]

Also in June 1973, the Bordaberry Government began action designed to limit the activities of labor and trade unions. Prior to this time, most major labor protest strikes had been broken up by military forces. Beginning in June, decrees were issued imposing fines and authorizing dismissal without compensation as penalties for strikers. In June, in response to a general strike called by the Uruguayan trade union confederation (CNT) in Montevideo, President Bordaberry dissolved the confederation, confiscated its holdings, and arrested its leaders.[10] A subsequently passed Job Security Law forbids union involvement in politics, requires official Government recognition of unions, determines conditions for strikes, and provides for increased Government surveillance and supervision of all elections, spending, and other activities of labor unions.[11]

According to the newsletter Latin America, at this time, there are reportedly 4,000 political prisoners in Uruguay, numbering among them opposition politicians and former members of Congress, workers, and Tupamaros and their sympathizers. The newsletter reports that "numerous people who have never taken part in revolutionary activities have been arrested merely on suspicion of presumed links with sedition.' "[12]

In recent years, accusations of frequent and widespread Government torture of Uruguayan political prisoners have increased on the part of groups and individuals, including an Uruguayan Senate investigating committee (June 1970), other members of the national legislature, and prominent national and international organizations. A World Council of Churches report of October 1, 1972, charged that the Uruguayan Government had engaged in "widespread violation of basic human rights," and cited "impressive evidence" of the use of physical and psychological torture of political prisoners by the Uruguayan police and military.[13] A June 1973 letter to President Bordaberry from Amnesty International's Secretary General charged that "abuses of such seriousness as torture, as a common method of interrogation, have been committed and are still being committed in Uruguay.[14]

Until 1973, the press in Uruguay reportedly was free to publish information and commentary on national problems and government activity, although limited by Government decrees which prohibit any news of Tupamaro activity which does not emanate from official sources.[15] However, according to 1973 reports, the press has been subject to increasing restriction, forbidden by a June 1973 degree to publish any criticism of the Government which would impute "dictatorial goals" to President Bordaberry. Opposition newspapers periodically have been closed down for violating security measures, including any mention of government repression.[16]

A Government decree signed on October 15, 1973 ordered foreign news agencies or correspondents to submit copies of their dispatches to Uruguayan authorities on the same day they are sent abroad. The Government justified the action on grounds that overseas newspapers publish news of Uruguay "that does not conform to reality."[17]

There is no restriction of religious freedom in Uruguay.

FOOTNOTES

*This report was written by Virginia Hagen, Analyst in Latin American Affairs.

[1] U.S. Agency for International Development. U.S. Overseas Loans and Grants and Assistance from International Organizations: Obligations and Loan Authorizations, July 1, 1945–June 30, 1972. Washington, May 1973. p. 61.

[2] Amnesty International. Annual Report 1972–73. London, Amnesty International Publications, September 1973, p. 51–52.

[3] Report on Violations of Human Rights in Uruguay, U.S. Catholic Conference, Latin American Bureau, Washington, D.C.

[4] United States Catholic Conference. Latin American Bureau, Washington, D.C.

[5] Keesing's Contemporary Archives: Weekly Diary of World Events [Vol. XIX 1973], Bristol, England, Keesing's Publications Ltd. [April 16–22, 1973] p. 25989.

[6] Ibid, p. 25841–42.

[7] Facts on File: Weekly World News Digest. New York, Facts on File, Inc., 1973. July 1–7, 1973, p. 567.

[8] Keesing's Contemporary Archives, p. 25989, 90.

[9] Amnesty International, p. 52.

[10] Keesing's Contemporary Archives, p. 25989, 90.

[11] Facts on File, p. 754.

[12] Latin America, London, v. VII, August 24, 1973, p. 271.

[13] Washington Post, October 1, 1972: F23.

[14] Amnesty International News Release, London, June 25, 1973.

[15] Inter-American Press Association. Freedom of the Press Committee. Report to the XXVIII Annual Meeting, Santiago, Chile, October 1972.

[16] Facts on File, p. 567, 754.

[17] Washington Post, October 16, 1973.

STATUS OF POLITICAL AND RELIGIOUS LIBERTIES IN AID-RECIPIENT COUNTRIES: ZAIRE*

AID SUMMARY[1]

Total Official U.S. Development Assistance, FY 1953–1972: $367.0 million.

Total Official U.S. Development Assistance, FY 1972: $5.5 million.

Total U.S. Military Programs, FY 1962–1972: $43.2 million.

Total U.S. Military Programs, FY 1972: $2.4 million.

Proposed Total of all U.S. Resources Transferred, FY 1974: $16,266 million.

The following paper is a summary account of the status of political and religious liberties in Zaire and is not intended to serve as an indepth or comprehensive analysis.

Zaire is currently governed by President Mobutu Sese Seko (formerly known as Joseph Mobutu), who assumed power by way of a military coup in 1965. Mobutu's takeover ended a five-year period of warfare, secession and general chaos that followed the independence of the Congo from Belgium, According to the Government of Zaire, his policies since have sought to unify the country and end the tribal and regional conflicts that plagued the Congo after independence.

Formally, the Government of Zaire consists of an elected President, an elected legislature, and an independent judiciary. In reality Mobutu has concentrated all governmental functions into his own hands; his policies are carried out by (1) the army over which he is commander-in-chief, (2) a highly centralized bureaucracy which he has established to supersede the formerly decentralized system of administration based on the provinces; and (3) the Popular Movement of the Revolution (MPR—the only political party allowed in the country, and headed by Mobutu.[2]

Founded in 1967, the MPR ran unopposed in presidential and parliamentary elections held in October and November 1970. Mobutu, at the head of the ticket, received 99.99 percent of the vote, according to official figures. All 420 legislative seats were won by MPR members. Theoretically, all citizens of Zaire are members of the MPR.[3]

The MPR also has absorbed labor and student organizations. In July 1969, the party announced that all youth organizations were incorporated into its youth arm.[4] In 1967, at the instigation of President Mobutu, representatives of major labor unions formed the National Union of Congolese Workers (UNTC). The head of the UNTC was named to the MPR National Political Bureau.[5]

The Government of Zaire owns and operates all radio and television stations in the country. The printed media are privately owned and consist of daily and weekly newspapers and other publications. Article 11 of the 1967 constitution provides for freedom of individual expression, both spoken and written; but it allows this right to be regulated by law. The Government does not permit direct press criticism of its major programs and policies, and on several occasions it has shut down publications whose views it found unacceptable.[6]

In 1972 the Government of Zaire came into conflict with the Roman Catholic Church following the Church's opposition to the Government's plan to establish MPR youth cells in Catholic schools and seminaries. Another disputed issue was the Government's "authenticity" program, which involves, among other things, the changing of European names to African names and the abolition of Christian names and holidays.

Footnotes at end of article.

The Government closed Pope John XXIII Seminary and shut down the Catholic weekly Afrique Chretienne for six months. After a fierce press and radio attack on Cardinal Malulu, the Archbishop of Kinshasa, the Government removed him from his home and pressured the Vatican to call the Cardinal to Rome. A settlement was reached in June 1972 when it was agreed that the Church would accept the MPR youth organization on the condition that it be under the supervision of the episcopate. President Mobutu then allowed Cardinal Malulu to return home.[7]

In December 1972, the MPR announced the banning of all religious youth organizations within the country.[8] On February 8, 1973, the Government prohibited the publication, sale, distribution, and possession of 31 religious publications, mostly Catholic; it also accused the Church of encouraging subversion.[9]

There is little information on political prisoners in Zaire. It has been reported that at least two of Mobutu's former political associates are in jail.[10] On August 19, 1973, President Mobutu announced the arrest of 13 people on the charge of distributing leaflets urging the secession of the "Lower Zaire" region.[11]

FOOTNOTES

[*] This report was written by Larry A. Niksch, Analyst in Asian Affairs.

[1] U.S. Agency for International Development. U.S. Overseas Loans and Grants and Assistance from International Organizations: Obligations and Loan Authorizations, July 1, 1945–June 30, 1972. p. 124.

[2] Williame, Jean-Claude. Politics and Power in Congo Kinshasa. African Report, v. 16, January 1971: 14–16. American University. Foreign Area Studies. Area Handbook for the Democratic Republic of the Congo (Congo Kinshasa). Washington, 1971. p. 227–231, 241–242, 246–252.

[3] The Europa Year Book 1973: A World Survey. Vol. II. London, Europa Publications Ltc., 1973. p. 1780. Hess, Peter. Zaire and the Rule of Mobutu. Swiss Review of World Affairs, v. 22: July 1972: 6.

[4] Area Handbook for the Democratic Republic of the Congo (Congo Kinshasa), p. 249.

[5] Ibid., p. 250.

[6] Ibid., p. 276. Mobutu Gives Ultimatum to Catholics. New York Times, March 8, 1972.

[7] Mobutu Gives an Ultimatum to Catholics. New York Times, March 8, 1972. Howe, Marvine. Mobutu and Cardinal In an Uneasy Truce but Church-State Tensions Persist. New York Times, June 30, 1972.

[8] Religious Youth Groups Banned. African Research Bulletin, v. 9, January 15, 1973: 2708.

[9] Religious Publications Banned. African Research Bulletin, v. 10, March 15, 1973: 2772.

[10] Zaire: Authentic Attitudes. Africa Confidential, v. 13, April 7, 1972: 2.

[11] Secessionist Group Arrested, African Research Bulletin, v. 10, September 15, 1973: 2959.

Mr. HATFIELD. Mr. President, I was extremely encouraged by the action taken by the subcommittee with respect to our assistance to the police and prison systems of South Vietnam. The language of the committee report speaks for itself on this matter, and I ask unanimous consent that this section of the report appear in the Record at this point.

There being no objection, the language of the report was ordered to be printed in the Record, as follows:

Assistance to Police and Prisons in South Vietnam

The Committee has taken note of the extensive discussion in the House and Senate concerning the internment and treatment of political prisoners in South Vietnam, and the use of United States resources for assisting these activities.

There are two provisions of the Foreign Assistance Act of 1973 which have bearing on this problem. The first is Section 32 (referred to previously) which states:

"It is the sense of Congress that the President should deny any economic or military assistance to the government of any foreign country which practices the internment or imprisonment of that country's citizens for political purposes."

The other relevant portion of the authorizing language is an amendment that adds a new section 801 to the Foreign Assistance Act of 1961 which includes this language:

"No assistance shall be furnished under this section to South Vietnam unless the President receives assurances satisfactory to him that no assistance furnished under this part, and no local currencies generated as a result of assistance furnished under this part, will be used for support of police, or prison construction and administration, within South Vietnam."

Section 114 of the House Appropriations Bill (H.R. 11771) proposes the same course of action as the authorizing legislation in dealing with funds contained in the bill for assistance to South Vietnam's police and prison systems.

The existence of political prisoners in South Vietnam is beyond any reasonable dispute. Only the numbers are in question. Estimates range from 4,300 to 200,000. Reliable and objective sources suggest that there are between 40,000 and 60,000 political prisoners being held. Further, substantiated accounts of cases of mistreatment and torture of such prisoners have been authoritatively reported.

It has been estimated that the police force of South Vietnam, at the authorized size of 122,000 personnel, has received at least $130 million in assistance from United States resources since 1967.

With the signing of the "Agreement on Ending the War and Restoring Peace in Vietnam" on January 27, 1973, the United States agreed that it would not "impose any political tendency or personality on the South Vietnamese people" that "advisors to all paramilitary organization and police force will be withdrawn" and that we would not "interfere in the internal affairs of South Vietnam."

AID's FY 74 budget justification to Congress for Indochina Postwar Reconstruction states that:

"In keeping with the articles of the ceasefire agreement, AID has terminated its assistance to the National Police and to the Vietnamese Corrections System . . ."

In information given upon request to the Committee shortly before the markup of this bill, relating to residual public safety activities in South Vietnam, the agency states that "All AID advisory assistance to Vietnamese National Police was terminated on January 28, 1973."

Other forms of assistance to the South Vietnamese National Police remain and are proposed for appropriation by this bill. There are two areas where the proposed budget would give such assistance. The first is a program for training up to 264 South Vietnamese National Police officers at the International Police Academy here in Washington. This is described on pages 30 and 50 of AID's FY 74 budget presentation for Indochina Postwar Reconstruction. About 200 of these personnel would be trained in computer systems management at the estimated cost of $721,000, and 64 would be trained in general police administration for $196,000. The second area is assistance to Public Safety Telecommunications. This involves aid for further development of a "Nationwide Combined Telecommunications Directorate" in South Vietnam.

While this system would be used by other agencies of the South Vietnamese government, A.I.D. acknowledged that the National Police has been one of the principal agencies using such communications systems as presently developed. In the past this project has been managed by personnel in the Office of Public Safety. With the abolition of this office under the terms of the peace agreement, remaining funding for the program was changed to the USAID Public Works General Support Project. With this step, nine telecommunications advisors previously working under the Office of Public Safety continued their work directly with the Telecommunication Directorate of the Government of South Vietnam. Funding for these advisors, who are included in a list of 24 "general engineering advisors" on page 41 of the AID budget presentation under the heading of "public works," totals $350,000 for FY 74. The same budget on that page includes $520,000 for replacement parts for the Nationwide Combined Telecommunications Directorate.

AID has identified these sums to the Committee after persistent inquiry. Thus, there is a total of $1,787,000 in the budget for Indochina Postwar Reconstruction which is proposed assistance to the South Vietnamese National Police, as identified and acknowledged by AID. Further, the Agency informs the Committee that the Department of Defense will contribute $10,626,000 in support to the South Vietnamese National Police, including $7,519,000 for the replacement of "uniform accessories, spare parts, etc." that is reimbursed to AID by DOD, $1,343,000 for "spare parts and accessories" for the Nationwide Combined Telecommunications Directorate that is reimbursed to AID by DOD, and $1,764,000 for direct procurement of replacement vehicles by DOD. Thus, in a very major way AID is serving as a conduit for Department of Defense funds providing assistance to the South Vietnamese National Police.

The Committee is deeply troubled by the acknowledgment that at least $12,513,000 is proposed as assistance to the South Vietnamese National Police, to be carried out through the auspices of the Agency for International Development. The Committee is further concerned that portions of these funds were initially not made sufficiently clear, being listed under other categories of the budget presentation. Further, the Committee is most deeply alarmed that AID is being used as a channel by the Department of Defense for the provision of very substantial amounts of such assistance.

The Committee believes that it is not in the best interests of the Agency for International Development or any agency of government to be identified with the police system of South Vietnam.

With these facts in mind, the Committee has reviewed the language related to this problem in Section 114 of H.R. 11771. We have found the language of H.R. 11771 to be in need of amendment for three reasons. First, as written the provision is an abdication of direct Congressional responsibility for this problem. Second, under the terms of the amendment all assistance to South Vietnam is jeopardized by a determination that funds under this Act are used for the support of police or prison construction and administration within South Vietnam. Third, the most relevant part of AID assistance in this fiscal year to the South Vietnamese National Police—that of their training outside of South Vietnam—is not covered by the provision.

The Committee believes that in a time when Congress has been endeavoring to increase its own powers and responsibilities, particularly in the area of funds spent for foreign and military purposes overseas, there is no reason to abdicate responsible action on this specific matter to the Executive Branch.

This Committee, with the assistance of the Agency for International Development, has identified those funds which are proposed for the support of South Vietnam's National Police. Therefore, we do not have to rely on a Presidential judgment or finding relating to this matter. Moreover, we do not wish to put the Executive in a situation where a finding of such assistance could legally require the termination of all aid to South Vietnam.

The United States has been generous in the assistance it has provided to the South Vietnamese National Police and to its prison systems. Previous funds for such assistance, totaling $1,338,000 obligated from prior year appropriations but not disbursed as of October 1, 1973, are still in the pipeline.

The Committee strongly believes, however, that such assistance to the police and prison systems of South Vietnam should now be totally terminated. The statement in AID's budget presentation that "AID has terminated its assistance to the National Police" should be made a total reality. This is the intent of the Committee's amendment to Section 114 of H.R. 11771.

The amendment would also eliminate that assistance to the Nationwide Combined Telecommunications Directorate which supports the South Vietnamese police or prison systems.

It is the intent of the Committee that the Agency for International Development (AID) cease functioning as a conduit for Department of Defense programs related to "public safety" functions in South Vietnam. Specifically, the Committee interprets the Senate amendment to Section 114 of H.R. 11771 as also prohibiting any AID involvement whatsoever in Logistics Technical Support Programs or Public Works General Support Programs insofar as these programs relate, directly or indirectly, to "public safety" functions in South Vietnam, for which AID has received, in the past, reimbursement from DOD for services performed.

In a time when the Administration has stressed its desire to participate in the rebuilding of a land and a people who have been torn apart by war, we believe the effectiveness of AID's efforts to that end is severely compromised by its involvement in the police and prison system of the country, particularly when that system has been characterized by acts of inhumane repression.

The Committee recognizes that direct U.S. advisers to South Vietnam's police and prisons have been terminated by AID.

The other forms of U.S. assistance are also ended by the Committee's action. This Committee's amendment to Section 114 of H.R. 11771 appears as Section 112 in the Committee's bill.

The South Vietnamese should rely solely on their own resources, rather than those of the United States, to provide for their police and prison system. Further, the end of AID's Public Safety Program was stipulated in the authorizing legislation. The Committee's action is consistent with that policy.

Mr. HATFIELD. Mr. President, this bill also contains $2.2 billion for emergency assistance to Israel. Let me restate my views on this subject, which also appear as separate view in the committee report.

The request of $2.2 billion in emergency assistance to Israel constitutes 40 percent of the total Senate appropriation in this bill. Only one day of hearings were held on this request. Further, the amount has not been authorized, and the Senate Foreign Relations Committee did not hold any hearings on the request until the day this bill was reported to the Senate by the Appropriations Committee.

The chairman of the subcommittee, Senator INOUYE has made persistent inquiry to the administration concerning this request. The unclassified portion of that communication has appeared earlier in the report. I have also made inquiries to the Department of State and the Department of Defense concerning this request, and have reviewed classified information pertinent to this matter.

As has been indicated earlier in the report, approximately $1 billion of military supplies have been sent to Israel since the outbreak of the recent hostilities. The administration has stated that this has fulfilled the major task of replacing the equipment and materiel lost in the war. It is understandable that provision be made for Israel to be given such assistance.

However, in my judgment the administration has given the committee no sufficient explanation concerning the necessity of granting the additional $1.2 billion at this time. The equipment that would be sent by this additional amount has not even been identified by the administration. They have stated that such amounts would be used to restore "military balance" to the area and have added, "It is, however, extremely difficult to state precisely the types and quantities of equipment that will be needed for this purpose." The administration's reply to the Subcommittee chairman further stated, "We do not want to stimulate additional procurement by the Arab combatants and thereby initiate a new escalation in the level of armament in the area."

The administration has made it clear that it does not know how much of this total request will be made on the basis of loans, and how much on the basis of grants. Further, they have said that if the total amount is not needed, it will be returned to the Treasury.

In sum, the Congress is being asked to appropriate $1.2 billion of this $2.2 billion for equipment and material that cannot be even identified at this time, and that may not all be needed.

When asked why Congress should not give such a blank check for up to $1.2 billion worth of additional military equipment to Israel, over and above the replacing of that which was lost in the war, the Administration has given two generalized responses. First, they have stated, "If the Congress were to act only on an amount sufficient to cover equipment already supplied to Israel, it could be interpreted as an indication that the U.S. Government is not prepared to provide whatever is necessary to enable Israel to defend itself." Second, they have stated, "peace negotiations will not be promoted if in the middle of them, we have to return to the Congress with an additional request for military assistance funds for Israel with the attendant weeks or months of uncertainty, until the bill is passed, as to whether the USG will provide the wherewithal for Israel's defensive needs."

In response to the first point, the historic and resolute commitment of the United States to provide Israel with the means of her defense has been firmly demonstrated to the world time and time again. Most recently, during the past war, our country not only demonstrated that commitment by the intensive airlift and sealift which resupplied Israel with all the equipment that was needed for her defense, but our nation was also brought to the brink of a nuclear confrontation to prevent the entry of Soviet troops into the region. We do not need to give the Administration authority to supply an additional $1.2 billion of military equipment that is not even identified and specifically justified in order to prove the credibility of this nation's commitment to Israel.

Regarding the second point, Congress has always demonstrated that it will act and act swiftly to provide the wherewithal for Israel's defensive needs. It is inconceivable that Congress would ever deny any specific request for equipment above that which has already been given to Israel that is shown to be essential for her security. This would be so particularly during a time of negotiations.

Thus, I find the administration's justification of the $1.2 billion beyond that which we have already supplied to be wholly unpersuasive.

In the past, many of my colleagues have argued that Congress should be a full participant in matters relating to our military assistance and foreign commitments, and I have joined in making these points. We have said that Congress must not give to the executive branch blank checks and broad discretions of unlimited authority in such matters. We have argued that Congress must be more relevantly involved in this decisionmaking process, as was the intent of the Constitution. I believe that there should be no exception to those principles, and that they should be applied in this instance as well.

If, in fact, the administration decides that additional equipment, above what has been lost in the past war and replaced, is needed for a "military balance," then that can be supplied in the same fashion as our aid up to this point has been given—under the Foreign Military Sales Act. In such a case, Congress would have a full 120 days to consider such action, and to provide additional loans or grants as it sees fit. Certainly that is the proper way to proceed, and the minimum that is necessary if Congress is to be an equal and responsible participant in this process.

I have heard it frequently contended that if Congress does not give to the Executive carte blanche for all that it wants, then its ability to reach a desired negotiated solution on a given matter may somehow be jeopardized. Previously, I have rejected such rationale when considering Congressional action on such matters as the ABM, our troops in Europe, and our involvement in Southeast Asia. I do not accept that rationale in this instance either. Further, in this case it is not being suggested that funds for an on-going commitment or program be denied, but that additional funds yet to be required, justified, or specified not be prematurely given.

The administration has stated, "We recognize that what we are asking is highly unusual." I wholeheartedly agree, and believe that Congress should not abdicate its own responsibilities as it exercises the power of the purse. In effect, the Executive is asking the Congress to renege from exercising any meaningful role at all in the provision of an additional $1.2 billion of military aid to Israel, beyond what has been supplied to replenish the losses from the recent war. I see no reason why Congress should accede to this highly unusual request.

Finally, it is my belief that there is no ultimate military solution to the conflict in the Middle East. The only solution is a negotiated settlement of the political and social issues which lie at the root of the tensions there. I earnestly hope and pray that the negotiations about to begin will yield such a settlement. For this reason, it is all the more imperative that we not take these actions which would encourage a reliance solely on military might as the means for building ultimate security. In the past, the arms we have given to the Middle East in the name of building a balance of power have been used in war. Another war in the future would be even far more costly in human terms for both Israel and the Arabs, and run the same risks of nuclear confrontation between the world's most powerful nations. Therefore, now more than ever it is our responsibility to stress by our actions and words to all parties that successful negotiations, resolving the fundamental issues and grievances rather than blind reliance on military might, are the only means for achieving true security.

Mr. President, in my separate views I also stated my opposition to the emergency assistance proposed for Cambodia. Those views were as follows:

The administration's request for an additional $200 million in emergency assistance to Cambodia, and the compromise $100 million recommended by the Committee, is also without sufficient justification, in my judgment.

These funds also have not been authorized. Furthermore, more than $120 million has already been spent for military assistance under the Continuing Resolution during this fiscal year, from the $173 million originally requested. An additional $250 million is available for use under the "Special Drawdown Authority" provided by the Foreign Assistance Act of 1973. When asked during the House debate whether that authority would be available for use for this purpose even if the emergency funds for Cambodia were appropriated, the manager of the House Appropriation Bill, Mr. PASSMAN, replied that it was. Thus, the $100 million appropriated by the Senate is in addition to these other available resources. In short, the Administration already has more than sufficient authority for its military assistance program to Cambodia.

Furthermore, during the course of special hearings held by the Subcommittee on Cambodia, it was made totally apparent that this is a wholly civil war, involving one group of Cambodians against another. I do not believe that our role should be one of continued intervention through the supply of our arms in that situation. The effect of that assistance, in my judgment, only contributes to a continuation of a war amongst the Cambodians. For these reasons, I am opposed to the emergency funds for Cambodia appropriated by the bill.

Let me only add and clarify these views to say that I was pleased with the proviso added by the full committee that no funds be made available for Cambodia from the "Special Drawdown Authority." However, the House bill contains no such language, and we have no assurance that it would be maintained in the conference. My concern is that the conference would delete the provision on the drawdown authority, and still appropriate funds for emergency military assistance as well.

In any event, I remain opposed to the expanded level of military assistance to Cambodia proposed by the administration.

In conclusion, Mr. President, let me again commend the excellent leadership of the chairman of the Foreign Operations Subcommittee, the Senator from Hawaii (Mr. INOUYE) and the cooperative spirit that has prevailed among all the subcommittee members.

This bill contains many improvements in the direction of our foreign assistance programs. Yet, the overall thrust and impact of those programs still stands in drastic need of fundamental revision. While I am encouraged by many of the changes we have effected in this appropriations measure. I still believe our overall program of foreign assistance fails to sufficiently address the needs of the world's destitute and poor as the chief priority. For this reason, and because of the other portions of the bill which I cannot fully support, I shall vote against this measure.

ISRAEL

Mr. KENNEDY. Mr. President, I stand to support the emergency security assistance for Israel contained within the current appropriations bill.

During the days immediately following the outbreak of the Yom Kippur war, I strongly urged the administration to provide for the immediate resupply of weapons which Israel required to defend itself.

I joined with 67 of my colleagues in introducing a resolution urging immediate arms shipments. At the same time, the administration announced the start of new supplies.

The massive resupply effort by the Soviet Union to Egypt and Syria since the October 6 war began is evidence of the continuing need for Israel to retain the necessary means of defense.

All of us hope that the upcoming negotiations in Geneva will set a new course for the people of the Middle East, a course of peace and cooperation rather than a course of war.

However, we would be dooming those negotiations from the outset were we to deny Israel the resupply of weapons to match the torrent of arms, estimated at far more than $2.2 billion contained in this bill, supplied by the Soviet Union since the ceasefire. A military balance in the Middle East is a vital precondition to the successful conclusion of peace negotiations.

For the past quarter century, the United States has maintained its support for the people of Israel. I believe that policy is in our interests. Enactment of this measure will state clearly to all concerned that the United States will not forsake the Nation of Israel at this moment of economic, political, and military challenge.

Mr. McCLELLAN. Mr. President, there are some items in this bill, some appropriations I would gladly support if there was the opportunity to vote on them independently. But, as this bill stands today—as we approach final passage, it proposes to continue the indiscriminate spending practices which I oppose and have long condemned.

I cannot vote to continue this unjustified, indefensible and unproductive program, although I am very much in sympathy with some of its provisions and with some of the appropriations it contains.

Almost three decades after the beginning of America's foreign aid program—intended as a temporary project designated to revitalize a war-ravaged world—we are still furnishing assistance of some sort and in varying amounts to 131 nations around the globe.

Paradoxically, our Nation's capabilities for this gigantic philanthropy have considerably diminished over the years, but there has been no corresponding reduction in our heavy commitments and assistance to other countries. The result has clearly been, among other consequences, mounting waves of inflation, trade deficits, periodic attacks on the dollar, and pyramiding national indebtedness.

To help preserve our fiscal integrity, we shall immediately terminate our entire foreign assistance program, as now constituted. This vast, overextended, misguided and mismanaged experiment in international welfare has, in recent years, produced little but waste, woe and a weakened international diplomacy. It has long since become a diplomatic liability. It is no longer a positive instrument for good in obtaining our foreign relations objectives.

Mr. President, we are being asked to continue sending our dollars abroad at a time when our Nation's economy is in trouble and under increasing strain to meet domestic needs and obligations with even more difficult times ahead. Responsible economists and businessmen are predicting an unemployment rate of upward of 8 percent within the next year as the energy crisis deepens. Inflation and high taxes are taking more out of the pocketbooks of American taxpayers every day.

Many of our international requirements and essential programs and improvements are being inadequately funded or long deferred because of our fiscal instability and disturbing uncertainties associated with our economic prospects in the immediate years ahead.

In view of the seriousness of current inflation, our depleted Treasury, the devalued dollar and the obvious magnitude of the task confronting us, prudence and a proper regard for our own long range interest dictate an end to this too long used and much abused indiscriminate international handout program.

There is no doubt that the basic idea behind the Marshall plan, our original foreign aid program, was sound and commendable. We wanted to rebuild the devastated economies of our World War II allies and also of our enemies in order to make them self-sustaining and to restore world stability.

We met this challenge by giving some $17 billion to the nations of Western Europe over a 4-year period. The Marshall plan proved to be an outstandingly successful example of humanitarian compassion and international cooperation. It contributed greatly to Europe's fantastic economic recovery and subsequent growth.

During this same time, the United States supplied $2.1 billion to rebuild the war-shattered economy of Japan, its former enemy—fiscal years 1946–51.

I supported the Marshall plan when it was launched in 1946 and until 1955—a period in which $55.8 billion was appropriated for foreign aid. I believed it provided a significant opportunity for the United States to make a contribution to building a more peaceful and prosperous world order. In the beginning it did just that.

Unfortunately, however, we were not content with this success. Unhappily we came to regard ourselves as an international philanthropist and undertook in addition to finance the progress and prosperity of the underdeveloped nations of Latin America, Asia, and Africa.

By 1955, the number of client states had increased from 51 to 86. By then, it had become clearly evident to me that we were transforming the Marshall plan into an extravagant, wasteful and ineffective worldwide program which we could not afford—a program that would, in the long range, be nonproductive and detrimental. The unfriendliness and ingratitude exhibited against us today by many countries who received abundant assistance from us is a striking demonstration and testimonial to the consummate folly of the foreign aid policy that we have pursued.

Since 1955, we have poured an additional $117.7 billion—as of June 30, 1972—into foreign assistance, with the result that we have less frends and fewer allies than we had before this money was spent and before the foreign aid program began.

Mr. President, as far as I can see, the major recent accomplishment that can be attributed to our foreign assistance program is its unique ability to perpetuate its existence despite the compelling and uncontestable proof of its squandering and detrimental consequences.

Since 1946, the United States has poured a staggering $173.5 billion [1]—as of June 30, 1972—into foreign economic and military assistance—and this gigantic outpouring of funds has been one of the primary factors in the deterioration and present flabbiness of the dollar. A continuation of this indiscriminate foreign aid spending will cause a further weakening of and disarray in our fiscal posture.

And there is still a $13 billion balance in the foreign aid pipeline—enough to keep it going for a number of years.

How are we being repaid for this unparalleled adventure in international generosity?

Five petroleum-producing Arab States—Algeria, Saudi Arabia, Kuwait, Iraq, and Libya—which have received nearly $1 billion in economic and military assistance from us since 1946 have embargoed oil shipments to the United States, leaving us with the prospect of cold furnaces and empty gas tanks.[2]

India and Pakistan, which have received over $14 billion in economic and military assistance from us since 1946, have used the weapons which we supplied them for their defense to fight each other. And we have been called in to replace their losses and bind up the wounds following these internecine quarrels.

Ecuador, which has received some $386 million in economic and military assistance from us since 1946, including American-supplied warships, is seizing our fishing boats on charges that they have violated her arbitrarily established sea frontiers.

Uganda, which has received $47.9 million in military and economic assistance, has been the scene of the murder of three Americans by the Army since July 1971, and the roughing up, arrest, and threatening of others. I am advised that aid to Uganda was terminated as of June 30, 1973.

Despite our determined and unselfish efforts to help our NATO allies defend themselves from the threat of aggression, they failed to reciprocate and come to our support during the Vietnam war and the recent crisis in the Middle East. Our NATO allies seem quite content to let us bear heavy burdens—and costs—of their defense while they reserve the right to criticize and hinder us in the pursuit of our policies to oppose aggression and preserve the peace throughout other sections of the world.

Since 1955, I have persistently urged the end of our attempts to remold the world in our own image through the expenditure of our treasure. Repeatedly, I cautioned that unless we committed our resources wisely and made expenditures prudently, we would soon face inflation and economic chaos.

We are now on the threshold of such an emergency. This nonproductive, ill-advised, misconceived philanthropy should now end.

The finest service we can render to the people of the underdeveloped countries right now is to restore the vigor and promise of our own economy. Then, if they truly want and need our aid, we can possibly launch a new program of self-help and technological assistance.

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[1] This does not include interest and carrying charges which have been estimated at from $40 to $50 billion additional.

[2] The State Department lists the nations that have declared an embargo as Algeria ($217.1 million aid), Saudi Arabia ($366.4 million), Kuwait ($50 million), Iraq ($104.8 million) and Libya ($228.6 million). This totals $966.9 million. Other nations declaring an embargo are Bahrain, Abudabi, Qutar, Dubai and Oman.

A sound and productive program based, on a sharing of our technology and our expertise, and, if need be, of practical and reasonably secured loans, not gifts, may be in order and feasible.

Mr. President, I am convinced that this approach would be of far more permanent benefit, not only to ourselves, but to the world community at large.

As I believe it is of supreme importance that the Members of this body have the opportunity to see and to examine the staggering magnitude of our all-encompassing foreign aid program, I have asked the Department of State to prepare a detailed report showing the amount of American aid received by each client state since the inception of this program. It shows among other things that 151 countries, organizations and regions received a total of $173.5 billion from fiscal year 1946 to fiscal year 1972. I commend it to the attention of all Members of the Senate.

Mr. President, I ask unanimous consent that this report be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

Deobligation=Cancellation or reduction of prior years obligations, but not expended.

Example: If Congress cuts a $10 M project to $9 M or the invoice costs are below the $10 M obligated, then the obligated figure is reduced (or "deobligated" by $1.0 M).

II. Negative figures=1. are generally the cumulative totals and are used to assure that the total columns will add up.

2. since 1954, the data is prepared using gross (not net) figures (excluding the amount recovered from prior years).

3. The figures by year are the gross figures.

III. Any dash marks are used to represent a zero (0) figure.

Any asterisk indicates that the figure was too small to add up.

This table does include programs not considered economic aid such as Export-Import Bank, grain loads.

Total U.S. overseas loans and grants

[In millions of dollars—fiscal years 1946–1972]

Europe	$48,830.6
Albania	20.4
Austria	1,335.5
Belgium-Luxembourg	2,042.1
Czechoslovakia	193.0
Denmark	950.5
East Germany	0.8
Finland	180.5
France	9,711.7
Germany (Federal Republic)	5,087.6
Berlin	131.9
Hungary	33.8
Iceland	89.2
Ireland	187.8
Italy	6,466.1
Malta	19.5
Netherlands	2,605.5
Norway	1,357.1
Poland	692.7
Portugal	571.8
Romania	74.3
Spain	2,913.4
Sweden	231.1
Switzerland	47.1
United Kingdom	9,757.9
U.S.S.R.	186.4
Yugoslavia	3,092.5
Europe Regional	850.1
Africa	5,382.4
Algeria	217.1
Botswana	$30.2
Burundi	9.7
Cameroon	46.7
Central African Republic	7.9
Chad	10.2
Congo (Brazzaville)	5.1
Dahomey	13.8
Ethiopia	485.4
Gabon	7.6
Gambia	4.3
Ghana	300.3
Guinea	109.9
Ivory Coast	110.5
Kenya	96.8
Lesotho	13.4
Liberia	307.5
Libya	228.6
Malagasy Republic	15.4
Malawi	29.6
Mali, Republic of	32.1
Mauritania	6.3
Mauritius	7.5
Morocco	959.6
Niger	20.6
Nigeria	423.3
Rwanda	8.0
Senegal	45.6
Seychelles	0.4
Sierra Leone	53.2
Somali Republic	77.4
Southern Rhodesia	7.0
Sudan	107.9
Swaziland	5.8
Tanzania	77.5
Togo	19.5
Tunisia	798.0
Uganda	47.9
Upper Volta	22.0
Zaire	495.4
Zambia	68.3
Central and East Africa Regional	55.9
East Africa Regional	33.1
Africa Regional	260.1
Latin America	18,112.2
Argentina	1,027.6
Bahamas	24.0
Barbados	0.7
Bermuda	34.0
Bolivia	623.7
Brazil	4,533.1
British Honduras	6.3
Chile	1,654.4
Colombia	1,606.5
Costa Rica	221.8
Cuba	53.9
Dominican Republic	527.8
Ecuador	385.7
El Salvador	161.5
Guatemala	403.4
Guyana	81.0
Haiti	131.7
Honduras	139.9
Jamaica	128.3
Mexico	1,267.7
Nicaragua	201.3
Panama	342.0
Paraguay	165.6
Peru	862.1
Surinam	9.7
Trinidad and Tobago	71.8
Uruguay	207.9
Venezuela	577.1
Other West Indies	12.3
ROCAP	205.7
Latin America Regional	2,443.7
Near East and South Asia	34,507.3
Afghanistan	450.2
Bangladesh	286.3
Cyprus	30.3
Egypt (U.A.R.)	1,017.3
Greece	4,228.6
India	9,382.9
Iran	2,770.2
Iraq	104.8
Israel	2,610.0
Jordan	870.9
Kuwait	50.0
Lebanon	$151.0
Nepal	177.7
Pakistan	4,878.2
Saudi Arabia	366.4
Sri Lanka (Ceylon)	200.3
Syria	61.0
Turkey	6,402.7
Yemen Arab Republic	42.7
Yemen, Democratic Republic of	2.7
Central Treaty Organization	52.1
Near East and South Asia Regional	371.0
East Asia	46,723.4
Brunei	16.2
Burma	188.3
Cambodia	863.4
China, Republic of	5,910.9
Hong Kong	47.4
Indochina, Undisturbed	1,542.5
Indonesia	1,807.5
Korea	11,378.5
Laos	1,756.0
Malaysia	136.9
Philippines	2,480.8
Ryuku Islands	414.3
Singapore	55.6
Thailand	1,747.1
Vietnam	17,984.3
Western Samoa	2.9
East Asia Regional	390.8
Other Developed Countries	9,670.3
Japan	4,973.6
Republic of South Africa	150.6
Canada	144.1
Australia	1,104.2
New Zealand	143.7
Non-Regional	3,154.1
Oceania	430.3
Papua and New Guinea	28.7
Trust Terr. of Pacific Isl	394.6
Other Oceania	7.0
Non-Regional	9,585.7

Grand totals of U.S. overseas loans and grants to Africa, Latin America, Near East and South Asia, East Asia, and Europe [1]

[In millions of dollars]

Fiscal year:	
1946	$4,872.8
1947	6,953.1
1948	3,299.0
1949	8,464.0
1950	5,210.8
1951	4,799.4
1952	4,058.4
1953	7,044.3
1954	5,853.5
1955	5,265.7
1956	5,648.2
1957	5,472.8
1958	5,406.7
1959	5,535.3
1960	5,044.7
1961	5,770.1
1962	7,526.8
1963	7,741.6
1964	5,579.0
1965	5,737.3
1966	7,634.1
1967	8,426.9
1968	8,169.1
1969	7,569.9
1970	8,095.8
1971	9,390.4
1972	11,113.9
Deobligations	−2,141.4
Cumulative total, fiscal years 1946–1972	173,542.2

[1] Includes economic and military loans and grants to developed and less developed countries. Coverage of the various programs is described on Pages 2–3 of *U.S. Overseas Loans and Grants,* July 1, 1945–June 30, 1972.

U.S. OVERSEAS LOANS AND GRANTS

[Millions of dollars—fiscal years 1946–72]

Country	1946	1947	1948	1949	1950	1951	1952	1953	1954	1955
Africa	7.2	3.1	0.7	4.2	0.1	7.4	4.3	39.7	33.8	36.5
Algeria										
Botswana										
Burundi										
Cameroon										
Central African Republic										
Chad										
Congo (Brazzaville)										
Dahomey										
Ethiopia	.4	3.1				.1	1.2	1.5	6.5	5.1
Gabon										
Gambia										
Ghana							(1)		(1)	(1)
Guinea										
Ivory Coast										
Kenya									3.9	.5
Lesotho										
Liberia	6.8		.7	4.2	.1	7.1	1.2	1.7	1.1	15.1
Libya						.2	1.6	1.4	3.0	13.5
Malagasy Republic										
Malawi										
Mali Republic of										
Mauritania									1.4	
Mauritius										
Morocco							.3	(1)	.3	.1
Niger										
Nigeria							(1)	.2	.7	.3
Rwanda										
Senegal										
Seychelles										
Sierra Leone							(1)			.1
Somali Republic									.7	.3
Southern Rhodesia									5.0	(1)
Sudan										
Swaziland										
Tanzania										
Togo										
Tunisia							.2		.1	.1
Uganda									.2	.2
Upper Volta										
Zaire							(1)		(1)	.1
Zambia								22.4	5.0	
Central and East Africa Regional										
East Africa Regional										
Africa regional							(1)	12.5	5.8	1.1
Other										

	1956	1957	1958	1959	1960	1961	1962	1963	1964	1965
Africa	36.1	93.9	110.1	192.0	217.4	488.4	507.06	524.2	385.3	366.3
Algeria	(1)	.8	.1	.7	.6	2.3	9.6	69.5	45.3	15.1
Botswana										1.8
Burundi						(1)	2.9	1.2	1.3	1.3
Cameroon					.1	2.1	13.3	1.6	2.5	6.2
Central African Republic						(1)	.2	.7	1.1	.7
Chad						.1	.3	1.1	.6	1.7
Congo (Brazzaville)						.1	1.2	.7	2.9	.3
Dahomey				.1	(1)	3.0	2.2	1.0	1.1	.8
Ethiopia	16.3	14.4	14.0	14.6	15.3	49.1	31.0	30.6	16.8	30.5
Gabon					(1)	.1	.4	1.3	1.7	1.5
Gambia	(1)	.1	.1			.1	(1)	(1)	(1)	.1
Ghana	.4	.5	.2	1.7	1.0	22.6	102.2	3.0	4.0	2.9
Guinea				1.7	2.1	.2	10.4	15.9	16.8	21.6
Ivory Coast						2.1	2.6	5.0	8.9	4.8
Kenya	.1	.1	.2	.3	.2	1.9	9.7	5.6	3.8	9.2
Lesotho						(1)	(1)	.1	.1	.1
Liberia	2.4	2.2	2.4	13.7	5.7	47.8	12.6	47.7	16.8	43.3
Libya	15.2	26.4	30.1	29.0	32.7	24.5	20.4	13.7	9.3	3.4
Malagasy Republic				(1)	(1)	.5	.7	1.0	1.4	4.7
Malawi	(1)	(1)	(1)	10.7	(1)	.1	1.8	1.1	1.8	3.4
Mali, Republic of						2.6	3.6	4.3	3.1	2.4
Maritania					.1	.1	.1	.2	.8	(1)
Mauritius			(1)	(1)		.1	(1)	.1	.1	.1
Morocco	.3	29.8	34.5	48.3	81.3	98.1	54.7	77.9	40.8	45.1
Niger						2.0	1.3	1.4	2.7	1.7
Nigeria	.4	.5	.1	1.6	1.9	14.5	25.0	30.1	51.6	36.4
Rwanda							.8	(1)	.5	.4
Senegal						3.6	3.7	5.6	5.6	1.8
Seychelles						(1)	(1)	(1)	(1)	(1)
Sierra Leone	(1)	(1)		.1	.3	.6	2.6	4.0	13.9	5.6
Somali Republic	.1	1.4	.6	3.1	3.0	4.2	15.1	8.8	4.4	7.9
Southern Rhodesia	.1	(1)	(1)	.1	.1	.3	.7	.5	.4	(1)
Sudan	(1)		.4	30.8	13.0	9.4	13.2	11.3	6.6	6.5
Swaziland						(1)	(1)	(1)	(1)	(1)
Tanzania			(1)	.1	.1	4.2	12.0	12.1	9.1	6.7
Togo				.1	.4	1.4	2.5	1.4	2.0	1.4
Tunisia	.1	17.3	27.2	34.7	58.7	109.9	51.9	73.1	44.3	50.5
Uganda	.1		.1	.2	.3	.2	4.2	7.0	2.8	2.5

Footnotes at end of table.

U.S. OVERSEAS LOANS AND GRANTS—Continued

[Millions of dollars—fiscal years 1946–72]

Country	1956	1957	1958	1959	1960	1961	1962	1963	1964	1965
Upper Volta						2.0	1.3	1.0	0.9	0.7
Zaire	(1)	(1)		(1)	0.1	75.5	84.8	74.5	45.2	31.4
Zambia					.1	.2	.4	.5	.8	1.0
Central and west Africa regional										
East Africa regional						1.2	2.1	2.1	3.6	2.3
Africa regional	.6	.2	(1)	.2	.2	1.6	6.2	7.8	9.7	8.4
		1966	1967	1968	1969	1970	1971	1972	Deobligated	Total
Africa		395.5	434.9	378.6	400.7	327.5	459.4	468.9	-241.6	5,682.3
Algeria		19.4	13.2		2.0	2.2	15.0	21.9	-.6	217.1
Botswana		4.6	7.0	1.2	.5	1.8	3.0	10.5	-.2	30.2
Burundi		.1	.2	.1	.1	1.6	.5	.7	-.3	9.7
Cameroon		2.3	1.6	.8	3.8	.6	2.5	11.4	-2.1	46.7
Central African Republic		.5	.9	.3	.3	.5	.3	2.3	+.1	7.9
Chad		1.5	2.1	1.0	.7	.8	.6	.5	-.8	10.2
Congo (Brazzaville)					(1)	.3	2.3	.3	-3.0	5.1
Dahomey		1.3	1.3	1.0	.9	.5	.5	.7	-.6	13.8
Ethiopia		66.3	35.7	20.9	32.8	30.1	35.7	44.2	-30.8	485.4
Gabon		1.1	1.2	.6	(1)	.1	(1)	.1	-.5	7.6
Gambia		.2	.4	.2	.7	.3	1.3	.5	+.3	4.3
Ghana		9.4	35.3	37.4	29.9	31.2	22.1	15.1	-18.6	300.3
Guinea		7.4	1.3	4.5	21.7	.9	12.5	.7	-8.1	109.9
Ivory Coast		5.7	1.4	32.4	8.0	16.8	2.1	21.6	-.9	110.5
Kenya		19.5	4.5	5.0	3.9	12.3	13.8	5.2	-2.9	96.8
Lesotho		.6	1.1	1.1	1.5	5.2	2.2	1.4		13.4
Liberia		12.3	11.0	9.2	13.6	8.5	11.5	19.6	-10.8	307.5
Libya		3.5	2.9	2.8	2.6	.5		(1)	-7.9	228.6
Malagasy Republic		1.7	2.8	.3	.7	1.2	.6	.4	-.6	15.4
Malawi		3.6	2.6	9.0	2.2	.7	.6	3.7	-11.7	29.6
Mali, Republic of		2.6	3.2	1.1	4.0	1.0	3.9	2.3	-2.0	32.1
Mauritania		.2	.3	(1)	(1)		1.8	1.4	-.1	6.3
Mauritius		.1	.1	.8	.1	2.9	2.0	1.1		7.5
Morocco		64.3	58.0	75.2	56.3	37.2	93.3	73.5	-9.7	959.6
Niger		2.1	2.3	2.2	1.5	1.2	1.4	1.6	-.8	20.6
Nigeria		30.5	27.0	25.7	87.1	52.4	41.6	39.9	-44.2	432.3
Rwanda		3.2	.7	.6	.3	.6	.6	.5	-.2	8.0
Senegal		6.0	6.5	2.6	3.1	4.2	3.2	3.5	-3.8	45.6
Seychelles		(1)	(1)	(1)	(1)	(1)	.1	.1	-.2	.4
Sierra Leone		5.5	3.9	3.8	4.2	2.4	4.7	3.5	-2.0	53.2
Somali Republic		5.4	16.4	5.3	3.5	3.0	.3		-6.1	77.4
Southern Rhodesia		(1)		(1)					-.2	7.0
Sudan		15.5	21.6	.3	.3	(1)	.1	8.0	-29.1	107.9
Swaziland		(1)	(1)	.2	.3	.6	3.7	.6	+.4	5.8
Tanzania		6.9	6.7	6.1	3.6	4.8	5.7	3.1	-3.7	77.5
Togo		2.8	1.5	.8	1.2	1.0	2.3	1.1	-.4	19.5
Tunisia		21.5	61.2	56.8	50.2	48.9	60.6	52.9	-22.2	798.0
Uganda		4.0	7.2	2.6	5.6	3.2	3.4	5.7	-1.6	47.9
Upper Volta		1.5	2.9	1.7	1.0	2.2	5.0	3.3	-1.0	22.0
Zaire		38.5	43.8	29.1	10.8	14.9	42.7	8.3	-4.3	495.4
Zambia		1.0	6.1	1.2	2.1	.2	4.3	23.5	-.5	68.3
Central and East Africa Regional					8.0	7.8	8.7	32.4	-.7	55.9
East Africa Regional		6.3	2.5	3.3	4.5	4.5	1.4	1.3	-2.0	33.1
Africa Regional		16.5	37.0	30.9	27.3	17.6	41.9	40.4	-5.8	260.1
	1946	1947	1948	1949	1950	1951	1952	1953	1954	1955
Latin America	104.7	108.2	56.0	70.6	196.8	219.2	105.1	441.7	98.1	358.9
Argentina	(1)	.2	(1)	(1)	96.5	5.0				62.0
Bahamas										
Barbados										
Bermuda										
Bolivia	.4	3.4	.4	.7	16.5	.5	1.5	1.3	18.2	31.7
Brazil	56.9	15.6	1.4	10.4	15.3	27.2	57.0	401.8	21.9	69.0
British Honduras										
Chile	32.9	12.1	.9	21.8	28.2	2.2	12.3	3.5	8.0	11.2
Colombia	3.5	1.1	10.2	3.8	2.5	2.5	3.3	9.3	3.9	9.0
Costa Rica	2.0	.4	.2	.1	.4	.7	2.2	2.5	1.9	3.7
Cuba	.1	.1	.1	(1)	(1)	12.1	.1	.6	9.3	2.0
Dominican Republic	.2	.2	.1	(1)		.1	.2	.3	.2	2.3
Ecuador	1.4	.7	3.3	.8	7.6	.7	2.5	2.0	9.5	6.1
El Salvador	.5	.3	.3	.2	.3	.2	.5	.7	.6	.8
Guatemala	.8	1.0	1.7	2.9	1.7	.7	1.1	.2	.2	10.1
Guyana										.4
Haiti	.3	.3	.8	4.4	.5	10.6	.8	.6	1.1	12.5
Honduras	.3	.6	.3	.2	.1	.2	.8	.7	1.3	2.2
Jamaica										
Mexico	1.2	64.0	30.1	19.3	20.8	130.1	9.3	7.9	7.7	5.0
Nicaragua	1.7	1.7	.5	.4	.4	1.3	.8	.9	1.4	3.9
Panama	.2	.2	.2	2.3	.2	.9	3.0	1.5	1.6	2.9
Paraguay	.4	.4	.4	.4	.5	.7	1.6	.8	1.2	9.7
Peru	.7	5.6	1.3	.9	.9	20.5	2.5	4.0	6.3	109.1
Surinam										.2
Trinidad and Tobago										
Uruguay	.6	.1	1.3	.1	.1	2.8	.4	.2	.6	1.9
Venezuela	.6	.3	2.4	2.0	5.2	.2	3.1	.1	.1	.2
Other West Indies										.2
ROCAP										
Latin America regional							1.8	2.3	3.0	2.9

Footnotes at end of table.

U.S. OVERSEAS LOANS AND GRANTS—Continued

[Millions of dollars—fiscal years 1946–72]

Country	1956	1957	1958	1959	1960	1961	1962	1963	1964	1965
Latin America	374.2	680.7	408.9	633.0	397.5	943.2	1,181.3	1,110.7	1,306.7	1,305.0
Argentina	16.0	97.4	.1	140.6	.9	41.5	57.2	135.6	20.9	42.7
Bahamas	.1	.1	.1		(1)					
Barbados										
Bermuda										
Bolivia	28.1	27.3	22.5	25.2	15.0	30.7	40.2	67.0	79.9	20.9
Brazil	103.7	332.9	45.7	154.5	47.3	304.8	249.9	160.0	371.0	288.8
British Honduras	.4	.2	.2	.2	.2	.2	.9	.6	1.0	.3
Chile	30.7	43.7	51.3	48.7	47.5	142.7	185.1	116.5	136.3	143.7
Colombia	13.9	20.5	100.9	8.7	14.5	111.0	86.6	136.7	137.5	42.3
Costa Rica	20.7	11.1	2.6	8.1	10.5	10.2	10.6	15.1	16.7	14.9
Cuba	3.4	3.8	20.4	.8	1.2	.1				
Dominican Republic	1.6	1.4	1.4	1.1	.5	.1	36.4	53.4	16.5	75.3
Ecuador	7.2	8.6	8.8	9.2	11.0	23.6	41.9	42.2	32.9	27.8
El Salvador	1.1	1.7	1.1	1.1	1.0	6.3	23.0	23.9	15.9	19.4
Guatemala	34.9	19.4	17.6	12.3	9.2	32.3	11.7	17.2	15.7	14.6
Guyana	.3	(1)	.2	.2	.4	.8	1.5	1.5	.3	12.3
Haiti	11.6	3.8	4.2	12.7	13.3	15.4	8.3	6.0	3.7	2.5
Honduras	2.8	8.3	9.1	4.4	4.4	5.8	5.1	13.8	12.0	5.4
Jamaica	1.3	1.0	1.0	.9	1.0	1.5	2.3	12.6	8.0	7.0
Mexico	51.2	23.0	63.3	108.0	49.5	30.1	47.6	45.1	103.5	96.9
Nicaragua	2.7	6.4	3.8	4.6	11.0	12.5	14.9	9.5	7.1	24.9
Panama	9.8	26.6	5.5	2.0	1.9	16.2	25.5	10.6	25.2	24.4
Paraguay	4.0	2.8	6.6	5.9	4.1	11.1	8.8	10.2	9.3	11.7
Peru	22.2	26.1	27.4	42.9	21.1	67.2	98.6	38.7	91.9	47.8
Surinam	.3	.4	.4	.4	.5	.5	.6	.4	.2	1.1
Trinidad and Tobago	.1	.1	(1)	.7	3.2	3.8	12.0	10.9	9.5	5.1
Uruguay	2.9	4.5	6.4	19.3	17.0	5.1	11.4	21.1	9.8	5.0
Venezuela	.2	3.6	.2	13.4	24.4	56.6	72.2	61.5	58.4	52.6
Other West Indies	.5	.3	.2	.2	.2	.3	.3	.6	.3	.4
ROCAP						5.0		11.1	24.3	43.4
Latin America regional	2.9	5.3	8.1	6.4	85.6	7.3	128.0	89.3	98.7	274.2

Country	1966	1967	1968	1969	1970	1971	1972	Deobligated	Total
Latin America	1,392.2	1,439.8	1,438.1	1,046.1	1,093.8	722.0	1,260.7	−381.3	18,111.9
Argentina	63.0	17.2	55.1	71.2	23.9	55.4	65.0	−39.8	1,027.6
Bahamas	(1)	19.0	2.7		(1)		2.1	−.1	24.0
Barbados		.1				.6			.7
Bermuda							34.0		34.0
Bolivia	40.0	32.8	20.9	31.6	9.3	13.8	64.8	−20.3	623.7
Brazil	376.5	302.6	383.5	57.9	218.0	204.7	343.1	−88.3	4,533.1
British Honduras	.5	.3	.3	.3	.2	.3	.4	−.4	6.3
Chile	121.6	242.3	104.1	92.0	27.1	14.3	21.3	−47.6	1,654.4
Colombia	117.4	145.6	110.5	134.4	151.0	109.1	143.3	−26.4	1,606.5
Costa Rica	15.0	15.0	11.5	18.5	20.9	8.5	3.9	−6.1	221.8
Cuba								−.2	53.9
Dominican Republic	111.7	61.5	67.0	31.1	21.8	29.4	31.7	−17.7	527.8
Ecuador	32.2	14.9	16.0	14.3	31.0	25.2	12.5	−8.2	385.7
El Salvador	9.9	4.8	9.8	14.3	13.2	6.0	9.3	−4.7	161.5
Guatemala	10.4	18.0	18.5	81.5	33.5	25.7	18.4	−7.9	403.4
Guyana	7.5	9.7	8.6	17.6	1.6	2.0	17.8	−1.7	81.0
Haiti	6.3	2.7	3.4	3.2	3.8	4.3	5.3	−10.7	131.7
Honduras	15.1	11.1	15.2	5.0	8.6	8.1	7.9	−8.9	139.9
Jamaica	7.3	5.2	8.5	17.2	9.1	24.0	22.8	−2.4	128.3
Mexico	33.1	100.4	79.5	16.2	36.6	36.9	54.1	−1.9	1,267.7
Nicaragua	21.6	13.3	31.7	3.2	4.2	15.4	5.7	−5.0	201.3
Panama	15.0	37.0	21.0	17.7	16.9	20.8	64.4	−11.5	342.0
Paraguay	16.5	6.0	7.4	17.7	9.2	14.8	5.8	−2.4	165.6
Peru	52.4	37.8	19.9	23.5	17.5	20.0	76.3	−21.0	862.1
Surinam	4.1	(1)		.6	(1)			−.2	9.7
Trinidad and Tobago	9.1	5.1	5.9	.1		2.2	6.6	−2.6	71.8
Uruguay	11.8	5.0	37.8	5.6	21.5	12.1	14.3	−10.8	207.9
Venezuela	21.1	34.5	67 2	5.3	17.0	23.0	53.5	−1.8	577.1
Other West Indies	.5	2.2	.7	1.1	1.3	1.4	1.5		12.3
ROCAP	3.8	24.2	3.8	34.0	45.5	3.5	13.2	−6.1	205.7
Latin America regional	269.4	271.4	327.9	331.3	351.2	40.5	161.4	−25.2	2,443.7

Country	1946	1947	1948	1949	1950	1951	1952	1953	1954	1955
Near East and South Asia	286.5	228.8	422.2	579.8	311.7	590.8	602.8	730.6	787.2	918.4
Afghanistan					16.5	.1	.3	2.2	16.6	2.0
Bangladesh										
Cyprus										
Egypt (U.A.R.)	9.6		8.5		.2	.1	1.2	12.9	4.0	66.3
Greece	209.8	180.9	332.8	362.0	215.8	243.2	246.7	203.1	118.8	118.5
India	39.2		.7	.5		194.8	52.8	45.1	88.9	112.2
Iran	3.3	22.5				12.4	21.0	59.4	114.7	142.7
Iraq		.9				(1)	.5	2.1	2.2	8.3
Israel				100.0		35.1	86.4	73.6	74.7	52.7
Jordan						.1	5.1	2.9	12.9	8.9
Kuwait										
Lebanon	1.6					.1	1.9	3.0	10.4	7.8
Nepal							.2	.5	.9	2.6
Pakistan			.1		(1)	.4	10.7	109.8	23.3	121.1
Saudi Arabia	14.3					4.9	.3	1.7	.9	.3
Sri Lanka (Ceylon)							(1)	(1)		.1
Syria							.4		.3	
Turkey	8.7	24.5	80.1	117.3	79.2	99.5	172.1	212.8	317.8	271.6
Yemen Arab Republic										
Yemen, Democratic Republic of										
Central Treaty Organization										
Near East and South Asia Regional							2.5	1.5	1.0	3.2

Footnotes at end of table.

U.S. OVERSEAS LOANS AND GRANTS—Continued

[Millions of dollars—fiscal years 1946–72]

Country	1956	1957	1958	1959	1960	1961	1962	1963	1964	1965
Near East and South Asia	1,011.5	1,258.3	1,616.3	1,616.3	1,873.5	1,741.9	2,475.8	2,405.8	1,880.0	1,926.0
Afghanistan	18.3	21.0	14.2	27.2	10.7	32.0	40.3	18.7	42.1	34.1
Bangladesh										
Cyprus						8.2	7.5	3.9	1.5	.1
Egypt (United Arab Republic)	33.3	1.0	.6	48.2	75.0	91.5	200.5	156.6	95.5	97.6
Greece	150.2	121.1	206.8	123.9	188.6	89.1	171.0	216.3	85.5	104.9
India	93.7	363.4	307.9	359.5	693.1	568.5	753.6	737.1	708.2	727.1
Iran	98.7	96.5	125.7	140.3	129.6	162.0	134.3	145.6	62.4	122.9
Iraq	9.1	17.7	24.7	1.7	1.2	1.7	.9	.9	21.0	4.1
Israel	50.8	40.9	85.4	53.3	56.2	78.0	93.4	87.9	37.0	65.1
Jordan	8.1	22.1	46.1	65.5	55.0	69.9	54.0	62.5	54.0	48.3
Kuwait										
Lebanon	7.7	14.4	26.5	24.3	7.1	4.7	.9	.4	.2	.6
Nepal	2.0	4.3	7.6	2.8	19.8	4.8	4.3	19.5	6.8	13.4
Pakistan	215.5	267.4	256.4	333.1	369.7	232.4	477.2	453.6	424.5	360.2
Saudi Arabia		(1)	69.7	13.2	−.7	5.2	10.6	10.8	3.4	1.3
Sri Lanka (Ceylon)	5.1	11.4	20.6	13.3	9.5	14.1	5.8	7.1	3.5	3.9
Syria	.1	.2	.2	1.2	11.9	30.9	36.8	.4	1.9	1.0
Turkey	313.7	252.0	363.5	397.4	224.8	321.5	453.1	438.6	292.4	307.0
Yemen Arab Republic				5.1	5.6	5.3	7.0	6.1	5.8	4.8
Yemen, Democratic Republic of										
Central Treaty Organization		12.7	(1)	.2	11.4	1.8	2.4	2.2	21.5	1.5
Near East and South Asia, Regional	5.3	11.9	60.5	5.6	5.1	20.0	22.8	37.5	13.6	28.4

	1966	1967	1968	1969	1970	1971	1972	Deobligated	Total
Near East and South Asia	2,034.4	1,829.8	1,731.1	1,301.8	1,198.3	1,919.7	1,878.5	−649.7	34,507.4
Afghanistan	33.4	32.9	16.6	18.0	8.7	14.9	35.9	−6.5	450.2
Bangladesh							286.3		286.3
Cyprus	.3	1.1	1.0			4.4	5.2	−2.9	30.3
Egypt (U.A.R.)	27.6	12.6					104.6	−30.1	1,017.3
Greece	103.0	78.0	59.8	92.9	61.2	78.7	95.7	−29.7	4,228.6
India	909.0	591.7	677.2	477.6	501.9	457.1	128.5	−206.4	9,382.9
Iran	175.9	303.4	164.1	136.2	48.2	206.9	158.1	−16.6	2,770.2
Iraq	5.1	2.7	(1)	.3	.2	2.5	.3	−3.3	104.8
Israel	126.8	22.7	100.5	160.3	81.1	631.8	425.3	−9.0	2,610.0
Jordan	65.9	58.5	19.4	26.0	12.4	76.1	108.7	−11.5	870.9
Kuwait		50.0							50.0
Lebanon	.2	1.8	4.3	5.0	12.6	7.3	28.3	−20.1	151.0
Nepal	23.1	8.7	11.6	12.2	15.6	12.5	11.2	−6.7	177.7
Pakistan	156.6	244.6	365.2	117.9	215.1	120.6	170.5	−167.7	4,878.2
Saudi Arabia	73.4	86.2	42.8	.6	.6	13.9	13.9	−.9	366.4
Sri Lanka (Ceylon)	14.0	10.4	23.8	26.1	4.5	21.0	17.2	−11.1	200.3
Syria	.4	2.6	.1	.3	.1	.2	.3	−28.3	61.0
Turkey	287.1	317.9	205.3	222.7	213.9	236.3	254.0	−82.1	6,402.7
Yemen Arab Republic	2.8	2.1		(1)	(1)	(1)	(1)	−1.9	42.7
Yemen, Democratic Republic of					.3	2.4	.1	−.1	2.7
Central Treaty Organization	.4	.5	.4	.4	.6	.4	.4	−4.7	52.1
Near East and South Asia, regional	29.1	1.3	38.8	4.6	21.3	32.8	34.0	−9.8	371.0

	1946	1947	1948	1949	1950	1951	1952	1953	1954	1955
East Asia	223.6	785.1	328.7	817.4	352.6	543.2	644.6	1,068.7	1,792.2	1,503.7
Brunei										
Burma		5.0				12.6	−0.1	12.8	−1.8	0.1
Cambodia										38.0
China, Republic of	161.9	464.1	50.9	344.6	−51.1	102.5	121.3	289.1	279.2	449.8
Hong Kong									.1	.6
Indochina, undistributed					1.3	127.7	166.5	423.0	1,117.6	138.5
Indonesia	4.1	63.6		61.7	139.7	10.4	−.5	13.4	4.5	7.4
Korea	5.6	75.5	100.1	141.8	98.2	98.6	158.9	183.6	303.0	349.0
Laos										40.9
Malaysia									(1)	.4
Philippines	31.4	161.5	136.4	237.7	140.2	142.5	143.9	56.1	27.6	47.2
Ryukyu Islands	14.4	15.4	41.3	31.5	24.3	34.2	34.5	19.5	2.2	4.1
Singapore										(1)
Thailand	6.2					14.0	20.1	62.3	48.0	89.5
Vietnam									.1	322.4
Western Samoa										
East Asia regional						.7	(1)	8.9	11.7	15.8

	1956	1957	1958	1959	1960	1961	1962	1963	1964	1965
East Asia	1,623.0	1,427.3	1,462.2	1,441.2	1,227.0	1,327.0	1,549.7	1,788.9	1,099.5	1,263.4
Brunei										
Burma	11.2	0.9	38.4	13.4	12.8	8.4	16.3	40.7	3.5	12.1
Cambodia	72.4	55.4	37.1	29.0	25.6	30.1	45.1	32.5	3.7	(1)
China, Republic of	436.8	274.1	269.7	355.1	300.8	230.0	261.6	265.0	115.2	113.8
Hong Kong	3.5	6.6	2.9	3.1	4.6	.6	3.4	5.2	2.2	2.4
Indochina, undistributed	−217.6	−132.1	−32.0	−6.8	−.4	.2				
Indonesia	75.2	13.0	27.2	65.1	75.5	26.3	46.2	55.9	16.7	6.5
Korea	613.4	611.7	628.9	471.3	413.7	476.1	519.7	541.5	356.5	301.4
Laos	77.4	48.8	40.5	33.2	56.1	68.7	73.9	70.6	65.7	94.4
Malaysia	.7	.6	.3	20.4	.4	.5	1.6	3.2	3.5	4.4
Philippines	83.0	68.3	57.3	132.4	43.5	125.5	60.1	128.1	43.5	52.1
Ryukyu Islands	4.8	3.7	4.2	2.1	6.5	5.5	17.2	10.8	10.6	17.0
Singapore	.1		.1	.1	.2	.2	.2	.3	.4	(1)
Thailand	79.2	63.4	51.8	77.4	49.3	51.0	122.7	133.3	50.3	69.4
Vietnam	380.3	395.8	254.2	249.4	253.3	219.0	371.2	457.6	408.6	572.0
Western Samoa										
East Asia regional	3.0	16.7	81.9	−4.0	−14.9	79.9	10.5	44.2	19.1	17.6

Footnotes at end of table.

U.S. OVERSEAS LOANS AND GRANTS—Continued

[Millions of dollars—fiscal years 1946–72]

Country	1966	1967	1968	1969	1970	1971	1972	Deobligated	Total
East Asia	2,567.9	2,979.6	3,056.0	3,538.5	3,618.6	4,395.0	5,046.4	−747.7	46,723.3
Brunei					14.0		2.2		16.2
Burma	4.0	4.3	3.0	1.0	.5	4.0	1.3	−16.1	188.3
Cambodia	(1)	(1)	(1)	(1)	8.6	264.9	244.5	−23.5	863.4
China, Republic of	136.8	130.6	143.8	88.8	199.1	154.5	276.1	−53.2	5,910.9
Hong Kong	1.3	.7	.4	.6	.4	.2	3.6		47.4
Indochina, undistributed								−43.4	1,542.5
Indonesia	23.8	59.9	107.2	242.6	211.6	213.7	268.5	−31.7	1,807.5
Korea	499.9	618.0	861.0	731.5	634.4	822.6	860.0	−97.7	11,378.5
Laos	111.9	113.8	144.5	129.7	128.0	210.3	271.5	−23.9	1,756.0
Malaysia	10.3	33.9	3.6	6.1	4.5	8.6	34.0	−.1	136.9
Philippines	43.8	86.5	53.8	64.6	79.6	141.8	130.2	−37.8	2,480.8
Ryukyu Islands	14.6	38.0	13.6	17.4	22.4	3.4	1.0	−.1	414.3
Singapore	.1	18.5	13.2	6.0	.2	2.0	14.1		55.6
Thailand	93.1	92.4	106.6	207.7	129.2	96.8	91.2	57.8	1,747.1
Vietnam	1,598.5	1,771.6	1,591.2	2,021.7	2,169.3	2,458.2	2,837.2	−347.3	17,984.3
Western Samoa		.2	.8	.4	.5	.4	.5		2.9
East Asia, regional	30.0	10.9	12.9	20.4	15.7	13.5	10.6	−14.3	390.8

Country	1946	1947	1948	1949	1950	1951	1952	1953	1954	1955
Europe	3,190.1	5,181.6	1,776.0	6,286.0	3,824.9	2,838.1	2,185.2	3,650.6	2,329.2	4,178.5
Albania	13.0	7.4								
Austria	65.8	100.4	174.8	274.2	168.8	118.6	118.1	50.0		7.9
Belgium-Luxembourg	100.6	30.6	32.2	261.0	233.6	123.3	127.6	365.1	223.9	107.1
Czechoslovakia	112.8	78.1					(1)			2.0
Denmark	20.0	1.0		126.1	87.6	76.6	58.6	87.5	78.8	72.9
East Germany										.8
Finland	44.1	34.8	10.2	10.0			.1			.7
France	1,502.6	42.8	363.7	1,313.3	721.2	826.1	779.1	1,510.6	770.4	504.0
Germany (Federal Republic)	195.8	298.3	850.3	1,257.6	733.4	393.1	107.6	85.3	21.6	19.7
Berlin								12.9	31.9	24.1
Hungary	3.9	14.4								3.0
Iceland				8.4	7.1	8.4	5.5	5.8	.1	.2
Ireland				85.6	45.3	16.5	(1)	−1.0	(1)	(1)
Italy	423.2	514.0	334.0	684.1	404.9	346.0	268.3	521.9	379.5	325.2
Netherlands	226.7	1.3	10.2	504.8	276.9	149.8	202.8	197.0	206.5	157.6
Norway	50.0	24.4	.6	100.5	100.0	90.7	68.3	144.7	102.4	49.7
Poland	264.9	176.9								
Portugal					31.5	20.1	12.0	71.4	34.9	54.6
Romania										
Sweden	.5			46.8	51.6	21.7	−11.1	−.2		(1)
Switzerland										
United Kingdom	79.9	3,757.0		1,613.7	961.6	295.1	395.1	566.7	371.4	141.5
U.S.S.R.	86.2	100.2								
Europe regional					1.9	352.2	53.9	32.4	107.5	7.6

Country	1956	1957	1958	1959	1960	1961	1962	1963	1964	1965
Europe	1,739.2	1,379.2	894.0	634.7	675.1	356.5	564.8	778.9	175.0	78.2
Albania										
Austria	36.9	23.9	62.3	16.9	23.7	17.4	12.8	40.3	1.0	(1)
Belgium-Luxembourg	194.2	2.0	66.0	13.5	23.4	10.0	42.0	30.6	6.0	.4
Czechoslovakia										
Denmark	33.9	43.2	23.7	27.2	39.1	34.2	53.7	52.9	3.4	2.2
East Germany										
Finland	17.3	3.1	5.9	1.7	2.3		3.1			
France	451.3	243.8	150.5	111.9	77.8	26.3	66.6	41.0	.7	(1)
Germany (Federal Republic)	131.4	504.8	181.8	58.8	124.7	17.4	2.2	.7	.3	
Berlin	18.3	11.4	8.2	11.2	6.7	4.0	.6			
Hungary	3.1	7.2								
Iceland	.1	10.6	7.2	5.1	4.3	7.2	1.4	1.3	2.2	1.6
Ireland										
Italy	366.4	265.2	176.4	139.3	155.0	165.2	174.3	243.6	65.0	6.9
Netherlands	207.0	68.7	76.7	23.3	49.5	30.5	44.7	49.0	2.4	.9
Norway	89.5	44.2	64.1	40.2	34.2	14.9	66.6	60.9	34.0	34.4
Poland		30.0	25.5	8.6	3.5	5.0	6.7	8.0	15.0	4.1
Portugal	51.9	31.5	22.5	19.2	14.3	9.0	62.9	24.1	18.9	5.2
Romania										
Sweden										
Switzerland										
United Kingdom	134.0	87.9	22.7	135.9	116.4	14.7	27.8	11.9	.1	
U.S.S.R.										
Europe regional	3.7	1.4	.8	21.7				214.1	26.0	22.3

Country	1966	1967	1968	1969	1970	1971	1972	Deobligated	Total
Europe	198.4	682.2	542.6	126.2	410.3	526.7	326.8	−23.7	42,805.3
Albania									20.4
Austria	(1)	(1)	(1)		.2	21.3	.1		1,335.5
Belgium-Luxembourg	17.5	2.0			15.8		13.9	−.2	2,042.1
Czechoslovakia									193.0
Denmark	5.0	.1				2.0	20.4	+.4	950.5
East Germany									.8
Finland	.5	16.7			7.6	22.1	(1)	+.3	180.5
France	11.0	6.5			58.5	122.7	18.7	−9.4	9,711.7
Germany (Federal Republic)	2.5	12.1	8.8			79.1	3.0	−2.7	5,087.6
Berlin								[2]+2.6	131.9
Hungary				1.1	1.1				33.8
Iceland	7.3	1.9	1.4	1.0		.8	1.2	−.9	89.2
Ireland		20.0	8.7	12.6				+.1	187.8
Italy	21.7	134.3	85.3	50.8	119.7	73.4	22.3	+.2	6,466.1
Netherlands					47.1	29.7	43.6	−1.2	2,605.5
Norway	33.9	19.8	1.4		2.2	48.7	37.4	−.6	1,357.1
Poland	6.7	5.0	31.4	22.4	20.0	22.2	36.8		692.7
Portugal	5.4	8.2	7.2	6.0	4.8	18.1	37.9	+.2	571.8
Romania					13.0	48.1	13.2		74.3
Sweden		46.7	32.4			18.5	24.7	−.3	231.1
Switzerland					45.4	1.7			47.1
United Kingdom	86.1	406.6	365.1	31.4	71.8	12.4	51.4	−.3	9,757.9
U.S.S.R.									186.4
Europe regional	.7	2.2	1.0	1.0	2.9	5.8	2.0	−11.0	850.1

Footnotes at end of table.

U.S. OVERSEAS LOANS AND GRANTS—Continued

[Millions of dollars—fiscal years 1946–72]

Country	1946	1947	1948	1949	1950	1951	1952	1953	1954	1955
Europe	195.3	102.8			40.0	113.0	207.0	293.6	407.6	445.5
Malta							.3	(1)	(1)	.2
Spain						17.2	35.6	9.8	108.0	153.8
Yugoslavia	195.3	102.8			40.0	95.8	171.1	283.8	299.6	291.3
Oceania	4.4		1.0	1.1	.8	1.0	4.2	5.1	4.8	4.9
Papua and New Guinea							(1)			
Trust Territory of Pacific Islands	4.4		1.0	1.1	.8	1.0	4.2	5.1	4.8	4.9
Other Oceania										
Nonregional	476.5	48.3	149.6	106.2	89.9	69.2	42.9	208.8	138.5	174.4
	1956	1957	1958	1959	1960	1961	1962	1963	1964	1965
Europe	384.1	379.2	357.2	364.7	265.3	296.2	220.4	198.4	161.2	154.8
Malta	1.6	.6	1.1	.2	(1)	.1	.1	.3		.3
Spain	219.3	229.6	217.2	187.8	188.8	148.9	104.2	86.0	87.9	66.9
Yugoslavia	163.3	149.0	138.9	176.7	76.4	147.2	116.1	112.1	73.3	87.6
Oceania	5.8	4.7	6.0	4.7	5.1	5.8	6.2	10.9	16.1	17.8
Papua and New Quinea	(1)			(1)	(1)	(1)	.1	.1		
Trust territory of Pacific Island	5.8	4.7	6.0	4.7	5.1	5.8	6.1	10.8	15.9	17.6
Other Oceania									.2	.2
Nonregional	130.8	80.2	165.3	224.4	131.8	255.9	553.1	708.7	477.1	521.8
		1966	1967	1968	1969	1970	1971	1972	Deobligated	Total
Europe		240.6	180.5	69.1	86.3	159.0	108.5	619.4	−24.4	6,025.3
Malta		1.2	.1	.3	1.7	.1	.7	10.5		19.5
Spain		103.5	168.6	34.1	51.8	151.8	38.4	521.99	−17.7	2,913.4
Yugoslavia		135.9	11.8	34.7	32.8	7.2	69.4	86.9	−6.5	3,092.5
Oceania		18.8	24.0	40.0	41.3	77.3	59.9	58.4	+.3	430.3
Papua and New Guinea						23.4	5.0		+.1	28.7
Trust Territory of Pacific Islands		18.4	23.6	38.5	40.3	52.7	53.8	57.3	+.2	394.6
Other Oceania		.4	.4	1.5	1.0	1.2	1.1	1.1		7.0
Nonregional		614.8	528.9	641.7	730.1	823.7	836.2	718.0	−61.1	9,585.7
	1946	1947	1948	1949	1950	1951	1952	1953	1954	1955
Other developed:										
Japan	106.7	389.3	483.7	501.5	365.3	290.3	63.6	91.9	50.6	127.2
Republic of South Africa		1.3				35.0	.1	75.2	1.5	34.8
Canada				5.0		2.7	6.7	7.8	4.9	
Australia		6.7		1.3				5.8	(1)	.1
New Zealand		4.3							12.0	
Nonregional	277.8	93.6	81.1	91.0	28.7	89.5	191.6	425.0	193.1	182.3
	1956	1957	1958	1959	1960	1961	1962	1963	1964	1965
Other developed:										
Japan	177.0	174.5	187.8	169.7	114.1	124.4	183.9	150.1	19.3	52.9
Republic of South Africa					2.6					
Canada						9.1				
Australia				25.2	6.1	2.3	19.5	31.1	25.0	10.0
New Zealand	.1		(1)	(1)	(1)	(1)	(1)	1.5		
Nonregional	165.8	−4.8	199.0	230.1	158.8	218.8	234.9	32.3	34.0	41.2
		1966	1967	1968	1969	1970	1971	1972	Deobligated	Total
Other developed:										
Japan		31.1	47.3	16.2	130.1	159.0	175.4	592.4	−1.7	4,973.6
Republic of South Africa										150.6
Canada				9.7	4.9	20.8	53.5	18.9		144.1
Australia		106.0	235.9	154.7	132.3	162.4	70.8	108.9		1,104.2
New Zealand		6.5		50.9		25.0	43.4			143.7
Nonregional		27.7	50.5	33.8	31.9	19.9	,19.2	16.7	−9.1	3,154.1

[1] Less than $50,000.

[2] Data for Berlin under review; subject to minor adjustment after further research.

Notes: Data may not add due to rounding. Negative figures in the deobligation column represent the cumulative effect of any deobligations which have occurred since fiscal year 1954; the few plus figures which show up are due only to rounding problems. The occassional negative figure by year represent accounting adjustments required to reflect the redistribution of earlier grants or loans.

Mr. TOWER. Mr. President, I propose to vote for this appropriation bill even though it is dangerously inadequate, because the urgency of our completing action on the foreign assistance legislation does not allow us the luxury of extensive debate. I do wish, however, to give my views on the deficiencies of the bill in the expectation that the conferees will correct them and make it a workable piece of legislation.

The major deficiency is the inadequate funding it provides for our grant military assistance program—$300 million is just not enough to do the job. First, because a shooting war is going on in Cambodia and our entire quest for peace in Southeast Asia, which has cost us so much in blood and treasure, may rest on the outcome of this war. American troops or airmen are not involved in any way, but a lightly armed Cambodian army is. In a sense, this army is fighting our war—not only because their efforts may be the key to the peace we all want, but because Cambodia was drawn into this fighting as a result of the larger war which was raging around it.

This bill does not include enough funds for us to continue supporting this army. The administration has made its case—200 million additional dollars are needed over the original request.

Two weeks ago this body passed the fiscal year 1974 foreign assistance authorization bill which gave the President authority to draw up to $250 million in Department of Defense stocks and services to meet emergency military assistance requirements. The conference report for that bill stated that up to $200 million of this authority could be used to meet Cambodia's emergency requirements in lieu of the additional $200 million the administration has requested. Now this bill appropriates $100 million for Cambodia but revokes the authority we gave the President 2 weeks ago.

The extra $100 million is grossly inadequate, especially when it is coupled with the over 56 percent cut in the administration's regular military assistance request. What these figures mean is that we must use all funds provided in this bill to attempt to meet Cambodia's requirements, thereby virtually ending our military assistance elsewhere; or we can abandon Cambodia in order to salvage our other programs. The first choice means no military assistance for key forward defense countries such as Korea or Turkey; none to Jordan—a key moderate Arab Government; and none to the Philippines and Thailand where we have important bases. The second choice would mean the installation of a pro-Hanoi government in Cambodia; a country which completely dominates the western flank of South Vietnam.

Of course, there is a third choice—we can split the funds provided in this bill, thereby inadequately funding Cambodia which would permit the war to fester inconclusively with all the misery and suffering that entails; and at the same time, inadequately funding our other military assistance programs, which would disrupt our efforts to make our friends and allies self-sufficient in defense.

It is my sincere hope that we can avoid any of those situations. Therefore, although I will be voting for this bill, I do so in the expectation that the conferees will raise the funding levels and remove the revocation of the drawdown authority which we gave the President 2 weeks ago.

Mr. ALLEN. Mr. President, I approve and support that portion of H.R. 11771—The Foreign Assistance Act—contained in title IV thereof entitled "Emergency Security Assistance for Israel" under which $2,200,000,000 is appropriated for emergency security to Israel. During my service in the Senate I have consistently opposed foreign aid bills because the United States since 1946 has dumped some $200,000,000,000 overseas in foreign aid, and I feel that taxpayers funds could better be spent on domestic programs or in reducing the national debt.

However, at every opportunity I have had to support the cause of independence for Israel as a separate issue I have supported full and adequate support both militarily and economically for Israel.

Since there is appropriated by H.R. 11771 in addition to the funds for Israel more than $3 billion in foreign aid programs with most of which I disagree and which I oppose I feel that I must vote against final passage of H.R. 11771.

There is no parliamentary move under which a separate vote can be obtained on the issue of support for Israel in the amount of $2.2 billion. If it were possible to obtain a division of the issue I would support the aid to Israel.

Furthermore, before the appropriation can go into effect it will be necessary to pass an authorizing bill. Such authorizing legislation has passed the House and is now pending in the Senate Foreign Relations Committee. It is a separate bill authorizing the Israel appropriation, and I shall support this vital and necessary legislation that will activate, upon authorization, the appropriation to Israel.

FUNDS FOR PALESTINIAN REFUGEES

Mr. KENNEDY. Mr. President, I also wish to commend the Appropriations Committee for its approval of special funds for the United Nations Relief and Works Agency—UNRWA—in the field of vocational training for Palestinian refugees. The importance of UNRWA's work in the Middle East, generally, cannot be overemphasized, and this is a modest contribution to an increasingly important part of its larger program.

By providing vocational training for up to 3,000 refugees a year, UNRWA is helping to develop skills that will enable refugees to take advantage of job opportunities in their host country and elsewhere. It is, in every sense, a positive program that truly helps refugees to help themselves.

In supporting this important UNRWA program, the United States helps also to support the larger effort of UNRWA in the Middle East—a role that has grown in importance with the changed circumstances in the area, and the new humanitarian needs created by the recent conflict.

UNRWA is also a symbol to the Palestinian refugee that his needs, and his very existence, are recognized by the international community, but that an international organization also exists to help meet those needs.

Mr. President, the special $2 million contribution to UNRWA earmarked in the bill, is unquestionably a worthwhile use of our foreign aid money—especially today when the hopes for peace in the Middle East are brighter than ever before. I commend the Appropriations Committee for its action in this area.

The VICE PRESIDENT. The bill is open to further amendment.

If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. BROOKE. Mr. President, I have no wish to delay the Senate. I have already expressed my appreciation to the chairman on the importance of this bill, but we have with us one member of the staff who came here 23 years ago to stay for only 1 year, but who stayed here 23 years, a gentleman by the name of William Kennedy, who retires this Saturday.

I would like to say on behalf of all on this side that we are glad he stayed more than 1 year. He has given 23 years of dedicated service to the Appropriations Committee, and we wish him well at this time. [Applause.]

The VICE PRESIDENT. The bill having been read the third time, the question is, Shall it pass?

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

UNANIMOUS-CONSENT AGREEMENT ON NOMINATION OF WILLIAM L. SAXBE, TO BE ATTORNEY GENERAL OF THE UNITED STATES

Mr. MANSFIELD. Mr. President, I ask unanimous consent that following the vote on the pending business, the Senate go into executive session to consider, for not to exceed 1 hour, the nomination of our esteemed colleague, Senator WILLIAM SAXBE, so that we can push him on the way with our good wishes, good will, and approbation to, not a better position, not a higher position, but a better position. [Laughter.]

The VICE PRESIDENT. Is there objection? Without objection, it is so ordered.

FOREIGN ASSISTANCE APPROPRIATIONS, 1974

The Senate continued with the consideration of the bill (H.R. 11771) making appropriations for foreign assistance and related programs for the fiscal year ending June 30, 1974, and for other purposes.

RETIREMENT OF CERTAIN STAFF MEMBERS

Mr. INOUYE. Mr. President, for those of us on the Appropriations Committee, these recent days have provided an opportunity to reflect on the outstanding service to our committee of those who are retiring as of this year—Mr. Thomas J. Scott, Mr. William J. Kennedy, Mr. Harold E. Merrick, Mr. Francis S. Hewitt, Mr. John Witeck, Miss Dorothy Ward, and Miss Virginia Carroll.

I wish each and every one of them the best that their well-earned retirement can bring. However, I wish especially to thank Tom Scott and Bill Kennedy for their helpfulness and many courtesies to me personally.

Bill Kennedy has worked with the Foreign Operations Subcommittee for many years prior to my assuming its chairmanship, but for the past 2 years he has served as all—majority and minority—with his wise counsel and sagacious learning gathered as a shrewd observer and participant in almost a quarter century of service here in the Senate.

It is my understanding that Bill came to us with the late Styles Bridges when he was chairman of the full committee with the announced purpose of balancing the budget and restoring fiscal responsibility to the Federal Government.

Mr. President, this, he like the rest of us—has been unable to do—but what is more important, he did his best and for this we on the committee are extremely grateful and his efforts are deserving of the Nation's appreciation.

Mr. President, before we cast our votes, I believe that something should be said about the extraordinary assistance given this bill by the counsel for the subcommittee, Mr. William Jordan. Several Senators have used most generous and warm words to describe the committee report, and I agree with my colleagues that this is one of the finest committee reports ever written for the Senate Subcommittee on Foreign Operations.

Mr. MANSFIELD. Mr. President, will the gentleman yield?

Mr. INOUYE. I yield.

Mr. MANSFIELD. It is not only one of the better reports; this is the best report ever put out by the committee which handles foreign assistance. It has facts in here that I did not realize were in existence. It has figures which are startling, and I hope that not only the Members of the Senate, but the American people as a whole, and especially the administration, will read what this little volume contains.

Mr. INOUYE. I agree with the Senator.

I just wanted to say that credit is due, in great degree, to Bill Jordan, the fellow who did the drafting of the statements, who did much of the research. Frankly, I do not know when he found time for this, but somehow he did. I think the Senate owes Bill Jordan and Bill Kennedy a special vote of thanks.

The VICE PRESIDENT. The bill having been read the third time, the question is: Shall it pass? The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. EASTLAND (after having voted in the negative). On this vote I have a pair with the Senator from Rhode Island (Mr. PASTORE). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from IDAHO (Mr. CHURCH), the Senator from California (Mr. CRANSTON), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Iowa (Mr. HUGHES), the Senator from New Mexico (Mr. MONTOYA), the Senator from Rhode Island (Mr. PASTORE), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that the Senator from Louisiana (Mr. LONG), and the Senator from Georgia (Mr. TALMADGE) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT) is necessarily absent.

The Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The result was announced—yeas 55, nays 31, as follows:

[No. 590 Leg.]

YEAS—55

Aiken
Baker
Bartlett
Bayh
Beall
Bellmon
Brooke
Buckley
Case
Chiles
Clark
Dole
Domenici
Eagleton
Fong
Griffin
Gurney
Hart
Hathaway
Huddleston
Humphrey
Inouye
Jackson
Javits
Kennedy
Magnuson
Mathias
McGee
McGovern
McIntyre
Metcalf
Mondale
Moss
Muskie
Nelson
Packwood
Pearson
Pell
Percy
Ribicoff
Roth
Saxbe
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevens
Stevenson
Symington
Taft
Thurmond
Tower
Tunney
Weicker
Williams

NAYS—31

Abourezk
Allen
Bible
Biden
Brock
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Cook
Curtis
Dominick
Ervin
Fannin
Fulbright
Goldwater
Hansen
Hartke
Haskell
Hatfield
Helms
Hruska
Johnston
Mansfield
McClellan
McClure
Nunn
Proxmire
Randolph
Scott, William L.
Young

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Eastland, against.

NOT VOTING—13

Bennett
Bentsen
Church
Cotton
Cranston
Gravel
Hollings
Hughes
Long
Montoya
Pastore
Stennis
Talmadge

So the bill (H.R. 11771) was passed.

Mr. INOUYE. Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives thereon, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Vice President appointed Mr. INOUYE, Mr. PROXMIRE, Mr. MCGEE, Mr. CHILES, Mr. BROOKE, Mr. HATFIELD, and Mr. MATHIAS conferees on the part of the Senate.

Mr. INOUYE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. GRIFFIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ENROLLED BILL AND JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that today, December 17, 1973, he presented to the President of the United States the following enrolled bill and joint resolution:

S. 1776. An act to amend the Federal Water Control Act, as amended; and

S.J. Res. 180. A joint resolution relative to the convening of the 2d session of the 93d Congress.

EXECUTIVE SESSION

The VICE PRESIDENT. Under the previous order, the Senate will now go into executive session for the purpose of considering the nomination of Senator WILLIAM B. SAXBE, of Ohio, to be Attorney General of the United States.

The time for debate on the nomination is limited to not to exceed 1 hour.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on the nomination.

The yeas and nays were ordered.

Mr. MANSFIELD. Mr. President, it is my intention not to make a speech tonight, but to show my very strong approval of Senator SAXBE by voting "yea."

I would hope that in view of the time factor, the condition of the roads, and the inclement weather, Members would consider the possibility of inserting their remarks in the RECORD, and I ask unanimous consent that there be a period of not to exceed 5 days in which Members may insert their remarks relative to the nomination of this outstanding Senator from the State of Ohio.

The VICE PRESIDENT. Without objection, it is so ordered. The Chair was not clear on how the Senator from Montana wanted the 1 hour divided.

Mr. MANSFIELD. The time will be equally divided between the distinguished Senator from Mississippi (Mr. EASTLAND), the chairman of the committee, and the ranking Republican member, the distinguished Senator from Nebraska (Mr. HRUSKA), or whomever they may designate.

The VICE PRESIDENT. Who yields time?

Mr. ERVIN. Mr. President, I ask the Senator from Nebraska to yield me about 3 minutes.

Mr. HRUSKA. I yield 3 minutes to the Senator from North Carolina.

Mr. ERVIN. Mr. President, I have great affection and much admiration for the distinguished Senator from Ohio. I had the privilege of joining him in presenting the views of the Senate in respect to the speech and debate clause to the Supreme Court in the case of United States against Gravel. As a consequence, I know that he is a fine lawyer and well qualified to discharge the duties of the Attorney General.

However, I cannot vote for him, because I consider him disqualified for the appointment under article I, section 6, clause 2 of the Constitution, which reads as follows:

> No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time;

Since Senator SAXBE was a Member of the Senate during his present term when Congress raised the salary of the Attorney General from $35,000 to $60,000, he is clearly disqualified by this constitutional provision for appointment to the Office of Attorney General during the remainder of his term.

The people who drafted and ratified this Constitution did so for the purpose of stating the powers and limitations of the Government and the persons connected therewith, and under this provision, which means exactly what it says, the distinguished Senator from Ohio is ineligible for this appointment, and notwithstanding my admiration and affection for him, I cannot vote for his confirmation.

Mr. EASTLAND. Mr. President, the Committee on the Judiciary, by a vote of 15 to 1, has approved this nomination. The nominee is a very fine man, and I think he will make a very able Attorney General.

The question that the distinguished Senator from North Carolina has raised has been checked to the courts, and we think the Senate has removed the reason for that part of the Constitution. I know of no other reason, and I think he will make an outstanding Attorney General.

The VICE PRESIDENT. Who yields time?

Mr. HRUSKA. Mr. President, I know of no other requests.

Mr. TAFT. Mr. President——

The VICE PRESIDENT. The Senator from Ohio is recognized for 5 minutes.

Mr. TAFT. Mr. President, I thank the Senator for yielding me this time. I shall not take a great deal of the time of the Senate.

I have known BILL SAXBE, I think, longer than anyone here, having worked with him over many years. So that I do want to say a few words about him and in support of his confirmation.

All of us know what a warm and fine person he is, but you may not know all of the tremendous background he has had as an outstanding legislator in Columbus, Ohio.

Nineteen years ago, I found myself

backing him in his first race for the Senate, which some of you may not know about. He ran against an organization candidate at that time. I am sorry that he did not come here then, as he might have been here since that time. We ran together on the ticket in 1962 and in 1968.

We are going to miss him greatly in the Senate. He has established a great record here.

I hark back to a story that came out of the Ohio Legislature, when describing some of his activities here which have been fruitful, as we have seen, such as his great interest in Bangladesh and that area. But perhaps what has some application to his taking on past responsibilities and those he will take on now, let me relate a story.

Late, after one session had concluded in the Legislature of the State of Ohio, where Bill Saxbe was Speaker—a dull night in Columbus, Ohio—there was a little town up the road called Newark which apparently had something going for it. Some of the fellows came in and said, "Does anyone want to go to Newark?" A voice piped up and said, "No, but try Saxbe, he will go anywhere."

I do know that we are going to miss Bill Saxbe very much. I certainly shall miss him greatly. All of us are very glad that he is staying in Washington, D.C., and particularly glad that Dolly will be with us in Washington, too, as I am sure we all agree that she has added happiness and enjoyment to the lives of all of us here.

I think Bill Saxbe will certainly be a first-class Attorney General. We wish him well. We look forward to continuing to work with him.

The weather tonight is not very good, but I hope it is a good omen. I recall when a President was nominated in a snowstorm, at one point he commented, "Even the elements do protest." But he did it in the same good humor and with the same spirit that Bill Saxbe always does. One of his great attributes is his tremendous sense of humor. Common sense and a sense of humor in addition to his other attributes are outstanding, and will serve him well in the new responsibilities he is undertaking.

Mr. PERCY. Mr. President, will the Senator from Nebraska yield me some time?

Mr. HRUSKA. I yield 2 minutes to the Senator from Illinois.

The VICE PRESIDENT. The Senator from Illinois is recognized for 2 minutes.

Mr. PERCY. Mr. President, I am proud today to be able to cast my vote to confirm the nomination of William Saxbe to be Attorney General of the United States.

Bill Saxbe has been one of the most valued Members of the U.S. Senate and, more than that, he has been one of my most valued friends whose advice and counsel I have often sought. Because of his close relationship with the Members of this body, there is little that needs to be said about Bill Saxbe. His career as an attorney, State legislator, Speaker of the Ohio State House, Ohio attorney general, and U.S. Senator has prepared him well for the job he is about to embark upon.

It is no secret to the Members of the Senate that, as the distinguished majority leader stated the other day, Bill Saxbe is something of a swashbuckler. He speaks his mind very plainly. He is an individual of high moral standards whose integrity is his guide in all matters. He is the type of person we need in government, especially at this time in our Nation's history, and especially in the beleaguered Department of Justice.

To a large degree, until the Congress passes legislation giving a statutory basis to the authority of Special Prosecutor Jaworski, Bill Saxbe will stand as the buffer who assures Mr. Jaworski's complete independence. I have absolute confidence that Bill Saxbe will be a worthy custodian of the faith that we and all of the people of this Nation will place in him. However, if and when the Congress does pass legislation affecting the Special Prosecutor, it should in no way be construed as a lack of faith in either Bill Saxbe or Leon Jaworski.

Mr. President, I want to reiterate what I said prior to the confirmation of Elliot Richardson as Attorney General. It is high time that the Attorney General be considered in the category of Secretary of State—a professional who is completely removed from partisan politics. For too many years, under both Republican and Democratic Presidents, the Attorney General has been closely associated politically with the President. The people of the United States should not feel that the chief attorney in the United States is a close political crony of the President. That is not the way to instill faith in the process of the administration of justice. Bill Saxbe, like Elliot Richardson, does not fall into the "political crony" category. If there is one thing he has not been it is a rubber stamp of the President. He has demonstrated that he takes his oath of office and the responsibilities which accrue to that office most seriously. Consequently, I am confident that he will contribute to the slowly evolving process of bringing back to the citizens of this Nation faith in the ability of the Government to administer the law fairly and justly.

Therefore, it is a personal as well as a professional pleasure for me to be able to vote to confirm Bill Saxbe as Attorney General.

Mr. President, I would simply like to add, as the distinguished Senator from Ohio (Mr. Taft) just mentioned, that the Saxbes have distinguished themselves by concentrating in many areas of interest, but from a personal standpoint I have felt that their devotion to the problems of the subcontinent, the beleaguered people in that area, and their willingness to spend a great deal of their own personal time in trying to help resolve the problems of that area, which area has looked upon the Saxbes as good friends of theirs—in India, Bangladesh, and other countries in that area, that has been a distinguishing characteristic of our fine colleague.

I also feel, at this particular time, when we do not have embodied in the statute the responsibilities, the duties, and the authorities as clearly as some feel desirable, with regard to the Special Prosecutor, that we do have in the Attorney General a buffer who will absolutely guarantee the independence of the Special Prosecutor.

Also, I hope that we are now moving to the point where the Attorney General will be looked on very much as a "Secretary of State," to be taken out of the category of politics. It really is unbecoming of an Attorney General of the United States to be as engaged in politics as some of Senator Saxbe's predecessors have been. So that I hope he will regard that job as being immune from politics, and that those of us on this side of the aisle will not look to him for political activity, but as holding the very important position of Attorney General, and doing everything in his power to restore the confidence of the people of this country in the Department of Justice.

Mr. MANSFIELD. Mr. President, will the Senator from Mississippi yield me 1 minute?

Mr. EASTLAND. I yield.

Mr. MANSFIELD. Mr. President, may I say, on behalf of the joint leadership, that while the vote for Senator Saxbe will not be unanimous, support for Senator Saxbe in his new position will be unanimous, along with the best wishes and the good will of 100 Members of the Senate.

We know that he is a "natural." He is a swashbuckling sort of fellow. He will do a good job, to the best of his ability, as he sees it, representing his State, this institution, and the Nation. He will do it with distinction, vigor, and with a fine personality.

Mr. HUGH SCOTT. Mr. President, I have the feeling that the court is with us. I have practiced law too long to put my foot in it this time.

I am for Bill Saxbe. I have been for him a very long time, for whatever may have been of interest to him in his career.

I wish him great success. I have the utmost confidence in his integrity and his qualifications.

I am ready to vote.

Mr. HART. Mr. President, will the Senator from Mississippi yield me some time?

Mr. EASTLAND. How much time? Four minutes?

Mr. HART. Four minutes.

Mr. EASTLAND. I yield 4 minutes to the Senator from Michigan.

The VICE PRESIDENT. The Senator from Michigan is recognized for 4 minutes.

Mr. HART. Mr. President, I appreciate the action taken a moment ago by the distinguished Senator from Nebraska (Mr. Hruska) in inserting the three documents into the Record.

Absent a statute, as the Senator from Illinois has said, to establish the office of a Special Prosecutor as separate and apart from the executive, we have attempted, by this exchange of correspondence, to make as clear as possible the degree of his independence.

But the hard truth is that when it comes up, it will be up to Bill Saxbe—even before the President—in any effort to trim back the actions and decisions of Mr. Jaworski, or before Mr. Jaworski and the Senate.

I am satisfied, given the exchange that occurred in the course of rather extensive hearings, that Bill Saxbe will be for Mr. Jaworski.

Having said that, I know that we might as well recognize we will be regarded tonight as "the boys in the club" taking care of our own personal club problem.

Politicians never have been a very believable lot. Particularly is that true at this moment. There is nothing that any of us can say that will allay the suspicion across the country that we are doing this perhaps in haste, and really only because we know the man and he is one of us. Our denying that will not change anyone's mind but we are acting properly, I think.

The person whose believability is least in this country at the moment is the President. That is not because of anything I have said, or am saying now, but because of things the President has said or failed to say, or has done or not done. Our actions here tonight cannot help that. But it cannot harm our conviction that if down the road the White House tries to lean on Mr. Jarowski, Bill Saxbe will resist and resist publicly. For that reason, I intend to vote for the confirmation of his nomination.

Mr. BROOKE. Mr. President, shortly the Senate will vote on the nomination of Senator William B. Saxbe to be Attorney General of the United States.

I am pleased to be able to speak in support of the confirmation of Senator Saxbe.

I believe Senator Saxbe is eminently qualified to serve as the Nation's Attorney General, the highest law enforcement official in the country.

A candidate for this position must possess many qualifications for the job, but the two most important are competence and integrity. And Bill Saxbe has them both in abundance.

Senator Saxbe has had a distinguished career as a public servant. He was the attorney general of the State of Ohio for 6 years. In this office, he attained a reputation as one of the finest law enforcement officials Ohio ever had.

As the senior Senator from Ohio, Bill Saxbe has continued to perform outstandingly. He has demonstrated considerable legislative skills and his opinion on issues vital to the country are carefully listened to.

But in addition to the reputation for competence that he has so justly earned, he has also achieved an enviable reputation for independence. And this quality, above all, will serve him well as Attorney General of the United States.

Perhaps never before in our history has our country suffered from such a crisis of confidence in its leaders and its political institutions. This loss of faith has especially affected our legal institutions. Many Americans whether our concept of equal justice for all is applicable in this day and age.

To help restore the confidence of the American people, the Senate must give the American people someone they can trust. This man is William Saxbe.

His independence will insure that the Department of Justice will once again pursue the cause of justice thoroughly and relentlessly.

The challenge is great, but I believe that Bill Saxbe is the person who can meet and conquer this challenge.

The only regret I have in voting for the confirmation of Bill Saxbe is that the Senate is losing an excellent Senator.

But weighed against the advantages the country will soon gain, I am happy to have to make this sacrifice.

Goodby and good luck, Bill.

Mr. KENNEDY. Mr. President, the nomination of a new Attorney General during these troubled times confers upon each of us the most awesome of responsibilities. The Justice Department in the recent past has been rocked by scandal and loss of morale. One Attorney General resigned and was subsequently indicted; the next Attorney General resigned under a serious cloud. More recently, two courageous officials of the Department were forced to resign rather than carry out the illegal and shocking dismissal of the Watergate Special Prosecutor.

Against this background, the President has nominated our distinguished colleague, Senator Saxbe, to be the Nation's next Attorney General. When that nomination was originally announced, I expressed reservations that confirmation of Senator Saxbe might violate article I, section 6, clause 2 of the Constitution, which prohibits any Senator from assuming a civil office which was created or whose emoluments had been increased during that Senator's term of office. Legislation was proposed and ultimately enacted by the Congress and signed into law by the President; this statute sought to cure that defect by reducing the emoluments of the office of Attorney General to what they had been at the time Senator Saxbe commenced his term in the Senate.

While I had expressed reservations about the constitutionality of this remedial legislation, I note that, as finally enacted and signed into law, it contains provisions for an expedited constitutional challenge to the appointment of Senator Saxbe. Thus any possible confusion or disruption which could be caused by Senator Saxbe taking office under some constitutional doubt can be expected to be quickly resolved; accordingly, I am prepared to leave the resolution of the constitutional issues to the courts.

In the absence of any long-range constitutional objections, then, I can affirm my support for the nomination of Senator Saxbe. He has been a respected and effective Senator, one with whom it has been a pleasure to serve. I believe that, in this time when the Justice Department needs leadership and direction, Senator Saxbe can bring to his new office the fine qualities which he has displayed as a distinguished Attorney General of Ohio. Evidence of the sensitivity with which Senator Saxbe will conduct himself as Attorney General came during the hearings before the Senate Judiciary Committee, when Senator Saxbe pledged to remove himself from any decisions concerning the Kent State investigation, since his prior association with the State government in Ohio and his present position with the State National Guard might detract from the appearance of complete impartiality which such an investigation must convey to the American people. I applaud him for that decision and believe that it speaks well for the manner in which Senator Saxbe will carry out his duties as Attorney General.

Finally, Mr. President, I should note that, when Senator Saxbe's nomination was before the Judiciary Committee, a number of my colleagues joined with me in requesting Presidential assurances of noninterference and cooperation with the Special Prosecutor's investigation. Such assurances are essential if Mr. Jaworski is to carry out his duties fairly, impartially, and fully. Senator Saxbe recognizes the importance of independence for the Special Prosecutor's office, and I am confident that he will carry out his pledge to the Judiciary Committee to do everything he can to see that such independence is maintained. But, at the same time, the importance of Presidential assurances is equally clear. We thought we had such assurances when Mr. Richardson and Mr. Cox assumed office; when Mr. Cox was dismissed, we discovered that the President had not been personally committed to the provisions of the Special Prosecutor's charter. We should not let such a situation arise again. So I wish to reiterate the Judiciary Committee's request that those assurances be conveyed to the Senate, and I look forward to an early report from the distinguished minority leader, who has graciously consented to seek appropriate assurances from the White House.

And so, Mr. President, because I am satisfied that any constitutional issues arising from this appointment can be expeditiously resolved, and because I have confidence that Senator Saxbe has the personal qualifications, credentials, and sensitivity to be an excellent Attorney General, I am pleased to cast my vote in favor of confirmation.

Mr. STENNIS. Mr. President, I regret that circumstances do not permit me to be present for the confirmation vote of the Honorable William Saxbe to be the Attorney General of the United States, a vote that I believe will be overwhelmingly in favor of confirmation. If present, I would vote in favor of his confirmation.

First, I want to congratulate the Senator for his appointment and for the opportunity of broad and high service that the filling of this office will bring him. I predict that he will be an outstanding success in performing his duties. He is a man who makes decisions, is firm in his convictions and courageous in carrying out what he considers his duties.

Also, I want to especially thank him for the fine work he has done as a Member of the Senate Armed Services Committee. He has been a willing and effective worker and has always carried his part of the load. He always made contributions of a constructive nature to all problems coming before us. A fine lawyer, an excellent debater and, I am sure a good administrator, I feel that he will render a great service as head of the Department of Justice in these uncertain times.

Certainly, I have confidence in him as a man and wish him well in every way in his new office and in the years ahead.

Mr. BURDICK. Mr. President, I rise in opposition to the nomination of our esteemed colleague, WILLIAM SAXBE. Mr. SAXBE is eminently qualified for this appointment, and there is no question about his legal ability, integrity, or fitness for the office. I shall vote against the nomination, because I believe the appointment is barred by the Constitution, and this impediment cannot be removed by a legislative enactment.

Mr. NELSON. Mr. President, after President Nixon announced his intention to nominate Senator SAXBE as Attorney General, a question arose as to whether the Senator from Ohio is rendered ineligible for the office by article I, section 6, clause 2 of the U.S. Constitution. That provision states as follows:

> No Senator or Representative shall during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time; . . .

Senator SAXBE's present elected term commenced on January 4, 1969. Sometime shortly after that date, the President forwarded to the Congress a recommendation that the salary of the office of Attorney General be increased from $35,000 to $60,000—Senator SAXBE voted on February 4, 1969, to have that salary increase implemented—CONGRESSIONAL RECORD, volume 115, part 2, page 2716. The salary increase was subsequently approved by the full Congress and took effect.

If Senator SAXBE's nomination to be Attorney General were confirmed by the Senate at a salary of $60,000, he would assume a civil office whose emoluments have increased during his elected term. This result would seem to have been in direct conflict with article I, section 6, clause 2 of the Constitution.

Accordingly Congress enacted a law, S. 2673, to remove the constitutional obstacle to Senator SAXBE's nomination as Attorney General. This law repeals the salary increase for the Attorney General and restores the salary of $35,000, the figure operative at the time Senator SAXBE commenced his elected term. There has been much discussion on the floor of the Senate and in testimony before the Senate Judiciary Committee as to whether the constitutional obstacle to Senator SAXBE's nomination can, in a manner consistent with the Constitution, be removed by statute.

I have concluded that the obstacle to Senator SAXBE's nomination can be constitutionally removed by statute. I will, therefore, vote in support of the nomination. This decision is based on a careful review of constitutional history, the relevant precedents, and applicable legal arguments.

I. CONSTITUTIONAL HISTORY AND THE INTENT OF THE FRAMERS

In determining whether the constitutional obstacle to Senator SAXBE's appointment can be removed by statute, it is first necessary to examine the intent of the framers in establishing that obstacle. It is our responsibility of course to insure that the purposes of the Constitution are served in a manner consistent with its provisions.

An appreciation of purposes is almost always a prequisite to any understanding and enforcement of the Constitution's commands. Justice Joseph Story articulated this rule of constitutional interpretation almost a century ago:

> The mischief intended to be removed or suppressed or the cause or necessity of any kind which induced the enactment of a law are important factors to be considered in its construction. *The purpose for which the law was enacted is a matter of prime importance in arriving at a correct interpretation of its terms . . .*
>
> The reason and spirit of the law, or the causes which led to its enactment, are often the best exponents of the words, and limit their application . . .
>
> Story, *Commentaries on the Constitution of the United States* Vol. 1, pp. 305–06 (italic added).

The thrust of Justice Story's comments is that constitutional provisions should be interpreted and applied in a manner designed to serve the purposes of the framers. Constitutional provisions should not be interpreted and applied in a rigid manner which loses sight of those purposes.

This view is reflected in Supreme Court decisions issued almost from the beginning of our Republic. In *McCulloch* v. *Maryland* (17 U.S. 316, 406, 415 (1819)), for example, Chief Justice John Marshall remarked that the Constitution necessarily embodies only broad principles; the Constitution does not detail the meaning or reach of those principles. Consequently, said Marshall, the efficacy of the principles in any particular circumstances requires a sensitivity to the purposes to be served by those principles:

> A Constitution, to contain an accurate detail of all the subdivisions of which its great powers will admit, and of all the means by which they may be carried into execution, would partake of the prolixity of a legal code, and could scarcely be embraced by the human mind. It would, probably, never be understood by the public. Its nature, therefore, requires that only its great outlines should be marked, its important objects designated, and the minor ingredients which compose those objects be deduced from the nature of the objects themselves. . . . [W]e must never forget that it is a Constitution we are expounding.

In the Legal Tender cases, 12 Wall. 457, 531 (1871), the Court likewise stated:

> Nor can it be questioned that when investigating the nature and extent of the powers conferred by the Constitution upon Congress, it is indispensable to keep in view the objects for which those powers were granted. This is a universal rule of construction, applied alike to statutes, wills, contracts, and constitutions. If the general purpose of the instrument is ascertained, the language of its provisions must be construed with reference to that purpose and so as to subserve it. In no other way can the intent of the framers of the instrument be discovered.

Reference to purpose alone, however, is not always sufficient for a proper interpretation and application of constitutional provisions. On certain occasions the Court has also stressed the value of a strict construction of constitutional provisions. The Court's opinion in *Lake County* v. *Rollins*, 130 U.S. 662 (1889) has been cited frequently to that effect. In that opinion, which concerned the interpretation of a State constitution, the Court underscored the value of adhering to unambiguous language contained in the document. But the Court made clear that, in any event, the ultimate goal was to honor the purposes to be served by the language:

> The object of construction, applied to a constitution, is to give effect to the intent of its framers, and of the people in adopting it.
>
> 130 U.S. at 670.

This object of construction has governed subsequent resolutions of constitutional questions as well. Thus, in *United States* v. *Classic*, 313 U.S. 299 (1941), the Court was asked to decide whether article I, section 4 endowed Congress with the power to regulate primary elections for Federal office. Before answering the question in the affirmative, the Court outlined the historic rule of construction:

> To decide [the question] we turn to the words of the Constitution read in their historical setting as revealing the purpose of its framers, and in search for admissable meanings of its words which, in the circumstances of their application, will effectuate those purposes.

Over the years, the Court has not diverged from this principle of constitutional interpretation. In determining the meaning of the Constitution's provisions, the Court continues to respect the original purposes to be served by those provisions. As Justice Arthur Goldberg stated in his concurring opinion in *Bell* v. *Maryland*, 378 U.S. 226, 289 (1964):

> Our sworn duty to construe the Constitution requires . . . that we read it to effectuate the intent and purposes of the Framers. We must, therefore, consider the history and circumstances indicating what [the provisions in question] were in fact designed to achieve.

This long history of constitutional interpretation defines the responsibility of Congress in deciding whether remedial legislation can constitutionally remove the obstacle to Senator SAXBE's nomination. It is incumbent upon us to determine whether that law, and the subsequent confirmation of Senator SAXBE, would further or subvert the framers' purposes in adopting article I, section 6, clause 2—the emoluments clause.

A review of the debates at the Constitutional Convention in 1787 makes clear that the emoluments clause was intended to serve two basic purposes. On the one hand, it was designed to discourage individuals from using their seat in Congress as but a stepping stone to high office in the Government where the compensation would be greater. On the other hand, the emoluments clause was intended to discourage the Executive from using the enticement of public office as a means of securing favorable votes or action from congressional representatives. In a word, the emoluments clause is to be a defense against corruption in Government where public offices and public moneys can be used for improper purposes. See Farrand, "The Records of the Federal Convention," volumes I, II (1966).

These two purposes of the emoluments clause were articulated in the Federalist Papers. In No. 55, James Madison, the sponsor of the clause in the constitutional debates, discussed the dangers to public liberty in granting political power to a select few in the Congress. Madison observed that corruption in the national legislature would require numerous individuals to act in "mercenary and perfidious combination." In Madison's view, this seemed unlikely since he presumed the Congress would generally attract the most honorable of individuals. Madison then added:

> But, fortunately, the Constitution has provided a still further safeguard. The members of Congress are rendered ineligible to any civil office that may be created, or of which the emoluments may be increased, during the term of their election. No office therefore can be dealt out to existing members but such as may become vacant by ordinary casualties: and to suppose that these would be sufficient to purchase the guardians of the people, selected by the people themselves, is to renounce every rule by which events ought to be calculated, and to substitute an indiscriminate and unbounded jealousy, with which all reasoning must be vain. (Emphasis added.)

Thus, in Madison's view the emoluments clause minimized the risk of corruption. For it prohibited any legislator from benefitting by his action, or those of his colleagues, in creating new offices or in increasing the emoluments of existing offices.

In No. 76, Alexander Hamilton examined how the emoluments clause could be an equally effective deterrent to the Executive's attempts to bribe legislators with promises of lucrative Government appointments. Of particular concern here was the Senate's role in giving its advice and consent to the President's appointments. Many feared that the Chief Executive could use the lure of public office to secure favorable Senate action. Hamilton thought it unlikely that this ploy would succeed since, like Madison, he believed that the Senate would house men of integrity. But Hamilton did not rest his defense on integrity alone:

> Nor is the integrity of the Senate the only reliance. The Constitution has provided some important guards against the danger of executive influence upon the legislative body. It declares that "No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the United States, which shall have been created, or the emoluments whereof shall have been increased, during such time; and no person holding any office under the United States shall be a member of either house during his continuance in office."

In sum, the emoluments clause was intended as a bulwark against corruption in the Congress. No legislator could hope to profit personally by voting to create a new Federal office. Nor could he expect to profit personally if he voted to increase the emoluments of an existing office. As Justice Story concluded:

> The reasons for excluding persons from offices, who have been concerned in creating them, or increasing their emoluments, are to take away, as far as possible, any improper bias in the vote of the representative, and to secure to the constituents some solemn pledge of his disinterestedness.

Story, *Commentaries on the United States Constitution*, Sec. 864.

II. THE HISTORICAL PRECEDENTS

In the past, the purposes of the emoluments clause have been the principal determinants as to whether a legislator could constitutionally be appointed to Federal office. These historical precedents provide ample support for upholding the constitutionality of S. 2673 as a means to remove the obstacle to Senator Saxbe's appointment as Attorney General.

In 1876, for example, Senator Lot M. Morrill was nominated to be Secretary of the Treasury. Senator Morrill's term did not expire until 1877. The salary for the Treasury position was increased from $8,000 to $10,000 in 1873 and then reduced in 1874 to $8,000. A literal reading of the emoluments clause would have barred Senator Morrill's appointment. For the emoluments of the office to which he was appointed had been increased during his term. But clearly the purposes of the emoluments clause did not require that he be held ineligible. Senator Morrill was confirmed by the Senate without constitutional challenge.

Another appointment involving the emoluments clause transpired in 1909. Senator Philander Knox—whose term began in 1905 and was to expire in 1911—was nominated to be Secretary of State. The salary for that position had been raised by Congress from $8,000 to $12,000 in 1907. To avoid application of the emoluments clause, Congress passed a law comparable to S. 2673 so that Senator Knox could not profit by the salary increase (35 Stat. 626). In adopting this measure, Congress relied on the reasoning of Assistant Attorney General Russell, who argued that—

> If the increase is made . . . and then unmade, he cannot get, or hope for, anything more than if there had been no such increase (43 Cong. Rec. 2403).

Similar reasoning prevailed when Senator Hugo Black was appointed to the Supreme Court in 1937. During his term, the retirement benefits of Supreme Court Justices—who could retire at the age of 70—were strengthened by Congress. The question was whether this increased emolument rendered Senator Black ineligible for the Court appointment. The Attorney General argued forcefully that Senator Black's appointment did not conflict with the emoluments clause:

> Inasmuch as Mr. Black was only fifty-one years old at the time and so would be ineligible for the "increased emolument" for nineteen years, it was not *as to him* an increased emolument. (See Corwin, *Annotated Constitution* 133; *Ex Parte Albert Levitt*, 302 U.S. 673 (1937); *N.Y. Times*, Aug. 14, 1937, p. 1, Col. 3.)

The Senate apparently agreed with this reasoning, and, we all know, Senator Black was confirmed as a Supreme Court Justice.

These precedents, of course, do not suggest that the constitutional provisions can be ignored at will by Congress or the President. Nor do they imply that there must be evidence of collusion or other wrongdoing before the proscription applies.

Indeed, in at least two cases a Senator was denied appointment to Federal office in the absence of any such evidence. (See 21 Op. Atty. Gen. 211 (1895); 17 Op. Atty. Gen. 365 (1882).) In one of these cases the emoluments for the respective office had been increased during the respective Senator's term. In the other case a new office had been created during the appointee's elected term. But in the former case Congress did not make any attempt to deny the appointee the benefits of the salary increases. And in the latter case, Congress could not avoid application of the relevant provision unless it abolished the very office to which the congressional representative had been appointed. Consequently, the purposes of the article I, section 6—to avoid suspicion that there might have been collusion to secure those benefits of public office—required that both Senators be held ineligible. Because these two examples did not involve remedial legislation, they do not undermine the relevance of the other historical precedents to Senator SAXBE's nomination.

Of course, historical precedents alone cannot guarantee the constitutionality of S. 2673 as a means to remove the constitutional obstacle to Senator SAXBE's appointment. As the Supreme Court stated in *Powell* v. *McCormack*, 395 U.S. 486, 546–47 (1969):

> [A]n unconstitutional action . . . taken before does not render that same action any less unconstitutional at a later date.

It is an entirely different matter, however, when the historical precedents are consistent with recognized constitutional purposes. Even the Court in Powell against McCormack acknowledged that historical precedents may be significant in elucidating the framers' intent.

This proposition is a particular significance in determining the efficacy of S. 2673 in removing the constitutional barrier to Senator SAXBE's appointment. As discussed earlier, the historical evidence shows that the emoluments clause was designed to safeguard against the suspicion of corruption in the legislative branch. This view is reinforced by an analysis of the historical precedents involving an application of the emoluments clause. Those precedents clearly indicate that the purpose of the emoluments clause can be satisfied by denying any increases in emoluments to an appointee who served in Congress when they were enacted. Therefore, since Senator SAXBE. has been denied the benefits of any increased emoluments during the term for which he was elected, his nomination satisfies both the spirit and the letter of the Constitution.

III. APPLICABLE LEGAL ARGUMENTS

Some may argue that the language of the emoluments clause is clear and that resort to constitutional purposes of historical precedents is unnecessary. The strength of this argument is undermined by two basic observations.

First, the language of the emoluments clause is not entirely clear. For example, does the language become operative if an emolument is increased for 1 day, but decreased long before the appointment of a sitting congressional representative? Likewise, consider the problems if, after a Member of Congress is nominated and confirmed for a Federal post, Congress increases the emoluments of the office. Must the Member then resign his post—or does the emoluments clause apply only to situations in which the emoluments have been increased before the nomination and confirmation?

The ambiguities of the emoluments clause were considered in some detail by William W. Van Alstyne, a professor of constitutional law at Duke University, in his testimony before the Judiciary Committee. The relevant portions of his statement merit quotation:

> The language of Article I, section 6, clause 2 is, of course, not clear. . . . One might read the phrase "the Emoluments whereof *shall have been* increased during such time" as concerned to know only whether, as an historical dataum, an increase was one voted regardless of whether it was shortly discontinued and of no possible profit to a nominee whose name is subsequently submitted to the Senate. To insist upon that reading, however, is at once too broad and too narrow as well. On the one hand, it would disregard the sole function to remove temptation in voting for an increase that one might personally anticipate receiving, it ignores the impact of subsequent legislation, and it offends the deliberate purpose of the framers of the Constitution to provide for the continuing eligibility of Members of Congress for appointment to an existing office where nothing they nor their colleagues have previously done can serve to make that office more attractive than otherwise. It is, at the same time, too narrow a reading as well: the history of the clause also makes clear that it was the drafter's purpose to forbid a Member of Congress from benefiting from any subsequent increase in the emoluments of the office to which he is appointed, for the balance of the time for which he was elected to Congress. Yet this intention would be disrespected if the clause were read as being concerned solely with a single past event, i.e. an increase which "shall have" occurred as of the date of appointment.
>
> (Quoted in 119 CONG. REC. pp. 37844–37845.)

Professor Van Alstyne's comments demonstrate that language which seems clear may be riddled with ambiguities.

But even the clearest language may not be sufficient to define the reach of any constitutional provision. A second legal observation tempers the inclination to rely exclusively on the words themselves: the courts will rarely, if ever, apply a constitutional provision literally if it will produce an unintended or patently unreasonable result. Justice Story summarized this legal precept in his Commentaries:

> The rules then adopted are, to construe the words according to the subject-matter, in such a case as to produce a reasonable effect, and with reference to the circumstances of the particular transaction. Light may also be obtained in such cases from contemporary facts or expositions; from antecedent mischiefs, from known habits, manners, and institutions; and from other sources almost innumerable, which may justly affect the judgement in drawing a fit conclusion in the particular case.
>
> Story, *Commentaries on the United States Constitution*, 306–07.

The significance of this legal precept is clear. The law is not applied in a vacuum, and one should not be insensitive to the consequences which the law's application has for people and the welfare of society generally.

This proposition underlies judicial interpretations of various constitutional provisions even when their meaning seem clear and absolute. Reference to even a few cases demonstrates the point.

The first amendment to the Constitution, for example, provides that—

> Congress shall make *no* law respecting an establishment of religion, . . . (Emphasis added.)

These words, if read literally, clearly provide an absolute prohibition to laws which would support the establishment of a religion. But the Supreme Court has held on numerous occasions that the seemingly "absolute" prohibition was not intended to be absolute. For example, *Everson* v. *Bd. of Education*, 330 U.S. L 17–18 (1947) As the Court stated in *Committee for Public Education* v. *Nyquist*, No. 72–694 (June 25, 1973), slip. op. at 2–3,14:

> Yet despite . . . the "sweep of absolute prohibition" of the [First Amendment] Clauses, this Nation's history has not been one of entirely sanitized separation between Church and State. It has never been thought either possible or desirable to enforce a regime of total separation, and as a consequence cases arising under these Clauses have presented some of the most perplexing questions to come before this Court. . . .
>
> What our cases require is careful examination of any law challenged on establishment grounds with a view to ascertaining whether it furthers any of the evils against which that Clause protects.

This reliance on purpose rather than language is also evident in interpretations of the free speech clause of the first amendment. The amendment states that—

> Congress shall make no law . . . abridging the freedom of speech. . . (Emphasis added.)

Again, the words, if read literally, establish an absolute prohibition to any law restricting speech. But the Court has held that the constitutional prohibition should be ignored if necessary to avoid a bad result—so that one could not, for instance, be free to shout "Fire" in a crowded theater. *Schenck* v. *United States*, 249 U.S. 47, 52 (1919). As Justice Louis Brandeis observed in his concurring opinion in *Whitney* v. *California*, 274 U.S. 357, 373 (1927):

> But, although the rights of free speech and assembly are fundamental, they are not in their nature absolute. (See also *Kovacs* v. *Cooper*, 336 U.S. 77 (1949); *United Public Workers* v. *Mitchell*, 330 U.S. 75 (1947).)

Purpose rather than language also governs interpretations of the fifth amendment to the Constitution. That amendment provides that—

> No person . . . shall be compelled in any criminal case to be a witness against himself. . . .

Read literally, the amendment's protections should apply only to criminal proceedings. Such an interpretation, however, would subject individuals to considerable risks of self-incrimination in other kinds of proceedings. Again, purpose rather than language prevails. The Court has held that the fifth amendment's protections may be invoked in any official State or Federal proceeding—even those of a nonjudicial character, such as congressional hearings. (*Malloy* v. *Hogan*, 378 U.S. 1, 11 (1964); *Hoffman* v. *United States*, 341 U.S. 479, 486–87 (1951).)

As one last example, reference should also be made to the sixth amendment to the Constitution. That amendment provides, among other things, that—

> In *all* criminal prosecutions, the accused shall enjoy the right . . . to have assistance of counsel for his defense. (Emphasis added.)

Here, too, the language is unambiguous. It guarantees the right to counsel to every accused in any criminal prosecution. Despite this clear, unambiguous language, the right to counsel does not extend to all criminal prosecutions. The Supreme Court has held that the right to counsel can be enjoyed only by those who face a possible loss of life or liberty—even though the language of the amendment neither states nor intimates such a qualification of the right to counsel. (For example, *Johnson* v. *Zerbst*, 304 U.S. 458, 463, 465 (1938). The sixth amendment right to counsel does not apply to petit criminal offenses where the only possible sanction is a fine. See *Argersigner v. Hamlin, Sheriff* 407 U.S. 25 (1972). In delineating this limitation, the Court has looked to the purpose rather than the language of the sixth amendment.

Given this rule of constitutional interpretation, our decision on the constitutionality of Senator SAXBE's nomination should not be determined solely by reference to the language of article I, section 6, clause 2. If read literally, that language might justify a conclusion that Senator SAXBE should be ineligible for Cabinet appointment even though he will not benefit by the increase in emoluments for Cabinet officers. But this result seems patently unreasonable. It is especially unreasonable since Senator SAXBE's salary will decrease if he is confirmed as Attorney General.

Surely, in their wisdom, the Founding Fathers did not contemplate that the Constitution's purposes would be subverted by its language. They did not exalt form over substance. They created instead an organic document whose purposes could find expression in future times and unanticipated circumstances. This, in fact, is the genius of our Constitution. And it is this genius which underlies the reasonableness—and the constitutionality—of S. 2673 as a means to remove the constitutional obstacle to Senator SAXBE's appointment.

IV. CONCLUSION

The framers' never intended the emoluments clause to discourage the appointment of congressional representatives to Federal office. Indeed, James Madison, James Wilson, and other participants in the constitutional debates presumed that the Congress would be a vital source of talent to assure excellence in executive positions. Charles Pinckney, for example, stated that—

> The Senate might be supposed to contain the fittest men. He hoped to see that body become a School of Public Ministers, a nursery of statesmen. (Farrand. Vol. II, p. 283.)

The framers' were concerned, however, that the Congress be free of the reality and appearance of corruption. Public faith in our political system, they believed, required no less. The framers' concern found expression in, among other things, article I, section 6, clause 2. The emoluments clause of this provision, like its other features, was adopted as a means to minimize the risk that a congressional office might become merely a tool for an individual to satisfy personal greed and ambition.

In deciding the fate of Senator SAXBE's nomination, we should do justice to the meaning of the Constitution. We should not invoke its language to reach an unreasonable and unintended result. For as Dean Roscoe Pound, of the Harvard Law School, observed many years ago:

> Law is social engineering and it must be judged by the results it achieves . . . not by the beauty of its logical processes.

For these reasons, then, I believe the substantial weight of the argument supports the constitutionality of Senator SAXBE's confirmation as Attorney General. But, in any event, the law repealing the salary increase for that Cabinet post provides for an expeditious resolution of the matter by the Supreme Court. Consequently, any constitutional question concerning Senator SAXBE's appointment will be disposed of in a timely manner.

Mr. FONG. Mr. President, on November 28, as the ranking minority member of the Senate Post Office and Civil Service Committee and as a member of the Senate Committee on the Judiciary, it was my privilege to manage the time on S. 2673, a bill to insure that the compensation and other emoluments attached to the Office of Attoney General once again became those which were in effect on January 1, 1969.

I welcomed the news when it first broke that the President intended to nominate the distinguished Senator from Ohio, WILLIAM B. SAXBE, to be Attorney General of the United States.

It was my firm belief that BILL SAXBE would be an outstanding Attorney General.

Therefore, it was no burden, to help my colleagues in their determination to enact S. 2673 so that the ineligibility of BILL SAXBE to the Office of Attorney General be constitutionally removed. The impediment under article I, section 6, clause 2 of the Constitution arose as a result of an increase in the emolument of all Cabinet officers, including the Attorney General's in 1969, after Senator SAXBE took his oath of office as a Senator from the State of Ohio.

As you recall, S. 2673 passed the Senate on November 28 by a vote of 75 to 16.

After passage of the bill by the House and a few other complications, all of which happily were resolved, on December 10, 1973, President Nixon signed it into law as Public Law 93-178 and late that very day, Monday, December 10, the nomination of BILL SAXBE to be Attorney General came to the Senate.

Hearings were held on the nomination before the Senate Committee on the Judiciary on December 12.

These hearings have confirmed and made a matter of public record what I, and I am sure my colleagues, have known for a long time—BILL SAXBE is eminently qualified to serve in this position of vital responsibility.

He has a broad range of experience.

He has been in the military service of our country.

He has served in the Ohio House of Representatives.

He has served in the U.S. Senate.

He has been a member of the bar since 1948.

And, even more importantly, he was attorney general of Ohio 1957 to 1958 and 1963 to 1968.

Having served as attorney general of his native State, he has the administrative and organizational ability to give much needed direction to the Department of Justice.

His well-rounded experience, dedication, and ability will restore a sense of stability and direction to the present troubled administration of the Department of Justice and thus will, I am certain, be what is needed to bolster morale throughout that Department.

We in the Senate will miss BILL SAXBE, his depth of perception, his dedication to hard work, his willingness to fight the good battle.

But, BILL will go on fighting with the same competence and dedication to justice. Under his administration of the Department of Justice true law and order will, I am certain, be the rule throughout this country.

Mr. President, it is a privilege for me to vote for the confirmation of the nomination of WILLIAM B. SAXBE to be Attorney General of the United States.

I join in wishing him great success and Godspeed in his new undertaking.

Mr. PROXMIRE. Mr. President, I will vote against the nomination of my colleague, Senator WILLIAM SAXBE, to be the next Attorney General.

I do not do so, however, out of any feeling of ill will toward my colleague from Ohio. BILL SAXBE has been a good Senator and a good colleague. Moreover, prior to coming to the U.S. Senate, BILL SAXBE did a competent job as attorney general of Ohio. If it were not for the constitutional provision which I will discuss, I would unhesitatingly consider him qualified to be U.S. Attorney General, and I would support him.

Unfortunately, Mr. President, there is a clear constitutional provision which governs this situation. This provision, in my view, bars Senator SAXBE from the attorney generalship at the present time.

The Constitution, in article I, section 6 provides:

> No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time.

In 1969, shortly after Senator SAXBE began his first term in the Senate, the Senate voted to increase the salary of the Attorney General from $35,000 to $60,000. Senator SAXBE voted for the increase. It is clear that this constitutes an increase in the emoluments of the office, and the Constitution would bar a Senator from taking this office during his term.

In an attempt to get around this problem, S. 2673 was introduced. That legislation, which has now become law, sets the salary for Attorney General back to $35,000—the level that prevailed on January 1, 1969. The decrease is to remain effective until January 1, 1975, when the salary will revert to the higher level of $60,000.

Proponents of Senator SAXBE argue that this legislation removes the constitutional bar, and that Senator SAXBE may take the office of Attorney General.

Mr. President, I cannot accept this view. The provision in article I, section 6 is regarded by most constitutional experts as a mechanical clause, not a functional clause. This means that this is not the type of clause—such as due process, or equal protection—where one looks behind the words to the intent of the framers, and interprets the clause in light of the given existing situation. Rather, this clause is mechanical in the same sense as the provision which requires U.S. Presidents to be over 35 at the time they take office; such clauses admit of no interpretation, and no one would suggest that an exceptionally mature 34-year-old would be permitted to take office. By the same token, the emoluments clause does not admit of interpretation either. If the emoluments for an office have been increased, then the bar applies; the Constitution does not say "unless you set the emoluments back to their former level."

But beyond that, the clause's intent is violated here as well. The legislation which changes the salary applies only until January 1, 1975; after that date, the higher salary goes into effect again.

Thus, assuming that Senator SAXBE takes office as of the first of next year, he will reap the benefits of the higher $60,000 salary after serving for only 12 months at the lower salary. And this higher salary will be as a direct result of his vote as Senator in 1969. Thus, Senator SAXBE will be the direct beneficiary of the increased emoluments—the very thing the framers sought to guard against.

Mr. President, I reluctantly conclude that it would be unconstitutional for Senator SAXBE to take the office of Attorney General under these circumstances, and accordingly I will vote against his confirmation.

Mr. STEVENSON. Mr. President, I will reluctantly vote against the confirmation of our colleague WILLIAM SAXBE, for Attorney General, and I say "reluctantly" because I have much respect and affection for Senator SAXBE.

I do so for one overriding reason. I believe the appointment of Senator SAXBE is unconstitutional.

Article I, section 6, paragraph 2 of the Constitution states:

> No Senator or Representative shall, during the term for which he was elected, be appointed to any civil office under the Authority of the United States . . . the Emoluments

> whereof shall have been increased during such time.

In 1969, shortly after Senator SAXBE entered the Senate, the salary of the Attorney General was raised by concurring congressional action from $35,000 to $60,000. It is disputed by no one that if no further congressional action were taken between the 1969 pay raise and Senator SAXBE's appointment, that appointment would be unconstitutional under this article.

Between the time President Nixon announced his intention to appoint Senator SAXBE in early November and Senator SAXBE's actual appointment just over a week ago, Congress passed and the President signed the so-called Saxbe pay bill. Although Senator SAXBE was not mentioned by name in this legislation—which reduced the salary of the Attorney General to $35,000—the legislation was clearly aimed at curing Senator SAXBE's constitutional disability.

I do not believe that any legislation short of a constitutional amendment can cure that disability. The language of the Constitution is clear. It allows of no exceptions and provides for no waivers—and for sound reasons. Members of Congress should not be permitted to benefit personally from the legislation they adopt. The Constitution does not admit that emoluments increased can thereafter be decreased. The bill to decrease the Attorney General's pay was special legislation intended to benefit one Member of this body. I voted against it—as it is precisely the kind of legislation the Constitution was intended to guard against.

I realize that my colleagues in the Senate by a vote of 75 to 16 passed the pay bill and that the bill was also passed overwhelmingly in the House. Thanks to an amendment added by Senator BYRD of West Virginia, the constitutionality of the Saxbe nomination may be quickly challenged. This amendment may have encouraged some Members to vote for the pay bill in the belief that there could be a definitive resolution of this question by the Supreme Court. Likewise, the passage of the Saxbe pay bill may encourage Members to vote for Senator SAXBE's confirmation today in the knowledge that the Supreme Court will settle the constitutional matter.

But I do not believe we in the Senate should buck this matter to the Court. We have a duty to uphold the Constitution, as we are best able to interpret it. I do not believe that the pay legislation cures the constitutional problem. As Prof. Philip Kurland, a noted constitutional scholar, said in the Senate Judiciary Committee hearings on the pay bill:

> I think it (this type of remedial legislation) constitutes a violation of the specific language (of the Constitution) if it results in the qualification of a person otherwise disqualified, and I think it would also fly in the face of the intent of the framers in putting this provision into the Constitution.

The Court may settle this matter in favor of Mr. SAXBE. But I will not cast my vote today in favor of a nomination procured by a backdoor amendment to the U.S. Constitution.

Mr. TUNNEY. Mr. President, I am compelled to vote against the confirmation of my colleague, William SAXBE, to be Attorney General, because of my personal belief that his nomination is unconstitutional under article I, section 6, clause 2 of the Constitution.

That section reads in part:

> No Senator . . . shall, during the time for which he was elected, be appointed to any civil Office under the Authority of the United States . . . the Emoluments whereof shall have been increased during such time.

This clause means that since the salary for the Attorney General was increased during Senator SAXBE's term in the Senate, he cannot now be appointed to the Office of Attorney General. As I read it, this is true even if Congress passes—as it has—remedial legislation to lower the salary of the Attorney General to its level when Senator SAXBE was elected to the Senate. There is no section of the Constitution that permits such remedial legislation.

At a time when there is so little confidence and respect for the rule of law, we cannot appear to be tampering with the plain meaning of the words of the Constitution for any man—be he President or nominee for a Cabinet position or Senator or taxpayer.

In addition, since a Court test of Senator SAXBE's appointment is virtually a certainty, he will enter office with a cloud over his head until the Supreme Court has ruled definitively on the issue. Such a ruling—under the expediting provisions of the Senate legislation—might be accomplished in a few weeks. I would hope so. Nonetheless, at a time when morale at the Department of Justice is at an all time low, it would seem imperative to fill the office of Attorney General with a person whose appointment is not challenged.

These remarks do not impugn the personal fitness or qualifications of my colleague, BILL SAXBE. On other than constitutional grounds, he is qualified. I was impressed with the way he pledged under oath to the Committee on the Judiciary that he will in all ways observe the charter for the special prosecutor. The events of recent months have shocked a Nation, and I will praise BILL SAXBE if he can deliver—as he hopes he can—the personal pledge of the President to abide by that charter. Out of fear that the President would breach the charter again, I was one of the original sponsors of S. 2611, the legislation to create an independent Office of Special Prosecutor outside the executive branch. The leadership has decided not to bring the legislation to the floor—in view of Mr. Jaworski's impressive performance to date and a reluctance to appear to be interfering with it. This decision would seem justifiable only so long as Mr. Jaworski can proceed without interference—a situation which is likely to be best insured if we have personal assurances from the President that he will abide by the charter.

Senator SAXBE has given those assurances on his own behalf without equivocation. Should he be confirmed and should he pass the constitutional test, he, as Attorney General, deserves the same assurances from the President, and so does the Nation.

Mr. HATHAWAY. Mr. President, it is with the greatest reluctance that I must oppose the confirmation of this nomination. I consider WILLIAM SAXBE to be one of the most distinguished Members of this body—a man of intelligence, independence, and integrity, who would be a real addition to the executive branch of our Government at this particular time. But he was a Member of the Senate in 1969 when the annual salary of the Attorney General was raised from $35,000 to $60,000 and the Constitution says—

> No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the Authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time.

I am fully aware that the Congress has passed and the President signed legislation which lowered the Attorney General's pay to the pre-1969 level in order to deal with this problem. I am unconvinced, however, that this legislation has done the trick. Without going too deeply into the constitutional question, which has been fully explored by the distinguished Senator from North Carolina (Mr. ERVIN) and the distinguished majority whip (Mr. ROBERT C. BYRD), my conclusion is that the constitutional provision in question does not appear to allow for the kind of qualification of its terms implicit in the pay-lowering legislation. Perhaps an implied exception to the rule stated—"No Senator shall be appointed to any civil office, the emoluments whereof shall have been incresed"—can be developed through the arcane science of constitutional analysis, but the existence of such an exception has escaped this Senator, try as I might to find it.

Which brings me to what is really the point. Of all the times in our Nation's history when we need clear, stable, and legally solid leadership, we are not installing as chief law enforcement officer an individual whose qualifications for the position are constitutionally dubious. To me, this is involving the Senate in the type of thinking that has gotten the President in so much trouble in the Watergate matter—regardless of how a course of action looks to the American people, if it is technically or even arguably legal, go ahead.

Mr. President, the American constitutional system is a fragile thing, held together by mutual interest, voluntary compliance with law and trust in the governors. I am afraid that the last element—trust—is eroding daily; when it disappears, the Constitution and all of our laws will be nothing—empty words serving only as a monument to our inability to appreciate the intelligence and commonsense of those we are supposed to be governing. And it is just the kind of legal hocus-pocus involved with this nomination which is eroding the people's confidence in their Government. Why, with all the lawyers in the United States, did the President have to choose one whose very right to the office is sure to involve months of controversy and constitutional challenge? Why cannot this administration learn that in public matters the appearance of impropriety is as important to avoid as impropriety itself?

And finally, when will we realize that the currency of public trust which we are expending at such a prodigious rate is not replenishable in our lifetimes? There was a time when the Governors, even in a democratic society, could ignore the feelings of the people on an issue such as this because so few of the people actually knew—or cared—what was being done in their name. That day, gentlemen, is long past.

As proof of this last observation, and as a fitting summation of the point I am trying to make I would like to place in the RECORD at this point a letter from the high school American history class in Greenville, Maine, a little town of several thousand perched beside a million acres of wilderness. The letter speaks poignantly for itself. Sadly, I think it also speaks for the American people.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

GREENVILLE HIGH SCHOOL,
Greenville, Maine, November 30, 1973.
Hon. WILLIAM HATHAWAY,
Bangor, Maine.

DEAR SENATOR HATHAWAY: It has been brought to the attention of our United States History Class of Greenville High School that you Senators intend to disregard Article I, Section 6, Paragraph 2, of the United States Constitution, which specifically prohibits Senator Saxbe from holding the office of Attorney General of the United States. There is no room for misinterpretation of the Constitution in this matter, and we cannot understand why people who have sworn to uphold the Constitution of the United States are so flagrantly disregarding your obligations.

It seems to us that in this time of moral crisis, you people would show leadership in this matter of our Constitution. If we cannot depend upon the Constitution as our basis of laws for everyone, including Senators, what can we depend upon?

Thank you for your concern in this matter.

Sincerely yours,
Richard A. Gould, Instructor; Roxann Arey, Jan Gauvin, Christina M. Jamieson, Peter M. Cantora, Edwin Budden, Nancy Gilbert, George Lavigne;
Kim Godson, Harold Blanchard, Billy Mason, Elaine Davis, Deborah Bartley, Donna White, Cindy Smith.

Mr. HRUSKA. Mr. President, it is with great pleasure that I take this opportunity to voice my support for WILLIAM B. SAXBE to be Attorney General of the United States.

In nominating Senator SAXBE, President Nixon has abided by the longstanding tradition of selecting an individual with a seasoned and varied experience in the law. Senator SAXBE additionally possesses a broad background in administration and legislation on both the State and Federal levels. As a practicing attorney, as a member of the Ohio Legislature, as a longtime attorney general of Ohio, and as U.S. Senator, he has distinguished himself. As a veteran elected official, Senator SAXBE has gained a perceptive insight into the workings of our democratic system. He has developed a respect for its institutions and an understanding of the needs of the citizenry.

During the past 5 years, we in the Senate have had the opportunity to observe the nominee firsthand. Senator SAXBE has gained a reputation here for ability and integrity. He has proved himself to be knowledgeable, diligent, and loyal to the best interests of his country.

During the hearings on his nomination before the judiciary committee last week, Senator SAXBE was presented with a wide range of direct and penetrating questions. In response, he displayed an admirable and refreshing forthrightness and candor as well as a fine knowledge of law and its enforcement. Senator SAXBE indicated a deep awareness of the various sensitivities of the administration of justice, including the necessity of achieving a fair balance between the rights of citizens and the practical demands of law enforcement. He also stated his unqualified intention to insure the continued independence of the Special Prosecutor and his willingness to work closely with the Congress and its Judiciary Committees on appropriate Justice Department matters.

Senator SAXBE had announced his desire to leave Washington, D.C., at the end of his term and return to the practice of law in his native Ohio. However, when the President asked him to assume the enormous responsibility to head up the Department of Justice, Senator SAXBE, as would be expected from a man with his deep feeling for the Nation's well-being, accepted that challenge. He will carry out that challenge, upon confirmation, and by his direction will insure that the Department of Justice maintains its position as one of our most cherished and highly esteemed institutions.

It is indeed a fortunate occurrence that at this time in our history we have available a man of the nominee's caliber for the office of Attorney General. It is not said lightly that his qualifications and talents are well tailored to present requirements for this high office. Senator SAXBE will bring to the Department of Justice integrity, independence, and a vast experience in the law. That Department is presently much in need of a leader with those qualities. Hence, the Senate should speedily confirm Senator WILLIAM SAXBE as Attorney General of the United States.

Mr. President, during the course of the hearings, Leon Jaworski appeared as one of the witnesses. He sat at the witness table with the nominee. At that time he stated the terms of his appointment. He was requested to address a letter to the President in which he would indicate the text of his testimony.

That was done in a letter of transmittal dated December 14, 1973. On December 17, 1973, there was a reply to that letter signed by J. Fred Buzhardt, Special Counsel to the President. I ask unanimous consent to have these three documents printed in the RECORD.

There being no objection, the documents were ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, D.C., December 17, 1973.
Hon. LEON JAWORSKI,
Special Prosecutor, Watergate Special Prosecution Force, U.S. Department of Justice, Washington, D.C.

DEAR MR. JAWORSKI: Your letter of December 14 to the President, providing a copy of your testimony relating to the terms of your appointment as Watergate Special Prosecutor, has been received. We appreciate your calling this information to our attention.

Sincerely,
J. FRED BUZHARDT,
Special Counsel to the President.

DECEMBER 14, 1973.
Attention: J. Fred Buzhardt, Esquire.
Hon. RICHARD M. NIXON,
The White House,
Washington, D.C.

MY DEAR MR. PRESIDENT: In the giving of my testimony to the Senate Judiciary Committee on the nomination of Senator William B. Saxbe for the office of Attorney General, I was asked to state the terms of my appointment as Watergate Special Prosecutor.

I am enclosing the transcript of my answer to that question.

Respectfully yours,
LEON JAWORSKI,
Special Prosecutor.

SPECIAL PROSECUTOR'S TESTIMONY

You have supplied me with that letter. I will read it into the record.

"November 21, 1973, Leon Jaworski, Esq., Special Prosecutor, Watergate Special Prosecution Force, 1425 K Street, NW., Washington, D.C. 20005.

"Dear Mr. Jaworski: You have informed me that the amendment to your charter of November 19, 1973 has been questioned by some members of the press. This letter is to confirm what I told you in our telephone conversation. The amendment of November 19, 1973 was intended to be, and is, a safeguard of your independence.

"The President has given his assurance that he would not exercise his constitutional powers either to discharge the Special Prosecutor or to limit the independence of the Special Prosecutor without first consulting the Majority and Minority leaders and chairmen and ranking members of the Judiciary Committees of the Senate and the House, and ascertaining that their consensus is in accord with his proposed action.

"When that assurance was worked into the charter, the draftsman inadvertently used a form of words that might have been construed as applying the President's assurance only to the subject of discharge. This was subsequently pointed out to me by an assistant and I had the amendment of November 19 drafted in order to put beyond question that the assurance given applied to your independence under the charter and not merely to the subject of discharge.

"There is, in my judgment, no possibility whatever that the topics of discharge or limitation of independence will ever be of more than hypothetical interest. I write this letter only to repeat what you already know: the recent amendment to your charter was to correct an ambiguous phrasing and thus to make clear that the assurances concerning congressional consultation and consensus apply to all aspects of your independence."

Does this letter fully satisfy you as to your independence and as to the assurances "that the President has given," that he will not exercise his constitutional powers either to discharge you or limit your independence without first consulting the Majority and Minority leaders, et al.?

Mr. JAWORSKI. Senator Byrd, this is in line with what I sought. I will be entirely candid and say to you that I sought the maximum of what I could think of at the time, and if I could have thought of some other safeguards, I would have asked for them. I think the matters that you have covered today have been clarifying, and certainly it nails down some matters that someone might have had some doubt about or might have questioned.

I personally have proceeded—I hope I have not been naive. I personally proceeded on the theory that I had complete independence. I will say that I have certainly exercised it in several respects, and no one has undertaken to call my hand. If it should come to pass that someone should and I thought that I was right, I would come to consult the committee that has been set up for such purposes.

Senator BYRD. Say that again.

Mr. JAWORSKI. If anyone should disagree with me as to what I am doing, particularly the President, if he should disagree and I felt that I was within my responsibility, carrying out the functions of my office, I would not hesitate to come to the Committee that has been set up and report to them for the purpose of their knowing exactly what the situation was so that the impasse could be resolved, if possible.

Senator BYRD. Would you also not hesitate, as Professor Cox did not hesitate, to call a press conference and make known to the people of this nation the fact that you were being asked if you were being asked, to do what in your conscience you could not do?

Mr. JAWORSKI. I would make it known. This does not relate to my right to go to court. I would do that without even calling a press conference or going anywhere. I think if I conclude that it is necessary for me to resort to the judicial process, I have been assured that I will have that avenue open to me. I intend to exercise that regardless of what disagreement may arise.

Mr. THURMOND. Mr. President, it is with great pleasure that I rise to commend my distinguished colleague, WILLIAM BART SAXBE, the next Attorney General of the United States. BILL SAXBE's qualifications for this high office are obvious from a brief review of his background.

He began his public service career in 1946 when he was elected to the Ohio House of Representatives. He was reelected to the house three times, became majority leader and served as speaker from 1953–54.

He moved on 2 years later to become attorney general for the State of Ohio, and was reelected in 1962 and 1966. He served as Ohio's chief legal officer longer than any attorney general in State history. BILL was elected to the U.S. Senate in November 1968, and has served in this body with ability and distinction. It has been my pleasure to be personally associated with him on the Armed Services Committee.

BILL SAXBE has not only led a distinguished public life, he has led a distinguished private life as well. He volunteered for the Ohio National Guard in 1937 and was called to active duty 3 years later. He served with the 107th Cavalry, 2d Cavalry Division and 9th Armored Division and, after transferring to the Air Corps, served as a bomber pilot for the remainder of World War II.

After the war, BILL returned to Ohio and enrolled in the Ohio State Law School under the GI bill. He was graduated in 1948 with an LL.B. degree, a year after assuming his seat in the Ohio House. While a member of the legislature, he was called back into service in 1951–52 during the Korean war. He served in the 147th and 148th Infantry, 37th Division and later as assistant chief of staff G–2 of the 37th Division.

Bill has been active in a wide range of civic, professional and sportsman's organizations, and holds honorary degrees from five Ohio colleges—Central State University, Ohio Wesleyan University, Findlay College, Capitol University, and Wilmington College.

Through my personal association with him, I know him to be a man of courage, candor, and capability. I am confident that he will serve the high trust of his new office with the same distinction that he has shown in the past. I wish him every success in his new career.

Senator SAXBE's wife Dolly is a lovely lady and has been an inspiration to her husband throughout his career. My wife Nancy and I rejoice with her in this new position of honor and responsibility to which he has been appointed. She deserves a large measure of credit for his great success.

The VICE PRESIDENT. Who yields time?

Mr. EASTLAND. Mr. President, I am prepared to yield back the remainder of my time.

Mr. HRUSKA. Mr. President, I yield back the remainder of my time, if there are no further requests for time.

Mr. EASTLAND. I yield back the remainder of my time.

The VICE PRESIDENT. All time has been yielded back.

The question is, Will the Senate advise and consent to the nomination of WILLIAM B. SAXBE, of Ohio, to be Attorney General? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. SAXBE (when his name was called). Present.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Idaho (Mr. CHURCH), the Senator from California (Mr. CRANSTON), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Iowa (Mr. HUGHES), the Senator from New Mexico (Mr. MONTOYA), the Senator from Rhode Island (Mr. PASTORE), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that the Senator from Louisiana (Mr. LONG), and the Senator from Georgia (Mr. TALMADGE) are absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PASTORE), the Senator from Georgia (Mr. TALMADGE), and the Senator from California (Mr. CRANSTON) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT) and the Senator from New Mexico (Mr. DOMENICI) are necessarily absent.

The Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The yeas and nays resulted—yeas 75, nays 10, as follows:

[No. 591 Ex.]

YEAS—75

Abourezk
Aiken
Allen
Baker
Bartlett
Bayh
Beall
Bellmon
Bible
Biden
Brock
Brooke
Buckley
Byrd, Harry F., Jr.
Cannon
Case
Chiles
Clark
Cook
Curtis
Dole
Dominick
Eagleton
Eastland
Fannin
Fong
Fulbright
Goldwater
Griffin
Gurney
Hansen
Hart
Hartke
Hatfield
Helms
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
Metcalf
Mondale
Moss
Nelson
Nunn
Packwood
Pearson
Pell
Percy
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stevens
Symington
Taft
Thurmond
Tower
Weicker
Williams
Young

NAYS—10

Burdick
Byrd, Robert C.
Ervin
Haskell
Hathaway
McIntyre
Muskie
Proxmire
Stevenson
Tunney

ANSWERED "PRESENT"—1

Saxbe

NOT VOTING—14

Bennett
Bentsen
Church
Cotton
Cranston
Domenici
Gravel
Hollings
Hughes
Long
Montoya
Pastore
Stennis
Talmadge

The VICE PRESIDENT. On this vote the yeas are 75, the nays 10, 1 "present." The nomination of WILLIAM B. SAXBE to be Attorney General is confirmed. [Applause.]

Mr. TAFT. Mr. President, I request that the President of the United States be notified of the confirmation.

The VICE PRESIDENT. The President will be notified.

Mr. SAXBE. Mr. President, I ask unanimous consent that I may address the Senate for 1 minute.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. SAXBE. Mr. President and Members of the Senate, I am deeply grateful for the confidence that has been expressed in me by both the Committee on the Judiciary and the membership of the Senate. I do not take this confidence lightly. It is my intention to live up to the expectations that you have placed upon me.

I know that those who had reservation about the constitutionality of the salary reduction were genuine in their reservation. They have spoken to me about it, and I recognize this attitude.

Regardless of the outcome, however, and I am confident it will be satisfactory, I want to take this opportunity to express to Members of the Senate my sincere thanks and appreciation, and to pledge to them that my efforts in this office will be for the best of this great country.

I particularly want to thank Senator EASTLAND, the great Senator who handled the matter on the floor, Senator ROBERT C. BYRD, Senator HUGH SCOTT, other members the the Committee on the Judiciary who worked on this matter, and certainly my colleague from Ohio (Mr. TAFT).

I am not going to be far away, and I

hope that I will have the opportunity of meeting many times with my friends in the Senate.

I also wish to mention Senator HRUSKA, the ranking Republican member of the Committee on the Judiciary, who worked very closely with Senator EASTLAND in expediting this appointment.

Thank you.

LEGISLATIVE SESSION

Mr. TAFT. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER (Mr. MONDALE). Without objection, it is so ordered.

ORDER FOR ADJOURMENT TO 11 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 11 a.m. tomorrow.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. MANSFIELD. That would bring the vote on cloture on Rhodesian chrome to around 12:15 p.m.

PROHIBITION ON THE IMPORTATION OF RHODESIAN CHROME

The Senate continued with the consideration of the bill (S. 1868) to amend the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome and to restore the United States to its position as a law-abiding member of the international community.

The PRESIDING OFFICER. The Chair lays before the Senate the unfinished business, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1868) to amend the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome and to restore the United States to its position as a law abiding member of the international community.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DIVISION OF DEBATE ON MOTION TO INVOKE CLOTURE TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time for debate on the motion to invoke cloture under the rule on tomorrow be equally divided between and controlled by the distinguished senior Senator from Virginia (Mr. HARRY F. BYRD, JR.) and the distinguished senior Senator from Wyoming (Mr. MCGEE).

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

QUALIFICATION OF AMENDMENTS

Mr. ROBERT C. BYRD. Mr. President, has any order been entered with respect to the qualification of amendments?

The PRESIDING OFFICER. Not up to this time.

Mr. ROBERT C. BYRD. Mr. President, it has been the normal procedure of late and I assume this would be agreeable to the distinguished Senator from Wyoming I ask unanimous consent that any amendments that are at the desk at the time the vote begins on the motion to invoke cloture be considered as having been read by the clerk so as to be in order under the rule.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

ORDER TO PROCEED TO CONSIDERATION OF H.R. 8449, FLOOD DISASTER PROTECTION ACT OF 1973

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the vote to invoke cloture tomorrow, if the motion is not agreed to the Senate then proceed to the consideration of H.R. 8449, an act to expand the national flood insurance program; that the unfinished business at that time be laid aside and remain in a temporarily laid aside status until the disposition of H.R. 8449 or until the close of business tomorrow, whichever is the earlier.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, reserving the right to object—and I shall not object—it is my understanding that the time on the bill is 1 hour, the time on all amendments is 30 minutes, the time on the amendment of the Senator from Louisiana, however, is 1 hour, and that the time on the bill is to be controlled equally between the majority leader and minority leaders or their designees and by the mover of the amendment and the manager of the bill, or if he be receptive to acceptance of the amendment, it will be under the control of the minority manager of the bill.

Mr. ROBERT C. BYRD. Mr. President, the agreement is in the usual form, and I think the distinguished Senator from Texas (Mr. TOWER) has correctly stated the agreement. It is printed on page 2 of the calendar and, as I say, I think he has substantially reiterated it correctly.

Mr. TOWER. I might say to my distinguished friend from West Virginia that I hope we can perhaps at some point in time secure some reductions of time on the amendments, so we can deal with them with greater dispatch, because the time is more than adequate, and we will try to get some accommodation on that.

Mr. ROBERT C. BYRD. Very well.

Mr. President, I ask unanimous consent that the unanimous-consent agreement as it appears on page 2 of the calendar be inserted in the RECORD at this point.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Ordered, That, during the consideration of H.R. 8449 (Order No. 559), the so-called "Flood Disaster Protection Act of 1973," debate on any amendment (except an amendment to be offered by the Senator from Louisiana (Mr. JOHNSTON) on which there shall be 1 hour, and an amendment to be offered by the Senator from Ohio (Mr. TAFT), on which there shall be 1 hour, shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill, and that debate on any amendment to an amendment, debatable motion or appeal shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further*, That, no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That, on the question of the final passage of the said bill, debate shall be limited to 1 hour, to be equally divided and controlled, respectively, by the majority and minority leaders or their designees: *Provided*, That the said leaders, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion or appeal. (Dec. 10, 1973.)

ORDER TO PROCEED TO CONSIDERATION OF S. 2776, EFFICIENT MANAGEMENT OF NATION'S ENERGY POLICIES AND PROGRAMS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, pursuant to direction by the majority leader to me, that upon the dispositon of the flood insurance bill, the Senate proceed to the consideration of the bill S. 2776, to provide for the effective and efficient management of the Nation's energy policies and programs.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, on tomorrow the Senate will convene at 11 o'clock a.m.

After the two leaders have been recognized under the standing order, the Senate will proceed to the debate on the motion to invoke cloture on the unfinished business, S. 1868, a bill to amend the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome and to restore the United States to its position as a law-abiding member of the international community.

At the conclusion of the 1 hour there will be an automatic quorum call, and upon the establishment of a quorum the Senate will proceed to vote, by yea-and-nay vote, on the motion to invoke cloture.

If the motion is agreed to, the bill (S. 1868) will be before the Senate until action thereon is completed, and the Senate will proceed to the consideration of that bill to the exclusion of all other business until action on the bill is completed.

If the motion is not agreed to, the Senate will then proceed to the consideration of the flood insurance bill under a time limitation. There will be yea-and-nay votes on amendments thereto and on final passage of that bill, H.R. 8449.

Upon disposition of H.R. 8449, the Senate will proceed to the consideration of S. 2776, a bill to provide for the effective and efficient management of the Nation's energy policies and programs.

ORDER TO PROCEED TO THE CONSIDERATION OF S. 2776

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, in that event, that the unfinished business be laid aside temporarily and remain in a temporarily laid-aside status until the Senate completes action on S. 2776 or until the close of business tomorrow, whichever is the earlier.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT TO 11 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 11 o'clock tomorrow morning.

The motion was agreed to; and at 6:36 p.m. the Senate adjourned until tomorrow, Tuesday, December 18, 1973, at 11 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate December 17, 1973:

DEPARTMENT OF JUSTICE

William B. Saxbe, of Ohio, to be Attorney General.

HOUSE OF REPRESENTATIVES—*Monday, December 17, 1973*

The House met at 12 o'clock noon.

The Reverend C. Wade Freeman, Jr., Capitol Hill Metropolitan Baptist Church, Washington, D.C., offered the following prayer:

So teach us to number our days, that we may apply our hearts unto wisdom.—Psalms 90: 12.

We thank you Father today. Forgive us for being presumptuous in our manner of life, living as if we were to be here forever.

Teach us to remember the importance of our days that we might accomplish Your will in our individual lives. Grant that today Thy holy divine wisdom shall be both sought after by and granted to these Members of Congress of this Christian Nation.

As day-by-day decisions are made, grant that we may live the life revealed to us by Thy Son Jesus.

In whose name we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 655. An act to provide for the naming of the lake to be created by the Buchanan Dam, Chowchilla River, Calif.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 6186. An act to amend the District of Columbia Revenue Act of 1947 regarding taxability of dividends received by a corporation from insurance companies, banks, and other savings institutions; and

H.R. 11372. An act to conserve energy on the Nation's highways.

The message also announced that the Senate agrees to the amendment of the House to a bill of the Senate of the following titles:

S. 1776. An act to amend the Federal Water Pollution Control Act, as amended.

The message also announced that the Senate had passed bills and a joint resolution of the following titles, in which the concurrence of the House is requested:

S. 1561. An act to provide that Mansfield Lake, Ind., shall be known as "Cecil M. Harden Lake";

S. 2150. An act to amend Public Law 92-181 (85 Stat. 583) relating to credit eligibility for public utility cooperatives serving producers of food, fiber, and other agricultural products;

S. 2264. An act to provide civil service retirement credit for certain language instructors of the Foreign Service Institute, Department of State;

S. 2509. An act to name structure S-5A of the Central and Southern Florida Flood Control District, located in Palm Beach County, Fla., as the "W. Turner Wallis Pumping Station" in memory of the late W. Turner Wallis, the first secretary-treasurer and chief engineer for the Central and Southern Florida Flood Control District;

S. 2535. An act to designate the Chartiers Creek flood protection project in Allegeny County, Pa., as the "James G. Fulton flood protection project";

S. 2795. An act to authorize the Secretary of the Treasury to change the alloy and weight of the 1 cent piece;

S. 2812. An act to authorize a formula for the allocation of funds authorized for fiscal year 1975 for sewage treatment construction grants, and for other purposes.

S.J. Res. 159. Joint resolution to provide for the designation of the last Sunday in May of each year as "Walk a Mile for Your Health Day".

RESIGNATION AS A MEMBER OF THE HOUSE-SENATE CONFERENCE COMMITTEE ON H.R. 9142, REGIONAL RAIL REORGANIZATION ACT

The SPEAKER laid before the House the following resignation as a member of the House-Senate conference committee on H.R. 9142, Regional Rail Reorganization Act of 1973:

HOUSE OF REPRESENTATIVES,
Washington, D.C., December 14, 1973.

Hon. CARL ALBERT,
The Speaker of the House,
Washington, D.C.

DEAR MR. SPEAKER: Because of personal reasons, it is with the deepest regret that I find it necessary to resign from the House-Senate Conference Committee which will be considering the differences between the Senate and House passed versions of H.R. 9142, the Regional Rail Reorganization Act of 1973.

Thank you for your understanding.

Sincerely,

JAMES HARVEY,
Member of Congress.

The SPEAKER. Without objection, the resignation is accepted.

There was no objection.

The SPEAKER. The Chair appoints the gentleman from Florida (Mr. FREY) as a conferee on the bill H.R. 9142, the Regional Rail Reorganization Act of 1973, to fill the existing vacancy thereon.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 11576

Mr. MAHON. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 11576) making supplemental appropriations for the fiscal year ending June 30, 1974, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

CONFERENCE REPORT (H. REPT. No. 93-736)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11576) "making supplemental appropriations for the fiscal year ending June 30, 1974, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 1, 2, 4, 25, 39, 44, 69, 78, 85, 88, 93, 96, 99, and 101.

That the House recede from its disagreement to the amendments of the Senate numbered 6, 8, 10, 11, 12, 16, 20, 23, 27, 28, 30, 32, 33, 46, 49, 59, 61, 62, 63, 65, 66, 72, 73, 76, 77, 79, 81, 82, 98, 105, 106, and 107, and agree to the same.

Amendment numbered 3: That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$1,300,000"; and the Senate agree to the same.

Amendment numbered 5: That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert:

"CHAPTER II

"DEPARTMENT OF DEFENSE—MILITARY

"Operation and Maintenance, Navy

"For the exploration at Naval Petroleum Reserve No. 4, $7,500,000 as authorized by 10 U.S.C. 7422."

And the Senate agree to the same.

Amendment numbered 9: That the House recede from its disagreement to the amendment to the Senate numbered 9, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$8,450,000"; and the Senate agree to the same.

Amendment numbered 13: That the House recede from its disagreement to the amendment of the Senate numbered 13, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$125,000"; and the Senate agree to the same.

Amendment numbered 17: That the House recede from its disagreement to the amendment of the Senate numbered 17, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$5,670,000"; and the Senate agree to the same.

Amendment numbered 19: That the House recede from its disagreement to the amendment of the Senate numbered 19, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$29,100,000"; and the Senate agree to the same.

Amendment numbered 26: That the House recede from its disagreement to the amendment of the Senate numbered 26, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$8,960,000"; and the Senate agree to the same.

Amendment numbered 34: That the House recede from its disagreement to the amendment of the Senate numbered 34, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$10,000,000"; and the Senate agree to the same.

Amendment numbered 37: That the House recede from its disagreement to the amendment of the Senate numbered 37, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert: "HEALTH SERVICES DELIVERY. For an additional amount for 'Health services delivery', for carrying out section 4(c) of Public Law 93–53, $7,000,000."; and the Senate agree to the same.

Amendment numbered 40: That the House recede from its disagreement to the amendment of the Senate numbered 40, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$725,668,000"; and the Senate agree to the same.

Amendment numbered 41: That the House recede from its disagreement to the amendment of the Senate numbered 41, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$630,000,000"; and the Senate agree to the same.

Amendment numbered 42: That the House recede from its disagreement to the amendment of the Senate numbered 42, and agree to the same with an amendment, as follows: In lieu of the matter stricken by said amendment insert: "and section 110(b),"; and the Senate agree to the same.

Amendment numbered 45: That the House recede from its disagreement to the amendment of the Senate numbered 45, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$47,857,000"; and the Senate agree to the same.

Amendment numbered 60: That the House recede from its disagreement to the amendment of the Senate numbered 60, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$11,300,000"; and the Senate agree to the same.

Amendment numbered 67: That the House recede from its disagreement to the amendment of the Senate numbered 67, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$15,000,000"; and the Senate agree to the same.

Amendment numbered 68: That the House recede from its disagreement to the amendment of the Senate numbered 68, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$15,000,000"; and the Senate agree to the same.

Amendment numbered 83: That the House recede from its disagreement to the amendment of the Senate numbered 83, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$2,250,000"; and the Senate agree to the same.

Amendment numbered 84: That the House recede from its disagreement to the amendment of the Senate numbered 84, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$5,000,000"; and the Senate agree to the same.

Amendment numbered 87: That the House recede from its disagreement to the amendment of the Senate numbered 87, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$26,000,000"; and the Senate agree to the same.

Amendment numbered 89: That the House recede from its disagreement to the amendment of the Senate numbered 89, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$105,000,000"; and the Senate agree to the same.

Amendment numbered 92: That the House recede from its disagreement to the amendment of the Senate numbered 92, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$17,000,000"; and the Senate agree to the same.

Amendment numbered 97: That the House recede from its disagreement to the amendment of the Senate numbered 97, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$90,400,000" and the Senate agree to the same.

Amendment numbered 102: That the House recede from its disagreement to the amendment of the Senate numbered 102, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$3,500,000"; and the Senate agree to the same.

Amendment numbered 103: That the House recede from its disagreement to the amendment of the Senate numbered 103, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$1,100,000"; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 7, 14, 15, 18, 21, 22, 24, 29, 31, 35, 36, 38, 43, 47, 48, 50, 51, 52, 53, 54, 55, 56, 57, 58, 64, 70, 71, 74, 75, 80, 86, 90, 91, 94, 95, 100, 104, 108, 109, and 110.

George Mahon,
Jamie L. Whitten,
John J. Rooney,
Joe L. Evins,
Edward P. Boland,
Daniel J. Flood,
Tom Steed,
John M. Slack,
Julia Butler Hansen,
John J. McFall,
E. A. Cederberg,
Robert H. Michel
(except to No. 5),
Silvio O. Conte
(except to No. 5),
Glenn R. Davis,
Howard W. Robison
(except to No. 5),
Joseph M. McDade
(except as to amendment No. 5).

Managers on the Part of the House.

John L. McClellan,
Warren G. Magnuson,
John O. Pastore,
Alan Bible,
Robert C. Byrd,
Gale W. McGee,
William Proxmire,
Joseph M. Montoya
(except for amendments 84, 85, 93, 94),
Daniel K. Inouye,
Thomas F. Eagleton,
Milton R. Young,
Roman L. Hruska,
Norris Cotton,
Clifford P. Case,
Hiram L. Fong,
Mark O. Hatfield,
Ted Stevens,
Charles McC. Mathias, Jr.,
Richard S. Schweiker,
Henry Bellmon,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11576) making supplemental appropriations for the fiscal year ending June 30, 1974, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

Amendment No. 1: The following provision in the opening paragraph of the Senate bill, "and shall be made available for expenditure except as specifically provided by law" was not agreed to by the conferees because it was deemed to be an unnecessary restatement of existing provisions of law. It was therefore deleted without prejudice.

CHAPTER I

Department of Agriculture

Agricultural Research Service

Amendment No. 2: Deletes appropriation in the amount of $500,000 proposed by the Senate to carry out a comprehensive study and investigation to determine the reason for the extensive loss of livestock through injury and disease while such livestock is being transported in interstate commerce for commercial purposes.

The conferees are in agreement that this is an essential study that needs to be initiated immediately and direct the Department to proceed without delay. In the opinion of the conferees, the cost of this study for the remainder of the 1974 fiscal year can be absorbed within available funds.

Foreign Agricultural Service

Amendment No. 3: Appropriates $1,300,000 for "Foreign Agricultural Service" instead of $1,000,000 as proposed by the House and $1,628,000 as proposed by the Senate.

Forestry Incentives Program

Pending hearings on the next regular appropriation, the incentives for tree planting for the remainder of the current fiscal year shall be financed under the cooperative tree-planting program of R.E.A.P., where up to 80 per cent of the cost has been paid by the United States and more than 5.5 billion seedlings have been set out.

Environmental Protection Agency

Research and Development

Amendment No. 4: Restores House language deleted by the Senate. The House language prohibits the Environmental Protection Agency from using funds to administer any program to tax, limit, or otherwise regulate parking facilities.

CHAPTER II

Department of Defense—Military

Operation and Maintenance, Navy

Amendment No. 5: The conferees agreed to provide $7,500,000 for further exploration of petroleum products at Naval Petroleum Reserve No. 4, in Alaska, in lieu of the $72,000,000 provided by the Senate for the exploration, development, and production at Naval Petroleum Reserves Number 1 and 4.

CHAPTER III

Amendment No. 6: Changes chapter number.

Veterans Administration

Amendment No. 7: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate to insert language requiring independent audit and approval through the appropriations process of Veterans Administration contract settlements, with an amendment to exclude settlements of $1,000,000 or less. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Although this provision confirms current understandings of reprogramming authority, the conferees recognize that it could place a hardship on contractors who have recently negotiated a settlement with the Veterans Administration, but have not been paid by the agency. The conferees agree that a secured advance payment in an amount not to exceed $6,000,000 can be made in such situations prior to the effective date of this bill, provided that such payment is formally approved by the Office of Management and Budget, with the understanding that an independent audit will ultimately be performed and that final payment will be subject to Congressional approval.

It is the sense of the conferees that all claims against the Veterans Administration should be processed through the agency board of contract appeals unless there is adequate legal analysis, audit information, and claim documentation to show that settlement outside the board of contract appeals is in the best interests of the Government. This procedure should be taken into consideration when appropriations are requested to fund such claims. It is further the sense of the conferees that when funds are requested to settle such claims, the sum should include funds to pay interest on the claim settlement.

CHAPTER IV

Amendment No. 8: Changes chapter number.

Department of the Interior

Bureau of Land Management

Amendment No. 9: Appropriates $8,450,000 for management of lands and resources instead of $8,150,000 as proposed by the House and $8,500,000 as proposed by the Senate. The increase above the amount proposed by the House includes $300,000 for coal leasing activities.

Amendment No. 10: Appropriates $500,000 for construction and maintenance as proposed by the Senate. The managers on the part of the House and Senate are in agreement that the House limitation of $29,000 on the unit cost of employee housing shall not apply to the temporary housing to be constructed by funds appropriated under this paragraph.

Bureau of Indian Affairs

Amendment No. 11: Inserts heading as proposed by the Senate.

Amendment No. 12: Appropriates $2,240,000 for education and welfare services as proposed by the Senate.

Amendment No. 13: Appropriates $125,000 for resources management instead of $197,000 as proposed by the Senate.

Amendment No. 14: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $1,020,000 for construction and which provides that $2,700,000 of the amount appropriated under this heading in the Department of the Interior and Related Agencies Appropriation Act, 1974, shall be available for assistance to the Ramah Navajo School Board, Incorporated, New Mexico, for the construction of school facilities.

Amendment No. 15: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides an additional $1,000,000 advance to be disbursed, at the discretion of the Secretary of the Interior, among the Regional Corporations established under the Alaska Native Claims Settlement Act.

Territorial Affairs

Amendment No. 16: Appropriates $10,110,000 for Trust Territory of the Pacific Islands as proposed by the Senate instead of $8,410,000 as proposed by the House.

Bureau of Mines

Amendment No. 17: Appropriates $5,670,000 for mines and minerals instead of $4,170,000 as proposed by the House and $6,170,000 as proposed by the Senate. The increase above the amount proposed by the House includes $1,500,000 for construction of the Mine Health and Safety Academy, Beckley, West Virginia.

The managers on the part of the House and Senate are in agreement that, of the funds appropriated to the Bureau of Mines for petroleum research, $1,300,000 shall be for contract research on non-nuclear explosive fracturing to stimulate the production of oil and gas wells.

Amendment No. 18: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which provides that $1,500,000 of the amount appropriated for mines and minerals shall remain available until expended instead of $2,000,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Office of Coal Research

Amendment No. 19: Appropriates $29,100,000 for salaries and expenses instead of $26,100,000 as proposed by the House and $30,200,000 as proposed by the Senate. The increase above the amount proposed by the House includes $1,000,000 for system studies, and $2,000,000 for research on magnetohydrodynamics.

Amendment No. 20: Provides language as proposed by the Senate which provides that the appropriation for salaries and expenses remain available until expended.

Office of Oil and Gas

Amendment No. 21: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment providing $33,545,000 for salaries and expenses instead of $21,145,000 as proposed by the House and $75,576,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The increase above the amount proposed by the House includes additions of $2,600,000 for assistance to States under the authority of the Economic Stabilization Act; $10,000,000, contingent upon enactment of S. 2589 or similar legislation, to be available as follows: $5,000,000 for a State grant program and $5,000,000 for implementation of other emergency energy programs authorized by such legislation; and a reduction of $200,000 for the Mandatory Petroleum Allocation program.

Amendment No. 22: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which provides that $10,000,000 of the funds made available for salaries and expenses shall be set aside as a contingency reserve and shall be available for obligation only upon the enactment into law of S. 2589, Ninety-third Congress, or similar legislation, instead of $52,000,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Bureau of Sport Fisheries and Wildlife

Amendment No. 23: Appropriates $450,000 for resource management as proposed by the Senate instead of $500,000 as proposed by the House.

National Park Service

Amendment No. 24: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides $12,000 for planning and construction.

Office of Saline Water

Amendment No. 25: Deletes language as proposed by the Senate. The managers agree that closure by the Office of Saline Water of the Roswell, New Mexico, Test Facility is contrary to the intent of Congressional appropriations to keep this facility operating and direct that no funds be used to close or deactivate this facility.

Office of the Secretary

Amendment No. 26: Appropriates $8,960,000 for salaries and expenses instead of $8,595,000 as proposed by the House and $9,445,000 as proposed by the Senate. The decrease below the amount proposed by the Senate includes a reduction of $485,000 for energy conservation research related to mobile homes.

Amendment No. 27: Appropriates $543,000 for departmental operations as proposed by the Senate instead of $400,000 as proposed by the House.

Office of the Solicitor

Amendment No. 28: Appropriates $999,000 for salaries and expenses as proposed by the Senate.

Related Agencies

Department of Agriculture

Forest Service

Forest Protection and Utilization

Amendment No. 29: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment providing $9,890,000 for forest land management instead of $8,590,000 as proposed by the House and $8,550,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The increase above the amount proposed by the House includes $1,300,000 for timber salvage and rehabilitation work in the Northwest where the tussock moth has caused widespread damage.

Amendment No. 30: Appropriates $240,000 for forest research as proposed by the Senate.

Amendment No. 31: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides language which prohibits abolishing any region, moving or closing any regional office for research, State and private forestry, and national forest system administration of the Forest Service, Department of Agriculture, without the consent of the Committees on Appropriations and Committees on Agriculture and Forestry in the U.S. Senate and U.S. House of Representatives.

American Revolution Bicentennial Administration

Amendment No. 32: Appropriates $7,100,000 for salaries and expenses as proposed by the Senate.

CHAPTER V

Department of Labor

Amendment No. 33: Changes chapter number.

Manpower Administration

Amendment No. 34: Appropriates $10,000,000 for "Community service employment for older Americans", instead of $40,000,000 proposed by the Senate.

Department of Health, Education, and Welfare

Health Services and Mental Health Administration

Amendment No. 35: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment, which appropriates $36,500,000 of which $9,500,000 shall remain available until expended for "Health services planning and development", instead of $9,500,000 to remain available until expended as proposed by the House.

It has come to the conferees' attention that the Department of Health, Education and Welfare is planning to further decentralize and regionalize vital drug, alcohol and mental health programs administered by the recently organized Alcohol, Drug Abuse and Mental Health Administration. Because of the possibility that further decentralization of program decisions to the ten regional offices involves implementation of a plan for de facto revenue sharing of questionable legality which could retard development of consistent policies and frustrate current efforts to develop a more coherent administration of drug, alcohol, mental health and other health programs, the conferees expect the Secretary to defer any final decision on this matter until the appropriate Committees of Congress have had an opportunity to carefully review the decentralization and regionalization proposals.

Amendment No. 36: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment which will provide that $10,000,000 of the $27,000,000 earmarked for carrying out the provisions of Public Law 93-154 shall be derived by transfer from funds previously appropriated for emergency medical services activities, instead of a transfer of $7,000,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers are agreed that, of the funds previously appropriated to the National Heart and Lung Institute for the purpose of conducting emergency medical services, $3 million is transferred to the "Health Services Planning and Development" appropriation to carry out the program authorized by the Emergency Medical Services Systems Act and $7 million may be redirected to continue other Heart and Lung Institute research grant programs.

Amendment No. 37: Appropriates $7,000,000 for "Health services delivery", instead of $30,105,000 proposed by the Senate, and adjusts legal citation.

National Institutes of Health

Amendment No. 38: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which appropriates an additional amount of $5,000,000 for "Health manpower", to be available only upon enactment into law of authorizing legislation.

Office of Education

Amendment No. 39: Deletes appropriation of $12,447,000 for "Emergency school assistance", proposed by the Senate.

Social and Rehabilitation Service

Amendments Nos. 40, 41 and 42: Appropriate $725,668,000 for "Social and rehabilitation services" instead of $707,538,000, as proposed by the House, and $752,668,000, as proposed by the Senate, and provide that $630,000,000 shall be for grants under sections 110 (a) and (b) of the Rehabilitation Act of 1973, instead of $609,000,000 for grants under section 110(a) and $6,870,000 for grants under section 110(b), as proposed by the House, and $650,000,000 for grants under section 110(a), as proposed by the Senate.

Amendment No. 43: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment which will provide that $4,000,000 to remain available until expended shall be for facilities construction as authorized by section 301 of the Rehabilitation Act of 1973, instead of $6,000,000, proposed by the Senate. The managers are agreed that $1,000,000 is to be used for the construction of a new rehabilitation center in Arkansas, and $3,000,000 is for upgrading and improving facilities at the West Virginia Rehabilitation Center.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 44: Deletes appropriation of $7,500,000 for "Multidisciplinary centers of gerontology", proposed by the Senate.

Related Agencies

ACTION

Amendment No. 45: Appropriates $47,857,000 for "Operating expenses, domestic programs", instead of $46,319,000 as proposed by the House and $49,395,000 as proposed by the Senate.

Administrative Provisions

Amendment No. 46: Inserts heading, as proposed by the Senate.

Amendment No. 47: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment which will insert a new section, appropriating funds necessary for full obligation of fiscal year 1973 appropriations found by courts to have been illegally impounded, as proposed by the Senate, with a technical change in the number of the section.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 48: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment which will insert a new section providing continuing appropriations for activities of the Cabinet Committee on Opportunities for Spanish-speaking People and manpower training programs of the Department of Labor, as proposed by the Senate, with technical changes in the language of the Senate amendment to assure continuation of various other ongoing activities of the Manpower Administration, and to change the section number.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

CHAPTER VI

Legislative Branch

Amendment No. 49: Changes chapter number.

Amendment Nos. 50 through 56: Reported in technical disagreement. Inasmuch as these amendments relate solely to the Senate and in accord with long practice, under which each body determines its own housekeeping requirements, and the other concurs without intervention, the managers on the part of the House will offer motions to recede and concur in the Senate amendments Nos. 50 through 56.

Amendment No. 57: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate to appropriate $117,000 for "Senate Office Buildings".

Amendment No. 58: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate to appropriate $20,900,000 for "Construction of an Extension to the New Senate Office Building".

CHAPTER VII

Atomic Energy Commission

Operating Expenses

Amendment No. 59: Changes chapter number.

Amendment No. 60: Appropriates $11,300,000 instead of $5,500,000 as proposed by the House and $16,500,000 as proposed by the Senate. The managers are agreed that the funds provided above the House Bill are for energy related research for the Civilian Reactor Research and Development and Reactor Safety Research Programs.

DEPARTMENT OF DEFENSE—CIVIL

Department of the Army

Corps of Engineers—Civil

General Investigations

The managers are in agreement that the amounts for the studies provided for in the Senate Report are to be allocated within available funds.

Construction, General

The managers are agreed that the language included in the House and Senate reports relating to the Tennessee-Tombigbee Waterway is not intended and shall not operate to slow down in any way the construction of this project.

Flood Control, Mississippi River and Tributaries

Amendment No. 61: Appropriates $14,600,000 as proposed by the Senate instead of $7,600,000 as proposed by the House.

Revolving fund

The managers agree that the Corps of Engineers shall proceed with the immediate planning in connection with the modification and rehabilitation of hopper dredges. These plans are to be submitted to the Committees on Appropriation of the House and Senate for approval. Otherwise the moratorium shall continue.

CHAPTER VIII

Amendment No. 62: Changes chapter number.

Department of State

International Organizations and Conferences

Amendment No. 63: Inserts headings.

Contributions to International Organizations

Amendment No. 64: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate appropriating $17,337,000 to be available without regard to the ceiling set in the Department of State Appropriation Act, 1973 and to be available only upon the enactment of authorizing legislation.

International Conferences and Contingencies

Amendment No. 65: Appropriates $1,700,000 as proposed by the Senate.

Department of Justice

Legal Activities and General Administration

Salaries and Expenses, Community Relations Service

Amendment No. 66: Appropriates $500,000 as proposed by the Senate.

Department of Commerce

Economic Development Administration

Development Facilities

Amendment No. 67: Appropriates $15,000,000 instead of $38,900,000 as proposed by the Senate.

Industrial Development Loans and Guarantees

Amendment No. 68: Appropriates $15,000,000 instead of $28,700,000 as proposed by the Senate.

Planning, Technical Assistance, and Research

Amendment No. 69: Appropriates $6,500,000 as proposed by the House instead of $13,900,000 as proposed by the Senate.

Amendment No. 70: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

> which shall be available for extension of grants to existing Economic Development Districts and planning organizations, including administrative expenses, and to fund new districts which meet the requirements of 42 U.S.C. 3171, as amended.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 71: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate providing that no restrictions be imposed in the authorization, designation, and funding of new economic development districts which meet the requirements of 42 U.S.C. 3171, as amended.

Domestic and International Business Administration

Salaries and Expenses

Amendment No. 72: Appropriates $2,100,000 as proposed by the Senate instead of $1,953,000 as proposed by the House.

Participation in United States Expositions

Amendment No. 73: Appropriates $150,000 for Federal participation in the 1974 Arctic Winter Games as proposed by the Senate.

United States Travel Service

Salaries and Expenses

Amendment No. 74: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $2,000,000 instead of $2,344,000 as proposed by the Senate.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Related Agencies

Equal Employment Opportunity Commission

Salaries and Expenses

Amendment No. 75: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment increasing the limitation for payments to State and local agencies to $2,500,000 instead of $3,700,000 as proposed by the Senate.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Foreign Claims Settlement Commission

Salaries and Expenses

Amendment No. 76: Appropriates $105,000 as proposed by the Senate.

International Radio Broadcasting

Amendment No. 77: Inserts heading.

Board for International Broadcasting

Amendment No. 78: Appropriates $125,000 as proposed by the House instead of $150,000 as proposed by the Senate.

CHAPTER IX

Department of Transportation

National Highway Traffic Safety Administration

Amendment No. 79: Changes chapter number.

Amendment No. 80: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which will appropriate $30,335,000 for traffic and highway safety instead of $30,570,000 as proposed by the House and $31,585,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees agree that no funds are to be allocated to the crash recorder fleet test program.

Amendment No. 81: Deletes language proposed by the House making the appropriation for traffic and highway safety contingent upon the enactment of authorizing legislation by the Ninety-third Congress.

CHAPTER X

Amendment No. 82: Changes chapter number.

Department of the Treasury

Bureau of Alcohol, Tobacco, and Firearms

Amendment No. 83: Appropriates $2,250,000 for salaries and expenses instead of $2,000,000 as proposed by the House and $2,525,000 as proposed by the Senate.

United States Customs Service

Amendment No. 84: Appropriates $5,000,000 for salaries and expenses instead of $7,000,000 as proposed by the House and $2,300,000 as proposed by the Senate.

Amendment No. 85: Restores language proposed by the House which would make funds available for payment for rental space in connection with Customs preclearance operations.

Amendment No. 86: Reported in technical disagreement. The Managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which would prohibit the expenditure of funds to change the boundaries of the Pembina, North Dakota Customs District without consent of the Committees on Appropriations of the United States Senate and House of Representatives.

Internal Revenue Service

Amendment No. 87: Appropriates $26,000,000 for accounts, collection and taxpayer service instead of $26,800,000 as proposed by the House and $25,000,000 as proposed by the Senate.

Presidential Election Campaign Fund

Amendment No. 88: Deletes language proposed by the Senate which would appropriate to the Presidential Election Campaign Fund amounts designated to such fund by individuals under section 6096 of the Internal Revenue Code of 1954.

United States Postal Service

Amendment No. 89: Appropriates $105,000,000 for payment to the Postal Service Fund instead of $110,000,000 as proposed by the House and $100,000,000 as proposed by the Senate.

Executive Office of the President

Council on International Economic Policy

Amendment No. 90: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which adds one word for clarity.

Amendment No. 91: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which would provide that the Council be exempt from the provisions of law regulating the employment and compensation of persons in the government service, and would provide $1,000 for official entertainment expenses.

Economic Stabilization Activities

Amendment No. 92: Appropriates $17,000,000 for salaries and expenses instead of $20,700,000 as proposed by the House and $10,000,000 as proposed by the Senate.

The White House Office

Amendment No. 93: Appropriates $1,500,000 for salaries and expenses as proposed by the House instead of $1,250,000 as proposed by the Senate.

Amendment No. 94: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows. In lieu of the language proposed by the Senate, insert the following:

> *Provided*, That of the amount heretofore and herein appropriated for "Salaries and expenses" for the current fiscal year, the limitation for personal services as authorized by title 5, United States Code, section 3109, at such per diem rates for individuals, as the President may specify, and other personal services without regard to the provisions of law regulating the employment and compensation of persons in the Government service is $3,850,000 and the limitation on travel is $100,000.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Federal Energy Office

Amendment No. 95: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which would appropriate $9,360,000 for salaries and expenses for the newly established Federal Energy Office.

Independent Agencies

Civil Service Commission

Amendment No. 96: Appropriates $760,000 for salaries and expenses as proposed by the House instead of $500,000 as proposed by the Senate.

General Services Administration

Public Buildings Service

Amendment No. 97: Appropriates $90,400,000 for operating expenses instead of $82,400,000 as proposed by the House and $91,000,000 as proposed by the Senate.

Amendment No. 98: Appropriates $21,683,000 for repair and improvement of public buildings as proposed by the Senate instead of $19,000,000 as proposed by the House.

Amendment No. 99: Deletes language proposed by the Senate, which would make funds available until expended in connection with repair and improvement of public buildings.

Amendment No. 100: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which would reappropriate $1,290,000 for additional funding for the Federal Office Building project at Elkins, West Virginia.

National Archives and Records Service

Amendment No. 101: Deletes language proposed by the Senate which would make certain funds available until expended.

Property Management and Disposal Service

Amendment No. 102: Appropriates $3,500,000 for operating expenses instead of $3,000,000 as proposed by the House and $4,000,000 as proposed by the Senate.

Administrative Operations Fund

Amendment No. 103: Provides for an increase in the limitation on the Administrative Operations Fund of $1,100,000 instead of $1,000,000 as proposed by the House and $1,200,000 as proposed by the Senate.

General Provisions—General Services Administration

Amendment No. 104: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows. In lieu of the matter proposed by the Senate, insert the following:

"Sec. 1001. No appropriated funds shall be available for the purpose of defraying any expenses (including expenses for the payment of the salary of any person) incurred in connection with the transfer of title of all (or any portion) of the Sand Point Naval Facility, Seattle, Washington, to any person or entity for aviation use unless and until (A) the Administrator of General Services has transferred to the National Oceanic and Atmospheric Administration title to that portion of such facility as has been requested by the National Oceanic and Atmospheric Administration; and (B) the City of Seattle, Washington, and the County of King in the State of Washington have each approved a plan for aviation use of a portion of such facility."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

CHAPTER XI

Claims and Judgments

Amendment No. 105: Changes chapter number.

Amendment Nos. 106 and 107: Add the citation to include claims and judgments contained in Senate Document Numbered 93-49 as proposed by the Senate; and appropriate $57,352,301 for claims and judgments as proposed by the Senate instead of $47,011,168 as proposed by the House.

CHAPTER XII

General Provisions

Amendment No. 108: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment to change the chapter number from XI to XII as proposed by the Senate, and correct the section numbers in said chapter to read Sec. 1201 instead of 1101, and Sec. 1202 instead of 1102. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 109: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides language limiting the log export prohibition to the contiguous 48 States. The managers are in agreement that a recently reported practice among some producers of giving a log two or more cuts, reassembling it and exporting it does not meet the domestic primary manufacturing requirements and is contrary to the letter and spirit of the Congressional restrictions on log exports. The Secretaries of Interior and Agriculture are directed to take appropriate steps to halt this practice.

Amendment No. 110: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides language that the limitation on log exports shall not apply to specific quantities of grades and species of timber which the Secretaries of Interior and Agriculture determine are surplus to domestic lumber and plywood manufacturing needs.

Conference total—with comparison

The total new budget (obligational) authority for the fiscal year 1974 recommended by the committee of conference, with comparisons to the budget estimate total, and the House and Senate bills follows:

Budget estimates	[1] [2] $1,534,183,886
House bill	1,433,035,718
Senate bill	[2] 1,888,425,386
Conference agreement	[2] 1,638,625,386

[1] Includes $105,393,668 not considered by the House.

[2] Includes $875,000 fnr fiscal year 1973.

Conference agreement compared with:	
Budget estimates	+$104,441,500
House bill	+205,589,668
Senate bill	—249,800,000

George Mahon,
Jamie L. Whitten,
John J. Rooney,
Joe L. Evins,
Edward P. Boland,
Daniel J. Flood,
Tom Steed,
John M. Slack,
Julia Butler Hansen,
John J. McFall,
E. A. Cederberg,
Robert H. Michel
(except to No. 5),
Silvio O. Conte
(except to No. 5),
Glenn R. Davis,
Howard W. Robison
(except to No. 5),
Joseph M. McDade
(except as to amendment No. 5),
Managers on the Part of the House.

John L. McClellan,
Warren G. Magnuson,
John O. Pastore,
Alan Bible,
Robert C. Byrd,
Gale W. McGee,
William Proxmire,
Joseph M. Montoya
(except for amendments 84, 85, 93, 94),
Daniel K. Inouye,
Thomas F. Eagleton,
Milton R. Young,
Roman L. Hruska,
Norris Cotton,
Clifford P. Case,
Hiram L. Fong,
Mark O. Hatfield,
Ted Stevens,
Charles McC. Mathias, Jr.,
Richard S. Schweiker,
Henry Bellmon,
Managers on the Part of the Senate.

CONSENT CALENDAR

The SPEAKER. This is Consent Calendar day. The Clerk will call the first bill on the Consent Calendar.

NAMING OF THE NUCLEAR-POWERED AIRCRAFT CARRIER CVN-70 AS THE U.S.S. "CARL VINSON"

The Clerk called the concurrent resolution (H. Con. Res. 386) to provide for the naming of the nuclear-powered aircraft carrier CVN-70 as the U.S.S. *Carl Vinson.*

The SPEAKER. Is there objection to the present consideration of the concurrent resolution?

Mr. GROSS. Mr. Speaker, reserving the right to object, first of all, I should like to point out that many of these bills were not available, not only on this calendar, but listed elsewhere, were not available until 1 o'clock Saturday afternoon.

Some of them were received as late as this morning. A number of the bills are listed on both the Consent and Suspension Calendars. It seems to me that in the future, they ought to be listed one way or the other and not on both calendars.

Mr. Speaker, I am not going to object to consideration, particularly the stockpiling bills on the Consent Calendar in view of the situation that exists with respect to time and the business to come before the House before any possible adjournment.

With respect to the bill under consideration, the naming of the nuclear-powered aircraft carrier as the *Carl Vinson,* it seems to me that it would have been well to continue the Navy tradition that our warships not be named for persons living.

I regret that this custom has been abandoned, but I expect and I think the Members of Congress can expect almost anything in these days of Admiral Zumwalt and his Z-grams.

Mr. O'NEILL. Mr. Speaker, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Massachusetts.

Mr. O'NEILL. Mr. Speaker, if I may explain it to the gentleman, the procedure was a little unusual this morning, but it was at the request of the chairman of the Committee on Armed Services that we list all items from 10 through 20 on the suspension list, in case they were objected to be on the Consent Calendar. In the event there was an objection, he did want to have an opportunity to bring them up for a vote.

May I also say that item 5 on the Suspension Calendar has not been reported, so it will not be considered today.

Mr. GROSS. Mr. Speaker, I thank the gentleman. I hope that in the future we will be able to get the bills representing the legislation to come before the House at an earlier hour and date than we did this week.

I am aware that the House was in session until nearly 2 o'clock on Saturday morning and, therefore, it put great pressure upon the document room and those who could supply the bills.

However, it leaves those of us who have some interest in what is going on in the House of Representatives in a bad situation in trying to read and understand 25 bills, plus whatever conference reports are available.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the Clerk read the concurrent resolution as follows:

H. CON. RES. 386

Whereas the President of the United States on November 18, 1973, at a ceremony in honor of the Honorable Carl Vinson on his ninetieth birthday, announced the naming of the CVN–70 as the United States ship Carl Vinson; and

Whereas the Honorable Carl Vinson, of Milledgeville, Georgia, served as a Member of the United States House of Representatives from November 3, 1914, to January 2, 1965, a period of more than fifty years, thus establishing a record of service in the House of Representatives unparalleled in our Nation's history; and

Whereas Carl Vinson served as chairman of the former House Naval Affairs Committee from 1931 until 1947, and of the House Committee on Armed Services for fourteen of the sixteen years from 1949 through 1964, a combined total of thirty years, thus establishing a record for congressional service as chairman of a major committee; and

Whereas Carl Vinson's leadership of these two committees of the Congress was marked by great distinction and the exercise of high responsibilities that demonstrated unswerving devotion to his country; and

Whereas Carl Vinson was a driving force in the spectacular growth and development of United States military strength and national security over a period of almost four decades; and

Whereas Carl Vinson served his public stewardship with immense integrity, honesty, and selflessness, and with the needs of the Nation always as his primary concern; and

Whereas among his many other notable achievements, Carl Vinson was the architect of the farflung two-ocean Navy that gave the United States its preeminent role as the leader of the seas, among all world powers; and

Whereas Carl Vinson has been a longtime advocate of nuclear power for naval vessels; Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress of the United States concurs in the naming of the nuclear-powered aircraft carrier CVN–70 as the United States Ship *Carl Vinson*.

Mr. PRICE of Illinois. Mr. Speaker, on November 18, 1973, at a celebration of the 90th birthday anniversary of the Honorable Carl Vinson, the President of the United States announced that our Navy's newest nuclear-powered aircraft carrier would be named the *Carl Vinson*.

The decision to designate the CVN–70 as the U.S.S. *Carl Vinson* is unprecedented in that heretofore the Navy has not named any of its ships after a living person. Departure from this precedent is, however, in the view of the Committee on Armed Services, completely justified and singularly praiseworthy since the Honorable Carl Vinson is uniquely deserving of this honor. His lifelong government service has been dedicated to the prosperity and welfare of our beloved Nation. The Honorable Carl Vinson, more than any other single Member of the U.S. Congress, has contributed immeasurably to the national security and, therefore, merits the accolades and honor implicit in this action by the President of the United States.

The Honorable Carl Vinson is, in truth, a living legend as is evidenced by the following short summary of his biography:

Carl Vinson was born in Baldwin County, Ga., on November 18, 1883, the son of Edward S. and Annie Morris Vinson. He attended the Georgia Military College, in Milledgeville, Ga., and graduated from Mercer Law School, Macon, Ga., on June 5, 1902. He practiced law in Milledgeville in the firm of Hines & Vinson.

In 1905 Carl Vinson began his long tenure of public service when he was appointed county prosecutor. He held that office until 1909, when he was elected to the Georgia Legislature. He served for 4 years, being elected speaker pro tempore in his second term, at the age of 28. He was appointed county judge in 1913.

In 1914 Carl Vinson was elected to the U.S. House of Representatives to fill an unexpired term in the 63d Congress. He was reelected to each succeeding Congress through the 88th, a total of 26 Congresses. He represented Georgia's 10th District from 1914 to 1932 and, following a reapportionment, the Sixth District for the remainder of his service. He served as chairman of the Naval Affairs Committee from 1930 to 1946. With the establishment of the Armed Services Committee following the congressional reorganization of 1947, he served as chairman of that committee in the 81st, 82d, 84th, 85th, 86th, 87th, and 88th Congresses.

Carl Vinson served in the House of Representatives from November 3, 1914, to January 2, 1965, a period of more than 50 years' continuous service. He served as chairman of a standing committee of Congress for 30 years. Both of these records are unequaled in the history of the U.S. Government.

Carl Vinson married Mary Green of New Philadelphia, Ohio, on April 6, 1921. Mrs. Vinson died on November 16, 1950.

Mr. Vinson has been honored by practically every patriotic national organization in the United States, including the American Legion, American Political Science Association, American Veterans, Air Force Association, Association of the U.S. Army, National Guard Association, Reserve Officers Association, Society of Naval Engineers, Navy League, Veterans of Foreign Wars, as well as the U.S. Naval Academy and the U.S. Air Force Academy.

In May 1964 Mr. Vinson was presented the Thomas D. White National Defense Award for 1964 for having contributed most significantly to the national defense and security of the United States during the preceding years. On June 26, 1964, at the direction of the President, he was awarded the Distinguished Service Medal for his outstanding contributions to the Armed Forces and to the Nation. On September 14, 1961, he was awarded the Presidential Medal of Freedom with Special Distinction.

When Carl Vinson retired at the conclusion of the 88th Congress, he had held public office for 59 consecutive years.

Mr. Speaker, I urge my colleagues to give this resolution their unanimous vote.

Mr. BRAY. Mr. Speaker, I concur wholeheartedly in the remarks of Mr. Price. For my part, I consider it most fitting that the name of Carl Vinson will be commemorated throughout the U.S. Fleet on the most modern carrier afloat. At Carl Vinson's 90th birthday the President stated that:

> He was Mr. Armed Services, he was Mr. Navy, he was Mr. American, he was Mr. Congressman. He was all of those things, but the emphasis on his life was primarily that of strength, military strength.

Certainly then it is entirely appropriate that the House of Representatives by this concurrent resolution wholeheartedly approve the naming of a great ship for a great man. In that context then, Mr. Speaker, I consider it most appropriate that I place in the RECORD comments concerning the U.S.S. *Carl Vinson* and particularly its impressive characteristics:

THE CVN–70, U.S.S. "CARL VINSON"

The newest nuclear-powered aircraft carrier authorized and funded by the Congress is the CVN–70. It is the fourth nuclear-powered aircraft carrier authorized by the Congress—the previous carriers being: U.S.S. *Enterprise*, the U.S.S. *Nimitz*, and the U.S.S. *Eisenhower*.

The characteristics of the U.S.S. *Carl Vinson* are most impressive. However, because of the current awareness of the energy crisis confronting the western world, none is more impressive than the fact that this vessel will be nuclear powered, and therefore free from any dependency on fuel oil. It will be capable of literally "steaming" indefinitely.

Set out below are some of the characteristics of this vessel which will enable it to contribute most substantially to the military strength of the United States:

CHARACTERISTICS

Displacement combat load—94,400 tons
Length overall—1,092 feet
Beam overall—252 feet
Beam at waterline—134 feet
Speed—30-plus knots
Reactors—2 pressurized water reactors
Air wing—about 100 planes

MANNING

Ship:	
Officers	132
Enlisted men	2,960
Total	8,092
Air group:	
Officers	331
Enlisted men	2,762
Total	8,093

Builder—Newport News Shipbuilding and Drydock Company, Newport News, Va.

Keel laying—Fall 1975.

Commissioning—Fall 1980.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

FRANK M. SCARLETT FEDERAL BUILDING

The Clerk called the bill (H.R. 11311) to name the Federal building, U.S. post office, U.S. courthouse, in Brunswick, Ga., as the "Frank M. Scarlett Federal Building."

There being no objection, the Clerk read the bill as follows:

H.R. 11311

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal building, United States post office, United States courthouse, at 801 Gloucester Street, Brunswick, Georgia, shall hereafter be known and designated as the "Frank M. Scarlett Federal Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "Frank M. Scarlett Federal Building".

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HOWARD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

F. EDWARD HÉBERT FEDERAL BUILDING

The Clerk called the bill (H.R. 11622) to name the Federal office building, south, in New Orleans, La., as the "F. Edward Hébert Federal Building."

There being no objection, the Clerk read the bill as follows:

H.R. 11622

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal office building, south, at 600 South Street, New Orleans, Louisiana, shall hereafter be known and designated as the "F. Edward Hébert Federal Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "F. Edward Hébert Federal Building".

Mr. BLATNIK. Mr. Speaker, of the many bills that have been reported from the Committee on Public Works over my years of service with that distinguished committee, as a member, and now as its chairman, few have given me more pleasure than the one that the House is considering today, H.R. 11622, to name the Federal Office Building South in New Orleans, La., as the F. Edward Hébert Federal Building.

Eddie Hébert is an old and dear friend of mine; I have known him during my entire 27-year tenure in the House of Representatives. I have found him to be a decent, warm human being, an extremely effective Congressman, a fine leader of his Committee on Armed Services, and, above all, a man who will sit down and listen to another man's problem and help him work it out if it is at all possible.

Eddie Hébert epitomizes the finest that can be said of a Member of Congress. But, more important, Eddie Hébert epitomizes that quality that we all admire and respect and eventually learn to love in a man who combines a sense of duty to country with a real feeling toward his fellow Members and his fellow citizens.

We honor ourselves when we today unanimously pass this legislation to name this building in New Orleans as a tribute to the outstanding accomplishments and dedicated services of my dear friend, F. Edward Hébert.

Mr. HARSHA. Mr. Speaker, I rise in support of H.R. 11622, a bill to name the Federal office building, south, in New Orleans, La., as the "F. Edward Hébert Federal Building."

My distinguished colleague, Ed Hébert, has served ably in Congress for 33 years, is the dean of the Louisiana delegation, and chairs a vital legislative committee, the House Armed Services Committee. His accomplishments in Congress are many, including dedicated service to the then House Un-American Activities Committee, many of the subcommittees of the Armed Services Committee and the Committee on Standards of Official Conduct.

The committee believes it is fitting and proper to name the Federal office building, south, in New Orleans, La., as the "F. Edward Hébert Federal Building" as a tribute to his outstanding accomplishments and dedicated service.

Mr. Hébert's record speaks far more eloquently of his accomplishments than any words I might utter.

I urge the approval of this legislation.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HOWARD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

AMENDMENT TO THE CIA RETIREMENT ACT AND COST-OF-LIVING ADJUSTMENT TO THE RETIREMENT PAY OF CERTAIN OFFICERS OF THE ARMED SERVICES

The Clerk called the Senate bill (S. 2714) to amend section 291(b) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, relating to cost-of-living increases, and to increase the pay and allowances of certain officers of the Armed Forces whose pay and allowances are not subject to adjustment to reflect changes in the Consumer Price Index.

There being no objection, the Clerk read the Senate bill as follows:

S. 2714

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 291(b) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (78 Stat. 1043; 50 U.S.C. 403 note) is further amended—

(1) by renumbering paragraphs (1), (2), and (3) as paragraphs (2), (3), and (4) respectively; and

(2) by inserting the following new paragraph (1):

"(1) An annuity (except a discontinued service benefit under section 234(a)) which—

"(i) is payable from the fund to a participant who retires, or to the widow or widower of a deceased participant; and

"(ii) has a commencing date after the effective date of the then last preceding annuity increase under section 291(a);

shall not be less than the annuity which would have been payable if the commencing date of such annuity had been in effective date of the then last preceding annuity increase under section 291(a) In the administration of this paragraph, a participant or deceased participant shall be deemed, for the purposes of section 221(h), to have to his credit, on the effective date of the then last preceding annuity increase under section 291(a), a number of days of unused sick leave equal to the number of days of unused sick leave to his credit on the date of his separation from the Agency.".

(b) The amendments made by subsection (a) shall apply only with respect to annuities which commence on or after July 2, 1973.

Sec. 2. (a) Notwithstanding any other provision of law, effective on the date of enactment of this Act, the pay and allowances of members of the Armed Forces to whom this Act applies shall be increased to amounts equal to the amounts such pay and allowances would have been increased if the pay and allowances of such members had been increased, under section 1401a(b), of title 10, United States Code, by the same percentage rates, consecutively compounded, that the retired pay or retainer pay of members and former members of the Armed Forces entitled to retired pay or retainer pay since October 1, 1967, has been increased, and such member shall, on and after the date of enactment of this Act, have his pay and allowances increased effective the same day and by the same percentage rate that the retired pay or retainer pay of members and former members of the Armed Forces is increased under such section 1401a(b).

(b) This section applies to members of the Armed Forces entitled to pay and allowances under either of the following provisions of law:

(1) The Act of June 26, 1948, chapter 677 (62 Stat. 1052).

(2) The Act of September 18, 1950, chapter 952 (64 Stat. A224).

(c) No amounts shall be paid, as the result of the enactment of this section, for any period prior to the date of enactment of this section.

Mr. BRAY. Mr. Speaker, I concur in the remarks of the chairman of our Subcommittee on Intelligence with regard to S. 2714. For special reasons some years ago the Congress passed legislation creating a separate retirement act for certain personnel of the Central Intelligence Agency. However, at the same time, the remaining personnel in the Agency are covered under the provisions of the Civil Service Retirement System and it has been our policy to keep the operations of both systems in the Central Intelligence Agency as equitable as possible. In essence that is what section 1 of S. 2714 does with regard to cost-of-living adjustments.

With reference Generals Bradley and Spaatz, Mr. Speaker, I believe it most appropriate that we approve also section 2 of this legislation which would bring the retirement compensation of these two distinguished officers in line with the benefits afforded other members of the retired military community. As noted by Congressman Nedzi, Generals Bradley and Spaatz are the sole survivors of that distinguished list of 13 officers whose service during World War II received particular consideration by the Congress.

Following the allied victory in World War II Congress recognized in a special way through legislative enactment the contribution to that victory made by 13 men who because of their unique and outstanding qualities rose to highest positions of command and leadership in the Armed Forces.

In the words of the Committee on Armed Services in its report on the bill which later became Public Law 79–333:

> The success of the armed forces of this Nation is largely due to the outstanding organizational abilities, vision, and strategical concepts of the officers involved in this bill. From them stemmed the dynamic force which insured the proper training, equipping, and deployment of the strongest Army and Navy the world has ever known. They contributed greatly to the formulation and execution of the strategy that caused the annihilation of our enemies. Your committee believes it is entirely appropriate that these officers be permitted to continue to hold the grades in which they have served.

Eight of those individuals had attained during World War II the 5-star rank which has traditionally been reserved for those wartime commanders who demonstrated to an outstanding degree the ability to command the combat forces in wartime. A list of those individuals were:

ARMY

George C. Marshall.
Douglas MacArthur.
Dwight D. Eisenhower.

AIR FORCE

Henry H. Arnold.

NAVY

William D. Leahy.
Ernest J. King.
Chester W. Nimitz.
William Halsey.

In addition, five other officers who during World War II had attained the grade of general or admiral and had served in positions of high command and responsibility and in those positions had made outstanding contributions to the success of the Armed Forces, were similarly recognized by special legislation. They are listed below:

ARMY

Omar N. Bradley.

AIR FORCE

Carl Spaatz.

NAVY

R. A. Spruance.

MARINE CORPS

Alexander A. Vandegrift.

COAST GUARD

Russell R. Waesche.

The legislative recognition afforded these officers consisted in making permanent the grade in which they had served during World War II and in authorizing them to continue to receive, whether in the active service or in retirement, the pay and allowances authorized for their grade. As a further mark of recognition General Bradley was in 1950, by special act of Congress, appointed to the permanent grade of General of the Army, with the same rights and benefits as were authorized for the eight original appointees in that grade.

General Bradley and General Spaatz are the only surviving members of that select group of officers.

These distinguished officers have received but two increases in their compensation since 1958; 3.2 percent in 1966 and 4.5 percent in 1967. From October 1, 1967 to July 1, 1973, persons on the military retired rolls have received cumulative increases in their retired pay totaling in excess of 39 percent. Neither General Bradley nor General Spaatz have received any increases in their compensation during that period.

S. 2714 will authorize an immediate increase in their compensation of approximately 39 percent, and will authorize future increases in their compensation at the same time and in the same percentage as persons on the military retired rolls.

Mr. NEDZI. Mr. Speaker, this legislation consists of two sections:

The first to amend the CIA Retirement Act to aline it with the cost-of-living provisions of the civil service retirement system. Second, the measure would provide increased retirement pay to Gens. Omar Bradley and Carl Spaatz to aline their retirement benefits with the cost-of-living provisions enjoyed by other military retirees.

Since about one-third of the CIA employees are covered by the CIA Retirement System and the remaining two-thirds by the civil service retirement system, over the years the House Armed Services Committee and the Congress have endeavored to conform the CIA Retirement Act to applicable changes in the civil service system, including provisions for cost-of-living adjustments. On October 24, 1973, the President approved Public Law 93–136 which amended the cost-of-living provision of the civil service retirement system to guarantee retirees and survivors an annuity no less than what would have been paid had the individual been eligible to receive the last cost-of-living increase. Thus, those who retire after the effective date of the last cost-of-living increase will be entitled to that increase in retirement pay.

This will prevent that last minute rush by Federal employees to retire just prior to the effective date of the cost-of-living increase and will spread retirement dates over the former normal pattern. Section 1 of this bill would simply provide conforming legislation for Central Intelligence Agency retirees. The Agency advises that the cost will be borne out of the Central Intelligence Agency Retirement and Disability Fund and the impact will be relatively minor.

The second branch of the legislation with regard to Gens. Omar Bradley and Carl Spaatz will make them eligible for the cost-of-living adjustments to retirement compensation now enjoyed by other military retirees. Generals Bradley and Spaatz are the sole survivors of a distinguished group of ranking World War II flag officers who were the subjects of special pay legislation in 1946 and 1948 which allowed them to receive active duty pay and allowances while in a retired status. The 1958 Military Pay Act provided cost-of-living adjustments to military retirement pay but specifically excluded the category of officers which includes Generals Bradley and Spaatz. Thus, since that time they have not benefited from cost-of-living pay adjustments except in two instances when special legislation was passed which gave them a 3.2-percent increase in 1966 and 4.5-percent increase in 1967.

Section 2 of this bill would bring their retirement pay up to date and make them eligible for any cost-of-living adjustments in the future.

On December 11 the House Armed Services Committee by unanimous vote reported the bill favorably. Likewise, Mr. Speaker, we recommend favorable action on this bill today.

The Senate bill was ordered to be read a third time, was read the third time and passed and a motion to reconsider was laid on the table.

ESTABLISHING UNIFORM ORIGINAL ENLISTMENT QUALIFICATIONS FOR MALE AND FEMALE PERSONS

The Clerk called the bill (H.R. 3418) to amend section 505 of title 10, United States Code, to establish uniform original enlistment qualifications for male and female persons.

There being no objection, the Clerk read the bill as follows:

H.R. 3418

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) The first sentence of section 505(a) of title 10, United States Code, is amended by striking out "in the case of male persons and not less than eighteen years of age in the case of female persons".

(b) The second sentence of section 505(a) of title 10, United States Code, is amended by striking out "male" and by striking out ", or female person under twenty-one years of age,".

SEC. 2. Section 505(c) of title 10, United States Code, is amended by—

(1) inserting "of persons for the duration of their minority or for a period of two, three, four, five, or six years," after "enlistments";

(2) inserting a period after "be" and by striking out the dash after "be"; and

(3) by striking out paragraph (1) and paragraph (2).

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PROVIDING FOR THE PRESENTATION OF A FLAG OF THE UNITED STATES FOR DECEASED MEMBERS OF THE NATIONAL GUARD AND SELECTED RESERVE

The Clerk called the bill (H.R. 5621) to provide for the presentation of a flag of the United States for deceased members of the National Guard and Selected Reserve.

There being no objection, the Clerk read the bill as follows:

H.R. 5621

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1482 of title 10, United States Code, is amended by adding the following new subsection at the end thereof:

"(e) The Secretary concerned may pay the necessary expenses incident to the presentation of a flag to the person designated to direct the disposition of the remains of a member of the National Guard or a Reserve of an armed force under his jurisdiction who is in the Selected Reserve, who is not covered by section 1481 of this title and who dies under honorable circumstances as determined by the Secretary."

With the following committee amendment: Strike all after the enacting clause and insert the following language:

That section 1482 of title 10, United States Code, is amended by adding the following new subsection at the end thereof:

(f) The Secretary concerned may pay the necessary expenses for the presentation of a flag to the person designated to direct the disposition of the remains of a member of the Ready Reserve of an armed force under his jurisdiction who is not covered by section 1481 of this title and who dies under honorable circumstances as determined by the Secretary.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to amend title 10, United States Code, to provide for the presentation of a flag of the United States for deceased members of the Ready Reserve."

A motion to reconsider was laid on the table.

AUTHORIZING THE DISPOSAL OF OPIUM FROM THE NATIONAL STOCKPILE

The Clerk called the Senate bill (S. 2166) to authorize the disposal of opium from the national stockpile.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. YATES. Mr. Speaker, reserving the right to object, in view of the controversial nature of the bill and in view of the fact that there is some reason to object to it, and in view of the fact that this bill and the following bills, coming out of the Committee on Armed Services, relate to the disposal of certain metals and other materials from the stockpile, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

AUTHORIZING THE RELEASE OF COPPER FROM THE NATIONAL STOCKPILE AND THE SUPPLEMENTAL STOCKPILE

The Clerk called the Senate bill (S. 2316) to authorize the disposal of copper from the national stockpile and the supplemental stockpile.

Mr. YATES. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

AUTHORIZING THE DISPOSAL OF ALUMINUM FROM THE NATIONAL STOCKPILE

The Clerk called the Senate bill (S. 2413) to authorize the disposal of aluminum from the national stockpile and for other purposes.

Mr. YATES. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER. Is their objection to the request of the gentleman from Illinois?

There was no objection.

AUTHORIZING DISPOSAL OF SILICON CARBIDE FROM THE NATIONAL STOCKPILE

The Clerk called the Senate bill (S. 2493) to authorize the disposal of silicon carbide from the national stockpile and the supplemental stockpile.

Mr. YATES. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

AUTHORIZING DISPOSAL OF ZINC FROM THE NATIONAL STOCKPILE

The Clerk called the Senate bill (S. 2498) to authorize the disposal of zinc from the national stockpile and the supplemental stockpile.

Mr. YATES. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

AUTHORIZING DISPOSAL OF MOLYBDENUM FROM THE NATIONAL STOCKPILE

The Clerk called the Senate bill (S. 2551) authorizing the disposal of molybdenum from the national stockpile, and for other purposes.

Mr. YATES. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

AMENDING UNITED STATES CODE RELATING TO SALE OF NAVAL VESSELS

The Clerk called the bill (S. 1773) to amend section 7305 of title 10, United States Code, relating to the sale of vessels stricken from the Naval Vessel Register.

There being no objection, the Clerk read the bill as follows:

S. 1773

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (1) of section 7305 of title 10, United States Code, is amended to read as follows:

"(1) Except as provided in subsection (a), no vessel of the Navy may be sold in any manner other than that provided by this section, or for less than its appraised value, unless the sale thereof is specifically authorized by law enacted after June 30, 1973."

SEC. 2. The amendment made by the first section of this Act shall not apply in the case of any Navy vessel with respect to which a written agreement to sale was entered into prior to June 30, 1973.

With the following committee amendment:

On page 1, line 3 strike all after the enacting clause and insert in lieu thereof:

That section 7307 of title 10, United States Code, is amended to read as follows:

(a) Notwithstanding any other provision of law, no naval vessel over 100 tons may be sold or title otherwise transferred or otherwise disposed of, to any other nation unless the Chief of Naval Operations certifies that it is not essential to the defense of the United States, and a copy of such certificate shall be submitted to the Committees on Armed Services of the Congress.

(b) After the date of enactment of this law, no naval vessel over 100 tons may be sold, leased, loaned, transferred or otherwise disposed of, directly or indirectly, to any other nation until the expiration of 30 calendar days after the date upon which a report of the facts concerning the proposed transaction is submitted to the Committees on Armed Services of the Senate and House of Representatives.

The committee amendment was agreed to.

Mr. BENNETT. Mr. Speaker, S. 1773 would provide congressional overview, for the first time, of the transfer to other nations of all naval vessels over 100 tons.

Presently, the law requires that the Congress pass legislation approving the proposed transfer of any aircraft carrier, battleship, cruiser, destroyer, or submarine carried on the Naval Vessel Register to any other nation. Since this law went into effect in 1951 there have been 17 laws passed approving the transfer of 145 ships.

On the other hand, there have been between 4,000 and 5,000 ships transferred without the necessity of legislation since the vessels were either not on the Naval Vessel Register or not of the specific class; that is, aircraft carriers, battleships, cruisers, destroyers, or submarines.

S. 1773, as originally drafted, would require enactment of legislation for the approval of the transfer of all naval vessels. The Armed Services Committee also believes there should be some further congressional review of the transfer of these ships but does not believe new legislative authority should be required for each individual ship transfer. Your committee recommends that the method of congressional review be the same method of review normally observed in connection with real estate transactions.

Therefore, S. 1773, as amended, would require that all of the proposed transfers come before the Armed Service Committee and lie there for 30 days. This procedure will provide the committee with the opportunity to hold hearings in depth on each transfer, if required, and approve or deny the transfer or take any other appropriate action. I would note again that this will apply to all naval vessels over 100 tons, not just the five classes presently listed in the law. I would also note that this applies to the ships whether or not they are carried on the Naval Vessel Register.

Further, the Chief of Naval Operations must certify, for any ship which is to be sold or which title is to be transferred, that it is no longer essential to the defense of the United States. The certificate is not required for leasing or loaning of vessels since it may be desirable for the United States to be able to recapture these vessels and use them again in its own Navy at some time in the future. The certificate is to be furnished to the Armed Services Committee.

Both the Department of Defense and the Department of State objected to S. 1773 in its original form. No official executive branch position on the amended bill has been received by the committee; however, officials of the Department of the Navy have expressed no opposition to the bill as amended by the committee.

Mr. Speaker, the Armed Services Committee, a quorum being present, voted without objection to recommend passage of S. 1773 as amended.

The Senate bill was ordered to be read a third time, was read the third time and passed.

The title was amended so as to read: "An act to amend section 7307 of title 10, United States Code, relating to the transfer of naval vessels to other nations."

A motion to reconsider was laid on the table.

A "NO" VOTE AGAINST ADJOURNMENT RESOLUTION

(Mr. VANIK asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. VANIK. Mr. Speaker, today, I expect to vote against Senate Joint Resolution 180, a resolution providing for an adjournment of Congress until January 21.

I understand the plight and the need for all Members to return to their districts for a firsthand reaction of how their constituents feel about the recent course of national events. This is particularly important for Members whose districts are a long distance away.

However, I do not believe that we need a month to make our findings on conditions at home. I believe I know how my constituents feel. They are disillusioned. They are angry and disturbed about the energy crisis—the uncertainty of warmth in their homes—the uncertainty of their jobs—the sudden obsolescence of their cars—the uncertainty of services they deem essential to decent life.

Our constituents are angry with the political process and the system which has failed them. They are rightfully disturbed that those who deal in the day-to-day functions of the Government are failing to act. They are concerned that we are not legislating more providently and anticipating grave problems before they reach crisis dimensions.

I can understand the need for a short, 10-day visit to the constituency, but, in my judgment, anything longer severely sets back the capacity of this body and the entire legislative process to respond to the urgent problems of these days. If I have correctly estimated voter reactions, this decision to spend 30 days at home will be too long for comfort. I think they will send us packing back to Washington with a mandate for action.

THE AMERICAN RAILROADS

(Mr. BURKE of Massachusetts asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURKE of Massachusetts. Mr. Speaker, I take this time to call to the attention of Members of Congress the frightening condition of the railroads of America. At the present time there are thousands of tons of coal being exported to our trading partners throughout the entire world, and on the entire east coast of America some utility companies are trying to convert from oil to coal because of the energy crisis.

The warning signs of impending disaster are all about us. Great Britain has announced a 3-day workweek. Here in America while we have been building highways, cloverleafs, underpasses, overpasses, this Nation has allowed its railroads to deteriorate to such an extent as to place in serious jeopardy the very security of the United States. Yes, while Rome burns Nero plays the fiddle.

The utility companies tell us they must convert to coal in many of their plants because of the shortage of oil.

They are unable to do this because there are no railcars available. The roadbeds are in a terrible condition. I believe that this is a matter that the administration and the Department of Transportation should be looking into.

COMMONSENSE IN SAVING GASOLINE

(Mr. WYMAN asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and include extraneous matter.)

Mr. WYMAN. Mr. Speaker, in better than 90 percent of this country the breezes blow, the air moves, and there is no real problem affecting public health from automobile emissions. To continue to require the owners of cars registered and operated in this huge majority of the national geography to buy cars with emission control devices that waste a fifth of their gasoline mileage is outrageous.

Suspend these requirements at least for the duration of the gasoline shortage and we would save hundreds of thousands of gallons of gasoline each day. The American people rightly demand that the tail stop wagging the dog and that this Congress act now to avoid wildly escalating gasoline prices and shortages.

No more immediately meaningful action is presently available than to end emissions controls where they are not needed. Where autos significantly pollute, emissions controls should and will continue to be required, but this is in less than 10 percent of the land area of the United States.

Mr. Speaker, public indignation over the continuation of this folly is mounting each and every day. Those who blindly persist in continuing the unreasonably and blindly high auto emissions standards for the entire country will be held accountable at the polls next fall—as well they should be.

Those Members of Congress who voted last Friday to take off auto emissions controls in those parts of this country where there is no significant air pollution harmful to public health deserve public support for fighting gasoline shortages and high prices in a most effective way.

WASHINGTON STREETS ARE SAFER

(Mr. LANDGREBE asked and was given permission to address the house for 1 minute and to revise and extend his remarks.)

Mr. LANDGREBE. Mr. Speaker, and Members of the House, it was just 4 years ago that I was placed on the Committee on the District of Columbia to help make the 13th vote to get the Nixon crime bill out of the Democrat-controlled District of Columbia Committee where it had been gathering dust while crime was rampant in this city.

At that time it was not safe for a Congressman to walk from the Cannon Building up to the Coronet Hotel.

At this time, Washington is not perfect by any means, but last Thursday, at 10:30 p.m., my wife walked that route by herself, and she is not necessarily a brave woman.

I say to the people of this Nation, and the citizens of the District of Columbia, "you have a great deal to be thankful for because of the Republican administration that has had the responsibility for this city during the past 4 years."

OUR NEGLECTED COAL RESOURCES

(Mr. NELSEN asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. NELSEN. Mr. Speaker, a moment ago one of our colleagues made reference to the exporting of coal to foreign countries.

When we were considering the Emergency Energy Act last week, Mr. Speaker, I repeatedly tried to get some attention for that problem we have in the energy field, and in this respect I pointed to how we have neglected developing the coal resources of our country. Then I learned through an article that was in one of our national publications about foreign countries who are in the United States now buying up coal mines in various parts of the United States, and exporting that coal which we have not properly developed prior to this energy crisis we are now in.

I appreciated the attention that was given to this problem. What we have done is to neglect the resources that we have, and put the whole load on our limited petroleum resources, and now we find our country in an energy crisis.

We have abundant energy in the form of coal, and I think it is important that we look into its possible uses. We need to do more in this area.

EXTENDING LIMITS OF CONFINEMENT OF FEDERAL PRISONERS

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 7352) to amend section 4082(c) of title 18, United States Code, to extend the limits of confinement of Federal prisoners, together with a Senate amendment thereto, and disagree to the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 2, after line 3, insert:

TITLE I—COMPENSATION FOR VICTIMS OF VIOLENT CRIME

DECLARATION OF PURPOSE

SEC. 101. It is the declared purpose of Congress in this Act to promote the public welfare by establishing a means of meeting the financial needs of the innocent victims of violent crime or their surviving dependents and intervenors acting to prevent the commission of crime or to assist in the apprehension of suspected criminals.

PART A—FEDERAL COMPENSATION PROGRAM

SEC. 102. The Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by—

(1) redesignating sections 451 through 455, respectively, as sections 421 through 425;

(2) redesignating sections 501 through 522, respectively, as sections 550 through 571.

(3) redesignating parts F, G, H, and I of title I, respectively as parts I, J, K, and L of title I; and

(4) adding at the end of part E of title I, as amended by this Act, the following new part:

"PART F—FEDERAL COMPENSATION FOR VICTIMS OF VIOLENT CRIME

"DEFINITIONS

"SEC. 450. As used in this part—

"(1) 'Board' means the Violent Crimes Compensation Board established by this part;

"(2) 'Chairman' means the Chairman of the Violent Crimes Compensation Board established by this part;

"(3) 'child' includes a stepchild, an adopted child, and an illegitimate child;

"(4) 'claim' means a written request to the Board for compensation made by or on behalf of an intervenor, a victim, or the surviving dependent or dependents of either of them;

"(5) 'claimant' means an intervenor, victim, or the surviving dependent or dependents of either of them;

"(6) 'compensation' means payment by the Board for net losses or pecuniary losses to or on behalf of an intervenor, a victim, or the surviving dependent or dependents of either of them;

"(7) 'dependent' means—

"(A) a surviving spouse;

"(B) an individual who is a dependent of the deceased victim or intervenor within the meaning of section 152 of the Internal Revenue Code of 1954 (26 U.S.C. 152); or

"(C) a posthumous child of the deceased intervenor or victim;

"(8) 'financial stress' means the undue financial strain experienced by a victim or his surviving dependent or dependents as the result of pecuniary loss from an act, omission, or possession giving rise to a claim under this part, disregarding ownership of—

"(A) a residence;

"(B) normal household items and personal effects;

"(C) an automobile;

"(D) such tools as are necessary to maintain gainful employment; and

"(E) all other liquid assets not in excess of one year's gross income or $10,000 in value, whichever is less;

"(9) 'gross losses' means all damages, including pain and suffering and including property losses, incurred by an intervenor or victim, or surviving dependent or dependents of either of them, for which the proximate cause is an act, omission, or possession enumerated in section 456 of this part, or set forth in paragraph (B) of subsection (18) of this section;

"(10) 'guardian' means a person who is entitled by common law or legal appointment to care for and manage the person or property, or both, of a minor or incompetent intervenor or victim, or surviving dependent or dependents of either of them;

"(11) 'intervenor' means a person who goes to the aid of another and is killed or injured while acting not recklessly to prevent the commission or reasonably suspected commission of a crime enumerated in section 456 of this part, or while acting not recklessly to apprehend a person reasonably suspected of having committed such a crime;

"(12) 'liquid assets' includes cash on hand, savings accounts, checking accounts, certificates of deposit, stocks, bonds, and all other personal property that may be readily converted into cash;

"(13) 'member' means a member of the Violent Crimes Compensation Board established by this part;

"(14) 'minor' means an unmarried person who is under eighteen years of age;

"(15) 'net losses' means gross losses, excluding pain and suffering, that are not otherwise recovered or recoverable—

"(A) under insurance programs mandated by law;

"(B) from the United States, a State, or unit of general local government for a personal injury or death otherwise compensable under this part;

"(C) under contract or insurance wherein the claimant is the insured or beneficiary; or

"(D) by other public or private means;

"(16) 'pecuniary losses' means net losses which cover—

"(A) for personal injury—

"(1) all appropriate and reasonable expenses necessarily incurred for medical, hospital, surgical, professional, nursing, dental, ambulance, and prosthetic services relating to physical or psychiatric care;

"(2) all appropriate and reasonable expenses necessarily incurred for physical and occupational therapy and rehabilitation:

"(3) actual loss of past earnings and anticipated loss of future earnings because of a disability resulting from the personal injury at a rate not to exceed $150 per week; and

"(4) all appropriate and reasonable expenses necessarily incurred for the care of minor children enabling a victim or his or her spouse, but not both of them, to continue gainful employment at a rate not to exceed $30 per child per week, up to a maximum of $75 per week for any number of children;

"(B) for death—

"(1) all appropriate and reasonable expenses necessarily incurred for funeral and burial expenses;

"(2) loss of support to a dependent or dependents of a victim, not otherwise compensated for as a pecuniary loss for personal injury, for such period of time as the dependency would have existed but for the death of the victim, at a rate not to exceed a total of $150 per week for all dependents; and

"(3) all appropriate and reasonable expenses, not otherwise compensated for as a pecuniary loss for personal injury, which are incurred for the care of minor children enabling the surviving spouse of a victim to engage in gainful employment, at a rate not to exceed $30 per week per child, up to a maximum of $75 per week for any number of children;

"(17) 'personal injury' means actual bodily harm and includes pregnancy, mental distress, and nervous shock; and

"(18) 'victim' means a person who is killed or who suffers personal injury where the proximate cause of such death or personal injury is—

"(A) a crime enumerated in section 456 of this part; or

"(B) the not reckless actions of an intervenor in attempting to prevent the commission or reasonably suspected commission of a crime enumerated in section 456 of this part or in attempting to apprehend a person reasonably suspected of having committed such a crime.

"BOARD

"SEC. 451. (a) There is hereby established a Board within the Department of Justice to be known as the Violent Crimes Compensation Board. The Board shall be composed of three members, each of whom shall have been members of the bar of the highest court of State for at least eight years, to be appointed by the President, by and with the advice and consent of the Senate. The President shall designate one of the members of the Board to serve as Chairman.

"(b) No member of the Board shall engage in any other business, vocation, or employment.

"(c) The Board shall have an official seal.

"(d) The term of office of each member of the Board shall be eight years, except that (1) the terms of office of the members first taking office shall expire as designated by the President at the time of appointment, one at the end of four years, one at the end of six years, and one at the end of eight years and (2) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

"(e) Each member of the Board shall be eligible for reappointment.

"(f) Any member of the Board may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

"(g) The principal office of the Board shall be in or near the District of Columbia, but the Board or any duly authorized representative may exercise any or all of its powers in any place.

"ADMINISTRATION

"SEC. 452. The Board is authorized in carrying out its functions under this part to—

"(1) appoint and fix the compensation of an Executive Director and a General Counsel and such other personnel as the Board deems necessary in accordance with the provisions of title 5 of the United States Code;

"(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5 of the United States Code, but at rates not to exceed $100 a day for individuals;

"(3) promulgate such rules and regulations as may be required to carry out the provisions of this part;

"(4) designate representatives to serve or assist on such advisory committees as the Board may determine to be necessary to maintain effective liaison with Federal agencies and with State and local agencies developing or carrying out policies or programs related to the provisions of this part;

"(5) request and use the services, personnel, facilities, and information (including suggestions, estimates, and statistics) of Federal agencies and those of State and local public agencies and private institutions, with or without reimbursement therefor;

"(6) enter into and perform, without regard to section 529 of title 31 of the United States Code, such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of its functions, with any public agency, or with any person, firm, association, corporation, or educational institution, and make grants to any public agency or private nonprofit organization;

"(7) request and use such information, data, and reports from any Federal agency as the Board may from time to time require and as may be produced consistent with other law;

"(8) arrange with the heads of other Federal agencies for the performance of any of its functions under this part with or without reimbursement and, with the approval of the President, delegate and authorize the redelegation of any of its powers under this part;

"(9) request each Federal agency to make its services, equipment, personnel, facilities, and information (including suggestions, estimates, and statistics) available to the greatest practicable extent to the Board in the performance of its functions;

"(10) pay all expenses of the Board, including all necessary travel and subsistence expenses of the Board outside the District of Columbia incurred by the members or employees of the Board under its orders on the presentation of itemized vouchers therefor approved by the Chairman or his designate; and

"(11) establish a program to assure extensive and continuing publicity for the provisions relating to compensation under this part, including information on the right to file a claim, the scope of coverage, and procedures to be utilized incident thereto.

"COMPENSATION

"SEC. 453. (a) The Board shall order the payment of compensation—

"(1) in the case of the personal injury of an intervenor or victim, to or on behalf of that person; or

"(2) in the case of the death of the intervenor or victim, to or on behalf of the surviving dependent or dependents of either of them.

"(b) The Board shall determine the amount of compensation under this part—

"(1) in the case of a claim by an intervenor or his surviving dependent or dependents, by computing the net losses of the claimant; and

"(2) in the case of a claim by a victim or his surviving dependent or dependents, by computing the pecuniary losses of the claimant.

"(c) The Board may order the payment of compensation under this part to the extent it is based upon anticipated loss of future earnings or loss of support of the victim for ninety days or more, or child care payments, in the form of periodic payments during the protracted period of such loss of earnings, support of payments, or ten years, whichever is less.

"(d) The Board may order the payment of compensation under this part to a victim or his surviving dependent or dependents held in abeyance until such time as the victim or his surviving dependent or dependents has exhausted his liquid assets.

"(e)(1) Whenever the Board determines, prior to taking final action upon a claim, that such claim is one with respect to which an order of compensation will probably be made, the Board may order emergency compensation not to exceed $1,500 pending final action on the claim.

"(2) The amount of any emergency compensation ordered under paragraph (1) of this subsection shall be deducted from the amount of any final order for compensation.

"(3) Where the amount of any emergency compensation ordered under paragraph (1) of this subsection exceeds the amount of the final order for compensation, or if there is no order for compensation made, the recipient of any such emergency compensation shall be liable for the repayment of such compensation. The Board may waive all or part of such repayment.

"(f) No order for compensation under this part shall be subject to execution or attachment.

"(g) The availability or payment of compensation under this part shall not affect the right of any person to recover damages from any other person by a civil action for the injury or death, subject to the limitations of this part—

"(1) in the event an intervenor, a victim, or the surviving dependent or dependents of either of them who has a right to file a claim under this part should first recover damages from any other source based upon an act, omission, or possession giving rise to a claim under this part, such damages shall be first used to offset gross losses that do not qualify as net or pecuniary losses; and

"(2) in the event an intervenor, victim, or the surviving dependent or dependents of either of them receives compensation under this part and subsequently recovers damage from any other source based upon an act, omission, or possession that gave rise to compensation under this part, the Board shall be reimbursed for compensation previously paid to the same extent compensation would have been reduced had recovery preceded compensation under paragraph (1) of this subsection.

"(h) The Board may reconsider a claim at any time and modify or rescind previous orders for compensation based upon a change in financial circumstances of a victim or one or more of his surviving dependents that eliminates financial stress.

"LIMITATIONS

"SEC. 454. (a) No order for compensation under this part shall be allowed to or on behalf of a victim or his surviving dependent or dependents unless the Board finds that such a claimant will suffer financial stress from pecuniary losses for which the act, omission, or possession giving rise to the claim was the proximate cause.

"(b) No order for compensation under this part shall be made unless the claim has been made within one year after the date of the act, omission, or possession resulting in the injury or death, unless the Board finds that the failure to file was justified by good cause.

"(c) No order for compensation under this part shall be made to or on behalf of an intervenor, victim, or the surviving dependent or dependents of either of them unless a minimum pecuniary or net less of $100 or an amount equal to a week's earnings or support whichever is less, has been incurred.

"(d) No order for compensation under this part shall be made unless the act, omission, or possession giving rise to a claim under this part, was reported to the law enforcement officials within seventy-two hours after its occurrence, unless the Board finds that the failure to report was justified by good cause.

"(e) No order for compensation under this part to or on behalf of a victim, his surviving dependent or dependents, as the result of any one act, omission, or possession, or related series of such acts, omissions, or possessions, giving rise to a claim, shall be in excess of $50,000, including lump-sum and periodic payments.

"(f) The Board, upon finding that any claimant has not substantially cooperated with all law enforcement agencies incident to the act, omission, or possession that gave rise to the claim, may proportionately reduce, deny, or withdraw any order for compensation under this part.

"(g) The Board in determining whether to order compensation or the amount of the compensation, shall consider the behavior of the claimant and whether, because of provocation or otherwise, he bears any share of responsibility for the act, omission, or possession that gave rise to the claim for compensation and—

"(1) the Board shall reduce the amount of compensation to the claimant in accordance with its assessment of the degree of such responsibility attributable to the claimant, or

"(2) in the event the claimant's behavior was a substantial contributing factor to the act, omission, or possession giving rise to a claim under this part, he shall be denied compensation.

"(h) No order for compensation under this part shall be made to or on behalf of a person engaging in the act, omission, or possession giving rise to the claim for compensation, to or on behalf of his accomplice, a member of the family or household of either of them, or to or on behalf of any person maintaining continuing unlawful sexual relations with either of them.

"PROCEDURES

"SEC. 455. (a) The Board is authorized to receive claims for compensation under this part filed by an intervenor, a victim, or the surviving dependent or dependents of either of them, or a guardian acting on behalf of such a person.

"(b) The Board—

"(1) may subpena and require production of documents in the manner of the Securities and Exchange Commission as provided in subsection (c) of section (18) of the Act of August 26, 1935, except that such subpena shall only be issued under the signature of the Chairman, and application to any court for aid in enforcing such subpena shall be made only by the Chairman, but a subpena may be served by any person designated by the Chairman;

"(2) may administer oaths, or affirmations to witnesses appearing before the Board, receive in evidence any statement, document, information, or matter that may, in the opinion of the Chairman, contribute to its functions under this part, whether or not such statement, document, information, or matter would be admissible in a court of law, provided it is relevant and not privileged;

"(3) shall, if hearings are held, conduct such hearings open to the public, unless in a particular case the Chairman determines that the hearing, or a portion thereof, should be held in private, having regard to the fact that a criminal suspect may not yet have been apprehended or convicted, or to the interest of the claimant; and

"(4) may, at the discretion of the Chairman, appoint an impartial licensed physician to examine any claimant under this part and order the payment of reasonable fees for such examination.

"(c) The Board shall be an 'agency of the United States' under subsection (1) of section 6001 of title 18 of the United States Code for the purpose of granting immunity to witnesses.

"(d) The provisions of chapter 5 of title 5 of the United States Code shall not apply to adjudicatory procedures to be utilized before the Board.

"(e)(1) A claim for compensation under this part may be acted upon by a member designated by the Chairman to act on behalf of the Board.

"(2) in the event the disposition by a member as authorized by paragraph (1) of this subsection is unsatisfactory to the claimant, the claimant shall be entitled to a de novo hearing of record on his claim by the full Board.

"(f)(1) Decisions of the full Board shall be in accord with the will of a majority of the members and shall be based upon a preponderance of the evidence.

"(2) All questions as to the relevancy or privileged nature of evidence at such times as the full Board shall sit shall be decided by the Chairman.

"(3) A claimant at such times as the full Board shall sit shall have the right to produce evidence and to cross-examine such witnesses as may appear.

"(g)(1) The Board shall publish regulations providing that an attorney may, at the conclusion of proceedings under this part, file with the Board an appropriate statement for a fee in connection with services rendered in such proceedings.

"(2) After the fee statement is filed by an attorney under paragraph (1) of this subsection, the Board shall award a fee to such attorney on substantially similar terms and conditions as is provided for the payment of representation under section 3006A of title 18 of the United States Code.

"(3) Any attorney who charges or collects for services rendered in connection with any proceedings under this part any fee in any amount in excess of that allowed under this subsection shall be fined not more than $1,000 or imprisoned not more than one year, or both.

"(h) The United States Court of Appeals

for the District of Columbia shall have jurisdiction to review all final orders of the Board. No finding of fact supported by substantial evidence shall be set aside.

"CRIMES

"Sec. 456. (a) The Board is authorized to order compensation under this part in any case in which an intervenor, victim, or the surviving dependent or dependents of either of them files a claim when the act, omission, or possession giving rise to the claim for compensation occurs—

"(1) within the 'special maritime and territorial jurisdiction of the United States' within the meaning of section 7 of title 18 of the United States Code;

"(2) within the District of Columbia; or

"(3) within 'Indian country' within the meaning of section 1151 of title 18 of the United States Code.

"(b) This part applies to the following acts, omissions, or possessions;

"(1) aggravated assault;
"(2) arson;
"(3) assault;
"(4) burglary;
"(5) forcible sodomy;
"(6) kidnapping;
"(7) manslaughter;
"(8) mayhem;
"(9) murder;
"(10) negligent homicide;
"(11) rape;
"(12) robbery;
"(13) riot;
"(14) unlawful sale or exchange of drugs;
"(15) unlawful use of explosives;
"(16) unlawful use of firearms;
"(17) any other crime, including poisoning, which poses a substantial threat of personal injury; or
"(18) attempts to commit any of the foregoing.

"(c) For the purposes of this part, the operation of a motor vehicle, boat, or aircraft that results in an injury or death shall not constitute a crime unless the injuries were intentionally inflicted through the use of such vehicle, boat, or aircraft or unless such vehicle, boat, or aircraft is an implement of a crime to which this part applies.

"(d) For the purposes of this part, a crime may be considered to have been committed notwithstanding that by reason of age, insanity, drunkenness, or otherwise, the person engaging in the act, omission, or possession was legally incapable of committing a crime.

"SUBROGATION

"Sec. 457. (a) Whenever an order for compensation under this part has been made for loss resulting from an act, omission, or possession of a person, the Attorney General may, within three years from the date on which the order for compensation was made, institute an action against such person for the recovery of the whole or any specified part of such compensation in the district court of the United States for any judicial district in which such person resides or is found. Such court shall have jurisdiction to hear, determine, and render judgment in any such action. Any amounts recovered under this subsection shall be deposited in the Criminal Victim Indemnity Fund established by section 458 of this part.

"(b) The Board shall provide to the Attorney General such information, data, and reports as the Attorney General may require to prosecute actions in accordance with this section.

"INDEMNITY FUND

"Sec. 458. (a) There is hereby created on the books of the Treasury of the United States a fund known as the Criminal Victim Indemnity Fund (hereinafter referred to as the 'Fund'). Except as otherwise specifically provided, the Fund shall be the repository of (1) criminal fines paid in the various courts of the United States, (2) additional amounts that may be appropriated to the Fund as provided by law, and (3) such other sums as may be contributed to the Fund by public or private agencies, organizations, or persons.

"(b) The Fund shall be utilized only for the purposes of this part.

"ADVISORY COUNCIL

"Sec. 459. (a) There is hereby established an Advisory Council on the Victims of Crime (hereinafter referred to as the 'Council') consisting of the members of the Board and one representative from each of the various State crime victims compensation programs referred to in paragraph (10) of subsection (b) of section 301 of this title, each of whom shall serve without additional compensation.

"(b) The Chairman of the Board shall also serve as the Chairman of the Council.

"(c) The Council shall meet not less than once a year, or more frequently at the call of the Chairman, and shall review the administration of this part and programs under paragraph (10) of subsection (b) of section 301 of this title and advise the Administration on matters of policy relating to their activities thereunder.

"(d) The Council is authorized to appoint an advisory committee to carry out the provisions of this section.

"(e) Each member of the advisory committee, other than a member of the Board, appointed pursuant to subsection (d) of this section shall receive $100 a day, including traveltime, for each day he is engaged in the actual performance of his duties as a member of the committee. Each member of the Council or advisory committee shall also be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of his duties.

"REPORTS

"Sec. 460. The Board shall transmit to the Congress an annual report of its activities under this part. In its third annual report, the Board upon investigation and study shall include its findings and recommendations with respect to the operation of the overall limit on compensation under section 454(e) of part F of this title with respect to the adequacy of State programs receiving assistance under paragraph (10) of subsection (b) of section 301 of part C of this title."

COMPENSATION OF BOARD MEMBERS

Sec. 103. (a) Section 5314 of title 5 of the United States Code is amended by adding at the end thereof the following new paragraph:

"(58) Chairman, Violent Crimes Compensation Board."

(b) Section 5315 of title 5 of the United States Code is amended by adding at the end thereof the following new paragraph:

"(95) Members, Violent Crimes Compensation Board."

CRIMINAL VICTIM INDEMNITY FUND FINES

Sec. 104. (a) Chapter 227 of title 18 of the United States Code is amended by adding at the end thereof the following new section:

"§ 3579. Fine imposed for Criminal Victim Indemnity Fund

"In any court of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, upon conviction of a person of an offense resulting in personal injury, property loss, or death, the court shall take into consideration the financial condition of such person, and may, in addition to any other penalty, order such person to pay a fine in an amount of not more than $10,000 and such fine shall be deposited into the Criminal Victim Indemnity Fund of the United States."

(b) The analysis of chapter 2227 of title 18 of the United States Code is amended by adding at the end thereof the following new item:

"3579. Fine Imposed for Criminal Victim Indemnity Fund.".

PART B—FEDERAL GRANT PROGRAM

Sec. 105. Subsection (b) of section 301 of part C of title I of the Omnibus Crime Control and Safe Streets Act of 1968, is amended by adding at the end thereof the following new paragraph:

"(10) The cost of administration and that portion of the costs of State programs, other than in the District of Columbia, to compensate victims of violent crime which are substantially comparable in coverage and limitations to part F of this title."

Sec. 106. Paragraph (a) of section 601 of part G (redesignated part K by this Act) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking "and" the second time it appears, striking "or" the sixth time it appears, striking the period, and inserting the following: ", or programs for the compensation of victims of violent crimes."

Sec. 107. Section 501 of part F (redesignated as part I by this Act) of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by inserting "(a)" immediately after "501" and adding at the end thereof the following new subsection:

"(b) In addition to the rules, regulations, and procedures under subsection (a) of this section, the Administration shall, after consultation with the Violent Crimes Compensation Board, establish by rule or regulation criteria to be applied under paragraph (10) of subsection (b) of section 301 of this title. In addition to other matters, such criteria shall include standards for—

"(1) the persons who shall be eligible for compensation;

"(2) the categories of crimes for which compensation may be ordered;

"(3) the losses for which compensation may be ordered; and

"(4) such other terms and conditions for the payment of such compensation as the Administration deems necessary and appropriate."

PART C—MISCELLANEOUS PROVISIONS

Sec. 108. Section 569 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended and as redesignated by this Act, is amended by inserting "(a)" immediately after "569" and by adding at the end thereof the following new subsection:

"(b) There is authorized to be appropriated for the fiscal year ending June 30, 1973, $5,000,000 for the purposes of part F."

Sec. 109. Until specific appropriations are made for carrying out the purposes of this Act, any appropriation made to the Department of Justice or the Law Enforcement Assistance Administration for grants, activities, or contracts shall, in the discretion of the Attorney General, be available for payments of obligations arising under this Act.

Sec. 110. If the provisions of any part of this Act are found invalid or any amendments made thereby or the application thereof to any persons or circumstances be held invalid, the provisions of the other parts and their application to other persons or circumstances shall not be affected thereby.

Sec. 111. This Act shall become effective upon the date of enactment.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

Mr. GROSS. Mr. Speaker, reserving the right to object, I would like to inquire whether the gentleman from Wisconsin proposes to ask for a conference with the Senate.

Mr. KASTENMEIER. Mr. Speaker, if the gentleman from Iowa will yield, this is a bill which the gentleman from Iowa, I am sure, remembers, because we had a colloquy on the floor regarding it. It is a bill that costs nothing, and that was passed by the House on September 17 of this year, without a recorded vote.

Mr. GROSS. But the gentleman did not ask to go to conference. He called the bill up, disagreed to the Senate amendments, and it ended there. Does the gentleman propose to go to conference with the bill?

Mr. KASTENMEIER. If the gentleman will yield further, the answer is "No," inasmuch as the Senate will now agree to the House bill without the amendment added, we are informed.

Mr. GROSS. I thank the gentleman for his explanation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Senate amendment was disagreed to.

CALL OF THE HOUSE

Mr. DIGGS. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 690]

Adams
Addabbo
Anderson, Ill.
Andrews, N.C.
Aspin
Badillo
Beard
Biaggi
Blackburn
Blatnik
Boggs
Boland
Bolling
Brasco
Breckinridge
Broomfield
Burke, Calif.
Burke, Fla.
Burton
Butler
Carey, N.Y.
Chappell
Chisholm
Clark
Clausen, Don H.
Clay
Cleveland
Cochran
Conyers
Cotter
Cronin
Daniels, Dominick V.
Delaney
Dent
Dickinson
Donohue
Downing
Dulski
Eckhardt
Edwards, Ala.
Eshleman
Evans, Colo.
Ford, William D.
Frelinghuysen
Fuqua
Gilman
Goldwater
Grasso
Green, Oreg.
Griffiths
Grover
Gubser
Gunter
Hanrahan
Harrington
Harsha
Harvey
Hébert
Heckler, Mass.
Helstoski
Henderson
Hillis
Hogan
Holifield
Holtzman
Hudnut
Hunt
Keating
Kluczynski
Kuykendall
Kyros
Landrum
Lent
McDade,
McKinney
Madden
Mailliard
Maraziti
Martin, Nebr.
Martin, N.C.
Matsunaga
Metcalfe
Mills, Ark.
Minish
Mink
Mitchell, Md.
Moakley
Moorhead, Pa.
Murphy, Ill.
O'Brien
Patman
Pepper
Peyser
Podell
Powell, Ohio
Railsback
Rees
Reid
Rinaldo
Robison, N.Y.
Rodino
Roe
Roncallo, N.Y.
Rooney, N.Y.
Rousselot
Ruth
Ryan
St Germain
Sandman
Sarasin
Staggers
Stanton, James V.
Steele
Steiger, Ariz.
Stokes
Talcott
Taylor, Mo.
Treen
Vander Jagt
Veysey
Walsh
Whitehurst
Widnall
Wolff
Wright
Wyatt
Wydler
Young, Alaska

The SPEAKER. On this rollcall 304 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

TRUTH IN GIVING

(Mr. VAN DEERLIN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. VAN DEERLIN. Mr. Speaker, charitable solicitations are big business in this country. Estimates vary widely, but it is generally conceded they raise at least $8 billion a year and perhaps closer to $30 billion.

Much of this money never reaches the intended beneficiaries.

Instead, it is skimmed off to meet various overhead costs, sometimes including commissions for the services of professional fund raisers.

Unfortunately, the would-be contributor now usually has no way of knowing where his donated dollar would go, how it would be divided. He does not know whether the campaign he is asked to support was initiated by a worthy cause or by some outside promoter in it for what he can get. Today I am offering a bill intended to shed some light in this area.

Of course, no one wants to harm the legitimate charities, and my bill would not do that.

It is the fly-by-night operators who are bilking the public and getting away with it because there is nothing in existing law to stop them.

A case in point is the American Kidney Fund which in 1972 raised $799,434 but spent less than $39,000 of that—a meager 4.9 percent—on patient care. The balance of $760,000 went for administrative and fundraising expenses, including $604,000 for a direct mail campaign.

It is doubtful the people who gave to this drive had any idea how small a proportion of their contributions was getting through to the individuals who were supposed to be helped.

Shoddy operations drain money away from legitimate charities. The American Kidney Fund, in fact, was in direct competition with a well-regarded organization, the National Kidney Foundation, which pays out only about 20 percent of its receipts for overhead.

The purpose of the truth-in-giving bill which I am now introducing, Mr. Speaker, is to protect bona fide charities from unfair competition as much as it is to penalize unscrupulous operators.

This bill has been a long time in the works. It has gone through seven separate drafts, with the hope of evolving a final product that is fair as well as effective. For the past 11 months, I have been assisted by a special advisory committee composed of representatives of some of our leading charities.

In order to get a bill that satisfies the twin requirements of cracking down on the unethical firms while sparing the others from undue harm we have had to make some compromises.

We have attempted to limit the application of our proposal to solicitations by mail.

We have exempted churches, schools and some of their support organizations.

We have turned to the Internal Revenue Service for guidance as to what constitutes a bona fide charity.

The bill would do the following things:

It would require charities that solicit through the mails to furnish on request financial statements' and breakdowns of how contributions are disbursed. In most cases the information would have to be provided within 30 days after the request was received.

The bill also would require most but not all fundraisers to include in their solicitation letters a statement about the availability of the financial records. Charitable organizations which the IRS has determined already enjoy broad-based support would not have to comply with this stipulation, since it would seem to serve little useful purpose if applied to them.

It is unlikely, of course, that many individuals would go through the bother of sending a stamped, self-addressed envelope, as provided by the bill, in order to get some financial data.

The real value will come from the assistance given postal fraud inspectors, consumer protection agencies and other organizations with a need to know how the professional fundraisers function. When questioned, a dubious operator would no longer be able to simply duck the issue.

It is my hope that the Committee on Interstate and Foreign Commerce will see fit to act on this legislation early in the next session.

CONFERENCE REPORT ON S. 1435, DISTRICT OF COLUMBIA SELF-GOVERNMENT AND GOVERNMENT REORGANIZATION ACT

Mr. DIGGS. Mr. Speaker, I call up the conference report on the bill (S. 1435) to provide an elected Mayor and City Council for the District of Columbia, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

POINT OF ORDER

Mr. LANDGREBE. Mr. Speaker, I raise a point of order against this conference report.

The SPEAKER. The gentleman will state his point of order.

Mr. LANDGREBE. Mr. Speaker, I wish to raise one point of order concerning section 738 of the conference report No. 93–703, the advisory neighborhood council, for the reason that it fails to provide as the conferees stated and intended during the conference held on this legislation.

The SPEAKER. Does the gentleman from Michigan desire to be heard on the point of order?

Mr. DIGGS. Mr. Speaker, I yield to the gentleman from Minnesota (Mr. FRASER).

Mr. FRASER. Mr. Speaker, as I understand it, the point of order is that the conference report is not identical to the language of the bill as it was passed by the House.

Is that the gentleman's point of order?

Mr. LANDGREBE. Mr. Speaker, I will

be glad to restate my point of order, if the gentleman so desires.

The **SPEAKER**. The gentleman will restate his point of order.

Mr. **LANDGREBE**. Mr. Speaker, I want to make a point of order concerning section 738 of conference report No. 93–703, "Advisory Neighborhood Councils" for the reason that it fails to provide as the conferees stated and intended during the conference held on this legislation.

In conference, the requirement was Neighborhood Councils must first be approved by the electors in the same public referendum required for the approval of the charter. Nowhere in section 738 does that requirement appear.

If the legislation were approved, the councils would be created by operation of law, not by the affirmation of the electors as provided for by the conferees. This section is contrary to the intent of the conferees and this report must not be considered.

Mr. Speaker, I will ask, is that clear to the gentleman?

Mr. **FRASER**. Mr. Speaker, may I just make the observation that while it is true that a clause was not in the conference report, as many of us had intended, in fact, the conference report is signed, it has been filed, and it has been printed. It stands upon its own merits, and the absence of that language is in no sense fatal or even serious with respect to the operation of the bill.

Moreover, that, along with certain other technical errors which occurred in this very complex and lengthy document, will be cured with the consent of the Chamber via a subsequent concurrent resolution that will be offered.

But in any event, the conference report was signed by the conferees, it stands on its own and it speaks for itself, and I cannot believe there is any point of order that should be raised on the claim that something is not in it that is supposed to be in it.

Mr. **BROYHILL** of Virginia. Mr. Speaker, will the gentleman yield for a parliamentary inquiry?

Mr. **DIGGS**. I yield to the gentleman from Virginia.

PARLIAMENTARY INQUIRY

Mr. **BROYHILL** of Virginia. Mr. Speaker, in the event the point of order is overruled, is there any way for the House at this time to insert the language into the bill and into the conference report, the language which was fully intended by the conferees to be included in the bill?

Obviously, it was a technical mistake, an error in printing, that it was not inserted in the conference report to start with.

The **SPEAKER**. In response to the inquiry made by the gentleman from Virginia, the Chair will state that the House could by a concurrent resolution direct the Secretary of the Senate to include the language before the bill is finally enrolled.

Mr. **NELSEN**. Mr. Speaker, will the gentleman yield?

Mr. **DIGGS**. I yield to the gentleman from Minnesota.

Mr. **NELSEN**. Mr. Speaker, I just want to make the point that the referendum dealing with the Neighborhood Councils was in the bill, agreed upon by the conference of both sides, and inadvertently it was not included in the language. I think we all admit that this is true.

It would seem to me that it should be the wish of all of us to correct that oversight at some time, and at what point it may be, I do not know. But I do feel we should correct what was the intention of the conference committee.

Mr. **FRASER**. Mr. Speaker, if the gentleman will yield, I agree with the gentleman from Minnesota. We should correct it, but I do not think the point of order lies at this stage.

The **SPEAKER**. Does the gentleman from Indiana (Mr. LANDGREBE) wish to be heard further on his point of order?

Mr. **LANDGREBE**. Mr. Speaker, I hesitate to belabor this point and delay the process of this House, but this is a very important point. There has been talk here about some compromise, but, Mr. Speaker, this is a very critical point. This is not the omission of a dot or a comma.

This is a very important part of the bill. What I am trying to get is an action on this floor that this correction has been made and not just to pass it over as something very insignificant. It is a very important part of the bill, and the conferees admit it.

The **SPEAKER**. The Chair is prepared to rule. The gentleman from Indiana makes a point of order that the conference report violates the rules and precedents of the House. Since the conference report on the bill S. 1435 was filed on December 6, 1973, the Chair has carefully scrutinized the agreements that were reached in conference to be sure that the managers have not violated the rules of the House with respect to conference reports. Obviously where, as here, there is a Senate bill and a House amendment in the nature of a substitute therefor and both are extensive and comprehensive legislative proposals the task of writing a conference compromise is a difficult and painstaking task.

Several of the managers on the part of the House conferred with the Chair during the conference deliberations and stressed to the Chair that at every stage of their negotiations particular attention was being given to the rules governing conference procedure and the authority of the conferees.

Whenever a possible compromise infringed or even raised a question of the infringement of the rules of the House the Chair was informed that the managers on the part of the House resolved that matter so there was no conflict with the provisions of rule XXVIII, clause 3.

The gentleman from Indiana has made the further point of order that the conference report is not properly before the House because a subsection of the report, allegedly agreed to in conference is not contained in the report submitted to the two Houses.

The Chair, of course, has no knowledge of how this agreement was reached. The only information the Chair has on what was agreed to in conference is derived from the conference report. The Chair does note that the subsection allegedly omitted was not contained in the Senate bill and thus the managers had the authority, under clause 3, rule XXVIII to eliminate that provision if they so desired.

Volume 5 of Hinds' precedents section 6497, states that "A conference report is received if signed by a majority of the managers of each House." The Chair has examined the report and the papers and finds that it is signed by 6 of the 10 managers on the part of the House and by all 7 managers on the part of the Senate. The Chair can only observe that the report is here in a legal manner.

The Chair therefore overrules the point of order.

POINT OF ORDER

Mr. **LANDGREBE**. Mr. Speaker, I have another point of order I would like to make at this time.

The **SPEAKER**. The gentleman will state it.

Mr. **LANDGREBE**. I raise a point of order against the conference report in reporting section 502—Authorization of Appropriations.

The conferees have clearly exceeded any authority in projecting a Federal payment of $300 million for fiscal year 1978.

The original Senate version of the bill called for a percentage of general fund revenues as the Federal payment. That percentage was 40 percent by fiscal year 1978.

The House version called for a lump-sum payment not to exceed $250 million.

The limits of disagreement are either a lump sum of $250 million or a percentage—40 percent—of whatever the general fund revenues are, not will be, in 1978. The conferees could have chosen either method. Instead, they chose to mix apples and oranges and come up with an authorization which not only exceeds the amounts stated in either version of the bill, but is an amount which greatly exceeds any figure, any statistic or any information presented for either committee's consideration.

Mr. Speaker, I could read on. I have about 2 hours of language here. But I think my point is clear, and I would ask for a ruling at this time.

The **SPEAKER**. Does the gentleman from Michigan desire to be heard on the point of order?

Mr. **DIGGS**. I do, Mr. Speaker.

Mr. Speaker, the amounts in the conference report reflect the compromise between the House bill, as authorized, and the amounts that would have been generated under the Senate provisions as estimated by the Executive Office of the Budget, and these amounts are not based on any subsequent authority which the Mayor and Council might need to raise revenue, but rather are firmly grounded in the basic revenue authority which is in the report.

I have taken the opportunity, Mr. Speaker, of conferring on this matter at every juncture with the distinguished and able gentleman from Kentucky, the Chairman of the Committee on Appropriations House Subcommittee on the District of Columbia, Mr. NATCHER, and these amounts reflect a reasonable estimate of the cost to the District in the coming years brought on by its role as the Capital of the Nation.

For that reason, Mr. Speaker, I think that the point of order raised by the gentleman from Indiana (Mr. LANDGREBE) should not be sustained.

The SPEAKER. The Chair is ready to rule.

The gentleman from Indiana makes the point of order that the conferees have exceeded their authority under clause 3, rule XXVIII by including in section 502 of the conference report an authorization above the amounts contained in either the Senate bill or in the House amendment in the nature of a substitute. The Senate bill in section 201, provided that the authorization for the Federal payment for fiscal 1975 and each year thereafter shall be an amount equal to 40 per centum of such fees charges receipts and revenues so estimated for such fiscal year. The House amendment, in section 502, provided for an annual authorization of $250,000,000 for fiscal 1975 and each year thereafter. During their deliberations, the conferees were provided by the District of Columbia government an estimate of general fund revenues for fiscal years 1975 through 1978. The Chair is advised that the Commissioner of the District of Columbia sent a letter to the chairman of the Committee on the District of Columbia Committee which incorporated by reference that revenue estimate which has been provided the conferees and which ratified that estimate, based either upon projected revenues to be derived from the taxing authority conferred upon the city council in the pending conference report or, in the alternative upon revenue raising authority in existing law. Based upon calculations of 40 percent of those estimated revenues the conferees have recommended authorization figures for fiscal years 1975 through 1978 which though higher than the authorizations for fiscal 1976, 1977, and 1978 in the House amendment are lower than the 40 percent of estimated revenue figures for those years submitted by the District of Columbia government to the conferees during their deliberations.

In the opinion of the Chair, the House conferees have remained within their scope of authority under clause 3, rule XXVIII and the point of order is overruled.

Are there further points of order? If not, is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of December 6, 1973.)

Mr. DIGGS (during the reading). Mr. Speaker, I ask unanimous consent that the further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The SPEAKER. The gentleman from Michigan (Mr. DIGGS) is recognized for 30 minutes, and the gentleman from Minnesota (Mr. NELSEN) is recognized for 30 minutes.

Mr. DIGGS. Mr. Speaker, during my 19 years as a Member of the House this has been my first opportunity to participate in a conference as well as, obviously, my first opportunity to participate as chairman of such a conference. As a result of this experience, I now have gained an extra measure of appreciation and understanding of the work of a conference committee and of those who have been sharing the responsibility for this matter over the years.

I call particular attention, Mr. Speaker, to the conferees themselves, because I think that we are dealing here with a report which reflects a truly national consensus. When we talk about self-determination for the District of Columbia we are not only talking about a matter of local interest, but because of the unique role of this capital community, it is of concern to each one of the Members of the 435 districts across this country.

When we look at the list of conferees and measure it in terms of geography or ideology, or party affiliation, besides myself, the gentleman from Minnesota (Mr. FRASER), the gentleman from California (Mr. REES), the gentleman from Washington (Mr. ADAMS), the gentleman from South Carolina (Mr. MANN), the gentleman from Kentucky (Mr. BRECKINRIDGE), we see a balance that speaks for itself.

Then when we apply the same measurement to the conferees from the other body, in addition to the chairman of the committee, the gentleman from Missouri (Senator EAGLETON); the gentleman from Hawaii (Senator INOUYE), a former House Member; the gentleman from Illinois (Senator STEVENSON); the gentleman from California (Senator TUNNEY), also a former House Member; the gentleman from Maryland (Senator MATHIAS), the ranking Republican Senate conferee who represents two of the contiguous counties to the District; the former Republican Governor of Oklahom, Dewey Bartlett; and the gentleman from New Mexico, a former mayor-commissioner of Albuquerque (Senator PETE DOMENICI); when we look at the conference report from that standpoint, Mr. Speaker, we see a product well balanced in the deliberative processes of the Congress.

We went, Mr. Speaker, into this conference with some 45 principal points of difference to be resolved, and this proceeding was stretched out over a period of almost 4 weeks, in which not only the conferees to whom I have referred to participated, but the House minority party conferees also had ample opportunity to have their views evaluated.

I think we should also note, Mr. Speaker, that this product represents the preponderance of the House position. This conference report is faithful to the House version of the bill. This is contrary to the expectations and speculation of some people who anticipated that the proponent conferees were too dominant to produce a balanced product.

The single most important difference contained in this conference report as far as the final House version is concerned is the matter of partisan elections.

But I look upon criticisms of partisan elections as really being an attack upon the institution of partisanship. We have had, in my view, enough of that kind of criticism this year. In essence to say that partisan elections are tainted in some fashion, in my view reinforces the erroneous belief in some quarters that there is something tainted about partisan elections, that inherently it produces some kind of corruption or undue influence. We need to defend the institution of partisanship in this regard. We have also built into the partisan provision a protection of minority interests, that no party can nominate more than three of their at-large members of the city council.

In the give and take of this conference report also, Mr. Speaker, we note that some of the strongest feelings on the part of some of us have been set aside. For example, on congressional veto, the Senate was very strong on that and as a matter of fact I think I learned for the first time the real reason the Senate has been able to pass home rule in the past so expeditiously is because it was just felt in the other body that as long as there is a veto apparatus, as long as there is a congressional process to correct what they might consider to be a misaction on the part of a local legislative body, then they were inclined to be generous about it. So the veto was retained in the bill despite some misgivings about it from the self-determination purists among us in this body and beyond.

Second, the Federal enclave was maintained, and although the House was almost evenly divided on that issue and the Senate was opposed to it, we did consider it seriously.

Additionally, we did something which is not unprecedented but which is very rare indeed, namely, at my request the conferees agreed to have the distinguished gentlewoman from Oregon, the author of that particular provision, come into the conference to make a statement and answer any questions.

It is my feeling in the final analysis that even though it might be surplusage in the minds of some people, what we have basically here is a problem involving confidence between the Congress and the Federal establishment and the local community. If during this transition period well-meaning Members feel more comfortable or secure in the knowledge that the Federal establishment is still under the Federal jurisdiction, that it is not subject to some capricious action on the part of some locally elected official that might affect the services within the establishment, then in my view the enclave concept is worth preserving in the conference report, and this is the rationale that I personally followed in support of it.

For those who might still have reservations about the Hatch Act, let me point out that the District of Columbia is in many respects really more like a State than a new municipality in its functions and its responsibilities, and every single State in this Nation elects its officials on a partisan basis.

I think there is another quite important point here, namely, that out of all the differences between the two bodies during our conference, this partisan election, was the most significant one which was insisted upon by the Members of the other body. Seasoned Members who are here will recognize there have to be some victories on both sides. In that context and for other reasons, I think that concession was fair and equitable.

I think also that one must recognize that all the protections in the current Hatch Act are continued, which should minimize abuses that one might have reason to anticipate.

In connection with the judiciary, Mr. Speaker, and Presidential appointment of judges, some feel very strongly that local judges should be appointed by local authorities consistent with self-determination; but we stuck by the House sentiment on this. We stuck by BILL HARSHA and left the appointment where it was, while at the same time taking what we considered to be a step forward in a national trend, namely, the establishment of the merit process in the selection of judges. So in the establishment of the Judicial Nominating Commission, that provision is retained where the President makes a selection from three nominees that are submitted to him.

So, Mr. Speaker, when we examine the conference report based upon those particular provisions, we have reserved the right of the Congress to legislate for the District at any time on any subject; we have retained in the Congress the authority to review and appropriate the entire District budget, set up authorized audits and so on; we have preserved the court system. We have insured that all planning by the local government may be vetoed by the Federal Planning Agency if it affects the Federal interests.

We have prohibited the local Council from among other things, enacting tax reductions and increasing height limitations on buildings and affecting the functions of property of the United States.

We have prohibited them from regulating the courts and the U.S. attorney's office and the marshal's office, and from increasing their authority over the Aqueduct, the National Guard, the Zoological Park, or over any Federal agency.

We have continued the President's right of control over the local police in emergency situations, which is in addition to his other powers over law enforcement, civilian and military; we have provided that all charter amendments be approved by both Houses of Congress; and that there will be a 30-day layover for any act passed by the Council and a procedure which would provide for the disapproval of all Council acts.

This legislation is a reasonable and rational accommodation between the interests of all Americans in their Nation's Capital and the basic principle that government should be responsible to the governed.

At the outset, I want to again reemphasize that the conference report retains the key provisions of the House bill which accomplish the objectives expressed by the House. These include:

First, reserving the right of Congress to legislate for the District at any time on any subject;

Second, retaining in Congress the authority to review and appropriate the entire District budget;

Third, authorizing audits of the accounts and operations of the District government by the General Accounting Office;

Fourth, preserving the court system established by the Congress in the 1970 crime bill;

Fifth, insuring that all planning done by the local government may be vetoed by the Federal planning agency—NCPC—if it adversely affects the Federal interest;

Sixth, prohibiting the local Council from, among others, enacting a tax on nonresidents, increasing the height limitation on buildings, affecting the functions or property of the United States, regulating U.S. courts, U.S. attorney's office, and the U.S. marshal's office in the District of Columbia, or increasing the Council's authority over the Washington Aqueduct, the National Guard, the National Zoological Park, or any Federal agency;

Seventh, establishing a National Capital Service Area—enclave—and continuing the efficacy of the Federal and local laws within this prescribed area;

Eighth, authorizing emergency control of the police by the President;

Ninth, preserving Presidential appointment of the judges;

Tenth, providing that all charter amendments be approved by both Houses of Congress within 35 days; and

Eleventh, providing for a 30-day layover for congressional disapproval of all Council acts.

I therefore urge your favorable consideration and acceptance of this historic effort.

Because of the length of the conference report and the complex and broadreaching nature of this legislation, I would like to take this opportunity to explain the major provisions of the conference substitute.

AGENCY TRANSFERS

The conference report adopts the House provisions transferring the following agencies to the local government.

REDEVELOPMENT LAND AGENCY (RLA)

RLA is established as an instrumentality of the District government with a board of five members appointed by the Mayor, subject to Council approval. While the transfer of the agency takes effect on July 1, 1974, the appointment authority shall not become effective until January 2, 1975. The conference adopted the House provisions with an amendment which would allow the newly elected Council to adopt proposals covering the disposition of complaints and claims involving RLA, the safe and sanitary condition of RLA rental property, assessment procedures, and the planning, design, and construction of public facilities in a redevelopment area. Of course, this provision does not limit the Council from taking any other action regarding RLA activities.

D.C. MANPOWER ADMINISTRATION

All functions of the Secretary of Labor with respect to manpower programs and the District's public employment service are transferred. The District is also made eligible to participate in Labor Department apprenticeship programs. In addition, all District employees workmen's compensation processes are transferred to the District on the date the District establishes an independent personnel system or systems.

NATIONAL CAPITAL HOUSING AUTHORITY

The NCHA is transferred to the District government and the Mayor is vested with all functions, powers and duties presently vested in the President under the Alley Dwelling Act.

PUBLIC SERVICE COMMISSION

The Commission is maintained to insure that every public utility doing business within the District is required to furnish safe, adequate, and reasonable service and facilities. The Commission shall be composed of three Commissioners appointed by the Mayor, with Council approval.

ARMORY BOARD

The composition of the Board is amended to consist of the Commanding General, D.C. Militia, and two other members appointed by the Mayor for four-year terms, subject to Council approval.

PLANNING

The Mayor is established as the central planning agency for the District, and is responsible for D.C. planning and preparation of the local elements of the Comprehensive Plan. The Mayor submits his multi-year capital improvements plan to the National Capital Planning Commission for review and comment. Neither the National Capital Planning Commission nor the Mayor has any power over the U.S. Capitol Building and grounds, or over any other buildings under the control of the Architect of the Capitol.

With respect to provisions for the District of Columbia Zoning Commission, the conference report adopts the major provisions of both the House amendment and the Senate bill, including the continuance of the five-member Zoning Commission, consisting of the Architect of the Capitol, the Director of the National Park Service, and three citizens appointed by the Mayor for four-year terms. Other provisions adopted by the conference report include a requirement that all zoning maps, regulations and amendments not be inconsistent with the comprehensive plan; a requirement for public hearings; and a requirement for a 30-day period for NCPC review and comment on proposed zoning amendments.

BOARD OF EDUCATION

The present Board of 11 members is retained with the Mayor and Council given authority to establish the maximum amount of funds appropriated to the Board, but prohibiting them from specifying the purposes for which such funds might be expended by the Board.

Since the present Board is made a part of the District Charter all changes in the structure of the Board can be made only according to the charter amending procedure.

CITY COUNCIL

The conference report provides for a council composed of 13 members, 8 elected from single member wards, 5 elected at-large, including a separate Office of Chairman, each to serve for 4-year terms elected on a staggered basis in partisan elections. Of the 5 at-large members, not more than 3 may be nominated by any one political party. The Chairman and members must be D.C. residents for 1 year and are compensated at a rate equal to the highest level of a GS–12—$22,705—with the Chairman to receive an additional $10,000.

The conference report grants general legislative powers to the Council which shall include:

First, authority to pass acts consistent with this Act;

Second, authority to pass taxing measures;

Third, authority to reorganize, abolish or establish agencies and departments of the D.C. government; and

Fourth, authority to establish an independent personnel system or systems within 5 years.

The Council may not change the building height limitations nor legislate with respect to the Commission on Mental Health. In addition, Congress retains authority over the District of Columbia criminal laws until January 2, 1977. During this period I shall actively support the revision of the D.C. Criminal Code. After this time such authority shall be vested in the D.C. Council and any Council changes shall be subject to a veto by either House for 30 legislative days. We have also provided that any Member may bring a disapproving resolution to the floor if the District Committee fails to report such disapproving resolution over Council changes in the Criminal Code. Finally, as an additional safeguard to assure that Council actions do not conflict with the Federal interest, the President of the United States may, within 30 days, sustain the Mayor's veto over Council acts.

MAYOR

The conference report provides for the partisan election of a Mayor for a 4-year term who is required to be a D.C. resident for 1 year. The Mayor is established as the Chief Executive Officer of the District and is vested with basic executive authority including the following:

First, filing of financial reports by November 1 of each year;

Second, establishing, reorganizing, and abolishing agencies, subject to Council approval; and

Third, appointing a city Administrator.

In the event of a vacancy, the Chairman of the Council becomes Acting Mayor until a special election is held within 114 days.

Because the conference spent a lengthy period considering the most forthright procedures for holding viable elections in the District, I want to clarify that in adopting partisan elections for the Mayor and City Council the conference also adopted the House-passed provision that no person otherwise qualified to hold the office of Mayor or Member of the Council shall be disqualified from being a candidate for such office because of employment in the competitive or excepted service of the United States. This assures that the large resource of federally employed talent in this city shall be permitted to run for these positions. I hastily add, however, that this provision is terribly limited and circumscribed since it would only authorize an exemption during the specific period that an employee is a candidate. Clearly, it would not authorize U.S. employees to engage in political participation and management in support of any candidate for those local offices.

The House provision was also adopted to provide that no more than two of the three members of the Board of Elections, all of whom are appointed by the Mayor with Council consent, shall be of the same political party.

In addition, during the course of the conference, questions have been advanced regarding whether the present Office of Commssioner of the District of Columbia comes within the purview of the Hatch Act. It is my view and the view of the conferees that under section 732 (d) (4) of title 5 of the United States Code, the Hatch Act does not apply to Commissioners of the District of Columbia or their successors under Reorganization Plan No. 3 of 1967. Specifically, the Office of Commissioner of the District of Columbia would not be under the scope of the Hatch Act.

JUDICIARY

Under the conference report, Congress retains authority over the composition, structure and jurisdiction of the D.C. courts and the President continues to appoint the local judges for a 15-year term from a list of three nominees submitted to him by the newly created Judicial Nomination Commission.

The judicial nomination procedure as encompassed in the conference report reflects both the Federal interest in local judicial nominees and the need for a merit selection process for these nominees.

The purpose of the new Judicial Nomination Commission is to recommend qualified persons to the President of the United States to fill vacancies on either of the District of Columbia local courts. The composition of the Commission reflects both the need for community input and representation of the Federal interest in the consideration of nominees for judgeships. The Commission will consist of seven members to serve staggered 6-year terms. The members will be appointed as follows:

First, two will be appointed by the Board of Governors of the Unified Bar of the District of Columbia;

Second, two will be appointed by the elected Mayor, one of whom shall be a nonlawyer;

Third, one shall be appointed by the Council who shall be a nonlawyer;

Fourth, one shall be appointed by the Chief Judge of the U.S. District Court for the Dstrict of Columbia who shall be an active or retired Federal judge serving in the District; and

Fifth, one appointed by the President of the United States.

Under this procedure the President retains the appointing authority but is circumscribed in the execution of that authority in that he must appoint one of the persons the Commission recommends. In cases where the President does not select within 60 days one of the three names submitted by the Judicial Nomination Commission, the Nomination Commission shall then select one of these three names and transmit the selection to the Senate for confirmation.

The conference also adopted the House provisions establishing a District of Columbia Commission on Judicial Disabilities and Tenure. The members of that Commission will be appointed under the home rule bill in exactly the same way as the members of the Nomination Commission. The Tenure Commission has been given a new responsibility—to evaluate candidates for reappointment. Under the new system a judge who is a candidate for reappointment declares himself to be such. The Tenure Commission then evaluates his performance and rates him as either "exceptionally well-qualified," "well-qualified," "qualified," or "not qualified." The evaluation is then submitted to the appointing authority. The Tenure Commission was selected for this evaluation task because it is this Commission which will deal with the day-to-day complaints about particular judges. If a judge is deemed to be exceptionally well-qualified or well-qualified, the Commission of the sitting judge is automatically extended for another 15-year term. If the judge is deemed to be qualified, the appointing authority may reappoint him with the advice and consent of the Senate. If the judge is deemed to be not qualified, he may not be reappointed.

This special procedure for renomination of judges was added to provide security of tenure for potential candidates for the bench. This reappointment procedure assures that those attorneys who do decide to leave the private practice for the bench will do so with the knowledge that they may continue in that service and not be excluded from reappointment for reasons that do not reflect upon their judicial temperament and qualifications.

D.C. BUDGET AND APPROPRIATIONS

The conference report retains a sound financial management system for all the District of Columbia government operations as provided in the House-passed bill. Most importantly, the conference report preserves Congress complete role in the review and appropriation of the entire District budget, and mandates improvements in the budget's formulation, approval and execution.

First, the report retains a comprehensive program budget system for both operating and capital outlay activities of the new city government. The Mayor is responsible for the preparation and submission to the Council of a balanced budget consisting of seven documents, including a detailed budget, multi-year plans, program performance reports, and issue analyses.

Taken together, these documents and the planning required to produce them will provide the District of Columbia, the President, and the Congress with an excellent budgeting system which identifies both broad program analysis and detailed line-item expenditures. A sound budgeting system cannot, of course, guarantee good decisions. But a sound system, especially one which provides for full public disclosure of information, increases substantially the probability of good decisions.

The report also retains very definite

standards to assure soundness of the budget execution process, including requiring the Mayor to maintain consistency between the budget, accounting and personnel systems. Employees can only be hired according to allotments in balanced budgets approved by the Council.

Legal and proper expenditure of all District funds is also safeguarded through three separate audits in the House-passed version and retained in conference.

First, there is an internal audit of all accounts, operations and agency records conducted by the Mayor's office;

Second, there is created an Office of the District of Columbia Auditor, selected and approved by the Council, which conducts on an ongoing basis a thorough review of all the city's accounts and operations;

Third, there is authorized an independent annual audit by the General Accounting Office to determine if programs are being conducted in an efficient and effective manner and in line with the purposes for which the moneys, including the Federal payment, were appropriated.

It is the intent that to the extent possible, such GAO audits of selected operations shall be conducted on an annual basis, and that the Comptroller General shall continue the existing practice of keeping all the District government activities under continual audit review.

FEDERAL PAYMENT

The conference report retains complete congressional approval over the Federal payment with a thorough annual review and recommendation by the President, the Office of Management and Budget, and the House and Senate Appropriations Committees, and Congress in accord with the Budget and Accounting Act.

The House provisions for determining an adequate, equitable Federal payment level by weighing the costs and benefits to the District of being the Nation's Capital, was also retained in conference. I want to stress that there is nothing automatic about the Federal payment contained in this bill.

The conference substitute authorizes the Federal payment at the following levels: $230 million in fiscal year 1975, $254 million in 1976, $280 million in 1977, and $300 million in 1978 and each year thereafter. These amounts reflect a compromise between the House bill authorized amount and the amount that would have been generated under the Senate provisions.

DISTRICT'S BORROWING AUTHORITY

The conference report retains provisions authorizing the District to borrow on a long-term basis to pay for congressionally approved capital projects, to meet cash-flow emergencies, and to issue revenue bonds for projects which would be self-financing. There are five points I believe essential to sound borrowing legislation which are preserved in the conference report.

First, no municipality should be allowed to accrue debts beyond its capability to repay these debts. The substitute retains a strict but workable limit on the District's borrowings, requiring that the principal and interest to be paid out in any one year on all outstanding bonds plus those bonds proposed to be issued cannot exceed 14 percent of the estimated current year revenues of the city.

Second, procedures should be established to assure that a city can repay those bonds which it is legally permitted to issue. The conference report guarantees such repayment by pledging full faith and credit of the District to pay off the bonds and notes. The District is authorized when necessary to levy a special tax which, together with other District revenues available for this purpose is sufficient to retire the bonds as they come due. These moneys are set aside in a separate fund audited by GAO. As a final safeguard, if the sinking fund is insufficient, the annual Federal payment to the District must first be used to make up the deficit. I want to point out that nothing in the borrowing provisions or in any part of the conference report eliminates the city's responsibility to repay all outstanding loans from the U.S. Treasury.

Third, an optional referendum by the voters of the city on the issuance of such bonds is provided.

Fourth, bonds should be issued at a reasonable cost to the taxpayers, and should not have to be sold at unduly high interest rates. We have assured that District bonds, like bonds of other municipalities are exempt for Federal and District of Columbia tax purposes. The tax status of municipal bonds greatly affect both their stability and long-term costs.

Finally, capital improvements projects which can be self-financing, should not be financed by bonds paid from general tax revenues. To avoid this, the conference adopted the House provision authorizing the District to issue revenue bonds to finance construction and rehabilitation in the areas of housing, healthy, education, recreation, commercial, and industrial development. These bonds are self-financing, that is the revenues from the buildings and activities so financed are sufficient to pay the costs of the borrowings and do not constitute a debt of the city.

ADVISORY NEIGHBORHOOD COUNCILS

The conference report provides that a public referendum shall be held at the time of the charter referendum to determine if procedures should be established to set up Advisory Neighborhood Councils. If the referendum measure is adopted, the Council is required to divide the District into areas for Neighborhood Councils, to advise the Council on planning, streets, recreation, social services, health, safety, sanitation, and review zoning changes and licenses.

NATIONAL CAPITAL SERVICE AREA

The conference report adopts the House provision with amendments to insure, among others, that all Federal and District laws applicable to the area would continue in force and effect and that such laws are amendable by the appropriate authorities. We have also provided that citizens who live in the area can continue to vote in the local elections. Additionally, the report makes certain that all private property and District government buidlings and parking lots are excluded from the service area.

I want to stress that the new Service Director's duties are designed to supplement and not supplant existing structures and officials.

It is our view that he would act to supply services only in those cases where existing police, fire, sanitation and street maintenance services are inadequate in the service area.

CONCLUSION

For nearly 100 years, the residents of the District of Columbia have been denied the privilege and responsibility of electing their local officials to decide those matters purely local in nature. Upon favorable consideration by this House of Conference Report 93-703, the citizens of this city will be one step closer to this long-sought opportunity.

Mr. Speaker, when we went into that conference, we indicated to the conferees of the other body that if there was any nonnegotiable provision in this act, it was relative to the role of the Appropriations Committee of the Congress with respect to the Federal budget.

Mr. NATCHER. Mr. Speaker, will the gentleman yield?

Mr. DIGGS. Mr. Speaker, I yield to the gentleman from Kentucky.

Mr. NATCHER. Mr. Speaker, I rise in support of the conference report on the bill S. 1435. As you know, this is the District of Columbia Self-Government and Government Reorganization Act.

I want to commend the distinguished gentleman from Michigan (Mr. Diggs) and the Members of his committee for their accomplishments in passing this act through the House and faithfully carrying out their responsibilities to see that the House passed provisions prevailed in every instance possible in the conference. It was a distinct privilege for me to join with Mr. Diggs and the members of his committee in urging acceptance of this bill at the time it was presented to the House. At this time, I also would like to commend the distinguished gentleman from Washington, (Mr. Adams) the chairman of the subcommittee that spent many hours in preparing the bill and in holding hearings on this legislation.

As you will recall, Mr. Speaker, at the time this bill was presented to the House, I stated that in order to comply with the provision of the Constitution's delegation of home rule to the residents of the District, must be given with the express reservation that the Congress may, at any time, revoke or modify the delegation in whole or in part and further that the Congress must take such action as in its wisdom it deems desirable with respect to any municipal action taken by the people or the Government of the District of Columbia. I further stated that Congress must retain full residual and ultimate legislative jurisdiction over the District in conformity with the constitutional mandate. In addition, Congress must, under the constitutional provision, retain the right to review and to appropriate the entire District budget approving of the necessary Federal payment and passing upon all reprogramming requests.

Mr. Diggs and his committee have carried out the constitutional mandate in its entirety. Some Members in the House and some of the residents of the District of Columbia believed that Mr. DIGGS and his committee should go further, but the bill as presented clearly shows that the District of Columbia Committee in the House would not violate the constitutional mandate. This was an excellent job, Mr. Speaker and again, I want you to know that it was a pleasure for me to join with the members of the District of Columbia in the passage of this legislation.

As Members of Congress, we have no right to ignore the provision of the Constitution concerning the District of Columbia and assuming that the committee proceeded beyond this bill with powers and duties granted which are in conflict with the provision of the Constitution, then, of course, upon the filing of a suit the provisions exceeding the constitutional mandate would, of course, be held unconstitutional. There is only one way to exceed the constitutional mandate and that is after a constitutional amendment is adopted by the Congress and presented to the States for ratification. Any future bills which grant additional rights and responsibilities to the people of the District in dealing with the municipal problems must protect the Federal interest and preserve the constitutional authority of the Congress over the Nation's Capital.

Mr. Speaker, as I have stated before, I may know as much about the operation of the District government as any Member of Congress. I have served on the Committee on Appropriations for 19 years and during this period of time have served on three subcommittees on the Committee on Appropriations with one of the subcommittees being the subcommittee on the District of Columbia budget.

I am chairman of the District of Columbia budget subcommittee of the Committee on Appropriations and have served in this capacity since 1961. I have never voted against any legislation which complies with the constitutional provision concerning the operation of the District of Columbia.

Our Nation's Capital, like a great many other large cities in this country, is faced with major problems which became more serious each year. Welfare, crime, education, and health are some of the major problems confronting our Nation's Capital. As chairman of the District of Columbia Budget Subcommittee, I have made every effort to see that adequate funds were appropriated each year for the operation of our Nation's Capital. As you have hard me say before, the year I was elected to the Committee on Appropriations and placed on the Subcommittee of the District of Columbia Budget, the total budget for our Nation's Capital was $139,578,760. The Federal payment was $20,000,000. The budget for fiscal year 1974 under which the District of Columbia is now operating approves the expenditure of a total of $1,199,498,000. This includes a Federal payment of $187,450,000. In 1961 when I became chairman of the subcommittee, the District of Columbia budget totaled $223,086,004. The Federal payment was $25,000,000.

Mr. Speaker, certainly we should continue our efforts to see that adequate funds are appropriated for the public school system here in our Nation's Capital. Our children must be taught to read and write and to obtain a good education. We now how a pupil-teacher ratio in our elementary schools of 25.2 which is one of the best in the country. Our total per capita expenditure for education in our Nation's Capital for fiscal year 1974 is $1,358. This is one of the highest in the Nation. Since 1961, we have constructed 3,228 new classrooms at a total cost of $303,337,463. The total number of projects is 118 and the number of projects along with the number of classrooms and the total amount expended is one of the highest in our country. For public schools, we will have a total for fiscal year 1974 of $165,896,300. In addition to this amount, the public school system will receive $28,561,600 in Federal grants.

For human resources, we recommended and Congress approved a total of $218,443,000 for fiscal year 1974.

For public assistance, we recommended and Congress approved total expenditures of $99,067,500. The local amount totals $52,373,200 and the Federal expenditure is $46,695,300. We now have 118,000 people on public assistance and it is estimated that during the present fiscal year of 1974, this total will go to 120,000 people.

For some 6 years as chairman of the subcommittee on the District of Columbia Budget, I have maintained that investigators were necessary in the welfare department, operating at reasonable hours to see that ineligibles were removed from the welfare roles. Back during the days when Miss Thompson was director, I maintained, Mr. Speaker, that if the ineligibles were removed, several million dollars would be saved each year. The hearings each year disclose the testimony concerning this matter and it is a serious problem here in our District of Columbia. Certainly, hungry people must be cared for and those in need must be assisted. At the same time, ineligibles and those who constantly present fraudulent claims for assistance must be removed. Mr. Yeldell is making every effort to comply with the requests that we have made on our subcommittee all down through the years and if he receives the necessary assistance from the District Building, I believe that all of the ineligibles will be removed.

Our Nation's Capital is the most beautiful city in the world and this year some 20,000,000 visitors will come to visit with us. Certainly, every effort should be made to see that these people have an opportunity to visit the many different buildings and monuments without fear of being robbed or molested. Chief Wilson is making every effort to see that this takes place.

Mr. Speaker, in going back again for just a moment to the conference report, I would like to call attention to the Members that Mr. DIGGS and his committee have carried out the wishes of the Congress and the conference report accomplishes the following 12 objectives:

First, reserves the right of Congress to legislate for the District at any time on any subject;

Second, retains in Congress the authority to review and appropriate the entire District budget;

Third, authorizes audits of the accounts and operations of the District government by the General Accounting Office;

Fourth, preserves the court system established by the Congress in the 1970 crime bill;

Fifth, insures that all planning done by the local government may be vetoed by the Federal planning agency—NCPC—if it adversely affects the Federal interest;

Sixth, prohibits the local Council from among others, modifying the District of Columbia Criminal Code until the Law Revision Commission reports in 1977, enacting a tax on nonresidents, increasing the height limitation on buildings, affecting the functions or property of the United States, regulating U.S. courts, U.S. attorney's office and the U.S. marshal's office in the District of Columbia, or increasing the Council's authority over the Washington Aqueduct, the National Guard, the National Zoological Park, or any Federal agency;

Seventh, establishes a National Capital Service Area to further guarantee our control over principal Federal properties;

Eighth, authorizes emergency control of the police by the President;

Ninth, preserves the Presidential appointment of the judges;

Tenth, provides that all charter amendments be approved by both Houses of Congress within 35 days;

Eleventh, provides for a 30-day layover for congressional disapproval of all Council acts; and

Twelfth, retains the governmental reorganization as proposed by the Nelsen Commission.

Mr. Speaker, I support the conference report for the bill S. 1435 and sincerely hope that all of the Members will support this conference report.

Mr. GROSS. Mr. Speaker, will the gentleman yield for a question?

Mr. DIGGS. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, is there a provision in this conference report providing for a delegate to the District of Columbia from the Senate?

Mr. DIGGS. No, there is not. It is not a part of the conference report.

Mr. GROSS. That was conveniently dropped in conference, is that correct; the amendment to provide for a delegate?

Mr. DIGGS. The amendment failed to be sustained.

Mr. GROSS. The Members of the other body did not care to be represented?

Mr. DIGGS. Well, I do not see a statement on their part specifically directed to that particular provision, but the results speak for themselves.

Mr. GROSS. May I say to the gentleman that neither do I see any statement in the conference report to that effect.

Mrs. GREEN of Oregon. Mr. Speaker, will the gentleman yield?

Mr. DIGGS. I yield to the gentlewoman from Oregon.

Mrs. GREEN of Oregon. Mr. Speaker, I thank the gentleman very much.

Mr. Speaker, I want to join in commending the gentleman from Michigan for a very, very fine job. He has been eminently fair.

Certainly our association with him in recent weeks has proven that he is a man of his word, and certainly in the conference committee and before that, he did everything in his power to bring out a bill which would be acceptable to the House.

I wish also to pay my respects to the gentleman from Minnesota (Mr. ANCHER NELSEN).

If the gentleman will yield further to me, I wish to say that I think if it had not been for the excellent work that the gentleman from Minnesota (Mr. NELSEN) has done, along with the gentleman from Michigan, there simply would not be a bill at this time.

Both of them sincerely and honestly are interested in the District of Columbia, and I want to express my personal thanks for inviting me into that conference. That was a new experience, as I have said before.

Mr. Speaker, there is one question I would like to ask, and that is in reference to the partisan elections. I noticed that the gentleman said, with regard to the partisan elections, that there should not be an attack upon the partisan procedures we have. In my city, as the gentleman knows, we have no partisan elections, and I sought that. I realize it is a matter of give and take in the conference.

Mr. Speaker, my inquiry now, if the gentleman from Michigan would respond, is if, in view of the decision made by the Chairman of the Civil Service Commission, that would prevent the Mayor and the members of the City Council from running for these offices because they are partisans, and it is my understanding that at a later time, or maybe the Senate has already acted on this, we will amend the Hatch Act to allow the Mayor and the members of the City Council to run, even though they are Federal employees.

Mr. DIGGS. Mr. Speaker, I will say to the gentlewoman that I welcome an opportunity to respond to that question.

We do expect to consider this matter this week. I am working on it now, along with the distinguished ranking minority member of the committee.

As the gentlewoman knows, there were two different bills, one partisan and one nonpartisan, and the House bill or our version has a provision that would allow Federal employees to be candidates for local elections.

It was our understanding that the current Mayor would not be prohibited from running by the Hatch Act, but the Civil Service Commission, as the gentlewoman indicated, has recently rendered an opinion that both the Mayor and the City Council members would have to resign in order to run for office.

We certainly do not wish to have this kind of hiatus in the Government, as I am sure no other Member of the legislative or the executive branch wishes. And so in order to prevent this, the Senate passed an amendment to House bill 6186 to exempt the Mayor and the City Council members from the proscriptions of the Hatch Act.

The fine communication so generously referred to by the gentlewoman still exists between myself the gentleman from Minnesota (Mr. ANCHER NELSEN) and there is no question in my mind that before this week is out an effective solution to this problem will be brought back to this body for disposition.

Mrs. GREEN of Oregon. Mr. Speaker, would the gentleman yield for one other question?

Mr. DIGGS. I yield to the gentlewoman from Oregon.

Mrs. GREEN of Oregon. Mr. Speaker, is it the gentleman's intention to exempt all Federal employees from the Hatch Act, or just the Mayor and the City Council?

Mr. DIGGS. Well, I think that is a matter that is to be resolved between, first of all, the gentleman from Minnesota (Mr. NELSEN) and myself.

I do see something emerging out of the informal discussions, a desire, No. 1, to make as many people eligible as possible for this first and historic election, and that would seem to suggest an exemption for both Federal and District employees.

However, on the other hand, I see emerging also some kind of time limitation on this whole proposition, a time limitation that might be tied to just this election, so that before the next election the very unique application of the Hatch Act to this community might be adjudicated in some other fashion.

Furthermore, I wish to stress that when I talk about Federal or District employees I am talking only about those who are candidates. So therefore there is a considerable limitation even in that regard.

Mr. Speaker, I reserve the balance of my time.

Mr. NELSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. BROYHILL of Virginia. Mr. Speaker, will the gentleman yield?

Mr. NELSEN. I yield to the gentleman from Virginia.

Mr. BROYHILL of Virginia. Mr. Speaker, I rise in opposition to the conference report.

Mr. Speaker, at the outset, I wish to emphasize the fact that I am not opposed to the principle of self-government for all American citizens, including the residents of the District of Columbia. Because of the unique role of the District as the Capital City of this Nation, however, in any action to grant home rule to this city, we, Members of the Congress, must hold paramount our responsibility to assure that the inherent interest of the Federal Government in this Nation's Capital be amply protected.

I yield to no Member of this body in my sincere desire to grant to the citizens of the District of Columbia as great a degree of self-determination and participation in their local government as is consistent with the Federal interest in this Capital City, and I submit that the record of my 21 years of service as a Member of Congress bears eloquent witness to this fact. I was one of the sponsors of the act of 1960, which gave the citizens of the District the right to vote for President and Vice President. Also, I grant strong and active support to the bill which provided for the first elected Board of Education in this city, as well as the legislation to give the District of Columbia its nonvoting Delegate to the U.S. House of Representatives. And further, on two separate occasions, I testified before the House Committee on the Judiciary urging favorable action on legislation which would have afforded the District voting representation in the Congress.

Thus, I have consistently acted to encourage greater participation on the participation on the part of the voters in the District of Columbia in the affairs of their Government—and I shall continue to support such measures, but not at the sacrifice of the interest of the 200 million American citizens to whom this city belongs.

The version of this bill which the House approved last October 10 and sent back to the Senate for their further action contained provisions which, if enacted into law, would militate seriously against the rightful Federal interest in the District of Columbia, as I pointed out at that time, even though some substantial improvements in the bill were attained by amendments on the floor. And this is the principal reason why I was obliged to vote against its final passage on that occasion. And now, the House-approved bill has been so badly eroded by actions of the conference committee, even in some of the areas where it had been improved by floor amendment, as to make it even more unacceptable in its present form.

One example of this deterioration of the bill in conference is in the area of appointment of judges to the Superior Court of the District of Columbia and the District of Columbia Court of Appeals. When the House home rule bill, H.R. 9682, was brought to the floor, it provided that such judges would be appointed by the mayor of the city, rather than by the President as has been the case since the District of Columbia was founded.

This provision, which was sharply criticized by the Federal judiciary and by the organized bar, met with strong opposition on the Floor, and the bill was amended to restore to the President the authority to appoint all district court judges, subject to approval by the Senate, from among lists of names submitted by a D.C. Judicial Nomination Commission. This nominating commission was to consist of nine members, to be appointed as follows: Two by the unified District of Columbia Bar; two by the mayor; one by the Speaker of the House; one by the President of the Senate; and three by the President of the United States.

The conference report, however, while retaining the appointment of judges by the President, has seriously weakened this provision by changing the composition of the Nominating Commission to seven members, with two to be appointed by the Board of Governors of the unified District of Columbia Bar, two by the

Mayor, one by the District of Columbia Council, one by the chief judge of the U.S. District Court for the District of Columbia, and one by the President.

Thus, whereas under the terms of the House-approved bill, five of the nine members of this Commission would have been appointed by the Federal establishment—three by the President and two by the Congress—under the conference-approved version, the Federal appointees will number only two out of a total of seven members, with one each by the President and the chief judge of the U.S. Court for the District. At the same time, the number of appointments to the Commission by the elected city government—the Mayor and the Council—will increase from two of a total of nine members to three out of a total of seven.

The significance of this change is immediately apparent, as it will serve to so reduce the President's latitude of selection of appointees to judgeships in the District's courts as to seriously impede his authority. And this situation is further worsened by the fact that the conference bill also provides that in the event the President does not nominate from the list of names sent him by the nominating commission for any judgeship vacancy within a period of 60 days, the nominating commission shall be authorized to appoint a judge to that position, subject, of course, to approval by the Senate.

This emasculation of the House-approved bill could thus well result in a situation wherein the President may be confronted with the option of either appointing a judge to the District of Columbia bench from among a list of three persons, none of whom he regards as suitable for such a position, or of having the District of Columbia government-dominated Judicial Nominating Commission name a judge of their own choosing. Thus, this action of the conference committee has completely circumvented the will and intent of the House in this vitally important area.

I wish to point out that the delegation of the power of appointment of judges to these courts in the District of Columbia to the Mayor, either by direct provision of law or by circumvention thereof, is completely unprecedented, since in no other city in the United States are judges of courts of general jurisdiction appointed by officials of the local government. The obvious reason for this is to protect such judgeships from the evils which could result from local political pressures on the judiciary.

Furthermore, this provision relating to the appointment of judges in the District of Columbia courts in this bill is very important to the Federal interest in the city, because the District of Columbia Superior Court and the District of Columbia Court of Appeals will have the same jurisdiction over violations of the law occurring in the Federal enclave, which is provided for in the bill, as they will have in the case of such violations committed elsewhere in the District of Columbia. For this reason, I regard it as imperative that the judges of these courts be appointed by the President, with approval by the Senate, with no risk whatever of local political considerations becoming involved in such appointments.

At this point, I should like to state that the House amendment to the home rule bill creating this Federal enclave, comprising the greater part of the Federal buildings in the city and no privately owned or residential properties whatever, into a National Capital Service Area, which will be controlled by the Federal Government, is the most significant and beneficial element of this proposed legislation. And I wish to express my admiration and my gratitude to our colleague from Oregon, the Honorable EDITH GREEN, for her statesmanship in promoting this concept and in getting it incorporated into the House-approved bill. Further, I wish to state that I am unalterably opposed to any action which would serve to weaken the rightful and proper authority of the Federal Government in this enclave.

Another serious problem which the conference committee has injected into this bill involves the city elections for the offices of Mayor, Chairman of the Council, and members of the Council. In the House-approved bill, these elections were to be nonpartisan, which would have permitted broad citizen participation, since employees of the Federal and District of Columbia Governments are permitted under the Hatch Act to participate fully in nonpartisan political campaigns for local office, although they cannot be candidates for election. The conference-approved bill, however, provides that these elections shall be partisan—and further provides that Federal Government employees may run as partisan candidates in these elections. This latter, of course, is nothing short of an amendment to the Hatch Act, for the special benefit of Federal employees who are residents of the District of Columbia.

Not only is this discriminatory, since Federal Government employees are not permitted this degree of partisan political activity in any other jursdiction in the United States, but it also poses a grave threat to the Federal interest, not only in the District of Columbia but throughout the entire Federal service system.

This ill-conceived provision, if enacted into law, will inevitably serve as a precedent for further erosion of the Hatch Act, which will eventually destroy the effectiveness of that act throughout the Federal Government. Partisan political pressures, with all their vicious inequities, will again be applied to Federal Government personnel, and this will, of course, lead to a return to the "spoils system" in Government service, the very evil which the Hatch Act was designed to eliminate and prevent.

I feel strongly that we, in the Congress, cannot in good conscience support this provision, which seeks to accommodate the selfish wishes of certain elements in the citizenry of the District of Columbia at the expense of destroying the moral fiber and effectiveness of the entire Federal Government service.

The conference committee has wrought still further serious damage to this bill in the matter of the annual Federal payment to the District of Columbia. The authorization for this Federal payment is presently $190 million, and the House-approved version of the home rule bill would have increased this authorization to $250 million, for fiscal year 1975 and each year thereafter. The Senate-approved bill provided that the District's annual Federal payment request, which would automatically be appropriated, would be based on a formula related to the city's annual revenues. The Senate estimated that this formula would result in a Federal payment to the city of about $211 million in fiscal year 1975, and increasing to some $264 million by fiscal year 1978.

The conference report contains a provision for a Federal payment authorization of $230 million for fiscal year 1975, $254 million for fiscal year 1976, $280 million for fiscal year 1977, and $300 million for fiscal year 1978 and each year thereafter.

I take strong exception to this action of the conference committee, first on the grounds that I believe this $300 million figure to be in excess of the scope of the conference and thus properly subject to a point of order. Neither the House-approved bill nor the Senate-approved version contained an authorization or an estimate for a Federal payment as high as $300 million for fiscal year 1978, and thus it is my opinion that this figure in the conference report is improper in view of the rules of conference.

I also feel strongly that the figures in the conference-approved bill for Federal payment authorizations are exorbitant and completely unjustified at this time. In the first place, the Congress has never before established increases in the Federal payment authorization prospectively for future years, as this conference-approved bill would do. This is for the very good reason that there can be no reliable grounds for granting such increases on that basis, as far as fiscal year 1978 is concerned. I contend that there is no justification whatever for the Congress to assume a need for a $300 million authorization for a Federal payment to the District of Columbia at that time, since there simply is no valid reason for such assumption four years in advance.

Furthermore, I seriously question the justification for any increase in the present Federal payment authorization whatever at this time, in view of the establishment of the National Capital Service Area in this home rule bill. This enclave provision means that the District Government will no longer be called upon to spend any funds whatever in that very considerable Federal portion of the District of Columbia. The city will provide no police protection in the enclave except in cases of emergency, which means that the Metropolitan Police Force can be reduced somewhat in size; and the city will no longer be called upon to build or maintain any streets in that area of the city, which will result in a further considerable saving to the District.

The bill does provide that the Director of the National Capital Service Area shall utilize, to the extent practicable, District of Columbia governmental services in the area of fire protection and sanitation services. However, the Federal Government will undoubtedly pay the District government for any such services which may be utilized, just as they pay the city now for water and sewer services in all Federal Government buildings in the city. And furthermore, it must be remembered that the District will not lose 1 cent of tax revenues as a result of the creation of this Federal enclave, since there is no taxable property within its bounds.

Thus, we have the somewhat ridiculous situation of the city government facing a considerable decrease in expenditure of funds because of the creation of this Federal enclave, and at the same time being afforded a very substantial continual increase in the authorization for its anual Federal payment.

Here again, the Federal interest is definitely at stake, because these are Federal funds which are involved—revenues collected from every taxpayer in the United States—which are being so prodigally pledged to the District of Columbia government in this conference report.

This problem has been a growing source of concern to me for some time, as I have seen the demand for Federal funds by the District government mushroom year after year. In fiscal year 1973, for example, 51.7 percent of the District's total financial resources available were Federal funds, and I am confident that this figure may be expected to increase in future years.

I am quite conscious of the responsibility of the Federal Government to afford a proper share of the funding for the operation of the Nation's Capital, and for this reason I have supported every increase in the authorization for the annual Federal payment to the District of Columbia in the past 21 years. At the same time, however, I am also acutely aware of the fact that there is a limit to the ability of the Nation's taxpayers to contribute increasingly each year to the District. And for this reason, we in the Congress must look for means for every reasonable economy in this expenditure. So in this present instance, when we are proposing to decrease materially the District government's expenditures relative to the Federal presence in the Capital City, and at the same time are being asked to approve an increase of more than 50 percent in the authorization for the annual Federal payment to the city over the next 4 years, I cannot in good conscience support such a proposal.

I also see a danger, not only to the Federal interest but also to that of the suburban communities of the Washington metropolitan area—including the 10th district of Virginia, which I have the honor to represent in the Congress—in the provisions of this bill relating to the National Capital Planning Commission, which is a Federal entity responsible for planning and development for the Federal Establishment both in the District of Columbia and in the suburban jurisdictions of the metropolitan area.

At present, the NCPC consists of 12 members, 2 of whom are the District of Columbia Commissioner and Deputy Commissioner. Under the provisions of this home rule bill, however, the Commissions membership will include not only the Mayor and the chairman of the City Council, but also two other citizen members appointed by the Mayor. The other members of the NCPC will be the Secretary of the Interior, the Secretary of Defense, the Administrator of GSA, the chairmen of the House and Senate Committees on the District of Columbia or their alternates, and three citizen members appointed by the President, one of whom shall be from Virginia and one from Maryland.

Thus, the District of Columbia's representation on this vitally important Commission will be doubled, to consist of 4 out of the 12 members. This will give the District an unfair overrepresentation on the agency, whose function involves oversight over all the planning and development of the Federal Government throughout the entire metropolitan area. This situation could give the District a possible ratio as great as 7 to 1, against only one person from Virginia and one from Maryland. Inasmuch as the District of Columbia and the nearby areas of Virginia and Maryland are in competition for Federal facilities and Federal jobs, with the livelihoods of citizens in all the jurisdictions vitally affected, this advantage to the District of Columbia represents grossly unfair competition.

As the representative of a considerable portion of northern Virginia, I will not support any legislation containing such a derogation of the rightful interests of my constituents. When the House home rule bill was debated in this body, I spoke in support of an amendment offered by my colleague from Maryland, Honorable LAWRENCE HOGAN, which would have corrected this inequity. However, the amendment was defeated, and thus the last opportunity to achieve justice in this area of the bill was lost.

I have serious misgivings also in connection with the provision in this bill which requires the Council to establish, within 5 years, a District government merit system for its personnel. This District of Columbia merit system may provide for continued participation in all or part of the Federal Civil Service System, but I am fearful that the Council may not avail themselves of the option of continuing the present inclusion of District of Columbia government employees under the U.S. Civil Service System, in favor of establishing a new personnel system of their own. This I believe would be a serious mistake, as the experience and expertise of the U.S. Civil Service System, which has undeniably been a tremendous benefit to employees of the District government over the years, would be lost; and I believe that a new local system established in its stead would take many years to perfect, with the likelihood of great harm accruing to the city's employees in the meantime.

The bill provides that under the new merit system, persons employed by the District government at the time such a system is established must be provided benefits as to pay, tenure, leave, retirement, et cetera, at least equal to those which they enjoy at the time the new system is initiated. Thus, I am assured that no present employees will suffer any loss of such benefits. However, I am concerned that a new and inexperienced administration over a District of Columbia merit system might result in discriminatory practices in such areas as the hiring of new personnel and promotions for both present and future employees. Also, nothing in this bill would prevent the Council from requiring all future city government employees to reside in the District of Columbia, which in my opinion would be an injustice.

I have received many calls and letters from residents of my district who are employed by the District of Columbia government, expressing anxiety over this potential situation, and I share their concern. However, it is my hope that the District of Columbia Council will realize the wisdom of retaining the services of the U.S. Civil Service Commission for the administration of the District of Columbia merit system, in the best interests of all the city's employees and of the District itself. It is my opinion, however, that this bill would be considerably more desirable without the provision authorizing this option of an independent personnel system.

Mr. Speaker, as I have stated, I have a deep and abiding conviction that all citizens of this Nation should be free to participate in the affairs of their local and Federal Governments to as great a degree as possible. I have worked and voted in the Congress to make possible and to encourage such participation on the part of the residents of the District of Columbia, and I would support this conference-reported bill if its provisions did not militate against the Federal interest in the District—the vested and inalienable rights of all the citizens of the United States to whom this city belongs, as the capital of their Nation—and also if it did not contain provisions which are unfairly inimical to the interests of the people in my congressional district. The sponsors of this legislation could have presented this body with such a bill, with no harm or loss to the citizens of the District of Columbia in their rightful quest for self-determination in their local government—and I would have given such a bill my complete support. However, not only did these sponsors not bring out such a bill, but they opposed and defeated a number of amendments offered on the floor which would have achieved this purpose. And this attitude was continued in conference, where, as I have pointed out, further serious damage was done to the bill. I was a member of the conference committee, and I and my colleagues on the minority side were simply outvoted at every turn.

So the result is that we have before us today a conference report which in good conscience I could not sign, and the acceptance of which, for the reasons I have stated, I am obliged to vote against.

Mr. NELSEN. Mr. Speaker, first I want to thank the chairman of the committee, Mr. DIGGS, for the fine communications that we continued all through this conference. It has been a pleasure to work with him. He has done a fine job in his first management of a major piece of legislation as chairman of the committee.

Furthermore, I want to pay my respects to my colleague from Minnesota (Mr. FRASER), and the gentleman from Washington, (BROCK ADAMS). I have always felt free to deal with them on the affairs of the District Committee to insure the best interests of the residents and the Congress and have always had fine cooperation although we have not always totally agreed. Certainly, however we established understanding as we went along and the District and the Nation was the winner in the resolution of our differences.

Next I want to state my very high regard for and extend my respects to the gentlewoman from Oregon (Mrs. GREEN), for her work on this bill on the floor and in the conference. Her contributions in the national interest in forging this bill will long be remembered. It was a pleasure to work with Mrs. Green again after having worked closely with her in the 92d Congress when she served on the District Committee. Mr. Speaker, I wish to state that I favor home rule for the District of Columbia and expanded self-government for the residents of the District of Columbia. My record as a member of the House District Committee, first as a Member and more recently as ranking minority member, bears out that statement. Over the years I have been highly instrumental in giving a Presidential vote to the residents of the District of Columbia. I have been instrumental in insuring that an elected school board was provided in the District. More recently, I authored and saw enacted into law a bill that provided for representation in the Congress for residents of the District in the form of an office of non-voting delegate in the House of Representatives.

I have worked assiduously in the interest of the residents of the District of Columbia and in the interests of your constituents and mine in insuring that the Federal interest in the District of Columbia has been protected as we move over the years to address and expand the local, parochial interests of the residents here. That was the basic thrust behind my moves to give land grant status to the District of Columbia, especially for its vocational schools, and for working to insure that the residents would have an opportunity for a fine technical and vocational education in a school such as the Washington Technical Institute, which has been so successful in recent years under the leadership of Dr. Cleveland Dennard.

Mr. Speaker, the chairman mentioned in his opening statement the people who were involved in shaping this conference report.

He did not mention that I was there, and that I helped shape the conference report, although I did not sign the report. The reason I did not sign it is that it contained provisions similar to H.R. 9682 which I opposed in the full committee but voted to report to the floor because I thought the Congress should have an opportunity to work its will on the committee bill, H.R. 9682.

The House on October 10, 1973, passed an amendment to S. 1435, the home rule bill, that provided for nonpartisan elections in the District of Columbia. This provision for nonpartisan elections was in contradiction to the action taken by the House District Committee in reporting out H.R. 9682, wherein partisan elections were provided for and required.

I objected to the partisan election provisions in H.R. 9682, and I specifically provided for nonpartisan elections in my substitute bill, H.R. 10692, which I took to the Rules Committee and obtained a favorable ruling as respects its introduction as a substitute to the House District Committee bill as reported out by the full committee.

After Congresswoman EDITH GREEN and I went to the Rules Committee with our substitute bills, more particularly H.R. 10692, which I introduced and she cosponsored providing for home rule for the District of Columbia, and after winning our fight before the Rules Committee to have our substitute H.R. 10692 be held in order as a substitute when the home rule issue came up for consideration on the floor, those who sponsored and cosponsored H.R. 9682 hurriedly put together a substitute to their own bill, which they introduced on the floor on October 9, 1973. That substitute, which the House ultimately passed, specifically provided for nonpartisan elections.

Unfortunately, the Senate bill, S. 1435 as passed by the Senate, contained provisions for partisan elections. The conference has taken the partisan provisions contained in the Senate version of S. 1435 and adopted that as part of the conference report. This is unfortunate in the extreme, because I believe that it was unwise to impose partisan elections on the residents of the District of Columbia.

From the beginning when home rule was discussed, the question of the residents of the District of Columbia electing their own officials was a predominant feature and thrust of home rule. However, the introduction of the issue of partisan elections in the District of Columbia necessarily raises the issue of whether some of the home rule proponents were not more concerned with the issue of partisan elections than they were with the issue of home rule of self-government for the residents of the District of Columbia.

This is compounded, of course, by the fact that section 741 of the conference report contains an exemption from the Hatch Act, so that Federal employees may be candidates for the offices of Mayor, chairman of the Council, and members of the Council of the District of Columbia.

My opposition to the bill reported out by the House District Committee, which also contained partisan elections and also contained an exemption to the Hatch Act—Section 740 of that bill—is thus as valid today as it was when that original bill was reported out of committee. My dissenting views as they related to that bill are quoted below with the exception that I have stricken the word bill where it appears in the dissenting views of that report—House Report 93-482—and inserted the words "conference report."

> It is difficult to conceive of an exemption that is more likely to strike a death blow to the Hatch Act than one that offers the protection of the career service to one who is seeking a politically partisan elective office. Whether intended or as a result of oversight, it is highly probable that the foregoing provisions in this conference report would have that result.
>
> Proponents of this conference report might well see a golden harvest in political contributions from the pockets of Federal and local employees were they able to successfully and indirectly initiate the repeal of the Hatch Act. Exemptions such as those contained in this conference report could well open the door to a reversion to the "spoils system" which the Hatch Act was initially enacted to correct.
>
> The Supreme Court decision on June 25, 1973, in *U.S. Civil Service Commission v. Letter Carriers*, ----- U.S. ----- (1973) upholds a constitutional challenge to the Hatch Act and its reasoning is worth calling to the attention of Members of Congress:
>
> We unhesitatingly reaffirm the *Mitchell* holding that Congress had, and has, the power to prevent Mr. Poole and others like him from holding a party office, working at the polls and acting as party paymaster for other party workers. An Act of Congress going no further would in our view unquestionably be valid. So would it be if, in plain and understandable language, the statute forbade activities such as organizing a political party or club; actively participating in fund-raising activities for a partisan candidate or political party; becoming a partisan candidate for, or campaigning for, an elective public office; actively managing the campaign of a partisan candidate for public office; initiating or circulating a partisan nominating petition or soliciting votes for a partisan candidate for public office; or serving as a delegate, alternate, or proxy to a political party convention. Our judgment is that neither the First Amendment nor any other provision of the Constitution invalidates a law barring this kind of partisan political conduct by federal employees.
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> * * * * *
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> Such decision on our part would no more than confirm the judgment of history, a judgment made by this country over the last century that it is in the best interest of the country, indeed essential, that federal service should depend upon meritorious performance rather than political service, and that the political influence of federal employees on others and on the electoral process should be limited.
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> * * * * *
>
> In 1966, Congress determined to review the restrictions of the Hatch Act on the partisan political activities of public employees. For this purpose, the Commission on Political Activity of Government Personnel was created. 80 Stat. 868. The Commission reported in 1968, recommending some liberalization of the political activity restrictions on federal employees, but not abandoning the fundamental decision that partisan political activities by government employees must be limited in major respects. 1 Report of Commission on Political Activity of Government Personnel, *supra*.
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> * * * * *
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> This account of the efforts by the Federal Government to limit partisan political activities by those covered by the Hatch Act should not obscure the equally relevant fact that all 50 States have restricted the political activities of their own employees.
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> * * * * *
>
> Until now, the judgment of Congress, the Executive and the country appears to have been that partisan political activities by federal employees must be limited if the Government is to operate effectively and fairly, elections are to play their proper part in rep-

> resentative government and employees themselves are to be sufficiently free from improper influences. *E.g.*, 84 Cong. Rec. 9598, 9603; 86 Cong. Rec. 2360, 2621, 2864, 9376. The restrictions so far imposed on federal employees are not aimed at particular parties, groups or points of view, but apply equally to all partisan activities of the type described. They discriminate against no racial, ethnic or religious minorities. Nor do they seek to control political opinions or beliefs, or to interfere with or influence anyone's vote at the polls.

* * * * *

The Congress, acting as the local legislature for the District of Columbia in taking up this home rule bill, should certainly act responsibly. As we noted in the dissenting views to the original home rule bill, H.R. 9682, as reported out of the full committee, over two-thirds of the cities in this country having a population of over 100,000 have nonpartisan elections. Now we in this conference report are imposing on the District of Columbia partisan elections, which I think time and circumstances will prove to be extremely unwise and taken together with the amendment of the Hatch Act, may in the future, if permitted to continue, become the undoing of home rule in the District of Columbia at some future time.

Thus, I submit that the conferees by putting partisan elections in this home rule legislation have erred. I want to make this emphatic point, namely, that the champions of home rule for years and years and years have talked and talked and talked about a voice in their own affairs. Did they really mean they wanted a partisan voice speaking in the District for the foreseeable future with a spoils system to sustain the voice here and nationally.

The purpose of home rule is to give the people a chance to participate in their government. When you put partisan elections into this bill under the provisions of the Hatch Act you immediately place restrictions on over 125,000 individuals to participate freely in these elections which they would be free to do with nonpartisan elections. Is not full participation of citizens consistent with home rule and the lack of full participation inconsistent with it. Of course, it is. And, do not say the answer to that is to amend the Hatch Act, so the Supreme Court noted in the letter carriers decision, it is:

> The judgment of history, a judgment made by this country over the last century, that it is in the best interest of the country, indeed essential, that Federal service should depend on meritorious performance rather than political service, and that the political influence on Federal employees on others and on the electoral process should be limited.

It should also be noted that the Supreme Court stated that all 50 States have restricted the political activities of their own employees.

Not only that, but years ago I ran an agency, the Rural Electrification Administration, and one of the big problems was the fact that even under the laws under which we operated—the Hatch Act—we found that after I left to run for Congress that people were coerced into buying tickets for political rallies with $50 down and $10 a month.

There is every reason to believe that a spoils system can easily grow out of partisan elections, which can more easily be prevented under a system of nonpartisan elections. Too, nonpartisan elections are the rule in approximately two-thirds of cities with populations over 100,000.

So when you last saw the home rule bill as it was passed by the House it had a provision for nonpartisan elections in it. Then, we went into the conference committee, and what happened? From the Senate side they insisted on partisan elections.

I want to say that at that point my confidence in the fact that the proponents of home rule wanted to give the people a voice in their government began to be whittled away and my belief began to be strengthened that the purpose claimed was only secondary to the partisan appetites that began to appear.

I also want to make reference to some of the lobbying that went on during the process of legislating on home rule during the first session of this Congress. After we got through with the original bill, H.R. 9682, that came out of the full committee, and which ran into all kinds of opposition, the gentleman from Kentucky (Mr. NATCHER) was opposed to it because of the budget. I helped the gentleman get what he wanted. I think we were right—congressional control of appropriations and the budget—and those provisions are in there today. But each time we raised valid objections to provision in H.R. 9682, we had difficulty. But in fact the conference report conforms in many respects with the Nelsen-Green bill with one large notable exception, partisan elections and an amendment to the Hatch Act.

I also wish to call attention to the fact that during the course of the consideration of home rule that Common Cause representatives contacted individuals, many of them active in my own political party back in my district in Minnesota, suggesting, if not alleging, that I was the chief opponent to home rule. There was also literature distributed that by innuendo, and not so artful draftsmanship, left the reader with the impression that anyone who would question any provision in a bill providing home rule for the District of Columbia was motivated by racism. Now, this is nothing more or less than patent nonsense. I think I can say without fear of contradiction in this body that at no time in the course of my service in the Congress have I ever been motivated by such a factor. And I challenge anyone to make such an allegation. It is evidence of the dangerous and irresponsible actions of Common Cause in lobbying on this legislation that they circulated this type of literature and propaganda.

I have recently contacted representatives of Common Cause to determine what their position is on the repeal of of the Hatch Act exemption, inasmuch as we embark on that in this conference report. I had difficulty getting a response, and that which I received was equivocating. The League of Women Voters were also contacted, and their response was that they would leave the issue of Hatch Act exemption to their local chapters. Now, I find that equivocating also—and equivalent with ducking the issue, which I refuse to do. There is certainly national concern with repeal of the Hatch Act at the seat of the Government.

So I am a little disappointed in some of the things that have happened. But at the same time I must say to the conferees on the side of the House that my communications and relations with them have been very good. I am disappointed in this part of the conference report, and I think it is a mistake, but I am going to support the conference report.

I will tell the Members why. I think I could have made a point of order, and a very valid one. We had come out of the House after floor action with a bill with nonpartisan elections in it; a bill permitting the members of the council and the Mayor to run for office in the newly elected government even though subject to the Hatch Act, because the House provided for nonpartisan elections.

I wish to insert in the RECORD at this point the basis and rationale that I could have used in making a point of order against the action of the conferees:

Amendment of the Hatch Act by Way of an Exemption Contained in Section 741 Is Outside the Conference

Section 741 of the Conference Report constitutes an Amendment to the Hatch Act and, accordingly, is subject to a point of order in that it goes beyond the limits of the disagreements confided to them.

THE HOUSE PROVIDED FOR NON-PARTISAN ELECTIONS—THE SENATE PROVIDED FOR PARTISAN ELECTIONS—NEITHER VERSION

The House passed amendment to S. 1435 provided (Sec. 401) that members of the Council "shall be elected on a nonpartisan basis" and that (Sec. 421) the Mayor shall be elected "on a nonpartisan basis."

S. 1435 as passed by the Senate provided (in Title VIII) that candidates for office could run either as nominees of a political party after a primary or may run directly for election to the office for which they are nominated.

The House District Committee reported out H.R. 9682 on July 30, 1973, and it provided for partisan elections and contained a provision, Section 740, which constituted an amendment and exemption to the Hatch Act for Federal employees. I objected to this exemption in the Dissenting Views in House Report 93–482 which accompanied H.R. 9682.

The District Committee requested a rule from the House Rules Committee on H.R. 9682 where I appeared asking that my bill be ruled in order as a substitute for H.R. 9682. The Rules Committee approved House Resolution 581, which made my Substitute H.R. 10692 (which provided for non-partisan elections in the District) in order.

The sponsors of H.R. 9682, after House Resolution 581 was reported on October 5, 1973, rewrote their bill and introduced their own Substitute to H.R. 9682 when it reached the Floor on October 9, 1973. This "Committee Print" Substitute to H.R. 9682 deleted the provisions for partisan elections and provided for nonpartisan elections as did my own Substitute H.R. 10692.

However, the Committee Print Substitute to H.R. 9682, which was finally approved by the House on October 10, 1973, retained former Section 740 to H.R. 9682 and merely renumbered it Section 741. The Committee Print Substitute amended all after the enacting clause of S. 1435.

Section 741 of the House version of S. 1435 reads as follows:

HOLDING OFFICE IN THE DISTRICT

SEC. 741. Notwithstanding any other provision of law, no person who is otherwise qualified to hold the office of member of the Council or Mayor shall be disqualified from being a candidate for such office by reason of his employment in the competitive or excepted service of the United States. For the purposes of this section, a person shall be deemed to be a candidate on and after the date he qualifies under applicable provisions of law in the District to have his name placed on the ballot in either a primary or general election for the office for which he is a candidate. Such candidacy shall terminate—

(1) with respect to a person who has been defeated in a primary election held to nominate candidates for the office for which he is a candidate, on the day of such primary election;

(2) with respect to a person who is defeated in the general election held for the office for which he is a candidate, on the date of such general election; and

(3) with respect to a person who is elected in the general election held for the office for which he is a candidate, on the date such person assumes such office.

Section 741 in the House version was mere *surplus* age and was apparently retained in the Committee Print Substitute to H.R. 9682 as reported by the Committee—through error, inadvertence, or possibly extreme (but unnecessary) caution, because it in no way amended existing law.

Section 741, as it now appears in the Conference Report and as it appeared in the Committee Print Substitute as passed by the House, merely permits what is more comprehensively permitted and stated in existing law. Title 5 of the U.S. Code, Section 7326 provides as follows:

§ 7326. Nonpartisan political activity permitted

Secton 7324(a)(2) of this title does not prohibit political activity in connection with—

(1) an election and the preceding campaign if none of the candidates is to be nominated or elected at that election as representing a party any of whose candidates for presidential elector received votes in the last preceding election at which presidential electors were selected; or

(2) a question which is not specifically identified with a National or State political party or political party of a territory or possession of the United States.

For the purpose of this section, questions relating to constitutional amendments, referendums, approval of municipal ordinances, and others of a similar character, are deemed not specifically identified with a National or State political party or political party of a territory or possession of the United States. Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 526.

HISTORICAL AND REVISION NOTES

Reviser's notes

Derivation: United States Code—5 U.S.C. 118n (less applicability to 5 U.S.C. 118k(a)).

Revised Statutes and Statutes at Large: July 19, 1940, ch. 640, § 4 "Sec. 18 (less applicability to § 12 of the Act of Aug. 2, 1939; added July 19, 1940, ch 640, § 4, 54 Stat. 767)", 54 Stat. 772.

Explanatory Notes. The words "or political party of a territory or possession of the United States" are added on authority of former section 118k–2, which is carried into section 1501.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Library references

United States—45. C.J.S. United States § 42.

Section 7324(a) of Title 5 of the U.S. Code reads as follows:

§ 7324. Influencing elections; taking part in political campaigns; prohibitions; exceptions

(a) An employee in an Executive agency or an individual employed by the government of the District of Columbia may not—

(1) use his official authority or influence for the purpose of interfering with or affecting the result of an election; or

(2) take an active part in political management or in political campaigns.

For the purpose of this subsection, the phrase "an active part in political management or in political campaigns" means those acts of political management or political campaigning which were prohibited on the part of employees in the competitive service before July 19, 1940, by determinations of the Civil Service Commission under the rules prescribed by the President.

HATCH ACT CANNOT BE AMENDED IN CONFERENCE REPORT

The effect of the inclusion of Section 741 in the Conference Report when that Report contains a provision that provides for partisan elections (Section 751) results in an amendment to the Hatch Act, 5 U.S. Code, Section 7234 (see section quoted in pertinent part in a footnote to this statement) permitting Federal employees to participate as candidates in local elections, which is expressly forbidden in Section 7234, Title 5, U.S. Code.

Inasmuch as neither the Senate version nor the House version contained an amendment nor exemption to the Hatch Act, the Conferees may not go beyond the limits of disagreements confided to them.

The Senate provided for partisan elections with no Hatch Act exemptions for Federal or District employees, both of whom are expressly prohibited from taking an active part in political management or in political campaigns in behalf of partisan candidates by 5 U.S.C. 7324. The House, on the other hand, provided for nonpartisan elections with no Hatch Act amendment or exemption, inasmuch as Section 741 in permitting *Federal employees* who were residents of the *District* to be candidates in District of Columbia nonpartisan elections, is a redundancy and mere surplusage, since an exemption permitting *all Federal employees* to be candidates in local nonpartisan elections is broadly provided for in 5 USC S 7326 (see language quoted earlier).

Thus we see that—by taking the Senate language providing for partisan election and joining that with the language of Section 741 of the House version of S. 1435—the Conferees have adopted language in the Conference Report that *in fact* amends the Hatch Act. No longer is the language of Section 741 mere surplusage.

The Conferees by amending the Hatch Act, 5 USC S 7324, and providing an exemption for Federal employees to participate in District of Columbia partisan elections have gone beyond the limits of the disagreements confided to them in effecting an amendment to an Act (the Hatch Act, 5 U.S.C. 7324), which heretofore was not effected by either the House or Senate version.

THE SPECIFIC TOPIC, ISSUE, OR PROPOSITION OF AN AMENDMENT TO SECTION 2 OF THE HATCH ACT (5 USC 7324) WAS NOT COMMITTED TO CONFERENCE BY THE HOUSE

Section 741 of the House version of S. 1435 was mere surplusage when read in the context of the home rule bill as taken up and passed by the House.

Section 741 was consistent with but narrower than *section 4* of the Hatch Act (5 U.S.C. S 7326) and in no way *or manner* constituted an exemption to *section 2* of the Hatch Act by amendment.

Moreover, the issue or proposition of exempting Federal employees from local District of Columbia employees from the Hatch Act was not a matter committed to the House Conferees or for that matter to the conference committee.

The House Conferees, it is submitted, may not agree to the Senate language on partisan elections and certain House language relating to nonpartisan elections which results in broadening the matter in disagreement. Going into conference the Senate language provided for partisan elections with no section 2 Hatch Act exemptions for Federal employees, and the House language provided for nonpartisan elections with language permitting Federal employees to participate in District elections which was narrower than existing law and constituted more surplusage that was merely consistent with section 4 of the Hatch Act. The Conference Report language broadens the scope of the matter in disagreement by taking Senate language and House language to achieve a result that does not constitute a germane modification of the matter in disagreement.

The disagreement of the Conferees is broadened inasmuch as section 2 of the Hatch Act, 5 USC 7324, is now amended by the Conference Report, whereas neither the Senate nor the House language effected that result.

THE CONFERENCE REPORT LANGUAGE ALTERS THE FUNDAMENTAL PURPOSE OF S. 1435 (HOME RULE) BY AMENDING THE HATCH ACT (ANOTHER STATUTE) AND OFFENDS COMMON SENSE

The fundamental purpose of S. 1435 as stated in the hearings and in debate when the matter was taken up on the Floor was the opportunity for local residents to elect their own mayor and cly council.

I submit that this fundamental purpose was expressed in my own bill, H.R. 10692, and in the Committee Print Substitute approved on the House Floor incorporating as it did provisions for nonpartisan elections.

This fundamental purpose was not altered or thwarted by the language in Section 741 of the Committee Print Substitute (S. 1435 as amended by the House), inasmuch as Section 741 did not amend existing law but was merely consistent, but narrower, than existing provisions of law exempting all Federal employees from participation in local nonpartisan elections.

The Conference Report by adopting Senate language providing for partisan elections and employing the House language to permit Federal employees to be candidates in District of Columbia local partisan elections (not only during the transitional period for the first elected government, but for all time) alters the fundamental purpose of what the House voted upon and accepted October 10, 1973, in amending S. 1435. It amends section 2 of the Hatch Act, which expressly prohibits Federal employees from being candidates in partisan local elections. Section 741, as it appears in the Conference Report, is nothing more nor less than discriminatory legislation favoring a specific group of Federal employees, that is, those Federal employees who happen to reside in the District of Columbia.

I submit that my point of order, based on the rule of germaneness in this section, is not a partisan issue in the House today. What the Conference Report does violates the rules of the House and common sense and as a procedural matter my point of order should be sustained.

CONCLUSION

Based on the foregoing reasons, I request that my point of order be sustained.

But I discussed this with the chairman of the committee, the gentleman from Michigan (Mr. DIGGS) and it is my understanding that there will be a bill, H.R. 6186, coming over from the Senate dealing with another matter, and we will have the usual nongermane tail tied to this bill that would permit the Mayor and members of the City Council to run for office without resigning—a further indefinite amendment to the Hatch Act. All of this amending and legislative thrashing around all because of partisan elections.

But I must be realistic and so I must now work for reasonable arrangements to permit an orderly transfer of government with partisan elections.

Can the Members imagine a situation like that for the District of Columbia, where the entire Council and the Mayor might have to step out in order to be a candidate and thus endanger an orderly transition in the local government. This would never do.

Mrs. GREEN of Oregon. Mr. Speaker, will the gentleman yield?

Mr. NELSEN. I yield to the gentlewoman from Oregon.

Mrs. GREEN of Oregon. Mr. Speaker, would the gentleman from Minnesota also agree that perhaps the proposed amending of the Hatch Act is not as simple as some are suggesting it is going to be? The Hatch Act comes under the jurisdiction of another committee in the House, as I understand it, either the Committee on House Administration or Post Office and Civil Service. The relevant committee may want to exercise jurisdiction in terms of what impact any amendment to the Hatch Act may have not only in the District of Columbia but in all of our congressional districts. Does not the gentleman from Minnesota also agree that there still is a possibility that with a partisan election that the Mayor and all members of the City Council may still have to resign in order to run? I would also think a non-Federal employee—or one not exempt—might find it to his or her advantage to file a suit in court to test the constitutionality of such a special provision.

Mr. NELSEN. I think definitely that we have been acting in an area in which we have no jurisdiction, and I question the constitutionality of the action that the Senate has taken in attaching the type of amendment I understand appears in H.R. 6186 as amended by the Senate.

However, I should like to mention that the agreement that I have reached with the chairman is that when this bill comes over, we will not directly amend the Hatch Act. The amendment we would support is transitional only to accommodate the special situation that is precipitated by providing for partisan elections in this conference report. This exemption will also expire after the election January 2, 1975, after the newly elected representatives have been installed, so that this Congress can review the civil service law without having to do something with a gun to our heads in the process as we seem to be doing now.

I do not know that there is more that I can say. It is taking a chance, as far as I am concerned, because I am assuming that something will happen to another bill. I am taking the chairman's word for it. I have discussed this with the gentleman from Minnesota (Mr. Fraser), the gentleman from Washington (Mr. Adams), and the chairman, and I believe it is a way out of the situation we are in that I wished to avoid, but now that I am faced with it I will act responsibly.

Certainly it would be a travesty to have the whole or a majority of the city council and the mayor step out for 9 months so that they may run for office. There would have to be an interim there without a government. With the bill that is coming over with the amendment, I suggest that at least we will have a chance to review it in some detail now and more importantly next session.

The amendment that the chairman and I have worked out would repeal section 741 of the conference report, which exempts Federal employees from the Hatch Act who reside in the District of Columbia for all time. It is a provision that would have effect for the first election and forever after. The amendment that I favor that the chairman has agreed to is one that would permit all District employees to run as candidates on an equal basis with all other candidates for this first election only, so that we need not have mass resignations from the council, so that the District need not lose its mayor, if he decides to run for election, and so that on an equitable basis other District employees need not resign their position, in this instance only, so that they may run for an office on the council or for the office of mayor. It also provides that Federal employees who wish to be candidates for this first election, and first election only, would be placed on a parity with District employees. As you will note from a reading of title 2 of the conference report, there are three major agencies that are now Federal agencies or quasi-Federal agencies, which will ultimately be absorbed into the District Government. It would be unfair to permit District employees to run in this first election and to deny it to some of these Federal employees, who will soon become part of the local government. That is why I support in the amendment a provision that would permit Federal employees for this election and this election only, because of the unusual circumstances, to participate as candidates in this first election.

I might also add further that the deletion of the referendum vote for the neighborhood council in the conference report is a sad oversight, but I am convinced that it was not an intentional one. Perhaps we can correct that by concurrent resolution shortly after the consideration of this conference report today. I favor that action.

I am going to support the conference report. I did not sign it because of the partisan elections and Hatch Act provisions. I am convinced I am right, and I think time will bear me out. Anyway, in my judgment, the best way out is to pass this conference report.

I hope that the Congress will support the chairman and myself in adding the amendments that we will need in order to eliminate the possibility of a crisis in the government in the District of Columbia due to mass resignations during the time of the campaign and up to the time of having the new government sworn in.

Mr. PARRIS. Mr. Speaker, will the gentleman yield?

Mr. NELSEN. I yield to the gentleman from Virginia.

Mr. PARRIS. I thank the gentleman for yielding.

I call the gentleman's attention to page 75 of the conference report. The language appears there as follows:

> The Senate bill contained provisions, not in the House amendment, prohibiting the Council from imposing any parking or road use tax. . . .

Are we to understand from that that the Council could adopt discriminatory tax assessments or fees for nonresidents under the language of this conference report?

Mr. NELSEN. I think the chairman made reference to that. I would yield to our chairman, the gentleman from Michigan, to clarify that point.

Mr. DIGGS. In answer to the gentleman's question, the Council would have such authority, but it would be subject to congressional veto.

Mr. PARRIS. Mr. Speaker, if the gentleman will yield further, the language in the next paragraph on page 75 says:

> The Conference Committee also agreed to limit the Council's authority to require residency for District government employees to those employed after the effective date of the personnel system . . .

Would it be the gentleman's understanding that if this legislation is adopted, the District Council will limit District government employees to those who reside in the District of Columbia?

Mr. NELSEN. Again I yield to the chairman for clarification.

Mr. DIGGS. I should say to the gentleman that such action is prospective. It would not affect any employee in that category who is presently on the rolls. They would be grandfathered in. Under the concept of self-determination, if the agency should make such a determination in the future, that would be within the prerogative.

Mr. PARRIS. I thank the gentleman.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. NELSEN. I yield to the gentleman from Iowa.

Mr. GROSS. I thank the gentleman for yielding. Was the gentleman a conferee?

Mr. NELSEN. Yes, I was.

Mr. GROSS. Does the gentleman know why the Members of the Senate did not want another Senator as a delegate to the District of Columbia?

I just could not quite figure that out but when the matter was brought up in conference—and I assume I am not violating any rule on confidentiality—it was greeted by those from the other body with thunderous silence and so I must refrain from making a positive answer because I cannot come up with one.

Mr. GROSS. I thank the gentleman.

Will the gentleman yield to me to ask one quick question of the chairman, the gentleman from Michigan (Mr. Diggs)?

Mr. NELSEN. I yield to the gentleman.

Mr. GROSS. Mr. Speaker, the gentleman spoke of the need to protect the minority in the District of Columbia. What minority was he talking about?

Mr. DIGGS. If the gentleman will yield, we are talking about minority party interests.

Mr. GROSS. Minority party?

Mr. DIGGS. We provide that no party can fill more than three of the five-at-large council—including the chairman—

seats which means that minority interests will have an opportunity for the election.

Mr. GROSS. So the gentleman was alluding in a political sense to minority?

Mr. DIGGS. In a political sense to minority, but I think within a party responsibility sense that concept is much broader, I will say to the gentleman.

The trend in partisan tickets around the country is toward balance—racial, ethnic religions, male-female. Smart local political management will be encouraged to follow such a trend.

Mr. GROSS. We are dealing now with the District of Columbia.

Mr. DIGGS. I understand.

Mr. NELSEN. Mr. Speaker, will the chairman yield.

Mr. DIGGS. I yield to the gentleman from Minnesota.

Mr. NELSEN. Mr. Speaker, I just want to inquire of the chairman if my understanding is correct as to the bill, H.R. 6186, coming over from the Senate which will provide that the sitting members of the Council and the Mayor can participate in the campaign for the first election and thereafter the elected mayor and members of the council can so participate. I am opposed to this for the reasons I stated earlier. I stated our agreement, as I understand it, earlier and I inquire if we are in accord? Is that our agreement, so it is a matter of record?

Mr. DIGGS. I would certainly agree that whatever we agree upon would have that kind of expiration date.

Mr. NELSEN. Is it the gentleman's understanding without question the Senate would go along with our agreement after we put it in the bill?

Mr. DIGGS. Yes. I think I can make a fairly firm commitment on that in terms of my own expectations. I would be surprised if we encountered any really serious or unresolvable problems.

Mr. NELSEN. I thank the gentleman for his comments.

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. NELSEN. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Speaker, I do want to express my appreciation to the distinguished gentleman in the well, the gentleman from Minnesota (Mr. NELSEN) for his part in helping to put together this compromise, imperfect as it is. I take particular pride in knowing that two people from my State, the distinguished gentlemen from Minnesota (Mr. NELSEN) and (Mr. FRASER) have had such a strong hand in writing this historic legislation.

I hope it will be passed overwhelmingly. I hope even more so that we will be successful in getting the two-thirds necessary for suspension or whatever it takes to pass the amendment to modify the Hatch Act so that the suggestions of the gentleman from Minnesota (Mr. NELSEN) about the city council will be carried out.

I applaud the gentleman also for his efforts in trying to maintain a nonpartisan election. I am sorry it did not work out but I think he did a magnificent job on the bill as it is.

Mr. NELSEN. I thank the gentleman.

For the benefit of the Members, I wish to provide the following comparison of what was contained in the home rule bill, S. 1435 as amended in the House on October 10, 1973, and the language contained in the conference report, which you have before you today. That comparison appears below.

COMPARISON OF HOUSE VERSION OF HOME RULE BILL (S. 1435) AND THE CONFERENCE REPORT

CHARTER

House amended S. 1435

Title III and IV contained the charter. Amendments could be proposed by either (1) an act of the Council, or (2) petition signed by 5% of the registered voters; approved by majority voting in special referendum. Charter referendum was to be held not more than 5 months after date of enactment of the Act.

Conference report

The Substitute (sections 303, 601, 604, 701–704) provides:

(1) Any change from an elected Mayor-Council form of government must be initiated by Congress and approved by the President;

(2) Any other changes in the Charter shall be originated by the Council by act and then shall be referred to referendum of the citizens of the District of Columbia. If such Charter change is approved by the citizens, the Charter change or changes shall come to the Congress for a period of 35 legislative days. The committees shall have 20 legislative days within which to consider whether to approve the proposed Charter amendment. If at the end of the 20 days the committee does not report out a resolution approving such Charter amendment, any member may, during the next 15 days, file a highly privileged motion to approve the Charter amendment. Both Houses must approve the Charter amendment for it to go into effect.

GOVERNMENTAL REORGANIZATION

1. Redevelopment Land Agency

House amended S. 1435

The House amendment contained provisions, not included in the Senate bill, which would establish the RLA as an instrumentality of the District Government. Its Board, as of July 1, 1974, would consist of five members appointed by the Commissioner with the advice and consent of the Council.

Conference report

The Conference substitute (Section 201) adopts the House provision with amendments authorizing the Council to adopt legislation (1) to assure uniform procedures relating to disposition of complaints and claims involving the RLA; (2) to provide that all planning, designing, construction and supervision of public facilities contributed to any redevelopment area be carried out by an appropriate D.C. Agency; (3) to provide that any occupied rental property owned by RLA shall be maintained in a safe and sanitary condition; and (4) to provide that the Mayor may waive special assessments as for cost of sewers, streets, curbs and so forth where the cost therefore can be applied as non-cash local grants-in-aid.

2. National Capital Housing Authority

House amended S. 1435

The House amendment contained a provision, not included in the Senate bill, which transferred the NCHA which was established under the D.C. Alley Dwelling Act (D.C. Code, secs. 5–103 and 5–116), to the D.C. government; vested in the Commissioner all functions, powers, and duties of the President under the said Alley Dwelling Act; and authorized the transfer of all employees, property (real and personal), and unexpended balances of appropriations, allocations. and all other funds, and assets and liabilities of the Authority, to the D.C. government.

Conference report

The Conference substitute (section 202) conforms to the House amendment.

3. District of Columbia Manpower Administration

House amended S. 1435

The House amendment contained provisions, not included in the Senate bill, which transferred to the Commissioner all functions of the Secretary of Labor with respect to public employment services for the District. The District Public Employment Service would be eligible to participate with the Secretary on the same basis as a State, and the District would be eligible to participate in apprenticeship programs operated by the Secretary. Also, all functions of the Secretary with respect to claims filed by employees of the District Government under the Federal Employment Compensation Act (FECA) are transferred to the District.

Conference report

The Conference substitute (section 204) adopts the House provisions except that it provides for the transfer of FECA functions to the District only when the District has established its own independent personnel system or systems, as directed by this Act.

It is understood that existing agreements between the States of Maryland and Virginia and District of Columbia relating to job banks and the Cooperative Area Manpower Planning System will not be adversely affected by the transfer of the D.C. Manpower Administration to the District of Columbia as provided for in this Act.

4. Public Service Commission

House amended S. 1435

The House amendment contained a provision, not included in the Senate bill, which established a Public Service Commission to insure that every public utility doing business within the D.C. would be required to furnish service and facilities reasonably safe and adequate and in all respects just and reasonable, said Commission to be composed of three Commissioners appointed by the Mayor and Council approval.

Conference report

The Conference substitute (section 493) conforms to the House amendment.

5. Armory Board

House amended S. 1435

The House amendment amended present law to provide that the Armory Board shall consist of the Commanding General of the D.C. Militia, and two other members appointed by the Mayor for four-year terms, and subject to Council approval.

Conference report

The Conference substitute (section 494) conforms to the House amendment.

6. Board of Education

House amended S. 1435

The House amendment maintained present law, vesting finally in the Congress, the determination of line items in the school budget.

Conference report

The Conference substitute (sections 495, 719) provides that the school budget submitted to the Congress must be in line item form as presently required by law. Also, the Mayor and the Council in establishing the maximum amount of operating and capital funds which will be included in the District's annual budget for the Board of Education shall attach to the budget transmitted to the President a written statement explaining changes, if any, in the total amounts recommended by the Board for the District's school budget.

PLANNING AND ZONING

1. National Capital Planning Commission and Municipal Planning

House Amended S. 1435

The House amendment contained provisions, not included in the Senate bill, which established the NCPC as a Federal planning agency for the Federal government to plan for the Federal establishment in the National Capital region and provided that the Mayor would be the central planning agency for the District, responsible for D.C. planning and the preparation of the District elements of the comprehensive plan, published jointly with the NCPC. NCPC would comment on D.C. planning and retain planning authority for Federal and international projects. The NCPC would be composed of 12 members, 7 ex officio—the Secretaries of Interior and Defense, Administrator of GSA, the Mayor, Chairman of D.C. Council, and Chairmen of the House and Senate District Committees, or their designated alternates; and 5 citizen members, 3 appointed by the President and 2 by the Mayor. One of the Presidential appointees would be from Maryland and one from Virginia.

Conference Report

The Conference substitute (sections 203, 423) adopts, in essence, the House provisions amended (1) with respect to procedural requirements and time allowed the NCPC in acting upon proposed District elements of a comprehensive plan, or proposed District projects; and (2) to require the Mayor to submit his multi-year capital improvements plans to the NCPC for review and comment.

Neither the National Capital Planning Commission nor the Mayor has any power over the United States Capitol Building and Grounds as defined in sections 1 and 15 of the Act of July 31, 1946, as amended (40 U.S.C. 193a and 193m), or over any other buildings under the control of the Architect of the Capitol.

ZONING COMMISSION

House amended S. 1435

The House amendment included provisions, not in the Senate bill, amending present law (1) establishing a Zoning Commission consisting of the Architect of the Capitol, Director of the National Park Service, and three citizens appointed by the Mayor for four-year terms; (2) providing that amendments to the zoning maps and regulations, shall not be inconsistent with the comprehensive plans; and (3) requiring submission of any amendments, zoning regulations, or maps to the NCPC for review and to report their recommendations within 30 days.

Conference report

The Conference substitute (section 492) adopts the major provisions of both the House amendment and the Senate bill.

D.C. COUNCIL—LEGISLATIVE POWERS AND LIMITATIONS

House amended S. 1435

The House amendment contained provisions, not in the Senate bill, providing (1) the Council could organize, abolish or establish agencies and departments of the D.C. government: (2) the Council must establish an independent personnel system or systems within 5 years after the date of enactment; and (3) the Council could not change building height limitations nor change D.C. criminal laws or the organization and jurisdiction of the D.C. courts.

Conference report

The Conference substitute (sections 404, 602) adopts the major provisions of both the House amendment and the Senate bill and deletes the prohibition on the Council's imposing a parking or road use tax.

The Conference Committee also agreed to limit the Council's authority to require residency for District government employees to those employed after the effective date of the personnel system or systems to be adopted by the Council under this Act.

The Conference Committee also agreed to transfer authority to the Council to make changes in Titles 22, 23 and 24 of the District of Columbia Code, effective January 2, 1977. After that date, changes in Titles 22, 23 and 24 by the Council shall be subject to a Congressional veto by either House of Congress within 30 legislative days. The expedited procedure provided in section 604 shall apply to changes in Titles 22, 23 and 24.

D.C. COUNCIL—LEGISLATIVE PROCESS

House amended S. 1435

The House amendment contained provisions, not in the Senate bill, (1) giving the President power, within 30 days, to sustain a Mayor's veto of Council acts; (2) requiring the Council to submit all but emergency acts to Congress for a 30-day layover before they become effective; and (3) permitting emergency acts to be effective for only 90 days.

Conference report

The Conference substitute (sections 404, 412, 602(c)) adopts the House amendment provisions together with a Senate provision specifying that no act of the Council may be passed until 13 days after its introduction.

(3) The acts of the Council, after passage by the Council and approval by the Mayor, shall lie before Congress for 30 legislative days and shall thereafter go into effect unless a motion of disapproval has been passed by both Houses of Congress. If a motion of disapproval is filed, it shall be referred to the House and Senate District of Columbia Committees and if such committees report such a motion of disapproval, it shall be a highly privileged motion that the particular act of the Council be disapproved.

RECALL AND INITIATIVE

House amended S. 1435

The House amendment provided that the Mayor and any member of the Council or of the Board of Education could be recalled by petition filed with the Board of Elections and signed by 25% of the registered qualified voters voting in the last preceding general election. Recall was to be effectuated by a majority vote of the qualified electors voting in an election for such recall.

Conference report

The Conference substitute contains no such provisions.

MAYOR

House amended S. 1435

The House amendment provided for (1) non-partisan election of a Mayor who would be required to be a D.C. resident for 90 days preceding the election; (2) compensation to be at the Federal Executive Schedule level III (current $40,000), plus official allowances; (3) Chairman of the Council to serve as Mayor until a special election could be held approximately 114 days after a vacancy occurs; (4) a fiscal report of the Mayor would be required within 90 days after the end of the fiscal year; and (5) the Mayor would also be authorized to reorganize agencies and department of the D.C. government.

Conference report

The Conference substitute (sections 421, 422, 445, 448) provides (1) for partisan election of a Mayor for a 4-year term, who is required to be a D.C. resident for 1 year preceding the election; (2) compensation to be at the Federal Executive Schedule level III (currently $40,000), plus official allowances; (3) Chairman of the Council to become Acting Mayor until a special election approximately 114 days after a vacancy occurs; (4) the Mayor is required to file a financial report by November 1st of each year; and (5) the Mayor is authorized to reorganize agencies and departments of the D.C. government subject to Council approval.

JUDICIARY

House amended S. 1435

The House amendment provided for (1) the appointment of judges by the President, subject to Senate approval, for 15-year terms from three to five names submitted to him by the Judicial Nomination Commission; (2) retention by the Congress of authority over composition, structure and so forth of the D.C. courts; and (3) a Judicial Nomination Commission of 9 members, staggered 6-year terms, 2 appointed by the Unified D.C. Bar, 2 appointed by the Mayor from Council lists, 1 member appointed by the Speaker of the House of Representatives and 1 member appointed by the President of the Senate, and 3 members appointed by the President; all members to be U.S. citizens, D.C. residents, and non-Federal or District employees, and qualified to be judges of D.C. courts. The House amendment contained provisions, not in the Senate bill for (1) a Commission on Judicial Disabilities and Tenure, with same membership as the Judicial Nomination Commission; (2) the Judicial Nomination Commission to submit three to five names to the President; (3) the automatic reappointment of judges by the President if same were found by the Tenure Commission to be exceptionally well-qualified or well-qualified for reappointment, without Senate approval, but if recommended only as "qualified" for reappointment, requiring Senate approval; (4) a D.C. residence requirement for all new D.C. judges; and (5) the D.C. courts to prepare their own annual budget, submit the same to the Mayor for transmission to the Council and to the Congress along with the remainder of the D.C. budget.

Conference report

The Conference substitute (sections 431–434, 445, 718) provides for (1) appointment of judges by the President, subject to Senate approval, for a 15-year term, from a list of 3 nominees submitted by the Judicial Nomination Commission; if the President has not made an appointment within 60 days, then the Nomination Commission shall make the appointment, subject to Senate approval; (2) retention in Congress of authority over the composition, structure and jurisdiction of the D.C. courts; (3) a Judicial Nomination Commission to be comprised of 7 members; 1 appointed by the President, 2 by the Mayor (1 to be a non-lawyer), 2 by the Unified D.C. Bar, 1 by the Council (to be a non-lawyer) and 1 by the Chief Judge of the U.S. District Court for the District of Columbia, to be a retired or sitting Federal judge; all to be appointed for 6-year, staggered terms, all to be United States citizens and District of Columbia residents, non-Federal or non-District employees, and, in the case of lawyers appointed to the Commission, qualified to be judges of the D.C. courts; (4) a Tenure Commission to consist of 7 members of the same designation as for the Nomination Commission; no individual may serve simultaneously on both Commissions; (5) all new judges to be D.C. residents; and (6) the D.C. courts to prepare their own annual budget for submission to the Mayor, thence to the Council and to the Congress along with the remainder of the D.C. budget.

BOARD OF ELECTIONS

House amended S. 1435

The House amendment included provisions for the membership on the Board to be three persons, all appointed by the Mayor with Council approval, no more than two of whom could be of the same political party.

Conference report

The Conference substitute (section 491) conforms to the House amendment.

ELECTIONS PROCEDURES

House amended S. 1435

The House amendment provided for the nomination of nonpartisan candidates by petitions filed by not less than 60 days before the date of the general election, with the first elections to be held in 1974.

Conference report

The Conference substitute (section 735) conforms to the House amendment.

REVENUE SHARING

House amended S. 1435

The House amendment contained a provision, not in the Senate bill, which deleted from present law the automatic reduction in the District of Columbia's general revenue sharing allocation, if the District enacts a tax on the income of non-residents. The enactment of such a tax is prohibited in any event under other sections of the bill.

Conference report

The Conference substitute (section 751) adopts the House provisions amended to require partisan elections.

ADVISORY NEIGHBORHOOD COUNCILS

House amended S. 1435

The House amendment contains provisions, not included in the Senate bill, requiring the Council to divide the District into Neighborhood Council areas. Upon receiving a petition signed by at least 5% of the registered qualified electors of an area, the Council was required to establish for that neighborhood an elected Advisory Neighborhood Council to advise the Council on planning, streets, recreation, social services, health, safety, and sanitation and to review zoning changes and licenses. Expenses of such Councils to be paid by a levy of 1¢ per $100 of assessed valuation of real property.

Conference report

The Conference substitute (section 738) adopts essentially the House amendment.

NATIONAL CAPITAL SERVICE AREA

House amended S. 1435

The House amendment included provisions, not in the Senate bill, providing for the establishment of the National Capital Service Area, including the Federal monuments, the White House, Capitol building, Federal, executive, legislative, and judicial office buildings, Fort McNair, the Navy Yard, and Bolling Air Force Base. The President would appoint a Director who would assure police and fire protection within the area, and the maintenance of streets, highways, and sanitation services therefor.

Within one year, the President would be required to report to Congress his recommendations on the feasibility of combining the Executive Protective Service, the United States Park Police in the service area, and the United States Capitol Police under the Director.

Conference report

The Conference substitute (section 739) adopts the House provisions, amended to limit the authority of the National Capital Service Area Director over the buildings and grounds of the Capitol, the Supreme Court, and the Library of Congress. The section was also further amended to ensure that all Federal and District of Columbia laws applicable to the area would continue in force and effect; that such laws could be amended by the appropriate authorities; and that all private property, and buildings and adjacent parking lots owned by the District of Columbia government, are excluded from the National Capital Service Area.

EMERGENCY CONTROL OF POLICE

House amendment S. 1435

The House amendment contained provisions, not included in the Senate bill, to permit the President upon request to secure from the Mayor the services of the Metropolitan Police force when the President determined special conditions required such police for Federal purposes.

Conference report

The Conference substitute (section 740) adopts the House provisions, amended to limit the same to make it a temporary requisitioning only and subject to Congressional review.

PUBLIC MEETINGS

House amended S. 1435

The House amendment contained provisions, not in the Senate bill, requiring that all meetings and hearings of any District of Columbia government agency, board, or commission in which official action is to be taken or proposed, shall be open to the public; and the transcripts or transcriptions of such meetings shall be made available to the public.

Conference report

The Conference substitute (section 742) adopts the House amendment, with a change to include tapes and transcriptions thereof available to the public at a reasonable charge.

D.C. SENATE DELEGATE

House amended S. 1435

The House amendment included provisions, not in the Senate bill, providing that beginning January 3, 1975, there would be a non-voting Delegate in the Senate from the District of Columbia, elected for 6 years; such non-voting Delegate to be a qualified elector, at least 30 years of age, a resident of the District for 3 years immediately preceding his election, and holding no other paid office.

Conference report

The Conference substitute contains no such provision.

HOLDING OFFICE IN THE DISTRICT

House amended S. 1435

The House amendment contained provisions, not in the Senate bill, providing that no person otherwise qualified should be disqualified for being a candidate for the office of Mayor or member of the Council because of employment in the competitive or excepted service of the United States.

Conference report

The Conference substitute (section 741) conforms to the House amendment.

BALANCED BUDGET

House amended S. 1435

House directed Mayor to submit an annual budget prepared on the assumption that proposed expenditures for a fiscal year would not exceed estimated existing or proposed resources.

Conference report

House provision was adopted with minor language clarifications.

BUDGET CONTENT AND PROCEDURE

House amended S. 1435

House specified content of budget and retained Congressional appropriations and reprogramming provisions of existing law.

Conference report

House language was adopted with amendments to clarify Mayor/Council budget procedures to permit Mayor to line-item veto selected budget proposals and to clarify President's role in review and transmittal of the budget to the Congress.

1. Board of Education

House amended S. 1435

House made on change in existing law.

Conference report

Provision was adopted permitting the Mayor and the Council to establish the maximum allocation of funds to the Board with a prohibition against specifying the purposes for which such funds may be expended for the various programs under the Board's jurisdiction.

2. District of Columbia Courts' Budget

House amended S. 1435

House specified that Courts' budget was to be forwarded by the Mayor to the Council without revision but subject to his recommendations.

Conference report

House language was adopted with provision prohibiting Council from revising budget estimates submitted by the D.C. Courts.

DISTRICT OF COLUMBIA AUDITOR

House amended S. 1435

House established office of D.C. Auditor appointed by the Council Chairman, subject to Council approval, for six-year term. Auditor was to conduct yearly review of D.C. Government's accounts and operations. Reports were to be submitted to the Congress, the Mayor and the Council.

Conference report

House provisions were adopted.

GAO AUDIT

House amendments to S–1435

House required periodic GAO audits of D.C. Government's accounts and operations. Reports were to be submitted to the Congress, the Mayor, and the Council. The Mayor would have 60 days to respond.

Conference report

House provisions were adopted with amendments requiring annual GAO audits and allowing Mayor 90 days to respond to GAO reports.

ISSUANCE OF BONDS

1. General Obligation Bonds

House amended 1435

House allowed issuance of bonds to pay costs of any capital project authorized by Congress with rates of interest set by Mayor provided total amount of principal and interest to be paid in any one year on all such outstanding bonds would not exceed 14% of D.C. revenues credited during previous fiscal year. House also continues present law permitting Treasury borrowing and authorized special tax and sinking fund, with GAO audit responsibility, to pay principal and interest on bonds; and permitted optional use of general obligation bonds to pay D.C. Metro costs.

Conference report

House provisions were adopted with amendments to include Treasury loan obligations within the 14% limitation, to allow optional referenda on bond issues, to permit interim Treasury loan authority to complete ongoing projects only, to allow general obligation bonds to pay for D.C. Metro costs beginning with FY 76, and to require an annual audit by GAO of the sinking fund.

2. Short-term borrowing

House amended S. 1435

House authorized issuance of short-term notes in absence of unappropriated revenues in amounts not to exceed 1% of total appropriations for a fiscal year, and, in anticipated revenues for a fiscal year.

Conference report

House provisions were adopted with amendment increasing limitation on short-term borrowing in absence of unappropriated revenues from 1% to 2% of total appropriations for a fiscal year.

3. Revenue bonds

House amended S. 1435

House authorized Council to issue revenue bonds to finance projects for housing, health, transit, utilities, education and industrial development purposes to be financed solely by a pledge of anticipated revenues from such projects. Such bonds were not to constitute a general debt of the District and could be issued without voter approval.

Conference report

House provisions were adopted with amendments to include projects for recreational and commercial purposes and with provisions allowing the mortgaging of private properties as additional security for certain of such bonds.

ANTI-DEFICIENCY PROHIBITION

House amended S. 1435

House included a provision prohibiting expenditures in excess of amounts appropriated, but contains no penalties for violations.

Conference report

Senate provision was adopted making District officers and employees subject to the Federal Anti-Deficiency Act.

FEDERAL PAYMENT

House amended S. 1435

Federal payment of $250 million was authorized for F.Y. 1975 and each year thereafter. Annual appropriation request was to be based on study of inter-city expenditure and revenue comparisons and nine other factors for assessing costs and benefits to the District in its role as the Nation's Capital. Each annual appropriation request for the Federal payment was to include a request for an annual Federal payment for the next following fiscal year as well.

Conference report

House provisions were adopted with specific annual authorizations for the Federal payment as follows: FY 1975, $230 million, FY 1976, $254 million; FY 1977, $280 million; FY 1978 and each year thereafter, $300 million.

There are some differences in the House amended version of S. 1435 and the conference report that I have not discussion above that deserve your attention.

In title II of the conference report we transfer major Federal or quasi-Federal agencies to the District government. In my view, the contracts and agreements which exist between those agencies and other parties will continue unimpaired under the local government. Constitutional due process would permit no less, but Congress certainly intends that procedures and safeguards for insuring and protection arrangements between these agencies and other parties that currently exist will be honored.

For instance in general the budget and financial procedures agreed upon by the conferees parallel those recommended by the Nelsen Commission by retaining the respective roles of the Congress, the President, the Federal Office of Management and Budget, and the Comptroller General of the United States in the preparation, review, submission, examination, authorization and appropriation of the total budget of the District government. I am particularly pleased that the legislation specifically identifies such elements of costs and benefits to the District brought about by its role as the Nation's Capital that should be considered by the Mayor in presenting his annual requests for appropriation of the Federal payment, and by the Federal Office of Management and Budget in reviewing and revising such requests prior to their submission to the Congress.

The provision in the legislation for authorization of the Federal payment departs from the Nelsen Commission recommendations by establishing specific authorizations for the fiscal years 1975, 1976, 1977, and 1978 and each fiscal year thereafter based upon some hurriedly prepared estimates obtained from the District government. The amounts of the authorizations contained in the bill, which incidentally are substantially in excess of the existing authorization, were inserted without the usual detailed review of the District government's justification for the increases. The result is that the House and Senate District Committees are, for all practical purposes, removed from their traditional annual overview role in the authorization of the Federal payment as recommended by the Nelsen Commission. This overview role, requiring annual authorization hearings approximately 18 months prior to a fiscal year in which an increased authorization could be justified, has been of particular help to the District in the past by encouraging long-range planning on the part of the District government and through the early identification of problem areas with financial impact.

There are other provisions in the bill that relate to changes in the composition of the Judicial Nominating Commission and the Judicial Disabilities and Tenure Commission that raise some questions in my mind. Certainly as to the composition of the appointments to the National Capital Planning Commission, I question whether in a Federal agency such as the Planning Commission, which is designed to protect the Federal interest, whether the local government should have as strong a representation as they would have under the provisions of the conference report.

Finally, I am concerned that all of the work that we put into the Nelsen Commission which in report form was contained in 3 volumes of over 2,000 pages whether that work and that effort will be largely in vain, if it is lost in the local government concern with elections, charters, and other matters provided for in this bill.

If the work of our Commission is not given a high priority by the Mayor and the City Council in the next year, then I think that the residents of the District and all of our constituents will have been done a disservice. I think there are great opportunities for improvements which we set forth in our report. I think it is in the interest of the residents of the District of Columbia, the Congress, and all of the citizens of this country that to the maximum extent possible the Commission's report should receive the greatest implementation possible within the next year.

Mr. GUDE. Mr. Chairman, will the gentleman yield?

Mr. NELSEN. I yield 3 minutes to the gentleman from Maryland (Mr. GUDE).

Mr. GUDE. Mr. Chairman, I am pleased to add my support to the conference report on S. 1435, self-government legislation for the District of Columbia. This represents a major step toward equality in the fundamental rights for citizens of Washington, while at the same time recognizing the uniqueness of the Nation's Capital.

As the gentleman from Minnesota (Mr. NELSEN), who contributed so much to this bill, pointed out there is a grandfather clause in this legislation which protects nonresident employees of the city.

The conference report retains the key provisions of the House bill, and I feel, adequately protects the legitimate Federal interest in this city. For those who find fault and claim that the Federal interests are not given substantial protection there are a number of items to be remembered. We must remember, first, that above all, Congress will always retain its ultimate authority over the District as set forth in the Constitution. Nothing changes that. Second, this bill retains the authority in the Congress to review the city's budget and appropriate the moneys for it. Furthermore, it authorizes independent audits of the accounts and operations of the District government, one to be conducted by our own arm, the General Accounting Office.

The conference committee has also adopted the House provision for a National Capital Service Area, including the monuments, the White House, and other Federal buildings to assure adequate police and fire protection and other such municipal services in these areas.

I could enumerate several other provisions in this conference report which represent the House position on key issues and which carefully and rightly protect the Federal interest in this Capital City—30-day layover for acts of the elected council and provisions for congressional disapproval, emergency control of the police by the President, and so on. The council is prohibited from increasing height limitations on buildings, from enacting a tax on nonresidents or impose any tax on property of the Federal Government.

It is a gross and cruel distortion of this issue to call this bill unconstitutional or an overwhelming and illegitimate concession of power to the city. It is right and it is fair. And it takes into account the needs of Washington and the needs of the American people.

Mr. NELSEN. Mr. Speaker, I yield 7 minutes to the gentleman from Indiana (Mr. LANDGREBE).

Mr. LANDGREBE. Mr. Speaker, I must admit the chairman has done a very kind and very helpful job.

CALL OF THE HOUSE

Mr. SCHERLE. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. DIGGS. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 691]

Adams
Addabbo
Alexander
Anderson, Ill.
Archer
Aspin
Badillo
Beard
Biaggi
Blackburn
Blatnik
Boland
Bolling
Brasco
Broomfield
Burke, Calif.
Burton
Butler
Carey, N.Y.
Chappell
Chisholm
Clark
Clausen, Don H.
Clay
Cotter
Daniels, Dominick V.
Delaney
Dent
Downing
Dulski
Edwards, Ala.
Eshleman
Ford, William D.
Frelinghuysen
Fuqua
Gilman
Goldwater
Grasso
Griffiths
Grover
Gubser
Hanrahan
Harvey
Hébert
Heckler, Mass.
Helstoski
Henderson
Hillis
Holtzman
Hudnut
Hunt
Jarman
Johnson, Colo.
Keating
Landrum
Lent
McKinney
Mailliard
Maraziti
Martin, Nebr.
Martin, N.C.
Mills, Ark.
Minish
Mitchell, Md.
Moorhead, Pa.
O'Brien
Patman
Pepper
Peyser
Podell
Powell, Ohio
Rees
Reid
Rinaldo
Robison, N.Y.
Rodino
Roe
Roncallo, N.Y.
Rooney, N.Y.
Ryan
Sandman
Sarasin
Staggers
Stanton, James V.
Steele
Stokes
Talcott
Taylor, Mo.
Teague, Tex.
Treen
Vander Jagt
Veysey
Walsh
Whitehurst
Widnall
Winn
Wolff
Wright
Wyatt
Wydler
Young, Alaska

The SPEAKER. On this rollcall 331 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

CONFERENCE REPORT ON S. 1435, DISTRICT OF COLUMBIA SELF-GOVERNMENT AND GOVERNMENT REORGANIZATION ACT.

The SPEAKER. The gentleman from Indiana is recognized.

Mr. LANDGREBE. Mr. Speaker, after some 49 minutes of violin playing and guitar strumming I am not sure I can do very much with the comments I have against this conference report in the few minutes that I have been allotted, but I would like to give the Members some of my feelings in opposition to this bill.

I happen to disagree with it. And I thank the colleague who made the point of order of no quorum being present. I believe that in spite of the overwhelming support that this measure has had that I at least have some valid objections to make.

One of the points that I would like to make regards the legislative history of this specific bill. This so-called home rule bill was first written in the District of Columbia Government Operations Subcommittee, totally rewritten by the full District of Columbia Committee, and then, when, it was about to be introduced in the House it was suddenly jerked away, completely rewritten, without Republican knowledge or consent and then handed to this House. If I remember correctly, we had only a few hours to consider what that bill contained when this House, under the fever and the pressure for some sort of so-called home rule, passed that bill, and we went to conference.

The conference to which I was named substantially revised the House version and reported it without the signature of one Republican House conferee. House minority Members were NELSEN of Minnesota, HARSHA of Ohio, BROYHILL of Virginia, and myself.

Now, I cannot give you the reasons why my Republican colleague refrained from signing the conference report. However, my reasons are as follows: The conference report puts entirely too much power in the hands of 14 elected officials—the mayor, and 13 councilmen will be elected, and they will have at their disposal approximately $1.5 billion per year. They will be running this city of 750,000 people.

Sure, there is reference to the Congress still having control in section 601 of the bill, but at the same time we say that out of one side of our mouth, we are saying out of the other side that those 14 people shall run this city.

There are a few things about the election procedures that have not even been dealt with in this bill. No. 1, how about the funding for these candidates? We have had a lot of talk in this country about the fear among the people concerning election frauds, the questionable sources of campaign money, and the amount of money that candidates spend.

This bill would permit unlimited campaign expenditures; it would permit unlimited contributions from corporations, unlimited contributions from unions, and from all kinds of special interest groups. It would require the keeping of a list of those contributions, but it does not specify a reporting date.

There are quite a few things like that that are not covered in this bill, which constitute part of my objections.

There is another prevalent feeling that, because there are so many black people in the District of Columbia, perhaps they ought to have control of this city. Now, I am not the one who raised the racial issue. This issue was raised in the letter that was sent out by the District Delegate FAUNTROY, and I will read it to the Members if any of them have not bothered to do so. It says:

> But there are some votes a Congressman can give that are cheap, that is, he will pick up votes and gain credit for himself with the black electorate, and not cost him anything with his white base of support. A vote for DC home rule is such a vote.

Now, I am going to ask the Members what is cheap about this bill? Let me tell you a few things that "ain't" cheap about this bill.

No. 1, this bill authorizes a total payment from the Federal Government, from your taxpayers and from mine, of $1,069,000,000, over the next 4 years. This amounts to a payment during the next 4 years from each and every congressional district in this United States of $2,450,000.

What is cheap about that, and how are the Members going to explain that to their people back home—nearing doubling the Federal payment from $194 million to $300 million, based on somebody's estimate down at city hall? No one has produced any figures upon which to base those estimates. How can we in good conscience give our approval here today, to that kind of fiscal insanity?

I wish to call to the attention of my colleagues a little article from this week's Human Events which reads as follows:

> Joseph P. Yeldell, a black, a Hubert Humphrey Democrat and the director of Washington, D.C.'s department of human resources, released figures last week showing that one of every three families receiving aid to dependent children (ADC) payments was either ineligible or overpaid. According to Yeldell, the city government may be shelling out $13.2 million more every year in these kinds of payments than it should be under the law.

How am I going to explain that to my people back in Indiana who are trying to educate their kids and who now pay more money for their limited amounts of gasoline?

There are many more objectionable features about this bill. There is no justification, no grounds that the people of this District are being harmed. In other words, if we are going to be sitting here as a tribunal, how can we indicate that the people living in the District of Columbia are being hurt, harmed, injured? They have the Federal schools; they have the Federal colleges; the Federal institutions, hospitals, and they have a per capita receipt from the Federal Government in Federal grants alone of $745 per person.

Compare this if you will to the State of Iowa where the Federal grant to each person is $115; in Ohio, it is $102 per capita.

Even though the very few minutes allotted me to state my obligations to this very bad piece of legislation have been consumed at this point I feel compelled, for the record to complete my remarks.

First. The broad general legislative authority delegated to the District government in S. 1435 is unconstitutional. It is in direct contravention of article I, section 8, clause 17, of the Constitution which gives to Congress alone the "power—to exercise exclusive legislation in all cases whatsoever over—the seat of government of the United States."

The purpose of this legislation can only be achieved by a constitutional amendment. The retention of congressional authority, contained in section 601 of the bill, is a farce. It states that:

> The Congress of the United States reserves the right, at any time, to exercise its Constitutional authority as legislature for the District, by enacting legislation for the District on any subject.

In effect, Mr. Speaker, the proponents of this bill bill are admitting in this section that what they are doing in and through passage of this bill is unconstitutional. In this section, they pay lipservice to the Constitution, while the rest of the bill gives the general legislative power to the local government in direct contravention of the Constitution.

Mr. Speaker, the Constitution itself is based on the principle of self-government; yet, it contains an express provision denying self-government to the "seat of Government of the United States"—the District of Columbia. This bill tries to circumvent this clear expression of what the Constitution intends by reserving "ultimate legislative authority" to the Congress over the District. My experience does not permit me to jump to the conclusion that "ultimate authority"—as reserved in this bill—is the same as the constitutional mandate of "exclusive authority" contained in article I, section 8, clause 17. Mr. Speaker, I maintain that if we pass this bill, we ignore the Constitution, at our peril.

Second. S. 1435 creates something which is beyond the constitutional power of the Congress to establish—a virtually autonomous city-state. This bill concentrates in just 14 individuals all executive and legislative authority for the District's 43,000 to 44,000 employees—its over 700,000 residents—and its $1.5 billion annual budget. In every other part of the country, there is a layering of local governments, starting at the township or city level on up to the county and State level. In establishing only one level of government for the District, this bill fails to provide the necessary checks and balances to protect against an abuse of the tremendous amounts of power granted these 14 individuals. This legislation should not be examined on the assumption that good men will be implementing it; rather, we should be mindful of the consequences for the Capital City if unprincipled men take advantage of the opportunities for abuse of the power and authority that are built into the government structure set up by this bill. On that basis, I submit that the conference report should be rejected.

Third. Local interest over Federal interest. Mr. Speaker, this bill clearly favors the local interests over the Federal interest; it gives effective control of the Capital City—which belongs to all the American people—to locally elected municipal officials. A significant number of appointments on such agencies and commissions as the Judicial Nomination Commission, the Judicial Disability Commission, the Armory Board, and the National Capital Planning Commission have been given to the local government. Obviously, it is the intent of S. 1435 to downgrade the Federal interest in the Nation's Capital and replace it with local interest and control.

I agree with President Taft who opposed self-government in the District of Columbia "to prevent its being controlled by the parochial spirit that would necessarily govern men who did not look beyond the city to the grandeur of the Nation," and I am convinced that the conference report now before us will permit control of the Nation's Capital by local interests.

Where Federal and local interests conflict, it is clear that the Federal interest must prevail. It will not do so if this conference report is passed.

This bill has been drafted for the supposed benefit of the 750,000 residents of the District, to the disadvantage of all American citizens. About 20 million Americans visit Washington every year. These people are your constituents who come for a visit to their Nation's Capital.

They will be significantly affected by the change of authority over the law enforcement agencies of this city. Under this bill, the local government will have full authority over the Metropolitan Police Force, not the President and the Congress; the mayor will appoint the chief of police, not the President. In addition, the President's ability to deal with emergency situations in the Capital has been severely restricted; this Congress is being very foolhardy if we ignore the lessons of the past few years and lessen the President's ability to protect the Federal Government from violent force.

Fourth. Federal Payment Provisions. S. 1435 authorizes over $1 billion in the next 4 years as the Federal payment to the District government not including the over $2 billion in Federal grants and aid which the District will receive in the same period. Despite self-government, the Congress will be committed to paying larger and larger amounts of the District's expenses. By 1978, the taxpayers of this country will be contributing almost $1 million a day to the District government. It is obvious that this conference report foresees not a decrease in Federal subsidy to the local government as it embarks on home rule, but an increase in Federal support to the locally elected government. In effect, this would indicate an admission of greater inefficiency through elective government. The per capita cost of government in the District of Columbia is the highest of any city or county in the country, and this bill would increase per capita cost at a tremendous rate.

The proponents of home rule contend that home rule of the District of Columbia is the same as home rule in any community in any of the States, and that District residents should be given the same privileges. This oversimplified contention ignores several important and significant facts. The impact of home rule in a community of any of the States is essentially limited to the local citizens. The impact of home rule in the District of Columbia would be felt by more than 200 million people in the States of the Union. The conduct of the District government is of importance to all the citizens of the United States. Every taxpayer throughout the Nation contributes taxes for the operation of the District government. No other local government can extract funds from the people of the Nation as does the District of Columbia. The District receives the highest per capita Federal payments in grants and assistance of any city or State in the country. For example:

Per capita in Federal grant money

	Plus
District of Columbia	+$745
Illinois	+158
Indiana	+108
Iowa	+115
New York	+207
Ohio	+102
Pennsylvania	+137
Virginia	+136

(Calculated from "Federal Aid to States, Fiscal 1972—Annual report of Treasury Dept., Fiscal Division, Refer.—pg. 132 Committee Report on H.R. 9682)

It is clear that the people of the District are not being shortchanged under the present system. The seat of the National Government is not a territory of the United States. It is the Capital of the Nation

Mr. Speaker, I must object to the conferees' effort to distort and subvert the Hatch Act. Section 741 of the report effectively amends the Hatch Act to permit Federal employees to become candidates for local office in the District.

Neither the Senate nor House version of the bill contained this amendment to the Hatch Act. This unfortunate amendment was added by the conferees, and is another example of the way the conference exceeded its proper authority. The combination of unrestricted campaign spending and this Hatch Act amendment can only result in the establishment of a corrupt political system in the District

I ask the Members; if the seat of the Federal Government were to be moved to Indianapolis, or Oklahoma City, or Wounded Knee, S. Dak., would you, especially Mr. FAUNTROY and Mr. DIGGS, insist that the local citizens of those communities exercise absolute control over the affairs of our Capital City? No, you would not want it, and you could not want it because the Constitution prohibits local control of the Nation's Capital in the clearest and most unambiguous language.

In conclusion, Mr. Speaker, this conference report can only be described as an unconstitutional power grab that would impose a poorly structured local government on our Capital City. I urge support for the motion to recommit which I intend to offer at the proper time.

The SPEAKER. The time of the gentleman has expired.

Mr. LANDGREBE. I shall return to my seat. I am sorry I did not get to yield to other Members.

Mr. WILLIAMS. Mr. Speaker, will the gentleman yield?

Mr. NELSEN. I yield to the gentleman from Pennsylvania.

Mr. WILIAMS. I thank the gentleman for yielding.

I should just like to ask the gentleman from Indiana (Mr. LANDGREBE), a question. Does this conference report actual mandate a doubling of the Federal contribution to the District of Columbia budget?

Mr. LANDGREBE. It does not mandate; it authorizes an increase from $194 million presently to $300 million for 1978.

Mr. WILIAMS. I thank the gentleman.

Mr. NELSEN. Mr. Speaker, I yield 1 minute to the gentleman from Maryland (Mr. HOGAN).

Mr. HOGAN. Mr. Speaker, I rise in opposition to the conference report on S. 1435, especially to the provisions of the bill which would turn over to a local government in the District of Columbia much of the authority over planning and development for a Federal Government in the Nation's Capital region including my district.

The effect of the provisions in the bill regarding the National Capital Planning Commission indicates clearly that physical planning and leasing for the Federal Government in the entire metropolitan Washington area, which vitally affects the interests of both Maryland and Virginia, will come under control of the District of Columbia Government.

The new membership of the NCPC would be overwhelmingly weighed in favor of the District of Columbia, by a possible ratio of 7 to 1. Under the proposal, the members of the Commission would be the Secretary of the Interior, the Secretary of Defense, the Administrator of GSA, the Mayor of Washington, the chairman of the District of Columbia City Council, and the chairman of the House and Senate Committees on the District of Columbia or their alternates. Then the bill calls for five citizen members; three to be appointed by the President only one of whom must be from Maryland and one of whom must be from Virginia; but the other two are appointed by the Mayor of Washington. In other words possibly seven members of the Commission would be oriented in the interests of the District of Columbia with little interest in planning in the suburban areas of Maryland and Virginia.

This Commission is supposed to be a Federal planning agency for the region, so why should the Mayor and the City Council of the District of Columbia be permitted to sit on the planning commission any more than the county executive and chairman of the county council from my county and from all other counties, since our interests are vitally affected?

The constitutional questions which I have always had in the past to home rule legislation for the District of Columbia have been satisfied by the Green amendment which incorporates the enclave concept in the legislation. I have, in the past, introduced legislation to give full voting representation in Congress to District of Columbia residents, but I cannot approve of a Commission which will have control over planning in my district which is itself controlled by District of Columbia residents. This, in its own right, is unequal representation.

Mr. Speaker, I could have supported this legislation if the committee had seen fit to make some changes in the National Capital Planning Commission provision, the parking tax provision and the authority to restrict District of Columbia employment to residents of the District of Columbia. Since these objectionable provisions still remain, I feel compelled to oppose the legislation. I will vote "no" on the conference report.

Mr. FRASER. Mr. Speaker, the conference report adopts a very important feature of the House bill—section 738, relating to the advisory neighborhood councils. Language has been added to require citywide approval by the voters at the charter referendum election next May 7, through a separate vote on neighborhood councils.

This concept was discussed in subcommittee hearings last spring, in full committee markup this summer, and by those of us who were on the conférence committee in recent weeks. The clear intent is to establish an official body in each community or neighborhood, elected by voters of that part of the city at a regular school board election at the official polling places, using ballots provided by the city election board.

When a neighborhood council has been elected, it will receive from the city "notice—of requested or proposed zoning changes, variance, public improvements, licenses or permits of significance to neighborhood planning and development within its neighborhood council area for its review, comment, and recommendation."

In this way the local people will be involved in decisions affecting their local area. An official group of local citizens will "review, comment, and recommend."

The duties and powers of each local council are also set out in these words:

> May advise the District government on matters of public policy including decisions regarding planning, streets, recreation, social services programs, health, safety, and sanitation in that neighborhood council area.

This increase in control over decisions affecting their local area by the people closest to the problems is not such a novel idea in America. We have always had a good deal of local autonomy for each small community of 10,000 or 50,000. It is only in the greatly expanding cities of the past 100 years with annexation of suburbs and consolidation of functions that the people have been getting farther and farther away from the elected officials who are responsible for providing municipal services and making decisions on zoning and development. Washington, D.C., will have a way to reverse this trend in the new home rule bill we are now adopting.

London, England, has organized its municipal services in a way that gives more local control, yet leaves larger questions such as the transportation system to a larger unit of government. The 32 boroughs of the London area each elect councils which have a good deal of responsibility. The overall Greater London Council is elected to perform areawide functions.

Community councils are being discussed and voted on in many large cities throughout the United States. Indianapolis is in the process of defining the boundaries and then holding elections for its local councils. Detroit has just adopted a new charter under which "subunits of government" may be established. Community councils in Detroit may be given advisory or substantive authority, or both, with respect to such programs as urban renewal, relocation, public housing, planning, and zoning actions, and other physical development programs; crime prevention and juvenile delinquency programs; health services; code inspection; recreation; education; and manpower training. In the words of the new Detroit charter:

> The community council shall act as advocate, on the basis of ongoing research and study, for the needs of the community before the city council.

That is essentially the role we visualize for community councils in Washington, D.C. The language of the bill is purposely broad so that each community can focus on the activities and problems it considers most important to the local community. A small amount of tax money is provided to go directly to each local council to be used for programs or local expenses or even staff. Additional financing by the city council, by other Federal programs, or by voluntary funding is permitted, as the local council takes on more responsibility.

The broad legislative powers given to the city council under this home rule bill are intended to relieve Congress of the chore of making local regulations for local problems. Specific language in section 738 makes it clear that the city council can legislate as to neighborhood councils. Congress has set up the basic framework and authorization for financing, but it is not necessary for the city council to return to Congress for additions and changes to the neighborhood council program.

Mr. NIX. Mr. Speaker, I am pleased to support the conference report on S. 1435, the District of Columbia Self-Government Act. When this measure becomes law, the citizens of our Nation's Capital will have restored to them the precious right of self-government. They will at long last have the right to elect their own mayor and city council and to manage their own municipal affairs, a right taken for granted by all other American cities.

This bill is long overdue. But I am happy that the new system of government for the District of Columbia will be in operation at the time of our national Bicentennial. By passing this law, we are keeping faith with the belief of our Founding Fathers that the people are capable of governing themselves. In the future, when American and foreign visitors come to our Federal City, they will see that democracy is a living reality here, as it is throughout our land.

Mr. Speaker, I want to commend the gentleman from Michigan (Mr. DIGGS) and the members of the District of Columbia Committee for their efforts in making self-government for the District a reality. But above all, I want to extend my best wishes to the citizens of the District of Columbia as they prepare to embark on a new future. Self-government is a great blessing and a great responsibility. I am confident that the people of our Nation's Capital will prove to all doubters that democratic government is, as it always has been, the best guardian of the liberties and welfare of the people.

Mr. DIGGS. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

MOTION TO RECOMMIT OFFERED BY MR. LANDGREBE

Mr. LANDGREBE. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the conference report?

Mr. LANDGREBE. I certainly am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit. The Clerk read as follows:

Mr. LANDGREBE moves to recommit the conference report on the bill (S. 1435) to the Committee of Conference.

Mr. LANDGREBE. Mr. Speaker, I move the previous question on the motion to recommit.

The previous question was ordered.

The SPEAKER. The question is on the motion to recommit.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. LANDGREBE. Mr. Speaker, I demand a recorded vote.

A recorded vote was refused.

Mr. LANDGREBE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 80, nays 259, not voting 93, as follows:

[Roll No. 692]

YEAS—80

Arends
Ashbrook
Bafalis
Baker
Bauman
Bray
Brooks
Broyhill, Va.
Burgener
Burleson, Tex.
Camp
Casey, Tex.
Chappell
Clancy
Clawson, Del
Collins, Tex.
Conlan
Crane
Daniel, Dan
Daniel, Robert W., Jr.
Davis, Wis.
Denholm
Dennis
Devine
Dickinson
Duncan
Fisher
Flynt
Goodling
Gross
Haley
Hinshaw
Hogan
Holt
Hosmer
Huber
Hutchinson
Jarman
Johnson, Pa.
Ketchum
King
Landgrebe
Lott
Lujan
Mayne
Michel
Minshall, Ohio
Mizell
Montgomery
Moorhead, Calif.
Myers
Parris
Pike
Poage
Powell, Ohio
Price, Tex.
Quillen
Rarick
Rhodes
Roberts
Robinson, Va.
Rousselot
Ruth
Satterfield
Scherle
Sebelius
Skubitz
Snyder
Spence
Steed
Steiger, Ariz.
Symms
Treen
Waggonner
Whitten
Williams
Wyman
Young, Fla.
Young, Tex.
Zion

NAYS—259

Abdnor
Abzug
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashley
Barrett
Bell
Bennett
Bergland
Bevill
Biester
Bingham
Boggs
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Buchanan
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Byron
Carney, Ohio
Carter
Cederberg
Chamberlain
Cleveland
Cochran
Cohen
Collier
Collins, Ill.
Conable
Conte
Conyers
Corman
Coughlin
Cronin
Culver
Danielson
Davis, Ga.
Davis, S.C.
de la Garza
Dellenback
Dellums
Derwinski
Diggs
Dingell
Donohue
Dorn
Drinan
du Pont
Eckhardt
Edwards, Calif.
Eilberg
Erlenborn
Esch
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Flood
Flowers
Foley
Forsythe
Fountain
Fraser
Frenzel
Frey
Froehlich
Fulton
Gaydos
Gettys
Giaimo
Gibbons
Ginn
Gonzalez
Gray
Green, Oreg.
Green, Pa.
Gude
Gunter
Guyer
Hamilton
Hammerschmidt
Hanley
Hansen, Idaho
Hansen, Wash.
Harrington
Harsha
Hastings
Hawkins
Hays
Hechler, W. Va.
Heckler, Mass.
Heinz
Hicks
Hillis
Holifield
Horton
Howard
Hungate
Ichord
Johnson, Calif.
Johnson, Colo.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Kemp
Kluczynski
Koch
Kuykendall
Kyros
Latta
Leggett
Lehman
Litton
Long, La.
Long, Md.
McClory
McCloskey
McCollister
McCormack
McDade
McEwen
McFall
McKay
McSpadden
Macdonald
Madden
Madigan
Mahon
Mallary
Mann
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Milford
Miller
Mink
Mitchell, N.Y.
Moakley
Mollohan
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Natcher
Nedzi
Nelsen
Nichols
Nix
Obey
O'Hara
O'Neill
Owens
Passman
Patten
Perkins
Pettis
Pickle
Preyer
Price, Ill.
Pritchard
Quie
Railsback
Randall
Rangel
Regula
Reuss
Riegle
Robison, N.Y.
Rogers
Roncalio, Wyo.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Roy
Roybal
Runnels
Ruppe
St Germain
Sarbanes
Schneebeli
Schroeder
Seiberling
Shipley
Shoup
Shriver
Shuster
Sisk
Slack
Smith, Iowa
Smith, N.Y.
Stanton, J. William
Stark
Steelman
Steiger, Wis.
Stephens
Stratton
Stubblefield
Stuckey
Studds
Sullivan
Symington
Taylor, N.C.
Teague, Calif.
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Tiernan
Towell, Nev.
Udall
Ullman
Van Deerlin
Vanik
Vigorito
Waldie
Wampler
Ware
Whalen
White
Wiggins
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Winn
Wylie
Yates
Yatron
Young, Ga.
Young, Ill.
Young, S.C.
Zablocki
Zwach

NOT VOTING—93

Adams
Addabbo
Alexander
Anderson, Ill.
Aspin
Badillo
Beard
Biaggi
Blackburn
Blatnik
Boland
Bolling
Brasco
Broomfield
Burke, Calif.
Burton
Butler
Carey, N.Y.
Chisholm
Clark
Clausen, Don H.
Clay
Cotter
Daniels, Dominick V.
Delaney
Dent
Downing
Dulski
Edwards, Ala.
Eshleman
Ford, William D.
Frelinghuysen
Fuqua
Gilman
Goldwater
Grasso
Griffiths
Grover
Gubser
Hanna
Hanrahan
Harvey
Hébert
Helstoski
Henderson
Holtzman
Hudnut
Hunt
Keating
Landrum
Lent
McKinney
Mailliard
Maraziti
Martin, Nebr.
Martin, N.C.
Mills, Ark.
Minish
Mitchell, Md.
Moorhead, Pa.
O'Brien
Patman
Pepper
Peyser
Podell
Rees
Reid
Rinaldo
Rodino
Roe
Roncallo, N.Y.
Rooney, N.Y.
Ryan
Sandman
Sarasin
Sikes
Staggers
Stanton, James V.
Steele
Stokes
Talcott
Taylor, Mo.
Teague, Tex.
Vander Jagt
Veysey
Walsh
Whitehurst
Widnall
Wolff
Wright
Wyatt
Wydler
Young. Alaska

So the motion to recommit was rejected.

The Clerk announced the following pairs:

On this vote:

Mr. Hébert for, with Mr. Adams against.

Mr. Landrum for, with Mr. Fuqua against.

Mr. Sikes for, with Mr. Brasco against.

Mr. Teague of Texas for, with Mr. Mitchell of Maryland against.

Mr. Blackburn for, with Mr. McKinney against.

Mr. Taylor of Missouri for, with Mr. Widnall against.

Mr. Hanrahan for, with Mr. Hunt against.

Until further notice:

Mr. Rooney of New York with Mr. Staggers.

Mr. Boland with Mr. Mills of Arkansas.

Mr. Addabbo with Mr. Aspin.

Mr. Biaggi with Mr. Talcott.

Mr. Badillo with Mr. Ryan.

Mr. Burton with Mr. Walsh.

Mr. Carey of New York with Mr. Vander Jagt.

Mr. Downing with Mr. Martin of Nebraska.

Mr. Dulski with Mr. Sandman.

Mrs. Chisholm with Mr. William D. Ford.

Mrs. Grasso with Mr. Roncallo of New York.

Mr. Cotter with Mr. Rinaldo.

Mr. Helstoski with Mr. Clay.

Mr. Minish with Mr. Stokes.

Mrs. Griffiths with Mr. Frelinghuysen.

Mr. Hanna with Mr. Anderson of Illinois.

Mr. Moorhead of Pennsylvania with Mr. Gilman.

Mr. Clark with Mr. Beard.

Mr. Dominick V. Daniels with Mr. Eshleman.

Mr. Delaney with Mr. Goldwater.

Mr. Dent with Mr. Broomfield.

Mr. Rodino with Mr. Grover.

Mr. Reid with Mr. Harvey.

Mr. Podell with Mr. Maraziti.

Mr. Pepper with Mr. Martin of North Carolina.

Mr. Rees with Mr. Butler.

Mr. Roe with Mr. O'Brien.

Mr. James V. Stanton with Mr. Mailliard.

Mr. Wolff with Mr. Don H. Clausen.

Mr. Wright with Mr. Peyser.

Mr. Alexander with Mr. Edwards of Alabama.

Mr. Blatnik with Mr. Lent.

Mrs. Burke of California with Mr. Sarasin.

Mr. Henderson with Mr. Steele.

Ms. Holtzman with Mr. Hudnut.

Mr. Patman with Mr. Gubser.

Mr. Whitehurst with Mr. Wyatt.

Mr. Wydler with Mr. Young of Alaska.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the conference report.

RECORDED VOTE

Mr. MONTGOMERY. Mr. Speaker, on that I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device; and there were—ayes 272, noes 74, not voting 86, as follows:

[Roll No. 693]

AYES—272

Abdnor
Abzug
Addabbo
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashley
Barrett
Bell
Bennett
Bergland
Bevill
Biester
Bingham
Boggs
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Byron
Carney, Ohio
Carter
Cederberg
Chamberlain
Cleveland
Cochran
Cohen
Collier
Collins, Ill.
Conable
Conte
Conyers
Corman
Coughlin
Cronin
Culver
Danielson
Davis, Ga.
Davis, S.C.
de la Garza
Dellenback
Dellums
Derwinski
Diggs
Donohue
Dorn
Drinan
Duncan
du Pont
Eckhardt
Edwards, Calif.
Eilberg
Erlenborn
Esch
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Flood
Flowers
Foley
Forsythe
Fountain
Fraser
Frenzel
Frey
Froehlich
Fulton
Gaydos
Gettys
Giaimo
Gibbons
Ginn
Gonzalez
Gray
Green, Oreg.
Green, Pa.
Gude
Gunter

Guyer
Hamilton
Hammerschmidt
Hanley
Hansen, Idaho
Hansen, Wash.
Harrington
Harsha
Hastings
Hawkins
Hays
Hechler, W. Va.
Heckler, Mass.
Heinz
Hicks
Hillis
Hinshaw
Holifield
Horton
Howard
Hungate
Ichord
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Kemp
King
Kluczynski
Koch
Kuykendall
Kyros
Latta
Leggett
Lehman
Litton
Long, La.
Long, Md.
McClory
McCloskey
McCollister
McCormack
McDade
McEwen
McFall
McKay
McSpadden
Macdonald
Madden
Madigan
Mahon
Mallary
Mann

Mathias, Calif.
Mathis, Ga.
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Michel
Milford
Miller
Mink
Minshall, Ohio
Mitchell, N.Y.
Moakley
Mollohan
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nelsen
Nichols
Nix
Obey
O'Hara
O'Neill
Owens
Patten
Perkins
Pettis
Pickle
Powell, Ohio
Preyer
Price, Ill.
Pritchard
Quie
Railsback
Randall
Rangel
Regula
Reuss
Riegle
Robison, N.Y.
Roe
Rogers
Roncalio, Wyo.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Roy
Roybal
Ruppe
St Germain
Sandman
Sarbanes

Schneebeli
Schroeder
Seiberling
Shipley
Shoup
Shriver
Shuster
Sisk
Slack
Smith, Iowa
Smith, N.Y.
Stanton, J. William
Stark
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stratton
Stubblefield
Stuckey
Studds
Sullivan
Symington
Taylor, N.C.
Teague, Calif.
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Tiernan
Towell, Nev.
Udall
Ullman
Van Deerlin
Vanik
Vigorito
Waldie
Wampler
Ware
Whalen
White
Wiggins
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Winn
Wolff
Wydler
Wylie
Yates
Yatron
Young, Ga.
Young, Ill.
Young, S.C.
Zablocki
Zwach

NOES—74

Arends
Ashbrook
Bafalis
Baker
Bauman
Bray
Brooks
Broyhill, Va.
Burleson, Tex.
Camp
Casey, Tex.
Chappell
Clancy
Clawson, Del
Collins, Tex.
Conlan
Crane
Daniel, Dan
Daniel, Robert W., Jr.
Davis, Wis.
Denholm
Dennis
Devine
Dickinson
Dingell

Fisher
Flynt
Goodling
Gross
Haley
Hogan
Holt
Hosmer
Huber
Hutchinson
Jarman
Ketchum
Landgrebe
Lott
Lujan
Mayne
Mizell
Montgomery
Moorhead, Calif.
Parris
Passman
Pike
Poage
Price, Tex.
Quillen

Rarick
Rhodes
Roberts
Robinson, Va.
Rousselot
Runnels
Ruth
Satterfield
Scherle
Sebelius
Sikes
Skubitz
Snyder
Spence
Steed
Symms
Teague, Tex.
Treen
Waggonner
Whitten
Wyman
Young, Fla.
Young, Tex.
Zion

NOT VOTING—86

Adams
Alexander
Anderson, Ill.
Aspin
Badillo
Beard
Biaggi
Blackburn
Blatnik
Boland
Bolling
Brasco
Broomfield
Burke, Calif.

Burton
Butler
Carey, N.Y.
Chisholm
Clark
Clausen, Don H.
Clay
Cotter
Daniels, Dominick V.
Delaney
Dent
Downing

Dulski
Edwards, Ala.
Eshleman
Ford, William D.
Frelinghuysen
Fuqua
Gilman
Goldwater
Grasso
Griffiths
Grover
Gubser
Hanna

Hanrahan
Harvey
Hébert
Helstoski
Henderson
Holtzman
Hudnut
Hunt
Keating
Landrum
Lent
McKinney
Mailliard
Maraziti
Martin, Nebr.
Martin, N.C.

Mills, Ark.
Minish
Mitchell, Md.
Moorhead, Pa.
O'Brien
Patman
Pepper
Peyser
Podell
Rees
Reid
Rinaldo
Rodino
Roncallo, N.Y.
Rooney, N.Y.
Ryan

Sarasin
Staggers
Stanton, James V.
Steele
Stokes
Talcott
Taylor, Mo.
Vander Jagt
Veysey
Walsh
Whitehurst
Widnall
Wright
Wyatt
Young, Alaska

So the conference report was agreed to.

The Clerk announced the following pairs:

On this vote:

Mr. Adams for, with Mr. Landrum against.

Mr. Mitchell of Maryland for, with Mr. Hébert against.

Mr. McKinney for, with Mr. Taylor of Missouri against.

Mr. Hanrahan for, with Mr. Blackburn against.

Until further notice:

Mr. Rooney of New York with Mr. Vander Jagt.

Mr. Badillo with Mr. Wyatt.

Mr. Clark with Mr. Delaney.

Mr. Blatnik with Mr. Steele.

Mr. Brasco with Mr. Sarasin.

Mrs. Grasso with Mr. Talcott.

Mr. Cotter with Mr. Grover.

Mr. Rodino with Mr. Martin of North Carolina.

Mr. James V. Stanton with Mr. Hunt.

Mr. Stokes with Mr. Helstoski.

Mr. Henderson with Mr. Walsh.

Mr. Boland with Mr. Gubser.

Mrs. Chisholm with Mr. Rees.

Mr. Moorhead of Pennsylvania with Mr. Lent.

Mr. Clay with Mr. Minish.

Mr. Biaggi with Mr. Harvey.

Mr. Alexander with Mr. Edwards of Alabama.

Mr. William D. Ford with Mr. Anderson of Illinois.

Mrs. Griffiths with Mr. Hudnut.

Mr. Hanna with Mr. Martin of Nebraska.

Ms. Holtzman with Mr. Keating.

Mr. Staggers with Mr. Beard.

Mr. Wright with Mr. Eshleman.

Mr. Reid with Mr. Broomfield.

Mr. Mills of Arkansas with Mr. Roncallo of New York.

Mr. Dent with Mr. Frelinghuysen.

Mr. Dominick V. Daniels with Mr. Mailliard.

Mr. Dulski with Mr. Don H. Clausen.

Mr. Downing with Mr. Goldwater.

Mr. Carey of New York with Mr. Maraziti.

Mr. Burton with Mr. Gilman.

Mrs. Burke of California with Mr. Aspin.

Mr. Patman with Mr. O'Brien.

Mr. Pepper with Mr. Butler.

Mr. Podell with Mr. Rinaldo.

Mr. Ryan with Mr. Peyser.

Mr. Fuqua with Mr. Young of Alaska.

Mr. Widnall with Mr. Whitehurst.

The result of the vote was announced as above recorded. A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate disagrees to the amendments of the House to the bill (S. 2589) entitled "An Act to declare by congressional action a nationwide energy emergency; to authorize the President to immediately undertake specific actions to conserve scarce fuels and increase supply; to invite the development of local, State, National, and international contingency plans; to assure the continuation of vital public services; and for other purposes," agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Jackson, Mr. Bible, Mr. Metcalf, Mr. Fannin, Mr. Hansen, Mr. Randolph, Mr. Muskie, Mr. Baker, Mr. Hollings, Mr. Stevenson, and Mr. Stevens to be the conferees on the part of the Senate.

The message also announced that Mr. Eagleton be appointed as a conferee on the bill (H.R. 11576) entitled "An Act making supplemental appropriations for the fiscal year ending June 30, 1974, and for other purposes," in lieu of Mr. Hollings, excused.

GENERAL LEAVE

Mr. DIGGS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

DIRECTING SECRETARY OF THE SENATE TO MAKE CORRECTIONS IN THE ENROLLMENT OF S. 1435

Mr. DIGGS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the concurrent resolution (H. Con. Res. 402) directing the Secretary of the Senate to make corrections in the enrollment of S. 1435.

The Clerk read the concurrent resolution, as follows:

H. Con. Res. 402

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of the bill (S. 1435), to reorganize the governmental structure of the District of Columbia, to provide a charter for local government in the District of Columbia, subject to acceptance by a majority of registered qualified electors in the District of Columbia, to delegate certain legislative powers to the local government, to implement certain recommendations of the Commission on the Organization of the Government of the District of Columbia, and for other purposes, the Secretary of the Senate shall make the following corrections:

(1) In the parenthetical phrase in section 602(a)(5) of the bill, strike out "the Act of July 16, 1947" and insert in lieu thereof "title I of the District of Columbia Income and Franchise Tax Act of 1947".

(2) At the end of section 738 of the bill, insert the following subsection:

"(h) The foregoing provisions of this section shall take effect only if agreed to in accordance with the provisions of section 703(a) of this Act."

(3) In the first sentence of section 712 of the bill, strike out "711" and insert in lieu thereof "404(a)".

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

HONORABLE LEE SULLIVAN NAMED ADMIRAL OF THE OCEAN SEA

(Mrs. GREEN of Oregon asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. GREEN of Oregon. Mr. Chairman, it is with a great deal of personal pride, personal pleasure that I call to the attention of the Members of the House a richly deserved honor which has been awarded to one of our most distinguished colleagues, Mrs. LEE SULLIVAN, the gentlewoman from Missouri. May I also say it is one of the most poetic citations of which I have ever heard. Who would not envy, indeed, a time when one would be named "Admiral of the Ocean Sea"! That is exactly LEE SULLIVAN's new title, bestowed upon her at a very gala occasion in New York City last week. Just the title inspires a sense of romance and adventure, of exploration and daring, and superb skill. And for that matter those are the very qualities which mark LEE SULLIVAN's life.

One of the very few women, indeed half a dozen only in the history of the Congress, to ever chair a congressional committee and one of the relatively few women, in fact, to ever serve in Congress, she has indeed charted unknown seas and has done so with immense dignity and courage and success.

This latest tribute to her comes from individuals and groups most knowledgeable about the world's merchant fleet and therefore most knowledgeable, also, about the contributions of those hearty individuals who fight on behalf of these modern mariners.

In being named the 1973 Admiral of the Ocean Sea, LEE SULLIVAN joins the eminent ranks of only four previous awardees: Spyros Skouras, Helen Bentley, Andrew Gibson, and Joseph Curran. She is the first Member of Congress to be so honored. I know the pride I feel in being associated with her is shared by LEE's other colleagues. With affection and admiration and respect, may I offer our warmest congratulations.

Mr. RANDALL. Mr. Chairman, will the gentlewoman yield?

Mrs. GREEN of Oregon. I yield to the gentleman from Missouri (Mr. RANDALL).

Mr. RANDALL. Mr. Speaker, I join with the gentlewoman from Oregon in these congratulations to our colleague (Mrs. SULLIVAN).

As a member of the Missouri delegation, of course we all love the gentlelady from Missouri, LEE SULLIVAN. We also honor and respect her for her ability as a good legislator. Today we take this moment to commend and congratulate her as a recipient of the Admiral of the Ocean Sea. In New York last week Mrs. SULLIVAN was selected to receive the AOTOS award conferred by United Seamen's Service, which is an industry organization. The award is to honor those who have made outstanding contributions to the American merchant marine. LEE SULLIVAN has distinguished herself as being the first Member of Congress to be so honored.

The recipient of this honor, of course we know is the chairman of the House Merchant Marine Committee, and the first woman Member of Congress to chair that distinguished committee. At the awards ceremony Tuesday evening, December 11th in New York, Mrs. SULLIVAN made the point that our country must bolster its merchant marine, and warned that while that will not be easy and will require some hard accommodations by both maritime management and labor, such increase in the strength of our merchant marine is a necessity unless we are willing to risk in the future international blackmail from any nation that chooses to attempt it.

The gentlewoman from Missouri made the very strong point that we carry less than 6 percent of our commerce in our own ship bottoms. She went on in her acceptance remarks to make another strong point that either the personal whim or nationalistic zealousness of leaders of autocratic regimes can bring the American economy to a precarious position. She said the suddenness of the energy crisis and the Arab embargo should bring home to us the need for our own strong merchant marine.

The very impressive point which Mrs. SULLIVAN developed in her remarks was in the form of a rhetorical question, that if we are now suffering some economic dislocation because of the arbitrary shutoff of less than 10 percent of our total oil needs by the concerted action of a few small Arab nations, what would happen to us if the 94 percent of ocean shipping that we use were to be sharply curtailed or denied to us for political reasons of the countries that own these ships?

These sobering warnings should wake up every Member of the House to the need that whatever we can do to strengthen and increase the capacity of our own merchant marine should be voted by this Congress.

Finally, we salute Admiral SULLIVAN. We honor her today and congratulate her as the recipient of AOTOS. For those of us who are members of the Missouri delegation, we have always known and regarded her as a good shipmate.

Mr. HUNGATE. Mr. Speaker, will the gentlewoman yield?

Mrs. GREEN of Oregon. I yield to the gentleman from Missouri.

Mr. HUNGATE. Mr. Speaker, I would like to join in the commendation to Admiral SULLIVAN who is a leading Member of the Missouri delegation and a fine friend to us all and a constructive legislator. Certainly she contributes much to the work of this body.

Mrs. GREEN of Oregon. I thank my colleague, the gentleman from Missouri.

Mr. SYMINGTON. Mr. Speaker, will the gentlewoman yield?

Mrs. GREEN of Oregon. I yield to the gentleman from Missouri (Mr. SYMINGTON).

Mr. SYMINGTON. Mr. Speaker, I do want to join with my colleagues and the gentlewoman from Oregon in expressing gratitude for this well-deserved honor to our esteemed shipmate LEE SULLIVAN, the gentlewoman from Missouri.

Mr. ICHORD. Mr. Speaker, will the gentlewoman yield?

Mrs. GREEN of Oregon. I yield to the gentleman from Missouri (Mr. ICHORD).

Mr. ICHORD. Mr. Speaker, I appreciate our colleague, the gentlewoman from Oregon, taking this time to bring the honor bestowed upon our colleague, the beloved and highly esteemed gentlewoman from Missouri, LEONORA SULLIVAN, to the attention of the Members of the House.

When most people are asked who is the father of the U.S. Navy, they reply that it is John Paul Jones, but in fact it was not John Paul Jones who was the father of the U.S. Navy. It was a man by the name of John Barry, a naturalized American of Irish descent. I am happy that we again have the Irish name of Sullivan in the front ranks of the U.S. Navy.

GENERAL LEAVE

Mrs. GREEN of Oregon. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the subject of the award to Mrs. SULLIVAN, the gentlewoman from Missouri.

The SPEAKER. Is there objection to the request of the gentlewoman from Oregon?

There was no objection.

PERSONAL EXPLANATION

Mr. YATES. Mr. Speaker, I find in the RECORD that I was not recorded on rollcall No. 682, although I did insert my voting card in the voting machine and I did vote "aye." I ask that my statement be noted in the CONGRESSIONAL RECORD, that I was present and did vote "aye" on this rollcall.

CONFERENCE REPORT ON H.R. 3180, USE OF FRANKING PRIVILEGE BY MEMBERS OF CONGRESS

Mr. UDALL. Mr. Speaker, I call up the conference report on the bill (H.R. 3180) to amend title 39, United States Code, to clarify the proper use of the franking privilege by Members of Congress, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of December 11, 1973.)

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous matter on the conference report now under consideration.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. UDALL. Mr. Speaker, it is with considerable pride that we in the House Committee on Post Office and Civil Service bring to the House Chamber today for final action this important legislation on the franking privilege. Since the beginning of our Government we have had the franking privilege for the purpose of communicating with our constituents and between Members of Congress. If we need anything today, we need communication and understanding between the citizens of this country and those who hold important positions in Government.

So we have brought this conference report for your approval. It is a bill which I believe is in the public interest and in the interest of the orderly transaction of business in the House of Representatives.

I would call attention to the Members of two or three of the major differences which exist between the House-passed bill and the conference report. These are matters that were worked out in the conference committee.

The first deals with mass mailing. As Members will recall, when the bill passed the House there was no prohibition of mass mailing of franked mail prior to an election. In the Senate an amendment was carried which would have had a 30-day cutoff in which a Member was campaigning as a candidate.

In the conference committee we agreed to a cutoff of 28 days covering both primary and general elections. We feel this will satisfy the legitimate demand for some kind of legal cutoff and yet not interfere with the legitimate rights of Members to communicate with their constituents.

I would point out that the cutoff would not apply to direct responses to inquiries. If a major public event or a major public issue arose during the last week of the campaign and thousands of constituents wrote to the Member, he would be able to respond to those requests or communications. The cutoff would not apply to communications between Members and their colleagues, the typical "Dear Colleague" letter, nor to news media communications relating to official business. The postal patron privilege which has been extended pretty much to the House is included in this conference report. Not only that, we spell it out. We clarify it. We relate it to the situation in which Congressional districts have been changed and we do this in a fair and responsible way.

In addition, a number of Members have raised a question regarding mass mailings utilizing the "postal patron" form of address. The question involves a situation where the postal facility responsible for delivering the mass mailing may be physically located outside the congressional district where the mail is destined to be delivered.

Assurances have been received that the Postal Service is aware of this matter and the legislation is clear that when this situation exists, it is the responsibility of the Postal Service to insure delivery of such franked mail in the correct congressional district notwithstanding the fact that the actual postal facility responsible for such deliveries is outside the congressional district.

These are the two major provisions to which I call my colleagues' attention.

Mr. TEAGUE of California. Mr. Speaker, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from California.

Mr. TEAGUE of California. Does the conference report deal at all with the subject of leftover campaign funds from one campaign? Can they or can they not be used for the mailing out of monthly reports or questionnaires?

Mr. UDALL. Yes. This matter was settled as the House originally settled it when we debated it last spring.

We had an anomaly in that the Senate originally had held that excess funds could be spent for the printing and publishing of news letters. There had been a ruling, however, on the other hand that House funds could not be used for that purpose. The report makes clear that surplus campaign funds held by a committee can be used for the printing of news letters, questionnaires and similar matters of official business. It is the language of the Gubser amendment which also said that voluntary newsletter funds are not to be used as campaign funds, nor controlled by the 1971 Campaign Act.

So, this clarifies these two very vital questions.

Mr. TEAGUE of California. Mr. Speaker, I thank the gentleman.

Mr. CORMAN. Mr. Speaker, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from California.

Mr. CORMAN. Mr. Speaker, does the conference address itself to a Member including in his personal income funds which were spent for the printing and mailing of newsletters?

Mr. UDALL. No, this matter was not covered specifically. It ought to be addressed by the Committee on Ways and Means at some point, and I think we owe the Members some specific disposition. There is much gray area in this field and we ought to clarify it at the earliest opportunity.

Mr. Speaker, to assist our colleagues, I am attaching a further explanation of the conference report to highlight and detail the various provisions:

EXPLANATION OF CONFERENCE AGREEMENT

There are a number of significant differences between the conference agreement and the House passed bill.

The first deals with mass mailings. As you recall, the House passed bill did not contain a provision prohibiting mass mailings, but did require the House Commission on Congressional Mailing Standards to study and report to the House recommendations concerning the use of mass mailings during the period of thirty days before elections. The conference agreement deletes this provision and provides that mass mailings (defined as newsletters and similar mailings of more than 500 substantially identical pieces) may not be mailed less than 28 days before any election in which a Member is a candidate for public office, except for mailings—

(1) in direct response to inquiries or requests;

(2) to colleagues in Congress or to Federal, State or local officials; and

(3) of news releases to the communications media.

I might mention in this regard that the conference agreement allows postal patron mailings by Members of the House in the same manner as is presently utilized today.

The second major difference concerns the cost of franked mail as a political contribution. The conference agreement adopts the Senate language, which I might add we asked them to consider, which would prohibit consideration of the cost for franked mail, notwithstanding any Federal, State or local law to the contrary, as a contribution to or expenditure with respect to any limitation on campaign expenditures.

The third major difference relates to the franking of Mailgrams. The conference agreement allows costs due to the Postal Service for the sending of Mailgrams to be paid for under the frank. Other items transmitted by electronic means, as was provided for in the Senate amendments, could not be franked.

There are also some other differences which, in my opinion, are not major factors in the conference agreement.

The first deals with the inclusion in the conference agreement of a specific prohibition against using the frank for mailing cards expressing holiday greetings.

The second deals with the expiration of the franking privilege for non-returning Members of Congress. The conference agreement would allow the sending of official business matter and public documents under the frank until April 1st following the expiration of a term of office, as opposed to present law which allows such mailings until June 30th.

The next area deals with inclusion in the conference agreement of a provision which provides for administrative and judicial review for alleged violations by Senate Members and Senate officials. The Senate exercised its prerogative of choosing its own method of review, which is substantially different from that provided for violations by Members of the House. I should like to emphasize that the latter provision remains unchanged except for two technical amendments.

The last area of difference concerns franked mail for a surviving spouse of a Member. Presently there are no specific restrictions on the type of mail which a surviving spouse may send during 180 days following the death of a Member. The conference agreement provides that only "non-political" correspondence relating to the death of a Member may be sent during this period.

Mr. DULSKI. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from New York.

Mr. DULSKI. Mr. Speaker, I rise in support of the conference agreement on H.R. 3180 and urge its adoption.

The primary purpose of this legislation is, for the first time in some 200 years, to clarify the proper use of the franking privilege by Members of Congress.

Mr. Speaker, there are some significant differences between the conference agreement and the House-passed bill. However, I would like to assure the Members that, in my opinion, the agreement is a fair one, which should be supported by all the Members of the House.

I would like to address myself briefly to those areas of major interest in this legislation. The language in the House bill concerning postal patron mailings has not been changed.

Also the language concerning administrative and judicial review for violations by House Members and officials remains unchanged except for two minor technical amendments. This was an area where we expected some difficulty in conference, since the Senate had adopted amendments which would have substantially changed the scope of this review. The conferees agreed to adopt two procedures: one for the House as was passed by the House and another for the Senate for Members of the Senate.

Although I feel that a uniform review procedure for both Houses is preferable, the conference agreement, leaving the House provisions untouched and allowing the Senate to choose its own standards, is a reasonable compromise.

Mr. Speaker, there are other areas incorporating significant changes from the House-passed bill. One includes a prohibition on mass mailings. The gentleman from Arizona (Mr. UDALL) will explain this provision and all other major differences contained in the conference agreement.

Mr. GROSS. Mr. Speaker, I rise in support of the conference report.

Mr. Speaker, although I was a conferee on this legislation, my name does not appear on the conference report primarily because other important business on the floor prevented me from attending the conference, and I hestitate to sign a conference agreement which I had no part in drafting.

While I continue to have reservations about some parts of this franking reform legislation, I will not oppose its approval.

I continue to be concerned, Mr. Speaker, with the so-called laundry list of what is and is not frankable under this legislation, for I believe such lists lend themselves to contradiction and misinterpretation. Therefore, I strongly urge the Members appointed to the House Commission on Congressional Mailing Standards, if this bill is enacted, to move promptly toward establishing a set of reasonable and equitable guidelines which will make the act workable in the interest of Members of the Congress and the public.

During debate in the House on April 11, the House received assurances that the provisions of this legislation which establish the special commission will not involve additional cost and will require no additional hiring of staff. I trust this pledge will be carried out, and I hope that there will be no effort to circumvent the language of the legislation which specifies that the special commission will draw its personnel, office space, equipment and facilities from the Committee on Post Office and Civil Service.

Mr. Speaker, the franking privilege which Members of Congress have enjoyed since the days of the Continental Congress is a special and valued privilege. Because this legislation confers upon the Congress certain self-policing duties, it is important that the administration of this legislation be circumspect and evenhanded and that the final result in the application of this act is both helpful and fair to us and to the constituents we serve.

Mr. GROSS. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Speaker, as a conferee and a signer of the conference report, I can assure the Members of the House that this conference report sustains the House position on important points, and represents a major and long-needed reform of franking privilege laws.

In fact, Mr. Speaker, the conference report in some aspects is even better legislation than the bill which passed the House in that it provides additional safeguards against misuse of the frank and establishes firm restrictions on mass mailings prior to elections.

For example, the conference report prohibits the use of the frank for mailing holiday greeting cards. While the House bill would have prohibited such use by inference, it is practical, I believe, to specifically spell out this prohibition.

The conference report also tightens up the law with respect to Members of Congress using their frank after the expiration of their term of office. The House bill allowed such franking privilege to continue for 6 months, but the conference report allows this privilege to continue only until the first day of April following the expiration of a Member's term of office.

The conference report imposes a restriction on mass mailings prior to an election, whether such mailings are postal patron or individually addressed. This issue was unresolved in the House-passed bill. The conference report provides that mailings of 500 pieces or more of substantially identical matter may not be mailed under the frank for a period of 28 days before a primary or general election in which the Member of Congress is a candidate. In the interest of a Member's constituency, the provision does allow mailings of identical matter in direct response to an inquiry or request.

Mr. Speaker, I wish to reiterate the statement I made when this legislation was before the House this past April. The issue we are faced with is that of removing the cloud that has been placed over the entire scope of congressional franking privileges because of a series of conflicting court decisions that emerged last year.

The key provisions of this conference agreement will, in my opinion, serve the public interest and insure, to the greatest extent possible, against misuse and violation of the franking privileges. I urge the approval of the conference report.

Mr. UDALL. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

CONVENING OF 2D SESSION OF 93D CONGRESS

Mr. O'NEILL. Mr. Speaker, I move to suspend the rules and pass the Senate joint resolution (S.J. Res. 180) relative to the convening of the second session of the 93d Congress.

The Clerk read as follows:

S.J. RES. 180

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the second regular session of the Ninety-third Congress shall begin at noon on Monday, January 21, 1974, or at noon on the second day after their respective Members are notified to reassemble in accordance with section 2 of this resolution, whichever event first occurs.

SEC. 2. The Speaker of the House of Representatives and the President pro tempore of the Senate, or the Majority Leader of the Senate and the Majority Leader of the House of Representatives, or the Minority Leader of the Senate and the Minority Leader of the House of Representatives, shall notify the Members of the Senate and the House of Representatives, respectively, to reassemble whenever in their opinion the public interest shall warrant it.

The SPEAKER. Is a second demanded?

Mr. GROSS. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. O'NEILL. Mr. Speaker, we had colloquy with respect to this matter on Friday night, and if one looks in the CONGRESSIONAL RECORD on page 41779, he will find the colloquy between myself and the gentleman from Iowa (Mr. GROSS) and the gentleman from Oregon (Mr. DELLENBACK).

Mr. Speaker, the resolution speaks for itself. We expect to get through on Thursday or Friday of this week. We have talked to the leadership on both sides of the House and on both sides of the Senate.

This is a resolution which the leadership of the House has agreed to. Section 2 of the resolution is exactly the same as the resolution that we passed for the August recess enabling the Speaker of the House and the President pro tempore of the Senate; the majority leader of the House and majority leader of the Senate; the minority leader of the House and minority leader of the Senate, if they feel we should be called back, we could be called.

Mr. Speaker, it is my feeling that we have been here for many weeks; for many months, and that this is a well-deserved opportunity for us to go home during the Christmas vacation for an opportunity to work in our offices and see the people, to get the feeling at the grassroots.

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. O'NEILL. I yield to the distinguished minority leader.

Mr. RHODES. Mr. Speaker, I agree with the statement made by the distinguished majority leader. This is a good resolution, and it will be a good thing for the Members of this body to go back home and see what the boys in the drug store think about things. This is a part of being a Representative, and we have all too little time to do that very important part of our duties.

Mr. SPEAKER. I hope the resolution will be agreed to.

Mr. GROSS. Mr. Speaker, I yield 5 minutes to the gentleman from Oregon (Mr. DELLENBACK).

Mr. DELLENBACK. Mr. Speaker, I thank the gentleman from Iowa for yielding to me.

As the distinguished majority leader pointed out, we did have dialog on this subject the other evening in the closing minutes of the last day. One thing which was touched upon and which I would like to re-emphasize and say to the Members who are in attendance now and were not on the floor at that particular moment is, as the resolution points out, that this is not an adjournment from which we cannot return if there be any matters of urgency.

It was made expressly clear by the majority leader that there is a group which can call us back into session. If the Speaker wishes us to come back, he can call us back; if the President pro tempore of the Senate wishes to call us back, he can call us back; if the majority leader of the Senate and the majority leader of the House of Representatives, working together, wish to call us back, they can do so; and if the minority leader of the House and the minority leader of the Senate agree they should call us back, they can call us back.

Mr. Speaker, I think it is extremely important that we be in a condition of flexibility at this time so that when we adjourn, if there be any reason of importance for us to come back into session, we will come back. Otherwise we cannot come back unless the President calls us back. As this resolution makes it clear, there is a series of alternative ways whereby the Congress can, and, I expect, would be called back into session.

I would like also to emphasize what the distinguished minority leader said; that it is not a case of our deserving the right to return to our districts as a matter of vacation. It seems to me it is extremely important that in order for us to function well and effectively at these jobs, we keep in very close contact, on a two-way street with our respective constituencies.

To those of us who come from a long distance, as from the west coast, that is very difficult, if what we are trying to do is done only on weekends. A recess of this particular nature makes it possible for us to go back and attend some middle-of-the-week meetings which we lack the opportunity to do in the normal course of events.

So as one who comes from the opposite side of the country, I am delighted to see this kind of a resolution come into being, and I am sure that many of my colleagues who also come from any major distance will agree that this kind of a recess, particularly one from which we can be called back into session again, is highly desirable at this time.

Mr. GROSS. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I would like to ask the distinguished majority leader why we are doing this, in other words providing for sine die adjourment piecemeal.

Why is not the date of adjournment stated in this resolution?

Mr. O'NEILL. Mr. Speaker, actually I do not know when the conference committee is coming back with respect to the energy bill, and nonetheless I would hope we would be able to recess by Thursday or Friday or Saturday. We must, of course, pass that energy bill.

I am sure that is what the leadership on both sides is most concerned with, and the Members of the House do not want to go home without it being passed.

I understand that the Senate is thinking of returning the 28th, and they will be amending this resolution to January 28. So if there will be a difference in the dates, we do want to get this over to the Senate.

Mr. GROSS. Mr. Speaker, did I understand the gentleman to say that the other body is conjuring with the idea of working until December 28 and reconvening on the 28th of January?

Mr. O'NEILL. Well, there is a remote possibility of that. They are thinking of coming back, I understand, on January 28, so they will offer an amendment to our bill.

Mr. GROSS. Will they not feel lonely if we take off before they do?

Mr. O'NEILL. No, not any more lonely than we will feel without them after we come back on January 21.

Mr. GROSS. Well, does the gentleman think that we can come back as late as January 21 and do better than we have in this session?

Mr. O'NEILL. Well, I think the record of this session has been pretty good, if the gentleman will examine the record. I would only hope that we would be able to continue with this next session as well as we have in the first.

If we would summarize the legislation we have passed and what we have accomplished and the new rules we have put into effect, I would say that this has been an excellent Congress.

Mr. GROSS. Mr. Speaker, the point is that we are still here almost on Christmas Eve, not knowing whether we are going to get out or not.

Mr. O'NEILL. I cannot argue with that point.

Mr. GROSS. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Speaker, I will ask the distinguished majority leader this question:

What are the two or three major items we are waiting for besides the energy bill and the railroad bill? And are those "must" items of legislation before we go home for Christmas?

Mr. O'NEILL. We have on the second page of the whip notice the conference reports.

Mr. ROUSSELOT. I have seen all of those, but my point is—are there to be "must" items of legislation before we go home?

Mr. O'NEILL. Three of them are all ready—the health maintenance organization, the Federal financing bank, the Federal health benefits—but I do not feel there is any problem whatsoever about them.

Mr. ROUSSELOT. Are all of those things you just listed "must" items before we leave at Christmas ?

Mr. O'NEILL. May I say I do not want to put all of them in the category of "musts."

Mr. ROUSSELOT. That is what I am trying to determine.

Mr. O'NEILL. Let me say this further, if you will allow me to. Having checked each one of these matters that are on the whip notice, we do not contemplate that there is any difficulty in getting them before the House before Thursday of this week. I do not want to categorize all of them as "must" legislation, but I say, having spoken to the chairmen of the committees, they do not anticipate there will be any trouble or any holdup on any of them whatsoever. The only thing we will be waiting on is the conference reports on the appropriation bills and the energy bill.

Mr. ROUSSELOT. I thank the gentleman.

Mr. ICHORD. Will the gentleman yield?

Mr. O'NEILL. I am delighted to yield to the gentleman.

Mr. ICHORD. I presume section 2 of the resolution in giving the leadership of the respective Houses the right to convene at a certain time contemplates giving them the authority to call the Congress back into session prior to January 21, 1974.

Mr. O'NEILL. That is exactly right.

Mr. ICHORD. It is not intended, then, to give them the authority to call us back after January 21, 1974, is it?

Mr. O'NEILL. No. This would give them the power to call before January 21.

Mr. GROSS. Mr. Speaker, I should like to yield 2 minutes to the gentleman from Ohio (Mr. HAYS).

Mr. HAYS. Mr. Speaker, I thank the gentleman for yielding.

I just listened to the majority leader talking about the urgency of this energy bill. I would like to tell the House I was making some speeches Friday and Saturday and I talked to over 1,000 people in three meetings. At least 200 of them, both Democrats and Republicans, came up to me after these meetings—not at each one but a total at the three—and universally they were saying, "What is wrong with you people in the Congress that you would give any administration this kind of power over the life and death of the American people but especially this administration?" And "Why would you put this power in the hands of a man like Simon, who has been making $3 million a year? He will certainly have a great conception of the problems of a coal miner or a steel worker who has to drive 60 or 70 miles round trip to work, and most of them in Ohio do."

So I just want to say, as far as I am concerned, if we got around to the energy bill in 1979, that would be time enough for me.

Although I was not here, I was paired against it.

Those of you who voted for the legislation will have a lot of explaining to do if you do not go to Florida during Christmas.

Mr. RHODES. Will the gentleman yield to me?

Mr. HAYS. I yield to the gentleman.

Mr. RHODES. I am a little amazed that the gentleman from Ohio would want to go home without having voted for an emergency energy act. Furthermore, I do not have any objection to Mr. Simon being appointed as energy administrator. I think you should have a successful man to be energy administrator. It is a very important job. I think the gentleman from Ohio's coal miners and steel workers would be well served if they had such a man doing this job and allocating fuel to them for their cars rather than having somebody who was not qualified do this important work. I am a little amazed at the gentleman from Ohio.

Mr. HAYS. Do not be amazed and do not be too shocked, because I will be back next year, and if you keep talking like that, you will not, so you will not be here to hear what I have to say.

Mr. RHODES. I will meet the gentleman from Ohio right in the well of the House on the day we are both sworn in for the 94th Congress and shake his hand.

Mr. HAYS. I am going to meet a lot of your own colleagues over there in their own district during the election campaign next year.

Mr. BURKE of Massachusetts. Mr. Speaker, I rise in support of Senate Joint Resolution 180, convening of the 2d session of the 93d Congress. There are those Members of Congress who do not want to return to their home districts. Yes, there are Members who do not listen to the voice of the people. They can be compared to the ostrich who buries his head in the sand. They wish the bad news so prevalent today would go away. The people are losing their confidence in public officials according to recent polls. This is no time to be lacking in courage. This is the time to go back to our districts, set up meetings with "We The People," hear them out at a grassroots level. I have made arrangements to meet the people of my congressional district by inviting all the residents into my three district offices and at several post offices. I have invited business people, public officials, utility firms, shoe firms, textile firms, labor officials, electronic firms, plastic manufacturers, shipbuilding firms, the clergy, and the public in general to come in and discuss with me their problems with the Federal Government. I expect to see a cross section of my district from those living in the teeming tenement district to those in the more affluent neighborhoods. I expect to talk to those who operate gasoline stations and also to those who supply home heating fuels. Yes, it is time that the Members of Congress returned back home in order to find out what the folks back home think of the present crisis.

It will be a rewarding experience. It will prepare the U.S. Congress to face up to the vital issues that confront us in 1974. Yes, this is no time to be lacking in courage. This is the time for all Members to face the music. Let us go back to hear the voice of the commonwealth. Let us shed ourselves of the influence of the Potomac. Let us return to Main Street, America.

The SPEAKER. The question is on the motion offered by the gentleman from Massachusetts (Mr. O'NEILL), that the House suspend the rules and pass the Senate Joint Resolution 180.

The question was taken.

Mr. FROEHLICH. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 263, nays 91, not voting 78, as follows:

[Roll No. 694]

YEAS—263

Abdnor
Addabbo
Alexander
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Arends
Ashbrook
Ashley
Badillo
Baker
Barrett
Bell
Bevill
Boggs
Boland
Bowen
Brademas
Bray
Breaux
Breckinridge
Brinkley
Brooks
Brown, Calif.
Brown, Mich.
Broyhill, Va.
Buchanan
Burgener
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Byron
Camp
Carney, Ohio
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clawson, Del
Cochran
Collins, Ill.
Conable
Conlan
Conte
Conyers
Corman
Cotter
Crane
Cronin
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Danielson
Davis, Ga.
Davis, S.C.
de la Garza
Dellenback
Dellums
Denholm
Dennis
Derwinski
Dingell
Donohue
Dorn
Dulski
Eckhardt
Edwards, Calif.
Eilberg
Erlenborn
Evins, Tenn.
Fish
Fisher
Flood
Flowers
Foley
Forsythe
Fountain
Fraser
Fulton
Gaydos
Gettys
Giaimo
Gibbons
Ginn
Gonzalez
Gray
Green, Oreg.
Green, Pa.
Gunter
Guyer
Haley
Hamilton
Hanley
Hanna
Hansen, Idaho
Hansen, Wash.
Harrington
Hawkins
Hays
Hechler, W. Va.
Hicks
Hillis
Hinshaw
Hogan
Holifield
Holt
Horton
Hosmer
Howard
Hungate
Hutchinson
Ichord
Jarman
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Ketchum
King
Kluczynski
Kuykendall
Kyros
Latta
Leggett
Long, La.
Long, Md.
Lott
Lujan
McCloskey
McCormack
McDade
McEwen
McFall
McKay
McSpadden
Macdonald
Madden
Madigan
Mahon
Mann
Martin, N.C.
Mathias, Calif.
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Milford
Mink
Minshall, Ohio
Mitchell, N.Y.
Mizell
Moakley
Mollohan
Montgomery
Moorhead, Calif.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Myers
Nedzi
Nelsen
Nichols
Nix
Obey
O'Hara
O'Neill
Passman
Pettis
Pickle
Pike
Poage
Powell, Ohio
Preyer
Price, Ill.
Price, Tex.
Pritchard
Quie
Quillen
Rangel
Rarick
Reuss
Rhodes
Roberts
Robinson, Va.
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roy
Roybal
Runnels
Ruppe
Sandman
Satterfield
Scherle
Schneebeli
Sebelius
Shipley
Shoup
Shriver
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Snyder
Stanton, J. William
Stark
Steed
Steelman
Steiger, Ariz.
Stephens
Stratton
Stuckey
Sullivan
Symington
Symms
Taylor, N.C.
Teague, Tex.
Tiernan
Towell, Nev.
Treen
Udall
Ullman
Van Deerlin
Vigorito
Waggonner
Waldie
Ware
Whalen
White
Whitten
Wiggins
Williams
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Winn
Wolff
Wydler
Yates
Yatron
Young, Fla.
Young, Ga.
Young, Ill.
Young, S.C.
Young, Tex.
Zion
Zwach

NAYS—91

Abzug
Archer
Armstrong
Bafalis
Bauman
Bennett
Bergland
Biester
Bingham
Brotzman
Brown, Ohio
Broyhill, N.C.
Burke, Fla.
Butler
Clancy
Cleveland
Cohen
Collier
Coughlin
Davis, Wis.
Devine
Dickinson
Drinan
Duncan
du Pont
Esch
Evans, Colo.
Fascell
Findley
Flynt
Frenzel
Frey
Froehlich
Goodling
Grasso
Gross
Gude
Hammerschmidt
Harsha
Hastings
Heckler, Mass.
Heinz
Huber
Karth
Kemp
Koch
Landgrebe
Lehman
Litton
McClory
McCollister
Mallary
Mathis, Ga.
Mayne
Michel
Miller
Natcher
Owens
Parris
Perkins
Railsback
Randall
Regula
Riegle
Robison, N.Y.
Rogers
Roncalio, Wyo.
Rooney, Pa.
Ruth
St Germain
Sarasin
Sarbanes
Schroeder
Seiberling
Shuster
Spence
Steele
Steiger, Wis.
Stubblefield
Studds
Teague, Calif.
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Vanik
Wampler
Wilson, Bob
Wylie
Wyman
Zablocki

NOT VOTING—78

Adams
Anderson, Ill.
Andrews, N.C.
Aspin
Beard
Biaggi
Blackburn
Blatnik
Bolling
Brasco
Broomfield
Burke, Calif.
Burton
Carey, N.Y.
Chisholm
Clark
Clausen, Don H.
Clay
Collins, Tex.
Daniels, Dominick V.
Delaney
Dent
Diggs
Downing
Edwards, Ala.
Eshleman
Ford, William D.
Frelinghuysen
Fuqua
Gilman
Goldwater
Griffiths
Grover
Gubser
Hanrahan
Harvey
Hébert
Helstoski
Henderson
Holtzman
Hudnut
Hunt
Keating
Landrum
Lent
McKinney
Mailliard
Maraziti
Martin, Nebr.
Mills, Ark.
Minish
Mitchell, Md.
Moorhead, Pa.
O'Brien
Patman
Patten
Pepper
Peyser
Podell
Rees
Reid
Rinaldo
Roncallo, N.Y.
Rooney, N.Y.
Ryan
Staggers
Stanton, James V.
Stokes
Talcott
Taylor, Mo.
Vander Jagt
Veysey
Walsh
Whitehurst
Widnall
Wright
Wyatt
Young, Alaska

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

TERMINATING FEDERAL SUPERVISION OVER MENOMINEE INDIAN TRIBE OF WISCONSIN

Mr. MEEDS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 10717) to repeal the act terminating Federal supervision over the property and members of the Menominee Indian Tribe of Wisconsin as a federally recognized, sovereign Indian tribe; and to restore to the Menominee Tribe of Wisconsin those Federal services furnished to American Indians because of their status as American Indians; and for other purposes", with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments as follows:

Page 2, lines 5 and 6, strike out "at a general council meeting called by the Secretary pursuant to section 4(a) of this Act." and insert "pursuant to subsections 4(a) and 4(b) of this Act.".

Page 2, line 24, strike out "Nothing" and insert "Except as specifically provided in this Act, nothing".

Page 3, line 15, after "propriated." insert "The Menominee Restoration Committee shall have full authority and capacity to be a party to receive such grants to make such contracts, and to bind the tribal governing body as the successor in interest to the Menominee Restoration Committee: *Provided, however,* That the Menominee Restoration Committee shall have no authority to bind the tribe for a period of more than six months after the date on which the tribal governing body takes office.".

Page 3, line 16, strike out "thirty" and insert "fifteen".

Page 3, line 20, strike out "ninety" and insert "thirty".

Page 3, line 21, strike out "sixty" and insert "forty-five".

Page 4, line 9, after "Act." insert "The Menominee Restoration Committee shall have no power or authority under this Act after the time which the duly-elected tribal governing body takes office: *Provided, however,* That this provision shall in no way invalidate or affect grants or contracts made pursuant to the provisions of subsection 3(e) of this Act.".

Page 5, lines 1 and 2, strike out "Menominee Restoration Committee," and insert "Secretary,"

Page 5, lines 2 and 3, strike out "Secretary," and insert "Menominee Restoration Committee,".

Page 5, line 21, strike out all after "is" down to and including all of line 23 and insert "initiated.".

Page 6, lines 4 and 5, strike out "one hundred and eighty days after enactment of this Act," and insert "sixty days after final certification of the tribal roll.".

Page 6, line 12, strike out "Menominees" and insert "Menominee".

Page 6, line 21, after "officials" insert "as".

Page 7, lines 4 and 5, strike out "subsections (a) and (c) of".

Page 7, after line 10, insert:

"(e) The time periods set forth in subsections 4(c), 5(a), and 5(c) may be changed by the written agreement of the Secretary and the Menominee Restoration Committee."

Page 7, line 16, after "cooperation." insert "The Secretary shall submit such plan to the Congress within one year from the date of the enactment of this Act.".

Page 7, line 17, strike out "(b) The" and insert:

"(b) If neither House of Congress shall have passed a resolution of disapproval of the plan within sixty days of the date the plan is submitted to Congress, the".

Page 8, line 9, strike out "his" and insert "this".

The SPEAKER. Is there objection to the request of the gentleman from Washington?

Mr. GROSS. Mr. Speaker, reserving the right to object, I would ask the gentleman if all the Senate amendments are germane to the bill?

Mr. MEEDS. Mr. Speaker, if the gentleman will yield, the answer is yes. They are all germane. I think they are all helpful to the legislation. They have all been checked, by the majority and the minority, on both sides. I know of no objection.

Mr. GROSS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

The Senate amendments were concurred in.

The title was amended so as to read: "An Act to repeal the act terminating Federal supervision over the property and members of the Menominee Indian Tribe of Wisconsin; to reinstitute the Menominee Indian Tribe of Wisconsin as a federally recognized sovereign Indian tribe; and to restore to the Menominee Tribe of Wisconsin those Federal services furnished to American Indians because of their status as American Indians; and for other purposes."

A motion to reconsider was laid on the table.

AMENDING THE SMALL BUSINESS ACT

Mr. STEPHENS. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2482) to amend the Small Business Act, as amended.

The Clerk read as follows:

S. 2482

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

AUTHORIZATION

SECTION 1. Paragraph (4) of section 4(c) of the Small Business Act is amended—

(1) by striking out "$4,300,000,000" and inserting in lieu thereof "$4,785,000,000";

(2) by striking out "$500,000,000" where it appears in clause (B) and inserting in lieu thereof "$556,250,000";

(3) by striking out "$500,000,000" where it appears in clause (C) and inserting in lieu thereof "$525,000,000"; and

(4) by striking out "$350,000,000" and inserting in lieu thereof "$381,250,000".

Any additional amounts authorized by this act which are not obligated by June 30, 1974, shall no longer be available after that date.

LOAN TO MEET REGULATORY STANDARDS

SEC. 2. (a) Section 7(b)(5) of the Small Business Act is amended to read as follows:

"(5) to make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administration may determine to be necessary or appropriate to assist any small business concern in effecting additions to or alterations in its plant, facilities, or methods of operation to meet requirements imposed on such concern pursuant to any Federal law, any State law enacted in conformity therewith, or any regulation or order of a duly authorized, Federal, State, regional, or local agency issued in conformity with such Federal law, if the Administration determines that such concern is likely to suffer substantial economic injury without assistance under this paragraph: *Provided,* That the maximum loan made to any small business concern under this paragraph shall not exceed the maximum loan which, under rules or regulations prescribed by the Administration, may be made to any business enterprise under paragraph (1) of this subsection; and".

(b)(1) Section 7(b)(6) of the Small Business Act is repealed.

(2) Paragraph (7) of such section 7(b) is redesignated as paragraph (6).

(c) Section 28(d) of the Occupational Safety and Health Act of 1970 (Public Law 91–596) is amended by striking out "7(b)(6)" and inserting in lieu thereof "7(b)(5)".

(d) In no case shall the interest rate charged for loans to meet regulatory standards be lower than loans made in connection with physical disasters.

CONFORMING TECHNICAL AMENDMENTS

SEC. 3. (a) Subsection (g) of section 7 of the Small Business Act, as added by section 3(b) of the Small Business Investment Act Amendments of 1972, is redesignated as subsection (h).

(b) Subsection (c) of section 4 of the Small Business Act is amended by striking out "7(g)" each place it appears in paragraphs (1)(B), (2), and (4) and inserting in lieu thereof "7(h)".

AUTHORITY OF SECRETARY OF AGRICULTURE WITH RESPECT TO NATURAL DISASTERS

SEC. 4. Notwithstanding the provisions of Public Law 93–24, the Secretary of Agriculture shall continue to exercise his authority with respect to natural disasters which occurred after December 26, 1972, but prior to April 20, 1973, in accordance with the provisions of section 5 of Public Law 92–385 as such section was in effect prior to April 20, 1973.

LIVESTOCK LOANS

SEC. 5. Section 7(b)(4) of the Small Business Act is amended by inserting before the semicolon at the end thereof the following: ": *Provided,* That loans under this paragraph include loans to persons who are engaged in the business of raising livestock (including but not limited to cattle, hogs, and poultry), and who suffer substantial economic injury as a result of animal disease".

LOANS FOR ADJUSTMENT ASSISTANCE IN BASE CLOSINGS

SEC. 6. Section 7(b) of the Small Business Act is amended by adding after paragraph (6) the following new paragraph:

"(7) to make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administration may determine to be necessary or appropriate to assist any small business concern in continuing in business at its existing location, in reestablishing its business, in purchasing a new business, or in establishing a new business if the Administration determines that such concern has suffered or will suffer substantial economic injury as the result of the closing by the Federal Government of a major military installation under the jurisdiction of the Department of Defense, or as a result of a severe reduction in the scope and size of operations at a major military installation.".

ANNUAL REPORT ON STATE OF SMALL BUSINESS

SEC. 7. The first sentence of subsection (a) of section 10 of the Small Business Act and the first word of the second sentence of such subsection are amended to read as follows: "The Administration shall, as soon as practicable each calendar year make a comprehensive annual report to the President, the President of the Senate, and the Speaker of the House of Representatives.

Such report shall include a description of the state of small business in the Nation and the several States, and a description of the operations of the Administration under this chapter, including, but not limited to, the general lending, disaster relief, Government regulation relief, procurement and property disposal, research and development, technical assistance, dissemination of data and information, and other functions under the jurisdiction of the Administration during the previous calendar year. Such report shall contain recommendations for strengthening or improving such programs, or, when necessary or desirable to implement more effectively congressional policies and proposals, for establishing new or alternative programs. In addition, such".

ANTIDISCRIMINATORY AMENDMENT

SEC. 8. Section 4(b) of the Small Business Act is amended by adding after "The Administrator shall not engage in any other business, vocation, or employment than that of serving as Administrator." the following new sentence: "In carrying out the programs administered by the Small Business Administration including its lending and guaranteeing functions, the Administrator shall not discriminate on the basis of sex or marital status against any person or small business concern applying for or receiving assistance from the Small Business Administration, and the Small Business Administration shall give special consideration to veterans of the Armed Forces of the United States and their survivors or dependents.".

INFLUENCING OF SBA DECISIONS

SEC. 9. The Small Business Act is amended by inserting at the end thereof the following new section:

"SEC. 22. (a) No Member of Congress or officer or employee of the United States may attempt to improperly influence the official conduct of any officer or employee of the Administration with respect to the entering into by the Administration of any loan, loan guarantee, or other agreement.

"(b) For purposes of subsection (a), the term 'Membership of Congress' means a United States Senator, a Representative in Congress, a Delegate to Congress, or the Resident Commissioner from Puerto Rico.

"(c) Any person who violates subsection (a) shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

"(d) Any official decision of any officer or employee of the Small Business Administration with respect to which any violation of subsection (a) occurs is null and void."

SEC. 10. (a) Section 3 of Public Law 93-24 is amended by striking therefrom: ", and made unable to obtain sufficient credit elsewhere to finance their actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time", and insert in lieu thereof the following: "Such loans shall be made without regard to whether the required financial assistance is otherwise available from private, cooperative, or other responsible sources".

(b) The provisions of subsection (a) of this section shall be given effect with respect to all loan applications and loans made in connection with a disaster occurring on or after April 20, 1973.

(c) With regard to all disasters occurring on or after December 27, 1972, the Secretary of Agriculture shall extend for ninety days after the date of enactment of this section the deadline for seeking assistance under section 321 of the Consolidated Farm and Rural Development Act as amended by this section.

(d) Section 321(a) of Public Law 87-128, as amended, is hereby amended by striking "which cannot be met for temporary periods of time by private, cooperative, or other responsible sources (including loans the Secretary is authorized to make or insure under subtitles A and B of this title or any other Act of Congress), at reasonable rates and terms for loans for similar purposes and periods of time". The provisions of this subsection shall be given effect with respect to all loan applications and loans made in connection with a disaster occurring on or after December 27, 1972.

The SPEAKER. Is a second demanded?

Mr. J. WILLIAM STANTON. Mr. Speaker, I demand a second.

PARLIAMENTARY INQUIRY

Mr. KOCH. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. KOCH. Is the gentleman from Ohio opposed to the bill?

The SPEAKER. Is the gentleman from Ohio opposed to the bill?

Mr. J. WILLIAM STANTON. No, I am not, Mr. Speaker.

Mr. KOCH. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. STEPHENS. Mr. Speaker, the legislation before the House, S. 2482, with only a few major exceptions is identical to legislation which passed the House earlier this summer but was subsequently vetoed by President Nixon because of provisions in the legislation that would have provided liberal assistance to victims of natural disasters.

Between the time that the legislation was vetoed and before consideration of the new legislation took place in the Small Business Subcommittee, the subcommittee became aware of a large number of reports about SBA offices around the country in which alleged, questionable activities regarding SBA's loan programs were taking place. The subcommittee immediately launched investigations into these practices to make certain that the agency was operating in a manner in which Congress intended. Although the investigation has covered only two SBA offices there is sufficient information available to indicate that SBA has problems in a number of its offices. These problems range from possible criminal activities to poor management.

As originally passed by the Senate, S. 2482 would have increased the SBA's loan ceiling authorization by $2.3 billion or enough authority to carry the agency for an additional 2 years. However, when the subcommittee uncovered the problems at SBA it decided it would not be wise to authorize a full 2-year extension until the investigation had been completed and corrective actions taken. Thus, the subcommittee voted only enough of an authorization increase to provide for a 6-month extension. The actual increase in the total ceiling is $575 million with corresponding 6-month increases in SBA subloan ceilings. A few members of the subcommittee seem to think there are grounds not to provide any SBA increased lending authority until corrective actions have been taken. While I share their concern for corrective action, I do not feel it would be fair to penalize small businessmen across the country for the unfortunate acts of some SBA officials, employees, or borrowers.

In addition, President Nixon in responding to a letter of concern signed by more than a majority of all members of the full Banking Committee, both Democrats and Republicans, stated that he would take all necessary action to correct the SBA problems. SBA Administrator, Thomas Kleppe, has also said that he will conduct indepth investigations of SBA offices to find the problems, try to provide answers to them and report to us by February. Thus, the legislation that the Banking Committee is offering today is designed to help small businessmen, but at the same time warn the Small Business Administration that it must put its house in order. As chairman of the Small Business Subcommittee, let me assure my colleagues that unless corrective actions are taken that when the 6-month authorization expires, I will not come before you for an additional increase. It may well be at that time that we will have to write an entirely new approach to small business legislation. But, if that is what it takes to correct the problem then it must be done.

Testimony also revealed that when disaster struck in California and Agnes struck in the East, normal SBA functions were virtually stopped for 6 months. We put this duty on SBA.

Perhaps, after looking into this shortage of staffing, legislation to move disaster loans from SBA would be in order. But, perhaps the first step that must be taken by the Small Business Administration is to increase its audit and investigations staff. Of the more than 70 offices which contain loan portfolios, only 35 have ever received a full examination by SBA's portfolio review team which was created in 1970. In addition, the Small Business Administration's external audit division is so understaffed that it cannot even begin to process an audit request until 4 months after it has been received. The security and investigations unit of SBA has only approximately 11 employees including secretarial help to cover the entire country. This unit spends most of its time processing name checks on loan applicants with the Federal Bureau of Investigation.

Certainly, this lack of oversight by the agency has contributed to the problems now facing the Small Business Administration. Let me take just a few moments at this point to outline exactly what is contained in S. 2482 as recommended by the Banking and Currency Committee on a section-by-section basis. In order to facilitate floor action on the bill what is being recommended is that all after the enacting clause of the Senate bill be stricken and new language be used in the entire bill. With the exception of the new money figures and a section prohibiting improper influence in connection with SBA's activities, the bill is identical to the Senate passed resolution.

Section 1 of the legislation increases from $4.3 billion to $4.785 billion the amount of money the SBA may have outstanding at any time in its loan and guarantee program. This section also increases the various subceilings for SBA's lending programs. This section does not appropriate any new funds, but allows SBA to spend funds when they are obtained.

Section 2 of the legislation consolidates several existing SBA loan programs and provides that if Congress enacts new standards for small businesses such as the Occupational Safety and Health Act of 1970 or the Coalminers' Safety Act of 1969, the SBA will make loans to small businesses and it must comply with these new requirements.

Section 3 contains only technical amendments.

Section 4 requires the Secretary of Agriculture to provide loans made in connection with natural disasters occurring after December 26, 1972 but prior to April 20, 1973 at an interest rate of 1 percent with a $5,000 forgiveness feature. This will enable farmers to receive disaster loans on the same terms as those received by homeowners and small businessmen from the SBA during that period of time.

Section 5 of the legislation would allow livestock feed operators to obtain disaster loans if their herds were seriously damaged by disease.

Section 6 provides low interest loans to small businesses affected by the closing of military installations.

Section 7 provides for an annual report to the Congress from the SBA on the state of small business. Although annual reports are now required from the SBA, the contents are not spelled out. In the present law, S. 2482, the guidelines for such reports are set down.

Section 8 prohibits SBA from discriminating against any borrower because of that person's sex and in addition requires SBA to give special consideration to assistance requests from veterans of the Armed Forces, their survivors or dependents.

Section 9 prohibits any Member of Congress or official or employee of the United States from attempting to improperly influence the SBA in any matter pending before that agency. Such a violation would be punishable by a fine not to exceed $1,000 or imprisonment for not more than 1 year, or both. In addition, the applications pending before the agency would automatically become null and void.

Section 10 provides that in all future disaster loans, the Secretary of Agriculture shall make loans on the same basis and terms as those provided to homeowners and small businessmen by the Small Business Administration.

We do not want to kill SBA but help it. Voting down our present proposal might come near to accomplishing the demise.

Mr. STEPHENS. Mr. Speaker, I yield myself 13 minutes.

Mr. ANNUNZIO. Mr. Speaker, will the gentleman yield?

Mr. STEPHENS. I will yield to the gentleman from Illinois.

Mr. ANNUNZIO. Mr. Speaker, I thank my distinguished colleague for yielding.

I wish to commend the gentleman from Georgia, the chairman of the subcommittee, and the members of the subcommittee—I have the honor to serve on that subcommittee—for the outstanding job they have done in the last month to 6 weeks in uncovering, with the chief investigator of the committee, all of the irregularities that have been before the committee.

I wish to commend the gentleman for the patience he has exercised throughout the hearings, where he gave the Administrator of this program full and ample opportunity in which to testify and to tell his side of the story.

Mr. Speaker, I want to point out that in this legislation we are only extending the loan for a 6-month period. We are hoping that at the end of 3 months the Administrator will come back to us with a program so that in the offices, in the 21 offices around the country, wherever there are any wrongdoings, they will report back to the subcommittee, and at the end of that time the subcommittee will possibly go out in the field and work with the various officers.

At the end of this 6-month period we are going to come back to the Congress with a package that I am sure my colleagues in the House will approve.

I further want to point out in this particular legislation the 6-month extension of time is a good one, because we should not punish these people who are not guilty of any wrongdoing. The small businessmen of America need these loans and they need this money and especially at this time do they need it to continue in business.

I urge adoption of the bill.

Mr. STEPHENS. I thank the gentleman for his support of the bill.

Mr. Speaker, it is not the objective of the Small Business Subcommittee to kill the Small Business Administration but, rather, to help them. The voting down of the present proposal before us might come nearer to accomplishing the demise of the Small Business Administration than anything else in view of the work that we have done and the hearings we have held and the thought we have given to this proposition.

I reserve the balance of my time.

Mr. KOCH. Mr. Speaker, I yield myself 8 minutes.

Mr. Speaker, I must say at the opening that it is a new experience having 20 minutes as opposed to the customary 5, but I will do my best.

I am distressed that I am speaking in opposition to a bill which comes out of the subcommittee on which I serve. The chairman under whom I serve, the gentleman from Georgia (Mr. STEPHENS), a great man and a great chairman and a good friend, I know understands what motivates me in this regard, which is a desire to bring to the House matters that I think are terribly important and which warrant your rejecting the bill before us under suspension of the rules.

If it comes up under a rule where we can amend it to make it a good bill, we can then pass it. My objection is not to legislation being enacted for the benefit of the Small Business Administration but, rather, enacting it under suspension of the rules where we cannot amend it. Let it come up under a rule. There are good amendments which will make this a much better bill.

Recent hearings were held by our committee which went on over a week's time. I attended those sessions. Under our distinguished chairman an enormous amount of information was elicited which would certainly have shocked you if you had listened with us.

This is what we ascertained from witnesses who came before us, including our own very great chief counsel, Curt Prins, who is a superb investigator and witness.

We know there are 72 Small Business Administration lending offices. Of those 72 lending offices at least 21 are under suspicion of having participated in some way in either criminal activity in which there may be some indictments, or in having mismanagement in their offices in possessing portfolios that are under great suspicion.

As the chairman pointed out, only 35 of the 72 offices have ever been audited at all. Now let me tell you what our investigation disclosed in part.

One of those involves the Richmond office where $11 million was obligated by the SBA by the director of that office, to his brother-in-law's benefit or interest. Much of that was canceled as the result of our committee holding hearings. Had the hearings not been held, they would not have in all probability canceled those obligations. And there is no question but that what took place in the Richmond office is something that calls for more than oversight on our part; undoubtedly it will and already has been forwarded to law enforcement agencies. Why? Because we even have affidavits that were presented at the hearings that were in conflict where someone committed perjury in that very case.

Let me give you another illustration in New York. We had a situation involving Dr. Matthew who received millions of dollars under the SBA program, all of the money now uncollectable. He is under 66 indictments, none having to do with this particular aspect, but other matters involving Federal funds. And it was also testified before our committee that there was an attempt to have an SBA auditor lose the Matthew file. That came up in the examination that our chairman and my colleagues on the committee conducted, an attempt on the part of higher-ups in the SBA to get the auditor to lose the Matthew file.

Let us talk about the program in general. SBA sounds terrific, right? Always find a good name for a program, and it does not make any difference what is beneath that good name. Small Business Administration, one would think we were talking about $10,000 loans, $25,000 loans, or $35,000 loans to small business people who cannot get them from the banks because they are not bankable loans.

You know, one of the ingredients of getting a loan from the SBA is that you get two letters from two different banks saying they will not give you a loan because you are not bankable. But that is understandable, that is the nature of the SBA, that we will provide 90 percent guaranty so that the bank will make the loan having only a very minimum obligation, in the event of a loss, and will therefore grant the loan. But what are we really talking about? We are talking about loans of $350,000. And do you know what a small business is as defined by Tom Kleppe? If it is a wholesale business it can do $5 million gross annually and qualify. Is that a small business in your district, a wholesale operation that does $5 million a year, and is eligible for a small business loan? A retail establishment that does $1 million annually is eligible for a small business loan. Again that is not a small business not even in New York.

Let me go a little farther. The question is raised: Will the Small Business Administration come to a halt if we do not pass this bill? It will not. Under the existing legislation there is a revolving fund from which they can make new loans to the extent of $70 million a month. What this bill will do is add another $48 million to that kitty. So that instead of making loans up to $70 million a month, we are going to have to worry about $118 million a month being made by an agency which is not doing too well with the lesser sum. There is something wrong with that in my judgment.

What should we do? Well, I will tell you what we should do, and that is do exactly what was proposed in the committee. There were amendments in that committee, for example, an amendment to have the GAO audit those loans during this temporary period of the 6-month extension. It was the distinguished chairman, the gentleman from Texas, Mr. WRIGHT PATMAN, who made that proposal.

Mr. STEPHENS. Mr. Speaker, will the gentleman yield?

Mr. KOCH. I yield to our distinguished chairman.

Mr. STEPHENS. I thank the gentleman. That proposal was made in the full committee, not in the subcommittee.

Mr. KOCH. Yes, exactly.

Mr. J. WILLIAM STANTON. Mr. Speaker, will the gentleman yield?

Mr. KOCH. I yield to the gentleman from Ohio.

Mr. J. WILLIAM STANTON. I thank the gentleman. Is it not true that the chairman of our full committee offered an amendment and it was withdrawn?

Mr. KOCH. Yes, and I am going to tell the Members why. The distinguished chairman of the Committee on Banking and Currency proposed that his amendment be effective during this 6-month period, during which time we are going to have our oversight hearings.

The SPEAKER. The time of the gentleman has expired.

Mr. KOCH. Mr. Speaker, I yield myself 5 additional minutes.

The chairman of our committee said during this period of 6 months in order to make certain that we do not have the kind of loans continue that have gone on in the past that we would be ashamed of, and that we would want stopped, because we do not want to have our tax dollars squandered, that we have the GAO audit those loans. He withdrew the amendment. Why? Because Members said we have got to get this bill out in time to go to conference with the Senate.

I will ask the chairman of our committee if that is not correct.

Mr. STEPHENS. Would the gentleman yield?

Mr. KOCH. I yield to the gentleman from Georgia.

Mr. STEPHENS. The gentleman is correct in saying that he withdrew it, but he withdrew it also without objection because he said every loan made by the SBA had to be approved by the GAO before it was made.

Mr. KOCH. I do not disagree with the chairman. What I am saying is that the major reason for withdrawing it was that it would prevent us from going to conference with the Senate. I do not know why it is so important to go to conference with the Senate precipitously. With respect to the other amendments that came on before that committee it was the feeling that we could not, as the distinguished chairman indicated, debate them in time to meet some arbitrary deadlines. What I am saying is there is no deadline. This SBA program goes on.

Should the Members vote this bill down and it comes up under a regular rule this week or when we come back, it makes no difference, because as I mentioned it is an ongoing program permissible at the rate of $70 million a month in terms of new loans; we can amend it before final passage.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. KOCH. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman. There was substantial testimony about that, and I was as concerned as the gentleman is about the improprieties that have occurred, and we do want to correct them, but during the testimony it was shown that the authority for SBA would run out at the end of this month or January.

The reason we are asking that action be taken now on a very temporary basis for 6 months or 2 years is to be assured that those that are genuine and real loans be made in time. I think our counsel, Mr. Mitchell, and others made the point that we need to have the ongoing program continue.

When would the gentleman want a regular rule to be brought up?

Mr. KOCH. I understand the gentleman's point. I am going to respond to it.

Mr. ROUSSELOT. I thank the gentleman.

Mr. KOCH. As I understand what the Committee on Rules does is if the Committee on Rules feels that this is an emergency, and the chairman of the subcommittee made the point that this is an emergency, they would give us a rule.

The reason we should do what I am suggesting, which is to amend this bill to protect the taxpayers, would be best illustrated by this one example. Let me just tell the Members what happens under this bill.

Probably most of the Members know what a bank bailout is, but for those few who do not, let me tell them. A bank gives someone a loan of—let us take a figure—$200,000, and we know of situations like this, where the interest is 5 percent and the loan goes sour. It is not a Small Business loan.

Now as far as the one who made the loan, the borrower, the one who received the money, and the bank granting the loan, adequate security was lacking and it is a sour loan; the bank wants somehow or other to get its money back. The borrower now goes to the SBA and he gets a new loan of $260,000 from that same bank guaranteed by the SBA and now it is at 11-percent interest, insured by the Government to the extent of 90 percent. The bank first takes back its $200,000 which was sour, and now it becomes a U.S. taxpayers' sour note, and sometimes even the balance of $60,000, which one might have thought the borrower might have gotten to put into that small business, may be required by the bank to put on deposit with a certificate of deposit, so the borrower gets nothing and the bank has been bailed out.

That has happened under SBA. That has happened in the program that is now ongoing. What I am suggesting is that we stop it, that we permit them to use this revolving fund, of $70 million per month and that between now and 6 months from now that we evolve a program which will safeguard the American taxpayer.

It does not have to take that long. If the Rules Committee thinks it is an emergency we can handle this on the floor through a regular rule this week.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. KOCH. I yield to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Speaker, is it not true we have high-risk loans and some of them go sour in SBA, just as they do on foreign aid which the gentleman votes for all the time without complaining. There are some sour notes with some small businesses trying to get started up. I am sure the gentleman does not want to cut off the ability of this agency to go ahead with the program for decent people.

Mr. KOCH. I do not want a single dollar to be spent in a corrupt program if we can avoid it.

Mr. ROUSSELOT. Neither do I.

Mr. STEPHENS. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio (Mr. J. WILLIAM STANTON).

Mr. J. WILLIAM STANTON. Mr. Speaker, it is obvious from the parliamentary procedure we are in that we could not find a Member on the minority side who would be willing to take the 20 minutes allotted to the gentleman from New York. The reason for this is that we have reached the conclusion within our subcommittee and before the entire Banking and Currency Committee on this legislation, which was voted out by a vote of 30 to 2. We felt this was the type of compromise our committee wanted to bring before our colleagues for their favorable consideration today. A vote of 30 to 2 is a very substantial vote, especially out of our committee. We did so because of the fact that we have reached this compromise as a recognition that first of all we do have in the Small

Business Administration certain definite problems.

These problems we are looking at for the first time in the 9 years I have been on this subcommittee. We have been into hearings for several weeks. Immediately after our return in January and the first part of February we want to continue these investigations.

We are faced with the dilemma that unless we have this legislation passed which is before us, the lending of the Small Business Administration on some programs will be reaching a limit within the next few weeks, and on other programs in the early part of February.

What we are doing in seeking this continuation is to have a simple extension of 6 months on these existing programs. The reason we are doing this, and we have set in this bill a time ceiling of June 30, is with the sole purpose that our committee can come back and make some definite recommendations for the improvement of this legislation.

The SBA themselves are sending out 17 special investigating teams starting now for the next 6 weeks. We have within our committee investigators going out on an ongoing investigation and I personally give the Members assurances that we will continue to do our very best to protect the integrity of the American dollar, which all of us sincerely want to do.

Mr. BURGENER. Mr. Speaker, will the gentleman yield?

Mr. J. WILLIAM STANTON. I yield to the gentleman from California.

Mr. BURGENER. Mr. Speaker, I would like to clarify one point. Our distinguished colleague, the gentleman from New York, may have inadvertently left an erroneous impression on the amount of the loans. I agree with the gentleman that $350,000 is not a small loan but I can point out the testimony in the case showed the average loan made throughout the country by SBA is $72,000 and I think the record should show that.

Mr. J. WILLIAM STANTON. I thank the gentleman from California.

Mr. ZWACH. Mr. Speaker, will the gentleman yield?

Mr. J. WILLIAM STANTON. I yield to the gentleman from Minnesota.

Mr. ZWACH. Mr. Speaker, I want to compliment the subcommittee for bringing out this bill. In my congressional district we have made hundreds of small business loans. We have hundreds of very fine and helpful business loans made. Overall, the record is outstanding. Let us clean up what we find in the bill here. Let us not stop this fine bill from passing.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. J. WILLIAM STANTON. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, the impression has been given in newspaper reports that every small business loan is bad, but it is not. Mr. Kleppe has made a good effort to go to the Department of Justice and insist on prosecution where it has been called for. I think it would be clearly wrong to cut off the Small Business Administration, although there are some complaints about it, without keeping its door open because we are going home for Christmas. That is the reason for this suspension.

Mr. J. WILLIAM STANTON. Mr. Speaker, I thank the gentleman for his comments and I point out to my colleagues today that small business loans are made at the rate of almost 1,000 a day. When we pick out one bad loan here, one bad loan there, it is a very small percentage of SBA's total business.

Mr. KOCH. Mr. Speaker, am I correct when I state that there is a revolving monthly fund of $70 million available to the SBA if this bill is passed?

Mr. J. WILLIAM STANTON. The gentleman is absolutely right, but I just got through stating to the gentleman from California that when we have the volume of loans that we have now, we cause a general slowdown throughout SBA's 72 offices if we fail to pass this legislation. The gentleman's premise that we have enough money is not correct.

Mr. STEPHENS. Mr. Speaker, I yield the balance of my time for the conclusion.

Mr. KOCH. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. HANLEY).

Mr. HANLEY. Mr. Speaker, I rise in support of this measure, in particular because of my apprehension about the economy of our Nation during the next 6-month period.

I believe it is incumbent upon this body to recognize that the road appears to be a little bit rocky. Certainly we do not want to do anything that might jeopardize the ability of the small businessman during the next 6-month period to enjoy the accommodations of the Small Business Administration program.

I think it is unfortunate that we have to think and deal in terms of a short-term 6-month program; but this was brought about because of the circumstances that prevailed.

I have offered an amendment—I might say before that, that true, the resolving fund in all probability could take care of the present volume, that it is also true that the next 6 months can have the effect of increasing that volume measurably. For that reason it is well to consider and approve these additional moneys.

Beyond that, during the course of these hearings some very solid information was presented to the committee evidencing the improper influences from the executive branch, which have proven very costly to the Small Business Administration and, for that matter, to the taxpayers.

The gentleman from New York (Mr. KOCH) has already related some of these improprieties; so in an effort to make sure that these improper overtures are put to rest through this six-month period, I introduced an amendment which was accepted by the committee which would have the effect of imposing a criminal penalty on any Federal employee, any official of the Federal Government, or for that matter, any Member of Congress who exercised improper influence or association with an FBA loan application.

Along with that, I want to make it quite clear that during the course of our hearings there was not any suggestion at all that there was any undue or improper congressional influence advanced.

I want to make it clear also that this amendment in no way impedes or jeopardizes the ability of a Member of Congress to respond to a legitimate complaint of a constituent.

The SPEAKER. The time of the gentleman has expired.

Mr. KOCH. Mr. Speaker, I yield one additional minute to the gentleman from New York (Mr. HANLEY).

Mr. HANLEY. Mr. Speaker, this in no way jeopardizes the ability of a Member of Congress to respond to a constituent's complaint related to a Small Business Administration loan application; we assure the Members of that. That will be written into the legislative history of this bill.

Some people have evidenced a little bit of concern about that, but in essence what we are doing here has a similarity in the Postal Reorganization Act, when at that time we made an effort to rid that agency of any semblance of political activity, so this particular overture somewhat parallels it.

Mr. BIAGGI. Mr. Speaker, will the gentleman yield?

Mr. HANLEY. I yield to the gentleman from New York.

Mr. BIAGGI. Mr. Speaker, the gentleman said that there was nothing wrong or improper about responding to a constituent's complaint. How about assisting a constituent in his application?

Mr. HANLEY. Not at all. Actually, it is not the prerogative of a Member of Congress to assist with that application. That applicant has a responsibility——

The SPEAKER. The time of the gentleman from New York has again expired.

Mr. KOCH. Mr. Speaker, I wish to use the balance of my time.

Mr. Speaker, what is it that we are discussing here today? It is not the abolition of the SBA program, because everybody on the committee, myself included, is for the SBA. What I am saying is that before we give it an additional $287 million in the next 6 months over and above the $70 million each month that it can use out of this current revolving fund, that we ought to have those amendments in this bill which will protect the taxpayer.

Nobody has to convince me that the SBA is a necessity in this day and age. We have it in New York and every other State, and the New York office and other offices are under a cloud just as a result of some of the matters that have been raised.

What I am saying is that before we enlarge the program, we ought to conduct the investigation, and during that time should not give them the money that this bill would provide without having some safeguard provisions such as the GAO audit that the chairman of the full committee has suggested.

Again, what I am suggesting to the Members is this: Vote this bill down. If it truly is an emergency, it will come up under a rule and we will then provide the necessary amendments to make certain that next year the Members will not have to respond to constituents who say, "Listen, in that 6 months' time they took the $287 million and they threw it away. We do not want that done with the taxpayers' money."

We can safeguard the taxpayer by voting this down, coming in with a rule, amending this bill in a way that I think most committee members would agree it should be amended if they thought we had enough time to do that, and then pass this bill unanimously.

Mr. STEPHENS. Mr. Speaker, let me point out to the gentlemen and ladies of the House that what has been alleged as matters of actual fact are really allegations. These are allegations we are investigating. We need more time to investigate these allegations of things we have had reported on hearsay. Then we want more time to get actual evidence that could be substantial in a courtroom, if necessary, and to then base our judgments upon that.

Mr. Speaker, we have not had an opportunity to do anything except listen to these kinds of allegations since October 24. Now, what we want to do is to get time to go into these things further, but not to kill SBA.

At the time we are trying to get some actual evidence that would stand up in a courtroom, something upon which we can base our legislation, which is really what we need.

Insofar as this matter is concerned on the rule, the Committee on Rules has no more scheduled meetings, and it would not be possible for us to move ahead with the bill, and SBA would be halted.

Mr. CHARLES H. WILSON of California. Mr. Speaker, will the gentleman yield?

Mr. STEPHENS. I yield to the gentleman from California.

Mr. CHARLES H. WILSON of California. There is still some confusion as to the effect of the Hanley amendment which I understand is still in the bill.

What can a Member of Congress do insofar as assisting a constituent is concerned with SBA? What can he do, or what can he not do, will the gentleman tell me briefly?

Mr. STEPHENS. Mr. Speaker, I think it is the language in that amendment that can tell us what is proper, to commence with, and the final decision would have to be made by the court, in case something was brought up and something was done that was improper.

However, I do not believe we can assume that a Member of Congress is going to do something which is improper.

Mr. GONZALEZ. Mr. Speaker, over the years I have had an intense interest in small business. I operated a couple of small ventures, and know what it is like to be struggling along without help, without resources, without access to credit, and without even so much as good advice. My district is dominated by small businessmen; there are very few big employers in San Antonio, outside of the Government itself.

Knowing what small business needs, it gives me special pain to see the scandals and troubles that have affected the Small Business Administration. From the very beginning of the Nixon administration, I have seen people in SBA take advantage of their positions—and I have seen convictions spring from those speculations. And I have seen small businessmen mistreated, ill advised and ill used. I have seen a minority enterprise program that deprived needed resources from legitimate businessmen, while at the same time using those resources in ventures that seem more often than not to collapse or become troubled—and which, even when successful, often seem to be only fronts through which aspiring minority businessmen are abused, used, and exploited. I have seen the lending authority of SBA used for political ends, and I have seen a woefully large number of appointments made on the basis of politics rather than merit.

As a member of the Subcommittee on Small Business, I have learned that many of my worst fears about the recent administration of SBA have been all too true.

Knowing all this, dedicated as I am to small business, I see no sense in continuing the activities of the agency until it is thoroughly cleaned up. It seems to me that we would do more to help businessmen by cleaning up SBA first, and then restarting it, rather than trying to recover the agency after it has been lost.

Sometimes it is better to stop for a while and get things straight—and this is one of those times. I think that SBA ought to have a thorough cleaning now, and that this can best be done while it is stopped. You have to lay a ship in drydock once in a while, and SBA right now is one of those cases.

I support the purposes of SBA. It is an agency worthy of anyone's support—if it does its job. Our responsibility is to see that it does its job, and that means that we have to do more than throw some more money at it.

The SPEAKER. The question is on the motion offered by the gentleman from Georgia (Mr. STEPHENS), that the House suspend the rules and pass the Senate bill, S. 2482, as amended.

The question was taken.

Mr. KOCH. Mr. Speaker, I object to the vote on the ground that a quorum is not present, and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 339, nays 21, not voting 72, as follows:

[Roll No. 695]

YEAS—339

Abdnor
Abzug
Addabbo
Alexander
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Arends
Armstrong
Ashbrook
Ashley
Badillo
Bafalis
Barrett
Bauman
Bell
Bergland
Bevill
Biester
Boggs
Boland
Bowen
Brademas
Bray
Breaux
Breckinridge
Brinkley
Brooks
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Camp
Carney, Ohio
Carter
Cederberg
Chamberlain
Chappell
Clancy
Clark
Clawson, Del
Cleveland
Cochran
Cohen
Collier
Collins, Ill.
Collins, Tex.
Conable
Conlan
Conte
Conyers
Corman
Coughlin
Crane
Cronin
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Danielson
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Dellenback
Dellums
Denholm
Dennis
Derwinski
Devine
Dickinson
Donohue
Dorn
Drinan
Dulski
Duncan
du Pont
Edwards, Calif.
Eilberg
Erlenborn
Esch
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Fisher
Flood
Flowers
Flynt
Foley
Forsythe
Fountain
Fraser
Frenzel
Frey
Froehlich
Fulton
Gaydos
Gettys
Giaimo
Gibbons
Ginn
Goldwater
Goodling
Grasso
Gray
Green, Oreg.
Green, Pa.
Gross
Gude
Gunter
Guyer
Haley
Hamilton
Hammerschmidt
Hanley
Hanna
Hansen, Idaho
Harsha
Hastings
Hawkins
Hays
Hechler, W. Va.
Heckler, Mass.
Helstoski
Hicks
Hillis
Hinshaw
Hogan
Holifield
Holt
Horton
Hosmer
Howard
Hungate
Hunt
Hutchinson
Ichord
Jarman
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kazen
Kemp
Ketchum
King
Kluczynski
Kuykendall
Kyros
Latta
Leggett
Lehman
Lent
Litton
Long, La.
Long, Md.
Lott
Lujan
McClory
McCollister
McDade
McEwen
McFall
McKay
McKinney
McSpadden
Macdonald
Madden
Madigan
Mahon
Mallary
Mann
Maraziti
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Michel
Milford
Miller
Minish
Mink
Minshall, Ohio
Mitchell, N.Y.
Mizell
Moakley
Montgomery
Moorhead, Calif.
Morgan
Mosher
Moss
Murphy, N.Y.
Myers
Natcher
Nelsen
Nichols
Nix
Obey
O'Hara
O'Neill
Parris
Passman
Patten
Perkins
Pettis
Pickle
Poage
Powell, Ohio
Preyer
Price, Ill.
Price, Tex.
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rarick
Regula
Reuss
Rhodes
Rinaldo
Roberts
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Rooney, Pa.
Rose
Rostenkowski
Roush
Rousselot
Roy
Roybal
Runnels
Ruppe
Ruth
St Germain
Sandman
Sarasin
Sarbanes
Satterfield
Scherle
Schneebeli
Schroeder
Sebelius
Seiberling
Shipley
Shoup
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Snyder
Spence
Stanton, J. William
Stark
Steed
Steele
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stratton
Stubblefield
Stuckey
Studds
Sullivan
Symington
Symms
Taylor, N.C.
Teague, Calif.
Teague, Tex.
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Tiernan
Towell, Nev.
Treen
Udall
Ullman
Van Deerlin
Vigorito
Waggonner
Waldie
Wampler
Ware
Whalen
White
Whitten
Wiggins
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Winn
Wolff
Wydler
Wylie
Wyman
Yatron
Young, Fla.
Young, Ga.
Young, Ill.
Young, S.C.
Young, Tex.
Zablocki
Zion
Zwach

NAYS—21

Anderson, Calif.
Bennett
Biaggi
Bingham
Cotter
Eckhardt
Gonzalez
Harrington

Huber
Kastenmeier
Koch
McCloskey
Murphy, Ill.
Nedzi
Owens
Pike
Riegle
Roncalio, Wyo.
Rosenthal
Vanik
Yates

NOT VOTING—72

Adams
Anderson, Ill.
Aspin
Beard
Blackburn
Blatnik
Bolling
Brasco
Broomfield
Buchanan
Burke, Calif.
Burton
Carey, N.Y.
Chisholm
Clausen, Don H.
Clay
Delaney
Dent
Diggs
Dingell
Downing
Edwards, Ala.
Eshleman
Ford William D.
Frelinghuysen
Fuqua
Gilman
Griffiths
Grover
Gubser
Hanrahan
Hansen, Wash.
Harvey
Hébert
Heinz
Henderson
Holtzman
Hudnut
Johnson, Colo.
Keating
Landgrebe
Landrum
McCormack
Mailliard
Martin, Nebr.
Mills, Ark.
Mitchell, Md.
Mollohan
Moorhead, Pa.
O'Brien
Patman
Pepper
Peyser
Podell
Rees
Reid
Roncallo, N.Y.
Rooney, N.Y.
Ryan
Staggers
Stanton, James V.
Stokes
Talcott
Taylor, Mo.
Vander Jagt
Veysey
Walsh
Whitehurst
Widnall
Wright
Wyatt
Young, Alaska

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill as amended was passed.

The Clerk announced the following pairs:

Mr. Rooney of New York with Mr. Taylor of Missouri.

Mr. Brasco with Mr. Talcott.

Mr. Carey of New York with Mr. Clay.

Mr. Adams with Mr. Vander Jagt.

Mr. Delany with Mr. O'Brien.

Mr. Diggs with Ms. Holtzman.

Mr. Wright with Mr. Roncallo of New York.

Mr. Burton with Mr. Mitchell of Maryland.

Mr. Staggers with Mr. Martin of Nebraska

Mr. Widnall with Mr. Peyser.

Mr. Reid with Mr. Buchanan.

Mrs. Chisholm with Mr. William D. Ford.

Mr. Ryan with Mr. Stokes.

Mr. Pepper with Mr. Grover.

Mr. Moorhead of Pennsylvania with Mr. Frelinguysen.

Mr. Fuqua with Mr. Mailliard.

Mr. Patman with Mr. Gilman

Mrs. Griffiths with Mr. Anderson of Illinois.

Mrs. Hansen of Washington with Mr. Gubser.

Mr. Hébert with Mr. Hanrahan.

Mr. Mollohan with Mr. Beard.

Mr. McCormack with Mr. Don H. Clausen.

Mr. Mills of Arkansas with Mr. Edwards of Alabama.

Mr. Downing with Mr. Broomfield.

Mr. Dingell with Eshleman.

Mr. Dent with Mr. Blackburn.

Mr. Aspin with Mr. Harvey.

Mr. Blatnik with Mr. Heinz.

Mrs. Burke of California wtih Mr. Podell

Mr. Rees with Mr. Hudnut.

Mr. James V. Stanton with Mr. Landgrebe.

Mr. Walsh with Mr. Henderson.

Mr. Young of Alaska with Mr. Landrum.

Mr. Whitehurst with Mr. Wyatt.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. STEPHENS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on the bill S. 2482, just passed.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

FHA-INSURED LOANS FOR FIRE SAFETY EQUIPMENT IN NURSING HOMES AND INTERMEDIATE CARE FACILITIES

Mr. BARRETT. Mr. Speaker, I move to suspend the rules and pass the Senate bill—S. 513—to amend section 232 of the National Housing Act to authorize insured loans to provide fire safety equipment for nursing homes and intermediate care facilities.

The Clerk read as follows:

S. 513

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 232 of the National Housing Act is amended by adding at the end thereof a new subsection as follows:

"(i) (1) The Secretary is authorized upon such terms and conditions as he may prescribe to make commitments to insure and to insure loans made by financial institutions or other approved mortgages to nursing homes and intermediate care facilities to provide for the purchase and installation of fire safety equipment necessary for compliance with the 1967 edition of the Life Safety Code of the National Fire Protection Association or other such codes or requirements approved by the Secretary of Health, Education, and Welfare as conditions of participation for providers of services under title XVIII and title XIX of the Social Security Act.

"(2) To be eligible for insurance under this subsection a loan shall—

"(A) not exceed the Secretary's estimate of the reasonable cost of the equipment fully installed;

"(B) bear interest at not to exceed a rate determined by the Secretary to be necessary to meet the loan market;

"(C) have a maturity satisfactory to the Secretary;

"(D) be made by a financial institution or other mortgagee approved by the Secretary as eligible for insurance under section 2 or a mortgagee approved under section 203(b)(1); and

"(E) comply with other such terms, conditions, and restrictions as the Secretary may prescribe.

"(3) The provisions of paragraphs (5), (6), (7), (9), and (10) of section 220(h) shall be applicable to loans insured under this subsection except that all references to 'home improvement loans' shall be construed to refer to loans under this subsection.

"(4) The provisions of subsections (c), (d), and (h) of section 2 shall apply to loans insured under this subsection, and for the purpose of this subsection references in such subsections to 'this section' or 'this title' shall be construed to refer to this subsection.".

The SPEAKER. Is a second demanded?

Mr. BROWN of Michigan. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. BARRETT. Mr. Speaker, the Housing Subcommittee unanimously approved S. 513 on December 11 and was reported unanimously by the Committee on Banking and Currency on December 13. The bill passed the Senate on November 30. This bill would authorize FHA to insure loans for the purchase and installation of fire safety equipment which is necessary to meet the safety standard set in the 1967 Life Safety Code so that nursing homes and intermediate care facilities can qualify as service institutions under the medicare and medicaid programs.

A similar provision was included in both the Senate-passed Housing bill in 1972 and in our own housing bill. The principal difference between S. 513 and the provisions adopted in 1972 concerns the amount of these loans. In 1972 the Senate provided for loans of up to $10,000 for fire safety equipment: the House bill provided for loans of up to $50,000. The interest rate on the loans would be set at whatever the HUD Secretary deems necessary to meet the market. S. 513 limits the loan amount to the reasonable cost of the fire safety equipment, determined by the Secretary. The Secretary would also be authorized to set such other terms and conditions as he deems necessary.

It is my understanding that nursing homes and intermediate care facilities are experiencing serious difficulties in two areas in their efforts to comply with the life safety code: first, there is apparently a scarcity of contractors qualified to install these facilities; and second, there is a shortage of financing at reasonable rates.

S. 513 would help to solve one of these problems.

This bill has the support of the administration and I include in the RECORD following my remarks the letter from the Department of Health, Education, and Welfare expressing the administration's support.

I urge the adoption of S. 513.

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
December 12, 1973.

Hon. WRIGHT PATMAN,
Chairman, Committee on Banking and Currency, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: There is before your Committee S. 513, a bill "To amend section 232 of the National Housing Act to authorize insured loans to provide fire safety equipment for nursing homes and intermediate care facilities."

The bill would authorize the Secretary of Housing and Urban Development to make commitments to insure, and to insure, loans made to nursing homes and intermediate care facilities for the purchase and installation of fire safety equipment needed to comply with the 1967 edition of the Life Safety Code of the National Fire Protection Association or other such codes or requirements approved by the Secretary of Health, Education, and Welfare as conditions of participation for providers of services under the Medicare and Medicaid titles of the Social Security Act.

To be eligible for the insurance, the loans must be limited to the reasonable cost of the equipment as installed, and must comply with such terms and conditions as the Secretary of Housing and Urban Development may prescribe, including those governing rate of interest, maturity, and qualifications of the lender.

Current law permits the Secretary of Housing and Urban Development to insure supplemental loans made to finance improvements to nursing homes and intermediate care facilities that were originally constructed with FHA financing. Therefore, the bill would have the effect of broadening this authority to include fire safety improvement loans to nursing homes and intermediate care facilities that are not FHA-insured.

In the Administration's proposed Housing Act of 1973, H.R. 10688, there is included a provision under which the Secretary of Housing and Urban Development could insure a supplemental loan for repairs or improvements to a broad range of health facilities, including hospitals, nursing homes, intermediate care facilities, and group practice facilities, as well as repairs or improvements to multifamily housing, even though the health facilities or housing are not covered by an FHA-insured mortgage, if the loan "would assist . . . in providing protection against fire or other hazards". (Section 503 (e) of the Revised National Housing Act as contained in section 201 of H.R. 10688.) This extension is sought because the Administration recognizes that the need for improved fire protection is not confined to nursing homes and intermediate care facilities, but exists also with respect to other health facilities and housing, including health facilities and housing used by the elderly people that S. 513 seeks to safeguard.

It is unnecessary to recall for the Committee the details of the recent tragedy in Pennsylvania that underscored for all of us the importance of swift action by the Federal Government, as well as by State and local governments, to reduce the threat posed to the elderly by premises inadequately shielded from fire. In order to avert such tragedies in the future, insofar as the Federal Government may act to do so, we urge that S. 513 receive prompt and favorable consideration as an interim measure pending enactment of the more comprehensive provisions of section 201 of H.R. 10688 as part of the overall restructuring of Federal housing legislation.

We are advised by the Office of Management and Budget that there is no objection to the presentation of this report and that enactment of H.R. 10688, and the portion of that bill incorporated in S. 513, would be in accord with the President's program.

Sincerely.

FRANK CARLUCCI, *Under Secretary.*

Mr. Speaker, I yield to the gentleman from Michigan (Mr. BROWN).

Mr. BROWN of Michigan. Mr. Speaker, I thank the gentleman for yielding.

I quite concur with what the gentleman from Pennsylvania has said. This is necessary legislation. There is no objection to the legislation of which I know. The administration supports it. We on the minority side support it. I urge its acceptance.

Mr. GONZALEZ. Mr. Speaker, will the gentleman yield?

Mr. BARRETT. I yield to the gentleman from Texas (Mr. GONZALEZ).

Mr. GONZALEZ. Mr. Speaker, I am glad to see this bill come before the House because it was the culmination our efforts. I started many months ago.

Everyone in the House knows of the terrible tragedies that have affected nursing homes. Virtually every State has experienced tragedies when nursing homes caught fire. Federal agencies have rightly set stringent standards on nursing homes, to reduce the hazards of fire and lower the chances of more tragedies. Yet we have a responsibility to do more than outlaw bad conditions; we also have a duty to help insure that nursing home operators can comply with Federal requirements. To do less would be to regulate thousands of poor and helpless people into the street; it would accomplish nothing.

This bill will help nursing home operators install the equipment they need to comply with Federal fire regulations. By passing this bill, we are insuring that there would be conformity with the law, and at the same time nursing homes will not be forced to close down because of inability to obtain financing for needed equipment.

I commend my colleagues on the Banking and Currency Committee for their help in bringing this legislation out. It is worthy of everyone's support.

I support this bill, and am proud to have had a role in it, from the very beginning of efforts to help nursing home operators meet Federal fire requirements. This bill saves lives, it saves homes, and it saves nursing home operators from being faced with an impossible task. In this bill, Congress has completed the responsibility of protecting people from needless hazards and met its duty to assist nursing home operators in this task.

Mr. BARRETT. Mr. Speaker, I yield to the gentleman from Washington (Mr. HICKS).

Mr. HICKS. Mr. Speaker, I rise in support of S. 513, to amend section 232 of the National Housing Act to authorize insured loans to provide fire safety equipment for nursing home and intermediate care facilities.

As you may recall, Mr. Speaker, when S. 513 came over to the House, I asked that it be given early consideration, calling attention to the December 4 fire in a suburban Philadelphia Nursing Home resulting in the death of 10 persons, 4 of whom were on medicaid. I wish to thank both the gentleman from Pennsylvania, chairman of the Housing Subcommittee and the gentleman from Texas, the chairman of the Banking and Currency Committee, for bringing S. 513 before the House today, so promptly. This extraordinarily quick action on the part of that committee is to be commended.

As chairman of the Special Studies Subcommittee of the Committee on Government Operations, I am concerned with the safety of the eldery in nursing homes and senior citizen residences. In October, our subcommittee held 3 days of hearings on the subject, based on a tragic fire in West Philadelphia, which took 11 lives.

In 1972, the Committee on Government Operations, as the result of the work of the Special Studies Subcommittee, issued a report "Saving Lives in Nursing Homes Fires." It recommended the installation of complete automatic sprinkler systems, which would also transmit an alarm to the nearest fire service, in all nursing homes, regardless of the type of construction. It also recommended Federal insurance of such loans, as a means of providing the necessary credit mechanism to facilitate financing of the installation of such equipment.

S. 513 is a bill to achieve this purpose. Its provisions permit the Secretary of Housing and Urban Development to make loans for such amounts, maturities and interest rates as he thinks proper.

I believe that he will exercise his judgment to achieve the objectives of the bill. While a number of prior proposals limited loans to 12 year maturities, this feature is not present in this bill. The differences in payments, between a restricted 12-year term and a 20-year loan is substantial, making it easier for the nursing home operator to make payments under the longer loan. Automatic sprinkler systems, according to the experts, have a life of at least 40 years, so that a loan for 20 years would not exceed the life of the security.

I trust also that if a "fire-resistive" home applies for insurance on a loan to install a sprinkler system, the Secretary will construe that as "fire safety equipment necessary for compliance" with the Life Safety Code, even though this is only optional under the code for such a structure. In fact, optional fire safety equipment in the code should be eligible for inclusion in such loans.

The passage of this bill, which, I understand, is not opposed by the administration, should open the way to a new safety era in nursing homes. It should begin to send downward the average number of multiple fire deaths in nursing homes which have averaged 30 per year for the last 5 years. It should enable us to attack the problem of the single fire death, on which there are no reliable figures, but which all agree is an even more severe problem.

Mr. BARRETT. Mr. Speaker, I yield to the gentleman from Illinois (Mr. FINDLEY).

Mr. FINDLEY. Mr. Speaker, I support this bill and this motion.

I am particularly committed as the author of H.R. 15030, I introduced this after the tragic fire which took 10 lives at the Carver Nursing Home in Springfield, Ill. According to a study conducted by the American Nursing Home Association:

> It is most likely that there would have been no loss of life from the fire [at the Carver Home] if . . . automatic sprinkler protection has been provided.

Nothing can bring back the 10 citizens who lost their lives earlier this year. But action like this, which is designed to prevent a recurrence of this tragedy, will do much to ease the pain for those who live on, especially those confined to nursing homes.

Fires such as the one at the Carver Home put into question our whole system of Federal, State, and local safety standards for health care facilities for the elderly.

It is my understanding that at the present time HEW has required that only skilled nursing homes must meet these stringent safety requirements, not intermediate facilities. I do not believe that such a distinction was intended by Congress in enacting the medicare-medicaid legislation; the fire at the Carver Home proves that no such distinction is warranted.

Just because one elderly patient generally requires a lesser degree of nursing care than another does not mean that he deserves a lesser degree of safety precautions or can provide for his own safety during an emergency. Every patient in every institution deserves protection from a sudden fire which may awaken him in the middle of the night.

For this reason, I urged all nursing home facilities shall in the future be required to meet the standards of the Life Safety Code.

The Life Safety Code has been developed by the National Fire Protection Association as an attainable and realistic standard which all nursing homes, hospitals, and other such facilities should meet. In 1968, Congress by law required skilled nursing homes to meet the strict standards of the Life Safety Code in order to qualify for Federal medicaid payments.

Mr. BARRETT. Mr. Speaker, I yield to the gentleman from Missouri (Mr. RANDALL).

Mr. RANDALL. Mr. Speaker, I enthusiastically support S. 513 to amend the Housing Act to authorize insured loans to provide fire equipment for nursing homes and intermediate care facilities.

I take this moment also to commend the gentleman from Pennsylvania (Mr. BARRETT) for bringing this matter passed by the other body to the floor of the House for consideration today. There is no reason for any single Member of the House to oppose this legislation.

My interest in this legislation stems from the 92d Congress when I was chairman of the Special Studies Subcommittee of the House Committee on Government Operations. By agreement of the House leadership and the Rules Committee, my subcommittee devoted the entire year of 1972 to problems of the aging in the United States. In connection with our exploration of the problems of the aging, of course we considered housing problems. There we considered the safety of inhabitants of nursing homes and intermediate care facilities as they are exposed to fire hazards.

Mr. Speaker, it was my sad duty to conduct investigations and hearings concerning the fires in the Geiger Nursing Home of Honesdale, Pa., where 18 aged persons lost their lives, and also the Lincoln Nursing Home near Cincinnati, Ohio, where 14 of our senior citizens met their deaths. While we made a thorough investigation of the foregoing fires, we made a shorter investigation of a nursing home fire in Springfield, Ill., where a total of 20 died, and a small Wisconsin nursing home where 5 died as a result of fires.

The report of the Special Studies Subcommittee which I was honored to chair on the investigation of nursing home fires estimated that two-thirds of all nursing homes in the United States are without effecive fire warning and control equipment. Our subcommittee also developed the information that the estimated cost of providing such equipment would amount to as much as $400 per bed.

S. 513, the bill before the House today, authorizes HUD to issue insurance on purchases of fire protection equipment for nursing homes. While the bill sets no amount of money limitation on insurance, the sponsors of this legislation believe that the program will be self-sustaining, in that no Federal funds will be invested for a long term and probably only to start or initiate the program. The remainder of the expense will be financed from premiums received.

There is no doubt that this bill is needed, because nursing homes and intermediate care facilities are experiencing serious difficulties in their efforts to comply with the new Life Safety Code which has been required by the Secretary of Health, Education, and Welfare.

Mr. Speaker, I do not want to dwell on unpleasant events, yet I cannot erase from my mind some of the testimony that was brought to my subcommittee last year by witnesses who arrived at the scene of these nursing home fires. We were told that these dear old souls were overcome as they were groping their way down the smoke-filled halls, and some were found suffocated by smoke trying to open the doors of their rooms, and even others were found smothered in their own beds. There is no way to know exactly how these lives could have been saved, but the best testimony submitted to our subcommittee was that there should be sprinkler systems installed, and then there should be an alarm system provided that would tie directly into the nearest fire department. There was some evidence that failure to isolate combustible materials in another building might have been helpful, but the key recommendation of all the fire marshals who appeared to testify was the need for some kind of a dampening system, and most of all early warning, in order that fire equipment and firefighters could be on their way to the scene of the fire just as soon as humanly possible.

This measure should be completely acceptable to every Member of this House, and my only regret is that our body had not acted on such legislation earlier.

Mr. STEELE. Mr. Speaker, I rise in support of S. 513, a bill authorizing loan insurance for federally mandated fire safety equipment in nursing homes. Tragic headlines continue to illustrate the vital necessity for improved fire safety in these institutions and S. 513 is an important first step in providing that safety. But loan insurance is only a start.

I first began researching and writing fire legislation over 2 years ago. Since that time there has been a growing recognition of the need to provide more Federal assistance in dealing with the Nation's fire problem. This problem has been most simply stated by the National Commission on Fire Prevention and Control in its comprehensive report entitled "America Burning." To quote from the report:

> Appallingly, the richest and most technologically advanced nation in the world leads all the major industrialized countries in per capita deaths and property loss from fire.

As chairman of the House Republican Task Force on Aging, I have been especially concerned with the tragic toll that fire takes on the elderly. Let me begin by citing a frightening statistic which will help to highlight this problem. According to the National Safety Council, the highest death rate by fire is among persons 65 years of age and older. In fact, the death rate for this age group is 10 times higher than that of young adults, aged 15 to 24.

Annually, 3,500 to 4,000 fires break out in nursing homes and homes for the elderly, and expose the residents to the dangers of fire. During the 20 years from 1950 to 1970, 496 residents of facilities for the aged died in multiple death fires, an average of some 25 per year. Amost unbelievably, the toll has actually risen above this 20-year average during the last year and a half. In 1972 there were 34 victims of multiple death fires in these facilities and in the first 6 months of 1973 there were 27. All this in a supposedly enlightened age of fire resistive buildings and the broad adoption of the Life Safety Code.

In testimony before the Senate Special Committee on Aging on October 3, I discussed the fire safety regulations for skilled nursing facilities that were recently promulgated by HEW. I expressed my concern that these regulations do not adequately provide for the safety of elderly nursing home patients. These standards allow the Secretary of Health, Education, and Welfare to waive portions of the Life Safety Code under certain conditions, the most disturbing of which is when a State has fire safety laws which "adequately protect" patients in skilled nursing facilities. Unfortunately, the regulations offer no definition of "adequately protects," nor is provision made for the cutoff of Federal funds to homes not in compliance with such State laws. Apparently, there are no plans to amend these requirements.

HOW TO SAVE LIVES

Our grim history of deaths by fire demands that we find a way to save lives. In my opinion, and in the opinion of many fire experts, the best way to save lives in fires is to require automatic sprinkler systems and alarms in all housing designed for the elderly. On September 13, I introduced H.R. 10293, the Elderly Life Safety Act, which would help to accomplish this goal. The Elderly Life Safety Act, or ELSA, would require automatic sprinkler systems and automatic alarms linked directly to municipal fire departments. In new buildings constructed with Federal Housing Administration insured mortgages, the sprinkler installation and alarm installation would be mandatory. If existing buildings fail to meet the new requirements, the bill authorizes HUD to insure loans made by private institutions to the owners of these facilities to bring them into compliance. This loan insurance provision, with a maximum 20-year period, recognizes the responsibility of the Congress to assure that adequate funds will be available for improvements in the facilities that we require. Failure to provide this help would close many nursing homes.

SPRINKLERS VERSUS FIRE RESISTIVITY

It has often been asked why should we go to the expense and suffer the disruption occasioned by the installation of sprinklers. The answer is simple. Sprinklers and alarms are the best method of saving lives, once a fire begins in facilities for the elderly. This conclusion has been recognized by this subcommittee as well as by the President's Commission on Fire Prevention. In their recently issued report, the Commission recommended that:

> Early warning detectors and total automatic sprinkler protection or other suitable automatic extinguishing systems be required in all facilities for the care and housing of the elderly.

While the record of fire-resistive construction is good, it by no means provides the degree of protection from fire that sprinklers and alarms do. It is usually materials burning within a building such as carpets, trash, foam-stuffed furniture, a bed, or nightclothes that cause death. Sprinklers put out fires and save lives once the fire has begun. Fire-resistive construction can only serve a preventive role.

Regrettably, many government officials on the local, State, and Federal levels do not make the vital distinction between prevention and life safety in a fire. A case in point is the Sbona Towers, a 12-story high rise for the elderly in Middletown, Conn. This structure is one of the finest elderly housing projects in the State and is, in many respects, similar to the Baptist Towers in Atlanta, Ga. Earlier this year I received a letter from the Middletown Housing Authority requesting my help in obtaining funds from HUD for the installation of a sprinkler system or automatic smoke detectors. HUD turned down the request citing compliance with all Federal, State, and local building codes. In its letter, HUD stated, and I quote:

> According to technical comments, the 12 story building is very close to a fireproof structure.

I can only say that, in general, today's buildings are more escape-proof than fireproof. I know of no expert who can certify any building as "close to 100 percent fireproof." Such a comment totally overlooks life safety within the structure if it does start to burn. It also overlooks the special dangers faced by the elderly in a fire situation caused by immobility, loss of sensory perception and panic.

As we all recall, the Baptist Towers was an 11-story apartment building for the elderly which was also fire resistive. It is the consensus of fire officials that 9 of the 10 lives lost in that blaze could have been saved by automatic sprinklers. I only hope that such a fire does not strike the Sbona Towers building. Local fire officials have informed me that the fire department does not have the equipment to insure rescue of trapped occupants during a fire, and thus great faith must be placed in the ability of the elderly residents to evacuate the building by climbing down some 12 flights of stairs. It is difficult for me to stretch faith that far.

Tragically, HUD's reference to the Sbona Towers as being close to 100 percent fireproof reflects the parochial thinking which still survives when we talk about fire safety. I know my own thinking, and that of the members of this committee, is oriented toward the safety of the occupants of a building, not whether the structure will burn. In short, the buildings will not burn, but everything inside them will. It is for this reason that I stress the importance of having sprinkler systems in all facilities that house the elderly.

Mr. Speaker, we have sifted through the ashes of fires for nearly 200 years in this country. For nearly 100 years, it has been said that sprinklers are the best protection against fires. We, the lawmakers have not yet accepted this wisdom. But today we are making a start. I urge your support of S. 513. Thank you.

The SPEAKER. The question is on the motion offered by the gentleman from Pennsylvania (Mr. BARRETT) that the House suspend the rules and pass the Senate bill S. 513.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BARRETT. Mr. Speaker, I ask unanimous consent to revise and extend my remarks in the RECORD and include extraneous matter and that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

REQUIRING CONFIRMATION OF FUTURE APPOINTMENTS OF DIRECTOR AND DEPUTY DIRECTOR OF OFFICE OF MANAGEMENT AND BUDGET

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 11137) to amend the Budget and Accounting Act, 1921, to require the advice and consent of the Senate for future appointments to the offices of Director and Deputy Director of the Office of Management and Budget, and for other purposes, as amended.

The Clerk read as follows:

H.R. 11137

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first two sentences of section 207 of the Budget and Accounting Act, 1921 (31 U.S.C. 16) are amended to read as follows:

"SEC. 207. There is in the Executive Office of the President an Office of Management and Budget. There shall be in the Office a Director and a Deputy Director, both of whom shall be appointed by the President, by and with the advice and consent of the Senate."

SEC. 2. The amendment made by the first section of this Act shall take effect—

(1) insofar as such amendment relates to appointments to the office of Deputy Director Office of Management and Budget, immediately after the individuals holding that office on the date of the enactment of this Act ceases to hold that office;

(2) insofar as such amendment relates to appointments to the office of Deputy Director of the Office of Management and Budget, immediately after the individual holding that office on the date of the enactment of this Act ceases to hold that office; and

(3) immediately as to such vacant office or offices, if the Office of the Director or the Office of the Deputy Director of the Office of Management and Budget is vacant when this Act is enacted.

The SPEAKER. Is a second demanded?

Mr. WYDLER. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

(Mr. HOLIFIELD (at the request of Mr. BROOKS) was granted permission to extend his remarks at this point in the RECORD.)

Mr. HOLIFIELD. Mr. Speaker, H.R. 11137 was introduced by Representative JACK BROOKS and a large number of cosponsors, including myself. The bill amends the Budget and Accounting Act of 1921 to require confirmation by the Senate of future appointments to the offices of Director and Deputy Director of the Office of Management and Budget. The committee vote was unanimous.

This bill is a response by our committee to the failure of the House to override the President's veto of our earlier bill, H.R. 3932, on May 23 of this year. That vote was 236 ayes to 178 nays. Although not sufficient to override the veto, it was a tremendous majority in favor of the bill.

The pending legislation acts only prospectively, affecting future Directors and Deputy Directors and does not contain other features in the bill, such as re-vesting in the Director of the Office of Management and Budget, those functions which were transferred to the President by Reorganization Plan No. 2 of 1970. The Director of the Office of Management and Budget is undoubtedly one of the most powerful men in Government next to the President himself. The Congress should and must have the opportunity to review his credentials for the job.

There is no doubt in my mind about the constitutionality of this legislation. It is a bipartisan measure and I hope the House will pass it overwhelmingly.

A technical amendment was made in committee to make certain no functions would be transferred under the legislation. My understanding is that some sources in the administration had some concern about this. The amendment makes it crystal clear that the bill is limited only to confirmation and has no effect on functions.

Mr. BROOKS. Mr. Speaker, this legislation would require that the Senate confirm nominees for the positions of Director and Deputy Director for the Office of Management and Budget. The merits of this legislation have been agreed to by a majority of the Members of the House on two occasions already this year and by a majority of the Senate on three occasions. It would be the law today but for the failure of the House to get a two-thirds majority to override a Presidential veto. At the time the veto was before the House, a number of Members who voted to sustain it expressed a willingness to support such legislation if it were applicable to only future Directors and Deputy Directors of the Office of Management and Budget.

The legislation has been revised to provide for Senate confirmation of all future nominees to those offices and at this time, enjoys broad bipartisan support throughout the Congress. It passed the Government Operations committee unanimously.

Similar legislation has again passed the Senate and I am confident they will accept our minor changes so that this bill can become law quickly and the Congress can assume its constitutional role of passing on the qualifications of appointees to these most powerful and responsible Government positions.

Mr. WYDLER. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. HORTON).

Mr. HORTON. Mr. Speaker, it is with great reluctance that I am now supporting this bill. It is true that the major concern I have about the constitutionality of requiring incumbents to face Senate confirmation is not at issue in the legislation before us today. It is also true that recent events have emphasized the need for adequate congressional review of executive branch actions. In my mind, the balance is now tipped in favor of requiring congressional imput on the selection of the Director and Deputy Director of the Office of Management and Budget.

I would, however, like to make three points of a cautionary nature:

First, the House has always had a closer, more important, relationship with the OMB Director; a relationship which is directed by our constitutional role of originating all revenue bills. The preeminence of the House in money matters has produced a stronger and more unified congressional role in this vitally important legislative area. It would not be helpful to the interests of congressional reform if the preeminent role of the House is lessened through an increase in Senate prerogatives in the budget area.

Second, the OMB Director has a vitally important function in the executive branch as Staff Assistant to the President for budget matters. The budget is the principal means for providing Presidential direction to executive branch activities. The Congress, in my opinion, must be exceedingly cautious about interfering in the relationship between the President and his Budget Director.

Third, the House must not be lulled into thinking that it has, with this legislation, made any of the vitally needed changes in the budget system of the Federal Government. With passage of this legislation before us today, I think it will become even more important for us in the House to give the closest scrutiny to needed reforms in the Federal budgetary system. This legislation could cause problems; and we must make sure that we reform the system in such a way as to truly strengthen the role of the Congress in the bugetary system, as well as assure that the budgetary system continues to function as a central and cohesive force in the management of the Federal Government.

As the chairman noted, the committee reported this legislation unanimously.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from Iowa.

Mr. GROSS. Does the House have any part in confirming the budget reduction?

Mr. HORTON. It does not. This bill would offer that would be done by the Senate.

Mr. GROSS. Since appropriation bills originate in the House, why should not the House have a hand in confirmation of the budget?

Mr. HORTON. I would not object to it, but that is not the procedure we have always followed.

Mr. STEELMAN. Mr. Speaker, will the gentleman yield?

Mr. HORTON. I yield 5 minutes to the gentleman fromTexas (Mr. STEELMAN).

Mr. STEELMAN. Mr. Speaker, I do not intend to take much of my colleagues' time.

I think support of this bill is bipartisan. That is evidenced by the fact that I was able, along with the help of many of my colleagues, to get 160 cosponsors on the bill from both sides of the aisle.

I would like to review what the issues are. The basic issue, of course, is the same as it was last May when we first took this up, that is, whether or not the Senate should confirm the Director of the Office of Management and Budget.

The bill has changed somewhat, however, from its original version. We are not seeking to confirm the current holders of these two offices, but rather future appointees to these two offices. I think this cures the problem that many of the Members of this body had with the original bill.

I would like to say to my colleagues, what do we get by confirming Presidential nominees?

First, we establish the fitness of a nominee for a particular job; that is, we establish what particular success he has had in whatever his previous business or governmental service has been. I think this is particularly important for an office with duties as far reaching as those of the Office of Management and Budget.

I think, furthermore, and just as important, is the fact that we establish the philosophy of the particular nominee with regard to the job. What is his philosophy with regard to the budget-making powers of Congress?

What is his philosophy with respect to spending? What is his philosophy with respect to impoundments?

Mr. Speaker, the argument that has been made in opposition to this bill and that I expect will be in the minds of some Members of the body today is that the Director is simply a "faceless" confidential adviser to the President.

Mr. Speaker, while this might have been the case upon the occasion of the enactment of the 1920 Budget and Accounting Act, I submit that is not the case today. This argument simply does not hold water. The Director and Deputy of the Office of Management and Budget directs an organization of 660 employees. Federal agencies cannot propose legislation without sign off by the Office of Management and Budget. Federal agencies or employees cannot present testimony to congressional committees without approval of the Office of Management and Budget. And, the Office of Management and Budget recommends to the President whether bills need vetoing or not.

I think, while this office and this agency are of great importance and great help to the President in helping the executive branch be more efficient in the discharge of its duties, that does not argue for exempting the holders of the directorship or deputy from Senate confirmation. I would like to contrast, in concluding my argument, Mr. Speaker, other officers within the Executive Office of the President. These are not just agencies within the executive branch; these are components of the Executive Office of the President, as is the OMB, who are subject to Senate confirmation.

There are 22 officers in seven Executive Office components subject to confirmation, including the chairman and two members of the Council of Economic Advisors; director and deputy of the Central Intelligence Agency; the special representative and two deputies in the Office of Special Representative for Trade Negotiations; director, deputy, and five assistant directors of the Office of Economic Opportunity; a chairman and two members of the Council of Environmental Quality; the director and deputy of the Office of Telecommunications Policy; and director and deputy director of the Special Action Office for Drug Abuse and Prevention.

Mr. Speaker, I hope my colleagues will see, and I think the vast majority do, that the time is long past for the director and deputy of the Office of Management and Budget, the most powerful single agency within the Office of the President, within the entire executive branch, be subject to Senate confirmation, as are these officials I have named and as are members of the President's Cabinet.

Mr. COHEN. Mr. Speaker, will the gentleman yield?

Mr. STEELMAN. I yield to the gentleman from Maine.

Mr. COHEN. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I take this time to associate myself with the remarks the gentleman has made in this regard.

I recall last spring the gentleman's efforts in the original bill which would have made the OMB Director subject to confirmation. However, the now Vice President FORD at that time said that if we really want to do this thing right, we should keep away from any suggestion of a partisan attack. We are doing this, and that is what the gentleman does. I support it.

Mr. HILLIS. Mr. Speaker, will the gentleman yield?

Mr. STEELMAN. I yield to the gentleman from Indiana.

Mr. HILLIS. Mr. Speaker I thank the gentleman for yielding to me. I would like to associate myself with the remarks of the gentleman in the well.

Mr. WYDLER. Mr. Speaker, before we vote, I would just like to make this comment; I think it is important for the House to consider it.

In a substantial way, what the House is really trying to express here in this legislation is a desire to get some control over the Federal budgetary system. If this bill takes the concentration and attention of the House away from the really only way it can do that—and that is by passing into final law the budgetary control legislation which we considered here previously—we will be doing ourselves and the country a disservice.

This bill will not really allow the Congress any overall budgetary control. The only way we can do that is with other legislation, and I hope that we will press hard to see that that is enacted.

Mr. BROWN of Michigan. Mr. Speaker, will the gentleman yield?

Mr. WYDLER. I yield to the gentleman from Michigan.

Mr. BROWN of Michigan. Mr. Speaker, it occurs to me that with the adoption of the 25th amendment, we have started upon a new era with respect to confirmation. It seems to me that in adopting this legislation, since the House is the fiscal body in the Congress, here was an opportunity for the House to draw upon the 25th amendment in the confirmation process and have these fiscal agents of our executive confirmed by the fiscal body in the Congress; that is, confirmed by the House rather than by the Senate.

Mr. WYDLER. Mr. Speaker, I have no further requests for time.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. Brooks) that the House suspend the rules and pass the bill H.R. 11137, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

Mr. BROOKS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 37) to amend the Budget and Accounting Act, 1921, to require the advice and consent of the Senate for future appointments to the offices of Director and Deputy Director of the Office of Management and Budget, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 37

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 207 of the Budget and Accounting Act, 1921 (31 U.S.C. 16), is amended to read as follows:

"Sec. 207. There is in the Executive Office of the President an Office of Management and Budget. There shall be in the Office a Director and a Deputy Director, both of whom shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Director shall perform such duties as the Director may designate, and during the absence or incapacity of the Director or during a vacancy in the office of the Director he shall act as Director. The Office, under such rules and regulations as the President may prescribe, shall prepare the budget, and any proposed supplemental or deficiency appropriations, and to this end shall have the authority to assemble, correlate, revise, reduce, or increase the requests for appropriations of the several departments or establishments.".

Sec. 2. The amendment made by the first section of this Act shall take effect—

(1) insofar as such amendment relates to appointments to the office of Director of the Office of Management and Budget, immediately after the individual holding that office on the date of the enactment of this Act ceases to hold that office; and

(2) insofar as such amendment relates to appointments to the office of Deputy Director of the Office of Management and Budget, immediately after the individual holding that office on the date of the enactment of this Act ceases to hold that office.

Sec. 3. The functions transferred to the President by section 101 of Reorganization Plan Numbered 2 of 1970 are transferred to the office of Director of the Office of Management and Budget. The President may, from time to time, assign to such office such additional functions as he may deem necessary.

Sec. 4. The Director and the Deputy Director of the Office of Management and Budget shall each serve for a term of four years beginning at noon on January 20 of the year in which the term of the President begins, except that (1) the term of the Director and Deputy Director serving on the date of the enactment of this Act shall begin on such date and shall expire at noon on January 20, 1977, and (2) any individual appointed to fill a vacancy in the office of Director or Deputy Director occurring prior to the expiration of the term for which his predecessor was appointed shall serve only for the unexpired portion of such term. Nothing in this section shall be construed to affect the power of the President to remove the Director or Deputy Director.

MOTION OFFERED BY MR. BROOKS

Mr. BROOKS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Brooks moves to strike out all after the enacting clause of S. 37 and insert in lieu thereof the provisions of H.R. 11137, as passed, as follows:

Strike out all after the enacting clause, and insert:

That the first two sentences of section 207 of the Budget and Accounting Act, 1921 (31 U.S.C. 16) are amended to read as follows:

"Sec. 207. There is in the Executive Office of the President an Office of Management and Budget. There shall be in the Office a Director and a Deputy Director, both of whom shall be appointed by the President, by and with the advice and consent of the Senate."

Sec. 2. The amendment made by the first section of this Act shall take effect—

(1) insofar as such amendment relates to appointments to the office of Director of the Office of Management and Budget, immediately after the individual holding that office on the date of the enactment of this Act ceases to hold that office;

(2) insofar as such amendment relates to appointments to the office of Deputy Director of the Office of Management and Budget, immediately after the individual holding that office on the date of the enactment of this Act ceases to hold that office; and

(3) immediately as to such vacant office or offices, if the Office of the Director or the Office of the Deputy Director of the Office of Management and Budget is vacant when this act is enacted.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 11137) was laid on the table.

AUTHORIZING THE SECRETARY OF THE INTERIOR TO ENTER INTO AGREEMENTS WITH NON-FEDERAL AGENCIES FOR THE REPLACEMENT OF THE EXISTING AMERICAN FALLS DAM, MINIDOKA PROJECT, IDAHO

Mr. JOHNSON of California. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1529) to authorize the Secretary of the Interior to enter into agreements with non-Federal agencies for the replacement of the existing American Falls Dam, Minidoka project, Idaho, and for other purposes, as amended.

The Clerk read as follows:

S. 1529

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior (hereinafter called the Secretary) is authorized to negotiate and enter into agreements with the American Falls Reservoir District or other appropriate agency representing the present spaceholders (hereinafter called the constructing agency), which agreements shall authorize the constructing agency to finance and provide for the construction of a dam and related facilities to replace the existing American Falls Dam of the Minidoka project, Idaho-Wyoming. The United States shall take title to the dam upon a determination by the Secretary that construction of the dam is substantially completed, and the dam shall be a feature of the Minidoka reclamation project and shall be considered to be a "Government dam" as defined by the Federal Power Act (Act of June 10, 1920, 41 Stat. 1063, as amended). The Secretary shall operate and maintain the replacement dam as a feature of the Minidoka project. The construction and operation of the replacement dam shall not result in an increase in the elevation of the reservoir water surface above that maintained for the original dam, and provision shall be made for the correction and prevention of erosion related to the reservoir or for the full and adequate compensation of adjacent landowners (including owners of land subject to a flowage easement for the reservoir) if such erosion cannot be corrected or prevented.

Sec. 2. (a) Replacement of the existing dam as authorized in section 1 hereof shall in no way alter or change the present proportionate storage rights of present spaceholders in the American Falls Reservoir and shall constitute a reaffirmation of existing contract rights between the Secretary and the spaceholders except as otherwise provided in this Act.

(b) The constructing agency shall: (i) include as a part of the project, a river crossing meeting the then current Department of Transportation standards for Federal-aid secondary highway two-lane traffic which crossing shall be located on top of the replacement dam or immediately downstream from the dam, and which crossing shall be financed by State, Federal, and constructing agency funds, or any combination thereof as the parties deem appropriate; and (ii) design and construct an additional two lanes on top of the replacement dam, which additional two lanes may be funded with State, Federal, or constructing agency funds, or any combination thereof. For the purposes of subpart (ii) of this subsection, the constructing agency shall be considered an "agency" within the meaning of section 320 (a) of title 23, United States Code.

(c) The plans and specifications for the construction of the dam shall require that an adequate two-lane, two-way crossing shall be maintained at or near the site of the dam during construction.

SEC. 3. The constructing agency may enter into repayment contracts with the spaceholders in the existing American Falls Reservoir providing for the repayment by the spaceholders of proportionate shares of the total project costs incurred by the constructing agency for engineering financing, designing, and constructing the replacement dam, and the Secretary shall be a party to said contracts and the delivery of water to the spaceholders shall be contingent upon the execution of such contracts and the fulfillment of the obligations thereunder: *Provided*, That said contracts shall be consistent with the terms of existing contracts between the Secretary and the spaceholders for repayment of the costs of the existing American Falls Dam.

SEC. 4. The constructing agency may contract with an appropriate non-Federal entity for the use of the falling water leaving the dam for power generation, which contract shall provide for a monetary return to the constructing agency to defray the costs of construction of the replacement dam. The constructing agency may enter into agreements with an appropriate non-Federal entity to coordinate the construction of hydroelectric power facilities with the construction of the replacement dam. The contract and agreements for use of the falling water shall not be subject to the limitations of section 9(c) of the Reclamation Project Act of 1939 (53 Stat. 1194), or any similar limitations in any other applicable Acts of Congress: *Provided*, That said contract for falling water shall be approved by the Secretary and shall not impair the efficiency of the project to serve the other purposes of the Minidoka project.

SEC. 5. Construction of the replacement dam shall not be initiated until the Secretary has approved the designs and specifications of the dam and the plan of construction of the dam and of the proposed operation of the dam and reservoir. Construction of each related facility shall not be initiated until the Secretary has approved the designs and specifications thereof. Costs incurred by the Secretary in reviewing such designs, specifications, plans, and construction shall be included as project costs allocated to beneficiaries of the replacement dam and shall be reimbursable to the Secretary.

SEC. 6. The Secretary is authorized to provide specific facilities for public recreation and fish and wildlife enhancement in connection with the replacement dam, and the costs of such facilities shall be repaid in accordance with the provisions of the Federal Water Project Recreation Act (79 Stat. 213). In addition, specific facilities for public recreation may also be provided in accordance with the Land and Water Conservation Fund Act of 1965 (78 Stat. 897), as amended (16 U.S.C. 460, et seq.).

SEC. 7. There is hereby authorized to be appropriated for construction of specific facilities for public recreation and fish and wildlife enhancement the sum of $400,000 (July 1972 prices) plus or minus such amounts, if any, as may be required by reason of the changes in the cost of construction work of the type involved therein as shown by engineering cost indices. There are also authorized to be appropriated such funds as may be necessary to meet the prorated construction cost apportionable to the irrigation storage rights of the Michaud Division of the Fort Hall Indian Reservation for space in the reservoir behind the American Falls Replacement Dam and such cost shall be subject to the Act of July 1, 1932 (47 Stat. 564; 25 U.S.C. 366a). There are also authorized to be appropriated such funds as are required for the operation and maintenance of the dam and related facilities.

The SPEAKER. Is a second demanded?

Mr. HOSMER. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. JOHNSON of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to rise in support of S. 1529, to authorize the Secretary of the Interior to enter into agreements with non-Federal entities for the replacement of American Falls Dam, Minidoka project, Idaho, and for other purposes.

This measure is in sharp contrast to the usual bill from the Committee on Interior and Insular Affairs authorizing construction of a Federal Reclamation facility. In this case, we are making it possible for the people of Idaho to accomplish, through their own initiative and largely with their own resources, an important public improvement rather than to authorize the work to be done with the Federal taxpayers' money.

American Falls Dam is a structure contructed almost 50 years ago by the Bureau of Reclamation. It creates a reservoir of about 1,700,000 acre-feet to regulate the water supply for 900,000 acres of land in the Snake River valley. In recent years, deterioration of the concrete has been noted and the stability of the structure has been so affected that it has been necessary to limit the water storage content in the reservoir by approximately one-third. The water supply, thus limited, poses a serious and continuing threat to the productivity of the dependent lands and the success of the entire agriculture-related economy of southern Idaho.

Because of the large backlog of authorized reclamation projects and the probable time lag in securing a replacement structure through conventional reclamation construction, the people of Idaho, working through their delegation, have sponsored this legislation to enable nonFederal construction. Accordingly, this measure is attractive from two standpoints; first, it allows the deficient dam to be replaced much more promptly than would be the case through Federal construction; and second, it enables the replacement to be accomplished at a minimal public expense.

Actually, Mr. Speaker, S. 1529 is a simple measure. It authorizes the Secretary of the Interior to contract with the American Falls Reservoir District, an entity created and empowered by Idaho law, through which the district will raise capital, design and construct the dam—in accordance with plans approved by the Secretary. When the dam is completed, it will revert to the Secretary for operation and maintenance and title will vest in the United States. This is important to the protection of the public investment in related canals and dams forming the total system of which American Falls is a part.

The bill authorizes the reservoir district to enter into an agreement with a private power company through which the irrigation water releases from the reservoir can be used for the generation of hydroelectric power in a powerplant to be constructed wholly by private funds.

Revenues from such a falling-water contract will enable the district to retire the debentures which it must issue to finance construction of the replacement facility.

An added aspect of S. 1529 is that it affords a mechanism for replacing the inadequate and dangerous highway crossing of the Snake River over the existing American Falls Dam. State, local, and Federal-aid highway funds will be used for this purpose and it is anticipated that there will be a completely modern four-lane crossing facility when the project is completed. Two lanes will occupy a river bridge being constructed initially to serve during the construction period and two additional lanes will occupy the crest of the replacement dam.

Safeguards are included in the bill to assure that the reservoir shall not be to a higher elevation and thereby involve any new land resources; that programs for reservoir bank erosion prevention and correction will be vigorously prosecuted; and that the water rights and contract entitlements in the present reservoir will be preserved and protected.

The bill also provides that $400,000 be authorized for fish and wildlife and recreation enhancement. This development will be carried forth under the provisions of existing law which requires one-half of the amount to be repaid to the United States at interest.

Also involved in the bill are about $200,000 of Federal appropriations to cover the cost of Secretarial oversight of the replacement program. This amount is required to be reimbursed to the United States.

There is an added Federal obligation in the bill to cover the prorata—2.8 percent—share of the cost of the new dam assignable to the Fort Hall Indian Reservation. The amount of this obligation can only be estimated at this time as $750,000 since the final cost of the replacement dam is not known.

The summation of these public expenses is $1,350,000. For this modest public investment, the Government will be saved the construction of a major dam that could cost as much as $30 million. The Nation will also be protected against the loss of valuable food production from almost 1 million acres of land and the economy of southern Idaho will be supported against the caprices of drought for the indefinite future.

Mr. Speaker, this is one of the most clearly supportable bills that I have ever had the privilege to be associated with. I cannot see any reason for any Member to withhold his vote. It has no adverse environmental effects of any measurable consequence, it undergirds our food production capability and it enhances our capacity to produce pollution-free hydroelectric power. It does all of these things at minimal expense.

I urgently urge its passage.

Mr. HOSMER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 1529. In the 21 years that I have served on the House Interior Committee, I have seen few legislative proposals as fitting as this measure to bring about the construction of a replacement dam at American Falls, Idaho.

As has been pointed out, the existing American Falls Dam was built 40 some years ago to encourage development of the once arid land of southern Idaho. The dam and its ancillary facilities have proved quite successful.

Today, nearly 1 million irrigated acres of the American Falls complex provide security and abundance to many thousands of our fellow Americans. Annually they add over a hundred million dollars worth of agricultural commodities to the national economy.

In recent years, the structural dependability of this dam has been compromised by an alkali-aggregate reaction in its concrete. As a consequence, the storge capacity of the reservoir behind the dam has been effectively decreased by one-third. Today the reservoir can impound only a fraction of the spring runoff waters it was designed to hold. It lacks storage to offset the lack of rain waters in a dry year.

To preserve the social and economic benefits of the original dam, it is necessary to build a replacement dam as soon as possible To this end the people of Idaho have proposed a novel and far-sighted action: they will build the dam with their own money if the Federal Government will clear away redtape and bureaucratic obstacles.

To a Congress regularly besieged by professional handout seekers and treasury looters, this comes as a refreshing proposal. In the season when Santa Claus is on many minds and legislative Christmas trees sprout like weeds, a group of Americans actually are asking for an opportunity to do something for themselves.

Astrologers may look at this as one of those strange turnarounds that develop once or twice per century to coincide with the coming of a comet, but there are others who see in it an even more wonderous development: the reassertion of the old American belief that citizens can sometimes take care of themselves without direction and financing from Washington.

This dam is needed by the hard-working people of Idaho. They do not deserve to see their hard-won economic and social gains wiped out by an engineering blunder of a half century ago. Enactment of S. 1529 will protect them from the threat of future dry spells. It will protect them from floods in an abnormally wet year. It will provide a new river crossing at American Falls and, additionally, it will make possible 2½ times the hydroelectric generating capacity of the existing generating facility at the dam.

Enactment of S. 1529 will demonstrate, once again, that the world belongs to the strong and self-reliant—to those who look to their own resources for the protection of their own well being.

This is an excellent piece of legislation and I urge its adoption.

Mr. Speaker, I yield such time as he may consume to the gentleman from Idaho (Mr. HANSEN).

Mr. HANSEN of Idaho. Mr. Speaker, this measure authorizing replacement of the American Falls Dam (S. 1529) is of vital importance to the national economy as well as to the economy of the State of Idaho. In recommending its approval today, I would first like to express my sincere appreciation for the remarkably prompt and efficient efforts of the distinguished members of the House Committee on Interior and Insular Affairs who have unanimously recommended the measure for favorable action by the full House. I also commend Chairman HAROLD T. JOHNSON of the Subcommittee on Water and Power Resources, for the priority attention he has given this legislation, and for expediting field hearings in Idaho earlier this year.

The House leadership has also demonstrated an understanding of the need for prompt affirmative action on the American Falls Dam replacement legislation by bringing it to the floor at this time under suspension of the rules. Final approval by the Congress this year would make favorable action all the more effective by speeding the construction and full operation of a safe and adequate dam on the American Falls Reservoir.

Because of the present emphasis on legislation that would make the United States self-sufficient in energy at the earliest possible date, it should be pointed out at the outset that proposed dam will provide 2½ times more electrical energy than is now produced by the present American Falls Dam. The proposed plant together with downstream plants would generate on the average about 420 million kilowatt hours of electricity per year. That is equivalent to about 210,000 tons of coal or 28 million gallons of oil per year.

As much as this increased power is needed, there are other compelling reasons to authorize replacement of the dam.

The Bureau of Reclamation built the American Falls Dam in 1927. Since that time gradual and progressive concrete deterioration has produced severe limitations on the strength and durability of the dam. In its present weakened condition the storage level has been reduced to less than 65 percent of the reservoir's capacity. The level will be further reduced if the dam is not replaced.

The reservoir behind the dam was designed to store 1.7 million acre-feet of the Upper Snake River and supply water for the irrigation of nearly 900,000 acres of very fertile and productive farmland.

It is because the productivity of this agricultural land is jeopardized that affirmative action is needed without delay. With hundreds of thousands of acres of farmland dependent on water stored in the reservoir, the combination of reduced storage capacity and one or more water short seasons could result in serious crop losses. This would obviously inflict severe economic injury on the farming industry in the area as well as the communities that depend on and serve the agricultural economy. The significance of this potential loss is even more alarming in view of the Nation's present need to expand food production. Such a loss would have a serious effect on the national economy.

The present condition of the dam not only threatens the agricultural economy of the region, as well as the Nation, but also endangers the recreation, fish and wildlife, flood control, and hydroelectric functions of the reservoir.

Another major consideration is the need to provide a safe and adequate road across the top of the dam. The inadequacy of the present highway, which is the only river crossing in nearly 80 miles, has resulted in burdensome traffic restrictions. This means a serious inconvenience to the traveling public, an adverse impact on the economy because of heavy dependence on trucking, and an additional burden to a section of the Nation already confronted with a severe energy shortage. The effect of this bill's passage will be to provide for a four-lane crossing to greatly alleviate current traffic problems incurred by the approximately 3,000 vehicles that now cross the dam daily.

This bill has progressed quickly through various stages of the legislative process. It was introduced simultaneously in the House and Senate on April 10, 1973, with the united support of Idaho's entire congressional delegation. Senate hearings were held on June 15, with subsequent passage by the full Senate on June 19. House subcommittee hearings were held both in Washington on May 15, and at Burley, Idaho, in October.

During the Idaho field hearings it was estimated that if the bill is enacted this year, and other State and locals are not unduly delayed, the new dam would be ready for full irrigation use and power production at the beginning of 1976.

The people of Idaho deserve credit for their support of enactment of this measure. Communities, organizations, and individuals from my State offered well reasoned and helpful testimony during House subcommittee field hearings in Idaho. At this time when so many claims are being made on the Federal dollar, the people of Idaho are not asking for Federal funding. They are only requesting the go-ahead to rebuild the structure themselves. I am sure that the Members of this body are even more inclined to act favorably on behalf of those who exhibit the kind of problem-solving, do-it-yourself spirit that the citizens of Idaho have demonstrated in this situation.

Mr. SYMMS. Mr. Speaker, I would like to associate myself with the statement of the distinguished dean of the Idaho House delegation, Mr. HANSEN. The people of the First District stand behind the American Falls project. The replacement of American Falls is an amazing example of free enterprise. Local people, realizing they would stand in line as much as 30 years for a Federal dole, got together to solve a local problem. I not only support the project on the basis of need and merit, but I wholeheartedly salute the water users and those associated wtih the project for finding an ingenious solution that does not require vast expenditures of Federal funds. May it set an example for others.

Mr. HOSMER. Mr. Speaker, I yield such time as he may consume to the gentleman from New Mexico (Mr. LUJAN).

Mr. LUJAN. Mr. Speaker, I am pleased to join my Interior Committee colleagues in enthusiastic support of S. 1529.

The members and staff of the Subcommittee on Water and Power Resources have devoted countless hours in recent months to the development of this vital piece of legislation. As a result, we have before us a first-class legislative proposal for the remedy of a situation that threatens the social and economic fabric of southern Idaho.

As my colleagues have already pointed out, the structural strength of the existing American Falls Dam has deteriorated markedly over the past several decades. The decreasing strength of the dam has made it necessary to severely limit the amount of water that can be impounded behind it. Maximum storage is now restricted to 11.3 feet below full pool which reduces the reservoir's storage capacity to 1,125,000 acre-feet or approximately 66 percent of maximum capacity. If a new dam is not built soon, additional operating restrictions will almost certainly be required.

This means that the men and women who depend upon American Falls to irrigate the 900,000 acres of land in its irrigating system are skating on thin ice. If next summer is as dry as last summer, there will not be enough spring runoff waters stored behind the dam to offset the paucity of rain during the growing season.

Mr. Speaker, those of us who represent the drier areas of this country are keenly aware of what such events can mean. Thousands of Idahoans depend directly upon American Falls water for their livelihood. Millions of their fellow Americans depend upon the hundred million dollars worth of agricultural commodities that are produced each year in this area. If we fail to avert this potential crisis, we must bear a large portion of the responsibility for what is likely to happen.

S. 1529 would avoid this possibility by allowing the construction of a replacement dam. Significantly, it would do so by authorizing the Secretary of the Interior to contract with local interests who would actually bear the cost of building the new dam. This represents an important departure from the usual method of financing Federal dams. The water users supported this proposal because they felt that it would ultimately speed authorization and construction.

In addition to guaranteeing the future of the irrigation system, the construction of the new dam would provide flood protection in unusually wet years by permitting greater impoundments behind the dam. It would provide a needed river crossing for auto traffic—the only crossing for 80 miles. And, it would provide for a 2½-fold increase in hydroelectric generating capacity at the damsite.

Mr. Speaker, this legislation should become law. I urge all my colleagues to support it.

The SPEAKER. The question is on the motion offered by the gentleman from California (Mr. JOHNSON) that the House suspend the rules and pass the Senate bill S. 1529, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JOHNSON of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

PROVIDING FOR TRAVEL AND TRANSPORTATION ALLOWANCE TO MEMBERS OF UNIFORMED SERVICES

Mr. PRICE of Illinois. Mr. Speaker, I move to suspend the rules and pass the bill (S. 1038) to amend title 37, United States Code, to authorize travel and transportation allowances to certain members of the uniformed services in connection with leave.

The Clerk read as follows:

S. 1038

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 7 of title 37, United States Code, is amended:

(1) By inserting the following new section:

"§ 411b. TRAVEL AND TRANSPORTATION ALLOWANCES: TRAVEL PERFORMED IN CONNECTION WITH CERTAIN LEAVE.

"(a) Under uniform regulations prescribed by the Secretaries concerned, a member of a uniformed service stationed outside the forty-eight contiguous States and the District of Columbia who is ordered to make a change of permanent station to another duty station outside the forty-eight contiguous States and the District of Columbia may be paid travel and transportation allowances in connection with authorized leave from his last duty station to a place approved by the Secretary concerned, or his designee, or to a place no farther distant than his home of record if he is a member without dependents, and from that place to his designated post of duty, if either his last duty station or his designated post of duty is a restricted area in which dependents are not authorized.

"(b) The allowances prescribed under this section may not exceed the rate authorized under section 404(d) of this title. Authorized travel under this section is performed in a duty status.".

(2) By inserting the following new item in the analysis:

"411b. Travel and transportation allowances: travel performed in connection with certain leave."

immediately below

"411a. Travel and transportation allowances: travel performed in connection with convalescent leave.".

The SPEAKER. Is a second demanded?

Mr. YOUNG of Florida. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. PRICE of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of the bill, S. 1038, is to provide to members of the Armed Forces payment for travel and transportation back to the continental United States between consecutive overseas assignments when at least one of those assignments is without dependent accompaniment. The great majority of military personnel who serve consecutive overseas assignments do so as volunteers. Exceptions occur when there are particular requirements for specific skills in specialties which are undermanned. In these cases it is necessary to direct consecutive overseas assignments. It was also necessary to do so in order to rectify imbalances in troop levels in Europe to meet the requirements of multiple tours in Vietnam.

The benefits to which this bill refers include transportation provided in kind aboard military, chartered, or commercial carriers or reimbursement in lieu of such travel. While awaiting such transportation and while traveling overseas, a per diem allowance is authorized at an amount dependent upon the established rate for the particular location involved. Within the continental United States the reimbursement policy provides either reimbursement for actual costs of transportation via commercial carriers or a mileage allowance if privately provided transportation is utilized. It is important to realize that this bill does not affect the existing transportation or travel allowances. It merely adds to those eligible for such allowances, service members who serve consecutive tours of duty overseas.

The benefits are limited to only those service members who are ordered to consecutive overseas assignments when at least one of those assignments is to a duty station where the member will not be accompanied by his dependents. In addition, the bill limits the entitlements of bachelor personnel to an amount not to exceed the cost of such benefits had the single person returned to his or her home of record.

The obvious intent of the bill is to provide to service members the opportunity to return to the continental United States for the purpose of either relocating their families from an overseas duty station to the place of residence where the family will await the member's return from an accompanied tour, relocating a family from a Conus base to the overseas duty station, or visiting with the family between two unaccompanied tours overseas.

In the case of bachelor personnel, the bill provides an opportunity for the member to return to visit his or her family between consecutive overseas assignments. Since the family may have moved from the entry point of the member onto active duty—that is from the member's home of record—the bill limits the Government's liability for the costs involved.

Existing travel and transportation entitlements between consecutive overseas assignments are computed on the basis of the most direct route between such duty stations. Thus, if a member desired to return to the 48 contiguous States or the District of Columbia for the purposes listed previously, he or she would have to do so at great personal expense. Your Committee on Armed Services feels that this is important in these cases and seeks, through this bill, to correct that deficiency.

In addition, the bill provides that such time as is consumed in the actual travel to and from the continental United States, including any time consumed awaiting transportation, be considered as being in a duty status, thus insuring that the member's accrued annual leave is not wasted.

The Department of Defense estimates that the costs associated with this bill will approximate $1.2 million per year. While it is not possible to accurately predict the situation over the next 5 years, it is fair to say that should present force levels and overseas obligations remain as they are now, the above figures should represent the maximum cost for each of the next 5 years. Should the number of overseas assignments be reduced, the costs associated with this bill will diminish accordingly.

In addition, since it is quite possible that this new benefit may induce more volunteers for consecutive overseas assignments, additional savings will accrue to the defense budget in that fewer personnel relocations will be required to fill billet vacancies overseas from servicemen stationed within the continental United States.

Mr. Speaker, the Department of Defense supports this legislation and the Office of Management and Budget has interposed no objection to its consideration.

Members will recall that the House passed this measure unanimously in the last Congress (H.R. 3542) but it expired in the Senate.

It is the opinion of your Armed Services Committee that this is a good bill and rectifies a deficiency in the personnel management capabilities of the Defense Department.

Mr. YOUNG of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker S. 1038 is the same bill passed unanimously by the House in the 92d Congress.

Mr. Speaker, the purpose of S. 1038 is to provide the means whereby a member of the armed services may assist his family in their relocation between overseas assignments, or, if the member is without dependents, to return to the United States to visit with his or her family between consecutive overseas assignments.

I am certain that each of us is aware of the difficulties involved in moving a family and its household goods and personal effects. These problems are compounded when the movement involves transportation to or from foreign countries. It is made even further difficult when the movement must be made either without the service member himself, or with him but at his own personal expense. This bill would resolve these sorts of problems.

It also provides an additional benefit to the service as a whole. In the case of both bachelor and married personnel, the bill makes it economically feasible for the members to return to the United States for the purpose of taking annual leave between overseas assignments. The tremendous boost to the morale of those concerned can be easily imagined. As a matter of fact, although no firm estimates are possible, the Department of Defense believes that this legislation will provide a real inducement to military personnel to volunteer for consecutive overseas assignments. This will undoubtedly assist in maintaining a higher morale among military personnel overseas since they will be volunteers and the frequency of involuntary consecutive overseas tours can be reduced.

It will also effect certain cost savings, based upon the numbers who volunteer, since it will not be necesasry to reassign other personnel to fill the vacancies these volunteers will be assigned to.

The benefit which this bill provides to military personnel is smilar, though not quite as broad, as the benefit presently afforded to civil servants assigned overseas. Civilian employees are provided Government transportation and additional leave time in order to return to the United States every 2 years. This bill limits the benefits to military personnel in those instances wherein at least one of the overseas assignments is without the family. This was done in recognition of the fact that military personnel accept the fact that some portion of their career will be served unaccompanied and are thus better prepared, and indeed in some cases, desirous of the more mobile lifestyle. The nature of military service overseas and the remoteness of some of the bases makes unaccompanied duty assignments inevitable. The committee and the House, which passed this measure last year, believe that a return trip to the United States is desirable and fully justified when one of the consecutive overseas assignments is to be served without the member's family.

In addition, when a bachelor service member, male or female, is ordered to or volunteers for consecutive overseas assignments, the bill provides for Government transportation and travel allowances back to the States for the purpose of leave. If a serviceman desired to take leave at some place other than his home of record, such as at the new residence of his parents, the Government's costs would be limited to only that amount which did not exceed what it would have cost to go to the home of record.

Mr. Speaker, this is a good bill.

Mr. SMITH of Iowa. Will the gentleman yield?

Mr. PRICE of Illinois. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Speaker, I have been interested in this kind of legislation for 2 or 3 years. I have introduced bills on the subject, but they did not have a limit on them such as this one has.

If a young man comes from his duty station outside the 48 States and goes to another duty station within the 48 States, he cannot get a trip home under this bill. However, if he goes to a new duty station outside the 48 States, he can. In some instances, for example, he will come in from the Pacific to San Francisco and his next duty station is some other place in California. That serviceman must pay his own way back to Iowa and then back to California, and some of these boys just cannot do it. Why should the military treat him that way?

Mr. PRICE of Illinois. I think that this bill takes care of a portion of the complaint raised by the gentleman from Iowa, at least in those cases that apply to two consecutive overseas tours.

Mr. SMITH of Iowa. If he is going to go back to Hawaii it takes care of him but if he goes to a new duty station in the 48 States, he pays his own way back to Iowa.

I do not think that that is the way the military should treat them in these instances, and I believe that this is another instance of being pennywise and pound foolish. They are having trouble trying to recruit new members for the service, and I think that such paying for trips home after a man has been overseas would lead to a better enlistment record in the voluntary service. Paying transportation so a young man could go back home would be money spent better than paying some of these recruiters to go around trying to recruit men.

Mr. PRICE of Illinois. I think this corrects just a portion of the complaint that the gentleman from Iowa is concerned about.

Mr. SMITH of Iowa. That is correct in a limited way.

The SPEAKER. The question is on the motion offered by the gentleman from Illinois (Mr. PRICE) that the House suspend the rules and pass the Senate bill S. 1038.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

GENERAL LEAVE

Mr. PRICE of Illinois. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks in connection with the Senate bill just passed, S. 1038.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

FURTHER LEGISLATIVE PROGRAM

(Mr. O'NEILL asked and was given permission to address the House for 1 minute.)

Mr. O'NEILL. Mr. Speaker, I take this time to announce that we are adding to the Suspension Calendar tomorrow House Joint Resolution 865, authorizing the President to proclaim March 29, 1974, as "Vietnam Veterans Day."

DEMOCRATIC IMPEACHMENT STRATEGY

(Mr. OWENS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. OWENS. Mr. Speaker, as one of the so-called fire-eating junior Democratic Congressmen on the House Judiciary Committee who was interviewed by Robert Novak in preparation for his syndicated article on impeachment printed in this morning's Washington Post, I want to speak out to deny that his interpretation of Democratic impeachment strategy is accurate.

It is not the intention of that committee, nor its distinguished chairman, nor, I am convinced, of the House party leadership, to delay a House decision on the impeachment resolutions beyond early spring. Obviously, a case for impeachment can be made in that much time, or it can not be made at all.

All committee Democrats are aware that the President is not able to concentrate on running the Government because he is so completely preoccupied with his own survival, and because all are aware of the turmoil, not to mention election year political instability that the energy shortage will cause. None want to be responsible for the inability of the President to focus on that and other problems.

Mr. Novak's observation that political motives of the House Democrats will govern, eventually, and his conclusion that such motivation will result first in delay, then in impeachment, shows a naive understanding, in my opinion, of the emerging facts of American political life. It is in the political interests of the Democrats in Congress to retain Mr. Nixon in office—to face the elections of 1974 and 1976 with a discredited, demoralized, lameduck President. It is in the political interests of the Republicans in Congress to clean their own house, to present to the electorate as the leader of their party in post-Watergate 1974 the only Republican certified clean and honest by the Democratic Congress. An incumbent President FORD in 1976 would, in all probability, be very difficult for the Democrats to defeat.

A more sophisticated observer would have sensed the Democratic determination to see this serious matter through. If we are political in our actions, it will be to resist impeachment, not push for it.

I believe the majority and the minority in Judiciary Committee want a rapid, thorough, complete, investigation and a decision early next year to charge the President or to clear him, in the realization that this country, with so much power in the executive, now desperately needs a president able to concentrate on crisis of unprecedented proportion. I speak for only one of the "fire-eating young Democrats," but I want this thing over and done with—one way or the other—by March or April at the latest. This country can not survive without a President able to govern and if we don't have hard evidence assembled by this spring which dictates removal from office, I for one, will do what I can to help rehabilitate Richard Nixon.

VIETCONG AMBUSHES AMERICAN TEAM SEARCHING FOR MIA'S

(Mr. HUBER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HUBER. Mr. Speaker, this last Saturday the press reported that about 30 Communist troops ambushed and killed an unarmed American officer and seriously wounded four soldiers as their helicopters landed to inspect an old crash site 12 miles from Saigon. These men were part of a team searching for our missing in action. This team was in a plainly marked helicopter and was carrying out a mission in accordance with the terms of the agreements previously signed with the Vietcong and the North Vietnamese.

What the Communists did was typical of all Communists but particularly typical of the activities of the enemy in Vietnam. Terror is always more important than military objectives in their view. Such activities of the Communists makes the passage of my House Concurrent Resolution 271, which requires that we not consider any aid, trade, diplomatic recognition, or any other form of communication, travel, or accommodation with North Vietnam and the Vietcong (PRG) until there is compliance with the agreements of January 27 and June 13, 1973, relative to our MIA's, more imperative than ever.

Indeed, it is a sad affair that this body, unfortunately, in my view, voted Friday to cut off the export of petroleum products for military use in Indochina at the time this happened. Would this body have our men walk into the jungles to search for crash sites without any protection? Would it have the trucks, tanks, and planes of our allies in southeast Asia grind to a halt in order to make their point? Is not continued North Vietnamese aggression plain enough for all to see? Perhaps instead of marching down the aisle to pass crippling amendments relative to our allies, we ought to be coming up with the amendments to hurt the other side or do we no longer want to protect our men who risk their lives?

The article follows:

U.S. PROTESTS RED AMBUSH

SAIGON.—About 30 Communist troops ambushed and killed an unarmed American officer and wounded four other U.S. soldiers yesterday as their helicopters landed to search for the remains of a GI 12 miles south of Saigon, a survivor said.

He said one South Vietnamese pilot also was slain and at least three other Vietnamese crewmen were wounded, and that he saw about five dead attackers left in the field. Twelve South Vietnamese accompanied the Americans in their three choppers.

The American officer killed was identified as Capt. Richard Morgan Rees, 32, of Kent, Ohio.

The Pentagon identified four Army men wounded in the incident:

Lt. Ben C. Elfrink who was listed as very seriously wounded. His wife, Sheryl, has been flown from Thailand to South Vietnam to be with him, the Army said. His parents are Mr. and Mrs. Clifford H. Elfrink of Isabel, S.D.

Spec. 4 Randall J. Nash of Amarillo, Tex., was listed as seriously wounded. His parents are Mr. and Mrs. James Nash.

Listed as slightly wounded were Sgt. Herman C. Ballard, son of Don R. Ballard, Columbus, Ohio, and Sgt. 1 Ronnie L. Watson, husband of Mrs. Rossalind Watson, North Fort Pierce, Fla.

They were the first American casualties reported among the 150-man Joint Casualty Resolution Center, charged with searching for 1,300 Americans missing in action in the Indochina war.

(In Washington, Secretary of Defense James R. Schlesinger denounced the shooting attack on the U.S. search helicopter in South Vietnam as "a despicable act" and said "We should be prepared to take the necessary measures" to prevent a recurrence.

("We will indicate our substantial displeasure to the other side, but we will not cease the search for the missing in action," Schlesinger said during a talk before a group of Jaycees officers. He did not indicate what "the necessary measures" might be. The United States is barred by Congress from any military action in Indochina.

(The State Department said: "We are making known to the Communist side in the strongest terms our condemnation of this latest and most outrageous action . . .

("We deplore this unprovoked attack on unarmed helicopters engaged in a humanitarian mission specifically authorized by the Paris accords . . .

("This was the latest and most contemptible of a series of violations by the Communist side of the accords they signed in Paris last January. They have consistently adopted a callous attitude toward the provisions of the agreement that call for a full accounting of those of all nationalities missing in action in Vietnam.")

Spokesmen for the North Vietnamese and Viet Cong delegations to the Joint Military Team said they had no report on the incident and had not been informed of the mission in advance. The South Vietnamese denied this.

The helicopters had the orange stripes of the Joint Military Team authorized to conduct searches under the cease-fire, said Army Maj. Richard Laritz, 38, of St. Paul, Minn., the operations officer in charge of the mission.

Most of the members of the 13-man U.S. search team had gotten off the helicopters when Laritz said they "were taken under intense enemy fire. I heard four heavy explosions land alongside my helicopter.

"After my officer exited we started taking heavy fire. I don't know whether he was knocked down by a bullet or whether he was knocked down by an explosion . . . As you know our people were unarmed and the aircraft was unarmed and we had no weapons as means of protection."

Laritz said he had been instructed as recently as Friday that if they engaged hostile fire they were to surrender themselves immediately "to insure that we took the least possible casualties."

"My officer picked himself up out of the grass and mud, put his hands up in the air and said something. I don't know what he said. And at that time he was shot and killed.

"I fought in the Korean War and numerous battles in Vietnam. I've seen many people die. I can understand that in a war . . . But my officer, my man, was murdered in cold blood. It's as simple as that."

Laritz said rocket-propelled grenades and machine gun fire hit all three aircraft, completely destroying one.

CODE OF CONDUCT IN THE ARMED FORCES

(Mr. BINGHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BINGHAM. Mr. Speaker, on Thursday, December 13, the Department of Defense announced that it would begin the first major review of the military Code of Conduct in nearly 20 years. The study will consider how the code should be updated in the light of the experience of the U.S. servicemen held prisoner during the Indochina war.

This is gratifying, since I called for major changes in the Code of Conduct almost 5 years ago. In a letter to the President on January 27, 1969, prompted by the obvious, shameful and ludicrous inadequacy of the Code of Conduct during the *Pueblo* crisis, I urged that drastic revisions be made in the rule that requires American prisoners, under threat of court martial, to give their captors nothing more than name, rank and service number information. My suggestion was that American prisoners should be allowed to sign statements or make confessions which do not contain any factual information which would be useful to the hostile power and that, to the best of the prisoner's knowledge, is not already known to the hostile government. This change should be accompanied by announcements by the U.S. Government, through all available channels, that American military personnel have been so instructed, and that therefore, no such statement or confession can be believed.

This suggestion is still relevant, and I urge the Department of Defense to include consideration of it in its study.

Although I regret that it took so long for the Defense Department to undertake this study, I commend it for finally doing so.

I include at this point in my remarks a copy of my January 1969, letter to the President on this subject:

JANUARY 27, 1969.

MR. PRESIDENT: The mental and emotional torture suffered by Commander Lloyd M. Bucher and members of the crew of the USS Pueblo at the hands of their North Korean captors shows (in addition to the inhumanity of the current government of North Korea) the shameful and ludicrous inadequacy of the Code of Conduct for Military Personnel. The rule that requires American prisoners, under threat of court martial, to give their captors nothing more than "name, rank, and service number" must be drastically revised.

The mistreatment American prisoners are forced to undergo to avoid signing false "statements" and "confessions" does not prevent their captors from using such statements for propaganda purposes. If death or sheer stamina under torture permits an American prisoner to resist making or signing statements dictated by his captors, it is easy enough for them to use similar treatment on other prisoners until someone submits. Even if no prisoner can be forced to make or sign trumped-up statements, hostile captors can forge prisoner's signatures, or simply issue whatever propaganda statements they wish to promulgate without a prisoner's submission.

In short, American prisoners are forced, by the "name, rank, and service number" limitation, to trade severe mental and physical mistreatment, and sometimes their very lives, without in any way frustrating the enemy's goals—to suffer and often to die for nothing.

The probability that American prisoners would be subjected to this kind of severe mental and physical torture could be greatly reduced if the following steps were taken immediately:

1. Revise the "name, rank and service number" provision of the Code of Military Conduct to permit any American soldier imprisoned or detained by a hostile government to sign or make any statement or confession which does not contain any factual information that would be useful to the hostile power and that, to the best of the prisoner's knowledge, is not already known to the hostile government.

2. Announce through all available diplomatic and public channels, including the United Nations, that American military personnel have been so instructed, and that no statement or confession signed by any American military person held or detained by a hostile government can be believed.

These changes would be consistent with our international commitments under the Geneva Convention relative to the Treatment of Prisoners of War. American captives would not be allowed to give any real assistance or factual information to hostile governments, any more than they are permitted to do so under the current Code. What these changes would do is remove one of the major excuses used by hostile captors to torture and kill American military men, reduce the probability that American soldiers would have to suffer such torture and death, and reduce the propaganda usefulness of false enemy statements and confessions attributed to American captives.

I strongly urge you, as President of the United States, to make these changes in the Code of Military Conduct by Executive Order before any more American military men are forced to suffer and perhaps die under the senseless "name, rank, and service number" rule.

JONATHAN B. BINGHAM,
Member of Congress.

O. J. SIMPSON RUSHES INTO HISTORY: THE STORY OF A CHAMPION WHO STRIVES MIGHTILY

The SPEAKER pro tempore, (Mr. McFALL) Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 15 minutes.

Mr. KEMP. Mr. Speaker, I want to share with my colleagues in the Congress my feelings about the historic, record-shattering performance of O. J. Simpson.

These, I believe, are eloquently expressed by the renowned American poet, Edgar Lee Masters who wrote:

Immortality is not a gift,
Immortality is an achievement:
And only those who strive mightily
Shall possess it.

Mr. Speaker, these profound lines perfectly fit the indomitable, super athlete and extraordinary human being that we in western New York call "The Juice."

Orenthal James Simpson, the Buffalo Bills' running back is not as big nor as physically overpowering as the great Jim Brown whose record he surpassed Sunday in Shea Stadium. But to the delight of millions of television football fans who identify with the achievement of seemingly impossible American goals, O. J. is the epitome of dedication and self-generated excellence. Two thousand three yards in one season sounds more like a team than just one man, but that is the record set in New York yesterday by my friend, O. J. Simpson.

Within the heart of this thoughtful, gentle-speaking man, there burns a raging desire. Not to be just good at his chosen profession. Not just to be a record-breaking running back but to be the very best.

O. J.—simply—has that priceless and rare dedication to stretch, beyond all limits, the superb talent with which he is endowed.

The published account of his meeting with Jim Brown, as a teenager in San Francisco, is typical of O. J.'s matter-of-fact approach to his iron-willed determination to excel. Following a game in which the famous Cleveland Brown player had tested the Forty Niners, the young O. J. is reported to have told his idol:

I'll break your record someday.

Mr. Speaker, I like that attitude. It says to the world especially young Americans everywhere "you must have a goal in life." Someday was Sunday, December 16, 1973, when O. J.'s prediction became football history.

Against the New York Jets, O. J. amassed 200 yards with 34 carries, averaging nearly 5.9 yards for each bruising assault upon the Jet defense. In the course of his performance, O. J. surpassed Jim Brown's heretofore record of 1,863 yards, established a decade ago, by 140 yards and he wound up his regular 1973 rushing total with an unprecedented 2,003 yards, a record that many, recordkeeping football buffs, had described as "unattainable" against modern day, sophisticated defenses.

Mr. Speaker, anybody who knows O. J. Simpson also knows he does not know the meaning of "can't."

During my last year with the Buffalo Bills in 1969, when this two-time All-American, Heisman Trophy winner was the Bills' No. 1 draft choice, his other teammates, our coaches and I knew, instinctively, that O. J.'s a leader and champion.

Not just because he had been all-city at Galilee High School in San Francisco, not just because the astute John McKay of U.S.C. had described him as "not only the finest player I have ever coached but also the finest human being," but because O. J. worked and tried harder and was the team's team player.

Such spirit and team attitude is a joy to a coach, such as Lou Saban, the great head coach of Buffalo, owner Ralph C. Wilson, Jr., and the entire Bills team.

And O. J.'s example has an incalculable effect upon his offensive teammates up front, the people to whom he gives the credit, like guards Reggie McKenzie and Joe DeLamielleure, tackles Donnie Green and Dave Foley, center Bruce Jarvis and tight end Paul Seymour and his running mates Jim Braxton and Larry Watkins. Quarterback Joe Ferguson knows he can count on O. J. to catch passes and to block with the same enthusiasm as he shows when he is called upon to carry the ball for critical yardage.

After his 7 yard run in the fourth quarter of yesterday's game, that took him to the 2,003 yard mark. O. J. typically ascribed his achievement to the play of his teammates.

That monumental accomplishment—and the marking of a record 332 carries in a regular season, 27 more than any other man in professional football, evoked a typical O. J. understatement.

"Things," he said, "are starting to turn out right." They sure are—for O. J. and the Buffalo Bills.

And no man in sports, or in many other fields of human, competitive endeavor, knows better than O. J. that "Immortality is not a gift."

Mr. Speaker, I know my colleagues join me in expressing our best regards to O. J. Simpson, his lovely wife Marguerite and family.

As the UPI reports in today's edition of the Washington Star-News, O. J. acknowledges that "records are made to be broken."

At this point, Mr. Speaker, I request permission to add the story captioned "Simpson Rushes Into History" to my remarks.

SIMPSON RUSHES INTO HISTORY

NEW YORK.—It was a record many said never would be broken but O. J. Simpson predicted he'd do it 12 years ago.

The record was Jim Brown's single-season rushing record of 1,863 yards and Simpson didn't break it Sunday, he demolished it with a 200-yard performance that sparked the Buffalo Bills to 34–14 romp over the New York Jets.

The 200 yards gave Simpson 2,003 for the season. He's the first player to surpass the 2,000-yard mark and to gain 200-yards three times in one season.

"I guess I was about 13 or 14," Simpson told nearly 150 newsmen, "and we were in the ice cream parlor. Brown was in there for some reason or other late after a game and everybody was milling around asking for his autograph. But I was a real wise kid and I told him, 'You ain't so tough, I'm going to break all your records.'

"Now I find it happens to me. I go into a playground and kids come up telling me I'm not so tough. But records are made to be broken and I'm sure this one will, too. I set a lot of records in college and I thought would last for years but Don McCauley broke the yardage record and A. D. (Anthony Davis) is just wiping them out at Southern Cal."

Simpson wasted little time in overwhelming the Jets. Treading gingerly over a icy, snow-covered Shea Stadium turf, Simpson picked up five yards on his first carry of the game and then burst for 30 yards to become only the 20th player in history to surpass the 5,000-yard career rushing mark. The former Heisman Trophy winner from Southern Cal carried seven times for 57 yards in a drive that ended with Jim Braxton plunging over from the one for a 7-0 lead.

Simpson broke Brown's record on his eighth carry and was mobbed by his teammates but the joy was short-lived as he fumbled on the next play and two plays later, Joe Namath hit Jerome Barkum with a 48-yard TD pass to tie the score.

Simpson burst 13 yards for a TD with 72 seconds left in the half and the Bills broke it open when rookie Bill Cahill returned a punt 51 yards for a touchdown 48 seconds later.

The 2,000-yard mark came on a seven-yard run with 5:56 left to play and even the pro-Jet crowd of 47,740 roared its approval, chanting, "Juice, Juice, Juice."

Simpson made sure he shared his greatest moment with the guys who made it possible—his linemen. He brought the entire line plus wide receivers Bob Chandler and J. D. Hill and Ferguson, the rookie quarterback, to the crowded news conference and introduced each one.

"They're the ones who did it for me and they should get the same credit," Simpson said.

While Simpson was obviously overjoyed at the records, he said making the playoffs might have made them sweeter. The Bills were knocked out of contention when Cincinnati beat Houston 27-24.

MORE SERIOUS THAN WATERGATE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. ASHBROOK) is recognized for 60 minutes.

Mr. ASHBROOK. Mr. Speaker, the possibility of perjury, leaking of classified information, cleansing of security files, another confrontation of Congress with the White House on executive privilege and, believe it or not, denial of access to still more telephonic tapes, has turned a perfunctory confirmation hearing before the Senate into a situation more serious than Watergate. Involved are not just the small cast of Watergate characters, however highly placed, but officials and employees of the entire Federal service. Nor is this but a one-time Watergate affair—President Nixon ran into this continuing problem as a U.S. Congressman.

As in Watergate, the problem centers around the integrity, reliability, and trustworthiness of Federal employees and the denial to Congress by executive privilege of access to needed information to carry out its responsibility to evaluate laws and programs it has authorized. The central constitutional issue, again as in Watergate, hinges on the basic issue—can executive privilege be used to cover up wrongdoing?

Unfortunately, the spirit of "Operation Candor" apparently does not apply to the State Department on congressional queries not related to Watergate.

While Special Watergate Prosecutor Jaworski will be permitted to search secret White House files, a U.S. Senator is denied by the State Department access to pertinent tapes or summaries on another matter.

While the White House permits several executive branch officials to appear publicly before the Senate Watergate hearings on one hand, the State Department permits a Federal employee to be interviewed by a Senator and then denies to a Member of a House investigating committee the same opportunity to question the same Federal employee on the same matter.

State officials fully realize that if they are compelled by the White House to submit to "Operation Candor," and provide data and witnesses now sought by the House Internal Security Committee, a thorough fumigation of State would be well on its way. Additionally, shakeups at other culpable agencies and departments would ensue, and meaningful corrective action on the Watergate affair would have a basis in a revised Federal employee security-suitability program. This is the scope of the situation mentioned above as "more serious than Watergate."

THE SONNENFELDT CASE

The matter concerns in the first instance Mr. Helmut Sonnenfeldt, whose nomination for Under Secretary of Treasury has been withdrawn after opposition to the nomination developed in Senate Finance Committee hearings. Speculation that he would be nominated for a State Department position was recently confirmed when Mr. Sonnenfeldt's name was sent up to the Foreign Relations Committee of the Senate for the key position of Counselor at State.

For those unfamiliar with the Sonnenfeldt case, the Senate Finance Committee held its first hearing on the Sonnenfeldt nomination for Under Secretary of Treasury on May 15 of this year. What appeared at the outset to be a pro forma review of the nominee's record actually took a controversial turn when John Hemenway, a former colleague of Mr. Sonnenfieldt's at State, appeared as an opposition witness and, among other things, named several persons who alleged that Mr. Sonnenfeldt had leaked classified information both to the press and to representatives of a foreign country. When Chairman RUSSELL LONG decided that FBI security records should be consulted to confirm or refute the allegations, further hearings were scheduled for a later date.

On October 1 and 2 additional hearings were held and conflicting testimony under oath raised the question of possible perjury. The Senate Committee subsequently voted to approve the Sonnenfeldt nomination and by mutual consent of the concerned parties, Monday, December 10, was set as the date for the Senate vote. Prior to the December 10 date, Secretary Kissinger announced at a press conference that Mr. Sonnenfeldt's nomination was being withdrawn and that he would later be submitted again, this time to fill the post of Counselor of the State Department, a key State position. Thus the speculation which began in August that he would go over to the State were confirmed. The nomination is now before the Senate Foreign Relations Committee for action.

Despite President Nixon's cooperation with the Senate Watergate Committee, the State Department, now led by Mr. Henry Kissinger, a personal friend of Mr. Sonnenfeldt for many years and his close associate on the National Security Council, on November 30 forbade a potentially key Federal witness, Francis Niland, to provide information to the House Internal Security Committee relating to Mr. Sonnenfeldt's suitability for high government office. A photograph of Mr. Sonnenfeldt, incidentally, appeared in the Washington Post on December 12 in which he is sitting next to Secretary Kissinger at a meeting of the European Economic Commission in Brussels, illustrating his important function in U.S. foreign affairs.

Another extraordinary circumstance in this Congress-executive confrontation is that the State Department official who accompanied Mr. Niland revealed, in answer to questions that Mr. Niland had been permitted previously by the State Department to discuss the Sonnenfeldt case privately with Senator RUSSELL LONG in detail.

The situation clearly shows that the State Department is discriminating against the House of Representatives and its committees and that it is now formally denying the duly authorized committee in the area of internal security information which it provided on an informal basis to the chairman of a Senate committee.

I submit this decision of the State Department is characteristic of that institution, which prefers to act outside official channels, where official responsibility can be clearly established, and seeks channels of informal or personal contacts where public accountability is difficult to trace. The denial of pertinent information on November 30 indicates that the State Department feels that it may reveal some, or perhaps all, information in its security files on occasions of its own choosing. Is this, then, not the rule of men, of selective invocation of executive privilege? It certainly is not the rule of law.

The American public is already deeply scandalized by the revelations of the Watergate affair. It has a right to be. It is now manifest that persons in the highest places in the White House, with direct access to the President, have manipulated documents, have diverted information, have lied both personally and publicly, have stated falsehoods under oath. Many of these persons were lawyers, committed by their profession to uphold the law and to agents of justice. Many of these men, of thorough legal professional training, are now themselves sentenced to prison for breaking the very laws they swore to protect and serve.

THE SERIOUSNESS OF LEAKS

From time to time we hear that there was some genuine issue of national security, involving the life of some top secret informant residing in the Moscow Kremlin, behind the operations of the apparatus known as the "plumbers." We are told that this issue of national security was so great that the "plumbers" even felt they had to risk breaking American law to protect American national survival. Indeed, President Nixon stressed his concern about leaks in his remarks at the White House to recent POW's on May 25 of this year:

> And by our secrets, what I am saying here is not that we are concerned about every little driblet here and there, but what I am concerned about is the highest classified documents in our national security files, in the State Department, in the Defense Department, which, if they get out, for example, in our arms control negotiations with the Soviets, would let them know our position before we ever got to the table.

If "leaks" are so dangerous, why does the State Department insist on concealing from the House Internal Security Committee its evidence of the "leaks" of classified information in which Mr. Sonnenfeldt allegedly participated? Some of these alleged leaks have been stated publicly already at the hearings before the Senate Finance Committee. Mr. Stephen Koczak, a retired foreign service officer of more than 20 years service with the State Department, has testified under oath to personally hearing Mr. Sonnenfeldt leak top secret information to officials of a foreign power. Mr. Koczak is currently the Director of Research of the American Federation of Government Employees—AFL–CIO. He has appeared at least a hundred times before Senate and House Committees to present or support testimony on all issues involving the conditions of employment, and the rights and duties of Federal employees.

Yet, Mr. Sonnenfeldt testified publicly under oath that Mr. Koczak's allegations are untrue. On the very surface, therefore, there is here the possibility of perjury. On the very surface, therefore, it is apparent that Mr. Koczak should have no motive to harm Mr. Sonnenfeldt personally. I believe, in the light of the perjuries which have been revealed in the Watergate, this contradiction under oath should be clarified at once.

An initial step to resolve the perjury matter has already been taken. In answer to an inquiry, the office of the U.S. Attorney responded to John Hemenway, a key opposition witness in the case:

> Your letter dated November 1, 1973 regarding possible criminal violations by Mr. Helmut Sonnenfeldt, an employee of the U.S. Department of State has been referred to Mr. Joseph Tafe, Internal Security Division, Department of Justice for investigation and prosecutive determination.

Mr. Sonnenfeldt has also under oath denied "leaking" any information to certain press correspondents, contradicting Mr. Otto Otepka's testimony under oath that Mr. Sonnenfeldt had. Mr. Niland's testimony deals with evidence obtained by the State Department reportedly corroborating Mr. Otepka's testimony that Mr. Sonnenfeldt in fact "leaked" information repeatedly to the press over a number of years. In the 1960 election he allegedly "leaked" information to Robert Kennedy, then managing the campaign of John Kennedy for the Presidency against Richard Nixon. The purpose, apparently, was to assist John Kennedy to defeat Richard Nixon, if the allegation is true.

Testimony before the Senate Finance Committee alleged that Mr. Sonnenfeldt was seen leaving the home of Marguerite Higgins, the deceased author and reporter, in the company of Senator Robert Kennedy. Unfortunately, critical questions as to whether it was just a luncheon or a political strategy meeting and who else attended were not explored in the committee questioning. Presumably, the State Department, which had Mr. Sonnenfeldt under personal surveillance in addition to a tap on his phone during this period, has the information in its files.

The Higgins' episode could be of significance when it is remembered that it was during this period, during the Kennedy-Nixon 1960 campaign, that a classified study on the U.S. posture abroad was given by a State Department employee to a member of the Kennedy campaign committee, William Brubeck. I understand the contents were promptly leaked to the Washington Post. When President Kennedy assumed office, Mr. Brubeck was brought into the State Department where he still holds a responsible position, and his State Department cohort was continued in Federal service.

Did Mr. Sonnenfeldt fill a similar political role during the Kennedy campaign?

Was the Higgins' luncheon in reality a political strategy meeting?

If so, this could explain Mr. Sonnenfeldt's return to the Bureau of Intelligence and Research—INR—during the Kennedy administration, with a promotion, after having been transferred from there because he, allegedly, could not get approval for access to certain highly sensitive information due to his propensity for leaking classified information and because he was not a native-born citizen. As previously stated, State Department files, and Mr. Sonnenfeldt's security file in particular, should indicate the truth of the matter and whether someone is lying, covering up, or both.

In light of these allegations, I believe that the House and Senate should know whether there was a previous situation in 1960 similar to the Watergate which led to certain actions by the State Department security officers resulting in Mr. Sonnenfeldt's transfer to a less sensitive position in the Arms Control and Disarmament Administration. They also need to know whether Mr. Sonnenfeldt was subsequently cleared to a post of high sensitivity because of his past services to Robert Kennedy and John Kennedy in the 1960 campaign.

THE VARIOUS SONNENFELDT INVESTIGATIONS

In his very complete review of the Sonnenfeldt case in the Congressional Record on December 10, 1973, page 40361, Senator Jesse Helms of North Carolina presented a very useful description of the various Sonnenfeldt investigations. To present a proper background, the following treatment of the investigations duplicates in part Senator Helms' review.

As the House is not involved in the confirmation process, my interest is that of ranking minority Member of the House Internal Security Committee. Our committee, since September, 1970, has been reviewing the Federal civilian employee loyalty-security program which seeks to provide for Federal service reliable and trustworthy employees, while at the same time providing equal and fair treatment for all such employees. In the four volumes of hearings on this issue, Executive Order 10450 plays a central role and outlines standards or guidelines for Federal employment. It is in this context that the committee is primarily interested in this case. And it is in this contest that our committee will seek to obtain all pertinent information even if it comes down to subpoenas and the exercise of executive privilege.

In 1954, when Mr. Sonnenfeldt was in INR, it was judged necessary to tap his phone because of the leaking of classified information to newsmen, according to Mr. Otto Otepka who was a State security officer at that time. Several persons are still at State who were involved in the 1954–55 episode. The tapes of the phone conversations were recently denied to Senator Russell Long, chairman of the Senate Finance Committee, according to his remarks in the Congressional Record on December 6 of this year. Summaries of the tapes were reviewed by Mr. Otepka who, in his sworn testimony before the Senate Committee, stated that John Scali, now our Ambassador to the U.N., and Marvin Kalb of CBS, were two of the newsmen involved.

Based on the Senate hearings and other sources of information, some of the questions concerning the case that still await satisfactory answers are:

Was classified information actually leaked by Mr. Sonnenfeldt to newsmen in the 1954–55 period?

Did Mr. Sonnenfeldt give classified information to newsmen John Scali, Marvin Kalb and others, as charged by Mr. Otepka? Mr. Otto Otepka, a security officer at State at that time who saw summaries of taped conservations of Mr. Sonnenfeldt confirmed the leaks under oath. Mr. Sonnenfeldt later denied the charges.

Were the other newsmen involved?

If Mr. Sonnenfeldt did have contacts with newsmen at this time, were the attractions of the press for a GS–7 or GS–9, his position ratings at this time, based on his intelligence research position and his willingness to dispense his highly desirable product, classified material?

If so, was other classified information conveyed by means other than by phone?

Were any breaches of security noted in Mr. Sonnenfeldt's security file at that time and are they a part of his security record today, if the allegations are true?

How does one account for the fact that Mr. Sonnenfeldt was not questioned on this matter until the 1960–61 period?

THE 1958 ALLEGATION

In 1958 a State Department official, Stephen Koczak, heard Mr. Sonnenfeldt transmit orally highly sensitive intelligence information to representatives of the Government of Israel, without authorization, according to Mr. Koczak's sworn testimony before the Senate Finance Committee on October 1, 1973.

Unable to obtain assistance in the chain of command at State when he reported the violation, Mr. Koczak reported the allegation to a CIA friend with whom he had served in Israel several years before. The CIA agent contacted the FBI and Mr. Koczak was interviewed by an agent of the FBI in 1959.

As to the disposition of this particular investigation, Mr. Koczak, in his sworn testimony before the Senate committee, stated that:

> The Department of State had determined that the information in those telegrams (the sources of the classified information) concerning the Lebanese Government and their relations with us was so sensitive that they could not be entered as evidence and for this reason no prosecution took place.

In the same vein, in his sworn Senate testimony Mr. Otepka stated:

> I, as a security officer, could not examine all of the vital details. But my understanding was that these offenses were committed; that the State Department decided not to take any administrative action based on this particular offense since it might impair our relations with the Government involved.

As Mr. Otepka was to find out later, in his one and only interrogation of Mr. Sonnenfeldt, he was not permitted to discuss at all the most serious allegation—the Israeli episode.

Serious questions again arise in connection with the 1958 episode:

How did State handle Mr. Koczak's allegation when he first reported it in 1958?

Why the delay until the 1960–61 period when Mr. Sonnenfeldt admitted being questioned about the classified telegrams?

Why, according to Mr. Otepka, was neither he nor Mr. Niland allowed to broach the Israeli incident or see the telegrams? Was it because of the sensitivity of the issue, as claimed by Messrs. Koczak and Otepka?

Was the whole Israeli affair, as claimed by Mr. Otepka, handled by the FBI and State at a high level because of its sensitivity?

Does the sensitivity of the issue explain why the 1958 investigation was not listed in correspondence to me by the Secretary of Treasury or the Civil Service Commission in their rundowns of the Sonnenfeldt investigations?

Why did the State Department not call in the FBI to question Mr. Sonnenfeldt on so serious an allegation of commission of a felony?

Is there any record of this allegation in Mr. Sonnenfeldt's personnel security file?

Was this, in short, another Watergate-type coverup?

THE 1960–61 INVESTIGATION

During the 1960–61 period, according to Mr. Otepka, Mr. Sonnenfeldt was transferred from INR to a position in the U.S. Disarmament Agency with a reduction in his security clearance status. As discussed previously, when the Kennedy administration arrived on the scene, Mr. Sonnenfeldt, some months later, transferred back to INR—with a promotion.

Later in 1960 a second wiretap was used to investigate Mr. Sonnenfeldt's activities along with personal surveillance. According to Mr. Otepka, it was during this investigation that Mr. Sonnenfeldt was seen in the company of the late Senator Robert Kennedy at the Marguerite Higgins function at her house. Here again, a record of the wiretap tapes should be available, plus the reports on the personal surveillance.

In late 1960 or early in 1961 Mr. Sonnenfeldt submitted to a lie detector test, the results of which he assumed were favorable as he was continued in his position and subsequently promoted. Mr. Otepka, in his testimony, stated that he was informed by the investigator involved that only perfunctory questions that did not go into substance were asked.

Again, many pertinent questions suggest themselves:

As Mr. Sonnenfeldt, during this period, submitted to a lie detector test, had his phone tapped, was under personal surveillance, and was interrogated for the first and only time by Messrs. Niland and Opteka, why was no mention made of this investigation by either Treasury or CSC in their correspondence to me?

Are the summaries of wiretaps during this period still available and are they included in Mr. Sonnenfeldt's personnel security file?

Was the above-mentioned Higgins' luncheon a political strategy meeting?

If so, did Mr. Sonnenfeldt play a politically partisan role in the 1960 Presidential campaign?

Was payment for political service a reason for his advancement up the State Department ladder—as it possibly was in the case of William Brubeck?

Did political service explain his return to the Bureau of Intelligence and Research—INR—during the Kennedy administration—with a promotion—after having been transferred from INR, according to Mr. Otepka, because he could not get approval under security standards established and enforced by the U.S. Joint Intelligence Board for access to certain highly sensitive data?

Were the reasons for his transfer, as claimed by Mr. Otepka, because of his propensity for leaking classified information and because he was not a native-born citizen?

Was his security clearance status reduced when he transferred to the U.S. Disarmament Agency where, it is claimed, he occupied a position not involving the "need to know" for communications intelligence data?

Mr. Sonnenfeldt's explanation of his transferral to the Disarmament Agency is quite different from that of Mr. Otepka. Mr. Sonnenfeldt, in his Senate testimony, relates his transfer to some experience in the disarmament field when a number of people with disarmament experience were collected to form a nucleus of a new disarmament agency.

Here again, State Department files, and especially Mr. Sonnenfeldt's security file, should indicate whose version of the matter is correct, and who is lying, covering up, or both.

THE 1959–71 PERIOD

In the 1969–71 period press accounts list Mr. Sonnenfeldt as one of the 17 newsmen and government officials whose phones were tapped because of leaks of sensitive information. It will be remembered that the tapes in this case became an issue between the Foreign Relations Committee and the executive during the nomination of Henry Kissinger as Secretary of State. Although Secretary Kissinger stated that his subordinates were exonerated, the issue could well be reviewed again by the House Internal Security Committee.

MORE SERIOUS THAN WATERGATE

In addition to its possible bearing on foreign policy, the Sonnenfeldt case assumes importance as a test case in evaluating the workability of the Federal employee personnel security program. This program, which at one time covered the activities of Messrs. Dean, Erlichman, and Haldeman, in addition to Mr. Sonnenfeldt, could in effect be described as the conscience of the Federal service. The term "security" encompasses the standards of loyalty and suitability and is detailed in Executive Order 10450 and implementing regulations. It seeks to determine the fitness of citizens for Federal employment while guaranteeing them fair and equitable treatment.

The extensive hearings before the House Internal Security Committee have made clear that Executive Order 10450 needs drastic revision or even scrapping, and very explicit legislation with appropriate penalties must be enacted to provide fair treatment for Federal servants while at the same time protecting our national interests.

Specifically, various questions concerning the order relate to Presidential nominees, the security investigations index, the integrity of personnel security files, accountability for personnel investigations and evaluations, the safeguarding of classified information, and many others. A number of these have been brought to light because of the Sonnenfeldt issue and other cases now before the House Internal Security Committee.

When Watergate has become an issue of the past, the Federal employee program will still be very much needed.

When Watergate is no longer a compelling issue, concessions on Executive privilege might again be hard to come by, thus again complicating congressional review of Federal activities.

Whatever its outcome, the Sonnenfeldt case can help the American public to understand that the overall problem is monumental—and more serious than Watergate.

CONGRESSMAN GLENN ANDERSON'S ELOQUENT STATEMENT ON THE INVISIBLE PLIGHT OF ASIAN-AMERICANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Hawaii (Mr. MATSUNAGA) is recognized for 10 minutes.

Mr. MATSUNAGA. Mr. Speaker, on the third day of January of this year my distinguished colleague from California, Mr. GLENN ANDERSON, and I introduced H.R. 261, a bill to assist one of the most misunderstood groups of Americans in the Nation—Americans of Asian ancestry. Since then we have been joined by 15 of our colleagues, who fully appreciate the hardships and obstacles confronting these American citizens.

The difficulties they faced, since the first Chinese immigrants were enticed to our western shores to construct America's railroads, and now face daily in the crowded inner cities of San Francisco, New York and elsewhere, were recently related most eloquently and forcefully by my good friend and colleague, GLENN ANDERSON of California. Testifying before the California State Advisory Committee to the U.S. Civil Rights Commission, Congressman ANDERSON brought home the often overlooked sufferings of many Asian Americans.

I offer his timely and most persuasive statement for the benefit of my colleagues and other readers of the RECORD:

STATEMENT OF CONGRESSMAN GLENN M. ANDERSON BEFORE THE CALIFORNIA STATE ADVISORY COMMITTEE TO THE U.S. COMMISSION ON CIVIL RIGHTS, NOVEMBER 30, 1973

In the New York Harbor stands a symbol of Liberty, beckoning the newcomers to our land:

"Give me your tired, your poor,
Your huddled masses yearning to breathe free,
The wretched refuse of your teeming shore,
Send these, the homeless, tempest-tossed to me:
I lift my lamp beside the golden door."

The Swedes, the Irish, the Poles, the Italians—the millions who entered this country—were met, at first, with aggression which later subsided as the people assimilated.

But, here, on the West Coast, the Asians, the Pacific Peoples, who "yearned to breathe free," who came seeking a better life, were met with a hostility, an aggression that has not subsided, but rather has continued to this day. However, the attitudes towards Americans of Asian descent vary from blatant racism—bred by ignorance—to a mythical concept of the model citizen—the myth—"That they have it made".

Obviously, these stereotypes deter reasoning and rational thinking in dealing with the specific problems that confront Asian Americans.

But, there is a saying that the "past is prologue to the future," and, as a result, the inequitable practices and victimization by prejudice are not merely a phenomenon of years gone by, but are still very much alive today.

And our duty, as inheritors and caretakers of the American experiment, is to insure that the attainment of the ideal of "life, liberty, and the pursuit of happiness" is not denied a person simply because the color of the skin may be different, or the customs and the language unique.

It is our duty—yours as a private citizen and mine as a public official—to insure that, in the case of Asian Americans, the past of racial prejudice is not prologue to a future of discrimination.

And, in the final analysis, to overcome prejudice, change must come from within individuals, with individual cooperation and with individual interaction.

But, let me now describe some of the problems that must be confronted and overcome if we are to attain a truly equal and democratic society.

First, the government—at all levels—must take the lead in both abolishing old policies which discriminate against Asian Americans and in establishing new programs which are designed to bring all the advantages of this society to all people.

The first step must be an awakening to the fact that Americans of Asian descent, the Pacific peoples, do, in fact, have problems—unique problems, problems unlike those encountered by other groups—that must be met.

THE ELDERLY

Elderly Asian Americans perhaps face the most severe problems in the community.

According to the White House Conference on Aging, "elderly Asian Americans are suffering from unprecedented problems that are devastating the lives of these aged people."

Because of the language barrier, the lack of bilingual staff in social service agencies, and the failure of the government to publicize the availability of programs, the older Asian American is not acquainted with the available benefits such as social security, old-age assistance, health care, housing and recreation.

When we realize that the suicide rate among Asian American elderly, in certain areas, is three times the national average; when we realize that studies show that 34 percent of Asian American elderly have never had a medical or dental examination, it should be obvious that their problems—again, according to the White House Conference—are "overwhelming to the point that it is impossible for Asian American aged to look only to their families for help."

The problems of the aged Filipino Americans are particularly acute, since the first entrants to this country were male and the laws prohibited marriage to "white" women. As a result, the elderly males—who never married—have no family to help them. The median age of the Filipino American is 40.9 years, compared to 26.6 for whites.

And the Federal government has not offered the kind of assistance needed to solve these problems.

For example, between 1969 and 1971, grants to communities to aid the aged totaled $32 million; yet, not one dollar was given to Asian American communities for their aged problems.

And the reason, as documented by the White House Conference, is that "according to government officials, Asian Americans don't have problems."

EMPLOYMENT

Of all employers, the government should be a model in equality. But, unfortunately, that is not the case.

A five-member Task Force appointed by the Los Angeles County Board of Supervisors in January 1973, found that the Asian Americans were not advanced in county jobs in accord with their skills and ability, and the Task Force accused county officials of racial and ethnic bias against Asian Americans.

And, the Federal government is not any better. Of some 2.5 million Federal employees, 5,712 people are in top positions (GS-16, 17, 18); yet, only 23 are Americans of Asian descent. And in the very top positions—GS-17 and 18—some 1,657 employees—only 6 are Asian American.

YOUTH

As in all countries, the hope of the future rests with the younger generation. Yet, in the Asian American community, the young are not receiving the special attention that should be accorded the leaders of the future.

Like other communities, the Asian American community has been wracked by drugs. In a recent year, in one section of Los Angeles alone, at least a dozen deaths of Asian American youth were attributed to the overdose of drugs.

In order to meet the needs of rising expectations, Asian American children must receive a quality education—an education designed to bring the Asian American economic and social success.

This has not been the case in the past.

According to a 1965 study by the California Department of Industrial Relations, median school years completed by Filipino Americans was 8.7 years.

Perhaps the reason for this alarming dropout rate is the language barrier. Obviously, it is difficult, if not impossible, to compete if the language is not understood.

The New York City Chinatown Planning Council estimates that 90 percent of new arrivals to the United States do not understand spoken English. And, in San Francisco Chinatown, over 70 percent of the new population lack a knowledge of English.

In Pasadena, California, 15 percent of the Japanese-Americans in the school system identify Japanese as their first language.

But, the myth that Asian Americans "do not have problems" persists. Programs are not aimed at helping Asian Americans. Research has not been conducted to determine the depth of these problems.

In fact, from 1969 to 1971, the Department of Health, Education, and Welfare authorized $30.7 million in research and demonstration grants to minority communities for child welfare, rehabilitation and special health projects, but none of these grants were made available to Asian American communities.

No doubt, the Asian American has been discouraged and frustrated by the lack of government empathy. They see Federal programs helping other minorities, but they are neglected. They see that special college programs, designed for minorities from disadvantaged areas, are not available to Asian Americans.

While in a recent year only five Filipino Americans from the Seattle area graduated from the three local universities, the government continues to turn its back on the needs of the Asian American student largely due to the myth that "all Asian American students do well in school and, thus, do not need government help."

It is particularly disturbing when we realize the Emergency Desegregation Act, as recommended by the Administration in 1970, by definition, excluded Asian American communities from the benefits of this Act—despite the fact that schools in Asian American communities are in desperate need of Federal assistance.

Fortunately, the Congress corrected this oversight, and allowed Federal funds to aid the schools in the Asian American community.

CONCLUSION

A major problem that has stifled efforts to recognize, investigate, isolate and correct the inequities relating to the Asian American community has been a lack of information. In fact, more often than not, when seeking factual data, Americans of Asian descent are listed as "others". And, as "others" it is easy to get lost in this crowd of over 200 million people; it is easy to close our eyes, forget and ignore their problems. But action is needed—now.

What we need is a beginning—and the place to start, as I see it, is with a Federal Cabinet-level committee established to pinpoint the problems and recommend action to eliminate the inequities and the injustices. This committee would have the specific task of identifying areas of discrimination—areas of need—and developing solutions.

On the state level, I favor an Asian American Advisory Council—similar to the one created in the State of Washington—to find solutions and offer recommendations to short and long term problems of the Asian American community.

While it is true that many Asian Americans have surmounted legal, economic, political, and social barriers, the facts show that in all too many instances, the remnants of prejudice and bigotry still pervade our society and continue to confront Americans of Asian descent.

It should be clear that, if one man's rights are denied, the rights of all are in danger—that if one man is denied equality, we cannot be sure that we will enjoy our fundamental rights.

History has placed us all within a common border. All of us—from the weakest to the most powerful—share one possession: the name "American". To be an "American" means to have been a stranger to the new land—either yesterday or yesteryear—and to deny the stranger—to reject his human dignity and rights—is to reject America and our ideals.

Let us remember the words engraved in the Statue of Liberty, and begin to live them in our daily lives.

THE ENERGY CRISIS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. HAMILTON) is recognized for 15 minutes.

Mr. HAMILTON. Mr. Speaker, Americans no longer doubt that the Nation is in an energy crisis.

The warning signs have been appearing since around 1970, and their gravity has steadily mounted:

Scattered electrical blackouts and brownouts;

Shortages last winter of propane gas for drying crops;

The Arab oil cutoff;

Gasoline shortages and periodic shutdowns of gas stations;

Reduced airplane schedules; and

Heating oil shortages last winter and critical shortages predicted for this winter and the years to come.

Americans also understand that we are at a decisive moment in the development and use of our energy resources. They recognize the elements of the crisis; an increase in the price of energy, the dilemma of increased energy production at the expense of some additional abuse to the environment, arguments over energy policy among politicians and bureaucrats, the necessity of importing more energy from abroad, and perhaps personal inconveniences and even hardships. They are beginning to believe the experts who say we will be chronically short of fuel for at least the next 5 years, regardless of what steps may be taken immediately.

Although Americans have come reluctantly to accept the fact of the shortage, they do not understand why it came upon us so suddenly, or what the prospects are for the future, or what decisions confront us.

The observations that follow are made with the hope that they may contribute to a better understanding of a complex and far-reaching problem, and with the belief that, although the energy crisis is real and solutions to it will come hard, there is no reason for panic and every reason to think that intelligent planning and action will see us through.

I. SOURCES OF ENERGY

A beginning point in our quest for a better understanding of the energy crisis is a quick survey of the sources of energy and the prospects for their development in the next several years:

OIL AND GAS

Oil and gas provide 75 percent of our current energy needs. They are widely used because of low transportation costs, convenient form, and environmental advantages. Expansion of supply depends on improved rates of recovery in drilling operations and development of alternative sources, such as the vast oil shale deposits in the western United States. The technology of getting the oil from the shale is difficult, however, and full production of perhaps one million barrels per day is not likely until the mid-1980's.

Even with the oil from the Alaska pipeline, estimated to rise to 2 million barrels per day by 1980, domestic production of oil will not exceed 12 million barrels per day, leaving a balance of 18 million barrels per day to be imported in order to meet estimated consumption by 1985 of 30 million barrels per day. Even with large imports, shortages will become severe in the next few years due to lack of refining capacity. Gasoline and heating oil rationing are likely, at least until the end of the Arab oil boycott.

Production of gas, as of oil, has peaked. It is difficult to import gas because it must be liquefied and transported in special ships. The gas shortage has been exacerbated by price controls, which have held the cost of gas below that of other energy sources. The controls have also promoted waste and discouraged exploration.

United States reserves of oil and gas are liimted. If they were to come only from domestic sources, our reserves would be exhausted by the end of the century. Most experts believe it is unlikely that our oil and natural gas production can be sufficiently expanded. We simply cannot sustain a total annual growth in oil and gas consumption of over 4 percent, without an expensive and risky reliance on foreign imports.

It is, therefore, unlikely that oil and gas will meet the anticipated demands of the future.

COAL

Coal, which amounts to about one-fifth of our total fuel used, is the most abundant fossil fuel in the Nation. The reserves are ample for the foreseeable future, but extracting them from the earth by strip-mining or deep mining can be unsafe and unhealthy, and coal burning pollutes the air.

Nevertheless, coal is a promising fuel for the future. Converting it to gas—coal gasification—or to a liquid—coal liquification—is appealing because of declining natural gas and oil supplies. Pilot plants for coal gasification are in operation and commercial plants are expected by 1985. By 1990, coal could be supplying significant amounts of gas and oil if enough capital is forthcoming, ample water for the manufacturing process is available, and the safety and environmental problems of extracting the coal are solved.

NUCLEAR POWER

Nuclear power, the best developed new source of energy, is at once the most promising and the most troublesome. It will not, however, be much help in the short-term energy crisis. At present, 39 nuclear-powered generating plants are in use, 55 are under construction, and 90 others are on order. Nuclear powerplants already provide about 1 percent of the total national demand for energy, and by 1980 they will provide about 7 percent.

Nuclear power is gradually overcoming a succession of difficulties, including assurance of safe operation, economic feasibility, and environmental acceptability. But other difficulties lie ahead. The expansion of nuclear power may consume all U.S. uranium stocks in about 10 years, forcing the nation to develop a "breeder reactor," which uses a more plentiful form of uranium and produces more fuel than it consumes. It will also require some technological refinements. A commercial demonstration plant by the mid-1980's is the target. Some scientists think the long-range answer to our energy needs is thermonuclear fusion, a process that could release inexhaustible amounts of clean energy through the combusion of hydrogen atoms to form heavier atoms of helium and without dangerous radioactivity. The technology of controlled fusion power is immensely complex, and scientific, economic and engineering barriers must be overcome.

Nuclear research should receive top priority by the Federal Government. It has developed at a slower pace than originally planned. If the many questions, particularly regarding the environment, are solved, the rate of use should rise sharply in coming years.

GEOTHERMAL ENERGY

Geothermal energy is already being tapped to generate about .1 percent of our electric power. Using various methods, the almost limitless heat stored in the earth's interior can be brought to the surface as steam or hot water for heating and power generation. The encouraging results of the limited research being done on extracting heat energy from the earth indicate the need for expanded geothermal study.

If the pollution problems—and they

are less formidable than the dangers in nuclear energy—could be overcome, geothermal energy, virtually unlimited as it is, could make a much larger contribution to our total energy production.

SOLAR ENERGY

The amount of energy in the sun is immense, and enough of that energy reaches the earth daily to more than supply all the energy the world needs. Long underrated as a source of energy, solar energy is attracting more attention. Utilization of this source is almost nonexistent. Since solar energy is thinly distributed and intermittent, with night and overcast skies often prevailing, its efficient collection and storage present difficult technological problems. Although costs are likely to be high, solar energy is clean, renewable and abundant, and these qualities provide strong incentives to develop it, especially for heating and cooling buildings, which now consume more than 20 percent of our total energy requirements.

This year, Federal funding for solar research was increased from $3 million to $12 million. Even this figure is low and should be increased.

HYDROGEN GAS

Although little time or money has been put into research and development of hydrogen fuel, it is an appealing source of energy because it is abundant and clean, with no waste disposal problems. The production of hydrogen, though, requires large amounts of electricity, and at present all known methods of producing electricity, except solar power, cause pollution. When the collection of energy from the sun becomes feasible, it could be used to generate hydrogen. Such a combination, though still lying far in the future, could be a clean, usable and abundant source of energy.

Until these alternatives and largely untapped sources of energy fulfill their promise, the United States must rely on more conventional fuels and confront the problems they entail. The energy shortage today arises because we failed to plan adequately yesterday. Today we must plan to assure sufficient energy for tomorrow and these far-out and far-off solutions demand attention and development.

II. REASONS FOR THE ENERGY CRISIS

But for the immediate future many of these forms of energy are not yet available to us. It is only too obvious that the United States was pitifully unprepared for the energy crisis. Many voices correctly foresaw the coming of the crisis, but with remarkable consistency the top policymakers failed to pay enough attention to advocate and take the painfully unpopular steps needed. The energy crisis is a classic illustration of the difficulty democratic governments have in heading off a crisis before it breaks.

In hindsight, at least, the reasons for our shortage are easy to identify.

DEMAND

Burgeoning demand is far and away the most important cause of the energy crisis. The explosive economic growth in Western Europe, Japan, and the United States has led to a dramatic increase in worldwide demand for energy. As other countries become more prosperous, they are demanding, and competing with the United States to obtain fuel supplies.

The United States, with 6 percent of the world's population, is now consuming 35 percent of the world's energy. We consume twice as much energy per capita as the prosperous West Germans, four times as much as the Japanese. We are the world's largest consumer of oil, natural gas, and coal. Our demand for energy continues to increase at a rate far in excess of population growth.

Furthermore, a major shift in the pattern of energy use has occurred with demand for cheap, clean, but scarce, natural gas going up while relative demand for abundant but dirty coal declines.

Low energy prices in the United States have encouraged high levels of consumption. We have been paying recently 35–45 cents for a gallon of gas compared with prices of between 75 cents and $1 in Western Europe, and government-regulated low prices for natural gas has exploded demand for it.

GOVERNMENTAL ACTIONS

Bad governmental policy has contributed to the energy shortage, too. The Nation has simply failed to manage its energy resources well.

Government has done little, until very recently, to discourage high consumption and waste. Research and development were inadequate, poorly organized and with insufficient cooperation between government and industry.

Federal policies, by their lack of stability, thoroughness and long-term planning, have inhibited the power companies from looking for greater resources. Oil companies and utilities have been in constant uncertainty over Federal policy.

For many years Federal policy included oil import quotas, established at a time when we produced more oil than we were using domestically. The President delayed much too long in lifting the quotas, even waiting long after his own Commission advised him to do so. Phase VI regulations, which set price ceilings on fuels, may have encouraged the oil companies to withhold production as a means of pressuring the Government to raise the ceilings. Oil companies complain that the regulations holding prices at unnaturally low levels have inhibited further exploration, and that accumulation of adequate capital to develop new resources has been discouraged.

Another aspect of Government policy, environmental regulation, has forced cutbacks in polluting fuels, stymied efforts to site powerplants, caused increased fuel consumption—as with automobile emission standards—postponed construction of the Alaska pipeline, and discouraged stripmining of coal.

As Americans increasingly realize the crunch of the energy shortage, the search for scapegoats intensifies and the environmental movement is a likely candidate. While the primary culprit is the explosive growth in demand, not the tentative success of the environmental movement, it is nonetheless true that environmental controls have increased consumption of energy somewhat—that is, automobile emission controls have resulted in an average 10 percent loss in fuel economy.

Even as the Nation squandered nearly half of its energy by overheating, overcooling, and overlighting, the President dragged his feet in developing tough conservation measures.

Moreover, the administration underestimated the repeated threats from the Arab States to halt oil shipments unless the United States changed its pro-Israeli policy, and it also misjudged the severity of the crunch that the lack of Arab oil could have on the U.S. economy.

The energy shortage has also been due to distribution difficulties. Last winter some parts of the country suffered from severe shortages while other parts had all the fuel they needed.

OIL COMPANIES

The oil industry can share much of the blame for the energy crisis. It refused until recently to acknowledge a shortage, claiming even in 1972 that crude oil stocks were sufficient to meet demand and over a period of years opposing efforts to remove import quotas. The companies now admit that they failed to appreciate how rapidly the demand for oil would grow. Even as late as 1968 the oil companies thought that with Alaska, the North Sea, Santa Barbara, and other finds, their supply problems were over.

The allegation is often heard that the major petroleum companies are creating an artificial shortage by restricting output in an effort to fatten profits. Critics of the oil companies, citing profit increases of up to 90 percent for this year over 1972, have discounted industry claims of a squeeze by an international cartel of oil-exporting countries and insufficient economic incentives to explore for more oil. They accuse the producers of reducing supply and raising prices to eliminate cutrate dealers.

Oil companies, while admitting that their profits are much higher than they were in 1972, attribute the increase to a mild winter, which slowed business last year, and inadequate profits in earlier years for adequate investment and exploration.

Although there is little direct evidence of abuses, we should not discount the possibility that they may have occurred. It is possible that short-term oil shortages may be partly artificial, and that some companies have acted to exploit the shortages, but, even so, these instances should not be allowed to obscure the fact that the long-term problem is real and not contrived.

III. PROSPECTS FOR THE FUTURE

SHORT TERM

The immediate concern in the United States centers around the short-term availability of fuel supplies, from now into the 1980's. Little that we can do now can possibly make any more fuel available for 3 to 5 years at the very least. For now, the only way to make energy supplies stretch farther is to consume less.

On a nationwide basis, the recently implemented mandatory allocation controls will not make any more energy available, but, hopefully, will provide a more even distribution of scarce resources. If controls work, no one will be totally without fuel, and neither will anyone have unlimited access to energy.

No one can be sure how severe the shortage will be. In November 1973, a Library of Congress study summarized the impact this way:

> The shortage will be the most severe since World War II and will affect every energy-consuming phase of American life. At the worst, some factories, schools and businesses may have to close or limit operations, and many personal activities may have to be curtailed. Many homes may be cold and many electric utilities may have to limit output because of fuel restrictions. If the shortage is as severe and protracted, serious strains could develop in the U.S. economy.

We can expect to have enough heat this winter only if:

American oil refineries continue to operate at capacity, without major breakdowns;

The winter is not unusually cold, either here or in Western Europe; and

We are able to import enough oil to make up the difference between domestic supply and demand. The Interior Department figures that the country will have to import 650,000 barrels of heating oil a day to supply adequate heat, but many fear that other nations will sell us only 350,000 or less.

Our best hope is that an early settlement on the Middle East will induce the Arabs to increase their oil production immediately and to resume sales to the United States and Europe. Until this situation changes, though, we will have to look elsewhere for up to 20 percent of our oil or, more likely, go without. There is little the United States can do to increase supply during the next 12 months. Even a favorable Middle East settlement and renewed imports of Arab oil would not close the gap between present supply and demand, although it would be much eased within 6 weeks after the embargo and production cutback ended.

LONG-TERM

There appears little relief in sight until sometime in the 1980's. It takes 3 years to build a refinery, 5 years to create a port, 5 years to develop an oil field, and 8 years for a nuclear plant. Development of nonconventional fuels such as solar, geothermal, and so forth, will take even longer.

If the Nation does embark on a national energy strategy, the long-run prospects for self-sufficiency beyond 1980 seem excellent. As noted, several of the energy sources are promising for the long run. For most, the technology exists, and it is simply a matter of time—and large sums of money—before the difficulties are worked out and the present technical complications overcome.

IV. ENERGY STRATEGY THUS FAR

Confusion and lack of direction have characterized the early months of the energy crisis. Until December 1973, there was no centralization of energy policy and no central source of information on fuel supplies and outlook. For months the President, the Congress, over 50 Federal regulatory agencies and the oil companies debated the crisis without appreciable results. Governor Love's Energy Policy Office, with a professional staff of less than a dozen, failed to serve as a focal point for policy. The President's creation of a Federal Energy Administration has come far too late. It is still too early to predict how the new agency will function. However, its existence is an encouraging sign that perhaps the President is finally beginning to realize the magnitude of the crisis.

THE ADMINISTRATION

Notwithstanding this most recent action, it remains true that the President has simply failed to provide strong leadership in alerting the Nation to the energy crisis, or in planning and acting to meet it. Often he has only thickened the fog surrounding the energy problem. So far this year he has delivered five separate energy messages, each containing different proposals, some conflicting with his previous proposals, and each trying to correct the deficiencies of its predecessor. He has called for halfway measures, and demonstrated a lack of commitment to tough conservation and exploration of alternative energy sources. Even his recent message seriously underestimates the shortfall in oil. Rather than the 2 or 3 million barrels per day the President suggested, it may be more like 6 million barrels each day.

The President's mistakes are numerous. He impounded millions of dollars for energy research, maintained an oil import control program too long, refused to implement the mandatory fuel allocation authority granted by Congress until too late, failed to devise contingency plans and to stockpile fuel reserves in the face of the Middle East instability, mishandled the price control program forcing refiners to convert crude oil to gasoline rather than heating oil, and failed to inform the American people of the gravity of the energy crisis.

The actions he calls for, though some are desirable and necessary, are insufficient. His suggestion for the conversion of industry to coal, for example, should have been made months ago. For too long he emphasized increasing fuel supplies, when, in the short term, the only really effective step was to curb rising demand. Even in April of 1973, he denied the existence of a crisis, refused to discuss the foreign policy implications of the energy shortage and decline to increase sharply energy research.

In view of his record, his repeated efforts to blame the Congress for the energy crisis simply will not wash. Nor will his attempt to deride the Congress for failure to act on his energy program of seven pieces of legislation. He thereby overlooked the fact that the Alaska pipeline bill is now law; one piece of legislation—providing compensation for the companies that had drilling leases cancelled in the Santa Barbara Channel—was not an energy bill at all, and the President has himself withdrawn support for it; the proposal for a tax credit to encourage exploration no longer seems necessary, given the present boom in exploration currently limited only by severe shortages in drilling equipment; the proposal for deep water ports is still under consideration, but with diminished urgency in view of the Arab embargo and the goal of self-sufficiency.

Other proposals, one to simplify power plantsite selection and another to set new standards for strip mining, are moving slowly because of difficult environmental and safety problems, and neither offers great relief from the shortage. The proposal to deregulate natural gas is the only one that would help the country this winter, and it raises many complex questions of balancing industry and consumer interests which simply cannot be easily resolved in the Congress, even though the case for deregulation gets stronger as the price of oil rises.

In his November 1973, speeches, the President finally began to acknowledge the magnitude of the crisis. For the first time, he urged Americans to start conserving fuel. The legislation he proposed in that message has merit, particularly the request for broad Presidential authority to take emergency measures to cut consumption and, if necessary, institute rationing.

The President is also right in wanting to reorganize and streamline the Federal agencies dealing with energy policy. In December, Nixon established the Federal Energy Administration to coordinate the energy programs of Government agencies. Earlier this year he proposed division of responsibility for energy research and development on the one hand, and licensing and regulatory functions on the other, between new agencies. Existing programs would be split to fit the new organizational structure, with most functions placed under the proposed Energy Research and Development Administration.

CONGRESSIONAL ACTION

The congressional record of action on the energy crisis has been decidedly undistinguished, and the Congress must share the blame for the current energy crisis with the Executive.

In some respects the Congress has been ahead of the President. For instance, in April the Congress gave him standby authority to make mandatory fuel allocations, but he did not use it until November. And many elements of the President's program to deal with the energy shortage have been proposed or forecast by Members of Congress throughout 1973, including the need for stepped up energy research, the rejection of the oil import quotas and the necessity of developing a national energy strategy.

A few Members of Congress have been urging action on energy legislation for several years, but the legislative branch began seriously to tackle the problem only in the late part of 1973. Even now, its performance is hampered by many shortcomings, organizational and otherwise:

Energy policy on Capitol Hill is fragmented, with no clear-cut lines of responsibility in the committees, and a proliferation of energy-related bills emanating from many committees, without an overall plan;

Congress is split over administration reorganization proposals to meet the energy crisis; and

Even as shortages become more and more acute, the Congress is unable to decide whether it wants to dampen demand for gasoline by rationing, by taxation or deregulation.

The President's accusation that the Congress has been inactive on energy policy has some merit, but the Congress has passed, held hearings, or is otherwise acting on most of the energy legislation proposed by Nixon, and has had difficulties in keeping up with his fluctuating views on fuel. As with all important legislation, Congress needs strong Presidential leadership in order to act decisively.

The fact, then, is that there is plenty of blame for both the President and the Congress to share.

The roots of our energy difficulties extend deep, of course, and, although the President and the Congress in power at the time the difficulties erupt must take most of the blame, it is probably true that the Nation slid into the energy crisis over a period of years, with many leaders and groups contributing mistakes and failing to act with foresight.

Late in 1973, the President and the Congress responded to the energy crisis with several important pieces of legislation. The trans-Alaska oil pipeline was approved, the President was required to institute mandatory allocations of petroleum, a National Energy Emergency Act granted the President extensive authority to allocate supplies and reduce demand, a major reorganization of the Government's energy research and development functions was approved, and all-year daylight saving time—exempting Indiana—was authorized. Other energy legislation can be expected in 1974, including authorization for deepwater ports and further increases in funds for energy research.

We can take hope, then, that, with the organizational changes, the conservation measures already announced and under consideration, and the spate of energy legislation the Congress enacted in late 1973, we are beyond the takeoff stage, always a difficult one in a democracy, and on our way toward a coherent and systematic approach to the energy crisis, recognizing, of course, that many obstacles still remain.

V. RECOMMENDATIONS

The overriding question, then, is what steps should be taken to resolve the energy crisis. It seems to me several steps are required, among them:

NATIONAL ENERGY STRATEGY

The most important step is to develop a comprehenssive national energy strategy. This strategy will require that we limit our demand for energy, expand our research, exploration, development and production of energy, resolve the conflicting demands of energy production and environmental protection, and adjust American foreign policy to the challenges of the crisis.

Energy policy in this country should aim at an adeqate supply at reasonable prices without unacceptable abuse to the environment and without dependence upon foreign sources. Such a target must be approached with appropriate regard for costs and for the environment. Development of U.S. energy sources, for example, could be very expensive in the short term as compared with some reliance on imports, and the production of energy without heed to environmental damage could be disastrous.

A national energy policy should set forth steps the Nation could take in the immediate short and long term as suggested, for example, in this chart prepared by the Energy Subcommittee of the House Science and Astronautics Committee:

NUMBER OF YEARS REQUIRED TO DEVELOP ENERGY SOURCES

0–1 YEAR

Energy Conservation: voluntary, encouraged and mandatory.

Rationing of all finished petroleum products.

Use Naval Petroleum Reserves.

Convert to Daylight Savings Time.

Insulate homes.

1–5 YEARS

Revitalize the coal mining industry.

Improve transportation facilities for coal.

Convert central power stations to coal.

Modify air quality standards to allow use of coal with best-available sulfur removal technology.

Enact Strip mining legislation.

Provide incentives for small cars.

Improve and use more mass transit.

Complete the Alaska pipeline.

Provide incentives for new drilling programs for gas and oil.

Build new oil refineries.

Develop a coordinated energy planning and management authority.

5–20 YEARS

Develop solar energy for heating and cooling.

Develop geothermal energy.

Develop oil shale.

Enact legislation to facilitate power plant siting and eliminate delay in construction.

Develop a nuclear breeder reactor.

Enlarge Uranium Enrichment Programs.

Gasify and liquefy coal.

MORE THAN 20 YEARS

Develop nuclear fusion.

Develop solar farms to make electricity.

Develop satellite solar energy.

Develop a hydrogen energy economy.

We need a national commitment, with strong leadership from Congress and the President, to develop and follow a comprehensive energy strategy. The public must be educated to recognize the dimensions of the problem and to participate in finding solutions. No matter how expensive the national energy search may prove to be in the short run, it is preferable by far to the alternative—the prospect of increasingly scarce, expensive, and dirty fuels coupled with the flexibility in international affairs would accompany dependence on foreign sources.

CONSERVATION

Any national energy strategy must create a political and economic environment that will encourage energy conservation. It is important that Government officials, and the Federal Government itself, lead by example in reducing wasteful practices. If each of us becomes energy-conscious, we can substantially reduce our consumption of energy.

These energy-saving suggestions may be helpful:

Before buying any new applicance, be sure it is really needed;

Stop using unnecessary gadgets:

Turn off lights and appliances when not in use;

Shop for energy-saving appliances. For example, regular refrigerators—which use 40 percent less power than the frost-free variety—and black and white TV sets—which use 30 percent less voltage than color sets.

Use fluorescent lights instead of regular lightbulbs;

Wash clothes in cold water and dishes by hand;

Use recycled paper;

Use containers that can be recycled;

Eliminate unnecessary packaging;

Insulate buildings better;

Set thermostats lower;

Keep cars tuned properly;

Use car pools;

Drive smaller cars;

Drive more slowly and less frequently; and

Use mass transit.

GOVERNMENT ORGANIZATION

The creation of the Federal Energy Administration in December 1973, is an encouraging step. It must be given the authority to implement a national energy policy, oversee energy research, development and demonstration, gather and assess all information, direct the energy conservation program, and evaluate economic and environmental factors in energy proposals.

The President's plan to create a new Federal agency to manage research and development on energy should be approved in the Congress and is expected to be. For the present, action is delayed on his allied proposal to create a new Department of Energy and Natural Resources because there are too many controversial issues, but such a reorganization should be pursued.

RESEARCH AND DEVELOPMENT

As already suggested, a national energy strategy should increase investment on a major scale in diversified research and development of fossil fuels and newer forms of energy. Price, lead times, environmental abuse, availability and other factors will have to be taken into account in the range of choices of energy sources. The proposal in the Congress for a crash program of new investment in energy with $20 billion of Federal money over a 10-year period should be enacted as a part of our overall energy strategy for the future. This research will not close the gap between demand and supply today, but it is essential for tomorrow.

It is also imperative that the Federal Energy Administration develop more accurate statistics on both the supply and demand of energy resources. The beginning of every solution is an accurate understanding of the problem and such understanding can be based only on accurate information. The lack of information makes difficult policy decisions more difficult, and increases the risks of bad decisions. There have been too many uncertainties about how bad the shortage will be and how much it would be relieved by particular actions.

SPECIAL POLICY MEASURES

The problem for the Federal Government in the face of a fuel shortage of growing but uncertain dimensions is to make choices in devising a program among alternatives that most Americans will not like. The Government programs will likely develop in stages as the gravity of the shortage becomes clearer. One task of the Congress, already achieved, was to pass legislation to help us cope with shortages this winter. Key bills are those concerning mandatory allocation and special Presidential powers to order emergency curtailment of a variety of energy-consuming activities. The Congress was forced to arm the President with broad powers to dictate a national response to the shortage, simply because the unwieldy Congress cannot devise quickly an intricate program of allocation and conservation.

The Government must also act to develop reserves of fuel, such as the shale reserves and oil in the outer continental shelf and encourage greater exploration and research.

No matter how vigorously pursued, voluntary conservation probably will not save enough fuel. If it does not, Federal energy policy will have to consider other laws to cut energy consumption. Most of these proposals are matters of real controversy and they raise questions with no simple answers, but they are proposals which such policy must confront.

No one wants rationing, but for the first time since World War II, 110 million American motorists may soon have it. At this moment no final decision has been made, and the President has said he would turn to rationing only as a last resort. He is seeking the least painful way to achieve a 30-percent reduction in gasoline consumption in early 1974. The Congress has granted to the President the authority to employ some kind of end-use allocation. Several alternative approaches to restrict consumption are under consideration: first, a tax increase of 30–40 cents per gallon, coupled with a possible tax writeoff for low-income groups; second, an increase in the price of oil to whatever level it takes to clear the market; third, rationing, with either a plan of nontransferable coupons assigned to motor vehicle owners on the basis of their occupations, or a plan to distribute transferable coupons to every licensed driver, allowing a motorist to sell his unnecessary coupons to others; or fourth, any combination of these approaches.

In Washington rationing is coming to be regarded as increasingly likely, especially since there are no signs of a letup in the Arab oil export embargo. No system will be equitable and any system will have disadvantages, but there is simply no way to manage scarcity with complete fairness.

William Simon, the head of the Federal Energy Administration, has stated that no decision on rationing will be made until January 1974, and even then it would take another 2 months to draw up plans, print coupons, and get the program started.

New approaches to discourage consumption should also be examined: For example, a tax on automobiles with a sharply rising tax rate according to weight or gasoline consumption or tax incentives to owners of automobiles with more efficient engines. The entire price structure for consumption of natural gas and electricity may have to be revised, and instead of the price being lowered as more energy is consumed, the price could be raised to encourage conservation. Peak load pricing, charging more for electricity at peak use periods, should also be considered. Advertising that promotes energy use could be banned or disallowed as a business deduction, building codes could encourage buildings that use energy efficiently, and industry could be required to label fuel consumption on products. Industry incentives to expand production, including guarantees that construction of refineries will not be interrupted, and tax incentives can be given.

A difficult area of energy policy is to balance the demand for energy with the protection of the environment. For example, Federal standards for auto emissions help to clean the air, but reduce gasoline consumption by about 10 percent. Is conserving energy through relaxation of clean air standards more important than clearer air? Single-minded pursuit of either desirable goal—clean air or fuel economy—will lead us astray, and the task of Government policy is to strike an appropriate balance. Any changes should be made in ways that will minimize potential adverse effects on efforts to clean up the environment. Perhaps the best approach is that environmental regulations should be relaxed on a "temporary, case-by-case basis," as the President suggested, and not by sweeping suspensions of environmental standards.

A growing concern for Government policymakers is that the spiraling energy shortage will cause a serious slowing down of the Nation's economy. Already automobiles and airline industries have announced employment layoffs. Economic forecasts for 1974 are being revised downward.

Chairman Stein of the President's Council of Economic Advisers says the energy shortage could slow real growth to only 1 percent and cause unemployment to increase from its present 4.7 percent to nearly 6 percent. Economists are quick to admit they are engaging in much more guesswork than usual, but in general the pre-Arab embargo forecasts for 1974 of reduced but respectable economic growth have been changed to near zero growth or even a recession. Many experts expect a first half of the year recession, coupled with more inflation and higher unemployment. A major aim of the Nation's energy policy must be to insulate the productive sector of the economy, as much as possible, from the energy shortage, and to keep the economy operating as close to full employment as possible.

FOREIGN POLICY

A vital portion of a national energy strategy, until we are self-sufficient, will be foreign policy. Our energy consumption and available domestic supply require that we import more energy from abroad. We presently import about one-third of our consumption of oil, and by 1980 we could be importing about 50 percent of our total consumption. Only in the long term can our foreign dependence be reduced without sharp limits on domestic demand. With the recognition of U.S. dependence on foreign oil all sorts of difficult foreign policy issues are raised, including the impact of the Arab-Israeli conflict, Soviet-United States relations, the relationship of the United States to the oil producing states, cooperation among the oil consuming states, and many others.

THE MIDDLE EAST

Our strategy toward the Middle East must reflect our realization of a number of important factors.

Close to 75 percent of the free world's proven oil reserves are in the Middle East area. Saudi Arabia's proven reserves alone are almost 4 times those of the United States.

With American production of both oil and natural gas declining, we will have to import significant quantities of petroleum products from the Persian Gulf. Like it or not, there is no other source available.

The United States, wealthy and powerful as it is, finds itself in the uncomfortable position of being dependent upon small, independent and potentially unstable states, which have the quantities of oil our gargantuan appetite requires. The annual cost of these oil imports in 1980 could be on order of $70 billion, some of which may flow back to the United States through the purchase of goods and services. The prospects of huge additional cash outlays of this magnitude, at a time when the United States already has trade problems, raise potentially serious economic and political problems.

Peace in the Middle East is vital to the flow of oil to the United States. Though we cannot forget our need for good relations with the rest of the world, the Persian Gulf area will have to assume high priority among our international concerns. We will need excellent Presidential leadership to ensure us a continual supply of Arab oil, at the same time we continue to demonstrate support for Israel.

Our policy toward the Middle East should emphasize several features:

First, a peace settlement of the Arab-Israeli conflict is an urgent national interest. A thorny linkage exists between our policy toward this conflict and our access to Middle East oil, as President Nixon has acknowledged. A quick, permanent settlement of the conflict may not be likely, but some movement toward a settlement may be possible. Peace should not be imposed from the outside, and can only be achieved by the Arabs and Israelis themselves, but we must impress upon them our deep desire for peace. The proposals for a time-related, phased withdrawal peace plan and the idea of big power guarantees of any agreement need concerted attention.

Second. We must pay more attention to the Arab world, learning more about it, demonstrating a concern for its economic development and acknowledging its place in the international economy. The oil rich Arab States can buy technical assistance and technology to help them diversity and strengthen their economies. Effective economic, political and security policies toward the Arab States are our best guarantees that they will be willing to help us with our energy problem. Our present policy toward the Persian Gulf has a strong military flavor, emphasizing arms sales to Iran and Saudi Arabia, but our policy should be more comprehensive with equal emphasis on economic and social development.

The United States, however, cannot allow the Arab world to undermine its political and economic independence, and we must be prepared as a nation to take whatever steps may be necessary to keep the Arab world from bending our interests.

These policies will allow us to remain committed to Israel's survival, and her deterrent strength. They will offer acceptable alternatives to the distasteful choice between an adequate oil supply or support of Israel.

Our foreign policy must also take into consideration the U.S.S.R. and Canada, countries with an important actual or potential bearing on our fuel supplies. It is important that the United States diversify our sources of foreign supply.

U.S.S.R.

In the U.S.S.R., immense gas fields have recently been discovered. Though more expensive than domestic, regulated gas, Soviet natural gas could eventually become competitive if the price of gas is allowed to rise in the United States. Of potentially great significance in maintaining our gas supply, therefore, is our ability to continue détente with the U.S.S.R. We must assure that we not rely too heavily on the U.S.S.R., and that any dependence is mutual and in pursuit of détente.

CANADA

Canada has been our best source of imported oil. Recently, fearing shortages at home and anxious not to alienate the Arabs, Canada has imposed export quotas and a stiff tax on oil exports to the United States. This marks a break in our normally friendly relations with our neighbor, one which must be resolved without delay. The United States and Canada are economically and culturally interdependent, and it is to our mutual advantage to negotiate resumption of this important element in our national energy strategy.

VENEZUELA

Although Venezuela is today our major supplier of imported oil, its production has peaked, and the political condition in the country makes it unlikely that the United States can count on it for a major portion of its oil imports. Nevertheless, a sympathetic understanding by the United States of the Venezuelan desire for a balanced economy would be helpful to the United States in assuring access to a stable supply of oil.

OTHER COUNTRIES

Cooperation with the industrial nations in research, emergency planning and sharing should also be a part of our national energy strategy. We have suddenly, surprisingly, become one of the many oil-importing countries. We can compete with others for fuel suppliers, but we must also cooperate. We can work with Western Europe and Japan to develop jointly new energy sources, to develop mutual assistance programs, to guard against short-term supply interruptions and to avoid destructive price competition for fuels, and in efforts to bring about negotiations which may lead to peace or a reduction of tensions in the Middle East.

CONCLUSION

As difficult as it may be for Americans to comprehend, we are in an energy crisis. Perhaps a situation as serious as this was needed to jolt us out of our complacency and force us to act with resolve to find ways of using the limitless energy around us. We can do it, but eventual self-sufficiency will require the cooperation of all parts of society—government, business and individual citizens.

Undoubtedly, Americans will find inconvenience and some may experience hardship in the energy shortage. But, the shortage may not be all bad. Many of our troubles today stem from our surpluses, and the extravagant consumption of many of us simply could not go on forever in a finite world. For those of us, maybe a little belt tightening will be good, 50-mile-per-hour speed limits, cooler rooms and staying home can have some benefits, too. One writer put it this way:

> We need to cut down, slow up, stay home, run around the block, eat vegetable soup, call up old friends, and read a book once in a while. Americans have always been able to handle austerity and even adversity. Prosperity's what's been doing us in.

As important, then, as any single step is for all of us to change some or our basic attitudes. The energy shortage is here to stay for several years. It is not an isolated, passing event, and we had best learn to live with it.

It is encouraging that, by decisive margins, the polls show that the American people are prepared not only to go along with the demands put upon them by the President in the energy crisis, but they are willing to go well beyond current sacrifices if necessary.

Technology alone will not save us from the energy crisis. It will help ease the crunch, but the basic solution lies in politics, not science—the politics of developing and implementing a national energy strategy and in evolving relations with the rest of the world that make for peace, stability and international economic order.

A difficult era lies ahead. But that is nothing new in the American experience, and we should enter it not with panic, but with confidence that by good sense and determination, the American dream can continue to be realized.

"O. J." SPELLS JOY FOR BUFFALO AS GRID STAR SETS RECORD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. DULSKI) is recognized for 15 minutes.

Mr. DULSKI. Mr. Speaker, there is joy in Buffalo this day, and it is spelled "O. J."

To those few who may not watch TV football or see the sports pages, O. J.—or, as Buffalonians know him: "The Juice"—is O. J. Simpson, the star ballcarrier of the Buffalo Bills professional football team.

The Buffalo Evening News today proclaimed O. J. as "Buffalo's Man of the Hour" and to that, I say: Amen.

O. J. carried the ball for the Bills 2,003 yards this season, demolishing the 1963 record of 1,863 yards set by Cleveland's Jim Brown.

Sunday's game with the New York Jets was the last game of the regular season for Buffalo. Going into the game, O. J. had already amassed 1,803 yards and he and his teammates were fired up to see him break that record at the same time hopefully keeping Buffalo in the playoffs.

Buffalo didn't make the playoffs, by a whisker, but O. J. was roaring down the field from the opening kickoff and never stopped until the closing moments when the new record was safely in the bag.

O. J. is not just another football player. I have the privilege of knowing him and of knowing what a humble, considerate man he is. Too few know of this gentleman's concern for his fellow man.

Indeed, one New York City sportswriter is quoted as saying in the dressing room after Sunday's game: "I'm more impressed with O. J. Simpson as a man than a player."

The reason for this accolade is clear when one knows how O. J. insisted on meeting with the press after Sunday's game. He refused to face the press unless every member of the Bills' offensive unit went with him.

This is the mark of a real man—a man I am proud to know personally—and the incident is so well told by sports writers for our Buffalo newspapers that I include their stories at this point in my remarks.

[From the Buffalo Courier-Express Dec. 17, 1973]

A TOUCH OF CLASS—O. J. LAUDS HIS "LINE"

(By Warner Hessler)

NEW YORK.—It was O. J. Simpson's greatest moment.

No, not the records.

O. J.'s greatest moment came 40 minutes after the final gun had sounded when, flanked by six security guards, he was led into a press room under Shea Stadium to answer questions from a crowd of reporters.

They were prepared for the Buffalo Bill's record-breaking runner, many having scribbled down questions on note paper. They were not prepared, however, for the kind of entrance Simpson made.

As O. J. walked into the crowded room, he was followed by 10 members of the Bills' offensive unit. "He wouldn't go face the press unless we went with him," said one player.

"Gentlemen, I want you to meet my boys," said O. J. after he settled into a chair facing the microphones. "These cats did it for me all year, and I'll be forever grateful to them for their work."

Before allowing any questions to be asked, Simpson introduced each member of the starting lineup, including "my main man," guard Reggie McKenzie, and told the press how much each player contributed to his record.

NEW YORK PRESS IMPRESSED

"I'm more impressed with O. J. Simpson as a man than as a player," said one member of the New York press.

"Yeah, you'd never see Joe Namath or Jim Brown do something like that, sharing the spotlight with his teammates," echoed another.

Simpson then went into an unprepared opening statement which answered a lot of questions before they were asked.

"Our game plan, as you could tell, was to go after the record from the beginning, get it out of the way, and then settle down and concentrate on winning the game," said O. J.

"Getting the record meant a lot to me, personally. Just two years ago, I was as low as I could be, so you will never realize just how much this means to me.

"All season long, people talked about the record, but I tried to keep it out of my mind so I could concentrate on playing football. I was able to do that pretty well until last week, when the record drew very near.

"I knew I gained a lot of yards on that first touchdown drive, but I didn't know how close I was to the record until Fergy (quarterback Joe Ferguson) came over to me on the sidelines and said we needed just four more yards."

"I LOVE THESE GUYS"

Simpson then turned to face his offensive teammates and talked about them.

"Every team has been playing us for the run all season, but these guys have been knocking them out. My name is going to go into the record books, but it's as much theirs as it is mine. I love these guys."

O. J. then turned back to the microphones and talked about the team's future . . . and his future with them.

"My only disappointment today comes from us not making the playoffs. We lost games this year we should have won, but we're the youngest team in the league, and we made mistakes you won't see us make next year. The Super Bowl is our goal, and this team's getting there. I plan to play two more years, but if we're close to the Super Bowl, then I'll play longer. I think at this stage of the season we're as good as any team in the league."

O. J.'s rushing record, the team rushing record, and the 9–5 season had a positive effect on the players' outlook for next year.

NEW SPARK IN TEAM

"I told O. J. during the summer, 'Let's shoot for 2,000 yards and really set the world on fire,' and we did," said McKenzie. "Right is, we've done a hell of a lot, come a long way, and we'll do even more next year.

"O. J. is always talking about his offensive line, and you have to feel something special for a man like that. I love him."

Guard Joe DeLamielleure echoed those thoughts. "Nobody can take away from us what we did this year," said Joe D. "There's not much glory being an offensive lineman, but here's a record, something we can identify with. We were counting yards on the field today, keeping track. Everybody wanted the record."

Two lockers down, tackle Donnie Green was immersed in his own thoughts.

"I'm thinking of next year right now," said Green. "I actually started thinking of next year as the final minute ticked off the clock today. There is so much we know we can do next year.

"Everybody on this team knows this season is nothing compared to what we can do in the future. We know we're going to get better, and we just can't wait."

Suddenly, it's fun again being a Buffalo Bill.

[From the Buffalo Evening News, Dec. 17, 1973]

Simpson's Friends Share His Glory

New York, Dec. 17.—Frank Ramos, the Jet's public relations director, had issued 387 press passes for the O. J. Simpson's extravaganza and the media men stood in a special room set up in Shea Stadium for O. J. interview following Sunday's game.

When Simpson entered the room he wasn't alone.

"Gentlemen," he said as he entered, "I'd like you to meet some friends of mine."

In his wake walked the Bills' entire offensive unit, even Bob Penchion, the extra offensive tackle.

O. J. hadn't forgotten anyone.

"This is Joe Ferguson, our quarterback," he began. "He's a rookie and did he do a job!"

"This is Jim Braxton, who missed the first half of the season due to an old problem, a birth defect in his back. When he got back in the lineup as our fullback he really opened things up for me."

On he went, introducing all of them to the assembled reporters, insisting they share the glory of the moment.

MY MAIN MAN, REG

"And, of course, this is my main man, Reg McKenzie," he finished.

Milt Richman, the United Press International sports editor, said he had never seen anything like it in 30 years covering sports.

"What makes it all the more amazing is that he does it so naturally," commented Richman. "You know he genuinely enjoys sharing this success with them."

Ferguson disclosed that Simpson's record progress was relayed down to the players from the scouting booth in the press box by assistant coaches Bob Shaw and Billy Atkins.

"We knew where he was," said Fergy.

Simpson reminded his interviewers that just 2 years ago the Bills were the dregs of the sport with a 1–13 won-lost record.

GLAD HE WAITED

"We couldn't have been lower," he said. "I wanted out. I wanted to play somewhere else."

"The person who kept me from going to Ralph Wilson to ask to be traded was Jack Horrigan, who isn't with us any more (Horrigan, the Bills' vice president for public relations died last June.)

"Jack was my man. He listened to my troubles and my complaints and soothed me. He was a man you listened to. He told me then that Lou Saban was probably coming to Buffalo and that it would mean good times. He told me just to be patient and wait.

"I'm glad I did."

The team effort which O. J. was acknowledging was captured by another Buffalo sportswriter in this report of what happened on the field:

[From the Buffalo Evening News, Dec. 17, 1973]

O. J., Teammates Share Odyssey to Grid Glory

(By Larry Felser)

New York, Dec. 17.—With approximately 7 minutes remaining in Sunday's football game between Buffalo and the New York Jets in Shea Stadium, the Bills' quarterback, came into the huddle with some interesting information.

"I have some news which I think will fire up you guys," said Ferguson. "Juice is only 60 yards away from 2000."

As soon as he made the announcement that the "Juice," O. J. Simpson. was within reach of what was thought to be the unreachable in professional football, Ferguson said he immediately saw a reaction.

"They just seemed to rise up off the ground," he said. "Everyone started yelling, 'let's get it.' "

Simpson dashed through the holes opened by his big blockers 34 times for 200 yards, reaching an all-time record for a professional ball carrier, 2003 yards in a single season.

Jim Brown's old record fell only 17 plays—4 minutes, 26 seconds into the game.

"It was a 27 play," explained Ferguson. In Bills' parlance that is the No. 2 back Simpson, through the No. 7 hole, left tackle.

"I take to the fullback (Jim Braxton) up the middle. Reggie McKenzie (the left guard) leads the way and the other guard, Joe DeLamielleure, pulls in front of him through the hole.

O. J'S FAVORITE PLAY

"It's O. J.'s favorite play."

It is basic and simple, but, as Joe Namath says, "when Simpson gets the ball on any play all hell breaks loose."

The Jets even anticipated the play.

"I called a 5 under, and undershift," said Jet linebacker Ralph Baker, who decides what defense the New Yorkers will use. "They ran right into the strength of our defense.

"But they came here to get a record and they got it."

The play gained 6 yards, putting Simpson at 1865 yards for the season, 2 more than the record Brown, the great Cleveland power runner, set in 1963.

Coach Lou Saban removed Simpson from the game after he passed the 2000-mark. The few thousand fans remaining in cold, dank Shea Stadium gave him a standing ovation and his teammates on the field hugged him and slapped him on the back.

As he ran toward the bench the other Bills ran out to meet him, defensive end Earl Edwards leading the way. They hoisted him atop their shoulders and carried him to the bench.

When he got down on the ground he ran over and embraced the team's offensive line coach Jim Ringo, the man who told him last September—after the Bills had lost all their exhibition games—"stay on your feet and we'll get you 1800."

When the fans started pouring out on the field to mob him in congratulations, he got a police escort to the dressing room with almost 3 minutes remaining in the game.

When the contest ended and the rest of the Bills reached the dressing room, Simpson stood at the door to greet each man, frequently wiping away tears.

"These are the cats who did it," he said. "They worked for it all year."

Over in the corner of the dressing room Donnie Green, the huge offensive tackle, smiled and said, "I can hardly wait for next season to get here."

O.J. saw to it that his great offensive teammates received full credit for their job in helping him achieve national fame. Credit, too, must go to Coach Lou Saban for patiently and skillfully building a winning combination around the rushing star.

The following editorial considers these broader aspects of this great day for Buffalo:

[From the Buffalo Evening News, Dec. 17, 1973]

Buffalo's Man of the Hour

Every generation produces one or two superstar athletes whose exploits far outshine all others. O. J. Simpson is such an athlete, and every Western New Yorker can be proud that he was wearing a Buffalo uniform when he compiled the incredible yardage that carried him into pro football immortality. That the crowning moment occurred at New York's Shea Stadium, in the process of humbling Buffalo's special rivals, the New York Jets, only added to the sense of exhilaration.

Almost as memorable as O. J.'s climactic achievement on the field Sunday was the way he shared the spotlight with his teammates. Bringing the entire offensive unit with him to meet the press after the game, he introduced each of the 10 other players personally and identified them as "the cats who did the job all year." It was, indeed, a well-deserved tribute to an outstanding team effort that set a league rushing record for the Bills, and it reflected a spirit that should help this still-young team in its efforts to cap this year's fine over-all record with a shot at the Superbowl next year.

Much credit must obviously go, too, to Coach Lou Saban, who patiently and skillfully built a team offensive around the remarkably talented O. J., as well as to Ralph C. Wilson Jr., owner of the Bills and the man with ultimate responsibility for their up and downs.

Most of all, however, it is an occasion to pay special recognition to a brilliant athlete, one who combines natural gifts with that great concentration and dedication that is the mark of every true champion. It is equally a moment of satisfaction for Buffalo and Erie County, which have invested both emotion and tax dollars in supporting major-league football here—in large part as a means of advertising this region and building up its image for economic and civic development. The national spotlight trained all this year on the exploits of O. J. and the Buffalo Bills can't help but bring enhanced prestige and promotion for the entire Buffalo community.

As a well-known entertainer would say it: "How sweet it is."

The Buffalo Bills were in the doldrums in 1969, so much so that they had first draft choice. Their pick, naturally, was O. J. Simpson, the phenomenal star of the University of Southern California team who had won the coveted Heisman trophy.

The pickings were lean for a couple of years for O. J. in pro football. Indeed, he despaired and was ready to leave the team, except for the wise counsel of one of Buffalo's finest citizens, Jack Horrigan, former sportswriter who became vice president of the Bills. Sadly, Jack did not live to see O. J. reach the pinnacle Jack was sure he would achieve. Jack died last June after a hard-fought bout with cancer.

Another who counseled O. J. during his lean years in Buffalo was his former coach at USC, John McKay, who retains highest respect for O. J. as a "human being." Following is a recent interview with McKay:

[From the Buffalo Courier-Express, Dec. 17, 1973]

Juice Misused for 3 Years—McKay

(By Warner Hessler)

O. J. Simpson was misused, and possibly almost ruined, during his first three professional football years with the Buffalo Bills, says his college coach, John McKay of the University of Southern California.

"I have never been associated with, or seen, a player who could dominate a football game as much as O. J. could," said McKay last week. "O. J. can chart the course of almost any game he plays in, if you get the ball to him often enough."

According to McKay, the Bills' reluctance to get the ball to Simpson often enough led to what O. J. calls his "three lost years."

RAUCH, MCKAY DISAGREE

John Rauch, who coached Simpson his first two years in Buffalo before resigning before the 1971 season, didn't believe any player, not even O. J., could dominate his offense. "Having one player carry the load is not my style," Rauch once said. "I couldn't build my offense around one player, no matter how good he was. O. J. can be a good pass receiver, and I expect him to block also."

McKay totally disagrees with this philosophy when he talks about Simpson.

SOUGHT MCKAY'S ADVICE

"We happen to think of O. J. as a home-run hitter," said McKay, "and you don't tell a home-run hitter to bunt. We gave the ball to him every chance we got, knowing that sooner or later he would get the home run. It paid off for both him and us."

McKay said O. J. came to him for advice occasionally during the lean years in Buffalo.

"It was clear to me that he was playing for a coach who didn't understand the running game, and wasn't aware that he had the greatest threat in football," McKay added. "I told O. J. not to let the situation get him down, that things would change for the better.

"When I found out that Lou Saban was going to coach Buffalo last year, I told Simpson that was a guy who understands what made up a sound running game, and that with Saban there was no way he could fail to make it big."

It didn't take O. J. long to realize his college coach was right.

INSPIRED BY SABAN

"Lou Saban has inspired me," said Simpson shortly after his first meeting with the new coach last year in pre-season. "He's tough, but he's fair, and there seemed to be a reason for every play he gave us."

McKay's office is cluttered with pictures of O. J. from the 1967–68 glory years at Southern Cal, and McKay admits he will never forget "O. J. the football player."

McKay also will never forget "O. J. the human being."

"I have never been around a man I admired more," McKay remembers. "He was a warm person, the most popular man on campus, and he went out of his way to make friends.

"He wasn't noisy, although God knows he had every right to be loud, boastful and a little above everybody else. I think so much of O. J. that if he called me right now and said he wanted to talk to me in Buffalo, I'd take the next plane."

ARE WE FORGETTING THE MIA'S?

(Mr. SIKES asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, as the Christian world prepares to celebrate the Christmas season and as another year draws to a close, the families of the almost 1,200 men listed as missing in action in Vietnam face still another season of wondering about the fate of their loved ones.

Today, almost 11 months since the peace accord was signed, those who control Communist destinies in Southeast Asia have done little to aid in the search for those men or ease the minds of their families. In many cases they refuse to allow our teams to look for bodies. They have offered us no further help in accounting for the MIA's who seemingly have been swallowed up in the aftermath of the fighting.

It is obvious that the Communist leaders in their callous disregard for humane considerations have no intention of honoring the peace accord which called for a full accounting of prisoners and missing in action.

Why is it that we hear no voices raised in the Congress in behalf of these unfortunate individuals? Is there no longer concern about what has happened to so many of our people and to their families? Are we willing to let the MIA issue and the hopes of MIA families slowly die on the vine?

I do not want to see the memory of these unfortunate individuals and the hopes of their families relegated to dust-covered files and hidden from the consciousness of a country which owes so much to those who are missing.

I am one of those who would like to see sufficient pressure brought to bear to insure full disclosure from the Communists about American MIA's and freedom to search without restrictions in any areas where it is felt MIA's might have disappeared. Yet there is little likelihood that this can be accomplished. The Communists ignored diplomatic efforts. The Congress has stripped the President of any power he may have had to deal with problems in Indochina by taking from him the authority to use the military forces in America's interests.

Needless to say, the United States must continue to express in the strongest terms its determination that these men be accounted for when they are negotiating with Communists, for there should be continued insistence on information and help on the MIA question, and we Congressmen have not lost our voice. We should continue to speak up at every opportunity until the Communist world realizes that the American people will refuse to have this subject relegated to oblivion.

THE ARMED SERVICES NEED MORE NOT FEWER RESERVISTS

(Mr. SIKES asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, I have been reading disturbing reports in various quasi-official military publications, put out by service-oriented organizations, which are deeply concerned with the defense posture of this great Nation of ours. I speak particularly of the National Guardsman and the Officer which are the official publications of the National Guard and Reserve Officers Associations respectively. Also, the Army Times has recently carried similar stories noting that, in the near future, drastic personnel cuts in the Department of Defense will include reductions in the Army National Guard and Army Reserve. It is absolutely incredible to me that at a time when everybody from our Commander in Chief on down through the Defense Establishment has rationalized deep cuts in our Active Forces that people within the Pentagon would even consider a decrease in the Army Reserve components. In various public statements and in advancing the total force concept, it has been repeatedly emphasized that the Reserve forces are to have increasing responsibility for national security. It should be clear to us all, therefore, that DOD and the military forces should be building up the strength of the Reserve in manpower and weaponry.

At a time when the Active Army's strength is the lowest since the start of the Korean conflict in 1950, to reduce the strength of the Army National Guard and Army Reserve is sheer folly. We not only are imperiling our national security, but we are seriously weakening the hands of our statesmen at the bargaining table. Let me quote from an editorial by Major General McMillan, the president of the National Guard Association, in a recent issue of the Guardsman:

> We believe most earnestly that such reductions will expose the Nation to unacceptable risks . . .
>
> Leading officials in the Pentagon have told us on several occasions that, with such large slices being taken from the Active Forces, it was imperative that the Guard and Reserve be maintained at high strength and readiness levels. I feel certain that those statements reflected their best military judgment. It seems inescapable, therefore, that the Reserve Forces reductions now being studied reflect political and economic pressures, more than sober military assessments.
>
> Additional cuts in the Active Military Forces will subject this Country to risks that prudent men should not be willing to accept. If cuts also are imposed on the Guard and Reserve, we put the Nation in even greater peril. . . .
>
> There is a limit below which further reductions represent wishful thinking and foolhardiness rather than a reasoned assessment of our National security needs.

Now from Reserve Officers Association magazine, the Officer:

> We take seriously the statement attributed to the Chief of Staff of the Army several months ago, who said that any members of his staff who did not fully support the Reserves would find themselves in another assignment. At the same time, we recognize that the cross-current of the competitive forces at large in the Pentagon do indeed damage the cause of the Reserves, and that it is unlikely that the Total Force Concept will be manifest in precisely the same application of standards to the Reserves and the Active Forces.
>
> In an Administration which is as open as the current one, the degree of secrecy surrounding the daily conferences and the planning in the military Services has greatly diminished. It is no great feat to determine what the Active Force leaders had in store for their services, including the Regulars and Reserves, and thus there is no great sense of accomplishment in being able to report the reversal of the traditional oft-stated policy in the nation's military establishment:
>
> *The nation shall maintain a relatively small professional active force, but it shall be supported by a substantially larger Reserve force; and that as the Regular force is reduced in size, the Reserve forces, taking advantage of the availability of additional trained and experienced men and women, shall be proportionately enlarged.*
>
> The new policy being advanced and sought to be established as permanent policy by the military forces is that under the Total Force Concept equality of treatment means that when the Regular forces are reduced the Reserve forces will see aplied a same percentum reduction.

I am afraid we are creating another "Paper Tiger." I would hope that key defense officials are not again giving "lipservice" to the Reserves. Shades of post-World War I, post-World War II, and post-Korea. During the fiscal year 1974 budget hearings before the Senate, posture statements were made by top defense personnel. The Secretary of Defense stated:

> Programs to modernize Guard and Reserve forces and improve their readiness will be continued in FY 1974. . . . These units are essential to our total force concept which places increased emphasis on the Guard and Reserve forces as the size of our active forces declines.

Admiral Moorer, JSC chairman, stated:

> While the US does not plan to compete with the USSR and PRC in number of military personnel, US ground forces, both active and reserve, must be equipped with modern weapons and maintained at a high state of combat effectiveness so that they can be moved overseas in a relatively short period of time. Moreover, because of the decreasing size of our active ground forces, we will have to rely even more than in the past on our Reserve forces, particularly the organized Reserves. Accordingly, we must improve Reserve force readiness by ensuring that the Reserve units are properly manned, equipped, and trained. This will not only require more funds, but also Congressional approval of the new Reserve personnel legislative proposals reflected in President Nixon's FY 1974 Budget.

Speaking about recruiting, the Secretary of the Army said:

> Our aim in recruiting is to have enough full-time trained recruiters in the Reserve Components to get both the quality and quantity of people needed to man units at authorized strength, although we continue to rely heavily on the units themselves to recruit in their own locale. However, to date our recruiting efforts have not produced the required numbers. More is needed. Proposed legislation to provide economic incentives such as enlistment/reenlistment bonuses, Educational Benefits, and Servicemen's Group Life Insurance are considered high priority items that are strongly supported by the Army. I hope that such legislation will be enacted soon. It will help.

General Abrams, Army Chief of Staff, stated, before the same committee in March of this year:

> Turning now to the Reserve Components, I can report that these vital elements of our military power are well aware of their essential mission, and they are making every effort to meet the stated goals. However, as is the case in the Active Army, recruiting and retention of personnel pose a major challenge for the future. The Army National Guard is approximately 12,800 people short, while the Army Reserve is short close to 26,700 of its mandated strength. Our on-going recruiting efforts have produced encouraging upward trends, and the hire of Guard and Reserve recruiter technicians should result in even better progress. However, your help is needed to provide visible incentives such as bonuses and insurance. Such incentives are essential if we are to maintain the required strength of the Reserve Components in an all-volunteer environment.

In response to a letter from our distinguished colleague, O. C. Fisher, the present Secretary of Defense, Mr. Schlesinger, said in part:

> I shall also expect, in addition to those designated as having a Reserve responsibility, that all members of my staff and the military departments will actively contribute to the development of Reserve Forces capable of being the initial and primary augmentation of the Active Forces in wartime.

This response was dated August 23 of this year.

How can responsible people forget so quickly or are they all talking with tongues in their collective cheeks? Or are they talking with forked tongue?

As I stated earlier a buildup of Reserve Forces would appear to be critically needed. Although in the spring Army officials were asking for immediate action on a bonus for enlistment and reenlistment, DOD took the view, and it was stated in public hearing in the Senate only last week, that due to improvements in the situation they would not ask for any substantial new incentives for the Reserve components at this time. It is true there are some strength improvements but a look at the record shows how few new enlistments are coming into the system, and the record clearly indicates that such legislation is needed now. Although prior service people are welcome you cannot run an Army with all chiefs and no Indians. New blood is required to achieve the proper balance. I strongly urge that we ask the Secretary of Defense to have the Reserve component chiefs from all the services to appear before the House Armed Services Committee and state their requirements to attain and maintain their strength goals. Although nonprior service enlistments are of paramount importance a reenlistment bonus is also needed to increase retention. It is also highly cost effective.

We keep hearing about the total forces. It appears to me that the Reserve components should share in the pluses that the Active Army enjoys, not just the minuses such as reduction in force and decreases in the budget.

Another question we should ask each of the service departments is "Do they have the proper balance in combat and combat support type units?" Perhaps it is time to add more combat units in the Reserve components due to the extreme cutback of the Active Forces.

I have often heard it stated that about 60 percent of the DOD budget costs are attributable to personnel costs. In these days of an extreme economy pinch, it is clear to me that we can get far more for our money with a larger Reserve. With the last two pay raises, it costs approximately $10,000 to pay, clothe, and feed an active force member for 1 year. Maintaining an Army Reservist or Army Guardsman over the same period is about $2,000.

We have had clearly demonstrated, just within the last few weeks, what a viable, responsive, and motivated Reserve Force can accomplish in a critical war where they are called upon to engage in a fight for their homeland.

It seems to me that it is time to take a good hard look at the Defense Department and ascertain its priorities. My long service with Government, dealing with all aspects of defense questions, has proven to me that the attainment of national security through military preparedness is essential to all our other goals. Without that we can come in second best. Let us strive for a strong Reserve. Only by increasing our Reserve

Forces can we have the bench strength to augment the Active Establishment should the necessity arise.

ON THE SUBJECT OF IMPEACHMENT

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, the most important matter before the House of Representatives today is whether to impeach the President. This issue has been the subject of most of my mail in recent weeks and the subject of passionate debate whenever I meet with constituents. On December 9, I spoke at a well-attended meeting of the New York Civil Liberties Union. The topic was Richard Nixon's impeachment. Similar meetings are being called throughout the country by local ACLU chapters to give those who believe that President Nixon should be impeached an opportunity to press their views on their Congressmen.

I believe it is vital that we move decisively to resolve this issue. The national interest requires resolution. For this reason I am today urging the Judiciary Committee to reconvene immediately after the New Year recess to commence full-scale hearings on impeachment. I am writing to each member of the Judiciary Committee to express my strong feelings and those of my constituents that action must be taken immediately. I shall urge the members of the Judiciary Committee to hold hearings promptly and to set a goal of reporting their findings and recommendations to the full House by February 28, 1974.

I am taking this action, because I believe there has been regrettable delay in moving forward with the impeachment process since October when more than 100 of our colleagues, including myself, sponsored resolutions to initiate impeachment proceedings. However, I do not believe—as do some—that impeachment should be voted upon without a prior hearing by the Judiciary Committee, in which evidence is presented under oath and the President has the opportunity to defend himself.

There are several reasons why I believe such hearings to be essential. Impeachment of a President is an extraordinary event. It must not be undertaken recklessly. We must not let the passions of the moment provoke an act that may be regretted in history's more demanding perspective. Our system has always made a distinction between a trial under conditions of due process and "trial by the press." Although the impeachment process is not a judicial trial, it is a solemn determination by the Nation's legislature and must accord with prevailing standards of civil liberties. An ordinary criminal facing serious charges has the right under our system to grand jury indictment and other pretrial safeguards. The President should not be denied similar fundamental elements of fair procedure.

Proper procedural safeguards are also necessary to demonstrate to the public and to the world that impeachment is not—and will not in the future become—a tool of partisan politics. Impeachment must never become a substitute for the electoral process. As a Democrat who believes, on the basis of available information, that President Nixon has committed impeachable acts, I nevertheless believe deeply that he be accorded every measure of due process which our system extends to those accused of crimes—and I shall base my vote on the evidence presented to, and under the procedures established by, the House of Representatives.

It would be far better if the President recognized the corrosion of confidence and the inability of his administration to govern effectively, if he recognized the toll of each new revelation of abuse on the public's forbearance and confidence in our Government, if he recognized that the good of the country demands his resignation. But the Congress cannot sit back and wait for the President to resign. We have the constitutional responsibility—as well as the authority—to determine whether a President has committed high crimes and misdemeanors and to remove him from office if it is so determined. We cannot avoid this responsibility, and the future effectiveness of the Congress will be colored by how we respond to this challenge. If we fail to deal with this question promptly, with fair and effective procedures, and with dispassionate motives, we shall have failed the Nation at a time of peril and each of us shall have failed in his or her responsibility to "uphold and defend the Constitution."

Our Nation's history shows that the tenor of national leadership affects the moral tone of all segments of society. While we cannot place full responsibility on the Nixon administration for the breakdown of moral fiber in this country, the impact on the public of the unlawful and unethical activities of our Chief Executive and those around him cannot be underestimated. In the public confusion and outrage that have followed the revelations of the past year, an attitude of callousness and cynicism has emerged in our citizenry that will not easily be removed. A "return to normalcy" will not come overnight, but we must begin to restore confidence and respect—and, Mr. Speaker, leadership in this effort should be made here in the House of Representatives through the impeachment process.

The confirmation of GERALD FORD as Vice President removes the concern of some over who would succeed Richard Nixon if he were to be impeached. Now we must remove the unsettling uncertainty of not knowing whether or not Richard Nixon will serve out his term of office. I, therefore, urge the Judiciary Committee to act promptly on the question of impeachment, and to present its findings and recommendations to the full House by February 28, 1974.

THE FAR LEFT AND THE FAR RIGHT: REVERSE SIDES OF THE SAME COIN

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, the calumnies against the Jews on the part of those on the far left and the far right grow more strident every day. But, this comes as no surprise to those who have always recognized that the far left and the far right are reverse sides of the same coin.

The other day I read an article which reported that the Soviet Union is stirring up anti-Jewish feelings among its public to distract their attention from the monumental problems facing that society. From time immemorial, rulers in the Soviet Union and other countries have attempted to make Jews the scapegoat for their societies' difficulties. The Soviet Union seeks to camouflage its anti-Semitism by using the euphemism "Zionism" as the object of its criticism and so now we have the official Soviet press agency, Tass, asserting that there is "deliberate anti-American and openly subversive activity of the Zionist lobby" in the United States. The statement of Tass went on with even viler canards. Now the Soviet Union's anti-Semitism campaign has gained an ally in Father Daniel Berrigan, S.J. Father Berrigan recently addressed the Association of Arab University Graduates and said the following in describing Israel as "a criminal Jewish community" and a "nightmare," that manufactures human waste. "The coinage of Israel is stamped with the imperialist faces whose favor she has courted; the creation of an elite of millionaires, generals, and entrepreneurs."

These comments are reminiscent of those of Father Charles Coughlin, whose philosophy lay on the far right of the ideological spectrum. Both have used anti-Semitism to advance what they believe to be social justice. It is sad that such detractors of human decency should command such a large following of very good people who in their desire to right wrongs and improve social conditions, listen only to selected rhetoric of these leaders and fail to examine their basic philosophies.

Just as it is absurd to give any economic assistance to the Soviet Union without demanding any changes in its repressive policies against its own people, it is absurd to award Father Daniel Berrigan the Gandhi Peace Award for antiwar activities. Those interested in justice for all should look at the whole state and the whole man before they make such decisions.

FREEDOM FOR GREECE

(Mr. MADDEN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MADDEN. Mr. Speaker, George Anastaplo, professor, lecturer, author, and former citizen of Greece, is a recognized leader of forces dedicated to win freedom and self-government for his native homeland.

The following communication to the editors of Greek publications is a factual and brief recommendation for a practical solution which he recommends to free the Greek people from tyranny:

The Karamanlis Solution for Greece

To the Editor:

The crisis which has toppled the bloody Papadopoulos dictatorship in Athens cannot be resolved, or even smothered, by recourse to still another military strongman, especially one with so much experience in torture. This crisis is rooted in the incompetence and arrogance of colonels who cannot be expected to handle intelligently the complex social and economic problems of Greece. Such usurpers cannot enlist the necessary services and good will of the better professionals, politicians and military officers of that country for the great work of reconciliation and austerity which Greece so desperately needs.

The shortsighted role played by our government since the colonels first took over in 1967 has already (and perhaps even permanently) compromised, in the eyes of the resentful Greek people, our legitimate interests in that country and hence in the Middle East. Among our mistakes of the past six years have been that of publicly backing the wrong man in Greece. I have found, in my visits at the State Departament and the Pentagon during this period, that our leaders have been remarkably unequipped to consider seriously the long-range consequences of the policies they were pursuing.

We should, before still another dictator becomes consolidated in Athens, try to redeem somewhat our good name by using our remaining influence in Greece and NATO to help the Greek people recover control of their own affairs. This can best be done, it seems to me, by vigorously encouraging the colonels to step aside for Constantine Karamanlis, the man whose prestige as a former conservative prime minister still recommends him to the Greek people as the best way to avoid the even bloodier crises which now threaten their country.

Greece may be the only country in the world today where the genuine popular alternative to domestic tyranny is so moderate and so experienced a politician as Mr. Karamanlis. What more can the Greeks or the United States hope for? Dare we or they risk further deterioration in Greece and in American-Greek relations? Everyone should realize by now that phony constitutions and fake elections cannot work in Greece today.

George Anastaplo,
Lecturer in the Liberal Arts, The University of Chicago; Professor of Political Science, Rosary College.

SENATOR HENRY JACKSON ON ENERGY CRISIS

(Mr. MADDEN asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. MADDEN. Mr. Speaker, on last Saturday evening, U.S. Senator Henry Jackson was the guest speaker to a mass meeting sponsored by the Young Democrats of Lake County, Ind. This was the largest gathering of Young Democrats in the history of northwest Indiana. His analysis of the deplorable economic situation of our Nation was factual and well received by the No. 1 industrial region in the United States—the Calumet district of the Hoosier State.

In the Sunday edition of the Gary Post Tribune, the newspaper's bureau chief, Guy Slaughter has outlined the Senator's analysis of our domestic and international problem.

Mr. Speaker, I include the following article from the Gary, (Ind.) Post Tribune:

Senator Jackson: Need Crash Research to Solve Energy Crisis

(By Guy Slaughter)

Merrillville.—An unannounced but obviously working candidate for the U.S. presidency said here Saturday night America's energy crisis could be solved by a crash research program coupled with able administration and a quick exploitation of domestic oil deposits.

U.S. Sen. Henry "Scoop" Jackson, D-Washington, speaking at a press conference preceding a Democratic fund-raising dinner here, told what he would do to solve the energy crunch if he were president.

Tacking a 50-cent tax on each gallon of gasoline won't help the oil shortage, Jackson said.

Instead of cutting consumption, it would merely bite into the wallet of the "little fellow," and add financial hardship to gasoline deficiencies, he said.

Sharing the news conference with U.S. Sen. Vance Hartke of Indiana, Floyd Fithian of Lafayette, a candidate for Democratic nomination as Indiana's 2nd District Congressman, and U.S. Rep. Ray Madden, D-Gary, Jackson blamed the energy crunch on "all past administrations" for a policy of dependency upon oil imports.

But the present administration, he said, must carry the major share of the blame for "Its failure to foresee what was happening" and for allowing "rising prices and rising profits" in the oil industry to overshadow the national welfare.

If he had won the presidency he tried for in 1972 and were now in office, Sen. Jackson told The Post-Tribune, his first acts would be to:

Launch a crash research program to discover how to burn America's abundant coal and shale oil resources without polluting the atmosphere with sulphur products, thus utilizing vast untapped deposits of coal and shale oil to produce "clean" energy for centuries to come.

Push studies of solar energy and atomic fission as sources of heat, light and power.

Tap naval reserve oil supplies that are adequate to head off further declines in energy materials.

Exploit untapped oil fields in Alaska and off-shore areas whose productive capacity could end the shortages.

Overhaul national policy to utilize foreign oil supplies in the short run and end dependency on those supplies in the long run.

He hopes to see increased emphasis on federal subsidy money plowed into mass transportation systems to help alleviate gasoline shortages, Sen. Jackson said.

And he called the energy shortage the "biggest issue and the greatest problem" facing the American public now and for a decade or more to come.

"It could put millions out of work with its impact on steel, aluminum, copper and allied industries," he said.

"The government must intervene in this situation if we are to avoid a serious economic crisis," Jackson said, adding that he regards energy czar William Simon as one "Who will do everything he can to protect jobs; I don't always agree with him, but I respect him."

Earlier, Sen. Hartke said one complicating factor in the energy crisis is what he called "hoarding," which, he said, he hopes to control through legislation.

His bill, Hartke said, will call for volunteered inventories of all oil-products storage, with those holding supplies that won't be used up within 30 days ineligible to procure more.

"Storage facilities throughout the country are loaded with gas and oil," he asserted. "And nobody actually knows how much we have in this nation."

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Young of Alaska (at the request of Mr. Rhodes), on account of death in family.

Mr. Eshleman (at the request of Mr. Rhodes), for today, on account of the weather.

Mr. Moss. for the period December 20, from 3:30 p.m., through the period December 31, 1973, on account of official business.

Mr. Brasco (at the request of Mr. O'Neill), for today, on account of weather conditions.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Thone) and to revise and extend their remarks and include extraneous matter:)

Mr. Esch, for 15 minutes, on December 18.

Mr. Kemp, for 15 minutes, today.

Mr. Ashbrook, for 60 minutes, today.

Mr. Fish, for 60 minutes, on December 18.

Mr. Steele, for 15 minutes, today.

(The following Members (at the request of Mr. Mezvinsky) and to revise and extend their remarks and include extraneous matter:)

Mr. Matsunaga, for 10 minutes, today.

Mr. Hamilton, for 15 minutes, today.

Mr. Gonzalez, for 5 minutes, today.

Mr. Dulski, for 15 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Madden, and to include extraneous matter:

(The following Members (at the request of Mr. Thone) and to include extraneous material:)

Mr. Wyman in two instances.

Mr. Kemp in two instances.

Mr. Steiger of Wisconsin.

Mr. Ashbrook in three instances.

Mr. Young of Illinois in two instances.

Mr. Derwinski in three instances.

Mr. Collins of Texas in three instances.

Mr. Bray in three instances.

Mr. Mathias of California.

Mr. Miller in six instances.

Mr. Rousselot in two instances.

(The following Members (at the request of Mr. Mezvinsky) and to include extraneous matter:)

Mr. Karth in three instances.

Mr. Rangel in 10 instances.

Mr. Moss.

Mr. Wolff.

Mr. Annunzio in six instances.

Mr. Helstoski in 10 instances.

Mr. Roe in three instances.

Mr. Gonzalez in three instances.

Mr. Rarick in three instances.

Mr. Nix.

Mr. McCormack.

Mr. O'Neill.

Mr. Dan Daniel in two instances.

Mr. Mazzoli.

Mr. Andrews of North Carolina.

Mr. Pickle in 10 instances.

Mr. Brown of California in 10 instances.

Mr. Harrington in three instances.

Mr. Symington.

SENATE BILLS AND A JOINT RESOLUTION REFERRED

Bills and a joint resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1561. An act to provide that Mansfield Lake, Indiana, shall be known as "Cecil M. Harden Lake"; to the Committee on Public Works.

S. 2150. An act to amend Public Law 92-181 (85 Stat. 583) relating to credit eligibility for public utility cooperatives serving producers of food, fiber, and other agricultural product; to the Committee of Agriculture.

S. 2176. An act to provide for a national fuels and energy conservation policy, to establish an Office of Energy Conservation in the Department of the Interior, and for other purposes; to the Committee on Interstate and Foreign Commerce.

S. 2509. An act to name structure S-5A of the Central and Southern Florida Flood Control District, located in Palm Beach County, Florida, as the "W. Turner Wallis Pumping Station" in memory of the late W. Turner Wallis, the first secretary-treasurer and chief engineer for the Central and Southern Florida Flood Control District; to the Committee on Public Works.

S. 2535. An act to designate the Chartiers Creek flood protection project in Allegheny County, Pa., as the "James G. Fulton flood protection project"; to the Committee on Public Works.

S. 2795. An act to authorize the Secretary of the Treasury to change the alloy and weight of the 1 cent piece; to the Committee on Banking and Currency.

S. 2812. An act to authorize a formula for the allocation of funds authorized for fiscal year 1975 for sewage treatment construction grants, and for other purposes; to the Committee on Public Works.

S.J. Res. 159. Joint resolution to provide for the designation of the last Sunday in May of each year as "Walk a Mile for Your Health" Day; to the Committee on the Judiciary.

SENATE ENROLLED BILL AND JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to an enrolled bill and a joint resolution of the Senate of the following titles:

S. 1776. An act to amend the Federal Water Control Act, as amended; and

S.J. Res. 180. A joint resolution relative to the convening of the second session of the 93d Congress.

ENROLLED BILL SIGNED

Mr. HAYS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 3180. An act to amend title 39, United States Code, to clarify the proper use of the franking privilege by Members of Congress, and for other purposes.

BILLS PRESENTED TO THE PRESIDENT

Mr. HAYS, from the Committee on House Administration, reported that that committee did on December 15, 1973, present to the President, for his approval, bills of the House of the following title:

H.R. 3490. To amend section 40(b) of the Bankruptcy Act (11 U.S.C. 68(b)) to remove the restriction on change of salary of full-time referee; and

H.R. 11324. To provide for daylight saving time on a year-round basis for a 2-year trial period, and to require the Federal Communications Commission to permit certain day-time broadcast stations to operate before local sunrise.

ADJOURNMENT

Mr. MEZVINSKY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock p.m.), the House adjourned until tomorrow, Tuesday, December 18, 1973, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1635. A letter from the Deputy Director, Office of Management and Budget, Executive Office of the President, transmitting a report that the appropriations to the General Services Administration for "Public buildings service, operating expenses," "Repair and improvement of public buildings," and "National archives and records service" for fiscal year 1974, have been apportioned on a basis which indicates the necessity for supplemental estimates of appropriation, pursuant to 31 U.S.C. 665; to the Committee on Appropriations.

1636. A letter from the Executive Director, Federal Communications Commission, transmitting a report on the backlog of pending applications and hearing cases in the Commission as of October 31, 1973, pursuant to section 5(e) of the Communications Act, as amended; to the Committee on Interstate and Foreign Commerce.

1637. A letter from the Chairman, Federal Power Commission, transmitting a copy of the publication entitled "Regulations to Govern the Preservation of Records of Natural Gas Companies, January 1, 1972"; to the Committee on Interstate and Foreign Commerce.

1638. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting reports concerning visa petitions approved according certain beneficiaries third and sixth preference classification, pursuant to section 204 (d) of the Immigration and Nationality Act, as amended [8 U.S.C. 1154(d)]; to the Committee on the Judiciary.

1639. A letter from the Chairman of the Board of Governors, U.S. Postal Service, transmitting the annual report of the Postmaster General for fiscal year 1973; to the Committee on Post Office and Civil Service.

1640. A letter from the Secretary of the Army, transmitting a letter from the Chief of Engineers, Department of the Army, submitting a report on St. Joseph River Basin, Mich. and Ind.; to the Committee on Public Works.

Received From the Comptroller General

1641. A letter from the Comptroller General of the United States, transmitting a list of reports issued or released by the General Accounting Office during November 1973, pursuant to 31 U.S.C. 1174; to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MAHON: Committee of conference. Conference report on H.R. 11576 (Rept. No. 93-736). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ARENDS:

H.R. 11985. A bill to authorize the establishment of the Washington Square National Historic Site in the State of Illinois, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. HICKS (for himself, Mr. Addabbo, Mr. Badillo, Mr. Burgener, Mrs. Chisholm, Mr. Clay, Mrs. Collins of Illinois, Mr. Cronin, Mr. Dominick V. Daniels, Mr. Denholm, Mr. Derwinski, Mr. Eilberg, Mr. Harrington, Mr. Hawkins, Mr. Helstoski, Mr. Lehman, Mr. Litton, Mr. Long of Maryland, Mr. Mazzoli, Mr. Mitchell of Maryland, Mr. Moakley, Mr. Murphy of Illinois, Mr. Podell, Mr. Robison of New York, and Mr. Roe):

H.R. 11986. A bill to amend the Civil Rights Act of 1964 to make it an unlawful employment practice to discriminate against individuals who are physically handicapped because of such handicap; to the Committee on Education and Labor.

By Mr. HICKS (for himself, Mr. Roncallo of New York, Mr. Rosenthal, Mr. Sarbanes, Mrs. Schroeder, Mr. Stark, Mr. Thone, Mr. Vanik, Mr. Winn, Mr. Won Pat, and Mr. Yatron):

H.R. 11987. A bill to amend the Civil Rights Act of 1964 to make it an unlawful employment practice to discriminate against individuals who are physically handicapped because of such handicap; to the Committee on Education and Labor.

By Mr. KARTH:

H.R. 11988. A bill to amend the Internal Revenue Code of 1954 with respect to the inclusion in gross income of, and the deduction allowed for, certain moving expenses of members of the Armed Forces; to the Committee on Ways and Means.

By Mr. TEAGUE of Texas (for himself, Mr. Mosher, Mr. Davis of Georgia, Mr. Hechler of West Virginia, Mr. Bell, Mr. Wydler, Mr. Downing, Mr. Winn, Mr. Fuqua, Mr. Frey, Mr. Symington, Mr. Goldwater, Mr. Hanna, Mr. Esch, Mr. Flowers, Mr. Camp, Mr. Roe, Mr. Cotter, Mr. Parris, Mr. McCormack, Mr. Cronin, Mr. Bergland, Mr. Martin of North Carolina, Mr. Pickle, and Mr. Ketchum):

H.R. 11989. A bill to enhance the public health and safety by reducing the human and material losses resulting from fires through better fire prevention and control, and for other purposes; to the Committee on Science and Astronautics.

By Mr. TEAGUE of Texas (for himself, Mr. Mosher, Mr. Davis of Georgia, Mr. Conlan, Mr. Brown of California, Mr. Milford, Mr. Thornton, Mr. Gunter, and Mr. Steele):

H.R. 11990. A bill to enhance the public health and safety by reducing the human and material losses resulting from fires through better fire prevention and control, and for other purposes; to the Committee on Science and Astronautics.

By Mr. VAN DEERLIN:

H.R. 11991. A bill to provide for disclosure of certain information by certain persons making charitable solicitations by use of instrumentalities of interstate commerce; to the Committee on Interstate and Foreign Commerce.

By Mr. HAYS:

H. Res. 748. Resolution authorizing payment for a limited period of 1974 and on the same basis as in 1973 of certain House committee expenses before adoption of applicable 1974 committee expense resolutions; to the Committee on House Administration.

By Mr. STEIGER of Wisconsin:

H. Res. 749. Resolution to amend the Rules of the House of Representatives regarding reports of the Committee on Rules repealing or amending any of the House rules; to the Committee on Rules.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

375. By the SPEAKER: Petition of June S. Johnson, Cleveland, Ohio, and others, relative to impeachment of the President; to the Committee on the Judiciary.

376. Also, petition of Horace E. DeLisser, Freeport, N.Y., relative to holding a joint session at the closing of the current session of Congress; to the Committee on Rules.

SENATE—*Tuesday, December 18, 1973*

The Senate met at 11 a.m. and was called to order by the President pro tempore (Mr. Eastland).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal Father, amid the pressures of these busy days in this Chamber, in committee rooms and in offices, we pause to pray that peace may come at last to the land where first was heard the anthem "Peace on earth, among men of good will." May the wise men prevail in the councils of government. Transform soldiers' guns into shepherds' staffs. Lead statesmen in obeisance to Him who is born to the King of Kings and Lord of Lords. Imprint in our lives the eternal truth of Christmas, that love is stronger than hate, right more confident than wrong, good more durable than evil.

Through Jesus Christ our Lord. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, December 17, 1973, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar under new reports.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDENT pro tempore. The nominations on the Executive Calendar, beginning with new reports, will be stated.

DEPARTMENT OF JUSTICE

The second assistant legislative clerk read the nomination of Anthony E. Rozman, of Michigan, to be U.S. marshal for the eastern district of Michigan.

The PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

DEPARTMENT OF STATE

The second assistant legislative clerk proceeded to read sundry nominations in the Department of State.

Mr. MANSFIELD. Mr. President, I am about to ask that these nominations be considered en bloc, but before I do so, I want to say a special word on behalf of Mr. Francis E. Meloy, Jr., of the District of Columbia, who is to be our new Ambassador to Guatemala.

I have known Mr. Meloy for many years. In my opinion, he is one of the outstanding members of the Foreign Service. I am delighted that he is getting this assignment. He should be given consideration for bigger things.

Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

WORLD HEALTH ORGANIZATION

The second assistant legislative clerk read the nomination of Dr. S. Paul Ehrlich, Jr., of Virginia, to be a representative of the United States of America on the Executive Board of the World Health Organization.

The PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

OVERSEAS PRIVATE INVESTMENT CORPORATION

The second assistant legislative clerk read the nomination of David Gregg III, of New York, to be Executive Vice President of the Overseas Private Investment Corporation.

The PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

The second assistant legisative clerk proceeded to read sundry nominations in the Diplomatic and Foreign Service, Air Force, Army, Navy, and Marine Corps which had been placed on the Secretary's desk.

The PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be notified of the confirmation of these nominations.

The PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

There being no objection, the Senate resumed the consideration of legislative business.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The PRESIDENT pro tempore. Without objection, it is so ordered.

POSTPONEMENT OF IMPLEMENTATION OF THE HEADSTART FEE SCHEDULE

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House on H.R. 11441.

The PRESIDENT pro tempore laid before the Senate H.R. 11441, which was read twice by title, as follows:

A bill (H.R. 11441) an act to postpone the implementation of the Headstart fee schedule.

Mr. MANSFIELD. Mr. President, I ask unanimous consent for the immediate consideration of the bill.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Montana?

There being no objection, the Senate proceeded to consider the bill.

Mr. JAVITS. Mr. President, I support Senate adoption of H.R. 11441, a bill to postpone the implementation of the Headstart fee schedule until July 1, 1975.

This bill follows very closely S. 2700, introduced on November 14 by Senator Mondale, and which I cosponsored.

Under the Economic Opportunity Act Amendments of 1972 (Public Law 92–424), the Department of Health, Education, and Welfare was directed to establish a fee schedule to permit persons who are not members of low-income families to participate in the Headstart program, which is designed principally for poor children. Pursuant to that authorization, the Department of Health, Education, and Welfare promulgated a new fee schedule effective during the current fiscal year.

However, experience to date indicates that the fee schedule established by HEW, although generally within legislative authority, is not operating uniformly to achieve original legislative intent.

This arises principally from the fact that HEW, in exercising its discretion under this authority, set fees for nonpoor children, in every case, at or close to the maximum levels permitted by the legislation, thus making it impossible for many nonpoor families to participate.

Mr. President the Headstart fee schedule is creating serious difficulties for nonpoor families whose children have participated or want to participate in the Headstart program. In many communities, the fee schedule is decreasing, rather than increasing, the participation of children other than those from low-income families. In some cases, the cost of administration exceeds the cost of the fees collected.

In New York City the Headstart program, which began in June 1965, is currently serving approximately 6,000 children in 120 centers under the auspices of 68 delegate agencies. The agency for child development of the city of New York has advised me that the fee schedule has created substantial problems.

Because of the very "steep" charges under the fee schedule, many families in New York are unable to continue in the program as their income increases; accordingly, ironically, just as they increase their income through work—which preschool education arrangements permit them to participate in—they are no longer able to afford the services that made that work possible.

Additionally, the high cost of living in New York City—and most great cities—creates a further problem. Moreover, in some cases, even families on welfare will be unable to participate in the Headstart program under the new fee schedule.

Mr. President, at this point, it is not realistic to expect that the Congress can work out new legislation establishing a fee schedule. However, we do expect early next year to consider the continuation of the Headstart program itself, as well as child development legislation generally, and in that context, it should be appropriate to work with the administration toward a more reasonable approach.

Mr. MONDALE. Mr. President, I rise in support of the bill, H.R. 11441, to postpone until July 1, 1975, implementation of the fee schedule for nonpoor children participating in Headstart. I introduced an identical measure (S. 2700) in the Senate on November 14, 1973, on behalf of myself, Senator JAVITS, Senator NELSON, Senator STAFFORD, Senator WILLIAMS, Senator RANDOLPH, Senator KENNEDY, Senator CRANSTON, Senator MONTOYA, Senator HUGHES, Senator HATHAWAY, Senator PELL, Senator SCHWEIKER, Senator BROOKE, and Senator RIBICOFF. Since that time, Senator EAGLETON, Senator DOMENICI, Senator TAFT, Senator BEALL, Senator DOMINICK, and Senator HUMPHREY have joined as cosponsors.

Mr. President, I believe everyone in the Senate will agree that the Headstart program was—and still is—one of the most effective initiatives developed under the Economic Opportunity Act of 1964.

From a tentative and experimental effort in the early years, Headstart has grown to be a solid program backed by parents, paraprofessionals, teachers, and children. In fiscal year 1974, the program is estimated to serve close to 400,000 children, offering them a comprehensive preschool experience.

Headstart includes a range of developmental activities and social services designed to fit individual needs, with a strong emphasis on parental participation. The demonstrated support for Headstart has been a powerful factor in encouraging public school systems to begin their own early childhood education efforts, to begin kindergartens where none existed before, and to draw parents into school activities that build upon the parents' earlier experience.

The widespread and largely unmet demand for programs like Headstart has been one of the many causes which led me and many other Senators to press for comprehensive child development and family services legislation in 1971 and 1972, and is one of the principal reasons I will be reintroducing child development and family services legislation in the near future.

Mr. President, the fee schedule in question was originally developed as a compromise to gain administration support for the Comprehensive Child Development Act of 1971, which was vetoed by the President. Authority for the same fee schedule was then added to the Economic Opportunity Amendments of 1972, apparently in the belief that it would encourage greater participation of nonpoor children in Headstart programs.

The fee schedule was to be based on the ability of a nonpoor family to pay, and a specific level of income—$4,320 per year for a family of four—was set as the dividing line between poor families and nonpoor.

The Department of Health, Education, and Welfare, in exercising its discretion under this authority, set fees for nonpoor children at or very close to the maximum levels permitted by this legislation. The proposed fee schedule, released for comment on March 7, 1973, drew a number of negative reactions as to the low cutoff point or income level at which a fee was to be charged, and the rapid rise in fees at higher income levels. Nevertheless, these comments were all ignored by HEW, and the same schedule was published as a final version on April 16, 1973. The fee schedule was implemented beginning on August 10, 1973.

Since that time the results have been very disturbing. The reports I receive from my own State of Minnesota and from numerous localities throughout the Nation indicate that this fee schedule is causing serious problems for both the many families whose children have participated in Headstart or want to participate, and for the Headstart program itself.

By the high fee it imposes on them, the plan is deterring many families of moderate means from participating in Headstart. At the same time, the plan slaps a troublesome smaller fee on families with incomes around $4,500, who had been enrolling their children in Head Start without charge. Many of these families are quickly becoming alienated from the program, and from those of their neighbors who, having a few dollars less income, pay nothing for their children's Headstart.

There are strong indications that nonpoor parents whose children were previously eligible for the program are now hesitant to enroll their children in Headstart because of a fee which they consider to be exorbitant. Consequently, in some areas there has been an estimated 50 percent drop off in the enrollment of children from nonpoor families. At this point, parental income, and not the child's needs, becomes the prime determinant in program enrollment, a situation which runs directly counter to the goals of Headstart.

Rather than encouraging the participation of nonpoor children in the Headstart program, this fee schedule appears to be decreasing nonpoor participation.

Rather than raising additional funds which could be used to expand Head Start programs, preliminary evidence from the Office of Child Development indicates that the cost of administering the fee schedule has proven to be greater than the fees collected. The fee schedule plan is so complex to administer that it seems to be forcing Headstart staff to divert precious time and energy away from the children to filling out forms, making fee reminders, verifying income data, and so on. Because of the difficulties they have encountered, it has been reported that several Headstart units have entirely abandoned their efforts to collect the fees.

The objective of the fee schedule to create extra funding for local Headstart projects is clearly not being achieved. Indeed, by forcing lower income families who are nonetheless above the stated poverty line to remove their children from the program, the current application of the fee schedule seems to be counter-productive.

Mr. President, I have received large numbers of letters describing the detrimental impact of this fee schedule. They describe how the fee schedule erodes community support for Headstart; how bitterness builds within communities and within parent boards at Headstart centers when children of low-income families are treated differently from those of families whose income is only slightly higher; how volunteers with moderate incomes are much less willing to donate their time and energy to the program when they find that they must also pay for their child's attendance; and how many children will be forced out of the program after only 1 year if their parents' incomes rise even briefly.

Furthermore, this fee schedule causes special problems for families with handicapped children at the very moment that increased involvement of handicapped children in Headstart programs is required by law. It may also mean that Indian children are forced to stop attending what is often the only bilingual center in their area.

Mr. President, the House overwhelmingly passed this legislation on December 3, 1973.

It is important to note the intention expressed in the report on this bill by the Committee on Education and Labor with regard to the collection of fees:

> The Committee feels that the Office of Child Development should cease any further activities with regard to collecting fees that may have been assessed while the fee schedule was in effect.

I am sure, Mr. President, that this statement also reflects the sentiment of the Senate as we consider this bill.

I urge passage of this bill so that we can end the confusion and difficulties the fee schedule is now creating for families and Headstart programs across the country.

The bill (H.R. 11441) was ordered to a third reading, was read the third time and passed.

AMENDMENT OF TITLE 18, UNITED STATES CODE, TO EXTEND LIMITS OF CONFINEMENT OF FEDERAL PRISONERS

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 7352.

The **PRESIDENT** pro tempore laid before the Senate the following message:

> *Resolved*, That the House disagreed to the amendment of the Senate to the bill (H.R. 7352) entitled "An act to amend section 4082 (c) of title 18, United States Code, to extend the limits of confinement of Federal prisoners."

Mr. BURDICK. Mr. President, the legislation before the Senate, H.R. 7352, would broaden the authority of the U.S. Bureau of Prisons to give furloughs to Federal prisoners for reasons that are related to their rehabilitation.

In recent years correctional authorities have become increasingly aware of the need to utilize community resources in the rehabilitation of offenders. Correctional research indicates that a major cause of criminal recidivism is the inability of released offenders to readjust to life in the community. Many released offenders return to lives of crime and the vicious treadmill of recidivism, because they feel alienated from and unprepared for, the stresses and responsibilities of community living.

Unfortunately, it is difficult to deal with an individual's community living problems in an institutional setting. Correctional administrators, aware of the limitations of the prison environment, have been seeking to develop new programs utilizing community resources. This community-oriented approach to institutional corrections has two basic objectives: The maintenance and reinforcement of the offender's family and community ties during the period of his incarceration and the development of graduated release procedures which help ease the transition from confinement to life in the community.. This bill, H.R. 7352, would provide the Federal Bureau of Prisons with a valuable community reintegration tool, expanded furlough authority, which is necessary to achieve these goals.

Of course, furloughs are not appropriate for every offender. Some offenders simply cannot be controlled outside of an institutional setting and can or will not make a satisfactory adjustment in the community. However, we must also realize that more than 98 percent of all offenders sentenced to prisons will eventually return to society. This legislation provides for the full utilization of community resources in the rehabilitation process. It will maximize the released offender's chances for a successful and permanent return to society. I believe that it is important for the Federal Bureau of Prisons to establish a balanced corrections system that combines the best of what institutional and community based programs have to offer.

In 1965, Congress recognized the need for community corrections and passed the Prisoner Rehabilitation Act, section 4082 of title 18, United States Code. This legislation, which enabled the Federal Bureau of Prisons to implement work and study release programs for offenders, provided authority for a limited furlough program. Under the provisions of section 4082, offenders can be granted leave from their place of confinement for the purpose of visiting a dying relative, attendance at a funeral of a relative, obtaining medical services not otherwise available, contacting a prospective employer, or for other compelling reasons. The legislative history makes it clear, however, that furloughs were to be granted principally for emergencies specifically set out in the act. H.R. 7352 would broaden the provisions of section 4082 to allow furloughs for the purpose of creating and restoring family and community ties and for any other significant reason consistent with the public interest.

Constructive family relationships play an important role in the overall favorable adjustment of offenders. Correctional researchers have long been aware that inmates who maintain strong family ties during incarceration are more successful on release than those offenders without such ties. This legislation would allow inmates the opportunity to participate in special religious holidays and many other important family functions that can be so critical in changing attitudes and developing positive behavior.

The bill, H.R. 7352, would also permit the use of furloughs to help ease the transition from confinement to life in the community. Graduated release reduces the trauma of this transition by allowing the offender to deal with his many postrelease problems in manageable steps. Furlough release provides an excellent setting for meaningful correctional counseling. In prison, the offender's activities are severely restricted and he is often unable to utilize counseling which he receives concerning how to act in the community. Furloughs, on the other hand, offer an invaluable opportunity for correctional staff to give practical advice which the inmate can immediately use and evaluate. In this way, the offender develops a genuine sense of obligation for practical advice and services received and the correctional staff is permitted to assess the offender's rehabilitation progress under actual stresses of life.

The Subcommittee on National Penitentiaries conducted hearings on this legislation on June 13, 1973. At that time, testimony was received from Norman Carlson, Director of the Federal Bureau of Prisons, concerning the Bureau's ability to administer community programs without creating additional risks to the safety of the community. Under present Bureau policy, inmate requests for participation in community programs are carefully reviewed on an individual basis. Only those individuals who are not dangerous, who are likely to live up to the trust placed in them, and who need the kinds of help community resources can provide, are allowed to participate in community release. As evidence of the effectiveness of their screening techniques, Director Carlson reported that in 1972 some 4,126 furloughs were approved and less than 1 percent failed to return to their institutions.

Expanded furlough authority as provided by H.R. 7352 is clearly warranted. The Federal Bureau of Prisons needs these additional community reintegration options to effectively reduce recidivism. The Bureau has developed sufficient experience in the area of furlough release to minimize potential risks to community safety. It is time for Congress to act; we must provide the Federal Bureau of Prisons with a balanced and effective correctional system which fully employs both institutional and community resources in the rehabilitation of offenders.

Mr. HRUSKA. Mr. President, I want to express my support of H.R. 7352 which is designed to give Federal prison officials greater latitude in temporarily releasing inmates from confinement in order that the inmates may better pave the way for their return to the community.

On May 1 of this year I introduced an identical bill, S. 1678, on behalf of myself and the distinguished chairman of the Penitentiaries Subcommittee, Mr. BURDICK. H.R. 7352 was favorably reported by the Committee on the Judiciary on October 4 in lieu of action on S. 1678.

H.R. 7352 was amended on the Senate floor by the distinguished majority leader, Senator MANSFIELD, to include the substance of the so-called victims of crime bill and passed the Senate on October 8 in this amended version.

The Senate amendment to H.R. 7352 was disagreed to by the House yesterday and the bill was returned to this body. It is my view that the House acted responsibly in this respect and I urge my colleagues to support H.R. 7352 in the form currently before the Senate.

I would like to take this opportunity to make a few comments about this legislation.

H.R. 7352 would amend subsection (c) of the Prisoner Rehabilitation Act of 1965 (18 U.S.C. 4082) which now provides for temporary release for up to 30 days for certain limited purposes, such as family or medical emergencies, contacting prospective employers, or for any other "compelling reason consistent with the public interest."

The bill would expand the provisions of subsection (c) by permitting prison officials to release inmates temporarily for the additional purpose of reestablishing family and community ties. Furthermore, inmates could be released for any other significant reason "consistent with the public interest," rather than only for "compelling reasons."

Hearings were held on S. 1678, the identical Senate bill, by the Penitentiaries Subcommittee on June 13, 1973. Among the distinguished list of witnesses were both the present and former Directors of the Bureau of Prisons.

It has become apparent in recent years that the rehabilitation of criminals requires the use of methods other than incarceration. Probation, parole, work release and furlough are examples of the new community-oriented approach to rehabilitation which has been developed to better prepare the offender for release and reduce the serious problem of recidivism. The Department of Justice believes these programs have been very useful in assisting Federal prisoners and supports the subject bill.

Norman A. Carlson, the present Director of the Bureau of Prisons, testified that this legislation would give the Bureau greater flexibility in utilizing community resources and programs for offenders. Additionally, a more liberal furlough rule would have the effect of making the transition from institution to the community less difficult in certain carefully chosen cases.

I think my colleagues will agree that it is very important in the rehabilitation process for the offender to be prepared to resume a meaningful life within his community after he has served his sentence. It is also important that members of the community be prepared for his return.

The maintenance of constructive family relationships can play a very important role in the process of adjustment from prison life. The report accompanying this bill indicates that correctional researchers have long been aware that inmates who maintain strong family ties during incarceration are more successful on release than those without such ties.

This legislation would permit inmates the opportunity to participate in special religious holidays and many other important family and community functions that can be so critical in changing attitudes and developing positive behavior. Since present authority does not permit temporary release to maintain and rebuild these relationships and ties, there is an obvious need for the legislation.

Director Carson indicated that the Bureau of Prisons would be able to administer the new furlough authority without creating additional risks to the community safety. Release would be permitted only in selected cases where inmates have demonstrated their trustworthiness.

Furloughs and other correctional tools, such as work and study release, have been used extensively in the past few years with an exceptionally good record of performance. For example, in fiscal 1972, 4,126 furloughs were approved and less than 1 percent of the inmates failed to return to their institutions.

Both Director Carlson and former Director James V. Bennett emphasized that the increased use of furloughs will have a significant impact on recidivism. I am sure that my colleagues will agree that any useful correctional program must be aimed at reducing the number of persons who repeatedly come into contact with the criminal justice system. Our Federal prisons should not be revolving doors. A reduction in recidivism will be of great benefit not only to the individual offender, but to society in general.

Within the rehabilitation process, the maintenance of stable ties with family, community, and employment are of extreme import. The essence of this legislation is to improve the chance of an offender maintaining these ties during a period of incarceration. Therefore, I urge my colleagues to give H.R. 7352 their support.

Mr. MANSFIELD. Mr. President, I move that the Senate recede from its amendment.

The motion was agreed to.

IMPLEMENTATION OF SHRIMP FISHING AGREEMENT WITH BRAZIL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 607, H.R. 8529.

There being no objection the Senate proceeded to consider the bill (H.R. 8529) to implement the shrimp fishing agreement with Brazil, which had been reported from the Committee on Commerce with an amendment, beginning with page 18, to insert the following new section:

SEC. 15. Subsections (a) and (b) of section 5 of the Act of May 20, 1964 (78 Stat. 196), are amended to read as follows:

"(a) As used in this Act, the term 'Continental Shelf fishery resource' means living organisms belonging to sedentary species; that is to say, organisms which, at the harvestable stage, either are immobile on or under the seabed or are unable to move except in constant physical contact with the seabed or the subsoil of the Continental Shelf, including the following species:

"CRUSTACEA

"Tanner Crab—Chonoecetes tanneri;
"Tanner Crab—Chionoecetes opilio;
"Tanner Crab—Chionoecetes angulatus;
"Tanner Crab—Chionoecetes bairdi;
"King Crab—Paralithodes camtschatica;
"King Crab—Paralithodes platypus;
"King Crab—Paralithodes brevipes;
"Stone Crab—Menippe mercenaria;
"Lobster—Homarus Americanus;
"Dungeness Crab—Cancer magister;
"California King Crab—Paralithodes californiensis;
"Golden King Crab—Lithodes aequispinus;
"Northern Stone Crab—Lithodes maia;
"Stone Crab—Menippe mercenaria; and
"Deep-sea Red Crab—Ceryon quinquedens.

"MOLLUSKS

"Red Abalone—Haliotis rufescens;
"Pink Abalone—Haliotis corrugata;
"Japanese Abalone—Haliotis kamtschatkana;
"Queen Conch—Strombus gigas;
"Surf Clam—Spisula solidissima; and
"Ocean Quahog—Artica islandica.

"SPONGES

"Glove Sponge—Hippiospongia canaliculata;
"Sheepswool Sponge—Hippiospongia lachne;
"Grass Sponge—Spongia graminea;
"Yellow Sponge—Spongia bargera.

"(b) The Secretary of Commerce, in consultation with the Secretary of State, is authorized to publish in the Federal Register additional species of living organisms covered by the provisions of subsection (a) of this section."

The committee amendment was agreed to.

Mr. MANSFIELD. Mr. President, I submit a technical amendment to H.R. 8529 and ask that it be stated.

The PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

On page 17, line 18, amend Sec. 13 to read as follows:

"SEC. 13. The provisions of this Act, except Section 15, shall expire June 15, 1975."

The PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that a letter from the distinguished Senator from Washington (Mr. MAGNUSON), chairman of the Committee on Commerce, be printed in the RECORD prior to the passage of the bill.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., December 17, 1973.

Re Senate Consideration of H.R. 8529.

Hon. MIKE MANSFIELD,
Senate Majority Leader, U.S. Senate, Russell Senate Office Building, Washington, D.C.

DEAR MR. LEADER: On December 14, 1973, Senator Ernest F. Hollings, Chairman of the Senate Commerce Committee's Subcommittee on Oceans and Atmosphere submitted to the Senate a Report on H.R. 8529, an Act to implement the shrimp fishing agreement with Brazil. Since that time, our staff has discovered some technical mistakes which need to be rectified before the Senate gives consideration of this bill.

First, there was a typographical error on page 13 of the Report in connection with the estimated cost of the legislation. The estimated cost of the bill, if enacted, for fiscal year 1975, is $75,000, not $27,000 as erroneously stated in the Report.

Second, a new section 15 was added as an amendment. This amendment would have the effect of declaring the lobster a creature of the Continental Shelf of the United States. However, the provisions of the entire Act terminate on June 15, 1973. The amendment was not intended to have a termination date. Accordingly, a technical amendment is attached which would correct this oversight.

Lastly, a technical amendment is also attached changing the title of the bill to more accurately reflect the contents of H.R. 8529.

We would greatly appreciate having these amendments and changes brought to the attention of the Senate and respectfully ask that H.R. 8529 be given consideration as expeditiously as possible.

Thank you for your assistance in this matter.

Sincerely,
Warren G. Magnuson,
Chairman.

DECLARING THE LOBSTER A CREATURE OF THE CONTINENTAL SHELF

Mr. MUSKIE. Mr. President, the Senate is considering today H.R. 8529, a bill to implement the shrimp fishing agreement with Brazil. The measure includes a proposal to extend U.S. protection to a valued resource—the lobster—by designating the lobster a creature of the Continental Shelf.

I would like to commend the Senator from Washington (Mr. Magnuson) and the Commerce Committee for linking these two important measures needed to conserve and strengthen the U.S. fishing industry. I would also like to extend my special thanks to the Senator from Rhode Island (Mr. Pastore) for sponsoring this provision in committee at the request of Senator Weicker and myself.

Homarus americanus, the North American lobster, is the most prized of the several species of lobster, and it enjoys a well-deserved reputation throughout the world as a delicious foodstuff. Those of my colleagues who have had the pleasure of visiting my home State of Maine will have certainly listed a lobster dinner as among the State's most memorable attractions.

Lobstering is a $36 million industry for the 11 coastal States from Maine to North Carolina where men make their living fishing for the lobster. The lobster is more than an important economic factor in these States. It is an American resource of significant esthetic appeal. It is as American as apple pie.

The dramatic increase in foreign fishing off our shores in recent years, however, threatens to deplete this resource.

The bill before us today, by including a provision to make the lobster U.S. property to the edge of the Continental Shelf, is the best short-term method of preserving our stocks of lobster. It will serve as a short-term protection pending a comprehensive agreement on fisheries resources through multilateral negotiations at the Law of the Sea Conference next year, and through other negotiations.

The effect of this provision would be to forbid foreign fishing of this resource without the specific permission of the United States and under such conditions as the United States may impose. This method of protecting Continental Shelf fisheries has been agreed to by many coastal nations since it was developed in Geneva in 1958. Such protection is now extended to king crab and several other species of crab, corals, sponges, and mollusks.

Far from precluding international agreements, by demonstrating the depth of our concern about the lobster, this step will actually enhance negotiations and give foreign nations an additional incentive for reaching agreement.

American fishermen have enjoyed rich catches of lobster since the earliest days of our country. But in recent years, there have been several alarming signs that this resource is in serious danger. Ten years ago, 23 million pounds of lobster were landed in Maine. By 1970 and 1971, the total had declined to 18 million pounds, and last year the catch totaled less than 16 million pounds.

This decline is cause enough for concern. It becomes even more alarming when we note that the number of licensed lobstermen increased by nearly 1,500 from 1962 to 1972 and the number of lobster traps jumped from 767,000 to 1,247,000. Many lobstermen have doubled or tripled the number of traps they must set to make a living.

The dwindling supply of lobsters near the shore has in turn caused a rapid increase in the lobster fishing effort offshore. The National Oceanic and Atmospheric Administration estimates that there has been a fivefold increase in the number of American vessels fishing for lobster offshore in the past 3 years. And there has been a significant increase in the foreign trawling effort in the same period. As an NOAA analysis put it:

> Given the fishing power now present in the northwestern Atlantic, awaiting positive indications of serious decline [offshore] will make it too late to introduce conservation measures that can avoid disaster for the American lobster. Thus, if the American lobster is to continue as a biologically viable self-perpetuating stock, it is essential that more extensive management practices based on present knowledge be implemented immediately to protect the resource throughout its geographical range.

Lobstermen in growing numbers are reaching a consensus that prompt action must be taken to control and limit the American lobstering effort if Homarus americanus is to be more than a delicacy for the rich. But they expect positive Government action to control both the intentional fishing and unintentional catch of lobster by foreign fleets. As these independent men see it, they will resist management efforts which could lessen their catch as long as foreign fishing fleets continue to take lobster with abandon. While there are apparently no comprehensive estimates of the extent of foreign lobstering, it has been estimated that the foreign catch is between 16 and 22 million pounds of lobster per year. Coupled with the American catch, this fishing effort is clearly threatening the ability of our lobster stocks to sustain the species.

NOAA, which realizes the problem, nevertheless has declined to declare the lobster a creature of the shelf by administrative action. NOAA argues that there is conflicting evidence that the lobster meets the strictest definition of a shelf species, and that an American declaration in this area could prompt other governments to make similar declarations which would be detrimental to other segments of the American fishing industry. NOAA argues further than bilateral agreements are the best way to reduce the foreign lobstering effort in the short term.

These arguments have several defects, as recent experience demonstrates. First, the definition of a "shelf creature" clearly could include lobsters. The negotiators of the Shelf Convention of 1958 did not intend to exclude lobsters, which are ecologically dependent on the ocean floor, from the creature of the shelf definition. In fact, they specifically rejected proposed language which would have excluded crustacea from this protection. In the American Journal of International Law, Mr. Richard Young cited these criteria as the bases for including sedentary species in the shelf regime: they are tied closely to particular areas; they are capable of exhaustion; and they respond well to good husbandry. The North American lobster meets all these criteria.

Second, international negotiations have so far not brought results. The effectiveness of an agreement with the Japanese to avoid incidental lobster catches is brought into question by the recent increase in Japanese fishing activity in some of the most prolific lobster areas off our coast. Recent negotiations with the Russians have been inconclusive.

And in fact, passage of this measure would enable the United States to negotiate from a position of strength in efforts to reach international agreements on the lobster catch. This proposal can be seen as an effort to protect our resource until international agreements are reached. Otherwise, we may no longer have a significant lobster resource to protect.

This proposal has the support of State officials from all 11 coastal States with a lobster industry. It has the formal support of all six New England Governors. It has the strong support of our colleagues in the House, and it deserves our support as well.

Mr. President, let me in closing urge our representatives in the conference with the House on this bill to expend every effort to insure its inclusion in the final legislation. Just as the Brazilian shrimp agreement is vital to the continued health of our shrimp industry, so is designation of the lobster a creature of the Continental Shelf vital to the good health and good husbandry of our limited lobster resource.

The administration has been inclined against the lobster proposal. By linking the two proposals, Congress will demonstrate its commitment to all segments of the fishing industry, and will reject the favoritism implied by approval of the shrimp agreement alone.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended so as to read:

> An act to implement the shrimp fishing agreement with Brazil, and for other purposes.

SNOW

Mr. HUGH SCOTT. Mr. President, I desire to speak in favor of snow. Not only does it bring most dramatically to our attention the rolling of the Earth and the turn of the season and the promise of rejuvenation and resurrection; not only does it bring to us and to our children the joys of outdoor play; not only does it remind us that all travel is not to be taken for granted but that it has its effects even with the tempers of Congress, because we have been debating whether or not we will get out of here. It is the weather which may determine all things.

Yesterday saw a magnificent burst of activity on the part of the Senate when we disposed of three measures, and it could have been that the weather was on the minds of Senators, because traffic was bad, and the snow presented its problems.

Perhaps this kind of thing is a good thing to happen. If we cannot get Congress out of here any other way, a good series of snowstorms will do it every time.

I rather think we have cause to be quite grateful for the snow for other reasons, because Congress now will have to face up to what has been of great physical concern to the people; that is, that we are not going to have pleasant weather all the time; that we are going to use up our energy and are going to have to allocate our shortages and seek alternative sources of energy and perhaps adopt even more realistic and serious energy measures. So now we are helped by the physical aspect of snow in our midst.

Yesterday the Senate did a fine job, helped by the snow; and I want to remind Senators that it was not a "snow job" at all.

PROHIBITION ON THE IMPORTATION OF RHODESIAN CHROME

The **PRESIDENT** pro tempore. Under the previous order, the Senate will now proceed to the consideration of S. 1868, with the pending question being on the motion to invoke cloture on the bill.

The bill will be stated by title.

The second assistant legislative clerk read as follows:

A bill (S. 1868) to amend the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome and to restore the United States to its position as a law-abiding member of the international community.

Mr. HARRY F. BYRD, JR. Mr. President, I yield myself 5 minutes.

The **PRESIDENT** pro tempore. The time for debate will be 1 hour, to be divided between and controlled by the Senator from Virginia (Mr. HARRY F. BYRD, JR.) and the Senator from Wyoming (Mr. McGEE).

Mr. HARRY F. BYRD, JR. Mr. President, in considering whether the United States should cut itself off from the largest source of a strategic material—namely, chrome—it is important to consider that only three countries in the world have large deposits of this very important and critical material. Those three countries are Rhodesia, South Africa, and Russia. Several other countries—Turkey, India, and Iran being among them—have small deposits. But most of the world's chrome can be obtained only from Rhodesia, which has the largest supply, and South Africa and Russia.

If the United States cuts itself off from trade with Rhodesia in this commodity, we then become more dependent on other countries. The two other major countries are South Africa and Russia. Many—if not most—of those who favor embargoing trade with Rhodesia likewise favor embargoing trade with South Africa, because the primary reason for the embargo on trade with Rhodesia is the racial policy of that country, which is quite similar to, although more liberal than, that of South Africa. So if this group should prevail and if trade with Rhodesia in this vital metal should be cut off, and then they prevail again in cutting off trade with South Africa, the United States will be almost completely at the mercy of Russia.

It is significant to note that just this week, the Senate passed a military appropriation bill for the Department of Defense in the amount of $75 billion. The reason why such a large sum is required is the potential threat from one source—namely, the U.S.S.R.

It seems very unrealistic—at least, to my way of thinking—to spend these vast sums to arm ourselves against the potential danger from Russia and then to put ourselves in the position of being dependent upon Russia for a major amount of the chrome we have to import. The United States has no chrome. Practically all our needs of this material must be imported.

The other aspect of S. 1868, which is the pending measure, is whether an action taken by the United Nations Security Council becomes—as the chief sponsor of S. 1868 stated on the floor—the supreme law of the land of the United States. I cannot accept that extremist view. I cannot conceive that the American people would want their Congress, their elected representatives, to be in a straitjacket and to be unable to react, as the national interest might indicate, to any action taken by the Security Council of the United Nations.

Those who favor S. 1868 base much of their case on the belief that any action taken by the Security Council and implemented unilaterally by the President of the United States becomes the supreme law of the land and should be considered in the same category as a part of the Constitution.

The **PRESIDENT** pro tempore. The Senator's 5 minutes have expired.

Mr. HARRY F. BYRD, JR. I reserve the remainder of my time.

The **PRESIDENT** pro tempore. Who yields time?

Mr. MANSFIELD. Mr. President, on behalf of the Senators from Minnesota and Wyoming, I yield such time as may be necessary to put in a brief quorum call.

The **PRESIDENT** pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDENT** pro tempore. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I yield myself such time as may be needed for the purpose of considering calendar numbers 588 and 589.

CONGRESSIONAL RIGHT TO INFORMATION ACT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 588, S. 2432, and I do so with the approval of the managers on this side.

The **PRESIDENT** pro tempore. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2432) to establish a procedure assuring Congress the full and complete production of information requested from Federal officers and employees.

The **PRESIDENT** pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Government Operations with an amendment to strike out all after the enacting clause and insert:

That this Act may be cited as the "Congressional Right to Information Act".

SEC. 2. (a) Title III of the Legislative Reorganization Act of 1970 is amended by adding at the end thereof the following new part:

"PART 4—KEEPING THE CONGRESS INFORMED

"INFORMING CONGRESSIONAL COMMITTEES

"SEC. 341. (a) The head of every Federal agency shall keep each committee of the Congress and the subcommittees thereof fully and currently informed with respect to all matters relating to that agency which are within the jurisdiction of such committee or subcommittee.

"(b) The head of a Federal agency, on request of a committee of the Congress or a subcommittee thereof or on request of two-fifths of the members thereof, shall submit any information requested of such agency head relating to any matter within the jurisdiction of the committee or subcommittee.

"PRODUCTION OF INFORMATION

"SEC. 342. (a) When an officer or employee of the United States is summoned to testify or to produce information, records, documents, or other material before either House of Congress or a committee of the Congress or subcommittee thereof, that officer or employee shall appear at the time and place specified and shall answer all questions propounded to him, or produce all information, including records, documents, and other material sought, unless, in the case of an officer or employee of a Federal agency in the executive branch, either within twenty days of the date of the summons, or, in the case of any such information which was first requested at an appearance, within ten days after that appearance, the President formally and expressly instructs the officer or employee in writing to withhold the informotion requested, including answers to specific questions, or specific records, documents, or other material, in which event such Presidential instruction shall set forth the grounds on which it is based.

"(b) Each written Presidential instruction pursuant to subsection (a) shall be transmitted to the House of Congress or committee of the Congress or subcommittee thereof requesting the information, proposing the questions, or seeking the records, documents, or other material.

"SUBPENA OF INFORMATION

"SEC. 343. (a) If a House of Congress or a committee of Congress—

"(1) determines that an officer or employee of the United States has failed to comply with the provisions of section 342(a); or

"(2) upon consideration of the Presidential instruction transmitted pursuant to section 342(b), determines that the information requested is needed to enable it to exercise a legislative function under the Constitution. it shall prepare a written report setting forth such determination. In the case of a committee, the chairman is authorized, subject to the approval of the committee, to issue a subpena requiring such officer or employee to appear before the committee at a time specified and to provide the information requested by answering the question or questions propounded and to produce any information, including records, documents, or other material requested. In the case of a House of Congress, the majority leader shall introduce a resolution citing such determination and authorizing the majority leader of that House to issue a subpena requiring such officer or employee to appear before such House and to provide the information requested by answering the question or questions propounded and to produce any information, including records, documents, or other material requested.

"(b)(1) If a committee of the Congress determines that an officer or employee of the United States has failed to comply with a subpena issued pursuant to subsection (a) within fifteen days after such officer or employee receives such subpena, the chairman of such committee is authorized, subject to the provisions of paragraph (2), to bring a civil action in the United States District Court for the District of Columbia to enforce such subpena.

"(2) If a committee of the Congress referred to in paragraph (1) determines that the chairman of such commmittee should institute a civil action in the United States District Court for the District of Columbia to enforce the subpena issued by it pursuant to subsection (a), the chairman shall introduce a resolution in the House or Houses of Congress concerned citing the failure to comply with the subpena of the committee and authorizing the chairman to bring a civil action in such purpose. If such resolution is agreed to by the House or Houses of Congress concerned, the chairman shall institute a civil action in the United States Court for the District of Columbia to enforce the subpena.

"(c) If a House of Congress determines that an officer or employee of the United States has failed to comply with a subpena issued pursuant to subsection (a) within fifteen days after such officer or employee receives such subpena, the majority or minority leader of that House shall introduce a resolution citing such failure to comply and authorizing the majority or minority leader of that House to bring a civil action in the United States District Court for the District of Columbia to enforce such subpena.

"(d)(1) A resolution introduced pursuant to subsections (a), (b)(2), or (c) shall not be referred to a committee and shall be privileged business for immediate consideration. It shall at any time be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. Such motion shall be highly privileged and not debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(2) If the motion to proceed to the consideration of the resolution is agreed to, debate thereon shall be limited to two hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate shall not be debatable. No amendment to, or motion to recommit, the resolution shall be in order, and it shall not be in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

"(3) Motions to postpone, made with respect to the consideration of the resolution, and motions to proceed to the consideration of other business, shall be decided without debate.

"(4) All appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to the resolution shall be decided without debate.

"(e) The provisions of subsection (d) of this section are enacted by the Congress—

"(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be considered as part of the rules of each House, respectively; and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

"(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to the procedure in such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

"JUDICIAL REVIEW

"SEC. 344. (a) The United States District Court for the District of Columbia shall have original jurisdiction of actions brought pursuant to section 343 of this Act without regard to the sum or value of the matter in controversy. The court shall have power to issue a mandatory injunction or other order as may be appropriate, and to make and enter a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the subpena issued pursuant to section 343 of this Act.

"(b) Any congressional party commencing or prosecuting an action pursuant to this section may be represented in such action by such attorneys as it may designate.

"(c) Appeal of the judgment and orders of the court in such actions shall be had in the same manner as actions brought against the United States under section 1346 of title 28, United States Code.

"(d) The courts shall give precedence over all other civil actions to actions brought under this part.

"PROTECTION OF INFORMATION

"SEC. 345. (a) Each House of Congress and each committee or subcommittee of the Congress shall take appropriate measures to insure the confidentiality of any information made available to it under this part which, in the judgment of the Federal agency providing it and the House of Congress or committee or subcommittee of the Congress receiving it, requires protection against disclosure which would endanger (1) personal privacy, (2) trade secrets or confidential commercial or financial information, or (3) the conduct of the national defense, foreign policy, or law enforcement activities.

"(b) The Select Committee on Standards and Conduct of the Senate shall investigate any breach of confidentiality of information made available under this part by a Member or employee of the Senate, and the Committee on Standards of Official Conduct of the House of Representatives shall investigate any breach of confidentiality of information made available under this part by a Member or employee of the House of Representatives. Such committee shall recommend appropriate action such as censure or removal from office or position.

"DEFINITIONS

"SEC. 346. For purposes of this part:

"(1) The term 'committee of the Congress' means any joint committee of the Congress or any standing committee, special committee, or select committee of either House of Congress.

"(2) The term 'Federal agency' has the same meaning given that term under section 207 of this Act, and includes the Executive Office of the President.

"SAVINGS PROVISIONS

"SEC. 347. (a) Nothing in this part shall be construed to require the furnishing or production of any information, records, documents, or other material to either House of Congress if such furnishing or production is prohibited by an Act of Congress.

"(b) Nothing in this part shall be construed as in any way impairing the effectiveness or availability of any other procedure whereby Congress may obtain information needed to enable it to exercise a legislative function under the Constitution."

(b) Title III of the table of contents of the Legislative Reorganization Act of 1970 is amended by adding at the end thereof the following:

"PART 4—KEEPING THE CONGRESS INFORMED

"Sec. 341. Informing congressional committees.
"Sec. 342. Production of information.
"Sec. 343. Subpena of information.
"Sec. 344. Judicial review
"Sec. 345. Protection of information.
"Sec. 346. Definitions.
"Sec. 347. Savings provisions.".

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the time time, and passed.

Mr. ROTH. Mr. President, I ask the majority leader whether it is appropriate now for me to speak with respect to this measure.

Mr. MANSFIELD. Yes, indeed. I state to the Senator that not only are we operating on limited time, but also, in these two instances, on borrowed time.

Mr. ROTH. Mr. President, in the crush of legislation we are so rapidly considering at the end of the session, the Congressional Right to Information Act is unlikely to receive a great deal of attention. It is, however, a very important bill because it deals with questions which have been hotly debated over the course of the past year—executive privilege, the limits of the congressional power of inquiry, and the rights of individual privacy. The bill we are voting on today represents several months of work in the Intergovernmental Relations Subcommittee of the Government Operations Committee.

You will recall that in October and November, I took to this floor several times to argue against one approach to this problem of congressional access to information—an approach that would have allowed a committee to cut off certain agencies' funds if information it felt it was entitled to was not surrendered within 35 days. I questioned the constitutionality, the morality, and the wisdom of such an approach. I also pointed out that we should have a general procedure for all committees and for all Government information.

This bill meets the criteria of constitutionality, morality, and generality. If it becomes law, for the first time in history Congress will have a procedure for obtaining information it needs without punishing individuals either through contempt of Congress or some other alternative. What we have done here is to give the courts the authority to judge the propriety of and enforce legitimate congressional subpenas for information.

Although I strongly support S. 2432, I believe that it would have been a better balanced bill if we had sought to try to define for ourselves what Congress understands to be the proper scope of executive privilege. We have left this issue to the courts for fear that in attempting a definition we might accidentally define away some legitimate area of congressional inquiry.

In committee I offered an amendment which I felt to be illustrative of the kind of approach I thought Congress could take. My amendment contained a definition of information which was two-sided. First, it defined information as all data Congress needs for its legislative purposes—a very broad mandate. Second, it excluded some areas where Congress should not tread—or tread only very warily, for example: raw, unverified investigatory data; personnel records except for confirmation purposes; and confidential communications between the President and his close personal advisers for legal purposes. I am opposed to any assertion of executive privilege to protect illegal activity, malfeasance or wrong-doing by any member of the executive branch.

I believe such a definition would not only be welcomed by the courts as an expression of congressional intent and guidance, but also would give greater protection of individual privacy rights and a better guarantee against the kind of irresponsible and overreaching demands for information we had in the 1950's. I will not, however, offer it today because I think the emotions of the moment militate against a careful and objective appraisal of exactly what are the proper bounds of executive privilege and the congressional right of inquiry. I believe it would be well to have another set of hearings on executive privilege and the scope of the congressional right of inquiry at a later time. As I have often pointed out, judgments on both have been very subject to the events of the moment. To illustrate this point, I would like included in the RECORD three editorials from the New York Times of past dates expressing quite a different view of these doctrines than we hear so often today.

Mr. President, I ask unanimous consent that these editorials may be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the New York Times, Dec. 5, 1962]

BREACH OF SECURITY

Adlai E. Stevenson, United States representative at the United Nations is the principal victim of an article in the current Saturday Evening Post purporting to tell what went on in the executive committee of the National Security Council at the height of the Cuban crisis six weeks ago. Whatever the intent, the effect of the article is with the inestimable benefit of hindsight—to picture Mr. Stevenson to the American people as an appeaser. A somewhat equivocal statement from the White House on Ambassador Stevenson's role together with a vigorous denial by Mr. Stevenson himself of views attributed to him unfortunately do little to mitigate the public impression created by the report which a spokesman for the magazine asserts was based on information from "a number of reliable sources of high position in the Government."

Whether or not Mr. Stevenson is the latest victim of a Washington vendetta is less significant than the apparent fact that the secrecy of one of the highest organs of the United States Government has been seriously breached. This organ was, during the Cuban crisis, the top-level advisory group to the President of the United States. How is it possible to believe that the opinions expressed therein can have any value if they may appear in the public press the next day or the next month? How can advisers to the President be expected to give advice freely and easily and at all times honestly and with complete integrity if they have to worry about what their arguments will look like in print a few weeks later? What kind of advice can the President expect to get under such circumstances? How can there be any real freedom of discussion or of dissent; how can anyone be expected to advance positions that my be politically unpopular or unprofitable? Does no one in Washington recall the McCarthy era and the McCarthy technique?

It is beside the point in this context to argue the substance of Ambassador Stevenson's alleged position. It is beside the point to argue the merits of Mr. Stevenson as Ambassador at the United Nations. Though we happen to think he is an extraordinarily good one, the President is obviously free to drop him at any time and for any reason. But it is to the point to reiterate the White House statement this week that the various positions of the members of the N.S.C. taken during deliberations must remain secret "in order to permit access by the President to the frankest expression of views." The integrity of the National Security Council, and of the advice received by the President, is at stake.

[From the New York Times May 18, 1954]

UNNECESSARY SUSPENSE

From the very outset of the fight between Senator McCarthy and the Eisenhower Administration this newspaper has maintained that the fundamental issue is an attempt on the part of the legislative branch in the person of Mr. McCarthy to encroach upon the Executive branch in complete disregard of the historic and constitutional division of powers that is basic to the American system of government.

The President has been late—but not too late—in recognizing the deep significance of this issue and in standing up to it while the committee itself has, apparently, swallowed Mr. McCarthy's contention that he and it are entitled to know and pass judgment upon every word, every thought, that transpires within the Executive departments. Consequently, the issue has at last erupted fully into public view, and the hearings have been suspended for a week while an effort is made to reconcile the irreconcilable.

It all come to a head when John G. Adams, counselor of the Army, told the Committee last Wednesday about a meeting in the office of Attorney General Brownell on Jan. 21, attended by President Eisenhower's assistant Sherman Adams and other high-ranking officials. The committee wants to know more about this meeting, apparently in the belief that there may have been some mystical shift of responsibility, in Senator McClellan's words, "from the Secretary of the Army to higher authorities." The committee seems to feel that it has the right to pry further into the conversations and discussions among members of the executive branch while they were considering a serious problem and, perhaps, reaching important decisions. The committee has no more right to know the details of what went on in these inner Administration councils than the Administration would have the right to know what went on in an executive session of a committee of Congress. And, at long last, President Eisenhower has stepped in to forbid any such disclosures in words that he might well have used many weeks ago.

Senator Jackson was probably right when he said that, "any such directive should have been issued at the outset" of the hearings but the directive does not in any way interfere with uncovering the relevent facts in the dispute. Senator McClellan's talk about transfer of responsibility from Secretary Stevens to someone else misses the point. Secretary Stevens was, is and will be until relieved the direct agent of the President of the United States. No matter what was discussed at the meeting on Jan. 21 or any other meeting, it was Secretary Stevens who was responsible for the Army's position in the battle with Mr. McCarthy, and Secretary Stevens was, in turn, responsible to Mr. Eisenhower.

By this statement of yesterday the President has finally recognized that responsibility in unmistakable terms. But his failure to do so at an earlier date, though regrettable, does not make him—or Mr. Stevens—any less responsible. The Republicans and the Democrats of the committee ought to realize this and they ought to realize that the Presidential order does not prevent them from establishing the facts. It merely prevents them from prying into private discussions that have no bearing on whether the Army tried to blackmail Senator McCarthy or whether Senator McCarthy tried to run the Army. Suspension of the hearings was entirely unnecessary, and in suspending them the committee is playing into the hands of Mr. McCarthy.

[From the New York Times, May 29, 1954]

IS MCCARTHY ABOVE THE LAW?

The first section of Article II of the Constitution of the United States declares that "the Executive power shall be vested in a President" and the third section of the same article states that he "shall take care that the laws be faithfully executed." Thus Presidential Press Secretary James C. Hagerty was not proclaiming a revolutionary doctrine yesterday when, speaking expressly in the name of the Attorney General and with the specific approval of the President himself, he said:

"The Executive branch * * * has the sole and fundamental responsibility under the Constitution for the enforcement of our laws and Presidential orders. They include those to protect the security of our nation * * *. That responsibility cannot be usurped by any individual who may seek to set himself above the laws of our land or to override the orders of the President of the United States to federal employees of the Executive branch * * *."

This restatement of what should be obvious was made necessary by the repeated and arrogant efforts of Senator McCarthy to establish himself as the principal executive as well as investigative officer of the United States Government. What other interpretation can possibly be placed on Mr. McCarthy's open invitation to the Senate, issued on May 6, to cease being "lackeys" and to overrule a decision "made by someone in the Executive Department"? Or by his reiterated invitation of May 5 and again this week to all federal employees in any department of the Government to come to him with their complaints, their suspicions, their fears and their intrigues even when the delivery of such "information" may involve violation of security regulations, Presidential orders, oaths of office and the laws of the United States?

When Mr. McCarthy attempts to cloak such a policy under the pompous statement that "there is no loyalty to a superior officer which can tower above and beyond * * * loyalty to * * * country," he is really confusing "loyalty to country" with "loyalty to Senator McCarthy." He is issuing an invita-

> tion to anarchy, an invitation to every disgruntled federal civil servant, every discontented member of the armed forces, every dissatisfied federal employee to come running to him, in violation of the law, to set things straight.
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> Even if Mr. McCarthy were a model investigator, this unlimited, free-wheeling doctrine would go far beyond the proper limits of Senatorial inquiry. But when used as it has been used by him, it is dangerous and destructive. We do not need to turn our federal structure into a nest of informers, spies and lawbreakers to insure the rooting out of corruption or subversion. Congressional committees have been able in the past to function quite well without a sweeping authority which would reduce the Executive branch to a shambles.

Mr. ROTH. Mr. President, I hope that the courts will not be so expansive in their interpretation of information needed by Congress that there is substantial erosion of the doctrine of the separation of powers and encroachment on the ability of the President to have free, frank, and confidential discussions with his personal advisers. Nor should the courts be so restrictive that Congress access to information is even further limited. I would warn that by not providing guidance on where the balance is to be struck, we make both courses possible.

I want to express my appreciation to Senators Ervin and Muskie and their staffs for working with me and my staff to produce a bill which we could all support. Finally, in the drafting of most legislation, many unrecognized hands play a part. I want especially to express my appreciation to Prof. Alexander Bickel, to the Civil Rights-Civil Liberties Research Committee of the Harvard Law School, and to the American Law Division of the Congressional Research Service. All provided me with invaluable guidance and advice.

Mr. MUSKIE. Mr. President, I want at this time to express my thanks to the distinguished senior Senator from Delaware (Mr. Roth) for helping so much to make this legislation, as he said, "a bipartisan approach" and to the chairman of our committee, Senator Ervin, for the excellent work he has done over the years in finding a means to resolve this serious constitutional problem.

This legislation, both the bill and the concurrent resolution, represents a truly moderate and restrained congressional response to what we all remember as an immoderate assertion this spring of unrestrained executive authority to withhold information from Congress. Many of us and many Americans were truly shocked when Attorney General Richard Kleindienst told our joint hearings that Congress could only obtain information the President consented to disclose. "Your power to get what the President knows," he maintained, "is in the President's hands."

In answer to that sweeping claim, we have written legislation implementing the basic constitutional principle of checks and balances. This legislation provides that when a conflict over access to information cannot be resolved between the executive and legislative, it can be submitted in an orderly fashion to the judiciary for resolution.

I do not anticipate that many such conflicts will arise. When they do, however, this legislation insures that Congress will act responsibly—since no court suits can be initiated without the approval of at least one House—and requires that the Executive also act responsibly in considering and setting forth its reasons for withholding information Congress seeks.

Such actions will present true cases in controversy. The courts will have to resolve which of two conflicting duties—that imposed by a congressional subpena or by a contrary Presidential instruction—an official must obey. In resolving such controversies, I would expect both the Congress and the courts to seek the best possible balance between two standards which must, of necessity, conflict and which can only be resolved on a case-by-case basis.

The first standard is the one stated in S. 2432 and S. Con. Res. 30—the Congress need for information "to enable it to exercise a legislative function under the Constitution." And the second—unstated, but understood by all of us—is the parallel need of the executive branch to insure its own orderly functioning. As a general matter, it may well be proper to assure officials confidentiality for their policymaking deliberations. But secrecy for such discussions, does not always guarantee candor or completeness—as we discovered in reviewing the history of our involvement in Indochina—and such secrecy can promote unfair advantage for special pleaders or even cut high officials off from unpopular views they should hear and evaluate.

Privilege cannot be automatic at any level; it can be presumed but not bestowed by law. And, as we discovered in long conversations in committee, there is no way to draw a line and declare by law which Federal officials or Presidential intimates acting in what capacity on which policy matters are to be guaranteed confidentiality for their conduct.

Responsible government must insure accountability of public servants to the people through the political process. The legislation we have before us does much to promote that accountability, and I am proud to join my colleagues in commending it to the Senate.

Mr. President, I yield back the remainder of my time.

The PRESIDENT pro tempore. The clerk will report the next bill.

Mr. ALLEN. Mr. President, the Senator from Alabama observes that inasmuch as the Senator from Delaware wanted to make some remarks, the order stating the bill was passed was withdrawn. The Senator from North Carolina (Mr. Ervin) is on his way to the Chamber. He wants to be heard before final passage of the bill.

Mr. MANSFIELD. Well, I think I will have to withdraw the request because the leadership had no indication that the Senator from North Carolina wanted to speak, only that the Senator from Delaware wanted to make some remarks.

So I withdraw the business pending at the present time in view of this new development.

The PRESIDENT pro tempore. The bill has been announced as passed.

Mr. MANSFIELD. I move that the vote on passage be reconsidered, along with its third reading.

The PRESIDENT pro tempore. Without objection, it is so ordered.

PROHIBITION ON THE IMPORTATION OF RHODESIAN CHROME

The Senate continued with the consideration of the bill (S. 1868) to amend the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome and to restore the United States to its position as a law-abiding member of the international community.

Mr. McGEE. I understand the pending question is the repeal of the Byrd amendment. I think someone on the other side may want to address himself to the question.

The PRESIDENT pro tempore. The question is whether cloture should be invoked on the bill. Who yields time?

Mr. McGEE. I just yielded time to the Senator from Delaware to allow him to speak on another matter, or to the majority leader as a courtesy to bring up another matter. I would hope that perhaps one of the other Senators would care to speak for a while right now.

Mr. ALLEN. Mr. President, if the Senator from Virginia will yield, I would like to address the Senate.

Mr. HARRY F. BYRD, JR. I yield 7 minutes to the distinguished Senator.

The PRESIDENT pro tempore. The Senator from Alabama is recognized.

Mr. ALLEN. I thank the Senator for yielding to me.

Mr. President, the question to be decided by the Senate in just a few minutes is whether debate should be brought to a close on S. 1868; whether or not cloture is to be invoked by the Senate with respect to this bill.

I hope the Senate will vote against cloture, that it will not apply the gag rule in this case, but that it will allow the Senate to continue this debate.

I submit to Members of the Senate that the best way to conclude the business of the first half of the 93d Congress is to vote against cloture because it would seem to the Senator from Alabama that if cloture is denied on this vote the leadership will not file another cloture motion which would require a vote on next Thursday, and we will be able to proceed to the consideration of important items of business now on the calendar that are pieces of "must" legislation that must pass before the Senate adjourns at the end of the first session of the 93d Congress.

I point out that with regard to the legal services bill, the Senate twice denied cloture. On yesterday, the leadership proposed a solution as to that bill, and it was agreed that on January 28 that bill would become the pending business in order that a cloture motion might be filed.

Since the Rhodesian chrome bill is at the present the unfinished business, if we were to deny cloture on this upcoming vote, the matter could be passed over until the Senate comes back from its recess on January 21, and we would have this period in the early days of the second session of the 93d Congress, when there is always a lull in activity, to decide whether or not debate should be cut off on the pending legislation, rather than to use the valuable time that the Senate now needs to consider the pressing problems before the Nation and Congress.

But on the merits of the legislation itself, Mr. President, what is involved here is an effort by the authors of S. 1868 to repeal the Byrd amendment, which was enacted by Congress just 2 years ago. All the Byrd amendment says is that if a Communist nation is allowed to send strategic goods into the United States—in other words, if the United States is able to import strategic materials from a Communist nation—that same privilege shall be allowed to a non-Communist nation. That is all the Byrd amendment provides.

What in the world is wrong with that? If we can buy from Russia, we should also be able to buy from non-Communist nations. That is all the Byrd amendment provides, and the authors of S. 1868 are trying to strike down that equitable rule, that fair rule, that patriotic rule, that rule which allows the United States to buy from its ideological friends, from its allies, from countries that support the United States, strategic materials on the same basis that it buys from Communist nations. So if there is anything wrong with that provision of law, the Senator from Alabama fails to see it.

Another thing I do not like in the approach of S. 1868 is the very wording that is in the title of the bill. It says:

> To amend the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome and to restore the United States to its position as a law-abiding member of the international community.

I just hate this trend, this preoccupation of some leaders in the Senate and in the Nation to point the finger of blame at the United States; to say we are wrong and those who think opposite from the way we think, and, in fact, acts some of our enemies do, are right, but we are always in the wrong. I do not see any justification for a recital of that sort—that this bill is to restore the United States to its position as a law-abiding member of the international community.

Well, Mr. President, the United States is a law-abiding member of the international community, and I resent the recital in this bill saying the United States is not a law-abiding member of the international community. I think that should be stricken out.

Also something the distinguished Senator from Virginia was remarking on when he was speaking was the statement by the distinguished Senator from Minnesota (Mr. HUMPHREY) in earlier debates on this subject.

The PRESIDING OFFICER (Mr. CLARK). The time of the Senator has expired.

Mr. ALLEN. May I have 2 additional minutes?

Mr. HARRY F. BYRD, JR. Mr. President, I yield 3 additional minutes to the Senator.

Mr. ALLEN. I thank the Senator.

I refer to the statement of the distinguished Senator from Minnesota that provisions of the United Nations charter have equal right, equal standing, with the provisions of the Untied States Constitution. Well, I am not willing to accept that doctrine—that the charter of the United Nations is binding on the people of the United States to the same extent that the United States Constitution is.

When Members of the Senate take the oath of office, when the Vice President just the other day took his oath of office as Vice President, when the President takes the oath of office as President, they take the oath to support and defend the Constitution of the United States of America. If we were to extend the contention of the authors of this bill that the United Nations charter has equal standing with the United States Constitution, it will not be long before we might well expect that oath to be changed. We would be taking an oath to support and defend the Constitution of the United States and the charter of the United Nations. I do not think the citizens of this country want to go to that extreme. I think the U.S. Constitution is the supreme law of the land and that the charter of the United Nations does not have equal standing with it.

Mr. President, there is a whole lot more involved in this issue than just whether or not chrome can be imported into the United States, but certainly we should have the privilege and the right here in this country to buy from our friends, whereas we would be confined to buying from our enemies if this legislation passes.

I do not believe the legislation is in the public interest. I do not believe it is in the interest of the United States or in the interest of the people of this country. I hope the Senate will vote against applying cloture on this debate, and I hope that the matter will be set aside and that it will be carried over until the start of the 2d Session of the 93d Congress. I do not think it will be brought up again this session if we are able to defeat it in the rollcall coming up in a few minutes.

CONGRESSIONAL RIGHT TO INFORMATION ACT

Mr. MANSFIELD. Mr. President, I yield myself such time as I may desire, and I ask that the motion I made previously to reconsider S. 2432 be invalidated.

The PRESIDING OFFICER. Without objection, the motion to reconsider is invalidated, and the bill is passed.

PRODUCTION OF INFORMATION FROM FEDERAL OFFICERS TO CONGRESS

Mr. MANSFIELD. Mr. President, I call up Calendar No. 589, Senate Concurrent Resolution 30, and ask for its immediate consideration.

The legislative clerk read the concurrent resolution by title, as follows:

> A concurrent resolution (S. Con. Res. 30) to establish a procedure assuring Congress the full and prompt production of information requested from Federal officers and employees.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that an amendment and an amendment to the preamble be considered together.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate proceeded to consider the concurrent resolution (S. Con. Res. 30) to establish a procedure assuring Congress the full and prompt production of information requested from Federal officers and employees which had been reported from the Committee on Government Operations with an amendment.

The amendment was agreed to.

The concurrent resolution, as amended, was agreed to.

The preamble was amended.

The concurrent resolution, as amended, with its amended preamble, is as follows:

> Whereas the withholding from either House of Congress, or from the committees of Congress and subcommittees thereof by officers or employees of the United States of any information, including testimony, records, or documents, or other material requested by the Congress in order to enable it to exercise a legislative function under the Constitution erodes the system of checks and balances prescribed by the Constitution, unless such withholding is justified by the President to the Congress and, if necessary, determined by the Judiciary to be proper: Now, therefore, be it
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> *Resolved by the Senate (the House of Representatives concurring)*, (a) That, when an officer or employee of the United States is summoned to testify or to produce information, records, documents, or other material before either House of Congress or a committee of the Congress or subcommittee thereof, that officer or employee shall appear at the time and place specified and shall answer all questions propounded to him, or produce all information, including records, documents, and other material sought, unless, in the case of an officer or employee of a Federal agency in the executive branch, either within twenty days of the date of the summons, or, in the case of any such information which was first requested at an appearance, within ten days after that appearance, the President formally and expressly instructs the officer or employee in writing to withhold the information requested, including answers to specific questions, or specific records, documents, or other material, in which event such Presidential instruction shall set forth the grounds on which it is based.
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> (b) Each written Presidential instruction pursuant to subsection (a) shall be transmitted to the House of Congress or committee of the Congress or subcommittee thereof requesting the information, proposing the questions, or seeking the records, documents, or other material.
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> SEC. 2. (a) If a House of Congress or a committee of Congress—
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> (1) determines that an officer or employee of the United States has failed to comply with the provisions of section 1(a); or
>
> (2) upon consideration of the Presidential instruction transmitted pursuant to section 1(b), determines that the information requested is needed to enable it to exercise a legislative function under the Constitution, it shall prepare a written report setting forth such determination. In the case of a committee, the chairman is authorized, subject to the approval of the committee, to issue a subpena requiring such officer or employee to appear before the committee at a time specified and to provide the information re-

quested by answering the question or questions propounded and to produce any information, including records, documents, or other material requested. In the case of a House of Congress, the majority or minority leader shall introduce a resolution citing such determination and authorizing the majority or minority leader of that House to issue a subpena requiring such officer or employee to appear before such House and to provide the information requested by answering the question or questions propounded and to produce any information, including records, documents, or other material requested.

(b) If a committee of the Congress, or the majority or minority leader of a House of Congress determines that an officer or employee of the United States has failed to comply with a subpena issued pursuant to subsection (a) within fifteen days after such officer or employee receives such subpena, the chairman of such committee or the majority or minority leader of such House shall file—

(1) in the case of a House of Congress, a resolution with such House;

(2) in the case of a joint committee, a concurrent resolution with both Houses of Congress; and

(3) in the case of a committee, a resolution with its House of Congress;

with a report and record of the proceedings relating to such subpena. Congress, in the case of any such concurrent resolution, and the House of Congress with which any such resolution is filed, shall take such action as it deems proper with respect to the disposition of such concurrent resolution or resolution.

(c)(1) A resolution introduced pursuant to subsections (a) or (b) shall not be referred to a committee and shall be priviliged business for immediate consideration. It shall at any time be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. Such motion shall be highly privileged and not debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) If the motion to proceed to the consideration of the resolution is agreed to, debate thereon shall be limited to two hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate shall not be debatable. No amendment to, or motion to recommit, the resolution shall be in order, and it shall not be in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

(3) Motions to postpone, made with respect to the consideration of the resolution, and motions to proceed to the consideration of other business, shall be decided without debate.

(4) All appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to the resolution shall be decided without debate.

SEC. 3. (a) Each House of Congress and each committee or subcommittee of the Congress shall take appropriate measures to insure the confidentiality of any information made available to it which, in the judgment of the Federal agency providing it and the House of Congress or committee or subcommittee of the Congress receiving it, requires protection against disclosure which would endanger (1) personal privacy, (2) trade secrets or confidential commercial or financial information, or (3) the conduct of the national defense, foreign policy, or law enforcement activities.

(b) The Select Committee on Standards and Conduct of the Senate shall investigate any breach of confidentiality of information made available under this part by a Member or employee of the Senate, and the Committee on Standards of Official Conduct of the House of Representatives shall investigate any breach of confidentiality of information made available under this part by a Member or employee of the House of Representatives. Such committee shall recommend appropriate action such as censure or removal from office or position.

SEC. 4. For purposes of this resolution:

(1) The term "committee of the Congress" means any joint committee of the Congress or any standing committee, special committee, or select committee of either House of Congress.

(2) The term "Federal agency" has the same meaning given that term under section 207 of the Legislative Reorganization Act of 1970 and includes the Executive Office of the President.

SEC. 5. (a) Nothing in this resolution shall be construed to require the furnishing or production of any information, records, documents, or other material to either House of Congress if such furnishing or production is prohibited by an Act of Congress.

(b) Nothing in this resolution shall be construed as in any way impairing the effectiveness or availability of any other procedure whereby Congress may obtain information needed to enable it to exercise a legislative function under the Constitution.

Mr. MANSFIELD. Mr. President, I yield such time as he desires to the distinguished Senator from North Carolina (Mr. ERVIN), chairman of the Government Operations Committee.

Mr. ERVIN. Mr. President, I think that the Senate is to be congratulated on passing the bill. S. 2432, and the concurrent resolution, Senate Concurrent Resolution 30, dealing with the right of Congress to obtain information from the executive branch of the Government.

This was a proposal on which the Subcommittee on Separation of Powers has worked for 7 years and on which the Government Operations Committee has worked during the present term of Congress.

The distinguished majority leader urged, at the convening of this Congress, that something be done to clarify the unfortunate situation which had existed in this field ever since the Republic was formed. This bill and this concurrent resolution provide a fine remedy.

Many people have contributed to the perfection of the bill and the concurrent resolution. The Senator from Maine (Mr. MUSKIE) has done a yeoman job. Robert B. Smith, Jr., the chief counsel and staff director of the Committee on Government Operations, W. P. Goodwin, Jr., a counsel on the committee staff, and W. Thomas Foxwell, the committee's staff editor, provided invaluable assistance to our consideration of this legislation, as did Alvin Fromm and Alfred Friendly, Jr., of the staff of Senator MUSKIE's subcommittee. Prof. Philip B. Kurland, Alexander Bickel, and Arthur S. Miller, consultants to the Subcommittee on the Separation of Powers, and Rufus L. Edmisten, of the staff of the Subcommittee on the Separation of Powers, did great work on it.

I think one of the most signal contributions was made by the distinguished Senator from Delaware (Mr. ROTH), because all of us in the committee agreed on the objectives and views, but we were having difficulty reaching a proper procedure to perfect our objectives. The distinguished Senator from Delaware suggested that we do this by authorizing a House of Congress, or a committee of Congress with the approval of its parent body, to issue subpenas to compel the production of information by Federal officers and employees, and to bring suit in the U.S. District Court for the District of Columbia to enforce these subpenas. So we have provided, for the first time in our history, a wise procedure for solving any dispute between the executive and the legislative branches of the Government with respect to the ability to obtain records and testimony. The Senator from Delaware deserves the thanks of the Senate and of the Nation for proposing this solution.

I think the Senate is to be congratulated on the passage of this bill and concurrent resolution because they solve a problem which has existed since the Nation was founded.

Mr. ROTH. Mr. President, will the Senator yield?

Mr. ERVIN. I yield.

Mr. ROTH. As I said in my earlier statement, I appreciate the work and the cooperation of the chairman of the Government Operations Committee (Mr. ERVIN) and the chairman of the subcommittee, the Senator from Maine (Mr. MUSKIE). I feel that the legislation that we drafted in committee was the result of a bipartisan approach.

I think the most important aspect of the legislation is that we came up with a solution that I believe will stand the test of time. It is an important piece of legislation. It is one on which I think no one can quarrel with our approach. I hope that we will see it speedily enacted as the law of the land.

I thank the chairman of the committee.

Mr. ERVIN. Mr. President, I think that great credit must be given to the distinguished Senator from Arkansas (Mr. FULBRIGHT) who did much work in this particular area.

Mr. President, I yield the floor.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had passed the following bills of the Senate, each with an amendment, in which it requested the concurrence of the Senate:

S. 37. An act to amend the Budget and Accounting Act, 1921, to require the advice and consent of the Senate for further appointments to the offices of Director and Deputy Director of the Office of Management and Budget, and for other purposes; and

S. 2482. An act to amend the Small Business Act.

The message also announced that the House had passed the following bills of the Senate, each with amendments, in which it requested the concurrence of the Senate:

S. 1529. An act to authorize the Secretary of the Interior to enter into agreements with non-Federal agencies for the replacement of the existing American Falls Dam, Minidoka project, Idaho, and for other purposes; and

S. 1773. An act to amend section 7305 of title 10, United States Code, relating to the sale of vessels stricken from the Naval Vessel Register.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1435) to provide an elected Mayor and City Council for the District of Columbia, and for other purposes.

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 3418. An act to amend section 505 of title 10, United States Code, to establish uniform original enlistment qualifications for male and female persons;

H.R. 5621. An act to amend title 10, United States Code, to provide for the presentation of a flag of the United States for deceased members of the Ready Reserve;

H.R. 11311. An act to name the Federal building, U.S. post office, U.S. courthouse, in Brunswick, Ga., as the "Frank M. Scarlett Federal Building"; and

H.R. 11622. An act to name the Federal office buidling, south, in New Orleans, La., as the "F. Edward Hébert Federal Building".

The message further announced that the House had agreed to the following concurrent resolutions, in which it requested the concurrence of the Senate:

H. Con. Res. 386. Concurrent resolution expressing the concurrence of the Congress in naming the nuclear-powered aircraft carrier CVN-70 as the U.S.S. *Carl Vinson*; and

H. Con. Res. 402. Concurrent resolution directing the Secretary of the Senate to make corrections in the enrollment of S. 1435.

HOUSE BILLS REFERRED

The following bills were severally read twice by their titles and referred, as indicated:

H.R. 3418. An act to amend section 505 of title 10, United States Code, to establish uniform original enlistment qualifications for male and female persons; and

H.R. 5621. An act to amend title 10, United States Code, to provide for the presentation of a flag of the United States for deceased members of the Ready Reserve. Referred to the Committee on Armed Services.

H.R. 11311. An act to name the Federal building, U.S. post office, U.S. courthouse, in Brunswick, Ga., as the "Frank M. Scarlett Federal Building"; and

H.R. 11622. An act to name the Federal office building, south, in New Orleans, La., as the "F. Edward Hébert Federal Building." Referred to the Committee on Public Works.

PROHIBITION ON THE IMPORTATION OF RHODESIAN CHROME

The Senate continued with the consideration of the bill (S. 1868) to amend the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome and to restore the United States to its position as a law-abiding member of the international community.

Mr. McGEE. Mr. President, may I ask what the time situation is?

The PRESIDING OFFICER. Each Senator has 10 minutes remaining.

Mr. MANSFIELD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MANSFIELD. Mr. President, was the time taken out of period used by the joint leadership for the consideration of this cloture motion?

The PRESIDING OFFICER. Ten minutes was used before we started on the debate on the cloture motion. That gave each side 25 minutes remaining.

Mr. MANSFIELD. The time was taken out of the time for the cloture motion?

The PRESIDING OFFICER. The Senator is correct.

Mr. McGEE. Mr. President, I yield myself 3 minutes.

I simply want to say once again to my colleagues that we have spent a prolonged time on this matter. I hope that Senators would not be very serious in charging that we, who are on this side, might be guilty of holding up the very important bills in the Senate of the United States and that at this last minute we would wish to lay it over still longer.

We have laid this measure over since October 1. We wanted to vote on this measure every day since the first of October. We have taken one story after another as some kind of an excuse for not acting on this matter.

Mr. President, I think it would behoove my colleagues to have as a matter of general understanding that we are not about to lay it over, if, indeed, we could succeed in a cloture motion vote.

We have no way of knowing at this point how that vote is going to come out. But the matter really is one of which these issues have been crowded into the tailend only because there was no willingness to let us proceed to the consideration of this matter. It is a matter on which 62 Senators voted their desires to invoke cloture. We have had cloture votes twice on this matter. On the preceding vote, 59 Senators expressed their desire to have a chance to vote on the measure.

All I am saying to my colleagues this morning is that the time has long passed to give the Senate a chance to vote, and we will insist on that opportunity, if that indeed becomes the will of the Senate.

The PRESIDING OFFICER. Who yields time?

Mr. HARRY F. BYRD, JR. Mr. President, I yield myself 3 minutes.

Mr. President, the crucial issue is what will happen to the United States in regard to this strategic material if the proposal now pending is adopted?

Russia would then become the only major supplier of chrome to the United States. I submit that is a very dangerous position for our country to get itself into.

Rhodesia was the largest supplier of metallurgical grade chrome ore supplies. Other countries cannot meet the U.S. demand. With respect to the South African production, it is only 6 percent of this high quality metallurgical grade chrome ore. Turkish metallurgical grade chrome reserves are being depleted at a rapid pace.

Furthermore, 2 million tons of Turkish metallurgical grade chrome ore have been committed to Japan.

The Soviet Union is the largest present producer of chromite ore. Rhodesia is demonstrating a reluctance to trade in chromite ore. And we have seen what happens to the price when sanctions were originally imposed.

I think, Mr. President, that the Senate has an obligation to consider very carefully whether it should cut the United States off from the largest source of this very important material.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. HARRY F. BYRD, JR. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. McGEE. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Wyoming is recognized for 2 minutes.

Mr. McGEE. Mr. President, I would like to respond to my beloved colleague, the senior Senator from Virginia, by reminding him that, at least according to the figures of the Department of Commerce, our dependence upon the Soviet Union for chrome has no relevance to the availability of chrome from Rhodesia.

Let me cite the Department's own figures. In 1961, there were no sanctions against Rhodesia. It was a free market. We were freely in a position to take all of the chrome that we could get from Rhodesia. However, in that year we were taking most of our chrome from Rhodesia, rather than from Russia.

Two years later, 1963, we had jumped our imports of Russian chrome to 38 percent of our total. Our imports from Rhodesia dropped 10 percent. There were no sanctions yet.

This is the Byrd philosophy. This is the Byrd formula that would apply a free common market to the world.

One year before sanctions were imposed, our chrome imports from Russia were 58 percent, whereas the import of Rhodesian chrome ore had dropped down to 17 percent. That was still in the absence of sanctions.

For some curious reason, the misguided people in charge of purchasing in the United States decided that they wanted to purchase Soviet Union chrome, and they did so.

We have known for a long time that a part of that reason has nothing to do with Communists, with communism, or with commissars. It happens that it has to do with the fact that the Soviet Union has a far superior grade of chrome. And they happened to have it, at that time at least, at a fair price.

I hope that we would once again lay this ghost to rest with respect to this issue, the issue of putting the United States back to, and under its, commitments to the United Nations.

The PRESIDING OFFICER. Who yields time?

Mr. HARRY F. BYRD, JR. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Virginia has 7 minutes remaining.

Mr. HARRY F. BYRD, JR. Mr. President, how much time does the Senator from Wyoming have remaining?

The PRESIDING OFFICER. The Senator from Wyoming has 5 minutes remaining.

Mr. HARRY F. BYRD, JR. Mr. President, I yield 4 minutes to the Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 4 minutes.

Mr. ALLEN. Mr. President, throughout the Senate debates on S. 1868, it has been asserted that the United States is currently in violation of its international obligations by allowing the importation of Rhodesian chrome. A closer reading of international law, however, reveals the United States is not in violation of the "law" as practiced by the nations of the world.

Unlike domestic law, international law is not governed by a fixed set of standards. The statute of the International Court of Justice attests to the multiplicity of sources which guide the law of nations. Among the nonexclusive list of sources found in article 38 of the Court's statute are conventions, established rules, customs, general practice, and general principles. Some writers, have gone so far as to state the only source of international law is the raw power of states.

I do not go as far as those writers. However, I do believe we must, as a nation, measure the length of our international obligations by steps taken by members of the international community and not in terms of imaginary hopes and conclusions.

The United Nations sanctions against Rhodesia must be viewed through this looking glass of reality.

The sanctions imposed by the Security Council of the U.N. violated the rules which govern that organization.

As former Secretary of State Dean Acheson has stated before subcommittees of both the Senate and House, the Security Council never made an adequate finding that Rhodesia is a threat to world peace. How could it be, Mr. President? I ask my colleagues to reflect on the nature of the threat of peace Rhodesia is alleged to pose. Does it have a large aggressive armed force? Has it threatened to attack its neighbors, or commit massive genocide on a race of people? Is it threatening the use of force or economic power to overpower states which do not agree with it? Has it breached the peace?

The answer to these questions is a forthright "No." Rhodesia poses no military or economic threat to world peace. The only threat to peace is an unsupportable assertion that Rhodesia's racial policies may induce rival African countries to attack Rhodesia.

So it would be on the receiving end of the aggression, rather than the giving end.

However, the Smith regime has been in power for more than 7 years, without armed attack from its neighbors. Moreover, the Republic of South Africa has existed longer without being attacked by its African neighbors.

Support for the United Nations depends on the quality of its decisions. When the Security Council voted to go into Korea, the United States supported that decision. In fact, the United States made the largest single commitment in terms of men killed and resources used of any nation supporting the U.N.

The PRESIDING OFFICER. The Senator's time is expired.

Mr. HARRY F. BYRD, JR. I yield the Senator 1 additional minute.

Mr. ALLEN. On the other side of the coin, in the Security Council sanctions against Rhodesia, the quality of the U.N. decision has hit an unsupportable point.

Whether one supports or disapproves of the United Nations generally—and I must state I do not approve of it generally, or specifically, for that matter—one cannot help but question the foundation of the U.N.'s findings that Rhodesia poses a threat to international peace.

While questioning the "legality" of the Security Council's findings of a threat to peace, I must also reflect on the effect enactment of S. 1868 will have on my State. Alabama contains several large specialty steel mills. If the sanctions are reimposed, the supply of chromite ore and ferrochrome will be greatly reduced. Mills which depend on these minerals will be closed down and jobs will be lost.

What will be my response to the worker who is unemployed if the Congress reimposes the sanctions? Will I be forced to tell him his job has been sacrificed to support a U.N. resolution which did not conform to the spirit of the very charter under which the decision was supposed to be made?

The real reason behind the U.N. resolution and the recurrence of this issue before the Senate is the efforts by a few to impose their moral judgments upon the United States. While I do not support the racial policies of the Smith government in Rhodesia, neither can I support a movement in the U.S. Senate to impose on Rhodesia our view of what its social policy should be.

The PRESIDING OFFICER. Who yields time?

Mr. McGEE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McGEE. What is the time situation?

The PRESIDING OFFICER. The Senator has 4½ minutes remaining.

Mr. McGEE. It was my understanding that I had 5, when I just made inquiry at the desk.

The PRESIDING OFFICER. The time running in between has been evenly divided between the two sides.

Mr. McGEE. I did not realize that the Chair was explaining on my time. I want to proceed, then, to what I have to say for just a moment.

The essentiality for acting now without delay rests very largely in Africa. I would like to suggest to my colleague from Alabama and my colleague from Virginia that the national interest requires that we consider this: As the Secretary of State, Dr. Kissinger, has stressed again and again, and as the President has stressed again and again, we have a great need for the cooperation of Africa. Ninety percent of the cobalt that we use for industrial and scientific purposes in the United States comes from Zaire in Africa. Most of our copper comes from Zambia in Africa. 700,000 barrels of petroleum a day we are now able to negotiate from Nigeria.

But what is happening, Mr. President? As the Secretary of State has told us, they are now proposing to cut it off because the African governments are united against our action in passing the Byrd amendment lifting the sanctions against Rhodesia.

Let us add it up. We have two or three companies that say they need the chrome from Rhodesia. Most of the companies in the free market, before Rhodesia was ever sanctioned, were buying from the Soviet Union for competitive reasons. The Soviet ore was cheaper. So, Mr. President, I simply say that in our own interests, much depends on our protecting our broad national interests in the countries of Africa, and not falling into the pit of rhetoric on "only Rhodesia."

So, as we come to the end of the time available for discussion of this bill, I want to reiterate once again, the real issue here is honoring our commitment in the United Nations; and if we do not like that commitment, let us get out of the United Nations. Let us propose it forthrightly. The Senator from Alabama has been direct on that, but let us know what we are voting on.

Right now we are in the United Nations, and I hope we stay, but there we were committed by our vote to change this program. We can change that vote within the U.N. by proposing a change within that body.

We purport to believe in law. We profess to operate under law, and yet we flagrantly cut to shreds an international commitment in that international body.

We are simply asking, in the request for repeal of the Byrd amendment, that we return the integrity of the United States to its commitments in the United Nations.

Finally, Mr. President, I would say that what we here in this body, the 62 Senators who so voted last Thursday the 59 Senators who voted last Tuesday, are asking, and the only thing we are asking, is the opportunity to vote in open session, and let these mature Senators make up their own minds, instead of being imprisoned by a two-thirds vote on the question. We simply ask for the right to vote, and that is the issue that we are really voting on, with this vote on the cloture motion.

The PRESIDING OFFICER. Who yields time?

Mr. HARRY F. BYRD, JR. Mr. President, in summary, the trade embargo was decreed unilaterally 7 years ago by President Johnson, following action by the United Nations.

The Byrd amendment, adopted 2 years ago, specified that the President could not prohibit the importation of a strategic material from a free world country if such material was being imported from a Communist country. This passed the Senate and the House of Representatives, receiving the support of representatives from 46 of the 50 States.

Metallurgical chromite is the strategic material at issue. The United States has none. Rhodesia has 67 percent of the world's resources. The other major producers are South Africa and Russia. Small quantities are found in Turkey, Iran, and India.

In Senate debate, the Senator from Nevada (Mr. Cannon), chairman of the Stockpile Subcommittee of the Armed Services Committee, stated that our Nation has only a 3-year wartime supply of this strategic material. He emphasized, too, that if Rhodesia is eliminated as a source, then the United States becomes dependent upon Russia.

Adoption of the Byrd amendment does not condone any alleged actions by the Rhodesian Government against any segment of its population—just as the lack of sanction against Russia does not, I would assume, condone persecution by Russia of its Jewish population.

Senator Humphrey's proposal now pending in the Senate would repeal the Byrd amendment. The thrust of his argument and the implication of his legislation, to use Senator Humphrey's own words, is that once the United Nations Security Council acts, that "has the same standing as a provision of our Constitution. It is the supreme law of the land." I reject that extremist view.

I support a world organization dedicated to peace. I do not support efforts by the United Nations to inject itself into the internal affairs of individual countries. I cannot support any action by the United Nations which could jeopardize the defense of the United States. Nor can I support Senator Humphrey's position that action by the Security Council of the United Nations becomes the supreme law of the land for the United States.

Mr. President, I ask unanimous consent to have printed in the Record an excerpt from Senator Cannon's statement as published in the Congressional Record of December 10, 1973.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

METALLURGICAL CHROME AND THE NATIONAL SECURITY

Chromium is one of the most important and indispensable industrial metals. Current United States consumption of metallurgical chrome ore totals about 700,000 tons per year. None is mined in the United States or in North America.

Ferrochromium is irreplaceable for the production of stainless steel and other type of high-performance steels and superalloys, where the chromium imparts vital resistance to heat and corrosion. About 10 percent of domestic production of these steels goes directly to military and defense applications. Modern jet airplanes, nuclear submarines and warships, for instance, cannot be built without metallurgical chrome; 85 percent of stainless steel is devoted to other essential uses, such as oil refineries, hospital equipment, food processing machinery and chemical plants. Only about 5 percent of U.S. chrome usage goes to household appliances and kitchen tools.

When the United States began to designate strategic materials for stockpiling and defense purposes in 1939, chromium was one of the first four commodities to be listed. The stockpile consists of metallurgical grade chromite and of several types of ferrochromium.

THE STOCKPILE AND NATIONAL EMERGENCY NEEDS

It is appropriate to review the stockpile supply situation, especially in view of the contention of critics of the Byrd amendment that the supply is large enough to satisfy U.S. needs for many years, and last the defense industries for 24 years in the event of a conventional war.

In testimony to the House Armed Services Committee in June 1972, officials of the Office of Emergency Preparedness declared that the U.S. requirements for metallurgical chrome for a 3-year wartime national emergency would total 4,315,000 tons—or 1,438,000 tons per year. This is more than the current peacetime usage. This estimate of U.S. emergency requirements was set in 1970 by the Office of Emergency Preparedness with the assistance of the Departments of State, Defense, Commerce, and Interior. They analyzed the expected supply and requirements during a projected future emergency. Estimates of supply for the projected mobilization period are based upon readily available capacity and normal resources in the United States and upon other countries which are considered accessible by the National Security Council.

To meet national emergency needs, the current inventory of chrome in the national and supplemental stockpiles is about 5,300,000 tons. This amount includes more than 900,000 tons of excess chrome, the disposal of which already has been authorized by Congress. This 900,000 tons, however, is very low grade, low quality domestic ore. And the bulk of it is stored in Montana, 50 miles from the nearest railroad. It has little economic value today.

In March 1970, the Office of Emergency Preparedness reduced the stockpile objective for metallurgical chrome to 3,100,000 tons, and in 1971 requested legislation (S. 773) authorizing the disposal of 1,313,600 tons of metallurgical chrome and ferrochrome. In trying to explain how the United States could meet its wartime needs for 4,315,000 tons of chrome from a stockpile of only 3,100,000 tons, the OEP witness told the House Armed Services Committee—

"We estimate we can obtain from sources such as Rhodesia and the Republic of South Africa 923,000 tons during the next 3 years."

Members of the committee were unable to get satisfactory answers to their questions as to what would happen if Rhodesian ore were fully committed to customers elsewhere in the world or unavailable because of the U.N. sanctions, and the committee did not approve the bill.

In April 1973, President Nixon proposed a new stockpile disposal legislation based on stockpiling essential needs for a 1-year period. In the case of chrome, the stockpile objective would be reduced to 445,000 tons. The legislation is pending before the Armed Services Committee, but no hearings have been held.

Mr. President, with the press of other business before the Armed Services Committee this year, the Subcommittee on the National Stockpile and Naval Petroleum Reserves, which I have the honor of chairing, has not had an opportunity to schedule hearings on the President's proposals for considerably revising our stockpile objectives and policies.

Until we have rather thorough and complete hearings on the entire subject, and until the subcommittee and the full committee can give careful attention to the entire matter, I cannot say to the Senate that we do not need the present stockpile of metallurgical chrome and ferrochrome. I do not know what levels of supply we need in our stockpile in the interests of this Nation's security and, obviously, this is not a decision which the committee or the Senate should make without adequate hearings and careful deliberation.

If we use up the stockpile today for reasons of economic, political, or social policy, it will be done and it will not be available to meet the needs of national security should a real emergency occur.

Until we examine our stockpile reserves and measure them against our national security requirements in a careful, thoughtful fashion, it would be seriously irresponsible to contend that we can cut ourselves off from foreign sources of chrome and use up the stockpile.

Furthermore, we cannot ignore the fact that our principal source for metallurgical chrome ore is still the Soviet Union. Fifty-three percent of our imports of metallurigical chrome ore in the first 7 months of this year have come from Russia. There is no reason to cut off this supply, or to turn our back on it. But our interest in "détente" with the Soviet Union certainly does not mean that we can count on them as a continuing source of one of our most critical materials in every circumstance. We would be foolhardy to accept that kind of a bear hug.

PRICES OF METALLURGICAL CHROME

The prohibition against importation of chrome from Rhodesia in the 1967–71 period produced a market increase in the price of Russian chrome. That U.S. Bureau of Mines Mineral Yearbook for 1970 states:

"Metallurgical grade chromite prices rose for the fourth successive year, continuing the trend initiated in 1967, primarily as a result of continued United Nations economic sanctions against Southern Rhodesia."

The price of Russian chrome dropped sharply after the enactment of the Byrd amendment in 1972.

Its repeal is likely to result in a substantial increase. When repeal of the Byrd amendment was under consideration in 1972, suppliers of chrome forecast an immediate 20 percent price increase if imports from Rhodesia were banned again. If history repeats itself, repeal of the Byrd amendments in 1973 would also result in a 20-percent increase in the price of Russian and Turkish chrome ore.

Mr. STEVENSON. Mr. President, the Byrd amendment was passed in 1971. The issues involved were debated then, debated in 1972, and debated once again during consideration of S. 1868 this year. The issues are clear, and it is now time to cease further debate and vote on final passage of this bill. When the amendment was first presented we were warned of overreliance on the Soviet Union for chrome and of economic disasters that the United States, or at least some of its strategic industries, would suffer if we continued to ban the import of Rhodesian chrome. Events of the last 2 years prove these prophecies in error, and underscore the irresponsibility of the action which we took in 1971.

The United States undercut its ally, Great Britain, in its negotiations with Rhodesia for independence. It undercut the moral and legal authority of the United Nations at a time when it desperately needed support. It broke with international covenants to which it was a party—and most grievously broke with its own best principles.

In a recent letter to Representative Diggs, chairman of the House of Representatives Subcommittee on Africa, Secretary Kissinger supported repeal of the Byrd amendment. He stated:

> I am convinced that the Byrd amendment is not essential to our national security, brings us no real economic advantage, and is detrimental to the conduct of foreign relations.

As forthright as this position seems, the controversy continues to rage. Mr. Kissinger's words do not begin to describe the humiliation this amendment brings down on a nation once viewed as man's last best hope.

I believe that we have an obligation to pass S. 1868 without delay.

The first argument raised in 1971, and again today, is that the importation of Rhodesian chrome would make our country less dependent on Russian chrome. In fact, only about 5 percent of the chrome we now import comes from Rhodesia, and the percentage of chrome we import from Russia continues at the same level: roughly half the total amount. Even if incoming quantities of chrome were to dwindle rapidly, we would still have large quantities of chrome stockpiled. In addition, we can, and do, buy ferrochrome, the most usable chrome alloy, from other nations, most notably Finland, at a lower price and higher quality than that which is currently available from Rhodesia.

We are told by some steel producers that if we cut off the supply of Rhodesian chrome we will cause the price of stainless steel to skyrocket and force factories and foundries to close. In fact, the price of steel alloys has been rising rapidly during the last 2 years when our imports of Rhodesian chrome have been illegally exempted from the United Nations embargo. Prices may well continue to rise, but it will be due mainly to the other inflationary pressures and shortages. Some unions which were worried about this situation in 1971, now see that their fears were unfounded, and they almost unanimously support repeal of the Byrd amendment. The continued importation of Rhodesian chrome simply is not necessary for strategic or economic reasons.

On the contrary, our position in the world would be strengthened if we gave more evidence of respect for international law and the inalienable rights of humans which we recognized 200 years ago.

We signed the United Nations Charter and promised to abide by its regulations. In 1966 and 1968, the United States also signed United Nations acts enforcing sanctions against the outlaw government of Rhodesia. We supported these actions as a responsible member of the world community. Now we have renounced our own promises and are in defiance of those agreements. We ask that other countries, particularly now in the Middle East, obey United Nations directives; yet we continue to defy U.N. agreements to which we are a party.

The Ian Smith regime has consistently refused to grant the majority black population of Rhodesia the most basic rights of citizenship. We ought not only be a law-abiding nation—but a principled nation. We ought, I suggest, regain our influence in the world, and our self-respect at home, by harmonizing our policies with our principles. The United States should declare its commitment not only to the law—but to the human rights of all people. It is not enough to preach the ideals of the American Revolution—and then aid the Portuguese, tilt to Yahya Kahn or traffic with Rhodesia. We cannot have it both ways. Our message by word and deed ought to be a four-square commitment to freedom for our own sake and for humanity's.

To repeal the Byrd amendment is little enough. Passage of S. 1868 would only remove a blotch on our national character. I urge the Senate to vote first to end debate on this matter, and then act quickly to approve S. 1868. With the Byrd amendment repealed, we can reestablish our Nation as a law-abiding member of the international family.

Mr. HART. Mr. President, I support the efforts to place the United States back into compliance with the United Nations resolution imposing economic sanctions on Southern Rhodesia. The United States has failed to observe these sanctions for the past 2 years, primarily because of concern that this embargo, by stopping imports of Rhodesian chromite and ferrochrome, would harm the domestic stainless steel industry and would increase U.S. dependence on the U.S.S.R. for chromite, thereby impairing national security.

The experience in the last 2 years has proven these fears to be grossly exaggerated. On the other hand, the harm to this Government's relations with African countries resulting from its failure to observe the United Nations sanctions can hardly be overestimated. In recognition of this fact, Dr. Kissinger, the Secretary of State, has stated that the administration will support the repeal of the Byrd amendment as a fundamental step toward improving the effectiveness of U.S. foreign policy in Africa. In a letter to Representative CHARLES DIGGS, chairman of the House Subcommittee on Africa, he stated:

> I am convinced—that the Byrd provision is not essential to our national security, brings us no real economic advantage, and is detrimental to the conduct of foreign relations.

In light of this consideration, there must be overwhelming economic or national security reasons for not observing the Rhodesia sanctions. These reasons simply do not exist. The Defense Department, in a letter by Mr. William P. Clements, Jr., Deputy Secretary, has stated that the domestic stockpile of chrome is sufficient to meet national security needs for the next 40 years. As to the economic impact of an embargo on Rhodesian chrome, it appears that there are satisfactory alternative sources of supply in South Africa, Finland, Brazil, Japan, Sweden, Turkey, and Norway to meet an increased demand for ferrochrome if the Rhodesian ban is reimposed. It is true that ferrochrome from these sources may cost a bit more, perhaps as much as $4 additional cost per ton of stainless steel, but this burden can be reduced by release for domestic use of part of the U.S. stockpile of chrome. The impact on labor of Rhodesia sanctions would be minimal. The United Steelworkers Union has concluded that the jobs of American specialist steel workers were not jeopardized by the embargo when it was in effect; on the contrary, lifting the embargo has cost American ferrochrome workers jobs since 1971. This is because most chrome imports from Rhodesia are now in the form of ferrochrome which, because it is produced by low-cost African labor in Rhodesia, has been able to undersell the American ferrochrome industry.

These economical considerations clearly do not outweigh the interest of the United States in complying with its international obligations. In 1966, when the Security Council of the United Nations agreed to sanctions against Rhodesia, the United States strongly supported this action. Under the United Nations Charter, the United States is legally bound to observe the sanctions. Our failure to do so shows not only disrespect for international law, but gives symbolic support to the racial policies of the government of Southern Rhodesia.

Mr. McGEE. Mr. President, in yesterday's debate on S. 1868, the distinguished junior Senator from Virginia (Mr. WILLIAM L. SCOTT) made several assertions which he felt were reasons for the Senate to reject efforts to place the United States back into compliance with United Nations sanctions against Rhodesia.

Therefore, I would like to take this opportunity to respond to his following allegations that first, the Soviets were gouging us pricewise on chrome during the period we were in compliance with sanctions against Rhodesia; second, that the Soviets were selling us Rhodesian chrome at higher prices, in other words Rhodesian chrome was being transshipped into the United States through Russia; third, that the U.N. sanctions against Rhodesia were costing the American laborer jobs in the ferrochrome industry; and fourth, that U.S. compliance with the sanctions placed us in a position of relying upon a potential enemy for a strategic material.

In response to the first point, I would point out once again that a study completed this year by an analyst in the Foreign Affairs Division of the Congressional Research Service, Library of Congress, noted the price of chrome, including that of Rhodesian chrome, had increased in recent years. The analyst noted the increase was due as much to an increase in demand for chrome and the general upward shift in the prices of raw materials as to the effects of economic sanctions. The study pointed out the rise in world chrome prices began in 1964, before the imposition of the sanctions. This was attributed to the fact that in the 1950's, large U.S. stockpile purchases, primarily from Turkey, inflated the chrome prices. When these purchases ceased in 1958, prices began to rise as the ore surplus was being depleted. At the same time, world production of stainless steel began to increase at a rapid rate, especially in Japan and West Germany. According to the study, it was this new demand for chrome ore which also contributed to the upward trend in prices.

"These factors, which began pushing ore prices upward in 1965, have continued through 1972," according to the study.

The price U.S. industry pays for chromium imports is a very complex system. It depends upon the method of computation as to whether the prices for the imports are quoted prices or actual prices paid. However, in researching this question, I studied the U.S. Department of Commerce's monthly publication entitled "Imports, Commodity by Country." In the process, I discovered the following facts.

Relative to imports of metallurgical grade chrome, our average payment per ton for Rhodesian chrome in 1972 was some $5.91 per ton less than chrome imports from Soviet Russia. However, in the first quarter of 1973, we paid $48.16 a ton for chrome from Russia and $62.38 a ton for chrome from Rhodesia, or $14.22 a ton more. On the other hand, we paid $93.70 per ton from Turkey during the first quarter of 1973.

In a recent Carnegie endowment for the peace study on the Rhodesian chrome question, it was pointed out:

> Because Russian ore is of generally higher chromic oxide content than either Rhodesian, South African, or Turkish ore, it merits a somewhat higher price per ton. Similarly, because South Africa's metallurgical grade chromite is generally of lower quality, it is priced lower than that of our other major foreign suppliers.

Another fact that opponents of S. 1868 fail to mention is the year before sanctions against Rhodesia went into effect, we were paying only $40 a ton for metallurgical grade chromite. Yet, in 1972, we paid 168 percent more for the same ton of chrome from Rhodesia. Again, the basis for this comparison is U.S. Department of Commerce data.

To give a further example of how misleading the numbers game is, let us take a look at chemical grade chrome—which is a middle grade. In 1968, Rhodesia sold us chemical grade chrome for $30.51 per ton. However, in 1972, the Rhodesians were charging us $83.25 per ton for chemical grade chromite. This represented an increase of nearly 287 percent in just a 4-year period.

According to U.S. Department of Commerce data, the price of Rhodesian chrome for all grades from 1961 until 1968 was consistently higher per ton than the Soviet Russian chrome.

As to the second point, and I have addressed myself to this rumor on many occasions in the past, it is alleged that Russian chrome is nothing more than Rhodesian chrome transshipped. I might add, there has never been any evidence to substantiate this allegation, even though it has been raised once again. The basis of this claim was a test conducted by the Crucible Steel Division of Colt Industries. The Colt analysis utilized an electron microprobe in search of titanium content in the chromite. Colt claimed that low titanium content—a Rhodesian chrome ore characteristic—had also been found in Soviet Russian ore being imported into the United States, leading them to conclude Russian ore was nothing more than Rhodesian ore transshipped.

However, the U.S. Geological Survey refuted the claim 2 years ago, even though Colt still advances this argument. USGS scientists stated that titanium content alone was not the basis for determining the origin of the ore. According to the USGS, such a determination is based upon a combination of physical characteristics, content of chromium and iron oxides, commercial value of the ores, records of production from Rhodesian mines, and the geology of Russian chromite deposits.

The USGS also noted the ore that Colt Industries claimed to be transshipped Rhodesian ore contained only an average of 38 percent chromium oxide—"far below that of the Rhodesian ore that is supplied to the world market." For these reasons, the USGS stated unequivocably that Rhodesian ore was not being transshipped through Russia to the United States. Further, the USGS stated that Russian ore with similar titanium content as Rhodesian ore actually comes from the Urals and is known as Saranovskaya ores, or low-grade Russian ore.

In light of this refutation by the U.S. Geological Survey of Colt's claim that Rhodesian ore was being transshipped through Russia, we are now being confronted with rumors that Soviet Russia is buying Rhodesian chrome for their own use and selling us Russian chrome.

Again, no evidence has been offered to substantiate this claim. While the United Nations has been able to target those nations who are covertly violating sanctions against Rhodesia, there is no evidence the Soviets are doing so. Thus, once again, we are confronted with allegations and rumors which are not based upon fact. We are confronted with misrepresentations in an effort to coerce the Congress of the United States into continuing this Nation's violation of U.N. sanctions against Rhodesia.

The third point addresses itself to the effect sanctions had on our domestic ferrochrome industry.

Foote Mineral Co., a principle lobbyist in 1971 for breaking the sanctions against Rhodesia, was the first to feel the detrimental impact of the new law. On December 13, 1972, it announced it was closing the plant in Steubenville, Ohio, which had received one of the first shipments of Rhodesian chrome ore. Foote gave the following reason for the closure:

> The domestic ferrochrome industry has been forced to reduce selling prices in order to combat the low-priced imports which have taken as much as 50 percent of the domestic low-carbon ferrochrome market this year.

In the December 18, 1972, issue of Metals Week, it was pointed out that Foote had decided to shut down two additional plants and go out of the ferrochrome business completely. One plant is in Wenatchee, Wash., and the other in Kemballton, Va. The three plants accounted for 24 per cent of Foote's total business for 1972.

Metals Week went on to point out:

> Steubenville's problems were compounded by rising power costs and power outages. But, despite a recent interest expressed by the firm in producing charge chrome, the cutthroat competition in ferrochrome pricing undoubtedly played as significant a role in Foote's decision as did the troubles at the plant. Low-priced imports, primarily from South Africa, have been at an all-time high this year—estimated at some 50% of U.S. consumption. Imported prices are reportedly even below US production costs in certain cases, making it increasingly difficult for the domestic industry to compete. The competition has been intensified by a change in emphasis away from low-carbon products and into high-carbon and low-carbon charge chrome—the result of mounting South African production and stainless steel technology which permits the use of lower-grade material.

Metals Week noted this interesting development:

> One highly placed source believes the problem lies deeper, however, originating with a "considerable dislocation of the historical patterns of ferrochrome." Until last year, this expert reasons, the US maintained a strict adherence to the UN sanctions against Rhodesia, making the Rhodesians very selective and independent about selling ore. At the same time, Rhodesia and South Africa—which have maintained a traditional strong bond, accessing low-cost and high-grade ore sources to both—are now seeking to produce and sell chrome alloys rather than ore. As a result, South African ferrochrome production has expanded to an estimated 500,000 tons per year by yearend and Rhodesia is slated to triple its own capacity in the next 18 months to 400,000 tpy.

Foote was not alone, as America's fourth largest producer of ferrochrome—behind Airco Alloys, Union Carbide and Foote—Ohio Ferroalloys, cited severe price erosion and loss of its profits in its decision to suspend ferrochrome operations "until such time as the market price on this product might return to a reasonable level that would allow a profit." This announcement was made in September 1972, but by the year's end, the temporary suspension had become a permanent decision. Ohio Ferroalloys then announced it would produce materials "more profitable than ferrochrome" at its plant in Brilliant, Ohio. In the words of company President R. L. Cunningham:

> We are closing down because we could not compete with prices quoted by the South African and Rhodesian exporters.

As a result, the Carnegie study pointed out:

> This surge of low-cost imports of ferrochrome from Rhodesia has done more harm to American industry than any of the chrome ore-related hardships—real and imagined—that occurred during the period of the sanctions.

Carnegie said the closing of Foote meant the loss of 313 American jobs.

Thus, 20 months after congressional approval of the sanctions violation went into effect, the American ferrochrome industry has lost two of its four principal producers. In this connection, the Ferroalloys Association filed a petition before the Tariff Commission in May of this year asking for relief from imports including ferrochrome. The petition emphasized that:

> Unless aid is forthcoming soon it will only be a matter of time until almost all domestic production of ferrochrome and chromium metal will cease and the bulk of our country's requirements will be supplied from and dependent on foreign production.

According to U.S. Department of Commerce data, low carbon ferrochrome imports from Rhodesia totaled 4.4 million pounds in 1972. In the first quarter of 1973, we imported nearly 25 percent of our low carbon ferrochrome from Rhodesia.

On the other hand, Rhodesia is accounting for more than 35 percent of our total high carbon ferrochrome imports—some 50 million pounds in the first quarter of 1973.

The Carnegie study notes:

> Together, Rhodesian and South African low-cost ferrochrome has provided 77 percent of U.S. imports of high-carbon ferrochrome in 1973.

Thus, while the violation of the sanctions brought a flood of ferrochrome imports into the United States, we only imported 12 percent of our total chrome imports in 1972 from Rhodesia.

Once again, quoting from the Carnegie study:

> It is important to remember in all this just why Rhodesian and South African ferrochrome is so much cheaper. Not only are the lack of pollution controls and the proximity to the raw material—chrome—important in keeping costs low in southern Africa. Equally important is the fact that labor unions are almost unheard of and the mostly-African labor force in both countries are paid very low wages for their work in the mines and the ferrochrome processing plants. It is the apartheid and cheap labor systems which allow companies like Union Carbide to produce ferrochrome so much more cheaply in southern Africa.

Another interesting point made by the Carnegie study is the following:

> If companies like Foote Mineral and Ohio Ferroalloys were oblivious to the potential impact of the amendment (to violate sanctions), the Rhodesian regime could not have been. From their perspective, it is much more attractive to sell ferrochrome to the American market than raw chrome ore; the return on ferrochrome is about five times that for chrome ore. For instance, according to the U.S. Treasury Department, the U.S. imported about 92,000 tons of chrome ore worth $2,822,930 from Southern Rhodesia from January 24, 1972, to January 11, 1973. At the same time, we imported just over 18,000 tons of finished high-carbon ferrochrome from Rhodesia worth almost exactly the same amount—$2,990,713.

In this connection, Mr. Fred O'Mara of Union Carbide, who testified before our subcommittee, observed in the July 14, 1973 issue of Business Week that:

> Inevitably, Carbide will be forced to move its ferrochrome production in order to compete.

The Carnegie study went on to point out:

> Union Carbide owns not only chrome mines in Rhodesia, but also a large ferrochrome processing operation there called Union Carbide Rhomet—which provides jobs to 717 employes. In addition, the company is reportedly exploring possibilities of investing in South African ferrochrome facilities. Thus, unlike other smaller American firms which produce ferrochrome, Carbide may not lose out in the long run as the domestic ferrochrome industry suffers.

Thus, we have the present situation whereby two of the top four ferrochromium producers in this Nation are going out of the business of ferrochromium production. A third, Union Carbide, says it is going to have to close down domestic production and move its ferrochrome production overseas. We are seeing the export of American jobs overseas.

And in response to the fourth point raised by the distinguished junior Senator from Virginia, it is interesting to note the following.

Contrary to claims that the sanctions were making the United States increasingly reliant upon a potential enemy—Russia—for a strategic metal—chrome—the surge in Russian imports came long before sanctions were implemented. Again, using the U.S. Department of Commerce as our source, we found that in 1961, we imported only 4.7 percent of our chrome from Soviet Russia while Rhodesia had 47.2 percent of our market. In 1963, the Soviet Russian imports jumped to 38.3 percent, while imports from Rhodesia decreased to 39.7 percent. By 1967—the year before sanctions—our imports from Soviet Russia had increased to 58 percent, while imports from Rhodesia had declined to 17.6 percent. Thus, the upsurge in imports from Soviet Russia cannot be attributed to the sanctions against Rhodesia, but rather to what the Library of Congress study pointed out: ". . . the Soviet Union produces the highest grade chrome available."

Mr. President, I might point out that the factual data contained in my remarks today, can be found in the statement I made in opening hearings on S. 1868 before the African Affairs Subcommittee of the Senate Foreign Relations Committee. My statement was circulated to every Senator. However, as evidenced by the debate yesterday, it is not the factual data that opponents of S. 1868 are relying upon in drawing their conclusions.

Experts in the area totally reject the contentions opponents of S. 1868 make on economic or other grounds. Our Government officials, from President Nixon to Secretary of State, Dr. Henry Kissinger, refute the arguments in favor of our continued violations of the sanctions. Yet, we are continually presented by the same arguments which have no factual basis whatsoever. I believe a disservice has been rendered the Members of this body when they are continually confronted with allegations which are presented as factual data, but which, under close scrutiny, have no basis in fact. It is evident that nothing new has been added to the debate on the part of the opponents of S. 1868. Therefore, I urge all my colleagues to join the effort today to invoke cloture on this measure.

Mr. BROOKE. Mr. President, my remarks on the Rhodesian chrome issue will not take long. I believe most of us are aware of the pro and con arguments on this subject. There are relative degrees of merit on both sides of the question.

No matter what course of action is preferred, the issue of the costs to be taken is of central importance. For instance, U.S. stainless steel producers may have to pay slightly higher prices for raw materials. One should not be surprised that Rhodesian chrome would have a lower price, given the oppressive labor practices, the effective bans on strikes and bans on collective bargaining instituted by that Government. Do we wish to, in a de facto manner, encourage continuation of such policies? I pray that this is not the case. Moreover, the availability of alternate sources of chrome ore leads me to conclude that the danger of increased costs is not of as great a moment as the opponents of the bill argue.

Conformity with the sanctions could also result in costs vis-a-vis some degree of reliance on the Soviet Union for a part of our chrome needs. Countering this is the fact that past refusal to abide by the sanctions has not resulted in any significant decrease in the amount of chrome we import from the Soviet Union. The Soviet Union has continued as our prime source of chrome ore, making up between 53 and 55 percent of our imports. Rhodesia supplies us with less than 5 percent of our chrome ore.

I seriously question the proposition that the United States is becoming "dependent" on the Soviet Union for chrome. As I understand the relationship, we import chrome from that country because at the present time it is one of the most accessible sources of chrome ore. "Dependency" would mean we have no alternative but to buy from the Soviet Union. I know of no substantive evidence that this is or will be the case.

I recognize and appreciate that these costs—possible price increases and the danger of "dependence" on the Soviet Union—are of overriding concern to some of my colleagues. I respect that concern but must disagree that those costs are the most crucial ones that confront us here.

In my continuing analysis of this issue, I have become convinced that the fundamental "cost" we pay for our current policy is that of extensive damage to our prestige in the third world due to our flouting of the U.N. decision to impose sanctions on Rhodesia. It is the continuing deterioration of respect for the United States in Africa and elsewhere that is the crucial consideration. It is the loss of respect for the United States that has the most debilitating long-term implications for our role in the world. It threatens to make more difficult access for the United States to raw materials in the third world. In an increasingly interdependent world, this question will become an ever more important focal point for American foreign and economic policies.

Naturally, one cannot quantify "loss of respect" and "long-term implications". Nor, admittedly, can one identify with certainty the dangers that may develop if we once again abide by the U.N. sanctions. But, Mr. President, I am convinced that it is these non-quantifiable factors that are the "crucial costs" we must weigh on this issue. And it is my firm belief that at this point in time, moral sensibility and political wisdom dictate that we vote to abide by the U.N. sanctions against Rhodesia. The "costs" that we can avoid by such an action clearly outweigh those that the opponents of bill have warned will be incurred by its passage. I urge my colleagues to give positive consideration to the pending legislation.

CLOTURE MOTION

The PRESIDING OFFICER (Mr. Clark). The hour of 12 noon having arrived, under the unanimous consent agreement, and pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion which the clerk will state.

The second assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on S. 1868, an act to amend the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome and to restore the United States to its position as a law-abiding member of the international community.

Hubert H. Humphrey
Gale W. McGee
Alan Cranston
Tom Eagleton
Edward Kennedy
Harold E. Hughes
Jennings Randolph
Gaylord Nelson
Clifford P. Case
James B. Pearson
John V. Tunney
Ted Stevens
Harrison Williams
Walter F. Mondale
William D. Hathaway
Frank E. Moss
Quentin Burdick
Mike Mansfield

CALL OF THE ROLL

The PRESIDING OFFICER. Under rule XXII, the Chair directs the clerk to call the roll to ascertain the presence of a quorum.

The second assistant legislative clerk called the roll, and the following Senators answered to their names:

[No. 592 Leg.]

Allen
Baker
Brock
Byrd, Harry F., Jr.
Byrd, Robert C.
Chiles
Clark
Cranston
Ervin
Goldwater
Griffin
Hart
Haskell
Helms
Hughes
Humphrey
Mansfield
McGee
McIntyre
Pearson
Ribicoff
Roth
Stafford
Talmadge
Tower

The PRESIDING OFFICER. A quorum is not present.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be directed to request the presence of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

After some delay, the following Senators entered the Chamber and answered to their names:

Abourezk
Aiken
Bartlett
Bayh
Beall
Bellmon
Bentsen
Bible
Brooke
Buckley
Burdick
Cannon
Case
Cook
Curtis
Dole
Domenici
Dominick
Eagleton
Eastland
Fannin
Fong
Fulbright
Gurney
Hansen
Hartke
Hatfield
Hathaway
Hruska
Huddleston
Inouye
Jackson
Javits
Johnston
Kennedy
Magnuson
Mathias
McClellan
McClure
McGovern
Metcalf
Mondale
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pell
Percy
Proxmire
Randolph
Saxbe
Schweiker
Scott, Hugh
Sparkman
Stennis
Stevens
Stevenson
Symington
Taft
Thurmond
Tunney
Weicker
Williams
Young

Mr. ROBERT C. BYRD. I announce that the Senator from Delaware (Mr. Biden), the Senator from Idaho (Mr. Church), the Senator from South Carolina (Mr. Hollings), the Senator from Louisiana (Mr. Long), the Senator from New Mexico (Mr. Montoya) and the Senator from Alaska (Mr. Gravel) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. Bennett) is necessarily absent.

The Senator from New Hampshire (Mr. Cotton) is absent because of illness in his family.

The Senator from Virginia (Mr. William L. Scott) is detained on official business.

The PRESIDING OFFICER. A quorum is present.

VOTE

The PRESIDING OFFICER. Pursuant to rule XXII, a rollcall has been had, and a quorum is present.

The question before the Senate is, Is it the sense of the Senate that debate on S. 1868, a bill to amend the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome and to restore the United States to its position as a law-abiding member of the international community, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will now call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate? This is a close vote and in fairness to both sides the well should be kept clear so Senators can be heard when they respond.

The PRESIDING OFFICER. The Senate will be in order. Senators will please take their seats.

The call of the roll was resumed and concluded.

Mr. FULBRIGHT (when his name was called). Mr. President, on this vote I have a pair with the Senator from Idaho (Mr. Church) and the Senator from Alaska (Mr. Gravel). If they were present and voting, they would vote "yea;" if I were permitted to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. MANSFIELD (when his name was called). On this vote the Senator from Delaware (Mr. Biden) and I have a pair with the Senator from South Carolina (Mr. Hollings). If the Senator from South Carolina (Mr. Hollings) were present and voting he would vote "nay." If the Senator from Delaware (Mr. Biden) and I were permitted to vote we would vote "yea." We withhold our votes.

Mr. ROBERT C. BYRD. I announce that the Senator from Delaware (Mr. Biden), the Senator from Idaho (Mr. Church), the Senator from South Carolina (Mr. Hollings), the Senator from Louisiana (Mr. Long), the Senator from New Mexico (Mr. Montoya), and the Senator from Alaska (Mr. Gravel) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. Bennett) is necessarily absent.

The Senator from New Hampshire (Mr. Cotton) is absent because of illness in his family.

The Senator from Virginia (Mr. William L. Scott) is detained on official business.

The yeas and nays resulted—yeas 63, nays 26, as follows:

[No. 593 Leg.]

YEAS—63

Abourezk
Aiken
Baker
Bayh
Beall
Bentsen
Brooke
Burdick
Byrd, Robert C.
Case
Chiles
Clark
Cook
Cranston
Dole
Domenici
Eagleton
Fong
Griffin
Hart
Hartke
Haskell
Hatfield
Hathaway
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Magnuson
Mathias
McGee
McGovern
McIntyre
Metcalf
Mondale
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Saxbe
Schweiker
Scott, Hugh
Stafford
Stevens
Stevenson
Symington
Taft
Tunney
Weicker
Williams
Young

NAYS—26

Allen
Bartlett
Bellmon
Bible
Brock
Buckley
Byrd, Harry F., Jr.
Cannon
Curtis
Dominick
Eastland
Ervin
Fannin
Goldwater
Gurney
Hansen
Helms
Hruska
McClellan
McClure
Nunn
Sparkman
Stennis
Talmadge
Thurmond
Tower

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—2

Fulbright, against
Mansfield, for

NOT VOTING—9

Bennett
Biden
Church
Cotton
Gravel
Hollings
Long
Montoya
Scott, William L.

The VICE PRESIDENT. On this vote, there are 63 yeas and 26 nays. Two-thirds of the Senators present and voting having voted in the affirmative, the cloture motion is agreed to.

Mr. MANSFIELD. Mr. President——

The VICE PRESIDENT. The Chair recognizes the Senator from Montana.

Mr. MANSFIELD. Mr. President, under the rule, each Senator now has 1 hour at his disposal. Is that correct?

The VICE PRESIDENT. That is correct.

Mr. MANSFIELD. That time is not transferable. Is that correct?

The VICE PRESIDENT. That is correct, except by unanimous consent.

UNANIMOUS-CONSENT PROPOSAL

Mr. MANSFIELD. Mr. President, on my own initiative—I have discussed this request with only one Senator and his initial reaction was in the negative—I would like to make a proposal to the Senate. I do so because we are looking forward to a possible adjournment of the 1st session of the 93d Congress on Friday or Saturday of this week. Many Members of the Senate have made their reservations. Some of our western Members have not as yet been able to make any reservations to go home to visit their States.

Therefore, Mr. President, in view of the possibility that if we become engaged in prolonged discussion on the question of Rhodesian chrome and in so doing we may be with it a day or two, or some hours, I would like to ask unanimous consent that the time begin to run beginning at the hour of 3 p.m. on Monday, January 21.

The VICE PRESIDENT. Is there objection?

Mr. HUMPHREY. Mr. President, reserving the right to object, it seems to me that we have gone a long time on this issue, and it is pretty well known in this body what the vote is. It would seem that we could arrive at a decision if we are prone to do so by a limited amount of debate and finalize this matter in a relatively short period of time.

I do not like to object to the leader's request, but I would be compelled to do so at this particular time.

Mr. MANSFIELD. May I say I had not discussed this matter with the distinguished Senator from Minnesota. The proposal was made only in view of the welfare of Senators as a whole, the time factor confronting us, and the possibility of adjourning this session on this Friday or Saturday.

Mr. McGEE. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. McGEE. Is there any reason why we cannot vote on this right now? That would not hold up anybody's ticket.

Mr. MANSFIELD. The Senator knows that question is answerable in itself, because he has been put on notice that there are a number of Senators who are prepared to discuss it. I did consider the possibility of asking for a time limitation, but for the life of me, I do not know how a request for a time limitation can be made when 100 Senators are entitled to 1 hour apiece.

Therefore, I withdraw my request and will retain the remainder of my time.

Mr. RANDOLPH. Mr. President, will the distinguished majority leader hold the floor that I may comment briefly?

Mr. MANSFIELD. On my time? [Laughter.]

All right. I yield 5 minutes on my time.

The VICE PRESIDENT. Is there objection to the Senator from Montana yielding 5 minutes to the Senator from West Virginia? Without objection, it is so ordered.

Mr. RANDOLPH. Mr. President, I think the request which has now been withdrawn by the majority leader was a very reasonable one. I recognize, of course, the difference of opinion in the membership. I am one Member of the Senate who will want no part of that 1 hour which is given to me. However, I will vote to support the position of the Senator from Virginia. But I voted for cloture, and I have voted for cloture on many occasions.

I say very frankly that I will vote, as I have in this instance, with the Senator from Virginia.

I think that Members of the Senate generally have expressed themselves on the substantive matter lately. However, let us move as quickly as possible to a determination of this matter.

Mr. MANSFIELD. Mr. President, all I have to say is that the proposal I made was made on my own initiative. I have not discussed it with the distinguished Republican leader, nor with anyone else, except for one Senator on this side of the aisle.

So, we will see what happens.

Mr. ALLEN. Mr. President, would the distinguished majority leader yield to me on my own time?

Mr. MANSFIELD. Mr. President, I yield to the Senator from Alabama.

The VICE PRESIDENT. The Chair recognizes the Senator from Alabama.

Mr. ALLEN. Mr. President, I wish that the distinguished majority leader had made a similar request before the cloture vote, because the Senator from Alabama in his remarks during the 1-hour period prior to the vote suggested that the whole matter be postponed, the cloture vote, over to January 21.

I wish that that proposal had been made, or that the distinguished majority leader had pointed out the time that would be consumed in discussing the bill.

At this time, the position of the Senator from Alabama on these matters is that he believes in having a full debate prior to a cloture vote. However, once the Senators have decided to impose cloture, there is no need to continue the debate a great deal longer.

So the Senator from Alabama is not going to use any portion of this 1 hour. And he would recommend that the same course be followed by those Senators who were opposed to invoking cloture.

Mr. MANSFIELD. Mr. President, I appreciate the remarks just made by the distinguished Senator from Alabama. However, I was not present when the Senator made the suggestion that it be put over to the 21st of January.

The VICE PRESIDENT. The bill is open to amendment. If there be no further amendment——

Mr. ALLEN. Mr. President, is there an amendment of the Senator from Virginia at the desk to amend the title of the bill?

The VICE PRESIDENT. There is such an amendment.

Mr. ALLEN. Mr. President, I call up the amendment of the Senator from Virginia.

The VICE PRESIDENT. The Chair rules that an amendment to the title of the bill cannot be considered until after the bill has been passed.

The bill is open to amendment. If there be no further amendment to be proposed——

Mr. CURTIS. Mr. President——

The VICE PRESIDENT. The Senator from Nebraska is recognized.

Mr. CURTIS. Mr. President, I wish to be recognized to speak on the pending bill.

The VICE PRESIDENT. The Chair recognizes the Senator from Nebraska.

Mr. MANSFIELD. Mr. President, will the Senator yield on my time?

Mr. CURTIS. Mr. President, I yield to the distinguished majority leader on my time.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be taken out of my time.

The VICE PRESIDENT. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CURTIS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. CURTIS. Mr. President, it will be my hope that the authors of this bill would voluntarily withdraw or change the title of this measure.

Mr. President, may we have order?

The VICE PRESIDENT. There will be order in the Chamber.

The Senator from Nebraska may proceed.

Mr. CURTIS. Mr. President, the title contains this language: "To restore the United States to its position as a law-abiding member of the International community."

Mr. President, the United States is a law-abiding member of the international community. No nation in the history of the world has the record of the United States. Of course, our history has some blemishes. Of course, there are things that in retrospect many people might want to change. However, the fact remains that the United States is a force for good. It is an honorable country. The United States is a law-abiding nation.

The United States and the taxpayers thereof have been more generous than the people of any other organized country in the history of the world. They have taxed themselves and have taxed themselves to relieve distress around the world.

The United States has championed labor and freedom not only on her own soil, but also throughout the world.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. CURTIS. I will yield in just a moment.

I am chagrined and ashamed, Mr. President, at the fact that U.S. Senators would introduce legislation and refer to the United States of America as not being a law-abiding nation of the world.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Chamber? The Senator is entitled to be heard.

The VICE PRESIDENT. The Senators will please take their seats or move to the cloakrooms.

Mr. CURTIS. Mr. President, is there any way that we can point our fingers at the hoodlums out in the streets?

Mr. ROBERT C. BYRD. Mr. President, the Senate is not in order. May we have order in the Senate?

The VICE PRESIDENT. Members will please take their seats or retire to the cloakrooms.

The Senator from Nebraska may proceed.

Mr. CURTIS. Mr. President, is there any way we can point our fingers at the hoodlums out in the streets, burning flags, and creating all sorts of offenses that destroy respect and love for our country?

Here in the Senate we have an official bill, the title of which contains the words "To restore the United States to its position as a law-abiding member of the international community." Mr. President, if that does not clearly state that the United States is not a law-abiding member of the international community, the English language is meaningless.

Mr. President, we have been going through a time of turmoil and a period of stress in our history. It was not long ago that a President of the United States was assassinated. The President who followed the assassinated President was Lyndon Johnson. Any one who knew Lyndon Johnson knew that he loved politics his whole life. There was something wrong when he said, "I do not choose to run for reelection."

It was because the forces of destruction made life so miserable. They carried their vicious attacks not against Lyndon Johnson, but against the Presidency.

So he stepped down and did not run. Oh, I can remember what has taken place the last few years—the massive marches on Washington, the epitaphs and the filth, the utterances against the President of the United States, the actions taken against our flag.

President Nixon today stands as the world's greatest peacemaker. If they destroy him, where will the free world turn for a leader?

All of this great massive effort to destroy the Presidency—not a President that I voted for, but all Presidents—this great, massive effort to malign and smear our country, Mr. President, I do not like. I do not think that that is appropriate language to ever put in a bill.

Mr. GOLDWATER. Mr. President, will the Senator yield on my time?

Mr. CURTIS. I am happy to yield on my own time.

Mr. GOLDWATER. Mr. President, I would like to ask the distinguished Senator from Nebraska, referring to the language in the title of the bill:

> To restore the United States to its position as a law-abiding member of the international community,

What have we done to make us not law-abiding? What is our crime?

Mr. CURTIS. I do not know. We live in a day when some people feel that the police are always wrong, and some people feel that those who commit crimes are heroes. I just cannot fathom such reasoning.

Mr. GOLDWATER. Would I be correct in assuming that the crime is that we violated an embargo placed on us by the United Nations, an embargo against the country of Rhodesia, and in doing so we bought chrome from Rhoesdia direct?

Mr. CURTIS. Well, they might have had something like that in mind, but one swallow does not make a spring, even if they were right.

The United States is a law-abiding member of the international community, regardless of what an individual or group may or may not believe about a particular origin of material.

Mr. GOLDWATER. I could not agree with the Senator more. What I am trying to lead into is the inconsistency of some of the Members of this body.

If I remember correctly, Russia overran Hungary.

Mr. CURTIS. That is correct.

Mr. GOLDWATER. In violation of the United Nations. Did anyone stand up on this floor and suggest an amendment to something that would restore Russia as a law-abiding member of the international community?

Mr. CURTIS. Not that I can remember. I think not.

Mr. GOLDWATER. If memory serves me correctly, the Soviets overran Czechoslovakia.

Mr. CURTIS. That is true.

Mr. GOLDWATER. Against the wishes of the United Nations. I do not recall any bill coming to this floor either condemning Russia or offering to make her a law-abiding member of the international community once again.

What I am leading up to is that I could not agree with the Senator more: This, to me, is foul language. It is rotten. It is not even deserving to be printed on the paper we use on the floor of the Senate. How anyone could say that the United States is not a law-abiding member, after the 180-odd billion dollars that we have funneled from our pockets through the United Nations into the pockets of people around this world, the millions and millions of tons of wheat that we have virtually given away to help starving people around this world, our efforts to keep people free around this world, whether we agree with them or not, and then to have Members of this body say we are not law-abiding—I think we have gone out of our heads, to tell you the truth. I think maybe we should have an amendment offered to help restore ourselves to sensible-thinking Americans.

I join the Senator in finding this language most revolting. I think it is a big aid toward people who are our enemies around this world.

Mr. CURTIS. I thank my distinguished friend. Mr. President, I happen to believe that patriotism is still a virtue. I happen to believe that to malign our country is to injure it. I happen to believe that brave men have died to give us the liberty that we enjoy. And I am firmly convinced that there is more genuine freedom in the United States than any other place on Earth.

I am convinced that our system of private enterprise has brought more good things to more good people over a longer period of time than any other system in the world, and that because of the strength of it, we have been able to help, and help, and help some more.

Mr. DOMINICK. Mr. President, will the Senator yield?

Mr. CURTIS. I am happy to yield to the Senator from Colorado.

Mr. DOMINICK. I just want to associate myself with the remarks of the Senator from Nebraska and the Senator from Arizona. I think they were said with true dignity and with great courtesy, probably more courtesy than this body deserves in presenting a bill such as this to us.

Mr. CURTIS. I thank my distinguished friend.

Mr. President, if we are to expect the youth of America to revere our flag, to support our Government, to defend our country, and to obey its laws, the Senate of the United States or any part thereof should refrain from branding our beloved Republic as not being a law-abiding member of the international community.

That is what the enemies of the United States said throughout the Vietnamese war: That we were the aggressors. Mr. President, it all fits into a pattern, and I do not like it.

I reserve the remainder of my time.

Mr. HELMS. Mr. President, I want to associate myself with the remarks of my distinguished colleagues, the Senator from Nebraska (Mr. CURTIS) and the Senator from Arizona (Mr. GOLDWATER).

I do hope that the distinguished Senator from Minnesota (Mr. HUMPHREY) will reconsider the most unfortunate wording of the title of his bill (S. 1868) I strongly urge him to strike all reference suggesting that the United States is not "a law abiding member of the international community."

Mr. President, I must suggest—reluctantly and respectfully but emphatically—that the argument we have heard in this Chamber on behalf of banning chrome imports from Rhodesia may be destined for a curious immortality.

It may one day find itself enshrined in textbooks used in freshman logic courses. This will not be a flattering enshrinement. It will be a dubious and embarrassing honor.

This argument may become famous as a classic example of how not to reason about moral action. This argument may become a legendary example of the moral calculus misapplied.

Consider the following facts.

It is a fact that the argument for banning imports of chrome from Rhodesia is a moral argument. That is, those making the argument for doing so for moral reasons—sincerely felt, deeply believed moral reasons.

It is a fact that the ban on imports is intended to protest the internal policies of Rhodesia. It is a fact that it is intended as more than a mere protest. It is intended not as an innocuous gesture, but as a consequential act.

It is a fact that moral action is only sensible—indeed, it is only moral—when the consequences of the act are good.

It is a fact that the predictable consequences of this action—the act banning of chrome imports from Rhodesia—would be the reverse of moral.

It is a fact that banning imports from Rhodesia will do one of two things. Either it will hurt the sale of Rhodesian chrome. Or it will not hurt the sale of Rhodesian chrome.

Consider the case, either way.

Suppose a refusal of the United States to import Rhodesian chrome would be a severe blow to the Rhodesian chrome industry. So what? Would this be consequential—consequential in the sense of having the consequences that the advocates of this ban desire?

I think not.

Oh, it would be consequential, all right. It would have the consequence of depressing the Rhodesian economy—it would depress it for white and black alike.

It would have the consequence of increasing the Rhodesian nation's sense of isolation, with the clearly predictable consequence that existing internal fears will be heightened; existing repression may be toughened; new fears will be codified into still more intractable laws.

These will be the consequences if the action of banning U.S. imports of Rhodesian chrome should harm the effect of substantially curtailing Rhodesia's sales of chrome.

Are these consequences that we wish to be party to bringing about? I think not.

But leave that aside. Let us consider the other possibility.

Perhaps a ban on U.S. imports of Rhodesian chrome will not have the depressing, isolating effect on Rhodesia.

Perhaps the ban on U.S. imports will simply force Rhodesia to sell its chrome to other customers.

This is entirely possible, for several reasons. The suppliers of chrome are quite limited, and every modern industrial nation in the world is a heavy user of chrome.

In fact, it is a seller's market, and most of the world's nations are forced to go to one or the other of two sellers, the Soviet Union or Rhodesia. The chances are very good—in fact they are more than good, they are excellent—that Rhodesia would be able to replace the United States as a customer easily. This is so because Rhodesian chrome is of exceptionally high quality; Rhodesia often undersells the Soviet Union; and Rhodesia is a more reliable supplier than the Soviet Union.

So consider the likelihood that the only consequences of a ban on U.S. imports would be on the United States, not on Rhodesia. We—the foremost industrial nation in the world, the largest user of chrome in the world—would be forced to turn to the Soviet Union for our needs.

Thus we would go hat-in-hand to the Soviet Union, giving her precious foreign exchange, in hard American dollars, which she could use to underwrite the various clients she supports in wars—clients like Egypt and Syria.

Mr. President, need I go further?

Is it not obvious why I think there is a logical contradiction—indeed, a bushel and a peck of logical contradictions—in the attempt to use a ban on U.S. chrome imports as a moral instrument.

Any sensible moral action must have predictable consequences.

It is absolutely predictable that one of the two things I have mentioned will happen. Either Rhodesia's chrome sales will be hurt, or they will not be hurt.

But unless my analysis is missing something, it is impossible to imagine how, in either case, Rhodesia—its laws, or the condition of its people—will be altered in a way that the advocate of the ban on chrome imports desire.

That is why, Mr. President, it is folly, it is confusion, and it is misguided to try to ban chrome imports.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, on my time.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, when third reading has been reached, it be in order at that time for the distinguished senior Senator from Virginia (Mr. HARRY F. BYRD, JR.) to offer his amendment dealing with the title of the bill.

The PRESIDING OFFICER (Mr. CLARK). Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending business be laid aside temporarily until the hour of 2 p.m. today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, at that time, the distinguished senior Senator from Virginia (Mr. HARRY F. BYRD, JR.) be recognized for the purpose of discussing his amendment and that it be in order, at this time, to ask that a yea-and-nay vote occur not later than 15 minutes afterward.

The PRESIDING OFFICER. Does the Senator mean the yeas and nays on the Byrd amendment or on the bill?

Mr. MANSFIELD. The vote on the Byrd amendment; and that it be in order, at this time, to order the yeas and nays on the Byrd amendment at the hour of 2:30 p.m. today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. MANSFIELD. Mr. President, I also ask unanimous consent that the distinguished Senator from Colorado (Mr. DOMINICK) be allowed to speak up to 15 minutes during that period, if available, or immediately thereafter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I also ask unanimous consent that the final vote on the pending business occur at not later than 3 p.m. today.

The PRESIDING OFFICER. Does the Senator wish that provision of rule XII?

Mr. MANSFIELD. Yes indeed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Now, does the Senator from Montana ask for third reading at this time?

Mr. MANSFIELD. Yes, Mr. President.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. MANSFIELD. Now, Mr. President, what is the pending business?

The PRESIDING OFFICER. When we come back to the bill at 2 p.m. today, the Senator from Virginia (Mr. HARRY F. BYRD, JR.) will be allowed to call up his amendment to the title of the bill even though the bill has not passed.

Mr. MANSFIELD. That is because the Senate granted that, under unanimous consent.

The PRESIDING OFFICER. That is correct.

FLOOD DISASTER PROTECTION ACT OF 1973

Mr. MANSFIELD. I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 559, H.R. 8449.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

Calendar No. 559, H.R. 8449 an act to expand the National Flood Insurance Program by substantially increasing limits of coverage and total amount of insurance authorized to be outstanding and by requiring known flood-prone communities to participate in the program, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Banking, Housing and Urban Affairs with an amendment to strike out all after the enacting clause and insert:

That this Act may be cited as the "Flood Disaster Protection Act of 1973".

FINDINGS AND DECLARATION OF PURPOSE

SEC. 2. (a) The Congress finds that—

(1) annual losses throughout the Nation from floods and mudslides are increasing at an alarming rate, largely as a result of the accelerating development of, and concentration of population in, areas of flood and mudslide hazards;

(2) the availability of Federal loans, grants, guaranties, insurance, and other forms of financial assistance are often determining factors in the utilization of land and the location and construction of public and of private industrial, commercial, and residential facilities;

(3) property acquired or constructed with grants or other Federal assistance may be exposed to risk of loss through floods, thus frustrating the purpose for which such assistance was extended;

(4) Federal instrumentalities insure or otherwise provide financial protection to banking and credit institutions whose assets include a substantial number of mortgage loans and other indebtedness secured by property exposed to loss and damage from floods and mudslides;

(5) the Nation cannot afford the tragic losses of life caused annually by flood occurrences, nor the increasing losses of property suffered by flood victims, most of whom are still inadequately compensated despite the provision of costly disaster relief benefits; and

(6) it is in the public interest for persons already living in flood-prone areas to have both an opportunity to purchase flood insurance and access to more adequate limits of coverage, so that they will be indemnified for their losses in the event of future flood disasters.

(b) The purpose of this Act, therefore, is to—

(1) substantially increase the limits of coverage authorized under the national flood insurance program;

(2) provide for the expeditious identification of, and the dissemination of information concerning, flood-prone areas;

(3) require States or local communities, as a condition of future Federal financial

assistance, to participate in the flood insurance program and to adopt adequate flood plain ordinances with effective enforcement provisions consistent with Federal standards to reduce or avoid future flood losses; and

(4) require the purchase of flood insurance by property owners who are being assisted by Federal programs or by federally supervised, regulated, or insured agencies or institutions in the acquisition or improvement of land or facilities located or to be located in identified areas having special flood hazards.

DEFINITIONS

SEC. 3. (a) As used in this Act, unless the context otherwise requires, the term—

(1) "community" means a State or a political subdivision thereof which has zoning and building code jurisdiction over a particular area having special flood hazards;

(2) "Federal agency" means any department, agency, corporation, or other entity or instrumentality of the executive branch of the Federal Government, and includes the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation;

(3) "financial assistance" means any form of loan, grant, guaranty, insurance, payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect Federal financial assistance, other than general or special revenue sharing or formula grants made to States;

(4) "financial assistance for acquisition or construction purposes" means any form of financial assistance which is intended in whole or in part for the acquisition, construction, repair, or improvement of any publicly or privately owned building or mobile home, and for any machinery, equipment, fixtures, and furnishings contained or to be contained therein, and shall include the purchase or subsidization of mortgages or mortgage loans but shall exclude assistance for emergency work essential for the protection and preservation of life and property performed pursuant to the Disaster Relief Act of 1970 or any subsequent Act of Congress which supersedes or modifies the Disaster Relief Act of 1970;

(5) "Federal instrumentality responsible for the supervision, approval, regulation, or insuring of banks, savings and loan associations, or similar institutions" means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Federal Home Loan Bank Board, the Federal Savings and Loan Insurance Corporation, and the National Credit Union Administration; and

(6) "Secretary" means the Secretary of Housing and Urban Development.

(b) The Secretary is authorized to define or redefine, by rules and regulations, any scientific or technical term used in this Act, insofar as such definition is not inconsistent with the purposes of this Act.

TITLE I—EXPANSION OF NATIONAL FLOOD INSURANCE PROGRAM

INCREASED LIMITS OF COVERAGE

SEC. 101. (a) Section 1306(c)(1)(A) of the National Flood Insurance Act of 1968 is amended to read as follows:

"(A) in the case of residential properties—

"(i) $35,000 aggregate liability for any single-family dwelling, and $100,000 for any residential structure containing more than one dwelling unit, and

"(ii) $10,000 aggregate liability per dwelling unit for any contents related to such unit;".

(b) Section 1306(b)(1)(B) of such Act is amended by striking out "$30,000" and "$5,000" wherever they appear and inserting in lieu thereof "$100,000".

(c) Section 1306(b)(1)(C) of such Act is amended to read as follows:

"(C) in the case of church properties and any other properties which may become eligible for flood insurance under section 1305—

"(i) $100,000 aggregate liability for any single structure, and

"(ii) $100,000 aggregate liability per unit for any contents related to such unit; and."

REQUIREMENT TO PURCHASE FLOOD INSURANCE

SEC. 102. (a) After the expiriation of sixty days following the date of enactment of this Act, no Federal officer or agency shall approve any financial assistance for acquisition or construction purposes for use in any area that has been identified by the Secretary as an area having special flood hazards and in which the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, unless the building or mobile home and any personal property to which such financial assistance relates is, during the anticipated economic or useful life of the project, covered by flood insurance in an amount at least equal to its development or project cost (less estimated land cost) or to the maximum limit of coverage made available with respect to the particular type of property under the National Flood Insurance Act of 1968, whichever is less: *Provided*, That if the financial assistance provided is in the form of a loan or an insurance or guaranty of a loan, the amount of flood insurance required need not exceed the outstanding principal balance of the loan and need not be required beyond the term of the loan.

(b) Each Federal instrumentality responsible for the supervision, approval, regulation, or insuring of banks, savings and loan associations, or similar institutions shall by regulation direct such institutions not to make, increase, extend, or renew after the expiration of sixty days following the date of enactment of this Act any loan secured by improved real estate or a mobile home located or to be located in an area that has been identified by the Secretary as an area having special flood hazards and in which flood insurance has been made available under the National Flood Insurance Act of 1968, unless the building or mobile home and any personal property securing such loan is covered for the term of the loan by flood insurance in an amount at least equal to the outstanding principal balance of the loan or to the maximum limit of coverage made available with respect to the particular type of property under the Act, whichever is less.

(c) Notwithstanding the other provisions of this section, flood insurance shall not be required on any State-owned property that is covered under an adequate State policy of self-insurance satisfactory to the Secretary. The Secretary shall publish and periodically revise the list of States to which this subsection applies.

ESTABLISHMENT OF CHARGEABLE RATES

SEC. 103. Section 1308 of the National Flood Insurance Act of 1968 is amended by striking out subsection (c) and inserting in lieu thereof the following new subsection:

"(c) Notwithstanding any other provision of this title, the chargeable rate with respect to any property, the construction or substantial improvement of which the Secretary determines has been started after December 31, 1974, or the effective date of the initial rate map published by the Secretary under paragraph (2) of section 1360 for the area in which such property is located, whichever is later, shall not be less than the applicable estimated risk premium rate for such area (or subdivision thereof) under section 1307(a)(1).".

FINANCING

SEC. 104. Section 1309(a) of the National Flood Insurance Act of 1968 is amended by striking out all after the semicolon and inserting in lieu thereof the following: "except that the total amount of notes and obligations which may be issued by the Secretary pursuant to such authority (1) without the approval of the President, may not exceed $500,000,000, and (2) with the approval of the President, may not exceed $1,000,000,000. The Secretary shall report to the Committee on Banking and Currency of the House of Representatives and the Committee on Banking, Housing and Urban Affairs of the Senate at any time when he requests the approval of the President in accordance with the preceding sentence.".

PROGRAM EXPIRATION

SEC. 105. Section 1319 of the National Flood Insurance Act of 1968 is amended to read as follows:

"PROGRAM EXPIRATION

"SEC. 1319. No new contract for flood insurance under this title shall be entered into after June 30, 1977.".

EMERGENCY IMPLEMENTATION OF PROGRAM

SEC. 106. Subsection (a) of section 1336 of the National Flood Insurance Act of 1968 is amended by striking the date "December 31, 1973" and inserting in lieu thereof "December 31, 1975".

DEFINITION OF FLOOD

SEC. 107. Section 1370(b) of the National Flood Insurance Act of 1968 is amended by inserting "proximately" before "caused".

EXTENSION OF FLOOD INSURANCE PROGRAM TO COVER LOSSES FROM EROSION AND UNDERMINING OF SHORELINES

SEC. 108. (a) Section 1302 of the National Flood Insurance Act of 1968 is amended by adding to the end thereof the following new subsection:

"(g) The Congress also finds that (1) the damage and loss which may result from the erosion and undermining of shorelines by waves or currents in lakes and other bodies of water exceeding anticipated cyclical levels is related in cause and similar in effect to that which results directly from storms, deluges, overflowing waters, and other forms of flooding, and (2) the problems involved in providing protection against this damage and loss, and the possibilities for making such protection available through a Federal or federally sponsored program, are similar to those which exist in connection with efforts to provide protection against damage and loss caused by such other forms of flooding. It is therefore the further purpose of this title to make available, by means of the methods, proceedures, and instrumentalities which are otherwise established or available under this title for purposes of the flood insurance program, protection against damage and loss resulting from the erosion and undermining of shorelines by waves or currents in lakes and other bodies of water exceeding anticipated cyclical levels."

(b) Section 1370 of such Act is amended by adding at the end thereof the following new subsection:

"(c) The term 'flood' shall also include the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels, and all of the provisions of this title shall apply with respect to such collapse or subsidence in the same manner and to the same extent as with respect to floods described in paragraph (1), subject to and in accordance with such regulations, modifying the provisions of this title (including the provisions relating to land management and use) to the extent necessary to insure that they can be effectively so applied, as the Secretary may prescribe to achieve (with respect to such collapse or subsidence) the purposes of this title and the objectives of the program.".

ESTIMATES OF PREMIUM RATES

SEC. 109. Section 1307 of the National Flood Insurance Act of 1968 is amended by adding at the end thereof the following new subsection:

"(d) Notwithstanding any other provision of law, any structure existing on the date of enactment of the Flood Disaster Protection Act of 1973 and located within Avoyelles, Evangeline, Rapides, or Saint Landry Parish in the State of Louisiana, which the Secretary determines is subject to additional flood hazards as a result of the construction or operation of the Atchafalaya Basin levee system, shall be eligible for flood insurance under this title (if and to the extent it is eligible for such insurance under the other provisions of this title) as premium rates that shall not exceed those which would be applicable if such additional hazards did not exist."

APPEALS

SEC. 110. Chapter II of the National Flood Insurance Act of 1968 is amended by adding at the end thereof the following new section:

"APPEALS

"SEC. 1363. (a) In establishing projected flood elevations for land use purposes with respect to any community pursuant to section 1361, the Secretary shall first propose such determinations by publication for comment in the Federal Register, by direct notification to the chief executive officer of the community, and by publication in a prominent local newspaper.

"(b) The Secretary shall publish notification of flood elevation determinations in a prominent local newspaper at least twice during the ten-day period following notification to the local government. During the ninety-day period following the second publication, any owner or lessee of real property within the community who believes his property rights to be adversely affected by the Secretary's proposed determination may appeal such determination to the local government. The sole basis for such appeal shall be the possession of knowledge or information indicating that the elevation being proposed by the Secretary with respect to an identified area having special flood hazards are scientifically or technically incorrect, and the sole relief which shall be granted under the authority of this section in the event that such appeal is sustained in accordance with subsection (e) or (f) is a modification of the Secretary's proposed determination accordingly.

"(c) Appeals by private persons shall be made to the chief executive officer of the community, or to such agency as he shall publicly designate, and shall set forth the data that end to negate or contradict the Secretary's finding in such form as the chief executive officer may specify. The community shall review and consolidate all such appeals and issue a written opinion stating whether the evidence presented is sufficient to justify an appeal on behalf of such persons by the community in its own name. Whether or not the community decides to appeal the Secretary's determination, copies of individual appeals shall be sent to the Secretary as they are received by the community, and the community's appeal or a copy of its decision not to appeal shall be filed with the Secretary not later than ninety days after the date of the second newspaper publication of the Secretary's notification.

"(d) In the event the Secretary does not receive an appeal from the community within the ninety days provided, he shall consolidate and review on their own merits, in accordance with the procedures set forth in subsection (e), the appeals filed within the community by private persons and shall make such modifications of his proposed determinations as may be appropriate, taking into account the written opinion, if any, issued by the community in not supporting such appeals. The Secretary's decision shall be in written form, and copies thereof shall be sent both to the chief executive officer of the community and to each individual appellant.

"(e) Upon appeal by any community, as provided by this section, the Secretary shall review and take fully into accounts and technical or scientific data submitted by the community that tend to negate or contradict the information upon which his proposed determination is based. The Secretary shall resolve such appeal by consultation with officials of the local government involved, by administrative hearing, or by submission of the conflicting data to an independent scientific body or appropriate Federal agency for advice. Until the conflict in data is resolved, and the Secretary makes a final determination on the basis of his findings in the Federal Register, and so notifies the governing body of the community, flood insurance previously available within the community shall continue to be available, and no person shall be denied the right to purchase such insurance at chargeable rates. The Secretary shall make his determination within a reasonable time. The community shall be given a reasonable time after the Secretary's final determination in which to adopt local land use and control measures consistent with the Secretary's determination. The reports and other information used by the Secretary in making his final determination shall be made available for public inspection and shall be admissible in a court of law in the event the community seeks judicial review as provided by this section.

"(f) Any appellant aggrieved by any final determination of the Secretary upon administrative appeal, as provided by this section, may appeal such determination to the United States district court for the district within which the community is located not more than sixty days after receipt of notice of such determination. The scope of review by the court shall be as provided by chapter 7 of title 5, United States Code. During the pendency of any such litigation, all final determinations of the Secretary shall be effective for the purposes of this title unless stayed by the court for good cause shown.".

FLOOD INSURANCE PREMIUM EQUALIZATION PAYMENTS

SEC. 111. Section 1334 of the National Flood Insurance Act of 1968 is amended by striking out subsection (b) and by redesignating subsection "(c)" as subsection "(b)".

TITLE II—DISASTER MITIGATION REQUIREMENTS

NOTIFICATION TO FLOOD-PRONE AREAS

SEC. 201. (a) Not later than six months following the enactment of this title, the Secretary shall publish information in accordance with subsection 1360(1) of the National Flood Insurance Act of 1968, and shall notify the chief executive officer of each known flood-prone community not already participating in the national flood insurance program of its tentative identification as a community containing one or more areas having special flood hazards.

(b) After such notification, each tentatively identified community shall either (1) promptly make proper application to participate in the national flood insurance program or (2) within six months submit technical data sufficient to establish to the satisfaction of the Secretary that the community either is not seriously flood prone or that such flood hazards as may have existed have been corrected by floodworks or other flood control methods. The Secretary may, in his discretion, grant a public hearing to any community with respect to which conflicting data exist as to the nature and extent of a flood hazard. If the Secretary decides not to hold a hearing, the community shall be given an opportunity to submit written and documentary evidence. Whether or not such hearing is granted, the Secretary's final determination as to the existence or extent of a flood hazard area in a particular community shall be deemed conclusive for the purposes of this Act if supported by substantial evidence in the record considered as a whole.

(c) As information becomes available to the Secretary concerning the existence of flood hazards in communities not known to be flood prone at the time of the initial notification provided for by subsection (a) of this section he shall provide similar notifications to the chief executive officers of such additional communities, which shall then be subject to the requirements of subsection (b) of this section.

(d) Formally identified flood-prone communities that do not qualify for the national flood insurance program within one year after such notification or by the date specified in section 202, whichever is later, shall thereafter be subject to the provisions of that section relating to flood-prone communities which are not participating in the program.

EFFECT OF NONPARTICIPATION IN FLOOD INSURANCE PROGRAM

SEC. 202. (a) No Federal officer or agency shall approve any financial assistance for acquisition or construction purposes on or after July 1, 1975, for use in any area that has been identified by the Secretary as an area having special flood hazards unless the community in which such area is situated is then participating in the national flood insurance program.

(b) Each Federal instrumentality responsible for the supervision, approval, regulation, or insuring of banks, savings and loan associations, or similar institutions shall by regulation prohibit such institutions on and after July 1, 1975, from making, increasing, extending, or renewing any loan secured by improved real estate or a mobile home located or to be located in an area that has been identified by the Secretary as an area having special flood hazards, unless the community in which such area is situated is then participating in the national flood insurance program.

REPEAL OF DISASTER ASSISTANCE PENALTY

SEC. 203. Section 1314 of the National Flood Insurance Act of 1968 is repealed.

ACCELERATED IDENTIFICATION OF FLOOD-RISK ZONES

SEC. 204. (a) Section 1360 of the National Flood Insurance Act of 1968 is amended by inserting the designation "(a)" after "SEC. 1360." and adding at the end thereof the following new subsections:

"(b) The Secretary is directed to accelerate the identification of risk zones within flood-prone and mudslide-prone areas, as provided by subsection (a)(2) of this section, in order to make known the degree of hazard within each such zone at the earliest possible date. To accomplish this objective the Secretary is authorized, without regard to sections 3648 and 3709 of the Revised Statutes, as amended (31 U.S.C. 529 and 41 U.S.C. 5), to make grants, provide technical assistance, and enter into contracts, cooperative agreements, or other transactions, on such terms as he may deem appropriate, or consent to modifications thereof, and to make advance or progress payments in connection therewith.

"(c) The Secretary of Defense (through the Army Corps of Engineers), the Secretary of the Interior (through the United States Geological Survey), the Secretary of Agriculture (through the Soil Conservation Service), the Secretary of Commerce (through the National Oceanic and Atmospheric Administration), the head of Tennessee Valley Authority, and the heads of all other Federal agencies engaged in the identification or delineation of flood-risk zones within the several States shall, in consultation with the Secretary, give the highest practicable priority in the allocation of available manpower and other available resources to the identification and mapping of flood hazard areas and flood-risk zones, in order to assist the Secretary to meet the deadline established by this section.".

AUTHORITY TO ISSUE REGULATIONS

SEC. 205. (a) The Secretary is authorized to issue such regulations as may be necessary to carry out the purpose of this Act.

(b) The head of each Federal agency that administers a program of financial assistance relating to the acquisition, construction, reconstruction, repair, or improvement of publicly or privately owned land or facilities, and each Federal instrumentality responsible for the supervision, approval, regulation, or insuring of banks, savings and loan associations, or similar institutions, shall, in cooperation with the Secretary, issue appropriate rules and regulations to govern the carrying out of the agency's responsibilities under this Act.

CONSULTATION WITH LOCAL OFFICIALS

SEC. 206. In carrying out his responsibilities under the provisions of this title and the National Flood Insurance Act of 1968 which relate to notification to and identification of flood-prone areas and the application of criteria for land management and use, including criteria derived from data reflecting new developments that may indicate the desirability of modifying elevations based on previous flood studies, the Secretary shall establish procedures assuring adequate consultation with the appropriate elected officials of general purpose local governments, including but not limited to those local governments whose prior eligibility under the program has been suspended. Such consultation shall include, but not be limited to, fully informing local officials at the commencement of any flood elevation study or investigation undertaken by any agency on behalf of the Secretary concerning the nature and purpose of the study, the areas involved, the manner in which the study is to be undertaken, the general principles to be applied, and the use to be made of the data obtained. The Secretary shall encourage local officials to disseminate information concerning such study widely within the community, so that interested persons will have an opportunity to bring all relevant facts and technical data concerning the local flood hazard to the attention of the agency during the course of the study.

Mr. MANSFIELD. Mr. President, if the Senator from New Jersey (Mr. WILLIAMS) will yield, I should like to suggest the absence of a quorum and ask unanimous consent that the time be taken on the bill and equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

HOUSE CONCURRENT RESOLUTION 386—TO NAME THE NUCLEAR-POWERED AIRCRAFT CARRIER CVN-70 AS THE "U.S.S. CARL VINSON"

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on House Concurrent Resolution No. 386.

The Presiding Officer laid before the Senate House Concurrent Resolution 386, to name the nuclear-powered aircraft carrier CVN-70 the U.S.S. *Carl Vinson.*

Mr. MANSFIELD. Mr. President, I ask unanimous consent for the immediate consideration of the concurrent resolution.

The PRESIDING OFFICER. Is there objection?

There being no objection, the concurrent resolution (H. Con. Res. 386) was considered and agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

Whereas the President of the United States on November 18, 1973, at a ceremony in honor of the Honorable Carl Vinson on his ninetieth birthday, announced the naming of the CVN-70 as the United States ship Carl Vinson; and

Whereas the Honorable Carl Vinson, of Milledgeville, Georgia, served as a Member of the United States House of Representatives from November 3, 1914, to January 2, 1965, a period of more than fifty years, thus establishing a record of service in the House of Representatives unparalleled in our Nation's history; and

Whereas Carl Vinson served as chairman of the former House Naval Affairs Committee from 1931 until 1947, and of the House Committee on Armed Services for fourteen of the sixteen years from 1949 through 1964, a combined total of thirty years, thus establishing a record for congressional service as chairman of a major committee; and

Whereas Carl Vinson's leadership of these two committees of the Congress was marked by great distinction and the exercise of high responsibilities that demonstrated unswerving devotion to his country; and

Whereas Carl Vinson was a driving force in the spectacular growth and development of United States military strength and national security over a period of almost four decades; and

Whereas Carl Vinson served his public stewardship with immense integrity, honesty, and selflessness, and with the needs of the Nation always as his primary concern; and

Whereas among his many other notable achievements, Carl Vinson was the architect of the farflung two-ocean Navy that gave the United States its preeminent role as the leader of the seas, among all world powers; and

Whereas Carl Vinson has been a longtime advocate of nuclear power for naval vessels: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress of the United States concurs in the naming of the nuclear-powered aircraft carrier OVN-70 as the United States ship Carl Vinson.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be taken out of both sides equally.

The PRESIDING OFFICER. Without objection, it is so ordered and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that during the consideration of the pending bill, the flood insurance bill, that Paul Haygood and Jack Weiss of my staff, be permitted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be taken equally out of both sides.

The PRESIDING OFFICER. Without objection, it is so ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

FLOOD DISASTER PROTECTION ACT OF 1973

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CRANSTON). Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, since August 1, 1968 when the original Flood Insurance Act was passed, our Nation has experienced a series of catastrophic floods. These floods have caused great damage and human suffering throughout our Nation, leaving many families completely destitute. And from those holocausts it has become apparent that the original Flood Insurance Act is in need of substantial revision. Even where federally subsidized flood insurance had been purchased, it did not in most cases cover actual damages. Homeowners and businessmen after paying flood insurance premiums have found that they are only covered for a small fraction of the actual losses incurred. Homes have been swept away, only to be rebuilt again in dangerous flood plain zones, due to inadequate land use requirements. In addition, in many areas of our country, flood insurance is not in effect, due to less than enthusiastic selling efforts and program publicity.

H.R. 8449, the Flood Disaster Protection Act of 1973, the bill before us today, would substantially change this situation. It would provide higher flood insurance coverage and reduce the need for annual disaster relief programs by expanding the national flood insurance program and by encouraging adequate land use planning.

Under its provisions, this bill would substantially increase the amount of insurance coverage available for all types of properties, both residential and commercial. For example, the subsidized coverage on single family residential homes would be increased from $17,500 to $35,000. On multiple dwelling units, aggregate coverage would be increased from $30,000 to $100,000. Limits on nonresidential structures would also be increased from the old limit of $30,000 to $100,000 and the insurance on contents would be increased from $5,000 to $10,000 on residential buildings and from $5,000 to $100,000 on business properties.

H.R. 8449 would also replace the present $6 billion ceiling on the total amount of insurance coverage which may be outstanding at any given time with a contract authority expiration date of June 30, 1977. Furthermore, the scope of insurance coverage would be broadened to include erosion losses caused by abnormal water levels and other unforseeable conditions, including flood-related mud flow losses. Under current law, losses from such occurrences are not covered by the Federal program.

This bill also grants relief to homeowners who have recently built in a flood plain and who, under current law, can only purchase flood insurance at actuarial rates, which in most cases are prohibitively expensive. This may occur because of elevation requirements which the builder did not know about or did not understand at the time of construction. Therefore, the Flood Disaster Protection Act would allow for the purchase of subsidized premium rates on such construction and would defer the application of actuarial rates until December 31, 1974, or the official publication date of the rate map and elevation data for a given area, whichever is later.

The provisions of the existing act deny disaster relief to those who could have purchased flood insurance for a year or more prior to a flood, but did not do so. These provisions would be eliminated and flood insurance coverage would be required as a condition precedent to obtaining federally related financing on structures in identified flood-prone areas. Under this requirement, all individuals receiving federally insured or related financing would be required to purchase flood insurance, thus substantially broadening the number of participants in the program and increasing premium revenues.

Perhaps the most far-reaching provisions of this legislation are its land use requirements. Under the bill, the Department of Housing and Urban Development would use a 100-year flood standard and flood hazard area identification and actuarial rate studies for flood prone communities would be accelerated. The agencies performing this work, such as the Corps of Engineers, would be required to give the highest priority to these studies.

During our committee's deliberations, the 100-year flood standard for land use requirements and subsidized insurance was debated at great length; however, there is nothing new in requiring such a standard. The 100-year flood standard is simply the flood level that is estimated to have a 1 percent chance of occurring in any year in a given location. Currently, all national Federal agencies including the FHA and 39 of our States use such a standard for home financing and land use requirements. Among the States, 15 now require the 100-year standard by statute and regulation and 24 utilize such a standard administratively in all State programs. Our committee, therefore, concluded that it would be unwise and imprudent to adopt a less stringent standard since a 50-year or a 40-year standard would more than double the homeowner's chance of incurring serious flood damage in any given year and thereby increase the Federal premium subsidy and encourage poor land use planning.

The land use provisions of the bill also require the Department of Housing and Urban Development to publish information on known flood prone communities and to notify them within 6 months of enactment of their tentative identification as such. The community would then be required to make prompt application for participation in the flood insurance program or satisfy the Secretary that it is no longer flood prone. Those communities having identifiable flood prone areas would be required to participate in the flood insurance program by July 1, 1975 or be denied federally related financing for their projects.

In approving these land use provisions, we were well aware of the need to also guarantee a high degree of local community participation in the decision-making process. Therefore, amendments were approved which, in my opinion, provide an equitable balancing of both Federal and local participation in identifying and setting the construction elevation standards for flood prone areas. The Secretary, in carrying out his land use responsibilities, would be required to establish procedures assuring adequate consultation with appropriate elected local officials of local governments including those whose eligibility under the program would be affected. The bill also establishes explicit appeal procedures for both individuals and communities desiring to challenge the Secretary's proposed determinations in the areas of minimum construction elevation standards and sets the scope of judicial review of his decisions.

Under these provisions, individuals and communities are given a full opportunity to be heard and to appeal Federal decisions. They set forth a comprehensive system of providing actual knowledge to persons affected not only through publication in the Federal Register, but through direct notification to the chief executive officer in the community and by publication in prominent local newspapers.

This legislation is strongly supported by the administration, and the Department of Housing and Urban Development. It is intended to insure our Nation's citizens against the ever-reoccurring hazards and property damage caused by floods. Unfortunately, our experiences in the past several years have shown without a shadow of a doubt that there are serious inadequacies with the existing program.

H.R. 8449, the legislation before us today, in my opinion, goes a long way toward correcting these inadequacies while making flood insurance available in realistic amounts to all of our Nation's citizens.

Mr. TOWER. Mr. President, today we are going to consider a very important piece of legislation. If this legislation is enacted in essentially the same form as it was reported out of the Banking, Housing and Urban Affairs Committee, then it could possibly affect the vast majority of the communities in this country.

Several months ago, when this proposal was introduced, I stated that I thought that it should undergo a thorough examination in hearing sessions and in the markup sessions that the committee was going to hold. I expressed this concern for two basic reasons. One reason was the far-reaching effect the proposal could have in regards to construction activity in areas in communities designated as flood-prone or flood-hazard areas. The other reason was the basic philosophy that prompted the introduction of this proposal—that the U.S. Government should not encourage building in areas that have been designated as flood-hazard areas, and therefore, areas which are more susceptible to damage by flooding than other surrounding areas which don't contain this risk, unless the construction is such that it protects against the probability of flood damage.

The committee has held more than 1 week of hearings on H.R. 3449. We have labored in executive session to report out a bill which we thought would contain provisions which would provide an effective national flood insurance program. Yet, we took pains, and examined these questions very closely, to provide that a community would have sufficient tools and mechanisms to enable it to work with the appropriate Federal agencies in establishing the all important flood level for that particular community. We thought it to be very important that a community should be able to give as much information and data as it saw fit to Federal agencies in defining a flood-hazard area and in determining precisely what the 100-year flood elevation should be. We have altered the bill considerably in this area by almost completely rewriting the sections dealing with consultation and appeals procedures. It was our intent to provide to the maximum extent possible that local governments will have a definite say as to how the program will affect their area.

As has been stated, the purpose of the bill is to provide an effective means to mitigate against the occurrence of and protect against any damage, that might be caused by flooding in a community. It is hoped that at the local level of government, ordinances will be adopted and actions will be taken which will serve to greatly stem the amount and frequency of damage such as that which occurred this past year due to extensive flooding in the Mississippi River Valley and other areas.

Mr. President, no one will argue that point that this bill will not stop all damage that will be caused by flooding. It is believed, however, that implementation of this proposal will result in less damage caused by flooding, and for whatever damage that might occur, there will be compensation which will be paid not from a hodgepodge, makeshift system of grants and loans that usually appears after a major catastrophe, but from a system which is based on private insurance of property which has actually been destroyed.

What we are trying to do with H.R. 8449 is to protect, as best we can, against the loss of property and lives. It is hoped that through the passage of this proposal, we will begin the long journey toward achieving this end.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. TOWER. Mr. President, how much time does the Senator require?

Mr. JOHNSTON. Mr. President, I would at this time like to offer my amendment.

Mr. TOWER. I yield the floor.

Mr. JOHNSTON. Mr. President, I offer

the amendment which I send to the desk and ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 28, strike out lines 13 through 22 and insert in lieu thereof the following:

ESTABLISHMENT OF CHARGEABLE RATES

SEC. 103. Section 1308 of the National Flood Insurance Act of 1968 is amended by inserting the following new subsection:

"(c) (2) The chargeable rate with respect to any property, the construction or substantial improvement of which the Secretary determines has been started after December 31, 1974, or the effective date of the initial rate map published by the Secretary under paragraph (2) of section 1360 for the area for such property is located, whichever is later, shall not be more than—

"(A) 200 per centum of the chargeable premium rate established under section 1308 (a) if (i) the property is located in an area in which subdivision maps have been recorded prior to October 1, 1973, and in which the Secretary determines—

"(I) substantial residential construction has begun; or

"(II) substantial implementation of street, sewer, storm sewer or water facility plans has begun; prior to October 1, 1973, and

"(ii) in the case of new construction, the property is located in an area which is subject to a flood plain ordinance prohibiting new construction at elevations lower than the 40-year level."

The PRESIDING OFFICER. Is this the amendment for which the Senator desires 1 hour?

Mr. JOHNSTON. Yes.

Mr. President, the bill under consideration has essentially two parts. The first part provides subsidized flood insurance for existing structures and for those structures built prior to December 31, 1974. With that part of the bill, which gives these benefits to existing homes, we have no quarrel; indeed, we applaud those provisions as being much needed.

But there is another part, equally far-reaching, which is perhaps one of the least understood provisions to be considered in the entire Congress. I speak of that second part of the bill that deals with land use requirements, and I should like to make these observations about those requirements.

First of all, the sanctions in the bill are absolute. No community or flood-prone area in the country can afford to disobey the land use requirements of the bill, since no community can afford to do without federally insured loans.

Second, the bill effectively prevents any building below the 100-foot flood level, unless it is totally flood-proof. Even if a community, or an individual property owner, wishes to forgo the benefit of flood insurance, if his property lies within a flood hazard area he will not be able to build his home below the 100-foot flood level since the bill would deny him any loan from a federally insured lending institution. It means that hundreds of thousands of acres of otherwise usable land, usable according to what States, what communities, or what individuals think ought to be the standard, will be effectively out of commerce.

It means that subdivisions begun according to existing FHA standards—that is, the 40-year flood level which was the FHA standard for some years—will have to be abandoned or will have to be altered at absolutely prohibitive costs.

The cost of these stringent land use requirements to homeowners, property owners, and local governments may, and probably will, far exceed the cumulative dollar exposure through flooding over the years? No attempt has been made to assess the cost of the bill either to the Federal Treasury, to local governments, to local private owners, and to local homeowners in terms of increased construction costs and lost land use opportunities. No attempt has been made; indeed, I do not know to what extent that cost could be determined. There as been no balancing of the key interests in the bill.

How does the bill work? It means that homes completed prior to December 31, 1974, or prior to establishing the rate map under the bill, will be subsidized, will be entitled to subsidized insurance; and as I mentioned before, we have no quarrel at all with that part of the bill. But any home begun after December 31, 1974, or the detailed establishment of rates must be built up to the 100-year flood level. That level is the projected level at which a flood may occur every 100 years, or the chance of that flood occurring in any particular year is 1 percent.

If a community fails to enact land-use provisions prohibiting building up to the 100-year flood level, that community will not be entitled to FHA loans, VA loans, any loans by banks or savings and loans insured by the FDIC or FSLIC, or indeed any federally insured organization at all.

That kind of sanction is so effective that the provisions of this bill regarding land use should be regarded as being nothing short of absolutely mandatory.

There is no subsidy in this legislation for any insurance granted on or after January 1, 1975—no subsidy at all. The Federal Government is not giving anyone anything. It is not helping the States out. For homes built after that date, all the Federal Government is saying is that, "We require that you build above the 100-year flood level, and we hope you can afford the insurance premiums."

I think it is appropriate to ask exactly what the 100-year flood level is. The testimony at our hearings indicated that the process of estimating the 100-year flood level, or indeed of any flood level, is far less reliable than the "science" of predicting the weather. The 100-year flood level estimate depends on value judgments regarding the relative importance of river heights, tides, winds, rainfall, history of rising water, levees, pumping stations, and anything else.

Indeed, we found that the Corps of Engineers estimated the 100-year flood level very differently even for two areas directly adjacent to each other. One was in coastal Louisiana. One was in coastal Texas, just across the river. The Corps of Engineers, in two areas absolutely contiguous, held that in Texas the 100-year flood level was 5 feet below what it was in Louisiana.

Mr. President, 30 percent or less of the Nation has been surveyed for flood-prone areas. The other 70 percent remains at this time unsurveyed, unknown, and yet here we are debating a bill, or having under consideration a bill, the effect of which we absolutely do not know. In the meantime that 70 percent of the country is going to be put out of commerce effectively, because how can someone make the substantial investments in a subdivision unless he knows whether or not he is going to be entitled to flood insurance, whether or not he is going to be entitled indeed to build at all within that subdivision? He knows that he is entitled to subsidized premiums if he begins construction before December 3, 1974. But when the ax will fall thereafter—when the magical rate maps will be complete—we cannot and do not know.

Why is it that we are asking for the 100-year flood level in this bill? Federally insured mortgages go for only 30 years, at the maximum. The expected life of most housing is estimated at 40 years. The fact is that the 100-year flood level is an arbitrary figure, determined by what method I do not know, other than that several States have adopted it.

Mr. President, it has been argued that because a number of States have adopted the 100-year flood level, therefore the Congress ought to take that same level and apply it to all the States, whether they think it is important or not.

The fact of the matter is that if we adopt a less stringent standard, as one of my amendments later to be introduced will indicate, the States will not have to modify their own levels. If they wish to keep the 100-year flood level, they certainly may do so.

One additional important point about this whole flood insurance controversy is that we are dealing essentially with property, and not with loss of life. The reason I say that is that in the hurricane-prone areas of this country, such like my State, and many others, building up to the 100-year flood level, I think, will not help to protect our citizens from storm and flood destruction. If one lives along the coast and is subject to being hit by hurricanes, such as the more devastating hurricanes that have hit the United States, it simply will not help.

The fact is that these coastal areas rely upon hurricane warning systems and the evacuation procedures in order to take people out of the danger of hurricanes. The talk we have heard about saving lives is a red herring.

Therefore, essentially what we are talking about is the trade off of dollars against dollars—dollars of possible destruction and disaster relief costs against the dollars needed to build up to the 100-year flood level, or dollars needed to construct in flood-prone areas of this country. Obviously, we could build a completely weatherproof society if we set out to do it but the cost would be enormous, far more than the benefits or periodic savings. Sometimes it is wise to take a slender risk, when only dollars are at stake.

Mr. President, I have proposed an amendment—in fact, I have a series of amendments—that will help, I believe, to correct what I see as deficiencies in the bill.

The first amendment relates to existing subdivisions. An existing subdivision is defined in the bill to be one in which substantial investment has been made and streets and sewerage, storm sewers, water facilities, or where substantial construction exists. Also it means a subdivision in which a map has been filed prior to October 1 of this year.

Mr. President, we have a peculiar situation; at least it is unusual in Louisiana. In the city of New Orleans the Federal Housing Administration, a branch of the same Department of Housing and Urban Development which is sponsoring this bill, approved the 40-year flood level as being the proper level of flood protection in that great city.

Under this bill that 40-year flood level is changed to the 100-year flood level; but no procedures, no safeguards, have been put into this bill to protect those investors who have spent substantial sums of money, in some cases millions of dollars, to develop subdivisions, put in streets, water, storm sewers, and now in effect they are told they have to build up to the 100-year flood level, which puts some of them out of business altogether.

What this amendment does is allow owners of existing subdivisions to be entitled to build to the 40-year flood level and in the process not to be charged more than twice the subsidized rate provided for everyone else who has taken substantial steps toward construction prior to December 31 of next year.

It seems to me only equitable, only fair, to avoid doing a serious injustice to those who already have subdivisions and who have substantial investments in those subdivisions.

I reserve the remainder of my time.

Mr. WILLIAMS. Mr. President, will the Senator yield at that point?

Mr. JOHNSTON. I yield.

Mr. WILLIAMS. I would like to understand the situation that the Senator is addressing himself to. I believe that these are subdivisions which are in the process of being constructed and which have a substantial development at the current time.

Mr. JOHNSTON. Yes.

Mr. WILLIAMS. Sewers and streets, and construction is underway?

Mr. JOHNSTON. Yes.

Mr. WILLIAMS. Does the Senator read anything in this bill that says such construction will not be eligible for insurance if it is completed before the end of next year?

Mr. JOHNSTON. No, there is nothing in the bill, if it is completed prior to the end of next year.

Mr. WILLIAMS. If there currently is substantial progress, is there any reason why there should be long delays at this point?

Mr. JOHNSTON. Yes.

Mr. WILLIAMS. I would think that in a year of construction one could build a mighty skyscraper. We are talking about residential housing, are we not?

Mr. JOHNSTON. Yes.

Mr. WILLIAMS. Mr. President, for example, if by January 1, 1975, the developer is, in fact, advanced to the point which the Senator is talking about, his construction will be eligible for coverage.

Mr. JOHNSTON. Mr. President, if he is not advanced to that point, he is not. However, under my amendment, my amendment covers the situation where we have a large subdivision where it takes a substantial amount of time for development.

Mr. WILLIAMS. Mr. President, I do not know how it is in Louisiana. However, when I ride down a highway in New Jersey in the month of December, and there is nothing there, and then go down the same highway in May, there is sometimes a completed development there.

Is there any reason why construction is so much slower in Louisiana?

Mr. JOHNSTON. Mr. President, I do not know how they do it in New Jersey. I would say that New Jersey is unique if they can have a large subdivision and develop it and sell all the lots, get all of the financing, and complete all of the construction within a period of 1 year and 1 month.

Mr. WILLIAMS. Mr. President, I misunderstood the situation. Now we have to sell lots, too. I thought the Senator was addressing himself to the infrastructure and then the structure of residential housing and not to the matter of selling lots. The way our economy is today, it might take a long time to do that.

Mr. JOHNSTON. It is not only to sell lots, but to get financing. In Louisiana we had a period of many months when the savings and loans were not making any loans. It is difficult to get them now. However, they do make some loans now.

We have situations that I know about where literally millions of dollars have been invested. And those subdivisions will be, in effect, condemned.

My amendment would do equity to those who in good faith have gone out and planned and built those subdivisions and have made investments based on existing law.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. TOWER. Mr. President, I feel constrained to oppose the amendment of the Senator from Louisiana. However, I am prepared to discuss that at a later time.

Mr. President, if it meets with the approval of the distinguished Senator from Louisiana, I ask unanimous consent that his amendment be laid aside temporarily to deal with two less controversial amendments and that the Senate then return to his amendment without any prejudice to the Senator from Louisiana.

Mr. JOHNSTON. I have no objection provided it is not on the time of the Senator from Louisiana.

Mr. TOWER. That is the understanding.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oklahoma is recognized.

Mr. ROBERT C. BYRD. Mr. President, would the Senator from Oklahoma yield to me for a unanimous-consent request?

Mr. BELLMON. Mr. President, I yield to the distinguished assistant majority leader.

AMENDMENT NO. 761

ORDER FOR CONSIDERATION OF BAYH

Mr. ROBERT C. BYRD. Mr. President, I have cleared this request with the manager of the bill and with the ranking minority member.

I ask unanimous consent that the Bayh amendment, No. 761, be in order under the agreement notwithstanding the provision on germaneness.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF BELLMON AMENDMENT

Mr. TOWER. Mr. President, I ask unanimous consent that the agreement just made with respect to the Bayh amendment No. 761 be applicable to the amendment of the Senator from Oklahoma, and that it not be bound by the rule of germaneness.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BELLMON. Mr. President, I have amendment No. 893 at the desk. I ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk proceeded to state the amendment.

Mr. BELLMON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following new section:

TO PERMIT NATIONAL BANKS TO INVEST IN AGRICULTURAL CREDIT CORPORATIONS

SEC. . That paragraph "Seventh" of section 5136 of the Revised Statutes (12 U.S.C. 24) is amended by adding at the end thereof the following: "Notwithstanding any other provision in this paragraph, the association may purchase for its own account shares of stock issused by a corporation organized solely for the purpose of making loans to farmers and ranchers for agricultural purposes, including the breeding, raising, fattening, or marketing of livestock. However, unless the association owns at least 80 per centum of the stock of such agricultural credit corporation the amount invested by the association at any one time in the stock of such corporation shall not exceed 20 per centum of the unimpaired capital and surplus of the association.".

Mr. BELLMON. Mr. President, this matter has been discussed with both the chairman of the committee and the ranking Republican member of the committee.

Let me state that all the amendment would do would be to make it possible for the creation of agricultural credit corporations by rural banks to better handle the matters of their farming and ranching customers.

Mr. President, this amendment to H.R. 8449 would permit national banks to join together in establishing agricultural credit corporations. The language of this amendment is identical to S. 1884 which the Senate enacted earlier this year without objection after receiving a favorable report from the Department of the Treasury. S. 1884 is presently pending before the House Banking Committee. After visiting with the House committee, I believe S. 1884 as an amendment to H.R. 8449 would be acceptable in conference.

The intent of this legislation is easily understood. This bill would permit national banks to join together in forming corporations engaged solely in providing credit to farmers and ranchers for agricultural purposes. Under existing law and regulations, a national bank can only invest in an agricultural credit corporation if it controls a majority of the stock in such corporation. My measure would remove that prohibition and allow a number of national banks to join together to form such a corporation, with the provision that a single bank can invest no more than 20 percent of its unimpaired capital and surplus in stocks, bonds, or other obligations of the corporation.

Mr. President, low lending limits, coupled with the accelerating size of farm units, have created the necessity for farmers and ranchers to seek credit from institutions outside of their local area. Most would prefer to do business with their local banker. Passage of this amendment would allow these local banks to combine their assets in an agricultural credit corporation and then discount loans made by the corporation with the Federal intermediate credit banks. This would allow the farmer and rancher to continue to do business with his local banker and at the same time give his local banker access to additional capital to lend.

In view of the rapidly approaching planting season I hope that this amendment can be favorably acted upon today in order that some of these corporations can be in operation by the time credit is most badly needed. I urge the favorable adoption of this amendment.

Mr. WILLIAMS. Mr. President, this matter has been discussed with the Senator from Oklahoma. His amendment impressed me as a worthy amendment. I would be willing to accept the amendment for the majority side.

Mr. TOWER. Mr. President, I am prepared to accept the amendment on the minority side. I believe it is a meritorious amendment. I urge the adoption of the Bellmon amendment.

Mr. WILLIAMS. Mr. President, I yield back the remainder of my time.

Mr. BELLMON. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the Bellmon amendment (putting the question).

The amendment was agreed to.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WILLIAMS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McGOVERN. Mr. President, I have an amendment at the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk proceeded to state the amendment.

Mr. McGOVERN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following:

TITLE III

The Small Business Act is amended by adding at the end thereof the following new title:

CONGRESSIONAL FINDINGS

SECTION 1. The Congress finds that—

(a) many innocent persons suffered injury and loss as a result of the disturbances at Wounded Knee, South Dakota, and other related disturbances;

(b) many such injuries and losses occurred as a result of the forbearance of the Department of Justice in dealing with the disturbances; and

(c) the Government of the United States has an obligation to compensate innocent persons for injuries and losses for which they would not otherwise receive compensation.

COMPENSATION

SEC. 2. The Administrator is authorized and directed to grant any innocent person for any uninsured loss or injury which arose out of, or was caused by, the disturbance at Wounded Knee, South Dakota, or any related disturbance as defined in section 4 hereof, an amount equal to 100 per centum of such loss or injury.

REPORT TO CONGRESS

SEC. 3. The Administrator shall report to Congress within thirty days of enactment hereof on the amount and extent of damage resulting from such disturbances.

DEFINITIONS

SEC. 4. As used in this Act—

(a) "innocent person" means any persons or entity as to whom the Administrator has reasonable grounds to believe (1) was not willfully engaged in any such disturbances when the loss or injury occurred, and (2) was not responsible for such loss or injury;

(b) "uninsured loss or injury" means any damage to property, personal or real (including livestock, loss of earnings, or damage to business), or any personal injury which would not have occurred but for such disturbances and for which compensation would not otherwise be received; and

(c) "related disturbance" means any disturbance or event occurring during the period January 1, 1973, to and including May 9, 1973, within the States of Nebraska and South Dakota in which any nonresident of Wounded Knee occupying Wounded Knee during all or part of such period was involved.

SUBROGATION

SEC. 5. Any right of action of any person compensated under section 2 hereof, arising out of the disturbance at Wounded Knee, South Dakota, or an related disturbance, shall inure to the Government of the United States upon payment of the compensation required under section 2, hereof.

AUTHORIZATION

SEC. 6. There are hereby authorized to be appropriated such funds as are necessary to carry out the purposes of this title.

Mr. TOWER. Mr. President, I ask unanimous consent that the amendment of the Senator from South Dakota not be bound by the rule of germaneness.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McGOVERN. Mr. President, earlier this year, the American Indian movement moved its focus from Washington to various places in Nebraska and South Dakota, primarily Wounded Knee on the Pine Ridge reservation. The story of succeeding events is familiar to us all: the arrests, the shootings, Federal marshals dispatched to the area, and hostages held at the Wounded Knee Trading Post.

AIM received a great deal of public attention from the return to the site of the Wounded Knee massacre for an armed demonstration. But the incident was soon over and only court cases for criminal activity and threats of future violence remain in the public eye.

But there is one thing that will remain for years to come: the effect upon Indian and non-Indian alike of the destruction carried out by the AIM demonstrations during weeks of occupation. The Wounded Knee Trading Post was sacked. Churches were destroyed. Homes were burned. Cattle were killed—one Indian rancher suffered almost 200 cows shot and eaten, and his house was burned as well. Construction equipment on the scene to improve roads and to undertake other measures for Indian welfare were damaged. Workmen were unable to work; 3,000 school days were lost by the children.

The participants in the AIM demonstration were, of course, directly responsible for these disastrous losses. But Government strategy also played a role. The overriding goal of the Justice Department and of the U.S. marshals on the scene was to end the Wounded Knee demonstration without violence. They practiced remarkable patience and restraint for long weeks, attempting to end the demonstration by negotiations rather than by forceful measures to enforce the law.

That strategy worked to save life and limb. The alternative would have been an even greater tragedy at Wounded Knee.

But it also contributed to the extent of the damage suffered by innocent people. For while AIM demonstrators were negotiating with Justice Department officials, they were also looting and burning in Wounded Knee and the surrounding area. And many residents of the area feel quite rightly that their losses are directly traceable to the approach adopted by the Government in dealing with this incident.

These people deserve compensation. And on the basis of these facts, I feel certain that the Congress will recognize that obligation.

But I think we must also move quickly. Many of these people face a continuing emergency. They are without homes, without livestock, without the security for financing which would enable them to rebuild their lives and their livelihoods.

Therefore, Senator ABOUREZK and I are today introducing an amendment to legislation which is pending on the Senate calendar, H.R. 8449 dealing with flood protection, a proposal we previously introduced as a separate bill. It would reimburse the losses suffered by innocent peaceful residents of South Dakota and Nebraska as a result of the Wounded Knee occupation.

It is not a large sum in total. But it is everything for the many people who were hurt at Wounded Knee. I urge my colleagues to support it.

Mr. President, I have discussed this amendment with the manager of the bill, the Senator from New Jersey (Mr. WILLIAMS) and with the distinguished ranking minority member of the committee, the Senator from Texas (Mr. TOWER).

This amendment is offered on behalf of Senator ABOUREZK, my junior colleague from South Dakota, and myself.

Neither of the distinguished Senators whom I have mentioned, the manager of the bill or the ranking minority member, have raised any objections to the amendment.

I am hopeful that the amendment can be agreed to.

Mr. WILLIAMS. Mr. President, this amendment has been discussed at some length with the Senator from South Dakota. The amendment has a great deal of merit. I am willing to accept the amendment, and I urge that it be approved by the Senate.

Mr. TOWER. Mr. President, I believe that the amendment is most meritorious. I am pleased to be quoted as urging its adoption.

Mr. McGOVERN. Mr. President, I yield back the remainder of my time.

Mr. WILLIAMS. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from South Dakota (putting the question).

The amendment was agreed to.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McGOVERN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I would like to address a number of questions to the distinguished Senator from New Jersey.

I would like to know, first of all, whether the 100-year flood level is capable of definition. Could it be said that it is the kind of flood which is going to occur 1 percent of the time in each year? In other words, does it mean the same thing in all parts of the country?

Mr. WILLIAMS. Yes, it does mean the same thing. It is the kind and degree of flooding that could be expected to have a 1-percent chance of occurrence in a year. That part of it is the same for any part of the country.

Mr. JOHNSTON. I understand that part of it. However, is it not to a very large extent a subjective value judgment which is based to a large extent on the opinion of those doing the estimating, contingent upon rain level, river level, river pumping stations, and various other uncertain factors?

Mr. WILLIAMS. All of those elements are taken into consideration, whether they are designed as a 100-year test of flooding or a 50-year or 40-year test. These are the elements that go into the determination of the probability of flooding.

Mr. JOHNSTON. Not only scientific objectives predetermine the formula, but rather to a large extent it is based upon value judgments and subjective determinations of different individuals? Is that correct?

Mr. WILLIAMS. I would say yes in response. And I would add to that affirmative response that there have to be value judgments. First of all, as in the 100-year flood test, one agency's value judgment is also tested against another's, all agencies are involved. The 100-year test, perhaps, is more reliable and perhaps more accurate in a prediction than a 40-year test or a 50-year test, because the majority of the jurisdictions work with a 100-year test either as a matter of law or as a matter of administrative policy.

As a matter of fact, I believe it is 39 of the 50 States that use the 100-year test.

Therefore, while it is subjective in a sense, there is more experience in evaluation for this test than for other levels of flood testing.

Mr. JOHNSTON. If the Senator will yield further, he is not suggesting that 39 States have adopted a mandatory 100-year flood level as the standard of those States, is he?

Mr. WILLIAMS. No, I said either by mandate under law or by regulation and application.

Mr. TOWER. Mr. President, if I might respond to that question, there are 15 States that require the use of the 100-year standard by statute, there are 24 that use the standard administratively in all State programs, and in 4 additional States, legislation is pending to require the 100-year standard.

Mr. JOHNSTON. Is there anything in my amendment that would prevent those States from using the 100-year flood level if they so chose?

Mr. WILLIAMS. The effect of the amendment would be, first, to have those who were a part of the program—the flood insurance program in other States—where there is a 100-year test contribute to a subsidy for the more relaxed standards of this amendment.

Second, I would think that there would be great pressures if this were the national law to reduce the 100-year standards and reduce the movement toward more intelligent land development.

In other words, there would be pressures for more development in flood-prone areas—hazardous areas—and then everyone would suffer economically and in all of the other ways that you suffer as a result of floods hitting developed areas.

Mr. JOHNSTON. I would assume that the answer to the question, very simply, is that there is nothing in my amendment—certainly nothing was intended in my amendment—that would prevent a State from having a more stringent rule than a 100-year flood level or a 150-year flood level, if they wished. It preserves the right of States to do it, and while one could argue that other States with more stringent flood levels would be subsidizing those with less stringent flood levels, you could make the same argument as to anyone who has a home completed prior to December 31, 1974, because all of those are completely subsidized rates.

I would like to ask this question, and it is a very important one: Has any survey at all been done to assess the relative costs of potential flood damage, on the one hand, and the cost of complying with this program on the other hand?

Mr. WILLIAMS. This is done, of course, whenever we have floods. Whenever we have floods, people have to pay the disaster bill. The Senator is certainly far more knowledgeable than I as to the effects and costs of Camille to the people of this country. I think the Senator could probably state the figure of the disaster loss from that hurricane and what it cost in disaster relief far better than I. He might well state it for the RECORD now. What was the cost of Camille?

Mr. JOHNSTON. I do not know in my State what the total cost was, but the cost was considerable. This bill would reduce that cost for all existing construction. But testimony in the RECORD indicates that the cost of complying with this bill might well be much greater than the potential for loss, at least in some particular areas. I believe it was the mayor of Charleston, S.C., who testified that the cost of complying with the bill, that is, building up, would cost several times what the potential damage might be.

Mr. WILLIAMS. Mr. President, let there not be any misunderstanding here. This is not a legislative demand that all new construction meet the 100-year test that would be a part of the law. It only says that if you want the largess, in any way, of the Federal Government, then you have to meet the same standards as are in the bill. Anyone can build wherever he wants, as far as this law is concerned; but if he wants to be supported with FHA or VA or other forms of guarantees or loans or subsidies, then under this bill, if it were law, there has to be that intelligence of planning, construction, and development that just says we are not going to build in flood prone areas.

Mr. JOHNSTON. Is there any maximum amount of cost? If you build up to that 100-year flood level, do you have any guarantee that the cost will not be prohibitive?

Mr. WILLIAMS. I gather that these questions are addressed to both managers of the bill?

Mr. JOHNSTON. Yes, to either of the distinguished Senators.

Mr. WILLIAMS. I would like to say that my partner in management of this bill, the distinguished Senator from Texas, is most knowledgeable on this point, and I would like to have his wisdom brought to bear on the amendment offered by the very distinguished Senator from Louisiana.

Mr. JOHNSTON. If I may further clarify the question and tell the Senator what I had in mind, on page 20 of the committee report, there is a suggestion that the Government will provide essential flood insurance protection at roughly

10 percent of its actual cost. This in turn would suggest that for actuarial rates there would be something in the neighborhood of 10 times the chargeable rate. My question is, Is there any guarantee at all in the bill that once you comply with the bill, with the 100-year flood level, you will not be charged prohibitive, exorbitant rates?

Mr. TOWER. It would depend on the actuarial rate. You would be charged for whatever the risk is for the area.

Mr. JOHNSTON. And that might be 10 times the chargeable rate?

Mr. TOWER. It might be higher; it might be lower.

Mr. WILLIAMS. Mr. President, will the Senator yield?

Mr. JOHNSTON. I yield.

Mr. WILLIAMS. Mr. President, I wonder if the same agreement could be reached, at this point, as to the amendment of the Senator from Indiana, as was reached with respect to the amendments of the Senator from Oklahoma and the Senator from South Dakota.

Mr. JOHNSTON. Yes; I yield to the Senator from Indiana.

AMENDMENT NO. 761

Mr. TOWER. Mr. President, I ask unanimous consent that the amendment of the Senator from Louisiana may be temporarily laid aside, without his losing any of his rights in connection therewith.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. Mr. President, I appreciate the courtesy of my friend from Louisiana. I call up my amendment No. 761, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk proceeded to read the amendment.

Mr. BAYH. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH's amendment (No. 761) is as follows:

Add at the end thereof the following new section:

FLEXIBLE INTEREST RATE AUTHORITY FOR MOBILE HOME LOANS

SEC. . Section 3(a) of the Act entitled "An Act to amend chapter 37 of title 38 of the United States Code with respect to the veterans' home loan program, to amend the National Housing Act with respect to interest rates on insured mortgages, and for other purposes," approved May 7, 1968, as amended (12 U.S.C. 1709–1), is amended by adding at the end thereof the following new sentence: "Notwithstanding the provisions of section 2(b) of the National Housing Act regarding the maximum interest rate which may be established for obligations with respect to which insurance is granted to financial institutions under section 2 of such Act, the Secretary of Housing and Urban Development is also authorized, until the date specified in the preceding sentence, to set the maximum interest rate for obligations with respect to which insurance is granted under such section, and which represent loans and advances of credit made for the purpose of financing purchases of mobile homes, at such level as he finds necessary to meet the loan market.".

Mr. BAYH. Mr. President, the amendment to H.R. 8449 which I am offering would allow the Secretary of the Department of Housing and Urban Development to set the maximum interest rate to be charged on FHA insured mobile home loans rather than having this program restricted by the present low statutory rate. In the last Congress, the Senate passed a housing bill which included this authority and the House Banking and Currency Committee reported a bill with similar provisions. The House, unfortunately, did not consider their housing bill.

The President and Secretary of HUD have both voiced their support for this authority.

At the present time the unrealistic low rate, expressed in esoteric add-on interest terms, in the existing statute, has restricted the use of this FHA program. When converted to simple interest rates the maximum loan under FHA's title I program is only 7.97 percent. This rate simply cannot attract funds and leaves the mobile home financing field to high downpayment, short-term, high-rate loans.

The Federal Reserve Board report for July, Mr. President, indicates a commercial bank average of 10.84 percent on an average loan of 7 years and over 12.75 percent on finance company lending on less than 10 year average terms and future reports will doubtlessly reflect even higher rates. FHA mobile home loans may have terms of up to 15 years and would, in all probability, be at lesser rates and lower downpayments thus making a far greater number of potential purchasers eligible for favorable financing.

Evidence of the importance of mobile homes in the low-cost housing picture includes the fact that in 1972 mobile homes represented 97 percent of all housing production under $15,000 and 80 percent of those starts under $20,000.

There can be no doubt, Mr. President, that by making lower downpayment, longer term and lower rate financing available by allowing the HUD Secretary to set a market rate for mobile home financing under FHA title I, we will be providing a highly important aid to achieving the housing objective of this country.

Mr. TOWER. Mr. President, I think this is a meritorious amendment, and, in behalf of the minority, we are prepared to accept it.

Mr. WILLIAMS. On behalf of the majority, I also concur.

The PRESIDING OFFICER. Do Senators yield back the remainder of their time?

Mr. TOWER. Mr. President, I ask unanimous consent that the rule of germaneness be vacated on this amendment.

The PRESIDING OFFICER (Mr. CRANSTON). Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Indiana (Mr. BAYH).

The amendment was agreed to.

Mr. ABOUREZK. Mr. President, I plan to vote for the Flood Disaster Protection Act.

Although it is not a perfect bill, it does represent a major step forward.

There are many questions about this legislation.

Foremost among them is whether it will be administered with close adherence to congressional intent.

That is a question only time will answer.

Another area I will be watching closely is whether premium rates on flood insurance become prohibitive for low-income and elderly families.

I support the land-use provisions of this bill.

I am well aware that many of our friends in local government may complain about it, but I am equally aware of the reaction we will get from taxpayers if we allow development to continue in highly flood-prone areas and then have to clear them out with costly disaster relief measures.

For the information of my colleagues, I would like to add that in Rapid City, where we had a devastating flood last year, urban renewal is being used to clear the flood plain area. What is being done there is consistent with this act. There may be a few problems, but by and large this bill goes nicely with the reconstruction of Rapid City.

In Rapid City we learned all too painfully well the lesson that a little commonsense, foresight, and prevention is worth the trouble. That foresight and prevention is directly translatable into lives and property saved.

As I have said many times before, we need disaster relief and disaster insurance legislation which is far more comprehensive than what we have now. This bill represents a major step in the right direction.

Thank you.

Mr. TAFT. Mr. President, I strongly support the present form of H.R. 8449, the legislation before us.

In 1972, 48 Presidentially declared disasters were recorded, 45 of these were floods, less than 5 percent of the $3 to $4 billion loss was covered by insurance. The balance was ultimately covered by disaster relief payments or restored through long-term indebtedness on the part of the property owner.

Property losses due to floods are rising tragically each year. Unless such losses result in a disaster declaration, by the President, the SBA Administrator, or the Secretary of Agriculture, or unless the flooding occurs in an area eligible for flood insurance, and the disaster victim has purchased insurance, property owners must pay the cost themselves. Private flood insurance protection is simply unavailable.

Given these circumstances, it is tragic that the flood insurance program is reaching areas of need so slowly. When the Agnes disaster hit, only two citizens in the entire community of Wilkes-Barre held flood insurance policies. The Nation is not receiving the full benefit of the program. Property owners are continuing to build in flood-prone areas; in many cases they are unaware of their mistake and the risk of losses to be compensated through disaster relief programs is being enlarged daily. Where Federal flood insurance has been available until recently our citizens were very slow to buy it.

The proposed National Flood Insurance Program would be the first and only Federal program with an effective sanction to promote regulatory flood hazard reduction measures. Through the use of an effective sanction the proposed legislation will foster safer and better development and building in flood-hazardous areas. It will also provide a needed 100-percent increase in the maximum amount of property covered by a policy. I called for this type of approach even before the bill was introduced last Congress and I still feel just as strongly that it is needed.

Today, less than half of the Nation's flood-prone areas are actually eligible for flood insurance. In order to extend the program to a Nationwide application and in order to provide the property owner with a viable actuarially sound, flood insurance program we must strengthen the program. This legislation proposes to do these things. It has been carefully prepared and carries almost unanimous support of the Committee on Banking, Housing and Urban Affairs. It also has strong support by the administration.

I believe that the bill properly balances the Federal involvement in subsidizing the insurance rates on existing construction with stringent land use controls. It is only in this way that we will have any hope of preventing greater losses of Federal disaster relief money, personal property, and even lives in the future.

Mr. MONDALE. Mr. President, I am pleased to support H.R. 8449, the pending bill before the Senate. This legislation would expand the flood insurance program by raising the limits on coverage and by increasing the Federal commitment in support of the insurance fund.

Last year, Hurricane Agnes and the Rapid City floods caused billions in damages to property owners in the Northeast and Midwest. Each year flood disasters strike, and they are accompanied by enormous property losses and untold personal suffering.

The Federal Government through the Disaster Relief Act and similar legislation has attempted to provide emergency assistance to flood victims through loans and grants. However, assistance has often been uneven and in many cases inadequate to compensate for the personal losses involved. Increasing commercial and residential development in flood hazard areas has resulted in steadily mounting costs, both public and private, as a result of natural disasters.

The pending bill seeks to address this problem by ensuring that homeowners are covered by flood insurance and that new development in flood prone areas will be in accordance with appropriate land use and flood proofing requirements.

This measure would require the purchase of flood insurance in communities where Federal insurance is available in connection with Federal aid for construction or acquisition of property located in flood prone areas. It would prohibit Federal supervised banks and savings and loan associations from making a loan in connection with properties in identified flood hazard areas unless such properties were covered by flood insurance. An appeals mechanism would be established for both individuals and communities to contest the Secretary of Housing and Urban Development's proposed land use controls.

Since the late 1960's Minnesota and other States including Indiana, Iowa, Kansas, Montana, Nebraska, New Jersey, Wisconsin, and Michigan have adopted laws to regulate the use of their flood plains. The national flood insurance program has complemented and strengthened these State programs by having comparable land use requirements and by providing much of the technical data needed to administer State programs.

In Minnesota, for example, legislation was enacted in 1969 requiring local governments to adopt flood plain regulations once the appropriate information was available to define these areas. This year a new bill was passed, requiring all flood-prone communities to participate in the national flood insurance program, enabling citizens to buy flood insurance requiring implementation of local land use controls and accelerating the identification of flood hazard areas throughout the State.

In view of the substantial efforts on the part of the State of Minnesota and other States, I believe that the Congress should approve legislation that would not weaken existing land-use controls required of local communities for participation in the national flood insurance program.

For example, the Department of Housing and Urban Development now requires that land-use controls apply to areas that could be inundated by the "100-year flood." A lowering of this standard would undermine the effectiveness of State programs as well as of the Federal flood insurance program.

Some argue that communities or entire States should have the option of not participating in the national flood insurance program. While this concept sounds reasonable in theory, in practice it would greatly weaken the program. Existing properties would be affected because they would be ineligible for coverage under the flood insurance program. There would also be little or no control over improper future development within flood-hazard areas. If a major disaster were to strike in a community or State which had withdrawn from the flood insurance program, the Congress would surely be called upon to enact special legislation to provide disaster relief assistance that might have been unnecessary had the area participated in the flood insurance program.

Yet, how can the citizens of one State, which had complied fully with the requirements of the flood insurance program, be called upon to provide assistance to communities in another State which has refused to participate in the program?

The pending bill would provide an equitable and urgently needed mechanism to protect property owners from the consequences of disastrous floods. I am hopeful that it will be approved by the Senate without any weakening amendments, and I would like to express my full support for its prompt adoption.

Mr. SCHWEIKER. Mr. President, it has now been almost a year and a half since Hurricane Agnes devastated six States in the northeastern United States. Pennsylvania was hardest hit, with over $3 billion in property damage, 5,000 square miles of flooded land area, and 118 deaths. Of the six States involved, over 70 percent of the total damage occurred in Pennsylvania.

Since Hurricane Agnes, I have introduced and supported a number of bills to aid the victims of Agnes, and to prevent such catastrophic consequences in any future disaster. In September 1972, I introduced S. 3971, providing tax relief for disaster victims who have indebtedness canceled. In October 1972, I introduced S. 4050, to revise and simplify Federal disaster relief programs, and to assure adequate funding for these programs.

In January 1973, I introduced S. 390, to amend the National Flood Insurance Act with the following major provisions:

Increases statutory flood insurance coverage limits, from $17,500 to $35,000 on a single-family residences, and from $5,000 to $60,000 on nonresidential structures;

Increases the total coverage authorized from $2.5 to $10 billion;

Requires the purchase of flood insurance as a condition of Federal mortgage insurance in flood-prone areas;

Broadens the availability of flood insurance to any individual who wishes to obtain it regardless of whether his community is qualified, and provides incentives for responsible land-use policies.

In March 1973, I introduced S. 1144, the National Catastrophic Disaster Insurance Act of 1973. S. 1144 is retroactive to cover Agnes victims, and it provides for a national disaster insurance fund, created by a surcharge on existing property liability policies. S. 1144 would make catastrophic disaster coverage mandatory, and it would apply to all natural disasters.

Finally, in July 1973, I introduced S. 2265, to establish a Civil Disaster Office in the Army Corps of Engineers, to coordinate all Federal relief activities.

Mr. President, H.R. 8449 does not do everything we must do in the area of disaster relief, but it is an important first step. It raises statutory subsidized coverage limits from $17,500 to $35,000 on residences, and to $100,000 on nonresidential structures. It doubles coverage on the contents of residential properties, and it requires the purchase of flood insurance, in flood-prone areas where Federal insurance is available, as a condition of obtaining any Federal financing assistance. Most important, not later than 6 months after enactment the Secretary of HUD must notify all flood-prone areas, requiring them to become eligible for flood insurance coverage by adopting sound land use measures prior to July 1, 1975, or they will no longer be eligible for Federal financial assistance for acquisition or construction purposes, or Federal-related financing by private lending institutions.

H.R. 8449 has incorporated many of the provisions of my bill, S. 390, and I think our experience in Pennsylvania with Agnes has been instrumental in shaping the bill before us today. Unfortunately, unlike S. 390, H.R. 8449 still limits flood insurance to those communities which are declared eligible.

Mr. President, Pennsylvania has 499 eligible communities, more than twice as many as any other State and more than 10 times as many as most other States. So my State does very well comparatively under this bill, but I still object to this approach. No individual should be denied the right to purchase flood insurance simply because his community is not eligible. I recognize that H.R. 8449 has very strong incentives to make communities qualify, but I think this approach has the potential of penalizing the individual, and I will monitor it closely to see how it works in practice.

Finally, H.R. 8449 is not retroactive to include Agnes victims, and it does not have the comprehensive coverage features embodied in my Catastrophic Disaster Insurance Act, S. 1144. I have polled a number of my colleagues to determine whether there would be sufficient support to amend H.R. 8449 in these respects, and I have reluctantly concluded such an amendment would not succeed today. Moreover, I believe the essential provisions of H.R. 8449 are vitally needed, now, and I will not jeopardize or delay passage of this bill. But I will continue to monitor our Federal disaster relief programs, to insure that victims of natural disasters do not also become victims of an unresponsive Federal bureaucracy.

In closing, I would like to commend Senator SPARKMAN, the chairman of the Committee on Banking, Housing and Urban Affairs, and the individual members of this committee, for their diligent and creative efforts on this bill. It is a worthwhile bill.

PROHIBITION ON THE IMPORTATION OF RHODESIAN CHROME

The PRESIDING OFFICER (Mr. CRANSTON). The hour of 2 p.m. having arrived, the Senate will now resume the consideration of the unfinished business which the clerk will state.

The second assistant legislative clerk read as follows:

S. 1868, to amend the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome and to restore the United States to its position as a law-abiding member of the international community.

The Senate resumed the consideration of the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Virginia (Mr. HARRY F. BYRD, JR.) to amend the title.

Mr. DOMINICK. Mr. President——

Mr. HARRY F. BYRD, JR. Mr. President, I yield to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. DOMINICK. Mr. President, my understanding is that before we get to the amendment of the Senator from Virginia (Mr. HARRY F. BYRD, JR.), we each have 1 hour. I will yield myself such time as it may take to delve into this problem a little bit but will not take anywhere near my hour—probably will take 10 or 15 minutes; but I think it is important, in addition to what has already been said by the distinguished Senator from Nebraska (Mr. CURTIS) and the distinguished Senator from Arizona (Mr. GOLDWATER) concerning the title of the bill which will be the subject of amendment by the Senator from Virginia (Mr. HARRY F. BYRD, JR.), whose comments I subscribe to totally; namely, that the title as now written is an insult to our country, an insult to our freedoms, and should not be a part of any bill that ever passes Congress.

Mr. President, I should like to talk about the basic issue, which is the question of whether the sanctions against Rhodesia, which have the effect of prohibiting the United States from being able to purchase chrome from that country, are reasonable.

In 1971, Congress passed the Byrd amendment to waive sanctions on items of strategic importance to the United States, thus providing American industry with access to Rhodesian chrome.

At that time, some of our own companies had been involved in the country of Rhodesia, actually mining chrome in Rhodesia. There was a stockpile available which we would have been able to use except for the sanctions which have been imposed.

Consequently, the U.S. stockpile was rendered useless and we were required to import chrome from the Soviet Union at approximately twice the price we would otherwise have had to pay for it from Rhodesia.

I say that by way of background.

Now, as I said, by that act, we eliminated American dependence on the Soviet Union for chrome ore. I think that was a wise, desirable effect, and eliminated the necessity as well to buy chrome at the inflated prices the Soviet Union was then charging.

We have before us now, on which we will be voting later, a proposal to restore U.S. sanctions against Rhodesia, thus denying our own economy access to their chrome ore.

In passing, we should note that the continued survival of an independent Rhodesia, the consistent violations of sanctions by many other countries, and the questionable philosophy of interference in the internal policies of other countries to repress an independence movement, have discredited many of the arguments for sanctions in any case.

Enlarging on that for a minute, almost every country in the world is now using Rhodesian chrome with the exception of those who produce it themselves from their own natural resources. They do this, interestingly enough, not by going directly to Rhodesia, but by going through intermediaries, either by way of Belgium, South Africa, or the Soviet Union. So the idea of not dealing with Rhodesia as such does not necessarily harm the Rhodesian economy. It simply means that we pay more for Rhodesian chrome after it has gone through three other hands.

Now, the proponents of the restoration of sanctions argue that the elimination of sanctions has not aided American business. They argue that Rhodesian chrome imports have, in fact, proved small and that the Soviet Union remains our primary chrome ore source. They contend further that the surge in imports of ferrochrome from Rhodesia has been responsible for closing down of American ferrochrome factories.

It is true that ferrochrome has replaced chrome in our Rhodesian trade. Indeed, statistics presented during the committee hearings indicate that in the first 6 months of 1973, 48 percent of U.S. high carbon ferrochrome imports have come from Rhodesia, with an additional 29 percent coming from South Africa, which uses Rhodesian chrome to enrich its own low quality ore. During the same period, the U.S. imported only 3 percent of its chrome ore from Rhodesia, while importing 51 percent from the Soviet Union.

However, to argue that the Byrd amendment has therefore failed in its objective to diversify U.S. sources of chrome because the Soviets remain our prime chrome ore supplier is to overlook an important facet of the issue. Had Rhodesian ferrochrome been imported in raw ore form, in the first 6 months of 1973 chrome imports from Rhodesia would in fact have been higher than those from the Soviet Union. Clearly, under the Byrd amendment we have moved out of a position of sole dependence on the Soviet Union for a critical and strategic material.

This, I think, is important, in light of the comments made by the distinguished Senator from Arizona (Mr. GOLDWATER) on the title of the bill which says they will restore us to a law-abiding country in the community of nations, yet here we are relying on Soviet ore, a country which has invaded and taken over the governments of both Hungary and Czechoslovakia in violation of the rules of the United Nations, yet about which very few people have made any comments whatsoever on the floor of the Senate.

Mr. GOLDWATER. Mr. President, will the distinguished Senator from Colorado yield?

Mr. DOMINICK. I am happy to yield to the Senator from Arizona.

Mr. GOLDWATER. For my own enlightenment, the Soviets buy their chrome from Rhodesia, is that not correct?

Mr. DOMINICK. That is correct. They have some ore of their own, but they buy a good deal of Rhodesian chrome in addition.

Mr. GOLDWATER. Are not the Soviets members of the United Nations?

Mr. DOMINICK. I always thought so, but one would not know it from listening to the debate here.

Mr. GOLDWATER. Are they not subject to the same rules that we are supposed to have violated in becoming a lawless nation?

Mr. DOMINICK. That is correct. The only difficulty is that the Soviets do not pay any attention to the United Nations if they do not happen to like what it is doing.

Mr. GOLDWATER. It seems strange that this body, the Senate, is calling the United States lawless, when we have the Soviets flouting the United Nations nearly every day, and which has broken 51 out of 52 treaties; yet they are sort of revered in the Senate. They are above reproach. They are above reprimand. But when it comes to our own country, this body cannot wait to jump on its back. I just cannot figure that one out.

Mr. DOMINICK. We seem to have been our own worst critic for a long period of time, which is reprehensible, just as the Senator from Arizona thinks it is.

Furthermore, Mr. President, the argument that it is the importation of Rhodesian ferrochrome which is primarily responsible for the closing of part of our ferrochrome industry cannot be convincingly substantiated. The plants which have closed were small, old, outdated, and obsolete. The absence of U.S. chrome ore, the high cost of fuel, the estimated cost of installing required air pollution controls, the 1971 drop in the stainless steel market—where chrome is used—and increases in stainless steel imports foreshadowed their closure before the impact of Rhodesian ferrochrome was felt.

In terms of this bill, one of the industry's key weaknesses derived from the sanctions themselves. These companies had to pay a high price for chrome ore while we observed sanctions; since 1971 they have been unable to rely upon a regular source of chrome ore because of the constant threat of repeal of the Byrd amendment. Faced with these uncertainties, and with a Rhodesian ferrochrome capacity which sanctions had assisted to develop by acceleration Rhodesia's desire to establish its own industry to treat its own ore, which seems like a reasonable thing to me, there was little incentive for these factories to modernize to continue to compete.

Other arguments put forth by the proponents of this current bill are also questionable.

To argue that waiving sanctions as Congress did in 1971 by passing the Byrd amendment is illegal is to ignore the subsequent court of appeals decision that in voting as it did Congress was well within its rights.

Mr. President, although proponents try to dismiss the price drop in chrome ore that occurred after the end of sanctions as due to "general market conditions," they cannot deny that the price for chrome did drop, despite general international inflation.

Some argue that congressional action in waiving and maintaining the waiver of sanctions adversely affects negotiations between the United Kingdom and the Smith regime. We have heard this song ever since Rhodesia's unilateral declaration of independence in 1965; there is no concrete evidence to suggest that congressional action or inaction has at any time had the slightest impact on these contacts.

Finally, only a small proportion of the cost of ferrochrome production is for labor, undercutting any assertion that the United States is exploiting oppressed African workers, a cry I hear all the time. This is nonsense. The lack of required pollution controls, the immediate proximity of the raw ore and low-cost electric power, modern plant facilities and low transport costs are the prime reasons for the price advantage of Rhodesian ferrochrome, not labor cost.

THE IMPACT OF REPEAL

Mr. President, let us focus on what this current proposal to repeal the Byrd amendment will do.

Repeal will wipe out directly the current source of almost half our ferrochrome imports—Rhodesia. We have to recognize that because of the acknowledged Rhodesian content of much of South African ferrochrome, our obligations under sanctions will presumably oblige us also to stop importing much South African ferrochrome as well, which now represents roughly another third of our imports.

With over two-thirds of our current imports to be barred, the blow to our stainless steel and other specialty steel industries will be devastating.

The importance of these industries to our economy and national defense is recognized by all. Given current world market conditions, to obtain sufficient ferrochrome at any price for our industries will be a major problem. Even if we succeed in finding sources to replace Rhodesian and South African ferrochrome, the accompanying market disruption and subsequent drastic price rises will spread throughout the steel industry and our whole economy.

Reimposition of sanctions could also give foreign producers of stainless steel a cost advantage over American companies, opening up the possibility of the increased entry of foreign stainless and specialty steel into the U.S. market, at the very time when we are trying to improve our balance of trade position. Just as our ferrochrome industry was damaged, perhaps irreparably, by the embargo on Rhodesian chrome, our stainless steel industry would now be damaged, perhaps irreparably, by denying it access to Rhodesian and South African ferrochrome.

Mr. President, to argue that releases of excess chrome from GSA stockpiles will offer the ferrochrome or stainless steel industries relief is to ignore the low quality of the stockpiled ore and national security requirements. More importantly, these supplies, even if available, would provide only a temporary expedient and would not give the industries the reliable source which they need to make their plans for production and for development of their capacity in the future.

No chrome has been mined in the United States since 1961. With Rhodesian and much of South Africa ferrochrome unavailable to American industry, the United States would return to primary dependence upon the Soviet Union for chrome, either directly for chrome ore or indirectly by requiring us to import ferrochrome, if we could buy it, from other countries who process Soviet ore.

While the Smith regime may abridge the civil rights of many Rhodesian citizens, we should not forget that the Soviets show a frightening lack of concern for the civil rights of their own citizens, unless they happen to be in the Politburo, and even then they do not show much concern about them.

It seems to me that given these undesirable choices for sources of chrome and ferrochrome, it would be absurd for us to return to primary dependence on the Soviets, who, as Senator GOLDWATER just said, have broken 51 of their 52 treaties, not to speak of the way they have used oil, natural gas, and other raw materials as a weapon in their international program to try to dominate not only Europe, but a large portion of the world as well. The Soviets, despite détente, continue to pose the greatest military threat to this Nation or any nation in the world. We spend billions of dollars per year in an effort to defend this country and a large portion of the free world against the threat posed by the Soviets. To rely on them for raw material sources seems to me to be wholly ridiculous. Soviet actions during the recent Middle East crisis give us little reason to feel secure on this score, particularly with their rearming—which they now have completed—of the Arab countries, which is creating a problem in the process of the Geneva negotiations.

Mr. President, for both national security and economic reasons, and on the basis of commonsense in looking at where reliance upon a single source for a critical material—oil—has brought the United States today, this proposal, which would make us dependent on the Soviet Union for chrome and ferrochrome, seems absolutely absurd to me, and I believe the bill should be defeated.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on the pending amendment.

The yeas and nays were ordered.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

Mr. TAFT. Mr. President, I take this time today to speak briefly on the subject before the Senate, to explain why I voted for cloture, and to make some other remarks about current international developments that in my opinion are connected with the decision we are to make on the chrome bill.

I should like to make it clear that, while I voted twice against cloture, today I voted for cloture not because I had changed in any way in my convictions with regard to the merits or demerits of the measure before the Senate. I feel constrained to oppose it, as I indicated recently in my remarks as reported in the RECORD. I voted for cloture because I believed that the matter had been thoroughly debated and, along with the time allowed today, will have been adequately debated to put the matter before the Senate.

I particularly deplore at this time the use of the Senate rules in a way that would prevent the Senate from ultimately expressing the desire of its majority with regard to this matter. I hope, however, that every Senator will give the most careful consideration to the proposals now before the Senate.

I am particularly disturbed by the economic factors that the Senator from Colorado has just ably discussed and the national security factors.

But also I am just as much distressed by the overall aspect of this matter on which I have spoken before. It seems to me there is a domination of the Afro-Asian bloc working as a pawn of the Soviet Union within the United Nations. As far as I am concerned, while I am a strong backer of the U.N., and I have pending before the Committee on Foreign Relations at the present time measures to strengthen the U.N. and build up the concept of international law, it seems to me that this sanction against Rhodesia cannot be taken very seriously when it is claimed that we are violating international law by our proper congressional action. By proper congressional action we indicated we would no longer go along with the policy we once mistakenly became involved in.

I think all too little has been said about the position of the Afro-Asian bloc with regard to some of the collateral issues in light of the outright and wanton piracy and murder that occurred on the international scene in the last 24 hours. It makes a travesty of the entire matter.

I remember some of the nations involved. Syria is one of them. That country is a place where refuge is now being sought by the hijackers. They have refused to outlaw hijacking and international piracy of this kind as a matter of their foreign policy.

A little over a year ago I was a member of a committee of the International Parliamentary Union that met in Rome. I was a member of a committee on which two Arab nations were represented. We tried at that time to get to go to a conference to discuss hijacking and international piracy and they refused even to go along with a resolution calling for the conference. We did get some agreement later but results have not been forthcoming.

I do not seek to condemn or categorize all nations in any way. Many nations in the Arab or Asian bloc would seek to take affirmative action and to establish some international law. If they did so we could turn to some sanctions that would be meaningful. I am somewhat doubtful as to the practicality.

Praise should be given to Lebanon for refusing refuge to the hijackers when they requested permission to land the aircraft there.

What we should be saying today is that the world will be watching carefully what happens to the hijackers who are in Syria. Let us see the United Nations take up sanctions about that.

What we must work for before we turn to a measure of this sort and handicap ourselves in the way the Senator from Colorado just recognized, is a general recognition of the fact that the United Nations needs major restructuring and we should turn to other countries to bring that about, but not with nitpicking of this kind.

Mr. President, we have been hearing a great deal of talk about the moral aspects of trade with Rhodesia. I feel that most of the statements we have heard have been oversimplifications. In fact, the moral issue of this trade is vastly more complex than it might seem on the surface.

The first moral question we must ask ourselves—and it is a very serious question—is how we can best help the people of Rhodesia, black and white, move toward a racially just society, rather than strut our good intentions about on the public stage. In the latter respect, denunciations and condemnations might be in order, and economic sanctions would be a proper tool. Such sanctions would purport to show the public that we, in our morally superior position, will not associate with those who do not view all men in their nations as equal in rights.

If, however, our morality causes us to feel responsible for the results of our actions as well as for our intentions, we must be more cautious. We must review the effects that sanctions have had upon race relations in Rhodesia, and consider whether another course of action might not yield better results.

When Rhodesia declared her independence from Britain, she did not have an apartheid system and racial separation was more a product of economic than political and legal segregation, and, however much we deplore any segregation, that based on wealth can sometimes be overcome by the efforts of the individual and by social change. What does the application of sanctions seem to have done to this situation? Firstly, it pushed Rhodesia economically into the arms of South Africa. This economic relation fostered closer political relations, in terms of domestic as well as foreign policies. In other words, it facilitated and encouraged the importation of apartheid into Rhodesia.

But more importantly, sanctions replaced the confident and, compared to South Africa, more relaxed attitudes of the white Rhodesians, with an outlook of fear and tension—an outlook which produced rigidity and a siege mentality. The feeling of having their very existence threatened led the whites of Rhodesia to become, not more accommodating with their black fellow countrymen, who were, supposedly, being helped by the sanctions, but harsher and more rigid toward them. I think that even an amateur psychologist should understand the inevitability of this reaction by the white Rhodesians.

As Rhodesia provides an example of how sanctions, with their attendant economic and psychological hardships, cause deterioration in race relations, so we see how in the same time period prosperity has tended to break down racial barriers in South Africa. The economic pressure of the need, in a booming economy, for skilled labor, coupled with the confident and relatively secure attitude of white South Africans, has brought about a degree of rapid removal of barriers of apartheid. I ask permission at this time to insert into the Record an article from Time magazine of October 25, 1973, describing this breakdown of apartheid.

There being no objection, the article was ordered to be printed in the Record, as follows:

Softening Apartheid

For more than a generation, the cornerstone of South Africa's internal policy has been apartheid, or "separate development" for the country's 16 million blacks, 4,000,000 whites, 2,000,000 "coloreds" (mixed bloods) and 750,000 Asians. To protest such racist policies, the United Nations General Assembly last week refused, by a vote of 72 to 37, to accept South Africa's credentials. It was a symbolic gesture, signifying the assembly's disapproval but carrying no force to keep the nation from taking its place in the U.N. Time Correspondent Lee Griggs recently traveled extensively throughout South Africa for the first time in eleven years to assess the plight of blacks. He discovered that in countless ways the granite-hard face of apartheid is cracking.

In perhaps the most significant modification of apartheid since it became national policy in 1948, Prime Minister John Vorster last week virtually abandoned the Job Reservation Act, under which the best jobs in the country have long been reserved for whites. Though the law will remain on the books, Vorster declared that, if employers and trade unions approve, the government will allow more and more blacks to move into skilled jobs. The goal, he said is to find ways to improve "the productive use of non-white labor."

The reasons for the change are hardly altruistic. South Africa's booming economy is faced with a white-labor shortage, and the obvious solution is to train blacks to fill the gap. Blacks now drive trucks, and supervise shunting in rail yards; soon they will take over 14,000 mining jobs formerly reserved for whites. The change is also a result of continuing social pressures—the migration, for example, of Afrikaner farmers who are moving to the cities and becoming partly liberalized in the process.

Whatever the reasons, the effects are visible everywhere. In the capital city Pretoria, public parks were integrated a few weeks ago. On a recent evening in Pretoria's new luxury hotel, the Burgerspark, the dining room was filled with almost as many black guests as white. Elevators may still carry "Slegs vir blankes" (reserved for whites) signs, but the rule is ignored. Whites stand beside blacks in many of the same queues. Air travel is integrated. Some parishes of the Dutch Reformed Church now permit multiracial attendance at weddings, funerals and other services.

The Immorality Act, which bans interracial sex, is still in force, but prosecutions are rare. Even the courts seem to be mellowing. A black man recently sued and collected damages from a white who had called him a kaffir (the South African equivalent of nigger). Ever since blacks and whites competed against each other in body-contact sports at the South African Games last January, integration in athletic events has been increasing. This month blacks played against whites for the first time in an international cricket tournament.

AID CENTERS

One of the most hated aspects of apartheid has been the "pass laws," which require blacks to carry permits whenever they travel outside the semiautonomous black regions called Bantustans. The pass laws are still in effect, and more than 600,000 blacks were arrested last year for violating them. But nowadays an offender is less likely to be automatically jailed for a pass-law transgression or other minor infraction—partly because of the work of a string of government "aid centers" that have been established to help blacks cope with the law. Moreover, the area within which a single pass is valid has been increased—from about 50 miles to as much as 180 miles.

None of these changes exactly qualifies John Vorster for a human-brotherhood award. South Africa's blacks, after all, still have no vote, no right to own property and no real freedom of movement outside the black regions. And, given the depth and prejudice of white South Africa's attitudes, it remains to be seen whether a profound social change has really begun. But the short-term trend is clearly toward modest liberalization, particularly in business and industry, and for this the Vorster government deserves a measure of credit.

Mr. TAFT. It seems clear, not only from these examples, that prosperity is one of the best tools for breaking down social barriers in a society, and, conversely, that the tension arising from adverse economic pressure and from outside moral condemnation may strengthen such barriers. I thus return to my original question: Are we concerned only with a showing of moral rectitude, or are we genuinely interested in helping the people of Rhodesia, white and black, toward resolving racial and nation dividing problems? In the latter case, I suggest that sanctions are probably counterproductive.

Further, I must suggest that the direction in which sanctions are pushing Rhodesia—a direction for which, also, the White Rhodesians bear heavy responsibility—is toward the ultimate moral catastrophy, racial war. It is clear to all of us, I think, that such a tragedy must be avoided, that the course of events must be reversed.

But sanctions have not reversed it and show no promise of reversing it. Can our morality permit us, then, to continue sanctions, to vote to strengthen them? I submit that, as we must try to bring Rhodesia on to a different course, so we must take a different course ourselves. All the good intentions in the world will not remove our moral responsibility if we vote to continue sanctions, and those sanctions help push Rhodesia into racial war.

There has also been a great deal of talk about the moral and practical necessity for the United States to comply with the United Nation's resolution imposing sanctions on Rhodesia. Were the United Nations acting consistently on the basis upon which sanctions were imposed on Rhodesia, and were the other members of the U.N. acting, in their trade policies, as they vote in the U.N., this would be true. In fact, in both cases the U.N. betrays astounding hypocrisy from which we should be trying to rescue it.

In terms of the action of the U.N. collectively, the sanctions on Rhodesia have moral value only if they are coupled with sanctions against all nations which, as a policy, discriminate against minorities. If this is U.N. policy, where are the sanctions against other oligarchies and the Soviet Union, a nation which, in the view of many, is equally harsh on minorities as is Rhodesia? In fact, Rhodesia suffers sanctions because she is a small nation. Others do not suffer them because they are bigger or more favored in their allies. I will leave to my distinguished colleagues the judgment condemning a nation.

Furthermore, it is no secret that many members of the U.N. voted sanctions with great fanfare, then ignored them as soon as they are their nations smelled a profit. These Nations—I include the Soviet Union among them—now denounce us as immoral for doing openly, by act of Congress, a right always reserved by our Constitution, what they have done with falsified shipping documents and third-flag freighters. Again, I leave judgment of the worth of these denunciations up to my colleagues.

In fact, the sanctions were voted originally and are clamored for now by the U.N. not as a reflection of any general, consistent, morally based policy, but because of the political strength of the Afro-Asian bloc. And what the whole affair points out is the need for facing up to the power, in the U.N. and elsewhere, of that bloc. If the U.N. is to be effective, it cannot be dominated by any group representing a special power and interest bloc.

I have always stood for the strengthening of international institution and international law. I currently have pending before the Senate Foreign Relations Committee five resolutions designed to strengthen the International Court of Justice. The case of the U.N. sanctions against Rhodesia is a good example of why our international institutions need to be reformed and strengthened. The best way to deal with the Rhodesian problem, and with all problems involving repressive policies on the part of a State, would be through fair, impartial, and universally accepted and respected international organizational courts. The U.N. dominated as it has been on such questions by the interests of the Afro-Asian bloc, can make no legitimate claim to these qualities.

Let us, then, instead of agreeing to the current hypocritical situation in the U.N. by caving in to the Afro-Asian bloc, take the lead in reforming the U.N. and the other international organizations such as the International Court of Justice. Let us have the courage, first, to demand the end to a masquerade of politics in the cloak of righteousness, and insist on real justice, real fairness, real morality in and from these bodies. Then, the united will adhere, by law, to these organizations' decisions.

There is, finally, a moral aspect to the wider political implications of a caving in, in the name of "morality," to the demands of the Afro-Asian bloc. The next target of that bloc is our ally, Portugal. Portugal is vital to our defense structure and Europe's. But more importantly, in the face of a very important moral issue, the rescue of Israel from the recent onslaught of her neighbors, only Portugal, among all our allies, had the courage to give us use of the facilities we needed to resupply Israel. This decision by Portugal—which has led the Arabs to redouble their help to the Rebels in the Portuguese overseas provinces—had moral implications, and those of us who support Israel's right to exist have a moral debt to Portugal. I submit that the demands by the Afro-Asian bloc for our abandonment of Portugal should be examined and rejected, morally as well as politically, as not acceptable to us.

Accordingly, I will cast my vote against S. 1868. I urge my colleagues to consider seriously the real moral questions of this bill, the cause of peace and strength, before they make their final decision on this issue.

Mr. HARRY F. BYRD, JR. Mr. President, I call up my amendment No. 897, and ask that it be stated.

The PRESIDING OFFICER. Amendment No. 897 is the pending amendment. The amendment will be stated.

The second assistant legislative read as follows:

Amend the title by striking all after the word "chrome" in line 2.

Mr. HARRY F. BYRD, JR. Mr. President, the case for this amendment already has been made. This amendment would strike from the title words which many in the Senate find to be very objectionable. Those words are—

And to restore the United States to its position as a law-abiding member of the international community.

Mr. President, the case for this amendment has been ably made by the distinguished Senator from Colorado (Mr. DOMINICK), the distinguished Senator from Arizona (Mr. GOLDWATER), the Senator from Nebraska (Mr. CURTIS), and the Senator from Alabama (Mr. ALLEN).

I do not feel that additional argument in behalf of the amendment is necessary. I think that the Senate would be doing itself a favor if it were to adopt this amendment, because if we do not adopt this amendment, the Senate would be voting to declare the United States not to be a law abiding member of the international community.

I urge adoption of the amendment.

The PRESIDING OFFICER (Mr. DOMENICI). The Senator from Oklahoma is recognized.

Mr. BARTLETT. Mr. President, in this debate on whether we should accede to the United Nation's dictate that we embargo Rhodesian chrome, aspects are particularly troublesome to me.

Should the United States participate in this embargo of Rhodesian chrome somewhere down the line, maybe sooner maybe later, the United States will have to turn to Russia as the only alternate source of chrome.

Now this bothers me for two reasons.

First, chrome and chrome alloys are security essential metals. Chromium is used in making stainless steel. No one would suggest that Russia would be a secure source of any product for us, much less a material which is important in our national defense. Should we embargo Rhodesia and turn to Russia, I would have no reason to believe that Rhodesia would likely reinstate us if Russia cut us off at a later date. Then whom do we turn to.

Second the motivation behind the United Nations embargo is ostensibly the antidemocratic policies of Ian Smith's Rhodesian Government.

I certainly do agree that these policies are antidemocratic and are completely inconsistent with our American philosophy.

If the embargo is due to Rhodesian's oppressive antidemocratic policies and the only alternate source of chrome is Russia by logical progression the United Nations appears to be making a determination that Russia is as democratic or more so than Rhodesia. I cannot believe this is the case. Nor do I believe the citizens of Hungary and Czechoslovakia will share that belief.

Apparently the powers at the United Nations have read government, history, and the facts of life much differently than I.

Mr. President I would certainly like to see Rhodesia change its policy of minority rule. But as with China and Russia, it is better for the United States to work with a country such Rhodesia than to cut her off from the rest of the world.

Mr. McGEE. Mr. President, while the sponsors of this bill will accept the amendment offered by the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.), I want to go on record as to the reasons the following language: "And to restore the United States to its position as a law-abiding member of the international community," was included in the bill.

The Byrd amendment of 2 years ago did place this Nation in the position of breaking its commitment under the United Nations Participation Act—a treaty which the Senate overwhelmingly passed in 1945. Our unilateral and formal violation of sanctions has seriously damaged our longtime support for human rights and self-determination, and the peaceful resolution of international conflicts. We violated a treaty commitment, and this fact seriously tarnished our credibility within the international community.

I still believe the action taken by this body the past 2 years has put us in violation of a duly constituted law of this Nation—a law which was subject to intense scrutiny on the part of the U.S. Congress and a law which the Congress, in its wisdom, saw fit to give its approval.

Our Government is sustained by a principle of faith, and it is for this reason all of us in this body take our oath of office. In order for our Government to perpetuate itself, our system demands faith on the part of its participants. This does not mean that we can select and choose only those facets of our Constitution and our laws to which we, as individuals, have determined we owe our allegiance and that somehow there is an authority higher than our Constitution which allows us to ignore those laws with which we do not agree.

The opponents of S. 1868 have maintained that the Security Council of the United Nations has impinged upon the sovereignty of this Nation. The United States, as a member of the Security Council, can exercise its veto power when this Nation is confronted with actions which we do not deem in our national interests. Therefore, it has been difficult for me to understand a line of reasoning which claims that our sovereignity has been violated. The action of the Security Council on the question of sanctions against Rhodesia was legally binding on the United States. We acquiesced in that decision as a nation. Had we not, the sanctions would not have been imposed because our veto would have blocked passage of the resolution. Therefore, the United States remains in violation of an international commitment under the Byrd amendment.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BARTLETT). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, am I correct in stating that after the vote has concluded on the pending Byrd amendment that the Senate then will vote on final passage at not later than 3 p.m.?

The PRESIDING OFFICER. The Senator is correct.

Mr. MANSFIELD. I thank the Chair.

The PRESIDING OFFICER. The hour of 2:30 having arrived, the question is on agreeing to the amendment of the Senator from Virginia (Mr. HARRY F. BYRD, JR.). The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Idaho (Mr. CHURCH), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Louisiana (Mr. LONG), and the Senator from New Mexico (Mr. MONTOYA) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT) is necessarily absent.

The Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The Senator from Ohio (Mr. SAXBE) is detained on official business.

The result was announced—yeas 91, nays 0, as follows:

[No. 594 Leg.]

YEAS—91

Abourezk
Aiken
Allen
Baker
Bartlett
Bayh
Beall
Bellmon
Bentsen
Bible
Brock
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cook
Cranston
Curtis
Dole
Domenici
Dominick
Eagleton
Eastland
Ervin
Fannin
Fong
Fulbright
Goldwater
Griffin
Gurney
Hansen
Hart
Hartke
Haskell
Hatfield
Hathaway
Helms
Hruska
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
McIntyre
Metcalf
Mondale
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—0

NOT VOTING—9

Bennett
Biden
Church
Cotton
Gravel
Hollings
Long
Montoya
Saxbe

So the amendment of Mr. HARRY F. BYRD, JR., was agreed to.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 1868) was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Idaho (Mr. CHURCH), the Senator from North Carolina (Mr. ERVIN), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from New Mexico (Mr. MONTOYA) are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. ERVIN) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT) is necessarily absent.

The Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The Senator from Virginia (Mr. WILLIAM L. SCOTT) is detained on official business.

The result was announced—yeas 54, nays 37, as follows:

[No. 595 Leg.]

YEAS—54

Abourezk
Aiken
Bayh
Bentsen
Brooke
Burdick
Case
Clark
Cranston
Eagleton
Fong
Fulbright
Griffin
Hart
Hartke
Haskell
Hatfield
Hathaway
Hughes
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Long
Magnuson
Mansfield
Mathias
McGee
McGovern
McIntyre
Metcalf
Mondale
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Ribicoff
Roth
Schweiker
Scott, Hugh
Stafford
Stevens
Stevenson
Symington
Tunney
Weicker
Williams

NAYS—37

Allen
Baker
Bartlett
Beall
Bellmon
Bible
Brock
Buckley
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Cook
Curtis
Dole
Domenici
Dominick
Eastland
Fannin
Goldwater
Gurney
Hansen
Helms
Hruska
Huddleston
McClellan
McClure
Nunn
Randolph
Saxbe
Sparkman
Stennis
Taft
Talmadge
Thurmond
Tower
Young

NOT VOTING—9

Bennett
Biden
Church
Cotton
Ervin
Gravel
Hollings
Montoya
Scott,
William L.

So the bill (S. 1868) was passed, as follows:

S. 1868

An act to amend the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5(a) of the United Nations Participation Act of 1945 (22 U.S.C. 287c(a)) is amended by adding at the end thereof the following new sentence: "Section 10 of the Strategic and Critical Materials Stock Piling Act (60 Stat. 596; 50 U.S.C. 98-98h), shall not apply to prohibitions or regulations established under the authority of this section.".

Mr. HUMPHREY. Mr. President, I move that the vote by which the bill was passed be reconsidered.

Mr. McGEE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

POSITION ON A VOTE

Mr. ERVIN subsequently said: Mr. President, I was at a committee meeting when the vote on final passage of S. 1868, generally called the chrome bill, was acted upon by the Senate, and I did not hear the bells ring for the vote.

If I had been present, I would have voted against the bill.

REPLACEMENT OF AMERICAN FALLS DAM, MINIDOKA PROJECT, IDAHO

Mr. MANSFIELD. Mr. President, on behalf of the distinguished senior Senator from Idaho (Mr. CHURCH), who is chairman of the Subcommittee on Water and Power Resources, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1529 with the amendments of the House thereto.

The PRESIDING OFFICER (Mr. BARTLETT) laid before the Senate the amendments of the House of Representatives to the bill (S. 1529) to authorize the Secretary of the Interior to enter into agreements with non-Federal agencies for the replacement of the existing American Falls Dam, Minidoka project, Idaho, and for other purposes", which were:

Page 1, line 9, after "dam", insert: "and related facilities".

Page 2, line 9, strike out all after "Minidoka" down to and including "reservoir." in line 15, and insert: "project. The construction and operation of the replacement dam shall not result in an increase in the elevation of the reservoir water surface above that maintained for the original dam, and provision shall be made for the correction and prevention of erosion related to the reservoir or for the full and adequate compensation of adjacent landowners (including owners of land subject to a flowage easement for the reservoir) if such erosion cannot be corrected or prevented."

Page 3, line 3, strike out all after "and" down to and including "funds." in line 8, and insert: "constructing agency funds, or any combination thereof as the parties deem appropriate; and (ii) design and construct an additional two lanes on top of the replacement dam, which additional two lanes may be funded with State, Federal, or constructing agency funds, or any combination thereof. For the purposes of subpart (ii) of this subsection, the constructing agency shall be considered an "agency" within the meaning of section 320(a) of title 23, United States Code."

Page 3, line 25, strike out all after "Falls" over to and including "capacity." on page 4, line 4, and insert: "Dam."

Page 4, line 17, strike out all after "Congress:" down to and including "project." in line 20, and insert: "*Provided*, That said contract for falling water shall be approved by the Secretary and shall not impair the efficiency of the project to serve the other purposes of the Minidoka project."

Page 4, strike out all after line 20, over to and including line 18, on page 5, and insert:

"SEC. 5. Construction of the replacement dam shall not be initiated until the Secretary has approved the designs and specifications of the dam and the plan of construction of the dam and of the proposed operation of the dam and reservoir. Construction of each related facility shall not be initiated until the Secretary has approved the designs and specifications thereof. Costs incurred by the Secretary in reviewing such designs, specifications, plans, and construction shall be included as project costs allocated to beneficiaries of the replacement dam and shall be reimbursable to the Secretary."

Mr. MANSFIELD. Mr. President, the purpose of S. 1529 is to authorize the construction of a dam to replace the existing American Falls Dam in Idaho, which has become unsafe as a result of deterioration of the concrete.

The existing American Falls Dam is located on the Snake River in southern Idaho. The dam was constructed by the Bureau of Reclamation in 1927 as a feature of the Minidoka project. A chemical reaction between the aggregate and the cement has led to gradual deterioration of the structure. The Bureau has determined that the dam is no longer structurally competent and has imposed restrictions upon the maximum water level in the reservoir.

Storage in the reservoir is presently limited to less than 65 percent of its usable capacity. Greater restrictions will be necessary as the deterioration of the dam advances. The reservoir contributes nearly half the usable storage capacity in the Upper Snake River system, and provides irrigation water supplies to about 900,000 acres of land. Constraints on operation pose serious threats to the agricultural economy of the area and to the recreation, fish and wildlife, flood control, and hydroelectric power functions served by the reservoir system.

S. 1529 would authorize a financing approach proposed by the water users in the interest of expediting completion of a replacement dam. An appropriate water-users organization would be authorized to construct the dam, using private financing, and transfer ownership to the Secretary of the Interior for operation and maintenance as a project feature. The water-users agency would be authorized to contract with an electric utility for the use of falling water at the dam for hydroelectric power generation to help defer the costs of constructing the dam.

The measure passed the Senate on June 19, 1973. The House made several amendments, primarily upon the recommendation of the Department of the Interior. I ask unanimous consent that the excerpt of the report of the House Committee on Interior and Insular Affairs discussing the amendments be printed in the RECORD.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCERPT FROM REPORT OF THE HOUSE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS, TO ACCOMPANY S. 1529 (REPORT NO. 93-703)

COMMITTEE AMENDMENTS

The Committee on Interior and Insular Affairs adopted six amendments to S. 1529. The effect of each amendment is set forth below:

1. An amendment to Section 1 was adopted at the suggestion of the Department of the Interior, to more precisely limit the water surface elevation of the reservoir formed by the replacement dam—to the elevation of the existing reservoir and to require that operation of the replacement reservoir shall either prevent shoreline erosion, correct such erosion if it occurs, or compensate adequately the owners of adjacent lands if shoreline erosion cannot be prevented or corrected.

2. An amendment to Section 2 was adopted at the suggestion of the construction agency, to reflect agreement reached among the spaceholders, the Idaho State Highway Department and the Department of Transportation concerning the design, construction and financial responsibility for the new highway crossing the Snake River. It also assures that the constructing agency will be considered an agency within the meaning of the statutes governing the Federal participation in bridges on Federal dams.

3. An amendment to Section 3 was adopted at the suggestion of the Department of the Interior. It eliminates from the bill the authority for the Secretary of the Interior to amend existing contracts for repayment of American Falls Dam obligations if he finds that the combined repayment on the existing dam and the replacement dam exceeds the repayment capabilities of the water users.

Testimony available to the Committee indicates that adequate capability with which to meet the combined obligations of the spaceholders exists—if the anticipated falling water contract with the Idaho Power Company is consummated. Should the falling water arrangement not be implemented, the Committee acknowledges that there may be an obligation in the future to consider some level of legislative relief to spaceholders.

4. An amendment to Section 4 was adopted to more clearly provide that the contemplated falling water contract not impair other authorized purposes of the project.

5. The Committee also adopted an amendment to Section 5 as recommended by the Department of the Interior. This amendment deletes language from S. 1529 that would establish binding arbitration machinery to settle disputes over designs which might arise between the Secretary of the Interior and the constructing agency. The Committee believes that the Secretary should have the ultimate authority over designs and specifications since the structure will be government-owned and operated after completion of construction. The amendment to Section 5 also requires that costs incurred by the Secretary, in review of constructing agency designs and plans, shall be reimbursed to the United States in lieu of being nonreimbursable, as provided in S. 1529 as referred to the Committee.

6. An amendment to Section 1 was adopted to conform the text of the bill to the amended language of Section 5.

Mr. MANSFIELD. Mr. President, three of the amendments are substantive:

First. Section 2 was amended to give effect to agreements reached among the parties concerning the construction of a new highway crossing of the Snake River. The agreement was arrived at subsequent to Senate action on the bill.

Second. Section 3 was amended to remove authority for the Secretary of the Interior to amend existing repayment contracts with the water-users. The provision was deemed to be unnecessary.

Third. Section 5 was amended to make reimbursable costs incurred by the Secretary of the Interior in reviewing the designs of the dam.

Although the latter two changes are not in accord with the Senate views on these matters, they are not significant in view of the urgent need to proceed with the replacement of the dam. The committee has been advised that the amendments are acceptable to the water users in the interest of expediting the replacement.

Mr. McCLURE. Mr. President, I should like to support the statement just read by the distinguished majority leader on behalf of my colleague (Mr. CHURCH).

I am pleased to endorse the action taken yesterday by the House when it favorably reported, as amended, S. 1529, to authorize the Secretary of the Interior to enter into agreements with non-Federal agencies for the replacement of the existing American Falls Dam, Upper Snake River project in Idaho.

The Senate passage of the American Falls Dam bill, which will permit the replacement of that dam, now sends the bill to the President where I have no doubt that it will be signed. This bill has to be the most important single piece of legislation for the irrigation farmers of southern Idaho. It is a terribly important bill and I am delighted that we have been able to get it through as rapidly as we did, and now we have to work out the details of getting the dam actually replaced. I join other concerned Idaho citizens in applauding this prompt congressional action to correct this unsafe water storage facility, and to provide much needed road access improvement which is now a totally unsafe hazard to life and health in time of emergency.

The history of this bill, since its introduction, April 10, 1973, by my distinguished colleague, Senator CHURCH, and myself, has been one of bipartisan support, and endorsement from the people of Idaho. A clear understanding of the emergency by the agencies, and the staffs who gave careful attention to this proposal deserves our appreciation for a job well done.

Mr. MANSFIELD. Mr. President, I move that the Senate concur in the amendments of the House.

The motion was agreed to.

FLOOD DISASTER PROTECTION ACT OF 1973

The Senate resumed the consideration of the bill (H.R. 8449) to expand the National Flood Insurance program by substantially increasing limits of coverage and total amount of insurance authorized to be outstanding and by requiring known flood-prone communities to participate in the program, and for other purposes.

Mr. TOWER. Mr. President, what is the pending business?

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana (Mr. JOHNSTON). Does the Senator from Louisiana wish to have his amendment restated?

Mr. JOHNSTON. Mr. President, I understand that I have only 3 minutes left?

The PRESIDING OFFICER. That is correct.

Mr. JOHNSTON. Just to review the amendment for the benefit of those Senators present, let me explain this amendment. Where property owners have spent substantial sums in either building homes or making investments in streets, sewers, storm sewers, or water facilities, relying on at least the existing flood protection rules in New Orleans, La., a 40-year flood level rule was adopted by the FHA; my amendment would provide that developers may proceed with the 40-year flood level and not be charged for flood insurance more than twice the subsidized rate; that is, not more than twice what is charged everyone else who begins construction prior to December 31 of next year. The FHA—a branch of that same HUD department which is pushing this bill—has approved using the 40-year flood level in my State of Louisiana for years.

Now the attempt is being made to change that to the 100-year standard, in the process bringing to a standstill millions of dollars of badly needed, carefully planned subdivision development. All the amendment does is to allow those who, in good faith, have started with their investment and have planned their subdivisions accordingly, to be able to proceed with the 40-year flood level.

Frankly, I do not see why this amendment is unacceptable to the managers of the bill, and I hope that, at this eleventh hour, they may reconsider and the amendment will be agreed to.

Mr. President, I reserve the remainder of my time.

Mr. TOWER. Mr. President, this amendment would limit the chargeable premium rate for new construction or substantial improvements of property in "existing areas"—those covered by a subdivision map recorded prior to October 1, 1973, and in which either substantial residential construction has begun or substantial implementation of street, sewer or water facility plans has begun.

Use of a 50-year standard for new construction in new areas would be disastrous. However, the use of a 40-year standard for new construction in existing areas would virtually make a mockery of the idea that the national flood insurance program is contributing to protection of lives and property from flood disasters.

Following the congressional directive to the Secretary to require protection for new construction appropriate to the flood risk, in existing areas—as well as in new areas—the Secretary has consistently used the 100-year standard. Thus, it is difficult to understand why the amendment relating to existing areas mentions a 40-year standard if it is not intended to circumscribe the Secretary's authority. Whether or not this amendment, relating to a limitation on chargeable rates in existing areas, is intended to effectively limit the maximum elevation which may be required in such areas, it is readily conceivable that adoption of the amendment would have such an effect, an unthinkable result for the reasons stated.

Mr. President, I might reiterate what I said earlier, that the 100-year standard is in effect, by law, in 15 States, by administrative regulation in an additional 29 States, and in 4 other States legislation is under consideration which would use the 100-year standard.

Adoption of the Johnston amendment would be an inducement to the States to reduce their standards.

Mr. WILLIAMS. Mr. President, I would say, supplementary to the statement of the Senator from Texas (Mr. TOWER), it impresses me that agreeing to this amendment would really destroy the most beneficial aspects of the legislation before us. The 100-year flood test is a test that has been tried and found effective in most areas of the country. It is designed to do this; namely, to permit the building, yes, except where it would be total folly. It is designed to draw forth sound land management and, with that, to insure people against the floods that will come.

It impresses me that if this amendment were to be accepted, the whole thrust of the insurance program would be adversely affected. We would not have any effective insurance program, and that is exactly what we need. We have had an insurance program, and now we are trying to improve it and reach out to get maximum coverage of those areas where floods will occur. We wish to insure the losses that will follow. This proposal would destroy that in good part.

Mr. President, I yield back the remainder of my time, if there are no further requests for time.

Mr. TOWER. I yield back the remainder of my time.

Mr. JOHNSTON. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. All the time has been yielded back.

The question is on agreeing to the amendment of the Senator from Louisiana. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from New Mexico (Mr. MONTOYA) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT) is necessarily absent.

The Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The Senator from Arizona (Mr. Goldwater), and the Senator from Ohio (Mr. Saxbe) are detained on official business.

The result was announced—yeas 23, nays 68, as follows:

[No. 596 Leg.]

YEAS—23

Abourezk
Bible
Brock
Byrd, Robert C.
Chiles
Eastland
Fong
Haskell
Helms
Huddleston
Inouye
Johnston
Long
Mansfield
McGee
Metcalf
Nunn
Randolph
Scott, William L.
Stennis
Talmadge
Thurmond
Tunney

NAYS—68

Aiken
Allen
Baker
Bartlett
Bayh
Beall
Bellmon
Bentsen
Biden
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.
Cannon
Case
Clark
Cook
Cranston
Curtis
Dole
Domenici
Dominick
Eagleton
Ervin
Fannin
Griffin
Gurney
Hansen
Hart
Hartke
Hatfield
Hathaway
Hruska
Hughes
Humphrey
Jackson
Javits
Kennedy
Magnuson
Mathias
McClellan
McClure
McGovern
McIntyre
Mondale
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Ribicoff
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevens
Stevenson
Symington
Taft
Tower
Weicker
Williams
Young

NOT VOTING—9

Bennett
Church
Cotton
Fulbright
Goldwater
Gravel
Hollings
Montoya
Saxbe

So Mr. Johnston's amendment was rejected.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. TAFT. Mr. President, I send an amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. The clerk will read the amendment.

The legislative clerk proceeded to read, as follows:

At the end of the bill, add the following:

TITLE III—DISASTER RECOVERY

Mr. TAFT. Mr. President, I ask unanimous consent that the amendment be printed at this point in the Record.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

At the end of the bill, add the following:

TITLE III— DISASTER RECOVERY

SHORT TITLE

Sec. 301. This title may be cited as the "Demonstration Disaster Recovery Act of 1973".

AUTHORITY

Sec. 302. The Secretary is authorized upon such terms and conditions as he may prescribe to make grants to families for the purpose of covering essential unmet expenses relating to the repair, rehabilitation, or replacement of residential and personal property which are necessitated by any major disaster, natural disaster, or disaster determined by the President, the Secretary of Agriculture, and Administrator of the Small Business Administration, or the Secretary, as the case may be.

LIMITATION

Sec. 303. The aggregate amount expended for grants under section 302 in connection with any disaster may not exceed an amount equal to $2,500 multiplied by the Secretary's estimate of the number of families affected by the disaster who will need such grants. Such estimate shall take into account evidence submitted by those private nonprofit organizations, public agencies, or local citizens' review panels which take part in the process of certifying grant amounts for families pursuant to the provisions of section 304, and by such other sources as the Secretary deems appropriate.

ADMINISTRATION

Sec. 304. (a) (1) The Secretary is authorized to enter into contracts or other arrangements with the American National Red Cross, or with any other private nonprofit relief and disaster assistance organization or any State or local public agency which he determines has the capacity to assist him effectively in carrying out the provisions of this title. Such contracts or other arrangements shall provide that such organizations or agencies shall serve as a contract for families in need of assistance in a disaster area and establish and certify to a local citizens' review panel, or in the absence of such a panel, to the Secretary, the amount of the essential expenses of each such family relating to the repair, rehabilitation, or replacement of residential and personal property which each such family cannot meet through personal financial resources and assistance from other public or private sources without incurring financial hardship. The Secretary may make such certifications in any disaster area where he determines that no agency or organization exists which meets the criterion established by this paragraph.

(2) For the purpose of this subsection, a local citizens' review panel is any board, commission, organization, or agency which the Secretary determines—

(A) is established or designated for the purpose of reviewing certifications under this subsection and recommending to the Secretary adjustments in amounts certified;

(B) is recognized for such purpose by either the unit of general purpose local government or the government of the State in which the disaster area is located, as the Secretary deems appropriate; and

(C) is representative of the citizens of the disaster, including persons affected by the disaster.

(b) The Secretary shall accept any certification or recommendation made pursuant to subsection (a) (1) and make a grant in the amount certified or recommended unless he determines—

(1) that such amount is inadequate or in excess of the amount necessary to meet the criterion established in subsection (a) (1); or

(2) that such amount will result in aggregate grants in excess of the limitation contained in section 303; in which cases he shall supply a written explanation of the basis for such a determination.

(c) The provisions of sections 3679(b) and 3709 of the Revised Statutes (31 U.S.S. 665 (b) and 41 U.S.C. 5) do not apply in the administration of this title.

(d) The functions conferred on the Secretary by this title shall be carried out through the Federal Disaster Assistance Administration.

AUTHORIZATION OF APPROPRIATIONS

Sec. 305. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

EFFECTIVE DATE; REPORT

Sec. 306. (a) The provisions of this title take effect upon the expiration of 60 days following the date of enactment of this Act, and shall remain in effect for a period of 1 year after taking effect.

(b) At least 60 days prior to the expiration of such period, the Secretary shall transmit to the Congress an evaluation of the actions undertaken pursuant to this title, and he may include therein such recommendations as he deems appropriate with respect to future disaster relief programs.

The PRESIDING OFFICER. The Chair will inquire of the Senator if this is the amendment on which there is a 1-hour limitation.

Mr. TAFT. Yes. I will say, for the benefit of Senators, I will not take anything like that time. I will probably take 10 or 15 minutes. There may other Senators who wish to make statements, but I do not think it will be an hour.

Mr. President, this amendment to the Flood Disaster Protection Act, would put into effect for a 1-year trial period, a new disaster grant assistance program. This program was outlined in legislation introduced November 19 by the distinguished Senator from New Hampshire (Mr. McIntyre) and myself, S. 2726.

The Flood Disaster Protection Act will go a long way toward insuring that flood victims who live in designated "flood hazard areas" are adequately protected against flood losses, as a result of their own financial contributions in the form of flood insurance premiums. I strongly support this arrangement, including the mandatory aspects of it and the strong land use provisions, because I believe that it is the most responsible means yet proposed of avoiding unnecessary Federal disaster relief expenditures and, more importantly, unnecessary loss of lives and property.

Nevertheless, it is important to remember that although the flood insurance bill will lessen the need for disaster relief over a period of years, this need will not be eliminated. The mandatory aspects of the present bill will apply only to property with an elevation below 100-year flood levels. A limitation of this type is proper because it would be unreasonable to require citizens to purchase flood insurance when the chances of a flood damaging their property are minute. Yet, the Government must recognize that floods of a greater magnitude than the 100-year level are quite possible; for example, the floods caused by Hurricane Agnes rose to the 450-year level. When such catastrophes occur, a viable disaster relief program will be a necessity if severe hardship is to be averted. This will also be the case when other disasters for which there is not widespread insurance protection, such as earthquakes, occur.

For these reasons, the legislation before us does not diminish my concern that the present level of disaster assistance for Americans whose homes and personal property are severely damaged by floods or other natural disasters is clearly inadequate. As a result of legislation which Congress passed last spring, even a homeless low- or moderate-income family with a sizable mortgage on a residence that has been destroyed completely can receive only a 5-percent loan from the Federal Government. This meager level of assistance seems all the more unreasonable when one reflects that less than 10 days after the bill passed which eliminated disaster forgiveness grants, the President asked for as much money as necessary to help victims of the Nicaraguan earthquake.

It is true that approaching this problem from that standpoint, the costs would be excessive, but I point out it is also true that Congress will not stand idly by, even if we have no disaster relief program on the books, and allow great numbers of Americans who have suffered from a great natural disaster to stand unassisted.

Earlier this session I offered an amendment to S. 1672, the Small Business Act, which would have remedied this situation by allowing disaster victims up to $2,500 in forgiveness grants depending on their incomes. Provisions were added in the Senate which raised the maximum forgiveness amount, and in conference the proposed interest rate was lowered from 5 percent to 3 percent, or 1 percent if a person chose not to take any forgiveness. The sliding scale I had proposed, which related benefits to income, was dropped in conference because of claimed technical objections raised by the Treasury Department. The President then vetoed the bill largely on cost grounds, and because it made the same maximum grant and interest terms available to all disaster victims regardless of need.

I am aware that the administration has major disaster assistance legislation pending which transfers many disaster relief functions from the Federal Government to the States. Although there are some constructive ideas proposed in this legislation, frankly, I am not convinced enough that this bill would be a major improvement over our present disaster relief program to press for its immediate enactment. In any event, the Banking, Housing and Urban Affairs Committee has a busy schedule and the committee does not seem disposed to take up this bill in the near future. Meanwhile, the need for restoring adequate assistance for disaster victims continues.

The demonstration program which I am advocating today is quite a different approach from loan forgiveness. It is tailored to individual needs, thus meeting one of the administration's main objections to the Small Business Act amendments. In addition, it provides grant relief only for repair or replacement of noncommercial property and retains the 5-percent interest rate rather than lowering it as Congress proposed this summer. Both of these provisions will limit its cost considerably. My proposal also increases State and local disaster relief involvement, as the administration has advocated.

Basically, my proposed legislation would allow the Federal Disaster Assistance Administration in the Department of Housing and Urban Development to make grants which cover essential expenses relating to the repair or replacement of housing and other personal noncommercial property. Grant amounts would be limited to expenses which could not be covered through other means, including the Federal 5-percent disaster relief loans, without causing the family affected by the disaster to incur financial hardship. These amounts would be determined on a case-by-case basis, but the total appropriation for grants per disaster could not exceed $2,500 multiplied by HUD's estimate of the number of families in need of grant assistance.

The casework involved would be done by the American National Red Cross or other public or private nonprofit agencies or organizations with whom HUD contracts, or by HUD in areas without suitable agencies or organizations. The suggested amount per family would be certified by such groups to any "local citizens' review board," recognized by either the State or the local, government as HUD deems appropriate and designated to review such certifications and possibly make alterations. HUD could supply a grant amount to an affected family which differs from the amount certified, as altered by any local citizens' review board, only if the reasons for so doing were stated in writing. The certifying groups could also submit evidence to be considered by HUD when making its determination of the aggregate appropriation for grants related to a given disaster.

The program would be put into effect for a 1-year demonstration period only. Not less than 60-days prior to the expiration of this time period, HUD would supply its evaluation of the demonstration program and its recommendations.

The American National Red Cross, which determined grant amounts for disaster victims under a system similar to my proposal for years, strongly supports this amendment. The program deals only with disaster grants to individuals rather than the entire disaster relief delivery system and thus it can be put into effect quickly without restructuring that system. I am also limiting the program to a 1-year demonstration period, in recognition that it does involve a major change from present law at a time when the administration proposal is still pending. However, I do expect it to provide a good indication of the proper direction for the disaster relief program to take. In addition, it will ensure that disaster victims are given adequate assistance while Congress continues to consider the entire matter.

We have been lucky enough to escape any major natural disasters since the enactment of the legislation which repealed forgiveness grants. Nevertheless, I am convinced that the next time a disaster occurs, the importance of early action on legislation such as this will become quite clear. I hope that we do not discover this fact the hard way.

Mr. BURDICK. Mr. President, will the Senator yield?

Mr. TAFT. I am glad to yield to the Senator from North Dakota for 5 minutes.

Mr. BURDICK. I wonder if the Senator from Ohio is aware that the Public Works Committee has been working on this subject for many months and that we are about to mark up sections in the subcommittee on this very question.

In the legislation to be considered will be the very areas the Senator has referred to. In one section we deal with a so-called minirepair program which was used successfully in Pennsylvania and in New York after Agnes. It would authorize grants up to $2,500 to restore damaged single-family residences to habitable condition. This is very similar to the program the Senator has just mentioned.

In addition to that—and this was a recommendation by the administration—there is a section dealing with granting financial assistance over and above this to persons suffering from disaster, on the basis of human needs.

I would think that the proper place and the proper forum for the suggestion of the Senator would be before the subcommittee. I would hope that he would submit this measure to us. We would give it careful consideration.

We are covering the very areas mentioned by the Senator at the present time. The areas suggested by the Senator do not come within the purview of the insurance program now being considered.

Mr. TAFT. Mr. President, I appreciate the remarks of the distinguished chairman. As I have indicated in my remarks, I am aware that there are ongoing efforts to face up to the program. However, I am reassured by the Senator's statement that the matter is likely to receive earlier attention from his committee.

I point out that the measure is designed to be helpful in trying to establish some kind of experience in the administration of the program which might be useful in trying to get a more comprehensive and general type of relief program.

This program which I have is limited to the amount of commercial property. It is limited to the particular type of injury that can occur to the property or to people.

That is the reason that I brought this matter up at the present time. I introduced the legislation in agreement with the Senator from New Hampshire at the time.

I do appreciate the Senator's indication, and I would be happy to appear before the subcommittee.

Mr. BURDICK. Does the Senator from Ohio know that we have held field hearings in five different parts of the country during the past year and that we are very close to marking up the bill? There will not be a great deal of delay. We expect to have the bill reported out soon after we get back into session. However, if the Senator expresses an interest, we would be glad to have him appear before the committee.

Mr. TAFT. Mr. President, I appreciate the remarks and the reassurances of the Senator from North Dakota.

Mr. DOMENICI. Mr. President, will the Senator yield?

Mr. TAFT. Mr. President, I yield.

Mr. DOMENICI. Mr. President, I echo the remarks of the distinguished chairman of the Disaster Relief Subcommittee. I serve with him on that subcommittee.

I compliment the Senator from Ohio for his continued efforts with respect to the total area of disaster relief. I am aware that he is concerned about this fragmentation and that he comes here today frustrated, as many of us are, because we take up these matters in a piecemeal manner and are considering piecemeal disaster relief on the floor today.

The Senator from Ohio is concerned about another aspect of this matter. I assure the Senator that we have had detailed and extensive hearings about the various ways to handle the forgiveness approach which was heretofore our grant assistance for disaster relief.

We heard representatives of the Red Cross talk about their methods of determining needs. And I understand the approach of the Senator from Ohio in respect to determining the need is, to some extent, based on the way the Red Cross handles individual cases of need.

Mr. TAFT. The Senator is correct.

Mr. DOMENICI. Mr. President, I assure the Senator from Ohio, as the Senator from North Dakota has, that we are considering this matter and will continue to consider it.

I have personally not made up my mind. And if the Senator would like me to take his proposal to the subcommittee and to the full committee, I would be glad to do so. I think there will be room for discussion as to which way we go when we take into account the information we receive and bring up to date the old system about which we have learned a lot.

We have learned that the forgiveness feature of the SBA and the FHA need a lot of improvement. The Senator is directing his attention to a portion of that feature.

I commend the Senator, and I hope that he will submit this not to this bill, but at least to the Public Works Committee for consideration in that bill.

I commend the Senator from Ohio.

Mr. TAFT. Mr. President, I thank the Senator for his remarks.

Mr. President, I yield 10 minutes to the Senator from New Hampshire.

Mr. McINTYRE. Mr. President, it is reassuring to hear the distinguished Senator from North Dakota. He is chairman of the subcommittee which has held field hearings. He has been out in the country, taking a look at the problem.

It was only a year ago that we held hearings on the disaster known as Agnes, a disaster which has never been equaled before or since; and we hope we will never have one of that dimension again. Nevertheless, we had disasters one after another, one of them in South Dakota; and by the time we were through with the bill, we went back to a disaster in California.

Mr. President, I am pleased to have been an original cosponsor of S. 2726 introduced by my friend the distinguished Senator from Ohio (Mr. TAFT).

I endorse his move to add this proposal as an amendment to the present proposed legislation, H.R. 8449, the bill which expands the national flood insurance program.

We face many problems in our Nation today. I will not take the time of the Senate nor burden the RECORD with another recital of our energy problems, economic dislocations, and the lack of faith which it seems many have in their government.

But, Mr. President, we have at least one blessing at this time. We have not had a major disaster in the Nation for some time. Not since the devastating onslaught of hurricane Agnes last year has the Nation been hard hit by a disaster.

But, the experience we had in recovering from Agnes—in fact many, many people have never been able to adequately rebuild after Agnes—makes it clear that our national disaster programs are inadequate and, as the distinguished Senator from New Mexico (Mr. DOMENICI) said, fragmented.

Congress has considered several proposals to remedy this situation. Earlier this year the Congress passed legislation which would make grants of up to $2,500 with forgiveness features. This legislation was vetoed by the President because he feared it might be too costly and because assistance was given without regard to need.

The President may have been correct in expressing, as one of his concerns, the fact that the rich got the same relief as those of low income. Be that as it may, the end result of the President's veto and other legislative action by the Congress has left us with a limited and inadequate relief program especially for those who can least afford to face a natural disaster.

The amendment we are considering will help those who need the help most. It will provide grants to cover essential expenses relating to the repair or replacement of personal nonbusiness property and housing. The grants will pay the losses from a disaster which the applicant cannot cover through the Federal 5-percent disaster relief loans and through other means.

In no case will the grants exceed $2,500. The grants will be determined on a case-by-case basis. The casework will be done by public or private nonprofit agencies including the Department of Housing and Urban Development and the American Red Cross. Incidentally, the American Red Cross has endorsed this amendment and indicated its willingness to participate.

What will the program cost? Frankly, Mr. President, I would hope the program would cost nothing because there will be no cost unless there is a disaster. In no instance can the cost exceed the number of those applying for assistance multiplied by a maximum of $2,500.

But, Mr. President, what we are buying here is an insurance policy—an insurance to protect those who are least able to face a disaster.

This is not enough, but, in light of the realities we face, this is at least a step forward. I urge the adoption of the amendment offered by the distinguished Senator from Ohio (Mr. TAFT). I congratulate him for bringing it to the floor of the Senate.

Mr. TAFT. Mr. President, I thank the distinguished Senator from New Hampshire.

How much time have I remaining, Mr. President?

The PRESIDING OFFICER. The Senator from Ohio has 11 minutes remaining.

Mr. TAFT. I should like to give one additional estimate of the dimensions of the problem, which is from the point of view of legislative action and the approach to the problem as a fragmented one.

Certain areas of the disaster relief program come within the purview of the Committee on Public Works and of other committees. I am hopeful that Congress will not delay because of the fragmentation. I think that has been the problem in the past, as the distinguished Senator from New Hampshire was careful to point out.

This problem is with us now. We could have a disaster today, tomorrow, or the next day. We basically have totally inadequate means of going about handling the problem, and we would be subjected once more, as we were, and I thought very properly, since there is no adequate legislation, in the case of the great hurricane disaster in the northeastern part of our country and the flood that came with it, in the Agnes situation, to immediate ad hoc legislation.

That is not the way this problem should be pursued. I just want to emphasize once more, and I am trying, by bringing forward this amendment at this time, to call to the attention of the Senate, of the House of Representatives, and also of the administration because the attitudes of the administration in this matter, I think, are pennywise and pound foolish, that they are trying to prevent getting on the books a measure which I think, in the long run, would really limit the amount of expenditures which might arise from a disaster and the relief program related to a particular disaster, rather than expand it.

In view of the multiple jurisdiction, I wonder if the distinguished Senator from New Jersey would care to comment on his views as to the practicalities and problems involved in this legislation, and the likelihood of proceeding in the Committee on Banking, Housing and Urban Affairs on legislation that would govern their area of this jurisdiction.

Mr. WILLIAMS. Mr. President, certainly I share the sympathy of the Senator from Ohio for the objective of his amendment, and agree with that objective. I did not hear the full discussion in response to the Senator from Ohio by the Senator from North Dakota, but from what I did hear, I thought that a member of the Public Works Committee was advising the Senator from Ohio that this subject matter would be an early matter of concern to the Public Works Committee. I certainly share the hope that it will be, since I agree with the objective of the Senator from Ohio.

Mr. TAFT. The Senator, I am sure, also agrees that there are certain areas involved in this problem that relate to the jurisdiction of the Committee on Banking, Housing and Urban Affairs, in which he is the chairman of the subcommittee involved.

Mr. WILLIAMS. I am not the chairman of the subcommittee involved, but I certainly would do what I can as a member of the committee to dispatch our responsibilities favorably on the amendment of the Senator from Ohio.

Mr. TOWER. Mr. President, will the Senator from New Jersey yield?

Mr. WILLIAMS. I yield.

Mr. TOWER. I would certainly, myself, urge that the chairman of our committee assume some responsibility in behalf of the committee for this matter, and I will be very much interested in having hearings on it.

I think another question that might be raised is, when we get into conference, very often our brethren on the other side raise jurisdictional questions. If, indeed, we have legislation that transgresses on the jurisdiction of their committees over there, very often they will throw such amendments out, or insist on the House position, to avoid a jurisdictional dispute on the floor. So that is another possibility I would raise here.

Mr. TAFT. I thank the Senator for his remarks. I would say the comments that have been made today with regard to the expectation of early action in general legislation have reassured me, but even so, I must say that I think the necessity for early action, and particularly early action with a demonstration type of program or programs, is absolutely indispensable, and I would be inclined to push this amendment despite the presence of other legislation before various other committees.

There are other factors, however, which lead me to believe that it might conceivably jeopardize the passage of the legislation that is basically before us, the flood insurance legislation. I certainly have no desire to do that. I think this is likewise absolutely vital, and for that reason, Mr. President, I ask to withdraw my amendment at this time.

The PRESIDING OFFICER. The amendment is withdrawn. The bill is open to further amendment.

Mr. DOMENICI. Mr. President, I have no amendment. However, I would like to ask the ranking Republican member——

The PRESIDING OFFICER. Who yields time?

Mr. TOWER. Mr. President, I yield time on the bill for the purpose of the question of the Senator from New Mexico.

Mr. DOMENICI. I thank the Senator from Texas. It will not take me but a few minutes.

As I understand the process, Mr. President, the comittee was aware of the fact that there were a lot of unknowns in terms of the impact of the land use requirements on many small communities; in fact, many communities of this Nation. The committee insisted, very prudently, in my opinion, that HUD work with the local communities of this Nation in determining their requirements and determining who would be included and to what extent land use planning mechanisms would be created.

In fact, the committee has required that HUD consult with local authorities from the outset. I think this is essential for smooth cooperation with local authorities and in order to achieve a workable procedure. I think it is absolutely essential before the land use planning mechanisms are made inflexible.

I think the goals of the flood insurance program are sound, but we must consider the needs of the local communities in applying the national program. In that regard, it is my understanding that the consultative process to be carried out, as intended by Congress, will require a substantial number of man-hours by local, State and Federal officers in charge of this program. Therefore, I have this question of the distinguished Senator from Texas: Does the committee have any estimate of the additional manpower needed to carry out a program of this sort?

Mr. TOWER. The committee does not, but it is anticipated that there will be an increased request of money from HUD for the administration of this bill.

Mr. DOMENICI. I take it, then, that the needs are not provided for in the legislation, but it is recognized that HUD will have additional need for funds if the requirements for carrying out its consultative process with the local communities are to be met?

Mr. TOWER. Let me refer the Senator to the language on page 38, line 23, of H.R. 8449:

> The Secretary is directed to accelerate the identification of risk zones within flood-prone and mudslide-prone areas, as provided by subsection (a)(2) of this section,

et cetera; and I also call his attention to subsection (c), on page 28, which I think will answer that question.

Mr. DOMENICI. I thank the distinguished Senator. It is my concern that we are charging HUD with this responsibility, and I think it is good that we do charge them with it. We, as I understand it, are permitting them to contract this out or to have the Corps of Engineers do some of it, but I am concerned that we stay on top of this so that we recognize, when they ask for additional manpower and resources, that we gave them this mandate, and that we will follow through in insisting that they receive the additional money and manpower, or this whole thing will not work and we will be blamed with creating another monstrosity.

Mr. TOWER. Be assured that the oversight of the committee will be exercised in monitoring the matter closely.

Mr. DOMENICI. I thank the distinguished Senator.

Mr. President, I support these amendments to the National Flood Insurance Act of 1968 with one serious reservation—that being that once again we are taking a piecemeal approach to the whole area of disaster relief. These amendments are sound in principle and should be adopted. I supported them in my statement of June 12, 1973, to the Housing and Urban Affairs Subcommittee, but they are again illustrative of our fragmented approach to disaster relief. Let us review recent piecemeal legislation which has had little permanent effect on disaster relief except to understandably confuse both administrators and potential recipients:

In August 1972 (Public Law 92-385), forgiveness for SBA and FHA was doubled to $5,000 and interest rate was reduced to 1 percent. In April 1973 (Public Law 93-24), all forgiveness was repealed and interest rate was raised to 5 percent. On May 17, 1973, the Senate passed S. 1672, which included an amendment authorizing forgiveness of up to $4,000 on disaster loans, except that the amount to be canceled would be reduced by 4 percent for each $1,000 of income over $10,000—with a minimum of not less than 20 percent canceled. On September 10, 1973, the Senate approved the conference report on S. 1672, accepting the House version of the bill which authorized disaster victims an option of chosing between SBA and FHA disaster loans at 3 percent interest with $2,500 forgiveness or loans at 1 percent interest without any forgiveness. On September 25 the Senate voted in effect to sustain President Nixon's veto of S. 1672. He opposed the forgiveness feature on the grounds that it would provide loans and grants regardless of need, that it would provide greater Federal assistance for the well to do than the needy, that it would be an administrative "nightmare" for agencies, and that it would cost approximately $400 million in Federal grants for each $1 billion in loans.

These amendments in H.R. 8449 are only part of the revisions which are critically necessary in the legislative package for disaster relief. It is well recognized that our current procedures must be reviewed, changed where necessary and molded into comprehensive disaster relief legislation. If this is not accomplished soon, we risk more fiascoes such as those which occurred in the aftermath of Hurricanes Camille and Agnes, and the one which is still occurring in the Buffalo Creek Hollow in Logan County, W. Va. To illustrate this last point, I request unanimous consent that an article entitled "Buffalo Creek: Disaster Aid Is a Disaster" from the December 1, 1973, edition of the Washington Star-News be included in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DOMENICI. We were fortunate this summer and fall, Mr. President, that no major hurricane hit our shores with the usual resulting flooding. How well can we respond under the handicap of legislation which has proven to be inadequate? Again, may I say that I support these amendments to the National Flood Insurance Act of 1968. They are complimentary to the vital task of comprehensive disaster relief planning which must be soon undertaken by the Senate.

EXHIBIT 1

BUFFALO CREEK: DISASTER AID IS A DISASTER

(By Geoffrey S. Becker)

On Feb. 26, 1972, a wall of water swept through Buffalo Creek Hollow in Logan County, West Virginia, taking 125 lives and destroying nearly 1,000 homes. Five of the 16 mining settlements lining the 17-mile hollow were wiped out, the rest crippled.

The flood was caused by the collapse of a huge coal-waste dam maintained by Buffalo Mining, a subsidiary of the Pittston Co., the nation's largest independent coal producer. Before it receded, the torrential black soup carved a destructive scar from Saunders at the hollow's head to Man at its foot.

Today, while politicians and company officials continue to argue over who should shoulder responsibility for the disaster, the lasting disaster of Buffalo Creek has surfaced: More than 20 months after the flood, only about 50 homes have been replaced, 200 families remain crammed into "emergency" trailer camps and—most ironic—government reconstruction efforts have impeded rather than encouraged families who want to return to their land.

In fact, the planned construction of a new road through the hollow is, in effect, displacing 400 families.

Despite these realities, reports from Gov. Arch Moore's office have spoken of steady progress in redevelopment efforts. Federal, state and local governments, according to the reports, have committed at least $26 million to reconstruction.

The latest summary of recommendations recently released by Jay Morrison, state planner in charge of Buffalo Creek redevelopment, notes that "The most serious problem in expediting redevelopment efforts relates to land development for additional housing."

Indeed, the major roadblock to reconstruction is the scarcity of buildable land in the valley. Consulting engineers for the state set the available, buildable tracts at about one percent of total land area. A lack of flat acreage is a problem throughout much of mountainous West Virginia. Buffalo Creek Hollow is typical terrain, with steep ridges rising at angles of as much as 30 degrees above a valley floor that, in many places, is less than 400 feet wide. At some points, the hollow bottlenecks to barely permit space for the railroad, highway and stream.

In this rugged, crowded country, thousands of people, mostly coal miners and their families, once lived in homes scattered wherever room permitted. But many will never return—some because they are dead, some because of what many critics describe as unwanted, shortsighted government planning.

One simple fact is clear: Although some homes have been rebuilt with Farmers' Home Administration and Small Business Administration financing, virtually none have been constructed through direct federal involvement. Nearly all federally assisted housing programs must be sponsored by state or local agencies or private groups. No federal legislation exists which deals exclusively with long-term reconstruction of diseaster areas. Altogether, Buffalo Creek has become a stage for the grim comedy or disjointed government efforts.

Central to government efforts at redevelopment is the construction of a highway through the entire length of the valley and the installation of water and sewer systems. In fact, federal and state officials have relied so heavily on these phases of redevelopment that, according to the summary of funding commitments, $21 million of the $26 million is going into these projects. The Federal Highway Administration is footing the entire bill for the road, including right-of-way acquisition.

The highway, state officials explain, will increase economic benefits for Buffalo Creek residents, as well as provide "last resort housing" under the Federal Highway Relocation Act as an emergency relief project to help finance new homes for flood victims.

What State officials neglect to publicize, however, is that the new road—to be only 45 feet wide—will nevertheless take an average right-of-way of 150 feet from the center of the hollow. With the hollow less than 400 feet wide in some places, and with a railroad and the stream already cutting through, the highway will gobble up much of the remaining land.

Although the highway will uproot about 400 families, including those who had lived in the right-of-way before the flood, James Bailey, head of the State Highway Department's Right-of-Way Division in Charleston, said that the department was taking "every consideration" in finding families new housing.

Land acquisition has been laborious, and slow progress on water and sewer lines has also held things up.

Consulting engineers for the highway department have identified 16 tracts in the valley that they say could be used for the potential development of 330 homesites. But a housing specialist with the West Virginia Department of Housing Development Fund in Charleston pointed out that many of the lots are either too expensive or unattainable. In addition, some of the land is too near coal mine entrances or on flammable piles of coal waste, known as "gob piles," he said.

State officials insist that the road is favored by Buffalo Creek residents. Many angry residents, however, bitterly complain that the state threatened, tricked and lied to them in order to push the road through. Others claim that the road will be nothing more than a funnel for coal trucks traveling from mines in the hollow. With little official encouragement to rebuild private homes, access to company mines may be the only justification for a new highway.

Actually, Buffalo Creek surveys reveal that a majority of residents favor the road. But many residents contend that the surveys were taken during the time of confusion and misunderstanding in the weeks and months following the flood.

"Sure, we wanted a new road," Ruth Stafford, who lost two relatives in the flood, said. "We wanted a safer road, with some of the bad curves straightened, and the bridges fixed."

But she and other residents say they do not understand why the state is taking so much precious, buildable land for such a narrow road.

Although the road is federally funded, the FHA does not set an arbitrary right-of-way requirement, according to Henry Pateтrick, spokesman for the FHA's Interstate Completion Office in Washington. "You need enough right-of-way for not only the road itself, but for cut, fill, channel changes in the creek and so on," John W. McBee, FHA Division Engineer in Charleston, explained. The width and location was determined by state highway engineers and approved by the FHA, he added.

Bruce Boyans, attorney with the United Mine Workers in Charleston, has another explanation. He said that the location of the proposed right-of-way in the hollow leaves open spaces inviting "the optimum locations for tipples." (Tipples are structures at the entrances to coal mines.) Boyans added that "It is unrealistic to think," with huge coal reserves still remaining in Buffalo Creek Hollow, that coal companies are not interested in the course of its redevelopment.

The controversy came to a head late in 1972, when residents realized that their "improved road" was going to be bulldozed across an average 150-foot path of precious, liveable land, uprooting 400 families, all the way up the hollow. They gathered 700 names on a petition stating a road was needed but calling for a public hearing, presumably to discuss the necessity of the wide right-of-way.

But meanwhile, many residents were individually "cautioned" against opposition by some state officials, according to Judy Baker, formerly with the Office of Economic Opportunity in nearby Williamson. One alleged hint was that opposition to the road would result in the loss of the badly-needed water and sewer grants.

Ms. Baker described the public hearing as staged and padded by a handful of residents who sympathized with the right-of-way; and when he attempted to speak, the handful would boo him down.

"It was pitiful," Beth Spence, former editor of the weekly Logan News, recalled. "You knew that they didn't want to lose their land, but it just didn't come out that way at that hearing." The result, Ms. Spence said, was that state officials left the hearing with what appeared to be little opposition to the highway. Hollow residents, already feeling frustrated and powerless, dropped their organized protest.

Some people, such as William and Ruth Morris, have returned to their lots on the right-of-way in defiance of state officials. The Morrises moved back to their lot in the upper end of the hollow with a double-wide mobile home, ignoring a warning sign posted further down the road to keep out. The Morrises said they are visited frequently by highway department representatives who want them to move. And, many of the families who followed them also are threatened with removal.

Although some residents are slowly returning to their land, many have given up hope and have left the area. Some have moved in with relatives. Others have found homes in other parts of the county and now must travel further to reach the mines in the hollow, where most are employed.

A recent survey by the Department of Housing and Urban Development shows that about 200 families still live in trailers provided as emergency housing after the flood. The state is providing rent for the families until at least this month. Many of them have no resettlement plans.

Earl Jarvis, Economic Development Director of PRIDE, the Logan County Community Action Program, commented that "Buffalo Creek has been the height of bureaucratic bungling," referring to the overall redevelopment.

Only two organizations have consistently built new homes in the hollow. One, Buffalo Housing, Inc., a private nonprofit organization, has built about a third of the homes, all for lower income families.

The other organization, Builder's Emergency Housing Corporation, has been the state's only major effort at promoting new housing for hollow residents. BEHC is a nonprofit spinoff of the profit-minded West Virginia Homebuilders Association, but it is funded by the state and the Catholic Church. BEHC used much of its grant money, which totalled nearly $140,000, to purchase and develop a 17-site subdivision at Robinette in the hollow. Fourteen homes are near completion by a number of private builders who are participating in the project.

Some hopes for progress for greater numbers of people were raised recently when HUD committed 100 units of subsidized rental housing and 50 units of subsidized homeownership housing to Buffalo Creek. The West Virginia Housing Development Fund, the state-delegated, statewide public housing authority, has taken on the sponsorship of the multi-family rental units. But if private financing becomes unavailable—always a problem in rural areas—or land for the projects is not found, the commitment could be lost. And, no organization in the state has stepped forward to sponsor the 50 homeownership units, partly because of the difficulty in acquiring and developing enough land for the homes. (HUD previously had committed 200 units of public housing to Man, the only incorporated town in the hollow. But Man, the community last hit and least damaged by the flood, lost the commitment when, because of what a community worker termed "politics," it was unable to form a public housing authority to sponsor the units.)

Further, Logan County, in the wake of federal and state failures, has been unwilling to initiate any housing program in the hollow. Its own housing authority has rarely met and, in any case, citizen participation in local government rarely extends to isolated Buffalo Creek Hollow, miles—and mountains—away from Logan, the county seat.

In fact, the county spent virtually nothing of its more than $430,000 in federal revenue sharing money to rebuild the hollow, according to the Logan News. Much of the money is earmarked for a library and arts center in Logan and for recreational programs.

But arts and recreation are not high-priority items to the people who once lived along Buffalo Creek. Those who were survivors of the negligence and oversight that caused the flood are now the victims of a more lingering disaster; most can never go home.

The PRESIDING OFFICER (Mr. BARTLETT). The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and the third reading of the bill.

Mr. TOWER. Mr. President, if the Chair will withhold third reading, I believe the Senator from Louisiana and the Senator from Alaska each have an amendment.

The PRESIDING OFFICER. It is too late. The committee amendment has been agreed to. It can only be done by unanimous consent.

Mr. TOWER. I ask unanimous consent that the consideration of the amendment of the Senator from Louisiana and the amendment of the Senator from Alaska be in order at this time.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Texas? Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

On Page 28, strike out lines 13 through 22, and insert in lieu thereof the following:

ESTABLISHMENT OF CHARGEABLE RATES

SECTION 103. Section 1308 of the National Flood Insurance Act of 1968 is amended by inserting the following new subsection:

"(c) (3) The chargeable rate with respect to any property, the construction or substantial improvement of which the Secretary determines has been started after December 31, 1974, or the effective date of the initial rate map published by the Secretary under paragraph (2) of section 1360 for the area for such property is located, whichever is later, shall not be more than—

"(A) 300 per centum of the chargeable premium rate established under section 1308 (a), if the property is located in an area (other than an area referred to in clause (c) (2) (A) (i) which is subject to a flood plain ordinance prohibiting new construction at elevations lower than the 50-year flood level."

Mr. JOHNSTON. Mr. President, this amendment would change the 100-year flood level required for land use laws of the local communities or the States to that of the 50-year flood level.

As I pointed out in my discussion on the previous amendment, the 100-year flood level is no magic term. We have mortgages of 30 years of life expectancy on homes and 40 years, yet we are mandating the States and communities to use the 100-year flood level.

I submit that the 50-year flood level is much more appropriate and higher than the level long required in my community of New Orleans, La., where the FHA has used the 40-year level for years. It is the proper level. It will put much less property out of commerce particularly in the land poor areas of coastal Louisiana.

I do not propose to speak a long time on this amendment, not because the amendment is not greatly needed, but rather because if the previous amendment was rejected by a large margin, I would expect that this one would be also.

The amendment is greatly needed and I hope that the Senate will agree to it.

Mr. WILLIAMS. Mr. President, this amendment, really, is much like the amendment offered by the Senator from Louisiana earlier. Many of the arguments, most of them—perhaps all the arguments—used about the 40-year standard would apply to the 50-year standard. The situations may differ, but the principles would be the same.

It impresses me that the most worthy objective of this legislation would be substantially reduced or even destroyed with this amendment. Therefore I strongly oppose it.

Mr. TOWER. Mr. President, I concur and associate myself with the remarks of the Senator from New Jersey. I believe that any extended debate would be a repetitious debate of the previous amendment and the arguments thereon which were enunciated by the Senator from New Jersey (Mr. WILLIAMS) so well. Those arguments against that amendment apply to the pending amendment, and I would urge that the pending amendment be rejected.

Mr. WILLIAMS. Mr. President, I yield back my time.

Mr. JOHNSTON. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time on the amendment is yielded back.

The question is on agreeing to the amendment of the Senator from Louisiana (Mr. JOHNSTON).

The amendment was rejected.

Mr. JOHNSTON. Mr. President, I have an amendment which I send to the desk and ask to have stated.

The PRESIDING OFFICER. Is this amendment covered by the unanimous-consent agreement?

Mr. TOWER. Yes, Mr. President. There are two amendments by the Senator from Louisiana, and one by the Senator from Alaska (Mr. STEVENS).

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

On page 41, after line 14, insert the following:

LOCAL OPTION

SEC. 207. (a) A community may, pursuant to official action of its appropriate officials, certify to the Secretary that it does not elect to be subject to the provisions of this Act. Such certification shall be accepted by the Secretary, and the provisions of this Act shall not apply to such a community only if the Secretary determines—

(1) that the legislature of the State in which the community is located has, by appropriate official action, agreed to such certification; and

(2) that such State legislature and the community, by appropriate official action, have—

(A) renounced any intention to request flood disaster relief assistance; and

(B) stipulated that, pursuant to an assessment of the flood risk to which the community is exposed, a flood relief program for such area has been developed and is in effect.

(b) Except with respect to the feasibility of the means of financing a flood relief program, the Secretary may not challenge or review any aspect of a community's decision or any certification or other representation or official action by a community or a State under subsection (a).

Mr. JOHNSTON. Mr. President, this amendment would allow a State to option out of this program if it certifies first that the State legislature approves it, that the local community approves it, and that it provides its own flood insurance program.

We believe that this amendment will be tremendously helpful, so far as new construction is concerned, in the coastal areas of Louisiana and in the various other low-lying areas of the country. First, if a city or a State in its wisdom renounces its intention to apply for any disaster relief benefits; second, if it renounces the Federal flood insurance program, and third, if it certifies to the Secretary that it has its own flood insurance program which is adequately financed, then under this amendment the local community or the State can option out of the program.

I submit that a community should have that right to determine for itself the level of flood protection, to renounce Federal aid in that respect and to provide for its own flood relief protection.

I believe that this amendment would be greatly helpful in those areas which are land poor, and which have a known risk they are willing to accept, familiar as they are with their own hydrological problems and the flood risk problem.

I urge the Senate to adopt the amendment.

Mr. WILLIAMS. Mr. President, the basic premise of this amendment is that a community should be entitled to choose between adopting the flood insurance program and absorbing the losses of catastrophic floods by themselves. In my opinion, this is a totally unrealistic view of life. A single community and even an individual State cannot possibly absorb all the losses caused by a major disaster. In fact, this is the very reason why the Congress in 1968 enacted the National Flood Insurance Act. Our experiences from major hurricanes such as Camille, Agnes, and Doria prove this to be true. Despite the provision in the Johnston amendment which requires States legislatures and community officials to renounce any intention of disaster relief assistance, we all know that this is an unreasonable approach to the problem. When a major catastrophe occurs with losses in the tens of millions of dollars and with thousands upon thousands of citizens left destitute without clothing or shelter, we all know that either flood insurance or disaster relief assistance will be necessary.

However, in my opinion, the real objection to this legislation and the real issue before us is not the right of a community to opt out of the flood insurance program, but rather to the 100-year flood standard for buildings in flood prone areas. We have been told that such a standard will result in prohibitively high construction costs and that it is imprecise and unreasonable. But as I have previously mentioned, 15 States have already adopted such a standard by law and another 24 States utilize it administratively in all State programs.

Moreover, the National Academy of Sciences has testified that with increasing urbanization, even a 100-year level may be a serious underestimation.

Mr. TOWER. Mr. President, I concur with the arguments raised by my friend from New Jersey. It is certainly unrealistic to think that the States would opt out of the program and never expect to get any kind of disaster relief from the Federal Government that might otherwise be afforded the States that are under the program. Therefore, for those reasons, I believe that the amendment should be rejected.

Mr. JOHNSTON. Mr. President, I yield back the remainder of my time.

Mr. WILLIAMS. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from Louisiana (Mr. JOHNSTON).

The amendment was rejected.

AMENDMENT NO. 895, AS MODIFIED

Mr. STEVENS. Mr. President, I call up my amendment No. 895 as modified and ask that it be stated.

The PRESIDING OFFICER. The amendment as modified will be stated.

The second assistant legislative clerk read as follows:

> On page 6, after line 2 insert the following:
>
> "(iii) In the States of Alaska and Hawaii, and in the Virgin Islands and Guam, the amounts provided in subsection (s) of this section shall be: $50,000 aggregate liability for any single-family dwelling, and $150,000 for any residential structure containing more than one dwelling unit,".

Mr. STEVENS. Mr. President, this amendment, No. 895, has been amended in accordance with the discussions we have had here on the floor privately, to limit the amendment to the States of Alaska, Hawaii, and the Territories of Guam and the Virgin Islands.

The amendment which I am introducing to day increases the eligibility limits for flood insurance coverage for residential properties from $35,000 aggregate liability for single family dwellings to $50,000, and from $100,000 for any residential structure containing more than one dwelling unit to $150,000.

The inflated cost of living and the substantially higher housing costs in Alaska, as well as increasing national housing costs, require that these limits be increased so that those Alaskan areas affected by H.R. 8449 and subject to the procurement of flood insurance will be able to meet applicable conditions of insurability.

At present, 42 U.S.C. 4013 puts limits of flood insurance coverage of $17,500 aggregate liability for any dwelling unit, and $30,000 for any single dwelling structure of more than one unit. H.R. 8449 raises the limits to $35,000 and $100,000. I am convinced that increased housing costs in Alaska and other States, require that the limits be increased accordingly to the limits specified in my amendment. I am informed that the average cost of single family dwellings in Alaska is about $45,000. My amendment would increase liability limits to reflect the increasing costs both in Alaska and the rest of the Nation, and, therefore, extend the availability of coverage under this act.

Mr. President, I would be willing to answer any questions concerning the amendment. It is obviously related to the fact that every item we put in any dwelling, house, unit, or multiple dwelling units, it involves extra transportation costs. I again ask Congress to recognize this higher cost of building in these areas.

Mr. TOWER. Mr. President, if the Senator from Alaska will yield, he has discussed this matter with the Senator from New Jersey and me.

We frequently make exceptions in virtually every federally funded program for Alaska, Guam, and Hawaii, because of the inordinately high construction costs in those areas. Therefore, I think that the amendment offered by the Senator from Alaska is equitable, and, for my part, I urge its adoption.

Mr. WILLIAMS. Mr. President, I believe it is generally recognized that the costs of construction in the areas mentioned in this amendment are exceptionally high. Special attention has been provided in other areas, and I believe it should be provided in this area, too. Therefore, I am in agreement with the amendment and accept it.

Mr. STEVENS. Mr. President, I am indebted to both the Senator from New Jersey and the Senator from Texas.

I yield back the remainder of my time.

Mr. WILLIAMS. I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from Alaska, as modified.

The amendment, as modified, was agreed to.

Mr. TOWER. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be charged equally to both sides on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I would appreciate it if the managers of the bill would yield me a few minutes to ask a few questions.

Mr. WILLIAMS. I yield to the Senator the few minutes he desires.

Mr. JAVITS. Mr. President, I wish to question the managers of the bill, Senator WILLIAMS and Senator TOWER, with respect to certain problems which affect a heavily built-up community, with enormous structural resources, as, for example, New York City, where costs of construction are expensive in terms of the competition between the cities for company headquarters offices and so forth.

In the first place, it is a fact, is it not, that existing construction is not affected by this bill?

Mr. WILLIAMS. That is correct.

Mr. JAVITS. It is my understanding that major structural changes in existing construction would be affected, however. Is that correct?

Mr. WILLIAMS. They would be. For major changes, they would have to meet the test.

Mr. TOWER. That is, if it is substantial rehabilitation.

Mr. JAVITS. The other point relates to the input of the local communities. It is a fact, is it not, that inasmuch as this bill would apply to flood-prone areas and inasmuch as the bill provides machinery by which those areas may be identified, the implementation of the bill will include a definition of the areas to be made subject to the bill?

Mr. WILLIAMS. That is certainly correct. Every step of the process of establishing areas that are flood-prone and subject to flood hazard is protected by notice to the community for their input into the determination.

Mr. JAVITS. I notice that a description of the bill speaks of the fact that the Secretary, in carrying out his land use responsibilities under the act, would be required to establish procedures assuring adequate consultation with appropriate elected officials of the local governments, including those whose availability under the program has been suspended.

Mr. WILLIAMS. That is correct.

Mr. JAVITS. Also, is it not a fact that the bill gives explicit appeals procedure for both individuals and communities desiring to challenge the Secretary's proposed determinations?

Mr. WILLIAMS. That is correct.

Mr. JAVITS. And sets out the scope of judicial review in that regard?

Mr. WILLIAMS. Yes.

Mr. JAVITS. I wish to state to the managers of the bill that most of the areas in New York would not be affected—that is, New York City—but we believe that some areas will be affected.

In addition, New York State has no law applying the 100-year statute, although it is considering one right now. We understand from the committee's majority staff that, in practice, New York City actually has been applying the 100-year standard.

Mr. WILLIAMS. Written into the law administratively, this is the standard that is applied in the State of New York—the 100-year test.

Mr. TOWER. Administrative, rather than statutory.

Mr. JAVITS. The last question is this: We understand that, for example, where an office building or a warehouse would come under this statute and be in a flood-prone area, the committee envisions adequate compliance with the statute, which is the committee's design and intent as it develops the matter, that waterproofing would be the consideration, and that it would not necessarily require raising the level of the building structure or the building foundation.

Mr. WILLIAMS. That is correct.

Mr. JAVITS. Does the minority manager agree with that?

Mr. TOWER. That is my understanding.

Mr. JAVITS. I thank the Senators very much. These assurances were essential, especially to New York City.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. TOWER. I yield 2 minutes on the bill to the Senator.

Mr. JOHNSTON. Mr. President, I intend to vote for this bill because the good parts about it, the advantages for flood-prone areas, are so great—that is, that all homes completed prior to December 31, 1974, will be eligible for this insurance at a subsidized rate. That is a benefit that I do not think any Senator can deny to his State, particularly one that is flood-prone.

I hope and trust that my worst fears about land-poor areas, such as the State of Louisiana, will not ripen into fruition; that the definition of the 100-year flood level will be reasonably interpreted by the Corps of Engineers and by HUD; and that it will be a bill that we can live with in a growing area of the country, such as Louisiana.

For that reason, Mr. President, I intend to vote for the bill.

Mr. TOWER. As a resident of a neighboring State, I want to say that I share the concern and hope of the distinguished Senator from Louisiana. I appreciate the position he has been in, here today. As a matter of fact, my grandfather was born in Red River Parish, La., and I understand the problems they have in that great State.

I can give the assurance that we on the committee will probably monitor this matter very closely.

Mr. JOHNSTON. I thank the Senator from Texas, and I hope to call on him for assistance.

Mr. WILLIAMS. Mr. President, while the product sent to the Senate from the committee had some elements with which the Senator from Louisiana differed, the hearing record clearly shows the attention of the Senator from Louisiana to the development of the proposed legislation. He was there throughout the deliberations, and played a most constructive part in bringing this bill from the committee to the floor.

Mr. HUDDLESTON. Mr. President, I am somewhat concerned about the bill before us. I favor the concept of flood insurance and I am aware of the fact that voluntary efforts have met with something less than success.

For the Appalachian region and other mountainous areas, however, the bill could prove to be a disaster itself. In fact, within 60 days of enactment, construction in such areas could come close to a standstill.

In effect, under the bill, any construction will have to be covered by flood insurance, if it is in a flood-prone area. Furthermore, the rates on the insurance will be determined by the likelihood of a flood in that area. For those areas which are in flood plains or on slopes from which water will run, the cost could be far beyond the benefits which might be obtained.

Furthermore, in order to obtain the insurance, the construction will have to meet certain flood-proof standards. In some situations, this could come close to doubling the cost of a structure.

It is one thing to impose such requirements upon someone who can build elsewhere. But, it is another thing to impose such requirements upon communities which have no way to expand other than on a flood plain or on the side of a mountain, as is the case for a number of communities in eastern Kentucky, other parts of Appalachia and other mountainous regions.

It is also one thing to impose such requirements upon economically prosperous areas, but another to impose them upon a depressed area—such as Appalachia—and to impose them at intolerably high rates—rates beyond the limited means of communities and citizens in the Appalachian region.

I do not believe adequate provision has been made for these areas, and I believe the pending bill is likely to create hardship for them. I hope the conferees will take cognizance of this potential hardship.

Mr. DOLE. Mr. President, this bill represents a needed strengthening of the National Flood Insurance Act of 1968 which provides residents of flood-prone areas with flood insurance at reasonable premium rates through the means of a Federal subsidy, while at the same time requiring local jurisdictions to enact comprehensive land use and control measures for the rational use of the flood plain as a condition for such subsidies. Up to now, this program has been voluntary in nature.

The need for national flood insurance and control legislation has long been evident as witnessed by the disasterous property and personal losses suffered annually by victims of recurring flood disasters throughout the Nation. The State of Kansas was particularly hard hit this year by a series of major floods which caused an enormous amount of property and crop damage.

However, it must be recognized that any such insurance coverage should be mandatory and should be applied with adequate safeguards and land use restrictions to minimize future losses of life and property. If such a program is allowed to continue on a voluntary basis, we will be faced with the same situation that has existed in the past—a public traditionally overoptimistic about the probability that their property will not be flooded, and haphazard, inadequate or nonexistent land-use restrictions, which will lead to further flood disasters.

This bill will do much toward alleviating the monetary losses and personal misery experienced by thousands of Americans every year. It will provide property owners with continuous and reliable flood insurance coverage rather than making them dependent on sporatic and uncertain emergency relief during a time of disaster. It will preclude property owners from having to take out costly reconstruction and rehabilitation loans when natural disasters strike. This insurance would bring compensation to property owners more in line with actual damage incurred than direct Government emergency relief funds have been able to do in the past. It further encourages proper land use and development, a prerequisite for adequate and lasting flood control. Finally, it will save the Federal Government millions of dollars in emergency flood disaster relief funds by placing rehabilitation and relief moneys into the private sector. I support this bill as a much needed improvement to the National Flood Insurance Act.

Mr. TOWER. Mr. President, I yield back the remainder of my time.

Mr. WILLIAMS. I yield back the remainder of my time.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 8449) was read the third time and passed.

Mr. TOWER. I move to reconsider the vote by which the bill was passed.

Mr. WILLIAMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILLS

Messages in writing from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries, and he announced that the President had approved and signed the following acts and joint resolutions:

On December 13, 1973:

S.J. Res. 155. Joint resolution authorizing the securing of storage space for the U.S. Senate, the U.S. House of Representatives, and the Office of the Architect of the Capitol.

On December 15, 1973:

S. 1618. An act to name the headquarters building in the Geological Survey National Center under construction in Reston, Va., as the "John Wesley Powell Federal Building"; and

S. 2503. An act to name a Federal office building in Dallas, Tex., the "Earle Cabell Federal Building."

EXECUTIVE MESSAGES REFERRED

As in executive session, the Vice President laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on Foreign Relations.

(The nominations received today are printed at the end of Senate proceedings.)

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had passed, without amendment, the bill (S. 1945) to amend the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, so as to authorize certain grapefruit marketing orders which provide for an assessment against handlers for the purpose of financing a marketing promotion program to also provide for a credit against such assessment in the case of handlers who expend directly for marketing promotion.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 14), to amend the Public Health Services Act to provide assistance and encouragement for the establishment and expansion of health maintenance organizations, health care resources, and the establishment of a Quality Health Care Commission, and for other purposes.

The message further announced that the House had agreed to the amendment of the Senate to the bill (H.R. 3334) for the relief of Maria Lourdes Rios.

The message also announced that the House had agreed to the amendment of the Senate to the bill (H.R. 3758) for the relief of Isabel Eugenia Serrane Macias Ferrier.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 9256) to increase the contribution of the Government to the costs of health benefits for Federal employees, and for other purposes.

ENROLLED BILLS SIGNED

The message also announced that the Speaker had affixed his signature to the following enrolled bills:

S. 513. An act to amend section 232 of the National Housing Act to authorize insured loans to provide fire safety equipment for nursing homes and intermediate care facilities.

S. 1038. An act to amend title 37, United States Code, to authorize travel and transportation allowances to certain members of the uniformed services in connection with leave; and

S. 2714. An act to amend section 291(b) of the Central Intelligence Agency Retirement Act of 1964 for certain employees, relating to cost-of-living increases, and to increase the pay and allowances of certain officers of the Armed Forces whose pay and allowances are not subject to adjustment to reflect changes in the Consumer Price Index.

The above bills were subsequently signed by the Vice President.

FEDERAL ENERGY EMERGENCY ADMINISTRATION ACT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of calendar No. 608, S. 2776.

The PRESIDING OFFICER. The bill will be stated by title.

The bill was read by title as follows:

A bill (S. 2776) to provide for the effective and efficient management of the Nation's energy policies and programs.

The Senate proceeded to consider the bill which had been reported from the Committee on Government Operations with an amendment to strike out all after the enacting clause and insert:

TITLE I—FEDERAL ENERGY EMERGENCY ADMINISTRATION ACT

SEC. 101. This title may be cited as the "Federal Energy Emergency Administration Act".

CONGRESSIONAL FINDINGS AND STATEMENT OF PURPOSE

SEC. 102. (a) The Congress hereby finds that—

(1) shortages of crude oil, residual fuel oil, and refined petroleum products, as well as shortages of other forms of energy, have resulted in severe economic dislocations and hardships, curtailment of vital public services, interruptions in the normal flow of interstate and foreign commerce, and threatens the public health, safety, welfare, and security;

(2) the shortages in the supply of available forms of energy have created an energy emergency which requires emergency measures to reduce energy consumption, increase domestic production of energy resources, and provide for the equitable distribution of available supplies to all Americans;

(3) such emergency measures can be most effective in averting or minimizing shortages or dislocations if they are implemented promptly by the executive branch of Government; and

(4) in order for the Government to deal as effectively and efficiently as possible with the energy emergency specific portions of the executive branch must be reorganized on an interim basis to assure that there exists the organization, the personnel, and the other resources needed to implement the functions relating to the energy emergency vested in the executive branch by this and by other laws.

(b) The sole purpose of this title is to create an administration in the executive branch, called the Federal Energy Emergency Administration, to invest the Administration with certain functions as specified in the title, and to transfer, or to permit the transfer to such Administration, of certain functions vested in the executive branch by other laws where such transfer is necessary to deal on an interim basis with the energy emergency.

ESTABLISHMENT OF FEDERAL ENERGY EMERGENCY ADMINISTRATION

SEC. 103. (a) There is hereby established an independent executive agency to be known as the Federal Energy Emergency Administration (hereinafter referred to as the "Administration"). The Administration shall be headed by an Administrator and Deputy Administrator each of whom shall be appointed by the President by and with the advice and consent of the Senate.

(b) (1) The functions and powers of the Administration shall be vested in and exercised by the Administrator.

(2) The Administrator may from time to time, and to the extent permitted by law, consistent with the purposes of this title, delegate such of his functions as he deems appropriate.

(c) The Administration is authorized to have six Assistant Administrators, each of whom shall be appointed by the President by and with the advice and consent of the Senate.

(d) The Administration shall have a General Counsel appointed by the President, by and with the advice and consent of the Senate. The General Counsel shall be the chief legal officer of the Administration.

(e) The Assistant Administrators and the General Counsel shall perform such functions and duties as the Administrator may prescribe.

(f) The Administrator shall designate the order in which the Deputy Administrator and other officials shall act for and perform the functions of the Administrator during his absence or disability or in the event of a vacancy in his office.

FUNCTIONS AND PURPOSES OF THE FEDERAL ENERGY EMERGENCY ADMINISTRATION

SEC. 104. Subject to the provisions and procedures set forth in this title, the Administrator shall be responsible for such actions as are taken to assure that adequate provision is made to meet the emergency energy needs of the Nation. To that end, he shall make such plans and direct and conduct such programs related to the production, conservation, use, control, distribution, rationing, and allocation of all forms of energy as are appropriate under those authorities—

(1) transferred to or vested in him by or pursuant to this title;

(2) delegated to him by the President within the authority vested in the President by other law; and

(3) otherwise vested in the Administrator by the Congress.

TRANSFERS

SEC. 105. (a) There are hereby transferred to and vested in the Administrator all functions of the Secretary of the Interior, the Department of the Interior, and officers and components of that Department—

(1) as relate to or are utilized by the Office of Petroleum Allocation;

(2) as relate to or are utilized by the Office of Energy Conservation;

(3) as relate to or are utilized by the Office of Energy Data and Analysis; and

(4) as relate to or utilized by the Office of Oil and Gas.

(b) There are hereby transferred to and vested in the Administrator all functions of the Chairman of the Cost of Living Council, the Executive Director of the Cost of Living Council, and the Cost of Living Council, and officers and components thereof as relate to or are utilized by the Energy Division of the Cost of Living Council.

(c) (1) Notwithstanding any other provision of law, the President may, subject to the provisions of this subsection, transfer to the Administrator any function of any other executive agency (as defined in section 105 of title 5, United States Code) if he determines that such transfer would further the accomplishment of the intent and purposes of this title.

(2) The President shall notify the Senate and the House of Representatives, by special message, of each transfer proposed to be made under paragraph (1). The President may transfer a function proposed in a special message upon the adoption by the Senate and the House of Representatives of a concurrent resolution approving such transfer.

(3) No function may be transferred under this subsection which would have an effect inconsistent with the provisions of section 905(a) of title 5, United States Code.

(4) The provisions of sections 910 through 913 of title 5, United States Code, shall apply to the procedure to be followed in the Senate and the House of Representatives in the exercise of their respective responsibilities with respect to special messages under paragraph (2) of this subsection in the same manner and to the same extent as such provisions apply to the procedure followed in the case of reorganization plans, except that references in such provisions to a "resolution with respect to a reorganization plan" shall be deemed for purposes of this subsection to refer to a concurrent resolution of approval under paragraph (2) of this subsection.

(d) Each function that is transferred to the Administration pursuant to the provisions of this title shall revert to the executive agency from which it was transferred upon the expiration of this title or upon such earlier date as the President may prescribe pursuant to the procedures prescribed by subsection (c) of this section.

ADMINISTRATIVE PROVISIONS

SEC. 106. (a) The Administrator of the Federal Energy Emergency Administration may—

(1) appoint, employ, and fix the compensation of such officers and employees, including attorneys, as are necessary to perform the functions vested in him, and prescribe their authority and duties except that one hundred officers and employees may, under this provision, be compenstaed at rates not in excess of the rate prescribed for GS–16, GS–17, and GS–18 under section 5332 of title 5 of the United States Code, and that of such one hundred officers and employees, twenty-five may. under this provision, be appointed without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service;

(2) employ experts, expert witnesses, and consultants in accordance with section 3109 of title 5 of the United States Code, and compensate such persons at rates not in excess of the maximum daily rate prescribed for GS–18 under section 5332 of title 5 of the United States Code for persons in Government service employed intermittently;

(3) promulgate such rules, regulations, and procedures as may be necessary to carry out the functions vested in him: *Provided,* That:

(A) The Administrator shall, before promulgating proposed rules, regulations, or policies relating to the cost or price of energy, provide a period of not less than five days from receipt of the proposed action during which the Chairman and the Executive Director of the Cost of Living Council shall approve or disapprove such rules, regulations, or policies, and if the Chairman or the Executive Director of the Cost of Living Council disapproves such rules, regulations, or policies they shall not go into effect. The Chairman and the Executive Director of the Cost of Living Council shall have not less than five days in which to act, otherwise approval shall be automatic.

(B) The Administrator shall, before promulgating rules, regulations, or policies affecting the quality of the environment, provide a period of not less than five days from receipt of the proposed action during which the Administrator of the Environmental Protection Agency may provide written comments concerning the impact of such rules, regulations, or policies on the quality of the environment.

Such comments shall be published along with the proposed action. The review required by section 106(a)(3) (A) and (B) may be waived for a period of fourteen days if there is an emergency situation which, in the judgment of the Administrator, requires immediate action;

(4) utilize, with their consent, the services, personnel, equipment, and facilities of Federal, State, regional, and local instrumentalities, with or without reimbursement therefor, and transfer funds made available pursuant to this title to Federal, State, regional, and local instrumentalities as reimbursement for utilization of such services, personnel, equipment, and facilities;

(5) adopt an official seal, which shall be judicially noticed, and the provisions of section 709 of title 18 of the United States Code shall apply to the use of the seal, after its adoption and publication in the Federal Register, except as provided by regulations prescribed by the Administrator;

(6) accept unconditional gifts or donations of money or property, real, personal, or mixed, tangible or intangible;

(7) subject to appropriation Acts, enter into and perform contracts, leases, cooperative agreements, or other transactions with any public agency or instrumentality or with any person, firm, association, corporation, or institution; and

(8) perform such other activities as may be necessary for the effective fulfillment of his administrative duties and functions.

(b) Any determination pursuant to subsection (b) of section 208 of title 18 of the United States Code that an exemption shall be granted to any employee shall be a nondelegable responsibility of the Administrator, Deputy Administrator, or General Counsel and in all instances shall be made a matter of public record, setting forth the detailed reasons and justifications for such exemption.

COMPENSATION

SEC. 107. (a) Without regard to the provisions of title 5 of the United States Code, governing appointments in the competitive service—

(1) the Administrator shall receive compensation at the rate now or hereafter prescribed for positions at level II of the Executive Schedule (5 U.S.C. 5313);

(2) the Deputy Administrator shall receive compensation at the rate now or hereafter prescribed at level III of the Executive Schedule (5 U.S.C. 5314);

(3) each Assistant Administrator and the General Counsel of the Administration shall receive compensation at the rate now or hereafter prescribed for positions at level IV of the Excutive Schedule (5 U.S.C. 5315); and

(4) there shall be in the Administration not more than nine additional officers appointed by the Administrator who shall receive compensation at the rate now or hereafter prescribed for positions at level V of the Executive Schedule (5 U.S.C. 5316).

(b) Any person (other than the Administrator, Deputy Administrator, or Assistant Administrators) directly responsible for or in direct charge of any bureau, office, division, or other organization which administers any of the specific programs set forth in subsection (c) hereof shall be compensated at the rate provided for, and occupy one of the positions provided for in subsection (a)(4) of this section. Any officer acting pursuant to the provisions of this subsection may act not longer than sixty days prior to the date upon which his appointment is submitted by the President to the United States Senate for its advice and consent.

(c) The specific programs to which subsection (b) shall apply are as follows:

(1) Allocation of petroleum products;

(2) Rationing of petroleum products;

(3) Analysis of the impact of emergency programs on sectors of the economy, employment, and regional and local economic viability;

(4) Coordination of Federal, State, and local conservation programs; and

(5) Pricing of petroleum products.

TRANSITIONAL AND SAVING PROVISIONS

SEC. 107. (a) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal department or agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this title, and

(2) which are in effect at the time this title takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked by the President, the Administrator, or other authorized officials, a court of competent jurisdiction, or by operation of law.

(b) The provisions of this title shall not affect any proceeding pending, at the time this section takes effect, before any department or agency (or component thereof) regarding functions which are transferred by this title; but such proceedings, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this title had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontiued if this title had not been enacted.

(c) Except as provided in subsection (e)—

(1) the provisions of this title shall not affect suits commenced prior to the date this title takes effect, and

(2) in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this title had not been enacted.

(d) No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of any department or agency, functions of which are transferred by this title, shall abate by reason of the enactment of this title. No cause of action by or against any department or agency, functions of which are transferred by this title, or by or against any officer thereof in his official capacity shall abate by reason of the enactment of this title. Causes of actions, suits, actions, or other proceedings may be asserted by or against the United States or such official as may be appropriate and, in any litigation pending when this section takes effect, the court may at any time, on its own motion or that of any party, enter any order which will give effect to the provisions of this section.

(e) If, before the date on which this title takes effect, any department or agency, or officer thereof in his official capacity, is a party to a suit, and under this title any function of such department, agency, or officer is transferred to the Administrator, or any other official, then such suit shall be continued as if this title had not been enacted, with the Administrtor, or other official as the case may be, substituted.

(f) Final orders and actions of any official or component in the performance of functions transferred by this title shall be subject to judicial review to the same extent and in the same manner as if such orders or actions had been made or taken by the officer, department, agency, or instrumentality in the performance of such functions immediately preceding the effective date of this title. Any statutory requirements relating to notices, hearings, action upon the record, or administrative review that apply to any function transferred or delegated by this title shall apply to the performance of those functions by the Administrator, or any officer or component.

(g) With respect to any function transferred by this title and performed after the effective date of this title, reference in any other law to any department or agency, or any officer or office, the functions of which are so transferred, shall be deemed to refer to the Administrator or other officials in which this title vests such functions.

(h) Nothing contained in this title shall be construed to limit, curtail, abolish, or terminate any function of the President which he had immediately before the effective date of this title; or to limit, curtail, abolish, or terminate his authority to perform such function; or to limit, curtail, abolish, or terminate his authority to delegate, redelegate, or terminate any delegations of functions.

(i) The Administrator shall exercise only the functions which the President or other Government officials lawfully exercised immediately before the effective date of this title, or which shall herein or hereafter be specifically conferred by law upon the President or the Administrator.

(j) Any reference in this title to any provision of law shall be deemed to include, as appropriate, references thereto as now or hereafter amended or supplemented.

(k) The provisions of this section shall apply to functions transferred to the Administration pursuant to section 105(c) of this title, except that reference in this section to the effective date of this title shall be deemed to be references to the date of the transfer of the functions involved.

INCIDENTAL TRANSFERS

SEC. 109. The Director of the Office of Management and Budget is authorized and directed to make such additional incidental dispositions of personnel, personnel positions, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to or to be made available in connection with functions transferred by this title, as the Director deems necessary and appropriate to accomplish the intent and purpose of this title.

DEFINITIONS

SEC. 110. As used in this title—

(1) any reference to "function" or "functions" shall be deemed to include references to duty, obligation, power, authority, responsibility, right, privilege, and activity, or the plural thereof, as the case may be; and

(2) any reference to "perform" or "performance", when used in relation to functions, shall be deemed to include the exercise of power, authority, rights, and privileges.

INTERIM APPOINTMENT

SEC. 111. (a). Any of the officers provided for in sections 103 and 106 of this title shall be nominated and appointed, as provided for in those sections. Funds available to any department or agency (or any official or component thereof), and lawfully authorized for any of the specific functions, which are transferred to the Administrator by this title, may, with the approval of the President, be used to pay the compensation and expenses of any officer appointed pursuant to this subsection until such time as funds for that purpose are otherwise available.

(b) In the event that any officer required by this title to be appointed by and with the advice and consent of the Senate shall not have entered upon office on the effective date of this title, the President may designate any officer, whose appointment was required to be made by and with the advice and consent of the Senate and who was such an officer immediately prior to the effective date of this title, or any officer who was performing essentially the same functions immediately prior to the effective date of this title, to act in such office until the office is filled as provided in this title: *Provided,* That any officer acting pursuant to the provisions of this subsection may act no longer than sixty days prior to the date upon which his appointment is submitted to the Senate for its advice and consent.

(c) Transfer of nontemporary personnel pursuant to this title shall not cause any such employee to be separated or reduced in grade or compensation for one year after such transfer.

(d) Any person who, on the effective date of this title, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5 of the United States Code, and who, without a break in service, is appointed in the Administration to a position having duties comparable to those performed immediately preceding his appointment shall continue to be compensated in his new position at not less than the rate provided for his previous position.

ECONOMIC ANALYSIS OF PROPOSED ACTIONS

SEC. 112. (a) In carrying out the provisions of this title, the Administrator shall, to the greatest extent practicable, insure that the potential economic impacts of proposed regulatory and other actions are evaluated and considered including but not limited to an analysis of the effect of such actions on—

(1) the fiscal integrity of State and local government;

(2) vital industrial sectors of the economy;

(3) employment, by industrial and trade sector, as well as on a national, regional, State, and local basis;

(4) the economic vitality of regional, State, and local areas;

(5) the availability and price of consumer goods and services;

(6) the gross national product;

(7) competition in all sectors of industry; and

(8) small business.

(b) The Administrator shall develop analyses of the economic impact of various conservation measures on States or significant sectors thereof, considering the impact on both energy for fuel and energy as feed stock for industry.

(c) Such analysis shall, wherever possible, be made explicit and to the extent possible other Federal agencies and agencies of State and local governments which have special knowledge and expertise relevant to the impact of proposed regulatory or other actions shall be consulted in making the analysis, and all Federal agencies are authorized and directed to cooperate with the Administrator in preparing such analyses: *Provided,* That the Administrator's actions pursuant to this section shall not create any right of review or cause of action except as would otherwise exist under other provisions of law.

(d) The Administrator, together with the Secretaries of Labor and Commerce, shall monitor the economic impact of any energy actions taken by the Administrator, and shall provide the Congress with separate reports every thirty days on the impact of the energy shortage and such emergency actions on employment and the economy. Such reports shall contain recommendations as to whether additional Federal programs of employment and economic assistance should be put into effect to minimize the impact of the energy shortage and any emergency actions taken.

MANAGEMENT OVERSIGHT REVIEW

SEC. 113. The Administrator may, for a period not to exceed thirty days in any one calendar year, provide for the exercise or performance of a management oversight review with respect to the conduct of any Federal or State (with consent of the Governor) energy emergency program. Such review may be conducted by contract or by any Federal department or agency. A written report shall be submitted to the Administrator concerning the findings of the review.

STATE AND LOCAL GOVERNMENTS

SEC. 114. (a) The Administrator shall—

(1) coordinate Federal energy emergency programs and policies with such programs and policies of State and local governments—

(A) Within fifteen days of the enactment of this title, the Administrator shall provide the Congress and State and local governments with a report on the manner in which he has organized the Administration based upon the functions delegated by the President or assigned to the Administrator by this title or under the authority of other acts.

(B) Within thirty days of the date of enactment of this title, the Administrator shall provide the public, State, and local governments, and all Members of the Congress with a report in laymen's language which—

(i) describes the functions performed by the Administration;

(ii) sets forth in detail the organization of the Administration, the location of its offices (including regional, State, and local offices), the names and phone numbers of Administration officials, and other appropriate information concerning the operation of the Administration;

(iii) delineates the role that State, local, and Federal governments will or may perform in achieving the purposes of this title; and

(iv) provides the public with a clear understanding of their duties and obligations, rights, and responsibilities under any of the energy emergency programs or functions assigned to the Administrator.

(2) before promulgating any rules, regulations, or policies, and before establishing any programs under the authority granted him in this title, provide, where practicable, a reasonable period in which State and local governments may provide written comments if such rules, regulations, policies, or programs substantially affect the authority or responsibility of such State or local governments;

(3) provide, in accordance with the provisions of this title, upon request, to State and local governments all relevant information he possesses concerning the status and impact of energy shortages, the extent and location of available supplies and shortages of crude oil, petroleum products, natural gas, and coal, within the distribution area serving that particular State or local government; and

(4) provide for a central clearinghouse for Federal, State, and local governments seeking energy information and assistance from the Federal Government.

(b) Pursuant to his responsibility under this section, the Administrator shall—

(1) provide technical assistance—including advice and consultation relating to State and local programs, and where necessary, the use of task forces of public officials and private persons assigned to work with State and local governments—to assist State and local governments in dealing with energy problems and shortages and their impact and in the development of plans, programs, and policies to meet the problems and shortages so identified;

(2) convene conferences of State, local, and Federal officials, and such other persons as the Administrator designates, to promote the purposes of this title, and the Administrator is authorized to pay reasonable expenses incurred in the participation of individuals in such conferences;

(3) draft and make available to State and local governments model legislation with respect to State and local energy programs and policies; and

(4) promote the promulgation of uniform criteria, procedures, and forms for grant or contract applications for energy proposals submitted by State and local governments.

INFORMATION GATHERING

SEC. 115. (a) Any person, partnership, corporation, or other organization made subject to any order, rule, or regulation of the Administrator shall maintain and make available to the Administrator such periodic reports, records, documents, and other information relating to the purposes of this title as the Administrator may prescribe by regulation or order as necessary or appropriate for the proper exercise of the functions granted the Administrator by section 104 or by any provision of this title.

(b) The Administrator may require, by general or special orders, any person, partnership, corporation, or other organization made subject to any order, rule, or regulation of the Administrator to file with the Administrator in such form as he may prescribe, reports or answers in writing to specific questions, furnishing such information as may be necessary to enable the Administrator to carry out the functions granted him by section 104 or by any other provision of this title. Such reports and answers shall be made under oath, or otherwise, as the Administrator may prescribe, and shall be filed with the Administrator within such reasonable period as he may prescribe.

(c) The Administrator shall have the authority, when he determines it is necessary in order to carry out his responsibilities under section 104 or any other provision of this title, to make any investigation, and in connection therewith he may, at reasonable times, enter places of business and inspect such records and accounts and question such persons as he may deem necessary to enable him to determine the facts relative thereto.

(d)(1) The Administrator, or any of his duly authorized agent or agents, shall have the power to require by subpena the production of all information, documents, papers, and other data pursuant to subsection (a) of this section; all reports and answers required pursuant to subsection (b) of this section; all records, accounts, and other documentary evidence in connection with an investigation pursuant to subsection (c) of this section; and the attendance and testimony of witnesses in connection therewith.

(2) Any appropriate United States district court may, in the case of contumacy or refusal to obey a subpena issued pursuant to this section, issue an order requiring the party to whom such subpena is directed to appear before the Administration and to give testimony touching on the matter in question, or to produce any such information, documents, papers, data, records, reports, accounts, or other documentary evidence, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

PUBLIC DISCLOSURE OF INFORMATION

SEC. 116. (a) The Administrator shall make public, on a continuing basis, any statistical and economic analysis, data, information, and whatever reports and summaries necessary to keep the public fully and currently informed as to the nature, extent, and projected duration of shortages of energy supplies, the impact of such shortages, and the steps being taken to minimize such impacts.

(b) Copies of any books, documents, papers, statistics, data, information, record, and reports received by the Administrator pursuant to this title shall be made available to the public upon identifiable request, and at reasonable cost, except that the Administrator may not disclose to the public any information obtained under the provisions of this title which could not be disclosed to the public under section 552 of title 5 of the United States Code, commonly referred to as the Freedom of Information Act.

ADVISORY COMMITTEES

SEC. 117. (a) Whenever the Administrator shall establish or utilize any board, task force, commission, committee, or similar group, not composed entirely of full-time Government employees, to advise with respect to, or to formulate or carry out, any agreement or plan of action affecting any industry or segment thereof, the Administrator shall insure that each such group is reasonably representative of the various points of view and functions of the industry and users affected, including those of residential, commercial, and industrial consumers, and shall include representation from both State and local governments, and from representatives of State regulatory utility commissions, selected after consultation with the respective national associations.

(b) Each meeting of such board, task force, commission, committee, or similar group, shall be open to the public, and interested persons shall be permitted to attend, appear before, and file statements with such group, except that the Administrator may determine that such meeting shall be closed in the interest of national security. Such determination shall be in writing, shall contain a detailed explanation of reasons in justification of the determination, and shall be made available to the public.

(c) All records, reports, transcripts, memoranda, and other documents, which were prepared for or by such group, shall be available for public inspection and copying at a single location in the offices of the Administration.

(d) Advisory committees established or utilized pursuant to this title shall be governed in full by the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770), except as inconsistent with this section.

MONITORING OF ENERGY STATISTICS AND ANALYSIS

SEC. 118. (a) The Comptroller General of the United States shall continuously monitor and evaluate the operations of the Administration including its reporting requirements. Upon his own initiative or upon the request of a committee of the Congress or, to the extent personnel are available, upon the request of a Member of the Congress, the Comptroller General shall (1) conduct studies of existing statutes and regulations governing the Administration's programs; (2) review the policies and practices of the Administration; (3) review and evaluate the procedures followed by the Administrator in gathering, analyzing, and interpreting energy statistics, data, and information related to the management and conservation of energy, including but not limited to data related to energy costs, supplies, demand, industry structure, and environmental impacts; and (4) evaluate particular projects or programs. The Comptroller General shall have access to such data from any public or private source whatever, notwithstanding the provisions of any other law, as is necessary to carry out his responsibilities under this title and shall report to the Congress at such times as he deems appropriate with respect to the Administration's programs, including his recommendations for modifications in existing laws, regulations, procedures, and practices.

(b) The Comptroller General or any of his authorized representatives in carrying out his responsibilities under this section shall have access to any books, documents, papers, statistics, data, information, and records of any private organization relating to the management and conservation of energy, including but not limited to energy costs, demand, supply, industry structure, and environmental impacts. The Comptroller General may require any private organization to submit in writing such energy data as he may prescribe. Such submission shall be made within such reasonable period and under oath or otherwise as he may direct.

(c) To assist in carrying out his responsibilities, the Comptroller General may sign and issue subpenas requiring the production of the books, documents, papers, statistics, data, information, and records referred to in subsection (b) of this section.

(d) In case of disobedience to a subpena issued under subsection (c) of this section, the Comptroller General may invoke the aid of any district court of the United States in requiring the production of the books, documents, papers, statistics, data, information, and records referred to in subsection (b) of this section. Any district court of the United States within the jurisdiction in which the private organization is found or transacts business may, in case of contumacy or refusal to obey a subpena issued by the Comptroller General, issue an order requiring the private organization to produce the statistics, data, or information; and any failure to obey such order of the court shall be punished by the court as a contempt thereof.

(e) Reports submitted by the Comptroller General to the Congress shall be available to the public at reasonable cost and upon identifiable request, except that the Comptroller General may not disclose to the public any information which could not be disclosed to the public under other provisions of Federal law.

FEDERAL REPORTS ACT

SEC. 119. The Administration, in connection with the exercise of the authority granted pursuant to section 104 or by any other provision of this title, shall be considered an independent Federal regulatory agency as provided for in sections 3502 and 3512 of title 44 of the United States Code, as amended.

REVIEW OF ADMINISTRATIVE PROCEDURES

SEC. 120. Within sixty days of the date of enactment of this title, the Attorney General shall transmit to the Congress a report on the administrative law procedures which will apply to the various functions of the Administrator together with the Attorney General's recommendations regarding the desirability of the enactment of a comprehensive or different administrative law procedure applicable to said functions.

OFFICE OF PRIVATE GRIEVANCES AND REDRESS

SEC. 121. (a) There is established within the Administration an Office of Private Grievances and Redress, which shall be headed by a Director. The Administrator shall appoint and fix the compensation of the Director.

(b) Any person adversely affected by any order, rule, or regulation issued by the Administrator in carrying out the functions assigned to him under this title may petition the Office of Private Grievances and Redress for special redress, relief, or other extraordinary assistance.

(c) The Director of the Office of Private Grievances and Redress shall grant such petitions for special relief, redress, or other extraordinary assistance under such conditions and in such manner as the Administrator may in his discretion provide.

(d) The Director may, from time to time, make recommendations to the Administrator with respect to short-term and long-term measures (involving administrative or legislative action) which might be taken to provide assistance to persons who are adversely affected by the energy emergency and measures and other actions taken to combat such emergency.

(e) The Director shall, on a monthly basis, report to the Congress concerning his activities under this section. Each such report shall contain, among other matters, the number and nature of grievances which have been filed pursuant to this section during the period not covered by any such prior report, including action taken and relief provided pursuant thereto.

(f) The Director shall, from time to time, report to the Congress his views and recommendations, including recommendations for administrative or legislative action, with respect to actions which might be taken to provide for a more equitable distribution of burdens resulting from measures or other actions adopted or taken by the Administrator and for the relief of persons adversely affected by such measures or actions.

COMPREHENSIVE ENERGY PLAN

SEC. 122. (a) Pursuant and subject to the provisions and procedures set forth in this title, the Administrator shall, within one hundred and twenty days following the date of the enactment of this title, develop and report to the Congress (for referral to the Committees on Government Operations and Interior and Insular Affairs of the Senate and

House of Representatives) a comprehensive plan designed to alleviate the energy shortage, for the time period covered by this title, and satisfying the objectives and priorities stated in section 124(a). Such plan shall be accompanied by full analytical justification for the actions proposed therein. Such analysis shall include, but not be limited to—

(1) estimates of the energy savings of each action and of the program as a whole;

(2) estimates of any windfall losses and gains to be experienced by corporations, industries, and citizens grouped by socioeconomic class;

(3) estimates of the impact on supplies and consumption of energy forms consequent to such price changes as are or may be proposed; and

(4) a description of alternative actions which the Administrator has considered together with a rationale in explanation of the rejection of any such alternatives in preference to the measures actually proposed.

(b) The Administrator may, from time to time, modify or otherwise alter any such plan, except that, upon request of an appropriate committee of the Congress, the Administrator shall supply analytical justifications for any such alterations.

(c) The Administrator shall be responsible for monitoring any such plans as are implemented with respect to their effectiveness in achieving the anticipated benefits.

ENERGY AND NATURAL RESOURCE ORGANIZATIONAL REPORT

SEC. 123. The President shall submit to the Congress not later than June 30, 1974, a report setting forth his recommendations for a permanent Federal organizational arrangement for the management and development of policy for energy and natural resources.

REPORTS TO CONGRESS

SEC. 124. (a) The Administrator shall prepare and submit directly to the Congress and the President every six months after date of enactment of this title a report which shall include—

(1) a review and analysis of the major actions taken by the Administrator;

(2) an analysis of the impact these actions have had on the Nation's civilian requirements for energy supplies for materials and commodities;

(3) a projection of the energy supply for the mid-term and long term for each of the major types of fuel and the potential size and impact of any anticipated shortages, including recommendations for measures to—

(A) minimize the deficiency of energy in relation to needs;

(B) maintain the health and safety of citizens;

(C) maintain production and employment at the highest feasible level;

(D) equitably share the burden of shortages among individuals and business firms; and

(E) minimize any distortion of voluntary choices of individuals and firms.

(4) a summary listing of all recipients of funds and the amount thereof within the preceding period; and

(5) a completely independent analysis of domestic oil and gas reserves and the extent to which productive capacity could be increased each year for the next ten years with the full development of such reserves and ascertainable oil and gas resources using available and foreseeable technology.

(b) The Administrator shall provide interim reports to Congress when requested by committees of Congress.

EFFECTIVE DATE

SEC. 125. This title shall become effective sixty days after the date of enactment or sooner if the President publishes notice in the Federal Register. This title shall terminate June 30, 1975.

APPROPRIATIONS

SEC. 126. (a) There are hereby authorized to be appropriated to the Administrator, to remain available until expended, $75,000,000 for fiscal year 1974, and $200,000,000 annually for each of fiscal years 1975 and 1976 to carry out the purposes of this title.

(b) There are hereby authorized to be appropriated an additional $40,000,000 for fiscal year 1974, and $75,000,000 annually for each of fiscal years 1975 and 1976 to carry out the purposes of this title in the event that the President adopts a program of rationing for gasoline or other petroleum products.

(c) All sums appropriated by the Congress to the Administrator under this title shall be apportioned for the purposes specified therein during the fiscal year for which appropriated, except to the extent otherwise authorized by section 665 of title 31, United States Code.

SEPARABILITY

SEC. 127. If any provision of this Act is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality and effectiveness of the remainder of this Act and the applicability thereof to any persons and circumstances shall not be affected thereby.

TITLE II—COUNCIL ON ENERGY POLICY

SEC. 201. This title may be cited as the "Energy Policy Act of 1973".

FINDINGS AND PURPOSES

SEC. 202. (a) The Congress finds and declares that—

(1) there are many Federal agencies, created at different times and for different purposes to handle specialized problems, all directly or indirectly involved in the establishment of energy policy;

(2) there is no comprehensive national energy policy but instead Federal energy activities consist of a myriad of laws, regulations, actions and inactions resulting in narrow, short-range, and often conflicting decisionmaking by individual agencies without adequate consideration of the impact on the overall energy policy nor future national energy needs; and

(3) as a consequence of not having a comprehensive national energy policy, the Nation faces mismanagement of energy resources, unacceptably high adverse environmental impacts, inadequate incentives for efficient utilization and conservation of energy resources, shortages of supply, and soaring energy prices.

(b) Therefore, it is declared to be the purpose of the Congress to protect and promote the interest of the people of the United States as energy users by establishing a Council on Energy Policy to serve as a focal point for—

(1) the collection, analysis, and interpretation of energy statistics and data necessary to formulate policies for wise energy management and conservation and to anticipate social, environmental, and economic problems associated with existing and emerging energy technologies;

(2) the coordination of all energy activities of the Federal Government, and provision of leadership to State and local governments and other persons involved in energy activities; and

(3) the preparation, after consultation with other interested organizations and agencies, of a long-range comprehensive plan (hereinafter referred to as the "Energy Plan") for energy development, utilization and conservation to foster improvement in the efficiency of energy production and utilization, reduction of the adverse environmental impacts of energy production and utilization, conservation of energy resources for the use of future generations, reduction of excessive energy demands, and development of new technologies to produce clean energy.

DUTIES OF FEDERAL AGENCIES

SEC. 203. (a) The policies, regulations, and public laws of the United States shall be interpreted and administered to the fullest extent possible in accordance with the policies set forth in this section; and

(b) All agencies of the Federal Government shall to the fullest extent possible—

(1) utilize a systematic, interdisciplinary approach which will insure the integrated use of both physical and social sciences in producing, conserving, and utilizing the Nation's energy resources;

(2) submit, prior to the review process established pursuant to the Budget and Accounting Act of 1972, as amended, to the Council on Energy Policy established by this section for comment all legislative recommendations and reports that deal with or have a bearing on energy matters;

(3) gather data and information pursuant to guidelines promulgated by the Council on Energy Policy; develop analytical techniques for the management, conservation, use, and development of energy resources, and make such data available to the Council on Energy Policy; and

(4) recognize the worldwide and long-range character of energy concerns and, where consistent with the foreign policy of the United States, lend appropriate support to initiatives, resolutions, and programs designed to foster international cooperation in anticipating and resolving energy-related problems.

ESTABLISHMENT OF A COUNCIL

SEC. 204. There shall be established in the Executive Office of the President a Council on Energy Policy (hereinafter referred to as the Council). The Council shall be composed of three members who shall be appointed by the President to serve at his pleasure by and with the advice and consent of the Senate. The President shall at the time of nomination designate one of the members of the Council to serve as Chairman. Each member shall be a person, who as a result of his training, experience, and attainment, is well qualified to analyze and interpret energy trends and information of all kinds; to appraise programs and activities of the Federal Government in light of the energy needs of the Nation; to be conscious of and responsive to the environmental, social, cultural, economic, scientific, and esthetic needs and interests of the Nation; and to formulate an Energy Plan and recommend national policies with respect to wise energy management.

DUTIES OF COUNCIL

SEC. 205. (a) The Council shall serve as the principal adviser to the President on energy policy and shall exercise leadership in the formulation of Government policy concerning domestic and international issues relating to energy.

(b) The Council shall make recommendations to the President and the Congress for resolving conflicts between the policies relating to energy of different Federal agencies.

(c) The Council shall develop within eighteen months after the date of enactment of this title and thereafter shall annually update an Energy Plan for energy development, utilization, and conservation in the United States to carry out the purposes as stated in subsection (b) of this section. Copies of such Energy Plans shall be distributed on January 1 of each year to the President, to the Congress, and to all Federal and State agencies concerned with energy, and upon request to local agencies and nongovernmental entities.

(d) The Council shall promptly review all legislative recommendations and reports sent to Congress, to the extent that such recommendations and reports have a bearing on energy matters, and it shall send to the

President and the involved Federal agency a statement in writing of its position and the reasons therefor. This subsection shall not apply to title I of this Act.

(e) The Council shall keep Congress fully and currently informed of all of its activities. Neither the Council nor its employees may refuse to testify before or submit information to Congress or any duly authorized committee thereof.

(f) The Council shall conduct annual public hearings on the Energy Plan and may hold public hearings when there is substantial public interest in other pending matters.

(g) In carrying out its collection, analysis, and interpretation of energy statistics function, the Council shall, as quickly as possible and after appropriate study, promulgate guidelines for the collection and initial analysis of energy data by other Federal agencies, after published notice in the Federal Register and opportunity for comment. Such guidelines shall be designed to make such data compatible, useful, and comprehensive. Where relevant data is not now available or reliable and is beyond the authority of other agencies to collect, then the Council shall recommend to the Congress the enactment of appropriate legislation. Pending congressional consideration, the Council may gather such data directly. The Council shall have the power to require by special or general orders any person to submit in writing such energy data as the Council may prescribe. Such submission shall be made within such reasonable period and under oath or otherwise as the Council may direct.

ADMINISTRATIVE PROVISIONS

SEC. 206. (a) In exercising its powers, functions, and duties, the Council shall—

(1) consult with representatives of science, industry, agriculture, labor, conservation organizations, State and local governments, and other groups, as it deems advisable; and

(2) employ a competent, independent staff which shall utilize, to the fullest extent possible, the services, facilities, and information (including statistical information) of public and private agencies and organizations, and individuals, to avoid duplication of effort and expense, thus assuring that the Council's activities will not necessarily overlap or conflict with similar activities authorized by law and performed by other agencies.

(b) Members of the Council shall serve full time and the Chairman of the Council shall be compensated at the rate provided for level II of the Executive Schedule Pay Rates (5 U.S.C. 5313). The other members of the Council shall be compensated at the rate provided for level IV of the Executive Schedule Pay Rates (5 U.S.C. 5315).

(c) The Council may employ such officers and employees as may be necessary to carry out its functions. The Council may also employ and fix the compensation of such experts, consultants, or contractors to conduct detailed studies as may be necessary for the carrying out of its functions to the same extent as is authorized under section 3109 of title 5, United States Code (but without regard to the last sentence thereof).

ENERGY REPORT

SEC. 207. The Council shall prepare and submit to the President and the Congress on or before January 1, 1974, and annually thereafter, an energy report to accompany the Energy Plan. This report shall include—

(a) an estimate of energy needs of the United States for the ensuing ten-year period to meet the requirements of the general welfare of the people of the United States and the commercial and industrial life of the Nation;

(b) an estimate of the domestic and foreign energy supply on which the United States will be expected to rely to meet such needs in an economic manner with due regard for the protection of the environment, the conservation of natural resources, and the implementation of foreign policy objectives;

(c) current and foreseeable trends in the price, quality, management, and utilization of energy resources and the effects of those trends on the social, environmental, economic, and other requirements of the Nation;

(d) a catalog of research and development efforts funded by the Federal Government to develop new technologies, to forestall energy shortages, to reduce waste, to foster recycling, and to encourage conservation practices; and recommendations for developing technology capable of increasing efficiency and protecting employee health and safety in energy industries;

(e) recommendations for improving the energy data and information available to the Federal agencies by improving monitoring systems, standardizing data, and securing additional needed information;

(f) a revew and appraisal of the adequacy and appropriateness of technologies, procedures, and practices (including competitive and regulatory practices), employed by Federal, State, and local governments and nongovernmental entities to achieve the purposes of this section; and

(g) recommendations concerning the level of funding for the development and application of new technologies, as well as new procedures and practices which the Council may determine to be required to achieve the purposes of this section and improve energy management and conservation together with recommendations for additional legislation.

PUBLIC ACCESS TO INFORMATION

SEC. 208. (a) Copies of any communications, documents, reports, or information received or sent by any members of the Council shall be made available to the public upon identifiable request, and at reasonable cost, unless such information may not be publicly released under the terms of paragraph (2) of this subsection.

(b) The Council or any officer or employee of the Council shall not disclose information obtained under this section which concerns or relates to a trade secret referred to in section 1905 of title 18, United States Code, except that such information may be disclosed in a manner designed to preserve its confidentiality—

(1) to other Federal Government departments, agencies, and officials for official use upon request;

(2) the committees of Congress having jurisdiction over the subject matter to which the information relates;

(3) to a court in any judicial proceeding under court order formulated to preserve the confidentiality of such information without impairing the proceedings; and

(4) to the public in order to protect their health and safety after notice and opportunity for comment in writing or for discussion in closed session within fifteen days by the party to whom the information pertains (if the delay resulting from such notice and opportunity for comment would not be detrimental to the public health and safety).

In no event shall the names or other means of identification of injured persons be made public without their express written consent. Nothing contained in this section shall be deemed to require the release of any information described by susbection (b) of section 552, title 5, United States Code, or which is otherwise protected by law from disclosure to the public.

MONITORING OF ENERGY STATISTICS AND ANALYSIS

SEC. 209. (a) The Comptroller General of the United States shall continuously monitor and evaluate the operations of the Council including its reporting requirements. Upon his own initiative or upon the request of a committee of the Congress or to the extent personnel are available, upon the request of a Member of the Congress, the Comptroller General shall (1) conduct studies of existing statutes and regulations governing Federal energy programs, (2) review the policies and practices of Federal agencies administering such programs, (3) review and evaluate the procedures followed by such agencies, in gathering, analyzing, and interpreting energy statistics, data, and information related to the management and conservation of energy, including but not limited to data related to energy costs, demand, industry structure, environmental impacts and research and development, and (4) evaluate particular projects or programs. The Comptroller General shall have access to such data from any public or private source whatever, notwithstanding the provisions of any other law, as is necessary to carry out his responsibilities under this section and shall report to the Congress at such times as he deems appropriate with respect to Federal energy programs, including his recommendations for such modifications in existing laws, regulations, procedures, and practices as will, in his judgment, best serve the Congress in the formulation of a national energy policy.

(b) In carrying out his responsibilities as provided in paragraph (1) of this subsection, the Comptroller General shall give particular attention to the need for improved coordination of the work of the Federal Government related to energy policies and programs and the attendant need for a central source of energy statistics and information.

(c) The Comptroller General or any of his authorized representatives in carrying out his responsibilities under this section shall have access to any books, documents, paper, statistics, data, information, and records of any private organization relating to the management and conservation of energy, including but not limited to energy costs, demand, supply, reserves, industry structure, environmental impacts, and research and development. The Comptroller General may require any private organization to submit in writing such energy data as he may prescribe. Such submission shall be made within such reasonable period and under oath or otherwise as he may direct.

(d) To assist in carrying out his responsibilities, the Comptroller General may sign and issue subpenas requiring the production of books, documents, papers, statistics, data information, and records referred to in paragraph (c) of this subsection.

(e) In case of contumacy, or refusal to obey a subpena of the Comptroller General issued under this section, by any person who resides, is found, or transacts business within the jurisdiction of any district court of the United States, such district court shall, upon the request of the Comptroller General, have jurisdiction to issue to such person an order requiring such person to comply forthwith. Failure to obey such an order is punishable by such court as a contempt of court.

(f) Reports submitted by the Comptroller General to the Congress shall be available to the public at reasonable cost and upon identifiable request, except that the Comptroller General may not disclose to the public any information which could not be disclosed to the public by the Council under the provisions of this title if the information were held by the Council.

AUTHORIZATION OF APPROPRIATIONS

SEC. 210. (a) There are authorized to be appropriated to carry out the provisions of this title not to exceed $1,000,000 for fiscal year ending June 30, 1974, $2,000,000 for fiscal year ending June 30, 1975, and $4,000,000 for each fiscal year thereafter.

(b) All sums appropriated pursuant to this section shall remain available for obligation or expenditure in the fiscal year next following.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a brief period for the transaction of routine morning business with statements limited therein to 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

REPORT OF COMMISSION ON REVISION OF THE FEDERAL COURT APPELLATE SYSTEM

A letter from the chairman, Commission on Revision of the Federal Court Appellate System, transmitting, pursuant to law, a report of its recommendations for change in the geographical boundaries of the Federal judicial circuits, dated December 1973 (with an accompanying report). Referred to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HARTKE, from the Committee on Veterans' Affairs, with an amendment:

S. 2794. A bill to amend chapter 36 of title 38, United States Code, to authorize the Administrator of Veterans' Affairs to continue making educational assistance and subsistence allowance payments to eligible veterans and eligible persons during periods that the educational institutions in which they are enrolled are temporarily closed pursuant to a policy proclaimed by the President or because of emergency conditions (Rept. No. 93-648).

By Mr. CANNON, from the Committee on Rules and Administration, without amendment:

S. Con. Res. 56. Concurrent resolution authorizing the printing of additional copies of Senate hearings on the Child Abuse Prevention Act, 1973 (Rept. No. 93-642);

S. Con. Res. 59. Concurrent resolution authorizing the printing of compilation entitled "Disclosure of Corporate Ownership" as a Senate document (Rept. No. 93-641);

H. Con. Res. 278. Concurrent resolution authorizing the printing of additional copies of the joint committee print "Soviet Economic Prospects for the Seventies" (Rept. No. 93-640);

S. Res. 212. Resolution authorizing the printing of additional copies of the committee print entitled "National Workers' Compensation Standards Act of 1973 (S. 2008)" (Rept. No. 93-639);

S. Res. 215. Resolution authorizing supplemental expenditures by the Committee on Government Operations for inquiries and investigations by the Permanent Subcommittee on Investigations (Rept. No. 93-638); and

S. Res. 216. Resolution authorizing supplemental expenditures by the Committee on Commerce for inquiries and investigations (Rept. No. 93-637).

By Mr. CANNON, from the Committee on Rules and Administration, with an amendment:

H. Con. Res. 369. Concurrent resolution to print as a House document committee print on Impeachment, Selected Materials (Rept. No. 93-644);

H. Con. Res. 375. Concurrent resolution providing for the printing as a House document of the booklet entitled "The Supreme Court of the United States" (Rept. No. 93-643); and

S. Res. 214. Resolution authorizing supplemental expenditures by the Committee on Aging for inquiries and investigations (Rept. No. 93-645).

By Mr. CANNON, from the Committee on Rules and Administration, with amendments:

H. Con. Res. 88. Concurrent resolution authorizing certain printing for the Committee on Veterans' Affairs (Rept. No. 93-646).

By Mr. CANNON, from the Committee on Rules and Administration:

S. Res. 218. Original resolution to pay a gratuity to Anne M. Husted;

S. Res. 219. Original resolution to pay a gratuity to Marcelle S. Mountford;

S. Res. 220. Original resolution to pay a gratuity to George E. Arthen; and

S. Res. 221. Original resolution authorizing the printing of the Seventy-fifth Annual Report of the National Society of the Daughters of the American Revolution for the year ended March 1, 1972, with an illustration, as a Senate document (Rept. No. 93-647).

COMPREHENSIVE EMPLOYMENT AND TRAINING ACT OF 1973—CONFERENCE REPORT—REPORT OF A COMMITTEE (REPT. NO. 93-636)

Mr. NELSON, from the committee on conference on the disagreeing votes of the two Houses on the amendment of the Senate to the amendment of the House to the bill (S. 1559) to provide financial assistance to enable State and local governments to assume responsibilities for job training and community services, and for other purposes, submitted a report thereon, which was ordered to be printed.

ORDER FOR STAR PRINT OF SENATE REPORT NO. 93-635

Mr. CANNON. Mr. President, in some way the Senate report (93-635) on Senate Joint Resolution 176, a joint resolution to authorize the production of petroleum from Naval Petroleum Reserve No. 1, was erroneously printed, and does not accurately reflect the information intended to be reflected in such report. I therefore ask unanimous consent that a star print of the report be printed.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following executive reports were submitted:

NOMINATIONS

By Mr. ROBERT C. BYRD, from the Committee on the Judiciary:

Donald E. Water, of Louisiana, to be U.S. attorney for the western district of Louisiana; and

Denny L. Sampson, of Nevada, to be U.S. marshal for the district of Nevada.

(The above nominations were reported with the recommendation that the nominations be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. ROBERT C. BYRD, from the Committee on the Judiciary:

Herbert J. Stern, of New Jersey, to be U.S. district judge for the district of New Jersey.

By Mr. STEVENSON, from the Committee on Commerce:

Rodney Eugene Eyster, of Illinois, to be General Counsel of the Department of Transportation.

(The above nominations were reported with the recomendation that the nominations be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. ROBERT C. BYRD (for Mr. FULBRIGHT) from the Committee on Foreign Relations:

Thomas D. Davies, of Ohio, to be an Assistant Director of the U.S. Arms Control and Disarmament Agency;

Walter J. Stoessel, Jr., of California, a Foreign Service officer of the class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary to the Union of Soviet Socialist Republics;

Helmut Sonnenfeldt, of Maryland, a Foreign Service officer of class 1, to be Counselor of the Department of State;

Robert J. McCloskey, of Maryland, a Foreign Service officer of class 1, to be an Ambassador at Large;

Arthur A. Hartman, of New Jersey, a Foreign Service officer of class 1, to be an Assistant Secretary of State;

Robert C. Hill, of New Hampshire, to be Ambassador Extraordinary and Plenipotentiary to Argentina; and

Lloyd I. Miller, of Ohio. to be Ambassador Extraordinary and Plenipotentiary to Trinidad and Tobago.

(The above nominations were reported with the recommendation that the nominations be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. MATHIAS:

S. 2822. A bill to encourage the preservation of open lands in or near urban areas by amending the Internal Revenue Code of 1954 to provide that real property which is farmland, woodland, or open scenic land and forms part of an estate shall be valued, for estate tax purposes, at its value as farmland, woodland, or open scenic land (rather than at its fair market value) if it continues to be used as such for at least 5 years after the date on which the estate tax return is filed. Referred to the Committee on Finance.

By Mr. CHILES:

S. 2823. A bill to amend the Occupational Safety and Health Act of 1970 and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. TOWER:

S. 2824. A bill for the relief of the Sisters of Mercy—St. Louis. Referred to the Committee on Labor and Public Welfare.

By Mr. DOMINICK:

S.J. Res. 181. Joint resolution to designate the third week in April of each year as "National Coin Week." Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MATHIAS:

S. 2822. A bill to encourage the preservation of open lands in or near urban areas by amending the Internal Revenue Code of 1954 to provide that real property which is farmland, woodland, or open scenic land and forms part of an estate shall be valued, for estate tax purposes, at its value as farmland, woodland, or open scenic land—rather than at its fair market value—if it continues to be used as such for at least 5 years after the date on which the estate tax return is filed. Referred to the Committee on Finance.

Mr. MATHIAS. Mr. President, Americans are today recognizing the public iterest in open spaces and wise land use, particularly in our heavily populated metropolitan areas.

The fact is that land near a metropolitan area may have a high value as potential development sites. Property taxes based on this speculative value would absorb most or all of the income that can be realized by farming this land. Therefore, in order to permit farmers to continue to farm, and thereby provide open spaces near the metropolitan concentrations of population, some States and localities tend to assess such land for tax purposes on its value as farmland, based on its agricultural use.

The Federal Government is, however, maintaining a tax policy which runs directly contrary to this general practice, and threatens to thwart the public policy which the States and localities strive to promote. And in the process, the Federal Government is helping speculators drive the family farm out of existence.

I refer here to the Internal Revenue Service's interpretation of the requirement in the Federal estate tax regulation that the estate tax be imposed on the "market value" of the property held by working farmers at the time of death. In making this determination, the IRS does not consider the earning capacity of farmland as farmland, but rather relies on its supposed value as speculative property. The measure of this value is the inflated sales prices of similar real estate.

The effect of this policy is to force many Maryland farm families to sell their farms in order to pay the estate tax—regardless of their attachment to the land or to the occupation of farming. And the result of such forced sale is, in the end, a grave and immeasurable cost to the whole community, by further threatening the survival of the family farm and encouraging speculation.

The bill which I introduce today seeks to rectify this wrong. It provides that the farmer's family who wants to continue the farming operation would have the option of having the decedent's interest in farmland, woodland, or open scenic land determined by its fair market value, as at present, or by its value as farmland, woodland, or open scenic land.

In order to qualify for this treatment, the property would have to have been used as farmland, woodland, or open scenic land for at least 5 years prior to the death of the decedent and to continue to be used that way for 10 years after the estate tax return is filed. This contemplates, of course, that the farm family continues as a farm family and that the family spend the years specified in good husbandry, agricultural, and conservation practices and not in planning to despoil the land at the expiration of the statutory period. We hope to preserve not only the land itself, but also the way of life. Unless this spirit is understood and observed, mere compliance with the letter of the law would be of little value.

There is a strong incentive for compliance in the provisions of the bill. If the implied contract is violated by a sale or by abandonment of the approved practices, the tax deficiency resulting would be a lien on the property.

The fairness of this proposal is clear. It has been recognized in other forms throughout our country. I hope that we can act now to solve this problem.

Mr. President, I ask unanimous consent that an article appearing in the New York Times of May 14, 1972, describing the scope and importance of this problem be printed at this point in the RECORD and that the bill also be printed following the article in the RECORD.

There being no objection, the article and bill were ordered to be printed in the RECORD, as follows:

[From the New York Times, May 14, 1972]

ESTATE TAXES DRIVE FARMERS OFF LAND

(By David A. Andelman)

Thousands of American farmers are being driven off their lands—forced to sell their farms to real estate speculators, some of them say, because of the method used by the Internal Revenue Service to assess inheritance taxes.

Such taxes are assessed on what the land could be sold for, rather than what it is worth as farmland. Thus, many people who have inherited farms have had to sell them to developers simply to pay the taxes.

As a result, the revenue service is being termed partly responsible for destroying a segment of American agriculture and, at the same time, accelerating the spread of the suburbs to the rural areas of the United States.

Over the last decade, the value of agricultural lands in wide sections of the nation within easy access to metropolitan areas has skyrocketed as land speculators have bought up every available piece of property. The value of this land for agriculture, however, has largely remained constant or has declined.

The Internal Revenue Service insists on assessing all agricultural land at the "price at which property would change hands between a willing buyer and a willing seller."

The result has been that farmers holding property whose value for development is five to 10 times its agricultural worth have been forced to sell their property to the waiting speculators simply to pay their inheritance taxes, which run as high as 25 per cent. Children who would have remained on the land are being forced off.

Most of this pressure has been focused on the spreading areas on the fringes of the suburbs where metropolitan America is pushing out to meet rural America—areas such as the farther reaches of Suffolk County, L. I.; suburban Phoenix, Ariz.; the extreme northwestern part of Cook County in Illinois, and the Sierra Foothills region of California.

"Once farmland is given to the speculators, that's the final step as far as agriculture is concerned," said James E. Cross, a farmer in semirural Cutchogue, L.I. "You're taking land that took 25,000 years to develop, an amazing land that is rich and fertile, and overnight you bring in bulldozers and sock houses on it. We all pay for it in the long run."

Another Cutchogue farmer, John Wickham, cited the situation of a neighbor with a 60-acre farm in one of the best potato-producing areas in the United States.

The neighbor, who had asked not to be identified by name, inherited the farm from his mother two years ago upon her death. The farm was worth about $800 an acre if used for agriculture. But the revenue service valued it at $3,500 an acre, which Mr. Wickham noted "is the fair development value," and the tax alone came to about $1,200 an acre.

CALLS SALE "FORCED"

"This means that this chap is a very good farmer," he added, "but he had to take out a tremendous mortgage to pay the inheritance taxes, a mortgage with 9 or 10 per cent interest, and he simply can't pay it off—not with today's price of potatoes. So he has to sell it. In actuality, they [the Federal Government] forced its sale, very simply."

In Barrington, Ill., Xavier Schmid, a 72-year-old farmer who is worried about the problem that will arise when he dies, cited the case of a 90-year-old neighbor who died and left a 500-acre farm to his wife.

"They haven't sold the farm yet," Mr. Schmid said, "as the estate is still in probate. But his wife is nearly 90, and when she dies taxes will be levied all over again and the sons will have to sell the farm for sure to pay taxes."

That the situation became most acute very recently is largely attributable to the newly developing pattern of change in suburban America.

GROWTH ON FAR FRINGE

The 1970 census revealed that the fastest growing segment of the United States was the suburbs and the fastest shrinking was the rural areas. But of even greater significance was the evidence that the fastest growing segment of the suburban population was in the so-called "exurban areas"—those counties on the far fringe of the suburbs, between suburbs and countryside.

It is here that real estate speculators are most busily at work and where the pressures on the remaining farmers are the strongest.

There are no statistics to show how many farms are going to speculators. Many are quietly sold but continue to be farmed for several years, even decades, under "lease-back" arrangements, until the land becomes so valuable that the speculator finally moves in and puts a halt to the farming.

NEED FOR LEGISLATION SEEN

A spokesman for the Internal Revenue Service, Edward York, said, "We've been aware of the problem really for several years and, of course, what it boils down to is that under the law we have no alternative but to set the tax on the value the land sells for rather than on the value the property would be used for.

"It would take legislation to change the practice."

The legislation on which the current revenue service practices are based dates to the Revenue Code of 1916, Section 203.1 of which says that property must be valued at its fair market value. A service spokesman said, "It has been applied consistently since that date."

There have been numerous attempts at

reform. Representative Graham Purcell of Texas, sixth-ranking Democrat on the House Agriculture Committee, has introduced each year for the last four years a bill providing for a change of the valuation criteria.

At last count, there were six bills before the House Ways and Means Committee and one in the Senate, all waiting for action that their sponsors generally believe will probably never come.

"Each year they get buried in the hearings on general tax reform," Mr. Purcell said in a recent interview. "Ways and Means just happens to like the extra revenue the law pulls in the way it stands."

The extent of the problem and the concern it has aroused in agricultural America is indicated by the search for the methods to circumvent the revenue regulations.

In the Dade County area surrounding Miami, almost all farms have by now been incorporated. The corporate farmer is able each year to transfer a small amount of stock—up to $3,000 apiece is tax-exempt under gift tax statutes—to his children as gifts, easing the final impact of inheritance taxes when he dies.

A few states, including New Jersey, California and Maryland, have either set up or given serious consideration to establishing agricultural land use districts. They require farmland under regulation to remain in farming for a certain period of years, usually at least 10, or indefinitely. But in many areas, the revenue service has not chosen to recognize these districts for estate tax purposes.

ACCEPTED BY GOVERNMENT

In California, the Land Conservation Act of 1965 enables a farmer to contract with the county government not to put farmland up for sale for at least 10 years, enabling the state to assess the land at agricultural rates. And, state officials said, the Federal Government has accepted the state assessments for Federal purposes.

But a new and more recent law may change this. It provides that if not enough of this restricted land is sold in an area, the county assessor may use the income of the land as a means of determining its value for assessment purposes.

Joseph A. Janelli, governmental affairs specialist of the California Farm Bureau Federation, is concerned that "the I.R.S. just might say this new law is a temporary expedient and we do not have the right to do it this way."

ARRANGEMENTS ARE URGED

Mr. York, the revenue service spokesman, said "there is a possibility" that an agricultural land use district "could affect the valuation—in effect discounting the valuation in some situations." But he said, even so, the value would never reach the agricultural value.

So, the California federation has begun to advise members to make their proper arrangements well in advance of death—giving land or corporate shares in land to their children over the years to take advantage of the gift tax exemption.

"All this is fine," said Mr. Wickham, the Long Island farmer. "But I can't do this. I need cash loans on my property each year in order to operate. If I go to a bank and say I've given shares to my children, that I don't have clear title, they'll throw me right out."

Dean F. Tuthill, a professor of agricultural economics at the University of Maryland, said that there were only a handful of states that had been able to figure out any method of easing the burden of estate taxes for their farmers.

COAST LAW CITED

Most special agricultural taxing districts set up to help farmers are applied only to local property taxes and not to federally administered estate taxes.

Professor Tuthill cited, as one attempt to ease Federal taxes, California's statute, which he said was a prototype for other methods of "preventing intensive development of farmland," including a bill in Maryland last year that would have allowed farmers to sell their development rights to the local county, farming it themselves but paying considerably lower taxes.

Systems such as this or one newly instituted in Suffolk County, L.I.—where the county plans to purchase, at the start, some 3,000 acres of prime farmland at speculative prices from the farmers, then lease it back to the owners—are other solutions proposed by agricultural economists in place of changes in the revenue law.

"There are so few ways open to preserve this valuable resource," Mr. Wickham concluded. "If the I.R.S. continues to follow this policy, it will put all agriculture out of business on Long Island within a generation. And who knows what will happen everywhere else in this country?"

S. 2822

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That (a) section 2031 of the Internal Revenue Code of 1954 (relating to definition of gross estate) is amended by adding at the end thereof the following new subsection:

"(c) ALTERNATE VALUATION OF CERTAIN REAL PROPERTY.—

"(1) IN GENERAL.—If the executor of an estate so elects, the value of any qualified real property included in the estate shall be determined by its value for the use under which it qualifies, under paragraph (2), as qualified real property.

"(2) DEFINITION OF QUALIFIED REAL PROPERTY.—For purposes of this subsection, the term 'qualified real property' means real property substantially all of which is, and, for the 60 months preceding the date of death of the decedent, has been, devoted to—

"(A) farming (including the production of agricultural commodities and the raising of livestock),

"(B) wood land (including land used for the commercial production of trees and land used for scenic and recreational purposes), or

"(C) scenic open space.

"(3) ELECTION REQUIREMENTS.—An election under this subsection shall be filed with the Secretary or his delegate at such time and in such form and manner as he may prescribe and shall contain, in addition to any other matter, the name, address, and taxpayer identification number of the person to whom the property passes under the terms of the decedent's will or by operation of law.".

"(4) REVOCATION OF ELECTION.—If property valued under paragraph (1)—

"(A) is sold or transferred, by or on behalf of the person to whom the property passed, within 5 years after the date on which the return of the tax imposed under this chapter was filed, or

"(B) is converted substantially to a use not described in paragraph (2) within that 5-year period by that person, the election made under this subsection shall be revoked and the difference between the tax actually paid under this chapter on the transfer of the estate and the tax which would have been payable on that transfer had the property not been valued under paragraph (1) shall be a deficiency in the payment of the tax assessed under this chapter on that estate.".

(b) Section 1014(a) of such Code (relating to basis of property acquired from a decedent) is amended by inserting before the period at the end thereof a comma and the following: "or, in the case of an election under section 2131(c) (relating to alternate valuation of certain real property), the value thereof as determined under such section for the applicable valuation date.".

SEC. 2. The amendments made by this Act shall apply with respect to the estates of decedents dying after the date of enactment of this Act.

By Mr. CHILES:

S. 2823. A bill to amend the Occupational Safety and Health Act of 1970 and for other purposes. Referred to the Committee on Labor and Public Welfare.

Mr. CHILES. Mr. President, I introduce today a bill to amend the Occupational Safety and Health Act of 1970. I am proposing this legislation in response to what I feel have been the unfortunate effects of this law in the several years since its enactment. The objective of assuring safe and healthful working conditions is of the utmost importance to all Americans and must be a primary goal for both the employer and the employee. The Occupational Safety and Health Act, recognizing the pressing need to reduce the occurrence of personal injury and illness on the job, is conceptually a significant move in the right direction. However, in light of the groundswell of critical comment and the convincing evidence of serious problems being experienced by the business community at the hands of OSHA, it is evident that the law, as presently constituted, is not working as Congress intended.

In speaking for Florida I know there is very widespread concern with the current administration of this law, and upon examination of the problems pointed out by Floridians, I think this concern is more than justified. These objections are by no means limited to my State but rather what I have heard and seen in Florida is representative of a national dissatisfaction with the rules, regulations and operating practices implemented under this act.

I think a vital consideration, which is to a large extent ignored in the administration of the Occupational Safety and Health Act, is whether what is proposed in the name of improved worker safety and health is in fact a practical approach toward reaching that goal. It is simply not conscionable to adopt standards that call for major alterations in equipment or operating procedures unless their adoption is in response to a problem of similar proportions and unless there is evidence that real improvements will result.

Perhaps because safe and healthful working conditions represent a goal of such obvious necessity there has been an unfortunate tendency to devise means of accomplishing that goal which go beyond what is feasible or even effective. It is of course difficult to object to a standard, no matter how outlandish or unwarranted, when that standard is presented in the guise of promoting the safety and health of working men and women. As a result we have witnessed a pattern of bureaucratic excess which if anything works against the development of better working conditions.

I believe it is necessary to remember that the discontent on the part of employers with OSHA does not reflect a lack of support for the effort to bring about a safe and healthful working atmosphere. In my discussions with Florida employers I have witnessed a strong commitment to worker safety and an active interest in eliminating hazardous conditions. The questions at issue are how effectively the occupational safety and health law serves the goal which it establishes and whether this goal can be achieved without the acrimony, confusion and financial losses now so prevalent. At present its effectiveness is questionable but with appropriate changes in the act I believe the effort to accomplish improved worker safety can be put back on the right track.

The changes I have proposed will not serve to in any way lessen protection for the worker. Rather I think the Occupational Safety and Health Act will be improved so as to foster a better working relationship between OSHA and the employer and the development of truly effective standards for dealing with occupational safety and health problems. Let me summarize briefly the changes this legislation would make in the current law.

Initially, this bill addresses the question of costs borne by employers in attempting to meet the standards dictated by OSHA. While considerations of safety and health cannot be weighed in terms of cost, it should be the responsibility of the Labor Department to avoid regulations that are of minimal value in achieving worker safety or health but which impose a considerable financial burden. The costs of compliance with OSHA provisions are proving a major hardship for many businesses and ultimately it can be expected that these costs will be passed onto the public in the form of higher prices.

A telling illustration of this situation is the debate over whether the problem of noise exposure must be handled through engineering changes or whether personal protective equipment can be permissible. An employer may spend millions of dollars to try to "engineer out" noise from his machines, but just be physically unable to reduce noise emissions to acceptable levels. The result— a great deal of money expended and employees still must use personal equipment to be protected. The obvious lesson to be drawn from this type of experience is that there must be a balancing of the costs and the benefits to be received.

Accordingly, this bill directs the Secretary to recognize the cost-benefit ratio in promulgating a new standard and to publish information relative to the projected financial impact. This provision will promote the development of standards justifiable in terms of the benefits to be derived and afford those to be affected an opportunity to make a reasoned evaluation of the proposal. The bill would as well prohibit the establishment of standards requiring the alteration, replacement or phase out of equipment or facilities before the normal useful life of such, unless the failure to do so would result in a continued employee exposure to "serious violations." This would not delay the implementation of the law regarding capital investments in the case of violations that pose a threat of death or physical harm. Rather what will be avoided are financially unfeasible changes in equipment or facilities when there is no danger of any magnitude to employees.

Second, the bill would provide the employer with more flexibility in correcting safety or health hazards identified by OSHA. Under this provision the employer would determine within the scope of available options what means to use in protecting employees. The need for this type of flexibility has been made eminently clear by so many businessmen who have contacted me regarding their difficulties with OSHA. As one Florida manufacturer wrote:

> In our case for example, after gently resisting, we found it prudent to purchase and install a needless and expensive eye wash basin in a chemical tank area, even though one of the tanks is a fresh water rinse tank. As a chemical engineering graduate with 30 years experience, I know that the tank is not only as effective but more effective than the eyewash basin. Water can be splashed in the face with the hands, the entire head can be submerged, or as every employee in the department knows one could roll into it bodily.

As this illustrates, the employer can and should play a constructive role in developing improved working conditions while avoiding procedures and equipment that do not provide significant added protection to the worker and yet are often very costly. The guiding principle in determining standards must be the development of requirements that work to solve the problem. They should not reflect a preconceived disposition toward certain methods or controls on the part of the regulating agency. In most cases there are at least several ways of eliminating a hazard and the employer, who must live with whatever approach is taken, should be the decisionmaker in choosing which means will be employed, as long as the goals of the Occupational Safety and Health Act are served.

Third, the bill proposes change in the current procedures for inspection. The fact of inspections is of course central to the administration of the law and provides the only feasible means of identifying violations. However, in the short period of time since enactment of the occupational safety and health law, OSHA inspections have become somewhat infamous in the eyes of the business community. This view of a Florida businessman is representative:

> The OSHA practice of barging in unannounced and allowing no time to correct discrepancies is deplorable. They do not even take into account that you're trying to get something fixed. If you're trying to get a contractor to repair a major deficiency and OSHA clobbers you in the meantime, that's just too bad.

The practice of unannounced inpections strikes many as an unwarranted approach to securing compliance with the act and one that is causing problems. Presently, inspections are undertaken with little opportunity for the employer to have a qualified safety professional at the facility to observe the inspector's test and advise when the Department's findings are inaccurate or when a challenge of the Department's charges is appropriate.

To rectify this situation, this amendment calls for reasonable advance notice of inspection when to do so would not hamper or defeat the purposes of the act. The prospect of advance notice may raise the fear of quickie improvements but I think this concern is overblown as any kind of halfway measure is not likely to escape the attention of the compliance officer during the walkaround.

Fourth, the bill stipulates that the Department, in issuing citations, will also provide guidance as to how the violation may be corrected. The problem this section seeks to correct is exemplified by a recent administrative law judge opinion which overruled a citation for violation of the noise standard. The noise standard requires use of "feasible" engineering methods to bring noise levels within standards limits. In this case, the employer's operation was too noisy and he had not implemented engineering controls because he did not know of any available method which would take care of the problem. He was cited for failure to undertake "feasible" engineering controls but was not told what these might be. The ruling indicated that the citation should have indicated what could be done to correct the problem it identified.

The lack of such guidance in the past has been a particular problem for the smaller businessman, not well acquainted with the mechanics of dealing with a Federal agency, and often at a loss in determining what effort at compliance will be acceptable to the Department and yet reasonable in terms of his own resources. Judging from the comments I have received regarding the prevalent lack of understanding as to what the Department expects, I think the value of requiring the Department to suggest a course of action is evident. Certainly placing a stress on a constructive role for OSHA rather than a punitive one should prove beneficial.

Fifth, the act is amended to allow exceptions from standards in cases when it can be demonstrated that the regulation is not applicable to a particular workplace. This provision is intended to alleviate the problems resulting from the enforcement of broad standards in situations where the contemplated hazard does not in fact exist. Accordingly, citations will not be issued if the employer can show that compliance with the standards does not materially affect the welfare of his employees. Also, penalties will not be incurred if successful alternative protective measures have been implemented or if it is clearly evident that the employer has fully met his responsibilities under the act and the lack of compliance is attributable to employee actions.

Sixth, this bill provides for more workable and equitable procedures in contesting a citation. The establishment of an appeal process and the OSHA Review Commission was intended by Congress to provide the employer with a practical avenue of recourse when it was felt that a proposed abatement period or penalty was unjustified. In practice, however, these procedures have proven difficult and limiting, especially for the small businessman who may be acting without benefit of counsel. This situation serves to impede the realization of important provisions of the act and places an additional unwarranted burden on the employer.

In an effort to rectify several limitations upon the employer's ability to appeal and contest a citation, I have proposed several changes and clarifications. Initially, the period of time in which an employer must decide to contest a citation would be increased from 15 working days to 30 working days. This is consistent with other laws affording due process and will allow for a more careful appraisal on the part of the employer whether there is a basis for appeal. Also stipulated is that the employer may at any time previous to the conclusion of a hearing withdraw from a proceeding, with the proposed citation and assessment to be considered the final order of the Review Commission.

A significant barrier to the initiation of an appeal is the present capacity of the Review Commission to raise penalties above that proposed by the Department. The Commission was established with the view toward giving the employer a means to seek "relief." However, with the possibility existing of perhaps receiving an even higher penalty, there is a definite discouragement to exercising the right of appeal. Accordingly, the role of the Commission in this respect is clarified by this bill to be that of upholding, reducing, or dismissing penalties proposed by the Department, not adding increased penalties.

A recurring theme in commentary regarding the occupational safety and health law is the view that OSHA's attention to often minor details verges on harassment. As a consequence of the volume and sometimes confusing nature of OSHA regulations it is difficult for the average employer to insure that he is in full compliance with every aspect of applicable standards. One small businessman writes:

> The Occupational Safety and Health Act is impossible to understand unless you have a specialist in your business. With some thirty employees I never know whether I am in compliance with the myriad Federal and State laws.

This situation of uncertainty and the resulting frequency of small fines is a source of considerable frustration to the business world, but hardly serves in any way to materially improve worker safety and health. Minor infractions should of course be corrected but there is no real justification for the imposition of fines for nonserious violations, identified during the first inspection. The authority to levy fines for nonserious violations, when a facility is initially inspected, is not necessary for the accomplishment of the goals of the act and has proven to be merely an irritant. Removal of this section from the original law is proposed in the bill I have introduced.

The difficulties employers experience in achieving compliance with the act reflect to a large measure the lack of any real assistance from the Federal Government in the task of identifying and correcting possible safety or health hazards. At present the Labor Department will not provide on-site consultation without issuing citations for violations and quite naturally there are few requests for consultations of that nature. As the law is complex and technical and the Labor Department is the only agency with the expertise to offer advice and assistance, the end result of this situation is to impede progress toward improved worker safety and health. It is my understanding that Congress intended the improvement of working conditions and not a full tally sheet of violations. OSHA and business should be working together toward that goal and a system in which the only way to receive help is to run the risks of fines hardly serves to encourage such a partnership.

It is my feeling that a primary function of OSHA must be specific assistance to the employer in meeting the objectives of the law. This is especially vital for the smaller employer, financially unable to engage the services of a professional safety consultant.

Again I think the direction of the law must be redefined to stress a more constructive role for OSHA in improving workplace conditions, as opposed to the more punitive nature of OSHA's current operations. In this spirit the present training and employee education provision in the act is broadened in scope to include technical assistance. The Department would be directed to initiate on-site consultations and advice at the request of employers and be required to make recommendations for eliminating hazards.

The addition of this function for OSHA will meet a need that has become very evident since the inception of OSHA. The attitude of the business community is best characterized by the comment of one employer who wrote:

> We are doing our best and would like to have the health and safety inspectors helping us with consultation rather than further burdening us with fines.

This is to my mind a reasonable and constructive approach to bettering safety and health conditions; an approach that should be met with cooperation on the part of OSHA.

I believe these amendments to the Occupational Safety and Health Act are necessary to the achievement of effective worker protection. I urge prompt consideration of this bill by the Senate Labor and Public Welfare Committee.

Mr. President, I ask unanimous consent that the text of the bill I am introducing today be printed in the RECORD to be followed by a section-by-section analysis.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 2823

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Occupational Safety and Health Act Amendments of 1973."

SEC. 2(a) Section 6(b)(2) of the Occupational Safety and Health Act of 1970 is amended by inserting at the end thereof the following:

"The Secretary shall not propose any rule promulgating a new occupational health or safety standard before (a) he has as part of each such proposal reviewed and published in the Federal Register the financial impact of such proposed standard and (b) has determined with due regard for that impact that the benefit to be derived from such standard justified such proposal."

(b) Section 6(b)(4) of such Act is amended by inserting "(A)" immediately after the subsection designation and adding a new subsection 6(b)(4)(B) as follows:

(B) No standard adopted or promulgated under this section shall require any employer to phase out, change or replace existing equipment or facilities before the normal useful life of that equipment or facility has expired unless failure to so phase out, change or replace that equipment or facility prematurely would result in a serious violation as defined in section 17(k)."

(c) Section 6(b)(7) of such Act is amended by inserting immediately after the period in the second sentence the following:

"Such protective equipment, controls and technological procedures may be utilized by the employer at his option where (a) the selected options will afford adequate protection to the employee and (b) the use of such equipment, controls or procedures do not create a new danger to the health and safety of the employees affected."

(d) Section 6(c)(1) of such Act is amended by deleting the existing language and substituting the following language:

The Secretary shall provide, without regard to the requirements of chapter 5 title 5, United States Code, for an emergency standard to take effect immediately after publication in the Federal Register if he determines (A) that there is clear and recognized evidence of employees being exposed to serious danger from exposure to substances or agents determined to be toxic or physically harmful or from new hazards, and (B) that such emergency standard is necessary to protect employees from such danger.

SEC. 3. (a) Section 8, subsections (b), (c), (d), (e), (f), (g) of the Occupational Safety and Health Act of 1970 are redesignated as subsections (c), (d), (e), (f), (g), (h) respectively. A new Section 8(b) of such Act is added to read as follows:

"(b) The Secretary shall provide at least 24 hours advance notice to the employer to be inspected that an inspection will be made where (1) such notice would afford the employer an opportunity to have qualified management personnel or consultants present during the inspection and (2) where the Secretary has determined that such notice would not unreasonably hamper or defeat the purposes of this Act.

(b) Section 2(b)(10) of such Act is amended to read as follows:

"(10) by providing an effective enforcement program;"

SEC. 4. (a) Section 9(a) first sentence of the Occupational Safety and Health Act of 1970 is amended by inserting before the period the following: "and shall where practicable suggest a course or courses of action which if implemented would correct the violating condition or process."

(b) A new Section 9(b) of such Act is added to read as follows:

"Any employer inspected under section 8 who has been found to be not in compliance with any rule or standard adopted or promulgated under sections 6(a)(b) or (c) shall not receive a citation or penalty for such violation if he is able to show (1) that implementing such rule or standard would not materially affect the safety or health of his employees in the facility inspected, (2) he has employed alternative procedures to protect his employees from the hazards contemplated by the rule or standard which are as effective in protecting the safety and health of his employees or (3) the employer furnished adequate notice and exerted all reasonable efforts, pursuant to such regulations as the Secretary may prescribe, to obtain the compliance of his employees and the violation of the Act was attributable to such employees and the employer could not otherwise have reasonably prevented the violations.

(c) A new section 9(d) of such Act is added to read as follows:

"A citation which is not issued in accordance with the provisions of section 8(a) and 8(e) shall be of no force or effect."

Sec. 5. (a) Section 10(a) of the Occupational Safety and Health Act of 1970 first and second sentences, section 10(b) first and second sentences of such Act and section 10(c) first sentence of such Act are all amended by deleting the words "fifteen working days" and substituting in place therefor the words "thirty working days".

(b) Section 10(c) second sentence of such Act is amended by striking the word "modifying" and substituting in place therefor "reducing";

(c) Section 10(c) third sentence of such Act is amended by deleting the word "Secretary" and inserting therefor "Commission".

(d) Section 10(c) of such Act is further amended by adding immediately after the period at the end of that subsection the following:

"Any employer who has notified the Commission that he intends to contest a citation issued under section 9(a) or notification issued under subsection (a) or (b) of this section may withdraw the same at any time prior to conclusion of a hearing thereon and upon so doing the citation and assessment, as proposed, shall be deemed a final order of the Commission and not subject to review by any court or agency."

(e) Section 11(a) of such Act is amended by striking the fourth sentence and substituting therefor the following:

"The commencement of proceedings under this subsection shall operate as a stay of the order of the Commission for the leaser of 90 days or until such time that the court has ruled on the request for such stay."

Sec. 6. Section 17 of the Occupational Safety and Health Act of 1970 is amended by striking subsection (c) and redesignating subsections (d), (e), (f), (g), (h), (i), (j), (k), (l) as subsections (c), (d), (e), (f), (g), (h), (i), (j), (k) respectively.

Sec. 7. (a) Section 21 of the Occupational Safety and Health Act of 1970 is amended by changing the heading to read as follows:

"TRAINING, EDUCATION, AND TECHNICAL ASSISTANCE"

(b) Section 21 of such Act is further amended by inserting at the end thereof the following new subsection:

"(d)(1) In order to further carry out his responsibilities under this section, the Secretary shall visit the workplaces of employers for the purposes of affording consultation and advice to such employers. Such visits (A) may be conducted only upon a valid request by an employer for consultation and advice at the workplace on the interpretation or applicability of standards or on possible alternative ways of complying with applicable standards, and (B) shall be limited to the matters specified in the request affecting conditions, structures, machines, apparatuses, devices, equipment, or materials in the workplace. Where, after evaluating a request by an employer pursuant to this subsection, the Secretary determines that an alternative means of affording consultation and advice is more appropriate and equally effective, he may provide for such alternative means rather than onsite consultation.

"(2) The Secretary shall make recommendations regarding the elimination of any hazards disclosed within the scope of the onsite consultation. No visit authorized by this subsection shall be regarded as an inspection or investigation under section 8 of the Act and no notices or citations shall be issued nor shall any civil penalties be proposed by the Secretary upon such visit, except that nothing in this subsection shall affect in any manner any provision of this Act the purpose of which is to eliminate imminent dangers.

"(3) Nothing in this subsection shall be deemed to require the Secretary to conduct an inspection under section 8 of the Act of any workplace which has been visited for consultative purposes. The failure of the Secretary to give consultation and advice regarding any specific matter during a consultation visit shall not preclude the issuance of appropriate citations and proposed penalties with respect to that matter.

Sec. 8. This Act shall take effect sixty days after the date of its enactment.

Analysis

EXPLANATION OF SECTION 2(a)

Many of the standards in effect do not materially affect worker safety or health, yet are extremely costly to the employer. This amendment would not dictate that the Secretary could not continue to promulgate these regulations which afford minimal worker protection regardless of cost; however, it would force the Labor Department to openly recognize the cost-benefit ratio and, more importantly, would also provide employers with some of the information necessary to make a reasoned judgment as whether or not they should contest the standard itself in the courts under Section 6(f) of the Act.

Additionally, this proposal would require the Secretary to ascertain which industries were directly affected by the proposed rule (in order to compute cost) and would therefore directly assist the Secretary in any attempts to promulgate standards on a vertical industry basis as opposed to the "across the board" coverage found in most standards in effect.

EXPLANATION OF SECTION 2(b)

This section would establish "grandfather clauses" for equipment and facilities which are often expensive to phase out and yet do not represent dangers of any magnitude to employees. Legislation that has severe financial impact often has reasonable delay dates in its implementation; however, the safety law had only brief delays for the legislation itself and in most cases, only an additional short delay for educational purposes where the regulations affected capital investments.

A review of testimony offered in support of the bill as originally passed shows that the necessity to pass this law was based on employee exposure to what are considered "serious violations". The suggested amendment would not delay the implementation of the law in favor of capital investments where those type of violations were concerned.

EXPLANATION OF SECTION 2(c)

This change suggests that once the objective criteria regarding employee health is determined by the Secretary, the employer would determine within the scope of available options which ones he would employ to protect the employees. For instance, a paint spray booth, under the regulations, might have to be ventilated with exhaust fans when in use, atlhough not any one employee would spend more than one hour in the area. Requiring this expensive ventilation equipment (plus the anti-pollution equipment which might be required due to EPA regulations) would not seem practicable when the use of respirators would protect the employee just as well, assuming that use of the respirator did not represent a separate health hazard.

The noise problem is also indicative of the unjustified impact of restricting an employer to certain methods of abatement. *Requiring* engineering controls to be used before the employer is allowed to employ personal protective devices (ear plugs or muffs) is far less practicable and affords no more safety to the employees. This inequity is magnified when one considers that *after* employing these controls the problem may be partially abated and the employer would have to go to personal protection anyway as a last resort.

EXPLANATION OF SECTION 2(d)

The suggested amendment would make one change to the existing law regarding emergency standards.

Emergency standard making which is without the protections of the Administrative Procedures Act, would only be employed where there was clear evidence of such a need.

EXPLANATION OF SECTION 3(a)

The change to Section 8 of the Act would give the employer an opportunity to have a qualified safety professional at the facility during the time of inspection so that any tests to be made could be monitored by the employer. In many instances, especially tests of the environment, this opportunity to be sure the inspection is being properly conducted is necessary in order to provide an effective defense to the Department's charges should a contest be undertaken by the employer. Under the present law it is conceivable that although a test was made improperly, the employer, not having a professional at the scene, would not know whether the results were accurate, and might thereby agree to paying a fine which should not have been proposed in the first instance.

The fear that employers would use this opportunity of advance notice to correct violations is overstated and, in any event, could be met by issuing citations for violations that have been evaded under Section 9(c) of the law, with the compliance officer being informed of these "quickie" abatements during the walk-around.

It should also be noted that employers who would be intent on taking advantage of this advance notice can presently refuse admission to their plants without penalty. The Labor Department's internal procedures contemplates that in such a situation a court order be sought to obtain entry; however, there is not any penalty to the employer for forcing this action. The net result would be to provide the business with 24–48 hours advance notice of the second inspection.

EXPLANATION OF SECTION 4(a)

This amendment would require the Department of Labor, where not impracticable, to *suggest* a course of action which would correct the cited violation. This would, in effect, provide a small, yet oftentimes necessary, insight into what the Labor Department will accept as reasonable abatement of the violating condition, although it would not bind the employer to use that course of action to the exclusion of any others he may feel are more suitable in correcting the condition.

EXPLANATION OF SECTION 4(b)

This new Section 9(b) would cover those situations where standards are in effect to cover a contemplated hazard that does not exist in some facilities. By giving the employer the right to show the standard need not apply to his workplace, much of the harm that has resulted from implementing broad horizontal standards could be alleviated. Additionally, this new Section 9(b) would allow an employer to protect his employees with alternative safety measures other than those contemplated by the standard. The present law rarely provides for performance standards as opposed to specification standards. This results in requiring employers to protect employees only as the regulations suggest although there may be less costly and just as effective methods of meeting the problem.

There is a procedure in Section 6(d) of the Act for obtaining Labor Department approval of alternative methods through a permanent variance; however, it is a cumbersome and time-consuming approach for the employer and would probably involve substantial aggregate legal costs to small employers who do not have the expertise or the in-house manpower to file petitions. In any event, once cited for a violation of a standard the burden should be on the Secretary to show that there was in fact an unsafe condition.

The change would also recognize that the Congress does not intend to hold the employer to a test of strict liability whenever a violation occurred. Although the Review Commission has recognized in several cases that the employer cannot absolutely insure employee compliance the Labor Department continues to cite for violation created by employees against express instructions.

EXPLANATION OF SECTION 4(C)

This change is intended to restate the Congressional directive in Section 8 that citations would only be issued after an inspector had formally established his presence at the worksite and that inspections were to be conducted with walkaround rights afforded to both employers and employees. There have been several cases where this directive of the Congress has been ignored by the Secretary.

EXPLANATION OF SECTION 5(a)

This section would change the period of time in which an employer must decide upon whether or not to contest a citation from 15 working days to 30 working days. The 15-day period is far too short and inconsistent with most other laws affording due process in the appellate area. The change would also work to relieve employers, the Labor Department, and the Review Commission of the unnecessary appeals which are filed quickly because there is insufficient time to consider the merit of citation and penalty.

EXPLANATION OF SECTION 5(b)

This change would further amend Section 10(c) of the law by indicating that the Review Commission was in the position of upholding, reducing, or dismissing penalties proposed by the Department. In approximately 10% of the cases that have gone to a full hearing the word "modifying" has been taken to mean by the Commission that holding, reducing, or dismissing penalties which were being contested by the employer.

The Commission was established to afford "relief" to employers appealing orders of the Secretary where they thought the penalty was too high. Subjecting employers to the possibility of a higher fine after a hearing is not only contrary to the intent of Congress but has a chilling effect on exercising the right of appeal.

EXPLANATION OF SECTION 5(C)

The law is unclear in 10(c) as to who hears appeals for extensions of abatement periods. The change would validate the existing practice of having the Commission rule on these appeals.

EXPLANATION OF SECTION 5(d)

This change would guarantee employers who have appealed orders of the Secretary the right to withdraw from the case at any time prior to their hearing without subjecting themselves to any conditions except to do exactly what he would have had to do if he had not asserted his right to a hearing. A paper-pushing practice has mushroomed at the Commission which makes it difficult for anyone to withdraw from a case unless he has the services of a lawyer. No one should be penalized simply because he availed himself of his constitutional right to a hearing nor be subjected to a maze of Government red tape for no apparent reason.

EXPLANATION OF SECTION 5(e)

Section 11(a) of the Act would be changed to continue the stay of the Secretary's order if affirmed by the Commission or grant a stay of the Commission's decision if the employer appeals to the appropriate Court of Appeals for at least 90 days or until the Court has ruled on the request for the stay. The Court has discretionary power to grant relief in this manner; however, there is not any provision for staying the order of the Review Commission until at least the employer is informed of whether or not the court shall exercise their discretion and grant a continuing stay until resolved by the judiciary. The law as passed has a chilling effect on the employer's right of appeal as penalties for failing to abate past the date of the Review Commission's decision could result in fines as high as $1,000 per day.

EXPLANATION OF SECTION 6

Removal of Section 17(c) of the law would, in effect, remove the Department's authority to penalize employers for violations considered to be non-serious upon a first inspection. It is these non-serious violations which result in relatively minor penalties that have contributed substantially to the outrage of employers. Businesses are being fined for relatively insignificant violations without having been informed of some of the requirements of the standards and although the right to appeal is present, it is far more expensive to contest than to pay the penalty proposed by the Department of Labor.

EXPLANATION OF SECTION 7

The suggested language would specifically direct the Secretary of Labor to provide onsite consultation to employers without the authority to issue citations for violations found on these employer initiated visits. The amendment would not affect the Secretary's right to seek injunctions for hazardous conditions representing "imminent dangers." The Secretary is also required to suggest methods of eliminating any hazards disclosed to the employer.

Failure of the Secretary to disclose violations on this consultative visit would not preclude the issuance of citations on a subsequent Section 8 inspection. Such failure, however, coupled with the employer's request for consultation, should be of significant value on appeal based on a "good faith" argument as provided under Section 17(j) of the Act.

By Mr. DOMINICK:

S.J. Res. 181. Joint resolution to designate the third week in April of each year as "National Coin Week." Referred to the Committee on the Judiciary.

Mr. DOMINICK. Mr. President, the golden anniversary of National Coin Week occurs April 20–27, 1974. I believe it would be both opportune and appropriate for the occasion to be marked with a Presidential proclamation.

National Coin Week has been sponsored annually since 1924 by the American Numismatic Association, the largest educational, nonprofit organization of coin collectors in the world. The purpose of the week is to call the public's attention to its use of coins, the role that coins play in our economy, and the story that the design on each coin tells the world.

The American Numismatic Association is an organization chartered by Congress in recognition of its national character and purposes. Chartered for 50 years in 1912, with the charter renewed to perpetuity in 1962, the organization today has thousands of members in every State of the Union.

Congress has previously recognized the national character of the American Numismatic Association in both its renewal of its charter, and in authorizing the U.S. Mint to strike a national medal in 1966 to commemorate the organization's 75th anniversary.

Finally, Mr. President, as the Nation approaches the 200th anniversary of its independence, the designs on the reverse side of three denominations—the dollar, half-dollar and quarter—will be changed to commemorate the event. A truly National Coin Week proclaimed by the President would serve to focus attention on the upcoming Bicentennial design change and the important role coins play in our lives today.

Mr. President, I ask unanimous consent that the text of the resolution I am today introducing be printed at this point in my remarks.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 181

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the third full week of April of each year is designated as "National Coin Week"; and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States and interested groups and organizations to observe that week with appropriate ceremonies and activities.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 2428

At the request of Mr. PERCY, the Senator from North Dakota (Mr. YOUNG), the Senator from Alaska (Mr. GRAVEL), the Senator from Iowa (Mr. CLARK), and the Senator from Minnesota (Mr. MONDALE) were added as cosponsors of S. 2488, to amend title VII of the Older Americans Act relating to nutrition for the elderly.

S. 2658

At the request of Mr. MOSS, the Senator from Florida (Mr. CHILES) was added as a cosponsor of S. 2658, to direct the National Aeronautics and Space Administration to provide, in cooperation with other Federal agencies, for the early commercial demonstration of the technology of solar heating and for the early development and commercial demonstration of technology for combined solar heating and cooling.

S. 2726

At the request of Mr. TAFT, the Senator from Alaska (Mr. STEVENS) was added as a cosponsor to S. 2726, to authorize the Secretary of Housing and Urban Development to make disaster grants necessary to meet essential needs of disaster victims.

S. 2784

At the request of Mr. HARTKE, the Senator from Indiana (Mr. BAYH), and the Senator from Minnesota, (Mr. HUMPHREY), were added as cosponsors of S. 2784, to amend title 38, United States Code, to increase the vocational rehabilitation subsistence allowance, educational assistance allowances, and the special training allowances paid to eligible veterans and persons under chapters 31, 34, and 35 of such title; to improve and expand the special programs for educationally disadvantaged veterans and servicemen under chapter 3 of such title; to improve and expand the veteran-student services program; to establish a veterans education loan program for veterans eligible for benefits under chapter 34 of such title; to promote the employment of veterans and the wives and widows of certain veterans by improving and expanding the provisions governing the operation of the Veterans' Employment Service and by providing for an action plan for the employment of disabled and Vietnam era veterans; to make improvements in the educational assistance program; to recodify and expand veterans' reemployment rights; to make improvements in the administration of educational benefits; and for other purposes.

S. 2794

At the request of Mr. HARTKE, the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from North Dakota (Mr. BURDICK), were added as cosponsors of S. 2794, to amend chapter 36 of title 38, United States Code, to authorize the Administrator of Veterans' Affairs to continue making educational assistance and subsistence allowance payments to eligible veterans and eligible persons during periods that the educational institutions in which they are enrolled are temporarily closed pursuant to a policy proclaimed by the President or because of emergency conditions.

S. 2809

At the request of Mr. MONDALE, the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 2809, the National Employment Priorities Act.

S. 2820

At the request of Mr. NELSON, the Senator from Arkansas (Mr. FULBRIGHT) was added as a sponsor of S. 2820, to establish administrative and governmental practices and procedures for certain kinds of surveillance activities engaged in by the administrative agencies and departments of the Government when exercising their investigative, law enforcement, and other functions.

SENATE JOINT RESOLUTION 177

At the request of Mr. DOMENICI, the Senator from Alaska (Mr. GRAVEL) was added as a cosponsor of Senate Joint Resolution 177, to renegotiate Federal loans to persons suffering economic hardship from the energy crisis.

SENATE RESOLUTION 218—ORIGINAL RESOLUTION REPORTED TO PAY A GRATUITY TO ANNE M. HUSTED

(Ordered to be placed on the calendar.)

Mr. CANNON, from the Committee on Rules and Administration reported the following original resolution:

S. Res. 218

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Anne M. Husted, widow of Arthur W, Husted, an employee of the Senate at the time of his death, a sum equal to six months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

SENATE RESOLUTION 219—ORIGINAL RESOLUTION REPORTED TO PAY A GRATUITY TO MARCELLE S. MOUNTFORD

(Ordered to be placed on the calendar.)

Mr. CANNON, from the Committee on Rules and Administration reported the following original resolution:

S. RES. 219

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Marcelle S. Mountford, widow of John A. Mountford, an employee of the Senate at the time of his death, a sum equal to six and one-half months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

SENATE RESOLUTION 220—ORIGINAL RESOLUTION REPORTED TO PAY A GRATUITY TO GEORGE E. ARTHEN

(Ordered to be placed on the calendar.)

Mr. CANNON, from the Committee on Rules and Administration, reported the following original resolution:

S. RES. 220

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to George E. Arthen, father of Gordon E. Arthen, an employee of the Senate at the time of his death, a sum equal to two months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

SENATE RESOLUTION 221—ORIGINAL RESOLUTION REPORTED AUTHORIZING THE PRINTING OF THE 75TH ANNUAL REPORT OF THE NATIONAL SOCIETY OF THE DAUGHTERS OF THE AMERICAN REVOLUTION AS A SENATE DOCUMENT

(Ordered to be placed on the calendar.)

Mr. CANNON, from the Committee on Rules and Administration, reported the following original resolution:

S. RES. 221

Resolved, That the Seventy-fifth Annual Report of the National Society of the Daughters of the American Revolution for the year ended March 1, 1972, be printed, with an illustration, as a Senate document.

FEDERAL ENERGY EMERGENCY ADMINISTRATION ACT—AMENDMENT

AMENDMENT NO. 928

(Ordered to be printed and to lie on the table.)

Mr. BUCKLEY submitted an amendment to the amendment offered by Mr. MONDALE (No. 923), as modified, to the bill (S. 2776) to provide for the effective and efficient management of the Nation's energy policies and programs.

AMENDMENT NO. 929

(Ordered to be printed and to lie on the table.)

Mr. WEICKER submitted an amendment intended to be proposed by him to the bill (S. 2776), supra.

AMENDMENT NO. 923 (AS MODIFIED)

(Ordered to be printed.)

Mr. MONDALE (for himself, Mr. MUSKIE, Mr. PASTORE, Mr. STAFFORD, Mr. KENNEDY, Mr. MCINTYRE, Mr. HART, Mr. PROXMIRE and Mr. JAVITS) proposed an amendment to the bill (S. 2776), supra.

ADDITIONAL STATEMENTS

THE MORMON TABERNACLE CHOIR

Mr. MOSS. Mr. President, on the 1st day of November 1973, the Washington Post carried an article entitled "Marching to Salt Lake City" by Paul Hume. There follows a description of a new album of music produced by the Mormon Tabernacle Choir, including seven of John Philip Sousa's greatest marches. And then there is comment about the lyrics that were mated with the music of the great composer. On the back of the jacket to the album, it says:

> But this album could not really have come about without the cooperation of Isaac M. Stewart, the revered President of the Mormon Tabernacle Choir. Thanks to Mr. Stewart's guidance and inspiring contribution to the import and significance of the songs, the words are more than entertaining—they actually transmit a higher message relating to God, Country and People.
>
> I think John Philip Sousa would have liked them.

This statement was made by Dr. Thomas Frost.

The Mormon Tabernacle Choir is, of course, known worldwide. It has toured in Europe, South America, and many parts of North America. This year the choir made a tour of Germany, France, and England, where it sang in the Marienplatz Square in Munich, the Louvre Court in Paris, and Royal Albert Hall in London. Its concerts have been taped by BBC in the Westminster Hall; by the German Broadcasting System in a musical presentation entitled "The Choir of the World"; and by the Columbia Broadcasting Network in its great renditions here in the United States.

Because of the great interest in this world-renowned choir and its performance, I ask unanimous consent that the article from the Washington Post be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MARCHING TO SALT LAKE CITY

(By Paul Hume)

With John Philip Sousa's 119th birthday coming up next Tuesday, Columbia Records has come out with a whole new way of enjoying seven of the march king's greatest marches. They have released a recording of them sung by the Mormon Tabernacle Choir. No, Sousa didn't write the words for his marches, but Columbia decided that words were just what some of them have always needed.

Want to try one to see how it works? Okay, think of the opening of—what else?—the Washington Post March. Got it? Here are some of the words by Charles Burr.

A government post is most essential,
No matter if it be big or small
Considered an honor by us all.
A government post is most influential for people who serve with vigor and verve
To see that we get what we deserve.

More than one meaning could easily be read into Burr's final verse:

In our belief even the greatest chief of state
Will need benevolent providence once begun
And should submit to heaven's host
To benefit this land we love
The power of his post in Washington!

Thomas Frost, Columbia's director of Masterworks Artists and Repertoire, says the idea for the new album came to him and his co-director Tom Shepard, while they were listening to a concert of American music. (It was sung by the Paul Hill Chorale in the Kennedy Center.)

That program included the men's chorus from Sousa's light opera, "El Capitan," in its original version for voices and orchestra. Productions of "El Capitan" will opén at Ford's Theater on Nov. 20, and in St. Paul, Minn., on Dec. 27.

By coincidence, the lyricist for Sousa's show was also named Tom Frost. Columbia's Frost says there is no relationship. In choosing the contents of the new Mormon Choir album, Frost said yesterday he had to work within the limits of the texts the choir is willing to sing. He added that Isaac Stewart, the choir's president, suggested some wordings.

Most of the lyrics are red-white-and-blue, American as apple pie and sometimes chauvinistic in the old fashioned manner, such as "Semper Fidelis":

"We're ever faithful" is the general gist
In countries that are Christian
Though it means the same
We pledge no longer to the name
Of Caesar,
But to principles of the land we know and love
Bestowing the motto in war
Of our readiest corps—
The mighty marines.

With the exception of "El Capitan," each of the marches mentions God. In "The Thunderer," God is identified as the Thunderer, while in "King Cotton," "God's cotton was always here."

"King Cotton," starts out:

To cotton someone is naturally
To like and love them, 'tis true.
We'd like to know how this came to be
And how this sentiment grew.
This humble cloth immune to moth
Has served the nation since its creation
And flies above this land we love—
Our flag, the red, white and blue.

And it continues:

If we truly could learn to 'cotton to'
The deity's design
The state of affairs we've gotten to
Could still be made benign.

The choir is joined in these marches and six others by a symphonic band.

The non-Sousa marches include the Navy and Marine Hymns, the Air Force Song, and "Anchors Away," along with "Hail to the Chief" and "The Battle Hymn of the Republic."

Frost said the recording, which was released late in September, has sold about 15,000 copies so far and is moving well. It is Columbia M 32298. His jacket note concludes, "The words actually transmit a higher message relating to God, County and People. I think John Philip Sousa would have liked them." As precedent for his belief, Frost could have cited Sousa's arrangements for band of many patriotic songs and hymns.

"The Washington Post March," refers, of course, specifically to the newspaper, whose publisher in 1889, Frank Hatton, commissioned Sousa to write the march in conjunction with an essay contest The Post was sponsoring.

THANK YOU McDONALD'S

Mr. PERCY. Mr. President, I would like to take special note of the upcoming holiday season program at the John F. Kennedy Center for the Performing Arts entitled "The Twelve Days of Christmas." The program, a series of 19 concerts during the 12 days, begins December 21, with a free festival for children featuring the National Children's Choir, the Potomac Handbell Ringers, and Bob and Susan from television's "Sesame Street."

The entire holiday program is supported by a gift from McDonald's Restaurants, for the second consecutive year.

Since its opening in 1971, the Kennedy Center has become a focal point of the Nation's cultural life. Part of the mandate of the Center is to provide programs to encourage attendance by a cross section of our society, including the elderly, the disadvantaged, and our youth. No Federal funds are allocated to the Kennedy Center for programing. This means the Center is dependent on gifts from individuals, corporations, and foundations, if the Center is to provide programing without charge.

I heartily commend McDonald's Restaurants for its leadership in this effort, and for sharing the spirit of Christmas again this year. Hopefully, other private institutions will seek opportunities to join the Center in bringing such programing to the public.

This is another indication of the far-sighted philanthropic programs initiated by McDonald's chief executive, Mr. Ray Kroc.

PRESIDENT NIXON AND TAX REFORM

Mr. BAYH. Mr. President, exactly 10 years ago the 16th amendment to the Constitution was ratified by the States. It empowered the Congress to levy taxes on "Income from whatever source derived." But over the years since the passage of that amendment, the Government has chosen to depart excessively from that standard and put into the law a special exemption for this kind of income or a special deduction for that kind, an exclusion, a waiver, a special low rate. Few, if any, Americans relish the tax burden they bear, and it is a burden which has increased dramatically in recent years, yet historically the United States has had what has been perhaps the most successful tax system among democratic nations. Americans have cooperated in this system over the years because most believed that the tax system was relatively equitable. In recent years, however, more and more of our citizens have become conscious of the ability of many high-income individuals to take advantage of the complex web of exceptions and preferences in the tax code to escape liability almost entirely.

Many of us in the Congress have recognized the people's unhappiness over this unfairness. Three years ago I led the fight on the Senate floor to eliminate a gimmick called the asset depreciation range system which reduced corporate taxes by billions of dollars and abandoned the long-standing principle that capital depreciation should be based on the actual value of the asset. We lost by two votes. Early this year I and a number of other Members of the Senate joined in introducing a broad tax-reform package called the Tax Reform Act of 1973 which has been resting since then in the Senate Finance Committee. Twice this year I, along with Senators Muskie, Kennedy, and Nelson, have attempted to put some teeth in the so-called "minimum tax" which had been enacted as part of the Tax Reform Act of 1969 in an effort to guarantee that persons with substantial amounts of untaxed income would pay at least a modest tax. Twice we came within a few votes, but failed.

In short, although many Members of Congress recognize the great need for tax equity, serious reform has never gotten off the ground. Why? Because of the entrenched political power of many of those enjoying the loopholes and because of the adamant opposition of the Nixon administration to serious tax reform. And now we know what the President himself thinks of all those loopholes which enable many of the wealthiest of our citizens to pay little in taxes—he thinks they are just great.

The extraordinary way in which the President handled his personal finances raise two essential questions—first, did the President comply with the specific provisions of the law applicable at that time, and second, assuming he did, does he not nevertheless serve as the best possible example of why some major changes in the law are essential?

As to the first of these questions—did the President comply with the law? As I understand it, the problems are these:

The President took a deduction of $576,000 from his taxable income for the value of his "Vice-Presidential papers" which he claims to have given to the Archives of the United States prior to July 25, 1969, which was the date that Congress changed the law to prevent such deductions, despite strenuous efforts by White House lobbyists to prevent the change. Yet the record shows no evidence of acceptance by the Archives prior to the July 25 cutoff date, nor was a deed for the documents delivered by the President to the Archives prior to that date.

After purchasing 30 acres of property at his San Clemente estate, the President sold part of the land back to his friends Mr. Rebozo and Mr. Abplanalp, who had loaned Mr. Nixon the bulk of the funds necessary for the original purchase, yet he reported no capital gain on this resale.

In May 1969, the President sold his Fifth Avenue apartment in New York for $312,500 and reinvested this money in San Clemente without paying any capital gains tax on his profit on the apartment under a provision of the tax law which permits this if the proceeds of the sale of one's "principal residence" are reinvested in a new "principal residence." This provision was designed for the average homeowner who, after selling his house, must use the money he receives to buy a new home. The problem with this transaction for Mr. Nixon is that it is somewhat difficult to see how he could declare San Clemente as his "principal residence" while living at 1600 Pennsylvania Avenue, and secondly, if you accept this characterization, why did he then fail to pay California State income taxes by declaring that he was a nonresident of California?

In 1958, while he was Vice President, Mr. Nixon permitted the head of one of the Nation's largest drug companies to establish a $25,000 trust fund for his daughter, Tricia, at a time when this company was urgently seeking to influence Government decisions concerning the pharmaceutical industry. Then in 1967 Mr. Nixon borrowed $20,000 from Tricia to purchase two lots in Florida for $38,000. The price he paid was, according to published reports, substantially less than others were paying in the same development. In 1972 he sold these lots for $150,000, realizing a profit of $100,000 for himself and his daughter. The question is who paid the capital gains tax?

These issues involve complicated questions of law and fact, and the Joint Committee on Internal Revenue Taxation is trying now to sort them out. It is not up to me, certainly, to pass judgment on these legal issues. I will only say that, as a lawyer, there would appear to me to be very substantial questions involved.

Assuming that the President was acting within the applicable law, and I am not arguing that he should not, as a legal matter, have taken advantage of what the law allowed, what picture then emerges about how our tax laws operated in this particular case? In the 4 year period from 1969 through 1972, the President became a millionaire, tripling his original net worth of about $300,000, and despite an annual salary of $200,000 and a $50,000 tax free expense account, he paid taxes no heavier than a man earning an average of $15,000, and in a couple of these years, no higher than those of a man in the $5,000 bracket.

The theory of our income tax system is that it is progressive—that those who earn more should pay more, not just in absolute amounts, but in an increased percentage since a smaller portion of the rich man's income is needed for necessities. Yet it certainly did not work this way in Mr. Nixon's case, nor does it with many other taxpayers in his bracket. In fact, census figures show that the real tax for a family earning $50,000 a year is about the same as that of a family earning $5,000 a year—because the $50,000 a year family has so many opportunities to deduct, exempt, or otherwise shelter their income which the $5,000 a year family does not.

So Mr. President, we will try once again when H.R. 8214, the tax bill presently on the Senate calendar, is called up for debate to restore a small measure of tax equity to the law, to see to it that those wealthy individuals who are able, through one loophole or another, to escape tax liability, pay at least a modest share. The minimum tax when enacted in 1969 was certainly modest indeed. It said that no matter how many deductions and exemptions an individual or corporation was able to acquire, they must pay a tax of at least 10 percent on their income. Yet, because of the loopholes within the minimum tax system itself, the effective rate of this tax amounts to only about 4.5 percent and many are still able to escape the minimum tax entirely.

The two largest loopholes here, and the ones we propose to close, involve the present exemption of the first $30,000 in loophole income for the minimum tax, which appears to be the principle device used by the President to avoid payment of the minimum tax, and second, elimination of the present deduction from income subject to the minimum tax of all other Federal taxes that the taxpayer may have paid. Our amendment would raise approximately $860 million in new revenues which would come almost entirely from corporations and individuals with incomes in excess of $100,000 per year.

The fight for a fair tax system will not be easy. The special interests are well represented in Washington and that power has cost the American workingman billions of dollars that should have been paid by others. Only when the American people understand the importance of this issue, only when they refuse to support congressional and Presidential candidates who do not stand clearly and unequivocably for tax fairness will we be able to achieve this goal.

NO-FAULT INSURANCE

Mr. FANNIN. Mr. President, the Senate Judiciary Committee has been holding hearings on S. 354, "the national no-fault motor vehicle insurance act." This bill would require each State to amend its present automobile reparation insurance system so that basic economic losses will be paid to all persons injured in automobile accidents, without regard to fault. It would further substantially restrict the present right of an accident victim to sue in court. Failing to enact such legislation, a State's automobile reparation system would then become subject to an even more restrictive national reparation system. Under either of these systems, the administration of the program is intended to remain at the State level.

This bill should be opposed for a number of reasons. I am particularly concerned about it because a number of States, including my own, have constitutional barriers which will prevent them from enacting the Federal standards required. For example, article 18, section 6 of the Arizona constitution provides as follows:

> The right of action to recover damages for injury shall never be abrogated, and the amount recovered shall not be subject to any statutory limitation.

Other States have similar restrictions in their constitutions. In these circumstances, Arizona and a number of other States will have no alternative but to accept a complete Federal system which goes so far as to totally eliminate the right to recover for any noneconomic losses.

The problem is how will the Federal law be administered or enforced. This problem and the probable consequences flowing from the passage of this bill were particularly well developed during the the hearings by Dr. Mitchell Wendell, friend of mine of long standing and whose opinions and judgment I held in high respect when I was Governor of Arizona, who testified as an expert on constitutional law and intergovernmental relations. Dr. Wendell pointed out that in many cases the passage of this bill would destroy the protection which accident victims now have under their existing laws without actually replacing them with a workable system. Thus, this bill would substitute chaos for order in the name of reform.

Mr. President, I ask unanimous consent that there be printed in the RECORD, an article appearing in the National Underwriter for December 7, 1943, covering Dr. Wendell's testimony. I commend this article and Dr. Wendell's testimony to the attention of my colleagues.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

EXPERT WARNS FEDERAL NO-FAULT BILL IS DESTRUCTIVE RATHER THAN PRODUCTIVE

WASHINGTON, D.C.—Passage of a proposed Federal no-fault auto insurance bill would destroy the protection which accident victims now have under existing state laws—no-fault or other—without actually replacing them with a workable system according to Dr. Mitchell Wendell's testimony this week before the Senate's Judiciary Committee. Dr. Wendell heads Wendell Associates, consultants on governmental affairs, and appeared before the committee on behalf of American Mutual Insurance Alliance.

Appearing as an expert witness on constitutional law and inter-governmental relations, Mr. Weldell said this probable, horrendous result stems from the fact that the architects of S. 354 mistook "the negative act of destroying state law for the affirmative one of authorizing something effectively to be put in the place of the abrogated remedies."

It is this misconception, Mr. Wendell noted, which produces the fatal constitutional infirmity in S. 354 and the entire plan for legislation which it embodies.

Mr. Wendell said this conclusion is bottomed on the fundamental principle that "neither the basic premises of our Federal system nor any provision of the U.S. Constitution give Congress the ability to act as a source of legislative or administrative power for state governments; and the supremacy clause has a restriction on state power, not an expansion of it."

As this no-fault bill provides for no Federal administration or enforcement (other than approval of state plans), Mr. Wendell said, its viability is entirely dependent on the ability and willingness of all states to accept no-fault, enact no-fault plans precisely like what the authors of S. 354 have in mind, and administer the system.

All of this is neither realistic nor even possible, Mr. Wendell said, since five states—Arizona, Arkansas, Kentucky, Pennsylvania, Wyoming—have constitutional provisions which forbid limitation of the tort remedy and therefore it would be impossible for them to enact or administer the Federal bill. Also, 19 additional states have permission from their constitutions which do not go as far but which nevertheless either deny or seriously restrict the possibility of enacting and administering this no-fault proposal.

Besides these constitutional problems, Mr. Wendell warned, the proposed Federal no-fault mandates changes in state administrative structures and relationships such as moving duties of state rehabilitation programs to the insurance departments.

It is necessary to observe, Mr. Wendell said, "that the difficulty with the Federally prescribed and ostensibly state implemented system projected by S. 354 is that a no-fault insurance program constructed at the Federal level is not a proper vehicle for rearranging the administrative fabric of state government."

"State legislatures are the much more appropriate organs of government for such purposes. They are in a position to consider the entire range and balance of functions that state agencies should perform and to allocate responsibilities among them in ways that will accommodate rather than prejudice all state programs needed to serve public requirements.

"This suggests that state laws and administration are either necessary or desirable elements of a no-fault system thus it is much better that the states institute no-fault by themselves and in their own ways.

"The procedence and the constitutional character of Federal-state relations as we know them," Mr. Wendell said, "are in conflict with the premises on which S. 354 depends. At the very least, this is true for the states whose constitutions prohibit or restrict no-fault plans. It may be true to some degree for all states."

"To suppose that S. 354 and the several parts of the system it envisages would remain out of the courts is unrealistic in the extreme. Limitation of recovery for pain and suffering alone, to say nothing of other substantive and procedural aspects of no-fault, will not cease to engender contest merely because a Federal law is enacted."

Mr. Wendell warned that the Congress, and particularly the Judiciary Committee, should be very uneasy with legislation that is sure to let loose a flood of litigation that will produce uncertainty for years in a field so vital to the physical and economic protection of all members of the population.

"This is not to argue that no-fault is an erroneous principle," Mr. Wendell concluded, "or that the enactment of no-fault statutes is intrinsically bad. It is to argue, however, that S. 354 seriously needs rethinking, both in detail and in its basic structure.

"A constitutional affirmity in a Federal no-fault law would be catastrophic, especially if it pre-empts the state laws—no-fault or traditional tort remedy—on which our reparations system now depends. On the other hand, an infirmity in the no-fault law of a single state (however serious) can more readily be borne because the territory and the number of people affected is so much less.

"This is an excellent example of a field in which the worth of the state components of the Federal system as laboratories is particularly great. At the present stage of development and implementation of the no-fault concept, it seems especially unwise to add Federal constitutional uncertainties to the freight which this reform must carry."

The 19 states listed previously where Federal no-fault would be in question are Alabama, Colorado, Connecticut, Delaware, Idaho, Indiana, Kansas, Louisiana, Maine, Maryland, Mississippi, New Hampshire, New York, North Dakota, Ohio, Oregon, Rhode Island, Vermont and Wisconsin.

IMPROVEMENT OF OUR PENAL SYSTEM

Mr. MOSS. Mr. President, much is being written and said these days regarding revision and improvement of our penal system. I think we all recognize that much must be done to change our prisons in order to rehabilitate the inmates and prepare them to resume normal life outside of confinement.

In this regard, I would like to direct attention to my colleagues to an article which appeared in the Washington Post on December 16, written by Lidia Wasowiez regarding a practice that is now being utilized at the Utah State Prison and which seems to have much to recommend it. I ask unanimous consent that the news article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Thirty-Seven Morman Couples Are Inmates at Utah State

(By Lidia Wasowicz)

Point of the Mountain, Utah.—Once a month, 37 Mormon couples pack their hymn books, church literature and kids into their cars and head for Utah State Prison.

After the half-hour drive, family members file one-by-one into a long, narrow room with pale white walls where 37 convicts await them.

Each prisoner gets together with his "adopted family" and tells them about the past month's events, his personal problems and reflections, and his hopes for a successful future outside the gray, confining walls.

All conversations must wait, however, until after an opening hymn is sung and prayer offered. Then the silence turns into comfortable laughter, words of encouragement and advice.

The prisoners play with the children during the visits one Monday a month and keep in touch with their "family" through phone calls and letters.

The family home evening program at the state prison, sponsored by the Church of Jesus Christ of Latter-Day Saints, has proven uniquely successful as a rehabilitation program during six years of operation.

"I didn't want to get involved at first," said Don Harris, 28, who is serving five years to life for armed robbery. "I thought it was kids' stuff. Then one man said, 'Come on and give it a try.' So I finally did, and I wound up having the district attorney being the head of my family. But I'm sure glad I joined.

"I don't know what I would do without them," Harris added. "They've helped me see where I've gone wrong. They've also helped me to get trust back into people.

"And when I get out, I'll have someone who cares, and I think I'll make it."

Harris was adopted by the Bennett Peterson family of Bountiful, Utah. Peterson is Davis County Attorney.

"The first time we were going to the prison, I was rather apprehensive, especially about bringing my children," Mrs. Peterson said. "But as soon as we met Don we fell in love with him and wanted to help him. Now, he's one of us. When my four-year-old couldn't come out to prison one night, she cried."

Other prisoners and their "families" told similar stories.

Where normally 55 to 60 per cent of Utah State Prison inmates later return to jail, only 14 of 94 inmates who participated in the Mormon church program and were released from prison have since returned to their cells.

The program's success has attracted the interest of 18 other prisons in 11 states, which have started or are planning to begin similar projects.

ROBERT INGERSOLL

Mr. PERCY. Mr. President, the appointment of Ambassador Robert Ingersoll to be Assistant Secretary of State for East Asian and Pacific Affairs will allow Mr. Ingersoll to contribute more broadly to the development and management of U.S. foreign policy. His work as Ambassador to Japan was extraordinarily successful due in large part to his great sensitivity to people, his concern for the natural interests of all parties to a problem, his persuasive manner, and his gentle but determined leadership.

When he was nominated to the Ambassador to Japan, I expressed at his confirmation hearing in the Committee on Foreign Relations my own confidence that he would do a superb job. I had known him for more than 20 years and I could attest to his fine personal qualities and his excellent qualifications stemming from years of business contacts in East Asia where he had earned the respect of Asian businessmen.

At this time I wish to bring to the attention of my colleagues an article by Elizabeth Pond from the November 23, 1973, issue of the Christian Science Monitor. In this article, Ms. Pond reports from Tokyo about the excellent record of Mr. Ingersoll as an ambassador and the challenge that his new position will pose for him.

In this article, Ms. Pond mentions the tireless work of Ambassador Ingersoll in urging American businessmen to enter the Japanese market. I too have for a long time been doing missionary work of this kind with American executives in an effort to increase exports of American products to Japan. During and after a trip to Tokyo a year ago, I initiated correspondence with presidents of 250 American companies toward this end. Among them was Sears Roebuck, which now are again in a leadership role, is establishing its presence in Japan.

I ask unanimous consent that Ms. Pond's article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

New U.S. Post to Challenge Ingersoll

(By Elizabeth Pond)

Tokyo.—Future Assistant Secretary of State Robert Ingersoll goes to Washington with both the affection and the concern of the Tokyo displomatic community.

The affection is for the qualities that made the ex-businessman such a success as Ambassador to Japan: common sense, optimism in seeking practical, undramatic solutions to problems, modesty, and attentiveness to his staff and to the Japanese.

The concern arises from his lack of tough political experience.

So far Mr. Ingersoll has proved to be one of the happier transplants from business to diplomacy. He came here a year and a half ago as a political appointee fresh from the executive offices of the Borg Warner Corporation.

In the time since then he has helped nurture a marked improvement in Japan-U.S. relations—and he has completely won over a skeptical Tokyo in the process.

Now, however, Ambassador Ingersoll is moving on, at the request of Secretary of State Henry A. Kissinger, to become Assistant Secretary of State for East Asian and Pacific Affairs. And some veteran diplomats believe it will be a challenge for him to develop fast enough the quick sixth sense needed at this meeting point of policy and untidy facts. They observe that in the new post of assistant secretary, Mr. Ingersoll's excellent use of experienced staff may not have time to come into play.

In a farewell interview, the Ambassador viewed his accomplishments here modestly, as the result more of forces in being and of others' efforts rather than of his own.

He acknowledged that the contentious trade gap between the two countries has narrowed substantially, from last year's $4 billion to an estimated $2 billion Japanese surplus this year. And he acknowledged that on the American side, U.S.-Japan relations have been defused from the emotional 1971 alarms about a Japanese import invasion.

CREDIT GIVEN

But Mr. Ingersoll gave the credit to Japanese Government officials and businessmen, American businessmen, and his embassy staff for the calming down of the U.S.-Japan confrontation of the 1971 "Nixon shock" days.

Certainly two yen revaluations, broad Japanese trade and investment liberalization, Japanese inflation, and this past year's rise in commodity prices have been prime factors in the trade turnaround. And all of these developments would have occurred independently of Ambassador Ingersoll.

But associates impute a much more active and positive role to Mr. Ingersoll himself, especially in tempering excessive White House harshness toward Japan and in getting American business to export here.

Over many months Ambassador Ingersoll—along with professional Japan hands in the State Department—has managed to persuade White House, National Security Council, and congressional hawks that Japanese-U.S. trade was in fact improving, and that it was not necessary for the U.S. to keep hitting Japan over the head. Mr. Ingersoll would never describe his role in this fashion, but others do.

In addition, the Ambassador has played a major role in substituting the carrot for the stick—cajoling American companies into exporting to Japan instead of merely scolding Japan for not importing more. Mr. Ingersoll has tirelessly urged his American business friends to explore the Japan market; and at least one company, Sears Roebuck, entered Japan in a big way after he had talked to the company's president and international vice-president.

In previewing his new job, Ambassador Ingersoll admitted he knows very little about the post, but added with a grin he is not sure if this is an asset or a liability.

He did hope that his business and economic experience would prove useful in an age when world trade is an increasingly important part of diplomacy. And he hoped that his recognition of Japan's importance in Asia also would prove useful.

EVALUATION SIDESTEPPED

He sidestepped any evaluation of his likely role as a Japan hand in balancing off China enthusiasts in the U.S. Government. He observed, though, that Japan is the strongest nation in Asia economically, and that it can be a positive force for stability and peace in the region.

To make up for his dearth of political background in Asian affairs, Mr. Ingersoll will be counting on the experience he gained from his year-and-a-half exposure in Tokyo. This experience plus an ordinary citizen's knowledge of political systems, he notes, are the tools he must now apply to his expanded State Department responsibilities in the broad area of East Asia and the Pacific.

STATEMENT ON A VOTE

Mr. HASKELL. Mr. President, I want to briefly explain why I voted against the confirmation of Senator William Saxbe for Attorney General. I have only respect for the distinguished Senator from Ohio and I have every reason to believe he would serve with distinction as Attorney General.

However, I simply do not believe we can overcome the constitutional prohibitions against a Member of Congress serving in an office for which the "emoluments" were raised during the Member's time in Congress.

I voted against S. 2673, a bill to reduce the Attorney General's salary from $60,000 to the $35,000 level at which it stood in 1969. A return to the 1969 salary level does not alter the fact that Mr. Saxbe was a Member of the Congress which, in 1969, voted to increase the salary.

The language of the Constitution is very clear:

> No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments thereof shall have been increased during such time.

Thus, Mr. Saxbe became ineligible in 1969 for nomination to the office of Attorney General "during the time for which he was elected."

The constitutional barriers to Mr. Saxbe's nomination remain, Mr. President. It is for this reason that I have cast my vote against the nomination.

LEVI YOUNG

Mr. FANNIN. Mr. President, on January 1, 1974, Mr. Levi Young, 4040 E. Cheery Lynn Road, Phoenix, Ariz., will retire upon completion of 31 years on the professional staff of the Boy Scouts of America.

Mr. Young was honored at a testimonial banquet on December 10, but the words of praise for his lifetime of dedicated work on behalf of American youth cannot compare to the real testimony—his guiding influence on more than 40,000 youngsters who attended summer camps under his direction.

Mr. President, the Arizona Republic published a story outlining some of Mr. Young's accomplishments and his comments on working with boys. I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Boy Scout Leader Retiring After 31 Years of Camping

Levi Young, a man who has been temporary "father" to more than 40,000 Arizona youths at Boy Scout camps, will retire Jan. 1.

In appreciation of his 31 years as a professional scout worker, Young will be honored at a dinner at Isaac Junior High, 35th Avenue and McDowell, tonight. Gov. Williams is scheduled to join in the tribute.

Young said he finds Scouts today pretty much the same as in 1930, when he became the lone director at Camp Geronimo near Payson. This year, he directed activities at Geronimo and four other Theodore Roosevelt Council camps for central Arizona youths.

"The main difference is they've got longer hair now," he said.

Young, who was always available for counseling when he ran Geronimo for almost 4,000 youths each summer, concedes that young people's interest in camping may be less than what it once was.

"We have so much competition," the 63-year-old Phoenix resident said. "Little League, TV, and frankly, some kids just like to take it easy. Camping is too rugged for them."

But Young said the Boy Scout organization is moving to keep up with changes in the world and he believes scouting will be "as strong as ever."

Young, a native Arizonan whose father ranched near Prescott and Jerome, started his scouting as a member of Phoenix Troop 3 in 1922.

He says summer camp has come a long way since 1923, when he and 20 others pitched Army tents on an old mining camp on the Hassayampa River.

"There are so many more things for the boys to do at camp now," Young said. "But the most popular programs remain; hiking, exploring out in the woods, and campfires."

In 1938, Young won the Silver Beaver, highest adult award in the Boy Scouts, after serving as scoutmaster of Troops 15 in Phoenix and 60 in Peoria.

Five years later, he became a paid scout executive in the Roosevelt Council. He moved to California in 1945 to become executive of the Eureka Council, and returned to the Roosevelt Council in 1961.

The development of Geronimo, Heard Scout Pueblo, R-Bar-C Ranch, Camp Wipala Wiki and the new Whiting Scout Reservation all bear his mark.

He also has been involved in many civil groups, including the American Camping Association, of which he has served as district chairman.

His first retirement enjoyment, he said, will be to take a camper trip to the Baja Peninsula with his wife Opal in February and March. He also would like to visit Alaska if gasoline rationing doesn't prevent that.

DR. ARTURO MORALES-CARRION

Mr. MANSFIELD. Mr. President, it has come to my attention that Dr. Arturo Morales-Carrion is the new president of the University of Puerto Rico. The appointment of this distinguished historian, educator, and diplomat is most welcome news to me, both on a personal basis and in terms of its significance to Puerto Rico and to the Western Hemisphere. In this selection, an outstanding citizen of the inter-American world has been chosen to head a great intellectual center of that world.

I have known the new president of the University of Puerto Rico for a long time. During the early years of the administration of Gov. Louis Munoz-Marin, Dr. Morales made many original contributions to the constitutional adjustments and cultural redefinitions on which the resurgence of Puerto Rico has been based. His was a major role in the development of the island into a hemispheric center of political, social, and economic enlightenment.

Subsequently, Dr. Morales was co-opted by President John F. Kennedy to serve in the Department of State of the United States in an effort to improve our relations with Latin America by infusing them with greater understanding of the forces at work in that region. In particular, Dr. Morales did much to assist this Nation to avoid a military involvement in the affairs of the Dominican Republic immediately after the death of Trujillo. Later, when, after he had left the Department, we did become involved, Dr. Morales worked in the Organization of American States to establish the conditions which permitted us to withdraw from the involvement.

Dr. Arturo Morales-Carrion brings to his new assignment an outstanding intellect and a profound and sensitive perception of Puerto Rico's people and traditions. These attributes are coupled with a wide experience in education and public affairs. He is, indeed, well equipped to guide the University of Puerto Rico and its student body of 55,000 with wisdom and understanding. His role will be critical with regard to the youth of Puerto Rico and the future of the island. He will also be in a position to exercise a constructive influence on the evolution of the cultural relationships of the United States, Puerto Rico, and the Western Hemisphere.

So I should like to take this opportunity to note for the record what I regard as a most fortuitous development in Puerto Rican and hemispheric affairs. I commend Dr. Arturo Morales-Carrion on his selection as president of the University of Puerto Rico and wish him every success in this new and, perhaps, most challenging undertaking of his public life.

I ask unanimous consent to include in the RECORD an article from the San Juan Star of December 5, 1973, on the appointment of Dr. Morales.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MORALES-CARRION HAS BROAD EXPERIENCE IN LATIN AMERICAN AFFAIRS—NEW UPR PRESIDENT IS EDUCATOR-DIPLOMAT

(By Tomas Stella)

Observers of the University of Puerto Rico have often remarked that the president of the institution must combine the skills of a diplomat and the talents of an educator to bring together into meaningful purpose the divergent trends throughout the UPR system.

If this is true, then the appointment of Arturo Morales Carrion to the top UPR post is as nearly perfect an appointment as the Council on Higher Education could have made.

Morales Carrion, 60, brings to the UPR presidency the experience of more than a quarter of a century devoted to public service—most of it in education, but a large part in the sensitive field of inter-American relations.

Born in Havana, Cuba, of Puerto Rican parents, Morales Carrion came to Puerto Rico as a baby and spent his childhood in Rio Piedras, where he attended public elementary school and the UPR High School.

He received his bachelor of arts degrees from UPR with honors in 1935 and went on to complete a master's degree, also with honors, from the University of Texas the following year.

Upon receiving his master's Morales Carrion returned to UPR where he spent three years as an instructor of social science.

In 1939 he was invited to become a visiting professor at the University of Miami, where he taught a new course on the history of the Caribbean.

While teaching in Miami, Morales Carrion was recruited for his first job with the U.S. Department of State, coordinating and exchange program which brought Latin American educators, writers and intellectuals to mainland universities.

After three years in Washington, Morales Carrion was persuaded by then UPR Chancellor Jaime Benitez to return to Puerto Rico and head the UPR exchange program for the duration of World War II.

During three years Morales Carrion also helped prepare a new freshmen curriculum, specializing in the freshman humanities course.

After the war Morales Carrion enrolled in Columbia University where he received a doctorate in history in 1950. Morales Carrion also served as a professor of history at Columbia and taught the first course in the civilization of Latin America ever offered by that institution.

He returned once again to UPR in 1951 to found the Center for Puerto Rican Studies, which he headed until Gov. Luis Munoz Marin called him into government service in 1953.

From 1953 to 1961 Morales Carrion served as Commonwealth undersecretary of state, effectively heading the department while Secretary Roberto Sanchez Vilella served as Munoz' main adviser and general troubleshooter.

Morales Carrion is especially proud of his record as undersecretary and his contribution to help expand what was initially an exchange program for Latin Americans into a worldwide exchange project. During his eight years with the Commonwealth State Department, he says, Puerto Rico received more than 20,000 official visitors from 110 countries.

In 1961, President John F. Kennedy appointed Morales Carrion deputy assistant U.S. Secretary of State in charge of Latin American affairs, a post which he held until 1964.

Morales Carrion's job dealt mainly with implementing the resolutions of the 1961 Punta del Este Conference about aid to Latin America, especially in the field of education.

Following Kennedy's assassination, Morales Carrion left the U.S. State Department in 1964 to become a special adviser to the secretary general of the Organization of American States.

As an OAS official, he continued working in the area of aid-to-education programs and coordinated many OAS programs with those of the United Nations Educational Social and Cultural Organization (Unesco).

Returning to Puerto Rico in 1969, Morales Carrion became director of the UPR Latin American seminar and the institution's Office of Puerto Rican Historical Research, positions which he held until his appointment as university president early Tuesday morning.

A lifelong member of the Popular Democratic Party, Morales Carrion challenged former UPR President Jaime Benitez for the PDP nomination for resident commissioner last year. Benitez easily defeated Morales Carrion and went on to get elected, ending what the new UPR president refers to as "a very brief and not very successful career in politics."

Morales Carrion is married to the former Ines Arandez of Rio Piedras. The couple has three children—Egardo, a psychologist; Arturo Esteban, a medical student, and Ines, 12, "who is now learning all about the Puerto Rican Indians."

WHEAT SALES TO RUSSIA

Mr. DOLE. Mr. President, in view of the large number of public discussions about the Russian purchase of U.S. wheat in 1972, it would seem that the facts should be well known. However, the large number of inquiries I have received indicate that many people still have questions about the sale.

Rod Turnbull, a former farm editor of the prestigious Kansas City Star who currently serves as public affairs director for the Kansas City Board of Trade, has compiled some of the most often heard criticisms and questions and documented facts concerning them.

The Atchison, Kans., Globe of Sunday, December 2, carried Mr. Turnbull's research in an article entitled "Echoes of Soviet Sale." The article effectively disposes of such myths as:

First. The United States gave wheat to Russia.

Second. Some special Government program was created to give Russian purchasers special favors in the wheat sales.

Third. The United States loaned Russia the money to buy wheat and then subsidized the interest payments.

These are myths—but they keep popping up as truth and fact. Mr. Turnbull's reputation for fair and accurate reporting is well known and respected throughout the Nation. His byline on the article gives it an unquestionable ring of well-researched authenticity. If Rod says it, we can believe it.

Mr. President, I ask unanimous consent that the full text of Rod Turnbull's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GRAIN NEWS COMMENTARY—ECHOES OF SOVIET SALE

(By Roderick Turnbull, Director of Public Affairs, Kansas City Board of Trade)

KANSAS CITY.—The sale of a large amount of wheat and other grains to the Soviet Union in the summer of 1972 still remains a subject of controversy.

Grainmen at the Kansas City Board of Trade often are asked questions which indicate the public does not fully understand how the transactions were handled. Presumably, grainmen at other exchanges get similar questions, and sometimes they don't have all the answers.

Summed up, the questions usually are indicated in a statement such as this, "I would not object to the deal with Russia if we hadn't given them the wheat," or, "I wouldn't object to the sale if we hadn't lent Russia the money to buy and then subsidized them on the interest."

Other comments suggest many persons assume that a special government program was created to handle the Soviet deal—that such a thing never had been done before.

Answers to all this confusion are available in records at the U.S. Department of Agriculture in Washington.

No. 1, the U.S. Government did not give any wheat to the Soviet Union. All the sales were made by private firms and it should be obvious that no private grain company would be giving the Soviet Union millions of dollars worth of grain.

No. 2, on the funds for financing the grain purchases, the Soviet Union originally paid

6⅛ percent interest, but the rate subsequently was increased by degrees to 9½ percent, in line with money market increases. In all cases, the rates exceeded the costs to the Commodity Credit Corporation on U.S. Treasury borrowings.

No. 3, exporters selling to the Soviet Union got the same export subsidy on wheat that exporters got in selling to any other country around the world.

The historical background for the big sales to the Soviet Union begins back in 1956, when the Commodity Credit Corporation (CCC) under its charter was given authority to finance certain commercial sales of agricultural commodities on short term credit, not as part of a foreign aid program, but "strictly as a means of facilitating commercial sales for dollars." Under this new program, the CCC could extend regular commercial credit up to three years for foreign buyers to buy through U.S. private exporters, repayable at regular commercial interest rates. This would enable U.S. exporters to compete in world markets.

At the beginning, the program was designed to promote exports by private companies of stocks owned by the CCC (government surpluses). In 1966, in the Food for Peace Act, changes were made to permit CCC credit on sales from private stocks, beginning in 1967. Prior to 1967, the program had the dual purpose of reducing CCC inventories and helping to maintain and expand agricultural exports. After 1967, the principal objective was to expand commercial agricultural exports. Always, data in USDA files explains, the purpose has been to enable export sales to be made "on the best terms possible in the light of competitive conditions in the world markets," and not "for the purpose of aiding or assisting a foreign nation and its economy."

In almost 14 years that the CCC Credit Sales Programs has been operational, a total of 3.4 billion dollars have been disbursed for exports destined to 85 countries around the world. Of this total, over 2 billion dollars were disbursed in the last four years. Since 1956, there have been only two instances of default, and in both cases the CCC expects to recover outstanding amounts due.

To start the wheels rolling in these transactions, a foreign country or private importer wishing to buy grain under the credit program first must be able to have either a U.S. bank or a CCC approved foreign bank issue a commercial irrevocable letter of credit in favor of the CCC covering the port value plus interest of the commodities to be imported. An application for CCC financing for an export sale is submitted to the CCC by a U.S. exporter. After shipment of the commodities under the financial approval, the CCC will purchase from the exporter the account receivable arising from the export sale. The treasurer of the CCC then will draw against the letter of credit (at the bank) for payment as installments come due on the amount financed and the accrued interest.

The CCC credit program is not available for all commodities, only those that need help in meeting competition or expanding commercial exports to world markets. Currently, these include wheat, wheat flour, tobacco, cotton, barley, corn, grain sorghum, oats, rye under existing country CCC credit lines which the Department of Agriculture has established, but not soybeans, beef and dairy breeding cattle and many others.

After trade development trips to Moscow in the spring of 1972 by President Nixon and Earl Butz, Secretary of Agriculture, the President announced on July 8 of that year an agreement between the United States and the Soviet Union. The first thing this agreement accomplished was that it permitted the Soviet Union to use the CCC credit program which, since 1956, had been available to most other nations.

The Soviet Union agreed to buy not less than 750 million dollars worth of U.S. grain (wheat, corn, barley, grain sorghum, rye and oats) during the period ending July 31, 1975. The United States, in turn, agreed to make 3-year credit available for that amount, with the proviso that not more than 500 million dollars would be outstanding at any one time. China, incidentally, never has requested CCC credit.

George S. Shanklin, Assistant Sales Manager, Commodity Exports, Export Marketing Service, USDA, reports that in the fiscal year 1973 (July 1, 1972 to June 30, 1973), the Soviet Union purchased 1.1 billion dollars worth of U.S. grains. During this period, exports amounted to about 803 million dollars, of which 460 million dollars was financed under CCC credit. All payments to CCC have been made on schedule as specified in commercial letters of credit confirmed by U.S. banks.

In addition to the grain exports, about 134 million dollars worth of soybeans were exported to the Soviets, all of which were for cash.

The U.S. is continuing to sell grains to the Soviet Union in this fiscal year, but not in amounts equal to those in the 1972 deals. The current interest role on Soviet purchases is 9½ percent, subject of course, to fluctuating rates on money markets.

Other countries which have used CCC credit either last year or this to buy U.S. commodities include the Dominican Republic, Egypt, Greece, Hong Kong, Iceland, Iran, Jordan, Korea, Morocco, Nicaragua, Norway, Pakistan, Peru, the Philippines, Poland, Romania, South Africa (rice), Sri Lanka (wheat flour), Sweden (rice), Sudan, Thailand, Tunisia and Yugoslavia.

INTERVIEW WITH FORMER IRS COMMISSIONER ON NIXON TAXES

Mr. WEICKER. Mr. President, I would like to bring to the attention of my colleagues a most interesting interview with the former Commissioner of the Internal Revenue Service, Mortimer Caplin, on the issues raised by the President's recent income tax returns. This interview, conducted by Washington Post writers, Haynes Johnson and Ronald Kessler, was published in the Washington Post Outlook section, Sunday, December 16, 1973, on pages B1 and B5.

Mr. President, I ask unanimous consent that the transcript of the interview as published in the Washington Post be printed in the Record.

There being no objection, the transcript was ordered to be printed in the Record, as follows:

Nixon's Taxes

AN INTERVIEW WITH MORTIMER CAPLIN

Mortimer Caplain was Internal Revenue Service Commissioner under Presidents Kennedy and Johnson and is currently a Washington lawyer. He was interviewed by Washington Post writers Haynes Johnson and Ronald Kessler. The following is an edited transcript of the interview.

Q. If you were still IRS commissioner and the Nixon tax return had been thrown out by the computer, what would you do with it?

A. For one thing, I'd obviously be concerned. Anybody of prominence—particularly the President—who has received publicity about his tax return would represent a special challenge to the whole tax administration of the United States. I'd be impelled to refer this to competent revenue agents to make sure that a full and proper examination were made.

Now, this is difficult to say about a President's tax return. I can't think of any immediate precedent. I do recall that in the Bobby Baker case we did order an immediate meeting of the staff to make sure that all tax questions were fully explored and audited, and that we did everything required under the law to make sure that there be no criticism of the IRS. That's the only comparison I can make, although they're obviously different types of cases.

Q. Let's assume that this return had been filed by the ordinary taxpayer rather than the President. What item would most stand out as being open to question in your mind?

A. I think the so-called charitable contribution of Nixon papers in 1969 would be a red flag immediately. The item is so large. Under the regulations, the return would have to point out that it was not in cash but in property, to show how it was valued and circumstances surrounding the gift. Inevitably, that would be sufficient, in my view, to spark an audit. I would think that would be examined very carefully in the case of the normal taxpayer.

Q. What would the audit consist of?

A. At the very least, a complete examination of all details pertaining to that gift.

Q. Would that include interviews with all the participants?

A. Well, it's hard to detail what an experienced revenue agent would do. He'd probably examine the whole return; usually if you have a significant item on a return, one of this size, it would call for a total examination. But so far as the gift itself is concerned, I think you would check through all the elements of the gift, particularly the timing in this case, because we all know that under the congressional change in the law, July 25, 1969, became a crucial date. A revenue agent would first have to decide from all the facts, exactly when the gift was made, if it was made. Was it a valid gift? Was it accepted? What was the value of it? Each of those questions involves extensive investigation.

Q. What's your judgment now, from what you've read about this gift of presidential papers? Is it valid? Is it legal?

A. I think it will take a full audit to give you a definitive answer on that. My own view, based on the documents I've seen, would lead me to believe that an effective, unconditional gift was not made, for tax purposes by July 25, 1969.

First, you must have an unequivocal intent on the part of the President to make a gift, and perhaps that might be present in this case. A second element is the idea of an unconditional delivery by the end of July 25, 1969, one which would transfer title to the U.S. government, one which would make the papers no longer subject to the dominion or control of the President, and one which was not revocable. My feeling is that this transfer did not meet these standards of being unequivocal, unconditional and irrevocable.

Finally, of extreme importance is the fact that there is no evidence of acceptance by July 25 through the Archives or any other agency. That's important here because the Archives performs two major functions: One is as a custodian and another as a recipient of particular donations. In this case, where there were a variety of conditions surrounding the transfer, and these conditions had to be accepted by someone; the rules of the Archives call for written acceptance. That was the procedure Mr. Nixon followed in 1968, when he donated papers for that year, so he knew all this.

By Dec. 30, 1968, there was a deed, there was a delivery, there was an acceptance in writing. But for 1969 we have a deed prepared by the lawyers and not signed by Mr. Nixon, kept in the lawyers office, and no delivery until after the July 25 cutoff date. And even then we have no evidence of any acceptance by the government. So it's very difficult to see that there was unconditional physical delivery or constructive delivery through the deed. In my own view, the deed is a nullity from a legal standpoint. There was no final exhibit attached before July 26. But even if you had itemized everything and had properly signed it as donor, but you hadn't delivered the deed as a constructive delivery of the papers, the deed wouldn't be effective at all.

Q. Do you see any indication that there might be reason to conduct a criminal investigation if this were an ordinary taxpayer?

A. Well, I don't know enough about this case—questions of motivation, intent, willfullness—but there's nothing to lead me to believe that there is any criminal act on the part of the President.

Q. What else on the Nixon tax return would strike you as questionable if you were still at IRS?

A. Another item, of course, is the sale of the San Clemente property and whether there was any gain when Mr. and Mrs. Nixon sold some 23 acres to the B & C Investment Company, which was a partnership comprised of Messrs. Rebozo and Abplanalp. This property was all purchased for approximately $1.5 million. It included 26 acres purchased first and 2.9 acres bought later. Then the Nixons carved out what they wanted to maintain, permanently, I presume—the so-called "filet" of the property, including the house—and sold off 23 acres for about $1,250,000.

Now, under the tax law you are required to prorate your investment and compute gain on the sale of each element. For example, if I bought two adjacent lots for a total of $900,000 and one was double the value of the other, I would have to allocate my cost as $600,000 for one and $300,000 for the other. If I then sold only the lesser lot for $450,000, it wouldn't be a wash—I'd have a gain of $150,000. That's the question here: How do you allocate the original cost of the Nixon property?

In the original tax return, the California accountant treated it as a wash; he used some rather unusual method of computing the original cost and said there was no gain. On the other hand, Coopers & Lybrand went over it and felt there was a gain of $117,370 on the sale of the B & C Investment Company. This certainly should be examined by revenue agents.

I also would look into another question, a legal question. In May, 1969, the President sold his apartment in New York at a gain of approximately $143,000. Under the tax law, if you reinvest the proceeds of the sale into a new principal residence, you don't have to pay a tax on your gain from selling your original home. This is in the law for the average person who, after selling his house, must use the money he receives to buy a new home. Congress thought it was unfair to tax him on that rollover.

Well, Mr. Nixon used this provision in regard to the sale of his apartment—and he did it by treating San Clemente as his new principal residence. There can be questions on what is a "principal residence," particularly where the new residence is located away from a person's place of employment. So there is a question whether it was correct to defer the gain at all. The question next that arises is whether Mr. Nixon should have reduced the original-cost calculation in the San Clemente property by $143,000—the gain from the apartment—and allocate that between the 23 acres he sold and the amount he retained in his house. It is not clear whether that $143,000 must reduce the original cost of just the retained house property or the whole thing. The matter is complicated further because the President claimed that 25 per cent of his house was used for business purposes and took tax deductions for these expenses. All of this would have to be examined by a revenue agent.

Q. How does this relate to the question of whether he should have paid California taxes?

A. I don't pretend to be especially knowledgeable about the California income tax law, but if President Nixon's designation of San Clemente as his principal residence was correct in federal tax form 2119, then San Clemente should consistently be treated as his principal residence.

Q. Would you say that either he would have to pay California taxes or he would have had to declare a capital gain on the New York apartment sale?

A. That's right. He just shouldn't have it both ways. It seems to me that, although one is state law and one is federal law, the philosophy and underlying principles involved would put it that very way: Either you pay a federal tax in 1969 on the $143,000 gain or you pay a California income tax on all of your income on the assumption that this was your principal residence.

Q. Is there anything else in the Nixon tax return that you would want to take a close look at?

A. I haven't dissected it completely, but there is the transaction involving the Florida lots where the President has some arrangement, an oral arrangement, with his daughter Tricia. I find that a rather interesting transaction.

There was a very simple promissory note given by the President to Tricia, who had just turned 21. It simply said that, on demand, I will pay to the order of Tricia $20,000, with interest at 6 per cent from July 1, 1967. There is nothing in the note about any joint venture, partnership or the like. Now, according to the newspaper releases, in May of 1967 there was an oral agreement with Tricia to guarantee her that $20,000 in all events, and to give her a 40 per cent interest in the profits of this land transaction. The money apparently had come to Tricia through the publicized Bobst trust when she turned 21.

Now, in 1972 this property was sold for $150,000, and there was a profit of some $111,000. The question is: Whose capital gain is it? Is it the President's? Is it part Tricia's? I don't see any ownership interest in Tricia. I don't see any capital investment by her. She made a loan and she was guaranteed that loan money back. She was entitled to interest, and there was an oral understanding that she might get some extra interest if the President realized any profit. It would appear that the full capital gain should have been taxed to the President and none taxed to Tricia. However, the President should have been entitled to an interest deduction, and Tricia should have had to pay ordinary income taxes on the interest received. All this would call for a detailed examination of facts, and I would think the IRS would want to go into it.

Q. The note that you mentioned is on a plain piece of paper without any witnesses, without any authorization. How would the IRS look on a document like that?

A. I don't have difficulty with that. The revenue service accepts documents of that sort, depending on the credibility of the person who wrote it. And this is the President of the United States.

Q. Apparently the audit that was conducted by the IRS took about a week. How does that square with your understanding of the facts in this case and of what IRS procedures normally would be?

A. I don't know whether time alone is the proper criterion in a case like this. It's a question of how many people were involved in the examination and what was done, and I really don't know what was done. I would assume that the gift item would be the primary area of focus, since it's so crucial. It's the underpinning of the entire tax plan that is evident in the President's returns.

It would seem that, at the very minimum, you would have to be interviewing each of the people involved in this transaction. You would have to talk to the people in the Archives or the GSA. You would have to know exactly what their understanding was. Did they accept the papers? How did they physically handle all this? In addition, there would have to be a similar examination of Mr. Neuman—who is the evaluator—of what he did, his appraisals, the authority of the people who were ostensibly speaking in the name of the President. I would think this would be a rather detailed study. Certainly in my own experience I've seen matters involving only $10,000 or $15,000 sometimes go on for weeks in an examination.

Q. Let's talk for a moment about the standards that are set. Here's the President of the United States, who earned $525,000 in two years and paid $1,600 in taxes. How does that affect ordinary citizens and the confidence in the tax structure—the ethics of it, not the legality?

A. That's a question that goes to the heart of our system and involves legal considerations and judicial considerations and views of government and life. It's been pointed out by an eminent jurist, Judge Learned Hand, that no one need pay more taxes than the law demands, and that there's nothing wrong in trying to minimize your federal income taxes. On the other hand, you have statements by great judges like Oliver Wendell Holmes, who once said, "I like to pay taxes. With them I buy civilization." It all depends on where you place your bets and what philosophy you follow.

I think a President is legally entitled, as is any other citizen, to take every deduction the law allows. The question is: How clear-cut is that deduction? Is it marginal? Are you giving yourself the benefit of the doubt? Here's where I think the stance of a prominent public figure becomes different from the average citizen. A President is a moral leader. He helps establish the values in our society. He's an example. I think a President obviously must give consideration to the impact his conduct will have on our society. One would think that the President would want to make sure that every "i" is dotted and every "t" is crossed.

If, on the gift transaction, a clear-cut, unequivocal deed was signed and accepted with physical delivery, all by the July 25 cutoff date, I suppose one would say that Congress drew the line at that point and he should be entitled to the deduction. On the other hand, where you have this questionable set of facts, one would think the President might want to pause over that—particularly when Congress is pinpointing this type of transaction as an abuse that won't be allowed after July 25.

I think the President is following the right road today by saying he is prepared to pay any taxes that some impartial body finds are due.

The other point implicit in your question is the idea of the President paying only $792 in taxes in 1970, which is less than someone with taxable income of $4,400; only $878 in 1971, which is less than someone with $5,400 of taxable income; and only $4,298 in 1972, which is less than someone with $19,800 of taxable income. To me this illustrates the questionable state of our tax law. It shows the limited effect of our so-called 10 per cent minimum tax. That provision, placed in the law in 1969, did apply to Mr. Nixon in 1970. But, he really had zero taxable income in 1970, and he paid a minimum tax of only $792. This is why Congress is again focusing on this problem.

Q. *I keep coming back to this fellow who earned $4,400, and he finds out the President paid less taxes than he did. I can well imagine the frustration and anger he's feeling: Hell, why shouldn't I do it?*

A. Well, it does affect everyone. The American tax system, you know, is one of the wonders of the world. No other nation has the level of compliance we have. And I'm talking about nations close to our traditions—England and Canada and many others. Sure, we have a very tough statute with criminal penalties and broad investigative powers in the hands of revenue agents. But there is a tradition of tax compliance in this country going back to the revolution. We were born with the cry of taxation on our lips, and we've been a very tax-conscious nation. We had a whiskey rebellion one time when we didn't like excise taxes on corn liquor.

We do have a high level of education, and we do have a religious streak in the country. But mainly the people, I believe, are essentially honest. I say this after traveling all over the country, studying statistics on millions of returns. I think Americans are an unusually honest people, despite the ills of the day. But they do cry for leadership, and they do want to make sure they're not being taken advantage of. They like the fact that their neighbor is paying his fair share too. And if the fellow down the street is somehow beating the game, it has a corrosive effect. This is why a public figure has to think very carefully about the impact of his conduct on this very important institution of our government.

Q. *We heard in Watergate testimony that the Nixon administration would use the IRS to bring people into line. Is that tied up with what we're talking about?*

A. I'm not convinced that there was harrassment of individuals by the IRS under the Nixon administration. I am convinced that pressures were exerted. I am convinced that there was an attempt to place political appointees in the revenue service. But I do think that, on balance, the IRS has done a very good job.

At the same time, I think its reputation has suffered from the publicized intentions of some people in the White House. This has made the public uneasy, and I think it's important that the IRS demonstrate that it is an impartial, even-handed organization.

Q. *Is there any way to insure that, in the future, a President's finances will be open to public inspection and possibly audited by some independent or quasi-independent commission.*

A. I don't think it's necessary to have an independent audit. I think it's a question of attitude in the revenue service. It has not been usual in the past to engage in a detailed audit of a President. The President files a tax return much like any other citizen, and when his name is on the return it obviously is going to be recognized as a sensitive tax return. Frequently there are special groups of agents assigned to this type of task, some to examine the return of congressmen, some the returns of Presidents and Vice Presidents, maybe some for other important officials. I think it must be part of IRS training that these people should be audited like anyone else.

With the President, for example, there is no reason why the revenue service, through the commissioner, shouldn't communicate with some White House representative to advise him that it would like to audit the President's affairs. There would be no problem having revenue agents visit here in Washington or in California or in Florida or anywhere. The President wouldn't have to appear; his representatives could appear, just as individuals can have representatives or lawyers or accountants. The revenue agent would have the ultimate authority to ask to interview the President himself in appropriate circumstances. If it were necessary to have a personal interview—which, I think, would be an extraordinary request—I would think that the revenue agent might well want to confer with the commissioner again and make special arrangements.

Q. You've said that some of the deductions on the President's returns shouldn't have been allowed. Yet the IRS has said it audited his returns and sent him a letter, I think last June, saying they were correct. Does that indicate that there should be some better method of auditing the returns?

A. I think the returns examined were for 1970 and 1971. I think what happened was that the gift question, which is the vital one, was viewed as a 1969 transaction and that the revenue agents just assumed there was a valid carry-over of a charitable deduction. If your 1969 charitable deductions exceed 30 per cent of your adjusted gross income, you carry over the excess deductions. I think that was one thing involved.

Second, I think that perhaps this examination was handled with kid gloves and should have called for a more detailed examination. It seems to me that the letter sent was routine, almost a form letter. But I don't really know how far they went.

Q. What do you think of the President's decision to have the Joint Tax Committee review his returns and of the committee's acceptance of that request?

A. I think this is a positive move and one that I would accept under these extraordinary circumstances. The three-year statute of limitations is closed on the return for 1969, which would have been filed by April 15, 1970. The return for 1970 will be closed April 15, 1974; the revenue service would have to move very rapidly for 1970. Now, presumably the President is prepared to pay back taxes and interest if the Joint Committee comes up with a deficiency in his taxes. So in a way you have an extraordinary remedy being provided, permitting them to go back to 1969.

But in the future this is not a very good practice. I think it places an extreme burden on the Committee, which does not usually involve itself in specific administrative acts. I think also it's unfair to the revenue service; it tends to raise questions about its competence and impartiality. I think the revenue service could have done this job—and perhaps it still will. There's nothing to preclude the commissioner from ordering in writing that the President's 1970 and 1971 returns be reopened for reexamination, and that his 1972 return be examined, too. Of necessity, the revenue service would have to review the 1969 gift to the Archives; but, in the absence of fraud, it would not be in a position to assess an additional tax for 1969. Under the President's agreement with the Joint Committee, however, it could assert a tax for that year—which provides some justification for the Joint Committee procedure.

A STAND FOR HUMAN RIGHTS: THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, I again rise in support of the United Nations Convention on the Prevention of the Crime of Genocide.

I hope that these daily reminders that the convention has yet to be ratified by the Senate of the United States after a quarter of a century in existence may serve one purpose: To allay any fears that this treaty might be inimical to our constitutional guarantees. It is my firm conviction that the Genocide Convention is not a threat to our constitutional liberties; indeed, I submit that it serves as an outstanding symbol of international agreement with the most fundamental principle upon which our Nation was founded, the right of every individual and group to life, liberty and the pursuit of happiness.

We may sometimes fail to appreciate just what a privilege this is. Some of us have lived with these protections so long that we forget that there are others who do not have this hope. Others, even within these United States and in our own generation, have tragically never known themselves what it is to experience the free spirit of hope which can arise from the gift of a life which does not face discrimination, social oppression, or the vicissitudes of poverty and poor health.

The Genocide Convention is an international agreement which addresses itself to the very substance of this hope: the right to live. Without life there is not even the potential for happiness or freedom. And yet in our century there have been countless instances of the extermination of human potential through the deliberate and calculated murder of entire groups of people—who are guilty of no crime save their ethnic, religious or national heritage. The death of 6 million Jews in Nazi Germany is only the most outstanding example.

Mr. President, the United States should not continue to see another Congress to its end without considering the Genocide Convention. We must go on record as a nation in firm and unequivocal opposition to the heinous crime of genocide. As this convention begins the 26th year of not being ratified by the U.S. Senate, the Senate has yet to consider this document in executive session. Mr. President, I urge that this body delay no longer on the Genocide Convention.

DISCRIMINATION IN LENDING

Mr. DOMENICI. Mr. President, I rise to commend the action yesterday by the Federal Home Loan Bank Board in issuing a policy statement for the savings and loan institutions it regulates to try to eliminate certain discriminatory practices in evaluating loan applications. The statement specifically addressed itself to considerations of sex, marital status, overtime or parttime income, and a requirement for fluent English as prerequisites for loan approvals. The statement noted that while these considerations were not specifically outlawed by the Civil Rights Act of 1968, they are likely to lead to discrimination against women as well as against racial and ethnic minorities, and therefore are contrary to the principle of, and may in fact violate constitutional provisions which guarantee equal protection of the law.

Mr. President, I commend the board for their action which must be regarded as a step in the right direction, but I should also like to remind this body that first, this policy statement concerns only discrimination in the approval of home mortgages whereas discrimination in the general extending of all kinds of credit is quite widespread; and second, that legislation dealing with the problem has been introduced in the Senate.

Two specific pieces of legislation come to mind: S. 1605, introduced by Senator Brock and cosponsored by me, deals specifically with the problem of discrimination in lending and is now pending before the Committee on Banking, Housing, and Urban Affairs. S. 2101, which includes many of the provisions of S. 1605 as well as other provisions, passed the Senate and is now languishing in the House Banking and Currency Committee, where I understand it is expected to remain because of opposition to some of those other provisions. It is my further understanding that the more narrowly targeted provisions of S. 1605 might receive a more cordial reception in the other body. I would like to suggest, Mr. President, that under these circumstances, if we do not see some movement in the House soon on S. 2101, we might give new urgency to our consideration of S. 1605.

I make this suggestion, Mr. President, because, as the Federal Home Loan Bank Board observed in its policy statement, there is now widespread discrimination in lending which probably violate constitutional guarantees of equal protection of the law, and certainly violate the principles of fair play that we all respect. We already have documented the existence of this discrimination and the need for a legislative solution when we passed S. 2101. I think it is now encumbent on us to take every possible avenue to achieve a legislative solution, and it may be that S. 1605 is the compromise approach we need to succeed.

ROBERT M. FLIPPO

Mr. FULBRIGHT. Mr. President, an outstanding young man from Arkansas, Robert M. Flippo, of Lake Charles, has won national honors in the 4–H achievement program. He was one of 12 national winners selected by the Cooperative Extension Service.

This is the second straight year that Robert has won national 4–H honors. In 1972 he was a national winner in the 4–H safety program.

Robert led a drive to restore a neglected cemetery in his community and was active in the effort to renovate the beautiful old courthouse in Powhatan. He and others in the area helped raise $30,000 to restore the courthouse, a project which will be aided by a $120,000 grant for restoration from the Economic Development Administration. The courthouse has been designated as a national historical site.

Robert Flippo was every deserving of this fine honor and I ask unanimous consent, Mr. President, to have printed in the Record an article from the Jonesboro Sun of November 28 about the award.

There being no objection, the article was ordered to be printed in the Record, as follows:

National 4–H Honors Go to Robert Flippo

An Arkansas youth, who led a drive to restore a neglected cemetery in his community and to renovate the local courthouse, has won national honors in the 4-H achievement program.

Robert M. Flippo, 18, of Lake Charles, Powhatan, received a $600 scholarship from the Ford Motor Company Fund, sponsor of the program. He was among 12 national winners selected by the Cooperative Extension Service.

The winners were presented with their awards during the 52d National 4-H Congress in Chicago, Nov. 25–29.

This was the second straight year that Flippo has won national 4-H honors. At the 1972 Congress, he was named a national winner in the 4-H safety program and returned home with a scholarship.

Flippo said that his community, with a population of only 136, had once been a thriving river town. But over the years, residents moved away, leaving many of the store buildings vacant, weeds on roadsides had grown up and the cemetery became neglected.

The youth discovered in old records at the Powhatan County Courthouse in his hometown that his great-great grandfather had deeded 40 acres of land to the community for the cemetery, which had become an eyesore. The youth decided to do something to improve the cemetery.

Flippo organized a cleanup campaign among 4-H'ers, led a Veterans Day observance, placed American flags at all veterans graves and erected a flagpole. He wrote a congressman and obtained an American flag that had flown over the nation's Capitol. The flag now flies daily over the restored cemetery.

The youth led other 4–H'ers in staging talent shows, fishing rodeos and in door-to-door solicitations to help raise $30,000 to restore the courthouse. The drive spurred the federal government to approve a $120,000 grant for restoration and declare the old court-house a national historical site.

TRIAL LAWYERS FOUNDATION PUBLISHES REPORT ON PRESS FREEDOM

Mr. ERVIN. Mr. President, last June in Cambridge, Mass., the Roscoe Pound-American Trial Lawyers Foundation held the annual Chief Justice Earl Warren Conference on Advocacy. The report of this conference, entitled "The First Amendment and the News Media," has recently been published, and bears upon three issues now before the Congress: the newsmen's privilege, the regulation of broadcast journalism, and access to Government information.

The 55 individuals who attended the conference are some of the country's most prominent authorities and practitioners in the fields of journalism, law, and government. As such, their opinions regarding the subjects I have mentioned are entitled to serious consideration.

I am therefore asking unanimous consent, Mr. President, that a portion of their recent report be reprinted in the Record. Senator Muskie has previously inserted at page 38117 of the Record for November 27, 1973, part of the report dealing with the access to Government information. I shall therefore only request that the recommendations of the conference which pertain to the newsmen's privilege and the regulation of broadcast journalism be reprinted. I would also add that while the specific recommendations of the conference go beyond that I have advocated on previous occasions with regard to these questions, I am in general agreement with the objectives which they seek.

There being no objection, the material was ordered to be printed in the Record, as follows:

Final Report—The First Amendment and The News Media

PART A—RECOMMENDATIONS, JOURNALIST'S PRIVILEGE

Summary

The basic proposition, on which the Conferees agreed, was the vital importance of a privilege to protect a journalist's confidential information and sources. It was also agreed that such a privilege should apply with equal force in all types of proceedings—civil and criminal trials, grand jury proceedings, and legislative investigations. While the Conferees believed that both the media and law enforcement agencies could generally be trusted to cooperate with each other, and that journalists would very often volunteer information, a privilege was essential to cover cases in which such cooperation did not or could not exist.

There was much discussion of the form in which the privilege should be embodied. Since the Supreme Court recently held that first amendment constitutional protection was not available, journalists must now turn to the legislatures. The Conferees unanimously favored a comprehensive federal shield law, which would supersede less protective state laws but would not prevent states from being more protective if they chose. On the other hand, the majority of the Conferees felt that a diluted or qualified federal law would probably we worse than no law at all.

Who is a journalist? This question is obviously important in defining the scope of the privilege and received some attention from the Conference. The participants rejected on one hand a narrow technical definition, and refused on the other hand to make the privilege available to any person calling himself a journalist. Instead, they agreed that a journalist for purposes of the privilege should be defined as any person regularly employed in a newsgathering capacity by any newspaper or other periodic medium, or any person who has previously published in such a medium, or who is a scholar or researcher in a bona fide capacity with the intent to disseminate.

The final issue, on which considerable time was spent, was whether the privilege should be qualified or absolute. Here the Conference was evenly divided. However, the Conferees rejected all of the proposed exceptions to the privilege—for observed crimes for information about future crimes (even involving the possible loss of life), for libel suits, and for information sought or needed by the defense in a criminal trial. Although the privilege was left in fact unqualified at the end of the session, the Conference stopped just short of endorsing in principle an absolute journalist's privilege.

I

A journalist should be accorded a legally-protected privilege to include confidential information and sources against compelled testimony.

Commentary: The Conferees agreed on a basic journalist's privilege as a guarantor of a free and effective press. The primary interest to be served is not the personal privacy or professional advantage of the reporter, but the flow of information from sensitive sources to the reading public. There was substantial agreement that (as recent empirical studies have shown) much information simply would not be shared with the media, and thus would never reach the public, if disclosure could be indiscriminately compelled. The Conferees cautioned that the *absence* of a privilege would seldom serve the interests of law enforcement, since the drying up of sensitive sources would simply keep the information out of everyone's hands. Thus, one Conferee, remarked, "the *prosecution* won't get the complete information either way. The only question is whether the *public* will have at least partial access."

Recognition of the privilege carried an important corollary: the group generally felt that the press has a sense of responsibility and would avoid most collisions and abuses of any privilege. Many in the group felt that reporters do work closely with the police and prosecution—on whom they in turn depend for certain kinds of information—and do volunteer much information that does not openly breach confidences. Thus, assertion of the privilege should imply no conflict between media and law enforcement officials, but simply a last-resort protection for the rare case in which cooperation breaks down.

During the general discussion, time was also devoted to the status of the press as an industry under governmental regulation. There was implicit recognition that certain aspects of newsgathering and dissemination, though constitutionally protected, were nonetheless subject to governmental regulation. The application to the media of the antitrust laws, repeatedly upheld by the Supreme Court, afford one example. Also, cases holding the press subject to child labor, minimum wage and other general welfare laws are pertinent.

II

For the purpose of the privilege, a journalist should be defined as any person regularly employed in a news-gathering capacity by any newspaper or other periodic publication or broadcast medium, or any person who has previously published in any such medium, or who is a scholar or researcher in a bona fide capacity with the intent to disseminate.

Commentary: Whether qualified or unqualified, the identification of persons eligible to claim the privilege is essential. At first the definition proposed for consideration was: "Any person regularly employed in a news-gathering capacity by any newspaper or other periodic publication or broadcast medium, or who has a record of prior publication in any such medium." This definition seemed a bit too narrow. Consideration was given to a catch-all addendum such as "and such other persons as the court finds are working in journalistic employment," but that combination was defeated by a substantial margin. The alternative, adopted by a substantial majority was to add the following language, "and scholars and researchers in a bona fide capacity with the intent to disseminate." By the addendum the Conferees clearly evinced their desire to carry the privilege beyond printed periodicals and the broadcast media to include scholars, pamphleteers, underground publications, and other less traditionally-protected channels of communication and expression.

The Conferees did reject a wholly subjective test when asked to consider whether the privilege should apply to "anyone who says he is a journalist and is engaged in journalistic activity," thus leaving the definition entirely to the claimant. This approach was decisively rejected, thereby underscoring the Conferees' preference for a middle ground between the wholly objective and the completely subjective determination of eligibility.

III

The Journalist's Privilege should be unqualified, that is, the decision whether and to what extent a journalist will testify regarding his sources or the confidential information in his possession should be entirely his own decision.

Commentary: The discussion of this Recommendation required some understanding of the terms "qualified" and "unqualified." The privilege would be *unqualified*, for example, if a journalist could simply refuse to appear before a tribunal, or could appear but refuse to answer any questions, or could make his own determination whether a particular matter was privileged. If, however, the journalist could be compelled to divulge some kinds of information—for example, information gained by personal observation of a crime or knowledge about the sources of libelous statements—then the privilege was clearly *qualified*. Because of the even division on this question, no clear Conference position emerged. Sentiment favoring a completely unqualified privilege was substantial.

The tie vote on this issue created a quandary. Discussion of details and exceptions appeared premature since no clear majority had advocated *any* qualifications. Yet, everyone seemed to agree that details should be discussed, if only for practical reasons. As the Report shows in succeeding pages, the Conferees voted on specific EXCEPTIONS but each one was defeated.

IV

The Journalist's Privilege should extend to all unpublished materials (notes, out-takes, etc.), whether or not containing information acquired in confidence.

Commentary: There was concern about demands for several different forms of newsgathering products—written materials, sound recordings, photographs or negatives, and out-takes of television news reports or documentaries. Particular emphasis was placed on the "Selling of the Pentagon" experience, as an indication of the hazards of compelled disclosure in this area. Also recognized was the protection of journalistic and scholarly creativity by safeguarding the process at its most vulnerable point, *i.e.* prepublication working material.

V

The Journalist's Privilege, as outlined in Recommendations I, II and IV, should be embodied in a new Federal law to include the following:

A. It would supplement, but would not imply the absence of, First Amendment protection for the privilege;

B. It would preempt less protective but not more protective State laws;

C. It would not preclude additional protection through the courts.

If Congress did not enact the body of law advocated above, then no new Federal legislation should be adopted with regard to the privilege.

Commentary: The Conferees recommended congressional adoption of a broad shield law. There was substantial .fear that the adoption of a limited shield law would be counterproductive, leaving the journalist less protected than he would be when relying on the Court's future interpretation of the First Amendment. The Conference overwhelmingly agreed that the journalist should be protected, but there was some reluctance to turn to legislatures for that protection. Many Conferees felt that the legislative process might produce a far too limited protection. If Congress does not pass a broad shield law, it was the conclusion of the Conference that no shield law should be adopted.

Among the arguments in favor of a broad federal shield law was the "invitation" to formulate legislation which the Supreme Court seemed to give in *Branzburg v. Hayes*, 408 U.S. 665 (1972). In the view of the majority of the Court, creation of and definition of evidentiary privileges seemed a proper function of legislatures rather than of judges. In other contexts, too, courts have been reluctant to recognize any new privileges or to extend those already on the books without explicit authority from the legislature.

Several considerations may, however, argue against legislation. A few journalists at the Conference feared that efforts to obtain new protective laws might appear to be "special pleading" and would thus jeopardize public support of the media and the press. Others feared that enactment of legislation covering some journalistic activities might imply the exclusion of others and thus dilute the force and scope of first amendment protection. To base such legislation on the Commerce Clause (as might seem necessary in light of *Branzburg*) may present the media as being involved more in commercial than intellectual and creative activities.

Also, if a shield law were once enacted and later repealed, the journalist's position might well be worse than if no legislation were ever adopted in the first place. Finally, a number of Conferees seemed to feel that the field was so complex, and so beset with distinctions, qualifications and exceptions, that it was wiser to stay out of the legislative thicket altogether.

In view of these arguments, the Conference approached proposals for legislation quite cautiously. It was understood that any federal law would have to preempt the state laws that were *less protective*, but would not preclude states from adopting *broader privileges*. Congressional action now would also be without prejudice to any subsequent and favorable protection by the courts, either on constitutional or nonconstitutional grounds. Moreover, any legislation should proceed on the assumption that *Branzburg* may well be modified or even overruled, and thus should not imply the absence of eventual first amendment protection for the journalist's sources.

VI

Regardless of statutory or judicial safeguards, all law enforcement officers and grand juries should exercise a high degree of self-restraint, seeking information from journalists only when necessary to serve strong governmental interests and only when the information is unavailable elsewhere.

Commentary: The discussion of form or method of protection included one other element. Early in the plenary session there was reference to the value of self-restraint in information-gathering. The Conferees overwhelmingly supported the view that law enforcement officials should subpoena information from journalists only in very special cases, where the information was vital to an important governmental interest and could be obtained in no other way. Yet, most of the participants recognized that since self-restraint could not always be expected, more practical and immediate protection would be necessary for the working journalist.

PART B—RECOMMENDATIONS, BROADCASTING JOURNALISM

VII

In view of the wide spectrum of radio frequencies now available throughout the nation for the expression of a divergency of views, the Federal Communications Act should be amended to remove from the Federal Communications Commission the power to regulate the program content of radio stations.

VIII

In order to foster freedom of expression, as it exists outside the electronic media, the Federal Communications Act should be amended so as to remove from the Federal Communications Commission all power to regulate the program content of television.

IX

The Federal Communications Commission should suspend, on an experimental basis, program content regulation of television in limited geographical market areas if total deregulation of television program content cannot be had.

X

In order to maximize the diversity of free expression, government should use its antimonopoly powers to oppose the concentration of media ownership within all identifiable geographical market areas. This includes taking steps not only to prevent concentration, but to more affirmatively reduce existing concentration of ownership.

Commentary on broadcast journalism

Commentary: The Conferees placed particular emphasis on the evolved form and substance of the "Fairness Doctrine" (Note 1) as a serious infringement on freedom of expression under the First Amendment. The Doctrine has a two-pronged purpose: It requires stations to cover issues of controversy and public importance and it requires them to present different viewpoints on such issues. A consensus emerged as to the ultimate ideal goal: freedom for each and every form and portion of the media to choose the mode and content of its own expression. While much of the group discussion time was devoted to problems involving the Fairness Doctrine and the related problems of "equal time" and "public access," when it came to decide on Recommendations, there was a clear rejection of any regulatory schema based on the Doctrine and of any modification of it other than complete abrogation. The Conferees chose to endorse experimental deregulation rather than to suggest any particular modification of the present regulatory structure.

Conferees stressed a strong resistance to the ever-growing extent of regulation, from significant recent advances in technology, and from omnipresent concern over the potential of government to twist the electronic media's collective arm.

In its infancy, governmental regulation of the broadcast media was limtied to technical matters, mostly revolving around allocating frequencies. There were more than enough frequencies available. The government's role then was mostly that of a traffic officer, permitting each station to go in its own direction, so long as it did not collide with another. Ironically, it was the very increase in the number and diversity of radio stations in the 1920's, which brought about the greater regulation which is now seen as a threat to the media's freedom of expression. The Federal Communications Commission (FCC) completed the conversion of broadcast regulation from mere traffic control of privately-owned stations into a system for controlling content in *Mayflower Broadcasting Corp.* when it relied on the limited number of frequencies to restrain editorializing by the station's owner. Under this system, a licensee is obligated to devote a reasonable percentage of broadcast time to issues of public importance, to present different and opposing positions on such issues, to seek out spokespersons for views opposing its own, and (upon request) to make time available for the presentation of those opposing views (Note 2). By applying these tests broadly, both in individual cases and more generally in license renewal proceedings, the Commission has succeeded in confirming the tendency of the courts to exalt the FCC euphemism that its decisions "foster self-regulation." The result is that the courts and the FCC rely on the euphemism rather than to seriously face up to the governmental censorship which has resulted.

Most of the Conferees discussed the Fairness Doctrine and came to inconclusive results. Many took a view similar to Winston Churchill's on democracy, *i.e.*, that it was the worst form of government, but the best now available. Some saw it as a temporary measure until better concepts of public access could be developed. Still others saw general value in it, especially when applied to extreme cases of abuse by licensees (Note 3). But one approach did surface in each of the group discussions which ultimately became the basis of the Recommendations.

Two underlying questions were repeatedly posed. *Whose* right of free expression is to be protected? Why must *each* station satisfy public fairness or access needs?

The Supreme Court had already given its answers:

"... *It is the right of the viewers and listeners, not the right of the broadcasters, which is paramount* ... It is the purpose of the First Amendment to preserve an uninhibited market place of ideas in which truth will ultimately prevail, rather than to countenance monopolization of that market, whether it be by the Government itself or a private licensee. ... It is the right of the public to receive suitable access to social, political, ethetic, moral, and other ideas and experiences which is crucial here. (Note 4) (Emphasis added.)

"It does not violate the First Amendment to treat licensees given the privilege of using scarce radio frequencies as proxies for the entire community, obligated to give suitable time and attention to matters of great public concern. To condition the granting or renewal of licenses on a willingness to present representative community views on controversial issues is consistent with the ends and purposes of those constitutional provisions forbidding the abridgement of freedom of speech and freedom of the press. Congress need not stand idly by and permit those with licenses to ignore the problems which beset the people or to exclude from airways anything but their own views of fundamental questions. The statute, long administrative practice, and cases are to this effect." (Note 5)

But must we settle for the common blandness and lack of diversity in programming which has been the result of these benighted efforts? The answer was found in challenging the entire regulatory structure.

The necessary assumption is the uniqueness of the electronic media as "modes of expression" due to the limited nature of access by virtue of having only a finite number of frequencies to allocate (Note 6). But this "uniqueness" is no longer true, if indeed it ever were so. As of 1971, there were about 7,284 radio stations in the United States and about 1,013 television stations, for a total of 8,297 broadcast outlets. By way of contrast, there were only 1,749 daily newspapers in 1971.

Another comparison is media availability in relevant geographic market areas. In every state, the availability of broadcast media is significantly greater than that of daily newspapers.

Scarcity of electronic media frequencies and facilities is an old adage. And the newer technological developments in cable antenna television (CATV) have further eroded the scarcity argument.

Many of the Conferees expect that CATV, in the not too distant future, will provide most viewers with an extremely large choice of programming. In addition, the FCC regulations for CATV licensing provide greater opportunities for public access to television through the requirement of reserving channels for locally-originated programming and use.

Therefore, the "scarcity" or "uniqueness" theory can no longer rationally be invoked to support special regulation of the broadcast media different from that of the press. This is the critical conclusion from which the Conference Recommendations flow. If deprived of this rationale, the "public utility" approach cannot stand.

When deprived of the "public utility" approach, Congress and the courts must return to the First Amendment and apply it for the benefit of *all the media*. Traditional first amendment theory would clearly prohibit any governmental action burdening a licensee's right of free expression (Note 7). The right of free expression is that of the station owners, who are licensed to use the airwaves as newspaper publishers receive special permits for reduced rate use of the mails.

At the same time diversity of expression is not to be found in a tightly-regulated medium, where fears of censorship, governmental interference, and the possibility of losing one's license reduce creativity to a common blandness, so as not to incur the wrath of the regulator. Diversity shall come from the presence of a multiplicity of broadcasting voices, each competing for an audience in the open marketplace of ideas. No efforts to please a sponsor, who may have low standards, can ever match the coercive effect of stifling regulation. (There was recognition of non-commercial television's attempt to provide quality and diversity.)

To better assure the desired diversity, the Conferees urged strong enforcement of the anti-trust laws. The more people involved in medium ownership, the greater will be the number of voices and the greater the chance of having significantly different voices.

Conferees did not believe there should be concentrated ownership of multiple outlets in particular relevant geographic market areas. However, it was concluded that no new laws or changes in laws are needed. The existing anti-trust laws and other legal authorities for regulation of competition are strong enough and the courts have shown themselves willing and desirous of having the FCC implement them.

In sum then, a clear majority of the Conferees believe that the fact of great electronic media diversity and participation, which exists today, has destroyed the use of any "scarcity" concept as a justification for regulation based on a "public utility" theory. It is only the comparatively lesser diversity of television as compared with radio and some uncertainties over what may yet come from CATV, which has led a sizeable minority of the Conferees to resist deregulation of the program content of television and urge the adoption of an experimental program. The absence of any such limiting factors as to radio explains the overwhelming vote for immediately deregulating the program content of radio stations. Deconcentrating media ownership stems from the Conferees' general desire to assure greater diversity in media expression, as well as the feeling of some that this would be even more crucial if the other Recommendations were implemented.

Under the Conference proposals, the role of the FCC would be restored to what the majority of Conferees felt it should be: a traffic controller for the airwaves.

Notes to Commentary on Broadcast Journalism

1. While the genesis of the Doctrine can be traced back to the Radio Act of 1927, its effective start is found in *Report of the Commission in the Matter of Editorializing by Broadcast Licensees*, 13 FCC 1246 (1949). It was codified in the 1959 Act, which amended 47 U.S.C. § 315, and was upheld against constitutional challenge in *Red Lion Broadcasting Corp.* v. *FCC*, 395 U.S. 367, 383–87 (1969). See also *Columbia Broadcasting System, Inc.* v. *Democratic National Committee*, 412 U.S. , 93 S.Ct. 2080, 36 L.Ed. 2d 772 (1973).

2. Ibid. at 1249–51. See also *Green* v. *FCC*, 447 F.2d 323 (D.C. Cir. 1970); *Metropolitan Broadcasting Corp.*, 40 FCC 491 (1959); *Obligation of Broadcast Licensees under the Fairness Doctrine*, 23 FCC 2d 27 (1970); and *In Re Applicability of the Fairness Doctrine in the Handling of Controversial Issues of Public Importance, Public Notice—B*, 29 Fed. Reg. 10415 (July 25, 1964).

3. Most often cited were the Lamar Broadcasting case (*Office of Communication of the United Church of Christ* v. *FCC*, 425 F.2 543, 138 U.S. App. D.C. 112 (1969); and the Rev. Carl McIntyre case (*Brandywine-Maine*

Line Radio, Inc. v. *FCC,* 473 F.2d 16 (D.C. Cir. 1973)).

4. *Red Lion Broadcasting Corp.* v. *FCC,* 395 U.S. 367, 390 (1969).

5. *Ibid.* at 394.

6. *National Broadcasting Co.* v. *United States,* 319 U.S. 190, 226 (1943), held:

Unlike other modes of expression, radio inherently is not available to all. That is its unique characteristic, and that is why, unlike other modes of expression, it is subject to governmental regulation.

7. *See, e.g., Near* v. *Minnesota,* 283 U.S. 697 (1931); *Mills* v. *Alabama,* 384 U.S. 214 (1966); and *New York Times Co.* v. *United States* (the Pentagon Papers case), 403 U.S. 713 (1971). But see, *Red Lion, loc. cit.*

STATEMENT OF MOST REV. EDWARD E. SWANSTROM ON FOOD POLICY

Mr. HUMPHREY. Mr. President, recently an excellent conference on food policy was held in Hershey, Pa., under the auspices of the Pennsylvania State Department of Agriculture and hosted by the Governor of Pennsylvania.

Several of the speakers at the conference noted the necessity to give immediate consideration to the question of world food supply and the relationship of food supplies to national and international food policies. One of the speakers at the conference was the Most Reverend Edward E. Swanstrom, the executive director of Catholic Relief Services in New York. As the director of an American voluntary agency which is directly involved in food assistance activities throughout the world, Bishop Swanstrom is eminently qualified to discuss the subject of food policies.

In his speech, Bishop Swanstrom emphasizes the importance of increasing the productivity of small-scale agriculture and the necessity to do this rapidly. In addition, he discusses the necessity for not only national, but also world policies on food production, distribution, and consumption.

Mr. President, this thoughtful and timely statement is an excellent discussion of one of the critical problems of our times. I ask unanimous consent that it be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Toward a National Food Policy

If this were to be a sermon, I would take as my text that supplication which most certainly has stormed the heavens more often than any other in the history of mankind. How often we have heard it. ". . . Give us this day our daily bread. . ." For food, and its adequacy to feed the world's millions, always a matter of primary concern to man, is perhaps today a matter of even more vital national and international importance than ever before.

Witness this conference itself and the broad scope of leadership it has attracted. Most of all, ponder the task which the conference has set for itself, namely, as a first step toward the formation of an international food policy, an attempt to hammer out a national food policy for America and to sponsor its dissemination through all available media to our fellow citizens in all walks of life and, in particular, to those public servants at local, state, regional and national levels to whom we have entrusted the welfare of our country.

This conference is meeting at a truly crucial time. The written and spoken word these days centers about the energy crunch, the dimensions of which we Americans are just beginning to realize. (It is said our air conditioning equipment alone consumes more energy than eight hundred million humans consume for all purposes.)

We meet at a time when our scientific and technical knowledge thrusts us ever closer to the stars, and yet our public morals appear determined to sink equally as far into a morass of godless materialism with almost similar velocity. We are gathered at a time when faith in our national institutions has fallen to an all-time low; a time when fear and uncertainty, fed by an apparently endless raid on the family pocketbook, are on the rise; time when more and more Americans seem only too willing to escape the world's problems and seek solace instead in the television tube. Perhaps most significantly of all, we meet at a time when weather, population growth and increasing affluence are combining to increase alarmingly the dependence of more and more of the peoples of this world upon the North American bread basket.

It is well, then, that this conference intends to come to grips with the problem of the world's food supply and America's role in allaying world hunger. In fact, the overriding challenge to this conference may well be to halt our country's drift toward isolationism and to once again assume its former role of responsible world leadership.

We have improved our performance in the art of power politics and there is no doubt that this is tremendously important on a short-term basis to the stilling of the guns and the halting of the slaughter of the battlefield. But I am talking about returning to that kind of societal world leadership which deals not with power but with people and which alone can chart for mankind the way to lasting peace with liberty and justice for all.

There is no doubt in my mind that the blessed abundance of our land, wisely administered, demands that America reassume its role of leadership by engaging in a new and even more determined war against that hunger which will afflict hundreds of millions of the world's poor unless a determined and concerted attack upon it is mounted now. And there is no time to waste! The fundamental importance of food to mankind's very survival can brook no delay.

Startling statistics, as you well know, abound. It is estimated that two-thirds of the world's population suffers from malnutrition. Millions live on the verge of starvation. An estimated 10,000 deaths each day are attributable directly either to the lack of enough food to sustain life or of the right kind of food. Malthusian prophesies are increasing in number. Starvation on a massive scale within the next decade is being predicted unless something is done to prevent it.

There are, however, and thank God, some encouraging signs on the horizon. The growing emphasis on a people-oriented U.S. foreign aid program, for instance. The increasing confidence in the ability of the private agency not to usurp the fundamental role of governments, to be sure, but, nevertheless, to make a significant contribution toward improving the quality of life in the developing world. Then, too, there is a growing realization of the necessity of not only boosting global food production to meet immediate demands, but to replenish depleted reserves—in a word, "a world food security policy" as Dr. Boerma, Director General of FAO expressed it a few weeks ago in a meeting of the organization in Rome.

More and more knowledgeable Americans are coming to the realization that we may have to voluntarily agree on a national food tithe and set aside a specific amount of our national production for supplementing the meagre diet of others. We are increasing the acreage being devoted to the production of grains. We are talking less and less about developing world markets for our foods and more and more about how to transfer the essentials of our own food technology so that others may increase local food production to the end that dependency upon our own capacity will be lessened.

In his speech at the recent meeting of the World Bank and the International Monetary Fund in Nairobi, Robert McNamara, the President of the World Bank, highlighted these same priority needs. He pointed out that the growth taking place in developing countries is not reaching the poor and set a target of increased production on small farms. He said, "There is no viable alternative to increasing the productivity of small scale agriculture if any significant advance is to be made in solving the problems of absolute poverty in the rural areas." To that I say Amen.

With the rural populations of most developing countries running as high as 80 or 90 percent of the total population, an emphasis on increased productivity by small farmers will improve the conditions of a majority of the populations of Third World countries and will constitute an important attack on the world food shortage.

In our deliberations over the next two days, we will have the opportunity to review the dimensions of the problem of world food supply and to study America's role in food production and distribution. The part the relative nutritive value of foods will play in meeting world food needs, for instance. The problems of population growth and of the allocation of adequate energy to insure maximum food production in this all-too-suddenly energy-shortage conscious world.

We are going to study the amount of land presently being utilized for food production at home and overseas, and perhaps those additional resources which can, if necessary, be devoted to this purpose, as well. We will be looking at the signal importance of water to food production. Perhaps we may even look into the possibility of a renewed attempt to develop an economical method of desalinating water so that this huge resource of the seas can be utilized in this way. Experts will be treating the international aspects of a food policy for America, its economic implications and those competitive interests which will most certainly affect it.

In short, we will be looking at the problem of feeding ourselves and as many as possible of the hungry of the world (and encouraging others to do likewise) in all its implications, including the political, the social, the economic and cultural.

In this process, we will need to take a good look at our own national priorities and we will have to urge similar priorities upon others. Food and all its aspects is so fundamental to human survival that, in essence, we will, in attempting to formulate a national food policy, be examining our national conscience at the same time. We will need, of course, to relate our proposed food policy to a global food policy, for no one or several nations have the right to control the worlds' food supply without recognizing and discharging their responsibility for its prudent use for the benefit of all mankind.

And, ladies and gentlemen, may I ask you with all sincerity at my command, to remember above all throughout the discussions at this conference, that behind every statistic and fact which may be related or developed in the next two days, there is the spectre of massive human starvation; that what we ultimately propose and what we urge upon our leaders and fellow citizens as well as the world community, can actually and literally save countless lives, to say nothing of adding immeasurably to the peace and stability of the world.

Will this conference lend truth to the words of this verse which appeared way back in 1966 in Punch, the provocative British publication?

> In countless back alleys,
> No cradle or bed,
> A million sweet children
> Cry out to be fed.
>
> Rich nations, as distant
> As stars in the sky,
> Look down on their hunger
> And heave a sad sigh.
>
> "We'll send you our leavings,
> If any," they say,
> "But we, too, are starving
> On three meals a day."

Or will these meetings result in the issuance of a call to all Americans to support a policy based upon the responsible and compassionate sharing with others of the fruits of America's agricultural prowess?

"America. America. God shed His grace on thee."

America. America. Appreciative of His gifts, reasoned, responsible, just and compassionate let the thoughts and actions of this conference on national food policy be.

CHILD ABUSE BILL

Mr. MONDALE. Mr. President, as my colleagues know, S.1191, the Child Abuse Prevention and Treatment Act, has been passed by both Houses of Congress, and will soon be referred to the President for his signature.

Recently a group of State legislators came to Washington to attend meetings set up by the National Legislative Conference on issues of concern to them. I am pleased to report that both the Task Force on Law Enforcement, and the full Intergovernmental Relations Committee of the Conference endorsed a resolution which supports the concepts of child abuse prevention and treatment embodied in S. 1191. I request unanimous consent that the text of this resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION

The Task Force on Law Enforcement and Criminal Justice of the Intergovernmental Relations Committee recognizes that the problem of child abuse and neglect is as complex as it is compelling and that the programs to protect the abused and battered child and to treat the disturbed parent are not presently sufficient. Lack of resources has caused many promising programs to be abandoned and through lack of a coordinating mechanism States have not been able to fully share their experiences and techniques.

The Task Force, therefore, recommends that Congress enact legislation to create a National Office on Child Abuse and Neglect to conduct research, disseminate information and to act as a clearinghouse for child abuse programs. The National Office should also provide substantial funding through grants to States to establish their own demonstration projects and programs to identify, treat and prevent child abuse and neglect.

WIRETAPPING AND OTHER SURVEILLANCE ACTIVITIES

Mr. MONDALE. Mr. President, recent opinion polls underscore the public's concern with Government wiretapping and other surveillance activities. In October 1973, for example, Louis Harris reported that 77 percent of the public now favors legislation to make illegal wiretapping a major offense and that 73 percent of the public now favors legislation to make political spying a major offense. In another poll conducted for the Senate Subcommittee on Intergovernmental Relations and released last week, Harris concluded that the public will no longer tolerate Government secrecy because it "can be used as a screen for subverting their freedom."

Senators NELSON and JACKSON have responded to these public concerns by introducing a bill (S. 2738) to create a joint committee of Congress to provide the critically necessary oversight of Government surveillance activities.

In his column on Tuesday, December 11, 1973, Tom Wicker of the New York Times, discussed the need for Congress to consider the Nelson-Jackson bill as a means to curb illegal and unethical Government surveillance activities. Mr. Wicker's explanation of the bill's provisions is both clear and timely.

Mr. President, I ask unanimous consent to print Mr. Wicker's column in the RECORD.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

CHECKING UP ON THE SNOOPERS

(By Tom Wicker)

In the rush of more spectacular news, it escaped public notice that the Senate recently took a small step toward closing a large loophole Congress had opened in the Fourth Amendment rights of American citizens. A nice bit of political footwork by Senator Sam Ervin, chairman of the constitutional rights subcommittee, should at least make the supervisors of Federal narcotics agents keep their men on a tighter rein.

Mr. Ervin took advantage of a measure that the House had passed to amend a Justice Department reorganization plan. The Nixon Administration had promised to secure the amendment which would bar the pending transfer of hundreds of immigration inspectors, because without such amendment the Federal employe unions would have blocked the reorganization plan.

As chairman of the Government Operations Committee, Mr. Ervin sat on the amending bill until the Administration also promised not to oppose a rider providing that the victims of so called "no-knock" raids could sue the Federal Government for any damages suffered in such raids. Victims of these raids, which require no warning before entry, could also sue the agents involved, or both Government and the agents.

Such victims have often been totally innocent persons, subjected to "no-knock" entry, terrorization, embarrassment, property damage and personal injury (a few deaths also have resulted) either through mistaken identity or over-zealous agents. The Ervin rider—which ought to clear the House, too, because of the Administration's promises—will provide additional means of redress and probably will make agents and supervisors more careful and respectful of the rights of citizens.

That is useful progress toward undoing the damage done in the long years of national security and anticrime mania, when the American people have been driven further than most of them know toward an Orwellian era of surveillance and state control of the individual. Now the Senate has an opportunity to take an even more important remedial step, thanks to a bill introduced by Senators Gaylord Nelson and Henry Jackson.

This measure would establish a Senate-House "joint committee on the continuing study of the need to reorganize the departments and agencies engaging in surveillance." Senators Nelson and Jackson will have to find a handier title than that—say, the Joint Committee on Spooks—but theirs is an idea whose time has not only come but is long overdue.

This committee—to be drawn from the membership of numerous others that now have some relationship to Federal investigative and police agencies—would have two basic functions. It would undertake a continuing study of the nature and scope of all surveillance activities conducted by Federal agencies, with officials of each of these agencies required to appear once a year to justify their activities.

The committee would also review the relationships between these agencies, and with similar local and state agencies, with a particular eye to the sharing of information among them, and the safeguarding of shared information. This is a particularly important point, owing to the proliferation in recent years of computerized data banks linked by high-speed communications.

A massive problem already has been created by these new techniques for storing and retrieving the most minute data about people. For only one example, a study by the Urban Policy Research Center for the California Department of Justice showed that by November, 1972, there were in that state alone the incredible number of 139 "computerized criminal justice information and communications systems," many of them supported by various Federal grants. They ranged from a statewide "integrated program to combat organized crime" to, say, the city of Mountain View's "traffic records project."

Surveillance—much of it appearing harmless enough—is obviously a growing concern. From Senator Nelson's speech introducing the bill for a joint committee to check up on Federal spies, just a few examples suffice to make the point:

Until checked, the Army in the 1960's had more than 1,500 plainclothesmen reporting on individuals to scores of data banks.

Between 1968 and 1972, Federal, state and local governments wiretapped more than 1,623,000 conversations involving about 120,000 people.

A report from the Department of H.E.W. said flatly last summer, "Under current law, a person's privacy is poorly protected against arbitrary or abusive record-keeping practices."

Alan Westin in his book, "Privacy and Freedom," reported that "at least fifty different Federal agencies have substantial investigative and enforcement functions, providing a corps of more than 20,000 'investigators' . . ."

THE ENERGY CRISIS: ECONOMIC, POLITICAL, AND SOCIAL REALITIES

Mr. FULBRIGHT. Mr. President, there recently came to my attention a statement by Prof. Thomas R. Stauffer, of Harvard University, entitled "The Energy Crisis: Economic, Political, and Social Realities." It is a thoughtful and provocative discussion of the most important problems facing our country today. I think the statement is worthy of the attention of my colleagues, and I ask unanimous consent to have it printed in the RECORD as part of my remarks.

There being no objection, the statement was ordered to be printed in the Record, as follows:

The Energy Crisis: Economic, Political, and Social Realities

(By T. R. Stauffer)

It is both a pleasure and a somewhat awesome responsibility to address you today on so grandiose a topic a "The Economic, Political, and Social Realities of the Energy Crisis." Until the 6th of October of this year, such a discussion would have had rather sterile academic overtones. Indeed, until 3 weeks ago, the energy situation—to use a neutral term—was really two separate issues. The first was a question of a rather short-term "energy pinch", and the second was the longer-term problem of how we must order our domestic priorities—how we as a Nation should trade off energy costs, new types of equipment, and resources availabilities against the social undesirability of pollution.

Today the issue is suddenly and dramatically quite different. The Middle East has erupted once more, some 12–15% of the U.S. oil supply has been shut off, and we have been repudiated by all of our major allies, as well as by most of the third world. Today any question of the cost of energy or its dirtiness is rapidly being preempted by the more compelling considerations of whether we will have enough fuel to heat our homes and to maintain employment in our industrial sector.

There is an immediate threat to our economy and welfare, and the energy "situation" now is deteriorating to truly crisis proportions, there is now an energy crisis and good cause for real concern. Thus, in contrast to the prevailing long-term focus of this conference, I shall, for the next 20 minutes or so, concentrate upon the more proximate implications of the oil embargo and its possible impact upon the United States. This time the probability is discomfitingly high that the Arab embargo may work, and the short-term implications are duly serious.

Before embarking on that discussion, however, I feel a moral obligation to add a disclaimer and suggest that you view any such scenario analysis with appropriate skepticism. Each packet of cigarettes bears the warning—"Cigarette smoking may be hazardous to your health". Similarly, any speech by an economist should be prefaced by the warning that "economics dulls the wit and may even damage the mind." Our track record as economists in the energy area is sadly unimpressive; as you may know a colleague recently published several hundred pages of footnoted text proving irrefutably that international crude oil prices would drop to one dollar per barrel. While he wrote the price quadrupled from about $1.30 in scarcely three years to $5 plus today.

Similarly, Middle Eastern specialists have shown equally little accuracy in their analyses, and I recognize that I stand before you wearing a doubly tattered and doubly threadbare mantle of fallibility, both as an economist and as one who has specialized in Middle Eastern affairs. Neither trademark should inspire much confidence, but I trust to your indulgence and to your own balanced perceptions as we try to peer into a very murky crystal ball.

At this moment, the United States can be compared with the victim of one of Mammy Yokum's extra special "double-Whammies." Little Abner could be proud. Two quite separate crises have hit our country at the same time. Both of these two crises result from our own blunders, both may be traced independently to the accumulation of decisions and non-decisions from the past—but, no matter who is to blame—both crises are very real and both have coincided in time, the U.S. has run out of domestic energy at the same time that it alienated the most important alternate sources of energy.

Let us now look more closely at the geopolitical equation which governs our energy supplies. The terms in that equation have been radically restructured in the past few years, but six crucial terms can be identified:

Item (1). Domestically, we are out of balance and are no longer self-sufficient in energy.

Item (2). Domestically, our logistic flexibility and capability for fuel-switching are seriously limited over the short-run.

Item (3). Internationally, Arab oil has been denied to us because of our military, political, and financial links with Israel.

Item (4). Alternative, non-Arab sources of oil may, in fact, contribute little to redress our shortage over the next year or so.

Item (5). We are diplomatically isolated, and neither Europe nor Japan appears to be inclined to assist us in breaking or circumventing the Arab oil boycott.

Item (6). Finally, Arab solidarity is unprecedented at this juncture, and they appear both financially and psychologically prepared to use their oil resources as a counterfoil to Israeli power.

Each of these components in the equation has changed, and we must examine each in turn before we can establish whether the oil embargo is a real threat or whether it is just an empty charade.

Turning first to the domestic side of the equation, we note that we have seriously mismanaged our domestic energy resource base. Refineries which we need have not been constructed, partly because of opposition by the ecofreaks, but also because of a badly designed oil import control system, which was abandoned only 6 months ago. Domestic oil production itself has stagnated while Senators Kennedy and Proxmire clamored for ever greater dependence upon imported oil. Coal, our most abundant energy resource, is not being used because it is dirty, yet no one has dared balance the dangers of dirt against the inconvenience of cold and darkness. Natural gas production has been inhibited because of unwise price regulation by the FPC. Moreover, the gas which is being produced is being "wasted," or consumed inefficiently, because of the artificially low price set by the regulators.

We could continue this list of energy-related sins on the domestic side ad nauseam, but the upshot is all too simple—1) we do not have enough domestic energy, 2) we cannot create or develop any significant new domestic sources within a lead time of less than five to ten years, 3) we must therefore inevitably remain dependent to a large extent upon imports—for perhaps 50% of our oil and about one-sixth of total energy needs through the late '70's or even into the 1980's.

That sobering realization brings us to the second crisis which is the import crisis, and the high probability that the United States has lost about 12–15% of its oil requirements. All Arab oil exporting countries have decreed a total embargo on shipments to the U.S. or any port or terminal which is known to tranship oil to the United States. This includes, as best we know at the present time, Canada, the Netherlands, and the four Caribbean refineries. To boot, Algeria has reportedly terminated its LNG deliveries to the U.S. as well. This potential loss of imported energy is the other set of jaws to the vice which now firmly grips the vital parts of our economy.

The analogy with a vice is not accidental. Each separate crisis compounds the effect of the other, and both are essential parts of our present plight. Without our dependency upon imports, the Arabs' oil embargo would not have hurt us much, if it hurt at all. In 1967 we could have been blissfully indifferent to such a contingency. Conversely, if it were not for the Middle East war and our military support for Israel, there would have been no oil embargo. In that case, our dependency upon imports of oil would not have been serious. It would simply have affected our balance of payments. The conjunction of both crises, however, raises the painfully real question of what we should or can do?

The key question then is this—just how serious is the oil embargo which has been declared? More precisely, what is its potential impact and, secondly, how likely is it that the embargo will persist?

Let us first look at the impact. The volume of crude oil which we import from Arab states is about one million barrels per day, and would have risen quite rapidly, filling a growing energy gap. This equals 6–7% of oil needs. However, we are additionally dependent upon Arab sources for another one million barrels per day, or probably more, in the form of refined products—heating oils, residual oils, etc.—which are processed from Arab oil in refineries around the world, largely in the Caribbean area or Western Europe. These volumes, too, will be cut off if the embargo persists, since the embargo was extended to include all those areas which in turn ship oil products to the United States. Some tankers are still on the high seas, between Libya or Ras Tanura and here, but that flow will trickle to a stop within a few weeks. Thus, at least 2 million B/D of our oil needs—or at least 12% of total requirements—has now been cut off. The effect upon the East Coast of the shut-off of supply is even more serious than the figure of 12% might suggest. Here we depend upon imports almost as much as the Europeans, so that the East Coast may perceive a 30–50% reduction in supply, even though the nation-wide average impact is 12% or so.

The oil embargo, therefore, is not an empty threat, at least potentially.

What recourse do we have—can we turn to alternatives over the short-run? There are two sets of constraints which limit our ability to reduce the imminent shortage of oil. Let us look at these in turn.

DOMESTIC FACTORS

The first set is on the domestic side—what limits any possible increase in domestic oil availability? There are these considerations: 1) our spare production capacity, 2) the restrictions on domestic infrastructural flexibility, and 3) the possibilities for fuel-switching.

At the present time our domestic oil industry is for all practical purposes producing flat out. The glorious days of yore when we once had several million daily barrels of nominal surplus capacity are sadly past. The optimistic estimate of the National Petroleum Council in its recent survey was that some 400,000 barrels/day in additional production might be mobilized but only after some 3–6 months of concerted effort.

However, about one fifth of the potential extra production is in California, which is not a major deficit area, while half of the remaining extra oil cannot readily be transported to market because the adjacent crude oil pipelines are full.

Secondly, insofar as the burden of the oil shortage might be distributed around the country by rationing, there still remains the serious logistics problem of transporting any large volumes of oil in unfamiliar directions. Our oil transportation grid has been optimized for historical flow patterns, and its flexibility under these new, crisis conditions is limited. If less oil moves from the Gulf Coast to Chicago, it is far from clear how that same volume might be moved incrementally to the East Coast, even if the Governor or State Legislature in Texas do not intervene to prevent such diversions. Latitude for inter-regional reallocations may therefore be severely limited.

On the other hand, we do hold one trump card, albeit a low one. There does appear to be some scope for fuel switching by the electric utilities, some of which can replace oil or gas with coal. Approximately 250,000 barrels per day of residual oil could allegedly be saved within three weeks if existing coal-burning facilities were reactivated. Still another 40,000 B/D or so of oil might be conserved by eliminating oil which is burned in dual-fired plants. This reduction could in theory be doubled after the first year, without impairing electricity generation.

It is unclear whether the coal mines have the surplus pithead capability to match this need, however. Moreover, coal hopper cars are still in tight supply, so that deliverability constraints here too may limit our ability to mitigate the crunch through the expedient of switching coal for oil—assuming of course that the environmentalists would not thwart this expedient for the duration of the crisis while demanding detailed environmental impact statements.

One option is available—*in extremis*—if worse comes to worse, as it probably will—we could ourselves embargo exports of metallurgical coal and divert the unit trains from the Norfolk export terminals to the electric utilities. This would scarcely enhance our image in Japan or Europe, but the tonnages of coal involved are roughly comparable to the utilities fuel-switching possibilities and that would solve the hopper car shortage automatically. In the short run we might cover one-quarter of the shortfall through the two devices of extra production and fuel switching.

DIPLOMATIC SCENE

On the international scene three factors seem to increase our peril; (1), our diplomatic isolation; (2), the limited scope for non-Arab sources of additional oil; and (3), the newly-emergent Arab solidarity.

As of the moment we have no support whatsoever among any major power in the Free World, quite aside from the usual opposition from Communist bloc powers. We stand quite alone, all the more so since the President's essay in brinksmanship of last Thursday which brought us closer to nuclear war than any time since the Cuban missile crisis.

There are two reasons for this isolation. First, no other government is as susceptible as is ours to the pressures exerted by the Israelis. In the Japanese Diet or in European parliaments the Israelis have no such staunch partisans as Senator Jackson. Secondly, paralleling the absence of direct pressure by the Israelis, all the European states and Japan are acutely sensitive to the security of their own oil supplies, since their degree of dependency is even greater than ours. Thus, not only do they have little interest in defending Israel's territorial expansions, all of them stand to suffer disastrously if the Middle Eastern situation escalates.

This diplomatic isolation of the United States has had two immediate consequences. First, Italy and Spain, following the Israeli bombing of the export terminal in Banias, the port in Syria, themselves embargoed any shipment of oil products from their own refineries to the United States. This action predated the imposition of the Arab embargo. England, France, and, I believe, now Germany as well have joined in that embargo.

The second consequence is the fact that no one is likely to help us circumvent the embargo. As long as the recipient countries—those exempt from any cut-off—cooperate with the oil exporting countries to the extent of certificating deliveries of oil and guaranteeing that these will not be re-exported, the embargo can be made effective.

As long as we remain isolated from our allies, it is impossible to foresee that one of them would emperil his own oil supply in order to accommodate the United States. Indeed, symptomatic of that reluctance has been the refusal of all European states, except for Portugal, to allow us to use our bases on their soil to dispatch military aid to the Israelis. Even the Germans have enjoined such operations. Both our allies' disagreement with us over the basic political issue and the risk of being curtailed themselves suggest that future leakage of oil around the embargo may be minimal.

NON-ARAB SOURCES OF OIL

The second question is the possibility of increased deliveries of oil from non-Arab sources. Here, too, prospects are not encouraging.

The first candidate is Canada. It exports one million B/D to us from its Western provinces, but itself imports about the same volume into its Eastern provinces, partly from Venezuela and partly from Eastern Hemisphere sources. Because refineries in Eastern Canada do export products to the U.S., it appears that Canada, too, has been boycotted, at least partially. In any event, the Canadians have made their position quite clear. A senior minister stated a few months ago that if the lights must go out somewhere because of energy problems in the U.S., it would not be the lights in Canada. Insofar as they suffer reduced imports, their logical reaction is to demand that the U.S. divert to Canada some of its own coastal deliveries as a quid pro quo for a continuation of Canadian exports to us.

Indonesia and Iran should ostensibly be sources of incremental oil supply; neither has reason to participate in the embargo, and both have some interest in patronizing the U.S. On the other hand, neither can really risk alienating or antagonizing their existing customers, since any additional oil to the U.S. would reduce some other country's supplies. Thus, a more plausible posture for both is to declare strict impartiality and to continue exports based upon the destination patterns prevailing prior to the crisis. Thus the U.S. might hope at best to share pro rata in any increased production, which is scant solace in the face of an import gap which otherwise would have grown each month.

Nigeria's response is less certain. In spite of its diplomatic sympathy for the Palestinians, it is still probable that Nigeria, too, may elect the safe, prudent course of continuing its oil exports on the basis of historical patterns, rather than permitting diversion to the U.S., even though its low-sulphur crudes would now be particularly welcome for purely technical reasons.

The sole possibility for additional supplies may prove to be Venezuela, even though three possible obstacles must be noted. First, Venezuela, too, must worry about existing customers; since total exports from Arab states have been cut, any diversion of other oil is necessarily at someone else's expense. Secondly, shifting all their exports to the U.S. invites criticism—the government in Caracas could be denounced as lackeys of the gringo imperialists. In Latin America that is the first kiss of death. Thirdly, Venezuelan heavy crude oils are difficult to refine, and it is uncertain whether we could actually utilize the some 800,000 B/D which in theory might be diverted.

Thus, with the exception of Venezuela, it appears that deliveries from other sources would contribute at best a small fraction of our unfulfilled oil needs.

If these assessments are realistic, we should next ask how much time do we have until the jaws of the vice begin to clamp tightly enough to hurt. I can cite two tidbits from the recent press which suggest that the jaws have begun to move in. The first item was an announcement by the manufacturers of pot-bellied iron stoves; they stated that their backlog is up to two years. The second is a report from the New Hampshire police that for the first time they can recall woodpiles are being stolen. It is comforting to note from both reports that at least someone in our economy is planning ahead, in New Hampshire at least, if not in Washington.

We still have some time before the pinch is obvious—very little, a few weeks—while the last pre-embargo tankers arrive and as we cautiously draw down our somewhat limited oil inventories. But the time which we buy in this manner must be repaid with the delay of 2–6 weeks between any resumption of shipments and their arrival here.

Demand always equals supply, and in this case reduced supply means a reduction in demand, i.e. consumption. The prospects for the coming winter are serious, and it is likely that the Government's efforts to ration fuels will not prevent disruptions and dislocations within our economy, with ensuing unemployment and short work weeks. The oil shortage would be compounded by a serious natural gas shortage—10–15% of total natural gas needs for a normal winter. The best planning is always inadequate, and our government seems to have embarked upon this new crisis with no contingency plans at all. Our economy is a close-articulated, sensitive system, and disruptions and shortages have the awful habit of cascading and compounding through such tight systems and do so in unforeseeable directions.

An example from the coal shortage of 1947/48 illustrates the unpredictable vulnerability of an economy such as ours. In '47 or '48 General Motors had foreseen possible trouble and had stockpiled coal at its plants and its suppliers' plants and expected thereby to weather the shortage. However, a small manufacturer of screw fasteners in Elyria ran out of coal; it was GM's sole source of supplies, and when that stream of tiny parts stopped, the whole corporation began to go down. An emergency coal caravan of dump trucks saved the day—then! Such a rescue operation is not feasible nationwide, and the greatest danger to us from the coming energy crunch this winter is the vicious multiplier effect of shortages, since cutbacks or partial closures in one plant or one industry which supply vital parts or services to other industries can force even greater cutbacks or partial closures in the latter industries as well. Energy is indeed only a small fraction of our GNP, but it is absolutely indispensable to the successful functioning of our economy. Hence, in view of the Arab oil embargo plus the pending acute shortage of natural gas, I fear that our economy will not survive this coming winter unscathed. This time, the wolf really is at the door.

This is the end of my tale, so let me recapitulate our dilemma. Not only is the loss of Arab oil supplies a very serious blow to our economy and our welfare, there is still a very high probability that the embargo can be implemented successfully. The United States is now caught in a most awkward situation, like the innocent bystander in a family quarrel. We are trapped in the middle of an ancient Middle Eastern tribal battle. We have the Israelis pressuring us on one side to defend the territories which they conquered in 1967. On the other sides the Arabs are putting pressure upon us to force Israel to withdraw from its newly-captured lands. The Israelis thus far have always prevailed in Washington. However, now, for the first time, the Arabs have somehow managed to muster a credible counterthrust to these Israeli pressures, and we are trapped in the middle. At this stage it is impossible to even speculate what might ensue—recent developments in Washington make our government even less predictable, a fact which should frighten all of us. So, by way of conclusion, I can only hazard two comments—first the solution will not be easy, and secondly, that things may well get worse before getting any better.

MORE INFORMATION ON THE MATAGORDA AIR FORCE BOMBING RANGE

Mr. PROXMIRE. Mr. President, several days ago I discussed the danger posed to the last remaining whooping cranes by continued Air Force bombing practice near nesting sites on Matagorda Island. Since that time additional information has become available that indicates the seriousness of the problem.

Matagorda Island is used for bombing practice by the Air Force. It went through a period of little use during the 1960's at the time of our involvement in Vietnam. With the return of our aircraft, however, bombing activities have been stepped up.

The Air Force uses Matagorda for both high- and low-altitude bombing practice with a variety of aircraft including the giant B–52's, FB–111's, Huey Cobra helicopters, F–4's, and A–7's. Ordnance ranges from 250-pound practice bombs to 1,000-pound live drops, plus 20-millimeter cannon and grenade launcher static firing. About 450 Army helicopter sorties are made a month in addition to the thousands of fixed-wing bombing runs. There is laser bombing practice, aerial gunnery, dive bombing, and rocket practice.

Some of these missions have been supersonic as indicated by the operational orders for using the range. Thus, there are literally thousands of airspace intrusions through and over the island yearly, some with accompanying sonic booms. Even given the suspect Air Force figures for bombing accuracy of 98 percent, the possibility for misses outside the range increases with the number of missions flown. It can be expected that there will be numerous bombing errors every year which could result in live ordnance being dropped on or near nesting whooping cranes. The cranes have been sighted in the restricted bombing zone. It can be concluded that continued Air Force bombing will present a great danger to these rare birds.

AIR FORCE WANTS TO RETAIN EXCLUSIVE HUNTING AND FISHING RESORT

Perhaps the real reason why the Air Force wants to retain Matagorda Island lies in its special status as a hunting and fishing resort for military personnel. The Air Force has admitted that 68 generals, 30 high-ranking civilians, and hundreds of other military personnel have used the island as an exclusive hunting and fishing preserve for years. There are 1,245 quail shelters and 38 turkey roosts built by the Air Force for the hunting pleasure of its guests. A number of Air Force personnel are available as guides and aides to the visiting dignitaries that stay at a distinguished visitors' quarters with de luxe rooms, a lounge, dining area, and a chef. They also have the use of some 50 vehicles for transportation to and from their selected recreational entertainment.

So that the day ends right, there is a facility for cleaning and dressing the game. All in all it is a pretty nice operation at taxpayers' expense. Of course the taxpayers cannot use it. It is for generals and such.

Mr. President, I have written to the Air Force asking for the names of all the generals/admirals and high-ranking civilians using the island's recreational benefits over the past 5 years. I have also asked for a full justification for the hunting and fishing facilities on the island and a breakdown of how many Air Force men have been used for these purposes. Should it become necessary, I will ask the General Accounting Office to document the expense and manpower allotted to this project. First, however, I would like to review the Air Force reply.

In the meantime, I hope that the Secretary of Defense will make every effort to place a large portion of the island off limits to recreational use by the military, restrict flights over or near nesting areas, and turn control of the island over to the Department of the Interior.

SUDDEN INFANT DEATH SYNDROME

Mr. MONDALE. Mr. President, on December 11, the Senate passed S. 1745, the Sudden Infant Death Syndrome Act of 1973.

For nearly 2 years I have had a deep interest in the tragedy of crib death or sudden infant death syndrome. One of the most frustrating aspects of this disease is our inability to predict it or to prevent it from striking thousands of babies who give every appearance of being healthy.

It is very gratifying to note the growth in both public and professional interest in SIDS. I am pleased that the Senate has passed and the House is considering the legislation needed to counsel families who lose children and to mount a major medical research effort.

There are dedicated researchers who have been working for years, on limited funds, on clues to the cause of SIDS. The November 29 issue of the New England Journal of Medicine includes several articles describing the status of some of this research. I ask unanimous consent that these articles be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

Sudden, Unexpected and Unexplained Death in Infancy—A Status Report—1973

In 1953 the subject of sudden death in infancy lay dormant. Little related research was under way, and pertinent scientific publications were few. Twenty years later, on the contrary, there are numerous relevant articles and myriads of applications for the support of research in this field. Multiple factors participated in this change, not the least of which was the strength of organized parent groups. Physicians and governmental representatives have become aware and are taking appropriate action. The National Institute of Child Health and Human Development has responded with a comprehensive program for the stimulation and support of research and the education of physicians and of the laity.

Sudden, unexpected death in infancy (crib death) is currently defined as "the sudden death of an infant or young child, unexpected by history, in which a thorough postmortem examination fails to demonstrate an adequate cause for death." It is essential that this definition be strictly adhered to in any studies dealing with this subject.

Approximately 10,000 crib deaths occur annually in the United States, the greatest incidence being in infants one to four months of age. This is the leading cause of death among infants between one week and one year of age. It is more apt to occur during the late winter and early spring, may be preceded by a mild respiratory infection, and is more common in socio-economically deprived areas than in middle-class and upper-class communities. Perhaps as a corollary to the latter, there is a higher rate of occurrence among infants of low birth weight, and among those born to mothers less than 20 years old, to mothers who have had little or no prenatal care and to unwed or addicted mothers. In this country the lowest rate of occurrence is among Orientals, followed by whites, Mexican-Americans, blacks and finally, American Indians; the explanation for these apparent racial differences is not known.

An infant who suddenly, silently and without struggle, stops breathing, and becomes cyanotic and limp, and who is subsequently resuscitated has been called a "near-miss." Each such infant who is brought to an emergency room presents a real problem, since among the few who are discharged, a certain proportion are brought back dead within a week or so. In the infants admitted to the hospital, studies are almost always noncontributory. Should all such infants be admitted and monitored, or should their families monitor them? To date, there are no ready answers to these questions.

Most of these infants die at night during sleep. Perhaps the most important observation in recent years is that of Steinschneider, who has found that normal infants two to three months old tend to have apneic periods during sleep, and that these episodes are more prolonged during upper respiratory infections. He has, moreover, documented recurrent periods of spontaneous prolonged apnea in infants who subsequently died suddenly and unexpectedly and in whom autopsy failed to reveal a cause of death.

Naeye, elsewhere in this issue of the *Journal*, has demonstrated significant thickening of the walls of small pulmonary arteries in these infants as compared to controls. These changes are similar to those present in normal infants and children living at high altitude and suggest to him the effects of chronic hypoxia. Perhaps the changes are related to the aforementioned prolonged periods of apnea.

The observation that cessation of respiration can be induced in very young monkeys by a variety of stimuli may be related to the above findings, and perhaps this phenomenon is simply a reversion to the fetal state.

Hypotheses other than those related to spontaneous apneic episodes during sleep have recently been suggested but remain unproved. Certain histologic features of the myocardial conduction system, observed in infants dying suddenly and unexpectedly as well as in controls have been implicated as the cause of these deaths. Our study has failed to validate such a conclusion.

An assortment of common viruses has been recovered at autopsy from various anatomic sites in 23 to 42 per cent of these infants. Except for the upper airway, however, histologic sections give no morphologic evidence of infection. There is no evidence of overwhelming viremia. If viruses participate in causing these deaths the exact mechanisms by means of which they do so is unkown.

A number of immunologic mechanisms have been suggested as being responsible for these deaths. Anaphylaxis seems unlikely since serum IgE is apparently normal, and the third component of complement is not depressed. IgM, variously reported as elevated or normal at autopsy, has been found retrospectively to be normal in umbilical-cord blood. Specific antibody titers to common viruses are within normal limits. Failure to demonstrate antinuclear factor or anti-antibodies suggests that immunologic mechanisms play no part in these deaths, but further studies are necessary.

It has been suggested that these infants die because they are obligatory nosebreathers; occlusion of the nasal passages, as by a respiratory infection, might then be responsible for suffocation. Against this theory, however, are the facts that obligatory nose-breathing characterizes the neonate rather than the infant of three months, and that post-mortem radiologic studies have demonstrated clear passageways.

There is as yet no substantial proof that laryngospasm is responsible for these deaths, nor lack of vitamin E or selenium; compressive hemorrhage about the cervical spinal cord has been disproved. Neither a genetic nor ametabolic defect has been substantiated, and hypogammaglobulinemia, parathyroid and adrenal insufficiency, hypocalcemia and lack of potassium or calcium in the myocardium have been excluded; magnesium deprivation probably is not responsible.

For the practicing physician, currently the single most important aspect of the matter is the care of the stricken family. Unfortunately, in many areas that care is far less than optimal. Infanticide is often suspected, and the parents are treated as though guilty until proved otherwise. This, of course, simply enhances their normal feelings of guilt. It is incumbent upon all of us to do whatever we can to correct this unfortunate state of affairs.

St. Christopher's Hospital for Children, Philadelphia, Pa. 19133.

MARIE A. VALDES-DAPENA, M.D.

THE MYOCARDIAL CONDUCTION SYSTEM IN SUDDEN DEATH IN INFANCY

(By Marie A. Valdes-Dapena, M.D., Marguerite Greene, M.D., Nirmala Basavanand, M.D., Robert Catheran, M.D., and Raymond C. Truex, Ph.D.)

The ultimate mechanism responsible for sudden unexpected death in infancy remains unknown. Current hypotheses tend toward the concept of an instantaneous interruption in some basic physiologic function such as the control of respiration or cardiac action.

In 1968 James proposed the hypothesis that these deaths are due to lethal disturbances in the conduction system triggered by focal "histopathologic changes" in the atrioventricular bundle and the atrioventricular node. The histologic features that he described are focal resorptive degeneration of conduction tissue cells, cell death, removal of dead cells by macrophages and replacement with collagen produced by young fibroblasts. These abnormalities were observed not only in the hearts of 40 infants whose deaths were unexplained after autopsy but also in the hearts of 16 whose deaths were otherwise explained. Thus, James concluded that these microscopical changes constituted part of a "molding" process to be expected in the conduction system in all infants during the first year of life.

Although he conceived of the process as a kind of physiologic focal death and resorption he reasoned that the active lesion might in certain cases instigate sudden malfunction of the system and thus be responsible for sudden, unexpected death.

The observations and conclusions of James were later reaffirmed by Anderson et al. Still later Ferris suggested that the presence of "cartilage" in the anulus fibrosus, which he had seen in two instances, could also initiate fatal conduction disturbances.

The purpose of this investigation was the re-examination of the histologic characteristics of the atrioventricular node and bundle in infants who had died suddenly and unexpectedly and in age-matched controls whose deaths were explained after autopsy.

From the departments of Pediatrics, Pathology and Anatomy, St. Christopher's Hospital for Children, Temple University School of Medicine, and the Division of the Medical Examiner, Department of Public Health (address reprint requests to Dr. Valdes-Dapena at the Department of Pathology, St. Christopher's Hospital for Children, 2600 N. Lawrence St,, Philadelphia, Pa. 19133).

Supported by a grant (1 ROI ND05063-01) from the United States Department of Health, Education, and Welfare, Public Health Service, National Institute of Child Health and Human Development.

MATERIAL

The conduction system was removed in block from the hearts of 47 infants who had died during the first year of life. Autopsies were conducted at Temple University School of Medicine, St. Christophers Hospital for Children and the Office of the Medical Examiner of the City of Philadelphia. Thirty-one of the infants died suddenly and unexpectedly, and their deaths remained unexplained after the performance of a complete autopsy including the examination of numerous microscopical sections. The 16 infants who served as controls died of the following conditions: bronchopneumonia (four); sepsis (three); pulmonary hyaline-membrane disease (two); and one each of coalitis secondary to aganglionosis, peritonitis secondary to atresia of bowel, diarrhea and dehydration, renal-vein thrombosis, methemoglobinemia, angiomatosis and prematurity (birth weight of 735 g). Of the 31 sudden deaths, 18 were in male and 13 in female infants; 23 infants were black, seven white, and one oriental. As for the 16 controls, there were nine females and seven males, 12 blacks, three whites and one Puerto Rican. In both groups the majority of infants were between one and four months of age, the youngest being a premature newborn (weighing 735 g) and the oldest 10 months of age.

At autopsy the entire heart was fixed in 10 per cent formalin after the removal of a few peripheral sections. Thereafter, a single block was resected and trimmed to include the atrioventricular node, the bundle of His and the upper portions of the left and right bundle branches. All four faces of the block were diagrammed and photographed for purposes of orientation during examination of the sections.

Each block was embedded in paraffin and sectioned serially in the coronal plane, the sections being 10 μ in thickness. The average number of sections cut was 1500. All sections were mounted individually on glass slides, and every fifth section was stained with hematoxylin, phloxine, and saffranin. Intervening sections were employed, as indicated, for special stains, including Masson's trichrome, Weigert's methenamine silver, periodic acid-Schiff and Van Gieson.

Sections were studied by two examiners without knowledge of the nature of the case. The histologic architecture of the conduction system was diagrammed in detail in each case.

OBSERVATIONS

In all infants the fibers of the conduction system were supported by a "skeleton" of more or less loosely woven connective tissue. Special stains revealed most of the fibrils in these more lightly stained areas to be collagen fibers with only a few randomly scattered elastic fibers. In these loosely woven areas no dead or degenerating cells could be identified. There was no infiltration by macrophages, nor was there any active "replacement" by young fibroblasts.

Petechiae were encountered within the conduction system in 11 hearts, eight of the 31 crib deaths (26 per cent) and three of the 16 controls (20 per cent). The difference is not statistically significant. The more frequent occurrence in the former group is paralleled by the number of minute hemorrhages in nearby myocardium (50 per cent of the sudden deaths and 37 per cent of the controls).

The tissue of the annulus fibrosus in many exhibited a cartilagenoid character: no true cartilage, however, was observed in any.

DISCUSSION

Clearly the discrepancy between this study and that of James stems from differences in interpretation of histologic observations. He saw focal, loosely woven, palestaining areas as part of an active process capable of stimulating the conduction tissue to dysrhythmia; we saw, in the same areas, no dead cells, no phagocytosis, no replacement fibrosis, nor any evidence of an active process that could be considered part of rapid remodeling. Loosely woven, pale-staining connective tissue is one of the characteristics of supporting structures in the infant in many sites; on the other hand, it is unusual in adults. Its appearance in the growing conduction system of the infant heart is thus not surprising; we question the validity of attributing malfunction of this or any other anatomic system to features of its normal developmental histology.

We are indebted to Mrs. Dorothy Johnson for the technical preparation of our histologic sections.

PULMONARY ARTERIAL ABNORMALITIES IN THE SUDDEN-INFANT-DEATH SYNDROME

(By Richard L. Naeye, M.D.)

ABSTRACT

The sudden-infant-death syndrome is the greatest single cause of death between one week and one year of age in the United States. In the current study, 40 such babies had 1.6 times as much muscle in their small pulmonary arteries as controls. Three quarters of this added muscle was due to hypertrophy, and the rest to hyperplasia of smooth-muscle fibers. Increased muscle at these sites is a characteristic consequence of chronic alveolar hypoxia. Age-matched infants living at high altitude at the time of death had 2.3 times as much muscle in their small pulmonary arteries as the low-altitude controls. These findings are consistent with the recent observation that some victims of the syndrome have had periods of apnea before death. (N Engl J Med 289:1167-1170, 1973)

After the neonatal period, the sudden-infant-death syndrome is the greatest single cause of death during the first year of life, accounting for an estimated 10,000 deaths in the United States each year. The typical patient is a generally healthy infant, two to five months old, who dies silently during sleep. Many hypotheses have been developed to explain the disorder. Some have been disproved, but others have not and are difficult to test. Perhaps the greatest mystery relates to the final mechanism (or mechanisms) responsible for the unexpected deaths. Recently, prolonged apneic and cyanotic episodes have been reported in a number of disorders during sleep, and in some cases such episodes have preceded sudden death. Such cases raise the possibility that apnea occurring during sleep is part of the final pathway in the syndrome. The current study supports this hypothesis by demonstrating pulmonary arterial abnormalities of a type commonly associated with chronic alveolar hypoxia.

PATIENTS

Dr. Russell S. Fisher, chief medical examiner of the state of Maryland, provided most of the cases used in the study. All infants one month to one year of age autopsied by Dr. Fisher and his staff between January 1, 1972, and March 1, 1973, were reviewed, and 40 cases placed in the category of sudden-infant-death syndrome when the death was unexplained by any clinical or post-mortem findings. An additional 22 infants were placed in the same category with pulmonary inflammation when they had bronchopneumonia, tracheobronchitis or interstitial pneumonia of too mild a degree to explain death. None of those with bronchopneumonia had any gross or microscopical consolidation, and the infants with tracheobronchitis had only a mild or moderate peribronchial lymphoid infiltration with a small neutrophilic component. Interstitial pneumonia, when present, consisted of a few widely scattered small foci of moderate infiltrate.

Ten children who died in Leadville, Colorado (altitude of 3100 m, and mean barometric pressure of 525 mm Hg), served as hypoxic controls. This low barometric pressure leads to chronic alveolar hypoxia. Eight of the 10 children died as a consequence of acute infectious processes. Two others, one and three months old, had apneic spells and a poorly explained cause of death. In one of the infants, the apneic spells were reported during feeding and other types of handling. No records are available that describe their respiratory patterns during sleep. Thirty-nine nonhypoxic control infants were also used in the study. They were victims of accidents, homicides or acute bacterial meningitis. None of the cases included in any part of the study involved congenital cardiovascular anomalies or any other disorder known to affect the pulmonary vessels.

METHODS

In each case lungs were dissected, and blocks of tissue fixed in formalin within 20 hours of death. Multiple blocks of tissue from lungs and kidneys in each infant were sectioned at 6 μ and stained with hematoxylin and eosin. In some cases trichrome stains were used to assure that neither adventitia nor intima was being included in measurements of arterial media. To be measured, an artery had to be between 30 and 100 μ in diameter and cut in cross-section. By means of the point-counting technic of Chalkley under a constant magnification of 1000 times, relative cross-sectional areas of intimal nuclei, media and medical nuclei were determined for 20 arteries in both lungs and in kidneys. The numbers of intimal and medical nuclei were also counted in each artery. The mean area of individual pulmonary and renal arterial intimal nuclei did not vary greatly between different groups of cases so that the total area of these nuclei in an individual vessel was used as an internal standard or base line to which other measurements could be referred. The ratio $\frac{\text{area of arterial media}}{\text{total area of intimal nuclei}}$ was adopted as a measure of the relative area of medial smooth muscle present in individual arteries. A mean ratio was determined for arteries in each organ in each case.

The medial cystoplasmic area of each artery was calculated by subtraction of the combined area of medial nuclei from the total medial area. The relative cytoplasmic area of individual muscle cells in an artery was used as a measure of hypertrophy. It was determined by division of the medial cytoplasmic area by the number of medial nuclei present. An index reflecting the number of medial nuclei present in an artery, which was used as a measure of hyperplasia, was determined by division of the number of medial nuclei in an artery by the number of intimal nuclei. None of these three indexes were influenced by moderate dilatation of small arteries. An analysis of 20 arteries takes about 30 minutes. To avoid bias, all histologic analyses were undertaken without prior knowledge of an infant's dessignation as disease or control.

RESULTS

Blacks outnumbered whites, and males outnumbered females in the two categories of sudden infant death and in the nonhypoxic controls. All the high-altitude controls were white. Relative medial muscle mass in the small pulmonary arteries was significantly greater in the two categories of sudden infant death than in the nonhypoxic controls but less than in the high-altitude hypoxic controls. This muscle mass was somewhat greater in cases of sudden death without than in those with pulmonary inflammation. In both the cases of sudden infant death and the high-altitude cases, the increased pulmonary arterial medial mass was due to the combined effects of smooth-muscle hyperplasia and hypertrophy.

The small pulmonary arteries were usually dilated in cases of sudden infant death by comparison with the nonhypoxic controls. This arterial dilatation makes it very difficult to recognize the increased arterial muscle mass in sudden-infant-death syndrome by simple microscopical inspection. The dilatation also prevents recognition of the increased pulmonary arterial muscle mass in such infants by representing pulmonary arterial-wall thickness in per cent of the vessel's diameter (this widely used technic is simple to perform, but its numerical values are reduced by arterial dilatation). There were no abnormalities in the small renal arteries of the patients by comparison with the control. No intimal proliferation or thromboembolic lesions were detected in any arteries of the patients or the controls.

DISCUSSION

The current study demonstrates that smooth-muscle fibers in small pulmonary arteries are commonly both hyperplastic and hypertrophied in the sudden-infant-death syndrome. This abnormality seems confined to the lesser circulation since it was not found in the small renal arteries of the systemic circuit. This pulmonary vascular abnormality is most probably related to chronic alveolar hypoxia, since there was no evidence of congenital cardiovascular anomalies or other disorders that might increase pulmonary arterial pressure or blood flow in these infants. Such chronic alveolar hypoxia is a common cause of increased pulmonary vascular resistance in a variety of disorders. The list includes disorders that damage central mechanisms of respiratory control, interfere with the bellows mechanism of the chest and obstruct airways. Most of these disorders cause alveolar hypoxia by reducing alveolar ventilation. The pulmonary circulation has a characteristic response. Arterial segments exposed to hypoxic air from adjacent alveoli develop a coat of hyperplastic and hypertrophied smooth-muscle fibers, a presumed response to increased vasomotor activity in the involved vessels. Such arteries also are usually dilated, a possible reflection of an increased pulmonary blood volume. Arterial intimal proliferative lesions do not develop.

Individual differences appear to influence the pulmonary vascular response to alveolar hypoxia. When the newborn lives at high altitude, alveolar hypoxia appears to arrest the normal neonatal decrease of pulmonary arterial-muscle mass in some children, but not in others. This correlates wtih the finding that some children at high altitude have pulmonary arterial pressures as low as those found at sea level whereas others have pressures as high as those normally present at birth, both presumably having a similar degree of alveolar hypoxia. Such individual differences in the pressor response to alveolar hypoxia may partially explain the differing mass of pulmonary arterial muscle from one patient with the syndrome to another, so that even a normal muscle mass in small pulmonary arteries might not exclude antecedent alveolar hypoventilation.

Immaturity or malfunction of central mechanisms of respiratory control appears the most likely explanation for the pulmonary arterial abnormalities in the syndrome of sudden infant death. Most victims die silently during sleep, and some have been observed to have episodes of prolonged apnea and cyanosis, usually during sleep, before death. Both cardiac and respiratory abnormalities may contribute to these episodes, but the evidence is stronger for a respiratory mechanism. Both periods of apnea and sudden infant death are far more common in premature than in full-term infants. Probable mild respiratory-tract infections were identified in 22 of the 62 babies with sudden death in the current study, and the association has often been reported in the past. There is some evidence that such infections may prolong episodes of apnea and cyanosis in the early months of life and hence may pose a special hazard to those predisposed to the syndrome.

The Pickwickian syndrome has certain features in common with that of sudden infant death. Alveolar hypoventilation, increasing during sleep, is a complication of the disorder, and several involved patients have reportedly had a sudden, unexpected respiratory death during sleep. If a central mechanism of respiratory control is responsible for the sudden infant deaths, the abormality may be in the lower brainstem. The syndrome of sleep apnea, Ondine's curse, has been reported after high bilateral cervical cordotomy and lower-brainstem damage.

Finally, there is a small possibility that the increased muscle in small pulmonary arteries of babies with sudden death is a primary rather than a secondary phenomenon. Pulmonary arterial medial hypertrophy is the predominant abnormality in a small number of children with primary pulmonary arterial hypertension.

We are indebted to Dr. Elliot D. Weitzman, Montefiore Hospital, New York City, for advice and to Dr. Geno Saccomanno, St. Mary's Hospital, Grand Junction, Colorado, who kindly supplied the cases from Leadville, Colorado.

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REMARKS OF GOVERNOR VANDERHOOF BEFORE THE COLORADO RIVER WATER USERS ASSOCIATION

Mr. DOMINICK. Mr. President, on November 26, 1973, Honorable John D. Vanderhoof, Governor of Colorado, addressed the 30th Annual Session of the Colorado Water Users Association at Las Vegas, Nev. This organization represents the seven Colorado River Basin States.

The importance of the Colorado River cannot be over emphasized. The Governor's speech sounds a clear warning that the potential impact on available water supplies of the Colorado River could become enormous as a result of increased demands for energy production. Certainly, we are all becoming more and more aware of the necessity for increased energy production, as we acutely recognize the severity of this crisis touching on each one of us.

Mr. President, the remarks of Governor Vanderhoof deserve the attention of any person interested in the Colorado River. I ask unanimous consent that his speech be printed in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

Remarks of John D. Vanderhoof

The Colorado River Water Users Association is an organization of the seven Colorado

River Basin States which represents the broad spectrum of water utilization. It is an organization of water users. Despite the creation of a myriad of state and federal water commissions, councils and the like, I still consider that the water users constitute the greatest source of expertise in the field of water development and use. I therefore welcome this opportunity to meet with you today.

The Colorado River is perhaps the most controlled, the most controversial and the most litigated river in the world. Although individually we do not always agree on all matters involving the river, this Association has provided a valuable forum for the exchange of viewpoints and the resolution of common problems.

We are today living in a country of incredible contradictions. We have on one hand a governmental agency which requires that certain tobacco products be labeled as injurious to health, and on the other hand a federal agency which provides price supports for the growing of tobacco. We have an emerging national policy to limit the consumption of gasoline. On the other hand, we have a law which causes a much greater consumption of gasoline through the required installation of anti-pollution devices on automobiles. Earlier this year, we were blessed with a report from the blue ribbon National Water Commission decrying crop surpluses and excesses of agricultural lands. Almost simultaneously, another federal agency was urging our farmers to plant greater acreages and produce more crops. And now perhaps we have encountered the greatest contradiction of all. In a nation containing an abundance of energy resources, we have stumbled into an energy crisis.

The people of the Upper Basin states cannot ignore the fact that, in this era of energy crisis, they may well become a new Arabia. We are residents of those states in which much of the nation's untapped energy resources lie. The large scale extraction and conversion of these resources—natural gas, coal and oil shale—will require immense amounts of water.

The potential impact of the demand for energy production on the available water supplies of the Colorado River can become enormous. This demand was never contemplated by the Colorado River Compact. If the Upper Basin states are to furnish energy for the rest of the United States, then the already depleted water allocations may have to be re-examined.

Here again, just as between the absolutely contradictory demands for zero population growth and a burgeoning urban and industrial society, we face a great dilemma—a dilemma to which existing interstate compacts provide no complete answer. The strength of our nation is derived from the process of sharing resources. The strength of the seven Colorado River Basin states, and indeed of this water users association, is based upon the same premise. The nature of the problem dictates that we work together towards the satisfactory solution of mutual problems, and, that to the maximum extent possible, we speak as one in the Congress.

In common with an abundance of energy resources, we live in that part of the United States which contains most of the country's irrigated lands. Those irrigated lands have contributed enormously to our national economic base and to our high standard of living. Since biblical times, the reclamation of arid lands has been viewed as good. Now it is bad. The National Water Commission says it is bad. The national administration says it is bad. Many of our citizens believe that it is bad. As a matter of fact, there is a prevalent opinion that all water resource development is bad.

A major problem of our society today is our inability to cope with the graduated area between situations that we can all describe as good and situations that we can all describe as bad. For instance, I presume that we could all agree that for drinking purposes water containing more than 5,000 parts of salt is bad and that water containing no salt is good. But what about water containing ten parts of salt per million? The purist will argue that salt is bad and that therefore ten parts per million is bad. Others will argue that almost all water contains some salt and that water containing only ten parts is good. It is our inability to balance utopia against reality which is causing us considerable grief. This problem is the major theme of my remarks here today.

As never before in our history, we are faced with an enormous challenge in the western states concerning the use of our water resources. This is the year of challenge. This year has witnessed the issuance of two major documents which purport to enunciate national water policy. One was the report of the National Water Commission and the other was the "Principles and Standards for Planning Water and Related Land Resources" issued by the Water Resources Council. The basic premise of both of these documents was to portray water development as bad. I submit to you that these reports were based upon a preconceived intent to prove that any further water resource development is bad, and that the irrigation of crops is particularly bad. There were numerous public hearings before the issurance of these two documents. However, the verdict was in before the trial ever began. The hundreds of knowledgeable people who testified against many of the conclusions contained in the two documents were almost totally ignored. My predecessor, Governor John Love, appeared before the National Water Commission and I will quote a brief section from his statement.

"The report is critical of the western reclamation program. The report states that providing supplemental irrigation water has added to excess productive capacity and thereby has contributed to the high cost of crop support and land retirement programs. What the report does not state is that price support and land retirement programs were generated almost entirely by agricultural production on *nonirrigated* lands. Less than three percent of the total production of supported crops can be attributed to reclamation projects. I realize that it has become increasingly popular in the United States in recent years to fault the western reclamation program for many of the imagined evils of agricultural production. There is no factual basis for this criticism."

I do not think that Congress intends to buy either one of these reports. Nevertheless, the policies enunciated in them are being used to intimidate and destroy water resource development, with special emphasis upon the elimination of the reclamation program. Among the protagonists of the reclamation program, I sense a feeling of defeat and despair. We are defending when we should be attacking. If there was ever a time for us in the West to stand up and be heard, it is now.

Two principal means are being employed to harass further water resource development; namely, environmental impact statements and water quality standards. Nearly everyone can agree that laws designed to protect the natural environment and to prevent the pollution of water are good. However, we fall apart concerning the degree of protection which is necessary. We have thoughtlessly exploited and wasted much of the resources of this planet. We have caused the final extinction of many forms of plant and animal life. If we are to survive, we must plan and act to minimize the impact of human activities upon the natural scheme of the earth's existence. What we have too long failed to recognize is that all types of life upon earth, including the human life, are mutually dependent upon each other for their continued existence.

Our society, through its government, is belatedly recognizing that all life is a recurring cycle which depends entirely upon the continuation of a favorable natural environment. The national environmental protection and the water pollution control acts constitute governmental recognition of serious problems. As always however, their application will be troublesome.

The preparation of environmental impact statements for those federal activities which would have some effect upon the natural environment is designed to appraise use of the consequences of a projected course of action. After weighing those consequences, a decision must be arrived at. It is not possible for any type of life to exist upon the earth without having some effect upon the then existing environment. Unfortunately, there are many in this country who believe that the environmental impact statement was designed to reduce the American people to a state of suspended animation.

In 1965, the state of Colorado experienced a series of disastrous floods in which over twenty lives were lost and property damages in excess of five hundred million dollars were suffered. An already authorized flood control project on the South Platte River above Denver would have prevented most of the damages. With considerable dispatch, Congress appropriated funds to get this project under way. The principal feature of the project, the Chatfield Dam, is now almost completed. This project was authorized and construction started before the passage of the Environmental Protection Act. A second feature of the project was channel improvement for about six miles below the dam through an urbanized section of metropolitan Denver for the passage of the designed floodwater releases from the Chatfield Dam. Construction of this feature has not yet started, although it was originally contemplated that it would be under way by this year.

It was decided that an environmental impact statement for this channel section would have to be prepared, since construction had not been initiated. This environmental impact statement has now been under preparation for some three years, and, although constantly delayed, it was promised in final form this year. In the meantime, the state of Colorado appropriated money and began negotiations with the landowners in the channel area for the acquisition of the land necessary for the channel improvements. The landowners were advised that they would be paid for their lands during this year. They made plans accordingly. Now we are informed that the preparation of the environmental impact statement must begin anew because the dam must be included in the statement. As I stated, the dam is now almost completed and we fail to see the value of an environmental impact statement for it now. If the environmental impact statement is adverse, will the dam be destroyed? We wonder.

In the meantime, we have a number of angry citizens on our hands who were promised settlement for their lands this year. We are informed that the environmental impact statement cannot be completed before December, 1974 at the earliest. This means that we probably cannot get the channel construction started before the spring of 1976. Soon we will have a completed dam with an uncompleted release channel. The designed water release from the dam will cause flooding in the channel area below.

In 1946, the Congress authorized the construction of the Narrows Project on the South Platte River near Fort Morgan, Colorado. This was to be a multi-purpose project with the principal capacity being reserved for flood control and the remaining capacity devoted to irrigation storage, along with a permanent pool for recreational and fish and wildlife purposes. As a result of internal difference within the State of Colorado, the project was long delayed but was revived in 1958. New feasibility reports were prepared, and in 1970 the project was reauthorized. In the same year, an environmental impact statement was prepared and submitted to the Council on Environmental Quality. The reservoir would be situated in the plains area of Colorado where no river fishery exists. It was believed that the total environmental impact would improve the existing situation. Last year Congress appropriated funds to initiate land acquisition and additional funds were appropriated this year. Recently, a letter was received from the Denver area complaining that the environmental impact statement was now out of date. To the casual observer these letters appeared to be frivolous. However, they were taken seriously by federal agencies and now we are advised that everything must come to a halt for at least another two years while another environmental impact statement is prepared.

And so ad infinitum. The question is when, if ever, does the process end? The tragedy is that excesses in the application of any law lead to contempt. The preparation of environmental impact statements cost staggering amounts of money and consume both natural and human resources. Unfortunately, these statements are often now judged by their volume rather than their content. The abuses in their preparation, in either direction, must be corrected to restore confidence in the original purposes of the Environmental Protection Act.

I will terminate this subject by observing that if Adam had been required to prepare and environmental impact statement before he coupled with Eve, there would be no environmental problems for us to worry about today.

A portion of your conference program is being devoted to the salinity problems of the Colorado River. This indeed is a pertinent topic. Notice has been served by the Environmental Protection Agency that it proposes the adoption of a regulation by which the salinity of the Colorado River system shall be maintained at or below levels found in the lower main stem as of April, 1972. The proposed regulation does not define "the lower main stem" nor does it state the numerical count of total dissolved solids which existed as of April, 1972. We have a curious feeling, however, that the proposed regulation is actually based upon the so-called agreement with the Republic of Mexico establishing salinity standards at Imperial Dam. If such is the case, the Environmental Protection Agency has abdicated its responsibility to third parties, one of which is a foreign government.

While I am critical of the proposed regulation, a more basic problem is involved in the promulgation of any water quality standard. The 1972 amendment to the Federal Water Pollution Control Act starts with a declaration that "it is the national goal that the discharge of pollutants into the navigable waters be eliminated by 1985." The Act further states that: "The term 'pollutant' means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into water."

It must be assumed that the Act refers only to those pollutants induced into the waters of streams by the activities of man, although it does not so state. The types of pollutants described, for the most part, are readily discernible. However, the terms, "Chemical wastes" and "agricultural waste," among others, pose some formidable problems. For thousands of years man has used fertilizers in the growing of crops, following a pattern established by nature. During this century, the use of chemical fertilizers has been firmly established and accounts for a large part of the world's food production. The use of fertilizers, whether chemical or organic, is totally dependent upon water as a transportation agent. This process obviously adds chemical compounds to the water, some of which inevitably return to the streams. Even in the realm of fantasy, there is no conceivable way that fertilizers can be used without adding "pollutants" to the water. Therefore, the Act requires that the use of fertilizers be terminated by 1985.

One can argue realistically that the Act does not really mean what it says. Perhaps. But the implications are already frightening. Under date of August 22, 1973, a proposed regulation was published in the Federal Register which would require the sugar beet industry to achieve a zero discharge standard by July 1, 1983. I look forward with apprehension to the day when such standards are applied to the grower, as well as to the processor.

A fundamental question with the Water Pollution Control Act is—What are we trying to achieve? A part of that question is readily answerable. We have permitted an inexcusable abuse of our streams and lakes to the extent that many of them are little more than open sewers. We have destroyed the usefulness of some of our streams and lakes, not only for ourselves, but also for other forms of life which are necessary to the total life cycle.

All of us would define any substance injurious to either health or life as a pollutant. Most of us would extend that definition to those substances which destroy or impair fish and aquatic life. Others would extend the definition to include damage to aesthetic values and to the natural environment. We all measure pollutants in terms of adverse effects. This is where the Water Pollution Control Act fails. At the very outset, the stated purpose of the Act is that all discharge of pollutants be eliminated by 1985. It is therefore assumed that all pollutants have an adverse effect upon navigable waters. I submit that this is not the case and that the stated goal is neither realistic, necessary nor attainable.

If we are not able to distinguish between that pollution which is harmful and that which is not, we are following a blind course. When sources of pollution are identified which have a demonstrable adverse effect upon our waters, then we should pursue every possible remedy to abate such sources. When pollution has no demonstrable adverse effect, then we should not be chasing rainbows. We have neither the time nor the money for such a pursuit.

There are many portions of the Act in which reason seems to prevail. Water quality is described in one place as that which "is adequate to provide for the protection and propagation of a balanced population of shellfish, fish, and wildlife and allow recreational activities in and on the water." I believe that it is the overwhelming desire of the American people to maintain water of a quality adequate for human consumption and for the preservation of the natural plant and animal life. Unfortunately, the word "adequate" is not contained either in the declaration of purpose or any of the definitions. Until the Act is amended to provide a more definitive and reasonable standard for the control of water pollution, I do not believe that we can achieve the unity of effort necessary to accomplish sensible water quality standards.

The proposed salinity standards for the Colorado River are part and parcel of the water pollution problem and originate under the terms of the Federal Water Pollution Control Act. Dissolved solids contributed to any navigable waters through the activities of man are apparently covered by the Act. However, we see little point in establishing standards on the Colorado River at this time, since by 1985 those standards must be revised downward to zero discharge. Since the Salton Sea and the Pacific coastal waters are navigable waters as defined by the Act, we assume that the zero discharge standard will apply to these waters equally. Or, if interim standards are to be established, we assume that they will be uniform for all Colorado River diversions which return to navigable waters.

The direct and instantaneous effect of the proposed salinity standards on the Colorado River will be to suspend any additional uses of Colorado River water, at least in six of the seven basin states, until such time as methods are devised and implemented which will reduce the current salinity concentrations in the river. This suspension is not acceptable to the state of Colorado and I doubt that it is acceptable to the other affected states. We are willing to do everything within our physical and financial ability to reduce salinity contributions within the state of Colorado, whether natural or man-made. We have been pursuing this goal for several years and we expect to so continue in the indefinite future. However, we cannot accept the unreasonable, untimely and arbitrary limitations now proposed by the Environmental Protection Agency, except as a result of the unsuccessful exhaustion of all legal and political means available to us.

We are assuming that the salinity standards proposed to be established by the EPA are those standards agreed upon by a representative of the President of the Republic of Mexico and a representative of the President of the United States in a document referred to as Minute 242 of the International Boundary and Water Commission. The agreement contained in this Minute constitutes either an amendment to or an enlargement of the Mexican Water Treaty of 1944. While it may be within the power of the President to modify or enlarge upon an international treaty without the consent of Congress, Section 2 of Article II of the United States Constitution seems to indicate otherwise. That section states that the President shall have the power to make treaties, but only upon the advice and consent of the Senate. In the case in hand, such consent has not been given.

The basic question of whether or not 850 parts per million of dissolved solids at Imperial Dam is reasonable or not has yet to be determined. We have been successfully irrigating in Colorado for over fifty years with water containing in excess of 3,000 parts per million. Many of our irrigators would tend to look upon water of 850 parts per million as being relatively pure. There are of course geographic differences in irrigation practices and in soil conditions. Nevertheless, we do not intend to stand idly by while the water resources of our state are sacrificed to abnormal conditions elsewhere.

Great progress has been made by the seven states of the Colorado River Basin in devising plans and methods to combat the salinity problem. These efforts should be continued with increasing emphasis. There is every reason to believe that reasonable salinity control can be achieved. However until such achievement becomes a reality, the people of the state of Colorado cannot suspend either their lives or economic forces based upon a magic formula promulgated by the Environmental Protection Agency.

As long as I am Governor, I pledge the full cooperation of the state of Colorado in establishing such maximum control over the salinity of the Colorado River as may be scientifically and economically possible. Our state efforts to this end will be expanded. We are certain that productive results can be achieved. With cooperation, rather than promulgation, I think that all of us can live in peace on the Colorado River.

GASOLINE RATIONING

Mr. HART. Mr. President, Congress support for gasoline and fuel rationing has been pretty clearly expressed in recent weeks. The administration has mounted a strong counterattack. And at this point, it appears that the people in the saddle at the White House are those who prefer price increases—whether by the so-called free market—which is surely a misnomer where the oil industry is concerned—or by higher Federal taxes—to any rationing system.

One price rise thesis holds that price increases of perhaps 20 percent on gasoline and other oil products will cut consumption by 10 percent without the need for rationing. The theory is nice but the facts demonstrate the problem: Gasoline prices have gone up by about 15 percent since July 1 without any noticeable dent in consumption. Perhaps recognizing that fact, the White House price boosters' club is more realistic. They are talking in terms of raising prices by 30 cents to 40 cents a gallon, that is, by 100 percent or more, to accomplish what might otherwise be achieved by rationing. The debate seems to be over whether the Government does this by taxation or whether we let the oil companies do it themselves.

We must recognize one thing in discussing price as a rationing mechanism in this market: With these products, elasticities of demand are extremely low. That is, it takes extraordinary price increases to achieve very modest reductions in consumption.

What are the magnitudes we are dealing with? This year gasoline consumption is running at an annual rate of about 115 billion gallons, and we want to cut it back to, say, 100 billion.

Based on an annual gasoline consumption rate of 100 billion gallons, a 30-cent increase on the gallon will cost consumers $30 billion a year. And, that is in gasoline alone. We are using close to 50 billion gallons of distillate fuels. Here, a 1-cent price increase costs consumers of heating oil, diesel fuel, and so forth, $500 million a year—an increase of 20 cents a gallon costs $10 billion a year. Add to this, potential increases on another 100 billion gallons or more of other petroleum products, and we are talking blithely about sums which are truly astronomical.

Now perhaps theoretically it does not really matter in this discussion who would get this extra $30 or $40 or $50 billion a year—the Federal Government or the major oil companies. To me it is unconscionable to even consider further penalizing oil consumers, whether they are private citizens or school districts or business firms, people who are already victims of steep inflation.

The administration seems to have inherited the attitude of the elder J. P. Morgan. When a friend asked Morgan how much it cost to keep a yacht, Morgan replied that anyone who had to think about the cost could not afford one. Well, we are not talking about yachts today. We are talking about fuel which 210 million people need to drive cars, to heat homes, to provide jobs for each other. We are not talking about millionaires—we are talking about factory workers, retail clerks, schoolteachers and policemen who have to drive to work, housewives who live 5 or 6 miles from the supermarket, taxpayers who have to pay the bills for transporting children to heated schools.

The administration argues that rationing would be cumbersome and costly and would inevitably lead to black marketeering. Sure, it would be costly, but comparing the $1 or $2 billion it would cost to set up a rationing program against the price-increase cost, rationing appears to be the sounder and fairer and less costly approach. Sure, black markets would develop just as they did in World War II. But in World War II, it was a very small minority of the population which patronized black markets. And I have sufficient faith in the American people to believe that the vast majority would abide strictly by any equitable rationing system.

One approach suggested as a means to counter a black market is to institutionalize the "black" market as a "white" market. Ration coupons would be issued on some fairly even basis to consumers, who would have the right to either use or sell them. With such a system, people who were willing to cut their own consumption could sell extra tickets to those who preferred not to reduce consumption. The economic profits inherent in any shortage situation would be retained by consumers, rather than taken by either the oil companies or the Government.

I have some problems with this approach. Basically, the question hinges on the original distribution of the coupons. Will the person who buys the coupons from someone willing to sell be getting extra coupons, at some high cost, to take a vacation trip—or will that person be someone who desperately needs additional gas to get back and forth to his job? This is a suggestion, nevertheless, which should be carefully and quickly explored.

Another assumption underlying the price increase strategy is that only some prices would rise—those of oil products—and therefore, that approach would not add to general inflationary pressures.

That is a comforting thought, but I am afraid it is a great example of wishful thinking. Fuel price increase sufficient to make the necessary cuts in consumption would trigger a round of inflation the like of which we have seldom if ever before experienced.

We have already had a taste. The Consumers Price Index was rising at an annual rate of nearly 10-percent during October; and administration spokesmen blamed most of the increase on rising fuel prices so far. What would be the inflationary effect of increasing fuel prices 50 percent or 100 percent?

Fuel consumption has to be restrained in one way or another. The American people know this, and 99 percent of them are willing to sacrifice their convenience and reduce consumption on any fair basis. But let us not add to these necessary sacrifices billions upon billions of dollars in higher costs just to avoid the administrative difficulties of rationing.

THE POLICIES OF OSHA

Mr. McCLURE. Mr. President, I get so many letters from the people of Idaho on the subject of OSHA that if I requested unanimous consent to print all of them I would need a whole edition of the CONGRESSIONAL RECORD.

But when OSHA threatens to end the existence of a lifesaving facility, it is time to speak up. The Teton Valley Hospital cannot by the wildest stretch of the imagination be considered antisafety. The preservation of health is its primary and focal reason for existing in the first place. Yet OSHA may mean the death of this hospital. I hold my breath when I think of its patients.

Mr. President, I request unanimous consent to print the following letter from a constituent and the attached story from the Idaho Falls Post Register in the RECORD.

There being no objection, the letter and article were ordered to be printed in the RECORD, as follows:

ASHTON, IDAHO,
November 26, 1973.

Hon. JAMES MCCLURE,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR MCCLURE: My husband is on the hospital board here in Ashton and with the new OSHA regulations the hospital will have to go into debt to meet the requirements. It will cost over $35,000.00 to install the new sprinkler system they require. This is unrealistic for all the rooms have several windows which open up to the outside—the hospital is all on one floor and there are four main exit doors—for a 25 bed hospital it is very modern. The new required sprinkler system not only is unsightly, it is very dangerous. Sometimes the temperature may rise higher than the thermostat on the sprinkler causing it to go off for no good reason possibly drenching the patients or scaring them half to death. Or the thermostat may not go off before the nurses could have the patients evacuated and the fire put out and the water would come down and damage the rooms. As the enclosed article about the hospital at Driggs points out, sometimes the safety officials are not very realistic about what is best for smaller hospitals.

Perhaps you could work together to help Idaho's smaller hospitals. The Rexburg Hospital is planning to build a complete new hospital at considerable expense and waste of existing facilities just to meet the OSHA requirements and the very citizens OSHA is supposed to protect are asked to pay a lot of extra money for something which smaller hospitals do not need.

We have also talked to businessmen in the valley here, a garage, a jewelry store, a printing shop, and many manufacturing plants and all are in danger of having to close their business unless OSHA is made more realistic. If you come right down to it, most of the restaurants in Idaho Falls do not meet the specifications as to restrooms per customer capacity, cleanliness, etc.

We are afraid this water system planning can be as big a mess as the current Watergate mess and was planned about as well as it was, so we hope you can look into it and help all of us.

Thanks,

Sincerely,

GEORGE AND CAROL MAROTZ,
Fremont County Republican Officials.

Sprinklers "a $15,000 Waste" at Teton Valley Hospital

(By Mike Green)

Driggs.—Hospital administrators here blame a lack of insight by federal and safety legislative groups for an unnecessary regulation they say placed a financial hardship on the smaller hospitals in the state.

Unless Teton Valley Hospital in Driggs is allowed an alternative to the safety regulation, the small county hospital will face severe financial problems.

The life safety code in question was developed by the National Fire Protection Assn. and adopted by the Dept. of Health, Education and Welfare (HEW).

It calls for the installation of fire protection sprinklers in intensive care institutions such as hospitals and nursing homes.

SPRINKLERS UNNECESSARY

Local hospital administrators complain that the fire sprinklers are unnecessary, both cost wise and safety wise, in smaller hospitals.

They contend a heat and smoke detector system would be more efficient at life saving at less than a quarter the cost.

The cost of sprinkler system installation at Teton Valley Hospital is estimated at $15 thousand, according to Gary Grandy, hospital administrator there. Cost of an equivalent system, installation of heat and smoke detectors with sprinklers only in the "critical" areas, i.e. storage areas, would be only $2,500.

That's a considerable amount of money for a hospital in a county that was declared an economically depressed area by the federal government in 1968.

An ambulance was received only through a donation of the civil defense, and the county has no rural fire engine. Also, personal income in the county is the lowest in the state, according to Grandy. The small, 13-bed hospital cannot even afford a full-time administrator.

As a result, we have filed for an exception with the state licensor on the ground that we can't financially afford it down in our county," Grandy said.

EXCEPTION PERMITTED

The regulation does permit the exception for the alternate system on the conditions that an equivalent system is installed and if an unreasonable financial hardship is proven.

"What burns me up is what does money have to do with it if it is an equivalent standard," Grandy said. "They want to spend an extra $15 thousand for something that can be done for much less."

The exemption request is now in the HEW regional office in Seattle, Wash., awaiting official approval.

"They gave me some indication that it appears now I'll be able to get the exemption," Grandy said, but a decision either way will leave him nervous.

The alternate system requires proof of a financial hardship each year. So even if the exemption is approved this year, the sprinkler system may eventually have to be installed anyway, making the original investment in heat and smoke detectors a financial waste.

And there is no way of telling what the requirements may be next year.

"So which way do you do," Grandy said.

BLUEPRINTS APPROVED

Teton Valley Hospital was built in 1966. Construction blueprints were approved by the state and the hospital met all state and federal regulations at that time.

And now, only seven years later, the hospital may face major remodeling.

SYSTEMS TESTED

Last January an article appeared in the "Journal of American Hospital Association" on the testing of fire protection systems. In comparing heat and smoke detectors to the sprinkler systems, the article gave these significant findings:

"1. The smoke detectors gave warning of a fire condition some 11 minutes before the sprinklers discharged.

"2. Under the test conditions, the fire would have been extinguished by hospital personnel at least nine minutes before the sprinkler system discharged.

"3. There would have been no hazard to the patient, except fright, at the time the fire was extinguished by hospital personnel. However, if the patient had depended solely upon the sprinkler to extinguish the fire, he would probably have been killed by third degree burns and smoke inhalation."

That is why Gary Grandy hesitates to spend an extra $15 thousand for an equivalent, or possibly inferior, system in life safety.

WHO'S TO BE SAVED?

"Really, it boils down to what are they trying to save, the building or the patient," Grandy said.

According to Grandy, the sprinkler systems were developed originally for building fire protection in supermarkets and warehouses. Schools, which involve the safety of many more lives, are not required to install the sprinklers, he said.

LEGAL SERVICES AND ITS ADVOCATES

Mr. McCLURE. Mr. President, on the theory that the best and fairest way to examine the whole subject of legal services and its advocates is to let them speak for themselves, I have taken a few chapters from the book by Marlise James: "The People's Lawyers," which I would like to share with the readership of the Congressional Record.

Among the points to note here are the author's apologies for his anticommunism, his avowal of a life style, including the smoking of marihuana, which he says assisted him in acting out a parody of American society. He takes credit, with other legal services lawyers, for single-handedly abolishing capital punishment in Mississippi. Now, you may be either for capital punishment or against it. You probably, like most Americans, want the issue decided by a legislature over which you have some control, not by an independent, autonomous public services group.

I request unanimous consent to allow Legal Services lawyers to speak for themselves by printing chapter 3 of "The People's Lawyers" in the Record.

There being no objection, the chapter was ordered to be printed in the Record, as follows:

Mel Wulf and the New ACLU

Mel Wulf has been with the American Civil Liberties Union (ACLU) since 1958 and has been its legal director since 1962. He is an activist, and the views he holds are becoming more prevalent throughout the Union.

Wulf's physical presence gives the first hint of the difference between the ACLU of Roger Baldwin's time and the ACLU of today. Where Baldwin is a gentleman of the old school—properly attired, exacting in speech, courteous to the point of being chivalrous—Wulf is a gentleman of the new school. His tall, husky frame is casually attired in mod, ivy league clothes. His brown hair, speckled with gray, cascades over his ears, forehead and collar. When he speaks, his voice is soft and modulated, and now and again it drops almost into a mumble.

Born in Brooklyn in 1927 to a successful businessman who had immigrated here from Latvia in 1905 and to his wife, a lower East Side native of Polish extraction, Wulf lived in Brooklyn until he was nine. In 1936 his family moved to Troy, New York, where his father's clothing factory was located. He attended public school there.

"I enjoy the fact that I grew up in Troy instead of Brooklyn. It speeded up my assimilation into American society. I was totally unpolitical in public school. I was social; I played football. In '45 with the war going on and the draft on my neck, I joined the Merchant Marine Academy as a way to avoid getting shot at, and I stayed there for two years here in New York. I still was totally unpolitical, and social, and I also drank a lot.

"In 1947, fully expecting to go into the family business, I went to Lowell Textile Institute in Massachusetts. It was there I began to catch on to what was going on. I joined a fraternity, half of which was political novitiates like me and half of which belonged to the Communist party. I began to get political in '48, around the Wallace campaign, but the effect of all of the left-wing politics around me at Lowell, a predominately working-class school, was that I became right-wing. I voted for Eisenhower, had a picture of John Foster Dulles over my bed, and I used to go around screaming at the dirty commies. Finally the left-wing politics got to me the last year I was there, and I moved from Republicanism to Democratism.

"Then I came down to Columbia where I got my degree in economics after two years. I spent most of that time not going to class and reading about politics, Fabian socialism. This was in 1950 when the cold war was heating up. There was no political activity on campus so I kept on reading and became a socialist of no particular variety.

"I got my bachelor's in '52, and the draft board was still after me—the Merchant Marine Academy hadn't counted. The war was going on in Korea, and I certainly didn't want to fight North Koreans—I had nothing against them—so to avoid that, I arbitrarily decided to go to law school. I applied to Columbia only and got accepted, and I went there with no distinct idea of what a lawyer was all about.

"I went to law school, found it a terrible bore, continued my outside reading, didn't study much, and didn't do very well. There weren't many interesting people there. Most of them just wanted to go into law to make lots of money. I didn't know what I wanted to do. I thought about going into labor law cause I still thought the Labor Board was a left-wing institution.

"I got out of law school in '55 and the draft board was still after me so I went into the Navy. I was assigned to a Seabee base in California as a legal officer. All the other guys there were recently graduated engineers so I came out like a left-wing radical. I tried to get into trouble but couldn't. I got secret clearance. I went around talking socialism a lot but nobody took me seriously.

"I got out of the Navy in '57 had no idea what I wanted to do. I played tennis, went to the movies, went camping, took out a lot of girls. I went to Europe, came back and lived in Berkeley for a while, then came back to Troy. Eventually I took a job in a law firm in Albany. I stayed there for four weeks, woke up one morning, and decided to come to New York City. I did but still had no idea of what I was going to do. I went to work at the Columbia bookstore where I'd worked while I was in law school.

"I dropped a note to the then legal director of the ACLU, Rowland Watts, and asked if they had anything they wanted me to do. I wrote cause I had joined the ACLU while I was in the Navy. I used to leave the literature lying around thinking it was really provocative stuff. Little did I know the ACLU was a useless organization in the early fifties. I also belonged to the NAACP at that time. Used to go around showing my credentials and saying 'Look how radical I am.' And all that time I was living off the fat of the land. Rights? Right! I sound like Mort Sahl.

"Finally I heard from Watts and he said, 'Come on down,' so I kept coming in for about ten days a couple of hours each day doing volunteer work. One day Watts asked how I'd like to work here. I said, 'Holy Christ, terrific.' He had just gotten permission to hire a second man. The next week he offered me a hundred dollars a week which I thought was really terrific since I never expected to make a hundred a week doing anything, let alone something I thought was important. I took the job as assistant legal director, practiced under Watts, learned some law.

"About that time I met some Young People's Socialist League [YPSL] people. That was about the most radical thing around in '58. Met a terrific girl who turned me on to grass. I remember that Thanksgiving we got together and had a traditional dinner then all turned on, which I thought was a parody of American society. I did some writing then, and running around. I remember I was at one of the first anti-civil defense demonstrations down at city hall. But I still never joined anything. I was just a seat-of-the-pants instinctive socialist. I was working and living the life of the Village, left-wing bachelor. Terrific, just terrific.

"In '62 I became the ACLU's legal director, my predecessor having left. At that time the ACLU was small, I don't think it had more than 10,000 members in the early sixties and few affiliates. There were two lawyers on the national staff before Watts left, and it was the biggest collection of ACLU lawyers anywhere. My predecessor was a good guy and had done some stuff but his predecessor, Herb Levy, who was here from 1949 to 1956, mostly had a reputation for saying no to anybody who came in here with a case. In 1962 the whole legal budget for the ACLU was $8000; last year we spent over $100,000.

"When I began as legal director I was mostly doing office work. I went to court a couple of times, but we were mainly using volunteer lawyers. I didn't have an assistant, but I decided that the ACLU could be most useful by helping the victims of the government. I took fifty or sixty cases that year. Then the ACLU started to grow with the civil rights movement; I don't know who was the tail and who was the dog. In '62 I started going down South cause there were no lawyers down there. I tried a couple of capital cases and worked on the jury exclusion thing. It was terribly exciting, I felt like a goddamned pioneer. There were some local lawyers down there who got their ass handed to them every time they surfaced. They literally whispered to you. 'I'm on your side but I can't do anything.' I was working with Jess Brown, a local black lawyer in Jackson, Mississippi, and I must say we singlehandedly abolished capital punishment in Mississippi. There were three black guys on death row all convicted of raping white women. Jess and I got their death sentences set aside. Between '62 and '64 I was going down there every month or every other month.

"Then in '64 the Lawyer's Constitutional Defense Committee [LCDC] started, for which I'll take some credit, and later Chuck Morgan set up our regional office in Atlanta. LCDC was set up in a month by us, the Jewish Congress, CORE, and, reluctantly, the Inc. Fund [NAACP Legal Defense Fund, Inc.]. After SNCC announced Mississippi summer, we held a press conference and said we'd take applications for lawyers to go down South, and we got something like five hundred applications in a week. You know that was the old northern liberal 'we want to do good in the South because we don't want to have too many problems up here' thing. It was a very romantic period where we thought we were going to smash the racist barriers down in one summer.

"In '65 I had Eleanor Holmes Norton [now Human Rights Commissioner in New York City] working here with me, and about that time the Vietnam war thing began, and the Selective Service thing and the ACLU was getting very big. I've been here since."

As the ACLU began to grow again in both numbers and power, an internal struggle began to surface between the traditionalists, those who thought the ACLU should stick to its old amicus curiae mode, and the expansionists, who believed that the organization should directly aid victims of repression.

"This battle both came to the surface and exploded at the same time, in 1968 around the Spock indictment. There were people on the board who thought we were getting into cases they didn't like very much; they thought it was civil disobedience that we were defending. That had begun before, but it came to a head then.

"The indictments came down on a Friday and I got together with our then public relations woman and announced the indictments and announced that the ACLU would defend any of the defendants who wanted our help. A week later we had a board meeting in which I was denounced and my stand repudiated. Some of the big affiliates denounced the action of the National Board, defended what I had done, and demanded a recount. Six weeks later there was the biggest board meeting ever held in the history of the ACLU and I was vindicated."

Around the same period as the battle between civil liberties traditionalists and expansionists, another battle was brewing. A movement for repeal of the Union's 1940 resolution, which resulted in the expulsion of Elizabeth Gurley Flynn from the organization's board of directors, was gaining momentum among the more militant civil libertarians in the ACLU. In 1966, the board of directors appointed a special committee to study that resolution. In the late sixties, after much political maneuvering, two new provisions already mentioned by Baldwin were voted into effect to supersede the 1940 resolution.

The vague language of the new provisions is seen by some civil libertarians as being dangerous whenever pressures for conformity mount. Others in the Union, Wulf for one, don't take the provisions so seriously.

"The matter was important symbolically. I could never understand why the ACLU, which was in court all the time attacking loyalty oaths and guilt by association, was guilty of the same things in the 1940s. When the issue was raised in the sixties, I never got the sense it was the same kind of acerbic issue as the one that came out around the Spock indictment. I kept pretty much out of it. I denounced the forties resolution whenever I could, and I never followed the ACLU policy of denouncing the Communist party in all cases involving it. I'm not a fan of the CP, although I happen to be a Socialist, but I felt that denouncing the CP was hardly the role of a civil liberties organization.

"After we got the Spock thing back on the track, the battle with the traditionalists continued over other cases for about a year and a half. I persisted in my views because I thought I was right. Finally, the conservative faction that was making all of the trouble for me got voted out.

"By this time the ACLU had changed from an organization with ten thousand members and half a dozen affiliates to an organization with over a hundred thousand members with affiliates in practically ever state. Since I came in I've been trying to set an example of what I thought was the utility of a very active, viable, aggressive litigation policy. Around 1962, 85 percent of our cases were amicus briefs, and we only took part directly in the remaining cases. By 1965 we hit a parity between direct and amicus cases, and now we file amicus briefs only if we can't get our hands on the cases; that's about 10 percent of the time.

"We're getting back to the roots of the ACLU. The organization was doing more in the twenties than in the forties or fifties. It was very radical in the twenties. Baldwin was a mad bomb thrower, for Christ's sake. He did the Scopes case; he got arrested in Paterson; he was involved with the silk strikes . . . all of that. But the cold war and all of the anti-Communist rhetoric finally got to the organization. It's the natural history of the conservatizing influence of time on an organization. In the forties the ACLU was still okay. Roger Baldwin became very anti-Communist, but he was still a damn good civil libertarian. In the fifties, after Roger retired, the new executive director was weak, and the staff was fearful and timid. One of them is still here, out of habit if not conviction. He personally bears a lot of responsibility for the pitiful condition of the Union in the fifties.

"I think now the ACLU has regained its reputation with the left. We get along fine with the pacifist movement and the antiwar movement."

The ACLU is now active in cases concerning drugs, military law, antiwar activities, Selective Service, privacy, women's rights, the rights of the gay community, abortion, academic freedom, the rights of children, and high school rights. It also has a prison project it's trying to expand.

The national staff of lawyers does litigation, some consulting, and some coordinating of the legal work done by the affiliates. They also have prerogatives in Supreme Court cases. While some affiliates have staff lawyers, much of the day-to-day legal work of the Union is handled now, as it has always been, by volunteer lawyers willing to devote some of their time to ACLU cases. Wulf says that his preference in volunteers is law professors who like to litigate, and lawyers in whom he has special trust. He feels that the use of young lawyers, especially those getting pro bono time from large firms, requires too much supervision.

Concerning his own future, Wulf says, "I still think the ACLU is doing vital work. I still think civil liberties are important. I think my politics are more radical than the ACLUs, but I've chosen to work within this framework. I've been here twelve years, with the exception of one six-month leave of absence when I got a grant from the Ford Foundation to investigate police work in England, and sometimes I think about doing something else, but I can't think of anything else I'd really like to do nearly as much."

NEED FOR A NATIONAL FUEL CONSERVATION PLAN

Mr. MATHIAS. Mr. President, over the last weeks and months I have become increasingly concerned that the Federal Government is without a coherent energy policy. It has become increasingly apparent that the Nation will be facing rather severe shortages of petroleum products in the months to come. For this reason, we have experienced an ever-increasing level of public debate on the measures to be implemented to cope with the shortages. It is unfortunate that the debate has centered upon just three specific remedies, that is, straight taxes, straight rationing, or higher prices. It is important that we realize the opportunity for proposing innovative solutions.

This has been sadly lacking. I firmly believe that neither straight rationing, straight taxing, nor higher prices presents an acceptable solution to our energy difficulties. For this reason, I would urge Senators to review what proposals have been forthcoming and to do everything you can to encourage a freer, more sophisticated dialog on what plan should be adopted.

Members of my staff have been in contact with policy analysts at the Johns Hopkins University over the last 2 weeks. Our hope was to develop an innovative approach to reducing gasoline consumption. Drs. Charles Revelle and Jared Cohon, professors in the Department of Geography and Environmental Engineering, and Messrs. Richard Church and Danial Sheer, graduate students in that department, have proposed two plans which I ask unanimous consent to have printed in the Record at the conclusion of my remarks. I believe these plans should become a part of the public debate now taking place.

I am sure that all agree that the current energy problems are more than a passing phenomenon, but rather a coming way of life. In this light, I would also predict that we will experience shortages in many other critical, but finite, natural resources. Such conditions post a great challenge to our economy. I hope the proposals developed at the Johns Hopkins University will advance the search for a workable formula. I welcome any thoughts that can be provided on this matter. All those at Hopkins who have played a part in the formation of these proposals, members of my staff and I are, of course, anxious to provide any additional information that is needed.

There being no objection, the material was ordered to be printed in the Record, as follows:

Explanation and Analysis of Proposals for a National Fuel Conservation Plan

Both plans begin with the same fundamental formula. Each person who has to work presents the State with his total mileage for work trips per week (commuter and otherwise business related). IRS data, personal and company records on employer location, home location, and business trips can be used as a check to foster honest statements. A criminal penalty would have to be provided for falsifying the requested data. The next step is to set a standard for auto gasoline consumption. No matter what figure is chosen, small cars will be favored over large cars. This is appropriate, given the nature of our energy shortages. If a low figure, such as 10 miles per gallon is chosen, most large cars will not be penalized, but small cars will nevertheless be favored. If a higher number, such as 15 or 17 is chosen, not only will small cars which consume less gasoline be favored, but large cars will be penalized under the formula. For purposes of illustrating this point, assume that the standard chosen is 10 miles per gallon. The formula would then be as follows. From the data provided, a weekly work mileage of M can be computed, added to this would be 50 miles of necessary travel per week per household. Work mileage of M plus the fifty miles of necessary travel is then divided by the standard figure for auto gas consumption. The allocation formula would be $((M+50)/10)$. These coupons are free to each recipient. In other words, this basic mileage would be exempted from any additional surcharges. There is a further point to be made as to the figure for auto gas consumption. If the figure is arrived at by averaging the inherent benefit enjoyed by small cars it will produce a snowball effect—as more small cars are purchased the average mileage figure will increase and this will provide further impetus for preferring small over large cars. Otherwise the government could set increasingly higher mileage figures over a period of time. This would have the same effect.

Since it is imperative that we create a system which will not at the same time foster a massive black market, the fuel conservation incentive plans suggested certainly must require that a free market in the issued coupons be allowed. So far, both plans are identical, but at this point, they diverge:

"*Plan 1*. After the $((M+50)/10)$ basic coupons are allotted to an individual, he can purchase additional coupons from the Government at a set price. Your Committee might wish to determine the size of the basic allocation and undertake an analysis of what price should be set on additional coupons to keep consumption within acceptable levels. To purchase gas at a station, a coupon for each gallon will be required. Hence, there can be a purchase even though a person has received the basic allocation. This restraint on gasoline consumption will provide a great measure of individual choice and will avoid the massive bureaucracy which must necessarily accompany any system for providing exemptions or exceptions from a basic allocation. No American should be dictated to by a Federal or state bureaucrat with little ability to evaluate prorities and necessities in an individual's life. The formula clearly provided two advantages. Revenue will be collected and the regressiveness of a straight tax will be minimized by the basic allocation. Should the formula still be considered too regressive an income multiplier can be applied to the basic allocation. More coupons would be given to low income groups. The determination could be made from IRS data provided.

"*Plan 2*. Here again you start with a basic allocation through the coupons, but you change the system so that gasoline is sold at the pump with a new energy tax per gallon added to the price. However, when the basic coupons are turned in to the attendent at the time of purchase, the energy tax is removed from the pump price. When the individual has no more coupons, in other words, when he has exceeded the exempted basic mileage, the price again includes the tax. When the station owner turns in the tax revenue, he turns in the tax rate multiplied by gallons sold minus coupons being turned in. The effect is almost identical to the effect of plan 1, but now the driver does not need to carry coupons to get the gas. It is simpler for the public, but slightly more complicated for the service stations."

Any proposal for a comprehensive system to address the shortfalls in gas supply must be exposed to intense scrutiny and public debate. There may well be shortcomings in this proposal; problems which are impossible to anticipate in the time which has been provided. Certainly, it is hard to gauge how consumers will respond to any added cost of gasoline. It also could be that the basic allocation will be over and above work-related needs and thus opening the way for a market in coupons to flourish with their prices lower than the next price increment in coupons or the tax imposed under plan 2. For this reason, it is very important that the basic allocation be loosely tailored to work-related driving. If this is not the case, the free market will erode Government energy tax revenues. As was mentioned earlier, but should be emphasized now, it will be necessary to conduct a study to determine what percentage of our supply of gasoline can be devoted to the basic allocation and what supplies will be available for purchase subject to the tax or the cost of additional coupons.

Rental car arrangements and traveling salesmen pose complex questions under any formula. There are at least six different arrangements which must be addressed: (1) a person who leases a car for work or pleasure (this could be handled under the allocation system); (2) a company employee who uses a rental car for business trips and is fully reimbursed (not handled under the formula); (3) the company salesman who leases a car for business and is not reimbursed (would receive the basic coupon allocation); (4) the salesman who uses his own car and is reimbursed (under the income tax code the salesman would not have to make a report if work mileage is equal to the deductible expenses so there is no mileage figure, but the employer must keep records so the employer should apply on behalf of the salesman, but the salesman should be given the coupons to prevent lay-offs); (5) the salesman who owns his own car but is not reimbursed (another formula must be provided to prevent switchovers and provide equitable treatment. It is: weekly work mileage divided by the standard mileage figure and multiplied by the percentage of needs that the particular business is allocated); and (6) the rental car companies, such as Hertz or Avis (treat like a gas station. Customers who have coupons would not pay the energy tax while others would. The companies themselves would be allocated a percentage of needs measured by a base period).

The plan seems flexible enough to allow alterations when preliminary results are in. Basic allocations, coupon prices, and levels of taxation can all be subject to change. This is especially important since the Government has been unable to develop the statistics necessary to provide a Federal energy policy. For this reason, the basic allocation can allow for regional differences and also lends itself to state administration. This is most important since cities built subsequent to World War II took advantage of the great open spaces of this country and the ability to commute provided by the private automobile. They should not be unfairly penalized by the unexpected change of conditions we now experience.

Clearly, trading of coupons must be kept to a minimum so that revenues generated will not be diminished. There is one exception to this. Portions of the revenue from the energy tax could be offered to companies (public or private) which offer urban mass transportation in return for the following agreement. Mass transit companies would offer to car commuters mass transit rides in return for coupons. Although they would fix the rate of exchange, we can predict that this rate would be greater than the face value of the coupon. Coupons received by the transit company would be redeemed at double or triple value from the Federal Government. This would create a strong incentive for the companies to make every effort to lure car commuters into the mass transit system. The companies would become more efficient as they became profit maximizers. Regulations would have to be issued preventing transit companies from buying coupons on the market without providing transit.

CITY COUNCIL OF WILMINGTON, DEL., RESOLUTION SUPPORTING EFFORTS TO END WAR BETWEEN ISRAEL AND ARAB NATIONS

Mr. ROTH. Mr. President, the city council of Wilmington, Del. recently approved a resolution supporting all efforts to achieve an end to the war in the Middle East and a beginning of a truly just and lasting peace in that troubled region. So that my colleagues may have the benefit of the city council's views, I ask unanimous consent that the text of the resolution be printed in the Record.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

WILMINGTON, DEL.,
November 1, 1973.

Whereas, the war that has occurred during the past few weeks in the Mideast is the second flareup of hostilities in that area in the past six years; and

Whereas, even during periods of cessation of hostilities, there have been sporadic acts of terror throughout the world attributable to the existing tensions in the Mideast; and

Whereas, the Mayor and Council of the City of Wilmington wishes to express its sincere hope that the tragic loss and waste of human lives will quickly cease; and

Whereas, the Mayor and Council of the City of Wilmington wishes to express its sincere hope that the repulsive acts of war will cease and that Israel and the Arab Nations will reach an equitable and lasting peace through which the people on both sides of this tragic conflict will learn to live in harmony; and

Whereas, a conflict in the Mideast jeopardizes the peace and harmony of all Nations of the World. Now, therefore, be it

Resolved by the council of the city of Wilmington That the Mayor and Council of the City of Wilmington support the efforts of all of the nations involved and the efforts of the United Nations in attempting to achieve an end to this tragic war between Israel and the Arab Nations and the beginning of a truly just and lasting peace in the Mideast and throughout the World.

STUDENTS FIGHT ENERGY CRISIS

Mr. BROCK. Mr. President, it is incumbent upon all of us to realize that the United States is facing a very real energy crisis. For the most part, individuals, families, businesses, factories, and Government agencies are beginning to do their part in trying to conserve what precious fuel that we have while research is done to develop new resources and to find ways of providing new sources of energy.

Recently, faculty members and students at Christian Brothers College in Memphis met to discuss the energy problem, and what could be done immediately about helping the situation. What developed was a list of suggestions for both faculty and students at the college. However, I would suggest that those suggestions developed might apply to all of us, and I thus request that the list of items which could help in conserving energy be placed, by unanimous consent, in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

PRESENTED BY THE ENGINEERING STUDENTS AND FACULTY OF CHRISTIAN BROTHERS COLLEGE

For all high schools, colleges and universities:

1. Students——

A. Dress Warmly—Sweaters, Coats, etc.

B. Car Pools.

C. Report plumbing and electrical works in need of repair.

D. Dorm Students—Replace high watt bulbs with low watt bulbs (possibly with aid of maintenance).

E. Get-togethers, club meetings, bashes, etc., during daytime hours.

F. Provide suggestions, no matter how Unreal.

G. Commuting students drive X-Ways at 50 mph.

H. Encourage students to do senior projects on Energy Saving & Related Ideas.

2. Administrative——

A. Means of Mass Transport—Car Pools, Busing, etc.

B. Possibly of Rescheduling Classes to eliminate nights and possibly cut to a 3 or 4 day school week.

C. Possibly of alternative or supplemental heating.

D. Make teachers responsible for turning off lights and heating at end of class.

E. Reduce lighting—corridors, archways, walkways—by turning off every other bulb and/or reducing wattages. As much lighting as possible turned off at 1:00 A.M. on week nights. Possibly switch to fluorescent.

F. Specify a minimum of parking lots to be lit and used at night. Turn lighting for other lots off.

G. Lock boxes on gas heaters & thermostats.

H. Work-Study students shifted to maintenance for the repair and upkeep of lighting, plumbing, and electrical.

I. Reschedule various affairs to daytime hours and to cafeteria and student centers which are always heated.

J. Reschedule holidays—longer winter breaks—shorter summer breaks.

K. Utilize better insulated buildings to a maximum extent, poorly insulated buildings to a minimum.

L. Location of Suggestion Boxes.

M. Administrative Vehicles on X-rays at 50 mph.

N. Reschedule gym so that maximum amount of activities during the day.

O. Study of Time Constant to determine how early heat in particular buildings needs to be turned on, and how early it can be turned off and still effectively keep it heated during necessary hours.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, is there further morning business?

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had passed without amendment, the following bills:

S. 2413. An act to authorize the disposal of aluminum from the national stockpile and for other purposes;

S. 2493. An act to authorize the disposal of silicon carbide from the national stockpile and the supplemental stockpile;

S. 2498. An act to authorize the disposal of zinc from the national stockpile and the supplemental stockpile; and

S. 2551. An act to authorize the disposal of molybdenum from the national stockpile, and for other purposes.

The message also announced that the House had passed a joint resolution (H.J. Res. 865) authorizing the President to proclaim March 29, 1974, as "Vietnam Veterans Day," on which it requested concurrence of the Senate.

The message further announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 11771) making appropriations for Foreign Assistance and related programs for the fiscal year ending June 30, 1974, and for other purposes; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. PASSMAN, Mr. ROONEY of New York, Mr. LONG of Maryland, Mr. ROYBAL, Mr. BEVILL, Mr. ROUSH, Mr. YATES, Mr. CHAPPELL, Mr. MCFALL, Mr. MAHON, Mr. SHRIVER, Mr. MILLER, Mr. CONTE, Mr. COUGHLIN, Mr. EDWARDS of Alabama, and Mr. CEDERBERG were appointed managers on the part of the House at the conference.

ENROLLED BILLS SIGNED

The message also announced that the Speaker had affixed his signature to the following enrolled bills:

H.R 9256. An act to increase the contribution of the Government to the costs of health benefits for Federal employes, and for other purposes; and

H.R. 10717. An act to repeal the act terminating Federal supervision over the property and members of the Menominee Indian Tribe of Wisconsin as a federally recognized sovereign Indian tribe; and to restore to the Menominee Tribe of Wisconsin those Federal services furnished to American Indians because of their status as American Indians; and for other purposes.

HOUSE BILL REFERRED

The joint resolution (H.J. Res. 865) authorizing the President to proclaim March 29, 1974, as "Vietnam Veterans Day," was read twice by its title and referred to the Committee on the Judiciary.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, December 18, 1973, he presented to the President of the United States the following enrolled bills:

S. 513. An act to amend section 232 of the National Housing Act to authorize insured loans to provide fire safety equipment for nursing homes and intermediate care facilities;

S. 1038. An act to amend title 37, United States Code, to authorize travel and transportation allowances to certain members of the uniformed services in connection with leave; and

S. 2714. An act to amend section 291(b) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, relating to cost-of-living increases, and to increase the pay and allowances of certain officers of the Armed Forces whose pay and allowances are not subject to adjustment to reflect adjustment to reflect changes in the Consumer Price Index.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FEDERAL ENERGY EMERGENCY ADMINISTRATION ACT

The Senate continued with the consideration of the bill (S. 2776) to provide for the effective and efficient management of the Nation's energy policies and programs.

Mr. RIBICOFF. Mr. President, the bill before us today, S. 2776, seeks quickly to pull together an effective Federal management structure for dealing with the current energy emergency.

We are still in the dark as to how deep that emergency will be. Projections of crude oil shortages range from 1.5 to 5 million barrels a day, depending on the degree of faith in our ability to conserve, allocate, and price wisely. Projections of the impact on the economy and our daily lives also range wildly. Unemployment is seen as reaching as high as 6 to 8 percent and beyond. Growth in the real GNP is seen as dropping to 1 or 1½ percent, or even falling into the minus territory that spells recession. Dire warnings of heatless homes, stalled public and private transportation and closed factories abound. But the main point is that there is no cause for panic; instead there is a real need to legislate speedily and wisely. It is important to fix the blame for past errors, so that we can prevent their repetition; but it is more important to look ahead now with legislation that anticipates the worst and establishes the institutions and the authorities needed to make the best of a bad situation.

Our ability to respond swiftly and effectively to the energy emergency is now severely handicapped by the fragmentation of pertinent responsibilities among dozens of agencies. No single agency has the authority to encompass the vast array of energy problems facing the Nation. Nor is there an agency authorized to execute the new emergency authorities now being granted to the Executive by Congress in response to the crisis, pursuant to such sweeping measures as the recently enacted Emergency Petroleum Allocation Act and the soon-to-be-enacted National Energy Emergency Act.

The President, recognizing the need for speedy revamping of energy management in the emergency, has established by Executive order a Federal Energy Office in the Executive Office of the President. I ask unanimous consent that the text of the order be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. RIBICOFF. Mr. President, however, the authority, organization and staffing of this Office clearly is unequal to the vastness and complexity of the emergency. The Administrator's authorities are limited to those delegated to him by the President. The Administrator does not have authority over programs vested by statute in other agencies which are essential for rapid response to energy shortages. He does not have the personnel and funding, or the data-gathering and analysis capability, needed to meet the emergency. Nor are his actions subject to the close congressional and public scrutiny that the emergency demands.

The bill we consider today—S. 2776, the Federal Energy Emergency Administration Act—provides swift remedies to all of these problems. It was introduced by Senator Jackson and me, with six cosponsors, on December 4, only 2 days after we met with the President's new energy czar, William Simon, to learn of the administration's reorganization proposal.

Full-day hearings were held by the Government Operations Committee on December 6 and 7. A total of 20 witnesses were heard. Committee staff worked through the following weekend in accordance with our directions to revise and sharpen the hastily drafted administration proposal. On December 12—only 10 days after the reorganization was announced—we spent the full day marking up and ordering reported a vastly improved bill to establish a Federal Energy Emergency Administration.

This proposal would not be before us today if it were not for the fullest cooperation that existed between the Congress and the executive branch in the national interest. I am particularly indebted to Senator Ervin, our chairman; Senator Percy, our ranking member; Senator Jackson, who has played such an indispensible role in these energy-crisis times; Senator Muskie, who has made a special contribution in protecting the interests of State and local governments; and Senator Javits, who offered invaluable assistance in developing the reorganization provision of the act. I commend them, and all of the members of the committee, for the cooperation they offered in moving this bill forward.

The hard work on this bill also involved the efforts of the Interior Committee staff, in Senator Jackson's behalf, and William Van Ness and Daniel Dreyfus deserve special recognition for their valued assistance to the Government Operations Committee—its members and staff.

The administration was well represented by Gerald L. Parsky of Mr. Simons' staff, and Charles F. Bingman of Roy Ash's staff in the Office of Management and Budget, who consulted for many hours with our staffs.

The staffs of the Government Operations Committee and of its members are to be commended for the extraordinary teamwork they displayed in making substantive contributions to the bill and moving it along to floor consideration in the space of only 2 weeks from the day it was introduced. It simply would have been impossible to reach a vote on this vital emergency legislation before adjournment if it were not for their dedication and hard work.

I am sure the other committee members and the entire Senate join me in expressing deep appreciation to the following staff members:

Robert Bland Smith, staff director and general counsel of the committee, and Eli E. Nobleman and W. Thomas Foxwell of the committee staff:

Robert J. Wager, staff director and general counsel of my reorganization subcommittee, and Paul L. Leventhal and Paul Hoff of the subcommittee staff;

Alvin Fromm, staff director of Senator Muskie's Intergovernmental Relations Subcommittee, and James E. Hall and David E. Johnson of the subcommittee staff;

William J. Van Ness, chief counsel of Senator Jackson's Interior Committee, and Daniel A. Dreyfus and Grenville Garside of the committee staff;

Vic Reinemer and Winslow E. Turner, staff director and chief counsel respectively of Senator Metcalf's budgeting Subcommittee;

Robert J. Vastine and John Pearson of Senator Percy's committee staff, and Brian Conboy of Senator Javits' committee staff;

Gary Sellers for Senator McClellan, George Patten for Senator Chiles; Wright H. Andrews for Senator Nunn; Carolyn N. Fuller for Senator Huddleston; Michael Metz for Senator Gurney: Charles Morrison for Senator Roth; and Harrison Fox for Senator Brock.

THE BILL

The product of this intense effort, S. 2776, preserves the basic organizational structure and transfers of authority, as proposed by the administration. The FEEA would be headed by an Administrator and Deputy Administrator, to be appointed by the President with the advice and consent of the Senate. Transferred to the new agency would be the functions now being exercised by the Office of Petroleum Allocation, the Office of Energy Conservation, the Office of Energy Data and Analysis, and the Office of Oil and Gas—all in the Department of the Interior. It would also transfer the functions of the Energy Division of the Cost of Living Council.

The committee made substantial additions to, and modifications of, the bill to produce a reorganization act that permits the Administrator the essential authority he needs over the next 18 months to grapple with the enormity of the energy emergency. But it now also carefully defines the limits of those interim powers and establishes guidelines for their execution with maximum public disclosure, congressional oversight and reliance on the expertise of the public and private sectors.

A staff analysis of the differences between the original and current versions of the bill makes clear the safeguards that have been built into it.

I ask unanimous consent that this analysis be made a part of the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. RIBICOFF. Mr. President, the key problem with the original bill was that it implicitly conferred sweeping powers on a single individual, the FEEA Administrator, without explicitly defining the limits to those powers or providing guidelines to minimize the impact of drastic energy-saving measures on the cost of living, the overall economy, the environment, the functioning of State and local governments, and the livelihoods and conveniences of individual Americans.

The committee moved swiftly but cautiously to assemble a governmental mechanism for dealing with an energy emergency—the depth and direction of which is still unknown to us. We know that it will take at least 10 years, and probably longer, to attain self-sufficiency, but what we do not know is the degree of dislocation and economic hardship the Nation will feel in the interim.

We are sorely lacking in facts; we are swimming in predictions.

What is called for is an effective interim structure that can easily be disassembled if it succeeds in carrying us beyond the emergency in less than 2 years; or that can give way to a longer term or permanent structure. That means we must have an Administrator with sufficient, but temporary, powers to deal with all short-term contingencies—including the powers to allocate, ration, price, and modify the quality of our precious fuel supplies.

That is what this bill now provides. It remedies serious gaps of authority and accountability in the original bill by adding provisions for—

Information gathering and dissemination on the extent and impact of the energy shortage;

Regular economic-impact reports and several other types of reports to Congress and the public;

Clearing price increases with the Cost of Living Council and allowing the Environmental Protection Agency time to comment on the impact of energy actions relating to environmental quality;

Coordinating actions with, and providing technical assistance to, State and local governments;

Representative, open advisory committee meetings;

A personal-grievances ombudsman;

An independent council of energy policy;

Overall congressional oversight, and broader Senate advice-and-consent authority over key positions in the new agency.

TITLE, FINDINGS, AND PURPOSE

Section 101 cites title I as the "Federal Energy Emergency Administration Act." The word "Emergency" was added by the committee to the title of the original bill to reflect the special purpose and limited life of the new agency.

Section 102 states the findings of Congress of actual and severe potential economic dislocations and hardships, curtailment of vital public services, interruptions in commerce, and threats to the public health and safety as indicators of an energy emergency stemming from shortages of vital fuels. It states the need for prompt emergency measures and for an executive branch reorganization to create the interim agency necessary to execute them.

The stated purpose of the act makes clear that the functions of the new Administrator are limited to those transferred or to be transferred from other agencies "to deal on an interim basis with the energy emergency." The intent of the committee clearly was not to create new, permanent program-type authority; but rather to transfer, temporarily, suitable authorities from other agencies.

FEDERAL ENERGY EMERGENCY ADMINISTRATION

Section 103 establishes as a temporary, independent agency the Federal Energy Emergency Administration. It will be headed by an Administrator and Deputy Administrator to be appointed by the President with Senate confirmation. There is also provision for six Assistant Administrators and a General Counsel, all Presidential appointments with Senate confirmation.

The powers and functions granted by the act are vested in the Administrator.

FUNCTIONS AND PURPOSES

Section 104 is the heart of the bill: It establishes the powers of the Administrator and then—unlike the original bill—limits him to exercising them through functions specifically transferred from other agencies.

The Administrator, to meet the energy emergency, is to make plans and direct programs related to the "production, conservation, use, control, distribution, rationing, and allocation of all forms of energy * * *." But his authorities to exercise these powers are limited specifically to those transferred or vested by the act or otherwise vested by Congress; or to those lawfully delegated by the President.

TRANSFERS

Section 105 makes certain transfers to the Administrator and establishes the procedure for subsequent transfers.

Transferred from Interior are the Office of Petroleum Allocation, the Office of Energy Conservation, the Office of Energy Data and Analysis, and the Office of Oil and Gas. Also transferred is the energy division of the Cost of Living Council.

Subsequent transfers are to be proposed by the President, and will take effect after they are approved by concurrent resolution of both Houses. The committee departed from the customary reorganization procedure, as contained in the now-lapsed Executive Reorganization Act, whereby a plan takes effect unless vetoed by either House.

As chairman of the Executive Reorganization Subcommittee, I supported this change in the original bill with the understanding that it did not establish a precedent against the long-standing congressional veto process in considering organization plans. The committee soon will consider a bill, S. 2003, a bill I have cosponsored, to modify the Reorganization Act while preserving the congressional veto.

I supported the committee position that the extraordinary circumstances of the energy emergency justified an extremely cautious approach, requiring affirmative action by Congress on future transfers of authority under this act. The present bill borrows expediting language from the Reorganization Act to assure that a transfer proposal reaches the floor promptly and is voted up or down.

Future transfer proposals under this act will still be in the nature of reorganization plans, and, as such, I expect that they will be referred to the Government Operations Committee.

ADMINISTRATIVE PROVISIONS

Section 106 establishes 100 supergrade positions—GS-16 and above—in addition to 14 being transferred from other agencies. Some 25 of those new positions are exempted from the competitive service. These positions were requested by the administration.

Two crucial provisions in this section were added by the committee to provide appropriate checks on the sweeping powers to fix prices and alter the environment pursuant to the National Energy Emergency Act, which will be exercised by the Administrator. The committee agreed that the potential inflationary and environmental impact of his actions necessitated a formalized review procedure by the Cost of Living Council and the Environmental Protection Agency, respectively.

Accordingly, the Executive Director of the COLC is given 5 days to disapprove the Administrator's proposed rules, regulations, or policies on the cost or pricing of energy. His disapproval amounts to a veto. The EPA Administrator is given 5 days to issue written comments on the FEA Administrator's proposed actions affecting environmental quality. The action and comments must be published together. The COLC and EPA review procedures can be suspended for 14 days in the event of extreme emergency situations which, in the judgment of the Administrator, require immediate action to meet urgent national needs.

The remainder of the provisions in this section are routine except for one—106(b)—which provides that waivers of the conflict of interest statute (18 U.S.C. 208) must be done at the highest decisionmaking levels—not by subordinates—and the decisions must be made public. This was designed to inform the public when industry executives are involved in pricing, allocation, and other vital policies, and whose roles with FEEA would constitute a possible conflict of interest, except for a waiver. Waivers of conflict of interest may be necessary because a shortage of nonindustry energy experts may make it impossible for FEEA to recruit competent officials without granting such waivers. But the decisions on waiving the conflict-of-interest safeguards should be made at only the highest levels, and the public should be kept informed.

COMPENSATION

Section 107 contains a crucial provision to extend the Senate's advice-and-consent role to the appointment of FEEA officials who run programs that will impact most directly on the lives and livelihoods of Americans. This will assure congressional participation in the top staffing of key programs. The programs involve allocation, rationing, and pricing of petroleum products; economic analyses of the impact of emergency programs, and coordination of Federal, State, and local conservation programs.

These office heads will be compensated at level V of the executive schedule—$36,000. Compensation for the Administrator is set at level II—$42,500; for the Deputy Administrator at level III—$40,000; and for Assistant Administrators and the General Counsel at level IV—$38,000.

TRANSITIONAL AND SAVING PROVISIONS

Section 108, in addition to the standard provisions preserving the legal rights of litigants during the period of an agency's transfer, extending the applicability of orders issued by officers transferred to FEEA, and providing that the same administrative procedures shall govern actions taken by officers transferred under the act as were in effect prior to the transfer.

The section also contains an important limitation on the Administrator's powers. This provision (108(i)) limits his functions to those which are specifically conferred on him or the President, or are transferred to him from other agencies.

INCIDENTAL TRANSFERS AND DEFINITIONS

Section 109 routinely authorizes the Director of OMB to make incidental transfers of personnel and property from one agency to another.

Section 110 contains standard definitions of "functions" and "performance" as used in the act.

INTERIM APPOINTMENT

Section 111 provides for interim appointment of FEEA officials during the transitional period in which the agency is being organized. It limits to 60 days the period that any officer can serve in an acting capacity before his name is submitted to the Senate for confirmation.

ECONOMIC ANALYSES

Section 112 contains the first of several reporting provisions added by the committee to fill the information gap that now bedevils our Federal energy policymakers.

The Administrator is required to insure that his actions are evaluated for their impact on State and local government, industry, employment, consumer prices, the gross national product, competition, and small business. To accomplish this, he is required to consult with other agencies in developing explicit analyses.

He and the Secretaries of Labor and Commerce are each required to provide the Congress with separate reports every 30 days on the impact of the energy shortage on employment and the economy, including recommendations on whether new programs are needed to minimize hardships.

These and other reporting provisions are designed to insure that Congress can monitor closely the energy shortage and will have the oversight capacity needed to permit swift passage of remedial and emergency legislation, as events warrant.

MANAGEMENT OVERSIGHT

Section 113 recognizes the Administrator's own need for effective oversight of energy emergency programs at the Federal and State levels. He may authorize Federal agencies to conduct 30-day studies of such programs, with the consent of the governor when they are on the State level.

The committee felt that this provision was needed to allow the administrator to get outside evaluation of his own programs, as well as advice on what functions being performed by other agencies should be transferred to him.

STATE AND LOCAL GOVERNMENT

Section 114 acknowledges the enormous burden being placed on State and local governments to monitor the energy shortage and to insure the fair distribution and pricing of scarce supplies. It will insure a major Federal role in providing States and municipalities with the information, consultation, and technical assistance they need to keep economic and personal hardships to an absolute minimum.

Specifically, the Administrator is required to report to the Congress and the States within 15 days of enactment on how he has organized the new agency; and within 30 days, a more detailed report on the functioning of his field operations, and the roles to be played by the State and local governments and the public at large in the various emergency programs.

States and municipalities are to be given a reasonable time to file written comments before new Federal rules and regulations are put into effect. The Administrator is required to provide them with all relevant information he possesses on the shortages, to offer them technical assistance, as well as additional assistance in the form of task forces, regional conferences, and model legislation.

INFORMATION GATHERING

Section 115 provides an urgently needed statutory remedy to the present lack of data to accurately monitor production, reserves and inventories of essential fuels and feedstocks. Much of the current critical energy problem can be attributed to the failure of the Federal Government to establish an independent data gathering and analysis capacity. Instead, it has relied on the data which industry has volunteered to provide, and it has produced tardy, conflicting and confusing analyses of this data.

Senator JACKSON is to be commended for bringing the scandalous situation to the public's attention through the inquiry and hearings of his permanent investigations subcommittee. It is now clear that much of the shortage we are experiencing today stems from a failure to build up our inventories last year and earlier this year when Middle East oil was still available. This failure, in turn, stemmed from a failure to loosen quotas, largely because of inaccurate and conflicting supply and demand projections that were made by three different Federal agencies.

Under section 115, the Administrator is given the authority to collect the data and conduct the investigations he needs to assess the size and the impact of fuel shortages. He is given subpena power, and jurisdiction is established in the U.S. district courts for holding in contempt those individuals and corporations refusing to comply with his requests for information.

PUBLIC DISCLOSURE

Section 116 expands on the requirement for public disclosure by specifying that the Administrator make such disclosure on a continuing basis and at a reasonable cost to keep the public fully informed on all aspects of the shortages, with the exception of information specifically exempted under the Freedom of Information Act, including trade secrets.

ADVISORY COMMITTEES

Section 117 enables the Administrator to draw on the expertise of advisory committees and similar groups, and requires that he set them up in such a way that they are reasonably representative of the industry and users affected, including consumers and representatives of State and local governments and regulatory commissions.

The committee went beyond the basic safeguards of the Federal Advisory Committee Act (Public Law 92–463) to assure open meetings of committees and to assure a balance among all economic interests in the face of the energy emergency.

GAO MONITORING

Section 118 further enhances Congress' role in monitoring the new energy administration by establishing a major oversight responsibility for the Comptroller General. Under his direction, the General Accounting Office will evaluate the operations—especially the data-gathering and analysis functions—of the administration and report to Congress. The Comptroller General is given the same information-gathering powers granted the Administrator, and he, too, can seek contempt citations in Federal District Court. This is new authority for the Comptroller General, who now has no authority to obtain access to records in the private sector. It was added by the Committee to insure that FEEA capably carries its responsibilities to obtain and utilize vital energy information.

FEDERAL REPORTS ACT

Section 119 further facilitates the Administrator's information-gathering capability by granting him an exception under the Federal Reports Act to send questionnaires to 10 or more firms without the need for prior clearance from the Office of Management and Budget. Under the Alaska Pipeline Act, Public Law 93–159, all independent regulatory agencies now have this authority.

REVIEW OF ADMINISTRATIVE PROCEDURES

Section 120 requires the Attorney General to make recommendations within 60 days of enactment on the need for legislating new administrative law procedures. This provision is designed to insure due process for individuals affected by the Administrator's actions.

The committee decided not to adopt a specific administrative law section because to do so would have amended and overriden such provisions of the recently enacted Emergency Petroleum Allocation Act, the Economic Stabilization Act, and possibly of the Energy Emergency Act, which is now in conference committee.

The committee expressed concern over the differing provisions of administrative laws which apply to the various functions and programs of the Administrator—especially the expedited procedures under the authority of the Cost of Living Council. The study and report of the Attorney General are designed to provide Congress with the factual and background information necessary to develop a coherent set of procedures and standards to insure due process and still provide the Administrator with the flexibility to act decisively in the emergency.

OMBUDSMAN

Section 121 further addresses the need to focus on the hardships suffered by individual citizens and small entrepreneurs as the result of actions designed to combat energy shortages on a national scale. This perspective will be assured by the establishment of an ombudsman-like Office of Private Grievances and Redress in the energy administration. The Director will be appointed by the Administrator and will grant such special relief and assistance as the Administrator provides in circumstances of undue hardship. The Director is required to report monthly on his activities to Congress.

COMPREHENSIVE ENERGY PLAN

Section 122 recognizes the need for the Congress to have the benefit of a comprehensive plan from the Administrator for alleviating the energy shortage. The Administrator is required to submit such a plan within 120 days of enactment, complete with full analytical justification for proposed actions to deal with all aspects of the energy shortage.

ORGANIZATIONAL REPORT

Section 123 requires the President to submit to Congress his recommendations for a permanent Federal organizational arrangement to deal with energy and natural resources. The committee set a deadline of June 30, 1974, for this report to allow Congress a year to consider its recommendations before the energy agency terminates.

REPORTS TO CONGRESS

Section 124 requires the Administrator to prepare and submit reports to Congress and the President every 6 months, analyzing major actions and their impact and projecting mid- and long-term energy supplies and their impact. These reports also will include a listing of all recipients of funds during the preceding period, and an independent analysis of domestic oil and gas reserves with recommendations for their development.

EFFECTIVE DATE, APPROPRIATIONS, SEPARABILITY

Section 125 provides that the act take effect 60 days after enactment or sooner at the President's discretion. It terminates on June 30, 1975.

Section 126 authorizes appropriations at levels requested by the administration: $75 million for fiscal year 1974, and $200 million for fiscal years 1975 and 1976 respectively. Additional authorizations of $40 million for fiscal year 1974 and $75 million for fiscal year 1975 and 1976 are provided, to be used in the event a gasoline or other rationing program is ordered by the President.

Section 127 is a standard separability provision.

COUNCIL ON ENERGY POLICY

A second title of the bill establishes a Council on Energy Policy, which is identical to the proposal of Senator HOLLINGS in S. 70 as reported by the Commerce Committee and passed by the Senate as part of the Federal Energy Emergency Act. The Government Operations Committee agreed to include S. 70 in the energy administration bill to help assure its swift passage.

S. 70 would establish a three-member Council on Energy Policy. The council would centralize the collection and analysis of energy information, coordinate the energy activities of the Federal Government and prepare a long-range comprehensive plan for energy development, utilization, and conservation. This proposal would provide a single place for Congress and the President to seek energy information and policy recommendations. It assures that a single entity would have responsibility for examining the overall energy picture.

CONCLUSION

Mr. President, the grave potential of the present energy shortage warrants swift consideration and passage of the Federal Energy Emergency Administration Act. It is my understanding that the House could act this week on a companion measure, and, in that case, there is good reason to believe there can be agreement on a conference report and a final passage before adjournment.

Every effort has been made to build a temporary structure that can withstand the very worst storms of the next two energy-scarce years. The Administrator will be powerful enough to act decisively, but, at the same time, he is subject to the greatest possible accountability and public scrutiny. He is given unprecedented authority to inform himself of the full dimensions of the energy shortage and its impact. Sufficient transfer authority is provided to allow adjustments of his authority and restructuring of the agency. Congressional oversight is strengthened. Every precaution is taken to insure that States and municipalities, individuals, and small businessmen will be adequately protected and amply heard.

This act will be an example to our citizens and the world community of how the United States still can act decisively in time of adversity. I urge its passage without delay.

EXHIBIT 1

EXECUTIVE ORDER 11748—FEDERAL ENERGY OFFICE

By virtue of the authority vested in me as President of the United States of America by the Constitution and statutes of the United States, including the Economic Stabilization Act of 1970 (P.L. 91–379, 84 Stat. 799), as amended, the Emergency Petroleum Allocation Act of 1973 (P.L. 93–159), the Defense Production Act of 1950 (50 U.S.C. App. 2061, *et seq*), as amended, and Section 301 of title 3 of the United States Code, it is hereby ordered as follows:

Section 1. There is hereby established in the Executive Office of the President a Federal Energy Office. The Office shall be under the immediate supervision and direction of an Administrator and a Deputy Administrator of the Federal Energy Office. The Administrator shall be the Deputy Secretary of the Treasury.

Sec. 2. The Administrator of the Federal Energy Office shall advise the President with respect to the establishment and integration of domestic and foreign policies relating to the production, conservation, use, control, distribution, and allocation of energy and with respect to all other energy matters.

Sec. 3(a). There is hereby delegated to the Administrator all the authority vested in the President by the Emergency Petroleum Allocation Act of 1973.

(b) The Administrator shall either submit to the Congress the reports required by Section 4(c) (2) of the Emergency Petroleum Allocation Act, or may require any other officer or any department or agency of the United States to submit the required reports to Congress.

Sec. 4(a) There is hereby delegated to the Administrator the authority vested in the President by Section 203(a)(3) of the Economic Stabilization Act of 1970, as amended.

(b) The Chairman of the Cost of Living Council shall, from time to time, delegate to the Administrator such authority under the Economic Stabilization Act as may be necessary to carry out the purposes of that Act with respect to energy matters.

Sec. 5. There is hereby delegated to the Administrator the authority vested in the President by the Defense Production Act of 1950, as amended, as it relates to the production, conservation, use, control, distribution, and allocation of energy. Any provision of Executive Order No. 10480, as amended, which is inconsistent with the exercise of such authority is hereby suspended for so long as this Section remains in effect.

Sec. 6. Executive Order No. 11726 of June 29, 1973, is hereby superseded to the extent that it is inconsistent with this Order.

Sec. 7. All Orders, regulations, circulars, or other directives issued and all other actions taken pursuant to any authority delegated to the Administrator by this Order prior to and in effect on the date of this Order are hereby confirmed and ratified, and shall remain in full force and effect, as if issued under this Order, unless or until altered, amended, or revoked by the Administrator or by such competent authority as he may specify.

Sec. 8. All authority delegated to and placed in the Administrator by this Order may be further delegated, in whole or in part, by the Administrator to any other officer or any department or agency of the United States.

Sec. 9(a) Necessary expenses of the Federal Energy Office may be paid from the Emergency Fund of the President or from such other funds as may be available.

(b) The Administrator of the General Services Administration shall provide, on a reimbursable basis, such administrative support as may be needed by the Federal Energy Office.

(c) All departments and agencies of the executive branch shall, to the extent permitted by law, provide assistance and information to the Administrator of the Federal Energy Office.

RICHARD M. NIXON.

THE WHITE HOUSE, *December 4, 1973.*

EXHIBIT 2

COMPARISON OF MAJOR DIFFERENCES IN FEEA LEGISLATION

OFFICERS APPOINTED BY PRESIDENT AND CONFIRMED BY SENATE

S. 2776

Administrator and Deputy. Section 2.

As amended

Administrator, Deputy, General Counsel, Ass't. Administrator, plus officials in charge of rationing, allocation, and price of oil, Fed. State relations and economic analysis. Sections 103 and 107(b).

FUNCTIONS

S. 2776

Broadly defined to include all actions necessary to meet national energy needs "for the foreseeable future." Section 3.

As amended

Narrowed to cover those transferred by the Hill, or delegated by Pres. as vested in him by Congress. Section 104.

FUTURE TRANSFERS

S. 2776

President makes transfer; becomes law in 60 days unless either House votes disapproval. Section 4(c).

As amended

President makes transfer; Congress must take affirmative action for it to become law. Section 105(c).

REGULATIONS

S. 2776

No provision.

As amended

Grants Chairman of Cost of Living Council 5 days to veto energy price changes; grants Administrator of Environmental Protection Agency 5 days to comment on actions affecting the environment. Sections 106(a)(3)(a) and (b).

ECONOMIC ANALYSIS

S. 2776

No provision.

As amended

Provides detailed requirements for economic analysis of Agency actions. Section 112.

REPORTS ON ECONOMIC IMPACT

S. 2776

No provision.

As amended

Requires FEA, Labor and Commerce to report separately each month to Congress on economic impact of FEA's actions. Section 112(d).

ASSISTANCE TO STATES AND LOCAL GOVERNMENTS

S. 2776

No provision.

As amended

Extensive requirement for furnishing information and providing access to decision-making processes. Section 114.

INFORMATION GATHERING

S. 2776

No provision.

As amended

Authorizes the Administrator to order companies to disclose information, and make reports; permits Administrator to conduct investigations and provides him with subpena powers; prohibits disclosure of information obtained if proprietary or trade secrets. Section 115.

INFORMATION DISCLOSURE

S. 2776

No provision.

As amended

Provides for disclosure to public of information necessary to keep the public informed about the shortage, its impact, and steps taken to minimize the impact. Section 116.

ADVISORY COMMITTEES

S. 2776

No provision.

As amended

Provides for representatives of advisory committees and makes advisory committee law applicable. Section 117.

INVESTIGATIONS BY COMPTROLLER GENERAL

S. 2776

No provision.

As amended

Permits Comptroller General upon his request or request of Congress to monitor FEA, to request or subpena data involving energy matters from companies. Section 118.

PRIVATE-GRIEVANCES OMBUDSMAN

S. 2776

No provision.

As amended

Establishes ombudsman-type Office of Private Grievances and Redress to hear petitions for relief from individuals and small entrepreneurs. Section 121.

COMPREHENSIVE ENERGY PLAN

S. 2776

No provision.

As amended

Requires Administrator to submit to Congress within 120 days a comprehensive plan for alleviating energy shortage, with full analytical justification. Section 122.

ORGANIZATIONAL REPORT

S. 2776

No provision.

As amended

Requires President to submit to Congress by June 30, 1974, his recommendations for permanent organizational arrangement to deal with energy and natural resources. Section 123.

REPORTS TO CONGRESS

S. 2776

No provision.

As amended

Requires reports each six months analyzing actions taken and their impact and projecting availability of energy supply mid-term and long term. Section 124.

AUTHORIZATION

S. 2776

Such sums, section 11.

As amended

Provides for $75 million for FY 74 and $200 million for FY 75 and 76 respectively. Provides additional $40 million for FY 74 and $75 million for FY 75 and 76 respectively if rationing plan is implemented. Section 126.

COUNCIL ON ENERGY POLICY

S. 2776

No provision.

As amended

Establishes a 3-member Council of Energy Policy to provide single place for Congress and President to seek energy information and policy recommendations. Title II.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the following staff members be given the privilege of the floor during consideration of S. 2776 and all votes thereon:

Robert Bland Smith, Eli E. Nobleman, W. Thomas Foxwell, Robert J. Wager, Paul L. Leventhal, Paul Hoff, Alvin Fromm, James E. Hall.

David E. Johnson, William J. Van Ness, Daniel A. Dreyfus, Grenville Garside, Vic Reinemer, Winslow E. Turner, Robert J. Vastine, John Pearson.

Brian Conboy, Gary Sellers, George Patten, Wright H. Andrews, Carolyn N. Fuller, Michael Metz, Charles Morrison, Harrison Fox, Roger Colloff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I just want to say that the distinguished manager of the bill, the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Illinois (Mr. PERCY), the ranking minority member of the committee, have done an outstanding job on this legislation.

I regret that I cannot participate in the debate because we are in conference on the Emergency Energy Act. And we expect to stay in conference until midnight or later if necessary in order to complete our work so that the matter can be brought up on the floor of the Senate by Thursday morning.

Mr. President, the measure before the Senate, S. 2776, is intended to provide congressional authority for an interim Federal agency to manage the energy programs which will be essential for an adequate response to the present energy crisis.

The measure has been expeditiously considered by the Senate Committee on Government Operations. It was introduced at the President's request on December 4, and was reported by the committee on December 14. In that brief time, the committee devoted its greatest attention to increasing the safeguards against any irresponsible application of the powers which will be vested in this new agency.

It is necessary, in my view, for the Congress to provide this expression of support for a more effective organizational arrangement to cope with energy emergency situations. It also is essential that the Congress provide procedures and guidelines to limit and direct the way this organization does business. This measure will respond to those needs.

We must not forget, however, that many of the functions and agencies which will be consolidated within the Federal Energy Emergency Administration have only recently been created. Congressional approval of some of them is not yet completed. Until experience has been gained with the administration of these extensive emergency authorities. Congress cannot relax its oversight responsibilities. It will have to remain continuously involved with the Federal response to the energy situation both to insure that adequate authority has been granted to the executive branch and to guarantee that such authority is equitably and effectively exercised.

We should not assume either that the establishment of the Federal Energy Emergency Agency will resolve the difficult problem of Federal energy organization. The administration is only an interim arrangement—its mandate will terminate on June 30, 1975. Furthermore, the administration will not deal with all aspects of energy policy. It is not a research and development agency, for example.

The Congress must give attention to a comprehensive and thorough reorganization of Federal energy organization. It must build a permanent structure which gives consideration to the full range of national energy policy and which is equipped to function for the foreseeable future.

Mr. President, with these observations, I support the enactment of S. 2776. The authority and guidance it contains are urgently needed to deal with one of the most critical domestic crises we have ever faced.

Mr. PERCY. Mr. President, the bill now before the Senate provides the fundamental organizational structure for the management of the Nation's energy needs during the next year and a half.

It is an interim agency, which we believe has fully adequate power to develop swift, comprehensive Government responses to the serious human and economic problems posed by fuel shortages. The emergency emphasis of the new organization is reflected in its title, the "Federal Energy Emergency Administration"—FEEA.

This legislation has been developed on an exceptionally accelerated, crash basis. When submitted to Congress on December 4, the Administration's proposed legislation provided both a very broad delegation of authorities to the Administrator of the FEEA, as well as the basic organizational transfers necessary to consolidate in one administration all the necessary energy-related governmental functions.

After hearings and intensive staff work, the Government Operations Committee considerably revised the bill.

First, the FEEA is now clearly established as an interim agency whose main focus is the current situation of energy emergency. The new FEEA organization may well provide the foundation for a broader energy and natural resources agency, but this determination must be the result of new authorizing legislation.

Second, in the bill as reported, the new Administrator's authorities do not extend beyond: First, those conveyed to him in this bill—which are essentially those transfers of existing Government functions provided for in section 105); second, those delegated to the Administrator by the President under authority now vested in the President by other law, and third, such other powers as may be vested in the Administrator by Congress.

Third, the bill as reported differs substantially from the administration's draft in that it provides several very important safeguards over the substantial powers of this new energy "czar." Among these safeguards are the following:

First, actions of the Administrator to control wages and prices, under certain authorities contained in the Economic Stabilization Act which are delegated to the FEEA Administrator, may be disapproved, or in effect vetoed, by the Cost of Living Council.

Second, on FEEA decisions affecting environmental quality the bill provides a 5-day period in which the Environmental Protection Administration may comment on the environmental impact of the proposed action.

Third, a number of reporting requirements are imposed on the Administrator. An economic impact report is required every 30 days. Every 6 months the Administrator must submit to Congress an extremely comprehensive report on his actions, their impact, the future of the energy shortage, its economic impact on production and consumers, and on the administration of the FEEA. Interim reports must be submitted when required by Congress. A special report is required 120 days after the creation of the enactment of this act, containing a comprehensive plan to alleviate the energy shortage. Finally, not later than June 30, next year, the President must submit to Congress a special report setting forth his recommendations for a permanent Federal energy and natural resources organizational structure to bring some measure of order out of the chaos of new organizations that we have been creating.

Fourth, Senate confirmation of the FEEA Administrator, Deputy Administrator, 6 Assistant Administrators, and the General Counsel is required as a result of committee amendments.

Fifth, the ability of the President to transfer existing governmental functions to the FEEA was modified. The legislative request submitted by the Administration contained a broad authority under which the President could transfer any fuction of any executive agency to the FEEA, subject only to a veto by either House of Congress during a 60-day period. This transfer provision has been considerably rewritten. Under it, the President may transfer functions to the FEEA if such transfers are approved by concurrent resolution under expedited procedures.

Finally, in response to a strong committee wish that the FEEA must be free from public suspicion that it is dominated or influenced by industry, all meetings of all FEEA advisory committees must be open to the public unless closed for national security reasons, and all advisory committees must be reasonably representative of the broad public interest in the subjects on which they are providing advice.

Mr. President, these are some of the key ways in which the committee has provided safeguards and conditions on the power of the FEEA Administrator.

But, by contrast, the committee has also provided the Administrator with very substantial new powers that were not requested by the executive branch. These are the new powers to gather energy-related data. FEEA for the first time will provide a strong, independent, and hopefully reliable new energy data and analysis unit. In the proposed organization chart submitted by Mr. Simon, one of the six FEEA Assistant Administrators will be responsible for data and analysis. The new unit will contain existing Government data collection and analysis functions relating to energy but it will also be armed with powerful new legal tools that the Federal Government has never before had. The FEEA will have the ability to independently assess the nature of the Nation's energy supplies, rates of production and consumption.

Under section 115 the Administrator has the power to require persons, corporations, or others to maintain and make available information which he deems necessary to perform his functions under the act. The Administrator is also given the ability to require answers to specific inquiries, and he can require that such answers be supplied under oath. The Administrator is given power to make direct investigations, including field investigations, to obtain information he needs. Finally, he may issue subpenas for information relevant to his duties under the act.

This FEEA information-gathering power is supplemented by a specific mandate to the General Accounting Office in Section 118 to monitor extensively the information-gathering activities of the FEEA and to obtain energy-related information from any private organization. The GAO is given the power to subpoena information and to go to court to obtain it.

Mr. President, this legislation contains very broad grants of new information-gathering power and the committee intends that it be used judiciously and with restraint. But the impetus for such substantial power comes from the direct experience of the many committees of Congress which have been frustrated again and again in their efforts to obtain information about the real nature of the energy crisis.

One of the key deficiencies of the Federal Government's approach to energy problems in the past has been its lack of reliable up-to-date data. Evidence of this astounding situation and the serious effect that it has had on Federal energy policy has become increasingly apparent. Sworn testimony before the Permanent Subcommittee on Investigations, during its ongoing hearings on the recent fuel shortage, has tended to reinforce the belief that in energy matters the Government has been operating in the dark much of the time.

Specifically, the statements of numerous witnesses from Government and the academic community show that the very serious lack of statistics available to administrators of the oil import program was partially responsible for the misguided decisions in 1971 and 1972 to limit severely increases in the level of oil imports.

In his opening statement to the subcommittee, Prof. Fred C. Allvine, a highly respected student of the oil industry, analyzed some of these crucial decisions and came away with some remarkable conclusions. According to Doctor Allvine:

> There were relatively little up-to-date government statistics nor comprehensive analyses of the statistics to permit the Department of Interior and the Office of Emergency Preparedness to keep on top of the situation. The Bureau of Mines statistics, which the Federal government relied upon, were generally three months behind the event and were in many cases too late to aid in the analysis of crucial problems.

Later in the hearings Gen. George A. Lincoln, the former Director of the Office of Emergency Preparedness, testified. OEP was the Government agency that was responsible for the overall direction of the Mandatory Oil Import Program from 1970 until early 1973. In response to questions, both General Lincoln and his principal adviser indicated that the Federal Government's present system of gathering, verifying, and analyzing data concerning the oil industry is wholly inadequate.

Sections 115 and 118 of FEEA Act are a direct response to that clearly demonstrated inadequacy.

Mr. President, there is another aspect of this bill on which I would like to comment before closing. That is the issue of the Government's overall organization to manage energy and related natural resource programs. We seem to be about to create a plethora of new energy organizations that will simply compound the already confused Government response to the energy crisis.

Let me briefly review the current situation. In the area of energy research and development a number of organizational proposals are in progress through Congress. A bill to create a new Energy Research and Development Administration—ERDA—is moving rapidly in the House, where final passage is expected this week. In the Senate, the Executive Reorganization Subcommittee has completed its hearings on the Senate companion measure.

Senator RIBICOFF, the distinguished chairman of the subcommittee, has indicated that the ERDA bill will be a first order of business in the new session.

Nonetheless, in spite of imminent enactment of these comprehensive energy research administration bills, the Senate passed 2 weeks ago, S. 1283, a massive energy strategy bill that contained provisions for an energy research and development agency under a project manager who would have authority to manage, and create the institutions to implement, a vast $20 billion energy research and development effort.

Let us now look at the organizational arrangements for creating Federal energy policy. The bill before us provides for a very powerful new energy Administrator who will have, as I have previously described, a very potent new information-gathering, research, analytical, and policy formulating capability. There is every intention that the new FEEA Administrator have very significant policy functions. It would be blindly unwise to think of the new FEEA Chief as a mere administrator who will have no policy functions. That would be patently absurd. The Administrator must base all of his administrative actions on sound policy guidelines. He cannot do his job without basing his actions, day-by-day, on sound short- and long-term policy. Title I of the bill before us recognizes that we intend the Administrator to have this policy function.

But the committee also adopted an amendment to add a new title II to the bill to provide for a new Council on Energy Policy. This title will be familiar to Senators, because it passed the Senate this spring as S. 70, and was passed again last week as an amendment to the energy conservation bill. And indeed, the main argument for adding it to the FEEA bill was that it had already passed the Senate twice. I deeply regret that our Committee on Government Operations did not pause for an examination of the provision of title II to discover whether indeed it was an appropriate addition to the bill. In fact, title II now vests in a new Council on Energy Policy functions and duties that are in direct conflict with the responsibilities assigned to the FEEA Administrator in title I. For example, the Council must make an annual report—section 207—to the President and Congress on the long-term energy needs of the country, on supplies, on shortages, and on economic impact. This is, of course, in addition to, and in conflict with, the reporting requirements of section 124 of title I of the same bill, which also requires such reports. One of the duties of the Council in section 203(3) is to gather data and information. This, of course, directly conflicts with the information-gathering functions of the FEEA, which I have described earlier. In general, title II assigns to the Council purposes, objectives and duties that are also provided to the Administrator of the FEEA in title I. I objected to this duplication, and I voted against title II in committee.

So, Mr. President, I suggest that we have not thought through at all carefully the new organizational structures we are creating for energy. That is why I am particularly pleased with an amendment the committee adopted that was sponsored by Senator BROCK, contained in section 123, which requires that the President submit to Congress no later than June 30 next year a report containing his recommendations for a permanent Federal organizational arrangement for the management and development of policy for energy and natural resources. Such a comprehensive organizational overview plan will be badly needed by that date, I feel certain.

Mr. President, with the exception of the objections to title II, I have just discussed, I think the bill before us is a responsible and basically sound one. It is a model of cooperation among the Government Operations and Interior Committees of the Senate and the executive branch. While providing ample powers to the FEEA to respond effectively to the energy shortage, it conditions those powers and provides for safeguards and a maximum of accountability to Congress and the public. I join the distinguished Senator from Connecticut in urging its prompt passage.

Mr. President, I commend the distinguished chairman of the Government Operations Committee, the Senator from North Carolina (Mr. ERVIN), and the respective chairman and ranking minority members of the Subcommittee on Reorganization, Research, and International Organizations, the Senator from Connecticut (Mr. RIBICOFF), and the Senator from New York (Mr. JAVITS) for the exceptionally fine work they have done, as well as the fine work of the staff. Mr. Robert Wagner, head of the staff of the Subcommittee on Executive Reorganization, deserves special commendation.

When the authorities under this bill begin, and the sweeping nature of the powers under the bill are granted, the actions which the committee in its wisdom to be will become apparent. The bill provides adequate authority, but also places necessary restraints upon that authority, and provides adequate checkpoints so that Congress can affirm its oversight responsibilities.

I would say that to have this bill reported out unanimously within 8 days from the time it was received, hearings having been held, as well as a markup session, has set something of a record.

I would say that we were not lacking in energy in reporting the measure out this promptly, considering that we were simultaneously able to keep the pace of business going on the floor of the Senate.

Mr. JAVITS. Mr. President, I would like to first associate myself with everything that has been said by my colleagues and to express my strong support for this bill.

We have acted in the interest of the country considering this matter so expeditiously.

I thank the Senator from Illinois (Mr. PERCY), the ranking minority member of the full committee, as well as the chairman of the committee, for enabling us to move with such expedition.

Mr. President, I thank the Senator from Connecticut (Mr. RIBICOFF), the chairman of our subcommittee, with whom I am directly associated as the ranking minority member of the subcommittee.

I also thank the other Senators, including the Senator from Washington (Mr. JACKSON), who piloted the emergency energy bill through the Senate. He is a member of the Government Operations Committee, and he cooperated very closely and effectively with the committee on this matter.

The very important point to be mentioned here is that this bill represents a collaborative effort with the administration to draft a bill which could be acceptable to them and at the same time acceptable to the Senate.

This is critically important, in my judgment, so important that I shall offer to the Senate an amendment providing for the need for a system to assure due process. This amendment I shall offer with the cosponsorship of the Senator from Maryland (Mr. MATHIAS). It is exactly the plan which we adopted in the emergency energy bill.

I would particularly like to call the Senate's attention to a very unique provision in the bill dealing with the problem confronting individuals who may find themselves streamrollered by the Government bureaucracy. A very inventive amendment by the Senator from Delaware (Mr. ROTH), for which I think he is entitled to enormous credit, sets up an office of private grievances and redress as a one-stop service for individuals and small businessmen with justifiable claims for relief from any unwarranted hardships imposed by the Administrator's regulations.

I hope very much, Mr. President, that the people of his State will know the significant contribution made to this bill, in my judgment, by this very innovative provision, which may well be a guide in many other measures of similar character.

Mr. President, I would also like to emphasize the way in which the committee was impressed with the new prospective Administrator, Mr. Simon. This is the kind of a job where an individual's character, business experience, judiciousness, his willingness to listen and learn, and his solicitude for injustices will be critically important. His alertness to the injustices which will be possible in an administrative system where individuals and concerns which have taken a lifetime to build up can be ruined by the stroke of someone's pen, constitutes a great responsibility. Mr. Simon gave a real sense of assurance to me and, from all I could observe, to the other members of the committee, that we could with good conscience entrust this kind of authority into his hands.

Mr. President, the bill now before the Senate constitutes a fully developed response to the need for an institutional mechanism through which the immediate energy emergency and substantive laws can be managed. Policies aimed at both the short-term problems and longer-term solutions will be developed by the President's principal energy policy adviser and Administrator of the new Federal Energy Emergency Administration—William Simon.

A fundamental problem in dealing with energy matters at the Federal level has been the fact that too many energy-related responsibilities have been dispersed throughout the Government. Our bill addresses that problem by transferring key energy policy functions from the Interior Department—the Office of Petroleum Allocation, the Office of Energy Conservation, the Office of Energy Data and Analysis, and the Office of Oil and Gas—and the Energy Division of the Cost of Living Council.

In the United States today we are now experiencing for the first time in our history serious shortages of natural gas and petroleum. In the coming months, many areas of the Nation will face critical shortages of heating fuel, gasoline, and petroleum products. Although there is plenty of blame to go around, there is evidence that past policies and procedures of the Federal Government, and of industry were not adequate in anticipating and dealing with this problem.

Simply stated, the FEEA will have the responsibility to relate to national economic policy major decisions concerning production, allocation, and rationing of fuels. Decisions involving difficult tradeoffs will have to be made. Which industries, particular groups, and interests will receive priorities over other such interests? What criteria and procedures will be developed to assure fairness and administrative due process? The administration of this program will have far-reaching ramifications on the lives of every American family. It is with this in mind that the committee approached its responsibility in writing this bill. FEEA programs should be undertaken with the following broad objectives in mind:

First, unemployment should not result from the impact of energy shortages and specific, carefully documented comparative strategies should be developed to achieve this objective;

Second, FEEA programs and regulations, must be developed, promulgated, and enforced in an environment of openness and in public hearings where feasible;

Third, regulations and other policy plans must be simply designed with a minimum degree of Government bureaucracy, and developed with a high regard for administrative due process;

Fourth, the energy resources we have must be allocated fairly, and among all geographic areas of the country;

Fifth, FEEA should develop and recommend incentives to conserve energy consumption of all kinds;

Sixth, State and local governments must be able to get pertinent statistical, economic, and other information and analysis relating to FEEA programs; and

Seventh, FEEA must have the resources and the will to obtain all necessary data, records, documents, and other relevant information from industry and business and individuals.

Expansion of energy supply is a long-term proposition. For the immediate future there is little choice but to curtail energy consumption through the enactment and enforcement of appropriate policy—and indeed that is the basic premise of this bill. The executive and the Congress are already exploring ways to do this, but FEEA will exercise substantially day-to-day power for the development and implementation of such policy.

Public confidence is vital to the success of the emergency energy programs. The committee has taken three major steps to build and maintain strong public support. First, the Administrator is directed regularly to disclose broad categories of information concerning his actions so that the public will understand the nature and extent of the energy shortage, and what is being done about it. The Comptroller General is to monitor this program to see that it is carried out in the manner Congress intends.

Second, to assure that important advisory committee recommendations are made openly and not by any special interest dominated groups, the committee mandated that advisory committees must have properly balanced representation and be open to the public.

Third, the committee established an Office of Private Grievances and Redress, to provide one-stop service for individuals and small businessmen who have justifiable claims for relief from any unintended hardships imposed by the Administrator's regulations but with final authority resting with the Administrator.

Since State and local government will bear much of the responsibility for administering emergency energy programs, the committee mandated a strong program of coordination with, and technical assistance to, these units of government.

Title I is aimed at alleviating the short-term organizational problems facing the Nation during the current energy emergency. To provide for the long term, the committee also directed the President and the Administrator to submit to Congress a detailed long-term program and organizational recommendations for future energy and natural resource policy. Of particular importance to me are the provisions in title I of the bill dealing with economic impact analysis.

FEEA must apply in all of its decision-making processes national economic criteria fully and effectively. The requisite economic analysis is extensive and complex. The FEEA will need to know the direct and indirect economic impacts of the specific allocations of the major fuels among industries, including any reductions in production and employment and the specific inflationary pressures that will be created. The methods for such analysis are well known and available, but at this time neither the personnel nor the data bases have been assembled. The agency must move very quickly to create this analytical capability. If it fails to do so, the critical allocation and policy decisions will be made in a way that will raise the damage of the energy crisis. If the President, his energy chief, and the Congress are to be able to review the policies, they must have the analyses that make meaningful choices possible.

Title II would establish a Council on Energy Policy, patterned after the Council of Economic Advisers and Council on Environmental Policy to assist the President with high-level coordination and policy development in the energy field for mid and long term energy policy issues.

Mr. President, our committee presents to the Senate today a bill vastly improved over the original legislation introduced on behalf of the administration. While I have every confidence in the competence, integrity, and farsightedness of Mr. Simon to exercise his extraordinary responsibilities fully and fairly, the American people will shortly face a whole new range of government regulation. Recognizing that the powers which Mr. Simon will exercise are extraordinary, the committee has recommended—and I strongly support—the wide range of safeguards which have been built into this legislation. Our people have faced severe emergencies before. I am confident that the emergency energy policies mandated by the Federal Government will help to alleviate this crisis. However, all such efforts must be undertaken with a maximum regard for fair and equitable administration of these programs.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that Michael Pertschuk, Henry Lippek, and Patrick Starret be granted the privilege of the floor during the consideration of the bill and the votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH. Mr. President, I want to reaffirm my strong support for S. 2776, the Federal Energy Emergency Act, which I am cosponsoring.

I believe that it is absolutely essential to have a strong, well-organized Federal Energy Emergency Administration to implement and administer the emergency programs that we will need in order to cope with the energy crisis. In the past, there have been too many fingers in the energy pie. Prompt and decisive action has been impeded by interagency conflict. Energy pricing was handled by the Cost of Living Council; energy allocations by the Office of Oil and Gas, and general energy policy by the Energy Policy Office in the White House. The bill will bring together these various functions into an effective and coordinated Federal Energy Emergency Administration. We are entrusting this new agency to one of Washington's hardest working and most dedicated civil servants, Mr. William Simon.

This legislation contains two amendments which I offered in committee and which I hope the Senate conferees will insist upon in conference with the House. The first amendment establishes an Office of Private Grievances and Redress within the Federal Energy Emergency Administration. This amendment, which was adopted unanimously in the Government Operations Committee, will create an ombudsman for the citizen who believes that he has suffered unfair hardship because of measures which have been taken to meet the emergency. In a society as complex as ours, it will be impossible to determine ahead of time what the impact of any new measures will be on each segment of our economy and society.

While we will all be called upon to make sacrifices during the period of the energy emergency, these sacrifices must be distributed fairly. The Office of Private Grievances and Redress and its Director will be a specific place and a specific person to which all can address their complaints, receive attention, and obtain appropriate relief.

The Director also will be required to recommend to Congress modifications of rules or laws which he believes are necessary to distribute the burden fairly.

Last week I discussed this matter with John Sawhill, the prospective Deputy Administrator of the Federal Energy Emergency Administration, and urged him to set up this office by Executive order in advance of the final approval of the legislation. I did this because I thought there ought to be some place where the truckers and others could go to get a hearing.

My second amendment requires the new Federal Energy Emergency Administration to develop independent data on oil and gas reserves in the United States and the extent to which domestic production can be increased. If we are going to have energy policies that everyone will have confidence in, we must have information that has been obtained independently of the oil and gas industry.

I urge the passage of S. 2776, and I urge the retention of my two amendments.

Mr. BUCKLEY. Mr. President, I shall take just a minute to make a unanimous-consent request on behalf of the distinguished Senator from Arizona (Mr. FANNIN), the ranking minority member of the Committee on Interior and Insular Affairs. I ask unanimous consent that Nolen McKean, Roma Skeen, Fred Craft, Harrison Loesch, and David Stang, members of the staff of the Committee on Interior and Insular Affairs, be granted the privilege of the floor during the debate and votes on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, some point has been made—I do not think it is valid, and it should be cleared up—that the Office of Individual Grievances—the Senator from Delaware will supply the correct name, I am sure—will operate on its own and that it will not be subject to orders and directions of the Administrator. As I read the law, the only purpose that it has now is that it is simply an agent of the Administrator for the purpose of seeing that the right things are recommended to the Administrator and the right information passed on to him, but that the final decision in any case which comes up in this particular office is entirely in the hands of the Administrator.

Mr. ROTH. The Senator from New York is completely correct in that interpretation.

Mr. JAVITS. I thank my colleague.

Mr. MONDALE. Mr. President, I submit a modification of printed amendment No. 823. I ask unanimous consent that its reading be dispensed with but that it be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The modified amendment is as follows:

On page 19, between lines 19 and 20, insert the following new subsections and redesignate succeeding subsections accordingly:

(c) The provisions of the Economic Stabilization Act of 1970, as amended, insofar as they are applicable with respect to the functions transferred by subsection (b) of this section, are hereby continued in effect for the duration of this Title.

(d) As used in this section, a "petroleum fuel in short supply" includes crude petroleum or any refined petroleum derivative thereof, for which the Administrator has in effect allocation, rationing, or other mandatory controls on distribution or consumption.

(e) In the pricing of any petroleum fuel in short supply, the Administrator shall allow (except as provided in subsection (f) of this section)—

(1) For crude petroleum, no more than a passthrough of cost increases actually incurred in domestic or foreign operations, except that the Administrator may implement exceptions to such rules for the sole purpose of providing increases in the price of new supply to encourage increased domestic exploration and production of crude petroleum: *Provided*, that any such exception shall state in detail the means by which any price increases which are greater than a passthrough of costs can be expected to be effectively utilized to increase investment in new domestic exploration and production; and

(2) for refined petroleum products, no more than a cost passthrough at any level of supply or distribution for refined petroleum products, except that the Administrator may implement exceptions to such rules, to the extent that declining sales volumes necessitate such exceptions, for branded and nonbranded independent marketers, as defined by Public Law 93–159 (the Emergency Petroleum Allocation Act of 1973).

(f) The Administrator may implement pricing policies which permit increases greater than those pursuant to subsection (e) of this section for petroleum fuels in short supply. Any such pricing policy shall be temporary, and shall not be effective for more than sixty days unless within fifteen days after it is implemented, the Administrator holds a public hearing thereon, on the record, after at least ten days prior notice thereof. Based on such hearing and prior to the elapse of the aforesaid sixty day period, the Administrator shall announce his final decision on such pricing policy and make public written justification for such decision.

(g) The Administrator shall publish in the Federal Register no more than 30 days after enactment of this act, rules and regulations to implement the fuel pricing provisions of this section, including procedures to insure compliance therewith.

(h) Pursuant to section 118 of this Act, the Comptroller General of the United States is authorized and directed to monitor price increases granted pursuant to this section. He shall report not less than quarterly to the Congress with his comments on the fuel pricing decisions of the Administrator pursuant to this section."

On page 22, strike all on lines 4 through 17 and redesignate the succeeding paragraph accordingly.

On page 23, line 3, strike the words "and (B)".

On page 42, line 7, add the following sentence after the period: "In acting upon requests under this subsection from Members of Congress, the Comptroller General shall give preference to such requests which relate to his duties pursuant to section 105 (h) of this act."

Mr. HART. Mr. President, I ask unanimous consent that during consideration of the pending bill and any votes thereon, a member of my staff, Harrison Walker, may have the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MONDALE. Mr. President, this amendment is presented on behalf of myself, and Senators MUSKIE, PASTORE, STAFFORD, and KENNEDY. I ask unanimous consent to have added as cosponsors of the amendment Senators MCINTYRE, HART, and PROXMIRE.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MONDALE. Mr. President, as we debate this legislation to establish a Federal Energy Administration to handle our Nation's energy problems for the next 18 months, the seriousness of our energy situation becomes more visible.

And for the consumers of this Nation, the situation is rapidly going from serious to critical. The American consumer may become the chief victim of the current energy crisis, unless we move swiftly to give a measure of protection over the short term.

In the past few weeks, we have been told by official after official of this administration that all Americans will simply be forced to accept sharply higher prices as the only way out of the present difficult situation.

Recently, Dr. Herbert Stein, Chairman of the President's Council of Economic Advisors, warned that fuel costs might rise by as much as 50 percent in the months ahead, adding 3 percent—or $27 billion—to the Nation's inflation rate. And William Simon, who will become the Administrator of the Federal Energy Administration has recently indicated his preference for allowing fuel prices to rise to help control demand.

Some economists have estimated that in order to clear the market—their so-called free market economy—in order to permit the market to control the distribution of fuel and energy, the cost to the American public may rise as much as $50 billion in direct or indirect costs.

If we do that, we will have a reverse Robin Hood program in this country which will be similar to the Demogrant program offered by one of the candidates in the last campaign, with this one exception—$1,000 would not go to each family who works and who is poor, but $1,000 would be taken from every working family in the country and given, instead, to the rich.

That is not a minor possibility if we figure out the cost of paying $50 billion in additional costs to those who are controlling, either directly or indirectly, the supply of gasoline, fuel oil, and the rest. That kind of massive impact on the average family budget is not avoidable if we assume that the "free market" will govern the distribution of gasoline, oil, and other energies in this crisis.

I find that alternative utterly and absolutely unacceptable. That is why this amendment tries to find a way out of the present energy crisis without gouging the American consumer in this indefensible way.

Our amendment would continue and

toughen the price control system on oil and petroleum products for the duration of this legislation—until June 30 of 1975. I realize that many in this body—and many citizens across the Nation—have wearied of the Cost of Living Council and its unfortunate handling of major problems in the area of price controls. And there is no doubt that any price control mechanism will cause some dislocations and will not work without some difficulty.

But the Congress faces a critical choice in the weeks ahead—whether to allow the oil industry, and the administration which too often seems to speak for it, to dictate policy to Americans in a time of rising prices and even faster rising oil company benefits, or whether to tell this administration and the oil industry that we will not allow the consumer to be held hostage to shortage situations which the major oil companies have helped to create.

In recent weeks, it has become fashionable for the administration and many economists to talk about the virtues of the marketplace and the workings of a free competitive system. The only difficulty in this is that there is no free competitive system in the pricing of oil. OPEC controls the price of oil at the wellhead, and a monopolistic oil industry controls it at every other step of refining, transportation and distribution. Many like to talk of the "invisible hand" of market forces being allowed to work its magic. Unfortunately, however, the only invisible hand at work now is the hand of the major oil companies of this country, which are about to pick the pocket of every American consumer to the tune of tens of billions of dollars a year.

Recently, Dr. Arthur Okun, former Chairman of the Council of Economic Advisers, estimated that a policy of allowing prices to rise without controls would—

> Transfer nearly $1 billion a week of real income from the bulk of the population to oil producers. The Companies would collect nearly $20 per week extra from the average American family and could reap a stupendous windfall gain from a national catastrophe.

We dare not pursue a policy of this type. The average working man and woman cannot afford $20 per week to be taken from their already hard-pressed family budget. They cannot afford the massive sacrifice which unlimited price increases would inflict on every American. And they should not be expected to bear this type of unnecessary sacrifice, when its principal effect would be to increase immeasurably the already swollen profits of the major oil companies.

We all know the figures on prices and profits. They have become part of our daily lives. On the price front, the controls of the Cost of Living Council seem to have broken down. For November alone, fuel prices rose by 19.3 percent, for a 232 percent adjusted annual rate. Refined products were up 34.7 percent in November, and now stand 89.1 percent higher than a year ago.

But perhaps most significantly, Bureau of Labor Statistics figures indicate that while crude oil prices have risen by a little over 21 percent since the beginning of 1973, the costs of refined products have risen by over 88 percent and the cost of middle distillates have risen by 124.9 percent. This raises a very simple question. Why should the cost of refined petroleum products increase at 4 or 5 or 6 times the rate of the increase in the cost of crude oil? And why should we accept the public posture of the oil industry which would seek to blame virtually all the price increases on the recent Middle East war and the ensuing Arab oil cutoff?

Of course some of the inflationary pressure in the area of oil has resulted from the Arab oil cutbacks and the rises in taxes imposed by other, non-Arab exporting governments. The recent oil sales in Iran at over $16 per barrel are bound to have some inflationary impact.

But they do not explain most of that impact. What explains it are the balance sheets and the profit ledgers of the major oil companies, which have now apparently become "embarrassing" to the heads of these corporations.

Mr. President, the purpose of reciting these figures is not to make demons out of the men who head the major oil companies. It is simply to illustrate that the oil industry is a very special industry, with very special power over our economy and, unfortunately, over our Government. It is an industry which is controlled from wellhead to gas pump by anticompetitive forces. As the Federal Trade Commission stated last summer, the major oil companies, "which consistently appear to cooperate rather than compete in all phases of their operation, have behaved in a similar fashion as would a classical monopolist: They have attempted to increase profits by restricting output."

The Permanent Investigations Subcommittee, under the chairmanship of the distinguished Senator from Washington (Mr. JACKSON) has convincingly illustrated that both this administration and the major oil companies worked to keep oil imports from rising, even when we knew that we were heading into a period of major shortages.

In short, the Nixon administration and the oil industry have helped create this shortage. And now, the oil industry, with the backing of this administration, is attempting to benefit from that shortage by raising prices to unconscionable levels. The administration tells us that we must accept this; that it is inevitbale. And the principal reason why I am offering this amendment today is to tell the administration that it is not inevitable, and that the American people are not going to stand still while they are asked to sacrifice and oil industry profits continue to soar.

First, the amendment under consideration would strengthen the powers of the Administrator of the Federal Energy Administration in dealing with prices of crude oil and petroleum products. It would continue in effect until June 30, 1975, those functions relating to control of prices in the energy area which are now administered by the Cost of Living Council. These controls are due to expire on April 30, 1974, and we have no assurances that an effective control system for oil will be in effect after that date.

Second, this power would extend to any fuel in short supply, which the amendment defines as crude petroleum or any refined petroleum product for which the Administrator has in effect allocation, rationing, or other mandatory controls on distribution or consumption. It would therefore cover crude oil and the most important refined petroleum products such as gasoline, fuel oil, and residual fuel oil.

Third, for crude oil, no more than a passthrough of increased costs actually incurred in domestic or foreign operations would be permitted. The Administrator would be empowered to propose exceptions to the rules for the sole purpose of providing increases in the price of new supply to encourage increased domestic exploration and production of crude oil. However, he must show in detail the means by which such exceptions can reasonably be expected to be effectively used to increase investment in domestic exploration and production.

Therefore, for crude oil this amendment limits price increases to a maximum of passthrough of costs actually incurred. It closes one major loophole under the present system through which foreign subsidiaries of the major oil companies have increased their profit margins and passed through those increased profit margins to the American consumer. That abuse would stop under this amendment.

The amendment, as I indicated, does recognize the need for increased supplies of petroleum. However, it attempts to focus that increase on domestic exploration and production, and would only give price increases above a cost passthrough for new production.

We must avoid the mistakes of the past in this area, and perhaps the greatest such mistake was the mandatory oil import quota system. This system, for which the oil companies fought and which they helped maintain, was ostensibly designed to enhance national security by limiting foreign imports and encouraging domestic exploration. Instead, by the late 1960's it was costing the American consumers $5 billion per year in higher prices, according to President Nixon's own Task Force on Oil Imports, which recommended scrapping the oil import quota system in 1970.

And, instead of using the increased profits resulting from the oil import quota system to increase our domestic supplies of petroleum, the major oil companies literally fled to the Middle East, resulting in a decline in drilling in the United States and huge profits on Middle Eastern production.

So, if we are to have increased energy supplies, those supplies must come from within our own boundaries. These supplies are huge, and they must be tapped. The U.S. Geological Survey has indicated potential oil resources in the United States of 346 billion barrels, compared to our 1972 consumption of 6 billion barrels—in other words, almost a 60-year supply at 1972 consumption rates.

We have the resources. And if we are to grant exceptions to the strict rules which this amendment sets forth, they should be granted only for increased domestic exploration and production.

Fourth, for refined petroleum products no more than a cost passthrough at any level of supply or distribution of refined petroleum products would be allowed. As I indicated earlier, figures from the Bureau of Labor Statistics indicate that the increase in wholesale prices of refined products has been four or more times as great as the increase in the cost of crude oil. This simply must be brought to a halt, and this amendment would attempt to do that.

Exceptions in the area of refined petroleum products would be allowed only to promote the growth of independent marketers. Independents have been hard-pressed by the major oil companies for over a year now. Intensive efforts have been made to force out independent operators from the retail end of the oil business as the majors have found their historically high profit margins in production squeezed and have attempted to recoup these profits in the refining and marketing sectors of the business.

The amendment would allow greater than a cost passthrough to the extent that declining sales volumes necessitate such exceptions, and would allow the continuation of historical profit levels for independent marketers. Many of the independents see their sales declining, but under present Cost of Living Council rules they are prohibited from increasing their profit margins to return to their former dollar profit levels. Under the amendment, such increases would be allowed and would hopefully result in a strengthening of the independent sector of the oil industry.

What we have seen under the Cost of Living Council are rules and enforcement practices which have penalized the small independent retailer and refiner while at the same time allowing major oil companies to record ever-higher profit levels. There was no better example of this distorted sense of priorities—which I believe were designed to show that controls would not work—than the initial phase IV rules to pass through costs. Certainly, this distorted sense of priorities must be ended, and this amendment would seek to do just that.

Fifth, the Administrator may implement interim pricing policies which allow increases greater than those which would otherwise be allowed for crude oil or petroleum products under the very specific criteria in the amendment. However, no such policy permitting these greater increases would be effective for more than 60 days unless within 15 days after implementation, a public hearing were held. Based on that hearing, the Administrator must announce his final decision on whether to retain any such pricing policy, and publicly justify that decision.

This provision in the amendment allows some degree of flexibility but also gives the chance for significant public input to the pricing process. There may be instances where, in the judgment of the Administrator, prices must go up more than otherwise provided for in this amendment. However, I would hope that these occasions would be infrequent, and the amendment provides that no such increases can become finally effective until adequate public exposure has been given to the proposed change.

It is certainly the intent of this amendment that rationing by price be avoided. This provision giving the Administrator flexibility to meet unusual circumstances should in no way be taken as implying congressional approval for any system of price rationing which would drastically increase costs to the American consumer.

Sixth, the Administrator must publish rules in the Federal Register—including rules to assure compliance—within 30 days.

And, finally, the Comptroller General is directed to monitor all price increases granted by the Administrator and to report not less than quarterly to the Congress with his comments on the fuel pricing decisions made by the Administrator pursuant to this legislation.

Under this legislation, the Comptroller General has power to review and evaluate the procedures followed by the Administrator of the Federal Energy Administration in gathering, analyzing, and interpreting energy statistics, data, and information, including data relating to energy costs, supplies, and demand.

Using this power, which is granted in section 118 of this act, the amendment would assure continuous monitoring of all price increases granted by the Administrator. Hopefully, the GAO will help determine the need for the price increases which have been granted and will help the Congress determine whether the Administrator is abiding by the spirit of price restraint which this amendment embodies.

With the GAO involved, we will have an arm of the Congress able to help us evaluate the progress of the energy pricing functions of the Administrator. And given the GAO's powers granted in section 118, they will also hopefully become involved in helping the Congress to determine whether any revisions in the legislative mandate given the Administrator are necessary.

This constant monitoring by the GAO should go a long way toward giving the price control system envisioned by this amendment a greater degree of success than has been enjoyed by the Cost of Living Council thus far.

Mr. President, this amendment offers the American consumer the chance to avoid the types of massive price increases about which we have been hearing so much in recent days. Obviously, there will be increases under any plan, including this one. And there should be increases if it can be conclusively demonstrated that this is the only way to get increased domestic production. However, the guiding principle of this amendment is that we need not accept the word of the major oil companies and the Nixon administration that huge increases are inevitable.

We need not accept the proposition that the average working family will be required to pay up to $20 per week extra in fuel costs, merely to allow profits to continue to soar.

This amendment would allow for the necessary flexibility to encourage new supply and to encourage the maintenance and growth of the independent sector of the oil industry.

But primarily, this amendment will offer some hope to the beleaguered consumer of this country—hope that the energy crisis will be solved with sacrifice by all Americans, not just those without the ability to influence Government policy for their benefit.

I am quite convinced that the Energy Administrator, the Secretary of the Treasury, and the Chairman of the Council of Economic Advisers have decided against rationing and in favor of a system in which the price of crude oil and the price of refined products will rise to the full extent the market will bear. This will bring about one of the most astonishing and cruel inflationary periods in the history of the United States. To do that in the face of the already fantastically high oil company profits, in my opinion, is an insult to the American people. It is without reason, it is cruel, and, in my opinion it cannot be condoned. For this reason, I am very hopeful that the distinguished floor manager of the bill, the Senator from Connecticut (Mr. RIBICOFF), will find this amendment acceptable.

Mr. McINTYRE. Mr. President, I am pleased to cosponsor this amendment offered by the distinguished Senator from Minnesota (Mr. MONDALE).

I have long been concerned about the increasing cost of fuel and the record profits being enjoyed by the oil industry. The consumers are asked to pay more and more, while the oil industry does little to help alleviate the tremendous shortages facing us.

Last month I wrote to John Dunlop, the Director of the Cost of Living Council, addressing this very problem. I recommended at that time that the COLC adopt a pricing policy for the oil industry that would assure that any increased profits be used to develop new refining and storage capacity. I felt that this method of attacking the problem had the best chance of quick results. Unfortunately, I have received no reply to my letter.

Therefore, the need for legislation becomes more apparent. This amendment would be a positive step in insuring that the oil companies share in the sacrifices during the energy crisis and that the American consumer is not further victimized in the rush to find solutions to our fuel shortages.

Mr. President, I ask unanimous consent that a copy of my letter to Mr. Dunlop, and a table from U.S. Oil Week reflecting the third quarter profits of the oil companies be inserted in the RECORD at this point.

There being no objection, the letter and table were ordered to be printed in the RECORD, as follows:

COMMITTEE ON BANKING, HOUSING,
AND URBAN AFFAIRS
Washington, D.C., November 30, 1973.
Dr. JOHN T. DUNLOP,
Director, Cost of Living Council,
Washington, D.C.

DEAR DR. DUNLOP: As you know only too well, the concern that I, along with several of my colleagues on the Committee, expressed earlier this year on rising consumer fuel prices is now a reality.

Citizens across the country are now paying as much as one hundred per cent more than this time a year ago for their essential fuel needs. Rising prices for oil products have been increasing rapidly during the last few years but recent increases, particularly on heating oil, have been going up as much as five cents a month.

While I recognize that this price pressure is basically the result of inadequate supply, I am extremely concerned of its impact on the individual consumer and on our economy in general.

In hearings during the past year, I have discussed with you the efforts that the Cost of Living Council is taking to minimize and control these tremendous price increases. Certainly, under our economic system, supply and demand are two critical factors controlling price. My primary concern, however, is that during our present fuel shortage situation that some segments of our economy will be called upon to make greater sacrifices than others.

Shortages of critical supplies dictate that government actions be taken to avoid unnecessary discrimination and to minimize hardship.

At several hearings this year, I have questioned you as to whether the record profits of the oil industry were within the guidelines established by your agency. On each of these occasions you have assured me that the COLC was closely monitoring the earnings of the individual oil companies to assure that excessive profits did not develop. I must admit that I have great difficulty in understanding how companies such as Gulf, EXXON, and Mobil who have reported third quarter earnings that are respectively 91%, 80%, and 64.1% over the corresponding period in 1972 can still be in compliance with your agency's regulations.

During the next several months, each and every one of us will be called upon to make great sacrifices caused by our present energy crisis. In order to effectively deal with this shortage, the American public must be assured that their sacrifice is equal to that of others. The earnings record of the petroleum industry so far this year raises serious questions as to whether this industry is sharing an equitable part of the burden the oil shortages are placing on our economy. I readily recognize that if profit regulations are too restrictive that a disincentive might develop to supplying our needed oil needs. On the other hand, however, I feel that it is the responsibility of our government to assure that our oil pricing policy does not unfairly benefit the suppliers of this resource.

The COLC recently established what I consider a highly effective pricing policy on our domestic fertilizer industry whose principles I think could well be implemented in the pricing of crude oil and petroleum products. It is my understanding that you have given some consideration to removing petroleum products and crude oil from price controls in the hope that this will encourage increased supply.

Quite frankly, I feel that the enormous increase in profits in this industry during this year is a strong warning against such action and would, in fact, undermine our efforts to effectively handle our present situation. I do feel, however, that your agency could use your pricing authority to encourage the oil industry to take actions that will have a positive impact on our oil supply situation.

It has been recognized for some time now that three of our most serious problems in the oil industry are with domestic crude oil production, domestic refining capacity, and oil storage facilities.

In May of this year, amended your pricing policy on crude oil to encourage additional domestic production, and I understand that this action has, in fact, encouraged additional crude oil production. It would seem that this same policy could be pursued with regard to two of our other critical problems, that is, refining capacity and storage.

I urge that the Cost of Living Council develop a price policy to assure that the oil industry uses increased profits to develop refining and storage capacity.

In changing your price regulations with regard to the fertilizer industry, you placed certain requirements that must be met. I feel that this same method could be used effectively in the petroleum industry. Such action would not only assure that increased costs were not reflected simply in windfall profits but would also be an indication that the oil industry as well as the consumer were both doing their part to meet this shortage. I feel it will make little sense to the citizens of this country if their hardship and sacrifice is not met equally and to the same degree by the oil industry.

In closing, I urge that you immediately adopt a ceiling price mechanism and that any increase over it can only be granted after the company requesting such increase has given assurance to you that all increased revenues resulting from such price increase shall be directed to such specified goals established jointly by the Cost of Living Council and the President's Office of Energy Policy. The most equitable procedure would be to use as a base period the price of each petroleum product as of the end of the petroleum product freeze in September, and it is imperative that a pricing formula be established immediately to assure that any price increase on petroleum products is absolutely justified.

There can be no justification or suspicion that the oil industry is being allowed to increase profits during this oil shortage.

Your early response to this letter would be appreciated, and I am also enclosing a copy of the third quarter profits in the oil industry as published by U.S. Oil Week.

Sincerely,

THOMAS J. MCINTYRE, U.S.S.,
Chairman, Subcommittee on Financial Institutions.

OIL PROFITS STAY SKY HIGH

Predictions of a levelling off in oil company profits during the third quarter of 1973 went out the window last week as initial earnings reports came in. Every company reported significant gains, topped by Occidental's 7,153% increase over 1972. Among the majors, Gulf, Exxon and Mobil reported gains of 91%, 80% and 64.1% respectively during the third quarter. Ten major oil companies showed average per-company earnings up 52.1%. Major-company market experts who blew the third quarter predictions are crying doom again, now saying uncertainties in the Middle East will result in lower earnings during the fourth quarter.

	Net income 3d quarter (millions)	Percent gain	Net income 1st 9 mo. (millions)	Percent gain
Amerada Petrofina	$9,200		$20,222	58.0
Ashland[1]	24,400	17.0	85,200	25.0
Citgo	28,600	61.0	104,800	24.8
Clark	9,154	284.0	22,413	349.6
Commonwealth	9,200	3,965.0		
Continental	54,200	38.0	153,400	24.1
Exxon	638,000	80.0	1,660,000	59.0
Getty	33,700	57.5	90,100	22.9
Gulf	210,000	91.0	570,000	60.0
Imperial			111,000	39.6
Marathon	$30,7 0	36.0	$82,500	49.0
Mobil	231,200	64.1	571,200	38.4
Occidental			55,400	7,153.0
Phillips	53,850	43.0	143,700	30.0
Shell	83,600	23.0	253,300	41.0
Skelly			27,200	9.5
Sohio	18,000	14.0	62,500	55.0
Standard of Indiana	147,300	37.0	389,800	32.0
Tenneco	53,300	20.0	149,300	12.9
Union	50,700	61.0	129,100	44.0

[1] 4th fiscal quarter.

PETROLEUM PRICE CONTROLS

Mr. MUSKIE. Mr. President, I am pleased to cosponsor the Mondale amendment to the Federal Energy Administration Act. Basically, this amendment is designed to continue until June 30, 1975, price controls on petroleum and petroleum products by permitting the FEEA Administrator to issue standards and regulations governing future price increases of petroleum fuels in short supply. The Comptroller General will be required to monitor all price increases granted under this system and to report at least quarterly to Congress with his comments on the decisions.

Mr. President, this amendment makes eminently good sense from the standpoint of the American consumer, who feels increasingly victimized by the effects of rapidly escalating costs of heating oil and gasoline on his family and his way of life. At the same time, the amendment will not create undue hardship for oil companies, which will be permitted to pass through increased costs actually incurred in production to the consumer. Instead, it will eliminate the inequitable and unjustified possibility of huge windfall profits to big oil companies at a time when consumers are beginning to feel the real pinch—both economically and materially—of the energy crisis.

We hear much talk about letting the free play of market forces determine the price of heating oil, gasoline, and other energy sources in short supply. But the sad fact is that by allowing companies to raise prices, unchecked, in this time of scarce supply, we would be creating untold hardships for too many Americans who simply could not afford the burden of higher prices. At the same time we would be allowing the oil companies to reap windfall profits.

Consider the following facts:

According to Dr. Herbert Stein, Chairman of the President's Council on Economic Advisers, fuel prices may rise as much as 50 percent in the coming months. Such an increase alone would trigger a staggering 3-percent rise in the Nation's inflation rate next year.

Mr. President, such a price increase

would do unaccountable harm to ordinary American families, already beset by galloping inflation and shrinking paychecks.

According to an independent estimate, the price increase predicted by Dr. Stein would take $30 billion more out of consumer pocketbooks. At least $25 billion of that amount would find its way directly to the major oil companies.

Given the potentially huge windfall profits of the big oil companies, without price controls, the Nation could be faced with a situation where oil company profits run as high as 300 percent next year. This on top of actual third quarter profits this year for Exxon and Gulf of 81 percent and 91 percent, respectively, is clearly an intolerable windfall, which the amendment before us would prevent.

There is another key provision of the Mondale amendment of particular importance to Maine and other New England States, which rely to a large extent on independent fuel dealers. This provision would allow greater price increases than a mere passthrough of costs when declining sales volumes justify such increases. In my opinion, this is a reasonable and flexible provision, which hopefully will help to ease some of the pressures that many independent dealers in my State have faced in recent weeks.

Mr. President, we have heard much talk from the President and his energy czar on what sacrifices the American people will have to make to meet the energy crisis. But we have yet to hear what sacrifices the oil companies intend to make and, in fact, we have yet to hear the President ask the oil companies this question. I cannot see how the President can expect the average American family to sacrifice and then stand by while others draw windfall profits from their suffering.

We know how to pull together in this country—and we will. But, it is only fair to ask that everyone bear his fair share of this burden, and it is up to those in charge of the energy program to guarantee its equity for all Americans.

I urge adoption of the Mondale amendment.

Mr. RIBICOFF. Mr. President, I commend the distinguished Senator from Minnesota for proposing this amendment. It would give us the protection we need to assure that we will not have runaway prices in the entire energy field. He makes the very important point that in order to hold down prices, we should continue price regulation of energy to June 30, 1975, especially in the event the legislation generally setting up the Economic Stabilization Act is not extended beyond April 30, 1974.

I am willing to accept the amendment, subject to the distinguished Senator from Illinois.

Mr. PERCY. Mr. President, I would certainly be prepared to accept the amendment.

I should like to point out for the RECORD that the amendment would eliminate subparagraph (A) of section 106(a)(3) on page 22, a section over which the Government Operations Committee had considerable debate. I voted against that provision in committee, and I am pleased that it is being deleted from the bill. The present amendment is supported by Senator MUSKIE, who I note is a cosponsor. So I presume that he also feels that the provision he is now cosponsoring with the Senator from Minnesota would be a better way to handle the same problem. I only want to protect Senator MUSKIE's interest by pointing out that this amendment does delete from the bill the paragraph which he added in committee.

I commend the distinguished Senator from Minnesota for his amendment. Very important to it, and the heart of it, might be that it permits the Administrator—it does not direct him, but enables him, if he so chooses—to increase prices specifically in order to encourage increased domestic exploration and production of crude petroleum. I think this principle is extremely important. It will take into account the needs of the consumer and will recognize the economic philosophy that the best way to get prices down is to increase production, and the permission given the Administrator to increase prices specifically for this purpose is very important.

We accept the amendment.

Mr. MONDALE. I thank the Senator from Illinois.

Mr. President, I yield to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, as a cosponsor of the amendment of the Senator from Minnesota, I urge my colleagues to support it.

At this time, I should like to offer a short amendment to the Senator's amendment which would provide that the oil companies would not impose a dual priced system to wholesale customers in which one price was changed to the refiner's own dealer and another price to an independent dealer for the same oil. That results in the basic inequity that we have sought to avoid in our passage of the Emergency Petroleum Allocation Act, Public Law 93–159.

I raise this point with the Senator from Minnesota because we have seen in Boston Harbor, which is the principal importing port for New England, examples of situations in which certain oil companies—in particular, the Sun Oil Co.—had set a rack price of some 17 cents a gallon to their own dealers and then charged an independent—58 cents a gallon. There is such a critical need in the Northeast that some of the independents actually bought the oil for that amount. The result is clearly inequitable in times of the ability of independents to compete. Certainly, it creates a sense of inequity for the homeowner who finds that when he buys from the Sun Oil dealer, he gets the oil at a certain price, and if he buys it from the independent, he pays anywhere from two to three times as much.

The amendment I will offer will state that prices to any class of wholesale customers in a market area will bear a normal and reasonable relationship to prices charged to the other classes of wholesale customers in such market area or in the nearest market area after adjustment for normal and reasonable costs of transportation between market areas.

I believe that under the Mandatory Allocation Act there is sufficient authority for regulations to be drafted along these lines to prevent a situation such as this from occurring; but such regulations have not yet been issued. It seems to me that this is a loophole which has caused serious disruption to competitive marketing and to prices to consumers. It has brought about a great deal of confusion.

All we are attempting to accomplish in this amendment is to bring the matter into conformity with what has been the understanding of the membership and consumers, and that is that any increases will be for legitimate reasons under Cost of Living Council controls and not permitting the majors to discriminate against the independents.

Mr. MONDALE. As I understand this amendment it would deal with the situation which we have in the Midwest, as well as in New England. Much of the heating oil is sold at the retail level by independent dealers and not by the major oil companies, unlike gasoline, where most of it is distributed by the major oil companies through gasoline stations. Refiners will sell at favorable prices to their outlets and at a much higher price to the independent distributor. That price is picked up by citizens in their heating oil costs.

This modification seeks, in effect, to provide that these retail outlets should be treated similarly in terms of costs, and the major oil refineries will not be able to discriminate. I think it makes a lot of sense.

If the Senator from Massachusetts does not object, I wish to modify my amendment to incorporate this most useful provision, if that is the way the Senator would like to proceed at this time.

Mr. KENNEDY. I would thank the Senator for such a modification. What we really are attempting to do with the amendment is to halt two-tier pricing for independents and majors and to provide for a blending of prices, which I think is the intention of the Mandatory Allocation Act and the Cost of Living Council, and eliminate what has been a discriminatory practice against the independents.

I believe this particular amendment to the Senator's amendment carries out the intention of the Senator from Minnesota and provides the protection which I think is essential for the independent fuel dealers of the country and to the customers they serve.

The PRESIDING OFFICER. Will the Senator from Minnesota send the modification to the desk?

Mr. MONDALE. Yes, in just a moment.

In November alone, according to the Bureau of Labor Statistics, fuel prices rose by 19.3 percent. That is an annual rate of 232 percent in fuel costs.

The administration is saying that all the lids should be taken off and the free market should be allowed to dictate what people are going to pay for heating oil. Of course, there will be a lot of cold homes and impoverished homes if that kind of philosophy prevails, which is why I have introduced this amendment and why, I believe, this additional modification by the Senator from Massachusetts makes such good sense.

Therefore, I modify my amendment accordingly.

The PRESIDING OFFICER. The amendment is so modified.

Mr. PERCY. Mr. President, will the Senator from Massachusetts yield?

Mr. KENNEDY. I yield.

Mr. PERCY. Did I understand the Senator from Massachusetts to say that the Director of the Cost of Living Council has on one or more occasions issued regulations affecting one or more industries comparable to the language suggested by the Senator, as related to energy?

Mr. KENNEDY. No. It is my understanding that regulations specifically affecting this situation have not been issued. Under the mandatory allocation legislation, I personally believe the Cost of Living Council clearly has the power to issue such regulations to prevent the kind of two-tier pricing which this amendment is directed toward. It also is my understanding that the Cost of Living Council recognizes the inequity in this situation.

It was my hope in introducing this amendment that we might meet this particular problem, which is a very real problem in the Northeast.

It is an attempt to prevent any such flagrant discrimination as we have seen in certain instances.

This is consistent with the spirit of the Mandatory Allocation Act. I think the administration has such authority but this is an additional indication to the administrator that Congress wants this particular loophole closed.

Mr. PERCY. I wish to ask this further question and then I shall be happy to yield to the Senator from Minnesota.

Is it the intent of the Kennedy amendment to the Mondale amendment to provide permission to the administrator to establish a policy in accordance with this wording, but not necessarily to direct him to do that? Is it permissive rather than directive?

Mr. KENNEDY. I would hope that he would, as the amendment is a modification to the amendment of the Senator from Minnesota, recognize the same obligation imposed by subsection (e)(1) and (2). I would certainly hope that he would, and it was my intention in introducing the amendment that we would have him issue regulations to prohibit dual pricing from continuing.

Mr. PERCY. I yield to the Senator from Minnesota.

Mr. MONDALE. I was going to ask for the yeas and nays.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. There is not a sufficient second.

Mr. HANSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MONDALE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MONDALE. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. MONDALE. I yield.

Mr. JAVITS. Mr. President, I ask unanimous consent that I may be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BARTLETT. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. MONDALE. I yield.

Mr. BARTLETT. Mr. President, I ask unanimous consent that Ron Frank and David Russell, of my staff, be accorded the privilege of the floor during the debate and votes on this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HANSEN. Mr. President, I make the same request for Nolan McKean, of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUCKLEY. Mr. President, I ask unanimous consent that Bill Schneider of my staff, may have the privilege of the floor during debate on this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS. Mr. President, if the Senator will yield, I ask unanimous consent that Mr. Stuart Janney of my staff be given the privileges of the floor during consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUCKLEY. Mr. President, I think the Senator from Minnesota would probably surmise that I do not rise in support of his amendment. Nevertheless, I see the handwriting on the walls and I have become somewhat philosophic as a result of 3 years in this Chamber and would, in the spirit of comity, like to suggest an improvement to his amendment.

I think the Senator from Minnesota would agree with the statistics given by the First National City Bank that in 1972 petroleum industry returns on capital were at the lowest point in a decade and were at a lower level than that for the average manufacturing corporations of America—specifically 11.8 percent for petroleum companies versus 12.2 percent.

He has pointed out that there has been a significant rise in profits in some of the larger petroleum companies in the past year, and this is a reflection of what has happened in terms of shortages of energy.

The reason why I bring this up is not to be argumentative, but to suggest that we are likely to see sharp rises in price, sharp rises in profits, whenever we have a sharp rise in demand, and we have not yet enabled the marketplace to engage in new investments and new supplies.

As a result of legislation we have recently enacted, strip mining legislation, legislation modifying the impact of air quality, laws to enable the administration of EPA to permit, on a case-by-case basis, the transfer of oil- and gas-burning industries and utilities to coke, we can project a very sharp increase in the use of coke.

In point of fact, we have already mandated that by legislation enacted by the Senate. We have enacted legislation that requires utilities to make that conversion.

I would, therefore, like to ask if the Senator from Minnesota would amend his amendment to add the word "coal" every time he uses the words "crude oil."

Mr. MONDALE. Mr. President, I will say to the distinguished Senator from New York that his amendment does require some analysis. I observe the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MONDALE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MONDALE. Mr. President, after consulting briefly with some of my colleagues on the floor, I would say to the Senator from New York (Mr. BUCKLEY), that I would much prefer if an amendment dealing with the pricing and profit of coal could be dealt with separately, and not in the pending amendment. It is my understanding that the profit picture in the coal industry is quite different from the profit picture in crude and refined petroleum products.

The case I have developed for this amendment and the consultations I have had leading up to it have been entirely in the field of crude and refined petroleum, and I would be reluctant to expand it in scope at this point to include coal.

It may be that a price control mechanism is required in the coal field. I just am not in a position to comment on it at this point. But I would think we would deal more responsibly if we were to concentrate this amendment on its original intent, and I would hope the Senator from New York (Mr. BUCKLEY) would refrain from offering it to this amendment and I shall be glad to review that matter with him and others.

Mr. BUCKLEY. I wish I could oblige my friend from Minnesota, but I believe if we are going into this field in order to protect consumers from situations that may arise as we get sharper increases in demand, we ought to provide for sources of energy in whatever form, because one thing we have learned from the history of price controls in natural gas is that what we do with respect to one commodity has an effect on another.

I think there is no doubt whatsoever that we are going to see in the next 12 or 24 months a very sharp increase in the demand for coal, and there will thereby be all those opportunities for the outrageous exploitation of the consumer which the Senator from Minnesota has so graphically described in connection with the oil companies.

I am afraid, Mr. President, that if this amendment is not acceptable, I will have to submit an amendment to the amendment.

Mr. MONDALE. I may say to the Senator from New York that it may well be that a mechanism is required whose function it would be to deal with the question of coal prices and profits in this difficult period. But in the preparation of this amendment, I have focused upon the price and profit picture of the oil industry and not the coal industry.

In the brief discussions that I have had on the floor with persons conversant with the coal industry, they tell me that it is quite dissimilar and should be the product of a separate focus.

That is the only basis upon which I can make my judgment on this point. I therefore must reluctantly decline to accept the amendment as a modification to the pending amendment.

Mr. PERCY. Mr. President, will the Senator yield?

Mr. MONDALE. Mr. President, I am happy to yield to the Senator from Illinois.

Mr. PERCY. Mr. President, I would like to comment on both of these points. First, I should like to comment as to whether or not the authority being granted by the Mondale amendment as modified by the Kennedy amendment, and now by the Buckley amendment, is directive or permissive.

It seems to me from reading subparagraph (f), where it says that the Administrator may implement interim price policies, and it then goes on and outlines the procedure to be used for such policies, including public hearings, and so forth that it is more permissive than directive. And if it is more permissive than directive, then it seems from the language of the amendment which places emphasis upon price increases, where the Director is insured that it will increase domestic exploration and production of crude petroleum, that we should certainly want to apply it to coal.

Mr. President, looking to my State of Illinois, which has the third largest coal reserves in the United States, I would like to see a stimulant for more exploration, consistent, of course, with the regulations and the laws involving the environment. However, I would like to see this energy produced.

It does not seem to me that if we make this amendment apply to oil, the principle would be any different for coal, from my present understanding of the amendment.

I would hope that the distinguished Senator from Minnesota would be willing to accept the amendment.

Mr. MONDALE. Mr. President, first of all, a careful reading of the amendment will show that it is both mandatory as well as discretionary, depending upon which section the Senator is reading.

I think he referred to subsection (f) on page 3, line 3, which deals with interim price policies, with increases greater than those permitted under the preceding subsection and under the authority which is carefully defined in the language which follows line 3.

Second, I am advised from several quarters that the coal industry is substantially different from the oil industry and that its profit picture is much different. To deal identically with coal and with oil is to deal similarly with dissimilar industries.

Mr. JACKSON. Mr. President, would the Senator yield?

Mr. MONDALE. Mr. President, I yield to the Senator from Washington.

Mr. JACKSON. Mr. President, I think this is a matter of trying to compare apples and oranges. I am not saying that in every instance the coal situation has not been profitable. Obviously that is not the case. However, the facts are that the coal and oil industries as a whole are not comparable at all.

I think that it would be grossly unfair to put the coal industry in the same category as the oil industry, even though the facts are that the oil industry does own a lot of coal mines, and they have a lot of coal operations.

All I can say is that it would be manifestly unfair to attempt to put them in the same category.

I suggest that we not try to write legislation here on the floor of the Senate at this time on this subject.

It would seem to me that it would make more sense to handle it as a separate matter.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. BARTLETT. Mr. President, would the Senator from New York yield to me?

Mr. BUCKLEY. Mr. President, I yield to the Senator from Oklahoma without losing my right to the floor.

Mr. BARTLETT. Mr. President, I would like to ask the Senator from New York, does not this amendment restrict the options open to the Cost of Living Council as far as dealing with the need for increased prices? With the refusal of the distinguished Senator from Minnesota to accept the amendment in full, it would appear that the desire is to treat one industry differently from another, with a more restrictive approach to increases in prices. And it would seem to me that every industry has very basic approaches to costs and price, and that if only costs may be used as a yardstick for determining price increases in the petroleum industry, then it is going to be more restrictively treated than would the coal industry.

I cannot see why there would be any advantage in doing that unless the amendment is designed to zero in on the oil industry for some reason and not treat the coal industry adversely at the same time.

Mr. BUCKLEY. Mr. President, I am glad that my friend, the Senator from Oklahoma, has brought up that tremendously important point.

This amendment, as I understand the Mondale amendment, would have the Federal Energy Administrator take over the current functions of the Cost of Living Council with respect to one form of energy, the hydrocarbons, while leaving control over the other most important source of energy, coal, at the hands of a totally disassociated energy source.

We have seen as the result of the unhappy experience of the past two decades that energy is interchangeable with price controls, where first the natural gas restriction to pipelines resulted in taking away the incentives for the finding of new gas while at the same time keeping the price at a level that had an impact on coal and oil.

Industry after industry switched from the utilization of coal to the utilization of natural gas, because the latter commodity was available at far cheaper prices per Btu. So, if it is the intention of the Senate to continue with a price control philosophy in the important area of energy, it becomes totally important that that same instrumentality, that same mechanism, that same Administrator be able to look at the total picture to make sure that what he is doing with regard to one commodity does not adversely affect its competitor in the energy field.

I also believe that the Senator from Washington made a very important point when he reminded us that many oil companies now control coal mines.

It would therefore seem to me that if an oil company found that its profits on crude oil were held at too low a basis, or were held arbitrarily at a certain level, there would be nothing to stop that company from compensating for the lack of profits on oil by increasing the price of coal; because as sure as we are in this Chamber tonight, we are going to see a sharp surge in cost of production of coal, and we will see that same rise in price and everything else with respect to oil.

Yes, we are dealing with different industries. Yes, their techniques and capital demands are different. But either a price is high or it is not, either it is justified or it is not, and if we are going to have legislation in this bill, if we are to adopt an amendment that focuses on one-half of the energy equation while not doing anything about the other, we are inviting trouble.

It is for that reason that I hope that on reflection, the logic of my position will sell itself.

Mr. BARTLETT. Mr. President, the distinguished Senator from Minnesota, in presenting his amendment, made the statement that is quite often made, that the exploration business, or the exploration part of the petroleum industry, is not competitive.

This has not been substantiated by anyone. I can compare the firm concentration ratios with other industries. For example, I call the attention of the Senator from Minnesota to the concentration in eight-firm ratios in motor vehicles, which is 83 percent, of computing and related machines, 77 percent, aircraft, 88 percent, tires, 90 percent, and so on.

But in the exploration part of the oil industry, the independent companies, those other than the top 30, trail 79 percent of the list.

So what we are talking about when we propose to restrict the amount of increases that would be possible by the Cost of Living Council is restricting the opportunities for really expanding drilling in this country.

I would remind the Senator from Minnestoa that drilling in this country today, compared to 1956, has decreased by one-half, and that the demand for oil and gas during that period has increased by 100 percent. So if we are to reach the position of drilling in relationship to demand that we had in 1956, we will have to increase the drilling by 400 percent.

We are not anywhere near that. We have only achieved an increase of 15 percent since last year. The estimate of the amount of additional capital that is needed totally in the oil industry to have self-sufficiency, or even a limited type of self-sufficiency, is three times the current expenditures, or $25 billion a year.

The profits that the Senator cited are profits of the first 9 months of this year, and I believe those amount to about $6 billion, or, if that were compared to a 12-months basis, it would be $8 billion, which is not nearly enough.

I remind the Senator from Minnesota that those profits he is talking about are profits that were made from operations in the Middle East principally, and from other foreign operations, and not from operations in this country.

The independents who will be charged with drilling the great majority of the wells have not enjoyed or participated in the huge profits the Senator talks about that came from foreign operations. The independents have decreased in number by 50 percent from the number there were 15 years ago.

The result of the amendment of the Senator from Minnesota will be to perpetuate the shortages, to guarantee that petroleum products will have to be rationed or allocated. The shortages will be allocated, but the Senator is guaranteeing that there will not be an opportunity for any meaningful solution to the problem of supply.

I think the Senator need only look at the experience of approaching price increases in the area of natural gas by the FPC, and he can see that in approaching this problem on the basis of cost passthrough, it has not been sufficient to attract the capital to drill the necessary number of wells to increase the amount of production in this country appreciably. It has not been sufficient to increase the reserve, but during this period when we have had a control on the price of natural gas by the Federal Power Commission, we have had a continual decline in the producible reserves of gas and the producible reserves of oil. This is what I think the Senator from Minnesota is guaranteeing, in a time of crisis. I believe my concern is not only a real one, but it is a matter involving the economic and actual survival of this country.

We need the energy. The recent price of $17 per barrel that was mentioned a few minutes ago shows the real concern and the emergency that exists. It shows the real value that exists. That is not based on cost; it is based on a cartel action by foreign nations. Their costs are something like 20 cents, but our costs have gone up steadily, with rising prices in steel and rising prices in labor.

For some reason, the Senator expects our free enterprise system to be able, by some sort of magic, to provide reserves that are not attractive from an economic point of view, and to do drilling that is not economically feasible.

I think this is a very shortsighted approach. I think it is obvious that when we have had price controls for so long, and we have had a decrease in the producible reserves of this country of oil and gas, we need to be very concerned about putting any more fetters or handicaps or controls on top of the already existing ones.

So I find that this amendment is one which not only will reduce the efforts to find more resources, but it is zeroed in on the oil industry, an industry that is more competitive, in the drilling business, than any other industry other than agriculture.

It is one that has proved itself all over the world. I think if you will look at the records of drilling around the country and around the world, you will see that this Nation's companies have done a very good job, and their services are desired for the purposes of exploitation, exploration, and development of reserves by various nations in the world.

But they are finding, and they are advising me, that the one country in which they find an unattractive environment is the United States. I think this is something we should see does not happen, and see that the situation is corrected, because certainly the fuels that will be used in this Nation and others for the remainder of this century will be the fossil fuels, and principally oil and gas.

We have the know-how and we have the reserves, but we are also going to have to make it attractive; and to pass such an amendment as this, that is designed to make it less attractive, makes no sense to me when we are running out of energy at this time.

Mr. McCLURE. Mr. President, will the Senator from New York yield?

Mr. BUCKLEY. I yield to the Senator from Idaho.

Mr. McCLURE. I appreciate the courtesy of the Senator from New York in yielding, that I might ask a question of the sponsor of the amendment. The Senator from Minnesota might be able to assist me in understanding what the amendment means.

I refer to some specific language which appears on the second page of the amendment, under what is shown as subsection (e)(2). The last sentence of that paragraph says—

> For branded and nonbranded independent marketers as defined by Public Law 93-159 of the Emergency Petroleum Act of 1973.

My question is, Whether the retail outlet for a branded or major oil company is included in that definition?

Mr. MONDALE. It depends on whether it is owner-operated or franchised. I refer the Senator to language in the act referred to, as it appears in section 3, subsections (1) and (2).

Mr. McCLURE. The reason I asked the question is that the language contained there allows only a price increase greater than the passthrough for those defined retail outlets. It makes no reference at all to the retail outlet, the small service station operator who may be a retail outlet for a major oil company branch, and those operators—and there are hundreds and thousands of them across the country—can be caught in a price squeeze as bad as the independent and there is no provision at all for them.

Mr. MONDALE. I deeply regret that the Senator misunderstands my amendment. If he will refer to the language of Public Law 93-159, the definition is clear, that the independently franchised outlets for branded major products are treated differently than those owned and operated. So that the Senator's reference is not accurate. Indeed. one of the things that bothered me about the Cost of Living Council's recent efforts to try to control prices in the petroleum field is that, incredibly, they must have wanted the situation to break down because they did not control the wholesale prices but put the price controls on that little independent retail operator, whether totally independent or an independent licensed outlet for a major brand oil. That is, obviously, ridiculous.

My amendment makes that distinction so that the Senator need not worry about that problem. What we are concerned about here is whether we are going to have a reasonable system of price controls on crude oil and refined products so that the price rise of the product to an extortionate level can be avoided. That is what we are trying to get to here.

Mr. McCLURE. I understand that.

Mr. MONDALE. We have some responsible economists who indicate that the direct and indirect costs of paying for these price rises—uncontrolled, in the so-called free market, which it is not—might add up to $50 billion.

It is not a free market. Against the backdrop of OPEC and the monopolistic organization of the industry as described by the Federal Trade Commission, there is not a free market. It is a market that could bring us to $1 a gallon gas or $1.25 a gallon gas in the very near future. It is not the profit structure of the major oil companies that prevents exploration. There is already the incredible profit to which I have referred earlier. This amendment would permit a passthrough of legitimate costs. So I think the Senator need not worry about that problem.

I was pleased that the Senator from Washington (Mr. JACKSON) pointed out that the oil industry is a different industry than the coal industry for the purposes of price control. It may be that we need some kind of price control on the coal industry. But to try to include——

Mr. McCLURE. I am interested in the form.

Mr. MONDALE. May I finish?

Mr. McCLURE. The point is not responsive to the question.

Mr. MONDALE. Let me respond to the question. What I said was that the Senator's question suggested that we did not apply a different standard to owner-operated outlets of major-brand products, on the one hand, as compared with independently licensed retail outlets; and the answer is that we do.

Mr. McCLURE. I thank the Senator for his response. Could he also tell me whether the amendment makes a distinction between those operations in which a decrease in volume is matched by an increase in efficiency, so that as profits rise, rather than fall, with a decrease in volume, as distinguished between those operations in which per unit costs go up as volume decreases, and therefore profits are adversely affected by decreases in volume? As I read the amendment, it refers only to decreases in volume, with the assumption that in every instance there is a decrease in profit with a decrease in volume. In other words, it is not tied to profit; it is tied to volume.

Mr. RIBICOFF. Mr. President, will the Senator from New York yield for a comment?

Mr. BUCKLEY. Mr. President, I believe that the Senator from Idaho is awaiting a reply to his question.

Mr. McCLURE. Does the Senator from Minnesota have an answer to that question?

Mr. MONDALE. I think the amendment is very clear on that point.

Mr. McCLURE. I am afraid it does not address itself to the point.

Mr. MONDALE. If the Senator will read the amendment, it makes very clear that the administrator has the authority to "implement exceptions to such rules, to the extent that declining sales volumes necessitate such exceptions, for branded and nonbranded independent marketers, as defined by Public Law 93-159 (the Emergency Petroleum Act of 1973)."

The amendment further provides how these exceptions must be implemented, and provides the authority to adjust through rules and regulations for the types of factors the Senator is concerned with.

Mr. McCLURE. I thank the Senator. It still seems to me that the amendment is directed entirely to volume, not to the question of profit. I understand that that is not the intention of the Senator from Minnesota, but I am certain that that will be the effect of the amendment as we now read it.

I would say, in general, that the problems of price increases and "windfall profits" at which the amendment is addressed are real problems. However, this particular amendment would impose an undesirably rigid approach to a complex problem. In failing to distinguish between short-term problems and long-term problems, it would prevent flexibility and make it more difficult to arrive gradually at a long-run solution which is satisfactory.

The administration has in preparation specific measures to deal with the problem of windfall profits of oil producers. Those measures are carefully designed to maintain reasonable incentives for increased production without permitting unreasonable profits.

Because the problem is complex, it deserves careful study by the committees concerned and by their expert staffs. We recommend that the congressional staffs work with the administration's experts while Congress is in recess, so that Congress will be in a position to act when it returns in January.

I think it would be most unfortunate if hasty legislation were enacted without an adequate background and without adequate consultation, and should act as a deterrent for increasing the supply of petroleum products without really affecting windfall profits, to which the Senator has justifiably directed his concern.

I thank the Senator from New York (Mr. BUCKLEY) for yielding.

Mr. BUCKLEY. Mr. President, I yield to the Senator from Connecticut.

Mr. RIBICOFF. I thank the distinguished Senator from New York.

To clarify some of the arguments that have been used against the amendment of the Senator from Minnesota, is it not true that his amendment does make an exception on the pass-through of the actual cost increases where the FEAA justifies greater increases as necessary to encourage increased domestic exploration and production of crude petroleum?

Mr. MONDALE. The Senator is correct.

Mr. RIBICOFF. So, your amendment is not an absolute bar and discouragement to further exploration and production of crude petroleum. If it becomes necessary, in the discretion of the Administrator, to encourage increased domestic exploration and production, he can permit price rises in excess of the amount of the increase in actual cost?

Mr. MONDALE. The Senator is correct.

The idea is to permit the Administrator to take into full account the need for expanded production and to give him authority to make adjustments to achieve that objective, along the lines this amendment suggests, and with the safeguards enumerated. We are trying very hard not to straitjacket him.

Mr. RIBICOFF. So that if you reach a stage where you have to have secondary or tertiary exploration and drilling, which would take more capital investment, under those circumstances the administrator could make an exception and allow an increased price, to encourage the domestic petroleum industry to make the additional capital investment.

Mr. MONDALE. The Senator is correct.

I might add that the Senator from Washington (Mr. JACKSON) said that coal should not be placed in this amendment. I checked the figures appearing in Business Week of November 10, 1973, which show that the North American Coal Company, which I am told is one of the larger companies, in the third quarter of 1972, had a 0.1-percent margin of profit, which shows it—at least that one company—to be a very low-profit company. I am not able to go beyond that, but it sustains the position which the Senator from Washington maintained, that it is really an apples-and-oranges matter. We should look at the coal companies, I am sure, but I do not think it is the same issue as this.

We are trying, on an emergency basis, to pass temporary legislation—it is only for 18 months—to permit us to deal with the various fundamental elements of the crisis we are in, one of which is the certainty that we are headed for unbelievable, skyrocketing prices in oil, unless we do something to keep the lid on. If we do not have this amendment, that is exactly what we are going to get; because the Chairman of the Council of Economic Advisers, Mr. Stein; Mr. Simon; and—if I heard it clearly today—others say that the only cure for the energy crisis is to have oil prices so that it will cost $1 or $1.25 every time you want a gallon of gas. That way, the rich can go everywhere they want, businessmen can deduct their costs, and the ordinary worker and family will either stay home or pay through the nose. I do not think that is what the American people want, and that is what my amendment is designed to prevent.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. BUCKLEY. I yield.

Mr. JAVITS. Mr. President, I wish to ask the Senator from Minnesota what his premise is. I think that is decisive.

In other words, is the authority being transferred to the Federal Energy Emergency Administration including or excluding coal?

Let me point out to the Senator sections in this bill. Section 102(a), which is the finding of Congress, reads:

> (1) shortages of crude oil, residual fuel oil, and refined petroleum products, as well as shortages of other forms of energy . . .

That may or may not include coal.

It goes on to say in section 102(a)(2):

> (2) the shortages in the supply of available forms of energy have created an energy emergency which requires emergency measures to reduce energy consumption, increase domestic production of energy resources, and provide for the equitable distribution of available supplies to all Americans;

That might include coal or it might not. Certainly, it would include some energy resources.

In section 105(a), items (1) and (2) relate to the Office of Energy Conservation and the Office of Energy Data Analysis as being transferred. Question: Do they include coal?

Finally, I come to the pertinent section, which the Senator is dealing with in his amendment, transferring the Cost of Living Council's function respecting the pricing. It relates to the Energy Division of the Cost of Living Council. I understand—I hope the Senator can straighten this out—that the Energy Division of the Cost of Living Council does include coal.

Mr. PERCY. Mr. President, will the Senator yield on that point?

Mr. JAVITS. If Senator BUCKLEY will allow me, I yield.

Mr. PERCY. I think I can clarify that point.

Within the last 10 minutes, we checked again with the Cost of Living Council. There is no question that the pricing of coal would be transferred by this authority to the new Administrator. Furthermore, we have confirmed that coal prices can only be increased by a pass-through, anyway. That is now the regulation. All that the Buckley amendment to the Mondale amendment does is to embody in law what is already in regulations.

So, once again, I urge the distinguished Senator from Minnesota to help us move ahead and adopt his amendment. I certainly accept it with the Buckley amendment included. I hope he will accept this modification, which does not change the picture one bit.

Mr. JAVITS. The point is that if he

is getting the transfer of pricing jurisdiction over coal, then it is legitimate to adopt the amendment; unless—and this is a big point—the Senator from Minnesota thinks that the addition of coal, which is a fantastic addition, will break the back of his amendment. That is a legitimate point, too. I do think we ought to inventory all these points before we jump to any conclusion.

Mr. MONDALE. The Senator has just put his finger on the button. That could be the essential operative effect of this strengthening amendment, that would sink the whole thing, and gasoline prices and oil prices would go up.

The authority to which the Senator from Illinois (Mr. PERCY) referred expires in April, and the amendment I have presented would extend through the life of the emergency agency we are about to create.

The question is, Should we deal identically with the oil industry and the coal industry? The best advice we have from such persons as the Senator from Washington (Mr. JACKSON), who has probably spent more time studying this problem than any other Member of the Senate, is that we should not, that they are separate problems.

Of late, the oil industry has been characterized, to put it mildly, by fantastic increases in profits. The figures I have show that at least one coal company, one of the major companies, in the third quarter of 1972, had only 0.1 percent in profit. So that to deal with them as though they are the same is to create a problem which could destroy the hope we have for the amendment.

There is no doubt in my mind that it is the philosophy of the present administrators to let fuel oil and gasoline prices rise as high as the market will bear. That can well be $1 or $1.25 for gas, and I do not think we should stand for it.

Mr. RIBICOFF. Mr. President, will the Senator from New York yield?

Mr. BUCKLEY. I am delighted to yield.

Mr. RIBICOFF. The committee, in taking up this bill, recognized that we were embarking on a rocky road. We do not know how this is going to turn out, and I would say that the most apprehensive man in the country today is Bill Simon.

He does not know where he is going to come out either. He does have integrity and ability, and he is doing a good job in trying to make this work.

With this in mind, the committee was very careful to write in section 122 on page 45 of the bill a requirement that within 120 days of the passage of this legislation, the Administrator must develop and report to Congress for referral to the Government Operations and on Interior and Insular Affairs Committees, a comprehensive plan designed to alleviate the energy shortage. The bill states:

> Such analysis shall include, but not be limited to—
>
> 1) estimates of the energy savings of each action and of the program as a whole;
>
> 2) estimates of any windfall losses and gains to be experienced by corporations, industries, and citizens grouped by socioeconomic class;
>
> 3) estimates of the impact on supplies and consumption of energy forms consequent to such price changes as are or may be proposed; and
>
> 4) a description of alternative actions which the Administrator has considered together with the rationale in explanation of the rejection of any such alternatives in preference to the measures actually proposed.

So, I wonder if the distinguished Senator from New York would refrain from offering his coal amendment to the petroleum amendment because all Americans drive an automobile, almost all of us consume oil in one form or another, but coal is an alternative source of energy, basically. We do not use it in automobiles or in every household.

There is a difference between coal and oil. There is no question we will have to deal with alternative sources of energy, and I hope the Senator from New York will consider this difference.

Moreover, the Administration needs this bill and I believe they need it desperately. Mr. Simon has been named by the President to do a job.

If Mr. Simon is to start doing his work for the benefit of the country he must have the organizational structure laid out in this bill. I hope that since this is an emergency piece of legislation we will forgo amendments to try to solve all the problems of energy because we will not be able to do so within the next few days.

I know that the problems raised here are legitimate, but in this bill we are trying to get a framework so that in the days ahead the administrator can bring order out of chaos. I believe it will grow worse if we do not grant him the authority to establish a nationwide organization to try to solve the crisis this country faces.

So I hope we can promptly pass this bill. I hope we can confine ourselves to organizational problems.

Mr. BUCKLEY. As always, the Senator from Connecticut speaks persuasively and eloquently. Therefore, I would recommend that the Senator from Minnesota withdraw his amendment so we can restrict this bill to the organizational framework, knowing we are all protected through April by virtue of the Economic Stabilization Act and the Cost of Living Council, that will continue to exercise jurisdiction over prices of crude oil and coal.

Mr. PERCY. Mr. President, I think the matter could be settled if we could settle the question of whether or not the amendment of the Senator from Minnesota is directive in nature or permissive in nature. If it is directive, we should be extremely careful in legislating on the floor a matter as profound as this, not knowing the implications, and trying to tell the Administrator before he assumes his responsibility what he should do about pricing, when our main job is to increase the sources of supply, without increased cost for the consumer. If we are going to tie the Administrator's hands behind his back and tell him how to do his job, that is a different matter. If the amendment is permissive, I do not see why we cannot accept the amendment and give the Administrator the leeway he would require to do the job to increase sources of supply.

The Senator knows I am deeply concerned about the effect of prices on consumers. Oftentimes, lower prices can ultimately be achieved fastest for consumers if we allow the price to rise. We saw what happened with respect to meat and fertilizer, and it may be true of oil. If the amendment is permissive, then we can accept the proposed modifications and get on with the job of the evening.

Mr. MONDALE. This amendment establishes guidelines for price controls, but in the spirit of discretion, so that the administrator has authority to implement pricing policies which would be specifically designed to increase the domestic production of oil. The amendment would also use the facilities of the General Accounting Office and the Comptroller General to review pricing policies of the Administrator and to report quarterly to Congress. I think that is a very reasonable compromise. It does not tie the hands of the administrator, but it does declare, and it ought to be the position of Congress, that we are going to hold prices within reasonable limits so that, consistent with the need for expanding domestic production, the American consumer will not be gouged by dramatically increased prices and profits. I think that is a very reasonable objective.

The problem with this coal proposal is that, as the Senator from Washington (Mr. JACKSON) pointed out, it really seeks to deal with separate and different industries in a way which is not desirable. This is an emergency amendment designed to deal with the imminent, compelling certainty that the cost of oil products is going to soar even higher than they have. Oil is an essential ingredient. Everyone must have oil to heat homes and drive to work. It is as essential as air and water.

We are in a position where the administration has virtually declared its policy is to let the market bear the full burden. So we are in an emergency situation, and I would hope that this reasonably designed amendment could be adopted. I hope that the Senator from New York will not press his modification, and, if he does, that it will be rejected.

Mr. BUCKLEY. Mr. President, if the Senator will bear with me, I am advised that the Energy Allocation Act that is now law authorizes the energy czar to set the prices for petroleum products and crude oil. If I can confirm that, then the Mondale amendment becomes moot and we can proceed to consider the bill.

Mr. MONDALE. If I may respond to that—

Mr. BUCKLEY. I wish to read from the Emergency Fuel Allocation Act of 1973.

> (2) In specifying prices (or prescribing the manner for determining them), such regulation shall provide for—
>
> (A) a dollar-for-dollar passthrough of net increases in the cost of crude oil, residual fuel oil, and refined petroleum products to all marketers or distributors at the retail level; and
>
> (B) the use of the same date in the computation of markup, margin, and posted price for all marketers or distributors of crude oil, residual fuel oil and refined petroleum products at all levels of market and distribution.

I suggest, under the circumstances, the point the Senator from Minnesota wanted to make has been made already by a bill adopted by the Congress and signed into law.

Mr. MONDALE. Mr. President, if the Senator will yield, I think it is manifestly clear that is not the case. This amendment does differ substantially from the language to which the Senator from New York (Mr. Buckley) refers.

The mandatory allocation bill does provide authority for extending price controls beyond April 30, 1974, but it does not limit the President to providing no more than a cost passthrough, as the amendment does. The mandatory allocation bill provides only that the regulation for allocating which the President is required to promulgate must "specify—or prescribe a manner for determining—prices of crude oil at the producer level" and that there must be at least a dollar-for-dollar passthrough of net increases in the cost of crude oil, residual fuel oil and refined petroleum products to all marketers or distributors at the retail level.

In other words, the allocation bill does not prescribe that at the crude level or the refinery level there can only be a passthrough of increased costs. Rather, it says that there is authority for the President to specify crude prices, and that at least whatever costs or profits are added on pursuant to that authority must be allowed to the retailer.

What is missing, however, is any requirement—as my amendment requires—that at every level—crude oil, refinery and retail—that passthrough be no more than actual costs incurred, except for the specific circumstances enumerated in the amendment.

So it is a different amendment. This amendment is designed to control prices and deal with the matter much more precisely than the language to which the Senator refers.

Mr. BUCKLEY. I would say the situation does differ in some detail. The difference between the two is that the mandatory allocation legislation had full hearings. It went through the conference procedure. It was enacted into law. I believe this particular proposal is legislating on the floor and that we will add confusion, especially in view of the fact that we have a standby Cost of Living Council and the consumer is protected during the 140-day period within which this bill requires the Administrator to make a report back to Congress.

Mr. President, I have no desire to take up any more time. If the Senator from Minnesota does not wish to withdraw his amendment, I will send my amendment to the desk and ask that it be immediately considered.

Mr. RIBICOFF. Mr. President, will the Senator from New York yield?

Mr. BUCKLEY. I yield.

Mr. RIBICOFF. May I respectfully suggest for consideration by the Senator from New York and the Senator from Minnesota, that since we have reached an impasse, perhaps the Senators could find a compromise between them. The distinguished Senator from Washington (Mr. Jackson) has a basic interest in this problem, and I do believe he is a great expert on the relationship between coal and oil. Since we are not going to complete action on this bill tonight, during the morning could the respective Senators or their staffs get together to see whether it would be possible, instead, to offer an amendment to cover the objective of both the Senator from Minnesota and the Senator from New York?

It is important, to involve the Senator from Washington because of his interest in this matter, and he is now engaged in a conference which he believes will continue until midnight.

Under those circumstances, we could set aside the amendment temporarily, proceed with the bill and try to adopt as many noncontroversial amendments as we can before we adjourn the Senate tonight.

I respectfully suggest this procedure. Can the Senators agree to it?

Mr. MONDALE. Mr. President, the only thing I would say is that I do intend to press my amendment. I would be willing to see whether an accommodation could be made, and I would certainly seek the advice of the Senator from Washington (Mr. Jackson) although he gave it to us earlier—that this should not be done. Perhaps an agreement could be made with the leadership that I could bring the amendment back up tomorrow when we resume the handling of this measure.

Mr. RIBICOFF. I have no objection. The Senator could ask unanimous consent that when the bill is brought up for consideration tomorrow, the pending question will be the Mondale amendment as proposed to be modified by the Senator from New York. By unanimous consent, the Senator from Minnesota could ask for that.

Mr. MONDALE. Mr. President, I would ask unanimous consent, if I might, that the first order of business on resumption of this matter tomorrow would be returning to the matter of the pending amendment, No. 923.

Mr. BUCKLEY. Mr. President, that is very agreeable with me. I would only add that I would want also to consult with the Senator from Arizona (Mr. Fannin), who is the ranking minority member of the Interior and Insular Affairs Committee.

The PRESIDING OFFICER. Does the Senator from Connecticut make that unanimous-consent request?

Mr. RIBICOFF. Yes, I request that the pending amendment be temporarily put aside and that when we resume tomorrow the pending order of business will be the amendment of the Senator from Minnesota as sought to be modified by the amendment of the Senator from New York.

Mr. BUCKLEY. Mr. President, I did not hear.

Mr. RIBICOFF. I asked that the amendment of the Senator from Minnesota as sought to be modified by the amendment of the Senator from New York be made the pending business when we resume tomorrow.

Mr. BUCKLEY. I would agree to that, but I wonder if my amendment could be the succeeding order of business.

Mr. STEVENSON. Mr. President, will the Senator yield at that point?

Mr. BUCKLEY. I yield.

Mr. STEVENSON. Did I understand the Senator to say this was not considered substantive legislation, but this was an organizational bill? May I infer from that that the Senator from New York does not intend to offer an amendment to deregulate the price of natural gas?

Mr. BUCKLEY. No; I would hope we could start the new czar off in an environment which would make it easier to produce increased amounts of energy.

The PRESIDING OFFICER. Is there objection?

Mr. MATHIAS. Mr. President, reserving the right to object, would the agreement preclude the offering of a noncontroversial amendment?

Mr. RIBICOFF. Mr. President, we will be in session tonight. There are a number of noncontroversial amendments that the Senator from Illinois and I are willing to accept, and I would hope that we could accept as many amendments as we can before we adjourn tonight.

Mr. BUCKLEY. Mr. President, as I understand the proposal, the unanimous consent will be that the Mondale amendment, hopefully as modified by the Buckley amendment, would be the first order of business when we resume tomorrow, to be followed by the Buckley amendment.

The PRESIDING OFFICER. The Chair will state the unanimous-consent request as he understands it.

First, the Chair is going to ask, Is there objection to the unanimous-consent request that the pending amendment be the first order of business when this legislation is laid before the Senate for consideration tomorrow morning? Is there objection?

Mr. BUCKLEY. Mr. President, I added to that the request that my amendment No. 912 follow upon disposition of the Mondale amendment.

The PRESIDING OFFICER. The Chair will state that there is no restriction on amendments to amendments. The Senator can do that.

Mr. BUCKLEY. This is not an amendment to the amendment, but, rather, an independent amendment.

Mr. JAVITS. Mr. President, may we know what the amendment is which the Senator wishes to follow?

Mr. BUCKLEY. It will be to decontrol natural gas.

The PRESIDING OFFICER (Mr. Abourezk). The request of the Senator from New York is that his amendment immediately follow the disposition of the Mondale amendment. Is there objection to the unanimous-consent request of the Senator from New York?

Mr. STEVENSON. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Is there objection to the unanimous-consent request of the Senator from Connecticut? The Chair hears none, and it is so ordered.

The bill is open to further amendment.

Several Senators addressed the Chair.

Mr. PACKWOOD. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The second assistant legislative clerk proceeded to state the amendment.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 48, after line 17, add the following new subsection:

(c) (1) The Federal Energy Emergency Administration, in consultation with the Internal Revenue Service and the Joint Committee on Internal Revenue Taxation of the Congress, is authorized and directed to undertake and complete a thorough review and analysis of all Federal and State tax law provisions relating to exploration, development, production, refining, distribution, and marketing of domestically produced energy resources. Such review shall include but not be limited to, a review and analysis of the impact on domestic production of energy resources of Federal tax law provisions relating to international operations of domestic energy producing companies.

(2) The Federal Energy Administration shall submit a preliminary report of its findings and analysis no later than June 30, 1974, to the President and to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives. The final report in fulfillment of the requirement set forth in paragraph (1) shall be submitted no later than December 31, 1974, and shall include, in addition to its findings and analysis, such recommendations for changes in the Federal tax laws as the Federal Energy Emergency Administration deems necessary to contribute to the goal set forth in this Act of establishing internal self-sufficiency in energy resources in this Nation by 1980.

(3) The Federal Energy Emergency Administration is hereby authorized to contract with any firm or individual outside the Federal government to undertake such portions of the study required in this subsection as the Administrator deems necessary.

The PRESIDING OFFICER. Would the Senator from Oregon wait briefly while order is restored in the Chamber?

The Chair will ask that conversations which are being held please stop or would Senators please remove the conversations to the cloakrooms?

May we have order in the Senate Chamber?

The Senator may proceed.

Mr. PACKWOOD. Mr. President, I take great pride in the leadership which the State of Oregon has shown in meeting the energy crisis head on. We have shown that through collective sacrifice great savings can be realized in energy consumption. Oregonians and all Americans have exhibited their eagerness to do their fair share by driving in slower cars or living in cooler homes. But they will do so willingly only so long as they are assured that all segments of our society are making similar sacrifices. It is in this spirit of collective sacrifice that I am proposing my amendment today.

It directs the Federal Energy Emergency Administration to undertake a thorough review of Federal and State tax laws relating to domestically produced energy resources. This would include an analysis of tax laws concerning international operations of domestic energy producing companies.

This amendment provides a means of answering many of the difficult questions troubling Americans. Are the major oil companies reaping excess profits from the energy crisis? Are they in such a comfortable position tax-wise as to render them unwilling partners in the search for new energy resources? The American people and the U.S. Congress have a right to some answers. They have a right to know the facts regarding the taxation and profits of the major oil companies.

The American people are willing to make operation independence a reality. But they are not willing to take this hard road by themselves.

It may be that the oil companies are undergoing extreme financial difficulties in an effort to keep up with rising costs and demands. We shall see when the study is completed.

What we do need is a commitment from the oil industry to lead the way in the research and development of energy sources. To do this we may want to consider a minimal tax on profits returned to research and a stiff tax on those profits not returned to such endeavors.

Whatever the results and recommendations, the American people have a right to study. They have the right to know and the right to ask the oil companies to share in the search for answers.

Mr. President, in a nutshell this amendment provides that the Federal Energy Emergency Administration, in consultation with the Internal Revenue Service and the Joint Committee on Internal Revenue Taxation of the Congress, study the whole gamut of the methods of producing energy in this country and the effect that it may have overseas and report back to the Congress by June 30, 1974, with a final report by December 31, 1974.

The purpose of the amendment is to develop self-sufficiency in the energy resources of this Nation by 1980.

I have talked with both the Senator from Connecticut (Mr. RIBICOFF) and the Senator from Illinois (Mr. PERCY) about this amendment. They are prepared to accept the amendment.

Mr. RIBICOFF. Mr. President, I believe that the amendment is a good amendment. And I am prepared to accept the amendment.

Mr. PERCY. Mr. President, I think the amendment is a very meritorious amendment, and I am prepared to accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oregon (putting the question).

The amendment was agreed to.

Mr. MATHIAS. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The second assistant legislative clerk proceeded to state the amendment.

Mr. MATHIAS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 44, line 1, renumber Sec. 120 as Sec. 121 and renumber succeeding sections of Title I accordingly and insert a new Section 120 as follows:

ADMINISTRATIVE PROCEDURE IN ORDER TO INSURE ACCOUNTABILITY AND DUE PROCESS

SEC. 120. (a) The functions transferred to the Administrator pursuant to section 105 (a) (1) and section 105(b) of this title and exercised by him pursuant to this title are excluded from the operation of subchapter 2 of chapter 5, and chapter 7 of title V, United States Code, except as to the requirements of sections 552, 555 (c) and (e), and 702 and except as to the requirements of section 553 as modified by subsection (b) of this section.

(b) All rules, regulations, or orders promulgated pursuant to the exercise of such functions shall be subject to the provisions of section 553 of title V of the United States Code except that all such rules, regulations, or orders so promulgated must provide for the following:

(1) Notice and opportunity to comment which shall be achieved by publication of all such proposed general rules, regulations, or orders so issued pursuant to the exercise of such functions in the Federal Register. In each case, a minimum of five days following such publication shall be provided for opportunity to comment.

(2) The Administrator, in issuing such rules, regulations, or orders shall hold public hearings on those rules, regulations, or orders which the Administrator determines in his discretion are likely to have a substantial impact upon the Nation's economy or large numbers of individuals or businesses. To the maximum extent practicable, such hearing shall be held prior to the implementation of such rule, regulation, or order, but in all cases, such public hearings shall be held no later than sixty days after the implementation of any such rule, regulation, or order, which would have a substantial effect upon the Nation's economy or on large numbers of individuals or businesses.

The Administrator, with respect to such rules, regulations, or orders, may not waive any of the requirements set forth in this subsection except that the requirements set forth in subsection (b) (1) as to time of notice and opportunity to comment may be waived where strict compliance is found to cause grievous injury to the operation of the program and such finds are set out in detail in the rules, regulations, or orders.

(c) (1) In addition to the requirements of section 552 of title V of the United States Code, the Administrator, in issuing such rules, regulations, or orders, shall make available to the public all internal rules and guidelines which may form the basis, in whole or in part, for any such rule, regulation, or order with such modifications as are necessary to insure confidentiality protected under the provisions of section 552 of title 5 of the United States Code, commonly referred to as the Freedom of Information Act. The Administrator shall, upon written request of a petitioner filed after any grant or denial of a request for exception or exemption from such rules, regulations, or orders furnish the petitioner with a written opinion setting forth applicable facts and the legal basis in support of such grant or denial. Such opinions shall be made available to the petitioner and the public within thirty days of such request and with such modifications as are necessary to insure confidentiality of information protected under the provisions of section 552 of title 5 of the United States Code, commonly referred to as the Freedom of Information Act.

The Administrator, in issuing such rules, regulations, or orders under this title shall provide for the making of such adjustments, consistent with the other purposes of this title, as may be necessary to prevent special hardships, inequity, or an unfair distribution of burdens and shall in regulations prescribed by the Administrator, establish procedures which are available to any person for the purpose of seeking an interpretation, modification, or rescission of, or an exception to or exemption from, such rules, regulations, and orders. If such person is aggrieved by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the Administrator. The Administrator shall, in regulations prescribed by him establish appropriate procedures, including a hearing where deemed advisable, for considering such requests for action under this section.

Sec. 121. JUDICIAL REVIEW.—Judicial review of administrative rulemaking of general and national applicability relating to functions transferred to the Administrator pursuant to section 105(a)(1) and section 105(b) of this title may be obtained only by filing a petition for review in the United States Court of Appeals for the District of Columbia within thirty days from the date of promulgation of any such rule or regulation, and judicial review of administrative rulemaking of general, but less than national, applicability relating to such functions may be obtained only by filing a petition for review in the United States Court of Appeals for the appropriate circuit within thirty days from the date of promulgation of any such rule or regulation, the appropriate circuity being defined as the circuit which contains the area or the greater part of the area within which the rule or regulation is to have effect.

Notwithstanding the amount in controversy, the district courts of the United States shall have exclusive original jurisdiction of all other cases of controversies arising out of the exercise of such functions or under regulations or orders issued pursuant thereto, except that nothing in this section affects the power of any court of competent jurisdiction to consider, hear, and determine in any proceeding before it any issue raised by way of defense (other than a defense based on the constitutionality of this title or the validity of action taken by the Administrator in connection with the exercise of such functions). If in any such proceeding an issue by way of defense is raised based on the constitutionality of this title or the validity of any such action, the case shall be subject to removal by either party to a district court of the United States in accordance with the applicable provisions of chapter 89 of title 28, United States Code.

Mr. MATHIAS. Mr. President, the provisions of this amendment are similar to those contained in S. 2589, the National Energy Emergency Act.

At that time the Senate adopted procedures which provide really for due process by an overwhelming vote. These are the same provisions which, I think—and which the distinguished Senator from New York agrees—should be applied to the allocation program and to the energy division of the Cost of Living Council.

I believe that due process has to be the cornerstone of the emergency measures we enact as we are confronted by the energy crisis.

I think that if we create an orderly process which has due regard for the problems of individuals and administration, our goal will not be impeded, but on the contrary will be facilitated.

I think that is what this amendment does. I think that the decision of the Senate on this and on previously enacted bills on which I have offered procedural amendments will be of great value as precedents.

I hope that the manager of the bill will agree to accept the amendment offered by the Senator from New York and me.

Mr. JAVITS. Mr. President, if the Senator will yield, I think the amendment, which I am cosponsoring, is highly desirable in that it would establish a fair and effective due process procedure, especially as the Administrator is taking over the cost-of-living functions in respect of energy pricing. I think that the procedure developed by the Senator from Maryland is an admirable one.

I favor that amendment both as a Senator and as a lawyer. I hope that the amendment will be accepted. I join with the Senator from Maryland in asking the managers of the bill to accept the amendment.

Mr. RIBICOFF. Mr. President, the amendment is acceptable. It is a good amendment. I hope that the Senate adopts the amendment.

Mr. PERCY. Mr. President, I think that the Senate has heretofore adopted measures identical to this measure. It offers due process equally to consumers and business alike. It is a good amendment.

I commend the Senator from Maryland and am willing to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maryland (putting the question).

The amendment was agreed to.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CHANGE OF CONFEREES ON H.R. 11771

Mr. RIBICOFF. Mr. President, I ask unanimous consent that Senator CLIFFORD P. CASE be named as a conferee on H.R. 11771, an act making appropriations for foreign assistance and related activities in lieu of Senator EDWARD W. BROOKE.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT UNTIL 10 A.M.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 10 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

STOP FOREIGN AID

Mr. ROBERT C. BYRD. Mr. President, the foreign assistance programs of the United States, in my judgment, have long since passed the point of diminishing returns. Therefore I opposed the passage of H.R. 11711 on yesterday. The time through which we are passing is a singularly inappropriate and inauspicious one for our country to be extending programs of such doubtful value as those provided by that legislation.

It is almost past belief that, with all the difficult domestic problems currently facing the Nation, American taxpayers have had to foot the bill for $183 billion in foreign aid thus far, not including interest or the cost of our forces serving overseas. There is no justification for asking that they continue to bear such burdens.

It seems to me an inescapable fact that as long as we are willing to foot the bills for other countries, they will not do all that they can for themselves. Even humanitarianism must have some limits when it serves to work hardships upon our own people. The United States has demonstrated its generosity over and over, and, for our pains, some to whom we have been generous have rewarded us with hostility and even enmity.

The whole foreign assistance picture has become a hodgepodge of ill-conceived and often overlapping efforts, and I believe the time has come for the United States to cease assisting countries that are fully capable of taking care of themselves. Moreover, I believe that it is time for other countries to assume their fair share of responsibility for world security and development.

We have had poor experience with buying friends and allies. It cannot be done. Our experience indicates, instead, that our most well-intentioned efforts sometimes only serve to get us locked into situations the end result of which was the opposite of what we had sought.

We have learned that we cannot be the world's policeman, nor can we make the world safe for American-style democracy. We should also have realized by now that many of the hard-earned American dollars we have sent abroad in aid programs have not been used for the purposes intended nor reached the groups and persons toward whom they were directed.

I have for many years voted against the giveaway of U.S. tax dollars through foreign aid; and I voted against the bill yesterday with its unnecessary price tag of $5.5 billion, the check for which would have to be picked up by American taxpayers who are themselves beset by inflation, shortages, and hardships.

FEDERAL ENERGY EMERGENCY ADMINISTRATION ACT

The Senate continued with the consideration of the bill (S. 2776) to provide for the effective and efficient management of the Nation's energy policies and programs.

Mr. HUDDLESTON. Mr. President, I

send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUDDLESTON's amendment is as follows:

On page 39, between lines 9 and 10, insert the following:

(e) The Administrator shall conduct a comprehensive review of foreign ownership of, influence on, and control of domestic energy sources and supplies. Such review shall draw upon existing information, where available, and any independent investigation necessary by the Administration. The Administrator shall, on or before the expiration of the one hundred and eighty day period following the effective date of this title, report to the Congress in sufficient detail so as to apprise the Congress as to the extent and forms of such foreign ownership of, influence on and control of domestic energy sources and supplies, and shall thereafter continue to monitor such ownership, influence and control.

Mr. HUDDLESTON. Mr. President, I shall be brief. My amendment simply directs the new Federal Energy Emergency Administration to conduct a preliminary study of foreign investment in our domestic energy sources and supplies and to monitor any new investments.

I am not attempting here to build a case for or against foreign investment in this industry, although I view foreign investment in coal and other energy-producing industries far differently from foreign investment in a chocolate company or a television factory. Undoubtedly, there is much to be gained from such investment—new technology, more jobs, and a short-term beneficial affect on our balance of payments. But, then again, foreign ownership or control of our natural energy resources—resources essential to our national growth and well-being—could pose very serious foreign policy problems in the future; could send essential energy supplies to foreign markets; could leave essential energy supplies in the hands of those whose foremost interests are not necessarily our national interests; and could exert even more upward pressures on the domestic price of fuels.

At this point, however, we do not even have adequate information to build a comprehensive case on either side. We need to know facts. Ignorance is not bliss when it involves fuel to heat our homes, energy to power our industries, resources to generate our electricity, gasoline to run our transportation and distribution system, and supplies for our defensive activities. Ignorance is not bliss when it involves jobs, our economic well-being and the day-to-day sacrifices and life-style changes over people are being asked to make. As far as I have been able to determine, the facts on this investment cannot be found within any single government department or agency.

I realize that this is part and parcel of the underlying lack of a coordinated policy on any foreign investment in this country. But, we are facing an energy crisis now, and we cannot put off investigation of foreign investment in this particular area any longer.

We have been taught many very dramatic lessons in the past weeks, but three particularly stand out—first, that we cannot depend on foreign controlled energy; second, that we cannot meet a crisis head on with inadequate and outdated information and data bases; and third, that any policy which evolves must be coordinated and consistent. Under the very able and forward-thinking leadership of Senator JACKSON we have been addressing ourselves to these problems, but the question of foreign control over our domestic energy sources has, as yet, been neglected. I believe a study such as I am proposing could prove valuable to assessing our present position and formulating policy for the future.

As I indicated before, I am not here attempting to prejudge such investment. Nor am I attempting to discourage the very necessary efforts to develop additional understanding and cooperation on energy matters among our Nation, Western Europe, and Japan. But, even in this situation, we cannot act wisely or effectively without information.

Under various laws, such as the Economic Stabilization Act, and the Securities and Exchange Act, the U.S. Government already acquires a large amount of information regarding policies and activities of corporations and industry in the United States. This information is deemed necessary to the fair, effective, and fiscally feasible operation of our business-industrial complex. At a time when the energy situation permeates this entire structure it would seem only logical to develop information on foreign ownership of domestic energy resources.

Mr. President, I believe the managers of the bill are agreeable to accepting the amendment.

Mr. RIBICOFF. Mr. President, I have discussed this amendment with the distinguished Senator from Illinois, and the amendment is acceptable.

Mr. ROBERT C. BYRD. Mr. President, may we have order?

The PRESIDING OFFICER. The Senator's point is well taken. The Senate will be in order. Senators who are standing in the aisles conversing will kindly take their conversations out of the Chamber. The business of the Senate will not be resumed until order is restored.

The question is on agreeing to the amendment of the Senator from Tennessee.

The amendment was agreed to.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that Mr. Norman Dicks may have the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Mr. President, I offer two related technical amendments. I ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. They would make clear that the 100 supergrades authorized in the bill for the new FEEA will be in addition to the total number of supergrades now provided by law.

This was the clear intent of the committee, and it is reflected in our report. The amendment is a purely technical one.

The PRESIDING OFFICER. Will the Senator send his amendments to the desk?

The amendments will be stated.

The legislative clerk proceeded to read the amendments.

Mr. PERCY. Mr. President, I ask unanimous consent that further reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY's amendments are as follows:

On page 21, line 10, strike the phrase "except that one hundred officers and employees may, under this provision, be compensated at rates not in excess of the rate prescribed for GS–16, GS–17, and GS–18 under section 5332 of title 5 of the United States Code," and insert in lieu thereof "In addition to the number of positions which may be placed in GS–16, 17 and 18, under section 5108 of title 5, United States Code, not to exceed one-hundred positions may be placed in GS–16, 17, and 18, to carry out the functions under this title."

On page 21, line 18, after the semicolon add the following language, "however, the authority under this subsection shall be subject to the procedures prescribed under section 5103 of title 5, United States Code, and shall continue only for the duration of the exercise of functions under this Act;"

Mr. RIBICOFF. We have no objection, Mr. President.

The PRESIDING OFFICER. The question is on agreeing, en bloc, to the amendments of the Senator from Illinois.

The amendments were agreed to.

Mr. GURNEY. Mr. President, on behalf of myself, Senator RIBICOFF, and Senator PERCY, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. GURNEY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GURNEY's amendment is as follows:

On page 48, between lines 17 and 18, insert the following new sections:

PETROCHEMICAL REPORT

SEC. 125. (a) Within thirty days after he has entered upon the office of Administrator or has been designated by the President to act in such office, the Administrator, or Acting Administrator, as the case may be, with the assistance of the Department of Commerce, the Cost of Living Council, and the United States Tariff Commission shall, by written report, inform the Congress as to the—

(1) effect of current Cost of Living Council petrochemical price ceilings upon the current level of petrochemical exports, and export levels expected for 1974;

(2) effect of current and expected 1974 petrochemical export levels upon domestic petrochemical raw materials and products available to petrochemical producers, converters, and fabricators currently and in 1974;

(3) current contribution of petrochemical imports to domestic supplies and the expected contribution in 1974;

(4) anticipated economic effects of current and expected 1974 levels of domestic supplies of petrochemicals upon domestic producers, converters, and fabricators of petrochemical raw materials and products; and

(5) exact nature, extent and source of data and other information available to the Federal Government regarding the matters set forth in the subparagraphs (1) through (4) of this subsection, including the exact nature, extent and sources of such data and information utilized in connection with the report required by this subsection.

(b) As used in this section, the term "petrochemical" includes organic chemicals, cyclic intermediates, plastics and resins, synthetic fibers, elastomers, organic dyes, organic pigments, detergents, surface active agents, carbon black, and ammonia.

Redesignate existing sections 125, 126, and 127, as sections 126, 127, and 128, respectively.

Mr. GURNEY. Mr. President, here is what my amendment will do. It requires the Administrator of the FEA, with the assistance of the Cost of Living Council, the Department of Commerce, and the U.S. Tariff Commission, to tell Congress, in 30 days, the following information about the petrochemical industry today and in 1974:

First. The effects of price ceilings on export levels.

Second. The effects of those export levels on domestic supplies.

Third. What imports contribute to domestic supplies.

Fourth. Taking everything into consideration, what the economic effects of expected levels of supply will be on the petrochemical industry.

There is cause for great concern about what will happen in the petrochemical industry. Actually, it uses only a minute portion of the petroleum we produce in this country, yet the sales of the industry are almost as large as the petroleum refining industry itself. The number of people involved in the petrochemical industry go into the hundreds of thousands. In fact, the whole industry has a volume that goes into the millions so far as jobs are concerned, and so far as domestic production is concerned, to the value of $65 to $70 billion annually.

We have seen in the past year that our exports of petrochemicals have increased rather sizably. One of the reasons, I think this is so, is that the price ceilings imposed domestically have caused producers to seek higher prices abroad and that is having a serious effect on the domestic petrochemical industry. For example, just to give one indication of what we are talking about, in my home State of Florida, the boat building industry employs about 35,000 people. It has a $150 million payroll and almost 2,000 firms with annual sales in excess of $600 million. Yet this one industry depends almost entirely on the petrochemical industry, because most of the boats these days are made of plastic.

One of the largest boat-building firms in Florida, within the past 2 or 3 weeks, has laid off 80 percent of its personnel all because it cannot get the feedstock it needs from the petrochemical industry.

So what my amendment would do would be to zero in on this problem and ask the Administrator to take a look at it and study it and make sure that whatever we do in the oil and chemical industries, we not overlook petrochemicals in the rather larger problems that occupy people like the shortages in gasoline, fuel oil, and residual oil, because petrochemicals, while they are only a small portion of the petroleum production in this country, do have an enormous volume of jobs and a dollar volume of production.

I have talked to the manager of the bill and also the minority floor manager of the bill and they have agreed, as I recall, that this would be a useful amendment.

Furthermore, Mr. President, I ask for a detailed accounting of data available to the Government on the petrochemical industry. I think Congress should know how the administration arrives at its conclusions about this industry.

Mr. President, the plastics industry feedstocks make up less than 1½ percent of the total domestic oil and natural gas usage. The entire petrochemical industry consumes only between 5 and 6 percent of the U.S. supply of natural gas and petroleum products. But the sales of the petrochemical industry, which are almost as large as those of the petroleum refining industry, are vitally dependent upon these petroleum and natural gas raw materials.

Petrochemical industry sales have increased at an average annual growth rate of 7.3 percent. This growth which is more rapid than that of the entire chemical industry, contributes to the extension of the U.S. natural resources base in the production of synthetic plastics, fibers, and rubbers. These products make major reductions in our dependence on foreign sources of natural products other than petroleum and natural gas.

Mr. President, as pleased as I am that we are finally going to have centralized Federal decisionmaking during our energy crisis, I feel that as of today, too little attention is being given to the economic consequences of the petroleum shortage. Most of the attention seems to be focused upon fuel needs. I am fearful that in the rush to make major shifts in refinery output, we may unintentionally cut short raw material supplies to the petrochemical industry. Many of our Nation's businesses, small and large, seem to be being made victims of a classic case of the Government's right hand not knowing what the left hand is doing.

For instance, price controls have been imposed upon the petrochemical industry since August 15, 1971. Meanwhile, with worldwide shortages and rising demand, the world prices for petrochemicals have soared. Domestic producers understandably have moved to export markets. There have been large increases of exports of certain materials, resins for example.

Comparing January through August of 1972 with the same time period for 1973, exports of polyster resins increased from 27,881,471 pounds to 34,939,857 pounds; and exports of polypropyline resins—except for protective coating—increased from 102,572,734 pounds to 196,356,789 pounds. Toulene exports increased from 14,402,878 pounds to 50,151,441 pounds.

On December 13, Secretary of Commerce, Frederick Dent, moved to curb petroleum exports by requiring exporters, starting the next day, to get licenses to ship oil and other petroleum products out of the country. But the products included do not impact significantly upon petrochemical exports.

On the other hand, the price controls on domestic petrochemical sales remain in effect. Do we really know what is going to happen to domestic supplies? If we impose export controls, what will happen then—will producers start hoarding, will black markets develop? How will the Government make sure that supplies will be available to meet the new mandatory allocations for petrochemicals, which are now suggested as 120 percent of 1972 supplies? Exactly what do those in control of our economy during this energy crisis expect is going to happen? Based on the record to date, I think Congress itself should have the answer to that question as quickly as possible.

Mr. President, I am talking about an industry which is vital on its own terms as well as for the economy as a whole. It is an industry which faces a double threat from the petroleum shortage because it uses petroleum and natural gas hydrocarbons both as a fuel and as the primary raw material or feedstock for its plants. It includes such major areas as automobile parts, packaging, textiles, organic chemicals, furniture, construction, pharmaceuticals, agriculture, phonograph records, toys, plumbing fixtures and materials, and sail and power boats, just to name a few. And if the petrochemical industry is defined to include just the production of basic and intermediate organic chemicals and the plants which produce synthetic fibers, synthetic rubbers and plastic resins, and to exclude all downstream fabricating steps, the industry represents sales of more than $20 billion, and employment of some 320,000 people in 1,900 plants in the United States.

One industry expert recently testifying before the Senate Joint Economic Committee, a Mr. George B. Hegeman of Arthur D. Little, Inc., concluded that the petrochemical industry is so closely related to the economy as a whole, that a sustained 15 percent reduction in the output of the organic chemicals industry could result in a loss of 1.6 to 1.8 million jobs in consuming industries and a loss of domestic production value of $65 to $70 billion annually.

Mr. President, with experts making predictions like that, Congress should immediately ask the Administration for its best estimate of the fate of petrochemical industry.

Mr. President, I reserve the remainder of my time.

Mr. RIBICOFF. Mr. President, Senator PERCY and I believe that this is a most important amendment. We are cosponsors of it. It is absolutely essential that the full impact of petroleum shortages on the petrochemical industry be accurately measured and evaluated for the benefit of our entire economy, and I certainly accept the amendment of the Senator from Florida.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Florida (Mr. GURNEY).

The amendment was agreed to.

Mr. MAGNUSON. Mr. President, I call up my amendment at the desk and ask that its reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the text of the amendment will be printed in the RECORD.

The text of the amendment is as follows:

Add a new section to read as follows:

SEC. —. Within sixty days of the date of enactment of this Act, the Administrator of the Federal Energy Administration, in consultation with the Secretary of the Interior, and the Secretary of the Army, shall—

(a) transmit to the Congress:

(1) a list of hydroelectric generating facilities and electric power transmission facilities which have been authorized for construction by the Congress and which are not yet completed, and

(2) a list of opportunities to increase the capacity of existing hydroelectric generating facilities.

(b) provide, for each such facility which is listed:

(1) a construction schedule and cost estimates for an expedited construction program which would make the facility available for service at the earliest practicable date, and

(2) a statement of the accomplishments which could be provided by the expedited completion of each facility and a statement of any funds which have been appropriated but not yet obligated.

Mr. MAGNUSON. Mr. President, I am calling up today an amendment to insure that existing Federal hydroelectric projects are expedited in order to make certain that this source of electric power is expanded as rapidly as is possible. As Members of the Senate know, I have worked diligently as a member of the Public Works Appropriations Subcommittee to insure the development of hydroelectric projects both in the Pacific Northwest and across the Nation. In the fiscal year 1974 budget I provided funds by amendments for the second powerhouse at Bonneville and for additional generating units at Little Goose and Lower Granite Dams. Funds for the latter two projects have not yet been obligated by this administration. These types of projects need to be expedited in light of the current energy crisis.

I know that many projects throughout the Nation could and should be completed. I believe that Congress wants to know which of these projects could be put on an expedited completion schedule. My amendment simply directs the Federal Energy Administration to prepare a comprehensive list of such existing projects.

My amendment also requires the Federal Energy Administration to prepare a list of projects where funds have been provided by Congress but have not been obligated by the administration. I believe we should know on which projects Congress has all ready acted but the administration has not obligated funds.

Hopefully, my amendment will provide Congress with the information needed to insure that funds are provided on an expedited basis.

Mr. RIBICOFF. Mr. President, I have discussed this amendment with the Senator from Illinois (Mr. PERCY) and the Senator from Washington (Mr. JACKSON), and it is acceptable to the managers of the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Washington (Mr. MAGNUSON).

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. RIBICOFF. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR COMMITTEE ON FOREIGN RELATIONS TO FILE REPORT ON AID TO ISRAEL BILL TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations may have until midnight tomorrow to file its report on the aid to Israel bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR BENTSEN AND SENATOR McGOVERN TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders or their designees have been recognized under the standing order, the distinguished Senator from Texas (Mr. BENTSEN) be recognized for not to exceed 15 minutes, and that he be followed by the distinguished Senator from South Dakota (Mr. McGOVERN) for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW AND FOR CONSIDERATION OF HOME RULE CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of the two orders previously mentioned, there be a period for the transaction of routine morning business tomorrow, of not to exceed 15 minutes, with statements therein limited to 3 minutes, at the conclusion of which period the Senate proceed to the consideration of the conference report on the District of Columbia home rule bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF FEDERAL ENERGY ADMINISTRATION ACT TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, immediately following the disposition of the conference report on the District of Columbia home rule bill, the Senate return to the consideration of the Federal Energy Emergency Administration Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 10 a.m. tomorrow.

After the two leaders or their designees have been recognized under the standing order, Mr. BENTSEN will be recognized for not to exceed 15 minutes, to be followed by Mr. McGOVERN for not to exceed 15 minutes, after which there will be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 3 minutes.

At the conclusion of routine morning business, the Senate will proceed to the consideration of the conference report on the District of Columbia home rule bill. There is a time limitation on that conference report, and there may be a vote on the adoption thereof, which should occur, I would say, at any time after 10:45 a.m., provided time is yielded back.

Upon the disposition of the conference report, the Senate will resume the consideration of S. 2776, a bill to provide for the effective and efficient management of the Nation's energy policies and programs. I believe that under the order previously entered, the amendment by the Senator from Minnesota (Mr. MONDALE) will be the pending question at that time.

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Yea-and-nay votes will continue on amendments and the bill tomorrow. It is anticipated that the session tomorrow may be reasonably long.

ADJOURNMENT TO 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move that the Senate stand in adjournment until 10 o'clock tomorrow morning.

The motion was agreed to; and at 7:16

p.m. the Senate adjourned until tomorrow, Wednesday, December 19, 1973, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate December 18, 1973:

The following-named persons to be members of the U.S. Advisory Commission on International Educational and Cultural Affairs for terms expiring May 11, 1976:

Leo Cherne, of New York, reappointed.

Rita E. Hauser, of New York, vice Dr. Martha B. Lucas, term expired.

Leonard H. Marks, of the District of Columbia, vice Dr. Homer Daniels Babbidge, Jr., resigned.

CONFIRMATIONS

Executive nominations confirmed by the Senate December 18, 1973:

DEPARTMENT OF JUSTICE

Anthony E. Rozman, of Michigan, to be U.S. marshal for the eastern district of Michigan for the term of 4 years.

DEPARTMENT OF STATE

L. Dean Brown, of the District of Columbia, a Foreign Service officer of the class of Career Minister, to be Deputy Under Secretary of State.

Robert Stephen Ingersoll, of Illinois, to be an Assistant Secretary of State.

William B. Buffum, of New York, a Foreign Service officer of the class of Career Minister, to be an Assistant Secretary of State.

Stuart Nash Scott, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Portugal.

Harry G. Barnes, Jr., of Maryland, a Foreign Service Officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Romania.

Heyward Isham, of the District of Columbia, a Foreign Service Officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Haiti.

Joseph J. Jova, of Florida, a Foreign Service Officer of the class of career minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Mexico.

Ralph J. McGuire, of the District of Columbia, a Foreign Service Officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Mali.

Anthony D. Marshall, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Kenya.

Francis E. Meloy, Jr., of the District of Columbia, a Foreign Service officer of the class of career minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Guatemala.

Francis T. Underhill, Jr., of New Jersey, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Malaysia.

David H. Popper, of New York, a Foreign Service officer of the class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Chile.

David D. Newsom, of California, a Foreign Service officer of the class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Indonesia.

Viron P. Vaky, of Texas, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Colombia.

Francis L. Dale, of Ohio, to be the representative of the United States of America to the European office of the United Nations, with the rank of Ambassador.

WORLD HEALTH ORGANIZATION

Dr. S. Paul Ehrlich, Jr., of Virginia, to be the representative of the United States of America on the Executive Board of the World Health Organization.

OVERSEAS PRIVATE INVESTMENT CORPORATION

David Gregg III, of New York, to be Executive Vice President of the Overseas Private Investment Corporation.

(The above nominations were approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

NOMINATIONS IN THE DIPLOMATIC AND FOREIGN SERVICE, AIR FORCE, ARMY, NAVY, AND MARINE CORPS

Diplomatic and Foreign Service nominations beginning Sidney Leonard Wollons for reappointment as a Foreign Service officer of class 3, a consular officer, and a secretary in the Diplomatic Service of the United States of America, and ending Patsy G. Stephens, to be a consular officer of the United States of America which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on November 2, 1973.

Air Force nominations beginning Michael A. Abair, to be captain, and ending Morris A. Schultz, to be lieutenant colonel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on December 3, 1973.

Army nominations beginning Frederick T. Abt, to be colonel, and ending Felix D. Winter, to be first lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on December 3, 1973.

Navy nominations beginning Wallace Johnson Ables, Jr., to be lieutenant commander, and ending Mabel Lillian Wallis, to be lieutenant commander, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on November 30, 1973.

Navy nominations beginning Rodney J. Allen, to be ensign, and ending Steven A. Balch, to be commander which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on December 3, 1973.

Navy nominations beginning Billie Ross Hardin, to be chief warrant officer, W–4, and ending Paul Samuel Zoglmann, to be chief warrant officer, W–3, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on December 3, 1973.

Marine Corps nominations beginning Donald M. Beck, to be colonel, and ending Mark E. Zotvogel, to be second lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on November 28, 1973.

HOUSE OF REPRESENTATIVES—*Tuesday, December 18, 1973*

The House met at 12 o'clock noon.

Father L. A. Paul Rose, Christ Church, Rockville, Md., offered the following prayer:

Almighty God, who has given us this good land for our heritage, we humbly beseech Thee that we may always prove ourselves a people mindful of Thy favor and glad to do Thy will. Bless our land with honorable industry, sound learning, and pure living. Save us from violence, discord, and confusion; from pride and arrogance; and from every evil way. Defend our liberties, and fashion into one united people the many peoples, kindreds, and tongues that are the citizens of this land. Endue with the spirit of wisdom those to whom in Thy name we entrust the authority of government, especially the Representatives in Congress assembled; that Thou would be pleased to direct and prosper all their consultations to the safety, honor, and welfare of Thy people; so that all things may be ordered and settled upon the best and surest foundations that peace and happiness, truth and justice, may be established among us for all generations. In the time of prosperity, fill our hearts with thankfulness, and in the day of trouble, suffer not our trust in Thee to fail; all which we ask through Jesus Christ our Lord. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 11771. An act making appropriations for foreign assistance and related programs for the fiscal year ending June 30, 1974, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 11771) entitled "An act making appropriations for foreign assistance and related programs for the fiscal year ending June 30, 1974, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. INOUYE, Mr. PROXMIRE, Mr. MCGEE, Mr. CHILES, Mr. BROOKE, Mr. HATFIELD, and Mr. MATHIAS to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2772. An act to amend title II of the Clean Air Act, as amended.

REV. L. A. PAUL ROSE

(Mr. GUDE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUDE. Mr. Speaker, I am pleased that the opening prayer today has been delivered for us by Rev. L. A. Paul Rose, associate rector of Christ Episcopal Church in Rockville, Md.

Christ Church is a historic institution founded in 1727 while Father Rose, who is 28 and received his masters of divinity last year from the General Theological Seminary, New York, is in charge of the parish's most youthful thrust—Christian education.

Before entering the seminary, Father Rose earned a bachelors in history at American University. He has studied us, too, you might say, for with just one more course he could have graduated with a second major in political science.

CONFERENCE REPORT FILED ON S. 1559, MANPOWER DEVELOPMENT AND TRAINING ACT OF 1973

Mr. PERKINS submitted the following conference report and statement on the Senate bill (S. 1559) to provide financial assistance to enable State and local governments to assume responsibilities for job training and community services, and for other purposes:

Conference Report (H. Rept. No. 93–737)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the amendment of the House to the bill (S. 1559) to provide financial assistance to enable State and local governments to assume responsibilities for job training and community services, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the amendment of the House to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Comprehensive Employment and Training Act of 1973".

STATEMENT OF PURPOSE

Sec. 2. It is the purpose of this Act to provide job training and employment opportunities for economically disadvantaged, unemployed, and underemployed persons, and to assure that training and other services lead to maximum employment opportunities and enhance self-sufficiency by establishing a flexible and decentralized system of Federal, State, and local programs.

TRANSITIONAL PROVISIONS

Sec. 3. (a) To the extent necessary to provide for the orderly transition of supporting job training programs, and to provide continued financial assistance for such programs, prior to July 1, 1974, the Secretary is authorized to provide financial assistance in the same manner and on the same conditions as provided in the Manpower Development and Training Act of 1962, as in effect prior to June 30, 1973, title I of the Economic Opportunity Act of 1964, and the Emergency Employment Act of 1971, as in effect prior to June 30, 1973, from funds appropriated pursuant to this Act.

(b) The authority contained in this section shall not be construed to postpone or impede the prompt designation of prime sponsors and the implementation of other provisions of this Act.

(c) Notwithstanding any other provision of this Act other than the provisions of section 4(d)(1), the Secretary is authorized from appropriations available under this Act for fiscal year 1974 to provide financial assistance for the program described in section 304(a)(3) during the period June 1, 1974, through October 1, 1974, in the same manner and on the same conditions as provided pursuant to the Manpower Development and Training Act of 1962, as in effect prior to June 30, 1973, and title I of the Economic Opportunity Act of 1964, as in effect prior to repeal by this Act.

AUTHORIZATION OF APPROPRIATIONS

Sec. 4. (a) There are authorized to be appropriated such sums as may be necessary for the fiscal year ending June 30, 1974, and for each of the three succeeding fiscal years for carrying out the provisions of this Act.

(b) Notwithstanding any other provision of law, unless enacted in specific limitation of the provisions of this subsection, any funds appropriated to carry out this Act which are not obligated prior to the end of the fiscal year for which such funds were appropriated shall remain available for obligation during the succeeding fiscal year, and any funds obligated in any fiscal year may be expended during a period of two years from the date of obligation.

(c)(1) For the purpose of affording adequate notice of funding available under this Act, appropriations under this Act are authorized to be included in an appropriation Act for the fiscal year preceding the fiscal year for which they are available for obligation.

(2) In order to effect a transition to the advance funding method of timing appropriation action, the provisions of this subsection shall apply notwithstanding that its intitial application will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year.

(d)(1) Of the amounts appropriated to carry out ths Act, the Secretary shall reserve and make available not less than $250,000,000 in the fiscal year ending June 30, 1974, and not less than $350,000,000 in the fiscal year ending June 30, 1975, to carry out public service employment programs under title II.

(2) In addition to the amounts reserved under paragraph (1) of this subsection, there are authorized to be appropriated and made available for the fiscal years ending June 30, 1974, and June 30, 1975, such sums as may be necessary to carry out public service employment programs under title II. There are authorized to be appropriated and made available for the fiscal year ending June 30, 1976, and for the succeeding fiscal year such sums as may be necessary to carry out public service employment programs under title II.

(e) Of the amount appropriated to carry out this Act for any fiscal year, not more than 20 percent of such amount (excluding any amount in excess of $250,000,000 of the amount made available for carrying out title II) shall be available for carrying out the provisions of title III and title IV.

TITLE I—COMPREHENSIVE MANPOWER SERVICES

DESCRIPTION OF PROGRAM

Sec. 101. It is the purpose of this title to establish a program to provide comprehensive manpower services throughout the Nation. Such programs shall include the development and creation of job opportunities and the training, education, and other services needed to enable individuals to secure and retain employment at their maximum capacity. Comprehensive manpower services may include, but shall not be limited to, programs and activities designed to carry out the purpose of this title, such as—

(1) outreach to make persons aware of the availability of manpower services and persuade them to use such services,

(2) assessment of the individual's needs, interests, and potential in the labor market and referral to appropriate employment, training, or other opportunities,

(3) orientation, counseling, education, and institutional skill training to prepare the individual to enter the labor market or to qualify for more productive job opportunities,

(4) training on the job,

(5) payments or other inducements to public or private employers to expand job opportunities, but payments to employers organized for profit shall not exceed the difference between the costs of recruiting, training, and providing supportive services for low-income persons and those regularly employed,

(6) services to individuals to enable them to retain employment,

(7) payment of allowances to persons in training for which they receive no remuneration and payment of such allowances for transportation, subsistence, or other expenses incurred in participating in manpower services or employment as are necessary to enable the individual to participate therein.

(8) supportive services to enable individuals to take advantage of employment opportunities, including necessary health care and medical services, child care, residential support, assistance in securing bonds, or any other necessary assistance incident to employment, and any other service needed to participate in employment or manpower services.

(9) development of information concerning the labor market and activities, such as job restructuring, to make it more responsive to objectives of the manpower services program.

(10) manpower training, employment opportunities, and related services conducted by community-based organizations,

(11) transitional public service employment programs, and

(12) any programs authorized by part A of title III and by title IV of this Act.

PRIME SPONSORS

Sec. 102. (a) The Secretary may make financial assistance available to a prime sponsor to enable it to carry out all or a substantial part of a comprehensive manpower program. A prime sponsor shall be—

(1) a State;

(2) a unit of general local government which has a population of one hundred thousand or more persons on the basis of the most satisfactory current data available to the Secretary:

(3) any combination of units of general government which includes any unit of general local government qualifying under paragraph (2) of this subsection:

(4) any unit of general local government or any combination of such units, without regard to population, which, in exceptional circumstances, is determined by the Secretary of Labor—

(A)(i) to serve a substantial portion of a functioning labor market area, or (ii) to be a rural area having a high level of unemployment; and

(B) to have demonstrated (i) that it has the capability for adequately carrying out programs under this Act; and (ii) that there is a special need for services within the area to be served, and (iii) that it will carry out such programs and services in such area as effectively as the State; or

(5) a limited number of existing concentrated employment program grantees serving rural areas having a high level of unemployment which the Secretary determines have demonstrated special capabilities for carrying out programs in such areas and are designated by him for that purpose.

(b)(1) A State shall not qualify as a prime sponsor for any geographical area within the jurisdiction of any prime sponsor described in paragraph (2), (3), (4), or (5) of subsection (a) unless such prime sponsor has not submitted an approvable comprehensive manpower plan for such area.

(2) A unit of general local government shall not qualify as a prime sponsor with re-

spect to any area within the jurisdiction of another eligible unit of general local government unless such smaller unit has not submitted an approvable comprehensive manpower plan for such area.

(e)(1) To be eligible for prime sponsorship for any fiscal year, an otherwise eligible applicant must submit to the Secretary a notice of intent to apply for prime sponsorship by such date as the Secretary shall prescribe.

(2) The Secretary may not, prior to March 1, 1974, designate as a prime sponsor, any State or unit of general local government containing another unit of general local government meeting the requirements of subsection (a)(2) of this section unless such smaller unit has submitted to the Secretary written consent for such designation.

ALLOCATION OF FUNDS

SEC. 103. (a)(1) Eighty percent of the amount available for this title in any fiscal year shall be allotted in accordance with the provisions of this subsection.

(2) Subject to the provisions of paragraph (4)—

(A) 50 percent of the amount allotted under this subsection shall be allotted on the basis of the manpower allotment of the State in the fiscal year prior to the year for which the determination is made compared to the manpower allotment for all States in that year;

(B) 37½ percent of the amount allotted under this subsection shall be allotted on the basis of the relative number of unemployed persons within the State as compared to such numbers in all States;

(C) 12½ percent of the amount allotted under this subsection shall be allotted on the basis of the relative number of adults in families with an annual income below the low-income level within the State compared to such total numbers in all States;

(D) Not less than $2,000,000 shall be allotted among Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands, in accordance with their respective needs.

(3) The sum allotted to each State shall be allotted by the Secretary among areas within the State on an equitable basis based upon the factors set forth in paragraph (2).

(4) No prime sponsor shall be allocated an amount which is in excess of 150 percent of the amount received by the area served by that prime sponsor in the fiscal year immediately preceding the fiscal year for which the determination was made except that if the amount so allocated is less than 50 percent of the amount to which such prime sponsor is entitled under paragraph (2) in the fiscal year for which a determination was made, then such allocation shall be increased to 50 percent of the amount of such entitlement.

(b) Not more than 5 percent of the amount available for this title shall be available to the Secretary to encourage, after consultation with and receiving recommendations from the Governor of the appropriate State, voluntary combinations formed under section 102(a)(3).

(c) Five percent of the funds available under title I shall be available only for grants under section 112 except that such grants shall not increase the funds available in any prime sponsor's area by more than 20 percent of the amount allocated to such prime sponsor under subsection (a).

(d) One percent of the amount allocated under subsection (a) shall be available to the Secretary to be allocated in the same manner as provided under subsection (a) to State prime sponsors for the costs incurred in carrying out the provisions of section 107 (a)(2)(B). If any State does not need the amount allocated under this subsection for any fiscal year, that amount shall be available for State services under section 106.

(e) Four percent of the amounts available for this title shall be available to each State in the same proportion as that State's allocation under subsection (a) for State services under section 106.

(f) The remainder of the funds shall be available in the Secretary's discretion. In exercising his discretion the Secretary shall first utilize such funds to provide each prime sponsor with an amount for any fiscal year equal to 90 percent of such area's manpower allotment in the preceding fiscal year. The remainder shall be distributed in the Secretary's discretion among areas served by prime sponsors (or where a prime sponsor's plan has not been approved an area served by the Secretary under his authority in section 110). In exercising his discretion the Secretary shall take into account the need for continued funding of programs of demonstrated effectiveness.

(g) Grants made to prime sponsors designated under section 102(a)(5) shall be from funds not allocated under subsection (a).

(h) As soon as practicable after funds are appropriated to carry out this Act for any fiscal year, the Secretary shall publish in the Federal Register the allotments made pursuant to this section. Allotments under this section shall be based on the latest satisfactory data and estimates available.

(i) The Secretary is authorized to make such reallocations under this title as he deems appropriate of the unobligated amount of any allotment pursuant to subsection (a) to the extent that the Secretary determines that it will not be required for the period for which such allotment is available. Allotted amounts may not be reallocated for any reason before the expiration of the ninth month of the fiscal year for which such funds were allotted and thereafter may be reallocated only if the Secretary has provided thirty days' advance notice to the prime sponsor for such area and to the Governor of the State of the proposed reallocation, during which period of time the prime sponsor and the Governor may submit comments to the Secretary. After considering any comments submitted during such period of time, the Secretary shall notify the Governor and affected prime sponsors of any decision to reallocate funds and shall publish any such decision in the Federal Register. Priority shall be given in reallocating such funds to other areas within the same State.

PRIME SPONSOR'S PLANNING COUNCILS

SEC. 104. Each prime sponsor designated under this title shall establish a planning council consisting, to the extent practical, of members who are representative of the client community and of community-based organizations, the employment service, education and training agencies and institutions, business, labor, and, where appropriate, agriculture. The prime sponsor shall appoint the members of the council, designate the chairman, and provide professional, technical, and clerical staff to serve the council. It is the function of the council to submit recommendations regarding program plans and basic goals, policies, and procedures, to monitor and provide for objective evaluations of employment and training programs conducted in the prime sponsorship area, and to provide for continuing analyses of needs for employment, training, and related services in such area. Any final decision with respect to such recommendations shall be made by the prime sponsor.

CONDITIONS FOR RECEIPT OF FINANCIAL ASSISTANCE

SEC. 105. (a) The Secretary shall not provide financial assistance for any fiscal year to a prime sponsor unless such sponsor submits a comprehensive manpower plan, in such detail as the Secretary deems necessary, which—

(1) sets forth a comprehensive manpower program which meets the objectives of this title, including (A) a description of the services to be provided, and performance goals, (B) assurance that such services will be administered by or under the supervision of the prime sponsor, (C) a description of the geographical areas to be served under the plan, and (D) assurances that to the maximum extent feasible manpower services, including the development of job opportunities, will be provided to those most in need of them, including low-income persons and persons of limited English-speaking ability, and that the need for continued funding of programs of demonstrated effectiveness is taken into account in serving such groups and persons;

(2) provides, in the case of prime sponsors who are recipients of funds under title II for the development of a public service employment program, that it is fully integrated with the services under this title in order to assure that persons employed in such a program are afforded a better opportunity to find regular employment not supported under this Act:

(3)(A) provides appropriate arrangements with community-based organizations serving the poverty community, and other special target groups for their participation in the planning of programs included in the plan; (B) provides for utilizing those services and facilities which are available, with or without reimbursement of the reasonable cost, from Federal, State, and local agencies to the extent deemed appropriate by the prime sponsor, after giving due consideration to the effectiveness of such existing services and facilities, including, but not limited to, the State employment service, State vocational education and vocational rehabilitation agencies, area skills centers, local educational agencies, postsecondary training and education institutions, and community action agencies, but nothing contained herein shall be construed to limit the utilization of services and facilities of private agencies, institutions and organizations (such as private businesses, labor organizations, private employment agencies, and private educational and vocational institutions) which can, at comparable cost, provide substantially equivalent training or services or otherwise aid in reducing more quickly unemployment or current and prospective manpower shortages; (C) provides that in making arrangements for institutional training priority shall be given (to the extent feasible) to the use of skills centers established under the authority of section 231 of the Manpower Development and Training Act of 1962; (D) provides arrangements to the extent feasible for the coordination of services for which financial assistance is provided under programs administered by the Secretary of Labor relating to manpower and manpower-related services;

(4) provides for paying the allowances and compensation provided by section 111;

(5) provides that any transitional public service employment programs meet the requirements of section 205(c) and section 208, and that persons hired to fill jobs created by such programs will be residents of the areas described under paragraph (1)(C) of this subsection;

(6) provides assurances that programs of institutional training be designed for occupations in which skill shortages exist and assurances that such programs and training on the job shall, wherever possible, result in employment which provides economic self-sufficiency;

(7) contains such other information, assurances, statements, and arrangements consistent with the provisions of this Act as the Secretary shall prescribe by regulation including provisions designed to assist the Secretary in carrying out his special responsibilities under this section and section 108.

(b) The Secretary shall not provide financial assistance for any fiscal year to a prime sponsor unless such sponsor certifies that—

(1) its plan meets all the requirements of this section; and

(2) it will comply with all provisions of this Act.

(c) The Secretary shall provide financial assistance to each prime sponsor under this title to carry out the plan submitted by each such prime sponsor upon determining that—

(1) the plan is consistent with the provisions of this title;

(2) the plan was made public prior to submission to the Secretary;

(3) the prime sponsor has demonstrated maximum efforts to implement the provisions in the prior year's plan.

SPECIAL PROVISIONS RELATING TO STATE PRIME SPONSORS

SEC. 106. (a) Any State seeking assistance under this Act shall submit a State comprehensive manpower plan to the Secretary for approval in accordance with the requirements of this section.

(b) The State comprehensive manpower plan shall in addition to meeting the requirements of section 105—

(1) provide satisfactory arrangements for serving all geographical areas under its jurisdiction except areas served by an eligible applicant who has filed a notice of intent under section 102(c), except that such plan may be amended to include areas served by an eligible applicant whose plan is finally disapproved without prejudice to the remedies available to such eligible applicant under section 109;

(2) provide for the cooperation and participation of all State agencies providing manpower and manpower-related services in the implementation of comprehensive manpower services plans by prime sponsors in accordance with the provisions of this Act;

(3) set forth an overall State plan for the development and sharing of resources and facilities needed to conduct manpower programs under its direct sponsorship without unnecessary duplication and otherwise in the most efficient and economical manner;

(4) provide for the coordination of programs financed under the Wagner-Peyser Act in accordance with such rules, regulations, and guidelines as the Secretary determines necessary for the purpose of providing coordinated and comprehensive assistance to those individuals requiring manpower and manpower-related services to achieve their full occupational potential in accordance with the policies of this Act;

(5) set forth arrangements for assisting the Secretary in carrying out his responsibilities for enforcing the requirement for Federal contractors and subcontractors to list all suitable employment openings with local offices of the State employment service and provide special emphasis, as required in section 2012(a) of title 38, United States Code;

(6) set forth arrangements, if any, which the State may desire to provide for planning areas to serve geographical regions within the State; and

(7) make adequate provision for the coordination of the manpower and related services to be provided by the State in areas to be served by prime sponsors other than the State, and that provision has been made for the establishment of mechanisms to (A) provide for the exchange of information between States and local governments on State, intrastate, and regional planning in areas such as economic development, human resource development, education, and such other areas that may be relevant to manpower planning; and (B) promote the coordination of all manpower plans in a State so as to eliminate conflict, duplication, and overlapping between manpower services.

(c) Funds available to each State under section 103(e) may be used for—

(1) the provision of services under this Act throughout the State by State agencies responsible for employment and training and related services;

(2) providing financial assistance for special programs and services designed to meet the needs of rural areas outside major labor market areas;

(3) developing and publishing information regarding economic, industrial, and labor market conditions, including but not limited to job opportunities and skill requirements, labor supply in various skills, occupational outlook and employment trends in various occupations, and economic and business development and location trends;

(4) providing, without reimbursement and upon request, to any prime sponsor serving an area within the State, such information and technical assistance as may be appropriate to assist any such prime sponsor in developing and implementing its programs under this Act; and

(5) carrying out special model training and employment programs and related services, including programs for offenders similar to programs described in section 301(c) of this Act.

(d) The State prime sponsor shall annually certify compliance with all the requirements for State prime sponsors.

STATE MANPOWER SERVICES COUNCIL

SEC. 107. (a) (1) Any State which desires to be designated as a prime sponsor and to enter into arrangements with the Secretary under this title shall establish a Manpower Services Council (hereinafter referred to as the "Council") which shall exercise the powers and duties set forth in this section.

(2) The Council established pursuant to paragraph (1) shall—

(A) be appointed by the Governor (who shall designate one member thereof to be Chairman), and shall be composed of—

(i) representatives of the units or combinations of units of general local government in such State, who shall comprise at least one-third of the membership of the Council, which have comprehensive manpower plans approved under section 108 (except that the intial appointments to the Council may consist of representatives of units or combinations of units of general local government described in clauses (2), (3), (4), and (5) of section 102(a) which have indicated an intention to submit a plan for approval under section 108), and such representatives shall be designated by the chief executive officers of the units or combinations of units of general local government which qualify for representation under this section in accordance with procedures agreed upon by such chief executive officers;

(ii) one representative each of the State board of vocational education and the public employment service of such State;

(iii) one representative of each such other State agency as the Governor may determine to have a direct interest in overall manpower training and utilization within the State;

(iv) representatives of organized labor;

(v) representatives of business and industry;

(vi) representatives of community-based organizations and of the client community to be served under this Act (including, where persons of limited English-speaking ability represent a substantial portion of the client population, appropriate representation of such persons); and

(vii) representatives of the general public.

(B) be appropriately staffed and serviced by the State prime sponsor;

(C) meet at such times and in such places as it deems necessary.

(b) The Council shall—

(1) review the plans of each prime sponsor and the plans of State agencies for the provision of services to such prime sponsors, and make recommendations to such prime sponsors and agencies for the more effective coordination of efforts to meet the overall manpower needs of the State;

(2) continuously monitor the operation of programs conducted by each prime sponsor, and the availability, responsiveness, and adequacy of State services, and make recommendations to the prime sponsors, to agencies providing manpower services, and to the Governor and the general public with respect to ways to improve the effectiveness of such programs or services in fulfilling the purposes of this Act;

(3) make an annual report to the Governor which shall be a public document, and issue such other studies, reports, or documents as it deems advisable to assist prime sponsors or to otherwise help carry out the purposes of this Act.

REVIEW OF PLANS

SEC. 108. (a) The Secretary shall not approve a comprehensive manpower plan or any amendment thereto until he determines that it meets the requirements of section 105, and in the case of a State plan section 106, and that the plan was submitted to, and an opportunity to comment thereon provided, the Governor of the State and appropriate officials in units of general local government of the area to be served.

(b) (1) The Secretary shall not finally disapprove any comprehensive manpower plan submitted under this title, or any modifications thereof, without first affording the prime sponsor submitting the plan reasonable notice and opportunity for a hearing.

(2) If the Secretary receives a formal allegation from an affected unit of general local government that a prime sponsor has changed its comprehensive manpower plan so that it no longer complies with section 105 or that in the administration of the plan there is a failure to comply substantially with any such provision, with any provision of the plan, or with any requirements of section 603 or 604, he shall, and, if he receives such an allegation from any other interested person, he may, or, if such allegation is supported by substantial evidence, he shall, after due notice and opportunity for a hearing to the prime sponsor, determine whether the allegation is true. If he determines such an allegation to be true, the Secretary shall notify the prime sponsor that no further payments will be made to the prime sponsor under the plan (or, in his discretion, that further payments will be limited to programs under or portions of the plan not affected by such failure), until he is satisfied that there will no longer be any failure to comply. Until he is so satisfied, the Secretary shall make no further payments to such sponsor under the plan (or shall limit payments to programs under the plan not affected by the failure).

(c) The Secretary shall not disapprove any plan solely because of the percentage of funds devoted to a particular program or activity authorized under section 101 of this Act.

(d) Whenever the Secretary determines, after notice and opportunity for a public hearing, that any prime sponsor designated to serve under this Act is—

(1) maintaining a pattern or practice of discrimination in violation of section 603 (1) or section 612(a) of this Act or otherwise failing to serve equitably the economically disadvantaged, unemployed, or underemployed persons in the area it serves;

(2) incurring unreasonable administrative costs in the conduct of activities and programs, as determined pursuant to regulation;

(3) failing to give due consideration to continued funding of programs of demonstrated effectiveness including those previously conducted under provisions of law repealed by section 614 of this Act; or

(4) otherwise materially failing to carry out the purposes and provisions of this Act; the Secretary shall revoke the prime spon-

sor's plan for the area, in whole or in part, and to the extent necessary and appropriate shall not make any further payments to such prime sponsor under this Act, and he shall notify such sponsor to return to him all or part of the unexpended sums paid under this Act during that fiscal year.

JUDICIAL REVIEW

Sec. 109. (a) If any prime sponsor is dissatisfied with the Secretary's final action with respect to the approval of its comprehensive manpower plan submitted under section 105 or section 106 or with his final action under section 108, such prime sponsor may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which the prime sponsor is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. Thereupon the Secretary shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(b) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(c) The court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

AUTHORITY OF SECRETARY TO PROVIDE SERVICES

Sec. 110. (a) In any area of a State which has not qualified as a prime sponsor and for which no other prime sponsor has qualified under paragraph (2), (3), (4), or (5) of section 102(a) or where the Secretary has taken an action under subsection (b)(2) or (d) of section 108 which results in such services not being provided in such area, the Secretary is authorized and directed out of funds allotted to such State or local area under section 103(a) to provide for continuing programs by making payments directly to public and private nonprofit agencies and organizations conducting activities which he determines are not in violation of the requirements of this section. To the extent necessary to assure the delivery of services in the areas served by any prime sponsor subject to the provisions of this section, the Secretary is authorized (if no other eligible prime sponsor is designated under section 102 of this Act to serve such area) to make grants to and enter into contracts with public and private nonprofit agencies and organizations in the same manner and to the same extent as if the Secretary were the prime sponsor for that area.

(b) The Secretary shall, prior to making any payments under this Act for any fiscal year, enter into an agreement with any prime sponsor receiving payments under this Act which contains provisions adequate to assure that the provisions of this section are carried out effectively.

ALLOWANCES

Sec. 111. (a) Basic weekly allowances for individuals receiving training or education under this title for which no wages are payable shall be at a rate prescribed by the Secretary which when added to amounts received by the trainee in the form of unemployment compensation payments shall equal the minimum wage for a work week of forty hours under section 6(a)(1) of the Fair Labor Standards Act of 1938 or, if higher, under the applicable State or local minimum wage law, and such basic allowances shall, in the case of an individual with dependents, be increased by $5 a week for each dependent over two up to a maximum of four additional dependents. The prime sponsor may waive the payment of all or part of the allowances when it determines, under regulations prescribed by the Secretary, that such waiver will promote the purposes of this Act. Trainees receiving public assistance or whose needs or income are taken into account in determining such public assistance payments to others, shall receive an incentive allowance of $30 per week. Such allowance shall be disregarded in determining the amount of public assistance payments under Federal or Federally assisted public assistance programs. In prescribing allowances, the prime sponsor shall in accordance with regulations prescribed by the Secretary, allow additional sums for special circumstances such as exceptional expenses incurred by trainees, including but not limited to meal and travel allowances, or he may reduce such allowances by an amount reflecting the fair value of meals, lodging, or other necessaries furnished to the trainee. The prime sponsor shall take such action as may be necessary to insure that such persons receive no allowances with respect to periods during which they are failing to participate in such programs, training, or instruction as prescribed herein without good cause. Notwithstanding the preceding provisions of this subsection, the prime sponsor shall, in accordance with such regulations as the Secretary shall prescribe, make such adjustments as he deems appropriate in allowances which would otherwise be payable under this title, including but not limited to adjustments which take into account the amount of time per week spent by the individual participating in such programs and adjustments to reflect the special economic circumstances which exist in the area in which the program is to be carried on. Allowances shall not be paid for any course of training having a duration in excess of one hundred and four weeks.

(b) Individuals receiving training on the job shall be compensated by the employer at such rates, including periodic increases, as may be deemed reasonable under regulations prescribed by the Secretary, considering such factors as industry, geographical region, and trainee proficiency, but in no event at a rate less than that specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 or, if higher, under the applicable State or local minimum wage law.

SUPPLEMENTAL VOCATIONAL EDUCATION ASSISTANCE

Sec. 112. (a) From the funds available to him for this section, the Secretary shall make grants to Governors to provide financial assistance, through State vocational education boards, to provide needed vocational education services in areas served by prime sponsors.

(b) All of the sums available to carry out this section shall be allotted among the States in the manner provided for allotting funds under section 103(a).

(c) Funds available under this section shall be used only for providing vocational education and services to participants in programs under this title in accordance with an agreement between the State vocational education board and the prime sponsor.

TITLE II—PUBLIC EMPLOYMENT PROGRAMS

STATEMENT OF PURPOSE

Sec. 201. It is the purpose of this title to provide unemployed and underemployed persons with transitional employment in jobs providing needed public services in areas of substantial unemployment and, wherever feasible, related training and manpower services to enable such persons to move into employment or training not supported under this title.

ALLOCATION OF FUNDS

Sec. 202. (a) Eighty per centum of funds available for any fiscal year under this title shall be allocated among eligible applicants in accordance with the number of unemployed residing in areas of substantial unemployment within the jurisdiction of the applicant compared to the number of unemployed residing in all such areas.

(b) The remainder may be distributed by the Secretary in his discretion taking into account the severity of unemployment within such areas.

FINANCIAL ASSISTANCE

Sec. 203. (a) The Secretary shall enter into arrangements with eligible applicants in accordance with the provisions of this title in order to make financial assistance available in areas of substantial unemployment for the purpose of providing transitional employment for unemployed and underemployed persons in jobs providing needed public services, and training and manpower services related to such employment which are otherwise unavailable, and enabling such persons to move into employment or training not supported under this title.

(b) Not less than 90 per centum of the funds appropriated pursuant to this title which are used by an eligible applicant for public service employment programs shall be expended only for wages and employment benefits to persons employed in public service jobs pursuant to this title.

ELIGIBLE APPLICANTS

Sec. 204. (a) Financial assistance under this title may be provided by the Secretary only pursuant to applications submitted by eligible applicants which are—

(1) prime sponsors qualified under title I; or

(2) Indian tribes on Federal or State reservations and which include areas of substantial unemployment.

(b) For fiscal year 1974, eligible applicants include any entity eligible to be a prime sponsor under section 102(a).

(c) For the purpose of this title "areas of substantial unemployment" means any area of sufficient size and scope to sustain a public service employment program and which has a rate of unemployment equal to or in excess of 6.5 per centum for three consecutive months as determined by the Secretary. Determinations concerning the rate of unemployment shall be made by the Secretary at least once each fiscal year.

(d)(1) Whenever an area of substantial unemployment within the jurisdiction of an eligible applicant is also within the jurisdiction of a unit of general local government or a combination of such units having a population of 50,000 or more (but less than that necessary to qualify as a prime sponsor under title I), the eligible applicant shall delegate to such unit or units of general local government the functions of program agent with respect to the funds allocated to such eligible applicant an account of such area of substantial unemployment.

(2) For purposes of this subsection the functions of program agent include the administrative responsibility for developing, funding, overseeing, and monitoring programs within the area but such functions shall be carried on consistently with the application for financial assistance which shall be developed by the eligible applicant in cooperation with the program agent.

(3) Whenever two or more units of general local government qualify as program agents with respect to the same area of substantial unemployment the provisions of section 102 (b)(2) shall be applicable.

(e) Whenever the Secretary makes any determination required by this section, he shall promptly notify the Congress and shall publish such determination in the Federal Register.

APPLICATIONS

SEC. 205(a). Financial assistance under this title may be provided by the Secretary for any fiscal year only pursuant to an application which is submitted by an eligible applicant and which is approved by the Secretary in accordance with the provisions of this title. Any such application shall set forth a public service employment program designed to provide employment, in jobs providing needed public services, for persons residing in areas of substantial unemployment who have been unemployed for at least thirty days and, where appropriate, training and manpower services related to such employment which are otherwise unavailable, and to enable such persons to move into employment or training not supported under this title.

(b) Programs assisted under this title shall, to the extent feasible, be designed with a view toward—

(1) developing new careers, or

(2) providing opportunities for career advancement, or

(3) providing opportunities for continued training, including on-the-job training, or

(4) providing transitional public service employment which will enable the individuals so employed to move into public or private employment or training not supported under this Act.

(c) An application for financial assistance for a public service employment program under this title shall include provisions setting forth—

(1) assurances that the activities and services for which assistance is sought under this title will be administered by or under the supervision of the applicant, identifying any agency or institution designated to carry out such activities or services under such supervision;

(2) a description of the area to be served by such programs, and a plan for effectively serving on an equitable basis the significant segments of the population to be served, including data indicating the number of potential eligible participants and their income and employment status;

(3) assurances that only persons residing within the areas of substantial unemployment qualifying for assistance will be hired to fill jobs created under this title, and that the public services provided by such jobs shall, to the extent feasible, be designed to benefit the residents of such areas;

(4) assurances that special consideration will be given to the filling of jobs which provide sufficient prospects for advancement or suitable continued employment by providing complementary training and manpower services designed to (A) promote the advancement of participants to employment or training opportunities suitable to the individuals involved, whether in the public or private sector of the economy, (B) provide participants with skills for which there is an anticipated high demand, or (C) provide participants with self-development skills, but nothing contained in this paragraph shall be construed to preclude persons or programs for whom the foregoing goals are not feasible or appropriate;

(5) assurances (A) that special consideration in filling transitional public service jobs will be given to unemployed persons who served in the Armed Forces in Indochina or Korea on or after August 5, 1964, in accordance with criteria established by the Secretary (and who have received other than dishonorable discharges), and a description of the specific steps to be undertaken during such fiscal year to provide such special consideration, and of the types of jobs to be made available to such veterans, with special emphasis on the development of jobs which will utilize, to the maximum extent feasible, the skills which such veterans acquired in connection with their military training and service, and (B) that the applicant shall (i) make special efforts to acquaint such veterans with the program and the public service jobs available to veterans under this Act, and (ii) coordinate efforts in behalf of such veterans with those activities authorized by chapter 41 of title 38, United States Code (relating to Job Counseling and Employment Services for Veterans), or carried out by other public or private organizations or agencies;

(6) assurances that, to the extent feasible, public service jobs shall be provided in occupational fields which are most likely to expand within the public or private sector as the unemployment rate recedes;

(7) assurances that special consideration in filling transitional public service jobs will be given to unemployed persons who are the most severely disadvantaged in terms of the length of time they have been unemployed and their prospects for finding employment without assistance under this title, but such special consideration shall not authorize the hiring of any person when any other person is on lay-off from the same or any substantially equivalent job;

(8) assurances that no funds received under this title will be used to hire any person to fill a job opening created by the action of an employer in laying off or terminating the employment of any regular employee not supported under this title in anticipation of filling the vacancy so created by hiring an employee to be supported under this title;

(9) assurances that due consideration be given to persons who have participated in manpower training programs for whom employment opportunities would not be otherwise immediately available;

(10) a description of the methods to be used to recruit, select, and orient participants, including specific eligibility criteria, and programs to prepare the participants for their job responsibilities;

(11) a description of unmet public service needs and a statement of priorities among such needs;

(12) a description of jobs to be filled, a listing of the major kinds of work to be performed and skills to be acquired and the approximate duration for which participants would be assigned to such jobs;

(13) the wages or salaries to be paid persons employed in public service jobs under this title and a comparison with the wages paid for similar public occupations by the same employer;

(14) where appropriate, the education, training, and supportive services (including counseling and health care services) which complement the work performed;

(15) the planning for and training of supervisory personnel in working with participants;

(16) a description of career opportunities and job advancement potentialities for participants;

(17) assurances that procedures established pursuant to section 207(a) will be complied with;

(18) assurances that agencies and institutions to whom financial assistance is made available under this title have undertaken, or will undertake, analyses of job descriptions and reevaluations and, where shown necessary, revisions of qualification requirements at all levels of employment, including civil service requirements and practices relating thereto, in accordance with regulations prescribed by the Secretary, with a view toward removing artificial barriers to public employment of those whom it is the purpose of this title to assist;

(19) assurances that the applicant will, where appropriate, maintain or provide linkages with upgrading and other manpower programs for the purpose of (A) providing those persons employed in public service jobs under this title who want to pursue work with the employer, in the same or similar work, with opportunities to do so and to find permanent, upwardly mobile careers in that field, and (B) providing those persons so employed, who do not wish to pursue permanent careers in such field, with opportunities to seek, prepare for, and obtain work in other fields;

(20) assurances that all persons employed under any such program, other than necessary technical, supervisory, and administrative personnel, will be selected from among unemployed and underemployed persons;

(21) assurances that the program will, to the maximum extent feasible, contribute to the elimination of artificial barriers to employment and occupational advancement, including civil service requirements which restrict employment opportunities for the disadvantaged;

(22) assurances that not more than one-third of the participants in the program will be employed in a bona fide professional capacity (as such term is used in section 13(a)(1) of the Fair Labor Standards Act of 1938), except that this paragraph shall not be applicable in the case of participants employed as classroom teachers, and the Secretary may waive this limitation in exceptional circumstances;

(23) a description of the manpower needs of local governments and of local educational agencies within the area to be served together with the comments of such governments and agencies where appropriate, and assurances that jobs will be allocated equitably to such governments and agencies taking into account the number of unemployed within their jurisdictions and the needs of the agencies;

(24) assurances that the jobs in each job category in no way infringe upon the promotional opportunities which would otherwise be available to persons currently employed in public service jobs not subsidized under this title, and assurances that no job will be filled in other than an entry level position in each job category until applicable personnel procedures and collective bargaining agreements have been complied with;

(25) assurances that jobs funded under this title are in addition to those that would be funded by the sponsor in the absence of assistance under this Act; and

(26) such other assurances, arrangements, and conditions, consistent with the provisions of this title, as the Secretary deems necessary, in accordance with such regulations as he shall prescribe.

APPROVAL OF APPLICATIONS

SEC. 206. An application, or modification or amendment thereof, for financial assistance under this title may be approved only if the Secretary determines that—

(1) the application meets the requirements set forth in this title;

(2) an opportunity has been provided to officials of the appropriate units of general local government to submit comments with respect to the application to the applicant and to the Secretary;

(3) an opportunity has been provided to the Governor of the State to submit comments with respect to the application to the applicant and to the Secretary; and

(4) where a labor organization represents employees who are engaged in similar work in the same area to that proposed in the application, an opportunity has been provided such organization to submit comments with respect to the application to the applicant and to the Secretary.

SPECIAL RESPONSIBILITIES OF THE SECRETARY

SEC. 207. (a) The Secretary shall establish procedures for periodic reviews by an appropriate agency of the status of each person employed in a public service job under this title to assure that in the event that any person employed in a public service job under this title and the reviewing agency find that such job will not provide sufficient prospects for advancement or suitable continued employment, maximum efforts shall be made to locate employment or training opportunities providing such prospects, and such person shall be offered appropriate assistance in securing placement in the opportunity which he chooses after appropriate counseling.

(b) The Secretary shall review the implementation of the procedures established under subsection (a) of this section six months after funds are first obligated under this title and at six-month intervals thereafter.

(c) Where the Secretary determines that an Indian tribe on a Federal or State reservation is unable to submit an application to carry out a public service employment program which meets the requirements of section 205, the Secretary shall assist such tribe in preparing, submitting, and implementing a public service employment program. The provisions of section 208 shall apply to programs carried out under this subsection.

SPECIAL CONDITIONS

SEC. 208. (a) The Secretary shall not provide financial assistance for any program or activity under this title unless he determines, in accordance with such regulations as he shall prescribe, that—

(1) the program (A) will result in an increase in employment opportunities over those opportunities which would otherwise be available, (B) will not result in the displacement of currently employed workers (including partial displacement such as a reduction in the hours of non-overtime work or wages or employment benefits), (C) will not impair existing contracts for services or result in the substitution of Federal for other funds in connection with work that would otherwise be performed, and (D) will not substitute public service jobs for existing federally assisted jobs;

(2) persons employed in public service jobs under this Act shall be paid wages which shall not be lower than whichever is the highest of (A) the minimum wage which would be applicable to the employee under the Fair Labor Standards Act of 1938, if section 6(a)(1) of such title applied to the participant and if he were not exempt under section 13 thereof, (B) the State or local minimum wage for the most nearly comparable covered employment, or (C) the prevailing rates of pay for persons employed in similar public occupations by the same employer;

(3) funds under this title will not be used to pay persons employed in public service jobs under this title at a rate in excess of $10,000 per year;

(4) all persons employed in public service jobs under this title will be assured of workmen's compensation, health insurance, unemployment insurance, and other benefits at the same levels and to the same extent as other employees of the employer and to working conditions and promotional opportunities neither more nor less favorable than such other employees enjoy;

(5) the provisions of section 2(a)(3) of Public Law 89-286 (relating to health and safety conditions) shall apply to such program or activity;

(6) the program will, to the maximum extent feasible, contribute to the occupational development or upward mobility of individual participants;

(7) no funds under this title will be used for the acquisition of, or for the rental or leasing of supplies, equipment, materials, or real property; and

(8) every participant shall be advised, prior to entering upon employment, of his rights and benefits in connection with such employment.

(b) Consistent with the provisions of this title, the Secretary shall make financial assistance under this title available in such a manner that, to the extent practicable, public service employment opportunities will be available on an equitable basis in accordance with the purposes of this title among significant segments of the population of unemployed persons, giving consideration to the relative numbers of unemployed persons in each such segment.

(c) Where a labor organization represents employees who are engaged in similar work in the same area to that proposed to be performed under any program for which an application is being developed for submission under this title, such organization shall be notified and afforded a reasonable period of time prior to the submission of the application in which to make comments to the applicant and to the Secretary.

(d) The Secretary shall prescribe regulations to assure that programs under this title have adequate internal administrative controls, accounting requirements, personnel standards, evaluation procedures, and other policies as may be necessary to promote the effective use of funds.

(e) The Secretary shall not provide financial assistance for any program under this title unless he determines, in accordance with regulations which he shall prescribe, that periodic reports will be submitted to him containing data designed to enable the Secretary and the Congress to measure the relative and, where programs can be compared appropriately, comparative effectiveness of the programs authorized under this title and other federally supported manpower programs. Such data shall include information on—

(1) characteristics of participants including age, sex, race, health, education level, and previous wage and employment experience;

(2) duration in employment situations, including information on the duration of employment of program participants for at least a year following the termination of participation in federally assisted programs and comparable information on other employees or trainers of participating employers; and

(3) total dollar cost per participant, including breakdown between wages, training, and supportive services, all fringe benefits, and administrative costs.

The Secretary shall compile such information on a State, regional, and national basis, and shall include such information in the report required by section 209 of this title.

(f) The Secretary shall not provide financial assistance for any program under this title unless the grant, contract, or agreement with respect thereto specifically provides that no person with responsibilities in the operation of such program will discriminate with respect to any program participant or any applicant for participation in such program because of race, creed, color, national origin, sex, political affiliation, or beliefs.

(g) The Secretary shall not provide financial assistance for any program under this title which involves political activities; and neither the program, the funds provided therefor, nor personnel employed in the administration thereof, shall be, in any way or to any extent, engaged in the conduct of political activities in contravention of chapter 15 of title 5, United States Code.

(h) The Secretary shall not provide financial assistance for any program under this title unless he determines that participants in the program will not be employed on the construction, operation, or maintenance of so much of any facility as is used or to be used for sectarian instruction or as a place for religious worship.

SPECIAL REPORT

SEC. 209. The Secretary shall transmit to the Congress at least annually a detailed report setting forth the activities conducted under this title, including information derived from evaluations required by this title and information on the extent to which (1) participants in such activities subsequently secure and retain public or private employment or participate in training or employability development programs, (2) segments of the population of unemployed persons are provided public service opportunities in accordance with the purposes of this title.

UTILIZATION OF FUNDS

SEC. 210. Funds available under this title to an eligible applicant may, at its option, be utilized for residents of the areas of substantial unemployment designated under this title for programs authorized under title I and part A of title III of this Act.

SPECIAL PROVISION

SEC. 211. The determinations to be made under section 204(c) shall take into account the rate of unemployment for a period of three consecutive months even though all or part of such period may have occurred prior to the enactment of this Act.

TITLE III—SPECIAL FEDERAL RESPONSIBILITIES

PART A—SPECIAL TARGET GROUPS

SPECIAL MANPOWER TARGET GROUPS

SEC. 301. (a) The Secretary shall use funds available under this title to provide additional manpower services as authorized under titles I and II to segments of the population that are in particular need of such services, including youth, offenders, persons of limited English-speaking ability, older workers, and other persons which the Secretary determines have particular disadvantages in the labor market. The Secretary shall take into account the need for continued funding of programs of demonstrated effectiveness.

(b) With respect to programs for persons of limited English-speaking ability under this Act, the Secretary shall establish appropriate procedures to ensure that participants are provided with manpower training and related assistance and supportive services (where feasible, at times designed to meet the needs of individuals unable to attend during normal working hours) designed to increase the employment and training opportunities for unemployed and underemployed persons of limited English-speaking ability, including (A) the teaching of occupational skills in the primary language of such persons for occupations which do not require a high proficiency in English, and (B) developing new employment opportunities for limited English-speaking persons and opportunities for promotion within existing employment situations for such persons, including programs for the dissemination of appropriate information, and job placement, and counseling assistance, and the conduct of training and employment programs, in the primary language of such persons, as well as programs designed to increase the English-speaking ability of such persons.

(c) With respect to programs for offenders referred to in subsection (a), the Secretary shall establish appropriate procedures to insure that participants are provided with such manpower training and related assistance and support services (including basic education, drug addiction or dependency rehabilitation, health care and other services) which will enable them to secure and obtain meaningful employment. To ensure the objectives of this subsection, the Secretary may, wherever feasible, provide for appropriate arrangements with employers and labor organizations, appropriate parole, probationary and judicial authorities, and for the utilization of training equipment comparable to that currently used for the job in which training is furnished. To support such programs, the Secretary shall develop information concerning the special needs of offenders for such services, including special studies regarding the incidence of unemployment among offenders and the means of increasing employment opportunities for offenders.

(d) The Secretary shall carry out fully and effectively his responsibilities for the assignment of assistant veterans employment representatives under section 2003 of title 38, United States Code, and his other responsibilities under chapter 41 of such title and for the listing of all suitable employment openings with local offices of the State employment service by Federal contractors and subcontractors and providing for the special emphasis as required by section 2012(a) of such title.

INDIAN MANPOWER PROGRAMS

SEC. 302. (a) The Congress finds that (1) serious unemployment and economic disadvantage exist among members of Indian and Alaskan native communities; (2) there is a compelling need for the establishment of comprehensive manpower training and employment programs for members of those communities; (3) such programs are essential to the reduction of economic disadvantage among individual members of those communities and to the advancement of economic and social development in those communities consistent with their goals and life styles.

(b) The Congress therefore declares that, because of the special relationship between the Federal Government and most of those to be served by the provisions of this section, (1) such programs can best be administered at the national level; (2) such programs shall be available to federally recognized Indian tribes, bands, and individuals and to other groups and individuals of native American descent such as, but not limited to, the Lummis in Washington, the Menominees in Wisconsin, the Klamaths in Oregon, the Oklahoma Indians, the Passamaquoddys and Penobscots in Maine, and Eskimos and Aleuts in Alaska; (3) such programs shall be administered in such a manner as to maximize the Federal commitment to support growth and development as determined by representatives of the communities and groups served by this part.

(c) (1) In carrying out his responsibilities under this section, the Secretary shall, wherever possible, utilize Indian tribes, bands or groups (including Alaska Native villages or groups as defined in the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688)) having a governing body, for the provision of manpower services under this title. When the Secretary determines that such tribe, band, or group has demonstrated the capability to effectively administer a comprehensive manpower program, he shall require such tribe, band, or group to submit to him a comprehensive plan meeting the requirements of section 105.

(2) In carrying out his responsibilities under this section the Secretary shall make arrangements with prime sponsors and organizations (meeting requirements prescribed by the Secretary) serving nonreservation Indians for programs and projects designed to meet the needs of such Indians for employment and training and related services.

(d) Whenever the Secretary determines not to utilize Indian tribes, bands, or groups for the provisions of manpower services under this section, he shall, to the maximum extent feasible, enter into arrangements for the provision of such services with public or private nonprofit agencies which meet with the approval of the tribes, bands, or groups to be served.

(e) The Secretary is directed to take appropriate action to establish administrative procedures and machinery (including personnel having particular competence in this field) for the administration of Indian manpower programs authorized under this Act.

(f) Funds available for this section shall be expended for programs and activities consistent with the purposes of this part, including but not limited to such programs and activities carried out by eligible applicants under other provisions of this Act.

(g) For the purpose of carrying out this section, the Secretary shall reserve from funds available for this title an amount equal to not less than 4 percent of the amount allocated pursuant to section 103(a)(1).

(h) No provision of this section shall abrogate in any way the trust responsibilities of the Federal Government to Indian bands or tribes.

MIGRANT AND SEASONAL FARMWORKER MANPOWER PROGRAMS

SEC. 303. (a) The Congress finds and declares that—

(1) chronic seasonal unemployment and underemployment in the agricultural industry, substantially affected by recent advances in technology and mechanization, constitute a substantial portion of the Nation's rural manpower problem and substantially affects the entire national economy;

(2) because of the special nature of certain farmworker manpower problems such programs can best be administered at the national level.

(b) (1) Funds available for this section shall be expended for programs and activities consistent with the purposes of this section, including but not limited to programs and activities carried out by eligible applicants under other provisions of this Act.

(2) For the purpose of carrying out this section, the Secretary shall reserve from funds available for this title an amount equal to not less than 5 percent of the amount allocated pursuant to section 103 (a)(1).

YOUTH PROGRAMS AND OTHER SPECIAL PROGRAMS

SEC. 304. (a) The Secretary may provide financial assistance in urban and rural areas, including areas having large concentrations or proportions of low-income, unemployed persons, and rural areas having substantial outmigration to urban areas, for comprehensive work and training programs, and necessary supportive and follow-up services, including the following:

(1) programs to provide part-time employment, on-the-job training, and useful work experience for students from low-income families who are in the ninth through twelfth grades of school (or are of an age equivalent to that of students in such grades) and who are in need of the earnings to permit them to resume or maintain attendance in school;

(2) programs to provide unemployed, underemployed, or low-income persons (aged sixteen and over) with useful work and training (which must include sufficient basic education and institutional or on-the-job training) designed to assist those persons to develop their maximum occupational potential and to obtain regular competitive employment;

(3) jobs, including those in recreation and related programs, for economically disadvantaged youths during the summer months;

(4) special programs which involve work activities directed to the needs of those chronically unemployed poor who have poor employment prospects and are unable, because of age, lack of employment opportunity, or otherwise, to secure appropriate employment or training assistance under other programs, and which, in addition to other services provided, will enable such persons to participate in projects for the betterment, physical improvement, or beautification of the community or areas served by the program;

(5) special programs which provide unemployed or low-income persons with jobs leading to career opportunities, including new types of careers, in programs designed to improve the physical, social, economic, or cultural condition of the community or area served;

(6) special services, when required, for middle-aged and older men and women, including recruitment, placement, and counseling for such persons who are unemployed as a result of the closing of a plant or factory or a permanent large-scale reduction in the work force of a locality, and provide grants to or contracts with prime sponsors to assist such sponsors in securing part-time or temporary employment for middle-aged and older persons; and

(7) other manpower programs conducted by community-based organizations.

(b) To the maximum extent feasible, programs or components of programs conducted under this section shall be linked to comprehensive work and training programs conducted by prime sponsors under title I of this Act, but the Secretary may provide financial assistance to a public agency or private organization other than a prime sponsor to carry out one or more component programs described in subsection (a) when he determines, after soliciting and considering comments of the appropriate prime sponsor, if any, that such assistance would enhance program effectiveness. In the case of programs under subsection (a)(1) of this section, financial assistance may be provided directly to local or State education agencies, after consultation with the Secretary of Health, Education, and Welfare, for the operation of such programs.

CONSULTATION WITH SECRETARY OF HEALTH, EDUCATION, AND WELFARE

SEC. 306. The Secretary of Labor shall consult with the Secretary of Health, Education, and Welfare, with respect to arrangements for services of a health, education, or welfare character under this Act, and the Secretary of Health, Education, and Welfare shall solicit the advice and comments of State educational agencies with respect to education services. Such services include but are not limited to basic or general education; educational programs conducted for offenders; institutional training; health care, child care, and other supportive services; and new careers and job restructuring in the health, education, and welfare professions. When the Secretary of Labor arranges for the provision of basic education and vocational training directly pursuant to the provisions of this title, he shall obtain the approval of the Secretary of Health, Education, and Welfare for such arrangements.

PART B—RESEARCH, TRAINING, AND EVALUATION

SEC. 311. (a) To assist the Nation in expanding work opportunities and assuring access to those opportunities for all who desire it, the Secretary shall establish a comprehensive program of manpower research utilizing the methods, techniques, and knowledge of the behavioral and social sciences and such other methods, techniques, and knowledge as will aid in the solution of the Nation's manpower problems. This program will include, but not be limited to, studies, the findings of which may contribute to the formulation of manpower policy; development or improvement of manpower programs; increased knowledge about labor market processes; reduction of unemployment and its relationships to price stability; promotion of more effective manpower development, training, and utilization; improved national, regional, and local means of measuring future labor demand and supply; enhancement of job opportunities; skill training to qualify employees for positions of greater skill, responsibility, and remuneration; meeting of manpower shortages; easing of the transition from school to work, from one job to another, and from work to retirement, opportunities and services for older persons who desire to enter or reenter the labor force, and for improvements of opportunities for employment and advancement through the reduction of discrimination and disadvantage arising from poverty, ignorance, or prejudice.

(b) The Secretary shall establish a program of experimental, developmental, demonstration, and pilot projects, through grants to or contracts with public or private nonprofit organizations, or through contracts with other private organizations, for the purpose of improving techniques and demonstrating the effectiveness of specialized methods in meeting the manpower, employment, and training problems, however, nothing in this subsection shall authorize the Secretary to carry out employment programs experimenting with subsidized wages in the private sector or with wages less than those established by the Fair Labor Standards Act of 1938, as amended, for employment subject to that Act. In carrying out this subsection with respect to programs designed to provide employment and training opportunities for low-income programs under this section require insti- people, the Secretary shall consult with such other agencies as may be appropriate. Where tutional training, appropriate arrangements for such training shall be agreed to by the Secretary of Labor and the Secretary of Health, Education, and Welfare.

(c) The Secretary is authorized to conduct, either directly or by way of contract, grant, or other arrangement, a thorough evaluation of all programs and activities conducted pursuant to this Act to determine the effectiveness of such programs and activities in meeting the special needs of disadvantaged chronically unemployed, and low-income persons for meaningful employment opportunities and supportive services to continue or resume their education and employment and to become more responsible and productive citizens.

(d) The Secretary shall conduct such research and investigations as give promise of furthering the objectives of this Act either directly or through grants, contracts, or other arrangements.

LABOR MARKET STATISTICS AND JOB BANK

SEC. 312. (a) The Secretary shall develop a comprehensive system of labor market information on a national, State, local, or other appropriate basis, which shall be made publicly available in a timely fashion.

(b) In addition to the monthly national unemployment statistics, the Secretary shall develop reliable methods, including the use of selected sample surveys, to produce more statistically accurate data on unemployment, underemployment and labor demand by State, local, and poverty areas.

(c) The Secretary shall develop preliminary data for an annual statistical measure of labor market related economic hardship in the nation. Among the factors to be considered in developing such a measure are unemployment, labor force participation, involuntary part-time employment, and full-time employment at less than poverty wages.

(d) The Secretary shall develop methods to establish and maintain more comprehensive household budget data at different levels of living, including a level of adequacy to reflect the differences of household living costs in regions and localities, both urban and rural.

(e) The Secretary shall set aside, out of sums available to the department for any fiscal year including sums available under section 4(c) of this Act, an amount which he determines is necessary and appropriate to enable him to carry out the provisions of this section, and shall no later than sixty days after such sums are appropriated and made available notify the appropriate committees of the Congress of the amount so set aside and the basis for his determination of need and appropriateness.

(f) The Secretary shall report to the Senate Committee on Labor and Public Welfare and to the House Committee on Education and Labor the results of his efforts under subsections (a), (b), and (c) of this section by December 31, 1974.

(g) The Secretary shall establish and carry out a nationwide computerized job bank and matching program (utilizing the listing of all suitable employment openings with local offices of the State employment service by Federal contractors and subcontractors and providing for the special emphasis as required by section 2012(a) of title 38, United States Code) on a regional, State, and local basis, using electronic data processing and telecommunications systems to the maximum extent possible for the purpose of identifying sources of available persons and job vacancies, providing an expeditious means of matching the qualifications of unemployed, underemployed, and economically disadvantaged persons with employer requirements and job opportunities, and referring and placing such persons in jobs.

EVALUATION

SEC. 313. (a) The Secretary shall provide for the continuing evaluation of all programs and activities conducted pursuant to this Act, including their cost in relation to their effectiveness in achieving stated goals, their impact on communities and participants, their implication for related programs, the extent to which they meet the needs of persons of various ages, and the adequacy of the mechanism for the delivery of services. In conducting the evaluations called for by this subsection, the Secretary shall compare the effectiveness of programs conducted by prime sponsors of the same class, of different classes, and shall compare the effectiveness of programs conducted by prime sponsors with similar programs carried out by the Secretary under section 110, or under title III. He shall also arrange for obtaining the opinions of participants about the strengths and weaknesses of the programs.

(b) In order to enable the Secretary to measure the relative and, where programs can be compared appropriately, comparative effectiveness of programs authorized under this Act and part C of title IV of the Social Security Act, he shall require that periodic reports be submitted to him. Reports submitted under this subsection shall contain data which shall include information on—

(1) enrollee characteristics, including age, sex, race, health, education level, and previous wage and employment experience;

(2) duration in training and employment situations, including information on the duration of employment of program participants for at least a year following the termination of federally assisted programs and comparable information on other employees or trainees of participating employers; and

(3) total dollar cost per trainee, including breakdown between salary or stipend, training and supportive services, and administrative costs.

From the information received pursuant to this section, the Secretary shall compile the information on a State, regional, and national basis.

(c) The Secretary is authorized to carry out a special program to demonstrate the efficacy of providing certificates or vouchers to economically disadvantaged, unemployed, and underemployed persons entitling private employers who provide employment, training, and services to each person volunteering to participate in such program to payment in amounts equal to the face value of the certificate for specified periods of time during which each such person may not be fully productive.

REMOVAL OF ARTIFICIAL BARRIERS TO EMPLOYMENT AND ADVANCEMENT

SEC. 314. The Secretary, in consultation with appropriate departments and agencies of the Federal Government, shall conduct a continuing study of the extent to which artificial barriers to employment and occupation advancement, including civil service requirements and practices relating thereto, within agencies conducting programs under this Act, restrict the opportunities for employment and advancement within such agencies and shall develop and promulgate guidelines, based upon such study, setting forth recommendations for task and skill requirements for specific jobs and recommended job descriptions at all levels of employment, designed to encourage career employment and occupational advancement within such agencies.

TRAINING AND TECHNICAL ASSISTANCE

SEC. 315. The Secretary of Labor, in consultation with the Secretary of Health, Education, and Welfare, and other appropriate officials, where appropriate, shall provide directly or through grants, contracts, or other arrangements, preservice and inservice training for specialized, supportive, and supervisory or other personnel and technical assistance which is needed in connection with the programs established under this Act.

TITLE IV—JOB CORPS

STATEMENT OF PURPOSE

SEC. 401. This title establishes a Job Corps for low-income disadvantaged young men and women, sets forth standards and procedures for selecting individuals as enrollees in the Job Corps, authorizes the establishment of residential and nonresidential centers in which enrollees will participate in intensive programs of education, vocational training work experience, counseling and other activities, and prescribes various other powers, duties, and responsibilities incident to the operation and continuing development of the Job Corps. The purpose of this title is to assist young persons who need and can benefit from an unusually intensive program, operated in a group setting, to become more responsive, employable, and productive citizens; and to do so in a way that contributes, where feasible, to the development of National, State, and community resources, and to the development and dissemination of techniques for working with the disadvantaged that can be widely utilized by public and private institutions and agencies.

ESTABLISHMENT OF THE JOB CORPS

SEC. 402. There is established within the Department of Labor a "Job Corps".

INDIVIDUALS ELIGIBLE FOR THE JOB CORPS

SEC. 403. To become an enrollee in the Job Corps, a young man or woman must be a person who—

(1) is a permanent resident of the United States who has attained age fourteen but not attained age twenty-two at the time of enrollment;

(2) is a low-income individual or member of a low-income family who requires additional education, training, or intensive counseling and related assistance in order to serve and hold meaningful employment, participate successfully in regular schoolwork, qualify for other training programs suitable to his needs, or satisfy Armed Forces requirements;

(3) is currently living in an environment so characterized by cultural deprivation, a disruptive homelife, or other disorienting conditions as to substantially impair his prospects for successful participation in any other program providing needed training, education, or assistance;

(4) is determined, after careful screening as provided for in sections 404 and 405, to have the present capabilities and aspirations needed to complete and secure the full benefit of the program authorized in this title, and to be free of medical and behavioral problems so serious that he could not or would not be able to adjust to the standards of conduct and discipline or pattern of work and training which that program involves; and

(5) meets such other standards for enrollment as the Secretary may prescribe (including special standards for the enrollment on a residential basis of 14 and 15 year olds) and agrees to comply with all applicable Job Corps rules and regulations.

SCREENING AND SELECTION OF APPLICANTS—GENERAL PROVISIONS

SEC. 404. (a) The Secretary shall prescribe necessary rules for the screening and selection of applicants for enrollment in the Job Corps. To the extent practicable, rules established under this section shall be implemented through arrangements which make use of agencies and organizations such as community action agencies, public employment offices, professional groups, and labor organizations. The rules shall establish specific standards and procedures for conducting screening and selection activities; shall encourage recruitment through agencies and individuals having contact with youths over substantial periods of time and able, accordingly, to offer reliable information as to their needs and problems; and shall provide for necessary consultation with other individuals and organizations, including court, probation, parole, law enforcement, education, welfare, and medical authorities and advisers. The rules shall also provide for—

(1) the interviewing of each applicant for the purpose of—

(A) determining whether his educational and vocational needs can best be met through the Job Corps or any alternative program in his home community;

(B) obtaining from the applicant pertinent data relating to his background, needs, and interests for evaluation in determining his eligibility and potential assignment; and

(C) giving the applicant a full understanding of the Job Corps program and making clear what will be expected of him as an enrollee in the event of his acceptance; and

(2) the conduct of a careful and systematic inquiry concerning the applicant's background for the effective development and, as appropriate, clarification of information concerning his age, citizenship, school and draft status, health, employability, past behavior, family income, environment, and other matters related to a determination of his eligibility.

(b) The Secretary shall make no payments to any individual or organization solely as compensation for the service of referring the names of candidates for enrollment in the Job Corps.

(c) The Secretary shall take all necessary steps to assure that the enrollment of the Job Corps includes an appropriate number of candidates selected from rural areas, taking into account the proportion of eligible youth who reside in rural areas and the need to provide residential facilities for such youth in order to meet problems of wide geographic dispersion.

SCREENING AND SELECTION—SPECIAL LIMITATIONS

SEC. 405. (a) No individual shall be selected as an enrollee unless it is determined that there is reasonable expectation that he can participate successfully in group situations and activities with other enrollees, that he is not likely to engage in actions or behavior that would prevent other enrollees from receiving the benefit of the program or be incompatible with the maintenance of sound discipline and satisfactory relationships between any center to which he might be assigned and surrounding communities, and that he manifests a basic understanding of both the rules to which he will be subject and of the consequences of failure to observe those rules. Before selecting an individual who has a history of serious and violent behavior against persons or property, repetitive delinquent acts, narcotics addiction, or other major behavioral aberrations, the Secretary of Labor shall obtain a finding from a professionally qualified person who knows such potential enrollee's individual situation that there is reasonable expectation that his conduct will not be inimical to the goals and success of the Job Corps and that the opportunity provided by the Job Corps will help him to overcome his problem.

(b) An individual who otherwise qualifies for enrollment may be selected even though he is on probation or parole, but only if his release from the immediate supervision of the cognizant probation or parole officials is mutually satisfactory to those officials and the Secretary, does not violate applicable laws or regulations, and if the Secretary has arranged to provide all supervision of the individual and all reports to State or other authorities that may be necessary to comply with applicable probation or parole requirements.

ENROLLMENT AND ASSIGNMENT

SEC. 406. (a) No individual may be enrolled in the Job Corps for more than two years, except as the Secretary may authorize in special cases.

(b) Enrollment in the Job Corps shall not relieve any individual of obligations under the Military Selective Service Act (50 U.S.C. App. 451 et seq.).

(c) Each enrollee (other than a native and citizen of Cuba described in section 609(3) of the Economic Opportunity Act of 1964 or a permanent resident of the Trust Territory of the Pacific Islands) must take and subscribe to an oath or affirmation in the following form: "I do solemnly swear (or affirm) that I bear true faith and allegiance to the United States of America and will support and defend the Constitution and laws of the United States against all its enemies foreign and domestic." The provisions of section 1001 of title 18, United States Code, shall be applicable to this oath or affirmation.

(d) After the Secretary has determined whether an enrollee is to be assigned to a men's training center, a conservation center, or a women's training center, the enrollee shall be assigned to the center of the appropriate type in which a vacancy exists which is closest to the enrollee's home, except that the Secretary, on an individual basis, may waive this requirement when overriding considerations justify such action. Assignments to centers in areas more remote from the enrollee's home shall be carefully limited to situations in which such action is necessary in order to insure an equitable opportunity for disadvantaged youth from various sections of the country to participate in the program, to prevent undue delays in the assignment of individual enrollees, to provide an assignment which inadequately meets the educational or other needs of the enrollee or is necessary for efficiency and economy in the operation of the program.

(e) Assignments of male enrollees shall be made so that, at any one time, at least 40 per centum of those enrollees are assigned to conservation centers as described in section 407, or to other centers or projects where their work activity is primarily directed to the conservation, development, or management of public natural resources or recreational areas and is performed under the direction of personnel of agencies regularly responsible for the functions relating to such resources or areas.

JOB CORPS CENTERS

SEC. 407. (a) The Secretary may make agreements with Federal, State, or local agencies, or private organizations for the establishment and operation of Job Corps centers. Job Corps centers may be residential or nonresidential in character, or both, and shall be designed and operated so as to provide enrollees, in a well-supervised setting, with education, vocational training, work experience (either in direct program activities or through arrangements with employers), counseling, and other services appropriate to their needs. The centers shall include conservation centers, to be known as Civilian Conservation Centers, to be located primarily in rural areas and to provide, in addition to other training and assistance, programs of work experience focused upon activities to conserve, develop, or manage public natural resources or public recreational areas or to assist in developing community projects in the public interest. The centers shall also include men's and women's training centers to be located in either urban or rural areas and to provide activities which shall include training and other services appropriate for enrollees who can be expected to participate successfully in training for specific types of skilled or semiskilled employment.

(b) To the extent feasible, men's and women's training centers shall offer education and vocational training opportunities, together with supportive services, on a nonresidential basis to participants in programs described in title I of this Act. Such opportunities may be offered on a reimbursable basis or through such other arrangements as the Secretary may specify.

PROGRAM ACTIVITIES

SEC. 408. (a) Each Job Corps center shall be operated so as to provide enrollees with an intensive, well-organized and fully supervised program of education, vocational training, work experience, planned avocational and recreational activities, physical rehabilitation and development, and counseling. To the fullest extent feasible, the required program for each enrollee shall include activities designed to assist him in choosing realistic career goals, coping with problems he may encounter in his home community or in adjusting to a new community and planning and managing his daily affairs in a manner that will best contribute to a long-term upward mobility. Center programs shall include required participation in center maintenance support and related work activity as appropriate to assist enrollees in increasing their sense of contribution, responsibility and discipline.

(b) To the extent practicable, the Secretary may arrange for enrollee education and vocational training through local public or private educational agencies, vocational educational institutions, or technical institutes where such institutions or institutes can provide training comparable in cost and substantially equivalent in quality to that which he could provide through other means.

(c) Arrangements for education shall, to the extent feasible, provide opportunities for qualified enrollees to obtain the equivalent of a certificate of graduation from high school. The Secretary, with the concurrence of the Secretary of Health, Education, and Welfare, shall develop certificates to be issued to enrollees who have satisfactorily completed their services in the Job Corps and which will reflect the enrollee's level of educational attainment.

(d) The Secretary shall prescribe regulations to assure that Job Corps work-experience programs or activities do not displace presently employed workers or impair existing contracts for service and will be coordinated with other work-experience programs in the community.

ALLOWANCES AND SUPPORT

SEC. 409. (a) The Secretary may provide enrollees with such personal, travel and leave allowances and such quarters, subsistence, transportation, equipment, clothing, recreational services, and other expenses as he may deem necessary or appropriate to their needs. Personal allowances shall be established at a rate not to exceed $35 per month during the first six months of an enrollee's participation in the program and not to exceed $50 per month thereafter, except that allowances in excess of $35 per month, but not exceeding $50 per month, may be provided from the beginning of an enrollee's participation if it is expected to be of less than six months' duration and the Secretary is authorized to pay personal allowances in excess of the rates specified herein in unusual circumstances as determined by him. Such allowances shall be graduated up to the maximum so as to encourage continued participation in the program, achievement and the best use by the enrollee of the funds so provided and shall be subject to reduction in appropriate cases as a disciplinary measure. To the degree reasonable, enrollees shall be required to meet or contribute to costs associated with their individual comfort and enjoyment from their personal allowances.

(b) The Secretary shall prescribe specific rules governing the accrual of leave by enrollees. Except in the case of emergency, he shall in no event assume transportation costs connected with leave of any enrollee who has not completed at least six months' service in the Job Corps.

(c) The Secretary may provide each former enrollee upon termination, a readjustment allowance at a rate not to exceed $50 for each month of satisfactory participation in the Job Corps. No enrollee shall be entitled to a readjustment allowance, however, unless he has remained in the program at least ninety days, except in unusual circumstances as determined by the Secretary. The Secretary may, from time to time, advance to or on behalf of an enrollee such portions of his readjustment allowance as the Secretary deems necessary to meet extraordinary financial obligations incurred by that enrollee; and he may also, pursuant to rules or regulations, reduce the amount of an enrollee's readjustment allowance as a penalty for misconduct during participation in the Job Corps. In the event of an enrollee's death during his period of service, the amount of any unpaid readjustment allowance shall be paid in accordance with the provisions of section 5582 of title 5, United States Code.

(d) Under such circumstances as the Secretary may determine, a portion of the readjustment allowance of an enrollee not exceeding $25 for each month of satisfactory service may be paid during the period of service of the enrollee directly to a spouse or child of an enrollee or to any other relative who draws substantial support from the enrollee, and any sum so paid shall be supplemented by the payment of an equal amount by the Secretary.

STANDARDS OF CONDUCT

SEC. 410. (a) Within Job Corps centers, standards of conduct and deportment shall be provided and stringently enforced. In the case of violations committed by enrollees, dismissals from the Corps or transfers to other locations shall be made in every instance where it is determined that retention in the Corps, or in the particular Job Corps center, will jeopardize the enforcement of such standards of conduct and deportment or diminish the opportunity of other enrollees.

(b) In order to promote the proper moral and disciplinary conditions in the Job Corps, the individual directors of Job Corps centers shall be given full authority to take appropriate disciplinary measures against enrollees including, but not limited to, dismissal from the Job Corps, subject to expeditious appeal procedures to higher authority, as provided under regulation established by the Secretary.

COMMUNITY PARTICIPATION

SEC. 411. The Secretary shall encourage and shall cooperate in activities designed to establish a mutually beneficial relationship between Job Corps centers and surrounding or nearby communities. These activities shall include the establishment of community advisory councils to provide a mechanism for joint discussion of common problems and for planning programs of mutual interest. Whenever possible, such advisory councils shall be formed by and coordinated under the local community action agency. Youth participation in advisory council affairs shall be encouraged and where feasible separate youth councils may be established, to be composed of representative enrollees and representative young people from the communities. The Secretary shall establish necessary rules and take necessary action to assure that each center is operated in a manner consistent with this section with a view to achieving, so far as possible, objectives which shall include—

(1) giving community officials appropriate advance notice of changes in center rules, procedures, or activities that may affect or be of interest to the community;

(2) affording the community a meaningful voice in center affairs of direct concern to it, including policies governing the issuance and terms of passes to enrollees;

(3) providing center officials with full and rapid access to relevant community groups and agencies, including law enforcement agencies and agencies which work with young people in the community;

(4) encouraging the fullest practicable participation of enrollees in programs or projects for community improvement or betterment, with adequate advance consultation with business, labor, professional, and other interested community groups and organizations;

(5) arranging recreational, athletic, or similar events in which enrollees and local residents may participate together;

(6) providing community residents with opportunities to work with enrollees directly, as part-time instructors, tutors, or advisers, either in the center or in the community;

(7) developing, where feasible, job or career opportunities for enrollees in the community; and

(8) promoting interchanges of information and techniques among, and cooperative projects involving, the center and community schools, educational institutions, and agencies serving young people.

COUNSELING AND JOB PLACEMENT

SEC. 412. (a) The Secretary shall provide for the counseling and testing of each enrollee at regular intervals to follow his progress in educational and vocational programs.

(b) The Secretary shall counsel and test each enrollee prior to his scheduled termination to determine his capabilities and shall place him in a job in the vocation for which he is trained and in which he is likely to succeed, or shall assist him in attaining further training or education. In placing enrollees in jobs, the Secretary shall utilize the United States Employment Service to the fullest extent possible.

(c) The Secretary of Labor shall make arrangements to determine the status and progress of terminees and to assure that their need for further education, training, and counseling are met.

(d) Upon termination of an enrollee's training, a copy of his pertinent records, including data derived from his counseling and testing, other than confidential information, shall be made available immediately to the Department of Labor and the Office of Economic Opportunity.

(e) The Secretary shall, to the extent feasible in accordance with section 637(b) of the Economic Opportunity Act of 1964, arrange for the readjustment allowance provided for in section 409(c) of this Act, less any sums already paid pursuant to subsection (d) of that section, to be paid to former enrollees (who have not already found employment) at the public employment service office nearest the home of any such former enrollee if he is returning to his home, or at the nearest such office to the community in which the former enrollee has indicated an intent to reside. The Secretary shall make arrangements by which public employment service officers will maintain records regarding former enrollees who are thus paid at such offices including information as to—

(1) the number of former enrollees who have declined the offices' help in finding a job;

(2) the number who were successfully placed in jobs without further education or training;

(3) the number who were found to require further training before being placed in jobs and the types of training programs in which they participated; and

(4) the number who were found to require further remedial or basic education in order to qualify for training programs, together with information as to the types of programs for which such former enrollees were found unqualified for enrollment.

If the Secretary deems it advisable to utilize the services of any other public or private organization or agency in lieu of the public employment office, he shall arrange for that organization or agency to make the payment of the readjustment allowance and maintain the same types of records regarding former enrollees as are herein specified for maintenance by public employment service offices, and shall furnish copies of such records to the Secretary. In the case of enrollees who are placed in jobs by the Secretary prior to the termination of their participation in the Job Corps, the Secretary shall maintain records providing pertinent placement and follow-up information.

EVALUATION: EXPERIMENTAL AND DEVELOPMENTAL PROJECTS

SEC. 413. (a) The Secretary shall provide for the careful and systematic evaluation of the Job Corps program, directly or by contracting for independent evaluations, with a view to measuring specific benefits, so far as practicable, and providing information needed to assess the effectiveness of program procedures, policies, and methods of operation. In particular, this evaluation shall seek to determine the costs and benefits resulting from the use of residential as opposed to nonresidential facilities, from the use of facilities combining residential and nonresidential components, from the use of centers with large as opposed to small enrollments, and from the use of different types of program sponsors, including public agencies, institutions of higher education, boards of education, and private corporations. The evaluation shall also include comparisons with proper control groups composed of persons who have not participated in the program. In carrying out such evaluations, the Secretary shall arrange for obtaining the opinions of participants about the strengths and weaknesses of the program and shall consult with other agencies and officials in order to compare the relative effectiveness of Job Corps techniques with those used in other programs, and shall endeavor to secure, through employers, schools, or other Government and private agencies specific information concerning the residence of former enrollees, their employment status, compensation, and success in adjusting to community life. The Secretary shall also secure, to the extent feasible, similar information directly from enrollees at appropriate intervals following their completion of the Job Corps program. The results of such evaluation shall be published and shall be summarized in the annual report of the Secretary.

(b) The Secretary may undertake or make grants or contracts for experimental, research, or demonstration projects directed to developing or testing ways of securing the better use of facilities, of encouraging a more rapid adjustment of enrollees to community life that will permit a reduction in the period of their enrollment, of reducing transportation and support costs, or of otherwise promoting greater efficiency and effectiveness in the program authorized under this part. These projects shall include one or more projects providing youths with education, training, and other supportive services on a combined residential and nonresidential basis. The Secretary may, if he deems it advisable, undertake one or more pilot projects designed to involve youth who have a history of serious and violent behavior against persons or property, repetitive delinquent acts, narcotics addiction, or other behavorial aberrations. Projects under this subsection shall be developed after appropriate consultation with other Federal or State agencies conducting similar or related programs or projects and with the prime sponsors, in the communities where the projects will be carried out. They may be undertaken jointly with other Federal or federally assisted programs, and funds otherwise available for activities under those programs shall, with the consent of the head of any agency concerned, be available to projects under this section to the extent they include the same or substantially similar activities. The Secretary may waive any provision of this title which he finds would prevent the carrying out of elements of projects under this subsection essential to a determination of their feasibility and usefulness. He shall, in the annual report of the Secretary, report to the Congress concerning the actions taken under this section, including a full description of progress made in connection with combined residential and nonresidential projects.

(c) In order to determine whether upgraded vocational education schools could eliminate or substantially reduce the school dropout problem, and to demonstrate how communities could make maximum utilization of existing educational and training facilities, the Secretary in cooperation with the Commissioner of Education, shall enter into one or more agreements with State educational agencies to pay the cost of establishing and operating model community vocational education schools and skill centers. Such facilities shall be centrally located in an urban area having a high dropout rate, a large number of unemployed youths, and a need in the area for a combination vocational school and skill center. No such agreement shall be entered into unless it contains provisions designed to assure that—

(1) a job survey be made of the area;

(2) the training program of the school and skill center reflect the job market needs as projected by the survey;

(3) an advisory committee composed of representatives of business, labor, education, and community leaders be formed to follow the center's activities and to make periodic recommendations regarding its operation;

(4) arrangements have been worked out with schools in the area and the administrator of the skill center for maximum utilization of the center both during and after school hours; and

(5) such accounting and evaluation procedures as the Secretary and the Commissioner of Education deem necessary to carry out the purpose of this project will be provided.

ADVISORY BOARDS AND COMMITTEES

SEC. 414. The Secretary shall make use of advisory committees or boards in connection with the operation of the Job Corps, and the operation of Job Corps centers, whenever he determines that the availability of outside advice and counsel on a regular basis would be of substantial benefit in identifying and overcoming problems, in planning program or center development, or in strengthening relationships between the Job Corps and agencies, institutions, or groups engaged in related activities. Nothing in this section shall be considered as limiting the functions of the National Advisory Council, established pursuant to section 605 of Economic Opportunity Act of 1964, with respect to any matter or question involving the Job Corps; but this shall not prevent the establishment through or in cooperation with the National Advisory Council of one or more boards or committees under this section.

PARTICIPATION OF THE STATES

SEC. 415. (a) The Secretary shall take necessary action to facilitate the effective participation of States in the Job Corps program, including, but not limited to, consultation with appropriate State agencies on matters pertaining to the enforcement of applicable State laws, standards of enrollee conduct and discipline, the development of meaningful work experience and other activities for enrollees, and coordination with State-operated programs.

(b) The Secretary may enter into agreements with States to assist in the operation or administration of State-operated programs which carry out the purpose of this part. The Secretary may, pursuant to regulations, pay part or all of the operative or administrative costs of such programs.

(c) No Job Corps center or other similar facility designed to carry out the purpose of this Act shall be established within a State unless a plan setting forth such proposed establishment has been submitted to the Governor, and such plan has not been disapproved by him within 30 days of such submission.

APPLICATION OF PROVISIONS OF FEDERAL LAW

SEC. 416. (a) Except as otherwise specifically provided in the following paragraphs of this subsection, and in section 8143(a) of title 5, United States Code, enrollees in the Job Corps shall not be considered Federal employees and shall not be subject to the provisions of law relating to Federal employment including those regarding hours of work, rates of compensation, leave unemployment compensation, and Federal employee benefits:

(1) For purposes of the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.) and title II of the Social Security Act (42 U.S.C. 401 et seq.), enrollees shall be deemed employees of the United States and any service performed by an individual as an enrollee shall be deemed to be performed in the employ of the United States.

(2) For purposes of subchapter I of chapter 81 of title 5 of the United States Code (relating to compensation to Federal employees for work injuries), enrollees shall be deemed civil employees of the United States within the meaning of the term "employee" as defined in section 8101 of title 5, United States Code, and the provisions of that subchapter shall apply except as follows:

(A) The term "performance of duty" shall not include any act of an enrollee while absent from his or her assigned post of duty, except while participating an activity (including an activity while on pass or during travel to or from such post of duty) authorized by or under the direction and supervision of the Job Corps;

(B) In computing compensation benefits for disability or death, the monthly pay of an enrollee shall be deemed that received under the entrance salary for a grade GS–2 employee, and section 8113 (a) and (b) of title 5, United States Code, shall apply to enrollees; and

(C) Compensation for disability shall not begin to accrue until the day following the date on which the injured enrollee is terminated.

(3) For purposes of the Federal tort claims provisions in title 28. United States Code, enrollees shall be considered employees of the Government.

(b) Whenever the Secretary finds a claim for damage to persons or property resulting from the operation of the Job Corps to be a proper charge against the United States, and it is not cognizable under section 2672 of title 28, United States Code, he may adjust and settle it in an amount not exceeding $500.

(c) Personnel of the uniformed services who are detailed or assigned to duty in the performance of agreements made by the Secretary for the support of the Corps shall not be counted in computing strength under any law limiting the strength of such services or in computing the percentage authorized by law for any grade therein.

SPECIAL LIMITATIONS

SEC. 417. (a) The Secretary shall not use any funds made available to carry out this part for the fiscal year ending June 30, 1968, in a manner that will increase the residential capacity of Job Corps centers above forty-five thousand enrollees.

(b) The Secretary shall take necessary action to assure that on or before June 30, 1968, of the total number of Job Corps enrollees receiving training at least 25 per centum shall be women. The Secretary shall immediately take steps to achieve an enrollment ratio of 50 per centum women enrollees in training in the Job Corps consistent with (1) efficiency and economy in the operation of the program, (2) sound administrative practice, and (3) the socioeconomic, educational, and training needs of the population to be served.

(c) The Secretary shall take necessary action to assure that for any fiscal year the direct operating costs of Job Corps centers which have been in operation for more than nine months do not exceed $6,900 per enrollee.

(d) The Secretary shall take necessary action to assure that all studies, evaluations, proposals, and data produced or developed with Federal funds in the course of the operation of any conservation or training center shall become the property of the United States.

POLITICAL DISCRIMINATION AND POLITICAL ACTIVITY

SEC. 418 (a) No officer or employee of the executive branch of the Federal Government shall make any inquiry concerning the political affiliation or beliefs of any enrollee or applicant for enrollment in the Corps. All disclosures concerning such matters shall be ignored, except as to such membership in political parties or organizations as constitutes by law a disqualification for Government employment. No discrimination shall be exercised, threatened, or promised by any person in the executive branch of the Federal Government against or in favor of any enrollee in the Corps, or any applicant for enrollment in the Corps because of his political affiliation or beliefs, except as may be specifically authorized or required by law.

(b) No officer, employee, or enrollee of the Corps shall take any active part in political management or in political campaigns, except as may be provided by or pursuant to statute, and no such officer, employee, or enrollee shall use his official position or influence for the purpose of interfering with an election or affecting the result thereof. All such persons shall retain the right to vote as they may choose and to express, in their private capacities, their opinions on all political subjects and candidates. Any officer, employee, enrollee, or other Federal employee who solicits funds for political purposes from members of the Corps shall be in violation of section 602 of title 18, United States Code.

(c) Wherever the United States Civil Service Commission finds that any person has violated the provisions of this section, it shall, after giving due notice and opportunity for explanation to the officer or employee or enrollee concerned, certify the facts to the Secretary with specific instructions as to discipline or dismissal or other corrective actions.

ADMINISTRATIVE PROVISIONS

SEC. 419. (a) In carrying out the provisions of this title, the Secretary shall have the same powers as the Director of the Office of Economic Opportunity under section 602 of the Economic Opportunity Act of 1964.

(b) The provisions of section 604 of this act shall apply to this title only to the extent that such provisions are consistent with the provisions of this title.

TITLE V—NATIONAL COMMISSION FOR MANPOWER POLICY

FINDING AND DECLARATION OF PURPOSE

SEC. 501. (a) The Congress finds and declares that the responsibility for the development, administration, and coordination of programs of training and manpower development generally is so diffused and fragmented at all levels of government that it has been impossible to develop national priorities in these fields, with the result that even good programs have proved to be far less effective than could reasonably be expected. The Congress further finds that the lack of a coherent, flexible, national manpower policy reduces our prospects of solving economic and social problems which threaten fundamental national interests and objectives.

(b) Accordingly, the purpose of this title is to establish a National Commission for Manpower Policy which will have the responsibility for examining these issues, for suggesting ways and means of dealing with them, and for advising the Secretary on national manpower issues.

COMMISSION ESTABLISHED

SEC. 502. (a) There is established a National Commission for Manpower Policy (hereinafter referred to as the "Commission") which shall consist of seventeen members selected as follows—

(1) the Secretary of Labor, the Secretary of Health, Education, and Welfare, the Secretary of Defense, the Secretary of Commerce, the Secretary of Agriculture, and the Administrator of the Veterans' Affairs; and

(2) eleven members broadly representative of labor, industry, commerce, education (including vocational and technical education), State and local elected officials involved with manpower programs, persons served by manpower programs and of the general public appointed by the President.

(b) The Commission shall meet at the call of the Chairman, who shall be selected by the President and who shall be one of the ten appointed public members, but not fewer than three times a year.

(c) The Chairman (with the concurrence of the Commission) shall appoint a Director, who shall be the chief executive officer of the Commission and shall perform such duties as are prescribed by the Chairman. The Director may appoint, with the concurrence of the Chairman and the Secretary of Labor, such clerical staff as are necessary. The Commission may utilize such staff from the Department of Labor, the Department of Health, Education, and Welfare, and such other Federal agencies as may be available to assist the Commission in carrying out its responsibilities.

(d) The Commission may accept in the name of the Department of Labor and employ or dispose of gifts or bequests, to carry out its repsonsibilities under this title.

(e) Members of the Commission who are not officers or employees of the Federal Government shall be paid compensation at a rate of up to the per diem equivalent of the rate for GS–18 when engaged in the work of the Commission, including traveltime, and shall be allowed travel expenses and per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently and receiving compensation on a per diem, when actually employed, basis.

FUNCTIONS OF THE COMMISSION

SEC. 503. The Commission shall—

(1) identify the manpower goals and needs of the Nation and assess the extent to which employment and training, vocational education, institutional training, vocational rehabilitation, economic opportunity, and other programs under this and related Acts represent a consistent, integrated, and coordinated approach to meeting such needs and achieving such goals;

(2) conduct such studies, hearings, research, or other activities as it deems necessary to enable it to formulate appropriate recommendations;

(3) examine and evaluate the effectiveness of any federally assisted manpower development programs (including those assisted under this Act), with particular reference to the contributions of such programs to the achievement of objectives sought by the recommendations under clause (2) of this section;

(4) examine and evaluate major Federal programs which are intended to (or potentially could) contribute to achieving major objectives of existing manpower and related legislation or those set forth in the recommendations of the Commission and particularly the programs which are designed (or could be designed) to develop information and knowledge about manpower problems through research and demonstration projects or to train personnel in fields (such as occupational counseling, guidance, and placement) which are vital to the success of manpower programs; and

(5) evaluate and make recommendations to the Congress with respect to the report of the Secretary required under section 506, and continue to make studies of the impact of energy shortages upon manpower needs and include these findings and recommendations with respect thereto in the reports required by section 505.

COORDINATION STUDY

SEC. 504. The Commission shall conduct a study of the utilization and interrelation of programs of manpower training with closely associated programs such as those conducted under the Wagner-Peyser Act, the work incentives program under part C of title IV of the Social Security Act, and others of similar nature, with a view to determining how they could be better coordinated and more effectively combined to serve individuals, particularly at the State and local levels, and shall make a report of their findings and recommendations to the President and the Congress not later than January 31, 1975.

REPORTS

SEC. 505. The Commission shall make at least annually a report of its findings and recommendations to the President and the Congress, and the first such report shall be transmitted not later than September 1, 1974. The Commission may make such interim reports or recommendations to the Secretary of Labor or to the heads of other Federal departments and agencies, and in such form, as it may deem desirable.

ENERGY STUDY

SEC. 506. The Secretary shall, immediately upon enactment of this Act, make a study of the impact of energy shortages, including fuel rationing, upon manpower needs. The Secretary shall make a report of his findings and recommendations thereon to the Congress and to the Commission not later than March 31, 1974.

TITLE VI—GENERAL PROVISIONS

DEFINITIONS

SEC. 601. (a) As used in this Act, the term—

(1) "Community-based organizations" means organizations which are representative of communities or significant segments of the communities and which provide manpower services (for example, Opportunities Industrialization Centers, Jobs for Progress, Mainstream, and Community Action Agencies).

(2) "Governor" means the chief executive and State.

(3) "Health care" includes, but is not limited to, preventive and clinical medical treatment, family planning services, nutrition services, and appropriate psychiatric, psychological, and prosthetic services, to the extent any such treatment or services are necessary to enable the recipient of manpower services to obtain or retain employment.

(4) "Low-income level" means $7,000 with respect to income in 1969, and for any later year means that amount which bears the same relationship to $7,000 as the Consumer Price Index for that year bears to the Consumer Price Index for 1969, rounded to the nearest $1,000.

(5) "Manpower allotment" means sums received by a State or area under title I of this Act for any fiscal year (or, where applicable, under title II of the Manpower Development and Training Act of 1962, and part B of title I of the Economic Opportunity Act of 1964).

(6) "Offender" means any adult or juvenile who is confined in any type of correctional institution and also includes any individual or juvenile assigned to a community based facility or subject to pretrial, probationary, or parole or other stages of the judicial correctional or probationary process where manpower training and services may be beneficial, as determined by the Secretary, after consultation with judicial, correctional, probationary, or other appropriate authorities.

(7) "Public service" includes, but is not limited to, work in such fields as environmental quality, health care, education, public safety, crime prevention and control, prison rehabilitation, transportation, recreation, maintenance of parks, streets, and other public facilities, solid waste removal, pollution control, housing and neighborhood improvements, rural development, conservation, beautification, veterans outreach, and other fields of human betterment and community improvement.

(8) "Secretary" means the Secretary of Labor.

(9) "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(10) "Unit of general local government" means any city, municipality, county, town, township, parish, village or other general purpose political subdivision which has the power to levy taxes and spend funds, as well as general corporate and police powers.

(11) "Underemployed persons" means—

(A) persons who are working part-time but seeking full-time work;

(B) persons who are working full-time but receiving wages below the poverty level determined in accordance with criteria as established by the Director of the Office of Management and Budget.

(12) "Unemployed persons" means—

(A) persons who are without jobs and who want and are available for work; and

(B) except for purposes of sections 103 and 202, adults who or whose families receive supplemental security income or money payments pursuant to a State plan approved under title I, IV, X, or XVI of the Social Security Act or would, as defined in regulations to be issued by the Secretary, be eligible for such payments but for the fact that both parents are present in the home (1) who are determined by the Secretary of Labor, in consultation with the Secretary of Health, Education, and Welfare, to be available for work, and (2) who are either (i) persons without jobs, or (ii) persons working in jobs providing insufficient income to enable such persons and their families to be self-supporting without welfare assistance;

and the determination of whether persons are without jobs shall be made in accordance with the criteria used by the Bureau of Labor Statistics of the Department of Labor in defining persons as unemployed, but such criteria shall not be applied differently on account of a person's previous employment.

(13) "Wagner-Peyser Act" means "An Act to provide for the establishment of a national employment system and for cooperation with the States in the promotion of such system, and for other purposes", approved June 6, 1933 (48 Stat. 113), as amended (29 U.S.C. 49 et seq.).

(b) As used in section 208(c) of this Act, the term "area" means—

(1) where the applicant is an eligible unit of government or an Indian tribe, that geographical area over which the applicant exercises general political jurisdiction, or

(2) where the applicant is a public agency or institution which is a subdivision of any eligible unit of government, that geographical area over which such unit of government exercises general political jurisdiction.

LEGAL AUTHORITY

SEC. 602. (a) The Secretary may, in accordance with chapter 5 of title 5, United States Code, prescribe such rules, regulations, guidelines, and other published interpretations under this Act as he deems necessary. Rules, regulations, guidelines and other published interpretations or orders may include adjustments authorized by section 204 of the Intergovernmental Cooperation Act of 1968. For purposes of chapter 5 of such title any condition or guideline for receipt of financial assistance shall be deemed a rule to which section 553 applies. All such rules, regulations, guidelines, and other published interpretations or orders under this Act shall be published in the Federal Register at least thirty days prior to their effective date. Copies of all such rules, regulations, guidelines, and other published interpretations or orders shall be transmitted to the appropriate committees of the Congress at the same time and shall contain with respect to each material provision of such rules, regulations, guidelines, and other published interpretations or orders, citations to the particular substantive section of law which is the basis therefor.

(b) The Secretary may make such grants, contracts, or agreements, establish such procedures (subject to such policies, rules, and regulations as he may prescribe), and make such payments, in installments and in advance or by way of reimbursement, or otherwise allocate or expend funds made available under this Act, as he may deem necessary to carry out the provisions of this Act, including (without regard to the provisions of section 4774(d) of title 10, United States Code) expenditures for construction, repairs, and capital improvements, and including necessary adjustments in payments on account of overpayments or underpayments. The Secretary may also withhold funds otherwise payable under this Act, but only in order to recover any amounts expended in the current or immediately prior fiscal year in violation of any provisions of this Act or any term or condition of assistance under this Act.

CONDITIONS APPLICABLE TO ALL PROGRAMS

SEC. 603. The Secretary shall not provide financial assistance for any program under this Act unless—

(1) the grant, contract, or agreement with respect thereto specifically provides that no person with responsibilities in the operation of such program will discriminate with respect to any program participant or any applicant for participation in such program because of race, creed, color, national origin, sex, political affiliation, or beliefs:

(2) such program does not involve political activities;

(3) participants in the program will not be employed on the construction, operation, or maintenance of so much of any facility as is used or to be used for sectarian instruction or as a place for religious worship;

(4) conditions of employment or training will be appropriate and reasonable in the light of such factors as the type of work, geographical region, and proficiency of the participant;

(5) appropriate standards for the health, safety, and other conditions applicable to the performance of work and training on any project are established and will be maintained;

(6) appropriate workmen's compensation protection will be provided to all participants;

(7) the program will not result in the displacement of employed workers or impair existing contracts for services or result in the substitution of Federal for other funds in connection with work that would otherwise be performed;

(8) persons shall not be referred for training in an occupation which requires less than two weeks of preemployment training unless there are immediate employment opportunities available in that occupation;

(9) training and related services under any such program are designed, to the maximum extent practicable, consistent with every individual's fullest capabilities, to lead to employment opportunities enabling participants to become economically self-sufficient;

(10) no person shall be referred for training authorized under paragraph (3) or (4) of section 101 unless the Secretary or the prime sponsor, as appropriate, shall have determined that there is a reasonable expectation of employment for such person in the occupation for which he is being trained;

(11) funds will be used to supplement, to the extent practicable, the level of funds that would otherwise be made available from non-Federal sources for the purpose of planning and administration of programs within the scope of this Act and not to supplant such other funds;

(12) the applicant will make such reports, in such form and containing such information as the Secretary may from time to time require, and will keep such records and afford such access thereto as the Secretary may find necessary to assure that funds are being expended in accordance with the provisions of this Act;

(13) the program will, to the maximum extent feasible, contribute to the occupational development or upward mobility of individual participants;

(14) the program has adequate internal administrative controls, accounting requirements, personnel standards, evaluation procedures, availability of inservice training and technical assistance programs, and other policies as may be necessary to promote the effective use of funds; and

(15) the program makes appropriate provision for the manpower needs of youths in the area to be served.

SPECIAL LIMITATION

SEC. 604. (a) No authority conferred by this Act shall be used to enter into arrangements for, or otherwise establish, any training programs in the lower wage industries in jobs where prior skill or training is typically not a prerequisite to hiring and where labor turnover is high, or to assist in relocating establishments from one area to another. Such limitations on relocation shall not prohibit assistance to a business entity in the establishment of a new branch, affiliate, or subsidiary of such entity if the Secretary of Labor finds that assistance will not result in an increase in unemployment in the area of original location or in any other area where such entity conducts business operations, unless he has reason to believe that such branch, affiliate, or subsidiary is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where it conducts such operations.

(b) Acceptance of family planning services provided to trainees shall be voluntary on the part of the individual to whom such services are offered and shall not be a prerequisite to eligibility for or receipt of any benefit under the program.

(c) No non-governmental individual, institution, or organization shall evaluate any program under this Act if that individual or such institution or organization is associated with that program as a consultant, technical adviser, or in any similar capacity.

REPORTS

SEC. 605. (a) The Secretary shall make such reports and recommendations to the President as he deems appropriate pertaining to employment and occupational requirements, resources, use, and training, and his recommendations for the succeeding fiscal year, and the President shall transmit to the Congress within sixty days after the beginning of each regular session a report pertaining to manpower requirements, resources, utilization, and training.

(b) The Secretary and the Secretary of Health, Education, and Welfare shall report to the Congress on the extent to which community colleges, area vocational and technical schools and other vocational educational agencies and institutions, and vocational rehabilitation agencies are being utilized to carry out training programs supported in whole or in part from provisions of this and related Acts, the extent to which administrative steps have been taken and are being taken to encourage the use of such facilities and institutions and agencies in the carrying out of the provisions of this Act and any further legislation that may be required to assure effective coordination and utilization of such facilities and agencies to the end that all federally supported employment and training, vocational education, and vocational rehabilitation programs can more effectively accomplish their objectives of providing employment and training opportunities to all persons needing occupational training.

(c) The Secretary shall transmit to the Congress at the earliest appropriate date, but not later than March 1, of each calendar year a report setting forth a description of summer programs providing jobs for economically disadvantaged youth to begin in June of such year, including the number of opportunities in public and private agencies or organizations that will be provided under section 304(a)(3) of this Act or in the case of the summer of 1974 under section 3(c), and a statement as to the total number of such persons who would be eligible for such programs, together with his recommendations, if any, for supplemental appropriations for such programs.

(d) The Secretary, through the Bureau of Labor Statistics, shall annually compile and maintain information on the incidents of unemployment among offenders and shall publish the results of the information obtained pursuant to this subsection in the report required under subsection (a) of this section.

(e) The Chairman of the United States Civil Service Commission, in consultation with the Secretary, shall report to the President and to the Congress no later than six months after the effective date of this Act on the extent to which and manner in which employment opportunities for offenders may be increased in the Federal service, with special reference to the criteria used in determining the suitability of offenders for Federal employment, including such recommendations for additional legislation as they deem advisable.

(f) Each prime sponsor shall prepare for the Secretary, and make available, to the public, a report on its activities under the Act, including a detailed comparison of program performance with approved plan.

LABOR STANDARDS

SEC. 606. All laborers and mechanics employed by contractors or subcontractors in any construction, alternation, or repair, including painting and decorating of projects, buildings, and works which are federally assisted under this Act, shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5). The Secretary shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 1, 1934, as amended (48 Stat. 948, as amended; 40 U.S.C. 276(c)).

ACCEPTANCE OF GIFTS

SEC. 607. The Secretary is authorized, in carrying out his functions and responsibilities under this Act, to accept in the name of the Department, and employ or dispose of in furtherance of the purposes of this Act, or any title thereof, an unconditional gift of any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise; and to accept voluntary and uncompensated services, notwithstanding the provisions of section 3679(b) of the Revised Statutes of the United States.

UTILIZATION OF SERVICES AND FACILITIES

SEC. 608. (a) In addition to such other authority as he may have, the Secretary is authorized, in the performance of his functions under this Act, and to the extent permitted by law, to utilize the services and facilities of departments, agencies, and establishments of the United States. The Secretary is also authorized to accept and utilize the services and facilities of the agencies of any State or political subdivision of a State, with their consent.

(b) The Secretary shall carry out his responsibilities under this Act through the utilization, to the extent appropriate, of all resources for skill development available in industry, labor, public and private educational and training institutions, vocational, rehabilitation agencies, and other State, Federal, and local agencies, and other appropriate public and private organizations and facilities, with their consent.

INTERSTATE AGREEMENTS

SEC. 609. In the event that compliance with provisions of this Act would be enhanced by cooperative agreements between States, the consent of Congress is hereby given to such States to enter into such compacts and agreements to facilitate such compliance, subject to the approval of the Secretary.

PROHIBITION AGAINST POLITICAL ACTIVITIES

SEC. 610. The Secretary shall not provide financial assistance for any program under this Act which involves political activities; and neither the program, the funds provided therefor, nor personnel employed in the administration thereof, shall be, in any way or to any extent engaged in the conduct of political activities in contravention of chapter 15 of title 5, United States Code.

CRIMINAL PROVISIONS

SEC. 611. (a) Chapter 31 of title 18, United States Code, is amended by adding a new section 665 to read as follows:

"THEFT OR EMBEZZLEMENT FROM MANPOWER FUNDS; IMPROPER INDUCEMENT

"SEC. 665. (a) Whoever, being an officer director, agent, or employee of, or connected in any capacity with, any agency receiving financial assistance under the Comprehensive Employment and Training Act of 1973 embezzles, willfully misapplies, steals, or obtains by fraud any of the moneys, funds, assets, or property which are the subject of a grant or contract of assistance pursuant to this Act shall be fined not more than $10,000 or imprisoned for not more than two years, or both; but if the amount so embezzled, misapplied, stolen, or obtained by fraud does not exceed $100, he shall be fined not more than $1,000 or imprisoned not more than one year, or both.

"(b) Whoever, by threat of procuring dismissal of any person from employment or of refusal to employ or refusal to renew a contract of employment in connection with a grant or contract of assistance under the Comprehensive Employment and Training Act of 1973, induces any person to give up any money or thing of any value to any person (including such grantee agency) shall be fined not more than $1,000, or imprisoned not more than one year, or both."

(b) The analysis of chapter 31 is amended by adding at the end thereof the following new item:

"665. Theft or embezzlement from manpower funds; improper inducement."

NONDISCRIMINATION

SEC. 612. (a) No person in the United States shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this Act.

(b) Whenever the Secretary determines that a prime sponsor or eligible applicant has failed to comply with subsection (a) or an applicable regulation, he shall notify the prime sponsor or eligible applicant of the noncompliance and shall request the prime sponsor or eligible applicant to secure compliance. If within a reasonable period of time, not to exceed sixty days, the prime sponsor or eligible applicant fails or refuses to secure compliance, the Secretary, in addition to exercising the powers and functions provided for the termination of financial assistance under this Act, is authorized (1) to refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted: (2) to exercise the powers and functions provided by title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d); or (3) to take such other action as may be provided by law.

(c) When a matter is referred to the Attorney General pursuant to subsection (b), or whenever he has reason to believe that a prime sponsor or eligible applicant is engaged in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.

(d) The Secretary shall enforce the provisions of subsection (a) dealing with discrimination on the basis of sex in accordance with section 602 of the Civil Rights Act of 1964. Section 603 of such Act shall apply with respect to any action taken by the Secretary to enforce such provisions of such subsection. This section shall not be construed as affecting any other legal remedy that a person may have if that person is excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with any program or activity receiving assistance under this act.

RECORDS, AUDITS, AND REPORTS

SEC. 613. In order to assure that funds provided under this Act are used in accordance with its provisions, each recipient shall—

(1) use such fiscal, audit, and accounting procedures as may be necessary to assure (A) proper accounting for payments received by it, and (B) proper disbursement of such payments;

(2) provide to the Secretary and the Comptroller General of the United States access to, and the right to examine, any books, documents, papers, or records as he requires; and

(3) make such reports to the Secretary or the Comptroller General of the United States as he requires.

REPEALER

SEC. 614. Effective with respect to fiscal years after June 30, 1974, the Manpower Development and Training Act of 1962 and parts A, B, and E of title I of the Economic Opportunity Act of 1964 are repealed. Unexpended appropriations for carrying out such Acts may be made available to carry out this Act, as directed by the President.

EFFECTIVE DATE

SEC. 615. This Act shall take effect on the date of its enactement.

And the Senate agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill, and agree to the same.

CARL D. PERKINS,
DOMINICK V. DANIELS,
JOHN H. DENT,
JAMES G. O'HARA,
LLOYD MEEDS,
PHILLIP BURTON,
JOSEPH M. GAYDOS,
ELLA P. GRASSO,
HERMAN BADILLO,
ALBERT H. QUIE,
MARVIN L. ESCH,
WILLIAM A. STEIGER,
PETER A. PEYSER,
RONALD A. SARASIN,
EDWIN B. FORSYTHE,
Managers on the Part of the House.

GAYLORD NELSON,
JENNINGS RANDOLPH,
EDWARD M. KENNEDY,
WALTER F. MONDALE,
ALAN CRANSTON,
HAROLD E. HUGHES,
WILLIAM D. HATHAWAY,
PETER H. DOMINICK,
JACOB K. JAVITS,
RICHARD S. SCHWEIKER,
BOB TAFT,
J. GLENN BEALL,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to amendments of the House to the bill (S. 1559), to assure opportunities for employment and training to unemployed and underemployed persons, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The amendment of the Senate struck out all of the House amendment to the text of the Senate, and inserted a new text. This joint statement explains the action recommended by the committee of conference, except for minor or technical matters.

Transitional provisions

The Senate amendment authorizes the Secretary to provide financial assistance under the terms of existing law until July 1, 1974. This authority shall not be used to postpone the designation of prime sponsors and the Secretary is required to continue to provide financial assistance to national programs of demonstrated effectiveness. The House amendment has no comparable provisions. The conference compromise authorizes the Secretary to provide financial assistance under the terms of existing law repealed by this act until July 1, 1974, and makes special provisions for continuation of the summer youth job program for the summer of 1974.

The conferees are concerned with the critical unemployment problems of the Nation's youth and recognize a special Federal responsibility for alleviating youth unemployment as has been demonstrated in the special summer programs for youth, as well as other manpower programs.

The conferees expect that the Secretary will continue to give due attention to the special problems of youth under the authority contained in section 304 of the Act.

To enable early planning for the summer youth job program for the coming summer, section 3(c) of the conference agreement contains a special transition provision authorizing the Secretary to provide jobs to economically disadvantaged youth during the period June 1, 1974, through October 1, 1974, from appropriations under the Act for fiscal year 1974, notwithstanding any other provision of the Act, in the same manner and on the same conditions as provided under previous authority.

The conferees intend that the "such sums" authorization under section 4(a), together with section 3(c) may be utilized to provide appropriations, by supplemental or otherwise, for fiscal year 1974 to maintain the basic level or meet additional needs for jobs but not recreational activities for youth during the summer of 1974.

The House and Senate reports have recommended an aggregate of $1.55 billion for manpower training programs for fiscal year 1974 (exclusive of public service employment), the amount appropriated by the Congress for those purposes for fiscal year 1973, which total included $237,443,000 was obligated for the summer youth job program.

The conferees intend that funds available under title I are not to be viewed as a substitute for funds appropriated for the summer youth jobs program under the provisions cited, and that the manner in which prime sponsors may utilize their title II funds will not relieve the Secretary of his special responsibility under the provisions cited above to provide for a summer youth job program for the summer of 1974.

Appropriations authorized

The Senate amendment authorizes appropriations for a fiscal year to be included in the Appropriations Act of the prior fiscal year. The House amendment provides that funds appropriated in one fiscal year shall remain available for obligation in the succeeding fiscal year. The conference agreement includes both provisions.

The House amendment provides that the Secretary shall reserve and make available for public employment programs $250,000,000 in fiscal year 1974 and $500,000,000 for fiscal year 1975. The Senate recedes with an amendment setting aside not less than $350,000,000 for fiscal year 1975, and providing an open-ended authorization for public employment programs on top of the set-asides for fiscal years 1974 and 1975.

The House amendment provides that no more than 20 percent of the funds appropriated shall be available to the Secretary to carry out his special responsibilities. The Senate amendment provides that no more than 25 percent of the funds available for manpower programs shall be available for the Secretary to carry out his special responsibilities. The Senate recedes.

TITLE I—COMPREHENSIVE MANPOWER SERVICES

Description of program

Both the Senate amendment and the House amendment describe eligible activities under the Act. The provision of the House amendment describe in general terms the kinds of programs and services contemplated under this title. The Senate bill, in addition to such general description, also includes specific references, by name, to individual manpower programs such as Mainstream, New Careers, OIC, Neighborhood Youth Corps, Opportunities Industrialization Centers, Jobs for Progress (SER) and Job Opportunities in the Business Sector (JOBS).

The Senate receded with an amendment adding to the description of programs and activities a new section including programs conducted by "community based organizations", which are defined to mean organizations which are representative of communities or some significant portions thereof (for example, Opportunities Industrialization Centers, Jobs for Progress (SER), "Mainstream" and community action agencies).

Prime sponsors

The House amendment provides that any unit of general local government which has a population of 100,000 or more persons is eligible to be a prime sponsor. The Senate amendment provides that cities of 100,000 or more persons and counties of 150,000 or more persons are eligible to become prime sponsors. On this difference the Senate recedes. In addition, the House amendment provides that, notwithstanding any population requirement, the largest unit of general local government in any State is eligible to become a prime sponsor. This provision is not retained in the conference report.

The Senate amendment provides that any consortium of adjoining units of general local government, which includes either a city of 100,000 or more persons or a county of 150,000 or more persons is an eligible prime sponsor. The House amendment provides that any combination of such units which contains any unit of general local government of 100,000 or more persons is an eligible prime sponsor. The Senate recedes with an amendment requiring such combination of units to have reasonable proximity to each other.

The Senate amendment provides that any unit or combination of units of general local government, without regard to population, may become a prime sponsor if the Secretary determines that such unit or units (1) serve a substantial portion of a labor market or a rural area of high unemployment, and (2) have demonstrated competence, a special need for services and effectiveness comparable or superior to that of the State in which they are located. The House amendment provides that any unit or combination of units of general local government without regard to population, may qualify only if they serve rural areas having substantial outmigration and high unemployment. The House recedes with an amendment limiting the provision to exceptional circumstances.

The House amendment provides that a limited number of existing CEP grantees serving rural areas may be eligible prime sponsors if the Secretary designates them for that purpose. There is no comparable Senate provision. The Senate recedes.

The House amendment provides that one unit of local government may not qualify as prime sponsor for another unit of local government within its geographical jurisdiction unless such other unit has failed to submit a plan to the Secretary. The Senate amendment permits the Secretary to choose from among the competing plans of units of local government proposing to serve a common geographical area within their jurisdiction. The Senate recedes.

The House amendment requires the Secretary to establish a date each year for the submission of a notice of intention to apply for prime sponsorship. The Senate amendment contains no comparable provision. The Senate recedes.

The House amendment provides that the Secretary may not designate any prime sponsor prior to March 1, 1974, which includes in its sponsorship plan another unit of local government meeting the consortium requirements of this section without the written consent of such unit. The Senate amendment contains no comparable provision. The Senate recedes.

Allocation of funds

The Senate bill provides that 75% of the manpower funds under the bill shall be apportioned among the States according to (1) the number of unemployed persons and (2) of adults who or whose families have an annual income below the BLS lower living standard budget and shall be apportioned within the State among areas served by prime sponsors and program agents on the same basis. The remaining funds shall be apportioned within the State's prime sponsorship area among local planning areas on an equitable basis taking into account the same factors.

The House amendment provides that 80% of the funds available for title I shall be allocated among the States in accordance with (1) the number of unemployed and (2) the manpower allotment of the State in the prior fiscal year. Funds are to be allocated within the State on an equitable basis taking into account the same factors.

The Senate bill provides that if appropriations for fiscal year 1974 through fiscal year 1976 are not sufficient to provide to each State and local area an amount equal to that received in fiscal year 1972 the Secretary shall reapportion the funds so that no State or local area receives a smaller proportion of the funds appropriated than it received in fiscal year 1972. The House amendment has no similar hold-harmless provision.

The conferees agreed on a formula which is a compromise of the approaches in the Senate and House amendment. Under the agreement 80 percent of the funds for title I are distributed in accordance with the following formula: 50 percent of the funds will be allocated in accordance with the prior year's allotment of manpower funds; 37½ percent will be allocated on the basis of the number of unemployed and 12½ percent will be allocated on the basis of the number of adults in low-income families. Low-income families are defined as families with an income of below $7,000 in 1969, adjusted upwards in accordance with increases in the consumer price index, rounded to the nearest thousand.

No State or local prime sponsor under the agreement shall receive less than 90 percent of its previous year's allotment, more than 150 percent of the amount of its allotment in the prior fiscal year, or less than 50 percent of the amount to which it is entitled under the allocation formula whichever is greater. The funds that are saved by the application of the maximum are to be reallocated to those areas which, under the formula, suffer a loss of more than 10 percent of the prior year's allotment. If additional funds are needed to reach the 90 percent hold harmless level, they shall be taken from the Secretary's discretionary funds under title I.

The allocation formula is applied to allocating the funds among the States and is also used as the basis for allocating funds among prime sponsors within the State. The conferees expect the Secretary to periodically update the data upon which allotments are based. In alloting funds within States it is expected that he will make every effort to maintain the relationships in the formula as nearly as he can based upon the most satisfactory current data available to him.

The Senate amendment provides no less than $1.5 million shall be apportioned to any State and no less than $150,000 shall be apportioned to the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands. The House amendment provides that at least $2,000,000 shall be allocated among Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands according to their respective needs. The Senate recedes.

The Senate amendment provides that 15 percent of the funds apportioned to areas served by prime sponsors and program agents within a State shall be available to the State to provide services to individuals in such areas, including financial incentives for consortia arrangements. The House amendment provides that no more than 1 percent of the funds allocated among the States shall be available to pay the costs of the State manpower services council. The House amendment also provides that no more than 5 percent of the title I funds are available to the Secretary to encourage consortia agreements and 5 percent are available only to State boards of vocational education. The remainder of the funds are available in the Secretary's discretion.

The conference compromise provides that up to 5 percent of the title I funds are available to the Secretary to encourage consortia agreements, 5 percent are available to Governors to provide programs of vocational education through State boards of vocational education, and 4 percent are available to Governors to carry out their responsibilities under section 106. The remainder of the funds are available in the Secretary's discretion except that he must first use such funds to insure that no area suffers a cut of more than 10 percent in its previous year's manpower allotment. In exercising his discretion he must give consideration to the need for continued funding of programs of demonstrated effectiveness. The conference agreement also provides that 1 percent of the funds allocated to the States goes directly to Governor for costs of statewide councils. The conferees wish to make it clear that Governors may submit recommendations about consortia on their own initiative.

The Senate amendment provides that the Secretary shall publish the apportionments in the Federal Register and authorizes the Secretary to make reallocations of obligated amounts when he determines that it will not be required. The House amendment has no comparable provisions. The House recedes.

Price sponsor's planning councils

The Senate amendment provides for the establishment by each prime sponsor of an employment and training council which will recommend programs for inclusion in the program statement, suggest appropriate goals, policies and procedures to the prime sponsor, and will be responsible for annual and ongoing evaluation of employment and training programs as well as monitoring programs to insure that they are structured to maximize employment opportunities for those who participate in them. Each council will be broadly representative of the various elements in the community having an interest in man-power programs such as business, organized labor, social service agencies, community-based organizations, educational institutions and agencies, community action agencies, the public employment service, and many others. Each council would have a staff which would be funded out of the amounts made available to the prime sponsor under this Act. The House amendment contains no comparable provision. The conferees agreed that prime sponsors would be required to establish advisory planning councils.

Conditions for receipt of financial assistance

Both the Senate amendment and the House amendments requires as a conditions precedent to the receipt of financial assistance for any year that the prime sponsor submit a plan or statement to the Secretary which includes a description of the services intended to be provided and performance goals, the geographical areas to be served, assurances that the program will be supervised by the prime sponsor, assurances that community based groups serving the poverty community are involved in the planning of programs and that existing facilities, organizations and institutions which provide manpower services are utilized to the extent feasible. The Senate amendment requires that funds be equitably spent to provide programs for all significant groups in need of them: The House amendment provides that manpower services be provided to those most in need of them. In addition, the Senate amendment requires the establishment of program goals, a description of employment and training needs and that priority be given to programs where public and private employers make employment commitments to prospective participants. The House amendment also requires that prime sponsors receiving funds under title II, as well as this title, integrate their title II programs with activities financed under title I. The conference compromise adopts the provisions of the House amendment, as well as the provisions of the Senate amendment on establishing goals and a provision requiring, wherever possible, that training lead to employment providing economic self-sufficiency.

The House amendment requires the prime sponsor to utilize services and facilities available from other state and federal agencies to the extent deemed appropriate by the prime sponsor. The Senate amendment requires such use to the extent feasible. The Senate recedes.

Both the Senate amendment and the House amendment apply the standards and safeguards developed in the Emergency Employment Act of 1971 to public service employment programs operated under this act. The Senate amendment references the Emergency Employment Act of 1971 itself. The House amendment references specific provisions of title II of H.R. 11010 which are carried over from the Emergency Employment Act of 1971. The Senate recedes.

Special provisions relating to State prime sponsors

The House amendment contains additional requirements that a State must meet in order to be designated as a prime sponsor. It must provide services in all areas not served by a local sponsor, provide for participation of State agencies in providing manpower services, develop a plan, coordinate programs financed under the Wagner-Peyser Act with activities under this act, and promote the coordination of all manpower programs in the State. The Senate recedes.

The Senate amendment provides for multi-county planning areas covering the entire State. The representative area planning council prepares the program statement for areas not covered by a prime sponsor and comments on the programs' statements of any prime sponsor within their area. The planning areas and councils are to be coordinated with other State planning agencies. The State must also designate any unit of general local government with a population of 75,000 or more as a program agent.

The Senate recedes with an amendment adding additional responsibilities contained in the Senate amendment for State prime sponsors as follows:

Authority for the provision of services throughout the State by State agencies responsible for employment and training and related services under this Act. The conferees intend that this authority will be used only for additional programs conducted under the authority of this Act;

Requirement for developing and publishing data on economic and labor market conditions;

Provision of information and technical assistance to local prime sponsors;

Carrying out model training programs, including programs for offenders;

Authority, but not the requirement, to establish, planning areas covering all of the State.

State manpower services council

The House amendment provides for a representative State Manpower Services Council to review prime sponsor plans, the plans of State agencies for provision of services, and to make recommendations for more effective coordination of manpower programs. The Council also monitors the operation of programs and makes recommendations on their improvement. The Senate amendment did not include this provision. It is retained in the conference agreement.

Review of plans

The House amendment specifies that the Secretary shall not approve a plan until he determines that it meets the statutory requirements and that an opportunity to comment has been given to specified officials.

The Senate amendment provides that the plan or program statement cannot be disapproved until certain procedures have been complied with and an opportunity for comment has been given to the officials specified in the House amendment and to area planning councils.

Both bills require notice for opportunity for hearing before final disapproval of a plan. The Senate amendment also requires an opportunity for the prime sponsor to submit corrective amendments.

The conference agreement retains the House language and adds the provisions of the Senate amendment requiring the Secretary to revoke a prime sponsor's plan if he determines the sponsor has failed to meet specified requirements of the Act.

Both bills provide for the termination of financial assistance (in whole or in part) to prime sponsors after an opportunity for a hearing. The grounds for termination in the Senate amendment are maintaining a pattern of discrimination, failing to serve equitably the significant segments of the population, incurring unreasonable administrative costs, failing to give due consideration to funding programs of demonstrated effectiveness, failing to assure that training has reasonable prospects of leading to employment, or otherwise failing to carry out the purposes of the Act. The House amendment provides that financial assistance shall be terminated if a prime sponsor changes its plan so that it no longer meets the statutory requirements or if it fails to comply with its plan or the statutory requirements.

In addition, the House amendment specifies that any affected unit of general local government is entitled to a hearing on an allegation of noncompliance and any other interested person may petition for such a hearing to be held at the Secretary's discretion.

The conference retains the structure and procedure of the House amendment and adds additional grounds for termination taken from the Senate amendment.

Judicial review

The House amendment provides for judicial review of the Secretary's final action under section 108 (review of plans). If an eligible prime sponsor is dissatisfied with such action he may petition the U.S. court of appeals for the circuit in which he is located for a review of that action. The Senate amendment contains no comparable provision. The Senate recedes.

Authority of Secretary to provide services

Both the Senate amendment and the House amendment contain provisions authorizing the Secretary to provide directly the services authorized under this Act to any area not being served by an approved prime sponsor. The differences in the two provisions are minor and of a technical nature. The House recedes.

Allowances

The Senate amendment has a single standard for determining allowances to all persons receiving services. The House amendment contains separate standards for persons receiving institutional training and those being trained on the job. The Senate amendment provides that the Secretary shall determine when the payment of allowances is appropriate, the House amendment permits the prime sponsor to waive payment of allowances under regulations of the Secretary. The Senate recedes.

The Senate amendment provides that any person receiving services under title I shall be considered a Federal employee for purposes of the Federal Employees Compensation Act. The Secretary is given regulatory authority to limit this application and to provide for adjustments for compensation payments received under other laws. The Senate recedes.

Supplemental vocational education assistance

The House amendment provides for grants to State boards of vocational education to provide vocational education and services in areas served by local prime sponsors under agreements between such boards and sponsors. The Senate amendment contains no comparable provision. The Conference agreement provides for grants to governors to provide financial assistance, through State vocational education boards, for vocational education services for all areas of the State, not just those served by local prime sponsors.

TITLE II—PUBLIC EMPLOYMENT PROGRAMS

Statement of purpose

The conference agreement on this section reflects decisions incorporated in later provisions of the report.

Allocation of funds

The House amendment provides that 80 percent of the funds available under title II shall be allocated in accordance with the number of unemployed residing in the area of substantial unemployment compared to the number of unemployed residing in all such areas. The remainder is to be distributed by the Secretary in his discretion taking into account the severity of unemployment in the area. The Senate amendment has no comparable provision. The Senate recedes.

Financial assistance

The Senate amendment makes both unemployed and underemployed persons eligible under the title. The House amendment limits eligibility to the unemployed. The House recedes, but the conferees recognize that priority in employment is to be given to the long-term unemployed so that opportunities for employment for the underemployed may be limited.

The Senate amendment provides that at least 85 percent of the funds appropriated be used for wages and employment benefits. The House amendment has a 90 percent minimum. The Senate recedes.

Eligible applicants

The Senate amendment includes as eligible applicants any unit of Federal, State, or general local government, any public agency which is a subdivision of such government, and Indian tribal organizations. The House amendment includes prime sponsors under title I, units of general local government with a population of 50,000 or more, combinations of units of general local government with an aggregate population of 50,000 or more and Indian tribes on Federal or State reservations. The conference agreement incorporates the provision of both amendments that prime sponsors are eligible applicants and provides that units and combinations of units of general local government with populations of 50,000 or more (but not eligible to be prime sponsors under title I) qualify as program agents who will administer the funds but not as eligible applicants.

The Senate amendment defines an area of substantial unemployment as one having an unemployment rate of 6 percent or more. The House amendment requires a rate of 7 percent or more. The conference report adopts a rate of 6½ percent.

Applications

The House amendment requires that a person be unemployed for at least 30 days to qualify under the program. The Senate amendment limits eligibility to those who have been unemployed for 15 weeks and to those who are unemployed or underemployed and from economically disadvantaged backgrounds but these requirements may be waived in the case of persons unemployed as a result of certain closings of or cutbacks in Defense Department facilities. The Senate recedes with the understanding that a person who has been unemployed for at least 30 days means a person who has been without work for 30 days or longer for reasons other than strike or lockout at his usual place of employment, and (i) has made specific efforts to find a job within the past 4 weeks, (ii) is not waiting to be called back to a job from which he has been laid off, or (iii) is not expecting to report to a new job other than a job funded under the Act, within the next 30 days.

The Senate amendment retains the provisions of the Emergency Employment Act requiring that programs be, to the extent feasible, designed with a view to upward mobility and continued training. The House recedes.

The House amendment requires that persons hired reside in the area of substantial unemployment and that the service provided be for the benefit of the residents of such areas. The Senate amendment has no comparable provision. The Senate recedes.

The Senate amendment requires a plan which includes a commitment that by the end of fiscal year 1974, 50 percent of the jobs supported under the act be filled by disabled or Vietnam era veterans. The House amendment requires that special consideration in filling public service employment jobs be given to unemployed veterans (discharged under conditions other than dishonorable) who have served in Indochina or Korea. The Senate recedes with an amendment. Special consideration is to be given to veterans who have served in Indochina or Korea on or after August 5, 1964 other than those who have been dishonorably discharged and the applicant must describe the specific steps he will undertake to provide such special consideration.

The House amendment requires special consideration for those who have been unemployed the longest and have the least prospect of finding regular employment, but such special consideration does not authorize the hiring of any person for a job from which another person is on lay-off. The Senate amendment prohibits the hiring of any person to fill a job vacant because of a layoff. The conferees adopted both provisions with the understanding that the language in the Senate bill is not intended to preclude the re-hiring of persons who have been laid off for bona fide reasons nor is it intended to prevent the filling of jobs vacated because of bona fide layoffs. The intention of this provision is to prevent so-called "paper layoffs".

The Senate amendment requires recipients of funds to examine job qualification requirements with a view to eliminating artifical barriers to employment. The House amendment has no similar provision. The conference report retains this provision of the Senate amendment.

The Senate amendment requires that due consideration be given to the employment of welfare recipients. The House amendment has no comparable provision. The Senate recedes, but in the understanding that welfare recipients are eligible for consideration for employment, and may be eligible for special consideration under paragraph 7 of section 205.

The House amendment requires a description of the manpower needs of local education agencies and of local governments in the area to be served and due consideration to allocating jobs to such agencies and governments; assurances that there will be no infringement of the promotional opportunities of existing employees and that jobs funded under the Act will be additional to those that would otherwise be funded. The Senate amendment contained no comparable provision. The Senate recedes.

The Senate amendment requires 10 percent State or local matching unless waived by the Secretary. The House amendment does not require matching. The Senate recedes.

The House amendment included language to assure that jobs provided persons under the public service employment program do not infringe on the promotional opportunities of those currently employed and that no job would be filled in other than an entry level position until applicable personnel procedures and collective bargaining agreements have been complied with. The Senate amendment contained no comparable provision. The conferees agreed to the House language with a modification to make clear that "entry level position" refers to entry levels in "each job category" not in the entire civil service job structure. The conferees intend that the provisions of this paragraph (Sec. 205(c)(24)) are to be read together with those provisions prohibiting discrimination (Sec. 208(f)) and those requiring efforts to overcome artificial barriers to the public employment of the disadvantaged (Sec. 205(c)(18) and 205(c)(24).

Special responsibilities of the Secretary

The Senate amendment provides for a review by the Secretary of the procedures established to review the promotional prospects of persons hired under the title. The House receded.

The Senate amendment also provides for a set-aside of up to 1 percent of the funds under this title for technical assistance. The House amendment has no comparable provisions. The Senate recedes, in recognition of the fact that technical assistance is available under section 311.

Special responsibilities of the Secretary

The House amendment provides that the Secretary shall assist an Indian tribe to prepare and implement a public service employment program where it is not able to do so. There was no comparable Senate provision. The Senate recedes.

Special conditions

The Senate amendment provides that funds under the Act will not be used to pay persons in jobs at a rate in excess of $12,000 per year. The House amendment has a $10,000 limit. The Senate recedes.

The House amendment, unlike the Senate amendment, specifies that a labor organization's opportunity for comment shall be given prior to the submission of the application. The conference report retains this provision.

Utilization of funds

The House amendment provides an eligible applicant may at its option use the funds received under this title for programs authorized under titles I and III-A. The Senate amendment has no comparable provision. The Senate recedes.

Special provision

The Senate amendment provides that the 3 consecutive months of unemployment can include months occurring before the date of enactment. The House recedes.

TITLE III—SPECIAL FEDERAL RESPONSIBILITIES

Special manpower target groups

Both amendments give the Secretary special responsibility for programs to serve those most in need of them. Both amendments include among these persons of limited English speaking ability and older workers. The Senate amendment also includes middle-aged workers and low-income persons who do not live in low-income areas; the House amendment specifies youth, persons in correctional institutions and other persons determined by the Secretary to have particular disadvantages in the labor market.

The House amendment provides that the Secretary shall take into account the need for funding programs of demonstrated effectiveness. The Senate amendment has no comparable provision applicable to the Secretary's responsibilities; it provides that he shall assure the continuation of the efforts of private sector efforts (including those of the National Alliance of Businessmen) to provide job opportunities for the disadvantaged and the continuation of opportunities industrialization centers, jobs for progress and similar programs, and provide support for offender programs.

The Senate receded with an amendment substituting "offenders" for "persons in correctional institutions" describing elements of programs for persons of limited English speaking ability, adding a new subsection describing programs for "offenders" and authorizing the Secretary under section 304(a) (7) to provide financial assistance to programs conducted by community-based organizations. The conferees intend the phrase "other persons which the Secretary determines have particular disdvantages in the labor market" to include middle-aged and low-income workers.

The Senate amendment includes as a special responsibility of the Secretary the effective implementation of the veteran's employment representatives and certain other special employment emphasis provisions of title 38, U.S.C. and giving special consideration to job training programs for persons affected by the closing of a Government facility. The House amendment contains no comparable provisions. The House recedes, but the conferees expect the Secretary to use funds available under other statutes in carrying out his responsibilities under title 38. U.S.C.

Indian manpower programs

The House amendment contains detailed provisions relating to the establishment, conduct, and administration of Indian manpower programs. The Senate amendment contains no comparable provision. The Senate recedes with an amendment requiring the Secretary to establish programs for non-reservation Indians.

Both amendments provide for a fund reservation for Indian manpower programs, based on the ratio that the total number of Indians and Alaskan Natives bear to the total number of poor. The House amendment applies the ratio to funds available under titles I and III of the amendment. The Senate amendment applies the ratio to all manpower funds under the Act. The conference compromise reserves from funds available for title III not less than an amount equal to 4 percent of the funds available under section 103(a).

Migrant and seasonal farmworker programs

Both amendments reserve funds for migrant and seasonal farmworker programs. The Senate amendment's reservation is determined by the ratio that the number of persons in migrant and seasonal farmworker families bear to the number of poor; the House amendment is limited to the number of persons in migrant farmworker families and it contains a maximum of 5 percent. Both amendments make the reservation applicable to all manpower funds under the amendments. The House amendment includes additional detailed provisions covering migrant and seasonal farmworkers.

The conference compromise reserves from funds available under title III not less than an amount equal to 5 percent of the funds available under section 103(a).

Youth programs and other special programs

The House amendment authorizes the Secretary to provide for work and training programs in certain urban and rural areas. The authority contained in this section has been used in the past to provide financial assistance for such programs as NYC, Mainstream and New Careers and summer youth job programs. These programs shall, to the maximum extent feasible, be linked to the programs funded under title I. The Senate amendment has no comparable provision. The Senate recedes, accepting the concise language of the House amendment, but with the understanding that such action does not prejudice the eligibility of activities specified in the Senate amendment and carried out under existing law.

The Senate amendment provides for special services to middle-aged and older workers who are unemployed as a result of a plant closing. The House amendment has no comparable provision. The House recedes with an amendment that the services would be provided when required and be delivered through prime sponsors.

Consultation with Secretary of Health, Education, and Welfare

The Senate amendment requires the Secretary of Labor to obtain the concurrence of the Secretary of HEW before he issues regulations with respect to assistance for services of a health, education or welfare character. The House amendment requires the Secretary of Labor to consult with the Secretary of HEW (who shall solicit the comments of State agencies) with respect to arrangements for basic education and vocational training. Where the Secretary arranges for such education or training directly, he must obtain the approval of the Secretary of HEW.

The Senate amendment provides for agreements with the Attorney General with regard to offender programs to assure coordination with programs under the Omnibus Crime Control and Safe Streets Act or the Juvenile Delinquency Prevention and Control Act and with the Director of Action for the use of volunteers in such programs. The House amendment has no comparable provision. The Senate recedes in light of the agreement in section 301(c).

Both amendments provide for a broad program of research, experimental, demonstration and pilot programs. The House amendment prohibits experimentation with subsidized wages in the private sector and with subminimum wages, and requires the concurrence of the Secretary of HEW for the arrangements for any institutional training in connection with this program. The Senate recedes.

The Senate amendment makes specific provision for demonstration programs to test the efficacy of providing vouchers to disadvantaged persons. The House amendment contains no comparable provision. The House receded with an amendment to assure that the voucher program is permissive rather than mandatory.

Labor market statistics and job bank

Both amendments require the Secretary to develop a labor market informations system, generally in accordance with the requirements of existing law. In addition, the Senate amendment requires the Secretary to gather by survey and regularly publish data on unemployment, underemployment and job vacancies by State, labor market area, rural areas and poverty neighborhoods. The conferees agreed to combine language from both the House and Senate amendments concerning labor market statistics and information.

Both amendments provide for computerized job bank programs. The Senate amendment specifies that mandatory listings by government contractors be utilized. The House amendment is somewhat greater in detail and specifies that information be made available to meet the needs of private and public users. The House recedes.

Evaluation

Both amendments require evaluations by the Secretary and provide for the development of identical data concerning program effectiveness. The House amendment specifies in greater detail the comparative effectiveness studies that are required and also requires a comparison of the effectiveness of programs authorized under this Act with those conducted under Title IV–C of the Social Security Act.

The Senate amendment makes the submission of program data a requirement for financial assistance under the Act; the House amendment makes the collection of the data a duty of the Secretary. The conference agreement consolidates the provisions of both versions.

Removal of artificial barriers to employment and advancement

The House amendment provides for a continuing study by the Secretary of the extent to which artificial barriers to employment within agencies conducting programs under the Act restrict employment and advancement opportunities. The Senate amendment has no comparable provision. The Senate recedes.

Training and technical assistance

Both amendments provides for technical assistance; the House amendment also provides for training programs in consultation with the Secretary of HEW. The Senate recedes.

Community services for the economically disadvantaged

The Senate amendment provides for grants to prime sponsors for community services programs for the disadvantaged. The House amendment has no comparable provision. The Senate recedes.

In light of the decision above, provisions of the Senate amendment reserving funds for community services programs are dropped.

TITLE IV—JOB CORPS

Transfer of Job Corps

The Senate amendment provides for the Secretary to carry out a Job Corps program carried out in accordance with the requirements of Title I–A of the Economic Opportunity Act. The House amendment incorporates the text of title I–A into the Manpower Act and also makes certain powers contained in title VI of the EOA and currently available to the Secretary of Labor by delegation from the Director of OEO applicable to his administration of the Job Corps. The Senate receded to the House provision which became title IV of the conference report.

TITLE V—NATIONAL COMMISSION FOR MANPOWER POLICY

The Senate amendment provides for a National Employment Opportunities Council appointed by the President and consisting of representatives of interested segments of the population of between 13 and 17 members serving staggered 3-year terms. The council is to identify the employment goals and needs of the Nation, assess the interrelationship and the extent to which manpower and approach to meeting these needs, review the administration of manpower and manpower related programs, conduct evaluations and make recommendations for improvement.

The House amendment provides for a 16-member Commission for Manpower Policy consisting of 5 designated cabinet officials and the Administrator of the VA and 10 members representative of interested organizations. The Commission is to make such studies and evaluations as it deems appropriate and conduct a study of the interrelationship of manpower programs with those conducted under the Wagner-Peyser Act, Title IV–C of the Social Security Act and similar programs. The Commission is to submit a report to the President no later than January 31, 1975.

Senate recedes with amendments providing for client representation on the Commission, and clarifying the functions of the Commission.

The conferees note that there are proposals pending before the Congress to establish separate "full employment" boards or other mechanisms specifically designed to implement the policy of the Employment Act of 1946.

The conferees anticipate that the National Commission for Manpower Policy, although not itself specifically designed for that purpose, will in fulfilling its own charge serve as a forum for discussion of such proposals in the executive branch.

Energy study

The House amendment provides for the Secretary to make a study of the impact of the energy shortage on manpower needs. He shall make a preliminary report to the Congress and to the Commission by March 1974, and a final report within a year afterwards. The Senate amendment contains no comparable provision. The Senate recedes.

TITLE VI—GENERAL PROVISIONS

Definitions

The House amendment specifies that health care is limited to care necessary to obtain or retain employment. The Senate amendment has no similar limitation. Other definitions relate to the different substantive provisions of the Senate bill and House amendment. In general the provisions of the House amendment are retained, and the Senate deviations applicable to the conference agreement are retained.

Legal authority

The Senate amendment requires that all rules, regulations, and guidelines carry citation of authority and be published, and copies transmitted to the appropriate committees of Congress, thirty days before their effective date. The House amendment makes such rules, regulations, and guidelines subject to the Administrative Procedure Act.

The Conference compromise retains the language of the House amendment and adds the provisions of the Senate amendment requiring citation of a particular substantive section of statutory law for each material provision of such rules, regulations, and guidelines. The compromise further requires the Secretary to submit such regulations to the Congress at the same time that he publishes them in the Federal Register, which shall be thirty days prior to their becoming effective. The conferees expect that the Secretary shall not fail to meet the requirement for publication prior to 30 days before becoming effective without first notifying the committees of competent jurisdiction in the Congress and appearing before them, if requested to do so, to explain the need for such a waiver.

The Senate amendment gives the Secretary certain special powers concerning the rental or the purchase of property. The House amendment limits these special powers to the administration of the Job Corps Program. The Senate amendment also authorizes the expenditure of funds for printing without regard to other provisions of the law. The House amendment has no comparable provision. The Senate recedes.

Conditions applicable to all programs

The special conditions applicable to all manpower programs are identical except that the Senate amendment requires that training and related services be designed to the maximum extent practicable to lead to employment opportunities for which wages will be paid at a rate no less than the higher of the Federal or State minimum wage law. The House amendment requires a determination of reasonable expectation of employment before an individual undergoes institutional training. The House amendment has requirements relating to maximizing upward mobility, internal administrative controls and provision of services for youth.

The Conference Report adopts the requirements of both amendments with an amendment that training and related services shall, to the maximum extent feasible, lead to employment opportunities enabling participants to become economically self sufficient.

The Senate amendment provides that the Secretary shall establish procedures to insure that programs for offenders provide manpower and supportive services that enable them to secure and retain suitable employment. The House amendment has no comparable provision. The Senate recedes, in light of provisions included in section 301(c).

The Senate amendment requires the Secretary to establish procedures to insure that programs for persons of limited English speaking ability provide such training and supportive services as will increase employment and training opportunities for them. These procedures shall also provide that programs for such people emphasize occupations that do not require proficiency in English, emphasize technical English vocabulary necessary for specific occupations, train bilingual instructors and otherwise establish, maintain and operate programs to increase employment and advancement opportunities for persons of limited English speaking ability. The House amendment provides that in carrying out his special responsibilities the Secretary shall establish procedures to insure that programs for such persons will increase their employment and training opportunities. The Senate receded in light of the agreement in section 301(b).

The House amendment provides for the disregard of certain veterans' benefits in determining needs or qualifications of participants in programs under this Act. The Senate amendment has no similar provision. The House receded.

The House amendment provides that the acceptance of family planning services shall be voluntary. The Senate amendment achieves a similar result by defining health care to include only voluntary family planning services. The Senate recedes.

Reports

The Senate amendment provides that the Secretary shall make reports and recommendations to the President and continue the provisions of existing law requiring an Annual Manpower Report of the President. The House amendment provides for a report by the Secretary concerning his activities under the Act. The Senate amendment provides for additional reports by the Secretary on summer work experience and by the Secretary of Labor and HEW on the extent to which various educational and rehabilitation agencies are being utilized. The House amendment has no comparable provision.

The Senate amendment provides for a report from the Chairman of the CSC concerning employment opportunities for offenders in the Federal service. The House amendment has no comparable provision.

The House amendment also provides for annual reports by each prime sponsor. The Senate amendment provision regarding publication of program statements achieves the same result. The conference report adopts the provisions of the Senate amendment, with an amendment to include the House requirement that each prime sponsor make an annual report.

Repealer

The House amendment repeals the MDTA and Titles 1–B and 1–E of the EOA. The Senate amendment contains no repeal provision. The authorization for Title II of the MDTA expired last June 30. The Senate recedes.

Criminal provisions

The House amendment provides criminal penalties for certain misuse of funds and for improper inducement in connection with a grant or contract under this Act. There is no comparable provision in the Senate amendment. The Senate recedes.

Nondiscrimination

The House amendment provides remedies for discriminatory conduct in addition to the provisions for enforcing compliance with all the provisions of the Act. The Senate amendment has no such additional remedies for discrimination. The Senate recedes.

Records, audits, and reports

The House amendment contains standards for grantees concerning fiscal, audit and accounting procedures and provides for access to their records by the Secretary and the Comptroller General. The Senate amendment contains no comparable provision. The Senate recedes.

Amendment to title

The Senate recedes from its disagreement to the title contained in the House amendment.

Mr. Carl D. Perkins,
Mr. Dominick V. Daniels,
Mr. John H. Dent,
Mr. James G. O'Hara,
Mr. Lloyd Meeds,
Mr. Phillip Burton,
Mr. Joseph M. Gaydos,
Mrs. Ella Grasso,
Mr. Herman Badillo,
Mr. Albert H. Quie,
Mr. Marvin Esch,
Mr. William A. Steiger,
Mr. Peter A. Peyser,
Mr. Ronald A. Sarasin,
Mr. Edwin B. Forsythe,
Managers on the Part of the House.

Mr. Gaylord Nelson,
Mr. Jennings Randolph,
Mr. Edward M. Kennedy,
Mr. Walter F. Mondale,
Mr. Alan Cranston,
Mr. Harold E. Hughes,
Mr. W. D. Hathaway,
Mr. Jacob K. Javits,
Mr. Peter H. Dominick,
Mr. Richard S. Schweiker,
Mr. Bob Taft,
Mr. Glenn J. Beall,
Managers on the Part of the Senate.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 11575, DEPARTMENT OF DEFENSE APPROPRIATIONS, FISCAL YEAR 1974

Mr. SIKES. Mr. Speaker, I ask unanimous consent that the managers on the part of the House may have until midnight tonight to file a conference report on (H.R. 11575) making appropriations for the Department of Defense for the fiscal year ending June 30, 1974, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

SPECIAL ORDER TO DISCUSS IMPEACHMENT PROCEEDINGS

(Mr. McCLORY asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. McCLORY. Mr. Speaker, I take this time merely to announce that at the conclusion of legislative business today I am taking a special order of 60 minutes in which I propose to discuss the subject of the pending impeachment inquiry before our House Judiciary Committee. I will undertake to point out at that time my views, and I am sure some of my Republican colleagues on the House Judiciary Committee also will be participating in this discussion. Some of the Republican leadership will join in this special order with the idea of establishing the procedures under which the inquiry is to be conducted and to try to set up a timetable for the completion of this work. Also, I will discuss the need for reposing basic responsibility in a select committee or subcommittee of the House Committee on the Judiciary to carry out this historic and unprecedented activity.

Mr. Speaker, I invite all of those Members who wish to participate in this discussion to be present here at the conclusion of our legislative business today.

COMMEMORATIVE DAYS—NATIONAL VOLUNTEER FIREMAN'S DAY

(Mr. DU PONT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DU PONT. Mr. Speaker, early Saturday morning the gentleman from West Virginia (Mr. HECHLER) and I engaged in a disagreement over a unanimous-consent request. I had no disagreement with the gentleman's amendment, and had informed him beforehand that I would object to his request.

I used this opportunity to emphasize the fact that Mr. HECHLER has refused to allow any bills authorizing commemorative days to come to the floor on the Consent Calendar. I am the prime sponsor of one such bill, House Joint Resolution 609 which has 85 cosponsors. It authorizes January 17 to be proclaimed National Volunteer Fireman's Day. Twenty-five other similar bills are bottled up by Mr. HECHLER's actions. I understand his feelings on the merit of some of the bills and respect his position, even though I disagree with it.

Objecting to the request of a colleague to explain an amendment he is offering is not something I like to do, and the gentlemen from West Virginia was most gracious in his understanding of my objection. But, I felt I had no other means of dramatizing the impasse we have reached in regard to these bills.

I would hope that Members would urge Mr. HECKLER to end his one-man blockade so that these 26 bills may receive consideration by the House.

WILDCATS FROM MIDLOTHIAN, ILL.

(Mr. DERWINSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DERWINSKI. Mr. Speaker, I am very pleased to bring to the attention of the Members the fact that the Wildcats, a community football team of Midlothian, Ill., were winners of the Mid-Atlantic Bowl Game played Saturday, December 8, at Morgan State University in Baltimore. They defeated the Turner Vikings of Baltimore, 6 to 0, in the game which was played for the benefit of the U.S. Marine Corps Toys for Tots program.

The Wildcats, who are champions of the Southwest Suburban League in Cook County, Ill., finished with an overall record of 15–0. During their outstanding season, no more than three touchdowns were scored against the Wildcats, and they rolled up very impressive margins in most of their games.

These young men range in age from 10 to 12 years old, and the maximum weight of a player is 90 pounds. Their coach, Hack Wayne, and his assistants are all volunteers, and the team is energetically supported by the parents in the community. Midlothian is a village southwest of Chicago with a population of about 17,000.

These young men are a great credit to their community, and I am very pleased to have such an outstanding group of young athletes in the district I represent.

MASSACRE OF INNOCENT VICTIMS

(Mr. BINGHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BINGHAM. Mr. Speaker, yesterday's massacre of at least 30 innocent people by Arab terrorists has stunned the world. These outrageous, inhuman, criminal acts cannot be tolerated. Immediate action must be taken in every available forum, not only to condemn these acts, but more importantly to seek international action to bring the terrorists to justice and to prevent such tragedies in the future.

The Arab States and the official Palestinian organizations have joined in condemning these actions, but they have yet to show their willingness to do anything to bring them to an end. In fact, the Egyptian newspaper Al Ahram audaciously suggests that the murders and hijacking might be an Israeli effort to sabotage the Geneva Middle East peace conference scheduled to start on December 21. I hope this kind of twisted logic will not be typical of the Arab response to this ugly, despicable murdering of innocent civilians, but that instead of Arab States and Palestinian organizations will finally give their support to international efforts to choke off terrorist activity.

The U.N. has yet to meet its responsibilities and commitments in this area with anything more than rhetoric. I understand that various African and Arab nations have consistently sabotaged U.S. initiatives seeking to develop such concerted international action. When Arab terrorism has been discussed in the U.N. General Assembly in the past 2 years, the Afro-Arab bloc has blocked any action to seek specific measures to combat terrorism in favor of exploring the general causes of terrorism or how diplomats can be protected from it.

After this latest barbaric series of murders and destruction, even these states surely cannot continue to delay and oppose U.N. efforts to combat terrorism. The time has long since passed when this kind of criminal activity can be ignored, pending solutions to Arab-Israeli disputes, or by justifying terrorism against innocent people as a legitimate tool of national liberation organizations. A continued stall in the U.N. only encourages more brutal, inhuman terrorist activity.

I am today urging Secretary of State Henry Kissinger to direct the U.S. Ambassador to the United Nations to put the question of combating Arab terrorism before the U.N. General Assembly at the earliest possible time, even if this should require a special session early in 1975. Immediate U.N. action would give the world hope for an end to these senseless acts of violence and the chance to judge for themselves which nations live up to their commitments and responsibilities to seek peaceful solutions to international problems.

FEELING OF ALIENATION BY AMERICAN CITIZENS

(Mr. HANNA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HANNA. Mr. Speaker, at no time since I have been in the House of Representatives have I noted in the population as a whole such an adverse feeling toward the Government. It would seem that in the light of this, we would try to avoid specific instances which are predictably going to increase the hostility and the feeling of alienation that exists.

I have in mind specifically an incident that appeared in the newspapers about the ex-Vice President, Mr. Agnew, and the two men assigned from the Secret Service to protect him. They took the last three seats on a New York-Washington shuttle, while people who had waited in line for these seats were forced to wait for the next plane.

This is an example of the double standard of justice which the American people have regrettably come to expect—one standard for the powerful and another for the average citizen. Here we have a man who did everything he had to, to avoid going to jail. The Government is still providing him with office space, staff, and Secret Service protection. Let us compare this to the treatment received by, for instance, a GI who received a dishonorable discharge for whatever reason. The GI does certainly not receive the same treatment from his Government as a veteran who left the service under honorable conditions. He is not eligible for the many veterans benefits. In the case of the former Vice President, it seems to me that we are providing him with services which he should not be entitled to receive. Where is the equity in the different treatment the Government extends to Mr. Agnew and to the GI?

These kinds of injustices are calculated to continue and deepen the animosities of our citizens. I personally cannot understand why we are still providing these services for the former Vice President. I simply cannot understand it as a Representative, so how can I explain it to the people?

Mr. Speaker, I trust we will do something in this House to assure that the kind of action which has come from the former Vice President, the incident with the airlines, will not be continued and that we will do something about relieving ourselves of this problem.

MINIMUM WAGE LEGISLATION

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. CONTE. Mr. Speaker, the Members of this body have been keeping rather late hours and we have had marathon sessions in order to complete work on vitally needed legislation. We want this legislation passed before Christmas so that we can adjourn for the holidays with a clear conscience.

There is one piece of legislation that I have not heard mentioned recently in our rush to clear the calendars. I am speaking about the minimum wage legislation.

Under current minimum wage legislation the highest guaranteed rate is $1.60 per hour. It has been at that level since 1968. I think it is strange, considering the skyrocketing cost of living over the past 5 years, that the Congress continues to tolerate a minimum guarantee of only $64 per week.

With over 2½-million workers waiting for Congress to provide some relief from these obviously substandard pay scales, it is incumbent upon Congress to pass a new minimum wage scale before this session adjourns.

With the energy crisis causing ever increasing costs of fuel and threatening to place thousands more on the roles of the unemployed and underemployed, the need for a higher minimum wage is more obvious than ever before in recent history.

Earlier this session, this body failed to override a veto of a bill that would have guaranteed weekly pay checks of $80 before July 1, 1974, and $88 thereafter. And these meager sums were for the most fortunate of minimum wage employees. Those not covered prior to 1966 would have been guaranteed even less.

I submit, Mr. Speaker, that Members of this Congress cannot with a clear conscience go home until we rectify our failure to provide a modicum of dignity to the lives of our lowest paid workers.

This is the season for the giving of gifts and the expression of good wishes. It would indeed be appropriate for us to now give to those most in need and make it possible for their wishes to be fulfilled.

PERSONAL EXPLANATION

Mr. GILMAN. Mr. Speaker, yesterday's snowstorm, which crippled transportation in the Northeast region of our Nation, grounded air transportation out of New York, preventing me from being present in the legislative session.

Accordingly, Mr. Speaker, I ask permission to include in the CONGRESSIONAL RECORD a list of those votes taken on December 17, 1973, setting forth how I would have voted had I been present.

PRIVATE CALENDAR

The SPEAKER. This is Private Calendar day. The Clerk will call the first individual bill on the Private Calendar.

MRS. ROSE THOMAS

The Clerk called the bill (H.R. 2535) for the relief of Mrs. Rose Thomas.

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

COL. JOHN H. SHERMAN

The Clerk called the bill (H.R. 2633) for the relief of Col. John H. Sherman.

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

RICHARD BURTON, SERGEANT, FIRST CLASS

The Clerk called the bill (H.R. 3533) for the relief of the estate of the late Richard Burton, sergeant, first class, U.S. Army, retired.

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

MR. AND MRS. JOHN F. FUENTES

The Clerk called the bill (H.R. 2508) for the relief of Mr. and Mrs. John F. Fuentes.

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

MURRAY SWARTZ

The Clerk called the bill (H.R. 6411) for the relief of Murray Swartz.

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

ESTELLE M. FASS

The Clerk called the resolution (H. Res. 362) to refer the bill (H.R. 7209) entitled for the relief of Estelle M. Fass, to the Court of Claims.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that the resolution be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

RITA SWANN

The Clerk called the bill (H.R. 1342) for the relief of Rita Swann.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

LEONARD ALFRED BROWNRIGG

The Clerk called the bill (H.R. 2629) for the relief of Leonard Alfred Brownrigg.

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

BOULOS STEPHAN

The Clerk called the bill (H.R. 4438) for the relief of Boulos Stephan.

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

FAUSTINO MURGIA-MELENDREZ

The Clerk called the bill (H.R. 7535) for the relief of Faustino Murgia-Melendrez.

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

NICOLA LOMUSCIO

The Clerk called the bill (H.R. 7684) for the relief of Nicola Lomuscio.

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

ROMEO LANCIN

The Clerk called the bill (H.R. 4172) for the relief of Romeo Lancin.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

KEVIN PATRICK SAUNDERS

The Clerk called the bill (H.R. 2634) for the relief of Kevin Patrick Saunders.

There being no objection, the Clerk read the bill as follows:

H.R. 2634

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provision of section 212 (a) (23) of the Immigration and Nationality Act, Kevin Patrick Saunders may be issued a visa and admitted to the United States for permanent residence if he is found to be otherwise admissible under the provisions of that Act: *Provided,* That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

LUCILLE DE SAINT ANDRE

The Clerk called the bill (H.R. 6477) for the relief of Lucille de Saint Andre.

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER. This concludes the call of the Private Calendar.

FOR THE RELIEF OF ISABEL EUGENIA CERRANE MACIAS FERRIER

Mr. EILBERG. Mr. Speaker, I ask unanimous consent to take from the Speaker's table, the bill (H.R. 3758) for the relief of Isabel Eugenia Serrane Macias Ferrier, with a Senate amendment therto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert: That, for the purposes of the Immigration and Nationality Act and section 21(e) of the Act of October 3, 1965, Isabel Eugenia Serrane Macias Ferrier shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by one number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas which are made available to special immigrants as defined in section 101 (a)(27)(A) of the Immigration and Nationality Act: *Provided,* That the parents, brothers, or sisters of the said Isabel Eugenia Serrane Macias Ferrier shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania (Mr. EILBERG)?

There was no objection.

The Senate amendment was concurred in.

A moton to reconsider was laid on the table.

FOR THE RELIEF OF MARIA LOURDES RIOS

Mr. EILBERG. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3334) for the relief of Maria Lourdes Rios, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 1, line 5, strike out "unlawfully" and insert "lawfully".

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania (Mr. EILBERG)?

There was no objection.

The Senate amendment was concurred in.

A motion to reconsider was laid on the table.

AUTHORIZING THE PRESIDENT TO PROCLAIM MARCH 29, 1974, AS "VIETNAM VETERANS DAY"

Mr. EDWARDS of California. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 865) authorizing the President to proclaim March 29, 1974, as "Vietnam Veterans Day".

The Clerk read as follows:

H.J. RES. 865

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is hereby authorized and requested to issue a proclamation designating March 29, 1974, as "Vietnam Veterans Day", and calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

The SPEAKER. The question is on the motion offered by the gentleman from California (Mr. EDWARDS) that the House suspend the rules and pass the joint resolution (H.J. Res. 865).

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE TO EXTEND

Mr. WIGGINS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the joint resolution just passed.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

(Mr. WIGGINS asked and was given permission to address the House for 1 minute.

Mr. WIGGINS. I yield to the gentleman from New York (Mr. FISH).

Mr. FISH. Mr. Speaker, I thank the chairman of the subcommittee and the ranking member for reporting this legislation out. Recognition of our Vietnam veterans is long overdue and this proclamation will give us an opportunity to honor the brave men who served in Vietnam.

Mr. Speaker, the men who served in Vietnam were called upon to make the greatest sacrifices ever made by American fighting men. I say this because the Vietnam conflict was unique in our history—different from the wars which preceded it.

It was a war which started so gradually that it was not immediately apparent to the public, or even the Congress, as to what was developing in Indochina. Yet, in spite of the obscurity of its beginnings, over the years it became the longest war in this Nation's history. It resulted in 46,000 Americans dead, and over 300,000 wounded.

Among unique features of the Vietnam war was that, unlike World War I, World War II, or even Korea, the weight of sacrifice was borne almost entirely by those who fought in Vietnam and by their loved ones here at home. There was no widespread public sacrifice.

Mr. Speaker, I strongly believe that passage of House Joint Resolution 865—to authorize a "Vietnam Veterans Day" on March 29, 1974—is a most appropriate way to commemorate the sacrifices made by American servicemen in Vietnam. Last year, the return of the courageous POW's brought about some of the overdue recognition for these men. The passage of this resolution—to honor all who served there—would complete the job.

Official figures obtained from the Veterans' Administration testify to the extent of the sacrifices of the Vietnam-era veteran. There are over 6,557,000 Vietnam era veterans of whom over 2,406,000 served in Vietnam. Today over 354,000 Vietnam era veterans are receiving VA disability compensation payments for service-connected injuries, while 47,500 dependents of deceased Vietnam era veterans are receiving dependency and indemnity compensation.

The need for some formal recognition of the sacrifices made by Vietnam veterans was first brought home to me by a then constituent and good friend, Mr. Alfonso Sellet of Ulster County, N.Y. Al Sellet, a Vietnam veteran himself, has been tireless in his efforts to bring about a "Vietnam Veterans Day." At his urging, a bill to propose a "Vietnam Veterans Day," was the first piece of legislation—House Joint Resolution 68—I introduced in the 92d Congress. His work with numerous veterans organizations, Members of Congress and the administration, in promoting such a national observance, deserves high praise. This Congress, I joined with Congressman BEN GILMAN in a cooperative effort to obtain passage of such legislation. With the help and support of Representatives DON EDWARDS, CHUCK WIGGINS and BILL SCHERLE, we were able to bring House Joint Resolution 865 to the floor.

Mr. Speaker, we cannot permit the political controversy over Vietnam to obscure the tremendous contributions made by the 2.5 million young men who served in Southeast Asia. Through the adoption of this legislation, Congress can demonstrate that, despite diverging opinions on the wisdom of this conflict, these boys and their families are not to be forgotten.

Mr. WIGGINS. I yield to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. I thank the gentleman for yielding.

I want to congratulate the gentleman from California for introducing this resolution and having it passed today. Having initially submitted a similar resolution earlier in this session, I was pleased to cosponsor this resolution.

I feel very strongly about Vietnam Veterans Day, and I am pleased to support this measure.

Earlier in this legislative session I introduced a resolution calling upon the President to proclaim Vietnam Veterans Day honoring those men who served in Southeast Asia and returned to their homes, those men missing in action, and those men who made the supreme sacrifice of their lives for their country.

Alphonso Sellet, one of my constituents from Walker Valley, N.Y., whose efforts in organizing local and national veterans groups in support of Vietnam veterans prompted me to introduce this resolution, should be extremely pleased to see the fruits of his labors with the passage of the resolution now before us.

Following the introduction of my resolution, I received many favorable comments from veterans groups and individual veterans throughout our Nation, each expressing their sincere interest in paying tribute to those men who bravely fought this unpopular war.

This recognition, which admittedly is long overdue, is timely in that the day, March 29, that we are requesting the President to proclaim as Vietnam Veterans Day is the anniversary of the welcome return of our prisoners of war, many of whom had been held captive several years.

Mr. Speaker, in addition to proclaiming and reminding us of our joy for the termination of the Vietnam military involvement, this resolution should also serve as a national reminder that many of our Vietnam veterans, over 1,200, are still listed as missing in action and are unable to share in this day of recognition. While our Nation is indeed thankful for the return of our prisoners of war and our returning soldiers, we are also saddened by the fact that so many of our men are yet unaccounted for.

Accordingly I am pleased that by the passage of this resolution requesting the President to proclaim Vietnam Veterans Day, we will be giving long overdue recognition to those men who served their country so faithfully and well while at the same time we will also be directing our Nation's attention to the 1,200 veterans who are still missing and not able to enjoy the recognition we are now proclaiming.

CALL OF THE HOUSE

Mr. WYLIE. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 696]

Alexander
Aspin
Blatnik
Bolling
Buchanan
Burke, Calif.
Burton
Carey, N.Y.
Casey, Tex.
Clark
Clausen,
  Don H.
Clay
Delaney
Dent
Diggs
Frelinghuysen
Gray
Griffiths
Gubser
Hansen, Wash.
Harvey
Hébert
Hudnut
Jarman
Jones, Ala.
Karth
Landrum
McCormack
Mailliard
Martin, Nebr.
Milford
Mills, Ark.
Mosher
Murphy, N.Y.
Nelsen
Powell, Ohio
Railsback
Reid
Rooney, N.Y.
Ryan
Sisk
Stark
Taylor, Mo.
Udall
Van Deerlin
Vander Jagt
Veysey
Waggonner
Walsh
Widnall
Wyatt

The SPEAKER. On this rollcall 381 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

CONFERENCE REPORT ON S. 14, HEALTH MAINTENANCE ORGANIZATION ACT OF 1973

Mr. STAGGERS. Mr. Speaker, I call up the conference report on the bill (S. 14) to amend the Public Health Service Act to provide assistance and encouragement for the establishment and expansion of health maintenance organizations, health care resources, and the establishment of a Quality Health Care Commission, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of December 12, 1973.)

Mr. STAGGERS (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the statement.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

Mr. GROSS. Mr. Speaker, reserving the right to object, will the gentleman say whether all the language in this conference report was previously considered by the House and of the Senate?

Mr. STAGGERS. One of the provisions was not considered in the House when it passed the House. It was in the Senate, when it passed the Senate.

Mr. GROSS. Is the gentleman prepared to say that the subject matter to be found in section 1307, and all of that subject matter, was previously considered by both the House and the Senate?

Mr. STAGGERS. I believe the gentleman is concerned with section 1307(d) of the conference report. This language was not included in the House amendment. Section 3 of the Senate bill contained general language designed to prevent conflicts between the HMO program, and medicare and medicaid. This section contains much more restricted, specific language designed to achieve the same purpose.

Mr. GROSS. I am informed that there is subject matter to be found in this bill under sections 1307 and 1311 that was neither considered by the House nor by the Senate. I want to ask at this time whether someone is going to explain those provisions.

Mr. STAGGERS. I will be glad to explain the bill.

Mr. GROSS. With particular reference to this language, which I believe is subject to a point of order. It is not my desire to make a point of order if the language in section 1307 is going to be explained, together with section 1311, which I believe is also subject to a point of order.

Now, if the sections are going to be explained to the satisfaction of the House, I will not make the point of order.

Mr. STAGGERS. I think we can explain this to the gentleman's satisfaction.

Mr. GROSS. Mr. Speaker, with that assurance, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. STAGGERS. Mr. Speaker, this conference report, to which all of the managers have agreed, is basically similar to the House-passed bill with some additions and modifications taken from the Senate bill.

The House and Senate bills, while similar in their intent, were written so differently that the conference report contains an entirely new draft of the legislation which generally follows the format of the House bill with the addition of Senate provisions.

The principal differences between the two bills included the amount of money authorized, the duration of the program, and the health services required of HMO's. The Senate bill authorized $805 million over a 3-year period. The House bill authorized $240 million over a 5-year period. The conference report authorizes $375 million over a 5-year period. The House bill required a limited, basic set of health services of HMO's and authorized them to provide a more complete set of supplemental services. The Senate bill required a comprehensive set of health services of HMO's, consisting of almost all of both the basic and supplemental services in the House bill. The conference report retains the House approach, but added a few services to the basic list; including acute care, and referral services for mental illness, alcoholism, and drug addiction. Numerous other differences of a lesser nature between the House and Senate approaches to HMO's were also resolved.

The House bill contained three major requirements which were not found in the Senate bill; that employers offer their employees the choice of joining an HMO in health benefits plan, that the Secretary of Health, Education and Welfare continue to regulate HMO's benefitting from the legislation, and that the Secretary and the Comptroller General evaluate the program conducted. With minor modifications, all of these provisions are retained in the conference report.

The Senate bill contained six major provisions not found in the House bill; construction assistance for HMO's, capitation payments for needy HMO members, premium subsidies for HMO's whose premiums increased because of open enrollment, special assistance for developing HMO's in nonmetropolitan areas, preemption of State laws which would restrict the development of HMO's, and extensive provisions for controlling the quality of medical care. The first three—construction assistance, and capitation and premium subsidy payments—are not contained in the conference report. The conference report gives special attention to nonmetropolitan areas by requiring that 20 percent of the funds appropriated be spent in such areas. The conference report contains a preemption provision which is similar to one considered earlier by the Interstate and Foreign Commerce Committee and is limited in its application to HMO's receiving some other benefit under the legislation, rather than the provision in the Senate bill. Finally, the report substitutes for the extensive Senate provision concerning the quality of health care a requirement that HEW do research on quality assurance and report to the Congress on the research, and a requirement for an independent study of quality assurance.

This is a good report. The managers worked for many hours on resolving the many major and minor differences between the two bills. The Senate was most generous in its willingness to compromise on the many provisions which we know would have been unacceptable to the House. The $375 million is close to the House authorization and represents a reasonable compromise. In the first year, approximately $70 million would be authorized which compares favorably with the President's budget of $60 million. The language of the conference report has been reviewed by officials in the administration and, while I cannot tell you how they will respond to it finally, I can say that their reaction to date has been very favorable.

I would like to congratulate my fellow conferees on the job they have done in bringing this report back to the House. I urge its adoption.

Mr. STAGGERS. Mr. Speaker, I yield to the gentleman from Florida (Mr. ROGERS) who will respond to the question of the gentleman from Iowa (Mr. GROSS).

I rise in support of the conference report which will stimulate development of health maintenance organizations.

This legislation represents the first innovative change in the Nation's health delivery system since the medicare program, and promises to bring better health to millions of Americans at lower costs.

The bill authorizes HMO's to contract with individuals or groups on a prepaid basis. It mandates a package of basic services to which every purchaser will be entitled. These include inpatient and outpatient care, physician's services, home health services, diagnostic services, emergency services, and preventive health services.

Perhaps the concept of the bill is best depicted in our mandate of preventive services as a basic benefit. For in this concept we are stressing preventive medicine rather than simply curative medicine. Those operating the HMO's will find financial incentive in keeping people healthy. We hope that this will be the forerunner for the Nation in putting emphasis on prevention of diseases.

The bill does not have a specific number of HMO's which will result from this legislation, but we judge that around 100 will be completed before the program expires.

We have built in safeguards by requiring an evaluation by GAO of the program after the first 50 HMO's have operated for 3 years.

The funding allocated from the bill calls for $375 million over a 5-year period. These funds will be used for grants and contracts for feasibility and planning and later for development and operations.

We have also tried to insure that people in medically underserved areas can benefit from this legislation by requiring that a priority be given to such areas.

I think that this new system will be successful and give us exciting and constructive alternatives to our existing programs of delivering better health services to Americans.

Mr. ROGERS. I am delighted to explain the provisions of section 1311. This is the section concerned with the preemption of State laws. It is based on a much more sweeping provision in the Senate bill.

What we have done is limit this section so that only those HMO's who could qualify for other forms of assistance under this bill could qualify, thus limiting the provision in the Senate bill.

In section 1307, which pertains to HMO beneficiaries covered by medicare and medicaid, we have made changes which simply conform the bill to what would be allowable under the medicare and medicaid law. Those HMO's who serve medicare people do not have to provide medicare members the services most other HMO members reserve—for instance, children's dental care—since those services would not really apply to the medicare people or the older community. In other words, they could work out an arrangement so that the bid for medicare would cover the services which are provided already in the medicare bill.

Finally, they could also have insurance against any risk involved in covering medicare people. That basically would be the only change, and it is in conformance with the intent expressed in the Senate bill to conform HMO's so that they can apply to medicare and medicaid eligible individuals.

Mr. HEINZ. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Pennsylvania.

Mr. HEINZ. Mr. Speaker, I would just like to commend the gentleman from Florida (Mr. ROGERS) and also the gentleman from Minnesota (Mr. NELSEN), our ranking minority member on the Subcommittee on Health, along with all the other Members on the other side, who worked so very long and very hard, both last year and this year, to bring about what I think is an excellent Health Maintenance Organization conference report.

I wish to compliment also the conferees and the chairman on our side, the gentleman from West Virginia (Mr. STAGGERS) without whom I do not think we could possibly have written this conference report, which I am sure the House will adopt overwhelmingly and which the President will sign, I hope, this week.

Mr. Speaker, I wish to commend both the gentleman from West Virginia (Mr. STAGGERS) and the gentleman from Florida (Mr. ROGERS) especially for the fine leadership they have shown.

Mr. ROGERS. Mr. Speaker, I certainly thank the gentleman, and I am sure our chairman, the gentleman from West Virginia, does also.

I must say that I think the House can take great pleasure in this bill, because it is so close to the House bill which we passed.

We must remember that the measures had started out in the Senate with $5 billion, and we have been able to cut that to a reasonable figure, which it ought to be, around $375 million for 5 years. The bill from the other body would have only been for 3 years.

So I think the House conferees did a real service in working out the provisions, and certainly all the members of the subcommittee have worked hard to bring this out.

Mr. HEINZ. Mr. Speaker, I think we all agree wholeheartedly with the gentleman.

Mr. DENNIS. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Indiana.

Mr. DENNIS. Mr. Speaker, I note in the report here the Commission on Quality Health Care Assurance, which was not in the House bill.

I am asking for information. My question is this:

Does this Commission on Quality Health Care Assurance look in the same direction as these PSRO efforts which we voted into law here last year without realizing it, and which have since become so controversial?

Mr. ROGERS. Mr. Speaker, I might say that that was so in the Senate bill, but those provisions were taken out in conference and a simple requirement for research and a study on quality substituted.

Mr. DENNIS. A study in the House bill?

Mr. ROGERS. The gentleman is correct.

Mr. DENNIS. And nothing further?

Mr. ROGERS. The gentleman is correct.

Mr. DENNIS. Mr. Speaker, I thank the gentleman.

Mr. STAGGERS. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 9256, GOVERNMENT EMPLOYEES HEALTH BENEFITS

Mr. WALDIE. Mr. Speaker, I call up the conference report on the bill (H.R. 9256) to increase the contribution of the Government to the cost of health benefits for Federal employees, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of December 7, 1973.)

Mr. WALDIE (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER. The Chair recognizes the gentleman from California (Mr. WALDIE).

Mr. WALDIE. Mr. Speaker, the only difference in the conference report and the House-passed bill is in the amount by which the Government's share of health insurance premiums will be increased.

The House bill would have increased the Government's contribution from 40 to 55 percent beginning in 1973, with an additional 5 percent increase in each subsequent year until 1977, when the Government's contribution would then have reached 75 percent. Under the conference agreement, we reduced those contributions considerably. The Government's contribution would be increased from 40 to 50 percent, beginning in 1974, and from 50 to 60 percent, beginning in 1975, and that will be the end of the bill.

Thereafter the Government's contribution will remain at 60 percent. Therefore, it is a 2-year bill rather than a 5-year bill.

The maximum increase in the Government's contribution has been reduced from the 75 percent that the House agreed to to 60 percent.

The bill has been considerably reduced in its cost.

Mr. GROSS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conference report on H.R. 9256, the health benefits bill is far from acceptable.

This so-called compromise commits the Federal Government to additional unbudgeted spending of $2 billion over the next 5 years. I repeat $2 billion. It is especially significant when you consider the rhetoric we have heard on the House floor throughout this year on the need to fight inflation.

If Members are serious about holding down inflation and costs of Government—and they should be—defeat of this legislation would be an important step in that direction.

Our country is confronted today with a rocketing rate of inflation, increasing unemployment, and dismal economic reports for 1974. Consequently, we are ill-advised to obligate the Federal Government for additional deficit spending of the magnitude proposed by this conference agreement.

Bear in mind that this legislation is another fringe benefit costing over $2 billion over the next 5 years for the President, Vice President, Members of Congress, and all Federal employees.

I do not intend to detail the arguments against this legislation, except to make one point. While Federal employees, as all employees, are subject to the rising costs of health care, they nevertheless have received pay increases totaling 36.54 percent over the past 5 years and, under the provisions of the Pay Comparability Act, similar increases can be expected in the future.

This bill simply turns around, reverses the contribution ratio, that is, the Federal Government is presently paying 40 percent of the cost of health benefits, and Federal employees, including Members of Congress, are paying 60 percent of their health benefits. This simply turns it around and provides that the Federal Government shall pay 60 percent and Federal employees 40 percent. Members of Congress who vote for this legislation will be voting to extract from Uncle Sugar a nice Christmas present for themselves.

Mr. Speaker, we must do more than merely talk about inflation and the high costs of Government. It is time to restore fiscal sanity in this Government, and all legislation of this nature should be defeated.

Mr. WALDIE. Mr. Speaker, I yield myself such additional time as I may consume.

Mr. Speaker, in response to the gentleman from Iowa, I simply suggest that this administration has already approved a grant of 100 percent of the payment of life insurance premiums to postal employees this year, and a major increase in the Federal contribution to their health insurance premium. The 40 percent we pay for our Federal employees is probably among the lowest or is the lowest contribution of all major employers in the United States. This is a reasonable increase. It should have been the much higher percent the administration approved for postal employees, but it is better than we we are now paying. I think it is an entirely proper and just contribution.

Mr. GROSS. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. HOGAN).

Mr. HOGAN. Mr. Speaker, I disagree with the gentleman from Iowa (Mr. GROSS). The hearings on this legislation showed clearly that the Federal Government lags behind, not only the major industrial employers, but also behind the public employers on the State level and in many instances on the city level in the provision of health benefits. Many of these other employers pay 100 percent of the premium cost of health benefits. The bill before us goes nowhere near that goal.

I would have preferred to see the House version of this legislation prevail, but in the interest of compromise we worked out what I think is a practical bill which I hope the President will sign.

I urge all of our colleagues to give support to this conference report.

Mr. Speaker, the conference report on H.R. 9256, the health benefits bill, is, of course, a compromise between the House and Senate versions of the legislation.

I did not support these "compromise percentages" in conference—55 percent in 1974, and 60 percent in 1975—because I felt they were too little, too late. I did, however, sign the conference report as a practical expression of support for "a bill" to raise the Government contribution to health benefits premium. We had a choice between an inadequate bill or no bill. Therefore, I signed the conference report.

It is unfair and unrealistic to offer Federal employees a token increase in the Government's contribution to health benefits premium when in January 1974, a premium increase of nearly 20 percent is to be effected for those Federal employees enrolled in the Blue Cross-Blue Shield health benefits plan, which insures the largest number of Federal employees.

For years now, the Federal Government has lagged behind the private sector in providing a fair contribution to health benefits. In fact, the Civil Service Commission, in its report of December 1972, comparing the benefits offered by the Federal Government as an employer, and benefits offered by a sampling of private and public employees, had this to say:

> The financing of health benefits has long been a troublesome aspect of the Federal program, and the situation has not improved during the past year. While the numbers of employers who pay all or most of the health plan premiums for employees continues to increase, the Federal formula remains unchanged. In addition to lagging behind the private sector, the Federal contribution rate is now exceeded by many public employers at all levels.
>
> Although one of the strengths of the Federal program has always been the generosity of its benefit levels, its pre-eminence in this area is being seriously threatened by the strides made by other employers in the past year. Overall, the program is still somewhat more generous than those of most employers, but not by a sufficient amount to constitute a significant competitive advantage.

Mr. Speaker, the House, on September 20, 1973, voted by a substantial margin to increase the Government's contribution to health benefits to 75 percent by 1978. This graduated approach was realistic. It should have prevailed. In fact, as a matter of equity, the Federal Government should be paying the same amount of health benefits premiums paid by other large employers—the full cost.

Nevertheless, Mr. Speaker, this compromise is better than nothing at all. But, it is sad to think this is the best we can do for Federal employees.

Mr. GROSS. Mr. Speaker, I yield one minute to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Speaker, I appreciate the gentleman from Iowa yielding to me.

Mr. Speaker, I would like to discuss with my colleague, the gentleman from California (Mr. WALDIE), who I know is anxious to run for Governor, and further please a great number of fine Federal employees in California by supporting this extremely expensive legislation. We understand that politics move, and we appreciate that this bill is important to the gentleman's future election. But is it not true that our hearings showed that though it is correct that some very large industries pay 100 percent of the health benefits, for employees and that it is primarily the big industries that go to 100 percent; However, the ones that have great difficulty in paying 100 percent, or even close to it, are the small businesses. The hearings demonstrated that small and medium size businesses are the ones that are losing employees to the Federal Government because they cannot pay 100 percent of the health benefits, or anything close to it. Is that not the case?

Mr. WALDIE. If the gentleman will yield, no.

Mr. ROUSSELOT. I submit the gentleman is wrong on this point and that the testimony will show that it is small and medium size businesses that will be adversey effected by this bill. As a matter of fact, just this past month I have been going through my own area of southern California discussing with small businesses the problems they have in competing for employees in the open market, because the Federal Government is providing such high benefits in the health field. In addition, Federal employees enjoy a higher level of health benefits than do many employees in the private sector.

Just as an example, Risedale Industries, a small industry in my district lost a technical employee who works in the electronics field to the Post Office Department, of all things, because he could obtain a starting salary as a postal carrier of $10,000. This worker also stated that he could secure not only substantial health benefits, but he could also anticipate paying only 40 percent of the cost. So this business clearly lost an employee on the basis of this expensive kind of legislation.

I respectfully disagree with the gentleman from California. I do not believe the gentleman is entirely correct when he says that we are not taking employees out of the private market.

The SPEAKER. The time of the gentleman has expired.

Mr. GROSS. I yield 1 additional minute to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, I thank the gentleman from Iowa for yielding further time to me.

I would really like to discuss the percentages with the gentleman from California. Is it not true that the basic contribution level by employees in the private sector in medium and small businesses is 50 percent.

Mr. WALDIE. Would the gentleman yield to me so as to permit me to respond to the gentleman?

Mr. ROUSSELOT. I will be glad to yield to the gentleman from California.

Mr. WALDIE. I hope that the gentleman is not suggesting that the solution to the problem that he describes as existing in the gentleman's district, is that the Federal Government should pay a salary comparable to the lowest salary paid by small businesses?

Mr. ROUSSELOT. I am talking about the contribution level of employees in the private sector to health benefits. I am not talking about salary levels. One of the main attractions for Federal employment today, is the liberal health benefits.

Mr. WALDIE. Then is it the intention of the gentleman from California that we should pay the lowest premium for health benefits comparable to those of the lowest paid employees in the United States?

Mr. ROUSSELOT. My point is that one of the major attractions the Federal Government has in drawing people away from private industry is because we are already providing substantial health benefits. Now in this bill we are asking the Federal taxpayers to pay 60 percent of these health benefits. And I know that if the gentleman from California had his way we would ask the taxpayer to pay 100 percent of all Federal employee health benefits. This bill carries the Federal Government far beyond the ability of the small businessman to compete for employees where the type of work is comparable.

The only point I am trying to make is to be sure the Members understand that it is primarily the large industries, the auto industries, the steel industries, and the others, that pay 80 to 100 percent of health coverage premiums.

The SPEAKER. The time of the gentleman from California has again expired.

Mr. GROSS. I yield 1 additional minute to the gentleman from California.

Mr. ROUSSELOT. The top 500 businesses are the ones that are paying closer to 100 percent not the small and medium size businesses. It is not just the salary consideration.

And I am not suggesting that we pay the lowest wages at the Federal level. I think salaries should be comparable for similar work. But what I am saying is that when we encourage the Federal Government to pay 75 percent of the health benefit costs, it tends to attract employees away from the private sector.

The small businessman cannot compete. With such expensive Federal fringe benefits which he must charge to the consumer.

Mr. WALDIE. I think the gentleman from California is absolutely wrong. I think the Federal Government has an obligation under law to pay comparable wages plus comparable benefits of comparable employers, and the smallest employer in the country is not comparable to the largest employer. We happen to be the largest employer in the world, not just in the country. We have an obligation and a responsibility to our employees that they be treated comparably because that is the law of the land.

The SPEAKER. The time of the gentleman has expired.

Mr. GROSS. Mr. Speaker, I yield 1 additional minute to the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for yielding.

My only point is that I believe we do a great disservice to the small and middle-sized businesses when we constantly make it more financially attractive to work for the Federal Government, and I say it is not true comparability, as I believe my colleague, the gentleman from California, is claiming.

Mr. HILLIS. Mr. Speaker, I rise in support of the conference report on H.R. 9256, the health benefits bill.

I strongly supported and cosponsored the House-passed bill which provided for a Government contribution of 75 percent in 1978, and hoped that this language would prevail. However, I recognize the budgetary realities of the situation and the reason for the reduced percentages.

The compromise before us provides for the Government to pay 50 percent of the health benefits premium in January 1974, and 60 percent of the costs in 1975. This compromise is $827,000 less than the House-passed version.

The Federal Government, the largest employer in the country, has not kept pace with other large employers in providing health benefits coverage for its employees.

For example, the largest employer in my district, General Motors Corp., provides health benefits coverage similar in many respects to that provided by Blue Cross-Blue Shield-high option under the Federal program. However, General Motors pays 96 percent of the premium or about $648 annually for each enrolled employee. In contrast, the Federal Government presently pays 40 percent or approximately $264 annually for each enrolled employee. Even with the increases provided under this legislation, the Federal Government will continue to lag behind other large employers, such as General Motors, in contributing to a health benefits program.

Mr. Speaker, I am hopeful approval of this legislation will be the first step in achieving the goal of the Federal Government paying the full cost of health care benefits.

Mr. DULSKI. Mr. Speaker, I rise in support of the conference agreement on H.R. 9256.

The primary purpose of this legislation is to increase the Government's share of the premium charges under the Federal employees' health benefits program.

In addition, this legislation would permit annuitants who retired prior to July 1, 1960, and who now are covered under the Retired Federal Employees' Health Benefits Act, to elect coverage under the more comprehensive health benefits program applicable to active employees.

Finally, Mr. Speaker, this legislation would require health insurance carriers to comply with Civil Service Commission decisions rendered in connection with claim disputes.

Mr. Speaker, there really is only one significant difference between the conference agreement and the House-passed bill.

The House bill would have increased the Government's contribution from 40 to 55 percent beginning in 1973 with an additional 5 percent increase in each subsequent year until 1977 when the Government's contribution would reach 75 percent.

Under the conference agreement, the Government's contribution will be increased from 40 to 50 percent beginning in 1974 and from 50 to 60 percent beginning in 1975 and in each year thereafter.

Mr. Speaker, I believe the conference agreement represents a very reasonable and politically feasible compromise between the original House and Senate positions.

While the conference agreement is much less liberal than the original House provisions, it, nevertheless, is more generous than the Senate version which would have limited the Government's contribution to 55 percent in 1975 and thereafter.

Over the next 5 calendar years the Government's contribution for health benefits will be increased by a total of $2 billion under the conference agreement. This amount is approximately $828 million less than the cost under the House-passed bill and approximately $321 million more than the Senate version.

Mr. Speaker, I want to take this opportunity to express my appreciation to the gentleman from California (Mr. WALDIE) and the other conferees, for their cooperation in developing the conference agreement.

I believe that, under the circumstances, the conferees have worked out a very acceptable compromise and I, therefore, urge adoption of the conference report.

Mr. WALDIE. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. GROSS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 307, nays 82, not voting 43, as follows:

[Roll No. 697]

YEAS—307

Abdnor
Abzug
Adams
Addabbo
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Armstrong
Ashley
Badillo
Barrett
Bauman
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Boggs
Boland
Brademas
Brasco
Bray
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Burgener
Burke, Mass.
Burlison, Mo.
Carney, Ohio
Carter
Casey, Tex.
Cederberg
Chamberlain
Chisholm
Clark
Clausen, Don H.
Cleveland
Cohen
Collier
Collins, Ill.
Conable
Conlan
Conte
Conyers
Corman
Cotter
Coughlin
Cronin
Culver
Daniel, Robert W., Jr.
Daniels, Dominick V.
Danielson
Davis, Ga.
Davis, S.C.
de la Garza
Dellums
Denholm
Derwinski
Dickinson
Diggs
Dingell
Donohue
Dorn
Downing
Drinan
Dulski
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Esch
Eshleman
Evans, Colo.
Fascell
Findley
Fish
Fisher
Flood
Flowers
Foley
Ford, William D.
Forsythe
Fountain
Fraser
Frenzel
Frey
Froehlich
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Grasso
Gray
Green, Oreg.
Green, Pa.
Grover
Gude
Gunter
Haley
Hamilton
Hammerschmidt
Hanley
Hanrahan
Hansen, Idaho
Harrington
Harsha
Hawkins
Hays
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks
Hillis
Hinshaw
Hogan
Holifield
Holt
Holtzman
Horton
Howard
Hungate
Hunt
Ichord
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jordan
Kastenmeier
Kazen
Keating
Kemp
Ketchum
Kluczynski
Koch
Kuykendall
Kyros
Lehman
Lent
Litton
Long, La.
Long, Md.
McClory
McCloskey
McCollister
McDade
McFall
McKay
Macdonald
Madden
Madigan
Mallary
Maraziti
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Minish
Mink
Minshall, Ohio
Mitchell, Md.
Mitchell, N.Y.
Mizell
Moakley
Mollohan
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Myers
Natcher
Nedzi
Nelsen
Nichols
Nix
Obey
O'Brien
O'Hara
O'Neill
Owens
Parris
Patman
Patten
Pepper
Perkins
Pettis
Peyser
Pike
Podell
Preyer
Price, Ill.
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rees
Regula
Reuss
Rhodes
Riegle
Rinaldo
Robison, N.Y.
Rodino
Roe
Rogers
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Roy
Roybal
Ruppe
St Germain
Sandman
Sarasin
Sarbanes
Schroeder
Seiberling
Shipley
Shoup
Shriver
Sikes
Slack
Smith, Iowa
Staggers
Stanton, J. William
Stanton, James V.
Steed
Steele
Steelman
Stephens
Stokes
Stratton
Stubblefield
Stuckey
Studds
Sullivan
Symington
Talcott
Taylor, N.C.
Teague, Calif.
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Tiernan
Udall
Ullman
Vanik
Vigorito
Waldie
Wampler
Ware
Whalen
White
Whitehurst
Widnall
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Winn
Wolff
Wright
Wydler
Wyman
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zion
Zwach

NAYS—82

Archer
Arends
Ashbrook
Bafalis
Baker
Blackburn
Bowen
Burke, Fla.
Burleson, Tex.
Butler
Byron
Camp
Chappell
Clancy
Clawson, Del
Cochran
Collins, Tex.
Crane
Daniel, Dan
Dellenback
Dennis
Devine
Duncan
du Pont
Erlenborn
Evins, Tenn.
Flynt
Goodling
Gross
Guyer
Hastings
Hosmer
Huber
Hutchinson
Jarman
Johnson, Colo.
Jones, Tenn.
King
Landgrebe
Latta
Lott
Lujan
McEwen
McSpadden
Mahon
Mann
Mayne
Michel
Miller
Montgomery
Moorhead, Calif.
Passman
Pickle
Poage
Price, Tex.
Rarick
Roberts
Robinson, Va.
Rousselot
Runnels
Ruth
Satterfield
Scherle
Schneebeli
Sebelius
Shuster
Skubitz
Smith, N.Y.
Snyder
Spence
Steiger, Ariz.
Steiger, Wis.
Symms
Teague, Tex.
Towell, Nev.
Treen
Waggonner
Whitten
Wiggins
Wylie
Young, Ill.
Young, S.C.

NOT VOTING—43

Alexander
Aspin
Beard
Blatnik
Bolling
Buchanan
Burke, Calif.
Burton
Carey, N.Y.
Clay
Davis, Wis.
Delaney
Dent
Frelinghuysen
Griffiths
Gubser
Hanna
Hansen, Wash.
Harvey
Hébert
Hudnut
Karth
Landrum
Leggett
McCormack
McKinney
Mailliard
Martin, Nebr.
Milford
Mills, Ark.
Murphy, N.Y.
Powell, Ohio
Reid
Rooney, N.Y.
Ryan
Sisk
Stark
Taylor, Mo.
Van Deerlin
Vander Jagt
Veysey
Walsh
Wyatt

So the conference report was agreed to.

The Clerk announced the following pairs:

Mr. Hébert with Mr. Buchanan.

Mr. Rooney of New York with Mr. Frelinghuysen.

Mrs. Burke of California with Mr. Harvey.

Mr. Ryan with Mr. Beard.

Mr. Carey of New York with Mr. Mailliard.

Mr. Dent with Mr. Martin of Nebraska.

Mrs. Griffiths with Mr. Hudnut.

Mr. Sisk with Mr. Reid.

Mrs. Hansen of Washington with Mr. McKinney.

Mr. Hanna with Mr. Powell of Ohio.

Mr. Clay with Mr. Delaney.

Mr. Leggett with Mr. Gubser.

Mr. Stark with Mr. Aspin.

Mr. Murphy of New York with Mr. Milford.

Mr. Karth with Mr. Davis of Wisconsin.

Mr. Landrum with Mr. Taylor of Missouri.

Mr. McCormack with Mr. Van Deerlin.

Mr. Mills of Arkansas with Mr. Vander Jagt.

Mr. Burton with Mr. Alexander.

Mr. Blatnik with Mr. Wyatt.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WALDIE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on the bill H.R. 9256, just passed.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

AUTHORIZING THE SECRETARY OF THE INTERIOR TO PURCHASE PROPERTY LOCATED WITHIN SAN CARLOS MINERAL STRIP

Mr. MELCHER. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 7730) to authorize the Secretary of the Interior to purchase property located within the San Carlos Mineral Strip, with an amendment.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there

objection to the request of the gentleman from Montana?

There was no objection.

The Clerk read the bill as follows:

H.R. 7730

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized, in his discretion, under such regulations as he may prescribe, to acquire through purchase from permittees or lessees having grazing rights within the so-called San Carlos Mineral Strip as of January 24, 1969, any or all of their privately owned property, both real and personal, located within such area, taking title thereto in the name of the United States in trust for the San Carlos Apache Indian Tribe.

SEC. 2. The Secretary of the Interior is authorized and directed to compensate the owners of range improvements of a permanent nature placed, under the authority of a permit from or agreement with the United States, on the lands restored to the tribe for the reasonable value of such improvements, as determined by the Secretary. Persons whose grazing permits, licenses, or leases on lands within the area restored to the San Carlos Apache Tribe were canceled because of such restoration shall be compensated in accordance with the standard prescribed by the Act of July 9, 1942, as amended (43 U.S.C. 315q).

SEC. 3. For the purpose of purchasing such real and personal property and payment of compensation as provided above, there is hereby authorized to be appropriated, from any funds in the Treasury not otherwise appropriated, sums sufficient to defray the costs as determined by the Secretary.

AMENDMENT OFFERED BY MR. MELCHER

Mr. MELCHER. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MELCHER: Strike everything after the enacting clause and insert in lieu thereof the following:

That the Secretary of the Interior is hereby authorized and directed to acquire through purchase within the so-called San Carlos Mineral Strip as of January 24, 1969, all privately owned real property, taking title thereto in the name of the United States in trust for the San Carlos Apache Indian Tribe.

SEC. 2. The Secretary of the Interior is authorized and directed to purchase from the owners all range improvements of a permanent nature placed, under the authority of a permit from or agreement with the United States, on the lands restored to the tribe for the reasonable value of such improvements, as determined by the Secretary, provided, however, that if any such range improvements were constructed under cooperative agreement with the Federal Government, the reasonable value shall be decreased proportionately by the percentage of original Federal participation. Such permanent improvements shall include, but not be limited to, wells, windmills, water tanks, ponds, dams, roads, fences, corrals and buildings. The Secretary shall take title to such range improvements in the name of the United States in trust for the San Carlos Apache Indian Tribe.

SEC. 3. The Indian Claims Commission is directed to determine in accordance with the provisions of Section 2 of the Act of August 13, 1946 (60 Stat. 1050), the extent to which the value of the conveyances provided for in this Act should or should not be set off against any claim of the San Carlos Apache Tribe against the United States.

SEC. 4. There are authorized to be appropriated for the purposes of this Act not to exceed $1,500,000 to be available without fiscal year limitation. In no event shall any person receive total compensation under this Act in excess of $150,000.

Mr. MELCHER (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the amendment be dispensed with, and that it be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Montana?

There was no objection.

Mr. MELCHER. Mr. Speaker, this is a bill that had some problems when we considered it on suspension several weeks ago. It received a majority of votes but lacked the required two-thirds vote for passage under suspension of the rules. We have straightened out those problems and removed the objections raised in the House debate on the floor at that time. I am offering an amendment which has been examined very thoroughly by Members on both sides of the aisle.

This amendment revises the entire bill to direct the Secretary of Interior to purchase all the privately owned real property in the San Carlos mineral strip and all range improvements of a permanent nature such as wells, fences, buildings, and corrals to hold in trust for the San Carlos Apache Indian Tribe.

The Indians would get all of the land in the strip returned to them plus all of the improvements made on the land. The San Carlos Apache Tribe deserves this since it was a mistake of our Government to have removed this land from their control and use; $1½ million is authorized for this purpose with a limitation of $150,000 for any one person.

I urge that the House accept the amendment and pass the bill.

The SPEAKER. Is there objection to the request of the gentleman from Montana?

There was no objection.

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. SARASIN. Mr. Speaker, due to the inclement weather which disrupted normal airline traffic yesterday, I was unavoidably detained while returning from my regular weekend visit to the Fifth District of Connecticut. Therefore, I was unable to vote on two recorded votes, rollcall Nos. 692 and 693.

Had I not been detained, I would have voted "nay" on the motion to recommit and "yea" on final passage of the conference report accompanying S. 1435, a bill to provide self-government for the District of Columbia.

AUTHORIZING SPEAKER TO ENTERTAIN MOTIONS TO SUSPEND THE RULES ON WEDNESDAY, DECEMBER 19, 1973, AND FOR THE BALANCE OF THAT WEEK

Mr. MADDEN. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 746 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 746

Resolved, That on Wednesday, December 19, 1973, and for the balance of that week, it shall be in order for the Speaker, at any time, to entertain motions to suspend the rules, notwithstanding the provisions of clause 1, rule XXVII.

Mr. MADDEN. Mr. Speaker, House Resolution 746 provides it shall be in order for the Speaker, at any time on or after Wednesday next, December 19, 1973, to entertain motions to suspend the rules of the House of Representatives.

This resolution is needed because even though it is anticipated that the House will adjourn by this Friday, December 21, it is impossible to know exactly when the last 6 days of the session will occur, without the adjournment resolution.

I urge adoption of House Resolution 746.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. MADDEN. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, I thank the gentleman from Indiana, the chairman of the Committee on Rules, for yielding.

What now happens to the Suspension Calendar that we have before us?

Mr. MADDEN. I presume that the Suspension Calendar will continue until all bills are disposed of, and then possibly, I presume, there may be other bills taken up under suspension.

This resolution is merely to cover the situation under the Rules of the House. It is a rule that has always been recognized a few days before adjournment.

Mr. GROSS. I understand the purpose of it. I was just wondering if this would have anything to do with the schedule today, which is the second suspension day this week under the rules made applicable for this session.

Mr. MADDEN. Mr. Speaker, this does not affect today's proceedings at all.

Mr. GROSS. All right. Why do we continue the rule, the present rule, for suspensions on the last 6 days of a session, and which is predicated upon the adoption of a sine die adjournment resolution on a date certain?

Mr. MADDEN. Well, this is under the regular rules of the House. It is customary pending an adjournment.

Mr. GROSS. Mr. Speaker, this is to circumvent the regular rules of the House which provide for suspensions 6 days prior to the sine die adjournment of a session of Congress, providing only that the House has adopted a date for sine die adjournment.

Mr. MADDEN. Perhaps the gentleman from Iowa might have a suspension he wishes to have taken up.

Mr. GROSS. Why should we have this resolution to set aside a rule of the House which is explicit, but never used?

Mr. MADDEN. Mr. Speaker, I say to the gentleman from Iowa, that this is part of the rules of the House, and it is the practice in the closing days of every session.

Mr. GROSS. Mr. Speaker, I know it is done in this way, but the rules already provide for the consideration of suspensions, under certain conditions.

Mr. MADDEN. I will say to the gentleman that we are merely carrying out the rules of the House.

Mr. GROSS. If the pending resolution is adopted, it will constitute an edict on the part of the House that sets aside a rule.

Mr. MADDEN. It has been a customary practice in order to carry out the rules of the House.

Mr. GROSS. Yes; it is one of those in-and-out and roundabout deals. It has appeared in practically every session in recent years.

Mr. MADDEN. Mr. Speaker, I have heard the gentleman from Iowa get up time after time to inquire about when we are going to adjourn and ask questions concerning how long we think it is going to take before we go home. This is really a rule which may help the gentleman from Iowa to get back to Iowa and take care of his cows and chickens.

Mr. GROSS. I am not asking to get out at any price.

Let us stop footdragging and get down to work early in the next session so that we do not have to go through this kind of a charade again.

Mr. MADDEN. Mr. Speaker, I fully realize, after hearing the gentleman from Iowa complain any number of times about delaying adjournment, that this is going to be of great assistance to the gentleman from Iowa.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, had the reconvening resolution set a specific date for adjournment and had that date been within a 6-day period, this rule would not have been necessary.

Mr. Speaker, I have no requests for time.

I urge the adoption of the resolution and reserve the balance of my time.

Mr. MADDEN. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken, and the Speaker announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I demand a recorded vote.

A recorded vote was refused.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 284, nays 101, not voting 47, as follows:

[Roll No. 698]

YEAS—284

Abzug
Adams
Addabbo
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Arends
Ashley
Badillo
Barrett
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Boggs
Boland
Brademas
Brasco
Bray
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Byron
Camp
Carney, Ohio
Carter
Casey, Tex.
Chamberlain
Chappell
Chisholm
Clark
Clausen, Don H.
Clawson, Del
Cleveland
Cohen
Collins, Ill.
Conable
Conlan
Conte
Conyers
Corman
Cotter
Coughlin
Cronin
Culver
Daniels, Dominick V.
Danielson
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Dellums
Denholm
Dickinson
Dingell
Donohue
Downing
Drinan
Dulski
Eckhardt
Edwards, Calif.
Eilberg
Erlenborn
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Fisher
Flood
Flowers
Foley
Ford, William D.
Forsythe
Fraser
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Ginn
Goldwater
Grasso
Gray
Green, Oreg.
Green, Pa.
Grover
Gude
Gunter
Guyer
Haley
Hamilton
Hanley
Hansen, Idaho
Harrington
Hastings
Hawkins
Hays
Helstoski
Henderson
Hicks
Holtzman
Horton
Hosmer
Howard
Hungate
Jarman
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
King
Kluczynski
Koch
Kuykendall
Kyros
Latta
Leggett
Lehman
Lent
Litton
Long, Md.
McCloskey
McDade
McEwen
McFall
McKay
McSpadden
Macdonald
Madden
Mahon
Mallary
Mann
Mathias, Calif.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Milford
Minish
Mink
Mitchell, Md.
Moakley
Mollohan
Morgan
Mosher
Moss
Murphy, Ill.
Natcher
Nedzi
Nelsen
Nichols
Nix
Obey
O'Brien
O'Hara
O'Neill
Owens
Passman
Patman
Patten
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Podell
Preyer
Price, Ill.
Pritchard
Quillen
Railsback
Randall
Rangel
Rees
Regula
Reuss
Rhodes
Riegle
Roberts
Robison, N.Y.
Rodino
Roe
Rogers
Roncalio, Wyo.
Roncallo, N.Y.
Rose
Rosenthal
Rostenkowski
Roush
Roy
Roybal
Runnels
Ruppe
St Germain
Sarbanes
Schneebeli
Schroeder
Seiberling
Shipley
Shoup
Sikes
Sisk
Slack
Smith, Iowa
Smith, N.Y.
Snyder
Staggers
Stanton, J. William
Stanton, James V.
Steed
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stokes
Stratton
Stubblefield
Stuckey
Studds
Sullivan
Symington
Taylor, N.C.
Teague, Tex.
Thompson, N.J.
Thomson, Wis.
Thornton
Tiernan
Towell, Nev.
Treen
Udall
Ullman
Vanik
Vigorito
Waldie
Ware
Whalen
White
Widnall
Wiggins
Williams
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Wolff
Wright
Wydler
Wyman
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Ill.
Young, Tex.
Zablocki
Zwach

NAYS—101

Abdnor
Archer
Armstrong
Ashbrook
Bafalis
Baker
Bauman
Beard
Bell
Blackburn
Bowen
Burgener
Burke, Fla.
Butler
Clancy
Cochran
Collier
Collins, Tex.
Crane
Daniel, Dan
Daniel, Robert W., Jr.
Dellenback
Dennis
Derwinski
Devine
Dorn
Duncan
du Pont
Edwards, Ala.
Flynt
Fountain
Frenzel
Frey
Froehlich
Gilman
Gonzalez
Goodling
Gross
Hammerschmidt
Hanrahan
Harsha
Hechler, W. Va.
Heckler, Mass.
Heinz
Hillis
Hinshaw
Hogan
Holt
Huber
Hunt
Hutchinson
Ichord
Keating
Kemp
Ketchum
Lott
Lujan
McClory
McCollister
Madigan
Maraziti
Martin, N.C.
Mathis, Ga.
Michel
Miller
Mitchell, N.Y.
Mizell
Montgomery
Moorhead, Calif.
Myers
Parris
Price, Tex.
Quie
Rarick
Rinaldo
Robinson, Va.
Rooney, Pa.
Rousselot
Ruth
Sandman
Sarasin
Satterfield
Scherle
Sebelius
Shriver
Shuster
Spence
Steele
Symms
Talcott
Teague, Calif.
Thone
Waggonner
Wampler
Whitehurst
Whitten
Wilson, Bob
Winn
Wylie
Young, S.C.
Zion

NOT VOTING—47

Alexander
Anderson, Ill.
Aspin
Blatnik
Bolling
Buchanan
Burke, Calif.
Burton
Carey, N.Y.
Cederberg
Clay
Delaney
Dent
Diggs
Frelinghuysen
Griffiths
Gubser
Hanna
Hansen, Wash.
Harvey
Hébert
Holifield
Hudnut
Karth
Landgrebe
Landrum
Long, La.
McCormack
McKinney
Mailliard
Martin, Nebr.
Mills, Ark.
Minshall, Ohio
Moorhead, Pa.
Murphy, N.Y.
Powell, Ohio
Reid
Rooney, N.Y.
Ryan
Skubitz
Stark
Taylor, Mo.
Van Deerlin
Vander Jagt
Veysey
Walsh
Wyatt

So the resolution was agreed to.

The vote was announced as above recorded.

A motion to reconsider was laid on the table.

INDIAN RIVER, FLA., GRAPEFRUIT PROMOTION

Mr. VIGORITO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1945) to amend the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, so as to authorize certain grapefruit marketing orders which provide for an assessment against handlers for the purpose of financing a marketing promotion program to also provide for a credit against such assessment in the case of handlers who expend directly for marketing promotion.

The Clerk read as follows:

S. 1945

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8c(6)(I) of the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937 and subsequent legislation, is further amended by inserting in the first proviso "and Florida Indian River grapefruit" immediately after "with respect to almonds".

The SPEAKER. Is a second demanded?

Mr. TEAGUE of California. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. VIGORITO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the legislation now before the House is S. 1945, a bill to permit marketing orders for Florida Indian River grapefruit to provide for crediting a handler's direct market promotion expenditures against his assessment for market promotion expenses under the order. It is identical to S. 1945 passed by the Senate on March 7, 1972.

Section 8c(6)(I) of the Agricultural Adjustment Act now provides for the establishment of market promotion programs under marketing orders, including in the case of a number of specified commodities paid advertising. Funds collected from handlers for these programs cannot, of course, be used for brand advertising, although brand advertising by individual handlers contributes to the success of the program. Under the bill an order could permit all or part of the handler's expenditures for promotion to be credited against his assessment.

Mr. GUNTER. Mr. Speaker, will the gentleman yield?

Mr. VIGORITO. I yield such time as he may consume to the gentleman from Florida.

Mr. GUNTER. Mr. Speaker, this bill certainly is an example of American initiative and ingenuity. The purpose of the legislation, and any specific marketing order developed under it, would be to promote the words "Indian River" as they pertain to fresh Florida grapefruit.

This bill, Mr. Speaker, provides for a way wherein handlers and shippers can have a credit against the shipper's assessment obligation under the marketing order for a portion or all of the money that the handler or shipper spends in directly promoting Indian River grapefruit. It would encourage shippers of Indian River grapefruit to maintain or develop their own promotion, including paid advertising.

Mr. Speaker, this bill is timely since we are in a period of ever-increasing production in the Indian River district. I call attention to the production of grapefruit in the Indian River district. It has gone from 8.7 million boxes in the 1961–62 season up to 16.9 millions boxes in 1971–72.

It should also be pointed out, that this bill provides the same authorization as that provided for California almonds in Public Law 91–522, approved November 5, 1970, by the Congress and the President.

The California almond marketing order program, it is my understanding from the testimony before our committee on agriculture, is enjoying great success in that State.

I would also like to underscore the point, Mr. Speaker, that the growers and handlers within the Indian River district are in favor of this legislation. The Indian River Citrus League, representing some 85 percent of the growers in the district, has unanimously endorsed this legislation. The Indian River Grapefruit Committee has endorsed the bill.

Over the several months that this legislation has been under consideration, there has been wide publicity on this matter in the district. I have not received one letter or one phone call in opposition to the bill, so I think it is legislation that finds favor with those that are going to be affected by it.

I also want to emphasize that several of my colleagues from Florida have introduced similar legislation to the Senate bill now before us, including Mr. ROGERS, Mr. BAFALIS, and Mr. FREY. This legislation, I believe, is unanimously endorsed by all Members of the Florida delegation.

Mr. VIGORITO. Mr. Speaker, I yield to the gentleman from California.

Mr. TEAGUE of California. Mr. Speaker, I support this bill, not with overwhelming enthusiasm, but I shall support it at this time.

I yield to the gentleman from Florida (Mr. FREY).

Mr. FREY. Mr. Speaker, I am here today trusting the House will approve of and join our efforts to protect the prestige and recognition of Indian River grapefruit at the marketplace.

That protection and rightful place at the market can come only by amending the Agricultural Marketing Agreement Act of 1937 to allow Florida growers to develop their own promotional program.

The Indian River grapefruit is a tasty one with a high juice content and a thin, smooth rind.

This grapefruit can only be grown in the Indian River district—which includes portions of Brevard, Volusia, Indian River, St. Lucie, Martin and Palm Beach Counties—because of the soil and weather factors of this narrow strip of land along Florida's east coast.

There are more than 40 fresh citrus packinghouses in the Indian River district and more than 50 percent of the fresh grapefruit shipped from the Sunshine State comes from this district.

Value of the Indian River grapefruit is estimated to be about $70 million this year, a figure which denotes its importance to the area's economy.

Amending the marketing order will allow even more sales of Indian River grapefruit as it enables Indian River Citrus League members to receive credits toward promotion and advertising from assessments they now pay on each box of fruit produced.

The advertising will allow Indian River grapefruit to compete with a similar grapefruit, one produced in Texas and marketed under the name "TexasSweet."

Producers of TexasSweet will spend an estimated $800,000 this year alone to advertise their products while Indian river grapefruit growers are free to advertise their brand only at added expense.

Passage of this amendment, however, will guarantee to Indian River growers that they will be able to compete at a more equitable level with producers of other grapefruit.

I would like to add, Mr. Speaker, that this amendment we are considering today comes in the form of enabling legislation and let me also emphasize that the promotional effort must be approved through referendum before it can become effective.

The Indian River Citrus League supports this legislation and I trust it will receive favorable action by the Congress.

Mr. TEAGUE of California. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. FINDLEY).

Mr. FINDLEY. Mr. Speaker, this bill deals only with the State of Florida. It deals only with a certain type of grapefruit that is produced in the State of Florida. I know of no opposition, organized or otherwise, among the producers and shippers of that particular commodity within the State of Florida. Nevertheless, I believe this Chamber should know what is in this bill.

There is a fundamental principle of public policy involved here which may be generally supported. I do not like it. I think it is bad policy, but in any event, I think we should know what is happening.

In the few years that I have been a Member of this body, the Congress has seen fit on several occasions to establish the concept of a mandatory checkoff among producers or handlers of a particular commodity for purposes of advertising that commodity. With one notable exception, all such advertising has been limited to the commodity itself, as distinguished from a particular brand name of that commodity.

Now, this has been an important step and I think a mistake in public policy. It is a policy which coerces the minority. Nevertheless, it has been established rather widely for various commodities.

I say it is a mistake because by a two-thirds vote, producers or handlers of a commodity can mandate the checkoff for advertising against every producer or handler of that product. He no longer has freedom of choice as to whether he will contribute to advertising of that commodity. This bill goes a step further—a vital step further—and permits the person against which the checkoff is mandated by this marketing order; permits him to credit against that checkoff the cost of brand name advertising.

Now, is it good public policy for the Congress to use the sanction of law to encourage brand name advertising? That is the fundamental issue here, and I hope the Members will at least ponder that before the vote occurs.

Mr. VIGORITO. Mr. Speaker, will the gentleman yield?

Mr. FINDLEY. I yield to the gentleman from Pennsylvania.

Mr. VIGORITO. Mr. Speaker, is it not correct that there already is a marketing order for Indian River grapefruit and there is a checkoff, I believe, 2 cents per box, and this action, this bill will merely give the producers a right to get a credit against their payment for individually advertising under the brand name?

Mr. FINDLEY. That is correct, and the question is whether it is good public policy to put the sanction of law behind the encouragement of such advertising. I think it is not good public policy, but I dare say the majority disagrees with me.

It is important, though, on a bill which deals only with the interests of a part of one State and only with a particular commodity, for the Congress to look at this question of public policy generally, because this may be an important and widely cited precedent.

There is precedent for this procedure. For the past year almonds have had an experimental pilot project to see how it works. It sanctions credit for brand name advertising. The department witness testifying on this particular bill now before us stated that he did not feel that the experiment had been in operation long enough to have enough experience to judge its value.

Mr. Speaker, I do not plan to demand a vote on this, but I just ask Members to consider the fundamental issue of public policy involved here.

Mr. VANIK. Mr. Speaker, I am opposed to this legislation, S. 1945, which would provide an amendment to the Indian River agricultural marketing order for grapefruits to permit the financing of a marketing promotion program.

In general, marketing order legislation is anticonsumer, procartel; controls are created to regulate competition, to limit market supplies, and increase the cost of the ultimate product to the consumer.

Our colleague from Illinois (Mr. FINDLEY) makes some excellent points in his opposing views to this bill, printed in the committee report. As he notes, this bill establishes the principle of using legal sanctions to encourage advertising of brand-name products.

The question we must all ask ourselves is, once started, Where will this practice end?

Mr. ROGERS. Mr. Speaker, I rise in support of S. 1945, which would amend the Agricultural Marketing Agreement Act in order to encourage handlers of Indian River grapefruit to maintain or develop their own promotion programs, including paid advertising, by crediting their assessment obligations with all or a portion of their direct promotion expenditures as authorized in the order. On July 25, 1973, I joined my colleague, the Honorable LOU FREY, in introducing an identical bill, H.R. 9508, in the House of Representatives.

Citrus fruit produced in the Indian River district is of exceptional quality, due to a unique combination of weather and soil factors in the area. As such, I believe the bill before the House today is commendable in that its primary purpose is to protect, uphold and enhance the prestige of the name "Indian River" as it is applied to Florida citrus fruit.

It is my understanding that a similar arrangement to that provided for in this bill has been in effect for some time in regard to California almonds, with considerable success. It is my further understanding that S. 1945 is simply enabling legislation, and that any specific proposal to develop a marketing promotion program for Indian River district grapefruit under a Federal marketing agreement will have to be approved in a referendum by growers and handlers affected by the program.

Mr. Speaker, Florida has long enjoyed a reputation for production of citrus fruits of fine quality, and this reputation has been acquired in no small part due to the exeptional quality of the fruit produced in the Indian River district. I have always taken some pride in the fact that Indian River citrus has been produced in my congressional district. As an effort to protect and enhance the prestige of what is in fact quite a unique natural resource, I believe S. 1945 is a desirable piece of legislation and urge the House's favorable consideration of it.

Mr. BAFALIS. Mr. Speaker, I rise in support of S. 1945 which will amend the Agricultural Marketing Act to allow growers of Indian River grapefruit to maintain and develop their own promotions and advertising. As a sponsor of the House version of this legislation, I am most anxious to see it adopted by the House today.

As my colleagues know, Florida is a State well-known for the high quality of its citrus industry. And, among all its citrus products, the Indian River grapefruit is a real standout. This fruit is grown only in the Indian River district composed of parts of Volusia, Brevard, Martin, St. Lucie, Indian River, and Palm Beach Counties, and is of such distinct taste and quality that it commands 50 to 75 cents more per box at the packing houses than any other grapefruit.

Because of its distinct qualities and the great demand for Indian River grapefruit, a specific problem has arisen. The Florida citrus industry promotes fresh Florida grapefruit and other citrus through the Florida Department of Citrus. Regulations, however, prohibit this Department from embarking on any promotional campaign for a specific geographical product such as the Indian River grapefruit. Therefore, at the present time, the only promotion being done for the Indian River fruit is that financed by a few of the Indian River growers and shippers at an extremely high personal expense. Because of the uniqueness of their product, I feel the most practical way to accomplish this marketing is under the Federal Marketing Order program. Therefore, I joined in sponsoring legislation which would amend the Agricultural Marketing Act for this purpose.

Legislation similar to the House bill was passed by the Senate during the 92d Congress, but the House failed to take action on it. On June 28 of this year, the Senate again approved this bill. As the Representative of a very large portion of the Indian River district, I urge you to join me in support of S. 1945 which will allow the Indian River grapefruit growers to embark on their own advertising and marketing program. I can assure you your vote will be greatly appreciated.

The SPEAKER. The question is on the motion offered by the gentleman from Pennsylvania (Mr. VIGORITO) that the House suspend the rules and pass the Senate bill, S. 1945.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. VIGORITO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

NOXIOUS WEED CONTROL

Mr. POAGE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 11273) to provide for the regulation of movement in foreign commerce of noxious weeds and potential carriers thereof, as amended.

The Clerk read as follows:

H.R. 11273

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Noxious Weed Act of 1973".

SEC. 2. The importation of noxious weeds, except under controlled conditions, allows the growth and spread of such weeds which interfere with the growth of useful plants, clog waterways and interfere with navigation, cause disease, or have other adverse effects upon man or his environment and therefore is detrimental to the agriculture and commerce of the United States and to the public health. The distribution within the United States of noxious weeds after their importation has like detrimental effects and allowing such distribution encourages and facilitates the burdening and obstructing of commerce, and is inimical to the public interest. Accordingly, the Congress hereby determines that the regulation of transactions in, and movement of, noxious weeds as provided in this Act is necessary to prevent and eliminate burdens upon and obstructions to commerce and to protect the public welfare.

SEC. 3. As used in this Act, except where the context otherwise requires:

(a) "Secretary" means the Secretary of Agriculture of the United States or any other person to whom authority may be delegated to act in his stead.

(b) "Authorized inspector" means any employee of the Department of Agriculture or agency of the Federal Government which is cooperating with the Department in the administration of any provisions of this Act, who is authorized by the Secretary to perform assigned duties under this Act.

(c) "Noxious weed" means any living stage (including, but not limited to, seeds and reproductive parts) of any parasitic or other plant of a kind, or subdivision of a kind, which the Secretary so designates.

(d) "United States" means any of the States, territories, or districts of the United States.

(e) "District" means the District of Columbia or any possession of the United States.

(f) "Move" means deposit for transmission in the mails, ship, offer for shipment, offer for entry, import, receive for transportation, carry, or otherwise transport or move, or allow to be moved, by mail or otherwise.

SEC. 4. The Secretary may promulgate such guaranties and other regulations requiring inspection of products and articles of any character whatsoever and means of conveyance, specified in the regulations, as a condition of their movement into the United States and imposing other conditions upon such movement, as he deems necessary to prevent the dissemination into the United States of any noxious weeds.

SEC. 5. (a) No person shall knowingly move any noxious weed into the United States, unless such movement is authorized under general or specific permit from the Secretary and is made in accordance with such conditions as the Secretary may prescribe in the permit and in such regulations as he may promulgate under this Act to prevent the dissemination into the United States of noxious weeds.

(b) No person shall knowingly sell, purchase, barter, exchange, give, or receive any noxious weed which has been moved in violation of subsection (a), or knowingly deliver or receive for transportation or transport in foreign commerce any advertisement to sell, purchase, barter, exchange, give, or receive any noxious weed which is prohibited from movement in such commerce under this Act.

(c) The Secretary may refuse to issue a permit for the movement of any noxious weed when, in his opinion, such movements would involve a danger of dissemination of noxious weeds into the United States.

SEC. 6. (a) Except as provided in paragraph (c) of this section, the Secretary may, whenever he deems it necessary as an emergency measure in order to prevent the dissemination of any noxious weed, seize, quarantine, treat, destroy, or otherwise dispose of, in such manner as he deems appropriate, any product or article of any character whatsoever, or means of conveyance, which is moving into the United States, and which he has reason to believe is infested by or contains any such noxious weed, or which has moved into the United States, and which he has reason to believe was infested by or contained any such noxious weed at the time of such movement; and any noxious weed, product, article, or means of conveyance which is moving into the United States, or has moved into the United States in violation of this Act or any regulation hereunder.

(b) Except as provided in paragraph (c) of this section, the Secretary may order the owner of any product, article, means of conveyance, or noxious weed subject to disposal under paragraph (a) of this section, or his agent, to treat, destroy, or make other disposal of such product, article, means of conveyance, or noxious weed, without cost to the Federal Government and in such manner as the Secretary deems appropriate. The Secretary may apply to the United States district court, or to the United States court of any territory or possession, for the judicial district in which such person resides or transacts business or in which the product, article, means of conveyance, or noxious weed is found, for enforcement of such order by injunction, mandatory or otherwise. Process in any such case may be served in any judicial district wherein the defendant resides or transacts business or may be found, and subpenas for witnesses who are required to attend a court in any judicial district in such a case may run into any other judicial district.

(c) No product, article, means of conveyance, or noxious weed shall be destroyed, exported, or returned to shipping point of origin, or ordered to be destroyed, exported, or so returned under this section, unless in the opinion of the Secretary there is no less drastic action which would be adequate to prevent the dissemination of noxious weeds into the United States.

(d) The owner of any product, article, means of conveyance, or noxious weed destroyed, or otherwise disposed of, by the Secretary under this section, may bring an action against the United States in the United States District Court for the District of Columbia, within one year after such destruction or disposal, and recover just compensation for such destruction or disposal of such product, article, means of conveyance, or noxious weed (not including compensation for loss due to delays incident to determining its eligibility for movement under this Act) if the owner establishes that such destruction or disposal was not authorized under this Act. Any judgment rendered in favor of such owner shall be paid out of the money in the Treasury appropriated for administration of this Act.

Sec. 7. Any authorized inspector, when properly identified, shall have authority, (a) without a warrant, to stop any persons or means of conveyance moving into the United States, and inspect any noxious weeds and any products and articles of any character whatsoever, carried thereby, to determine whether such persons or means of conveyance are moving any noxious weed contrary to this Act or any regulation under this Act; (b) without a warrant, to stop any persons or means of conveyance moving through the United States, and inspect any noxious weeds and any products and articles of any character whatsoever carried thereby, to determine whether such persons or means of conveyance are moving any noxious weed contrary to this Act or any regulation thereunder, if such inspector has probable cause to believe that such persons or means of conveyance are carrying any noxious weed subject to this Act; and (c) to enter, with a warrant, any premises in the United States, for purposes of any inspections or other actions necessary under this Act, Any judge of the United States or of a court of record of any State, territory, or district, or a United States commissioner, may, within his respective jurisdiction, upon proper oath or affirmation showing probable cause to believe that there are on certain premises any products, articles, means of conveyance, or noxious weeds subject to this Act, issue warrants for the entry of such premises for purposes of any inspection or other actions necessary unthis Act. Such warrants may be executed by any authorized inspector.

Sec. 8. Any person who knowingly violates section 5 or 6(a) of this Act, or any regulation promulgated under this Act, shall be guilty of a misdemeanor and shall be punished by a fine not exceeding $500, or by imprisonment not exceeding one year, or both.

Sec. 9. (a) The Secretary is authorized to cooperate with the Government of Canada or Mexico, or local Canadian or Mexican authorities, in carrying out necessary surveys and control operations in Canada or Mexico, respectively, whenever he deems such cooperation is necessary to effectuate the objectives of any program conducted in the United States under this section.

(b) In performing the operations or measures authorized by paragraph (a), the cooperating foreign country, State, or other governmental agency shall be responsible for the authority necessary to carry out the operations or measures on all lands and properties within the foreign country, State, or other jurisdiction involved, other than those owned or controlled by the United States Government, and for such other facilities and means as in the discretion of the Secretary are necessary.

Sec. 10. There are hereby authorized to be appropriated such sums as the Congress may from time to time determine to be necessary for the administration of this Act. Any sums so appropriated shall be available for expenditures for the purchase, hire, maintenance, operation, and exchange of aircraft and other means of conveyance, and for such other expenses as may be necessary to carry out the purposes of this Act. However, unless specifically authorized in other legislation or provided for in appropriations, no part of such sums shall be used to pay the cost or value of property injured or destroyed under section 6 of this Act.

Sec. 11. The provisions of this Act shall not amend or repeal any of the provisions of the Plant Quarantine Act of August 20, 1912 (37 Stat. 315), as amended (7 U.S.C. 151–154, 156–164a, 167), the Federal Plant Pest Act (71 Stat. 31) (7 U.S.C. 150aa–150jj), the Federal Seed Act (53 Stat. 1275), as amended (7 U.S.C. 1551–1611), or any other laws.

Sec. 12. The provisions of this Act shall not invalidate the provisions of the laws of any State or political subdivision thereof, or of any territory or district of the United States relating to noxious weeds, except that no such jurisdiction may permit any action that is prohibited under this Act.

Sec. 13. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of such provision to other persons and circumstances shall not be affected thereby.

The SPEAKER. Is a second demanded?

Mr. TEAGUE of Texas. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. POAGE. Mr. Speaker, this bill was passed by a unanimous 25 to 0 vote in the Committee on Agriculture. It rectifies what is obviosly a loophole in our laws which many of us did not know existed. Most of us had supposed that there were laws prohibiting the importation of noxious weed seed. There is not any such law.

We have felt that it was desirable that we keep noxious weeds and objectionable plants out of the United States. It is estimated that there is a $2 billion annual loss from weeds. Of course, they are not all foreign imported by any manner of means, but there are a great many very detrimental weeds that have been brought into the United States that are harmful all over this country. Most everybody thinks of the Canadian thistle, but that is not the only one by any manner of means.

Just as we have brought in animal pests, such as the English sparrow, we have brought in plant pests, and they have become a tremendous economic expense to the United States.

This bill, which has been modified to meet the objections of the Department of Agriculture and which had the unanimous approval of the committee, simply authorizes the Secretary of Agriculture in effect to announce that certain plants are noxious and to prohibit the importation of any material containing those plants or the seeds thereof, in order to keep them from coming into the United States.

We feel that the bill can certainly do nothing other than benefit our people.

Mr. Speaker, I hope that the House will pass this bill.

Mr. WYDLER. Mr. Speaker, will the gentleman yield?

Mr. POAGE. I yield to the gentleman from New York.

Mr. WYDLER. Mr. Speaker, could the gentleman give me an illustration of something that he considers a "noxious weed"?

What are we talking about?

Mr. POAGE. Mr. Speaker, I think the Canadian thistle is probably the one that is probably the best known over the United States. Certainly it is a noxious weed.

Johnson grass is a noxious weed, although it probably has been here long enough to be known as a homegrown product. I do not know how the cocklebur got into this country. It is certainly a noxious weed.

Certainly the bringing of some of those things into the United States can do nothing except open the door for trouble.

That is the entire purpose of the bill.

Mr. WYDLER. Mr. Speaker, if the gentleman will yield further, would, for example, tobacco be considered or could it be considered a noxious weed by the Secretary?

Mr. POAGE. Of course, I cannot tell the gentleman what the Secretary would consider, but I would assume that it would not be so considered, because a noxious weed in the normal terminology would be one that interfered with the development and interfered with the growth of more desirable plantlife.

I do not take it that tobacco does that sort of thing. I have never lived in a tobacco-growing section, and I am not familiar with all of its growth habits, but so far as I know, it is a rather difficult plant to grow, rather than one that crowds other plants out.

Mr. TEAGUE of California. Mr. Speaker, I support this bill.

I am not sure that the chairman of the committee mentioned the water lily, which is a great problem in the southern States, and which is a very important noxious weed.

The morning glory is another noxious weed. There are many, many noxious weeds which cost our people hundreds of millions of dollars.

Mr. Speaker, I support the bill.

Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. Frey).

Mr. FREY. Mr. Speaker, I appreciate the opportunity to speak today in support of legislation I introduced in April to ban the importation of noxious weeds.

I represent the space coast of Florida where we have grown rather accustomed to seeing men blast off in huge rockets to explore the Moon.

We have also grown accustomed to seeing our lakes and rivers choked with aquatic weeds, most of which were inadvertently brought into Florida and America from foreign countries.

It is indeed a paradox, watching men leave Cape Kennedy for the moon and yet not being able to navigate our rivers, streams, and lakes.

It is a paradox found not only in Florida, but in nearly every State in America.

Weeds are, in many cases, literally choking America—by strangling its agricultural crops and recreational and drinking water supplies—to death.

Weeds represent a problem perhaps as old as civilization itself; certainly they have plagued America since its founding.

The battle long ago outgrew proportions where it could be controlled with a hoe or plow and entered the legislative field more than a hundred years ago

In 1821 the State of Connecticut enacted a seed law to prohibit Canadian thistle seed from supplies of forage crop seeds.

Forty-one years later, in 1862, the battle drew national attention when Congress placed emphasis on weed control when it enacted the Federal Department of Agriculture and Land Grant College Act.

By the turn of the century, many State legislatures were getting into the act, passing this law and that against one seed or another which was presenting a problem to agriculture, navigation, or both.

Twenty-five States now have laws prohibiting the importation of certain seeds and plants, but the laws are a hodgepodge, varying in scope and effectiveness.

In 27 States there are extension weed control specialists who devote full time to educational programs designed to make people in their States aware of weeds and how they can combat them.

The key to weed control, as indeed is the key to many problems today, is people.

There are millions of farmers, ranchers, and homeowners, as well as thousands of herbicide dealers who daily fight the battle against weeds.

Their battles are waged on the farms where weeds present an expensive and perplexing problem, and they are waged in practically every backyard in America where homeowners annually trek to the hardware store, returning with various herbicides and sprays designed to rid their yards and gardens of unsightly, and in many cases deadly, weeds.

To the farmer, weeds necessitate a $2.5 billion annual expenditure, but still, the farmer is just keeping up with, if not indeed losing, the fight.

Weeds cause an 8 to 13 percent annual reduction in crop yields.

In 1970, for example, a survey indicated that more than 97 million bushels of soybeans were lost to weeds.

That loss was equal to the production of 3.7 million acres and valued at $212 million.

While the soybean farmer was losing enormous sums of money due to reduced crop yields, he was paying $124 million for herbicides to control those deadly weeds.

His costs, as the cost of the corn grower who spent $204 million in 1968 for herbicides and as in the case of the cotton grower who paid $89 million on weed control, were passed on to the consumer in the way of higher crop prices.

The consumer is also paying for research into ways to combat weeds which were imported to this country, sometimes as decorative aquatic plants and sometimes inadvertently as seeds in other grains.

In my State of Florida alone, taxpayers are financing a $10 to $15 million set of programs designed to control and ultimately rid the State of aquatic weeds which choke navigation and all but destroy our once scenic rivers and lakes for recreational uses.

But we are losing the battle in Florida, as in other States in America, to aquatic weeds.

The St. John's River and the Hillsborough River, once beautiful and untamed, are now choked in many places with aquatic plants, beautiful to look at but their presence makes navigation impossible.

Lakes in the interior of Florida are clogged with aquatic weeds, leaving the landowner with the option of annually spending large sums of money to cut the weeds and clean his lake or letting the waterway become an eyesore.

The historic Suwannee River in Florida was the object of a newsstory recently.

The river has become somewhat of an oddity because it is not yet choked with aquatic weeds, its beauty is not yet marred.

We are sure, however, it is only a matter of time before this beautiful river becomes covered with aquatic plants, destroying its beauty and making recreational uses of the river impossible.

There is a story we hear in Florida, and I cannot vouch for its authenticity, about how aquatic weeds got to the Sunshine State.

It seems a homeowner in the northern part of the State saw an imported water hyacinth in a plant store and decided it would look good in a lake bordering her backyard.

She bought several of these hyacinths, took them home and put them in the lake.

Several years later, as the story goes, the water hyacinth moved south with the waterways, taking root in every lake and stream it passed in its southerly route. The hyacinth had been imported to this country.

The movement of aquatic plants into rivers, streams, and lakes not yet choked with them, is of great concern and there are many waterways in Florida where floating booms have been placed across the mouth of a stream, acting as a barrier to the movement of aquatic plants.

It is time, Mr. Speaker, that Congress puts a high priority on ridding, or at least controlling, noxious weeds which are directly or indirectly injurious to crops and other useful plants, to livestock and other agriculture interests, and to irrigation, navigation, and public health.

We need a law to fill existing legislative gaps and I believe this legislation would do just that.

Basically, this bill would authorize the Secretary of Agriculture to designate as noxious weeds those weeds which are new to the United States or not known to be widely prevalent or distributed within the country and prevent their importation into this country.

In view of the staggering crop losses caused by noxious weeds and the present lack of legislative authority to solve the noxious weed problem, passage of this bill is a must.

The struggle for such a law began many years ago and it is time Congress took the necessary action to solve the problem.

The problem was long ago identified, and the time has come for Congress to take positive action to solve it.

Mr. POAGE. Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. Poage) that the House suspend the rules and pass the bill, H.R. 11273, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

AUTHORIZING DISPOSAL OF OPIUM FROM NATIONAL STOCKPILE

Mr. BENNETT. Mr. Speaker, I move to suspend the rules and pass the bill (S. 2166) to authorize the disposal of opium from the national stockpile, as amended.

The Clerk read as follows:

S. 2166

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Administrator of General Services is hereby authorized to dispose of, by negotiation or otherwise, approximately sixty-five thousand seven hundred pounds (morphine content) of opium now held in the national stockpile established pursuant to the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98–98h). Such disposition may be made without regard to the requirements of section 3 of the Strategic and Critical Materials Stock Piling Act: *Provided*, That the time and method of disposition shall be fixed with due regard to the protection of the United States against avoidable loss and the protection of producers, processors, and consumers against avoidable disruption of their usual markets.

The SPEAKER. Is a second demanded?

Mr. BOB WILSON. Mr. Speaker, I demand a second.

Mr. YATES. Mr. Speaker, I demand a second.

The SPEAKER. Is the gentleman from California opposed to the bill?

Mr. BOB WILSON. I am not, Mr. Speaker.

The SPEAKER. Is the gentleman from Illinois opposed to the bill?

Mr. YATES. I am opposed to the bill, Mr. Speaker.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. BENNETT. Mr. Speaker, today the Armed Services Committee is reporting six stockpiles bills to the House of Representatives. Each of these bills provide for the disposal of quantities of materials which have been determined by the executive branch to be excess to stockpile requirements.

These bills were presented to Congress under different criteria than used in the past by the administration. The previous stockpile policy guidance used by the executive branch was based on a 3-year war. However, their current policy guidance under which stockpile objectives are calculated, established by the National Security Council in March 1973, substitutes for the previous 3-year war concept instead a provision for only the first year of an emergency.

The committee was very much concerned with the change in the administration's stockpile policy to reduce the planning period from a 3-year war to the first year of an emergency, and requested the National Security Council to provide the rationale for this change. They responded by advising that—

> The basis for the change in planning guidance from a 3-year war to the first year of a war is that "the first year" requirement is sufficient to protect our national security requirements. It gives us a prudent hedge with which to make a transition from a peacetime to a wartime economy. For the first year of a war the new stockpile amounts would ensure that defense requirements are met without major readjustments in the civilian economy.
>
> We do not predict that wars will last only one year. Beyond the first year of a war, the new guidance would allow priority defense needs to be met through domestic production, increased use of substitute noncritical materials, available imports and some austerity in the civilian segments of the economy.

In a future meeting the subcommittee will consider whether they wish to accept the administration's guidelines, which reduces the requirements from a 3-year to a 1-year emergency, or insist, if necessary by legislation, that our stockpile requirements should be maintained based upon a 3-year need. It is not my understanding that legislation would be required for this congressional policy.

In fact, in approving the six bills before the House today, the subcommittee was assured by officials of the executive branch that the amounts reflected in the bills would comply with the 3-year war requirement, even though in some instances the entire stockpile is depleted.

The reason for that is information brought out on the amount of material held for the Department of Defense being more than the amount that was needed for the Department of Defense.

The need stated for the stockpile was drawn down by production, and imports into this country during that period.

In those instances where the entire inventory has been declared excess—aluminum, silicon carbide and molybdenum—the U.S. production capability, plus available imports from Canada, is sufficient to satisfy defense and essential civilian needs for a 3-year war.

I feel that the subcommittee, the House Armed Services Committee, and the Congress have cooperated fully with the executive branch of the Government and at the same time maintained congressional control as envisioned by the law.

I am most grateful for the help and cooperation of my outstanding subcommittee and full committee and the generous consideration and cooperation rendered us by the House.

I urge the House to take favorable action on these bills today.

I must say that since this is the first bill we are taking up today, and that this is with regard to opium, the subcommittee of the House Committee on Armed Services, in looking into this particular bill, was very anxious that we be sure that nothing would in any way endanger our civilian population or our military population by too heavy a drawdown, and we therefore gave the maximum retention in this that any evidence would sustain in the committee.

There were some differences of opinion about how much was needed, but we took the maximum amount as indicated by each branch of the armed services, and by HEW for the civilian needs, and we arrived at a figure which we felt would be the maximum figure that would be needed for retention in the stockpile. That figure, I think, is a very sound figure because we retained all of the already manufactured opium and left the raw gum to be distributed. That is essentially the first bill before us today, the opium bill.

I will now yield to the gentleman from California (Mr. BOB WILSON) an equal amount of the time that I am permitted to have.

Mr. BOB WILSON. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I wish to concur in the remarks made by my distinguished colleague from Florida (Mr. BENNETT) who handled these matters before the stockpile subcommittee.

In reviewing the defense requirements for these six commodities the subcommittee analyzed very closely the requirements for copper and zinc.

Testimony revealed that under the 1973 stockpile policy guidance the direct and indirect requirements of the defense establishment for copper for 3 years in a wartime scenario is approximately 1,667,000 short tons. The available supply in the United States and imports from Canada for 1 year is 2,558,000 short tons. This certainly indicates that in an emergency the United States could produce the necessary Department of Defense requirements since the 1 year need is only 375,000 short tons.

The subcommittee approved the release of the entire excess of copper in the inventory in the amount of 251,600 short tons; however, the committee did accept the Senate rationale for retaining the beryllium copper in the stockpile.

In the beryllium industry that material can only be processed by two companies in this country, both of whom are having difficulty marketing their own production at the present time because beryllium goes very heavily into sophisticated equipment, such as the C–5 and other military hardware. The Senate felt, and the subcommittee agreed, that the disposal of the beryllium copper at this time would be inappropriate.

One of the principal reasons for the disruption in the domestic copper market, as testified to by witnesses, was caused by the imposition of domestic price controls on copper. This, along with other market influencing factors, caused an imbalance in the movement of copper to traditional users.

I am convinced that the decision by the committee to approve the release of excess copper from the stockpile will improve the supply situation and hasten a return to a more normal and stabilized position for domestic industry.

The Department of Defense requirements, both direct and indirect under the 1973 guidance for zinc is 1,418,000 short tons for a 3-year war scenario. Again, in the case of zinc, the U.S. supply and available imports from Canada are more than sufficient to satisfy the defense requirements. With the release of 357,300 short tons of zinc, which is excess of our needs, there still remains in the stockpile 202,700 short tons.

I believe the orderly disposal of the commodities under consideration today will not only benefit the Government through the sale of the excess materials, but would also relieve existing shortages in the economy that are being felt at this time.

The subcommittee and full committee were convinced, as reflected by the unanimous approval of these bills, that the release of the commodities would in no way jeopardize our national security.

I strongly urge the House to take favorable action on the six bills before us today.

Mr. ICHORD. Mr. Speaker, will the gentleman yield?

Mr. BENNETT. Mr. Speaker, I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Speaker, as I understand the situation, the Senate bill authorized the disposal of the entire stockpile of opium; is that correct?

Mr. BENNETT. Of everything.

Mr. ICHORD. And we are reserving 75,900 pounds in this bill?

Mr. BENNETT. That is correct.

Mr. ICHORD. Mr. Speaker, I want to commend the gentleman from Florida, and the subcommittee, for having the wisdom and the foresight to reserve this not only for emergency purposes during a war period, but for other emergencies. I think that we should bring to the attention of the appropriate committees of the House, Mr. Speaker, that there is a worldwide shortage of legal opium, and that the shortage in this country has reached crisis proportions.

Now, what we have done by legislation in this body, particularly the action taken to shut off the opium supplies from Turkey, is that we not only shut off our illegal opium, we also shut off our supplies of legal opium.

I would admonish representatives of the pharmaceutical industry to sit down and discuss this matter with appropriate congressional committees. There should be some way and some action that we can take to control illicit opium and still assure ourselves of an adequate supply of legal opium, because opium is the source of morphine and codeine of which we have great need for medical purposes in this country.

I commend the gentleman from Florida and the subcommittee for reserving the supply for emergency purposes.

Mr. BENNETT. Mr. Speaker, one item that was brought out before the committee in its hearings was that there is not any real substitute for morphine. There were statements made by persons even at the highest levels of this Government to the contrary at the beginning of the hearing, but as we questioned each of the doctors who came before us we learned there just are not any lives saved by the utilization of these substitutes.

So any euphoria we might have about substitute drugs for opium would be not well founded. Nobody knows of any such substitute. Nobody expects to discover any such substitutes. So, opium, in fact, is the only thing that we can now rely upon to save life, for instance, in the trauma of a man dying because of shock. I think that is important to think about, because there just is not any other thing that we have so far discovered that is an adequate substitute.

Mr. WOLFF. Mr. Speaker, will the gentleman yield?

Mr. BENNETT. I yield to the gentleman from New York.

Mr. WOLFF. I thank the gentleman for yielding.

Mr. Speaker, I, too, want to say that I feel the committee has done an excellent job in seeing to it that at least we have half of the supply left. I would go even further and say that we should retain the entire amount, because the specious statements that have been made about the fact that there is a lack of licit opium in the world today is belied by the statement that is made by the pharmaceutical manufacturers themselves when they say that Indian opium, wherein we get our supply of licit opium, has doubled each year from 1965 to 1972. The supply is available. The problem that we have with the supply of licit opium in the world is the fact that there are governments in this world today who find it more expedient and more profitable to take their crop of opium and put it into the illicit market.

I have clippings here from the Bangkok newspapers that show that the previous Government of Thailand, which produced some 300 tons of opium each year, was very definitely involved in the opium traffic.

What we have to do here is to look past the question of our own supply and see to it that we control the whole world's supply. Do the Members know where the additional opium that has been produced by India goes today? A goodly part of it goes to the Soviet Union who refused to cooperate with the entire world today in controlling opium traffic in an illicit fashion.

I think we had better think twice about this question of giving the manufacturers and pharmaceutical suppliers all that they want. They say that codeine is not habit-forming. Look at the cough syrups that are sold throughout the country today. We see that kids today throughout this country are purchasing cough syrups in quantities certainly that are much more than needed for the cure of a cough from a cigarette that was talked about. The fact is that the kids are purchasing this, and it is a habit-forming drug.

For us to just give in quantities, such as we are today, to the pharmaceutical manufacturers what they want is merely a ripoff of the U.S. Government.

Mr. BENNETT. I appreciate the contribution the gentleman from New York has made to this discussion. I do want to point out, however, that there are only 3 licensed companies in this field. They are licensed by the Drug Enforcement Administration of the Federal Government. They are under tight scrutiny by the Federal Government to see that none of their product gets into illicit activity, and they are the only ones that are asking for any of this to be released, the only ones that are going to get any of it. They do say there is a tremendous shortage of morphine in this country today, and we are facing a very real problem.

They do say that there is a great shortage today of licit opium for the proper purposes. These are supervised by the Drug Enforcement Administration. They are not going to control the matter any better or any worse because of the passage of this bill.

All we are going to do is to allow this excess to go into the hands of the Drug Enforcement Administration-controlled companies as GSA releases it to them through purely licit means.

Mr. RANGEL. Mr. Speaker, will the gentleman yield?

Mr. BENNETT. I yield to the gentleman from New York.

Mr. RANGEL. Mr. Speaker, I thank the gentleman from Florida for yielding.

It is my understanding that the 65,700 pounds of opium is going to be transferred by the Federal Government to these three importers of opium.

Mr. BENNETT. It is. Not immediately but it really goes, after we pass this bill, to the GSA for them to dispose of in a way which will not be upsetting to the market and will be controlled by the drug enforcement people. In other words the passage of this legislation does not give any company any opium.

Mr. RANGEL. Is it not a fact that under the strategic stockpile action when the Government intends to unload any of the things in the stockpile, they are required under the provisions of this act not only to notify the Armed Forces Committees of the two Houses but also to put in the Federal Register the details of the transaction and the dates these things are going to be sold? It seems to me under this the Congress will not know and the American people will not know just what course is going to be required of these companies or whether it is a give away, and that we will just turn over jurisdiction altogether to GSA or to the Drug Enforcement Administration without any controls by the U.S. Congress.

Mr. BENNETT. The controls came by the laws we passed previously when we set up the GSA and gave them this power. We put in the detailed statute just how they will dispose of these things. This is not unique. It has been done many times.

Mr. RANGEL. Is it not a fact that under this legislation we will waive the 6 months' waiting period, the 6 months' notice to the American people as to what are the details of the transaction?

Mr. BENNETT. Mr. Speaker, I will say that the notice matter is the only thing that is waived.

Mr. YATES. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, the fundamental question involved really in this bill and the succeeding bills is whether we believe in maintaining or eliminating the national strategic stockpiles. These were established immediately following World War II and they have been protected over the years. Slight amounts have been permitted to come out of the stockpile from time to time. However, the estimates of the strategic amounts that were declared to be necessary in the stockpiles have changed from time to time. Nevertheless the amounts that were established by the Department of Defense have been observed. Now the administration wants to clean out the stockpiles completely.

The Senate has gone along with that concept. This committee, the Armed Services Committee of the House, has refused to abide by that concept. Nevertheless, it has approved bills which permit removals of basic metals and opium from the stockpiles.

I am raising the issue because I am opposed to raiding the stockpiles for the civilian economy, particularly at this time when we have no emergency. We do have shortages, yes, but we do not have an emergency which requires these amounts to be taken from the stockpiles.

In each of the metals and in the case of opium we are critically dependent upon foreign countries for our supply. In the case of opium there is only one source of supply at the present time, and that is the Government of India. We consume in legitimate use approximately 400,000 pounds of opium annually in this country. We have imported only approximately 45,000 pounds of opium in 1972, which was the last year that figures are available.

The question in my mind is why has there not been a greater amount imported if we consume 400,000 pounds. Why do we import only 10 percent of that amount?

At any rate in the case of opium we have gone even further. As the gentleman from Missouri has pointed out, we had a source of supply of licit opium in Turkey, but because illicit drugs were being derived from that opium, we are now subsidizing the Government of Turkey not to grow poppies. As a result that source of supply has been eliminated.

The reason that has been advanced in each of these bills is the fact that the civilian economy is short of the item that is under consideration. Yes; the civilian economy is short of petroleum, too. Shall we then permit the military petroleum reserves to be invaded because we need petroleum in this country? Shall we open Elk Hills to the oil companies and let them take that amount? I think the comparison is apt, and I say "no."

The reason for the shortages at the present time is the fact that foreign markets provide higher prices for these critical metals. There is no appropriate protection in these bills. There is no provision in any of these bills that in the event these materials are turned over to the civilian market that they cannot be sold in export as well.

I would have thought that the committee, at least, would have put that kind of provision in the bill. It is not in the bill. The only reference to that contingency is with respect to the bill which releases aluminum from the stockpile. In the committee's report it is stated that the committee has an understanding with those to whom the stockpile of aluminum will be made available. The committee has an understanding with them that that will not be sold in foreign markets; but the committee does not state that those to whom the aluminum is made available will, nevertheless, not be able to sell in the foreign market aluminum that they already have in their own personal stockpiles and which will be replaced by the Government stockpiles. And that is true of all the other items to be sold from the stockpiles.

Therefore, I would think, Mr. Speaker, that considering these bills on suspension without the opportunity for offering amendments that might protect not only the strategic stockpile, but protect as well the civilian economy of our country, I would hope that these bills might be defeated, returned to the Committee on Armed Services and brought to the floor with the opportunity to offer protective amendments where we can offer such bills as they may be taken.

I yield 5 minutes to the gentleman from New York (Mr. RANGEL).

Mr. RANGEL. Mr. Speaker and gentlemen, some time ago Congress passed an act to allow us to collect materials that were in our national security interest. Now the President of the United States has asked the U.S. Congress to unload millions of dollars worth of commodities that are presently being held in these stockpiles.

I did not know until recently that included in the stockpile were tons of opium that we had accumulated over the years to protect our civilian population in the event of war.

This law is very clear regarding how stockpiled items are supposed to be disposed of in the private sector. Under the provisions of S. 2166 which we consider today, the safeguards called for in the law governing the disposal of stockpiled items are waived, removed, and opium can be disposed of without any safeguards or regulation. We are now being asked to allow tons of opium to be turned over to the private sector, without the Congress being given the 6 months' notice that is called for under the statute. Under the bill that is before us, Congress is not able to go to the Federal Register to find out the date of sale of this opium, nor to whom it is going to be sold, nor the amounts of money that will be paid by the companies to which it will be sold. We have now moved in this administration from the big wheat deal to the big opium deal, in which the manufacturers—and there are only three in the United States which are licensed to manufacture from opium—will receive tons of opium at a price that the Committee on Armed Services does not know, the General Services Administration does not know, the Drug Enforcement Administration does not know, and certainly we in the Congress do not know. The only people who do know, I am sure, are the pharmaceutical companies which will benefit. In the bill we are asked to pass today, 67,500 pounds of opium is mentioned as the amount to be disposed of from the opium stockpile. They say that is the approximate amount.

Now, I come from the city of New York, where it was thought that the New York City police were holding an approximate amount of heroin as evidence in criminal cases. But when the time came to go to court they could not find the heroin; talcum powder had mysteriously replaced it, and they have not to this day been able to find out what happened to all of the heroin that was stored in the police property clerk's office. Now we are told that the Government's opium supply is being held in Fort Knox. As a New Yorker, I am skeptical, and know there are a lot of safeguards that need to be built into the storage and disposal of a commodity as valuable on the illicit market as this. For some strange reason, such safeguards have been omitted from the legislation which is before us.

If the Members read the report, it will indicate that there are some suggested figures for the sale, but the Government is not bound by these figures.

What I do not understand is, at the time the President decided to unload all of the stockpiled opium on the private market, this was agreed to by the Department of Defense, the people who held the stockpile; this was agreed to by the Senate, but our Armed Services Committee found a need to continue the stockpile based upon their own estimate of how long a projected war would last, multiplied by three, with a year added for good measure. And so we still have the opium stockpile.

If we pass this piece of legislation, nobody here and no member of the committee—and I would yield to any one of them—could tell us when the drugs are going to be sold, who will be in charge of the transaction, how much money is going to be paid for the drugs, will they be exported to other countries, or whether these same drugs will be coming back into the communities that already are infested with illegal drugs. There is protection under the law that created the authority for the stockpile of strategic materials, and nobody has explained, either in public or in private, in the bill or in the report, why the Armed Services Committee sees fit to waive the protective provisions of the Stockpile Act in the disposition of a surplus of opium, a narcotic drug which is one of the most dangerous and expensive commodities known to man. It seems to me that if we need the opium, there are sources we could get it from outside of India.

Mr. BOB WILSON. Mr. Speaker, will the gentleman yield?

Mr. RANGEL. I yield to the gentleman from California.

Mr. BOB WILSON. Mr. Speaker, the only part we waived was 6 months' notice, and our report very plainly says that the bill would preserve the substantive requirements of section 3 with respect to the protection of the United States against avoidable loss and the protection of producers, processors, and consumers against avoidable disruption of their usual markets.

There will be satisfactory notice as to how much is being paid for these drugs and who buys them, but there will not be a 6-month waiting period.

Mr. RANGEL. Mr. Speaker, if there is any part of the bill which bothers me, it is that part. It says the Government will do the best it can to protect the manufacturers and consumers, but what the bill actually deletes, under the Stockpile Act, is that part that puts the public and Congress on notice as to when the sale will take place and what are the details of the transaction. That is waived.

The SPEAKER. The time of the gentleman from New York has expired.

Mr. YATES. Mr. Speaker, I yield 1 minute to the gentleman from New York, to read to the gentleman the provision in the bill relating to the colloquy between the gentleman from New York and the gentleman from California.

The bill says this:

> That the time and method of disposition shall be fixed with due regard to the protection of the United States against avoidable loss and the protection of producers, processors, and consumers against avoidable disruption of their usual markets.

Mr. Speaker, that does not take care of the points raised by the gentleman from New York in his argument. I suggest that to the gentleman from California.

Mr. RANGEL. Mr. Speaker, for the balance of this minute, the only people protected in this bill are the pharmaceutical corporations, and if there are in fact no secret deals, why do we waive the 6 months' notice?

Mr. BOB WILSON. Mr. Speaker, the taxpayers are protected by this bill, too. I want to point out that the whole purpose of this stockpile is defense requirements in the national interest.

Mr. RANGEL. But the Department of Defense says they do not need the stockpile. Why is it that the American people are being denied the 6-month notice of when the sale is going to take place, and other details concerning the transaction?

Mr. YATES. Mr. Speaker, I yield 3

minutes to the gentleman from New York (Mr. WOLFF).

Mr. WOLFF. Mr. Speaker, the bill that we are considering today, S. 2166, which would authorize the disposal of 65,700 pounds of opium from the national stockpile, and waives the normal 6 month waiting period normally required for such disposal, is an unfortunate piece of legislation. It is simply special interest lawmaking, which grants favors for large pharmaceutical companies irrespective of the overall public interest.

If we are going to release opium from our war stockpiles, then we will be taking a step contrary to our aims in another real war we are fighting today—the war against narcotics addiction and drug abuse. Pharmaceutical manufacturers, testifying before the House Armed Services Committee, have indicated that there exists a worldwide shortage of opium that will become critical unless existing opium supplies are augmented. Their testimony, however, only gives one side of the picture. There does exist a shortage of licit opium in the world today; there does not exist a shortage of opium per se. We have only to look at the money being spent and the efforts made by our own Government to dry up opium supplies that become heroin on American streets, to realize the abundance of opium on the world's black market.

If the pharmaceuticals are crying shortage today, will they try tomorrow to have this Nation halt its program of paying out $35 million to Turkish opium farmers in lieu of their deadly production? It is this program, which has been so successful, that has led to the current east coast heroin shortage, and I cannot see any justification at all for reintroducing those farmers to their previous business.

At present, India is the only country producing a major supply of licit opium to meet legitimate world needs. And while India's production has literally doubled from 1965 to 1972, to 1,000 tons, we have supported this growth, because India has been relatively successful in preventing diversion to the illicit market. But we also know that the amount of Indian opium moving into the black market is steadily increasing, even as we have forgiven $2 billion in debts to the United States by India, while our own economy is suffering. American manufacturers claim that India has not been able to produce a supply sufficient to meet world demand. My question is, Can we justify releasing this opium when there are vast quantities of illegal opium being produced around the world, which could be converted into opium for licit, legitimate purposes if a concerted effort were made by all governments involved?

Furthermore, I think we should all note that 25 percent of this opium that we are asked to release is intended for use in antitussives—cough sirup for us laymen. Cough sirup. I ask anyone who wants to release stockpiled opium into the general market for the preparation of cough sirup to just look at the record of cough sirup being bought up by people who do not even smoke cigarettes—for illegal, improper, or unnecessary uses.

Last August, as chairman of the House Special Subcommittee on International Narcotics Control, I led a study mission to Southeast Asia to further survey Burma-Thailand-Laos opium production. I am convinced that the major flow of illicit opium into the United States comes from Southeast Asia, over half of which, approximately 400 tons, is produced in Burma. While I was in Bangkok, I was approached by Shan tribal leaders, who control most of the opium production in Burma, with an offer to sell to the United States virtually the entirety of Burma's opium crop, up to 400 tons. This amount, by the way, constitutes 7 times the amount of opium necessary to produce all of the licit heroin used in the United States in a year's time. The Shan offer, which was termed legitimate by our own CIA officials, could enable us not only to convert what are now illegal opium crops into a licit supply for world manufacturing purposes, but also to dry up the opium source that now accounts for as much as 75 percent of the heroin on America's streets. Unfortunately, our Government is reluctant to act on the Shan offer in fear of alienating the official Burmese Government with which, I might add, we do not even have diplomatic relations.

As we consider releasing opium from our national stockpile, it is important to keep in mind both sides of the opium picture. Will we continue to face shortages of licit opium on the one hand while combatting an overabundance of illicit opium on the other? While we are reducing our stockpiles for a hypothetical war situation, we cannot forget the "shooting war" being fought every day in the streets of our cities. The time has come to assess the role which every government plays in contributing to both opium markets in the world today and take the steps necessary to convert the illicit opium market into a licit one for legitimate world demand.

Mr. YATES. Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. GONZALEZ).

Mr. GONZALEZ. Mr. Speaker, I find it unbelievable and incredible that this legislation should be presented to the House under these circumstances today on a Suspension Calendar. In fact, I will go so far as to say, in my mind, at least, that if a sworn enemy of our country had concocted a scheme to really get at us, to really make us as vulnerable as a nation could be, he could not come up with a better scheme that what is presented here today for us to adopt in a hastily considered and ill-considered fashion.

This is true not only with respect to opium, but with respect to critical materials such as copper, aluminum, and the like.

If the Members will look at the committee report on copper release, on page 3, they will see this incredible statement. It says as follows:

> The President, as a part of the administration's legislative program for 1973, has proposed an omnibus stockpile disposal bill * * *.

In this next paragraph, the report continues:

> The administration proposal is controversial in several respects and will no doubt require extensive hearings before it could be reported in one form or another.

And yet here it is being repeated in a very quick fashion that no Member in this Chamber has had an opportunity to evaluate and no Member, on or off this committee, can properly defend such action in the national interest of this country and this Government.

Mr. Speaker, a few months ago I wrote the Secretary of the Treasury and asked him about a newspaper report attributed to him in which he said the Government was going to release one-tenth of the stockpiled material known as a nonferrous component. One-tenth is about a billion of this stockpile.

I asked the Secretary by what authority he said this, and he wrote back and said: "Under the existing laws, we have the authority to unilaterally release one-tenth, but we are coming to the Congress to ask for more authority."

I guess that is what this is.

Has any member on this committee checked this out with the Department of the Treasury and the Secretary of the Treasury? This is the Committee on Armed Services.

The Secretary of the Treasury then replied to my second query. I had asked him, "Well, if you are going to release nonferrous material, which is copper and aluminum, what else does that include?"

At first he did not admit the list; he just used this catch-all phrase, "nonferrous components."

Actually, the list included aluminum and copper and the like, and we pinpointed other materials, magnesium, for instance.

"Well," he said, "this is in consonance with our new Defense posture, that instead of a 4-year war, we can anticipate a 1-year war or emergency because of the détente and peacefulness that exist in the world today."

Mr. Speaker, I ask you, can you accept that rationale? Today they are talking about a 3-year war. That is not what the Secretary of the Treasury mentioned at all in his correspondence. Again we see the left hand of the Government not knowing what the right hand is doing, and we in the Congress are rubber stamping the abysmal type of thing. We share in the responsibility of this mismanagement. I am saying to you in all solemnity this afternoon that if we approve every one of these bills or even one of them in this willy-nilly fashion, we will all live to regret this day, because it is a serious miscalculation, it is wrong in principle, it is wrong in practice, and it is an absolutely scandalous way to proceed for the committee that we in the House entrust the defense of this Nation to, the Committee on Armed Services.

Mr. YATES. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa (Mr. MEZVINSKY).

Mr. MEZVINSKY. Mr. Speaker, I am going to add my thoughts to what was said by the other gentlemen concerning their opposition to the whole package we have presented to us here.

We see a package that has stockpiles in it that are going to be depleted. We are now on opium, and we are going down the list to a copper bill and several other bills which involve our entire stockpile.

It is a rather interesting note that we are caught up in an age when, on the one hand, we are talking about shortages and the Secretary of the Interior is saying at a press conference today on the shortage of petroleum that we should not depend on others, and on the other hand we find ourselves here saying that we can dispose of all of these vital and critical materials. It is a rather ironic commentary that while we have just passed a bill dealing with the petroleum shortage, we are, today, calling up bills on the suspension calendar which will bring us closer to shortages of other resources.

Mr. Speaker, first, I would like to make the point that I sense there is a big rush to get the stockpile bills out. I am very concerned as to why we are facing this rush, why we have to have these bills before us today, and why there is a critical need to remove these materials from our reserves. I do not see any reason, at least from the colloquy that we have had this afternoon, which justifies this rush procedure.

Mr. STRATTON. Will the gentleman yield to me?

Mr. MEZVINSKY. I will in just a moment after I finish this point.

The second point I want to make is that I think it is crucial for each one of these materials, and certainly on opium, that we have the right kind of notice. The point was made that we ought to have 6-months notice, and I do not think that is too much.

The copper bill is a perfect example of why this method of releasing strategic reserves is wrong. As the committee stated in its report, there is a severe, world-wide shortage of copper. The amount to be released from the stockpile is not enough to alleviate the shortage and would only serve to leave us in a vulnerable position, subject to international pressures should we need a greater supply of copper. This copper will not help world markets but could be of great value to us in a time of national emergency.

This copper is being released, so it is argued, to lower the price of copper. The amount of copper to be released is small, and there has been no evidence presented to show that it would have any effect on the market price.

I urge my colleagues to vote against these stockpile bills until such time as the many questions raised are answered.

The SPEAKER. The gentleman from Illinois has consumed his 20 minutes.

Mr. BENNETT. Mr. Chairman, I would like to conclude my remarks, and I yield myself as much time as I may need.

First of all, I would like to address myself to the point made by one of the recent speakers when he said this matter had been proposed willy-nilly. The subcommittee of which I am chairman held 5 or 6 days of solid testimony, and all Members of Congress knew about these hearings. As a matter of fact, this bill passed in July of this year, so there was plenty of notice, certainly.

If you want to read the hearings, you can see that the chairman of the committee put the witnesses on the griddle, and certainly you will see that it was no picnic for them and we were not just trying to agree with them. There was a great deal of scrutiny given to this matter, as a matter of fact.

On the next point there has been some confusion raised as to what this bill does. Actually, it does not put us on a 1-year basis at all as far as war is concerned. The chairman insisted in the testimony that we would be on the same footing as we have been for years in this country. This is not a 4-year war estimate but a 3-year war estimate.

We never had a 4-year war estimate in our country. We had a 5-year war requirement first and then we had a 3-year war requirement. Now they have suggested a 1-year emergency test but we are going back to that 3-year war basis. So even though the administration wants a 1-year war, these estimates here are based up on a 3-year war.

Then it has been said that we ought to have had more notice. We have had notices since almost the beginning of this year. We have had solid notice from July 28 of this year when the Senate passed this legislation.

I did not choose the method by which this matter came up. Actually, it was on the Consent Calendar originally, and then it went to the Suspension Calendar, because it was thought there would not be very much opposition to it. Members of the Congress do not choose the way that these things come up, and I would just as soon have had it come up any way the Members wish.

It has been said that we should have done something about the foreign exports of this material. The hearings are replete with witnesses who appeared before the committee being asked about that. That can be seen in the hearings, and also in the report. The fact is that these materials cannot be sold abroad under the legislative history of these bills.

Then the question was asked as to why we cannot require India to raise more opium. This is a strange thing to ask. Florida alone could grow all of the opium we need to take care of all of the morphine needs that our country could ever have. In fact, probably one county in Florida could do so. But we just do not want to raise opium in this country. So how are we going to insist that some other country do something that we are not willing to do ourselves?

Then it has been indicated that we are doing something loose here. Actually, only three specific companies are going to be allowed to buy the opium, and those companies are under the tight control of the Drug Enforcement Administration. They are controlled in every step they take, and none of this opium is going to find a way to be used outside of the medical uses.

Now I will yield to the gentleman from New York (Mr. STRATTON).

Mr. STRATTON. Mr. Speaker, I just want to rise in support of the gentleman from Florida. The gentleman from Florida (Mr. BENNETT) has been the chairman of this subcommittee, and I have had the opportunity to serve with him on it for most of the years that I have been on the Committee on Armed Services.

I would ask the gentleman from Florida, does not the gentleman think it is somewhat ironic that our committee has often been under attack in the past as the handmaiden of the "military-industrial complex" for hanging onto these very valuable stockpiles for the military, and not releasing them; and now suddenly we find ourselves being attacked for releasing them?

The gentleman from Iowa (Mr. MEZVINSKY) was talking a moment ago about his concept of how long the next war was going to be, either 3 or 4 years; and yet in this opium bill the committee has retained the basic stockpile requirements for a 3-year war. I do not know how much longer a war the gentleman from Iowa wants. But it does seem to me strange that those who have been berating the Armed Services Committee for not getting rid of these materials are now berating us for getting rid of some of them.

Mr. BENNETT. Mr. Speaker, I must say that I was very much prejudiced about disposing of these materials because I grew up during the depression. Well, I guess I do not have to say anything more than that; in other words, I just do not want to turn loose of anything, not even a penny, or a crust of bread, or anything. Nor do I want to do so with regard to the national defense of our country because it is against my basic nature to want to dispose of anything.

So, as I say, I started out by being very antagonistic on each of these bills. And we brought in the witnesses. And I might say that none of the Members of the Congress who are opposing this came before our committee. They could have. And as far as notice is concerned, this has been published in the papers, in the Washington Post, and in magazines. Yet during all the time of the hearings I was the only one who was in any way continuously critical of the matters. But, after the hearings, then I felt that it was the proper thing to do.

The SPEAKER. The question is on the motion offered by the gentleman from Florida (Mr. BENNETT) that the House suspend the rules and pass the Senate bill, S. 2166, as amended.

The question was taken.

Mr. YATES. Mr. Speaker, I object to the vote on the ground that a quorum is not present, and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 270, nays 122, not voting 40, as follows:

[Roll No. 699]

YEAS—270

Abdnor
Adams
Andrews, N.C.
Andrews, N. Dak.
Archer
Arends
Armstrong
Ashbrook
Ashley
Bafalis
Baker
Bauman
Beard
Bell
Bennett
Bevill
Biester
Bingham
Blackburn
Bowen
Brademas
Bray
Breaux
Brinkley
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.

Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Burgener
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Camp
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clancy
Clark
Clausen, Don H.
Clawson, Del
Cochran
Collier
Collins, Tex.
Conable
Conte
Corman
Coughlin
Crane
Cronin
Daniel, Dan
Daniel, Robert W., Jr.
Davis, Ga.
Davis, S.C.
Davis, Wis.
Denholm
Derwinski
Devine
Dickinson
Dorn
Downing
Duncan
Edwards, Ala.
Erlenborn
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Fisher
Flood
Flynt
Foley
Forsythe
Fountain
Frenzel
Frey
Froehlich
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Ginn
Goldwater
Goodling
Grasso
Gross
Gude
Gunter
Guyer
Haley
Hamilton
Hanley
Hansen, Idaho
Harrington
Harsha
Hastings
Heinz
Henderson
Hicks
Hillis
Hinshaw
Hogan
Holt
Horton
Hosmer
Huber
Hunt
Hutchinson
Ichord
Jarman
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Keating
Ketchum
King
Kluczynski
Kuykendall
Kyros
Landgrebe
Lehman
Litton
Long, La.
Long, Md.
Lott
McClory
McCloskey
McCollister
McDade
McEwen
McFall
McKay
McSpadden
Macdonald
Madden
Mahon
Mallary
Mann
Maraziti
Martin, N.C.
Mathis, Ga.
Matsunaga
Meeds
Melcher
Michel
Milford
Mink
Minshall, Ohio
Mitchell, N.Y.
Mizell
Mollohan
Montgomery
Moorhead, Calif.
Morgan
Myers
Nedzi
Nelsen
Nichols
Obey
O'Brien
O'Hara
O'Neill
Parris
Passman
Patman
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Powell, Ohio
Preyer
Price, Ill.
Price, Tex.
Quie
Quillen
Rinaldo
Randall
Rarick
Regula
Rhodes
Roberts
Robinson, Va.
Robison, N.Y.
Roe
Rogers
Rooney, Pa.
Rose
Roush
Rousselot
Roy
Ruppe
Ruth
St Germain
Sandman
Sarasin
Satterfield
Scherle
Schneebeli
Sebelius
Shipley
Shoup
Shriver
Shuster
Sikes
Skubitz
Slack
Snyder
Spence
Stanton, J. William
Stanton, James V.
Steed
Steiger, Ariz.
Steiger, Wis.
Stephens
Stratton
Sullivan
Symington
Symms
Talcott
Taylor, N.C.
Teague, Calif.
Thomson, Wis.
Thone
Tiernan
Towell, Nev.
Treen
Udall
Ullman
Vigorito
Waggonner
Wampler
Ware
Whalen
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Winn
Wydler
Wylie
Wyman
Young, Alaska
Young, Fla.
Young, Ill.
Young, S.C.
Young, Tex.
Zablocki
Zion
Zwach

NAYS—122

Abzug
Addabbo
Anderson, Calif.
Anderson, Ill.
Annunzio
Badillo
Barrett
Bergland
Biaggi
Boggs
Boland
Brasco
Breckinridge
Burke, Mass.
Carney, Ohio
Chisholm
Clay
Cleveland
Cohen
Collins, Ill.
Conlan
Conyers
Cotter
Culver
Daniels, Dominick V.
Danielson
de la Garza
Dellenback
Dellums
Dennis
Diggs
Dingell
Donohue
Drinan
Dulski
du Pont
Eckhardt
Edwards, Calif.
Eilberg
Flowers
Ford, William D.
Fulton
Gilman
Gonzalez
Gray
Green, Oreg.
Green, Pa.
Grover
Hammerschmidt
Hanrahan
Hawkins
Hays
Hechler, W. Va.
Heckler, Mass.
Helstoski
Holifield
Holtzman
Howard
Hungate
Johnson, Calif.
Jordan
Kastenmeier
Kazen
Kemp
Koch
Latta
Leggett
Lent
Lujan
Madigan
Mayne
Mazzoli
Metcalfe
Mezvinsky
Miller
Minish
Mitchell, Md.
Moakley
Moorhead, Pa.
Mosher
Moss
Murphy, Ill.
Natcher
Nix
Owens
Patten
Podell
Pritchard
Rangel
Rees
Reuss
Riegle
Rodino
Roncalio, Wyo.
Roncallo, N.Y.
Rosenthal
Rostenkowski
Roybal
Runnels
Sarbanes
Schroeder
Smith, Iowa
Smith, N.Y.
Staggers
Stark
Steele
Steelman
Stokes
Stubblefield
Stuckey
Studds
Teague, Tex.
Thompson, N.J.
Thornton
Vanik
Waldie
Wilson, Charles, Tex.
Wolff
Wright
Yates
Yatron
Young, Ga.

NOT VOTING—40

Alexander
Aspin
Blatnik
Bolling
Buchanan
Burke, Calif.
Burton
Carey, N.Y.
Delaney
Dent
Fraser
Frelinghuysen
Griffiths
Gubser
Hanna
Hansen, Wash.
Harvey
Hébert
Hudnut
Karth
Landrum
McCormack
McKinney
Mailliard
Martin, Nebr.
Mathias, Calif.
Mills, Ark.
Murphy, N.Y.
Railsback
Reid
Rooney, N.Y.
Ryan
Seiberling
Sisk
Taylor, Mo.
Van Deerlin
Vander Jagt
Veysey
Walsh
Wyatt

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

The Clerk announced the following pairs.

Mr. Hébert with Mr. Buchanan.

Mr. Rooney of New York with Mr. Frelinghuysen.

Mr. Blatnik with Mr. Harvey.

Mr. Carey of New York with Mr. Hanna.

Mr. Dent with Mr. Karth.

Mrs. Hansen of Washington with Mr. Aspin.

Mr. Fraser and Mr. Gubser.

Mrs. Griffiths with Mr. Mailliard.

Mr. Alexander with Mr. Mills of Arkansas.

Mrs. Burke of California with Mr. Mathias of California.

Mr. Landrum with Mr. Railsback.

Mr. McCormack with Mr. Hudnut.

Mr. Murphy of New York with Mr. Seiberling.

Mr. Van Deerlin with Mr. Martin of Nebraska.

Mr. Sisk with Mr. McKinney.

Mr. Reid with Mr. Taylor of Missouri.

Mr. Ryan with Mr. Vander Jagt.

Mr. Burton with Mr. Walsh.

Mr. Delaney with Mr. Wyatt.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 11771, MAKING APPROPRIATIONS ON FOREIGN ASSISTANCE

Mr. PASSMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 11771) making appropriations for foreign assistance and related programs for the fiscal year ending June 30, 1974, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments and agree to the conference requested by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana? The Chair hears none, and appoints the following conferees: Messrs. Passman, Rooney of New York, Long of Maryland, Roybal, Bevill, Roush, Yates, Chappell, McFall, Mahon, Shriver, Miller, Conte, Coughlin, Edwards of Alabama, and Cederberg.

AUTHORIZING RELEASE OF COPPER FROM THE NATIONAL STOCKPILE AND THE SUPPLEMENTAL STOCKPILE

Mr. BENNETT. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2316) to authorize the disposal of copper from the national stockpile and the supplemental stockpile, as amended.

The Clerk read as follows:

S. 2316

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Administrator of General Services is hereby authorized to dispose of, by negotiation or otherwise, approximately two hundred and fifty-one thousand six hundred short tons of copper now held in the national stockpile established pursuant to the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98–98h) and the supplemental stockpile established pursuant to section 104(b) of the Agricultural Trade Development and Assistance Act of 1954 (68 Stat. 456, as amended by 73 Stat. 607). Such disposition may be made without regard to the requirements of section 3 of the Strategic and Critical Materials Stock Piling Act: *Provided,* That the time and method of disposition shall be fixed with due regard to the protection of the United States against avoidable loss and the protection of producers, processors, and consumers against avoidable disruption of their usual markets.

The SPEAKER. Is a second demanded?

Mr. YATES. Mr. Speaker, I demand a second.

The SPEAKER. Does the gentleman from California (Mr. Bob Wilson) demand a second?

Mr. BOB WILSON. Mr. Speaker, I am in favor of the bill.

Mr. YATES. Mr. Speaker, I am opposed to the bill.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. BENNETT. Mr. Speaker, in looking into these stockpile disposals, we took testimony from Admiral Moorer, Chairman of the Joint Chiefs of Staff, and Mr. Clements, Under Secretary of Defense. Both of these men testified before the subcommittee, and under close interrogation favored going to the policy of the Federal Government of having a 1-year emergency as distinguished from having a 3-year war.

Despite that, the committee insisted in this bill, as in other bills, that we look at the matter as though we would have a 3-year war and have adequate supplies for the 3-year war. On my desk here, we have the printed hearings, and at page 151 of those hearings, the testimony is clear that after we enact this legislation, if we had a 3-year war, we would have an adequate stockpile in accordance with the Joint Chiefs of Staff and Department of Defense testimony. We did reserve a small amount of beryllium copper, a special type of copper used especially in some types of defense purposes, but outside of that, the rest of the copper was disposed of.

That may come as a shock to many people as to why we would dispose of so much copper when copper is so much used. The simple answer is that we produce enough in 1 year in this country to take care of a 3-year military supply of copper in this country. We have the largest supply of copper in the world.

The theory of these bills, and particularly this one, is that we will see to it that we have enough in this stockpile that when we cut down on it for credits for imports we are safe. We do not need any imports at all to take care of this. We are sure of getting or producing enough ourselves in the following years. Maybe 1 year would be all we need to get enough for 3 years and that is the reason why there is a zero for this particular commodity.

So that is the situation with regard to copper. We do have this tremendous supply in this country. We have the largest reserves of copper in the world, and we just do not need to stockpile it as we have stockpiled it in the past.

There is one other thing I wish to say, and this applies to all of these bills. There are some things which have happened since this stockpiling legislation was enacted.

We had the war in Korea; it lasted 4 years. Not 1 ounce of anything was taken out of stockpile in order to run that war. We had the war in South Vietnam which lasted more years. The total number of the years of war was about 10 or 11 years of war, and we never had to draw down anything from the stockpile in order to conduct those wars.

In addition to that, we had tremendous inputs of new mines and new developments and new techniques which came along which allowed us to produce more.

In addition to that, Mr. Speaker, we have stockpiles of manufactured items in our warehouses, things which are already created and which are in our stockpiles of parts, and so forth.

Mr. Speaker, we no longer need to have a lot of copper wires running around in many of our manufactured items. We know, those of us who have looked into these things, that in our TV sets and in our radios we see all kinds of printed things, circuits which are printed on paper, and it is not necessary any longer to have all of these copper wires we used to have.

So this is an example of the change in times, the new things that have been developed.

Mr. Speaker, these are valuable assets. These are potential assets in case of war, but we do know that we have enough to take care of any contingency, because the Joint Chiefs of Staff have so testified, the National Security Council has so testified, and the Department of Defense has so testified.

Therefore, we bring this bill before the Members.

Mr. YATES. Mr. Speaker, I yield 5 minutes to the gentleman from Iowa (Mr. SMITH).

Mr. SMITH of Iowa. Mr. Speaker, we have been through a period when we had a grain shortage. We are now in the petroleum crisis. Both of these shortages were predictable, but we simply did not prepare for them.

Now, we are headed for a metals crisis in this country. It may be 2 years away, it may be 3 years away; we do not know for sure just how far away it is. But make no mistake about it, we are going to have a metals crisis in this country.

Now, I do not criticize the Committee on Armed Services for reporting this bill. That committee is looking only at what is needed for the armed services, but now we are in the House as a whole, and all of us ought to be looking at it from the standpoint of what we need for this whole country, not just for the armed services.

The question is: Should we at this time be selling metals out of a stockpile that is owned by the U.S. Government whether or not the armed services need it?

Now, as I understand it, in regard to the copper situation—and I wish the gentleman from Florida would correct me if I am not correct—according to the report, we are producing about 85 percent of the copper we used last year; is that correct?

Mr. BENNETT. Mr. Speaker, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Florida.

Mr. BENNETT. Mr. Speaker, according to the data we have, in the first year it is expected that the United States will produce 2,420,000 tons, and our requirements for the military for the 3-year period were only 1,667,000 tons.

So as I said, there is more produced in 1 year than the entire 3-year military supply requirement.

Mr. SMITH of Iowa. Mr. Speaker, I am talking about the needs for the entire Nation.

The fact now is that demand is outrunning supply. Demand has already exceeded supply on a national basis. I am not just talking about the military alone. We need more copper in this country than we are producing and, therefore, we are depending upon such places as Chile and Yugoslavia and some others for imports of copper.

This is a rather dangerous situation. What we must do at this time, which is what we did not do in the case of the grain shortage and the petroleum shortage, is to prepare for it. We ought to have some stockpile, maintain the stockpile, and let the economy adjust to the new situation.

When we take this metal out of the stockpile and put it on the market at a time like this, we are delaying adjustments instead of facing what is coming. We ought to keep it in reserve and make the adjustments. We are going to have to use more plastics in this country and get along with less copper, and less of some of the other metals.

My point is this: I am not criticizing the Committee on Armed Services for saying that we do not need this for the Armed Services, but we are in the House as a whole and we do need it for the Nation as a whole and we ought to be keeping it in that stockpile except to the extent we can anticipate replacements within a reasonable time. We should save it for the time when we will have a real emergency; and we will have an emergency such as we have now with regard to petroleum.

Mr. STRATTON. Will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman.

Mr. STRATTON. The gentleman is apparently under the impression that by selling this material from the stockpile we will automatically be exporting it.

Mr. SMITH of Iowa. I did not say a word about exports.

Mr. STRATTON. But the gentleman did say he wants to keep these materials for the whole country. Well, that is precisely what this material is being released for—for the whole country. We have a critical shortage of copper today in our Nation's industry. If you have anybody in any industry in your district that uses copper in any way at all, they have probably already been to your office asking you to help in releasing this copper to keep them in business.

Mr. SMITH of Iowa. The gentleman is helping me to make my point. I want people to prepare for what is coming. They will not see what is coming in the future if we use this material that we are releasing now. What I want to do is have them delay this release from the stockpile so that the industry will make the adjustments necessary.

If we release it, it will put everybody to sleep for another year or two, because we will have delayed the crisis, and then all of a sudden it will hit us like a ton of bricks, just like the petroleum shortage did.

We should keep these critical materials in the stockpile except during a period when we can expect that a drawdown can be replaced within a reasonable time or there is a far greater shortage than now. That is how to use strategic reserves.

Mr. STRATTON. But all we are talking about here is 250,000 tons of copper, and the annual U.S. consumption of copper is over 2 million tons. It would be a drop in the bucket. What the gentleman is really suggesting is adding to the present stockpile.

Mr. SMITH of Iowa. Build up the stockpile. I am not opposed to that.

Mr. STRATTON. He says we should build it up. That is what the gentleman is suggesting. But that action is not within the authority of our committee.

Mr. SMITH of Iowa. Yes. I think we ought to under certain circumstances.

Mr. STRATTON. But 250,000 tons would be just a drop in the bucket, as I have said.

Mr. YATES. Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. GONZALEZ).

Mr. GONZALEZ. Mr. Speaker, I rise to repeat and reemphasize substantially what I said awhile ago during the discussion on the release of opium.

This particular bill having to do with

the release of copper with regard to both the national stockpile as well as the supplemental stockpile is incredible again in its entirety. I cannot believe it is happening. I cannot believe the rationale of this bill coming from the Committee on Armed Services.

Now, I have great trust, faith, and respect for the members of this very august committee, but I cannot reconcile the fact that they are asking us to vote under a suspension of the rules on one of the most critical bills we will ever have to consider as Members of this great body. They are asking us to sanction this first by doing away with every single precautionary bit of legislation we have ever had with respect to stockpiling throughout our history.

They say this legislation is necessary in order to expedite the release of these critical materials. However, this depletes the entire contents of the national stockpile plus our supplemental stockpile, with only about 7,000 tons of this beryllium copper or whatever you want to call it being retained.

Somehow or other, gentlemen, the day has come when we have to, at the price of losing our national heritage, get to the bottom of this and find out why the left hand of the Government cannot know what the right hand of the Government is doing.

As an example, the Joint Economic Committee has considered the question of critical materials for the Nation. I wonder if anybody on this committee has ever bothered to read the extensive hearings held by that Joint Economic Committee.

I belong to the Committee on Banking and Currency which has jurisdiction over the National Defense Production Act relating to stockpiling of materials, and I know somebody is not checking with somebody else on this.

Statements that have been made both in the report and on the floor today are not reconcilable with statements contained in the findings of the Joint Economic Committee, from the national interest.

Another thing with specific reference to this bill is that again, even on a defense basis, and let us forget about the national overall domestic outlook, but on the defense basis we are saying now that because the administration made this request months ago when we were discussing the Economic Stabilization Act—and remember that the request had its origin not in defense matters but on price stability—and I beg the Members to please take time and read the report that the committee has placed before the House today where it says the entire stockpile shall go out, and on page 3 where it says that the legislation presented is far too controversial and requires long and considered deliberations, which I hardly think one can say it has had, despite the protestations from the gentleman from New York a while ago. I dare say that very few of the Members who do not belong to the Subcommittee on International Finance can tell me when we first met and what we discussed during the past 90 to 120 days.

So when they say that we have had all kinds of notice, that is just begging the question. That is not the point. The point is we are being asked, and I use this phrase deliberately, willy-nilly, for reasons that might have been valid in April to consider, but which today may not be so much, because we are on notice that not only are we faced with a shortage in such things as petroleum products, but in the critical materials of which copper is one.

I would say to the Members in all seriousness that I see no harm in slow and deliberate consideration of this. What is the haste? What is it? If the need was immediate in April when the proposals were first made because of price stabilization consideration, and this is December?

The SPEAKER. The time of the gentleman from Texas has expired.

Mr. BENNETT. Mr. Speaker, I yield 3 minutes to the gentleman from Rhode Island (Mr. TIERNAN).

Mr. TIERNAN. Mr. Speaker, I found the remarks of the preceding speaker very important, but I would like to say regardless of whether or not today that this bill was needed in April, that it has been needed for a long time. It is needed very urgently, right now, because I have three manufacturing plants that are closed in my district who manufacture copper wire.

Let me point out to the Members what this bill does. One-third of the copper that is going to be released from the stockpile is going to the mint, because the mint needs copper for coinage. That is in the report also.

But what really has happened to this industry is a shame.

I presented a bill to the committee, and the Committee on Armed Services took the bill up, but they were not able to put the language in the bill because it was not within the jurisdiction of the Committee on Armed Services. I want to take this opportunity to commend the chairman of the subcommittee, and the members of this committee, for taking this matter up.

As the report says, it is a controversial matter, but it is a very important matter, because never in the past has the Department of Defense consented to this type of situation. They have always tried to hold on to more than they needed. But here is a situation where we have people who are out of work because they cannot get copper.

And one of the other things that has happened, and this is why this whole situation came about, is this is not a long-term shortage that my colleague, the gentleman from Iowa, talks about. It is a short-term shortage that was created by the price freeze that was put into effect by this administration.

The price for copper on the world market is $1.05. All the copper scrap is being shipped overseas and being sold there at $1.05. That is why the copper screen manufacturers cannot get copper. And that is not the only reason why we need this copper released now; we need it for the purpose of manufacturing electrical wire.

What are we going to do if we run out of copper in this country? I would like to see what my colleague, the gentleman from Iowa, would say if there is not any copper around next year to take care of the needs of his farmer.

Mr. PATTEN. Mr. Speaker, will the gentleman yield?

Mr. TIERNAN. I yield to the gentleman from New Jersey.

Mr. PATTEN. Mr. Speaker, this is a good bill, and we should support it. My headlines say that Standard Underground Cable in Perth Amboy will close. This bill will help stabilize our industries.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. TIERNAN. I yield to the gentleman from Massachusetts.

Mr. CONTE. I thank the gentleman for yielding.

Mr. Speaker, I want to compliment the gentleman in the well and associate myself with his remarks.

Mr. LUJAN. Mr. Speaker, will the gentleman yield?

Mr. TIERNAN. I yield to the gentleman from New Mexico.

Mr. LUJAN. I thank the gentleman for yielding.

Mr. Speaker, I think the gentleman made a very good point about plants closing because there is no copper. If we do use up this reserve that we have, and get into some type of a national defense situation, where are we going to get the copper?

Mr. BENNETT. Mr. Speaker, I yield to the gentleman from California (Mr. BOB WILSON).

Mr. BOB WILSON. Mr. Speaker, I think we are confusing the two problems here. First of all, there is an adequate reserve of copper in the United States for the future. The domestic reserves in the United States are 24 percent of the total world reserves, and there are some 81 million tons of reserves in the United States.

The second problem, and the real crux of the problem, is that the Cost of Living Council is keeping the price of copper below a reasonable level, and that is the reason that these plants are closing and men are out of work. I think we can alleviate this situation right now by releasing this relatively small amount of copper that we are holding in reserve, because we are protected with adequate reserves that have not even been mined.

Mr. BENNETT. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. MITCHELL).

Mr. MITCHELL of New York. Mr. Speaker, I am very pleased that we are being responsive to the need for action on legislation to release copper from the national stockpile. I would remind my colleagues the copper proposed for release through the condition of sale is embargoed for domestic use. The measure we are now considering, S. 2316, is deserving of support for a number of very sound reasons, many of which were covered in my testimony before Subcommittee No. 3 of the House Armed Services Committee when I appeared at its hearing on September 26, 1973.

At this point I wish to include key elements of my testimony:

> Mr. Chairman, Members of Subcommittee Number Three.
>
> Thank you very much for affording me the opportunity to appear before you to testify on this vital legislation. As you may recall, I introduced this measure on July 18th, and at that time, I respectfully requested this committee to act "with dispatch," citing the critical nature of the problem involved. I, along with the American consumer, the many copper fabricating and copper consuming firms throughout this country, as well as the thousands of men and women who rely on copper for their employment, wish to express our heartfelt thanks to you for honoring our request. The manner in which this bill has been scheduled for hearings has indeed proven exemplary. We all appreciate your efforts.
>
> My own personal interest in the copper situation has been prompted by my familiarity with the problems facing this industry. Every one of the firms in my Congressional District affected by this severe shortage of copper feels that unless relief is forthcoming soon, there will have to be substantial reductions in production, resulting in extensive unemployment.
>
> Copper is a critical component of residential construction, automobiles, and other consumer durable goods. It is an important element in the wholesale price index. Its availability or non-availability affects many many facets of our economy. The shortage of copper has already reached crisis proportions. Copper fabricators simply do not have adequate supplies to meet the demand generated by the many users of copper.
>
> Earlier this year a combination of shortfalls in production throughout the world coupled with accelerated demand for copper forced prices up to double what they were at the turn of the year. Although prices have fluctuated widely since mid-year there is no reason to expect a significant drop in prices unless a substantial addition is made to the supply stream.
>
> This situation is further complicated by the imbalance created during the sixty-day price freeze. Because of that freeze material that would normally have gone to domestic users was diverted to higher priced foreign markets.
>
> The excessively high prices have inhibited the normal operations of the copper market. Copper is simply not available through normal channels. The problem is compounded each day we delay action by this inflationary trend in prices. As prices go higher, the situation becomes even more critical.
>
> The nature of this material, the radical swings in this somewhat unique market and the severe effect this shortage may have on already alarming employment statistics, all point to one solution. Sufficient supplies of copper, a material already declared as surplus by the Administration, must be released from the National Stockpile in order to meet domestic needs. You will find that this solution is widely accepted in all sectors, and there is little disagreement over the need to authorize this release.

Mr. Speaker, before concluding I would like to commend the members and staff of House Armed Services Subcommittee No. 3, under the chairmanship of my distinguished colleague from Florida (Mr. BENNETT), for the highly professional manner in which it handled this vital legislation. As a newcomer to the Congress this is my first thorough exposure to the intricate workings of the legislative process in connection with a bill that I have sponsored and have followed closely because of its wide-ranging importance, not only to my district and the people I represent, but to the Nation. Very simply, I am deeply impressed.

Mr. BENNETT. Mr. Speaker, I yield 1 minute to the gentleman from Connecticut (Mr. SARASIN).

Mr. SARASIN. Mr. Speaker, I think there is some confusion as to what we are doing with this copper. In my district the availability of copper is exceedingly important. The largest city in my district, Waterbury, Conn., is called "Brass City" of the country. That includes zinc as well, and I will also support the release of zinc from the stockpile. The producers of copper in this country use both ore and scrap copper.

In my district it is about 50–50, so we do need both. When the Cost of Living Council held down the price of copper, and created an artificially low price, tons and tons of scrap copper were shipped overseas. If we needed this legislation in April, as stated by the gentleman from Texas, because of price stabilization, we certainly need it now.

Copper is one of the commodities considered by the Cost of Living Council as being eligible as a volatile commodity so that the companies are exempt from the prenotification requirements. The price is still unstable. The release of copper from the stockpile will help get it back in the economy and will help those who depend upon it to continue in their jobs.

Mr. Speaker, I urge support of the bill.

Mr. BENNETT. Mr. Speaker, I think the opposition should be heard from. I yield to the gentleman from Illinois (Mr. YATES).

Mr. YATES. Mr. Speaker, I yield such time as he may consume to the gentleman from Colorado (Mr. EVANS).

Mr. EVANS of Colorado. Mr. Speaker, I am concerned because of the extent to which we are being asked to dispose of material here, copper in this bill, which currently happens to be in short supply.

On the question of copper, I note on page 3 of the report, first, that all of our strategic stockpile is going to be done away with, and then I note on page 3 these three or four interesting statements. At the top it says:

> This alloy would not contribute to relief in the current copper shortage because of the technical limitations on its use.

Then in the third paragraph we find this statement:

> In the meantime there is a current worldwide shortage of copper and the supply picture is showing a further tightening.

Then in the next paragraph we find:

> Stocks of copper are declining rapidly and are reaching critical levels.

Then in the third paragraph from the bottom we find this:

> Domestic consumption of all forms of copper amounted to 2,019,500 short tons in 1971, and 2,220,100 short tons in 1972. In 1971 the U.S. produced about 1,809,000 short tons of primary copper. The primary import sources in 1972 were Canada 66%, Chile 14%, Yugoslavia 13%, Mexico 4% and other countries 3%.

It was my understanding that these laws were passed for the purpose of putting our military in a position of not being embarrassed by shortages. We have shortages in aluminum and we have shortages in copper and yet we have bills here which would allow the disposition of all our stockpiles. I do not think it makes sense to do so.

Mr. YATES. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, this bill is not like the opium bill which the House just passed. In that bill the amount of opium was retained in the national stockpile which the Department of Defense and the committee stated to the House was necessary to take care of the Nation's needs. In this bill there will be no amount of copper retained in the national stockpile at all. All the copper in the national stockpile is authorized to be disposed of by this bill. Oh, 7,000 tons of copper alloy will be retained but that metal is usable only for special purposes.

Let me reiterate to the members what my friend, the gentleman from Colorado, just said which is printed on page 3 of the committee report:

> Stocks of copper are declining rapidly and are reaching critical levels. In addition to significant supply shortages created by problems in major producing countries such as Chile and Zambia, the price freeze was driving important U.S. supplies of brass and copperbearing scrap abroad.

I understand pressure was put on the U.S. Government to embargo exporting of copper, but apparently the Government did not do it. It should have done so to provide balance to the price support program. The price controls were put on to keep the price of copper at a reasonable level in this country. There was an opening at the other end of the economic scale, which permitted copper to go to markets abroad for higher prices.

The point is with the sale from the stockpile of copper, there are still no export controls which will stop the shipping and selling of copper to other countries. I wonder whether what we are doing in passing these bills will really take care of the situation.

Again, I allude to what my friend, the gentleman from Colorado (Mr. EVANS), said. The purpose of the stockpile is to protect the Armed Forces. This bill will get rid of everything in the national stockpile as far as copper is concerned, and there will be no copper left.

Mr. BELL. Mr. Speaker, will the gentleman yield?

Mr. YATES. I yield to the gentleman from California.

Mr. BELL. Mr. Speaker, as I understand there are two different types of copper, scrap copper and the copper we can mine. It is my understanding there is plenty of copper we can mine which basically makes up our national resource. There is plenty of it. As I understand it that is under price control. As far as getting it out, we have it, but because of price control it is not being mined. Is that not the explanation?

Mr. BENNETT. That is correct.

Mr. BELL. When the question came

to the floor, many of us were concerned as to whether our national mines contained an adequate supply of copper for the needs of our Nation.

Mr. BENNETT. It is available when the price is right.

Mr. BELL. As I understand it then, there is plenty of copper in the ground and we cannot get it out at this time because of the price control.

Mr. BENNETT. During the hearings the committee became so enraged when we realized that this price control was the reason for the shortage in this country that it protested the matter; and the administration during the process of these hearings relaxed the controls on copper.

Mr. YATES. May I say the committee did not get so enraged that it saved any copper for the national stockpile.

Mr. GONZALEZ. Mr. Speaker, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Speaker, I think there is one factor this House ought to have before it before we vote. I do not think it can be denied that we import a little more than one-third of the copper utilized in this country. That is more of the percentage than of the petroleum we had to import. If we have had all these glowing reports about the production of copper in this country, why do we have to import one-third of our copper?

The truth is that in April it looked like a good deal to release copper that now and then approximated $1 per pound. We bought it at 33 cents. What we are going to do is get rid of it and compel the armed services and everybody else in America to pay the inflated price, when we have it now, when we bought it at a reasonable and normal market price.

Mr. HOSMER. Mr. Speaker, will the gentleman yield?

Mr. YATES. I yield to the gentleman from California.

Mr. HOSMER. Mr. Speaker, it is my understanding, except for the one-third of the stockpile that is to go to the Treasury for coining purposes, the other two-thirds being released can be sold anyplace, and there is no export control upon it, and this entire two-thirds would probably be shipped overseas to buyers who had a higher asking price available.

Mr. YATES. I share that concern. The committee report says:

> The balance of the material will be sold over a period of several months on a sealed-bid basis for domestic consumption only.

But there is nothing in the bill itself. There is only that statement. There is only that statement in the report and there is no provision in the bill and no amendment can be offered to protect the use of the metal for domestic purposes.

Mr. HOSMER. Mr. Speaker, there is no provision at all that would require anybody to certify they were purchasing from this stockpile.

Mr. YATES. That is correct. The point is that there are still no export controls and the market is still volatile enough to permit the copper to be sold overseas.

I think this bill should be defeated. I do not like to see the national stockpile totally depleted.

The SPEAKER. The gentleman has 2 minutes remaining.

The gentleman from Florida has 9 minutes.

Mr. BENNETT. Mr. Speaker, that will give me time to answer a few of these things.

During the recent hearings on the disposal of copper from the stockpile, as well as other materials, where the question of limiting the material to domestic consumption was raised, GSA assured the committee that appropriate action would be taken in GSA's disposal program to assure that these materials, which are now in short supply, would be sold only for domestic consumption.

In the case of copper, of the 251,600 tons which would be authorized by the bill, 85,000 tons will be transferred to the Bureau of the Mint for use in U.S. coinage. With regard to the balance of material which would be sold commercially, GSA will incorporate stringent provisions in its sales contracts which will specifically prohibit the export of any of the copper. The contracts will require that the copper be consumed only in the United States. The contracts would also provide the right of examination to the Government of any of the purchasers' records incident to the sale of copper for a period of 3 years after the date of sale. This right of examination will permit GSA to thoroughly investigate any possible violation of the contract provisions. GSA maintains a staff of contract auditors and investigators who would be available to conduct any necessary investigation.

Should any of the contract requirements prohibiting export of copper be violated, GSA would pursue its legal remedies under the contract, including the possibility of debarment from Government contracting of any violator. GSA has used similar contract language in its disposal of many commodities, such as zinc, cadmium, antimony, and no problems have occurred in the administration of such limitations.

In view of the assurances we have obtained from GSA and in light of our confidence in GSA disposal procedures, which have been the subject of our committee's examination over the years, we do not believe that amendment of the legislation is necessary.

Now, I would like to address myself to one or two other points made in the debate which preceded this.

The statement was made that we have thown away all precautionary measures. Actually, the only thing we did was not have the notice required, because of the extreme urgency of the need for this copper in the United States at this time. We cannot have it both ways. We cannot say this is totally for national defense and say it should also protect the domestic situation.

As a matter of fact, it embodies some parts of both. That is partly why this is being done. The national defense is being protected, but it is at an urgent time when employment is going down, when thousands of people are losing their jobs.

Thousands more will lose their jobs unless we make some real opportunity for going concerns to continue. So, what is so wrong if the Joint Chiefs of Staff, Admiral Moorer, comes before us and says, "Release all of this"? What is so wrong when the Department of Defense says, "Release all of this"? What is so wrong about it? When are we going to wait for the time to come to help job opportunities? When is it that the need is going to be here? Thousands of people are out of jobs today.

We have arranged for the price control to be released as far as copper is concerned, so our release of the ore would not now normally find its way abroad anyway. But do we have to put it in the legislation itself when the legislative history shows the material should not be sold abroad?

Another thing was said, "Why do this in haste?" We are not doing this in haste. It was passed by the Senate in July. The chairman of the full committee then assigned it to my committee. We had weeks and months of preparations for the hearings. The hearings lasted for weeks. They went on day after day. All people who wanted to protest could have come in at that time. There has been no haste about this.

Actually, we have only taken up four or five commodities. There are 91 commodities involved in this stockpile—91. Multiply that by the weeks we took for these five. That is a staggering thought.

We do question. My committee is not buying at its face value the idea of having a 1-year emergency. Instead, we are requiring a 3-year war to be looked at so that we have to look at what it takes to run a 3-year war for national defense of our country, taking into consideration domestic uses as well. Then we have to look at—and believe me, it is hard to look at this—what countries can we rely upon? Even the State Department has difficulty about this sort of thing at times. How can we rely upon India for opium? So, we did not rely upon India. We decided we are going to have the 3 years' supply required.

If the Members had relied upon Chile, that would be interesting. How absurd can we get? We only get 10,000 tons from Chile. Our country alone produces 2,420,000 tons. The United States does. It produces more than it consumes. It does send some abroad, it is true. It does so because we have people in business who produce copper things and have business across the seas. We do not want to end all international trade, but we produce enough in this country in 1 year alone now to take care of our national defense interests in this country for 3 solid years of war.

Those are what the facts are. What is this 251,000 tons drawdown going to do when we consume almost 3 million tons in a year? It is almost nothing. It may help a little right now to preserve some jobs, but it is just a palliative. It will not last for any long period.

It just makes sense, if the Joint Chiefs of Staff say that we do not need this and the Department of Defense says that we do not need this and we are running out of jobs in this country because of the need of these metals. We must therefore act now.

Mr. Speaker, I am a recent convert. I did not want to get rid of any of the stockpile. I have come to the conclusion that if the Joint Chiefs of Staff and the Department of Defense think we do not need it, and we have people out of jobs because they do not have this kind of material, and we can produce all of this in 1 year, why do we need to spend millions of dollars to stockpile it when we can make jobs available now?

Mr. PATTEN. Mr. Speaker, will the gentleman yield?

Mr. BENNETT. Mr. Speaker, I yield to the gentleman from New Jersey.

Mr. PATTEN. Mr. Speaker, I come from the largest copper refining section in the United States. Those Members out west who mine the gold and silver, 40 percent of the silver and gold comes out of my district from copper refining.

Mr. Speaker, let me get to the point. Industry, labor unions, everybody wants this bill, but let me correct some impressions here. There has been a lot of talk about selling copper in Europe for a dollar. My industries are American and they are patriotic. They could have sold to other places, but they would not do it. They are selling to their regular customers in the United States. I know one fellow who has business in countries like France and the Netherlands and England who ran up $7,000 in toll charges in 1 day.

They would have bought everything, he said. They did not sell him a damn thing.

Our companies are good. They want their customers taken care of. We are going to get copper from Chile and it is going to be more than 10,000 tons, let us not worry about that.

Mr. Speaker, we will be back to normal, our men will be working, and in case of war, we can produce three times as much copper as is available in the United States.

So let us get on with this job and pass this bill.

Mr. BELL. Mr. Speaker, will the gentleman yield?

Mr. BENNETT. I yield to the gentleman from California.

Mr. BELL. Mr. Speaker, if there is an increase in demand for copper, why do we not mine more copper and get the price under control?

Mr. BENNETT. Mr. Speaker, I will answer the gentleman's question.

The reason we have not mined more copper was because of price controls. Nobody likes to say that, but that is the truth. Our Government told them they had to sit on their price, and so why should they mine more copper?

After all, companies are not just owned by individuals; they are owned by mass stockholder groups, and there is a trustee arrangement within the corporate structure, in regard to the profit picture. The corporate structure is not very anxious, in view of its responsibility to the stockholder groups, to make less money. Therefore, they do not produce as much copper as they normally do, when they have a price control imposed upon them.

The SPEAKER. The time of the gentleman from Florida (Mr. BENNETT) has all expired. The gentleman from Illinois (Mr. YATES) has 2 minutes remaining.

Mr. YATES. Mr. Speaker, I yield the gentleman from Florida 2 minutes in order that he may answer this question.

Referring to the safeguards the gentleman says are in this bill, is there any safeguard that would prevent any of the purchasers of this copper which is intended for our domestic use from using this copper and exporting other copper in the purchaser's possession?

Mr. BENNETT. Well, the GSA felt that they would be able to do that. Going beyond that, they said they would do it if they could, but we are not going to correct that by changing the statute, because they are going to take the hearings and report as part of the legislative history of the statute and abide by it.

Mr. YATES. They are going to keep the copper they bought from GSA, and they are going to use other copper for export?

Mr. BENNETT. Well, I will say to the gentleman that something has happened during the hearings and after the hearings. The price controls were released on copper, so that we are not faced now with exactly the problem which we had earlier.

Mr. YATES. Mr. Speaker, may I ask the gentleman one further question?

The gentleman said we have now provided for 3 years, as far as our needs are concerned.

Can the gentleman tell us what copper is in the stockpile or what copper the stockpile contains for the Nation's protection?

Mr. BENNETT. Mr. Speaker, the 3-year provision is based upon how much we have available right now from the production for 1 year, and we multiply it by three, and we find we have a great overage. We have much more than we need, both from the standpoint of national defense and from the standpoint of keeping our country going.

Mr. YATES. But there will be nothing in the national stockpile, will there?

Mr. BENNETT. There will be something. As was pointed out a moment ago, there will be some left there.

Mr. YATES. Has the bill provided for the complete sale of all of it?

Mr. BENNETT. No.

Mr. YATES. I assume the gentleman refers to the 7,000 tons of copper alloy; am I correct?

Mr. BENNETT. Yes. That would be a special type of copper for special uses, such as for the C–5, or something of that type.

Mr. BELL. Mr. Speaker, will the gentleman yield?

Mr. YATES. I yield to the gentleman from California.

Mr. BELL. Mr. Speaker, why does the administration not take the price control off of copper so there will be an interest in the mining of it?

Mr. YATES. The report says it will do so.

Mr. CONTE. Mr. Speaker, passage of this bill, to release over a quarter million tons of copper from the national stockpile, is important to the vitality of the copper manufacturing industry and the economic health of the Nation. I rise to support this bill, and I urge my colleagues to vote for its immediate passage.

This release of Government supplies is overdue. Copper fabricators have been plagued for the past year by a coincidence of severe economic problems that would submerge a less hardy group of entrepreneurs.

Supplies are tight. Prices have escalated. Exports have boomed. Due to price controls, manufacturers often cannot buy copper feedstocks at a price that would allow them any profit.

We can expect the supply picture to get worse. Demand is outpacing supply. While production has increased 2 percent over last year, demand is up by 11 percent. Early next year, one of the major copper producers will have to curtail production by 10 percent to allow the installation of new antipollution equipment in its plant.

In the meantime, there are no export controls on copper, and the flow of copper scrap out of this country continues at a rate that is 76 percent above last year.

Consumption of copper in the United States is 3 million tons a year. Ninety percent of this Nation's supply is produced domestically. But through the first 9 months of this year, only 1.7 million tons of copper was produced in the United States. These figures indicate that a serious shortfall between supply and demand will exist by the end of the year.

Release of this quarter million tons of copper from the national stockpile, which this bill calls for, would significantly alleviate the supply shortage.

Copper imports cannot make up the difference. Last year the United States imported 424,000 tons of copper. Our largest supplier, with 157,000 tons, was Canada. Other major suppliers were Peru, 93,000 tons; Chile, which nationalized American copper interests a few years ago, 60,000 tons; the Philippines, 30,000 tons; and Yugoslavia, 27,000 tons.

The size of the Government stockpile to be released under this bill is larger than the imports from any country for a single year.

If this bill is passed, and I am confident that it will, I intend to oversee the disposal of this Government copper to insure that a fair proportion of the supply is directed to small manufacturing firms, that no giant corporation or group of massive conglomerates monopolizes the procurement of this supply, that none of this copper from the national stockpile is exported, and that this supply is sold at a price that is reasonable and congruent with phase IV.

The economic vitality and future of many copper manufacturing firms, including several in my district, would be given a significant boost by passage of this bill. For many, it would mean cancellation of layoff announcements and continued employment.

This industry is essential to our economy. We cannot let it down. I urge the immediate enactment of this bill.

Mr. STEELE. Mr. Speaker, exactly 5 months ago today, in response to a growing shortage of copper and copper alloy products, I introduced legislation to authorize the sale of our surplus of stockpiled copper. It is of great importance that we pass such legislation today in order to relieve the serious copper shortage that continues to threaten thousands of copper-related jobs and hundreds of copper and brass manufacturers.

In my own State of Connecticut, more than 420 firms work primarily with copper and brass and employ more than 30,000 workers. With unemployment levels as high as they are in Connecticut, we are especially concerned with the deteriorating situation in the copper and brass industry. A large number of Connecticut copper and brass workers have already been laid off or now work curtailed hours because their employers cannot get the copper they need, and with the energy crisis upon us, we simply cannot risk further unemployment.

Moreover, it is not only the primary copper and brass industry that stands to be injured by a continued shortage. Many major customers of copper products—Ford, IBM, Carrier, Western Electric, and Honeywell, to name a few—will not be able to continue full operations and employment if they cannot acquire normal quantities of the copper wire and other copper goods necessary. And many small- and medium-sized businesses that use large quantities of copper—Wyre Wynd in my own district is one example—may be forced to shut down large sections of their operations unless more copper is available. Therefore, the current shortage casts an ominous cloud over a huge segment of the American economy.

What has brought this shortage about? The reasons are manifold. First, the United States has long been a net importer of copper—to the tune of 193,000 tons last year, or 10 percent of our domestic consumption. Second, strikes and turmoil in copper-producing nations have led to a decline in world copper production. Chile, for example, has been producing 12,000 tons less monthly than in previous years. Third, the demands of steadily increasing foreign business activity have tightened the international copper market and driven world prices up, which has stiffened competition for American copper buyers on the world market. And coupled with the present international monetary uncertainty, this increased demand has encouraged speculation and made the international copper market even more volatile than it normally is.

Finally, phase 3½ controls froze domestic copper prices at exactly the time when foreign prices were climbing upward. This stimulated wholesale exportation of domestic copper—scrap exports for July totaled 58.3 million pounds, well over double the June export level.

Since the lifting of the freeze and phase IV restrictions on copper scrap, the domestic scrap supply has improved somewhat. However, the situation in the copper industry is still critical. In the first place, the price of copper scrap has risen to 92 cents a pound, which is 55 percent higher than the pre-July mean. Because raw materials constitute the largest portion of copper products' production costs—as much as 85 percent in some branches of the industry—manufacturers often cannot afford to absorb this price increase without jacking up the prices of their finished products accordingly. In the long run, this means one of two things: Either the consumer pays much more for copper products, or the manufacturer is forced to price himself out of the market.

In the second place, phase IV limits still apply to refined or producers' copper. This has kept the domestic price of refined copper from rising. Meanwhile, stirred by the tight world copper supply and the flux of the international monetary system, the price of refined copper on the London Metals Exchange—the primary trading place for international copper transactions—has climbed as high as $1.01 per pound. As of this morning, American manufacturers paid about 68 cents for a pound of refined copper, while LME merchants got over 90 cents for the same pound. This unusually wide gap between American and international markets is stimulating domestic producers, who usually shy away from foreign sales, to export a substantial portion of their refined copper to foreign buyers who will pay the higher price.

From this, we can predict a large increase in exports of refined copper for the last half of 1973, in contrast to an actual decrease in refined exports for the preceding 6 months.

What all this boils down to is this: although the lifting of the price freeze on scrap may have made a little more scrap available, this increase will be more than offset by the growing export of refined copper. Thus, copper will still be in too short supply to keep the copper industry running at capacity.

COPPER STOCKPILE RELEASE

It is in this context that this legislation is so important. Its point is simple. After a careful study, the administration determined that a large quantity of the materials now held in the strategic stockpiles, including copper, was no longer necessary for national defense purposes, and in April it introduced legislation to authorize the sale of these surplus materials. However, because of the worsening situation in the copper market, I extracted the copper provisions from the administration's omnibus bill in order to expedite action on them. I am pleased that the Armed Services Committee has seen fit to adopt this approach by reporting out a similar bill already passed by the other body.

Just what would the release of these 250-odd thousand tons of stockpiled copper do? Let me point to four basic aims to be accomplished:

First, the release of the copper stockpiles would make available large amounts of refined copper for use by domestic manufacturers now. If, for example, the stockpiles were released at the rate of 50,000 tons per month—roughly one-third our average monthly consumption of refined copper—American manufacturers would have at least an adequate supply of raw material to offset the reductions in world production of copper and the massive export drain that soaked up so much domestic copper during the July price freeze. These added supplies would save jobs and avoid shortages of copper goods in the national marketplace over the next 5 months. If we work diligently, this would give us adequate time to develop a longer-term solution to the copper supply program. Toward that end, I have joined with several colleagues in cosponsoring legislation to impose a 6-month embargo on copper exports.

Second, by making more copper available, the inflationary pressures of a tight market will be eased and prices will stabilize. At the least, the inflated price of scrap copper will level out and, in all likelihood, begin to drop as the additional copper from the stockpiles fills out the huge gaps in the present supply. Speculation will slow, and some semblance of predictability—which is essential under the current Cost of Living Council prenotification requirements—will return to the domestic copper market. In addition, it is probable that the infusion of more American copper into the world copper supply will exert a strong force on the sensitive London Metal Exchange and thereby drive the free market price of refined copper down toward the range of the current U.S. refined price—68 cents a pound. This would result in less export pull on American supplies, since the foreign market would no longer be priced so lucratively high.

Third, and particularly important in these times of economic uncertainty, the U.S. balance of trade would benefit by the increased availability of American copper. As mentioned before, the United States has for many years been a net importer of copper. Last year's net imports figured at 193,000 tons. At today's prevailing LME prices, the same import total would cost us over $355 million in trade deficits. However, the release of 250,000 tons of stockpiled copper would more than cover our import needs for this year, thereby diverting back into the national economy as much as $355 million that would otherwise flow overseas.

Fourth, the sale of the copper reserved would contribute to easing the pressure on the Federal budget. At current U.S. producer prices—68 cents a pound—this sale would add over $340 million to the income of the Federal Government. As you well know, this is a significant sum in the effort to hold down the national debt and strengthen the domestic economy.

Within these four advantages are benefits for every segment of society. For labor, threatened jobs would be secured. For management, production cutbacks would be averted and the worsening price/supply squeeze would be checked. For the Federal Government, a negative factor in our balance-of-trade position would be eliminated, and the U.S. Treasury would receive a shot in the arm. And for the consumer, the problems stemming from an inadequate supply of copper-based goods would be avoided. Further, by adding $340 million to the Federal Government's income, sale of the stockpiles would have a beneficial effect on our fight against inflation. Clearly, the sale of the national and supplemental copper stockpiles is in the interest of all concerned.

SUMMARY

This, then, is the situation: On one hand, the Federal Government is today holding more than 250,000 tons of copper that has been labeled "surplus." On the other hand, the copper industry is caught between thin domestic supplies and a tight and expensive foreign market. Hanging in the balance are thousands of jobs, hundreds of copper and brass businesses, and substantial and direct benefits for the national economy and the Federal Treasury. All that is needed to bring these forces together is the approval from Congress to proceed with the sale of the stockpiles.

Let me make one final point about this bill. If anyone doubts the difficulty that copper manufacturers are having in acquiring the raw materials they need, I call attention to the fact that the Federal Government has asked Congress for permission to stop minting copper pennies and switch to aluminum-based 1 cent pieces. With worldwide shortages and rising prices, not even Uncle Sam can get the copper he needs to produce the item synonymous with copper—the penny.

Mr. Speaker, I believe, and I am confident that the House will share my belief, that the sale of our copper reserves should be authorized without delay. There can be no more strategic time than now for dispensing with this surplus of no-longer strategic copper.

Ms. HOLTZMAN. Mr. Speaker, I rise in opposition to this bill which authorizes the sale of all Government stockpiles of copper. I also oppose other bills similar to it which we are considering today—involving the sale of the Government's stockpiles of aluminum, zinc, silicon carbide, molybdenum, and opium.

The only rationale behind such depletion of our copper reserves is that the sale may help stabilize rising copper prices in this country. On examination, however, this justification falls flat on its face since members of the Armed Forces Committee have admitted that the sale of these copper stockpiles will have only a marginal impact on the price of copper in this country.

On the other hand, the reasons against completely depleting our copper stockpiles are weighty and compelling. The first reason is one of military preparedness. In the event of a war our Government will have none of its own copper reserves and we may be caught short of adequate supplies for military defense. Second, the Government may have to utilize these existing stockpiles to help alleviate more serious copper shortages in the future. We should have learned this from our experience with the so-called grain deal, in which for the purposes of détente we sold all our grain reserves forgetting that those reserves might have been crucial—as they later turned out to be—in helping to prevent the extraordinary inflation in food prices. We cannot foresee at the present time for what future crisis these copper reserves may be needed, but since selling them now will serve no necessary purpose, we ought to preserve them.

Accordingly, I cannot support the sale of all of our Government's copper stockpiles or the sale of our other mineral reserves which would serve only to make us more vulnerable now and in the future.

The SPEAKER. The question is on the motion offered by the gentleman from Florida (Mr. BENNETT) that the House suspend the rules and pass the Senate bill S. 2316, as amended.

The question was taken.

Mr. YATES. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 315, nays 73, not voting 44, as follows:

[Roll No. 700]

YEAS—315

Abdnor
Addabbo
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Arends
Armstrong
Ashbrook
Ashley
Badillo
Barrett
Bauman
Beard
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Boland
Bowen
Brademas
Brasco
Bray
Breaux
Brinkley
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Butler
Camp
Carney, Ohio
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Chisholm
Clancy
Clark
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collier
Collins, Ill.
Collins, Tex.
Conable
Conlan
Conte
Corman
Cotter
Coughlin
Crane
Cronin
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Davis, Ga.
Davis, S.C.
Davis, Wis.
Dellums
Derwinski
Devine
Dickinson
Donohue
Dorn
Downing
Duncan
du Pont
Eckhardt
Edwards, Ala.
Erlenborn
Esch
Eshleman
Fascell
Findley
Fish
Fisher
Flood
Flowers
Flynt
Foley
Ford, William D.
Forsythe
Fountain
Frenzel
Frey
Froehlich
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Goodling
Grasso
Gray
Gross
Grover
Gude
Gunter
Guyer
Haley
Hamilton
Hammerschmidt
Hanley
Hanna
Harrington
Harsha
Hastings
Hays
Hechler, W. Va.
Heckler, Mass.
Heinz
Henderson
Hicks
Hillis
Hogan
Holt
Horton
Howard
Huber
Hunt
Hutchinson
Ichord
Jarman
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jordan
Kastenmeier
Keating
Kemp
Ketchum
King
Kluczynski
Kuykendall
Kyros
Landgrebe
Latta
Leggett
Lehman
Lent
Litton
Long, La.
Lott
McClory
McCloskey
McCollister
McCormack
McDade
McEwen
McFall
McSpadden
Macdonald
Madden
Madigan
Mahon
Mallary
Mann
Maraziti
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mayne
Meeds
Melcher
Metcalfe
Milford
Minish
Minshall, Ohio
Mitchell, Md.
Mitchell, N.Y.
Mizell
Moakley
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Murphy, Ill.
Myers
Natcher
Nedzi
Nelsen
Nichols
Obey
O'Brien
O'Hara
O'Neill
Parris
Patman
Patten
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Podell
Powell, Ohio
Preyer
Price, Ill.
Pritchard
Quie
Quillen
Randall
Rees
Regula
Rhodes
Rinaldo
Roberts
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Roncallo, N.Y.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Ruth
St Germain
Sandman
Sarasin
Sarbanes
Scherle
Schneebeli
Sebelius
Seiberling
Shipley
Shriver
Shuster
Sikes
Skubitz
Slack
Snyder
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steele
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stokes
Stratton
Stubblefield
Studds
Sullivan
Symington
Talcott
Taylor, N.C.
Teague, Calif.
Thomson, Wis.
Thone
Thornton
Tiernan
Towell, Nev.
Treen
Udall
Vanik
Vigorito
Waggonner
Wampler
Ware
Whalen
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Wolff
Wydler
Wylie
Wyman
Yatron
Young, Alaska
Young, Fla.
Young, Ill.
Young, S.C.
Young, Tex.
Zablocki
Zion
Zwach

NAYS—73

Abzug
Adams
Anderson, Calif.
Bafalis
Baker
Blackburn
Boggs
Breckinridge
Brotzman
Byron
Conyers
Culver
Danielson
de la Garza
Dellenback
Denholm
Dennis
Dingell
Drinan
Dulski
Eilberg
Evans, Colo.
Evins, Tenn.
Fulton
Gonzalez
Green, Oreg.
Green, Pa.
Hanrahan
Hansen, Idaho
Helstoski
Hinshaw
Holifield
Holtzman
Hosmer
Hungate
Johnson, Calif.
Jones, Tenn.
Kazen
Koch
Long, Md.
Lujan
McKay
Mazzoli
Mezvinsky
Miller
Mink
Moss
Nix
Owens
Poage
Rangel
Rarick
Reuss
Riegle
Roncalio, Wyo.
Roy
Roybal
Runnels
Ruppe
Satterfield
Schroeder
Shoup
Smith, Iowa
Smith, N.Y.
Stuckey
Symms
Teague, Tex.
Ullman
Waldie
Winn
Wright
Yates
Young, Ga.

NOT VOTING—44

Alexander
Aspin
Blatnik
Bolling
Buchanan
Burke, Calif.
Burton
Carey, N.Y.
Delaney
Dent
Diggs
Edwards, Calif.
Fraser
Frelinghuysen
Griffiths
Gubser
Hansen, Wash.
Harvey
Hawkins
Hébert
Hudnut
Jones, Ala.
Karth
Landrum
McKinney
Mailliard
Martin, Nebr.
Michel
Mills, Ark.
Murphy, N.Y.
Passman
Price, Tex.
Railsback
Reid
Rooney, N.Y.
Ryan
Sisk
Taylor, Mo.
Thompson, N.J.
Van Deerlin
Vander Jagt
Veysey
Walsh
Wyatt

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

The Clerk announced the following pairs:

Mr. Thompson of New Jersey with Mr. Reid.

Mr. Hébert with Mr. Fraser.

Mr. Rooney of New York with Mrs. Burke of California.

Mr. Dent with Mr. Burton.

Mrs. Griffiths with Mr. Hawkins.

Mrs. Hansen of Washington with Mr. Edwards of California.

Mr. Murphy of New York with Mr. Diggs.

Mr. Ryan with Mr. Buchanan.

Mr. Sisk with Mr. Harvey.

Mr. Van Deerlin with Mr. Martin of Nebraska.

Mr. Blatnik with Mr. Frelinghuysen.

Mr. Alexander with Mr. Mailliard.

Mr. Carey of New York with Mr. Gubser.

Mr. Landrum with Mr. Michel.

Mr. Karth with Mr. Hudnut.

Mr. Mills of Arkansas with Mr. McKinney.

Mr. Passman with Mr. Price of Texas.

Mr. Aspin with Mr. Railsback.

Mr. Delaney with Mr. Taylor of Missouri.

Mr. Jones of Alabama with Mr. Vander Jagt.

Mr. Walsh with Mr. Wyatt.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION TO CALL UP CONFERENCE REPORT ON H.R. 11576

Mr. MAHON. Mr. Speaker, the conference report was filed last night on the final supplemental H.R. 11576. I ask unanimous consent that it may be in order on tomorrow or any day thereafter to consider the conference report on H.R. 11576, a bill making supplemental appropriations for the fiscal year ending June 30, 1974, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

REQUEST FOR PERMISSION TO CALL UP CONFERENCE REPORT ON H.R. 11575, DEPARTMENT OF DEFENSE APPROPRIATIONS, 1974

Mr. MAHON. Mr. Speaker, we would have then the remaining big defense bill which is now in conference, and the conference is expected to be concluded today.

I want to ask unanimous consent that it may be in order on tomorrow or any day thereafter to consider the conference report on H.R. 11575, a bill making appropriations for the Department of Defense for the fiscal year ending June 30, 1974, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. GROSS. Mr. Speaker, reserving the right to object, I think the Members should be on notice as to what is being requested. This can mean that a conference report on a bill involving $86 billion, or it is higher than that?

Mr. MAHON. It is some $74 billion.

Mr. GROSS. All right then, a bill that appropriates $74 billion can be brought in and called up in the House without one scintilla of printed information concerning the action of the conference committee.

Mr. MAHON. Mr. Speaker, will the gentleman yield?

Mr. GROSS. Of course, I yield to the gentleman from Texas.

Mr. MAHON. The gentleman is raising a very important point. We are in conference with the Senate at this hour. We hope the conference report will be printed tonight.

If we conclude the conference and are able to get the conference report in shape by midnight, it will be printed and will appear in the RECORD tomorrow.

This is a matter of moving toward adjournment and it would be very likely that if the conference report is not brought up tomorrow, it will be brought up the following day in the event that it is impossible to get it printed tonight.

Mr. GROSS. I have no desire to prolong this session of Congress but neither do I desire to operate completely in the dark, and I must say to the gentleman that if he conditions his request upon the conference report being printed in the RECORD or being in printed form otherwise, I do not object. I must object otherwise because I think we ought to have something before us that we can read and derive some information from.

Mr. MAHON. Mr. Speaker, in view of the problems which have been pointed out by the gentleman from Iowa (Mr. GROSS) I believe it would be best at the moment to withdraw my request until we can better determine as to when this conference report can be brought up.

Mr. GROSS. I thank the gentleman. I would appreciate his withdrawal of the request at this time.

Mr. MAHON. Mr. Speaker, I withdraw my unanimous-consent request.

GENERAL LEAVE

Mr. BENNETT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the next four bills and the two stockpile bills which have passed.

By way of explanation, I would say these other bills are not nearly so controversial as the two bills which have already passed and, therefore, we can get along with the business of the day if we use the extension of remarks procedure.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

AUTHORIZING THE DISPOSAL OF ALUMINUM FROM THE NATIONAL STOCKPILE

Mr. BENNETT. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2413) to authorize the disposal of aluminum from the national stockpile and for other purposes.

The Clerk read as follows:

S. 2413

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Administrator of General Services is hereby authorized to dispose of, by negotiation or otherwise, approximately two hundred and seven thousand four hundred and forty short tons of aluminum now held in the national stockpile established pursuant to the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98–98h). Such disposition may be made without regard to the requirements of section 3 of the Strategic and Critical Materials Stock Piling Act: *Provided,* That the time and method of disposition shall be fixed with due regard to the protection of the United States against avoidable loss and the protection of producers, processors, and consumers against avoidable disruption of their usual markets.

SEC. 2. Section 2 of Public Law 89–460 (80 Stat. 212) is repealed.

The SPEAKER. Is a second demanded?

Mr. YATES. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The Chair recognizes the gentleman from Florida.

Mr. BENNETT. Mr. Speaker, I want to speak briefly that this legislation before us right now has approval of the Joint Chiefs of Staff. The chairman of the Joint Chiefs of Staff came before our subcommittee and testified on this legislation, as did the Under Secretary of Defense from the Defense Department.

As a matter of fact, we took a more conservative position in the matter than did these two fine agencies. We required the testifying agency, the GSA, to testify on the basis of a 3-year war, which these other agencies of Government did not feel was necessary, but we required them to consider the materials on the basis of a 3-year war need.

On page 153 of the hearings, we will find that this amount of aluminum here is not needed, for the reason we have an adequate supply of other aluminum in this country to take care of our needs, according to the Department of Defense.

Mr. KETCHUM. Mr. Speaker, will the gentleman yield?

Mr. BENNETT. I yield to the gentleman from California.

Mr. KETCHUM. I would like to say that I certainly concur in the statements the gentleman has made today on all these bills; but one small thing bothers me. We have talked about jobs, the fact that these bills will help retain jobs.

What I am worried about is getting people to those jobs. I wonder if the gentleman can answer why the House Committee on Armed Services continues to sit on the Elk Hills bill?

Mr. BENNETT. I am not the chairman of the full committee, but that matter is being studied in the full committee. That matter will come up in due course and will not come before the subcommittee of which I am chairman.

I would like to point out that there is an energy impact about aluminum, because aluminum itself is the most plenteous metal element on the surface of the earth. There is lots of it, but putting it in a form that is in a stockpile requires a good deal of energy input.

Therefore, we will not only be helping with jobs with reference to the stockpile, but we will also be conserving some energy as well. In fact, the present situation with aluminum in the country today is primarily caused because there has not been enough rainfall present in the Columbia River Valley to provide for high production of aluminum in that area.

In the United States the figure for our production in 1 year is 5,380,000 tons of aluminum. That is what we produce.

Now, what do we use? The Defense Department says we use 1,523,000 for 3 years; so we are producing three or four times as much in a year in this country as the Defense requirements are for a 3-year term.

There is another aspect with respect to this winter coming up; that is, that a good deal of this aluminum is needed by the producers of storm windows for houses to cut down the needed energy for heat, such windows can save 30 or 40 percent in energy consumption. That is one of the great needs for aluminum at this time.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. BENNETT. I yield to the gentleman from Iowa.

Mr. GROSS. Is there a sufficient supply to mint pennies as it is planned to do next year, to substitute for the copper pennies?

Mr. BENNETT. Next year they are going to be copper, because of the action taken in the bill just before this. What the decision of the Congress will be on aluminum pennies I do not know. I do think, from my own memory, that it does take action of Congress to change the metal content of a penny.

Mr. GROSS. The copper used in the minting of coins, does it have common usage other than pennies?

Mr. BENNETT. Yes, it does.

Mr. GROSS. Other than pennies?

Mr. BENNETT. Oh, yes. It is in the sandwich; it is the core.

Mr. GROSS. What coins does this apply to?

Mr. BENNETT. Everything but a nickle has some copper in it.

Mr. GROSS. Under the circumstances I do not understand why the Treasury plans to call in copper pennies and substitute for them aluminum pennies.

Mr. BENNETT. That is not an issue before us.

Aluminum is cheaper, a good deal cheaper. It is, I believe, the most plenteous mineral on the Earth as far as metals are concerned.

Mr. Speaker, I urge the passage of this bill.

Mr. YATES. Mr. Speaker, I yield myself such time as I may consume.

First, Mr. Speaker, I want to pay my respects to my old friend from Florida (Mr. BENNETT) who unquestionably is one of the most able Members of the House. I regret very much that I find myself on the opposite side with him, but I feel very deeply and sincerely that the stockpiles should not be raided as these bills do for the civilian economy.

Mr. Speaker, I have asked for the rollcall votes on the first two bills. I maintain my opposition to the remaining bills under suspension which approve sales of critical metals from the stockpile, but I shall not ask for rollcalls on them.

Mr. Speaker, I urge the defeat of this bill.

Mr. YATES. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio (Mr. HAYS).

(By unanimous consent, Mr. HAYS was allowed to speak out of order.)

PRESIDENT GETS FREE HAND ON ENERGY CONSERVATION

Mr. HAYS. Mr. Speaker, I just have a tearout sheet on the AP ticker which reads as follows:

> Senate and House conferees tentatively agreed today to give President Nixon a free hand in ordering immediate energy conservation measures. House Commerce Committee Chairman HARLEY O. STAGGERS, head of the House conferees, said that until March 1st Congress would have no power to veto any steps ordered by President Nixon under the bill.

Then, it goes on to say that after March 1, we would have a chance to veto anything. Now, if Congress wants to duck its responsibilities until March 1st, this is one way to do it, I suppose, but if some of these bureaucrats downtown decree that the corner grocery has to close at 5 o'clock, that you cannot drive your car during the week unless you can produce an affidavit that you are on business or something else—I have heard it said that Senator JACKSON is all for this because he said this is really going to put the monkey on the back of the President.

I do not know how he gets to thinking that way, because if these things happen and your constituents are bothered by them—and they will be—they are not going to call the White House—they could not get through if they did, but they are not going to call there in the first place.

They are going to call our offices, and they are going to ask why we consented to something to give the President a free hand to make laws with criminal penalties attached—that is what it amounts to.

If this comes under the heading of compromise, then I do not understand the word "compromise." I understand that since, some of us have talked to the chairman, and somebody apparently has talked to Senator JACKSON and he is saying, "No, that is not the way it is," but I thought it might be nice to let the House know what is going on. At least, to know what the chairman of the committee told the Associated Press was going on an hour or so ago, so that, before it becomes an accomplished fact and the Members have the opportunity to vote it up or down, they might want to make their preferences felt, that the Congress have some say about it.

They are going even beyond the Broyhill amendment which was defeated. The Broyhill amendment said we had 15 days to veto anything. This is a little bit like saying, "We are going to give the President power to hang anybody in the country until March 1, and then after March 1, you have a chance to appeal it." Of course, if you get hanged in the meantime, it will be a rather fruitless appeal.

Mr. McCLORY. Mr. Speaker, I rise to express my support of S. 2413, the bill before us today, which would authorize the disposal of aluminum from the national stockpile.

It is my understanding that American industry is faced with a critical material shortage due to the severely limited availability of primary aluminum. As a result, many companies are faced with the dim prospect of reduced output, followed by layoffs. This is not a time for additional unemployment, particularly when Congress may help avoid such additional layoffs by favorable action on S. 2413.

In addition to the problem of unemployment faced by the aluminum industry, there has also been concern expressed about the effect of an aluminum shortage on inflation and the economy in general. A shortage would obviously drive the price of aluminum upward, thus adding only further to our recurring problem with inflation. The release of aluminum from the stockpile would avoid a widely fluctuating price situation and tend to stabilize the price of aluminum.

Aluminum users are faced with a seller's market today. I know of at least one company in my congressional district that may be forced to purchase aluminum from a speculator at twice the ordinary market price. This company is faced with no alternative—either it must purchase badly needed aluminum from speculators or it must face a possible close-down of its operations.

The present tight situation was caused partially by the energy crisis, and accompanying unusual demands. The Congress just last week acted to relieve the pressures of the energy crisis. It is time now to act in the same manner with regard to the aluminum shortage.

It is my hope that Congress will see fit to provide the legislation which will release aluminum from the national stockpile. I urge my colleagues to give overwhelming support of S. 2413.

Mr. GONZALEZ. Mr. Speaker, the legislation now before us to dispose of the aluminum in the national stockpile, coming after passage of another bill to get rid of our stockpile of copper, appears to be heralding some kind of tidings of great joy at this Christmas season that peace has indeed come to the world—not only for the immediate moment but for the foreseeable future—and that we need not fear for any more national defense emergencies.

If that is the message President Nixon is trying to send us in requesting this legislation, he should be shouting it from the White House tops, and perhaps the stockmarket would start to go up and people would begin to feel a whole lot better about a lot of things. We might go cold because of administration blunders in the energy situation; we might be broke because of inflation; many of our people ate less this year because of the Russian wheat deal and its mysterious financial aspects—but at least we do not have to worry about national defense.

But I do not think that is the real message behind these stockpile disposal bills, particularly in copper and aluminum. The message I get is that this administration has so bungled its so-called anti-inflation program—despite having greater powers to combat inflation than any President in our history ever had—that it is willing to take a chance on future national defense needs for these strategic metals in order to throw the stockpiles on the market in the hope of holding down price increases.

And it is also eyeing the prospective revenues from the sale of strategic materials which would be vitally needed in case of national emergency.

What are they going to sell next? Some nuclear submarines? The Lincoln Memorial? If the Government had acquired title to Watergate along with many of the other residential properties it now owns, I could see some compelling reasons why it would want to get rid of that as quickly as possible—but why copper and aluminum at a time of worldwide shortage of those essential commodities?

Mr. Speaker, under the Defense Production Act, we permit the Government to buy strategic materials necessary for defense purposes, and I am just wondering if the aluminum and copper which go out from GSA under the legislation we are considering today will eventually be coming back to the Government under Defense Production Act inventory purchases, at substantially higher prices than we will be getting for them under this legislation.

Let us not forget that we have had in the past to grab up massive quantities of strategic materials on an emergency basis, disrupting small businesses and causing great dislocations throughout the economy, when national defense requirements made these steps necessary. The purpose of the stockpiles was to avoid this kind of frantic grabbing of materials in short supply. They are better than money in the bank; they are insurance against national emergency dislocation.

Instead of robbing the stockpiles to meet existing shortage situations, we should be using the vast powers of the Government to encourage an expansion of production capabilities.

The SPEAKER. The question is on the motion offered by the gentleman from Florida (Mr. BENNETT) that the House suspend the rules and pass the Senate bill S. 2413.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

AUTHORIZING THE DISPOSAL OF SILICON CARBIDE FROM THE NATIONAL STOCKPILE AND THE SUPPLEMENTAL STOCKPILE

Mr. BENNETT. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2493) to authorize the disposal of silicon carbide from the national stockpile and the supplemental stockpile.

The Clerk read as follows:

S. 2493

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Administrator of General Services is hereby authorized to dispose of, by negotiation or otherwise, approximately one hundred and ninety-six thousand five hundred short tons of silicon carbide now held in the national stockpile established pursuant to the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98–98h) and the supplemental stockpile established pursuant to section 104 (b) of the Agricultural Trade Development and Assistance Act of 1954 (68 Stat. 456, as amended by 73 Stat. 607). Such disposition may be made without regard to the requirements of section 3 of the Strategic and Critical Materials Stock Piling Act: *Provided,* That the time and method of disposition shall be fixed with due regard to the protection of the United States against avoidable loss and the protection of producers, processors, and consumers against avoidable disruption of their usual markets.

The SPEAKER. Is a second demanded?

Mr. YATES. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. BENNETT. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. STEPHENS).

Mr. STEPHENS. Mr. Speaker, I represent 30 granite quarries and 65 granite manufacturing plants located in and around Elberton in northeast Georgia. These firms employ 1,700 workers; and produce $27 million of granite products—principally cemetery memorials—each year. They are the major industry in our area; and to a large extent, the economy of several cities and counties revolves around this business. The granite industry uses silicon carbide as a sawing abrasive to cut the stone. This sawing is essential to the rest of the production process; if the sawing stops, the industry stops. Thus, the concern with maintaining an adequate supply of silicon carbide is of paramount importance. If they have to curtail or cease their sawing operations, many of the granite industry employees will be forced to look for other employment—and once they leave our area, we will have little opportunity to get them back. So, the shortage of silicon carbide which the industry is currently facing is truly a most serious matter to us.

During 1973, the production of silicon carbide has not been adequate to meet the needs of the granite and other industries dependent upon this material, and a very serious shortage has developed.

The two principal suppliers are the Carborundum Co. and the Exolon Co., both located in the Niagara Falls, N.Y. area. Their supply of the "crude" silicon carbide has been drastically decreased this year due to the prolonged drought and resultant electrical energy shortage in the Northwest. New pollution abating requirements and other environmental considerations have caused postponements in their development of new facilities to produce this crude material. Their production facilities for making the sawing abrasive required by our granite firms have simply not been used to anywhere near capacity because of the shortage of the crude material.

It is my understanding that the Government has maintained a stockpile of this crude material—some 196,500 short tons—which it purchased and has been paying to keep in storage in the Buffalo, N.Y., and other areas. It is also my understanding that this material—either in whole or part—has been or can be declared surplus to the national defense effort; and it is the congressional authorization to release this material that we are interested in obtaining.

The suppliers advise us that the orderly release of this stockpile—which the General Services Administration will conduct when authorization is given if our understanding is correct—will alleviate the present shortage and permit them to produce the sawing abrasive for our industry and other industries dependent on this material. The stockpile should be sufficient to supplement their present production of the crude for several years or until additional facilities for producing this material can be placed in operation.

I wish to assure the House that our need for this material is urgent. The Georgia firms simply cannot obtain sufficient quantities of silicon carbide now to operate even at last year's level. We are living on a hand-to-mouth basis; if a weekly shipment fails to arrive, our granite operations have to be curtailed.

So far as we know, there is no opposition to the release of all of this crude material. The companies who use it in this form desperately need it; it is not a natural resource that may be depleted but a material that can readily be manufactured if future needs develop; the Government will be relieved of the storage costs and will be paid for the material released.

The Senate has acted favorably on this matter. I urge the House to act with all possible dispatch to approve this bill.

Mr. BENNETT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will say just the things said on the other stockpile bills apply here.

This is being considered at the request of the Joint Chiefs of Staff and the Department of Defense, and it has been scrutinized by the committee. It puts a 3-year war requirement on the stockpile not just a 1-year emergency. It meets the standards and production requirements for the stockpile.

Mr. YATES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I make the same arguments in opposition to this bill as I made to the other bills relating to the stockpile.

I do not think that the national strategic stockpiles should be raided for civilian purposes, particularly when the metals will have to be replaced at some later date at a much higher price. I do not believe that it serves the national interest to sell the products that are being sold under the terms in the bills under consideration.

I think that the domestic producers could have been protected to a much greater degree if we had been given the opportunity to offer amendments to these bills. Unfortunately, under the suspension process we are not able to do so.

Mr. Speaker, I shall not ask for a rollcall vote again, but I do want to let the House know of my opposition to this bill.

The SPEAKER. The question is on the motion offered by the gentleman from Florida (Mr. BENNETT) that the House suspend the rules and pass the Senate bill S. 2493.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the Senate bill was passed.

A motion to reconsider was laid on the table.

AUTHORIZING THE DISPOSAL OF ZINC FROM THE NATIONAL STOCKPILE AND THE SUPPLEMENTAL STOCKPILE

Mr. BENNETT. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2498) to authorize the disposal of zinc from the national stockpile and the supplemental stockpile.

The Clerk read as follows:

S. 2498

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Administrator of General Services is hereby authorized to dispose of, by negotiation or otherwise, approximately three hundred fifty seven thousand three hundred short tons of zinc now held in the national stockpile established pursuant to the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98–98h) and the supplemental stockpile established pursuant to section 104(b) of the Agricultural Trade Development and Assistance Act of 1954 (68 Stat. 456, as amended by 73 Stat. 607). Such disposition may be made without regard to the requirements of section 3 of the Strategic and Critical Materials Stock Piling Act: *Provided*, That the time and method of disposition shall be fixed with due regard to the protection of the United States against avoidable loss and the protection of producers, processors, and consumers against avoidable disruption of their usual markets.

The SPEAKER. Is a second demanded?

Mr. YATES. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. BENNETT. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. MORGAN).

Mr. MORGAN. Mr. Speaker, on September 20, Congressman JOSEPH GAYDOS and I introduced H.R. 10435, a bill identical to S. 2498 which is being considered at this time. This bill would authorize the disposal of approximately 357,300 short tons of zinc from the national stockpile and the supplemental stockpile and waive the 6-month waiting period normally required before such disposal could be started.

On April 12, 1973, the Office of Emergency Preparedness determined that the 357,300 short tons are in excess of the stockpile objective of 202,700 short tons. Thus, the passage of this bill will in no way infringe upon the legitimate strategic defense requirements inherent in the maintenance of a national stockpile. As of August 31, 1973, approximately 153,300 short tons of stockpile zinc remain available from prior disposal authorizations. Except for 22,000 short tons which by statute are allocated to Government use, it is expected that this supply will be exhausted by early 1974.

As you may know, Chairman HÉBERT of the Armed Services Committee has introduced H.R. 7153, an omnibus stockpile disposal bill developed by the General Services Administration. Because of the controversial nature of this bill, extensive hearings would be required to debate the merits of this broad legislation. In the meantime, however, the shortage of zinc has become an emergency, and a legislative remedy is needed.

One-half of our domestic zinc smelting capacity has closed since 1969 under the combined pressures of environmental regulations and increased costs. According to Mr. Simon Strauss, executive vice president of American Smelting & Refining Co., 7 out of 14 zinc smelters producing 600,000 tons, or 50 percent of our domestic capacity, have shut down, one more will do so this year, and another in 1975. Mine production is 20 percent less than its 1968 peak level.

Thus, the production of slab zinc has dropped from 1.15 million tons to 0.7 million tons this year, and to an estimated 0.6 million tons in 1974. U.S. consumption has increased from 1.2 to 1.5 million tons since 1971, and imports have doubled from 0.3 million to a current 0.7 million tons, with 0.8 to 0.9 million projected for 1974. The per-ton value of imports has also been rising. In 1969, one-third of the imported zinc was slab, and two-thirds was in the form of ore concentrate. Now, however, two-thirds is slab zinc, which is twice as expensive as zinc contained in concentrate, thus resulting in a $50 to $200 million balance-of-payment deficit that the industry has incurred and contributing to the weakness of the American dollar in world money markets.

The case of United States Steel is illustrative of the severity of this problem. This company is consuming 33 percent more slab zinc than it is able to purchase, yet it has increased purchases from domestic smelters, participated in Canadian production, and purchased General Services Administration stockpile releases at the maximum rate allowed. GSA allotted United States Steel only 195 tons from their third-quarter stockpile release.

Mr. Speaker, the need for this legislation is clear. Many of our domestic manufacturing concerns will benefit from its passage, and the American people will avoid the inevitable cost increases which would result from the importation of expensive foreign zinc.

Mr. BENNETT. I yield to the gentleman from Pennsylvania (Mr. GAYDOS).

Mr. GAYDOS. I thank the chairman for yielding to me.

I had the privilege of introducing legislation with my colleague from Pennsylvania on this subject. This problem is primarily important in our steel district. With the availability of the zinc contained in this legislation the production of galvanized steel products will be expedited. Production of these products has been curtailed. They are essential for the oil and gas industry, the transportation industry, and the agricultural industry, as well as a number of other industries. It is also important for the long-term domestic economy of our country.

The urgency of this legislation is very understandably demonstrated by the recent off-the-shelf offering by the General Services Administration of 25,000 tons of zinc which brought a response from 470 consumers asking in total for 100,000 tons of zinc. This demonstrates the obvious critical shortage involved.

Mr. Speaker, I want to compliment the chairman for his sincere efforts at bringing this legislation to the floor.

Mr. BENNETT. Mr. Speaker, I yield to the gentleman from Idaho (Mr. SYMMS).

Mr. SYMMS. I would like to point out that the price rise of zinc is from 21 cents to 30 cents a pound; the importance of that price rise is demonstrated by the fact that in the past year zinc sold for 50 cents a pound on world markets whereas our domestic producers have been forced to market their zinc at 19 or 20 cents a pound by our cost of living economic council. This helped to stimulate the shortage which we have in this country of this material.

I appreciate the remarks made by the gentleman from Pennsylvania (Mr. MORGAN) on this matter. However, I believe we should put it into its proper perspective.

We have forced a flow of capital out of this country to develop zinc mines in other countries of the world, primarily Canada. In my own district we have mines that run 8,000 feet deep in order to get the zinc out of the ground. It is very difficult to develop these mines. I believe we should be using some of this capital in this country to do this rather than sending it around the world, because of arbitrary bureaucratic price fixing.

Mr. Speaker, I believe that Members of this House should be very reluctant to reduce the stockpiles. It certainly will not hurt the zinc industry in the long run, because once the Government gets out of the zinc business the price of zinc will seek its natural level. Still we are selling the American people short by selling this zinc or any other metal out of the stockpile now at a time when they were purchased at a low price and making the people pay a higher price later on in order to replenish our stockpile, at a later date.

Mr. BENNETT. Mr. Speaker, before I yield such time as he may use to the gentleman from Missouri (Mr. RANDALL) I would like to say that we have large amounts of zinc still being retained in our stockpile.

I think this shows that we have looked at each one of the particular elements involved here individually.

We have also made provision to make sure that this material is not shipped overseas, and we have made provision to see that it not be sold to any but the proper consumers.

Mr. Speaker, I yield to the gentleman from Missouri (Mr. RANDALL).

Mr. RANDALL. I thank the chairman for yielding to me.

As the ranking member of the subcommittee, I can assure the House that a very careful look was taken at all sides of this problem—including adequate reserves remaining in the stockpile.

It was suggested in the well a moment ago that this was not simply a question of this material being used for military purposes but also for some long distant future civilian use. However, that is not what we are talking about—such things as future civilian needs. Our concern today is to be sure that after we declare this surplus there is enough left for military needs.

With regard to the civilian sector, both of the gentlemen from Pennsylvania here a moment ago spoke about what it means to their districts. But the need for zinc is not confined to any one single area of this country. It is true of any area where steel processing is going on. Zinc to be used in the galvanizing of many products. I might describe the use as in a whole myriad of products.

We have all heard of the domino theory. Out in the Middle West, for example, the Kansas City area has just gone through the TWA strike. If zinc is not available for our ARMCO steel mill which is in the Blue Valley industrial area of Kansas City, they will have to shut down and about 3,000 people will be out of work at that plant and plants nearby.

So, Mr. Speaker, we could very well start the dominos falling—which means widespread unemployment if we do not make some of these metals available to industry now.

People in industry are realistic. They realize that this is a one-time-around sort of thing. They know that they cannot go back to the stockpile again and again.

I was glad to hear the gentleman from Idaho say that in Idaho they have some zinc mines that could be developed. I hope that they are opened and become operative. If that is true then we can make ourselves independent in the production of zinc as well as trying to achieve our independence in the production of some of the other metals and, of course, the goal of independence from the Middle East in petroleum.

Of course, we have heard some objection or perhaps it would be better to say concern but these metals are desperately needed if we are going to be able to continue to manufacture galvanized products through the remainder of this winter of 1973–74.

Mr. SYMMS. Mr. Speaker, will the gentleman yield?

Mr. BENNETT. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Speaker, I thank the gentleman for yielding, and I would just like to make the point to the gentleman from Missouri that we have been punishing the zinc producers in this country through Government edict. One of the reasons there is a shortage of zinc in the steel industry today is because we have held back on the production of zinc in this country by arbitrarily forcing the price of zinc below the cost of production. That is the point I want to make. I realize this bill is going to pass, but it will do so without my vote. But I do think it is important to note that the Cost of Living Council has arbitrarily and capriciously forced back the production of zinc. That is one of the reasons we are in here today, discussing selling our strategic reserve—so as to meet the domestic supply, which is needed—and I say that this will continue on ad infinitum as long as we are in this situation. This is like the guy selling the family jewels in order to live instead of going to work.

Mr. BENNETT. Mr. Speaker, I would like to point out that the producers of zinc appeared before our committee, and they were all unanimous in their willingness that we pass this bill. There was no one who testified in opposition to this bill. I told them in the hearings that I was going to contact the price control people about this because it was clearly shown by the testimony in the committee that there was needed correction. These controls on zinc have been relaxed now.

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. BENNETT. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Speaker, since consumers were mentioned here in the last few minutes, I might add that probably Iowa consumes more galvanized wire than any other place in the world. We have miles and miles of galvanized wire fencing. But my point is, and the reason I have opposed these bills, as in this case, for example, that by temporarily putting this supply on the market, and temporarily putting a downward pressure on the price, merely delays the time when they should make the adjustments necessary to get the producers to produce more of the raw material, and in the end the same consumers will be paying more instead of less. We are just delaying the time and then the adjustment needed will be greater and consumers will be hurt worse. That is my point, that economically it is the wrong thing to do.

Mr. BENNETT. Mr. Speaker, I will be eteranlly grateful for the remarks that have just been made. You may recall that there was an objection made to these bills coming up on the Consent Calendar, and I made no effort to keep them on the Consent Calendar, because I thought it was in the interest of America that they be handled as publicly as possible.

But I also want the Members to know that these releases from the stockpiles are not going to be any great thing down the road, because many of these releases will run out in a few months, and none of them will run for more than a few years, none of them, I think. And this means that we will have a situation of shortages of materials not only shortages in energy, but in other things.

I think we in America and, in fact all countries in the world, have to pull in our belts just a little bit. We have to be more careful to conserve things. We have the responsibility to see that the next generation has materials not just for wars, but to live ordinary lives.

We have that responsibility to our grandchildren and to our great-grandchildren.

We could in the future have the situation where we will have an emergency. What we do today in these bills will not solve that emergency because there will be nothing else to get out of the stockpile. It could well be a bad situation. And I want this to go out as a notice to the American people that they do not have these extra supplies to rely upon, and that strict conservation must take place. Despite this, the present legislation is warranted—because there is no defense need to the contrary and these materials are in fact needed now to protect against further unemployment.

Mr. RANDALL. Mr. Speaker, will the gentleman yield?

Mr. BENNETT. I yield to the gentleman from Missouri.

Mr. RANDALL. Mr. Speaker, the point made by the chairman of the subcommittee deserves to be emphasized. There can be coming back a second time somewhere down the road. That is what the committee has said; the committee has said that here in the stockpile we have a source to galvanize fences for the gentleman from Iowa, and make other galvanized products for every part of the United States. No one has promised there will be another or future release from the stockpile. This could be the end.

But we have some to spare now. Everyone on the committee was unanimous that there is a present need for zinc in industry. Even after releasing this surplus we have enough for a war lasting 3 years. The solution to the problem of the gentleman from Iowa talks about is not before this committee today. I urge the speedy passage of the bill already passed by the Senate—S. 2498.

Mr. YATES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to this bill which would deplete the national strategic stockpile of necessary metals for the reasons previously stated.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER. The question is on the motion offered by the gentleman from Florida (Mr. BENNETT) that the House suspend the rules and pass the Senate bill S. 2498.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

MAKING IN ORDER CONSIDERATION OF THE CONFERENCE REPORT ON S. 1559, THE MANPOWER BILL, ON THURSDAY, DECEMBER 13, 1973

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that it may be in order on Thursday next to call up the conference report on the manpower bill, S. 1559.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

AUTHORIZING THE DISPOSAL OF MOLYBDENUM FROM THE NATIONAL STOCKPILE

Mr. BENNETT. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2551) to authorize the disposal of molybdenum from the national stockpile, and for other purposes.

The Clerk read as follows:

S. 2551

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Administrator of General Services is hereby authorized to dispose of, by negotiation or otherwise, approximately thirty-six million five hundred thousand pounds (molybdenum disulphide equivalent) of molybdenum now held in the national stockpile established pursuant to the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98–98h). Such disposition may be made without regard to the requirements of section 3 of the Strategic and Critical Materials Stock Piling Act: *Provided,* That the time and method of disposition shall be fixed with due regard to the protection of the United States against avoidable loss and the protection of producers, processors, and consumers against avoidable disruption of their usual markets.

The SPEAKER. Is a second demanded?

Mr. BOB WILSON. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. BENNETT. Mr. Speaker, I suppose the most distinctive thing about this bill is that we have great production in the United States. Seventy-five percent of the free world's production comes in the form of this particular metal. It is used in producing satellites, parts for airplanes, bicycle pipe, and a great number of other things.

Mr. Speaker, the amount here is in surplus, and we ask for its reduction.

Mr. BOB WILSON. Mr. Speaker, I want to commend the gentleman, the chairman of our subcommittee, for his diligent work. We have heard many, many witnesses. I think a commendable job was done. I think we have looked after the interests of the defenses of this country and the people of this country.

Mr. Speaker, I yield back the balance of my time.

Mr. EVANS of Colorado. Mr. Speaker, will the gentleman yield?

Mr. BOB WILSON. I yield to the gentleman from Colorado.

Mr. EVANS of Colorado. I thank the gentleman for yielding.

Mr. Speaker, I find that the item we are considering here is one in which we have a surplus, not a shortage. I note on page 3 of the report it is stated:

> Molybdenum has been in worldwide oversupply for several years due to the increase in mine capacity and producers have been reluctant to see additional stockpile molybdenum come on to the market.

Therefore, I have a different attitude on this item. But, for the life of me, Mr. Speaker, I do not see how we can give these items which are not in surplus away. These items in stockpile are critical defense items. These stockpiles were established for military reasons. If we ever have a military emergency, and if we change our production capacity from civilian production to military production, obviously these stockpiles, it seems to me, would be most essential.

The gentleman from Missouri just commented that many of these metals are becoming more and more in short supply today, and that once we have opened the cupboard here and doled out these stockpiles, that is it; the cupboard thereafter will be bare. So as to these other metals, excluding molybdenum, I still reserve and maintain my position of opposition. It is unwise to sell them away today or tomorrow, knowing that thereafter we may never have a stockpile again.

Mr. BOB WILSON. Mr. Speaker, I think we have been prudent. All of these metals that we are declaring surplus are metals that are for the most part obtainable either domestically or from Mexico or Canada. We do not have to rely on shipments from overseas. I think we have been prudent, and I can wholeheartedly recommend that the Members vote for this particular bill.

Mr. RANDALL. Mr. Speaker, will the gentleman yield?

Mr. BOB WILSON. I yield to the gentleman from Missouri.

Mr. RANDALL. I thank the gentleman for yielding.

Mr. Speaker, I very much want to respond to the point made by the gentleman from Colorado. Let me tell him we have been cautious. This is as far as this committee intends to go now, or perhaps in the future. We do have enough for military purposes. We do have more than we need now but we may not have more later for civilian purposes. Our committee has proceeded with a spirit of caution led by our distinguished chairman. I can assure the House we have been careful and prudent in not going too far.

Mr. BENNETT. The scarcity has caused jobs to be lost or destroyed by the absence of this metal. This action would help our country now when it is needed.

The SPEAKER. The question is on the motion offered by the gentleman from Florida (Mr. BENNETT) that the House suspend the rules and pass the Senate bill S. 2551.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

AMENDING THE FEDERAL WATER POLLUTION CONTROL ACT

Mr. ROBERTS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 11928) to amend the Federal Water Pollution Control Act to establish the ratio for allocation of treatment works construction grant funds, to insure that grants may be given for other than operable units, and to clarify the requirements for development of priorities, as amended.

The Clerk read as follows:

H.R. 11928

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (a) of section 205 of the Federal Water Pollution Control Act is amended by inserting immediately after the third sentence thereof the following new sentence: "For the fiscal years ending June 30, 1975, and June 30, 1976, such ratio shall be determined one-half on the basis of table I of House Public Works Committee Print Numbered 93–28 and one-half on the basis of table II of such print, except that no State shall receive an allotment less than that which it received for the fiscal year ending June 30, 1972, as set forth in table III of such print.".

(b) The last sentence of subsection (a) of section 205 of the Federal Water Pollution Control Act is amended by striking out "June 30, 1974," and inserting in lieu thereof "June 30, 1976,".

SEC. 2. Section 203 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:

"(d) Nothing in this Act shall be construed to require, or to authorize the Administrator to require, that grants under this Act for construction of treatment works be made only for projects which are operable units usable for sewage collection, transportation, storage, waste treatment, or for similar purposes without additional construction.".

SEC. 3. Section 511 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:

"(d) Notwithstanding this Act or any other provision of law, the Administrator (1) shall not require any State to consider in the development of the ranking in order of priority of needs for the construction of treatment works (as defined in title II of this Act), any water pollution control agreement which may have been entered into between the United States and any other nation, and (2) shall not consider any such agreement in the approval of any such priority ranking.".

The SPEAKER. Is a second demanded?

Mr. HARSHA. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. ROBERTS. Mr. Speaker, section 516(b)(2) of the Federal Water Pollution Control Act requires the Environmental Protection Agency to submit to Congress biennially a detailed estimate of the cost of construction of all needed publicly owned treatment works in all of the States and in each of the States. The Environmental Protection Agency recently submitted their assessment of needs—"Cost of Construction of Publicly-Owned Wastewater Treatment Works," revised November 1973. Section 1 of H.R. 11928 amends section 205(a) of the Federal Water Pollution Control Act to set forth a formula for allotment of treatment works construction grant funds during the fiscal years June 30, 1975, and June 30, 1976, based upon the needs report submitted by the Environmental Protection Agency.

The Environmental Protection Agency needs report included a tabulation of the following eligible needs as set forth in table I of the House Public Works Committee Print No. 93–28:

(a) Provide treatment works to achieve secondary treatment,

(b) Achieve treatment "more stringent" than secondary treatment as required by water quality standards,

(c) Inspect and rehabilitate sewers to correct infiltration and inflow,

(d) Construct eligible new collector systems,

(e) Construct interceptor sewers, force mains and pumping stations, and

(f) Reduce combined sewer overflows.

The Environmental Protection Agency has, however, recommended that only the costs of providing treatment works to achieve secondary treatment, of achieving treatment "more stringent" than secondary treatment as required by water quality standards, and of constructing eligible new interceptor sewers, force mains and pumping stations be used as a basis for allotment.

The committee reviewed many possible allotment formulas. On the one hand, the clear intent of Congress as expressed in the Federal Water Pollution Control Act was that projects for infiltration and inflow, collector systems, and the reduction of combined sewer overflows be eligible for grants. On the other side, the Environmental Protection Agency testified that there were inaccuracies in the determination of the needs for infiltration and inflow, collector sewers and reduction of overflows from combined sewers.

It would be unfortunate and unfair to turn back from the mandate of the act that all categories of authorized needs be considered in the development of an allotment formula. However, to give full weight for allotment to those categories of the needs evaluation, which are subject to possible inaccuracies as pointed out by the Environmental Protection Agency would also be unfair. Thus, the bill as reported recognizes all needs while at the same time reducing the impact of the possible inaccuracies.

H.R. 11928 provides a method for determining the basic allotment for fiscal years 1975 and 1976, 50 percent upon the total assessment of needs—table I of committee print 93-28—and 50 percent upon the Environmental Protection Agency's recommendation—table II of committee print 93-28.

The utilization of needs as a basis for allotment of construction grant funds as required by the Federal Water Pollution Control Act for the fiscal year ending June 30, 1973, and thereafter has resulted in a reduction of the water pollution control effort in certain States in the fiscal years ending June 30, 1973, and June 30, 1974, because the President did not allot all of the available grant funds. Section 1 of H.R. 11928 rectifies this reduction in effort by providing that the actual allotments to the individual States for the fiscal years ending June 30, 1975, and June 30, 1976, shall in no case be less than the allotment received in the fiscal year ending June 30, 1972—table III of committee print 93-28. This provides an interim solution for those States which were severely affected by the changeover from population to needs in fiscal year 1973. This will permit these States to continue their program at a reasonable level until they are able to more accurately assess their true needs.

Section 2 of H.R. 11928 amends section 203 of the Federal Water Pollution Control Act so as to overrule an erroneous interpretation of that section by the Environmental Protection Agency. The Environmental Protection Agency has limited grants for portions of treatment works to "operate units." This was not the intent of the Congress and section 2 clarifies what was intended.

Section 3 of H.R. 11928 is intended to rectify a problem which was brought to the committee's attention during our recent hearings on the Environmental Protection Agency's needs report. Certain States which border the Great Lakes and Canada and the States bordering Mexico have been pressured by the Environmental Protection Agency to give precedence in the development of the ranking, in order of priority, of needs within that State for construction of those waste treatment works required to meet international agreements of the United States with other nations. It was not and is not intended that such international agreements be a basis for the Administrator to require States in the development of their ranking of needed works in order of priority to consider these international agreements. If it is the desire of the administration to have the international agreements implemented as a priority item, we would suggest that they submit appropriate legislation authorizing the construction and providing a source of appropriations for the necessary works.

In concluding, I would point out that the Federal Water Pollution Control Act of 1972 mandated the allocation of $7 billion in fiscal year 1975. However, in view of the fact that the administration has released only $5 billion of the $11 billion authorized for fiscal year 1973-74, I would caution all of my colleagues that the release of the $7 billion in 1975 is not assured.

I would ask permission to include in the RECORD at this point a table which would show the allotments to each State based upon H.R. 11928. This table indicates the amounts each State will receive, should $3, $4, or $7 billion be allotted.

ALLOTMENTS OF FEDERAL SEWAGE TREATMENT PLANT GRANT FUNDS, BY STATE, FOR FISCAL 1975

[In millions]

	$3 billion allotment	$4 billion allotment	$7 billion allotment
Alabama	[1]$33.8	[1]$33.8	$55.9
Alaska	10.9	15.0	26.5
Arizona	[1]17.7	[1]17.7	28.6
Arkansas	[1]19.4	24.0	42.6
California	333.5	457.3	813.8
Colorado	22.5	31.1	55.2
Connecticut	50.7	69.7	123.6
Delaware	15.8	21.7	39.1
District of Columbia	27.9	38.2	67.8
Florida	120.0	164.4	292.7
Georgia	55.6	76.0	135.5
Hawaii	30.0	41.2	73.4
Idaho	[1]7.8	7.9	14.0
Illinois	183.9	252.4	449.2
Indiana	[1]50.0	63.7	113.2
Iowa	28.7	39.3	69.9
Kansas	29.2	40.1	71.3
Kentucky	47.6	65.2	116.0
Louisiana	[1]35.6	[1]35.6	51.0
Maine	19.1	26.2	46.8
Maryland	39.6	54.3	96.4
Massachusetts	65.7	90.3	160.7
Michigan	137.6	188.8	336.0
Minnesota	46.8	64.4	114.6
Mississippi	[1]22.3	[1]22.3	37.7
Missouri	54.3	74.5	132.7
Montana	[1]7.5	[1]7.5	9.8
Nebraska	15.3	21.0	37.0
Nevada	13.7	18.7	33.5
New Hampshire	25.6	35.2	62.2
New Jersey	185.8	254.7	453.4
New Mexico	[1]10.7	[1]10.7	13.3
New York	357.5	490.6	873.2
North Carolina	51.5	70.4	125.7
North Dakota	[1]6.9	[1]6.9	[1]6.9
Ohio	141.0	193.2	344.4
Oklahoma	34.1	46.8	83.8
Oregon	24.8	34.1	60.8
Pennsylvania	162.5	222.5	396.1
Rhode Island	15.3	21.0	37.0
South Carolina	40.4	55.8	99.9
South Dakota	[1]7.3	[1]7.3	[1]7.3
Tennessee	38.2	48.3	85.9
Texas	106.9	106.9	116.0
Utah	12.2	16.5	29.3
Vermont	8.5	12.0	21.0
Virginia	71.9	98.5	175.3
Washington	47.1	64.8	115.3
West Virginia	27.4	37.8	67.1
Wisconsin	42.6	52.4	92.9
Wyoming	[1]4.0	[1]4.0	5.6
Guam	[1]2.2	[1]2.2	3.5
Puerto Rico	29.8	40.8	72.7
Virgin Islands	2.3	3.0	5.6
American Samoa	.5	.7	.7
Pacific Island Territories	.3	.7	.7
Wake Island			

[1] Based on 1972 allocation.

Note: The 3 columns indicate the amount each State would receive depending on how much the administration ultimately allocates.

Mr. JAMES V. STANTON. Mr. Speaker, will the gentleman yield?

Mr. ROBERTS. I will be pleased to yield to the gentleman from Ohio, a member of the committee.

Mr. JAMES V. STANTON. Mr. Speaker, I am concerned about section 3 of H.R. 11928 and its implementation relating to the carrying out of our international agreements. Recently, the Governments of the United States and Canada agreed to undertake actions which would eventually restore the quality of our international waters, specifically the Great Lakes. I would ask the gentleman from Texas, is it not correct that section 3 of H.R. 11928 was amended by the committee so as to preserve the authority of the State to grant a priority to waste treatment works which would implement the agreement with Canada?

Mr. ROBERTS. The gentleman from Ohio is quite correct. The original provision in H.R. 11928 may well be described as a classic case of overkill. The committee was confronted with a situation where the Environmental Protection Agency has been pressuring the Great Lakes States to put their top priorities in those projects which might implement the agreement. In many cases a State was willing to go along with certain of the projects but also recognized problems which existed in other parts of its State which also needed to be corrected with similar high priorities. However, in drafting the original bill to correct this situation, the language of section 3 went a little too far—it precluded a State from considering such international agreements in the development of their ranking priority. This was not intended. What was intended was that the Environmental Protection Agency could not insist that a State must determine its ranking of priority on this basis. The amended section 3 permits a State, if it decides that it would be in its interest to consider international water pollution control agreements it may do so. If it does not want to do it, it does not have to.

Mr. BLATNIK. Mr. Speaker, will the gentleman yield?

Mr. ROBERTS. Mr. Speaker, I yield to the distinguished chairman of the committee.

Mr. BLATNIK. Mr. Speaker, I want to join my colleague and friend from Cleveland, Ohio, in his question. I appreciate the responses being made by the very able and respected chairman of the subcommittee on water resources (Mr. ROBERTS).

Mr. Speaker, I would like to add further that the committee was not unmindful of the obligation of the Federal Government in its agreement with Canada—with its friends from the north—to improve the status of all of the five Great Lakes and of the St. Lawrence River. In some areas, a great deal ought to be done, to improve the quality of the water, in other areas we must maintain the existing high quality of the water.

But, to arbitrarily tell the people in a given sovereign state, "You must give first priority to the Great Lakes basin regardless of the needs of the remaining areas in the various States. I am very much familiar with the waters of the Great Lakes and of the St. Lawrence River, but I would like the record to show that our committee authorized $11 billion for the program of giving grants for waste treatment works to municipalities who cannot carry this enormous multibillion dollar program alone. For the Federal Government it is a proper objective to assure that funding of projects are justified; but the Federal Government has no justification whatsoever for allocating only $5 billion for 1973 and 1974 when this Congress authorized $11 billion for that period.

Therefore, we are going to pound a few doors downtown at the so-called OMB—it is getting to sound like a mysterious organization in some subbasement—at the Office of Management and

Budget to remind them that when the Federal Government makes commitments, it must fulfill them and not try to shove its responsibility on to the individual States.

Mr. ROBERTS. Mr Speaker, I wish to thank my distinguished chairman, who is also the chairman of the Conference of Great Lakes Congressmen.

Mr. JAMES V. STANTON. Mr. Speaker, if the gentleman will yield further, if a State such as my State of Ohio decides that it believes the implementation of the international agreement is of vital importance and gives a priority to treatment works in the Cleveland area based on this reason, does section 3 require the Environmental Protection Agency to reject this ranking of priority?

Mr. ROBERTS. Absolutely not. The Administrator of the Environmental Protection Agency is authorized to approve such priority ranking if it is in accordance with the requirements of the Federal Water Pollution Control Act. However, what the Administrator could not do is force the State to consider the international agreements.

Mr. JAMES V. STANTON. If under H.R. 11928 the State is not required to consider the implementation of the international agreement, how then does the committee expect that the international agreement will ever be implemented?

Mr. ROBERTS. As I noted in my original statement, the committee, in my opinion, would certainly give favorable consideration to a proposal for legislation authorizing the construction and providing a source of appropriations for the necessary treatment works.

This is not unlike other international agreements which our country has entered into and where either the President or the State Department has sought and obtained special legislation to carry out the requirements of international agreements.

Mr. JAMES V. STANTON. Based on the answers of the gentleman from Texas, particularly his assurance that a State may, if it chooses, take into consideration international agreements in determining ranking of priorities and his stated opinion that the committee would look favorably upon a legislative proposal implementing the international agreement which would provide a source of funding, I will support H.R. 11928. I wish to make my position as clear as possible that I believe we cannot delay any longer in cleaning up the Great Lakes. This problem which we have discussed of the Environmental Protection Agency's requiring a State to consider international agreements in ranking of priorities would probably never have arisen if the administration had funded the water pollution control program at the levels recommended by the Committee on Public Works of which I am a member and authorized by the Congress in the Federal Water Pollution Control Act Amendments of 1972.

Mr. ROBERTS. Mr. Speaker, I thank the distinguished gentleman, and I appreciate his efforts in the committee.

Mr. VANIK. Mr. Speaker, I want to state to the gentleman in the well that I certainly appreciate the responses that he made to the questions that were submitted by my colleague from Ohio.

I would say, Mr. Speaker, that it is about time that the EPA paid some attention to the Great Lakes and encouraged the States to take necessary steps to save our lakes. I believe that when the President goes to Ottawa and makes a pledge to the Canadian people that our Government will spend $2 billion to clean up the lakes, the States should certainly cooperate in fulfilling that pledge.

If the gentleman will permit, I would like to ask one question.

Under the difference between the Senate formula and the gentleman's formula, it appears that there is more provided under the Senate formula, and I would like to hear some comment concerning that aspect.

Mr. Speaker, I rise to question H.R. 11928, the Water Pollution Act amendments designed to clarify the ranking or order of priority for construction of new water pollution control treatment works.

I am concerned that the House allocation formula does not appear to be as good for many States as the Senate formula, and, second, that the bill downplays the importance of cleaning up the Great Lakes.

If at least $2 billion is provided for waste treatment construction in fiscal year 1975—it is my hope that at least that amount is provided—then my own large, industrial State of Ohio, for example, will do better under the Senate allocation formula than under the House formula we are approving today. Assuming an appropriation of $2 billion under the House formula, Ohio would receive about $98.3 million while under the Senate formula, my calculations indicate that the State would be eligible for about $102.3 million. Thanks to a hold-harmless clause which insures that no State will get less than it received in fiscal year 1972, Ohio would receive $101.6 million—about $700 million less than it would receive under the Senate formula.

Equally important, I am very concerned about section 3 of the bill which provides that:

> Notwithstanding this Act or any other provision of law, the Administrator (1) shall not require any State to consider in the development of the ranking in order of priority of needs for the construction of treatment works . . . any water pollution control agreement which may have been entered into between the United States and any other nation....

It can be pointed out that this provision is—from a strictly practical point of view—relatively meaningless. There is no other provision of law requiring that EPA or the States make a special effort to live up to our commitment with Canada to clean up the Great Lakes. The committee justifies this provision by saying that "certain States which border the Great Lakes and Canada and the States bordering Mexico have been pressured by the Environmental Protection Agency to give precedence in the development of the ranking, in order of priority, of needs within that State for construction of those waste treatment works required to meet international agreements of the United States and other nations."

My comment would be that it is about time that EPA paid some attention to the Great Lakes and encouraged the States to make the necessary effort to save our lakes. I believe that when the President travels to Ottawa and makes a pledge to the Canadian people that our Government will spend $2 billion by the end of 1975 to clean up the Great Lakes, then the EPA and the States should cooperate in fulfilling that pledge.

The language in this bill, however, will discourage the emphasis to provide special funding for the Great Lakes. It will be a setback of our cleanup efforts on the lakes.

I believe that we are beginning to make improvements on the qualities of the lakes. But a great, great deal more needs to be done. I believe that the language on international agreements—which is not included in the Senate bill—should be deleted so that the "psychological" emphasis for a full-scale cleanup of the lakes can continue.

Mr. BLATNIK. Mr. Speaker, this legislation represents an outstanding effort on the part of the Public Works Committee in working out a fair solution to the problem of allocating Federal grant funds for waste treatment works.

The Environmental Protection Agency proposed two tables for allocation of the grant funds to the States. One was based on all of the needs of the States, including rehabilitation of sewer systems to correct infiltration problems, the construction of new collector sewers, and the reduction of combined sewer overflows. The other table was based on only part of the needs—secondary and more advanced treatment works and new interceptor sewers. The committee heard testimony from several States, some of which would receive more funds under one table and some of which would receive more under the other table. In addition, some States found that under the needs concept they would receive less than they had previously when funds were allocated on the basis of population. The primary reason for this appears to be that these States have not yet accurately identified their true needs for wastewater treatment facilities.

The committee is very much committed to the allocation of funds on the basis of need. After much consideration, we determined that the most equitable solution would be to allocate the funds for the next 2 fiscal years on the basis of 50 percent of each of the two tables, with no State receiving less than its allocation of 1972. While some States may receive a little less under the committee's solution, all States will benefit greatly in the long run.

Mr. HARSHA. Mr. Speaker, there is some urgency about this legislation, because the bill must be passed before the 31st of December of this year. Under the law, the administration must allocate the money to the various States before January 1, 1974. So I rise in support of the legislation.

I offer my compliments to the gentleman from Texas for his clear explanation of H.R. 11928.

The members and the staff of the Committee on Public Works had to work very hard to develop a formula for allocation of treatment works construction grant funds for the fiscal years ending June 30, 1975 and June 30, 1976. As Mr. ROBERTS explained, there are many and varied possible formulas which could be used for allotment of construction grant funds.

I can say to you today that our committee looked at 9 or 10 different formulas with three objectives in mind. Those objectives were to arrive at a formula: first, which clearly was based upon needs; second, which recognized the need not to cause significant decreases in effort in the individual States, and third, which resulted in a formula which was most fair to the States.

Our committee brought the 1972 amendments to the Federal Water Pollution Control Act to this floor over a year and a half ago. The resulting Public Law 92–500 which is now being implemented is complex and difficult. We provided that the costs for construction of eligible new collector sewer systems, the cost to inspect and rehabilitate sewers are to correct infiltration and inflow, and the cost to reduce combined sewer overflows are eligible for grants. There was no misunderstanding on anyone's part. Such costs are eligible for grants. Therefore, the Environmental Protection Agency included in its development of costs for the recently completed needs study the costs for infiltration, collector sewers, and combined sewers. Because these costs are eligible for grants, the Committee on Public Works was adamant in that they should be recognized in the development of a formula for the allocation of grant funds. However, we also recognize that the Environmental Protection Agency testified before our committee that there was some inaccuracy in the development of these costs. Therefore, in the formula that we developed, we reduced the emphasis given to these three items. Fifty percent of the allocation formula is based upon a full assessment of costs including these three items and 50 percent is based upon a partial tabulation of costs excluding these items.

I might note that even though our formula has reduced the emphasis on these three items for purposes of allocation, we in no way will condone the Environmental Protection Agency's using this action on our part as a basis for minimizing grants for infiltration, collector sewers, and combined sewers. These are clear requirements in Public Law 92–500, and we fully expect the Environmental Protection Agency to vigorously pursue construction programs in these three areas.

Mr. Speaker, I and a number of the other members of the committee were contacted by our State water pollution control agencies about the inequities that were imposed upon certain of our States which border the Great Lakes and Mexico. The United States of America has quite properly entered into treaties with Mexico and Canada for the control of water pollution of our boundary waters. These treaties are important both to the United States of America and to our neighbors. These treaties, however, set strict timetables for actions for cleanup of the United States parts of the boundary waters. In order to accomplish the required cleanup, the Environmental Protection Agency has been emphasizing the international agreements in the Environmental Protection Agency's review and approval of the priority list for treatment works construction established pursuant to the law by the individual States.

Mr. Speaker, this has meant that States such as my own State of Ohio which are located on our boundary with Canada or Mexico are being required by the Environmental Protection Agency to put a large portion of their treatment works construction grant funds into border areas to assist in the fulfilling of our treaty obligations with our neighbors.

I admit we should fulfill our treaty obligations. However, I refuse to concede in so doing that we should deprive those parts of our border States which are removed from our boundary waters of their fair share of the treatment works construction grant funds allotted to their States. I submit that if we are to meet our treaty obligations we should not do it at the expense of the people who live in border States but who are removed from the drainage basins of our boundary waters.

I urge the President to consider immediately submitting to the Congress a proposal for new legislation which would provide a second source of funds to meet our treaty obligations. I am suggesting this because I think it to be only fair for treaty obligations of the United States of America which inure to the benefit of all the States, to be funded separately and apart from a particular State's share. To do otherwise is to place an unfair burden on border States.

Mr. Speaker, section 2 of H.R. 11928, which pertains to the funding of individual projects contains a most important provision. It must be properly implemented. I urge the General Counsel of the Environmental Protection Agency to sit down with the General Counsel of the Federal Highway Administration to ascertain the procedures utilized by the Federal Highway Administration in the highway grant program. We adopted language of the Federal Highway Administration when we set out the details for the water pollution control construction grant program.

We did not then and still do not now intend that grants only be for "operable units." The interpretation by the Environmental Protection Agency of the language of Public Law 92–500 was erroneous. We had made it clear to the Environmental Protection Agency that their interpretation was erroneous and they chose to ignore our intent. Section 2 of H.R. 11928 will make sure that the Environmental Protection Agency will not ignore any longer the intent of the Congress.

In section 2, we do not intend to mean that States may break down projects purely upon financial phases alone. We expect that there shall be a reasonable relationship between the definition of subprojects and engineering reason. Further, we expect that there shall be a reasonable relationship between the total number of projects or subprojects funded in any fiscal year and the expected availability of construction grant funds in future years. I must emphasize that we are in no way, shape, or form establishing a new program for reimbursement. Any construction agency which receives a grant for less than the full amount required to construct the whole project should understand clearly that we are not creating a contractual obligation of the United States to fund the Federal share of the balance of the total project.

Our committee has heard that the Environmental Protection Agency has regularly delayed the awarding of grants to agencies for the construction of treatment works. We hear regularly that each month finds a new requirement imposed upon the construction agencies which further delays their receiving of grants. Let me now say, and say it clearly, that this committee does not expect that section 2 of H.R. 11928 shall become a basis for delay. We expect just the opposite. We believe that section 2 of H.R. 11928 will result in the increasing rate of new construction starts.

In order to give the Environmental Protection Agency some guidelines on this, I would expect that regulations to implement section 2 would be promulgated within 120 days after enactment and that funding in accordance with section 2 would be initiated in the absolute latest by the beginning of the next fiscal year.

Mr. Speaker, I would like to ask my distinguished friend and colleague, the gentleman from Minnesota, the chairman of the Public Works Committee, if he concurs in my remarks.

Mr. BLATNIK. The gentleman's remarks are correct.

The distinguished gentleman from Ohio raised a question on the provision regarding international agreements.

Mr. Speaker, I might point out that the reason we put in the special section with which the gentleman is concerned is the fact that the Environmental Protection Agency requires the various border States to give the highest priority to those treatment works required to meet our international agreements. This is contrary to the law. We wrote specifically in the law that each State was to set its own priority.

In the State of Ohio, as an example, there are some $500 million worth of projects required on Lake Erie to meet our international agreements.

They need to be constructed immediately, if we are to meet the agreements. This means that the allocation for the State of Ohio for the next 2 fiscal years or more would be used only on the shores of Lake Erie. There are other areas in the State that have equal priority. H.R. 11928 would preclude the Administrator from making this unlawful requirement.

Mr. STEIGER of Wisconsin. Mr. Speaker, will the gentleman yield?

Mr. HARSHA. I yield to the gentleman from Wisconsin.

Mr. STEIGER of Wisconsin. Mr. Speaker, I appreciate very much the gentleman from Ohio yielding to me.

I want to raise a question on this determination of need. One of the difficulties that I have with this bill is that the new formula, as we have it in this bill, rather effectively damages, for example, the State of Wisconsin.

We have 2 percent of the population, and we end up, if I read the tables correctly, with about 1.3 percent of the allocation of funds, when it is determined on the basis, as the gentleman explained, of 50 percent plus 50 percent of need, because the communities in Wisconsin had a good record of meeting their needs well in advance of a lot of the work that was done in other States.

I am not as yet sure why the decision was made by the Committee on Public Works, to disregard any kind of population analysis from its allocation under this kind of a formula.

Mr. HARSHA. Mr. Speaker, I would say to my distinguished friend from Wisconsin that we are not providing for reimbursement of past expenditures. This is a formula for the distribution or allocation of funds to construct new projects. We are providing for existing needs.

Wisconsin provided ahead of many of the other States.

That is certainly an admirable position for a State to be in, but we have many other needs. The proposed allocation formula is based upon the ratio of the needs a State has sent to EPA to the total needs of all the rest of the country.

Mr. STEIGER of Wisconsin. I understand that, may I say to the gentleman from Ohio. I do recognize that. But when I get through looking at all of the charts and tables that go with this I see we still end up in Wisconsin at a point less than we would if we would consider, for example, straight population.

Mr. HARSHA. I am sure we can pick out specific instances whereby in using a needs formula some States will receive more and some States will receive less than they would on the basis of a population formula. However, with all of the factors being considered, the needs formula was considered to be more equitable to get at the problem which exists throughout the entire country.

In addition to that, we included a provision whereby Wisconsin, for example, would not receive less than the allotment for fiscal year 1972. I am sure under the new formula with a reasonable total allotment, Wisconsin will receive more than it did in the past under the population formula.

Mr. STEIGER of Wisconsin. I am deeply grateful to the gentleman for his explanation and the continual good work he has done as well as the Committee on Public Works have done.

The difficulty comes in part related to the point that the distinguished chairman of the full committee made. We can receive more only if, in fact, we get more of an appropriation for the money that has been distributed under this act. That is one of the concerns I may say I have about what is being done today.

Mr. HARSHA. Of course, we provided for contract authority in the legislation hoping to circumvent the problems we had in the past with getting appropriations through the Administration and the OMB. Apparently we still have that problem, but that cannot be rectified in this particular legislation.

Mr. STEIGER of Wisconsin. I do understand that, and I thank the gentleman.

Mr. HARSHA. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of H.R. 11928. In so doing, I must say that this bill presented a difficult task to be accomplished by the Committee on Public Works. We worked very hard to develop a formula for the allocation of grant funds for treatment works construction which would be most fair to all of the States.

It was interesting to me to note when we held hearings on this bill that we had, I believe, 14 States come before the Committee on Public Works to testify. All but one advocated a formula which would provide maximum funding to their States. That one State, in fact, advocated a formula which would have provided the maximum 2 years hence. Each witness was interested solely in maximum funding for his State.

We on the committee also were interested in what was best for our States or region. As important as this was to each of us, it was even more important for the committee to do what was fair to all of the States. We did this.

It was suggested that we approve an allotment formula for only 1 year. This suggestion was properly rejected. The next study is due to be submitted in 14 months. This study will require this time. Our hearings indicated that an interim study as passed by the other body could not be completed in time. A 1-year allotment will result in an incomplete and possibly inaccurate study in 1975.

While some may say there is some inequity in the allotment formula we have reported I want to remind you that needs evaluation is the only equitable basis to allot grant funds. A new and more complete study will be available in 14 months.

What we have brought to you today is a formula for allocation which is fair to all the States and I urge your support of H.R. 11928.

Mr. HARSHA. Just to elaborate on the gentleman's statement, this allotment formula is only for a 2-year period. Every 2 years we must come back with a new cost estimate and therefore a new allotment formula will come from the Congress every 2 years. If you find from past experience that your needs have not been met, then the next needs report should reflect the additional needs of your particular State.

I now yield to my friend from North Carolina (Mr. MIZELL).

Mr. MIZELL. Mr. Speaker, I want to commend the Public Works Subcommittee on Water Resources for the work it has done in preparing the Water Pollution Control Amendments of 1973.

The subcommittee has established a new formula for allocation of clean water funds, and this new formula would give my State of North Carolina, for example, $24 million more than it received from this program in fiscal year 1973.

The Senate version of this bill is even more generous to my State, and a majority of other States as well, and while I fully appreciate the great care and considerable study that went into the preparation of the House version of this bill, I must continue to hope that the House-Senate conference will resolve the differences between these two formulas in a way that will benefit North Carolina and the majority of States to the fullest possible extent.

I am proposing today a compromise formula that would combine the House-inspired hold-harmless provision with the Senate's needs formula in a way that benefits 32 States over the House version, and still provides the other 17 States a great deal more money than they received in fiscal 1972.

The tables showing State allocations for a $3 billion allotment under the House formula, the Senate formula, and the formula I am proposing today are included in the RECORD at this point for my colleagues' information and review.

I would hope this compromise formula would receive the special consideration of the Members who will sit on the conference committee. I am convinced this formula represents the fairest and most equitable method of distribution of these funds that we could devise for these clean water funds.

[In millions]

	Senate version	House version	Mizell formula
Alabama	$31.92	$33.8	$44.3
Alaska	10.74	10.9	7.1
Arizona	16.50	17.7	23.2
Arkansas	21.15	19.4	26.6
California	369.60	333.5	312.8
Colorado	27.81	22.5	31.0
Connecticut	37.86	50.7	41.9
Delaware	14.61	15.8	10.8
District of Columbia	5.94	27.9	9.8
Florida	125.70	120.0	107.0
Georgia	65.49	55.6	66.2
Hawaii	30.39	30.0	18.2
Idaho	7.44	7.8	9.3
Illinois	175.68	183.9	164.5
Indiana	52.71	50.0	67.6
Iowa	36.63	28.7	39.8
Kansas	28.86	29.2	31.7
Kentucky	47.64	47.6	47.5
Louisiana	28.98	35.6	45.3
Maine	19.92	19.1	17.0
Maryland	50.88	39.6	54.9
Massachusetts	68.25	65.7	77.4
Michigan	123.45	137.6	126.
Minnesota	47.5	46.8	52.7
Mississippi	22.0	22.3	29.7
Missouri	65.7	54.3	67.0
Montana	6.2	7.5	9.7
Nebraska	14.3	15.3	19.7
Nevada	14.7	13.7	10.2
New Hampshire	24.0	25.6	15.9
New Jersey	190.9	185.8	132.2
New Mexico	8.0	10.7	13.3
New York	326.2	357.5	281.6
North Carolina	65.5	51.5	70.9
North Dakota	4.1	6.9	8.2
Ohio	153.4	141.0	152.7
Oklahoma	39.7	34.1	38.4
Oregon	25.7	24.8	29.3
Pennsylvania	139.7	162.5	161.0
Rhode Island	13.6	15.3	14.2
South Carolina	45.2	40.4	42.8
South Dakota	4.9	7.3	8.9
Tennessee	43.7	38.2	52.9
Texas	82.4	106.9	134.4
Utah	14.6	12.2	15.9
Vermont	8.9	8.5	8.2
Virginia	79.4	71.9	71.4
Washington	45.7	47.1	48.2
West Virginia	26.6	27.4	26.7
Wisconsin	46.5	42.6	58.1
Wyoming	3.1	4.0	5.1
Guam	1.6	2.2	.2
Puerto Rico	34.7	29.8	2.7
Virgin Islands	2.3	2.3	38.7
American Samoa	.5	.5	2.8
Trust Territory	.7	.3	.2
Pacific Island			
Total	3,000.2	2,999.8	

STATES GAINING UNDER MIZELL FORMULA

Alabama
Arizona
Arkansas
Colorado
Georgia
Idaho
Indiana
Iowa
Kansas
Louisiana
Maryland
Massachusetts
Michigan
Minnesota
Mississippi
Missouri
Montana
Nebraska
New Mexico
North Carolina
North Dakota
Ohio
Oklahoma
Oregon
South Carolina
South Dakota
Tennessee
Texas
Utah
Washington
Wyoming

Mr. HARSHA. Mr. Speaker, I yield to the gentleman from Wyoming (Mr. RONCALIO) who is a member of the committee.

Mr. RONCALIO of Wyoming. Mr. Speaker, I thank the minority Member for yielding time to me on this side of the aisle.

I might say in answer to the inquiry of the gentleman from Ohio (Mr. STANTON) that I do not believe we can look to international help in this area because the International Joint Commission of the United States and Canada is limited as to funds, and until the very able chairman on our side and his Canadian counterpart can secure the kind of adequate funding they need, there will be very little they can do in this connection. So, the bill before us is the best bet we have for this purpose, and we hope that it can serve to improve boundary water quality between us and our Canadian neighbors.

I commend my colleagues on the committee for this legislation.

Mr. KASTENMEIER. Mr. Speaker, I would like to take just a moment to explain my opposition to H.R. 11928. This bill amends the Federal Water Pollution Control Act to establish a ratio for allocation of treatment works construction grant funds.

My State of Wisconsin, as well as its local communities have recognized the need to protect and restore valuable water resources. With Federal, State, and local funding and cooperation, 98 percent of Wisconsin citizens served by municipal sewage treatment are served by secondary treatment. As a result, Wisconsin has one of the highest secondary treatment percentages in the country, and it was achieved under a Federal allocation formula based upon population.

The allocation formula which we are present with today is not based on population at all, but instead is based on some questionable needs data generated by an Environmental Protection Agency survey. Allocation is based upon a needs formula which would reduce funds to States such as Wisconsin that have reduced their needs through diligent past effort. For example, under the population based allocation formula, Wisconsin received 2.13 percent of the total construction grant funds available nationally in fiscal year 1972. Under the allocation formula before us today, Wisconsin's share of the national total would fall to about 1.4 percent of the total.

While I agree with those who say that the allocation should not be based solely on population, I believe firmly that a population factor must be combined with the needs factors in the allocation formula. If this is not done, diligent past efforts at water pollution control are punished, while poor past performance is rewarded.

I cannot in good consience go back to my people in Wisconsin and ask them to send $60 million to Washington for water pollution control and get back under this allocation formula only $42 million. Wisconsinites are a generous people with a sincere interest in improving their environment, but they cannot be expected to pay the pollution bill for others who have been less diligent in their water pollution control efforts.

Therefore, it is with regret that I must oppose the allocation formula offered by my good friends and colleagues of the Public Works Committee.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. ROBERTS) that the House suspend the rules and pass the bill (H.R. 11928) as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent that the Committee on Public Works be discharged from further consideration of the Senate bill (S. 2812) to authorize a formula for the allocation of funds authorized for fiscal year 1975 for sewage treatment construction grants, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2812

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Section (a) of section 205 of the Federal Water Pollution Control Act, as amended (86 Stat. 837), is amended by inserting "(1)" after "(a)" and by adding the following new paragraph:

"(2) Sums authorized to be appropriated for the fiscal year ending June 30, 1975, shall be allotted by the Administrator among the States in the following ratio:

State	*Percentage*
"Alabama	1.064
Alaska	.358
Arizona	.550
Arkansas	.705
California	12.320
Colorado	.927
Connecticut	1.262
Delaware	.487
District of Columbia	.198
Florida	4.190
Georgia	2.183
Hawaii	1.013
Idaho	.248
Illinois	5.856
Indiana	1.757
Iowa	1.221
Kansas	.962
Kentucky	1.588
Louisiana	.966
Maine	.664
Maryland	1.696
Massachusetts	2.275
Michigan	4.115
Minnesota	1.582
Mississippi	.733
Missouri	2.191
Montana	.208
Nebraska	.475
Nevada	.491
New Hampshire	.800
New Jersey	6.362
New Mexico	.265
New York	10.872
North Carolina	2.182
North Dakota	.138
Ohio	5.113
Oklahoma	1.324
Oregon	.856
Pennsylvania	4.656
Rhode Island	.453
South Carolina	1.506
South Dakota	.164
Tennessee	1.457
Texas	2.748
Utah	.488
Vermont	.295
Virginia	2.648
Washington	1.524
West Virginia	.887
Wisconsin	1.550
Wyoming	0.104
Guam	.053
Puerto Rico	1.157
Virgin Islands	.075
America Samoa	.018
Pacific Island Territory	.042"

SEC. 2. Subsection (b) of section 516 of the Federal Water Pollution Control Act, as amended (86 Stat. 895), is amended by inserting "(1)" after "(b)"; by striking "(1)", "(2)", "(3)", and "(4)" and inserting in lieu thereof "(A)", "(B)", "(C)", and "(D)", respectively; and by adding the following new paragraph:

"(2) Notwithstanding the second sentence of paragraph (1) of this subsection, the Administrator shall make a detailed estimate called for by subparagraph (B) of such paragraph and shall submit such detailed estimate to the Congress no later than June 30, 1974. The Administrator shall require each State to prepare an estimate of cost for such State, and shall utilize the survey form EPA-1, O.M.B. No. 158-R0017, prepared for the 1973 detailed estimate, except that such estimate shall include all costs of compliance with section 201(g)(2)(A) of this Act or water quality standards established pursuant to section 303 of this Act, and all costs of treatment works as defined in section 212(2), including all eligible costs of constructing sewage collection systems and correcting excessive infiltration or inflow and all eligible costs of correcting combined storm and sanitary sewer problems and treating storm water flows. The survey form shall be distributed by the Administrator to each State no later than January 31, 1974.".

SEC. 3. Subsection (a) of section 203 of the Federal Water Pollution Control Act, as amended (86 Stat. 835), is amended to add at the end thereof the following sentence: "The Administrator shall approve as a project each physical or financial phase of a treatment works which otherwise meets the requirements of this Act.".

MOTION OFFERED BY MR. ROBERTS

Mr. ROBERTS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROBERTS moves to strike out all after the enacting clause of the Senate bill S. 2812, and insert in lieu thereof the provisions of H.R. 11928, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "To amend the Federal Water Pollution Control Act to establish the ratio for allocation of treatment works construction grant funds, to insure that grants may be given for other than operable units, and to clarify the requirements for development of priorities."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 11928) was laid on the table.

GENERAL LEAVE

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

ARCHITECTURAL GUIDELINES TO PROMOTE EFFICIENT ENERGY USE

Mr. HOWARD. Mr. Speaker, I move to suspend the rules and pass the bill, H.R. 11714) to provide for the development of improved design, lighting, insulation, and architectural standards to promote efficient energy use in residential, commercial, and industrial buildings, as amended.

The Clerk read as follows:

H.R. 11714

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Administrator of the General Services Administration in cooperation with the Secretary of Defense, the Secretary of Commerce, acting through the Director of the National Bureau of Standards, the Secretary of Health, Education, and Welfare, the Secretary of Housing and Urban Development, and the Administrator of Veterans' Affairs, is authorized and directed to develop engineering and architectural design guidelines to promote efficient energy use in residential, commercial, industrial, and institutional buildings applicable to both existing and new construction.

SEC. 2. The Administrator is authorized and directed to prepare in cooperation with the Secretary of Defense, the Secretary of Commerce, acting through the Director of the National Bureau of Standards, the Secretary of Health, Education, and Welfare, the Secretary of Housing and Urban Development, and the Administrator of Veterans' Affairs energy performance oriented model building codes for different types of classes of buildings, incorporating the most practicable guidelines possible for efficient energy use in differing regional environments. Such codes shall, to the extent possible, specify the energy conservation which may be achieved by adopting the practices recommended therein.

SEC. 3. In carrying out this Act the Administrator is authorized to cooperate with and utilize the services of private agencies, institutions, organizations, and individuals, including, but not limited to, professional engineering and architectural societies, trade associations, and consumer organizations, and to coordinate the development of the guidelines and model codes with such agencies, institutions, organizations, and individuals.

SEC. 4. The Administrator shall report to Congress the results of his activities under this Act no later than January 1, 1975, and from time to time thereafter as he deems appropriate.

SEC. 5. There is authorized to be appropriated to carry out this Act not to exceed $5,000,000 for the fiscal year ending June 30, 1974, not to exceed $10,000,000 for the fiscal year ending June 30, 1975, and not to exceed $1,000,000 for the fiscal year ending June 30, 1976.

The SPEAKER. Is a second demanded?

Mr. SNYDER. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from New Jersey (Mr. HOWARD) will be recognized for 20 minutes, and the gentleman from Kentucky (Mr. SNYDER) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. HOWARD).

Mr. HOWARD. Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the full committee, the gentleman from Minnesota (Mr. BLATNIK).

Mr. BLATNIK. Mr. Speaker, H.R. 11714 is another effort by the Public Works Committee to cope responsibly with the energy crisis confronting our Nation. In furtherance of that effort, this bill would require that the Administrator of the General Services Administration in cooperation with the Secretary of Defense, Secretary of Commerce acting through the Director of the National Bureau of Standards, the Secretary of Health, Education, and Welfare, the Secretary of Housing and Urban Development, and the Administrator of Veterans' Affairs, develop engineering and architectural design guidelines for use in residential, commercial, industrial and institutional buildings.

This bill was introduced by my esteemed colleague, JIM HOWARD, chairman of the House Public Works Subcommittee on Energy. The bill was cosponsored by my esteemed colleagues, Mr. SNYDER and Mr. CLEVELAND. I wish to take this opportunity to thank them all on behalf of the people of this country for their continued efforts in leading our Nation through the energy crisis.

The bill provides an authorization of $5 million for fiscal year 1974, $10 million for fiscal year 1975, and $1 million for fiscal year 1976. The testimony before the subcommittee from both the private sector and the GSA showed that this sum was reasonable and necessary to accomplish the following purposes:

First. Experimentation to determine ways to save our energy being wasted in building. A waste which far exceeds that of most other uses. The National Bureau of Standards has a test house and an environmental chamber for this purpose. Then are doing important experimental work in this area. This work should be encouraged and made available to the American citizen.

Second. Universities, public agencies, private individuals and organizations have been working in this area. Until now with a seemingly inexhaustible supply of inexpensive energy little attention has been paid to them. It is imperative now that we gather that information, analyze it, and see to it that it is made available to the public.

Third. Major installations such as hospitals, schools, industrial buildings use great amounts of energy. But we are informed that very little attention has been paid to design of such facilities to make thrifty use of energy. This is not as simple a problem as say adding insulation to an existing dwelling place. It is a complicated problem requiring study and evaluation by the best engineering and architectural brains, coordination between discipline and development, and new understanding of our needs.

Fourth. Dissemination of the information. Telling the public the professions and the State and local authorities the findings and best way of utilizing them. Today most of us rely on a little folder that comes with our heating bill for advice. We need more than that now. We need to know when we support a bond issue for a building that proper energy-saving techniques will be used. They can only be used if we will find out what they are and tell the American public so it too knows.

Mr. HOWARD. Mr. Speaker, I wish to thank my esteemed colleague, Chairman BLATNIK, for his kind remarks. I also wish to take this opportunity to thank the members of my subcommittee, particularly the ranking minority member, GENE SNYDER, and our esteemed colleague, JIM CLEVELAND, who contributed so much in the preparation of H.R. 11714.

As Mr. BLATNIK stated, H.R. 11714 is still another effort by the House Public Works Committee to help lead our Nation through the critical energy crisis confronting it. Before being more specific about the bill, I would like to state that the intent and purposes of the bill would have merit and would be beneficial to all Americans even if there were no energy crisis. The energy crisis makes the bill urgent.

The bill takes a calm perspective of one area of fuel use that is in dire need of conservation measures. The conservation measures to be accomplished by this bill will for decades result in a greater efficient use of fuel by every single American. The achievement of that greater efficiency will not require any great sacrifice; rather it will result in tremendous savings not only of fuel, but of money as well, by every industrialist, by every merchant, by every institution, and by every household. H.R. 11714 would require that the Administrator of the General Services Administration in cooperation with the Secretary of Defense, Secretary of Commerce, acting through the Director of the National Bureau of Standards, the Secretary of Health, Education, and Welfare, Secretary of Housing and Urban Development and the Administrator of Veterans Affairs, develop engineering and architectural design guidelines for use in residential, commercial, industrial, and institutional buildings. These guidelines shall promote efficient energy use.

The Administrator of the General Services Administration acting through the cooperation with the same group of people shall develop energy performance oriented model building codes.

If the suggested amendment in the nature of a substitute is adopted, the Administrator would be authorized to cooperate and utilize the services of the private sector.

A report is required from Administrator on January 1, 1975.

Authorization for fiscal year 1974 is $5 million; fiscal year 1975, $10 million; fiscal year 1976, $1 million; a total of $16 million.

In short the purpose of the bill is to help the American citizen save energy in buildings that he uses by providing information that will guide him in the construction of new buildings and the rehabilitation of existing buildings.

I respectfully urge passage of the bill.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. HOWARD. I might say to the genman from Iowa.

Mr. GROSS. I thank the gentleman for yielding. What in the world are we spending $16 million on this proposition for? Why?

Mr. HOWARD. I might say to the gentleman from Iowa that the intention of this act was so that we may get the agencies of our Government who are involved in the construction of buildings to work with the private sector in developing specific recommendations for long-range energy savings in the construction and rehabilitation of buildings in this country.

It seems that one of the greatest wastes that we have, one of the greatest savings that we may make in fuel, is in the area of being able to retain the energy that we expend either in heating homes and keeping them heated or in keeping coolness in the summer. It is expected from this that we will be able not only to generate a great amount of fuel savings over the long run in the country, but also the saving of a great expenditure of money by the people who do the construction, whether it be in industry, whether it be the Federal Government itself, or whether it be the private citizens around the land.

It is estimated that this would be an amount of money that would be needed for us to develop these criteria and to be able to inform the people around the country of it.

Mr. GROSS. Does the gentleman mean to say that we have no in-house capability, and that we have got to go out and spend $16 million now? What kind of a bureaucracy is the gentleman proposing in the bill here?

Mr. HOWARD. There was testimony that authority to do this work was available to the agencies in the Federal Government, but they would need this amount of money over this several-year period to be able to effectively carry out the intent of the act.

Mr. GROSS. They will take all of the money the gentleman wants to give them and build another bureaucracy on top of what they already have. They will be glad to do that, I am sure. But the gentleman has $5 million for what remains of fiscal year 1974, $10 million for fiscal year 1975, and $1 million for fiscal year 1976. What is the million dollars for—to get rid of the bureaucracy that the gentleman is building in this instance?

Mr. HOWARD. It is estimated that this would cost this amount of money to get the people together and get the agencies together to do all of the studies to formulate the proposals that would be recommended, and then to be able to get these recommendations out to the public. We do not intend to come back here with legislation setting up actual building codes throughout the country, because we feel that this is properly the authority of the States and the local communities.

This is an attempt with this last million dollars to be able to get this information out among the public.

Mr. GROSS. I will say to my friend, the gentleman from New Jersey, that the report is completely silent as to how many people he intends to employ, how they are to be utilized, or anything else. This is just throwing $16 million at I do not know what.

Mr. HOWARD. The testimony we had was that actually the saving not only in fuel which we need, and we certainly are in this kind of situation, but actually also in money for every homeowner and every homebuilder would be substantially much higher than any expenditure we would make at this time for it.

Mr. GROSS. How does the gentleman know it will save a cockeyed dime? The report is silent as to any results stemming from this except some rhetoric.

Mr. HOWARD. There have been reports that have come from the various agencies and even from the private sector, such as the American Institute of Architectural Design and Engineering that actually we could make a savings on this. However, in the past it has never been felt to be needed because energy was so cheap. Actually in many areas of the country compared to the cost of a home the heating bill was not so great and we never honestly went into this situation as a serious national problem. Of course no one will deny that it is a serious national problem today, so we feel this really kills two birds with one stone. It not only will help in the immediate fuel situation but also in the long run as well, so we feel we get a dual benefit from the passage of this bill.

Mr. SNYDER. Mr. Speaker, does the gentleman from Iowa wish me to yield to him?

Mr. GROSS. No; but I just suggest the gentleman should make a really good argument if he wants to convince me, but I do not know about anyone else in the House.

Mr. SNYDER. Mr Speaker, I must confess I am not as adroit at making good arguments as is the gentleman from Iowa but I will do my best.

Mr. Speaker, the bill before us, H.R 11714, was one that I supported wholeheartedly. The Public Works Committee has for a period of some time antedating the current energy crisis held hearings on the subject of energy—its use, development, and conservation.

As a result, our committee has reported out several bills relating to energy. Our aim by and large has been to develop sound concepts as bases for long-term energy benefits.

Among the matters that we have considered and reported in the past, one involves the question of conservation of energy in public buildings. Our hearings indicated that by devoting attention to the saving of energy in nongovernment buildings a very considerable contribution to our energy program could be made. This contribution could have an almost immediate effect, and in the long term, could possibly save as much as 50 percent of the energy used in certain buildings today.

The first thing that is needed to be done, in our opinion, is to encourage Federal agencies to gather information and otherwise do what is necessary to determine what guidelines there should be to accomplish the purpose of efficient energy use in residential, industrial, commercial, and institutional buildings. Once this is done, the American people, many of us believe, will make use of this information. In some cases, they will do so out of the desire to save money. In others, they will do so because of their patriotic inclination. Still others, we feel, will do so because it makes good sense.

H.R. 11714 provides the means by which the Administrator of the General Services Administration, in cooperation with the Secretary of Housing and Urban Development, Secretary of Health, Education, and Welfare, Secretary of Commerce operating through the Director of the Bureau of Standards, Secretary of Defense, and the Administrator of Veterans Affairs, can get together and develop guidelines for the conservation of energy.

These guidelines are in no way to be considered directive or mandatory upon the citizens of the United States. If they are wise—and I trust that they will be—the people of the United States will wish to see them put to use. In such cases, they may do so and enact them into building codes or regulations through existing State, county, municipal, and other local authorities.

In order to assist local governments who are responsible for the development of codes, the Administrator is asked to develop energy performance model building codes. Once they are available, local authorities will be at liberty to make use of the information contained in them or not as they see fit.

Architects and engineers need this reservoir of information to do the best job for their clients and to be able to incorporate the best known technology in the conservation of energy.

The wisdom of utilizing performance specifications is, I believe, manifest. Energy conserving performance guidelines will, when proposed, provide the basis for building materials and construction industries to determine how the guidelines can best be met. Performance guidelines leave to those responsible for design, construction, and maintenance of buildings, the options that they should have to balance economics, aesthetics, and functions without the sacrifice of energy.

In conclusion, Mr. Speaker, I feel that the bill before us is one that is absolutely necessary in the area of conservation of energy. If fully exploited, it could lead to a most dramatic saving in energy necessary for the function of buildings, that is—the heating, ventilating, air conditioning, lighting, movement of people and material, et cetera. The language of this bill is neither complicated nor long, yet, in my opinion, these words will prove to be among the most significant in our energy conservation future.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. SNYDER. I yield to the gentleman from Iowa.

Mr. GROSS. It is not often that I disagree with my good friend from Kentucky.

Mr. SNYDER. I would say to the gentleman, you have your right to your own views once in awhile.

Mr. GROSS. I thank the gentleman, but I do not think I am in this case. I am struck by the fact there is not one single department statement in this report. I do not understand this. I am unable to absorb the argument that there is not the in-house capability in the General Services Administration and other departments and agencies of the Government to provide this know-how.

If the gentleman will yield further for just a minute, this looks to me like a windfall for the architects and engineers and consultants and so forth up and down the line.

Mr. SNYDER. Let me respond at this point, and I will yield to the gentleman further; but the gentleman is getting enough in here that I would like to respond as we are going along.

First, there is no doubt that in these agencies there are certain in-house capabilities; but in no case has it ever been put together in one central place.

The Veterans' Hospital people tell us there are great energy conservation savings in the plans they have developed in just siting a building.

The people in the other agencies hardly know what they are talking about; so if we can put this together in one central place where the agencies and the professional people mentioned, the architects and engineers, can draw upon them, we think it will be a great reservoir of energy-saving information which all the agencies can have in one central source.

There is some merit in what the gentleman says about it being a windfall to the architects and engineers. I do not know whether the hearings are printed yet or not, but when the consulting engineers testified in this matter, I made this point very definitely that I did not see the logic that we should be asking the American people to put this together for the architects. I wondered what in the world they had architectural schools for, if they did not have this capability.

I cannot say totally that they did not have a good answer for it. They had some response that had some merit insofar as the advancements, the technology that is being put together day by day as the art develops further along, that they would have this to draw from.

There is going to be some outfall of benefits to architects and engineers. They are, in effect, not going to pay for this. I cannot say that that particular aspect of this legislation is the best in that regard.

On the other hand, it is seldom that we have some legislation from which someone does not get some benefit, that they are not carrying their own load for.

I yield to the gentleman from Minnesota.

Mr. BLATNIK. The gentleman from Kentucky explained my point. I want the record to show that the point raised by the gentleman from Iowa is a proper one.

I want to further point out, with some dismay, that I notice the report did not explain this adequately. I hope to some degree we do it on the floor.

The gentleman from Kentucky explained it very well. I would like to reinforce his statement by citing testimony the subcommittee received from the American Consulting Engineers Council.

It was largely on the testimony of Roger J. Rice, vice chairman of the Energy Committee of the American Consulting Engineers Council.

He states, and I quote:

> Next, I will address the funding we believe would be required to carry out the provisions of H.R. 11714. As I have previously stated, we are firmly convinced that the initial work should be directed to accumulating and analyzing the existing technology, and making this readily available to all parties involved in the building industry. This phase alone, I would estimate to cost between $10 million and $15 million, and one or two million dollars required annually to keep the data current and to provide for appropriate dissemination.

Mr. Speaker, I have a few more comments. In discussing with some of the technical people doing research work, not only new methodology and new techniques, but with the new synthetic materials that are on the market but are not properly used. I will give one example, polystyrene. It is not too expensive. It is an insulator, an excellent insulator, and can be decorated and used as a wall covering in dens and many rooms in the home. It is found now that polystyrene is more flammable than wood and is also much more toxic in case of a fire and much more hazardous to cope with.

However, this polystyrene can be used if properly covered with a less flammable material. In fact, it is one of the finest insulation materials available. I tell the Members frankly that the houses built in America are poorly built. I have a house which is highly priced by these standards in North Arlington for which I could not get 3 cents in northern Minnesota. We do not have to open windows for ventilation. We can put a candle within 2 feet and the draft blows the candle out. It is slipshod work, expensive and overpriced. In Minnesota we find that despite these weather conditions, insulating is rather routine.

Throughout the country we waste one-third of the heat in the average home, which goes out the door or the windows. The gentleman is correct, we do have the information. It is scattered all over the lot, both in the government agencies and in these national service organizations. This information needs to be pulled all together, collated and given some semblance of order and meaningfulness so as to make it available to the people at large.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. SNYDER. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, are we expected to believe that because there is cheap construction in houses and other buildings, that this bill is going to correct that? They can still build cheap buildings under the terms of this $16 million expenditure. I think building men know what is good insulation and what is flammable and nonflammable. All this is well known today. It is a question of whether we want to build good buildings or poor buildings.

Mr. BLATNIK. It will make the information available, but in the meantime the people should know exactly that for a $500 investment they can make a $300 annual saving on heat costs in their houses. They do not have that information now and frankly, they do not have good sources of information, including our own Housing and Urban Development Agency.

Mr. GROSS. All I can say is that $16 million is not to be sneezed at in these days, either in Minnesota or Kentucky.

Mr. HAYS. Mr. Speaker, will the gentleman yield?

Mr. SNYDER. I yield to the gentleman from Ohio.

Mr. HAYS. Mr. Speaker, I did not pay too much attention to this matter until I began to hear the debate, but is the gentleman saying that knowledge is not available on how to insulate a house and properly build a house?

I have my house insulated, and I think we know enough to be able to do it right. We have storm windows on it, and we have insulation in it.

I do not think that $16 million used by the GSA, of all agencies, in the name of heaven, is going to insure houses will be any better built in the future than they are built now.

I doubt if any Government agency can tell me how to turn down a thermostat. I can do that for 16 cents. You just dial it down, that is all there is to it. You dial it down to 68 degrees, or whatever the temperature should be. It should not take $16 million to be able to tell anybody how to do that.

Mr. BLATNIK. Mr. Speaker, I will say this: The best advice we get from the American Consulting Engineers Council and from people in the building industry is as I have stated it.

I will stand by my original statement that we should utilize, from wherever this knowledge may come, any new technology, new methods or new methodology, and new design techniques in order to improve all aspects of dwellings and commercial structures. The present methods we have in America are extremely wasteful, most wasteful.

Information may be available to some but not to others, but it should become available in an orderly, systematized manner such as this bill envisions.

Mr. SNYDER. Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. HOWARD. Mr. Speaker, I yield to such time as he may consume to the gentleman from Ohio (Mr. VANIK).

Mr. VANIK. Mr. Speaker, I would like to ask the gentleman if it is the committee's intention that the administrator develop building standards that will incorporate solar energy in the design of buildings.

Mr. HOWARD. No, not specifically solar. However, this is a followup piece of legislation to one which was passed by the House last week, concerning control by the General Services Administration and study in attempting to look toward the future as to the greatest problems of fuel and energy. I think under the terms and conditions of this legislation, under the category of improved design, certainly they would not ignore the solar energy technology.

It is certainly not mentioned, as is no other specific type of design, but it is an attempt to get the best thinking of all the people in and out of government in order to be able to provide for the people around the country the most efficient construction methods we can for now and for the future.

Mr. SYMMS. Mr. Speaker, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Speaker, I would like to ask a question.

Have any of the gentleman on the committee considered, or has the subject ever come up in the committee, concerning the fact that as the crisis continues, if the price of energy rises in the marketplace, there will be a natural evolution toward more insulation, and this emphasis will be put on by private citizens, and this will take place anyway without wasting $16 million of the taxpayers' money?

Mr. HOWARD. Mr. Speaker, we have not made any computation of savings. We may see some energy conservation in homes in the future, and we would certainly have to take into account an increase in the cost of energy, but this does not necessarily mean that this legislation wastes $16 million.

Mr. SNYDER. Mr. Speaker, will the gentleman yield?

Mr. HOWARD. I would be happy to yield to the gentleman from Kentucky.

Mr. SNYDER. Mr. Speaker, we went into that to some extent with the vice president of the architects' association, or whatever the proper title was.

It is quite apparent that even as of today and over the years, they have been encouraging the use of gas and electricity by virtue of the fact that the more one uses, the cheaper it gets. But this is not going to continue to be true in the future. This is not going to continue to be a fact.

However, it is going to be a terrible expense upon business people and others to continue to use large amounts of energy. This will be requiring them to look for better ways to conserve this energy, and in this way the technology will then be available in one source so that they will be able to do it.

Mr. SYMMS. Mr. Speaker, will the gentleman yield further?

Mr. HOWARD. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Speaker, I think my point is that when energy is in abundant supply, the price is cheaper.

So, naturally it is not so important. Now that the price of energy is going higher, conserving building practices will take place—it will take place. It takes a lot of energy to pay $16 million to a bunch of bureaucrats. That ought to be considered, that is, how much energy it will take to extract $16 million, out of the hides of the American taxpayers.

Mr. SNYDER. The gentleman's remarks make a point. There is no question but what energy has been cheap and there has been no technology developed in most of these areas to save the energy because we did not have to. That is what we want to do, that is, find out how to save it.

Reference has been made to the fact that people say do not tell me they do not know what is good insulation and what is not and so on and so forth. The truth of the matter is maybe they do and maybe they do not, but the testimony is that they do not.

Mr. SYMMS. I do not know what they testified, but I do know in the cold country where I am from, we insulate our houses pretty well today. We hope not to be forced to use paper money to insulate our houses with.

Mr. SNYDER. Next time we have an energy bill I hope the gentleman will come over and give us the benefit of some of his expertise on this subject.

Mr. MILLER. Mr. Speaker, it is becoming increasingly apparent that architecture is having a vast influence on energy use and conservation. To practice energy conservation in this sector, we do not need to return to candlelight and caves, nor do we necessarily need new technologies. The main problem is that the relatively simple means for saving energy through building design is being met by indifference. More efficient building design can stretch our dwindling energy resources.

How much energy a building needs for heating, cooling and lighting depends upon its site, its shape and the materials used. Energy use must be considered in building design, and that means starting at the beginning. From the very outset of the architectural process energy is often wasted. Our basic structural sciences are in reality based more on practical experience than on a scientific analysis of how materials should be used. Better insulation in new housing for example, would cut heating and cooling requirements by 40 to 50 percent. Extra construction costs could be recaptured in 4 to 7 years through reduced fuel and utility bills.

Over the last 2 years the Federal Housing Authority revised its insulation standards for single and multifamily housing units with the stated objective of reducing air pollution and fuel consumption. The FHA standards are merely guidelines to assist appraisers in determining the salable value of a housing unit. Since they are used by appraisers of conventional loan organizations as well as the FHA, they do exert considerable influence on the residential construction industry.

One part of the artificial world which architects have designed for the office worker is perhaps a super-abundance of light. In a high-rise building, 54 percent of the electrical energy consumed goes into lighting. In a low building this rises to 62 percent.

Electrical savings could be realized by using lower intensity lighting in less occupied areas—hallways, storage areas—or more use of fluorescent lighting, which uses one-fourth as much as ordinary filament bulbs. The overall average lighting levels, many buildings specialists feel, could be cut in half. In addition to wasting electricity, lighting produces waste heat which, in most buildings, is then dissipated into the atmosphere. A few architects are now trying to catch this "heat of light" and pass it through conventional ducts and vents to help heat a building.

Making use of wastes, in fact, is the basis of what are now called "total energy systems," in which a building contains its own generating system. Waste heat is not released but reused by converting it into usable heat at little or no additional expenditure of energy. Such systems are costly and are still far from being perfected.

Easy availability of power can no longer be taken for granted. Energy conservation must be taken more seriously.

Mr. HOWARD. Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER. The question is on the motion offered by the gentleman from New Jersey (Mr. HOWARD) that the House suspend the rules and pass the bill H.R. 11714, as amended.

The question was taken.

Mr. SYMMS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 230, nays 160, not voting 42, as follows:

[Roll No. 701]

YEAS—230

Abdnor
Abzug
Adams
Addabbo
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Ashley
Badillo
Bafalis
Baker
Bennett
Bergland
Biaggi
Bingham
Blackburn
Blatnik
Boggs
Boland
Brademas
Brasco
Breaux
Brinkley
Brooks
Brotzman
Brown, Calif.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Burke, Mass.
Burlison, Mo.
Carney, Ohio
Chisholm
Clark
Clausen, Don H.
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Conte
Corman
Cotter
Cronin
Culver
Daniels, Dominick V.
Danielson
Dellums
Derwinski
Diggs
Dingell
Donohue
Dorn
Drinan
du Pont
Eckhardt
Eilberg
Erlenborn
Esch
Evans, Colo.
Fascell
Findley
Flood
Foley
Ford, William D.
Fraser
Frenzel
Froehlich
Fulton
Fuqua
Gaydos
Gibbons
Gilman
Ginn
Grasso
Gray
Green, Oreg.
Green, Pa.
Grover
Gunter
Guyer
Haley
Hamilton
Hanley
Hanrahan
Harsha
Hastings
Hawkins
Hechler, W. Va.
Heckler, Mass.
Helstoski
Henderson
Hicks
Hillis
Hogan
Holifield
Holtzman
Horton
Hosmer
Howard
Hungate
Hunt
Johnson, Calif.
Jones, N.C.
Jordan
Kastenmeier
Kazen
Keating
Kluczynski
Koch
Kyros

Latta
Leggett
Lehman
Litton
Long, La.
Long, Md.
McCormack
McDade
McFall
Macdonald
Madden
Mann
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Miller
Minish
Mink
Minshall, Ohio
Mitchell, Md.
Mitchell, N.Y.
Mizell
Moakley
Mollohan
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Nedzi
Nix
Obey
O'Hara
O'Neill
Owens
Parris
Passman
Patman
Patten
Pepper
Perkins
Peyser
Pickle
Pike
Podell
Preyer
Price, Ill.
Quie
Quillen
Randall
Rangel
Rees
Regula
Reuss
Riegle
Rinaldo
Roberts
Rodino
Roe
Roncalio, Wyo.
Rooney, Pa.
Rosenthal
Rostenkowski
Roy
Roybal
St Germain
Sandman
Sarbanes
Schroeder
Seiberling
Shipley
Shriver
Shuster
Sisk
Slack
Smith, Iowa
Smith, N.Y.
Snyder
Staggers
Stanton, James V.
Stark
Steele
Steiger, Wis.
Stephens
Stokes
Stratton
Stuckey
Studds
Sullivan
Symington
Thompson, N.J.
Thornton
Tiernan
Udall
Ullman
Vanik
Vigorito
Waldie
Wampler
Whalen
White
Widnall
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Winn
Wolff
Wright
Yates
Yatron
Young, Ga.
Young, Tex.
Zablocki
Zion
Zwach

NAYS—160

Andrews, N.C.
Archer
Arends
Armstrong
Ashbrook
Bauman
Beard
Bell
Bevill
Bowen
Bray
Breckinridge
Brown, Mich.
Burgener
Burke, Fla.
Burleson, Tex.
Butler
Byron
Camp
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clancy
Clawson, Del
Collier
Collins, Tex.
Conable
Conlan
Coughlin
Crane
Daniel, Dan
Daniel, Robert W., Jr.
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Dellenback
Denholm
Dennis
Devine
Dickinson
Downing
Dulski
Duncan
Edwards, Ala.
Eshleman
Evins, Tenn.
Fish
Fisher
Flowers
Flynt
Forsythe
Fountain
Frey
Gettys
Giaimo
Goldwater
Gonzalez
Goodling
Gross
Gude
Hammerschmidt
Hansen, Idaho
Hays
Heinz
Hinshaw
Holt
Huber
Hutchinson
Ichord
Jarman
Johnson, Colo.
Johnson, Pa.
Jones, Okla.
Jones, Tenn.
Kemp
Ketchum
King
Kuykendall
Landgrebe
Lent
Lott
Lujan
McClory
McCloskey
McCollister
McEwen
McKay
McKinney
McSpadden
Madigan
Mahon
Mallary
Maraziti
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Mayne
Michel
Milford
Montgomery
Moorhead, Calif.
Myers
Natcher
Nelsen
Nichols
O'Brien
Poage
Powell, Ohio
Pritchard
Railsback
Rarick
Rhodes
Robinson, Va.
Robison, N.Y.
Rogers
Roncallo, N.Y.
Rose
Roush
Rousselot
Runnels
Ruppe
Ruth
Sarasin
Satterfield
Scherle
Schneebeli
Sebelius
Shoup
Sikes
Skubitz
Spence
Stanton, J. William
Steed
Steelman
Steiger, Ariz.
Stubblefield
Symms
Talcott
Taylor, N.C.
Teague, Calif.
Teague, Tex.
Thomson, Wis.
Thone
Towell, Nev.
Treen
Waggonner
Ware
Whitehurst
Whitten
Williams
Wydler
Wylie
Wyman
Young, Alaska
Young, Fla.
Young, Ill.
Young, S.C.

NOT VOTING—42

Alexander
Aspin
Barrett
Biester
Bolling
Broomfield
Buchanan
Burke, Calif.
Burton
Carey, N.Y.
Conyers
Delaney
Dent
Edwards, Calif.
Frelinghuysen
Griffiths
Gubser
Hanna
Hansen, Wash.
Harrington
Harvey
Hébert
Hudnut
Jones, Ala.
Karth
Landrum
Mailliard
Martin, Nebr.
Mills, Ark.
Murphy, N.Y.
Pettis
Price, Tex.
Reid
Rooney, N.Y.
Ryan
Taylor, Mo.
Van Deerlin
Vander Jagt
Veysey
Walsh
Wiggins
Wyatt

So (two-thirds not having voted in favor thereof) the motion was rejected.

The Clerk announced the following pairs:

On this vote:

Mr. Rooney of New York and Mr. Murphy of New York for, with Mr. Hébert against.

Mr. Barrett and Mr. Carey of New York for, with Mr. Taylor of Missouri against.

Mr. Conyers and Mr. Delaney for, with Mr. Martin of Nebraska against.

Mr. Harrington and Mrs. Hansen of Washington for, with Mr. Pettis against.

Mr. Burton and Mr. Edwards of California for, with Mr. Price of Texas against.

Mr. Reid and Mr. Ryan for, with Mr. Vander Jagt against.

Mr. Dent and Mr. Karth for, with Mr. Gubser against.

Mrs. Griffiths and Mr. Hanna for, with Mr. Buchanan against.

Mr. Van Deerlin and Mr. Jones of Alabama for, with Mr. Broomfield against.

Until further notice:

Mrs. Burke of California with Mr. Harvey.
Mr. Alexander with Mr. Biester.
Mr. Landrum with Mr. Freylinghuysen.
Mr. Mills of Arkansas with Mr. Hudnut.
Mr. Aspin with Mr. Mailliard.
Mr. Wiggins with Mr. Walsh.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

LYNDON BAINES JOHNSON MEMORIAL GROVE

Mr. BLATNIK. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 858) to provide for the establishment of the Lyndon Baines Johnson Memorial Grove on the Potomac.

The Clerk read as follows:

H.J. Res. 858

Whereas friends and admirers of the late President Lyndon Baines Johnson wish to pay tribute to him by developing a living memorial in the form of a Lyndon Baines Johnson Memorial Grove on the Potomac and have formed a committee, in cooperation with the Society for a More Beautiful National Capital, Incorporated, a nonprofit corporation established under the laws of the District of Columbia on April 21, 1965, to that end;

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Interior is authorized to cooperate with the Committee for a Lyndon Baines Johnson Memorial Grove on the Potomac and the Society for a More Beautiful National Capital, Incorporated, in developing an appropriate memorial in the form of a living grove of trees and related facilities to honor Lyndon Baines Johnson, the thirty-sixth President of the United States.

Sec. 2. The grove shall be located on a portion of the land designated by the Secretary of the Interior on November 12, 1968, as Lady Bird Johnson Park, Washington, District of Columbia. The design of the grove shall be subject to the approval of the Secretary of the Interior, the National Capital Planning Commission, and the Commission of Fine Arts.

Sec. 3. Unless funds in the amount which the Secretary of the Interior determines are sufficient to insure completion of the memorial are certified available, and the development of the memorial is begun within ten years from the date of enactment of this joint resolution, the authorization granted by this joint resolution shall lapse. The United States shall be put to no expense in or by the development of the memorial.

The SPEAKER. Is a second demanded?

Mr. HARSHA. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. BLATNIK. Mr. Speaker, I rise in strong support of House Joint Resolution 858 which would establish a memorial in the form of a grove of trees for the late Lyndon B. Johnson, the 36th President of the United States.

The details of the resolution will be explained adequately, I am confident, by the chairman of the Subcommittee on Public Buildings and Grounds, the gentleman from Illinois (Mr. Gray), who has done his usual fine job in considering this legislation.

Mr. GRAY. Mr. Speaker, I thank my distinguished chairman the gentleman from Minnesota for yielding to me for the purpose of stating my approval of House Joint Resolution 858.

This resolution would establish the Lyndon Baines Johnson Memorial Grove on the Potomac River on land already owned by the Department of the Interior and previously dedicated as Lady Bird Johnson Park. Approximately 15 acres of this land will be planted with 500 towering white pine trees, green the year around and native to this part of the country. Also included will be azalea and rhododendron to provide vivid color in the spring and both pink and white dogwood to give color contrast in the autumn as well as spring. Walkways will be planned to insure maximum enjoyment of the grounds. The design of the grove has already won the enthusiastic approval of the Washington Fine Arts Commission and the National Park Service.

All of these plans for the design of the grove plus the responsibility of raising the money for the grove, is being handled by the Committee for the Lyndon Baines Johnson Memorial Grove on the Potomac. Mrs. Lyndon Johnson is working closely with the committee and has given the memorial grove her approval. No taxpayer funds will be needed.

Mr. Speaker, our good friend the distinguished gentleman from Texas (Mr. Pickle), the principal author of this legislation, along with the entire Texas delegation and other members have pointed out the many great contributions our great former President made in the environmental area as well as many other areas. I will list for the record just some of the important programs approved and implemented by a great President in the 89th and 90th Congresses.

This is a utilitarian memorial that can be used and enjoyed by everyone and, therefore, I hope there will be a quick, unanimous vote to further memorialize a great President who did so much for the American people:

P.L. 89–4. Appalachian Regional Development Act, to regulate surface mining operations and reclaim damaged lands;

P.L. 89-72. Recognizes recreation as a purpose of Federal Water projects;

P.L. 89-80. Water Resources Planning Act to establish the Federal Water Resources Council and establish regional river basin commissions;

P.L. 89-118. Provides for research on practical ways to desalt sea water;

P.L. 89-195. Creates a national seashore accessible to one-fifth of the Nation's Atlantic coast population;

P.L. 89-232. Effects of Pesticides on Fish and Wildlife, to authorize funds for research.

P.L. 89-234. Water Quality Act of 1965, to establish state standards based on Federally promulgated criteria;

P.L. 89-272. Amendments to Clean Air Act, to establish automobile emission standards and authorize research and development in solid wastes disposal;

P.L. 89-285. Highway Beautification Act, concerning junkyards, and landscaping of areas adjacent to highways;

P.L. 89-454. Marine Resources and Engineering Development Act regarding Federal oceanographic activities established the National Council on Marine Resources and Engineering Development and the 15 member Commission on Marine Science, Engineering and Resources;

P.L. 89-669. Endangered Species Act to protect 35 species of mammals and 30-40 species of birds;

P.L. 89-675. Amendments to Clean Air Act, expanding grants to local control programs.

P.L. 89-688. Sea Grant Colleges, to promote the development of marine resources;

P.L. 89-701. Fish Protein Concentrate, to authorize research and development on fish flour;

P.L. 89-753. Clean Waters Restoration Act to provide matching grants to local governments up to $1¼ billion in 1971 for treatment plant construction;

Reorganization Plan No. 2 of 1965 to establish the Environmental Science Services Administration; *

Reorganization Plan No. 2 of 1966 to transfer the Federal Water Pollution Control Administration from the Department of Health, Education, and Welfare to the Department of the Interior; *

P.L. 90-148. Air Quality Act of 1967, to expand grants to control programs, to promulgate Federal ambient air quality criteria by which the states would establish standards, require the Secretary of the Department of Health, Education, and Welfare to designate air quality regions, publish information on control techniques, and enforce established standards;

P.L. 90-205. Extending the wetlands acquisition program for five years;

P.L. 90-271, P.L. 90-138, P.L. 90-532, P.L. 90-548. These acts added four major areas to the National Wilderness Preservation System;

P.L. 90-401. Land and Water Conservation Fund to finance the acquisition of parks and recreation areas including revenues from continental shelf oil and gas leases;

P.L. 90-411. Aircraft Noise, to authorize the FAA to set aircraft noise and sonic boom standards;

P.L. 90-419. Great Lakes Compact, to study and make recommendations on a nationwide system of estuarine areas;

P.L. 90-454. Estuaries Preservation, to require a report and recommendations on a nationwide system of estuarine areas;

P.L. 90-488. Amendments to Consolidated Farmers Home Administration Act for water and sewer grants, and outdoor recreational enterprises;

P.L. 90-515. National Water Commission established to make a non-Federal comprehensive survey of water resource problems;

P.L. 90-537. Colorado River Project, to authorize construction of Central Arizona Project and related developments for comprehensive water resources;

P.L. 90-542. Wild and Scenic Rivers System;

P.L. 90-543. National Trails System;

P.L. 90-544. Establishment of a 505,000-acre North Cascades National Park in Washington; and

P.L. 90-545. Redwood National Park to set aside a 58,000 acre area previously privately owned in Northern California.

Mr. Speaker, as Mr. PICKLE pointed out to our committee:

> It is appropriate that this type of living memorial be made to Lyndon Baines Johnson in Lady Bird Johnson National Park, for throughout their marriage they acted as a unique team in their devotion to the public interest. Mrs. Johnson will always be remembered as our genuinely gracious First Lady who launched our country on the program to "Beautify America." In the spring of each year, when the narcissus and daffodils, early harbingers of a new life, bloom and flourish, when the thousands of tulips raise their colorful heads above the ground, when the dogwood and the azaleas burst forth in their multicolored brilliance—especially in Washington, D.C., and elsewhere through the land, people will say again "thank you, Lady Bird". Thus, this undertaking serves a dual purpose of a memorial to LBJ and to Lady Bird Johnson too.
>
> It is also appropriate that this grove be located within the city limits of Washington, D.C., a place where Lyndon Baines Johnson served his state and nation with such distinction as a Congressman, Senator, Vice President and President. The proposal has the support of the leadership on both sides of the aisles, of the National Park Service, the Washington Fine Arts Commission and the Department of the Interior.
>
> This resolution is very simple providing the legal framework to authorize the Memorial and not committing any public funds to the project.

I agree with that statement completely and move the previous question on the resolution.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. GRAY. I yield to the gentleman from Iowa.

Mr. GROSS. Merely to have a reiteration of the gentleman's statement, this proposition is not going to cost the taxpayers of the country a single dollar.

Mr. GRAY. In the spirit of Christmas, I would say I would be unhappy if I did not see my friend from Iowa and my neighbor from across the Mississippi rise and ask that question.

Also in the spirit of Christmas, I would say unequivocally that no, it will not cost the taxpayers anything. I thank him for his inquiry.

Mr. HARSHA. Mr. Speaker, I rise in support of House Joint Resolution 858 providing for the establishment of the Lyndon Baines Johnson Memorial Grove on the Potomac. This resolution authorizes the Secretary of the Interior to cooperate with two nonprofit associations in developing a memorial to the 36th President of the United States.

The memorial would be in the form of 15 acres of a living grove of 500 white pine trees, related walkways, and flowerbeds located in Lady Bird Johnson Park adjacent to the Potomac River in Washington, D.C. This grove of trees is a fitting memorial to our late President since he had such a strong interest in conservation. Although the Congress authorized a historic site for Lyndon Johnson, no memorial to the late President exists in the Nation's Capital.

It is anticipated that the memorial facility would cost $1.5 million to develop and $75,000 a year to maintain. The funds both for the development and the maintenance will come from private sources. Section 3 of the resolution specifies that, unless available funds are sufficient to insure completion of the memorial, the authorization granted by this joint resolution shall lapse. The United States shall be put to no expense in or by the development of this memorial.

The organizations engaged in the development of this grove will soon begin fundraising. This joint resolution will further aid their efforts to solicit the necessary funds for this project.

I urge its enactment.

Mr. PICKLE. Mr. Speaker, I am happy that the House of Representatives today is considering House Joint Resolution 858, a resolution providing for the establishment of the Lyndon Baines Johnson Memorial Grove on the Potomac. This resolution was unanimously passed by the Public Works Committee and has the approval of the Department of the Interior, the Washington Fine Arts Commission and the National Parks Service. It was originally cosponsored by leadership of the House and by the entire Texas delegation. It has the approval of Mrs. Lyndon Johnson who is working closely with the committee. It is a particular pleasure to wholeheartedly recommend this legislation to you both as a fitting tribute and a living memorial to one of our great Presidents and further to sponsor a memorial that will involve the expenditure of no public money.

The resolution proposes that the Lyndon Baines Johnson Memorial Grove on the Potomac be established on land already owned by the Department of the Interior and dedicated as Lady Bird Johnson Park. It is located on the south side of the Potomac on land within the District of Columbia. It is planned to plant 500 towering white pine trees on 15 acres of Lady Bird Johnson Park. They will be green the year around and are native to this part of the country. Also included will be azalea and rhododendron to provide vivid color in the spring and both pink and white dogwood to give color contrast in the autumn as well as spring. Walkways will be planned to insure maximum enjoyment of the grounds. The money for the grove will be raised by the Committee for the Lyndon Baines Johnson Memorial Grove on the Potomac which has already been formed. Contributions are to be made to the Society for a More Beautiful National Capital, Inc., a nonprofit corporation already established under the laws of the District of Columbia, contributions to which are tax deductible. The reason for using the society to accept the contributions is that it already has tax exempt status and therefore might eliminate months of delay in obtaining this status for a newly named organization from the

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* Reorganization proposals initiated by the Executive branch become law unless they are specifically overruled by Congress (5 U.S.C. 901 *et seq.*).

Internal Revenue Service. It is anticipated that there will be many small donations so that many people who want a part in this tribute to a great President can contribute.

This is a utilitarian memorial that can be used and enjoyed by everyone and thus remind the Nation of the unprecedented contributions made by President Johnson in the environmental area.

At this time, Mr. Speaker, I would like to insert into the RECORD a list of the environmental legislation that was passed and signed by President Johnson during the 89th and 90th Congress:

The list follows:

ENVIRONMENTAL LEGISLATION PASSED DURING THE 89TH AND 90TH CONGRESS AND SIGNED BY PRESIDENT JOHNSON

P.L. 89-4. Appalachian Regional Development Act, to regulate surface mining operations and reclaim damaged lands.

P.L. 89-72. Recognizes recreation as a purpose of Federal Water projects.

P.L. 89-80. Water Resources Planning Act to establish the Federal Water Resources Council and establish regional river basin commissions.

P.L. 89-118. Provides for research on practical ways to desalt sea water.

P.L. 89-195. Creates a national seashore accessible to one-fifth of the Nation's Atlantic coast population.

P.L. 89-232. Effects of Pesticides on Fish and Wildlife, to authorize funds for research.

P.L. 89-234. Water Quality Act of 1965, to establish state standards based on federally promulgated criteria.

P.L. 89-272. Amendments to Clean Air Act, to establish automobile emission standards and authorize research and development in solid wastes disposal.

P.L. 89-285. Highway Beautification Act, concerning junkyards, and landscaping of areas adjacent to highways.

P.L. 89-454. Marine Resources and Engineering Development Act regarding Federal oceanographic activities established the National Council on Marine Resources and Engineering Development and the 15 member Commission on Marine Science, Engineering and Resources.

P.L. 89-669. Endangered Species Act to protect 35 species of mammals and 30-40 species of birds.

P.L. 89-675. Amendments to Clean Air Act, expanding grants to local control programs.

P.L. 89-688. Sea Grant Colleges, to promote the development of marine resources.

P.L. 89-701. Fish Protein Concentrate, to authorize research and development on fish flour.

P.L. 89-753. Clean Waters Restoration Act to provide matching grants to local governments up to \$1¼ billion in 1971 for treatment plant construction.

Reorganization Plan No. 2 of 1965 to establish the Environmental Science Services Administration.*

Reorganization Plan No. 2 of 1966 to transfer the Federal Water Pollution Control Administration from the Department of Health, Education, and Welfare to the Department of the Interior.*

P.L. 90-148. Air Quality Act of 1967, to expand grants to control programs, to promulgate Federal ambient air quality criteria by which the states would establish standards, require the Secretary of the Department of Health, Education, and Welfare to designate air quality regions, publish information on control techniques, and enforce established standards.

P.L. 90-205. Extending the wetlands acquisition program for five years.

P.L. 90-271, P.L. 90-138, P.L. 90-532, P.L. 90-548. These acts added four major areas to the National Wilderness Preservation System.

P.L. 90-401. Land and Water Conservation Fund to finance the acquisition of parks and recreation areas including revenues from continental shelf oil and gas leases.

P.L. 90-411. Aircraft Noise, to authorize the FAA to set aircraft noise and sonic boom standards.

P.L. 90-419. Great Lakes Compact, to study and make recommendations on a nationwide system of estuarine areas.

P.L. 90-454. Estuaries Preservation, to require a report and recommendations on a nationwide system of estuarine areas.

P.L. 90-488. Amendments to Consolidated Farmers Home Administration Act for water and sewer grants, and outdoor recreational enterprises.

P.L. 90-515. National Water Commission established to make a non-Federal comprehensive survey of water resource problems.

P.L. 90-537. Colorado River Project, to authorize construction of Central Arizona Project and related developments for comprehensive water resources.

P.L. 90-542. Wild and Scenic Rivers System.

P.L. 90-543. National Trails System.

P.L. 90-544. Establishment of a 505,000-acre North Cascades National Park in Washington.

P.L. 90-545. Redwood National Park to set aside a 58,000 acre area previously privately owned in Northern California.

Thus, there were at least 31 pieces of major environmental legislation passed during the 89th and 90th Congress alone and included 3 major parks, the National Seashore Park on the Atlantic coast, the North Cascades National Park in Washington, and the Redwood National Park in northern California. It is fitting that the memorial can be a living reminder that this man of the soil never forgot the importance of enjoying nature and the inspiration to be derived from being out of doors. He came from the hill country of Texas and his greatest pleasure was the land.

It is appropriate that this type of living memorial be made to Lyndon Baines Johnson in Lady Bird Johnson National Park, for throughout their marriage they acted as a unique team in their devotion to the public interest. Mrs. Johnson will always be remembered as our genuinely gracious First Lady who launched our country on the program to "Beautify America." In the spring of each year, when the narcissus and daffodils, early harbingers of a new life, bloom and flourish, when the thousands of tulips raise their colorful heads above the ground, when the dogwood and the azaleas burst forth their multicolored brilliance—especially in Washington D.C., and elsewhere through the land, people will say again "thank you, Lady Bird." Thus, this undertaking serves a dual purpose of a memorial to LBJ and to Lady Bird Johnson too.

It is also appropriate that this grove be located within the city limits of Washington, D.C., a place where Lyndon Baines Johnson served his State and Nation with such distinction as a Congressman, Senator, Vice President, and President. The proposal has the support of the leadership on both sides of the aisles.

The resolution is very simple providing the legal framework to authorize the Memorial. It specifically states that no public funds are involved.

Section 1 authorizes the Secretary of the Interior to cooperate with the committee for the Lyndon Baines Johnson Memorial Grove on the Potomac and the Society for a More Beautiful National Capital, Inc., in developing a memorial grove of trees.

Section 2 designates the location in Lady Bird Johnson Park subject to the approval of the Secretary of the Interior, the National Capital Planning Commission and the Commission of Fine Arts.

Section 3 provides that unless funds in the amount that the Secretary of the Interior determines are sufficient to insure completion are available and the memorial begun within 10 years from the date of the enactment of this resolution, the authorization granted by this resolution shall lapse. It specifically states that the United States shall be put to no expense in or by the development of the memorial.

I urge the speedy passage of this resolution so that the work of the Committee for the Lyndon Baines Johnson Memorial Grove on the Potomac can proceed to make it a reality.

Mr. BLATNIK. Mr. Speaker, it is a privilege for me to rise today in support of House Joint Resolution 858 which would establish a memorial in the form of a grove of trees for the late Lyndon Baines Johnson, the 36th President of the United States.

The details of this resolution will be explained ably by the chairman of the Subcommittee on Public Buildings and Grounds, Mr. KENNETH J. GRAY, who has done his usual fine job in considering this legislation in the subcommittee which he chairs.

I would make one point to the Members of this body—no memorial to the late President exists in the Nation's Capital.

It was my privilege to know Mr. Johnson during his service in the Congress of the United States and, of course, to work with him as President. One of his great interests was conservation and urban beautification, as evidenced by his strong support of the Highway Beautification Act of 1965.

It is certainly fitting then that a grove of living trees in a park named in honor of his wonderful wife, Ladybird Johnson, should be a memorial in the Nation's Capital for President Johnson.

This legislation has the strong support of Mrs. Johnson and was reported unanimously by the Committee on Public Works, and I am privileged, as I said earlier, to rise and ask every Member of this House to vote for this resolution.

The SPEAKER. The question is on the motion offered by the gentleman from Minnesota (Mr. BLATNIK) that the House suspend the rules and pass the joint resolution (H.J. Res. 858).

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution was passed.

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* Reorganization proposals initiated by the Executive branch become law unless they are specifically overruled by Congress (5 U.S.C. 901 *et seq.*).

A motion to reconsider was laid on the table.

CUSTOMS AND IMMIGRATION BORDER FACILITIES

Mr. BLATNIK. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 10044) to increase the amount authorized to be expended to provide facilities along the border for the enforcement of the customs and immigration laws.

The Clerk read as follows:

H.R. 10044

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled "An Act to provide better facilities for the enforcement of the customs and immigration laws", approved June 26, 1930, as amended (19 U.S.C. 68), is further amended by striking out "$100,000" and inserting in lieu thereof "$200,000".

The SPEAKER. Is a second demanded?

Mr. HARSHA. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. BLATNIK. Mr. Speaker, H.R. 10044 is legislation recommended by the Secretary of the Treasury to allow the Secretary of the Treasury and the Attorney General greater flexibility in constructing adequate facilities to meet the needs of our Mexican and Canadian borders.

Mr. Speaker, I yield to the distinguished chairman of the subcommittee, the gentleman from Illinois (Mr. GRAY).

Mr. GRAY. Mr. Speaker, I thank our distinguished chairman for yielding to me. He has been extremely helpful on this legislation and all other proposals out of our committee.

Mr. Speaker, the necessity for this legislation was occasioned by request of the Department of the Treasury concerning the need for improved remote border stations on the borders of Mexico and Canada.

Mr. Speaker, the statutory limitation now is $100,000 maximum for the construction of any one border station. The traffic across these two borders has increased 43 percent since 1962, which is the last time the Congress addressed itself to meeting this need.

This is a very simple bill. It merely increases the amount from $100,000 maximum to $200,000 per station. If the Members want to read the report it shows that no money will be expended next year, but between now and fiscal 1978 they expect a modest expenditure of $140,000 to $150,000 for the entire program each year.

Putting it very simply, they cannot build any additional stations with the present statutory limitation of $100,000. It is an administration request and we thought it was reasonable. They made a good case before the committee, and I urge that the bill be approved.

Mr. HARSHA. Mr. Speaker, I rise in support of H.R. 10044, a bill to increase from $100,000 to $200,000 the existing limitation on the amount of funds that may be expended to provide for facilities for the enforcement of the customs and immigration laws along our land borders. This bill amends the original act of 1930, as amended in 1962, providing for these special purpose facilities. The activities under this act include the acquisition of land, the construction of buildings, sheds, office quarters, and living facilities which are otherwise unavailable.

The proposed new ceiling of $200,000 is needed to meet the increasing costs of site acquisition and construction. Border facilities are usually erected in remote areas, and the costs are influenced by the unusually great distances that men and material must be transported to the job site. Extreme weather conditions add further cost requirements for Canadian border facilities due to the short construction time of a limited summer season.

Since 1962, when this act was last amended, traffic crossing into the United States at our land borders has increased by 43 percent. Furthermore, the increased flow of narcotics and dangerous drugs into the United States necessitates more facilities for the enforcement efforts of our customs officials.

This bill does not authorize additional facilities—that is a matter to be determined by the Attorney General and the Secretary of the Treasury. The bill before the House today merely allows greater flexibility to adequately meet the increased costs of our border facilities' needs.

I urge its enactment.

Mr. BLATNIK. Mr. Speaker, H.R. 10044, which is legislation recommended by the Secretary of the Treasury, allows the Secretary of the Treasury and the Attorney General greater flexibility in constructing adequate facilities to meet the needs of patrolling our Mexican and Canadian borders.

The present customs program for building new facilities and expanding existing facilities must be continued and accelerated if the Customs Service is to continue to efficiently and effectively fulfill its mission of revenue collection and the prevention of smuggling, while at the same time expediting the flow of border traffic. Since 1962, traffic crossing into the United States at the Mexican and Canadian borders has increased by 43 percent. Additionally, the priority antinarcotic program has resulted in intensified enforcement efforts. Facilities to meet the demands of these efforts are necessary; when facilities are inadequate enforcement of customs and revenue laws may be prejudiced.

To maintain proper control of our borders and to give to those who have been given the duty to see that our borders are safely protected this legislation is needed. I urge its passage.

The SPEAKER. The question is on the motion offered by the gentleman from Minnesota (Mr. BLATNIK) that the House suspend the rules and pass the bill H.R. 10044.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid upon the table.

NATIONAL VISITOR CENTER

Mr. BLATNIK. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 11763) to amend the National Visitor Center Facilities Act of 1968, as amended, to facilitate the construction of an intercity bus terminal, and for other purposes.

The Clerk read as follows:

H.R. 11763

Be it enacted by the Seante and House of Representatives of the United States of America in Congress assembled, That section 102(a)(4) of the National Visitor Center Facilities Act of 1968 (82 Stat. 43), as amended, is amended by replacing the semicolon after the phrase "paragraph (3)" with a comma and inserting thereafter the following: "and further, the Secretary is authorized to lease space within the proposed parking facility to provide for the construction of an intercity bus terminal in addition to the new railroad passenger terminal: *Provided,* That any such lease or leases shall be to such parties and upon such terms and conditions as the Secretary deems appropriate, including such rental rates and terms as shall reflect the economic value of the leased premises, and the cost of private improvements to be constructed therein;".

SEC. 2. The National Visitor Center Facilities Act of 1968 (82 Stat. 43), as amended, is amended by revising section 102(a)(3) to delete the phrase, "to accommodate as nearly as possible four thousand motor vehicles", and to substitute for it: "for adequate circulation, to accommodate charter buses, automobiles, and interpretive visitor transportation, as appropriate".

The SPEAKER. Is a second demanded?

Mr. HARSHA. Mr. Speaker, I demand a second.

PARLIAMENTARY INQUIRY

Mr. GROSS. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. GROSS. Mr. Speaker, is the gentleman opposed to the bill?

The SPEAKER. Is the gentleman from Ohio opposed to the bill?

Mr. HARSHA. Mr. Speaker, I am not.

Mr. GROSS. Mr. Speaker, I demand a second.

The SPEAKER. Is the gentleman from Iowa opposed to the bill?

Mr. GROSS. Mr. Speaker, the gentleman from Iowa is opposed.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from Minnesota (Mr. BLATNIK) will be recognized for 20 minutes, and the gentleman from Iowa (Mr. GROSS) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota.

Mr. BLATNIK. Mr. Speaker, as the title of H.R. 11763 clearly states, it merely amends the National Visitor Center Facilities Act of 1968 to make possible the construction of an intercity bus terminal.

Mr. Speaker, I now yield to the distinguished Chairman of the Subcommittee, the gentleman from Illinois (Mr. GRAY).

Mr. GRAY. Mr. Speaker, once again I thank our distinguished and very able Chairman for yielding to me to explain this bill.

Mr. Speaker, this is a simple bill allowing the Secretary of the Interior to enter into agreements with the bus companies located in Washington to construct their own terminal facilities adjacent to the National Visitors Center at Union Station.

Once again, I would like to have the pleasure of calling to the attention of our friend from Iowa and other Members of this body that this bill will not cost the taxpayers 1 cent. To the contrary, it will be a revenue generator.

Very briefly, in 1968 Congress passed a Visitors Center Act that will require the renovation of Union Station and the construction of a parking facility immediately behind Union Station over the tracks. We now find that we have extra air space under the jurisdiction of the Secretary of the Interior. We want to bring all modes of travel together regardless of whether a constituent or a visitor comes in by train, or by air or by subway from downtown hotels or by motor vehicle.

We want all modes of travel to come together at one place for convenience.

The Greyhound and the Trailways bus companies are now located down at about 11th and New York Avenue. They want, with their own money, to build behind Union Station a bus terminal so they can be with the other modes of travel, Amtrak, the railroads, and others.

The Secretary of the Interior now will be paying $3.5 million a year for the leasing of the facilities now known as Union Station. We have over a million square feet of air space behind those tracks.

All this bill does is to allow the Secretary of Interior to lease some of that air space to the bus companies so that they can put in their own facilities.

I want to repeat, Mr. Speaker, that there is no authorization in here, now or any time in the future, to use taxpayers' funds to build a bus terminal at Union Station. To the contrary, we will recoup from the presently leased air space moneys from the bus companies.

I would hope this bill will pass unanimously.

Mr. Speaker, while I have the floor, I do want to announce the latest information on the Visitors Center plan. We have had agonizing delays in getting the construction of the Visitors Center started, but hopefully next week the contract will be signed, and we will be starting construction on a 1,200-car parking garage over the tracks immediately behind Union Station, and we will now be able to tie in the buses by this legislation, and hopefully very soon Amtrak and the railroads will get together under what we call an intermodal system immediately behind the bus station, so we will, in fact, have all modes of travel here within two blocks of the Capitol.

Incidentally, 70 percent of the people come here by automobile. They will be able to get out of their cars, come out of the subways, or they will get off the buses or trains and we will have scheduled minibuses and full sized buses to take the visitors to all points in and around Washington.

Any time we fill up a bus load of people under these conditions, we will be getting rid of about 30 vehicles off the streets.

Incidentally, during the summertime and in the spring around cherry blossom time in April, to Labor Day, we have an average of 50,000 vehicles on the streets of Washington. So I think we can see the wisdom of trying to get public transportation together in one spot and getting people out of their automobiles and into large accommodating buses.

This will not cost any money to the taxpayers, and it will generate revenue for the Treasury plus hopefully allow more parking facilities built with private capital.

Mr. SCHERLE. Mr. Speaker, will the gentleman yield?

Mr. GRAY. I yield to the gentleman from Iowa.

Mr. SCHERLE. Mr. Speaker, can the gentleman announce to us what money the Department of the Interior anticipates using to develop this kind of a lease arrangement that the gentleman has been explaining for the House?

Mr. GRAY. Mr. Speaker, let me say to my friend, the gentleman from Iowa, that we presently have $16 million of railroad money under the original Visitors Center Act that they are borrowing from the banks and we have $8.6 million that was appropriated by this Congress this year, making a total of $24.6 million available for the National Visitors Center.

Because of inflation and other factors, costs have risen, and we now anticipate signing a contract next week for a 1,200-car parking garage, for automobiles only. The remainder of that $24 million will go into the renovation of the station.

So not one dime of the presently authorized or appropriated funds will go to carry out the provision of this act.

Now, to answer the gentleman's question directly, we have a lot of air space over the tracks at Union Station that is now under lease from the railroads for the $3.5 million-a-year annual lease payment. Whatever we have left over from the 1,200-car parking garage will be available for other uses, and this is one of those other uses.

We will charge the bus companies for whatever space they use. All this bill does is allow the Secretary to enter into an agreement and charge such rates as he deems advisable depending on the square footage that he has available to lease to the bus company.

Mr. SCHERLE. The same type of explanation was made with respect to the cultural center. They were supposed to be arranged on a first-come-first-paying basis, although they never paid their way and we ended up paying for the whole thing.

Mr. GRAY. My dear friend from Iowa is in error. This Congress authorized the selling of bonds for parking facilities at the Kennedy Center. We are not authorizing anything here except authorizing the Secretary to collect some money, and spend it.

Let me give an example. Let us say that I am in the automobile business and I have a competitor who is in the same business and someone wants to buy a car. If I do not sell the car to him my competitor will. If we do not lease space to the bus companies the railroads will, they have 300 more acres just behind the station.

Mr. SCHERLE. My only argument is I wonder if the gentleman from Illinois can tell the House how many projects in Washington were not supposed to cost the taxpayers a penny but in the end they did cost them a great deal of money.

Mr. GRAY. The gentleman from Iowa knows that we tried to put this project through in the original legislation in 1968 without using any taxpayer funds. We said let private enterprise do it. We have wound up getting the American and foreign visitor less parking facilities and everything else, because the Penn Central went into bankruptcy. All these things are certainly not the fault of Congress.

All I am saying here is under this bill under no circumstances can it possibly cost the taxpayers any money. On the contrary, it will bring in money. I am trying to reverse the process here, and turn it around, we should all be for that.

Mr. SCHERLE. Just as we did in the Kennedy Cultural Center and the Kennedy Stadium. This could very well be another one in that long line of projects, and it is being explained away just as the others have been explained.

Mr. GRAY. I know it is very late and we want to vote on this legislation, but I will reply to the gentleman that this bill does not give authority either for selling bonds or for making appropriations. This bill does not contain that authority.

Mr. SCHERLE. It does not take very long to change that legislation to the point where you can sell bonds.

Mr. GRAY. We already have the air space so this is just a question of utilizing space already owned. It is a question of whether we want to pay rent on air space we do not need or whether we want to recoup some money on it. That is the only question involved here.

Mr. GROSS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the promoters of this latest white elephant in the Nation's Capital have had to admit that the grandiose promises they tossed around so glibly in 1967 were little more than hot air. They have discovered that the alleged and much-advertised 4,000 parking spaces for visitors will cost so much money that no one in his right mind will pay for them. Last year they reduced the number of parking spaces from 4,000 to 2,500. Next the Department of the Interior reduced that to 1,850 at a cost of $16 million. Now the Department says that the $16 million will "buy only 250 to 800 parking spaces."

What to do? Well, the old sleight of hand trick, this time employing the guise of promoting clean air. Because of the "national commitment" for clean air the sponsors now say they must not have all those cars parked at the so-called visitors center—they do not want to encourage cars. In 1967 and up to the present time they were encouraging all the automobiles they could get, because the revenue from parking was supposed to pay for this deal.

Now they say they want to encourage mass transit, so lo and behold, they propose to build a bus terminal instead of a parking garage.

The gentleman from Illinois (Mr. GRAY) on November 27, 1967, said:

> The Washington Terminal Company, owned 50 percent each by the Pennsylvania Railroad and the Baltimore & Ohio Railroad, has agreed to spend approximately $19.5 million of their own money for this work. They will . . . construct a 4000-car parking garage . . . at a cost not to exceed $11 million.

Continuing, he said:

> I believe that if anyone is fearful we are building a "white elephant" here, which will not be used, all he needs to do is look at the National Park Service statistics, which show that right now we need 13,00 parking spaces.

Going on, he said:

> The revenues, certainly, from parking alone should be around $2 million a year.

And again he said:

> We are talking about zero expenditures on the part of the Federal Government.

Mr. GRAY. Mr. Speaker, will the gentleman yield at that point?

Mr. GROSS. I will yield to the gentleman in just a minute or two.

I do not know how these bankrupt railroads are going to pay for this boondoggle. Perhaps the gentleman from Illinois knows.

Then we come down to November 14, 1973, that was only about a month ago, and I read from a local newspaper:

> Interior Department officials touched off a Congressional furor yesterday by suggesting that all but 250 to 800 of the 4000 parking spaces planned for the National Visitor Center at Union Station be eliminated because of soaring costs.
>
> Members of the Senate Public Buildings Subcommittee, hearing the proposal and the price tag of up to $16 million for the reduced number of spaces, appeared incredulous.
>
> "There is a real question of who is going to come there (to the center) if there is no place to park," Senator Dick Clark (D-Iowa), the subcommittee chairman, declared during a subcommittee hearing on the center.
>
> "It's preposterous!" exclaimed Rep. Kenneth J. Gray (D-Ill.), the original sponsor of the Visitor Center authorization bill in 1968, when he heard of the Senate testimony.
>
> Gray, chairman of the House Public Buildings Subcommittee, said he will move to revoke the Visitor Center authorization, unless at least 1500 to 2000 parking spaces are retained.
>
> "My credibility in the House is at stake," Gray said, "Let's face it, 70 percent of the visitors to Washington will be coming by bus or automobile. What they (the Interior officials) are proposing is a pittance."

Now, where are we with this Visitor Center or is it bus terminal? It seems to me it is an awfully good time to say no to this whole business, and start over again, or just let it die right where it is. Because I can see, and I think every Member of this House can see, that without the revenue to pay the commitment the taxpayers throughout the country are going to be stuck for this bill to the tune of millions of dollars.

Mr. GRAY. Mr. Speaker, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Illinois.

Mr. GRAY. Mr. Speaker, I thank my friend, the gentleman from Iowa, for yielding. I am glad the gentleman took the well, because the gentleman has served a very useful purpose. As I said a moment ago, we have agonized for years in trying to provide the 205 million people of this country and millions of foreign visitors with a Nation's Capital that would welcome them here, give them a hot meal, and give them valuable information on how to see the city and learn about our free democratic government.

And when I found out that the Department of the Interior had proposed to eliminate the parking, the gentleman from Iowa is correct, I said I will not sit here and see the available money spent on the Union Station with no parking.

I am happy to tell the gentleman that after meeting with all parties involved, including the Assistant Secretary of the Interior, Jim Clark, White House representatives, and all others involved. We have the parking back up to 1,200 spaces for passenger vehicles, and with this bill we will have room for several hundred buses, so we are back up to the 1,700 or so parking places that the gentleman from Illinois talked about in that statement the gentleman from Iowa just quoted.

Mr. GROSS. Just a minute. 1,700? The gentleman from Illinois talked about 4,000 and sold the House on 4,000 parking spaces.

Mr. GRAY. The gentleman from Iowa is absolutely correct.

Mr. GROSS. Then later, 1,300, and now 1,700.

Mr. GRAY. Will the gentleman yield further?

Mr. GROSS. I yield to the gentleman from Illinois.

Mr. GRAY. I thank the gentleman for yielding.

The gentleman is absolutely correct. As I said, we can appropriate money for every foreign country, but when we try to do something for the taxpayer, we "poor boy" the project. We started out without a dime of Federal taxpayer money to provide a needed public facility. What happened? We engaged a lousy architect, and while he fiddled with the plans for advertisement for bids, the Penn Central went into bankruptcy, so they could not raise the money.

I want the record to show that with the hundreds of meetings our committee and I have had and with the years of agonizing and waiting, not a dime of taxpayers' money has been spent on Union Station to this date, so we have not been out anything. We are still striving to do something and believe me we will do something soon.

Mr. GROSS. Not a dime of the taxpayers' money supposed to be involved in the building of District of Columbia Stadium either, but do not for 1 minute think that the taxpayers are not going to be asked one way or the other to pick up that $20 million bill. The Nation's taxpayers are already paying a substantial part of the interest on the $20 million.

Mr. GRAY. Would my friend, the gentleman from Iowa, yield further?

Mr. GROSS. I yield.

Mr. GRAY. The gentleman from Iowa knows that the District of Columbia stadium was a bond issue. This gentleman had nothing to do with that project. The gentleman who managed it is a very distinguished Federal judge in Arkansas. The gentleman can take that up with him. However, I believe we should be proud of R. F. K. Stadium. It would cost $100 million today.

Mr. GROSS. The distinguished judge of whom you speak, a former Member of this body, stood on the floor of the House and promised that project, as are people here today promising this project will not cost the taxpayers a dime. We are helping pay the interest on the $20 million of bonds on that stadium, and there is no way under the Sun that those bonds can be paid off unless the taxpayers of this country pay them off.

Mr. HALEY. Mr. Speaker, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Florida.

Mr. HALEY. I thank the gentleman for yielding.

Mr. Speaker, I have heard these propositions come before the Congress for a good many years: It is going to cost the taxpayers nothing. We have the Center for the Performing Arts down here that was not going to cost us anything. We have this stadium out here that has cost us a lot of money. We have this leasing arrangement over there that is going to cost a lot of money.

Mr. Speaker, I take this bill with a grain of salt because I know that every time we pass a bill here for the District of Columbia, eventually it is going to cost the taxpayers of the United States a lot of money. I hope that this bill will be defeated.

Mr. GROSS. I thank my friend from Florida for his comments.

Mr. GRAY. Mr. Speaker, will the gentleman yield?

Mr. GROSS. I yield to the gentleman.

Mr. GRAY. I thank the gentleman for yielding.

I probably have rambled here too long, Mr. Speaker, but I want to have this clearly understood. We already have a public law on the books passed in 1968, and we will be obligated to pay the railroads $3½ million per year for that facility for millions of annual visitors coming to Washington. Here is where we are today. We do not need all of the space that we are going to pay for in the back of the train station building. This bill merely says, "Let us permit the bus companies to build their own terminal and pay us rent," so we are trying here to be a lessor to a lessee and collect some money for the taxpayers. Who would not want to do that?

These collateral issues that are being talked about, the R. F. K. Stadium and the Kennedy Center, have absolutely nothing to do with what is before us now. We have already committed by agreement in 1968 to pay $3½ million a year on a turnkey job. The day the Center opens for the public, we start paying rent, and we will be paying for a lot of airspace we do not need if this bill is not passed.

All this bill says is, Let us rent that space and make some money on it. What is wrong with that?

Mr. GROSS. The gentleman is really flexible. He changed his mind from 13,000 to 4,000, parking spaces and now down to about 1,000. Is that the gentleman's figure?

Mr. GRAY. The gentleman from Illinois never changed his mind. The project has been guided by inflation and costs. In 1968 we could built 4,000 spaces for the money available. To day we can only get 1,200. Does the gentleman realize that construction costs are going up by 12 to 15 percent a year? Five years at 12 percent is 60 percent. We have lost to inflation. It is not the fault of the gentleman from Illinois, and it is not the fault of any of the Members who voted for the visitors center bill or the Secretary of the Interior.

Mr. GROSS. How is the gentleman going to accommodate all of these people if he converts it into a bus terminal without adequate parking spaces? If he needed 4,000 parking spaces or 13,000 parking spaces 4 or 5 years ago, he still needs them now; does he not?

Mr. GRAY. Will the gentleman yield further?

Mr. GROSS. Yes, I yield.

Mr. GRAY. It is like getting old. The only alternative to old age is death. We are having 50,000 cars a day coming here now. The alternative is do we want to provide car parking and some spaces for the buses or no parking at all because we cannot stand out here with a policeman and say to motorists that they must not come in with their cars or have someone out on the highways to say they must not come in with their buses.

The gentleman from Illinois and other Members of Congress and the Department of the Interior are trying to provide places for the people to park. It is that simple.

Mr. GROSS. Did the gentleman say something about foreign aid and not having money for the people in this country?

Mr. GRAY. The gentleman did.

Mr. GROSS. The gentleman votes for foreign aid all the time.

Mr. GRAY. There was a bill the other day to cut aid to Cambodia by $100 million and I voted "aye" to cut it so we could provide needed help at home.

Mr. GROSS. How about the granddaddy of them all, the $5 to $6 billion annual foreign aid bill. Has the gentleman been supporting that?

Mr. SCHERLE. Mr. Speaker, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Iowa (Mr. SCHERLE).

Mr. SCHERLE. Mr. Speaker, did I hear my colleague, the gentleman from Iowa, saying we are paying the railroads $3.5 million?

Mr. GRAY. We will when the facilities are ready.

Mr. SCHERLE. Who is "we"?

Mr. GRAY. The National Park Service.

Mr. SCHERLE. Where will they get the money?

Mr. GRAY. When we get this facility open, we will get all the revenues from the sales of goods and other services and parking fees. Otherwise it comes through the direct appropriation process. I am sure with more than 25 million people coming here each year we will have a lot of revenue coming from tourists who are now spending more than $800 million each year in Washington. By making their stay enjoyable and convenient that amount should double. So the $3½ million rent is small, indeed, compared to the benefits.

Mr. GROSS. But you have said there must be at least 4,000 parking spaces to even come close to balancing the budget. Now the gentleman is talking about some 1,000 parking spaces. He is getting more flexible from moment to moment.

Mr. SCHERLE. We had the same arrangement with Bob Short when we had the Washington Senators as far as concessions and when he took off and went to Dallas he was still paid $65,000 and he was not even in the vicinity.

Mr. HARSHA. Mr. Speaker, will the gentleman yield?

Mr. GROSS. I yield to the gentleman.

Mr. HARSHA. Mr. Speaker, the main issue on this legislation has been clouded by a number of side issues. I would think the gentleman would be extremely happy by this legislation, because by his own admission with the cutback in the parking spaces we save money.

Mr. GROSS. It does not save money.

Mr. HARSHA. It certainly does.

Mr. GROSS. Because if you do not pay off what you have contracted for it all comes back to the taxpayers. The gentleman is not so naive as to think that the taxpayers all across the country will escape getting hooked on this deal if parking revenues are insufficient.

Mr. HARSHA. Certainly the gentleman is not naive, but the bill provides for another method of obtaining revenue, by authorizing the Secretary to lease. When they enter into a lease that has to be paid for.

Mr. GROSS. By the taxpayers, and the gentleman will probably have to pay the bus companies to come over there or give them a sweetheart contract.

Mr. HARSHA. That is ridiculous.

Does the gentleman yield further?

Mr. GRAY. Mr. Speaker, I yield to my distinguished friend, the gentleman from Ohio.

Mr. HARSHA. Mr. Speaker, I want to invite to the attention of the House the language of the bill where it says:

> The Secretary is authorized to lease space within the proposed parking facility to provide for the construction of an intercity bus terminal in addition to the new railroad passenger terminal: *Provided*, That any such lease or leases shall be to such parties and upon such terms and conditions as the Secretary deems appropriate, including such rental rates and terms as shall reflect the economic value of the leased premises, and the cost of private improvements to be constructed therein.

There is to be no expenditure of Federal money on this particular piece of legislation. Quite the contrary, the Federal Government is to realize some revenue. The Department of the Interior, the administration sent the bill up here and they requested it. It will cost the Federal Government nothing.

I urge adoption of the legislation.

Mr. BLATNIK. Mr. Speaker, the purpose of H.R. 11763 is to amend the National Visitor Center Facilities Act of 1968 to facilitate the construction of an intercity bus terminal.

The National Visitor Center authorized by the Public Works Committee some years ago is necessary to provide for those hundreds of thousands who visit Washington every year a place to receive information about our Nation's Capital where to go and what to see. They come here by many forms of transportation, plane, bus, car, among others. As an adjunct to the visitor center there is planned a railway station. Within that railway station it seems to us that there is a need to provide a form of a bus terminal as the use of buses is increasing and will continue to increase in years to come. This legislation then is an essential part of what will become intermodal transportation center working in conjunction with the visitor center.

I urge its support.

The SPEAKER. The question is on the motion offered by the gentleman from Minnesota (Mr. BLATNIK) that the House suspend the rules and pass the bill H.R. 11763.

The question was taken.

Mr. GROSS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 356, nays 18, not voting 58, as follows:

[Roll No. 702]

YEAS—356

Abdnor
Abzug
Adams
Addabbo
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Arends
Armstrong
Ashley
Badillo
Bafalis
Baker
Beard
Bell
Bennett
Bergland
Bevill
Biaggi
Bingham
Blackburn
Blatnik
Boggs
Boland
Bowen
Brademas
Brasco
Bray
Breaux
Brinkley
Brooks
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Camp
Carney, Ohio
Casey, Tex.

Cederberg
Chamberlain
Chappell
Chisholm
Clancy
Clark
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collier
Collins, Ill.
Conable
Conte
Corman
Cotter
Coughlin
Crane
Cronin
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Danielson
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Dellenback
Dellums
Denholm
Derwinski
Devine
Dickinson
Diggs
Dingell
Donohue
Dorn
Downing
Drinan
Dulski
Duncan
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Fisher
Flood
Flowers
Foley
Ford, William D.
Forsythe
Fountain
Fraser
Frenzel
Frey
Froehlich
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Ginn
Goldwater
Gonzalez
Goodling
Grasso
Gray
Green, Oreg.
Green, Pa.
Grover
Gude
Gunter
Guyer
Hamilton
Hammerschmidt
Hanley
Hanrahan
Hansen, Idaho
Harsha
Hastings
Hawkins
Hays
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks
Hinshaw
Hogan
Holifield
Holt
Holtzman
Horton
Hosmer
Howard
Hungate
Hunt
Hutchinson
Ichord
Jarman
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Keating
Kemp
Kluczynski
Koch
Kuykendall
Kyros
Leggett
Lehman
Lent
Litton
Long, La.
Long, Md.
Lott
Lujan
McClory
McCloskey
McCollister
McCormack
McDade
McEwen
McFall
McKay
McKinney
McSpadden
Macdonald
Madden
Madigan
Mahon
Mallary
Mann
Maraziti
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Milford
Miller
Minish
Mink
Minshall, Ohio
Mitchell, N.Y.
Mizell
Moakley
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Morgan
Moss
Myers
Natcher
Nedzi
Nelsen
Nichols
Nix
Obey
O'Brien
O'Hara
O'Neill
Owens
Parris
Passman
Patman
Patten
Pepper
Perkins
Peyser
Pickle
Pike
Poage
Podell
Powell, Ohio
Preyer
Price, Ill.
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rees
Regula
Reuss
Rhodes
Riegle
Rinaldo
Roberts
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, Pa.
Rosenthal
Rostenkowski
Roush
Rousselot
Roy
Roybal
Ruppe
Ruth
St Germain
Sandman
Sarasin
Sarbanes
Satterfield
Schneebeli
Sebelius
Seiberling
Shipley
Shoup
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Snyder
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steele
Steelman
Steiger, Ariz.
Stephens
Stokes
Stratton
Stubblefield
Stuckey
Studds
Sullivan
Symington
Talcott
Taylor, N.C.
Teague, Calif.
Teague, Tex.
Thompson, N.J.
Thomson, Wis.
Thone
Tiernan
Towell, Nev.
Treen
Udall
Vanik
Vigorito
Waggonner
Waldie
Wampler
Ware
Whalen
White
Whitehurst
Whitten
Widnall
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Winn
Wolff
Wright
Wydler
Wylie
Wyman
Yates
Yatron
Young, Alaska
Young, Fla.
Young, S.C.
Young, Tex.
Zablocki
Zion
Zwach

NAYS—18

Bauman
Carter
Collins, Tex.
Conlan
Dennis
Flynt
Gilman
Gross
Haley
Huber
Ketchum
Landgrebe
Latta
Rarick
Runnels
Scherle
Schroeder
Symms

NOT VOTING—58

Alexander
Ashbrook
Aspin
Barrett
Biester
Bolling
Breckinridge
Broomfield
Broyhill, Va.
Buchanan
Burke, Calif.
Burton
Carey, N.Y.
Clay
Conyers
Delaney
Dent
Frelinghuysen
Griffiths
Gubser
Hanna
Hansen, Wash.
Harrington
Harvey
Hébert
Hillis
Hudnut
Jones, Ala.
Karth
King
Landrum
Mailliard
Martin, Nebr.
Michel
Mills, Ark.
Mitchell, Md.
Mosher
Murphy, Ill.
Murphy, N.Y.
Pettis
Price, Tex.
Reid
Rooney, N.Y.
Rose
Ryan
Steiger, Wis.
Taylor, Mo.
Thornton
Ullman
Van Deerlin
Vander Jagt
Veysey
Walsh
Wiggins
Williams
Wyatt
Young, Ga.
Young, Ill.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The Clerk announced the following pairs:

Mr. Rooney of New York with Mr. Harvey.
Mr. Hébert with Mr. Wiggins.
Mrs. Burke of California with Mr. Mosher.
Mr. Burton with Mr. Ashbrook.
Mr. Alexander with Mr. Martin of Nebraska.
Mr. Reid with Mr. Biester.
Mr. Young of Georgia with Mr. Young of Illinois.
Mr. Murphy of New York with Mr. Broomfield.
Mr. Dent with Mr. Hillis.
Mr. Delaney with Mr. Clay.
Mr. Mitchell of Maryland with Mr. Ryan.
Mr. Murphy of New York with Mr. Pettis.
Mr. Jones of Alabama with Mr. Broyhill of Virginia.
Mr. Karth with Mr. Hudnut.
Mr. Harrington with Mr. Conyers.
Mrs. Hansen of Washington with Mr. King.
Mr. Barrett with Mr. Mailliard.
Mr. Carey of New York with Mr. Buchanan.
Mrs. Griffiths with Mr. Michel.
Mr. Hanna with Mr. Frelinghuysen.
Mr. Landrum with Mr. Price of Texas.
Mr. Mills of Arkansas with Mr. Gubser.
Mr. Rose with Mr. Steiger of Wisconsin.
Mr. Thornton with Mr. Taylor of Missouri.
Mr. Ullman with Mr. Vander Jagt.
Mr. Van Deerlin with Mr. Walsh.
Mr. Aspin with Mr. Williams.
Mr. Breckinridge with Mr. Wyatt.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GRAY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the three last bills passed.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

PERSONAL STATEMENT

Mr. MARTIN of North Carolina. Mr. Speaker, yesterday during the consideration of S. 1435, the District of Columbia self-government conference report, I was unable to return from my district because of travel difficulties. Had I been here, on rollcall 692, on the motion to recommit, I would have voted "nay" and on rollcall No. 693, the vote on final passage, I would have voted "yea."

THE RICHMOND SMALL BUSINESS ADMINISTRATION OFFICE AND THE VIRGINIA DELEGATION

(Mr. ROUSSELOT asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ROUSSELOT. Mr. Speaker, Mr. Thomas Regan, very recently Deputy Administrator of the Small Business Administration in Richmond, Va., has been the subject of extensive inquiry by the Small Business Administration Subcommittee of the Committee on Banking and Currency of which I am a member. Mr. Thomas S. Kleppe, Administrator of the Small Business Administration has been quoted in several newspapers to the effect that all of Virginia's congressional delegation had contacted him to retain Mr. Regan in his job. In examination before the subcommittee on December 11, Mr. Kleppe made it clear that those members of the Virginia delegation who were new to the Congress in 1973, specifically, Congressmen Stanford E. Parris, Robert W. Daniel, Jr., and Mr. Caldwell Butler, had not made such inquiries. Mr. Kleppe also made it abundantly clear that the contacts he received from the Virginia congressional delegation were no more than routine inquiries, and involved no improper political pressure. The foregoing will appear in the following excerpts from Mr. Kleppe's testimony:

> Mr. Rousselot. In many articles that have appeared primarily in the Virginia newspapers, in recent weeks, and in the Washington Post and the Washington Star, the implications have been that the "Virginia Delegation" at given times put substantial pressure on you along with so-called bankers and people from the financial community on behalf of Mr. Regan.
>
> And maybe you have already described it for us somewhat, but could you provide for the record those that actually did either call or write, and what was the nature of their requests. Was it pressure to demand that Mr. Regan stay? What was the nature of the inquiries or the letters or whatever as a general statement?
>
> Mr. Kleppe. I would be very glad to comment on that, John, because I did receive letters from—I thought I had the names right here, but I do not. Three or four members of the Virginia Delegation. Of course, that precludes the new members, because they were not in at the time this took place, and I know some of the new members were concerned that they were included in that statement, and such is not the case.
>
> Mr. Rousselot. So those elected in 1972 would in no way be included?
>
> Mr. Kleppe. That is correct. And as I have testified before, and as I would say again, all of the contracts that are received by telephone or by letter, when I explained to them what the decision was regarding the 90-day period in Philadelphia and the plan to send him back to Richmond if everything gets cleaned up and corrected, and that was the recommendation. We were going to go through with it.
>
> I do not recall of one follow-up contract that could be interpreted as a political contact what-so-ever regarding the Regan and the Richmond situation.

Mr. ROUSSELOT. Were they both Democrats and Republicans?

Mr. KLEPPE. Yes.

Mr. ROUSSELOT. So it was not just a Republican thrust?

Mr. KLEPPE. No, nor was it just a Democrat thrust. It was a non-partisan thrust.

Mr. ROUSSELOT. Now, did those who made inquiry or asked for consideration on behalf of Mr. Regan, did they personally call you and pressure you, or hound you, or was it just a normal letter or inquiry?

Mr. KLEPPE. I do not happen to interpret a telephone call from a John Rousselot or a Bob Stephens or Tom Gettys as a pressure telephone call. Maybe because it is because I had the privilege of serving with you fellows, but I think you are entitled to call me without me interpreting it as a pressure.

So I did hear from some of those people, but I hear from them on many things. I think that is the purpose of a Congressman. I think that is my job, to respond, to be sensitive where it fits with the problems that have to be decided.

And so, they were not pressures, John. They were contacts. They were calls. They were honest concerns about registering their feeling, their opinion about the situation at hand.

THE PENDING IMPEACHMENT INQUIRY

The SPEAKER pro tempore (Mr. MAZZOLI). Under a previous order of the House, the gentleman from Illinois (Mr. MCCLORY), is recognized for 60 minutes.

Mr. McCLORY. Mr. Speaker, I have taken this special order to explain my own position with respect to the pending impeachment inquiry being undertaken by my House Judiciary Committee. A number of my Republican colleagues on the committee feel as I do that our position should be clarified to the end that we may know in what manner we are moving—to conduct and complete this inquiry for our own benefit and for the benefit of our constituents and the American people.

I should point out that we have for the most part supported an appropriation of $1 million for augmenting the Judiciary Committee staff for the specific purpose of this inquiry. We want to emphasize that we are fully as interested, perhaps more interested, than our Democratic counterparts in a full, fair and expeditious conduct of this extraordinary action. Above all, in this connection we do not wish to be parties to any dilatory tactics nor do we want to utilize this inquiry for purposes of partisan political advantage or for gaining publicity for ourselves or anyone else.

While the precedents for such pending proceedings are very inconclusive there are several basic points that need to be established out of fairness to all members of the committee and, yes, for the benefit of our Government itself.

First, it should be definitely established that the inquiry is being conducted under the direction of the committee—a subcommittee—or a select committee of the House Judiciary Committee. It is not a satisfactory answer to me for the inquiry to be in the sole control of the chairman of the committee—or worse, in the control of a staff or possibly outside consultants or experts. For the committee to drift along and to await action and recommendations which might be developed by others over whom the committee has little or no control, would be a disservice to the prerogatives and responsibilities of this committee and would be fraught with danger to Congress and the Presidency as institutions. It has been brought out that such inquiries have been conducted by committees of the House Judiciary Committee numbering from 3 to 12 members. In some cases, the entire committee has acted where the question was whether or not such an inquiry should be initiated. However, there are no instances that have come to my attention where the inquiry was vested in the sole control of the chairman or was placed in the hands of a staff. Clearly, the committee must assume responsibility for conducting and carrying out the impeachment inquiry—and that should be preliminary to the staff investigation—not deferred until after the staff has acted.

Second, a timetable for the impeachment inquiry is both essential and equitable. While it may not be possible to fix a definite date for termination for the investigation which will be undertaken at this stage, it is clearly wrong not to establish some deadline for the inquiry to be concluded—or, at least for a report—even an interim report—to be made to the full committee. It smacks of partisan politics to refuse to consider a schedule for concluding the committee's work on the impeachment inquiry. After all, the inquiry is a preliminary step which has been described by the chairman as a proposed investigation of existing material which has been developed by other committees of the Congress and elsewhere. That kind of a job can be scheduled and a concluding date can be fixed without too great difficulty. While the chairman has described the inquiry as being conducted in stages, there is no indication when even the first stage will be completed. Apparently, one reason for this delay is the lack of a so-called special counsel. In a memorandum of November 13, 1973, the chairman stated that he hoped soon to "name a special counsel." A week ago the chairman stated that he expected to make the "appointment of a special counsel prior to Christmas." I understand now that the special counsel will be named on Thursday. I am pleased to have this advice even though it did not come from the chairman. However, I do not believe that the time consumed in selecting a special counsel should be an excuse for delaying the scheduling of the work of our committee. The timetable should be a committee decision—not a staff decision—and certainly not a decision which should be made by some as yet unnamed special counsel, which the committee would then be bound to adhere to.

Third, there should be an early determination as to the manner in which the inquiry is to be conducted. If the plan is to investigate existing materials as has been heretofore stated by the chairman, this issue could be determined promptly. Clearly in order to conduct an inquiry which can be both thorough and conclusive it would seem essential to review certain confidential evidence. This could only be done in executive sessions at which time witnesses and law-enforcement investigators and authorities might more freely produce evidence relative to the charges involved in the inquiry proceedings.

Mr. Speaker, while some may feel that there is benefit from indecision—delay—and the uncertainty which hangs over this Nation at this time, I am confident that it is the wish of you, Mr. Speaker, and the overwhelming majority of this House that the impeachment inquiry should be conducted expeditiously and on the basis of ground rules and procedures which may be freely discussed and readily agreed upon by the House Judiciary Committee acting as a whole.

To date, virtually nothing that I have discussed here today has been settled by the committee or by any agreement between the chairman and the ranking minority member—or in any other way.

Mr. Speaker, I would hope that the Judiciary Committee might meet tomorrow or Thursday in order to settle these issues before we return to our constituents during the Christmas recess. That is the purpose for the special order which I have taken today and in which I expect my Republican colleagues on the House Judiciary Committee now to contribute.

I now yield to the gentleman from New Jersey (Mr. MARAZITI).

Mr. MARAZITI. Mr. Speaker, as I understand it, the gentleman favors immediate inquiry for considering the seriousness of this matter and the welfare of the Nation; is that his position?

Mr. McCLORY. Yes. I think we should set a definite deadline. We should establish procedures, and we should repose authority in some subcommittee or repose it in a select committee or repose it somewhere, so that we know who is in charge of this inquiry, that is, either the committee itself, or a subcommittee or select committee, and not repose responsibility in a staff.

Mr. MARAZITI. Mr. Speaker, I associate myself with the remarks of the gentleman, and I should like to go on to say that I see no reason whatever for delay.

The Committee on the Judiciary released the name of GERALD R. FORD on November 27, and there has not been any subject that has taken up any time of the Committee on the Judiciary. They have a staff through which they can gather whatever evidence is necessary. I cannot see why the committee could not institute its proceedings this week. I do not think it is necessary to attempt to gather any tremendous amount of information, because over 42 Congressmen have introduced impeachment resolutions in which they allege high crimes and misdemeanors.

I suggest that the first thing to do is to call upon these Congressmen to take the witness chair before the Committee on the Judiciary and testify to the alleged high crimes and misdemeanors, because I cannot imagine any Congressman introducing these resolutions without having, as they believe, the necessary information.

Mr. McCLORY. I thank the gentleman. I am not certain as to what procedure might be followed, but at least we should establish the procedures which we will follow.

Mr. Speaker, I yield to the gentleman from New York (Mr. FISH).

Mr. FISH. Mr. Speaker, I thank the gentleman for yielding and compliment the gentleman for taking this special order. His statement has spelled out clearly the case for expeditious handling of the impeachment inquiry.

Our committee was charged by the Speaker to undertake an investigation into whether grounds for impeachment of the President exist. That was 7 weeks ago. Here we are, a few days from adjournment of the first session, and there will be a 4-week interval before the second session of the Congress reconvenes.

As the gentleman from Illinois has stated, many procedural matters have not been decided upon by the committee—not the least of which is the lack of supervision over the Judiciary Committee staff during the next 4 weeks.

Let us examine what has been done and what has not been done by our committee since October 23, when the resolutions of impeachment and resolutions of inquiry were referred to us. We were told that the files of numerous House and Senate committees that have investigated Watergate-related matters is available to us. We are advised that a committee staff of 31 is in the process of analyzing the files of these other committees and collating the material. Further, that experts will be assisting the committee in an advisory capacity.

After all this time has elapsed, however, the full committee has as yet to determine the full scope of the inquiry—yet to decide what constitutes an impeachable offense. I am unaware of any decision as to whether the full committee or a select committee of the Judiciary members will undertake the inquiry or oversee the staff work. No timetable has been set either for staff work or hearings.

I see no reason that a timetable cannot be set for the completion of the staff work and, certainly, the Congress should not adjourn this session and be absent for a full month without such a timetable. A reasonable time to complete the staff work would be 60 days with periodic reporting to members of the committee so that hearings may commence early in the second session.

Mr. Speaker, if we permit this inquiry to drift into the spring and summer, confidence in the processes of our Government will be further eroded. The closer we get to the 1974 election, and the further we get away from the events which generated this inquiry, the more likely whatever we do, will be described as partisan—a charge I am not making at this time. But I foresee that, no matter how professional our work is, how objective we attempt to be, it will not be credible if it is still underway in the fall of 1974.

The American people increasingly have been looking to the Congress for leadership. We have a responsibility that we cannot shirk. Our former minority leader, Vice President FORD, has publicly expressed support for the inquiry. In addition, we owe the President, in simple fairness, expeditious handling of this inquiry.

Mr. McCLORY. I thank the gentleman from New York for his contribution and I compliment the gentleman for his initiative in encouraging the special order which we are taking today.

I yield now to the gentleman from New Jersey (Mr. SANDMAN).

Mr. SANDMAN. I thank the gentleman from Illinois for yielding.

I take this opportunity to join in the remarks made by the gentleman from Illinois and the gentleman from New York. I believe in everything generally they said. Mr. Speaker, I would like to take this opportunity to join in the remarks made by the gentleman from Illinois (Mr. McCLORY). I believe it is in the best interest of the country that the charges made against the President of the United States be aired by the House Judiciary Committee and be disposed of, one way or another, at the earliest possible date.

The continual badgering of the President has made his awesome job increasingly difficult and, in my judgment, has had a profound effect upon the ability of this President, or any other President, to perform the duties of the Chief Executive in the best interest of the country.

I was one of the first to compliment the chairman of the House Judiciary Committee for his expeditious handling and his fairness pertaining to the confirmation of Vice President GERALD R. FORD only a few weeks ago. In all fairness, I cannot say that the inquiry into the alleged charges for impeachment against President Nixon have been handled likewise.

I am concerned about the continued drag of time with little or no accomplishments by the committee. Last week, the full Judiciary Committee met only one time. Nothing was accomplished at that meeting. Much to the surprise of the entire committee, the chairman announced that no business would be transacted at that meeting. Not a single vote was taken, not even a vote on our method of operation. Nothing worthwhile was resolved at all during the entire workweek.

We are now in the last week of the session prior to a month-long adjournment, and I find it increasingly difficult to believe that the chairman of the Judiciary Committee, who claims he is acting with dispatch, has again failed to call a single meeting of the full committee for this last week we are in session. This is absolutely incredible.

The Congress has appropriated $1 million for this inquiry. A large additional staff has already been hired. The chairman has stated that nothing can happen until the chief counsel has been appointed by himself and that he should be very careful in the selection of such counsel. I have no quarrel with this. However, this is no reason why the full committee should not agree upon a modus operandi.

Is this inquiry going to be conducted by a select committee of the Judiciary Committee? Is it going to be conducted by the full committee which is comprised of 38 members? Is it going to be conducted by the chairman alone? Or worst of all, is it going to be conducted by the General Counsel exclusively who has been elected by no one? These things must and should be resolved by the end of this week. I do not know of a single member of the Judiciary Committee who wants to go home without resolving these very important matters now.

If this is going to be a bipartisan investigation, then it seems to me that a small select committee must be appointed forthwith. The chairman, of course, should have the right to appoint the Members from his side of the aisle, and the ranking Republican should appoint the Members from the other side of the aisle. Such a committee should be responsible for conducting the investigation. That committee should direct the new staff and the General Counsel. Under no circumstances, should the General Counsel and/or the chairman of the committee run the entire affair exclusive of all other members.

We should agree now on the authority of the select committee. It should, in a bipartisan sense, lay out the program of the inquiry, set the days of hearings as well as those meetings that are going to be held in executive session, and approve which witnesses will be called and when. We should not be notified by the general counsel, who will be picked solely by the chairman after the fact.

I think that it is incumbent upon the chairman to tell us what he intends to do about all of these things.

In addition to all of this, it is impossible for me to believe that a fair trial can be had if it is going to be a trial by media—newspapers or television. In a true bipartisan sense, cannot we agree that all official releases affecting the entire committee and its business should be released jointly by the chairman and the ranking Republican member (Mr. HUTCHINSON)?

If the House Judiciary Committee is to carry out its constitutional duties and obligations as the court of original jurisdiction in those proceedings affecting the impeachment of the President of the United States, it can only be done in a spirit of bipartisan openmindedness. It should not be conducted toward the end that we are going to impeach the President come hell or high water. By the same token, members of the President's party, such as myself, must likewise exercise the same quality of judgment.

Under these circumstances, it is incumbent upon the chairman of the House Judiciary Committee to resolve these questions that I have posed prior to the adjournment of the House which is scheduled for either Thursday or Friday of this week.

During the month of recess, the staff that has been appointed by the chairman should be at work, and they should be reporting to a bipartisan select committee and working under the direction of that committee.

As one member of the House Judiciary Committee, I will be available around the clock from now until adjournment time. Let us do our job and get on with it now.

Mr. McCLORY. I thank the gentleman for a very clear and fine statement.

I want to add that the gentleman's statement represents a consensus of views of the Republican Members of the House Committee on the Judiciary vis-a-vis the impeachment inquiry.

I yield to the gentleman from Iowa (Mr. MAYNE).

Mr. MAYNE. Mr. Speaker, I thank the gentleman for yielding and I wish to commend him for the leadership he has shown in taking this special order on this very important matter.

Mr. Speaker, the American people certainly expected and had a right to expect that the Committee on the Judiciary would move much more promptly to conduct an inquiry into the matter of impeachment than unfortunately has proved to be the case.

The great bulk of the resources calling either for impeachment of the President or for investigation of the grounds for possible impeachment were introduced in the House on October 23 and sometime later that week, upon its introduction, the House leadership very promptly did refer these resolutions to the Committee on the Judiciary for urgent consideration; but despite the urgency and the overwhelming public interest in the prompt result of this matter and the overriding interest and concern of the Congress and of everyone in properly clearing the air, we have really witnessed a truly remarkable inertia in the chairman and the majority leadership of the Committee on the Judiciary in this matter. There has been an amazing unwillingness or inability to get this inquiry underway in a proper manner.

In fact, in the almost 2 months which have elapsed since the committee was directed to undertake its inquiry on October 23, the chairman has seen fit to call only one business meeting of the committee for the purpose of taking any action whatsoever. That was on October 30, and on that occasion the chairman made it clear, both in the prior announcement setting down the ground rules of the meeting and in his opening remarks at the outset of the meeting itself, that the only aspect to be discussed was his own motion to place all subpena power for calling witnesses to be summoned in this investigation in himself, the chairman alone.

Of course we, the minority members of the committee, disagreed with this, which we felt was an unwarranted arrogation of power depriving our ranking minority member and other minority members of the right to participate in the subpenaing of witnesses whom we thought might in the course of events be essential to the committee's obtaining the full necessary facts. At that meeting on October 30, we appealed to the majority, to in all fairness permit the minority to share in this important subpena power; to at least let our ranking minority Member have concurrent subpena power with the chairman, but all of our requests for fair play and evenhanded, nonpartisan conduct of this first essential phase of the inquiry were speedily overwhelmed in a naked display of partisan power by the majority.

There was a straight-line party vote overruling all of our attempts for minority participation in this subpenaing process. I say to you, Mr. Speaker that this display of partisan power leaves little reason for hoping for fairness in the future conduct of the inquiry. I sincerely hope that events will prove that we can have more ground for hope, but events up until this time leave us looking through a very murky glass indeed.

The chairman, since October 30, has not deigned to call a single additional business meeting of the committee, or any subcommittee thereof, to take any action whatsoever on the impeachment inquiry. Now, it is true that last Tuesday, on the 11th, as the gentleman from New Jersey has mentioned, we were invited to come to a briefing—not a business meeting. It was clearly specified in the invitation to this meeting that no votes were going to be allowed, no action was going to be taken; it would just be a discussion, and it turned out to be more or less of a briefing by the chairman as to what he had been doing in the way of employing staff. But we were not permitted to offer any motions or to take any action and, as the gentleman from New Jersey has said, nothing was decided.

Now, whereas there have been statements made that there would be consultation with the minority, my inquiries into this with the ranking minority Member lead me to believe that too often this is a matter of being confronted with a fait accompli. It is not until a decision has been taken, the action made, that anyone in the minority is informed. We do not have an opportunity to be in on the takeoff as well as the landing.

Mr. McCLORY. Mr. Speaker, "consultation" according to the chairman seems to mean reporting to the committee members decisions which the chairman has already made. That really is not consultation. "Consultation" implies a conversation prior to the time of the decisionmaking, and that just has not occurred.

Mr. MAYNE. Mr. Speaker, this is a matter of great importance to this country. It should not be made a matter of narrow partisanship. The partisan elements in both parties should be willing to submerge their feelings of partisanship to allow a truly national consideration of this matter.

I think if we are going to have that kind of nonpartisanship, we are going to have to adhere to the admonition of the great American, Arthur Vandenberg, who said that it would be "necessary to let the minority in on the takeoff as well as the landing."

Now, today, Tuesday, a regular meeting day for our Committee on the Judiciary, on the eve of the recess, this matter was not considered of sufficient urgency for the chairman to call any meeting whatsoever. I am unaware of any conflict which could have prevented it.

We are about to adjourn this first session of the 93d Congress, with no real effort having been made by the chairman to call the full committee together to take any action to even ascertain our full views and ideas as to how best to expedite the investigation and inquiry.

Now, I believe that our committee should be proceeding promptly and vigorously to expedite the inquiry and should remain in Washington until the job is done. It was for that reason that I could not find it within my conscience to vote for the resolution of adjournment yesterday.

Any action by the committee has been effectively stalled, I regret to say, up until this moment, and apparently the chairman has no intention of permitting the committee to take any action before the recess. That means that the Committee on the Judiciary is to be paralyzed and this inquiry is to be paralyzed until January 21. This gives rise to the suspicion, which I fear is a justifiable one, that action has been held off until the Congress and the committee are out of town so that the period of the congressional recess can be used for a barrage of one-sided, well-prepared, highly partisan, and perhaps already prepared press releases about this inquiry.

And if the inquiry is made as to why the minority is not participating in it, then the shield can be used to hide behind that, of course, "the minority is out of town in recess, and cannot be consulted."

Mr. Speaker, we still have opportunity this week, should the chairman decide to call the committee together and really consult with the Members, and here I say, "really consult" with his own majority members, as well as with us on the minority side.

I cannot see that even those on the majority side have been privileged to have very much consultation on this matter.

If the chairman will do this and allow us jointly and cooperatively to determine upon a reasonable course of action, I think that it is not too late to accomplish much and expedite the matter.

Now, in closing, Mr. Speaker, I want to call attention to the very excellent and constructive attitude which has been taken on this matter by the League of Members of the House urging that there be expeditious, prompt handling of this matter.

They have put out a statement entitled "The Time for Action."

Mrs. Lucy Wilson Benson, the president of the league, has written to all members of the Committee on the Judiciary, saying that they believe that—

> The impeachment inquiry should be carried out as expeditiously, fully, and fairly as is possible.

For that reason the board authorized the enclosed "Time for action." In doing so, and I continue the quote:

The league is seeking through a process that has already been put in motion and one that has been seconded by Republicans and Democrats, conservatives and liberals. Senator George Aiken of Vermont put it most succinctly when he said "Either impeach him or get off his back."

The League of Women Voters, as one of the organizations interested in good government in this country, is not satisfied with the dilatory stalling and inert posture of the House Committee on the Judiciary on this day of December 18, 1973. They, like the rest of the country, want the committee to proceed with all deliberate speed in a fair manner to get this matter resolved.

We cannot do it by leaving everything to the staff, staff that the chairman has seen fit to employ for the next period of several weeks.

Mr. McCLORY. I thank the gentleman for a very forceful statement.

I yield to the gentleman from Wisconsin (Mr. Froehlich).

Mr. FROEHLICH. I thank the gentleman from Illinois for yielding and commend him for his leadership in this matter and I would specifically like to associate myself with the remarks of the gentleman from New Jersey (Mr. Sandman).

Mr. Speaker, in the weeks ahead, the Committee on the Judiciary will undertake a thorough inquiry into various charges that have been levelled against the President. In these deliberations, we shall seek to elicit the facts and to determine whether these facts provide a reasonable basis for believing that the President was personally involved in offenses that are impeachable under the Constitution of the United States.

This is a solemn business for America. It should be conducted solemnly. It should proceed with dispatch toward the single objective of impeaching or clearing the President of the United States.

Every member of the committee and every Member of the Congress should rise to the occasion with a new passion for responsibility.

Every Member should shed all motives of partisanship and work only for the public welfare.

Mr. Speaker, I am a Republican. I have served in the ranks of the Republican Party and carried its banner all my adult life. I am proud of my association with this party, even in these difficult times.

I am a Republican, however, who believes that "He serves his party best who serves his country best." Hence, on the question of impeachment, my vote will not be determined by loyalty to my party. It will be determined by a faithfulness to the facts.

I am prepared to do my duty as a public official, however painful and unpleasant that duty may be—and regardless of the political consequences.

In the meantime, I do not intend to be intimidated by senior members of the committee or the House. I will not permit any threatened campaign of guilt by association to still my voice or paralyze my actions in the face of unfairness or political gamesmanship.

I intend to speak up and speak out whenever I believe it is necessary—and to tell my people the truth.

What is the truth today? The truth is that the Judiciary Committee is not proceeding with dispatch toward the single objective of impeaching or clearing the President. The committee is proceeding at a snail's pace with the twin objectives, first, of impeaching a President and, second, of tearing down, humiliating, and destroying the Republican Party.

Can it be doubted for a moment that America's best interest lies in a prompt effort to clear the atmosphere of all the poisonous charges surrounding the Watergate scandal. But the committee does not intend to proceed quickly to clear the air. It intends to inch forward, poring over every particle of administration dirt and scraping every cesspool, not only to resolve old charges but also to try to uncover new ones.

Many citizens have written to me demanding the immediate impeachment of the President. These citizens, whether they are right or wrong, want prompt action. According to all indications, however, the Republican members of the committee will not be permitted to act promptly because the committee's leadership is embarking on a course that will drag out the proceedings for months to come.

Perhaps we can expect action in mid-June, after the New Jersey primaries and just in time for a sensational Senate trial that will distort and inflame the November elections.

Today the committee's leadership is operating not with candor and openness but with stealth and cunning. The committee's Republican members are informed of new developments by news release from the chairman's office. They are not permitted to participate meaningfully in the committee's decisionmaking process.

By design of the majority, the majority members may obtain all the evidence they want without informing the minority while the minority may obtain only such evidence as they can obtain voluntarily or with the knowledge and permission of the majority.

Nothing has caused me greater concern so far than the Speaker's request for $2 million to conduct the investigation. Sitting as a member of the Committee on House Administration, which approved the funding, I was not provided with a scrap of evidence on how the chairman planned to spend this money. The request was reduced by the committee to $1 million with no apparent hardship to the investigation. To this date, I have still not been informed on how all this money is to be spent, except to be provided with a fancy organizational chart with a lot of boxes and titles.

It is high time for the American people to know the truth, not only about the Watergate scandal but also about the plans of certain Democrat impresarios to use that scandal to secure a one-party Congress.

This is an indecent objective. It should be recognized and labelled as such.

I call upon Chairman Rodino to rethink his investigation and revise his procedures so that the Republican members can participate as equals.

And, even more important, I call upon the chairman to set a date certain for a conclusion of the formal investigation and a vote in the committee. If months of additional investigation are thought to be necessary, let him tell the American people now. Let them evaluate the need, if any, for a long delay—and then we can all put our minds to legitimate ways to speed the proceedings.

I am prepared to move forward quickly and responsibly.

I ask nothing less from the committee's leadership.

I include in my remarks an excellent letter from the president of the Wisconsin League of Women Voters urging Congress to "get on with the business of the inquiry" and bring it to a close one way or another.

League of Women Voters
of Wisconsin, Inc.,
Madison, Wis. December 14, 1973.

Hon. Harold Froehlich,
House of Representatives,
Washington, D.C.

Dear Mr. Froehlich: The League of Women Voters of Wisconsin urges that the House Judiciary Committee "get on with" the business of the inquiry regarding the possibility of impeachment proceedings.

The American people are entitled to know the truth. We feel that the inquiry must proceed quickly and as thoroughly and fairly as possible. Adequate staffing is essential; I have written Democratic members of the Wisconsin Congressional delegation urging them to make sure that enough money is appropriated for staff for the minority members of the Committee and that you share in all planning, strategy, and timing.

If the inqury finds no grounds for instigating impeachment procedures, then critics "should get off the President's back" and let him govern. We are sorely in need of leadership. IF the inquiry finds sufficient grounds for impeachment proceedings then we should get on with that, too and find the president either guilty or not guilty. The people of this country are strong enough to cope with any kind of emergency—but they must be leveled with.

Sincerely,

Floss Whalen,
President.

Mr. McCLORY. Mr. Speaker, I yield to the gentleman from Ohio, the vice chairman of the Republican conference (Mr. Devine).

Mr. DEVINE. I thank the gentleman for yielding.

I wish to propound a question, but I would precede it with a very brief statement.

I was quite impressed by the remarks of the gentleman from New Jersey (Mr. Maraziti) that we have had 40 or 50 of our colleagues introduce resolutions of impeachment, and it is difficult for me to understand why these persons who make allegations of high crimes and so forth are not prepared and called immediately before the committee to present their evidence in support of their resolutions.

Another thing that does concern me, Mr. Speaker—and I would direct this question, ultimately, to the gentleman in the well—is what, indeed, has the Committee on the Judiciary been doing this year?

We are in the 12th month of this session. I am on the Committee on House Administration, as the Member in the well well knows, and we are called upon to have the committee members come before our committee pleading for funds with which to operate. Of course, the Committee on the Judiciary came in and, if my recollection is accurate—and do not hold me precisely to the figure—it seems to me we granted something in the nature of $600,000 for their operations for this year. Several months ago they came in and asked for another $70,000. At that time I propounded a question to the chairman and to others who appeared before our committee: "What has the Committee on the Judiciary been doing this year?"

I notice a lack of legislation on the floor, compared to what it has been in the past. There has been quite a bit of activity, but there has not seemed to be so much this year.

Lo and behold, about a month ago we were presented with a resolution asking for not $1 million but $2 million for the Committee on the Judiciary to involve itself only in the impeachment resolution which had been introduced but also in the investigation of the new Vice President. During the course of the questioning it was pointed out that the Senate had already held lengthy hearings, and I think a 1,700-page FBI report had come over. So they dropped the vice presidential part of the request from the $2 million.

I made a motion then that the amount be reduced to half a million dollars, and they compromised in the committee and finally awarded $1 million for the purpose of conducting this impeachment investigation.

Now here we are in the middle of December with probably the most important issue facing the Nation and that has the whole country wondering. I think there were a number of editorials that said "Put up or shut up."

I ask the gentleman in the well has the Committee on the Judiciary been active at all this year, and do they continue in this policy of procrastination perhaps to put it over for another year into the election year and maybe into the following year and the Presidential election year? What is the opinion of the gentleman?

Mr. McCLORY. Let me say to the gentleman I am very proud of the output of the House Committee on the Judiciary. Most of the subcommittees have been very active. I think our work and legislative product has been very commendable. For example, after extensive hearings we recommended and secured passage of an extension and a great improvement of the Law Enforcement Act, which is the principal anticrime measure which this Congress has the opportunity to work upon.

We have brought forth important immigration legislation, and many, many other measures from various subcommittees. In addition to that, we have had extensive studies on a comprehensive review, recodification and revision of the bankruptcy laws. Also a proposed Federal Code of Evidence upon which a vast amount of work has been done, plus, of course, the historic and unprecedented proceedings relating to the confirmation of the new Vice President. In my opinion those confirmation proceedings were conducted very thoroughly and very commendably by the House Committee on the Judiciary.

So I would say, by and large, the work product of the committee has been good, but with respect to this subject of the impeachment inquiry, I think there is the general feeling, as expressed by the gentleman from Iowa (Mr. MAYNE) of displeasure and disenchantment on the part of some of the members on the majority side of the committee, which I am sure is the fact, plus the unanimous dissatisfaction of the Republican Members on the committee with respect to the conduct on this proposed impeachment inquiry.

So that this is really the only strong complaint we have at this time. I would say that it should be and can be promptly resolved by the chairman.

Mr. SMITH of New York. Mr. Speaker, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from New York.

Mr. SMITH of New York. Mr. Speaker, I thank the gentleman for yielding.

I think perhaps the gentleman from Illinois (Mr. McCLORY) would agree that this is a time perhaps when we can fully and justifiably defend the work of the Committee on the Judiciary. I know that the Subcommittee on Criminal Justice has spent a great deal of time in a monumental work toward codifying the Federal Rules of Evidence whch we hope will be before the House in January. Besides all the other work, the Special Prosecutor bill, the confirmation of the Vice President, Mr. FORD, the extension of the Watergate Grand Jury, and others, so, I think the work generally in the Committee on the Judiciary can be well justified and defended with the Committee on House Administration.

Mr. Speaker, I would like to commend the gentleman from Illinois, Mr. McCLORY) for taking this special order in regard to this project on investigating the impeachment possibilities. I want to associate myself with the remarks of the gentleman from Illinois generally. I want to say that particularly do I think that it is for the best interests of the whole United States if this project of the Committee on the Judiciary shall proceed with dispatch to its conclusion, whatever that conclusion may be.

Further, I strongly believe that the impeachment investigation can best be pursued by a select committee of the Committee on the Judiciary, which would come to the full committee from time to time for policy decisions, and which would of course welcome the attendance of any members of the full committee at any time.

In addition, Mr. Speaker, I cannot too strongly urge the necessity of observing due process as the committee proceeds in this investigation. The work of this committee must be recognized as eminently fair by all citizens of this country.

I thank the gentleman again for yielding to me.

Mr. McCLORY. I thank the gentleman from New York for his statement, and his support for this action.

I now yield to the gentleman from Illinois (Mr. RAILSBACK).

Mr. RAILSBACK. Mr. Speaker, I want to commend the gentleman from Illinois for taking this time to discuss the impeachment inquiry. I share with the gentleman many of the concerns he has expressed, particularly those that relate to the lack of communication and participation by the minority in structuring the inquiry itself. I personally believe that Chairman RODINO is attempting to find a top-flight counsel to head the inquiry, but I am concerned that in the interim the special ad hoc subcommittee of the Judiciary Committee has not been appointed and that selection of the special counsel has been given as the reason. It seems to me that many valuable committee functions and much preliminary research could be performed by such a subcommittee prior to the appointment of special counsel.

It is my sincere hope that as additional staff are appointed for the special purpose of working on the inquiry, the minority will be given staff at least in proportion to its representation in the House of Representatives. If there is to be a successful inquiry, it is absolutely necessary that it be handled in a nonpartisan manner. This issue is so important it is imperative that we have full bipartisan participation.

I feel there are some steps that must be taken immediately by the Judiciary Committee if we are to proceed expeditiously and to afford the President the rights to which he is entitled. First, a small, manageable ad hoc subcommittee comprised of an equal number of Democrats and Republicans should be appointed promptly to begin the initial impeachment inquiry. The size of such a subcommittee should be limited to 8 or 10 members to enable it to function efficiently and effectively. Second, the subcommittee should undertake to formulate a timetable for the actions of the subcommittee as well as the full Judiciary Committee.

By setting a timetable, we would at least have a goal to strive toward. Third, ground rules should be formulated which take up: First, the rights of the accused; second, the standards of proof required; third, the admissibility of evidence; fourth, the question of what constitutes an impeachable offense; fifth, the question of open or closed sessions; and sixth, all other procedural and legal questions that will ultimately confront the Judiciary Committee.

With respect to the question of rights of the accused, it is my own belief and there is ample precedent for it, that the respondent should have the right to counsel present at all hearings, whether the hearings be closed or open. The counsel should have the right to cross-examine. This would be particularly true if open hearings were held. Otherwise, we would run the risk of having the public only see one side of the case presented.

The respondent should also have the right to request the issuance of subpenas on his own behalf. It is interesting to note that as the years have passed, particularly in the 20th century, the House of Representatives has increasingly added to the rights of the accused in the interest of fair play. In addition, it is my own personal belief that it would be a serious mistake to have those Members who have already introduced resolutions calling for impeachment serving on the ad hoc committee. I believe we must undertake this difficult responsibility in an impartial and unbiased manner.

Mr. Speaker, the American people believe in justice. They believe in the rights of the accused to have a fair trial. They believe that a man is innocent until proven guilty. These rights are no less important in the type of proceedings that we are undertaking than they are in a criminal trial.

Perhaps these rights are even more significant, because we as members of the House Judiciary Committee are being asked to consider removing a man from office who was reelected only a year ago by an overwhelming majority of the American people. Let us therefore proceed expeditiously with full realization of the importance of the responsibility that has been assigned to us.

Mr. Speaker, I only hope that we on the House Judiciary Committee measure up to the important responsibility which has been vested in us.

Mr. McCLORY. I thank the gentleman for his comments.

Mr. DENNIS. Mr. Speaker, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Indiana.

Mr. DENNIS. I thank the gentleman for yielding.

I will be brief, Mr. Speaker. Before I turn my attention to the matter of impeachment, which concerns us this afternoon, I should like to say at the outset that I join in no suggestion from anyone of general criticism toward the work of the Comimttee on the Judiciary. Indeed, I think probably one of the more unfortunate aspects of the impeachment matter is that it will almost necessarily interfere to some extent with the regular program of the committee.

However, that may be, up to this time this committee has done a good job.

The subcommittee on which I formerly served, headed by the gentleman from Pennsylvania (Mr. EILBERG) for instance, got out a fundamental revision of the immigration law this year, which has been long overdue, and passed it in this House.

The subcommittee on which I presently serve, headed by the gentleman from Missouri (Mr. HUNGATE), has done truly monumental work in getting out a new Code of Evidence for the Federal courts, and in starting preliminary work on a revision of title 18 of the Federal Code, moving out Special Prosecutor's bills, moving Senator ERVIN's bill from over in the Senate, concerning the subpenaing of documents from the Executive, and the whole committee has held the Ford hearings.

I think we have been a very busy, productive committee; and without trying to say anything too flowery about the gentleman, I really am glad to take the opportunity to say that I think the gentleman from Missouri (Mr. HUNGATE) is probably one of the best subcommittee chairmen in the Congress.

Let me turn for a minute to the matter which causes us to have a special order today. A few years ago when I was a freshman Member in the House the Honorable GERALD R. FORD took the floor to call for the impeachment of Justice William O. Douglas of the Supreme Court of the United States. On that occasion Mr. FORD said, in effect, that an impeachable offense was practically anything the Congress decided they wanted to make it. I fully recognize the political force and the political power and the political truth of that statement. If you have the votes you can impeach, I suppose, and only a few experts, scholars like Professor Berger, think that there is any such thing as judicial review. But I have never subscribed to that position as a legal proposition, as distinguished from a political one.

If one can believe what he reads in the papers, and I concede that is a big "if," it may be that in the impeachment inquiry now underway by our committee we are coming dangerously close to adopting the theory to which I have just referred. In the Evans and Novak column in the Washington Post the day before yesterday they spoke of what they call "closing of the gap over impeachment politics between fire-eating junior Democratic Congressmen who—according to them—abound on the Judiciary Committee and the party's leadership in the House. Both leaders and fire-eaters—they say—now agree on this strategy: Delay a vote until a long, hard investigation generates nationwide impeach sentiment, probably next summer at the earliest."

I recognize, of course, that is only newspaper talk. Knowing my colleagues on the committee I would hesitate to believe that there was any truth in it; but that seems to be the suspicion abroad in the land, that the majority is delaying this for political reasons and is planning impeachment for political reasons when political sentiment has been built up by the delay.

I certainly hope that is not the approach which anyone on this committee intends to take.

There is much to do in this committee. There is a great deal of legal research to be undertaken as to what is an impeachable offense. There is much factual research to be undertaken as to whether there is any shred of evidence which might credibily be regarded as an impeachable offense. And these things take time, so I would not try to draw any deadline on this committee.

I do not think that would be appropriate, but there are certain things that can be done and done without much delay.

We can decide whether to proceed by a subcommittee or a full committee.

We can decide on the composition of the subcommittee.

We can consider whether hearings should be open or executive.

We can think about the procedure to be undertaken and whether people have a right to counsel and whether people have a right to cross-examine, and so on.

And above all, as some peole have already pointed out, we can determine these things by committee action, not out of the hat of the chairman, or anyone else.

So I say we do need a careful and thorough investigation.

I would not suggest any deadline on this procedure, but there comes a time when, in this matter as in other matters, in the homely phrase, we need to put up or shut up.

Mr. McCLORY. I think the gentleman has about 30 seconds left remaining.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on the subject of this special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. McCLORY. Mr. Speaker, I yield to the gentleman from Ohio for a question.

Mr. SEIBERLING. I was going to ask a question, but before the gentleman from Indiana leaves I would like to respond to his reference to the Evans and Novak column. I was one of the members of the committee who was mentioned in the column as being a fire-eating liberal. My immediate reaction was: heck, I don't even smoke! They lumped me with two other Members who happen to have introduced resolutions of impeachment, something I have expressly refused to do. So I will let the gentlemen judge whether the columnists were lumping apples with oranges.

Mr. DENNIS. Mr. Speaker, will the gentlemen yield?

Mr. SEIBERLING. If I may finish my thought, I will then yield, if there is time.

The interesting thing is that Evans and Novak were then taking the tack that the so-called fire-eating liberals were pressing Chairman RODINO to pull out all the stops on the impeachment investigation.

A month later they were writing a column saying that those whom they call fire-eating liberals are dragging their feet and want to drag this thing out until next June.

I suggest that neither of their columns is due any credence, because as far as I can tell, since they have labeled me as one of this group, my position for a thorough, expeditious investigation has not changed one iota and I do not believe any of the other Democratic members have changed.

I would hope that the members of the committee will base their judgments of their colleagues on objective evidence and personal observation and not on what appears in some newspaper column.

I have some questions for the gentleman from Illinois (Mr. RAILSBACK).

Does not the Constitution lodge the sole power to try impeachment in the Senate of the United States?

Mr. RAILSBACK. Mr. Speaker, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman.

Mr. RAILSBACK. My understanding is that is correct.

Mr. SEIBERLING. Would it not be a usurpation of the constitutional authority of the Senate for the House to set up a similar proceeding, with all that the gentleman said should be included in the Judiciary Committee's investigation procedure? For example, the right to be deemed innocent until proven guilty implies a complete trial on the merits before the Committee on the Judiciary or a subcommittee thereof; would that not be a usurpation of the powers of the Senate?

Mr. RAILSBACK. Mr. Speaker, will the gentleman yield?

Mr. McCLORY. As I see the inquiry, it would put the House Committee on the Judiciary in the role of a grand jury, or investigative body whereas the Senate would act more in the nature of a petit jury to try the issues.

I yield to the gentleman from Illinois.

Mr. RAILSBACK. I thank the gentleman for yielding. Let me reply by saying this. If we were to perform as a grand jury there would be no open hearings; but one thing, we would have the evidence presented to us. Presumably there would be no leaks. Presumably it would be an entirely secret proceeding.

I would say to the gentleman if that was to happen, then some of the fears that I expressed, I would not have expressed.

Let me also say to the gentleman that I do not believe I said that we had to find that he was guilty beyond a reasonable doubt. I purposely did not say that.

I said that the special select committee should consider what should be the standards of proof required as far as our proceeding is concerned; but do not be so naive as to think that we are going to act like a grand jury, because already members on the other side have said there should be open hearings. If there are going to be open hearings, it is only fair to that man, if we are going to proceed, they are similar to a grand jury; it is not fair to have public hearings and have the prosecutors come in and present all the incriminating evidence without having counsel present. That is not a grand jury proceeding.

Mr. McCLORY. Let me say, I do not want to yield further; but that is one of the decisions the committee should be making and it relates to the proceedings we should be carrying out.

Mr. Speaker, I agree to yield briefly to the gentleman from Virginia (Mr. BUTLER).

Mr. BUTLER. Mr. Speaker, I thank the gentleman from Illinois for yielding to me.

Mr. Speaker, I just want to associate myself with the remarks of the gentleman in the well and say that I appreciate this opportunity to join in this protest of the action or lack of it by the chairman. I hope he will reconsider the procedure which he has adopted, take us into his confidence and proceed in the orderly fashion which the circumstances indicate.

Mr. McCLORY. Mr. Speaker, I yield to the gentleman from California (Mr. McCLOSKEY).

Mr. McCLOSKEY. Mr. Speaker, I want to commend the gentleman from the Judiciary Committee for taking this special order. This is a great committee; it is a committee which has handled, to my knowledge in the 6 years I have been in the Congress, six constitutional amendments; that has handled a previous inquiry into an impeachment. It has historically and to this date contained the ablest lawyers in the House of Representatives.

Each of those lawyers is aware of the fact that the House only has two special constitutional responsibilities; one of them to initiate revenue measures; one to undertake impeachment. As lawyers, we undertake this as prosecutors; that the first rule of due process in a criminal case is that the defendant is entitled to a speedy trial. No prosecutor, when his attention is called to circumstances of a possible crime, would not speedily at least undertake an investigation.

Yet, here we are today, December 18, with resolutions that have been referred to this committee over 6 weeks or 2 months ago, and if I understand the gentleman's remarks correctly, there has not even begun an investigation into the facts that have been alleged against the President of the United States as justifying his impeachment.

Mr. McCLORY. Mr. Speaker, according to the report we have from the chairman of the committee, the staff has already initiated the investigation; that is, a review of the evidence that has been deduced in other committees of the Congress and in other hearings and in court proceedings. The staff seems to have been concerned with putting together the existing evidence, the existing factual material. It may be that this will be the entire scope of the inquiry; we really do not know.

Mr. McCLOSKEY. Mr. Speaker, I understand that and I commend the staff for moving with that, but as I understand the gentleman's remarks, there has been no subcommittee appointed, no select committee, no member of the House Judiciary Committee has begun independently to evaluate the evidence. Yet, as the gentleman from Ohio said earlier, the people that have introduced 26 resolutions have not been called upon to testify to back them up. I am one of those individuals. I submitted a resolution to this committee 7 weeks ago indicating more specific criminal code violations.

This is not a matter that requires a great constitutional understanding or great scholastic attainments. Any one of the attorneys on the Judiciary Committee knows what the title XVIII charges are; what evidence is required to convict; what evidence may be considered, and it is just appalling that what the gentleman has said, that this great committee with this tremendous responsibility, with the focus of the entire United States and the Congress today asking what is Congress doing on the major issue of our time, and here, over a month after a million dollars has been specially funded to cover the cost of investigation of this matter, I say there has been no meeting to consider the evidence; no appointment of a subcommittee; no appointment of a means of procedure to consider the evidence.

I think that the gentleman rightly points out that this is an abdication of the responsibility of the Judiciary Committee, and unless the chairman insists that there be procedure by a majority of the committee under the rules of the House to call this meeting, and if it is to be the nonpartisan inquiry that the Democratic members of the committee had mentioned that they take pride in, it will not be nonpartisan; that there is now a responsibility on the Democratice members of that committee to join with the Republicans to insist that the chairman at least expedite the procedure of the examination of this evidence.

Mr. McCLORY. Mr. Speaker, we have no way of providing answers to our constituents, or to the American people, during the Christmas recess except the answers we are providing presently in this special order.

Mr. Speaker, I now yield to the gentleman from Maryland (Mr. HOGAN).

Mr. HOGAN. Mr. Speaker, I would like to commend the gentleman from Illinois for taking time to discuss this subject. All of us on the committee share his concern about the drift this is taking. I am concerned not only about the delay, but also about partisanship. We can say all day that the investigation will not be partisan.

However, there have been many indications so far that it will be partisan. The chairman demanded personal subpena powers. By a straight party line vote, it was given to him. He said on the one hand the subpena power would be used very discriminatingly and on very rare occasions, and yet he did not want the full committee to exercise the power to authorize those subpenas.

Second, the committee asked for $2 million to finance this impeachment investigation. It was cut down to $1½ million, and finally they got $1 million.

The SPEAKER pro tempore. The time of the gentleman from Illinois has expired.

Mr. HOGAN. Mr. Speaker, I ask unanimous consent that the gentleman from Illinois (Mr. McCLORY) be permitted to proceed for 2 additional minutes.

The SPEAKER pro tempore. The

Chair will inform the gentleman that he cannot entertain that type of a unanimous-consent request at this time.

Mr. MAYNE. Mr. Speaker, the American people expected, and have the right to expect, that the House Judiciary Committee would move much more promptly to conduct an inquiry into the matter of impeachment than has been the case.

The great bulk of the various resolutions calling for impeachment of the President or calling for investigation of grounds for possible impeachment were introduced in the House on October 23 and subsequent days that week. Upon their introduction, the House leadership, the Speaker, determined that circumstances required that the matter be immediately referred to the House Judiciary Committee for urgent consideration.

Despite the urgency and the overwhelming public interest in the prompt resolution of this matter, and the interest of the Congress, the President and all other parties concerned in clearing the air, we have witnessed a truly remarkable unwillingness or inability on the part of the chairman and majority membership of the House Judiciary Committee to get this inquiry underway.

In the almost 2 months since the committee was directed to lodge this inquiry, the chairman of the committee (Mr. RODINO) has seen fit to call only one meeting of the committee for the purpose of taking any action whatsoever toward investigating the grounds for impeachment. That was on October 30, and on that occasion the chairman made it clear both in the announcement of the meeting and in his remarks at the outset of the meeting that the only aspect to be discussed was his own motion to place all subpena power for calling witnesses to hearings held in this investigation in himself alone. The minority members of the committee of course disagreed with this arrogation of power, which deprived the ranking minority member and all other minority members of the committee of the ability to participate in the subpenaing of other witnesses whom they might in the course of events believe essential to the committee's obtaining the full and complete story. We appealed to the majority to in all fairness permit the minority to share in this important subpena power and to at least let our ranking minority member have concurrent subpena power with the chairman, but all of our requests for fair play and evenhanded nonpartisan conduct of this first phase of the inquiry were speedily overwhelmed on a straight party line vote. This unfortunate display of naked partisan power by the majority leaves little reason for hope for fairness in the future conduct of the inquiry.

Since that date, October 30, the chairman has not deigned to call a single business meeting of the committee or any subcommittee thereof to take any action whatever on the impeachment inquiry.

The chairman at no time called the committee together to consult with the members—certainly not with the minority members—as to how the committee should proceed on the investigation of possible grounds for impeachment. He did finally invite the members to meet with him last Tuesday, December 11, but only to hear him relate what he himself had done in the way of employing and directing staff, and the dictate was clearly laid down in advance of the briefing by the chairman that no votes would be taken and no action decided upon.

In the meantime, the chairman approached the House Administration Committee for $1.5 million additional funds for the purpose of conducting the investigation, without consulting the minority or as far as I know any other members of his committee. On November 15, when my colleagues and I protested this lack of consultation and lack of any detailed budget or justification for this proposed additional spending, reduced to $1 million by the House Committee on Administration, the chairman did make some statements on the House floor assuring that the minority would be consulted. But the majority of the House, on basically party line votes, moved the question after less than an hour's debate, defeated an effort to insure that the committee's minority would have control over one-third of the new funds, and approved the authorization.

As I have stated, the chairman did finally give the members of the Judiciary Committee some information as to what he had done in hiring staff and obtaining information from the Library of Congress and other sources regarding the process of impeachment.

It was revealed that numerous staff have been hired, but the promise and assurance of full consultation with and participation by the minority remains unfulfilled.

Consultation does not mean just informing minority members of fait accompli, it means active participation by the minority while the alternatives are being pondered and decisions are being made. As that noted statesman and proponent of nonpartisanship, the late Senator Arthur Vandenberg, so often pointed out, nonpartisanship means being included in the takeoffs and not just in the landings or crashes. We of the minority are not being included in the takeoffs—and from what I understand, neither have many of the majority members of the committee. This is not a game of solitaire, but a serious inquiry of importance and interest to all members of the committee.

Today, being a Tuesday, is the regular day for House Judiciary Committee meetings—but the full committee was not called to meet although I am unaware of any conflict which would have prevented a meeting. We are about to adjourn this 1st session of the 93d Congress, to reconvene January 21, 1974, with no real effort by the committee chairman to call the full committee together, ascertain their ideas and views as to how to best expedite the necessary investigation and hearings, and get the inquiry underway, and advise them as to what the staff will be doing in preparation for as-yet-unscheduled hearings. Our committee should be proceeding promptly and vigorously to expedite this inquiry and should remain in Washington until the job is done. I therefore in all conscience could not support and voted against the resolution of adjournment which was presented to the House and approved yesterday.

Any action by the committee has now been effectively stalled by the chairman to this point, and he apparently has no intention of permitting the committee to take action before the recess, which means before January 21, 1974.

This gives rise to the suspicion, which I fear is a justifiable one, that the committee chairman is holding off until the Congress and the committee members are out of town during the period between sessions, and that he will then let loose a barrage of one-sided, well-prepared, and probably already at this time prepared press releases about what the committee will and will not do regarding the inquiry as to the grounds for impeachment. He may hide behind the shield he created, stating that of course he had no opportunity to consult with the minority members of the committee before making the announcements because they were not in Washington.

We still have opportunity this week should the chairman decide to call the committee together and really consult with the members and determine upon a reasonable course of action permitting this very important inquiry to be carried forward without further delay and not be used for partisan purposes. The American public expects and deserves no less.

Mr. Speaker, Ms. Lucy Wilson Benson, president of the League of Women Voters of the United States, by letter of December 13, 1973, advised me that the league believes "the American public must be convinced that a thorough and fair inquiry has been made." She stated that, to assure that end, she had—

> Written to Chairman RODINO and the other majority members of the committee urging that at least one-third of the appropriated funds be made available for minority staffing, and that the minority be represented in all planning for staff, strategy and timing.

Mr. Benson's letter concluded:

> It is essential that [our] inquiry be carried out in a manner that will help restore citizens' confidence in the ability of their elected officials to govern responsibly and equitably.

Mr. Speaker, in view of the several important and thoughtful observations and recommendations made by Ms. Benson, I ask unanimous consent that her letter, together with the League of Women Voters memorandum to local, State, and international league presidents and the league's factsheet on the impeachment inquiry, both enclosed with her letter, be printed in the CONGRESSIONAL RECORD at this point in my remarks.

THE LEAGUE OF WOMEN
VOTERS OF THE UNITED STATES,
Washington, D.C., December 17, 1973.

Hon. WILEY MAYNE,
House Judiciary Committee, U.S. House of Representatives, Washington, D.C.

DEAR MR. MAYNE: The League of Women Voters is committed to orderly governmental processes and promoting citizen confidence in public officials and the institutions they are responsible for. Recent developments on the national scene have undermined that confidence and disrupted those procedures. Your Committee has now undertaken a momentous inquiry into whether or not grounds for impeaching the President exist.

The League considers the impeachment *process* a legitimate constitutional means whereby the representatives of the people (Congress) can determine whether or not there are grounds for removal from office of a member of the executive or the judiciary. The League does *not* prejudge whether an individual is guilty or innocent nor does it have a position on what causes impeachment might be based upon.

We believe, however, that whatever the outcome, the American public must be convinced that a thorough and fair inquiry has been made. To assure that end, I have written to Chairman Rodino and the other majority members of the Committee urging that at least one-third of the appropriated funds be made available for minority staffing, and that the minority be represented in all planning for staff, strategy and timing. I also wrote them that our members support efforts to find a special counsel with the highest qualifications and hope his/her appointment will be made soon so that hearings can get underway expeditiously.

The League believes that the Committee hearings must be open so that the public can follow all major developments and lines of inquiry. This openness should also cover acquisition and publication of documents pertaining to specific charges that can be released within the limits of national security and protection of individual rights as determined by the Supreme Court.

League members and other citizens across the country will be following the deliberations of the House Judiciary Committee with great interest and concern in the months to come. It is essential that your inquiry be carried out in a manner that will help restore citizens' confidence in the ability of their elected officials to govern responsibly and equitably.

Sincerely,

LUCY WILSON BENSON, *President*.

MEMORANDUM

To: Local, State and ILO Presidents.

From: Lucy Wilson Benson, President.

On December 3 and 4, the Board of Directors held a special meeting to discuss possible League reaction to the current chain of events in Washington. We did so out of deep concern for the effort that the so-called Watergate revelations are having on public confidence and trust in all levels of government and to see what role, if any, the League could play in restoring a sense of equilibrium and perspective.

As you can well imagine, the discussion covered a broad range of subjects. From the outset of the meeting it was clear, as I indicated in my memo of October 24th, that we could not, as an organization, speak to many of the specific issues, charges, and countercharges which are so much a part of the Watergate controversy. While nothing is certain in these tumultuous times, it seems highly likely that the impeachment process now underway in the House of Representatives may ultimately provide the answers to some of the questions raised by Watergate as well as other actions taken by the Executive Branch over the past five years.

It is not the League's business to judge the validity of the charges that have been made—that task rests with the House Judiciary Committee. However, the Board does believe that as an organization dedicated to responsible and responsive government we have an obligation to insist that the impeachment process be carried out as expeditiously, fully and fairly as is possible. For that reason, the Board authorized the enclosed Time for Action which speaks to the Judiciary Committee procedures.

In doing so, the League is speaking to a process that has already been put in motion and one that has been seconded by Republicans and Democrats, conservatives and liberals. George Aiken (R., Vt.) put it most succinctly when he said, "Either impeach him or get off his back." In talking about impeachment, the Board found itself wrestling with the whole question of what the word really means and what the process actually involves. The steps now being taken by the House Judiciary Committee are preliminary steps—they constitute an inquiry into whether or not impeachable offenses have been committed by the President. Because of the difficulties we had and because of the general public confusion over the nature and semantics of impeachment we have prepared the enclosed Fact Sheet for League information and use. We are also considering publishing a fuller version for all members in the next issue of The Voter.

The Board also believes that Leagues can play a vitally important public education role on the impeachment issue—in giving citizens the facts about the process, how it came into being, and what it entails. In short, that it is not a process to be feared unless one fears the Constitution. The Board will be discussing the League's public education role in more detail at its next regular meeting January 7–10. In the interim, we hope that if you have a congressional interview scheduled in the upcoming recess you will bring the matter up with your Congressman. Leagues should also consider sponsoring community discussions on the process either through public meetings or via radio or television public affairs programs. Your Congressman, for example, might welcome the opportunity to discuss the matter on a League moderated panel along with other community leaders and authorities. If you have any suggestions for League activities that you'd like the Board to consider, please let us know.

For your information, the Representative Government Committee will meet next week to analyze the results of the campaign finance decision making and to formulate recommendations for the Board to consider. Since Congress failed to act this session, there will be plenty of work for the League in 1974. We plan to mail the results out as quickly as possible after the Board meeting. In addition, you can get a detailed summary of our new campaign financing position by calling (202) 296–0218, the League Spotmaster service, any time between 9:30 a.m. Friday, January 11 and 5:00 p.m. Monday, January 14.

FACT SHEET—(TO ACCOMPANY TIME FOR ACTION ON THE IMPEACHMENT INQUIRY)

The Time for Action which this "Fact Sheet" accompanies, is limited to action on the impeachment inquiry, but it is necessary that League members and the public understand the larger context in which an inquiry takes place. The process of impeachment is already underway. This is the first step provided in the Constitution; it takes place in the House.

Resolutions to investigate charges against the President and asserting specific articles of impeachment have been introduced by House members and referred to the House Judiciary Committee Chairman, Peter W. Rodino.

The House has granted $1 million to the Committee for expanded staff, etc., to investigate whether or not impeachable offenses have been committed by the President. (The resolution—H. Res. 702—passed 367 to 51, with Republicans voting 138 for passage and 47 against, and Democrats voting 229 for and 4 against.)

31 staff members are already at work and Samuel L. Garrison has been named Chief Counsel for the Republicans.

Misconceptions abound and many questions are raised about "impeachment":

What does the term "impeachment" mean? How does it fit into the overall Constitutional process for removal of public officials from office?

What is that overall process of bringing charges and determining the innocence or guilt of an individual?

To answer those and other questions for League members, and provide a basic community information tool, this fact sheet provides:

1. The provisions set forth in the Constitution with regard to removal from office upon impeachment and conviction;
2. A discussion of terms pertinent to discussion and action;
3. A brief description of the distinctly separate processes for which the House and Senate are responsible;
4. A brief review of official House action to date;
5. A brief list of resource material.

WHAT THE CONSTITUTION SAYS

The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors. [Article II, section 4.]

The House of Representatives . . . shall have the sole Power of Impeachment. [Article I, section 2.]

The Senate shall have the sole Power to try all Impeachments. When sitting for that purpose, they shall be on Oath or Affirmation. When the President of the United States is tried, the Chief Justice shall preside: and no Person shall be convicted without the Concurrence of two thirds of the Members present.

Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law. [Article I, section 3.]

In summary:

The House alone has the power to bring charges of impeachable offenses; that is, to impeach.

The Senate alone has the power to bring the accused individual to trial and determine innocence or guilt; that is, possibly to convict and remove from office.

The only penalty the Senate can impose is removal from office and disqualification from holding any future public office.

DISCUSSION OF TERMS

(1) Impeachable offenses: The Constitution lists these as "treason, bribery, high crimes and misdemeanors." Not all of these terms have been defined precisely by law or legal precedent, and one purpose of the inquiry is to define "impeachable offenses." Definitions range from A to Z as you can see from the following quotes:

"Impeachable offenses are not confined to acts interdicted by the Constitution or the federal statutes, but include also acts not commonly defined as criminal or subject to indictment." and

"Impeachment may be based on offenses of a political character, on gross betrayal of public interests, inexcusable neglect of duty, tryrannical abuse of power and offenses of conduct tending to bring the office into disrepute."—From Cannon's Precedents of the House of Representatives (Vol. VI, Sec. 545).

"Those offenses which proceed from the misconduct of public men, or, in other words, from the abuse or violation of some public trust. . . ." Impeachable offenses are political, "as they relate chiefly to injuries done immediately to the society itself."—From The Federalist (No. 65) by Alexander Hamilton.

"What, then, is an impeachable offense? The only honest answer is that an impeachable offense is whatever a majority of the

House of Representatives considers to be at a given moment in history."—Gerald Ford, April 1970, in connection with his effort to have U.S. Supreme Court Justice William O. Douglas impeached.

(2) Inquiry: an official investigation by a House committee to determine whether or not there is justification for a formal accusation. An "inquiry" does not constitute impeachment.

(3) Articles of Impeachment: an official statement of one or more charges (or accusations) that are deemed to be offenses which could constitute justification for removal of certain public officials from office. The "articles" may be submitted by individual House members in resolutions or may be drawn up by a committee charged with investigating claims or evidence of "impeachable" charges.

(4) Impeachment: one step in the process of removal of a public official—the formal accusation by majority vote in the House that one or more "impeachable offenses" has been committed. Such a vote of accusation (i.e. impeachment) by the House does not result in removal from office; it is comparable to indictment by a grand jury and leads to trial to determine innocence or guilt with regard to the charges or accusations.

(5) House Managers: one or more members selected by the House to prosecute the impeachment (accusation) in the Senate.

(6) Impeachment Trial: the Senate procedure for determining innocence or guilt of charges brought by the House. The procedure may be compared to trial by jury, but is more flexible than civil or criminal court proceedings. In effect, the Senate serves as the courtroom, the House Managers as Prosecutors, the Chief Justice of the U.S. Supreme Court as judge and the Senators as jury.

(7) Conviction: a two-thirds vote by the Senators present agreeing that the individual accused is guilty on at least one article of impeachment. It is only after such a Senate vote that a President or other public official can be removed from office. A failure to attain the two-thirds vote in the Senate has the effect of retaining the accused individual in office, but still liable to indictment and conviction for criminal and indictable offenses in judicial branch procedures.

THE PROCESS OF REMOVAL FROM OFFICE

. . . The process of impeachment in the House may begin in a variety of ways: by charges made on the floor by a member; by resolution or memorial; by charges transmitted from the President, a state legislature, a grand jury; or in response to facts derived and reported by an investigating committee of the House. Indeed, 'common fame', such as facts contained in newspaper reports, has at times led the House to order an investigation with a view toward impeachment. As Thomas Jefferson, drawing on a 1625 Resolution of Parliament, said: 'Common fame is a good ground for the House to proceed by inquiry, and even to accusation.'

. . . If the investigating Committee recommends impeach, it sends to the House a resolution and articles of impeachment which specify the grounds of accusation. These are then debated and voted upon, a majority vote of those present being required to bring the President to trial. The House then selects 'managers' to prosecute the impeachment in the Senate trial. In the past, House managers have been chosen by the Speaker or by majority vote of House members. The House managers then transmit the articles of impeachment to the Senate. The Senate, in turn, informs the House when it is ready to proceed with the trial.

The Senate trial is governed by the Senate Rules of Procedure. . . . When the President is on trial, the Chief Justice presides. The trial begins with the Justice administering an oath to the Senate members. Each must swear or affirm that he or she will do impartial justice according to the Constitution and laws. The accused is then summoned to appear and answer the charges. The accused may appear personally or by counsel. A failure to appear personally or by counsel is treated as the equivalent of a plea of "not guilty".

The proceedings are somewhat similar to, but far more flexible than, those applicable in either a civil or criminal trial. Both sides may present witnesses and evidence and the accused. has the right to cross-examine witnesses. Procedural questions which arise during the trial, such as questions of evidence, are ruled upon by the Chief Jutice. However, at the request of a single member, he may be overruled by a majority vote of the Senators present.

The Constitution specifically provides that conviction requires a two-thirds vote of the Senators present. The Senate rules require a separate vote on each article (charge). A two-thirds vote on a single article is sufficient for conviction.

The Constitution limits the penalties to removal from office and disqualification from future office.

Summarized from *Jefferson's Manual* and House Rules, by the American Civil Liberties Union in "The Impeachment Handbook," November 1973, pp. 26–27.

RESOLUTIONS BEFORE THE HOUSE JUDICIARY COMMITTEE

The Committee has before it 107 resolutions of two basic types:

One kind sets forth specific charges (Articles of Impeachment) which it requests the Committee to submit to the House for a vote. There are 31 resolutions of this kind, which set forth either three, seven, or eight charges of criminal, illegal, or political acts the sponsors deem to be impeachable offenses;

The other type of resolution (with 76 sponsors and co-sponsors) calls for official Committee investigations of the President "to determine whether high crimes have been committed and to report any articles of impeachment or other recommendations it deems proper."

The Committee also has before it one resolution asking that Congress *censure* and condemn the President for his "announced defiance of the judicial branch. . . ."

RESOURCE MATERIAL

In recent months a number of books and publications have been issued. The few we cite are intended to provide facts and official documents related to impeachment and removal from office and to place that issue in the context of increased executive branch power.

(1) Raoul Berger, *Impeachment: The Constitutional Problems*, Harvard University Press, 1973.

(2) House Committee on the Judiciary, 93–I, "Impeachment: Selected Materials," (1973), Y.4. J89/1: IM 7/2. Government Printing Office, Washington, D.C. $4.40.

(3) Arthur M. Schlesinger, Jr., The Imperial Presidency, Houghton Mifflin, 1973. (The Atlantic, November '73, reproduces the last chapter from that book—"The Runaway Presidency.")

RATE OF CRIME

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. Esch) is recognized for 15 minutes.

Mr. ESCH. Mr. Speaker, the incidence and rate of serious crime have been increasing according to official compilations of offenses reported to police. It seems that each day we read of another utterly senseless murder or crippling attack that falls into that too familiar category we call street crime.

I do not raise this matter as an alarmist. Rather, I seek to focus attention on the need to probe the causes and effects of urban violence and the importance of planning—not only by government and law enforcement officials but by community agencies and citizens action groups as well.

The importance of developing cooperation among all elements of the criminal justice system and the communities they serve was clearly spelled out in six reports prepared by the National Advisory Commission on Criminal Justice Standards and Goals.

The $1.75 million study could well serve as a blueprint for achieving a measurable reduction of crime. Utilization of its standards and recommendations would give us the tools for a coordinated attack on lawlessness while making certain we would not sacrifice our constitutional liberties and civil rights.

The Commission recently raised a timely warning about the threat posed to an individual's right to privacy by the unchecked use of computers to compile crime records. A major portion of the report emphasized the need to protect against unauthorized tapping of computers and to enact legislation limiting collection and distribution of criminal history records.

The "right to privacy" has its roots in American law in the guarantees of the fourth amendment to the Constitution. This right is becoming increasingly important in police as well as civil liberty circles as police departments turn to computerized information about arrests, prosecutions, and sentences for crimes.

Computerized information systems have enormous potential for increasing the capability of law enforcement. The urgency of the Nation's crime problem plus the availability of computers and data processing equipment used by skilled professionals have made integrated local, State, and national information systems a real possibility. Uses of information and computers vary from jury selection to police manpower allocation to crime-oriented planning to correctional program placement.

In Detroit, where there have been more than 700 homicides this year alone, the police department has expended $2 million and 2 years of work in developing a new computerized control center. Indeed, the facility makes the Detroit force the most modern in America. As a typical example of the computer's usefulness, it will monitor police scout cars. It will know the average time a car spends in responding to a family trouble call and alert a dispatcher if the officers do not call back within the specified time. Computers will also be used in connection with the city's 911 emergency number which is the telephone number designated for public use throughout the country in reporting an emergency or asking for assistance. Congress has passed and the President has signed the Emergency Medical Services Act which included a provision for emergency communications assistance. Hopefully, this will stimulate action on the bill sponsored by many of us which will help communities with the extra expenses encountered in establishing the "911" emergency telephone number.

Computers in crime control are proving their worth in many communities across the Nation. In San Jose, Calif., the police computer is programed with geographical information that enables the dispatching officer to send men familiar with the neighborhood to answer the alarm. Officers can also sit down at consoles and draw on the computer's memory for information that may lead to a vital clue in solving a crime. Computers are widely used in traffic bureaus and State motor vehicle departments to handle license and registration records, keep track of offenders' records, and help trace stolen cars.

The National Computerized Information Center—NCIC—is a rapid-response system that can provide local agencies with information on wanted felons plus identification numbers for stolen vehicles or weapons. At some future time, the entire Nation will be serviced by this interlocking computer system so that an officer on a beat can have instantaneous access to information concerning suspects by simply contacting his local computer terminal.

However, there are increasing concerns not only for adequate funding of this endeavor but also for adequate standards and safeguards for governing its use. We must be concerned about using this system in a way that protects constitutional liberties and civil rights, including the right to privacy.

Senator Charles McC. Mathias, of Maryland, recently illustrated that point when he told the Senate how a local police officer sold information to a credit union which he obtained through the national computer system. Under current Federal law, dissemination of this information is not even a crime. Similarly, Senator Sam Ervin, of North Carolina, and the Senate's acknowledged constitutional expert, cautioned that the FBI identification division received over 11,000 requests for record searches each day. In Senator Ervin's words:

> We cannot know how many times Americans have been denied jobs even though they were found innocent of charges, or the case was dropped, or the original arrest was a mistake, or illegal, or even unconstitutional. Simple justice means that a man should not be denied employment because of an arrest record unless a complete trial record shows he was found guilty by a court of law.

In short, Mr. Speaker, we must balance a concerted tough attack on organized crime and street crime with the kinds of safeguards that will protect the right to privacy that all of us should enjoy as citizens of the United States. For that reason, I was very pleased with the recommendations of the Fifth Advisory Commission report prepared by a task force headed by Col. John R. Plants, director of the Michigan State Police, which warned us of the misuse of computerized crime data. Also, many of us in Congress are anxiously awaiting completion by the Justice Department of comprehensive legislation needed to deal with law-enforcement data banks and information systems. This effort was supported by former Attorney General Elliot Richardson and hopefully a draft bill will be sent to Congress sometime next year. In addition, FBI Director, Clarence M. Kelley, a pioneer in the use of computerized crime information systems, has said that he will seek legislation to place tight controls on criminal information systems to protect individual privacy.

While all of this is encouraging, controversy has arisen over the authority of the FBI to continue its current program of disseminating arrest records for law enforcement and other purposes. That authority is in doubt because of a court order against the FBI by the District Court of the District of Columbia in the case of *Menard* v. *Mitchell*, 321, Fed. Supp. 718 (1971) and the Senate-House disagreement over the necessity for inclusion of such authority in the State-Justice-Commerce appropriations bills for fiscal year 1974.

As a result, I am today introducing a bill identical to that of legislation introduced by Senator Ervin and cosponsored by Senator Mathias, Senator Mansfield, Senator Hruska, Senator Pastore and Senator Young and others which would serve as a temporary stopgap measure to resolve the controversy. It will make the FBI's dissemination of arrest and fingerprinting records less vulnerable to an adverse court ruling and protect innocent individuals while providing Congress with adequate time to enact comprehensive legislation.

While I do not necessarily subscribe to every provision in the legislation, I am hopeful that hearings will be scheduled early next year by the distinguished Member from California, Mr. Edwards, chairman of the House Judiciary Subcommittee on Civil Rights, who has introduced a similar measure. Certainly, the subcommittee will want to have the benefit of testimony by the Justice Department and Members of Congress in addition to law enforcement experts from the State and local levels.

Under the bill, the Attorney General shall acquire, collect, classify and preserve identification, criminal identification, crime and other records and exchange these records for the official use of the Federal Government, the States, cities and penal and other institutions for law enforcement purposes. The Attorney General may exchange such records with the officials of federally chartered or insured banking institutions to promote or maintain the security of those institutions and if authorized by State statute, with officials of State and local governments for employment and licensing purposes. It also forbids the exchange of records indicating a person has been arrested on any criminal charge or charged with any criminal offense unless the record discloses the person pleaded guilty or nolle contendere or was convicted of the charge in a court.

It provides that all copies of records of information filed as a result of an arrest that is legally terminated in favor of the arrested individual shall be returned to that individual within 60 days of final disposition and shall not be maintained in the files of any Federal agency, if a copy of the formal court order disposing of the case is presented, or upon formal notice from one criminal justice agency to another. These records include fingerprints, photographs or any records of files except investigative files relating to that arrest. However, the records may be retained if another criminal action is pending against the arrested individual or if he has been previously convicted.

Finally, the Attorney General's authority to disseminate records to nonlaw enforcement agencies under the previously mentioned guidelines would expire on December 31, 1974 at the end of the 93d Congress. This would assure the measure is temporary and require the Justice Department to return to Congress for additional authority, hopefully in the form of a comprehensive arrest records bill.

A TRIBUTE TO GOV. NELSON A. ROCKEFELLER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. Grover) is recognized for 20 minutes.

Mr. GROVER. Mr. Speaker, New York State Gov. Nelson A. Rockefeller has resigned his office as of this day. As one who served in the New York State Legislature during 4 years of his initial administration, I can attest to his great executive and administrative abilities, his legacy of leadership, and his outstanding record.

Nelson Rockefeller's 15 years as Governor of New York set historic records, both in terms of service in office and achievement in office. He was sworn in as New York's 49th Governor on New Year's Day of 1959. Governor Rockefeller was elected to four 4-year terms, the record not only for New York State Governors, but for all State Governors in the Nation's history.

I would like to take this opportunity to summarize a list of the many accomplishments of the Rockefeller administration:

Historic High Points

State University of New York—world's largest;

Pure Waters Program—first and largest of its kind;

Mass Transportation—1967 Transportation Bond Issue, Metropolitan Transportation Authority, rehabilitation of commuter railways, subways and bus services;

The Adirondack Park Agency—preserving the Northeast's last great wilderness;

The Department of Environmental Conservation;

The Urban Development Corporation—rebuilding cities and building new towns;

The State Council on the Arts—economic survival for cultural resources;

No Fault auto insurance;

Strongest anti-hard drug penalties in America;

9,300 new or expanded industrial plants added to the state's economy;

State Revenue Sharing;

First decline in state welfare rolls since World War II;

Medical care for the needy, the nation's largest program, under Medicaid;

55 new state parks;

Empire State Plaza—America's most beautiful state capital.

MAJOR NATIONAL FIRSTS OF THE ROCKEFELLER ADMINISTRATION

First state program for total eradication of water pollution;

First state to assume major responsibility for operating mass transportation;

First state Urban Development Corporation;

First state council providing aid to sustain the arts;

First statewide minimum wage law;

First state aid to private colleges;

First state mandatory seat belt law;

First state loans for private, non-profit hospital and nursing home construction;

First state hospital cost control program;

First state to require infant testing to prevent PKU, a retarding disease;

First state institutes of Kidney Disease, Birth Defects and Burns Care;

First state rent grants to low income families;

First state law mandating minimum training for local police;

First state support of methadone maintenance research.

GENERAL SUMMARY OF MAJOR PROGRAMS

The arts

Created the nation's first State Council on the Arts;

Started the first program of direct state aid to cultural organizations faced with economic collapse, now aiding 850 symphony orchestras, museums, theatre and dance companies and other cultural resources;

Sponsored and provided state funds for an average of over 7,000 cultural events every year;

Provided state funds towards construction of the Saratoga Performing Arts Center;

Provided state funds for the construction of the New York State Theatre in Lincoln Center;

Instituted the annual New York State Awards honoring individuals, corporations, organizations and communities making a significant contribution to the state's cultural life;

Instituted the Ghetto Arts Program to stimulate and provide cultural opportunities in inner city areas.

Consumer protection

Created the State Consumer Protection Board;

Created the permanent Consumer Frauds Bureau in the Attorney General's office which has handled 270,000 consumer complaints;

Initiated no fault auto insurance;

Required disclosure of actual installment buying interest charges through the "Truth in Lending" law;

Outlawed assignment of wages in installment sales;

Made banks and other finance agencies holding installment sales contracts responsible, along with the original seller, for defective goods;

Provided a three-day period in which the consumer can cancel a door-to-door sales contract;

Established state meat and poultry inspection;

Brought out-of-state land promoters operating in New York under state supervision;

Brought mail order insurance companies under state supervision;

Required utility companies to pay customers a rebate when a final rate increase approved by the state is lower than a temporarily approved increase.

Criminal justice

Doubled the size of the State police;

Established the state-wide prosecutor of organized crime;

Established a special prosecutor to investigate and prosecute corruption in the police and criminal justice system of New York City;

Set the nation's toughest drug penalty, a mandatory life sentence for hard drug pushing;

Established the first special narcotics courts to speed the handling of drug crime cases;

Authorized 228 additional judgeships to reduce court congestion and speed the administration of justice;

Created the Division of Criminal Justice Services;

Created the New York State Identification and Intelligence System which uses rapid communications technology to disseminate criminal information to local police;

Established the New York State Police Academy;

Adopted the "stop and frisk" and "no-knock" laws to strengthen police powers to apprehend criminals;

Modernized the State Penal Law for the first time in 80 years;

Mandated minimum training requirements for local police officers;

Extended the Waterfront Commission's powers to combat organized crime to include airport freight operations;

Removed minor traffic and housing violations from the criminal courts, freeing more judges and courts for serious criminal cases;

Established the Crime Victims Compensation Board to provide financial relief to innocent victims of crime.

Drug abuse

Created the State Narcotics Addiction Control Commission—later the State Drug Abuse Control Commission—to help rehabilitate drug addicts and abusers;

Initiated mandatory treatment for drug addiction;

Financially supported research and carried out the nation's largest methadone maintenance program;

Mandated drug abuse education programs in all schools.

Economic growth

Attracted over 9,300 new plants or major expansions to the state's economy;

Created the State Job Development Authority to provide low-cost loans for business expansion, which created 21,000 new jobs and retained nearly 7,000 existing jobs in the state;

Created the Job Incentive Board, which provided tax incentives for businesses to locate and expand in low-income areas, adding 6,200 new jobs and retaining 6,300 existing jobs in the state;

Provided a one per cent state tax credit for business plant expansion;

Established New York State trade offices in major foreign cities and a Division of International Commerce which have stimulated nearly $1 billion in additional export sales;

Completed or initiated 30 construction projects for industrial parks, commercial and community facilities through the state's Urban Development Corporation;

Created the State Council of Economic Advisers;

Created the State Science and Technology Foundation to encourage research;

Created the New York State Atomic and Space Development Authority.

Education

Built the largest public university system in the world, which grew from 41 campuses and 38,000 students, to 72 campuses and 232,000 full-time students;

Increased community colleges from 13 to 38;

Initiated scholar incentive awards now aiding over 227,000 students, and increased all forms of state financial assistance to public and private college students by over 1,000 per cent;

Initiated and supported programs enabling nearly 23,000 students from disadvantaged backgrounds to attend both public and private colleges;

Began the nation's first program of aid to financially pressed private colleges;

Increased State aid to City University by nearly 20 times;

Established the Empire State University, a "college without walls" to provide college credit and courses to students not enrolled in conventional college programs;

Established 5 Einstein Chairs in the sciences and 5 Schweitzer Chairs in the humanities at various universities in the state;

More than quadrupled state aid to primary and secondary schools, from $594 million to $2.5 billion, to improve education and help relieve pressure for further additional local school taxes;

Provided state text-book aid and certain other assistance to private primary and secondary schools;

Provided the first state financial support for educational television;

Required special education for mentally retarded children in public schools;

Established the Atmospheric Sciences Research Center;

Established the Marine Science Research Center.

Environmental protection

Launched the Pure Waters Program, the first and largest state bond issue in the nation to end water pollution—$1 billion, later augmented by the $1.15 billion Environmental Bond Issue;

Preserved the northeast's last great wilderness through creation of the Adirondack Park Agency;

Created the Department of Environmental Conservation;

Initiated the first state aid for the operation of local sewage treatment facilities;

Created the Environmental Facilities Corporation to help local governments finance and construct waste treatment plants;

Protected tidal wetlands;

Banned DDT and other potentially dangerous pesticides;

Established the Hudson River Valley Commission to help protect the environment and historic heritage of the Valley;

Established the nation's first system for zoning air by purity standards for agricultural, residential and industrial areas;

Established a state-wide air quality monitoring network;

Banned open burning and open dumps;

Required air pollution exhaust controls on motor vehicles five years before the Federal government;

Achieved reduction of air pollution in New York City and other urban areas;

Established the use of state boards on Electric Generation Siting and the Environment to insure the environmental compatibility of new powerplants;

Added a "Conservation Bill of Rights" to the State Constitution.

Farm families

Created the State Agricultural Resources Commission;

Set up the agricultural districting program to insure the preservation of prime farm lands;

Provided farmers with a 5-year real property tax exemption on new farm buildings;

Provided a one per cent tax credit on new investment in farm machinery, equipment and construction;

Constructed or reconstructed 14,000 miles of farm-to-market roads;

Increased state financial support agricultural research by 140 per cent.

Virtually eradicated brucellosis disease in cattle, the virus disease afflicting Long Island ducks, cholera in hogs and the once extensive potato disease, golden nematode.

Health

Carried out the nation's largest state medical care program for the needy under Medicaid;

Financed the development of medical facilities serving 12,500 hospital and 24,400 nursing home patients;

Created the Bureau of Heart Disease;

Created the Birth Defects Institute;

Created the Kidney Disease Institute;

Created the Burns Care Institute;

Began mandatory PKU testing of new-born infants which enables early detection and prevention of a potentially retarding illness;

Prohibited use of lead-based paints on toys to prevent lead-poisoning;

More than tripled state financial support of the state's world respected cancer research center, Roswell Park Memorial Institute;

Instituted a functioning system of hospital costs controls;

Created two new state medical schools and provided financial aid to existing medical schools permitting enrollment expansion equivalent to two more medical schools.

Highway safety

Passed the nation's first seat belt legislation and set requirements for padded dashes, visors, tire safety, and dual braking systems;

Required all motor vehicles to be safety inspected annually;

Set strict standards and penalties for drunken driving;

Authorized use of "breathalyzers" to detect and prosecute drunken drivers;

Established the penalty of driving while impaired to facilitate the conviction of drinking drivers;

Required the first periodic retesting of drivers' vision;

Established mandatory Driver Improvement Clinics for persistent violators;

Required motorcyclists to wear crash helmets;

Developed the first state-financed model safety car.

Housing

Completed or started over 88,000 units of housing for limited income families and the aging through new and expanded programs in the State Division of Housing;

Created the Urban Development Corporation, which has thus far completed or started 30,000 homes;

Created the State Housing Finance Agency to generate private funds for construction of middle-income housing;

Authorized the Housing Finance Agency to make loans for rehabilitating run-down but basically sound housing;

Established the Home Owners Purchase Endorsement (HOPE) to reduce down payment requirements on co-operative projects in middle-income housing projects;

Established the nation's first program of state grants allowing low-income families to rent in middle-income housing;

Created the New York State Mortgage Agency to increase the availability of home mortgages.

Human rights

Achieved virtual total prohibition of discrimination in housing, employment and places of public accommodation;

Outlawed job discrimination based on a person's sex or age;

Outlawed "block-busting" as a means of artificially depressing housing values;

Initiated special aid to cover additional costs incurred by school districts seeking to correct racial imbalance;

Opened five offices in minority communities to provide commercial counseling to small businessmen;

Banned discrimination in the sale of all forms of insurance;

Provided the nation's first program for making insurance available to ghetto businesses ordinarily denied commercial insurance;

Increased by nearly 50 percent the numbers of black and Puerto Rican persons holding state jobs.

Labor benefits

Set the first state-wide minimum wage law;

Provided increased worker benefits as follows:

Minimum wage, 5 increases.

Workmen's compensation, 5 increases.

Unemployment insurance, 4 increases.

Disability, 4 increases.

Included migrant workers, for the first time, under the state minimum wage law;

Authorized the first unemployment insurance for migrant workers;

Achieved passage of the Taylor Law which, for the first time, recognized the right of public employees to organize and bargain collectively;

Started the state's first Manpower Training Program;

Began the Career Development Program which recruits and trains disadvantaged persons for state government careers.

Local government

Increased the share of state tax revenues to local government in state aid from 52.3% to over 61%;

Initiated state Revenue Sharing with local government;

Initiated state aid to local government in new areas including: day care, water pollution, drug treatment, transportation, parks and nursing homes;

Established the Office of Local Government;

Added the "Bill of Rights" for a local government to the state Constitution;

Enabled county governments to adopt their own charter;

Improved assessment practices through state-supported assessor training and modernized tax mapping.

Lottery

Initiated the state lottery, which provides additional funds for education.

Mental health

Employed modern treatment techniques that reduced the number of mentally ill patients from nearly 90,000 to 43,000 and the median stay from 240 to 41 days;

Improving staffing in state mental facilities from one employee for every five patients to one employee for every two patients;

Carried out the largest construction program in the state's history, completing five new state schools, one new state hospital, six new children's hospitals, 11 new rehabilitation centers; and starting six new state schools, and four new state hospitals;

Reorganized state mental hospitals into smaller intensive treatment units;

Provided hostels allowing mildly retarded persons to remain in their home communities;

Adopted the unified services program allowing a local government to offer a wider range of state, local or non-profit treatment facilities to patients;

Increased state aid to local governments over 5½ times to enable treatment of more patients near home and family;

Recodified the Mental Hygiene Law for the first time in 46 years.

Off-track betting

Legalized off-track betting, which allows local government to share in revenues from wagering.

Older persons

Created the State Office for the Aging;

Allowed property tax reduction for older home owners;

Developed special housing programs for the aging leading to the construction of nearly 12,000 units;

Authorized low-interest state loans for the construction of Community Senior Citizen Centers;

Instituted the first direct state matching aid to finance local older citizen programs.

Parks and recreation

Built 45 and began 10 more new state parks;

Began the first state parks in New York City;

Acquired 380,000 acres of land for future park use;

Constructed Gore Mountain ski area;

Established the Office of Parks and Recreation.

Prison reform

Instituted a large-scale construction program to rehabilitate and modernize prison facilities;

Created a new Department of Correctional Services combining the old Department of Correction and Division of Parole;

Started the work-release program to ease the inmate's readjustment to society;

Initiated prison furloughs for compassionate, medical and other reasons;

Provided 30 vocational courses and evening education for inmates;

Enabled inmates to prepare and receive High School Equivalency Diplomas and Regents Diplomas;

Initiated a special recruitment program which has increased the number of correction officers from minority groups;

Reduced the civil penalties that reduce job opportunities open to ex-inmates;

Provided intensive treatment for physically handicapped inmates to improve employment potential upon release;

Developed a plastic surgery program to correct unsightly malformations or scars which can seriously hamper readjustment;

Established innovative Diagnostic and Treatment Center at Clinton Prison to provide intensive treatment and social casework services for mentally disturbed inmates;

Established Beacon State Institution to provide mental defectives with increased psychiatric and psychological services by utilizing available professional staff at Matteawan;

Authorized inmate-elected committees to present grievances in state correction facilities;

Expanded mail, telephone and visiting privileges of inmates.

Transportation

Won approval of the nation's largest state bond issue—$2.5 billion—for the coordinated development of mass transportation, highway and air transportation;

Introduced the state's first program of support for mass transportation facilities, including $1 billion from the 1967 bond issue;

Created the Metropolitan Transportation Authority for the unified control, development and operation of mass transit in the New York City region;

Purchased and initiated total rehabilitation of the Long Island Rail Road;

Initiated rehabilitation and took over operation of all other commuter rail services in the New York metropolitan area;

Began the first new subway construction in 40 years;

Provided the first state program of financial assistance to bus companies, providing for over 650 new buses in 20 communities;

Created the State Department of Transportation;

Built or rebuilt over 22,000 miles of highway, including completion or major advancement of the Northway, the Route 17—Southern Tier Expressway, the Long Island Expressway and Interstate 81 from Canada to Pennsylvania;

Won two national awards for beautiful highway construction—for the Northway and Route 17;

Initiated the first program of state aid for the modernization and expansion of airports.

Veterans benefits

Established "One-Stop" centers to help veterans in disadvantaged communities find jobs;

Placed nearly 190,000 veterans in jobs;

Placed over 45,000 veterans in on-the-job training;

Established war service scholarships for Vietnam veterans;

Allowed World War II service in the computation of state retirement benefits.

Welfare

Achieved the first major decline in welfare rolls since World War II;

Required employable welfare recipients to take available jobs or job training, or else lose welfare benefits;

Reorganized the State Department of Social Services making it directly accountable to the Governor;

Created the Office of Welfare Inspector General to root out welfare frauds;

Began the state breakfast program for children in low-income areas;

Established the first state loan fund enabling non-profit groups to establish day-care centers;

Provided the nation's best program of publicly paid medical care for poor families and individuals;

Established the School of Social Welfare in the State University.

Women

Appointed women to head the largest number of state agencies in New York's history, including: the Department of Civil Service, Department of State, Division of Housing; Office of the Aging State University Board of Trustees, Consumer Protection Board;

Prohibited discrimination against women in education, employment, housing, places of public accommodation and credit applications;

Admitted women for the first time into the State police;

Initiated an Affirmative Action Program to increase job opportunites and to remove obstacles to training and promotion for women in state government;

Backed state ratification of the Equal Rights Amendment to the Federal Constitution;

Created the Women's Unit in the Governor's Office;

Established the State Guidance Center for Women to provide career direction to women.

Youth

Created the State Division for Youth;

Established the Youth Employment Program, which to date has placed 75,000 in full-time jobs;

Began the Summer Youth Opportunity campaign which encouraged employers to hire young summer employees;

Began the School to Employment Program (STEP) to train school dropouts;

Created the Hometown Beautification Program to provide useful summer work to communities;

Established short-term Adolescent Training Centers.

Mr. Speaker, I would now like to submit for the Record a portion of the Governor's resignation announcement:

I have decided not to seek a fifth term as Governor of New York.

I will resign next Tuesday after 15 years of service to the people of the State. At that time, Lieutenant Governor Malcolm Wilson will be sworn in as Governor.

We are living in critical times. I have great faith in our country, and I am optimistic about the future. But we can't take that future for granted. Therefore, after long and careful consideration, I have concluded that I can render a greater public service to the people of New York and the Nation by devoting myself to the work of two bipartisan national commissions.

These commissions deal with the tremendous problems and opportunities of this rapidly-changing world and the critical choices we must face as individuals and as a Nation. For over a year, I have been working on the organization of these commissions at the request of the President and with the cooperation of the leadership of the Congress.

One of these is the *Commission on Critical Choices for Americans*. Last February, the President wrote me, pointing out that "America cannot afford to stand on its past accomplishments . . . We as a people must periodically revitalize our Nation and our society. To renew the spirit and the promise of America, it is essential that we now examine our society in a comprehensive way."

He went on to ask me to expand our New York study which I had been discussing with him on The Role of the Modern State in a Changing World into "a national commission which would be bipartisan and broadly representative of all Americans," and to report periodically to him and to the Congress the Commission's findings and recommendations. I agreed to organize the Commission and to serve as chairman.

The Commission is composed of 40 leading Americans, including the Vice President of the United States, Gerald R. Ford; the two Democratic Majority Leaders, Senator Mike Mansfield and Representative Thomas O'Neill, Jr.; the two Republican Minority Leaders of the Congress, Senator Hugh Scott and Representative John Rhodes; Secretary of State Kissinger and Secretary of the Treasury Shultz, who are, respectively, Assistants to the President for national security and national economic affairs.

This Commission will analyze the impact of present world trends on our future security and well-being. It will focus on the critical choices facing Americans and on the development of new concepts and policies needed to cope with the impact of rapid change.

The other commission is the *National Commission on Water Quality*. It was established by the Congress in 1972 to recommend criteria for carrying out the amended Federal Pure Water Act. It is a far-reaching undertaking that will affect every lake and river basin in the country.

It is a bipartisan commission composed of five United States Senators, five Members of the House of Representatives, five public members appointed by the President, and I was elected chairman.

Both of these commissions have had their initial meetings; both are totally bipartisan in their makeup; and both are scheduled to finish their work within two years. Both can have a major impact on the shaping of our national policies for the future.

The shaping of these policies depends upon a far greater understanding by the American people of the significance of the present trends to their future freedom and well-being. Only in this way can we again develop the kind of national will and purpose that made possible the founding of this unique democracy, and which is essential to the growth and strength of America as we approach our Bicentennial.

Because I feel this so deeply, I am resigning as Governor in order to be able to devote my energies to the success of these commissions. My only regret is that my undertaking these tasks has been interpreted as a political maneuver to seek the Presidency. I am not a candidate for nomination for the Presidency or for any other political office. Whether I will become a candidate in the future, I do not know. I should like to keep my options open.

But under no circumstances would I consider such a move before the latter part of 1975, or while I am chairman of these commissions.

I deeply believe, however, that the vitality of the two-party system is the very essence of democracy. Accordingly, I shall maintain my personal commitment to help strengthen the Republican Party.

I could not step aside from my duties as Governor some 12 months before expiration of my final term except for my unquestioned confidence in Malcolm Wilson. He has been elected Lieutenant Governor four times and is uniquely qualified and prepared to serve as Governor of New York.

Mr. Speaker, there are many rumors concerning Governor Rockefeller's future public service. No one, of course, can predict where his work with the two commissions—on one of which I am pleased to serve—will lead, but for those of us who know the Governor, there is no doubt that wherever and whatever his future ventures may be, they will serve only to add to his notable record.

PETROCHEMICAL INDUSTRY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. Crane) is recognized for 5 minutes.

Mr. CRANE. Mr. Speaker, recently a number of staff and Members of Congress had the opportunity to hear a disturbingly important message about the petrochemical industry. Unfortunately, the importance of petrochemicals in terms of employment and gross national product as well as impact on our life style is only dimly perceived by most Americans as well as those of us in Government. That is not surprising since few of us have a background in chemical engineering.

The gentleman who addressed the staff and Members of Congress, Mr. Louis Dehmlow, has a distinguished background in chemical engineering and the petrochemical field. For a quarter of a century, he has served as president of the Great Lakes Solvents Co. and GLS Fiberglass Co. in Chicago. In addition, he is an officer of the National Association of Chemical Distributors and the National Association of Plastics Distributors.

I would like to share Mr. Dehmlow's remarks with my colleagues at this time:

Remarks of Mr. Louis Dehmlow

Very soon, debate will begin on the Energy Emergency Act. In dealing with the energy emergency, a distinction must be made between the 90% to 95% of the oil and gas that is burned for energy and the 5% to 10% of that oil and gas that is used to make petrochemicals, which effect the lives of every single person in this country by contributing to his employment, his personal income and the many products which make our 20th Century way of life possible.

We have a grave warning: The leverage of that portion of our energy resources which passes through the petrochemicals industry is so great that any more closing of the valves or diverting of the streams will cause serious economic, political and personal consequences.

We are approaching the condition of a farmer who is burning his seed to heat his barn.

Who are we?

We are independent, mostly small, chemicals and plastics wholesaler-distributors. We are the most economical way through which manufactured products can reach the more numerous, smaller customers. We function at the flanges of the big manufacturers' bell curve—we serve the 80% of the customers who account for only 20% of their sales and earnings. Our function in the economy is to add value to products by specializing in the marketing and distribution functions of buying, storing, transporting and selling smaller quantities of products.

A company like mine buys over 1500 products from more than 50 manufacturers and sells them to about 2500 customers. Over 90% of our customers buy less than $600 worth of products in a month. We invest in the smaller companies which are the backbone of our economy.

What are Petrochemicals?

The Petrochemical Industry involves the changing of oil and gas into basic and intermediate organic chemicals which are themselves changed into various products like plastics, rubber, synthetic fibers, paint, inks, cosmetics and medicines. And the plastics, rubber and fibers, for example, become integral parts of hundreds of thousands of other manufactured products.

A flow chart of options for processing a petrochemical molecule looks like the delta at the mouth of the Mississippi River—the river has many paths to choose from to flow.

Benzene, for example, can be changed into ethyl-benzene which can be changed into styrene which can be made into polyester resins for fiberglass tanks or polystyrene plastics for insulation or synthetic rubber for fan belts or shoes. The possibilities seem endless. Who it is who makes these many choices is important to every American in modern life.

Perhaps the industry should sponsor a 60 second, two-part TV spot commercial showing people how petrochemicals effect their lives.

Scene 1: A housewife standing in her kitchen.

Scene 2: The same housewife standing in her kitchen *without* petrochemically based products. She would have no plastic tile on her floor, no paint on her walls, no safely coated electric wiring, no enamel on her stove, no detergent in her sink, no handles on her pans . . . but think of her person! She would have no lipstick on her mouth, no polish for her nails, no heels for her shoes, no synthetic fibers for her blouse, no doubleknits for her slacks, no nylon underwear. In fact, we'd have an "x-rated" commercial and a person in need of a thermostat setting higher than 68°.

Ask the blockading truckers, who want 100% of their gasoline and diesel fuel to burn, if they would take their fuel from the 5% to 10% the petrochemical people need—the petrochemical people who gave them their tires, their steering wheels, their taillight lenses, their wiring insulation, even their distributor caps—and most important, most of the things their trucks haul.

The Commerce Department figures say petrochemicals are a 20 billion dollar industry. But because of the enoromus multiplying effect of their value added to our economy, small reductions in oil and gas available for feedstock will have great economic impact.

What is happening?

Arthur D. Little, Inc., the Massachusetts Research Firm, in their report, "United States Petrochemical Industry Impact Analysis," November 1973, gave the hypothetical condition that IF the petrochemical output decreases 15%, consuming industries would LOSE 1,600,000 to 1,800,000 jobs, and the economy would LOSE the domestic production value of 65 to 75 billion dollars!

We chemicals and plastics distributors are here to tell you that we are now experiencing shortages of many products that greatly exceed the hypothtical example of 15%. We are out of some products. Our customers are already facing lay-offs and shut-downs.

Styrene has all but disappeared. As a result, we only have one-third (a decrease of 64%—not just 15%) of the December amount of polyester resin we budgeted for our customers.

Isopropyl Alcohol—in years past it was as common as rubbing alcohol—in fact it was rubbing alcohol—is not available to us in Chicago this month. Incidentally, the "controlled" price in Chicago is 49¢ a gallon. Last week it was quoted on the Gulf and East Coasts at $3.00 a gallon.

We can't compete with the gray market, the black market and the export prices for products. Most of us choose not to deal in those markets—where products are swapped without cash transactions in proportion to the artifically created higher prices—and sold by questionable people who work around Phase IV.

These people are coming into our business and making big money. We're not particularly pleased to have them in with us. Our image is becoming somewhat tarnished. But they come to us with the compliments of those wonderful people who gave us Al Capone—those people who believe that the complicated balances of supply and demand can be regulated by a few men.

What caused these shortages?

The oil industry has tried to warn us for several years that the world demand for energy was going to outrun its supply. But the shortages petrochemicals in this country have been made much worse by regulations—primarily price controls. The wrong people are "controlling" prices. The choices available from oil and gas through petrochemistry are too varied and complex to be controlled by a council. The control must remain in the marketplace—by the people—through a freely functioning pricing system.

Those who are responsible for determining the economic value of hundreds of thousands of petrochemical derivatives cannot do so without freely moving prices.

A doctor cannot relieve a child of a raging fever by breaking the thermometer. The temperature is the effect, not the cause, of the fever. A Federal agency cannot stop inflation by fixing prices. The prices are the effect, not the cause, of the inflation.

Our economic system is in a mess of supply dislocations—call them shortages—because without real prices, judgment is impaired and economic calculation is impossible.

What can you who make laws do?

First and foremost, remove Federal price controls. At least remove Federal price controls on the highly leveraged petrochemicals as well as the refinery products used to make them and the many products made from them. People would rather pay more for products than to have no products at all.

Second, if price de-control is not possible yet, please encourage greater allocation of oil and gas resources from the energy sector, which burns it, to the petrochemical sector, which multiplies its value many times. We must reverse a downward economic trend which has already begun.

Third, if price de-control is not possible yet, please encourage those who effect export to do so with finished products, not raw materials. Let the value be added to raw materials in this country by our business people who employ our labor.

This is a national emergency. But even if these suggested actions were taken immediately, it will take several years to recover from the harm already done.

BILL WOULD FACILITATE INDUSTRIAL DEVELOPMENT OF BARREN SAND ISLAND

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Hawaii (Mr. MATSUNAGA) is recognized for 10 minutes.

Mr. MATSUNAGA. Mr. Speaker, today I am introducing a bill to enable the State of Hawaii to deal with one of its pressing problems, the shortage of prime industrial land on Oahu, the State's most populous island.

Sand Island, which forms the protective seaward perimeter of bustling Honolulu Harbor, provides an ideal location for expansion of industrial activity within the boundaries of the city of Honolulu. Close to the State's business and industrial center, the island is now needed by the State government as a site for long-awaited maritime facilities; for a bulk fuel storage area for nearby Honolulu International Airport, one of the busiest in the world; and for the expansion of the State's highly-successful Foreign Trade Zone.

In 1958, Congress enacted Public Law 85–756, transferring certain lands at Sand Island, Oahu from the United States to the then Territory of Hawaii. The only obstacle, which my bill will remove, is a provision in the original transfer authority which restricts use of income derived from the land solely for the support of the University of Hawaii. The State government has urged that this unnecessary provision be deleted from the law in order to divert the revenue to development and improvement of the land for the sorely-needed industrial uses. This will result in no loss of revenue for the University, which is now funded directly from the State's general fund.

On the other hand, development of this otherwise barren, sandy, and coral-strewn appendage promises to provide the people of the State long-needed facilities to bolster our commerce-dependent island economy.

I am hoping for an early hearing on this urgent legislation and prompt, favorable committee action.

I ask unanimous consent that the text of the bill be included at this point in the RECORD:

H.R. 12003

A bill to permit the State of Hawaii to use the proceeds from the sale, lease, or other disposition of certain real property for any public purpose

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding section 4(a) of the Act entitled "An Act to provide for the transfer of title to certain land at Sand Island, Territory of Hawaii, to the Territory of Hawaii, and for other purposes", approved August 25, 1958, the State of Hawaii may use for any public purpose the revenue or proceeds from the sale, lease, or other disposition of the lands held by it under a transfer made by Executive Order Number 10833 under such Act on August 25, 1959.

THE PRESIDENT'S APPROACH TO FEDERAL FUNDING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. MEZVINSKY) is recognized for 5 minutes.

Mr. MEZVINSKY. Mr. Speaker, I am submitting for the RECORD an article which appeared in the December issue of the University of Iowa Spectator. This article discusses the potential and real hardships which threaten a large university as a result of the President's haphazard approach to Federal funding.

This article was written prior to the President's signing the Labor-HEW appropriations bill and I think it demonstrates quite clearly what would have happened if Congress had not taken action to allocate budget funds to continue programs which the President's budget had sought to eliminate.

FEDERAL FUNDING

In the midst of a national discussion over the question of how to finance higher education, officials at Iowa have taken a measure of federal fund cuts for the 1973–75 biennium.

Their accounting: the University anticipated but never received $2,211,000 in 1973–74 and another $2,218,000 probably will be lost for 1974–75.

The $4.4 million loss in federal funds, reported by the University's office of educational development and research, includes only awards for education programs from the Department of Health, Education and Welfare.

The vanishing federal dollars reflect a decision on the national level to shift the cost of graduate and professional education to state and private sources, according to D. C. Spriestersbach, vice-president for educational development and research.

"We tend to attribute this shift to the national administration, yet in one form or another the big debate over who should pay for and who benefits from higher education was bound to take place," Spriestersbach said.

The timing and mode of the discussion might have been different with a different administration, he added, but the debate was inevitable.

Federal funds, once almost exclusively used for research, increasingly have been used to finance educational programs and salaries, particularly in the health fields.

URGENT NEEDS

"We were encouraged, even cajoled, to respond to urgent manpower needs in the areas of health and to bring on faculty and new programs," Spriestersbach said.

"It certainly is a source of anxiety," he noted, "that Congress established some national objectives, devised funding to attain them and now we are faced with losing the funding."

The health colleges and health-related disciplines in the College of Liberal Arts and the Graduate College reported the heaviest losses.

Figures provided for the units most severely affected are:

	1973–74 known loss (both in thousands)	*1974–1975 additional loss*
Dentistry	619	595
Medicine	651	860
Nursing	367	279
Pharmacy	108	108
Liberal Arts	136	319
Graduate College	32	57
Financial Aid (work-study)	298	
Totals	2,211	2,218

The figures for 1973–74 are from awards already received.

To calculate the expected added losses for 1974–75, University officials used "reliable but mostly informal information from federal officials," and assumed that the President's budget will be funded at the levels he has proposed and that losses for all institutions will be in proportion to their present levels of federal support.

Training grants account for the heaviest losses for next year. These grants provided funds for individuals interested primarily in academic careers and health care. In addition, they have provided a large amount of support for instructional salaries and teaching supplies as well as student support.

Expected losses in training grants for 1974–75 are: Dentistry, $496,972; Liberal Arts, $290,522; Medicine, $578,819; Nursing, $206,245.

Other forms of support to be withdrawn or reduced include institutional support grants, special improvement grants, some capitation grants and career development awards. These grants have been a major support for salaries of professional and technical personnel and for new programs requiring increased enrollments in the health colleges.

NO FUNNY MONEY

"These monies were inextricably bound into the heart of our total operation," Spriestersbach said. "This wasn't funny money."

To illustrate the broad areas of instruction and services affected by the cuts, he cites allied health grant funds. A $170,519 expected loss in these funds will affect programs involving medical technology, physical therapy, nuclear medical technology, dental hygiene, and the model rural health center dietetics program.

In answer to the inevitable question, "how did you manage last year?," college officials have detailed a number of emergency measures, noting that they began austere measures to insure federal carryover money when continuing federal support became uncertain in late 1972. Now, they say, the "well has run dry," and most of that carry-over money is gone.

Devices employed last year to husband funds and control cash flow, they report, include freezing unfilled budget fines, delaying the implementing of programs, using nonrecurring reserves, increasing the size of classes and, for Dentistry, using an unexpected savings from an 18-month delay in moving into its new building.

Not only is most of the carry-over money gone, but many of the students enrolled in new programs are advancing to more expensive levels of instruction.

For example, Pharmacy developed three new educational programs, including one in clinical pharmacy, on the basis of a capitation grant. Since 1970 the entering class increased 37 per cent and a large number of students are ready to enter the clinical pharmacy sequence.

Estimates of the losses are complicated in part because of uncertainties about the funding level for HEW and the outcome of court cases on impoundment.

"Our dilemma comes because we have to plan and make commitments," Spriestersbach said. "Institutions don't work like water faucets."

The abruptness and severity of the current losses combined with earlier reductions and eliminations of support through such programs as the National Defense Education Act will have effects "far beyond the specific programs," he stressed.

"We're going through the agony of minimizing the impact of the losses," he said.

"And we're desperately hoping that the debate over the country's aspirations concerning the quality of life and the modes by which we achieve our goals will lead to a consensus in time for us to move confidently ahead, retaining the critical strengths that have made the University of Iowa the significant teaching-research institution it has been during the last 75 years."

THE WSIX PARADE OF PENNIES

The SPEAKER per tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. FULTON) is recognized for 5 minutes.

Mr. FULTON. Mr. Speaker, for a dozen years WSIX–AM and FM in Nashville, Tenn., has been providing a Merry Christmas for thousands of needy children at a cost of mere pennies.

Thanks to the annual WSIX "Parade of Pennies" these children, who might otherwise face Christmas as just another day, will once again this year enjoy the happiness of this season through the receipt of gifts and the knowledge that there is good will among men.

Several years ago people at WSIX hit upon the idea of asking contributions of pennies for needy children. Knowing that many if not most persons are hard pressed for extra cash at Christmastime they realized also that just about everyone has a few extra pennies.

The goal the first year was $980.00, a number which corresponds to the WSIX-AM frequency. It was difficult, but that goal was reached.

Throughout the years the annual Parade of Pennies has brought in a higher and higher amount until this year's total is expected to exceed $20,000.

The proceeds are used in a variety of ways. One of the highlights is the annual Christmas party which, with the cooperation of Nashville's American Legion Post No. 5, is given for 2,000 to 2,500 youngsters. Each will receive a gift plus clothing to size, candy, fruit, and nuts. In additional, two local McDonald hamburger franchises will provide free lunch. The party will be day-long and there will be continuous entertainment in a city, Nashville, where entertainment is synonymous with its name.

In addition, funds are put aside for special cases wherein families need food, fuel, clothing, and so forth. Also, moneys are used to help provide for 10 toy centers operated by local council of community agencies.

As its name implies, the Parade of Pennies stresses small contributions. However, an outstanding and unique exception is General Truck Sales of Nashville. Each year, about September, the people at General Truck Sales put out a washtub in their garage and ask for contributions from the many truck drivers who bring their vehicles in for repair.

Later today, Mr. Paul Ruhle, manager of WSIX-AM and FM, and Mr. Chuck Adair of WSIX-FM will visit General Truck Sales to pick up a donation of $8,200 which has been collected to date.

Mr. Speaker, little things, in this case a few pennies, can mean a lot. By themselves a few pennies do not add up to much. But when thousands and thousands of persons contribute they can add up to a great deal. This year they will total over $20,000.

Because of the effort, spirit, and good will of the management and personnel of WSIX-AM and FM, an idea has been turned into an annual gift of Christmas to thousands of needy children. And because of the help of American Legion Post No. 5 and the thousands who have given a little, children who might have had nothing will receive much.

I wish to offer my congratulations and personal expression of appreciation of WSIX-AM and FM for the wonderful work they are doing in undertaking this annual project. Also each and every contributor is due thanks for the few or many pennies they may have provided. And a special expression of appreciation is due to the people at General Truck Sales for the extra effort and large contribution which they make. It is a privilege to have the opportunity to represent in Congress individuals and groups such as these.

FUEL SHORTAGE IN THE SAN JOAQUIN VALLEY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. McFall) is recognized for 5 minutes.

Mr. McFALL. Mr. Speaker, on December 7 I addressed the House on the seriousness of the shortage of diesel fuel in the San Joaquin Valley—the heart of California's farming area.

At that time, I noted that the major oil companies were not cooperating in the Federal Government's efforts to prevent shortages in the production of food for Americans.

Local distributors of petroleum products reported they had not received any instructions from the parent companies to furnish diesel fuel to farm customers in compliance with orders from the Office of Petroleum Allocation for a 60-day period which began November 19.

I appealed to the oil companies to allow patriotism and love of country to overcome evident self-interest. In addition, I urged that the Office of Petroleum Allocation to "put some teeth into its efforts."

There has been some progress, I can now report. One of the 12 major companies serving farming preference customers has now issued instructions for its wholesale distributors to follow the orders. This company is Atlantic Richfield.

Others are not complying fully, I regret to report.

There are indications that a few of the companies are going part of the way. But we are still experiencing critical shortages which have caused direct immediate hardships in the feeding of cattle and harvesting crops and will have far-ranging future effects by curtailing plantings for next year's harvests.

The new chief of the Nation's Energy Office, William Simon, has just announced that agricultural producers will have enough fuel to meet their requirements to keep our grocery shelves stocked with sufficient supplies in the days ahead. This is as it should be and I commend him for his statement. But the fact remains that many of the farmers in the San Joaquin Valley have been forced to halt their operations despite the well-intentioned efforts of the Office of Petroleum Allocation a month ago.

Representatives of every oil company my office could contact in recent weeks has assured us that their firms were cooperating fully with the preference program for farming, mass transit, and production of fossil fuel.

Yet only Atlantic Richfield has issued clear-cut instructions to its local representatives to furnish diesel to the preference customers without preclearance from the Energy Office—OPA's successor—for the period between November 19 and January 19.

While each of the companies advised me it was sending additional diesel fuel to California farming areas in December in compliance with instructions from OPA on November 29, there is little evidence that it is reaching the farmers of my congressional district.

Nor has the Federal Energy Office taken any steps to force compliance with its orders.

As a consequence, a lively black market operation has developed in the San Joaquin Valley which is heavily patronized by those farmers and others who are financially able to pay 60 to 70 cents a gallon for diesel fuel which moved through legitimate channels earlier this year at about 12 cents a gallon.

All indications point to shortages in the many crops produced in the San Joaquin Valley next year—tomatoes, sugar beets, fruits and vegetables, cotton, dairy products, and other basic commodities. Higher prices for food and fiber, which will be available, appear inevitable unless cooperation between the oil industry and the Federal Energy Office occurs quickly.

Many less affluent farmers may be forced out of business entirely.

THE ARMY'S BINARY NERVE GAS PROPOSAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Utah (Mr. Owens) is recognized for 5 minutes.

Mr. OWENS. Mr. Speaker, as I indicated in my remarks in the Record, on December 12, 1973, I have been working with other Members on another resolution calling for a comprehensive review of our Nation's national and international security policies on chemical warfare. I am pleased to reintroduce at this time, together with additional cosponsors, this legislation calling for such a review. I feel strongly about the need for this review, as many Members are aware, and I hope to be able to secure the interest and support of other Members as we see this issue develop.

In this regard, I was very interested to note in yesterday's New York Times a report to the effect that Dr. Fred C. Ikle, the Director of the U.S. Arms Control and Disarmament Agency, has now expressed some of the same misgivings which I feel concerning the need for the expenditure of several hundred million dollars for the production of the proposed new chemical warfare binary munitions system. According to the Times account, Dr. Ikle also raises some serious questions about "whether the binary gases, because of their ease of production, would not increase the danger of proliferation of chemical weapons and thus greatly complicate attempts to ban chemical warfare." Dr. Ikle apparently raised another question I have posed; namely, whether the United States must necessarily have nerve gases to deter a Soviet resort to the weapons.

I believe that this New York Times report is of sufficient interest to warrant reading in full. Accordingly, without objection, I included it in the Record.

[From the New York Times, Dec. 17, 1973]

Arms Unit Fights a New Nerve Gas

(By John W. Finney)

Washington.—The Arms Control and Disarmament Agency is challenging the Army's plan for production of a new type of nerve gas on the ground that it is militarily unnecessary and would complicate international attempts to control chemical warfare.

It is doubtful that the Arms Control Agency, with a $7-million annual budget, can prevail against an Army that wants to spend at least $200-million producing the new nerve gas for its larger artillery shells. But in the debate now building up, the agency is staking out a new advocacy role on weapons planning.

In the past, it has not been the custom for the Defense Department to consult the agency about new weapons or for the agency to raise any questions that were heard within the Pentagon.

When the Army decided recently to go into production with the new binary type of nerve gas, for example, defense officials said that no attempt was made to consult in advance with the agency. Pentagon officials said it was strictly a military question of modernizing the Army's chemical warfare weapons and presented no arms control implications.

But within academic and some Congressional circles, the question was raised as to whether the binary gases, because of their ease of production, would not increase the danger of proliferation of chemical weapons and thus greatly complicate attempts to ban chemical warfare.

The same question is now being raised within the Government by Fred C. Ikle, the Swiss-born social scientist who took over as director of the agency last July.

THE COUNTER-ARGUMENT

With the agency no longer directing major arms control negotiations, there has been some concern in Government and academic circles that the agency was being turned into a "think tank" with little influence on policymaking. But to Dr. Ikle, his challenge on nerve gas is an example of how the agency can play an independent advocacy role in presenting the arms control implications of weapons programs.

The binary nerve gas consists of two separate chemical agents that become lethal only when combined, for example, in an artillery shell after it has been fired. The two agents—one consisting of a compound resembling insecticides used in the home and the other an alcohol compound that can be purchased in the commercial market—are relatively easy to produce.

For the Army, principal advantage of the binary gas is that it should relieve some of the public and Congressional concern about the safety of storing and transporting the present nerve gases.

This is conceded by arms control officials, although they question whether it will overcome the reluctance of European nations to have nerve gases stockpiled on their soil.

But the counter-agreement being raised by arms control officials is that such a move by the Army may stimulate even semi-industrialized nations to acquire the binary gases at a time when the United States is attempting to negotiate a treaty to ban the proliferation of chemical weapons by banning their production.

VIEWPOINT OF ARMY

Beyond such diplomatic complications, Dr. Ikle is asking whether the Army needs the new nerve gas.

The Army says it must modernize its chemical warfare stockpiles so they will be an effective deterrent against Soviet use of nerve gases. But Dr. Ikle questions whether the United States must necessarily have nerve gases to deter a Soviet resort to the weapons.

In other areas, such as radiological weapons, he said, "we have not found it necessary to have a retaliatory stockpile for each threat."

The agency says the Soviet Union would probably be deterred from use of nerve gases in violation of the 1925 Geneva protocol on chemical warfare because such a drastic step could provoke the use of nuclear weapons by the United States.

GREATER THREAT SEEN

Arms control officials say that probably a greater potential threat is that third countries could acquire nerve gases and be more inclined to use them in any war with the United States.

Arms control officials also question whether producing the new gases and destroying existing stockpiles represent the best military use of the funds.

As an alternative, they suggest new weapons, such as guided bombs, to destroy enemy stockpiles of nerve gases, Or, they propose, the Army might spend more money on defensive equipment and training against chemical warfare—an area in which the Army concedes the Soviet Union is now superior.

RICHARD NIXON: AMERICA'S MAN OF THE YEAR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. LEGGETT) is recognized for 5 minutes.

Mr. LEGGETT. Mr. Speaker, there are those cynical cohorts of confusion, those dyspeptic dissolute disciples of despair, who sustain the susurrations of sinister suggestion that history will not place President Nixon on the same platform as Jefferson, Washington, and Lincoln.

Recently these unworthy utterances have been laid to rest by the prestigious Committee To Support the Goal of Every Patriotic American, which has named Mr. Nixon its man of the year.

It should be noted that, while Jefferson, Washington, and Lincoln no doubt were competent men for their day, they never quite made the grade. Their efforts notwithstanding, they were never named man of the year by this prestigious society.

It should also be noted that, while in any less distinguished year Gov. Ronald Reagan's achievements would have easily carried him to victory, he was wiped off the board in 1973 by the overwhelming record of Mr. Nixon.

I insert for the perusal of my colleagues a news report of the award and its background, which recently appeared under the byline of the San Francisco Chronicle's star cub reporter, Arthur Hoppe:

MR. NIXON, MAN OF THE YEAR

(By Arthur Hoppe)

President Nixon has won the coveted Man of the Year award from the prestigious Committee to Support the Goal of Every Patriotic American.

"The goal of every patriotic American is, of course," said committee chairman Homer T. Pettibone, "to avoid paying as much income tax as can be avoided. Mr. Nixon has won the nation's admiration by becoming a millionaire in five short years while paying a smaller percentage of taxes than a family of four making $8000 annually.

Other nominees for the honor included Governor Ronald Reagan of California, who managed to pay no income taxes in one 12-month period and Chicago financier B. Blascomb Blatant, who netted $22.7 million on depreciable oil wells, depreciable high-rise shelters and depreciable chinchillas, thereby winding up so depreciated the I.R.S. owed him $2.58.

What won Mr. Nixon the award over such distinguished challengers was his "Operation Candor," in which he released 56 pages of documents detailing his financial transactions. "The President not only set an example for every patriotic American," Pettibone said, "but for the common good, he described exactly how he did it.

With this, Pettibone unveiled the coveted "Ponzi" award, a gold statuette of a siming man with a hand over this wallet—this one inscribed: "Richard Nixon, He Showed the Way!"

Not only is Mr. Nixon a patriotic American, Pettibone noted with pride, but he's a good family man. As evidence, Pettibone cited how the President enriched his daughter, Trish, by $45,000 at the low capital gains rate instead of hiring her for that amount at the high ordinary income rate.

Mr. Nixon said he did this by borrowing $20,000 from her and promising to cut her in on a lucrative Florida land deal by "an oral agreement."

("Trish, I'm a little on the shorts, Can you let me have twenty grand"?

("Sure, Daddy. But first let me check your credit rating. Let's see, you've got three houses mortgaged to the hilt, shaky job tenure and Spiro's your character reference?"

("Damn it, Trish, if you can't trust your Daddy, who can you trust?")

And, sure enough, the deal paid off—which shows that you can, too, trust Florida real estate promoters, no matter what their station in life.

What also swayed the judges. Pettibone said, was the fact that while Mr. Nixon voted in California as a resident, he paid no California income taxes whatsoever.

"Every good citizen should vote only on election day in the State he lives in," Pettibone said, "only on election day."

So, all in all, Pettibone feels that the President today successfully embodies the aspirations of all patriotic Americans.

"After all, patriotic Americans love this great land of ours and want to support their country in every possible way," said Pattibone, his hand over his heart, "in every possible way, that is, but financially."

LIBERALIZATION OF MARIHUANA LAW IN OREGON

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, I introduced a bill earlier in this session to decriminalize possession of marihuana, as defined for personal use—that is, under 3 ounces. The Javits-Koch bill provides that marihuana in an individual's lawful possession would not be subject to seizure as contraband, marihuana intoxication would not be valid defense for any violation of Federal law, and the sale, distribution, or transfer for profit of marihuana would continue to remain crimes.

The State of Oregon recently enacted a somewhat similar law, and as the accompanying article from the New York Times shows, the skies have not fallen in; Oregon has not become a haven of drug-crazed hippies. In fact, the only apparent difference between the "old" and "new" Oregons is that the police under the present law have more time to give attention to the real criminal elements and dangers to society and protect law-abiding citizens.

The fundamentals of the Oregon law are simple. Possession of 1 ounce or less of marihuana is treated as a parking violation, with a maximum penalty of a $100 fine. No criminal record ensues. The article makes clear the popular support for the law coming from judges, police, and the citizens of Oregon. I have made clear in earlier statements the widespread support the decriminalization concept has: It ranges from the American Bar Association to the National Education Association. The time for change has come. Let us implement the recommendations of the National Commission on Marihuana and Drug Abuse—the Shafer Commission whose members were appointed by President Richard M.

Nixon. The personal use and possession of marihuana should be decriminalized.

[From the New York Times, Dec. 18, 1973]

OREGON HAS NOT BECOME A HAVEN FOR PUSHERS DESPITE NATION'S MOST LIBERAL DRUG LAWS

PORTLAND, OREG., December 15.—About nine weeks ago, Oregon abolished jail terms and heavy fines for possession of an ounce or less of marijuana, making the state's drug law the nation's most lenient.

The liberalization of the law has produced no startling changes. Possession of marijuana is still illegal, but now it is treated more like a traffic violation than a crime. A citation is issued and the maximum penalty on conviction is a $100 fine, regardless of the number of previous convictions. There is no criminal record.

The maximum penalty formerly was a year in prison and a $1,000 fine for the first offense, and 10 years and $2,500 for repeats.

There is no evidence that the state has become a haven for drug users and pushers, as opponents of the measure had warned.

Those who sell marijuana say that its price, supply and demand are following seasonal norms.

CHANGING ATTITUDE

For the most part, policemen, prosecutors and judges are pleased with, but not excited by, the liberalization. They say the law has simply caught up with society's changing attitude toward the casual use of marijuana.

"It's a good thing," said Bill Youngman, senior deputy district attorney for Multnomah County, which includes Portland, the state's largest city. "It was getting to be hell prosecuting those cases. Marijuana use had become so common that the grand jury just wouldn't indict and when they did, the juries wouldn't convict. We were losing our credibility with the courts."

"I think this law is going to work out very well," said Michael Bailey, the Multnomah County prosecutor who handles most marijuana cases. "It's a clear statement that the legislature wants a very small amount of our resources devoted to this area. I think in a few years complete legalization of marijuana may follow suit."

"Yes, this is a step toward legalization," said Sgt. Carl Dunafon of the Portland Police Department's narcotics detail. "And I oppose it. The law is too liberal. We don't have enough information to know the exact effects of this dangerous drug and here we are trying to legalize it."

Mr. Bailey said about 40 citations had been issued in the county for marijuana possession since the new law took effect Oct. 5—"mostly to teenagers, street people, hippies, the ones who smoke in public places."

He said practically all those to whom citations have been issued have pleaded guilty and accepted a usually light penalty.

Stiff criminal penalties for sale of any amount of marijuana, and for possession of large quantities of marijuana and other drugs, remain in force. Hashish, a more potent derivative of the marijuana plant, was inadverently included in the new law. Legislative leaders say this was an oversight and will be corrected during a special session early next year.

TOO EARLY TO TELL

"It's far too early to tell what the effect of the law is going to be on the market," said a Portland dealer who handles large quantities of marijuana. "The stuff is getting easy to come by again because of the harvest in Mexico. And the quality is going up. This is the best time to buy so I don't know how much of the increase is due to the law."

In Lane County, home of the University of Oregon, District Attorney Pat Horton said he was using the present system almost a year before the liberalized law took effect.

"There's been a saving of time and money," he said. "The average time for a policeman to arrest, lock up and process a person is 40 minutes. That's 40 minutes the cop is not on the street protecting life and property."

Mr. Horton foresees the eventual legalization of marijuana in Oregon, but with state controls on price and supply like those on liquor.

There is not total agreement.

"All this law really is is a license to sell," said District Attorney Doye Schifman of Douglas County, a less populous region in the southwestern part of the state. "The pusher can go on his merry way selling marijuana, and as long as he never carries more than a lid, an ounce, at one time . . ."

In the eastern Oregon town of Hermiston, a move is already under way to restore criminal penalties for possession.

"We don't know to what extent marijuana affects the brain, but it very definitely does," said Susan Roylance, 31-year-old mother of seven and head of the Committee Against Liberal Drug Laws.

GOOD NEWS ON EQUAL CREDIT FOR WOMEN

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, in light of the hearings recently concluded by the Banking and Currency's Subcommittee on Consumer Affairs on the subject of sex and marital discrimination in credit applications, I was very pleased to learn today that the Federal Home Loan Bank Board has issued a policy statement prohibiting savings banks from discrimination against women or families dependent on a working wife's income in making mortgage loans.

Instances of sex discrimination in credit applications have been found to be widespread, not just with bank loans, but with all forms of credit. Last summer I introduced legislation—H.R. 8246 and H.R. 9499—prohibiting such discriminatory practices, and just recently, as a member of the Consumer Affairs Subcommittee, I heard several days of testimony on this subject. Almost overwhelmingly, those testifying indicated support for legislation, noting that there is no valid basis for such discrimination.

It is my intention to press in my subcommittee and in the full Banking and Currency Committee for legislation which will ban all forms of credit discrimination based on sex or marital status. The legislation is long overdue, and no additional hearings are required. The American public demands that action be taken now.

The article from today's New York Times describing the Federal Home Loan Bank Board's new policy follows:

HOME LOAN PANEL UPHOLDS WOMEN'S MORTGAGE RIGHTS

(By Linda Charlton)

WASHINGTON, December 17.—The Federal Home Loan Bank Board made it a matter of policy today that savings and loan institutions may no longer discriminate against women or families dependent on a working wife's income in making mortgage loans.

The board's statement of policy does not technically have the force of law, but it is accepted as binding by the savings banks, whose activities the board regulates.

The new policy statement was published today in the Federal Register, without the planned fanfare of a press release. The 10-inch snowstorm that muffled Washington kept the board's public-relations staffers from their desks.

The statement noted that the Civil Rights Act of 1968 did not specifically outlaw discrimination in lending on the basis of age, sex or marital status, but that such discrimination was "contrary to the principle of, and may in fact violate constitutional provisions which guarantee equal protection of the law" and "may additionally result in racial or ethnic discrimination."

The "supplementary guidelines" against which the board's member institutions are asked to "re-examine" their policies state that certain "loan underwriting decisions" may be discriminatory.

ASSUMPTION ON DIFFERENCES

They are the decisions that "differentiate loan applications on the basis of assumptions regarding comparative differences in credit worthiness between older and younger persons, or among married, single, widowed or divorced individuals" without considering the specific circumstances of each case.

"As far as they go, we're happy with them. We think it's a major step," said Steven M. Rhode, a research associate at the Center for National Policy Review, a privately funded organization affiliated with Catholic University Law School that served as counsel for 13 civil rights organizations who petitioned the board nearly three years ago to end discrimination in lending.

A survey taken by the board in 1972, Mr. Rhode said, indicated widespread discrimination against would-be borrowers on just such grounds. Marital status was considered by 64 percent of the institutions, and 18 percent said that marital status could disqualify a borrower. One quarter of the savings institutions said that they could not count a working wife's income at all in considering a mortgage-loan application.

A February study this year by the Oregon Student Public Interest Research group, an off-shoot of Ralph Nader's consumer advocate organization, concluded that generally women enjoyed "second-class status" in dealing with banks.

At an October hearing by the District of Columbia Commission on the Status of Women, more than one-quarter of Washington's mortgage lenders conceded that they had discriminated against women applicants. And the president of the New York State Bankers Association told a state legislative hearing in New York City in the same month that banks did discriminate against women, but that "there is no conscious policy of discrimination. It's just that bank officers are operating the way they did 20 years ago."

The loan bank board's statement also said that using only the "nonovertime income of the prime wage-earner may result in discrimination" because such standards "do not take account of variations in employment patterns among individuals and families."

To discount automatically a working wife's income or other income from overtime or part-time work, the board said, "will cause some applicants to be denied financing without a realistic analysis of their credit worthiness."

Because "minority group members and low- and moderate-income families rely more often on such supplemental income, the practice may be racially discriminatory in effect, as well as artificially restrictive of opportunities for home financing," it was said.

The policy statement also cited as potentially discriminatory the practice of requiring fluent English as a prerequisite for loan approval. It placed in the same suspect category the "refusal to lend in a particular area solely because of the age of the homes or the income level in a neighborhood."

The statement ended with a cautionary note regarding the evaluation of would-be borrowers on the basis of "prior history": "A policy favoring applicants who have previously owned homes may perpetuate prior discrimination. Job or residential changes may indicate upward mobility."

ENERGY: WILL WE MEET THE TEST?

(Mr. PRICE of Illinois asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PRICE of Illinois. Mr. Speaker, the fuel shortage has been given sufficient publicity in recent weeks so that by now every American should be aware of the problems we face. But awareness is neither understanding nor acceptance. For even now one of our major tasks in meeting the energy dilemma is to dispel the popular notion that the shortages are an artificial creation of conspiring oil barons and spineless Government officials. If the people do not believe that the shortages are genuine it will be extremely difficult to make any of our solutions work.

It is still important, then, that we explain to the individual homeowner and commuter the causes of the shortage and the mechanics behind our remedial actions.

In this month's issue of Rural Electrification magazine, an article entitled "Energy: Will We Meet the Test?" presents a straightforward, easily understood and credible analysis of the energy situation and suggested measures to stabilize it. I ask unanimous consent that this article be included in the RECORD.

Energy: Will We Meet The Test?

President Nixon last month outlined a series of voluntary and mandatory energy-conservation programs which the Administration hopes will get the Nation through the winter. In addition, he called for congressional action—which is undoubtedly forthcoming—giving him additional emergency powers to cope with anticipated shortages.

Although some individuals and businesses immediately reacted by instituting portions of the President's recommendations, there are reports that the program may be too little too late—and that more severe steps such as rationing or sharply increased taxes on such commodities as gasoline may be necessary before spring.

The charts on these pages show the anticipated shortages to be from 2- to 3-million barrels of oil a day. To counter these shortages, the White House plan anticipates its proposed actions can save about 2,350,000 barrels a day—with the warning that more strict controls will come unless everyone cooperates.

The bulk of the Administration's anticipated savings is expected to come from the transportation sector. A cut in airline flights is supposed to save 170,000 barrels a day, while reduced highway speeds along with increased car pooling and use of mass transit could save 600,000 barrels a day.

Already, however, the transportation industry has warned that "any significant reduction in the public carrier services will create major economic dislocations and endanger our national security."

And, others point out, curtailment of automobile traffic on the highways could have a drastic and adverse impact on motels, restaurants, huge suburban shopping malls, resorts, service stations and roadside retailers of all kinds.

But cutbacks on auto usage seem to be the only effective short-term way to save oil.

The Highway Users Federation has released figures which show that:

If 60% of those who drive to work—mostly one person in one car—would switch to car pools, 1.8-billion gallons of gasoline would be saved each year.

If all passenger cars traveling at speeds higher than 50 miles an hour would cut their speeds by 10 miles an hour, annual fuel savings of 3-billion gallons would be realized.

If just 1% of all city auto travel could be switched from streets to freeway links now cut off, some 97-million gallons a year could be saved.

However, if the reports which came the first few days following the President's appeal for a cutback in auto usage and speeds are an indication, Americans aren't driving all that less and certainly not all that slowly. Reporter after reporter driving at 50 miles an hour said he was passed up by nearly everything on the road.

This may be why the Administration has under serious consideration contingency plans for gasoline rationing or a heavy tax on gasoline.

Rationing would presumably take the form of coupons issued to registered car owners. The coupons could be redeemed for gasoline for about 10 to 15 gallons a week.

The tax—reportedly from 30 to 40 cents a gallon—not only would serve to discourage consumption, but it also would provide funds to finance energy research projects.

As far as electric utilities are concerned, the Administration plans have a number of implications.

Actions to overcome this winter's energy shortage

[Barrels per day]

Reduce airline flights and improve efficiency	170,000
Reduce thermostat settings in homes, offices, and factories	640,000
Convert from oil to coal and prohibit further switching	430,000
Reduce highway speeds, increase car pools and mass-transit use	600,200
Increase production from non-government oil wells	350,000
Increase oil production from Elk-Hills naval reserve	160,000
Total barrels per day*	2,350,000

*If these actions fail to offset the actual shortage, additional steps may be implemented.

SOURCE: White House figures.

First, it seems obvious that more reliance will be placed on coal for firing power plants in the immediate future.

Second, it will likely mean that there will be some relaxation—on a case-by-case basis—of air quality standards, thus allowing the use of fuels that otherwise could not be used.

Third—for the long range—the promised stepped-up program for research and development into new energy sources could bring us out of an era of scarcity and its attendant spiraling costs.

Beyond that, it is difficult to determine just what the fuel shortage will bring in the months ahead. For one thing, a number of utilities are reporting a growing number of new electric heating loads as a result of natural gas and fuel oil shortages. This is especially true for rural electric systems because of the propane shortage. On the other hand, a sharp cutback in electric usage could put some utilities on the spot in that they may not receive revenues necessary to cover rising expenses.

The energy crunch also has special implications for farmers, who will feel it in two important ways. First, the fuel shortage could cut back on the number of acres that will be planted and harvested next year. Second, nitrogen fertilizer—which is made from natural gas—will be in short supply and certainly far more costly next year.

BELLEVILLE, ILL., NEWS-DEMOCRAT INDICATES PEOPLE OPPOSE GASOLINE RATIONING

(Mr. PRICE of Illinois asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PRICE of Illinois. Mr. Speaker, one of the newspapers in my congressional district, the Belleville News-Democrat, has instituted a monthly feature called the Plebiscite, in which the readers may voice their opinions on particular issues.

Mr. John E. Shuff, the president and publisher of the News-Democrat has been kind enough to furnish me with the results of the first plebiscite, which sought views on gasoline rationing, and I insert this information in the RECORD for the consideration of my colleagues:

News-Democrat Readers Oppose Gas Rationing

The federal government should not ration gasoline in its energy saving efforts, according to readers of the Belleville News-Democrat.

Responding to our first Plebiscite, 290 readers voted 3½ to 1 against rationing and said, for the most part, they object to rationing "because the government couldn't do it fairly."

The Plebiscite results showed: 220 against, 67 in favor and 3 who voted both ways.

Two of the people who seemed to have trouble making up their minds on the issue wrote rather lengthy comments explaining their dilemma.

"The decision should not be left to the whims or emotions of the populace," one writer said. "I don't want rationing; however, if it is needed then let's have it."

The Plebiscite, a new monthly feature started by the News-Democrat, was conducted as follows:

A story outlining the feature and listing the question on a coupon to be mailed or delivered to the newspaper was published in our Monday, December 3, edition. Readers were given until 4 p.m. December 10, to respond. They were not required to sign their names to the coupons but were asked to list the name of the town where they live. No extra copies of the paper were printed that day and we asked each reader to fill out only one coupon to insure a fair sampling.

The results, which were screened and read by our staff Tuesday, will be forwarded to U.S. Senators Charles Percy and Adlai Stevenson and U.S. Rep. Melvin D. Price.

The News-Democrat started the Plebiscite feature to encourage people to speak out on important issues of the day in a manner that would insure their collective feelings being made known to appropriate authorities.

The next Plebiscite on a topic yet to be determined will be conducted January 7.

Following are some representative comments from those who opposed gas rationing:

"It would create another bureau for corrupt action . . . the government can't do anything fairly."

"I think the gas shortage is political. When the price gets high enough, we'll get gas."

"If fuel is short the way they say it is, it is due to the way the government has operated and they should operate differently."

"When Nixon and his bureaucrats quit sending oil out of this country, then I might consider it (rationing). Also, he should stop flying back and forth. Tell him to stay at the White House where his job is."

"It would hurt the common man most."

"Kick the oil-bought President and legislators out of office to overcome the created shortage."

"It did not work before. Some got and some didn't. I'm a senior citizen . . . wear a sweater at 68 degrees and still cold."

"As those in World War II, those who know how to cheat and lie always get more gas than the honest citizen. I think we should quit exporting oil and use what we have for ourselves."

"Just another one of Nixon's messes."

"Ration the number of new eight cylinder cars being built in the U.S.A."

"It can't be done fairly. The rich will get as much as they need."

"My husband drives 100 miles round trip to work each day. That can't be done on 10 gallons of gas. Must we all move to the city?"

Following are representatives samples of comments made by those favoring rationing:

"Rationing would be more fair to the working man than raising the prices. Put controls on gas companies to keep the prices down."

"If necessary Government should investigate oil companies and control profits to them and curtail exporting from here."

"I am for rationing if the people who have to drive to work can get the amount of gas they need."

"Rationing yes but without the exorbitant extra tax they are considering which would as usual benefit only the rich."

"Gas rationing is the fairest way to cut down on the amount of gas used. High taxes on gasoline would be too difficult for most of us to pay."

"That's okay with me if everyone is rationed. I drove to St. Louis every day with coupon rationing the other time. Let people wake up. Get them out of their selfish, greedy attitude."

"I believe the people of America are spoiled. They almost always have had an excess of things and they have become accustomed to this. I believe they will keep using gas unnecessarily until they are restricted. Thank you for letting me voice my opinion."

Thank you for voicing your opinions. All of you. And, we hope you'll continue doing it on other issues that appear in the Plebiscite.

MONTGOMERY COUNTY SCHOOL SYSTEM JOINS SOUTHERN ASSOCIATION OF COLLEGES AND SECONDARY SCHOOLS

(Mr. PERKINS asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PERKINS. Mr. Speaker, the school officials in the Seventh Congressional District of Kentucky have traditionally been a strong force for beneficial development in the area—both in education and in general community improvement. Just recently, I was informed that the Montgomery County school system was accredited by the Southern Association of Colleges and Secondary Schools, an achievement which took the hard work and the efforts of many people in the community. This will benefit the young people in the schools very much, because it will help them get into college or other advanced training. I congratulate School Superintendent John Brock and his associates, and I would like to request unanimous consent to insert an article about this from the Mount Sterling Advocate in the Record.

Joins Southern Association

Congratulations are in order to Supt. John Brock, the Montgomery County Board of Education and the faculty members of the county school system on the schools' being accredited by the Southern Association of Colleges and Secondary Schools.

The county schools have improved steadily over the past few years. About three years ago the high school received a Comprehensive Rating from the State Department of Education, the highest rating given by the state. Before and since then the administrative personnel and faculty members, backed by the school board, have been working diligently toward membership in the Association. Now the goal has been achieved.

Aside from the prestige that comes from accreditation by the Southern Association the main advantage is for those graduates who plan to enter universities and colleges outside Kentucky. Their chances of getting into a major university or college are much better than if they had graduated from a non-accredited high school.

Accreditation by the Southern Association also shows that you have a good program, qualified teachers, and administrators constantly striving to improve the system.

The county school system has had its ups and downs over the years, as most of them do, and it should be gratifying to all those who are concerned about the education and future of our youth to know that after a long haul our county schools have reached their place in the sun.

APPALACHIA AND POPULATION MIGRATION

(Mr. PERKINS asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PERKINS. Mr. Speaker, the Appalachian Regional Commission has just disclosed that a study it has made shows some very interesting facts about population migration as it relates to Appalachia.

The most significant point the study shows is that outmigration has ended.

I call this to the House's attention for several reasons.

One—it indicates very clearly that some of the great programs initiated by Congress—programs concerned with economic development, aid to education, more and better public facilities—are starting to produce the results we hoped and planned for when we wrote the legislation.

The other reason I am calling the House's attention to this report is that we are often faced with the problem of establishing formulas for distribution of funds, and sometimes the numbers of children and adults at various economic levels are a major consideration in establishing the formulas.

In that regard, I would like to ask the House to note that the report says Appalachian population grew 2.4 percent from 1970 to mid-1972, which was the same growth rate that the entire Nation experienced.

The author of the report said the findings came as a surprise—but I do not think we should let ourselves be surprised by these statistics.

Instead we should take them into account, when we prepare our formulas, and when we authorize and appropriate for the programs that are a significant reason for the region's revitalization.

The report follows:

Appalachian Outmigration Has Ended, Report Reveals

(By Bill Peterson)

Washington.—In a startling reversal, outmigration in Eastern Kentucky and most of Appalachia has ended and poverty-scarred areas that lost population for three decades are beginning to grow.

A report prepared last week by the Appalachian Regional Commission (ARC) indicates that the change has occurred since 1970 and involves many of the Nation's poorest, most remote counties.

In offering one of the first tangible signs that 10 years of Federal redevelopment and relief efforts produced any results, the report says population in the 13-State region—the Nation's poorest—grew 2.4 percent in 2½ years ending in mid-1972, the same rate of growth recorded in the United States as a whole during the period.

This reversed—at least temporarily—a trend that resulted in the loss of 2.5 million persons in the region in the 1950s and 1.6 million in the 1960s.

The population of Eastern Kentucky, the heart of the region, grew from 876,000 in 1970 to 914,000 in 1972, the report said. This leaves it with just 8,000 fewer persons than in 1960, the year Appalachia's poverty and joblessness became a national issue.

The four-page report attributes the shift to:

Higher unemployment and housing shortages in large metropolitan areas that traditionally attracted Appalachians.

Large increases in Social Security and black-lung payments, which have pumped millions of dollars into the region.

Increased job opportunities in the region, especially in coal mining in Eastern Kentucky.

Growth in recreation areas and an increase in retirement homes.

The Appalachian development program, which funneled $1.6 billion into the region since 1965, most for highways and public buildings.

A return of men and their families from the armed services, which have been cut by 886,000 since 1971, and persons who reached retirement age in Northern factories.

Dr. Jerome P. Pichard, the ARC population expert who wrote the report, said he was "very surprised" at the findings and had little statistical warning the central part of the region was beginning to grow.

"It appears the region is turning the corner, and it will no longer have the outmigration it had in the past," he said. "For Eastern Kentucky, this is extraordinary."

Pichard, however, cautioned that the study deals only with a two-year period and it is dangerous to draw too many conclusions from it.

CONSISTENT WITH U.S. TRENDS

The trends it notes parallel several national ones, including a sharp decline in the birth rate and an apparent halt in movement to large metropolitan areas that have characterized population shifts since World War II.

The report doesn't deal with poverty or income, and there is nothing in it to indicate firmly whether living conditions have improved in Appalachia.

Pichard notes the most recent census statistics indicate per capita income in Eastern Kentucky is less than half the national average and earlier ARC reports speculate as much as one-third the population may be jobless.

Census reports, for instance, show the per capita income in Wolfe County, Kentucky, was 34 per cent of the national average of $3,139 in 1970. The figure was 31 per cent in Owsley County, 47.6 per cent in Perry County, 47.6 per cent in Letcher County, 36 per cent in Breathitt County, 33 per cent in Clay county and 54.3 per cent in Pike County.

EACH GAINED IN POPULATION

Each of these areas has shown a population gain since 1970, however. Letcher County, which lost 3 per cent of its population during the 1960s, gained 8 per cent since 1970, for example.

A sampling of other Eastern Kentucky counties shows these population shifts:

[In percent]

County	Population 1960–70	Change 1970–72
Harlan	−26.9	+6.5
Floyd	−13.8	+7.6
Perry	−26.4	+3.2
Johnson	−11.2	+7.2
Wolfe	−13.2	+2.3
Knox	−6.2	+3
Breathitt	−8.2	+2
Pike	−10.6	+6.1
Martin	−11.1	+7.7

The only two counties to show a significant population decline since 1970 in Eastern Kentucky are Garrard and Cumberland. In Garrard's case the drop was 1.7 per cent, in Cumberland's 5 per cent.

The report said all 13 Appalachian states showed significant growth and migration since 1970. During the 1960s only Georgia had any immigration.

The change especially was dramatic in the heartland of the region, which includes Eastern Kentucky, an area that lost 15.4 per cent of its population during the 1960s.

The other three states in this heartland—West Virginia, Tennessee and Virginia—had growth rates similar to Kentucky since 1970, a fact apparently attributable to the resurgence of the coal industry, which dominates the area.

The report is based on census estimates made each year using such factors as car registrations, school enrollments and the size of the labor force, Pichard said.

BLAME NIXON

(Mr. DEVINE asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. DEVINE. Mr. Speaker, Charles D. Lehman of Westerville, Ohio, recently wrote to the people of the United States about the blessings we enjoy. His letter follows:

DECEMBER 10, 1973.

To: United States People, wherever you are:

One of the many blessings we enjoy in this Nation today is freedom from blame. From the lowest laborer to the highest ranking Sentaor, none of the evils of our society rests on our shoulders.

Why?

The President is responsible? It is his fault!

If prices go up, blame Nixon
If prices go down, blame Nixon
If Israel attacks Egypt, blame Nixon
If Egypt attacks Israel, blame Nixon
If we run out of oil, blame Nixon
If we pollute, blame Nixon
If we don't prosecute vigorously, blame Nixon
If we prosecute too vigorously, blame Nixon

Only if something good happens do we need to step forward and accept responsibility. Isn't this a great situation? We can't lose. There is only one Bad Guy and all of the rest of us wear the white hats. What other nation in the world can offer this program. If we run out of white hats, blame Nixon.

CHARLES D. LEHMAN.

Now, Mr. Speaker, the above satire is painfully accurate. Just the other day I asked some of our colleagues that insist on doom and gloom postures if they could not find some way to blame the President for the far more serious energy crisis in England and Japan. They will probably find a way, ably assisted by the television network "newscasters."

WHERE IS OUR INTEGRITY?

(Mr. DEVINE asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. DEVINE. Mr. Speaker, a most refreshing letter from a 20 year old co-ed at the Ohio State University was published in the Columbus Citizen-Journal.

Martha Hill, in my opinion, shows great insight, objectivity, and has a genuine feel for the greater interests of our Nation. Her letter follows:

WHERE IS OUR INTEGRITY?

I am 20 years old and a junior at The Ohio State University. In 1972, I voted in my first presidential election. I voted for President Nixon because I felt him to be a man of integrity and experience. I felt that in his first term, he served his country in a manner which upheld this integrity.

In view of all that has happened in recent months, I still feel he is as well qualified to govern as any man in this nation. Why all the talk of impeachment and resignation? Is this the way the United States treats a man who put an end to our involvement in the ugly Vietnam War—a war that caused riots and dissent; a war that he inherited from three previous administrations two of them Democratic? Is this the way we treat a man who has opened far-reaching negotiations with Russia and China, the most promising hope we've had for peace in this country?

I question not the integrity of the President. Rather, I question the integrity of all Americans; the news media, first and foremost, the United States Congress, secondly, and, we as citizens, lastly. Have we lost our senses over the matter called Watergate? I wonder how many other such scandals have been pigeonholed in the last 12 years, such as Bobby Baker, the Bay of Pigs, and Chappaquiddick? Why do we single out one man and one political party? There are no perfect men in this country, in either party. No man is without flaw; even Archibald Cox slips now and then.

I suggest that before we impeach a man, we give him the courtesy of being innocent until proven guilty in a court of law; not the mock trial such as I see on the 6:30 news every evening. Where is our integrity and judgment? Before we impeach Nixon, or before the media and cohorts force him to resign, let's look at the integrity of those so eager to oust him. Have their recent pasts been so honorable? Quite to the contrary. And, President Nixon hasn't even been proven guilty. For God's sake, let the man do the job that I, and the overwhelming majority of Americans, elected him to do in 1972.—Martha Hill, 870 Oxford-st, Worthington.

TO REMEDY DISCRIMINATION UNDER SOCIAL SECURITY LAWS

(Ms HOLTZMAN asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include extraneous matter.)

Ms. HOLTZMAN. Mr. Speaker, I am introducing today an amendment to the social security laws to remedy present discrimination against surviving widows who have worked.

At present a widow who has worked is faced with a difficult problem: She may receive either her own old-age benefit or a widow's benefit based on her husband's earnings—but not both. Since the widow's benefit is usually the larger, she will ordinarily receive that benefit and thereby lose her own contributions to the social security trust fund. As a result, most working widows collect exactly the same benefit as widows who have never worked. The unfairness inherent in the law is clear: Not only does the working widow collect no more than the woman who did not work, but she also loses everything she has contributed to the trust fund over the years. I think this law is an unfair restriction on the working spouse's right to receive social security benefits he or she has paid for through the payroll tax.

Under my bill, the working woman would be entitled to collect both her own old-age benefit and her widow's benefit when her husband dies. The bill would apply with the same force to men, allowing those eligible to collect a widower's benefit also to collect an old-age benefit.

My bill would reward those who have been a productive part of the economy and supply additional income at a time when it is most urgently needed. It would provide security for many widows since they would know that the death of their spouse would not signal a sharp reduction in social security benefits.

In recent years we have witnessed a number of significant changes in the social security laws designed to end discriminatory treatment of women. This bill would be an important step in eliminating such inequities by recognizing that the working woman should collect benefits she has earned in her own right as well as those the law provides her as a surviving spouse.

I hope my colleagues will join me in supporting this important legislation.

PERSONAL EXPLANATION

(Mr. MOORHEAD of Pennsylvania asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, due to yesterday's weather conditions, I was unable to be in the Chamber.

Had I been present, I would have voted "nay" on rollcall votes 692 and 694 and "yea" on votes 693 and 695.

LEGISLATION INTRODUCED TO ESTABLISH A STATUTORY CLASSIFICATION SYSTEM AS AN AMENDMENT TO THE FREEDOM OF INFORMATION ACT

(Mr. MOORHEAD of Pennsylvania asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I have today introduced legislation to correct the deficiencies and abuses inherent in the operation of the Nation's security classification system under Executive Order 11652 and its predecessor orders.

This bill would replace Executive order system by a statute—an amendment to the Freedom of Information Act (5 U.S.C. 552)—as recommended in the unanimous report adopted last spring by the House Government Operations Committee, based on extensive hearings and investigations by the Foreign Operations and Government Information Subcommittee, which I am privileged to chair. This report (H. Rept. 93-221) is entitled "Executive Classification of Information—Security Classification Problems Involving Exemption (b)(1) of the Freedom of Information Act (5 U.S.C. 552)." Details on this report were previously discussed in my remarks in the Record for May 24, 1973, at page 16936.

A number of our House colleagues are joining me in cosponsoring this important measure. They are:

Ms. Abzug, Mr. Alexander, Mr. Badillo, Mr. Bingham, Mr. Brown of California, Mrs. Collins of Illinois, Mr. Cotter, Mr. Dellums.

Mr. Fascell, Mr. Harrington, Mr. Hicks, Mr. Howard, Mr. Koch, Mr. Leggett, Mr. Matsunaga, Mr. Mazzoli.

Mrs. Mink, Mr. Moss, Mr. Rees, Mr. Rosenthal, Mrs. Schroeder, Mr. Seiberling, Mr. Thompson of New Jersey, and Mr. Thone.

The Foreign Operations and Government Information Subcommittee and its predecessor Subcommittee on Government Information, headed for many years by the distinguished gentleman from California (Mr. Moss), has studied the Executive Order classification system since 1956. It has held extensive hearings, conducted detailed investigations, and a number of reports dealing with weaknesses and administrative shortcomings of the security classification system, based on these studies, were subsequently adopted by the full Government Operations Committee during the late 1950's and early 1960's.

Our subcommittee continued this series of studies by extensive hearings and other investigations that began during the so-called Pentagon Papers controversy in June 1971. Other hearings on the classification system were held in May 1972 as part of our overall study of the operation of the Freedom of Information Act (5 U.S.C. 552).

The classification system, in whichever form it has taken, is an administrative mechanism, applying to Federal employees and military personnel, that assigns certain levels of security protection over various types of sensitive military and foreign policy information, equipment, devices, or other material, the disclosure of which—in the judgment of the classifier—would be in various degrees harmful to the national security. It is presently embodied in Executive Order 11652, issued by President Nixon in March 1972.

Since the Executive order governing classification procedures does not have the force of law, except for internal administrative purposes, there are no criminal sanctions within the order itself for the unauthorized disclosure of classified information. The major deterrent to such unauthorized disclosure is contained in the criminal penalties attached to the Espionage Act of 1917 and a provision of the Internal Security Act of 1950. However, except for classified information dealing with cryptographic systems or communications intelligence, the Espionage Act provides for certain additional legal requirements to sustain an action for unauthorized disclosure of classified data.

During our hearings on the new order in May 1972, testimony of administration witnesses made it clear that there was a serious lag in preparing departmental and agency regulations to implement the new order, which was to take effect on June 1, 1972. I therefore urged President Nixon on May 3, 1972, to postpone the effective date of the new order to provide sufficient time for the NSC guidelines and implementing regulations. My urgings were ignored, and the predicted administrative time lag in fully implementing the new order did occur. I earnestly hope that this has not resulted in a compromise of vital national defense and foreign policy secrets and undermine the integrity of our entire classification system.

Any discussion of the Government's classification system, the subject of heated controversy during recent years, must be framed in the larger context of its relationship to our overall national defense and foreign policy operations and its application to existing criminal statutes.

From the earliest period of our Republic, the President and other executive branch officials have limited the dissemination of information affecting defense and foreign policy interests. Few argue that government should not have such power to safeguard vital military and foreign policy secrets. It is likewise obvious that in a representative system the citizenry must be informed to the maximum extent possible of defense and foreign commitments made by their government so as to make sound electoral judgments in the selection of public officials.

The classic dilemma is thus posed between the need for governmental secrecy in some vital areas, as weighed against the public's "right to know." This dilemma has been accentuated because America's leadership position in world affairs has imposed severe budgetary demands that require our citizens to make very real human and economic sacrifices. Superimposed is the increasing difficulty which Congress has encountered in obtaining vital information from the Executive in the defense and foreign policy fields.

If the public has a "right to know," Congress has a constitutional "need to know" as the people's representatives, so that it can act intelligently and responsibly as a coordinate branch of Government in investigating, legislating, and appropriating public funds for weapons systems, defense installations, and foreign policy programs.

Key features of the bill are:

The bill would provide for an automatic 15-year declassification of national defense information previously classified.

It would limit the classification period in most cases to 3 years maximum for "Top Secret" information, authorizing a procedural "savings clause" for a narrow category of highly sensitive national defense information.

It would establish an independent regulatory body, known as the Classification Review Commission—CRC—composed of nine members. The CRC would have broad regulatory and quasi-adjudicatory authority over administration of the security classification system in the executive branch.

The CRC would also have the responsibility for settling disputes between the Congress and the Executive over access to classified information requested by a majority of either House of Congress, by congressional committees, or by the Comptroller General of the United States. Decisions of the Commission in this field would be subject to judicial review.

The authority to classify would be sharply reduced, both in terms of the number of executive departments and agencies and in terms of the categories of officials having such power.

Administration of the security classification system would be subject to oversight by Congress.

The use of definitions of "Top Secret," "Secret," and "Confidential" in carrying out the purposes of the law would be strictly enforced to eliminate the erroneous classification of millions of documents each year.

Enforcement mechanisms would prevent classification of documents to hide incompetence, inefficiency, wrongdoing, or embarrassment.

Mr. Speaker, our subcommittee plans hearings on this proposal next year. Such legislation, in the opinion of many, is long overdue. I will welcome the support and cosponsorship of this measure by other Members who are concerned with weaknesses and abuses of the present Executive order classification system.

OIL SHALE MINING AND ENERGY CORPORATION

Mrs. MINK asked and was given permission to extend her remarks at this point in the RECORD and to include extraneous matter.)

Mrs. MINK. Mr. Speaker, a rising crescendo of debate has been heard in these halls regarding the energy crisis presently facing the United States—and with good reason. This Christmas we all contemplate shortages of electricity, gasoline and other forms of energy in varying degrees of severity because mounting demand has outstripped supply, because the large energy corporation have manipulated the market, and because the Arab nations have chosen to cut back on their releases of oil.

Belatedly, action is being initiated on several fronts to meet this challenge. The Government has stepped up research and development efforts to improve energy sources and supplies. The Emergency Energy Act which the House recently approved, is the latest attempt to deal with the long-range aspects of this traumatic moment of truth. Clearly, new sources of energy and new methods of channeling that energy to the American consumer must be found, if we are to move ahead as a nation.

Thanks to our short-sighted infatuation with the internal-combustion engine, petroleum has become our principal source of fuel. Last year it accounted for nearly half of our energy use, with natural gas and coal providing most of the rest. Yet, despite mounting reliance on petroleum products, domestic oil production has remained relatively constant, with imports increasingly taking up the slack.

Where, then, within our territorial boundaries, are we to turn for these badly needed sources of new energy? New exploration of the Outer Continental Shelf holds promise, especially along the Atlantic seaboard, but grave environmental problems loom ahead. The Alaskan North Slope oil fields should provide an additional 10 billion barrels of proven reserves, but here again the difficulties involved in transporting this oil to market pose immense difficulties.

There are other more exotic sources—geothermal, solar, wind, tidal, hydrogen, and so on, all of which we must vigorously explore, by all means.

However, none of these sources, Mr. Speaker, bears the promise held out by another potential source of energy, which until recently has received relatively little attention.

I am referring, Mr. Speaker, to oil shale. Oil shale is the most significant energy resource known to exist in the world today. There are resources possibly exceeding 2 trillion barrels of hydrocarbons locked in the sedimentary formations of the Rocky Mountain States, Colorado, Utah, and Wyoming. An estimated 600 billion barrels of oil—approximately twice the current Middle East reserves—could be commercially produced from oil shale utilizing technology already achieved, of which some 130 billion barrels are relatively easily accessible.

Of the 11 million acres of land containing oil shale deposits which are considered to be potentially of commercial value, some 8.3 million acres—about 72 percent—with about 80 percent of the known oil shale reserves, are owned by the Federal Government. These public lands are managed for multiple-use purposes by the Bureau of Land Management of the Department of the Interior.

Unfortunately, the progress of oil shale development has been fitful at best. Private concerns and the Bureau of Mines have pursued investigations into various methods of extracting oil and gas from the shale, sometimes cooperatively, but usually independently and sometimes in secrecy. Of the two options available for producing shale oil, only surface or subsurface mining of the shale in conjunction with surface retorting is believed to have been advanced to the point where it may be possible to scale up to commercial production within this decade. The alternative method, known as in-situ, or "in place" processing, is in the experimental phase. Commercial application of this technique is not expected prior to 1980, although recent disclosures of a new in-situ procedure appear to be promising.

In any event, it is clear that by the mid-1980's, oil shale could contribute between half a million and a million barrels of oil per day to help meet the Nation's growing energy demands. The ultimate potential has not been established, but it could amount to several million barrels per day.

In order to tap this magnificent public resource for maximum public benefit, I believe that several objectives must be met.

Of first priority is stringent environmental protection. We have seen the devastating effects of surface mining in several areas of our country where coal deposits have been stripped from the earth. The Rocky Mountains must never meet the melancholy fate which has befallen Appalachia. However, preserving the splendid scenic and recreational values of this region will not be easy. We know, for example, that due to the semi-arid nature of its climate, the region is extremely vulnerable to destruction of its precious water resources. Nearly all of the Colorado River Basin would be affected by oil shale recovery; therefore the exploration and development of this new resource must be done in such a manner as to assure the greatest possible protection for environmental factors, including strict requirements for restoration to the natural state.

Second, these resources on public lands should not be used for the private profit of a few. While commercial exploitation is practical in other types of mining or drilling situations, I do not feel it would necessarily provide the fullest degree of protection for the public interest in the development of our publicly owned oil shale reserves. Since to date there has been little actual production from the oil shale reserves, we are still in a position to make an informed and intelligent decision as to the best means of development.

In this context, Secretary of Interior, Rogers C. B. Morton, following issuance of an environmental impact statement, has announced the initiation of a prototype oil shale leasing program which would include offering six tracts of Federal lands, two each in Colorado, Utah and Wyoming, and each containing 5,120 acres.

Competitive bids are to be accepted, beginning early next year, for the commercial development of these tracts, which together are expected to support a combined production level of no more than 250,000 barrels per day.

This prototype Federal leasing program, as proposed by Secretary Morton, calls upon a private corporation or consortium to invest in the vicinity of $250 million for a 50,000 barrel per day oil shale operation. Since the program is defined as experimental by the Department of the Interior, there is no assurance that, upon completion of the prototype program, further development will be encouraged. Private industry is therefore being asked to invest large sums of money without the assurance that these outlays will be recouped at a profit.

On the other hand, if the prototype program is actually a commercial venture, to be subsidized by the Federal Government from the start, as some individuals claim, then emphasis must necessarily be placed on the realization of a profit, rather than on a true experimentation. This confusion as to the exact nature and intent of the prototype program gives rise to doubts as to the effectiveness of the Department of Interior's approach to oil shale development.

Secretary Morton has stated that adequate environmental regulations have been incorporated into the program, including provisions to monitor changes in the existing environment. Additional oil shale leasing would not be considered until the environmental impact of prototype development has been fully evaluated.

Nevertheless, Mr. Speaker, I remain unconvinced that turning our vast oil shale reserves over to the same private industry which bears so large a share of the responsibility for our present dilemma is actually the best policy. The Subcommittee on Mines and Mining has been holding a series of informational hearings on oil shale development. Secretary Morton has been invited to appear and testify. I am hopeful that he will have some of the answers to the many disturbing questions which have been raised in the course of these hearings concerning the environmental, sociological and economic impacts of the Department of Interior's prototype program.

Third, our oil and gas industries have suffered from the dominance of a handful of giant corporations, the so-called "majors." It is time to correct that imbalance by providing the smaller independent oil and gas companies with a reliable and reasonably priced source of raw fuel.

Fourth, the oil shale producing regions will experience massive economic and social effects from the influx of population that is bound to accompany the rapid development of the oil shale resources. These States and local governments, along with the Indian tribes who once roamed all of our lands, relying on them for a livelihood, deserve to share in the proceeds of this enormous treasure of energy.

In short, Mr. Speaker, I believe our oil shale deposits should be developed both on an experimental and ultimately on an operational basis by a public agency. We have at hand the successful example of one such agency, the Tennessee Valley Authority, whose development of the water and coal resources of a region is world renowned. Although I am aware of the justifiable criticism which has been levelled at TVA for its involvement in strip mining in Appalachia, TVA could in other ways serve as a model for the public agency I have in mind.

I believe that an oil shale TVA with tough environmental controls could accomplish a great deal toward meeting the energy deficiency which now plagues our Nation.

Mr. Speaker, I have today introduced legislation to establish such a "TVA" for shale oil exploration and development. My bill would establish a public, nonprofit agency entitled the Oil Shale Mining and Energy Corporation to be governed by a board of three directors appointed by the President and confirmed by the Senate.

The purpose of this public corporation would be to develop oil shale resources on federally owned lands, excluding national parks and similar areas, and lands owned by or held in trust for Indians. Oil shale energy products would be sold. While this corporation would be patterned after TVA, I have included a strong mandate for environmental protection.

The corporation would be prohibited from using surface mining methods for extracting oil shale and would be instructed to give preference to nonnuclear in situ methodology, since this technique avoids removing shale from the underground strata, retorting it above ground, and eventually disposing of a large proportion of the spent shale on the surface. Studies have shown that the disposal of spent shale poses severe problems related to revegetation, stabilization, erosion, flood control, and surface water pollution.

Oversight of the environmental aspects of the design and planning for each facility, would initially become the responsibility of a 20-man environmental advisory committee, equally representative of industry, State and local governments, environmental and public interest organizations, Federal agencies, and Indian tribes. Methods other than in situ processing would require the approval of this committee, and all the public review and other provisions of the National Environmental Policy Act would have full force and effect.

The corporation would be empowered to sell bonds for the construction and acquisition of plans, transmission pipelines, and other facilities for the production and sale of oil and gas and other oil shale products. Provision will also be made for the sale of any other commercially valuable minerals incidentally derived from the production of oil shale, such as nahcolite or dawsonite, which may become important sources of chemicals used in cleaning stack gases and of alumina.

In its sale of oil shale products, the corporation would give preference to those oil and gas companies who are lacking their own means of primary production of oil and gas. In this way a healthy competition and diversification would be stimulated in the industry. At the same time, Mr. Speaker, my bill will give the Corporation the option of establishing mutually productive agreements with private industry as part of its exploration and development program. Those commercial efforts which to date appear to be most promising could thus be rapidly advanced toward full-scale commercial production, if it appears to be in the best public interest.

The Corporation would have control over all Federally owned oil shale reserves, wherever located. This will have the effect of nullifying the Department of Interior's prototype oil shale learning program. It will allow more time for reviewing joint Federal-State studies which are presently underway in Colorado, and bringing to bear a greater measure of public disclosure and intensive scrutiny of both the short-range and the long-range implications of development in any given location.

Finally, Mr. Speaker, my bill will ensure that the benefits of this Federal program of exploration and development of our immense oil shale reserves will accrue not only to the Nation as a whole but also to those who perhaps have the most to lose by it. Secretary Morton has said that the environmental impact which concerns him most is the huge population and tax burden which will be imposed on the fragile ecology and the slender resources of local governments in the Rocky Mountain region. I share that concern. My bill will establish an equitable distribution of the proceeds from the sale of the Corporation's energy and mineral products first to the States in which development takes place—in lieu of taxes—to enable the necessary remedial measures to be taken, and secondly to Indian tribes throughout the Nation who have been forced against their will to relinquish ancestral hunting grounds in the interest of an expanding industrial society.

Overall, I believe that the Oil Shale Mining and Energy Corporation approach offers the fairest, most flexible and most aggressive way of developing our oil shale resources so that the security and well-being of this Nation are advanced without seriously depleting the environmental values of future generations of Americans.

As chairman of the Subcommittee on Mines and Mining of the House Committee on Interior and Insular Affairs, I sincerely hope that full consideration can be given to my bill.

AMENDMENTS TO ENERGY REORGANIZATION ACT OF 1973

(Mr. BINGHAM asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BINGHAM. Mr. Speaker, when the House considers the Energy Reorganization Act of 1973, H.R. 11510, I intend to offer two amendments which I believe are essential expressions of the Congress intent to play a major role in the future energy policy of the country.

The first of the two amendments is as follows:

> Amend section 103 on page 34 after line 3 by adding the following new paragraph, and thereafter renumbering subsequent paragraphs accordingly:
>
> "(7) insuring that the responsibilities specified in paragraphs (1) and (6) shall be carried out on a balanced basis, so that no one energy source or utilization technology is given disproportionate priority to the detriment or exclusion of other alternatives;"

This amendment would provide that ERDA embark upon a balanced energy R. & D. program, rather than put all of its emphasis on one particular project or alternative source of energy. While ERDA would need latitude in deciding what in its expert opinion are energy sources or technologies worthy of exploration, the bill as presently drawn makes no statement regarding the Congress intent to provide for the widest possible search for new and better sources of energy. There has been much discussion that because the bulk of the new agency will come from the AEC there will be an institutional bias in favor or nuclear-type projects. While it may be true that nuclear energy is one of the most promising alternatives that ERDA will deal with, my amendment seeks to establish statutory language that would act as a guide to ERDA, expressing the Congress intent that pursuit of the nuclear alternative, or any other alternative, should not be given disproportionate priority to the detriment or exclusion of other promising systems such as solar or geothermal energy. In no way would my amendment restrict the legitimate pursuit of any viable energy alternative.

The second amendment I propose to offer is as follows:

> On page 55 line 4 strike the word "Committees" and in its place insert "the Congress". On line 5 redesignate section 307 as section 307(a) and at line 8 add the following new paragraph:
>
> "(b) On or before the date the Administrator transmits his estimates or requests for appropriations to the President or Office of Management and Budget, including any requests for increases therein, he shall transmit copies of the same directly to the Senate and House of Representatives. Such estimates and requests shall reflect the sole judgment of the Administrator and shall not be modified in any manner at the direction or request of any other agency of the Government."

This amendment would require ERDA to submit its budget requests directly to Congress, and in any event, no later than the time it would be transmitted to the OMB. The OMB would also be prohibited from tampering with the ERDA budget in any manner prior to its submission. has shown that OMB will employ all manner of subterfuge in its efforts to preempt the Congress' responsibility in the appropriations process.

My amendment would insure that the Congress is fully informed of ERDA's activities and future aims through the budget process. If OMB is allowed to continue its budgetary machinations in so essential an area as energy, the executive branch would be able to control ERDA's policy without Congress ever knowing what is taking place. The Congress should play a substantial role in mapping out the future energy policy of the United States rather than "rubber stamping" an executive branch fait accompli. In order to do so, it must have access to untampered budget information so that fiscal energy priorities are exposed to proper national debate.

AMENDMENT TO H.R. 11510 TO ALLOW EPA TO ESTABLISH ENVIRONMENTAL STANDARDS FOR NUCLEAR POWERPLANTS

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SEIBERLING. Mr. Speaker, when H.R. 11510, the Energy Reorganization Act of 1973 is considered, I intend to offer an amendment which would place the authority to establish environmental standards for nuclear powerplants under the Environmental Protection Agency (EPA).

Last week, it was learned that the Director of the Office of Management and Budget (OMB) has instructed EPA that the Atomic Energy Commission (AEC) will determine radiation standards for plant emissions. There had been a disagreement between AEC and EPA over which would set the levels of permissible radioactive emissions from nuclear facilities. The disagreement resulted from a difference in interpretation of the following provision of Reorganization Plan No. 3 of 1970, which transferred to the Administrator of EPA—

> (6) The functions of the Atomic Energy Commission under the Atomic Energy Act of 1954, as amended, administered through its Division of Radiation Protection Standards, to the extent that such functions of the Commission consist of establishing generally applicable environmental standards for the protection of the general environment from radioactive material. As used herein, standards mean limits on radiation exposures or levels, or concentrations or quantities of radioactive material, in the general environment outside the boundaries of locations under the control of persons possessing or using radioactive material.

According to OMB, that section gives EPA only the power to set "ambient standards" while the authority to set "emission standards" was retained by AEC.

Ambient standards refer to the quality of the air or water without regard to the source of pollutants, while emission standards refer to the levels of pollutants actually being emitted or discharged from the source.

There are two problems with the OMB interpretation. First, it prevents the establishment by EPA of standards for different components of the nuclear cycle. Now, EPA can set only a single final product standard, which means there are no EPA checks on the elements of the system. This would limit EPA to finding that the overall standard was met or was not met. It would prevent EPA from "cleaning up" any element of the process that was unsatisfactory but that did not of itself make the overall radioactive pollution level unsafe.

Second, the AEC has a built-in conflict of interest as the standard-setting and the licensing agency. The AEC is concerned with rapidly expanding the construction and operation of nuclear powerplants, a function potentially conflicting with deciding what standards are acceptable to public health. If the OMB position is allowed to prevail, the AEC will go the way of most of the Nation's regulatory agencies: it will serve the interests of the very industry that it was designed to regulate, rather than protecting the public from that industry.

We all want to promote safe sources of energy quickly and cheaply. But we cannot allow grave tasks of irreparable harm in the name of energy. How will AEC resolve the conflict when confronted by the problem that speedy development and operation of nuclear plants may necessitate relaxation of environmental health standards? Should AEC even be in the position to make that decision? I think not. I think our health standards must be set by an agency whose responsibility it is to protect our health, not one whose responsibility it is to make nuclear powerplants operational as rapidly as possible.

EPA has the authority to set ambient standards and needs the authority to set emission standards, as that is really the only way to control what comes out of nuclear powerplants and facilities in the way of waste and discharges. Having the power to set ambient standards is an insufficient method of regulating the amount of pollution from nuclear powerplants. In the case of radioactive pollution, we should regulate the pollution at the source since there are relatively few sources. This is not comparable to most air pollution standards, which are ambient because of the countless number of sources.

My amendment, therefore, is worded in the language of the Reorganization Plan No. 3 of 1970, except that my amendment clarified the language so that it clearly gives EPA the authority to set both ambient and emission standards. Because EPA has already drawn up a set of regulations establishing such standards, no time would be lost in making nuclear powerplants operational, provided health and environmental standards were satisfied. Most significantly, the amendment would eliminate the potentially grave conflict of interest which now exists in AEC.

Mr. Speaker, I think that the regulatory and licensing authority of the AEC must be separated from the environmental standard-setting authority. My amendment and a copy of a New York Times article from last week and a Times editorial which appeared this morning follow:

AMENDMENT TO H.R. 11510

SEC. 104. On page 36, between lines 21 and 22, insert the following new subsection:

"(g) There are hereby transferred to and vested in the Administrator of the Environmental Protection Agency such functions of the Atomic Energy Commission and the officers and components thereof as relate to or are utilized in connection with establishing generally applicable environmental standards for the protection of the general environment from radioactive material. As used herein, the term "radioactive material" includes all material which is subject to the licensing and regulatory functions of the Nuclear Energy Commission. As used herein, the term "standards" means both emissions and ambient limits on radiation exposures or levels, or concentrations or quantities of radioactive material, in the general environment outside the boundaries of locations under the control of persons possessing or using radioactive material. In establishing such standards to protect the public health and environment, the Administrator of the Environmental Protection Agency may take into account the cost and the effectiveness of emissions controls and other control systems, and he may set different standards for different classes and sizes of activities and facilities involved."

[From the New York Times, Dec. 12, 1973]

EPA LOSES ITS AUTHORITY TO LIMIT PLANT RADIATION

(By Richard D. Lyons)

WASHINGTON.—In a reversal of policy, President Nixon has shifted the authority to set radiation standards for individual power plants from the Environmental Protection Agency to the Atomic Energy Commission.

The environmental agency, which was assigned the power three years ago, was on the verge of setting strict standards for individual plants while the A.E.C. has generally taken a more relaxed attitude toward radiation protection.

In September, the environmental agency was to have issued new radiation standards that would have drastically reduced the permissible limit of radiation-emitting materials that could be released from a nuclear power plant. The Administration has, in effect, canceled these standards by assigning the responsibility elsewhere.

Several critics of the atomic power industry said the effect of the move would be to allow more freedom in the construction and operation of nuclear plants, thus helping to open more generating stations to ease the energy crisis.

But these critics also foresee that looser standards may expose the general public to more radiation from the proliferating number of atomic power stations, and that this may eventually expose more people to the development of cancer and will eventually lead to genetic defects.

The President's intent is contained in a memorandum dated Dec. 7 from Roy L. Ash, director of the Office of Management and Budget in the White House, to Russell E. Train, administrator of the E.P.A. and Dr. Dixy Lee Ray, chairman of the A.E.C. A copy of the memorandum was obtained today by The New York Times.

The Ash memorandum states, in part, that a decision was needed "so that the nuclear power industry and the general public will know where the responsibility lies for developing, promulgating and enforcing radiation protection standards for various types of facilities in the nuclear power industry."

"We must, in the national interest, avoid confusion in this area," the memo continued, "particularly since nuclear power is expected to supply a growing share of the nation's energy requirements; and it must be clear that we are assuring continued full protection of the public health and the environment from radiation hazards.

"E.P.A. has construed too broadly its responsibilities to set 'generally applicable environmental standards for the protection of the general environment from radioactive material.'"

ON BEHALF OF PRESIDENT

"On behalf of the President," the memo went on, "this memorandum is to advise you that the decision is that A.E.C. should proceed with its plans for issuing uranium fuel cycle standards, taking into account the comments received from all sources, including E.P.A.; that E.P.A. should discontinue its preparations for issuing, now or in the future, any standards for types of facilities; and that E.P.A. should continue, under its current authority, to have responsibility for setting standards for the total amount of radiation in the general environment from all facilities combined in the uranium fuel cycle, i.e., an ambient standard which would have to reflect A.E.C.'s findings as to the practicability of emission controls."

Charles L. Elkins, an official in the environment agency's office of hazardous materials control, said the agency "was going to set standards for the entire uranium fuel cycle," that is mining, fabrication of fuel elements, operation of atomic power plant reactors and reprocessing of the spent fuel.

Mr. Elkins said the agency's original intent had been to set safety standards for each step, but that under the President's directive the agency may only set one standard for the sum total of all the radiation emitted by all the steps.

"We feel that the A.E.C. standards are not adequate today," Mr. Elkins said.

"We wanted standards on the lines of what people are actually exposed to from radiation, while the A.E.C., through its licensing procedure, attempts to control this by telling a power company how to build a plant to minimize radiation loss," he added in explaining the difference between the two approaches to regulation.

Ralph E. Lapp, a writer and nuclear power expert, said he did not feel that the change of authority would be harmful because "the amount of radioactive materials emitted from a plant are very low."

But Dr. Henry W. Kendall, a nuclear physicist at Massachusetts Institute of Technology who is an official of the Union of Concerned Scientists, said the switch in authority puts the country in the position "of having the goat guard the cabbages."

"The hope we had was that the E.P.A. would set and enforce standards because the A.E.C.'s track record has been extremely poor in the areas of reactor safety and radioactive waste disposal," Dr. Kendall said.

He noted that A.E.C. would have responsibilities for not only developing and promoting atomic power but also regulating it as well.

[From the New York Times, Dec. 18, 1973]

ENERGY RADIATIONS

The pressures brought about by the energy shortages to undercut the antipollution victories of the past few years are reflected anew in the Administration's decision to transfer authority for policing radiation levels of nuclear power plants from the Environmental Protection Agency to the Atomic Energy Commission.

Scientists honestly differ on what levels of radiation are harmless and what are dangerous to public health in the immediate or remote vicinity of a nuclear reactor. When the E.P.A. had the task of setting radiation standards, the country at least had the benefit of relatively independent scrutiny and judgment. The A.E.C., by contrast, is both a regulatory agency for civilian nuclear power plants and the Government's chief promoter of their development. A conflict of interest is inherent in these two functions; and no one can be confident that the standards set by the regulatory side of the agency will be untarnished by the eagerness of its promotional side to go full speed ahead.

It is undeniable that constraints growing out of concern for the quality of the environment have played a part in hampering the rapid development of nuclear power and other domestic energy sources. But far greater constraints have been imposed by economic and technological considerations, as well as by the grievous lack of Government planning and foresight. It is hard to avoid the suspicion that some in the business of energy policy and production are setting up environmentalists as straw men, to divert scrutiny from their own shortcomings over past years.

As citizens, environmentalists share the nation's concern about growing energy shortages. But in the effort to alleviate the energy problem, it is unacceptable to ride roughshod over the progress already made to keep livable the environment in which energy will be consumed.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. Pettis (at the request of Mr. Rhodes), on December 19, on account of official business.

Mrs. Hansen of Washington (at the request of Mr. O'Neill), for this week, on account of illness.

Mr. Alexander (at the request of Mr. O'Neill), for Tuesday, December 18, and Wednesday, December 19, on account of family illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, and was granted to:

(The following Members (at the request of Mr. Thone), to revise and extend their remarks, and to include extraneous matter:)

Mr. Grover, for 20 minutes, today.
Mr. Railsback, for 5 minutes, today.
Mr. Crane, for 5 minutes, today.
Mr. Miller, for 5 minutes, today.
Mr. Steele, for 25 minutes, today.

(The following Members (at the request of Mr. Mezvinsky) and to revise and extend their remarks and include extraneous matter:)

Mr. Matsunaga, for 10 minutes, today.
Mr. Mezvinsky, for 5 minutes, today.
Mr. Gonzalez, for 5 minutes, today.
Mr. Fulton, for 5 minutes, today.
Mr. McFall, for 5 minutes, today.
Mr. Owens, for 5 minutes, today.
Mr. Leggett, for 5 minutes, today.
Mr. Smith of Iowa, for 5 minutes, on December 19.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Mizell, to revise and extend his remarks, and include extraneous matter, on H.R. 11928, under suspension of the rules, in the House today.

Mr. Gonzalez, during discussion on S. 2413 today.

(The following Members (at the request of Mr. Thone), and to include extraneous matter:)

Mr. Ashbrook in six instances.
Mr. Roncallo of New York.
Mr. Gilman in two instances.
Mr. Peyser.
Mr. Conte.
Mr. Carter in two instances.
Mr. Hunt in two instances.
Mr. Hillis.
Mr. Hosmer in two instances.
Mr. Goodling.
Mr. Bell.
Mr. Armstrong in three instances.
Mr. Derwinski in two instances.
Mr. Broyhill of Virginia.
Mr. Froehlich.
Mr. Shuster.

(The following Members (at the request of Mr. Mezvinsky) and to include extraneous matter:)

Mr. Teague of Texas in 10 instances.

Mr. Hamilton in three instances.

Mr. Lehman in 10 instances.

Ms. Abzug in 10 instances.

Mr. O'Neill.

Mr. Gonzalez in three instances.

Mr. Rarick in three instances.

Mr. Moss.

Mr. Harrington in three instances.

Mr. Ginn.

Mr. Mollohan.

Mr. Hungate in two instances.

Mr. Moakley in 10 instances.

Mr. Dingell.

Mr. Rangel in 10 instances.

Mr. Waldie in two instances.

Mr. Wolff in two instances.

Mr. Thompson of New Jersey in 10 instances.

Mr. Breckinridge in 10 instances.

Mr. Eckhardt.

Mr. Smith of Iowa in three instances.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 2264. An act to provide civil service retirement of the Foreign Service Institute, Department of State; to the Committee on Foreign Affairs.

S. 2772. An act to amend title II of the Clean Air Act, as amended; to the Committee on Interstate and Foreign Commerce.

ENROLLED BILLS SIGNED

Mr. HAYS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 9256. An act to increase the contribution of the Government to the costs of health benefits for Federal employees, and for other purposes; and

H.R. 10717. An act to repeal the Act terminating Federal supervision over the property and members of the Menominee Indian Tribe of Wisconsin; to reinstitute the Menominee Indian Tribe of Wisconsin as a federally recognized sovereign Indian tribe; and to restore to the Menominee Tribe of Wisconsin those Federal services furnished to American Indians because of their status as American Indians; and for other purposes.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 513. An act to amend section 232 of the National Housing Act to authorize insured loans to provide fire safety equipment for nursing homes and intermediate care facilities;

S. 1033. An act to amend title 37, United States Code, to authorize travel and transportation allowances to certain members of the uniformed services in connection with leave; and

S. 2714. An act to amend section 291(b) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, relating to cost-of-living increases, and to increase the pay and allowances of certain officers of the Armed Forces whose pay and allowances are not subject to adjustment to reflect changes in the Consumer Price Index.

BILL PRESENTED TO THE PRESIDENT

Mr. HAYS, from the Committee on House Administration, reported that that committee did on December 17, 1973, present to the President, for his approval a bill of the House of the following title:

H.R. 3180. To amend title 39, United States Code, to clarify the proper use of the franking privilege by Members of Congress, and for other purposes.

ADJOURNMENT

Mr. MEZVINSKY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7:52 o'clock p.m.), the House adjourned until tomorrow, Wednesday, December 19, 1973, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1642. A letter from the Assistant Secretary of State for Congressional Relations, transmitting reports on political contributions made by Ambassadors-designate David D. Newson, Francis T. Underhill, Viron P. Vaky, Lloyd I. Miller, and Walter J. Stoessel, Jr., and their families, pursuant to section 6 of Public Law 93-126; to the Committee on Foreign Affairs.

1643. A letter from the Chairman, Commission on Revision of the Federal Court Appellate System, transmitting the Commission's recommendations for change in the geographical boundaries of the Federal judicial circuits, pursuant to the section 6(1) of Public Law 92-489; to the Committee on the Judiciary.

1644. A letter from the Chairman, National Parks Centennial Commission, transmitting the final report of the Commission, pursuant to section 5(c) of Public Law 91-322; to the Committee on the Judiciary.

Received From the Comptroller General

1645. A letter from the Comptroller General of the United States, transmitting a report on the protection of the President at Key Biscayne and San Clemente, with information on protection of past Presidents; to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. PERKINS: Committee on conference. Conference report to accompany S. 1559 (Rept. No. 93-737). Ordered to be printed.

Mr. ICHORD: Committee on Internal Security. Report on a revolutionary target: The American Penal System (Rept. No. 93-738). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BINGHAM:

H.R. 11992. A bill to amend the Internal Revenue Code of 1954 to provide, in the case of an individual, a credit (not to exceed $200) or a deduction (not to exceed $800) for public transit fare expenditures incurred in traveling to and from work; and in the case of a handicapped individual unable to use public transportation, in credit (not to exceed $750) or a deduction (not to exceed $3,000) for reasonable transportation expenses incurred in traveling to and from work; to the Committee on Ways and Means.

By Mr. CLANCY:

H.R. 11993. A bill to provide for the imposition of an embargo on the shipment of goods and materials to Arab nations; to the Committee on Banking and Currency.

H.R. 11994. A bill to establish a Joint Committee on Energy; to the Committee on Rules.

By Mr. CONABLE:

H.R. 11995. A bill to promote public health and welfare by expanding and improving the family planning services and population sciences research activities of the Federal Government, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. DICKINSON:

H.R. 11996. A bill to provide for the conveyance of certain real property of the United States to the Ozark Public Building Authority, Ozark, Ala.; to the Committee on Armed Services.

By Mr. EVANS of Colorado:

H.R. 11997. A bill to authorize the sale and/or exchange of certain lands owned by the Ute Mountain Ute Indian Tribe in order to consolidate and obtain more intensive management on tribal land resources, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. HAWKINS:

H.R. 11998. A bill to extend the Follow Through program for 1 year; to the Committee on Education and Labor.

By Ms. HOLTZMAN:

H.R. 11999. A bill to amend title II of the Social Security Act to provide that an individual may simultaneously receive (without any reduction or offset) both an old-age or disability insurance benefit and a widow's or widower's insurance benefit; to the Committee on Ways and Means.

By Mr. JONES of Tennessee (for himself, Mr. Alexander, Mr. Bergland, Mr. Bowen, Mr. Brown of California, Mr. Byron, Mr. Cleveland, Mr. Cohen, Mr. Denholm, Mr. Eshleman, Mr. Foley, Mr. Gilman, Mr. Gunter, Mr. Hanley, Mr. Hicks, Mr. Hillis, Mr. Jones of North Carolina, Mr. Kazen, Mr. Mathias of California, Mr. Melcher, Mr. Mizell, Mr. Pritchard, Mr. Robinson of Virginia, Mr. Roncalio of Wyoming, and Mr. Rose):

H.R. 12000. A bill to enable egg producers to establish, finance, and carry out a coordinated program of research, producer and consumer education, and promotion to improve, maintain, and develop markets for eggs, egg products, spent fowl, and products of spent fowl; to the Committee on Agriculture.

By Mr. JONES of Tennessee (for himself, Mr. Shoup, Mr. Steele, Mr. Stubblefield, Mr. Thone, Mr. Wampler, Mr. Yatron, and Mr. Zwach):

H.R. 12001. A bill to enable egg producers to establish, finance, and carry out a coordinated program of research, producer and consumer education, and promotion to improve, maintain, and develop markets for eggs, egg products, spent fowl, and products of spent fowl; to the Committee on Agriculture.

By Mr. LITTON:

H.R. 12002. A bill to provide an excise tax on every new automobile in an amount relating to the portion of such automobile's fuel consumption rate which falls below certain standards, to provide an energy research and development trust fund, and for other purposes; to the Committee on Ways and Means.

By Mr. MATSUNAGA:

H.R. 12003. A bill to permit the State of Hawaii to use the proceeds from the sale, lease, or other disposition of certain real property for any public purposes; to the Committee on Interior and Insular Affairs.

By Mr. MOORHEAD of Pennsylvania (for himself, Ms. Abzug, Mr. Alexander, Mr. Badillo, Mr. Bingham, Mr. Brown of California, Mrs. Collins of Illinois, Mr. Cotter, Mr. Dellums, Mr. Fascell, Mr. Harrington, Mr. Hicks, Mr. Howard, Mr. Koch, Mr. Leggett, Mr. Matsunaga, Mr. Mazzoli, Mrs. Mink, Mr. Moss, Mr. Rees, Mr. Rosenthal, Mrs. Schroeder, Mr. Seiberling, Mr. Thompson of New Jersey, and Mr. Thone):

H.R. 12004. A bill to amend section 552 of title 5 of the United States Code (known as the Freedom of Information Act) to provide for the classification and declassification of official information in the interest of national defense; to the Committee on Government Operations.

By Mr. ROGERS (for himself, Mr. Kyros, Mr. Preyer, Mr. Symington, Mr. Roy, Mr. Nelsen, Mr. Carter, Mr. Hastings, Mr. Heinz, Mr. Hudnut, Mr. Sikes, Mr. Bennett, Mr. Haley, Mr. Fascell, Mr. Fuqua, Mr. Gibbons, Mr. Pepper, Mr. Chappell, Mr. Gunter, Mr. Lehman, Mr. Burke of Massachusetts, Mr. Frey, Mr. Young of Florida, Mr. Bafalis, and Mr. Robison of New York):

H.R. 12005. A bill to amend the Public Health Service Act to assure an adequate supply of chlorine and certain other chemicals and substances which are necessary for safe drinking water and for waste water treatment; to the Committee on Interstate and Foreign Commerce.

By Mr. ST GERMAIN:

H.R. 12006. A bill to reimburse the States for all unemployment compensation paid to individuals whose unemployment is attributable to the oil crisis; to the Committee on Ways and Means.

By Mr. SCHERLE (for himself, Mr. Anderson of Illinois, Mr. Michel, Mr. Frenzel, Mr. Quie, Mr. Snyder, and Mr. Denholm):

H.R. 12007. A bill to amend the Internal Revenue Code of 1954 to provide that the tax on the amounts paid for communication services shall not apply to the amount of the State and local taxes paid for such services; to the Committee on Ways and Means.

By Mr. ANDERSON of Illinois (for himself and Mr. Fulton):

H.R. 12008. A bill to improve the conduct and regulation of Federal election campaign activities and to provide public financing for such campaigns; to the Committee on House Administration.

By Mr. ASPIN:

H.R. 12009. A bill to provide continued passenger rail transportation in America; to the Committee on Interstate and Foreign Commerce.

By Mr. ESCH:

H.R. 12010. A bill to protect the constitutional rights of the subjects of arrest records and to authorize the Federal Bureau of Investigation to disseminate conviction records to State and local government agencies, and for other purposes; to the Committee on the Judiciary.

By Mr. HECHLER of West Virginia:

H.R. 12011. A bill to amend the Labor-Management Reporting and Disclosure Act of 1959 to require that all officers of national labor organizations be elected by secret ballot of the members; to the Committee on Education and Labor.

By Mrs. MINK:

H.R. 12012. A bill to provide for the establishment of the Kalaupapa National Historic Site in the State of Hawaii, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 12013. A bill to provide for reinstatement of optional insurance coverage under the Federal employees group life insurance program for certain individuals who canceled optional insurance due to an increase in premiums because of age which was set at a lower amount later in the year of cancellation; to the Committee on Post Office and Civil Service.

By Mrs. MINK (for herself, Mr. Bingham, Mr. William D. Ford, Mr. Kastenmeier, Mr. Meeds, Mr. Roncalio of Wyoming, and Mr. Seiberling):

H.R. 12014. A bill to amend the Mineral Lands Leasing Act to provide for a more efficient and equitable method for the exploration for and development of oil shale resources on Federal lands, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. O'HARA:

H.R. 12015. A bill to permit the diversion and withdrawal of additional water from Lake Michigan into the Illinois waterway, and for other purposes; to the Committee on Public Works.

By Mr. TAYLOR of North Carolina:

H.R. 12016. A bill to amend title II of the Social Security Act so as to liberalize the conditions governing eligibility of blind persons to receive disability insurance benefits thereunder; to the Committee on Ways and Means.

By Mr. CULVER:

H. Con. Res. 403. Concurrent resolution expressing the sense of the Congress with respect to the Government's adoption of a policy concernnig foreign investment in the United States; to the Committee on Foreign Affairs.

By Mr. HILLIS (for himself and Mr. Regula):

H. Res. 750. Resolution creating a select committee to conduct a full and complete investigation and study of shortages of materials and natural resources affecting the United States; to the Committee on Rules.

By Mr. LANDGREBE:

H. Res. 751. Resolution expressing the sense of the House of Representatives concerning the relocation of the Nation's Capital; to the Committee on the District of Columbia.

By Mr. OWENS (for himself, Mrs. Burke of California, Mr. Corman, Mr. Hamilton, Mr. Hechler of West Virginia, Mr. Koch, Mr. Kyros, Mr. Rangel, and Mr. Fraser):

H. Res. 752. Resolution expressing the sense of the House of Representatives concerning ratification of the Geneva protocol of 1925, and a comprehensive review of this Nation's national security and international policies regarding chemical warfare; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BROWN of California:

H.R. 12017. A bill for the relief of Orapin Dee; to the Committee on the Judiciary.

H.R. 12018. A bill for the relief of Jose Manual Flethez; to the Committee on the Judiciary.

By Mr. McCLORY:

H.R. 12019. A bill for the relief of Dr. and Mrs. Milton Margoles; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

377. The SPEAKER presented a petition of Ruchell Magee, San Jose, Calif., relative to redress of grievances, which was referred to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

MICHIGAN COMPENSATORY EDUCATION PROGRAM HAILED

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, December 17, 1973

Mr. STEIGER of Wisconsin. Mr. Speaker, the Committee on Education and Labor is in the process of concluding markup on the extension of the Elementary and Secondary Education Act of 1965. One of the most important issues has been compensatory education for students in greatest need. Our esteemed colleague and ranking minority member, Al Quie of Minnesota, has proposed a system based on individual educational disadvantage.

An article from the Tuesday, December 11, New York Times, discusses the impact of this concept in Michigan. I take this opportunity to share this article with my colleagues:

MICHIGAN COMPENSATORY EDUCATION PROGRAM HAILED

(By Evan Jenkins)

Lansing, Michigan.—The State of Michigan is claiming exceptional success for an unusual program for helping children who are seriously behind in school.

The $25-million effort in what is called compensatory education, which reaches 127,000 children in 67 school districts, has attracted considerable attention nationally. It is basically the creation of John W. Porter, a 42-year-old black who has been Michigan's Superintendent of Public Instruction since 1969.

In an interview, Dr. Porter described the program as "an experiment in social philosophy" incorporating theories that rebut two current and controversial assertions about education—that schools are much less important than home environment and other factors in a child's ability to learn, and that blacks as whole are academically inferior to whites.

"When we began, we said we believed that the black child and the disadvantaged child could learn the same basic skills the schools have been teaching other children if we adjusted our delivery system and increased our basic support," Dr. Porter said, adding:

"We just didn't believe that a child's race geographical location or family socio economic status would have that much impact on his ability to learn."

The Federal Government spends $1.5 billion a year on compensatory education, and 12 states besides Michigan have programs of their own, including New York's Urban Education Program. The Michigan system, now in its third year, differs from the others in several key respects.

For one thing, the places where the money is spent are selected on the basis not of poverty but of educational needs, as determined by statewide testing. More than half the money goes to Detroit, where most of the 260,000 school children are black and poor, but middle-class districts also get help for their slow-learning peoples.

In addition, the program involves what amounts to a contract—Dr. Porter calls it a "performance pact"—between the state and local school districts, and the districts can lose money if they fail to show results.

"If you ask for money because you've got kids with academic deficiencies," the superintendent said, "you've got to show first, exactly what the deficiencies are, and second, that you're capable of doing what you said you'd do to overcome them."

The state sets a basic objective for each child in the program: a month's gain in achievement for each month's instruction in the fundamental areas of reading and math. School districts can add any objectives they wish, and can use whatever methods seem best for reaching the goals.

"If they can teach a kid to read by taking him to the zoo three times a week, fine," said Alex Tanja, acting director of the program. "If not, they'd better stop taking him to the zoo."

PENALTY FOR FAILURE

Mr. Tanja was referring to the stick that accompanies the state program's financial carrot—a school district that fails to achieve at least 75 per cent of its state objectives does not qualify for funding the following year. It may requalify by changing the way it goes about teaching its children, if the state approves the change.

Last year, $4-million of the $23-million allocated to compensatory education reverted to the state because districts either failed to alter their "delivery systems" satisfactorily or decided not to stay in the program. Most of the money is used to hire extra teachers and assistant teachers.

According to Dr. Porter, the most recent data show that almost 60 per cent of the children in the program statewide have achieved a month's gain for a month's instruction, some having reached almost double that goal. More than two-thirds have achieved the minimum 75 per cent of stated objectives.

Such results are considered extraordinary in a program the size of Michigan's, although they are not without precedent in compensatory education.

New York State is compiling a report on its program. Leo Doherty, chief of the education department's Bureau of Urban and Community Programs, said that findings so far show that 80 per cent of some 35,000 children getting reading help have reached the month-gain-per-month-of-instruction level.

Because the results here are "so significant," Dr. Porter said, the Legislature at Dr. Porter's request has appropriated $150,000 to cross-check the figures, which come from standardized achievement tests.

The Michigan program is stirring interest in other states and in Washington, D.C., for several reasons—its apparently high rate of success, its formula for allocating money, and its contract features.

At $200 a child, it is also only half as expensive as the program in Michigan under Title I of the Elementary and Secondary Education Act of 1965, the main Federal effort in compensatory education.

The reasons, according to Dr. Porter, are that virtually no money is spent in the State program on central administration and that it does not include the variety of instructional and other services often paid for by Title I funds.

"We can't do all the things Title I does," Dr. Porter said. "But at the same time, I don't accept the notion that you've got to change the home and the community and get the father a job or else forget about that poor dumb black kid. I'm saying you have to prepare him to deal with that social system. If that kid can learn to read and write, there's a good chance he'll do just fine.

Part of the attention being paid to the Michigan experiment stems from * * * the experience nationally that compensatory education does help, despite the generally poor results in the public * * * Title I. In New York and other states as well as in the * * * reshaping of the Federal program, emphasis is being placed more and more on basic math and reading skills.

Representative Albert M. Quie of Minnesota, ranking Republican on the House Education and Labor Committee, is one of a number of a national authorities on compensatory education who have followed the Michigan program closely.

"They're by far the most imaginative in their approach," he said last week. "I think that will be helpful to people across the country."

Mr. Quie has pressed for several years for a shift in the Federal dollar-allocation formula from economic to educational criteria. A problem is that many states lack the testing and data gathering mechanisms Michigan enjoys, and some sort of nationwide testing system would be needed.

HANOI'S INTRANSIGENCE ON THE FATE OF U.S. SERVICEMEN MISSING IN ACTION

HON. JOHN B. CONLAN

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 17, 1973

Mr. CONLAN. Mr. Speaker, there is understandable concern throughout the country that, as we approach the first anniversary of the Vietnam cease-fire, North Vietnam has still failed to honor commitments to help account for American servicemen missing in action in Southeast Asia.

As a sponsor of House Concurrent Resolution 293, which calls for strong economic and political sanctions against Hanoi unless the Communists honor provisions of the cease-fire agreement concerning American MIA's, I made a statement for the hearings recently held on this resolution by the Subcommittee on National Security Policy and Scientific Developments of the House Foreign Affairs Committee.

I include for the RECORD the text of my statement:

STATEMENT OF HON. JOHN B. CONLAN

Mr. Chairman and able Members of the Subcommittee, I am pleased to join my colleagues in support of legislation affecting not only 1,250 families of servicemen missing in action in Southeast Asia, but also the basic tenets of international law and the dignity of our country within the community of nations.

It is inconceivable to me and to many Americans that the United States is continuing initiatives on economic agreements and other matters with North Vietnam when that country has so far refused to comply with all specific provisions of the Vietnam cease-fire agreement concerning American MIAs.

Hanoi agreed last January 27 to provide complete lists of known American dead and to enable teams to search Communist-controlled territory for bodies and possible survivors. But the Communists have thrown up one roadblock after another during the past 11 months to prevent those commitments from being honored.

We already know as the result of previous testimony before Congress that North Vietnam, by Hanoi's own claims, captured Americans during the Vietnam war who were not returned, not listed as dead, and who were never accounted for.

No arrangements have yet been made by Hanoi to return the remains of at least 55 Americans who the Communists claim died in captivity.

No International Red Cross team has ever been allowed to visit or inspect prison camps where American servicemen were held captive by the Communists.

Thanks to propaganda efforts of North Vietnam during 1967 to 1970, the Department of Defense has files on more than 50 American airmen and soldiers who Hanoi claimed were captured alive and well. Pictures of some U.S. servicemen taken by the Communists as they were paraded in captivity were published by major world newspapers and magazines.

Yet the names of many of these prisoners have never appeared on North Vietnamese POW lists. And none of them has yet ever been accounted for, dead or alive.

The U.S. government is ready with sophisticated equipment and personnel necessary to make a comprehensive search for missing American servicemen and gravesites in North Vietnam, Laos, and Cambodia. Only the intransigence of Communist officials has stopped that effort from being carried out.

U.S. State Department officials have conducted extensive questioning of all returned prisoners of war for possible leads about the location of such gravesites. And diplomatic efforts have been conducted in vain to get the cooperation of Southeast Asian governments.

I and other sponsors of this legislation, Mr. Chairman, are convinced that we will not get the kind of cooperation and respect for international law and the cease-fire agreement that we should get from the Communists unless we enact strong economic and political sanctions against North Vietnam.

American citizens who have relatives and loved ones still missing and unaccounted for in Southeast Asia as the result of Communist duplicity and intransigence in the matter of our MIAs should be asked to accept nothing less than the full support of the Congress in this regard.

THE SEATO BUREAUCRACY HOLDS FIRM

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 17, 1973

Mr. GAYDOS. Mr. Speaker, word has come through news channels from Bangkok that the Southeast Asia Treaty Organization is planning to cut its staff from 254 to 177 as a part of a shaping up prompted by the new détente with Communist China.

This is good news, certainly, for us Americans who, as has been the custom, ante up the lion's share of the costs of SEATO as we do those of the other international arrangements of which our Nation is a part.

Surprising, nevertheless, is the fact that SEATO still manages to maintain a sizable bureaucracy and spend, according to the Bangkok report, a total of $1.75 million a year. For what? A military planning office has been keeping strategy current, so it is explained, against possible Communist aggression. But now that this purpose no longer is acceptable, due to the détente, the office is being changed into one concentrating on countering subversion.

With the shift in programs, the staff cuts are to be limited to such people as noncommissioned officers and drivers, apparently those who chauffeured the higher bureaucrats around. Obviously, the top-paid diplomats and "experts" will remain on the payroll. We can depend on them, of course, to find ways to justify themselves while rationalizing a continuation of SEATO itself. Dead diplomatic horses seldom are recognized as such.

Regardless of this, I ask why SEATO cannot be abandoned and its payrollers moved into other more logical diplomatic tasks, or phased out entirely. Of all the futile endeavors of the late Secretary of State John Foster Dulles, none has proved as damaging as SEATO to American lives, spirit, and economic well-being.

Under SEATO we became involved in the Vietnamese war, one of the most disastrous adventures in our history and in that SEATO-inspired action, we soon learned that our allies in the treaty were fair-weather friends at best as most of them held aloof or supplied us with only token aid. Only South Korea responded with an army but this at our expense. We paid its costs.

Thus, in the test, SEATO proved to be the most hollow of shells and yet, despite all we suffered in trying to live up to our commitments, we are asked now to keep it going. I contend that this is senseless and can be looked upon only as another of those examples of the rule that a bureaucracy, once established, is one of the most difficult things to get rid of. We should slash our SEATO contributions to the limit.

DELAYED BY NORTHEAST STORM

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, December 17, 1973

Mr. McKINNEY. Mr. Speaker, the snowstorm which is blanketing the Northeast today kept me from getting to the House of Representatives as early as I would have liked.

Actually, I almost made it, but while at the Stamford Railroad Station, a garbled voice over a loud speaker system informed me the train I had intended to take was "annulled." Initially, I thought this to be a curious way to announce a cancellation, but as I considered my circumstances—no heat in the station and no coffee in the pots—I found the description quite apt, for I can assure you, Mr. Speaker, the honeymoon was indeed over. At any rate, for the record, I would like it to be known that had I been here, I would have voted in favor of House Concurrent Resolution 386, the U.S.S. *Carl Vinson*; H.R. 5621, U.S. flags for deceased National Guard and Selected Reserve Members; and S. 1773, sale of vessels stricken from the Naval Vessel Register.

Also, I would have voted in favor of S. 1435, District of Columbia self-government, and I am truly sorry I was not here for that recorded vote. I have served on the House District of Columbia Committee for the past 4 years and it has been an honor and a privilege to work with my colleagues in drafting this long overdue piece of legislation. Its overwhelming passage in the House today is a tribute to Chairman Diggs and the persistent efforts of Congressman Fauntroy. Both of these gentlemen are worthy of our praise for their commitment to the cherished goal of self-determination. I am certain that the bill enacted today will stand as a steppingstone to the day when the residents of the District will have complete control over their own governmental affairs.

Also, had I been here, I would have voted "no" on Senate Joint Resolution 180, convening of the session of the 93d Congress. Actually, I cannot believe it passed by the vote it did. With an impeachment and an energy crisis hanging fire, a month-long vacation is not going to sit well with the American people and I cannot say that I blame them. To be sure, America will pause for the holy days at the end of the year, but then it is back to work; that is, if you still have a job. Mr. Speaker, there is work to do here and the vote taken today on Senate Joint Resolution 180 can only indicate there are some who are unwilling to tackle the job ahead.

PLANETS

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 17, 1973

Mr. TEAGUE of Texas. Mr. Speaker, utilizing the technology developed in the 1960's, we have achieved yet another major step in our understanding of the solar system to the outstanding success of Pioneer 10 as it solves some of the mysteries of Jupiter. The Christian Science Monitor on December 4, 1973, discusses the significance of Pioneer 10 and points to its importance in the scheme of things. The article follows:

PLANETS

Every time man has looked closely at another planet for the first time, his preconceptions have failed him. The universe is so large and varied that it cannot be understood by a perspective limited to earth.

The spacecraft Pioneer 10 is giving man his closest look at Jupiter; this represents a significant expansion in his perception. Not only is Jupiter the most distance object yet reached by a spacecraft, but it also differs greatly from the Earth, Mars, and Venus. But even in this distant realm of high gravities, ammonia-water oceans, and methane clouds, ordering principles exist. Life might well lie hidden beneath Jupiter's pastel-banded surface. Seeking out these principles cannot help but teach man more about his own world, as well as its context. For instance, knowledge about the climates on Earth, Mars, Venus, and Jupiter might some day unravel the extremely complex problems of how this planet's climate changes.

Even more fundamentally, however, Pioneer 10 represents a technological society's search for understanding. This quest, leavened with wisdom, is an essential element of life.

ALASKA LAND PLANS

HON. TENO RONCALIO

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Monday, December 17, 1973

Mr. RONCALIO of Wyoming. Mr. Speaker, in the Alaska Native Claims Settlement Act passed by Congress in December 1971, one of the most important provisions directed the Secretary of Interior to review and withdraw up to 80 million acres in the State of Alaska and to make recommendations to Congress within 2 years on disposition of these lands as national forest, national parks, national wildlife refuges, and wild and scenic rivers.

Tomorrow, the Secretary will be submitting his recommendations to Congress.

A study of the history of the act, as related to the lands the Secretary will be recommending, clearly reveals that Congress intended that the bulk of this acreage should be recommended and studied for potential inclusion in the National Park, National Wildlife Refuge, and Wild and Scenic Rivers Systems with minimal acreage in the National Forest System. It is my understanding that the Secretary will recommend a large portion of these lands as National Forest units.

In the November 14 Christian Science Monitor, Robert Cahn summarizes one of the issues which my colleagues will have to consider after the Secretary submits his recommendations. The article follows:

FOREST SERVICE WOULD GET PARK ACREAGE: U.S. ALASKAN-LAND PROPOSALS STIR STORM

(By Robert Cahn)

WASHINGTON.—Much of the best land proposed for a vast and spectacular national park in Alaska will be handed instead to the U.S. Forest Service under proposals about to be made by the Secretary of the Interior.

Spokesmen for several major conservation groups are dismayed at what one of them calls "a latent land grab by the Forest Service."

The proposals are for the Wrangell-St. Elias Mountains National Park in south-central Alaska. They are part of overall plans Secretry Roger C. B. Morton will send to Congress next month for disposition of a total of 80 million acres of "national interest" land.

Secretary Morton is proposing, according to environment sources, that out of 20 million acres originally studied in the Wrangell-St. Elias-Chugach Mountains area, about 8½ million acres will be proposed for a national park—still almost three times larger than any existing national park.

FORESTS UNITS ALONGSIDE

Under the present Interior plan, conservationists say, the park would be sandwiched between two national forest units.

The conservationists are also concerned that the Interior Department's land-distribution plan would give to the Forest Service a total of more than 18 million acres in Alaska (much of which had been destined for national parks or wildlife refuges.

Under the Alaska Native Claims Act signed by the President Dec. 18, 1971, the Interior Secretary was given two years in which to make specific proposals to Congress on areas and acreages of new national parks, wildlife refuges, forests, and wild and scenic rivers. Congress would then have five additional years in which to pass legislation establishing new areas.

"This is a latent land grab by the Forest Service," says George Alderson, legislative director for Friends Of the Earth. "The Forest Service was put into the native-claims bill as an afterthought, and they were never intended to be a major participant in national-interest lands.

DISAPPOINTMENT NOTED

"We had the impression this was to be a big opportunity to provide a legacy of unimpaired Alaskan lands for future generations. Now we understand that major portions are proposed to be controlled by exploitive agencies."

"Word we have received indicates that the Forest Service would get the lower valleys and the threshold mountains of the Wrangells, leaving the glaciers, ice fields, and high peaks to the Park Service," says Stewart Brandborg, executive secretary of the Wilderness Society.

"We were assured by Secretary Morton earlier this year that the main thrust of his proposals would be protecting whole ecosystems in new national-park and wildlife refuges," Mr. Brandborg adds. "And that national forests and other public-land additions would not substantially subtract from the 80 million acres designated by Congress to be set aside primarily for parks and refuges."

Edgar Wayburn, former president of the Sierra Club and head of the club's Alaska task force, says that if Secretary Morton does not change his position "we will do our utmost to reverse major parts of the plan."

PRESSURES ACKNOWLEDGED

"I know the pressures Secretary Morton is under," Dr. Wayburn says. "His original withdrawals of March, 1972, were good. He regressed in giving potential park areas to the state in a 1972 agreement. And now he has bowed to pressures from industry and the Forest Service."

Dr. Wayburn said a number of conservation groups plan to fight in Congress for a viable Wrangell-St. Elias national park with Chitina and Copper River valleys in it. The groups also will seek a large area of the arctic national park including lands in the southern part already given by Secretary Morton to the State of Alaska.

Dy Wayburn, Mr. Brandborg, Mr. Alderson, and Charles Callison of the National Audubon Society said they had hoped to be able to support Secretary Morton's proposals. But now they are planning to seek congressional assistance in proposing their own plans which call for larger ecological units to be preserved for parks and wildlife refuges.

LYNN COMMENTS

Assistant Interior Secretary Laurence E. Lynn Jr. told this newspaper that the department's position on proposals for the 80 million acres had been agreed to by Secretary Earl L. Butz. The proposals have been submitted to the White House and the Office of Management and Budget. But the proposals will not be sent to Congress until mid-December. The draft environmental-impact statements, expected to be ready last month, will not be completed for another month, he said.

Dr. Lynn said that the department's proposals are generous in setting aside national-park and wildlife refuge lands, and adequately "reflect the natural values of the state."

"There has to be some recognition that there are human beings living in Alaska, and that arrangements also must be made for them to share in the state's resources," Dr. Lynn added.

THE SOVIETS GET HELP IN INDUSTRIAL DESIGN

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, December 17, 1973

Mr. ASHBROOK. Mr. Speaker, while the House was voting on prohibitions on Soviet trade, a press conference was being held in New York City announcing a new United States-Soviet deal involving industrial design. Raymond Loewy, one of the American designers involved, has designed a number of things including, in the words of the Washington Post:

The inside of the Skylab; the latter was one of the things that interested the Soviets.

The text of the article entitled "Soviet Contract for Loewy" from the Washington Post of Wednesday, December 12, 1973, follows:

SOVIET CONTRACT FOR LOEWY—TO DESIGN EXPORT PRODUCTS, CONSUMER GOODS

(By Anthony Astrachan)

NEW YORK, December 11.—The Soviet Union has selected Raymond Loewy, the man who tried to make the Studebaker America's first compact car 20 years ago, for its first deal with a foreign industrial designer.

Loewy said at a press conference today that the Soviet had chosen his firm to do three things: make Soviet export products competitive so they will earn hard currency; improve the design of consumer goods for Soviet citizens; and give the 2,000 Soviet designers, "who don't see what's going on in the world," some idea of the way Americans solve design problems, including market research.

The biggest project in the agreement, signed Nov. 25, will be the design of a completely new car to be built in the factories that now produce the Moskvich.

The Soviets will give his designers the blueprints for all the running gear, Loewy said, and they will design the car around it, seeking mutual agreements on whatever modifications may be necessary to meet the Loewy standards.

It will be a challenge; at Studebaker, Loewy's motto was "weight is the enemy," and present Soviet cars are the heaviest per horsepower in the world. British consumer organizations are trying to ban sales of the current Moskvich, Loewy said. The British agent has to put in a new gear, a new bottom and a new coat of paint before he can sell the cars that Moscow delivers.

Loewy added, however, that the Soviets seemed impressed with his philosophy, "It's time to come back to common sense in automobiles. I'm violently against the monstrous, bulbous, wasteful autos Detroit has built." Then he admitted that the American automobile industry is beginning to show some common sense under the stimulus of the energy crisis.

Other products that Loewy will design for Moscow include tractors, 120-passenger and six-passenger hydrofoils, sports motorcycles, electronic clocks, cameras and refrigerators.

Loewy designed the Frigidaire for 25 years for General Motors and the Cold Spot for Sears, Roebuck. He also designed the Exxon trademark, the U.S. Postal Service emblem and the inside of Skylab; the latter was one of the things that interested the Soviets.

Loewy, like many American businessmen who have done business in Moscow, was full of praise for the two men who made his deal possible: Dzhermen Gvishiani, vice chairman of the State Committee on Science and Technology, and Nikolai Smelyakov, the deputy minister of foreign trade.

Smelyakov recently published a book in Russian praising the simplicity of American business method compared to Labyrinthine Soviet ways.

Loewy said he had learned what Smelyakov meant the hard way. His 25 years of dealing with General Motors were covered by a one-page contract, but the Soviets had thousands of details to spell out when they started negotiating seriously last March.

"They were very tough," Loewy said of the men from Licensintorg, the Soviet license-negotiating agency, who represented the All-Union Research Institute of Industrial Design.

Loewy was tough, too, and walked out in March and again in July when the Soviets kept insisting on unacceptable clauses. He gave one example: they wanted to hold the designer responsible for patent or design infringement suits. He finally brought them to the Western system of the designer guaranteeing there are no infringements as of the date the design is delivered. The manufacturer is responsible for lawsuits after that.

Most of the work will be done at the offices of Raymond Loewy/William Snaith, Inc., in New York, plus some at its Paris subsidiary. The firm will not open an office in Moscow.

Loewy and Snaith said the deal was "big," and for "more than two years," but would reveal no specific figures. They will be paid in dollars.

MR. LEO BOLLER HONORED FOR HIS EFFORT ON UNITY DAY

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 17, 1973

Mr. WOLFF. Mr. Speaker, I would like to take this opportunity, as we enter into the holiday season, to honor the efforts of a constituent of mine, Mr. Leo Boller, of Little Neck, New York, who is the chairman of the Fort Wadsworth Committee for a Living National Park Memorial. This committee has been active in the recognition of the contribution of Fort Wadsworth, in Staten Island, N.Y., the Nation's oldest continuously manned military installation.

The committee has been actively promoting June 24 of each year as a day for silent meditation and honoring of

Congressional Medal of Honor Day and Unity Day. Acting in the knowledge of our Nation's approaching bicentennial anniversary, the committee has adopted the slogan "200-Plus Acres for our Nation's 200th Birthday."

The declared intent of Congressional Medal of Honor Day and Unity Day has been to encourage all Americans to express unity by joining in 1 minute of silent meditation at 2 p.m. for "our bravest of our brave" and all past, present, and future servicemen and servicewomen who have served and will serve this great Nation in war and peace.

In recognition of this worthy effort, Mr. Boller has received proclamations from the following States: Alabama, Arkansas, Florida, Georgia, Hawaii, Illinois, Kansas, Louisiana, Missouri, Nebraska, Nevada, New Jersey, New Mexico, Ohio, Rhode Island, South Dakota, Tennessee, Utah—declaration-proclamation, Washington—statement-proclamation, Wyoming, and Wisconsin. Statements of recognition have been received from Alaska and North Dakota, and messages have been received from Ohio and New York.

The work of Mr. Leo Boller and the Fort Wadsworth committee is typical of the outstanding efforts of many Americans to recognize the unique traditions of our Nation, and he is to be highly commended for his extradordinary dedication.

HOW AND WHY THE PLUMBERS GOT INTO BUSINESS

HON. ANDREW YOUNG

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 17, 1973

Mr. YOUNG of Georgia. Mr. Speaker, it seems to me that one of the most ominous events revealed in the Watergate scandals was the creation of the "plumbers" unit in the White House—virtually a secret police operation beholden to no law and answerable to only one man.

It is therefore of considerable interest that the New York Times has been probing more deeply into this matter. On December 16, the Times published a summary of the investigative reporting of its correspondent Seymour M. Hersh, on the "plumbers." I submit that summary for the Record:

How and Why the Plumbers Got Into Business

Four worried men, the President and three of his top aides, are in a helicopter flying from Los Angeles to San Clemente. The New York Times has just printed a secret Pentagon history of the Vietnam war, and the fear in the White House is that Daniel Ellsberg, the former Defense official who says he turned the documents over to the press, may give still more vital secrets, such as the American nuclear targeting plan, to the Russians. The four leaders discuss setting up an undercover operation, bypassing the F.B.I., to find out all about Mr. Ellsberg and stop all leaks.

From this scene, as placed in a long two-part report in The New York Times last week by investigative reporter Seymour M. Hersh, there unfolds a tale of the origins and workings of the White House "plumbers" that raises sharp new questions about the Watergate scandals. According to the Hersh articles:

One of the participants in the airborne discussion in mid-July, 1971, was John Ehrlichman, and his sworn testimony that he never approved burglarizing the files of Mr. Ellsberg's psychiatrist, and that he had learned of the break-in plan only after it was implemented, has now been contradicted by one of the plumbers, David Young. Deciding to cooperate with the prosecutors, Mr. Young is reported to have testified to detailed discussions with Mr. Ehrlichman on plans for the break-in before the burglary took place on Sept. 3, 1971. The question is whether Mr. Ehrlichman, to avoid a long jail sentence he could face for his alleged role in the break-in, may decide to cooperate himself. Considering how much the former domestic affairs adviser is believed to know, that could be the worst news for Mr. Nixon since the former White House counsel, John Dean, began talking last April.

Another participant in the July, 1971, conversation was Henry Kissinger, and his sworn testimony before the Senate Foreign Relations Committee that he "did not know of the existence of the 'plumbers group' by that or any other name," and that he finds the whole idea "deplorable," is characterized by an unnamed former White House official as "bull." The four men aboard the helicopter (the fourth was H. R. Haldeman) are reported to have agreed to transfer Mr. Young from Mr. Kissinger's National Security staff to the plumbers group. This disputes Mr. Kissinger's testimony that he did not know that Mr. Young "was concerned with internal security matters" after the transfer. According to one Hersh informant. "Henry was climbing the walls" after the Pentagon Papers began appearing in print. According to another, "Henry went on and on about Ellsberg," with whom he had worked over the years, painting a picture of "a guy who could have been an agent." The question is whether this picture of a Kissinger who knew and approved of the plumbers operation could damage him now as Secretary of State.

Mr. Nixon himself emerges from the Hersh report as a man who put the plumbers in business out of a sense of genuine alarm over the Ellsberg episode, which he equated with the Alger Hiss case, and over other leaks in that summer of 1971. "I want every son of a bitch in the State Department polygraphed until you find the guy," he is quoted as having said after a leak about the SALT (strategic-arms) talks with the Russians. When the legality of such methods was questioned, he is reported to have said, "I don't give a good Goddamn about that; it's more important to find the source of these leaks rather than worry about the civil rights of some bureaucrats."

The report goes into the specific reasons for the White House alarm and finds them to be on the thin side. There was never any evidence that Mr. Ellsberg had even considered passing information to a foreign power; the information in the SALT "leak" had already been given by Mr. Kissinger to Soviet Ambassador Anatoly Dobrynin; a Russian acting as an American counterspy that the White House sought to protect against possible exposure by a Watergate inquiry is described by intelligence sources as a "washed-out character" of dubious loyalty and value; and so on. Yet as late as last spring Mr. Nixon was citing national security as justifying his decision to set up the plumbers unit and keep it secret. The question is to what degree other factors began to motivate the President's actions after the initial alarm. A Democrat with close ties to the intelligence community is quoted as saying: "The issue involved here isn't national security; it's Nixon security."

CATHOLIC BISHOPS' BOYCOTT

HON. JOSEPH E. KARTH

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 17, 1973.

Mr. KARTH. Mr. Speaker, the Most Reverend Leo C. Byrne, archbishop coadjutor of St. Paul and Minneapolis, in the Washington Star-News on December 14, defended his participation in the national boycott campaign currently being conducted against the antiunion Farah Manufacturing Co., of El Paso, Tex.

I am pleased to include in the Congressional Record his rejoinder to columnist William Buckley which so well summarizes the position of a number of the American Catholic bishops in support of Farah strikers.

The article follows:

Catholic Bishops' Boycott

Sir: In a recent column William Buckley took issue with a number of American Catholic bishops, myself among them, for supporting the consumer boycott of Farah slacks and jeans.

It is a long time since I have been classified among the "restlessly indignant," but I welcome the label. Obviously a bishop cannot speak out on every issue of social injustice, but some issues are of such magnitude that action becomes necessary. Such an involvement is not another post-Vatican II innovation; Amos, Isaiah and Jeremiah, prophets of old, spoke out against the social and secular injustices of their day, and I suspect they too were told to limit their concerns to the purely religious.

Buckley makes the argument that the Farah workers, some 9,000, mostly Mexican-Americans and mostly women, in factories located in the Southwest, do not want to be represented by a union. In that assertion he echoes the argument of their employer, Willie Farah, and a publication written by Dr. Paul Newton Poling entitled "For the Defense of Farah Workers." In that assertion Buckley also ignores the fact that Farah still refuses to abide by a National Labor Relations Board's order to bargain with the Amalgamated Clothing Workers of America, as the result of an election in 1970 won by the union. The company has consistently ignored many other orders from the NLRB.

INTERVIEW-STUDY

Last October Bishop Sidney Metzger of El Paso wrote to all Catholic bishops of the country sharing the results of an elaborate and careful interview-study of nearly two thousand Farah workers and strikers. For over thirty years he lived and worked in the Diocese of El Paso and he knows the problems well. His study documented the workers' complaints: drastic production demands, no job security, no negotiated production standards, no negotiated wage increases according to a definite schedule, inadequate maternity insurance and negotiated leaves for illness. Average take home pay at Farah Manufacturing Co. is $69 per week ($3,588 per year), compared to $102 per week for the same work in a union plant in El Paso ($5,304 per year). Grievances such as these can be remedied by collective bargaining.

In March Bishop Metzger wrote a second letter to the bishops rendering a progress report on the strike. He reaffirmed the grievances of the workers. They are insufficient assurance of job security, reasonable and negotiated production quotas, and a fair wage scale. "Without these three basic requirements there is no social justice," he wrote. I agree.

The one tool that can bring about fair representation and assure collective bargaining is a massive consumer boycott of Farah products. To this end, I wrote in June to the management of Dayton's, Donaldson's, and Powers, three large retail clothing stores in the Minneapolis-St. Paul area, asking them not to "re-order Farah products until that company recognizes its employes' right to organize for collective bargaining." I did not, as Buckley claims, "urge the boycott of local merchants."

BOYCOTT EFFECTIVE

The boycott of Farah slacks is having its effects. The company's quarterly report for fiscal 1973 shows a $9.1 million drop in sales over the previous year's comparable period. On November 1 the company announced the closing of two plants because the boycott is hurting, one in Texas and the other in New Mexico. But I do reiterate my support of the consumer boycott of Farah slacks produced by Farah under this and many other labels.

The Church has a long and respected tradition espousing the right of the worker to organize in a union and to enjoy the protection of collective bargaining. America's own James Cardinal Gibbons defended the rights of this nation's working persons to join the "Knights of Labor," the forerunner of today's great labor organizations, demonstrating forever the deep concern of the Church for economic justice for the worker. I can do no less today.

The workers at Farah Manufacturing Company have been on strike for 16 months for the right to bargain collectively. With Bishop Metzger I stand with them in their just demands. With him I consider it both a duty and a privilege to act on behalf of justice for the poor and the oppressed.

Most Rev. Leo C. Byrne,
Archbishop Coadjutor of Saint Paul and Minneapolis.

REPRESENTATIVE LEONOR SULLIVAN: AN ADMIRAL OF THE OCEAN SEA

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 17, 1973

Ms. ABZUG. Mr. Speaker, last week in New York City one of our distinguished colleagues added another title to her long list of awards and accomplishments. Representative Leonor Sullivan was made an "Admiral of the Ocean Sea."

This award is given annually by the American maritime industry to a person who performs distinguished service to American Flag shipping. There can be no doubt that for the last 20 years Representative Sullivan has performed such service. There can be little doubt that as head of the House Merchant Marine and Fisheries Committee Congresswoman Sullivan has continued her outstanding work in the rebuilding of the American maritime industry.

As a Representative whose district runs along the Hudson River with its docks and piers and its role in the Port of New York and all American maritime industry I commend the gentlewoman from the landlocked State of Missouri.

PRESS OMBUDSMAN

HON. O. C. FISHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 17, 1973

Mr. FISHER. Mr. Speaker, in recent years the public has become increasingly disenchanted with the big press and some other media.

In response to this trend the Washington Post has, to its credit, placed a man on its staff to act as a buffer between complainants and the editors. His office is called "ombudsman," and he is to receive complaints and, so far as he is able, resolve them impartially.

This is an encouraging development but it would inspire more confidence if the ombudsman were not on the payroll of the newspaper whose news treatment he is to judge.

Mr. Speaker, I have received a copy of a letter of complaint made to Mr. Robert Maynard who occupies the position of ombudsman for the Washington Post. It is an interesting letter because of the nature of the complaint and also because I am informed that after six months the letter has gone unanswered.

The letter, written by O. R. Strackbein on March 30 is self-explanatory. I think Members of this body will find in it something on a subject that will be quite enlightening. I offer it at this point in the Record:

Mr. Robert Maynard,
The Washington Post,
Washington, D.C.

Dear Mr. Maynard: Some days ago I sent you a copy of a letter, one of several, that I had written to Mrs. Katherine Graham, publisher of the Post.

Naturally I did not expect a reply from you. However, I assume that you read the letter.

The post of ombudsman, which I understand your function to be, attached to a newspaper staff is rather intriguing. I do not know what function your apparent forerunner, Mr. Harwood was expected to perform, or for that matter, Mr. Bagdikian, who has departed the Post's premises; but Mr. Harwood did write some trenchant articles, some rather critical of the Post in some respects. The question that most bemuses me is how anyone who is on the payroll of someone else can be expected to perform effectively the office of critic with respect to the source of his employment and salary. In the field of government such an arrangement would unquestionably attract not only skepticism but derisive commentary, such as who seeks to pull the wool over whose eyes.

In any event let us give full credit at least for the tacit admission that a newspaper may not always be right and that some complaints about press performance may therefore have merit.

I will assume that you are not familiar with the whole of my complaint, because it goes back some years, not only against the Washington Post but a great part of the press. My selection of the Post is no accident. First, let me say, I have also complained to other individual newspapers. Second, in the beginning, over ten years ago, I addressed my complaint to the American Society of Newspaper Editors (A.S.N.E.), of which Mr. Russell Wiggins was then the president. I asked to appear before the A.S.N.E. Board. At first they said my complaint was too general. Then when I supplied material they said it was too voluminous. In the end the A.S.N.E. Board directed its Secretary to write me to the effect that the Society has no authority over its members that would permit it to entertain a complaint of the kind I had presented. If I had a complaint I should take it up directly with *individual newspapers*. After that, I believe, was the first time that I wrote to the Post and thereafter to several others, including that A.P. and U.P.I.

Thereafter I wrote to the American Newspaper Publishers Association, and they took refuge as did A.S.N.E. on the grounds that they were not authorized by their membership to process complaints against news practices, or words to that effect.

Now comes the ombudsman. A year or more ago I tried Mr. Harwood. He concluded that after spending an unspecified amount of time on my complaint, it was unfounded. The Post had printed a number of my letters, as if that were a substitute for coverage in the news. Evidently I should have been grateful. I believe, however, that you will agree that news coverage and letters to the editor are not synonymous.

My contention all along has been, supported by adequate evidence, that the "protectionist" side of the trade issue, an issue that of itself was given abundant space in the press, was severely neglected or avoided. I was the head of what was recognized as the leading element of opposition of the national trade policy. Neither I nor the organization for which I spoke received the attention to which any opposed side on a widely publicised national issue is entitled. It would be generous to say that we received as much as 5% of the space devoted to the subject.

The discrimination was indeed gross in nature. Seldom was our reasoning exposed to the public even though I made a point of presenting rounded expositions of our position. The other side, the liberal trade element, lacked nothing in print so far as their philosophy and reasoning was concerned. They were given space to the point of saturation. Moreover, governmental spokesmen, from the President and Secretary of State down through the Cabinet were widely and often quoted. At public hearings before Congressional committees (Ways and Means, and Finance) the other side from us, i.e., the nongovernmental witnesses from industry, labor, etc., was always given first billing after the governmental witnesses.

When I came on and the many witnesses who set forth our side of the case only a skeleton crew of the press was left and we were served the meager left-overs in press coverage. The spectacle was appalling to anyone who believed in the fairness of the press and who took seriously the "right of the public to know." It seemed unbelievable at first, but after a steady diet of this style of treatment over the years the treatment became expected and commonplace, though not acceptable. When we achieved some publicity now and then it was always a remarkable breakthrough.

My conclusion was that when big government and big press were in agreement in this country there was little to distinguish our news treatment from what would be expected in Russia. Only if newspapers disagreed with each other and when strong elements of it disagreed with the government was there a likelihood that issues would achieve a proper airing. We were in neither fortunate position. The press and government were in a monolithic state of agreement.

The press, which dislikes very much to be criticised, did not take kindly to my complaints which, to repeat, I sent individually to several of the leading newspapers, the press services, as well, in a few instances, to the leading television systems.

For a decade or more we strongly attacked the abdication by Congress of its authority and responsibility over the tariff and the regulation of foreign commerce, both of which are clearly enumerated in the Constitution. We deplored the handing of this power to the President. Our complaint hand in hand with that of many members of Congress found no echo, none at all, in the press, This was the same press that in recent times has become so highly exercised over excessive concentration of power in the Executive!

How many different standards are there to which the press may have recourse at will?

In 1966 we repeatedly called attention to the misleading character of the official governmental trade statistics. In response, the Senate Finance Committee held two days of hearings and extracted a promise from the Department of Commerce to give the true statistics to the public. The press did not take up the cause of truthful governmental information as it did with great fervor in other instances. The newspapers and press services were deaf and blind and made non-news out of the complaints and hearings. The Department of Commerce did not keep its promise. Who would know the difference except those who did not have the ear of the press?

Our imports were being valued at their foreign value with no addition of ocean freight, marine insurance, etc.; thus resulting in an undervaluation estimated at about 10% by the Tariff Commission. On the basis of the 1972 imports this would have represented an undervaluation of about $5 billion. Our exports by contrast were over-valued by some $2½ to $3 billion by the device of including shipments under A.I.D., Food for Peace, etc. as true exports, i.e., as if they reflected our competitive capability. This practice caused a distortion on the side of optimism while the treatment of imports greatly understated our competitive weakness in the home market, vis a vis imports.

The Chairman of the Senate Finance Committee repeatedly called attention to this distortion in strong terms, as well as to its unfortunate effect on trade policy-formulation. He might as well have kept his complaint to himself. We ourselves repeatedly gave out statements to Congress, before committees and through press releases. Only on very few occasions, far apart, and not as headline items, was mention made of this subject in the press. The public was left in gross ignorance on this front.

Again, this treatment was astounding. Where was that great public service known as investigative journalism? It was evidently hibernating far underground. The press can see evil in governmental practices apparently only when it serves its particular partisan or other purposes or at best when it elects to see it. It is as good at cover-up as any expert at public concealment can possibly be, and much more effectively so because it controls the lines of communication (when the press is internally agreed.)

An indictment could hardly be more complete in point of culpable omission, violation of the public's right to know, with resulting distortion of public opinion and perversion of the truth, than the press record in these premises has inflicted on itself.

It was six years before the government finally yielded on the trade statistic and then only after the tide of adverse trade balances was such that the facts could no longer be concealed, and even then it continued to minimize them. Thus the actual 1972 trade deficit was more nearly $13 billion than $6.4 billion as reported.

From July of this year, i.e., after nearly seven years of error trade statistics will apparently be recast and disseminated toward a belated but more faithful reflection of our weak competitive position in the world. Meantime much damage has been done, and we are not yet out of the woods because of the past nonfeasance of the press in its headstrong refusal to inform the public.

The responsibility of the press is very heavy indeed in the drift of this country into financial difficulties on the foreign front, leading to two devaluations of the dollar in less than two years.

The press is indeed as capable of being a culprit as any other institution composed of human beings. Yet it insists on hiding in a protected fortress from which it can fire at will against any who dare attack it or even question its purity. It runs up a bloody flag of repression, intimidation, the whiles with the other hand practicing more repression and culpable omission, and more favoritism in a week, than is in the power of any group or organization of private citizens to encompass in a year. It has the necessary weaponry and can fire at will any number of rounds (depending on circulation), day after day, without fear of being effectively called to account. (Let me say, as I have from the very beginning, I am a strong believer in the freedom of the press; but I would want it to be free on all sides, not only from possible governmental encroachment. Press freedom is equally vulnerable to another encroachment, one that is actually in being in varying degrees; namely, from the side of the editors and publishers themselves. Neither the government nor the editors and publishers should have a decisive or final voice over the question of press bias).

I will be interested in your reaction in your new and, in this country, seemingly pioneering outpost of ombudsman for a leading newspaper. Will you take my case?

Sincerely,

O. R. STRACKBEIN, *President*.

THE EMERGENCY PETROLEUM ALLOCATION ACT

HON. THOMAS P. O'NEILL, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 17, 1973

Mr. O'NEILL. Mr. Speaker, the Emergency Petroleum Allocation Act, passed in November of this year, required the President to promulgate a program for mandatory allocation. Section 4(c) (1) of that act required that "to the extent practicable and consistent" with the priorities for allocation specified in the bill, allocations to each marketer or refiner during each allocation period should correspond to the marketer or refiner's supply during the corresponding period in 1972.

The choice of 1972, rather than 1973, as a base period is very important to New England and to the Midwest. New England and the Midwest are more dependent on supplies from independent fuel dealers than are any other part of the country. In 1973, the majors tried to squeeze the independents out of the market by limiting their supplies. Thus, allocation on the basis of 1973 supplies would mean counting the majors' squeeze on the independents against New England and the Midwest.

Furthermore, 1973 was an unusually mild winter in both New England and the Midwest. Allocation on the basis of 1973 use could deprive both areas of the fuel necessary to get through their normally severe winters.

What makes the base period in the Emergency Petroleum Allocation Act all the more important is that it would also apply to rationing authorized under this Emergency Energy Act.

Last week, the gentleman from Minnesota (Mr. NELSEN) offered an amendment to allow the adjustment of the historical period that serves as the base period for allocations. His fear was that allocation on the basis of 1972 use would hurt those industries and other users that expanded, or initiated, their use after 1972.

But the Emergency Petroleum Allocation Act allows departure from allocation on the basis of 1972 use for a number of reasons, including "the promotion of economic efficiency, and the minimization of economic distortion, inflexibility, and unnecessary interference with market mechanisms." Thus, the President had the power, in issuing allocation regulations, to grant necessary special treatment to those users who increased or initiated their fuel demand after 1972.

In his original allocation regulations, the President failed to do so. But the latest allocation regulations, issued by Mr. Simon only last week, do provide that people who were "not in business" or who have "had substantial expansion of fuel requirements since 1972" may apply to State and regional offices for special allocations.

Clearly, the administration has made provision for the legitimate concerns of the gentleman from Minnesota. Now, failure to delete his language would invite doubts as to our desire to retain a 1972 base period, even with a measure of flexibility. Otherwise, this language is redundant.

The consequences of scrapping the 1972 base in favor of a 1973 base period might well mean the difference between an uncomfortable and an unbearable winter for the people of New England and of the Midwest. So as to leave no doubt as to our wishes, I urge opposition to the Nelsen amendment.

SOIA MENTSCHIKOFF: A DISTINGUISHED LAWYER, A REMARKABLE WOMAN

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 17, 1973

Ms. ABZUG. Mr. Speaker, the current issue of the Columbia Law Alumni Observer contains a front page article about Soia Mentschikoff, a distinguished lawyer, a renowned legal scholar, and the newly appointed dean of the University of Miami School of Law.

Professor Mentschikoff was a graduate of my alma mater, Columbia Law School, and went on to a career of great accomplishments. The article from the Observer mentions many of these achievements but I would like to note in particular one that I find most impressive.

In 1971, Professor Mentschikoff was

recommended by the National Women's Political Caucus as a possible nominee to the U.S. Supreme Court. She would have made a fine jurist and I hope that if another vacancy occurs her name will be at the top of everyone's list.

I commend the following article to the attention of my colleagues:

University of Miami Names Soia Mentschikoff Law Dean

SECOND WOMAN DEAN AMONG 152 ACCREDITED LAW SCHOOLS

Soia Mentschikoff '37L, University of Chicago law professor and first woman president of the Association of American Law Schools, has been named Dean of the University of Miami School of Law, effective June 1, 1974.

In 1971 Professor Mentschikoff was one of 10 women suggested by the National Women's Political Caucus as possible nominees of the United States Supreme Court.

In 1947 she was the first woman appointed to the faculty of the Harvard Law School. Four years later she became the first woman to teach at the University of Chicago Law School, and was a professorial lecturer there for 11 years before being named professor of law in 1962.

Known as an expert on commercial law, Professor Mentschikoff has represented the United States at several international law conferences on international sales and transport. Sargent Shriver appointed her to serve on the national advisory committee on law and poverty, a part of the War on Poverty.

She is a director of the National Legal Aid and Defenders Association, a member of the Commission on Uniform State Laws, consultant to the American Law Institute, member of the International Faculty of Comparative Law, the Council of American Society of International Law, Council for the Study of Mankind, and Council of the National Endowment for the Humanities.

Born in Moscow in 1915, she moved to the United States with her family three years later. Before their marriage she studied with Professor Karl N. Llewellyn at Columbia Law School.

With her late husband, she was one of the principal drafters of the Uniform Commercial Code that has been adopted by all states except Louisiana. She is consultant and permanent editor of the board of the UCC. Last year she became one of the first two women to be appointed Trustees of the Rand Corporation.

She is co-author (with Nicholas Katzenbach) of *Unification of Private International Law*, 1961.

In an interview Professor Mentschikoff once said that she didn't know what it was that made her become or want to be a lawyer. "When I was 12 years old," she recalled, "a girlfriend and I put down what we wanted to be on a piece of paper and sealed it in an envelope.

"Years later, after I moved and was in law school, I came across the envelope and opened it. The piece of paper was still inside and mine said: 'I want to be a lawyer.' So I guess I must have made up my mind about it when I was 12 years old, but I still don't know why."

Professor E. Alan Farnsworth, for 20 years a friend of Professor Mentschikoff's, recalls being a student in Professor Karl Llewellyn's first-year contracts class. Professor Llewellyn used to invite the students to their Morningside Heights apartment, where both he and his wife would hold forth. Although she was not a faculty member, her audience was as big as her husband's. Indeed, Professor Farnsworth says that she is at her most extraordinary when standing in front of a large group of people. "She has one of the most remarkable stage presences of any person in law teaching; she's in total command of the subject matter . . . a person who conveys enormous assurance . . . has an extraordinary ability to organize when she talks."

Professor Farnsworth relates the story of Professor Mentschikoff's first day as a student in Professor Llewellyn's contracts class (before they were married) during which Professor Llewellyn talked mostly about the Bible. She thought that wouldn't be very interesting, so she stayed home and played chess. When she decided it would be wise to attend once more, it turned out that he was again talking mostly about the Bible, so she stayed away for the rest of the course.

Judge Nanette Dembitz '37L has been a close friend of Professor Mentschikoff's since student days when they were both living in Johnson Hall. At that time Kent Hall had beautiful iris beds, which the two young women students would admire as they strolled in the moonlight, relaxing after examinations.

One year during the middle of examination period Nanette Dembitz came down with influenza. Soia Mentschikoff persuaded Professor Llewellyn to proctor the exam for her friend in the infirmary, because she felt that more women should be on Law Review and wanted to make certain that Nanette Dembitz—a top student—would complete the studies necessary to make Law Review. Nanette Dembitz wrote her exam, propped up in bed with pillows, while Professor Llewellyn sat nearby correcting papers. Judge Dembitz reminisced about this incident as an example of Soia Mentschikoff's practical mind.

What were the influences on Soia Mentschikoff's career? She herself can't say. Judge Dembitz cites Professor Margaret Spahr of Hunter College, who encouraged her young student, and Professor Mentschikoff's mother, who—although an old-world type—inspired her daughter by pride in her academic accomplishments. In those days, says Judge Dembitz, they were poor; instead of going to Europe in the summer they got work with professors. "Whatever the reasons for Professor Mentschikoff's career," Professor Farnsworth remarked, "she seems so well suited to what she is doing."

FORMER CHIEF JUSTICE WARREN ATTACKS SECRECY IN GOVERNMENT AS "INCUBATOR FOR CORRUPTION"

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 17, 1973

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, at the Annual Drew Pearson Prize luncheon last week at the National Press Club former Chief Justice Earl Warren made one of his unfortunately rare public appearances and spoke out on timely topics relating to Government secrecy and the Watergate.

Some of Mr. Warren's remarks were first-time personal recollections about his relationship with the late Drew Pearson and about some of his experiences on the bench when first appointed in 1953 by President Eisenhower as Chief Justice of the United States Supreme Court.

However, Mr. Speaker, I would like to call special attention to Mr. Warren's most incisive observations on Government secrecy. He said:

> It would be difficult to name a more efficient ally of corruption than secrecy. Corruption is never flaunted to the world. In Government, it is invariably practiced through secrecy. That secrecy is to be found in every level of Government from city halls to the White House and the Hill, and if anything is to be learned from our present difficulties, compendiously known as Watergate, it is that we must open our public affairs to public scrutiny on every level of Government . . .
>
> So if we are to learn from the debacle we are in, we should first strike at secrecy in Government wherever it exists, because it is the incubator for corruption . . .
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> The Congress has labored at great length on the subject, and in 1966 enacted the Freedom of Information Act. That Act recently was accorded a somewhat restricted application by a sharply divided Supreme Court in the case of EPA v. Mink, 410 U.S. 73. The dissenters wrote that the decision "wholly frustrates the objectivity of the Freedom of Information Act," and that "It is on its way to become a shambles." Fortunately there was no decision of constitutional dimensions, the Court holding that the Act did not authorize the relief sought in the case. This would appear to leave the extent to which secrecy in Government might still be proscribed as one for legislative action . . .

Mr. Warren continued:

> What I mean to emphasize is that whatever secrecy is to be permitted concerning governmental records in the highest as well as in the lower echelons should be fixed by law. As I have just reported, the law is now in a state of flux and more refinement is called for. The importance of the problem cannot be overstated. It must be obvious to all by this time that secrecy in high places spawned this great tragedy of our time, and that continued secrecy has prolonged the judicial inquiry into admittedly illegal conduct to a point which erodes the rule of law . . .

Mr. Speaker, the Foreign Operations and Government Information Subcommittee, which I am privileged to chair, has been intimately involved in the investigation of Government secrecy since its work during the 1950's under the leadership of the gentleman from California (Mr. Moss). This work gave life to the Freedom of Information Act in 1966 (5 U.S.C. 552).

During the past several years, the subcommittee has held more than 50 days of public hearings on all aspects of the operation of the Freedom of Information Act, culminating in the issuance of House Report 92–1419 and House Report 93–221 on a unanimous vote by the House Government Operations Committee. These two reports document cases of violation of the act, excessive Government secrecy, and other abuses by the executive bureaucracy. They call for amendments to the Freedom of Information Act to make it stronger, eliminate loopholes, and more effective in protecting the public interest.

I am hopeful, Mr. Speaker, that our committee will soon report such legislation to strengthen the Freedom of Information Act so that all Members of this body may have the opportunity to do something positive to deal with the pervasive problems of excessive Government secrecy that Mr. Warren so eloquently described.

I congratulate the winners of the annual Drew Pearson Award for excellence in investigative reporting. They have performed outstanding service to the right of the American public to know the truth about wrongdoing in high places. They are Mr. Jerry Landauer of the Wall Street Journal, Clark Mollenhoff, Washington bureau chief of the Des Moines Register and Tribune, Mr. Ward Sinclair, of the Louisville Courier-Journal, and to CBS reporters Edward Fouhy and Robert Pierpoint. Mr. Sinclair and Mr. Mollenhoff have both appeared as witnesses during our subcommittee's hearings—the latter on a number of occasions.

Mr. Speaker, at this point I include the full text of Mr. Warren's speech and an article from the Washington Post on the Drew Pearson Award luncheon.

ADDRESS BY HON. EARL WARREN, DECEMBER 13, 1973

It has been a long time since I spoke from this rostrum, and I am happy that this Drew Pearson Awards Luncheon affords me the opportunity to renew my valued association with the members of the National Press Club, so many of whom I helped install as President of your Club during my active years on the Court. Those were happy experiences for me. I had all the fun of starting in motion and none of the worry involved in administering the affairs of an organization as individualistic as the National Press Club.

And I suppose in its long history there was no one more individualistic than the man for whom this Award is named. In fact, for a long time, I have thought that the young people probably had him in mind when they coined the phrase about a person "doing his own thing."

He was unabashedly provocative. Some people thought he was divisive. But I remember the first time I met him was after World War II. He conceived the idea and organized the Freedom Train to rekindle the flame of patriotism in all Americans, not by urging them to go to war, but through the exhibition of the founding documents of the Republic and explanation of their meaning to our free way of life in order to inspire confidence in our institutions and strengthen our resolve to preserve them for ourselves and for those who are to follow us.

I was Governor at the time, and when Drew brought the train through California, I rode with it the length of the State, giving such help as I could to the cause which it represented. It was a good cause, and I am sure it was helpful in generating pride in the goodness of our institutions and the necessity of preserving them as the sheet anchor of our freedom. There was no hyperbole, no exhortation, no jingoism in the undertaking. It was a gentle appeal to real patriotism and in every respect was unifying.

I do not recall seeing him again until I came to Washington in 1953 as Chief Justice. That was a time of complete change of life style for me in my relations with the news media. For over thirty years in California, I was in politics and, like most politicians, if the news media did not approach me I would approach them. Believing in the right of the people to know what their public officials are doing, and also believing that it would help me in their appraisal of my work, I held two open press conferences each week of my eleven years as Governor. It was a mutually satisfactory arrangement, and relieved the necessity for a lot of investigative reporting on my administration.

Having been in and about courts all my adult life, I realized my press relationship in political life was not a proper stance for a judicial officer.

Believing there was no partial way of changing my relationship, I decided, in coming to Washington, to make a complete one hundred and eighty degree change of approach, and decline to discuss any of the judicial aspects of the Court work with the media. I did it promptly, and after the amenities relating to my induction into office were concluded, I submerged myself in another world. It was not only a strange but a difficult way of life for me after thirty years of free-wheeling with the press. And although I have never told the story publicly before, I will say to you today that at the outset it triggered for me the most traumatic experience of my more than fifty years in public life.

When I came to Washington the first week in October 1953, there was in progress an election for Mayor of New York. There was brewing at the same time a prison scandal over the influence used to effect the release of a notorious racketeer from a New York penitentiary. The two became enmeshed, and the names of a number of high public officials became involved in the scandal.

Mr. Robert F. Wagner, the eventually successful candidate for Mayor, only a few days after my induction, held a press conference concerning the prison scandal and naming certain persons implicated in it.

In the course of it, he also stated that one of the highest legal authorities in Washington, whose word was sometimes taken for the law, was enmeshed in it. He declined to name the official, and you can imagine what probing that unleashed. Reporters insisted on talking to me about the matter, but I instructed my secretary to say I was not available.

They waited at the entrances to the Court Building, but I entered the basement by car, and declined to recognize or halt for reporters at the entrance. I cut off the telephone in my hotel room, ate, and remained there until morning each day. As the weeks passed, some of the reporters wrote or wired me asking for an interview and saying they wanted to be helpful.

My name was not mentioned in the press, and I relied on the fact that it would not be without evidence to connect me with it. On the other hand, I felt sure that if I gave anyone an interview, there would be a story to the effect that "Warren denies he is implicated in prison scandal," and that would be an excrutiating way to start off the proceedings on my confirmation as Chief Justice. So I sat tight and suffered in silence. My wife was not even with me, she having remained at Sacramento to move from the Governor's Mansion where we had lived for eleven years with our six children, and which I had left on four days' notice to open the 1953 Court Term in accordance with my interim appointment by President Eisenhower.

On the Saturday night before the election, I was in my hotel room alone having dinner, and turned on the television. It happened that Mr. Wagner was holding a press conference at the time, so I listened. During the course of it, one of the reporters said, "Mr. Wagner will you tell us if Chief Justice Warren is the man you referred to as being implicated in the prison scandal?" He replied, "Oh, no, I understand he is a fine man, and I am sure he would not be involved in anything like that." What a relief!

I did not know him or anyone in his organization at that time. In fact, my politics had always been in the opposite Party. I later met him as Mayor, and our trails occasionally crossed at public affairs. He was always friendly and spoke well of the Court.

I never heard another word about this nightmare, but I assure you it was a baptism of fire.

In keeping with my policy of not discussing the affairs of the Court with the media, I never saw or talked to Drew Pearson as a journalist, but, like most Washingtonians, I read his daily column in the Washington Post.

I did, however, come to know him a different way that culminated in a cherished friendship between Drew and Luvie and Nina and me. We were all blessed with the friendship of the late Agnes Meyer.

For several years, she would arrange a Summer cruise in some exotic part of the world—the Fjords of Norway; the Dalmatian Coast, the Greek Islands; the ancient cities of Asia Minor; the perimeter of the Black Sea; the Hawaiian Islands, etc. On these cruises, the Pearsons, the Bill Atwoods, Adlai Stevenson, Clayton Fritchey, always some members of the Meyer family, and Nina and I were included. They were wonderful experiences, and it was on these cruises that I came to know Drew Pearson.

Walking along a Hawaiian beach, a Norwegian Fjord, the ruins of Troy, the Carpathian Mountains, or in the Greek Islands afforded me an opportunity to learn his trend of mind. It was not there focused on muck, but on understanding. I sat, and without participating, listened to him and Agnes Meyer discuss world affairs by the hour with personalities such as the King and Queen of Greece; Chairman Khrushchev of Russia; President Gheorgiu Dej of Romania; President Tito of Yugoslavia; Mayor Ake of Istanbul, and others. He was searching for and probing for reportable material—not to aggravate or increase the tension of the Cold War, which was so dominant in the Joe McCarthy days, but to see if some measure of accommodation could be found to enable the nations of the West and the East to find a way to live and let live alongside of each other.

He was a Quaker, as you may know, and in keeping with his faith, immediately after World War I, he undertook a mission into little Montenegro which had been overrun and devastated by the central powers in the War. His mission there had been designed to build homes and restore family life in the devastated villages. On one of our cruises along the Dalmatian Coast from Athens to Venice, he decided to travel overland from the Yugoslavian port of Split to the interior of Montenegro where he had performed his mission. I agreed to go with him. It was a unique experience, and one that warmed his heart because we not only found in use the homes he had built a half century before but also some of the people who had worked for him and who were still living in them. The trip over the "Black Mountains" in a small car for several days was, indeed, a rough one, but it was enlightening to see life only a few miles from the eastern border of Albania almost the same as it was in Biblical times.

At home, Drew, as you all know, was a ferret for conflict of interest in Government. I suppose he made more enemies than any journalist of his day in pursuing that objective. He not only fought corruption but also the secrecy in Government which makes corruption easier. I have often conjured how he would have thrived on the opportunities for investigative reporting in these almost unbelievable times. He would have dug deep and fought secrecy in governmental affairs with a vengeance.

It would be difficult to name a more efficient ally of corruption than secrecy. Corruption is never flaunted to the world. In Government, it is invariably practiced through secrecy. That secrecy is to be found in every level of Government from city halls to the White House and the Hill, and if anything is to be learned from our present difficulties, compendiously known as Watergate, it is that we must open our public affairs to public scrutiny on every level of Government.

Some will say that it is the duty of public authorities to ferret out and prosecute conflicts and defilement of the public interest. But this falls short of the mark. Law enforcement officers are not equipped to follow the daily work of our public servants, and I doubt if we would want them to be constantly looking over the shoulders of our people in public life just to see if they are performing their duties honestly. It is not the American way, and the practice could eventually lead to a police state.

But we do have the right to compel our public officials to keep the avenues of information open so the public can know and evaluate the character of their work from day-to-day. Then it would be the responsibility of the news media to inform the public of both the accomplishments and the derelictions of their officials.

It is an enormous job to alert the public because there are 2,872,000 Federal civilian employees, 2,832,000 state employees, and 7,612,000 in local government, making a total of 13,316,000 in 1771. All of them perform some duties for the Government, and often some obscure public official unknowingly even will perform some act that, if disclosed, might change the course of history.

As an illustration, conjure for a moment what a nation shattering service the house policeman and the city policemen whom he summoned rendered in making public the Watergate burglary. Had they succumbed to the blandishments and importunities of the burglars, all of the subsequent disclosures of conduct debasing our institutions might have remained a secret forever.

A similar occurrence could come under the scrutiny of anyone of these millions of public employees and if not disclosed might deprive the American people of a much needed opportunity to cleanse some level of our Government.

But even such a failure of disclosure might not be the fault of the particular employee. It could well be a lax method of accounting for official conduct or even a strict policy of secrecy imposed by the policymaking authority.

Such policies, whether they stem from indolence or design, are cancerous to the body politic and must, if our Government is to remain "of, by and for the people," be curbed by adequate legal guidelines and then by scrutiny of the people for use in the electoral process. The fulfillment of the latter, however, depends on the preservation and stimulation of a free press, because the people cannot be adequately informed by the Public Relations Departments of the numerous agencies which justify their activities through news releases and subtle propaganda.

The Pentagon alone is asking for $25,023,000 this year for that purpose. The General Accounting Office, however, has objected to the amount before Congressional Committees on the ground that much more has been concealed for the purpose in other parts of the budget. That amount alone for public relations in the one Department, however, is over four times the total requested budget of the Supreme Court of the United States this year.

And with that amount of money, presumably to inform the public of the activities of the Pentagon, the Cambodian bombing was deliberately concealed from the American people until about two years after the fact.

There is but one protection against such deception, and that is the accessibility to inspection by the citizenry of public records on every level of Government, thus making them available for the news media.

We must realize that when we open up Government files and documents, we are not according the press any preference, but that we are making available to all citizens alike the opportunities to know what their Government is doing. It is then that the press becomes free through investigative reporting to inform the people of the actual state of affairs and put its interpretation on it. If it does the job well, the people are the beneficiaries.

The investigative reporting of the past year is entitled to high praise and the gratitude of every American. Without it, its disclosures of fraud, bribery, perjury, conflict of interest, obstruction of justice, etc., would probably have passed without official action.

So if we are to learn from the debacle we are in, we should first strike at secrecy in Government wherever it exists, because it is the incubator for corruption. One would think this should be an easy thing to accomplish, but as in most public questions there are many facets to it, and as the old hillbilly from Arkansas said, "No matter how thin you make a pancake, there are always two sides to it."

The Congress has labored at great length on the subject, and in 1966 enacted the Freedom of Information Act. That Act recently was accorded a somewhat restricted application by a sharply divided Supreme Court in the case of *EPA* v. *Mink*, 410 U.S. 73. The dissenters wrote that the decision "wholly frustrates the objectivity of the Freedom of Information Act," and that "It is on its way to become a shambles." Fortunately, there was no decision of constitutional dimensions, the Court holding that the Act did not authorize the relief sought in the case. This would appear to leave the extent to which secrecy in Government might still be proscribed as one for legislative action.

In order to appreciate that a free press is a basic element of a free society, one need not subscribe to the aphorism of Thomas Jefferson that if it should become necessary to dispense with either government or a free press we could better afford to give up government.

Every thoughtful American knows that some of our most cherished rights stem from the First Amendment—speech, the press, religion, assembly, and the right to petition the Government for a redress of grievances. To exercise these rights effectively, the people must know what the Government is doing. On the other hand, the increasingly complex world and nation in which we live undoubtedly call for some degree of confidentiality in the decision-making process, but to recognize that fact one need not subscribe to the bizarre contentions of the administration for boundless secrecy under the ensign of executive privilege and national security.

Nor need one believe that this should curtail the rights of the press to explore, probe and report to the public what its explorations reveal.

What I mean to emphasize is that whatever secrecy is to be permitted concerning governmental records in the highest as well as in the lower echelons should be fixed by law. As I have just reported, the law is now in a state of flux and more refinement is called for. The importance of the problem cannot be overstated. It must be obvious to all by this time that secrecy in high places spawned this great tragedy of our time, and that continued secrecy has prolonged the judicial inquiry into admittedly illegal conduct to a point which erodes the rule of law.

Only a rule of reason will solve the dilemma we find ourselves in. This is not an easy thing to evolve in these days when the solution of so many issues is polarized to the point of frustration. Yet the importance of this issue is so great that I would think there is sufficient acumen and patriotism in the elements of our society most intimately connected with the affairs of Government to solve it.

We are spending billions of dollars today to induce the Israelis and the Arabs to settle their ancient differences through reason. In recent years, we have spent upwards of 200 billions and lost 50 thousand of our young men to achieve what is denominated as "peace with honor" between two small countries on the other side of the world.

In light of these experiences, would it be reasonable to expect the professions of journalism, law and political science, together with their professional schools and representatives of federal and state government, all properly sanctioned, to be able jointly to study and define the essential areas of confidentiality in Government, leaving the rest open to public scrutiny so that "Even he who runs may read?"

I would think it should be and perhaps it might be the best way to avoid another Watergate which we can ill afford, and thus fulfill our Constitutional obligation to keep it possible for the people to govern themselves.

Finally, my congratulations to all of today's awardees. They have honored their profession by their investigative reporting, and in doing so have fulfilled in the finest sense the responsibility of a free press to the people it serves.

[From the Washington Post, Dec. 14, 1973]

REPORTING AWARD IS CONFERRED

(By Linda Newton Jones)

A reporter from The Wall Street Journal was awarded the 1973 Drew Pearson Foundation prize in investigative reporting yesterday for his articles on the alleged receipt of money for favors by former Vice President Spiro T. Agnew.

Jerry Landauer accepted the $5,000 prize for excellence in investigative reporting yesterday, which would have been the late columnist's 76th birthday, at the Pearson Foundation's third annual awards luncheon at the National Press Club.

In making the award, Mrs. Drew Pearson said Landauer's "persistence in digging out the evidence was a prod to the prosecuting authorities."

Honorable mention prizes of $1,000 were presented to Ward Sinclair, a reporter for the Louisville Courier Journal, for his reporting of the affairs of the United Mine Workers and CBS reporters Edward Fouhy and Rober Pierpoint for their investigation of Charles (Bebe) Rebozo and the circumstance surrounding the granting of national bank charters in Key Biscayne, Fla.

Clark Mollenhoff, Washington bureau chief for the Des Moines Register & Tribune, received a special $1,000 prize for sustained contributions to investigative reporting.

Former Chief Justice Earl Warren, the featured speaker at the luncheon hailed the investigative work of the reporters as prime examples of the responsibilities of a free press.

He told the 300 people gathered for the presentations that areas of confidentiality in government must be jointly studied and defined by journalist and government representatives. He said the amount of secrecy allowed in government must be defined by law. "It must be obvious to all by this that secrecy in high places has spawned this great tragedy of our time . . ." Warren said of the current Watergate scandals.

THE POLITICS OF RATIONING

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, December 17, 1973

Mr. ASHBROOK. Mr. Speaker, pressure seems to be mounting for the imposition of a rationing system. Before embracing the concept of rationing as a solution to our energy problems, however, we should carefully consider the consequences of such a decision. These consequences are vividly described by Anthony Harrigan in his nationally distributed newspaper column. Harrigan writes that rationing will mean a vast expansion of the Federal bureaucracy, pervasive corruption and a substantial lessening of economic and individual freedom. The following is the text of Harrigan's column:

THE DISASTER OF RATIONING

Because of a shortage of petrochemicals, the United States is moving in the direction of an economy of scarcity. It is important, therefore, that Americans realize that economies of scarcity usually are controlled societies.

Demands for new controls are being heard every day. The proponents of rationing are eager to introduce this most corrupting and hurtful system. Dr. Paul W. McCracken, former chairman of the President's Council of Economy Advisers, rightly stated Nov. 26 that "economies that are managed by license and edict and coupon books are also economies with pervasive corruption and graft."

Americans who are old enough to remember the rationing system in effect in World War II recall that it produced widespread injustices, blackmarkets in fuel and food, and a variety of under-the-table deals. Instead of being a fair system, rationing is the most unfair plan that can be devised as it introduces pervasive corruption. The advocates of a controlled society ignore this fact. The New York Times, for example, declares—in the face of massive evidence to the contrary—that "rationing is the only fair way to distribute short supplies."

Rationing means a vast expansion of the federal bureaucracy. Dr. Gordon Tullock of the Center for the Study of Public Choice at Virginia Polytechnic Institute, has noted that approximately one-third of working Americans are employed by governments at the federal, state or local level. This is a terrible burden on taxpaying citizens. Introduction of rationing would create a new army of government employes to administer the system.

It is amazing that Americans should be so trusting of economic controls in view of the dismal record of controlled economies. The Soviet Union has a totally controlled economy—and it now depends on the capitalist United States for grain to feed its people. In recent months, we witnessed the economic and social collapse of the Marxist regime in Chile which endeavored to substitute a controlled economy for a free economy. Great Britain is in perilous straits these days because of its post-World War II decision to go with the concept of a controlled economy, as against the free economy adopted by West Germany and Japan.

The American people may be reaching a major turning point in their economic history. They can allow themselves to be stampeded into rationing and other new controls or they can utilize free economic principles to solve their problems.

Prof. Milton Friedman of the University of Chicago, the distinguished proponent of a free economy, recently told Vanderbilt University students that rationing will result in long-term market dislocations. He urged that Americans let the price mechanism work to solve problems. If prices for fuel are allowed to rise, for example, producers will have the incentive to open new oil wells.

The effect of rationing is to depress economic activity. Business will not commit new capital for products that are to be sold under a rationing system. Thus rationing, which starts out a temporary protective measure for the public, ends up by drastically restricting the goods the public needs. This is the age-old history of rationing.

The proponents of rationing can be counted on to do their best to conceal the truths of economic history. After all, many of them want a government-directed economy. Indeed the petroleum shortage is likely to turn out to be a Trojan horse for the neo-socialists.

Already, we are hearing demands that the federal government become directly involved in the search for oil through the creation of a petroleum TVA-type organization. *The Independent Coal Operator* recently warned that efforts be made to nationalize coal mines. "We are rapidly approaching a time and place," said the magazine, "when those desiring a federalization of the mines could begin their cry of: 'The industry refuses or, is incapable of producing the coal needed'. Let the government take them over and let bureaucrats run them."

Nationalization of coal mines or similar activity would be the road to national disaster. Ultimate control measures of this sort, ordered in Great Britain, led to that country's shocking decline. The way to block the final destructive economic measures is to begin with strong grassroots opposition to rationing, the first step towards a condition of permanent scarcity.

LIVING HISTORY—CAN IT REALLY WORK?

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 17, 1973

Mr. EILBERG. Mr. Speaker, for too many of us the history of our country is an intangible subject which is grudgingly learned in school and half forgotten in adulthood.

However, a group of young men in my city, Philadelphia, are operating a program which makes one segment of the Revolutionary War a true-to-life experience for young boys who live in and around the city.

The Shackamaxon Society, which has been restoring Old Fort Mifflin, a strong point during the colonists defense of Philadelphia, is now using the fort to depict the life and crafts of the colonial period.

One of the more ambitious programs is a recreation of the life of the soldiers who defended the fort and the hardships they faced.

At this time I enter into the RECORD an account of this activity.

LIVING HISTORY—CAN IT REALLY WORK?

During the summer, fall and winter of 1973, The Shackamaxon Society, under the direction of President Robert I. Alotta, implemented one of their Bicentennial ideas: take young boys and men out of their everyday life and return them to a time two hundred years ago . . . and see what happens.

The Revolutionary Appreciation Program (RAP) took place on three weekends—spaced far enough apart to let the individuals involved digest what had been experienced.

Bivouac I (6/29–30/73): Members of The Old Fort Mifflin Guard—The Society's reenactment group—were invited to spend a weekend living at the Fort as their military predecessors had done 196 years ago. All modern-day niceties . . . like radio, television, newspapers . . . were excluded. They dressed in Continental Army uniforms, drilled, worked and experienced what it must have felt to be a soldier in Washington's Army.

During the night, Society Vice President A. C. Ferreira and his Explorer Post No. 170 from Cherry Hill, N.J., the "British," attacked the Fort. The members of the Guard, commanded by Alotta, repelled the attackers.

Following this night problem, everyone gathered in the Soldiers' Barracks to discuss what had been learned and experienced. The knowledge was frightening. The men and boys learned what it was like to guard an important facility as Fort Mifflin. They forgot where they were and actually thought they were back in 1777.

Bivouac II (8/18–19/73): The same "return to basics" was the order of the day for this encampment. The major change was a different night problem. This time, the officer cadre ambushed the entire Guard while they were on night patrol.

The boys and men experienced another insight into history. A small lad—12 years old—felt he was never going to see his mother and family again. He remarked that he could look left and right and only see three-cornered hats and riflemen's frocks. For a minute, he was actually at the Fort during the Revolution. Other boys had the same impression. Also, they felt the need for more training—much as Washington knew and felt back in 1777.

Bivouac III (11/10–11/73): The new night problem this time was the commander of the Fort had been captured by the British and the men in the Fort had to rescue him.

Alotta was found by his men within an hour of being captured. The boys in the Guard, most no older than 18, used their native intelligence and their cunning to by-pass six (6) adults on the road leading to the prison site. Only three (3) boys out of 35 were detected.

They all learned what it must have been like before progress took over. After the night problem, they sat down and discussed what they had learned. What most came up with was a philosophical concept of discipline over fear. The consensus was no matter how scared you are, you have a mission to accomplish and that should over-ride any fear you have while scurrying through the woods at night.

These programs, as you might suspect, will continue during the months leading up to our nation's Bicentennial.

In summary, what has been accomplished with weekend encampments in history?

1. All who have participated have learned a very valuable lesson . . . "A man can do more than he thinks he can do."
2. They experienced the life of the soldier, including the different types of food eaten by soldiers in Washington's army . . . most of which they cooked themselves over an open fire. They realized his life was not an easy one. Yet, with all the hardships, they could see why the Continental Soldier did not give up.
3. They learned the topography of Old Fort Mifflin. They found its assets and its shortcomings. They could see how the Fort could be taken—and how it should be defended.
4. They participated in the "War for Independence" as no other man today has. As if a time machine transported them back, they lived.
5. They were not completely satisfied with only three such experiences. They want more. Now, they want to plan the night problems. They want to participate and use the knowledge they've acquired. And, they're reading books on colonial strategy. They want to try and see if it works.

We're going to let them do it. It is Alotta's feeling that "do-it-yourself" history can be one of the most effective means to expand knowledge of the Revolution. The knowledge acquired by The Old Fort Mifflin Guard will be put to good use at the Fort—in their capacity as guides.

PERSONAL NOTE

HON. IKE F. ANDREWS

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 17, 1973

Mr. ANDREWS of North Carolina. Mr. Speaker, I would like to explain my reason for missing the vote on Senate Joint Resolution 180. I was present on the floor and was engaged in conversation with the dean of the North Carolina delegation, the Honorable L. H. FOUNTAIN. Inadvertently, I allowed the time to expire before I could vote. If I had voted, I would have voted "no."

GRAND JURY TO INVESTIGATE KENT STATE SHOOTINGS

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, December 17, 1973

Mr. SEIBERLING. Mr. Speaker, last week, 3½ years after four students were killed and nine others wounded at Kent State University, the Justice Department announced that a Federal grand jury will be convened to investigate the shootings. The Akron Beacon Journal, which was awarded the Pulitzer Prize for investigative reporting for its coverage of Kent State, contained the following editorial last Thursday, December 13, 1973:

NEW TRY FOR THE TRUTH OF KENT STATE IS WISE

It is good that the Justice Department at long last has decided to open a Federal grand jury investigation of the 1970 Kent State tragedy. And Sen. William Saxbe showed good judgment in his announcement that as attorney general he would stay out of the case.

There is little solid basis for expecting that a new grand jury probe will either open up "the whole truth about Kent State" for the public or culminate in a great sheaf of criminal indictments. But that is not the point.

In the 44 months since an Ohio National Guard fusillade brought death to four Kent State University students and wounded nine-others May 4, 1970, ending a several-day passionate and sometimes inexcusably destructive antiwar demonstration on and around the campus, there have been countless efforts to unearth the full truth about the event.

A grand jury in Portage County, the FBI, the Scranton Commission, this newspaper and others, television newsmen and a parade of investigative writers have dug out and tried to sort and make sense of every available scrap of evidence bearing on what happened there and what led up to it.

Yet the air remains still full of troubling unanswered questions about it.

The grand jury proceedings, conducted in an obvious atmosphere of local anger and tension, resulted in 25 indictments, mostly of students and faculty, and a report castigating the university administration and the demonstrators and exonerating the Guardsmen.

The indictments resulted in one conviction, two guilty pleas, one acquittal and dismissal of the charges in the other 21 cases. A reviewing court condemned the jury's report as improper and ordered it destroyed.

The Scranton Commission reached the conclusion that the firing by the Guard was unjustified and improper, and several members of the commission urged Federal legal action.

A massive Justice Department report incorporating the findings of the FBI—never made public although newsmen learned of parts of its content—also characterized the shooting as unjustified.

Yet a year after the event John Mitchell, then attorney general, closed the files on the case and ruled against convening a Federal grand jury. His announced reason: There was insufficient evidence of Federal crimes to justify trying for indictments.

This, of course, didn't make the unanswered questions go away—and left many troubled by the feeling that there was no official desire to get at the truth and try for even-handed justice. Fruitless petitions signed by thousands of KSU students and others, pleas for further investigation from the university's new president and accusatory theories published by several writers have added to this feeling.

Now a Federal grand jury investigation—even if its findings are never made public, and even if it fails to produce so much as a single indictment—will at least stand as evidence of the government's willingness to try to get at and deal with the truth here.

Saxbe, who now seems highly likely of early confirmation as attorney general, had too many links with the event to be regarded by the suspicious as open-minded about it. He has made statements hostile to the idea of further investigation. He was close to James Rhodes, the governor who ordered the Guard in. He is a former Guard officer.

So his announcement of "hands off" intentions is good business.

NIX COMMENDS INDONESIAN GOVERNMENT AND LEADERSHIP FOR THE DEVELOPMENT OF ITS OIL RESOURCES IN COOPERATION WITH ALL NATIONS

HON. ROBERT N. C. NIX

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 17, 1973

Mr. NIX. Mr. Speaker, on the occasion of the opening of the Indonesian Government's National Oil Company Office in New York City on November 6, 1973, Dr. H. Ibnu Sutowo, president-director of Pertamina, addressed himself to the subject of the "Future of American-Indonesian Economic Relations."

I think it is important enough as an address to be included in the RECORD today, which I will do at the conclusion of my remarks.

This address is important because it makes clear that the future of American policy in Asia depends on the success and growth of Indonesia.

Indonesian oil may insure the free nations of the world against oil blackmail as its production expands from its present 1,300,000 barrels a day—160,000 barrels of which are delivered on our West Coast every day.

Indonesia welcomes our investment in their country. Indonesia needs very little help from the outside world in maintaining the freedom of its people, a population of 150,000,000—the fifth largest in the world.

Indonesia's domestic investment in its own country matches that of other nations and Indonesian investment at home will increase. Indonesia's territory from farthest island to farthest island is comparable to the distance between New York City and San Francisco, and as a large country, its freedom is vital to the free world.

Yet, our press is filled with the continuing traveling and toasting of our Secretary of State, while we see very little about a nation which is so vital to the security, freedom and prosperity of the free world. The energy crisis will compel us to learn more about Indonesia and my subcommittee, The Asian and Pacific Affairs Subcommittee of the House Foreign Affairs Committee, will do exactly that this coming session of Congress.

Mr. Speaker, at this time I insert the remarks of Dr. Sutowo, a great man representing the future of a great nation, at this point:

THE FUTURE OF AMERICAN-INDONESIAN ECONOMIC RELATIONS

(By Lt. Gen. Dr. H. Ibnu Sutowo)

Mr. Ambassador, all of our many distinguished guests, ladies and gentlemen:

It is both a pleasure and a privilege to have this opportunity to participate in celebrating the sixth anniversary of Pertamina's New York office. Thank you for paying us the honor of your presence. Welcome to our little birthday party!

Six years old is still a very young age. Pertamina itself is sixteen years old. The independent Republic of Indonesia is twenty-eight years old. And the Borobudur temple in Central Java to which our Company is contributing support is well over a thousand years old. Pertamina's New York office is still a mere infant by comparison. But inasmuch as I am still a medical doctor, I can tell you that it is a healthy child, already big enough to stand on its own, and to stride forward, and to help its older brother in Jakarta. We are very proud of our little infant!

As many of you know, I have had the pleasure of addressing these informal birthday celebrations in previous years as well. I have utilized these occasions to bring you up to date on Pertamina's record of economic accomplishment. And what a record it is today:

Under Pertamina's management, Indonesian oil production has nearly tripled since 1966, reaching 1,300,000 barrels daily this year.

We have become the eighth largest oil exporting country in the world.

We supply among others 160,000 barrels of crude oil a day to the West Coast of the United States.

Oil now accounts for not thirty percent of Indonesia's total export earnings, as it did in 1966, but almost 50%; and it is expected to contribute over 50% of this year's government revenues.

We at Pertamina have signed 50 innovative and harmonious production-sharing agreements with foreign contractors covering one quarter of Indonesia. Since 1966, 58 new oil and gas fields have been discovered, offshore and onshore, by these foreign oil companies and Pertamina.

We at Pertamina are also producing liquefied propane and butane gases and carbon black for the domestic and world markets; and, of major significance, we are now developing large natural gas fields in North Sumatra and East Kalimantan into important sources of liquefied natural gas, LNG, for the United States, for Japan and for other markets.

We have recently signed a contract with Pacific Lighting International Inc. to deliver North Sumatran natural gas to the West Coast of the United States in the form of LNG beginning in 1978.

Finally, Pertamina now owns and operates refining facilities with an aggregate capacity of approximately 400,000 barrels per stream day. In addition, a new refinery of 100,000 barrels daily capacity is under construction at Cilacap on the South Coast of Central Java, and is expected to be in operation in early 1976.

I could go on and on, for we are very proud of this record. We are grateful for the part many of you have played in building this record. But tonight the times are too critical to dwell on the past, as I have done on previous occasions. Tonight we must look to the future. It is not enough to tell you what we have done. This is a time for us to talk about what we are going to do together.

For we meet in a time too serious for reminiscing and boasting about what we have accomplished, too serious for the usual words of self-congratulation and comfortable reassurance. We meet in a time of world economic crisis—not one crisis but many—a world energy crisis, a world monetary crisis, a world food and commodity crisis, to name only those most prominently before us. This we must realize above all: no nation on its own, not Indonesia and not even the United States, can hope to either solve or escape these crises. Tonight, this week, this year, therefore, is a time not, for words but for action—cooperative, reciprocal actions that benefit all mankind.

It is in that spirit that I address you tonight. It is in that spirit that I have the honor and duty to set forth tonight for you and for all Americans, in Government, in industry, in finance and all other walks of life, the principles which characterize American-Indonesian economic relations.

Let me make our position perfectly clear at the outset. My statement speaks only of Indonesia's own policy and performance, seeking to set the record straight on those matters where we believe our policy may not have been clearly understood by all.

Our approach can be summarized in six basic principles:

First. In this time of shortage, I want you to know that Indonesia is endeavoring to increase its petroleum production and exports.

Second: Whatever concern or adverse report American investors may have had about Indonesia in years gone by, I want to make it clear that we now welcome American businessmen with genuine respect and friendship.

Third: I do not come tonight to plead Indonesia's poverty. I come to tell you of Indonesia's wealth—a wealth of natural resources, raw materials and willing workers that await your capital investments.

Fourth: We in Indonesia are not sitting back dependent on foreign investment. Under Government incentives for savings, we have already surpassed foreign investment in Indonesia, as extensive as it has been, with our own domestic investment.

Fifth: Our policy in Indonesia today is clearly one of collaboration, not expropriation.

Sixth, and finally: We do not ask foreign investors to come to Indonesia to make a gift. We expect you to come to Indonesia to make a profit.

Ladies and Gentlemen: In your newspapers and other publications, general, governmental and professional, I have read many anxious analyses of the American energy crisis. They speak of political developments in one part of the world, and they speak of the production situation in another part of the world, and they speak of economic conditions is still another. But rarely if ever do they speak of Indonesia.

Indonesia, the eighth largest oil exporting country in the world, one of the oldest oil producing countries in the world, is largely overlooked. Indonesian crude, with the particularly low sulphur content that is so urgently sought in your country today for environmental reasons, is laregly forgotten. Indonesia's capacity to more than double its production and exports of petroleum in the next several years, and its capacity to send you and other countries LNG, and its capacity to supply your petrochemical producers and consumers with critically short products, are all largely ignored. For reasons I cannot comprehend, almost no one in all these studies, speeches and reports ever thinks of Indonesia.

Tonight I ask you, your government, your press, your business colleagues, to think of Indonesia, in your interest as well as ours, not merely with respect to petroleum but regarding business investments and opportunities of every kind.

Think of Indonesia—not a far away, out-of-the-way little country, but a nation of more than 120 million people, one of the 5 largest in the world, located strategically in the international crossroads of one of the busiest shipping routes in the world; and the coming of the ultra-large crude carriers will make your East Coast and every other place on earth within economical range of our ports.

Think of Indonesia—not merely the land of Bali and lovely tourist attractions, but also a nation of bustling and building industrial development, with highly motivated low-cost labor, and a rapidly expanding infrastructure in communication, transportation, power, housing, recreation, medical facilities and other basic needs for foreign investors.

Think of Indonesia—not merely in the traditional terms of oil and rubber and tin, but also in terms of steel pipe, cement, paper and textiles, in terms of the vast mineral, agricultural and timber resources waiting to be tapped, in terms of the abundance of our other raw materials, and the wide range of potential manufacturing and agricultural enterprises so likely to be successful when undertaken.

Think of Indonesia—not as unstable, unpredictable, inhospitable economy, as you may have heard long ago, but a nation which has, under the new leadership of President Suharto, eased the inflation that was raging in 1966, increased the Gross National Product by an average rate of 7 per cent a year, achieved a surplus in its balance of payments, increased its ability to absorb foreign capital, established a widely respected Central Bank, and offered to investors from all over the world several investment incentives, joint ventures, flexible foreign investment statutes, political guarantees, a high degree of worker productivity, successful employee training programs, a modern telecommunications system, an efficient sea transportation network, a belief in the free market system, and above all genuine hospitality to foreign businessmen and investors.

So I ask you—think of Indonesia—and then come to Indonesia. We can help you; and we need your help, both private and governmental. We need your capital, your managerial skills and your industiral organization. We offer you in return virtually unprecedented and virtually unlimited business opportunities:

An opportunity to participate through production-sharing contracts in the expanded exploration and production of our known oil and gas potential;

An opportunity to help build the additional refinery capacity that we will need to meet our domestic as well as foreign demand by 1978;

An opportunity to help build a multimillion dollar integrated petrochemical complex that will start producing in 1978 a wide variety of materials needed to meet the shortage of plastics;

An opportunity to participate in the unique $400 million project for the development of Batam Island into a major industrial, urban and seaport complex that will generate net foreign exchange earnings, according to plan, of some $90 million a year;

Mining opportunities in the 53 huge blocks of potentially mineral-bearing land which the government has opened up for applications from foreign and domestic investors;

Timber, paper and pulp opportunities in a country that has multiplied its timber exports more than 50 times in six years and still has under concession only about half of the great forest lands suitable for continuous timber production;

Agriculture-related opportunities to achieve our Government's major goal of self-sufficiency in food, giving high priority to projects for foreign investment in agricultural estates, husbandry, fishing, fertilizer plants, rice mills, agricultural equipment, and fishery cold storage and canning factories;

And finally, opportunities in tourism, in transportation, in manufacturing, in a long list of other industries and areas; for I have cited only a few leading examples, and because Indonesia intends more and more to process its raw materials at home by adding value before export, and because we intend also to diversify the productive base of our economy, we are moving toward more new industries and investment opportunities than ever before.

Pertamina plays a leading role in all this because Pertamina is more than an oil company. We are a fully rounded development company, a development company for the entire nation; and we are also, let me stress, undertaking community activities and civic construction and cultural preservation projects throughout our country as well. We invite foreign investors to join us in any or all of these other efforts, for experience has shown that they make possible the kind of human and public relations that can cement a long-term partnership.

So I repeat: come to Indonesia. You will not be turned away; and you will not be disappointed. We can help each other; and in a world economy beset by crises, that is what friends should do.

I do not pretend that all is easy or rosy, that our country is free from problems or imperfections, or that there will be no struggle, no risk and no effort required in the months and years of collaboration that lie ahead. But Indonesians have been struggling for their political and economic independence and development, and for a decent life for themselves and their children, for hundreds of years. We are not discouraged. We are not afraid. We will not give up. With your help, and with God's help, we will make our nation a land of opportunity for all, for those of you from abroad who join hands with us, for those of us at home who have struggled so long, and for our children and their children who make this struggle worthwhile.

F–15 FIGHTER

HON. JAMES W. SYMINGTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, December 17, 1973

Mr. SYMINGTON. Mr. Speaker, earlier this year I addressed the chamber after the House Armed Services Committee had reduced the authorization for the F–15 program from 77 to 39 aircraft. I expressed my disappointment with that action and was most pleased that the conference committee saw fit to restore the full authorization. I am addressing my colleagues today because of the subsequent action on the appropriations measures. The House approved appropriations for 68 aircraft, while the Senate reduced that to 60.

In the light of Soviet capabilities and recent actions, the need for realistic production programing of our new air superiority fighter seems clear. At a time when we are searching for ways to economize in every segment of the budget, we are actually increasing the unit price for the F-15 by reducing the total buy.

If Congress had followed the optimum production line curve recommended by the Air Force the unit price for the 77 requested F-15s would be $10.4 million. The unit price for the 68 aircraft as recommended by the House becomes $11.1 million and the 60 aircraft unit cost as recommended by the Senate is $11.6 million, a full $1.2 million more per aircraft than if we had been producing the F-15's at the rate suggested by the Air Force.

The point at issue is not whether the Congress wants the F-15 air superiority fighter in the Air Force inventory. We have been funding research and development on this aircraft for 5 years. In fiscal year 1973, Congress fully supported the Air Force request for the initial 30 aircraft.

Now, we have even more specific data than we had a year ago to prove the excellence of this aircraft. Since the first flight in July 1972 there are now 11 research and development aircraft flying. These aircraft have accumulated over 1,100 flights without a major incident and this equates over 2,200 hours of engine time—again, without a major incident affecting the engines. This empirical data provides proof that many of the problems alluded to as the logic behind these reductions are without real substance. The F-100 engine which powers the F-15 aircraft successfully completed the 150-hour endurance test in October; this was the most stringent and demanding test ever conceived for an aircraft engine. In a study conducted by McDonnell Douglas, the airframe manufacturer, which was based on the results of this endurance test, it was concluded that the expected operational life of the F-100 engine should be slightly over 4,000 operational flight hours. In the past, fighter aircraft have entered the operational inventory with less than 1,000 equivalent flight hours of expected engine durability.

Over the years which we were funding well over a billion dollars for the development of this airplane we relied on computer data to justify the continuation of the program. Now, Mr. Speaker, we have actual flight data proving that the F-15 can do the job for which it was designed. I feel we must do our duty to provide American pilots with the finest aircraft available. Therefore, I would urge the House conferees to stand firm on the 68 aircraft approved by the House.

WASTING GASOLINE—EXAMPLE NO. ONE MILLION AND ONE

HON. LOUIS C. WYMAN

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Monday, December 17, 1973

Mr. WYMAN. Mr. Speaker, indicative of mounting public wrath in the better than three-quarters of this country having no significant air pollution from automobile emissions, at being required to pay hundreds of dollars more in car costs and operating expenses for such controls with their consequent gasoline wastage, is a letter appearing in the Cleveland, Ohio Plain-Dealer on Thursday, December 13. It tells but one aspect of an increasingly dismal and annoying story of congressional bumbling in enacting and not now repealing the unreasonably stringent and wasteful requirements of emissions standards required by present law.

The letter follows:

GET 1966 MILEAGE ON 1974 CAR

The purpose of this letter is to urge every auto owner to write, phone or tell our legislators at every level to repeal the emission-control laws, which serve only to choke our car engines with unreal mileage performances.

I have knowledge of a 1974 model U.S.-make car, with standard V-8, two-barrel carburetor, air conditioning, automatic transmission and power steering that has been restored to the 1966 era of economy and performance:

At a very small parts change cost.

With 35 minutes labor by an experienced mechanic.

Without removing any existing emissions equipment.

Using "regular" gasoline from the neighborhood filling station.

The car immediately achieved:

An increase from 11 to 18.48 miles per gallon.

An increase in horsepower performance rating.

Slower, smoother idling speed, and a cooler engine temperature at all speeds.

Having been a witness to this not too difficult revision, it was infuriating to know that we have been too long subjected to the worthless, lying ecology nonsense that has cost our car owners untold millions of dollars.

Let's all help get rid of the governmental penalty that forbids owners, mechanics and licensed car dealers to adjust, remove or alter the emission control equipment which is aborting the full potential of our automobiles.

PAUL L. STOCKERT.

ENERGY EMERGENCY ACT JEOPARDIZES POWER TO PROTECT PUBLIC HEALTH

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 17, 1973

Mr. BROWN of California. Mr. Speaker, the Energy Emergency Act, H.R. 11450, that the House passed early Saturday morning, contains many provisions that will adversely affect the public health. It will even prevent local governments from being able to give proper protection to the health of their citizens.

I protested at that time the contents of this bill. Now I would like to insert in the RECORD a few of the communications that I have received that confirm my belief that this bill should have been amended along the lines suggested by these organizations.

The Planning and Conservation League wrote:

We do not want any Clean Air amendment allowing suspension of state and local air standards.

Norton Younglove, president of the Southern California Association of Governments, telegraphed:

The Southern California Association of Governments urges that in amending the Clean Air Act that basic health standards not be endangered and that state and local governments be allowed to enact stricter standards than those at the federal level.

The Clean Air Constituency said:

We ask for your no vote on H.R. 11450. We are deeply concerned that H.R. 11450 would completely demolish all the gains made in clean air since 1970 and destroy the authority of the EPA. We do not want mandatory conversion to coal unless air pollution controls will also be required. EPA must retain the power to enforce clean air standards while meeting energy needs. Clean air and fuel conservation must both be our goals.

And the American Lung Association urged adoption of amendments to H.R. 11450 so that—

(1) No variance would be granted for a period exceeding two years; (2) conversion to coal from oil or gas would be discretionary, not mandatory; (3) no activity implemented pursuant to this act which results in an adverse impact would be exempted from the NEPA environmental impact statement; (4) no variance shall violate primary air standards; (5) energy needs would be documented and plans to conserve would be available to the public; (6) an eight day supply of low sulfur fuel for pollution episodes would be reserved at every power plant utilizing high sulfur fuel; and (7) where variances are granted, a statement on the probability of adverse health effects would be required and monitoring would be carried out if necessary.

In addition to these comments, I think the Members of this body will find of interest an article from yesterday's Los Angeles Times which dramatizes the effect of this legislation. The key figure in the article, the Los Angeles County Air Pollution Control District, has often been at odds with environmental groups. Nevertheless, it is now one of the few public agencies still attempting to protect the public's health from air pollution. If the House-passed version of this bill becomes law, the air pollution control district will be powerless to act. This is one reason why I could not support the final passage of the Energy Emergency Act.

The article from the Los Angeles Times of December 16, 1973, follows:

APCD VOWS TO OPPOSE VARIANCES FOR CITIES BECAUSE OF FUEL CRISIS

(By Jerry Cohen)

An Air Pollution Control District officer threw a wrench Saturday into a meeting designed to help major Los Angeles Basin cities find a "common approach" to their energy problems.

The meeting, chaired by Sen. Alan Cranston (D-Calif.) dealt principally with the near-exhaustion of supplies of relatively clean oil in Los Angeles, Burbank, Glendale and Pasadena and with the cities' attempts to obtain variances to permit burning fuel with a higher sulfur content.

The man who introduced dissidence into the otherwise placid discussion was slight, white-haired Robert M. Barsky, deputy chief of the APCD.

Barsky said his agency "is as cognizant as everyone of the need to keep the lights on," but he said the "APCD is not going to roll over and play dead" because of the energy crunch.

Instead, he vowed, the control district will play an "adversary" role in the bid by the cities to obtain variances from the county's Air Pollution Hearing Board, a five-member tribunal.

"The moment of truth has come in Los Angeles," Barsky said. "For 25 years, we have been fighting for clean air in Los Angeles.

Until the Arabs turned off the spigot, it probably was topic A here."

By opposing variances during hearings before the board, Barsky added, "We'll be trying to get at the truth—the truth of why the shortage developed, how we got here, what happened."

By accepting an adversary role, Barsky said, the APCD will really be trying "to bring out the truth—then it will be up to someone else (the hearing board) to decide what it is."

Then, in a more conciliatory vein, Barsky conceded the need for variances might be demonstrated at upcoming hearings.

In that case, he said, urgency may override the prospect that "large numbers of people will be seriously inconvenienced, suffer a nuisance and that there may be some effect on health."

Barsky's remarks came after Los Angeles Mayor Tom Bradley told participants about assurances he had received from national leaders in Washington Friday that urgently needed fuel oil would be diverted to Los Angeles' electric power generators.

The mayor named Russell Train, head of the Environmental Protection Agency, as being among those with whom he had talked.

Barsky said the Air Pollution Hearing Board, not the EPA, is the proper "tribunal to consider variances" in Los Angeles County.

"We don't think it is in the interest of the community for that jurisdiction to be preempted," Barksy said.

"It must be played out in the open on a local level, not by some federal bureau thousands of miles away back in Washington."

By playing an adversary role during hearings here, he added, the APCD will have the privilege of cross-examination. "Cross-examination," he said, "is the greatest weapon for getting at the truth."

Barsky's comments drew a rebuke from Fred Llewellyn, president of the Los Angeles Area Chamber of Commerce and a member of Mayor Bradley's special committee on energy conservation.

"I'm dismayed when the APCD says it will have to act as an adversary," Llewellyn said, "The district attorney acts as an adversary only when he is sure he is on the right course."

The APCD's adversary position, he added, suggests "the cities are acting wrongly."

Llewellyn also dismissed the notion that burning of high-sulfur oil would constitute a health hazard.

He contended that automobiles account for 90% of the pollution in the basin and said that high sulfur oil does not "give off the same kind of pollution" as that emitted by cars.

The oil, he said, "does not contribute to the oxygen problem at all."

Besides, he said, with oil, "air contamination is local." A Glendale or a Burbank, he said, "should have the right to say" that, in the interest of obtaining energy, its citizens are willing to live with pollution produced by burning of high-sulfur fuel.

The exchange between Barsky and Llewellyn never distintegrated into acrimony. Following the meeting they chatted jovially and agreed they shared mutual concern about the energy shortage.

"MURDER BY HANDGUN: THE CASE FOR GUN CONTROL"—NO. 59

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 17, 1973

Mr. HARRINGTON. Mr. Speaker, murders committed with handguns in the course of robberies have become a daily occurrence in our cities. In Queens, N.Y., last week, John Partee, a 50-year-old carpenter, became another statistic in this continuing tragedy. While he tackled and detained a holdup man at his neighborhood bar, he was shot and wounded in the abdomen. Two hours later, while the gunman was charged with, among other things, "illegal possession of a dangerous weapon," he died.

I urge my fellow Congressmen to consider fairly the events described in the article included below, and ask themselves if John Partee would still be alive today if strong handgun control laws had been in effect. Congress can pass these laws. Until Congress does, the responsibility for this tragedy and thousands like it will lie partly on our shoulders.

Included below is the article from the December 9 New York Times:

QUEENS MAN DIES OF GUN WOUND SUFFERED IN CAPTURING A BANDIT

A 50-year-old Queens man tackled and helped the police capture an armed robber in a tavern holdup late Friday night, but he suffered a gunshot wound in the struggle and died early yesterday, less than two hours after the incident.

The police said the victim, John Partee, a carpenter who lived with his wife, Ruby, at 33–22 106th Street, Corona, was a patron in a neighborhood bar, Big George's Tavern, at 108–15 Northern Boulevard, when the gunman entered at 10:50 p.m.

In response to the gunman's demands for money, the bartender, Martha Davis, gave him $96. But as the gunman walked out the door, Mr. Partee tackled him and the struggling men spilled out onto the sidewalk as other patrons called the police.

During the struggle, the police said, Mr. Partee was shot once in the abdomen, but he managed to detain the suspect long enough to allow arriving police officers of the Astoria Precinct to arrest him.

Mr. Partee was taken to Queens General Hospital in Elmhurst, where detectives said he died at 12:30 a.m.

The alleged gunman, identified as Thomas Nelson, 51, of 936 Stebbins Avenue, the Bronx, was charged later in the day with murder, armed robbery and illegal possession of a dangerous weapon.

FRIGHT: A FLASHBACK

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 17, 1973

Mr. ROUSSELOT. Mr. Speaker, since the House of Representatives and the entire Congress has been asked on many occasions to delegate substantial powers to the executive branch, such as fixing wage and price controls, imposing fuel allocations and establishing so-called emergency programs, I thought my colleagues would be interested in this week's U.S. News & World Report editorial entitled "Fright: A Flashback," by Howard Flieger. This editorial in U.S. News & World Report relates and outlines for us some of the actions that led to Germany's Nazi dictatorship of the 1920's and 1930's. I encourage my colleagues to review these startling events from the past as they might well serve as admonitions and warning flags to our legislative body and the entire Nation. I only hope that we do not make the same mistakes.

[From U.S. News & World Report, Dec. 24, 1973]

FRIGHT: A FLASHBACK

(By Howard Flieger)

Something is out of whack when a construction worker is taking home $400 a week, after two 6 per cent raises this year, and is worried about the future.

The worker puts his concern succintly: "Everybody is frightened."

Frightened? What follows is a story that makes the fear come alive:

Kurt Lachman is an old friend—an American citizen who grew up in Germany and lives there now. He has spent many years on the staff of this magazine.

Kurt lived through the inflation that all but devoured Germany 50 years ago. When he talks about inflation, the word is not an abstraction. It takes on the characteristics of human futility—like flood, famine, plague.

"In 1921," he said the other day, "the rise in the value of foreign currencies and in domestic prices in Germany came steadily, and gained momentum."

Sound familiar? He went on:

"The situation helped businessmen who were in foreign trade, and it helped those who were allowed to raise prices. But it didn't help at all the people living on fixed salaries and incomes. And it didn't help retailers who had to sell their goods at controlled prices while the cost of restocking with the same goods rose constantly.

"Harsh laws were being applied to retail trade that prevented the marking up of goods beyond a certain percentage above cost. Under this system, only those merchants who broke the law could survive.

"Blue collar workers got raises. But these lagged behind the rise in prices. White collar employes, civil servants and professional people dropped even further behind. It reached the point where the pay of a university professor was down to that of a doorman."

By 1923 the runaway was at full gallop.

"Printing of federal money was being farmed out," Kurt recalls, "because the state presses couldn't keep up with the job. Some cities began to print their own money."

Paper currency grew more plentiful with each passing day—and more worthless.

At that time Kurt was an assistant editor of one of Germany's leading newspapers, the "Frankfurter Zeitung." Listen as he describes a payday in 1923:

"Large laundry baskets filled with paper money had to be carried into the editorial conference room where the editors would sort it out, count it, and distribute the pay.

"As soon as somebody got his bundle, he'd rush out to buy whatever he could. Anything was more valuable than money.

"More and more people turned to speculation and blackmarketing in cloth, precious metals, foreign bills and so on. The result was that the output of industry sagged.

"Because of price controls and rationing, goods were scarce in the cities. Foraging in the countryside became commonplace. The railroad stations were jammed with people going out to the peasants to bargain for food."

Kurt speaks about those days as though he still finds them hard to believe.

"A feeling of frustration seized many people," he says. "To get out of the country—even out of life—became a widespread desire. Hopelessness is the word."

In this atmosphere an obscure politician named Adolf Hitler set off a theatrical putsch in Munich—a failure, but a harbinger.

German currency reached 4.2 billion marks to the U.S. dollar. Finally, it was brought down to earth with a thud—by stripping off the ciphers and revaluing the mark at 4.2 to the dollar. If you had 4 billion marks that morning, you only had 4 by sunset.

Ugly story, isn't it? There is an unreal quality about it. But it happened.

Who is to say it could never happen here?

ST. FRANCIS HOSPITAL OPENS NEW 210-BED FACILITY

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 17, 1973

Mr. WOLFF. Mr. Speaker, on December 8, 1973, the St. Francis Hospital of Roslyn, N.Y., began a new era of even greater service to the community with the opening of the hospital's new 210-bed facility. I had the honor of being present for the dedication of the modern and medically sophisticated new St. Francis Hospital.

Meeting the needs of the community has been the concern of the Sisters of the Franciscan Missionaries of Mary since the hospital's early days as a camp for disadvantaged children. Since then, with the generous help of people of all religious faiths, the camp has grown to become a world-renowned center for heart surgery. The hospital has a remarkable record of meeting the needs of the community for ambulatory care and general medical and surgical care. The facility has already performed more than 4,000 heart operations, and, with this new facility, the hospital will be able to continue its great record of service to the people of Long Island and the New York City area. Special acknowledgement should go to the Most Reverend Walter P. Kellenberg, D.D., Sister Marcella Zaepfel, F.M.M., Sister Gertrude McGann, F.M.M., and Sister Joan Kister, F.M.M. for their efforts in making this new addition to the hospital possible.

I insert the following article about this new facility for the attention of my colleagues:

"This long-awaited event" said Sister Joan Kister, F.M.M. administrator, "will enable St. Francis to expand its services to the public in both our traditional area of heart care and in general medical and surgical care." The new 210-bed St. Francis Hospital was built to provide outstanding health care in a remarkably low-cost and efficient, yet fully equipped physical plant.

Because of the unique methods employed in the construction of the new facility, more than one-third of the $10 million total cost of the project could be devoted to providing the building with the most modern, sophisticated medical equipment now available.

The three-story plus basement-level building was erected under the revolutionary "Combine Construction Concept," which separates the structure into "design packages." Under the leadership of a project coordinator from the hospital staff a design team of architect, engineer and builder began construction before completion of design documents. The result was not only a considerable savings in time, but a built-in efficiency, allowing the latest medical equipment to be installed. Work began in January, 1972. In only a little more than a year and a half, the first patients were admitted to the main floor.

An intrinsic part of the new building is its increased emergency room capacity. The new St. Francis features a ten-bed Emergency Center, with the sophisticated apparatus and equipment to care for a wide range of general medical cases on an immediate basis.

Among the specialized patient care facilities in the new St. Francis will be a 26-bed intensive and coronary care unit, six operating suites, modern radiology and clinical laboratory departments, two cardiac catheterization laboratories and a section for the medical and surgical care of the retarded.

A MATRIX OF PEACE IS PROPOSED

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, December 17, 1973

Mr. STEIGER of Wisconsin. Mr. Speaker, it is often difficult to step back and view old problems from a different perspective. Such a situation is evidenced in the forthcoming peace negotiations for the Middle East. While the territorial dispute between the Arab nations and Israel has long been a cause of abrasion, the major peace keeping proposals have hinged on possession of land and the consequential defining of state boundaries.

A distinguished resident of my district, Dr. Vincent Judson, has presented a novel approach to a traditional source of the Arab-Israeli tension. His practical experience includes having served several years abroad as an official of the organization of American States—OAS—and as an author of books on Latin America. More recently he has served in the European headquarters of the North Atlantic Treaty Organization and in Viet Nam.

In Dr. Judson's opinion, all people—in their hopes, aspirations and outlooks on life—are more alike than different, and it is therefore essential that each person—and by extension each nation—be able to maintain a high level of dignity and not be made to lose face. In an essay entitled "Matrix of Peace," Dr. Judson advances an idea to resolve the boundary line problems in the Mideast. Perhaps his essay can illicit a new dimension to the search for a stable world.

The essay follows:

MATRIX OF PEACE

(By Vincent Judson, Ph.D.)

BOUNDARIES: FICTION VERSUS FACT

With few, if any, exceptions, it is fiction, not fact, that nations have definite boundaries. In practice, they may be so indefinite that one refers to them as "imaginary" or as "no-man's land." It should surprise no one that there may be considerable give-and-take when the boundaries of a nation are in question. Consider, for example, how many lot owners in any city know with absolute certainty the boundaries of their properties. Often, indeed, when the question is raised, a new survey may show that the "real" boundaries differ from those previously accepted. Uncertainty that any boundary is "absolutely accurate" is so prevalent that property owners, if they wish to live in peace and friendship with their bordering neighbors, lean over backwards not to insist upon too specific demarcations between lots.

If there may be question about the exact boundaries of your individual piece of real estate property, consider the possibilities of even greater uncertainties about the locations of boundaries between cities, between counties, between states and, above all, between nations.

At the moment, for example, the boundaries between Israel and Syria and the boundaries between Israel and Egypt are extremely fluid. Even before the opening of the October 1973 hostilities the boundaries could hardly be described as absolutely accurate and definitive.

HYPOTHESIS OF INTER-NATION BOUNDARY SPACE

For a statement of my hypothesis of inter-nation boundary space it makes no difference whether a boundary be considered so accurate and exact that it has a describable existence as of one-millionth of a millimeter in width or whether it be the width of a Suez Canal or the width of a Sinai desert.

Hypothesis: If there be a boundary between two nations, i.e., where the territory of one nation leaves off and the territory of the other nation begins, then *the inter-nation boundary space is,* in theory, if not, indeed, in fact, *international territory.*

Furthermore, even though the inter-nation boundary be of razor-edge thinness, at sea level or at ground level, the international territory above the interface or finite inter-nation boundary increases its dimensions (in extent and width), proportionately, with the increase in distance from Earth outward toward deep space.

Even assuming that a nation "owns" or has "rights of possession" of the air space (and Deep Space space) over its national territory (I do not accept this *in toto.*), it does not own and it has no rights over the air space or the Deep Space space over the international territory above the inter-nation boundary.

LAW OF FREEDOM OF THE LANDS COMPARED WITH LAW OF FREEDOM OF THE SEAS

If there be freedom of the seas between nations—from the interface of a nation, outward-seaward, to the interface, outward-seaward, of another nation—the same principle may be said to apply to the freedom of the lands between nations—i.e., from the inter face of a nation, outward-landward, to the interface of an adjacent nation, outward-landward.

Freedom of land space on land is equivalent to freedom of sea space at sea. If there be an international Law of Freedom of the Seas, there may be an equally valid international Law of Freedom of the Lands.

Such land spaces or sea spaces of the nature described, *ipso facto,* should be recognized as being endowed, automatically and inherently, with the qualities of universal peace. *Guaranteeing peace in all such spaces would form a matrix of interlocking, non-penetrable peace zones around the world.*

EXAMPLE: APPLICATION OF LAW OF FREEDOM OF THE LANDS TO THE MIDDLE EAST SITUATION

If we agree to accept the foregoing, we open the doors immediately for an almost instantaneous solution of the war in the Middle East.

Acting under the terms of the Hypothesis of Inter-Nation Boundary Space (or the Law of Freedom of the Lands), an internationally minded and peace-purposeful nation—necessarily, a nation of great power, and having the necessary potential or actual force—could, if it wished (acting alone, or with another great nation), (1) take station at one or both ends of the boundary, and (2) occupy the international territory above the boundary (or, if the boundary be wide, the territory at or below ground or sea level), and state, categorically: "Having occupied, temporarily, and for peaceful purpose, this international territory by reason of superior and overwhelming force, any violation of this territory by an adjacent (or others) nation by any means whatsoever is prohibited as of this moment (time stated)."

It would be a violation for anything of a material or physical nature to cross or to be made to cross the boundary from one nation to the other, in either direction. This would include personnel and any and all kinds of military material. In violation, also, would be certain stated electronic or electromagnetic emanations.

The international-minded, peace-purposing nation would use every available means (e.g., radar, flights of planes and helicopters, and satellites—all from within the international zone of peace) to detect violations.

The international-minded, peace-purposing nation would specify in detail exactly what would be done in the case of each and every violation of the international zone of peace. Instant, forceful, and utterly effective action would be applied in case of a violation. Or, promised future action might be indicated. There would be no limit to the action that might be taken.

(Currently, as must be recognized, either of the two superpowers [the U.S.A. or the U.S.S.R.] would be capable of performing the peace-guardianship functions outlined above.) One must assume that, at this point in world history, the potential guardian nations believe (for whatever reasons) permanent peace to be preferable to war, and that a world-wide optimism of goodwill can replace pessimism and mistrust.

Note this important differentiation: while a warring nation violates a boundary in anger and passion, and with selfish, destructive war-purposes as its goal, our hypothetical guardian of the international peace zone acts not in anger, but impersonally, dispassionately, and is motivated only by unselfish peace-purposes.

PEACE RESULTING FROM APPLICATION OF LAW

The war in the Middle East has cost Israel and the Arab nations hundreds of lives and billions of dollars in materials. Now, I believe, each nation would be glad to have an excuse to disengage.

In my opinion, given a chance to save face—as my proposal would do by taking Israel and the Arab nations out of the war willy-nilly—the opposing nations in the Middle East would accept the "Do not violate this international territory space!" fiat. They would stop fighting instantly, and would not—except for what I prefer to call accidental violations—further engage in aggressive acts.

Face would be saved for, at least seven reasons:

(1) No one nation would have to quit first; all would quit at the same instant.

(2) Each nation would know, and the world would know, that no nation quit because of anything an enemy nation did, but only because of what a friendly (impersonally so) nation might have done—but, didn't have to do.

(3) Because all quit under the compelling sanction of a new international law, each would gain a gold star in world esteem and in self esteem.

(4) The historians of each nation could claim that it would have achieved ultimate victory if it had been able to continue to a conclusion, and that it quit only because it was unable to refuse under pressure of an irresistible and overwhelming force.

(5) Each nation would save great numbers of lives and vast treasure.

(6) Time, the healer, would permit peaceful, future settlement of boundary locations.

(7) Each nation would receive an outright, no-strings-attached gift of one-half billion dollars payable over a period of fifty months.

ADDITIONAL POST-PEACE BENEFITS

If an international-minded, peace-purposing nation could end the war, it could, then, get itself off the hook of having to "favor" one side or one nation over another. It could become as impersonal in its dealings with the nations, post-war, as it was during its international peace zone guardianship.

Not only would this be of benefit to the internationally-minded nation, but it would, in fact, be more advantageous for the nations of the Middle East in their dealings with one another and in their dealings with all other nations—particularly, with the two larger nations with which they have felt forced to align (or not to align) themselves in the past.

BOUNDARY LINE SOLUTION

Dr. Vincent Judson, in his latest (October 10, 1973) book, Solution: PNC and PNCLAND (published by Apex University Press, P.O. Box 1338, Oshkosh, Wisconsin 54901) advances the idea that the Middle East problems may be solved with the creation of a Pseudo-Nation Corporation (PNC) to which Israel and the Arab nations give a long-term lease to all territory in dispute in the Middle East. On this territory, PNC brings into existence a new Corporation-Nation. PNCLAND is a buffer nation-corporation, aimed at bringing economic benefits as well as peace to the Middle East.

Dr. Judson shows that PNC is the historical descendent of the Hudson's Bay Company (1670) and the Dutch East India Corporation (1602), chartered to "discharge all functions as if a government". Touching every aspect of an individual's life in a new democracy, PNC, Judson's utopian nation-corporation, presents the thought-provoking challenge that "Good international corporations can do anything a nation can do—and do it better."

WILL 1974 BE THE YEAR FOR VALLEY AMTRAK CONNECTION?

HON. ROBERT B. (BOB) MATHIAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 17, 1973

Mr. MATHIAS of California. Mr. Speaker, there has never been a better time than now because of the energy shortage to implement the starting of rail passenger service for the San Joaquin Valley in central California. I have supported and urged the valley route from the beginning. This passenger service would greatly benefit a great many people as well as every community in the San Joaquin Valley. A recent editorial in the Fresno Bee expresses the sentiment of all the towns the Amtrak route would service.

The editorial follows:

WILL 1974 BE THE YEAR FOR VALLEY AMTRAK CONNECTION?

It is still too early to break out champagne or drive a golden spike, but the portents appear to be good for restoration of rail passenger service in the San Joaquin Valley next year.

Congress has appropriated funds to cover the first-year operating deficit—estimated at about a half-million dollars. That was done once before, however. What is more important, officials of the National Rail Passenger Corp. (Amtrak) are sending out signals the administration will not repeat its earlier refusal to use the money appropriated for the valley route.

Rep. B. F. Sisk of Fresno and other members of the valley congressional delegation who have worked so hard to get service restored will be crossing their fingers until the decision to spend the money is nailed down. They have heard a good deal of administration double-talk on this issue.

But assuming the best, an Amtrak spokesman says the passenger trains will start running this spring, for the first time in three years. There will be daily service between Bakersfield and Oakland, with bus connections to San Francisco and Los Angeles.

The spring target date seems optimistic, considering the extensive preparatory work which will be needed. The important thing is to do it right, to make a strong start, to generate as much community support as possible—and to wipe out the sour memory of what train service was like in the declining years of Southern Pacific's old San Joaquin Daylight.

Here, too, there is room for optimism. Amtrak seems to be finding its footing after a shaky and money-short start. It has sharpened its management skills. The new appropriations legislation gives it more control over its own budget and includes such helpful provisions as a requirement that passenger trains get operational preference over freight trains. Passenger volume is rising dramatically.

Because of congestion, air pollution, the vagaries of the weather and—it hardly needs saying—the fuel shortage, it makes no sense for the heavily traveled inland corridor to be deprived of this vital public transportation alternative.

The bitter-end cynics will continue to talk as if passenger trains are anachronistic, a position which gets sillier with the passage of time.

And for corporate short-sightedness and small thinking, it would be hard to top Greyhound Bus Lines' apparent sponsorship—as noted recently by Sisk—of a letter writing campaign by its employes against restoration of train service in the valley.

Fortunately, most local public officials lined up with the congressional delegation to take the broader view. Let us hope their efforts are about to pay off.

1973 HOUSE RULES COMMITTEE REFORMS BUDGETMAKING

HON. RAY J. MADDEN

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 17, 1973

Mr. MADDEN. Mr. Speaker, after years of wishful thinking and postponement, the 1973 House Rules Committee pioneered legislation on the first major congressional control of the Federal budget and the haphazard operation of loose Federal expenditures which has been annually gravitating under the jurisdiction of the executive department.

As chairman of the Rules Committee, I have cooperated with the members of the committee in launching the movement of this reform. The committee members are indeed grateful to Speaker ALBERT and Minority Leader FORD, as well as to the leadership on both sides of the aisle along with the vast majority of both parties in the House for their support and vote to successfully enact this legislation restoring the financial responsibility to the 435 congressional districts where it belongs.

The Chicago Tribune of today, on its editorial page, records an article by Congressman MORGAN MURPHY from the Second District of Illinois and a member of the Rules Committee, outlining in more detail the major provisions and changes incorporated in H.R. 7130, known as the Budget and Impoundment Act of 1973. All the 15 members of the House Rules Committee after months of hearings and continuous work sponsored this great legislative reform in the 1st session of this 93d Congress.

The article follows:

Slipping Congressional Power: Reform U.S. Budgetmaking

(By Congressman Morgan Murphy of Illinois)

For many years, Congress has watched as Presidents chipped away at congressional authority over the federal budget. Since early in this century, the chief executive has been responsible for submitting to the Congress an annual budget proposal outlining goals and programs. It has been the responsibility of Congress to determine how much money should be spent and how it may be spent.

Unfortunately, the actions of the Congress were splintered among several committees with no particular control over the entire budgetary process being invested in one committee. The effect has been that less than 50 per cent of the budget is considered by the House Appropriations Committee. While one committee may be appropriating money, another may not be prepared to offer methods of raising revenue to cover the new appropriations.

Additionally, there have been problems in the last few years with the impoundment of funds by the executive branch as well as pronouncements of congressional irresponsibility and overspending.

Thru impoundment many programs have suffered, programs for which Congress had lawfully authorized proper amounts of money. In a sense, Congress has lost control over fiscal policies and relinquished its right to determine how programs are to be funded.

And so we are faced with this dilemma. How can the Congress regain its ability to control the federal budgetary process and at the same time insure that vital programs are funded without interference from the executive branch?

A search was begun by the Rules Committee to find methods for improving congressional budgetary control using the report and recommendations of the Joint Study Committee on Budget Control as a guide. These recommendations resulted in a comprehensive measure, H.R. 7130, "The Budget and Impoundment Control Act of 1973," cosponsored by all 16 members of the House Rules Committee and passed by the House.

The solution it offers is to return to the Congress the power to set forth budget programs and then, with the assistance of a newly created Budget Control Committee, insure that the proposed budget is followed as good sense allows.

The House Budget Committee [it will have a counterpart in the Senate] will consist of 23 members including members from the present Appropriations Committee, the Ways and Means Committee, and several other standing committees.

This new committee will be required to report to the House a concurrent resolution which tentatively outlines the projected spending for the coming fiscal year. This resolution will contain information supplied by the House committees most concerned with budgetary matters. What has been fragmented in the past will become a consolidated procedure.

Following the necessary hearings and deliberations, the Congress must report another concurrent resolution by Sept. 15, which will contain a revised outlook on the original budget proposals. This resolution may contain provisions for rescinding or amending any appropriations already authorized as well as calling for tax adjustments.

A Legislative Budget Office will be established securing information the committee will use to base its projections for the coming fiscal year. This office, comparable to the Executive Office of Management and Budget, will enable the Congress to have more precise data.

The purpose of the act would be shortsighted indeed if it were not for the enactment of Title II of the measure. This section deals with the impoundment of funds. The current administration has impounded more than $12 billion in appropriated funds during the last two years to force the curtailment of many needed social programs.

This method of determining the budget will place a "target" on outlays and insure that no appropriations are made which violate that "target" set by the Budget Committee.

The new measure will also change the fiscal year to begin on Oct. 1, 1975, to allow three additional months to consider the federal budget. This suggestion, offered by the comptroller general, would not disrupt state or local governments and fits into the congressional work schedule.

Title II requires that any impoundment of funds by the excutive branch must be reported to the Congress. If the Congress finds that the impounded money is being held without sufficient cause, the chief executive must release it for its specified purpose within 60 days.

Such are the substantive portions of the "Budget and Impoundment Control Act of 1973." Senate approval of the bill, expected early next year, will enhance the budgetary process and restore to the Congress its constitutional authority of the power of the purse. It will restore that authority with a greater degree of cohesion and less likelihood of inflationary spending and runaway fiscal policies.

It will substantially reduce the overlapping functions of many congressional, committees to smooth the way for preparing an annual federal budget which is responsible to the needs of the American people.

WHOSE TO BLAME FOR THE OIL SHORTAGE?

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 17, 1973

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, Brit Hume, in a recent issue of the Pittsburgh Post-Gazette, has written a very interesting and disturbing article on the actions of the major international oil companies since the conclusion of the 1967 Arab-Israeli war.

As the Congress works its will on a number of energy bills, I think my colleagues will find Mr. Humes' work of considerable worth.

The article follows:

[From the Pittsburgh Post-Gazette, Dec. 10, 1973]

Who's To Blame for Oil Shortage?

(By Brit Hume)

In September, 1972, supplies of home heating oil in the United States were dangerously low and stocks of crude oil, from which heating oil is refined, had fallen to their lowest level since World War II. A serious fuel shortage seemed inevitable as winter approached. Nixon authorized the petroleum industry to import more foreign crude oil. It was the second time in five months he had increased the allowable imports of foreign oil, which had been under tight government restriction since 1959. A few weeks later, General George Lincoln, head of the White House Office of Emergency Preparedness, which had charge of oil imports, strongly urged industry leaders in a speech to the National Petroleum Council to crank up their refineries to full capacity to head off a heating fuel crisis. At the same time, the Interior Department sent telegrams to the major oil refineries urging them to do the same.

The response of the major oil companies, which control most of the nation's fuel production from the wellhead to the retail dealer, was to import only one third of the additional crude oil the President had authorized and to run their refineries well below capacity. "This," concluded a staff study made for the Senate permanent investigations subcommittee, "was the beginning of the first peacetime petroleum shortage in the United States."

In light of the present national fuel emergency, it might seem inconceivable that a major American industry would willfully contribute to the shortages which left this country vulnerable to the Arab oil embargo. But the major oil companies' conduct prior to the spot shortages of last winter is consistent with their behavior over the past three years.

The present decade began on a note of uncertainty for the larger American oil companies, despite burgeoning energy needs which made demand for their products greater than ever. The environmental movement was gathering momenum and promised to become an important political force in the country for years to come. Already, offshore oil drilling, such as that which caused the disastrous spill in the Santa Barbara Channel, the burning of high-sulphur oil and the construction of the trans-Alaska oil pipeline were facing stiff environmental resistance. In the aftermath of the 1967 Middle East War, the Arab states were taking a much more nationalistic attitude toward their massive oil reserves. In the past, the sheiks had been content simply to collect huge royalties on the oil and let the multinational petroleum companies control its production and export. Now, though, they were threatening to use oil as a political weapon. For the first time it seemed possible that the five giant American oil companies which for so long had dominated the world petroleum market might lose their grip on the richest oil fields on earth.

At home, Congress reduced from 27½ per cent to 22 per cent the oil depletion allowance, which allowed the industry to write off for tax purposes a sizable chunk of its receipts from crude oil production. Moreover, the major oil firms found themselves losing an ever-larger share of the domestic market to smaller, so-called "independent" firms which were attracting business by doing something the majors rarely did—competing over price. Costs were rising rapidly, but competition from the independents was holding prices down. The balance sheets of the major oil firms showed record sales, but declining profits.

In addition, there were strong indications that domestic oil production, which had always been more than enough to cover the nation's needs, was at last peaking and would soon be outstripped by consumption. The President's cabinet task force on oil import controls recommended abolition of the existing quota program and substitution of a more liberal tariff plan. The industry was bitterly opposed. It had always contended vehemently that the tight restrictions were vital to national security. Unrestricted imports, it was argued, would discourage domestic exploration and allow the country to become dependent on foreign oil which, however cheap and plentiful, could be instantly shut off.

Oilmen also invoked national security in support of the numerous other tax breaks and production restrictions which they have wangled from government over the years. The fact that these measures have also kept the domestic crude oil price well above the world price, increased profits and cut tax bills to the bone has been given less emphasis in the industry's arguments. The task force's advice was ultimately rejected by President Nixon, but the administration did announce it would allow a small increase in the allowable imports of foreign crude oil in 1970.

The petroluem industry in the United States is dominated by 18 large firms which are, in the language of economists, "vertically integrated." This means that they operate in all phases of the oil business—exploration and production, transportation, refining, distribution and marketing. These 18 generally are known as the "majors," although the term is used more often to refer to the top 10 oil companies. The majors produce about 70 per cent of the domestic crude oil, control some 80 percent of the refinery capacity and market about 72 per cent of the gasoline sold in this country.

In addition the largest among them also dominate the production of natural gas in the United States and have made heavy investments in the coal industry in recent years. Despite this heavy concentration of a relatively small number of companies in all phases of domestic fossil fuel production, the major oil companies vigorously resist any suggestions that they are not fully competitive. Nevertheless, they cooperate rather than compete in a wide variety of ways. It is common for several oil companies, for example, to submit joint bids on leases of government-owned oil reserves and to pool resources for joint exploration ventures seeking crude deposits. Most of the huge pipelines which are the principal form of transportation in the oil business are jointly owned by several companies. Major firms frequently engage in exchange agreements under which one will supply the other's market in one area where it lacks facilities in exchange for a simliar favor in a different region. Reciprocal processing agreements among major firms are also frequent. Under these, one company will refine another's crude oil in one place in exchange for having its own crude processed in another.

Perhaps the most obvious sign of the state of competition in the oil industry is its national advertising. The majors spend heavily to gain recognition for their brand names, promote product ingredients and to advertise giveaways. Instead of bargains on gas and oil, the consumer hears about Tony the Tiger, platformate, free drinking glasses and NFL trading cards, Sunoco station owners who "can be very friendly" and Texaco stations where "You can trust your car to the man who wears the star."

In contrast, the independents advertise little. Their stations are low-overhead operations which offer almost none of the mechanical service and auto supplies such as tires and batteries available at the majors' outlets. They stick to high-volume sales of gas and oil at prices below those at major stations. And, although their share of the market was growing rapidly in the early part of this decade, the independents were still at a disadvantage.

The reason is that they are not vertically integrated. Independent refiners have had to rely on the majors for a large part of their crude oil. And independent markets must turn to other independents or to the majors to obtain refined products. What's more, the oil depletion allowance has encouraged the majors to push all their profits into crude oil production where a large portion of it could be deducted. To do this, the majors kept crude prices as high as they could and cut profit margins on their refining and marketing operations to the minimum. For them, this involved only bookkeeping transactions since they were selling their crude to their own refineries and their refined products to their own marketers, or engaging in reciprocal arrangements with other majors to achieve the same results. But for the independent refiner, high crude oil prices represented a real additional cost. And since it was necessary for independent refiners to show a profit on refining, prices for their finished products tended to be pushed upward still more. This left the independent marketer in an even more difficult position.

Nevertheless, the independents were resourceful and innovative and they found ways to cut costs and prices and gain ground on the majors steadily through 1970. After that, though, things began to change rapidly.

Although there could be no doubt that demand for oil products would continue to boom in the early 1970s the majors decided not to increase their refinery capacity significantly. An efficient refinery costs about a quarter billion dollars to build and this has generally meant that only the majors have beeen able to afford new ones in the past 20 years. The majors' spokesmen have insisted that uncertainty about government policy on oil imports was the reason behind their reluctance to expand refinery capacity. Whatever the reason, there was no uncertainty about the result it would have. By early 1971, "Oil and Gas Journal," the most authoritative of the industry's trade publications, reported that the nation might be on the way toward a shortage of refinery capacity.

In August, 1971, President Nixon imposed wage and price controls. Gasoline prices were frozen at seasonal highs and heating oil prices at off-season lows. Gasoline was already more profitable to produce, but the freeze made it more so and created a strong disincentive to the production of heating oil. The freeze was lifted in November, but oil prices were not decontrolled. In February, 1972, the Cost of Living Council refused to grant the industry a price increase for either crude oil or gasoline and heating oil. For the first six months of 1972, profits fell almost 5 per cent, although sales were up by an even greater amount.

In early 1972, industry journals were reporting that oil production in both Texas and Louisiana, the two biggest oil states, was declining. While this was apparently true, it is difficult to know whether it was caused by an actual decline in reserves or by the industry's failure to produce as much as it could.

There are several indications the industry, or at least a large segment of it, might have been deliberately slowing production. The Texas Railroad Commission requires the oil companies which do business in the state, which includes nearly all the larger firms, to report "desired" levels of crude oil stocks.

The commission's records show that the top 10 oil companies "desired" smaller stocks of crude oil to feed their refineries in 1972, than they had had in 1971, even though demand for petroleum products had risen about 7 per cent. Their actual crude oil stocks were also less than they had been the year before. The commission's records show that the drop in "desired" levels was reported only by the top 10 oil companies, with the next 15 reporting increases in their desired levels. But since the top 10 account for about three quarters of the oil production among the top 25, it averaged out to an overall drop in the "desired" stocks of crude.

In addition, testimony before two Senate committees has indicated that about 10 per cent of the oil and gas lands on the Outer Continental Shelf which have been leased to the petroleum industry have not been put into actual production. At times, according to the testimony, as many as 1,000 oil and gas wells in the Gulf of Mexico alone have been classified as "producing" but "shut-in."

Moreover, an investigation by the Federal Trade Commission has turned up evidence that the natural gas reserves reported by the nation's oil and gas companies are smaller than the actual reserves. "From the documents received," James Halverson, chief of the FTC's Competition Bureau, told a Senate subcommittee, "it appears that there has been serious under-reporting of proved natural gas reserves." The natural gas situation is important for two reasons. One is that the major oil companies are also the major gas companies. The other is that a shortage of one kind of fuel places added pressure on the others.

Besides seeking small crude oil stocks last winter, the petroleum industry was also running its refineries well below full speed. Most experts agree that an oil refinery can maintain its operations at at least 92 per cent of capacity. But in the first six months of 1972, the top 25 companies ran at only about 85 per cent, well below their performance during the same period in any of the past three years. They increased their refinery runs in the third quarter of 1972, largely to avoid a late summer gasoline shortage.

As a result, their supply of home heating fuel was well below normal by fall. And, as was earlier mentioned, the industry did not heed the government's pleas to step up imports and refinery runs in the last months of 1972 to avert a heating oil crisis. When the crisis came, the industry did increase refining to take up the heating oil slack. But this, naturally, got the oil companies behind in gasoline production, so that shortages of gasoline became inevitable when the summer driving season of 1973 arrived.

Meanwhile, a number of the majors had begun shutting down operations in certain areas, apparently to withdraw from their least profitable markets. Industry spokesmen insist they were merely liquidating "uneconomic" operations. But to some students of the oil business, it looked suspiciously as if the big oil companies were carving up the domestic market to share among themselves. A Federal Trade Commission report on the industry completed last summer explained it this way: "All the majors can increase their regional market concentration simultaneously by pulling out of markets where their share is lower than their national average and selling their operations to those majors who remain.

"This strategy will only work, however, if the majors can retain or expand their regional market shares. To do so, they must prevent the further entry and expansion of independent marketers. Ultimately, the only way to contain or reduce the independents' market shares is through monopoly power at the refining or crude pipeline stages."

In fact, since the onset of the shortages, the majors have increasingly been telling independent refiners and marketers they could not supply them with either crude oil or refined products because they needed all they had for their own operations. Independent refiners have been forced to operate well below their normal capacity. The impact on independent marketers has been devastating. By May 30 of this year, more than 1,200 independent gasoline stations had shut down because of a lack of supply. Many that stayed open were forced to raise prices, wiping out their competitive edge. And the majors increasingly opened up so called "fighting brand" stations which emulate the high-volume, low-overhead, discount approach pioneered by the independent.

For the most part, the administration officials who have dealt directly with the heating oil shortages have agreed with the oil companies that price controls coupled with increased demand were to blame. Last November, the Interior Department's office of oil and gas concluded in a draft report that the best approach to licking the heating fuel problem was to raise the price. And the following month, in a memorandum to President Nixon, General Lincoln of the Office of Emergency Preparedness said the shortage was due "in large part to the pressures on refinery capacity coupled with the price control situation which has made gasoline production preferable to production of heating oil." Recently, the Cost of Living Council approved an increase of 2 cents a gallon for heating fuel.

The Federal Trade Commission alleges that the eight oil majors have "maintained and reinforced" a noncompetitive market structure in the refining of crude oil into petroleum products. They have done this, the F.T.C. charges, by—among other things—"pursuing a common cause of action to abuse and exploit the means of gathering and transporting crude oil to refineries . . . participating in restrictive or exclusionary transfers of ownership of crude oil among themselves and with other petroleum companies . . . using their vertical integration to keep profits at the crude level artificially high and profits at the refining level artificially low . . . accommodating the needs and goals of each other in the production, supply and transportation of crude oil to the exclusion or detriment of independent refiners." The commission also charges that similar practices have given the eight firms "monopoly power" over the marketing of petroleum products. The industry has vigorously denied the charges. The case will take years to litigate.

IN OPPOSITION TO THE NATIONAL EMERGENCY ENERGY ACT

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 17, 1973

Mr. HARRINGTON. Mr. Speaker, last Friday, December 14, I voted against H.R. 11450, the National Emergency Energy Act. I would like to take this opportunity to explain my conclusion that the legislation, as amended on the floor of the House, will not satisfactorily address the critical energy needs we face today.

As I said in a statement last week, even before the adoption on the floor of several highly objectionable amendments, I felt ambivalent about H.R. 11450. While it was gratifying to me that Congress has reacted promptly to the energy crisis by designing ambitious programs, the vesting of enormous discretionary power in the hands of the Chief Executive, especially this Chief Executive, seemed to offer clear potential for abuse. In addition, I took exception to Congress decision, as reflected in this bill, to ask much less sacrifice of the major oil companies than of the consuming public.

My reservations still hold. This bill purports to address a national energy emergency without dealing with the problem of rising prices and resulting corporate windfall profits; an after-the-fact appeals procedure of questionable efficacy is the only recourse provided against the price and windfall profit situation. The bill also purports to address a national energy emergency by preserving the "production incentives"—the loopholes—in the phase IV price controls for petroleum, thereby insuring that consumer prices will continue to rise. Furthermore, the bill purports to address a national energy emergency by providing an exemption to the antitrust laws for oil company executives who agree to advise the Government in implementing the allocation program. The exemption is qualified and hedged by reporting requirements, but these safeguards, in turn, are themselves qualified and do not apply to all situations.

In contrast to these concessions to the major oil companies, the bill purports to address a national energy emergency while omitting any funds to aid companies threatened with closing due to their energy needs, omitting any increase in funds to create public service employment programs, and omitting any funds to help economically marginal families who cannot afford to meet the increased price of fuel.

I am sorry to say that in several crucial respects the bill was amended in floor debate last week so as to make matters worse. For example, for the first 9 months of this year, the oil companies have reaped huge profits from the energy shortage, but none of these profits can be challenged through the appeals procedure to which I have referred; my colleagues adopted an amendment defining windfall profits as "profits earned during the period beginning with the enactment of this act—" thereby excluding all profits accrued prior to this month.

As another example, because of an amendment adopted on Thursday, the President now has the authority to withdraw 1972 as the base period for the petroleum allocations program. New England requires the use of a period no later than 1972 as the reference point for allocations, because early in 1973 the major companies began to cut off New England independent dealers. Use of 1973 as a base point for allocations, for example, would amount to adopting a wholly unsatisfactory period, in terms of supplies, as the standard for supply relationships in the future.

The House could have done much better. It seems to me that it has to do better, if the energy shortage is to be met, and I saw no reason to approve an inferior and perhaps dangerous bill. The problems of insuring equitable supplies, holding down prices, preserving jobs, and preventing runaway profits remain, and some of the most critical aspects of our current energy situation lie in precisely these areas. I sincerely hope none of my colleagues believe that passing this bill fulfills our obligation to address the energy and economic crises we face.

EMERGENCY FUNDING FOR ISRAEL

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, December 17, 1973

Mr. MAZZOLI. Mr. Speaker, in view of the widespread interest in our Nation's diplomatic role in trying to bring about a just solution to the Middle East crisis, I have prepared the following statements outlining my thoughts on this crucial issue for the benefit of my constituents. I include the statements in the RECORD:

EMERGENCY FUNDING FOR ISRAEL

On December 11, the House of Representatives approved both the authorization and the appropriation of $2.2 billion in emergency funding for Israel in connection with the Yom Kippur War.

These funds were requested by President Nixon in a message sent to Congress on October 19—three days before the current Middle East ceasefire was arranged.

With considerable misgiving and discomfiture, I voted against both the above-mentioned measures. My decision to vote against the $2.2 billion fund request was based on several factors. I shall attempt to state them briefly.

First and foremost, I am convinced of the absolute impossibility of achieving a satisfactory "military solution" in the Middle East. From Secretary of State Kissinger on down, everyone seemingly agrees on this. Thus, I cannot justify a continuation of these massive military shipments to Israel.

In this connection, testimony at the committee hearings on this legislation made it clear that only about $1 billion was needed to completely rearm Israel to the level it enjoyed prior to the outbreak of the war in October.

I would have voted without question for a $1 billion aid bill. But I could not—at a time when needed domestic programs are being cut back for lack of Federal revenues—vote for the additional $1.2 billion expenditure for which no satisfactory justification had been presented to Congress.

A further factor which led to my vote is that an arms build-up in Israel can only serve as a signal to the Arab states, and the whole world, that the United States doesn't really anticipate a peaceful resolution of the Middle East problem.

This is a most pessimistic and negative footing on which to begin the Geneva Peace Conference.

Also, in my judgment, this unilateral infusion of aid to Israel can only harden the positions of the major power alliances in the Middle East, threatening a return of the "confrontation politics" of the Cold War era.

This runs counter to détente and to my belief that the United States and the Soviet Union should not be—and hopefully will not be—cordoned into opposing camps in regard to the incendiary issues presented in the Middle East.

One final—but extremely weighty—concern of mine with this legislation has to do with the historic War Powers Act adopted earlier this year. The spirit of the War Powers Act clearly calls for prior Presidential consultation with the Congress in decisions which can potentially involve our nation in war.

With regard to the October warfare in the Middle East, the President—without consulting with the Congress—extended $1 billion of arms assistance to Israel in the form of credit sales. He then came to Congress—after the fact—for approval of his actions.

While this may not violate the letter of the War Powers law, in my judgment it does serious damage to the intent of this landmark legislation.

The Congress was in session during the Yom Kippur War, and I have little doubt that the President could have received quick Congressional approval to provide immediate aid to our ally, Israel.

But he did not ask prior approval, just as previous Presidents failed to seek or secure prior Congressional approval during early stages of American involvement in Southeast Asia. This situation disturbs me.

During the debate on the aid bill, Representative Paul Findley (R.-Ill.) offered an amendment which would have directed that military assistance provided under the bill be used in support and implementation of United Nations Security Council Resolutions 242, of 1967, and 338, of 1973.

Unfortunately, the Findley amendment was defeated. Its inclusion in the bill, in my judgment, would have given notice that the United States, along with the rest of the world community, recognizes that all parties in the Middle East dispute have rightful interests and legitimate grievances.

The mutual recognition, by the United States and Russia, of the full spectrum of competing interests in the Middle East, to my mind, is essential to the establishment of a lasting peace in the area. And, upon such a "depolarization" of East-West rivalries, the very survival of the State of Israel may well depend.

Only through a joint and cooperative U.S.-Soviet undertaking can the Arab states be pressured into permanent recognition of Israel's right to exist in the Middle East as a sovereign state with defensible borders.

And, likewise, I believe it will take a joint U.S.-Soviet effort to persuade Israel to surrender—in whole or in part—Arab lands captured during the succession of Middle East wars.

I think that a resolution of these thorny political, religious, and military issues is possible. At long last, it is apparent that the citizens of the two super-power nations do not wish their lives disrupted, and possibly imperiled, by the disputes of far-distant nations.

And so, at this moment, a rare and fragile opportunity exists for an enduring Middle East settlement. I do not believe the chances of achieving such a peace are enhanced by awarding armaments assistance to Israel over and above her losses suffered in the Yom Kippur War.

It is my hope that the Middle East Peace Conference—which quite appropriately is scheduled to open during the Season of Peace—will produce, at long last, a permanent peace in this war-torn corner of the world.

(Following is a statement on the Middle East situation which I prepared prior to the vote on emergency assistance for Israel. Perhaps it will be useful as background material, even though it is somewhat dated because of intervening events.)

Statement on Conflict in the Middle East

In an earlier statement on the Mid-East conflict, I expressed misgivings as to the appropriateness, in the 1970's, of the "balance of power" approach to world politics. This approach reached its zenith during the "Cold War" era of the 1950's.

I expressed the judgment that this policy—which divides the world into warring camps—has been counterproductive, both in Southeast Asia and in the Middle East.

In Southeast Asia, after enormous and tragic expenditures—human and economic—the United States has little to show for its efforts other than a precarious truce.

And, similarly in the Middle East today, all the U.S. has to show for its efforts is a precarious peace. This is so notwithstanding years of American financial and material commitment to Israel and despite Israel's bravery and superior battlefield skills.

And so, as an American citizen and as a legislator, I am deeply distressed by this state of events.

Since all the old ways have failed to bring peace to the Mid-East, the U.S. has no choice today but to "plow new ground"—to support new peace initiatives for this war-torn sector of the world.

In this connection, however, the United States must not be "blackmailed" by the economic pressures of the Arab oil embargo.

By relying on other sources of energy and by doing some belt-tightening, the U.S. can stand fast in its friendship to Israel while, simultaneously, ridding itself of the "albatross" of a dependency on Mid-East oil.

Nor should America's foreign policy be unduly influenced by the fact that the N.A.T.O. countries and Japan—nations almost totally dependent on imported oil—have "tilted" toward the Arab position as a result of the oil embargo. One cannot, however, benignly overlook these shifts. They are a hard reality.

Another reality is that neither Israel nor the Arab states gain from being exploited as pawns in "Cold War" confrontations—both diplomatic and military—between the United States and the Soviet Union.

Also a reality is that the Yom Kippur War of 1973 proved that, when the chips are down, the United States and Russia are not willing to be dragged into war over the Middle East dispute.

Regardless of what is said publicly by the parties, the interests of the "client" countries (Israel and Egypt) will always be subordinate to the interests of the "patron" countries (U.S. and U.S.S.R.) when the crunch comes. This reality is clearly evident in the resumption by the U.S. of diplomatic relations with Egypt.

It is prudent that all parties bear this—the relative order of Mid-East priorities—in mind when the critical peace conference convenes this month in Geneva.

The peace conference is vitally important. Out of it could emerge, at long last, an agreement on permanent boundaries for Israel—boundaries that will be recognized and accepted by neighboring Arab states.

A resolution to the long-festering problem of the Palestinian refugees also could emerge, and some progress could be made on the knottiest problem of them all: Jerusalem.

Of course, no set of geographic boundaries can offer physical security in this age of long-range missiles and high-speed aircraft.

Yet, the Arabs must seriously consider Israeli concerns with respect to a neutralization of the strategic sites at the Golan Heights, Sharm-el-Sheikh, and the land along the Jordan River.

It follows that the Israelis, too, must give every consideration to demands that Arab lands seized in the wars of 1967 and 1973 be relinquished.

But of more importance than the exact shape and location of boundary lines, however, is whether the United States and Russia, in a spirit of detente, really want their "clients" to reach agreement on permanent boundaries. If they do, the two superpowers can bring this to pass.

Frankly, unless such an agreement is hammered out, one cannot but fear for the long-term fate of Israel.

No matter how many tanks and Phantom jets and bullets and rifles the United States provides over the years, I am convinced that Israel will remain a nation besieged—unless and until agreement is reach in the Mid-East.

The coming weeks and months will be critical ones. There have been significant changes of position on the part of the Arab states in recent weeks. These changes could signal eventual Arab recognition of Israel as a sovereign state with a right to exist within secure, defensible borders in the Mid-East.

Israel's leaders must exhibit through these difficult and tense days ahead the same discipline, the same patience, and the same sense of destiny which have sustained Jewish people through golden era and pogrom alike.

When "breakthroughs" are signaled—in public talks or in private negotiation—neither Israel nor Egypt can afford to temporize. The moment must be seized.

But, in the final analysis, the options available to Israel and the Arab states are few—and shrinking fast. If either side drops its heels or digs them in, then the U.S. and Russia will undoubtedly apply irresistible pressure on the parties to reach settlement.

Pressures are inevitable because this—the quest for a Mid-East peace—is the true test of American-Russian detente. And, at stake is not just establishing a durable peace in the Mid-East—but, forging a durable peace across the globe.

ROBERT C. WEAVER REAFFIRMS THE NEED FOR A DECENT HOME

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1973

Mr. RANGEL. Mr. Speaker, in recent testimony before the subcommittee of the House Banking and Currency Committee on H.R. 10036, Dr. Robert C. Weaver, former Secretary of Housing and Urban Development during the Johnson administration, incisively analyzes and delineates the need for housing legislation that begins to deal with racial and economic separation in America. I would like to share with my colleagues the text of what Dr. Weaver said in the December issue of Focus, the monthly publication of the Joint Center for Political Studies. The text follows:

Housing Policy for Metropolitan Areas

(By Robert C. Weaver)

(Editor's Note: Dr. Robert C. Weaver, who *in 1966 became the first black cabinet member when President Lyndon B. Johnson named him the first secretary of Housing and Urban Development, recently testified before a subcommittee of the House Banking and Currency Committee on the proposed Housing and Urban Development Act of 1973.*

This bill, introduced by Congressmen William A. Barrett (D-Pa.) and Thomas L. Ashley (D-Ohio), would establish a program of community development and housing block grants by consolidating many of the categorical housing and urban development programs. Unlike President Nixon's special revenue sharing proposal, however, this bill would require localities to apply for funds and require them to meet certain standards. Moreover, it would hold open the possibility that some communities could keep the categorical programs if they find them necessary.

In addition to being a member of the faculty of Hunter College in New York City, Dr. Weaver is president of the National Committee Against Discrimination in Housing. Following are his remarks before the House subcommittee:)

In the following remarks I am guided, above all, by the national housing goal first enunciated in the landmark Housing Act of 1949: "A decent home and a suitable living environment for every American family." These goals were reaffirmed in 1968 when Congress established a ten-year program to assure its quantitative achievement. I take those words both seriously and literally. I also believe that success in meeting that goal cannot be measured solely by reference to numbers of housing starts and other traditional indices. Housing also is key to determining the quality of life our people lead and is crucial to facilitating full participation of all Americans in the mainstream of the life of the nation.

These are times of a housing crisis. Established housing assistance programs are now suspect. Some have been suspended. The value of the various legislative enactments over the past 40 years is now being called into serious question. The issue of what role the federal government should play in housing and urban development—if, indeed, any role at all—is being re-examined.

I believe that re-examination is a healthy thing. Programs should periodically be put to the test of analysis to determine whether they are worthwhile, and, if not, should be modified and, if necessary, abandoned. The danger, however, is in over-reaction—in abandoning good, workable programs along with those that are not. In this connection, I believe it was most unfortunate to suspend precipitously all four low- and moderate-income housing programs last January, especially without first establishing new and better ones to take their place.

Change is necessary and I am not prepared to say that every program and every piece of housing legislation enacted over the past 40 years has worked as well as we had hoped. Through long experience, however, I have learned that if change is to be effective it must be evolutionary. We must make sure to preserve programs that work and modify those that can be made to work, rather than commit ourselves to wholesale abandonment on grounds that results have not quite been up to expectations.

I am gratified by the approach taken in H.R. 10036. Through the feature of block grants for community development and housing assistance, the bill would represent a departure from past federal programs in which the federal role was dominant, but it would not represent a sudden abdication of federal responsibility. The bill recognizes the need for balanced programs and recognizes also that housing and urban development are issues of national concern which cannot be met solely through local approaches. As Chairman Barrett has pointed out:

"The block grant approaches . . . are evolutionary in nature, moving gradually from a dominant federal role in the carrying out of community development and housing activities to one in which the community is the principal actor, and HUD exercises a more qualitative review and evaluation function."

The bill provides for HUD review of local programs.

There are many admirable features in H.R. 10036. I would like to limit my statement to mentioning some of the provisions I consider of particular importance, as well as some aspects of the bill which I believe are deficient. I would like to spend most of my time discussing what is, without question, the major housing and urban development problem facing metropolitan areas—the need to reverse the trend toward racial and economic stratification and to establish choice as the factor that determines where people will live. This is a problem recognized and addressed by the bill. But, in my view, not adequately.

I have long advocated a mix of production of new and better use of existing housing, and it is gratifying to note that this bill reflects adherence to that principle and policy. I believe it is important, however, either in the language of the bill or in the legislative history, to establish vacancy rate criteria for determining the mix between new and existing housing so as to avoid the inflationary impact of housing allowances in tight housing markets. I also fully support the bill's approach of coordinating housing assistance and community development grants at the local level, where such coordination can be most effectively achieved.

At a time when some advocate the demise of the Federal Housing Administration, it is encouraging to find the bill forcefully delineating the role of FHA and modifying the FHA program in ways that will enable that important agency to continue its essential participation in providing mortgage credit for residential construction. One modification is the establishment of prototype construction costs which would permit participation in FHA programs of communities which, because of high construction costs, are now effectively excluded. A second, which provides for reduction in interest rates for FHA insured mortgages in periods of tight money, would permit many middle-class households now priced out of the home purchase market to become homeowners.

No feature of the bill inspires greater support on my part than its recognition of the need to continue Sections 235 and 236, both during the period of transition until the housing assistance program commences operation and on a residual basis after the program goes into effect. Despite exaggerated criticisms of Sections 235 and 236 and inflated estimates of their costs, as well as deemphasis of administrative deficiencies in their operation, these subsidy programs do produce housing.

The new program authorizing modernization and renovation of existing public housing units is clearly needed and desirable. I also believe that there is a need for an increased volume of public housing in the years immediately ahead. As I read the bill, new public housing could be built, although the financing vehicle would be different from that provided under the existing public housing law. Local government obligations would be guaranteed by the secretary of Housing and Urban Development and what are now annual contributions could be financed by funds from the housing assistance grants. I believe there is considerable confusion as to whether additional public housing is contemplated by the bill and it would be helpful if this confusion could be cleared up.

I question some other provisions of H.R. 10036. It is proposed, in Section 201 of Chapter 3, that uniform standards be applied to all mortgage insurance transactions. No longer would there be special risk mortgages. I fear that this will have the effect of excluding deteriorated neighborhoods and the families that live in them from significant participation in FHA programs. Moreover, it must be remembered that lack of mortgage credit has been a long-standing cause of deterioration of property values and continuing deterioration of inner-city areas.

There is another major deficiency in this bill. It is the omission of provisions to delineate and help establish an urban land policy. We seem to be about to set up a national land policy, but its basic focus is ecological or physical; and while social consequences are involved, they are not the primary aim. What I am concerned about is orderly urban development. Involved would be an attack upon sprawl, encouragement of the use of mass transportation, and provision of greater opportunities for dispersal of lower-income housing.

Proposals for advanced acquisition of land for urban use were first made as long ago as 1937 and were defeated largely because of political concerns. But the arguments for it, both economic and social, are impressive. There has been some progress towards federal assistance for advanced acquisition of land by public agencies and it was achieved because proposed housing legislation faced the issue.

We have an open space program, subsidies for loans for advanced acquisition of land for public use, and financial assistance for new communities. If the federal government can encourage state land use plans for ecological goals, it should be able to assure that such activity does not vitiate necessary urban growth and establish a program which would encourage orderly urban development.

I would now like to turn my attention to the most critical feature of the bill. I am referring to the need to link housing assistance programs and community development programs in ways which not only will facilitate orderly urban growth, but also will facilitate availability of multi-priced shelter throughout the metropolitan regions of the nation for families of all incomes and races.

This, in my view, is the most pressing housing problem facing the country. Indeed, the bill recognizes it as such. Among the eligibility requirements for community development grants is the formulation of a program which includes any activities necessary to provide adequate housing in a suitable living environment for low- and moderate-income persons who are residing in the community or who are employed in or may otherwise reasonably be expected to reside in the community. By the same token, one of the conditions of eligibility for housing assistance grants is "activities designed to promote greater choice of housing opportunities and to avoid undue concentrations of assisted persons in areas containing high proportions of low income persons." These provisions are salutary.

I fear, however, that the bill cannot achieve its express goal of promoting greater choice of housing opportunities for lower income families. There are several inherent weaknesses which, in my view, necessarily would prevent achievement of this essential goal.

First, community development and housing assistance grants would be made for the most part to individual localities in metropolitan areas. But the problems of housing and urban development in metropolitan areas are metropolitan-wide and can be resolved only on that basis. I recognize that in both the community development and housing assistance parts of the bill a priority would be given to two or more units of general local government which combine to conduct single programs. I doubt, however, that this would afford sufficient inducement to encourage metropolitan-wide proposals, particularly with respect to housing assistance programs.

Many suburban communities have exhibited strong aversion to taking the steps necessary to facilitate residence of lower-income families, especially those who are members of minority groups. To be sure, there have been some instances in which a number of jurisdictions in metropolitan areas have agreed to so-called "fair share" plans which would permit free access to housing for lower-income families throughout major portions of the metropolitan area. These, however, have been few and far between. Moreover, results have been spotty.

I believe these voluntary "fair share" approaches can achieve results and should be encouraged. As you undoubtedly know, last month Senator (Robert) Taft (R–Ohio) introduced legislation, "The Demonstration Housing Location Housing Act of 1973," that would provide such encouragement in the form of grants to local governments or local public agencies.

I do not believe, however, that sole reliance on voluntary "fair share" plans is the answer. Many suburban jurisdictions have taken extraordinary steps, such as adopting bizarre zoning laws and other land use controls, which necessarily have the effect—and often the purpose—of keeping out the poor. It is extremely doubtful that these communities can be counted on to participate voluntarily in "fair share" plans.

The basic approach of the bill is one of voluntary participation. Housing assistance grants would be made to suburban governments only if they *elect* to apply for them. In light of past experience, it is doubtful that many will so elect unless strong incentives are provided to persuade them to do so.

The only such incentive I can find in the bill is contained in Section 112(a)(3), which requires applicants for community development grants to formulate a program "which includes any activities necessary to provide adequate housing in a suitable living environment for low- and moderate-income persons who are residing in the community or may otherwise reasonably be expected to reside in the community." I believe this provision points in the right direction, but it is not nearly strong enough. Under the bill as it now stands it is likely that affluent suburbs will receive their fair share of community development grants while providing little housing for lower-income people.

There is one additional provision which, it seems to me, necessarily would have the effect of concentrating most of the lower-income housing in the central city, where the poor already are strictly confined. Under the allocation formula for housing assistance grants set forth in Section 124(6) entitlements are based on three factors: population, extent of poverty (counted twice), and extent of housing overcrowding.

Under this formula and lacking a metropolitan approach, the great bulk of housing assistance funds necessarily would go to central cities. Even those suburbs that have the best of intentions would simply not be entitled to very much in the way of housing assistance grants if their populations are relatively low, if they are affluent, and if they have little housing overcrowding. This provision, in my view, is seriously flawed. It would have the effect of accepting the status quo of racial and economic stratification in metropolitan areas and assure that this pattern is perpetuated and even intensified.

The basic weakness lies in dealing with the housing problems of metropolitan areas on the basis of the individual jurisdictions that make up these metropolitan areas. The problem is one of people, not local governments, and it cannot be satisfactorily resolved through passive acquiescence to the status quo of the minority, poor central city surrounded by the noose of white, affluent suburbia.

Some way must be found to provide housing within the means of lower-income families on the basis of rational, practical considerations—such as the location of jobs—and to afford the poor something resembling freedom of housing choice throughout metropolitan areas. We must do this not merely for the sake of the poor, but in the interests of the well being of our metropolitan areas. They are, in fact, single social and economic units, not unrelated groups of local jurisdictions, and our housing programs must recognize this basic reality.

In 1971, Congressman Ashley introduced what I consider an innovative and creative measure that promised to do just that. Title V of the proposed "Housing and Urban Development Act of 1971" called for the establishment of metropolitan housing agencies which would have had responsibility and authority for developing long-range plans for the location of subsidized housing, based on a number of rational and sensible factors. Unfortunately, this proposal was abandoned before the bill left the committee. I commend it to your attention. I also recommend that to assure cooperation by suburban jurisdictions that otherwise might be reluctant to have lower-income families living within their borders, eligibility for community development grants be tied strongly to full cooperation with the metropolitan housing agency in developing and implementing its plan.

Having made this recommendation I must qualify it by admitting that it is not foolproof. Some suburban communities may have so strong an aversion to the poor that they are willing to forego federal benefits under community development grants so as to continue their exclusionary policies and practices. This will vary from metropolitan area to metropolitan area, and indeed, from suburban jurisdiction to suburban jurisdiction, depending upon their need for community development funds, the mood of the community and the strength of their leadership. In any case, it represents the best chance to reverse the pattern of racial and economic separation which is at the root of so many of the social and economic problems besetting metropolitan areas.

LETTER FROM LONDON

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1973

Mr. HUNGATE. Mr. Speaker, the New York Times magazine of Sunday, December 16, 1973, in an article entitled "Letter from London" by J. H. Plumb, contains some interesting comments on our Watergate and impeachment problems:

LETTER FROM LONDON

". . . Watergate is like dry rot. Dry rot will crumble the strongest timbers with a dangerous speed, and the only cure is surgery. Even Dr. Kissinger's assurances could not obliterate the suspicion that placing American forces on a nuclear alert was an excessive overreaction by the President, intended to distract attention from his domestic problems. After all, Europe's memory is long and amply historical, and it was commonplace of the old absolutist monarch's policies to use foreign affairs to distract attention from domestic problems. After so many months of Watergate, the credibility of the Administration is at total risk, whatever dramatic action it may take. Not only experts in American affairs, but also ordinary men and women will now search for the hidden reason for dramatic actions. What is wrecking America's image is not whether the President has technically broken or not broken the law, but that a man so self-confessed in misjudgment of other men and their actions should still be in control of the world's most powerful nation. And the irony, for a British historian, is that no minister of George III, nor even George III himself, could have survived such a record of disaster. James II never broke the law, but he was chased from his kingdom. Many ministers in England have been impeached, or threatened with impeachment, for incompetence or for erroneous judgment, not for breaking a law or obstructing justice. Many Americans misundertsand the concept of impeachment, which is directly derived from English constitutional practice of the 17th and 18th centuries. It was a device developed by Parliament (the legislative branch) when it was weak, both in relation to the monarchy (the executive) and the judges—so that the king could be forced to part with ministers who were corrupt or incompetent, or whose policy Parliament loathed. It was a weapon, quite deliberately devised, to check the excesses of the executive; to bring not only criminals to justice, but also those who were bringing English institutions into disrepute.

If ministers or heads of state are removable only if they technically break the law, the prospects for absolutism and tyranny must be very bright—even in America. And to many Englishmen the debate about Watergate seems to move away all too quickly from the central issue to peripheral and fundamentally unimportant arguments—the tapes, the real-estate purchases, the income-tax payments, or prior knowledge of the burglaries. The glaring enormity is that a man who chooses one self-confessed grafter for his deputy, whose aides are indicted on charges of perjury, conspiracy, burglary and the rest, has not been compelled to give up office. In no other country, Communist or free would this be so. Not to recognize this, and not to recognize the intense harm that it is doing to America's image overseas, and therefore to America's power to influence the world, is the most dangerous of attitudes. At present. America's capacity to influence events depends upon one man and one man alone—Dr. Kissinger; an extraordinarily dangerous situation for a great power. There is a great deal of anti-Americanism in Europe and elsewhere in the world, and now it has a glaring blemish upon which it can fasten and pump in its poison. Certainly Europe was developing a more independent attitude in economic and foreign affairs before Watergate, but surely no one can doubt that the process has accelerated since that debacle. And what should be realized is that Watergate is news, still headline news, in London, avidly read, avidly discussed day after day after day. Watergate is not a local, internal domestic affair. The schizophrenic attitude that American foreign policy sails on magnificently and effectively untouched by White House "horrors" or by the lies and evasions is a cruel delusion. Watergate is a cancerous growth eating at America's strength. Watergate is bad enough, but what worries America's friends far more deeply is the weakness of a constitutional system that renders a change of a President during his elected term almost impossible, except by death. This, in effect, becomes elected monarchy, and a monarchy far more powerful than George III ever enjoyed. The whole political and constitutional history of Britain centered on the Watergate problem—how to curb a monarch's bad judgment in choosing ministers; that is why we invented impeachment, and used it. And one longs to hear some voices on Capitol Hill stating loudly and clearly the central issue; that the responsibility of a President is not to a mandate given one year, two years, three years previously, but a *daily* responsibility to the people's elected representatives, answerable at all times and on all matters, not only for keeping the law, but also in choosing men of integrity and honor. If the trust committed to the President is not honorably discharged, removal is essential for the well-being of the country. . . ."

NIX DENOUNCES THE BESTIALITY OF PALESTINE GUERRILLAS

HON. ROBERT N. C. NIX

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1973

Mr. NIX. Mr. Speaker, the nature of the Palestinian cause was put in dramatic context by the murder of airline passengers in Rome and Athens in the past 24 hours. The indiscriminate terrorism by cold-blooded execution and haphazard firing on aircraft in crowded air terminals has accomplished only the refreshing of the disgust of the civilized world with Arab terrorism.

I would point out to the House as a delegate to this session of the United Nations General Assembly that a mere resolution on terrorism was shelved for 2 years by the General Assembly, because of the objection of those nations who seek profit in terrorism.

It is my understanding that some action of this kind was expected in a general way by Western nations since the Palestinian guerrillas hope to smash any hope of peace in the Middle East. They hope to abort any peace conference. They have chosen murder as their tool.

It is clear now that the United Nations can accomplish nothing as to terrorism, even if it had the will to do so.

What is required is that those nations who are opposed to having their citizens murdered, must form an agency based on bilateral agreements to track down and apprehend these killers wherever they hide themselves and bring them to justice. Transnational rulemaking as to extradition is not enough. A vast intelligence effort is required supported by civilized nations. Nations who care should act together, before peaceful travel collapses completely. Our own Government should take the lead in such an effort, because of the indifference of the United Nations.

I think it is clear that no one can now doubt that Israel's reluctance to include Palestinian terrorists as citizens of its government is reasonable. In this case it is not only Israel that is threatened by Arab terrorism but ourselves and all of the nations of the Western World. It should also be clear the energy crisis engineered by Arab governments differs only in kind from the motivations of Palestinian guerrillas.

Therefore if Western democracy is to survive, democracies must join together in nation-to-nation agreements and action. The time for such action is now, and the United States of America must lead the way.

A DARK CHRISTMAS

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1973

Mr. CARTER. Mr. Speaker, in these days of increasingly necessary energy conservation measures, many people have expressed dismay with the curtailment of decorative lighting during this holiday season. I believe that the following article by Lucy Albright, from the Glasgow, Ky., Republican, provides a measure of insight for all of us at this time:

Lucy's Letter

(By Lucy Albright)

Lucy's Letter:

If our theme song this year is "I'm dreaming of a dark Christmas", then we are listening to the wrong drum beat. It is true that due to the power shortage in America, the president asked the people to cooperate in this crisis, and the people have responded in a most complimentary manner.

For instance, the small town of Fountain Run will not have a lighted community Christmas tree this year. For the past several years, a tree that stands in natural beauty in the yard near the Methodist Church is illuminated with bright lights, some 400, during the Christmas season. It could be seen quite some distance, and many said it was the most beautiful Christmas Tree for many miles around. And it kindled a community pride. But this year it will be lightless, as will be most of the town's decorations. Of course this is only a drop in the bucket of conservation of electricity, but lots of drops make a whole, and there is a pride for cooperative spirit. We will keenly miss the bright decorations, but that does not necessarily mean that there will be a dreary dark Christmas.

If you are over 34 years of age and lived in Fountain Run before 1939 not only did you not have lighted Christmas trees, but there was no electricity for anything. On account of this, do you recall any Christmases that were sad, or bad? As I recall, the lack of electricity never lessened the joyful occasion. There seems to add extra zest to the spirit when we use our imaginations in fashioning decorations for the tree. Tiny bows in color, strings of popcorn and cranberries, and tinsel. And if you choose to buy decorations there are a wide range of miniature decorations, musical instruments, fans, etc. And if you have a bird nest now that brings an extra zip of delight.

The spirit of Christmas comes from within. We can only expect the real glow of the occasion to come from our love of the Savior, whose birthday of December 25, is generally accepted by the Christian world, and by the love of our neighbor as ourself, a brightness of joy and gratitude that will shine from within, as bright as the noonday sun.

MORE DRAWBACKS TO GASOLINE RATIONING

HON. WILLIAM L. ARMSTRONG

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1973

Mr. ARMSTRONG. Mr. Speaker, during the last few weeks there has been much publicity given to advantages of gasoline rationing. But the serious drawbacks of any rationing scheme have been largely overlooked.

However, Dr. Milton Friedman's article in Newsweek, December 10, 1973, brings the basic inequity of gasoline rationing into sharp focus. Every member of the House will benefit from reading Dr. Friedman's sensible evaluation of the problem:

The Inequity of Gas Rationing

(By Milton Friedman)

There is wide agreement that the most efficient solution for the energy-and-oil crisis is to let the free market reign—to let prices rise to whatever level is necessary to equate the amount people want to buy with the amount available. Higher prices would give each of us a private incentive to conserve energy, would give producers an incentive to add to the supply, and would assure that energy was used for purposes valued most highly by purchasers.

The one argument against this traditional free-market solution is that it is "inequitable." Any solution requires that we use less energy than we would like to use at present prices—that is precisely why we have a crisis. Any solution will therefore "hurt" all of us. But it is maintained that the free market imposes the burden disproportionately on the poor, that government rationing would avoid this "inequity" and hence should be adopted, despite all its defects—waste, bureaucracy, black markets and corruption.

The argument has a strong emotional appeal. But it has no rational basis.

THE ARITHMETIC OF RATIONING

Consider one scheme for rationing gasoline that has been proposed: give each family coupons entitling it to purchase a specified number of gallons a week at present prices, but then permit it to purchase additional gasoline at free-market prices. Since my concern is with equity, let me waive all questions about the feasibility of assuring that coupons would be honored and about the effects on production incentive. Suppose the allotment per family is 15 gallons per week, that every family uses its allotment, that the fixed price is 45 cents a gallon and that the free-market price, in the absence of rationing would be 75 cents a gallon *for the same total amount of gasoline* (I shall discuss below the reason for this condition). The scheme is then precisely equivalent to sending each family in the United States a check for $4.50 a week (30 cents times 15 gallons), financing the payment by a tax on the oil industry, and letting the free market distribute the gasoline.

Is there anyone who would favor such a national dividend, distributed regardless of need? If there be such a person, would even he favor having its size determined solely by the price of gasoline? If the scheme is bad when stated in its naked form, how can concealing it in ration coupons make it good?

Or consider another variant: distribute coupons covering all gasoline that will be available (say 20 gallons per week), fix the price at 45 cents a gallon, but permit the coupons to be sold in a "white" market. Assuming the same facts as in the preceding paragraph, the price of the coupons would be 30 cents a gallon. The scheme would be precisely equivalent to imposing a tax of 30 cents per gallon on gasoline and using the proceeds to send each family in the United States a check for $6 a week (30 cents times 20 gallons). Again, stated nakedly in that way, does the scheme really have any appeal?

Note that I have considered the least inequitable schemes. Alternatives that would prohibit the sale of coupons or that would allocate coupons on the basis of number of cars or "normal" mileage driven rather than equally to all families are equivalent to sending *larger* checks to high-income than low-income families.

THE ECONOMICS OF THE MARKET

Because of my emphasis on "equity," I have omitted a major defect of these rationing schemes—the defect that required me to assume *the same amount of gasoline*. Both schemes would reduce the incentive of producers to add to the supply and would therefore mean *less* gasoline than under the free market.

The effect on production is important both in the current emergency and in the longer run. Suppose that shortages in any commodity or service are always met by taxes designed to absorb the increase in price. What incentive would that give private enterprise to provide excess capacity to meet such a possibility? As it is, the prospect of occasional bonanzas makes it profitable for enterprises to maintain greater productive capacity and larger inventories than are required under normal circumstances. With that prospect eliminated, the government would itself have to provide such reserves—a task it has hardly demonstrated the competence to perform.

The free-market solution is not only more efficient, it is also more equitable. True "equity" calls for making provision for special hardship cases. It does not call for raining government checks on all and sundry.

EFFORT TO CURB GOVERNMENT FORMS

HON. HARRY F. BYRD, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Tuesday, December 18, 1973

Mr. HARRY F. BYRD, JR. Mr. President, an editorial citing the fine work of the able Senator from New Hampshire (Mr. McIntyre) was recently published in the Nashville Banner and subsequently republished in the Staunton, Va., Leader.

I ask unanimous consent that this editorial be printed in the Extensions of Remarks.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

EFFORT TO CURB GOVERNMENT FORMS

Editorial writers and public officials can write and say pithy things about the burgeoning bureaucracy of government, but the small businessman knows first hand. The paper work that accompanies bureaucracy is overwhelming, increasingly so for the businessman.

There is, however, a hint of good news. Officials with the Senate Select Small Business Subcommittee on Government Regulation and the White House Office of Management and Budget have agreed to take a more critical look at the 6,000 or so forms that the government requires businessmen to fill out.

Sen. Thomas McIntyre, chairman of the Senate subcommittee, estimates that it costs businessmen between $18 million and $50 million a year to complete the forms.

Congress passed in 1942 a "paperwork controls act" but it never has been enforced with any rigidity. At the prodding of the Senate subcommittee, Roy Ash, OMB director, has agreed to two things:

1. A virtual temporary moratorium would be placed on all new forms requested by government agencies.

2. A joint effort by the Senate Select Committee on Small Business and the OMB will begin to eliminate or combine as many of the 6,000 forms as possible.

"I complained about this burden for years when I was a businessman," Mr. Ash wrote to Sen. McIntyre, "and I am determined to do something about it now that I am working for the government."

That's one way to help ease the paper shortage and abolish needless bureaucratic paper-shuffling at the same time. The move, if successful, will bring cheers from businessmen, in triplicate.

TRIBUTE TO DAVID BEN-GURION

HON. ELLA T. GRASSO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1973

Mrs. GRASSO. Mr. Speaker, David Ben-Gurion found the Promised Land for his "people Israel" in Palestine. A man of epic proportion, he was the modern day Moses. Yet, unlike Moses, Ben-Gurion enjoyed the realization of his dream: the establishment and growth of the Jewish state.

Leaving his native Plonsk in Russian Poland at the age of 19, Ben-Gurion traveled to the Middle East—which was to become a stage for the many, remarkable accomplishments of his later years. He labored for years to provide a home for Jews in Palestine. His deep love and concern for his people is reflected in the legacy of hard work, diligence, and dedication that went into the establishment of the Israeli State and its development into the nation it is today.

After years of toil, Ben-Gurion saw the birth of Israel on May 14, 1948. That was a day of great rejoicing. It was also the beginning of a long road through war and peace to the present day.

Ben-Gurion was a statesman par excellence. He used his great skill as a negotiator to preserve a Jewish state in Palestine. He was also a scholar of great renown and an author of numerous works, with a deep appreciation of the value of learning and study.

Above all, however, David Ben-Gurion was an Israeli patriot, and like George Washington, the father of his country. He was loved like a father not only by his countrymen, but by men and women throughout the world.

David Ben-Gurion was a humble man, as much at home working in the field or the kibbutz as he was negotiating with the great powers of the world. He was a person who expected of others what he gave himself and that was consistent excellence. The people of Israel answered his call and honored him as the founder of their nation, its Prime Minister for the first 15 years, and an active dedicated solon.

Though unafraid to fight to preserve his dream, Ben-Gurion was basically a man of peace. Since the beginning he realized that both Arab and Jew stood to benefit from peace in the Middle East, and he welcomed negotiation as a means of securing this peace.

David Ben-Gurion will be sorely missed not only by his fellow Israelis but also by all men and women who understand the greatness of the dream that was realized in his lifetime, and long for peace and freedom for all. May this valiant man enjoy the sleep of peace reserved for all great patriots.

Though he is gone his spirit lives on in his "people Israel."

NATIONAL PRESS CLUB PRESIDENT DONALD R. LARRABEE'S REMARKS AT ANNUAL DREW PEARSON FOUNDATION AWARDS CEREMONY

HON. FRANK THOMPSON, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1973

Mr. THOMPSON of New Jersey. Mr. Speaker, the Drew Pearson Foundation presented its annual awards for distinguished investigative reporting at a luncheon last week at the National Press Club. The top prize went to Mr. Jerry Landauer of the Wall Street Journal, with other prizes going to Mr. Ward Sinclair of the Louisville Courier-Journal, Mr. Clark Mollenhoff of the Des Moines Register and Tribune, and two CBS reporters, Mr. Edward Fouhy and Robert Pierpoint.

Much has been said in recent months about the role of the Nation's press in its diligent efforts to ferret out corruption in high places in our government. Administration apologists have attempted to blame many of the White House problems on the media. However, as the truth emerges and the extent of the corruption is becoming known, we should all take special note of our debt of gratitude to those courageous investigative reporters who have exposed wrong-doing wherever it has taken place.

In this connection, Mr. Speaker, the president of the National Press Club—Washington news reporter Donald R. Larrabee—put into remarkable perspective the tragic events of the past year in remarks at the annual Drew Pearson Foundation luncheon. Mr. Larrabee, whose news bureau represents my hometown paper—the Trenton Times—among other leadng papers, sets forth the crucial issues involved in the Watergate and related scandals of the Nixon administration, as seen in the eyes of the working press. I commend his remarks to our colleagues.

His speech follows:

REMARKS OF DONALD R. LARRABEE, PRESIDENT

Tomorrow, the National Press Club holds its annual election and the members won't have me to kick around much longer. In its 65 year, the press club has an unbroken tradition of not re-electing a president. This, I think, is good for the club and for the presidency.

Looking back on this year of trauma and trial for America, I can think of no time when those of us who report from Washington have had it so good, in terms of having a story to tell and telling it reasonably well. The story of corruption in high places is not an easy one with which to deal. It is unpleasant. People really don't want to hear the worst about their President and Vice President. And they tend to be suspicious of those who bring the bad news. But we have risen to the challenge and it has brought out the best in us. Our credibility has been somewhat restored. But we are not home free!

Lou Harris, in his poll commissioned for the Senate Government Operations Committee, reported last week that with just two exceptions, the amount of confidence Americans display in every institution has decreased since 1966. The two exceptions are the press—slightly up from its rating seven years ago—and television news which enjoys the confidence of 41 per cent of the people today, compared with 25 per cent in 1966. Public officials who were polled, I should add, have far less confidence in the press and TV news. So what's new?

What's new, of course, is that we are identified with the documented discovery that high public officials engaged in some low political practices in 1972. One year ago, we knew about Watergate but we didn't know much. We did not know the severe test to which our system would be put in the year that is ending.

On this rostrum last December, we applauded the Washington Post and its two bright young reporters for relentless pursuit of the Watergate story. But we took little note of the fact that most of us were very poor followers on this story.

We were, if you recall, still worrying about our skins—and I don't mean the football team. We were pushing for bills to shield the press. We were asking for special privilege in law. But, as the press began to find ready, confidential sources around every corner—as Drew Pearson and Jack Anderson always have done—we lost interest in special privilege. The mood changed. We stopped asking for a special privilege that could just as easily be taken away.

And now, unless I misread by colleagues, we are prepared for the most part to rely on the first amendment which remains one of the great freedoms that any government has ever bestowed on its citizens.

The first amendment looks good to those of us in public communications at this point in time—perhaps because we are on top in the power struggle. But I fear that we stand in serious danger of forfeiting what we have gained if we fail to make prudent use of the power we now seem to enjoy.

There is much of which we can be proud

in our performance, to be sure. We have forced a Senate investigation which will inevitably lead to reforms in campaign spending laws and hopefully eliminate the source of corruption—not only in presidential politics but in the entire system, too much tainted money and too many people buying favors. We have alerted the country to the fact that the Presidency, right under our nose, has become larger than life in the past ten years—and larger than the law.

And as former Attorney General Elliot Richardson has noted so well, we have driven home the proposition that whatever a public figure's instinct might have been to cook up some secret scheme, he had best proceed on the assumption that it was going to get out. If, said Richardson, politicians read that lesson, that will have been a long-term, perhaps even a permanent contribution to the political process.

All of this is true and good. I would inject only this note of caution. In our zeal to demonstrate the misuse and abuse of power in the executive branch, let us not be so ravenous to expose, so hungry ourselves for power that we become irresponsible, that we disregard fundamental rights.

My concern now is that we do not widen our credibility gap which, despite the good news in the Harris poll, still exists. Yes, we have gained in public confidence since 1966. But can we take comfort in the fact that six out of ten people still do not believe what they hear and read? Have we done our job that well? Are we asking not only the tough questions but the right questions?

In the last analysis, our interest—the public interest—lies in improving the flow of information between government and the governed. We cannot expect the hostility and distrust of public officials to disappear overnight but new laws will never solve an old communications problem. In Watergate, there may be a lesson for both public officials and journalists. Officials should accept the fact that their conduct must be submitted to continual scrutiny. For our part, we must be willing to conduct that scrutiny with an eye to information, as much as sensation.

As newsmen, I think we ought to keep in mind the words of the immortal bard, George Reedy, who suffered as a press secretary to a President and who now preaches the word to students of history and journalism. Says George: the Congressional Record and the White House record can be corrected. But not, at least at present, the record of the fourth estate. Thank you.

MY AMERICA

HON. JOHN E. HUNT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1973

Mr. HUNT. Mr. Speaker, last week was my first stay in a hospital in 30 years, having had a bad case of shingles of 60-day duration, my physician, in his wisdom, put me in the Woodbury Memorial Hospital at Woodbury, N.J.

One of the physicians at the hospital, Dr. Thomas Mervine of Haddonfield, N.J., sent me a copy of the Sunday, December 9, 1973, Bulletin from the Haddonfield United Methodist Church, located in Haddonfield, N.J., which contained an article by Charles A. Sayre depicting a short story entitled "My America." I am indebted to Dr. Mervine for calling this issue of the Bulletin to my attention and I commend Mr. Sayre for his wisdom. The article is frank and honest and the author emphatically points out the difference between the two Americas that we live in—one, as we know it through the newspapers and television—the other we live in as "Our America." I am enclosing the entire article and am hopeful my colleagues will, at their leisure, peruse it:

MY AMERICA

About once a month I have made it a point to walk through the lovely grounds about Independence Hall, now well along in preparation for 1976. Somehow I feel the need to keep the long perspective on America.

One day, during one of these walks, a strange realization came to me. There are really two Americas. One is the America reflected in our newspapers and television—the other is the America in which I live, and of which I am as proud as I am chagrined by the other America. How, I wondered, could there be two so very different countries within each other?

My America is filled with people who love the Lord and attend church. Their lives reflect the moral standards of good people. There is no press release to tell the world about them, and the only public attention they get is from "sociologists" who deny their existence. But in truth, these are the vast majority of Americans, with far more lasting influence than so many of our writers and communications people who live in isolation from the rest of us.

Public information tells the world that America is run by manipulators and criminals and that adultery is commonplace. I am sure that our communicators, where they live, do see a lot of such things. But I don't, and I am presumptious enough to believe that the America I live in is a country mile larger than their America!

Perhaps that's why I love Independence Hall. All that it stands for its very real in my America.

LET'S REASON TOGETHER

HON. GEORGE A. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1973

Mr. GOODLING. Mr. Speaker, the American consumer has the privilege of buying the best quality foods at the lowest possible price, having a benefit that is shared by no other peoples in the world.

This is made possible by the miraculous production capacity of the American farmer, a production wizard who every year finds ways of coaxing increased harvests from his fields.

This genius for production springs from research, and it follows from this that if the farmer is going to continue increasing his production, and in the process, bringing down prices for the consumer, increased research will have to continue to go forward. As the song says, "You can't have one without the other."

The summary of the situation, then, is that if the American consumer is going to have the advantage of high quality foods at low prices, he is going to have to support research programs that produce this benefit. Just recently, Mr. Earl W. McMunn touched on this matter in an article which was entitled "Let's Reason Together," and which appeared in the December 1973 issue of the Ohio Farmer. Because this article is highly meaningful and significant where the consumer is concerned, I insert it into the RECORD and urge that my colleagues give it their serious attention:

LET'S REASON TOGETHER

(By Earl W. McMunn)

Consumers of this country want cheap food. That is what they have had, although many are not aware of the fact. Rising prices of the past year threw many into a panic. Some ill-informed politicians, labor leaders, newsmen and others screamed that "people couldn't afford to eat!" This, in spite of the fact that in 1973 the average person is spending less than 17 percent of his income for food. That is still a real bargain when compared with other nations of the world, or for most other times in the history of this nation.

We have cheap food because of a combination of circumstances. Mostly it is the result of an abundance of technical information, use of commercial inputs, and freedom to operate under a profit-oriented economic system. Cripple any of these forces and food will become more expensive. This is a fact of economic life. But the sad truth is that too many governmental decisions are made by people who don't understand economics. Recent efforts to help consumers by controlling livestock prices are but one example.

The forces which provide our cheap food have been building up for at least half a century. We have had an abundance of land, a surplus of farm labor, and plenty of people who wanted to farm. Commercial suppliers provided the machinery, the chemicals and the other inputs. Our know-how was improved by a steady flow of information from both public and private sources.

During this same period, our economy was expanding and people were becoming more affluent. This made it easier for them to buy food with a smaller share of their total incomes. For instance, in the 20 years between 1952 and 1972, wages and incomes rose by an average of seven percent a year. Farm prices rose less than one percent. This is why many consumers developed the idea that they should get a raise every year, but they shouldn't pay more for food. That was the way it had been during most of their lifetimes.

All this has changed during the past year. Now it is becoming clear that food prices must rise when everything else in the economy is on the upswing. People must pay more if they expect to be well fed. And, there is ample evidence that eating is a habit which no one wants to give up. There is little reason to believe customers will need to make any real changes in their eating habits. At least, not so long as economic forces are permitted to operate. The trouble comes when we try to make economic decisions on the basis of politics.

Here may be our greatest danger. Some of the most critical decisions may be made without real understanding of the problem. This is an ever-present threat where agriculture is involved. It is a fact of life that most members of Congress and the regulatory agencies no longer have a farm background. Too few have even an understanding of agricultural matters. How can they be expected to know, for instance, that a decision which hampers the oil business may cut farm production and add to the cost of food?

As a nation, we haven't yet faced up to the fact that there's a difference between necessities and luxuries. Or, that necessities must come first when hard decisions must be made. We've been sold on the idea that we must have the luxuries, then we'll pay for the necessities if there's anything left over in the budget. This has been true for much of our nation planning, just as it has been in many a private household.

What is the value of aimless joy riding when fuel is needed to grow crops, transport them to market, and keep the nation's factories in operation? Look at the traffic clogging our highways during non-working periods and it's easy to see where billions of barrels of fuel could be saved.

But, our system has offered little incentive for savings. Most of our policies have been in the opposite direction. Regulatory agencies attempt to impose arbitrary restraints upon retail prices. These work like a two-edged sword—and in the wrong direction. They discourage exploratory drilling, investment in refineries and everything else that is required to boost production. At the same time, low prices encourage consumers to use fuel for many purposes which are both foolish and wasteful.

Price may not be the most popular rationing tool, but a more effective method has not yet been invented.

Modern farming depends largely upon the use of commercial inputs. Anything which interferes with their availability is harmful to food production. Every farmer knows this, but it is not understood by many others.

Recent estimates indicate we are now using commercial inputs at the rate of $50 billion per year. No longer is any farm self-sufficient as in the days of the pioneers.

High crop yields depend upon the use of chemical fertilizers, herbicides and pesticides. We must have fuel to cultivate land and dry the crops. Our rapid increase in labor efficiency is largely the result of abundant use of machinery and equipment. Modern farming would be impossible without vast amounts of capital.

We look to agribusiness for a wide array of production inputs. Other segments of agribusiness process crops into forms that are acceptable to consumers. How long has it been since you saw a consumer carrying a live hen home from market? Now, it's a tender, juicy broiler which is killed, plucked, cut-up, packaged and perhaps cooked in golden batter. The consumer never had it like this in the "good old days!"

And, if we're honest, who in agriculture would like to go to those good old days? They were the days when wood was cut to heat the house, you turned the soil with a two-horse walking plow, and you killed potato bugs by knocking them into a can of kerosene. No wonder that almost everyone knew something about farming. With the backbreaking work of those "good old days" most people of the nation were needed on farms just to get the farming done.

Consumerism is a popular cause. But some self-styled consumer advocates ignore the fundamentals of sound economics. All they accomplish is to make conditions more difficult for the very people they claim to help. You're not helping anyone when you tear down the agribusiness complex which has provided Americans with the best living ever enjoyed by any people in the history of the world.

Uninformed consumerists are fond of using "profits" as a dirty word. They would squeeze or eliminate profits while implying this helps consumers. What they don't understand is that profits are essential if consumers are to get the products—and this includes food.

No one goes into business expecting to take a loss. There must be a profit incentive before you buy land, build a plant or employ help. Without the profit incentive there is only one other way. This is the Communist method where the production assets are owned by the government and people are told what to do. But, compared with our system, that method has a poor track record!

So it is clear that some things are necessary if we are to retain our ability to produce an abundance of food and at reasonable cost.

Basic to everything else is that we retain the incentive pricing system. It is the governor which signals for more production when demand is great and a slowing off when demand is weak. Price ceilings are a signal to produce less—not more.

We must have adequate supplies of machinery, parts, fertilizer, fuel, chemicals and other commercial inputs. Already we have seen how farm production suffers when any of these is in short supply.

Unwise environmental regulations can seriously hamper our ability to produce. Some environmentalists would ban almost all insecticides, herbicides, antibiotics and fertilizer. They don't know, or refuse to admit, what this would do to the food supply. We in agriculture shouldn't be forced to defend against these irresponsible attacks. The people who will really suffer are consumers who want an adequate supply of wholesome food and at reasonable cost. This is what they have been getting. Ill-informed environmentalists should be their problem, not ours! The sooner they understand this fact, the better off we all will be.

Fuel and transportation place other limits on our ability to produce. If added acreage is farmed in 1974 it will take more gasoline and other forms of fuel. Extra rail and truck transportation will be needed to get the crops to market.

Adequate food supplies will require greater investments in research. Surpluses of recent years led some people to conclude that public research was no longer needed. At the same time, private research was discouraged by watch-dog agencies of government which made it increasingly difficult to bring a new product to market. Now we are learning the hard way that there is need for more research—not less.

It all boils down to one simple fact. If consumers want cheap food, they must support policies which make cheap food possible.

RADIATION LEVELS AND THE ENVIRONMENT: WHO DECIDES

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1973

Ms. ABZUG. Mr. Speaker, I am introducing into the RECORD an editorial contained in today's New York Times, which points out for public scrutiny the administration's recent decision to transfer authority for the policing of radiation levels of nuclear powerplants from the Environmental Protection Agency to the Atomic Energy Commission. The editorial clearly identifies the conflict of interest which exists between the role of the Atomic Energy Commission as regulator of the industry, and its role as a promoter of wide use of nuclear power.

This dangerous administrative decision comes at a particularly unfortunate time. Many aspects of our environmental law are under attack, wrongly in my judgment, as contributing to the energy crisis. We can solve our energy problems without stripping away all environmental protection, however. I commend the Times for bringing this issue to the public.

ENERGY RADIATIONS

The pressures brought about by the energy shortages to undercut the antipollution victories of the past few years are reflected anew in the Administration's decision to transfer authority for policing radiation levels of nuclear power plants from the Environmental Protection Agency to the Atomic Energy Commission.

Scientists honestly differ on what levels of radiation are harmless and what are dangerous to public health in the immediate or remote vicinity of a nuclear reactor. When the E.P.A. had the task of setting radiation standards, the country at least had the benefit of relatively independent scrutiny and judgment. The A.E.C., by contrast, is both a regulatory agency for civilian nuclear power plants and the Government's chief promoter of their development. A conflict of interest is inherent in these two functions; and no one can be confident that the standards set by the regulatory side of the agency will be untarnished by the eagerness of its promotional side to go full speed ahead.

It is undeniable that constraints growing out of concern for the quality of the environment have played a part in hampering the rapid development of nuclear power and other domestic energy sources. But far greater constraints have been imposed by economic and technological considerations, as well as by the grievous lack of Government planning and foresight. It is hard to avoid the suspicion that some in the business of energy policy and production are setting up environmentalists as straw men, to divert scrutiny from their own shortcomings over past years.

As citizens, environmentalists share the nation's concern about growing energy shortages. But in the effort to alleviate the energy problem, it is unacceptable to ride roughshod over the progress already made to keep livable the environment in which energy will be consumed.

ENERGY CRISIS

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1973

Mr. EILBERG. Mr. Speaker, the most startling aspect of the current energy crisis is the Nixon administration's apparent total lack of preparation for dealing with the shortage of oil.

It seems that every day a new group, industry or lobby, announces that it is on the brink of disaster, because it is not getting enough of its particular type of petroleum product and the following day the energy office or the White House states that the allocation system is being revamped to meet this particular need.

However, one of the shortages which has not been taken care of is the lack of adequate supplies of aviation fuel for passenger service. The result has been proposed cutbacks in service by the airlines. These reductions will bring about serious inconveniences for the traveling public and financial problems for cities which operate airports effected by the cutbacks.

My own city, Philadelphia, is in the midst of a multimillion-dollar enlargement and modernization of its International Airport. As in other cities this program was based on the belief that air traffic would continue to grow and since neither the Federal Government nor the oil industry gave any indication that fuel would be a problem this was a valid assumption.

Now, with the specter of a severe shortage facing them, some airlines have shown signs of panic and are asking for permission to cutback operations in areas where the need for their services is great.

At this time I enter into the RECORD a telegram sent by the mayor of Philadelphia, Frank L. Rizzo, to the Chairman of the Civil Aeronautics Board opposing a proposed reduction in service and the city's statement about the situation:

City of Philadelphia,
December 14, 1973.

Hon. Robert D. Timm,
Civil Aeronautics Board, Universal Building, Washington, D.C.

The City of Philadelphia vigorously opposes the application of Pan American World Airways in Docket 26210 for authority to suspend transatlantic service at Philadelphia and respectfully requests the Civil Aeronautics Board to take no action in this matter until Philadelphia has had an opportunity to be heard formally in accordance with the Board's Rules of Practice.

Total and unilateral suspension of transatlantic service by Pan American at Philadelphia is unreasonable, unjust and unduly discriminatory, will result in irreparable harm to the City of Philadelphia, and is not justified by any fair or reasonable approach to the fuel situation.

A detailed refutation of Pan American's proposal will follow.

Copies of this telegram being sent to Governor Shapp, Senator Scott, Senator Schweiker, area Congressmen, legal counsel, business and labor representatives of Greater Philadelphia.

Frank L. Rizzo,
Mayor.

Mayor Frank L. Rizzo's News Release

Mayor Frank L. Rizzo today launched "vigorous opposition" to a move by Pan American World Airways that would discontinue the Airline's transatlantic service into and out of Philadelphia.

The Mayor sent telegrams to members of the Civil Aeronautics Board, Senators Scott and Schweiker, area Congressmen, business and labor leaders protesting the move and inviting concerted action to fight it.

In an application before the Civil Aeronautics Board, Pan American Airways proposed to suspend all transatlantic service in and out of Philadelphia for one year. The City's initial examination indicates that this would be an effective reduction of 82% of flights, several times the 15% service cutback that could be attributed to the fuel shortage.

A quick survey of airlines serving Philadelphia showed some cutbacks but the total number of seats available remains approximately the same.

In his telegram to the CAB and others, Mayor Rizzo said, "Total and unilateral suspension of transatlantic service by Pan American at Philadelphia is unreasonable, unjust and unduly discriminatory, will result in irreparable harm to the City of Philadelphia, and is not justified by any fair or reasonable approach to the fuel situation."

Mayor Rizzo instructed Director of Commerce Harry R. Belinger to analyze the probable effect of the energy crisis on air service at Philadelphia International Airport and to take action where appropriate to assure adequate air service for this region.

Belinger reported that the detailed examination of proposed January service by the airlines serving Philadelphia shows that most carriers are responding with reasoned caution in reducing flights due to fuel shortages but maintaining an adequate level of service to the public.

A check of thirteen international and domestic airlines serving Philadelphia indicates that four are planning modest reductions, six are planning no change, and one airline is adding service. One airline, Allegheny, is reducing service significantly, but is using larger aircraft so that substantially the same number of seats will be available.

The reductions are reported being planned by Eastern, United Alitalia and Delta. The six planning no change are National, Air Jamaica, Northwest, Air Mexico, Lufthansa and BOAC.

American is actually increasing its service.

Belinger reported that Philadelphia will coordinate with the airlines that show a reasoned response to the energy crisis but will vigorously oppose carriers who overreact to the fuel shortage.

CHINESE COMMUNIST LIAISON OFFICE AND PAST RECORD

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1973

Mr. ASHBROOK. Mr. Speaker, the Chinese Communists have recently purchased a hotel in Washington, D.C., to use for their liaison office in the United States. The activities of the Chinese Communists in Washington have been treated extensively in the society pages of Washington newspapers. We should not forget the record of the Communist Chinese merely because now they may be showing us their smiling faces in Washington, D.C. Looking at two periods in the past two decades may serve to refresh some memories.

In 1950 the Communists on the mainland initiated the beginning of their land reform, which was to eliminate so-called landlords, rich peasants, and middle-class peasants. Members of these classes were denounced by well-coached witnesses, "tried," and then many were taken out and shot. Landlords included those who owned as little as two-thirds of an acre. At one "trial" 30 individuals were convicted. None owned more than 3 acres, but they were defined by Mao as "landlords."

The middle 1960's showed more African countries breaking relations with Communist China, charging that the Communists were involved in fomenting revolt in their various countries. The Communist Chinese also began atomic tests. Aid to North Vietnam continued. Peking's hand was seen in an attempted coup in Indonesia. A new government in Ghana offered to show journalists a "guerrilla school" which had been operated by the Communist Chinese.

The year 1966 saw the beginnings of the Cultural Revolution, which was to result in further liquidations. The Cultural Revolution brought violence and strife to all sections of the mainland. Diplomats in Peking were also harassed during this time. The Commercial Counselor of the French Embassy and his wife were forced to stand in below-freezing weather for several hours. In Peking the British "Office of Charge d'Affaires" was burned. Peking continued support of guerrilla movements including giving support to a so-called Thai Peoples' Liberation Army whose purpose was to overthrow the government of Thailand.

Let us therefore not forget these actions of the Red Chinese.

HOUSING AND RELATED PROBLEMS

HON. ROBERT H. MOLLOHAN

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1973

Mr. MOLLOHAN. Mr. Speaker, for the past 2 years those of us from the First Congressional District of West Virginia have counted ourselves indeed fortunate to be able to turn to the Pittsburgh area office of the Department of Housing and Urban Revelopment's Region III for help with our housing and related problems. Under the able direction of Mr. Charles J. Lieberth, this area office has consistently provided us with helpful and accurate advice and assistance. Furthermore, it has always demonstrated the human touch which makes Government a living entity rather than a cold bureaucracy.

Because of his unusual dedication and sense of responsibility, I was severely shocked to learn that Mr. Lieberth had been the recipient of punitive action for "mismanagement tantamount to insubordination."

For the information of my colleagues, I am including in the Record a copy of the letter I have written to Secretary James T. Lynn on this matter:

Washington, D.C.,
December 17, 1973.

Hon. James T. Lynn,
Secretary, Department of Housing and Urban Development, Washington, D.C.

Dear Mr. Secretary: My reaction upon hearing of the punitive actions ordered against a number of HUD field officers was one of complete astonishment. Upon going further into the matter I was particularly dismayed to learn that the three ranking officials of your Region III Area Office in Pittsburgh are among those against whom "appropriate action" has been taken for allegedly violating an internal policy which would appear to be, in and of itself, of extremely doubtful legality.

If my information is correct, and to date I have had no reason to believe otherwise, the affected employees were "guilty" of complying with a Federal law which expressed the will and intent of the Congress, and which at the time of its enactment had the approval of the President. It, as surmised from your press release, the charge in this case stems from expeditious processing of applications for housing assistance prior to the effective date of an illegal deadline, it would appear that commendation rather than condemnation is more appropriate.

I am personally acquainted with Mr. Charles J. Lieberth, Area Director, having worked extensively with him on Federally-funded projects throughout my Congressional District. I honestly believe that many of the housing and public utilities problems confronting the cities and small communities of the First District, and indeed the State of West Virginia, could not have been surmounted had it not been for Mr. Lieberth's continual active interest and unfailing cooperation. The alacrity and dispatch with which his office responded to the needs of the people for emergency housing following last year's devastating floods throughout my State—most notably Buffalo Creek—is widely recognized and attests to the effectiveness of the operations directed by this man. In fact I have heard nothing but praise for him and his staff, which was characterized by a statement of the City Manager, of Wheeling, West Virginia, as "the best people I have ever worked with in Government."

My personal observation is that Mr. Lieberth's actions have always reflected a dedication to his agency, the rules and regulations of that agency, and the people it is charged with the responsibility of serving, completely devoid of partisan politics or attempts for personal gain. All of this, coupled with his outstanding record in the management affairs of his office, causes me to believe it to be unconscionable to let stand the 30-day suspension levied against him and thereby prejudice the career of an outstanding public official.

It is entirely possible that this action was taken without your immediate knowledge, Mr. Secretary. I, therefore, hope that you will give it your personal attention and cause a review to be made of the circumstances surrounding the suspension and the decision to invoke it. I very much hope this can be done with the utmost promptness because, in my considered judgment, a grievous wrong has been done to a highly competent public servant.

Sincerely,

ROBERT H. MOLLOHAN.

PROTESTING THE ENERGY CRISIS

HON. SAM STEIGER

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1973

Mr. STEIGER of Arizona. Mr. Speaker, the energy crisis has become the principal subject of interest to my constituents, judging from the mail I am receiving. People are extremely concerned about the possible impact this energy shortage might soon have on their businesses and on their very way of life.

I would like to enter in the RECORD an editorial written by Mr. Bill Girard which appeared in the 1974 edition of Relax magazine. This editorial was sent to me by one of my constituents as representing the views of a sizable segment of the population of Arizona. The editorial follows:

I PROTEST!

(By Bill Girard)

The time is early December, 1973. The stock market has tumbled. Large companies have cut their working forces drastically. Gasoline rationing is being considered and is thought by many to be inevitable. A great hue and cry is being raised against all kinds of "gas guzzlers." Energy, the lack of it, has the country in turmoil. Big cars, recreational vehicles such as motor homes, and general aviation (private planes) have been particularly singled out as targets for the big energy-conserving axe that must swing in order to save us.

Perhaps all this will be academic by January, 1974. But Ben Franklin once raised a feeble voice of protest against injustice and ended up getting several free and highly enjoyable trips to France. I wouldn't mind seeing the Eiffel Tower, too.

So I protest. And since I don't own my own printing press like Ben did, I beg *Relax* to print my gripe.

To begin with, I protest my chief "un-American activity" of driving a big gas guzzler. In addition to myself, it usually carries my entire family of eight to work, and/or school and social affairs. I have nothing against four-cylinder "thrifties," but show me one in which I can carry my crowd as though they were anything less than so many New Fangled potato chips in a cardboard container. And in case you are wondering, there isn't a bus within miles of my home, either.

As for equipping my family with bicycles, the wife and I are too old for that (or, at the very least, too worn out from previous activity) and several of the children are too young. Enough said for my four-wheeled "gas guzzler," except to add that it doesn't guzzle nearly as much as the three combined "economy" cars across the street which squeal past the house with one lone occupant each morning.

Then, of course, there are motor homes and trailers and other assorted recreational vehicles. Did you know that up until now 2/10th of one percent of gasoline expended for passenger use in the U.S. actually went into the tanks of recreational vehicles such as motor homes, truck campers, and cars towing travel trailers? Or that they averaged less than 3,000 miles per year, according to recognized research sources? And that they burned about eight miles of fuel per gallon? That means to me that the recreational vehicle is getting a symbolic shaft by the energy crisis . . . just like my car. By that I mean that the motor home, and other recreational vehicles as well, are the biggest symbol for energy loss in the country. But in the overall scheme of things, are they really?

If I were fortunate enough to own a motor home, for example, I see the following happening on those infrequent occasions when I would actually be able to use it: First, I would pile the crew into the unit and lock them in. Then I would turn out all the lights in my home. I would lock my gas guzzling car in the garage. I would postpone all deliveries and lock the front door. Then I would go back to the crew and take off . . . to the very nearest decent campground available. On the way, I would travel in traffic carrying 1973-model cars that average perhaps ten to eleven miles per gallon. And once at the campground, I would most likely stay put, while those cars kept right on going.

If this were for a long weekend, for example, my car would be locked in the garage, not guzzling fuel; my electricity would be turned off, not using up kilowatts, my furnace or air conditioner would not be operating, thus making similar savings for the good of the nation; in fact, the delivery boy wouldn't even have to burn fuel bringing all the unnecessary goodies my wife finds necessary when at home (another big savings).

Aha, you say. But you'll be burning kilowatts at the campground! The facts are, my friends, that the average RVcationing family uses about one-fifth the energy it uses at home. That's a well-researched fact, too! And when it comes to water, there are savings that can hardly be believed! Take one look at the grubby children (some adults, too) whom you see at the average campground and imagine the tons of water not being used to bathe all those would-be Daniel Boones.

When you really think about it, if every family in the nation had a motor home and all took a short trip some weekend, the energy crisis would get a heck of a jolt. In fact, if they all simply lived in a nearby motel or hotel (which would probably be heated even if vacant) think of the energy savings! By the way, do you know that flushing a toilet at home uses as much as six gallons of water, whereas the average motor home toilet uses only a few ounces? Think about that a little . . .

Now for the subject of general aviation. The President has asked that the allocation of fuel for private planes be cut as much as 50 percent. But do you know that most airplanes of the private gender get gas mileage that is fantastic compared to most automobiles? And have you considered that although they have their ups and downs, they travel in a straight line (as a rule)? Assuming, then, that all flights are for legitimate, business-like purposes, all Americans should own a private plane, right? They'd use much less fuel than if they made their trips by car. So I protest again.

Consider that the most-popular "family airplanes" such as the Cessna Skyhawk or Piper Cherokee carry four people and their luggage at a cruise speed of around 130 and 140 mph, while burning about eight or nine gallons per hour—that's 15 or 16 miles per gallon. And the larger, faster planes used by many families and professional people, such as the Bellenaca Viking or Beechcraft Bonanza, will cruise at 180 or 190 mph while using only 15 or 16 gallons per hour—that's 12 mpg, which is better economy than almost any full-sized new car. And they'll go to the great majority of places where you can't possibly go by airline, bus or any other much-heralded means of public transportation.

Now I have finished my protesting. I have obviously exhibited myself as no Ben Franklin. The Eiffel Tower will rust away before I ever get a chance to see it. Among other things, Ben discovered electricity. I just burn it. Besides, I will not go to France in a sailboat.

The energy crisis will not go away, either. And I'm the last one to say we shouldn't do our best to conserve energy in every way. In fact, I am strongly in favor of it. But when in panic, people are known to think in rather muddled ways; to strike out at symbols of their difficulties rather than the difficulties themselves. I submit that big cars (to those who need them), recreational vehicles (to those who use them wisely), and private planes (for legitimate reasons) are symbols that have been attacked unjustly. I have protested . . . and I'm glad. Thank you, Ben, wherever you are.

TRIBUTE TO BILL KEATING

HON. E. G. SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1973

Mr. SHUSTER. Mr. Speaker, when William J. Keating resigned from Congress on December 6, this House, Ohio, and the Nation were the losers.

I must respect Bill Keating's decision because I respect Bill Keating. But I regret it nevertheless.

I spent 19 years in private enterprise and only one in politics. But I know this: Bill Keating is an uncommon man in any field. He is not only bright and competent, but compassionate as well. I shall never forget his taking the time to personally call on me upon my arrival here last January to offer his helping hand. What he could not know is that over these past trying months, his quiet example spoke volumes about the way a serious-minded young Congressman should comport himself.

Bill Keating certainly has my best wishes as he returns to private life. But I would be less than honest if I did not express regret and perplexity at the loss of this fine man to the public service. America and this Congress need more Bill Keatings, not less. I worry for my country when the Bill Keatings leave the public service.

U.S. AIR FORCE ACADEMY

HON. WILLIAM L. ARMSTRONG

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1973

Mr. ARMSTRONG. Mr. Speaker, I recently read with great interest an article published in the Colorado Springs Sun by Brig. Gen. Hoyt Vandenberg, Jr. As you know, General Vandenberg is commander of cadets, U.S. Air Force Academy.

Since his article expresses the great pride many of us feel in the Academy, I thought it might be well to call it to the attention of my colleagues at this time:

THINKING OUT LOUD

(By Brig. Gen. Hoyt Vandenberg)

In view of the plethora of press coverage surrounding the United States Air Force Academy in recent months, residents in the area, of SUN coverage might be interested in some facts not usually surfaced.

An Air Force career is still a very popular way of life among our high school-age young men. Applications from young men seeking appointments to the academy have risen each year. For example, candidates for the class of 1976 totalled 7,424 and for the class of 1977 we processed a total of 8,017 candidates. Since each entering class is pared down to approximately 1,500 it is logical to ask why some cadets drop out when such a large pool is available from which to select. After close scrutiny of academic, physical and leadership potential, young men with the best composite scores make up the entering class.

The current state of the art, at best, cannot determine with certainty a young man's motivation to accommodate to the subtleties of the USAF Academy necessary to become an officer in the United States Air Force. Allowing for academy dismissal for cause (academic, conduct, etc.) the remainder of attrition figures are made up of those cadets who either decide that another field of endeavor would be best for them, and those who simply cannot adjust to the pressures and restrictions inherent in the training of professional, regular commissioned officers. In short, the academy receives some cadets who are not sincerely motivated and subsequently loses others after exposure to training.

The Academy is continually seeking solutions to both of these major attrition facets. Efforts are being made, for example, to improve the match-up of prior expectations to actual academy experience. While still maintaining standards of discipline and academic facility required by today's Air Force officer, the academy constantly reviews its training with a view toward excellence in all areas. The quest by academy officials is not for a school of the profession of arms that reeks of permissiveness and cadet-structured training, but rather one at which the quality of the product constantly improves. At the United States Air Force Academy the product is constantly improving!

The Air Force Academy is the only service academy at which the senior cadets manage their own training. They learn more, and faster, by taking broad guidance from senior authority and applying it, themselves, in the management of the cadet wing. Progress in this area has been steady.

I often wonder if citizens who reside in the vicinity of the academy realize that from among the men who are trained here will come great national leaders and household names—that our graduates are dedicated to service above self in their readiness to defend the ideals which made this nation free. Most certainly, their training is tough—they lead a very restrictive life compared to average national social mores—but they leave sufficiently disciplined for the rigors ahead as well as taking with them the capability for continual growth and appreciation for the training provided them by the American taxpayer.

The average Air Force Academy cadet is a person that has the capability to make all those involved with his training feel twenty feet tall. They are the best this country has. They cannot and will not break the faith.

In summary—what you hear may be of passing interest—but what you see is what you get. At the United States Air Force Academy you see the best.

DELCO ELECTRONICS DIVISION OF GENERAL MOTORS ENERGY CONSERVATION

HON. ELWOOD HILLIS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1973

Mr. HILLIS. Mr. Speaker, this fall I have contacted nearly every industry in my Fifth Congressional District of Indiana urging them to form carpools among their employees as a means of conserving gasoline.

As a result, I am pleased with the response I have received and encouraged by the special actions which industry is taking to conserve energy.

Today I especially want to praise Delco Electronics Division of General Motors in Kokomo, Ind. This morning I received a letter from Mr. James M. Hall, director of manufacturing and engineering at Delco and he included a detailed report of the accomplishments they have made and those which they hope to achieve. At this point, I want to share the report with my colleagues here in the House:

DELCO ELECTRONICS DIVISION OF GENERAL MOTORS ENERGY CONSERVATION

Richard C. Gerstenberg, chairman of General Motors, set a goal in February, 1973, for a 15 percent reduction in the use of energy by September, 1974. Due to recent world events, in November he set a goal of 20 percent reduction during the high usage winter months ahead.

All General Motors plants are involved and a member of top management at each plant is given the responsibility to institute an effective energy conservation-program. Mr. Charles Rine, general manufacturing manager, is responsible for the energy conservation program at Delco Electronics. Mr. Riggs, Delco Electronic's general manager, has submitted a summary of our program to G. N. Tiberio, director of energy conservation for the General Motors Corporation.

Under the direction of E. Roepstorff, manufacturing manager, and J. M. Hall, director of manufacturing engineering, energy conservation committees have been established involving a wide range of employees. These committees and their functions are described below:

1. Area Energy Coordinators—The plants and offices have been sectioned into nine areas and an Energy Coordinator has been appointed for each area. They will make recommendations for conservation in their particular area and monitor their areas to see that energy is not wasted. This group is under the direction of the manufacturing manager.

2. Energy Survey Committee—These committees have been established at each plant, are chaired by maintenance general foremen and supported by general foremen of operating departments. Several weekend inspections have been conducted and followup actions are now being accomplished. Inspections during normal operating hours are also being conducted. The survey committee functions as an audit of our progress.

3. Permanent Control Committees—The plants have been "zoned" and plant engineers assigned as chairmen of these committees. These committees are considering energy conservation proposals and evaluating the feasibility of permanent automatic control devices, design changes for energy conservation and examining equipment operating procedures. The work of these committees is subject to periodic review by the Director of Manufacturing Engineering.

4. Energy Conservation Educational Committee—This committee functions under the Plant Engineering Superintendent and is responsible for developing and presenting energy conservation educational and motivation programs.

A number of specific actions have already been taken and there are many ideas under study to conserve energy. The following are some examples of our conservation action and plans.

1. Thermostats have been set to 68° during normal operations and lowered on weekends.

2. Exterior signs and non-essential building lights have been turned off. Switch gear will be installed to better control parking lot lights.

3. Work area lights are being reduced by locating light fixtures closer to the work places so that light levels are not reduced.

4. The hours for night cleaning of office areas have been changed to permit shutting off lights earlier.

5. Window panes have been replaced to prevent heat loss—also, closing of doors, weather stripping, etc. Energy conservation work orders are given priority in the maintenance department.

6. A capacitor bank has been installed for power factor correction at one of our plants and we plan to make similar installation at our other plants where it is needed.

7. We are investigating sequences on all air compressors for automatic shutdown during no load conditions.

8. We have an active program to examine plant air exhaust systems and makeup units for proper operations for energy conservation.

9. We are, in every way we can, changing our manufacturing processes to conserve energy.

In accord with Mr. Gerstenberg's request, Mr. Riggs has directed that drivers of company cars and trucks limit their speed to 50 mph. Mr. Riggs, in a letter on energy conservation to all employes, has urged all employes to limit their speed to 50 mph while using their personal cars.

SOME ENERGY LEGISLATION CAN WAIT UNTIL NEXT SESSION

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1973

Mr. DINGELL. Mr. Speaker, despite administration pleas to the contrary some so-called energy-related proposals can and should wait until next session.

One such proposal (S.J. Res. 176) would open the Naval Reserve at Elk Hills, Calif., within 60 days to the production of at least 160,000 barrels of oil per day.

Another (H.R. 11793) would establish the Federal Energy Administration which has already been established by Executive Order 11748 of December 4, 1973, and would be confirmed legislatively by the Energy Emergency Act which is now in conference. It surely should not be passed on the Suspension Calendar as is now being proposed.

The Elk Hills' proposal is of more dubious value because of recent orders issued by the Interior Department to take large quantities of oil from domestic use and give it to the military. As proposed by the administration, the Defense Department would get the Elk Hills oil, as well as civilian oil. I wonder if the public is aware of this.

I have written to the Secretary of the Navy and asked for a copy of the Navy's environmental impact statement on this proposal so that we can evaluate this proposal adequately and learn if the Defense Department needs both the Elk Hill's oil and civilian oil. My letter follows:

DECEMBER 17, 1973.

Hon. JOHN WILLIAM WARNER,
Secretary, Department of the Navy, the Pentagon, Washington, D.C.

DEAR MR. SECRETARY: On November 6, 1973, the Acting Secretary of the Interior, Mr. John C. Whitaker, promulgated a regulation (38 F. R. 30572) providing for the issuance of "directives" by the Office of Oil and Gas. The "directives" provide that oil suppliers, "regardless of other existing contracts and orders," will give "priority" to petroleum orders placed by the Defense Department.

It is my understanding that, pursuant to this regulation, orders have already been issued to direct 19.7 million barrels of oil from civilian use to the Defense Department for the period of November 1 to December 31, 1973. Possibly, some of this diverted oil will be used to replenish American reserves in the Pacific which are being depleted, according to a Pentagon spokesman, by shipments from those reserves of 22,000 barrels of oil daily to the South Vietnamese and Cambodian military forces.

On Wednesday, December 12, the Senate passed H.R. 11576, the supplemental appropriation bill for F. Y. 1974. Before doing so, the Senate added a sum of $72 million for the "exploration, development, and production of the Naval Petroleum Reserves," subject to the enactment of an authorizing bill. Apparently, you have determined that the "defense of the Nation required the production of oil from the naval petroleum reserve at Elk Hills," California and, based on your determination, the President has requested the Congress to approve such production. I understand that, if authorized, this reserve will provide about 160,000 barrels of oil per day to the military.

Please provide to me by December 21, 1973, your response to the following:

1. Since the development of Elk Hills is a major Federal action significantly affecting the quality of the human environment, please provide to me a copy of your agency's environmental impact statement. If none has been prepared, please explain why not.

2. If Congress does approve development at Elk Hills, will the Defense Department then ask the Office of Oil and Gas to revise its earlier orders and release for civilian purposes a corresponding amount of oil now being diverted to military uses. If not, please explain why.

With every good wish,
Sincerely yours,
JOHN D. DINGELL,
Member of Congress.

EARTHQUAKE-DAMAGED STATUE REPLACED

HON. GEORGE E. DANIELSON

OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, December 18, 1973

Mr. DANIELSON. Mr. Speaker, recently, I had the pleasure of helping the United Spanish War Veterans of California replace a statue which they erected in 1950 and which was severely damaged by the great earthquake of February 1971. The statue, located in the Veterans' Cemetery at the Veterans' Administration Center in Los Angeles, was financed by the United Spanish War Veterans, Department of California, entirely from private donations. The veterans personally dug the foundations and poured the concrete for the base of the statue.

Upon completion, the statue was donated to the Veterans' Administration. Over the years, it became a landmark, as well as an object of pleasure and pride to veterans and their survivors visiting the cemetery. To the Spanish War veterans, however, the statue had special meaning. It was a symbol of their patriotism and a tribute to the tremendous sacrifices made by them and by other Americans who have served their country in time of war.

In February 1971, the great earthquake damaged the statue beyond repair, and the USWV was informed that it would have to be demolished, as it was a safety hazard. A suggestion by the department commander of the USWV that the VA replace the statue was rejected as too costly. The VA offered only to accept bids on a new statue, with expenses to be paid, once again, by the California Spanish War Veterans.

At that point, I was contacted by Mr. Frank Toczek, special services officer of the USWV. Mr. Toczek told me of the situation, explained the significance of the statue, and pointed out that the 132 remaining members of the California Spanish War Veterans could not possibly raise the money for a second statue.

I contacted the Veterans' Administration, emphasizing the fact that the original statue was donated as a gift to the VA, which by accepting the gift had also accepted the responsibility for its upkeep. The VA gave the case careful consideration and agreed to allocate $10,000 for a new statue. That statue is now under construction and will be erected at the site of the original monument in about 2 weeks.

I think that the Veterans' Administration deserves to be commended for its decision to come to the aid of the California Spanish War Veterans. And even greater commendation and a great deal of admiration, as well, are due to the 132 remaining California Spanish War Veterans for their dedication and perseverance in obtaining a replacement for their statue.

SCHMITZ AND THE ENERGY CRISIS

HON. JOHN M. ASHBROOK

OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Tuesday, December 18, 1973

Mr. ASHBROOK. Mr. Speaker, during the years my good friend and former colleague, John G. Schmitz, served in Congress as a representative from California's 35th District, he often was able to anticipate national problems long before they happened. Representative Schmitz has been especially prophetic concerning the energy crisis.

In his Weekly News Report of October 4, 1972, Representative Schmitz stated that "we face an electric power crisis in the very near future." To meet this need, Representative Schmitz proposed that we "use atomic energy for generating electricity in the 'breeder reactor' or nuclear powerplant, which does not pollute the air at all."

I commend John Schmitz for his foresight in this matter.

The following is the complete text of the newsletter:

THE NECESSITY OF NUCLEAR POWERPLANTS

During the course of this year, evidence has been rapidly accumulating to prove conclusively that we face an electric power crisis in the very near future—perhaps as soon as next year in some areas, almost certainly within three to four years. The demand for electric power in the United States is doubling every 15 years, while the construction of new power plants to meet this accelerating demand has virtually ground to a halt.

Electric power generation alone now takes one-quarter of all the oil, gas and coal consumed in the United States—and the demand for oil and gas needs can be supplied from American sources. For the other half, we will have to depend on imports from foreign sources which could be cut off in time of war or for political reasons.

Many Americans have become so accustomed to the constant availability and use of electric power that they have never stopped to think about what would happen if there was no longer enough of it to go around. But when a nationwide coal strike closed down all the coal-fueled power plants in Great Britain last winter, the English people found out just what it meant. Electric power could be supplied to homes and business for only a few hours each day, or on alternate days. Millions of workers were laid off; millions of homes went unlighted and unheated for long periods; enormous traffic jams occurred because traffic lights and rapid transit could not operate.

The construction of the new power plants necessary to prevent all these things from happening in the United States has been blocked by "environmentalist" groups. Their vehement objections to the air pollution caused by coal-fueled and oil-fueled generating plants have some basis, and the Clean Air Act of 1970—for which I voted—placed tight new restrictions on emission of air pollutants by these plants. The most obvious available substitute is to use atomic energy for generating electricity in the "breeder reactor" or nuclear power plant, which does not pollute the air at all.

Yet "environmentalists" have managed to block the issuance of siting and construction permits for nuclear power plants as completely as they have blocked such permits for coal-fueled and oil-fueled power plants—with far less reason. They put so much pressure on the Atomic Energy Commission that it bowed meekly, without even an appeal, to a court decision last year (Calvert Cliffs Coordinating Committee et al v. AEC) requiring months or years of additional hearings and review before granting new construction permits and operating licenses for nuclear power plants. The Commission has even cast doubt on whether the few existing nuclear power plants will be allowed to keep operating.

Despite fantastically exaggerated popular fears, reliable studies show that dangers to the environment from a nuclear power plant are very slight. An atomic explosion in such a plant is absolutely impossible. Protective systems make any major accident with the reactor exceedingly unlikely, and none has ever happened. The amount of radioactive waste is small and can be safely disposed of. The only significant environmental effect is a slight raising of the temperature of the water used for cooling the reactor, which affects water life in only a very small area.

The construction of a greatly increased number of nuclear power plants is clearly necessary if we are to meet our electric power needs without more severe air pollution. The "environmentalists" who are fighting construction of these plants do not seem to realize that the availability of ample electric power is indispensable for achieving their own primary goal of cleaning up pollution. Obstacles to nuclear plant siting and construction should be removed and their construction should be encouraged rather than discouraged by the government.

SATELLITE INFORMATION GATHERING

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1973

Mr. TEAGUE of Texas. Mr. Speaker, the Earth Technology Satellite was designed to bring direct and lasting benefits to every citizen of this country and to the world. Mr. LeRoy Pope, UPI business writer, in a Newport News, Va., Daily Press article of November 16, 1973, discusses the participants in the successful Earth resources program underway and some of the important achievements already obtained from this satellite. The worth of orbital observation for purposes of direct and practicable benefits has now been well established. It is important that we now capitalize on this technology in the years ahead.

The article follows:

SATELLITE INFORMATION GATHERING

(By LeRoy Pope)

NEW YORK.—Ten hours after a barge illegally dumped acid waste in the ocean off New Jersey a space satellite was still making pictures of the crime.

The cameras in the heavens that broadcast this evidence back to earth were contained in Earth Resources Technology Satellite 1, launched one year ago. These particular pictures, accompanied by spectral analytical data, were made as part of a coastal water monitoring study under the direction of Dr. C. T. Wezernak of the University of Michigan.

Daniel J. Fink, director of General Electric Co.'s Space Division in Valley Forge, Pa., a prime participant in the Apollo and Skylab programs, said the Earth Resources Technology Satellite (ERTS) program of the National Aeronautics and Space Administration has drawn an astonishing variety of scientific and industrial inquiries. When NASA asked for suggestions for practical use for the Satellite in gathering information, it got 700 proposals.

More than 300 were considered sufficiently beneficial and practical for immediate investigation. Of these, 83 involved mineral geological exploration, 62 study of farm and forest sources, 45 water resources, 40 land use surveys and mapping projects, 29 environmental studies.

The satellite makes its pictures and data analyses and sends them back to earth by two sensing systems, one made by RCA Corp. and the other by Hughes Aircraft Corp. The Hughes system is the data collector.

The ERTS uses the scientific discoveries and hardware of the earlier space satellite programs to work on economic projects. During its first six months in operation, the ERTS has studied closely some 40,000 scenes around the globe. More than one and a half million high quality photographs have been culled from this production, processed at the Goddard Space Flight Center and sent to government agencies and scientists working on specific projects.

So far results that promise big bonuses to mankind have been achieved in many fields. These include:

Locating potential oil, ore, and other mineral deposits.

Locating new sources of fresh water such as deep well sites.

Classifying land use, both actual and potential over large areas. Prof. Robert B. Simpson of Dartmouth has used satellite data to study one-third of the eastern seaboard stretch from Connecticut through Maine. From this, he already has prepared a detailed land use map of Rhode Island made at a speed of 30 square miles in an hour. This map pinpoints ponds as small as 300 feet in diameter, shopping, commercial, industrial and residential centers and streets and highways.

Monitoring coastal water quality—the project that snared the Jersey Coast acid dumper.

Monitoring water pollution in streams and lakes. Dr. A. O. Lind of the University of Vermont made a study from the satellite data and pictures of pollution in the Lake Champlain and Fort Ticonderoga area along the New York-Vermont border, which served as part of the basis for a suit by the two states against International Paper Co. It has a mill on the New York side of the lake.

Monitoring ocean ice conditions. A number of investigators, including Dr. Paul McClain of the National Oceanic and Atmospheric Administration and James C. Barnes of Environmental Research and Technology Corp. are involved in this.

Areas already being studied include the Bering Sea, Hudson Bay and the Great Lakes. The Soviet Union and the United States are collaborating in studying ice conditions in the Bering Sea. This research could have impact on how to move oil from the new Alaskan Arctic slope fields. It also could open new techniques in weather forecasting and other aspects of climatology.

REPRESENTATIVE GILMAN TELLS HOW HE WOULD HAVE VOTED ON DECEMBER 17, 1973

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1973

Mr. GILMAN. Mr. Speaker, yesterday's snowstorm which crippled transportation in the Northeast region of our Nation grounded air transportation out of New York preventing me from being present for the legislative session. I seek permission to revise and extend my remarks to include in the CONGRESSIONAL RECORD a listing of those votes taken during the session on December 17, setting forth how I would have voted had I been present.

Rollcall No. 692. A motion to recommit the conference report on S. 1435, the District of Columbia home rule bill, "nay."

Rollcall No. 693. On acceptance of the conference report on the District of Columbia self-government and reorganization, S. 1435, "yea."

Rollcall No. 694. On convening the second session of the 93d Congress on January 21, 1974, "yea."

Rollcall No. 695. Extending the ceiling authority for the Small Business Administration, "yea."

ENERGY PRICE HIKES AND RUNAWAY INFLATION

HON. JOEL T. BROYHILL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1973

Mr. BROYHILL of Virginia. Mr. Speaker, under leave to extend my remarks, I would like to call to the attention of my colleagues the very interesting information from one of my constituents regarding the unusual increase in the cost of refined petroleum products:

OPEN LETTER TO CONGRESSIONAL LEADERS AND THE NEWS MEDIA

Attached is a copy of the first of a series of articles entitled "Environment, Energy and Ecology."

As the Congress is now deliberating far-reaching energy legislation everyone should be aware of all possible consequences associated with new energy laws and policies. Until now most discussions and reports have dealt primarily with projections concerning the consequences of physical energy shortages. This first article is one scenario of what could happen if we go along with the sharp energy price-hikes some economists and government officials have been advocating.

Energy is critically different from any other commodity in that it is necessary for all industries and this is not true of any other commodity. For example, a bakery requires energy and flour, a steel mill requires energy and iron ore, a food processing plant requires energy and food and the transportation industry requires a relatively large quantity of energy and some form of vehicle.

Since many products are assembled from parts made in other plants there is a cumulative multiplier, accelerator price effect associated with energy price increases that can dramatically affect costs, prices, and new wage demands. Because energy is different from any other commodity there is reason to believe that our economic system under the dual stresses of immediate energy shortages and drastic price increases will not have the resiliency to adjust naturally to these relatively sudden and explosive pressures. The result could be a combination of unemployment and inflation unpredictable and unprecedented in magnitude that may well overshadow any of our past economic crises.

It is estimated that about 70% of our energy is required for industry and 30% for domestic use. Dramatic energy price hikes in the industrial sector will provide inflationary leverage that will reverberate throughout the economy and will affect all businesses.

The attached article outlines one possible outcome if the price of energy doubles. Because of the overriding importance that good or bad energy legislation will have on each of us, we are contributing this first article free of charge and it may be reprinted in whole or in part if the following credit is given:

"From Article 1 of 'Environment, Energy and Ecology' by Matthew J. Kerbec. Copyright 1973 by Output Systems Corporation."

Enclosed material provides backup for the article.

Sincerely,

MATTHEW J. KERBEC,
President.

ENVIRONMENT, ENERGY, AND ECOLOGY: ENERGY PRICE HIKES AND RUNAWAY INFLATION

(By Matthew J. Kerbec)

In the November 15, 1973 issue of the Wall Street Journal, Herbert Stein, President Nixon's top economic advisor, was quoted as saying, "The direct effect of doubling the price of crude oil would be equivalent to an increase of about 3% in the price of all goods and services." Our curiosity was aroused because this is the first time we could remember hearing a top governmental official preparing us for a 100% increase in the price of any commodity.

The first question that came to mind was, "How big is the oil business?"

According to a report in the November 10, 1973 issue of Business Week, the largest of 31 oil companies sold over $81 billion worth of petroleum products in the first nine months of 1973. Companies with sales less than $27 million per quarter are not listed in that report.

This is an average of $27 billion for each quarter or $108 billion for 1973 and is about 35% higher than the FY 1974 Department of Defense budget. The total of all sales (Approximate Gross National Product) in the U.S. is expected to be around $1.3 trillion for 1973. It was surprising to learn that the oil business is the biggest and represents over 8.3% of the total.

Now if prices doubled in 1974 these same 31 oil companies would sell $216 billion worth of energy. Our curiosity was still not satisfied and we decided, as they say in the Pentagon, to run a scenario. Having no computers we had to use pencil and paper so in our scenario we have only one big energy company that serves one big factory. There are 90 million people who work in the energy company and the factory. Our workers average $8,000 per year and the total wage bill for 1973 then is $720 billion and all of the work force belongs to one union. Also our factory arrives at its selling price by multiplying all costs by 1.25 which provides a 25% profit before paying any taxes.

Let's look at part of what happens in 1974 if nothing changes except that the cost of energy increases by $108 billion. The first thing our factory manager does is apply the 1.25 multiplier. The 1974 increase in sales price then becomes $135 billion ($108 billion x 1.25), and the total sales become $1.435 trillion or an increase of 11% compared to 1973. The union people have been watching this with mixed emotions and decide they do not want inflation so they will only ask for a wage increase of 11% to break even. So the labor bill for 1974 will increase by $79.2 billion ($720 billion x 0.11). However, if the factory is to maintain its profit margin it would have to use the 1.25 multiplier again on the increased labor costs which will amount to $98.75 billion ($79.2 billion x 1.25). When this is added to the total factory selling price of $1.435 trillion, the total for 1974 will now be $1.534 trillion ($1.435 + 0.098).

The end result in our scenario is that by some time in 1975 the energy hike has resulted in a $233 billion (18%) rise in prices and most of this pure inflation.

Now if everything works the way it should the energy company managers will realize they are paying 18% more for the products they buy and 11% more for their labor and will use their own multiplier to maintain a proper selling price for energy going to the factory—and the cycle starts again.

Our scenario has been tremendously simplified and some things should be pointed out. About one-third of our oil comes from overseas so increases for imported petroleum will have to be paid by the oil companies.

In the scenario we assumed that a 100% increase in a barrel of crude oil would result in a 100% increase in the selling price for all petroleum products which may or may not be the case. Also the estimated $108 billion sales for 1973 is inflated to the extent that this figures includes items such as international sales of natural gas. Supposedly natural gas prices are controlled by the Federal Power Commission but how well these controls are working is questionable and there is strong pressure to completely deregulate natural gas prices.

However, our scenario was conservative to the extent that we only considered 31 oil companies and the impact of a 100% energy price hike in one factory. The energy industry is critically different from other industries such as mining, food, chemicals, paper, steel, and aluminum. Energy is a fundamental requirement for all industries but the reverse is not necessarily true. All industries can be defined as some combination of energy, raw materials, machines, people, capital and land.

Some government officials and economists are telling us to let the market place decide the price that should be paid for energy. This is all right for items we can substitute or do without. However, there is no substitute for energy. It is an absolute necessity; to run our factories, and businesses; transport people and things; and heat our homes. This means that we will have to pay any price the sellers of energy wish to charge. Industries not able to pay these prices will have to cut back production or close. Some industries such as transportation and plastics are extremely energy intensive. In these industries any increase in the price of petroleum products will have a direct bearing on costs and multiplier effects. Many of us think of energy costs as a small part of the selling price of the products we buy but these costs have a multiplier-accelerator effect far beyond that of any other commodity.

In our scenario we used a profit margin multiplier of 1.25. Suppose the products from our scenario factory went through 5 more plants before becoming a saleable product at the retail level. If all these plants used the same 1.25 cost multiplier the energy costs would be marked up again and again. In addition, each plant itself adds the new extra cost associated with a particular plant's cost increase for energy and this results in an additional cumulative increase or accelerator effect that is insidious but significant. It also must be remembered that there are transportation costs associated with moving these goods between plants that will also increase costs and prices. The transportation industry is more susceptible to energy price hikes because the basic raw material it uses is fuel oil or gasoline which may double in price.

It turns out that any sharp increase in energy prices can have unpredictable multiplier-accelerator effects on our economy and these could lead to dangerous inflationary pressures.

Our scenario only considered the inflationary effect. Another critical and inseparable part of the energy problem is the impact that actual energy shortages will have on the economy and employment. One thing is clear—the solution to problems of shortages, inflation and unemployment does not seem to be in the direction of sharp price increases in energy which is the most basic of all commodities.

If other countries nationalize their petroleum industries and hold prices at some relatively constant level while we sharply raise prices, our dollars will be spent to buy the products made in those countries in preference to our own. This leads again to the possibility of another devaluation of the dollar and another serious balance of payments situation.

As a final thought, energy shortages and escalating costs due to actions by foreign governments is requiring the U.S. to exert more diplomatic, economic, and military pressures on these countries. A question that is increasingly being asked is, "How far do voters want our government to go in backing private overseas investments, so they can have the privilege of paying higher prices for energy which is vital to the functioning of the country?"

THE SAFE SCHOOLS STUDY ACT: EDUCATION WITHOUT VIOLENCE

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1973

Mr. BINGHAM. Mr. Speaker, for many educators, security not educational improvement is the priority item. In a technological society such as ours, which places a premium on educational achievement, this is unfortunate.

Many school districts are turning to the most obvious solution, introduction of security personnel to stem the tide of violence in the schools. I do not believe that this is necessarily the best or only solution to the problem. The Safe Schools Study Act, which I introduced on December 14, along with the gentleman from California (Mr. BELL), would provide the Congress with the information it needs to fashion a national policy to curtail school violence.

The article reprinted below, from the February 19, 1973 edition of Time, explains the problem of the "blackboard battleground":

BLACKBOARD BATTLEGROUNDS: A QUESTION OF SURVIVAL

Security on our campuses is the No. 1 educational problem today—not curriculums or new approaches to teaching," says California Educator Eugene McAdoo. "You can't teach anything unless you have an atmosphere without violence."

Few urban educators would disagree. Armed robberies, assaults and purse snatchings occur with depressing regularity in many—though obviously not all—of the nation's city schools. Declares Los Angeles' Principal Sid Thompson: "For teachers and students alike, the issue unfortunately is no longer learning but survival." His own high school is known as "Fort Crenshaw" because of its steel mesh fence, armed guards and classroom doors that lock from the inside. Not even such Draconian measures have left Crenshaw free of violence. Last month a gang climbed over the fence, tore off a student's jacket and severely beat him.

An especially alarming aspect of school violence is the growing number of assaults upon teachers in many cities across the country. New York, for example, recorded 541 such attacks last year—almost double the 285 reported in 1971. Detroit averages 25 assaults on teachers every month. The result is that many teachers are afraid of their students and incapable of imposing the discipline needed for teaching.

Far more often, however, it is the students themselves who are the victims. School officials blame most of these incidents on intruders, often dropouts who return to prey on their former schoolmates. They lie in wait in school toilets to shake down students for their lunch money, roam the halls and playgrounds extorting and terrorizing.

Such violence reflects to a large extent the jungle of the slums, for it is there that the schools with the worst problems are located. For an addict needing money for his next fix, a student with lunch money is an obvious target. Gang fights frequently spill over into school buildings. Vandalism alone costs schools $200 million a year nationally. Violent acts are often so seemingly meaningless that they defy reason. Outside Intermediate School 155 in New York's desolate South Bronx, a youngster was nearly stomped to death recently during an argument over a bottle of soda pop.

Increasingly, students in such schools are arming themselves with knives and cheap handguns. "In the kids' eyes, a gun is an equalizer," says one teacher. At Los Angeles' Compton High School a 17-year-old student, armed with a gun and a knife, demanded money from a 16-year-old. The victim drew his own gun and shot the extortionist dead.

One answer to the rampant violence is to place guards in the schools. New York City is training 1,200 security guards for its 95 high schools. Chicago has increased its guard force of off-duty policemen from 200 to 490 in the past three years. It now assigns up to eight men to each school, where they inspect locks on doors and check student identification cards, which bear not only the student's photograph and class schedule but are color coded to show his lunch hour. As a result, Chicago has reported an 11% drop in assaults. Philadelphia has assigned 61 uniformed policemen to problem high schools, organized an 80-man mobile strike force of retired cops, and has had a similar drop in school violence and crime.

Some educators sadly observe that elaborate security arrangements only shift the scene of the crimes elsewhere. "It is a community problem," says Crenshaw Principal Thompson. "We can secure the schools, but that doesn't secure the communities." Perhaps not, but it is certainly an important first step.

WHY I OPPOSE GOVERNMENT OPIUM DEAL

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1973

Mr. RANGEL. Mr. Speaker, today I arose in opposition to a bill (S. 2166) before the House which would authorize the disposal of 65,700 pounds of opium from the national stockpile and waive the 6-month waiting period normally required before such disposal.

I oppose this bill, because it contains no safeguards governing the disposal of the opium. We are being asked to turn over 65,700 pounds of opium to the General Services Administration with absolutely no strings attached and with no evidence that the extraordinary procedures authorized by the bill are necessary at this time.

The Armed Services Committee report seeks to justify the opium disposal on the grounds that the three major pharmaceutical companies licensed to manufacture products from opium in this country are running short of raw material.

No evidence of this alleged shortage is presented in the report and the three pharmaceutical companies are not even named. If we are to be asked to vote to dispose of more than 65,000 pounds of raw opium worth hundreds of thousands of dollars on the legal market and several millions of dollars in the illicit market, we should at least be told who will be benefiting from this bonanza.

I never knew while I was working long and hard to get the Federal Government seriously committed to fight the international traffic in heroin, that our own Government had a built-in conflict of interest with several thousand pounds of opium stockpiled. While we spend millions of dollars to eradicate opium crops abroad and spend millions more to stop the international and domestic traffic in opium, our Government becomes one of the world's major opium dealers.

My community, and other communities throughout the Nation, have suffered too much from narcotics addiction for me to stand by and allow 65,700 pounds of opium to be casually disposed by the Government without congressional scrutiny.

I question the validity of the Government stockpiling this dangerously addictive drug. There is an inherent conflict of interest between the Government paying Turkey not to grow opium with one hand and buying opium for its stockpile with the other, and between a policy of vigorous law enforcement against opium dealers and the Government itself being involved in large scale opium dealing.

TIGER MARCHING HUNDRED BAND TO BE SEEN NATIONWIDE ON TV DURING ANNUAL ROSE BOWL PARADE AND PAGEANT ON NEW YEAR'S DAY

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1973

Mr. CONTE. Mr. Speaker, one of the best known and most widely viewed events of the holiday season each year is the annual Rose Bowl Parade and Pageant in Pasadena, Calif.

This year, the nationwide television viewing audience of the New Year's Day spectacular will be treated to an exhibition by the Tiger Marching Hundred Band from South Hadley High School, South Hadley, Mass.

I am immensely proud of this talented group of young musicians. Under the able leadership of Director Roger W. Farnsworth and Assistant Director Frank P. Fuller, the band will not only perform in the parade and pageant, but also will be featured on the NBC television network's preparade program with entertainer "Doc" Severinsen, will perform at Disneyland, and will stage a concert and parade for the mayor of Tijuana, Mexico. In Tijuana, the Tiger Hundred Band will be tendered a dinner, will be entertained at a Mexican folk ballet and will participate in a flag exchange.

Since its formation in 1964, the Tiger Band has grown from a group of 24 to today's full marching complement of 210. They have performed at a number of important occasions, both in this country and abroad, including the Festival of Kerry in Tralee, Ireland, in 1972; the "500 Festival" in Indianapolis, Ind., in 1971; the Inaugural Parade in Washington, D.C., in 1969; the Cherry Blossom Festival, also in Washington, D.C., in 1967; and numerous times at New England Patriots football games and at the Parade of Champions in Philadelphia, Pa.

At this time, I would like to place the roster, provided me by Director Farnsworth, of the South Hadley Tiger Marching Hundred Band and Drill Team into the Record and invite my colleagues to join me in saluting these young men and women:

South Hadley High School Tiger Marching Band and Drill Team, 1973–74 Roster

BAND

Seniors—Leonard Beaudry, Diedre Bilz, Donna Blain, Joann Bourguinon, David Clegg, James Cote, Carol Dandeneau, Jonathon Davol, Paul Dion, Erin Downing, Camille Hersh, Catherine Kotfila, Donald Lacharite, Michael Mainville, William McManus, Karen Ritchie, Mark Rivers, Paul Serpis, Christina Smith, James Tabak, Deborah Wells, Joseph Wholley, Janice Young.

Juniors—David Ashton, David Anthony, Lawrence Batley, Steven Boisvert, Bruce Brooksbank, Terie Brin, Tonie Brin, Cheryl Calhoun, Donald Corbin, Laureen Cwieka, Jody Daly, Lisa Daviau, Helene Domaszewicz, Teresa Duguay, Carol Fraser, Paul Frenette, Gail Gagnon, Dawn Gouin, Stewart Gutoff, Daniel Halkyard, Steven Hamel, Cynthia Hopewell, Craig Hutton, Nancy Hylemon, Marcia Kamish, Karen Kawalec, Marian Kennedy, Karla Koenig, John Kueck, Beverly Levreault, David Miller, William Oldread, Craig Parker, Michelle Pelland, Denise Pin, Barbara Ritchie, Mary Root, Carol Sakiewicz, Michael Scott, Janice Stawarz, Donald St. Georges, Karl Wallgum, Francis Weaver, Nadine Wheeler, Anne Wolfe, Kathleen Zochowski.

Sophomores—Kevin Ames, Betsy Anthony, Marianne Batley, Andrew Beaudry, Gerard Bernard, Joseph Bilz, Maxine Boisselle, John Charlesbois, David Conforti, Scott Clark, Jeffrey Champagne, Susan Damphinais, Joseph Falcetti, Ann-Marie Fernandes, Timothy Fowler, James Hoar, Susan Hooton, Travis Hudelson, Roger Huebner, Mark Jamisson, Terri Jones, Christine Kotfila, Catherine Labrie, Doreen LaFlamme, Stephen LaRosa, Karen Meon, Mark Michalski, Gail Motyka, Terri Nolin, Donald Perrault, Stephen Pelland, Debra Pont, Ronald Ree, Sally Rohan, Stephen Sasseville, Susan Schnugger, Susan Smith, Robert Theroux, James Wildman.

Freshmen—Richard Belsky, Jonathan Berky, Betty Boulais, Gretchen Brown, Brad Ciechomski, Pamela Clare, Priscilla Corneliusen, Michelle Cote, Leslie Cushing, Sarah Davol, Lisa Fischer, Jeffrey Fleming, John Foley, Stephen Foley, Betty Fortier, Eugene Fournier, Nancy Gondek, Susan Hamel, Laurel Hamilton, Anne Hartwell, Kevin Howes, Theresa Hunt, Cynthia Hutton, Linda Januszlewicz, Katherine Kamish, Walter Kaplan, Kathy Kluza, Robert LaFerriere, Mark LaFrance, James Lecca, Brian Miller, Kathy Rogers, David Satlawa, Barbara Slosek, Andrea Smith, Sharon Stapley, Regina Theroux, Michael Thivierge, Thomas Weaver, Lloyd Wells, Anne Werenski, Robert Whelihan, Christopher Williamson, Chris Zochowski.

DRILL TEAM

Seniors—Cynthia Gingras and Barbara Panek.

Juniors—Pamela Barszewski, Cynthia Brissette, Nancy Boulais, Patricia Chase, Martha

Constant, Anna DeFelice, Susan Downie, Maryann Flanagan, Patricia Fleming, Leslie Legrand, Deborah Nolin, Kathy O'Meara, Celeste Patryn, Nancy Root, Caryn Serpis, Karen Shattuck, Nancy Supczak, Cheryl Supanski, Sharon Tapor.

Sophomores—Lynne Authier, Charon Bagley, Janet Boisjolie, Deborah Brunault, Marjorie Chase, Deborah Clark, Diane Colman, Diane Davieu, Karen Fontaine, Karen Hendricks, Judy Jedziniak, Deborah LaCroix, Anne Lebrecque, Rene LeRose, Barbara LeDuc, Sarah L'Hevreux, Charlene Malanowski, Maryann Racine, Cathy Scott, Kathy Thornton, Brenda Wilkins.

Freshmen—Kathy Blaney, Lisa Caron, Lee Ann D'Ordine, Marjorie Flanagan, Diane Flannery, Rene Godard, Laura Hunter, Deborah Joniec, Kathy Lynch, Mary Ellen Miller, Karen Quesnal, Jackie Rosa.

MANDATORY SEATBELTS AND COERCIVE GOVERNMENT

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1973

Mr. CRANE. Mr. Speaker, there are, we would all agree, a number of important functions which only Government can perform. These are set forth in the Constitution, a document which seeks carefully to limit the powers of Government and make certain that through a system of checks and balances no single branch of Government can ever possess too much power and authority.

Freedom, as we have always understood it, means that each individual has the right to make the important decisions in his own life. A free society does not make these decisions for the individual, and the right to be free means the right to be wrong, as well as correct, to act against one's self-interest, as well as in its behalf.

Only totalitarian societies mandate proper modes of behavior in the citizen's own behalf. Our idea has always been that a man's right ends only where the right of another man begins. We stop at red lights because we are not the only ones involved in the transaction.

When Government begins to tell us what to do "for our own good," where no one else is involved, we approach a dangerous transaction from a free and open society, to a rigid and coercive one.

I am afraid that the Department of Transportation's requirement that 1974 and later year automobiles be equipped with a device that prevents a car from being started unless both lap and shoulder safety belts are fastened is such a step in the direction of coercion.

The elected representatives of the people have never passed a law imposing such a requirement, yet nonelected bureaucrats have declared this to be the new law of the land. The day when laws are declared rather than passed by the Congress is in itself a sign of our movement away from constitutional government. Such a regulation, however, would be equally inconsistent with freedom if the Congress has approved it.

The decision on whether or not to use seatbelts should be personal to the driver. The use or nonuse of seatbelts presents no danger to other motorists on the road. Equipping automobiles with elaborate sensors which will inconvenience 1974 buyers is a gross example of needless bureaucratic regulation run wild. It is for this reason I have joined as a cosponsor of legislation which seeks to end these requirements. It is unfortunate that the Congress must pass a law to eliminate a bureaucratically promulgated regulation. This, however, is the state of our government at this time.

Recent reports have even indicated that the current regulations act against, rather than in support of, greater driver safety. James Mateja, auto editor of the Chicago Tribune, reports that Roy Haeusler, chief of engineer-automotive safety and security of the Chrysler Corp., believes that the inconvenience of the system may be turning off motorists to efforts at improving driving safety. He states that:

> Interlock is not a good system. I don't think you can get people to wear a seat belt by passing a law or installing interlocks.

Mr. Mateja quotes Mr. Haeusler as stating that we should "do away with the garbage and simplify the system. In the last analysis the Government must realize you cannot push people around because they will always find ways to defeat the system."

The real question before us does not relate to the merits or demerits of seatbelts, but to the nature of a free society. Coercion must be kept to a minimum, and the trend toward an unfree society inherent in the seatbelt regulation must be reversed. I wish to share with my colleagues the article concerning the interlock system by James Mateja which appeared in the Chicago Tribune of November 25, 1973, and insert it into the RECORD at this time:

"TURNING OFF" MOTORISTS TO SAFETY: INTERLOCK SYSTEM VALUE QUESTIONED

(By James Mateja)

The seat belt interlock system on 1974 cars is several weeks old, but whether motorists are buckling up more (or, maybe less) is unknown.

Roy Haeusler, chief engineer-automotive safety and security of Chrysler Corp., believes there may never be conclusive proof that interlocks are forcing more people to buckle up.

He is more concerned, however, that the inconvenience of the system may be turning off motorists to efforts to improve driving safety.

"Interlock is not a good system. I don't think you can get people to wear a seat belt by passing a law or installing interlocks," he said.

With interlocks, the car, in theory, will not start until all front seat passengers (including a heavy bag of groceries) are harnessed into the one piece lap and shoulder belt combination.

Motorists must use seat belts thru their own inclination; interlock is the "pushy" way. Haeusler said, "I'm sure some people who wore belts are saying. 'I'll be damned if I wear them.' Others who didn't wear the belts are even more resolute in their refusal."

Haeusler staunchly supports lap and shoulder belt use, but readily criticizes the interlock—its making belt use mandatory and upsetting motorists to boot.

"The buzzer system of the past (when a buzzer and dash light would activate when belts weren't fastened) probably had the net effect of getting more people to use belts without the severity and irritability of interlock. I sense more people would use belts if we had left in these qualities of the belt system and left out interlock."

Many fears about interlock system failures have been realized, Haeusler said. Cars are not starting even if belts are fastened; buzzers are going off after the belts are fastened and the car is started, and people are starting their cars without fastening the belts.

"With interlock there are 100 transistors and various other switches in the seats and buckles so the possibility for error is greater."

Haeusler charges the government was quick to raise a clamor over the installation of the interlock system, but is avoiding the controversy now that the system is in operation.

"We've asked public officials in Washington to be photographed with their interlock system fastened. We were looking for example-setting, yet the public officials haven't come thru. With the low esteem they now are held in, maybe it would be better to turn to movie stars or beauty queens. A Raquel Welch would do well."

In Canada cars are equipped with the one-piece lap and shoulder belt system, but without the accompanying interlock. Haeusler believes this is a suitable alternative. "It shows the system has a lot going for it without interlock. The question is whether anybody from Washington will study it."

Haeusler believes that problems associated with the interlock, among other things, may have an affect on the fate of the air bag system.

"After January 1 General Motors will offer air bags as an option insome of its top-of-the-line models. Will the people be willing to plunk down $215 more for the air bags? With the G.M. cars you'll be able to get the bags either with or without the belt system. Which way will the consumer go?" he asks.

The safety executive fears unpleasant experiences with interlock will push consumers toward air bags rather than seat belts. He favors a system that combines both safety features.

G.M. is investing a tidy sum in the bag experiment and stands to lose a good chunk of it if consumers opt for cars minus the 150,000 optional air bags it has ready to install.

"The stakes are so high I can well understand their risking getting stuck with the bags. The issue of air bags is so politically and emotionally loaded G.M. is allowing the public to make its own decision.

"I'd like to add the air bag to the existing belt system (minus interlock). You get better back up protection from the bags because some people don't wear the belts. But remember the bag is a back up system to the belts, not a replacement, and this is how bags should have been rated in the first place.

"We have lots of back-up systems now the padded dash and shatterproof windshields, but if I'm wearing my lap and shoulder belt I won't hit the dash and won't go thru the windshield anyway."

Haeusler asserts there wouldn't be such flap over bags versus belts if the government hadn't tried to sell the public on the bags as a fool-proof system.

"For the government to state that bags are the best is to assume they mean bags without belts would suffice, which isn't true, and it also assumes that people won't try to beat the belts, but they'll try. There is nothing we can put in a car that can't be dismantled."

Sen. John Tunney (D., Cal.) and Rep. Carleton King (R., N.Y.) have proposed abolishing the interlock facet of the seat belt system, a proposal that Haeusler favors.

"Let's do away with the garbage and simplify the system. In the last analysis the government must realize you can't push people around because they'll always find ways to defeat the system," he concluded.

OUR NATION SALUTES THE FIRST BAPTIST CHURCH OF PATERSON, N.J., ON ITS 150TH ANNIVERSARY CELEBRATION

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1973

Mr. ROE. Mr. Speaker, on January 6, 1974, citizens of my Eighth Congressional District and the State of New Jersey will celebrate and commemorate the 150th anniversary of the First Baptist Church of Paterson and I know you will want to join with me in extending our heartiest congratulations and best wishes to the distinguished members of the clergy and congregation on this most historic event. It is my distinct honor and privilege to also commend to you the esteemed members of the clergy and church council of the First Baptist Church of Paterson whose outstanding dedication and sincerity of purpose in unselfishly and willingly extending their personal commitments toward the spiritual enrichment of our people and their outstanding efforts for the public good have truly enriched our community, State, and Nation. The current pastors and officers of the First Baptist Church are as follows:

Pastors and Officers

Reverend Richard P. Camp, Interim Pastor.
Reverend Reyes Ortiz, Hispanic Pastor.
Russell G. Ackerman, Moderator.
Albert Van Splinter, Vice-Moderator.
Mrs. Dorothy VanDerWall, Secretary.
Mrs. Laraine Brower, Church Clerk.
Mrs. Jean Mayorga, Treasurer.

DEPARTMENT OF WORSHIP

T. George Wood, Chairman.
Walter Decker.
Mrs. Claire Brand.

DEPARTMENT OF MEMBERSHIP

Wilbur Van Steveninck, Chairman.
Mrs. Gladys Stellingwerf.
Mrs. Alice Cooper.

DEPARTMENT OF RESOURCE

Anthony Belle, Chairman.
Mrs. Lee Forster.
Alex Phillian.

DEPARTMENT OF OUTREACH

John VanDerWall, Chairman.
Mrs. Harriet Milazzo.
Mrs. Alice Decker.

DEPARTMENT OF CHRISTIAN EDUCATION

Mrs. Ruth Van Steveninck, Chairman.
Garret Sugarbaker.
Mrs. Thelma Meyer.

The members of the 150th anniversary committee, who are also exemplary leaders of our community, are as follows:

Anniversary Committee

Mr. and Mrs. Norman W. Hopper, Co-Chairmen.
Mr. and Mrs. Garret Sugarbaker, Co-Chairmen.
Mrs. June Brower.
Mrs. Alice Decker.
Mrs. Thelma Decker.
Ralph Parrilli.
Miss Jean Sugarbaker.
Mrs. Marion VanderWensel.
Mrs. Doris Walker.
Jack Walker.
Mrs. Dorothy Westerhoff.

Chairman Hopper has been most diligent in researching the history of the First Baptist Church of Paterson and I insert at this point in our historic journal of Congress some interesting facts that he forwarded to me containing a chronology of events that have occurred in the building of the First Baptist Church of Paterson over these past 150 years. These noteworthy achievements of the First Baptist Church of Paterson surely manifest the pioneering spirit of America from its very beginnings and the rewarding results that can be attained through the spontaneous communion and everlasting bond of faith, hope, and charity among our people that is truly the most distinguishing asset that makes ours the greatest country of all nations throughout the world. The historic highlights are as follows:

Chronology of Events

The First Baptist Church of Paterson was organized in 1823. The population of Paterson at that time was 5,081 (the 1970 population census in Paterson numbered 144,824). The members of the organizing council which convened on January 1, 1824 were as follows: Reverend William House of Bergen County, Samuel Fratt of Morris County, Reverend Joseph W. Griffith of Rockland County, New York, and Reverend John Richards of New York City. The original seventeen members of the new church were as follows:

Reverend William House, Maria House, Thomas Coombs, Elizabeth Coombs, George Dameral, Alfred Stoutenborough, David Cole, John Cole, Elizabeth Cole, Mary Jackson, Esther Curial, Isabel H. Franks, Deborah Bates, Sarah Ackerman, Uriah Everson, Catherine Everson, and John Halbet.

The church's first location was a private school room in a building on Broadway, Paterson which had formerly been used as a tavern. The first Baptism, by immersion, took place in the Passaic River at the foot of Mulberry Street. After having several locations, a new church building was erected at the present location, at Washington and Van Houten Streets. It is interesting to note that as early as 1856 the First Baptist Church expanded and a mission was started in the "Sandy Hill" section of Paterson. A small one-story building was erected on the eastside of Straight Street, between Market and Willis Streets, the latter now being known as Park Avenue. In August 1856, the new building was opened for a Sunday School and five years later, it had to be enlarged. The rapid growth of the Sunday School led Messrs. James McNab, Dr. A. W. Rogers, John Byard, John J. Brown, Henry B. Crosby, James Crooks and Abram Crovsdale to unite their efforts and purchase eight lots on Willis Street and Mechanic Street (now 16th Avenue) and erect the building known as the Willis Street Baptist Church in 1868. In 1859 a member of the congregation, Mr. Lewis L. Conklin mortgaged his own home to purchase land for the church building at Washington and Van Houten Streets which was dedicated on January 31, 1860.

From this humble beginning the church continued to grow and become a leading entity in the spiritual and civic life of the city. Its history is long and illustrious!

The church has been served by 28 pastors during its 150 years. The Reverend William House was chosen as the first pastor and served two years. The second pastor was the Reverend Daniel Lewis who remained for seven years. Reverend Zelottes Grenell of Orange County, New York accepted a call to the pastorate in 1833 and during the five years of his ministry, 148 were added to the church by baptism.

Reverend Charles W. Dennison was installed as pastor on September 4, 1839 and remained for one year. Reverend George Walling, a young man of 25, was next called to the pastorate, but after preaching only two Sundays, he was taken ill and died. He was followed by Reverend George Young in 1841 and during his two-year pastorate approximately 90 candidates were baptized. He was succeeded by Reverend Richard Thompson, who remained for one and a half years. The Reverend Charles H. Hoskin was the eighth pastor of the church, and when he resigned, the church recalled Elder Grenell, who remained for four years of successful preaching.

From 1852 to 1855 the Reverend Stiles Parker served as pastor, baptizing 20 candidates during his ministry. In 1856, the Reverend Rufus Babcock, D.D. became the pastor and during his service of 8 years 185 were baptized.

The Reverend Samuel J. Knapp succeeded to the pastorate following the resignation of Dr. Babcock in 1864. In October 1865, Dr. Joseph Banvard was called to the pastorate from Worcester, Massachusetts. After Dr. Banvard severed his connection with the church, there was a period of almost two years when the pulpit was vacant. Religious meetings were conducted by the deacons and from May to July of 1876, 45 were added to the church by baptism. The leaders of this revival were Deacons G. Demarest, W. Clerihew, H. Waters and E. Kohlsaat, men who through their zeal and dedication were an inspiration to all throughout their membership.

Reverend A. Burlingham served as pastor from May 1877 to April 1878. In July 1878, Reverend Frank Fletcher accepted a call and served a little less than 2 years, tending his resignation in January 1880. The Reverend E. A. Woods came to the church in May 1880 and during his six years, 172 were baptized.

In 1886, a student at Crozier Seminary, Spenser Meeser, was called to be pastor. He was ordained in this church in September 1886. After seven years, Mr. Meeser severed his connection with the church and in 1894, Reverend James Whitcomb Brougher began his work. Under his leadership, a Chinese Sunday School was established. It was during this pastorate that George Waters, son of Henry Waters, a former deacon, was ordained and sent out as the First Baptist Church's representative in China. Mr. Brougher ended his pastorate in October 1899.

In March 1900, Reverend Alonzo DeLarme became pastor. It was two years after he became pastor when one of the most disastrous fires in the history of the country occurred in Paterson. Before this fire was checked, it had taken 20 blocks of the business district, causing an insurance loss of $5.75 million. Five churches were consumed by the flames, among them the First Baptist.

The congregation under the leadership of Mr. DeLarme faced the situation with Christian courage and determination. Temporary quarters were secured in the Sixth Holland Reformed Church on Godwin Street. The sessions of the Sunday School were held in School #1 on Fair Street. Three weeks after the fire, the congregation was driven from its temporary quarters by flood conditions, the Passaic River overflowing its banks. Undaunted by the double disaster of fire and flood, the people proceeded to plan to rebuild, and on October 14, 1902, ground was broken. On Memorial Day, 1903, the cornerstone of the present church building was laid and it was on April 3, 1904 that the first service was held in the Sunday School section of the new building. The entire building was not ready until the following year and was dedicated February 12, 1905, three years after the fire. This building is still in use at this location. It is also interesting to note that in 1961 the First Baptist Church had an extensive program in its educational building, expending $200,000 remodeling its interior. The exterior of the church has remained the same as when constructed after the fire.

Mr. DeLarme concluded his services in June 1905 and was succeeded by Reverend Gorrell Quick who during his seven years baptized 173. His service terminated in 1912 and in 1913, Dr. Waldo was installed as pastor. After a successful five years, Dr. Waldo tendered his resignation.

In the spring of 1918, the congregation was fortunate in securing the Reverend Frank MacDonald to serve as pastor. In July 1919 the Board of Trustees recommended that an Endowment Fund be created and on August 4, 1919, this account was opened with a legacy received from Mrs. Annie Post Marinus. Trustee A. K. Hamilton administered this fund faithfully for the next 50 years. It was with deep regret in 1923, the announcement was received that Dr. MacDonald would leave Paterson.

For a year, two able men served as supplies: Dr. Curtis Lee Lawes, editor of the Watchman Examiner, and Dr. Mark Wayne Williams. Dr. Williams prepared for the new pastor and in February 1924 the Reverend Russell Morse Brougher, a native son of a former pastor, Reverend J. Whitcomb Brougher, assumed the leadership, and served until 1928.

From 1928 to 1934 the Reverend G. Pitt Beers gained the respect of the church and the city through his ability as an organizer and inspiring preacher. For two years of his pastorate he was assisted by the Reverend John W. Thomas as Director of Religious Education and Youth Work.

The Reverend James Willard McCrossen accepted the pastorate in 1935 until his death on June 25, 1939. The Reverend Percy Gladstone Beatty was called to fill the pulpit on May 15, 1940 until 1952. The ministry of Dr. Fred MacArthur began in February 1953 and concluded in August 1956. The Reverend Harold Buker proved to be an excellent Interim Pastor until Dr. Jarrett T. Chandler came to the church on September 8, 1957 until August 31, 1964. Two well-qualified interim pastors filled the pulpit during the months before the church selected a new pastor. Dr. Henry A. McCanna, Director of the Churches of Town and Country of the National Council of Churches served as Interim for 14 months. Reverend Ralph C. Drisko, who was formerly Director of Evangelism of the New Jersey Baptist Convention, began his interim pastorate in January 1966 until the coming of the Reverend O. John Eldred in June 1966.

During Reverend Eldred's pastorate, the Russian Ukranian Church with the Reverend Peter Gordiejew as their pastor, held their worship services in Fellowship Hall during the regular Sunday morning service time. During this period, the congregation engaged Miss Eleanor Menke as a Director of Religious Education. The dual leadership proved to be of great spiritual value to the congregation. An all church retreat was held in May 1968 which provided opportunities for fellowship and inspiration. This retreat was held for 3 consecutive years. An active inner-city ministry was also initiated with the cooperation of the membership with a city-wide youth program called INNCA and the church's own local CORRAL and Bible Adventure Time (BAT) programs in the church building.

On January 1, 1971 a constitutional change was put into operation which provided for a Church Council of 15 members. The duties of the former five boards of the church were reassigned to five departments and three members of each of these departments served on the council along with the church officers and the church staff. It provided for the election of a moderator who would chair the Church Council and the business meetings of the church and serve as the President of the Church Body.

In March 1972 a Spanish ministry was initiated under the direction of the Reverend Reyes Ortiz. By the fall of the year 1973, about 20 adults and 20 children were attending the special services conducted on each Sunday afternoon in the chapel of the church. Reverend Eldred responded to a call to serve with the Ohio Baptist Convention on February 28, 1973. The church was most fortunate to secure the services of its present Interim Pastor, Dr. Richard P. Camp who was a former pastor of the Van Riper Ellis Memorial Church in Fairlawn, New Jersey, a neighboring community. The quality of his leadership and richness of his wisdom were already well known to the congregation of the First Baptist Church of Paterson who were indeed fortunate to receive his outstanding services.

This historic church has survived the Civil War, World War I, World War II, the Korean Conflict and the Vietnam War. Many members of the congregation served in the armed forces during these conflicts. The First Baptist Church has also survived financial panics and depressions, a major disastrous fire and catastrophic flood. It is considered the "Mother Church" of many other churches which were organized from its membership including Park Avenue Baptist Church of Paterson, the Union Avenue Baptist Church of Paterson, the Broadway Baptist Church of Paterson, the Van Riper Ellis Church of Fairlawn, and the Hawthorne Baptist Church.

The First Baptist Church was also instrumental in organizing the Young Men's Christian Association of Paterson and a member of First Baptist, Dr. Alexander Rogers, was elected the first President of the YMCA. The Honorable John J. Brown, the first Mayor of Paterson and an organizer of the First National Bank and the bank's first President, was a member of First Baptist.

The church has also sponsored most successfully a Russian-Ukranian Church as well as its Spanish ministry.

Mr. Speaker, as 1973 draws to a close I know that you and our colleagues will want to join with me in saluting the outstanding achievements of the clergy and parishioners of the First Baptist Church of Paterson and expressing our best wishes for their continued success and happiness as we look ahead to the New Year of 1974 which, incidentally, the members of the First Baptist Church have, in accepting the challenges of the future, labeled as "1974, a Year of Decision."

OUR NATION SALUTES THE PREAKNESS REFORMED CHURCH OF WAYNE, N.J., ON ITS 175TH ANNIVERSARY CELEBRATION

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1973

Mr. ROE. Mr. Speaker, I am proud and honored to have this opportunity to call to the attention of you and our colleagues here in the House a most historic event that is taking place in my hometown of Wayne where the oldest church in our township, the Preakness Reformed Church, is celebrating its 175th anniversary.

The history of the Preakness Reformed Church is most eloquently depicted in a recent feature story by the distinguished columnist Betty Macaulay which appeared in a recent issue of the Paterson News, one of New Jersey's most prestigious newspapers, and reads as follows:

WAYNE CHURCH MARKING 175TH ANNIVERSARY

(By Betty Macaulay)

WAYNE.—The oldest church in the township will climax its 175th anniversary celebration Sunday at two special festival morning services and a banquet in the afternoon.

The Preakness Reformed Church on Church Lane will welcome as guest speaker at both the 9:15 and 11 a.m. services the Rev. Dr. Howard G. Hageman, president of New Brunswick Theological Seminary, author, and former minister for 28 years of the North Reformed Church of Newark.

Three former ministers of the historic church will speak at the dinner planned for 1 p.m. at Wayne Manor. Visiting their former congregation will be the Rev. Dorr Van Etten of the New Prospect Reformed Church of Pine Bush, N.Y.; the Rev. David Van Sickle of Upper Ridgewood Community Church in Ridgewood, and the Rev. Douglas Fromm of the First Reformed Church in Somerville. Also taking part will be the present church minister, the Rev. Albert A. Smith and Samuel Ford, vice president of the church consistory. Arthur Udland, a consistory member, will be master of ceremonies. He and his wife are sharing chairman responsibilities with Dr. and Mrs. Karl Pinto.

TOURS PLANNED

Displays of historical interest and tours through the church buildings will be available for the public on Saturday as an extension of the anniversary celebration. Guests will visit the old church cemetery where headstones date back to the late 1700's. An arts and crafts exhibit of members' hobbies will be on view in the church's Berdan Hall at that time.

Although Sunday's festivities will be more traditional in nature, special events marking the anniversary throughout the year have reflected the church's more liberated attitude. Members put on a talent show, a square dance, and a series of dinners including a progressive dinner, a beefsteak and a pot luck supper.

Chairmen of the anniversary committee are Mr. and Mrs. Samuel Ford.

Helping on the committee, besides Mr. and Mrs. Udland and Dr. and Mrs. Pinto are Mrs. Harold Boughton, Mr. and Mrs. Ronald Hinchman, Roy Barclay, Mrs. Alexis Bonid, Peter Beversluis, Mr. and Mrs. James Lee, Miss Jennie Vander Valk, Mr. and Mrs. Frank Giannini, Mrs. Arthur Schweitzer, Mr. and Mrs. George Kopp, Mr. and Mrs. Harvey Atkinson, Edwin Van Wyk, Mr. and Mrs. William DeYoung and Richard Houston.

Although the area of Preakness was settled sometime between 1715 and 1720 by two Berdan brothers, the first church was not erected until 1798. Residents worshipped in the churches of neighboring villages and an old schoolhouse on the present site of Schuyler-Colfax Junior High School.

No pictures are available of the first church building which stood from 1798 until a new one replaced it in 1852. Formal organization came in 1802 but preaching services were held only once a month. Six ministers were assigned to preach in Preakness, each occupying the pulpit twice a year. The Sacrament of the Lord's Supper was administered but twice yearly. Then in 1825, the Rev. Zachariah Hoffman Kuypers was retained to preach and divided his time between the Ponds Reformed Church in Oakland, and the Wyckoff Reformed Church and the Preakness Church.

Finally, in 1842, the Rev. John Woods became the church's full-time minister. A parsonage was erected in 1846 on a two-acre plot on what is now Valley Road.

CONGREGATION GROWS

Passing the 100 member mark in 1882, the congregation grew and prospered without major incident until in 1930 fire completely demolished the old building. Insurance money and the contributions of the faithful helped make possible the rebuilding of the sanctuary on the same site. The cornerstone was laid May 30, 1931. In addition to that cornerstone, the one from the 1798 building was placed in the east wall and can be seen today.

Since the erection of the new church as rebuilt Fellowship Hall was added in 1948 and a parish house in 1960.

In sharp contrast to the early days in the history of the Preakness Reformed Church when preaching services were held but once a month, the church installed two men in 1967, the Rev. Douglas W. Fromm as assistant minister and the Rev. Albert A. Smith as minister who is still serving the church.

Under the dual leadership, the church reached out to the youth of the community by establishing a meeting room called first The Oxbow, then "The Infinite Tunnel." It took the form of a coffeehouse sponsored ecumenically by the churches of Wayne and open to all youth in the area. At times more than 300 young people met there to play guitars, play games, dance or just communicate with each other.

Within the church itself, the mood of innovation brought about different forms of worship such as the use of guitar music, films, slides and dance and dramatic programs—all used as part of the worship service. Innovations in Christian education included rap sessions for all ages and sex education. Even the laity now takes a more important part in planning church activities. For the first time in the church's history, women have been elected to the consistory, the first being Deacon Marilyn Ratcliffe and Elder Elmer Goeller.

Mr. Smith has been serving the congregation alone since the departure of Mr. Fromm in 1971. He has had the assistance of Miss Cynthia Brandt, a student at Union Seminary in New York as a part-time pastoral assistant.

The oldest church in the community looks forward to celebrating its religion with new tools which appeal to the eyes and the ears. It is a renewed, more vital and humanized church which Mr. Smith is striving for.

"What we've done here is to come to grips with the real world," said parishioner Ford. "Church is no longer a Sunday discipline for us."

Mr. Speaker, no matter how we equate or measure our investments in life—by whatever standard applied—in our sense of values and our constant quest for excellence, it is fundamental that investment in human values is paramount to our mutual endeavors and responsibilities. I am indeed pleased to seek this national recognition of the Preakness Reformed Church of Wayne, N.J., and ask you and our colleagues to join with me today in saluting its congregation and pastor, the Reverend Albert A. Smith, during this 175th anniversary celebration in appreciation of all of their good works which have truly enriched our community, State, and Nation.

NATIONAL ENERGY EMERGENCY ACT

HON. ELLA T. GRASSO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1973

Mrs. GRASSO. Mr. Speaker, for the people of Connecticut and the rest of New England the energy crisis is bad and getting worse.

Estimates of shortages in New England this winter for residual and home heating oil reach 50 and 30 percent, respectively. Since residual oil generates 70 percent of the area's electric power and heating oil warms 75 percent of New England's homes, we need a thorough, efficient energy allocation and conservation system which will insure the New England States that they will not have to bear an inordinate share of the burden during the shortage.

The National Energy Emergency Act would establish measures necessary to meet essential energy needs of the country during the crisis. The bill establishes a Federal Energy Administration to implement the mandatory fuel allocation program and submit to the Congress energy conservation plans. By requiring congressional approval of these plans, the bill would prevent unilateral Executive action which might not be equitable or in the best interest of the Nation. In addition, the bill authorizes the President to order priorities among users of oil products and to allocate supplies among the priority users.

Along with many of my colleagues, I have some doubts about giving this unprecedented power over our lives to the Federal Energy Administration and its director Mr. Simon. An administration that reorganizes its energy functions monthly and paints rosy pictures of an energy future which is uncertain at best cannot be given uncontrollable authority in this crisis. However, concentration within a single agency is imperative for the efficient administration of a conservation and allocation program.

It is my hope that the administration will at last assume the role of keeping the American people faithfully informed of the magnitude of the energy crisis as well as the problems, priorities, and possibilities surrounding the allocation program.

To date this has not been the case. For example, given the fact that we produce domestically only 70 percent of our energy needs and given the normal yearly increase in energy demand, the President misleads and confuses the Nation by stating that the energy crisis is a 1-year, one-shot problem. The crisis will not end in 1-year or one decade. It will end when we develop new energy sources, reorder our energy priorities and reeducate ourselves with a spirit of energy conservation.

The National Energy Emergency Act contains a number of vital provisions, including one which would restrict the export of coal, petroleum products, and petrochemical feedstocks if the exports would contribute to unemployment in the country. In addition, the prohibition against price gouging is designed to prevent the reaping of windfall profits during the crisis. Also, the inclusion of the antitrust provisions, the unemployment grants to States, and the oversight power of Congress all deserve to be included in the final language of the bill.

Along with many of my colleagues, I am disappointed that certain strengthening amendments were not included during our marathon session. Nevertheless, the bill provides a reasonable and balanced approach to meeting the energy shortage. Retaining the hodge-podge system which did little or nothing to prepare us for this national emergency was an unacceptable alternative. Under the circumstances, therefore, I supported the National Energy Emergency Act.

THE TRUE MEANING OF CHRISTMAS

HON. JOHN E. HUNT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1973

Mr. HUNT. Mr. Speaker, at this time of the year when we are approaching the Christmas holiday, we ofttimes neglect the true meaning of Christmas—the celebration of the birth of Christ. Some people think of it as a few days off so that they can go to football games—others think it is a national holiday for the purpose of giving and accepting gifts—and many of our little children never know the true meaning of Christmas, because they are taught to believe that only Santa Claus is important.

One of the many Christmas cards we received at our home was one from Mr. and Mrs. Stanley Lewis of West Deptford, N.J., which depicts something that we are forgetting today. It is the saying by Robert Louis Stevenson in which he said, "Lord behold our family here assembled." His wisdom gave us so much in the way of our American life and heritage and considering the practical sense to which it has been associated, I am enclosing the entire quote by Mr. Stevenson, hoping that my colleagues will take note of it.

I am quite fortunate to have friends like the Lewis family. We need more Americans today who have the total knowledge of Christmas in their hearts.

The material follows:

THE TRUE MEANING OF CHRISTMAS

(By Robert Louis Stevenson)

Lord behold our family here assembled. We thank Thee for this place in which we dwell, for the love that unites us, for the peace accorded us this day, for the hope with which we expect the morrow, for the health, the work, the food and the bright skies that make our lives delightful, for our friends in all parts of the earth.

OMB WOULD LIKE TO CONTRACT OUT THE GOVERNMENT

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1973

Mr. WALDIE. Mr. Speaker, it is all too apparent that the Office of Management and Budget is now perhaps the most powerful agency in the executive branch, and that it is dictating policy, without the necessary check of accountability, to much of the Federal Government.

In this regard, I was particularly disturbed to have brought to my attention an as yet unpublished proposal by OMB to all the military branches suggesting that beginning in fiscal year 1975 the vast bulk of military base support operations, now primarily performed by tens of thousands of career civil servants, should be contracted out.

Additionally, the OMB proposal would require a single contractor to control the support functions on an individual military base rather than a number of different contractors. It is clear that OMB, headed by a former magnate of the military-industrial complex, is thoroughly ingrained with the philosophy of "big business should run the Government." Contracting out of Government facilities and functions is rationalized as a way of balancing the budget and reducing military appropriations. But this is nothing more than a coverup for the administration's basic "big business" bias. There are many difficulties with such a philosophy.

First of all, it creates havoc with the lives of thousands of career civil servants and their families. Second, it creates inefficient "cost-plus" contracts which guarantee profits for those companies who are awarded the contracts.

Third, in proposing a single basewide contractor, OMB would give large contractors another advantage in that it allows them a bigger piece of the pie in terms of both profits and power to influence governmental decisions regarding the military. Smaller companies are simply excluded from competing for any of the business.

OMB also cites the possibility of significant dollar savings with the initiation of its contracting out policy. But most of all, every taxpayer in the Nation has a vital interest in the assertion that contracting out will save tax money.

Past conversions have demonstrated that industry submits bids which show an initial cost savings in comparison to the number of dollars spent on the civil service function, but after the first year of having a function contracted out, the costs increase substantially in the succeeding years—and the increased costs of the contractor erase any initial military cost savings which might have been realized.

The civil servants at the Pacific Missile Range at Point Mugu, Calif., are today being threatened by OMB's policy of welfare for big business. In this case, the decision to contract out the support functions of the Pacific Missile Range was made before a realistic cost-savings analysis was completed. One thousand four hundred and forty-eight civil service employees face losing their jobs once a contract bid is accepted to convert the Pacific Missile Range to a Government-owned, contractor-operated facility. The Navy has been playing handball with the lives of these employees long enough. In attempting to comply with Mr. Ash's philosophy and interests, the Navy refuses to be forthright in dealing with the employees at the Pacific Missile Range. The equivocations of the Navy on this issue have not only lowered the morale of the workers at the base but have instilled many of them with hopelessness and fear as to their futures. This has been done without any practical or genuine logic to support the Navy's decision. Cost-savings figures have not been supported and it is difficult to find any reasonable excuse for this conversion.

The revelations of the last year should have taught us that big business must not be heavily involved in the operations of our Government. It allows them certain advantages which are often used to increase profits rather than improve and make more efficient the present system.

Mr. Speaker, it is time for the Congress to bring OMB and its philosophy of "big business knows best" under careful scrutiny, and eventually, at the very least, a modicum of control.

WHEAT PRICES

HON. ANGELO D. RONCALLO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1973

Mr. RONCALLO of New York. Mr. Speaker, this past week wheat prices exceeded their levels of August. Shipments in the July 1–December 7 period were at 58 percent of the total the U.S. Department of Agriculture has forecast for the July 1–June 30 crop year. The Department's own report of outstanding export sales to known destinations plus shipments to date are well in excess of their export forecast for the year. There is considerable new business pending.

What are we doing to deal with the situation? It appears the current government policy is to ignore the problem and hope some miracle will cause it to go away. Our current energy crisis indicates that there is no substitute for making hard but timely choices.

DOWNTOWNS: THEY DON'T HAVE TO DIE

HON. BO GINN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1973

Mr. GINN. Mr. Speaker, I would like to call to the attention of my colleagues a report on one of the most exciting developments in urban living that has taken place in our country in years. This development is not new to the people of my congressional district, but I imagine that a great many Americans are not aware of it.

This development involves the remarkable work taking place in the city of Savannah in Georgia. Savannah is one of the most beautiful cities in our Nation, and like so many cities, its beauty was threatened by its growth and urban decay. But the people of Savannah have proven that community concern can effectively attack urban problems.

There is an excellent account of Savannah's story in a recent column by James J. Kilpatrick, who I feel is one of the leading columnists and commentators in the Nation.

The column follows:

DOWNTOWNS: THEY DON'T HAVE TO DIE

SAVANNAH, GA.—So much of the news we read today is news of failure—of things that go badly—that it may be a welcome change to read of a thumping success. The beautiful old port city of Savannah is demonstrating to its own people, and to a mounting stream of visitors, that downtowns don't have to die. Savannah's inner city is happily alive.

It wasn't always that way. Over the past 240 years, since James Oglethorpe laid out the city in 1733, Savannah has known its ups and downs, but far more downs than ups. Prior to the War for Southern Independence, as it still is termed in these parts, Savannah seemed destined for glory. Its cotton exchange was thriving; its bankers were building wealth; no ambition seemed out of reach.

Then came Sherman, marching through Georgia, and the dream collapsed. Cotton declined as synthetic fibers came along. Lumber gave way to other building materials. Naval stores lost their importance. Savannah grew, but it didn't grow greatly. Its 1970 population of 118,000 was a thousand less than the city reported in 1950.

Yet some exciting things have been happening in Savannah. Call it a renaissance. or call it a new spirit, or credit the city's resurgence to a band of dedicated leaders who saw values worth preserving. The city boasts a new cultural center, the home of its symphony. Its port leads the South Atlantic Range, with 8 million tons of bulk and general cargo last year. By 1976, a $6 million urban-renewal project will make its waterfront a pure delight. Savannah has stopped drowsing.

The most significant element in all this is the restoration of Savannah's central city. In a burst of brilliant inspiration, Oglethorpe conceived the city long ago as a cluster of 24 squares. Around each of these small parks, great homes and elegant row houses arose. Churches flourished. Then the same cancer set in that has afflicted many old cities. A movement developed toward suburbs and subdivisions. The whole of the downtown area seemed destined to become a shabby Southern slum.

A turning point came some 20 years ago, when downtown merchants, in a desperation move, succeeded in demolishing the old city market at Barnard and Congress Streets. The market admittedly was in sad shape, but it housed the colorful hucksters of old Savannah. They used to sit on stools along the sidewalk, shelling beans and selling crabs, talking the geechee dialect. Nothing could save them from progress. The merchants tore down the market and erected the world's ugliest parking garage on the site.

Savannah reacted in shock. Loss of the market galvanized civic leaders into forming the Historic Savannah Foundation. Mrs.

Hansell Hillyer, wife of the president of the Savannah Gas Co., already had demonstrated what restoration could mean in the small Trustees' Garden. Now Anna C. Hunter, artist and newspaper woman, threw her energies into the monumental task of saving an area of two square miles with 1,100 houses.

Much work remains to be done, but a visitor who returns to Savannah, after a lapse of 20 years, is stunned by the beauty and the charm of the downtown city. Some 900 houses have been restored. Marshall Row on Oglethorpe Avenue, which 10 years ago was in apparently irretrievable decay, has regained its own elegance. There is not a prettier oasis in any American city than Monterey Square. And the key point is this: People live and work here. This is no museum. It is a thriving, viable city, as intimate as Florence—a city of live oaks and fountains, brick walks and cobblestones, of sunlight shuttered through palmetto leaves.

I do not mean to slight other cities engaged in the same vital work. Charleston, Boston, Philadelphia, Providence, and Richmond are recapturing a graciousness that once seemed lost. Farther west, Denver and Seattle have caught the spirit of preservation. San Antonio's river development deserves all the acclaim it has received. But in Savannah, the task was unusually large and the financial resources were lamentably small. The city at a crucial point, found leadership and vision. Given a city worth preserving that is all it takes.

BILL HOCH—DISTINGUISHED LABOR LEADER—RETIRES

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1973

Mr. KEMP. Mr. Speaker, my good friend, Bill Hoch, is retiring from the trade union movement. He has been the distinguished leader of the Great Lakes District of Local 25 of the AFL–CIO International Union of Operating Engineers' Marine Division, as well as the Buffalo Port Council of the Maritime Trades Department (AFL–CIO) for many years.

The trade union movement will miss him as will all of the western New York community. Bill Hoch is an honorable man of uncompromising integrity. He has the profound respect of all who know him.

John Kennedy once said that history will judge each of us based on the answers to four questions: "First, were we truly men of courage. Second, were we truly men of judgment. Third, were we truly men of integrity. Finally, were we truly men of dedication?" Though we cannot yet judge Bill Hoch as historians, those of us who know him know the answers to those questions—each can be answered swiftly with an unqualified "Yes."

The Buffalo Evening News carried a great article by Ed Kelly marking Bill's retirement. I include it at this point:

Maritime Trade Union's "Mr. Integrity" Stepping Down After 44 Years

(By Ed Kelly)

The House of Labor in western New York is losing one of its staunchest pillars.

He's the gentlemanly, silver-haired unionist who for many years has been leading the Great Lakes District of Local 25 of the AFL–CIO International Union of Operating Engineers' Marine Division, as well as the Buffalo Port Council of the Maritime Trades Department (AFL–CIO).

Hoch, who's 65, is giving up the helm of both organizations this month, ending a career that's kept him uninterruptedly in one union office or another for 44 of the 45 years he's held a union card.

He and his wife, Grace, will divide each year between Florida and Orchard Park. And though the labor movement's losing Bill, it's not—by a long shot—losing the Hochs. Three of Bill's sons—Don, Bob and Dick—belong to Steamfitters' Local 395, and his other son, Bill, is a member of Plumber's Local 36.

The head of this trade-union clan, the retiring Bill Hoch, started work as a helper on a drill boat in the Port of Buffalo back in 1928, joining at the time Local 5042 of the International Surface Rock & Drill Boat Workers Association, an affiliate of the then AFL's International Longshoremen's Association.

The following year, 1929, Hoch was elected vice president of Local 504–2 and from that day to this, in a variety of offices at local, regional and international levels, and in successor organizations to the old Local 504, he's never lost an election and has been opposed only once since 1959.

Hoch became a full-time, salaried union officer in 1950 with his election as grand president of the International Surface Rock & Drill Boat Workers Association's Local 504.

Though carrying a local-union number designation, it actually functioned as an international union.

He merged his organization in 1959 with the then newly-chartered Local 25 of the Operating Engineers' Marine Division, headed by President Steve Leslie, and became one of its executive board members and the representative of its Buffalo-headquartered Great Lakes District.

Local 25 is a far flung organization. The 4,500 men it represents in 38 states work aboard drill boats and dredges used in river and harbor improvement through the Great Lakes and along the East Coast.

Hoch himself bargains for about 500 men on the Lakes as well as for drill boat workers along the Eastern Seaboard.

He's had other duties in his union as well. For the last 5 years he's been Local 25's treasurer and, since 1962, a trustee of its welfare, pension and vacation plans.

His local hasn't been the only labor organization benefiting from his leadership. Under Hoch's six-year presidency, the Maritime Trades' Buffalo Port Council mushroomed from eight to 28 local union affiliates, from a total rank-and-file constituency of fewer than 10,000 to more than 43,000.

The Port Council, made up of unions in maritime and allied industries, campaigns for legislation beneficial to its affiliates and for political candidates friendly to its goals. It also assists affiliates in problem-solving and supports worthy charitable and community causes.

Hoch's also been an executive board member of the Buffalo AFL–CIO Council since 1968.

He's liked, admired and respected by unioinists and employers alike. Fiercely loyal to his friends, he's often gone to great lengths to give them a hand when needed.

Like most good labor leaders, Hoch's been tough; but, unlike many, he's also been kindly.

"Bill's exactly what he appears to be," recalls one longtime Hoch-watcher, "a friendly, low-key, considerate, straightforward, reasonable guy who wants to see justice done for his members and for the employers who provide the jobs for his members."

Hoch's always said what he thought and meant what he said, even if it meant disagreeing with his boss in Local 25, or taking on other members of the labor movement (which is what happened last year when he loyally stuck with Rep. Jack Kemp while the AFL–CIO was howling for the congressman's scalp).

Bill Hoch doesn't dissemble. He can't. It isn't in him. It's his nature to be open, above board. One top labor figure here calls him "Mr. Integrity."

Bill Hoch is—well, he's Bill Hoch.

He'll be missed. The responsible trade union movement will be the poorer for his leaving.

AIRLINE FUEL SAVINGS

HON. JOHN E. MOSS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1973

Mr. MOSS. Mr. Speaker, it has come to my attention through the press that a number of air carriers are reducing service and grounding aircraft as a consequence of the current fuel crisis. One of the important factors which must be taken into consideration in making these changes is the amount of fuel consumed per passenger or available seat. In this regard, the Aviation Daily recently reported in its December 11, 1973, issue that Japan is considering an earlier introduction of domestic widebody jet service because these aircraft consume less fuel per seat than smaller aircraft.

According to JAL, the 727–100, with 127 passengers, consumes 35 liters of fuel a minute; the McDonell Douglas DC–8–61, with 233 passengers, 46 liters; and the 747SR, with 490 passengers, 65 liters. Thus use of the SR would save 55 percent and 30 percent over use of the 727 and DC–8.

While I concur that some changes are necessary in view of the current fuel shortage, what bothers me is that I feel some of the proposed revisions are being made for reasons other than the saving of fuel, such as equipment standardization and more frequent service; and therefore that—at least in some cases—the results reached will be the consumption of more fuel, especially in the short-haul markets where the prop-jet is more efficient than the pure jet, and the more dense markets where the widebody jets consume less fuel than the smaller jets.

For this reason, I had my staff make a special study of the fuel consumed by various aircraft types operated by U.S. scheduled air carriers during the calendar year 1972. This study showed that during 1972 the new widebody jets consumed 10 to 11 gallons of fuel per available-seat block hour, the regular body jets, 11 to 14 plus gallons of fuel per available seat-hour, and the smaller prop-jet and propeller feeder aircraft, 5 to 7 gallons of fuel per available seat-hour. Thus, the substitution of a pure jet for a prop-jet on short-haul routes can increase fuel consumption by 3 to 4 gallons per available seat-hour and trip, where the block times are relatively the same. Likewise, the use of two regular body jets instead of one widebody jet on dense routes, in order to increase frequency of service, can boost fuel consumption by 2 or more gallons of fuel per available seat-hour.

I might add, a 10-percent fuel savings per available seat-hour can produce an overall 11-percent increase in system revenues.

Accordingly, Mr. Speaker, I believe my colleagues will find the following table useful in evaluating the airlines' forthcoming schedule changes as it affects their district.

FUEL CONSUMPTION—U.S. SCHEDULED AIRLINES, 1972

Type of equipment, carrier group, and carrier	Gallons of fuel consumed per aircraft block-hour	Average available seats per aircraft mile	Gallons of fuel consumed per available seat block-hour
Wide-body jets:			
B-747:			
Domestic	3, 349	317. 1	10. 56
American	3, 274	307. 2	10. 66
Braniff	3, 407	324. 4	10. 50
Continental	3, 475	295. 1	11. 78
National	3, 619	358. 1	10. 11
Northwest	3, 314	357. 0	9. 28
Pan American	3, 590	336. 5	10. 67
Trans World	3, 447	318. 0	10. 84
United	3, 243	305. 5	10. 62
International	3, 635	332. 8	10. 92
American	3, 776	322. 0	11. 73
Northwest	3, 486	362. 0	9. 63
Pan American-Atlantic	3, 622	336. 5	10. 76
Pan American-Latin	3, 501	337. 3	10. 38
Pan American-Pacific	3, 654	336. 6	10. 87
Trans World	3, 685	328. 1	11. 58
DC-10-10:			
Domestic	2, 170	224. 6	9. 66
American	2, 215	223. 9	9. 89
Continental	2, 127	200. 0	10. 64
National	2, 236	249. 0	8. 98
United	2, 108	221. 0	9. 51
L-1011:			
Domestic	2, 365	213. 7	11. 07
Eastern	2, 429	227. 5	10. 86
Trans World	2, 318	206. 0	11. 25
International: Eastern	2, 873	227. 4	12. 63
4-engine jets:			
B-707-100B:			
Domestic	1, 657	116. 5	14. 22
American	1, 676	121. 5	13. 79
Braniff	1, 862	122. 9	15. 15
Trans World	1, 618	110. 3	14. 67
International	1, 714	136. 1	12. 59
American	1, 644	128. 8	12. 76
Pan American-Latin	1, 751	139. 7	12. 53
B-707-300:			
Domestic: Trans World	2, 136	150. 3	14. 21
International: Trans World	2, 330	145. 2	16. 05
B-707-300B:			
Domestic	1, 859	143. 0	13. 00
American	1, 743	137. 8	12. 65
Pan American	1, 835	139. 8	13. 13
Trans World	1, 965	149. 3	13. 16
International	1, 913	147. 8	12. 49
American	2, 252	143. 5	15. 69
Pan American-Atlantic	1, 885	150. 3	12. 59
Pan American—Latin	1, 897	140. 2	13. 53
Pan American—Pacific	1, 930	143. 5	13. 45
Trans World—Atlantic	1, 864	153. 1	12. 18
Trans World—Pacific	2, 020	146. 4	13. 80
B-707-300C:			
Domestic	1, 906	137. 0	13. 91
American	1, 911	134. 3	14. 53
Continental	1, 989	136. 5	14. 57
Northwest	1, 894	140. 9	13. 44
Pan American	1, 885	138. 0	13. 66
Western	1, 846	136. 2	13. 55
International	1, 900	142. 6	13. 32
American—Latin	1, 618	136. 4	11. 86
American—Pacific	2, 205	146. 7	15. 03
Braniff	2, 148	164. 6	13. 05
Northwest	1, 873	150. 2	12. 47
Pan American—Atlantic	1, 957	137. 8	14. 20
Pan American—Latin	1, 940	137. 3	14. 13
Pan American—Pacific	1, 957	137. 4	14. 24
Trans World	1, 913	145. 1	13. 18
B-720:			
Domestic	1, 870	118. 3	15. 81
Braniff	1, 977	123. 8	15. 97
United	1, 784	115. 0	15. 51
Western	1, 950	119. 2	16. 36
B-720B:			
Domestic	1, 631	114. 7	14. 22
Continental	1, 634	106. 3	15. 37
Northwest	1, 588	109. 0	14. 57
Western	1, 638	118. 4	13. 83
International	1, 682	120. 1	14. 00
Pan American—Latin	1, 642	121. 7	13. 49
Western	1, 725	118. 6	14. 54
CV-880:			
Domestic	1, 847	93. 8	19. 69
Delta	1, 853	96. 0	19. 30
Trans World	1, 842	91. 8	20. 02
DC-8-20:			
Domestic	2, 145	125. 4	17. 11
Eastern	2, 191	137. 7	15. 91
National	2, 452	139. 0	17. 64
United	2, 078	120. 9	17. 19
International: Eastern	2, 572	137. 7	18. 76
DC-8-30:			
Domestic	2, 166	130. 5	16. 60
Delta	2, 341	135. 0	17. 34
United	2, 023	127. 0	15. 93
DC-8-50:			
Domestic	1, 808	128. 9	14. 03
Delta	1, 849	135. 0	13. 70
National	1, 923	139. 0	13. 83
United	1, 704	116. 7	14. 60
International: National	2, 019	126. 0	16. 02
DC-8-61:			
Domestic	1, 984	175. 0	11. 34
Delta	2, 134	195. 0	10. 94
Eastern	1, 890	195. 4	9. 67
National	2, 138	192. 7	11. 09
United	1, 904	161. 9	11. 76
International: Eastern	2, 293	196. 2	11. 69
DC-8-62:			
Domestic: United	1, 727	130. 4	13. 24
International: Braniff	1, 962	163. 7	11. 99
DC-8-63:			
Domestic: Eastern	1, 784	203. 1	8. 78
International: Eastern	2, 022	197. 8	10. 22
3-engine jet:			
B-727-100:			
Domestic	1, 271	96. 1	13. 23
American	1, 304	93. 1	14. 01
Braniff	1, 299	102. 0	12. 74
Delta	1, 209	96. 0	12. 59
Eastern	1, 303	97. 3	13. 39
National	1, 349	102. 0	13. 23
Northeast	1, 238	96. 3	12. 86
Northwest	1, 246	93. 0	13. 40
Trans World	1, 282	90. 2	14. 21
United	1, 214	97. 9	12. 40
International	1, 486	106. 5	13. 95
American	1, 374	93. 8	14. 65
Eastern	1, 443	97. 2	14. 85
Pan American—Atlantic	1, 569	126. 7	12. 38
Pan American—Latin	1, 443	100. 1	14. 42
Other: Alaska	1, 193	89. 8	13. 29
B-727-100C/QC:			
Domestic	1, 301	98. 0	13. 28
Braniff	1, 326	102. 0	13. 00
Eastern	1, 336	97. 2	13. 74
Trans World	1, 314	90. 4	14. 54
United	1, 255	98. 0	12. 81
International	1, 490	114. 9	12. 97
Braniff	1, 376	103. 6	13. 28
Pan American—Atlantic	1, 574	126. 8	12. 41
B-727-200:			
Domestic	1, 397	123. 3	11. 33
American	1, 409	122. 7	11. 48
Braniff	1, 428	128. 6	11. 01
Continental	1, 460	110. 0	13. 27
Delta	1, 377	130. 5	10. 56
Eastern	1, 384	131. 2	10. 55
National	1, 424	131. 7	10. 81
Northeast	1, 369	130. 5	10. 49
Northwest	1, 338	122. 0	10. 97
Trans World	1, 406	119. 6	11. 76
United	1, 315	123. 0	10. 69
Western	1, 392	121. 9	11. 42
International: Eastern	1, 559	131. 2	11. 88
2-engine jets:			
BAC-111-200:			
Domestic: Braniff	802	62. 4	12. 85
Local service	792	72. 9	11. 02
Allegheny	789	72. 7	10. 85
Mohawk	803	69. 0	11. 64
B-737-200:			
Domestic	893	91. 9	9. 72
United	874	89. 9	9. 72
Western	924	94. 9	9. 74
Local service	885	93. 7	9. 45
Frontier	860	97. 0	8. 87
Piedmont	908	90. 0	10. 09
Intra-Alaska: Wien Consolidated	944	106. 7	8. 85
Intra-Hawaii: Aloha	944	116. 7	8. 09
DC-9-10:			
Domestic	892	66. 7	13. 37
Delta	883	68. 0	12. 99
Eastern	869	65. 8	13. 21
Trans World	921	66. 0	13. 95
Local service	873	74. 7	11. 69
Hughes Air West	846	75. 0	11. 28
Ozark	892	74. 0	12. 05
Southern	928	75. 0	12. 37
Texas International	801	74. 7	10. 72
DC-9-15F:			
Domestic: Continental	895	71. 0	12. 61

Footnotes at end of table.

FUEL CONSUMPTION—U.S. SCHEDULED AIRLINES, 1972—Continued

Type of equipment, carrier group, and carrier	Gallons of fuel consumed per aircraft block-hour	Average available seats per aircraft mile	Gallons of fuel consumed per available seat block-hour
2-engine jets—Continued			
DC–9–30:			
Domestic	931	89.0	10.41
Delta	945	89.2	10.59
Eastern	917	89.2	10.27
Northeast	933	92.0	10.14
Local service	932	99.0	9.37
Allegheny	969	100.0	9.69
Hughes Air West	891	103.0	8.65
North Central	916	98.5	9.30
Ozark	893	97.0	9.21
Southern	1,034	95.0	10.88
Texas International	782	96.3	8.12
Intra-Hawaii: Hawaiian	987	106.2	9.29
International: Caribbean	825	112.0	7.37
4-engine propeller:			
L–188 (Electra):			
Domestic: Eastern	650	87.6	7.42
2-engine propeller:			
CV–580:			
Local service	348	49.4	7.04
Allegheny	365	50.0	7.30
Frontier	336	50.0	6.72
North Central	339	48.0	7.06
CV–600: Local service: Texas International	259	39.9	6.49
F–27:			
Local service: Hughes Air West	247	40.0	6.18
Intra-Alaska: Wien Consolidated	225	38.8	5.80
F–227:			
Local service	271	45.3	5.98
Mohawk	264	43.7	6.04
Ozark	273	46.0	5.93
Piedmont	270	44.0	6.14
YS–11: Local service: Piedmont	304	60.0	5.07
M–404: Local service: Southern	206	40.0	5.15
DHC–6 (Twin Otter):			
Local service	75	16.8	4.46
Frontier	70	15.0	4.67
Ozark	81	19.0	4.26
Intra-Alaska: Wien Consolidated	78	11.5	6.78
G–21 (Goose): Intra-Alaska: Alaska	43	8.0	5.38

Source: Aircraft Operating Cost and Performance Report, Civil Aeronautics Board, Washington, D.C., vol. VII (July 1973).

RELEASE OF STOCKPILED COPPER

HON. ELLA T. GRASSO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1973

Mrs. GRASSO. Mr. Speaker, the importance of S. 2316 to industry in the State of Connecticut cannot be overemphasized.

Earlier this year I received numerous letters from management and labor indicating their concern about the shortage of copper and their support for legislation to authorize the disposal of copper from the national stockpile. Without sufficient copper supplies, the letters noted, the copper and copper-base alloy industries in Connecticut would be forced to take action detrimental to the economic viability of the State.

After the passage of S. 2316 by the Senate on September 13, I wrote to the distinguished chairman of the Armed Services Committee (Mr. HÉBERT) and urged him to expedite House consideration of the bill. In late September, I indicated in testimony prepared for subcommitee hearings that the release of copper was necessary to prevent serious economic disruption in Connecticut and throughout the country. Not only copper industries, but hardware and other manufacturing concerns would be adversely affected by a continued supply/price squeeze for copper.

S. 2316, which the House with my support passed today, would release 251,600 short tons of copper from the national stockpile. The release of this copper would ease the present supply shortage and help dampen inflationary pressures on copper prices.

Mr. Speaker, I am certain that the other body will accept the minor House amendment to the bill and that the President will sign S. 2316 into law with all haste. This will be a constructive development for industry in Connecticut and throughout the Nation.

CRIPPLING REHABILITATION SERVICES

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1973

Ms. ABZUG. Mr. Speaker, last month, I was pleased to support my colleague the Honorable HENRY B. GONZALEZ in his amendment to the supplemental appropriation providing $650,000,000 for basic State services to handicapped Americans.

The conference report provides only $630,000,000; $20 million below the authorization. Many States, including New York, have sufficient funds to match the highest possible allotment under this authorization. To appropriate an amount short of the authorization undercuts the congressional mandate to increase services to the severely disabled and places an undue hardship on States to meet their needs.

The handicapped have endured two Presidential vetoes; $630,000,000, while in compromise a substantial amount, is neglectful of the increasing needs of the handicapped and the demands we are making of the agencies responsible for this area.

Mr. Speaker, at this time in my remarks, I would like to include a letter I recently received from Ewald B. Nyquist, New York Commissioner of Education. I think that you will find that Commissioner Nyquist's remarks clearly illustrate the position of many States in this matter.

The letter follows:

THE UNIVERSITY OF THE
STATE OF NEW YORK,
Albany, N.Y., December 12, 1973.

Hon. BELLA ABZUG,
House of Representatives,
Longworth House Office Building,
Washington, D.C.

DEAR CONGRESSWOMAN ABZUG: In looking through the Congressional Record of November 30, 1973, (Pages H10431–H10434), I noted the discussion regarding the first Supplemental Appropriation Bill and the amendment submitted by Congressman Gonzalez of Texas to provide the appropriation authorized for the basic vocational rehabilitation program under the Rehabilitation Act of 1973 (PL 93–112).

Apparently, incorrect information had been provided to the Subcommittee on Appropriations and I feel it necessary to call your attention to this matter so you will have factual information available if and when the appropriation is reconsidered in Conference Committee and in the House. (It is my undertsanding the Senate Appropriations Committee has just reported the recommendation of $650,000,000 for Sections 110(a) and 110(b) of the Rehabilitation Act of 1973 as compared to the $615,870,000 in the Bill passed by the House.)

In his statement on the floor, the Subcommittee Chairman, Mr. Flood, noted correctly that some States do not always come up with necessary matching funds and concluded it was not necessary to appropriate the full authorization to match the State's available funds. He indicated he had questioned the "HEW witnesses (who) saw no problem . . . We clearly had the impression that the amount requested is all that is required to make allotments on the basis of the authorized amount."

Congressman Flood went on to say: "If later estimates from the States at any time show that matching funds are available so that the full amount of the authorizations can be used, we expect that the administration will request a supplemental appropriation later in the year."

It is certain that either erroneous information or an erroneous impression has been given the Subcommittee. In a Hearing before the House Select Subcommittee on Education on December 10, 1973, Mr. James Dwight, the SRS Administrator, and Mr. Corbett Reedy, the RSA Acting Commissioner, affirmed that information available to them from the States as of several months ago showed that the States had funds available to match more than $644,000,000 under the authorization and that it could be expected, from past experience, that this would probably be a minimum figure. Futher, SRS Administrator indicated no intention to request another supplemental appropriation to match even these State funds, indicated as already available at the beginning of the fiscal year.

New York State is seriously affected by the $615,870,000 appropriation figure and I believe you will be interested in the facts about the claimed adequacy of such an appropriation as it affects us. (All figures are from DHEW sources.)

The allotment of funds for the New York basic vocational rehabilitation program under currently operative "continuing resolution" is $31,722,323. Under an appropriation of $615,870,000, the New York allotment will be $31,942,858, some $220,000 or 69 one-hundredths of 1 per cent greater than our current allotment. In view of inflationary impacts and the Congressional mandate to give increased emphasis to the severely disabled, this new allotment would actually reduce the amount of services which might be made available for handicapped clients.

Further, I call your attention to the fact that the Federal program has not provided for many years allotments to New York State which would meet the Rehabilitation Act's requirement for the Federal share of the program's expenditures. If the Federal allotment were to equal 80% of the total as required, it would have to be greater than $32,000,000 to meet the State's mandated "maintenance of effort" expenditures.

Under an appropriation of $650,000,000 New York State would be allotted $34,039,210 which is $2,316,887 greater than the current allotment and $2,096,352 greater than the allotment would be under the $615,870,000 figure which had been previously approved by the House. Our available State funds are sufficient to match the highest possible allotment under the authorization and I urge support for the $650,000,000 appropriation so that we may be able to assure continuation of our best efforts to rehabilitating handicapped individuals into gainful employment.

May I point out, also, that the 650,000,000 figure represents a much lower amount than originally included in the two previously-vetoed Rehabilitation Acts and that both President Nixon and HEW Secretary Weinberger made public statements that the new compromise amount was acceptable and within "a non-inflationary balanced budget."

Your interest and support for the New York State and the national program with the House members of the expected Conference Committee and on the floor will be appreciated, I am sure, by all of our disabled citizens in the State as well as by those of us here in the Department responsible for providing quality services to these individuals.

Faithfully yours,

EWARD B. NYQUIST.

SOVIET MILITARY MIGHT: STILL BEING BUILT BY THE WEST

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1973

Mr. ASHBROOK. Mr. Speaker, the rush to trade with the Soviet Union continues as is witnessed by a recent article in U.S. News & World Report entitled "Russia Buys Yankee Skills. . . ."

While I have previously discussed the Raymond Loewy and the Lummus Co. deals, I have not discussed all the American firms involved in the construction of the huge Kama River truck plant which will be the largest of its kind in the world. Of course, the Kama River truck plant will be able to manufacture military vehicles for the Soviet Armed Forces. It does not seem too logical to build the military might of an enemy but the construction continues anyway.

In the 1960's there were often many assurances from both the Kennedy and Johnson administration, that the United States would not allow trade in "strategic" goods. That distinction has proven its worthlessness. Is a truck that can be used to haul troops, weapons, or other war materials a strategic good? It would seem so, but so then are iron and steel mills, ball-bearing plants, and numerous other items that the Soviets have bought from the United States. Will many in the U.S. Government never learn that trade does not lead to peace? The Germans and Japanese in World War II should have taught that lesson. Czechoslovakia, Vietnam, and the Middle East should have taught that lesson. Why build up an enemy?

The text of the article follows:

RUSSIA BUYS YANKEE SKILLS . . .

A drive by Moscow to modernize both the production of consumer goods and the operation of its basic industries is sparking fresh Soviet deals for American know-how.

One of the latest of these agreements calls for the firm of Raymond Loewy/William Snaith, Inc., to work with the Russians on the industrial design of products ranging from tractors and cars to watches and cameras.

The New York concern and its Paris branch are to aid the styling of these and other items. They also will project markets for them. Soviet officials describe the contract with Loewy as the "first U.S.S.R. experiment of international cooperation in this field."

The Lummus Company in another arrangement soon will start engineering work for the Russians in an acetic-acid plant based on technology of the Monsanto Company. Lummus, a unit of Combustion Engineering, Inc., also is to advise on construction of the complex in the Ukraine as part of its 45-million-dollar contract.

Of three recently signed U.S. agreements which are linked to Russia's big Kama River truck plant, two underscore the Soviet interest in keeping the environment clean.

One contract calls for the Carborundum Company and a Swedish licensee to provide systems for the control of dust and gases from 26 furnaces in the factory's foundries. The record-sized equipment will cover an area comparable to a football field and be eight stories high.

In another deal, American Air Filter Company, Inc., is to furnish scrubbing devices to remove dust and dirt from the air in the foundries. Also for the Kama plant, the Albany International Corporation will supply 15 automatic forging machines and related tooling valued at 3 million dollars.

NO SHOWS AT PRO FOOTBALL GAMES

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1973

Mr. COLLINS of Texas. Mr. Speaker, this year, Congress passed a law that provides for showing the home games on television when they have a sellout. The question was raised as to whether this would have an adverse affect on the financial operation of the professional National Football League. It is a 3-year law and Chairman TORBY MACDONALD said in floor discussion that we should keep our options open and review the situation based on its actual field results.

It does cause problems, as the headlines in the New York Times today stated, "Absence up 63 percent in NFL." We are also looking ahead to see if it will have a negative impact on season ticket sales.

Americans are professional football fans and we want to keep the sport healthy. We will be keenly watching the trend resulting from home game televised professional football.

The following article is by William N. Wallace in the New York Times, Tuesday, December 18:

ABSENCE UP 63 PERCENT IN NFL

(By William N. Wallace)

Over a million football fans bought tickets to the pro games for the season that ended on Sunday and then failed to show up. This was a 63 per cent increase over last year. The big jump was attributable to the fact that home games sold out three or more days in advance were televised locally for the first time this year in compliance with a new law hastily passed by Congress just before the season.

The total number of no-shows came to 1,016,565 for 182 games. Of this total 656,290 stayed away from 113 games televised locally because they had been sold out.

The single-game record for no-shows was set in Kansas City on Sunday when there were 35,793 empty seats at Arrowhead Stadium, capacity 78,000, for the Chiefs' finale against San Diego.

The Chiefs and 12 others of the 26 teams sold out all of their home games in advance.

No-shows on the National Football League's final weekend, when the weather turned foul at last, set a new high of 190,383 for 13 games, eight of which had been sold out.

Attendance figures were down almost every place, notably in Chicago where only 26,544 turned out for the Bears' last game against Green Bay in Soldier Field, which seats 55,701. The Bears have been a traditional sellout in Chicago for over two decades.

The franchise that had the most no-shows was Miami's. A total of 118,156 fans failed to appear at seven Dolphin home games for which they had bought seats.

The financial losses were small to the teams but large for municipal stadium operations, like Arrowhead, which count heavily on income from parking and concessions to amortize the debt of construction.

The no-show total confirmed the direst predictions of Commissioner Pete Rozelle, who told Congress before passage of the legislation that it would be difficult for the teams to fill stadiums if there was to be home television.

Of greatest concern to the clubs is next year's season ticket sales, which are expected to dip sharply because many fans will anticipate that the game will be televised.

GILMAN CONSTITUENTS HONORED

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1973

Mr. GILMAN. Mr. Speaker, permit me to bring to the attention of my colleagues three young constituents of my congressional district who have been honored by the National Council of Teachers of English with achievement awards in writing.

They are Jane Kimberly Collins, who attends Warwick Valley Central High School; Richard Michael Dashnau, a student at Monroe-Woodbury High School, and Lisa R. Heller, who attends the Newburgh Free Academy.

The recipients of these awards are among the best student writers in the Nation. They have demonstrated an effective and imaginative use of the language and an inquiring mind.

The NCTE has recommended these talented young people for college scholarships in 1974. They represent the great hope for our future, for someday these young people will be among our leaders, as outstanding citizens, journalists, and artists. In whatever endeavor they pursue in the years ahead, I am sure their outstanding skills will assist them in achieving success.

SUPPORT FOR MULHOLLAND NATIONAL SCENIC PARKWAY

HON. ALPHONZO BELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1973

Mr. BELL. Mr. Speaker, in the 7 weeks since October 30 when I introduced legislation (H.R. 11163) to create a Mulholland National Scenic Parkway in Los Angeles, I have received heartening indications of community support which I insert in the Record in support of this proposal.

The communications follow:

November 16, 1973.

Hon. Alphonzo Bell,
U.S. Congressman,
Los Angeles, Calif.:

I have been advised by Director Mott that on Friday, October 26, you introduced a bill to designate Mulholland Drive as a National Scenic Parkway. This idea fits beautifully into the program which the state is developing for a series of three state parks within the Santa Monica Mountains. The Mulholland National Scenic Parkway would tie together these three state parks in a very unique concept. I support this concept and offer you my support for your bill.

Ronald Reagan, *Governor.*

Parks and Recreation Commission,
County of Los Angeles,
November 9, 1973.

Hon. Alphonzo Bell,
U.S. Congressman,
Los Angeles, Calif.:

I appreciated receiving your telegram indicating that you are sponsoring Congressional legislation to create a Mulholland National Scenic Parkway.

The Los Angeles County Parks and Recreation Commission took official action at their meeting on November 5, 1973 to fully support and endorse this project.

I am happy to endorse this legislation and pledge our unqualified support of it.

David Boran,
Chairman,

Recreation and Parks Commission, City of Los Angeles,
November 15, 1973.

Hon. Alphonzo Bell,
Congressman, Twenty-eighth District,
Los Angeles, Calif.:

Today, the Board of Recreation and Park Commissioners voted unanimously to endorse and recommend strong City Council support for HR 11163. Enactment of your Mulholland National Scenic Parkway bill, to link up and augment the present and planned network of parks in the Santa Monica Mountains, would be a major advancement in the effort to protect and enhance the quality of living in Los Angeles.

The Board also noted that the current text of HR 11163 specifies the Hollywood Freeway as the eastern terminus of the proposed Parkway system and makes no direct reference to Griffith Park. It has recommended consideration of an amendment to the bill to specify Griffith Park as being an integral element of the Parkway system.

Thank you for bringing HR 11163 to our attention. You may be assured of our vigorous support.

William Frederickson, Jr.,
General Manager.

Los Angeles Times Editorial,
October 28, 1973

One of the more imaginative and refreshing ideas we've heard about in quite a while is the proposal to turn Mulholland Drive into a national scenic parkway, running 53 miles along the crest of the Santa Monica Mountains from Griffith Park to Point Mugu.

A bill to accomplish this will be introduced in the House this week by Rep. Alphonzo Bell (R-West Los Angeles) and in the Senate by California Democratic Sens. Alan Cranston and John V. Tunney.

The plan, supported by Mayor Tom Bradley, was drawn in cooperation with city, county and state park and recreation departments and drew heavily on recommendations of the Los Angeles-Ventura Mountain and Coastal Study Commission and the Citizens Advisory Committee for the Mulholland Scenic Parkway. It would complement city, county and state plans for parks in the mountains, and the federal government would pick up a major share of the estimated $30 million cost.

The parkway would not be designed for heavy traffic, but would provide scenic overlooks, picnic areas, hiking, biking and equestrian trails in addition to the roadway itself. Bell and State Parks and Recreation Director William Penn Mott, Jr. envision the possibility of a future network of hostels throughout the area, but they are not provided for in the initial bill.

The parkway would be easily accessible to 90% of the population in the Los Angeles area, and thus would have a potential for accommodating a larger number of people than now served by other existing national scenic parkways.

Although the National Park Service has extensive facilities in the Bay Area and elsewhere in Northern California, it has not thus far made any significant investment in Southern California, where the bulk of the state's population is centered.

Since the project meets federal criteria, and since state and local governments alone would not have sufficient readily available funds to bring it to early completion, the proposal deserves prompt congressional consideration. It should be given strong support by the five California members on the House Interior and Insular Affairs Committee. And by every interested citizen.

Los Angeles Herald Examiner Editorial,
November 4, 1973

Southern California has many scenic areas, none to surpass the natural beauty of Mulholland Drive. The 53-mile stretch along the crest of the Santa Monica Mountains from Griffith Park to Point Mugu is one of the area's most spectacular routes.

We therefore support wholeheartedly the proposal by Rep. Alphonzo Bell to make the route a scenic national parkway. Such a plan, which has support of city, county and state as well as coastal study and advisory groups, would be a positive addition to the area.

Retaining the natural rusticity, the parkway would not accommodate heavy vehicular traffic. Instead, it would combine picnic and view areas with hiking, bicycling and horse trails, giving minimum emphasis to motorized transport.

Easily accessible to a large percentage of the area's population, Mulholland National Parkway would serve more people than national scenic routes in other parts of the state. In addition, it would be the first substantial development in Southern California by the National Park Service, which would pick up a major share of the $30 million projected cost.

We urge prompt and favorable consideration to the proposal by the Congress and suggest interested persons make their positive wishes known to their congressional representatives. This support for road construction is a move to preserve the natural environment.

Van Nuys News Editorial, November 18, 1973

Only real old-timers will remember an event back in 1923 which was held with much fanfare.

It was the groundbreaking ceremony for what was then called Mulholland Skyline Drive.

At the time it seemed like a good idea, for there was then a Pacific Electric car line through Cahuenga Pass and a two-lane highway to take people to and from most of the Valley.

Over the course of 50 years, the Mulholland route remained little more than a cowpath. When efforts were made to bring about some improvement, loud controversy arose as to how much there should be.

Today it is possible to almost literally get lost in driivng across Mulholland between Van Nuys and Beverly Hills because of the neglect to which it has been subjected.

At the end of October, Congressman Alphonzo Bell introduced a bill in the House of Representatives calling for a Mulholland National Scenic Parkway financed in cooperation with state, city and county agencies.

We believe there are ample reasons to justify his proposal as a solution. If projects can receive such aid where there are few people, then surely one which means so much to a substantial proportion of the nation's population is warranted.

Congressman Bell's measure is backed by a similar one introduced in the U.S. Senate by Sens. Alan Cranston and John Tunney. It also has received support by Mayor Tom Bradley. No question of partisan politics can therefore arise.

Fifty years is long enough to wait for a project which has so much to commend it.

The people of this whole area, not just the Valley, should let their voices be heard.

Maybe, then, old-timers who remember 1923 can live long enough to joint in singing "Hallelujah."

Equestrian Trails, *Inc.*, November 1, 1973

Hon. Alphonzo Bell,
U.S. Congressman,
Los Angeles, Calif.

Thanking you for your telegram announcing the introduction of your Bill to create a Mulholland National Scenic Parkway in the Santa Monica Mountains.

I have the pleasure to be able to announce the support of this Legislation on behalf of our entire 10,000 membership.

A request for letter support has been prepared and will be printed in our next month magazine. (I will send you a copy.)

Peno Dwinger,
First Vice President.

Assemblyman Paul Priolo, December 6, 1973

Sacramento Report. The Golden Anniversary of the "Mulholland Skyline Drive" may see the culmination of countless citizens' efforts to preserve the scenic nature of the present roadway if a bill introduced by Congressman Bell is passed into law. The bill, H.R. 11163, designates Mulholland Drive as a National Scenic Parkway under the direct jurisdiction of the U.S. Secretary of the Interior.

Among its major provisions perhaps the most important are those which require the Secretary to "coordinate development of the parkway in close coordination with Los Angeles City and County agencies and with the California Department of Parks and Recreation" and "assure that the National Parkway Program will augment and not supersede present and contemplated City, County, and State Programs in the Santa Monica Mountains adjacent to the Mulholland National Scenic Parkway."

I am extremely gratified by the introduction of this measure and will wholeheartedly support its passage. The measure's introduction dovetails with my efforts this year to acquire approximately 4,000 acres for the Santa Monica Mountain Park and to establish a State plan to designate Mulholland Drive as a scenic parkway.

To further this effort, I plan to introduce a resolution in the Legislature uring favorable consideration of H.R. 11163 by the Congress. I am hopeful that the Local, State and Federal Governments and citizens groups can work together to assure that a minimum amount of roadway change occurs and that adequate land is acquired to provide a true scenic drive.

ASSEMBLYMAN HOWARD BERMAN

Congressman ALPHONZO BELL,
28th District, Los Angeles, Calif.:

In response to your telegram, I am happy to lend my support to the legislation you are sponsoring to create a Mulholland National Scenic Parkway. If there is any other way I can be of assistance, please do not hesitate to contact me.

HOWARD L. BERMAN.

COUNCIL FOR PLANNING
AND CONSERVATION,
October 28, 1973.

Congressman ALPHONZO BELL,
Los Angeles, Calif.:

I was delighted to learn today that you are introducing legislation to create a Mulholland National Scenic Parkway in the Santa Monica Mountains. Delighted and very grateful.

Your staunch resolve to create a Toyon National Urban Park in the Santa Monicas is equally appreciated as is your record of accomplishment as regards coastal lands acquisition.

I wholeheartedly support your continued efforts to preserve what we can of Southern California's remaining splendor.

Again, my many thanks for all your help and hard work.

ELLEN STERN HARRIS,
Executive Secretary.

THE SIERRA CLUB, OCTOBER 30, 1973.

Congressman ALPHONZO BELL,
Los Angeles, Calif.:

I am responding to your recent telegram regarding your introduction of legislation to create a Mulholland National Scenic Parkway in order to augment and link up the present and planned network of parks in the Santa Monica Mountains. The Sierra Club has long endorsed the concept of a National Scenic Parkway in the Santa Monica Mountains and we will wholeheartedly support your present legislation provided adequate standards and requirements are assured in the legislation. We offer our thanks for the introduction of the bill.

We are most anxious to examine the legislation in detail and would appreciate several copies of the bill as soon as it is printed.

We are also most anixous to know when hearings on the National Urban Park legislation will be held.

LARRY E. MOSS,
Southern California Representative.

FEDERATION OF HILLSIDE AND CANYON ASSOCIATIONS, INC., NOVEMBER 22, 1973

Hon. ALPHONZO BELL,
U.S. Congressman,
Los Angeles, Calif.:

This letter is written in regard to the legislation you introduced recently to establish a National scenic parkway along Mulholland Drive in the Santa Monica Mountains.

After a careful analysis, the Federation of Hillside and Canyon Associations has determined that the enactment of this legislation will serve the needs of the residents of the Santa Monica Mountains and Los Angeles. We are particularly pleased to note how the proposed legislation closely follows the recommendations of the Mulholland Citizens' Advisory Committee.

As you know, the Federation of Hillside and Canyon Associations represents the interests of 22 individual homeowner groups, and is the largest homeowner organization located in the Santa Monica Mountains and the City of Los Angeles. As such, we would be pleased to play a strong role to ensure the passage of this legislation.

Please contact me to determine what further assistance the Federation can be in this matter.

BARRY E. WAGMAN, *President.*

FRIENDS OF THE SANTA MONICA MOUNTAINS' PARKS AND SEASHORE, NOVEMBER 26, 1973

Hon. ALPHONZO BELL,
Congressman,
Los Angeles Calif.:

Subject: Invitation to Discuss Mulholland National Scenic Parkway Legislation—H.R. 11163.

Thank you and your staff for providing us with information concerning the subject innovative legislation. As you know, the Friends are most enthusiastic about the National Scenic Parkway concept and desire to see it properly implemented. There are concerns about the legislation providing additional safeguards such as: (1) priority for critical scenic parkway land acquisition prior to subdivision; (2) providing planning including peripheral roads to associated parks and beaches within the scenic parkway; (3) restriction of new highway construction but, rather, emphasis on the trails and scenic amenities.

RALPH STONE, *President.*

STATE DEPARTMENT OF PARKS AND RECREATION, NOVEMBER 21, 1973

Hon. ALPHONZO BELL,
Member of Congress,
Los Angeles Calif.:

I am asking the Park and Recreation Commission and, also, the Recreational Trails Committee to adopt resolutions approving the Mulholland National Scenic Parkway concept.

I know you are aware of my enthusiastic endorsement of the concept. I believe the Mulholland National Scenic Parkway can be one of the truly great scenic parkways in the country. The magnificent views of the ocean and of the San Fernando Valley, as well as the many dramatic vistas that can be had from the parkway, will establish this as one of the scenic musts for every tourist to experience.

WILLIAM PENN MOTT, Jr., *Director.*

ART SEIDENBAUM COLUMN, LOS ANGELES TIMES, NOVEMBER 23, 1973

Mulholland Drive is the most famous lovers' lane in America, the roadbed exploited by movie crews, nightclub comedians, teen Casanovas and cruising bandits.

It wouldn't be much of a street if there weren't mountains underneath it. It wouldn't be much of a stopping place if you couldn't see both sides of the Los Angeles sprawl spreading to infinity.

But it does have the Santa Monica Mountains as a base and it does slice the largest city in the United States into a spectacle. No other big town has such a beautiful brim above two basins.

I've recently driven a couple of strangers across this great divide. One of them grew up in Los Angeles but never rode between the crags of Malibu and Decker Canyons. The other was from overseas and he compared the sights above Mandeville to the rocky country in France.

Both of them were astonished because they never thought of Los Angeles as rugged or romantic. During the dry season the mountains have a splendor, a view of nature's continuous upheaval. In the wet season, you can watch the weather change. The dirt road Mulholland between the San Diego Freeway and Topanga is a pastoral drive—surprising because so much urban density is just below it. And the paved Mulholland Highway that curves west from Topanga is a graceful turn through ranchland.

Not much of Mulholland has been messed up in the 50 years since ground was first broken. In the old days, building tracts atop slopes were too expensive for most subdividers. In the new days, a chain of preservationist groups have been fairly successful at keeping the hill bullies out. Just this year, a crowd of loud conservers beat down a city attempt to widen Mulholland.

New Rep. Alphonzo Bell has introduced a bill to make Mulholland a National Scenic Parkway, a 53-mile mountain ravel from Point Mugu to Griffith Park, complete with viewpoint turnoffs, picnic grounds, hiking trails and bikeways. Bell's idea is to have the federal government help finance a beautiful necklace of a road on which several state, county and city parks can be hung as jewels and connected.

Some environmental groups are afraid that such a parkway may be an excuse for the feds not funding an urban national park in the Santa Monicas, an ambitious project Bell earlier proposed.

But the state of California, with local government cooperation, has already managed to acquire more open mountain lands than cynics expected; Parks and Recreation Director William Penn Mott counts six parks and about 50,000 acres of public open space in the Santa Monicas.

One long link for those pieces seems more important than a potentially futile effort to establish a federal park. Mulholland lovers might be advised to woo the National Park Service in the most realistic way possible. The proposed $30 million Mulholland parkway is a seductive way to answer the energy crisis, bringing natural beauty within short reach of a mammoth population center.

Mulholland deserves to be a national love object, a common ground where local chauvinists can prove that Los Angeles has its own voluptuous shape.

Those of us who live in the neighborhood have every reason to be protective but not possessive about it. Making Mulholland a National Scenic Parkway would mean lovers' lane can maintain its virtue and still become a better place to park.

WHO'S COMPETING?

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1973

Mr. LEHMAN. Mr. Speaker, my friend and distinguished colleague from Florida, BILL GUNTER, recently testified before the Senate Interior and Insular Affairs Committee, and brought to its attention the fact that oil company executives often sit on the boards of directors of two or more competing companies. He offers persuasive evidence of the possibility that the oil companies operate as interlocking directorates, which are outlawed by the Clayton Act.

So that the Members of this body may have the benefit of our colleague's painstaking research into this particular aspect of the lack of competition in the oil industry, I am inserting below his testimony before the Senate Special Subcommittee on Integrated Oil Operations, as well as an editorial which appeared in the St. Petersburg Times in response to that testimony:

[From the St. Petersburg Times, Dec. 10, 1973]

WHO'S COMPETING?

Is there free and open competition between America's oil and gas producing and distributing companies? Or, as some suspect, is there either tacit or actual collusion to stifle competition?

These are intriguing questions, particularly when each day's news columns are filled with one or another aspect of the energy crisis. In order to get some answers——and especially answers about whether or not the energy crisis was "rigged"—several lawsuits have been filed. When, and if, they are ever tried, these suits, perhaps, will produce the desired answers.

Last week, another aspect of the competitiveness—or lack thereof—among oil companies was raised by Rep. Bill Gunter, D-Fla., in testimony before the Senate Interior and Insular Affairs Committee.

That aspect is interlocking directorates.

Interlocking directorates are boards of directors of competing companies being made up of the same persons. Under the Clayton anti-trust law, these are illegal.

Gunter certainly isn't the first person to raise the possibility of interlocking directorates in the oil industry. But he is offering persuasive evidence. And he is the latest to ask that the Anti-Trust Division of the Department of Justice investigate that possibility.

Gunter's preliminary evidence is a list from the Securities and Exchange Commission of 30 oil company directors, all of whom sit on two or more boards.

Gunter also furnished several examples of directors of competing firms who sit together on the boards of seemingly unrelated companies.

Gunter's evidence certainly cannot be considered conclusive, however compelling it may appear. The complexities of the oil industry and the intricacies of the anti-trust laws are such that a great deal of investigation is needed.

Such an investigation should begin at once. If it reveals that a quasi-cartel exists in the oil industry—as Gunter fears—then court action and legislative action, as needed, should be undertaken to end this abuse and give back to America's consumers a competitive oil and gas market.

TESTIMONY OF CONGRESSMAN BILL GUNTER

DECEMBER 5, 1973.

Mr. CHAIRMAN: I want to thank the members of this Subcommittee for giving me the opportunity to testify before you this morning. What I have to offer hopefully will help shed some light on some real impediments to alleviating the energy shortage that has enveloped the nation.

I am a freshman member of the U.S. House of Representatives from the state of Florida. My political philosophy is that of a moderate. I am a believer in the free enterprise system and want to see that free markets in this country are maintained. But if the free markets are monopolized, or controlled by a small group of individuals of corporations, this will help neither customers, in terms of prices, or the supply of gas and oil. Therefore, in order to keep the free, unregulated market that we all want, competition must be insured. In order to determine if a market is competitive, we must know that the sellers in that market are independent of each other, acting to do better than the other and not acting in concert to avoid decisions which might prove costly to another member of the same industry. If they are acting together, then they are not acting in the best interests of consumers or of the nation, and whether this is being done through outright conspiracy, tacit collusion, or other institutional arrangements is basically irrelevant. The fact remains that if this indeed is happening, there is no competition in the pure sense of the word.

I question the competitiveness of the gas and oil industry when I see some of the same men sitting on the boards of competing companies. I wonder how they can be giving the best possible advice to one company knowing that the other company, in which they have an integral interest, may be hurt. I cannot accept that the services they give one company are not colored by their concern and vested interest in the other. I would like to go through them with you to point out why I believe they all have such problems, and indeed, may be in violation of the law. It should be pointed out that some of these names have been brought up before. Senator Stevenson, in hearings before the Senate Commerce Committee last month, asked the Attorney General to look into the participation of several individuals which he felt were in violation of the law. I don't know what has been done, but I do know that the problem continues to exist and something should be done about it.

When my friend and colleague George Brown of California testified before the Senate Antitrust Subcommittee he pointed out the close associations of several key government officials with the industry. It is my belief that these relationships should be further explored for a variety of reasons.

The most significant reason behind studying these connections is that we are depending upon these officials to set policy based on two things: (1) their understanding of the industry and approach to solving the problems of the industry; and (2) the data that they have and must rely upon to make these decisions. Unfortunately, much of the data, if not all, comes to the government from the industry. Being from the industry, these people have a tendency to rely completely on the veracity of such information. While I am not questioning the honesty of the individuals involved, their background certainly is more attuned to the various needs of the industry and not to that of the consumer.

The Federal Power Commission, it appears, is being run these days by Commissioner Rush Moody. Mr. Moody comes from the law firm of Stubman, McCrae in Midland, Texas. He joined that law firm after leaving another firm in Texas—Baker and Botts. Mr. Moody has been a vociferous advocate of deregulation of natural gas. Both of the law firms that he associated with when practicing law in Texas have represented powerful oil and gas interests. The general counsel of the FPC until last year was R. Gordon Gooch, who also came from the law firm of Baker and Botts. One of his deputy counsels was Mr. Stephen Wakefield, also from Baker and Botts, who has since taken over the job as Deputy Secretary for Minerals and Natural Resources in the Department of Interior. Another assistant of Mr. Gooch's was Frank Allen, who is now the Acting Head of the Bureau of Natural Gas. Mr. Allen represented the Potomac Electric Power Company as an attorney. Mr. Allen replaced Tom Joyce who is currently with a consulting firm in Rockville, Maryland. This firm has on its board of directors, Mr. Arleigh Burke, who I will talk about later as one who apparently serves on the board of more than one oil and gas company.

The Department of the Interior appears to have a similar type of arrangement. Mr. Wakefield, who I mentioned, is now the Assistant Secretary for Mineral Resources. His director of the Office of Oil and Gas is Mr. Duke Ligon, who served with Continental Oil Company prior to joining the federal government. The man who appears to be one of the chief theoreticians behind the government's energy policy is Mr. Ken Lay. Mr. Lay, as we know, worked for FPC Commissioner Pinkney Walker after serving three years with the Exxon Corporation.

This past weekend we have seen yet another shift in the leader ship of the Administration's energy policy. John Love has gone. William Simon now appears to be in charge. I know very little about Mr. Simon or his deputy, Mr. Sawhill. It is my hope that this is the last shuffle in leadership on this subject. In addition to the one-sided representation that has existed in many cases, the "ad hocism" that has been controlling our government's actions has, in my opinion, only exacerbated the current crisis.

Also serving in a policy making position is Mr. John B. Rigg who is the Deputy Assistant Secretary for Minerals. He was the former director of the Colorado Mining Association, which is an industry group advocating various programs to help the mining industry. He has been given the task of developing a shale oil policy. Unfortunately, his background, as that of several other members of the government policy team, is such that he does not have the benefit of experience in a nonindustry position.

What all this means to me is that we have a serious deficiency in the leadership and direction of the energy policy of this nation. It is quite obvious that there have been serious misjudgments on the part of our energy policy planners. What is more alarming is that people who should have been involved in the planning from the consumer standpoint and who have a background associated with the public interest, as opposed to private interests, appear to be absent from the ranks of this Administration.

It seems to me we have a duty to make sure that the public interest is represented. I ask you, where is the balance. I believe we try to provide it here in the Congress. I think it is the Administration's duty to be absolutely sure the public interest is well represented within their policy councils on these important questions.

I want to emphasize one point. I do note believe that these men are dishonest or that they are involved in a conscious conspiracy. They don't need to be. The real problem is that they all went to "the same school together."

They learned the same set of goals and facts, and they respond accordingly. Many of those in government service came from the industry which they are now charged with regulating. Many of them will eventually return to high paying executive jobs in private industry . . . unless they rock the boat.

There is just no way that these men with industry backgrounds can totally appreciate the problems of consumers. In the same way, people with consumer backgrounds only, cannot appreciate the problems of industry. There should be an amalgamation of the two working together to come up with a rational policy to deal with the crisis we are facing. Unless and until this is done we can expect no better than what we have had up until now, and I think most everyone within the sound of my voice will agree that what we have had up to now is certainly not satisfactory.

The Clayton Act (15 U.S.C. 19) provides in pertinent part:

"No person at the same time shall be a director in any two or more corporations . . . if such corporatons are or shall have been theretofore, by virtue of their business and location of operation, competitors, so that the elimination of competition by agreement between them would constitute a violation of any of the provisions of any of the antitrust laws."

If that is still the law of the land, I am afraid there have been gross violations of that law.

Perry R. Bass currently is an independent producer of oil and gas. At the same time he is a director of Delhi International Oil Corporation. He is the chairman of Hammar Petroleum Company, and he is the chairman of Sid Richardson Carbon and Gasoline Company. Mr. Bass also is a member of the National Petroleum Council which serves as an advisory group to the Department of Interior.

George R. Brown is an independent producer of oil and gas and is chairman of the Executive Committee and director of Texas Eastern Transmission Corporation, which owns LaGloria Oil and Gas Company, Texas Eastern Supply Company, Texas Eastern Oil Company, and Texas Eastern Exploration Company. He is also a director of Lousiana Land and Exploration Company.

Arleigh Burke is a director of Texaco Incorporated and a director of Freeport Minerals Company, which owns Freeport Oil Company.

Marsh A. Cooper is a director of Texas Eastern Transmission Corporation; a director of Home Oil Company, Ltd.; a director of Natural Resources Growth Fund; Superior Oil Co.; and Canadian Occidental Petroleum, Ltd.

John A. Crichton is a director of Dorchester Gas Corporation, which owns Panoil Explorations, Inc.; Palm Petroleum and Dorchester Exploration, Inc. He is also a director of Clark Oil and Refining Co., and the Inlet Oil Company and president and director of Dallas Resources and affiliated companies which are: Alston Oil Company, Consolidated Development Corporation, and Aragian Shield Development Corporation.

James C. Donald III is president and director of Marathon Oil and chairman of Mountain Fuel Supply.

Herbert Frensley is a director of Texas Eastern Transmission Corporation and a director of Highland Resources, Inc.

Daniel F. Frost is the director of the Signal Companies, the parent of Signal Oil and Gas Company; and a director of Tejon Ranch Company.

Jack Frost is a director of Alco Oil and Gas Corporation, the director and president of Frost Oil Company and an independent producer of oil and gas. He is also director and vice president of Leon Land and Cattle Company.

Alfred C. Glassell, Jr. is the president and director of Glassell Production Co.; director of Transcontinental Gas Pipeline Corporation, which owns Transcontinental Production Company; a director of El Paso Natural Gas Company, which owns Odessa National Corporation. Pecos Company, and Treble Drilling Co. Mr. Glassell is also a director of the First City Bank Corporation of Texas, and together with that bank he holds several producers' certificates in trust for other individuals.

Harry C. Hagerty is a director of Amerada Hess Corporation; director of W. R. Grace and Company, which owns Grace Oil Corporation and Grace Petroleum Corporation.

Willard M. Johnson is a director of Austral Oil Company and a director of Dixilyn Corporation.

John David Kirkland is a group vice president of Pennzoil United, the parent of United Gas Pipeline; Pennzoil Producing Company; Pennzoil Offshore Gas Operators; Pennzoil Louisiana and Texas Operators; and Pennzoil Offshore Transmission Company and a director of Mesa Petroleum Company and a director of the Jupiter Corporation.

John L. Loeb is a director of Distillers Corporation; Seagrams, Ltd., which owns Texas Pacific Oil Company; a director of Dome Petroleum, Ltd., a major Canadian producer; and a director of Allied Chemical Co., which owns Union Texas Petroleum and Texas Gas Pipeline Co.

Augustus C. Long is the chairman of the Executive Committee and a director of Texaco, Inc., as well as a director of Freeport Mineral, which owns Freeport Oil Co.

Henry N. Mallon is a director of Dorchester Gas Corporation, the parent of Palm Petroleum; Panzoil Exploration, Inc.; and Dorchester Exploration, Inc.; and is a director of Scurries-Rainbor Oil, Ltd., a major Canadian producer.

Plato Malozemoff is a chairman and president of Newmont Mining Company, which is the parent of Newmont Oil and Newmont Overseas Petroleum Company. He is also a member of the executive committee and a director of Continental Oil and a director of Canadian Export Gas and Oil, Ltd.

Jeff Montgomery is a director of Florida Gas Company, which owns Florida Gas Transmission Co., and Coastal Production Co., Seminole Drilling Co., and Southeastern Exploration Corporation. He is also a director of Kirby Petroleum; Florida Gas Exploration Co., and Curry Industries, Inc., which owns Curry Petroleum and sits as a member of the National Petroleum Council.

William B. Moses is a director of Amerada Hess Corporation; a director of Newmont Mining Corporation, which is the parent of Newmont Oil and Newmont Overseas Petroleum Co.

J. D. Murchison is chairman of Delhi International Oil Corporation, Hamilton Brothers Petroleum and a director of Kirby Industries, which owns Kirby Petroleum.

V. F. Neuhaus is a director of Houston National Gas Corporation which owns Houston Pipeline Company, Houston Gas Production Co., Valley Gas Transmission Company, Valley Pipelines, Roden Oil and Mid Louisiana Gas Co. He is also a director of Florida Gas Company and a director of Kirby Industries. He also is an independent producer of natural gas, selling to interstate pipeline companies under his own name.

Beno C. Schmidt is a director of Freeport Minerals which owns Freeport Oil Company; a director of Transcontinental Gas Pipelines, which owns Transcontinental Production Co.; a director of Teranaca Offshore Petroleum Company; and a director of Global Marine.

Franz Schneider is a director of El Paso Natural Gas Company; a director of Transcontinental Gas Pipeline Corp.; a director of Canadian Export Oil and Gas, Ltd.; and until recently, a director of Continental Oil and Newmont Mining.

Horace A. Sheppard is a director of Standard Oil Company of Ohio and a director of Diamond Shamrock Corporation.

Stuart F. Silloway is a director of American Petrofina and a director of Newmont Mining Corporation.

Wilton R. Stephens is president and chairman of Arkansas Louisiana Gas Company, which owns Arkla Exploration Company. He is also a partner in Stephens Production and a co-owner of Arkansas Oklahoma Gas Company.

Charles (Ted) Weiner is a director of the Fluor Corporation; a partner in Texas Crude Oil Co.; and president of Texas Crude Oil, Inc. He is a director of Petroleum Leaseholds, Inc.; So. Crude Co., Inc.; North American Oil and Gas, Inc.; and Calgary Crude Oil Company. He also holds a small producer's certificate, CS 72–788, issued May 5, 1972 to Ted Weiner Oil Properties.

Langbourne Williams is a member of the executive committee and a director of Texaco, Inc., and also serves as chairman of the executive committee and director of Freeport Minerals, which owns Freeport Oil Co.

Mr. D. A. McGee is a member of the National Petroleum Council. He is also the chairman of the Kerr-McGee Corporation and a director of Oklahoma Natural Gas Co.

Mr. John H. Williams is chairman of the board of The Williams Companies and a member of the board of the Houston Natural Gas Co. He also serves on the National Petroleum Council.

In addition, I am filing with the committee a report I received from the Securities and Exchange Commission on board memberships of members of the National Petroleum Council. It is my hope that a study of this additional information will help the committee in its deliberations about the structure of the oil and gas industry.

I realize this has been a rather long exposition on my part concerning men who are leaders in the energy industry. Whether their activities are legal or not must be determined not by me and not even by this committee, but by the Justice Department of the United States.

A larger question that bothers me is whether or not in fact interlocking directorates, such as those I have just outlined, stifle competition to one degree or another. If there is no meaningful competition in the oil and gas industry, then it follows there is inadequate incentive to provide the nation with the needed energy resources. If the individual members of the industry are basically content with their current share of the market or if their arrangement structure precludes competition in the pure sense of the word and in the tradition of our free enterprise system, that makes the situation very bad news for the American consumer.

What I have presented to you today is in my view an unhealthy situation in a free enterprise economy. Monopolies or government takeovers of industry are not, to my way of thinking, in the best traditions or in the best interest of America. I believe strongly in the free enterprise system, as I explained at the outset of my testimony, and I will do everything within my power to make absolutely sure that this country remains an adherent to free enterprise. It is my hope that this committee in its further investigation and deliberations will clarify the present situation within the energy industry. If in fact antitrust action is necessary to break up the quasi-cartels which seemingly exist, then it is my hope that action will be taken swiftly. If additional legislation is needed to keep this country from falling into the quicksand of an anticompetitive situation in a vital industry such as the energy industry, then I hope this legislation will be offered and passed quickly. Whatever the solution is, whatever the information that I have brought before you eventually leads to, I want this committee to know that I will do everything I can to aid those who are vitally concerned about the energy problems this nation faces. I cannot and will not sit idly by in the face of evidence that there may indeed be within the oil industry a conscious effort to eliminate competition and hence, to break down the checks and balances which are natural products of a free, open, and competitive economic system.

Thank you very much.

H.R. 11450—ENERGY EMERGENCY ACT CONFERENCE

HON. BOB ECKHARDT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1973

Mr. ECKHARDT. Mr. Speaker, a story on the Associated Press wire today gives this alarming information about the action of the House-Senate conference on the Energy Emergency Act:

> Senate-House conferees tentatively agreed today to give President Nixon a free hand in ordering immediate energy conservation measures.

The tentative agreement would work as follows:

First. A plan of the Federal Energy Administration would be put into immediate effect until March 1, 1974, but the House and Senate could review and veto it under the special procedure of the act.

Second. From March 1, 1974, until June 30, 1974, such a plan would have to be delivered to each House and would then go into effect in 15 days if not vetoed.

Third. Thereafter, the Administration could only submit proposals for ordinary legislative enactment.

If such provision is included in the conference report, this would reverse both the effect of the Eckhardt amendment passed by a vote of 19–10 in the committee, and also the action of the House in refusing the Broyhill amendment, which was rejected by a margin of more than 100 votes.

Exactly the same evil exists as existed under the Broyhill amendment. Nonaction puts the stamp of legislative approval on Executive legislation. Congress will have abdicated from its role in favor of the Executive. But the tentative conference agreement is in one respect worse than the Broyhill amendment. The Executive can pass law outside the reach of Congress during the period while Congress is not in session; and, until March 1, 1974, the Executive can make law effective immediately.

Stated briefly, the issue is whether the Executive Department should be given authority to legislate, generally, in all areas in which the Administrator finds that such action is "necessary to reduce energy consumption." The Executive could establish highway speeds, limitations on energy consumption of businesses, directives for car pooling, bans on recreational or advertising lighting, and so forth without presenting the matter to Congress until after such law went into effect during the recess. After the recess and until June 30, 1974, the executive department could so legislate, but Congress could exercise a legislative veto. It could also go back and veto previous actions.

If the conference report follows the form of the bill, such Executive orders would have the effect of criminal law and could override contrary State laws.

This has nothing to do with Executive authority to allocate or ration. That is covered in section 103 of the bill as it passed the House. Original section 104 of H.R. 11450 gave additional authority to the Executive to regulate businesses and individuals beyond the matter of allocating fuel or gasoline to them.

Section 103 is the most important section of the act. The committee did not change this provision in any substantial way, and it is not urged that the Administrator's authority to allocate petroleum products be reduced in any way from that authority granted in such section.

The main purpose of the act is to obtain from 16.7 million barrels of crude oil the same amount of residual fuel oil and distillates that we would have gotten from the 19.7 million barrels necessary to meet our full needs by properly allocating petroleum products and then to distributed the diminished amount of gasoline equitably. Everything else in the act is relatively insignificant. For instance, the savings of 100,000 barrels of oil per day—which is about the maximum that could be saved with coal conversion—would let a gasoline user get about 1 percentage point more gasoline. That is all. It is very doubtful that conservation plans put into effect as law by the Executive would have even this much effect.

That is why I shall vote against the conference committee report. Such small advantage is not worth throwing away the important principle: that Congress shall make the laws. We should not reverse roles with the President, letting him make laws, subject to our veto.

If we refuse to agree to this Senate-inspired surrender of congressional authority, no great harm will be done. The conferees could come out with a bill of the type passed in the House. But even if this were not done and defeat of the conference report resulted in no bill, the President would still have the principal authority which this bill purports to grant: the authority to allocate petroleum products even to the extent of end-use allocation.

He presently has that authority under the Emergency Petroleum Allocation Act, which provides in its section 4(a) that:

> "The president shall promulgate a regulation providing for the mandatory allocation of . . . refined petroleum product(s), in amounts . . . and at prices specified in . . . such regulation . . . (and this authority shall) to the maximum extent practicable . . . provide for . . . equitable distribution of . . . refined petroleum products at equitable prices . . . and among all users;"

This quite clearly gives him authority to allocate petroleum products to the full extent necessary to permit us to make do with the petroleum products that we have. That is all that is necessary in the emergency that now exists. We could do a little more, as the House did in the Energy Emergency Act as we passed it last Friday.

But when the choice is to give away our authority and abdicate from our duty now, or defeat the conference report and come back in January and perform our duties in a constitutional manner, the latter course is clearly the proper one.

THE GENEVA CONFERENCE ON MIDDLE EAST PEACE

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1973

Mr. HAMILTON. Mr. Speaker, the Geneva Peace Conference on the Middle East will hopefully get underway this Friday, and it is expected that, after the Israeli Knesset elections on December 31, 1973, the parties will start serious negotiations. The complex issues involved in a Middle East peace are the subject of an excellent article by Ray Vicker in the Wall Street Journal of December 14, 1973, which I would like to bring to the attention of my colleagues. The article follows:

THE MAIN ISSUES OF MIDEAST PEACE

(By Ray Vicker)

TEL AVIV, ISRAEL—When the Yom Kippur war still was underway, one Israeli soldier in battle fatigues and helmet was picked up when hitchhiking. He was on his way back to the Golan Heights front after a short leave to attend the funeral of his mother in Jerusalem. The boom of shells formed a backdrop of sound as he sadly said: "She always said she would never live to see peace in the Middle East, and she was right." Then, with a shake of his head, he added: "I hope I won't be saying that to my boy the rest of my life."

Real peace in the Mideast has eluded this area for decades as Arabs and Israelis squared off four times for bloody wars while filling time in between with war preparations. Numerous skirmishes cost more lives. Now for the first time in the long history of this deadly conflict, participants are sitting down at a peace table. Hopefully they may be able to negotiate a lasting peace, though examination of the issues involved shows that any agreement won't come easily. Nor are talks likely to be short and there could be walkouts at times which may require verbal patching. Even if things go smoothly, it may take many months to resolve some of those differences, and all the while Arab oil producers may be restricting their production, causing fuel squeezes around the globe.

The talks expected to open in Geneva, Switzerland, next Tuesday are likely to involve only official statements by participants and decisions about procedural matters and may last only a few days at most before being postponed into the new year. Until the Israeli general election is out of the way December 31, the Israelis aren't in a position to negotiate substantive topics.

Nevertheless, the mere opening of peace talks is an historic event, for there were times when it appeared that Arabs and Israelis never would sit down at a peace table. Arabs proudly refused to agree to any talks, while the Israelis sometimes seemed to be only pressing for talks because they felt Arabs had no intention of joining in discussions. Thus, the onus for non-talks would be on the Arabs, and Israel could continue to "create facts," its terminology for establishing settlements on land seized from Arabs.

The Yom Kippur war changed all that. For Arabs, that war has meant a restoration of their karamah, or sense of dignity. For Israelis it has brought a realization that they no longer can dominate the Mideast with overwhelming military power, at least not without enormous casualties for this 3.2 million population country. And the growing financial power of the Arab world suggests that time no longer is on the side of Israel.

The 2,412 Israel dead on the battlefield since the Oct. 6 resumption of war is reason enough for Israel to seek peace, with safeguards for its integrity and independence. Those losses over a month and a half of war and ceasefire skirmishes are more than three times greater proportionally, than America's losses in Vietnam in nearly a dozen years of war in Southeast Asia. This is something for Israelis and Americans, too, to consider when militants stand on stumps to aver that this nation was "robbed" of victory by the ceasefire and that the war should be resumed to drive Arabs back to Cairo and Damascus.

So how many more dead would this entail? Is more desert and rocky plains worth that price, even if such a "victory" could be attained?

DETERMINATION AND THE ISSUES

The determination of Israel also provides reason enough for Arabs to recognize that Israel is here to stay, the number one issue of all in any peace talks insofar as Israel is concerned.

Those issues fall into five basic areas:

Recognition of Israel (with defensible borders) by Arabs.

Release of prisoners of war.

Freedom of navigation for Israel shipping through the Suez Canal and international waters.

Return of occupied Arab territories.

Settlement of the Palestinian refugee problem.

The first three, of course, are issues of especial concern to Israel. The last two are what Arabs insist the Middle East question is all about. Differences may seem simple in this context. Each involves complex considerations which reach down to the very roots of the struggle between Arabs and matter as the release of prisoners may involve murky concepts of justice which may involve some clarification before prisoners are returned.

Israel claims that Red Cross conventions call for prompt return of prisoners after a conflict ends. Syrians claim that international conventions also call for prompt return of civilians to battlefield areas after the shooting stops, and they aver that nearly 100,000 Syrian residents of the Golan Heights plus 15,000 others in southern Syria have been driven from their homes by Israelis. Thus the prisoner issue may be pushed into the broader question of return of Arab lands, delaying settlement of what should appear to be one of the simplest of all the issues.

Even if these issues are resolved, there will have to be discussions and agreements concerning their implementation. When one realizes that days of discussions at Kilometer 101 in Egypt haven't yet settled where the Oct. 22 ceasefire lines should be, it becomes evident how difficult will be the task of negotiating all the complex issues of the Arab-Israel question in one forum.

Some of those issues go back to the early Zionist attempts to creat a national home for Jews in a land which then had an Arab majority. In 1909 the first Jewish kibbutz was established on the southern shore of Lake Kinneret (the Sea of Galillee) and in that same year Tel Aviv was founded on the sand dunes outside Jaffa. By 1914, there were 85,000 Jews in Turkish-controlled Palestine. By 1920, Britain had control of the area as a result of World War I, and Arab-Jewish troubles flared. Shootings and bombings occurred periodically from then on, with both sides taking a toll. Nevertheless, by 1948, there were 650,000 Jews living in Palestine, or about 40% of the population.

Then came the first Arab-Israeli war, and about 1,000,000 Arabs living in Palestine fled their homes or were driven out, according to Palestinian refugee organizations. Israelis say most left willingly but they won't allow them to return and no compensation ever has been paid to them for homes, orange groves, farms, businesses and other properties which subsequently were taken over by Israelis. This formed the roots of the so-called Palestinian refugee problem, one which still festers in the Mideast.

Al Fatah, Black September, Saiqa, the Popular Front for the Liberation of Palestine and other Arab guerrilla groups thrive among these refugees, many of whom live in camps which have become permanent Jordanian, Syrian and Lebanese towns over the years.

At New Camp, a 24-year-old refugee camp on the edge of Amman, Jordan, refugee children trek into a concrete block school set amid row on row of small huts. A wall poster in one classroom displays a poem in Arabic and in English which is part of an English lesson. It ends:

> Palestine is our home,
> Yet outcasts we must roam,
> We will return. We will. We will.

To the Palestine which now is Israel? Hardly. So how can the Palestinian question be settled in a way which gives justice to any legitimate claims they may have, but which assures Israel of its right to existence? This may be one of the toughest negotiating nuts to crack, though one can see some dim avenues which might be explored.

A token number of Palestinians might be offered an opportunity to return to former homes. Compensation might be paid to others with valid grievances. The bulk might be settled in a new state created on the West Bank and the Gaza Strip, or perhaps in a state combined with Jordan. But even these suggestions raise more problems. Would this be a state ruled by King Hussein of Jordan, or would he be deposed if Palestinians are merged into his kingdom?

One has the feeling that the Palestinian question may be the last to be solved in any successful peace deal, with the geography and political complexion of any new Arab state depending upon how broad land questions are handled.

The 1956 war didn't leave many geographical sores. But the 1967 war saw Israel expand to three and a half times the size of the prewar country, through occupation of the Sinai Peninsula of Egypt, the Egyptian-ruled Gaza Strip, the Golan Heights of Syria and the West Bank of Jordan. The total 34,493 square miles within ceasefire lines of June, 1967 compared with an Israel of 7,993 square miles in 1948. Occupation of the West Bank included capture of East Jerusalem, which contains the old medieval section where most of the holy shrines of three religions are located.

When Arabs call for return of occupied lands, this is basically the territory they are talking about, and Saudi Arabia's King Faisal has been especially adamant about return of East Jerusalem to Arab rule in the package. And that touches upon Jewish religious chords.

The limestone walls of that old city include the Wailing Wall, sacred to Jews, as well as the Mosque of Aqsa, marking the site where Moslems believe Mohammed was transported to heaven, and the Church of the Holy Sepulchre, site of Christ's crucifixion and burial.

ON THE VIA DOLOROSA

On Via Dolorosa, the narrow lane down which Christ allegedly carried his cross, a group of Franciscan Friars in black robes lead a religious procession of Catholics along this original Stations of the Cross. A bearded orthodox Jew, probably on his way to the Wailing Wall, hurries by in his black suit, long hair curled beneath his flat black hat. A white goateed Arab, with kefiyah on head and long robes sweeping the ground, ducks into one of the many open shops lining the street to let the procession by, then heads in the direction of the Dome of the Rock Mosque, on the site where Abraham, a Moslem as well as a Jewish prophet, almost sacrificed his son, Isaac.

Because of the jumble of religious connotations, the original United Nations partition plan of 1947 for Palestine had envisioned making Jerusalem an international city. But this had involved all Jerusalem, including what has been Israeli's capital since 1948 as well as the East Jerusalem which now is at issue. In the 1948 war, Jews seized the new part of the city lying to the west. Jordan seized East Jerusalem. Then in 1967 Israel took it all.

Israelis now claim they never again will give up the Old City. King Faisal says he will maintain an oil boycott and dampen production until the city returns to Moslem control. So this rates as one of those apparently unsolvable issues which must be solved somehow.

The Golan Heights is only a little less intractable problem. At El Kusi on the shores of the Sea of Galilee, a new road winds in sweeping curves up those heights. As the road climbs, the whole broad expanse of the Sea of Galilee, of Tiberias and of the Mount of the Beatitudes comes into view. The plateau plain of the Heights spreads ahead, black outcroppings of basaltic rocks forming mounds on fields of grain now farmed by Israeli settlers. Looking back at the lakeshore where Israeli settlements are clustered, one can see why Israelis fear ever again having Syrian guns planted on the edge of these heights to menace the communities. Yet Syrians contend these lands must be returned if there is to be peace.

Perhaps compromises might be arranged: a demilitarized plain returned to Syrians with Israelis clinging to the edge of the plateau overlooking the settlements.

The Sinai Peninsula probably can be returned to Egypt without too much heartbreak among Israelis, although it probably would be demilitarized to create some sort of buffer zone. Standing at the foot of the peninsula at Sharm El Sheikh one can understand why Israelis have talked loudly about retaining this point. A shattered Egyptian artillery piece points its rusty barrel at the narrow Strait of Tiran. Through that waterway an Israeli tanker feels its way past the reef on its way north to Eliat with a cargo of oil from the Sinai's Abu Rodeis Field. Any enemy could bottle Israeli's southern port by planting more guns here.

But the last war showed that a military cork could be placed at the lower end of the Red Sea, too. Thus control of Sharm El Sheikh wouldn't necessarily guarantee navigational freedom for Israel. Perhaps it might be better to have freedom of the seas and the canal written into a peace treaty.

Admittedly Israel would miss those Sinai oil fields from which it now draws five million tons of oil a year, almost enough for its seven million tons consumption. Israel's balance of payments won't be helped if it must become another purchaser of all its oil at the high prices of today's and future markets.

WINNING THE FIRST POINT

This might look as if Israel faces all give and no take in negotiations. This is deceptive. Israel is winning its first point—recognition by Arabs of Israel as a nation—by the mere fact that Arabs are sitting down with them at the peace table. Still to be decided, of course, are Israel's defensible borders.

Arabs must give Israel shipping rights through the Suez Canal and through all adjacent international waterways in any settlement. Prisoners should be freed.

And both sides can give each other real peace, something which would relieve the Middle East of the enormous strain of super military expenditures upon budgets. Nobody will be disarming immediately. But any move at all in this direction is a plus for both sides.

Peace won't be easy to achieve any way it is handled. Still, for the first time in decades, there is a feeling that progress toward peace might get underway.

EGG RESEARCH AND CONSUMER INFORMATION

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1973

Mr. GILMAN. Mr. Speaker, I have today joined my colleague, ED JONES of Tennessee, in cosponsoring the "Egg Research and Consumer Information Act", a bill that will restore to the crippled egg and poultry industry its economic well-being.

In recent years, attacks upon the nutritional value of eggs have seriously depressed the egg industry in the United States. A generally depressed egg market, further hampered by incredible feed prices this past summer, resulted in the wholesale slaughter of chicks and the closing of many large farms. We simply cannot stand by and watch the deterioration of an industry that provides the American consumer with one of its most reasonable, nutritious foods.

This bill provides very simply for a framework within the Federal Government through which the poultry industry can help itself. The bill calls for a national referendum among egg producers with flocks of 5,000 or more by which the industry will determine whether it wishes to participate in a national egg checkoff program. The checkoff will serve as a self-imposed tax of not more than 5 cents per case of eggs, the revenue from which will be utilized for the establishment of a program of promotion, research, and consumer information.

I am pleased that my constituents active in the work of the New York State Poultry Industry Coordinated Effort and Egg Farmers in Real Trouble—EFIRT—have contributed to the Department of Agriculture's understanding of the problems in the egg industry and am confident that this measure will receive the administration support it requires and deserves. Likewise, Chairman ED JONES and the members of the Dairy and Poultry Subcommittee are to be congratulated for their extensive efforts in drafting a bill that will serve not only the best interests of the egg industry, but also the consumer.

POSITION ON ROLLCALL VOTES NOS. 367–411

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1973

Mr. ROE. Mr. Speaker, as you know, under official leave of absence approved by you as Speaker of the House, at the close of congressional business on Friday, July 20 until Tuesday evening, July 31, as a member of the Subcommittee on International Cooperation in Science and Space of the House Science and Astronautics Committee, I joined with my colleagues on the committee to represent the Congress and participate in the United States-U.S.S.R. Symposium on Aeronautical Technology held in Moscow. Our itinerary also included a series of conferences in Tokyo with our counterpart members of the Japanese Diet, the governing legislature of Japan.

During this period I was recorded in live pairs on some votes and my position for or against certain legislation was declared. On other votes, however, I secured only a general pair. While this indicates I was following the course of legislation, it does not indicate my position.

In order that my position on these issues be a matter of public record, I include at this point in the RECORD the rollcall votes during my leave of absence together with my position for or against these measures, as follows:

EXPLANATION AND FINAL VOTE ON MEASURE

Toxic Substances: H.R. 5356 to regulate interstate commerce to protect health and the environment from hazardous chemical substances.

ROLLCALL NUMBER, DATE, AND VOTE

No. 367, July 23, 1973—351 yes, 4 no, 78 not voting. Adopted H. Res. 493 rule bill permitting consideration of legislation. My vote "yes."

No. 368, July 23, 1973—193 yes, 192 no, 48 not voting. Agreed to amendment that sought to direct the Administrator to use the Water Pollution Control Act, Clean Air Act or another Act under his jurisdiction, where appropriate to regulate chemical substances. My vote "yes."

No. 369, July 23, 1973—159 yes, 236 no, 38 not voting. Rejected an amendment that specified that no rule shall be promulgated until a hearing is conducted, with full opportunity for cross-examination. My vote "no."

No. 370, July 23, 1973—189 yes, 202 no, 42 not voting. Rejected (on demand for separate vote) same amendment agreed to by rollcall No. 368. My vote "yes."

No. 371, July 23, 1973—324 yes, 73 no, 36 not voting. Passed H.R. 5356. My vote "yes."

Postage Fees: H.R. 8929 with respect to financing of cost of mailing certain material free of postage or at reduced rates of postage.

ROLLCALL, NUMBER, DATE, AND VOTE

No. 373, July 23, 1973—188 yes, 202 no, 51 not voting. Failed to agree to H. Res. 495, a rule providing for consideration of H.R. 8929. My vote "yes."

Farm Legislation: S. 1888 to amend and extend the Agricultural Act of 1970.

ROLLCALL NUMBER, DATE, AND VOTE

No. 374, July 24, 1973—244 yes, 155 no, 33 not voting. The previous question was ordered on the motion (see Roll No. 375) which was a parliamentary maneuver to cut off further debate on controversial provisions of the legislation. My vote "no."

No. 375, July 24, 1973—371 yes, 35 no, 27 not voting. Agreed to motion to instruct conferees to insist on House amendment which prohibits sale of agricultural commodities to North Vietnam. My vote "yes."

Impoundment Control and Spending Ceiling: H.R. 8480 to require the President to notify Congress whenever he impounds funds to provide a procedure under which the House or the Senate may disapprove the President's action and require him to cease such impounding, and to establish for fiscal year 1974 a ceiling on total federal expenditures.

ROLLCALL NUMBER, DATE, AND VOTE

No. 377, July 24, 1973—180 yes, 229 no, 24 not voting. Rejected amendment that sought to empower the comptroller general to exempt those impoundments he determines to be in accordance with the Anti-Deficiency Act. My vote "no."

No. 378, July 24, 1973—205 yes, 206 no, 23 not voting. Rejected amendment that sought to require both Houses of Congress to disapprove impoundments by concurrent resolution. My vote "no."

Employee Legal Services: S. 1423 to permit employer contributions to jointly administered trust funds established by labor organizations to defray costs of legal services.

ROLLCALL NUMBER, DATE, AND VOTE

No. 380, July 25, 1973—256 yes, 155 no, 22 not voting. Agreed to conference report, clearing measure for White House. My vote "yes."

Impoundment Control and Spending Ceiling: H.R. 8480 (continued from July 24, 1973).

No. 382, July 25, 1973—96 yes, 318 no, 19 not voting. Rejected amendment that provided for a halt of impoundment after 60 days unless the impoundment is ratified by Congress by passage of a concurrent resolution.

No. 383, July 25, 1973—156 yes, 252 no, 25 not voting. Rejected amendment to previous amendment that sought to reduce spending ceiling by $7.1 billion. Mr. vote "no."

No. 384, July 25, 1973—205 yes, 206 no, 23 not voting. Rejected amendment that sought to reduce the spending ceiling by $3.8 billion. My vote "no."

No. 385, July 25, 1973—208 yes, 212 no, 14 not voting. Rejected motion to recommit the bill to Committee on Rules with instructions that it be reported back forthwith containing an amendment that would require both Houses of Congress to disapprove impoundment by concurrent resolution. My vote "no."

No. 386, July 25, 1973—254 yes, 164 no, 15 not voting. Passed H.R. 8480. My vote "yes."

Foreign Assistance: H.R. 9360 to amend the Foreign Assistance Act of 1961.

ROLLCALL, NUMBER, DATE, AND VOTE

No. 391, July 26, 1973—131 yes, 271 no, 31 not voting. Rejected amendment similar in intent to amend previously considered that sought to reduce funds authorized for population planning and health by $75 million. My vote "yes."

No. 392, July 26, 1973—203 yes, 204 no, 27 not voting. Rejected amendment that sought to strike the section of the bill authorizing $93 million for selected development problems. My vote "no."

No. 393, July 26, 1973—173 yes, 232 no, 28 not voting. Rejected amendment that sought to strike language authorizing $60 million for assistance to selected countries and organizations. My vote "no."

No. 395, July 26, 1973—278 yes, 102 no, 53 not voting. Agreed to amendment that adds language prohibiting foreign assistance to any nation which seizes U.S. property unless the President determines that effective compensation will be made. My vote "yes."

No. 396, July 26, 1973—240 yes, 137 no, 56 not voting. Agreed to amendment that strikes out section which sought to establish the U.S. Export Development Credit Fund. My vote "no."

No. 397, July 26, 1973—232 yes, 139 no, 62 not voting. Agreed to a motion to recommit the bill to the Committee on Foreign Affairs with instructions to report the bill back to the House with amendments reducing the total authorization by $68 million. My vote "yes."

No. 398, July 26, 1973—188 yes, 183 no, 1 present, 61 not voting. Passed H.R. 9360. My vote "no."

Public Works Appropriations for fiscal year 1974.

ROLLCALL, NUMBER, DATE, AND VOTE

No. 399, July 30, 1973—373 yes, 9 no, 51 not voting. Agreed to conference report. My vote "yes."

Federal Salaries: S. 1989 to amend section 225 of Federal Salary Act of 1967 with respect to certain executive, legislative and judicial salaries.

ROLLCALL NUMBER, DATE, AND VOTE

No. 400, July 30, 1973—156 yes, 237 no, 40 not voting. Failed to agree to H. Res. 512, a rule providing for consideration of S. 1989. My vote "yes."

August Recess: S. Con. Res. 42 providing for a conditional adjournment of the two Houses from August 3 until September 5.

ROLLCALL NUMBER, DATE, AND VOTE

No. 401, July 30, 1973—370 yes, 22 no, 41 not voting. Agreed, to S. Con. Res. 46. My vote "yes."

Veterans' Benefits: H.R. 9474 to increase the monthly rates of disability and death pensions and dependency and indemnity compensation.

ROLLCALL NUMBER, DATE, AND VOTE

No. 402, July 30, 1973—385 yes, zero no, 48 not voting. Passed H.R. 9474. My vote "yes."

Military Procurement: H.R. 9286 military procurement authorization for fiscal year 1974.

ROLLCALL NUMBER, DATE, AND VOTE

No. 405, July 31, 1973—88 yes, 323 no, 22 not voting. Rejected amendment that sought to strike $657 million for the CVN-70 nuclear aircraft carried. My vote "yes."

ROLLCALL NUMBER, DATE, AND VOTE

No. 406, July 31, 1973—96 yes, 313 no, 24 not voting. Rejected amendment that sought to delete $473.5 million for research and development of the B-1 bomber. My vote "no."

ROLLCALL NUMBER, DATE, AND VOTE

No. 407, July 31, 1973—130 yes, 282 no, 21 not voting. Rejected amendment that sought to add language setting a deadline of June 30, 1974 for maintaining U.S. forces in any nation for defense if that nation pays a smaller portion of its gross national product for its defense than does the United States. My vote "yes."

ROLLCALL NUMBER, DATE, AND VOTE

No. 408, July 31, 1973—67 yes, 339 no, 27 not voting. Rejected amendment that sought to reduce the total of U.S. troops overseas by 322,000 and to place a ceiling of 300,000 on the number of troops to be assigned overseas after fiscal 1974. My vote "no."

No. 409, July 31, 1973—242 yes, 163 no, 28 not voting. Agreed to substitute amendment to amendment that requires a report to the House by April 1, 1974, from the Committee on Armed Services on the advisability of maintaining the present U.S. military commitment in Europe in view of the current European economic and military situation. Prior to its preemption by the substitute, this amendment sought to reduce overseas forces by 100,000 troops and to place a ceiling of 400,000 on the number of troops that could be assigned overseas after fiscal 1974. My vote "no."

No. 410, July 31, 1973—242 yes, 163 no, 28 not voting. Agreed to amendment that reduces the funds authorized by $950 million by setting a ceiling equal to fiscal year 1973 level plus a 4.5 inflation increase. My vote "yes."

No. 411, July 31, 1973—367 yes, 37 no, 29 not voting. Passed H.R. 9286. My vote "yes."

Mr. Speaker, thank you for the opportunity to record my position on these rollcall votes.

THE PRIMA FACIE CASE AGAINST PRESIDENT NIXON

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1973

Mr. FRASER. Mr. Speaker, the issue concerning the release of tape recordings of key Presidential conversations has been before the courts. Judge John Sirica will have to make a judgment on the two missing—or nonexisting tapes and the 18-minute gap on another key tape.

Yet the tapes are only one of many allegations raised about the conduct of Richard Nixon and his appointees. Indeed, there have been such a great number of charges leveled against the Nixon administration that it is difficult to comprehend the gravity of the charges taken together.

Americans for Democratic Action has compiled a list of these charges. This list includes 73 separate allegations divided into the following categories:

Corruption in the administration;

Subversion of the electoral process;

Watergate and the coverup;

Perversion of Government;

Violations of constitutional liberties;

Illegalities in the conduct of foreign policy; and

Subversion of the press.

These 73 allegations make it clear that there is a prima facie case of criminality on the part of Richard Nixon which must be carefully and fully investigated. Nixon himself was involved in some of these acts; others involved men under his direction.

The investigation is now in the hands of the House Judiciary Committee. It is important that we be aware of the scope of the charges against President Nixon which a careful investigation must encompass.

The list of allegations follows:

ALLEGED OFFENSES OF RICHARD NIXON AND HIS ADMINISTRATION—"BRIBERY, HIGH CRIMES AND MISDEMEANORS"

CORRUPTION IN THE NIXON ADMINISTRATION

1. *ITT.*—A connection between settlement of a Justice Department anti-trust suit against International Telephone and Telegraph and an ITT pledge of $400,000 to the Republican Party was suggested in a June 25, 1971 Dita Beard memo and a March 30, 1972 memo from special presidential counsel Charles Colson to H. R. Haldeman, in which Colson said the Senate Judiciary hearings could produce revelations about the ITT case that "would lay this case on the President's doorstep." On October 31, 1973 former Attorney General Richard Kleindienst admitted that Richard Nixon called him on April 19, 1971 and with no discussion ordered him to drop the ITT case.

2. *Hughes contribution.*—Robert Maheu, former manager of Howard Hughes' Nevada operations, has alleged that $100,000 contributed in 1969 and 1970 by Hughes through Bebe Rebozo—a contribution acknowledged by White House spokesman Gerald Warren on October 18, 1973—may have been connected to efforts by Hughes to persuade Attorney General John Mitchell to overrule Justice Department anti-trust objections to Hughes' proposed acquisition of another hotel and gambling casino in Las Vegas; the contribution also may have been connected to Richard Nixon's June 1969 approval of Hughes' Air West acquisition.

3. *Vesco case.*—A $200,000 cash donation was made by financier Robert Vesco on April 10, 1972, while under investigation by the Securities and Exchange Commission. For this and subsequent involvement in the Vesco case, former Attorney General John Mitchell and former Commerce Secretary Maurice Stans were indicted May 10, 1973.

4. *Curbing dairy imports.*—A representative of Associated Milk Producers, Inc. of San Antonio, Texas wrote a letter to Richard Nixon on Dec. 16, 1970 promising a $2 million campaign contribution from a dairy group in return for curbs on dairy imports; on Dec. 31, 1970 Nixon imposed quotas on certain dairy products.

5. *Raising milk price supports.*—It is alleged that a connection exists between the March 25, 1971 reversal of a March 12, 1971 Agriculture Department decision against raising price supports on milk, and a meeting held shortly before between Richard Nixon and milk producers. Campaign contributions from dairy cooperatives in 1971 and 1972 eventually totalled $427,500.

6. *Donation of Nixon papers.*—Richard Nixon donated his pre-presidential papers to the National Archives, a donation for which he claimed an approximately $570,000 deduction from taxable income. Legally, the donation may have been made after a July 25, 1969 deadline set by the 1969 Tax Reform Act for such donations.

7. *Nixon's personal finances.*—Richard Nixon bought his San Clemente home with the aid of a loan from industrialist Robert Abplanalp who later, with Bebe Rebozo as silent partner, purchased back some of the land from Nixon. Some $10 million in public funds have been spent to improve the Nixon homes in San Clemente and Key Biscayne despite an earlier Administration claim that only $39,525 had been spent on San Clemente.

8. *Key Biscayne bank charter.*—The Federal Home Loan Board chartered a new savings-and-loan in Key Biscayne allegedly because of the bank's connection with Bebe Rebozo. An earlier FHLB ruling had found only a "marginal banking need" in Key Biscayne.

9. *Carpet standards.*—In August 1972 contributions totalling more than $200,000 were made by officers of carpet manufacturing firms to the Nixon campaign. During that period the Administration postponed effective flammability regulations for carpeting.

10. *McDonald's cheeseburgers.*—On May 31, 1972 the Price Commission ordered McDonald's to reduce the price of its Quarter Pounder cheeseburger. Ray Korc, McDonald's board chairman, then contributed more than $200,000 to the Nixon re-election effort. Following his initial contribution (which eventually would total $255,000) the Price Commission on September 8, 1972 reversed its earlier ruling.

11. *Andreas federal bank charter.*—A highly-desirable federal bank charter was granted August 22, 1972—in record time—to Minnesota millionaire Dwayne Andreas; Andreas had made a secret $25,000 donation to the Nixon re-election campaign on April 9, 1972.

12. *Greek national's contribution.*—One Nikos Vardinoyannis made a $25,000 contribution to the re-election campaign; in December 1972 an oil company owned by Vardinoyannis received a $4.7 million contract for refueling the U.S. Sixth Fleet, based in Piraeus, Greece.

13. *Seafarers' case.*—The Justice Department decided in October 1972 to drop its case against the Seafarers' International Union for illegal 1964–1968 campaign contributions. Three weeks later, on November 2, 1972, the union contributed $100,000 to the Nixon campaign.

14. *Drug firms merger.*—The Administration is said to have blocked Justice Department opposition to the merger of two giant drug firms—Warner-Lambert and Parke-Davis. The honorary board chairman of Warner-Lambert is Elmer Bobst, long-time friend and financial backer of Richard Nixon and a major client of Richard Nixon's former law firm.

15. *Inside information on grain deal.*—It is alleged that inside information was passed in July 1972 to giant grain companies, enabling them to make huge profits from the sale of wheat to the Soviet Union at the expense of American consumers, wheat farmers and taxpayers.

16. *Mexican laundering.*—Illegal campaign contributions amounting to $100,000 are said to have been obtained April 3–5, 1972, from the Texas-based Gulf Resources and Chemical Corporation, passing through Mexican banks in a "laundering" operation; immediately afterward, the Environmental Protection Agency withheld a pollution abatement order which had been issued on March 29, 1972 to a Gulf Resources subsidiary.

17. *Illegal corporate contributions.*—Gulf Oil, Ashland Oil, Goodyear, Phillips Petroleum, Braniff Airways, Minnesota Mining and Manufacturing, and American Airlines have admitted that in response to solicitations from the Nixon re-election campaign they made secret illegal corporate contributions; Rose Mary Woods, Richard Nixon's personal secretary, kept a complete list of such secret contributions.

18. *Flanigan's ship windfall.*—In March 1970 the Treasury Department issued a waiver which would have resulted in a $6 million windfall to a company which had been headed by special assistant to the President Peter Flanigan prior to his White House appointment; a public outcry after Sen. Joseph Tydings alerted the public led the Treasury Department to reverse its ruling.

SUBVERSION OF THE ELECTORAL PROCESS

1. *White House "dirty tricks".*—In 1971 and 1972 at least 20 undercover agents, including Donald Segretti, are said to have been hired to disrupt Democratic events, spread false charges about Democratic candidates and promote Democratic disharmony by throwing campaign schedules into disarray, forging letters, planting provocateurs in Democratic rallies, and leaking false information.

2. *Campaign slush-fund.*—It is alleged that the White House maintained a huge slush fund of cash, to be used for political espionage and "investigative" purposes, controlled by Attorney General John Mitchell, Commerce Secretary Maurice Stans, and others.

3. *Journalists as spies.*—Lucianne Goldberg, a New York City free-lance journalist, and Seymour Freidin have admitted that they were hired by Murray Chotiner, a long-time Nixon political adviser, to spy on the McGovern presidential campaign.

4. *Infiltration of Democratic campaigns.*—In October 10, 1973 testimony, Michael McMinoway told the Watergate Committee that he had infiltrated the primary campaigns of three Democratic contenders, Edmund Muskie, Hubert Humphrey, and George McGovern.

5. *Nixon fund-raising.*—A total of $19.9 million was collected for the Nixon re-election campaign before the April 7, 1972 deadline for strict financial reporting, according to records made public September 28, 1973 by the Committee to Re-elect the President. Even if legal, the contributions represented a blatant violation of the law's spirit and intent. (Total contributions for the entire Nixon re-election campaign were reported to be $60.2 million on September 28, 1973.)

6. *Hiring of private detectives.*—Private detectives such as Anthony Ulasewicz, were hired by White House aides allegedly to spy on the sex life, drinking habits and family problems of political opponents, including Sen. Edward Kennedy, Rose Kennedy, Sen. John Tunney and House Speaker Carl Albert.

WATERGATE AND THE COVER-UP

1. *Watergate break-in.*—Break-ins at the Watergate headquarters of the Democratic National Committee, on May 27 and June 17, 1972, followed a plan developed by G. Gordon Liddy and allegedly approved by several White House officials.

2. *Shredding of documents.*—Wholesale batches of potentially incriminating documents allegedly were shredded by the Committee to Re-elect the President and the White House shortly after the Watergate break-in was discovered.

3. *Destruction of Howard Hunt papers.*—It is alleged that John Ehrlichman suggested that John Dean destroy evidence found in E. Howard Hunt's White House safe; subsequently that evidence was destroyed by acting Director of the FBI, L. Patrick Gray. John Dean admitted on November 5, 1973, that he also destroyed some Hunt note books.

4. *Watergate cover-up.*—John Dean has said that Richard Nixon was aware of the Watergate cover-up as early as September 15, 1972, that the President was aware of offers of clemency and payment of hush money to keep the original Watergate defendants quiet, and that between February 27 and March 21, 1973, in several meetings, Dean spread out before the President the details of the Watergate cover-up.

5. *Limiting FBI investigation of Watergate.*—Richard Nixon admitted, on May 22, 1973, that the FBI investigation of the Watergate break-in was delayed—supposedly to prevent exposure of covert national security or CIA activities.

6. *Refusal to turn over tapes.*—For many months, until forced by public pressure and threats of impeachment, Richard Nixon refused to release to the courts tapes of key recorded conversations.

7. *Dismissal of Cox.*—Archibald Cox, Special Prosecutor in the Watergate case, was dismissed and his office was abolished by the President in violation of rules agreed to by the Senate and the Administration and printed in the June 4, 1973, Federal Register. Under those rules Cox could not be fired except for "extraordinary improprieties." On November 8, 1973, Former Attorney General Elliot Richardson testified before the Senate Judiciary Committee that the White House had talked of getting rid of Cox as early as July 23, 1973. On November 14, 1973, Federal District Judge Gerhard Gesell ruled that the dismissal of Cox was illegal.

8. *Withholding of information from Cox.*—Cox told the Senate Judiciary Committee on October 29, 1973, that the White House had withheld many documents, notes and other evidence necessary to the investigation of the Watergate break-in.

9. *Missing White House tapes.*—The White House announced on October 31, 1973, that White House tapes of two key conversations—one between Richard Nixon and John Dean on April 15, 1973, and the other between the President and John Mitchell on June 20, 1972—did not and had never existed, despite over three months of controversy over these two and other tapes. On November 12, 1973, the White House announced that a dictation belt recording of Nixon's summary of the April 15 meeting is missing.

PERVERSION OF GOVERNMENT

1. *Perversion of the C.I.A.*—The House Armed Services Subcommittee on Intelligence concluded on October 30, 1973 that the CIA had been duped by top White House officials seeking to stall an FBI investigation of the Watergate break-in. Former CIA director James Schlesinger, on May 19, 1973, admitted to a Senate Appropriations subcommittee that the CIA had cooperated in the burglary of Daniel Ellsberg's psychiatrist by providing a former CIA agent, E. Howard Hunt, with a disguise and false ID and by preparing a psychological profile of Ellsberg.

2. *Perversion of the Justice Department.*—Former Attorney General John Mitchell admitted to the Senate Watergate Committee that under him the Justice Department had become involved in political activities, including early 1972 Nixon re-election activities. James McCord testified on May 18, 1973 before the Senate Watergate Committee that Internal Security Division reports were sent to the Committee to Re-elect the President.

3. *Perversion of the FBI.*—On August 3, 1973, L. Patrick Gray admitted that while Acting Director of the FBI he burned the files of E. Howard Hunt, Jr.; during the 1972 Presidential campaign Gray also delivered a series of plainly political speeches.

4. *Perversion of the State Department.*—E. Howard Hunt on September 24, 1973 before the Senate Watergate Committee admitted that he was given access to State Department cables covering the period of the Diem assassination, and that he fabricated cables to make it appear that President Kennedy plotted the assassination.

5. *Perversion of the Department of Defense.*—The Defense Department secretly bombed Cambodia and then deceived the American public about the bombing.

6. *Perversion of the Secret Service.*—On Aug. 16, 1973 Secret Service agent James Bolton, Jr. was forced to resign from the agency after it was revealed that campaign information he had acquired while helping guard Sen. George McGovern was passed to the White House. The Secret Service was involved in widespread violations of civil liberties on Billy Graham Day in Charlotte, North Caroline on October 15, 1971, according to a judgment written by U.S. District Judge James McMillan on July 31, 1973. The service also managed the secret and illegal taping of White House conversations.

7. *Perversion of the National Security Council.*—National Security Council director Henry Kissinger, in papers filed in federal court of the District of Columbia on August 15, 1973, admitted that in May 1969, acting in his official capacity, he prepared a list of names of persons whose phones were to be tapped.

8. *Abuse of the SEC.*—It is alleged that G. Bradford Cook, later Chairman of the Securities and Exchange Commission, altered an SEC complaint against Financier Robert Vesco after discussions with Maurice Stans, Richard Nixon's chief campaign fund-raiser; Cook resigned as Chairman on May 16, 1973 after grand jury disclosure of this information.

9. *Misuse of the IRS.*—John Dean has alleged and H. R. Haldeman has confirmed, in testimony before the Senate Watergate Committee on July 30, 1973, that the IRS was to

be used to harass and punish political opponents of the Administration.

10. *Abuse of the Supreme Court.*—Jack Landau, director of information at the Justice Department in 1969 and 1970, has admitted that he delivered a message from then-Attorney General John Mitchell to two justices of the Supreme Court allegedly to pressure the Supreme Court about its March 10, 1969 ruling that accused persons are entitled to see records of illegal surveillance against them.

11. *Abuse of the judicial system.*—On July 25, 1973 John Ehrlichman told the Senate Watergate Committee that on April 5, 1973, Ehrlichman and W. Matt Byrne, Jr., presiding judge of the Ellsberg trial—then underway—met briefly with Richard Nixon to discuss the directorship of the FBI.

12. *Abuse of civilian-military separation.*—On May 26, 1973 Sen. Stuart Symington, acting chairman of the Senate Armed Services Committee, accused Gen. Alexander Haig, Jr. of illegally serving as White House chief of staff while he still served as Army vice chief of staff.

13. *Exploitation of public opinion.—The Washington Post* said on April 25, 1973, that the Nixon re-election committee spent at least $8,400 in May 1972 to give a distorted view of public reaction to the decision to mine Haiphong harbor by paying for supporting telegrams to be sent to the White House and a $4,400 ad in the New York Times, as well as stacking an opinion poll conducted by Washington TV station WTTG.

14. *Abuse of congressional will.*—Richard Nixon, in violation of clear statutory obligations to spend funds appropriated by the Congress and signed into law by himself, impounded an estimated $40 billion of funds scheduled for health care, housing, assistance for the poor and handicapped, and other programs; he also dismantled the Office of Economic Opportunity despite duly enacted statutory authority extending OEO until June 30, 1974.

15. *Distortion and politicization of statistics.*—On October 9, 1971, *the New York Times* suggested that the Labor Department's employment and unemployment statistics had been politicized. The *Post* alleged in a September 6, 1972 article that the Agriculture Department deliberately overstated farm income by more than $1 billion shortly before the 1972 election as admitted by Donald Paarlberg, USDA's director of agricultural economics.

16. *Expansion of executive privilege.*—Then-Attorney General Richard Kleindienst said on April 10, 1973 that all 2.5 million federal employees could be directed by the President not to testify before Congress.

VIOLATIONS OF CONSTITUTIONAL LIBERTIES

1. *"Houston plan."*—Richard Nixon on July 23, 1970 adopted the "Houston plan," according to his own May 22, 1973 statement. It called for surveillance of dissenters, political opponents, news reporters and government employees through burglary, wiretapping, eavesdropping, mail covers and spying by the CIA and other agencies; the plan supposedly was abrogated five days later.

2. *Secret taping*—Private conversations in the Presidential offices were taped by Richard Nixon without the knowledge of those being taped, a fact disclosed on July 16, 1973 by Alexander Butterfield, a former deputy assistant to the President. Such recording of telephone conversations violates Federal Communications Commission regulations unless all parties to the conversation are informed that it is being recorded.

3. *The "plumbers"*.—Richard Nixon admitted, in his May 22, 1973 statement, authorizing the June 1971 creation within the White House of a Special Investigations Unit, a group—later known as the "plumbers"—of personal secret police acting outside the restraints of law by engaging in burglary, illegal wiretaps, espionage and perjury.

4. *White House enemies list.*—The White House developed a list of opponents or "political enemies," begun in 1971 and updated continually, with the alleged intention of using federal machinery to "screw" these "enemies;" the Senate Watergate Committee published the names of 216 Americans on the list June 28, 1973.

5. *Ellsberg burglary.*—The White House "plumbers" unit attempted to take Daniel Ellsberg's psychiatric records from the office of Dr. Lewis Fielding on Sept. 3, 1971; on Sept. 4, 1973 four members of the "plumbers" were indicted for their role in the burglary.

6. *Withholding information from a court.*—Richard Nixon admitted in an August 15, 1973 statement that by March 17, 1973 he knew of the Ellsberg burglary, although he did not direct that the information be made known to Judge W. Matt Byrne, Jr. until 39 days later, on April 25, 1973.

7. *Dragnet arrests on May Day.*—On May 3, 4, and 5, 1971, over 13,000 people were arrested in Washington, D.C.; the arrests later were declared illegal by the courts.

8. *Illegal national security wiretaps.*—Richard Nixon admitted in a May 22, 1973 written statement that a special program of wiretaps had been initiated in May 1969 and terminated in February 1971; on June 19, 1972 the Supreme Court unanimously found such taps unconstitutional.

9. *Wiretaps on officials.*—In an August 31, 1973 story *The New York Times* alleged that Richard Nixon had wiretapped James McLane, deputy director of the Cost of Living Council, and John Sears, former deputy White House counsel and former Nixon law partner, although neither had access to national security information.

10. *Wiretapping Donald Nixon.*—Richard Nixon is said to have ordered the Secret Service to tap the phone of his brother Donald for more than a year to monitor Donald's business activities in order to prevent possible embarrassment to the Administration.

11. *Grand Jury harassment.*—In 1971 at least 13 federal grand juries were used to investigate political dissenters, using compelled testimony as a surveillance device and the power to send people to jail for contempt as an instrument of harassment.

12. *Attack on foundations.*—On September 26, 1973 White House speechwriter Patrick Buchanan admitted that he had urged the use of the Internal Revenue Service against "leftist" foundations and institutions.

ILLEGALITIES IN THE CONDUCT OF FOREIGN POLICY

1. *1973 Cambodia bombing.*—In 1973 Cambodia was subjected to intense bombing without the authorization of Congress and despite the withdrawal of U.S. troops from Vietnam.

2. *Concealment of bombing.*—Bombing in Cambodia in 1969 and early 1970 was deliberately concealed; the President, in a speech at a convention in New Orleans on August 20, 1973, said that given similar circumstances he would do the same thing again.

3. *Cross-border operations into Laos.*—Some 441 cross-border operations into Laos took place in 1970 after Congress had passed legislation, in December 1969, prohibiting the use of U.S. ground combat troops in Laos.

4. *Illegal advising of Cambodians.*—The General Accounting Office, in a report released October 16, 1973, has alleged that the U.S. military team in Cambodia actually is functioning as an advisory group despite the Cooper-Church amendment to the Foreign Assistance Act passed in 1970 which said that no American aid could be used to "provide U.S. advisors to or for Cambodia military forces."

5. *Lying about Cambodian bombing.*—Richard Nixon, in an April 30, 1970 speech to the American people announcing the invasion of Cambodia, lied when he stated that for five years the United States had not moved against enemy sanctuaries in Cambodia "because we did not wish to violate the territory of a neutral nation." Nixon had authorized 3,875 air strikes over Cambodia between March 1969 and May 1970.

6. *Aid to Pakistan.*—The General Accounting Office, in a study released February 4, 1972, has alleged that the U.S. Air Force airlifted to Pakistan on a priority basis more than half a million dollars worth of aviation spare parts, despite government pledges that arms shipments had been stopped due to the war between India and Pakistan.

SUBVERSION OF THE PRESS

1. *Wiretapping of reporters.*—Four reporters—Marvin Kalb of CBS, Hedrick Smith of *The New York Times*, William Beecher of *The New York Times*, and Joseph Kraft, a syndicated columnist—were wiretapped without court authorization.

2. *Intimidation of reporters.*—CBS News reporter Daniel Schorr was subjected to a fraudulent investigation; H. R. Haldeman admitted in August 1, 1973 testimony to the Senate Watergate Committee that Schorr was not being considered for a possible White House appointment as originally claimed by the White House.

3. *Use of subpoenas on journalists.*—The Justice Department frequently has used subpoenas to force journalists to divulge information sources.

4. *Retaliation against Washington Post.*—On July 29, 1973 Katharine Graham, publisher of *The Washington Post*, alleged that the licenses of two Florida television stations owned by her company were challenged because of the *Post's* role in uncovering the Watergate scandal.

5. *Prior restraint of the press.*—The Administration attempted to impose the first prior restraint on publication in American history in trying to prevent newspaper publication of the Pentagon Papers in June 1971.

6. *Arrest of reporters.*—Les Whitten of columnist Jack Anderson's staff was arrested following occupation of the Bureau of Indian Affairs; Tom Oliphant of *The Boston Globe* was arrested while covering the occupation of Wounded Knee. Charges against both subsequently were dropped.

FACING UP TO THE ENERGY CRISIS

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1973

Mr. HARRINGTON. Mr. Speaker, an article recently appeared in New Times magazine which discusses the energy crisis we face without ducking its troubling and possibly catastrophic implications. It seems to me that Congress could make matters worse by refusing to acknowledge the potential for true disaster posed by the energy situation, and I recommend my colleagues' attention to the article reprinted below:

THE INSIDER: ENERGY

By Christmas the energy crisis will have radically altered the face of America. But no one in Washington, in the Congress, the White House, the Cabinet is saying so out loud. Those few who see a catastrophe coming are keeping quiet in fear of the political ax that falls on the bearers of evil tidings. "It's the most unbelievable feeling," says Dr. John Curtis, chief of staff of Congressman Morris Udall's House Interior Subcommittee on Environment. "Here I am walking around Washington and everyone is behaving as if nothing is happening—and in two months, all our lives will probably be changing."

By February, according to my figures and sources, the United States will be in the middle of a serious recession—factories closed down, work weeks reduced, major unemployment, the price of food rising, the stock market falling daily. Some industries such as travel, packaging, food will have changed beyond recognition. Others such as petrochemicals, fertilizers, drugs, cosmetics and film, will be heavily regulated. Housing starts will be dropping 10 percent a month, newsprint in short supply. There will be total rationing of all kinds of fuel. Probably about 10 to 15 gallons a week for your car, 50 percent to 70 percent of what you burned last year for your house except in the Southwest.

The distribution of energy will be the dominant political fact of the next three years and the next Presidential election—even more divisive than Vietnam. Congressman Mike McCormack, Chairman of the House Subcommittee on Energy, and one of the few men ahead of the problem, said privately last week, "By February we will see the gravest dislocation in American society since World War II. People will very likely be without heat in New England for extended periods. Not just thermostats turned down, but without heat. And there will be blackouts of Eastern cities. Unemployment will be a serious problem. And even if the Arabs turn the oil back on tomorrow, there would be a lead time of six weeks or more before it reached American consumers."

To uncover the dimensions of the oil shortage one must crawl through the grubbiest swamp of figures since the Hamlet Evaluation Program in Vietnam. Everybody's statistics are different.

President Nixon says our supply of petroleum will fall from 10 to 17 percent short of our anticipated demands this winter. That means a shortage of about 2.5 million barrels of oil a day. But, according to figures supplied by McCormack's office, Udall's office, the CIA and the Department of Defense, the President has underestimated the U.S. daily consumption and it is more likely the shortage will amount to almost twice as much, or five million barrels a day.

But even on an estimate of a three-million-barrel shortage a day, says Dr. Curtis, "the Defense Department predicts eight or nine percent unemployment. Since unemployment increases more rapidly with each barrel of oil less, a five-million-barrel-a-day shortage means 15 to 20 percent unemployment by the beginning of March."

Most of the important remedies to the oil shortage could not begin to take effect until from two to eight years—even if we started to work on them right now with World War II-type crash programs. As for the Alaska pipeline, if work started tomorrow, it would be three years before the first drop of oil came out the other end. The same is true of improved mass transit, the production of smaller cars, new incentives for gas and oil exploration, new refineries. Even further away, five to 20 years, is the extraction of oil from tar sands, the liquefaction of coal, nuclear power plants in significant numbers and solar energy.

All that can be done for the next two years is to conserve and ration. Which makes those actions vital. In a way, the Arabs have done us a favor. They have forced what was a creeping crisis to come on us suddenly and so made it dramatically visible. America has the opportunity for a great debate and great decisions. What sort of nation do we wish to be: How fat? How lean? How independent? How dependent? How regulated? How free? How equal? How nonequal? How greedy? How generous?

In the politics of the energy crisis so far, there's little whiff of such debate—mostly demagoguery and politics as usual. Oil executives, most politicians, and environmentalists have all drunk from the same polluted American well and imbibed the dream that our resources are limitless. The same kind of thinking produced the hallucination we could win in Vietnam and still have the great society because we were so powerful. Since World War II the American energy system has been designed and built to sell an excess of crude oil. That excess no longer exists. Now we must transform the system into an instrument of social benefit in time of scarcity.

COMMENTS ON THE ANTIBUSING AMENDMENT DEBATE

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1973

Ms. ABZUG. Mr. Speaker, last week, for the first time in many years, words used during debate, in this case words I used during consideration of the Dingell antibusing amendment, were ordered stricken from the Congressional Record.

I thought the action was unnecessary and apparently there are others who share my feelings.

At this point I would like to introduce into the Record three comments and commentary on this question. The first is the lead editorial of today's New York Times. The editorial talks about the energy crisis in general and specifically comments on the antibusing amendment and the debate on that amendment.

The editorial follows:

Moral Profiteering

It would be unrealistic, even irresponsible, to argue that the nation's energy problems can be met without some setbacks to the cause of environmental protection and other socially oriented policies. Compromises between what is ultimately desirable and what is momentarily necessary must be accepted.

But the need for concessions must not be turned into a surrender to the retrogressive forces that have long been waiting for an opportunity to shed virtually all restrictions and give free reign to exploitative policies camouflaged as emergency action.

Efforts to reap economic and ideological gains from the crisis have become transparent. Automobile manufacturers have rushed to win deferments in the imposition of clean-air standards for future models. Environmental standards for controversial pipelines or relatively high-risk new energy plants are being shelved. Strip mining seeks blanket approval. The suspicion grows daily that the Nixon Administration, whether by design or by lack of effective policies, is retreating far more than necessary from hard won gains on the environmental and other fronts, under cover of the energy crisis.

It is in this spirit that, for example, antibusing forces in the House have unscrupulously exploited the fuel crisis by encumbering the emergency energy bill with an amendment to prohibit busing for school-integration purposes. Posing as defenders of parliamentary decorum, the amendment's sponsors rose in righteous wrath against members who denounced the rider as "racist." Yet, such a characterization seems entirely justified both by the measure's intent and the way it was introduced.

The statistics marshaled to pretend that the vindictive step was taken in the nation's service were transparently deceptive. The argument that, out of a total of 626 million gallons of fuel estimated to be consumed annually by school buses, some 78 million gallons are used to achieve a racial balance, is an illustration of such deviousness. It overlooks the fact that many, if not the majority, of those who ride buses to integrated schools would have to be transported to segregated schools instead, consuming an important part of the 78 million gallons.

Such arguments are, however, less significant than the symbolic meaning of this attempt to hold a vital energy measure hostage, in an effort to extract as ransom an antibusing law that has repeatedly been defeated on its own lack of merit. The move is symptomatic of a form of moral profiteering no less shameful than the ways in which other special interests are turning the energy crisis into a chance for quick financial gain.

Even prior to the sneak attack on busing under the cover of fuel conservation, the nation's total commitment to education was under attack. Instant demands for curtailed school hours raise disconcerting questions about American priorities. Is schooling more expendable than any other activity?

A patently phony pretext of fuel conservation has now been used to undermine the principle as well as the laws of equal educational opportunity and social justice. It is merely the latest example of a cynical game plan by those who hope, by hiding behind the energy crisis, to divert public attention from their reactionary design.

What follows is a telegram I received from Clarence Mitchell, director of the Washington bureau of the NAACP:

Hon. Bella Abzug,
U.S. House of Representatives:

Please accept our warmest thanks for your courageous and one hundred percent accurate observation on the House floor that the Dingell anti-busing amendment was racism and demagoguery. Almost all who supported the Dingell position said they were doing so because of their experiences with busing or because they wanted to kill court ordered transportation to achieve desegregation. There is no moral difference between this effort to use the gasoline shortage as a pretext to destroy constitutional rights of black children and the various unlawful acts that have been committed in the name of national security by Watergate operatives. I am sending a copy of this wire to Representative Bauman.

Clarence Mitchell,
Director, Washington Bureau, NAACP.

The third article comes from George Frazier, a columnist for the Boston Globe who is not generally in agreement with me on many issues but on this one has this to say:

Obviously any day on which I have a kind word on the account of both Congressman Rodino and the state of New Jersey—the large economy size as it were—is a day on which I neglected to take my nastiness pills. I tremble to think what it must mean when I compound the insensitivity by losing my head long enough to laud such an old adversary as Mrs. Abzug. But nevermind now, for I'll put off having myself placed under observation until later. Right now I must point out that nothing has so become the congresswoman from New York as her being rebuked last Thursday by Carl Albert, who is a sergeant-at-arms or something, for having called one Dingell "racist and demogogic."

For the first time in a decade a member of Congress's remarks were ordered stricken from the record. It is an indication of that body's lack of fire that Mrs. Abzug's "unparliamentary language" should have brought on a moral rebuke. Unparliamentary perhaps, but lovely, lovely, lovely. Anything said about somebody named Dingell, particularly if he opposes busing, is fine with me. So Merry Christmas, dear Bella. By way of an obiter dictum, I was astonished that the next day's New York Times treated the incident almost cavalierly. The least its representative could have done was get Mrs. Abzug's reaction to having been rebuked. Or perhaps he did and it was unprintable. In that case, Happy New Year, too, dear Bella.

RON DELLUMS ON SPORTS SAFETY LEGISLATION

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1973

Mr. BROWN of California. Mr. Speaker, my colleague from California's Seventh District, Mr. Dellums, is probably the most active Member of this body dealing with the issue of athletic injuries.

Recently, Representative Dellums was the main speaker at the contact meeting of national organizations interested in health and safety supervision of sports, sponsored by the Committee on the Medical Aspects of Sports of the American Medical Association, held this November 30 in Anaheim, Calif.

I have received a copy of Congressman Dellums' speech, and I would like to insert it into the Record at this point, because I feel it presents a valuable perspective on the problem of sports injuries and what can be done about this problem:

Sports Safety: The Prospect for Congressional Action

Near the end of the first half of Monday night's 49er-Packer game, cornerback Jimmy Johnson was involved in a pile-up in the San Francisco end-zone. Instant replay slow motion showed Johnson falling back—untouched by any other player—and hitting his head on Candlestick Park's artificial turf surface. Johnson was knocked out for about three minutes.

Jimmy Johnson's injury wasn't major—whatever that means—and he soon was back in the game. But it's typical of a problem area I've become involved in as a Representative in Washington.

There's no need for me to cite you the statistics of sports injuries. We all know they're high; we are all concerned about them. The issue is: How best to deal with both the causes and the treatment of such injuries.

And as you probably know, I have introduced two pieces of legislation in this area—"The Athletic Safety Act" and "The Athletic Care Act"—both of which are concerned with sports safety on the scholastic level.

But, Jimmy Johnson's injury is just as important to me. Three weeks ago I attended a symposium conducted by the National Football League Players Association specifically about the dangers of artificial turf and the petition brought by the Players Association before the Consumer Product Safety Commission asking for a ban on such sufaces.

If the Commission accepts the petition, this action will not only affect professional football, but will extend also to scholastic sports.

In that symposium, John Brodie noted that during the 49er-Dolphin game this year in Miami, the field temperature was 120 degrees and that eight San Francisco players were struck with heat prostration. Bill Curry of the Oilers said that when he was with the Colts, the field temperature at the Orange Bowl registered 135 degrees. Kermit Alexander of the Eagles said that the artificial turfs have made him change the way he tackles. And on and on from the players.

The point here is that artificial turf is spreading way out of just the pro ranks. Some of the older professionals said there are players on their squads who have virtually played only on artificial turf.

This is not the forum for a detailed, complete debate on the dangers and problems associated with artificial turf, but the issue relates closely with the rationale for my legislative actions in this area.

If the proposed "Athletic Safety Act" were enacted, specific standards for athletic contests and training would have federal backing. And perhaps a standard could be established which would clarify the turf safety question.

Before I go any farther in describing more fully these bills, I would like first to put the issue within a perspective and also tell how I became involved in it.

Thanksgiving week two years ago my staff received a call from a group of students at the University of North Carolina, where in September, 1971 a UNC football player, Bill Arnold, had collapsed and died after suffering a heat stroke in a practice. According to the students—among whom were a number of present and past squad members—the practice during which Arnold collapsed was conducted under conditions which broke NCAA regulations. Yet, when the students tried to get either university or state officials to look into the situation, they received what the students termed a "whitewash".

The students then tried a number of congressional offices to see if there was any interest—and were turned away. Finally, they called my office, my staff met with them on Thanksgiving Day, 1971, and after months of discussion, I introduced "The Athletic Safety Act".

To this day, I am not fully convinced that the federal government MUST step into the athletic safety field. I would much prefer that the NCAA and other related organizations at all educational levels themselves establish enforceable and sanctioned regulations to prevent unneeded injuries and deaths—or that the states through their legislative bodies could handle these problems.

I applaud those states where formal or informal sports medicine and safety programs are getting underway, programs like the North Carolina approach where a permanent statewide commission is being set up to oversee medical aspects of sports.

But, can we afford to wait for 50 states to act themselves to establish such programs? Can we afford the injury rates in all sports—*not just football*—because of a philosophical belief that *only* states should act in certain areas?

I think not.

I also am concerned about the changing nature of competitive sports. I think it is naive to see professional sports as mere sport; they are indeed big business, and like many current institutions extremely mechanized and technological. Players have assignments, teams employ sophisticated data processing techniques, the players set up their own unions; there are extremely lucrative financial rewards, enticing bonus plans, an attractive pension program.

And, obviously, these pressures and situations are not limited to the professional ranks. A recent article in the L.A. Times dealt with an Arkansas town which is paying the high school football coach more money than the State Governor receives because the town people insist that their team beat a neighboring Texas team. And these same pressures are rampant throughout the colleges and universities.

What it can often mean is that such pressures are taken out on participants; and one area this can show up in is that of injury rates.

Obviously, no one can "legislate" fewer athletic injuries, but I think the legislation I have introduced can go a long way to reduce the probabilities of injury, and can assure that injured athletes receive adequate care and attention.

"The Athletic Safety Act" amends the Occupational Safety Act of 1970 so as to give scholastic athletes the same coverage as professionals now have. "The Athletic Safety Act" applies provisions of the Occupational Safety Act to high school and college athletic contests. It also expands the definition of national consensus standards to include the code of the NCAA and similar state and national athletic associations so that the rule-making procedures of the Occupational Safety Act can be used for athletes as they were used for other workers.

Specifically, "The Athletic Safety Act":

(1) expands OSHA coverage to every participant in an athletic contest between secondary schools or between institutions of higher education;

(2) regards such schools as an "employer" of an individual representing that school as a participant in an athletic contest;

(3) expands the definition of national consensus standards to include for any athletic contest the code of the NCAA or the code of any other recognized national athletic organization for colleagues and secondary schools. If more than one code applies to any contest, the Secy. of Labor shall designate as applicable to that contest the code which assures the greatest protection.

The Occupational Safety Act is enforced through a system of increasing fines and possible criminal actions, and passage of "The Athletic Safety Act" would thus ensure not only a stringent series of standards for athletic contests and participants, but also stiff sanctions. In addition—and very importantly—OSHA forbids employers from arbitrarily dismissing persons who bring actions under the Act. Applied to scholarship athletes, this provision would guard athletes who often fear making complaints about unsafe conditions because they might lose their scholarships.

"The Athletic Safety Act" is a strong piece of legislation, and I do not see it being passed in the near future. Part of that view comes from the nature of the Occupational Safety Act—which itself is one of the most controversial measures passed by Congress in the last few years.

There are powerful forces within Congress who want to gut—or even repeal—OSHA. For that reason, the Committee which handles OSHA has hesitated acting on this amendment because they are apprehensive that if they open the Occupational Safety Act to this strengthening provision, they also might be forced to accept other amendments which would substantially weaken the Act.

As a Member of Congress who supports the Occupational Safety Act I can understand this position, but I hope that the time will come soon when "The Athletic Safety Act" will be considered and dealt with based upon its merits alone.

"The Athletic Care Act" is narrower in scope, and, fortunately, has made what I would consider excellent progress. The Act amends both the Elementary and Secondary Education Act and the Higher Education Act to require that all educational agencies and institutions which engage in interscholastic sports competition employ certified athletic trainers within an eight year period.

Those schools which do not meet this requirement will not be permitted to participate in interscholastic sports competition. In addition, the bill establishes a program of grants to assist colleges and universities in providing the education and training of athletic trainers.

All of you who work with scholastic sports know the value of a qualified athletic trainer—and the danger involved when a person without specific training in the treatment of athletic injuries is "appointed" the trainer. And it would seem to me that as the sophistication and technology of sport accelerates, so does the need for qualified medical care. Calling a student or assistant coach an "athletic trainer" is not only inadequate, it is hazardous. And so, I believe that if a school is unwilling to make the effort to protect student athletes, then that school should not be allowed to compete.

There are some areas still to be worked out in the final version of this legislation. For example, I am not sure that the eight year target date is enough time to provide all the trainers that will be needed. And the definition of a certified trainer still needs a bit more clarification.

Still this bill is on the right track, and I think you will be interested that over 30 of my colleagues in the House have joined with me as sponsors of this legislation.

A month ago, a significant step was made in the eventual passage of "The Athletic Care Act." The House Education and Labor Committee—the Committee which has been assigned both these bills (even though they have gone to different subcommittees)—is now in the process of "marking-up"—preparing its final version—of the Elementary and Secondary Education Act. A Republican member of the Committee—Edwin Forsthye of New Jersey—took a look at "The Athletic Care Act" and decided it was a good thing. He and I then began thinking if we could get it passed. As it happens, the Education and Labor Committee is very statistic-minded; no matter the merits of a particular bill, the Committee wants "hard" data.

Despite all the information I've been able to collect about the need for athletic trainers, it just did not seem as if we had enough hard statistics. So instead of trying for an outright vote on 'The Athletic Care Act" at this time, Rep. Forsythe and I decided to ask for a government-funded one year study on the topic. That proposal was adopted unanimously by the Education and Labor Committee.

This, then, is the current situation.

The Education and Labor Committee has adopted an amendment to E.S.E.A. calling for that one year study.

Next, the House must pass the E.S.E.A. bill.

So must the Senate. Presently, there is no language in the Senate version of the bill calling for such a study, and I am now working to get Members of the Senate to propose the study. I am fairly confident we will achieve that, and finally, that the President will sign into law the E.S.E.A. bill.

The study would begin 60 days after the Act is signed into law.

A year later, the report would be made, and then I feel we will have the data needed so that serious consideration will be undertaken on the "Athletic Care Act."

PERSONAL ANNOUNCEMENT

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1973

Mr. LEHMAN. Mr. Speaker, on rollcall No. 668, I am recorded as voting "yea." I misconstrued Mr. WYMAN's amendment and would have otherwise voted "no."

THE ENERGY CRISIS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1973

Mr. HAMILTON. Mr. Speaker, Americans no longer doubt that the Nation is in an energy crisis.

The warning signs have been appearing since around 1970, and their gravity has steadily mounted: Scattered electrical blackouts and brownouts; shortages last winter of propane gas for drying crops, the Arab oil cutoff, gasoline shortages and periodic shutdowns of gas stations, reduced airplane schedules, and heating oil shortages last winter and critical shortages predicted for this winter and the years to come.

Americans also understand that we are at a decisive moment in the development and use of our energy resources. They recognize the elements of the crisis: An increase in the price of energy, the dilemma of increased energy production at the expense of some additional abuse to the environment, arguments over energy policy among politicians and bureaucrats, the necessity of importing more energy from abroad, and perhaps personal inconveniences and even hardships. They are beginning to believe the experts who say we will be chronically short of fuel for at least the next 5 years, regardless of what steps may be taken immediately.

Although Americans have come reluctantly to accept the fact of the shortage, they do not understand why it came upon us so suddenly, or what the prospects are for the future, or what decisions confront us.

The observations that follow are made with the hope that they may contribute to a better understanding of a complex and far-reaching problem, and with the belief that, although the energy crisis is real and solutions to it will come hard, there is no reason for panic and every reason to think that intelligent planning and action will see us through.

I. SOURCES OF ENERGY

A beginning point in our quest for a better understanding of the energy crisis is a quick survey of the sources of energy and the prospects for their development in the next several years:

A. OIL AND GAS

Oil and gas provide 75 percent of our current energy needs. They are widely used because of low transportation costs, convenient form, and environmental advantages. Expansion of supply depends on improved rates of recovery in drilling operations and development of alternative sources, such as the vast oil shale deposits in the western United States. The technology of getting the oil from the shale is difficult, however, and full production of perhaps 1 million barrels per day is not likely until the mid-1980's.

Even with the oil from the Alaska pipeline, estimated to rise to 2 million barrels per day by 1980, domestic production of oil will not exceed 12 million barrels per day, leaving a balance of 18 million barrels per day to be imported in order to meet estimated consumption by 1985 of 30 million barrels per day. Even with large imports, shortages will become severe in the next few years due to lack of refining capacity. Gasoline and heating oil rationing are likely, at least until the end of the Arab oil boycott.

Production of gas, as of oil, has peaked. It is difficult to import gas because it must be liquified and transported in special ships. The gas shortage has been exacerbated by price controls, which have held the cost of gas below that of other energy sources. The controls have also promoted waste and discouraged exploration.

U.S. reserves of oil and gas are limited. If they were to come only from domestic sources, our reserves would be exhausted by the end of the century. Most experts believe it is unlikely that our oil and natural gas production can be sufficiently expanded. We simply cannot sustain a total annual growth in oil and gas consumption of over 4 percent, without an expensive and risky reliance on foreign imports.

It is, therefore, unlikely that oil and gas will meet the anticipated demands of the future.

B. COAL

Coal, which amounts to about one-fifth of our total fuel used, is the most abundant fossil fuel in the Nation. The reserves are ample for the foreseeable future, but extracting them from the earth by strip mining or deep mining can be unsafe and unhealthy, and coal burning pollutes the air.

Nevertheless, coal is a promising fuel for the future. Converting it to gas—coal gasification—or to a liquid—coal liquefaction—is appealing because of declining natural gas and oil supplies. Pilot plants for coal gasification are in operation and commercial plants are expected by 1985. By 1990, coal could be supplying significant amounts of gas and oil if enough capital is forthcoming, ample water for the manufacturing process is available, and the safety and environmental problems of extracting the coal are solved.

C. NUCLEAR POWER

Nuclear power, the best developed new source of energy, is at once the most promising and the most troublesome. It will not, however, be much help in the short-term energy crisis. At present, 39 nuclear-powered generating plants are in use, 55 are under construction, and 90 others are on order. Nuclear powerplants already provide about 1 percent of the total national demand for energy, and by 1980 they will provide about 7 percent.

Nuclear power is gradually overcoming a succession of difficulties, including assurance of safe operation, economic feasibility, and environmental acceptability. But other difficulties lie ahead. The expansion of nuclear power may consume all U.S. uranium stocks in about 10 years, forcing the Nation to develop a "breeder reactor," which uses a more plentiful form of uranium and produces more fuel than it consumes. It will also require some technological refinements. A commercial demonstration plant by the mid-1980's is the target. Some scientists think the long-range answer to our energy needs is thermonuclear fusion, a process that could release inexhaustible amounts of clean energy through the combustion of hydrogen atoms to form heavier atoms of helium and without dangerous radioactivity. The technology of controlled fusion power is immensely complex, and scientific, economic and engineering barriers must be overcome.

Nuclear research should receive top priority by the Federal Government. It has developed at a slower pace than originally planned. If the many questions, particularly regarding the environment, are solved, the rate of use should rise sharply in coming years.

D. GEOTHERMAL ENERGY

Geothermal energy is already being tapped to generate about 0.1 percent of our electric power. Using various methods, the almost limitless heat stored in the Earth's interior can be brought to the surface as steam or hot water for heating and power generation. The encouraging results of the limited research being done on extracting heat energy from the Earth indicate the need for expanded geothermal study.

If the pollution problems—and they are less formidable than the dangers in nuclear energy—could be overcome, geothermal energy, virtually unlimited as it is, could make a much larger contribution to our total energy production.

E. SOLAR ENERGY

The amount of energy in the Sun is immense, and enough of that energy reaches the Earth daily to more than supply all the energy the world needs. Long underrated as a source of energy, solar energy is attracting more attention. Utilization of this source is almost nonexistent. Since solar energy is thinly distributed and intermittent, with night and overcast skies often prevailing, its efficient collection and storage present difficult technological problems. Although costs are likely to be high, solar energy is clean, renewable and abundant, and these qualities provide strong incentives to develop it, especially for heating and cooling buildings, which now consume more than 20 percent of our total energy requirements.

This year, Federal funding for solar research was increased from $3 million to $12 million. Even this figure is low and should be increased.

F. HYDROGEN GAS

Although little time or money has been put into research and development of hydrogen fuel, it is an appealing source of energy because it is abundant and clean, with no waste disposal problems. The production of hydrogen, though, requires large amounts of electricity, and at present all known methods of producing electricity, except solar power, cause pollution. When the collection of energy from the sun becomes feasible, it could be used to generate hydrogen. Such a combination, though still lying far in the future, could be a clean, usable, and abundant source of energy.

Until these alternatives and largely untapped sources of energy fulfill their promise, the United States must rely on more conventional fuels and confront the problems they entail. The energy shortage today arises because we failed to plan adequately yesterday. Today we must plan to assure sufficient energy for tomorrow and these far-out and far-off solutions demand attention and development.

II. REASONS FOR THE ENERGY CRISIS

But for the immediate future many of these forms of energy are not yet available to us. It is only too obvious that the United States was pitifully unprepared for the energy crisis. Many voices correctly foresaw the coming of the crisis, but with remarkable consistency the top policymakers failed to pay enough attention to advocate and take the painfully unpopular steps needed. The energy crisis is a classic illustration of the difficulty democratic governments have in heading off a crisis before it breaks.

In hindsight, at least, the reasons for our shortage are easy to identify.

A. DEMAND

Burgeoning demand is far and away the most important cause of the energy crisis. The explosive economic growth in Western Europe, Japan, and the United States has led to a dramatic increase in worldwide demand for energy. As other countries become more prosperous, they are demanding, and competing with the United States to obtain fuel supplies.

The United States, with 6 percent of the world's population, is now consuming some 35 percent of the world's energy. We consume twice as much energy per capita as the prosperous West Germans, four times as much as the Japanese. We are the world's largest consumer of oil, natural gas, and coal. Our demand for energy continues to increase at a rate far in excess of population growth.

Furthermore, a major shift in the pattern of energy use has occurred with demand for cheap, clean, but scarce, natural gas going up while relative demand for abundant but dirty coal declines.

Low energy prices in the United States have encouraged high levels of consumption. We have been paying recently 35 to 45 cents for a gallon of gas compared with prices of between 75 cents and $1 in Western Europe, and Government regulated low prices for natural gas has exploded demand for it.

B. GOVERNMENTAL ACTIONS

Bad governmental policy has contributed to the energy shortage, too. The Nation has simply failed to manage its energy resources well.

Government has done little, until very recently, to discourage high consumption and waste. Research and development were inadequate, poorly organized and with insufficient cooperation between Government and industry.

Federal policies, by their lack of stability, thoroughness and long-term planning, have inhibited the power companies from looking for greater resources. Oil companies and utilities have been in constant uncertainty over Federal policy.

For many years Federal policy included oil import quotas, established at a time when we produced more oil than we were using domestically. The President delayed much too long in lifting the quotas, even waiting long after his own Commission advised him to do so. Phase IV regulations, which set price ceilings on fuels, may have encouraged the oil companies to withhold production as a means of pressuring the Government to raise the ceilings. Oil companies complain that the regulations holding prices at unnaturally low levels have inhibited further exploration, and that accumulation of adequate capital to develop new resources has been discouraged.

Another aspect of Government policy, environmental regulation, has forced cutbacks in polluting fuels, stymied efforts to site powerplants, caused increased fuel consumption—as with automobile emission standards—postponed construction of the Alaska pipeline, and discouraged strip mining of coal.

As Americans increasingly realize the crunch of the energy shortage, the search for scapegoats intensifies and the environmental movement is a likely candidate. While the primary culprit is the explosive growth in demand, not the tentative success of the environmental movement, it is nonetheless true that environmental controls have increased consumption of energy somewhat—that is, automobile emission controls have resulted in an average 10-percent loss in fuel economy.

Even as the Nation squandered nearly half of its energy by overheating, overcooling, and overlighting, the President dragged his feet in developing tough conservation measures.

Moreover, the administration underestimated the repeated threats from the Arab States to halt oil shipments unless the United States changed is pro-Israeli policy, and it also misjudged the severity of the crunch that the lack of Arab oil could have on the U.S. economy.

The energy shortage has also been due to distribution difficulties. Last winter some parts of the country suffered from severe shortages while other parts had all the fuel they needed.

C. OIL COMPANIES

The oil industry can share much of the blame for the energy crisis. It refused until recently to acknowledge a shortage, claiming even in 1972 that crude oil stocks were sufficient to meet demand and over a period of years opposing efforts to remove import quotas. The companies now admit that they failed to appreciate how rapidly the demand for oil would grow. Even as late as 1968 the oil companies thought that with oil discoveries in Alaska, the North Sea, and near Santa Barbara, their supply problems were over.

The allegation is often heard that the major petroleum companies are creating an artificial shortage by restricting output in an effort to fatten profits. Critics of the oil companies, citing profit increases of up to 90 percent for this year over 1972, have discounted industry claims of a squeeze by an international cartel of oil-exporting countries and insufficient economic incentives to explore for more oil. They accuse the producers of reducing supply and raising prices to eliminate cut-rate dealers.

Oil companies, while admitting that their profits are much higher than they were in 1972, attribute the increase to a mild winter, which slowed business last year, and inadequate profits in earlier years for adequate investment and exploration.

Although there is little direct evidence of abuses, we should not discount the possibility that they may have occurred. It is possible that short-term oil shortages may be partly artificial, and that some companies have acted to exploit the shortages, but, even so, these instances should not be allowed to obscure the fact that the long-term problem is real and not contrived.

III. PROSPECTS FOR THE FUTURE

A. SHORT-TERM

The immediate concern in the United States centers around the short-term availablility of fuel supplies, from now into the 1980's. Little that we can do now can possibly make any more fuel available for 3 to 5 years at the very least. For now, the only way to make energy supplies stretch farther is to consume less.

On a nationwide basis, the recently implemented mandatory allocation controls will not make any more energy available, but hopefully, will provide a more even distribution of scare resources. If controls work, no one will be totally without fuel, and neither will anyone have unlimited access to energy.

No one can be sure how severe the shortage will be. In November 1973 a Library of Congress study summarized the impact this way:

> The shortage will be the most severe since World War II and will affect every energy-consuming phase of American life. At the worst, some factories, schools and businesses may have to close or limit operations, and many personal activities may have to be curtailed. Many homes may be cold and many electric utilities may have to limit output because of fuel restrictions. If the shortage is as severe and protracted, serious strains could develop in the U.S. economy.

We can expect to have enough heat this winter only if:

American oil refineries continue to operate at capacity, without major breakdowns.

The winter is not unusually cold, either here or in Western Europe.

We are able to import enough oil to make up the difference between domestic supply and demand. The Interior Department figures that the country will have to import 650,000 barrels of heating oil a day to supply adequate heat, but many fear that other nations will sell us only 350,000 or less.

Our best hope is that an early settlement on the Middle East will induce the Arabs to increase their oil production immediately and to resume sales to the United States and Europe. Until this situation changes, though, we will have to look elsewhere for up to 20 percent of our oil or, more likely, go without. There is little the United States can do to increase supply during the next 12 months. Even a favorable Middle East settlement and renewed imports of Arab oil would not close the gap between present supply and demand, although it would be much eased within 6 weeks after the embargo and production cutback ended.

B. LONG TERM

There appears little relief in sight until sometime in the 1980's. It takes 3 years to build a refinery, 5 years to create a port, 5 years to develop an oil field, and 8 years for a nuclear plant. Development of nonconventional fuels such as solar, geothermal, and so forth, will take even longer.

If the Nation does embark on a national energy strategy, the long-run prospects for self-sufficiency beyond 1980 seem excellent. As noted, several of the energy sources are promising for the long run. For most, the technology exists, and it is simply a matter of time—and large sums of money—before the difficulties are worked out and the present technical complications overcome.

IV. ENERGY STRATEGY THUS FAR

Confusion and lack of direction have characterized the early months of the energy crisis. Until December 1973, there was no centralization of energy policy and no central source of information on fuel supplies and outlook. For months the President, the Congress, over 50 Federal regulatory agencies and the oil companies debated the crisis without appreciable results. Governor Love's Energy Policy Office, with a professional staff of less than a dozen, failed to serve as a focal point for policy. The President's creation of a Federal Energy Administration has come far too late. It is still too early to predict how the new agency will function. However, its existence is an encouraging sign that perhaps the President is finally beginning to realize the magnitude of the crisis.

A. THE ADMINISTRATION

Notwithstanding this most recent action, it remains true that the President has simply failed to provide strong leadership in alerting the Nation to the energy crisis, or in planning and acting to meet it. Often he has only thickened the fog surrounding the energy problem. So far this year he has delivered five separate energy messages, each containing different proposals, some conflicting with his previous proposals, and each trying to correct the deficiencies of its predecessor. He has called for halfway measures, and demonstrated a lack of commitment to tough conservation and exploration of alternative energy sources. Even his recent message seriously underestimates the shortfall in oil. Rather than the two or three million barrels per day the President suggested, it may be more like 6 million barrels each day.

The President's mistakes are numerous. He impounded millions of dollars for energy research, maintained an oil import control program too long, refused to implement the mandatory fuel allocation authority granted by Congress until too late, failed to devise contingency plans and to stockpile fuel reserves in the face of the Middle East instability, mishandled the price control program forcing refiners to convert crude oil to gasoline rather than heating oil, and failed to inform the American people of the gravity of the energy crisis.

The actions he calls for, though some are desirable and necessary, are insufficient. His suggestion for the conversion of industry to coal, for example, should have been made months ago. For too long he emphasized increasing fuel supplies, when, in the short term, the only really effective step was to curb rising demand. Even in April of 1973, he denied the existence of a crisis, refused to discuss the foreign policy implications of the energy shortage and, declined to increase sharply energy research.

In view of the record, his repeated efforts to blame the Congress for the energy crisis simply will not wash. Nor will his attempt to deride the Congress for failure to act on his energy program of seven pieces of legislation. He thereby overlooked the fact that the Alaska pipeline bill is now law; one piece of legislation—providing compensation for the companies that had drilling leases canceled in the Santa Barbara Channel—was not an energy bill at all, and the President has himself withdrawn support for it; the proposal for a tax credit to encourage exploration no longer seems necessary, given the present boom in exploration currently limited only by severe shortages in drilling equipment, the proposal for deep water ports is still under consideration, but with diminished urgency in view of the Arab embargo and the goal of self-sufficiency.

Other proposals, one to simplify powerplant site selection and another to set new standards for strip mining, are moving slowly because of difficult environmental and safety problems, and neither offers great relief from the shortage. The proposal to deregulate natural gas is the only one that would help the country this winter, and it raises many complex questions of balancing industry and consumer interests which simply cannot be easily resolved in the Congress, even though the case for deregulation gets stronger as the price of oil rises.

In his November 1973 speeches, the President finally began to acknowledge the magnitude of the crisis. For the first time, he urged Americans to start conserving fuel. The legislation he proposed in that message has merit, particularly the request for broad Presidential authority to take emergency measures to cut consumption and, if necessary, institute rationing.

The President is also right in wanting to reorganize and streamline the Federal agencies dealing with energy policy. In December, Nixon established the Federal Energy Administration to coordinate the energy programs of Government agencies. Earlier this year he proposed division of responsibility for energy research and development on the one hand, and licensing and regulatory functions on the other, between new agencies. Existing programs would be split to fit the new organizational structure, with most functions placed under the proposed Energy Research and Development Administration.

B. CONGRESSIONAL ACTION

The congressional record of action on the energy crisis has been decidedly undistinguished, and the Congress must share the blame for the current energy crisis with the Executive.

In some respects the Congress has been ahead of the President. For instance, in April the Congress gave him stand-by authority to make mandatory fuel allocations, but he did not use it until November. And many elements of the President's program to deal with the energy shortage have been proposed or forecast by Members of Congress throughout 1973, including the need for stepped up energy research, the rejection of the oil import quotas and the necessity of developing a national energy strategy.

A few Members of Congress have been urging action on energy legislation for several years, but the legislative branch began seriously to tackle the problem only in the late part of 1973. Even now, its performance is hampered by many shortcomings, organizational and otherwise:

Energy policy on Capitol Hill is fragmented, with no clear-cut lines of responsibility in the committees, and a proliferation of energy-related bills emanating from many committees, without an overall plan.

Congress is split over administration reorganization proposals to meet the energy crisis.

Even as shortages become more and more acute, the Congress is unable to decide whether it wants to dampen demand for gasoline by rationing, by taxation or deregulation.

The President's accusation that the Congress has been inactive on energy policy has some merit, but the Congress has passed, held hearings, or is otherwise acting on most of the energy legislation proposed by Nixon, and has had difficulties in keeping up with his fluctuating views on fuel. As with all important legislation, Congress needs strong Presidential leadership in order to act decisively.

The fact, then, is that there is plenty of blame for both the President and the Congress to share.

The roots of our energy difficulties extend deep, of course, and although the President and the Congress in power at the time the difficulties erupt must take most of the blame, it is probably true that the Nation slid into the energy crisis over a period of years, with many leaders and groups contributing mistakes and failing to act with foresight.

Late in 1973 the President and the Congress responded to the energy crisis with several important pieces of legislation. The trans-Alaska oil pipeline was approved, the President was required to institute mandatory allocations of petroleum, a National Energy Emergency Act granted the President extensive authority to allocate supplies and reduce demand, a major reorganization of the Government's energy research and development functions was approved, and all-year daylight saving time—exempting Indiana—was authorized. Other energy legislation can be expected in 1974, including authorization for deepwater ports and further increases in funds for energy research.

We can take hope, then, that with the organizational changes, the conservation measures already announced and under consideration, and the spate of energy legislation the Congress enacted in late 1973, we are beyond the takeoff stage, always a difficult one in a democracy, and on our way toward a coherent and systematic approach to the energy crisis, recognizing, of course, that many obstacles still remain.

V. RECOMMENDATIONS

The overriding question, then, is what steps should be taken to resolve the energy crisis. It seems to me several steps are required, among them:

A. NATIONAL ENERGY STRATEGY

The most important step is to develop a comprehensive national energy strategy. This strategy will require that we limit our demand for energy, expand our research, exploration, development and production of energy, resolve the conflicting demands of energy production and environmental protection, and adjust American foreign policy to the challenges of the crisis.

Energy policy in this country should aim at an adequate supply at reasonable prices without unacceptable abuse to the environment and without dependence upon foreign sources. Such a target must be approached with appropriate regard for costs and for the environment. Development of U.S. energy sources, for example, could be very expensive in the short term as compared with some reliance on imports, and the production of energy without heed to environmental damage could be disastrous.

A national energy policy should set forth steps the Nation could take in the immediate, short and long term, as suggested, for example, in this listing prepared by the Energy Subcommittee of the House Science and Astronautics Committee:

0 TO 1 YEAR

Energy conservation: voluntary, encouraged and mandatory; rationing of all finished petroleum products; use naval petroleum reserves; convert to daylight savings time, and insulate homes.

1 TO 5 YEARS

Revitalize the coal mining industry; improve transportation facilities for coal; convert central power stations to coal; modify air quality standards to allow use of coal with best-available sulfur removal technology, enact strip mining legislation; provide incentives for small cars; improve and use more mass transit; complete the Alaska pipeline; provide incentives for new drilling programs for gas and oil; build new oil refineries; and develop a coordinated energy planning and management authority.

5 TO 20 YEARS

Develop solar energy for heating and cooling; develop geothermal energy; develop oil shale; enact legislation to facilitate powerplant siting and eliminate delay in construction; develop a nuclear breeder reactor; enlarge uranium enrichment programs, and gasify and liquefy coal.

MORE THAN 20 YEARS

Develop nuclear fusion; develop solar farms to make electricity; develop satellite solar energy, and develop a hydrogen energy economy.

We need a national commitment, with strong leadership from Congress and the President, to develop and follow a comprehensive energy strategy. The public must be educated to recognize the dimensions of the problem and to participate in finding solutions. No matter how expensive the national energy search may prove to be in the short run, it is preferable by far to the alternative—the prospect of increasingly scarce, expensive, and dirty fuels coupled with the diminished flexibility in international affairs that would accompany dependence on foreign sources.

B. CONSERVATION

Any national energy strategy must create a political and economic environment that will encourage conservation. It is important that government officials, and the Federal Government itself, lead by example in reducing wasteful practices. If each of us becomes energy conscious, we can substantially reduce our consumption of energy.

These energy-saving suggestions may be helpful:

Before buying any new appliance, be sure it is really needed.

Stop using unnecessary gadgets.

Turn off lights and appliances when not in use.

Shop for energy-saving appliances. For example, regular refrigerators—which use 40-percent less power than the frost-free variety—and black and white TV sets—which use 30-percent less voltage than color sets.

Use fluorescent lights instead of regular light bulbs.

Wash clothes in cold water and dishes by hand.

Use recycled paper.

Use containers that can be recycled.

Eliminate unnecessary packaging.

Insulate buildings better.

Set thermostats lower.

Keep cars tuned properly.

Use car pools.

Drive smaller cars.

Drive more slowly and less frequently.

Use mass transit.

C. GOVERNMENT ORGANIZATION

The creation of the Federal Energy Administration in December 1973, is an encouraging step. It must be given the authority to implement a national energy policy, oversee energy research, development and demonstration, gather and assess all information, direct the energy conservation program, and evaluate economic and environmental factors in energy proposals.

The President's plan to create a new Federal agency to manage research and development on energy should be approved in the Congress and is expected to be. For the present, action is delayed on his allied proposal to create a new Department of Energy and Natural Resources because there are too many controversial issues, but such a reorganization should be pursued.

D. RESEARCH AND DEVELOPMENT

As already suggested, a national energy strategy should increase investment on a major scale in diversified research and development of fossil fuels and newer forms of energy. Price, lead times, environmental abuse, availability and other factors will have to be taken into account in the range of choices of energy sources. The proposal in the Congress for a crash program of new investment in energy with $20 billion of Federal money over a 10-year period should be enacted as a part of our overall energy strategy for the future. This research will not close the gap between demand and supply today, but it is essential for tomorrow.

It is also imperative that the Federal Energy Administration develop more accurate statistics on both the supply and demand of energy resources. The beginning of every solution is an accurate understanding of the problem and such understanding can be based only on accurate information. The lack of information makes difficult policy decisions more difficult, and increases the risks of bad decisions. There have been too many uncertainties about how bad the shortage will be and how much it would be relieved by particular actions.

E. SPECIAL POLICY MEASURES

The problem for the Federal Government in the face of a fuel shortage of growing but uncertain dimensions is to make choices in devising a program among alternatives that most Americans will not like. The Government programs will likely develop in stages as the gravity of the shortage becomes clearer. One task of the Congress, already achieved, was to pass legislation to help us cope with shortages this winter. Key bills are those concerning mandatory allocation and special Presidential powers to order emergency curtailment of a variety of energy-consuming activities. The Congress was forced to arm the President with broad powers to dictate a national response to the shortage, simply because the unwieldy Congress cannot devise quickly an intricate program of allocation and conservation.

The Government must also act to develop reserves of fuel, such as shale reserves and oil in the outer continental shelf and encourage greater exploration and research.

No matter how vigorously pursued, voluntary conservation probably will not save enough fuel. If it does not, Federal energy policy will have to consider other laws to cut energy consumption. Most of these proposals are matters of real controversy and they raise questions with no simple answers, but they are proposals which such policy must confront.

No one wants rationing, but for the first time since World War II, 110 million American motorists may soon have it. At this moment, no final decision has been made, and the President has said he would turn to rationing only as a last resort. He is seeking the least painful way to achieve a 30-percent reduction in gasoline consumption in early 1974. The Congress has granted to the President the authority to employ some kind of end-use allocation. Several alternative approaches to restrict consumption are under consideration: First, a tax increase of 30 to 40 cents per gallon, coupled with a possible tax writeoff for low-income groups; second, an increase in the price of oil to whatever level it takes to clear the market; third, rationing, with either a plan of nontransferable coupons assigned to motor vehicle owners on the basis of their occupations, or a plan to distribute transferable coupons to every licensed driver, allowing a motorist to sell his unnecessary coupons to others; or fourth, any combination of these approaches.

In Washington rationing is coming to be regarded as increasingly likely, especially since there are no signs of a letup in the Arab oil export embargo. No system will be equitable and any system will have disadvantages, but there is simply no way to manage scarcity with complete fairness.

William Simon, the head of the Federal Energy Administration, has stated that no decision on rationing will be made until January 1974, and even then it would take another 2 months to draw up plans, print coupons, and get the program started.

New approaches to discourage consumption should also be examined: For example, a tax on automobiles with a sharply rising tax rate according to weight or gasoline consumption or tax incentives to owners of automobiles with more efficient engines. The entire price structure for consumption of natural gas and electricity may have to be revised, and instead of the price being lowered as more energy is consumed, the price could be raised to encourage conservation. Peak-load pricing, charging more for electricity at peak use periods, should also be considered. Advertising that promotes energy use could be banned or disallowed as a business deduction, building codes could encourge buildings that use energy efficiently, and industry could be required to label fuel consumption on products. Industry incentives to expand production including guarantees that construction of refineries will not be interrupted, and tax incentives can be given.

A difficult area of energy policy is to balance the demand for energy with the protection of the environment. For example, Federal standards for auto emissions help to clean the air, but reduce gasoline consumption by about 10 percent. Is conserving energy through relaxation of clean air standards more important than cleaner air? Single-minded pursuit of either desirable goal—clean air or fuel economy—will lead us astray, and the task of Government policy is to strike an appropriate balance. Any changes should be made in ways that will minimize potential adverse effects on efforts to clean up the environment. Perhaps the best approach is that environmental regulations should be relaxed on a "temporary, case-by-case basis," as the President suggested, and not by sweeping suspensions of environmental standards.

A growing concern for Government policymakers is that the spiraling energy shortage will cause a serious slowing down of the Nation's economy. Already automobiles and airline industries have announced employment layoffs. Economic forecasts for 1974 are being revised downward.

Chairman Stein of the President's Council of Economic Advisers says the energy shortage could slow real growth to only 1 percent and cause unemployment to increase from its present 4.7 percent to nearly 6 percent. Economists are quick to admit they are engaging in much more guesswork than usual, but in general the pre-Arab embargo forecasts for 1974 of reduced but respectable economic growth have been changed to near zero growth or even a recession. Many experts expect a first half of the year recession, coupled with more inflation and higher unemployment. A major aim of the Nation's energy policy must be to insulate the productive sector of the economy, as much as possible, from the energy shortage, and to keep the economy operating as close to full employment as possible.

F. FOREIGN POLICY

A vital portion of a national energy strategy, until we are self-sufficient, will be foreign policy. Our energy consumption and available domestic supply require that we import more energy from abroad. We presently import about one-third of our consumption of oil, and by 1980 we could be importing about 50 percent of our total consumption. Only in the long term can our foreign dependence be reduced without sharp limits on domestic demand. With the recognition of U.S. dependence on foreign oil all sorts of difficult foreign policy issues are raised, including the impact of the Arab-Israeli conflict, Soviet-United States relations, the relationship of the United States to the oil producing States, cooperation among the oil consuming States, and many others.

THE MIDDLE EAST

Our strategy toward the Middle East must reflect our realization of a number of important factors.

Close to 75 percent of the free world's proven oil reserves are in the Middle East area. Saudia Arabia's proven reserves alone are almost four times those of the United States.

With American production of both oil and natural gas declining, we will have to import significant quantities of petroleum products from the Persian Gulf. Like it or not, there is no other source available.

The United States, wealthy and powerful as it is, finds itself in the uncomfortable position of being dependent upon small, independent, and potentially unstable States, which have the quantities of oil our gargantuan appetite requires. The annual cost of these oil imports in 1980 could be on order of $70 billion, some of which may flow back to the United States through the purchase of goods and services. The prospects of huge additional cash outlays of this magnitude, at a time when the United States already has trade problems, raise potentially serious economic and political problems.

Peace in the Middle East is vital to the flow of oil to the United States. Though we cannot forget our need for good relations with the rest of the world, the Persian Gulf area will have to assume high priority among our international concerns. We will need excellent Presidential leadership to insure us a continual supply of Arab oil, at the same time we continue to demonstrate support for Israel.

Our policy toward the Middle East should emphasize several features:

First. A peace settlement of the Arab-Israeli conflict is an urgent national interest. A thorny linkage exists between our policy toward this conflict and our access to Middle East oil, as President Nixon has acknowledged. A quick, permanent settlement of the conflict may not be likely, but some movement toward a settlement may be possible. Peace should not be imposed from the outside, and can only be achieved by the Arabs and the Israelis themselves, but we must impress upon them our deep desire for peace. The proposals for a time-related, phased withdrawal peace plan and the idea of big power guarantees of any agreement need concerted attention.

Second. We must pay more attention to the Arab world, learning more about it, demonstrating a concern for its economic development and acknowledging its place in the international economy. The oil rich Arab States can buy technical assistance and technology to help them diversify and strengthen their economies. Effective economic, political and security policies toward the Arab States are our best guarantees that they will be willing to help us with our energy problem. Our present policy toward the Persian Gulf has a strong military flavor, emphasizing arms sales to Iran and Saudi Arabia, but our policy should be more comprehensive with equal emphasis on economic and social development.

The United States, however, cannot allow the Arab world to undermine its political and economic independence, and we must be prepared as a nation to take whatever steps may be necessary to keep the Arab world from bending our interests.

These policies will allow us to remain committed to Israel's survival, and her deterrent strength. They will offer acceptable alternatives to the distasteful choice between an adequate oil supply or support of Israel.

Our foreign policy must also take into consideration the U.S.S.R. and Canada, countries with an important actual or potential bearing on our fuel supplies. It is important that the United States diversify our sources of foreign supply.

U.S.S.R.

In the U.S.S.R., immense gas fields have recently been discovered. Though more expensive than domestic, regulated gas, Soviet natural gas could eventually become competitive if the price of gas is allowed to rise in the United States. Of potentially great significance in maintaining our gas supply, therefore, is our ability to continue détente with the U.S.S.R. We must assure that we not rely too heavily on the U.S.S.R., and that any dependence is mutual and in pursuit of détente.

CANADA

Canada has been our best source of imported oil. Recently, fearing shortages at home and anxious not to alienate the Arabs, Canada has imposed export quotas and a stiff tax on oil exports to the United States. This marks a break in our normally friendly relations with our neighbor, one which must be resolved without delay. The United States and Canada are economically and culturally interdependent, and it is to our mutual advantage to negotiate resumption of this important element in our national energy strategy.

VENEZUELA

Although Venezuela is today our major supplier of imported oil, its production has peaked, and the political condition in the country make it unlikely that the United States can count on it for a major portion of its oil imports. Nevertheless, a sympathetic understanding by the United States of the Venezuelan desire for a balanced economy would be helpful to the United States in assuring access to a stable supply of oil.

OTHER COUNTRIES

Cooperation with the industrial nations in research, emergency planning and sharing should also be a part of our national energy strategy. We have suddenly, surprisingly, become one of the many oil-importing countries. We can compete with others for fuel suppliers, but we must also cooperate. We can work with Western Europe and Japan to develop jointly new energy sources, to develop mutual assistance programs, to guard against short-term supply interruptions and to avoid destructive price competition for fuels, and in efforts to bring about negotiations which may lead to peace or a reduction of tensions in the Middle East.

CONCLUSION

As difficult as it may be for Americans to comprehend, we are in an energy crisis. Perhaps a situation as serious as this was needed to jolt us out of our complacency and force us to act with resolve to find ways of using the limitless energy around us. We can do it, but eventual self-sufficiency will require the cooperation of all parts of society—government, business, and individual citizens.

Undoubtedly, Americans will find inconvenience and some may experience hardship in the energy shortage. But, the shortage may not be all bad. Many of our troubles today stem from our surpluses, and the extravagant consumption of many of us simply could not go on forever in a finite world. For those of us maybe a little belt tightening will be good. Fifty mile-per-hour speed limits, cooler rooms and staying home can have some benefits, too. One writer put it this way:

> We need to cut down, slow up, stay home, run around the block, eat vegetable soup, call up old friends, and read a book once in a while. Americans have always been able to handle austerity and even adversity. Prosperity's what's been doing us in.

As important, then, as any single step, is for all of us to change some of our basic attitudes. The energy shortage is here to stay for several years. It is not an isolated, passing event, and we had best learn to live with it.

It is encouraging that, by decisive margins, the polls show that the American people are prepared, not only to go along with the demands put upon them by the President in the energy crisis, but they are willing to go well beyond current sacrifices if necessary.

Technology alone will not save us from the enemy crisis. It will help ease the crunch, but the basic solution lies in politics, not science—the politics of developing and implementing a national energy strategy and in evolving relations with the rest of the world that make for peace, stability and international economic order.

A difficult era lies ahead. But that is nothing new in the American experience and we should enter it not with panic, but with confidence that by good sense and determination, the American dream can continue to be realized.

BALTIMORE WORKERS FEARED EXPOSED TO CARCINOGENS

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1973

Mr. OBEY. Mr. Speaker, I am inserting in the RECORD a copy of a most disturbing story which appeared in the Washington Post this morning. It concerns a number of workers at a Baltimore textile dye firm who may have been exposed to a highly carcinogenic substance in their day-to-day workplace.

This story again highlights the need to substantially increase the budget for the National Institute of Occupational Safety and Health—NIOSH—the research arm of OSHA. I know that all of us have received objections to the way that OSHA inspectors have handled their inspection assignments, but we cannot allow frustrations about actual on-site inspection procedures to divert our attention from the real need to substantially increase research budgets to enable NIOSH to better determine which chemicals and substances found in the workplace are actually endangering human health.

This year NIOSH will try to come up with standards for 15 hazardous substances—one of which contains 14 separate cancer-causing agents—covering more than 4 million workers. Look what it is up against:

First. There are about 12,000 chemicals in common or widespread industrial use with an annual production of 120 billion pounds.

Second. Some 3,000 new chemicals are synthesized each year, and about 500 of these find uses in industry.

Mr. Speaker, the article follows:

BALTIMORE WORKERS FEARED EXPOSED TO CARCINOGENS

(By Bill Richards)

BALTIMORE.—For the last year, the J. S. Young Co. a small textile dye firm on the

Patapsco river here, has been the focus of concern by employees and federal industrial health officials who fear that company employees have been unwittingly exposed in the past to a chemical that can cause cancer.

The chemical is benzidine. It was listed as one of 14 industrial carcinogens—or cancer-causing substances—by the Labor Department in May. So potent are the 14 substances that the Labor Department's Occupational Safety and Health Administration (OSHA) overrode intense opposition from the chemical industry to declare that any exposure at all to one of them poses "a grave danger" to workers.

The last three workers to retire from J. S. Young's Aniline dye works had bladder tumors but tests of about 30 current employes have shown no evidence of bladder tumor growth. Researchers say however, that no trace of the tumors begins to show for at least 10 years and often does not show up until years later.

In January a small item alerted the employees of J. S. Young's Aniline dye works of the danger of benzidine. At the time, workers at the plant were handling 10,000 pounds of a watery solution of the chemical daily.

The item, which passed virtually unnoticed in the newspapers, stated that the Oil, Chemical and Atomic Workers International Union and the Health Research Group, a Washington-based, public-interest organization sponsored by Ralph Nader, was petitioning the Labor Department to set emergency handling regulations on cancer-producing chemicals to insure that workers had no exposure to them.

Last May, the emergency regulations were put into effect for six months by the Labor Department, but then were allowed to lapse in November. On Nov. 29, the two groups sued the Labor Department in Federal District Court in Washington to reinstate the regulations on a permanent basis. No action has been taken so far on the suit.

Federal and private industrial health officials and Young Aniline workers here fear that the question of whether or not the regulations are implemented on a permanent basis may be moot for the dye firm's employees—as well as for hundreds of people who have been exposed to benzidine at the plant in the past.

"That stuff was handled here like water in the past and no one knows what is going to happen to us now," said Thaddeus McDaniels, president of the plant's union local.

Behind that fear is a peculiar property of benzidine which researchers who have studied the effect of the chemical over the last 30 years have pointed out.

According to the researchers, even the slightest contact with the chemical can cause bladder tumors to develop. But no trace of the tumors begins to show for at least 10 years and then often don't show up for 20 or 30 years after exposure.

"What we have," said McDaniels, "is a situation where our people have to live the rest of their lives waiting for the other shoe to drop. It's a hell of a worry."

The bladder cancer level, among the general population, according to statistics compiled by the American Cancer Institute, is slightly more than 13 in every 100,000 persons.

According to a number of studies done on workers exposed to benzidine both in the U.S., Japan and Europe, the level of bladder cancer cases has ranged as high as one in four persons who have been exposed.

Researchers at the National Cancer Institute in Bethesda said that once a person exposed to benzidine begins to develop tumors of the bladder there is a "high probability" that the tumors will recur and turn cancerous.

Statistics published by the American Cancer Institute show that 42 percent of the persons who develop bladder cancer will die within five years.

A spokesman for Young Aniline and other chemical industry officials have labeled reports on benzidine as misleading and charge that the union and the Nader group have indulged in "scare tactics" that have blown the chemical's cancer-producing property out of proportion.

"If we found that any worker in our plant was being put in danger of developing cancer we'd shut the place down," Joseph R. Gilman, Young Aniline's president, said during a recent interview with The Washington Post.

"But," Gilman continued, "you just can't put 110 people out of work because there's a vague chance that 10 or 15 years from now someone may develop a tumor."

Industry spokesmen have argued that the danger from benzidine is no worse than that from cigarettes. The chemical, they claim, is irreplaceable in manufacturing quality dye. To discontinue its use and undertake a search for all those exposed to it would bring about a serious economic hardship, they argue.

Federal officials point out that benzidine has been manufactured and used in dozens of plants and that the number of workers exposed runs well into the thousands.

"We are coming to a point where we have to ask ourselves whether we really need chemicals like benzidine," said Dr. William M. Johnson, an occupational health specialist who until June was in charge of a federal inspection team for the National Institute for Occupational Safety and Health (NIOSH).

"The companies say the chemical is necessary to achieve quality in their dyes," he said. "But we must balance the question of dye quality against people's lives."

Dr. Joseph K. Wagoner, who presently heads the division of field studies and clinical investigations for NIOSH concurred in this opinion during a recent interview.

"We have an ethical responsibility to find these people who may have worked years ago with benzidine and don't realize today that they are walking time bombs," he said.

Anthony Mazzocchi, legislative director for the Oil Chemical and Atomic Workers International Union estimated that as many as 6,000 of the union's present membership alone may have been exposed to the chemical.

At NIOSH headquarters in Cincinnati, investigators have compiled microfilm employment records for a dozen firms that have used benzidine. But no program has been undertaken to either locate or warn these persons of the danger of their exposure to the chemical.

Nor has Young Aniline, where 525 workers have been employed since the firm began handling benzidine in 1937, tried to track down former workers. Young Aniline's president Gilman said the company's position is that its responsibility ceases when an employee leaves his job.

From 1937 to 1943 the company produced benzidine in open wooden vats with virtually no protection for its employees. Workers who handled the chemical at that time recalled recently that no safety clothing was worn by employees and benzidine dust often covered their clothes, their hair and faces.

Young Aniline dropped its benzidine production in 1943 and contributed $100,000 two years later to help form a manufacturing facility in New Jersey. The reason for discontinuing production of the chemical, according to a present company official, was a report from Germany that benzidine workers there were developing cases of bladder cancer.

The firm later purchased its benzidine supply from a Connecticut manufacturer and then shifted to buying benzidine from the Lakeway Chemicals Corp. in Muskegon, Mich.

Lakeway halted its benzidine production this year and Young Aniline began once again to manufacture the chemical. Company officials said they spent $200,000 on a manufacturing system initiated this summer that they say totally shield workers from exposure.

"They do seem to have made an effort to clean up the production system," said the company's union local president McDaniels. "But the trouble is that we have all been exposed already. The people who didn't actually handle the stuff ate lunch with those who did or used the same lockers and bathrooms."

On February 22, a NIOSH inspection team visited Young Aniline and reported later to the Labor Department that inspectors saw "a great deal of splatter and improper handling of benzidine." The report charged that the firm had "a serious occupational health problem" and that engineering controls on benzidine were "grossly inadequate."

"We visited more than 20 plants around the country and Young Aniline was one of the worst," said Dr. Johnson, who headed the February inspection.

Gilman, who did not accompany the inspectors, challenged the report's observations. "Those people came in here looking for ways to put us out of business," he said. "They wouldn't listen to our side of the story at all."

A major portion of Young Aniline's side of the story, according to Gilman, is that there is no proved link between sporadic exposure to benzidine and bladder cancer.

Gilman cited observations by members of the Johns Hopkins Hospital urology department as substantiation for his belief.

Dr. Hugh Jewett, one of two Johns Hopkins urologists mentioned by Gilman, said in an interview that benzidine is just one of a number of chemical compounds suspected of causing bladder cancer.

But Jewett, who has treated more than 100 bladder cancer victims who handled benzidine and other industrial chemicals, said he never warned Young Aniline or any other company that sent workers with bladder cancer to him that there might be a link between the chemicals and the disease.

"It's none of my damn business to tell them how to run their plants," Jewett angrily told a reporter recently during a telephone conversation on benzidine danger among workers.

Jewett removed a cancerous bladder in 1964 from John Anderson, one of the latest three men to retire from the Young Aniline works. All three workers have had bladder tumors and have been treated at Johns Hopkins. Anderson was head of plant safety procedures for Young Aniline until he developed bladder cancer.

During an interview recently he said that at the time of his operation he became worried about a possible link between his exposure to benzidine and the cancer. Dr. Jewett and Robert Grant, the former president of Young Aniline, talked him out of seeking a Labor Department hearing to determine the source of his cancer, Anderson said.

"Grant was upset that I asked for a hearing before I went to him," Anderson recalled. "I told him, 'Mr. Grant, if there's a hazard I'm sure you want to know about it to protect the workers in the plant."

Anderson said Grant told him he had made a "medical investigation" of the matter.

"He told me, 'John, it couldn't happen because of the benzidine' and said mine was an isolated case," Anderson said. "Grant and Jewett persuaded me to drop my request for a hearing."

Grant's certainty apparently did not extend back to 1943 when he decided to pull Young Aniline out of the benzidine manufacturing business because of the reports of cancer among German chemical workers.

Gilman—who succeeded Grant as company president—said recently "Grant and the company decided in 1943 that it was apparent that dyestuff chemicals could produce cancer. They were aware of the German situation so they dropped our benzidine production.

Grant, now in his 80s and semiretired from the company, was not available for an interview.

Anderson, who now wears a plastic pouch strapped to his side in place of his missing bladder, received a wristwatch and a part-time job from the company when he retired last year.

Despite the appearance of two more cases of bladder tumors in Young Aniline employees after Anderson, no attempt was made by the company to check its workers unitl 1971.

In that year, Gilman ordered all 110 employees to undergo urine analysis to determine whether bladder malignancies had already formed.

The tests were done by Dr. Horst Schirmer, Jewett's colleague at Johns Hopkins. Schirmer found no malignancies, a point cited by Gilman as backing for his contention that the cancer scare is unrealistic.

During a recent interview Schirmer told a reporter, "We can tell if the malignancy is already developed from these tests but we'd need a crystal ball to tell whether there were tumors there still in the development stage."

After the initial test Schirmer continued monitoring urine samples of about 30 employees and a handful of former officials. So far, he said, he has not found any evidence of bladder tumor growth in any of the tests

The Johns Hopkins urologist said he had suggested informally to Young Aniline officials that other former employees be located and sent to him for testing. The company has so far made no effort to find any past employees exposed to the chemical.

NIOSH officials, however, said that such testing on a frequent periodic basis is necessary to spot tumor growth as its likelihood increases years after exposure to benzidine.

The agency has recommended that employees undergo annual urine tests during the first five years after their exposure to benzidine. Between five and 10 years after exposure, semiannual urine testing is recommended. After that, NIOSH recommends urine testing every three months and more thorough direct examination of the person's bladder requiring hospitalization.

Gilman who came to Young Aniline five years ago from the Geigy Chemical Corporation, is well acquainted with benzidine and its suspected danger.

As a Geigy executive he was active in the operation of an Ohio chemical plant Geigy bought in the early 1960s.

Shortly after the plant was bought, the University of Cincinnati began a 13-year medical study of the plant's employees who handled benzidine. The study, published last year, showed 13 of 25 workers developed malignant bladder tumors.

Gilman also spoke with a reporter recently about another study of workers at a chemical plant in Buffalo, N.Y., in 1965. In that study researchers found that 21 per cent of the benzidine workers developed bladder tumors and half of the 21 per cent died of bladder cancer.

Workers at the Young Aniline plant said, however, that last January Gilman assured them that news reports linking benzidine and bladder cancer were false and that no such medical evidence existed.

"We went to Gilman and told him we were afraid," said the plant's union president McDaniels. "He said there was no evidence to show that benzidine caused bladder cancer. He said if we didn't like working with chemicals then we were in the wrong business and should find another job."

Gilman acknowledges speaking to the workers but said he merely warned them that if the union's petition for more rigid handling standards were enforced the plant might have to shut down.

Inspectors for the Baltimore City Bureau of Industrial Hygiene, which has jurisdiction for enforcing industrial safety regulations inside the city, acknowledged during an interview recently that, although they had inspected the Young Aniline plant 17 times since 1939, no warning was ever made concerning benzidine.

"We've felt in the past that it wasn't the best controlled system," said David T. Lewis, head of the bureau's investigative unit. "But I guess we weren't aware of the significance of the danger."

Lewis and Elkins W. Dahle, head of the bureau, said they were not aware of reports in 1968, 1970 and 1971 by the American Conference of Governmental Industrial Hygienists identifying benzidine as a cancer-causing agent.

Both men accompanied the NIOSH inspectors in February but neither filed a report concerning benzidine after the visit.

Employees at Young Aniline said recently that the NIOSH inspectors witnessed only a demonstration of benzidine handling procedures that had been set up by the company.

Prior to the inspection, said Louis Martin, a laborer at the plant who was a member of a team that emptied 500-pound drums of the chemical, the chemical often splashed on workers covering their face, arms and clothing.

"We're not rich people," he said of his co-workers, "we can't afford to go to doctors and no one told us about cancer. We relied on the company and the inspectors for that. We never really had a chance."

PITFALLS OF GAS RATIONING

HON. WILLIAM L. ARMSTRONG

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1973

Mr. ARMSTRONG. Mr. Speaker, during the last few weeks there has been a great deal of speculation and discussion about the possibility that gasoline rationing will be implemented as one measure to deal with the energy crisis.

I deeply regret the growing impression that rationing would be a panacea.

Personally, I hope rationing can be avoided and that other, more promising, solutions will be adopted. Rationing does nothing to increase supply; rationing will require the creation of a huge and costly bureaucracy to administer the programs; rationing will foster economic dislocations.

Most people realize these inherent shortcomings of any rationing program. But recently the Washington Post published an article by Mr. J. W. Anderson which succinctly and forcefully underscores another drawback of rationing which is far less widely recognized. I commend it to the attention of my colleagues:

How Fair Is Rationing

(By J. W. Anderson)

Rationing gasoline, the argument goes, is fairer than raising prices. A surtax on gasoline to cut consumption, would hurt the poor. The administration is deeply divided on the issue. The economists in the Treasury and the Council of Economic Advisers favor a stiff surtax, perhaps as much as 40 cents a gallon. The politicians in the other agencies are generally horrified by the idea and lean strongly to rationing with books and coupons as in World War II. President Nixon is going to have to make up his mind soon, for even an immediate decision could hardly put a rationing system into actual operation before March.

Since the issue is fairness, a lot depends on the way a rationing system would actually work. The dilemmas are clear enough. The more closely you look at the structure of a rationing scheme, the less obvious it becomes that rationing is necessarily and absolutely fairer than even a stiff surtax.

The first question is whether to give ration books to cars, or to drivers—or, perhaps, to everybody. Suppose that three households, side by side in the same block, have roughly the same commuting pattern. The first is a bachelor with a car. The second is a couple with three children, all over 16, with three cars. The third is also a couple with three children over 16, but they have only one car. How do you distribute the ration books?

If families get a book for each car, that gives the second family three times as much gas as the third family. That's fairness? It only encourages people to buy cars (including as in World War II, wrecked cars) to get the books. But if you give a ration book to each driver, then both of the families with children have five times as much gas as the bachelor. But they don't have five times as many errands or five times as much shopping to do. That doesn't seem fair, either. And then what about the people, of whom there are thousands in every big city, who have driver's licenses but no cars? Many of them occasionally rent cars. Are they going to be cut in, or cut out?

Before you make up your mind on those choices, consider the next one, which is even worse. Should the ration coupons be transferable? In other words, should it be legal to sell them? A legal market—call it a "white market"—eliminates the otherwise inevitable black market. More important, it rescues the government from the necessity of entangling itself, as it did in World War II, in literally hundreds of categories and sub-categories of users, with hair-splitting distinctions among degrees of need and hardship. With a white market, everybody would get a basic weekly ration. People who use less could sell coupons. People who need more can buy them at the going price.

But hold on a minute. If the coupons are saleable, then they are in fact money. By mailing out the ration books, the government is distributing a subsidy that can be used to buy gas or, through the white market, to buy anything else. (Let's try to avoid frivolous suggestions about using gas coupons to solve the energy shortage and reform the welfare system simultaneously.)

If the government is going to start handing out cash subsidies in the form of gasoline ration coupons, how can it possibly justify limiting them to drivers? If our purpose is fairness, then surely people who do not drive have the same right to this subsidy as drivers. That takes us back to the first question. Perhaps we have to give ration books to all citizens over 16 years old. But the more people who get books, the less gasoline each book is going to be worth and the more coupons will have to be bought and sold on the market.

World War II rationing does not offer any very useful guide for the experience on which we may shortly have to embark. There are nearly three times as many cars in the country today as in 1940. The average American car, having grown steadily bigger and less efficient, gets 30 to 40 per cent less fuel mileage today than it did in 1940. Since the war, we have built vast suburban subdivisions miles from any shops or public transportation. We have built whole industries, from resorts to roadside restaurants, that depend on the automobile.

During the war, the basic A ration was four gallons a week. To get more, drivers had to prove need. Government officials believe that by next March we shall have to get consumption down to an average of about 10 gallons a week for each of our 90 million private cars. That would pull our national demand down by about one-fourth of our current level.

Fuel oil for home heating is also going to have to be rationed, of course, but here there is no need for ration books or coupons. Distributors will simply deliver somewhat less to each house than they did last winter. If you run out, it's your own fault.

But what about the houses heated by gas or electricity? What about the oil-heated house whose owner installs a couple of electric space heaters, or leaves the oven on? The only solution in sight is a very heavy tax on each household's utility bill for any gas or power beyond the amounts that it used last year. But that would require new legislation, and that legislation is still a long way off.

The cutbacks will assume that the householder is turning his thermostat down six degrees. If the average setting was 74 degrees, it will have to go down to 68. But what about the family that has always kept the house cool? If it was down to 68 last winter, will it have to go now to 62? Is it fair that the family that has always been economical must now suffer unusual cold, compared with its more wasteful neighbors? By the end of the winter, fairness is likely to have joined the long list of commodities in shortage.

WHERE ARE THE MIA'S?

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1973

Mr. RANGEL. Mr. Speaker, I have been for some time attempting to find out from the Department of Defense why so few of the POW's returned to us by North Vietnam and the Vietcong have been enlisted. The percentage of enlisted men listed among the missing in action is a great deal higher than was found among the POW's, but I have been unable to obtain from the Defense Department specific information regarding the likelihood of survival of those listed as missing in action.

My inquiry has been paralled by the anguished searching for the same answers by the families of the men who have become for most of the Nation almost forgotten statistics. The families of these missing men have joined together to form the National League of Families of American Prisoners and Missing in Southeast Asia. The national league has published a factsheet about their missing brothers, husbands, and fathers—our soldiers—who remain unaccounted for 11 months after the signing of the Paris Peace Conference Agreement.

As we approach, the holiday season we should remember especially, and pray for, the fate of these missing men.

FACTS ABOUT OUR MISSING MEN

At the time the United States signed the Paris Peace Conference Agreement on January 27, 1973, almost 2,000 Americans—1,925 members of the Armed Forces and 52 civilians—were missing in action (MIA) and/or being held as prisoners of war (POW) in Southeast Asia.

Today, more than 8 months after the peace agreement was signed, more than two-thirds of these men are still missing and there has been no information of any kind concerning their fate.

The question that continues to plague the wives, parents, and children of these men is this: Is it possible that any of the missing men are still alive and in Communist hands?

There is only one logical answer: "Yes, it is possible." No one can dispute certain facts:

Some of the men who are still missing are known to have been alive and in communist hands at one time.

Some of the men were photographed in captivity. The U.S. Government has copies of the photographs.

In other cases, the enemy issued propaganda releases including photographs of the official Armed Forces I.D. cards of certain men, stating that the men had been taken prisoner. Our government also has this information in its possession.

In still other instances, the enemy made radio broadcasts announcing the capture of American servicemen. The United States monitored these broadcasts.

But when the peace agreement was signed and the other side handed our government a list of Americans who were to be repatriated (together with a list of 60 men who had "died in captivity") more than 50 men previously identified as prisoners of war did not appear on either list. The communists have since provided no information about any of them.

LESS THAN 4 PERCENT ACCOUNTED FOR

Similarly, many Americans who had been listed as "missing in action," but never classified as POWs, disappeared in the combat zone under circumstances that pointed to the strong possibility that they might have been taken prisoner. Yet, when the communists listed the Americans who were to be repatriated, the lists included only 47 men (out of a total of 1,334 missing) who were to be repatriated. Ten other men previously identified as missing also were included on the list of those who died in captivity. This means that a total of 57 MIAs (or less than 4% of all of the missing) were accounted for.

What happened to all of the others? The men Hanoi claimed to capture are either still alive or they are dead. If alive, they are still being held captive. If dead, there would be no apparent reason for the other side not to list them the 60 other Americans who they admit died in captivity. But one thing is certain: since some of the men were photographed in captivity; since the North Vietnamese took ID cards from other men; and since Hanoi claimed the capture of other specific individuals . . . Hanoi has to know if they are alive or dead.

And what happened to all of the other "missing"? When they disappeared under circumstances that pointed to the strong possibility of their capture—and their bodies were not recovered in subsequent searches of the area—it is difficult to believe they just disappeared into thin air.

IN LAOS, 98 PERCENT STILL MISSING

In Laos alone, 317 American servicemen were listed as missing in action or as prisoners of war. But when Americans were repatriated, only six men captured in Laos (all of whom had been held captive in the city of Hanoi) were released. There was no information of any kind about the other 98%. And after more than 8 months of waiting, there is still nothing.

When the Paris Agreement was signed, North Vietnam agreed to assume responsibility for the release and accounting of all missing and captured Americans (and members of allied forces) throughout Southeast Asia. Article 8B of the agreement also stipulates that all parties to the agreement will "help each other" obtain information about the missing, determine the location of graves of the dead, and facilitate the exhumation and repatriation of remains of the dead.

But even though the U.S. government has given the other side complete lists of missing American personnel and requested information about these men, no information has been provided. Similarly, the U.S. government has repeatedly sought to arrange the repatriation of remains of the 60 Americans the other side claims died in captivity. But not one body has been returned.

LEADERS STRANGELY SILENT

And yet America's leaders and the American people have remained strangely silent. We have heard no great cry of public outrage. We have waited in vain for our President, our Secretary of State, our Secretary of Defense, the elected leaders of the House and Senate, the Governors of our States, our mayors, and other officials holding positions of responsibility and trust, to charge the North Vietnamese with gross deception and to demand, in the strongest possible terms, that our dead be returned and our missing accounted for.

Only once since the Paris Agreement was signed last January, has the United States government issued any kind of formal protest—and this was done only after the Board of Directors of the National League of Families made a stern, face-to-face representation to Dr. Henry Kissinger concerning the growing dissatisfaction of the families of these men. But this protest, when it was finally made in a formal note to the North Vietnamese from the U.S. government, on July 30, 1973, was little more than a gentle, diplomatic prod. It did not even stir the curtain of silence that continues to shroud the fate of our men.

FAMILIES WANT ANSWERS

The League of Families is now more deeply disturbed than ever that our elected and appointed leaders are not making strong public demands that the North Vietnamese and their allies account for our missing, return our dead, and explain the discrepancies that exist with respect to men who we know were captured but who were neither released nor accounted for.

The American people must be made aware that even though some of our prisoners and missing men were returned, the vast majority were not, and that more than 1,200 families all across the country continue to live in the agony of not knowing the fate of their husbands, sons, and fathers.

We want our elected officials and our fellow citizens to start asking about these men.

Where are those men who were captured, who we know were captured, and who were not returned to us, who were not listed among the dead, and about whom the other side has furnished absolutely no accounting of any kind? Where are they?

Why have the bodies of the 60 men the other side identified as having died in captivity not been returned to their families? Why can't immediate arrangements be completed to return these bodies? Why?

Where are the more than 300 men listed as missing in Laos, about whom we have no information of any kind? Why has no information been provided on those taken prisoner in Laos and of whom we have capture-photographs—the strongest possible evidence that they were, indeed, captured? Where are they?

Why are our search and investigating teams being denied the right to enter areas where most of the missing disappeared? Why can't they be given immediate access to these areas where the men were last seen alive?

These are a few of the questions we want our fellow countrymen to start asking—loud and clear.

And we want to hear them repeated at the White House, in the U.S. State Department, at the Defense Department, on the floor of the House and Senate, in Congressional hearings, in our Embassies abroad, in the chambers of our State Capitols, by our Governors, our mayors, and by our representative at the United Nations.

And we want, and demand, that these questions be asked again and again in every public form, until they have been satisfactorily answered.

CREDIT DISCRIMINATION: A NEW POLICY FOR MORTGAGES; STILL THE NEED FOR LEGISLATION

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 1973

Ms. ABZUG. Mr. Speaker, yesterday the Federal Home Loan Bank Board published a policy statement in the Federal Register on the important issue of credit discrimination against women on the basis of sex or martial status, as well as other discriminatory bank practices.

The decision by the Board is now recommended policy for all savings and loan institutions. Although this policy does not have the effect of law it should be accepted by these banks and I hope that it will be.

The Home Loan Bank Board is to be commended for its decision but it can not and should not effect the push for equal credit opportunity legislation, such as I have introduced.

The legislation, H.R. 9110, the Equal Credit Opportunity Act, which now has 74 cosponsors, and the Senate passed title III of S. 2101, both would cover broader areas of credit than that covered by the Board's policy. The legislation would cover consumer credit, retail credit, national credit cards, and business credit. Because we live in a society that is so based on credit, because the Board policy does not have the effect of law, because the policy provides no sanctions for violations and is only self-enforcing, the need for legislation in this area is as great as it ever was.

In October Representative LEONOR SULLIVAN held hearings before the Consumer Affairs Subcommittee of the House Banking and Currency Committee on the issue of credit discrimination by reason of sex or marital status.

As the first person in either body to introduce legislation in this field it is my firm hope that we can look forward to Representative SULLIVAN bringing a bill to the House in this area soon after our return.

At this point I insert in the RECORD the statement of policy of the Federal Home Loan Bank Board and a New York Times news story on the subject:

[From the Federal Register, Dec. 17, 1973]

CHAPTER V—FEDERAL HOME LOAN BANK BOARD: SUBCHAPTER B—FEDERAL HOME LOAN BANK SYSTEM

[No. 73-1809]

PART 531—STATEMENTS OF POLICY: POLICY ON NONDISCRIMINATION IN LENDING

DECEMBER 7, 1973.

The Federal Home Loan Bank Board considers it desirable to amend Part 531 of the Regulations for the Federal Home Loan Bank System (12 CFR Part 531) for the purpose of adding a statement of the Board's policy regarding nondiscrimination in lending by Federal Home Loan Bank System member institutions.

Said Part 531 is amended by adding a new § 531.8 thereto (12 CFR 531.8), for the purpose of providing guidance to member institutions in developing and implementing nondiscriminatory lending policies. The intent of the nondiscrimination policy guidelines is to point out that activities of lenders which may not be intended to be discriminatory might still be so in their effects, and thus contrary to the Board's nondiscrimination regualtions or the purposes of the Board's basic statutes, and also to provide member institutions with examples of certain loan underwriting practices which might have the unintended effect of causing a prohibited discrimination.

Accordingly, the Federal Home Loan Bank Board hereby amends Part 531 by adding thereto new § 531.8 to read as set forth below.

§ 531.8 Guidelines relating to nondiscrimination in lending.

(a) *General*. Fair housing and equal opportunity in home financing is a policy of the United States established by Federal statutes and Presidential orders and proclamations. In furtherance of the Federal civil rights laws and of the economical home financing purposes of the statutes administered by the Board, the Board has adopted, in Parts 528 and 529 of this subchapter, nondiscrimination regulations which, among other things, prohibit discrimination based on race, color, religion, or national origin in fixing the amount, interest rate, duration, application procedures, collection or enforcement procedures, or other terms of conditions of housing related loans. This section provides supplementary guidelines to aid member institutions in developing and implementing nondiscriminatory lending policies. Each member institution should re-examine its underwriting standards from time to time in order to insure equal opportunity.

(b) *Loan underwriting standards*. The basic purpose of the Board's nondiscrimination regulations is to require that every applicant be given an equal opportunity to obtain a loan. Each loan applicant's credit worthiness should be evaluated on an individual basis without reference to presumed characteristics of a group. The use of lending standards which have no economic basis and which are discriminatory in effect is a violation of law even in the absence of an actual intent to discriminate. However, a standard which has a discriminatory effect is not necessarily improper if its use achieves a sound business purpose which cannot be achieved by means which are not discriminatory in effect or less discriminatory in effect.

(c) *Discriminatory practices*.—(1) *Discrimination based on age, sex or marital status*. The Civil Rights Act of 1968 does not specifically prohibit discrimination in lending on the basis of age, sex or marital status, and the Board's regulations are, at present, limited to the scope of that Act. However, such discrimination is contrary to the principle of, and may in fact violate. Constitutional provisions which guarantee equal protection of the law for all persons. In addition, such practices impede the achievement of the objectives of Federal laws intended to promote sound, economical home financing, fair housing opportunity and a decent home for every American. Discrimination on the basis of sex or marital status may additionally result in racial or ethnic discrimination. For example, a larger proportion of minority group families rely on the wife's income to afford housing and other necessities. The type of practices considered by this paragraph includes loan underwriting decisions which differentiate loan applicants on the basis of assumptions regarding comparative differences in credit worthiness between men and women, or between older and younger persons, or among married, single, widowed or divorced individual without actual consideration being given to the applicants' credit histories and present and reasonably foreseeable economic prospects.

(2) *Discrimination on the basis of language*. Requiring fluency in the English language as a prerequisite for obtaining a loan may be a discrimination practice based on national origin.

(3) *Supplementary income*. Lending standards which consider as effective only the non-overtime income of the primary wage-earner may result in discrimination because they do not take account of variations in employment patterns among individuals and families. The Board favors loan underwriting which reasonably evaluates the credit worthiness of each applicant based on a realistic appraisal of his or her own past, present and foreseeable economic circumstances. The determination as to whether primary income or additional income qualifies as effective for credit purposes should depend upon whether such income may reasonably be expected to continue through the early period of the mortgage risk. Automatically discounting all or a part of the income of a working wife, or other income from bonuses, overtime, or part-time employment, will cause some applicants to be denied financing without a realistic analysis of their credit worthiness. Since statistics show that minority group members and low- and moderate-income families rely more often on such supplemental income, the practice may be racially discriminatory in effect, as well as artificially restrictive of opportunities for home financing.

(4) *Age, income level, or racial composition of neighborhood*. Refusal to lend in a particular area solely because of the age of the homes or the income level in a neighborhood may be discriminatory in effect since minority group persons are more likely to purchase used housing and to live in low-income neighborhoods. The racial composition of the neighborhood where the loan is to be made is always an improper underwriting consideration.

(5) *Borrowers' prior history*. Unstable or irresponsible behavior, especially toward credit obligations, is a proper consideration in making lending decisions. However, the application of a rigid and arbitrary rule may be a discriminatory lending practice. An isolated experience in the distant past should not be a ground for denial of a loan if subsequent experience and present circumstances indicate stability. A policy favoring applicants who have previously owned homes may perpetuate prior discrimination. Job or residential changes may indicate upward mobility. Emphasis should be upon a realistic assessment of the credit worthiness of each applicant without resorting to unreasonable standards.

By the Federal Home Loan Bank Board.

[SEAL] EUGENE M. HERRIN,
Assistant Secretary.

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[From the New York Times, Dec. 18, 1973]

HOME LOAN PANEL UPHOLDS WOMEN'S MORTGAGE RIGHT

(By Linda Charlton)

WASHINGTON, December 17.—The Federal Home Loan Bank Board made it a matter of policy that savings and loan institutions may no longer discriminate against women or families dependent on a working wife's income in making mortgage loans.

The board's statement of policy does not technically have the force of law, but it is accepted as binding by the savings banks, whose activities the board regulates.

The new policy statement was published today in the Federal Register, without the planned fanfare of a press release. The 10-inch snowstorm that muffled Washington kept the board's public-relations staffers from their desks.

The statement noted that the Civil Rights Act of 1968 did not specifically outlaw discrimination in lending on the basis of age, sex or marital statuts, but that such discrimination was "contrary to the principle of, and may in fact violate constitutional provisions which guarantee equal protection of the law" and "may additionally result in racial or ethnic discrimination."

The "supplementary guidelines" against which the board's members institutions are asked to "re-examine" their policies state that certain "loan underwriting decisions" may be discriminatory.

ASSUMPTION ON DIFFERENCE

They are the decisions that "differentiate loan applications on the basis of assumptions regarding comparative differences in credit worthiness between older and younger persons, or among married, single, widowed or divorced individuals" without considering the specific circumstances of each case.

"As far as they go, we're happy with them. We think it's a major step," said Steven M. Rohde, a research associate at the Center for National Policy Review, a privately funded organization affiliated with Catholic University Law School that served as counsel for 13 civil rights organizations who petitioned the board nearly three years ago to end discrimination in lending.

A survey taken by the board in 1972, Mr. Rohde said, indicated widespread discrimination against would-be borrowers on just such grounds. Marital status was considered by 64 percent of the institutions, and 18 percent said that marital status could disqualify a borrower. One quarter of the savings institutions said that they could not count a working wife's income at all in considering a mortgage-loan application.

A February study this year by the Oregon Student Public Interest Research group, an offshoot of Ralph Nader's consumer advocate organization, concluded that generally women enjoyed "second-class status" in dealing with banks.

At an October hearing by the District of Columbia Commission on the Status of Women, more than one-quarter of Washington's mortgage lenders conceded that they had discriminated against women applicants. And the president of the New York State Bankers Association told a state legislative hearing in New York City in the same month that banks did discriminate against women, but that "there is no conscious policy of discrimination. It's just that bank officers are operating the way they did 20 years ago."

The loan bank board's statement also said that using only the "nonovertime income of the prime wage-earner may result in discrimination" because such standards "do not take account of variations in employment patterns among individuals and families."

To discount automatically a working wife's income or other income from overtime or part-time work, the board said, "will cause some applicants to be denied financing without a realistic analysis of their credit worthiness."

Because "minority group members and low- and moderate-income families rely more often on such supplemental income, the practice may be racially discriminatory in effect, as well as artificially restrictive of opportunities for home financing," it was said.

The policy statement also cited as potentially discriminatory the practice of requiring fluent English as a prerequisite for loan approval. It placed in the same suspect category the "refusal to lend in a particular area solely because of the age of the homes or the income level in a neighborhood."

The statement ended with a cautionary note regarding the evaluation of would-be borrowers on the basis of "prior history"; "A policy favoring applicants who have previously owned homes may perpetuate prior discrimination. Job or residential changes may indicate upward mobility."